

# Submission on Draft Money Bills Amendment Procedures and Related Matters Bill



2008

## **1. Introduction**

- 1.0.1 The Financial and Fiscal Commission wishes to thank the Portfolio Committee of Finance for the opportunity to comment on the Draft Money Bills Amendment Procedure and Related Matters Bill, 2008.
- 1.0.2 The Commission welcomes the introduction of this legislation, which gives effect to the Constitutional provision enabling Parliament to implement its role of oversight over the executive organs of state.
- 1.0.3 The Commission appreciates the recognition of its advisory role in the budget process as contained in Clauses 4 (3) (c) iv and vi and 7 (3) f and g.
- 1.0.4 Further, the Commission welcomes the establishment of a Budget Office to meet the public finance research requirements of Parliamentary Committees and offers comments and recommendations on how this office might be capacitated.

### **1.1 Objects of the Bill**

- 1.1.1 Section 77(2) of the Constitution of the Republic of South Africa (1996) requires the establishment of a procedure to enable Parliament to amend money bills that have been introduced to it by the Minister of Finance. Money bills relate to the raising of government revenue and appropriation thereof between spending programs. Further to bills imposing taxes, levies or duties, the most relevant bills of appropriation from the National Revenue Fund are the annual Appropriation Bill (for national government) and the annual Division of Revenue Bill (for provincial and municipal governments).
- 1.1.2 The Draft Money Bills Amendment Procedure and Related Matters Bill (2008) deals with this long-standing issue, and does so with the benefit of hindsight of approximately a decade of experience in implementing the Intergovernmental Fiscal Relations Act (1997) and the Public Finance Management Act (1999).

### **1.2 Contents of the Bill**

- 1.2.1 Clause 4 of the above-mentioned bill suggests that committees be established in both the National Assembly and the National Council of Provinces to engage the Minister of Finance's macro-economic and fiscal policy framework and be empowered to amend money bills.
- 1.2.2 Traditionally, the terms of reference for the Portfolio Committee of Finance of the National Assembly included discussion of macro-economic and fiscal policy frameworks as presented by the Ministry of Finance and the allocations to national departmental votes and divisions as indicated in the Appropriations Bill. The Select Committee of Finance, on the other hand has been briefed with dealing with matters of inter-governmental fiscal relations as indicated in the annual Division of Revenue Bill.

- 1.2.3 Clause 4(2) enables the establishment of a joint budget committee between the two Houses to engage the annual Division of Revenue Bill. The terms of reference and procedures for the existing Joint Budget Committee have been extensively debated especially in respect of duplicate responsibilities with other finance-related committees.
- 1.2.4 To date, all annual Appropriation, Division of Revenue and other money bills have been passed without amendment.
- 1.2.5 Clause 5 would require the Minister of Finance to submit a macro-economic policy, a fiscal policy and an intergovernmental fiscal relations framework to the proposed Parliamentary committee/s together with the Medium Term Budget Policy Statement in November each year.
- 1.2.6 Clause 7 establishes a procedure for debating and voting on the assumptions of the macro-economic, fiscal and intergovernmental fiscal relations frameworks. This could enable MPs to alter deficit or surplus targets and to shift allocations between departments and spheres of government during the drafting of the annual Appropriation and Division of Revenue Bills. A procedure for engaging both the Minister of Finance and the Cabinet ministers affected by the proposed amendments is provided for.
- 1.2.7 Clause 7 (8) requires that any such proposed amendments be reported to and adopted by the National Assembly within four months after the introduction of the money bill.
- 1.2.8 Clause 8 proposes the establishment of a Budget Office to provide research support to the proposed committee/s.

