

**FINANCE PORTFOLIO COMMITTEE**

**DRAFT REPORT OF THE NEGOTIATING MANDATE ON THE DIVISION OF REVENUE AMENDMENT BILL [B33-2023] – SECTION 76**

**The Chairperson of the Finance Portfolio Committee (Portfolio Committee), Hon. P. Malema tables Oversight Report on the Division of Revenue Amendment Bill *[B33-2023] (the* Bill).**

# INTRODUCTION

The Chairperson of the Finance Portfolio Committee (Portfolio Committee), Hon. P. Malema tables a report on the Division of Revenue Amendment Bill *[B33-2023]* (the DoRA 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 proposes to amend the Division of Revenue Act, 2023 (Act No. 5 of 2023), in accordance with section 12(4) of the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No. 9 of 2009), since the national adjustments budget for the 2023/24 financial year necessitates changes to the Division of Revenue Act, 2023. The Bill is to be introduced together with the tabling of the adjusted estimates of the national expenditure and revised fiscal framework for the 2023/24 financial year (FY).

# PROCESS FOLLOWED

The Speaker of the Gauteng Provincial Legislature, Hon. Lentheng Ntombi Mekgwe, formally referred the Bill to the Finance Portfolio Committee (“portfolio committee”) for consideration in terms of GPL Standing Rule 245 (1) (a).

In considering the Bill, the Portfolio Committee considered the Recommendations of the Financial and Fiscal Commission to the Division of Revenue for the 2023/24 financial year (FY), 2023 Division of Revenue Amendment Bill, Provincial and Local Government Fiscal Frameworks for 2023 MTEF as well as the 2023 Adjustment Appropriation Bill.

The delegation of the Finance Portfolio Committee attended the tabling of the Medium-Term Budget Policy Statement (MTBPS) at the joint Sitting of the National Assembly and National Council of Provinces in Cape Town on 01 November 2023. On 02 November 2023, the same delegation participated in the Ministerial briefing on the MTBPS convened by the joint meeting of the Standing and Select Committees on Appropriations and Finance. The Portfolio Committee also attended the joint meeting of the Standing and Select Committees on Appropriations and Finance on 16 November 2023 and 17 November 2023, wherein a briefing was received on the Adjustments Appropriation Bill and Public hearings on 2023 Division of Revenue Amendment Bill individually.

On Friday, 24 November 2023, the Portfolio Committee received a briefing from the NCOP Permanent Delegate, Hon. Ryder, supported by National Treasury.

On Monday, 27 November 2023, the Portfolio Committee deliberated on the Bill. After deliberations, the Portfolio Committee adopted its report on the Bill to be tabled at the NCOP plenary.

# PRINCIPLE AND DETAIL OF THE BILL

# The Bill seeks to amend the Division of Revenue Act, 2023, Act 5 of 2023, in accordance with the Money Bills Amendment Procedure and Related Matters Act, 2009, and to provide for matters connected therewith.

**3.1 Money Bills Amendment Procedure and Related Matters Act 9 of 2009**

In reference to the Division of Revenue Amendment Bill 2023, section 12(4) of Money Bills Amendment Procedure and Related Matters Act requires that the Minister of Finance tables a Division of Revenue Amendment Bill (DoRAB) with the revised fiscal framework if adjustment budget effects changes to the Division of Revenue Act (DoRA).

The main purpose of the DoRAB is to amend “column A” of the DoRA schedules which shows the allocation for the current year. The new “Column A” created by the DoRAB shows the original allocation, the adjustment and the new allocation to maximise transparency in the adjustment process. The schedules of the Bill relate to:

* Changes to schedules;
* Changes to provincial allocations; and
* Changes to local government allocations;
* Changes to gazetted conditional grants frameworks and allocations; and
* Changes in Bill Clauses.

**3.2 Constitution of the Republic of South Africa Act 108 of 1996**

Section 214 of the Constitution of the Republic of South Africa requires that an Act of Parliament provides 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; an
* Any other allocations to provinces, local government or municipalities from the national government’s share of that revenue, and
* Any conditions on which those allocations may be made.

The Bill therefore seeks to 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 relevant provisions of the Constitution, the Money Bills Amendment Procedure and Related Matters Act, read together with the Intergovernmental Fiscal Relations Act.

**3.3** **VIEW OF THE GAUTENG PROVINCIAL EXECUTIVE COUNCIL ON THE BILL**

The Executive Council (Exco) supports the changes proposed in the 2023 Division of Revenue Amendment Bill, as they were deliberated by the Premier Budget Council and details will be presented to the Legislature during the tabling of the 23/24 adjustments budget and the Medium-Term Budget Policy Statement (MTBPS).

