

**FINANCE PORTFOLIO COMMITTEE**

**AOPTED REPORT OF THE NEGOTIATING MANDATE ON THE DIVISION OF REVENUE AMENDMENT BILL [B9-2020] – SECTION 76**

**The Acting Chairperson of the Finance Portfolio Committee (Portfolio Committee), Hon. W. Matsheke tables Oversight Report on the Division of Revenue Amendment Bill *[B9-2020] (the* Bill).**

# INTRODUCTION

The Chairperson of the Finance Portfolio Committee (Portfolio Committee), Hon. W. Matsheke tables a report on the Division of Revenue Amendment Bill *[B9-2020]* (the DoRA Bill/Bill). The Bill is introduced in terms of section 76 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”) and it is widely referred to as a section 76 Bill.

The Bill proposes to amend the Division of Revenue Act, 2020 (Act No. 3 of 2020), in accordance with section 12(4) of the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No. 9 of 2009), since the national adjustments budget for the 2020/21 financial year necessitates changes to the Division of Revenue Act, 2020. The Bill is to be introduced together with the tabling of the adjusted estimates of the national expenditure and revised fiscal framework for the 2020/21 financial year (FY).

# PROCESS FOLLOWED

The Speaker of the Gauteng Provincial Legislature, Hon. Lentheng Ntombi Mekgwe, formally referred the Bill to the Finance Portfolio Committee (“portfolio committee”) for consideration in terms of GPL Standing Rule 245 (1) (a).

In considering the Bill, the Portfolio Committee took into account the Recommendations of the Financial and Fiscal Commission to the Division of Revenue for the 2020/21 financial year (FY), 2020 Division of Revenue Amendment Bill, Provincial and Local Government Fiscal Frameworks for 2020 MTEF as well as the 2020 Adjustment Appropriation Bill.

On 25 June 2020, the Portfolio Committee and support staff participated at the briefing by the Minister on the 2020 Special Adjustment Budget. On 08 July 2020, the Committee joint Select Committee on Appropriations and Standing Committee on Finance, wherein a briefing was received from National Treasury on the Bill. Furthermore, the Committee attended the joint Select Committee on Appropriations and Standing Committee on Finance on 09 July 2020, wherein submissions were received on the Bill from FFC and SALGA.

On Thursday, 16 July 2020, the Portfolio Committee received a briefing from the NCOP Permanent Delegate, Hon. Ryder, supported by National Treasury. As required by the Standing Rules of the Gauteng Provincial Legislature*,* after the briefing the Portfolio Committee held a public hearing to solicit views from stakeholders. The notices of public hearing and request for submissions were published in the legislature website and committee stakeholders were invited.

On Friday, 17 July 2020, the Portfolio Committee received presentations on the socio-economic analysis, legal opinion, Gauteng Executive Council’s view on the 2020 DoRAB and the Committee deliberated on the Bill. After deliberations, the Committee adopted its report on the Bill to be tabled at the NCOP plenary.

# PRINCIPLE OF THE BILL AND LEGISLATIVE FRAMEWORK

# The Bill seeks to amend the Division of Revenue Act, 2020, Act 3 of 2020, in accordance with the Money Bills Amendment Procedure and Related Matters Act, 2009, and to provide for matters connected therewith.

**3.1 Money Bills Amendment Procedure and Related Matters Act 9 of 2009**

In reference to the Division of Revenue Amendment Bill 2020, section 12(4) of Money Bills Amendment Procedure and Related Matters Act requires that the Minister of Finance tables a Division of Revenue Amendment Bill (DoRAB) with the revised fiscal framework if adjustment budget effects changes to the Division of Revenue Act (DoRA).

The main purpose of the DoRAB is to amend “column A” of the DoRA schedules which shows the allocation for the current year. The new “Column A” created by the DoRAB shows the original allocation, the adjustment and the new allocation to maximise transparency in the adjustment process. The schedules of the Bill relate to:

* Adjusting the equitable share among the three spheres of government;
* Changes to supplementary allocations to provinces and municipalities;
* Changes to specific-purpose allocations to provinces and municipalities;
* Introduction of a new grant for the 2019/20 financial year;
* Changes to allocations-in-kind to provinces and municipalities for designated special programmes; and
* Changes to the unallocated provisions for provinces for disaster response.

