



NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Finance.

Honourable CJ de Beer

NAME OF BILL: Division of Revenue Bill.

(Section 76)

NUMBER OF BILL: [B4-2010]

DATE OF DELIBERATION: 12th March 2010

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the Principle and the Detail of the bill and therefore votes in favour of the-

- Division of Revenue Bill.

MR HOPE MANKWANA PAPO

Chairperson: Finance Portfolio Committee

GAUTENG PROVINCIAL LEGISLATURE

Date: _____



FINANCE PORTFOLIO COMMITTEE

REPORT ON THE DIVISION OF REVENUE BILL [B4-2010] - Section 76

1. INTRODUCTION

The Chairperson of the Finance Portfolio Committee, Anthony Hope Mankwana Papo tabled a report on the Negotiating Mandate of the Division of Revenue Bill [B4-2010]. The Division of Revenue Bill is a Section 76 Bill, which provides for the equitable Division of Revenue anticipated to be raised nationally among the National, Provincial and Local spheres of Government for the 2010/2011 financial year.

The total revenue raised and to be shared between the three spheres of government, amounts to R818 142 943 000 in 2010/11 financial year, increasing to R 888 337 586 000 in 2011/12 and R964 313 835 000 in 2012/13 financial years respectively.

2. PROCESS FOLLOWED

The Speaker of the Gauteng Provincial Legislature Ms Lindiwe Maseko formally referred the Bill to the Finance Portfolio Committee for consideration in terms of Gauteng Provincial Legislature Standing Rules 232(1) read with 235(4); (6) and (7) on 8th March 2010. The Bill was passed by the National Assembly and transmitted to the NCOP for concurrence on the 5th March 2010.

Each financial year when the annual budget is introduced, the Minister of Finance must in terms of Section 10 of the Intergovernmental Fiscal Relations Act, 1997 (Act No 97 of 1990) ("the Act"), introduce in the National Assembly a Division of Revenue Bill for the financial year to which that budget relates.

The Financial and Fiscal Commission presented its recommendations to the Portfolio Committee on the Division of Revenue for the 2010/2011 financial year. The Portfolio Committee began its deliberations on the Bill on the 9th March 2010 through a briefing by the NCOP Gauteng Permanent Delegate Honourable Dan Setshaba Montsitsi, and adopted the negotiating position on Friday, 12th March 2010.

3. PRINCIPLE OF THE BILL AND POLICY PRIORITIES OF GOVERNMENT FOR THE 2010/11 MTEF

The Bill seeks to provide for the equitable division of revenue raised nationally among the three spheres of government for the 2010/2011 financial year and the responsibilities of all three spheres pursuant to such divisions; and to provide for matters connected therewith.

The 2010 medium term expenditure framework is guided by the following priorities:

- Creating decent work and building a growing, inclusive economy.
- Promoting quality education and skills development.
- Better health care for all.
- Stimulating rural development and food security.
- Intensifying the fight against crime and corruption.
- Building cohesive and sustainable communities.
- Strengthening the developmental state and good governance.

The Portfolio Committee notes the continued involvement of the Finance and Fiscal Commission on the Division of Revenue.

4. CONSTITUTIONAL AND STATUTORY FRAMEWORK

Section 214 of the Constitution requires that an Act of Parliament must provide for:

- The equitable division of revenue raised nationally among national, provincial and local spheres of government;
- The determination of each province's equitable share of the provincial share of that revenue; and
- Any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and for any conditions on which those allocations may be made.

The Bill as alluded to above, seeks to amongst others, give effect to the provisions of Section 214 of the Constitution. It is noted in this regard that the bill is in line with the Constitution.

The Constitution also makes provision for the progressive realisation by the state of certain socio-economic rights, amongst which are the rights entrenched in the provisions of Sections 26 and 27 of the Constitution, the rights to everyone to access adequate housing as well as the rights to access health care and sufficient food and water.

In this regard the Constitution enjoins the state to take reasonable legislative and other measures within its available resources to achieve the progressive realisation of these rights.

5. OPINION OF THE PROVINCIAL EXECUTIVE COUNCIL ON THE BILL

Before the Bill is tabled in Parliament, all Provincial Treasuries are afforded an opportunity to comment. As such, inputs of the Provincial Executive Council are captured in the Bill. Therefore Gauteng Treasury concurs with the Bill as tabled.

6. SOCIO-ECONOMIC IMPACT

The rapid population growth and in-migration which has a direct impact on the Equitable Share Formula seems to be recognised. It is against this background that the Portfolio Committee recommends a continuous review and alignment of revenue allocation in accordance to the Provincial Equitable Share in the next MTEF period.

