



**GOVERNMENT OF KERALA**

**Abstract**

Fourth State Finance Commission Recommendation on finances of Local Self Governments in the State-Suggestions of the Secretaries' Committee on Recommendation Nos. 11.2.1 to 11.2.24, 11.3.1 and 11.5.1 in Part I Report of the Fourth State Finance Commission-Accepted-Orders Issued

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**Finance (S.F.C.Cell-B) Department**

**GO (Ms) No. 148/2012/Fin.**

**Dated, Thiruvananthapuram- 05-03-2012**

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Read: 1) Notification No.42650/Admn.A1/2009/Fin.dated.19/09/2009.  
2) G.O (Ms) No.109/2011/Fin.dated. 9/03/2011.

**ORDER**

Government constituted Fourth State Finance Commission vide Notification read as 1<sup>st</sup> paper above under clause ( 1 ) of Article 243-I of the Constitution of India and section 186 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), read with clause (1) of Article 243-Y of the Constitution of India and section 205 of the Kerala Municipality Act, 1994 (20 of 1994) to review the financial position of the Panchayats and Municipalities and make recommendations.

2. The Commission submitted its report in two parts - Part I and Part II. Government accepted all recommendations in Part I of the Report except recommendation Nos. 11.2.1 to 11.2.24, 11.3.1 and 11.5.1, which were referred for detailed examination by a Committee consisting of Secretaries of Local Self Government Department and Finance Department. Accordingly, a Committee of Secretaries was constituted as per Government Order read as second paper above. The Committee has submitted its suggestions.

3. Government having examined the suggestions of the Committee of Secretaries on recommendation Nos. 11.2.1 to 11.2.24, 11.3.1 and 11.5.1 in Part I Report of the Fourth State Finance Commission in detail, are pleased to accept the same in principle. Respective Administrative Departments will issue separate orders on implementation of each recommendation with the approval of the competent authority. The summary of

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recommendations of the Commission and the decision taken by Government thereon based on suggestions of the Secretaries' Committee is appended as Annex to this order.

(By Order of the Governor)  
**V.P.JOY**  
Principal Secretary (Finance)

To

The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.  
The Accountant General (A&E), Kerala, Thiruvananthapuram.  
The Principal Secretary, Local Self Government Department.  
The General Administration (S.C) Department (vide item No. 1247 of the proceedings of the Council of Ministers, dated.22-2-2012).  
The Finance (S.F.C. Cell-A/C/D, BW-J, Development Wing) Department.  
✓The Nodal Officer [www.finance.kerala.gov.in](http://www.finance.kerala.gov.in)  
Stock file /office copy  
Copy to: The Private Secretary to the Chief Minister/Minister ( Fin, Law & H)  
The Under Secretary to the Principal Secretary (Finance)  
The C.A to the Officer on Special Duty (Finance Resources)

Forwarded /By Order



Accounts Officer

**Government Decision on Suggestions of the Secretaries' Committee  
on Part I Report of Fourth State Finance Commission**

<b>Para No</b>	<b>Recommendation of the 4th SFC (Part I of the Report)</b>	<b>Government decision on Suggestions made by the Secretaries' Committee.</b>
11.2.1	<p>As per KPR (Amendment) Act, 2009 and Kerala Municipality (Amendment) Act, 2009, Sections 203 and 233 respectively (Property Tax) have been amended suitably as contemplated in the former three SFC reports, so as to enable the Local Governments to levy property tax on every building including the land appurtenant there to, on the basis of plinth area, usage, location etc. As per this amendment the minimum and maximum of the rate of tax are to be decided by Government and the Local Governments are free to select a rate within the broad range after considering the overall situation and complying with the procedures prescribed. The rules for operationalising the amended enactment related to Property Tax have just been finalised by Government. It is observed that any delay operationalising the new property tax regime will increase the accumulation of revenue loss to the LGs. This may be taken up as an urgent measure. It is also recommended that a biennial inflation neutralisation may be made compulsory as recommended by SFC II. In case of deflation Government may do well to make suitable downward adjustments as well.</p>	<p align="center"><i>The recommendation has been accepted.</i></p>
11.2.2	<p>As per the Amendment Act, Section 208 of the Kerala Panchayat Raj Act and 230(2) of Kerala Municipality Act have also been revised to enable the Local Governments to levy a surcharge not exceeding 50% of the property tax to meet any extraordinary expenses incurred by them towards any scheme or project or plan. The Rules need to be framed expeditiously.</p>	<p align="center"><b>Recommendation has been accepted. Mode of calculation etc. will be explained and illustrated in the Rules to be issued.</b></p>