## **2. General Issues**

### **2.1 Respective Roles of Finance and Budget Committees**

- 2.1.1 The bill proposes the establishment of [Portfolio and Select] Budget Committees in both Houses of Parliament and allows for a joint committee from both Houses to engage the annual Division of Revenue Bill. This implies that the current terms of reference of the Portfolio and Select Committees of Finance, the Joint Budget Committee and possibly the Select Committee on Public Accounts (Scopa) may need to be revised
- 2.1.2 Currently, only the Portfolio Committee is briefed with reviewing the macro-economic and fiscal policy frameworks together with its oversight role over the financial sector. Neither the Select Committee of Finance nor the Joint Budget Committee is currently enabled to review the macro-economic and fiscal policy frameworks. The focus of the Select Committee is on provincial and municipal government budgets; whilst both the Select and Joint Budget Committee engage the in-year monitoring of government spending.
- 2.1.3 The relative roles of the Portfolio and Select Committees of Finance relative to the Budget Committee/s should be clarified in respect of determining the divisions of revenue between respectively (a)

departmental votes, (b) programs, (c) spheres of government (i.e. the vertical division of revenue) and (d) between provinces and municipalities (i.e. the horizontal division of revenue).

## **2.2 Independent Macro-Economic Forecasts**

- 2.2.1 A fiscal policy framework essentially consists of taxation, spending and borrowing targets and is primarily predicated on (a) revenue growth projections; which in turn are based on projections of economic growth and (b) opinions on deficit financing.
- 2.2.2 Macro-economic forecasts are primarily focused on projections of economic growth and inflation. However projections on the balance of payments, interest rates, employment rates and poverty rates are also important in determining policy that progressively realizes socio-economic rights (indicated in Chapter 3 of the Constitution) within the constraints of fiscal policy targets.
- 2.2.3 In 2007, the Fiscal and Financial Commission recommended that macro-economic forecasts prepared by the National Treasury be validated independently. This is considered international best-practice in order to enhance the transparency and credibility of government budgets. A variety of opinions on macro-economic forecasts can counter any systematic bias that may lead to inaccurate forecasts.

## **2.3 Consultation and Co-ordination Requirements in Budget Making**

- 2.3.1 Strictly speaking, the Appropriation and Division of Revenue Acts appropriate funds for the forthcoming year of the medium-term budget only. Allocations for the second and third years of the medium-term framework are only indicative and, as such, can already be amended by Parliament. Hence this act enables an amendment to the forthcoming year's allocations to departments and spheres and to the underlying fiscal framework.
- 2.3.2 Clause 7 (8) indicates that the budget committee/s must report on proposed money bill amendments to the National Assembly within four months of the introduction of the money bill. Clause 7 (14) indicates that a House must adopt an amended bill within four months of the start of the financial year (i.e. by August).
- 2.3.3 It is possible that agreement (on the macro-economic framework, fiscal policy targets and the allocations between departments and spheres) may not be reached between Parliament, the Ministry of Finance and other Cabinet Ministers affected by the money bill amendments within the allocated four month period after the start of the new financial year. In this instance, Clause 7 (14) proposes that a money bill introduced by the Minister of Finance be adopted in the event of a House of Parliament failing to pass proposed amendments.

- 2.3.4 However, if budget allocations for the forthcoming year are to be amended, up to one-third (or four months) of the financial year may be lost to the budget preparation process. This is likely to disrupt budgeting, particularly for provincial and local governments whose budgets can only be determined after the Division of Revenue Act has been passed.
- 2.3.5 A process for achieving consensus on macro-economic forecasts and fiscal policy targets between Parliament, the Ministry of Finance and other affected Ministries during the allocated four month period might be considered.
- 2.3.6 The role of the budget committee/s in influencing the Adjustments Budget during the course of the year has not been addressed by the proposed bill.
- 2.3.7 Amendments to the current and forthcoming year's budgets should be made very judiciously and only in response to major changes in macro-economic circumstances, which may justify a shift in fiscal policy targets. Budget Committees can minimize the potential for such disruptions by focussing on the assumptions behind and the allocations made against the second and third years of the medium-term budget.
- 2.3.8 In the event of two Budget Committees from both Houses failing to reach consensus, or in the event of a hung vote within a Joint Budget Committee; the drafters of this legislation might consider indicating whether the procedures described in Sections 76 and 78 of the Constitution on establishing Mediation Committees is to be followed.