**3.2 Constitution of the Republic of South Africa Act 108 of 1996**

Section 214 of the Constitution of the Republic of South Africa requires that an Act of Parliament provides for:

* The equitable division of revenue raised nationally among national,

provincial and local spheres of government;

* The determination of each province’s equitable share of the provincial

share of that revenue; and

* 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.

The Bill therefore seeks to give effect to the provisions of Section 214 of the Constitution. It is noted in this regard that the Bill is in line with the relevant provisions of the Constitution, the Money Bills Amendment Procedure and Related Matters Act, read together with the Intergovernmental Fiscal Relations Act.

# VIEW OF THE GAUTENG PROVINCIAL EXECUTIVE COUNCIL ON THE BILL

Although there is reprioritisation amounting to R4.14 billion within existing baseline to fund COVID-19 related expenditure, the provincial equitable share remains unchanged at R112 billion. Provincial conditional grants experienced net reduction of R450 million, however, health programmes and COVID-19 frontline services were not affected. The Gauteng Executive Council supports the Bill noting the aforementioned changes.

# SOCIO-ECONOMIC IMPACT

The Gross National Debt is projected at 81.8% of GDP by the end of the financial year. The COVID-19 pandemic has exposed the South Africa’s weak fiscal position, to be further worsened by the expected significant tax revenue underperformance and increased government expenditure to contain it. It therefore follows that the budget deficit and gross borrowing will increase sharply, thereby reducing available funds for service delivery as the bigger portion of the budget would be allocated to service debt repayment.

Despite the social relief packages to offset the impact of the COVID-19 pandemic, the suspension of some infrastructure projects, will also have negative effects on job creation and economic growth. Business support in the form of expanded credit facilities, funds for business support and industrial policy, and tax and payment holidays is extended to businesses with turnover of R300 million and there is no clarity on how small businesses and their employees will be protected.

Additional funds allocated to local government through equitable share will be useful for many indigent families in the province and augment municipal service delivery.

Fundamental to the Bill is the response to the COVID-19 pandemic by making monies available to provide for personal protective equipment for health professionals, water to communities and schools, catch-up activities in schools, refurbishment of hospitals and quarantine sites, emergency housing, provision of additional bed capacity for COVID-19 patient, screening and contact tracing for Covid-19, strengthening intensive care unit capacity, support to sportspeople and support staff while sporting events are suspended. These interventions are critical for the health and safety of the general populace and Gauteng citizens in particular.Further strengthening the resolve to health and safety.

# FINANCIAL IMPLICATIONS OF THE BILL

The Bill is necessitated by the proposed national adjustment budget for 2020/21 FY to respond to the COVID-19 pandemic, which affects the division of revenue between the three spheres of government. The financial implications to government are limited to the total transfers to provinces and local government. The 2020 Adjustment Budget provides for an increase in allocation of R43 billion, resulting in a revised budget estimate of R1. 809 trillion for the 2020/21 financial year compared to the original allocation of R1. 766 trillion, as illustrated below.

**Table 1: Schedule 1**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Column A** | | | |
| **Spheres of Govt** |  | **2020/21 Main Allocation** | **Adjustment** | **2020/21 Adjusted Allocation** |
| National Provincial  Local |  | R’000  1 152 839 556  538 471 528  74 683 326 | R’000  32 180 670  -  11 000 000 | R’000  1 185 020 226  538 471 528  85 683 326 |
| **Total** |  | **1 765 994 410** | **43 180 670** | **1 809 175 080** |

Source: Division of Revenue Amendment Bill 2020, adapted

It is worth noting that the equitable share for the national and local spheres of government was adjusted whilst the equitable share for the provincial sphere of government remain unchanged.

1. **CHANGES TO PROVINCIAL ALLOCATIONS**

Total provincial equitable share amounting to R538.472 billion remains unchanged, of which 3.7% has been reprioritised. It is expected that Gauteng province will reprioritise R4.1 billion of the equitable share allocation of R112 billion.

