

Money Bills Amendment Procedures and Related Matters Bill

2009



This submission is a follow up to the submission made to the Portfolio Committee on Finance in August 2008. The Submission recognises the changes that were made to the Money Bills Amendment Procedure and Related Matters Bill by the Portfolio Committee subsequent to the August 2008 Public Hearings. The Submission is made to the Select Committee on Finance in terms of Section 3 of the Financial and Fiscal Commission Act.

1. Introduction

- 1.1 The Money Bills Amendment Procedure and Related Matters Bill (of September 2008) has been largely reviewed following the Portfolio Committee of Finance's public hearings on an earlier draft during August 2008.
- 1.2 The Bill re-establishes Government's budget making process as an ongoing negotiation between Parliament and the Ministry of Finance. Every stage of the budget process (from budget policy statements, through the tabling of the annual budget to the adjustments budgets) can be amended by Parliament.
- 1.3 The Bill introduces a three-stage, four month long process of amending the budget. The first stage requires the adoption of an amended fiscal framework before any re-determination of the [vertical] division of revenue between the three levels of government and the revenue required to finance the amended budget. The Bill allows provincial and local governments an opportunity to recommend changes to the budget allocations during debates on such budget amendments.
- 1.4 The roles and functions of the various, relevant Parliamentary committees in the budget process have been greatly clarified. Each House is to focus its finance committees on the macro-economic and fiscal policy frameworks and on revenue issues. Further, each House is to establish appropriation committees to review spending issues and the vertical and horizontal divisions of revenue. This follows a Commission

- recommendation querying the seemingly duplicated arrangements proposed in the draft bill.
- 1.4 Rather than adopt an explicit fiscal rules framework (as recommended by the Commission), Parliament has chosen to be specific about which money bills can be amended, the documentation requirements thereof and the criteria required to enable amendments.

2. Rescheduling the Budget Process

- 2.1 The Parliamentary budget amendment process begins with, and is subsequently enabled by, sector committees evaluating the performance of national departments against their strategic objectives, assessing effectiveness and efficiency and making recommendations on the forward use of funds by means of “Budgetary Review and Recommendations” reports. These evaluations might be expected to take place during the second quarter of the financial year (i.e. between July and October) since submission is required prior to the launching of the Medium Term Budget Policy Statement (MTBPS).
- 2.2 The Bill gives Parliament altogether 37 Parliamentary working days (or seven plus weeks) to submit a report to the Minister of Finance recommending amendments to the Medium Term Budget Policy Statement (MTBPS). If this budget amendment recommendations report is to reach the Minister before Parliament closes its fourth term (currently in mid November), the budget policy statement will need to be released in mid September, six weeks earlier than current. Alternatively, the relevant Parliamentary committees could work through their six weeks of constituency period during the fourth term and reschedule constituency work to the second and third terms.
- 2.3 The Ministry of Finance releases government’s budget, fiscal framework, division of revenue bill, appropriation and revenue bills in mid-February. Parliament can amend these items in three successive stages.

- 2.3.1 16 working days (three to four weeks) is allocated to the amendment and adoption of a fiscal framework. This can be accommodated within Parliament's first term. The Ministry of Finance will be able to work with an amended fiscal framework from mid March onwards.
- 2.3.2 A subsequent 33 days (or seven weeks) is allocated to enable amendment of the division of revenue bill. This would be possible if the applicable committees worked through the current five weeks of constituency period allocated to the first term. Under this scenario, an amended division of revenue bill would be ready before the end of April.
- 2.3.3 A further 12 days (or three weeks) is provided for any amendments of the Appropriation and Revenue Bills. This is relatively easily accommodated within the current schedule of Parliament's second term and could enable final budget legislation and documentation to be concluded as early as mid May.
- 2.3.4 The Bill indicates that the budget amendment process should be complete four months after the submission of the government budget in mid-February. Hence, there appears to be little leeway for the affected committees to be able to conduct any constituency work during the fourth and first terms.
- 2.4 The Bill also allows for the possibility of amending the adjustments budget and provides a total of 20 days (or four weeks). This would require adjustments budgets to be released in early September if the adjustment budget amendment process is to be completed before the release of the [medium-term] budget policy statement.

3. Redefining Committee Roles and Functions

- 3.1 The brief of the Portfolio and Select Committee of Finance will be macro-economic and fiscal policy, the fiscal framework and revenue. The fiscal

- framework is defined as budgetary and extra-budgetary revenue, spending, borrowing, debt-servicing and contingency reserves. Finance committees can amend the fiscal framework and revenue bills.
- 3.2 The brief of the new Appropriation Committees is the effectiveness, efficiency and economy of spending and the vertical and horizontal divisions of revenue. Appropriation committees can amend the Division of Revenue and Appropriation Bills.
- 3.3 The respective roles of the portfolio and select committees in the budget amendment process have not been clarified in the Bill. Traditionally, the portfolio committees of the National Assembly deal with national government issues whilst the select committees of the National Council of Provinces focus on provincial governments. In this context, municipal oversight can easily be overlooked. Further, important provincial government functions are defined as national priorities leading to overlap in the function of portfolio and select committees. The drafters of this Bill might consider separate provincial and local government appropriation committees.
- 3.4 No mention is made in the Bill of Joint Committees between the two houses' Finance Committees and/or between Finance and other Portfolio Committees.

