



**NORTH WEST PROVINCIAL LEGISLATURE**

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13 March 2006

**FINANCE & ECONOMIC DEVELOPMENT COMMITTEE**

REPORT ON NEGOTIATING MANDATE ON THE DIVISION OF REVENUE BILL  
[B8 B - 2006]

**1. TERMS OF REFERENCE**

The abovementioned Bill was referred to the portfolio committee for consideration by the NCOP on the 08<sup>TH</sup> February 2006.

**2. BRIEFING**

On the 21<sup>st</sup> February 2006 the committee received a briefing by an NCOP delegate, Mr. Z. Kolweni on the abovementioned Bill.

**RESOLUTION**

The committee after scrutinising the Bill resolved to support the essence and principle of the Bill. The committee further mandated permanent delegates to vote in favour of the Bill.

Signed

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**HON. S. MOKAILA**  
**CHAIRPERSON: FINANCE PORTFOLIO COMMITTEE**

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save as: freestate

## Committee Services

### FREE STATE LEGISLATURE

#### FINANCE, OFFICE OF THE PREMIER AND LEGISLATURE COMMITTEE

Our reference:  
Ons verwysing:  
Isifundo ya rona:

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#### *Report on the provincial inputs regarding Division of Revenue Bill [B8B-2005]*

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#### 1. Terms of Reference

The Division of Revenue Bill [B8B - 2005] has been referred to the Finance, Office of the Premier and the Legislature Committee by the Speaker on 03 March 2005.

#### 2. Briefing

(1) On the 03 March 2005, Adv. J. Machaka, Assistant Legal Advisor of the Free State Legislature briefed the Committee on the legal substances and effects of the Bill.

(2) A Permanent Delegate, Mr T. Ralane, briefed the Committee on the content of the Bill.

(3) The Bill provide for the equitable division of revenue anticipated to be raised nationally among the national, provincial and local spheres of government for the 2005/06 financial year the responsibilities of all three spheres pursuant to such division; and to provide for matters connected therewith.

#### 3. Consultation

There is no need to provide any stakeholders with copies of the Bill, or to invite their inputs.

#### 4. Consideration

The Committee considered amendments to the Bill and further effected the following amendments:

#### 1. Clause 1

Page 4, in the definition of "payment schedule", in line 48, before "bank account", to insert "primary".

Motivation: the defined words are "primary bank account".

Page 5, in the definition of "receiving officer" in line 15 after "municipality," to insert "means".

Motivation: See paragraph (a).

## 2. Clause 2(d)

Page 5 to omit "provinces and municipalities" and to substitute "provincial and local governments".

Motivation: The use of the words "such governments" in paragraph (a) implies that reference is made to governments.

## Clauses 3(3), 7(3) and 8(4)

The Committee is concerned that reference to 45 percent in the Division of Revenue Bill is measured against future allocations, that is, the envisaged division for the next financial year, and the 45 per cent contemplated in section 29 of the PFMA is measured against the previous annual budget.

## 3. Clause 6(3)

Page 7, in line 5, after "(3)", to insert "Notwithstanding subsection (2)".

Motivation: It is proposed to specifically state that sub-clause (3) is an exception to sub-clause (2). See other similar exceptions in the bill.

## 4. Clauses 9(3) (b), (4), 16(2), 17(5), 27(5)(b)

In each instance, to omit "Municipal Systems Act" and to substitute "Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000)".

Motivation: The Act should be written in full as it is not defined as "Municipal Systems Act".

## 5. Clause 15(2) (c) and (9)

In each instance, to omit "security" and to substitute "assistance".

Motivation: The National Assembly agreed to such amendment in other areas of the bill.

## 6. Clause 24(2) (b)

Page 16, in line 2 before "capacity" to omit "weak" and to substitute "low".

Motivation: See clause 40

7. Clause 28(1) (a)

Page 18, in line 14, before "bank accounts", to insert "primary".

Motivation: See clause 38(1) (b) dealing with unauthorized expenditure.

