



GAUTENG
LEGISLATURE
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FINAL VOTING MANDATE

TO: The Chairperson of the National Council of Provinces (NCOP)
Honourable Mr. MJ Mahlangu

NAME OF BILL: Division of Revenue Bill (Section 76)

NUMBER OF BILL: [B4 – 2012]

DATE OF DELIBERATION: 20th April 2012

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.



LINDIWE MASEKO
SPEAKER OF THE GAUTENG PROVINCIAL LEGISLATURE

Date: _____

24/04/12



**FINANCE PORTFOLIO COMMITTEE REPORT ON THE DIVISION OF REVENUE BILL
[B4-2012] - Section 76**

1. INTRODUCTION

The Chairperson of the Finance Portfolio Committee, Mr. AHM Papo tabled a report on the Negotiating Mandate of the Division of Revenue Bill [B4-2012] ("the DOR Bill/Bill"). The Bill is introduced in terms of section 76 of the Constitution of the Republic of South Africa, 1996 ("the Constitution") and it is widely referred to as a section 76 Bill.

The Bill is introduced annually to give effect to section 214(1) of the Constitution and the Intergovernmental Fiscal Relations Act, 1990 ("IGFRA"). The Bill provides for the equitable Division of Revenue raised nationally among the National, Provincial and Local spheres of Government for the 2012/2013 financial year and responsibilities of all three spheres pursuant to such division; and further provide for matters connected therewith.

The total revenue nationally raised and to be shared amongst the three spheres of government, amounts to R 969 365 459 000 in 2012/13 financial year, increasing to R 1 053 829 566 000 in 2013/14 and R 1 139 578 580 000 in 2014/15 financial years respectively. It is noteworthy that the Gauteng Province receives an amount of R 54 545 389 000 from the equitable share in the 2012/13 financial year increasing to R 58 613 875 000 in 2013/14.

2. PROCESS FOLLOWED

The Deputy Speaker of the Gauteng Provincial Legislature Hon. S Ngwenya formally referred the Bill to the Finance Portfolio Committee ("portfolio committee") for consideration in terms of Gauteng Provincial Legislature Standing Rule 227(2) (3).

Each financial year when the annual budget is introduced, the Minister of Finance must, in terms of Section 10 of the IGFRA, introduce in the

National Assembly a Division of Revenue Bill for the financial year to which that budget relates.

In considering the Bill, the Portfolio Committee took into account the Recommendations of the Financial and Fiscal Commission to the Division of Revenue for the 2012/13 financial year (FY) as well as other related financial frameworks.

The Chairperson of the Portfolio Committee was invited by the Finance Select Committee to the presentation on the Bill by National Treasury led by the Minister of Finance, Hon. P Gordhan.

On Monday, 19th March 2012, the Portfolio Committee deliberated on the Bill through a briefing by the NCOP Gauteng Permanent Delegate Hon. D.S Montsitsi who was supported by officials from National Treasury.

In line with the requirements of the Constitution of the Republic of South Africa, the Portfolio Committee invited key stakeholders to make submissions; however, no written submissions were received from invited stakeholders in this regard.

The Portfolio Committee convened a special meeting on Tuesday, 17th April 2012 to deliberate and adopt the negotiating mandate.

3. PRINCIPLE OF THE BILL AND GOVERNMENT'S POLICY PRIORITIES FOR THE 2012/13 MTEF

The Bill seeks to provide for the equitable division of revenue raised nationally among the three spheres of government for the 2012/2013 financial year and the responsibilities of all three spheres pursuant to such divisions; and to provide for matters connected therewith.

The allocations to the three spheres of government for the 2012/13 financial year and Medium Term Expenditure Framework are mainly informed by the outcome-based planning and budgeting adopted by the national government. Particular emphasis is on infrastructure development; job creation; better health care; and promoting quality education and skills development across the three spheres of government. It is worth noting that the 2012/13 budget is tabled under unfavourable global economic conditions.

The Portfolio Committee further notes that National Treasury, in developing the Division of Revenue Bill for the 2012/13 financial year, consulted and engaged the Financial and Fiscal Commission ("FFC"), which is mandated by Section 220 of the Constitution to provide information to all organs of state in order to make informed decisions about complex fiscal matters.

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 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 sync with the Constitution and other relevant statutory framework.

5. OPINION OF THE GAUTENG 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. The Gauteng Department of Finance ("the Department") concurs with the Bill as tabled, however, in the main, the Department welcomes the changes that have been effected in the Bill pertaining to EPWP and Provincial Infrastructure Conditional Grants.

6. SOCIO-ECONOMIC IMPACT

The Portfolio Committee notes that the structure of the Provincial Equitable Share (PES) for the 2012 budget remains unchanged except for slight refinements to the Health component. National Treasury reported that the following components determine the PES: Education; Poverty; Economic Activity and Institutional as well as Basic shares allocated per province. In this regard, Gauteng receives the second largest share of the budget after Kwa-Zulu Natal. However, it is important to note that Gauteng receives the largest proportion (33.9%) of the Economic Activity Component. This is measured by economic contribution of provinces to the Gross Domestic Product.