<b>11.2.3</b>	<p>The data base of tax shall be computerized and uploaded in the public domain as a proactive disclosure of information to the tax payers. Creation of a GIS based property tax database to provide additional information about properties, their change in usage, additional construction etc will be of much help to streamline the assessment. It may be useful to note that the Kolkata municipal corporation has created a GIS database of Property Tax and the assessment of tax etc. is being done with the help of a special software; there was 30 percent year on year increase in property tax as a result of enterprise wide approach of IT implementation.</p>	<p><b><i>Suggestion has been accepted</i></b></p>
<b>11.2.4</b>	<p>The Commission has also recommend that Government may look into the possibility of bringing the land developed for non-agricultural purpose into the property tax domain, as the change in land use pattern is gaining unusual momentum all over the State in recent times. For this purpose the present definition for “property” in section 203 (1) as “building (including the land appurtenant there to) situated within the area of the village panchayat” is insufficient. Property for the purpose of Sec. 203 of Kerala Panchayat Raj Act and 233 of Kerala Municipality Act needs to be clearly redefined.</p>	<p><b>Suggestion has been accepted</b></p>
<b>11.2.5</b>	<p>The land value varies grossly from place to place and hence it is prudent to fix only the minimum rate by Government and to let the LGs free to determine the rate according to the land value etc. of the particular LG.</p>	<p><b><i>Recommendation has been accepted. Detailed circular will be issued.</i></b></p>
<b>11.2.6</b>	<p>As per the amended version of the Acts the assessment of property tax is to be made on the basis of certain specific indicators. The process of self -assessment on the basis of these indicators by the tax-payers themselves as outlined in the Government Order needs simplification. The government order also laid down that after the self assessment forms were filed by the taxpayers, the Panchayat authorities should make verification of the same by field measurement at the rate of 20% of properties a year. Thus 100 % check would be completed only by a period of 5 years. It is more practical that a separate team</p>	<p><b>Recommendation has already been implemented.</b></p>

	<p>specially trained for the purpose may be engaged for the meticulous and time-bound completion of the new assessments. It is recommended to establish a Property Tax Board on the lines of the West Bengal Central Valuation Board (vide 10.83 of the UFC XIII). The Board may be constituted for overall policy guidance and supervision of local government zonation and classification process. The establishment charges of the Board shall be fixed by Government and it is to be functioned as a no-profit-no-loss basis with the service charges collected from the LGs concerned. The Board shall engage sufficient personnel as and when required on contract basis. The five yearly enhancement or revision as the case may be, shall also be done with the help of the Board as is the case with new constructions.</p>	
11.2.7	<p>It is also proposed that when the ownership of a property which was assessed under property tax is changed, 50% of the property tax may be levied as a cess on transfer of property from the seller. So also when the occupier of a property is changed that shall be got registered in the Gram Panchayat/ULG and a registration fee equivalent to 25 % of the property tax shall be imposed on the new occupier.</p>	<p><b><i>Recommendation has been accepted subject to the condition that the cess on transfer of property and registration fee recommended by the Commission are one time and the registration fee shall apply only to non-residential property.</i></b></p>
11.2.8	<p>As per the Kerala Municipality Act 1994 Section 539(1) the period of limitation for the collection of dues of urban local governments is three years. If the loss is due to the inaction on the part of the officers concerned to take appropriate action in time it can be realised with 12% interest thereon from such officers vide Section 539(2). The intention of the Legislature is speedy collection of dues for developmental activities. But this provision is not strictly followed and huge amount is lost every year. If legislative intention is fulfilled in the right spirit tax collection can be made more effective and thereby huge losses can be curtailed. Taxation and finance Rules schedule II Rules 31 and 32 give ample punitive power to the Municipal Commissioners to collect dues. But in the Kerala</p>	<p><b><i>Recommendation has been accepted.</i></b></p>

