



PRELIMINARY SUBMISSION NATIONAL VELD & FIRE MANAGEMENT AMENDMENT BILL

11th February 2022

www.salga.org.za



Purpose of the Presentation

- The purpose of this presentation is to provide the SALGAs' position National Veld and Forest Fire Bill, [B 24—2021]

Background & Context – Fire Services in Local Government

Inspiring service delivery

- According to the South African Constitution (Act 108 of 1996), Part B, firefighting services is a constituted responsibility of local government, however, in terms of the Fire Brigade Services Act (No. 99 of 1987) (FBSA), Section 3, local authorities may establish and maintain a fire brigade service.
- Section 84 of the Local Government Municipal Structures Act deals with the division of functions and powers between district and local municipalities and provides that a district municipality has the following functions and powers in relation to fire fighting services:
 - planning, coordination, and regulation of fire services;
 - specialized fire fighting services such as mountain, veld, and chemical fire services;
 - coordination of the standardization of infrastructure, vehicles, equipment, and procedures; and
 - training of fire officers
- This Act allocates the primary regulation and management of wildfires to the district municipalities.
- Where local municipalities have institutional capacity, this responsibility has been delegated from the district municipality to the local municipality via a cooperation agreement.

Background & Context – Fire Services in Local Government

Inspiring service delivery

- In terms of the Fire Brigade Services Act, district and local municipalities are required to establish a fire fighting service. The Act also provides for the Minister to designate fire fighting services.
- Further, it provides for the appointment of a Chief Fire Officer, the introduction of fees for the service, and the conclusion of agreements with other fire services so as to render a more efficient fire service.
- The White Paper on Fire Service then repositions the fire services from response orientated fire services towards a fire risk reduction-based approach.
- This contributes to effectively integrated fire services, by placing fire safety and prevention, particularly community-based fire risk reduction, at the centre of fire services delivery which will significantly contribute to the creation of safer communities as highlighted in the National Development Plan.



SALGA Assessment Study

Findings

Inspiring service delivery

- In 2021, SALGA conducted a study to determine the ability of municipalities – across all municipal categories to perform functions in relation to disaster risk management and fire services, reflecting on, but not limited to:
 - Effectiveness of the institutional arrangements;
 - Systems and procedures (ability to respond); and
 - The adequacy of funding arrangements (sources of funding).
- This was a “deep-dive” analysis through a sample across all municipal categories, in order to arrive at an understanding of the challenges and the complexity of the provision of Fire Services and Disaster Risk Management (DRM) in local government.
- The study also reflected on status of the legislative framework pertaining to these functions and elaborated on the challenges and solutions experienced by municipalities in executing the fire services function.
- In this study, SALGA, in consultation with member municipalities, provides a rationale for the elevation of these services in municipal structures; and argues for increased allocation of resources to the local government sphere for effective performance of the function.



SALGA Assessment Study Findings

Inspiring service delivery

- There are currently many challenges and gaps in municipalities with regards to the performance of fire services.
- The White Paper on Fire Services which clearly states that “while most of our fire services have made tremendous progress in delivering the various services that communities expect, the majority of our country’s fire services are frankly not functioning properly and continue to grapple with serious challenges that over the years, have weakened their ability to deliver on their legal mandate.”
- The study has also identified, and the White Paper acknowledges, that the interpretation of Section 84(1) (j) of the Local Government: Municipal Structures Act, 1998, led to the complex and dissimilar division of fire functions between districts and local municipalities.
- In some areas, this has led to a two-tiered fire service provided by both district and local municipalities in the same jurisdiction often resulting in costly and wasteful duplication of efforts and resources.

The Bill Implications for Local Government

- *Inspiring service delivery*
SALGA believes that the amendments will encourage local government to make by-laws, implement and put in place mitigation measures that ensure that all landowners comply with the provisions of this NVFF Act.
- Funding remains a key challenge since the current equitable share received by municipalities does not seem to be adequate and various proposals have to be explored by all parties concerned.
- There is an understanding that municipalities are heavily constrained when it comes to income from rates and taxes, and since Fire Services is not defined as a basic service, it often results in a lack of financial resources allocated to the function.
- There is a need for support to improve the state of human capital and resourcing of municipalities to be able to enforce the NVFF Act.

