

[AS PASSED BY THE SENATE]

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BILL

further to amend the Private Power and Infrastructure Board Act, 2012

WHEREAS it is expedient to merge the Alternative Energy Development Board into the Private Power and Infrastructure Board (PPIB) due to similar mandate of both the autonomous bodies, for implementation of various policies, programs and projects in the field of Alternative or Renewable Energy Technologies by the Private Power and Infrastructure Board;

AND WHEREAS upon dissolution of the Alternative Energy Development Board, it is expedient further to transfer all its resources, grants, rights, powers, funds, liabilities, etc. to the Private Power and Infrastructure Board and to repeal the Alternative Energy Development Board Act, 2010 (XIV of 2010);

AND WHEREAS in the interest of certainty and consistency in the smooth functioning of the power sector, it is expedient further to amend the Private Power and Infrastructure Board Act, 2012 (VI of 2012), for the aforesaid purposes in the manner hereinafter appearing;

It is hereby enacted as follows: -

1. **Short title and commencement.**— (1) This Act shall be called the Private Power and Infrastructure Board (Amendment) Act, 2023.

(2) It shall come into force at once.

2. **Amendment of preamble, Act VI of 2012.**— In the Private Power Infrastructure Board Act, 2012 (VI of 2012), hereinafter called as the said Act, in the preamble, in the second paragraph after the word "investors", the expression "and to assist and facilitate development of transmission, distribution and generation of conventional and alternative or renewable energy and related infrastructure in order to achieve sustainable economic growth with transfer of technology for development of an indigenous technological base through a diversified energy generation" shall be inserted.

3. **Amendments of section 2, Act VI of 2012.**— In the said Act, in section 2, -

(i) the existing clause (a) shall be renumbered as (aa);

(ii) before clause (aa), renumbered as aforesaid, the following new clause shall be inserted, namely: -

"(a) "Alternative or renewable energy" means energy that is produced by alternative or renewable resources as compared to the conventional or that are replenished naturally which do not deplete when consumed and are non-polluting and environment-friendly;"

(iii) in clause (b), after the word "Board", the expression "appointed under this Act" shall be inserted;

(iv) after clause (c), the following new clause (ca) shall be inserted, namely: -

"(ca) "institute" means institute of alternative and renewable energy technologies established under this Act;"

(v) after clause (e), the following new clause (ea) shall be inserted, namely: -

"(ea) "organization" means an organization of the alternative and renewable energy established under this Act;"

(vi) in clause (g), after the word "regulations," the words, "made under this Act" shall be inserted; and

(vii) after clause (g), amended as aforesaid, the following new clause (ga) shall be inserted, namely: -

"(ga) "Prime Minister" means the Prime Minister of the Islamic Republic of Pakistan;"

4. Amendment of section 5, Act VI of 2012.—In the said Act, in section 5, in sub-section (2),-

(i) in clause (a), after the word "policies", the expression ", including for the utilization of alternative or renewable energy resources" shall be inserted; and

(ii) after clause (b), the following new clauses shall be inserted, namely: -

"(ba) develop national strategy, policies and plans for utilization of alternative and renewable energy resources to achieve the targets approved by the Federal Government in consultation with the Board;

(bb) act as a forum for evaluating proposals, monitoring of the projects and alternative and renewable energy products and to certify their vendors, installers and service providers;

(bc) create awareness and motivation of the need to set up alternative and renewable energy projects for benefit of general public as well as evaluating concepts and technologies from technical and financial perspective;

(bd) conduct feasibility studies and surveys to identify opportunities for power generation and other applications through conventional and alternative and renewable energy resources;

(be) make legislative proposals to enforce use and installation of equipment utilizing alternative and renewable energy;

(bf) setup alternative or renewable energy projects on its own or through joint venture or partnership with public or private entities in order to create awareness and motivation of the need to take such initiatives for the benefit of general public as well as by evaluating concepts and technologies from technical and financial perspectives;

(bg) interact and co-ordinate with international and national agencies for promotion and development of alternative or renewable energy;

(bh) assist in development and implementation of plans with concerned authorities and provincial governments and special areas for off-grid electrification;

(bi) to develop or cause to be developed electric power installations and infrastructure in accordance with the power policies and act as an independent auction administrator and perform other functions in the electric power market;

(bj) to act as a coordinating agency for commercial application of alternative or renewable technology;"

5. Insertion of sections 5A and 5B, Act VI of 2012.—In the said Act, after section 5, amended as aforesaid, the following new sections 5A and 5B shall be inserted, namely: -

"5A. Organization of the Board.— (1) The Board may, for carrying out its functions for promotion and development of transmission, distribution and generation of conventional

and alternative and renewable energy and related infrastructure, monitoring of alternative and renewable energy products and projects, project management and certification of vendors, installers and service providers, establish one or more organizations as it may consider necessary.