The Portfolio Committee appreciates the fact that there are new conditional grants which are meant to incentivize provinces and municipalities to create additional employment, such as the Expanded Public Works Programme for the social sector, Technical Secondary School Recapitalisation Grant and the Further Education and Training College sector Grant.

7. FINANCIAL IMPLICATIONS OF THE BILL

The table below illustrates the equitable division of revenue raised nationally among the three spheres of government.

Spheres of Government	Column A	Column B	
	2010/11 Allocation	Forward Estimates	
		2011/12	2012/13
	R '000	R'000	R'000
National*	527 001 492	573 709 007	632 299 464
Provincial	260 974 745	280 688 678	294 780 975
Local	30 168 706	33 939 901	37 234 396
Total	818 143 943	888 337 586	964 313 835

Source: Division of Revenue [B4-2010]

The National share includes conditional allocations to provincial and local spheres, levy sharing with metropolitan municipalities, debt service cost and contingency reserve. The direct charges for the provincial equitable share are netted out.

The table above illustrates that for the 2010/11 financial year the total allocation to the three spheres of government is R 818 143 943 000,

increasing to R 888 337 586 000 in 2011/12 and R 964 313 835 000 in 2012/13 financial years respectively.

Total transfers to provinces

R million	Equitable share	Conditional grants	Total transfers
Eastern Cape	40 134	7 453	47 587
Free State	15 959	4 788	20 747
Gauteng	45 134	13 768	58 902
Kwa-Zulu Natal	56 743	11 742	68 485
Limpopo	33 238	5 861	39 099
Mpumalanga	21 323	4 222	25 545
Northern Cape	7 102	2 177	9 279
North West	17 314	4 203	21 517
Western Cape	24 026	7 670	31 696
Total	260 974	61 884	322 858

Source: Division of Revenue Bill 2010: National Treasury Presentation on 9/3/10 (rounded off figures)

The Portfolio Committee notes that Gauteng Province receives R45, 134 billion equitable share allocation and R13, 768 billion conditional grants in 2010/11 financial year totalling R58, 902 billion.

8. NEW CLAUSES IN THE 2010 DOR BILL

The Portfolio Committee notes the following clauses:

- Prescribing process for deducting unspent conditional allocations of previous financial years not repaid by municipalities (to compliment MFMA provisions).
- Inclusion of provision to provide firm funding to be allocated over the MTEF for Public Transport Infrastructure and Systems grant (PTIS).
- Inclusion of provision prescribing requirements for pledging of LG CGs by municipalities.
- Aligning the Bill to allow for the management of grants where municipalities are accredited.

Technical Changes

The Portfolio Committee notes the following technical changes:

- Elimination of provisions pertaining to specific conditional grant allocations.
- Requirements to specific allocations more appropriately dealt with in relevant grant frameworks, including those for public entities.

- Elimination of provisions that dealt with specific division of revenue matters. The following provisions are no longer necessary for inclusion, as per the Bill:
- **Gautrain Rapid Rail Link Loan**
- **Implementation of re-demarcations of provincial and municipal boundaries.**

9. NEW CONDITIONAL GRANTS TO PROVINCES

Over and above the existing conditional grants allocated by National Treasury, the Portfolio Committee notes the increase in the conditional grants for the 2010 MTEF. This is as a result of the inclusion of the newly introduced grants namely: the Expanded Public Works Programme for the social sector, Technical Secondary School Recapitalisation Grant and the Further Education and Training College sector Grant.

Expanded Public Works Programme Grant for the Social Sector

This is not an incentive grant but a wage subsidy to be used to subsidise non-profit organisations working in Home Community Based Care programmes for the Department of Health and Social Development to ensure volunteers that currently do not receive a stipend get a minimum form of remuneration.

Technical Secondary Schools Recapitalisation Grant

To mainly improve conditions of technical schools and modernise them to meet teaching requirements

Further Education and Training College Sector Grant

To provide for the commencement of planning for the eventual shift of the FET Colleges function to the newly established Department of Higher Education and Training.

10. PORTFOLIO COMMITTEE RECOMMENDATIONS ON THE DIVISION OF REVENUE.

- 10.1** The Finance Portfolio Committee is of the view that the provincial equitable share formula should respond to the socio-economic challenges and the growing populace of Gauteng Province and follow the costed norms approach.
- 10.2** The Provincial Equitable Share (PES) is mainly driven by population trends, which is derived from census and this poses a problem of time lag. As a result PES distribution potentially under allocates provincial distribution in provinces that experience migration and in migration like Gauteng.

- 10.3** The Portfolio Committee is of the view that the province should stabilise the revenue generated before entertaining borrowing, especially on non capital projects.