	<p>Municipality Act 1994 the executive officer of the Municipality is renamed as Municipal Secretary who shall be an officer of the government borne on such cadre as may be prescribed by the government whereas Municipal Commissioner is a person appointed through the Municipal Commissioners Recruitment Rules 1964. As the punitive powers vest with the Municipal Commissioner as per the existing Taxation and Finance Rules, Municipal Secretary is unable to take coercive steps to collect tax dues. So the Commission recommends to take urgent steps to frame new Taxation and Finance Rules to enable speedy collection of revenue dues.</p>	
<b>11.2.9</b>	<p>Penal interest for non-payment of Property Tax in time has been reduced to 1% from 2% as per the Amendment Acts 2009. The Commission has also recommended to give incentives to those who pay taxes in advance by giving a 1% concession. Exempting penal interest at the fag end of the financial year through government orders is against the statutory provisions and the will of the Legislature is defeated. Hence this practice should be discontinued as it results in huge loss by way of interest.</p>	<p><i>Suggestion has been accepted</i></p>
<b>11.2.10</b>	<p>In a sample study conducted by the Commission, it was revealed that the demand for profession tax for each half year is not being settled in time and that all the potential tax-payers are not being brought under the tax net. In a majority of LGs the list of traders for assessing profession tax is not being maintained with up-to-date entries. This is the case with the list of professionals. The finance standing committee may be directed to monitor this as a statutory function. A drive to enumerate all professional and institutions may be launched and the data mapped suitably. Data may be obtained from the Commercial Taxes, Labour and Factories and Boiler's Department, on Trades, Plantations, Business and Industries.</p>	<p><i>Recommendation has been accepted</i></p>
<b>11.2.11</b>	<p>To streamline collection of Entertainment Tax from cinema theatres, computerised ticketing may be introduced immediately. Simultaneously a study to classify theatres may be got done, and a seat-based tax system introduced as appropriate to the location and class of the theatre.</p>	<p><i>Recommendation has been accepted.</i></p>

11.2.12	Entrance fees are collected in many tourist centres like Periyar Tiger Reserve (PTR), Periyar Lake, Pookkode Lake, Edakkal Caves etc., and certain agricultural farms. House boats are plying in backwaters and lakes. But the provisions in the Local Authorities Entertainment Tax Act and Rules are not sufficient to bring these activities under entertainment tax. Huge fees are collected for boat-rides, elephant-rides etc. These entertainments also are to be brought under ET Act. Other new areas of taxation for entertainment may also be explored. ET Act and Rules need a re-visit and comprehensive updation.	<i>Recommendation has been accepted.</i>
11.2.13	It is understood that Entertainment Tax would be merged with GST. Therefore whenever GST is introduced, an amount equivalent to the collection of Entertainment Tax during the last year of the tax should additionally be given to each eligible Gram Panchayat, Municipality and Corporation.	<i>Recommendation has been accepted.</i>
11.2.14	Even though there is ample provision in the Act and Rules for collection of Advertisement Tax, many LGs are reluctant to explore this potential. The reason for this reluctance on the part of the GPs needs special attention. The Commission has suggested that the minimum rates of advertisement tax in Corporations, Municipalities, Special Grade Panchayats and other Panchayats may be revised periodically taking into account the cost of advertisement in the competing advertisement media and the cost incurred by the society from the proliferation of hoardings. Considering the negative externalities of the hoardings the rate of tax of hoardings may be increased substantially so as to have a deterrent effect upon the advertisers. An optimum size of a hoarding may also be prescribed and larger size may be taxed double the rate so as to disincentivise and discourage larger hoardings.	<i>Suggestion has been accepted.</i>
11.2.15	As per the existing statutes, service tax shall be levied by the Grama Panchayat/ULB subject to the minimum rate fixed for sanitation, water supply, scavenging, street lighting and drainage wherever such services are provided by the LGs. This provision of the statute is not being exploited by majority of LGs. This indifference of the LGs indicates their reluctance in the exploration of own source revenue. Service Tax Rules may be issued immediately.	<i>The recommendation has been accepted and the term 'service tax' shall be renamed as 'civic service tax'.</i>

