



FINANCIAL AND FISCAL COMMISSION

SELECT COMMITTEE ON APPROPRIATIONS INDUCTION
SESSION

11 MARCH 2020

OVERVIEW

- Establishment and functions of FFC
 - Constitutional Institution established under **Chapter 13: Finance**, Sections 220-222 of the Constitution
 - “**which makes recommendations** envisaged in this Chapter, or in national legislation, to Parliament, provincial legislatures and any other authorities determined by national legislation.”
 - on all financial and fiscal matters as required by the Constitution
- Vision
 - To provide **evidence-based advice** for an equitable, efficient and sustainable distribution and allocation of fiscal resources based on constitutional mandate, legislation and policy frameworks.
- Mission
 - To provide **expert independent advice** on macroeconomic and fiscal frameworks, for promoting a sustainable and equitable Intergovernmental Fiscal Relations system, through evidence-based research and analysis to ensure the realisation of our constitutional values.

CONSTITUTIONAL RESPONSIBILITY AND ACCOUNTABILITY

- A permanent Constitutional Commission into economic financial and fiscal matters of the Country affecting the spheres of government.
- Our recommendations ***MUST BE*** considered as per:
 - s214(2) **Equitable shares and allocations of revenue;**
 - s218(2) **Government guarantees;**
 - s228(2)(b) **Provincial taxes;**
 - s229(5) **Municipal fiscal powers and functions;**
 - s230(2) **Provincial loans; and**
 - s230A(2) **Municipal loans** of the Constitution:
- *Nota bene: “... National legislation referred to in section/subsection may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered”*

SECTION 214 OF THE CONSTITUTION, 1996

Equitable shares and allocations of revenue

(1) An Act of Parliament must provide for:-

- (a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- (b) the determination of each province's equitable share of the provincial share of that revenue; and
- (c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations may be made.

(2) The Act referred to in subsection (1) may be enacted only after the provincial governments, organised local government and the Financial and Fiscal Commission have been consulted, and any recommendations of the Commission have been considered...

SECTION 218 OF THE CONSTITUTION, 1996

Government Guarantees

- (1) The national government, a provincial government or a municipality may guarantee a loan only if the guarantee complies with any conditions set out in national legislation.

- (2) National legislation referred to in subsection (1) may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered

SECTION 228 OF THE CONSTITUTION, 1996

Provincial taxes

(1) A provincial legislature may impose—

- (a) taxes, levies and duties other than income tax, value-added tax, general sales tax, rates on property or customs duties; and
- (b) flat-rate surcharges on any tax, levy or duty that is imposed by national legislation, other than on corporate income tax, value-added tax, rates on property or customs duties.

(2) **The power of a provincial legislature to impose taxes, levies, duties and surcharges—**

(a) may not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across provincial boundaries, or the national mobility of goods, services, capital or labour; and

(b) must be regulated in terms of an Act of Parliament, which may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered.

SECTION 229 OF THE CONSTITUTION, 1996

Municipal fiscal powers and functions

- (1) Subject to subsections (2), (3) and (4), a municipality may impose:-
- (a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
 - (b) if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls, but no municipality may impose income tax, value-added tax, general sales tax or customs duty.
- (2) The power of a municipality to impose rates on property, surcharges on fees for services provided by or on behalf of the municipality, or other taxes, levies or duties:-
- (a) may not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour; and
 - (b) may be regulated by national legislation.

SECTION 229 OF THE CONSTITUTION, 1996 (CONT.)

(3) When two municipalities have the same fiscal powers and functions with regard to the same area, an appropriate division of those powers and functions must be made in terms of national legislation. The division may be made only after taking into account at least the following criteria:

- (a) The need to comply with sound principles of taxation.
- (b) The powers and functions performed by each municipality.
- (c) The fiscal capacity of each municipality.
- (d) The effectiveness and efficiency of raising taxes, levies and duties.
- (e) Equity.

(4) Nothing in this section precludes the sharing of revenue raised in terms of this section between municipalities that have fiscal power and functions in the same area.

(5) National legislation envisaged in this section may be enacted only after organised local government and the Financial and Fiscal Commission have been consulted, and any recommendations of the Commission have been considered.

SECTION 230 OF THE CONSTITUTION, 1996

Provincial loans

(1) A province may raise loans for capital or current expenditure in accordance with national legislation, but loans for current expenditure may be raised only when necessary for bridging purposes during a fiscal year.

(2) National legislation referred to in subsection (1) may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered.

