

**PARLIAMENT**  
OF THE  
**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

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WEDNESDAY, 13 FEBRUARY 2019

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## ANNOUNCEMENTS

### National Assembly

#### The Speaker

#### 1. Referral to Committees of papers tabled

(1) The following papers are referred to the **Portfolio Committee on Justice and Correctional Services:**

- (a) Proclamation No R. 4, published in Government Gazette No 42204, dated 1 February 2019: Proclamation referring matter to Special Investigating Unit: In respect of the affairs of Umgeni Water (hereinafter referred to as “Umgeni”) a water board established in terms of section 108 of the Water Act 1956 (Act No 54 of 1956) operating within the KwaZulu-Natal Province, in terms of the Special Investigating Units and Special Tribunals Act, 1996 (Act No 74 of 1996).
- (b) Proclamation No R. 5, published in Government Gazette No 42204, dated 1 February 2019: Amendment of Proclamation No R. 28 of 2018, in terms of the Special Investigating Units and Special Tribunals Act, 1996 (Act No 74 of 1996).
- (c) Proclamation No R. 6, published in Government Gazette No 42204, dated 1 February 2019: Amendment of Proclamation No R. 23 of 2017, in terms of the Special Investigating Units and Special Tribunals Act, 1996 (Act No 74 of 1996).

(2) The following papers are referred to the **Portfolio Committee on Police:**

- (a) Agreement between the Government of the State of Qatar and the Government of the Republic of South Africa on Police Co-operation, tabled in terms of section 231(3) of the Constitution, 1996.

- (b) Memorandum of Understanding (MOU) between the Government of the Republic of South Africa and the Government of the Republic of Kenya on Police Co-operation, tabled in terms of section 231(3) of the Constitution, 1996.
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## TABLINGS

### National Assembly and National Council of Provinces

#### 1. The Speaker and the Chairperson

- (a) The Strategic Plan and Budget of the Auditor-General of South Africa for 2019-2022 [RP 435-2018].

### National Assembly

#### 1. The Speaker

- (a) Reply from the Minister of Trade and Industry to the *Report of the Portfolio Committee on Trade and Industry on Oversight Visit to the Sugar Cane Farmers and Sugar Industry Association in KwaZulu-Natal*, as adopted by the House on 29 November 2018.

Referred to the **Portfolio Committee on Trade and Industry**.

### National Council of Provinces

#### 1. The Chairperson

- (a) REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(2A)(a) OF THE PUBLIC PROTECTOR ACT, 1994.

Referred to **Select Committee on Security and Justice** for information.

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## COMMITTEE REPORTS

### National Assembly

- 1. Report of the Portfolio Committee on Science and Technology on the Protection, Promotion, Development and Management of Indigenous Knowledge Bill [B 6D – 2016], dated 13 February 2019.**

The Portfolio Committee on Science and Technology, having considered the subject of the *Protection, Promotion, Development and Management of Indigenous Knowledge Bill [B 6D – 2016]*, (National Assembly – sec 76), amended by the National Council of Provinces and referred to the committee, reports that it has agreed to the Bill.

Report to be considered

- 2. Report of the Portfolio Committee on Health on the National Health Laboratory Service Amendment Bill [B15D – 2017] (National Assembly – sec 76), dated 13 February 2019.**

The Portfolio Committee on Health having considered the *National Health Laboratory Service Amendment Bill [B15D – 2017]* (National Assembly – section 76), amended by the National Council of Provinces and referred to the Committee, reports that it has agreed to the Bill.

Report to be considered.

**3. The Standing Committee on Finance having processed the Public Investment Corporation Amendment Bill (Committee Bill) and the and the Private Members Bill – Public Investment Corporation Amendment Bill [B 01 – 2018] , 12 February 2019, reports as follows:**

**1. Context of the Bills**

- 1.1. Following various allegations of wrong-doing by the PIC in the public domain and the concerns of the trade unions and pensioners in the public sector that the PIC was making questionable investments, and representations by the trade unions, individual pensioners and the PIC to the Standing Committee on Finance (Scof) in this regard, the Committee arranged several briefings with the major parties concerned in 2017 and adopted a resolution on 18 October 2017 to introduce a Bill in Parliament that would seek to address these issues. The Committee received permission from the National Assembly to process the Committee Bill on 15 June 2018.
- 1.2. Following the Committee resolution of 18 October 2017 to effect amendments to the PIC Act, Mr David Maynier of the Democratic Alliance introduced a Private Members Bill in the National Assembly on 17 January 2018, covering many of the issues in the 18 October 2017 Committee resolution.
- 1.3. There were discussions with Mr Maynier to merge his Bill with the Committee Bill but there was no agreement on this, and the Committee decided to process both Mr Maynier's and the Committee's Bill simultaneously.
- 1.4. The Committee held meetings on the PIC on 17 October 2017, where it was briefed by the Government Employees Pension Fund (GEPF), the PIC and the trade unions. On 18 October 2017, the Committee adopted a resolution to receive further briefings and, among other decisions, introduce amendments to the principal Act governing the PIC. The Committee held a follow-up briefing on 14 November where it was further briefed by the PIC, the GEPF, the then Deputy Minister of Finance, Mr. Sifiso Buthelezi and trade unions.

- 1.5. On 24 April, the Committee received a briefing on the two draft PIC Bills (the Private Members Bill and the Committee Bill) and adopted a legislative proposal to amend the PIC Act through a Committee Bill as required by Rule 273 of the Rules of the National Assembly on 22 May 2018.
- 1.6. Public hearings were held on the two Bills on 31 May and 15 August 2018.
- 1.7. The Committee also met on 27 February 2018, 16 March 2018, 24 April 2018, 5 June 2018, 14 November 2018 and 6 February and 12 February 2019

## **2. Key issues in the Bills**

- 2.1. The Bills seek to provide greater transparency and better governance in the PIC. Among the key issues are the following:
  - 2.1.1. The Minister must appoint 10 non-executive Board members, including a representative of National Treasury; two representatives from the largest depositor and one representative of any depositor whose assets under management by the PIC are at least 10%; and two representatives of the trade union with the majority of the members in the GEPF (Government Employees Pension Fund) and one representative from another trade union, as decided by the Public Service Co-ordinating Bargaining Council (PSCBC) based upon proportional representation. The Minister of Finance must designate the Deputy Minister of Finance or, in consultation with Cabinet, any other Deputy Minister within the economic cluster to chair the PIC Board. The Board must include three executive members – one of which must be the Chief Executive Officer or of a similar designation. All Board members should have the necessary knowledge and expertise, including those representing the unions. The Minister must progressively comply with the appointment of Board members according to these requirements taking into account the rights of current members of the Board.

