

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

THURSDAY, 29 JUNE 2023

COMMITTEE REPORTS

1. Report on the Workshop on the First Draft of Amendments to the Standing Rules and the Money Bills Amendment Procedure Bill

1. Introduction and background

At the second Money Bills Amendment Procedure Workshop in January 2021, the Budget Committee resolved to enquire about assistance from the Western Cape Provincial Parliament (WCPP) to assist the Committee with the research and legal capabilities with the preparation of a draft bill. The WCPP proposed a project proposal to the Budget Committee on 24 June 2022.

The WCPP confirmed that the Legal Unit of the WCPP has the capacity to assist the Committee with the preparation of a draft bill, ably supported by the Knowledge Management and Information Services business unit (Research), specifically also to support the Committee in the manner they are currently doing (eg providing various pieces of research or research reports to inform the process) at no or very limited costs to the WCPP. The WCPP also informed the Committee that the act only need to deal with a procedure for the amendment of money bills. All other aspects concerning the processing of money bills can be provided for in the Standing Rules. Similar reasoning applies to the issue of standing operating procedures for committees dealing with the amendment of money bills. It is therefore ideal for the rules and the standard operating procedures to be dealt with first so that what remains will be provided for in the act.

The following documents were provided by the WCPP Legal Unit to the Committee on 21 October 2022:

1.1 Annexure A – Draft Western Cape Money Bills Amendment Procedure Bill

First Draft Bill with a draft memorandum on the objects of the Bill.



Draft WC Money
Bills Amendment Proc

1.2 Annexure B – Further proposed amendments to the Standing Rules

Further amendments to the Standing Rules that are byproducts of the bill or are otherwise informed by the bill.



21102022 Further
Proposed Amendme

1.3 Annexure C – Further proposed amendments to Rules 185, 186 and 187

This document contains track changes to reflect how these rules have been amended relative to the proposed amendments referred to the Committee on 2 September 2022.



21102022 Further
Proposed Amendme

The Budget Committee held a workshop on 10 March 2023 and was briefed on the first draft of amendments to the Standing Rules and the Draft Western Cape Money Bills Amendment Procedure Bill. The stakeholders that were invited to the workshop were the WCPP's Legal and Research units. The National Treasury, the Provincial Treasury and the Financial and Fiscal Commission were invited to provide feedback on the first draft bill.

2. The recommended approach from the WCPP on the Draft Western Cape Money Bills Amendment Procedure Bill

The recommended approach to the amendment of money bills for the Western Cape as per section 120(3) of the Constitution is that “A provincial Act must provide for a procedure by which the province’s legislature may amend a money Bill”.

The Constitution does not require that the entire process for the consideration of money bills be taken up in a provincial act.

Legislative process is dealt with in the rules of the provincial legislatures and is premised on the authority of a provincial legislature to determine and control its own internal arrangements, proceedings and procedures, and to make rules and orders concerning its business. It is not necessary for a provincial act to deal with the entire legislative process of money bills. This process is already provided for in the Standing Rules of the Western Cape Provincial Parliament, and the Western Cape Provincial Parliament has been passing money bills for a few decades. Once an amendment is proposed, the provisions of a provincial act dealing with the procedure for the amendment of money bills is then required.

By providing in an act only for those matters that are required to be provided for in a provincial act, flexibility is added to the processes of considering and passing money bills, and of amending money bills. Standing Rules are more flexible and susceptible to amendment than statutory instruments.

3. Standing Rules

It is suggested that the review of the Standing Rules and other enabling instruments precede the drafting of the Money Bills Amendment Procedure Bill to ensure that the Bill does not provide for matters that can be provided for in these other instruments. Also read Annexure B and C in respect of amendments to the Standing Rules.

