**Discussion paper**

**Joint Workshop of the Finance and Appropriations Committees on the Review of the Money Bills Amendment Procedure and Related Matters Act (Act No 9 of 2009)**

Introduction

1. On Wednesday, 8 February 2017, the Standing and Select Committees on Finance and Appropriations held a joint workshop on the review of the Money Bills Procedure and Related Matters Act. Following presentations by Legal Services and the Parliamentary Budget Office (PBO), Members of the 4 committees engaged with issues and identified priority areas for further discussion. These issues are outlined below. Furthermore, the workshop suggested the following process to take the matter forward.

Process

1. The resolution of the National Assembly, mandating the review of the Act, requires the Standing Committee on Finance report an amendment Bill to the House if necessary, after conferring with the Standing Committee on Appropriations. Pursuant hereto the workshop resolved to have continuous engagement between the 4 committees, each to provide input in its area of responsibility, prior to the Standing Committee on Finance reporting an amendment Bill.
2. It was further agreed to establish a technical subcommittee to meet with other officials from National Treasury. The technical subcommittee comprises of support staff from the four committees, representatives from the PBO, and led by Legal Services. The Team should be established and meet by 5 March 2017.
3. The workshop suggested that the chairpersons of the 4 committees and the two House Chairs (the Board) meet with the Presiding Officers to discuss the governance framework for the PBO.
4. Provisional timelines: 1st Draft of amendment Bill by 1 June 2017. To allow for 2-4 weeks of drafting, the Technical Team should have a working document by 3 May 2017.
5. Target date for passing the Amendment Bill by both Houses is 31 August 2017. The Medium Term Policy Statement (MTBPS) of 2017 should be considered and reported on in terms of the amended Act.
6. The rules should be reviewed prior to reporting an amendment Bill.

Priority areas

1. Budgetary Review and Recommendation Report: In line with the Constitution, the Act assigns this responsibility to the NA and its committees. The NCOP could participate within its own mandate. Duplication should be avoided. This area does not appear to be a priority in the review process.
2. Fiscal framework: The adoption of the fiscal framework sets the fiscal policy for the State. However, the fiscal policy should allow for unforeseen circumstances during the budget cycle. The review of the Act should take this into account to ensure that a flexible approach to the fiscal framework is adopted, although it is unclear at this stage how the flexible approach is to be incorporated in the amendment Bill when adopting the fiscal framework. The workshop felt that the fiscal framework should not hamstring the division of revenue and how that revenue should be appropriated. Discussion with National Treasury on this area is required – envisaged date during April (First half of April being a holiday / recess month – we need to plan carefully).
3. Sequencing: The referral of the Division of Revenue Bill and Appropriation Bill only after the adoption of the Fiscal Framework by both Houses provides challenges. Similarly, the consideration of any amendments to the Appropriation Bill only after the adoption of the Division of Revenue Bill by both Houses has proven a challenge to Parliament’s programme. The adjustments budget process prescribed by the Money Bills Act suffers from the same challenges. The sequencing is required for consistency between the three instruments; fiscal framework, Division of Revenue Bill and Appropriation Bill. However, the consistency can be ensured through sequencing the reporting rather than the referral. This will allow the referral of all three instruments after tabling and introduction and free up time for committees to engage formally with these instruments. Resources to ensure alignment between the fiscal framework, DORB and the Appropriation Bill (similar in the case of the budget adjustment process) must be examined. Consultation with National Treasury envisaged on this issue.
4. Timeframes: The rigid timeframes provided for in the Act ensures certainty for both Parliament and the National Treasury in processing the budget, but does not allow space to deal with unforeseen events. In other words, the timeframes as prescribed do not take cognisance of the possibility that public participation or comments from the Executive may require less or more time, depending on the complexities of the budget or Parliament’s amendments to it. The provincial work required for the Division of Revenue Bill is not accommodated in the rigid timeframes. The timeframes should be flexible whilst reflecting the obligation of Parliament to act reasonable in facilitating public involvement in its processes. The suggestion to consider is whether timeframes could be left for Parliament to determine after consultation with National Treasury. Consultation with National Treasury envisaged on this issue.
5. PBO: The workshop highlighted the following characteristics that the Act should include in respect of the PBO: (This issue has policy and financial implications and should be driven from a political vantage point.)

* Juristic person with an accounting authority[[1]](#footnote-1) and a political/advisory board[[2]](#footnote-2) or political advisory board
* Access to information held by other government departments[[3]](#endnote-1)
* Three year budget of the PBO should reflect the status of the Office (transfer to a government entity) and not a sub-programme of Parliament’s budget[[4]](#endnote-2)
* Budget should be a transfer from Parliament to the entity as envisaged in the Act - alignment with the Financial Management of Parliament and Provincial Legislatures Act, 2009 is required.
* Formalise the Director accountability through governance principles and financial management
* Reporting to Parliament[[5]](#endnote-3) via the Executive Authority, and these reports to be part of Parliament annual reports,
* Formalise the role of the Advisory Board[[6]](#endnote-4), but to remain the prerogative of four committee Chairs on the participation in the board,
* Clarity on whether the Director in consultation of the Advisory Panel determine the organisational structure of the PBO,

1. Schedule for provincial legislatures: Whilst the Schedule should ensure uniformity amongst provincial legislatures in respect of the budget, it must be achieved within the boundaries of the Constitution. Consultation with officials in provinces envisaged.
2. In general the Act is very ambitious and expects Parliament to perform functions that is not supported by the present resource allocation. It is necessary to review the practicability of the Act and make the Act more realistic.

1. The Director of the Parliamentary Budget Office is the Accounting authority of the Parliamentary Budget Office

   What legislated powers are conferred to the Accounting Officer of the PBO in the Act. The powers conferred to the AO by the Act, should be clearly stipulated and ring-fenced in the Act, to prevent potential misinterpretations. [↑](#footnote-ref-1)
2. The Parliamentary Budget Office Board (PBO) or Parliamentary Budget Office Advisory Board (PBO) would comprise of the Chairpersons of the Finance and Appropriations Committees, in both Houses acting conjointly with the National Assembly House Chairperson and NCOP House Chairperson. [↑](#footnote-ref-2)
3. This should include access to information/data, to be provided to the PBO without delay, held by any arm of State, organ of State, any State entity, for the sole purpose of conducting work that aid Parliamentary Committees to discharge their constitutional oversight work over the Executive. [↑](#endnote-ref-1)
4. PBO Budget allocation and budget line item should be reflected separately from the main budget line item of Parliaments [↑](#endnote-ref-2)
5. Reporting to Parliament: can we elaborate further? [↑](#endnote-ref-3)
6. What would this formalisation of the role of the Advisory Role entail? What powers would the Advisory Board have over the PBO or Director of the PBO? [↑](#endnote-ref-4)