

7-11-07
SC Education



EDUCATION PORTFOLIO COMMITTEE

**NEGOTIATING MANDATE
ON**

EDUCATION LAWS AMENDMENT BILL [B33B-2007] - Section 76

30 October 2007,

1. INTRODUCTION

The Chairperson of the Education Committee, Mr. A Msane, tables the Committee's Negotiating Mandate on the Education Laws Amendment Bill [B33B-2007], a Section 76 Bill, as follows:

2. PROCESS FOLLOWED

The Speaker formally referred the Education Laws [B33B-2006] Section 76 Bill to the Portfolio Committee on Education, in terms of Rule 232 (1) read with 235 (4), 6 and 7 for consideration and report on Wednesday, 26 September 2007.

On Thursday, 11 October 2007, the Portfolio Committee on Education was briefed by the Honourable Permanent Delegate, Ms Maggie Madlala – Magubane and Ms F Mazibuko from the National Council of Provinces on the intentions of the Bill. The Committee had an opportunity to make deliberations on the Education Laws Amendment Bill [B33B-2007].

The Committee held a public hearing on Thursday, 25 October 2007 at the Gauteng Provincial Legislature and was also briefed by the Department of Education.

On Tuesday, 30 October 2007, the Committee deliberated on the technical and substantive amendments and subsequently adopted the Negotiating Mandate on the Education Laws Amendment Bill [B33B-2007], Section 76 Bill.

3. INTERACTION WITH STAKEHOLDERS

As part of its functions and obligation, the Committee held a public hearing on Education Laws Amendment Bill [B33B-2007], Section 76 Bill, on 25 October 2007. The Committee had received both verbal and written submissions from the various individuals and organisations that are listed hereunder:-

1. Governor's Alliance(Written Submission) and
2. Department of Education

The following are concerns and questions that were raised during the hearing:

Amendment of section 11 of Act 27 of 1976: Establishment of a body known as the National Education and Training Councils. How the consultation of the National Education and Training Councils would affect the teacher bodies?

Insertion of Section 5A in Act 84 of 1996: Norms and standards for basic infrastructure and capacity in public schools: What financial implications do the norms and standards will have on schools?

Insertion of Section 8A in Act 84 of 1996: Random search and seizure and drug testing at schools. Does the principal or his or her delegate have the capacity to do random search and seizure and drug testing at schools? The amendment is quiet about the role of School Governing Bodies (SGBs).

Insortion of Sections 58B and 58C of Act 84 of 1996: Identification of underperforming public schools. Who will mentor the underperforming schools? If a retired teacher would be employed who will be paying for that?

4. DETAILED OF THE BILL

The Bill, Education Laws Amendment Bill seeks to amend the National Education Policy Act, 1996, so as to substitute the provision relating to consultation on the national education policy.

The Bill seeks to amend and form a one Act on the following Acts

- (i) South African Schools Act, 1996
- (ii) National Education Financial Aid Scheme, Act 1999
- (iii) South African Council Educators Act, 2000
- (iv) Adult Basic Education and Training Act, 2000 and
- (v) General and Further education and Training Quality Assurance Act, 2001

The following are the detailed aims that the Bill seeks to consider:

- (a) Provide the Minister to prescribe national minimum norms and standards regarding school infrastructure, capacity and matters such as learning and teaching support materials. This will ensure that uniformity of norms and standards are maintained at schools
- (b) Stop the proliferation of dangerous objects and illegal drugs at schools
- (c) To indicate the functions to be performed by the Principal vis- a- vis the governing bodies
- (d) The Bill also seeks to require the governing bodies of public schools to support the Head of Department when dealing with a principal who lacks capacity for performing his or her duties effectively
- (e) To authorise the Head of Department to identify the underperforming school and also sets up measures and steps to be taken to improve the performance of the school
- (f) Provide financial assistance to certain students who need assistance.

5. FINANCIAL IMPLICATIONS OF THE BILL

There will be minimal financial implications, such as buying the testing device or other non-invasive equipment. The money will be covered by provincial budget allocation.

6. SOCIAL IMPACT ASSESSMENT

It is uncertain what the extent of the social impact will be.

7. PRINCIPLE OF AND DETAIL OF THE BILL

The Portfolio Committee on Education supports the principle and details on the Education Laws Amendment Bill [B33B-2007].

However the Committee has the following concerns on the Bill:-

Minimisation of the consultative bodies

Although the Bill talks about the minimisation of consultative bodies when policy is determined, this does not completely take away the role those bodies were playing as other forums will still exist for the same purpose.

7.2 Norms and standards in infrastructure

The concern is around the issue of **MAY** and **MUST** clause. In the case of **MUST** the MEC will be compelled to comply with every aspect of these norms and standards even if it has financial implications that the department might not have budgeted for which might also result in unfunded mandate. In the case of **MAY**, as an example, it might create an opportunity for the MEC to assess and prioritise according to budgetary allocations or constraints without neglecting adherence to the norms and standards

7.3 Random searching

The process is not outlined in the Bill which raises concerns of how the search should be done. In the case of urine testing, there is no indication whether the principal or any of the teachers will have to undergo training on how to administer such a test. The Bill only indicates that the Minister must

(a) identify the device with which the test contemplated in subsection (8) is to be done and the procedure to be followed. and

(b) publish the name of this device and any other relevant information about it in the Gazette

7.4 The role of the principal

The concern is around the issue of balancing the rights of the principal and the role he/she plays versus that of being a representative of the department. The Bill does not clarify how the balance should be maintained.

8. NEGOTIATING POSITION ADOPTED BY COMMITTEE

The Education Portfolio Committee on Education supports the principle and details on the Education Laws Amendment Bill [B33B-2007]. Except that in Insertion of section 8A in Act 84 of 1996 dealing with random search and seizure and drug testing at schools "that a by-in clause must be inserted where in all interested stakeholders within the school must be involved including learners, educators and the community within the school".



Mr A. Msane

Chairperson: Education Portfolio Committee

30 October 2007