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Mr. J. Moloi-Moropa

The Chairperson

Portfolio Committee on Public Service and Administration

Attention: Ms Zola Vice at zvice@parliament.gov.za

COMMENTS ON PUBLIC ADMINISTRATION MANAGEMENT BILL, 2013 [B55B-2013]

1. We refer to the Public Administration Management Bill [B55B-2013], (the Bill), and your correspondence requesting comment on the Bill by 5 March 2014. Kindly find the comments of the Western Cape Government on the Bill, attached for your consideration.

INTRODUCTION

2. The Department of Public Service and Administration published a draft Bill ("previous Bill") for public comment on 31 May 2013. Provincial comments were submitted on the previous Bill raising concerns regarding its constitutionality. The Bill as introduced shows that the previous Bill has been substantially revised and that many of the concerns raised in the provincial comments have been addressed. In our comments below we refer to our previous comments where necessary and point out where our previous comments have not been adequately addressed.

SCOPE AND OBJECTS OF BILL

3. The scope of the Bill extends to employees of national and provincial government, educators, employees of the security and intelligence services and municipal employees.

4. The Bill proposes to promote the basic values and principles governing the public administration, (national government, provincial government and municipalities), referred to in section 195(1) of the Constitution of South Africa, 1996, ("the Constitution"), and a high standard of professional ethics and efficient service delivery in the public administration. The Bill further proposes to facilitate the eradication and prevention of unethical practices in the public administration.

5. The Bill provides for—
   5.1. the transfer and secondment of employees in the public administration;
   5.2. the prohibition from conducting business with the State;
   5.3. capacity development and training;
   5.4. the use of information and communication technologies in the public administration; and
   5.5. the Minister to set minimum norms and standards for the public administration to give effect to the values and principles of section 195(1) of the Constitution.

6. The Bill further provides for the establishment of various units namely the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit, the Office of Standards and Compliance and the National School of Government.

7. The previous objectives of replacing the Public Service Act, 1994, ("PSA"), and to amend provisions of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), (the Systems Act), and other laws to provide for the organisation, management, functioning and personnel related matters in the three spheres of government, have been removed from the Bill. The Bill also no longer has the object of removing the unjustifiable disparities that continue to exist between employees in the public administration.

8. Section 151(4) of the Constitution provides that the national or provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions.

9. Section 156(5) of the Constitution provides that a municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions.

LEGAL FRAMEWORK

10. Section 195(1) of the Constitution provides that the public administration must be governed by democratic values and principles. Section 195(2) provides that these principles of good governance apply to administration in every sphere of government, organs of state and public enterprises. Section 195(3) adds that national legislation must ensure the promotion of these values and principles.

11. National legislation may therefore create a framework of generally applicable norms and standards to ensure the promotion of the values and principles listed in section 195(1) within which government institutions in the national, provincial and local spheres may determine their own policies and practices.

12. Section 197(1) and (2) of the Constitution provides for a public service within the public administration, which must function and be structured, in terms of national legislation, and the terms and conditions of employment of which must be regulated by national legislation.

13. Section 197(4) of the Constitution provides that provincial governments are responsible for the recruitment, appointment, promotion, transfer and dismissal of members of the public service in their administrations within a framework of uniform norms and standards applying to the public service.

COMMENTS

Definitions (clause 1)

14. An institution is defined as a national department, provincial department, a municipality or a national or provincial government component. The Systems Act provides for the code of conduct applicable to municipal staff to also apply to staff of municipal entities. The question arises whether the norms and standards provided for in the Bill should not also be made applicable to municipal entities and public entities. From the definition of "institution" it appears that municipal entities and public entities are not included within the definition of institution.

15. The Bill refers to "heads of institutions" but does not define the term. It is not clear whether these "heads" refer to a premier, member of Executive Council or the head of a provincial department, in respect of the provincial sphere, or a mayor or municipal manager, in respect of the local government sphere.

Management and functioning of public administration

16. The Bill no longer repeals the whole of the Public Service Act, 1994 ("PSA") as was proposed in the previous Bill. The repeal of only sections 4 (Training Institution), 14 (Transfers within public service) and 15 (Transfer and secondment of officials) of the PSA is proposed. The Bill no longer repeals provisions of the Systems Act. The Bill still applies to the public service and municipalities and their employees, (the public administration), but all provisions dealing with the management, functioning and personnel related matters that were included in the previous draft Bill have been omitted from the Bill. The objections against the previous Bill in respect of the re-organisation of local government are therefore no longer relevant and have been addressed in the revised Bill.

