No.105 - 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 Committee for the Scrutiny of Subordinate Legislation (CSSL), Hon. D K Adams, tabled the Committee’s Report Empowering Provision that grants power to make Regulations on the Gauteng Township Economic Development Bill *[G003-2021]*, 2020, as attached:**



**COMMITTEE ON THE SCRUTINY OF SUBORDINATE LEGISLATION (CSSL)**

**REPORT ON THE GAUTENG TOWNSHIP ECONOMIC DEVELOPMENT BILL, 2020**

 **10 MARCH 2022**

The Chairperson of the Committee on the Scrutiny of Subordinate Legislation (“CSSL”), Hon. DK Adams tables the Committee’s Report on the Empowering Provision that grants power to make Regulations on the Gauteng Township Economic Development Bill [2020] as follows:-

1. **INTRODUCTION**

On the 15th of September 2021, the Member of the Executive Council responsible for Economic Development, Environment, Agriculture and Rural Development in the Gauteng Province, Hon. P Tau tabled the Gauteng Township Economic Development Bill [2020] (“the Bill”) in the Gauteng Provincial Legislature.

The Standing Committee on Scrutiny of Subordinate Legislation in collaboration with the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development, considered the principle of the Gauteng Township Economic Development Bill [2020] and deliberated on the merits and the demerits of the Bill.

The CSSL focused on Clause 40 of the Bill, which empowers the MEC for Economic Development to make regulations on any of the matters that require to be prescribed to enable the implementation of the proposed legislation. The MEC is further empowered to make regulations on any other matter which may be necessary or expedient to be prescribed in order to achieve the objects of the proposed legislation.

The Bill seeks to provide for the promotion and development of the township economy and to create a conducive environment for the attainment of that purpose; to provide for licensing of township-based enterprises, to provide for management of the Fund through the Gauteng Township Economic Development Fund; to provide for principles to be adopted by municipalities in drafting and adopting by-laws and to provide for matters connected therewith or incidental thereto.

1. **PROCESS FOLLOWED**

The Gauteng Township Economic Development Bill was referred in terms of Rule 238 (1)(2) of the Standing Rules to the Standing Committee on Scrutiny of Subordinate Legislation for consideration and reporting on 19 May 2021.

 The Committee’s report is sanctioned by Rule 235 (1), which provides for the CSSL to consider a provision that grants power to adopt subordinate legislation to ensure that they meet the requirements of Rule 235 (2). Rule 237 (2) provides that, the Report of the Committee for the Scrutiny of Subordinate Legislation on a Bill must be tabled in the House together with the report on the Bill of the relevant Portfolio Committee.

On Tuesday, 09th of November 2021, a committee meeting was convened to consider the presentation on the Gauteng Township Economic Development Bill, 2021. The Committee further received a legal opinion and socio-economic analysis on the Clause 40 of the Bill. After deliberation, the Committee decided to note the Bill as presented and that joint meetings and public hearings be conducted with Economic Development Committee.

The joint Committee undertook public hearings on the Gauteng Township Economic Development Bill in the five regions of the Province as follows:-

* Johannesburg Metropolitan Municipality at the Brixton Community Hall in Brixton on Saturday, 4th December 2021 and on the 25th January 2022 at the Dlamini Multi-Purpose Centre in Soweto.
* Ekurhuleni Metropolitan Municipality – Ivory Park North Hall in Ivory Park on the 27th January 2022.
* Tshwane Metropolitan Municipality – Eersterust Civic Centre in Eersterust on the 7th February 2022.
* West Rand District Municipality- IEC Hall in Randfontein on the 1st February 2022 and at the Kagisano Community Hall in Kagiso on the 23rd February 2022.
* Sedibeng District Municipality - Vereeniging Civic Theatre in Vereeniging on the 16th February 2022.

Stakeholders made oral and written submissions on the Bill, however there were no submissions which related to the empowering provision of the Bill that the Committee needed to take into consideration.

