

TUESDAY, 14 MAY 2024

PROCEEDINGS OF VIRTUAL NATIONAL COUNCIL OF PROVINCES

The Council met at 09:00.

The Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS - see col 000.

The Chairperson announced that the virtual sitting constituted a sitting of the National Council of Provinces.

RULES OF VIRTUAL SITTING

NO NOTICES OF MOTION OR MOTIONS WITHOUT NOTICE

(Announcements)

The CHAIRPERSON OF THE NCOP: Hon delegates, before we proceed, I would like to remind delegates of the rules relating to virtual and hybrid meetings and sittings, in particular subrules 21, 22 and 23 of Rule 103 which provide as follows:

That the virtual sitting constitutes a sitting of the National Council of Provinces; that delegates in the sitting enjoy the same powers and privileges that apply in a sitting of the National Council of Provinces; that for purposes of the quorum all delegates who are logged on to the virtual platform shall be considered present; that delegates must switch on their videos if they want to speak; that delegates should ensure that the microphones on their gadgets are muted and must always remain muted; and that all delegates may participate in the discussions through the chat room.

In addition, I would like to remind delegates that the interpretation facility is active. Permanent delegates, members of the executive, special delegates and SA Local Government Association, Salga, representatives on the virtual platform are requested to ensure that the interpretation facility on their electronic devices are properly activated to facilitate access to the interpretation services.

Having done so, hon members, I've been informed that there'll be no notices of motion or motions without notice. Therefore, what that does is to take us to the next step, and thus the First Order: Consideration of the Basic Education Laws Amendment Bill, B2D - 2022, National Assembly section 76 and Report of Select Committee on Education and Technology, Sports, Arts and Culture thereon, Announcements, Tablings and

Committee Reports, 9 May 2024, page 26. We will now follow the Speaker's List, and I call on hon M E Nchabeleng, Chairperson of the Select Committee on Education and Technology, Sports, Arts and Culture to present the committee report. Hon Nchabeleng!

BASIC EDUCATION LAWS AMENDMENT BILL

(Consideration of Bill and of Report thereon)

Mr M E NCHABELENG: Good morning to you, Chairperson, and a good morning to the hon members and our guests, the Department of Basic Education, a very good morning to all of you. The Basic Education Laws Amendment Bill, B2B - 2022, proposes to amend a SA Schools Act, 1996, that's Act 84 of 1996, and the Employment of Educators Act, 1998, which is Act 76 of 1998, referred to as the SA Schools Act, Sasa, and the Employment of Educators Act, EEA, respectively, so as to align them with developments in the education landscape. This is to ensure that systems of learning and excellence in education are put in place in a manner which respects, protects, promotes and fulfils the right to basic education as enshrined in section 29(1) of the Constitution of the Republic of SA, 1996.

Certain technical and substantive adjustments are also made to the SA Schools Act and the Employment of Educators Act. This

is to clarify certain existing provisions and to insert certain provisions to cover matters which are not provided for in the existing legislation.

The Department of Basic Education gave briefing on the Basic Education Laws Amendment, Bela, Bill, a section 76 Bill, to the Select Committee on Education and Technology, Sports, Arts and Culture on 8 November 2023, followed by the committee referring the Bill to the different provinces and also calling for written submission. The Bill contained over 50 clauses which had to be considered for possible amendments. The Basic Education Laws Amendment Bill is among the most highly contested Bills since the dawn of democracy, which saw over 40 000 written submissions to the Select Committee on Education and Technology, Sports, Arts and Culture alone during the NCOP public participation processes.

Some of the highly contested areas contained within the Bill included the provision that allows the head of department within the Department of Education to intervene in the determination of school admission as well as language policy. Given the history of South Africa's apartheid policies of separated development, including separation in terms of education, which was classified according to race, the amendments in these two provisions on admission and language policy will see a major breakthrough in ensuring that children

are not denied access to education in their areas of residence on the basis of their home language.

The Constitution of the Republic continues to protect the rights of children to be taught in their language of choice and amendments of clause 5 of language policy will definitely enhance this right and not diminish it, as some have stated. The continuation of the status quo continues the policy of separate development of schoolers, thereby hampering the true social cohesion of those who have and those who have not.

Research has shown that most important areas in the education of a child is during their foundation phase and clause 2 of the Bill supports the compulsory attendance of Grade R within schools and this was widely welcomed by the public, as this clause will ensure that children will read for understanding from a young age.

The Bill also seeks to formalise home education to ensure that all learners who are doing home education receive adequate quality education of the highest possible standards and are taught by qualified home educators. The Basic Education Laws Amendment Bill goes a long way in ensuring that no child will be left behind in terms of access to quality education. Hence the SA Schools Act requires constant alignment to the changing needs and dynamics of society. The children of today do not

have to go through the same challenges that their parents and grandparents had gone through, especially in the year where South Africa celebrates 30 years of democracy.

