No.101 - 2022: Fourth Session, Sixth Legislature

**GAUTENG PROVINCIAL LEGISLATURE**

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**ANNOUNCEMENTS,**

**TABLINGS AND**

**COMMITTEE REPORTS**

**========================**

Tuesday, 22 March 2022

# ANNOUNCEMENTS

none

# TABLINGS

none

**COMMITTEE REPORTS**

1. The Chairperson of the Oversight Committee on the Office of the Premier and the Legislature (OCPOL), Hon. B W Dhlamini, tabled the Committee’s Focused Intervention Study (FIS) Report on the “Petitions System of the Gauteng Legislature”, as attached:

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**Oversight Committee on the Premier’s Office and the legislature (OCPOL)**

**Focused Intervention Study Report on**

**“Petitions System of the Gauteng Legislature”**

| **Committee Details** | | **Department Details** | | |
| --- | --- | --- | --- | --- |
| **Name of Committee** | **Oversight Committee on the Premier’s Office and the legislature** | **Name of Department** | **Gauteng Provincial Legislature** | |
| **Financial Year** | **2021/22 FY** | **Dept. Budget Vote Nr.** | **Budget Vote 2** | |
| **Quarter** |  | **Hon. MEC** | **Ntombi Mekgwe** | |
| **Committee Approvals** | | | | |
|  | **Name** | **Signed** | | **Date** |
| **Hon. Chairperson** | **BW Dhlamini** |  | | **Friday, 18th March 2022** |
| **Adoption and Tabling** | | | | |
| **Date of Final Adoption by Committee** | | **Scheduled date of House Tabling** | | |
| **Friday, 18th March 2022** | | **Thursday, 24th March 2022** | | |

Contents

[1. EXECUTIVE SUMMARY 3](#_Toc98254622)

[2. INTRODUCTION 5](#_Toc98254623)

3. BACKGROUND……………………………………………………………………………………………………………………..5

[4 PROCESS FOLLOWED 5](#_Toc98254624)

[5. RECOMMENDATIONS AND IMPLICATION ON LAW MAKING 6](#_Toc98254625)

[6. ACKNOWLEDGEMENTS 7](#_Toc98254626)

[7. ADOPTION 8](#_Toc98254627)

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# The Hon. Chairperson of the Oversight Committee on the Premier’s Office and the Legislature (OCPOL), Mr Bonginkosi Dhlamini, hereby tables the Committee Report on the Focused Intervention Study on “Petitions System of the Gauteng Legislature " as follows:

# 1. EXECUTIVE SUMMARY

The Committee identified the “Petitions System of the Gauteng Legislature “as its Focused Intervention Study (FIS) Topic. The purpose of the FIS was to assess the challenges that the GPL is currently faced with in dealing with Petitions and more specific: i) Bottlenecks that are contributing to the current petitions backlog; and ii) How these are being addressed; iii)Staffing within the Petitions Unit as well as iv) Opportunities the GPL has identified as a way of improving the Petitions system moving forward.

Since the beginning of the political term, the Committee has noted with concern the backlog in as far as the processing of petitions. It is against this background that the proposed FIS aims to assess the Gauteng Provincial Legislature’s Petitions System. Through this FIS, the Committee will assess the challenges faced by the system in addressing petitions, and thus dealing with the backlog. Additionally, the FIS will focus on unravelling the opportunities that are available within the petitions system.

The Committee noted that the Petitions process is multifaceted, and it has numerous dependencies and interrelations with external stakeholders. Therefore, the finalisation and closure of petitions are not solely within the control of the Committee, as the variables which lead to the closure of petitions are dependent on authorities responding to petitions.

The Committee further noted that there are challenges of petitioners blocking the system by submitting a single petition at different points, which leads to duplication. It is further noted that there is no system in the GPL to differentiate between new, recent, old, and outstanding petitions. Instead, all Petitions are entered into a single repository, thereby providing an inaccurate and unduly bloated backlog figure.

Another contributing factor to the petitions backlog is that authorities tend to send junior officials with no decision-making powers, to the Petitions Committee hearings. Petitions hearings forms part of the Committee’s escalation process and it aims to fast-track the resolution of petitions. When junior officials are then sent to represent authorities, they first have to consult with their institutions, which further delays the resolution process. At times petitions may be in the form of a request or demand that have budgetary implications or falls outside the ambit or mandate of the Committee and is deemed ineligible

In terms of staffing in the Public Participation & Petitions Unit, the GPL reported that while the reasons for the backlog may partly be due to human capacity challenges the reasons are much wider due to the complexity, nature, dependency and interrelatedness of the overall petitions process.

With respect to the approach on addressing the challenges, the GPL reported that it has updated the formats by which GPG Departments report to the institution on petitions received and how these Departments have responded to them. This reporting is done mainly through its Standardized Oversight, Accountability and Reporting Process (SOAR-GP). In addition, it was highlighted that GPL has also updated its own reporting formats whereby GPL Committees are now reporting on how line Departments are performing on petitions referred by the institution.