8. Schedule 3 and Appendix E3

Pages 26 and 142 respectively, to omit "Thabo Mofutsanyane" and to substitute "Thabo Mofutsanyana".

Motivation: to correct the spelling error.

5. Resolutions

The Committee resolved that:

1. The following negotiating mandate be conferred:

To support the Bill with the aforementioned amendments.

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MR A. MARAIS: CHAIRPERSON  
FINANCE, OFFICE OF THE PREMIER AND LEGISLATURE  
Free State Legislature  
08 MARCH 2005



An area of unfound diversity

**Xhariep**

District Municipality

PO Box 136, TROMPSBURG, 9913, Tel: +27 51 - 713 9300, Fax: +27 51 - 713 0461,  
E-mail: bseate@xhariep.co.za, Website: www.xhariep.co.za

05 August 2004

**TO WHOM IT MAY CONCERN**

**RE: SUSTAINABILITY OF THE XHARIEP DISTRICT MUNICIPALITY**

**Purpose**

To inform the relevant stakeholders of the sustainability problem of the Xhariep District Municipality since its establishment.

**Discussions**

In pursuing its constitutional mandate the following Powers and Functions according to the Amended Structures Act were assigned to Xhariep District Municipality for executing in the district:

- Integrated Development Planning for the district as a whole.
- Municipal roads which forms an integral part of the district as a whole this function is only assigned for the area of Letsemeng only
- Regulate passenger transport services
- Municipal airports serving the district as a whole
- Environmental Health Services from July 2004
- Establish, conduct and control of fresh produce markets and abattoirs serving a major proportion of the district – this function is only assigned to the district for the area of Letsemeng and Kopanong Local Municipalities.
- Establish, conduct and control cemeteries and crematoria serving a major proportion of the district
- Promote local tourism for the area of the District Municipality
- Municipal public works related to powers and functions assigned to the District
- Receipt, allocation and distribution of grants
- Imposition and collection of taxes, levies and duties

Powers and Functions that can be implemented by Xhariep are as follows:

- Integrated Development Planning for the district as whole.
- Environmental Health Services from July 2004
- Promote local tourism for the area of the District Municipality

- Municipal public works related to powers and functions assigned to the District
- Receipt, allocation and distribution of grants
- Imposition and collection of taxes, levies and duties
- Disaster Management

To implement the above-mentioned implementable Powers and Functions a budget to the amount of R17 800 102.00 is needed. Funding available for the execution of the above-mentioned functions is R3.323 million from RSC levies, R3.141 million from the Equitable Share allocation and R770 000 from the Municipal Systems Improvement Grant. Therefore the total funds available are R7,234 million. If grant funding is included that gave the municipality a deficit of R 8 616 603.00. No additional funding could be obtained and Council had to reduce its budget.

The implementation of Environmental Health and Disaster Management functions had to be postponed due to a lack of funds. After the scale down of the budget the Department of Local Government and Housing made a commitment to fund the remainder of the deficit to the amount of R5 000 000.00.

Due to the low economic activities in the region of the Xhariep District Municipality is not possible to increase the RSC levy income. The other two funding sources available namely Equitable Share and Financial Assistance from the Departments of Provincial and Local Government as well as Local Government and Housing should therefore be increased.

It is very clear that when Powers and Functions were assigned to Xhariep District Municipality no consideration was given to funding sources of these functions. It is also clear that all the above-mentioned Powers and Functions is not income generating Powers and Functions except for the "Imposition and collection of taxes, levies and duties". These functions was previously funded by or the National Treasury or Rates and Taxes at Local Municipalities. It seems that no consideration was given on also transferring the funding sources to the District Municipalities.

If the status quo of the assignment of Powers and Functions will be kept and no attention is given to the funding sources of these Powers and Functions, District Municipalities in rural areas will never be in a position to execute these Powers and Functions.

Attached find a summarised version of the Budget for the 2004/2005 financial year.

### **Proposed Way Forward**

The Department of Provincial and Local Government had to attend to the funding sources of all functions allocated to District and Municipalities. If the intention is that these functions be funded by RSC levies the boundaries of District Municipalities should be reconsidered to combine rural areas with urban areas. This option will unfortunately disadvantage rural areas due to the fact that those areas will be neglected again as in the past.

