

The Bihar Fiscal Responsibility and Budget Management Act, 2006

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Act 5 of 2006

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The Bihar Fiscal Responsibility and Budget Management Act, 2006(Bihar Act 5 of 2006)Assented by Governor of Bihar on 1.4.2006.An Act to provide for the responsibility of the State Government to ensure prudence in fiscal management and fiscal stability, and to enhance the scope for improving social and physical infrastructure and human development by progressive elimination of revenue deficit, reduction in fiscal deficit, prudent debt management consistent with fiscal sustainability, greater transparency in fiscal operations of the Government and conduct of fiscal policy in a medium term framework and for matters connected therewith or incidental thereto.Preamble. - Be it enacted by the Legislature of the State of Bihar in the Fifty seventh year of the Republic of India as follows:-

1. Short Title, Extent and Commencement.

(1)This Act, may be called the Bihar Fiscal Responsibility and Budget Management Act, 2006.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"budget" means the annual financial statement laid before State Legislature under Article 202 of the Constitution;(b)"current year" means the financial year preceding the ensuing year;(c)"ensuing year" means the financial year for which the budget is being presented;(d)"financial year" means the year beginning on the 1st April and ending on 31st March next following;(e)"GSDP" means Gross State Domestic Product at current market prices;(f)"fiscal deficit" means the excess of total disbursements (net of debt repayments) from the Consolidated Fund of the State over total receipts into the Fund excluding the debt receipts

during a financial year;(g)"fiscal indicators" means such indicators as may be prescribed for evaluation of the fiscal position of the State Government;(h)"fiscal targets" means the numerical ceilings and proportions to total revenue receipts (TRR) or GSDP for the fiscal indicators;(i)"prescribed" means prescribed by the Rules made under this Act;(j)"previous year" means the year preceding the current year;(k)"revenue deficit" means the difference between revenue expenditure and total revenue receipts (TRR).Explanation : Total Revenue Receipts' (TRR) includes State's own revenue receipts (both tax and non-tax) and current transfers from the Centre (comprising grants and State's share of Central taxes). Further for the purpose of this clause, interest payment by Government towards borrowings by Public Sector Undertakings and Special Purpose Vehicles and other equivalent instruments where liability for, repayment is on Government, shall be treated as revenue expenditure.(l)"total liabilities" means the liabilities under the Consolidated Fund of the State and the Public Account of the State and shall also include borrowings by the Public Sector Undertakings and the special purpose vehicles and other equivalent instruments including guarantees where the principal and or interest are to be serviced out of the State Budgets.(m)["Debt" means amount taken by the State Government on credit with interest.] [Added by Bihar Act 25, 2010.]

3. Fiscal Management Objectives.

- The State Government shall:-(a)[for fiscal reform path the State on attaining a zero revenue deficit or revenue surplus in 2007-08 shall have to achieve a fiscal deficit of 3 percent of Gross State Domestic Product by 2011-12 and maintain such thereafter.] [Substituted by Bihar Act 25, 2010.](b)pursue policies to raise non-tax revenue with due regard to cost recovery and equity; and(c)lay down norms for prioritisation of capital expenditure, and pursue expenditure policies that would provide impetus for economic growth, poverty reduction and improvement in human welfare.

4. Fiscal Management Principles.

- The State Government shall be guided by the following fiscal management principles, namely:-(a)transparency. - There should be transparency in setting the fiscal policy objectives, the implementation of public policy and the publication of fiscal information so as to enable the public to scrutinise the conduct of fiscal policy and the state of public finances;(b)stability and predictability. - The fiscal policy making process and the way fiscal policy impacts the economy should be stable and should be such that its trend in the future may be predicted;(c)responsibility and integrity. - There should be responsibility in the management of public finances, including integrity in budget formulation;(d)fairness. - There should be fairness to ensure that policy decisions of the State Government have due regard to their financial implications on future generations; and(e)efficiency. - There should be efficiency in the design and implementation of the fiscal policy and in managing the assets and liabilities of the public sector.