(2) An organization established under sub-section (1) shall be subject to control and supervision of the Board and shall function within the framework of this Act, and perform such functions as may be prescribed by regulations.

5B. Institute of energy technologies.— (1) The Board may, for carrying out its functions of commercial application of alternative or renewable energy and development and promotion of generation, transmission and distribution and related infrastructure, establish an institute for the development of corresponding human resource. The institute shall also provide economic and policy counseling and conduct alternative or renewable economic research.

(2) The institute established under sub-section (1) shall conduct its business in such manner as may be prescribed by regulations.

(3) The institute may be funded subject to the public finance management Act, 2019, by such fees and charges as may be prescribed by rules."

6. Amendment of section 6, Act VI of 2012.— (1) In the said Act, in section 6, in sub-section (1), -

(i) in clause (a), for the expression "Minister for Water and Power" the expression "Secretary of the administrative Division" shall be substituted";

(ii) clause (b), shall be omitted.

(iii) after clause (c), the following new clause (ca) shall be inserted, namely: -

(ca) Secretary of the Division to which business of climate change stands allocated or his nominee not below the rank of Additional Secretary or equivalent – *Member*;

(iv) in clause (d), for the expression "Ministry of Petroleum and Natural Resources", the expression "of the Division to which business of Petroleum stands allocated" shall be substituted; and

(v) in clause (j), the expressions "each", "and FATA" and "and Governor Khyber Pakhtunkhawa respectively" shall be omitted.

7. Amendment of section 7, Act VI of 2012.— In the said Act, in section 7, in sub-section (7), in clause (c), for the words "Federal Government", the word "Board" shall be substituted.

8. Amendment of section 14, Act VI of 2012.— In the said Act, in section 14, in sub section (1), in clause (e), the word "and" at the end shall be omitted and in clause (f), for the full stop, a semi colon shall be substituted and thereafter the following new clauses shall be inserted, namely: -

"(g) funds provided by the Federal Government for meeting the objectives of this Act including for payment of salaries, establishing infrastructure and running day to day business of the Board;

(h) foreign aid, grants, loans negotiated or raised or otherwise obtained by the Board, directly or through the Division to which business of economic affairs stands allocated;

(i) income from sale of movable or immovable property; and

(j) funds from floating bonds, shares, debentures, commercial papers or other securities issued by the Board or through any other means."

9. **Amendment of section 23, Act VI of 2012.**— In the said Act, in section 23, for the word “Board”, the words “Federal Government” shall be substituted.

10. **Amendment of Section 24, Act VI of 2012.**— In the said Act, in section 24, for the words “Managing Director” the word “Board” shall be substituted and the expression “, with the approval of the Board,” shall be omitted.

11. **Insertion of sections 30, 31, 32 and 33, Act VI of 2012.**— In the said Act, after section 29, the following new sections shall be inserted, namely: -

"30. Dissolution of Alternative Energy Development Board.— (I) Upon commencement of the Private Power and Infrastructure Board (Amendment) Act, 2021, the Alternative Energy Development Board established under section 3 of the Alternative Energy Development Board Act, 2010 (Act XIV of 2010) shall stand dissolved and upon such dissolution-

- (a) the alternate energy fund established under section 13 of the Alternative Energy Development Board Act, 2010 (Act XIV of 2010) shall stand transferred to and vest in the Private Power and Infrastructure Development Board Fund established under section 14;
- (b) all assets, rights, powers, authorities and privileges and all property, cash and bank balances, reserve funds, investment and all other interests and rights in or arising out of such property and all debts, liabilities and obligations of whatever kind of the dissolved Alternative Energy Development Board subsisting immediately before its dissolution, shall stand transferred to and vest in the PPIB;
- (c) notwithstanding anything contained in this section or any other law for the time being in force or in any agreement, deed, document or other instrument, all officers, consultants, advisers, auditors and other employees and staff of the dissolved Alternative Energy Development Board shall, after the commencement of the Private Power and Infrastructure Board (Amendment) Act, 2021, stand transferred and to be officers, consultants, advisor, auditors and employees and staff of the PPIB;

Provided that-

- (i) upon such transfer the emoluments of all officers, other employees and staff of the dissolved Alternative Energy Development Board shall not be varied to their disadvantage as they were entitled to receive in accordance with the dissolved Alternative Energy Development Board Act, 2010 (Act XIV of 2010);
 - (ii) The persons so transferred shall be deemed to have been appointed or engaged by the PPIB in such grades; and on such terms and conditions as will be determined by the Board having regard to equivalence of respective grades, qualifications and experience of employees of the dissolved Alternative Energy Development Board with the respective grades, qualifications and experience of existing staff of PPIB;
 - (iii) Persons so transferred shall not be entitled to additional compensation only because of such continuance or transfer; and
 - (iv) Any civil servants appointed to or working in the dissolved Alternative Energy Development Board shall upon their transfer to the PPIB continue to be governed by the Civil Servants Act, 1973 (LXXI of 1973) and rules made thereunder.;
- (d) immediately after the commencement of the Private Power and Infrastructure Board (Amendment) Act, 2021, the Board shall announce and notify a voluntary separation allowance under a voluntary separation scheme for such transferred officers, other employees and staff who may opt for such voluntary separation allowance within a

