No.0104 - 2023: Fifth Session, Sixth Legislature

**GAUTENG PROVINCIAL LEGISLATURE**

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

**ANNOUNCEMENTS,**

**TABLINGS AND**

**COMMITTEE REPORTS**

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

Monday, 06 March 2023

**ANNOUNCEMENTS**

none

**TABLINGS**

none

**COMMITTEE REPORTS**

**1. The Acting Chairperson of the Standing Committee on Public Accounts, Hon. M Kanyane hereby tables the Committee’s Oversight Report on the Gauteng Unauthorised Expenditure Bill *[G003-2022]*, as attached:**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS OVERSIGHT REPORT ON THE GAUTENG UNAUTHORISED EXPENDITURE BILL 2022**

**21 FEBRUARY 2023**

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**Acronyms**

AGSA Auditor-General of South Africa

CFO Chief Financial Officer

DAC Departmental Acquisition Council

DG Director-General

DPSA Department of Public Service and Administration

GPC Gauteng Planning Commission

GPG Gauteng Provincial Government

GPL Gauteng Provincial Legislature

MEC Member of the Executive Council

MTEF Medium Term Expenditure Framework

PFMA Public Finance Management Act

PRF Provincial Revenue Fund

RSA Republic of South Africa

SCOPA Standing Committee on Public Accounts

TR Treasury Regulations

**1. INTRODUCTION**

Expenditure is classified as Unauthorised Expenditure when incurred without legal authorisation by the Gauteng Provincial Government in respect of over-spending of a Vote or a main division within a Vote. This could also be expenditure not in accordance with the purpose of a Vote or the main division within the Vote or expenditure incurred without complying with relevant legislation, rules, or regulations.

The Gauteng Department of Health (Vote 4) incurred an unauthorised expenditure during the 2005/06 Financial Year. This was confirmed in the Report of the Auditor-General of South Africa to the Gauteng Provincial Legislature on the Financial Statements of Gauteng Department of Health for the year ended 31 March 2006.

On 29 August 2012, the Committee considered and adopted its report on the Gauteng Unauthorised Expenditure Bill [G003-2012] without the R10 759 000 unauthorised expenditure incurred by the Gauteng Department of Health. This was due to the failure of the Department to provide the Committee with adequate information to enable it to approve or not approve the R10 759 000 unauthorised expenditure. The Department incurred the unauthorised expenditure on Programme 8-Health Facilities Management as follows:

1. R2 052 000 unauthorised expenditure was for payments made to private security companies contracted by the Department to strengthen security at various institutions following breaches which led to theft and loss of property; and
2. R8 707 000 unauthorised expenditure was for payment of equipment ordered to fast-track the functioning of the newly built Steve Biko Academic Hospital. The equipment was ordered and delivered during 2005/06 financial year and paid in March 2006.

On 25 November 2021, the Committee received a request from the Gauteng Provincial Treasury to once again approve or not approve the unauthorised expenditure incurred by the Gauteng Department of Health during 2005/06 financial year as the amount has been in theDdepartment’s financial statements for more than fifteen (15) years.

On 04 May 2022, the Committee requested the Gauteng Department of Health to provide additional information to enable it to consider the R10 759 000 unauthorised expenditure incurred during the 2005/06 financial year. The Department provided the written response on 10 May 2022, in which it categorically confirmed that it could not trace the relevant documentation related to the unauthorised expenditure it incurred during the 2005/06 financial year.

On 12 May 2022, the Committee held a meeting with the Gauteng Department of Health to discuss the details of the R10 759 000 unauthorised expenditure. The MEC and HoD informed the meeting that the Department was still unable to provide the required additional information to enable the Committee to approve or not approve the R10 759 000 unauthorised expenditure. As a result of the inability of the Department to provide additional information, the Committee resolved not to approve the R10 759 000 unauthorised expenditure incurred during the 2005/06 financial year and that the amount will be a direct charge against the funds allocated for the next or future financial years under the Gauteng Department Health (Vote 4) in terms of Section 34(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Furthermore, the Committee noted that the Gauteng Department of Health has reported that, “no disciplinary steps were taken against the officials responsible for the unauthorised expenditure incurred as they were no more in its employment”.

**2. PROCESS FOLLOWED**

The Gauteng Provincial Unauthorized Expenditure Bill, 2022 (“Bill”) was introduced in the House on 15 November 2022 in terms of Rule 192 of the Gauteng Provincial Legislature Standing Rules.

The Bill was referred by the Speaker to the Standing Committee on Public Accounts (SCOPA) on 15 November 2022 in terms of Rule 200 (3) of the Standing Rules of the Gauteng Provincial Legislature for consideration.

The Gauteng Provincial Treasury briefed the Committee on the Bill on Tuesday, 31 January 2023, and subsequently a legal opinion was sought from the Gauteng Provincial Legislature’s (GPL) Legal Unit.

According to the legal opinion, the Bill is in line with the relevant provisions of the Constitution as well as the Public Finance Management Act. Furthermore, there are no proposed amendments in respect of the Bill.

After due deliberations on 21 February 2022, the Standing Committee on Public Accounts (SCOPA) unanimously adopted its report on the Gauteng Unauthorised Expenditure Bill [B-2022].

