

**Comments on the Local Government: Municipal Systems Amendment Bill, 2019 [B 2B—2019]**  
**Submitted by: The Western Cape Government**

**CLAUSE-SPECIFIC COMMENTS**

Clause	Comment/s	Suggestion / Recommendation
<b>Part A — General comments</b>		
<b>Language and drafting practices</b>	<p>The Amendment Bill requires language editing and formatting. Further, the Commonwealth conventions on legislative drafting apply to all forms of legislation, including Bills. The Amendment Bill does not comply with these conventions. Some of the errors or problematic drafting practices contained in the Draft Amendment Bill are the following:</p> <ol style="list-style-type: none"> <li>1. Proposed s 54A(10): Incorrect punctuation: Delete inverted commas and second full stop at the end of the proposed subsection.</li> <li>2. Proposed s 56(4A): Incorrect numbering: This should become (5), and consequential amendments should be brought about.</li> <li>3. Clause 5(1): Incorrect numbering – there is no sub-clause (2). Delete the sub-clause numbering.</li> <li>4. Clause 5(1)(e): Incorrect wording. Delete “and” at end of sub-clause.</li> <li>5. Clause 5(1)(f): Incorrect indication of amendment and incorrect punctuation. Delete inverted commas before (f), and full stop at the end. Add semi-colon and “and”.</li> <li>6. Clause 5(1)(g): Incorrect indication of amendment. Delete inverted commas before (g).</li> </ol> <p>Please note that these are not the only types of errors that appear in the Amendment Bill. Further, the provisions mentioned above are not the only provisions in which these or other errors appear.</p>	<p>The Amendment Bill should be amended to ensure consistency with accepted legislative drafting practices and Commonwealth conventions.</p>

Clause	Comment/s	Suggestion / Recommendation
<b>Part B — Comments on specific provisions</b>		
<b>Clause 1: Amendment of section 1</b>		
	The definition in the principal Act for “political office bearer” does not include a reference to a whip. The definition should be amended to include a reference to a whip, to ensure alignment with the Local Government: Municipal Structures Amendment Bill [B19D-2018].	Amend the definition of “political office bearer” by inserting a reference to whip.
	There is no definition for the term “second” or “secondment”.	Insert a definition for “second” or “secondment, to clarify that conditions may be set.
<b>Clause 2: Substitution of section 54A</b>		
Proposed s 54A(9)	Subsection 54(A)(9) gives the Minister a <i>discretion</i> to take steps as contemplated in subsection (8), whilst subsection (8) <i>obligates</i> the MEC to take appropriate steps.	Amend proposed section 54A(9) to <i>obligate</i> the Minister.
Proposed s 54A(10)	The reference to “senior manager” is incorrect as this proposed section deals with municipal managers.	Change reference to “municipal manager”.
	Incorrect cross-reference subsection (7)(b), whereas referral should be made to subsection (8).	Subsection 54A(10) should refer to subsection (8) (instead of (7)(b)).
<b>Clause 3: Substitution of section 56</b>		
Proposed s 56(2)	Incomplete cross-reference.	Reference should also be made of subsection (1)(a)(i) in the introductory part.
<b>Clause 4: Amendment of sections 54A and 56</b>		
	Clause 4 aims to amend the wording in sections 54A and 56. However, both those sections are substituted in their entirety by the Bill, so the amendment is superfluous.	Delete clause 4.
<b>Clause 13: Amendment of section 120</b>		
Proposed section 120(1)(a)	The Minister is also obligated to make regulations in other sections, such as proposed section 57A.	Ensure that the cross-references are complete and correct.
<b>Clause 16: Repeal of Act 7 of 2011</b>		
	Incomplete provision.	S 82 of the Structures Act must also be repealed. If said section is not repealed, there will be conflicting provisions in the two Acts.