

A BILL TO PROVIDE FOR THE IMPROVEMENT AND MANAGEMENT OF GROUNDWATER SYSTEMS IN THE STATE AND TO PROVIDE FOR THE MATTERS CONNECTED THERE WITH OR INCIDENTAL THERE TO.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixty-First year of the Republic of India as follows:-

**CHAPTER I
PRELIMINARY**

**Short title,
extent and
commencemen
t.**

1. (1) This Act may be called the Andhra Pradesh Community Management of Groundwater Systems Act, 2010.

(2) It extends to the whole of the state of Andhra Pradesh.

(3) It shall come into force on such date and in such local area of the State as the Government may by notification in the Andhra Pradesh Gazette, appoint and different dates may be appointed for different local areas.

Definitions

2. In this Act, unless the context otherwise requires,-

(a) “appropriate authority” means the District Groundwater Council in the District, and the Gram Panchayat Groundwater Council in the Gram Panchayat area and includes any other officer as the State Government may by notification in the official Gazette, appoint for the purposes of this Act and different officers may be appointed for different local areas of the State;

(b) “appellate authority” means the Andhra Pradesh State Groundwater Council constituted under section 10 of the Act;

(c) “drinking water purposes” means consumption or use of water by human population for drinking and for other domestic purposes, and includes consumption of water for similar such relevant purposes for cattle;

Explanation:For the purposes of this clause the expression “domestic purposes” shall include consumption or use of water for cooking, bathing, washing, cleaning and other day to day activities.

(d) “Government” means the State Government of Andhra Pradesh;

(e) “groundwater” means water existing in an aquifer below the surface of the ground at any particular location of the local area regardless of the geological structure in which it is stationary or moving and includes all ground water reservoirs.

(f) “groundwater basin” means an area confined within such geological boundaries which will act as water divides and identified and notified by the Government;

(g) “local authority” means,-

(i) municipal corporation constituted under the provisions of the Hyderabad Municipal corporations Act, 1955; or

(ii) municipality or a Nagar Panchayat Constituted or deemed to be constituted or a committee appointed for a notified area under the provisions of the Andhra Pradesh Municipalities Act, 1965; or

(iii) Gram Panchayat constituted under the provisions of the Andhra Pradesh Panchayat Raj Act, 1994;

(h) “local institution” means the Gram Panchayat Groundwater Council in Gram Panchayat area, and the District Groundwater Council in the district constituted under the Act; Other institutions of communities that are established by a variety of government projects such as watershed committees; water user associations; village water & sanitation committees; Self Help Groups of Women and their Village Organization.

(i) “notification” means a notification published in the Andhra Pradesh Gazette and the word “notified” shall be construed accordingly;

(j) “over exploited groundwater basin” means a ground water basin so declared as such by the Government based on the data collected periodically from various groundwater observation points located in groundwater basin and the data generated by participatory hydrological monitoring by participatory hydrological monitoring by local institutions;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “public drinking water source” means a source for drinking water notified by the Government or a local authority or such other authority as the Government may by notification specify; and includes well or any other drinking water source;

(m) “participatory hydrological monitoring” means monitoring groundwater levels and recording the discharge measurements of selected observation wells, along with the rainfall data by the local institutions;

(n) “Resource Organization” means an organization declared as such by the appropriate authority for the purpose of supporting local institutions for groundwater management as laid down in the Act;

(o) “sink” with all its grammatical variations and cognate expressions in relation to a well includes any drilling, boring, or digging of a new well or deepening carried out to an existing well;

(p) “State Council” means the Andhra Pradesh State Groundwater Council constituted under section 10 of the Act.

(q) “surface water” means water occurring on the land surface in ponds, lakes, streams and rivers;

(r) “technical officer” means a subject specialist so designated by the appropriate authority to give advice on technical matters pertaining to implementation of the provisions of this Act;

(s) “Village Water Security Plan (VWSP)” means a plan prepared by local institutions with the support of Resource Organizations with a clear focus on sustainable and equitable use of groundwater resources
“water scarcity area” means an area declared as such by the Appropriate Authority;

(t) “watershed” means an area confined within the topographic water divide line, as identified and notified by the Ground Water Department;

(u) “well” means a well sunk for extraction of ground water which includes a dug well, bore well, dug-cum-bore well, tube well, filter point or any other structure created for the purpose of extracting groundwater;

(v) ‘words’ and ‘expressions’ used in this Act, but not defined herein shall have the same meaning assigned to them in the relevant Acts.