**2.1 Public Participation**

The Committee was satisfied with the details of amounts contained in the Bill which corresponded with the amounts as unapproved. The Committee deliberated further on the Bill and agreed to not conduct public hearings on the proposed Bill as per the legal opinion.

The Committee was further advised that due to the length and technical nature of the Bill, a call for written submissions giving stakeholders a period of 7 working days to submit inputs would suffice and that there is no need for public hearings.

Interested stakeholders were requested to submit written comments on the Bill by Monday, 20 February 2022. Open campaigns were made across the various media platforms and advertisements were published in the following newspapers:

* SA FM Promos Campaign – 15th until 18th February 2023.
* The Beeld Newspaper advert- 15th February 2023.
* Mail & Guardian Newspaper advert - 17th February 2023.

No written submissions were received from members of the public.

**3. THE ROLE OF SCOPA**

The role of SCOPA is to exercise oversight over Gauteng Provincial Legislature and Gauteng Provincial Government, on behalf of the Legislature, to ensure accountable utilization of resources and prudent financial management and to make recommendations to the Legislature.

The Standing Committee on Public Accounts is mandated to examine the report issued by the Auditor-General on the affairs of the Legislature and the Provincial organs of state. (GPL Rule 178(1)(a)(iii) and (2) and (3).

**4. THE PRINCIPLE OF THE BILL**

The purpose of the Bill is to provide for the authorisation of unapproved unauthorised expenditure incurred by the Gauteng Department of Health during the 2005/06 financial year.

**5. THE DETAIL OF THE BILL**

**5.1 Unauthorised expenditure not approved**

The amount of R10 759 000 not recommended for approval by the Standing Committee on Public Accounts of the Provincial Legislature will become a direct charge against the budget of the Department in terms of Section 34(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999). This will effectively reduce the budget of the Gauteng Department of Health for the next or future financial years.

**6. SOCIO-ECONOMIC IMPACT**

According to the Gauteng Provincial Treasury, there will be no socio-economic impact because of the passing of the Bill. However, the Committee is of the view that the non-approved unauthorised expenditure will negatively impact service delivery target settings for 2023/24 MTEF Budget plans as this will result in a reduction in the Provincial coffers.

**7.** **ENVIRONMENTAL IMPACT**

According to Gauteng Treasury, there will be no environmental impact because of the passing of the Bill. However, the Committee is of the view that the non-approval of the Unauthorised Expenditure may delay the implementation of projects intended to improve the quality of life of the people of Gauteng.

**8. FINANCIAL IMPLICATIONS**

The amount of R10 759 000 not recommended for approval by the Standing Committee on Public Accounts by the Provincial Legislature will become a direct charge against the budget of the Department in terms of Section 34(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999). This will effectively reduce the budget of the Gauteng Department of Health for the next or future financial years.

 **9. CONSTITUTIONALITY OF THE BILL**

A legal opinion was sought from the GPL’s Legal Unit which indicated that the Bill is in line with the relevant provisions of the Constitution as well as the Public Finance Management Act and that there are no proposed amendments in respect of the Bill. That the commencement of the Gauteng Provincial Legislature Money Bills Amendment Procedure and Related Matters Act, 2019, will allow for more in-depth scrutiny of the contents of money Bills.

The Committee is satisfied that the Bill is constitutional and within the provincial competence of law-making. The Committee supports the Bill as introduced.

**10. COMMITTEE RECOMMENDATION**

That the Committee supports the principle and detail of the Gauteng Unauthorised

Expenditure Bill [B-2022].

**11. ACKNOWLEDGEMENTS**

I would like to thank the following Members: MJ Kanyane; RJ Kekana; BP Mncube; MJ Modise; A De Lange; P Atkinson; AW Cilliers; AM Randall; BF Badenhorst for their diligent deliberations during this process.

I would also like to express my appreciation to the MEC. J Mamabolo and officials of the Gauteng Provincial Treasury; the Gauteng Business Unit Leader of the Office of Auditor-General South Africa (AGSA), Mrs. Melissa McCarthy and her team; Group Committee Co-ordinator, Monica Vaas for tabling the report; Senior Committee Co-ordinators, Simon Magolego, and Mompati Gaonnwe; Committee Co-ordinator, Catherine Thobejane; Committee Researchers, Bongi Dlamini and Lerato Mofokeng; Administrative Assistants, Sizakele Mthembu; Media Officer, Pfano Bulasigobo; Senior Information Officer, Jacky Letsoalo; Legal & Procedural Advisor, Winnie Ngubane; Service Officer, Lithemba Simon, PPP Lerato Bodman and the Hansard Operator, Michael Makwela without whom this process would not have been successfully completed.

**12. ADOPTION OF THE REPORT**

After due deliberations on the 21 February 2023, the Standing Committee on Public Accounts (SCOPA) unanimously adopted its report on the on Gauteng Unauthorised Expenditure Bill [B-2022].

In terms of Standing Rule 117 (2)(c) read together with 164, the Committee presents to this House the above-mentioned report for consideration and adoption.

**Mr. Sochayile Khanyile, MPL**

**Chairperson: Standing Committee on Public Accounts**

**ADDENDUM**

**SCHEDULE**

|  |
| --- |
| **NOT APPROVED** |
| **Vote** | **Vote Name** | **Financial Year** | **Amount** |
| 4 | Gauteng Department of Health | 2005/06 | 10 759 000.00 |
|  | **TOTAL** |  | **10 759 000.00** |