The Petitions Standing Committee and PPP has initiated a process of clustering petitions so that they can be easily referred to Departments for responses and be addressed in a co-ordinated manner instead of an ad-hoc basis.

In terms of measures proposed to address the petitions backlog,, the GPL indicated there should be a partnership with the OoP to synergize their system so that when a petitioner submits a petition, it is submitted to a central portal which will then route it appropriately. This will prevent petitioners from submitting the same petition at different entry points, thereby further clogging the system.

A system to differentiate petitions based on when they were received should be implemented and not allocate all petitions into a single repository. In this way, there can be a focus on long outstanding petitions and actively addressing the backlog.

Furthermore, the Petitions Act should be reviewed to allow that after a petition have been addressed and resolved it can be declared closed by the Committee and removed, thereby unclogging the system. Measures to deal with non-compliance by Departments and other bodies should be strengthened and consequence management should be implemented.

The GPL is also exploring possibility of establishing Executive Intervention Team between GPL and GPG to managed Petitions and Resolutions between these two institutions to address areas of non-responses. Referring Petitions to Departments and Portfolio Committees simultaneously so that the latter are included from the onset and able to monitor and track progress on resolution of the petitions from their side. Another measure proposed to deal with the backlog is to explore possibility of increasing the number of meetings for the Petition Standing Committee and ensuring that Portfolio Committees provide feedback to PSC on referred Petitions.

# 2. INTRODUCTION

A Focused Intervention Study (FIS) is a method to guide an in-depth investigation of a particular focus area determined by the Committee. The main aim of an FIS is to drive and influence the strategic direction for Committees’ oversight over the Executive. The Committee embarked on the FIS process in accordance with the SOM and the Standing Rules of the Gauteng Provincial Legislature. The present FIS emanated from the GPL Budget Report process for the 2021/2022 FY. During this FIS, the Committee sought to the assess the challenges faced by the system in addressing petitions, and thus dealing with the backlog and unravelling the opportunities that are available within the petitions system.

# 3 PROCESS FOLLOWED

**3.1** On Friday, 20th August 2021, the Committee Researcher presented the FIS Proposals, and the Committee adopted the topic: “Petitions System of the Gauteng Legislature “and on Monday 28th February 2022, a fieldwork paper on the FIS topic was presented.

**3.2** On Friday, 11th March 2022 the GPL the FIS Topic to the Committee.

**3.3** On the Friday, 18th March 2022, the Committee deliberated and adopted its Committee FIS Report.

**4**. **CONSTITUTIONAL MANDATE: REPUBLIC OF SOUTH AFRICA**

The South African Constitution asserts the need for the realisation of a participatory democracy which calls for the active involvement and participation of the citizenry as well as more defined interest groups[[1]](#footnote-1) .Public participation processes serve to strengthen institutions of representative democracy by democratising those institutions. In the most pragmatic sense, in a participatory democracy, the public is actively involved in the decision-making processes of the government. Within this system, two forms of key public ‘actors’ exist: the citizenry, as represented by parties, and interest groups or stakeholders. In this model, public participation involves a meaningful exchange between the public actors and government.

The intention of public participation provisions in the Constitution is clear, to influence government policy outcomes so that they reflect “the will of the people”. Therefore, a vibrant civil society plays an indispensable role in a democracy. It facilitates public engagement with government organs, including legislatures, and ensures that institutions, policies and laws enjoy legitimacy among citizens[[2]](#footnote-2). An activist parliament, and legislatures, cannot be sustained without an activist people, an activist society. Parliament and legislatures are, in fact, meant to be people orientated – hence a ‘People’s Parliament’, and legislatures. One of the defining features of an activist Parliament and legislature is that it should seek to involve all citizens in issues of governance for better service delivery and development. As a key institution of democracy, it does not only hold government accountable, but is itself accountable to the citizens. The key provisions in the Constitution provide for our Parliament and legislatures to be the most effective and transparent in their work.

In this regard public participation is defined as the process by which Parliament and Provincial legislatures consult with the people and interested or affected individuals, organisations, and government entities before making a decision[[3]](#footnote-3) . It is seen as a two-way communication and collaborative problem-solving mechanism with the goal of achieving representative and more acceptable decisions. Other terms sometimes used are ‘public involvement’, community involvement’ or ‘stakeholder involvement’.

**5. BACKGROUNG: PETITIONS SYSTEM**

The GPL has a mandate to involve members of the public in its legislative processes[[4]](#footnote-4). These public participation processes must be meaningful and translate to better living conditions for the people of Gauteng. Failure of the above may lead to a decline in public confidence in the elected representatives and democratic institutions. It is against this background that the GPL adopted a radical paradigm shift in its public participation and involvement processes. This approach **‘***Reengineering of Public Participation beyond slogans****’*** was intended to herald a new way of promoting active citizenry in decision making processes of the GPL. The approach was to ensure a successful implementation of an activist legislature.

