



EASTERN CAPE PROVINCIAL LEGISLATURE

OFFICE OF THE CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON
ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM

TEL: (040) 608 0081
FAX: (040) 636 4922
osleku@ecleg.gov.za
11 June 2013

PHYSICAL ADDRESS
PARLIAMENTARY BLDG
INDEPENDENCE AVENUE
BISHO, SOUTH AFRICA

POSTAL ADDRESS
P/Bag X0051
BISHO, SOUTH AFRICA
5605

NEGOTIATING MANDATE

To: The Chairperson:
Select Committee on Trade and International Relations

Name of Bill: Tourism Bill
Number of Bill: [B44B-2012]
Date of Deliberation: 11 June 2013

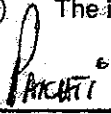
1. Vote of the Legislature

The province votes in favour of the Bill and mandates the Eastern Cape delegate to the NCOP to negotiate in favour of the Bill within the following parameters:

(a) General Recommendations

- (i) It is suggested that there should be a provision in the Bill which regulates action to be taken when a municipality unilaterally closes a tourism authority.
- (ii) The Bill is silent of the funding model of Tourism Units in rural Municipalities. The Bill should specify this and Municipalities should be funded according to their needs.
- (iii) The Bill should have a clause on how to promote cultural and heritage tourism.

- (iv) The Bill seems to be protecting the consumer to the detriment of the interests of the product owner when the tourists are misbehaving.
- (v) The Bill should also address the problematic area of a reliable data on statistics of tourists.
- (vi) The intention of Bill was supported.


PAKATI

HON X PAKATI (MPL)
CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON ECONOMIC
DEVELOPMENT, ENVIRONMENTAL AFFAIRS & TOURISM

18/06/2013
DATE



FREE STATE-VRYSSTAAT-PORRISTATA

Committee Service

FREE STATE LEGISLATURE

Our reference:
Ons verwysing:
Tshupho ya rona:

PORTFOLIO COMMITTEE ON PUBLIC WORKS, ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM

Negotiating Mandate

TO: Chairperson of the Select Committee on Trade and International Relations

NAME OF BILL: TOURISM BILL

NUMBER OF BILL: [B44B - 2012]

DATE OF DELIBERATION: 18 JUNE 2013

VOTE OF THE LEGISLATURE

The Portfolio Committee on Public Works, Economic Development, Environmental Affairs and Tourism, as design by the Free State Legislature:

Vote in favour of the Bill.

ME Thobakala

Chairperson of Portfolio Committee on Public Works, Economic Development, Environmental Affairs and Tourism

FREE STATE LEGISLATURE



NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Trade and International Relations

Hon. DD Gamede

NAME OF BILL: Tourism Bill

(Section 76)

NUMBER OF BILL: [B44B-2012]

DATE OF DELIBERATION: 07 June 2013

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and the detail of the bill with the proposed amendments.

- Tourism Bill

HON. MA MGCINA

Chairperson of Economic Development Committee

GAUTENG PROVINCIAL LEGISLATURE

Date: 7th June 2013



GAUTENG
LEGISLATURE

**ECONOMIC DEVELOPMENT PORTFOLIO COMMITTEE
NEGOTIATING MANDATE ON**

**Tourism Bill [B44B-2012]
(Section 76)**

1. INTRODUCTION

The Chairperson of the Economic Development Portfolio Committee Hon. Mafika Mgcina, tables the Committee's Negotiating Mandate on the Tourism Bill [B44B-2012], Section 76, as follows:

2 PROCESS FOLLOWED

The Speaker, Hon. Lindiwe Maseko formally referred the Tourism Bill [B44B-2012], a Section 76 Bill to the Portfolio Committee on Economic Development, in terms of GPL Rules 252 read with 253, 254 and 255 for consideration and reporting.

On Wednesday, 22 May 2013, the Portfolio Committee on Economic Development received a presentation on the Bill from the National Department of Tourism. In the same meeting, the Committee also received a presentation on the opinion related to the Bill from the Department of Economic Development, led by the MEC Nkosiphendule Kolisile.