- 2.1.2. The PIC must invest in projects that will benefit the beneficiaries of the depositors and act in accordance with the instructions of the depositors and, in doing so, seek to invest according to certain guidelines. The PIC investment policies must also consider these guidelines.
- 2.1.3. The Minister must table a report annually to Parliament on all investments of deposits and requests for approval of any significant transactions in terms of the PFMA and must table regulations on the PIC in Parliament.
- 2.2. Mr Maynier's Private Members Bill required the National Assembly to follow a public nomination process to recommend to the Minister a person to be appointed as the Chairperson of the Board. Other members of the Board were to be appointed by the Minister in consultation with Cabinet. Of the non-executive members of the Board, each major depositor could appoint one member, and only one member to represent one or more registered trade unions. Furthermore, the Private Member's Bill does not provide any guidelines that the PIC should seek to take into account when implementing the instructions of the depositors.
- 2.3. The majority in the Committee decided that the Minister must designate the Deputy Minister of Finance or, in consultation with Cabinet, any other Deputy Minister within the economic cluster, to chair the Board as the public sector employees have a 'defined benefit' fund and if the PIC makes losses that reduce the pension benefits of the employees, it is the national fiscus that will have to make up for this. While providing for a Deputy Minister to chair the Board, the Bill also has strengthened Parliament's oversight role over the PIC. The appointment of one member to the Board for each major depositor raised the need to define a 'major depositor'. The GEPIF is by far the biggest depositor with 87.12 per cent. The other depositors include the Unemployment Insurance Fund (7.53%), the Compensation Commissioner Fund (2.02%), the Compensation Commissioner Pension Fund (1.12%) and the Associated Institutions Pension Fund (0.77%). Unlike the Committee Bill, the Private Member's Bill gives no indication on whether the threshold of 10 per cent would allow a depositor to nominate a Board member.

2.4. After the public participation process, the Committee deliberated and resolved to remove the proposed clause which mandated the PIC to provide housing loans to members of the GEPF who are in the ‘missing middle’ – with an income too high to qualify for state housing and too low to qualify for a loan from a financial institution. It was proposed that these housing loans for these members of the GEPF should be dealt with by the GEPF in terms of the Pension Funds Act, which already makes some provision for this. The Committee therefore proposes that the GEPF considers amending its rules to provide for these housing loans.

2.5. The Committee strongly believes that the GEPF laws should be reviewed reasonably soon after the new SCoF is established in the Sixth Parliament.

### **3. Commission of Inquiry into allegations of impropriety regarding the Public Investment Corporation**

3.1. The Committee discussed at length whether to postpone processing the PIC Bills before it in view of the ‘Commission of Inquiry into allegations of impropriety regarding the PIC’. However, for a variety of reasons, it was decided to go ahead with the Bills. Among the issues raised were the following:

3.1.1. The legislative amendment process should be in two phases: the first, is the introduction of the amendments proposed above before the end of this 5<sup>th</sup> term of Parliament, and the second would be a further review of the legislation depending on the recommendations of the PIC Commission in the next term of Parliament.

3.1.2. A resolution was taken in the National Assembly to process the Committee Bill.

3.1.3. There have been extensive public hearings held on these Bills and considerable consensus among the stakeholders in these hearings on the issues raised in the Bills and the need to urgently address them.

3.1.4. The Committee has done extensive work on these Bills and many of its current members may not be in this Committee in the next parliamentary term. It may well mean that the new members of the Committee will need to cover the same ground again that has already been covered by the current Committee and the value of the current process will have been largely lost.

3.1.5. If the Bills are not finalised by the end of this term of Parliament they lapse. Even though they can be revived, there is no obligation on the new Committee in the next term to do so.

Report to be considered.

The DA reserves its rights

#### **4. Report of the Standing Committee on Finance on the Draft Report on the Carbon Tax Bill 2018, dated 3 February 2019.**

##### **1. Need for the Carbon Tax Bill**

South Africa ratified the Paris Agreement in November 2016 and endorsed the submission of its Nationally Determined Contribution (NDC) which requires that greenhouse gas (GHG) emissions peak from 2020 to 2025, plateau for a ten-year period from 2025 to 2035 and decline from 2036 onwards. The NDC noted carbon tax as an important component of our mitigation policy strategy to lower GHG emissions.

The Carbon Tax Bill gives effect to the polluter-pays-principle and aims to price GHG emissions and ensure that firms and consumers take these costs into account in their future production, consumption and investment decisions. The tax will assist in reducing GHG emissions and ensure that South Africa meets its Nationally Determined Contribution commitments under the 2015 Paris Climate Agreement.

The implementation of the carbon tax will be complemented by a package of tax incentives and revenue recycling measures to minimise the impact in the first phase of the policy (up to 2022). These measures include commitment to a zero impact on the price of electricity through a tax credit for the renewable energy premium built into the electricity tariffs, a credit for the existing electricity generation levy and the extension of the Energy Efficiency Savings tax incentive which further provides sectors with flexibility to transition their activities through investments in energy efficiency, renewables and other low carbon measures. The first phase will be from 1 June 2019 to 31 December 2022, and the second phase from 2023 to 2030.

The design of the carbon tax also provides significant tax-free emissions allowances ranging from 60 per cent to 95 per cent for the first phase. This includes a basic tax-free allowance of 60 per cent for all activities, a 10 per cent process and fugitive emissions allowance, a maximum 10 per cent allowance for companies that use carbon offsets to reduce their tax liability, a performance allowance of up to 5 per cent for companies that reduce the emissions intensity of their activities, and a maximum 10 per cent allowance for trade-exposed sectors. This will result in a relatively modest effective carbon tax rate ranging from R6 to R48 per ton of CO<sub>2</sub> equivalent emitted.