# SOCIO-ECONOMIC IMPACT

In accordance with the provisions Section 30(2) of the PFMA, an adjustments budget provides for unforeseen and unavoidable expenditure; appropriation of monies already announced during the tabling of the annual budget (but not allocated at that stage); the shifting of funds between and within votes where a function is transferred; the utilisation of savings; and the roll-over of unspent funds from the preceding financial year.

The reductions and reprioritisations announced in the 2023 adjustments budget have pronounced social implications. For instance, reductions to the school infrastructure backlog grants have a potential to place learners in an unsanitary learning environment by delaying projects related to sanitation in schools. The reduction from the ***Comprehensive Agricultural Support Programme Grant*** (CASP), ***Landcare Programme Grant: Poverty*** relief and infrastructure has the potential of impacting negatively on food security, poverty alleviation, and job creation alike. Similarly, with the reduction of the ***HIV and AIDS (Life Skills Education) Grant***, it is probable that the gains made regard might be reversed.

In addition, by virtue of infrastructure projects having a multiplier-effect in terms of economic development, reductions in the infrastructure-related grants such ***Education Infrastructure Grant***, ***Education Infrastructure Backlog Grant***, ***Early Childhood Development Grant***, ***EPWP***, ***Infrastructure Skills Development Grant, Municipal Infrastructure Grant, and Urban Settlements Development Grant*** will impact negatively on job-creation and business opportunities for SMMEs.

# FINANCIAL IMPLICATIONS OF THE BILL

This Bill is necessitated by the proposed national adjustments budget for the 2023/24 financial year which affects the division of revenue between the three spheres of government. The financial implications to government are limited to transfers to provincial and local government. The adjustments budget is an increase of R13.6 billion in total transfers, resulting in a revised budget estimate of R2. 048 trillion for the 2023/24 financial year compared to the original allocation of R1. 034 trillion, as illustrated below.

**Table 1: Schedule 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **Spheres of Govt** | **Column A** | | |
| **2022/23 Main Allocation** | **Adjustment** | **2022/23 Adjusted Allocation** |
| National  Provincial  Local | R’000  1 370 506 089  567 527 713  96 546 258 | R’000  (2 555 077)  17 588 206  (1 357 517) | R’000  1 367 912 012  585 085 919  95 188 741 |
| **Total** | **2 034 580 060** | **13 645 612** | **2 048 225 672** |

Source: Division of Revenue Amendment Bill 2023, adapted

**It is worth noting that the equitable share for both the provincial and local spheres of government were spared of in-year reductions and only conditional grants were reduced.**

* 1. **CHANGES TO PROVINCIAL ALLOCATIONS**

According to Section 30(2) of the PFMA, an adjustments budget provides for unforeseen and unavoidable expenditure; appropriation of monies already announced during the tabling of the annual budget (but not allocated at that stage); the shifting of funds between and within votes where a function is transferred; the utilisation of savings; and the roll-over of unspent funds from the preceding financial year

The South African  economic  growth  outlook  remains  risky owing to the cumulative  effect  of  power cuts, poor rail transport performance, high inflation, rising borrowing costs and a  weaker global environment are forecast to limit economic growth over the medium  term. The low growth constraints and government’s ability to raise revenue needed to sustainably fund the provision of essential services in line with policy priorities further worsen the fiscal position of the country. It is against this backdrop that fiscal consolidation reductions were performed on the 2023 budget.

To fund the costs of implementing the 2023/24 wage agreement in the health and education sectors, an amount of R17.6 billion is added to provincial equitable share. **The Portfolio Committee welcomed the additions to offset the financial impact of the wage agreement, as the implementation thereof may crowd-out service delivery.**

On the other hand, direct provincial conditional grants are reduced by R6.2 billion. The ***Comprehensive Agriculture Support Programme Grant***, an agricultural support provided to land and agrarian reform projects, which contributes towards food security, job creation and poverty alleviation, has been reduced by R125 million. Further reductions associated with the agriculture sector relate to the R36 million reduced from the ***Ilima/Letsema Projects Grant***, and R7 million from the ***Landcare Programme Grant: Poverty Relief and Infrastructure Development***. **The Portfolio Committee noted the negative impact such reductions will have on food security, job creation and poverty alleviation.**

The overall goal of the ***Early Childhood Development (ECD) Grant*** is to increase access to quality early childhood development services for poor children. The grant has two components, namely, infrastructure and subsidy. The 2023 adjustments budget proposes a reduction of R58 million for the ***Early Childhood Development Grant****.* **The Portfolio Committee noted that the budget has abandoned its redistributive ethos by reducing the *Early Childhood Development (ECD) Grant* earmarked for poor children, and therefore compromising education outcomes.**

