



## **FREE STATE LEGISLATURE**

### **PORTFOLIO COMMITTEE ON COOPERATIVE GOVERNANCE AND OFFICE OF THE PREMIER Negotiating Mandate**

**TO:** Chairperson of the Select Committee on Cooperative Governance &  
Traditional Affairs

**NAME OF BILL:** Independent Municipal Demarcation Authority Bill

**NUMBER OF BILL:** [B14B-2022]

**DATE OF DELIBERATION:** 23<sup>RD</sup> February 2024

#### **VOTE OF THE LEGISLATURE:**

The Portfolio Committee on Cooperative Governance and Office of the Premier as designated by the Free State Legislature votes in favour of the Bill.

**HON S MASHININI**  
CHAIRPERSON OF PORTFOLIO COMMITTEE ON COOPERATIVE  
GOVERNANCE AND OFFICE OF THE PREMIER

FREE STATE LEGISLATURE

Date:



**DRAFT REPORT OF THE PORTFOLIO COMMITTEE ON COOPERATIVE  
GOVERNANCE AND OFFICE OF THE PREMIER TO THE FREE STATE  
LEGISLATURE WITH REGARD TO INDEPENDENT MUNICIPAL DEMARCATION  
AUTHORITY BILL (B14B-2022)**


**23<sup>rd</sup> FEBRUARY 2024**

**DRAFT REPORT**

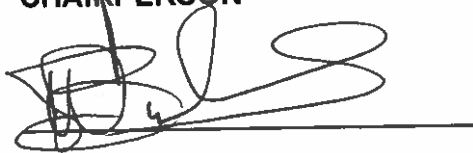
The Portfolio Committee on Cooperative Governance and Office of the Premier tables herewith its report regarding the Independent Municipal Demarcation Authority Bill [B14B-2022].

The Portfolio Committee would like to extend its appreciation to the Members of the Provincial Legislature, Officials and Stakeholders who participated during the consideration of the Bill.

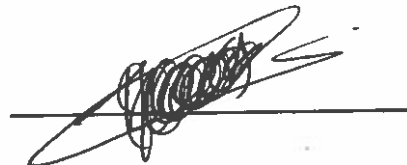
**Chairperson and Members of the Portfolio Committee:**



**MASHININI, S  
CHAIRPERSON**



**BULWANE, W**



**TSHABALALA, V**



**KLEYNHANS, L**



**LIPHOKO, M**



**TSIU, M**



**NXANGISA, T**



**CLOETE, A**

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## 1. INTRODUCTION

The Portfolio Committee on Cooperative Governance and Office of the Premier conducted Public Hearings on Independent Municipal Demarcation Authority Bill (B14B-2022) in the four districts of the Free State.

The Public Hearings took place as follows: On the 13<sup>th</sup>, 15<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> February 2024 respectively to solicit inputs from the public.

## 2. MEMBERS OF THE PORTFOLIO COMMITTEE

The Portfolio Committee comprises of the following Honorable Members:

<b>Mashinini, S</b>	<b>(Chairperson)</b>
Tshabalala, V	(Member)
Kleynhans, L	(Member)
Nxangisa, T	(Member)
Tsiu, M	(Member)
Liphoko, M	(Member)
Bulwane, W	(Member)
Cloete, A	(Member)

## 3. PROCEDURE OF THE PORTFOLIO COMMITTEE

The Portfolio Committee on Cooperative Governance and Office of the Premier conducted Public Hearings in the four districts of the Free State thus received verbal and written submissions from stakeholders that were submitted by 16h30 on 22<sup>nd</sup> February 2024 as per the advertisements.

The members of the public were invited to the public hearings through face-to-face mobilization and advertisements on Central News and Eastern Free State Issue. The Public Hearings were also streamed on the Free State Legislature YouTube channel and Free State Legislature's facebook.