## **2. Main Issues Raised in the Public Hearings and Deliberations on the 2017 Draft Bill**

The Bill was submitted to Parliament in August 2017 noting carbon tax as an integral part of the system of implementing government policy on climate change. Although the Bill, as a Money Bill, was referred only to Scof, the Committee decided to process it jointly with the Portfolio Committee on Environmental Affairs (Pcea) until the formal voting stages.

Public Hearings on the Bill were held on 14 March 2018. Meetings on the 2017 draft Bill and 2018 tabled Bill were also held on 13 February, 7 June, 27 November, 4 December, 5 December 2018 and 5 February 2019.

Apart from these formal parliamentary meetings, on the recommendations of Scof and Pcea, National Treasury and DEA met with stakeholders several times to process issues in the Bill. This is in addition to the consultations held by the National Treasury and the Department of Environmental Affairs over the past 9 years on the Carbon Tax Discussion Paper published in 2010, Carbon Tax Policy Paper in 2013, Carbon Offsets Paper of 2014, the first draft Carbon Tax bill published in 2015 and second draft bill in 2017, as well as publication of the initial draft Regulation on the Carbon Offset in June 2016 followed by the second draft regulation in November 2018. In parallel, consultations were also held on the Emissions Intensity Benchmark report in May 2015, Carbon Tax Modelling study which was published in 2016 and the report on the Alignment of the Carbon Tax and Carbon Budget in 2017 which were undertaken through the Partnership for Market Readiness initiative implemented by the World Bank.

The Bill was amended to take into account comments from stakeholders, including:

- Section 6: Calculation of the carbon tax payable: Section 6(1) provides a deduction in the formula for sequestered emissions and petrol and diesel related emissions. The formula was changed to reflect the tax-free allowances provided for the liquid fuels sector – that is, petrol and diesel emissions.
- Section 17: Payment of the tax: The payment period for the tax was amended to allow for one annual carbon tax payment rather than two provisional payments which were deemed to be too onerous for taxpayers.
- Schedule 2: Domestic Aviation. There is an amendment to specify that only domestic aviation (activity 1A3a) will be subject to the tax and adjustments in allowances - increasing the maximum tax-free allowance from 90 to 95 per cent; increasing the basic tax-free allowance from 60

to 75%; and reducing the trade exposure allowance from 10 to 0 % to ensure alignment with the design of the global carbon offsetting mechanism.

- **Schedule 2: Other Transport:** The basic tax-free allowance for transportation was changed to allow for administrative ease of implementation. For activities 1A3 (b-e), the basic tax-free allowance was changed from 60 to 75%; trade exposure allowance from 10 to 0% and performance allowance from 5 to 0%.
- **Schedule 2: Waste incineration:** Basic tax-free allowance for waste incineration was changed to allow for alignment in the tax treatment of energy generation (including heat and electricity recovery from waste).

### **3. Amendments to the 2018 Tabled Carbon Tax Bill**

The above amendments are included in the 2018 Carbon Tax Bill tabled by the Minister of Finance on 20 November 2018. The policies reflected in the 2018 Carbon Tax Bill are a refinement of the 2013 Carbon Tax Policy Paper, the initial 2015 Draft Carbon Tax Bill and the 2017 Bill and incorporates public comments received on these earlier documents.

Additional submissions from stakeholders and verbal inputs on the tabled Bill were made to the Committee until 5 February 2019. During deliberations of the Committee on 5 December 2018, amendments to the Bill were proposed in terms of section 11, read with section 8(5), of the Money Bills and Related Matters Act, 2009 to address the following:

#### **3.1 Section 6: Calculation of the carbon tax payable**

Section 6 has been amended to clarify that the calculation of the amount of carbon tax payable will also include those emissions calculated using the Department of Environmental Affairs' (DEA) approved methodologies in terms of Section 4(1).

#### **3.2 Section 14: Limitation on the total tax-free allowance of 95 per cent**

The limitation on the tax-free allowance applies for those activities that are subject to the carbon tax while the 100 per cent tax free allowance gives effect to an exemption for certain activities mainly within the agriculture, forestry, land-use and land-use change and waste sectors due to challenges with accurate measurement of emissions from these sectors. Section 14 of the Bill has been amended to clarify that the maximum 95 per cent tax-free allowance applies for all activities that are subject to the carbon tax and the 100 per cent tax free-allowance caters for exempt activities.

### **3.3 Section 16: Tax period**

This section in the Bill has been amended to reflect the effective date for implementation of the tax as 1 June 2019.

### **3.4 Schedule 1: Calorific value for Bituminous coal**

In Schedule 1: Table 1 stakeholders clarified that the calorific value for “other bituminous coal” was incorrect and should be 0.0243 instead of 0.0192. The emission factors and calorific values contained in Schedule 1 were aligned with the DEA Mandatory GHG Emissions Reporting Regulations and the Technical Guidelines to the regulation. In consultation with DEA, this proposal was accepted and the schedule has been amended to reflect the correct calorific value. The DEA will also amend the Technical Guidelines to correct this value.

### **3.5 Schedule 2: Thresholds and allowance for process emissions**

Stakeholders commented that certain activities fall within the category of process emissions including “Other Process Uses of Carbonates” and the “metal industry” and should qualify for a basic tax-free allowance of 70 per cent rather than 60 per cent and a total tax-free allowance of 95 instead of 90 per cent. The Bill has been amended to reflect the correct level of the allowances and applicable thresholds for the respective activities.

## **4. Key policy differences**

### **4.1 Policy certainty - Alignment with the post 2020 Mandatory Carbon Budget System**

Stakeholders raised concerns on the lack of policy certainty on the alignment of the carbon tax and carbon budget instruments post 2020; the proposed higher tax rate for emissions exceeding the level of the budget and prior consultation on the proposed alignment; and the practical and operational considerations to ensure an effective alignment of the carbon budget and tax. The National Treasury consulted industry in November 2018 and clarified that this was a proposal for possible alignment of the instruments which will form part of the consultation for the second phase (2022). It was emphasised that this process for the future does not (technically and legally) affect the Carbon Tax Bill and the tax over the next 3-4 years.

