No.115 - 2022: Fourth Session, Sixth Legislature

**GAUTENG PROVINCIAL LEGISLATURE**

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**ANNOUNCEMENTS,**

**TABLINGS AND**

**COMMITTEE REPORTS**

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

Wednesday, 23 March 2022

# ANNOUNCEMENTS

none

# TABLINGS

none

**COMMITTEE REPORTS**

**1.** The Acting-Chairperson of the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee, Hon. M J Kanyane, tabled the Committee’s Report on the Gauteng Township Economic Development Bill *[G003-2021]*, as attached:



**ADOPTED ECONOMIC DEVELOPMENT, ENVIRONMENT, AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO COMMITTEE REPORT ON THE**

**GAUTENG TOWNSHIP ECONOMIC DEVELOPMENT BILL**

**[G003-2021]**

**22nd March 2022**

The Acting Chairperson of the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee, Hon. Mpapa Kanyane, tables the Committee's report on the Gauteng Township Economic Development Bill [G003-2021] as follows:

1. INTRODUCTION

The Speaker, Hon. L.H Mekgwe formally referred the Gauteng Township Economic Development Bill [G003-2021] to the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee for consideration and reporting.

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 enterprise; 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. BACKGROUND

The primary objective of the enabling legislation is to seek to empower the Executive Council to introduce programmes and projects that are geared at addressing the following constraints:

* The regulatory failures which drive and re-enforce these conditions can be clearly identified.
* The market fails townships because almost all township firms offering goods and services that big businesses and government could potentially buy are small and informal SMME’s cannot access formal markets and financing for the goods and services they could provide.
* Lack of proper commercial districts and high streets limits businesses to operate from homes or pavements – a situation understood by all financial service providers (including those distributing funding on behalf of government) as illegal and therefore as preventing these small, informal SMMEs from funding the expansion and/or growth of their businesses so that township streets do in fact become high streets.
* The township real estate market faces its own specific version of this market failure. There is no affordable financing to expand these into formal commercial and residential buildings and no support available to work through the legal issues (title, ownership, zoning, compliance, et cetera).
* The programmatic failure on the part of government at all levels has been the misdirection of funding and programmes that were designed to solve these problems.
* The Regulations which set aside 30% of sub-contracting value on any government contracts over R30 000 000 (R30m) for emerging businesses provide no meaningful opportunities for over 9 out of 10 firms based in townships.
* The funding targeted at SMMEs is not available to most township businesses, in large part because the rules on how formal lending works cannot recognize informal businesses and have no data on how risky (or not risky) it is to lend to these firms.
* Commercially viable land available in townships is not released and not used commercially on account of rules governing how land can be used and failure by all three spheres of government as well as the private sector to package and release land for use by township businesses.
* Failure to position transport nodes as enablers of economic development such as taxi routes and taxi ranks should be the backbone of a province-wide network of commercial districts, high streets and real estate providing housing to commuters.
* Failure to support the backyard real estate market to drive township high streets. An informal real estate market serving 1 in 4 residents which remains informal is a massive opportunity lost and is currently an unrealized opportunity.

1. PROCESS FOLLOWED
   1. The Speaker, Hon. L.H Mekgwe informally referred the Gauteng Township Economic Development Bill [G003-2021 to the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee for planning on the 19th May 2021.
   2. The Gauteng Township Economic Development Bill [G003-2021] was published in the Government Gazette No. 198, notice No 497 on Thursday, 17th June 2021;
   3. The MEC for Economic Development, Hon. Parks Tau introduced the Gauteng Township Economic Development Bill [G003-2021] at the Gauteng Provincial Legislature on Tuesday, 14 September 2021 and Subsequent to that the Speaker Hon. L.H Mekgwe formally referred the Gauteng Township Economic Development Bill [G003-2021 to the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee for consideration and reporting on the 14th September 2021.
   4. On Tuesday, 9th November 2021, the Committee received presentations from Committee Researchers on the analyses related to the potential socio-economic impact emanating from the Bill. In addition to that, the NCOP and Legal Unit presented the legal opinion on the Bill, taking the Committee through the clause-by-clause analysis.
   5. Subsequent to that, on the 15th and the 29th November 2021 the Gauteng Department of Economic Development made a detailed presentation to the Committee on the Bill.
   6. Notices for the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee public hearings on the Gauteng Township Economic Development Bill were advertised in the following newspapers, The Sowetan, City Press, Daily Sun, Beeld, Soweto Urban Diepkloof, Randfontein Herald, Germiston City News, Alex News and STER South.
   7. The Economic Development Portfolio Committee undertook public hearings on the Gauteng Township Economic Development Bill in the five regions of the Province:

* 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
  1. On Thursday, 10th March 2021, the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee deliberated on the 1st Draft of the Committee Oversight Report on the Gauteng Township Economic Development Bill [G003-2021].