CHAPTER II
GRAM PANCHAYAT GROUNDWATER COUNCILS & their functions

Establishment and constitution of Gram Panchayat Groundwater Council

3. (1) There shall be a Ground Water Council for every Gram Panchayat constituted in the matter prescribed.

(2) The Gram Panchayat Sarpanch elected under section 14 of the Andhra Pradesh Panchayat Raj Act, 1994 shall be the chairperson of the Gram Panchayat Groundwater Council.

(3) The Gram Panchayat Groundwater Council shall consist of the following members, namely:-

- (a) Sarpanch of the Gram Panchayat – Chairperson;
- (b) Three representatives of Self Help Groups in the village having bore wells and nominated by the village organization of SHGs.
- (c) Three representatives of farmers living and personally cultivating in the village having bore wells nominated by the Sarpanch of the village.
- (d) One representative each from the Water Users Association, Watershed Committee and Village water & sanitation committee in the Gram Panchayat
- (e) Panchayat Secretary of the Gram Panchayat – Member Convener;

Meetings of the Gram Panchayat Groundwater Council

4. (1) The Gram Panchayat Groundwater Council shall meet at least once in a month at such place and time as the chairperson decides.

(2) The quorum to constitute a meeting of the Council shall be one third of total number of Members.

Functions of Gram Panchayat Groundwater Council

5. The Gram Panchayat Groundwater Council shall have the following functions, namely:-

- (a) to prepare Village Water Security Plan (VWSP) for developing and managing water resources with special focus on ground water;
- (b) to ensure participation of all groundwater & other surface water users in the planning process.
- (c) to take the support of Resource Organizations in the above process;
- (d) to establish norms for groundwater use in the Gram Panchayat area by a thorough discussion among all community members in the village;

- (e) to give recommendation to the District Groundwater Council for the new wells, on application made by the concerned user group;
- (f) to execute village water security plans through associated user groups or other institutions;
- (g) to establish systems for monitoring groundwater (quality and quantity) through participatory hydrological monitoring;
- (h) to maintain an inventory of all wells – functional/ dysfunctional/ seasonal wells by maintaining a register of records;
- (i) to work towards regulated use and equitable distribution of groundwater among all categories of farmers, particularly rain fed farmers;
- (j) to improve the water use efficiency and water management practices including adoption of micro irrigation;
- (k) to improve water conservation practices;
- (l) to be vigilant to ensure that water resources are protected from pollution, over exploitation, unscientific practices, etc;
- (m) to bring to the notice of the District Groundwater Council in respect of any offences committed and facilitate appropriate action against them;
- (n) to recommend to Gram Panchayat to levy user charge for use of groundwater/surface-water from the concerned users and their institutions and the amount so collected shall be credited to the Gram Panchayat fund; (To explore options for separate bank account for the Grama Panchayati Groundwater Council)
- (o) to recommend to the Gram Panchayat to incur any expenditure for the improvement of the groundwater system in the village from the funds of the Gram Panchayat.

6. (1) For each Gram Panchayat, there shall be a Village water security plan (VWSP) covering the following aspects:-

- (a) present situation of water resources covering both surface and groundwater;
- (b) conservation and development of water resources including surface and groundwater; and investments required for the same;
- (c) Systems for pooling of groundwater in order to achieve optimum utilisation and equitable distribution; and systems for incentivising such arrangements.

- (d) proposed allocation of water resources for different uses i.e. drinking water, domestic use, agriculture, industries, other livelihoods and ecological purposes, following the principles of sustainability and equity; and related expenditure
- (e) to lay down set of incentives, disincentives and punishments for ensuring regulated use of water resources as per the VWSP.

(2) Every VWSP prepared under sub-section (1) shall be approved by the Gram Sabha and shall be deemed to be legally valid document for all the purposes of the Act.

(3) Every water Security plan approved by the Gram Sabha under sub-section (2) shall be laid before the District Groundwater Council and the District Groundwater Council shall approve the plans keeping in view the sustainable and equitable use of Groundwater.

(4) Any complaint received in implementation of VWSP shall be examined and disposed of by the Grama Panchayati groundwater Council within 7 days of such complaint.