### **4.2 Administration of the carbon tax - Use of the Customs and Excise Act to administer the tax**

Stakeholders were of the view that the Customs and Excise Act is not the appropriate legislation under which to administer the carbon tax. It was argued that emissions are not a good as they cannot be easily identified and

the Act requires licensing of warehouses; however, GHG emissions are reported at a company level. A separate administration system was suggested.

This view of industry stakeholders was not accepted. The administration of the carbon tax as an environmental levy under the Customs and Excise Act, 1964, is the appropriate mechanism as these taxable GHG emissions are environmentally harmful goods and the externality costs should be internalised. In addition, the use of the existing administrative provisions under the Customs and Excise Act, 1964, with its underlying licensing, accounting, collection and enforcement systems is more efficient as it prevents the creation of an entirely new duplicate carbon tax administration.

The Democratic Alliance (DA) has reservations on the Bill, including:

- While supporting enhanced energy efficiency, the Bill does not take into account the country's stage of economic development and its global contribution to GHG emissions.
- The first period until 2022 should be considered a trial not only to adjust rates and tax-free thresholds but re-evaluate the need for the carbon tax in South Africa's carbon reduction strategy.
- The revenue from carbon tax should be ring-fenced.
- The Bill does not allow for companies to achieve 100% tax free status.

## **5. Implementation Timelines and Challenges in Implementation**

### **5.1 Implementation date**

The implementation date of the carbon tax has been changed from 1 January 2019 to 1 June 2019. To ensure an effective carbon tax policy, a review of the impact of the tax will be conducted after at least three years of implementation of the tax and will take into account the progress made to reduce GHG emissions, in line with our country's NDC Commitments.

Changes to rates and tax-free thresholds in the Carbon Tax Bill will follow after the review, and be subject to the normal consultative processes for all tax legislation.

### **5.2 Update on regulations**

Stakeholders were concerned that the regulations to the Carbon Tax Bill have not been finalised and that companies would not be able to determine the full impact of the carbon tax and their tax liability.

- An initial draft Carbon Offset Regulations and explanatory note was published for public comment and further consultation in June 2016. A revised draft Regulations on the carbon offsets taking into account public comment was published on 12 November 2018 for further public

comment and consultation. National Treasury informed the Committee that about 26 submissions have been received and it will have a workshop in March 2019.

- The Committee was also informed that National Treasury and the DEA will also publish the draft trade exposure allowance regulations for public comments in February 2019. According to National Treasury, this follows an extensive consultation process to finalise the design and methodology for determining the trade exposure allowance for sectors in collaboration with Business Unity South Africa.
- According to National Treasury, the benchmark regulations will be finalised in consultation with stakeholders as part of a review which will be undertaken through the Partnership for Market Readiness initiative administered through the World Bank. Sectors including cement, liquid fuel refining, gold and platinum, ilmenite, clay brick manufacturing, ferro chrome, pulp and paper, iron and steel, coal-to-liquids, sugar milling, silico-manganese and nitric acid producers have developed and submitted benchmark proposals following extensive engagements with the National Treasury during 2018. An initial draft regulation will be published in March 2019 for further consultation.

### **5.3 Administration of the carbon tax**

The South African Revenue Services will administer the carbon tax in close collaboration with the DEA. To ensure a smooth administration process and to allow sufficient time for consultation on the rules to the Customs and Excise Act, the SARS will publish draft rules for further consultation by March 2019.

The National Treasury and the DEA are finalising the procurement process to appoint a service provider to assist with the modification of the National Atmospheric Emissions Information System (NAEIS) to allow for electronic reporting of GHG emissions. National Treasury informed Scof that a workshop with taxpayers and other interested stakeholders will be held during the 2<sup>nd</sup> quarter of 2019 on the proposed adjustments to the NAEIS.

## **6. NEDLAC Jobs Mitigation and Creation Plans**

Following the National Treasury Response to Public Comments hearing in June 2018, the Scof recommended that a task team be convened within the NEDLAC to engage on job mitigation and creation plans due to the carbon tax.

Government, business and labour established a Carbon Tax Bill Task Team in NEDLAC to develop Jobs Mitigation and Creation Plans. About 7 meetings of the task team were held from July to November 2018. A report outlining proposals for the plan as submitted by constituencies was finalised and submitted to the Scof in December 2018.

The Standing Committee on Finance, having considered and examined the Carbon Tax Bill [B 46-2018] (National Assembly – section 77) referred to it, reports the Bill with amendments [B46A-2018].

Report to be considered

The DA reserves its right.

## ANNEXURE

### COMPLIANCE WITH THE MONEY BILLS AND RELATED MATTERS ACT

#### 1. Requirements when amending a money Bill

Section 8(5) of the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009) requires that in amending a money Bill, Parliament and its committees must ensure an appropriate balance between revenue, expenditure and borrowing; the impact on the fiscal framework; and, take into account all public revenue and expenditure. Other requirements contained in section 8(5) of the Act relate mostly to expenditure.

Section 11(3) requires that in amending a revenue Bill Parliament and its committees must:

- a. ensure that the total revenue raised is consistent with the approved fiscal framework and Division of Revenue Bill;
- b. take into account the principles of equity, efficiency, certainty, ease of collection;
- c. consider the impact on the composition of tax revenues;
- d. consider regional and international tax trends; and
- e. consider the impact on development, investment, employment and economic growth.

Section 11(5) requires that the Minister of Finance must be given 14 days to respond to any proposed amendment. On 30 January 2019 the Minister indicated that he supports the proposed amendments.

Section 11(6) provides that the report of the Committee must motivate amendments in terms of sections 8(5) and 11(3); and, include comments from the Minister on any proposed amendment.

The Carbon Tax Bill is a money Bill, specifically a revenue Bill.

## **2. Potential impact of the amendments**

### **a. Impact on tax revenue**

The proposed amendments to the calorific value for other bituminous coal from 0.0192 to 0.0243 TJ/ tonne implies that the emissions from using this type of coal for energy and non-energy purposes would be higher. This will mean a proportionally higher tax liability for an entity.

The proposed increases in the level of tax-free allowances from 60 to 70 per cent for certain industrial process emissions and an increase in the total tax-free allowance to 95 per cent to be aligned with other process emissions activities could result in a marginal decline in the total revenue from these activities.