3.1 In respect of the Standing Rules:

- a. It is proposed that the Standing Rules be reviewed with a focus on the law-making process for money bills and for the amendment of money bills.
- b. It is required by the schedule of the Money Bills and Related Matters Act, 2009 (Act 9 of 2009), that the Standing Rules of the provincial legislatures provide for time frames to introduce and consider money bills, with due regard to the constitutional obligation to facilitate public involvement, and comments from the member of the executive council who is responsible for financial matters in the province.
- c. There are other aspects of the Standing Rules, as it concerns the law-making process in respect of money bills, that may benefit from reconsideration or amendment. These may include dealing with proposed amendments (see rule 184), the meaning of consideration of the “principle of the bill” (see rule 187), and referral of money bills to committees, and the time periods for deliberation on money bills (see rule 188)
- d. It is anticipated also that the Standing Rules will be reviewed to identify when an amendment to a money bill has been formally proposed, in which case the provisions of the relevant provincial act (providing a procedure for the amendment of money bills) come into operation. It may also provide for *alternatives* to a formal proposal of an amendment.
- e. Only those procedural matters that cannot be provided for in the Standing Rules (because it requires a provincial act) should be provided for in a provincial act.
- f. The Standing Rules may be amended to provide for other matters identified in consultation with Plenary Support and, notably, the Committee Support Section.

The proposed amendments to the Standing Rules to give effect to a money bills amendment procedure for the Western Cape was presented to the Budget Committee as follows:

Proposed amendment (what?)	Standing rule as amended (how?)	Motivation for amendment (why?)
Definitions		
At the definition of “ consider ”, to delete the period (.) at the end of the sentence and replace it with a semicolon (;).		The amendment is technical to align the definition with the style used in the definitions clause. The definition will be relevant in later cross-referencing regarding money bill amendments.
At the definition of “ deliberate ”, to delete		The amendment is technical to align the definition with

<p>the period (.) at the end of the sentence and replace it with a semicolon (;).</p>		<p>the style used in the definitions clause. The definition will be relevant in later cross-referencing regarding money bill amendments¹.</p>
<p>To substitute the definition of “MTBPS” with:</p> <p>“medium-term budget policy statement” is a policy statement by the Provincial Minister responsible for financial matters, which statement contains the matters provided for in rule 221(2);</p> <p>And to substitute the acronym “MTBPS” where it appears in section 114 with the expression “medium-term budget policy statement” (as given effect to in the proposed rule 114 here below).</p>		<p>To remove an unnecessary acronym and align the definition with the rules.</p>
<p>Below the definition of “money bill”, to add, ““Money Bills Amendment Act” means the Western Cape Money Bills Amendment Procedure Act, 2023;”</p>		<p>To simplify further references to the Money Bills Amendment Act.</p>
<p>Below the definition of “deliberate”, to add:</p>	<p>“proposal for amendment of a money bill” means a resolution by which the Budget Committee expresses its intention to recommend amendment of a money bill to the House in accordance with the procedure in section 3 of the Money Bills</p>	<p>To provide certainty in respect of the specific juristic act that will bring the provisions of the Money Bills Amendment Act into operation.</p>

¹ Even though not related to money bill amendments, this stylistic correction should also be made at the definitions of “**in camera**”, “**motion**”, “**question of privilege**”, “**substantive motion**”, “**tabling**” and “**term**”. The semicolon should be removed after the definition of “**working day**” and should be replaced with a period. A space must be added between “**Question Paper**” and “**recess**”.

<p>In the definitions clause to add:</p>	<p>Amendment Act; ”recommendation for amendment of a money bill” means– (a) the making of a recommendation by the Budget Committee to the provincial Minister responsible for financial matters in the province in respect of amendment of a money bill; or (b) the making of a recommendation by a standing committee to the provincial Minister over whom the committee has oversight in respect of amendment of a money bill;</p>	<p>To provide for engagements with the provincial executive on money bill matters that does not bring the Money Bills Amendment Act into operation, but nevertheless allows for robust oversight.</p> <p>Should the provincial executive not give effect to recommendations made by the Budget Committee or standing committees (either presently or in future budgeting processes), and should the Budget Committee be so inclined, that Committee may adopt a proposal for amendment of a money bill.</p> <p>This approach allows for engagements with the provincial executive in respect of money bill amendments in the traditional context of oversight and accountability, but still “reserves” the ultimate authority of the legislature to amend a money bill following the procedure provided for in the Money Bills Amendment Act, should the need arise.</p> <p>Also see rules 111 (in respect of standing committees) and 114 (in respect of the Budget Committee) of the Standing Rules and the amendments proposed there.</p>
<p>In the definitions clause, to add:</p>	<p>“FFC” means the Financial and Fiscal Commission, as provided for in sections 220, 221 and 222 of the Constitution, and in the Financial and Fiscal Commission Act, 1997;</p>	<p>For cross-referencing with amendments referred to later in this document.</p>

