



EASTERN CAPE PROVINCIAL LEGISLATURE

OFFICE OF THE CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON
FINANCE AND PROVINCIAL EXPENDITURE

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17 March 2014

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NEGOTIATING MANDATE

To: The Chairperson:
Select Committee on Appropriations

Name of Bill: Financial Management of Parliament Amendment Bill

Number of Bill: [B1-2014]

Date of Deliberation 17 March 2014

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.

2. Clause 6 of the Bill

It is proposed that the presiding officers should not be members of the oversight mechanism because to do so will blur the accountability line. If they are members of the oversight mechanism, the obvious fact is that there will be no oversight at all as the Accounting Officer will be the only one upon whom oversight is conducted. This has worked especially in the Eastern Cape Legislature and there is no need for it to be changed.



HON. P NKAYI (MPL)
CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON FINANCE

17-03-2014
DATE



Northern Cape
Provincial Legislature

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PORTFOLIO COMMITTEE ON FINANCE, ECONOMIC DEVELOPMENT & TOURISM

Ref 16.8.2.3.8

Hon C De Beer
Chairperson: Select Committee on Finance

NEGOTIATING MANDATE

Name of the Bill: Financial Management of Parliament Amendment Bill 2014

Number of the Bill: [B1-2014]

Date of deliberation: 18 March 2014

Vote of the Legislature: The Portfolio Committee on Finance, Economic Development & Tourism votes in favour of the Bill

Hon G Parker
Chairperson: Portfolio Committee on Finance, Economic Development & Tourism

2014-03-18

Negotiating Mandate



PORTFOLIO COMMITTEE ON FINANCE, ECONOMIC DEVELOPMENT & TOURISM

NEGOTIATING MANDATE ON THE FINANCIAL MANAGEMENT OF PARLIAMENT AMENDMENT BILL [B1- 2014]

1. INTRODUCTION

The Chairperson of the Portfolio Committee on Finance, Economic Development & Tourism Hon GD Parker hereby tables the Committee Report on the *Financial Management of Parliament Amendment Bill [B1-2014]*, as adopted by the Portfolio Committee on the 18th March 2014.

2. PROCESS FOLLOWED

- 2.1 The Speaker of the Northern Cape Provincial Legislature on receipt of the *Bill*, referred the *Financial Management of Parliament Amendment Bill [B1-2014]* to the Portfolio Committee on Finance, Economic Development & Tourism.
- 2.2 On the 14th March 2014, the Portfolio Committee received a briefing on the *Bill* by the Northern Cape Permanent Delegate to the NCOP, Hon C De Beer.
- 2.3 The Portfolio Committee resolved at its meeting held on the 14th March 2014 to hold a public hearing on the referred *Bill* at the Legislature in the Ruth First Auditorium, Kimberley, to solicit the views of the stakeholders with regard to the *Financial Management of Parliament Amendment Bill, 2014*. Different stakeholders were invited but not all responded to the invite.
- 2.4 The public hearing was held on the 17th March 2014 as per the Committee resolution and both written and oral submissions were called for. The stakeholders engaged with the Members of the Provincial Legislature on their views.

3. INPUTS FROM THE STAKEHOLDERS

According to the Northern Cape Legislature senior officials if the Bill is passed it will have serious financial implications on the institution when the Act becomes operational. Provision for transitional arrangements should also be made.

4. WRITTEN INPUTS ON THE BILL

To support the above input attached is a written submission from the Northern Cape Provincial Legislature.

5. COMMITTEE INPUTS ON THE BILL

The Committee considered all inputs received during the public hearing.

The Committee concerns:

After due deliberation and taking note of the public's input, the Portfolio Committee on Finance, Economic Development & Tourism supports the bill.

6. COMMITTEE ADOPTION OF THE BILL

The Committee adopted this negotiating mandate duly signed by the Chairperson of the Committee, Hon GD Parker.

The Committee recommends to the House to mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to support the Bill.