At the forefront of the pandemic response, provincial government are charged with the responsibility of providing key social services including public health system, schools and social services. As such, provinces have undertaken to reprioritise R20 billion within their own budget for this purpose and the details thereof will be announced in their adjustment budgets. **The Portfolio committee noted that it is expected that R15 billion will be reprioritised to increase capacity in the public health system and R5 billion will be utilised for augmenting the education catch-up plan, providing social welfare to communities and fund other sectors including the provision of quarantine facilities by public works departments.**

The funds have been sourced from cancelling activities within the *Public Works, Roads and Transport, and Sport, Arts and Culture* sectors that cannot be undertaken while economic activity is restricted and through the postponement of early-stage projects until 2021/22 financial year.

1. **CONDITIONAL GRANTS TO PROVINCES**

**The Portfolio committee noted that conditional grants transfers are also adjusted to fund the response to COVID-19.** Of importance, the adjustments are structured to balance funding required to respond to COVID-19, while minimising the negative impact on service delivery.Nationally**,** provincial conditional grants have been adjusted downward by R7.2 billion and the Gauteng province accounts for R451 million.

An amount of R16 billion has been reprioritised and repurposed within the grantsto be used as part of the COVID-19 response. **The Portfolio Committee further noted that gazetted grant rules and revised business plans will enable spending on sanitisation, urgent water supply, catch-up activities in schools, hospital refurbishment and quarantine sites.**

***HIV, TB, Malaria and Community Outreach Grant***

An amount of R2.8 billion has been added to COVID-19 component **of *HIV, TB, Malaria and Community Outreach Grant****.* **The Committee noted with appreciation that these funds will be utilised for PPE and ventilators, and hiring of additional staff, including the Cuban medial personal, to respond to the pandemic.** Whilethe reprioritised funds will cater for screening and contact tracing for COVID-19.

*Education Infrastructure Grant*

In the quest to provide water, sanitation and personal protective equipment to schools, and the construction of temporary classrooms and to fund continual deep cleaning of facilities, R4.4 billion is reprioritised within the ***Education infrastructure Grant****.* Afurther R600 million has been reprioritised from ***Direct Education Infrastructure Grant*** to an ***Indirect School Infrastructure Backlogs Grant*** to provide potable water and safe sanitation for all schools that lack such access.

To support schools catch-up activities, R30 million has been reprioritised within ***Maths, Science and Technology Grant*** and R40 million from ***HIV and AIDS (life skills education) Grant*** to provide education on measures to respond to the pandemic. Furthermore, R20 million, has been reprioritised within *Learners with Profound Intellectual Disabilities Grant* to provide sanitisation and PPE to support provision of education.

***National School Nutrition Programme Grant***

Under this grant, R50 million has been reprioritised within for additional sanitisation in food preparation and distribution areas and for PPEs for food handlers.

***Early Childhood Development Grant***

To prepare ECD sites for reopening, R89 million has been reprioritised within ***Early Childhood Development Grant****.*

***Community Library Services Grant***

Funds to the tune of R10 million has been reprioritized within this grant to sanitise libraries, provide hand sanitizer for library users and issue PPE for staff.

***Public Transport Operations Grant***

To sanitise buses and public transport facilities, R337 million has been reprioritised **within *Public Transport Operations Grant***.

***Provincial Emergency Housing Grant***

An amount of R378 million has been added to this grant to assist in instances where current housing arrangements are not conducive for people to maintain social distance and self-isolate.

***Health Facility Revitalization Grant***

Some grant frameworks, where business plans could be modified to respond to activities that fall within the pandemic response, did not require amendment. Firstly, the reprioritisation of R1.1 billion within the ***Health Facility Revitalization Grant*** for additional bed capacity for COVID-19 patients. Secondly, R298 million within the ***National Tertiary Services Grant*** for strengthening intensive care capacity. Finally, R58 million within the ***Mass Participation and Sports Development Grant*** to support sportspeople and support staff while sporting events are suspended.

***Human Settlements Development Grant***

This grant continues to provide access to water and sanitation through the delivery of housing and upgrading informal settlements including mining towns.