<b>11.2.16</b>	As it is difficult to make an impact assessment on each and every trade or industry, the Commission has recommended that the fees structure may be suitably updated taking all these aspects into consideration. A department committee of experts can examine this aspect. The title of the rules may be rechristened as KPR (regulation of trades, services and industries) Rules, instead of the present archaic title of 'Licensing of dangerous and offensive trades and industries rules'.	<b><i>Suggestion has been accepted</i></b>
<b>11.2.17</b>	In the existing rules, there are two tables viz. Table III and IV for imposing fees for installation of machinery. But the proviso 2 of Rule 18 has made these tables illogical and contradictory to the objective. This anomaly may be rectified suitably. The proviso 2 of Rules 18 shall be deleted. The feasibility of unifying table III and IV may also be considered.	<b><i>Recommendation has been accepted.</i></b>
<b>11.2.18</b>	Innumerable home-stays are mushrooming in LGs and the trend is still growing. Most of them are not registered with the District Tourism Promotion Council (DTPC), and many of them do not have the required No Objection Certificate (NOC) from the local police station. They are not being registered in LGs either. Home-stays, being an important part of responsible tourism, may be registered by the LGs.	<b><i>Recommendation has been accepted.</i></b>
<b>11.2.19</b>	Kerala Municipality Building Rules 1999 (KMBR) has been enforced in all the GPs in the State with effect from 6.6.2007. The Commission has understood that a new Kerala Panchayat Building Rules is in the anvil. This shall be expedited as the rapid growth of construction in an unplanned manner will pose serious threats to the balanced human habitation and life in rural areas also. Permit fees from KMBR also has become a major source of revenue to the GPs. As per the Administration Report of the Panchayat Department the total revenue derived from the fee collected as per KMBR during the year 2007-08 alone is a substantial Rs.19.25 crore even though the rules were enforced during that fiscal year itself. This shows the tremendous potential for revenue mobilisation.	<b><i>Recommendation has been accepted.</i></b>



<b>11.2.20</b>	As per the present Kerala Municipality Building Rules 1999, Rule 15A, a development permit or a building permit issued shall be valid for three years from the date of issue. On application submitted within the valid period of the permit, extension can be granted twice for a further period of 3 years each with 10% of the permit fee. The application submitted within one year of the expiry of the permit can be granted with a renewal fee of 50% of the permit fee once for a period of three years.	<b><i>Recommendation has been accepted.</i></b>
<b>11.2.21</b>	As per the present Rules the total valid period of the permit shall not exceed nine years. There are instances of delay caused due to some unforeseen contingencies. In the case of such buildings even though the construction is started within the valid period of permit and within the Rules, local government cannot regularise the construction and to bring it under regular assessment of tax for the sole reason that the period exceeded nine years. So the Commission recommends to levy a compounding fee of three times the permit fee in force at the time of regularisation.	<b><i>Suggestion has been accepted</i></b>
<b>11.2.22</b>	The Resident's Association movement is very strong in Corporation and Municipal areas throughout the State. The local governments may rope in the Residents Associations to create tax consciousness among the residents and launch a campaign for tax awareness and compliance. The Bangalore experiment initiated by Janagraha could be suitably adopted.	<b><i>Recommendation has been accepted and the Department of Local Self Government shall frame operational instructions</i></b>
<b>11.2.23</b>	The Commission has recommended to institutionalise a kind of <i>quid pro quo</i> for the additional resource mobilisation done by the Residents Association. For example, the Residents Associations that have consistently registered high rate of growth in revenue collection from their area may be allowed to use a portion of the revenue for repairing the roads or installing mercury lamps or whatever way they would like to spend money for common purpose.	<b><i>Suggestion has been accepted.</i></b>