SECTION 230 (A) OF THE CONSTITUTION, 1996

Municipal loans

(1) A Municipal Council may, in accordance with national legislation:-

(a) raise loans for capital or current expenditure for the municipality, but loans for current expenditure may be raised only when necessary for bridging purposes during a fiscal year; and

(b) bind itself and a future Council in the exercise of its legislative and executive authority to secure loans or investments for the municipality.

(2) National legislation referred to in subsection (1) may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered.

OTHER CONSTITUTIONAL LAWS

- Financial and Fiscal Commission Act, 1997 (Act No 99 of 1997) (as amended)
- 1) **Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No 9 of 2009)**
- 2) **Intergovernmental Fiscal Relations Act, 1997 (Act No 97 of 1997) (IGFR Act)**
- 3) **Municipal Fiscal Powers and Functions Act, 2007 (Act No 12 of 2007)**
- 4) **Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) (as amended)**
- 5) **Provincial Finance Management Act, 1999 (No 1 of 1999)**
- 6) **Municipal Finance Management Act, 2003 (Act No 56 of 2003) (as amended)**
- Provincial Tax Regulation Process Act, 2001 (Act No 53 of 2001)
- Intergovernmental Fiscal Relations Framework Act, 2005 (Act No 13 of 2005)
- Borrowing Powers of Provincial Government Act, 1996 (Act No 48 of 1996)

1) MONEY BILLS AMENDMENT PROCEDURES AND RELATED MATTERS ACT, 2009

To provide for a procedure to amend money Bills before Parliament and for norms and standards for amending money Bills before provincial legislatures and related matters

- **The committees on finance and appropriations therefore consults with the Financial and Fiscal Commission** and allow the Minister the opportunity to respond to any amendments proposed at least 3 days prior to the submission of the report to the relevant House
 - **Section 8: Standing and Select Committees on Finance** therefore takes FFC's recommendations into consideration as per constitutional requirements and submit a report on the fiscal framework and revenue proposals to the National Assembly and the National Council of Provinces.
 - **Section 9: Standing and Select Committees on Appropriations** therefore takes FFC's recommendations into consideration as per constitutional requirements and submit a report on the Division of Revenue Bill to the National Assembly and the National Council of Provinces.

2) INTERGOVERNMENTAL FISCAL RELATIONS ACT, 1997

To promote co-operation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters; to prescribe a process for the determination of an equitable sharing and allocation of revenue raised nationally; and to provide for matters in connection therewith.

- At least ten months (or a later date agreed to between the Minister and the Commission) before the start of each financial year, the Commission must submit to both Houses of Parliament and the provincial legislatures, for tabling in the Houses and the legislatures, and also to the Minister, recommendations for that financial year regarding –
 - an equitable division of revenue raised nationally, among the national, provincial and local spheres of government;
 - any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations should be made.

FFC's Role: Annual Submission for the Division of Revenue

INTERGOVERNMENTAL FISCAL RELATIONS ACT, 1997

- After receiving any recommendations of the Commission but before the Division of Revenue Bill is introduced in the National Assembly, the Minister must consult
 - **The Commission** must be consulted in terms of subsection (3) at least 14 days before the Division of Revenue Bill is introduced.
 - When the Division of Revenue Bill is introduced, it must be accompanied by a memorandum explaining –
 - how the Bill takes account of each of the matters listed in section 214 (2) (a) to (j) of the Constitution
 - the extent to which account was taken of any recommendations of the **Commission** submitted to the Minister in terms of section 9 or as a result of consultations with the **Commission** in terms of subsection (3) of this section
 - any assumptions and formulae used in arriving at the respective shares mentioned in subsection (2) (a) and (b).

– National Treasury Budget Review Annexure W1: Explanatory memorandum to the Division of Revenue Bill

INTERGOVERNMENTAL FISCAL RELATIONS ACT, 1997

- The Division of Revenue Bill and the Appropriations Bill must specify –
 - the share of each sphere of government of the revenue raised nationally for the relevant financial year
 - any other allocations to the provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations are or must be made

FFC's Role:

- **Submission on the Fiscal Framework and Revenue Proposals**
- **Submission on the Division of Revenue Bill and Appropriations Bill**
- **Submission on the Medium Term Budget Policy Statement**
- **Submission on the Adjusted Division of Revenue Bill and Adjusted Appropriations Bill**

3) MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007

- **To regulate the exercise by municipalities of their power to impose surcharges on fees for services provided under section 229(1)(a) of the Constitution;**
- **to provide for the authorisation of taxes, levies and duties that municipalities may impose under section 229(1)(b) of the Constitution;**
- **and to provide for matters connected therewith.**
 - The Minister of Finance may of his or her own accord or on application in terms of section 5 by a municipality, group of municipalities or organised local government authorise a municipal tax
 - Prior to authorising a municipal tax in terms of subsection (1) the Minister must consult–
 - the Minister of local government, affected municipalities and organised local government
 - **the Commission**
 - **The Minister must consult the Commission before any Regulations are made under the Act in accordance with the Constitution**

4) LOCAL GOVERNMENT MUNICIPAL SYSTEMS ACT, 2000

- **To provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services that are affordable to all;**
- **to define the legal nature of a municipality as including the local community within the municipal area, working in partnership with the municipality's political and administrative structures;**
- **to provide for the manner in which municipal powers and functions are exercised and performed;**
- **to provide for community participation; ...**
 - A Cabinet member or Deputy Minister seeking to initiate the assignment of a function or power by way of an Act of Parliament to municipalities in general, or any category of municipalities, must within a reasonable time before the draft Act providing for the assignment is introduced in Parliament-



request the **Financial and Fiscal Commission** to assess the financial and fiscal implications of the legislation, after informing the **Financial and Fiscal Commission** of the possible impact of such assignment.

6) MUNICIPAL FINANCE MANAGEMENT ACT, 2003

To secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government; to establish treasury norms and standards for the local sphere of government; and to provide for matters connected therewith.

- National legislation directly or indirectly amending this Act, or providing for the enactment of subordinate legislation that may conflict with this Act, may be introduced in Parliament only after the Minister and the **Financial and Fiscal Commission** have been consulted in writing on the contents of the draft legislation, and have responded in writing

ANNUAL OUTPUTS TARGETED AT FINANCE AND APPROPRIATIONS COMMITTEES, FFC

All Financial and Fiscal matters affecting public finance, whether it be vertical or horizontal Division of Revenue and Appropriations.

- Annual Submission for the Division of Revenue (end-May)
 - Submitted 10 months prior to tabling of the Division of Revenue Bill by Minister
 - Contains recommendations/proposals for the following fiscal year and MTEF
- Submission on the Fiscal Frameworks and Revenue Proposals, Division of Revenue Bill, Appropriations Bill (February), Division of Revenue Amendment Bill, Adjustments Appropriation Bill and the Medium Term Budget Policy Statement (October)
 - Contains the FFC's response to the Annual and Adjustments Budgets on matters of the macroeconomics, fiscal framework, Division of Revenue Bill, Appropriations Bill and specific policy priority areas.

DEVOLUTION OF EXPENDITURE POWERS AND FUNCTIONS

National government

- Defence, justice, police, tertiary education
- Functional Areas of Concurrent National and Provincial Legislative Competence (Schedule 4A)
 - Education at all levels, excluding tertiary education; Health services; Housing; etc.

Provincial government

- Functional Areas of Exclusive (Schedule 5A)
 - Liquor licences; Museums other than national museums; Provincial planning; Provincial cultural matters; Provincial recreation and amenities; etc.

Local government

- Functional Areas of Concurrent National and Provincial Legislative Competence - local government matters (Schedule 4B)
 - Water and sanitation services limited to potable water supply systems and domestic wastewater; and sewage disposal systems; Electricity and gas reticulation; etc.
- Functional Areas of Exclusive (Schedule 5B)
 - Municipal roads; Noise pollution; Pounds; Public places; Refuse removal, refuse dumps and solid waste disposal; Street trading; Street lighting; etc.

VERTICAL DIVISION OF REVENUE



Vertical division,
Division of Revenue Bill

Direct charges against the National Revenue Fund:

"President and Deputy President salaries (The Presidency)"
Members' remuneration (Parliament), Magistrates' and Judges' salaries
Debt-service costs, etc.

Provincial

Horizontal division among provinces, equitable share and direct conditional grants, Division of Revenue Bill

Provincial Indirect grants

National

40 Departments (2020), Appropriation Bill

Local Indirect grants

Horizontal division among municipalities equitable share and direct conditional grants, Division of Revenue Bill