Another option is that those Powers and Functions be funded by National Treasury.


On the other hand, most of these functions are funded by different National and Provincial Government departments and a re-allocation of those funds are therefore necessary.

It seems that the Xhariep District Municipality should be funded for the interim to enable it to execute its Powers and Functions until a permanent solution is found.

It will therefore be appreciated if extra funding can be allocated to the Xhariep District Municipality from the Department of Provincial and Local Government until a permanent solution is found.

Yours faithfully

  
TS MOFOKENG  
EXECUTIVE MAYOR

  
JIM HANSE  
ACTING MUNICIPAL MANAGER



**GAUTENG**  
LEGISLATURE

**FINANCE PORTFOLIO COMMITTEE**

**NEGOTIATING MANDATE ON**

**THE DIVISION OF REVENUE BILL [B3-2006] Section 76**

14 March 2006

**1 INTRODUCTION**

The Chairperson of the Gauteng Finance Portfolio Committee, Mr B S Nkosi tabled a Negotiating Mandate on the Division of Revenue Bill [B3-2006] which was transmitted by the National Assembly (NA) to the National Council of Provinces (NCOP) for concurrence on Friday, 17 February 2006. The Negotiating Mandate for the Division of Revenue Bill was unanimously adopted by the Finance Committee on Tuesday, 14 March 2006. 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 2006/07 financial year.

The total to be shared between the three spheres amounts to R326.7 billion, R395,8 billion and R427,5 billion over each of the MTEF years 2006/07, 2007/08 and 2008/09 respectively. These amounts have been reached after taking into account Government's spending priorities, the revenue raising capacity and functional responsibilities of each sphere, inputs from various intergovernmental forums and the recommendations of the Financial and Fiscal Commission (FFC) and excluding debt service costs. The 2006 division of revenue seeks to strengthen the ability of provinces and municipalities to provide basic services and perform the functions allocated to them, as well as provide for the developmental and other needs. This year's division of revenue is framed on the backdrop of the Accelerated and Shared Growth Initiative of South Africa (ASGISA) as elaborated in the President's 2006 State of the Nation Address.

Section 6 of the Bill ensures that the Provincial and Local Governments are protected against any shocks from National Revenue shortfalls. Such shortfalls will be borne by National Government, and under the same breadth any excess revenue raised nationally, will be used by National Government to reduce borrowings. Also Section 6(3) of the Bill emphasises that the National Government may appropriate a portion of its equitable share or excess revenue to make further allocations in an adjustments budget to national departments, provinces or municipalities as a conditional or an unconditional allocation. The Committee welcomes this as an assurance that departments can concentrate on delivering prioritised outputs in the knowledge that any shortfalls would be covered. The Committee expects Departments and Municipalities to identify projects that will deliver outputs in a cost efficient manner while maximising benefits to the Province.



## 2 PROCESS FOLLOWED

The Portfolio Committee on Finance was informed that the Sub-Committee of the Joint Programme Committee met to consider the request by the National Minister of Finance to have the Division of Revenue Bill fast-tracked by both Houses of Parliament. In this regard, the Speaker, Mr Richard Mdakane informally referred the Division of Revenue Bill [B3-2006] - Section 76 on Thursday, 16 February 2006. The Bill was informally referred in terms of the Gauteng Provincial Legislatures (GPL) Standing Rule 231(1) for information and planning purposes. Soon thereafter, on Friday, 17 February 2006 the National Assembly passed the Bill and transmitted it to the NCOP for concurrence.

The Speaker subsequently formally referred the Bill as passed by the National Assembly on Monday, 27 February 2006 to the Portfolio Committee on Finance for formal consideration in terms of Gauteng Provincial Legislature Standing Rules 232(1) (a) read with 235(4); (6) and (7). 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 Portfolio Committee on Finance considered plans and process to deliberate on the Division of Revenue Bill with effect from Thursday, 23 February 2006. Afterwards, the Committee began its deliberations on the Bill on Monday, 06 March 2006.

