

Parliamentary

Increasing Public Participation in the Budget Process

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Budget
Office



Outline

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Mandate of the PBO

- The Parliamentary Budget Office is established in terms section 15 of the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No. 9 of 2009), which provides for the procedure to amend money Bills before Parliament
- Review and analyse the documentation tabled in Parliament by the Executive (Minister of Finance) in terms of the Money Bills Amendment Procedure and Related Matters Act no. 9 of 2009), as amended in 2018
 - Analyse and advise on proposed amendments to the fiscal framework, the Division of Revenue Bill, and money Bills and on policy proposals with budgetary implications
 - Monitor and synthesise matters on reports tabled and adopted in a House with budgetary implications, with particular emphasis on reports by other committees
 - Keep abreast of policy debates and developments in key expenditure and revenue areas
 - Monitor and report on potential unfunded mandates arising out of legislative, policy or budgetary proposals
 - Conduct research on request by the Houses, other committees or members of Parliament on matters related to the budget and other money Bills.

Introduction

- South Africa's Constitution requires that Parliament and the Legislatures provide a forum for the public consideration of issues and that they must:
 - receive petitions
 - facilitate public involvement in their legislative and other processes, and
 - conduct business in an open manner
- The 2013 Public Participation Framework for the South African Legislative Sector (known commonly as the Legislative Sector Public Participation Framework) is overarching guideline, setting out norms and standards for Public Participation within the Legislative Sector.
 - Public participation is defined as the process by which Parliament and provincial legislatures consult with the people and interested or affected individuals, organisations and government entities before making a decision. Public participation is a two-way communication and collaborative problem solving mechanism with the goal of achieving representative and more acceptable decisions"
- The Parliament of South Africa has also developed a Public Participation Model (PPM)
 - The Model intends to provide a shared understanding on and alignment of processes, and set minimum requirements and guidelines for the involvement of the public in the legislative and other processes of Parliament and those of its Committees.

Principles and values underpinning public participation

In terms of Section 1 of the Constitution (RSA, 1996), South Africa is one, sovereign, democratic state founded on the following values:

- Human dignity, the achievement of equality and the advancement of human
- rights and freedoms;
- Non-racialism and non-sexism;
- Supremacy of the constitution and the rule of law; and
- Universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

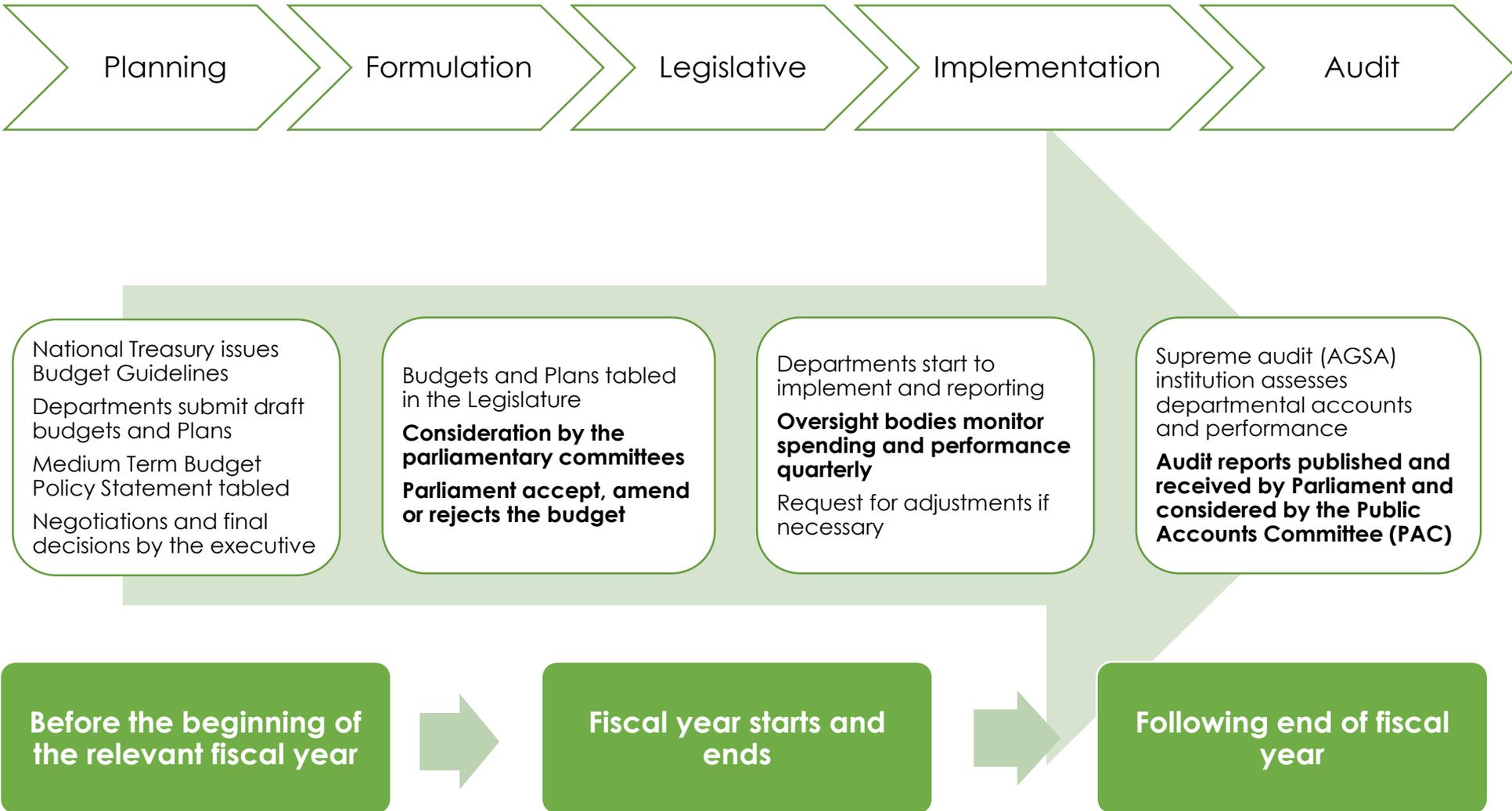
Money Bills and Related Matters Act of 2009 and public participation requirements;

