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NATIONAL COUNCIL OF PROVINCES

THURSDAY, 10 JANUARY 2019

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PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES

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The Council met at 11:01.

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

**APPROVAL OF DRAFT NOTICE AND SCHEDULE RECEIVED FROM THE PRESIDENT,**

**DATED 5 DECEMBER 2018**

(Draft Resolution)

The CHIEF WHIP OF THE COUNCIL: Chairperson, I move without notice:

That the Council approves the draft Notice and Schedule received from the President, dated 5 December 2018, determining the rate at which salaries and allowances or benefits are payable to Constitutional Court Judges or Judges annually, with effect from

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1 April 2018, in terms of section 2(1)(a) of the Judges Remuneration and Conditions of Employment Act, Act 47 of 2001, as amended by section 15 of the Judicial Officers Amendment of Conditions of Service Act, Act 28 of 2003.

Question put: That the motion be agreed to.

[TAKE IN FROM MINUTES.]

Motion agreed to according to section 65 of the Constitution.

**APPROVAL OF THE DRAFT NOTICE AND SCHEDULE RECEIVED FROM THE  
PRESIDENT, DATED 5 DECEMBER 2018**

(Draft Resolution)

The CHIEF WHIP OF THE COUNCIL: Chairperson, I move without notice:

That the Council approves the draft Notice and Schedule received from the President, dated 5 December 2018, determining the rate at which salaries and allowances or benefits are payable to Magistrates annually, with effect from 1 April 2018, in terms of section 12(1)(a) of the Magistrates Act, Act 90 of 1993, as

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amended by section 3 of the Judicial Officers Amendment of Conditions of Service Act, Act 28 of 2003.

Question put: That the motion be agreed to.

[TAKE IN FROM MINUTES.]

Motion agreed to according to section 65 of the Constitution.

**PUBLIC SERVICE COMMISSION AMENDMENT BILL**

(Consideration of Bill and Report of the Select Committee on Co-Operative Governance and Traditional Affairs thereon)

Mr J M MTHETHWA: [Owing to a break in transmission, audio was not recorded for this part of the sitting.]

Chairperson, the Select Committee on Co-operative Governance and Traditional Affairs, having considered the Public Service Commission Amendment Bill, B21B of 2015, classified as section 76, reports that it has agreed to an amended Bill, B21D of 2015. The select committee agreed to the following amendments.

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At clause 1 on page 2, from line 16, subsection 7 is substitute by the following subsection:

The renewal of term of a commissioner must be based on the commissioner (a) remaining a fit and proper person as required by section 196(10) of the Constitution; and (b) having maintained a satisfactory level of performance in relation to his or her duties.

At clause 2 on page 2, in line 23, after "Commission", the committee wishes to insert "for a period not exceeding 30 days".

Regarding the certification of the Bill, the select committee certifies that all amendments are constitutionally and procedurally in order within the meaning of Joint Rule 161, and that no amendments affect the classification of the Bill.

Regarding consensus on the Bill, the committee wishes to report that support for the adoption of the Bill was unanimous.

Debate concluded.

Question put: That the Bill be adopted.

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[TAKE IN FROM MINUTES.]

Bill agreed to in terms of section 65 of the Constitution.

**TRADITIONAL AND KHOI-SAN LEADERSHIP BILL**

(Consideration of Bill and Report of the Select Committee on  
Co-operative Governance and Traditional Affairs thereon)

Mr J M MTHETHWA: [Owing to a break in transmission, audio was not recorded for this part of the sitting.]

Hon Chairperson, the Select Committee on Co-operative Governance and Traditional Affairs having considered the Traditional and Khoi-San Leadership Bill [B 23B-2015], classified as section 76, reports that it has agreed to an amended Bill [B23D-2015].

The select committee agreed to the following amendments:

At clause 5 page 10, to omit "coherent" in line 38.

