



REPUBLIC OF ZAMBIA

REPORT

OF THE

**COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS, GENDER
MATTERS AND CHILD AFFAIRS**

ON THE

ENVIRONMENTAL MANAGEMENT (AMENDMENT) BILL, N.A.B NO.16 OF 2013

**FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY
APPOINTED ON 26TH SEPTEMBER 2013**

PRINTED BY THE NATIONAL ASSEMBLY OF ZAMBIA

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HUMAN RIGHTS, GENDER MATTERS AND CHILD AFFAIRS FOR THE
THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY ON THE
ENVIRONMENTAL MANAGEMENT (AMENDMENT) BILL, N.A.B NO. 16
OF 2013 APPOINTED ON 26TH SEPTEMBER, 2013**

Consisting of:

Mr J J Mwiimbu, MP, Chairperson; Mrs A M Chungu, MP; Mr M A Malama, MP; Mr J M Kapyanga, MP; Dr L M Kaingu, MP; Mr S Mushanga, MP; Mr M J B Ng'onga, MP; and Mr B M M Ntundu, MP.

The Honourable Mr Speaker

National Assembly

Parliament Buildings

P O Box 31299

LUSAKA

Sir,

Your Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs has the honour to present its Report on the Environmental Management Bill, N.A.B No. 16 of 2013, referred to it on Friday, 22nd November, 2013.

Functions of the Committee

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other Order of the House, your Committee is mandated to consider any Bill that may be referred to it by the House.

Meetings of the Committee

3. Your Committee, in considering the proposed legislation, held four (4) meetings and interacted with various stakeholders and examined in detail all the submissions presented before it.

Procedure adopted by the Committee

4. In order to acquaint itself with the ramifications of the Bill, your Committee sought both written and oral submissions from different stakeholders. The list of witnesses who appeared before your Committee is at Appendix II of this Report.

Objects of the Environmental Management Bill, NAB 16 of 2013

5. The object of the Bill is to amend the *Environmental Management Act, 2011*, so as to ensure greater transparency and equity in the use of public resources by requiring fees collected by the Agency to be accounted for through the Consolidated Fund so as to form part of the general revenues of the Republic.

Salient Provisions of the Bill

6. The salient provisions of the Environmental Management Bill, N.A.B No. 16 of 2013, are contained in Clause 2. This clause seeks to amend Paragraph 7 of the First Schedule to the *Environmental Management Act, 2011* in order to require fees collected by the Agency to form part of the general revenues of the Republic.

CONCERNS RAISED BY STAKEHOLDERS

7. During its meetings with stakeholders, your Committee was informed that there were hardly any consultations with stakeholders over the changes proposed in the Bill. There were also concerns expressed by the Zambia Environmental Management Agency (ZEMA) that the proposed amendments may negatively impact on its operations, as was the case in the 2014 national budget, the provisions made for ZEMA may be below the Agency's budgetary requirements. In this regard, your Committee was informed that ZEMA needed to have access to funds at all times to cover for emergencies and processing of Environmental Impact Assessments, on which decisions were required by law to be rendered within 65 days. While the Agency was of the view that this would not pose a challenge if there was an effective mechanism to be used in the release of funds, there was serious concern over possible inefficiencies in the mechanisms for release of funds as this could result in the failure of the Agency to operate effectively. Further, based on past experience, it was noted that Government grants to the institution had not been paid as regularly as they should be and the Agency had been operating using the revenues raised from the fees and fines collected. In other words, the fees had been cushioning the grants. In the same vein, it was submitted to your Committee that, depending on how the funds would be disbursed and if they would be adequate to meet the Agency's budget, the Agency may experience challenges in retaining some of its qualified personnel as certain incentives were necessary in order to retain experts.

As regards assertions that some parastatal organisations had excess funds which should be available to the Government as revenues, the Committee was informed that most of the excess funds held by ZEMA were provided by cooperating partners for specific projects and

programmes. These were, in some cases, released late and had to be kept in the ZEMA account for a time before being expended.

On the other hand, your Committee was assured that adequate arrangements had been put in place to ensure that funding to the Agency was not negatively affected by the changes sought to be made by these amendments. It was explained that the funds collected by the Commission would be deposited in a dedicated account at the Bank of Zambia for accounting purposes and releases to the Agency would be made directly from this account without having to channel the funds through the general revenue pool. In other words, these funds would be ring-fenced for the use of the Agency as and when the need arose. This mechanism was designed to ensure that the channeling of these revenues through the Treasury did not in any way disrupt the operations of the Agency.

