

**PRESENTATION TO THE PORTFOLIO
COMMITTEE ON COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS**

**MDB COMMENTS ON THE MUNICIPAL STRUCTURES AMENDMENT
'BILL_[B 19 __2018]**

**13-14 NOVEMBER 2018
CAPE TOWN**



OUTLINE

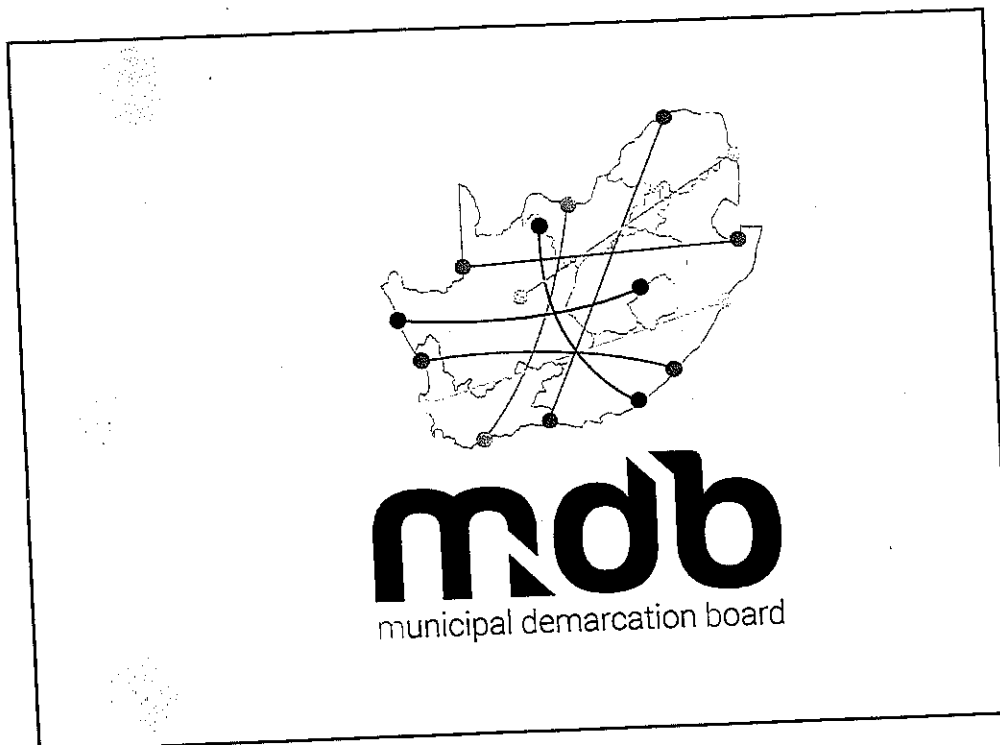
1. INTRODUCTION
2. MDB COMMENTS ON THE BILL
3. CONCLUDING REMARKS



INTRODUCTION

1. The MDB received an invitation from the Chairperson of the committee to make inputs on the Bill on matters that directly has bearing on its work.
2. The Comments will be categorised into two, namely:
 - a. Matters currently in the Bill; and
 - b. MDB comments on the matters not in the Bill requiring attention.
3. The comments will also include provisions which are not included in the Bill but have an impact on the work of the MDB or are affected by some of the proposed amendments in the Bill.





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INTRODUCTION Conti

4. The promulgation and date of effect for this legislation must be considered in that the MDB expect the publication of the formula for councillors by the Minister in April 2019, after which the ward delimitation begins. There might be negative implication on wards public participation process if suddenly municipalities who never qualified to have wards now have wards. (Our view is that the promulgation must be expedited before the ward delimitation starts or delayed until after the next LG election).
5. It would have been prudent and beneficial if this Bill is considered parallel with the Demarcation amendment Bill to ensure that certain sections that are either deleted or repealed from this Bill do not leave a policy or legislative gap re-MDB mandate (An example will be given regarding de-linking sec 85 sub section 3; 4 and 5 of the Principal Act)

mdb

MDB COMMENTS ON THE BILL.