The Portfolio Committee on Cooperative Governance and Office of the Premier conducted Public Hearings as follows in four districts of the province:

Date	Venue	Time
13 <sup>th</sup> February 2024	New Hall, Bohlokong, Dihlabeng Local Municipality	09h00
15 <sup>th</sup> February 2024	Multi-purpose Hall, Sasolburg, Metsimaholo Local Municipality	09h00
21 <sup>st</sup> February 2024	Kgotsong Community Hall, Bothaville	09h00
22 <sup>nd</sup> February 2024	Letsemeng Multi Purpose Centre, Koffiefontein, Letsemeng Local Municipality	09h00

## 6 OVERVIEW OF THE PUBLIC HEARING ON INDEPENDENT MUNICIPAL DEMARCATION AUTHORITY BILL (B14B-2022)

The below inputs were made:

- The bills and the acts of parliament must be brailled to accommodate people living with disability.
- The Bill must also designate a percentage of the board positions to the people living with a disability.
- The bill must direct that the advertisements for the nominations must be made such that they also reach the people who don't have access to mainstream media.
- The re-determinations of wards must take into consideration the geographic, economic, and social factors among others.

- The demarcation of wards must be done in an Open, Ethical, Transparent and accountable manner to ensure legitimacy.
- The submissions commended the appeal process proposed in cases of disputes about the re-determinations of the wards, and the authority must also raise awareness about the bill once it is assented by the President.
- The bill must be anchored on consultation to avoid the chaos of 2002 which took place in Ngwathe Municipality and Metsimaholo Municipality.
- The Authority must provide comprehensive case for changing of demarcations thus, it must not be arbitrary process.
- The Authority must be insulated from gerrymandering by politicians.
- The Appealing Committee must be accessible and their contacts thereof.
- There must be clear criteria for the classification of municipalities and changing of boundaries.
- The 10 years period for wards de-limitations was proposed.
- The authority must undertake physical assessments before wards changes are made.
- The authority must have provincial offices and provincial representatives thereof.
- There must be transitional grant for the municipalities that are affected by change of boundaries as the transition is mostly costly for the municipalities.
- The Public Participation process must not only accommodate certain locations in the areas where public hearings are held, the venues must be rotated.
- The individuals to be appointed must be subjected to screening and vetting process to avoid people who misrepresent their qualifications.

## **7 RECOMMEDATIONS**

- The Committee request the house to vote in favour of the bill.





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## SALGA FREE STATE WRITTEN SUBMISSION ON INDEPENDENT MUNICIPAL DEMARCATION AUTHORITY BILL

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### 1. PURPOSE

The purpose of this memorandum is to formally submit the written input of SALGA Free State on the Independent Municipal Demarcation Authority Bill (IMDAB) as requested by the Free State Legislature (FSL)

### 2. BACKGROUND & CONTEXT

On the 07<sup>th</sup> February 2024, the Free State Legislature through the Portfolio Committee on Cooperative Governance & Office Of The Premier invited SALGA Free State to participate in the consultation process to solicit inputs on the Independent Municipal Demarcation Authority Bill through participation in the scheduled public hearings and to submit written inputs on the Bill

The South African Local Government Association (SALGA) in line with its mandate to lobby, advocate, support, advice and represent local government, developed inputs into the IMDAB which were consulted through the SALGA mandating Framework.

In line with the request from the FSL, the main purpose of this memorandum is to outline the SALGA input into the IMDAB as requested by the Free State Legislature.

### 3. DISCUSSION

Noting that the Independent Municipal Demarcation Authority Bill once enacted, shall repeal the current Municipal Demarcation Act 27 OF 1998, SALGA Free State is in support of the Independent Municipal Demarcation Authority Bill as the objective of the Bill is:

- to provide for the establishment, functions and powers of the Independent Municipal Demarcation Authority;
- to provide for the criteria and procedures for the determination and redetermination of municipal boundaries;

- to provide for the delimitation of wards;
- to provide for the establishment of the Demarcation Appeals Authority;
- to provide for municipal capacity assessments and
- to provide for matters incidental thereto.

### **SALGA FS Comments on the Bill**

#### **Determination redetermination of municipal boundaries and ward delimitation**

The ward delimitation process is highly emotive and involves many stakeholders for consultation and for proper planning. SALGA is proposing that, In line with the municipal boundary redetermination, the ward delimitations should be done after 10 years. This will assist address the governance and financial sustainability challenges resulting from frequent changes.

#### **Unsound ward boundaries**

There has been experience of illogical ward boundaries cutting across houses and do not respect the landscape or spatial make up of an area in question. SALGA is proposing that The board to physically examine its ward delimitation process before finalization and in consultation with affected stakeholders.

