

**PENDING PROPOSAL WITH GOVERNMENT OF INDIA
AND PENDING PROPOSALS FOR WHICH CLARIFICATIONS HAVE TO
BE FURNISHED BY THE STATE GOVERNMENT**

(As On 28.02.2015)

**Department Name: DEPARTMENT OF PARLIAMENTARY AFFAIRS AND
LEGISLATION**

PART I: PENDING PROPOSAL WITH GOVERNMENT OF INDIA

**Subject (1) : The Karnataka State Universities (Second
Amendment) Bill, 2013**

Category Assent of the President to the Bill

Proposal Classification **A** **Proposal Code DPAL**

Reference Date	Reference Number	Ministry
21.09.2013	DPAL 09 Shasana 2013	Ministry of Home Affairs
19.03.2014	DPAL 09 Shasana 2013	Ministry of Home Affairs
13.11.2014	DPAL 09 Shasana 2013	Ministry of Home Affairs
21.02.2015	DPAL 09 Shasana 2013	Ministry of Home Affairs

It is considered necessary to amend the Karnataka State Universities Act, 2000.

The subject matter of the Bill falls under entry 25 of list 3 and entry 32 of list II of seventh schedule to the Constitution of India and accordingly the State Legislature is competent to enact the measure.

The Karnataka State Universities (Second Amendment) Bill, 2013 has been passed by the both the Houses of State Legislature was submitted to His Excellency, the Governor of Karnataka under Article 200 of the Constitution of India for orders.

His Excellency, the Governor of Karnataka had reserved the Bill for consideration of the President of India with the following noting, namely:-

"Amendment is proposed to sub-section (1) of Section 8 to empower Pro-Chancellor to order for inspection by a Commission of Enquiry. Sub-section (3) is proposed to be substituted and consequential amendments are also proposed for sub sections (4) and (7) thereof. This amendment is totally unnecessary, as in the present dispensation also State Government may recommend for such an enquiry. All these amendment dilute the position of the Chancellor in the scheme of the Act, which is not desirable.

Section 9 is also proposed to be amendment to confer power on the Pro-Chancellor to issue direction. This amendment is unnecessary as this section already provides for Chancellor to issue direction either suo-motu or on the recommendation of the State Government.

Section 13 is proposed to be amended to provide for conferring on the Pro-Chancellor additional powers under the Act.

Sub-section (3A) is proposed to be inserted in Section 14 to provide for inviting application from candidates seeking appointment as Vice Chancellor. Sub-sections (7) and (8) of Section 14 relate to removal of Vice Chancellor on the ground of willful omission or refusal to carryout provisions of the Act and abuse of powers. Now it is proposed to amend these sub-sections to empower the Pro-Chancellor to exercise powers along with Chancellor. Chancellor is the appointing authority of the Vice Chancellor. The power being a drastic in nature it has to be exercised in exceptional and deserving cases. As the Pro-Chancellor is not the appointing authority, he cannot be given the power of removal. Vesting Pro-Chancellor with these powers will give scope for exercise of power of removal on political grounds.

Section 16 provides for arrangement of work during vacancy in the office of the Vice-Chancellor. Now it is proposed to amend this Section to vest this power in Pro-Chancellor along with the Chancellor. As the Chancellor is the appointing authority of the Vice-Chancellor, the power to make arrangement of work during vacancy in office of the Vice Chancellor should vest solely with the Chancellor. Moreover he has primacy in the matter of appointment of Vice-Chancellor.

Amendments proposed to Sections 13, 14 and 16 to provide for exercise of similar power by the Pro-Chancellor is opposed to the very scheme and policy of the Act. This will certainly undermine the primacy of the Chancellor in the overall administration of the University.

Amendment is proposed to Section 20 to authorize Pro-Chancellor to make arrangement during temporary vacancy in the office of the Registrar, Registrar (Evaluation) and Finance Officer. The Chancellor being the key authority he is the right person to make arrangement in the case of temporary vacancy in the office of the Registrar, Registrar (Evaluation) and Finance Officer. Conferring these powers on the Pro-Chancellor will lead to interference in the internal administration of the University.

Amendment is proposed to Section 28 to provide for representation of members of Legislative Assembly and one Member of the Legislative Council in the Syndicate. Such a provision was there in repealed 1976 Act but this has been deliberately omitted in the present Act for some valid reason. Therefore this may be considered.