On Friday, 24 May 2013, the Committee received a presentation on the research analysis on the bill, followed by the legal opinion that was presented during the meeting dated Wednesday 5th June 2013. The Committee thereafter held a public hearing at the Johannesburg City Hall on the 5th June 2013 to receive submissions from stakeholders and other interested parties.

The Committee deliberated on the technical and substantive amendments and subsequently adopted the Negotiating Mandate on the Tourism Bill [B44B-2012] on a meeting that convened on Friday, 7th June 2013.

3. PRINCIPAL AND DETAILS OF THE BILL

The Bill seeks to provide for the development and promotion of sustainable tourism for the benefit of the Republic, its residents and its visitors; to provide for the continued existence of the South African Tourism Board; to provide for the establishment of the Tourism Grading Council; to regulate the tourist guide profession; to repeal certain laws; and to provide for matters connected therewith.

4. OVERVIEW OF PUBLIC HEARING AND SUBMISSIONS

As part of its functions and obligation, the Committee held a public hearing on the Tourism Bill [B44B-2012] on Wednesday, 5 June 2013. The Committee had received both verbal and written submissions from the various individuals and organisations that are listed hereunder:-

- Federated Hospitality Association of Southern Africa (FEDHASA);
- The Field Guides Association of Southern Africa;
- Ekurhuleni Metropolitan Municipality;
- Culinary Arts Association of South Africa;
- South African Youth in Travel, Tourism and Hospitality

- Various Members of the Public.

4.1 Submissions by the Federated Hospitality Association of Southern Africa (FEDHASA)

- **Section 5 on the National tourism information and monitoring system**

"The Minister may establish a national tourism information and monitoring system for — (a) collecting, recording, managing, analysing and disseminating information and data on tourism; and (b) monitoring developments and trends in tourism".

- **Comment** – It would appear that this provision might only refer to "organs of state and any institutions" providing data and information. It may be an idea for the Minister to request similar information from the private sector but on a voluntary basis. The Private sector would certainly be able to contribute with regards national and international tourism developments and trends.

- **Section 6 on the Information by tourism businesses**

"(1) The Minister may for purposes of planning and development in relation to tourism growth and development establish and maintain a database of information on tourism businesses. (2) The Minister may by notice in the Gazette.....

- **Comment** – It appears that the Minister is looking to compile a national data base of tourism establishments. This is clearly a good idea however there are inherent dangers attached to such a proposal. The success of the initiative will depend on the amount of red tape and the complexity of the registration process. If, as in the case of the Mpumalanga Tourism Act and Regulations, the registration process is extremely onerous on tourism establishments, it is unlikely to succeed.

- If possible and instead of having local, provincial and a national data base(s) it would certainly be expedient to have a single national data base from which the provinces and or local authorities could draw their information when required.
- **Section 7 on the Norms and standards for tourism**
 - **Comment** – Although the National Tourism Sector Strategy makes mention of norms and standards for responsible tourism and for service excellence, hopefully the minister will publish, for public comment, a comprehensive document in this regards.
- **Section 8 dealing with the Codes of good practice for tourism**
 - **Comment** – Hopefully the “codes of good practice” will initially be published for public comment before promulgation
- **Section 45 on the Appointment of Tourism Protector**
 - **Comment** – This is an extremely good idea as currently SA does not have a single entity dealing with tourist related issues. But as in all situations such as this, the success of the initiative will be highly dependent on the manner in which the scheme is administered and managed.

4.2 The Field Guides Association of Southern Africa

General Comments

- The definition of a Tourist Guide is not included in the draft Bill. – this could have a negative impact when trying to enforce the Bill in particular with regards to the legal requirements of Tourist guides and the enforcement of the law for illegal guiding. It is thus important that the definition of a tourism guide be placed back in the Tourism Bill.