#### **Administration**

Currently, the Municipal Demarcation Board is centralised in one office located in the Gauteng province. SALGA is proposing that the IMDA Bill address the impact of the lack of a presence of a provincial authority of the Independent Municipal Demarcation Authority. Alternatively, that the Bill provides for provincial commissioners and provincial staffing, at the very least. This should make it easier for municipalities, communities and stakeholders to engage and interact with the Authority.

#### **Responsibilities of Board**

The Board is responsible for the corporate governance of the Authority. Having noted the perilous state of some of the State Owned Entities and the governance challenges thereto, the fiduciary

responsibilities of the Board should not be underscored. Therefore, SALGA is proposing that Section (2) (e) be inserted to read as follows:

The Board is responsible for the corporate governance of the Authority and shall:

- (i) act independently at all times with unfettered discretion;
- (ii) exercise independent judgement; and
- (iii) take decisions according to the best interest of the institution

### **Committees**

When appointing members to a committee, the Board is not restricted to members of the Board, but at least one member of the committee must be a member of the Board. Currently, in the Bill, there are no limits provided upfront for the co-option of members, this has the potential expose the Authority to the risk of creating a "Board within a Board." Furthermore, the Bill currently does not lay out the criteria and qualifications for the coopted. Therefore, SALGA is proposing that the Bill provide limitations on the number of members that can be co-opted and that the coopted members should fulfil the criteria and qualifications as set out in Section 9(1) of the Bill

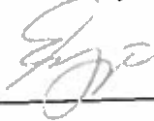
### **General**

Lastly SALGA is proposing that That the Bill provides for the creation of a transitional grant funding regime for the financial impact of the Authority's decisions and the resultant systems and change management processes.

## **4. RECOMMENDATIONS**

It is recommended that the FSL considers the written SALGA submission as formal input on the Independent Municipal Demarcation Authority Bill

Yours Sincerely



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**EMILY KUZWAYO**

**ACTING PROVINCIAL DIRECTOR OF OPERATIONS**



## Chabana C. Chabana

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**From:** pule ntonyane <ntonyanepule@gmail.com>  
**Sent:** Thursday, February 22, 2024 12:09 PM  
**To:** Chabana C. Chabana  
**Subject:** Nomination of Board member

You don't often get email from ntonyanepule@gmail.com. [Learn why this is important](#)

Good day

I Pule Ntonyane hereby nominate Mr Ntja Ananiah Jasone, id no 6608315513089, address 3108 Monnamoncho Street, Kgotsong, Bothaville, 9660, cell number 0733169399 for the position of board member, as he is knowledgeable in municipal structure, he hold a position of manager IDP in Nala municipality. I hope you find this in order.

Regards

Pule Ntonyane



**Chabana C. Chabana**

**From:** TSIETSI motakisi <tsietsimotakisi@gmail.com>  
**Sent:** Friday, February 16, 2024 3:42 PM  
**To:** Chabana C. Chabana  
**Subject:** Tsietsi Abraham Motankisi l'd 7011255725087  
**Attachments:** Systemic Violation against people with disabilities.pdf

You don't often get email from [tsietsimotakisi@gmail.com](mailto:tsietsimotakisi@gmail.com). [Learn why this is important](#)

Good afternoon

Dear sir/madam

I am here to bring to you that I don't support any implimintation of the bill of rights to us people living with disability doesn't protect our rights. Just like yesterday meeting I was only the one in the meeting and I'd fall to understand about the signs translation that was translate sign language to the wrong person. The attach document proof that the Free State government failed disabled person. The matter was taken to the Premier office for our grievances by Human Rights Commission but until today the is still no one with the right answers to Human Rights Commission. This bill of rights it's only used to protect the one that is in authority.

Kind regards  
Abraham Motankisi





## South African Human Rights Commission

d) Advise whether department compiles a report with each advertised post on the number of applicants with disabilities?

e) Advice on what are the root causes of applicants with disabilities shortlisted not being appointed or unsuccessful?

25. Advice how is the Department ensuring access and benefits to, and participation of people with disability in SME support programmes.

26. Advice how the Department has put in place affirmative action and BBBEE targets for women with disabilities.



## South African Human Rights Commission

a) Advice whether the Department has done any Audit on housing for persons with disabilities - Has the status report on the allocation of housing sites and subsidies to persons with disabilities for the past three financial years (2018 -2022) been conducted? Kindly provide evidence and areas where all this was done

If yes what is the status core.