5. Fiscal Policy Statements to be laid before the Legislature.

- The State Government shall in each financial year lay before both Houses of the Legislature, the following statements of fiscal policy along with the budget, namely:-(a)the Macro-economic

Framework Statement;(b)the Medium Term Fiscal Policy Statement; and(c)the Fiscal Policy Strategy Statement.

6. Macro-economic Framework Statement.

- The Macro-economic Framework Statement, in such form as may be prescribed, shall contain an overview of the State economy, an analysis of growth and trends in the sectoral composition of GSDP, an assessment related to State Government finances and future prospects.

7. Medium Term Fiscal Policy Statement.

(1)The Medium Term Fiscal Policy Statement shall set forth in such form as may be prescribed the fiscal management objectives of the State Government and three-year rolling targets for the prescribed fiscal indicators with clear enunciation of the underlying assumptions.(2)In particular and without prejudice to the provisions contained in sub-section (1), the Medium Term Fiscal Policy Statement shall include the various assumptions behind the fiscal indicators and an assessment of sustainability relating to:-(i)the balance between revenue receipts and revenue expenditure;(ii)the use of capital receipts including borrowings for generating productive assets;(iii)the estimated yearly pension liabilities worked out on actuarial basis for the next ten years:Provided that in case it is not possible to calculate the pension liabilities on actuarial basis during the period of first three years after the coming into force of this Act, the State Government may, during that period, estimate the pension liabilities by making forecasts on the basis of trend growth rates.

8. Fiscal Policy Strategy Statement.

- The Fiscal Policy Strategy Statement shall be in such form as may be prescribed and shall contain, inter alia,(i)the fiscal polices of the State Government for the ensuing year relating to taxation, expenditure, borrowings and other liabilities (including borrowings by Public Sector Undertakings and Special Purpose Vehicle and other equivalent instruments where liability for repayment is on the State Government), lending investments, other contingent liabilities, user charges on public goods/utilities and description of other activities, such as guarantees and activities of Public Sector Undertakings which have potential budgetary implications;(ii)the strategic priorities of the State Government in the fiscal area for the ensuing year;(iii)the key fiscal measures and the rationale for any major deviation in fiscal measures pertaining to taxation, subsidy, expenditure, borrowings and user charges on public goods/utilities; and(iv)an evaluation of the current policies of the State Government vis-a-vis the fiscal management principles set out in Section-4, the fiscal objectives set out in the Medium-Term Fiscal Policy Statement in subsection (1) of Section-7 and fiscal targets set out in Section-9.

9. Fiscal Targets.

(1)The State Government may prescribe such targets as may be deemed necessary for giving effect to the fiscal management objectives.(2)In particular, and without prejudice to the generality of the

foregoing provisions, the State Government shall-(a)beginning from financial year 2006-07 and in case there being revenue deficit, reduce revenue deficit/Gross State Domestic Product ratio every year by at least 0.1 per cent depending upon the economic situation, eliminate revenue deficit by 2008-09 and generate revenue surplus thereafter;(b)[in the financial year 2010-11 bring the fiscal deficit/ Gross State Domestic Product ratio 3.5 percent and it shall be 3 percent and it shall be 3 percent in 2011-12 and maintain such upto year 2014-15.] [Substituted by Bihar Act 25, 2010.](c)[bring Debt as percent of Gross State Domestic Product in the financial year 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 to 48.2, 46.4, 44.6, 43.0 and 41.6 respectively.] [Added by Bihar Act 25, 2010.]Provided that revenue deficit and fiscal deficit may exceed the limits specified under this Section due to unforeseen circumstances arising out of internal disturbance or natural calamity or such other exceptional grounds as the State Government may specify:Provided further that a statement in respect of the ground or grounds' specified in the first proviso shall be placed before the House or Houses of the Legislature, as soon as may be, after such deficit amount exceeds the aforesaid targets.

