

REPUBLIC OF SOUTH AFRICA

LOCAL GOVERNMENT LAWS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. 30034 of 2 July 2007)
(The English text is the official text of the Bill)*

(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)

[B 28—2007]

ISBN 978-1-920240-31-8

No. of copies printed 1 800

GENERAL EXPLANATORY NOTE:

- [Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the—

- **Local Government: Municipal Demarcation Act, 1998**, so as to insert a definition; and to provide for determinations of municipal boundaries to take effect on the commencement of the following municipal financial year;
- **Local Government: Municipal Structures Act, 1998**, so as to insert a definition; to provide for consequential amendments pertaining to interventions in municipalities; to provide for amendments to provisions relating to ward committees; and to provide for authorisations and adjustments of powers and functions to take effect on the commencement of the following municipal financial year;
- **Local Government: Municipal Systems Act, 2000**, so as to substitute a definition; to provide that the term of employment of a municipal manager may not exceed a maximum of five years; to align certain delegations with the **Local Government: Municipal Finance Management Act, 2003**; to regulate the participation of municipal staff members in national, provincial and local elections; to amend the Minister's regulatory powers; to provide for a municipality to provide an owner with copies of accounts sent to the occupier of such property; to provide for a correction in the Afrikaans text of section 106; to refine the process to investigate maladministration and related matters; to provide for the exemption of municipalities from provisions of the said Act, and to amend the Code of Conduct for Councillors and Municipal Staff in order to align it with the **Municipal Finance Management Act**; and
- **Local Government: Municipal Property Rates Act, 2004**, so as to substitute certain definitions; to allow quantification in terms of cost of relief measures to be dealt with through the municipal budget; to allow for municipalities not to value public service infrastructure if there is no intention to levy rates; to correct certain citations; and to allow for the curbing of rates revenue;

to rationalise local government laws that have become obsolete as a result of local government legislation that was enacted since 1994; and to provide for matters connected therewith.

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

CHAPTER 1

AMENDMENT OF LOCAL GOVERNMENT: MUNICIPAL DEMARCATION ACT, 1998

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Amendment of section 1 of Act 27 of 1998, as amended by section 4 of Act 51 of 2002

1. Section 1 of the Local Government: Municipal Demarcation Act, 1998 (in this Chapter referred to as the Demarcation Act), is hereby amended by the insertion after the definition of “Minister” of the following definition:

“**‘municipal financial year’** means the financial year of a municipality commencing on 1 July each year and ending on 30 June of the following year;” 10

Amendment of section 23 of Act 27 of 1998, as amended by section 10 of Act 51 of 2002

2. Section 23 of the Demarcation Act is hereby amended by the addition of the following subsection: 15

“(4) (a) A determination referred to in subsection (2)(b) takes effect on the commencement date of the municipal financial year following the date of publication of the notice effecting such determination.

(b) The Board must, at least six months prior to the commencement of the municipal financial year in which boundary determinations are to take effect, inform the Minister of Finance of such determinations.” 20

CHAPTER 2

AMENDMENT OF LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998

Amendment of section 1 of Act 117 of 1998, as amended by section 93 of Act 27 of 2000 25

3. Section 1 of the Local Government: Municipal Structures Act, 1998 (in this Chapter referred to as the Structures Act), is hereby amended by the insertion after the definition of “municipal council” of the following definition:

“**‘municipal financial year’** means the financial year of a municipality commencing on 1 July each year and ending on 30 June of the following year;” 30

Amendment of section 34 of Act 117 of 1998

4. Section 34 of the Structures Act is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) The MEC for local government in a province, by notice in the *Provincial Gazette*, may dissolve a municipal council in the province if— 35

(a) the Electoral Commission in terms of section 23(2)(a) of the Demarcation Act is of the view that a boundary determination affects the representation of voters in that council, and the remaining part of the existing term of municipal councils is more than one year [;or 40

(b) an intervention in terms of section 139 of the Constitution has not resulted in the council being able to fulfil its obligations in terms of legislation.];” and 45

(b) by the substitution for subsection (4) of the following subsection:

“(4) The MEC for local government in a province may dissolve a municipal council in a province in accordance with the provisions of section 139 of the Constitution of the Republic of South Africa, 1996.”

