



ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

KWAZULU-NATAL PROVINCIAL LEGISLATURE

**TO: THE CHAIRPERSON,
NATIONAL COUNCIL OF PROVINCES**

NEGOTIATING MANDATE

PROVINCE : KWAZULU-NATAL

**BILL : NATIONAL ENVIRONMENTAL
MANAGEMENT: WASTE BILL
[B39B – 2007]**

PROVINCIAL PROCESS :

Provincial Portfolio Committee/s : Agriculture & Environmental Affairs
Portfolio Committee

Portfolio Committee
meeting date/s : Thursday, the 5th of JUNE 2008

Provincial NCOP meeting date/s : Thursday, the 5th of JUNE 2008

Consultation : Parliamentary Legal Advisors, Special &
Permanent Delegates

VOTE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:

The Provincial Standing Committee on National Council of Provinces Matters met today, Thursday, the 5th of JUNE 2008, to consider the National Environmental Management: Waste Bill [B39B-2007].

The following comments and amendments were proposed and considered on the Bill:

GENERAL COMMENTS ON THE BILL

- The Province of KwaZulu-Natal welcomes and supports in principle the introduction of this legislation;
- The licensing provisions are very well drafted and the process is clear and concise which will assist the layman in complying.
- However, it is submitted that the following omissions from the Bill weaken its ability to operate optimally:

1. The definition of "Waste"

The definition of waste remains extremely broad and the province would encourage this definition to be revisited in favour of a more specific definition.

Certain forms of waste such as waste from electronic products and gadgets which is potentially hazardous (so-called "white waste") is not included in the definition and nor is waste from ships which has the potential to cause devastating consequences for our country, such as an outbreak of "foot and mouth" disease.

In addition, it should be noted that by excluding "any portion of waste, once re-used, recycled and recovered" as being defined as waste is contrary to international norms and definitions, most notably the definition of waste in the Basel Convention, to which South Africa is a signatory.

2. Exclusion of health care risk waste

Whilst it is understood that it is the intention of the Department of Environmental Affairs and Tourism to deal with health care waste in subsequent regulations, it is extremely unfortunate that this critical issue was not dealt with as a chapter of the Bill as it would have given this form of waste the status it should be afforded.

This particular industry, i.e. the collection and processing of health care waste remains problematic with inappropriate dumping and processing continually occurring.

The Department is urged to reconsider the inclusion such a chapter dealing with the regulation of this form of waste.

3. **Exclusion of mining waste**

It is also alarming that mining waste is not regulated in this Bill given that mining waste constitutes about 83% of waste generated in the country.

It constantly leads to water pollution.

It is submitted that this should not be left to DME to regulate and DEAT should seize this opportunity to deal with this form of waste effectively in this Bill.

4. **Disposal of waste by means of Incineration**

Section 26 prohibits the disposal of waste "in a manner that is likely to cause pollution of the environment or harm to health and well-being" and certainly incineration would fall to be defined as such a manner of disposal, given the effects it may have.

However, as incineration is not specifically referred to as a prohibited method of disposal, the provision remains open to interpretation which is of concern.

It is submitted that the government's stance on incineration should be clearly expressed in the Bill.

It is submitted that salvaging has many more benefits than incineration as many poor people in the country currently generate a sustainable income from salvaging and selling waste.

5. **Definition of "municipality"**

Municipalities are referred to in a number of sections in the Bill and a number of responsibilities rest with "municipalities". However, a "municipality" is defined as "a municipality established in terms of the Local Government: Municipal Structures Act".

This means that reference to municipalities refers to local or district municipalities and does not specify which municipality is responsible for which function.

In reality, district and local municipalities perform different

functions in relation to waste, eg a district municipalities run landfill sites whereas local municipalities run refuse removal. Where the Bill now introduces new services such as recycling, there may be conflict between these municipalities as to who will conduct such income generating activities.

6. **Financial implications of the Bill**

It is submitted that the financial implications of the Bill may have been underestimated as there is a lack of implementation experience within the country, especially in respect of municipalities relating to reduction, reuse, and recovery and their associated infrastructure.

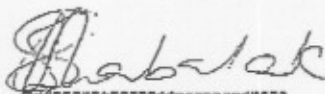
SPECIFIC AMENDMENTS PROPOSED

1. On page 11, line 1, the substitution of "Financial and Fiscal Commission Act, 1997 (Act No. 97 of 1997)" with "Intergovernmental Fiscal Relations Act 1997 (Act No. 97 of 1997)".
2. On page 11, line 35, the deletion of line 35, 36 and 37 entirely and the renumbering of the subsequent subsections. It is submitted that as these tariffs are to be implemented by municipalities, they should be determined by provincial MEC's (see amendment below).
3. On page 12, after line 7, the insertion of
"(3) The MEC with the concurrence of the MEC for Finance may, by notice in the Gazette, set provincial standards in respect of tariffs for waste services provided by municipalities."
On page 12, line 8, the renumbering of the subsequent subsections.
4. On page 13, line 20, the substitution of the words "another official" for "other officials".
5. On page 21, line 28, the insertion of the words "within a stipulated timeframe" after the word "municipality".
6. On page 21, line 30, the insertion of the words "within a stipulated timeframe" after the word "affairs".
7. On page 24, line 10, the insertion of "and MEC" after the word "Minister".

