



# GAUTENG PROVINCE

OFFICE OF THE PREMIER  
REPUBLIC OF SOUTH AFRICA

**Ms Nomfundo Tshabalala**  
**Head of Department**  
Gauteng Provincial Treasury  
Imbumba House, 75 Fox Street  
Marshalltown  
Johannesburg  
2107

Dear Ms Tshabalala

**RE: CERTIFICATION OF THE GAUTENG PROVINCIAL UNAUTHORISED  
EXPENDITURE BILL, 2020**

1. Attached for your attention kindly receive a copy of the above-mentioned Bill and Memorandum on the Objects of the Bill, as duly certified by the State Law Advisors.
2. The State Law Advisors classify the Bill as a money Bill envisaged in section 120 read with section 119 of the Constitution of the Republic of South Africa, 1996.
3. Please note that no changes may be made to the certified Bill and the Memorandum without the prior approval of the State Law Advisors. Any unauthorised change will nullify the certification of the Bill and Memorandum.
4. The State Law Advisors do not certify the correctness of the amounts reflected in the Bill and the Memorandum, as these are the responsibility of the Gauteng Provincial Treasury.
5. Please ensure that this certificate accompanies the Bill and Memorandum when they are introduced into the Provincial Legislature.

Thank you.

p-p.   
**Adv. Geert Kuit**

**Chief Director: State Law Advisory Services**

Date: 13/07/2020

# GAUTENG PROVINCIAL LEGISLATURE

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## GAUTENG PROVINCIAL UNAUTHORISED EXPENDITURE BILL, 2020

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*(As introduced in the Provincial Legislature of the Province of Gauteng as a Money Bill in terms of Rule 192(2) of the Standing Rules of the Legislature (Version 5 – Revision 8) (proposed section 120 Bill)*

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*(The English text is the official text of the Bill)*

*(Member of the Executive Council responsible for Finance)*



**[B – 2020]**

# BILL

To provide for the authorisation of unauthorised expenditure incurred by the Office of the Premier from the Provincial Revenue Fund; and to provide for matters incidental thereto or connected therewith.

**BE IT ENACTED** by the Provincial Legislature of the Province of Gauteng, as follows:—

## **Authorisation of unauthorised expenditure incurred by the Office of the Premier from the Provincial Revenue Fund**

1. (1) Expenditure to the amount of R5 920 000.00 incurred by the Office of the Premier during the period April 2018 to March 2019, in respect of claims paid in accordance with an arbitration award issued by Justice Dikgang Moseneke, former Deputy Chief Justice of the Republic of South Africa, in the matter concerning the death of mentally-ill patients who were removed from the institutional care of the Life Esidimeni (Pty) Ltd to the care of various non-governmental organisations or institutions within the Province, which the Standing Committee on Public Accounts recommended for authorisation by the Provincial Legislature, is hereby authorised.

(2) The expenditure mentioned in subsection (1) is set out in the Schedule.

(3) The Provincial Revenue Fund is, in terms of section 34(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), charged with the expenditure mentioned in subsection (1).

## **Short title**

2. This Act is called the Gauteng Provincial Unauthorised Expenditure Act, 2020.



## SCHEDULE

APPROVED			
Vote	Vote Name	Financial Year	Amount
1	Office of the Premier	2018/2019	5 920 000.00
	<b>TOTAL</b>	2018/2019	<b>5 920 000.00</b>





# **MEMORANDUM ON THE OBJECTS OF THE GAUTENG PROVINCIAL UNAUTHORISED EXPENDITURE BILL, 2020**

## **1. BACKGROUND**

The Office of the Premier incurred unauthorised expenditure to the total amount of R5 920 000.00 due to overspending of Vote 1 or a main division within the Vote, expenditure not in accordance with the purpose of the Vote or a main division within the Vote, or without complying with the relevant legislation, regulation or rule, during the 2018/2019 financial year.

The Standing Committee on Public Accounts heard evidence on the report of the Auditor-General on the Financial Statements for the Office of the Premier in respect of the above-mentioned financial year.

After careful deliberation the Standing Committee on Public Accounts recommended that the Provincial Legislature approves the above-mentioned amount, as set out in the Schedule to the Bill, as a direct charge against the Provincial Revenue Fund in terms of section 34(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

The key reason for the unauthorised expenditure was due to payment being made to the families of the victims before the end of the 2018/2019 financial year and to avoid reputational risks as well as interest payments on overdue accounts associated with delays in settlement of the claims.

It is expected that departments meet the requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in the forthcoming financial years.

## **2. PURPOSE OF THE BILL**

The purpose of the Bill is authorisation by the Provincial Legislature of the amount of R5 920 000.00 as recommended by the Standing Committee on Public Accounts.

## **3. SOCIAL IMPACT**

None

## **4. ENVIRONMENTAL IMPACT**

None

## **5. FINANCIAL IMPLICATIONS**

The amount of R5 920 000.00 recommended by the Standing Committee on Public Accounts for authorisation by the Provincial Legislature will become a direct charge against the Provincial Revenue Fund in terms of section 34(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999). This will effectively reduce the provincial surpluses accumulated over the previous years and clear the overdraft balance in the bank account of the Office of the Premier.

## **6. OTHER DEPARTMENTS OR BODIES CONSULTED**



- Gauteng Provincial Government;
- Auditor-General of South Africa; and
- Provincial Legislature.

## 7. **CLAUSE BY CLAUSE DESCRIPTION**

### *Clause 1*

This clause provides for the authorisation of unauthorised expenditure to the amount of R5 920 000.00 as a direct charge against the Provincial Revenue Fund.

### *Clause 2*

This clause contains the short title of the Bill.

### *Schedule*

The Schedule provides details of the unauthorised expenditure incurred by the Office of the Premier which the Standing Committee on Public Accounts recommended for authorisation by the Provincial Legislature as a direct charge against the Provincial Revenue Fund.

The Provincial Revenue Fund is charged with expenditure for Vote 1 during the financial year commencing April 2018 and ending March 2019 to the amount of R5 920 000.00.

This was in lieu of payment of claims made to the families of mentally-ill patients who died after being transferred from the institutional care of Life Esidimeni (Pty) Ltd to the care of various non-governmental organisations or institutions within the Province in accordance with the arbitration award issued by Justice Dikgang Moseneke, former Deputy Chief Justice of the Republic of South Africa, on 19 March 2018.

The payments had to be made before the end of the 2018/2019 financial year to avoid reputational risks as well as interest payment on overdue accounts associated with delays in settlement of those claims.