Amendment of section 35 of Act 117 of 1998, as amended by section 13 of Act 51 of 2002

5. Section 35 of the Structures Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If a municipal council is dissolved in terms of section [34(3)(b)] section 34(4) or does not have enough members to form a quorum for a meeting, the MEC for local government in the province must appoint one or more administrators to ensure the continued functioning of the municipality until a new municipal council is elected or until the council has sufficient members for a quorum.”.

Amendment of section 72 of Act 117 of 1998 10

6. Section 72 of the Structures Act is hereby amended—

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

“(1) Only metropolitan and local municipalities of the types mentioned in sections 8(c), (d), (g) and (h) and 9(b), (d) and (f) [may] must have ward committees.”; and 15

(b) by the deletion of subsection (2).

Amendment of section 73 of Act 117 of 1998

7. Section 73 of the Structures Act is hereby amended—

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

“(1) If a metro or local council [decides to have] establishes ward committees, it must establish a ward committee for each ward in the municipality.”; and 20

(b) by the addition of the following subsection:

“(5) (a) A metro or local council may make arrangements for the payment of out of pocket expenses to members of ward committees in respect of participation by ward committee members in the activities of ward committees. 25

(b) A metro or local council must determine the criteria for and calculation of the out of pocket expenses referred to in paragraph (a).

(c) Out of pocket expenses referred to in paragraph (a) must be paid from the budget of the municipality in question.”. 30

Amendment of section 74 of Act 117 of 1998

8. Section 74 of the Structures Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) has such duties and powers as the metro or local council may delegate to it in terms of section [32] 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).”.

Amendment of section 84 of Act 117 of 1998, as amended by section 6 of Act 33 of 2000 and section 19 of Act 51 of 2002

9. Section 84 of the Structures Act is hereby amended by the addition of the following subsection: 40

“(4) (a) Subject to paragraph (c), any authorisation, amendment of an authorisation or revocation of an authorisation under subsection (3) takes effect on the commencement date of the municipal financial year following the date of publication of the notice effecting such authorisation or amendment or revocation. 45

(b) The Minister must inform the Minister responsible for finance of his or her intention to publish a notice contemplated in paragraph (a) at least six months before the notice is to take effect in terms of that paragraph.

(c) Paragraph (a) does not apply if any authorisation, amendment of an authorisation or revocation of an authorisation under subsection (3) is to coincide with an election of the council of an affected municipality.”. 50

Amendment of section 85 of Act 117 of 1998, as amended by section 7 of Act 33 of 2000

10. Section 85 of the Structures Act is hereby amended by the insertion after subsection (9) of the following subsection:

“(9A) (a) Subject to paragraph (c), any adjustment of the division of functions and powers under this section takes effect on the commencement date of the municipal financial year following the date of publication of the notice effecting such adjustment. 5

(b) The MEC or Minister, as the case may be, must inform the national Minister responsible for finance of his or her intention to publish a notice contemplated in paragraph (a) at least six months before the notice is to take effect in terms of that paragraph. 10

(c) Paragraph (a) does not apply if any adjustment of the division of powers and functions under this section is to coincide with an election of the council of an affected municipality.”. 15

CHAPTER 3

AMENDMENT OF LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000

Amendment of section 1 of Act 32 of 2000, as amended by section 35 of Act 51 of 2002 and section 1 of Act 44 of 2003 20

11. Section 1 of the Local Government: Municipal Systems Act, 2000 (in this Chapter referred to as the Systems Act), is hereby amended by the substitution for the definition of “political office bearer” of the following definition:

“‘**political office bearer**’ means the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor or a member of the executive committee as referred to in the Municipal Structures Act;”. 25

Amendment of section 57 of Act 32 of 2000, as amended by Act 44 of 2003

12. Section 57 of the Systems Act is hereby amended by the substitution in subsection (6) for paragraph (a) of the following paragraph:

“(a) be for a fixed term of employment up to a maximum of five years, not exceeding a period ending [two years] one year after the election of the next council of the municipality;”. 30

Amendment of section 60 of Act 32 of 2000

13. Section 60 of the Systems Act is hereby amended by the substitution for subsection (2) of the following subsection: 35

“(2) The council may only delegate to [an executive committee or executive mayor or chief financial officer decisions to make] the municipal manager of the municipality the power to make decisions on investments on behalf of the municipality within [a policy framework determined by the Minister of Finance] the municipality’s investment policy contemplated in section 13(2) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).” 40