Upon the conclusion of the submission of negotiating mandates from provinces, the committee deliberated on the Bill clause-by-clause with the Parliamentary Legal Services assisting on the process and the Department of Education, still filtering and answering to raise concerns. There were certain amendments that were agreed to as per the input by the public and the amendments that the committee deliberated on and adopted were actioned by the Parliamentary Legal Services.

On 24 April, the parliamentary legal advisor took the committee through the list of amendments that were agreed to during the stage of clause-by-clause deliberations on the Bill. A total of eight out of nine provinces supported the amendments as contained in the C-List amendments. On 2 May 2024, the Select Committee on Education and Technology, Sports, Arts and Culture considered the final mandates from the nine provinces, whereby eight of the nine provinces voted in favour of the Basic Education Laws Amendment Bill, B2D - 2022, as amended. This reflects a strong commitment by provinces to ensure that the education sector is transformed and speaks to the realisation of the prosperous future of the South Africa that we would like to see.

Therefore, the Select Committee on Education and Technology, Sports, Art and Culture, having deliberated on and considered the subject of the Basic Education Laws Amendment Bill, B2D - 2022, referred to as a section 76 Bill, reports that it has agreed to the Bill as amended, and we call on the House to fully support this Bill. I thank you, hon Chairperson.

Debate concluded.

Declarations of vote.

Ms C LABUSCHAGNE: Hon Chair, today, the Western Cape expresses our unequivocal opposition to the Basic Education Laws Amendment Bill. Based on our public participation process, the Western Cape has to put its people and South Africans at large first, by condemning this legislation with far-reaching implications on the rights of parents, educators and learners, as well as its projected multibillion rand fiscal impact.

The Western Cape rejects this Bill because of its all-new centralisation of power. It strips parents of their rightful authority over their children's education. The Bill's failure to address pressing issues, such as overcrowding, curriculum deficiencies and the provision of safe adequate educational facilities make it a distinctive and undemocratic piece of legislation.

The Basic Education Laws Amendment Bill risks costing the taxpayer nearly R18 billion, without including uncoded expenses. As we stand in opposition to this Bill, we remain resolute in our dedication to advocating for an education system that upholds local autonomy, safeguards parents' choices and ensures quality and equitable access for all learners.

The Western Cape remains committed to pursuing education reform that generally empower schools and communities, fostering quality education for all South Africans. Overall, here is to uphold the interest and will of the people we represent. The Western Cape and its residents have voiced clear rejection of this Bill, and it is our duty to heed their call.

We urge you to consider these grave concerns seriously. It is not possible but undermines the very foundation of our education system and the voices of those who stand to be most affected. Together we can uphold the principles of democracy, respect for local governance and the well-being of our learners. I thank you.

Ms N NDONGENI: Chair, good morning. The ANC supports the progressive milestone of the adoption of the report of the legislative process of the Basic Education Laws Amendment

Bill, which seeks to enhance the organisational efficiency of the basic education system, to improve school governance, leadership and accountability, transforming education services and protecting the vulnerable group, to ensure learner well-being and access to learning.

We welcome the inputs by members of the public in the provincial public hearings, the written submissions and oral presentations by various education stakeholders. The select committee has adopted the amendments to comply with legal aspects of the Criminal Procedure Act on aspects of imprisonment of those who inhibit learners from schooling.

Contrary to the disinformation about the Bill, the object of the Bill seeks to protect the rights of learners and improve learning outcomes through increasing compulsory schooling through Grade R, amongst other measures contained in the Bill. The finalisation of the Bill in the Sixth Parliament will be a significant milestone in transforming the education system, and it will have an immeasurable impact on the future of our nation.

On admission and language policy, it must be emphasised that an SGB still has the power to determine the admission policy. The HOD may only disapprove of a policy if he follows the steps set out in the Act. In the Rivonia judgment on appeal at

the Constitutional Court, the majority of the court concluded that the HOD had the power to admit learners.

The select committee has inserted an appeal period to the members of the executive council. Clause 39 seeks to amend section 61 of the SA Schools Act, to extend the powers of the Minister to make regulations on the management of learner pregnancy. It is not about the abortion as paddled by the ACDP. Furthermore, the clause provides that any regulation made on the management of learners' pregnancy is a reality in our society. The amendment to home schooling clearly states that learners may be educated at home only if they are registered for such education. I thank you, Chairperson.

Mr F GADE (Eastern Cape): Yes, Chair. Good morning to you, the select committee and all the members of the Council. Good morning to all the invited guests. We want to make a declaration in support of the Basic Education Laws Amendment Bill. We are of the view that this is the consolidation, acceleration and advancement of the reconstruction of the nation as pronounced in the earlier years of this constitutional democracy.

What we wanted to re-emphasise is that the evolution of the policies of the sector and the government must, from time to time, adapt to the prevailing conditions of the people of this

country. They must address the diversity and the dynamic nature of the society that we are.