- The Act provide Parliament (Finance and Appropriation Committees) powers to consider, or amend or approve budget instruments (including fiscal framework, tax and revenue proposals, division of revenue bill, appropriations bills
- In considering budget instruments proposals, Parliament is required to hold public hearings
- The Finance and Appropriations Committees reports to Houses on the budget instruments and always summarises the public hearing inputs for the Houses' considerations

Principles of public involvement

- Promotes active and representative participation towards enabling all community members to meaningfully influence the decisions that affect their lives;
- Engages community members in learning and understanding community issues, and the economic, social, environmental, political, psychological, and other associated courses of action;
- Incorporates the diverse interests and cultures of the community in the development process, and disengages from support of any effort that is likely to adversely affect the disadvantaged members of a community;
- Actively enhances the leadership capacity of community members, leaders and groups within the community; and
- Utilises a community's diversity to deepen shared understanding and produce outcomes of long-term benefit to the whole community or society

Technical planning and budgeting process



Budget amendments procedure

Committees table BRRR in the NA

Minister of Finance: National Treasury tables money Bills

Budget Review and Recommendations Report (BRRR)

Adjusted: Current Budget/Appropriations/DORA
MTBPS: new MTEF

National Budget: Appropriations Bill
DOR Bill
Revenue Bills

National Assembly approves

a House or committee may consider an amendment to a money Bill proposed by the Minister in order to make **technical corrections** to the Bill

Research:

- must provide an assessment of the department's service delivery performance given available resources;
- must provide an assessment on the effectiveness and efficiency of the departments use and forward allocation of available resources; and
- may include recommendations on the forward use of resources

Finance Committees Consider and Report:

- the national macroeconomic and fiscal policy;
- the fiscal framework, revised fiscal framework and
- revenue proposals and Bills and amendments thereto;
- actual revenue published by the National Treasury; and
- any other related matter set out in this Act.

Appropriations Committees consider and report on:

- the Division of Revenue Bill, the Appropriation Bill, Supplementary Appropriations Bills and the Adjustments Appropriation Bill and amendments thereto;
- recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997);
- reports on actual expenditure published by the National Treasury; and
- any other related matter set out in this Act.