CHAPTER III DISTRICT GROUNDWATER COUNCIL

Establishment and constitution of District Groundwater Council.

7. (1) There shall be established by the Government by notification, an authority for each District by the name 'the District Groundwater Council'.

(2) The District Groundwater Council shall consist of the following members, namely:-

- (a) the District Collector who shall be the Chairperson; ex-officio;
- (b) the Superintendent Engineer, Rural water supply & Sanitation Department; - Member
- (c) the Superintendent Engineer, Minor irrigation Department; - Member
- (d) the Superintendent Engineer, A.P. TRANSCO; - Member
- (e) the Deputy Director Groundwater Department; - Member
- (f) Ten chairpersons of the Gram Panchayat Groundwater Councils of the villages nominated by the District Collector by choosing from over exploited, critical or Semi-critical groundwater basins in the Districts – Members
- (g) the Project Director, District Water Management Agency (DWMA) of who shall be the Member - Convener;

Meetings of the District Groundwater Council.

8. (1) The District Groundwater Council shall meet once in three months at such place and time as the chairperson decides.

(2) The quorum to constitute a meeting of the council shall be one third of total number of Members.

Appointment of Staff.

9. The District Groundwater Council may appoint not more than six (6) experts either part-time or full-time for assisting the District Groundwater Council to carry out its functions under this Act.

Powers and Functions of the District Groundwater Council.

10. The District Groundwater Council shall exercise such powers and perform such duties in respect of the preparation, execution and monitoring of implementation of Village water security plans, operation of funds and convergence with the related Departments as may be prescribed.

11. There shall be an annual social audit at village level on the execution of the VWSP and the management of groundwater resources in the manner prescribed.

CHAPTER IV
STATE GROUNDWATER COUNCIL

Constitution of the State Groundwater council.

12. (1) As soon as may be after the commencement of the Act, the Government may by notification constitute a council by the name of "the Andhra Pradesh State Groundwater Council"

(2) The State Groundwater Council constituted under sub-section (1) shall be a body corporate having perpetual succession and a common seal, to sue and be sued by its corporate name.

(3) The State Groundwater Council shall be constituted as follows:-

- (a) The Chief Minister of Andhra Pradesh, who shall be the Chairperson of the Council;
- (b) the Minister for Rural Development who shall be the Vice-Chairperson of the Council;
- (c) the Minister for Groundwater who shall be the Vice – Chairperson of the Council;
- (d) And eighteen (18) other members out of which,-
 - (i) One-third official Members representing Panchayat Raj, Groundwater, Watersheds, Rural Water supply,

Energy and Agriculture departments in rank not less than Secretary to Government

- (ii) One-third Members nominated by the Government from Academic Institutions; Civil Society Organizations; and legal experts;
- (iii) One-third Members nominated by the Government from the Peoples representatives from the over exploited, critical or semi critical villages and members of the District groundwater councils.
- (e) The Secretary or Principal Secretary to Government, Rural Development Department shall be the Member – convener;
- (f) Apart from the members, the council is authorised to invite any member as a ‘Special invitee’ as per requirement.

(4) The term of office of the nominated Members shall be two years and new members shall be nominated in vacancies arising.

(5) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor’s term of office.

Meetings of the State Groundwater Council .

13.(1) The State Groundwater Council shall meet at least once in four months at such place and time as the Chairperson may decide.

(2) The quorum to constitute a meeting of the Council shall be one third of total number of Members.

(3) Save as otherwise expressly provided by or under this Act, the procedure for the conduct of business at the meetings of the council shall be such as may be prescribed.

Appointment of Staff

14. The State Groundwater Council may appoint not more than six experts part-time or full-time to assist the State Groundwater Council to carry out its functions under this Act.

Powers and function of the State Groundwater Council .

15. The State Groundwater Council shall perform the following functions, namely:-

- (a) to establish systems for sustainable and equitable distribution of groundwater resources and ensuring access to the poor
- (b) to establish mechanisms, processes and systems for preparation and implementation of the VWSPs
- (c) to establish systems for monitoring groundwater situation in the rural areas with the support of Resource Organizations and prepare status papers from time to time.

