



GAUTENG
LEGISLATURE

NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Appropriations
Honourable TE Chaane

NAME OF BILL: Division of Revenue Bill (Section 76)

NUMBER OF BILL: [B2 – 2013]

DATE OF DELIBERATION: 22nd March 2013

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the Principle and the Detail of the Bill and therefore votes in favour of the-

- Division of Revenue Bill.

MR SAKHIWE KHUMALO

Chairperson: Finance Portfolio Committee
GAUTENG PROVINCIAL LEGISLATURE

Date: 22/03/ 2013

**FINANCE PORTFOLIO COMMITTEE REPORT ON THE DIVISION OF REVENUE BILL
[B2-2013] - Section 76**

1. INTRODUCTION

The Chairperson of the Finance Portfolio Committee ("Portfolio Committee"), Mr. S Khumalo tabled a report on the Negotiating Mandate of the Division of Revenue Bill [B2-2013] ("the DOR Bill/Bill"). The Bill is introduced in terms of section 76 of the Constitution of the Republic of South Africa, 1996 ("the Constitution") and it is widely referred to as a section 76 Bill.

The Bill is introduced annually to give effect to section 214(1) of the Constitution and the Intergovernmental Fiscal Relations Act, 1990 ("IGFRA"). The Bill provides for the equitable Division of Revenue raised nationally among the National, Provincial and Local spheres of Government for the 2012/2013 financial year and responsibilities of all three spheres pursuant to such division; and further provide for matters connected therewith.

2. PROCESS FOLLOWED

The Speaker of the Gauteng Provincial Legislature Hon. L Maseko formally referred the Bill to the Finance Portfolio Committee ("portfolio committee") for consideration in terms of Gauteng Provincial Legislature Standing Rule 227(2) (3).

Each financial year when the annual budget is introduced, the Minister of Finance must in terms of Section 10 of the IGFRA, introduce in the National Assembly a Division of Revenue Bill for the financial year to which that budget relates.

In considering the Bill, the Portfolio Committee took into account the Recommendations of the Financial and Fiscal Commission to the Division of Revenue for the 2012/13 financial year (FY) as well as other related financial frameworks.

The Chairperson of the Portfolio Committee was invited by the Finance Select Committee to the presentation on the Bill by National Treasury led by the Minister of Finance, Hon. P Gordhan.

On Friday, 22nd March 2013, the Portfolio Committee deliberated on the Bill after the briefing by the NCOP Gauteng Permanent Delegate Hon.DS Montsitsi who was supported by officials from National Treasury. After deliberations, the Portfolio Committee adopted its report on the Bill to be tabled at the NCOP plenary

In line with the requirements of the Constitution of the Republic of South Africa, the Portfolio Committee invited key stakeholders to make submissions; however, no written submissions were received from the invited stakeholders in this regard.

3. PRINCIPLE OF THE BILL AND GOVERNMENT'S POLICY PRIORITIES FOR THE 2013/14 MTEF

The Bill seeks to provide for the equitable division of revenue raised nationally among the three spheres of government for the 2013/2014 financial year and the responsibilities of all three spheres pursuant to such divisions; and to provide for matters connected therewith.

The allocations to the three spheres of government for the 2013/14 financial year and Medium Term Expenditure Framework are mainly informed by the outcome-based planning and budgeting adopted by the national government. Particular emphasis is on infrastructure development; job creation; better health care; and promoting quality education and skills development across the three spheres of government.

Of importance to note is that the Moneys Amendment Procedure and Related Matters Act stipulates that when a budget is tabled a report must also be tabled detailing the recommendations by Parliamentary Committees on Appropriations regarding the proposed division of revenue and conditional grants allocations to provinces and local government as contained in the MTBPS. **It is the Portfolio Committee's view that this legislation makes it possible for provinces, through their interaction with the Appropriations Committee of the NCOP, to advance their respective cases relating to the division of revenue and conditional grant allocations.**

The Portfolio Committee further notes that National Treasury, in developing the Division of Revenue Bill for the 2013/14 financial year, consulted and engaged the Financial and Fiscal Commission ("FFC"), which is mandated by Section 220 of the Constitution to provide information to all organs of state in order to make informed decisions about complex fiscal matters.