After the approval of the Appropriations Bill and before the tabling of the MTBPS

Three months before the tabling of the Budget
October/November

February/March

Open Budget Index – Transparency

- South Africa has a transparency score of 86 out of 100 – The global transparency average is 45 out of 100
- South Africa ranks second globally for transparency

Public availability of budget documents in South Africa

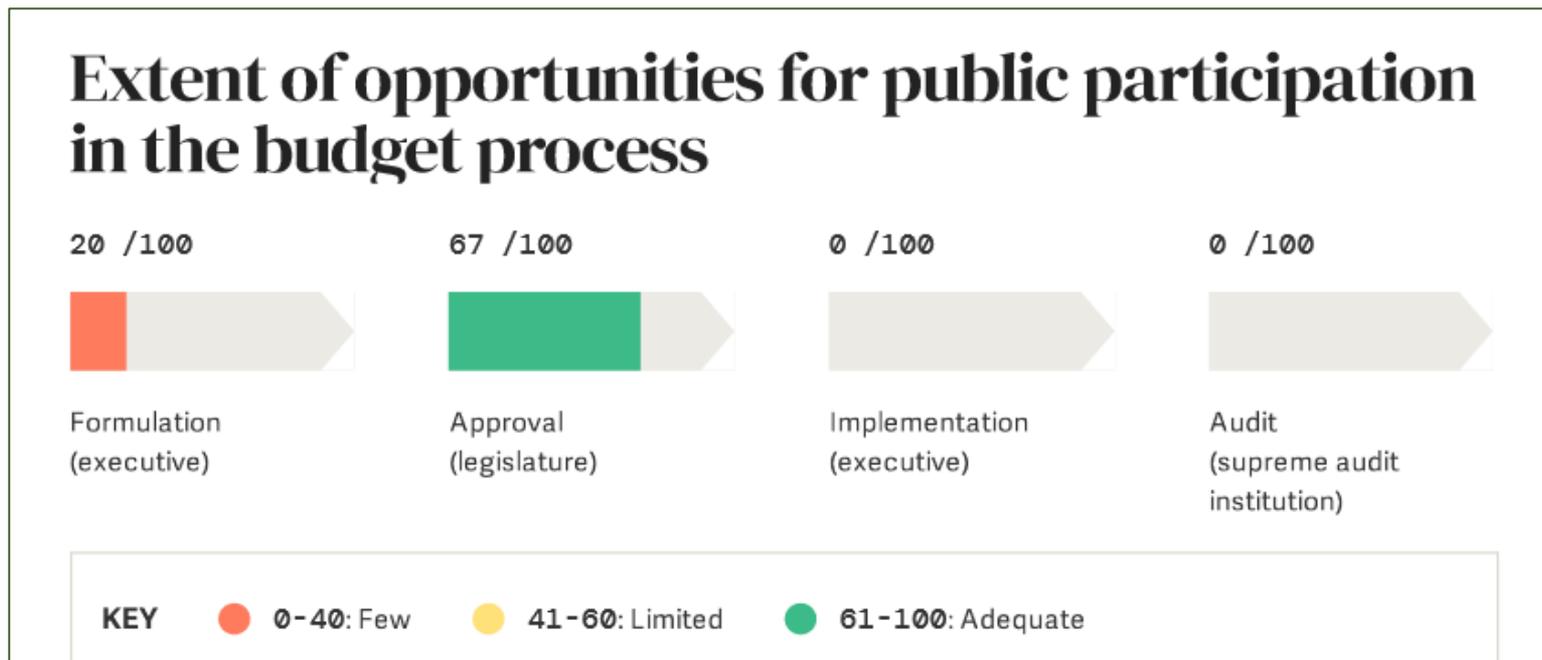
| Document | 2010 | 2012 | 2015 | 2017 | 2019 | 2021 |
|-----------------------------|------|------|------|------|------|------|
| Pre-Budget Statement | ● | ● | ● | ● | ● | ● |
| Executive's Budget Proposal | ● | ● | ● | ● | ● | ● |
| Enacted Budget | ● | ● | ● | ● | ● | ● |
| Citizens Budget | ● | ● | ● | ● | ● | ● |
| In-Year Reports | ● | ● | ● | ● | ● | ● |
| Mid-Year Review | ● | ● | ● | ● | ● | ● |
| Year-End Report | ● | ● | ● | ● | ● | ● |
| Audit Report | ● | ● | ● | ● | ● | ● |

KEY

- Available to the Public
- Published Late, or Not Published Online, or Produced for Internal Use Only
- ⊘ Not Produced