At the end of the 5th Legislative term, there were 545 inherited petitions from the 5th and previous legislatures, which the 6th Legislative Petitions Standing Committee (PSC) had the onerous task of processing consistent with the notion of being the successors in title. The regional origins of these inherited petitions is as follows: 36% of the inherited petitions emanated from City of Johannesburg, 19% emanated from City of Tshwane, 26% from City of Ekurhuleni, 9% from West Rand District municipality and 10% from Sedibeng District municipality. An overwhelming 59% of all adopted petitions were referred to municipal structures, which signals issues with Section 79 Committees in municipal structures, when over half of adopted petitions in the 5th legislative term, were issues which municipalities should have resolved in the first place.

Based on adopted PSC quarterly reports, the Committee has adopted 247 new petitions since the second quarterly report of the 2019/2020 FY until the second quarterly report of the 2021/2022 FY. The PSC has closed 63 petitions, and this translates to a 25% resolution rate between September 2019 up to September 2021. It is important to note that the closed petitions are not just solely those that were adopted since 2019, it is a combination of them. The Quarterly reports documents all these closed and adopted petitions. Moreover, it is vital to understand that the PSC does not control all the variables, as its role is only facilitative, it is the GPG departments and municipalities which have the power to resolve petitions. If you removed the 63 closed petitions from the total adopted petitions since 2019 which is 247, there are 184 remaining petitions.

# 6. COMMITTEE FINDINGS AND RECOMMENDATIONS

**6.1 Committee Findings**

The Committee noted the following:

1. That all Petitions are entered into a single repository, thereby providing an inaccurate and unduly bloated backlog figure and a system to differentiate Petitions based on when they are received.
2. That the Petitions Standing Committee and PPP has initiated the process of clustering petitions so that they can be easily referred to Departments for responses and be addressed in a coordinated manner opposed to an ad-hoc basis.
3. The GPL indicated that there should be a partnership with the OoP to synergize their system so that when a petitioner submits a petition, it is submitted to a central portal which will then route it appropriately.
4. The Petitions Act should be reviewed to allow that after a Petition have been addressed and resolved it can be declared closed and removed from the system by the Committee, thereby unclogging the system.
   1. **Committee Recommendations**

The Committee recommends that the GPL should provide the following to the Committee by the 31st of May 2022:

1. A report on the mechanism/ system to ensure differentiation of Petitions based on when they are received
2. A report on the process of clustering petitions so that they can be easily referred to Departments for responses
3. A report on synergizing the GPL system with OoP so that when a Petitioner submits a petition, it is submitted to a central portal which will then route it appropriately
4. A report on when will the Petition Act will be relooked to allow that after a Petition have been addressed and resolved it can be declared closed and removed from the system.

# 7. ACKNOWLEDGEMENTS

The Committee wishes to thank the Hon. Speaker LN Mekgwe and senior officials for the presentation on the details and information with regard to its Focused Intervention Study on “Petitions System of the Gauteng Legislature ".

I would like to thank the following Members of the Committee: Hon. ME Khumalo, Hon. F Hassan, Hon. B Mncube, Hon. LE Makhubela; Hon. ST Msimanga, Hon. JB Bloom, Hon. I Mukwevho, Hon. C Mabala, Hon. DK Adams and Hon, A Alberts for their dedication and support during this process.

The Committee would like to thank the Group Committee Co-ordinator, Ms. M. Vaas; Senior Researcher, Ms N Dhlamini ;Senior Committee Co-ordinators, Ms. N. Montisi and Ms. B. Makgato; Committee Researchers, Mr. O. Mogole and Mr K Mdakane, Senior Information Officer, Ms. A. Netshivhuyu, Committee Administrators, Mr. X Sithole and Ms E. Sonny; Hansard Recorder, Ms R. Singh, Service Officer; Ms M. Katisi and Communication Officer, Mr S Simelane for the commitment they have shown during the process.

# 8. ADOPTION

In accordance with Rule 165, the Chairperson of OPCOL hereby recommends that the report on the FIS Committee Report, be adopted by the House, taking into account Committee findings and proposed recommendations made in this report.

1. Scott, R. An Analysis of Public Participation in the South African Legislative Sector, Thesis submitted in partial fulfilment for the degree of Master of Administration, Stellenbosch University, March 2009 [↑](#footnote-ref-1)
2. Nyembezi, N and Waterhouse S. (3 August 2013) Open Parliament to the People - Strong legislatures in Parliament are essential to improving people’s quality of life, People’s Power – Peoples’s Parliament, Paper Prepared for Civil Society Conference on South African Legislatures, held in Cape Town, 13 - 15 August 2012. [↑](#footnote-ref-2)
3. SA Legislative Sector: Public Participation Framework for the SA Legislative Sector. 2013 [↑](#footnote-ref-3)
4. SA Legislative Sector: Oversight Model of the SA Legislative Sector, 2012

   3. https://www.acts.co.za/constitution\_of\_/constitution\_of\_the\_republic\_of\_south\_africa\_1996.php [↑](#footnote-ref-4)