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At clause 24 page 33, line 52, after "and" to insert "notwithstanding the provisions of any other law". Page 33, from line 57, to omit paragraph (c) and to substitute:

(c) is subject to- (i) a prior consultation with the relevant community represented by such council; (ii) a decision in support of the partnership or agreement taken by a majority of the community members present at the consultation contemplated in subparagraph (i); and (iii) a prior decision of such council indicating in writing the support of the council for the particular partnership or agreement.

At clause 33 page 37, from line 52, to omit "during the sitting of Parliament".

At clause 34 page 38, in line 40, to omit "consecutive".

At clause 63 page 51, from line 12, to omit subsection (4) and to substitute:

(4) (a) A tribal authority that, immediately before 24 September 2004, had been established and was still recognised as such, is deemed to be a traditional council contemplated in

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section 16 of this Act and must perform the functions referred to in section 20: Provided that such a tribal authority must be reconstituted to comply with the provisions of section 16(2) within two years from the date of commencement of this Act. (b) If, prior to the commencement of this Act, any tribal authority was reconstituted as contemplated in paragraph (a), but such reconstitution did not comply with all the requirements of section 16(2), such tribal authority is deemed to be a traditional council and must, within two years of the commencement of this Act, be reconstituted in full compliance with the provisions of section 16(2). (c) If the timeframes contemplated in paragraph (a) or (b) are not met, the Minister may, within one year after the timeframes have lapsed and after consultation with the relevant Premier, apply the provisions of section 16(2) to ensure that such tribal authority or traditional council is constituted or reconstituted in accordance with the provisions of section 16(2). (d) The provisions of section 16(5) apply to any constitution or reconstitution contemplated in this subsection

On page 53, in line 62, to omit "amend" and to substitute "either amend or re-enter into";

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On page 54, after line 2, to insert:

(d) The provisions of this subsection do not apply to any partnership or agreement which, at the commencement of this Act, has been entered into in accordance with any enabling provisions of any other law.

On page 54, in line 3, to omit "section" and to substitute "chapter".

Regarding memorandum on the objects, from page 73, to amend paragraph 2.5 as follows:

Clause 5 of the Bill makes provision for the recognition of Khoi-San communities and branches (please also see clauses 56 and 58 of the Bill). As mentioned earlier, this is the first time that statutory provision is made for the Khoi-San and therefore this provision and others in the Bill relating to the Khoi-San are all new. A community may apply to the relevant Premier to be recognised as a Khoi-San community if it meets certain criteria. The community must have a history of self-identification by members of the community as belonging to a unique community distinct from all other communities. It must

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observe distinctive established Khoi-San customary law and customs and has to be subject to a system of hereditary or elected Khoi-San leadership. Furthermore, the community must have existing distinctive cultural heritage manifestations and a proven history of [coherent] existence of the community from a particular point in time up to the present. The relevant community must also occupy a specific geographical area or various geographical areas together with other non-community members. These criteria differ slightly from the criteria for traditional communities mainly due to the unique circumstances and history of the Khoi-San. However, the criteria are necessary to ensure that only legitimate Khoi-San communities in terms of customary law and customs are considered for recognition.

On page 79, to add the following to paragraph 2.26:

2.26 As far as partnerships and agreements are concerned, clause 24 determines with who a council may enter into a partnership or agreement. It also contains specific requirements and makes provision for monitoring by the provinces. A council may only enter into a partnership or agreement if the relevant community has been consulted and the

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majority of community members present at such consultation has taken a decision in support of the partnership or agreement.

On page 84, to add the following to paragraph 2.54(g):

Since the Bill introduces certain requirements for partnerships and agreements, see clause 24, it is important that the existing partnerships and agreements be tested against such requirements. Therefore, clause 63(22) determines that such partnerships and agreements must be reviewed by the relevant Premier within a period of three years from the date of commencement of this Bill. This will, however, not apply in respect of partnerships and agreements that, prior to the commencement of this Bill, have been entered into in accordance with enabling provisions contained in any other legislation.

Regarding the certification of the Bill, the select committee certifies that all amendments are constitutionally and procedurally in order within the meaning of Joint Rule 161 and no amendments affect the classification of the Bill.

