

Municipal Finance Management Bill under scrutiny

During February and March 2002, the National Assembly's Portfolio Committee on Finance received submissions on the Municipal Finance Management Bill. This article summarises concerns about the Bill which were raised by the Community Law Centre (UWC).

key points

The Municipal Finance Management Bill does not promote democratic and developmental local government. Sound financial administration is essential but the Bill goes too far in creating an intrusive role for the National Treasury.

Local accountability

Primary accountability to the municipal council is essential for developmental local government. Accountability to national government creates dependency: municipalities feel accountable to national government and not to the local community. The Bill undermines this principle by imposing numerous reporting duties to the National Treasury. While many of them are simply reporting duties, they can easily become informal permission seeking exercises. Another example is the duty on the municipal manager to report councillors interfering in management to the MEC. Such a matter should first be reported to the council, in line with the Code of Conduct in the Systems Act. Local government must be allowed to first try to solve its own problems before it reports to national government (see *LGL Bulletin* 2001(4) 15).

The Bill says that if a municipal manager delegates a function to an official, the National Treasury may impose conditions to that specific delegation. This interferes with that municipality's internal functioning and harms the notion of accountability towards the municipal council.

The National Treasury may also 'issue instructions' to municipalities. While guidelines and frameworks are necessary, issuing *instructions* is more like control than regulation.

Intergovernmental relations

Provinces' supervisory role is compromised

The municipal reporting duties to both the National Treasury and the provincial treasuries may result in role confusion. Provinces may regard their monitoring duties as a duplication

of the national ones. In general the Bill largely ignores the role of provincial governments.

NCOP's supervisory role is eclipsed

The Bill deals with interventions in a municipality if there is a financial emergency. Its procedures exclude the NCOP. The checks and balances of section 139 of the Constitution are absent from the Bill.

Stopping of funds

The Bill authorises the National Treasury to withhold funds from a municipality if it commits a serious or persistent material breach of the Act. The Constitution prescribes the circumstances under which funds can be stopped, but the Bill tries to extend these circumstances. There are provisions in the Bill that are outside the Constitutional scope for stopping funds. An example is the selection process for appointing a governing board to a municipal entity. The stopping of funds should be clearly linked to the requirements mentioned in the Constitution.

Overlap with the Systems Act

Sometimes the Bill overlaps with or contradicts the Systems Act. For example, in terms of the Bill the chief financial officer can subdelegate to a contractor but in terms of the Municipal Systems Act only political structures, political office bearers, councillors or staff members can receive delegated powers. Similarly, the Bill's provisions on annual reports contradict the Systems Act (see *LGL Bulletin* 2001(2) 6). This is likely to cause confusion if the Bill is passed in its current form.

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