

REPORT OF THE PORTFOLIO COMMITTEE ON PREMIER'S OFFICE; FINANCE; ECONOMIC DEVELOPMENT AND TOURISM ON THE SUBMISSION OF PARTICULARS OF A CONSTITUTIONAL AMENDMENT IN TERMS OF SECTION 74(5)(b) OF THE CONSTITUTION

1. INTRODUCTION

On the 28th of November 2017 the Minister of Justice and Correctional Services (the Minister) submitted particulars of a proposed constitutional amendment to the Speaker of the Mpumalanga Provincial Legislature.

The proposed constitutional amendment seeks to transfer areas from one province to another; namely:

- Matatiele Local Municipality from Eastern Cape to KwaZulu Natal
- Certain areas from Ga Ba Mothibi from North West to Northern Cape

The Minister requested the Legislature to submit its views on the proposed constitutional amendment on or before the 28th of February 2018.

In terms of section 74(5) of the Constitution, a person or committee intending to introduce a Bill amending the Constitution must at least 30 days before introducing the Bill in Parliament submit in accordance with the rules and orders of the National Assembly, those particulars to the provincial legislatures for their views.

2. OBJECTIVES OF THE SUBMISSION

To consider the proposed constitutional amendment and to report back to the Legislature in line with Section 74(5)(b) read with rule 200 of the Mpumalanga Provincial Legislature Rules and Orders (the Rules).

3. METHOD OF WORK

The Speaker referred the matter in terms of rule 200 of the Rules of the Mpumalanga Provincial Legislature to the Portfolio Committee on Premier's Office, Finance, Economic Development and Tourism (the committee) for consideration and report back to the Legislature.

The committee invited the Department of Justice and Constitutional Development together with the National and Provincial Department of Cooperative Governance and Traditional Affairs to brief the committee on the proposed constitutional amendment.

5. PRESENTATION BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The Department of Justice and Constitutional Development gave a brief background to the committee of what led to the intended redetermination of the provincial boundaries. The department further briefed the committee on the areas to be relocated, which is Matatiele Local Municipality and certain areas in Ga Ba Mothibi in North West. The proposed constitutional amendment seeks to transfer Matatiele Local municipality from Eastern Cape to Kwa-Zulu Natal and certain areas in Ga Ba Mothibi from North West to Northern Cape.

The department further indicated that particulars of the proposed constitutional amendment were published in the government gazette number 41276 for public comments on the 24th of November 2017 in line with section 74(5)(a) of the Constitution.

6. INPUTS BY THE DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

The Department of Cooperative Governance and Traditional Affairs indicated to the committee that due processes were followed when dealing with the proposed constitutional amendment. Furthermore, they reported that Mpumalanga has submitted a list of 17 areas that needs to be re-determined. However, the list is not yet finalised and does not form part of these proposed amendments.

7. INPUTS BY THE LEGISLATURE LEGAL TEAM

Legal Services advised that the submission by the Minister of the particulars of the proposed constitutional amendment to the legislature is in line with section 74(5)(b). In terms of section 74(5)(b) of the Constitution before a Bill amending the constitution is introduced in Parliament, particulars of the proposed constitutional amendments must be submitted to provincial legislatures for their views.

The Legislature will deal with the proposed constitutional amendment in terms of rule 200 of the Rules of the Mpumalanga Provincial Legislature. In terms of rule 200, the Speaker of the Legislature must refer the particulars of the proposed constitutional amendment to the relevant committee for consideration and report back to the Legislature.

The committee must deal with the referral and then produce a report containing its views on the proposed constitutional amendment.

The report must be tabled in the House to enable the Legislature to state its views on the proposed constitutional amendment by way of a resolution

The Legislature must transmit the resolution to the Minister of Justice and Correctional Services and must also inform the Secretary to Parliament in writing of the views of the Legislature on the said particulars

7. DELIBERATIONS BY THE COMMITTEE

The Committee raised a concern about the timeframe allocated to provincial legislatures to process this submission. The Department of Justice and Constitutional Development reported that they have received requests for extension of the period of submission of written comments from legislatures and that the Minister of Justice and Correctional Services together with the Minister of Cooperative Governance and Traditional Affairs are still considering the request for extension.

After deliberations, the committee indicated that it is in support of the proposed constitutional amendment as proposed without any further amendments.

8. PUBLIC INVOLVEMENT

Legal Services advised that at this stage the Legislature is not obliged to conduct public hearings. Public hearings will only be conducted only after the Bill has been referred to the Legislature through the NCOP processes in line with Section 74 of the Constitution.

9. FINDINGS BY THE COMMITTEE

After deliberations, the committee made the following findings:

- a) The proposed constitutional amendment is in line with the Constitution.
- b) The Minister of Justice and Correctional Services has complied with section 74(5) of the Constitution.

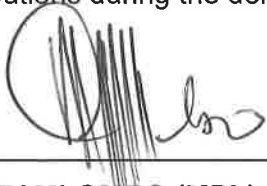
10. RECOMMENDATIONS

The committee recommends that:

- a) The Legislature adopts the Committee report as the views of the Mpumalanga Provincial Legislature on the proposed constitutional amendments.
- b) The Legislature transmits the Resolution of the Legislature on the proposed constitutional amendment to the Minister of Justice and Correctional Services and must inform the Secretary to Parliament in writing of the views of the Legislature on the said particulars.

11. CONCLUSION

The Chairperson extended his appreciation to Members of the Committee, officials from both the Departments and officials of the Legislature for their active and meaningful participation and contributions during the deliberations.



HON FV MLOMBO (MPL)
CHAIRPERSON: PORTFOLIO COMMITTEE ON
PREMIER'S OFFICE; FINANCE;
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26.02.2018

DATE