If NO what are the plans and corrective measures to address same.

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b) Has the department achieved at least 7% of the annual allocation in the government/municipality to persons with disabilities and mothers with children living with disabilities? Kindly furnish a proof and if not achieved state the reasons why was it not to achieved? Furthermore, provide measures which are in place to achieve it.

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20. Advice whether the department developed and/or strengthened the geographic reach of programmes and projects designed to reduce poverty amongst persons with disabilities?

If **YES** kindly provide proof.

If **NO** kindly provide corrective measures to address same.

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## South African Human Rights Commission

### IDP

#### 17. Includes supported communities living plans in all Integrated Development Plans (IDPs)

a) Advise whether the department included the disability sector in the IDP process?

If YES kindly provide proof of same.

If NO kindly provide corrective measures put in place to address same.

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b) Advise whether the department had engagements with stakeholders representing people living with disabilities and further explained to the disability sector how to interpret and analyse an IDP document.

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c) Advise how the department has ensured the participation of persons with disabilities in the IDP process

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### Transport

#### 18. Ensure all modes of transport are accessible to persons with disabilities



## South African Human Rights Commission

13. Are there any measures put in place by the Department to strengthen the development of leisure and sport for persons with disabilities at the community level?

If **YES** kindly provide proof.

If **NO** kindly provide corrective measures to address same.

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### FUNDING

14. Advice whether the department provide adequate funding for the participation of athletes and teams with disabilities at the local, provincial and national levels?

If **YES** kindly provide proof.

If **NO** kindly provide corrective measures to address same.

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15. Advice whether there is budget allocation by the Department to assist with the provision of sporting equipment and assistive devices for use by persons with disabilities?



## South African Human Rights Commission

8. Advise whether the department conducts awareness on Reasonable Accommodation for employees living disabilities- To what extent has the department conducted an information session with relevant officials in the department on reasonable accommodation at all public engagements?

**If YES kindly** provide proof of same.

**If No Kindly** provide what corrective measures are put in place to address same.

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9. Advise whether the department has Universal design Guidelines – whether the department has developed and implemented universal design access strategies, minimum standards and guidelines?

**If YES,** kindly provide proof

**If NO** kindly provide corrective measures put in place to address same.

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10. Advise whether the department has ensured that all community development programmes and community facilities are accessible to persons with disabilities?

**If YES** kindly provide proof.

**If NO** kindly provide corrective measures to address same.

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## South African Human Rights Commission

4. Advice whether the department has systems in place to redesign websites for improving accessibility for the blind and Deaf persons? This should be read with par 3 above.

**If YES, kindly provide the number of employees who are employed and using the new technology?**

**IF NO, what are the challenges and kindly provide corrective measures to address same?**

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5. Advice whether the department has any signs that caters for people with disabilities the event of case emergency - Is there any accessible emergency and disaster management information (pamphlets on disaster management)?

**If YES kindly provide proof of same**

**If NO kindly provide corrective plan and measures to address same**

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that no organ of state and no member or employee of an organ of state nor any other person shall interfere with, hinder or obstruct the Commission, any member thereof or a person appointed under section 11(1) or 19 (5) of the SAHRC Act in the exercise or performance of its, his or her powers duties and functions) shall likewise be guilty of an offence and may be liable on conviction to a fine or to imprisonment for a period not exceeding six months.

Dated at **Bloemfontein** on this the **30<sup>th</sup>** day of September 2022.

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**Mr Thabang Kheswa**

**Provincial Manager: Free State Provincial Office**  
**South African Human Rights Commission**

- 11.6. Make findings, recommendations and directives aimed at addressing systemic violations against people with disabilities.

**NOW THEREFORE**

12. As part of the investigation you are required in terms of section 15(1) (b) of the SAHRC Act to provide the Commission with a report containing the following information as contained in the questionnaire attached hereto as **Annexure "A"**

12.1. To the extent that your overview in terms of paragraph 11 **Annexure A** above points to gaps and challenges in complying with the white paper and a guide towards implementation of the matrix in the Free State Province, you are requested to advise on the factors that may have contributed to the emergence of those challenges and to advise on:

- a) The measures taken in the last 3 financial years to address the identified gaps and challenges if any, as well as the accumulative costs of those measures to date.
- b) The extent to which those measures were able to address the identified challenges, if at all.
- c) To the extent that they were not able to address the identified challenges, the reason(s) for this should be provided, along with an indication of the measures Government is now taking or is intending to take in the short, medium and long term to address the identified challenges. The rationale for the new measures should be clearly articulated, together with reason(s) Government believes the new measures will succeed where previous measures have failed.