COMMITTEE CHAIRPERSON
HON GD PARKER

2014-03-18

Interdepartmental Memorandum



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Office of the Secretary

Date:

Ref: 16.6.6.2

Enquiries: PBM

To: Hon. G Parker

Chairperson: Portfolio Committee on Finance, Economic Development & Tourism

COMMENT ON THE FINANCIAL MANAGEMENT OF PARLIAMENT AMENDMENT BILL, 2014 (B1-2014)

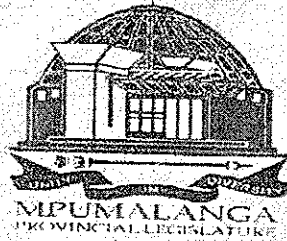
We refer to the Public hearing that was held this morning with regards to the above mentioned draft legislation and wish to advise as follows:

1. The Office of the Secretary of the Northern Cape Provincial Legislature supports the legislation, however, would like to make the following comments for consideration by the Portfolio Committee:
 - 1.1 Unlike as it is said in point 4 of the memorandum of the above mentioned draft legislation, should this Bill be passed it will have serious financial implications to the Northern Cape Provincial Legislature in that the legislature will have to migrate from the current system of cash accounting to accrual accounting. The Legislature will have to procure an enterprise resource management system estimated at R16million or more. The Legislature will also have to retrain its current finance and procurement personnel and to increase the current personnel contingent in the finance and procurement departments.
 - 1.2 Furthermore, Implication of the Act will require Provincial Legislatures to prepare Annual Performance Plans at atleast 10 months prior to the start of the financial year. This requirement will be difficult to apply especially noting that during this time the institution will also be honouring other legislative requirements like the preparation of financial statements and finalisation of annual reports. Our proposal in this regard is that the submission period be at least 6 months prior to the start of the financial year.
 - 1.3 It is also our humble submission that transitional arrangements include a year or two as the migration period to accrual accounting in order to put systems in place.

As indicated above, we are in support of this draft legislation as it will also entrench the Constitutional requirements for separation of powers.

Regards

PBM Moopsiwa
Secretary to the Legislature



Office of the Chairperson

Portfolio Committee on Legislature Oversight; Premier's Office
and Finance

Enquiries: Hon VVZ Windvoël

Tel. No: 013 766 1039/ 1378

NEGOTIATING MANDATE

To : The Chairperson: Standing Committee on Finance

Name of the Bill : Financial Management of Parliament Amendment Bill

Number of the Bill : [B1 - 2014]

Date of Deliberation : 14 March 2014

Vote of the Legislature :

The Portfolio Committee on Legislature Oversight; Premier's Office and Finance (the Committee) supports the Financial Management of Parliament Amendment Bill [B1-2014], and confers on the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces, the mandate to vote in favour of the Bill.


HON VVZ WINDVOËL (MPL)

14/03/14
DATE

CHAIRPERSON: PORTFOLIO COMMITTEE ON
LEGISLATURE OVERSIGHT; PREMIER'S OFFICE AND FINANCE

LIMPOPO LEGISLATURE


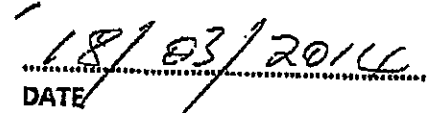


Physical Address:

Lebowakgomo
Government Complex

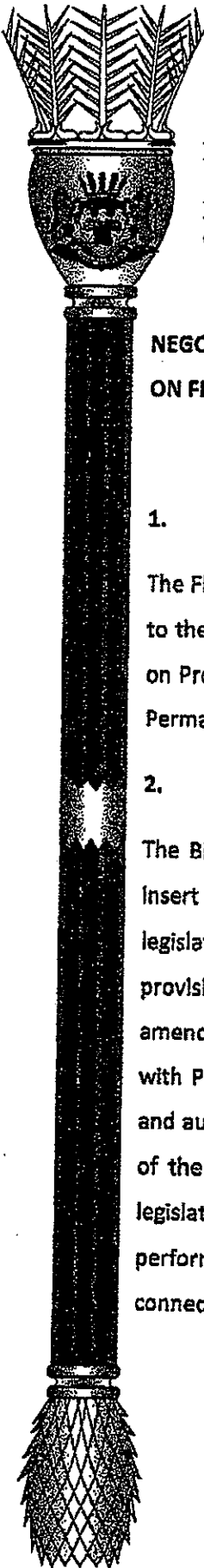
Postal Address:
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Polokwane
0700