This Bill was adopted by the majority of the committee. Thank you.

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Debate concluded.

Question put: That the Bill be adopted.

*Declarations of vote:*

Ms C LABUSCHAGNE: Hon Chairperson, hon members and fellow South Africans. The DA in the Western Cape objects to the Traditional and Khoi-San Leadership Bill primarily because it is discriminatory in that it treats the Khoi-San and traditional leaders differently and applies different criteria for recognition. This is while there is a major division among the Khoi-San communities about the Bill.

Furthermore, the Bill puts too much power and authority into the hands of traditional Khoi-San leaders and councils to enter into agreements or partnerships with insufficient input from the affected communities.

What is also disturbing is that the public participation process was totally flawed; considering that people were notified late and not provided with a copy of the legislation; followed by translation issues.

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The Western Cape, therefore, opposes this Traditional and Khoi-San Leadership Bill.

*IsiXhosa:*

Nks T WANA: Sihlalo, ndifuna ukuveza into yokuba i-ANC ngulo mbutho ukhathalela abantu kwaye ayinalo ucalucalulo, njengokuba ndime apha nje. Ndiqwalasela into yokuba iphondo laseNtshona Koloni alifuni ukusuka kulaa nto yengcinezelo.

*English:*

There are remnants of apartheid within it.

*IsiXhosa:*

Lo Mthetho oYilwayo uzama ukulungiselela abantu ababethinjiwe baze bathathelwa izinto zabo phambi kowe-1652. Kumhla konakala izinto xeshikweni kufika ezi ndwendwe. [Kwahlekwa.]

*English:*

Mr J W W JULIUS: Chairperson, there is no interpretation service.

The CHAIRPERSON OF THE NCOP: Hon members, we will suspend the House to find out why there is no interpretation service.

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[PROCEEDINGS SUSPENDED FOR 5 MINUTES]

The CHAIRPERSON OF THE NCOP: Order, members! Hon members, I'm told that we have a technical problem. I had the assurance of the Acting secretary to Parliament, two days ago, that they were integrating the system so that we can have this sitting here today. That system was tested and it was working. I was assured that it would be tested yesterday; I'm told it worked yesterday; I'm told even this morning there was another test. So, I cannot explain to you and Adv Phindela can also not explain to me why we now have a glitch.

What we can do is, in the interest of time, ask hon members to speak in a language that all of us would understand, so that we do not have this again. And therefore, I would like to ask hon Wana to speak in English, please.

Ms T WANA: Chairperson, as the ANC we are very disappointed at the manner at which we are treated by the minority party as the majority party.

As the ANC we are very pleased today to close this exploitation because the Khoi-San have been exploited more than ...

[Interjection.]

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Ms C LABUSCHAGNE: Hon Chair, I rise on a point of order. The hon member talks on the ANC, she has to deliver her declaration per province. Thank you.

The CHAIRPERSON OF THE NCOP: Please speak as the Eastern Cape ma'am.

Ms T WANA: Chairperson, I am saying today's exercise is very important to the Khoi-San people because they've been exploited for more than 200 years. And when in 19... [Interjection.]

*IsiXhosa:*

USIHLALO WENCOP: Musani ukumvumela.

*English:*

You're on the floor ma'am.

Ms T WANA: Chairperson, the speaker on your side is pointing at me; she is intimidating me.

The CHAIRPERSON OF THE NCOP: Who is pointing at you?

Ms T WANA: The very person who was declaring ... [Inaudible.]

[Interjection.]

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The CHAIRPERSON OF THE NCOP: Hon Labuschagne, please stop pointing. Please proceed ma'am.

*IsiXhosa:*

Nks T WANA: Yintoni na le nto ndikuyo ngoku apha, bethuna?

*English:*

The CHAIRPERSON OF THE NCOP: Please proceed, your time is running out, you're left with one minute.

Ms T WANA: Sorry. Secondly, [Interjection.]

The CHAIRPERSON OF THE NCOP: No, don't intimidate the speaker on the floor. Please proceed ma'am.

