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GENERAL NOTICE

Notice 2081 of 1999

DEPARTMENT OF CONSTITUTIONAL DEVELOPMENT

TRANSFER OF STAFF TO MUNICIPALITIES AMENDMENT BILL

1. The Transfer of Staff to Municipalities Amendment Bill, is hereby published for public comment in terms of section 154(2) of the Constitution.
2. Comments must please be submitted in writing to -

The Director-General
Attention: Mr S L Louw
Department of Constitutional Development
Private Bag X 804
PRETORIA
0001

3. Comments may also be faxed to facsimile number (012) 334 0608/ (012) 334 0609 or (012) 334 0604 at the above address.
4. Comments must be received by no later than 29 October 1999.

BILL

TRANSFER OF STAFF TO MUNICIPALITIES AMENDMENT BILL

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:

Amendment of section 1 of the Act 17 of 1998

1. Section 1 of the Transfer of Staff to Municipalities Act, 1998 (hereinafter referred to as the Principal Act), is hereby amended -

- a. by the insertion before the definition of "employee" of the following definition:

"cash value" means an amount of money calculated in rands and cents in accordance with the following formula:

cash value = annual salary of employ X number of days of vacation leave

$5/7 \times 365$

- b. by the insertion after the definition of "provincial administration" of the following definition:

"vacation leave" means the number of days of vacation leave standing to the credit of an employee immediately before his or her transfer to a municipality but subject to an adjustment being effected before such transfer by multiplying the number of days by the factor 5/7"; and

Amendment of section 3 of Act 17 of 1998

2. Section 3 of the principal Act is hereby amended -

a. by the substitution for subsection (1) of the following subsection:

"(1) Any vacation leave [standing to the credit of an employee immediately before his or her transfer] must, from the date of the transfer of an employee be regarded as leave credited to him or her in the employment of the municipality in question. [subject to the cash value, on date of transfer, of such leave being adjusted to an equivalent cash value applicable to an employee of similar rank in the municipality].";

b. by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(2) In respect of each employee transferred the relevant province must pay the municipality from its provincial revenue fund, the [equivalent] cash value [contemplated in subsection (1)] of the vacation leave of each employee."; and

c. by the substitution for subsection (3) of the following subsection:

"(3) The cash value of the number of days vacation leave [standing to the credit of an employee at the date of transfer] which exceeds the number of days vacation leave which an employee in the service of the municipality in question may accumulate, must be paid to the employee by that municipality [at the rate applicable to the employee immediately before his or her transfer to the municipality]."

Short title

3. This Act shall be called the Transfer of Staff to Municipalities Act, 1999.

EXPLANATORY MEMORANDUM: TRANSFER OF STAFF TO MUNICIPALITIES AMENDMENT BILL

The Transfer of Staff to Municipalities Act (the Act) provides for the transfer of certain employees from a provincial administration to designated municipalities. In the course of the implementation of the Act, difficulties have been experienced in the application of section 3 on the subject of the accumulated vacation leave of the employees to be transferred.

The difficulties arise from the fact that the vacation leave of provincial employees accrues on the basis of a prescribed number of calendar days per annum, including Saturdays, Sundays and public holidays, while the vacation leave of municipal employees generally accrues on the basis of a prescribed number of working days per annum.

The principle that was intended was that neither the province nor the municipality nor the employee should be in a better or worse position in respect of vacation leave accumulated as at the date of transfer.

The proposed amendment to sections 1 and 3 of the Act gives effect to this principle and provides for a conversion factor to convert a credit of calendar days leave to working days.