Section 58 provides for transfer of employees of the University from one University to another by the Chancellor in consultation with the State Government. Amendment is proposed to confer this power on the State Government and to constitute a Board for the purpose of transfer. Till now

this power could be exercised sparingly by the Chancellor on the administrative reasons. Now it may be exercised even for the reasons specified in the proposed Section 58A viz pooling of subject. This amendment will open Pandora box and give scope for indiscriminate transfer of both teaching and non-teaching staff without reference to necessity, resulting in total chaos in the administration of the University. Even creation of the Board cannot minimize the ill of transfer. The menace of transfer of Government servants has been adversely affecting administration. If the proposed amendment is carried out the ills of transfer of Government servants will spread to Universities also.

It is proposed to insert a new section 58A to provide for pooling of subjects if the number of students in a subject of department of PG course in a University is less than 10 in two consecutive years. Universities are established to provide for higher education to the needy persons in distant rural and backward areas. Implementing this provision would deprive them of the opportunity.

A mere glance at the amendments proposed would make it abundantly clear that the State Government is trying to increase its strangle hold on Universities which will result in academics giving way to politics.

The amendments are inconsistent with the regulations and guidelines issued under the University Grants Commission."

In the above circumstances, the Karnataka State Universities (Second Amendment) Bill, 2013 was reserved for consideration of the President of India by His Excellency the Governor of Karnataka in exercise of his powers conferred under Article 200 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated: 21.09.2013.

**Subject (2) : Karnataka Vydyakeeya Korsgalannu
Purnagolisida Abhyarthigala Kaddaya Seva Tarabeti
Vidheyaka, 2012**

Category Assent of the President to the Bill

Proposal Classification A Proposal Code DPAL

Reference Date	Reference Number	Ministry
24.09.2012	DPAL 57 Shasana 2012	Ministry of Home Affairs
06.11.2012	DPAL 57 Shasana 2012	Ministry of Home Affairs
19.01.2013	DPAL 57 Shasana 2012	Ministry of Home Affairs
07.03.2013	DPAL 57 Shasana 2012	Ministry of Home Affairs
10.05.2013	DPAL 57 Shasana 2012	Ministry of Home Affairs
31.07.2013	No.17/41/2012-Judl & PP	Ministry of Home Affairs
17.09.2013	DPAL 57 Shasana 2012	Health and Family Welfare Department(Medical Education)

30.10.2013	DPAL 57 Shasana 2012	Ministry of Home Affairs
18.02.2014	DPAL 57 Shasana 2012	Ministry of Home Affairs
26.04.2014	DPAL 57 Shasana 2012	Ministry of Home Affairs
17.11.2014	DPAL 57 Shasana 2012	Ministry of Home Affairs
07.02.2015	DPAL 57 Shasana 2012	Ministry of Home Affairs

It is considered necessary to provide for the compulsory rural service to the candidates completed Medical Courses and before award of degrees or Post Graduate Degrees or Diplomas so as to ensure availability of Junior Resident Trainee and Senior Resident Trainee in Government Primary Health Centres and Government Hospitals.

Accordingly, Karnataka Vydyakeeya Korsgalannu Purnagolisida Abhyarthigala Kaddaya Seva Tarabeti Vidheyaka, 2012 was introduced in Kannada in the Karnataka Legislative Assembly on 01.08.2012. The said Bill was passed by the Legislative Assembly on 01.08.2012 and by the Legislative Council on 02.08.2012.

The subject matter of the Bill falls under entry 25 and 26 of List III of the Seventh Schedule to the Constitution of India.

Sub-clause (4) of Clause 3 of the said Bill is repugnant to Section 15 and 25 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956) and sub-clause (2) of clause 3, sub-clause (2) of clause 4 and sub-clause (2) of clause 5 of the said Bill are repugnant to Section 22 and clause (f) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956 (Central Act 3 of 1956).

Therefore, His Excellency, the Governor of Karnataka was pleased to reserve the said Bill for the consideration of His Excellency the President under Article 200 of the Constitution of India as required by clause (2) of Article 254.

The Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated: 24.09.2012.