4. Establishing Criteria for Oversight

- 4.1 Whilst the Bill does not establish an explicit fiscal rules framework such as deficit limits, it does specifically require the introduction and amendment of the fiscal framework to take account of (a) general government and public sector debt, extra-budgetary revenue and spending and contingent liabilities (and not just the use of nationally-raised revenue); (b) the short-, medium- and long-term implications of an amendment and the recognition of cyclical factors; and (c) funding available for the construction and maintenance of infrastructure (see Sections 7 and 8). These issues were

noted by the Commission, amongst other commentators, in its earlier response to the draft Bill. This approach allows greater flexibility to adapt budget constraints and targets to changing global economic trends on an annual basis. An alternative approach might be to include some form of fiscal rules in the form of regulations issued from time to time. This will ensure that such rules are easily changed when economic conditions are adverse or otherwise as opposed to legislation which tends to be less responsive to changes in the external environment.

- 4.2 Section 10 (7) allows for [portfolio] committees to convert part of the national department's spending into a conditional grant. In this respect, portfolio committees will need to balance the performance expectations of national departments with the fiscal autonomy of provincial and local governments to decide on how to spend their allocations.

5. Implications for Parliament

- 5.1 Parliaments' Finance and Appropriation Committees will be most actively involved in a budget amendment during the fourth and first terms whilst the portfolio [and perhaps select] committees will be most actively involved during the third term compiling their Budget Review and Recommendations reports. This will effectively require considerably more committee and plenary time during the fourth and first terms and the rescheduling of constituency and member training time.
- 5.2 The capacity of the Parliamentary Budget Office to continuously translate macro-economic and fiscal policy adjustments to the departmental, vertical and horizontal divisions of revenue will need to be of a high level and will be dependent for its continuous data feed on the National Treasury and other line departments. The Budget Office will need to be able to assess the economy, efficiency and effectiveness of spending on the basis of departmental reports of outputs and socio-economic impact.

6. Implications for Provincial and Municipal Governments

- 6.1 The three-stage budget amendment process proposed in the Bill effectively gives provincial governments and municipalities first bite at the government budget by requiring amendment of the Division of Revenue Bill (which details the sub-national governments' shares) before the Appropriation Bill (which details the national government's share).
- 6.2 Provincial Legislatures might want to engage their Provincial Treasuries and departments in a similar budget amendment process. The co-ordination of provincial and national government budget amendment processes though will be tricky given that provincial departments both provide essential inputs into and are dependent on the decisions of the national budget amendment process. If the Provincial Legislatures are to engage in their own budget amendments processes, legislation will be required to establish the time-frames and procedures to do so. Since the potential for discord between the provincial and national budget amendment processes is high, a framework for provincial budget amendments should be indicated in this legislation.

7. Implications for the Financial and Fiscal Commission

- 7.1 Section 4 (4) © indicates that the Appropriations Committees (which deal with expenditure and division of revenue issues) should consider the recommendations of the Financial and Fiscal Commission. The Finance Committees (which deal with revenue and macro-economic and fiscal policy issues) can choose to request the Commission's views on these matters.
- 7.2 Section 9 (7) (a) requires the Appropriations Committees to consult the Financial and Fiscal Commission during its deliberations on amending the Division of Revenue Bill. The Bill does not make reference to consulting the Commission during the Committee's earlier deliberations on the fiscal

framework, the Appropriations and Revenue Bills even though the Commission has a significant role to play on matters involving the exercise of revenue powers and borrowing activities of sub-national government. The Commission's recommendations on these and related matters are made ten months in advance of the tabling of these Bills and present an opportunity for the Committees to consider the views of the Commission.

- 7.3 The Bill essentially reinforces the current position and mandate of the Commission but could be more specific on the anticipated roles and functions of the Commission and on the frequency of its engagements with the budget cycle.

3 8. Recommendations

- 8.1 Both the Ministry of Finance and Parliament will need to adjust their schedules and processes to accommodate the proposed budget amendment procedure, particularly during the fourth and first terms (October to April). Altogether, 21 out of the 30 working weeks that Parliament is in session could involve amending the Medium Term Budget Policy Statement, the Annual Budget and the Adjustments Budget.
- 8.2 While it is not necessary to legislate, fiscal rules should be introduced in the form of regulations to this Act. These are more easily amended than legislation. The ability for the system to respond to rapid changes in the global macro-economic environment is a key consideration in this process.
- 8.3 The fiscal implications of this Bill, including the establishment and staffing of a Budget Office should be indicated in further drafts to this Bill.
- 8.4 The proposed powers of portfolio committees to convert sections of the budget into conditional transfers should be regulated in order to avoid a proliferation of conditional grants or a proliferation of non-standardized conditions within existing grants.

- 8.5 A framework (minimum norms and standards) to enable Provincial Legislatures to engage their own budget amendment processes should be indicated in this legislation. This framework will need to carefully consider the scheduling of interactions between national and provincial budget [amendment] procedures.
- 8.6 Consideration should be given to establishing separate provincial (and local government) appropriation committees in both the National Council of Provinces and the Provincial Legislatures.
- 8.7 The Bill essentially reinforces the current position and mandate of the Financial and Fiscal Commission but could be more specific on the anticipated roles and functions of the Commission and on the frequency of its engagements with the various committees.