Insertion of section 71A in Act 32 of 2000

14. The following section is hereby inserted in the Systems Act after section 71:

“Participation of staff members in elections 45

71A. (1) A staff member who becomes a candidate for election to the National Assembly or any provincial legislature must resign not later than the date on which he or she is issued with a certificate in terms of section 31(3) of the Electoral Act, 1998 (Act No. 73 of 1998), stating that he or she is a candidate in the relevant election. 50

(2) A staff member who is nominated as a permanent delegate to the National Council of Provinces, must resign not later than the date on which he or she is appointed as a permanent delegate to the National Council of Provinces in the manner contemplated in section 61(2)(b) of the Constitution of the Republic of South Africa, 1996.

(3) A staff member who becomes a candidate for election to a municipal council must resign not later than the date on which he or she is issued with a certificate in terms of section 15(3) of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), stating that he or she is a candidate in the relevant election.”.

Amendment of section 72 of Act 32 of 2000

15. Section 72 of the Systems Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The Minister may, subject to applicable labour legislation and after consultation with the bargaining council established for municipalities and the Minister for the Public Service and Administration, for the purposes of this Chapter—
- (a) make regulations or issue guidelines in accordance with section 120 to regulate or provide for the following matters:
 - [(i)](a) the procedure to be followed in appealing against decisions taken in terms of delegated powers and the disposal of such appeals;
 - [(ii)](b) the suspension of decisions on appeal;
 - [(iii)](c) the setting of uniform standards for—
 - [(aa)](i) municipal staff establishments;
 - [(bb)](ii) municipal staff systems and procedures and the matters that must be dealt with in such systems and procedures; and
 - [(cc)](iii) any other matter concerning municipal personnel administration;
 - [(iv)](d) capacity building within municipal administrations;
 - [(v)](e) training and development of staff members of municipalities, including in-house training, subject to the requirements of the Skills Development Act, 1998 (Act No. [97] 81 of 1998), [and] the Skills Development Levies Act, 1999 (Act No. [9] 28 of 1999), and the Local Government Municipal Finance Management Act, 2003 (Act No. 56 of 2003); [and
 - (vi) any other matter that may facilitate the application of this Chapter; or
 - (b) issue guidelines to provide for the following matters:]
 - [(i)](f) the establishment of job evaluation systems;
 - [(ii)](g) the regulation of remuneration and other conditions of service of staff members of municipalities, subject to applicable labour legislation;
 - [(iii)](h) the measuring and evaluation of staff performance;
 - [(iv)](i) the development of remuneration grading and incentive frameworks for staff members of municipalities;
 - [(v)](j) corrective steps in the case of substandard performance by staff members of municipalities; and
 - [(vi)](k) any other matter that may facilitate the implementation by a municipality of an efficient and effective system of personnel administration.”.

Amendment of section 86H of Act 32 of 2000, as inserted by section 18 of Act 44 of 2003

16. Section 86H of the Systems Act is hereby amended by the insertion after subsection (2) of the following subsection:

“(3) A by-law made in terms of this section must be consistent with this Act and the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).”.

Amendment of section 102 of Act 32 of 2000

17. Section 102 of the Systems Act is hereby amended by the addition of the following subsection:

“(3) A municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to such a property if the owner requests such accounts in writing from the municipality concerned.”. 5

Amendment of section 106 of Act 32 of 2000

18. Section 106 of the Systems Act is hereby amended—

(a) by the substitution in the Afrikaans text in subsection (1) for paragraph (a) of the following paragraph: 10

“(a) deur middel van skriftelike kennisgewing aan die munisipaliteit, die munisipale raad of munisipale bestuurder versoek om die LUR te voorsien van inligting wat in die kennisgewing verlang word; [en] of”;

(b) by the substitution for subsection (3) of the following subsection: 15

“(3) (a) An MEC issuing a notice in terms of subsection (1)(a) or designating a person to conduct an investigation in terms of subsection (1)(b), must within 14 days submit a written statement to the National Council of Provinces motivating the action. 20

(b) A copy of the statement contemplated in paragraph (a) must simultaneously be forwarded to the Minister and to the Minister of Finance.”; and

(c) by the addition of the following subsection: 25

“(4) (a) The Minister may request the MEC to investigate maladministration, fraud, corruption or any other serious malpractice which, in the opinion of the Minister, has occurred or is occurring in a municipality in the province. 30