11.2.24	As an exercise in naming and showing of defaulters of tax/non-tax payments by publishing their names on the website of the local government concerned may be initiated.	<i>Suggestion has been accepted.</i>
<b>11.3.1</b>	<p>The following recommendations were made by the Commission in respect of borrowings, PPP Project and Bonds : -</p> <p><b>A Borrowing</b></p> <ol style="list-style-type: none"> <li>1. The present rules issued under the Kerala Local Authorities Loans Act are too brief and procedural. The Rules need to be expanded to cover aspects like borrowing capacity, process for determining viability of projects, safeguards to ensure proper repayment of loans and measures needed in cases of default.</li> <li>2. Only projects which can be funded from the potential revenue stream or from escrowing of Service Tax should be allowed for borrowing purposes.</li> <li>3. By and large schemes which involve repayment from Government transfers should be avoided. If a LG is particular to take an annuity based project with the option to repay the loan using the transferred funds, the project period should not at any rate exceed the tenure of that LG. It is not fair to burden future generations of LGs by committing their funds for repayment of loans borrowed by the current batch of LGs.</li> <li>4. The proposal for borrowing needs to be accompanied by a Detailed Project Report (DPR), the preparation of which could be got done by professionals or agencies accredited through a transparent process by KLGDF. The DPRs should clearly state the future cash flows and the repayment schedule.</li> <li>5. A State level Technical Advisory Group should be constituted under KLGDF for vetting the DPRs. This professional expert group should not take more than a month for vetting and its comments should be presented before the State level Committee for approval of PPP Projects.</li> <li>6. A master data base of the borrowings should be available with the LSGD and also the Director of Local Fund Audit. It should also be made available in the public domain through the website of LSGD.</li> <li>7. There should be centralized monitoring of all schemes where borrowing has been permitted by Government. This should be on a quarterly basis to enable Government to act immediately on default.</li> </ol>	<p><i>Recommendation has been accepted.</i></p> <p><i>KLGDF will be operated as an asset management company. supporting rules will be framed and detailed instructions shall be issued later on.</i></p>

	<p><b><i>B PPP Projects.</i></b></p> <ol style="list-style-type: none"> <li>1. Government should come out with detailed guidelines on PPP Projects for LGs. An Expert Group or Institution could be assigned the task of developing detailed guidelines and suggest a policy framework which could be considered by Government and a decision taken.</li> <li>2. There should be a professional cell consisting of empanelled experts / agencies within LSGD for analyzing the proposals received from the LGs before it is submitted to the BOT sanctioning Committee.</li> <li>3. KILA should undertake a capacity building exercise on PPP Projects.</li> <li>4. As in the case of projects implemented with borrowed funds there should be a system for monitoring the PPP Project during their lifetime. Periodic assessment should be made for adherence to the terms of concession. Here also it is necessary to have a centralized data base of all projects so that even the public are informed of the concessions and their tenure.</li> </ol>	<p><b><i>Recommendation has been accepted.</i></b></p>
	<p><b><i>C Issue of Bonds</i></b></p> <ol style="list-style-type: none"> <li>1. An action plan should be put in place to improve the credit rating of Thiruvananthapuram and Kochi Corporations with definite time limits. This could be got prepared, implemented and monitored by KLGDF.</li> <li>2. KLGDF should conduct credit rating of the remaining three City Corporations viz., Kollam, Thrissur and Kozhikode and also Municipalities which have the potential for raising Bonds like Kottayam and Kannur.</li> </ol>	<p><b><i>Recommendation has been accepted.</i></b></p>
<p><b><i>11.5.1</i></b></p>	<p><b>The recommendations of the earlier SFCs which need to be reaccepted and implemented without delay are listed below:</b></p> <ol style="list-style-type: none"> <li>1. Undertake delimitation of Revenue villages to ensure that a GP,</li> </ol>	