Ms T WANA: Secondly, today as the Eastern Cape we are very pleased that the Khoi-San people are going to have their dignity.

Thirdly, as much as they have been exploited, even us as the Eastern Cape, we have wounds of apartheid. So, that means the apartheid in the Western Cape is here to stay because they enjoy exploiting the people. They are enjoying exploiting the innocent people. As a result, there are no structures of the Khoi-San here. And the Khoi-

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San people are appealing to you "go on and fight" because this is a struggle. We are saying to those people who were exploited by the apartheid government "they must stand up and defend themselves because Khoi-San, you are on your own in the Western Cape."

[Applause.]

Question put: That the Bill be adopted.

Voting.

Bill agreed to in terms of section 65 of the Constitution.

**ELECTORAL LAWS AMENDMENT BILL**

(Consideration of Bill and Report thereon)

Ms L C DLAMINI: Chairperson, my greetings to you, to hon speakers in our presence, the Deputy Minister, special delegates and hon members in the House. My special greetings also go to the leadership of the Khoi and San. We say congratulations to them to finally have the Bill approved today.

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Hon Chairperson, allow me to present the Electoral Laws Amendment Bill on behalf of the Select Committee on Social Services, for the Council to consider. I must admit that it has been a very tight process but as a committee we made sure that we follow all the legislative processes, to ensure that there are no queries after the Bill has been approved.

We started on 28 November, seeing the Bill was delayed and we were about to go on recess. We invited the department and the IEC to give us an informal briefing so that we could familiarise ourselves as a committee in issues that are covered by the Bill. On 29 November, the Bill was referred to the NCOP.

On 4 December, we had a formal briefing from the department and the IEC. We advertised for the public to make submissions or inputs on the Bill if they so wished. I must say that end of that period, on 20 December 2018, which was closing date for the public to make their submissions, we did not receive any submission from the public. None were received.

We then had our committee meeting on 21 December 2018 to finalise the Bill. Out of 10 members of the committee, eight members were in attendance. I must say that even before I present the proposed

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amendments, out of eight members who attended, none of them indicated that they wanted to add on the proposed amendments. As a committee, we adopted the Bill as is, without any amending submission or new submission.

It is safe to say that different provinces were represented: Eastern Cape by hon Samka; Northern Cape by hon Hattingh; Limpopo by hon Mampuru; Northern Cape by hon Stock; Mpumalanga represented by myself, hon Dlamini; hon Moshodi represented the Free State; and hon Zwane and Khawula representing KwaZulu-Natal. All of us - one by one - gave time to all members to reflect on the Bill. We supported the Bill without any amendments.

The Electoral Laws Amendment Bill - B33 of 2018 - seeks to amend three pieces of legislation, namely the Electoral Commission Act 51 of 1996, the Electoral Act 73 of 1998 and the Local Government: Municipal Electoral Act 27 of 2000, in preparation of the national and provincial elections, as well as to align the relevant provisions of the legislation relating to the municipal elections.

The main objectives of this Bill is to enhance the existing legislative mechanisms that ensure free and fair elections, in accordance with the Constitution of the Republic of South Africa of

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1996. Furthermore, the Bill seeks to prevent possibilities of election results and legislative bodies' constitution being challenged in court by any party or interested person on the basis of absence of addresses on the common voters' roll.

The proposed amendments on Electoral Commission Act are: To provide for the exclusive jurisdiction of the Electoral Court to adjudicate intraparty leadership disputes that have an impact on the commission's preparation for elections; and to provide for the prohibition of the use of the name of its acronym, logo, designs or electoral material used or owned by the commission. That refers to issues that are closer or look like the colours and logo of the IEC.

