

31 July 2024

**The Director-General**  
**Department of Cooperative Governance (The Department)**  
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### LOCAL GOVERNMENT: GENERAL LAWS AMENDMENT BILL, 2024 (THE BILL)

1. The South African Institute of Chartered Accountants (SAICA) welcomes the opportunity to make submissions to the Department on the Bill.
2. SAICA is South Africa's pre-eminent accountancy body and is widely recognised as one of the world's leading accounting institutes. The Institute provides a wide range of support services to more than 50 000 members who are chartered accountants [CAs(SA)], associate general accountants [AGAs(SA)] and accounting technicians [ATs(SA)] who hold positions as chief executive officers, managing directors, board members, entrepreneurs, chief financial officers, auditors, and leaders in their respective spheres of operation.
3. Our work in the public sector goes beyond member support but also includes a significant focus on advocacy and capacity building to support and encourage an improvement in public finance management.
4. SAICA notes the amendments proposed by the Bill as they seek to improve the current prescripts and adequately guide municipal councils and municipal managers to effectively run their municipalities for the benefit of their communities.
5. Our detailed comments on the Bill are contained in the annexures as follows:
  - a. **Annexure A: Detailed Comment on the Proposed Amendments**
  - b. **Annexure B: Other Comments**
6. We would also appreciate the opportunity to engage further, and we would be willing to discuss the comments if required. Please do not hesitate to contact Odwa Benxa ([odwab@saica.co.za](mailto:odwab@saica.co.za)) in this regard.

Kind regards,



**Natasha Soopal**  
**Executive: Ethics Standards and Public Sector**



**Odwa Benxa**  
**Project Director: Public Sector**

## ANNEXURE A: Detailed Comments on the Proposed Amendments

No.	Affected section	Comment	Recommendation
1.	<p><b>Amendment of section 15 of Act 32 of 2000</b> Section 15 of the Local Government: Municipal Systems Act, 2000, is hereby amended by the substitution for subsection (2) of the following subsection:</p> <p>"(2) This compilation, to be known as the municipal code, must be— (a) constantly updated and annotated; [and] (b) kept at the municipality's head office as the municipality's official record of all applicable by-laws[.]; and (c) <u>displayed on the municipality's official website as envisaged in section 21B.</u>"</p>	<p>SAICA agrees with the amendment to display the municipal by-laws on the municipality's website as this will assist members of the community and the municipalities in the following ways:</p> <ul style="list-style-type: none"> <li>• Members of the community will be able to easily access the by-laws.</li> <li>• The municipalities can be able to better defend court cases where community members claim to not be aware of the by-laws.</li> <li>• This will foster trust and transparency between the municipalities and the members of the community.</li> </ul>	<p>It is recommended that the municipality uses platforms such as social media, posters on its buildings and other community areas to promote newly passed by-laws that have been displayed on the municipal website to ensure that members of the community are aware that the by-laws can be found on the municipality's website.</p>
2.	<p><b>Amendment of section 17 of Act 32 of 2000</b> Section 17 of the Local Government: Municipal Systems Act, 2000, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p>"(c) other appropriate mechanisms, processes and procedures established by the municipality, <u>including the use of electronic communication systems</u>;"</p>	<p>SAICA agrees with the amendment as it will encourage greater participation by members of the community in the affairs of the municipality. It will further encourage greater active citizenry as it will provide opportunities to members of the community who may be unable to attend physical events to attend on virtual platforms and thus give a greater voice to the community on matters impacting their living conditions and areas of focus by the municipality.</p>	<p>None.</p>