National Veld and Forest Fire Act Implementation Challenges

Inspiring service delivery

- There is a clear definitive link between provision of fire services and service delivery. Fire prevention management plans cannot be isolated from developmental aspirations of a municipality.
- Some municipalities have adopted by-laws to address nuisances - including fires and which provide a basis for dealing with properties that are infested with fire-prone material, restrict burning of open fires without a permit.
- Challenges with municipal by-laws include:
 - ✓ The failure of by-laws to provide adequate legal means for reducing fuel load on properties, particularly in the form of invasive alien vegetation.
 - ✓ There is often a conflict between municipal prohibitions on open fires and the need to conduct ecological burns in periods of relatively high fire risk.
 - ✓ It important to ensure that fire safety and prevention are important features of the fire services and they must be prioritized.

Inspiring service delivery

SALGA undertook a survey in sampled municipalities and provinces in the form of interviews to ascertain a position at local government level on the proposed matters. However, SALGA still needs to take the Bill through its internal Mandating Governance Structures which are currently being established.

SALGA's Interpretation of the survey from sampled municipalities in relation to the Bill:

- ***Clause 1 seeks to amend certain definitions and inserts new definitions relating to the additional clauses.***
 - According to the data collected during the interviews, amendments are supported as it modifies and expands the definitions list for better understanding.
 - **Response: Supported**
- ***Clause 2 to amend section 3 of the Act, which deals with the formation of fire protection associations. Clause 2 inserts section 3(3A).***
 - The clause makes provision for the municipalities and traditional leaders in communal lands to facilitate the formation of fire protection associations if the Minister of Forestry, Fisheries and the Environment (“the Minister”) is of the opinion that a fire protection association is needed.
 - **Response: Supported**

Inspiring service delivery

- Clause 3 amends section 4 of the Act, which provides for the registration of fire protection associations. It also provides that state-owned enterprises, public entities, organs of state and municipalities should join registered fire protection associations.

Response: Supported

- Clause 4 seeks to amend section 10 of the Act, which provides for communication of fire danger rating. It empowers the Minister to set conditions for the exemption of landowners when a warning in terms of section 10(1)(b) of the Act read with section 10(2) has been issued that no person may light, use, or maintain a fire in the open air in the region where the fire danger is rated as high.
 - **Response: Supported**
- Clause 5 seeks to amend section 11 of the Act, which provides for the delegation of powers and duties. Clause 5 provides that the Minister may delegate powers and duties to the South African Weather Services.
 - **Response: Supported**

Inspiring service delivery

- Clause 6 amends section 26 of the Act, which deals with implementation of Chapter 8 of the Act. This clause provides for the inclusion of peace officers and traditional leaders to enforce the Act under certain conditions.
 - **Response: The respondents welcomed the amend and expressed the need for the provision on the clause however raised the need for support to improve the state of human capital and resourcing to enforce the Act.**
- Clause 7 seeks to insert section 32A in the Act. The proposed section 32A provides for appeals to the Minister against decisions or actions taken under delegation by delegated officers or entities, and the process to be followed.
 - **Response: Supported with conditions based on consideration for reasonable turnaround times**
- Clause 8 seeks to change the name of the Act to the National Veldfire Act, 1998.
 - **Response: Supported**
- Clause 9 deals with the title and commencement of the Act.
 - **Response: Supported**

Inspiring service delivery

- Having assessed the institutional and governance impacts associated with the proposed Amendments, SALGA supports the Bill [B 24—2021] on the following basis:
 - In accordance with survey results as expressed by sample of municipalities and in line with the White Paper on Fire Services
- SALGA recommends that the Bill be supported with the following recommendations:
 - The Ministry of Environment, Forestry and Fisheries introduce measures and mechanism to support municipalities on awareness, prevention, mitigation and management of veld and forest fires.
 - That the Portfolio Committee on Environment, Forestry and Fisheries notes that this is a SALGA preliminary submission that still needs to be taken through internal mandating leadership structures that are currently being established.



Thank You

www.salga.org.za