**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER:** **3940 [NW4908E]**

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**3940. Ms S J Graham (DA) to ask the Minister of Finance:**

(1) With reference to his reply to question 2088 on 27 September 2021 regarding the non-payment of pension funds by the Dr Beyers Naudé Local Municipality, what (a) progress has been made on settling the arrears on the payment of pension funds owed by the Dr Beyers Naudé Local Municipality to third parties and (b) is the status of the payments to medical aid contributions by the Dr Beyers Naudé Local Municipality on behalf of officials and councilors where the monies have been deducted from their salaries;

(2) whether the Dr Beyers Naudé Local Municipality is up to date with payments to the SA Revenue Service;

(3) whether the National Treasury has contemplated withholding equitable share to the Dr Beyers Naudé Local Municipality until it complies with its fiduciary duties; if not, why not; if so, what are the relevant details? NW4908E

**REPLY**

The information below is provided by the municipality to National Treasury. It is not audited and so cannot be verified by Treasury.

1. (a) The Municipality paid an amount of R18.6 million in the month of September to the Pension Funds. That reduced the total arrear debt to R20.9 million in terms of the narrative report submitted by the municipality to both Provincial and National Treasury. It should be noted that non-payment of pension fund contributions constitutes a criminal offence in terms of Section 13(A) of the Pension Fund Act.
2. The narrative report indicates that the Medical Aids are paid up to date and there is no arrear amount on the account.

1. According to the municipality, it owes the South African Revenue Service a total amount of R30.3 million. This information is obtained from a narrative report the municipality submitted to both Provincial and National Treasury. SARS are unable to confirm with the National Treasury as they do not discuss taxpayers’ affairs of a taxpayer with third parties.
2. The National Treasury does have the power to stop the transfer of the equitable share to the municipality in terms of Section 216(2) of the Constitution and other applicable legislation in the event of persistent failure by a municipality to honor its financial commitments. National Treasury does require municipalities to report on the non-payments of its commitment to South African Revenue Service, pension and other staff benefit deducted from municipal officials to be paid over the appropriate funds and/ or institutions. Failure for municipalities to provide this evidence may result in their equitable share being withheld to influence compliance.

The onus lies with the Executive Mayor to impose consequence management to the Accounting Officer. The Executive Mayor must recommend financial misconduct proceedings against the accounting officer in line with Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

The other option is also for the relevant Pension Fund to implement their credit control policies to collect the monies due to their institutions. Pension Fund Administrator must also lay criminal charges against the accounting officer in terms of their own legislation.

Eastern Cape Legislature must further exercise its oversight responsibility effectively. The matter must be directed to the Provincial Legislature for the relevant committee to summon the Mayor to the Legislature to provide responses on how the municipality is planning to address the matter.