- The issue around carrying capacity with regards to guides driving and guiding at the same time has also been omitted from the Tourism Bill.
- There are gaps which need to be addressed within Tourism legislation, wherein the Draft Bill does not make it compulsory for tour operators to make use of registered tourist guides during all tours.
- The Draft Bill states that if operators, companies, etc make use of illegal guides then there are consequences. The Department of Transport will only be able to address this issue effectively if reference is made in the Tourism Act around the issue of tourist safety and other such issues.

4.3 Ekurhuleni Metropolitan Municipality

General Comments

- Tourism grading – the bill does not clear state whether grading will be voluntary or mandatory.
- Tourism Protector- the bill does not indicate as to whether Province's will have their own Tourism Protector or will the protector reside with the National Department of Tourism.
- The Tourism Protector should not only focus on protecting tourist but also focus on protecting the service providers within the tourism sector.

4.4 Culinary Arts Association of South Africa

General Comments

- There should be transformation within the Tourism Industry where by previously disadvantaged persons are given greater opportunities within the sector.
- Training of students should be intensified and be beneficial for the sector.

4.5 South African Youth in Travel, Tourism and Hospitality

General Comments

- The Bill makes does not make mention of a rural tourism strategy that is linked to rural development and community based tourism.
- The Bill should seek to focus on BBBEE with special attention on the GEYODI focal point.
- The Bill should seek to define transformation within the tourism sector.
- The Bill should be clear on the tourism levies and the levies should be channelled to previously disadvantaged communities.
- The bill should seek to establish a youth directorate within the Office of the Director General in the Department of Tourism.

Overall Comments

- The role of the Municipalities is not clearly articulated by the Bill.
- The Bill should indicate on the establishment of the Board as to whether or not it will comprise of members from every province, since it is indicated on the bill that the board will have 9 members.
- Funding for youth in tourism should be made accessible

5. FINANCIAL IMPLICATIONS AND SOCIO ECONOMIC IMPACT ASSESSMENT OF THE BILL FOR THE PROVINCE

5.1. FINANCIAL IMPLICATIONS OF THE BILL

The Bill does not create further financial implications for the Province.

5.2. SOCIAL IMPACT ASSESSMENT

The Bill highlights its intention to further support growth and development in the tourism sector. The growth and development of this sector remains central, however its transformation and real socio-economic development benefits such as poverty alleviation, job creation, skills development, SMMEs and Cooperatives support should be re-prioritised.

In respect of the objectives of the Bill to promote responsible tourism, marketing, quality of products and services, growth and development, as well as cooperation and coordination between all spheres of government; the Bill thus responds positively.

6. VIEW OF EXECUTIVE (THE DEPARTMENT OF ECONOMIC DEVELOPMENT)

The Gauteng Department of Economic Development supports the Tourism Bill [B44B-2012] with the following amendments:

- The main aim in drafting the Tourism Bill, is to provide for the development and promotion of sustainable tourism for the social, economic and environmental benefit of South Africa's citizens.
- Its key objectives are to promote the practice of responsible tourism; provide for the effective marketing of South Africa domestically and internationally; promote quality tourism products and services; encourage growth and development in the sector; and advance effective intergovernmental relations in developing and managing tourism.
- To this end, the Tourism Bill includes the National Tourism Sector Strategy as part of the legislative framework for the management and development of tourism. It makes provision for the establishment of a convention bureau by South African Tourism, the South African National Convention Bureau, which is already operational.

- Provision is also made for the issuing of norms and standards to standardize the management and development of tourism. The bill also provides for the determination of codes of good practice as guidelines for the management of tourism.
- The bill will also aim to regulate the tourist guide profession.

7. COMMITTEE RECOMMENDATIONS

The Committee recommends the following:-

- 7.1 That Tourism businesses should be categorised.
- 7.2 Grading of establishment in townships should be expedited by the Grading Council in order to promote tourism.
- 7.3 The Department of Tourism and other tourism authorities should intensify educating and promoting tourism within every sector of the community.
- 7.4 That in line with legislative drafting convention, terminology used in the Bill be accordingly defined and to that end there be included in the Definitions Clause of the Bill the definition of National Conventions Bureau and Tourism Grading Council.
- 7.5 That Clause 10(2) be refined to indicate that the Tourism Board must also perform any other functions in line with the objects of the Bill as the way it currently reads may lead to interpretation challenges.
- 7.6 That the Bill need not regulate matters related to the employment contracts of for instance the Chief Quality Assurance Officer and/ or the Chief Executive Office of the Board as such matters are invariably subject to our labour legislative regime and the law of contracts.

