| **Clause**  **No** | **Comments** | **Proposal** | **Stakeholder** | **Portfolio Committees’ Comments** | **DCOG Comments** |
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| 1 | “**Definitions”**  Definitions must be amended to include “Whip and Secondment” | “**Definitions”**  Proposal: Amend the definition of “political office bearer" by inserting “a whip” to ensure alignment with the Local Government: Municipal Structures Amendment Bill [B19B- 2018].  Proposal: Insert a definition of “Secondment” to clarify any applicable conditions. | **Western Cape** | None | Proposal for definition of “whip” not supported - Political Parties do not have a “Whip” as Political Office Bearer.  Proposal for definition of “secondment” is supported |
| 1 | “**Definitions”**  “Political party” | The section should be deleted, it should not be applicable. | **Limpopo** |  |  |
| 2 | **“Appointment of municipal managers and acting municipal managers**”  The acting period of 6 months is not sufficient for municipalities to start the recruitment and selection process where a vacant unexpectedly arises or where a municipality experiences challenges in not finding suitable candidates for the advertised post. Therefore its proposed that 54(2A)(a) should provide for a period of 6 months. | Proposal: Amend Section 54A(2A) (a) & (b) to allow for an acting period of 9 months. | **Western Cape** |  | Not supported - Municipalities are still not filling positions within the prescribed timeframe and other positions remain vacant for a period on more than one year.  Extending the period would resolve the problem; municipalities will still not fill positions even if the time frame is extended. |
| 2 | Section 54A(2)(A) a person appointed as a municipal manager must at least have the skills, expertise, competencies and qualifications as prescribed, | Proposal: Competencies should be replaced by experience | **Limpopo** |  |  |
| 2 | 54A )2A)(a) A person appointed in terms of subsection (1)(b) may not be appointed to act for a period that exceeds three months. | Proposal: Three months should be replaced with six months.  Insert section 54A(2A)(c) if the MEC has not extended the acting period within 14 days, the municipality should apply to the Minister for extension of acting period for a period not exceeding three months. | **Limpopo** |  | Not supported |
| 2 | Section 54A(1) refers to the acting municipal manager yet in section 54A(2) the words “acting municipal manager” are not expressly included. This creates confusion when interpreting this provision as it may be construed that only Municipal Managers, and not acting Municipal Managers, are regard to the required skills, expertise, competencies and qualifications. | Proposal: Amend Section 54A(2) so as to include incumbents appointed as “acting municipal managers.” | **Western Cape** |  | Supported |
| 2 | Section 54A (6)(a) the municipal council may request the MEC to second a suitable person, on such condition as prescribed, to act in the advertised position until such time a suitable candidate has been appointed. | Substitute “until a suitable candidate has been appointed” with six months | **Limpopo** |  | Not supported |
| 3 | Where there is a contravention of the Act, and the MEC for Local Government must take action to such an extent that the matter must go to Court, the question, which also arises, is at which point does the 14-day period commence. The 14 days period to take action where an appointment has been made in contravention of the Act is not practical because municipalities fail to provide all the required documentation to the MEC for Local Government and processes involved in briefing the State Attorney and Counsel does not enable strict compliance with the 14 days period to take appropriate action. | Proposal: Amend Section 54A(8)to extend the time-period to 30 days.  Proposal: Amend Section 54A(8) to clarify that the 30-day period will start only when all the required documents have been submitted by a municipality. | **Western Cape** | Minister is giving 14 days also but this is not sufficient for him/her to assess the appointment reports.  Penalty for non-compliance – submission of appointment report, provide a calendar for recruitment process. | Not Supported |
| 3 | **Concurrence**  MEC must be provided with a longer period to assess the appointment reports, it will allow the MEC to conduct reference checks and verification before granting concurrence. | No proposal | **Eastern Cape** |  | The MEC and Minister do not have a concurrence mandate on appointment of senior managers. |
| 3 | Appointment of acting municipal manager where the municipal manager is incapacitated (sick leave) and it is not practical for council to meet to appoint an acting municipal manager. |  | **Eastern Cape** | There should be a council resolution indicting that when a municipal manager is incapacitated, a certain senior manager, e.g. CFO must be appointed to act as a municipal manager for the time being. | Should be provided for in the human resource policy adopted by the municipal council. |
| 3 | **“Appointment of managers directly accountable to** **municipal managers”**  The acting period of 6 months is not sufficient for municipalities to start the recruitment and selection process where a vacant unexpectedly arises or where a municipality experiences challenges in not finding suitable candidates for the advertised post and the designated post being a scarce skill. For the sake of continuity, the Bill should therefore enable the same appointee to act in the vacant post for a period beyond 6 months. Therefore its proposed that 56(1)(c) should provide for a period of 6 months. | Proposal: Amend Section 56(1)(c) to allow for an acting period of 9 months. | **Western Cape** |  | Not supported - Municipalities are still not filling positions within the prescribed timeframe and other positions remain vacant for a period on more than one year.  Extending the period would resolve the problem; municipalities will still not fill positions even if the period is extended. |
| 3 | Section 56(1)(b) requires a manager directly accountable to the Municipal Manager to have the skills, expertise, competencies and qualifications as prescribed, however does not require an acting manager directly accountable to the Municipal Manager to have the required skills, expertise and qualifications as prescribed. Yet section 56(2) regards a decision by the council to appoint an acting manager directly accountable to the Municipal Manager who does not have all the listed requirements under section 56(1)(b), as null and void unless a waiver from the Minister is obtained. | Proposal: Amend Section 56(1)(b) to include section 56(1)(a)(ii) (acting Manager directly Accountable to the Municipal Manager), however, the requirement of competencies, for an acting Manager directly Accountable to the Municipal Manager should be excluded. | **Western Cape** |  | Supported |