No.	Affected section	Comment	Recommendation
3.	<p><b>Amendment of section 26 of Act 32 of 2000</b></p> <p>Section 26 of the Local Government: Municipal Systems Act, 2000, is hereby amended—</p> <p>(a) by the substitution for paragraph (a) of the following paragraph:</p> <p>"(a) the municipal council's vision and <u>growth scenarios</u> for the long term development of the municipality with special emphasis on the municipality's most critical development <b>[and]</b>, <u>infrastructure</u>, internal transformation and <u>climate change needs</u>";</p> <p>(b) by the insertion after paragraph (b) of the following paragraph:</p> <p><u>"(bA) a framework for long-term infrastructure and economic development, and the impact of future climate-change scenarios, which must include potential funding proposals";</u></p>	<p>SAICA agrees with the amendment particularly the requirement for the Integrated Development Plan (IDP) to include an emphasis on infrastructure and climate change needs.</p> <p>Section 152 of the Constitution states, as some of the objects of local government is the provision of services to communities in a sustainable manner and the promotion of social and economic development in these communities. Section 153 of the Constitution further requires that the municipality must structure and manage its administration and budgeting and planning process to give priority to the basic needs of the community and to promote the social and economic development of the community. Such basic needs include basic infrastructure services such as solid waste management, roads and stormwater, electricity, provision of water and sanitation.</p> <p>With the recent inclement weather conditions experienced in the country, climate change and municipal infrastructure resilience to withstand the impact of climate change scenarios have become key areas of focus for municipalities. Therefore, in addition to the achievement of the objectives of sections 152 and 153 of the Constitution, this proposed amendment will assist municipalities to ensure that long-term infrastructure requirements that factor the impacts of climate change are factored into the planning processes of municipalities through the IDP development process.</p>	<p>It may be prudent for municipalities to obtain the necessary skills and knowledge required for factoring climate change scenarios into their planning processes. This may include being deliberate about recruiting officials with skills in climate change and/or sustainability as already required by the Local Government Municipal Staff Regulations.</p>

No.	Affected section	Comment	Recommendation
	<p><b><u>"Responsibility of national and provincial organs of state to provide input into municipality's integrated development plan</u></b></p> <p><u>26A. All national and provincial organs of state that conduct their affairs within the jurisdictional area of a municipality must provide inputs to the municipality during the drafting of the integrated development plan."</u></p>	<p>SAICA agrees with the amendment as it provides the opportunity for more structured strategic planning that considers the needs and activities of all stakeholders involved in the municipality. It further provides for better coordination between those stakeholders to ensure that the needs of the municipality and the community are met.</p>	<p>It will be important for the municipality to demonstrate that the inputs of the national and provincial organs of state have been considered in the IDP. Therefore, the department should consider including a requirement under section 26A for the municipality to demonstrate in the IDP how the received inputs of the national and provincial organs of state have been factored into the final IDP.</p>
4.	<p><b>Amendment of section 31 of Act 32 of 2000</b></p> <p>Section 31 of the Local Government: Municipal Systems Act, 2000 is hereby amended by the substitution for paragraph (b) of the following paragraph:</p> <p><u>"(b) facilitate the co-ordination and alignment of—</u></p> <ul style="list-style-type: none"> <li data-bbox="398 858 913 1018">(i) <u>integrated development plans of different municipalities, including those of a district municipality and the local municipalities within its area;</u></li> <li data-bbox="398 1026 913 1153">(ii) <u>inputs from national and provincial organs of state in relation to the integrated development plan of a municipality; and</u></li> <li data-bbox="398 1161 913 1321">(iii) <u>the integrated development plan of a municipality with the plans, strategies and programmes of national and provincial organs of state;"</u></li> </ul>	<p>SAICA agrees with the amendment as it promotes better coordination between local and district municipalities and national and provincial organs of state within the jurisdictional area of the municipality.</p> <p>SAICA has however noted that amendment may incorrectly refer to part (b) instead of part (c) of section 31 of the Municipal Systems Act 32 of 2000.</p>	<p>The Department should review the proposed amendment to determine whether it should be part (b) or part (c) of section 31 of the Municipal Systems Act 32 of 2000 and issue the necessary correction, if any.</p>

