



Provincial Legislature
Private Bag x0051 or
Independence Ave
Bhisho, 5605

EASTERN CAPE PROVINCIAL LEGISLATURE
Member of the Provincial Legislature

Retief Odendaal, MPL
(Democratic Alliance Spokesperson on COGTA)



Tel: –
Fax: –
Cell: 082-462 0668
e-mail: retiefodendaal@telkom.sa.net

07 July 2025

To: Hon NH Konza MPL
Committee Chair: Cooperative Governance and Traditional Affairs
Eastern Cape Provincial Legislature
Bhisho
5605

Dear Chairperson

**RE: URGENT DISCUSSION ON THE INTENTION OF NATIONAL TREASURY TO
WITHHOLD GRANT FUNDING AND EQUITABLE SHARE FUNDING FROM DR
BEYERS NAUDE LOCAL MUNICIPALITY (DBNLM) AND MAKANA LOCAL
MUNICIPALITY (MLM)**

I refer to the aforementioned matter and specifically to the correspondence by Finance Minister Enoch Godongwana MP to COGTA Minister Velenkosini Hlabisa MP on his intention to invoke Section 216(2) of the Constitution as read with Section 38(2) (c) of the Municipal Finance Management Act. A copy of the aforementioned letter is attached hereto for convenience. The reasoning behind the correspondence is ostensibly to start withholding grant funding and equitable share funding from wayward municipalities which have failed to meet financial commitments to SARS, the Auditor General, medical aid service providers as well as water boards. Although some 39 municipalities across South Africa will be affected by this decision, it is only DBNLM and MLM that are affected in the Eastern Cape.

Given the devastating impact that the decision may have on the cash flow and general operations of these two municipalities, I request that you consider allowing us to formally raise this issue with the Department at our meeting on Thursday.

This is important so that we can ascertain what the municipalities and/or the Department will do in mitigation should the decision to withhold the funding come to fruition.

To this end, I am further requesting a briefing from the municipalities with regards to its arrears and cash-flow position, together with an explanation from the MEC for COGTA of the steps that will be taken should the council fail to restore compliance.

I will also be requesting that the committee demand a funded repayment schedule from the municipalities within seven days of said presentation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Retief Odendaal', with a horizontal line underneath.

RETIEF ODENDAAL, MPL

Shadow MEC for Cooperative Governance and Traditional Affairs

Constituency Head: NMB South West



**MINISTRY: FINANCE
REPUBLIC OF SOUTH AFRICA**

Private Bag X115, Pretoria, 0001 Tel: +27 12 323 8911 Fax: +27 12 323 3262
P O Box 29, Cape Town 8000 Tel +27 21 464 6100 Fax +27 21 461 2934
Website : www.treasury.gov.za , email : minreg@treasury.gov.za

Ref: M3/4/3/2(1113/2025)

Honourable V Hlabisa
Minister of Cooperative Governance and Traditional Affairs
Private Bag X802
PRETORIA
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Dear Minister Hlabisa

**INTENTION TO INVOKE SECTION 216(2) OF CONSTITUTION READ TOGETHER WITH
SECTION 38 OF MUNICIPAL FINANCE MANAGEMENT ACT, 2003 BY WITHHOLDING
39 MUNICIPALITIES' JULY 2025 TRANCHE OF LOCAL GOVERNMENT EQUITABLE
SHARE AND CONDITIONAL GRANTS FOR PERSISTENT NON-COMPLIANCE**

The National Treasury ('NT') intends to invoke section 216(2) of the Constitution of the Republic of South Africa, 1996 ('Constitution') against 39 municipalities that have persistently failed to comply with the measures provided for in section 216(1) of the Constitution.

Section 216(1) of the Constitution provides as follows:

'(1) National legislation must establish a national treasury and prescribe measures to ensure both transparency and expenditure control in each sphere of government, by introducing—

- (a) generally recognised accounting practice;
- (b) uniform expenditure classifications; and
- (c) uniform treasury norms and standards.'

Section 216(2) of the Constitution provides that 'National Treasury must enforce compliance with the measures established in terms of subsection (1) and may stop the transfer of funds to an organ of state if that organ of state commits a serious or persistent material breach of those measures'.

Furthermore, section 38(2)(c) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003 - 'MFMA') requires the NT to 'consult the cabinet member responsible for the national department making the transfer'.

Below are material grounds that warrant the invocation of section 216(2) of the Constitution against the 39 municipalities.

There is a persistent failure by the 39 municipalities to pay Water Boards and / or third parties like pension funds, medical aids, South African Revenue Service ('SARS') and the Auditor-General South Africa and / or to adopt funded budgets. The following defaulting municipalities, are owing third party parties:

Municipalities owing 3rd Parties

Name of the municipality	Amount Outstanding (Rands) SARS	Amount Outstanding (Rands) AGSA	Amount Outstanding (Rands) Pension Fund
Dr Beyers Naude	15 100 000		8 900 000
Makana	3 700 000		
Letsemeng			2 100 000
Kopanong	30 300 000	10 200 000	330 000 000
Mohokare		12 300 000	147 900 000
Masilonyana	47 100 000	6 800 000	13 000 000
Matjhabeng			1 700 000
Nketoana	8 100 000		2 100 000
Maluti-a-Phofung			2 700 000
Phumelela			2 300 000
Ngwathe			2 100 000
Mafube			253 400 000
Emfuleni			6 500 000
Dipaleseng		14 600 000	
Kgetlengrivier	30 700 000	15 600 000	
Tswaing			7 300 000
Ditsobotla	43 500 000	8 900 000	1 800 000
Naledi (NW)			7 300 000
Mamusa	19 000 000		24 800 000
!Kai! Garib			4 800 000
Magareng			1 200 000

