



FFC SUBMISSION ON THE TRADITIONAL AND KHOI-SAN LEADERSHIP BILL

2 February 2016

For an Equitable Sharing of National Revenue

BACKGROUND

- The "Traditional and Khoi-San Leadership Bill" has been compiled and subjected to consultations with various departments and institutions.
- This undertaking is aligned with Section 211(1) of the Constitution that recognises the institution, status and role of traditional leadership.
- The objectives set out in the Traditional and Khoi-San Leadership Bill include, updating laws governing the South Africa's traditional leaders and royal houses and also to recognise the Khoisan people and their leaders {Khoi-San were left out in the previous legislation}.
- This presentation is made in terms of Section 3 of the Financial and Fiscal Commission Act and as requested by the Portfolio Committee on Cooperative Governance and Traditional Affairs.

OBJECTIVES OF THE BILL (1)

- The Traditional and Khoi-San Leadership Bill's broad aims are:
 - to provide for the functions and roles of traditional leadership and Khoi-San leaders
 - to provide for the recognition, establishment, functions, roles and administration of kingships, or queenship councils, principal traditional councils, traditional councils, Khoi-Sans councils and traditional sub-councils, as well as the support to such councils.
- Other objectives of the Bill are as follows:
 - Functions and resources of traditional and Khoi-San leaders {this encompass the determination of the resources to be made available to traditional and Khoi-San leaders as may be necessary to enable them to perform their functions effectively}
 - Support to kingship or queenship council, principal traditional council, traditional council, Khoi-San council and traditional sub-council

TRADITIONAL LEADERS PER LEVEL AND PROVINCE

No	Province	Senior Traditional Leaders	Headmen/ Women	Kings	Provincial traditional leaders
1	Eastern Cape	215	1193	4	2
2	Northern Cape	8	25	0	0
3	Limpopo	183	2118	1 (1 Court interdict)	0
4	Mpumalanga	58	522	2	0
5	Gauteng	2	14	0	0
6	KwaZulu Natal	296	3372	1	0
7	North West	54	59	0	0
8	Free State	13	96	2	0
	Total	829	7399	11	2

PROGRESSION OF DEPARTMENT OF TRADITIONAL AFFAIRS SPENDING

Sub-programme				
R million	2011/12	2012/13	2013/14	2014/15
Administration	-	-	-	22
Management: Head of TA	11	13	17	
Policy and Legislative for TA	14	15	14	14
Institutional, Support & Coordination	12	13	13	75
National House of Traditional leaders	19	20	24	
Commission for promotion & protection of Rights cultural, Religious and Linguistic communities	20	34	33	
Commission on Traditional leader disputes & claims	10	12	11	
Total	88.6	106.9	111.7	111.8
Economic classification				
Current payments	65.5	70.7	78.9	76.5
Compensation of employees	36.4	41.3	42.9	50.2
Goods and services	29.1	29.5	36.0	26.3
Transfers and subsidies	22.4	36.1	32.5	35.0
Departmental agencies and accounts	22.4	34.2	32.5	35.0
Households		1.9		
Payments for capital Assets	0.7	0.1	0.3	0.1
Machinery and equipment	0.7	0.1	0.3	0.1
Total	88.6	106.9	111.7	115.9