<p>At rule 71(2), to add: A committee may establish subcommittees of its members, and may utilise the services of experts, <u>including the FFC.</u></p>	<p>A committee may establish subcommittees of its members, and may utilise the services of experts, including the FFC.</p>	<p>To refer to use of the FFC as an expert consultant.</p>
<p>To add to rule 91, after paragraph (c) thereof (with the required consequential renumbering), the following paragraph (d):</p>	<p>require from any person any information necessary for the committee to perform its mandate;</p>	<p>This follows from section 115 of the Constitution, but may benefit from expression in the Standing Rules, and may also be important whenever a committee requires information necessary to consider money bills.</p>
<p>To add to rule 111(1), after paragraph (c) thereof (with the required consequential renumbering), the following paragraph (d):</p>	<p>in respect of money bills, may make a recommendation for amendment of a money bill, or may make a recommendation to the Budget Committee for that committee to make a proposal for amendment of a money bill;</p>	<p>It is suggested that only the Budget Committee should be empowered to bring the Money Bills Amendment Act into operation – hence a “centralisation” of the power to recommend the amendment of money bills to the House.</p> <p>It is hoped that this will simplify the processes concerning the amendment of money bills and will ensure that amendments can be dealt with expeditiously (which a “decentralised” approach may complicate).</p> <p>One must nevertheless also empower standing committees to influence the process meaningfully and to make consequential recommendations, since standing committees have oversight over respective departments, and have expertise and insight into the budgets and projects of those departments.</p>
<p>To add to rule 111(2)(c), after item (ii) thereof (with</p>	<p>the responsible provincial Minister of the department or entity concerned to provide reasons to</p>	<p>Empowering the standing committee to have oversight over a decision to</p>

<p>the required consequential renumbering), the following item (iii):</p> <p>And to remove the word “or: after item (I).</p>	<p>the committee for accepting or not accepting a recommendation for amendment of a money bill.</p>	<p>accept or reject a recommendation made by a committee.</p> <p>Should a committee become dissatisfied with attempts to persuade departments to make certain budgetary or expenditure decisions, it can make a recommendation to the Budget Committee to bring the Money Bills Amendment Act into operation.</p>
<p>To substitute rule 114 as follows:</p>	<p>(1) The Budget Committee considers and reports to the House on—</p> <ul style="list-style-type: none"> a. all money bills; b. division of revenue bills; c. budget allocations in the annual medium-term budget policy statement and the main budget; d. budget estimates, and economic and budgetary policies; e. the budget review; f. actual expenditure and revenue published by the provincial treasury; g. recommendations of the FFC; and h. a quarterly basis, on overall provincial expenditure and non-financial reports. <p>(2) The Budget Committee must ensure public involvement in all budgetary processes.</p> <p>(3) The Budget Committee may engage the provincial government on spending patterns.</p> <p>(4) The Budget Committee may—</p> <ul style="list-style-type: none"> (a) make a recommendation for amendment of a money bill; 	<p>To extend the functions of the Budget Committee to bring it in line with the functions of similar committees in provincial money bills amendment acts, while retaining the existing provisions of our rules.</p> <p>To provide for a process preceding a proposal by the Budget Committee, which proposal will have the effect of bringing the Money Bills Amendment Act into effect.</p> <p>This allows both the standing committees system and the Budget Committee to engage robustly with the provincial government on money bills, including recommended amendments to money bills.</p> <p>During the “recommendations” phase, the decisions to accept or reject a recommendation for the amendment of a money bill remains in the remit of the provincial government. This is, in essence, the situation as it</p>

