

Name of Department:	Western Cape Provincial Treasury		
Matter: (Title of Legislation)	Draft Financial Management of Parliament Amendment Bill, 2013		
Contact Person:	Niezel Palmer	Due Date for comments:	19 July 2013
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COMMENTS:

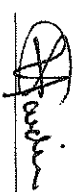
Clause (Indicate clause/regulation Number)	Comment (State why the clause/regulation or proposed amendment is not supported or what the problem is with the provision)	Suggestion (Suggested deletion/amendment/addition)
S4 of the Act	<p>S4(1) of the principle Act states that Parliament/provincial legislatures must manage their financial affairs through an oversight mechanism.</p> <p>In most instances, the oversight mechanism would be the Joint Rules Committee.</p> <p>In most instances, the Speaker acts as the chairperson of the Joint Rules Committee ("JRC").</p> <p>However, the draft Bill proposes that the Speaker should be the Executive Authority (see s1 of the Act and proposed amendment draft bill).</p> <p>In summary, the Speaker will be the chairperson of</p>	

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	<p>the JRC and he/she will also be the Executive Authority. This in itself gives rise to an un-intended conflict of interest(s) which will negate the existence of sound checks and balances, as originally intended.</p> <p>To avoid the conflict of interests, it is suggested one of the following options should be considered:</p> <ol style="list-style-type: none"> 1. Whenever the JRC (ie the oversight mechanism) sits to address administrative matter, the Speaker must recuse him-/herself and a pro tem should be nominated to act as chairperson; or 2. Amend s65(1) of the principle Act in such a manner that Parliament may issue norms and standards into the criteria for composition, governance structures of the prescribed oversight mechanism. The following proposed amendment is suggested: “65. (1) The Executive Authority of Parliament must [may] issue regulations not inconsistent with this Act concerning— (a) any matter that may facilitate the application [in respect of which] of this Act; [authorises regulations or policy] 	

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S20 read with s4 of the Act	<p>The principle Act does not make provision for the creation of oversight mechanisms similar in nature to that of SCof/SCoPA.</p> <p>Provincial legislatures do not have oversight committees such as SCof/SCoPA who, for example, would condone unauthorised expenditure through the enactment of a finance bill.</p> <p>How would unauthorised expenditure be addressed: through a finance bill, etc? Who will approve the unauthorised expenditure? Who will monitor the implementation of the provincial legislature's AGSA audit findings to ensure the avoidance of the re-occurrence of the audit outcomes.</p> <p>It would also be prudent to indicate in the regulations who and how irregular expenditure will be condoned.</p> <p>It is suggested that Parliament and provincial legislatures should hold itself to the same set of rules that it has demanded of other state organs in passing the PFMA.</p>	

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s20(3) of the Act	In view of the objects of the Act set out in section 2 of the Act, as proposed to be amended, it would be prudent to seek concurrence of the Treasury as oppose to merely consult.	"the expenditure is unauthorised for another reason and Parliament authorises the expenditure in <u>concurrence</u> with the relevant Treasury as a direct charge against the <u>relevant Revenue Fund</u> "
S65(1), (2), (4), (5) and (6) of the Act read with clause 3 of the draft Bill	<p>Clause 3 of the draft Bill authorises the Speaker of provincial legislature to the Executive Authority.</p> <p>S65(1) of the Act empowers the Executive Authority to make regulations in terms of this Act.</p> <p>After the amendments take effect, each Speaker of provincial legislature would have authority to issue their own regulations.</p> <p>This would negate the object of the Act (see s2 of the Act) which is to ensure a consultative relationship between Parliament and the National Treasury, conducted at a high level and based on respect for treasury norms and standards established in terms of the Public Finance Management Act.</p> <p>It is suggested that s65 S65(1), (2), (4), (5) and (6) of the Act to be amended in such a manner which limits</p>	

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	the issuance of regulations to Parliament's Executive Authority only. In doing so, fostering uniform norms and standards to be effected by the remaining nine provincial legislatures.	



Signature of manager responsible for comments

Date: 19 July 2013

Comments noted and supported.



(Head of Branch)

Date: 19.7.13

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