- (d) to allocate necessary funds for establishing and strengthening Groundwater Councils at State, and district level, in terms of staff, infrastructure, communication facilities, etc.,
- (e) to review the action plans and their execution;
- (f) to facilitate the convergence between related Departments;
- (g) to empanel Resource Organizations which provide support to groundwater users; associations of groundwater users; Groundwater Councils at various levels and mandated to perform the following functions:
 - a. to create awareness among the general public regarding the conservation, development, management of groundwater for achieving sustainable and equitable use;
 - b. to train and orient the Grama Panchayati Groundwater Councils and facilitating preparation of Village Water Security Plans (VWSPs)
 - c. to support village communities to conduct annual Social audit of the groundwater management.
 - d. to establish monitoring systems including participatory hydrological monitoring system.

CHAPTER V GROUNDWATER PROTECTION MEASURES

Application of Chapter – III of the Andhra Pradesh Water Land and Trees

16. Except in so far as expressly provided in this Act., the provisions of sections – 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of Chapter – III dealing with Groundwater protection measures of the Andhra Pradesh Water, Land and Trees Act, 2002 as amended shall apply mutatis mutandis to the Andhra Pradesh Community Management of Groundwater Systems Act, 2010

CHAPTER VI OFFENCES AND PENALTIES

Offences and Penalties. 17 Whoever without any lawful authority does any of the following acts, shall conviction, be punished with imprisonment which may extend to two years or a fine which may extend to five thousand rupees or with both.

- (a) violates any provision of the VWSP duly approved by the Grama Sabha
- (b) damages or obstructs any ground water system resulting in depletion of groundwater availability
- (c) being responsible for the maintenance of the ground water system neglects to take proper precautions for the prevention of wastage of water thereof or interferes with the authorized distribution of water there from or uses groundwater in an unauthorized manner as to cause damage to adjacent landholdings;
- (d) corrupts or fouls, water of any ground water system so as to render it less fit for the purposes for which it is ordinarily used;
- (e) obstructs or removes any level marks or water gauge or any other mark or sign fixed by the authority of a public servant; and opens, shuts, or obstructs or attempts to open, shut or obstruct any sluice or outlet or any other similar contrivance in any ground water system;

Punishment under other laws not barred.

18. Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act:
 Provided, that no person shall be prosecuted and punished for the same offence more than once.

**CHAPTER VII
 APPEALS**

Appeal.

19.(1) Any person aggrieved by any order made by the Gram Panchayat Groundwater Council under any of the provision of this Act within a period of thirty days from the date of receipt of the order by him, appeal to the District Groundwater Council.

(2) Every appeal under this section shall be disposed of within thirty days from the date of filing the appeal.

Explanation: For the purpose of this sub-section the expression “person aggrieved” includes a local authority, the Panchayat Raj Engineering Department/State Groundwater Department and any other agency or authority entrusted with the responsibility of supplying drinking water and the management of the underground water.

(3) Before giving any decision in such appeal, the appellate authority shall give reasonable opportunity for all parties involved and also obtain expert opinion before finalizing the appeal.

CHAPTER VIII
MISCELLANEOUS

Fund.

20. Government shall make necessary budgetary provisions for the purpose of implementation of the provisions of this Act.

**Protection
of bore
wells**

21. Every owner of the land or premises before constructing any open well, bore well or tube well shall obtain written permission in advance from the Gram Panchayat Groundwater Council in terms of Village Water Security Plans. and shall take the following precautions:

- (i) the premises of the bore well shall be protected with the barbed wire fencing;
- (ii) signboard shall be erected near the well, giving complete address of the driller (drilling agency) and the owner of the well;
- (iii) construct cement or concrete platform around the well casing;
- (iv) strong caps shall be fixed to the casing pipe with bolts and nuts;
- (v) in case of pump repair, all necessary steps shall be taken to cover the pipe;
- (vi) after completion of the work the pits and channels shall be filled with the mud;
- (vii) abandoned bore well shall be filled by clay/sand/boulders/ pebbles, etc from bottom to ground level;
- (viii) on completion of the drilling operations the ground conditions shall be restored as before the start of drilling.

**Protection of
action taken in
good faith.**

22. (1) No suit, prosecution or other legal proceedings shall lie against any public servant or person appointed or authorized under this Act in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order made or direction issued under this Act.