	<p>(b) make a proposal for amendment of a money bill, but only after—</p> <p>(i) a recommendation for amendment of a money bill on the same subject has been considered by the relevant Minister; and</p> <p>(ii) said Minister has responded to the recommendation for amendment of a money Bill; and</p> <p>(c) consult with any other committee of the legislature on any matter, including a recommendation for amendment of a money bill made by any standing committee.</p> <p>(5) The Minister responsible for financial matters in the province must provide reasons to the Budget Committee for accepting or not accepting a recommendation for amendment of a money bill by the committee.</p>	<p>is at present.</p> <p>It is proposed that this “recommendations” phase is useful. Committees may use this phase to pressure government to make amendments to money bills, or to commit to addressing concerns at some point in the future, either by dealing with it in future money bills or by other means.</p> <p>Removing this space for “recommendations” may have the unintended consequence of deterring committees from engaging with money bills, in as much as it may not always be desirable to activate the provisions of a Money Bills Amendment Act whenever a committee wishes to raise an issue related to amendment of a money bill.</p> <p>However, there must, ultimately, be an empowerment for the legislature to “drive” an amendment it considers necessary. It is suggested that the Constitution expects that the legislatures must have the final say in money bills. The “proposal” phase provides for this.</p> <p>The approach here is a “last resorts” approach, whereby the legislature will employ the “proposal” process in circumstances where it could not persuade the provincial government to agree to an amendment and effect it in a bill before the legislature.</p>
--	--	--

		<p>It is proposed that the “recommendations or proposals” system achieves a balance between, on the one hand, the desirability for the legislature and government to agree on the content of money bills, and, on the other hand, the constitutional requirement that the legislatures must ultimately determine the content of money bills, where the former objective cannot be achieved.</p>
<p>Note on public involvement:</p> <p>The Money Bills and Related Matters Act (in its schedule) requires that provincial legislatures provide for public involvement in their rules.</p>		<p>I suggest that rules 72(4) and 114(e) are adequate. It is best for parliamentary committees to make their own determinations regarding the nature and extent of public involvement.</p> <p>There may be times when there are pressing considerations in favour of higher levels of public involvement, and conversely.</p> <p>Case law recognises this discretionary space to legislatures, provided that they provide the public with a real and meaningful opportunity to have their say.</p> <p>Providing for public involvement in respect of money bills is not materially different from other public involvement processes, and the legislature already provides for this in guiding documents and sectoral frameworks.</p>
<p>Chapter 13 Legislative process</p>		<p>These amendments are dealt with in separate documents.</p>

		<p><u>Explanatory notes:</u></p> <p>The historic difference between the legislative process for ordinary bills and money bills appears related to the restrictions placed on amendment of money bills by legislatures.</p> <p>By empowering the legislatures to amend money bills (as it would any other “ordinary” Bill) the rationale for these two distinct legislative processes falls away.</p> <p>The new proposed Chapter 13 also provides a procedure for the legislative process for money bills, <i>short of dealing with the procedure for the amendment of money bills.</i></p> <p>The rationale for the other proposed amendments to Chapter 13 is consequential to the proposal above or should appear in the text and context of the new proposed Chapter 13.</p>
<p>To amend the existing rule 221 of the Standing Rules with the addition of subrule (2) (and consequential renumbering):</p>	<p>At least four months prior to the introduction of the provincial budget, the provincial Minister responsible for financial matters must submit to the Provincial Parliament a medium-term budget policy statement that must include–</p> <ul style="list-style-type: none"> (a) an explanation of the economic and fiscal policy position; (b) the spending priorities of the provincial government for the next three years; (c) conditional grant allocations to departments, if any; and (d) a review of actual spending by each department between 1 April and 30 September of the current fiscal year. 	<p>To provide for information necessary for the consideration of money bills.</p> <p>These matters are provided for in the Eastern Cape’s Act and Gauteng’s Act, and also the national Act.</p> <p>It can be provided for in the Standing Rules.</p>

3.2 Annexure D – Amendments to Chapter 13 of the Standing Rules

Advocate Le Roux gave a presentation on the proposed amendments to Chapter 13 of the Standing Rules to give effect to a money bills amendment procedure for the Western Cape.