The Government of India vides its letter dated: 31.07.2013 requested the State Government with regard to the observations of the Ministry of Human Resources Development (Department of Higher Education) in respect of the Bill.

The Ministry of Human Resources Development (Department of Higher Education) has observed that Clause 2(g) of the Bill has to be amended to adopt the definition of a "University" as given in the UGC Act, 1956 and Clause 3(2) of the Bill has to be amended to define "degree" as consistent with UGC Act and regulation.

Accordingly the Health and Family Welfare Department (Medical Education) in Government of Karnataka was requested to furnish the clarifications in respect of the observation made by Government of India vide letter dated: 17.09.2013.

Clarification of the State Government had been furnished vide letter dated: 26.04.2014

Subject: (3) Karnataka Jalasarige Mandali Vidheyaka, 2011

Category Assent of the President to the Bill

Proposal Classification A **Proposal Code** DPAL

Reference Date	Reference Number	Ministry
31.01.2012	DPAL 5 Shasana 2008	Ministry of Home Affairs
23.04.2012	DPAL 5 Shasana 2008	Ministry of Home Affairs
23.07.2012	DPAL 5 Shasana 2008	Ministry of Home Affairs
21.08.2012	Letter No. 17/08/2012-Judl&PP	Ministry of Home Affairs
03.09.2012	DPAL 5 Shasana 2008	Public works, Ports & Inland water transport department
08.11.2012	DPAL 5 Shasana 2008	Public works, Ports & Inland water transport department
24.12.2012	DPAL 5 Shasana 2008	Ministry of Home Affairs
04.02.2013	DPAL 5 Shasana 2008	Ministry of Home Affairs
16.03.2013	DPAL 5 Shasana 2008	Ministry of Home Affairs
29.05.2013	DPAL 5 Shasana 2008	Ministry of Home Affairs
16.07.2013	DPAL 5 Shasana 2008	Ministry of Home Affairs
20.09.2013	DPAL 5 Shasana 2008	Ministry of Home Affairs
31.12.2013	DPAL 5 Shasana 2008	Public works, Ports & Inland water transport department
10.03.2014	DPAL 5 Shasana 2008	Public works, Ports & Inland water transport department
16.05.2014	DPAL 5 Shasana 2008	Ministry of Home Affairs
25.09.2014	DPAL 5 Shasana 2008	Ministry of Finance
09.12.2014	F. No. 17/08/2012-Judl&PP,	Ministry of Home Affairs
06.01.2015	DPAL 5 Shasana 2008	Ministry of Home Affairs

Karnataka has a coastal line of about 300 kms, which is dotted with 10 non-major ports, besides the major port at New Mangalore. These non-major ports, which include Karwar, Malpe harbour, Tadri, Old Mangalore, etc., are currently managed by the Public Works Department through the Director of Ports and Inland Water Transport. The revenue receipts from these ports are credited into the Consolidated Fund of the State, while the development and maintenance expenditure are met out of the budgetary grants. In the circumstances, there is no relationship between the receipts and expenditure of the Ports & IWT sector. Further, the Directorate of Ports & IWT is not able to raise finance from the market directly for undertaking development activities.

Some of the major maritime States, notably Gujarat, Maharashtra and Tamil Nadu, have already set up Maritime Boards and have seen tremendous growth in development of the infrastructure for ports and allied activities. Keeping such experience in view, the Maritime States Development Council has been advising all the maritime States to constitute Maritime Boards.

Karnataka also has several inland waterways on both, west flowing as well as east flowing rivers, that offer the potential for development of an environment friendly mode transportation of goods and passengers, particularly for several interior locations. The Maritime Board would be in a position to develop and maintain the inland waterways too. Further, the Board would be in an advantageous position to prepare and implement schemes for coastal protection, which has become an important issue for the growth and development of the coastal regions of the State.

The Bill among other things provides for,-

- (i) constitution and functioning of the Maritime Board for Karnataka. The Board shall be in a position to find ways and means to undertake various developmental projects and maintenance activities in relation to ports, harbours, inland waterways and coastal protection and thus help in the growth and development of the coastal region and its hinterland;
- (ii) developing all Karnataka ports on public private partnership Basis;
- (iii) development and maintenance of fishing harbours by the Board with suitable budgetary grants and subventions from the Government. However, the operations and management of the fishing harbours shall continue to be done by the Fisheries Department and not by the Maritime Board.