NCOP Briefings by the National Treasury, the Financial and Fiscal Commission (FFC) which were held in Cape Town as from Wednesday, 15 February 2006 were attended by the Chairperson of the Portfolio Committee on Finance. The South African Local Government Association (SALGA) and the Departments of Education, Health, Social Development, Transport, Public Works, Provincial and Local Government gave inputs during the hearings which followed the briefings. The NCOP hearings on the Division of Revenue Bill were held from Wednesday, 15 – 17 February 2006. The briefings and hearings on the Division of Revenue Bill were held by the Finance Committee from Thursday, 23 February to Tuesday 14 March 2006. The provincial briefings which the Gauteng Permanent Delegate to the NCOP, Mr E M Sogoni attended were held on Thursday, 23 February 2006.

The response from National Treasury to the Financial and Fiscal Commission's recommendations, the Budget Review and the Framework for Conditional Grants, which are contained in Annexure E of the Bill, were also deliberated upon by the Committee before the Committee could identify issues on the principle and the detail of the Bill for the negotiating mandate. Clarifications were obtained on the Bill from the Provincial Treasury and Gauteng Provincial Government (GPG) Departments were involved through their MECs. The Chairperson constantly provided pertinent comments and briefed the Committee on issues arising from the briefings/ hearings at the NCOP. The Finance Committee had already considered the submission of the Financial and Fiscal Commission on the Division of Revenue for 2006/07. After due deliberations, the negotiating mandate on the Division of Revenue [B3-2006] was unanimously adopted by the Committee.

### 3 PRINCIPLES OF THE BILL AND GOVERNMENT'S POLICY PRIORITIES FOR THE 2006 MTEF

The 2006/07 Division of Revenue Bill aims to accelerate the delivery and provision of all basic and necessary services to citizens. In particular provincial and municipal compliance with certain requirements listed under Section 214(2) of the Constitution.

These include:

- o The need to ensure that the provinces and municipalities are able to provide basic services and perform the functions allocated to them (d)
- o The fiscal capacity and efficiency of provinces and municipalities (e)
- o Developmental and other needs of provinces and municipalities (f) (These will be dealt with outside the equitable share formula)
- o Economic disparities within and among provinces (g)
- o Obligations of provinces and municipalities in terms of national legislation (h)

To achieve Government's priorities over the medium term, the following constitute the core which the 2006/07 budget will be supporting:

- o Education and the Labour Market
- o Targeted Welfare services: Addressing the impact of HIV and AIDS, care of child-headed households and appropriate management of children in conflict with the law
- o Improving the built environment
- o Investment in economic infrastructure
- o Industrial development and employment creation, while bridging the divide between the formal and informal sectors
- o Support for the integrated justice system
- o Matters of National interest
- o Strengthening service delivery capacity

The Committee notes that investment in Education and the Labour Market will ensure a consistent supply of skilled labour to both the public and private sectors. The crucial challenge is that the skills imparted must be appropriate and relevant to the demands of the economy. This once again re-emphasizes the Committee's request for the finalization of a Provincial skills gap analysis by the Department of Economic Development. Furthermore, the Committee expects to see a strengthening of service delivery capacity programmes in each of the Province's votes.

#### 4. COMMENTS MADE BY THE FINANCE COMMITTEE ON THE DETAIL AND IMPLICATIONS OF THE BILL

During the Committee's conscientious deliberations on the Division of Revenue Bill, a number of issues arose in the detail of the Bill which has significant financial and operational implications. Consequently, the implications of the Bill have been explicitly dealt with in the following sections of the Committee's report.

##### 4.1 FINANCIAL IMPLICATIONS OF THE BILL

The following allocations are available to the three spheres of government over the MTEF period as contained in Table E.5 of the Bill.