Standing Rules
Amendments Chapt

4. Input on the draft of amendments of the Standing Rules and the Money Bills Amendment Procedure Bill

4.1 Provincial Treasury

4.1.1 Impact on the provincial budget process

In terms of process, the Provincial Treasury indicated that the presented Draft Bill has several implications for the Provincial Treasury, the executive and the budget process as a whole. The Draft Bill needs careful alignment with the formal budget process.

A consideration to influence the budget process before tabling of the Appropriation Bill will deepen the engagement across the full budget cycle. Objective participation and continuous financial scrutiny by the legislature and the public should take place throughout the budget cycle. There will therefore be a much smaller need to exert influence at the stage when a money bill is being tabled.

The Draft Bill omits sections of the National Money Bills Amendment Procedure and Related Matters Act, 2009 (MBAPRMA). Section 18 of the Public Finance Management Act, 1999 (Act 1 of 1999), outlines the primary requirements in terms of what the budget must contain and the MBAPRMA imposes additional requirements on the Provincial Treasury as to what must be tabled on budget day. The suggestion is that these requirements are outlined in the Standing Rules, but this would create uncertainty with the Provincial Treasury as the process that is followed is as legislated in the national act.

Section 6 of the MBAPRMA refers to the medium-term budget policy statement (MTBPS). The Draft Bill does not impose a requirement to table a MTBPS or preliminary three-year estimates, nor any legal requirement on the Provincial Treasury to provide a half-yearly review of spending and performance.

As per section 6(I), at least three months prior to the introduction of the national budget, the Minister must submit to Parliament a medium-term budget policy statement. The medium term budget policy statement must include: (a) a revised fiscal framework for the present financial year and the proposed fiscal framework for the next three years; (b) an explanation of the macro-economic and fiscal policy position, the macro-economic projections and the assumptions underpinning the fiscal framework; (c) the spending priorities of the national government for the next three years; (d) the proposed division of revenue between the spheres of government and between arms of government within a sphere for the next three years; (e) the proposed substantial adjustments to conditional grant allocations to provinces and local governments, if any; and (f) a review of the actual spending by each national department and each provincial government between 1 April and 30 September of the current fiscal year. A House must refer matters referred to in subsections (2)(a) and (b) to its committee on finance.

(4) A House may require its committee on finance to consult with any other committee in considering matters referred to it. (5) Each committee on finance must 30 days after the tabling of the medium-term budget policy statement report to the National Assembly or the National Council of Provinces on the proposed fiscal framework for the next three financial years. (6) The report may include recommendations to amend the fiscal framework should it remain materially unchanged when submitted with the national budget. (7) A report referred to in (5) must be submitted to the Minister within 7 days after its adoption by a House. (8) A House must refer matters concerning subsections (c), (d) and (e) to its committee on appropriations. (9) A House may require its committee on appropriations to consult with any other committee in considering matters referred to it. (10) Each committee on appropriations must 30 days after the tabling of the medium-term budget policy statement submit a report to the National Assembly or the National Council of Provinces.

Other sections to consider for aligning legislation when drafting the bill would be sections 5, 7, 9(5), 10, 11, 12 and 13 of the MBAPRMA.

4.1.2 Constitutional concerns

A constitutional question raised by section 3(d) of the proposed bill, consideration for the Budget Committee to introduce an amended money bill.

There is no clear process in the Draft Bill that outlines a process if deadlocks occur between the executive and Parliament which could result in government shutting down.

The constitutional grey area:

Section 119 of the Constitution stipulates that only the Member of the Executive Council who is responsible for financial matters in the Province may introduce a money bill in the legislature.

Section 120 requires an amendment procedure.

Section 29 of the Western Cape Constitution stipulates that if a bill is a money bill, then only the Provincial Minister responsible for financial matters may introduce it in the Provincial Parliament.

Under the proposed rules, the Committee tables an A bill which may be classified as a money bill, which cannot be “introduced” by anyone other than the Minister of Finance.

It is quite common for national tax bills to be amended.

- a. As per usual, the National Treasury runs an extensive pre-parliament consultation process.
- b. If the Committee changes, the Minister introduces the amendment.

4.1.3 Technical drafting concerns

The term “executive authority” has different definitions in legislation. The Provincial Treasury recommends that a different term is used.

The term “fiscal framework” should be defined.