1. **DETAILS OF THE ENABLING PROVISION OF THE BILL**

The Committee noted that Section 40 of the Bill provides that:-

The responsible Member of the Executive within six months from the date of commencement of this Act, must make Regulations: -

(a) prescribing any matter which in terms of this Act is required or permitted to be prescribed;

(b) appointment of board members

(c) designation procedure for townships;

(c) (SIC) funding application procedure; and

(d) (SIC) may, generally, make regulations regarding any matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

## 4. SOCIO-ECONOMIC ANALYSIS ON THE ENABLING PROVISION

The Committee advised the Department that Regulations to be drafted, finalised, and submitted to the CSSL within six months from the date of commencement of this Act. Furthermore, that the Regulations should be as detailed as possible so as to avoid any ambiguity and confusion of which enterprises and organizations are eligible to be funded. In determining such a criteria, the Department should consider the dire state of the township economy and the high levels of unemployment in townships.

Moreover, Section 40 (a) states that, the MEC may make Regulations prescribing any matter which, in terms of this Act, is required or permitted to be prescribed; and (d) (SIC) states that the MEC, may, generally, make Regulations regarding any matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

The Committee highlighted that the numbering under Section 40 should be corrected as alphabet C is repeated twice.

The Committee further raised a concern that, Section 40 a) and d) are broad and vague and may be open to the abuse of power when making Regulations in the future. All issues and aspects that the MEC may make Regulations on must be clearly stipulated and be as comprehensively as possible.

**5. LEGAL IMPLICATIONS OF THE BILL**

The Committee through the prism of this constitutional and legislative matrix analyzed Clause 40 and concluded the following must be amended:-

* Section a) and d) be deleted to be in line with the drafting principles
* Numbering be corrected *(Please see the original section below)*

The responsible Member within six months from the date of commencement of this Act, must make regulations: -

(a) prescribing any matter which in terms of this Act is required or permitted to be prescribed;

(b) appointment of board members

(c) designation procedure for townships;

(c) funding application procedure; and

[(d) may, generally, make regulations regarding any matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.]”

The Committee noted that the Bill will provide a framework for the promotion and development of township businesses and bring the historically disadvantaged into productive mainstream activities.

**6. COMMITTEE POSITION**

The Committee notes that, during the Public Hearings proceedings, there were no comments raised which relates to Regulations.

The Committee hereby recommend that Section 40 of the Gauteng Township Economic Development Bill, 2020 be adopted with the following amendments:-

**The responsible member must within six months of commencement of this Act, make regulations on:**

**(a) appointment of board members;**

**(b) designation procedure for townships; and**

**(c) funding application procedure.**

**7. RECOMMENDATIONS**

The Committee further recommends that when making Regulations in future, the Department should ensure that they:-

* Be as detailed as possible to avoid any ambiguity and confusion of which enterprises and organisations are eligible to be funded.
* Consider the dire state of the township economy and the high levels of unemployment in townships.
* Eliminate elements of quick money-making schemes that will seek to derail the good intensions of this Bill; and
* Ensure the vast majority of eligible people in townships should benefit from the introduction of this Bill.
1. **ACKNOWLEDGEMENTS**

Special thanks are due to the following Honourable Members: MH Cirota; MS Shackleton; KC Mazwi; TE Magagula; DP Malema and AA Ndlovana.

The Committee would further like to thank the following support staff for their dedication: Group Committee Co-ordinator, M Vaas; Committee Coordinator, C Senoko; Committee Administrator, L Lamola; Senior Researcher, N Dlamini Manager; Committee Researcher, S Buthelezi; Manager Proceedings, R Chiloane; Principal Table Assistant, K Kgosithebe; Manager NCOP/Legal, S Ncube; Legal Advisor, L Mudau; Senior Information Officer, N Ntlebi; Communications Officer, T Mashifane; Hansard Recorder, S Baloyi and Service Officer, P Ximba.

1. **ADOPTION**

In accordance with Rules 163, 164, and 201 of the Standing Rules of the Gauteng Provincial Legislature, the CSSL Committee adopted the Report on the Gauteng Township Economic Development Bill, 2020.