8. NEGOTIATING POSITION ADOPTED BY COMMITTEE

The Economic Development Portfolio Committee from the Gauteng Provincial Legislature supports the Tourism Bill [B44B-2012] taking into consideration the recommendations proposed above.

03339597477



ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

KWAZULU-NATAL PROVINCIAL LEGISLATURE

NEGOTIATING MANDATE

TO: HON DD GAMEDE

CHAIRPERSON: SELECT COMMITTEE ON TRADE & INTERNATIONAL
RELATIONS

NAME OF BILL: TOURISM BILL

NUMBER OF BILL: B44B - 2012

DATE OF DELIBERATION: TUESDAY, 18 JUNE 2012

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Economic Development & Tourism met today, Tuesday, the 18th of June 2012 to consider the Tourism Bill [B44B-2012].

The following amendments were proposed and considered on the bill:

1. In clause 45 and anywhere else in the Bill where the term Tourism [Protector] appears to be replaced by Tourism Complaints Officer.
2. Clause 50(2) to be amended as follows:
"No person may be registered as a tourist guide in terms of this Act unless he or she shows proof of the competence contemplated in section 51 and has shown to have prior historical or indigenous knowledge of the area."

The Committee agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to support the bill provided that the above comments and proposed amendments are considered and consolidated into the bill.

03339597477



HON N NTOMBELA

CHAIRPERSON OF ECONOMIC DEVELOPMENT

& TOURISM PORTFOLIO COMMITTEE

18.06.2013

DATE

Limpopo Legislature

OFFICE OF THE SECRETARY



Physical Address:

Lebowakgomo
Government Complex

Postal Address:

Private Bag X9309
Polokwane
0700

NEGOTIATING MANDATE


To : The Chairperson: SC on Trade and International Relations

Name of Bill : Tourism Bill

Number of the Bill : [B44B-2012]

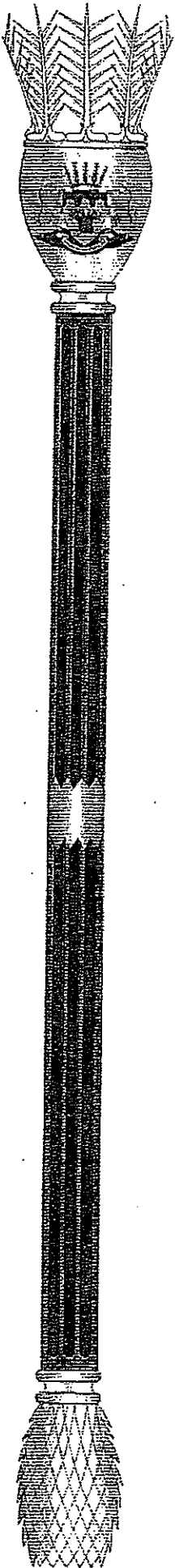
Date of Deliberation : 14 June 2013

Vote of the Legislature : Provincial NCOP Permanent Delegates to vote in favour of the Bill,


.....

HON. H.E. MATEME
CHAIRPERSON: PORTFOLIO COMMITTEE ON
ECONOMIC DEVELOPMENT, ENVIRONMENT
AND TOURISM

18 JUNE 2013
.....
DATE



Limpopo Legislature

OFFICE OF THE SECRETARY

Physical Address:
Lebowakgomo
Government Complex

Postal Address
Private Bag X9309
Polokwane
0700

NEGOTIATING MANDATE OF THE PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM ON THE TOURISM BILL [B44B-2012]

1. INTRODUCTION

The Tourism Bill [B44B-2012] was referred to the Legislature by the NCOP and the Legislature in turn referred it to the Portfolio Committee on Economic Development, Environment and Tourism for consideration.

