**PROPOSED AMENDMENTS BY PORTFOLIO COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

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**LOCAL GOVERNMENT: MUNICIPAL SYSTEMS AMENDMENT BILL**

**[B2—2019]**

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**CLAUSE 1**

1. On page 3, in line 14, after “secretary”, to omit “or treasurer of the party”, and to insert “, treasurer or an elected or appointeddecision-making position of a political party”.

**1.** Section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (hereinafter referred to as the ‘‘principal Act’’), is hereby amended—

*(a)* by the substitution for the definition of ‘‘municipal manager’’ of the following definition:

‘‘ **‘municipal manager’** means a person appointed in terms of section 54A;’’; and

*(b)* by the substitution for the definition of ‘‘political office’’ of the following definition:

‘‘ **‘political office’**, in relation to a political party or structure thereof, means—

*(a)* the position of chairperson, deputy chairperson, secretary, deputy secretary~~or treasurer of the party~~, treasurer or an elected or appointed decision-making position of a political partynationally or in any province, region or other area in which the party operates; or

*(b)* any position in the party equivalent to a position referred to in paragraph *(a)*, irrespective of the title designated to the position;’’.

**CLAUSE 2**

1. On page 3, in line 27, after “manager”, to insert “or acting municipal manager”.

**Substitution of section 54A of Act 32 of 2000, as inserted by section 2 of Act 7 of 2011 and amended by section 4 of Act 7 of 2011**

**2.** The following section is hereby substituted for section 54A of the principal Act:

‘‘**Appointment of municipal managers and acting municipal managers**

**54A.** (1) The municipal council must appoint—

*(a)* a municipal manager as head of the administration of the municipal council; or

*(b)* an acting municipal manager under circumstances and for a period as prescribed.

(2) A person appointed as municipal manageror acting municipal manager in terms of subsection (1) must at least have the skills, expertise, competencies and qualifications as prescribed.

1. On page 4, after line 15, to insert the following new subsection:

“(10) If the MEC for local government fails to respond to the appointment process and outcome within the timeframes, as contemplated in subsection (7)*(b)* or the Minister fails to respond as contemplated in subsection (9), the appointment of the senior manager will be deemed to be in compliance with this Act: Provided the municipality submitted all relevant documents, as prescribed.”.

1. On page 4, in line 16, to omit “(10)”, and to substitute with “(11)”.
2. On page 4, in line 20, to omit “(11)”, and to substitute with “(12)”.
3. On page 4, in line 23, to omit “(12)”, and to substitute with “(13)”.

(9) Where an MEC for local government fails to take appropriate steps referred to in subsection (8), the Minister may take the steps contemplated in that subsection.

(10) If the MEC for local government fails to respond to the appointment process and outcome within the timeframes, as contemplated in subsection (7)(b) or the Minister fails to respond as contemplated in subsection (9), the appointment of the senior manager will be deemed to be in compliance with this Act: Provided the municipality submitted all relevant documents, as prescribed.

(11) A municipal council may, in special circumstances and on good cause shown, apply in writing to the Minister to waive any of the requirements listed in subsection (2) if it is unable to attract suitable

candidates.

(12) A person who has been appointed as acting municipal manager before this section took effect, must be regarded as having been appointed in accordance with this section for the period of the acting appointment.

(13) Any pending legal or disciplinary action in connection with an appointment made before this section took effect, will not be affected by this section after it took effect.

**CLAUSE 3**

1. On page 4, in line 36, after “(i)”, to insert “or (ii)”.

**3.** The following section is hereby substituted for section 56 of the principal Act:

‘‘**Appointment of managers directly accountable to municipalmanagers**

**56.** (1) *(a)*A municipal council, after consultation with the municipalmanager, must appoint—

(i) a manager directly accountable to the municipal manager; or

(ii) an acting manager directly accountable to the municipal managerunder circumstances and for a period as prescribed.

*(b)* Aperson appointed in terms of paragraph *(a)*(i) or (ii) must at least have theskills, expertise, competencies and qualifications as prescribed.

*(c)* Aperson appointed in terms of paragraph *(a)*(ii) may not be appointedto act for a period that exceeds three months: Provided that a municipalcouncil may, in special circumstances and on good cause shown, apply inwriting to the MEC for local government to extend the period ofappointment contemplated in paragraph *(a)*, for a further period that doesnot exceed three months.

**CLAUSE 5**

1. On page 5, from line 31, to omit clause 5.

**~~Substitution of section 56A of Act 32 of 2000, as inserted by section 5 of Act 7 of 2011~~**

**~~5.~~** ~~The following section is hereby substituted for section 56A of the principal Act:~~

~~‘‘~~**~~Limitation of political rights of municipal managers and managersdirectly accountable to municipal managers~~**

**~~56A.~~** ~~(1) A municipal manager or manager directly accountable to amunicipal manager may not hold political office in a political party, whetherin a permanent, temporary or acting capacity.~~

~~(2) This section does not apply to a person appointed as municipalmanager or a manager directly accountable to the municipal manager whensubsection (1) takes effect.’’~~.

**CLAUSE 6**

1. On page 6, after line 24, to insert the following new paragraph:

“*(f)* by the substitution for subsection (6) of the following subsection:

 “(6) The employment contract for a municipal manager mustbe signed within one month of his or her date of appointment and must—

*(a)* be for a fixed term of employment up to a maximum of five years, not exceeding a period ending one year after the election of the next council of the municipality;

*(b)* include a provision for cancellation of the contract, in the case of non-compliance with the employment contract or, where applicable, the performance agreement;and

**[*(c)* stipulate the terms of the renewal of the employment contract, but only by agreement between the parties; and]**

*(d)* reflect the values and principles referred to in section 50, the Code of Conduct set out in Schedule 2, and the management standards and practices contained in section 51.”.

1. On page 6, in line 25, to omit paragraph *(f)*.
2. On page 6, from line 26, to omit subclause (2).

*(e)* by the substitution for subsection (4C) of the following subsection:

‘‘(4C) Any regulations that relate to standards and procedures for evaluating performance of municipal managers or managers directly accountable to municipal managers, and intervals for evaluation, must be regarded as forming part of a performance agreement referred to in subsection (1)*(b)*.’’; and

*(f)* by the substitution for subsection (6) of the following subsection:

“(6)The employment contract for a municipal manager must be signed within one month of his or her date of appointment and must—

*(a)* be for a fixed term of employment up to a maximum of five years, not exceeding a period ending one year after the election of the next council of the municipality;

*(b)* include a provision for cancellation of the contract, in the case of non-compliance with the employment contract or, where applicable, the performance agreement; and

**[*(c)* stipulate the terms of the renewal of the employment contract, but only by agreement between the parties; and]**

*(d)* reflect the values and principles referred to in section 50, the Code of Conduct set out in Schedule 2, and the management standards and practices contained in section 51.”.

*~~(f)~~* ~~by the deletion of subsection (7).~~

~~(2) The deletion of section 57(7) of the principal Act does not affect the continuation or validity of a fixed-term employment contract of a manager directly accountable to the municipal manager which is in force when this Act takes effect.~~

**NEW CLAUSE**

1. That the following be a new clause:

**Insertion of section 71B in Act 32 of 2000**

**10.** The following section is hereby inserted in the principal Act after section 71A:

“**Staff members prohibited from holding political office**

 **71B.** (1) A staff member may not hold political office in a political party, whether in a permanent, temporary or acting capacity.

(2)A person who has been appointed as a staff member before subsection (1) takes effect, must comply with subsection (1) within one year of the commencement of subsection (1).”.