



NATIONAL PARLIAMENT OF TIMOR-LESTE
Secretariat

TRANSMISSION NOTE

FROM: SECRETARY-GENERAL
TO: SPEAKER OF NATIONAL PARLIAMENT
DATE: 08 OCTOBER 2014

Committee C:
Report and opinion

Committee on Public Finance

Excellency
Speaker of National Parliament
Vicente da Silva Guterres

Date: 8 October 2014
Ref.nº: 04/3/III/Com. C

Subject: Submission of Report and Opinion

Excellency,

I hereby transmit to Your Excellency the Report and Opinion on Draft Law no. 15/III (3) of the First Amendment to Law No. 2/2014, of February 5 "Law of the State Budget for 2014" for consideration and forwarding according to defined procedures.

Best regards.

The Committee President

/s/

Virgílio Maria Dias Marçal



NATIONAL
PARLIAMENT

Democratic Republic of Timor-Leste

Committee on Public Finance

OPINION

Draft Law no. 15/III(3) GOV

Rapporteur: Deputy Maria
Adozinda Pires da Silva

Performs First Amendment to Law No. 2/2014, of February 5, the State Budget Law for 2014

Approved in the Committee C meeting, October 8, 2014.

Table of Contents

PART I - CONSIDERATIONS.....	2
PART II - THE APPLICATION OF URGENCY	5
PART IV - CONCLUSION	5

PART I - CONSIDERATIONS

Introduction

The Government has taken the initiative to present to the National Parliament with a request for priority and urgency, Draft Law No. 15/III/3 (GOV) making the "First amendment to Law No. 2/2014, of February 5 (Law the General State Budget for 2014)."

This initiative was received on 3 October 2014, and having been passed on by the determination of His Excellency the President of the National Parliament, on 6 October, to the Committee on Public Finance, to draw up an opinion within 24 hours, in accordance with Article 97 of the Rules of the National Parliament.

In strict compliance of regimental deadlines, and in less than 24 hours, "Committee C" informed the President of the National Parliament and the Madam Secretary of Parliamentary Affairs, that the submitted Draft Law did not meet the procedural, legal and required constitutional requirements.

Informed to the Executive on the same day, October 6, and the bill was sent back by the Government on 8 October, within the minimum legal requirements.

On the same date, October 8, the same proposal was admitted, and for determination by His Excellency the President of the National Parliament, the proposal fell to the Committee on Public Finance to draw up an opinion, within 24 hours, in accordance with Article 97 of the Procedure.



NATIONAL PARLIAMENT

Democratic Republic of Timor-Leste

Committee on Public Finance

Later that day, was designated as rapporteur for the opinion Deputy Adozinda Maria Pires da Silva, and the same opinion was discussed and approved.

Subject matter, content and motivation of the initiative

Draft Law No. 15/III/3 (GOV) is the first amendment to Law No. 2/2014, of February 5, approving the State Budget for the year 2014.

The bill in question amends Article 8.5 of Law No. 2/2014, of February 5.

According to the Explanatory Memorandum accompanying the Proposal of Law No. 15/III/3 (GOV), the Government intends *"to carry out rectification of Article 8.5 of the Law on the State Budget for 2014 in order to enable the withdrawal from the Petroleum Fund above the Estimated Sustainable Income whenever 75% execution is reached, and not just at the end of the third quarter, protecting the continuity of implementing Government activities while at the same time ensuring a liquidity reserve."*

In the same Explanatory Memorandum, it highlights the following reasons for the need of the first amendment to the State Budget for 2014:

- *According to predictions by the Government based on the information from each Ministry and State Secretariat, the cash budget execution value at the end of September is below 75%.*
- *Even conservative estimates show that the amount available in the Treasury Account will not exceed, probably \$75 million, and this amount does not represent a safety reserve which allows dealing with any unforeseen occurrence, which could cause a situation of illiquidity.*

Accordance with the formal, constitutional and regulatory requirements and compliance with law form

This initiative is presented by the Government, under its power of initiative in accordance with the provisions of Article 97.1(c) and Article 145.1 of the Constitution, and Article 90 of the Rules of the National Parliament (RPN).

The initiative has an explanatory memorandum and obeys the form corresponding to a bill from the Government, especially the requirements of the Law 1/2002, of August 7, the Law on Publication of Acts.¹

Moreover, it should also comply with the minimum requirements laid down in Article 34.2² of Law 13/2009, of 21 October, the Budget and Financial Management Law.³

¹ Also known as the Law Form.

² Which states: "The structure and content of the laws budget amendment comply with the provisions in Chapter I and II, whose standards are applicable mutatis mutandis."

³ Budget Changes, understood here in its broadest context.



**NATIONAL
PARLIAMENT**

Democratic Republic of Timor-Leste

Committee on Public Finance

Requirements of Article 34.2 of Law 13/2009, of 21 October, Law on Budget and Financial Management

Whether the proposed General Budget Law of the State or its rectification, necessarily follows the principles and requirements set out in the Law on the Budget and Financial Management, while enhancing the value⁴ of law.

