

Thursday, 19 June 2025]

No 60 - 2025] SECOND SESSION, SEVENTH PARLIAMENT

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

THURSDAY, 19 JUNE 2025

COMMITTEE REPORTS

1. ***(Negotiating mandate stage)* Report of the Standing Committee on the Premier and Constitutional Matters on the Public Administration Management Amendment Bill [B 10B–2023], dated 18 June 2025, as follows:**

The Standing Committee on the Premier and Constitutional Matters, having considered the subject of the Bill referred to it in accordance with Standing Rule 217, confers on the Western Cape’s delegation in the NCOP the authority not to support the Bill in its current form and proposes amendments as reflected in this report.

The Committee will reassess its position on the Bill during the final mandate stage, contingent on whether the proposed amendments are considered.

In accordance with Standing Rule 90, the African National Congress expressed its minority view to support the Bill subject to the proposed amendments.

1. **Clause-by-clause comments and proposed amendments**

1.1 Clause 1: Definitions

- Concern: The Bill fails to define key terms including “secondment”.
- Proposal: Insert a comprehensive definition of “secondment” aligned with the Public Service Act.

1.2 Clause 2: Transfers between institutions

- Concern: Unclear which party bears resettlement costs for transferred employees.
- Proposal: Specify in regulations that the transferring institution covers all relocation costs.

1.3 Clause 3: Secondments

- Concern: The term “operationally justified” is undefined, creating potential for abuse.
- Proposal:
 - Define as “strictly necessary to address critical service delivery gaps or state emergencies”.
 - Require written justification signed by both the Executive Authority and Head of Department.
 - Mandate quarterly reporting to the Minister on all non-consensual secondments.

1.4 Clause 5: Directors conducting business with state

- Concern: The exemption for “ex-officio” directors is overly broad and could enable conflicts of interest.
- Proposal:
 - Define “ex-officio” narrowly to exclude employees nominated to boards outside formal constitutional roles.
 - Require annual disclosure of all financial interests by directors.
 - Establish cooling-off periods for directors leaving public service.

1.5 Clause 6: Post-employment restrictions

- Concern: The 12-month cooling-off period is insufficient for employees involved in long-term contracts.
- Proposal:
 - Extend restrictions to the full duration of the contract plus 12 months.
 - Apply to all employees involved in procurement, evaluation or adjudication processes.
 - Require public disclosure of all post-employment engagements.

1.6 Clause 7: Financial disclosures

- Concern: Current requirements create excessive administrative burdens.
- Proposal:
 - Limit disclosures to Senior Management Service members and officials in procurement roles.
 - Exclude nominal interests (under 5% in listed companies) and passive investments.
 - Align thresholds with the Executive Ethics Code.

1.7 Clause 8: Capacity building

- Concern: Unfunded training mandates violate constitutional principles.
- Proposal:
 - Insert “subject to available resources” qualifier.
 - Require National Treasury certification of affordability.
 - Prioritise essential service departments in implementation.

1.8 Clause 9: National School of Government

- Concern: Discretionary language weakens professionalisation efforts.

- Proposal:
 - Replace “may” with “must” regarding issuing qualifications.
 - Establish minimum annual training targets.
 - Require accreditation of all courses.

1.9 Clause 12: Norms and standards

- Concern: Removal of provincial consultation requirement.
- Proposal:
 - Retain obligation to consult executive authorities.
 - Establish provincial working groups for input.
 - Require impact assessments for provincial governments.

1.10 Clause 14: Single public administration

- Concern: Centralisation undermines provincial autonomy.
- Proposal:
 - Exempt provincial and local government spheres.
 - Conduct comprehensive socio-economic impact assessment.
 - Protect collective bargaining processes.

1.11 Additional general concerns

1. Impact on public entities: The Bill’s provisions could destabilise independent boards and governance structures of public entities.
2. Drafting issues: Multiple technical and language errors require correction.
3. Resource implications: No fiscal framework provided for implementation.

1.12 Conclusion

The Western Cape Provincial Parliament reserves the right to revise its position pending:

1. Publication of a comprehensive socio-economic impact assessment.
2. Proper consultation on revised provisions.
3. Clarification of resource implications.

2. ***(Negotiating mandate stage)* Report of the Standing Committee on the Premier and Constitutional Matters on the Public Service Amendment Bill [B 13B–2023], dated 18 June 2025, as follows:**

The Standing Committee on the Premier and Constitutional Matters, having considered the subject of the Bill referred to it in accordance with Standing Rule 217, confers on the Western Cape’s delegation in the NCOP the authority not to support the Bill in its current form and proposes amendments as reflected in this report.

The Committee will reassess its position on the Bill during the final mandate stage, contingent on whether the proposed amendments are considered.

In accordance with Standing Rule 90, the African National Congress expressed its minority view to support the Bill subject to the proposed amendments.

1. **Clause-by-clause comments and proposed amendments**

1.1 Clause 2: Executive authority accountability

- Concern: Ambiguity between roles of President/Premier versus Ministers/Members of Executive Council.
- Proposal:
 - o Clearly distinguish between the executive authority responsible for Heads of Department (President/Premier) and those responsible for departments (Ministers/Members of Executive Council).
 - o Specify that Ministers/Members of Executive Council remain accountable for their departments' performance.

1.2 Clause 4: Devolution of powers to heads of department

- Concern: Excessive transfer of human resource management powers from executive authorities to heads of department undermines accountability.
- Proposal:
 - o Retain executive authorities' powers over appointments of deputy directors-general and heads of department.
 - o Require Executive Authority approval for all senior management appointments.
 - o Maintain executive authorities' disciplinary powers over heads of department.

1.3 Clause 7: Responsibilities of heads of department

- Concern: Overly broad administrative powers without sufficient checks.
- Proposal:
 - o Require quarterly reporting to executive authorities on all human resource decisions.
 - o Establish an independent review mechanism for contentious appointments.

1.4 Clause 10: Selection panel composition

- Concern: Potential for political interference in board appointments.
- Proposal:
 - o Replace political office-bearers on selection panels with independent experts.
 - o Implement parliamentary oversight of appointment processes.

1.5 Clause 11: Dismissal powers

- Concern: Removal of executive authorities' dismissal powers create accountability gaps.
- Proposal:
 - o Restore executive authorities' power to dismiss underperforming heads of department.
 - o Establish clear performance benchmarks for dismissal procedures.

1.6 Clause 16: Limitation of Political Rights

- Support for prohibiting heads of department and direct reports from holding political office.
- Proposal:
 - o Define "political office" precisely to include all elected and appointed party positions.
 - o Establish clear enforcement mechanisms and sanctions.

1.7 Clause 17: Delegation framework

- Maintain executive authorities' power to revoke delegations to heads of department.
- Require transparency in all delegation decisions.

1.8 Additional concerns

- Need for Public Service Commission involvement in senior appointment.
- Strengthening whistleblower protections.
- Clearer conflict of interest regulations.
- Professionalisation of public service through mandatory skills requirements.
- Protection of administrative independence.
- Concerns about unfunded mandates in implementation.
- Need for transitional arrangements.

1.9 Socio-economic impact assessment

No comprehensive assessment provided of the Bill's impact on:

- o Provincial finances
- o Service delivery
- o Labour relations

1.10 Conclusion

The Western Cape Provincial Parliament reserves the right to revise its position pending:

- 1 Publication of a complete socio-economic impact assessment.
- 2 Proper consultations on revised provisions.
- 3 Clarification of resource implications.