(b) The MEC must provide the Minister and the Minister of Finance with a report of the investigation detailing the outcome of the investigation.”. 35

Amendment of section 118 of Act 32 of 2000, as amended by section 44 of Act 51 of 2002

19. Section 118 of the Systems Act is hereby amended by the substitution in subsection (1A) for the expression “120 days” of the expression “60 days”. 35

Insertion of section 123A in Act 32 of 2000

20. The following section is hereby inserted in the Systems Act after section 123:

“Exemption from provisions

123A. To facilitate the institutional restructuring of the provision of municipal services, related processes and procedures, as authorised by the Cabinet member responsible for such restructuring, the Minister, acting with the concurrence of the Minister of Finance and after consultation with organised local government representing local government nationally, may, by notice in the *Gazette*, exempt any municipality or municipal entity from a specific provision of Chapters 8 and 8A of this Act for a period of not more than four years and on conditions determined in the notice: Provided that such exemption may not be understood as obliging any municipality or municipal entity to transfer any staff, assets or liabilities.”. 40 45

Amendment of item 6 of Schedule 1 to Act 32 of 2000

21. Item 6 of Schedule 1 to the Systems Act is hereby amended—

- (a) by the deletion of subitems (2) and (3); and
- (b) by the addition of the following subitem:

“(4) No councillor may be a party to or beneficiary under a contract for the provision of goods and services to any municipality or any municipal entity established by a municipality.”. 5

Amendment of item 14 of Schedule 1 to Act 32 of 2000

22. Item 14 of Schedule 1 to the Systems Act is hereby amended by the substitution for subitem (4) of the following subitem: 10

“(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation [on whether the councillor should be suspended or removed from office] as to the appropriate sanction in terms of subitem (2) if a municipal council does not conduct an investigation contemplated in subitem (1) and the MEC for local government considers it necessary.”. 15

Amendment of item 4 of Schedule 2 to Act 32 of 2000, as amended by section 29 of Act 44 of 2003

23. Item 4 of Schedule 2 to the Systems Act is hereby amended by— 20

- (a) the deletion of paragraphs (a) and (b) of subitem (2); and
- (b) the addition of the following subitem:

“(3) No staff member of a municipality may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.”. 25

Insertion of item 5A in Schedule 2 to Act 32 of 2000

24. The following item is hereby inserted in Schedule 2 to the Systems Act after item 5:

“Declaration of interests

5A. (1) A person appointed in terms of section 56 or a municipal manager must within 60 days after his or her appointment declare in writing to the chairperson of the municipal council the following interests held by that person or municipal manager: 30

- (a) Shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust;
- (d) directorships;
- (e) partnerships;
- (f) other financial interests in any business undertaking;
- (g) interest in property; and
- (h) subsidies, grants and sponsorships by any organisation. 35 40

(2) Any change in the nature or detail of the financial interests of a staff member must be declared in writing quarterly to the chairperson of the municipal council.

(3) The municipal council must determine which of the financial interests referred to in subitem (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.”. 45

CHAPTER 4

AMENDMENT OF LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, 2004

Amendment of section 1 of Act 6 of 2004

25. Section 1 of the Local Government: Municipal Property Rates Act, 2004 (in this Chapter referred to as the Property Rates Act), is hereby amended—

- (a) by the substitution for the definition of “land tenure right” of the following definition:
 - “**‘land tenure right’** means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004 (Act No. 11 of 2004);”; and
- (b) by the substitution for paragraph (j) of the definition of “public service infrastructure” of the following paragraph:
 - “(j) **[rights of way, easements and servitudes]** a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i);”.

Amendment of section 3 of Act 6 of 2004

26. Section 3 of the Property Rates Act is hereby amended—

- (a) by the substitution in subsection (3) for paragraph (e) of the following paragraph:
 - “(e) identify **[and quantify in terms of cost to the municipality]** and **[any benefit to the local community]** provide reasons for—
 - (i) exemptions[, rebates and reductions];
 - (ii) **[exclusions referred to in section 17(1)(a), (e), (g), (h) and (i)]** rebates; and
 - (iii) **[rates on properties that must be phased in terms of section 21]** reductions;”; and
- (b) by the substitution in subsection (3) for paragraph (g) of the following paragraph:
 - “(g) take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax **[reductions]** exemptions because of those activities, in the case of property owned and used by such organisations for those activities;”.