Your Committee was further informed that the same mechanism had so far been successfully employed on the Energy Regulation Board (ERB) and the Zambia Information Communication Technology Authority (ZICTA) during the current financial year and the two institutions had not experienced any cash flow problems. It was further emphasised that exceptions could be made administratively for certain institutions such as ZEMA to retain part of the revenues collected under the Appropriation-in-Aid arrangement for use on emergencies and other statutory obligations which were time bound in order to avert any possible delays.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

8. Your Committee is concerned that operational problems may arise at ZEMA in a situation where the Government is not able to release funding to the Agency in a timely manner. This can compromise the

Agency's capacity to perform its legal mandate in terms of Environmental Impact Assessments (EIAs) within the time frames provided in the law. Your Committee is cognisant of the fact that in many cases, investors use borrowed funds, hence they would like to have environmental impact assessments concluded expeditiously so as to implement their projects timely. In this regard, if not carefully handled, these changes could lead to ZEMA being unable to meet its legal mandate and this could ultimately contribute to frustrating the would-be investors. In a similar vein, your Committee is also concerned that the Agency may experience an exodus of qualified personnel unless appropriate measures are taken to ensure that these experts, who are critical to the performance of the Agency's mandate, are appropriately remunerated.

Considering these concerns, your Committee is of the strong view that the Bill be recast by providing a legal framework to ensure that ZEMA is allowed to retain part of its revenue to cater for emergencies and other statutory obligations that are time bound. Your Committee is of the view that mere administrative measures are inadequate in this case, which should be treated as an exception to the general rule.

The above notwithstanding, your Committee notes and appreciates the fact that this amendment will ensure transparency in the management of public funds and that the Government will henceforth not borrow its own funds deposited in various banks by its own parastatal agencies at high cost. This is laudable and must be supported.

Subject to the above, the Committee recommends that the Environmental Management (Amendment) Bill, N.A.B No. 16 of 2013, be supported by the House.

CONCLUSION

9. Your Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Mr Speaker, for affording it an opportunity to study the Bill. Your Committee also appreciates the services rendered by the office of the Clerk of the National Assembly during its deliberations.

We have the honour to be, Sir, your Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs mandated to consider the Environmental Management Bill, N.A.B No.16 of 2013.

Mr J J Mwiimbu, MP

(Chairperson)

Mrs A M Chungu, MP

(Member)

Mr M A Malama, MP

(Member)

Mr J M Kapyanga, MP

(Member)

Dr L M Kaingu, MP

(Member)

Mr S Mushanga, MP

(Member)

Mr M J B Ng'onga, MP

(Member)

Mr B M M Ntundu, MP

(Member)

December, 2011

LUSAKA

APPENDIX I

PERMANENT WITNESSES

MINISTRY OF JUSTICE

Mr A Nkunika, Chief Parliamentary Counsel

Mrs Y K Chirwa, Senior Parliamentary Counsel

LIST OF OFFICIALS

NATIONAL ASSEMBLY

Mr S M Kateule, Principal Clerk of Committees

Mr S C Kawimbe, Deputy Principal Clerk of Committees

Ms M K Sampa, Committee Clerk (SC)

Mr F Nabulyato, Committee Clerk (FC)

Ms C Musonda, Assistant Committee Clerk

Mrs M K Siwo, Assistant Committee Clerk

Ms M E Zimba, Assistant Committee Clerk

Ms S E Mwale, Stenographer

Mr R Mumba, Committee Assistant

Mr C Bulaya, Committee Assistant

APPENDIX II

WITNESSES

ZAMBIA ENVIRONMENTAL MANAGEMENT AGENCY

Mr J Sakala, Director-General

Mr J P Daka, Manager - Planning and Information

Ms K K Saya, Manager - Human Resources

Mr E Soko, Finance Manager

MINISTRY OF LANDS, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Ms D Ng'ambi, Permanent Secretary

Ms P K Chirwa, Director-Natural Resources Authority

Mr C Chifwembe, Director- Planning

Ms S M Chanda, Principal Legal Officer

MINISTRY OF FINANCE (BUDGET AND ECONOMIC AFFAIRS)

Ms P C Kabamba, Permanent Secretary (Budget and Economic Affairs)

Ms M Masiye, Director of Budget

Mr J Sakala, Principal Economist

Mr K Chifwembe, Acting Chief Budget Analyst (Revenue)

Ms M Chikuba, Principal Budget Analyst (Revenue)