

**EASTERN CAPE PROVINCIAL LEGISLATURE**

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Date: 07 Oct. 2008

PORTFOLIO COMMITTEE ON TRANSPORT

Negotiating mandate on the National Land Transport Bill (B51-2008)

1. *Terms of reference*

The National Land Transport Bill (B51-2008), hereinafter referred to as the Bill, was referred to the Portfolio Committee on Transport by the NCOP Business Committee for consideration.

2. *Consideration of the Bill*

The Portfolio Committee was briefed on the content and effect of the Bill by the officials from Department of Transport and by the special, Hon Z Luyenge. The Committee also conducted public hearings on the Bill on from the 22nd to the 26th of September 2008.

3. *Negotiating mandate of the Committee*

3.1 The Committee supports the Bill. However the following challenges must be addressed before the Bill is adopted.

- Various taxi associations were of the view that the Bill is a tool to implement the Bus Rapid Transit (BRT) and they do not welcome the BRT as it will force them out of business.
- Different sizes and categories of cars that should be used for transport should be considered as the approach adopted in the taxi recapitalization process of one size of a car is not proper for sparsely populated areas where transport demand is low.



- A further concern on the taxi recapitalization process is that the cars that are chosen for this project are too expensive for other people and especially those operating in areas where the demand for transport is low and these lead them into serious debts. It is proposed that various types of cars be considered.
- The Bill should state that when issuing the operating licenses the authority concerned shall prescribe the type of a vehicle that may be used for each service, so that vans \ LDVs' will not be able to get operating licences unless they are specially adapted to carry passengers and further that they may only operate in areas declared by the MEC.
- The Bill should allow for the issue of temporary operating licences as the application process takes long.
- The Bill should allow for the hiring out of the operating licences.
- The 180 days allowed for dormant operators licences should be extended.

3.2 The Committee further resolved that Hon. Gogo be mandated to represent the Province in a meeting to consider the negotiating mandate.



N. KIVIET

SPEAKER: EASTERN CAPE PROVINCIAL LEGISLATURE



Committee Service

FREE STATE LEGISLATURE

Our reference:
Ons verwysing:
Tšhupo ya rone:

PORTFOLIO COMMITTEE ON PUBLIC WORKS, ROADS AND TRANSPORT

**Report on the negotiating mandate regarding the National Land
Transport Bill [B 51 B - 2008]**

1. Terms of reference

The National Land Transport Bill was referred to the Portfolio Committee on Public Works, Roads and Transport.

2. Briefing

- 1) On the 4th September 2008 Mr. Neels van Royen Permanent delegate of the NCOP together with the National Department of Public Works, Roads and Transport briefed the Committee on the content of the Bill;
- 2) The Committee further met on Tuesday 30 September 2003 to confer the negotiating mandate on this Bill and
- 3) The Legal advisor, Adv . T Malakoane, briefed the Committee on the legal aspects of the Bill.

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3. Consultation

The Committee considered the scope of consultation on the Bill and resolved that Public Hearings be conducted on 20 September 2008 as follows:

VENUE	DATE	TIME
Kestel	20 SEPTEMBER 2008	10:h00
Edenburg	20 SEPTEMBER 2008	10:h00
Trompsburg	20 SEPTEMBER 2008	10:h00

4. CONSIDERATION

The Committee considered the Bill, inputs and information received. The Portfolio Committee noted the inputs by the general public and further considered the Bill as follows:

- Buses must stop picking people where they are not allowed to do so.
- Bus inspectors must even go to terminus as to avoid overloading the buses.
- Government must assist pirating people to get operating license for them to become legitimate operators.

- Government must assist pirating people to get operating license for them to become legitimate operators.
- Special trips must be granted trip authority for them not to be penalized by the traffic officers.
- Municipalities must assist the community for approval of operating license.
- The government must construct and maintain the road for the smooth running of taxi operators.

5. Resolutions

The Committee resolved that:

- a) Authority be conferred to the Free State Delegation, to vote for the adoption of the Bill with the aforementioned inputs and considerations.



MR. P. PARKIES

CHAIRPERSON: Portfolio Committee on Public Works, Roads and Transport.