| 3 | Section 56(1)(f) should be deleted. | Managers directly accountable to municipal managers should be appointed on a permanent basis. | **Limpopo** |  | Supported |
| 3 | Where there is a contravention of the Act, and the MEC for Local Government must take action to such an extent that the matter must go to Court, the question which also arises is at which point does the 14-day period commence. The 14 days period to take action where an appointment has been made in contravention of the Act is not practical because municipalities fail to provide all the required documentation to the MEC for Local Government and processes involved in briefing the State Attorney and Counsel does not enable strict compliance with the 14 days period to take appropriate action. | Proposal: Amend Section 56(5) to extend the time-period to 30 days.  Proposal: Amend Section 56(5) to clarify that the 30 -day period will start only when all the required documents have been submitted by a municipality. | **Western Cape** | Minister is giving 14 days also but this is not sufficient for him/her to assess the appointment reports.  Penalty for non-compliance – submission of appointment report, provide a calendar for recruitment process. | Not Supported |
| 3 | **Secondment of managers directly accountable to municipal managers.**  Unlike section 54A(6)(a), section 56 does not provide for a secondment of a person to a municipality by the MEC for Local Government when the post of a Manager directly Accountable to the Municipal Manager in a municipality becomes vacant and is advertised. Such a provision will assist Municipalities who do not have a suitable person to act in such vacant positions. Under-capacitated municipalities are faced challenges in appointing acting incumbents and therefore an express provision in section 56 similar to section 54A(6)(a) would alleviate the problem. | Proposal: Insert a provision to extend the secondment of persons by the MEC for Local Government to a vacant and advertised position of Manager directly Accountable to the Municipal Manager. | **Western Cape** |  |  |
| 3 | **Municipal manager appointing managers directly accountable to him/her**  This section further blurs the lines of accountability and authority between the Council and Administration. The intention was always that Council appoints the municipal manager but that the municipal manager, after consultation with Council, would and should appoint people to the administration as head of administration. The problem we are trying to address in local government is precisely where Council (and political parties represented therein) appoints people to the administration but they must then report to the municipal manager. In practice, this leads to managers directly accountable to the municipal manager actually reporting, or feeling obliged to report, to Council members who appointed them rather than to the municipal manager.    The amendment provision as it stands will only perpetuate this problem in local government, rather than assisting in solving it. | This section should be amended to read: After consultation with Council, the municipal manager appoints, as head of administration, a manager or acting manager directly accountable to the municipal manager. | **SALGA** |  | Not supported |
| New proposal | **Renewal of contract**  Section 57(6)(c) of the Municipal Systems Act as it stands, by implication, allows for renewal of contracts of employment for Municipal Managers. The renewal of employment contract of a Municipal Manager leads to the continuation of employment contract of the Municipal Manager perpetually. Currently, section 57(6)(c) is interpreted to the extent that if a renewal clause is contained in the employment contract of a Municipal Manager, it permits renewals without following a recruitment and selection process. | **Proposed amendment:** Delete section 57 (6)(c) and insert a new provision that prohibit renewal of employment contracts for Municipal Managers.  **Proposed amendment:** An express provision must be included that provides for when a contract of employment be signed. | **Western Cape** | What is the potential growth of managers accountable to municipal managers and staff below senior managers? Let’s follow the recruitment processes to open the process to everyone or link this to performance management system. | Supported – all positions must be advertised and recruitment and selection processes must commence once the employment contract expires.  The court cases supports that all positions should be advertised. |
| 4 | **“Limiting of political rights of municipal managers and managers directly accountable to municipal managers”**  This should apply to all employees, not only contract employees. Again, the problem we are trying to solve would be defeated if it is only limited to municipal managers or managers directly accountable to him/her, as the scenario often painted in local government is one where junior officials (because of their political ranking) holds the municipal manager and other senior managers to account. | It must apply to all staff members of the municipality. | **SALGA** | The clause as is must remain if we want to professionalise local government. |  |
| 4 | The sector does not have technical skills, this provision puts a burden I municipalities to attract people with skills who are also holding political office. | No proposal | **Eastern Cape** |  |  |
|  | SAMWU insists that every employee should be subject to the sectoral terms and conditions of employment determined by the relevant bargaining council. Matters of this nature are best regulated by the SALGBC. In this regard, framework agreements which take cognisance of the unevenness in the sector could adequately address what the proposed amendments are seeking to do. | No proposal |  |  | The Bill does not take away the powers of bargaining council.  The scope of application of the collective agreements concluded in the bargaining council does not include senior managers. Therefore, a need was identified to regulate conditions of employment of senior managers. Prior to the amendment, municipalities applied disparate human resource matter with regard to senior managers in the sector. |
| 11 | **Maladministration, malpractice and mismanagement**  Section 106 investigations - time consuming and costly, council does not implement the recommendations after investigations. | No proposal made | **Eastern Cape** | MPAC must be capacitated to deal with such matters |  |