The proposed amendments on the Electoral Act are: To revise the existing provisions relating to voter registration, voters' roll, voting districts and voting procedure; to regulate the publication of, and objections to, a provisionally compiled voters' roll ahead of elections in order to establish a structured process for resolving these objections without delaying the preparations for elections; to clarify that the election timetable may include any matter authorised in terms of the Electoral Act; to clarify that the voters' roll to be used in an election must be that certified by the chief electoral officer for that election; to clarify that the cut-

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off date for the registration of voters for an upcoming election must be the date of proclamation of an election date; to provide for the chief electoral officer to notify the relevant parties where a candidate's name appears on multiple party lists and to afford such parties an opportunity to substitute that candidate and reorder their party lists; to repeal the requirement that the identity document of a voter must be stamped as proof of voting - as you know that we now have a card that cannot be stamped as compared to the ID document we had before, so this proposal is amending that; to provide for a varied voting procedure for voters without addresses on the voter's roll; to provide for the circumstances under which an agent may object to a voter whose name appears on the segment of the voters' roll for the voting district in which the voting station is located - you will know that in the past, even if you are in the same voting district, if your name does not appear at a voting station, you would not vote, so this one is addressing that you can vote; to limit the class of persons who may apply for accreditation to provide voter education for an election to juristic persons; and to align the provision regarding the circumstances in which new ballot papers may be issued to voters with the provisions of the Municipal Electoral Act.

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The last item is the Municipal Electoral Act. Most of the issues that are covered on the Electoral Act also apply on the Municipal Electoral Act, but it is safe to say that the proposed amendments on the Municipal Electoral Act are: To regulate the publication of, and objections to, a provisionally compiled voters' roll ahead of elections, in order to establish a structured process of resolving these objections without jeopardising the preparation for elections; and to provide for the prohibition of the use of public finances to fund party political campaigns. Hon Chairperson, as a committee, we do present this Electoral Laws Amendment Bill for the Council to consider. Thank you. [Applause.]

The CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members, the hon Hattingh also has proposed amendment to the Bill which has been printed on the Order Paper in accordance with Rule 212(2). I now recognise the hon Hattingh.

**CONSIDERATION OF PROPOSED AMENDMENTS TO ELECTORAL LAWS AMENDMENT  
BILL AND REPORT OF SELECT COMMITTEE ON SOCIAL SERVICE THEREON**

Mr C HATTINGH: Hon Chair, the amendments to the Electoral Act seek to enhance the existing legislative mechanisms that ensure free and fair elections, like my colleague has stated. This actually comes a

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long way. It originated through the problems encountered with exactly this in the infamous Tlokwe by-elections some years ago. This Bill specifically contains mechanisms to enhance the accuracy of the voters' roll and the transparency of it. It inter alia further allows voters to vote at any voting station within the ward in which that person is ordinarily a resident.

The DA supports the Electoral Laws Amendment Bill. However, the original amendments in the Bill do not go far enough to equitably and fairly comply with the constitutional obligation to compile and maintain a national common voters' role. Globalisation of work opportunities dramatically changed over the past decades. We found South Africans working all over the globe, from Bulawayo to Bristol, from Miami to Abu Dhabi.

People are working internationally, and many are coming home to their families regularly, even annually. They have assets, property, pensions here in South Africa and are paying tax in South Africa but may be working thousands of kilometres from the South African embassy or high commission, where, in terms of current legislation, they may register for the election, a special vote and vote.

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The minor amendments to the Act, proposed by the DA, would give a prerogative to the IEC for citizens to register, to apply for a special vote or to vote at any South African embassy or high commission, the current status - or the amendment - any other suitable venue, as agreed by the commission. My chairperson argued that this was not put forward, but information recently received also from the IEC indicates a very concerning reality out there. The changes would allow the more than 24 000 South Africans working and living in Bristol to register and vote in Bristol, instead of London more 190 km away, or the 41 000 South Africans, working and living in Perth, to vote in Perth instead of Canberra, 3718 km away. Is this fair? [Interjections.]

The majority of patriotic South Africans working and living abroad, who want to cast a vote in a South African election finds it almost impossible to do so due to the current restrictive legislation.

The proposed amendments would enable the IEC to consider and establish venues to accommodate these South Africans. I move that the House approve the attached amendments to the Act.

Debate concluded.