Basic values and principles to be promoted by the public administration (clause 4)

17. The Bill includes a provision that requires institutions to promote democratic values and principles. This is consistent with section 195 of the Constitution and is supported. It is however noted that the provisions of the Constitution are repeated in this provision. It is

submitted that instead of repeating the provisions of the Constitution, the Bill should aim to give content to the broad values stated in the Constitution.

Individual transfers (clause 5)

18. The provisions regarding individual transfers and secondments have been improved from the previous Bill. The provisions are now made subject to section 197(4) of the Constitution. Section 197(4) of the Constitution provides that Provincial Governments are responsible for the transfer of employees within a uniform framework. Our previous comments in this regard have been addressed.

Secondments (clause 6)

19. This provision provides for secondment of employees from one institution to another. Secondment may take place with or without the consent of an employee. In terms of this provision secondment without the consent of an employee must be justified. It is unclear in which cases a secondment would be considered to be justified. The provision gives a wide discretion to institutions to second employees. It is proposed that criteria for secondment of employees should be inserted in the Bill. Secondment without the consent of an employee is not supported. Secondment should be with the agreement of an employee.

20. It is further noted that the provision provides no time limitation or restriction regarding secondments, which can imply that secondments can be indefinite which implies a "permanent transfer" without consent. Indefinite secondments without the consent of the employee concerned are not supported.

Prohibition from conducting business with the state (clause 8)

21. Clause 8 prohibits employees and persons appointed as advisers to executive authorities, in all three spheres of government, from conducting business with the State or to be a director of a private or public company that conducts business with the State. It is an offence to conduct business with the State and it constitutes serious misconduct which may result in the termination of employment of such a person if he or she is found guilty. Subject to our

comments below, this provision is supported. The prohibition should be extended to all public and municipal entities and state owned enterprises.

22. No definition for "conducting business with the state" is provided, which may cause uncertainty regarding the application of this provision. Given the fact that an offence is created in the Bill certainty is required as to what would constitute conducting business with the State. For instance, will state owned enterprises, and public entities and municipal entities fall within the meaning of "the State" for the purposes of this provision? It should also be ensured that there are no unintended consequences. We suggest that this clause should allow for exemptions, such as employees with nominal shareholding in a listed public company.

Disclosure of financial interests (clause 9)

23. This provision has been revised extensively and addresses our previous comments regarding the need for defining equity interest and the unintended consequences of prohibiting employees from holding financial interests in entities that conduct business with the State.

24. This provision now requires the disclosure by an employee of financial interests and financial interests of his or her spouse, and a person living with that person as if they were married to each other, of shares, financial interests in an entity, sponsorships, gifts above a prescribed value from persons other than family members, benefits and immovable property. It is also noted that it is no longer an offence not to disclose interests but that it would constitute misconduct. The principle of requiring financial disclosure by employees is strongly supported. There is however a number of difficulties with the provision in its current form.

25. Firstly it is noted that advisers of executive authorities are not required to disclose their interests. The same standard of ethics should apply to advisers than to other public officials and employees. It is therefore submitted that the obligation to disclose financial interests should be extended to advisers of executive authorities. The obligation to disclose financial interests should also be extended to employees of public and municipal entities and state owned enterprises.

26. Secondly, the provision requires the disclosure of personal information of persons not employed by the State, due to the fact that they are married to or have a long-term

relationship with a person who is employed by the State. The right to privacy in respect of personal investments may be limited only to the extent that the limitation is reasonable and justifiable in an open and democratic society as contemplated in section 36 of the Constitution. The proposed limitation of privacy is in our view not reasonable and justifiable as contemplated in section 36 of the Constitution and is inconsistent with the Constitution. It is therefore submitted that this provision should be amended to rather require a disclosure by employees of their own business interests in entities that conduct business with the State or in so far as they are aware of such interests held by their spouses or partners. The interests should be narrowly defined to include only rights to share in profits, real or personal rights in property or rights to be remunerated. The employees who are required to make such disclosure should also be narrowly defined to justify such limitation of the right to privacy. It is submitted that the limitation would be justified in those instances where an employee has an influence over tender procedures and the award of tenders to business entities.