Amendment of section 7 of Act 6 of 2004

27. Section 7 of the Property Rates Act is hereby amended by the substitution in subsection (2)(a) for subparagraph (ii) of the following subparagraph:

- “(ii) public service infrastructure **[owned by a municipal entity]**;”.

Amendment of section 9 of Act 6 of 2004

28. Section 9 of the Property Rates Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following subsection:

- “(a) a purpose corresponding with the permitted use of the property[, **if the permitted use of the property is regulated**];”.

Amendment of section 15 of Act 6 of 2004

29. Section 15 of the Property Rates Act is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

- “**[All exemptions, rebates and reductions projected for a financial year]** Projections regarding revenue to be forgone for a financial year in relation to subsection (3)(b) must be reflected in the municipality’s annual budget for that year as—”.

Amendment of section 17 of Act 6 of 2004

30. Section 17 of the Property Rates Act is hereby amended by the substitution in subsection (1) for paragraph (e) of the following paragraph:

“(e) on those parts of a special nature reserve, national park or nature reserve within the meaning of the **[Protected Areas Act] National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003)**, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), which are not developed or used for commercial, business, agricultural or residential purposes;”.

Amendment of section 19 of Act 6 of 2004

31. Section 19 of the Property Rates Act is hereby amended by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) different rates on residential properties, except as provided for in sections **[11(1)(b)] 11(2), 21 and 89;**
(b) a rate on a category of non-residential properties that exceeds a prescribed ratio to the rate on residential properties determined in terms of section [1]11(1)(a): Provided that different ratios may be set in respect of different categories of non-residential properties.”.

Amendment of section 20 of Act 6 of 2004

32. Section 20 of the Property Rates Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may, with the concurrence of the Minister of Finance and by notice in the *Gazette*, set an upper limit on the percentage by which—
(a) rates on **[properties] property categories** or a rate on a specific category of properties may be increased; or
(b) the total revenue derived from rates on all property categories or a rate on a specific category of properties may be increased.”.

Amendment of section 46 of Act 6 of 2004

33. Section 46 of the Property Rates Act is hereby amended—

- (a) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
“(a) **[The value of any] Any** building or other immovable structure under the surface of the property which is the subject matter of any mining authorisation or mining right defined in the **[Minerals Act, 1991 (Act No. 50 of 1991)] Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);**”;
(b) by the substitution in subsection (3)(b) for the words preceding subparagraph (i) of the following words:
“**[the value of]** any equipment or machinery which, in relation to the property concerned, is immovable property, excluding—”; and
(c) by the deletion of subsection (5).

Amendment of section 78 of Act 6 of 2004

34. Section 78 of the Property Rates Act is hereby amended—

- (a) by the deletion in subsection (1) of the word “or” at the end of paragraph (e), the addition of the word “or” at the end of paragraph (f) and the addition to that subsection of the following paragraph:
“(g) of which the category has changed;”; and
(b) by the deletion in subsection (4) of the word “or” at the end of paragraph (c), the addition of the word “or” at the end of paragraph (d) and the addition to that subsection of the following paragraph:
“(e) the date on which the change of category referred to in subsection (1)(g) occurred.”.

Amendment of section 86 of Act 6 of 2004

35. Section 86 of the Property Rates Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) wilfully gives information in an objection in terms of section 50(1)(c) or in an appeal in terms of section [48] 54 which is false in any material respect;”. 5

Amendment of Part 1 of Schedule to Act 6 of 2004

36. Part 1 of the Schedule to the Property Rates Act is hereby amended—

(a) by the insertion of the following row after row number 1:

“1A. Valuation Ordinance, 1944 (Ordinance No. 26 of 1944) The whole.”; and 10

(b) by the deletion of row number 26.

CHAPTER 5**MISCELLANEOUS MATTERS****Repeal of laws**

37. The laws specified in the first column of the Schedule are hereby repealed to the 15 extent indicated in the second column of the Schedule.