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PROPOSED AMENDMENTS TO ELECTORAL LAWS AMENDMENT BILL

(Ruling)

The CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members, I have been advised that the Office of the Secretary of the NCOP received proposed amendments from hon Hattingh at 14:00 on 8 January 2019. [Interjections.] The proposed amendments were purportedly submitted in terms of Rule 212 of the Rules of the National Council of Provinces.

The purported proposed amendments seek to amend certain provisions of the Electoral Act which are not covered by the Electoral Laws Amendment Bill, B33B of 2018. The Bill is classified as a Bill not affecting provinces. It is therefore to be dealt with in terms of section 75 of the Constitution.

The Bill was passed by the National Assembly and referred to the National Council of Provinces, as required by section 75(1) of the Constitution. Section 75(1)(a) of the Constitution enjoins the National Council of Provinces to pass the Bill, pass the Bill subject to amendments or reject the Bill.

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The Bill was then referred to the Select Committee on Social Services, now referred to as the committee, for consideration and to report to the House.

Rule 210(1)(a) requires the committee to which the Bill is referred, to inquire into the subject of the Bill. I am informed that the committee has done so. According to the report presented by the chairperson of the committee, the committee reports the Bill without proposing amendments.

In terms of Rule 212(1)(a), after a Bill has been placed on the order paper but before the Council decides on the Bill, any member may place proposals for amending the Bill on the order paper. It is in terms of this Rule that hon Hattingh purportedly submitted the proposed amendments.

The purported proposed amendments were accordingly placed on the order paper of 10 January 2019, in terms of Rule 212. Rule 212(3)(a) prohibits, amongst others, the proposed amendments that may render a Bill constitutionally or procedurally out of order, within the meaning of joint Rule 161 or amendments that are out of order for any other reason. Rule 210(1)(h), which applies to the consideration of the Bill by the committee, is similarly worded. It prohibits a

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committee from proposing an amendment that may render the Bill constitutionally or procedurally out of order within the meaning of joint Rule 161.

In terms of joint Rule 161(2)(a), to which rule 212 refers, a Bill is procedurally out of order if the procedure prescribed in either the Assembly or the Council rules as a precondition for the introduction of a Bill in the particular House has not been complied with. As indicated above, the Bill was classified as a Bill not affecting provinces to be dealt with in terms of the procedure prescribed in section 75 of the Constitution. Needless to say, the Constitution does not envisage the introduction of these types of Bills in the National Council of Provinces. Unlike Bills affecting provinces, which the National Council of Provinces may amend, the House is only confined to passing these types of Bills subject to amendments.

To be precise, section 68(b) of the Constitution, dealing with the powers of the National Council of Provinces, empowers the National Council of Provinces to initiate or prepare legislation falling within a functional area listed in schedule 4 or other legislation referred to in section 76(3). The electoral law is neither one of

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those functional areas, nor does it fall within the category of legislation referred to in section 76(3).

Bill B33B of 2018 that served before the committee seeks to amend certain provisions of various laws including the Electoral Act of 1998. In particular, the Bill seeks to amend sections 7, 8, 11, 20, 24, 28, 38, 40, 41, 86, 87 as well as schedule 1 of the Act. Except for section 11, these provisions do not appear in any of hon Hattingh's purported proposed amendments, nor do they deal with matters that hon Hattingh seeks to insert in the Bill.

On the other hand, hon Hattingh's proposals seek to amend sections 2, 3, 4, 10, 11 and 33 of the Act. The only common provision between hon Hattingh's proposals and the Bill is reference to section 11 of the Act. But there is where the similarities end. Although the Bill also seeks to amend section 11 of the Act, the provision in section 11 that hon Hattingh proposes to amend is not the same as the one that the Bill seeks to amend. While the Bill seeks to amend section 11(2) of the Act, hon Hattingh proposes the amendment to section 11(1) of the Act.