27. Thirdly it could be extremely administratively burdensome to require disclosure of all financial interests, even nominal interests in public companies, by all levels of employees and their spouses or partners. The onerous administrative obligations imposed in terms of the Protection of Personal Information Act, 2013 (Act 4 of 2013) regarding the safekeeping and protection of personal information will have to be complied with by the public administration in respect of the information disclosed in terms of these provisions. Has any assessment been conducted to determine whether this is practical? If an assessment of the impact of this provision has been conducted, it is submitted that the results should be made available. It is proposed that only employees of a certain level of seniority or who have an influence on tender processes and awards should be compelled to disclose financial interests. Currently only members of the senior management service are required to disclose their interests and not necessarily those of their partners.

28. Fourthly, an entity that conducts business with the State should also be compelled to disclose business interests held by employees of the State in that entity or held by family members of such employees.

29. Fifthly, definitions should be inserted in the Bill to define "financial interest" and "benefits". It is unclear whether financial interests would include proceeds on annuities, maintenance,

pension benefits or interests on capital assets. The provisions may therefore have unintended consequences.

Capacity development and training (clause 10)

30. This provision has remained unchanged. The head of an institution is required to ensure efficient performance of functions through training. Appropriate provision should be made for resources in budgets.

National School of Government (clause 11)

31. This clause provides for the establishment of the National School of Government. The provision has been revised to make it clear that the School will be a higher education institution. A provision has also been inserted to clarify that the provisions regarding the School do not affect institution or sector specific training.

Directive by Minister relating to education (clause 12)

32. Provision is made for specified educational requirements for appointments in the public administration (which includes municipalities). This clause has been revised to require the concurrence of the Minister responsible for local government in respect of directives relating to municipalities. Previously the provision required the concurrence of organised local government. The current provision requires only consultation with organised local government and is not supported. The provision should be amended to require the concurrence of organised local government.

33. The compulsory educational requirements for local government are problematic. Currently, Treasury prescribes certain compulsory minimum educational qualifications and competencies under the Municipal Finance Management Act, 2003 (Act 56 of 2003) and the national Minister for Local Government is in the process of prescribing educational requirements under the Systems Act. Educational requirements can become over regulated. Further regulations by DPSA will do local government a disservice and this provision is therefore not supported. The authority to determine minimum competencies for the local government sector should be assigned to one Minister. This will prevent duplication and confusion.

34. It is further submitted that the respective members of Executive Councils responsible for local government should also be consulted on the setting of educational requirements for appointments by municipalities.

Compulsory educational requirements for employment (clause 13)

35. Clause 13(1) provides that the Minister may direct that a candidate for an appointment or transfer possesses a particular qualification for a particular post. The principle of requiring specific and suitable qualifications for particular posts is supported. However, the open-ended discretion of the Minister to issue directions in this regard appears to contradict section 11 of the PSA.

36. It is not clear how such directions by the Minister will be interpreted in the light of section 11 of the PSA which requires all appointments to be made with due regard to training, skills, competence, knowledge and the need to address, in accordance with the Employment Equity Act, 1998 (Act 55 of 1998), the imbalances of the past. In terms of section 20 of the Employment Equity Act, prior learning and relevant experience or capacity to acquire, within a reasonable time, the ability to do the job should also be considered. We assume that the directions of the Minister would be interpreted subject to section 11 of the PSA. It is submitted that the provision should be amended to clarify the interpretation and intention in this regard.

37. The Minister may further under clause 13(1)(b) direct that the successful completion of specified education and training, examinations or tests are prerequisites in order to meet development needs of any category of employees. The compulsory training has significant implications for institutions that will be compelled to make provision for such training. Will the National School of Government in collaboration with registered and accredited service providers implement the training? The role of formal academic institutions and universities is not explicitly recognised in the Bill. It is proposed that the Bill should be amended to ensure that universities can also provide the compulsory training and qualifications.

38. The relationship between the requirements proposed in these clauses and the National Treasury Minimum Competency Regulations (GNR.493 published in Government Gazette

29967 dated 15 June 2007) and the recently published Regulations by the Minister responsible for local government (Published on 7 March 2013 under GN. 36223) is not clarified. Existing minimum requirements should be taken into account when the Minister develops new directions.

39. Clause 13(2) should also be amended to include a requirement to consult with the respective premiers in respect of directions applicable to the provinces, and members of the Executive Councils responsible for local government in respect of directions applicable to local government as they have greater interaction with local government and may better understand the realities in local government sphere.