2. PURPOSE OF BILL

The purpose of the Bill is to provide for the development and promotion of sustainable tourism for the benefit of the Republic, its residents and its visitors; to provide for the continued existence of the South African Tourism Board; to provide for the establishment of the Tourism Grading Council; to regulate the tourist guide profession; to repeal certain laws; and to provide for matters connected therewith.

3. CONSIDERATION OF THE BILL

The Portfolio Committee on Economic Development, Environment and Tourism was briefed on the principle and provisions of the Bill by the NCOP Permanent Delegate during a Committee meeting held on 23 May 2013. The Committee conducted public hearings on 30 May 2013 in Vhembe District, Sekhukhune District, Waterberg District and Capricorn District.

4. INPUTS BY STAKEHOLDERS IN THE PUBLIC HEARINGS

The stakeholders made the following inputs:

- i. Municipalities must ensure that there is a database on tourist attraction centers so that people are not left out.
- ii. A plea made to municipalities to ensure that cooperatives are encouraged even among few individuals.
- iii. It was indicated that each municipality should have an information office on tourism matters.
- iv. Local art design was encouraged for market purposes.
- v. The board and the agency should be accessed at municipal level.
- vi. Accessibility of tourism information was raised as an issue.
- vii. Grading vs. capacity to upgrade: the public felt that functions must be devolved to local officials. That is, the functions must be decentralized including decentralization of councils. All functions that are assigned to the minister must descend to local sphere.
- viii. On accreditation, it was agreed that the same powers should descend down to local sphere.
- ix. It was suggested that a list on training centers for tourist guide profession should be sent to municipalities. The public felt that there is a need to have a database on those who need tourist guide qualifications.
- x. There is a need for brochures to be circulated to municipalities for information.
- xi. It was also suggested that geographical location as part of qualifications to be on the Tourism Board is not important and it should be removed.
- xii. Tourism destinations need to be well developed in order to attract local and international tourists. It was further indicated that the Bill should promote local culture in order to promote ecotourism, and that local products need to be regulated locally and should benefit local people.
- xiii. It was indicated that the Bill should provide support mechanism for previously disadvantaged people, especially in rural areas, to venture in tourism industry.

- xiv. It was indicated that the Bill should address issues related to marketing of tourism destinations.
- xv. The Bill should also address the destruction of tourism attraction sites. Penalties need to be imposed to people involved in the destruction of tourism attraction sites.
- xvi. There is also contradiction in the Bill; section (7) (a) indicated that "registration as a tourist guide is valid for a period of three years, reckoned from the date of issue of the registration certificate". However, section 50(3) (d) indicated that "No person may be registered as a tourism guide if he/she has failed to pass the prescribed quality assurance process that a tourist guide must complete not later than two years after the date of his or her last registration as a tourist guide". This was identified as a contradiction, and it was proposed that even quality assurance should also be three years instead of two years.
- xvii. The Bill needs to provide mechanism for funding and training of small businesses venturing in tourism industry.

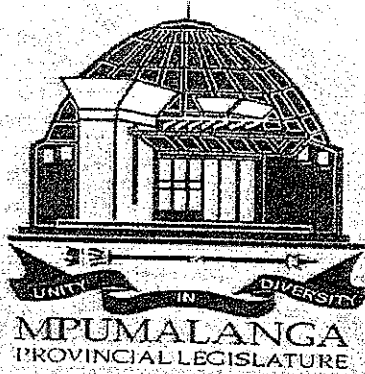
5. NEGOTIATING MANDATE

The Committee, having gone through the Bill supports the Bill with recommendations, recommends to the NCOP Permanent Delegates to vote in favour of the Bill.



