PROVINCE OF WESTERN CAPE

Provincial Gazette Extraordinary

6618

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PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Irregular Expenditure Bill [B 4—2009]

P.N. 122/2009 7 April 2009

Any person or organization wishing to comment on the said Bill is requested to lodge such comment in writing before or on 12 May 2009:

(a) by posting it to:
The Secretary
Western Cape Provincial Parliament
(Attention: Ms N Manjezi)
P.O. Box 648
Cape Town
8000

(b) by e-mail to:
nmanjezi@wcpp.gov.za

(c) by fax to:
N Manjezi
(021) 487-1685

P. G. Williams
Secretary to Parliament

PROVINSIE WES-KAAP

Buitengewone Provinsiale Koerant

6618

Dinsdag, 7 April 2009

As 'n Nuusblad by die Poskantoor Geregistreer

INHOUD

PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Wetsontwerp op Onreëlmatige Uitgawe [W 4—2009]

P.N. 122/2009 7 April 2009

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 12 Mei 2009:

(a) deur dit te pos aan:
Die Sekretaris:
Wes-Kaapse Provinsiale Parlement
(Aandag: Me N Manjezi)
Posbus 648
Kaapstad
8000

(b) deur dit te e-pos aan:
nmanjezi@wcpp.gov.za

(c) deur dit te faks aan:
N Manjezi
(021) 487-1685

P. G. Williams
Sekretaris van die Parlement

PHONDO LENTSHONA KOLONI

Tsongezelelo kwiGazethi yePhondo

6618

Lwesibini, 7 Aprili 2009

Ibhaliswe ePosini ngengePhephandaba

IZIQULATHO

ISAZISO SEPHONDO

Lo Mthetho uSayilwayo ulandelayo upapashwe apha ukunika ulwazi ngokubanzi:

UMthetho oSayilwayo wenkcithomali engavumelekanga weNtshona Koloni [B 4—2009]

P.N. 122/2009 7 Aprili 2009

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama- 12 Meyi 2009:

(a) ngokuwuposela ku:
Nobhala:
IPalamente yePhondo leNtshona Koloni
(Iya ku: N Manjezi)
P.O. Box 648
EKapa
8000

(b) nge-imeyile ku:
nmanjezi@wcpp.gov.za

(c) ngefeksi ku:
N Manjezi
(021) 487-1685

P. G. Williams
UNobhala wePalamente

BILL

To validate certain irregular expenditure in respect of the 2007/2008 financial year; and to provide for matters connected therewith.

WHEREAS, in the 2007/2008 financial year, the Provincial Treasury (Vote 3) made a donation of R250 000 to the Western Cape Provincial Youth Commission via the Premier's Office;

AND WHEREAS the donation amounted to irregular expenditure within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999), read with National Treasury Regulation 21.1.1 in that it exceeded R100 000 and the approval of the Provincial Parliament was not sought by including the item separately in the Appropriation Bill;

AND WHEREAS the irregular expenditure is disclosed in the Report of the Accounting Officer in the Annual Financial Statements for the year ended 31 March 2008 and the Disclosure Notes to the Annual Financial Statements;

AND WHEREAS, in terms of National Treasury Practice Note 4 of 2008/2009, the approval of the Provincial Parliament is required for the condonation of the irregular expenditure,

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

Validation of certain irregular expenditure

1. Expenditure in the amount of R250 000 incurred in the 2007/2008 financial year by the Provincial Treasury against Vote 3 for the purpose of a donation to the Western Cape Provincial Youth Commission, is hereby validated.

Short title

2. This Act is called the Western Cape Irregular Expenditure Act, 2009.

EXPLANATORY MEMORANDUM

Introduction

1. The object of this Bill is to seek validation from the Provincial Parliament to the Auditor-General's finding of irregular expenditure made by Provincial Treasury (Vote 3) for the 2007/08 financial year ended 31 March 2008.

2. Vote 3 made a donation of R250 000 to the Western Cape Provincial Youth Commission via the Premier's Office in February 2008. In terms of National Treasury Regulations 21.1.1, the approval for the donation of R250 000 should have been sought from the relevant legislature, in an Appropriation Bill.

3. Approval was not obtained at the time when the payment was made against the Vote. This error was detected during the audit investigation later in 2008.

4. An agreement was reached between the relevant accounting officer and the Auditor-General that condonation will be sought in the financial year of 2008/09 in a Finance Act.

5. Validation of this expenditure may not be done through an Appropriation Bill or Adjustment Bill because the expenditure occurred in the financial year 2007/08 and not 2008/09.

6. Validation of the irregular expenditure, based on the merits of the matter, must be obtained from the relevant authority who should have given approval for the expenditure in terms of NTR 21.1.1. In this particular incident, the Provincial Parliament is the authority to provide such validation.

7. All the provisions of the Bill fall within the legislative competence of the Province.

Consultation

8. The Department of the Premier: Legal Services was consulted on the Bill.

Financial Implications

9. There are no additional financial implications for the Province, since the donation of R250 000 has already been transferred to the Western Cape Provincial Youth Commission during the 2007/08 financial year against the abovementioned Vote and accommodated within the Provincial Revenue Fund.