Free State Legislature

01 October 2008



PUBLIC TRANSPORT, ROADS AND WORKS PORTFOLIO COMMITTEE
NEGOTIATING MANDATE
ON THE
NATIONAL LAND TRANSPORT BILL [B51B-2008]
(Section 76)

03 OCTOBER 2008

1. INTRODUCTION

The Chairperson of the Public Transport Roads and Works Committee, Mr Mbongeni Radebe, tables the Committee's Negotiating Mandate on the National Land Transport Bill [B51B-2008], a Section 76 Bill, as follows:

2. PROCESS FOLLOWED

The Speaker formally referred the National Land Transport Bill [B51B-2008], Section 76 Bill to the Portfolio Committee on Public Transport, Roads and Works, in terms of the Gauteng Provincial Legislature Standing Rule 232 (1) for consideration and reporting on the 25th August 2008.

On Friday, 12 September 2008, the Committee was briefed on the intentions of the Bill by the Permanent Delegate, Honourable Mr Madala Mzizi from the National Council of Provinces on the intentions of the Bill. He was assisted by Mr Jits Patel a representative from the National Department of Transport.

On Friday, 19 September 2008, the Committee held a public Hearing where the National Department of Transport briefed the Committee and members of the public on the detail and principle of the Bill.

On Tuesday, 23 September 2008, the Gauteng Legislature's Legal Unit briefed the Committee on the Legalities of the Bill. On Friday 03 October 2008 the Committee considered and adopted the Negotiating Mandate.

3. PRINCIPLE AND DETAIL OF THE BILL

The Bill proposes to provide further the process of transformation and restructuring the national land transport system initiated by the National Land Transport Transition Act, 2000 (Act No. 22 of 2000); and to provide for matters connected therewith.

4. INTERACTION WITH STAKEHOLDERS

A Public Hearing was conducted by the Committee on 19 September 2008 in the Auditorium, Gauteng Provincial Legislature and 60 people attended. The various stakeholders who attended and participated in the public hearing include:

Gauteng National Taxi association (GNTA); Gauteng Taxi Council (GATACO); South African Bus Operators Association (SABOA); Southern Africa Tourism Association (SATSA), South African Transport Solutions and representatives from the Local, District and Metro municipalities were also present in the hearing. The Bill was well received by the public and the majority of the views expressed were in support of the Bill.

4.1 SUBMISSIONS MADE BY STAKEHOLDERS

The Committee received both oral and written submissions from various organisations, institutions. The following are issues of concern that were raised during the public hearing:

- **Clause 39 and 48 deal with the cancellation of operating licence in rationalisation of public transport services and rationalisation of scheduled services**

These sections effectively disallow the taxi industry to diversify its business and growth.

- **Clause 47 and 52 deal with the rationalisation of existing services and maximum validity period of operating licences**

All operating licences should be awarded as indefinite, considering that the permit/operating licence is the actual business of the taxi operator. Attaching duration to it effectively conditions and dictates business prosperity of the operator because it would not be guaranteed that s/he will be awarded the permit/operating licence come the end of its stipulated lifespan.

- **Clause 54 deals with Application for new operating licence**

The present form of the clause provides opportunity for manipulation of the system by the relevant authorities, much to the detriment of the taxi business. The Intra Provincial Licences be considered and granted by the Provincial Regulators as opposed to municipalities. Furthermore, the inter provincial licences and services should be considered and granted by the National Regulator as opposed to provinces.

- **Clause 56 deals with the Operating licences for contracted services.**

Subsection (1)

Remove the seven year period licence validity

- **Clause 58 deals with the Renewal, amendment or transfer of operating licence or permit**

Subsection (2)

The scrapping allowance should be determined by the Department in consultation with the Taxi industry and the cancellation of the permit should be based on the market value of the permit or the operating licence at the time. The determination of the value should follow the normal business practice including due diligence, and good will.

- **Clause 67 deals with Chartered services**

All taxi operating licenses should have a clause that provides for chartered services. Transportation for special trips/occasions is arranged on ad hoc basis where parties requiring such services engage taxis at ranks. This provision in the operating licence will assist the operator in explaining the purpose of the trip outside the operational parameters.

- **Clause 79 deals with the withdrawal, suspension or amendment of operating licence or permit**

Subsections (3) and (4)

The section is not in the best interest of the taxi business and should consequently be removed because it gives government the authority to take control of routes and thereby withdrawing permits without compensating the operator.

- **Clause 81 deals with the accreditation of operators of tourist transport services Subsection (8)**

Accreditation should be indefinite.