Table E.5 Schedule 1 of the Division of Revenue Bill, 2006/07 – 2008/09

R million	2006/07	2007/08	2008/09
	Column A Allocation	Column B Forward estimates	
National <sup>1,2</sup>	303,914	331,397	381,393
Provincial	150,753	167,701	187,100
Local	18,058	20,076	22,775
<b>Total</b>	<b>472,725</b>	<b>519,174</b>	<b>571,268</b>

1 National share includes conditional grants to provinces and local government, debt service cost and the contingency reserve.

2. The direct charges for the provincial equitable share are netted out.

The Committee notes that out of the above vertical Division of Revenue raised nationally, Gauteng Province receives approximately R 23.4 billion equitable share and approximately R 8.7 billion conditional grants in 2006/07 financial year totalling to an amount of R32.1 billion. This translates to 15 percent of equitable share and 34 percent of conditional grants available nationally as indicated in the tables below.

Table E.6 Total Transfers to Provinces 2006/07

R million	Equitable Share	Conditional Grants	Total Transfers
Eastern Cape	24,643	2,810	27,453
Free State	9,595	1,687	11,282
Gauteng	23,382	8,744	32,106
Kwa-Zulu Natal	32,052	3,965	36,018
Limpopo	20,616	1,996	22,612
Mpumalanga	11,227	1,208	12,435
Northern Cape	3,452	916	4,367
North West	12,347	1,653	13,999
Western Cape	13,459	2,948	16,407
<b>Total</b>	<b>150,763</b>	<b>26,926</b>	<b>178,679</b>

Source: Division of Revenue Bill

Percentage Transfers to Provinces 2006/07

R million	Equitable Share	Conditional Grants
Eastern Cape	16%	11%
Free State	6%	7%
Gauteng	15%	34%
Kwa-Zulu Natal	21%	15%
Limpopo	14%	8%
Mpumalanga	7%	5%
Northern Cape	2%	4%
North West	8%	6%
Western Cape	9%	11%
	100%	100%

Source: Division of Revenue Bill

## **4.2 OPERATIONAL IMPLICATIONS OF THE BILL**

### **4.2.1 PROVINCIAL INFRASTRUCTURE GRANT**

The Provincial Infrastructure Grant supplements the funding of infrastructure programmes funded from provincial budgets to enable provinces to address backlogs in provincial infrastructure. The Committee takes special note of Section 9.3(a) of the Bill, which directs that provinces must take into account the capacity of the receiving provincial department to spend and manage infrastructure based on the extent of any approved roll-overs in the 2005/06 financial year and projected roll-overs in the 2006/07 financial year. This Section also makes provision for designating up to 1 percent of the allocation for acquiring capacity where a provincial department lacks capacity. The implication for Gauteng is that it must improve its provincial capacity to spend and manage funds allocated for delivery and maintenance of infrastructure. The question raised by the Committee is whether capacity would be evaluated merely on the basis of roll-overs?

### **4.2.2 GAUTRAIN RAPID RAIL LINK**

The Committee notes that a dedicated account will be established for the transfer of the Gautrain Rapid Rail link allocation to start operations by 1<sup>st</sup> May 2006. The Committee also notes the provisions of Section 22, which allow for the retaining of funds in the Gautrain Rapid Rail link account pertaining to rollovers. Unspent funds will remain in the account instead of reverting to the National Revenue Fund. This provides the province with the opportunity to aggressively attract public-private partnerships for the Rail as the funds will continuously remain in the account enabling efficient rollout.

### **4.2.3 MUNICIPAL INFRASTRUCTURE GRANT**

The Municipal Infrastructure Grant supplements the funding of infrastructure programmes funded from municipal budgets to enable municipalities to address backlogs in municipal infrastructure required for the provision of basic services. The Committee notes the requirement of Section 11(4) which requires that a municipality receiving the Municipal Infrastructure Grant must table a three-year capital budget as part of its budget for the 2006/07 financial year in accordance with the MFMA unless exempted in terms of the act.

### **4.2.4 MUNICIPAL CAPACITY BUILDING ALLOCATIONS**

The Committee notes the requirements of Section 12(3) of the Bill indicating that the annual report of the department responsible for any capacity-building allocation must indicate the extent to which the capacity of any municipality was improved in measurable ways by that allocation. This suggests that the Finance Portfolio Committee will have to liaise closely with SCOPA and Local Government Committees to ensure that this provision of the act is adhered to.