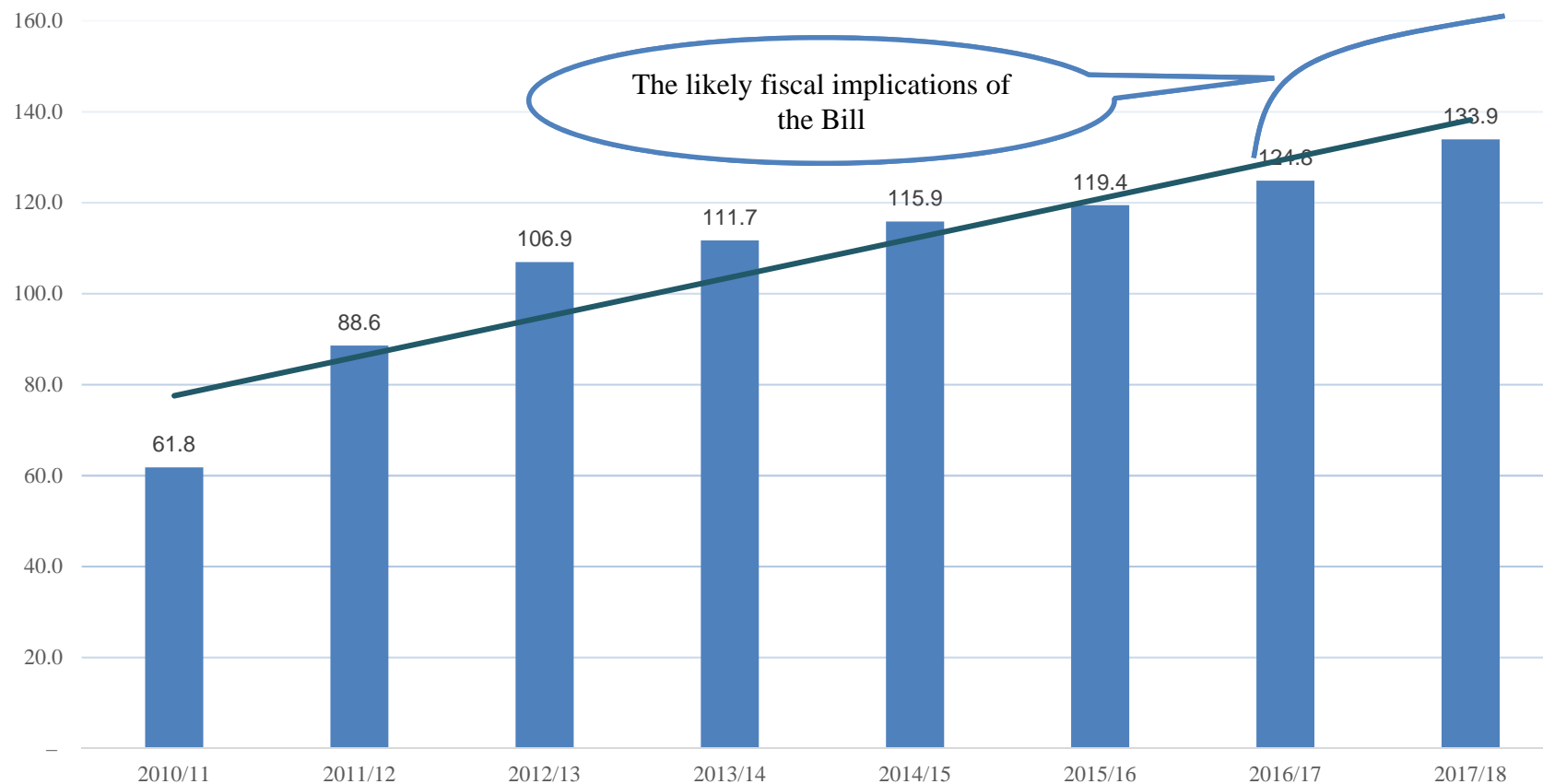
FINANCIAL
AND FISCAL
COMMISSION

ISSUES THAT SHOULD BE ADDRESSED

FINANCIAL IMPLICATIONS OF THE BILL

- The financial and fiscal implications of these objectives are not specified within the Bill. Instead it is mentioned that
 - *“the Bill makes provision for new structures and leadership positions in respect of the Khoi-San which will have additional financial implications. The salaries, allowances and benefits of traditional and Khoi-San leaders are to be determined in accordance with the provisions of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998) (Remuneration Act).”*
- The areas with financial implications are indicated in the Bill without specifying the actual costs/ finances.
- FFC submits that the costing is key even before Traditional and Khoi-San Leadership Bill becomes law.

BUDGETARY IMPLICATIONS (1)



The graph shows a continuous increase in the spending and the introduction of additional traditional leaders will shift the budget above its normal path.

BUDGETARY IMPLICATIONS (2)

- Traditional Leadership is a concurrent function.
- Funding gets transferred by National Treasury to Provincial Treasuries and thereafter to Provincial CoGTAs who then administer the Traditional Leadership in the respective Provinces.
- Based on initial deliberations between the department and the FFC, the financial and fiscal implications for setting up the Khoi-San Leadership structures will be done by the National Department. Hence *“the introduction of additional traditional leaders will shift the budget above its normal path”*.

CONSULTATION WITH FFC

- The Bill involves expansion of the existing function. Hence the following processes are key:
 - Firstly FFC must be consulted.
 - Secondly it must comply with the legislative requirements e.g. FFC Act
 - Thirdly: the FFC has to be informed about the possible impact on:
 - the future division or revenue between the spheres of government.
 - the fiscal power, fiscal capacity and efficiency
 - the financial implications of the assignment projected over at least three years.
 - any possible financial liabilities or risks after the three-year period.

CONCLUSION

- The FFC acknowledges the critical role of the traditional leadership institutions in South Africa's constitutional democracy and in communities, particularly in relation to the rural-development strategy.
- Furthermore, traditional leaders are key in representing and preserving the culture and identity of community members and serve as active drivers of development in rural areas.
- The Traditional and Khoi-San Leadership Bill proposes the establishment of an Advisory Committee on Khoisan matters which will assist government with the recognition process relating to Khoisan communities and leaders.
- Like other Traditional Leaders, funding for the Traditional and Khoi-San Leadership Bill will be sourced from government.
- The FFC will engage with the department to look at the financial and fiscal implications and make appropriate recommendations.

FFC'S WEBSITE: WWW.FFC.CO.ZA



FINANCIAL AND FISCAL COMMISSION

An Independent Constitutional Advisory Institution



- [Home](#)
- [* About](#)
- [* Discussions](#)
- [* Media & Events](#)
- [* Research](#)
- [FAQs](#)
- [P.A.I.A](#)
- [Jobs & Tenders](#)
- [Links](#)
- [Contact](#)

You are here: [Home](#)



Submissions

- [Commission Submissions](#)
- [List of Recommendations](#)
- [Submission Chapters](#)
- [Budget Process](#)

Financial and Fiscal Commission
Intergovernmental Fiscal Relations Conference
10 - 13 August 2014

International Convention Centre,
Cape Town, South Africa

Our Mandate

More Publications

[Vote of Thanks 20th anniversary conference](#)

[Keynote Address - FFC 20th Anniversary Conference - Acting Chairperson](#)