WETSONTWERP

Om sekere onreëlmatige uitgawes ten opsigte van die 2007/2008 boekjaar geldig te verklaar; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

WAAR, gedurende die 2007/2008 boekjaar, die Provinsiale Tesourie (Begrotingspos 3) 'n skenking van R250 000 via die Kantoor van die Premier aan die Wes-Kaapse Provinsiale Jeugkommissie gemaak het;

EN WAAR die skenking as onreëlmatige uitgawes geklassifiseer word in terme van die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), saamgelees met Nasionale Tesourieregulasie 21.1.1, in die sin dat dit die bedrag van R100 000 oorskry het en goedkeuring van die Provinsiale Parlement nie verkry is deur dit as 'n aparte item in die Begrotingswetsontwerp in te sluit nie;

EN WAAR die onreëlmatige uitgawes soos in die Verslag van die Rekenpligtige Beampte in die Finansiële Jaarstate vir die jaar geëindig 31 Maart 2008 en die verklarende notas tot die Finansiële Jaarstate openbaar word;

EN WAAR, ingevolge die bepalings van Nasionale Tesourie Praktyk Nommer 4 van 2008/2009, die goedkeuring van die Provinsiale Parlement nodig is vir die kondonering van die onreëlmatige uitgawes,

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

Geldigverklaring van sekere onreëlmatige uitgawes

1. Uitgawe ten bedrae van R250 000 wat in die 2007/2008 boekjaar deur die Provinsiale Tesourie teen Begrotingspos 3 aangegaan is vir die doel om 'n skenking aan die Wes-Kaapse Provinsiale Jeugkommissie te maak word hiermee geldig verklaar.

Kort titel

2. Hierdie Wet heet die Wes-Kaapse Wet op Onreëlmatige Uitgawe, 2009.

VERKLARENDE MEMORANDUM

Inleiding

1. Die doelwit van hierdie Wetsontwerp is om geldigverklaring van die Provinsiale Parlement te bekom vir onreëlmatige uitgawe wat die Ouditeur-generaal vir die 2007/08 boekjaar einde 31 Maart 2008 ten opsigte van die Provinsiale Tesourie (Begrotingspos 3) gerapporteer het.

2. Begrotingspos 3 het gedurende Februarie 2008 via die Kantoor van die Premier ’n skenking van R250 000 aan die Wes-Kaapse Provinsiale Jeugkommissie gemaak. Ingevolge die bepalings van Nasionale Tesourieregulasie 21.1.1 moes goedkeuring vooraf vir die skenking van R250 000 van die betrokke wetgewer verkry word deur dit in ’n Begrotingswet in te sluit.

3. Magtiging was nie verkry alvorens die betaling teen die Begrotingspos gemaak was nie. Die oorsig was later gedurende 2008 tydens die ouditondersoek ontdek.

4. Die betrokke rekenpligtige beampte en die Ouditeur-generaal het ooreengekom dat kondonering gedurende die 2008/09 boekjaar by wyse van ’n finansiewet verkry sal word.

5. Geldigverklaring van hierdie uitgawe mag nie in 2008/09 by wyse van ’n Begrotingswetsontwerp of Aansuiweringswetsontwerp verkry word nie, aangesien die uitgawe reeds in 2007/08 aangegaan is en nie in 2008/09 nie.

6. Geldigverklaring van die onreëlmatige uitgawe moet, gegrond op die meriete van die saak, van die betrokke gesag wat ingevolge Nasionale Tesourieregulasie 21.1.1 magtiging vir die uitgawe moes gee, verkry word. In hierdie geval moet die Provinsiale Parlement die geldigverklaring gee.

7. Al die voorwaardes van die Wetsontwerp is binne die wetlike bevoegdheid van die Provinsie.

Konsultasie

8. Die Department van die Premier: Regsdienste was geraadpleeg aangaande die Wetsontwerp.

Finansiële Implikasies

9. Daar is geen bykomende finansiële implikasies vir die Provinsie nie, aangesien die skenking van R250 000 reeds gedurende die 2007/08 boekjaar deur die bogenoemde Begrotingspos aan die Wes-Kaapse Provinsiale Jeugkommissie oorgedra en deur die Provinsiale Inkomstefonds gedra is.

UMTHETHO OYILWAYO

Ukuguqula inkcitho ethile engavumelekanga yonyaka-mali wama-2007/2008 ibe yevumelekileyo; nokulungiselela imiba eyayamene noko.

