

# PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

---

## ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

---

MONDAY, 29 JULY 2013

### COMMITTEE REPORT

The Speaker:

*(Final mandate stage)* Report of the Standing Committee on Finance and Economic Development on the *Tourism Bill* [B 44D–2012] (NCOP), dated 24 July 2013, as follows:

The Standing Committee on Finance and Economic Development, having considered the *Tourism Bill* [B 44D–2012] (NCOP), referred to the Committee in terms of Standing Rule 220, recommends that the House confers on the Western Cape's delegation in the National Council of Provinces the authority not to support the Bill.

The Committee asks the House to note that:

1. As part of its Negotiating Mandate on the *Tourism Bill* [B 44B – 2012], the Standing Committee on Finance and Economic Development made several proposed amendments on this Bill for the consideration of the NCOP Select Committee on Trade and International Relations.
2. The NCOP Select Committee instructed the Department (on page 5 of their minutes of the Negotiating Mandate meeting, dated 19 June 2013) to respond in writing to the proposals made by the provinces in the negotiating mandate phase. The purpose of the instruction is so that the provinces can decide on their final mandates knowing which suggestions were rejected or accepted and why, in order to enable the provinces to decide on their final mandates.
3. There is very good reason to believe that the Bill before the Standing Committee [B 44D–2012] is not the version of the Bill approved by the NCOP Select Committee during the negotiating mandate phase on 19 June. This appears to be an administrative oversight

that must be corrected before the Bill is voted on in the NCOP. It is clear from the minutes, for example (page 4 paragraph 3.3), that the NCOP Select Committee supported the making of a minor textual amendment proposed by the Western Cape Provincial Parliament (WCPP) Standing Committee. This amendment has not been made to the Bill. Hence the Standing Committee's opinion that the NCOP may vote on a version of the Bill that has not been agreed to by the NCOP Select Committee. It is not clear whether all the amendments proposed by the other provinces and supported by the NCOP Select Committee have been made to the Bill.

4. On this basis alone we caution that the version of the Bill to be voted on may not be the version in fact agreed to by the NCOP Select Committee.
5. Even though the NCOP Select Committee rejected the two proposals by the WCPP Standing Committee referred to in page 5 of the minutes, the Department's response indicates in relation to these proposals, in the first instance, that, "The comment will have to be referred by the Select Committee (NCOP) to the State Law Adviser for consideration and action..." and, in the second instance that, "... the Department recommend that Clause 50(3)(d) be removed..."
6. These suggestions by the Department were made after the negotiating mandate phase and appears to contradict the Select Committee's rejection of these two proposals. It appears most likely that the Department erred in proposing further amendments to the Bill *after* the negotiating mandate phase in contradiction of the Select Committee's rejection of these proposals during the negotiating mandate phase. It appears as though the Department was expected to give reasons for the Select Committees support or rejection of certain proposals rather than make new proposals.
7. This presumed error by the Department resulted in the fact that the Western Cape (and maybe certain other provinces) have not received reasons for the NCOP Select Committee's support or rejection of their proposals. There may be perfectly good reasons why the Bill creates a valid offence in relation to tourist guides in terms of clause 57 (contrary to the WCPP's assertions) and the Committee may want to support the Bill if it knew what these reasons were but, not knowing, the Committee cannot support a Bill that appears to create an offence that cannot possibly be lawfully prosecuted.
8. Hence, the factual basis necessary for the Standing Committee to advise the House to confer authority in support of the Bill is absent for two reasons:
  - 8.1 The Bill before the Standing Committee (and to be voted on by the NCOP) does not appear, in every respect, to be the version in fact agreed to by the Select Committee, and
  - 8.2 The Standing Committee did not receive reasons for the Select Committee's support or rejection of its proposals.
9. Under these circumstances we are not of the view that the province is in a position to confer authority in support of the Bill.