Hon. Dr. H.E. Mateme

**CHAIRPERSON: PORTFOLIO COMMITTEE ON
ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM**



Office of the Chairperson

Portfolio Committee on Agriculture, Rural Development and Land Administration, Economic Development, Environment and Tourism

Enquiries: Hon RC Mahlobogoane

Email: RCMahlobogoane@mpuleg.gov.za

Tel. No.: 013 766 1037/ 1402

NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Trade and International Relations

Name of the Bill : Tourism Bill

Number of the Bill : [B44B-2012]

Date of Deliberation : 11 June 2013

Vote of the Legislature :

The Portfolio Committee on Agriculture, Rural Development and Land Administration, Economic Development, Environment and Tourism (the Committee) supports the Bill, taking into consideration the observations of the Committee and the inputs from stakeholders as contained in the attached report.

The Committee confers on the permanent delegate representing the Province of Mpumalanga in the NCOP the mandate to vote in favour of the Bill, with the following proposed amendment:

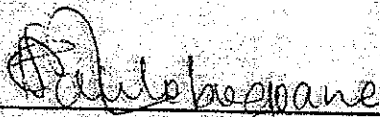
Section 4 (2): it is proposed that the following be inserted into the Bill:

"The National Tourism Sector Strategy must at least make provision for:

- (2)(a) Strategies, objectives, indicators, targets, plans, guidelines, procedures, institutional arrangements and inter-governmental coordination with the provincial and local spheres of government relating to the promotion, development and transformation of tourism*
- (b) Capacity support to the local and provincial spheres of government as contributors to the roll-out of the sector strategy"*

Other related matters

The financial implications of the Bill must be determined in order to avoid unfunded mandates for provinces when the Bill becomes law.



HON RC MAHLOBOGOANE (MPL)

2013.06.14

DATE

**CHAIRPERSON: PORTFOLIO COMMITTEE ON
AGRICULTURE, RURAL DEVELOPMENT
AND LAND ADMINISTRATION; ECONOMIC DEVELOPMENT,
ENVIRONMENT AND TOURISM**

NORTH WEST PROVINCIAL LEGISLATURE

Office of the Speaker

Legislature Building
Dr. James Moroka Ave
Private Bag X2018
Mmabatho, 2735

Tel: (018) 392 7001
Fax: (018) 392 7166

NEGOTIATING MANDATE

To: Hon D D Gamede
Chairperson: Select Committee on Trade & International Relations

Name of Bill/question: Tourism Bill

Number of Bill/question: [B44 B - 2012]

Date of Deliberation: 31 May 2013

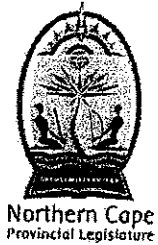
Vote of Legislature: The Committee concurs with the Tourism Bill. The Committee though puts emphasis on the Department of Tourism and the Department of Labour working together in expanding the job market in relation to tourism especially at tourist attractions that are close to communities. The North West Provincial Legislature mandates the NCOP permanent delegate to vote in favour of the Bill.



Hon V Kekesi
Acting Chairperson: Economic Development,
Environment, Conservation & Tourism



Date



**PORTFOLIO COMMITTEE
ON FINANCE, ECONOMIC
DEVELOPMENT & TOURISM**

Private Bag X5066
Kimberley 8300
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8206

Hon MP DM Gumede
Chairperson:

NEGOTIATING MANDATE

Name of the Bill: **Tourism Bill**

Number of the Bill: **B44B – 2012**

Date of deliberation: **Thursday, 06 June 2012**

Vote of the Legislature: **The legislature votes in favour of the Bill**

(Subject to consideration of the proposed amendments)


Signature:
(Signature of the Chairperson of the Committee)

2013-06-06
Date:



Northern Cape
Provincial Legislature

Private Bag X5066
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8206

Reference: 16.7.1.1

Enquiries: jmohlakoana

NEGOTIATING MANDATE FOR TOURISM BILL [B44B-2012]

(Section 76 Bill)

1. INTRODUCTION

The Chairperson of the Portfolio Committee on Finance, Economic Development & Tourism, Hon KD Molusi, tables the Committee's negotiating mandate on the *Tourism Bill [B44B-2012]* as adopted by the Portfolio Committee on *06 June 2012*.

2. PROCESS FOLLOWED

2.1 The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *Tourism Bill [B44B-2012]* to the Portfolio Committee on Finance, Economic Development & Tourism on 29 April 2013.