Short title

38. This Act is called the Local Government Laws Amendment Act, 2007.

SCHEDULE

(Section 37)

Title, No. and year of law	Extent of repeal	
Jan Kempdorp Act, 1964 (Act No. 40 of 1964)	The whole	5
Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983)	Chapter 1, section 14, section 15 in so far as it has not been assigned to a province, sections 17A and 17G	10
Jan Kempdorp Amendment Act, 1985 (Act No. 4 of 1985)	The whole	
Promotion of Local Government Affairs Amendment Act, 1985 (Act No. 45 of 1985)	Sections 2 and 3	
Promotion of Local Government Affairs Amendment Act, 1986 (Act No. 79 of 1986)	The whole	15
Constitutional Laws Amendment Act, 1988 (Act No. 43 of 1988)	Sections 7, 8 and 9	
Promotion of Local Government Affairs Amendment Act, 1988 (Act No. 82 of 1988)	Sections 2 and 3	20
Local Authority Affairs Amendment Act (House of Assembly), 1991 (Act No. 127 of 1991)	Sections 10 and 11	
Local Government Affairs Amendment Act, 1993 (Act No. 56 of 1993)	Sections 2, 3, 4 and 5	
Local Government Affairs Second Amendment Act, 1993 (Act No. 117 of 1993)	Sections 4 and 7	25
Local Government Transition Act, 1993 (Act No. 209 of 1993)	The whole in so far as it has not been assigned to a province	
Proclamation No. R 153 of 1994	The whole in so far as it amends Chapter 1 of the Promotion of Local Government Affairs Act, 1983	30
Local Government Transition Act Amendment Act, 1995 (Act No. 61 of 1995)	The whole	35
Local Government Transition Act Second Amendment Act, 1996 (Act No. 97 of 1996)	The whole	

MEMORANDUM ON THE OBJECTS OF THE LOCAL GOVERNMENT LAWS AMENDMENT BILL, 2007

1. OBJECTS OF BILL

1.1 The main object of the Bill is to amend the Local Government: Municipal Demarcation Act, the Local Government: Municipal Structures Act, the Local Government: Municipal Systems Act and the Local Government: Municipal Property Rates Act so as to facilitate more effective implementation of these laws. This Bill deals with the most urgent amendments to achieve this object.

1.2 Clause 1 deals with including the definition of “municipal financial year” in the Demarcation Act.

1.3 Clause 2 provides for the taking effect of boundary determinations in terms of section 23 of the Demarcation Act on the commencement of the municipal financial year following the date of publication of the notice effecting such determinations.

1.4 Clause 3 includes the definition of “municipal financial year” in the Structures Act.

1.5 Clause 4 provides for consequential amendments to section 34 of the Structures Act as a result of amendments to the Constitution, 1996, during 2003.

1.6 Clause 5 provides for consequential amendments to section 34 of the Structures Act as a result of amendments to the Constitution, 1996, during 2003.

1.7 Clause 6 provides for compulsory establishment of ward committees by municipalities of the ward participatory type.

1.8 Clause 7 is a further amendment relating to the provisions of clause 6 as well as providing for out of pocket expenses for ward committee members.

1.9 Clause 8 is a further amendment relating to ward committees relating to duties and powers of ward committees.

1.10 Clause 9 provides for the taking effect of authorisations in terms of section 84 of the Structures Act on the commencement date of the municipal financial year following the date of publication of the notice effecting such authorisation.

1.11 Clause 10 provides for the taking effect of adjustments of the division of powers and functions between municipalities in accordance with section 85 of the Structures Act on the commencement date of the municipal financial year following the date of the notice effecting such adjustment.

1.12 Clause 11 deals with amendments to the definition of “political office bearer” so as to include deputy executive mayor.

1.13 Clause 12 provides that the period of employment of a municipal manager may not exceed five years.

1.14 Clause 13 amends section 60 of the Municipal Systems Act so as to align the provisions pertaining to certain delegations with the provisions of the Municipal Finance Management Act.

1.15 Clause 14 deals with the participation of municipal staff members in national, provincial and municipal elections.

1.16 Clause 15 deals with the realignment of the Minister’s regulatory power in respect of local public administration.

1.17 Clause 16 deals with an omission of previous amending legislation.

1.18 Clause 17 follows a Constitutional Court judgement on this matter, allowing the owner of a property insight into amounts owed on his or her property but occupied by someone else. The judgement also stated that the owner can be held liable for the non-payment of such amounts.

1.19 Clause 18 deals with a technical correction in the Afrikaans text of the Municipal Systems Act. It further provides for a period within which the MEC should submit a written statement to the NCOP which must also be forwarded to the Minister and the Minister of Finance. It also empowers the Minister to request the MEC to conduct a section 106 investigation.