### **4.2.5 RSC LEVIES**

The Committee notes that legislation will be prepared in 2006 to deal with the abolition of RSC levies from 1<sup>st</sup> July 2006. The effect of this will be to reduce revenue raised by municipalities.

### **4.2.6 HOSPITAL MANAGEMENT AND QUALITY IMPROVEMENT GRANT**

The Committee notes that the hospital management and quality improvement grant, which facilitates management development and financial management capacity, is phased into the hospital revitalisation grant.

#### **4.2.7 INTEGRATED SOCIAL DEVELOPMENT, HIV/AIDS AND INTEGRATED NUTRITION GRANTS**

The Bill stipulates that in order to streamline the delivery of programmes, the conditional grant system should be rationalised. To this effect, the programmes funded through the integrated social development and HIV/AIDS grants administered by the Department of Social Development and the integrated nutrition grant administered by the Department of Health, as from the 1<sup>st</sup> of April 2006, funded through the Provincial Equitable Share. The Committee welcomes this change as it would enhance the process of producing business plans.

#### **4.2.8 INTEGRATED HOUSING AND HUMAN SETTLEMENT DEVELOPMENT**

The human settlement and redevelopment grant, administered by the Department of Housing is phased into the integrated housing and human settlement development grant to enable government to deliver on its comprehensive housing strategy in a systematic way.

#### **4.2.9 IMPLEMENTATION OF CROSS-BOUNDARY MUNICIPALITIES LAWS REPEAL AND RELATED MATTERS**

The Committee notes Section 38 of the Bill, which confirms that a releasing province from which a particular area is relocated at the commencement of the Constitution Twelfth Amendment Act of 2005, must continue to spend its allocations for the 2006/07 financial year made in terms of the Bill, in that particular area as if that area was not reallocated to another province. The frictional effect of this section is reduced by the Bill providing for the entering into of written agreements between provinces, as indicated in Section 5 of the Constitution Twelfth Amendment Act of 2005, as long as the relocated area is not negatively affected. The Bill further indicates that the local government equitable share formula and the MIG allocations have been updated to reflect changes in population, poverty and service delivery indicators arising from this.

#### **5. PROPOSED RECOMMENDATIONS TO TAKE FORWARD IN THE MTEF**

As part of the on-going budget reform process, the Committee has put forward the following proposals:

- 5.1 The Province will need to contribute positively towards the promotion of matters of national interest especially through participation in various international forums.
- 5.2 In order to promote the Accelerated and Shared Growth Initiative of South Africa (ASGISA), the Province will need to strengthen service delivery capacity of both Provincial and Local Government structures.
- 5.3 South African Social Security Agency (SASSA) should now be in a position to fully administer the social assistance function, whereby from 1<sup>st</sup> April 2006, social security assistance will no longer be administered as a conditional grant in the Province but will be funded from the Department of Social Development through SASSA.
- 5.4 Gauteng Provincial Departments and Municipalities should identify projects that will deliver outputs in a cost efficient manner while maximising benefits to the Province.

**6. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE ON THE PRINCIPLE**

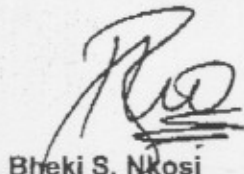
The Portfolio Committee on Finance supports the principle of the Division of Revenue Bill [B3-2006].

**7. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE ON THE DETAIL**

The Committee agrees with the position adopted by the National Assembly Portfolio Committee on Finance as reflected in the Division of Revenue [B3-2006]. However, with respect to the detail of the Bill, the Committee would like its recommendations and reservations noted above negotiated at the meeting of the Select Committee on Finance (NCOP).

**8. ADOPTION OF THE NEGOTIATING MANDATE**

The Finance Committee unanimously adopted the Negotiating Mandate on the Division of Revenue Bill [B3-2006] on Tuesday, 14 March 2006.



**Bheki S. Nkosi**  
Chairperson: Finance Committee