Now, since the Law of Budget and Financial Management has as a standard ratio of controlling the legality of other laws that disrespect, and so even a patterning effect, non-compliance is sanctioned for illegality of the violated law.

There can be no doubt that budget amendments must be in accordance with Article 34 of the Budget and Financial Management Law, complying with the provisions in Chapters I and II of the same standard.

However, it is the same device that states that such amendments are applicable to the "necessary adjustments", which allows the interpreter of the standard to have remarkable discretion.

This discretion that allows considering that dispatch on 8 October, and for the first time, the "Budget Overview", authored by the work of the Ministry of Finance, may be considered as sufficient for a necessarily incomplete and flawed preliminary examination of the requested application for urgency.

One cannot help, however, also note that the discussion in Plenary desirably should only occur when the National Parliament has been provided with a minimum set of information allowing for its rigorous and informed examination to assess the required urgency.

Therefore, it is suggested to the National Parliament to request the Government to discuss the urgency in Plenary, proceeding to provide, without exception, the following elements:

- Tables of budget execution of expenditure and revenue on 30 September and projections disaggregated by category and item, of execution by December 31, 2014, for the three funds and the autonomous funds and services;
- Justification for performance situations very low income and expenses or nearly exhausted allocations;
- Information on assets and liabilities of the State;
- Situation of borrowing contracted and by the State for the year 2014;

⁴ Do not forget that although the Constitution does not explicitly recognize the nature of laws with "enhanced value", their consecration in the constitutional order is not subject to interrogation. With GOMES CANOTILHO, we understand that laws are value-strengthened laws governing the production of other laws and the constitutive law limits other laws. The Law of Budget and Financial Management is a perfect example of these.



NATIONAL PARLIAMENT

Democratic Republic of Timor-Leste

Committee on Public Finance

- Certificates of withdrawals from the Petroleum Fund in 2014, and information on the fund's performance over the year;
- Certificate validated by the Central Bank on cash flow from Treasury and the Special Funds;
- Information on compliance with the limit (20%) of changes to the budgets of services that do not have administrative and financial autonomy;
- Information on the percentage of direct adjustments (10% of budget allocations) awarded by the Ministry.
- Detailed information on the costs incurred from contingency reserve appropriations for Whole of Government.

Since only this, its analysis, allows assigning - or not – consistency with the expressions contained in the explanatory memorandum, "according to the government's predictions" and "Even the most conservative estimates."

Everything for the National Parliament knows the framework and the true scope of the amendment proposed by the Government, under penalty of ignoring that the National Parliament is a Supervisory Body and not merely an administrative manager for the Executive's proposals of Law.

The need for the presentation of that information, identified above for this case, is thus closely connected with ensuring financial transparency and clarity that Article 22 of the Budget and Financial Management Law reports. Bearing in mind also the function of ensuring budgetary control that the National Parliament is bound to.

PART II - THE APPLICATION OF URGENCY

This bill comes accompanied by a declaration of urgency for its assessment, under Article 97 of the Rules of the National Parliament.

Committee C, although considering the request for urgency not completely substantiated, understands, given the nature of the issue and its importance in the conduct of the destiny of the country, it is admitted and, as required, with priority and urgency.

PART IV - CONCLUSION

Considering the above, the Committee on Public Finance is of the opinion that the Proposed Law No. 15/III/3 (GOV) making the "First amendment to Law No. 2/2014, of February 5 (Budget Law General of the State for 2014)", meets the constitutional and procedural requirements for the urgency of its discussion and vote in plenary, on the terms and for the purposes of article 97.4 of the Rules of the National Parliament.

However, it is suggested that such scheduling and discussion should wait for the transmission by the Executive, of the following elements:



**NATIONAL
PARLIAMENT**

Democratic Republic of Timor-Leste

Committee on Public Finance

- Tables of budget execution of expenditure and revenue on 30 September and projections disaggregated by category and item, of execution by December 31, 2014, for the three funds and the autonomous funds and services;
- Justification for performance situations very low income and expenses or nearly exhausted allocations;
- Information on assets and liabilities of the State;
- Situation of borrowing contracted and by the State for the year 2014;
- Certificates of withdrawals from the Petroleum Fund in 2014, and information on the fund's performance over the year;
- Certificate validated by the Central Bank on cash flow from Treasury and the Special Funds;
- Information on compliance with the limit (20%) of changes to the budgets of services that do not have administrative and financial autonomy;
- Information on the percentage of direct adjustments (10% of budget allocations) awarded by the Ministry.
- Detailed information on the costs incurred from contingency reserve appropriations for Whole of Government.

This opinion was adopted by seven votes in favor and one abstention.

National Parliament, 8 October 2014

The Deputy who authored this opinion

(Maria Adozinda Pires da Silva)

The President of the Committee

(Virgílio Maria Dias Marçal)