Having regard to the purported proposed amendments by hon Hattingh, they cannot be properly classified as proposed amendments within the

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meaning of Rule 212 of the Rules of the National Council of Provinces. They effectively amount to a new Bill which hon Hattingh seeks to introduce through rule 212. This will be inconsistent, not only with the Constitution, but also with the Rules. As indicated above, this is a matter that does not affect provinces within the meaning of the Constitution and can therefore not be introduced for the first time in the National Council of Provinces. Should these proposed amendments be allowed, they will render the Bill both constitutionally and procedurally out of order. These proposed amendments would suitably be introduced in the National Assembly.

Hon Hattingh is therefore at liberty to request his party ... When he wrote to me about these purported amendments, he said that he does so in the name of the Democratic Alliance. My advice therefore would be that he requests his party to introduce these in the National Assembly, if he so wishes.

Having considered the purported proposed amendments by hon Hattingh, I have come to the conclusion that they are constitutionally and procedurally out of order.

In terms of Rule 212(3)(b), the ruling by the Chairperson on whether an amendment is out of order, is final.

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Had hon Hattingh's proposed amendments been in order, I could have been compelled by Rule 212(5) to either recommit the Bill to the committee or to put the proposed amendments to the House before the Bill as a whole is decided on. Because of the directive given by both the Constitution and the Rules, I now proceed to put the Bill in question.

Ms C LABUSCHAGNE: Chairperson, on a point of order: I would like to raise a question on the procedure. You gave your ruling and I am not questioning your ruling. I want to understand, as we went through this for the first time, why it was allowed to put this on the order paper. Why was the answer - your ruling now - not given by the office?

The CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members, order! Allow me to rule. Hon Hattingh wrote to me a letter that arrived in my office when I was not in my office. Hon Hattingh also wrote the amendments which, had we taken a different view to write, would have been a matter of us not giving hon Hattingh the space to actually air out. I took the decision to put these matters on so that it is at least out there in the public that there were these proposals. I deliberately took time considering. My response and the reasons given are given so that it is understood that the process

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and procedure can be allowed. If we do not go towards it, we will actually render ourselves useless, as the House.

That is why my recommendation is: If hon Hattingh is still of the mind that these proposals are necessary, we follow the correct procedure so that a further Amendment Bill to the Electoral Act is then proposed where it should - the National Assembly. That is why I allowed this matter.

When we get into electoral mode, as politicians, we do forget that these matters affect the public out there. I really do not want to have any misinterpretation or misinformation around the issue of hon Hattingh's submission. I wanted it to be out there, so that everybody understands why I disagree with it. Thank you. [Applause.]

The CHAIRPERSON OF THE NCOP: Hon members, I therefore want to continue and ... Order! I therefore want to continue dealing with this Bill that is before us and proceed to allow any other member who may wish to speak on this matter, but no one is forced. Hon Stock, your hand was up, you will be followed by the hon Mampuru, and later hon Khawula - in that order.

*Declarations of vote:*

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Mr D STOCK: Hon Chairperson, there is no rational basis and certainly no court decision requiring voting outside of the territory of the Republic of South Africa. In addition, and importantly the cost of running elections at the various embassies and consulates has been negligible to the IEC and to the fiscus as a whole as consulate facilities and staff assist with the elections processes. Should the IEC proposal be enacted as it stands, the hosting of the elections outside of embassies will become a major cost to the state, to say nothing of the risk of holding such elections outside the security mechanisms already in place at different embassies around the country and around the entire globe.

The statistical report on the 2014 elections is also indicative of the fact that globally and outside the country, there were about 18 564 votes that were cast abroad out of a total number of 18 654 771 votes cast, which actually translates to 0,01% of the total votes - that is a very small and insignificant number of votes that were cast. This is out of a total number of 25,4 million registered voters in 2014.

I would like to make a point that as the ANC we have considered the amendments made by hon Hattingh on behalf of his party, the DA. As the ANC we are of the view that this is more like an afterthought of

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some sort, because in the select committee that we serve in, the hon member had ample time to have deliberated on the Bill when we met with the IEC and the Department of Home Affairs.