SECTION FROM THE BILL	MDB COMMENTS
1. Determination of number of Councillors) 2. Section 8: Section 20 of the principal Act is hereby amended- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph: "(b) may not be fewer than [three] 15 or more than 90 councillors, if it is a local or district municipality	1. Municipalities that had less than 7 councillors do not qualify to have wards, but with this amendments there will no longer be any municipality with less than 7 councillors 2. All municipalities will qualify to have wards delimited. This amendment renders section 22 (4) redundant and therefore the MDB agrees with the deletion of section 22(4) as proposed. 3. The MDB agrees with the proposed amendment as it caters for sparsely populated municipalities who would most likely have more wards as a consequence of having more councillors. However, an increase in the number of wards means more changes to existing wards.

mdb

MDB COMMENTS ON THE BILL CONT..

SECTION FROM THE BILL	MDB COMMENTS
<p>3. Repeal of section 89 of Act 117 of 1998: Section 89 of the principal Act is hereby repealed.</p>	<p>a. The MDB previously held an opinion that sec 89 be repealed. b. However, in view of the continuing discussions regarding the role of districts, the two tier system and the wall to wall municipalities, the MDBs is of a view that this provision be retained until the finality of the discussion on the architecture of L.G.</p>
<p>4. Amendment of section 85 of Act 117 of 1998, as amended by section 7 of Act 33 of 2000 and section 10 of Act 19 of 2008: Section 85 of the principal Act is hereby amended by the deletion of subsections (3) and (4).</p>	<p>a. The MDB supports this amendments as this subsection were proposed to be migrated (not deleted) to the proposed amendments in Municipal Demarcation Act. b. It is important that the process is instituted to ensure that this Bill and the Municipal Demarcation amendment Bill are considered simultaneously. c. Subsections (3) and (4) are linked to subsection 5. Therefore, subsections (3) and (4) cannot be dealt with in isolation. These two are enabling provisions for the capacity assessments, their deletion will leave a gap in the legislation.</p>

MDB COMMENTS NOT IN THE BILL

SECTION FROM THE BILL	MDB COMMENTS
<p>5. Section 2 of the principal Act: Areas which must have Category A municipalities.</p>	<p>1. The Bill is not amending this provision, however, the MDB made proposal to the Department for this section as a whole to be migrated from the Structures Act to the Municipal Demarcation amendment Bill. (Sec 26(3) of the MD Bill) 2. The challenge of leaving these under Section 2 of the Structures Act would be that when the Municipal Demarcation Amendment Bill is processed, the Structures Act will need to be amended again. 3. The rationale provided when the Department was engaged; was to ensure that all provisions that directs the work and mandate of the MDB are consolidated into a single legislation.</p>



MDB COMMENTS NOT THE BILL CONT..

SECTION FROM THE BILL	MDB COMMENTS
<p>5. Municipal Structures Act schedule 1, Item 2, 3, 4 and 5.</p>	<ol style="list-style-type: none"> 1. The MDB propose that these are migrated to the proposed amendments in the Municipal Demarcation Act. (sec 34-39 of the Draft MD Bill) 2. The challenge of leaving these under schedule 1 of the Structures Act would be that as the Municipal Demarcation Amendment Bill is processed, the Structures Act will again have to be amended. 3. This will ensure that all provisions that directs the work of the MDB are consolidated into a single legislation.



CONCLUDING REMARKS

1. It is our view that the committee should consider the promulgation and date of effect of this Bill.
2. It is also recommended that the committee considers points raised with regard to:
 - a. The linking of sub-sections 3; 4 and 5 of section 85 in that if sub-sec 3 and 4 are deleted what will the MEC be disagreeing with in subsection 5?
 - b. The migration of all these sub-sections into the Municipal Demarcation Amendment Bill
 - c. The migration of section 2 of the Principal Act to MDA. An interim solution is found if the Bill is not considered with the Municipal Demarcation Amendment Bill to ensure there is no vacuum.(this applies to 3(a) above.
 - d. That the repeal of section 89 be delayed until the discussion on the architecture of LG is finalised by the department.



QUESTIONS AND INTERACTION

THANK YOU