(2) No suit, or other legal proceedings shall lie against the State Government or any officer of the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or in pursuance of any order made or direction issued under this Act.

**Offences
under this
Act to be
Cognizable.
Act II of 1974**

23. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act, shall be cognizable and the

provisions of the said code with respect to cognizable offences shall apply to them.

Offences and punishments.

24. (1) Whoever contravenes any of the provisions of this Act or obstructs any person in the discharge of his duties under this Act or contravenes any order or violates any rule made under this Act shall, on conviction, be punished with imprisonment which shall not be less than one month but may extend to six months with fine which shall not be less than one thousand rupees but may extend to five thousand rupees or with both.

(2) Whoever, without proper authority, damages, alters or obstructs any part of a public water supply system shall on conviction be punished with imprisonment, which shall not be less than two months but may extend to one year or with fine which shall not be less than two thousand rupees but may extend to five thousand rupees or with both.

(3) In the case of a continuing offence, the offenders shall be punished with an additional fine which may extend to rupees one hundred for every day during which such offences continues after the conviction.

Service of

25.(1) Subject to the rules, if any made in this behalf every notice or order issued under this Act may be served either by tendering or delivering a copy thereon or by post to the person on whom it is served either by tendering or delivering a copy thereof or by post to the person on whom it is to be served or his authorized agent or if services in the manner aforesaid cannot be made by affixing a copy thereof at his last known place or residence or at such place of public resort in the village in which the land or well to which the notice or order relates is situated.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person in the description of any land or well, referred to therein unless such error has produced substantial injustice.

Over riding

26. The provisions of the Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Power to remove doubts and difficulties.

27. If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order make provisions or give such directions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the doubt or difficulty.

**Power to
make rules.**

28.(1) The Government after consultation with the State Groundwater Council may, by notification make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (i) the procedure to be followed in connection with the preparation, publication, submission and approval of integrated water resource management;
- (ii) the procedure to be followed for complaint redressal system in respect of water security plans;
- (iii) the procedure to be followed for regulated use of groundwater in the local areas of the village;
- (iv) the incentives extended for collective use of groundwater;
- (v) the disincentives for violation of norms followed in the use of underground water;
- (vi) any other matter which has to be or may be made by rules.

(2) Every rule made under this Act shall immediately after it is made, be laid before the each House of the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be, comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

STATEMENT OF OBJECTS AND REASONS

The Groundwater usage is increasing day by day for the purpose of irrigation, drinking and domestic usage and variety of other purposes. Due to such usage and over exploitation of groundwater by large number of people, the poor and marginal farmers are being affected adversely due to inequitable distribution of water resources. Though in the past, Government has taken several regulated methods for the usage of groundwater resources, the Government considers that it is appropriate to empower the local bodies to govern water resources including groundwater resources by extending technical, financial and legal support to the local institutions, thereby Gram Panchayats and Gram Panchayat groundwater committees shall develop water security plans at habitation and gram Panchayat level by organizing institutions, associations by taking the support of resource organizations so as to ensure equitable distribution of groundwater among all categories of farmers, particularly rainfed farmers. It is also decided to improve the water use efficiency and water management practices and ensure that water resources are protected from pollution and over exploitation by taking protective measures for public drinking water sources. Further it is also decided to undertake water pooling schemes in the villages to protect water resources. To avoid unnecessary litigations in the villages in respect of the management of groundwater system the disputes are proposed to be settled amicably. To give effect to the above decision Government have decided to undertake a Legislation in this regard.

This Bill seeks to give effect to the above decision.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 1(3), 3, 6, 9, 10, 19, 21, 23, 27, 36, and 37 of the Bill authorize the Government to issue notifications or to make rules or issue orders in respect of the matters specified therein and generally to carry out the purpose of the Act. All rules so made are intended to cover matters mostly of procedural nature. All the rules so made shall be laid on the Table of both houses of the State Legislature and will be subject to any modification made by the Legislature.

The above provisions regarding delegated legislation are thus of normal type and are mainly intended to cover matters of procedure.

MEMORANDUM UNDER RULE 95 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE ANHDRA PRADESH LEGISLATIVE ASSEMBLY.

The Andhra Pradesh Community Management of Groundwater Systems Bill, 2010 after it is passed by the both Houses of the State Legislature may be submitted to the Governor for assent under Article 200 of the Constitution of India.