<p>Municipality or Corporation contains only whole number of Revenue Villages.</p> <p>2. In respect of Advertisement Tax, Government may fix the minimum rate chargeable and leave it to the LG concerned to fix the rates accordingly. There should be a system of authenticating advertisements. The penal provision for unauthorized advertisements should be fixed at least five times of normal tax.</p> <p>3. Similarly for licence/Permit fees the freedom to fix the fee above a mandatory minimum fixed by Government may be given to LGs.</p> <p>4. Cable Television and Internet may be brought under the Entertainment Tax net.</p> <p>5. All GPs, Municipalities and Corporations should conduct systematic tax mapping on a GIS platform and assign unique premises number to each premise.</p> <p>6. Plinth area-wise property tax may be implemented with effect from 1st April 2011 for revision and immediately in the case of new buildings. A cap on increase of tax may be reviewed; if it is not possible, rectification may be spread out over the next assessments.</p> <p>7. Conversion tax may be realized at the rate of 5% of the capital value in the case of conversion of paddy lands. If the conversion is without prior permission, ten times the rate should be realized.</p> <p>8. In the case of licences and permits which are to be renewed periodically, 25% of the fee may be collected as fine for delays beyond a grace period of 10 days; this penalty may be increased by 25% for every additional fortnight of delay.</p> <p>9. GPs may be given same powers which Municipalities and Corporations have under Section 376 of the Kerala Municipality Act for auctioning the right to set up temporary shops in public lands.</p> <p>10. A Demand-Collection-Balance (DCB) statement of all revenue items should be prepared and discussed in meetings of LGs once in a quarter. The summary should be presented in the Grama Sabhas and Ward Sabhas.</p>	<p style="text-align: center;"><b><i>Recommendations at Sl.No.18 has already been operationalised. All other recommendations have been accepted subject to the modification that the condition at Sl. No.12 should be in addition to disciplinary actions and condition at Sl. No. 17 should be with the specific consent of the Local Government concerned.</i></b></p>
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	<p>11. Legislative provision may be introduced for indexing non-tax revenue items and taxes like Property Tax and Advertisement Tax. Two yearly revisions are recommended for non-tax items and Advertisement Tax based on Consumer Price Index for Non-manual Workers for Thiruvananthapuram in the case of urban LGs and Consumer Price Index for Agricultural Labourers for the State in the case of GPs. For property tax five yearly revisions may be done.</p> <p>12. Unpermitted diversion of funds should be penalized by charging a penalty of 2% per month from the persons responsible.</p> <p>13. A Statement of revenue collection and arrear position of LGs should be placed by the Government in the Assembly by 30th September of the succeeding financial year.</p> <p>14. List of major defaulters of property tax should be published in the website of the LG concerned.</p> <p>15. There should be a single account for crediting of the own source revenues of LGs.</p> <p>16. Welfare pensions may be distributed centrally after the selection of beneficiaries is made by the LG concerned.</p> <p>17. Before ordering any exemption/reduction in tax which is in the domain of LGs, Government should obtain the consent of the LGs concerned.</p> <p>18. An Accounts Cadre should be set up in all LGs. (This is explained in the main Report).</p> <p>19. An Empowered Committee under the Chief Secretary may be set up consisting of the Secretaries in charge of LSG, Finance and Law Departments to follow up the accepted recommendations and implement them fully. The Committee may be given secretarial support by SFC Cell now under the Finance Department.</p>	
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