- **Clause 82 deals with the application for accreditation Subsection (3)**

There needs to be a fixed procedure for an operator to obtain accreditation and it should be done through an application to the National Public Transport Regulator, irrespective of whether an operator has been accredited by a National or Provincial tourism body.

General Submissions

- Clarity is required as to why a period of five years has been determined for the renewal of an operator's accreditation whilst a period of seven years has been set for other services.
- There should be no time limits for tourist services accreditation. However there should be regular routine inspections to monitor compliance with service standards.

5. FINANCIAL IMPLICATIONS AND SOCIO ECONOMIC ASSESMENT OF THE BILL

5.1 SOCIO ECONOMIC ASSESMENT

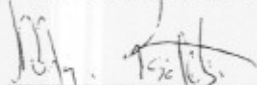
The Bill will provide for the transformation and restructuring of the national land transport system, with main focus on the public passenger transport. The Bill also seeks to integrate land transport planning with land development and use, thus promoting adherence to the various land transport frameworks and transport plans by planning authorities.

5.2 FINANCIAL IMPLICATIONS

The Bill has no financial implications for the Province as the Province has established the Gauteng Transport Management Authority. However implications will be for municipalities in establishing special units to undertake operating license's functions.

6. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE

The Public Transport Roads and Works Portfolio Committee support the principle and detail of the National Land Transport Bill [B51B-2008].



Mr Mbongeni Radebe

Chairperson: Public Transport, Roads and Works Portfolio Committee



ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

KWAZULU-NATAL PROVINCIAL LEGISLATURE

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

NEGOTIATING MANDATE

PROVINCE : KWAZULU-NATAL
**BILL : NATIONAL LAND TRANSPORT BILL
[B51B – 2008]**

PROVINCIAL PROCESS :

Provincial Portfolio Committee/s	:	Transport Portfolio Committee
Portfolio Committee	:	
meeting date/s	:	<u>Thursday, the 9th of OCTOBER 2008</u>
Provincial NCOP meeting date/s	:	<u>Tuesday, the 14th of OCTOBER 2008</u>
Consultation	:	Parliamentary Legal Advisors, Special & Permanent Delegates

MANDATE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:

The Provincial Standing Committee on National Council of Provinces Matters met today, Tuesday, the 14th of OCTOBER 2008, to consider the National Land Transport Bill [B51B-2008].

The following amendments were proposed and considered on the Bill:

PROPOSED AMENDMENTS ON THE NATIONAL LAND TRANSPORT BILL

1. Clause 6(6), cross referencing must refer to subsection(5)
2. Clause 8(1) – amend by the following:
"The Minister may, **[after]** in consultation with the MECs,..."
3. Clause 11(2) – amend as follows:
"The Minister may, in consultation with the MEC assign any function contemplated in subsection (1)(b)..."
4. Clause 13 - Insert a sub-clause providing for a cooling period for officials and political office bearers when they leave office not to participate in the public transport industry, in line with the national norms.
Clause 13(d) - insert the following:
"officials directly involved in the management and execution of public transport related law enforcement and all public law enforcement agencies; and,
5. Clause 23(2) - amend by providing for at least four or more officials of the provincial department as determined by the MEC.
6. Clause 49(2)(b) - amend as follows:
"...or operating licence, or not more than a 20% **[more]** variance, in which case..."
7. Clause 53(1) – The exclusion of courtesy vehicles introduces an inconsistency in the Bill. Airport shuttle services require operators licences yet hotel shuttle service are excluded. We propose that both require operator's licences.
8. Clause 81(1) – It is proposed that tourist operators that operate exclusively within a province apply to the Provincial Regulator Entity and those that operate within and across provincial boundaries must apply to the National Public Transport Regulator.

Reason: Provincial Regulator Entities deal with intraprovincial operators licences while the National Public Transport Regulator deals with interprovincial operators licences for taxis, buses and mini/midibuses.

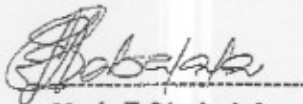
9. Clause 84(4)- It is proposed that this clause be deleted.

Reason: The equipment required on vehicles used in the tourist industry is a matter between the hirer and the provider of transport and functions effectively at the moment. The Regulator need not be involved in determining the equipment needed (excluding the operator's licence requirement).

