

THE LOCAL GOVERNMENT SYSTEM IN

SOUTH AFRICA



1 INTRODUCTION

The Republic of South Africa is a constitutional state located in southern Africa and has a population of 43,997,828 and a land area of 1,219,912 sq km.¹

The Republic has three spheres of government which are distinct, but also interrelated. The powers and functions of each are enshrined in the 1996 Constitution. The head of state is the president, elected by the National Assembly for a period of five years. The president appoints a cabinet drawn from the ruling party and may appoint members of other parties at his or her discretion. There is a bicameral national legislature consisting of the 400-seat National Assembly and the 90-seat National Council of Provinces, which is elected by each of the nine provincial legislatures. Elections at national and provincial level are held under a list system of proportional representation. The administrative capital is Tshwane (previously Pretoria), the judicial capital Bloemfontein and the legislative chamber is in Cape Town.

South Africa is a unitary state sub-divided into nine provinces. The six metros perform all the 38 government functions in the constitution, whereas these are shared in the 46 districts and 321 local municipalities. The six metros contribute 55% of South Africa's GDP.²

2 POLITICAL AND ORGANISATIONAL STRUCTURE OF SOUTH AFRICA

The constitution provides for a range of independent bodies responsible for specific issues to support constitutional democracy, such as the Municipal Demarcation Board, the Electoral Commission, the Auditor General, the Public Protector and the House of Traditional Leaders.

The most recent national elections were held in April 2004, in which the ruling African National Congress (ANC) gained 69.7% of the vote. The next elections are due in 2009.

2.1 Position of local government in the state
Since the end of the apartheid era in 1994,

South Africa has been reforming its local government system – like the rest of its governance policy – along non-racial lines. This has involved the abolition of racially demarcated local governments, South Africa's first democratic local elections in 1995 and the publication of a White Paper on local government in 1998. There has been an ongoing struggle to ensure that local governments are financially viable (see Section 7). A new demarcation of local government boundaries reduced their number from 843 to 284 in December 2000, also substantially reducing the number of elected members.

The nine provinces in South Africa are: Eastern Cape, Free State, Gauteng, KwaZulu Natal, Mpumalanga, Northern Cape, Northern Province, Limpopo Province, and the Western Cape. Each province has a unicameral legislature with representatives elected according to proportional representation for a term of five years. Legislatures range in size from 30 to 80 members. Provincial premiers are elected indirectly by each legislature. The provincial cabinets appointed by the premiers are referred to as executive councils. Provincial ministers are called members of the executive council, or simply MECs. Provinces have legislative powers over, amongst other things: agriculture, education, environment, health services, housing, local government, public transport, regional planning, roads, economic development, and traditional authorities.³

The Minister for Provincial and Local Government is responsible for the development of local government policy and legislation, strengthening the institutions of government at the provincial and local level, and promoting intergovernmental relations between all three spheres. The national minister and the members of the executive councils (provincial ministers) responsible for local government in the provinces have supervisory roles over local government. Provincial executives are empowered to intervene where municipalities are failing to fulfil their obligations in terms of the relevant legislation. In such cases, the provincial

executive may issue a directive or assume the relevant functions itself, for a limited period only.⁴ National government has a similar supervisory role over provincial administrations. These powers are granted under the constitution and the Municipal Systems Act 2000.

3 LEGAL BASIS FOR LOCAL GOVERNMENT

3.1 Constitutional provisions

Local government is enshrined in Chapter 7 of the 1996 Constitution. It is further supported by Chapter 3, entitled 'The Principles of Co-operative Government', and Chapter 13, which focuses on local government financial matters.

3.2 Main legislative texts

Some of the main legislative Acts relating to local government are:

- Municipal Demarcation Act (No. 27) 1998
- Disaster Management Act (No. 57) 2002
- Municipal Finance Management Act (No. 56) 2003
- Intergovernmental Framework Act (No. 13) 2005.

In addition the Department for Provincial and Local Government (DPLG) published Local Government Municipal Performance Regulations which came into force on 1 August 2006.

4 LOCAL GOVERNMENT ORGANISATIONAL STRUCTURE

4.1 Main divisions

Local government is a mix of unitary and two-tiered structures. There are three categories of councils:

- Metropolitan (category A), governing the major metropolitan areas
- Local (category B)
- District (category C).⁵

District management areas are divided up into ten areas of low population, two world heritage sites, nine provincial parks and four national parks. This is being reviewed by the Municipal Demarcation Board.

4.2 Distribution of municipalities and population⁶

The lowest level of local government, local councils, range in population from 5,920 to 682,287 with an average population of 120,562. The districts range from 56,167 to 1,657,373, with an average population of 594,281. The metropolitan councils range

from 969,771 to 2,751,193 and have an average population of 2,105,532.

5 DEMOCRATIC AND POLITICAL STRUCTURES IN LOCAL GOVERNMENT

Any person who is entitled to vote for a municipal council may be elected as a councillor. A dual electoral system consisting of proportional elections based on party lists and ward elections for individual councillors is applicable. The division between proportional representatives and ward representatives is 50:50 for metros and local councils.

The last local elections were held on 1 March 2006. A total of 21,057,957 voters registered and there was a turnout of 48.4%

Nationally 40% of councillors are women. For proportional representation this is 42% and for ward councillors 37%.