The Portfolio Committee, having taken into account the PES as far as it relates to the betterment of basic standards of living, is of the view that the 2012 allocations are in line with government priorities of creating jobs through infrastructure development; better health care and quality education.

7. FINANCIAL IMPLICATIONS OF THE BILL

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

Table 1: Division of Revenue

Spheres of Government	Column A	Column B	
	2012/13 Allocation	Forward Estimates	
		2013/14	2014/15
	R '000	R'000	R'000
National*	622 434 681	684 327 086	746 588 676
Provincial	309 057 382	328 920 693	349 350 999
Local	37 873 396	40 581 787	43 638 905
Total	969 365 459	1 053 829 566	1 139 578 580

Source: Division of Revenue [B4-2012]

The National share includes conditional allocations to provincial and local spheres, general fuel 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 summarise the total revenue raised and to be shared between the three spheres of government, amounting to R 969 365 459 000 in the 2012/13 financial year, increasing to R 1 053 829 566 000 in the 2013/14 and R 1 139 578 580 000 in the 2014/15 financial years respectively.

The Portfolio Committee notes that Gauteng Province receives an amount of R 54 545 389 000 from the equitable share in the 2012/13 financial year increasing to R 58 613 875 000 in the 2013/14 financial year.

8. AMENDMENTS TO THE 2011 Division of Revenue Act

The Portfolio Committee notes that the large part of the Bill remains the same annually. Furthermore the following significant changes, as reported by National Treasury, are welcomed:

- **The EPWP grants**

The grant has been reconfigured to ensure that incentive payments to provinces and municipalities are calculated on the basis of the number of jobs created during the previous year.

- **Consultation with Parliament on changes to conditional grant framework**

This is mainly to ensure that Parliament is consulted on any amendments to conditional grants framework.

- **Infrastructure conditional grants**

In attempting to fast track infrastructure delivery in provinces, section 13 has been added which places additional responsibilities on HoDs of provincial departments with infrastructure Conditional Grants.

Furthermore to deal with corruption as it pertains to infrastructure delivery in the province, the following conditions have been added under section 13:

- All infrastructure expenditure partially or fully funded by conditional allocations is reported through Project and Asset Segment in the Standard Chart of Accounts;
- Maintaining an up to date databases of all contracts that are fully or partially funded by conditional allocations that is compliant with the Register of Projects and i-Tender system; and
- Ensuring that infrastructure projects comply with best practise standards and guidelines contained in Practice Note 22 that was issued in terms of section 5 of the Construction Industry Development Board Act, 2000 (Act No.38 of 2000)

9. CONDITIONAL GRANTS

The Portfolio Committee notes that all Gautrain related provisions have been deleted from the Bill due to the phasing out of the grant.

The Portfolio Committee remains concerned about the spending patterns on some conditional grants. It is therefore important for National Treasury to strengthen monitoring and evaluation on conditional grants to avoid material under spending and diversion of funds.

10. GENERAL COMMENTS ON THE DIVISION OF REVENUE BILL

Infrastructure development remains a critical catalyst to the alleviation of unemployment and poverty. It is for this reason that the Portfolio Committee supports government's initiatives aiming to expedite and invest in infrastructure development. However, this cannot be totally attained without proper skills development including efficient project management across the three spheres of government.

National Treasury's efforts to further strengthen and regulate Supply Chain Management policies are welcomed. This will go a long way in preventing non-compliance to SCM requirements thereby preventing fraudulent activities from occurring.

The FFC, in its recommendations to the National Treasury on the 2012/13 budget, identified the ever-increasing personnel costs as a major concern/threat to future service delivery. Consequently, the Portfolio

Committee encourages government to find means of addressing this potential threat. This should be done with the full appreciation of socio-economic conditions affecting both the state and civil servants.

The Portfolio Committee further notes the interventions made by National Treasury in an attempt to remedy the reported financial mismanagement occurring in the Gauteng Department of Health and Social Development. However, the Portfolio Committee is of the opinion that early warning systems should be employed by National Treasury in collaboration with Provincial Treasuries to avert fiscal distress in key provincial departments.

The Portfolio Committee notes the increase of allocations to local government as detailed in the Bill. It is the view of the Portfolio Committee that this increase will assist municipalities in dealing with service delivery demands.

11. COMMITTEE RECOMMENDATIONS ON THE DIVISION OF REVENUE BILL, 2012

- 11.1 The Portfolio Committee recommends that National Treasury should strengthen the framework regulating conditional grants to ensure proper monitoring and evaluation as a way of avoiding material under spending and diversion of funds.
- 11.2 The Portfolio Committee recommends that National Treasury in collaboration with Provincial Treasuries should enhance early warning systems to avert fiscal distress in key provincial departments.
- 11.3 The Portfolio Committee recommends that National Treasury should work closely with all three spheres of government to strengthen human resources management in an effort to meaningfully address challenges of the escalating personnel costs. Measures should be developed to avoid scenarios where employees are recruited to positions which are not funded in any given financial year.