Open Budget Index – Public Participation

- South Africa has a public participation score of 19 out of 100



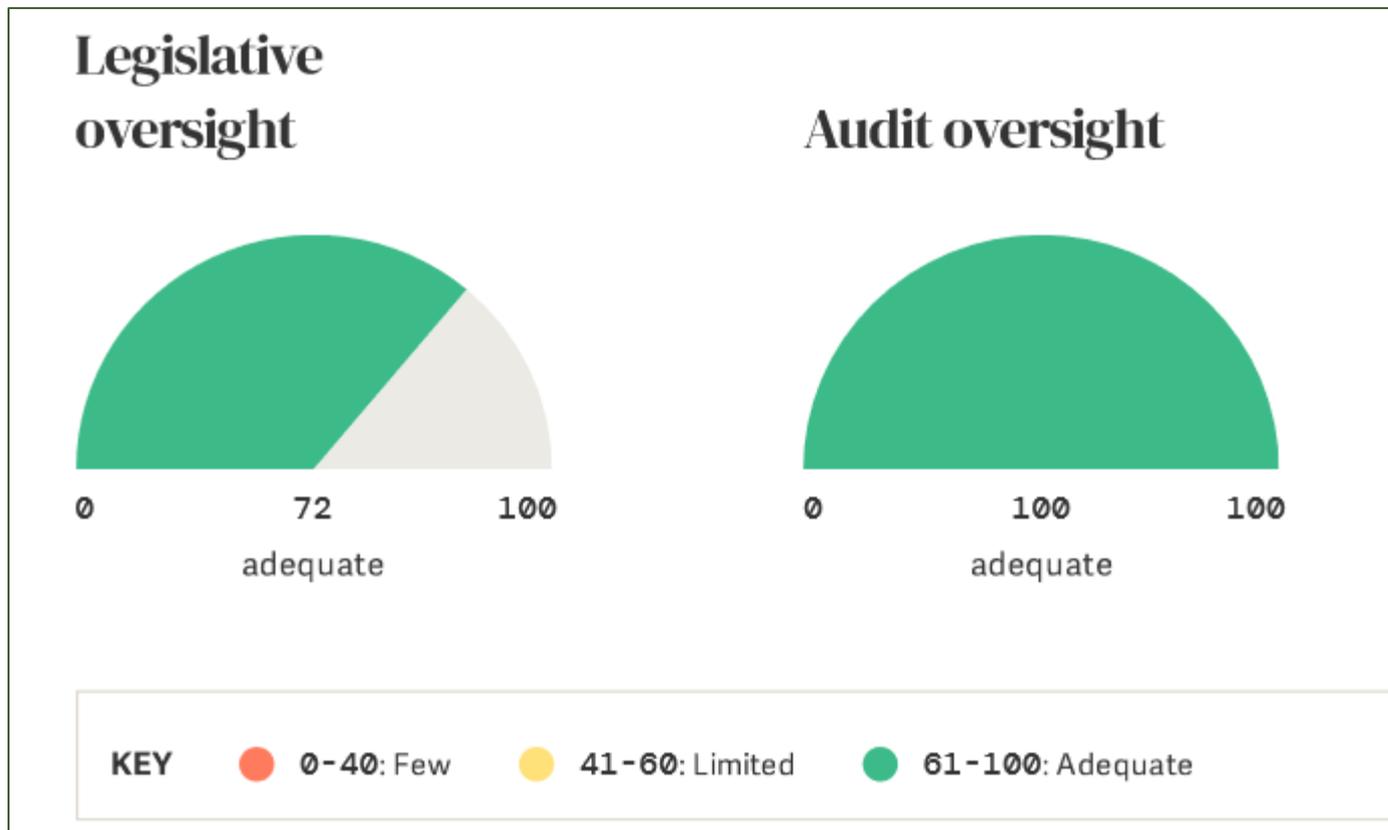
Source: OBI 2021

Challenges in public participation

- The extent of public participation in the law-making processes has been the subject of some of the matters brought before the Constitutional Court by civil society organisations. This includes making provision for appropriate time in the law-making processes for adequate public involvement
 - The Budget Justice Coalition (which constitutes of 20+ civil society organisations) has highlighted that the public only has three working days to table their comments on the fiscal framework and a further two days to prepare a presentation to the finance committees, if they wish to do so
- Civil society has also raised concerns on meaningful participation in the budget process, particularly for people who experience the greatest levels of marginalisation and exclusion
- While South Africa ranks highly on transparency in the OBI, concerns have been raised on transparency at provincial (regional), municipal and departmental levels. This includes delays in data availability
- Low numbers of submissions are made to committees. For example, only 3 presentations made in public hearings on the 2022 Fiscal Framework and Revenue Proposals. This could be driven by a number of factors, including those listed above