Accordingly, Karnataka Jalasarige Mandali Vidheyaka, 2011 was introduced in the Karnataka Legislative Assembly on 09.12.2011 and the same was passed in the Legislative Assembly on 14.12.2011 and in the Legislative Council on 16.12.2011.

The subject matter of the Bill falls under entry 31 of List III of the Seventh Schedule to the Constitution of India. Item (i) of sub-clause (3) of clause 36 is repugnant to the provisions of the Arbitration and conciliation Act, 1996. Clause 56 is repugnant to section 45 of the Indian Contract Act, 1872. Clause 58 is repugnant to section 15 of the Indian Negotiable Instruments Act, 1881. Clause 62 is repugnant to the provisions of the Indian Limitation Act, 1963. Therefore, His Excellency, the Governor of Karnataka was pleased to reserve the said Bill for the consideration of Her Excellency the President under Article 200 of the Constitution of India as required by clause (2) of Article 254.

The Government of India was requested to obtain the assent of Her Excellency the President of India vide letter dated: 31.01.2012.

The Ministry of Home Affairs vide its letter dated: 21.8.2012 had forwarded the O.M. No. PD-26016/1/2012-MP, dtd: 29-03-2012 of Ministry of Shipping (Ports Wing), O.M. No. F.No.14(9)/2012-Leg-III, dtd: 16-04-2012 of Ministry of Law and Justice Legislative Department, O.M. No. 1/10/2012-Coastal Security, dtd: 7-5-2012 of Ministry of Home Affairs Department of Border Management, O.M. No. F.No.T-11021/4/2012-TC, dtd: 14-05-2012 of Ministry of Finance Department of Revenue (T.C. Section), O.M. No. F.No. 13/1/2012-AC, dtd: 11-07-2012 of Ministry of Finance Department of Financial Services (AC Section), O.M. No. F.No.13/1/2012-AC, dtd: 11-07-2012 of Ministry of Finance Department of Financial Services (AC Section) and has sought the comments / clarifications of the State Government to process the said Bill further.

The said letter along with its enclosures were sent to the Department of Public works, Ports and Inland water transport with a request to furnish the comments / clarifications immediately so that a reply to the Ministry of Home Affairs, Government of India may be sent early.

The required comments/clarifications have been furnished to Government of India vide letter dated:24.12.2012 with a request obtain and communicate the assent of His Excellency the President of India to the Bill at the earliest.

The Government of India vide Letter No.17/08/2012-Judl & PP, dated:24.10.2013 has sought the comments/clarifications of the State Government and suggested certain amendment to the Bill to process the said Bill further.

The Public Works Department has sent the comments/clarifications vide D.O.Letter No. PWD 46 PSP 2012, dated: 21.03.2014. and the same was forwarded to Government of India with a request obtain and communicate the assent of His Excellency the President of India to the Bill at the earliest.

Upon the observations made by the Ministry of Home Affairs vide letter No.17/08/2012 Judl&PP dated 20.10.2013 the State Government accepted modified the Karnataka Maritime Board Bill, 2011 sent to Ministry of Home Affairs on 16.05.2014.

The Ministry of Finance was requested to give its approval to the modified provisions of the Bill (that is clause 58 of the Bill) on 25.09.2014.

The Government of India vide letter No. 17/08/2012-Judl & PP, dated: 09.12.2014 has asked the State Government to withdraw the earlier Bill sent to Government of India vide letter No. DPAL 5 SHASANA 2008, dated: 31.01.2012

The State Government in letter dated 06.01.2015 informed to Government of India that this Government is ready to withdraw earlier Bill after the receipt

of concurrence or approval of Government of India to the modified the Karnataka Maritime Board Bill, 2011.

Subject (4): The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video or Audio Pirates (Amendment) Bill, 2014

Category Assent of the President to the Bill

Proposal Classification **A** **Proposal Code** **DPAL**

Reference Date	Reference Number	Ministry
17.10.2014	DPAL30 Shasana 2014	Ministry of Home Affairs
02.12.2014	No. 17/26/2014-Judl. & P.P.	Ministry of Home Affairs
09.02.2015	DPAL30 Shasana 2014	Ministry of Home Affairs

It is considered necessary further to amend the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video or Audio Pirates Act, 1985 (Karnataka Act 12 of 1985) to include the offences relating to acid attack, depredation of environment, digital media, land grabbing, money laundering and sexual offences in relation to children and women, as a preventive measure.

