



EASTERN CAPE PROVINCIAL LEGISLATURE

PORTFOLIO COMMITTEE ON EDUCATION

Tel: 040 608 0094

Fax: 086 67344989

E-mail: ptyabazayo@ecleg.gov.za

Date: 25 March 2024

Enquiries: Mr P. Tyabazayo

Ref: BELA BILL [B2B-2022]

NEGOTIATING MANDATE

To : The Chairperson
Select Committee on Education and Technology, Sport,
Arts and Culture

Name of Bill : Basic Education Laws Amendment Bill

Number of Bill : [B 2B -2022]

Date of Deliberation : 25 March 2023

1. Vote of the Legislature

The Province votes in favour of the Bill, with the proposed amendments and therefore mandates the Permanent Delegate to the NCOP to negotiate in favour of the Bill within the following parameters:

The proposed amendments are as follows:

(a) Clause 3 of the Bill: Monitoring learner attendance

Clause 3 of the Bill places a duty on the School Governing Body (SGB), the principals and the educators to monitor learner attendance at school including enquiring into the whereabouts of a learner when absent from school for three (3) consecutive days. To support the SGB and the school, particularly educators to carry out this statutory obligation, a provision for social work services and other professionals must be made in this clause or in the regulations to ensure such services are available to the schools when needed.

(b) Clause 8 (b) of the Bill: Random search and seizure and drug testing at schools

The search and seizure of liquor, dangerous object or drugs, will in terms of this clause, be conducted by the principal or his or her delegate. The execution of this statutory obligation is likely to put at risk the safety of educators. The proposal in this regard is that clause 8 (2) must be amended to ensure effective execution of search and seizure at schools by involving the South African Police Service or any other credible security agency to support the execution of this statutory duty.

(c) Clause 9 of the Bill: Serious misconduct

It is proposed that clause 9 be amended to make it explicitly clear that an assault on the educator by a learner is both a serious misconduct and a criminal offence that can, depending on the age of the learner, be dealt with in terms of the Child Justice Act, 2008 (Act No.75 of 2008).

(d) Clause 12 of the Bill: Provision of public schools

It is proposed that under clause 12, a provision must be made for public schools that will offer online and blended learning to conform to technological advancements and the digital age era.

(e) Clause 19 of the Bill: Dissolution of governing body

It is proposed that before the exercise of powers to dissolve an SGB that has ceased to perform its powers in clause 19, the HoD must, as a prerequisite, at the commencement of the SGB term of office, cause training to be conducted for SGB's. This will ensure that SGB's are well capacitated in all aspects of school operations. It is therefore proposed that the training provided to the SGB's must not only be limited to an induction exercise, but must entail a comprehensive training programme.

(f) Clause 21 of the Bill: Remuneration of members of governing body

It is proposed that clause 21 be amended to make it clear that although SGB members are not entitled to be remunerated for the performance of their duties or for the attendance of meetings and school activities, but may be reimbursed for travel costs and other expenses incurred in attending meetings and school activities.

The current section 27 (1) of the South African Schools Act (SASA) provides that necessary expenses incurred by a member of a governing body in the performance of his/her duties may be reimbursed by the governing body. Therefore, the amendment in clause 21 must be aligned with section 27 (1) of SASA.

(g) Clause 25 of the Bill: Closure of public schools


- It is proposed that clause 25 be amended to reflect that the number of learners enrolled in a particular public school shall not be the sole criteria for the closure of a public school. But, a rather broad criteria encompassing social factors and other considerations must be taken into account.
- When closing or merging unviable public schools, a provision must be made for the availability of the scholar transport and that all the necessary resources and support be provided to the new school.

(h) Clause 39 of the Bill: Regulations

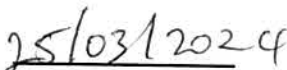
In clause 39, the Minister must be empowered to make regulations on learner disciplining methods that are the alternatives to the abolished corporal punishment.

2. General Comments

The report of the Portfolio Committee attached hereto brings to the attention of the Select Committee all the other issues raised by the stakeholders relating to the Bill and are matters that ought to be given serious consideration by the Department of Basic Education.



HON M. SAZIWA (MPL)
CHAIRPERSON OF THE PORTFOLIO
COMMITTEE ON EDUCATION



DATE