Open Budget Index – Budget Oversight

- The Parliament and Auditor-General in South Africa, together, provide adequate oversight during the budget process, with a composite oversight score of (81 out of 100)



Joint Rules Committee (JRC) report recommendations

- In December 2015, the Speakers' Forum established an independent high-level panel of eminent South Africans to undertake the task of assessing the content and implementation of legislation passed since 1994 in relation to their effectiveness and unintended consequences. The recommendations with regards to public participation were:
 - For government to ensure an intersectoral and collaborative approach to the development of legislation (including more Committee Bills) but also in the oversight processes where implementation of law cuts across a number of different sectors. The Report recommends that civil society and the public are invited to participate in these oversight hearings to highlight implementation challenges on the ground so that these can begin to be addressed more effectively
 - For government to enhance more effective public participation in the legislative and policy cycle. One recommendation specifically calls for Parliament to review all laws which include a public participation component to ensure that it conducts oversight over the implementation of these public participation provisions to ensure that participation is fully realised and that the public participate as partners

Open Budget Index recommendations

Transparency

Improve the comprehensiveness of the Enacted Budget by presenting approved estimates of expenditure by functional classification and approved estimates of revenue by category and individual source

Public participation

South Africa's National Treasury has established pre-budget submissions during budget formulation but, to further strengthen public participation in the budget process, should also prioritize the following actions:

- Pilot mechanisms to monitor budget implementation
- Actively engage with vulnerable and underrepresented communities directly or through civil society organizations representing them

South Africa's Parliament has established public hearings related to the approval of the annual budget, but should also prioritize the following actions:

- Allow any member of the public or any civil society organization to testify during its hearings on the budget proposal prior to its approval.
- Allow members of the public or civil society organizations to testify during its hearings on the Audit Report

Open Budget Index recommendations

South Africa's Auditor-General should prioritize the following actions to improve public participation in the budget process:

- Establish formal mechanisms for the public to assist in developing its audit program and to contribute to relevant audit investigations

Budget oversight

South Africa's Parliament provides adequate oversight during the planning stage of the budget cycle and adequate oversight during the implementation stage. To further improve oversight, the following actions should be prioritized:

- The Executive's Budget Proposal should be submitted to legislators at least two months before the start of the budget year
- The Parliament should approve the Executive's Budget Proposal before the start of the budget year
- In practice, ensure the Parliament is consulted before the executive reduces spending due to revenue shortfalls

Recent developments

- For the upcoming MTBPS, National Treasury has solicited the public's views on South Africa's Fiscal Policy in its pre-budget consultation process
- South Africa is one of five pilot countries that are participating in the Fiscal Openness Accelerator Project (FOA) that was launched in 2019 by the International Budget Partnership (IBP) and the Global Initiative for Fiscal Transparency (GIFT)
- This is the second and final year of the FOA pilot and a slightly different approach will be taken. This year, we will focus on written submissions on a broad range of themes. An online platform will be provided for respondents to discuss and debate issues raised in the submissions
- The written inputs will be analysed and the recommendations will be shared with Medium-Term Expenditure Committee (MTEC). All submissions will be published on the Vulekamali budget data portal

Public participation as a continuous process

The Supreme Court of Appeals (SCA) had an opportunity to comment on the nature of the obligation of Parliament to facilitate public involvement in the law making process. In paragraph 22, the SCA said the following:

“Public involvement” is necessarily an inexact concept, with many possible facets, and the duty to facilitate it can be fulfilled not in one, but in many different ways. Public involvement might include public participation through the submission of commentary and representations: but that is neither definitive nor exhaustive of its content. The public may become involved in the business of the National Assembly as much as by understanding and being informed of what it is doing as by participating directly in those processes. It is plain that by imposing on Parliament the obligation to facilitate public involvement in its processes the Constitution sets a base standard, but then leaves Parliament significant leeway in fulfilling it. Whether or not the National Assembly has fulfilled its obligation, it cannot be assessed by examining only one aspect of public involvement in isolation of others, as the applicants have sought to do here. Nor are the various obligations section 59(1) imposes to be viewed as if they are independent of one another, with the result that the failure of one necessarily divests the National Assembly of its legislative authority.”

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Thank you