In South Africa, adolescents constitute a key population at high risk of HIV acquisition. Despite the ***HIV and AIDS*** ***Life Skills Education Grant*** supporting South Africa’s prevention strategy by providing comprehensive sexual education, and access to sexual and reproductive health services for learners, the grant is reduced by R28 million. **The Portfolio Committee wonders if the HIV and AIDS education has reached saturation level, hence the under-expenditure on same, resulting in the surrender of funds.**

Similarly, R50 million was slashed from the ***Maths, Science And Technology Grant***, responsive to the maths, science technology targets set out in Chapter 9 of the National Development Plan (NDP) and Goals 1 to 9, 16 and 20 of the Action Plan 2019: Towards Schooling 2030. The **Portfolio Committee urges government not to about the NDP goals in the face of fiscal consolidation.**

In the same vein, the ***District Health Programmes Grant***and the ***Health Facility Revitalisation Grant***were reduced by R1 billion and R440 million respectively. The grants’ purpose is to implement the National Strategic Plan on the HIV, STis, TB, malaria and community outreach programmes; and to address backlogs in infrastructure and maintenance, correspondingly.

The ***Human Settlements Development Grant*** and ***the Informal Settlements Development Grants*** provide for funding for the progressive realization of access to adequate housing, and funding to facilitate programmatic and inclusive approach to upgrading informal settlements. These grants were reduced by R1.7 billion and R477 million individually. **The Portfolio Committee noted that the reduction of the allocations is counterproductive to the Human Settlements Vision 2023 ideal of housing the poor.**

The ***EPWP Integrated Grant***is a conditional grant allocated to eligible public bodies to maximise labour-intensive job creation for low skills jobs, whilst the ***EPWP*** ***Incentive Grant*** is an incentive paid to public bodies to incentivise job creation. The allocations for the two conditional grants were reduced by R31 million each, despite unemployment rate in the second quarter of 2023 standing at 32.6%.

Notwithstanding that the strategic goal of the ***Community Library Services Grant*** is to enable South Africans to gain access to knowledge and updated information that will improve their socio-economic status, the grant was revised downwards by R68 million. In addition, R43 million was reduced from the ***Mass Participation And Sport Development Grant****, geared towards* increasing citizens’ access to sport and recreation activities.

The other reduction relates to the***School Infrastructure Backlogs Grant****,* whereby an amount of R260 million is reduced from the ***School Infrastructure Backlogs Grant***. Of this amount, R175 million forms part of the budget consolidation and R85 million lowers a reduction to the early childhood development grant. Furthermore an amount of R57 million is reprioritised from the ***School Infrastructure Backlogs Grant***to the vote of the national Department of Basic Education, R32 million will fund compensation of employees pressures; and R25 million will fund information and communication technology upgrades.

With respect to rollovers, R137 million is rolled over in the ***School Infrastructure Backlogs Grant.***

Of this amount, R93 million is earmarked for the completion of projects of the Sanitation Appropriate for Education initiative; R26 million is for the completion of projects of the Accelerated Schools Infrastructure Delivery initiative, and R18 million is for associated management costs.

* 1. **CHANGES TO LOCAL GOVERNMENT ALLOCATIONS**

Due to the approved bulk electricity tariff increase being lower than the anticipated electricity tariff increase, the unallocated R1.4 billion in the local government equitable share to cater for higher-than-expected electricity tariff increase is declared as under-expenditure.

In an effort to align with the fiscal consolidation measures announced by national government, there is a total downward adjustment of R3.4 billion to direct municipal conditional grants. This is made up of reductions of R9 million from the *infrastructure skills development grant*; R58 million from the *programme and project preparation support grant*; R32 million from the ***Expanded Public Works Programme Integrated Grant*** *for municipalities*; R1.2 billion from the ***Municipal Infrastructure Grant***; R306 million from the ***Informal Settlements Upgrading Partnership Grant*** *for municipalities*; R553 million from the ***Urban Settlements Development Grant***; R180 million from the ***Integrated National Electrification Programme Grant***for municipalities; R40 million from the ***Neighbourhood Development Partnership Grant***; R600 million from *the* ***Public Transport Network Grant***; R237 million from the ***Regional Bulk Infrastructure Grant***; and R244 million from the ***Water Services Infrastructure Grant***.

*On the other hand, a*n amount of R1.2 billion is added to the ***Municipal Disaster Recovery Grant***to fund the reconstruction and rehabilitation of municipal infrastructure damaged by the floods that occurred between February and March 2023. Due to such funds being depleted, a further R372 million is added to this grant to enable immediate response by municipalities in the event that a disaster occurs in the remaining months of the 2023/24 financial year. The ***Municipal Disaster Recovery Grant*** amounting to R20 million from Emfuleni Local Municipality’s allocation is converted to an indirect allocation to address the outfall of sewer in Evaton and Sebokeng.