Given that the number of companies impacted would be relatively small and that currently process emissions accounts for less than 9 per cent of total GHG emissions, the tax revenue implications or revenue foregone can be expected to be marginal for this relatively small subset of industrial processes.

### **b. Equity, efficiency, certainty and ease of revenue collection**

The proposed change to the calorific value will result in a more equitable carbon tax regime where taxpayers that use the lower quality and higher emission other bituminous coal would now be subject to a higher level of tax rather than being taxed similar to the lower emitting sub-bituminous coal.

This will also result in a more economically efficient outcome and ensures that the higher emitting other bituminous coal faces a higher carbon tax. The correct pricing of the emissions and price differential between the two types of coal will maintain the policy intent of the carbon tax and strengthen the economic incentive mechanism by encouraging a shift away from the higher emission coal use towards lower carbon fuels including renewables.

The change in the allowances addresses an anomaly in the current treatment of process emissions. For industrial process activities where it is difficult to reduce emissions from these activities, the inclusion of the process allowances and the increase in the total tax-free allowance will help to address any unintended adverse impacts on the competitiveness of these industries.

There will be no further implication for the overall costs of administering the tax as the same system will apply with no further changes to the system being needed.

c. Composition of tax revenues

Taking into account the additional revenues due to the calorific value adjustment and the expected decline in revenue collection due to the increase in the tax free allowances for additional industrial process activities, the total revenue impact is expected to be marginal and could be partially offset.

There would be no net impact on the composition of tax revenues due to the various revenue recycling measures provided under the carbon tax including the energy efficiency savings tax incentive and the commitment to a neutral impact on the price of electricity for the first phase of the tax up to December 2022.

d. Regional and international trends

The Carbon Tax Bill gives effect to the polluter-pays-principle and helps to ensure that firms and consumers take these costs into account in their future production, consumption and investment decisions which also assists in reducing GHG emissions and ensuring South Africa meets its NDC commitments as part of its ratification of the 2015 Paris Agreement. The World Bank's States and Trends in Carbon Pricing Report notes that about 45 national and 25 subnational jurisdictions have already implemented carbon pricing initiatives.

To date Mexico, India, Chile and Colombia have also implemented some form of carbon taxation measures. Brazil is exploring a carbon price. The Ivory Coast and Morocco are also exploring a carbon tax. Singapore and Argentina are scheduled to implement a carbon tax in 2019. Canada proposed a national carbon tax starting in 2019 for those provinces that have not implemented a carbon price in line with specific national criteria (i.e. a minimum carbon price).

The scope of carbon pricing initiatives through carbon taxation is increasing rapidly and is becoming a major part of country policy strategies to achieve the NDCs under the Paris Agreement. As more countries introduce carbon pricing measures, the potential impact on industry competitiveness will be reduced significantly and the opportunities for the growth of new clean industries will rise considerably.

e. Development, investment, employment and economic growth

The impacts of climate change could be devastating for South Africa, imposing costs through extensive droughts, anticipated especially in the West; rising water levels along the coast; and increased in-migration from other countries as droughts spread in less resilient countries. A failure to control GHG emissions could lead to a loss in international competitiveness, an increased vulnerability to trade, and investment measures, which would effectively entail other countries imposing a carbon price on South African exports.

The phased approach to the introduction of the carbon tax and the high tax-free thresholds will help to cushion sectors and provide entities with the flexibility to choose how and when to reduce emissions based on their own assessments of costs and benefits. The carbon tax will also protect South Africa's exports from border carbon adjustments (carbon related import tariffs / charges) that could be imposed on exports to other countries that are already pricing carbon. To avoid potential negative impacts on growth and employment also requires that private and public investors significantly diversify investment from the historic trajectory, which has been dominated by large-scale mining and industrial activities.

Several carbon tax modelling studies have been undertaken to date by the National Treasury (Economic Policy Unit), local academics and international institutions such as the World Bank. The broad findings from these Computable General Equilibrium models show that a carbon tax will make a significant contribution to the reduction of GHG emissions and that the economic impact of the carbon tax will depend on how the revenues are used, i.e. the revenue recycling measures.

A modelling study on the current design of the carbon tax was undertaken through the Partnership for Market Readiness project of the World Bank and the report entitled: "Modelling the Impact on South Africa's Economy of Introducing a Carbon Tax" is publicly available. The results of these studies provide a reasonable understanding of environmental and economic impacts of a carbon tax and helped with the decision making process. The study shows that the carbon tax will have a significant impact on reducing South Africa's GHG emissions and would lead to an estimated decrease in emissions of 13 to 14.5 per cent by 2025 and 26 to 33 per cent by 2035

compared with business-as-usual. The carbon tax will have a marginal impact on the economy's average annual growth rate which will be 0.05–0.15 percentage points below business as usual.

The phased introduction of the carbon tax at a relatively, low modest rate initially and increased over time to the “correct level” will provide a strong price signal to both producers and consumers to change their behaviour over the medium to long term. The tax will help to change the relative prices of goods and services, making emission-intensive goods more expensive relative to those that are less emissions intensive and providing a powerful incentive for consumers and businesses to adjust their behaviour, resulting in a reduction of emissions. The revenue recycling measures will help to mitigate any possible short-term negative impacts on the economy and jobs.

The proposed changes to the bill are marginal and will not significantly impact the overall results discussed above. It is important to note that the potential adverse impacts of the carbon tax are likely to be overestimated in the study due to the inability to model certain tax-free allowances such as the offsets, performance and trade exposure allowances, while the benefits of reducing emissions including reduced costs of adapting to the impacts of climate change and health co-benefits which were not quantified and included in the model.

**5. Report of the Portfolio Committee on Home Affairs on the Electoral Amendment Bill [B24- 2018], dated 12 February 2019.**

The Portfolio Committee on Home Affairs (the Committee), having considered the Electoral Amendment Bill [B24 - 2018], classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports as follows:

The Electoral Amendment private member's bill, was tabled and referred to the Committee on 12 July 2018. The Committee met with the sponsor of the Bill, Mr M. Waters, MP, on 23 and 30 October as well as 13 November 2018, to consider the Bill.