1. PRINCIPLE AND OBJECTS OF THE BILL

The Gauteng Township Economic Development Bill [G003-2021] seeks to:

* Provide a regulatory framework which makes it possible for people living in townships to establish viable and thriving business, enterprises, small enterprises, small enterprise organisations and co-operatives where they live
* Introduce an enabling framework to ensure that retail malls and supermarkets that are township-based partner with local township-based enterprises, including the sourcing of some of the products and services from local township-based producers, service providers and manufacturers;
* Establish specific procurement rules and programmatic support that allows government and its main contactors― (i) to buy from a large group or groups of township-based enterprises, with systems linking them so they can supply as if they are one large enterprise; or (ii) to compel enterprises that obtain government contracts to spend a certain percentage of their procurement spend on township-based enterprises or entrepreneurs and co-operatives;
* Provide an enabling environment for municipalities to― (i) develop taxi ranks into micro central business districts and to support the taxi economy to use its scale to grow supporting value chains and industries (ii) support the development and promotion of a township-based real estate development model to convert areas with high commercial densities into township high streets; and
* Promote and support the development of representative associations of township-based enterprises and non-profit organizations.

**5. DETAILS OF THE BILL**

5.1 The following are the details of the Bill clause by clause:

**Amendment of the long title of the Bill**

This section provides for the long title of the Bill and was adopted with amendments.

**Preamble**

This section was adopted with amendments

**Clause 1**

This section provides for the definitions used in the Bill and was adopted with amendments.

**Clause 2**

This section provides for the Guiding Principles and was adopted as introduced

**Clause 3**

This section provides for the Objects of the Act and was adopted with amendments.

**Clause 4**

This clause provides for the Application of Act and was adopted as introduced

**Clause 5**

This clause provides for the Non-derogation from, and conflict with, other laws and was adopted as introduced

**Clause 6**

This clause provides for the Designation of Township Enterprise Zones was adopted with amendments.

**Clause 7**

This clause provides for the Licensing of township-based enterprises and was adopted with amendments

**Clause 8**

This clause provides for the Display of licences and was adopted as introduced.

**Clause 9**

This clause provides for the Policies and Programme by responsible Member and was adopted as introduced.

**Clause 10**

This clause provides for the Plans and strategies by provincial organs of state and was adopted and as introduced.

**Clause 11**

This clause provides for the Financial Assistance and it was adopted with amendments

**Clause 12**

This clause provides for the Development of Infrastructure and was adopted as introduced.

**Clause 13**

This clause provides for the Industrial and commercial estates and was adopted with amendments.

**Clause 14**

This clause provides for the Letting of buildings or premises and was adopted as introduced.

**Clause 15**

This clause provides for the Capacity building programmes and was adopted as introduced.

**Clause 16**

This clause provides for the Development of markets and provision of marketing services and was adopted as introduced

**Clause 17**

This clause provides for Technology transfer or acquisition and was adopted as introduced.

**Clause 18**

This section provides for the Establishment of Gauteng Township Economic Development Fund and this section was adopted with amendments.

**Clause 19**

This section provides for the Purpose of Fund and was adopted with amendments.

**Clause 20**

This section provides for the Funds of the Fund and was adopted with amendments

**Clause 21**

This section provides for the Management of Fund and was adopted with amendments

**Clause 22**

This section provides for Accessing the Fund and was adopted with amendments

**Clause 23**

This section provides for the Application of Act to municipalities within Province and was adopted with amendments.

**Clause 24**

This section provides for Township Economic Development By-laws and was adopted with amendments.

**Clause 25**

This section provides for Regulations and was adopted with amendments.

**Clause 26**

This section provides for Guidelines and was adopted with amendments.

**Clause 27**

This section provides for the Collaboration among organs of state and was adopted with amendments.

**Clause 28**

This section provides for Amendment of laws and was adopted with amendments.

**Clause 29**

This section provides for Short title and commencement was adopted with amendments.

1. PUBLIC PARTICIPATION

Members of the public were invited to make written inputs and comments when the Bill was published in the Provincial Gazette on the 17th June 2021. The Committee further held public hearings in all five regions of the Province as mentioned above, this also included two stakeholder engagement sessions focusing on municipalities, retail sector and the taxi industry represented by various organisations. The Committee targeted to obtain inputs from various sectors of the community, inputs received in summary amongst others relate to the illegal occupation of business spaces by foreign nationals and the role of municipalities on the implementation of the Act upon the Bill being assented.

Furthermore, the public and stakeholders were concerned on whether the Bill would be able to cut the red tape for SMME’s in doing business in the township. In addition to that, stakeholders also made inputs related to the functioning and composition of the Board as proposed in the Bill. However, stakeholders in the main welcomed the bill noting the intent of the Bill in supporting and revitalizing township economies.