- 12.2. Any other information that, in your view, may assist in the Commission's probe.



3. In terms of section 184(2) of the Constitution, the Commission *"has the powers, as regulated by national legislation, necessary to perform its functions including the power-*

*(a) to investigate and to report on the observance of human rights;*

*(b) to take steps to secure appropriate redress when human rights have been violated ..."*

4. Section 15 (1) (b) of the South African Human Rights Commission's Act, 40 of 2013 as amended (**"the SAHRC Act"**) further provides that the Commission *"may, in order to enable it to exercise its powers and perform its functions... require from any person such particulars and information as may be reasonably necessary in connection with any investigation"*.

#### **AND WHEREAS**

5. Over the years, the Commission has received and investigated complaints from individuals affected by human rights violations against people with disabilities. These complaints were received also from civil society organizations advocating for rights of people with disabilities across the Free State Province. The issues raised in the various complaints includes amongst other failure by organs of state to comply with the Disability White paper and the Provincial Disability Matrix in ensuring that government complies with its projections as outlined in the White Paper.

6. Entrepreneurs with disabilities allege that they are unfairly discriminated on grounds of disability and excluded from the main stream of business when government awards tenders even though they meet the tender criteria across the Province.

7. Majority of government Departments are lagging behind in appointments of people with disabilities from lower, middle and senior positions. Furthermore most people with disabilities employed by the Departments allege that they are not provided with tools of trade to enable them to be competitive in their respective job descriptions.

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

18 Kellner Street  
Bloemfontein

PO Box 4245  
9300

Tel.: 051 447 1130  
Fax: 086 620 8096

- d. Records and/or statistics from all departments of persons with disabilities that have benefited from the BBBEE.
9. This request for the information is premised upon white paper on the rights of persons with disabilities implementation matrix for Free State.
10. Kindly furnish the Commission with any other information in your view, that may assist the Commission in the investigation.
11. You are required to submit this information or report, together with all the necessary supporting documents thereof at the following address:

**Physical Address: South African Human Rights Commission**  
**18 Kellner Street**  
**Westdene**  
**Bloemfontein**  
**9301**

Or

**E-mail: [tmodise@sahrc.org.za](mailto:tmodise@sahrc.org.za); [tkheswa@sahrc.org.za](mailto:tkheswa@sahrc.org.za)**

Kindly assist the Commission with a response **within 21 days** upon receipt of this letter.

Yours faithfully



**Mr Thabang Kheswa**  
**Provincial Manager: Free State Province**  
**South African Human Rights Commission**

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

18 Kellner Street  
Bloemfontein

PO Box 4245  
9300

Tel.: 051 447 1130  
Fax: 086 620 8096



20 OCTOBER 2022

Ref: FS/2122/0087

(Please quote our reference number in all correspondences)

**THE PREMIER'S OFFICE: DIRECTOR GENERAL- K. RALIKONTSANE  
OLIVER TAMBO BUILDING  
BLOEMFONTEIN  
9301**

Per Email: [dg@fspremier.gov.za](mailto:dg@fspremier.gov.za)  
: [Hadio.ntshingane@fspremier.gov.za](mailto:Hadio.ntshingane@fspremier.gov.za)

Dear Sir

**RE: INVESTIGATION INTO SYSTEMATIC HUMAN RIGHTS VIOLATIONS AGAINST  
PEOPLE WITH DISABILITIES IN THE FREE STATE**

1. The above matter has reference.
2. The South African Human Rights Commission ('Commission' or 'SAHRC') is a state institution established to support constitutional democracy. The Commission is mandated to protect and assess the observance of human rights in South Africa. The Commission is obliged and empowered by the South African Human Rights Commission Act, 40 of 2013 to *inter alia* investigate allegations of human rights violations, mediate, or conciliate where appropriate, and litigate.
3. In terms of article 5 of South Africa Human Rights Complaints handling Manual, a complaint may be lodged personally or on behalf of another person, group or class of persons, association, organisation, or organ of the state.