NEGOTIATING MANDATE

To	:	The Chairperson: Select Committee on Finance
Name of Bill	:	Financial Management of Parliament Amendment Bill
Number of the Bill	:	[B1 - 2014]
Date of Deliberation	:	18 March 2014
Vote of the Legislature	:	Provincial NCOP Permanent Delegates to negotiate in favour of the Bill.
 HON. M. NEMADZIVHANANI COMMITTEE CHAIRPERSON		 DATE

Tel: 015 633 5071 / 8000 - Fax: 015 633 8185 / 015 633 8658

LIMPOPO LEGISLATURE



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**NEGOTIATING MANDATE OF THE PORTFOLIO COMMITTEE ON PROVINCIAL TREASURY
ON FINANCIAL MANAGEMENT OF PARLIAMENT AMENDMENT BILL, 2014 [B1-2014]**

1. INTRODUCTION

The Financial Management of Parliament Amendment Bill 2014, [B1-2014] was referred to the Legislature by the NCOP. The Legislature referred it to the Portfolio Committee on Provincial Treasury for consideration and to confer a negotiating mandate to NCOP Permanent Delegates.

2. PURPOSE OF THE BILL

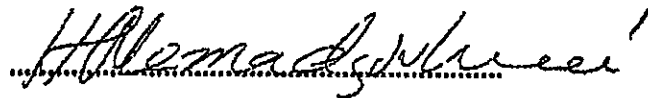
The Bill seeks to amend the Financial Management of Parliament Act, 2009 so as to insert further definitions; to deal with the financial management of provincial legislatures; to amend provisions dealing with the oversight mechanism; to amend provisions dealing with Parliament's annual budget, appropriations and approvals; to amend the provisions dealing with donor funds; to delete certain provisions dealing with Parliament's own revenue sources; to align the provisions dealing with reporting and auditing with the Public Finance Management Act, 1999; to repeal certain sections of the Powers and Privileges Act, 1963; to delete certain references to "provincial legislatures" in the Public Finance Management Act, 1999; to include references to performance management; to amend the long title; and to provide for matters connected therewith.

3. CONSIDERATION OF THE BILL

The NCOP Permanent Delegate briefed the Portfolio Committee on Provincial Treasury on the amendments made on the Bill during a meeting held on 14 March 2014. The Committee welcomed and appreciated such amendments.

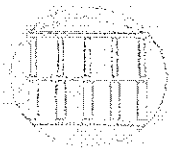
4. NEGOTIATING MANDATE

The Portfolio Committee having considered the Bill hereby confer a negotiating mandate to the National Council of Provinces' Permanent Delegates to negotiate in favour of the Bill.



HON M. NEMADZIVHANANI

CHAIRPERSON: PORTFOLIO COMMITTEE ON PROVINCIAL TREASURY



NEGOTIATING MANDATE

TO: HON CJ DE BEER, MP
CHAIRPERSON OF SELECT COMMITTEE ON
FINANCE

NAME OF BILL: FINANCIAL MANAGEMENT OF
PARLIAMENT AMENDMENT BILL

NUMBER OF BILL: B1 – 2014

DATE OF DELIBERATION: THURSDAY, 13 MARCH 2014

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Finance met today, Thursday the 13th of March 2014 to consider the Financial Management of Parliament Amendment Bill [B1-2014].

The following comments and amendments were proposed and considered on the Bill and are attached hereto as Annexure A.