10. It has been noted that the Memorandum on the objects of the Bill does not refer accurately to the Bill and needs to be amended and renumbered e.g. clauses 13 and 14 of the memorandum (on page 49).
11. It is proposed that the Zulu version of the Bill must be circulated for effective consultation with the members of the public and the land transport industry.

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

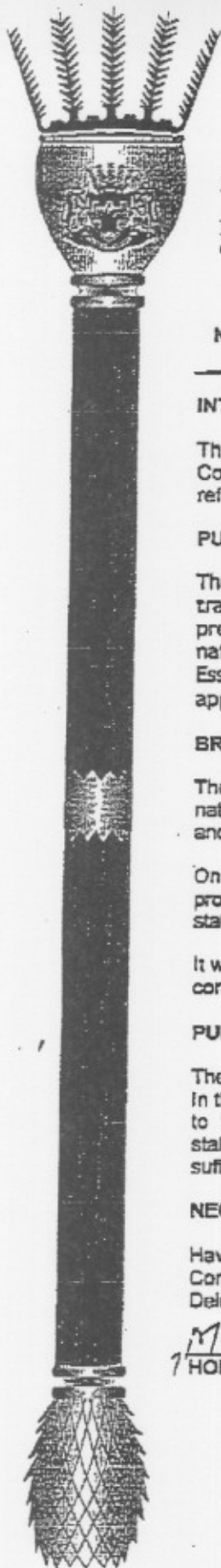
PROVINCIAL ENDORSMENT



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

Tuesday, the 14th October 2008

DATE



Limpopo Legislature

OFFICE OF THE SECRETARY

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Lebowakgomo
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0700

PORTFOLIO COMMITTEE ON ROADS & TRANSPORT**NEGOTIATING MANDATE ON THE NATIONAL LAND TRANSPORT BILL [B 51B – 2008]****INTRODUCTION**

The National Land Transport Bill 2008 was referred to the Legislature by the National Council of Provinces. Upon receipt by the Provincial Legislature, the Bill was further referred to the Portfolio Committee on Roads and Transport for consideration.

PURPOSE OF THE BILL

The primary aim of the bill is complete the transformation process started in the transitional phase and give effect to national policy. The bill also seeks to prescribe national policies, principles, requirements, guidelines, frameworks and national norms and standards that must be applied uniformly in the provinces. Essentially, the bill to consolidate land transport functions and locate them in the appropriate sphere of government.

BRIEFING BY NCOP DELEGATES

The Permanent Delegate from the National Council of Provinces and Officials from national Department of Transport briefed Members of the Portfolio Committee on Roads and Transport on the implications of the Bill in its entirety.

On the basis of this briefing, the Portfolio Committee felt that the bill contains several provisions which are controversial and Committee felt that consultations with relevant stakeholders is necessary.

It was for these reasons that the Portfolio Committee on Roads and Transport decided to conduct public hearing to solicit inputs on the bill.

PUBLIC HEARING

The Committee convened a provincial public hearing on the Bill on the 07 October 2008. In this public hearing, all stakeholders agreed that while appreciating time constraints tied to the Bill, more time is required to consult amongst themselves. In this regard, stakeholders felt that a period of four weeks would be enough to enable them to sufficiently consult among themselves.

NEGOTIATING MANDATE

Having considered the Bill and undergone processes mentioned above, the Portfolio Committee on Roads and Transport confers a negotiating mandate on our NCOP Delegates to negotiate while we are awaiting public inputs as per their request.

M.P.K. TSHIVHASE
HON TSHIVHASE M P K

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**NEGOTIATING MANDATE
NATIONAL LAND TRANSPORT BILL
[B51B-2008]**

The Portfolio Committee on Public Works; Roads and Transport ("the Committee") deliberated on the National Land Transport Bill [B51B-2008] ("the Bill").

After deliberations, the Committee supports the principles underlying the Bill, taking into account the observations of the Committee contained in the attached report.

The delegates representing the Province of Mpumalanga in the National Council of Provinces ("NCOP") is conferred with authority and a mandate to negotiate in favour of the Bill taking into account the observations of the Committee and the public submissions as indicated in the attached report.