## **2.4 Fiscal Rules Framework**

- 2.4.1 To enable the budget committee/s to focus on their objectives, certain fiscal rules could be either legislated for or adopted by the committees.
- 2.4.2 Fiscal rules are especially important for small, open economies subject to exogenous shocks (such as rapid energy and food price inflation); and are intended to manage the risk of unstable budget growth paths.
- 2.4.3 Section 230 of the Constitution limits borrowing for current purposes to the short-term / one year. This implies the so-called "golden rule of budgeting" that deficit financing be limited to spending on capital goods such as infrastructure which enable economic growth.
- 2.4.4 Other fiscal risk management tools include using a balanced budget approach to dampen economic cycles (i.e. generating budget surpluses when per capita economic growth is positive but deficit spending when per capita economic growth is negative). Sustained deficit financing has long-term consequences for the nation's creditworthiness and capacity to borrow money from both domestic and foreign investors.
- 2.4.5 International best practice in performance budgeting uses the measures of economy (relating spending to budgets), efficiency (relating spending to outputs / beneficiaries) and effectiveness (relating spending to socio-economic impact).

## **2.5 Capacitating the Budget Office**

- 2.5.1 A well capacitated Budget Office is essential to enable Parliament to amend money bills. A Budget Office will need independent capacity to (a) generate its own macro-economic forecasts; (b) model the implications of different fiscal policy targets; (c) indicate the trade-offs required when adjusting divisions between departments, (d) between spheres and (e) between provinces and (f) between municipalities.
- 2.5.2 Defining the brief of the Budget Office more closely will enable more accurate indications of human resource capacity requirements and the associated financial implications of the bill to be made.
- 2.5.3 In order to assess value for money through measures of efficiency and effectiveness of government spending, non-financial data will be required. This includes output, outcome and impact data on ministerial programs, entities and institutions; notably on the number and eligibility of beneficiaries, but also the various goods and services that the ministries are providing. Non-financial data is generally collected by the ministries in conjunction with Statistics South Africa.
- 2.5.4 The Budget Office will be as reliant as any other party on the quality and reliability of financial and non-financial data generated by government departments to enable monitoring and evaluation.

## **3. Specific Issues**

- 3.0.1 In Clause 1; the Chairperson is defined as the Chair of the National Council of Provinces. Does this imply that the Chair of a Joint Budget Committee is the Chair of the Council by default?
- 3.0.2 The definition of fiscal framework in Clause 1 is tautological. The distinction between macro-economic and fiscal policy frameworks should be defined.
- 3.0.3 Clause 4 (3) (c) v., Clause 5 and Clause 7 (3) (h) seem to limit the Budget Committee's consideration of Treasury reports to those dealing with revenue and expenditure only. Reports on assets and liability management and various non-financial performance indicators might also be relevant.
- 3.0.4 Clause 7 (3) which lists the bases for motivating a money bill amendment might specify the evaluation criteria listed in Section 214 (2) a-j of the Constitution.
- 3.0.5 Clause 7 (4) and (5) refer to a committee but does not specify whether this is a joint budget committee or either of the two Houses' proposed budget committees.
- 3.0.6 In Clause 8 (3), the drafters of the legislation should distinguish between administrative, research and technical support to the budget committee/s. The current draft could be read to subsume research and technical support under administration.

## 4 **Recommendations**

Commissioners and Executive to indicate through teleconference

## 5. References

- 5.0.1 Money Bills Amendment Procedure and Related Matters Bill, Government Gazette No. 31238, 10 July 2008;
- 5.0.2 Memorandum on the Objects of the Money Bills Amendment Procedure and Related Matters Bill, Government Gazette No. 31238, 10 July 2008;
- 5.0.3 Chapter 4 Parliament & Chapter 13 Finance of the Constitution of the Republic of South Africa, 1996;
- 5.04. Public Finance Management Act, Government Gazette No. 19814, March 1999;
- 5.0.5 “Battle for control over the budget”, article in Business Times, July 2008;
- 5.0.6 Submission to Portfolio Committee of Finance Hearings on the Draft Money Bills Amendment Procedure and Related Matters Bill, 2008; Afrec, July 2008;
- 5.0.7 Submission to Select Committee of Finance Hearings on the Division of Revenue Bill, 2000; Afrec, March 2000.