The aim of the Bill was to amend the Electoral Act, 1998, so as to apply a single standard of identification to all South African voters; to provide for increased geographical coverage of registration and voting stations in foreign countries with significant numbers of eligible voters; to provide for voting to take place on weekends; to provide for time zones to be taken into account when setting deadlines for receipt and counting of votes from citizens ordinarily resident at a place outside the Republic; to provide for special votes in elections for a provincial legislature of persons ordinarily resident outside the Republic; and to provide for matters connected therewith.

Discussion on the Private Member's Electoral Amendment Bill was focused on the logistical challenges in the provision of voting stations and coping with different time zones, as well as identity document and passport requirements.

The IEC clarified that the provision of provincial ballots for South Africans would involve providing the correct numbers of ballots in time for 9 provincial and 1 national vote to all the current stations at embassies and missions, let alone to the additional proposed voting

stations abroad, would be prohibitively expensive and very logistically complex. At present even citizens living in South Africa, that are outside of their province on the day of elections, are not able to cast a provincial vote. Some members argued that citizens who did not contribute to South Africa by residing here should not qualify for the significant additional expense to vote provincially.

The DHA indicated that South Africans living abroad who had lost their citizenship because they had taken up citizenship of other countries, needed to confirm if they were still on the voters' register. That was why citizens abroad needed to have a South African ID and passport.

Concerns that votes from abroad had not being counted because they had not arrived in time had been due to no aircraft to ferry the ballots to South Africa in time, and this had been outside the IEC's purview. The practicality of voting during weekends could be considered but this would mean extending security for a longer time.

The motion for desirability on the Electoral Amendment Bill [B24-2018] was moved by Mr MH Hoosen and seconded by Mr AM Figlan, while the motion for non-desirability was moved by Ms DD Raphuti and seconded by Mr DM Gumede. The Chairperson thus put both motions to a vote and more Members were in favour of the motion for non-desirability.

The Committee acknowledged that Mr M Waters had assisted the Committee by getting it more informed. Mr Waters thanked the Committee for the opportunity to address it.

Report to be considered.

**6. Report of the Portfolio Committee on Transport on the Administrative Adjudication of Road Traffic Offences Amendment Bill [B 38D – 2015] (National Assembly – sec 76), dated 12 February 2019**

The Portfolio Committee on Transport, having considered the *Administrative Adjudication of Road Traffic Offences Amendment Bill [B 38D – 2015]* (National Assembly – sec 76), amended by the National Council of Provinces and referred to the committee, reports that it has agreed to the Bill.

The Democratic Alliance (DA) raised an objection to the Bill due to the party's view that some of the amendments have the potential of being declared unconstitutional.

Report to be considered.

**7. Report of the Portfolio Committee on Cooperative Governance and Traditional Affairs on the Traditional and Khoi – San Leadership Bill [B23D-2015] (National Assembly – sec 76), dated 13 February 2019:**

The Portfolio Committee on Cooperative Governance and Traditional Affairs, having considered the proposed amendment by the National Council of Provinces (NCOP) to the *Traditional and Khoi-San Leadership Bill [B23D– 2015] (National Assembly – Sec 76)*, referred to it on 10 January 2019 (see ATC, 10 January 2019), reports that it agrees to the amendments.

Amendments	Committee decisions
<p style="text-align: center;"><b>CLAUSE 5</b></p> <p>1. On page 10, in line 38, to omit “coherent”.</p>	Committee agreed to this amendment
<p style="text-align: center;"><b>CLAUSE 24</b></p> <p>1. On page 33, in line 52, after “and” to insert “, notwithstanding the provisions of any other law,”.</p> <p>2. On page 33, from line 57, to omit paragraph (c) and to substitute:  “(c) is subject to—  (i) a prior consultation with the relevant community represented by such council;  (ii) a decision in support of the partnership or agreement taken by a majority of the community members present at the consultation contemplated in subparagraph (i); and  (iii) a prior decision of such council indicating in writing the support of the council for the particular partnership or agreement;”.</p>	Committee agreed to this amendment

<p style="text-align: center;"><b>CLAUSE 33</b></p> <p>1. On page 37, from line 52, to omit” during the sitting of Parliament”.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 34</b></p> <p>1. On page 38, in line 40, to omit “consecutive”.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 63</b></p> <p>1. On page 51, from line 12, to omit subsection (4) and to substitute:</p> <p style="padding-left: 40px;">“(4)(a) A tribal authority that, immediately before 24 September 2004, had been established and was still recognised as such, is deemed to be a traditional council contemplated in section 16 of this Act and must perform the functions referred to in section 20: Provided that such a tribal authority must be reconstituted to comply with the provisions of section 16(2) within two years from the date of commencement of this Act.</p> <p style="padding-left: 40px;">(b) If, prior to the commencement of this Act, any tribal authority was reconstituted as contemplated in paragraph (a), but such reconstitution did not comply with all the requirements of section 16(2), such tribal authority is deemed to be a traditional council and must, within two years of the commencement of this Act, be reconstituted in full compliance with the provisions of section 16(2).</p> <p style="padding-left: 40px;">(c) If the timeframes contemplated in paragraph (a) or (b) are not met, the Minister may, within one year after the timeframes</p>	<p>The Democratic Alliance objected to this amendment</p>

<p>have lapsed and after consultation with the relevant Premier, apply the provisions of section 16(2) to ensure that such tribal authority or traditional council is constituted or reconstituted in accordance with the provisions of section 16(2).</p> <p style="padding-left: 40px;"><i>(d)</i> The provisions of section 16(5) apply to any constitution or reconstitution contemplated in this subsection.”</p> <p>2. On page 53, in line 62, to omit “amend” and to substitute “either amend or re-enter into”.</p> <p>3. On page 54, after line 2, to insert:</p> <p style="padding-left: 40px;"><i>“(d)</i> The provisions of this subsection do not apply to any partnership or agreement which, at the commencement of this Act, has been entered into in accordance with any enabling provisions of any other law.”</p> <p>4. On page 54, in line 3, to omit “section” and to substitute “chapter”.</p>	
<p><b>MEMORANDUM ON THE OBJECTS</b></p> <p>1. From page 73, to amend paragraph 2.5 as follows:</p> <p style="padding-left: 40px;">“Clause 5 of the Bill makes provision for the recognition of Khoi-San communities and branches (please also see clauses 56 and 58 of the Bill). As mentioned earlier, this is the first time that statutory provision is made for the Khoi-San and therefore this provision and others in the Bill relating to the Khoi-San are all new. A community may apply to the relevant Premier to be</p>	<p>Committee agreed to this amendment</p>