2.2 On 24 May 2013, the Portfolio Committee on Finance, Economic Development & Tourism received a briefing on the Bill from the National Department of Tourism and the NCOP Member, Hon Sinclair.

2.3 The Portfolio Committee resolved at the meeting of 24 May 2013 to hold public hearings on the referred Bill in the Siyanda, John Taolo Gaetsewe and Frances Baard Regions to solicit the views of community and stakeholders with regard to the *Tourism Bill [B44B-2012]*.

Two (2) out of three (3) public hearings were held on 03 June 2013 in Siyanda (Upington) and 05 June 2013, in Frances Baard (Kimberley) respectively. The public engaged with the Members of the Provincial Legislature in respect of the Bill. The third public hearing, in John Taolo Gaetsewe was cancelled due to poor attendance.

On *06 June 2013*, the Portfolio Committee on Finance, Economic Development & Tourism deliberated and considered the *Tourism Bill [B44B-2012]*

3. COMMITTEE INPUTS ON THE BILL

3.1 The name of the Tourism Protector should be changed to be a Protector of Tourists.

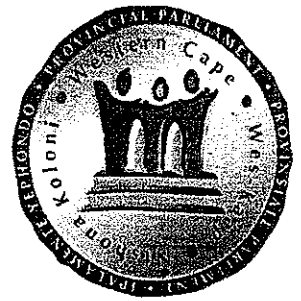
4. STAKEHOLDERS' INPUTS ON THE BILL

4.1 The Bill does not talk to Green Economy or /and Green Tourism.

4.2 There is a duplication of functions amongst the three spheres of government.

4.3 The appointment of Board Members is three years and Chief Executive Officer's appointment is not exceeding five years. The term of office of Chief Executive Officer should be six years to allow continuity.

4.4 The three Pillars of Government must work together to promote the different cultures in the province.



NEGOTIATING MANDATE

To: Hon DD Gamede
Chairperson: Select Committee on Trade and
International Relations

Name of Bill: *Tourism Bill*

Number of Bill: [B 44B-2012]

Date of deliberation: 12 June 2012

Vote of Legislature: The Standing Committee on Finance and Economic
Development begs to report that it confers on the
Western Cape's delegation in the NCOP the authority
to support the Bill with the attached amendments

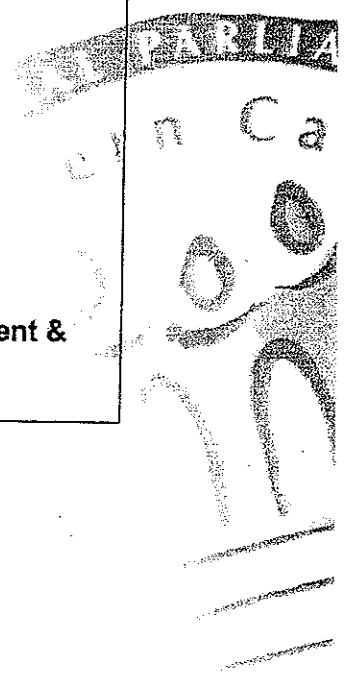
Signature

18 June 2013

Date

Hon. E von Brandis

**Chairperson: Standing Committee on Finance, Economic Development &
Tourism**



COMMITTEE REPORT

(Negotiating mandate phase) Report of the Standing Committee on Finance and Economic Development on the *Tourism Bill* [B 44B-2012] (NCOP), dated 12 June 2013, as follows:

The Standing Committee on Finance and Economic Development, having considered the *Tourism Bill* [B44B-2012] (NCOP) referred to the Committee in terms of Standing Rule 220, confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the following amendments:

