

RGICS LEGISLATIVE BRIEF

(February, 2014)

The Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012

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PART I. INTRODUCTION

The Governors (Emoluments, Allowances' and Privileges') Amendment Bill seeks to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982 under which each Governor is entitled to an emolument of Rs 1,10,000 per month. However, it was noted that under the existing Act ex-Governors are only entitled to medical facilities and do not have other post-retirement benefits including pensions.ⁱ

The Bill entitles the ex-Governor to avail secretarial assistance by appointing a Personal Assistant on reimbursable basis, for the rest of his/her life. This provision was added keeping in view the importance of the contribution made by ex-Governors in public discourse.ⁱⁱ

In case an ex-Governor is re-appointed or re-elected to hold an office of profit under the State or Union government, the Bill provides that this emolument shall not be provided till the time he/she holds the office. The ex-Governor can be: (a) re-appointed as Governor; or (b) elected to either the Parliament or state legislature; or (c) appointed to any office of profit under the state government or central government.ⁱⁱⁱ

The Cabinet of ministers from the Ministry of Home Affairs, while considering the Bill, directed that the reimbursement amount for secretarial assistance should not exceed Rs. 25000 per month.^{iv}

The Bill was first introduced in the Lok Sabha on December 10, 2012 by the Minister of Home Affairs- Shri Sushil Kumar Shinde. It was re-introduced in the Lok Sabha on August 24, 2013 by the Minister of State for Home RPN Singh.

Politicians from the opposition parties have raised the issue of necessity of the post of a Governor considering the Centre's role in using the post as a tool against the states.

PART II. THE PROPOSED BILL

Salient features of the Bill

- The Governors (Emoluments, Allowances and Privileges) Bill 2012 seeks to define the term ‘ex-Governor’, which was missing in the 1982 Act, as:
 - (a) *“ex-Governor” means a person who has been the Governor of a State or two or more States;*^v
- Section 12 of the Act deals with increasing allowances and provides for such expenses not covered within the ambit of the Act by the President. According to the proposed Bill section 12A shall be inserted after Section 12 in the following manner:
 - “12A. Subject to any rules made in this behalf, the ex -Governor shall, for the remainder of his life, be entitled to secretarial assistance of one Personal Assistant on reimbursement basis:*
 - Provided that where such ex-Governor is re-appointed to the office of Governor or elected to Parliament or the State Legislature or appointed to any office of profit under the Union or a State Government, he shall not be eligible for such secretarial assistance for the period during which he holds such office.”*^{vi}
- The Bill also proposes addition of another clause under Section 13(2) of the Act. Under sub-clause (h) of Section 13 that lays down the rules regarding granting leaves, provisions for household establishment, medical facilities, vehicular facilities and allowances granted to the Governor.^{vii}

PART III. STANDING COMMITTEE REPORT

The Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2012 was referred to the Standing Committee on Home Affairs by the Chairman, Rajya Sabha, in consultation with Speaker and Lok Sabha on December 28, 2012. It was asked to submit its report within three months.

Salient features of the report

- With regard to amendments and inclusions in the Bill relating to definition of the term ex-Governor, provision for secretarial assistance and rules regarding appointment and reimbursement for secretarial service under Section 2, 12 and 13 of the Bill respectively, the Committee has accepted all amendments without change.
- The Committee further suggested that there be a provision that fixes a minimum qualification required to be eligible for appointment of a Personal Assistant to the ex-Governor. This suggestion was made so that the ex-Governor avails the desired secretarial assistance as might be needed.
- Lastly, the Committee also suggested that while drafting rules it may be ensured that ex-Governor is not made to pay first and sufficient advances may be made available to him/her to meet the requirement.

PART IV: THE POLITICS

Leaders of opposition parties like JD-(U), Samajwadi Party and BJP have raised concerns with regard to the post of Governor. The various objections are as follows:

JD-(U): Sharad Yadav was against the post of Governor and demanded details of expenditure incurred by the Raj Bhawans- the official residences of Governors.^{viii}

Samajwadi Party: Shailendra Kumar argued that Governors were appointed by the party in power in the Central Government and noted that some of the appointed Governors had a controversial past.^{ix}

BJP: Kirti Azad likewise pointed out that the post of Governor has been misused to target State governments by the Centre. He said that recommendations of the Sarkaria Commission¹, Punchhi Commission² and Venkatchalliah Committee³ should be implemented to prevent this.^x

¹ Sarkaria Commission was set up in June 1983 by the central government of India. The Sarkaria Commission's charter was to examine the relationship and balance of power between state and central governments in the country and suggest changes within the framework of Constitution of India. (<http://polityias.blogspot.in/2011/01/sarkaria-commission.html>)

² The Punchhi Commission was appointed in April 2007 to review Centre-State relations. With regard to the post of a Governor, the commission differed from the Sarkaria Commission in suggesting a fixed five year tenure for Governors. Among other suggestions made by the Commission were limiting discretionary powers of the governor and fixing a time period of four months for the Governor to take decisions. (<https://sites.google.com/site/errajanikantissuediscussion/committee-commissions/punchhi-commission-second-commission-on-center-state-relations>; <http://www.preservearticles.com/2011092814259/what-were-the-main-recommendations-of-punchhi-commission.html>)

³ The Venkatchalliah Committee was instituted on 22nd February, 2000 to examine, in the light of the experience of the past 50 years, as to how best the Constitution can respond to the changing needs of efficient, smooth and effective system of governance and socio-economic development of modern India within the framework of parliamentary democracy. It was supposed to subsequently recommend changes, if any, that are required in the provisions of the Constitution without interfering with its basic structure or features. (<http://lawmin.nic.in/ncrwc/finalreport/v1ch1.htm>)

INSERT TOPIC

PART VI. REFERENCE DOCUMENTS

ⁱ <http://www.prsindia.org/billtrack/the-governors-emoluments-allowances-and-privileges-amendment-bill-2012-2572/>

ⁱⁱ http://164.100.24.219/BillsTexts/LSBillTexts/PassedLoksabha/137C_2012_Eng_LS.pdf

ⁱⁱⁱ *ibid*

^{iv} [http://www.prsindia.org/uploads/media/Governors%20Emoluments%20\(A\)%20Bill,%202012/SCR%20Governors%20Emoluments%20\(A\)%20bill.pdf](http://www.prsindia.org/uploads/media/Governors%20Emoluments%20(A)%20Bill,%202012/SCR%20Governors%20Emoluments%20(A)%20bill.pdf)

^v *ibid*

^{vi} *ibid*

^{vii} *ibid*

^{viii} <http://www.thehindu.com/news/national/ls-nod-to-bill-for-benefits-to-exgovernors/article5055829.ece>

^{ix} *ibid*

^x *ibid*