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

HON BF SCOTT, MPL
CHAIRPERSON: PORTFOLIO COMMITTEE
ON FINANCE

13.3.2014

DATE

ANNEXURE "A"

Amendment of clause 13 of the Bill as follows :

"Amendment of section 34 of Act 10 of 2009

13. Section 34 of the principle Act is hereby amended by-

(a) the substitution for paragraph (b) of subsection (4) of the following paragraph:

"(b) in instances of a **[qualified] modified audit [report] opinion** in respect of such funding, until adequate measures are put in place to rectify the issues giving rise to the modified audit opinion [qualification]."; and

(b) the insertion after subsection(4) of the following subsection:

"(4A) For the purposes of this section "**[qualified] modified opinion**" includes a qualified audit opinion, an adverse opinion and a disclaimer of opinion"."

Basis of suggested amendment

The above amendment is suggested following input by the KZN Office of the Auditor-General. It is based on definitions which are contained in the International Standards on Auditing (ISA 705), which defines a qualified audit opinion as an opinion stating that the financial statements fairly present the affairs of the organisation, except for a particular line item/s, which is/are not pervasive to the financial statements as a whole. A modified audit opinion however is wider and includes any opinion other than an unqualified audit opinion, which may be a qualified opinion, an adverse opinion or a disclaimer of opinion.

As the spirit of the section seems to be that the Accounting officer should be entitled to withhold funds even in the case of a qualified opinion i.e where the financial statements fairly present the affairs of the organisation, except for a particular line item/s, which is/are not pervasive to the financial statements as a whole, (as the line item may be an item of serious concern), it is therefore suggested that "modified audit opinion" be used.



NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Finance
Hon CJ de Beer

NAME OF BILL: Financial Management of Parliament Amendment Bill
(Section 76)

NUMBER OF BILL: [B1-2014]

DATE OF DELIBERATION: 14th March 2014

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and the detail of the bill and therefore votes in favour of the-

- Financial Management of Parliament Amendment Bill [B1-2014].


HON Sakhile Khumalo
Chairperson: Finance Portfolio Committee
GAUTENG PROVINCIAL LEGISLATURE

Date: 14/03/2014



**FINANCE PORTFOLIO COMMITTEE
NEGOTIATING MANDATE
ON**

**FINANCIAL MANAGEMENT OF PARLIAMENT AMENDMENT BILL [B1-2014]
(Section 76)**

1. INTRODUCTION

The Chairperson of the Finance Portfolio Committee, Hon Sakhwe Khumalo tables the Committee's Negotiating Mandate on the Financial Management of Parliament Amendment Bill [B1-2014], Section 76, as follows:

2. PROCESS FOLLOWED

The Speaker, Hon. Lindiwe Maseko formally referred the **Financial Management of Parliament Amendment Bill [B1-2014]**, a Section 76 Bill to the Portfolio Committee on Finance Portfolio Committee in terms of GPL Rules 248(1) read with 250(1), and 251 for consideration and report on Thursday, 27 February 2014.

On Friday, 07 March 2014, the Portfolio Committee received a presentation of the analysis and legal opinion on the Bill from the Research and NCOP Unit respectively. The Committee requested the MEC for Finance Mr Mandla Nkomfe to make a submission on the Bill. The view of the Department was received in the same meeting.

On Friday, 14 March 2014, the Committee deliberated on the comments received and submissions received and subsequently adopted the Negotiating Mandate on Financial Management of Parliament Amendment Bill [B1-2014].

3. PRINCIPLE AND DETAIL OF THE BILL

The Bill seeks to amend the Financial Management of parliament Act, 2009 so as to insert further definitions; to deal with the financial management of provincial legislatures; to amend the provisions dealing with the oversight mechanism; to amend provisions dealing with Parliament's annual budget, appropriations and approvals; to amend the provisions dealing with donor funds; to delete certain provisions dealing with Parliament's own revenue sources; to align the provisions dealing with reporting and auditing with the public Finance Management Act, 1999; to repeal certain sections of the Powers and Privileges Act, 1963; to delete certain references to "provincial legislatures" in the Public Finance Management Act, 1999; to include references to performance management; to amend the long title; and to provide for matters connected therewith.