In the public hearings and stakeholder engagements that convened by the Committee the following stakeholders amongst others made verbal and written submissions:

Socio-Economic Rights Institute for South Africa (Lawyers for Human Rights), Association of Black Securities and Investment Professionals (ABSIP), Banking Association South Africa, Black Business Council (BBC), BeMerry Foods and Enterprises, Consumer Goods Council of South Africa (CGCSA), Lesedi Progress Chamber of Business Forum NPC, Deep South Chamber of Commerce and Industry, Dikobo Tlou, Lesedi Local Municipality, Ubuma Leadership, The Progressive Blacks in Information and Communication Technology (PBICT), Imvubo Holdings, GG Alcok, African Patriotic People’s Assembly (APPA), Mogale City Local Municipality, National Black Business Caucus (NBBC), South African Small and Medium Enterprise Corporation, Southern African Venture Capital and Private Equity Association (SAVCPEA, Soweto & Surrounding Industry Chambers Councils Forum, Township Economic Council South Africa, South African United Business Confederation, South African Local Government Association (SALGA) and WestRand Ministers Constituency.

1. CONSTITUTIONAL AND LEGAL IMPLICATIONS

The Committee received a legal opinion from the NCOP and Legal Services Unit which highlighted areas in the Bill that need to be amended for the Bill to be consistent with the Constitution and Legislative Drafting Convention.

1. SOCIO – ECONOMIC IMPACT

The Committee is of the view that the Bill will have positive social and economic impact because of the following:

The Bill is considered not to be well drafted as some of the stakeholders have questioned its alignment with the Constitution, however it is commended to be possessing encouraging elements on which to build on. More so because the development of township economy is regarded as crucial to the development of a country’s economy. The Bill is aimed at benefitting the economy through the facilitation and promotion of inclusive economic growth. This can be achieved amongst others through the provision of an efficient regulatory framework meant to ensure that people living in township are able to establish viable and thriving businesses. The success of the township businesses will have a potentially positive effect on poverty reduction and employment creation as the much-needed job opportunities will receive a significant boost from the implementation of this legislation.

Some of the planned beneficial activities in the Bill include monitoring the efficiency and performance of township-based enterprises. This possesses positive spin-offs for the township businesses, including positive outcomes such as increased productivity and sustainability. However, capacity constraints need to be adequately addressed since such were identified as a huge hindrance during various engagements between the Portfolio Committee with the broader Gauteng communities.

1. FINANCIAL IMPLICATIONS

The Bill will have financial implications for the Gauteng Department of Economic Development with respect to establishment of the Gauteng Township Development Fund, questioning whether the establishment of the fund has been costed within the Department as the funding for this will be from the Provincial fiscus if the Bill is enacted.

1. COMMITTEE POSITION

The Economic Development, Environment, Agriculture and Rural Development Portfolio Committee supports the Gauteng Township Economic Development Bill [G003-2021] with amendments.

1. ACKNOWLEDGEMENTS

The Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development wishes to thank the MEC for Economic Development, Hon Parks Tau and senior officials of the Department for the detailed presentation on the Gauteng Township Economic Development Bill [G003-2021]. Furthermore, gratitude is extended to all the stakeholders who engaged with the Committee during the process of considering the bill.

Appreciation also goes to all Members of the Committee for their commitment to the oversight process. I commend them for their diligence and commitment shown during processing and deliberations on the Committee Oversight Report on Gauteng Township Economic Development Bill [G003-2021]. Gratitude goes to Members: Hon. L E Makhubela, Hon. F Hassan, Hon. B P Mncube, Hon. Sizakele Nkosi-Malobane, Hon. S M Gana, Hon. A W Cilliers, Hon. A G Tshitangano, Hon. A D Alberts, Hon. D K Adams, Hon. E Du Plessis, Hon. B F Bardenhorst and Hon. J J Hoffman as alternate Members.

The appreciation is further extended to Member: Hon. D K Adams, Hon. T E Magagula, Hon. D P Malema, Hon. A A Ndlovana, Hon. S M Letsie-Mogale, Hon. M H Cirota, Hon M S Shackleton, Hon. R Mnisi and Hon. K C Mazwi.

All the above-mentioned Members formed part of the Joint Committee considering the Gauteng Township Economic Development Bill and it was an honour to lead such a hardworking team.

On behalf of the Committee, the Committee's appreciation and gratitude also goes to the following Committee Support Staff Mr. T. Bodibe; Dr. A. Malapane, Ms M. Makhubela; Mr. T. Skosana; Ms L Mampe, Ms. V. Mokubetsi, Ms N Mngadi, Mr. S Baloyi, Mr. B. Dhlomo, Ms. B. Nhlapho, Ms M Kekana, Mr K Kgosithebe and Mr T Ndou for their devoted assistance during the processing of this Bill.

1. ADOPTION OF THE REPORT

After due consideration the Committee on Economic Development, Environment, Agriculture and Rural Development Portfolio Committee adopted the Committee’s Report on the Gauteng Township Economic Development Bill [G003-2021].

In terms of Rule 117(2)(c) read together with Rules 163 (1)(2)(3) and Rule 164 the Committee presents to this House and recommends the adoption of the Committee’s Report on the Gauteng Township Economic Development Bill [G003-2021].