It is for that particular reason that we would want to emphasise that there is no way that there could be any opposition that seeks to reconstruct the nature and the agenda that we have adopted, particularly in the essence of the nation-building exercise. So, this Basic Education Laws Amendment Bill goes beyond ... [Interjections.]

Mr M DANGOR: Chairperson, on a point of order: There are two persons from the Eastern Cape presenting declarations. I don't think it is correct that two persons from the Eastern Cape should be entitled to do that. Thank you, Chairperson.

The CHAIRPERSON OF THE NCOP: Thank you very much, hon Dangor. Sorry, hon Gade. Unfortunately, we must have one representative per province. Any other province wishing to make a declaration? Thank you very much.

Question put: That the Bill be agreed to.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West.

AGAINST: Western Cape.

Bill agreed to in accordance with section 65 of the Constitution.

RAILWAY SAFETY BILL

(Consideration of Bill and of Report thereon)

Rre K M MMOIEMANG: Ke go tlotlile, Modalusetilo wa Ntlo ya Bosetšhaba ya Kgaolo ya Diporofense. (*Translation of Setswana paragraph follows.*)

[Mr K M MMOIEMANG: Hon Chairperson of the National Council of Provinces.]

Hon Chair, in the 2014-15 financial year the Department of Transport conducted a railway safety regulatory gap analysis which highlighted a number of legislative gaps. These gaps, amongst others, included lack of clarity on the role of the various players within the rail safety environment and the absence of the framework regulating licensing of safety critical grade employees.

The Railway Safety Bill seeks to address these legislative gaps identified during the gap analysis to improve the regulatory framework which has been identified to be able to regulate its safety in the country.

Furthermore, during the select committee's engagement with the Department of Transport and Passenger Rail Agency of SA, Prasa, the committee has consistently raised a number of concerns relating to safety. And in the most recent state of the safety report of 2022-23, the rail safety regulator reported 175 injuries, 92 fatalities as a result of operational occurrence and 69 fatalities and 55 injuries as a result of persons struck by train occurrence during the year under review.

The Select Committee on Transport, therefore, welcomes the introduction of the Rail Safety Bill.

The objects of the Bill, firstly, are to provide for the regulation of the railway safety in the republic.

Secondly, to provide for the continued existence of the railway safety regulator.

Thirdly, to provide for the board and the governance structures of the railway safety regulator.

Fourthly, to provide for railway safety permits.

Fifth, to provide for railway safety critical grades and safety management system.

Sixth, to provide for a national railway safety information and monitoring system, and also to provide for a legal framework to enforce compliance with the Act and to deal with the railway occurrences.

And lastly, to provide for an appeal mechanism that will also provide for the transitional arrangements and the repeal of the National Railway Safety Regulator Act of 2002.

The Bill was passed by the National Assembly and referred to the committee on 24 October 2023. Thereafter, the Minister and the Deputy Minister of Transport, supported by the Department of Transport, briefed the committee on the Bill.

The committee, in national media, invited written submissions on the Bill and had oral submissions from a number of stakeholders including amongst others, the Concerned Engineers Group, the Congress of SA Trade Union, Cosatu, and the Gautrain Management Agency and the Bombela Concession Company.

On 24 April 2024 the select committee considered and deliberated on the provincial negotiating mandates on the Bill and agreed that there shall be no amendments as proposed in the negotiating mandates.

Informed by the inputs from the department and the Parliamentary Legal Services on the provincial negotiating mandates and written and oral submissions received, all nine provinces submitted final mandates on the Bill, which were considered by the committee on 8 May 2024.

All nine provinces voted to support the Bill and the committee report on the Bill was, therefore, adopted unanimously.

In closing, I wish to add that during the processing of the Railway Safety Bill, the Department of Transport responded that several issues raised during the negotiating mandates do not fall under the Railway Safety Bill, hence the stance of the committee. But those issues would be covered by the provisions of the National Rail Bill.

These matters, amongst others, included theft, malicious damage to property and other criminal acts that impact on the safe railway operations.

It is recommended that the Seventh Parliament must monitor the introduction of this forthcoming National Rail Bill.

Therefore, I table the report before the House for adoption.

Thank you, Chairperson.

Question put: That the Bill be agreed to.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Bill agreed to in accordance with section 65 of the Constitution.

The CHAIRPERSON OF THE NCOP: Hon members, I would like to take this opportunity to thank permanent delegates, special delegates and SA Local Government Association, Salga, representatives present for availing themselves for this particular sitting.

Hon delegates, that concludes the business of the day. The House is now adjourned. Thank you very much.

Business concluded.

The Council adjourned at 09:32

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

Please click on the following link to access the relevant Announcements, Tablings and Committee Reports for this day.

[https://www.parliament.gov.za/parliamentary-papers?sorts\[date\]=-1](https://www.parliament.gov.za/parliamentary-papers?sorts[date]=-1)