The term “revenue bill” is unclear if the Draft Bill intends for different procedures to apply to different types of money bills.

4.1.4 Consistency with norms and standards

Section 5 of the Draft Bill:

*When the Committee recommends amendment of a money Bill, as provided for in section 3 of this Act, the Committee must, in its report to the House, give the **Committee’s assurance** that the Bill, should it be amended in the manner recommended by the Committee, is consistent with the fiscal framework and Division of Revenue Bill.*

Norms and standards state:

- (a) **A money bill sent to the Premier for assent must be consistent with: (i) the relevant fiscal framework adopted by Parliament; and (ii) the relevant Division of Revenue Bill adopted by Parliament.**
- (b) **When considering an amendment, a provincial legislature or any of its committees must:**
 - i. ensure that there is an appropriate balance between revenue, expenditure and borrowing;
 - ii. ensure that debt levels and debt interest cost are reasonable;
 - iii. ensure that the cost of recurrent spending is not deferred to future generations;
 - iv. ensure that there is adequate provision for spending on infrastructure;
 - v. ensure that there is development, overall capital spending and maintenance;
 - vi. consider the short-, medium- and long-term implications of the fiscal framework, division of revenue and national budget on the long-term growth potential of the economy and the development of the country;
 - vii. take into account cyclical factors that may have an impact on the prevailing fiscal position; and
 - viii. take into account all public revenue and expenditure, including extra budgetary funds, and contingent liabilities.

There should be an independent verification (eg through a Provincial Budget Office) that the bill meets the norms and standards as “assurance” is not equivalent to “ensure”.

When the Committee recommends amendment of a revenue bill, as provided for in section 3 of this Act, the Committee must, in its report to the House, give the Committee’s assurance that the considerations in section 8, should the revenue bill be amended as recommended, have been taken into account.

The only area of the bill that differentiates between “revenue” and “appropriation bills”, is where it is suggested that a clear process for different types of money bills is outlined:

1. Revenue Bill
2. Appropriation (Budget) Bill
3. Appropriation (outside of the Budget) Bill – Budget Adjustments Bill

4.2 Financial and Fiscal Commission (FFC)

4.2.1 Overview

The legislature's oversight role is to:

- i. Participate in discussions with departments when decisions are made as to how allocations will be spent on different programmes.
- ii. Get involved during the process of resource distribution within votes, eg by looking at the budget of a specific hospital.
- iii. Look at the expenditure execution side of facilities (eg a specific hospital).
- iv. Provide input beyond the budget process.
- v. Impact where oversight is essential.

Challenges:

- i. There is a need to avoid amendments that cause risks or disrupt service delivery.
- ii. The scope for the amendment to appropriation bills in the House is inherently limited as the process has already switched to the delivery phase.

4.2.2 Comments on the Draft Standing Rules

4.2.2.1 Time frame

The FFC is in support of the detail unpacked in the proposed Standing Rule 114 in terms of the documentations required to inform the considerations of money-related bills by the Budget Committee. However, the Standing Rules should include time frames to ensure that these considerations to be undertaken are completed in time for the legislative process.

4.2.2.2 Establish a mechanism

The Budget Committee should establish a mechanism to collaborate to share input with other portfolio committees where money-related matters may interface with the Budget Committee.

It is recommended that standing rules of engagement be established to form joint sittings of the committees to consider comprehensive money-related matters (eg Standing Committee on Finance, Economic Opportunities and Tourism).

4.2.2.3 Provisions for public participation

The MBAPRMA Schedule for norms and standards for provincial legislatures (d)(i):

“The standing rules of the provincial legislature must provide for time frames to introduce and consider money bills, with or without amendments, with due regard to its constitutional obligation to facilitate public involvement in its legislative and other processes of the legislature.”

4.2.3 Comments on the first draft of the Money Bills Amendments Procedure Bill

Fiscal oversight and accountability go hand in hand. The budget analysis should be seen as a yearlong process rather than a one-off event linked to the budget speech. Legislatures need to increase the capabilities concerning policy analysis and review, budget analysis and information systems, as well as consultation with the constituents. Legislatures can improve accountability by strengthening and supporting institutions supporting democracy.