The following 18 defaulting municipalities, are owing the highest amounts to the 4 Water Boards facing imminent bankruptcy:

Municipalities owing water boards for the 2025 MTREF

Description	Total Amount owing Water Board (R'000)	Name of Water Board
Kopanong LM	893 304	Vaal Central
Matjhabeng LM*	8 135 123	Vaal Central
Nala LM*	484 360	Vaal Central
Phokwane LM*	264 369	Vaal Central
Khai Ma LM*	30 100	Vaal Central
Dikgatlong LM*	44 493	Vaal Central
Ngaka Modiri Molema DM*	736 924	Magalies Water
Dr Ruth Segomotsi Mompati DM	1 033 930	Magalies Water
Maquassi Hills LM*	369 662	Magalies Water
Vhembe DM*	164 942	Lepelle Northern Water
Sekhukhune DM*	244 920	Lepelle Northern Water
Greater Letaba LM*	69 693	Lepelle Northern Water
Merafong City LM	1 327 360	Rand Water
Goven Mbeki LM*	801 739	Rand Water
Emfuleni LM*	1 725 126	Rand Water
Lesedi LM*	121 432	Rand Water
Rand West City LM*	827 496	Rand Water
Victor Khanye LM	468 736	Rand Water

*municipalities added from December 2024

The NT adopted a practical mechanism that will ensure the 18 defaulting municipalities start paying the outstanding debt to Rand Water, Vaal Central, Lepelle Northern and Magalies Water through the following approach:

If, within 7 days of the NT letter addressed to the municipality, any of the 18 municipalities fail to provide proof that it has fully paid the outstanding amounts owed to the respective Water Board(s) per the 31 May 2025 MFMA section 41 statement(s), the Local Government Equitable Share ('LGES') of that municipality will be stopped and only be released to the municipality in portions with conditions. The conditions describing that the first amount of the withheld equitable share to be released and strictly used to pay water board current accounts and provide evidence to the NT in a form of a proof of payment. Should this condition be met then the second amount of the equitable share will be released and strictly used to honour any arrears owed in terms of a valid repayment arrangement with the water board and provide evidence to the NT in a form of a proof of payment. Should this condition be met then the July 2025 tranche of the LGES will be released with its own conditions until such time that all outstanding water debt has been resolved.

Should the municipality fail to meet the first two conditions or to submit the evidence that SARS, Pension Funds and other relevant statutory third parties have been paid, the NT will approach Parliament to endorse that the NT stop the transfer of all the LGES due to the municipality over the remainder of the 2025/26 municipal financial year for the municipality's persistent failure.

A similar approach will be followed for the municipalities that persist with unfunded budgets. Furthermore, all 39 municipalities will be required to provide evidence that SARS, Pension and other staff benefits deducted from salaries of municipal officials have been paid over to the appropriate institution within the prescribed period.

It should be noted that the above measure is one of several options that will be instituted as part of the wider government intervention in the 39 municipalities for a sustainable solution. The measures include the possible placement of some of the 39 municipalities under section 139(5) Intervention of the Constitution, which is an appropriate mode required to deal with the challenges of this nature. Section 139(5) of the Constitution provides for mandatory provincial intervention in a municipality when there is persistent financial trouble in the municipality and it cannot exercise its obligations, particularly in managing its finances or providing basic services to communities. Therefore, the provincial executive committee ('PEC') must intervene in the identified municipalities to ensure their financial recovery and turn around.

It is advisable that parallel to the LGES withholding process, Rand Water, Vaal Central, Lepelle Northern and Magalies Water enforce their credit control policies to also attach the bank accounts of the defaulting municipalities to enforce a change in behavior of these municipalities. The same applies to all the water boards, in order to avoid a similar situation and prevent escalating debt across water boards.

This letter serves as a consultative mechanism with you in terms of section 38(2)(c) of the MFMA with regard to the intention of the NT to invoke section 216(2) of the Constitution by stopping the transfer of the 07 July 2025 tranche of the equitable share and all the grants to be transferred to the 39 municipalities.

May I request your office make a written representation within a period of 7 days from the date of receipt of this letter whereafter I will make a final decision with regard to the stopping of transfers to the identified 39 municipalities.

Yours Sincerely,



ENOCH GODONGWANA, MP
MINISTER OF FINANCE
DATE: 30/06/2025

CC: Deputy Minister of Cooperative Governance and Traditional Affairs
Deputy Minister of Water and Sanitation
Deputy Minister of Finance
MEC of Finance: Free State Provincial Government
MEC of Finance: Gauteng Province
MEC of Finance: Mpumalanga Province
MEC of Finance: Northern Cape
MEC of Finance: North West
MEC of Finance: Limpopo Province
MEC of CoGTA: Free State Province
MEC of CoGTA: Gauteng Province
MEC of CoGTA: Mpumalanga Province
MEC of CoGHSTA: Northern Cape Province
MEC of CoGTA: North West Province
MEC of CoGHSTA: Limpopo Province
Mayor of Victor Khanye Local Municipality
Mayor of Kopanong Local Municipality
Mayor of Merafong City Local Municipality
Mayor of Maquassi Hills Local Municipality
Mayor of Goven Mbeki Local Municipality
Mayor of Dikgatlong Local Municipality
Mayor of Ngaka Modiri Molema District Municipality
Mayor of Dr Ruth Segomotsi Mompati District Municipality
Mayor of Ngwathe Local Municipality
Mayor of Nala Local Municipality
Mayor of Matjhabeng Local Municipality
Mayor of Phokwane Local Municipality
Mayor of Emfuleni Local Municipality
Mayor of Rand West City Local Municipality
Mayor of Lesedi Local Municipality
Mayor of Vhembe District Municipality
Mayor of Sekhukhune District Municipality
Mayor of Greater Letaba Local Municipality