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**HON GS SINDANE
CHAIRPERSON: PORTFOLIO
COMMITTEE ON PUBLIC WORKS;
ROADS AND TRANSPORT**

26.09.2008
DATE

WORKS, ROADS AND TRANSPORT ON NATIONAL LAND TRANSPORT BILL [B51B-2008]

1. INTRODUCTION

In terms of section 42 (4) of the Constitution, the National Council of Provinces ("the NCOP") represents provinces to ensure that provincial interests are taken into account in the national sphere of government. In line with the procedure provided in section 76 of the Constitution the National Assembly after passing the National Land Transport Bill [B51B-2008] "(the Bill)" transmitted it to the NCOP.

2. OBJECTIVES OF THE BILL

The purpose of the Bill as articulated in the long title is to further the process of transformation and restructuring the national land transport system initiated by the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), and to provide for matters connected therewith.

3. METHOD OF WORK

The Speaker referred the Bill to the Committee and the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces (NCOP), Hon. A Watson briefed the Committee on 10 September 2008.

In compliance with section 118(a) of the Constitution, the Committee decided to conduct public hearings in the three districts of the province on 19 September 2008.

Invitations were faxed and hand delivered to the following relevant stakeholders:

TAXI ASSOCIATIONS AND BUS COMPANIES

- Successful United Taxi Association, Hazyview
- White Hazy Taxi Association, Hazyview
- Barberton Taxi Association
- Topstar Taxi Association
- KwaNdebele Taxi Association
- KwaMhlanga Taxi Association
- Middelburg Taxi Association
- Leandra Taxi Association

- Thulamashashi Hluvhukani Acornhoek Taxi Association
- Midbank Group of Companies
- BUSCOR (Pty) Ltd
- Great North Transport
- Mpumalanga Transport Bulk Freight

MUNICIPALITIES AND CONSTITUENCY OFFICES

- Govan Mbeki Municipality – Gert Sibande District
- Tseve Tshwete Municipality – Nkangala District
- Umjindi Municipality – Ehlanzeni District
- Tseve Tshwete Constituency Office
- Emalahleni Constituency Office
- Govan Mbeki Constituency Office
- Umjindi Constituency Office

TRIBAL AUTHORITIES

- Embhuleni Tribal Authority
- Enkambeni Tribal Authority, KaMajika
- Gutshwa Tribal Authority
- Empakeni Tribal Authority

The Bill was advertised on the Sowetan Newspaper whereby the public was encouraged to submit their written inputs on or before 23 September 2008.

Honourable Members and officials of the Department of Roads and Transport were deployed to the public hearings that were arranged and held as follows:

DATE	Friday, 19 September 2008
VENUE	Eric Jiyane Hall, Middelburg
TIME	09:00
ATTENDANCE	72

DATE	Friday, 19 September 2008
VENUE	Difa Nkosi Hall, Leandra
TIME	09:00
ATTENDANCE	68

DATE	Friday, 19 September 2008
VENUE	Umjindi Community Hall, Umjindi Municipality
TIME	09:00
ATTENDANCE	95

No written comments or submissions on the Bill were received from any stakeholder.

The public commented that:

- The Bill must not provide for a maximum validity period of operating licences, and that operating license must remain indefinite¹;
- Government officials working on transport tenders must declare their interests, and that the responsible executive authority must monitor their involvement to ensure transparency and impartiality in the tendering process;
- Government must not impound vehicles if a driver is found guilty of contravening the Bill;
- The Bill must provide for automatic transferral of operating license to the spouse or immediate family member in cases where the holder of that operating license dies, furthermore that administrative fees relating to registration of the operating license must not be charged to the spouse or the immediate family member²;
- The scrapping allowance of R50 000 must not be fixed, and inflation must also be taken into consideration when paying out the scrapping allowance to owners.


5. RECOMMENDATION

The Committee recommends that the delegation representing the Province of Mpumalanga in the National Council of Provinces be conferred with authority to vote in favour of the Bill.

¹ Section 52 of the Bill provides for a maximum validity period of 7 years for operating licenses.

² Section 58 provides for a transfer, amendment or renewal of the operating license and further that a person applying to take transfer of an operating license or permit must have the written consent of the current holder of the operating license or the holder's executor.

The Chairperson wishes to thank Members of the Portfolio Committee on Public Works; Roads and Transport, support staff, officials from the Department of Roads and Transport who participated in the public hearings. Further, the Chairperson wishes to extend a word of gratitude to all stakeholders who took part during the public hearings.



HON GS SINDANE
CHAIRPERSON: PORTFOLIO
COMMITTEE ON PUBLIC WORKS;
ROADS AND TRANSPORT

30th September 2008
DATE