Information and communication technologies (clause 14)

40. This provision previously provided for the Minister to make a framework to facilitate the development and enhancement of electronic services. The provision has been revised and now requires the head of an institution to acquire and use information and communication technologies in a manner which—
    - 40.1. leverages economies of scale to provide for cost effective service;
    - 40.2. ensures the interoperability of its information systems with information systems of other institutions to enhance internal efficiency or service delivery;
    - 40.3. eliminates unnecessary duplication of information and communication technologies in the public administration;
    - 40.4. ensures security of its information systems;
    - 40.5. uses information and communication technologies to develop and enhance the delivery of its services in the public administration;
    - 40.6. aligns the use by staff of information and communication technologies to achieve optimal service delivery; and
    - 40.7. promotes the access to public services through the use of information and communication technologies.

41. The term "interoperability" as used in clause 14(a)(ii) should be defined. It may not be possible to ensure the "interoperability" of all ICT systems because who decides which system will be used by everybody? It stifles innovation or progress as no one can explore new technologies if

these technologies are not interoperable, and they can't be interoperable if only one or two institutions have them.

Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit (clause 15)

42. These provisions previously provided for the establishment of the Anti-Corruption Bureau. These provisions have been revised substantially and most of our comments have been addressed.

43. The Bill now proposes that the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit be established to provide technical assistance and support to institutions in all spheres of government regarding the management of ethics, integrity and disciplinary matters relating to misconduct in the public administration and to develop norms and standards on these matters.

44. The purpose of the Unit is to advise, build capacity within institutions to initiate and institute disciplinary proceedings into misconduct, and to strengthen government oversight of ethics, integrity and discipline. In cases where systemic weaknesses are identified the Unit may intervene. The Unit is also required to promote and enhance good ethics and integrity within the public administration, and to cooperate with other institutions and organs of state to fulfill its functions under this clause.

45. The provision no longer provides for investigations by a Bureau. The role of the Unit now appears to be limited to a supporting and capacitating role. Institutions will be required to report issues of misconduct emanating from criminal investigations to the Unit and to report on steps taken in respect of the matters that were reported to the Unit. The Bill confirms that institutions are responsible for disciplinary proceedings. Clause 15(7) however states clearly that the functions are performed in respect of a provincial government with the concurrence of the Premier or at the request of the Premier. In this regard we submit that the Bill should be amended to insert the requirement that the relevant accounting officer of the institution should also be consulted.

46. This addresses previous comments that the previous Bill effectively eroded the powers of the provinces in respect of dismissals of employees and that those provisions went beyond

establishing a framework of uniform standards as permitted by section 197(4) of the Constitution. Although the revisions are appreciated, concerns regarding the powers, functions, structure and accountability of the Unit remain.

47. It is noted that the Unit may in terms of clause 15(4)(d) intervene in cases of systemic failure. It is not clear on what basis the Unit may "intervene" and who makes the decision that an intervention is required? It is also not clear what interventions will be performed by the Unit. All the functions of the Unit as set out in subclause (4) relate to capacity building, strengthening and assisting. Will the interventions that are contemplated relate to such measures only?

48. National government may intervene in provincial government only in terms of section 100 of the Constitution. It is only a provincial government that may intervene in local government and only in terms of section 139 of the Constitution. Although clause 15(7)(b) provides that such intervention must take place with the concurrence of the Premier or a Municipal Council it is submitted that in so far as the interventions that are envisaged in subclause (4) relate to the taking over and institution of disciplinary actions on behalf of institutions, this provision is inconsistent with the Constitution.

49. Clause 15(5) provides for the reporting of corruption to the police: Allegations should first be investigated to gather evidence and, if there is case, the matter should be reported to the police. This clause must be amended to allow for an internal investigation before reporting a matter to the police. It is also not clear which official of an institution will be responsible for reporting corruption. The Bill should identify a specific official who is responsible for performing this duty.

50. Clause 15(6)(b) requires the head of an institution to report to the Unit on steps taken in respect of issues of misconduct emanating from criminal investigations. This appears to create yet another layer of compliance reporting which will divert further energy. It is suggested that the DPSA should conduct an audit of all the compliance reports required by legislation and streamline that to reduce the administrative burden.