Transforming society. Securing rights. Restoring dignity.  
Chairperson: B C Majola; Deputy Chairperson: F Chohan; Commissioners (Full-Time): A H Gaum; A M Makwella; B Malatji; P Ntuli  
Commissioners (Part-Time): A C Nissen, J B Sibanyoni; Chief Executive Officer (Acting): C Kisoorn

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

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Fax: 086 620 8096



**7 MARCH 2023**

**THE PREMIER'S OFFICE: DIRECTOR GENERAL- K. RALIKONTSANE  
OLIVER TAMBO BUILDING  
BLOEMFONTEIN  
9301**

**Per Email: dg@fspremier.gov.za**

**: Hadio.ntshingane@fspremier.gov.za**

**: Polelo@mweb.co.za; skc.polelo@gmail.com**

**: Florence.letsoalo@fspremier.gov.za**

Dear Sir/Madam

**RE: (REMINDER LETTER) INVESTIGATION INTO SYSTEMATIC HUMAN RIGHTS  
VIOLATIONS AGAINST PEOPLE WITH DISABILITIES**

1. The above matter has reference.
2. Please take note that this is a reminder letter to the Director General's office on allegation letter hand delivered at your office dated 20 October 2022.
3. Please take further notice that, since last communicate and the commitment to expedite the process on the 29<sup>th</sup> of January 2023, our office has still not been furnished with the requested information till to date.



## **DEMOCRATIC ALLIANCE PROPOSED AMENDMENTS TO INDEPENDENT MUNICIPAL DEMARCATION AUTHORITY BILL.**

Clause 9(2) outlines five categories of persons who are disqualified from becoming or remaining on the board.

Amend Clause 9(2)(e) to read:

**A person holding political office, or who previously held political office positions in the past, or persons with direct family members occupying political office.**

Clause 10(1)(b) Appointment of Board Members by a Selection Panel by Minister in consultation with President.

Amend Clause 10(1)(b) to read:

**National Assembly to establish a committee to interview nominated candidates, with the incorporation of public participation opportunities.**

**That it further be mandated that positions of the Board be occupied by specific categories of persons, or persons who hold specific qualifications as prerequisite requirements.**

Clause 10(3) The Selection Panel may determine its own procedure including decisions, making procedure which is fair and transparent.

Amend Clause 10(3) to read:

**That the National Assembly committee determine its own procedures including its decisions, making procedure which is fair and transparent.**

Clause 10(5) The names of persons recommended to be appointed as Board members must be submitted to the Minister and must consist of three names in addition to the number of appointments to be made.

Amend Clause 10(3) to read:

The names of persons recommended to be appointed as Board members must be submitted to the **President** and must consist of three names in addition to the number of appointments to be made.

Clause 10(8)(1)(a) When there is a vacancy on the Board, the Minister must within 30 days of receiving the Boards written notification of the vacancy-

(a) recommend to the President to fill the vacancy from the additional names that were submitted to the President in terms of subsection (5).

Amend Clause 10(8)(1)9a) to read:

When there is a vacancy on the Board, the Minister must within 30 days of receiving the Boards written notification of the vacancy-

(a) **require** the President to fill the vacancy from the additional names that were submitted to the President in terms of subsection (5).

Clause 18(1)(b) must disclose any personal or any private business interest that such member or any spouse, partner, close relative or business associate of that member may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered by the Board;

Amend clause 18(1)(b) to read: (i) must disclose any personal or any private business interest that such member or any spouse, partner, close relative or business associate of that member may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered by the Board;

(ii) **must disclose any political party membership or party position held.**

Clause 23(1)(d) has the capacity to execute any other function in line with the Minister's and MEC of local government's allocated powers and functions in accordance with the Municipal Structures Act.

Amend the Clause 23(1)(d) by deleting the clause.

*The clause usurps the executive powers of the National and Provincial Government.*

Clause 24(n) relevant national development policies and plans which might impact on the nature of local government and its boundaries.

Amend Clause 24(n) by deleting the clause.

*National Policies should not play a role in determining municipal boundaries as this could result in the undermining of local authorities who adopt policies contrary to that of the national government.*

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Hon Leona Kleynhans MPL