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LEGISLATURE OF THE PROVINCE OF MPUMALANGA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

ANNOUNCEMENTS:

None.

TABLINGS:

None.

COMMITTEE REPORTS:

**REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL
DEVELOPMENT AND LAND ADMINISTRATION; ECONOMIC DEVELOPMENT,
ENVIRONMENT AND TOURISM ON THE MPUMALANGA ECONOMIC GROWTH
AGENCY BILL, 2009**

1. Introduction

Section 104 of the Constitution sets out the legislative authority of Provinces and empowers provincial Legislatures to pass legislation for the Province. The Mpumalanga Economic Growth Agency Bill (the Bill) was introduced and tabled in the Provincial Legislature in accordance with Rule 149 and Rule 153(1) and (2) of the Rules and Orders of the Legislature. The Bill was duly referred to the Portfolio Committee on Agriculture, Rural Development and Land Administration; Economic Development, Environment and Tourism (the Committee) for consideration and with the responsibility to report back its recommendations to the House.

2. Objectives of the bill

The MEGA Bill was introduced to the Legislature with the aim of merging the three public entities Mpumalanga Economic Growth Agency (MEGA), Mpumalanga Agricultural Development Corporation (MADC) and the Mpumalanga Housing Finance (MHF-Co) thus providing for the establishment of the new merged entity called the Mpumalanga Economic Growth Agency (MEGA) and the management thereof by a Board. In its essence the bill will streamline the functions of its composite entities which are all aimed at providing development funding. The preamble of the Bill recognises that there is a pressing need to accelerate enterprise development and to deliver massive infrastructure in the Province to benefit its inhabitants since business and agricultural development and investment have the potential of being a catalyst for significant economic growth and development in the Province. Furthermore, the development of property and the granting of housing loans will improve the dignity and quality of life of the inhabitants of Mpumalanga and thereby progressively gives realisation to section 26 of the Constitution regarding the right to have access to adequate housing.

The Bill further seeks to:

- promote trade and investment in Mpumalanga
- provide funding in respect of approved enterprise and agricultural development focusing primarily on the previously disadvantaged individuals in Mpumalanga
- develop property including the granting of housing loans in Mpumalanga
- deliver massive infrastructure in Mpumalanga
- confer powers and functions upon the Agency
- provide for transitional arrangements
- provide for matters incidental thereto

3. Method of work

The Premier Hon. DD Mabuza announced in his State of the Province Address on 19 June 2009, that three state-owned entities would be merged by the end of the 2009/10 financial year. Under this directive, the Department of Economic Development, Environment and Tourism [the Department] embarked on the process of drafting the legislation, which was first published for public comment on 4 August 2009. Comments from the public were received before the 31 August 2009 and were incorporated into the Bill. After having followed these due legal processes, Hon. JL Mahlangu, the MEC for Economic Development, Environment and Tourism tabled the Bill in the Legislature on 30 October 2009. The Bill was subsequently referred to the Committee for consideration and further processing.

Thereafter the Committee was briefed section by section on the Bill by the Department on 2 February 2010. MEC Mahlangu led the delegation from his department, which comprised the HOD and the Legal section of the Department. Also in attendance at the briefing were the HOD of the Department of Human Settlements, the Chief Executive Officer of the Mpumalanga Economic Growth Agency [MEGA], the Acting Chief Executive Officer of the Mpumalanga Agricultural

Development Corporation [MADC] and the Chief Financial Officer of the Mpumalanga Housing Finance Company [MHF-Co]. Also present were the legal officials from the Department of Human Settlements, the Department of Agriculture, Rural Development and Land Administration and the Department of Economic Development, Environment and Tourism, as well as the legal officials from the MHF-Co and the MEGA. The legal panel was further strengthened by the presence of the State Law Advisors from the Office of the Premier and the Legal Services Section from the Legislature.