- 8. On page 25, line 35, the insertion of "or MEC, as the case may be," after the word "Minister".
- 9. On page 28, line 12, the substitution of the word "may" for the word "must".
- 10. On page 35, after line 37, the insertion of "(7) A waste management officer must stipulate the documentation and information that should be included in the report".
- 11. On page 43, line 7, the insertion of a suitable time period after the word "waste". It is submitted that this should stipulate over what time period the 25 tonnes of inert waste is measured.
- 12. Where it appears in the Bill the substitution of the word "effluent" for the words "water containing waste" in order to be consistent with the National Water Act.

The Committee unanimously agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to support the Bill provided that the above comments and proposed amendments are considered and consolidated in the Bill.

PROVINCIAL ENDORSMENT

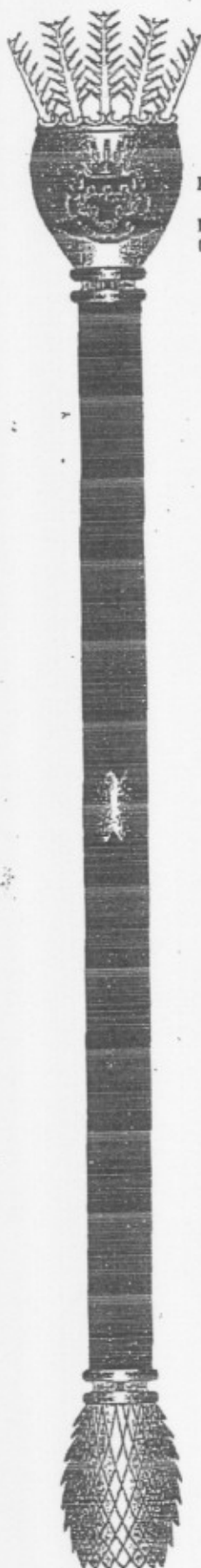


Ms L F Shabalala
CHAIRPERSON :
KWAZULU-NATAL STANDING COMMITTEE ON
NATIONAL COUNCIL OF PROVINCES MATTERS

Thursday, the 5th June 2008

DATE

Limpopo Legislature



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0700

**PORFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT,
ENVIRONMENT AND TOURISM**

**NEGOTIATING MANDATE ON NATIONAL ENVIRONMENTAL
MANAGEMENT: WASTE BILL, 2007 [B39B-2007]**

1. INTRODUCTION

The National Council of Provinces referred the National Environmental Management: Waste Bill to the Limpopo Legislature. Upon receipt by the Legislature, the Bill was referred to the Portfolio Committee on Economic Development, Environment and Tourism to make further inputs for consideration by the NCOP when negotiating the mandate.

2. OBJECTS OF THE BILL.

The Bill seeks to reform the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and securing ecologically sustainable development; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement; and to provide for matters connected therewith.

3. CONSIDERATION OF THE BILL

The Portfolio Committee met the NCOP Permanent Delegate on 15 May 2008 to receive a detailed briefing on the principles and objects of the Bill. The Committee met again on 20 May 2008 for the consideration of the Bill. It was in this meeting that the Committee decided to conduct a provincial public hearing in which various stakeholders from five district municipalities of the province attended to make inputs and views on the Bill. The public hearing took place on 30 May 2008. Present in this hearing were the following stakeholders:

- Provincial Department of Economic Development, Environment and Tourism

- Traditional Leaders
- Mining Sectors
- Municipalities
- Business Sector
- Women Organizations
- Youth Organizations


4. INPUTS FROM THE STAKEHOLDERS

Stakeholders made inputs as follows:

- Municipalities should manage their dumping site effectively.
- Refuse collection should not only be limited to the suburbs and townships, but extended to the rural communities.
- Recycling points should be increased in the various communities.
- Coordinated support in the management of waste from government Departments i.e. Health, Water Affairs and Trade and Industry and Environmental Affairs should be enforced.
- Punitive measures on any person or institution that violates the Bill should not only be limited to fines, but also criminal offence and prison sentence should be imposed.
- The department of Environmental Affairs should monitor the rehabilitation and management of borrow pits as it accelerates the illegal dumping sites.
- Municipalities should have by laws to monitor and control the use of mobile toilets.