Local

FINANCIAL OVERSIGHT: (S&S) COMMITTEES ON FINANCE AND APPROPRIATIONS

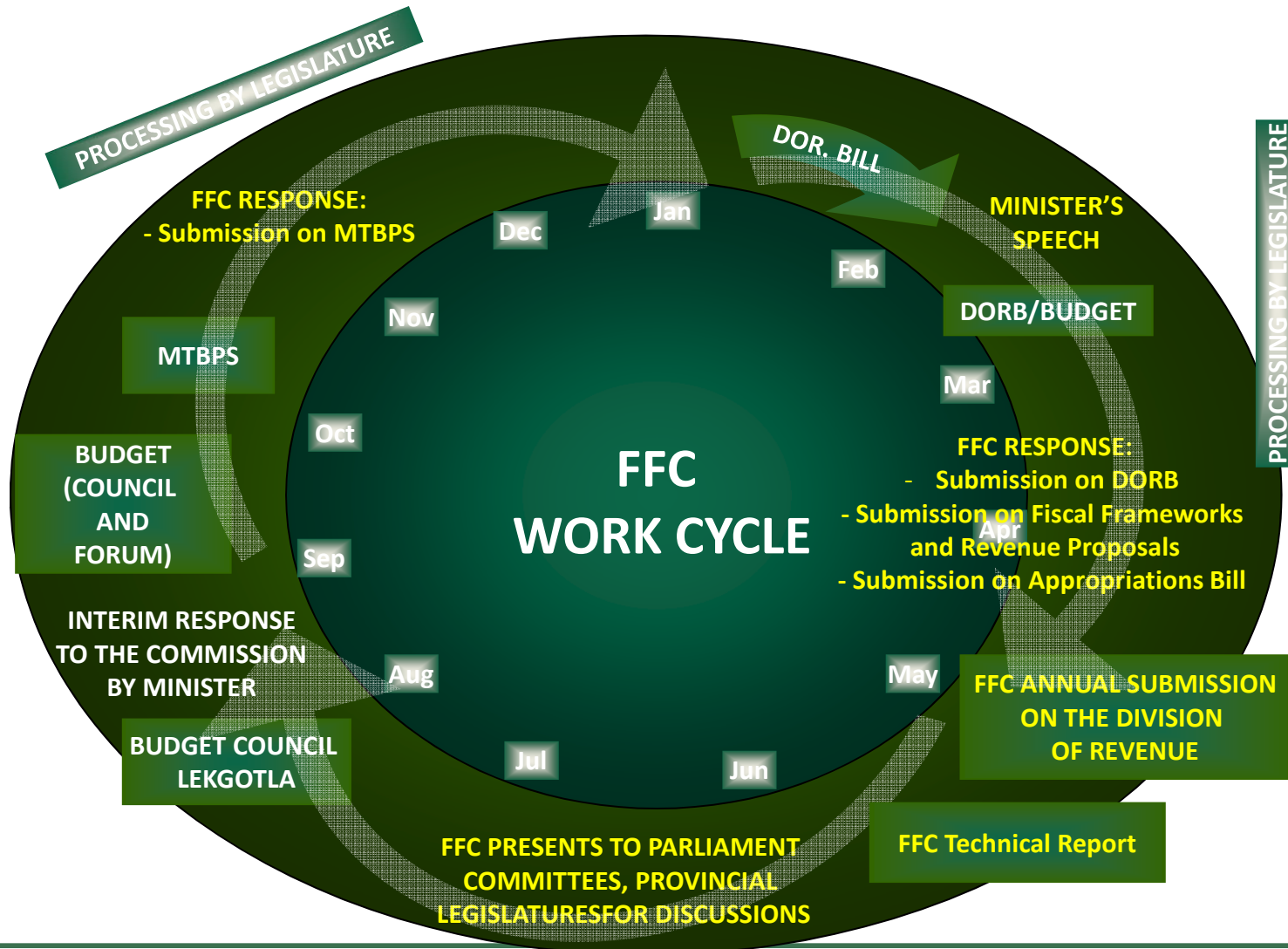
The Money Bills Amendment Procedure and Related Matters Amendment Act, requires that after the tabling of a budget/bill:

- **Section 8: Standing and Select Committees on Finance** must take FFC's recommendations into consideration as per constitutional requirements and submit a report on the fiscal framework and revenue proposals to the National Assembly and the National Council of Provinces.
- **Section 9: Standing and Select Committees on Appropriations** therefore takes FFC's recommendations into consideration as per constitutional requirements and submit a report on the Division of Revenue Bill to the National Assembly and the National Council of Provinces.