10. Measures for Fiscal Transparency.

(1)The State Government shall take suitable measures to ensure greater transparency in its fiscal operations in the public interest and minimise as far as practicable, secrecy in the preparation of the budget.(2)In particular, and without prejudice to the generality of the foregoing provisions, the State Government shall, at the time of presentation of the budget, make disclosures on the following, along with detailed information in such forms as may be prescribed:-(a)the significant changes in the accounting standards, policies and practices affecting or likely to affect the computation of fiscal indicators;(b)details of borrowings by way of Ways, and Means, Advances/Overdraft availed of, from the Reserve Bank of India;(c)the number of employees in Government, public sector, and aided institutions and related salaries.(3)Whenever the State Government undertakes to unconditionally and substantially repay the principal amount and/or pay the interest of any separate legal entity, it has to reflect such liability as the borrowings of the State.

11. Measures to Enforce Compliance.

(1)The Minister-in-Charge of the Department of Finance (hereinafter referred to as Minister of Finance) shall review, every quarter, the trends in receipts and expenditure in relation to the budget estimates and place before the House or Houses of the Legislature, the outcome of such reviews.(2)Whenever there is either shortfall in revenue or excess of expenditure over the intra-year targets mentioned in the Fiscal Policy Strategy Statement or the Rules made under this Act, the State Government shall take appropriate measures for increasing revenue and/or for reducing the expenditure, including curtailment of the sums authorised to be paid and applied from out of the Consolidated Fund of the State:Provided that nothing in this sub-section shall apply to the expenditure charged on the Consolidated Fund of the State under clause (3) of Article 202 of the Constitution or any other expenditure, which is required to be incurred under any agreement or contract, which cannot be postponed or curtailed.(3)(a)Except as provided under this Act, no deviation in meeting the obligations cast on the State Government under this Act shall be permissible without approval of Legislature.(b)Where owing to unforeseen circumstances; any

deviation is made in meeting the obligations cast on the State Government under this Act, the Minister of Finance shall make a statement in both the Houses of Legislature explaining:-(i)any deviation in meeting the obligations cast on the State Government under this Act;(ii)whether such deviation is substantial and relates to the actual or the potential budgetary outcomes; and(iii)the remedial measures the State Government proposes to take.(4)Any measure proposed in the course of the financial year, which may lead to an increase in revenue deficit, either through increased expenditure or loss of revenue, shall be accompanied by a statement of remedial measures, proposed to neutralise such increase or loss and such statement shall be placed before both Houses of Legislature.(5)The State Government may set up an agency independent of the State Government to review periodically the compliance of the provisions of this Act and table such reviews in the Houses of the State Legislature.

12. Power to Make Rules.

(1)The State Government may, by notification in the Official Gazette, make Rules for carrying out the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such Rules may provide for all or any of the following matters, namely:-(a)the form of the Macro-economic Framework Statement under Section 6;(b)the form of Medium-Term Fiscal Policy Statement, including the targets for the fiscal indicators, under Section 7;(c)the form of Fiscal Policy Strategy Statement under Section 8;(d)the form for disclosure under sub-section (2) of Section 10;(e)measures to enforce compliance;(f)the manner of review of compliance of the provisions of this Act by the independent agency under Section 11; and(g)any other matter which is required to be, or may be, prescribed,

13. Rules to be laid before Legislature.

- Every Rule made under this Act shall be laid, as soon as may be after it is made, before the Houses of the Legislature, while it is in session, for a total period of fourteen days. This period may be comprised in one session or in two or more successive sessions. If, before the expiry of the session immediately following the session or the successive sessions aforesaid, the Houses agree in making any modification in the Rule or the Houses agree that the Rule should not be made, the Rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

14. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made there under.

15. Jurisdiction of Civil Courts barred.

- No Civil Court shall have jurisdiction to question the legality of any action taken by, or any decision of, the State Government, under this Act.

16. Application of other laws not barred.

- The provisions of this Act shall, wherever the State Government, by notification, so declare, be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

17. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government 'may' by order published in the, Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: Provided that no order shall be made under this Section after the expiry of two years from the commencement of this' Act. (2) Every order made under this Section shall be laid, as soon as may be after it is made, before each House' of the State Legislature.

18. Repeal and Savings.

(1) The Bihar Fiscal Responsibility and Budget Management Ordinance, 2006 (Bihar Ordinance No. 2, 2006) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said-Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act, were in force on the day on which such thing was done or action taken.