No.	Affected section	Comment	Recommendation
5.	<p><b>Amendment of section 53 of Act 32 of 2000</b></p> <p>Section 53 of the Local Government: Municipal Systems Act, 2000, is hereby amended by the addition after subsection (6) of the following subsection:</p> <p><u>"(7) The respective legislative roles and areas of responsibility of each political structure, political office bearer and municipal manager must be displayed on the municipality's official website as envisaged in section 21B."</u></p>	<p>SAICA agrees and believes that the amendment will promote greater transparency, accountability and trust between the municipal council, the members of the administration and members of the community as members of the community will be able to identify who to direct their enquiries to based on the displayed roles of the municipal council and the members of the administration.</p>	<p>None.</p>
6.	<p><b>Amendment of Schedule 2 to Act 32 of 2000, as amended by section 22 of Act 19 of 2008</b></p> <p>Schedule 2 to the Local Government: Municipal Systems Act, 2000, is hereby amended by the substitution for item 2 of the following item:</p> <p><b>"2. General conduct.—</b> A staff member of a municipality must at all times—</p> <p>(a) loyally execute the lawful policies of the municipal council;</p> <p>(b) perform the functions of office in good faith, diligently, honestly, and in a transparent manner;</p> <p>(c) act in such a way that the spirit, purport and objects of section 50 are promoted;</p> <p>(d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; <b>[and]</b></p> <p>(e) act impartially and treat all people, including other staff members, equally without favour or prejudice[.];</p> <p><u>(f) refrain from committing financial misconduct;</u></p> <p><u>and</u></p>	<p>SAICA agrees with the amendment as it further promotes the requirements for municipal staff to refrain from committing financial misconduct and to ensure that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented as described in sections 171 and 22 of the Municipal Finance Management Act, 2003, respectively.</p>	<p>One of the challenges facing local government is the implementation of consequence management. The Auditor-General of South Africa continues to highlight this challenge in the General Reports for Local Government. In the Call to Action in the <a href="#">2021-22 Local Government Consolidated General Report</a>, the AGSA called on the newly formed councils to pay attention during their term to consequence management and to adopt and implement the <b>National Treasury's Consequence Management and Accountability Framework</b> to empower both the political and administrative leadership within municipalities to effectively, fairly and consistently implement policies and procedures relating to consequence management and accountability.</p> <p>It is therefore imperative that municipal councils and municipal managers are adequately supported by the Department to effectively implement consequence management where there has been financial misconduct and non-prevention of unauthorised, irregular and fruitless and wasteful expenditure.</p>

No.	Affected section	Comment	Recommendation
	(g) ensure that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented."		

## ANNEXURE A: Other Comments

No.	Affected section	Comment	Recommendation
1.	Section 23(2) of the Municipal Systems Act, 2000 (Act No, 32 of 2000)	Section 23(2) of the Municipal Systems Act, 2000 (Act No, 32 of 2000) refers to Chapter 1 of the Development Facilitation Act, 1995 (Act No, 67 of 1995) which has subsequently been repealed by the Spatial Planning and Land Use management Act, 2013 (Act No, 16 of 2013).	Section 23(2) of the Municipal Systems Act, 2000 (Act No, 32 of 2000) should be amended by removing the reference to the Development Facilitation Act, 1995 (Act No, 67 of 1995) and replacing this with the reference to the Spatial Planning and Land Use management Act, 2013 (Act No, 16 of 2013).
2.	Section 56 of Municipal Systems Act, 2000 (Act No, 32 of 2000) as amended by Local Government: Municipal Systems Amendment Act, 2022 (Act No. 3 of 2022)	SAICA has noted that section 56(1)(a)(ii) that deals with the appointment of an acting manager directly accountable to the municipal manager does not specify the period of acting as has been done for municipal managers in section 55 of the Municipal Systems Act, 2000. This may lead to prolonged acting appointments in municipalities that hinder the implementation of the IDP objectives and the delivery of services to the communities. This may further lead to delays in decision-making as the acting managers may not commit to decisions since they would be acting in the positions.	SAICA recommends that the Department considers prescribing an acting period for managers directly accountable to the municipal manager. This acting period can be aligned to that of the municipal manager's which is six months.