At the briefing, the Committee was clarified on a number of concerns and thereby noted the following:

- a. Section 32 provides for repealing of the MEGA Act, 2005 and the MADC Act, 1999 but the MHF-Co, which is a Section 21 company, will be dissolved in terms of the Companies Act. The winding up process will be executed by the MHF-Co Board.
- b. Section 33 of the Bill provides for transitional arrangements by which the Premier may decide on the date for the transfer of staff, assets and liabilities. It is the Premier who decides on the date since it is in line with the pronouncement that was made by the Premier to merge the three entities. In terms of section 33 (6)(a) each entity will prepare comprehensive asset lists to enable the transfer of such. The land claims issues that beset the MADC on some of the properties will be transferred as is.
- c. The MEC explained that the reason for the high vacancy rate of the Department as noted by the Committee during the 2008/09 annual report deliberations was to ensure that those vacant posts would be filled by the highly qualified officials from the disestablished entities. Furthermore, other government departments would be obliged to accommodate the remaining officials that could not be accommodated by the Department. The Committee was therefore assured that there would be no job losses as a result of the merger.
- d. The Committee was concerned that the framework agreement between the Department and Labour must be aligned with the content of the Bill in order to ensure job creation. It was noted that the Bill does not cover all the issues of the framework agreement but that it is being monitored by the Department, which meets regularly with Labour. Committee concluded that the Department is committed to the framework agreement since there are structures in place to ensure that the framework agreement is taken care of until the merger is finalised.
- e. The name MEGA will be retained as the name of the new entity, as per a decision of Cabinet.
- f. The issue of the transfer of MEGA assets such as Ekandustria is still unresolved but is being handled by the Department of Co-operative Governance and Traditional Affairs in the context of the cross-boundary

issues with North-West Province and Limpopo Province. The matter is at an advanced stage.

- g. In response to the question as to how MEGA planned to promote trade and industry and who the target groups were, the Committee noted that MEGA is currently involved in Foreign Direct Investment, Local Investment and Investment aftercare. Furthermore MEGA is involved in huge trade and investment enterprises that have a knock-on effect to create jobs in the Province.
- h. With regards to the questions raised by the Committee around the possible disparities in salary scales of those officials who will be absorbed into the Department and other departments, the MEC assured the Committee that government would deal with such disparities, should they arise, in line with the framework agreement. In addition, the Bill makes provision in clause 13 (5)(c) for the provincial government via the MEC and the Executive Council to keep tight control on the remuneration of employees at a state-owned entity.
- i. The Committee noted that the Department was passionate to see the Agency function as a strategic funding business and eventually become self-sustainable.

Public Involvement

Copies of the Bill and invitations to the public hearings were sent to the following stakeholders:

- The Executive Mayors and the Speakers of the following municipalities:
 - Bushbuckridge Local Municipality
 - Dr JS Moroka Local Municipality
 - Albert Luthuli Municipality
- The following Parliamentary Constituency Offices in the above-mentioned municipalities:
 - Bushbuckridge
 - Mbombela
 - Daantjie
 - Kabokweni
 - Middelburg
 - Siyabuswa
 - KwaMhlanga
 - Kwaggafontein
 - Carolina
 - Secunda

The committee made a call for written submissions using the following media:

- Newspaper advertisement (The Sowetan)

- Flyers

No written comments were received from stakeholders by 19 February 2010 at 12:00, although the people at the public hearings indicated that they would peruse the Bill and submit their written comments to the Committee.

The hearings were arranged to be conducted as follows:

DATE	DISTRICT	VENUE	ATTENDANCE
16/02/2010	Ehlanzeni	Mapulaneng Multi-Purpose Centre; Mapulaneng, Bushbuckridge Local Municipality	170
16/02/2010	Gert Sibande	Silobela Community Hall; Carolina, Albert Luthuli Municipality	125
16/02/2010	Nkangala	Dr JS Moroka Council Chamber, Siyabuswa; Dr JS Moroka Municipality	97

The Honourable Members who were deployed at the various public hearings clearly explained that the Legislature is taking the MEGA Bill, 2009 to communities in order to solicit the public input and opinion on the legislation at hand. They also emphasised that each citizen has a right to execute his / her democratic right in terms of matters relating to the Bill.