5. RECOMMENDATIONS

The Committee, having considered the Bill, found that the Bill's enactment into law will address many problem of waste management. All the concerns raised during the Public hearing should be taken into consideration before the Bill proceeds to the next stage. The Committee supports the provisions of the Bill. A mandate is conferred on the NCOP delegates to negotiate in favour of the Bill to pass into law.


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M. T. G. G. MASHAMBA, MPL
COMMITTEE CHAIRPERSON



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Date: 2 June 2008

The Chairperson
National Council of Provinces
Hon MJ Mahlangu

NEGOTIATING MANDATE FOR THE NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE BILL [B39B-2007]

1. INTRODUCTION

The Chairperson of the Portfolio Committee on Economic Affairs & Tourism, Hon JT Boukes, tabled the Committee's negotiating mandate as adopted by the Portfolio Committee on **25 March 2008** on the *National Environmental Management: Waste Bill [B39 - 2007]*.

2. PROCESS FOLLOWED

- 2.1 The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *National Environmental Waste Management Bill [B39 - 2007]* to the Portfolio Committee on Economic Affairs and Tourism on **25 March 2008**.
- 2.2 The Portfolio Committee at its meeting on **15 May 2008** received a briefing on the Bill from the Northern Cape's Permanent Delegate to the NCOP, Hon RJ Tau, and Ms L Garlipp from the National Department of Economic Affairs, Tourism, Environmental Affairs and Conservation.
- 2.3 The Portfolio Committee resolved at the meeting of **15 May 2008** to hold public hearings on the referred Bill in the Regions of Frances Baard, Pixley ka Seme, and Namaqua to solicit the views of the affected beneficiary communities and stakeholders with regard to the *National Environment Waste Management Bill*.

Four (4) public hearings were held on **22 May 2008** as per Committee resolution and both written and oral submissions were called for. The public engaged with the Members of the Provincial Legislature on their views.

On **27 May 2008** the Portfolio Committee on Economic Affairs & Tourism deliberated and considered the *National Environment Waste Management Bill [B39 - 2007]*.

3. PUBLIC INPUTS ON THE BILL

HONDEKLIP BAY

- 3.1 The public supports the bill

ALEXANDER BAY

- 3.2 Does legislation cover radio-active and other types of waste such as medical waste?
- 3.3 Sewerage and oxidation camps – how is that handled?
- 3.4 Role of municipality in connection with the public/children scavenging at dumping sites.
- 3.5 The public supported the bill.

KIMBERLEY

- 3.6 The official from the Sol Plaatje Municipality stated that the municipality does not have the necessary funds to implement the new ideas of this proposed bill.
- 3.7 Government should put measures into place to educate or consult with the community in order to identify between waste and recycling items and in return ensure job creation.
- 3.8 Waste disposal bins or buckets should be stationed far away from the residential areas.
- 3.9 The bill should distinguish between individuals who recycle on a small scale or on a large scale, as far as the compulsory licenses are concerned.
- 3.10 The compulsory possessing of licenses would then prohibit the individual who recycles on a small scale.
- 3.11 Agriculture that is been practiced within the residential areas, the bill does not address the practice.
- 3.12 Illegal dumping that occurs on a daily basis, extensive penalties should be implemented.
- 3.13 Big companies like De Beers mine must be prohibited from disposing its waste materials (mine dust) in the residential areas.
- 3.14 Health inspectors must begin to take shop owners on for dumping waste material on the sides of the shop. It is a health hazard.
- 3.15 Regulatory bill boards must be put up on all illegal dumping sites.

3.16 Stray goats and sheep in residential areas must be prohibited.

3.17 As a motivation health workers must be given stipends.

3.18 The public supported the bill.

DE AAR

3.19 The community supports the bill on condition that the municipality improves its services to the community.

3.20 A company/agency must be appointed for the monitoring and enforcement of the Bill, this agency must report to the Municipality waste officer.

3.21 The municipality must educate people on waste management as soon as the bill has been passed by parliament.

3.22 Each household must be provided with a refuse bin by the local municipality together with the department of Local Government.

3.23 Each street must be provided with at least two big refuse bins to avoid the dumping of refuse on street corners. These bins must be able to open and close to avoid refuse being blown to the street.

4. COMMITTEE COMMENTS ON THE BILL

Concern is raised about the long distances that medical waste is transported from rural areas in the province to Kimberley and then ultimately to Bloemfontein.

5. RECOMMENDATIONS OF THE COMMITTEE

The Committee recommends that municipalities be capacitated to be able to fund dumping sites in the province.

6. LEGAL / TECHNICAL INPUT

CHAPTER 5 LICENCING OF WASTE MANAGEMENT ACTIVITIES

This Chapter is in need of a clause stating at the onset of the Chapter **who** and **what** needs to be licensed. A clearer reference should thus be drawn to Schedule 1 of the Bill, and not only the definition of "waste management activity" should direct the reader to the said Schedule 1.

Proposed amendment -

"Licensing requirement -