

# **MPUMALANGA FINANCE BILL, 2013**

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**(As introduced in the Provincial Legislature (as a section 120 Bill))**

**(The English text is the official text of the Bill)**

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**(MEC FOR FINANCE)**

# BILL

To approve unauthorised expenditure; and to provide for matters connected therewith.

## ARRANGEMENT OF SECTIONS

### Sections

1. Interpretation and Definitions
2. Approval of unauthorised expenditure
3. Recovery of unauthorised expenditure
4. Short title

### Schedule

Unauthorised expenditure referred to in section 34(1)(a) of the Public Finance Management Act, 1999 (Act No.1 of 1999)

**BE IT ENACTED** by the Mpumalanga Provincial Legislature, as follows –

### Interpretation and Definitions

1. Unless the context indicates otherwise, a word or expression not specifically defined in this Act and to which a meaning has been assigned in the Public Finance Management Act, 1999 (Act No.1 of 1999), has the meaning assigned to it in that Act –

“**Provincial Revenue Fund**” means the fund mentioned in section 226 of the Constitution being the fund for the Province into which all money received by the Provincial Government must be paid, except money reasonably excluded by an Act of Parliament;

“**SCOPA**” means the Select Committee on Public Accounts;

“**the Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**unauthorised expenditure**” means -

- (a) Overspending of a vote or a main division within a vote;
- (b) Expenditure not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division;

### **Approval of unauthorised expenditure**

2. The unauthorised expenditure referred to in the **Schedule** amounting to R41 174 000.00, and described in the SCOPA Reports identified in the second column of the Schedule, is hereby approved and authorised as a direct charge against the Provincial Revenue Fund in terms of section 226(2)(b) of the Constitution, 1996, read with section 34(1)(a) of the Public Finance Management Act, 1999 (Act No.1 of 1999).

### **Recovery of unauthorised expenditure**

3. This Act does not detract from or limit any right or obligation to take appropriate steps to recover unauthorised expenditure from a responsible official or responsible former official.

### **Short title**

4. This Act is called the Mpumalanga Finance Act, 2013.

**SCHEDULE:** Unauthorised expenditure referred to in section 34(1)(a) of the Public Finance Management Act, 1999 (Act No.1 of 1999): An additional amount is appropriated as a direct charge against the Provincial Revenue Fund to cover the overspending of the vote appropriation as indicated below.

<b>Amount Unauthorised</b>	<b>Committee on Public Accounts Reference</b>	<b>Financial Year</b>	<b>Vote Title</b>
(R)			
Column 1	Column 2	Column 3	Column 4
39 757 000.00	35th Report, paragraph 3.13	2005/06	Department of Health
1 417 000.00	23rd Report, paragraph 3.11.2	2008/09	Department of Health
<b>41 174 000.00</b>			

## EXPLANATORY MEMORANDUM ON THE OBJECTS OF THE FINANCE BILL, 2013

### 1. BACKGROUND

- 1.1. The Mpumalanga Finance Bill, 2013 (“the Bill”), provides for the authorisation of unauthorised expenditure for the Mpumalanga Provincial Government arising from amounts as described in the Reports of the Select Committee on Public Accounts for 2005/06 and 2008/09 financial years. The latter process is done in compliance with the provisions of section 34 of the Public Finance Management Act, 1999 (Act No.1 of 1999) (“the PFMA”).
- 1.2. Section 34(1) of the PFMA provides that unauthorised expenditure becomes a charge against a Revenue Fund only when –
  - (a) the expenditure is an overspending of a vote and the Provincial Legislature approves, as a direct charge against the relevant Revenue Fund, an additional amount for that vote which covers the overspending; or
  - (b) the expenditure is unauthorised for another reason and the Provincial Legislature authorises the expenditure as a direct charge against the relevant Revenue Fund.
- 1.3. Consequently, if the Provincial Legislature does not approve an additional amount for the amount of any overspending of a vote as indicated in paragraph 1.2(a), that amount becomes a charge against the funds allocated to the relevant vote for the next or future financial years.
- 1.4. In terms of section 226(2) of the Constitution of the Republic of South Africa, 1996, “money may be withdrawn from a Provincial Revenue Fund only – (a); or (b) as a direct charge against the Provincial Revenue Fund, when it is provided for in the Constitution or a Provincial Act”. The Provincial Act contemplated in section 226(2)(b) of the Constitution, read with section 34 of the PFMA, is a money Bill in terms of section 120 of the Constitution and must, in terms of section 119 of the Constitution, be accordingly introduced only by the Member of Executive Council responsible for financial matters in the Province.
- 1.5. The Bill provides for the authorisation of the Mpumalanga Provincial Government’s unauthorised expenditure as follows:

R41 174 000.00, referred to in the Schedule of the Bill, is classified as unauthorised expenditure in terms of section 34(1)(a) of the PFMA, due to an overspending of the vote for the 2005/06 and 2008/09 financial years. An additional amount is recommended, in respect of the vote as indicated in column 4 of the Schedule, for approval as a direct charge against the Provincial Revenue Fund to cover the overspending. On approval of the expenditure on the Schedule, the amount will become a direct charge against the Provincial Revenue Fund.

A breakdown of the amounts for the affected Vote (as per Schedule) and the reasons for the overspending are as indicated on the table below.

Amount Unauthorised (R)	Committee on Public Accounts Reference	Financial Year	Vote Title	Comments
Column 1	Column 2	Column 3	Column 4	
39 757 000.00	35th Report, paragraph 3.13	2005/06	Department of Health	This was as a result of over-spending on compensation of employees in District Health Services.
1 417 000.00	23rd Report, paragraph 3.11.2	2008/09	Department of Health	This was as a result of over-expenditure of overtime performed by Emergency Medical Services personnel for standby duty to cover unplanned events where emergency medical service was required, which due to staff shortages had natural attrition that resulted in a significant amount of overtime.
<b>41 174 000.00</b>				

## 2. SUMMARY OF BILL

The following is a brief summary of the Bill:

**Clause 1** provides for the Interpretation and Definitions of the Bill;

Clause 2 provides for the approval of unauthorised expenditure that is set out in the Schedule of the Bill;

**Clause 3** provides for the recovery of unauthorised expenditure, and stipulates that the Bill does not detract from or limit any right or obligation to take appropriate steps to recover unauthorised expenditure from a responsible official or former official; and

**Clause 4** contains the short title.

## 3. ORGANISATIONS AND INSTITUTIONS CONSULTED

The State Law Advisors in the Office of the Premier were duly consulted.

## 4. FINANCIAL IMPLICATIONS FOR THE PROVINCE

The unauthorised expenditure relating to overspending of the vote for which additional funds have been appropriated, will have financial implications for the Provincial Revenue Fund. The Bill proposes an amount of R41 174 000.00, as a direct charge against the Provincial Revenue Fund as an additional amount.

## 5. CONSTITUTIONAL IMPLICATIONS

The recommendations that are made in the Bill take into account the provisions of sections 119, 120 and 226 of the Constitution.

## 6. LEGISLATIVE PROCEDURE

The Bill is a money Bill which must be dealt with in accordance with the procedure prescribed by section 120 read with section 119 of the Constitution.