



NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Co-operative Governance and Traditional Affairs

Hon. M H Mokgobi

NAME OF BILL: Public Administration Management Bill

NUMBER OF BILL: [B55-2013]

DATE OF DELIBERATION: 05 February 2014

VOTE OF THE LEGISLATURE:

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

- Public Administration Management Bill

Mr C G Tsotetsi

Chairperson of Oversight Committee on the Office of the Premier and Legislature

GAUTENG PROVINCIAL LEGISLATURE

Date: 08/02/2014



**OVERSIGHT COMMITTEE ON PREMIER'S OFFICE AND THE LEGISLATURE
(OCPOL)**

**NEGOTIATING MANDATE ON PUBLIC ADMINISTRATION MANAGEMENT
BILL**

[B55-2013]

(Section 76)

1. INTRODUCTION

The Chairperson of the Oversight Committee on Premier's Office and the Legislature, Hon. G Tsotetsi, tables the Committee's Negotiating Mandate on the Public Administration Management Bill [B55-2013], a Section 76 Bill as follows:

2. PROCESS FOLLOWED

The Speaker formally referred the Public Administration Management Bill [B55-2013], a Section 76 Bill to the Oversight Committee on Premier's Office and the Legislature on Thursday, 21st November 2013 for consideration and reporting in terms of GPL Rules 252 read with 253, 254 and 255.

On Wednesday, 31st January 2014, the Oversight Committee on Premier's Office and the Legislature was briefed by the Department of Public Service and Administration (DPSA) on the intentions of the Bill. The Committee further received a presentation from the Office of the Premier on the views of the Executive on the Bill in terms of rule 253 (3) (a) of the Gauteng Provincial

Legislature followed by a legal opinion on the Bill from the NCOP and Legal Services Unit.

In line with the Gauteng Provincial Legislature's constitutional mandate of promoting public participation during the law making process, the Committee received written and verbal submissions from stakeholders on the Bill.

On Wednesday, 05th February 2013, the Committee deliberated and subsequently adopted the Negotiating Mandate on the Public Administration Management Bill [B55-2013].

3. PRINCIPLE AND DETAILS OF THE BILL

The Public Administration Management Bill [B55-2013] seeks to:

- Promote and give effect to the values and principles in section 195 (1) of the Constitution;
- Provide for the transfer and secondment of employees;
- Provide a high standard of professional ethics in the public administration;
- Promote the use of information and communication technologies in the public administration;
- Promote efficient service delivery in the public administration;
- Facilitate the eradication and prevention of unethical practices in the public administration; and
- Provide for the setting of minimum norms and standards to give effect to the values and principles of section 195 (1) of the Constitution.

4. OVERVIEW OF SUBMISSIONS

As part of its functions and obligation, the Committee invited stakeholders to submit comments during the consideration of the Public Administration Management Bill [B55-2013]. The Committee received both verbal and written submissions from various stakeholders that are listed hereunder:-

1. Public Service Commission(PSC)
2. City of Johannesburg Metropolitan Municipality
3. Ekurhuleni Metropolitan Municipality

The following is a summary of the stakeholders' submissions:

- There may be potential duplication of functions between what the PSC does and what the Bill empowers the DPSA to do.
- In order to manage the perceived duplication, the DPSA and the PSC should develop and strengthen their relations.
- The Bill give the legislature an opportunity to closely examine and scrutinise the powers and functions of the PSC against the powers and functions of the DPSA in order to come up with the amendments that will ensure that the powers and functions of the PSC are not unintentionally undermined.
- There should be coordination between the National School of Government and others that are already established across all spheres of government.

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

5.1. FINANCIAL IMPLICATIONS OF THE BILL

Based on the socio-economic analysis on the Bill, the Committee is of the view that the establishment of the Office of Standards and Compliance and the appointment of its personnel under clause 17(1) and (3) might have possible direct or indirect financial implications on the province.

5.2. SOCIAL IMPACT ASSESSMENT

The Public Administration Management Bill [B55-2013] would contribute to the improved functioning of the public administration in all spheres of government to ensure transparent, efficient, collaborative and accountable systems in providing service delivery to the people. The Bill would enable government to foster ethical

values and principles to all public servants in order to facilitate the eradication and prevention of corrupt and unethical practices in the public administration.

5. VIEWS OF THE EXECUTIVE (OFFICE OF THE PREMIER)

The Bill is supported by the Executive, subject to correction of the following technical aspects:

- A definition for “Head of Institution” has to be included in clause 1 of the Bill to clarify the meaning of the term and the definition for “institution” has to be clarified;
- Clause 6(4) of the Bill must be amended to regulate the secondment to other organs of state; and
- Clause 7 of the Bill must be amended to include a reference to sections 137 and 126 of the Constitution.

The following positions are considered as the Provincial mandate to the National Council of Provinces:

- Clause 15(4) (d) of the Bill should be amended by clarifying the possibility of interventions and the interventions must be in accordance with the provisions of the Constitution that regulate interventions at Provincial and Municipal sphere. The possible financial implications of such directives must be clarified.
- Clause 17(6) (c) read with clause 17(7) of the Bill have to be amended to clarify the powers of the Office of Standards and Compliance in relation to compliance by a Head of an Institution to directives that the Office may issue. Directives must respect the authority, role and status of institutions at the different spheres of government. The possible financial implications or indirect financial implications of directives must be clarified.

6. COMMITTEE RECOMMENDATIONS

The Committee is of the view that the scope of the Bill should highlight the following:

- Clear language should be used to avoid ambiguity; “**may**” under clause 8 (2) of the Bill must be replaced with “**must**”.
- Consultations under clause 18 (2) of the Bill should also include the MEC’s responsible for local government.
- Applicable legislation referred to in clause 15(2) and clause 17(2) should be specified.

7. NEGOTIATING POSITION ADOPTED BY COMMITTEE

The Oversight Committee on Premier’s Office and the Legislature supports the principle and detail of the Public Administration Management Bill [B55-2013] Section 76 as it seeks to expose unethical practices and to promote ethical values and principles governing the public administration across the three spheres of government and lastly the assertion made in the legal opinion that the Bill conforms to the Constitution.