Accordingly, the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic offenders, Slum-Grabbers and Video or Audio Pirates (Amendment) Bill, 2014 was introduced in the Karnataka Legislative Assembly on 28.7.2014. The said Bill was passed in the Legislative Assembly on 28.07.2014 and in the Legislative Council on 28.07.2014.

The subject matter of the Bill falls under entry 1 of List III of the Seventh Schedule to the Constitution of India.

Whereas assent of the President was obtained while enacting the original Legislation and also while incorporating several other offences through Amendments in respect of following offences, namely:-

- (a) Bootleggers
- (b) Drug offender
- (c) Gambler
- (d) Goonda
- (e) Immoral traffic offender
- (f) Slum grabber
- (g) Video or audio pirates

Now it is proposed to include the following new offences, namely:-

- (a) Acid attack
- (b) Digital offence
- (c) Land grabbing
- (d) Depredation of Environment
- (e) Money laundering; and
- (f) Sexual offences pertaining to woman and children under new laws.

Therefore, Clause 5 to 7 of the said Bill are now becoming repugnant to sections 326 A, 326 B, 376, 376 A, 376 B, 376 C, 376 D and 376 E of the Indian Penal Code, 1860 (Central Act 45 of 1860), the Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012), sections 41, 42, 44, 46 and 50 of the Code of Criminal Procedure, 1973, section 15 of the Environment Protection Act, 1986, sections 66, 66A and 66B, 67, 68, 69, 70, 71, 72, 73, 74 and 75 of the Information Technology Act, 2000 (Central Act 21 of 2000), sections 3 and 4 and Part A of the schedule to the Prevention of Money Laundering Act, 2002, which are central Legislations in force. These central enactments provide for punishment after crimes are committed but the proposed legislation provides for detention of a person earlier to commission of such crime also. Therefore, the Bill has to be reserved for the assent of the President.

Therefore, His Excellency, the Governor of Karnataka has been pleased to reserve the said Bill for the consideration of the President under Article 200 of the Constitution of India, as required by clause (2) of Article 254 of the Constitution of India.

PRESENT STATUS

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 17.10.2014.

The Legal Cell, Karnataka Bhavan has sent a fax on 12.12.2014 enclosing the Government of India letter No. 17/26/2014-Judl. & P.P., dated: 02.12.2014 and confirmed the receipt of the above mentioned Bill.

Subject (5): Obtaining previous consent of His Excellency the President for the use of Kannada Language in all the proceedings in the High Court of Karnataka.

Category Assent of the President to the Resolution

Proposal Classification **A** **Proposal Code** **DPAL**

Reference Date	Reference Number	Ministry
24.01.2015	DPAL 27 Shasana 2014	Ministry of Home Affairs

Article 348 (2) of the Constitution of India is as following, namely:-

"(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi Language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court"

Accordingly, the cabinet in its meeting held on 09.07.2014 has taken a decision to recommend Honourable Governor to send the proposal to the Government of India for the approval of His Excellency the President to authorize the use of Kannada Language in all the proceedings of the High Court of Karnataka.

Accordingly, a resolution was moved in the Karnataka Legislative Assembly on 22.07.2014 and the Karnataka Legislative Council on 30.07.2014.

The said resolution was approved in the Karnataka Legislative Assembly and in the Karnataka Legislative Council unanimously.

Therefore, Honourable Governor was pleased to seek the approval of His Excellency the President under clause (2) of Article 348 of Constitution of India.

Therefore, copies of the resolutions (both in Kannada and English Language) as passed by the Karnataka Legislative Assembly on 28.07.2014 and Karnataka Legislative Council on 30.07.2014 are enclosed and sent to Government of India to obtain previous consent of His Excellency the President for authorization of the use of Kannada Language in all the proceedings in the High Court of Karnataka. The submission note as approved by the Honourable Governor was also sent to Government of India.

Therefore, the Government of India was requested to obtain previous consent of His Excellency the President of India under clause (2) of Article 348 of the Constitution of India to the said resolution vide letter No: DPAL 27 Shasana 2014, dated 24.01.2015.