recognised as a Khoi-San community if it meets certain criteria. The community must have a history of self-identification by members of the community as belonging to a unique community distinct from all other communities. It must observe distinctive established Khoi-San customary law and customs and has to be subject to a system of hereditary or elected Khoi-San leadership. Furthermore, the community must have existing distinctive cultural heritage manifestations and a proven history of **[coherent]** existence of the community from a particular point in time up to the present. The relevant community must also occupy a specific geographical area or various geographical areas together with other non-community members. These criteria differ slightly from the criteria for traditional communities mainly due to the unique circumstances and history of the Khoi-San. However, the criteria are necessary to ensure that only legitimate Khoi-San communities in terms of customary law and customs are considered for recognition.”

2. On page 79, to add the following to paragraph 2.26:

“2.26 As far as partnerships and agreements are concerned, clause 24 determines with who a council may enter into a partnership or agreement. It also contains specific requirements and makes provision for monitoring by the provinces. A council may only enter into a partnership or agreement if the relevant community has been consulted and the majority of community members present at such consultation has taken a decision in support of the partnership or agreement.”

3. On page 84, to add the following to paragraph 2.54(g):

“(g) Since the Bill introduces certain requirements for partnerships and agreements (see clause 24), it is important

<p>that existing partnerships and agreements be tested against such requirements. Therefore, clause 63(22) determines that such partnerships and agreements must be reviewed by the relevant Premier within a period of three years from the date of commencement of this Bill. <u>This will however not apply in respect of partnerships and agreements that, prior to the commencement of this Bill, has been entered into in accordance with enabling provisions contained in any other legislation.</u>”</p>	
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**Report to be considered.**

**8. Report of the Portfolio Committee on Cooperative Governance and Traditional Affairs on the Local Government: Municipal Structures Amendment Bill [B19-2018] (National Assembly – sec 76), dated 13 February 2019:**

The National Assembly referred the *Local Government: Municipal Structures Amendment Bill (National Assembly – Section 76)* (hereinafter referred to as the Bill) to Portfolio Committee on Cooperative Governance and Traditional affairs.

**Subject of the Amendment Bill**

The primary aim of the **Local Government: Municipal Structures Amendment Bill [B19-2018] (National Assembly – Section 76)**, is to remove all references to district management areas and plenary executive system as a type of municipality; for a minimum of 10 councillors per municipality; amend the deviation threshold; prohibit a councillor who was found guilty of breach of the Code of Conduct for Councillors for a period of two years; clarify the date of assumption of office by a councillor; allow for extension on the declaration of the result of an election, require the municipal manager to inform the MEC for local government in the province in addition to the Electoral Commission of ward vacancies; provide that the MEC call and set the date for by-elections; clarify who can inform the municipal manager of a specific vacancy; to allow the MEC to designate a person to call and chair a meeting of the municipal council when the speaker, acting speaker or municipal manager refuses to call the meeting; provide for additional functions of the speaker; provide for a whip of municipal council; clarify the formula for the composition of an executive committee; provide for the establishment of a Municipal Public Accounts Committee; provide for the resolution of a situation where excessive seats may arise from the seat calculation in local municipalities; amend the timeframe for the municipal manager to inform the chief electoral officer of vacancies; allow for the MEC to inform the chief electoral officer of vacancies if the municipal manager fails to do so ; clarify the supplementation of party lists for local municipalities; provide for the

resolution of multiple seats which may arise where a candidate qualifies to be elected to more than one seat; clarify the supplementation of party lists for district municipalities; provide for a Code of Conduct for Councillors.

The Committee had extensive stakeholder engagement from 13, 14 and 20 October 2018.

### Enquiry into the subject of the Amendment Bill

The Committee invited the Department of Cooperative Governance to brief them and received submission from various stakeholders, Departments, Government institutions,

The Committee proposed the following amendments

Amendments	Committee decisions
<p style="text-align: center;"><b>CLAUSE 1</b></p> <p>1. On page 3, in line 6, to omit “and”.</p> <p>2. On page 3, after line 6, to insert the following definition:</p> <p style="padding-left: 40px;">(d) by the insertion after the definition “municipality” of the following definition:</p> <p style="padding-left: 80px;"><b><u>“Municipal Public Accounts Committee’ means a committee established in terms of section 79A; and”.</u></b></p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 6</b></p> <p>3. On page 3, in line 47, to omit “; and” and to substitute “.”.</p> <p>4. On page 3, in line 48, to omit paragraph (b).</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 7</b></p> <p>Clause rejected.</p>	<p>Committee agreed to this amendment</p>

<p style="text-align: center;"><b>CLAUSE 8</b></p> <p>1. On page 4, in line 10, to omit “<u>15</u>” and to substitute “<u>10</u>”.</p> <p>2. On page 4, from line 12, to omit paragraph (b) and to substitute:</p> <p style="padding-left: 40px;">“(b) by the insertion in subsection (4) after paragraph (b) of the following paragraphs:</p> <p style="padding-left: 40px;"><u>(c) 20 per cent if the geographical size of the municipality is greater than 20 000 square kilometres and if less than 35 councillors have been determined for the municipality in terms of the formula; and</u></p> <p style="padding-left: 40px;"><u>(d) Any deviation in terms of section 20(4)(a), (b) or (c) must be done with the concurrence of the Minister.”.</u></p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 12</b></p> <p>1. On page 5, from line 22, to omit subsection (6) and to substitute:</p> <p style="padding-left: 40px;">“(6) The [<b>municipal manager of a municipality</b>] MEC for local government in the province may not call a by-election in terms of subsection (1) if –</p> <p style="padding-left: 40px;">(a) the next election of all municipal councils must be held within nine calendar months of the applicable dates mentioned in subsection (3); or</p> <p style="padding-left: 40px;">(b) the MEC for local government <u>in the province in consultation with the Minister</u> decides that the by-election must stand over until the next election of all municipal councils.”.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 13</b></p> <p>1. On page 5, in line 41, to omit “and”.</p> <p>2. On page 5, after line 41, to insert the following:</p> <p style="padding-left: 40px;">(b) by the substitution for paragraph (e) of the following paragraph:</p> <p style="padding-left: 40px;">“(e) is a representative of a local council in a district</p>	<p>Committee agreed to this amendment</p>