4. STAKEHOLDER SUBMISSIONS

Submissions were solicited through print media as part of stakeholder engagement. The Committee did not receive any submission on the Bill.

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

5.1. FINANCIAL IMPLICATIONS OF THE BILL

No financial implication as this is an amendment to the principal Act.

5.2. SOCIO- ECONOMIC IMPACT

The amendment to the Act strengthens the oversight mechanism of the legislatures thereby ensuring efficient and effective use of resources. It also enhances accountability and transparency in the utilisation of resources. There will be no negative impact on the broader society.

However, through enhanced transparency fostered by the amendments to the Act, the public or broader society will be kept abreast of how funds are appropriated to legislatures and what the funds are utilised for.

6. SUBMISSION BY THE GAUTENG DEPARTMENT OF FINANCE

The Gauteng Department of Finance supports the Financial Management of Parliament Amendment Bill [B-2014] for the following reasons:-

- The amendments have adequately addressed the gaps on how provincial legislatures, as an oversight constitutional organ of state, should deal with some of the potential challenges taking cognizance of the Memorandum on objects of the Amendment Bill of 2014.

7. DISSENTING VIEWS

Dissenting views on the Financial Management of Parliament Amendment Bill [B1-2014] were raised and recorded but were not adopted by the Committee. (Report Attached).

8. NEGOTIATING POSITION ADOPTED BY COMMITTEE

The Finance Portfolio Committee supports the principle and detail of the Financial Management of Parliament Amendment Bill [B1-2014].



Minority Report of the DA on the *Financial Management of Parliament Amendment Bill [B1-2014]*

The party does not support the mandate for two reasons:

1. The original Act provided for an Oversight Mechanism. This has never been utilised. We would like to see amendments forcing this body to operate.
2. The Executive Authority is being given access to oversight processes. The provision to eliminate conflict of interest is obscure and risky. There is no need to amend section 4 (2).





FREE STATE LEGISLATURE

**PORTFOLIO COMMITTEE ON PUBLIC ACCOUNTS, FINANCE, OFFICE OF THE PREMIER
AND THE LEGISLATURE
Negotiating Mandate**

TO: Chairperson of the Select Committee on Finance

NAME OF BILL: FINANCIAL MANAGEMENT OF PARLIAMENT AMENDMENT BILL

NUMBER OF BILL: B1 - 2014

DATE OF DELIBERATION: 14 MARCH 2014

VOTE OF THE LEGISLATURE:

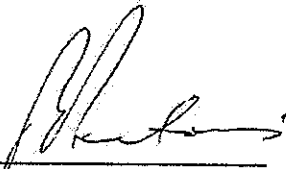
The Portfolio Committee on Public Accounts, Finance, Office of the Premier and the Legislature, as designated by the Free State Legislature: Votes in favour of the Bill

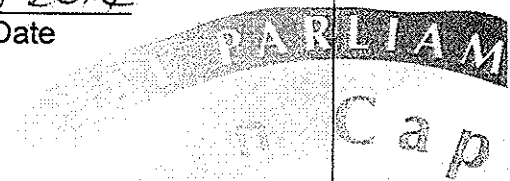
A handwritten signature in black ink, appearing to read 'C.J. Van Rooyen', is written over a horizontal line.