4. CONSTITUTIONAL AND STATUTORY FRAMEWORK

Section 214 of the Constitution requires that an Act of Parliament must provide for:

- The equitable division of revenue raised nationally among national, provincial and local spheres of government;
- The determination of each province's equitable share of the provincial share of that revenue; and
- Any other allocations to provinces, local government or municipalities

from the national government's share of that revenue, and for any conditions on which those allocations may be made.

The Bill seeks to amongst others, give effect to the provisions of Section 214 of the Constitution. It is noted in this regard that the bill is in sync with the Constitution and other relevant statutory frameworks.

5. OPINION OF THE GAUTENG PROVINCIAL EXECUTIVE COUNCIL ON THE BILL

Before the Bill is tabled in Parliament, all Provincial Treasuries are afforded an opportunity to comment. As such, inputs of the Provincial Executive Council are captured in the Bill. The Gauteng Department of Finance ("the Department") concurs with the Bill as tabled.

6. SOCIO-ECONOMIC IMPACT

The Portfolio Committee notes that the equitable share allocated to Gauteng was increased as a result of the data emanating from Census 2011 in relation to the population growth experienced by Gauteng.

The Portfolio Committee, having taken into account the PES as far as it relates to the betterment of basic standards of living, is of the view that the 2013 allocations are consistent with government priorities of creating jobs through infrastructure development; better health care and quality education.

7. FINANCIAL IMPLICATIONS OF THE BILL

The total revenue nationally raised and to be shared amongst the three spheres of government, amounts to R 951 333 000 in 2013/14 financial year, increasing to R 1 022 762 000 in 2014/15 and R 1 097 564 000 in 2015/16 financial years respectively. For the 2013/14 FY, it is noteworthy that the Gauteng Province receives an amount of R 76 885 000 000 comprising of the equitable share and conditional grants.

8. AMENDMENTS TO THE 2012 Division of Revenue Act

The Portfolio Committee notes that the large part of the Bill remains the same annually and further welcomes all the amendments made to the Bill, in particular on the new conditional grants as well as the upward revision of some conditional grants. Furthermore the following significant changes, among others, as reported by National Treasury, are welcomed:

- **Provincial Infrastructure grant reforms**

Henceforth, provinces will be required to submit monthly provincial reports on provincial expenditure of supplementary provincial infrastructure grants in a format prescribed by National Treasury.

- **Health infrastructure**

The three health infrastructure grants have been merged into one grant.

- **Human Settlement**

Additional clauses are added to deal with shift of function in cases where a function is assigned to specific metropolitan municipalities

- **Infrastructure rehabilitation and reconstruction costs following a disaster**

This is meant to assist provinces and municipalities with the recovery and rehabilitation of infrastructure damaged by disasters

9. GENERAL COMMENTS ON THE DIVISION OF REVENUE BILL

Infrastructure development remains a critical catalyst to the alleviation of unemployment and poverty. It is for this reason that the Portfolio Committee supports government's initiatives aiming to expedite and invest in infrastructure development. However, this cannot be totally attained without proper skills development including efficient project management across the three spheres of government.

National Treasury, as part of incentivising provinces on infrastructure development has introduced a new approach to institutionalise planning. This approach will require provinces to bid for infrastructure allocations two years in advance and financial incentives will be built into the grant for provinces that implement best practices in delivering infrastructure. Health and education infrastructure grants will require provinces to begin submitting plans in 2013/14 for funds to be received in 2015/16. **The Portfolio Committee welcomes this initiative which, in essence, will necessitate proper planning and comprehensive project management and implementation.**

National Treasury's efforts to further strengthen and regulate Supply Chain Management policies are welcomed. This will go a long way in preventing non-compliance to SCM requirements thereby preventive fraudulent activities from occurring. **It is for this reason that the Portfolio Committee welcomes the appointment of the Chief Procurement Officer.**

The Portfolio Committee notes the increase of allocations to local government as detailed in the Bill. It is the view of the Portfolio Committee

that this increase will assist municipalities in dealing with service delivery demands.

11. COMMITTEE RECOMMENDATIONS ON THE DIVISION OF REVENUE BILL, 2012

- 11.1 While the Portfolio Committee notes the work by National Treasury on measures put in place to regulate conditional grants, it recommends that monitoring and evaluation should be enhanced as a way of avoiding material under spending and diversion of funds.
- 11.2 The Portfolio Committee recommends that National Treasury in collaboration with Provincial Treasuries should enhance early warning systems to avert fiscal distress in key provincial departments.