- a) There is a typing error on page 11 in line 42, and it is suggested that the word "executive" after the words "chief executive" be deleted;
- b) There is ambiguity between clauses 28 and 30. Clause 28(1) provides that the Minister "*may* develop a national grading system for tourism", whereas clause 30(1) places an obligation on the Tourism Grading Council in the following terms: "The Council *must* implement and manage the national grading system for tourism contemplated in section 28." Where the Bill (once enacted) creates a Tourism Grading Council (see clause 29) and places an obligation on the Council to implement and manage the national grading system contemplated in section 28, it follows that the Minister *must* develop a national grading system in order to enable the Council to fulfil the function for which it is created.
It is therefore suggested that the word "may", on page 12 in line 18, be replaced by the word "must";
- c) There appears to be ambiguity between clauses 3(2) and 7(3). Clause 3(2) provides that the Bill (once enacted) will bind all organs of state and, in the case of provinces, will bind the provinces *subject to section 146*. Clause 7(3) is stated in broader terms and provides that all organs of state must apply the norms and standards established in terms of clause 7(1) of the Bill. Even though clause 7(2) provides that the Minister must consult with the MEC's on norms and standards, it is suggested that the approach in clause 3(2) of the Bill is correct.
It is suggested that clause 7(3) be amended to clarify that the operation of the clause will be subject to clause 3(2)(b);
- d) Clause 10(1) should make provision for support by the National Conventions Bureau to the various provincial and municipal convention bureaus.
The following item should be added after line 52 on page 7:
"(iii) supporting relevant provincial and municipal convention bureaus in attracting events to the relevant province or municipality."
- e) The definition of "tourist guide" in the Bill is likely to cause interpretational difficulties. The definition states that a "tourist guide" means any person registered as such under section 50. Clause 57, in sub-clause (1) states, in paraphrase, that a person who is not a registered tourist guide *may not act as a tourist guide*. Section 57, in subsection (3) determines that no person may *employ another as a tourist guide* where the employed person is not a registered tourist guide. How will it be determined whether a person is employed as a tourist guide in circumstances where a tourist guide is defined as a person registered as a tourist guide in terms of section 50? Non-

compliance with clause 57 will constitute a crime (see clause 59). The principle of legality requires that criminal offences be clearly defined and identified. In the absence of a comprehensive definition of "tourist guide" it is not possible for a person to determine whether her or his conduct is that of a tourist guide, and for an employer to determine whether a person is being employed as a tourist guide. Such vagueness will render criminalisation of the conduct stated in clause 57 objectionable and unlawful. It is proposed that a conviction on the offences foreseen in clause 57 cannot succeed in a criminal court.

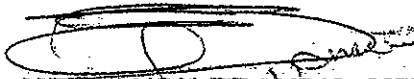
It is suggested that the definition of "tourist guide" be fleshed out and given substance in such a manner as to clearly delineate the relevant scope of activities to which the term will apply;

- f) In clause 34(6) of the Draft Tourism Bill published in 2011 for comment it states that the registration of a tourist guide shall be valid for two years. Clause 34(7) made provision for a tourist guide to renew his or her registration. Clause 34(3)(c) of the same Bill required a tourist guide to pass a prescribed quality assurance process not later than two years after the date of his or her last registration. In the comments submitted on this Draft Bill in 2011, Department of Economic Development and Tourism and Legal services suggested that a two year registration period was too short and cumbersome because it would result in unnecessary administration with regard to the frequent applications for renewal of registration. It was suggested that the period of registration be extended.

In the current version of the *Tourism Bill* [B 44B-2012], it is noted that the registration period has been extended to three years [clause 50(7)(a)]. In other words the drafters complied with our request to extend the registration period. However, clause 50(3)(d) of the same Bill retains the provision that a tourist guide must pass a prescribed quality assurance process not later than two years after the date of his or her last registration. It seems nonsensical that a tourist guide must reregister every three years but pass a quality assurance process i.e. a test, every two years. It is submitted that the timing of the quality assurance process must run concurrently with the re-registration. In other words, the prescribed quality assurance process should be undertaken every three years.

The following section should substitute clause 50(3)(d) of the Bill:

"(d) has failed to pass the prescribed quality assurance process that a tourist guide must complete not later than [two] three years after the date of his or her last registration as a tourist guide."


MR E J VON BRANDIS, MPP

CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND ECONOMIC
DEVELOPMENT

12 June 2013