1. **CHANGES TO LOCAL GOVERNMENT ALLOCATIONS**

**The Portfolio Committee noted that there were additional allocations to the local government equitable share to provide relief to financially distressed municipalities.** Municipalities are given the latitude to utilise the monies they deem fit but monitoring of funds will be done through municipal standard chart of account for COVID-19 expenditure. Funds were added through two existing components, that is, R7.5 billion for basic services component to increase free basic service services to 1.4 million households and R3.5 billion for community services for poorer communities responsible for environmental health, cemeteries, and crematoria. **The Portfolio Committee further noted that additional funding can be freed up if SALGA can get an exemption from implementing the 2020/21 cost of living adjustment of 6.25%.** Of importance to note, the Division of Revenue Amendment Bill is redistributive as it strives to strike a balance between COVID hit urban areas, poor and rural municipalities. The number getting free basic services increased by 13.9% while the community services component increased by 41.5%.

As per the President’s announcement, R6.6 billion will be reprioritised within ***Urban Settlements Development Grant, Integrated Urban Development Grant, Municipal Infrastructure Grant, Regional Bulk Infrastructure Grant and Water Services Infrastructure Grant*** for water and sanitation infrastructure. For sanitation and transport R2.4 billion is reprioritised within ***Public Transport Network Grant and Municipal Infrastructure Grant*** for extra hand washing facilities, hand sanitizer and physical distance marking.

1. **TECHNICAL CHANGES TO THE BILL**

The main purpose of the Division of Revenue Amendment Bill is the amend “Column A” of the Division of Revenue Bill schedules, which shows allocations for the current year. In order to maximise transparency in the adjustment process, the Division of Revenue Amendment Bill shows the original allocation, “Column A” of the adjustment and the new allocation to maximise transparency in the adjustment process. “Column A” is amended for schedule 1,2,3,4,5,6 and 7 parts “a” and “B”. **The Portfolio Committee noted that the Division of Revenue Amendment Bill clauses allow for the creation of additional payment dates for the local government equitable share, which currently stood at 3.**

1. **SUMMARY OF STAKEHOLDER SUBMISSIONS**

The submissions received were relevant to the Bill and summarized as follows:

* Rather than implementing harmful cuts to public expenditure, targeted spending on fiscal multipliers should be prioritised as an essential and emergency-appropriate economic measure;
* That equitable shares to provinces and municipalities need to be increased by virtue of them being at the coalface of service delivery;
* That the R7 billion and R5.6 billion cuts to provinces and municipalities made in the February Budget Review need to redressed;
* The percentages share of the budget to provinces and municipalities should be raised;
* Reprioritisations away from the ‘School Infrastructure Grant’ need to be redressed;
* Emergency COVID-19 spending should not place in jeopardy other life-saving health interventions and need to be considered from a health systems perspective;
* The reprioritisation of R689 million away from the ‘Water Services Infrastructure’ grant needs to be reconsidered;
* Now is the time to address medical stockouts and increase antiretroviral treatment support in South Africa;
* We need to see more investment in our health care infrastructure that provides better social protection for the people;
* Maladministration needs to be redressed; and
* Health programmes that seek to create an equitable health system should not be subjected to downward revisions during a medical crisis

1. **COMMITTEE RECOMMENDATIONS ON THE DIVISION OF REVENUE BILL, 2020**

The Finance Portfolio Committee recommends the following:

12.1That National Treasury should ensure that there is accountability in the utilization of funds earmarked for COVID-19 pandemic;

12.2 That National Treasury should tread a delicate balance in crafting the budget, as the balance seems to tilt in favour of providing social safety nets at the expense of the economy;

12.3 That National Treasury should be circumspect of the intergenerational matter when dealing with the issue of government debt;

12.4 That National Treasury should reconsider allocation of more funds to the equitable to ensure that local government receive a reasonable amount by virtue of it being at the coalface of service delivery; and

12.5 That National treasury should ensure that the fiscal policy is not expansionary to an extend that it leads to dependence on international financial institutions which will threaten the sovereignty of the country.

1. **NEGOTIATING POSITION ADOPTED BY COMMITTEE**

The Finance Portfolio Committee supports the principle and detail of the Division of Revenue Amendment Bill 2020 [B9-2020].