1.20 Clause 19 deals with the shortening of the period required that all monies due to a municipality must be paid in order to facilitate transfer of properties.

1.21 Clause 20 provides for the Minister to exempt any municipality or municipal entity from a specific provision of the Act to facilitate the institutional restructuring of the provision of municipal services, related processes and procedures.

1.22 Clauses 21 and 23 deals with alignment to the Municipal Finance Management Act in regard to supply chain management by adding subitem 4 to Item 6 of Schedule 1 and subitem 3 to Item 4 of Schedule 2 of the Systems Act.

1.23 Clause 22 is amended to provide that where the municipal council does not conduct an investigation in terms of subitem 1 and the MEC in his or her discretion considers it necessary the MEC may appoint a person or committee to do so.

1.24 Clause 24 amends Item 5 of Schedule 2 by inserting Item 5A, which provides that municipal managers should within 60 days declare their interest in corporate entities.

1.25 Clause 25 deals with technical corrections to the definitions of the Municipal Property Rates Act.

1.26 Clause 26 proposes an amendment to section 3(3)(e) of the Property Rates Act allowing for a rates policy not to reflect the quantification in terms of cost to the municipality with regard to the relief measures. The costing will be dealt with through the municipal budget.

1.27 Clause 27 proposes an amendment to section 7(2)(a)(ii) of the Property Rates Act, read together with section 30(2)(a) of the Act, and allows for municipalities not to be compelled to value public service infrastructure (psi) where there is no intention to levy rates on such psi. A municipality will only be compelled to value those components of psi (whether owned by the municipality or not) which it intends rating.

1.28 Clause 28 amends section 9 by the deletion of certain phrases from the existing section.

1.29 Clause 29 amends section 15 by the deletion of certain words, and provides that the quantification of exemptions, rebates and reductions; exclusions to rating (mandatory exemptions) and the phasing-in discount for newly rateable property for a financial year must be reflected in the municipality's annual budget.

1.30 Clause 30 amends section 17 by providing for a correct citation of the Acts referred into in the section.

1.31 Clause 31 proposes an amendment to section 19(1)(a) of the Property Rates Act to cite the relevant section applicable to the content referred to in section 19(1)(a). The proposed amendment to section 19(1)(b) provide for the use of multiple ratios.

1.32 Clause 32 proposes an amendment to section 20(1) of the Property Rates Act allowing for the curbing of rates revenues.

1.33 Clause 33 proposes an amendment to section 46(3)(a) and (b) of the Property Rates Act by deleting the word "value" in order to ensure uniform application of this provision. Clause 33 further proposes the deletion of section 46(5) of the Property Rates Act because the existing section is redundant.

1.34 Clause 34 proposes an amendment to section 78(1)(g) of the Property Rates Act intending to allow the municipality to receive the appropriate rates revenue and for the ratepayer to be billed the appropriate rates payable when his or her property's rating category changes.

1.35 Clause 35 amends section 86 of the Municipal Property Rates Act, 2004, by deleting an incorrect reference to a section and adding a correct reference.

1.36 Clause 36 amends the Schedule to the Property Rates Act, 2004, to provide for a citation correction.

1.37 Clause 37 deals with the repeal of outdated legislation affecting local government, which have become redundant as a result of the post-1994 dispensation.

2. BODIES/ORGANISATIONS CONSULTED

- Department of Public Service and Administration
- Department of Public Works
- Department of Housing
- Department of Sport and Recreation
- Department of Minerals and Energy
- Department of Education
- Department of Agriculture
- National Treasury
- The Bill was published for public comment in terms of section 154(2) of the Constitution.

3. FINANCIAL IMPLICATIONS FOR STATE

It is anticipated that there will be financial implications for provinces and municipalities in respect of the implementation of some of the provisions of the Bill, such as alignment of boundary changes and powers and functions with municipal

financial years. There will also be some financial implications in terms of the administrative execution of the different clauses of the Bill.

4. IMPLICATIONS FOR PROVINCES

The implementation of certain clauses of the Bill will impact on the administrative activities of provinces.

5. IMPLICATIONS FOR MUNICIPALITIES

The implementation of the Bill impacts on the institutional and administrative functioning of municipalities as the main object of the Bill is to improve the implementation of existing local government legislation.

6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the Department of Provincial and Local Government are of the opinion that the Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or section 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.