<p>council and ceases to be a member of the local council which appointed that councillor to the district council or is replaced <u>in terms of Item 23 of Schedule 2 to this Act</u> by the local council as its representative in the district council; or”; and”.</p> <p>5. On page 5, in line 55, to insert a comma after the word “may”.</p> <p>6. On page 5, in line 55, to insert a comma after the word “shown”.</p>	
<p style="text-align: center;"><b>CLAUSE 14</b></p> <p>2. On page 5, from line 51, to omit subsection (1A) and to substitute:</p> <p style="padding-left: 40px;"><u>“(1A) If the speaker or acting speaker refuses to call a meeting of the council as requested in terms of subsection (1), the municipal manager of the municipality or, in the absence or refusal by the municipal manager, a person designated by the MEC for local government in the province may on good cause shown designate a person to call and chair the meeting.”.</u></p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 15</b></p> <p>Clause rejected</p> <p style="text-align: center;"><b>NEW CLAUSE</b></p> <p>1. That the following be a new clause:</p> <p style="padding-left: 40px;"><b>“Public notice of meetings of municipal councils</b></p> <p style="padding-left: 80px;"><u><b>29A.</b> The municipal manager of a municipality must give notice to the public, in a manner determined by the municipal council, of the time, date and venue of every—</u></p> <p style="padding-left: 120px;"><u>(a) ordinary and special meeting of the council or a meeting of a committee of a council;</u></p> <p style="padding-left: 120px;"><u>(b) ordinary or special meeting of the council or a meeting of a committee of a council that was postponed; and</u></p> <p style="padding-left: 120px;"><u>(d) urgent meeting of the council or meeting// of a committee</u></p>	<p>Committee agreed to this amendment</p>

<p style="text-align: center;"><u>of a council, except when time constraints make this impossible.”.</u></p> <p>3. <u>Section 30 of the principal Act is hereby amended –</u></p> <p>(a) <u>by the substitution for subsection (1) of the following section:</u>  “(1) A majority of the <u>number</u> of councillors <u>determined in terms of section 20</u> must be present at a meeting of the council <u>when [before]</u> a vote <u>is [may be]</u> taken on any matter.”; and</p> <p>(b) <u>by the substitution for subsection (4) of the following subsection:</u>  “(4) If on any question, <u>other than a matter mentioned in section 160(2) of the Constitution</u>, there is an equality of votes, the councillor presiding must exercise a casting vote in addition to that councillor’s vote as councillor.”</p>	
<p style="text-align: center;"><b>CLAUSE 18</b></p> <p>1. On page 6, in line 46, to omit “and”.</p> <p>2. On page 6, in line 48, to omit “.” and to substitute “; and”.</p> <p>3. On page 6, after line 48, to insert:  “(k) <u>must ensure the effectiveness and functionality of ward committees and the public participation processes.</u>”.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 19</b></p> <p>1. On page 7, in line 6, to omit “, <u>who has more than 40 councillors.</u>”.</p> <p>2. On page 7, in line 7, after “<u>whip</u>” to insert “<u>for the council who is also a municipal office bearer as set out in Schedule 3</u>”.</p>	
<p style="text-align: center;"><b>CLAUSE 23</b></p> <p>1. On page 8, in line 55 to omit, subsection (1A) and to substitute the following:  “(1A) (a) <u>If a metropolitan or local council is unable to establish a ward committee or ward committees in accordance with subsection (1), the speaker must, prior to the expiry of the 120 days after the elections, in writing and on good cause shown, request the MEC, responsible for local government in the province concerned, for an extension.</u></p>	<p>Committee agreed to this amendment</p>

<p><u>(b) The MEC must respond to the request referred to in subsection 1(a) within 14 days of receipt detailing the reasons for granting or refusing the extension.</u>”.</p>	
<p style="text-align: center;"><b>CLAUSE 26</b></p> <p>Clause rejected.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 29</b></p> <p>1. On page 11, in line 27, after “<u>vacancy</u>” to insert “<u>within 14 days where the municipal manager does not</u>”.</p> <p>1. On page 11, in line 30, after “<u>until</u>” to omit “<u>the date of the declaration of the results for that election</u>” and to substitute “<u>a day after a date of the first council meeting</u>”.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 30</b></p> <p>1. On page 12, in line 51, after “<u>until</u>” to omit “<u>the date of the declaration of the results for that election</u>” and to substitute “<u>a day after a date of the first council meeting</u>”.</p>	<p>Committee agreed to this amendment</p>
<p style="text-align: center;"><b>CLAUSE 32</b></p> <p>1. On page 16, in line 36 to omit “<b>Intervention</b>” and to substitute “<b>Interference</b>”.</p> <p>2. On page 16, in line 46, to omit “<b>Council</b>” and to substitute “<b>Municipal</b>”.</p> <p>3. On page 17, after line 19, to insert the following:  “(5) If <u>the speaker of council is the alleged perpetrator, or the</u></p>	<p>Committee agreed to this amendment</p>

<p><u>speaker refuses to authorise an investigation, the council must establish a special committee, as contemplated in Item 16(b), to investigate and make a finding on any alleged breach of this Code.”</u></p> <p>4. On, page 17, after line 35, to insert the following:</p> <p>“(3) <u>The speaker must inform the MEC for local government in the province concerned within 14 days of the finding and sanction decided on by the council.”.</u></p>	
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**Consideration of the Amendment Bill**

The Portfolio Committee on Cooperative Governance and Traditional Affairs having deliberated on and considered the subject of the **Local Government: Municipal Structures Amendment Bill [B19-2018] (National Assembly – Section 76)**, referred to it, and classified by the Joint Tagging Mechanism as a section 76 Bill, reports that it has agreed to the Bill with proposed amendments.

**Report to be considered.**