period of three months after such notification. After such option is exercised and payment of such voluntary separation allowance is made to such officers, other employees and staff, their employment shall stand terminated with immediate effect. After such maximum period of three months such transferred officers, employees and staff who have not opted for voluntary separation allowance shall be deemed to have been appointed and engaged by the Board from the date of such transfer. All payments made in respect of such voluntary separation scheme by PPIB shall be reimbursed by the Federal Government within a period of six months;

- (e) all debts and obligations incurred or contracts entered into, guarantees issued, rights acquired and all matters and things engaged to be done by, with or for the dissolved Alternative Energy Development Board shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the PPIB;
- (f) all suits, arbitrations and other legal proceedings instituted by or against the dissolved Alternative Energy Development Board before its dissolution shall be deemed to be suits, arbitrations and proceedings by or against the PPIB and shall be proceeded or otherwise dealt with accordingly; and
- (g) any reference to the Alternative Energy Development Board so dissolved in any statutory instrument, policy or other document or instrument shall, unless the context otherwise requires, be read and construed as reference to be PPIB.

(2) Notwithstanding anything contained to the contrary in the Private Power and Infrastructure Board (Amendment) Act, 2021, the terms and conditions of the existing PPIB officers, other employees and staff shall not be varied to their disadvantage due to appointment and engagement of such transferred officers, employees and staff.

(3) All rules, regulations, policies, notifications, orders, tax exemptions as provided under section 24 of the Alternative Energy Development Board Act, 2010 (Act XIV of 2010) or instructions in force pertaining to or in any way concerned with or affecting the dissolved Alternative Energy Development Board immediately before commencement of the Private Power Infrastructure Board (Amendment) Act, 2021, shall, so far as they are not inconsistent with any of the provisions of this Act, continue to be in force until repealed, altered or rescinded by rules or regulations made under this Act.

31. Exemption from taxes.— Notwithstanding anything contained in the Income Tax Ordinance, 2001 (XLIX of 2001), or any other law for the time being in force relating to income tax, the Board shall not be liable to pay any such tax on its income, investment, capital profit, wealth, gifts or gains.

32. Issuance of policy directives.— The Federal Government may as and when it considers necessary issue policy directives, not inconsistent with this Act, to the Board in respect of its activities and compliance of such directives shall be binding on the Board.

33. Repeal.— The Alternative Energy Development Board Act, 2010 (XIV of 2010) is hereby repealed."

STATEMENT OF OBJECTS AND REASONS

In 2003, the Alternative Energy Development Board (AEDB) was created and thereafter was given legal status in 2010 through the enactment of the Alternative Energy Development Board Act, 2010 (Act XIV of 2010) as statutory body to "facilitate development and generation of alternative or renewable energy in order to achieve sustainable economic growth with transfer of technology for development of an indigenous technological base through a diversified energy generation". Originally, the Alternative and Renewable Energy (ARE) project development was within the mandate of PPIB through Policy for Power Generation Projects 2002 and short, medium, and long-term targets were envisioned thereunder.

2. From the administrative perspective, the AEDB is essentially tasked with the similar functions as that of PPIB's, except that its scope is limited to development of ARE projects, resulting in duplication of functions, resources and efforts. The existence of AEDB as a separate administrative unit is contrary to the spirit of "one-window operation" and "ease of doing business", as investors have to deal with two different entities, having similar mandate and scope of work. It also runs contrary to concept of creating synergies for optimum output and undermine the concept of cost and resource effectiveness. It is now a serious apprehension that with the current structure and resource, the AEDB may not be able to match the expectation of accelerated pace of GOP's renewed focus on ARE development in Pakistan that has been set out in ARE Policy 2019.

3. The merger of AEDB into PPIB is also part of the overall scheme of the Competitive Trading Bilateral Contract Market (CTBCM), which envisions an Independent Auction Administrator (IAA) for conducting auctions/biddings on behalf of DISCOs for procurement of new power generation capacity. Thus, it is imperative that IAA functions are carried out by a single entity.

4. For reasons above, it is felt that the AEDB may be merged into the PPIB, which has been in existence since 1994, and has therefore developed the requisite skill set and ability to act as a one window facility for all segments of the energy sector. The merger of AEDB into PPIB will not only pave the way for smooth and seamless development and processing of power projects of all technologies including ARE projects but it will also ensure operational efficiency and facilitate investors by extending a true one-window for all technologies.

5. This Bill has been developed to achieve the aforesaid objectives.

Minister-in-charge
Power Division