Implications of budget amendments must also be understood so that no harm is done.

4.2.3.1 Perspective of FFC relating to the fiscal oversight challenges

- i. Different parts of the accountability chain are not well synchronised:
 - Parliament, the Presidency, Ministers, provincial legislatures, Premiers, MECs, mayors, local councils and ward committees
 - Premiers sign performance agreements with the President over output for which resources are appropriated by legislatures and outcomes to which accountability lies with national Ministers
- ii. Parliament's and legislatures' oversight is not always timely;
- iii. Failures in the system of performance management confound legislative accountability;
- iv. Party political interests distort effective oversight function;
- v. Information asymmetry between the government and legislatures prevents effective oversight;
- vi. Performance management information is not independently collected;
- vii. Lack of balance between short-term delivery-focused oversight and long-term policy-outcome oversight; and
- viii. Parliament's ability to balance revenue and expenditure – disruption to the budget cycle and analytical abilities to assess the implication of budget amendments.

4.2.3.2 Institutional arrangements

The bill does clarify the support to the provincial legislature in performing the functions unpacked in the bill, ie is the committee to undertake the responsibility internally, or is the establishment of a Provincial Legislature Budget Unit envisaged, and/or the use of an independent structure such as the FFC.

The bill does not indicate the funding requirements and mechanisms for the successful implementation of the money bill.

4.2.3.3 Timelines

The bill currently only reflects the main budget process and its timelines and is silent on the MTBPS, adjustment budget process and the possibility for ad-hoc amendments to money-related matters contained in other provincial legislation, eg gambling taxes.

4.2.3.4 FFC input on drafting of the bill

In terms of the Provincial Budget Assessment Framework, the FFC will analyse and make recommendation to the Draft Bill to matters relating to following:

4.2.3.4.1 Section 214(2): Equitable shares and allocations of revenue

- Unpacking the provincial and local government equitable share allocations, ie formula changes, data updates and their impact on provincial share.
- Conditional grant allocations for provincial and local governments, financial performance tracking and baseline adjustments. The amendment of section 7 in the Division of Revenue where pledging provincial conditional grants are allowed, as this may be an avenue to access funding.

4.2.3.4.2 Section 228(2)(b): Provincial taxes

- Adherence with the norms and standards prescribed in the Money Bills Act, 2009, and as amended in 2018.
- Adherence to the requirements of the Provincial Tax Regulation Process Act, 2001.

4.2.3.4.3 Section 230(2): Provincial loans

- The Constitution (section 230(1)) allows provinces and municipalities to borrow for capital and bridging finance. This is subject to developing a framework and legislation to ensure that such borrowing is “in accordance with reasonable conditions determined by national legislation”.
- The current legal framework for provincial and municipal borrowing includes the Constitution, the Borrowing Powers of Provincial Governments Act, 1996 (BPPGA), the Municipal Finance Management Act, and the Public Finance Management Act, 1999 (PFMA).

5. Recommendation on the way forward

The Committee RESOLVED that:

- 5.1 The WCPP Legal Unit, the Provincial Treasury and the Department of the Premier’s Legal Unit establish a Technical Team by 31 March 2023. This Technical Team will incorporate all the technical proposals made to the Draft Bill.
- 5.2 Political parties present their views on the first draft of amendments to the Standing Rules and the Money Bills Amendments Procedure Bill at the next workshop.

2. Annual Report of the Standing Committee on Local Government for the 2022/23 financial year, as follows:

Annual Report of the Standing Committee on Local Government for the 2022/23 financial year, as follows:

Members

The Committee comprised of the following members:

Chairperson: Mr I Sileku (from 27 February 2023)
Chairperson: Mr D America (from 13 June 2022 until 27 February 2023)
Chairperson: Ms L Botha (until 12 June 2022)

Members: Ms LM Maseko
Ms C Murray (from 5 August 2022)
Mr RD Mackenzie (from 9 June 2022 until 5 August 2022)
Mr G Bosman (until 8 June 2022)
Mr CM Dugmore
Ms N Makamba-Botya (until 29 January 2023)
Mr T Klaas (from 27 February 2023)