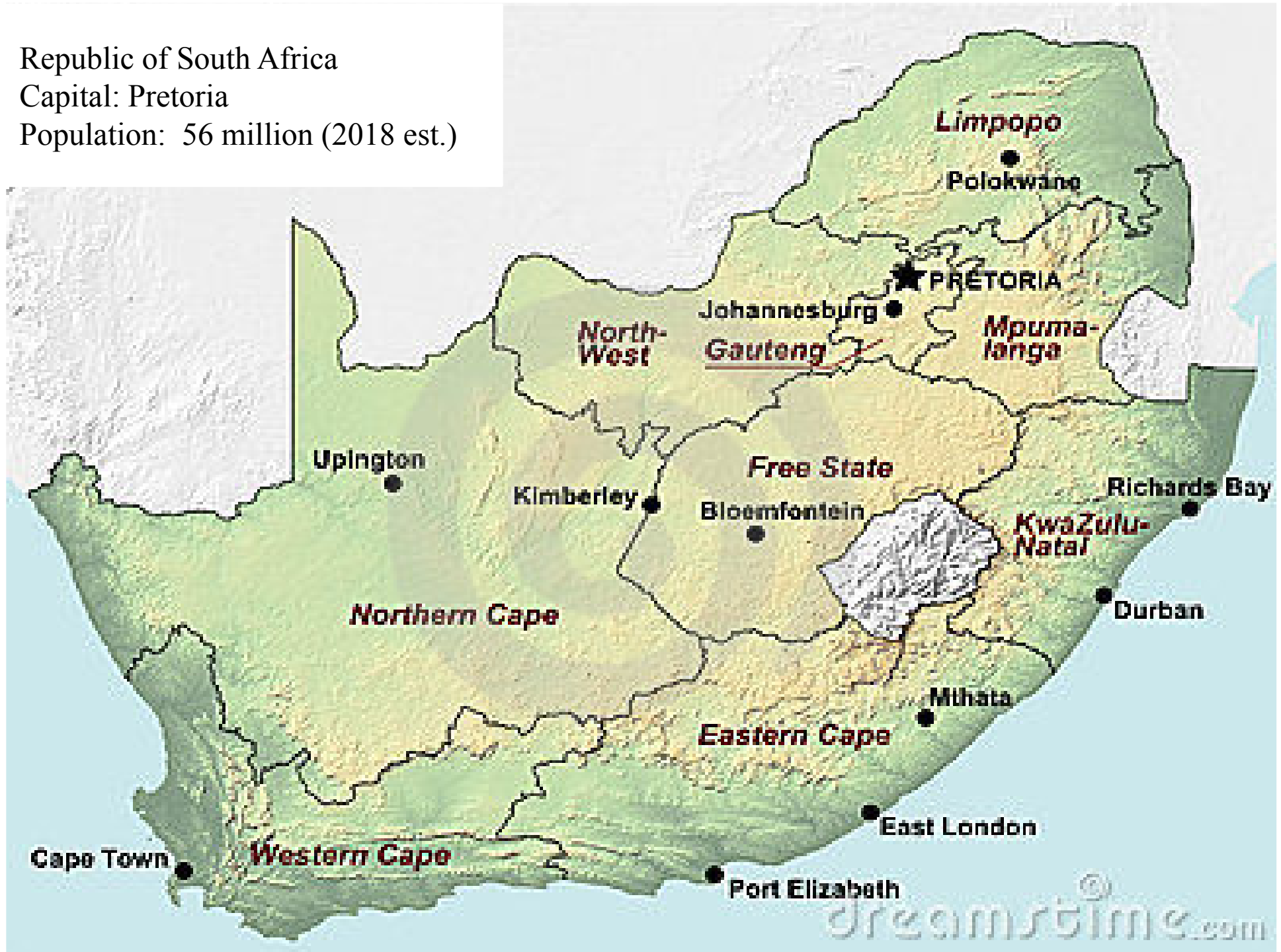
SELECTED FFC'S RECOMMENDATIONS OF RELEVANCE -2019

- Costed Norms approach (2001) – costing and pricing of functions and services, norms and standards.
- In 2008/9 FFC Recommended the acceleration of accreditation of municipalities with adequate capacity. The DPLG agreed with this recommendation. But nothing to date.
- School Backlog Infrastructure Grant (2012)
- As early as 2012/13 FFC recommended need for government to contain the wage bill. government ignored this. Also recommendation was about linking wage bill to productivity. FFC has repeated this over the years.
- In 2012/13 FFC recommended that: To address the problem of uncoordinated planning and decision-making in silos, inter-sectoral infrastructure investments, planning and development projects should be coordinated to ensure an integrated service delivery. Recommendation not take seriously
- Recommendation on Regional Electricity Distributor and Electricity made in 2010.
- Improvements in education, health outcomes and housing financing.
- Timelines on the introduction and termination of Conditional Grants

HOW THE FFC FUNCTIONS



Republic of South Africa
Capital: Pretoria
Population: 56 million (2018 est.)





FINANCIAL
AND FISCAL
COMMISSION



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