



## **NEGOTIATING MANDATE**

**TO:** The Chairperson of the Select Committee on Land Transport,  
Public Service and Administration, Public Works and  
Infrastructure  
  
Hon. MK Mmoiemang

**NAME OF BILL:** Railway Safety Bill

**NUMBER OF BILL:** [B7B-2021]

**DATE OF DELIBERATION:** 19 April 2024

**VOTE OF THE LEGISLATURE: VOTE OF THE LEGISLATURE:** The Gauteng Provincial Legislature is supporting the Railway Safety Bill subject to the amendment below being considered.

### Clause 11

- It is proposed for this clause to cater for some level of provincial participation in line with the principles of transparency and cooperative governance.

#### Clause 12(4)

- Chairperson and Deputy Chairperson of Board – recommend that the phrase “the position of Chairperson and Deputy Chairperson becomes” be replaced with “both the positions of Chairperson and Deputy Chairperson become” in clause 12(4);

#### Clause 13(1)(c)

- Term of office and conditions of service of board members – recommend that the clause be rephrased such that its objective be explicitly clear i.e. whether or not it is informed by a need to regularly rotate board members, or to enable the Minister to lay off up to one-third of poorly-performing non-executive members, subject to annual board evaluation.

#### Clause 20(1)

- Delegation by board – in order to ensure that delegation by the board do not derogate from a multi-disciplinary approach to decision-making envisaged by the composition of the Board, prevent sweeping delegation of board’s authority, and introduce checks and balances that facilitate natural rules of justice relating to impartiality and conflict of interests. Furthermore, it is recommended that parameters within which a function, duty or power of the board would be delegated be outlined in the Bill. It may be useful to specify functions or powers, which the board is precluded from delegating.

#### Clause 44

- In terms of this clause a warrant may be executed only during the day from 08h00 and 17h00, other than a Saturday, Sunday, or public holiday, unless the

judge or the magistrate who issued the warrant authorises that it may be executed at any other time that is reasonable in the circumstances. This provision may be problematic as it precludes execution after hours and weekends except if the judge/ magistrate has ordered otherwise, it is proposed that this clause be redrafted to balance this limitation and the constitutional right to privacy and dignity , as it may hinder the execution process and at times due to the urgency of the matter it may not be possible to obtain the necessary authorisation prior to execution.

### General Amendments

- The Bill is silent on any measures to respond to the devastating stripping of thousands of kilometres of cables that is crippling Railway industry. This may include the immediate temporary banning of scrap copper and steal exports and the regulation of scrap metal dealers. Propose a clause to regulate this.
  
- The Bill needs to address respective responsibilities for ensuring the safety and security of railway crossings, sidings and lines which has resulted in the tragic deaths of children, pedestrians and commuters crossing unguarded crossings, sidings and lines so as to reduce continuous litigation against Metro Rail and Transnet, Provincial and Local Government.



HON. G. SCHNEEMANN

Date: 19 April 2024

CHAIRPERSON: OF THE PORTFOLIO COMMITTEE ON TRANSPORT AND  
LOGISTICS

GAUTENG PROVINCIAL LEGISLATURE