Alternate members: Mr D America (from 27 February 2023)
Mr AP van der Westhuizen (from 1 March 2021)
Adv DM Baartman (until 9 June 2022)
Mr P Marran
Mr M Xego (until 29 January 2023)
Ms A Cassiem (from 27 February 2023)

1. Introduction

- 1.1 The mandate of the Committee was to:
 - 1.1.1 maintain oversight over the executive member and his Department, including the implementation of legislation, and to hold them accountable to the Western Cape Provincial Parliament; and
 - 1.1.2 consider and report on legislation, other matters and annual reports referred to it by the Speaker.
- 1.2. In fulfilment of its mandate the Committee:
 - 1.2.1 facilitated public participation and involvement in the legislative and other processes of the Committee;
 - 1.2.2 conducted its business in a fair, open and transparent manner;
 - 1.2.3 promoted cooperative governance; and
 - 1.2.4 reported regularly to the House.

2. Reporting department

Department of Local Government.

3. Overview of Committee's activities

3.1	Number of committee meetings	12
3.2	Number of Cluster oversight visits	2
3.3	Number of oversight visits	1
3.4	Number of provincial bills considered	3
3.5	Number of NCOP bills considered	0
3.6	Number of public hearings	3

4. Oversight activities

- 4.1 The Committee started the first term with a briefing by Mr A le Roux, Senior Legal Adviser, on the monitoring of local government by provincial standing committees, which was followed by a briefing by the Department on the status of induction and training of new Councillors at municipalities and the roles and responsibilities of MAYCO Members and portfolio Chairpersons. During the meeting the Committee was introduced to the new Chairperson of SALGA and was briefed on the Induction Programme for new Councillors. The Committee also conducted an oversight visit to the Western Cape Disaster Management Centre during which they were briefed on the operations of the Centre, report on fire related disasters during the past year and the readiness for possible floods with a view to the approaching winter season. The Committee was reconstituted and Mr D America was elected again as Chairperson of the Committee.
- 4.2 The Committee was briefed by the Auditor-General on the Consolidated General Report on Local Government Audit outcomes (MFMA 2020/21) with specific reference to the Audit Outcomes of the municipalities in the Western Cape and in particular the underperforming municipalities. The Committee received two further briefings by the Department of Local Government and Provincial Treasury on the Audit Outcomes of the municipalities in the Western Cape for the 2020/21 financial year with specific reference to the underperforming municipalities and the corrective measures and support envisage to these municipalities. The 2nd quarter ended with a Cluster Oversight visit to the

Overberg region during which the Heavenly Promise safe house in Bredasdorp was visited.

- 4.3 The Committee met with the Department and deliberated on the Annual Report of the Department of Local Government for the 2021/22 financial year. The Committee concluded the year with the Deliberation on Vote 14: Local Government in the Schedule to the Western Cape Adjustments Appropriation Bill [B 3–2022] and the consideration and adoption of the Committee Report on Vote 14: Local Government in the Schedule to the Western Cape Adjustments Appropriation Bill [B 3–2022].
- 4.4 With the reconstitution of the Committee started the year with the election of Mr I Sileku as the new Chairperson of the Committee. The Committee was briefed by the Department on their 3rd quarterly performance and expenditure reports (October 2022 – December 2022) and on 16 March 2023 the Department briefed the Committee on Vote 14: Local Government, in the Schedules to the Western Cape Additional Adjustments Appropriation Bill [B 1–2023] (2022/23 financial year) and the Western Cape Appropriation Bill [B 2–2023].

5. Legislation

In the 2022/23 financial year, the Committee dealt with the following legislation:

5.1 Provincial bills

- 5.1.1 Western Cape Adjustments Appropriation Bill [B 3–2022]: Vote 14
- 5.1.2 Western Cape Additional Adjustments Appropriation Bill (2022/23 financial year) [B 1–2023]: Vote 14
- 5.1.2 Western Cape Appropriation Bill [B 2–2023]: Vote 14

5.2 NCOP bills

No NCOP bills were considered.

6. Financial particulars

The Committee's actual expenditure for the 2022/23 financial year as at 31 March 2023 was R104 055 against an adjusted budget of R147 176.

Copy Attached.