

MEMORANDUM ON THE OBJECTS OF THE GAUTRAIN MANAGEMENT AGENCY AMENDMENT BILL, 2017

Memorandum in terms of Rule 136 of the Standing Rules of the Gauteng Provincial Legislature.

1. REASONS FOR THE BILL

The Gautrain Management Agency Act, 2006 (Act No. 5 of 2006) (“the Act”) was brought into operation on 3 September 2007. It was passed to provide for the establishment of the Gautrain Management Agency (“the Agency”) as a provincial public entity to manage and oversee concession agreements for the Gautrain Rapid Rail Link Project. This was the original Project (Phase 1) providing the link from Hatfield in Tshwane to Park Station in Johannesburg and from Sandton Station in Johannesburg to OR Tambo Station in Ekurhuleni. The word “Project” is defined in the Act as being limited to this first Phase.

In line with the approved 25 year Gauteng Transport Master Plan, the Province intends to extend the Gauteng rapid rail network to new areas. This will amount to embarking on a new project or projects, or may involve extensions to Phase 1 of the Project. Due to the limited scope of the Act at present, amendments to the Act are needed to enable or facilitate the extension of the Gautrain Rapid Rail Link and similar projects to other areas. The powers of the Agency will accordingly be expanded to cover the possible extensions as well as new, similar projects, including broader public transport and rail-related projects that fall within the functional areas of the Province’s powers under Schedule 4 of the Constitution. It is also

considered necessary to extend the powers of the MEC to delegate certain public transport and rail-related functions under the Gauteng Transport Infrastructure Act, 2001 (Act No. 8 of 2001) to the Agency.

Various consequential amendments to the Act are also required.

By broadening the mandate of the Agency to include public transport functions and powers, the Agency may then also be able to even facilitate the establishment of the Transport Authority.

2. ENVIRONMENTAL IMPACT

It is envisaged that by integrating public transport, the negative environmental impact of transport in Gauteng will be greatly reduced.

3. FINANCIAL IMPLICATIONS OF THE BILL

The amendments could bring about streamlined procedures that can save costs. GMA will, however, need more financial resources, to enable it to fulfil its expanded mandate. There are no additional financial implications for local government.

4. COMMENTS RECEIVED AND SOLICITED

The provisions of the Bill will be discussed with relevant stakeholders. The Department considers that it is not necessary to publish the Bill for comment as the amendments do not bring about any material changes in principle.

5. CLAUSE-BY-CLAUSE EXPLANATION

Clause 1 of the Bill amends the definition of the "Project" and "concession agreement" to expand the scope of the Act as indicated above. Other definitions are amended consequentially, or to update or correct them.

Clause 2 of the Bill amends section 4 of the Act to incorporate the Agency's role in assisting or acting for any Organ of State to enable it to realise its public transport and rail-related objectives and to expand its Objects as indicated above and to update the reference to the integration of public transport and rail services, in the Province, with other transport plans.

Clause 3 of the Bill amends section 5 of the Act on the Functions of the Agency to expand them accordingly. The Agency will, after the MEC's consultation with the Minister, be empowered to plan and manage, on behalf of the MEC, the process of route determination and preparing preliminary designs for new or expanded rail routes. These functions include public transport and provincial railway lines that fall under the functional area of "public transport" as contemplated in Schedule 4 Part A of the Constitution.

Clause 4 of the Bill amends section 13 of the Act to provide that members of the Board of the Agency may serve for more than one term, as long as they do not serve for more than two consecutive terms. This is because it is considered that the provision should be relaxed so as not to lose the expertise of qualified and experienced Board members whose previous term(s) have been valuable to the Agency.

Clause 5 of the Bill amends section 19 of the Act to provide that committees of the Board must consist of at least three members, because one-person committees are not considered advisable.

Clause 6 of the Bill amends section 20 of the Act to effect a correction and to provide that the Board must summarise the Board's charter in each annual report, rather than every three years. This is being done at present in practice, and is intended to promote good governance.

Clause 7 of the Bill effects a consequential amendment to and correction of section 28 of the Act.

Clause 8 of the Bill effects a consequential amendment of and correction to section 34 of the Act, and updates the reference to the National Land Transport Transition Act, 2000 which has been replaced by the National Land Transport Act, 2009.

Clause 9 of the Bill effects a consequential amendment of and improvements to section 38 of the Act.

Clause 10 of the Bill inserts a clause on limitation of liability, which is a standard clause in Acts of this nature.

Clause 11 of the Bill substitutes words and expressions to provide for the change in the definitions of "project" and "GTIA".

Clause 12 of the Bill amends the law mentioned in the Schedule to the Bill. It provides for the amendment of section 56 of the Gauteng Transport Infrastructure Act, 2001 to empower the MEC to delegate the abovementioned rail-related functions to the Agency, subject to conditions that the MEC may determine.

Clause 13 of the Bill substitutes the long title, to enable the Agency to assist the Province in performing the Province's public transport and rail-related functions that may be delegated to the Agency.

Clause 14 of the Bill provides for the short title. The Bill will come into operation upon it being signed by the Premier.

The Schedule contains the detail of the law amended in clause 12.