51. The establishment of this Unit in the national sphere of government will clearly impact on the provincial forensic investigative systems and practices as a result of the functions that the Unit

will perform. It is noted that the Bill provides for the Unit to cooperate with other institutions and organs of state. But it is not clear how the Unit will interact or work together with the existing anti-corruption agencies. The extent of the impact of these provisions is therefore unclear. Was a regulatory impact assessment (RIA) conducted as required by the National Cabinet in terms of legislation? Was a cost-benefit analysis performed as part of the RIA? If so, it is requested that the Western Cape Government be provided with a copy in order to properly consider the impact of the draft amendments. The information provided by a RIA would be useful in understanding how the functioning of this unit will be implemented and what the impact will be on provinces. It is therefore requested that information in this regard be provided to provinces.

52. A further concern that has not been adequately addressed in the revised Bill is the provisions relating to the appointment of staff of the Unit. The provision does not prescribe the composition of the Unit. The organisational form must be determined in terms of applicable legislation. It is not clear what applicable legislation is being referred to. Our previous comments and proposals that Parliament and the legislatures should be involved in the appointment of the members of the Unit to ensure the independence of the Unit have not been adequately addressed.

53. It is proposed that the Bill provides for Parliament and the legislatures to be involved in the appointment and termination of appointment of the head of the Unit by either recommending or approving the person to be appointed. This will ensure the independence and credibility of the Unit. The Bill should also include the appointment criteria and skills required of the head of the Unit.

Minimum norms and standards and Office of Standards and Compliance (clause 16 and 17)

54. Clause 16 provides for the Minister to prescribe minimum norms and standards regarding values and principles referred to in the Constitution. Clause 17 establishes the Office of Standards and Compliance to promote these values and to monitor implementation thereof. The provision has been revised to provide that the monitoring of compliance with the norms and standards must take into account that the spheres of government are distinctive, interdependent and interrelated. This addresses previous concerns that the Bill does not sufficiently recognise the distinct nature of local government as required by the Constitution.

Whether the norms and standards to be issued will comply with this requirement will have to be determined once draft norms and standards are published for comment.

55. The question also arises how the Office interfaces with the Public Service Commission. It is submitted that the functions and objects of the Office duplicate those of the Commission. The creation of yet another office or institution to perform similar functions is not supported.

56. It is further submitted that clause 16(1)(h) should read as follows: "any other matter for the effective implementation of this Act". It also appears as if sublause (4)(b) repeats subclause (6)(a). We submit that it is not necessary to state the functions and objects of the Office.

Regulations (Service centres) (clause 18)

57. It is still a concern that there are many provisions of the Bill that empower the DPSA Minister to make regulations and norms and standards on particular matters. The Western Cape Government is not in favour of empowering the DPSA Minister and department to deal with specific matters in regulations as the consultation process is considerably less meaningful than the Parliamentary process. It will be preferable if all the matters be dealt with in the principal Act. It is suggested that all regulations affecting local government must be consulted with organised local government and the concurrence of the Minister responsible for local government must be obtained. Clause 18(2) should also be amended to include consultation with the respective members of the Executive Councils responsible for local government.

58. One example of such regulatory power is the power given to the DPSA Minister to provide for a framework for service centres. The Bill no longer contains substantive provisions regarding the issuing of a framework for the establishment, promotion and maintenance of service centres to enhance service delivery. It is therefore of concern that clause 18 of the Bill authorises the Minister to prescribe a framework dealing with the establishment, promotion and maintenance of service centres to enhance service delivery.

59. This clause confers an open-ended discretion on the Minister to determine the establishment, promotion and maintenance of service centres. There is no guidance as to how this power is to be exercised and the power is not limited in any way. Our previous comments regarding the establishment of service centres have therefore not been addressed.

60. It is not clear what the status of service centres will be. The functioning and structure of the public service is something which is intended by the Constitution to be regulated by national legislation and is not something which national legislation may leave to determination by the Minister. The way in which the public service functions and is structured is important for effective and efficient public administration. Section 197(1) of the Constitution specifically requires that the functioning and structure of the public service be governed by national legislation. If the service centres are intended to be a separate structure of the public service, the only empowering provision for clause 18 of the Bill is section 197(1), which envisages national legislation, not a regulatory framework. The provisions can then also not extend to local government. The better approach would be for the Bill to provide for a mechanism in terms whereof different spheres of government may cooperate in the delivery of services and not to provide for service centres as a structure of the public service. The Bill should be amended accordingly, failing which it would be inconsistent with the Constitution.