4. Clarity-seeking questions and input by the Public

The members of the public raised the following concerns at the public hearings:

- a. The public raised questions about how the Board would be constituted and what were the qualifications for Board Members. They were informed that clause 6(d) specifically provides for a broad spectrum of applicants so that “persons who have sufficient knowledge of, or experience in the development funding industry...” would be eligible for nomination as a Board Member.
- b. Clarity was sought on the definition of a “juristic person” and it was explained that a juristic person refers to a legal entity.
- c. Clarity was also sought on the definition of “fit and proper person” and it was clarified that Clause 8 of the bill, which deals with Disqualification of Board members, does make a provision for this matter.
- d. The public also emphasised that the process of filling the positions of Board members must be transparent, should make provision for vetting and that all regions of the Province should be well- represented on the Board.

- e. Clarity was sought about the reasons for co-option of Board Members and it was explained that co-option will take place when specific expertise is required.
- f. Furthermore, the public found it important that the Board Members must disclose financial interests.
- g. It was mentioned that people with disabilities should also be considered for positions on the Board and the public was reminded that according to the Employment Equity Act all institutions should provide for 2% of people with disabilities.
- h. The people also felt that there is a need for satellite MEGA offices in all municipal areas so that the community can access the services rendered by MEGA. It was explained that existing offices of the disestablished entities will continue to be utilised.
- i. Currently the residents have a severe challenge to apply for and access funds.
- j. Funding provided by the new Agency should primarily focus on Previously Disadvantaged Individuals (PDI's) in order to eradicate poverty.
- k. It was clarified that the Board of the new Agency will attempt to correct the weaknesses of the previous development agencies via policy-making in order to assist farmers who could not access funding and marketing contracts in the past.
- l. The public welcomed the information that the new Agency will be an improved office and it will provide for more efficient and effective consultation with communities also with special focus on the youth.
- m. It was emphasised that the new Agency should be streamlined and more effective than the previous development funding establishments.
- n. The people raised the question of what would happen to officials who may become redundant due to the merger. It was explained that no job losses would occur due to the merger but that these officials will be absorbed by the Department of Economic Development, Environment and Tourism as well as other departments.

The public made the following editorial proposals with regard to the wording in the bill:

Page 5: Section 4 (3) (a): remove **as and when necessary** and replace with **annually**.

Page 6: Section 4 (13): add **and marketing** after **investment**.

5. Committee Observations

The Committee observed that circulation of the Bill had not been inclusive of all the political parties represented in the Legislature. Furthermore, there were indications in some cases that the copies of the Bill reached parliamentary constituency offices late. The Committee notes these observations and will rectify these challenges in future public hearings.

However, the public who were present participated in the hearings by engaging the Committee through clarity seeking questions and comments on the Bill. At some of the hearings the public felt that they needed more time to study the Bill to make written inputs. To this effect, the necessary information was given to the people in order to make written submissions to the Committee on the Bill. It was also observed with appreciation that some of the input made by the public was constructive as it demonstrated that the public had engaged with the Bill. Moreover, the comments were in line with the purpose of the public hearings.

Based on the generally positive responses from the public, the Committee concludes that the Bill, once passed, will play a vital role in the “delivery of massive infrastructure” and the promotion of trade and industry in the Province, which will lead to economic growth, thereby addressing the issues of unemployment and poverty.

Furthermore, the Committee acknowledges the input of the public with regards to the constitution of the Board of the new Agency and notes that the Bill entrusts the management of the Agency to the Board, which is accountable to the MEC for Economic Development, Environment and Tourism.

The Committee observed that the public were largely in support of the Bill, provided that it lives up to its objectives to address the need for funding in the agricultural, economic and property sectors.

6. Recommendations

The Committee recommends the following:

- The public participation process must include all political parties represented in the Legislature.
- Sufficient time must be given to stakeholders to engage with the Bill before the public hearings.
- Relevant stakeholders must be invited to the public hearings.

Finally, after careful examination of the Bill and its constructive implications for the growth of the economy of Mpumalanga, the Committee recommends that the Mpumalanga Economic Growth Agency Bill, 2009 be passed by the House, taking into account the input and observations noted in this report.

Hon. RC Mahlobogoane
Chairperson of the Portfolio Committee on
Agriculture, Rural Development and Land Administration;
Economic Development, Environment and Tourism

Date