**C.J VAN ROOYEN
CHAIRPERSON: PORTFOLIO COMMITTEE ON PUBLIC ACCOUNTS, FINANCE, OFFICE OF
THE PREMIER AND LEGISLATURE
FREE STATE LEGISLATURE
Date: 18 MARCH 2014**



NEGOTIATING MANDATE

To:	Hon CJ de Beer Chairperson: Select Committee on Finance
Name of Bill:	Financial Management of Parliament Amendment Bill
Number of Bill:	[B 1 – 2014]
Date of deliberation:	14 March 2014
Vote of Legislature:	The Rules Committee reports that it confers on the Western Cape Permanent Delegate in the NCOP the authority not to support the Bill with the attached concerns and proposed amendments.
 Signature	<u>18/3/2014</u> Date
Hon. PJC Pretorius: Deputy Speaker Acting Chairperson: Rules Committee	



COMMITTEE REPORT

(Negotiating Mandate Stage) Report of the Rules Committee on the *Financial Management of Parliament Amendment Bill* [B1–2014] (NCOP), dated 14 March 2014, as follows:

The Rules Committee, having considered the *Financial Management of Parliament Amendment Bill* [B1–2014] (NCOP), referred to the Committee in terms of Standing Rule 220, confers on the Western Cape's delegation in the National Council of Provinces, the authority not to support the Bill.

The Committee proposed certain amendments to the Bill, for consideration by the Select Committee. (amendments attached)

A minority view was expressed by the African National Congress not to support the amendments, but to support the Bill as presented.

FINANCIAL MANAGEMENT OF PARLIAMENT BILL

The Rules Committee has three substantive objections to the Bill:

1. The Executive Authority as defined in the Act should include the option of having a representative body composed of representatives of political parties represented in Parliament, as was provided for previously in the principal Act. This amendment bill does not make provision for a representative body to act as Executive Authority.
2. The Speaker of the National Assembly and the Chairperson of the NCOP may issue regulations affecting the WCPP which could infringe on its autonomy and the constitutional right of legislatures to determine their own internal arrangements.
3. The Executive Authority should not be part of the committee of Members that is tasked to oversee it. It would essentially mean that the Executive Authority will have oversight over itself. The principal Act excludes the EA to be part of the oversight mechanism and the DA is in favour of retaining the *status quo*.

Should the substantive issues 1 and 2 be addressed, the following further amendments are proposed:

1. Section 4 of Principal Act (Clause 6 Amending Bill) – Representation on Oversight Mechanism

On page 4, after line 51, to insert 'except that the Members of the Executive Authority, the Deputy Speaker of the National Assembly and the permanent Deputy Chairperson of the National Council of Provinces –

- (a) may not be members of the oversight mechanism; and
- (b) may only participate in the deliberations of the oversight mechanism at the request of the mechanism.

2. Section 4 of Principal Act – Oversight Mechanism

The the following paragraph be added to section 4 of the principal Act:

(5) Parliament may not pass its own budget without the oversight mechanism being established and having fulfilled its obligations found in section 4(1) (a) (b) (c) and (d).

3. Section 6 of Principal Act – Accounting Officer

That paragraph (2) of section 6 of the principal Act be amended as follows:

(2) The Accounting Officer is accountable to the Executive Authority and the Oversight Mechanism for the financial management of Parliament.

4. Amendment of section 43 of Principal Act – Tenders not recommended

That section 43(1) of the principal Act be amended as follows:

43(1) The Accounting Officer must notify the Auditor General, Executive Authority and the Oversight Mechanism in writing if a contract is concluded in respect of a tender, quotation, or other bid other than the one recommended.

5. Amendment of section 63 of the Principal Act – Reporting of irregularities

That section 63 of the principal Act be amended by the insertion of 'and Oversight Mechanism' after 'Executive Authority'.

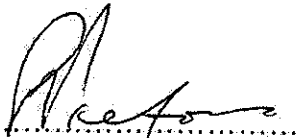
6. Amendment of section 64 of the Principal Act – Other information

That section 64 of the principal Act be amended by the insertion of 'a Member of Parliament'.

7. Amendment of section 67 – Financial misconduct

That section 67(2) of the principal Act be amended by adding paragraph (c) as follows:

(c) immediately inform the Oversight Mechanism of any investigation of financial misconduct by an official.



**PJC PRETORIUS: DEPUTY SPEAKER
ACTING CHAIRPERSON: RULES COMMITTEE**

Date:18/3/2014.....