61. Even if it is the intention to provide for a mechanism for cooperation, such regulations are still problematic in that it confers on the Minister an open-ended discretion to determine, among other things, the criteria for the establishment of service centres. There is no guidance as to how those powers are to be exercised, and the power is not limited in any way. The Constitutional Court has held that, where a wide discretion is conferred upon a functionary, guidance should be provided as to the manner in which those powers are to be exercised, *(Dawood and Another v Minister of Home Affairs and Others, Shalabi and Another v Minister of Home Affairs and Others, Thomas and Another v Minister of Home Affairs and Others 2000 (3) SA 936 (CC)).*

62. Service Centres in the Western Cape are part of a broader programme known as the Thusong Programme. The Western Cape is the only province to have conducted a spatial accessibility analysis. The recommendations emanating from the analysis are based on scientific data (i.e., physical location of all government departments, detailed demographic profile, indicating the demand for services) and a service delivery gap analysis measuring the accessibility of a municipality's population to the relevant services based on norms and standards developed for the Thusong Programme. The study has scientifically determined the service delivery model, identified optimal location and capacity of the Thusong service typologies.

63. The implementation of the outcomes will result in 100% of the Western Cape population having access to Thusong Services within 25km. As a result of the study the department has designed an innovative Thusong Service Delivery Model whereby the programme has been expanded in the Western Cape Province to include the typologies set out below.

64. A Thusong Zone in a town or settlement is an area where the Thusong anchor departments (namely; the Department of Home Affairs, Social Development, Department of Labour and South African Social Security Agency are clustered together within a 5km radius from each other.

65. The Thusong Service Centre is a permanent structure where all the Thusong anchor departments are permanently housed under one roof. This centre is situated at an optimal location for service delivery within the municipality in relation to where the majority of the people are who will utilize these services most frequently.

66. The Thusong Service Satellite Centre is a permanent structure where all the Thusong anchor departments have established periodic service delivery points, i.e. it operates according to fixed service delivery schedules.

67. The Thusong Mobile is a mobile service where all the Thusong anchor departments and other relevant government departments deliver integrated services in outlying more sparsely populated areas.

68. The Thusong Extension project serves extreme sparsely populated areas with no settlement clusters.

69. In providing for service centres the Bill must ensure that the ability of provinces and municipalities to perform their constitutional functions in terms of the above model is not impeded or infringed upon. The Bill should be amended to ensure that the establishment of service centres is guided by scientific findings and that the provincial and local context must be considered. The role of national government in contributing to the financial sustainability of such centres or programmes must also be provided for in the Bill.

Cost implications of Bill and duplications of functions

70. The Bill provides for a new higher education institution for the public administration, the establishment of the Office of Standards and Compliance and Public Administration Ethics, and the Integrity and Disciplinary Technical Assistance Unit. The Western Cape Government is concerned about the cost implications of the Bill and has not had sight of any costing of the implementation of these three new institutions or offices. It is submitted that too many bodies are being created to manage the public administration. This may lead to duplication and working at cross-purposes.

GENERAL COMMENTS

71. The interchangeable use in the Bill of the expressions "in consultation", "in concurrence" and "with the agreement", will lead to interpretational difficulties. These expressions generally have the same meaning. One of these expressions should be used consistently in the text of the Bill, if it is the intention for these expressions to have the same meaning. The interchangeable use of "institutions" and "organs of state" may also lead to interpretational difficulties.

CONCLUSION

72. The object of the Bill to ensure effective and efficient public administration across all spheres of government is welcomed and supported.

73. The open-ended discretion of the Minister to determine, among other things, the criteria for the establishment of service centres is not supported. There is no guidance in the Bill as to how this power should be exercised, and the power is not limited in any way. Guidance should be provided in the Bill as to the manner in which this power is to be exercised.

74. The successful development and implementation of a Bill of this nature depend on the highest cooperation and coordination of all three spheres of government. The principles of cooperative governance stipulated in Chapter 3 of the Constitution should guide the implementation of the Bill. The Bill should therefore include a specific reference to the importance of observing and adhering to the intergovernmental cooperative principles in the drafting and implementation of norms and standards, frameworks and regulations in terms of the Bill.

Yours sincerely

ADV BRENT GERBER

DIRECTOR-GENERAL

PROVINCIAL GOVERNMENT: WESTERN CAPE

DATE: 5/3/2014