Similarly, R88 million from the ***Neighbourhood Development Partnership Grant***is converted from the direct to the indirect component of the grant. This is to expedite project implementation in municipalities that are experiencing administrative and financial challenges. **The Portfolio Committee discourages the conversion of conditional grants from direct to indirect in view of local government being at the coalface of service delivery with a better understanding of community needs.**

To expedite project implementation in municipalities that are experiencing administrative and financial challenges, R372 million is added to the *Municipal Disaster Response Grant* to replenish the depleted grant baseline. **The Portfolio Committee welcomes the replenishing of *Municipal Disaster Response Grant* to pro-actively respond to the immediate needs of residents after a disaster has occurred.**

Pursuant to funding the Rehabilitation of derelict and ownerless mines, an amount of R53 million is reprioritized from the ***Integrated National Electrification Grant***to the vote of the Department of Mineral Resources and Energy.

Funds to the tune of R309 million are shifted from the indirect component of the ***Regional Bulk Infrastructure Grant***to the***Water Services Infrastructure Grant*** to enable the Department of Water and Sanitation to manage contractual obligations, budget pressures, accruals and payables for projects in several municipalities.

* 1. **CHANGES TO GAZETTED CONDITIONAL GRANT FRAMEWORKS AND ALLOCATIONS**

With the tabling of the Division of Revenue Amendment Bill, 2023, National Treasury also submits to Parliament proposed changes to gazetted conditional grant frameworks and allocations. **The Portfolio Committee noted that Section 15(4) of the Division of Revenue Act, 2023, enjoins National Treasury to consult Parliament on any proposed changes to a conditional grant framework for the purposes of correcting an error or omission, as envisaged in Section 15(2) of the Division of Revenue Act, 2023.**

**Grant Framework Changes**

The framework of the ***Municipal Disaster Recovery Grant***is amended to ring-fence the additional funds for the repair and reconstruction of municipal infrastructure damaged by the floods that occurred between February and March 2023, and will also be gazetted in terms of section 15(2) of the Division of Revenue Act, 2023, after consulting Parliament.

**Changes to Allocations**

The R3 million and R4 million that were previously allocated ***Expanded Public Works Programme Integrated Grant for* *Provinces*** for the former Western Cape departments of Human Settlements, and Transport and Public Works respectively have been combined to a single allocation for the new provincial Department to of Infrastructure

An amount of R20 million for the Kirkwoord Water project that was erroneously allocated to Dr Beyers Naude Local Municipality is corrected to an allocation to Sundays River Valley Local Municipality.

* 1. **SUMMARY OF STAKEHOLDER SUBMISSIONS**

A submission on the 2023 Division of Revenue Amendment Bill was received form Gauteng SALGA and following recommendations were noted:

* That National Treasury considers prioritizing local government getting more allocation from the medium-term budget surplus;
* That National Treasury should ensure that public expenditure should be geared towards the provision of essential services;
* That National Treasury’s IDPs and Budgets Assessment Frameworks must include climate change response actions to ensure that implementation takes place;

That National Government stakeholders should:

* create a panel of experts to scrutinize and support the maintenance of a pipeline of climate-responsive projects;
* Strengthen project management skills for conceiving, preparing, and implementing large climate-responsive projects; and
* The National Treasury should co-sponsor a handbook on green bonds.
* That National Treasury should critically review the local government fiscal framework; and
* That National Treasury should develop an appropriate funding mechanism or funding plan in a targeted and phased approach, which enhances the capacity of municipalities to spend conditional grants effectively;
* That National Treasury should urge local municipalities to apply effective revenue enforcement and credit control mechanisms and improve billing and accounting systems to increase payment and cost coverage levels; and
* That National Treasury assists municipalities in developing a tariff model that should consider the financial capabilities of residents and businesses within the municipality.
  1. **COMMITTEE RECOMMENDATIONS ON THE DIVISION OF REVENUE AMENDMENT BILL, 2023**

The Finance Portfolio Committee recommends the following:

* + 1. That National Treasury should capacitate all spheres of government, to enable them to spend funds allocated to them for service delivery to avoid surrendering funds;
    2. That National Treasury should ensure that the fiscal framework is redistributive in light of the programmes affected by reductions meant for the poor;
    3. That National Treasury should consider changing the equitable share formula in favour of local government in view of the provisions of the White Paper on Local Government on revenue-raising powers not yielding the intended results; and
    4. That National Treasury in conjunction with the Department of Social Development should ensure that there is comprehensive social security programme, to protect those segments of the population particularly exposed to the negative impact of rising inflation, including higher energy, fuel and food prices.
  1. **NEGOTIATING POSITION ADOPTED BY COMMITTEE**

The Finance Portfolio Committee supports the principle and detail of the Division of Revenue Amendment Bill 2023 [B33-2023].