NJENGOKO, kunyaka-mali wama-2007/2008, iCandelo looNondyebo bePhondo (Ivoti 3) lanikela ngama-R250 000 kwiKomishoni yoLutsha yePhondo leNtshona Koloni, mnikelo lowo uphume kwi-Ofisi yeNkulumbuso:

NANJENGOKO umnikelo lowo wathi kanti uyinkcitho engavumelekanga njengoko kuchazwe kuMthetho wokuPhathwa kweeMali zoLuntu (uMthetho 1 ka-1999), ufundwe kunye nemiGaqo yeCandelo looNondyebo beSizwe 21.1.1 kuba loo mnikelo uye wangaphezulu kwe-R100 000 kwaye oko kwenzeka kungacelwanga mvume kwiPalamente yePhondo ngokuthi loo mba ufakwe njengomba ozimeleyo kuMthetho oYilwayo woHlahlo-mali;

NANJENGOKO loo nkcitho ingavumelekanga yathi yabhengezwa kwiNgxelo yeGosa loBalo-mali kwiiNgxelo-mali zoNyaka unyaka owaphela ngomhla wama-31 kuMatshi 2008 nakumaNqakwana Abhengezayo apheleka ezo Ngxelo-mali zoNyaka;

NANJENGOKO, ngokomgaqo wokuSebenza wesi-4 weCandelo looNondyebo beSizwe (National Treasury Practice Note 4) wama-2008/2009, kufuneka kucelwe imvume yokuxolela inkcitho engavumelekanga kwiPalamente yePhondo,

OLU YILO LOMTHETHO MALWENZIWE LUSEBENZE yiPalamente yePhondo leNtshona Koloni, ngolu hlobo:—

Ukwamkelwa kwenkcitho ethile engavumelekanga

1. Inkcitho engama-R250 000 eyenziwe kunyaka-mali wama-2007/2008 liCandelo looNondyebo bePhondo ngokwayamene neVoti 3 ngenjongo yokunikela kwiKomishoni yoLutsha yePhondo leNtshona Koloni iyamkelwa ngalo mthetho.

Isihloko esifutshane

2. Lo Mthetho ubizwa ngokuba nguMthetho weNtshona Koloni: uMthetho weNkcitho engaVumelekanga, ka-2009.

IMEMORANDAM ECACISAYO

Intshayelelo

1. Injongo yalo Mthetho uYilwayo kukucela kwiPalamente yePhondo ukwamkeleka kwenkcitho engavumelekanga eyenziwa liCandelo looNondyebo bePhondo (Ivoti 3) kunyaka-mali wama-2007/08 nowaphela ngomhla wama-31 kuMatshi 2008, nkcitho leyo ikhankanywe kwiziphumo zohlolo-zincwadi oluqhutywe nguMhloli-zincwadi-jikelele.

2. IVoti 3 yanikela ngama-R250 000 kwiKomishoni yoLutsha yePhondo leNtshona koloni mnikelo lowo waphuma kwi-Ofisi yeNkulumbuso ngoFebhruwari 2008. NgokwemiGaqo yeCandelo looNondyebo beSizwe 21.1.1; ukuvunywa kwaloo mnikelo ongama-R250 000 bekufanele kucelwe kwindlu yowiso-mthetho echaphazelekayo, kambe oko kwenziwe ngoMthetho oYilwayo woHlengahlengisa.

3. Akuzanga kufunyanwe mvume xeshikweni kusenziwa intlawulo leyo iphuma kwiVoti. Loo mpazamo ibhaqwe xa bekusenziwa uphando lophicotho ngonyaka wama-2008.

4. Kwabakho isivumelwano phakathi kwegosa lobalo-mali elichaphazelekayo noMhloli-zincwadi-jikelele sokuba uxolelo luya kucelwa kunyaka-mali wama-2008/09 ngoMthetho weziMali.

5. Ukwamkeleka kwale nkcitho akunakwenziwa ngoMthetho oYilwayo woHlengahlengiso okanye ngoMthetho woLungiso kuba loo nkcitho yenzeka kunyaka-mali wama-2007/08, hayi ngonyaka-mali wama-2008/09.

6. Ukwamkeleka kwenkcitho engavumelekanga, ngokusekelezwe kwimfaneleko yoko kwenzekileyo, kufuneka kufumaneke kwabasemagunyeni abachaphazelekayo bona baebefanele ukuvuma inkcitho ngokwemigaqo yeCandelo looNondyebo beSizwe NTR 21.1.1. Kule imeko kwiPalamente yePhondo yiyo enegunya lokwamkela loo nkcitho.

7. Yonke imimiselo ekulo Mthetho oYilwayo iwela phantsi kobuchule obunokusingathwa liPhondo.

Uboniswano

8. Isebe leNkulumbuso: Iinkonzo zoMthetho kubonisenwe nazo ngalo Mthetho oYilwayo.

Ukuchapazeleka ngokwezimali

9. IPhondo aliyi kuba nokunye ukuchaphazeleka ngokwezimali njengoko umnikelo lowo wama-R250 000 sele udluliselwe kwiKomishoni yoLutsha yePhondo leNtshona Koloni kunyaka-mali wama-2007/08 ngokwayamene neVoti echazwe ngentla apha nokubonelelwa kwayo kwiNgxowa-mali yeNgeniso yePhondo.

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