We had our first meeting in Cape Town and our last meeting - like the Chair indicated, was in Johannesburg on 21 December. On the last meeting we met as a committee, he put on record again and also supported the same amendments of the Bill without any amendments. Today here, for some political expediency, it seems the hon member is on election mode, he comes and put the new Bill through the backdoor.

I am of the view that it is good that the Bill was introduced here so that we can get an opportunity to clarify to our ordinary South Africans and ordinary citizens of the country out there about some of the challenges that are confronting us as a country, where hon members agree on something in committee meetings but when they come to the House seating, they become something else.

The CHAIRPERSON OF THE NCOP: Hon Stock, I am going to disadvantage you because when I recognised you at the beginning of your speech, I did not put time limits. Please confine yourself to three minutes.

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Mr D STOCK: Okay, thank you very much Chair. As the ANC, we do not support these amendments made by the hon Hattingh. We are of the view that they should be set aside and not be considered by the House. We see this as a frivolous exercise to delay us from delaying with important issues of the elections. Thank you. [Applause.]

The CHAIRPERSON OF THE NCOP: Hon Mampuru, please proceed. Bear in mind that I have already ruled on this matter.

Ms T K MAMPURU: Hon Chairperson, compliments of the New Year to all members and our special delegates. Chairperson, as the ANC-led government we indicated that we support the Bill. Legislation is not static; it is subject to scrutiny and amendment - you either add, delete or rephrase. What informs those material conditions on the ground, for example, is economic growth that affects livelihoods of the citizens of the country on a daily basis. For example, in Limpopo, we have people moving from Tubatse to Lephalale and to Musina seeking a better life. In this regard, we cannot disadvantage our people.

Education also affects our people. Marriage again is another example that forces us to abide by what the chairperson of the select committee has indicated here. As the ANC, we are a party responsible

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for this government. We respect and honour the electoral mandate conferred to us by the electorate. Service delivery is of crucial importance to us. In fact, it is the heartbeat of the ANC and the government it is leading. We need no drama queens and drama kings here who think that they are at liberty to hold this country to ransom. If they are not aware, the country is in motion. Let us keep on moving and let us move in the right direction.

As the ANC we support ... Comrade Chairperson, people should not take advantage. Even when you read the Bible, it is very clear that Goliath made the Israelites suffer for a long time but one day David was anointed and he defeated him and gave Israelites peace. In 1994 we went to the polls where everybody exercised their rights, and the ANC took over. We are ready. Immediately when the President announces the date, let us put the will of the people to the test. We support the Bill, Chairperson. [Applause.]

Mr M KHAWULA: Hon Chairperson, the President of the IFP, Prince Buthelezi and the IFP have been confronting the IEC on quite a number of issues pertaining to election preparations, but the most important ones have been the utilisation of the SA Democratic Teachers Union, Sadtu, by the IEC to officiate the elections of the country which the IFP deems to be unfair because Sadtu is both a

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player and a referee in the elections - the point here being that Sadtu is an affiliate of the Congress of SA Trade Unions, Cosatu, and Cosatu is a tripartite alliance partner of the ANC and therefore it is like the ANC is running elections on its own.

The second issue that the IFP has been dealing with in the IEC is the issue of fairness when it comes to the utilisation of public funds by the powers that be. The IFP is very happy that at least today we can be able to say, "one down, one to go," because this issue of prohibition of the utilisation of public funds is an amendment in this Bill. The IFP was present at the meeting of the select committee on 21 December and we supported the Bill although it is not all that we wanted to achieve, but we are happy that at least we are moving towards achieving the issue of fairness towards running our elections. Therefore the IFP supports this move ...

[Interjections.]

The CHAIRPERSON OF THE NCOP: Order members! May I now formally ask us to proceed on the voting of the Bill. I am not sure whether after the intervention of the different provinces and parties from the floor right now, there is any other party that wishes to make a declaration. [Interjections.] There is none.

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Question put: That the Bill be adopted.

Voting.

Bill agreed to in terms of section 75 of the Constitution.

Business concluded.

The Council adjourned at 12:18.

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