



the dplg

Department:
Provincial and Local Government
REPUBLIC OF SOUTH AFRICA

**Presentation Cross-Boundary Municipalities
Laws Repeal & Related Matters
Amendment
Bill, 2009**

**Joint Parliamentary Committees of
Provincial & Local Government &
Administration, Justice & Constitutional
Development as well as Safety and
Constitutional Affairs
04 February 2009
Parliament, Cape Town**

PURPOSE OF THE BILL

- To amend the Cross-boundary Municipalities Laws Repeal and Related Matters Act, 2005 (Act No. 23 of 2005), so as to provide for consequential matters as a result of the re-determination of the geographical areas of certain provinces; and to provide for matters connected therewith.
- The Bill should be read together with the Constitution Sixteenth Amendment Bill, 2009.

BACKGROUND

- Constitution Twelfth Amendment Act, 2005, and Cross-boundary Municipalities Laws Repeal Act, 2005 were enacted in 2005.
- Constitution Twelfth Amendment Act re-determined geographical areas of provinces.
- Cross-boundary Municipalities Laws Repeal Act provided for transitional arrangements thereof.
- Consequently Merafong City Local Municipality was incorporated into the then Southern District Municipality in the North West Province.

BACKGROUND (CONT)

- Following the incorporation, residents of Khutsong within the Merafong City Local Municipality expressed their opposition to the incorporation of the municipality into the North West Province, and requested to be incorporated into the Gauteng Province.
- Government has decided that Merafong City Local Municipality must be incorporated into the Gauteng Province.
- This process entails the re-determination of the geographical areas of the affected provinces and district municipalities.

BACKGROUND (CONT)

- Therefore the re-determination of the geographical areas of provinces can only be effected through a Constitution Amendment.
- The re-determination of the boundaries of the affected district municipalities and the consequences of such re-determination requires amendment to the Cross-boundary Municipalities Laws Repeal and Related Matters Act, 2005.
- Therefore the two Bills must be read together.

OBJECTS OF THE BILL

- The Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Bill, 2009 seeks to amend the Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Act, 2005 so as to provide for the re-demarcation of the Dr Kenneth Kaunda and West Rand District Municipalities, and to provide for the consequences of such re-demarcation.

CABINET APPROVAL

- Approval by Cabinet was obtained on 03 Dec 2009
- Cabinet approved the Bill for public comment and introduction to Parliament.
- Bill published for public comment on 12 Dec 2008.
- Closing date for public comment was on 11 Jan 2009.

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ORGANISATIONS INFORMED & CONSULTED

- The South African Local Government Association (SALGA);
- The Provincial Governments of the Gauteng and North West provinces;
- The National Treasury (NT);
- Municipal Demarcation Board (MDB);
- Department of Justice and Constitutional Development, and
- Independent Electoral Commission (IEC).

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FINANCIAL IMPLICATIONS

- Provincial boundary changes will impact on Provincial Equitable Share allocations, conditional grants, provincial own revenue, and expenditure baselines of all departmental votes.
- Adjustments are required to the Local Government Equitable Share allocations.
- Division of Revenue Bill for 2009 will ensure spending continues by both provinces.

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IMPLICATIONS FOR PROVINCES

- Provincial functions performed in the affected municipalities, either by provincial governments or on an agency basis by the affected municipalities would need to be addressed.
- This might also require adjustments to provincial budgets in order to address the shift in functions performed by one province to the other.

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IMPLICATIONS FOR MUNICIPALITIES

- The Merafong City Local Municipality will be relocated to the Gauteng Province and the boundary of the Dr Kenneth Kaunda and West Rand District Municipalities will be re-determined.

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COMMENTS RECEIVED

- A total of 4 public comment was received
- Two comments from individuals in MCLM:
 - Mr T J Moalusi
 - Mr Nel
- Two comments from organizations:
 - National Treasury
 - SALGA

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SUMMARY OF COMMENTS RECEIVED

- Mr Moalusi objects to the Bill citing insufficient consultation.
- Mr Nel is critical of the process followed when the Bill was developed citing insufficient consultation.
- SALGA consulted with all the affected municipalities and indicates that the Bill is fully supported by these municipalities.
- SALGA's concerns are with regard to implementation date, transitional arrangements and the financial implications.
- The National Treasury does not object to the Bill.

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SUMMARY OF COMMENTS RECEIVED (CONT)

- The NT proposed further amendment to section 5 of the Act to designate a body with an oversight function in monitoring management of the transition.
- The NT raises concerns about the Fiscal Framework implications due to provincial boundary change on:
 - Intergovernmental Fiscal Transfers (LGES, PES, Provincial & Municipal Infrastructure Grant).
- The NT indicates that 2005 provincial boundary change implications are still being felt by provinces and municipalities.
- 2009 budget for Gauteng Province cannot provide for Merafong City Local Municipality.
- Therefore status quo should remain until 2010 / 2011 financial year.

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TRANSITIONAL COMMITTEE

- The Ministry intends to establish a transitional committee with the relevant stakeholders.
- The aim of the committee is to discuss and inform the community about the process of transferring Merafong City Local Municipality to the Gauteng Province, and to address any other matters.

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CLAUSES OF THE BILL

- Clause 1: Amendment of section 1 of Act 23 of 2005. (definition of section 17 Notice, Structures Act)
- Clause 2: Substitution of section 1A of Act 23 of 2005, as inserted by section 1 of Act 24 of 2007. (link of this Bill to the Sixteenth Constitution Amendment Bill, 2009)
- Clause 3: Amendment of section 2 of Act 23 of 2005 (deal with consequences regarding number of councilors for districts including repeal of section 12 notice, structures Act which established MCL in North West Province).
- Clause 4: Amendment of Section 4 of Act 23 of 2005 (provide for consequence amendment to section 12 notice)

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CLAUSES OF THE BILL (CONT)

- Clause 5: Amendment of schedule 4 to Act 23 of 2005, as amended by section 2 of Act 24 of 2007. (substitution of expressions in rows relating to NW405, DC40,DC48)
- Clause 6: Amendment of schedule 5 to Act 23 of 2005, as amended by section 3 of Act 24 of 2007. (substitution for all the expressions in the row relating to NW405, DC40,DC48)
- Clause 7: Insertion of schedule 6 into Act 23 of 2005. (deemed disestablished municipalities)
- Clause 8: Application of Constitution Twelfth Amendment Act, 2005 provisions to this Bill.
- Clause 9 Short title of this Bill and the commencement date.

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THANK YOU!

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