5.1 Typical political structure of local government

The Member of the Executive Committee (MEC) in each province determines which of two options is applied to each local authority: an executive mayor or an executive committee with an indirectly elected mayor. Committees can be either advisory or enjoy delegated powers. Statutory committees for all municipalities are the audit and tender committees. The inception of the new systems following reorganisation and the local elections will see typical structures emerge. Municipalities exercise full legislative and executive power in their areas of jurisdiction subject to national and provincial legislation.

5.2 Local government staffing

Each municipality recruits its own staff and also has the power to discipline and dismiss staff. Currently there is a deployment programme called Project Consolidate that allows national and provincial government, with private-sector partners, to find new ways of working with local government. It provides targeted focus and capacity-building to municipalities identified for assistance.

The only officers local authorities are required to have by law are a municipal manager, a chief accounting officer and a chief financial officer. The head of the paid service is normally called the chief executive or municipal manager. Each authority is free to determine its own staffing structure. The general model followed in all types of authorities has at its apex the municipal manager, then the heads of departments supported by superintendents.

5.3 Independent scrutiny

The Public Protector, who has the power to investigate the conduct of public administration in any sphere of government, and take remedial action, provides independent scrutiny. The Auditor General is required to audit and report on the accounts and financial management of all local authorities.

Ethical conduct in local government is regulated by Chapter 10 of the constitution (basic values and principles governing public administration); as well as by the Local Government Transition Act 1993, Municipal Structures Act 1998 and Municipal Systems Act 2000. These latter three pieces of legislation introduce an ethical framework for local government through codes of conduct.

6 DISTRIBUTION OF SERVICE DELIVERY COMPETENCE

Central government is responsible for areas of external relations, defence, education, environmental management, tourism, development and national legislation. Many areas of responsibility are held concurrently with provincial administrations. The constitution assigns executive powers to local government over the following: air pollution, building regulations, childcare facilities, electricity and gas networks, fire services local tourism, municipal planning, health, public transport and public works, storm water management, trading regulations, water and sanitation services.

7 FINANCE⁷

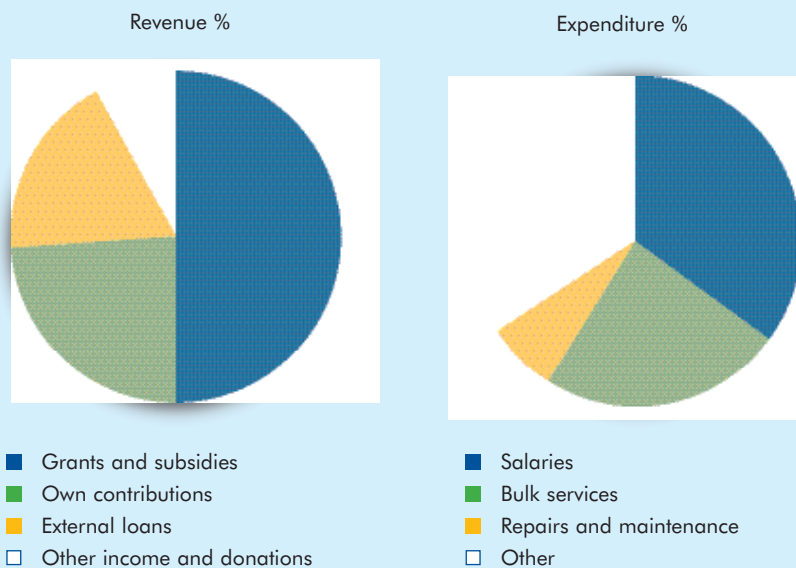
The Treasury has played a pivotal role in the introduction of financial management reforms across government since 1994, and locally since 1996. At local level the key reform was the Municipal Financial Management Act 2003, which establishes norms for:

- Ensuring transparency, accountability and responsibility in financial dealings
- Management of revenues, expenditure, assets and liabilities
- Budgetary and financial planning processes and coordination with other spheres of government
- Other financial matters.

7.1 Revenue

Transfers to local government are growing every year, and the aggregate size of the municipal budget has nearly doubled over the last four years. The 2008/2009 budget is Rand (R)157.3bn,⁸ an increase of 23% on

Figure 1. The financial structure of local government in South Africa



the previous year. The major sources of revenue for 2006/2007 were:

- 1. Grants and subsidies 50%
- 2. Own contributions 24%
- 3. External loans 18%
- 4. Other income and donations 8%

Authorities raise revenue through electricity, property rates, water and sanitation, refuse removal, fines and fees.

7.2 Revenue-sharing

Municipalities receive allocations under the Division of Revenue Act. The transfer payments are made from national government directly to the municipalities, rather than through provincial structures. Local government's share of nationally raised revenue has continued to increase over the past few years. In 2007/2008 local government's estimated share is R30.3bn, an increase from R26bn in 2006/2007. This accounts for 6.6% of local government revenue. The funds are to provide for:

- Free basic services for households that cannot afford them
- Waste management systems
- Infrastructure improvements for sustainable communities
- Job creation.

7.3 Expenditure

The aggregate projected operating expenditure for 2007/2008 is R157.3bn a year-on-year increase of 23%. This on average is spent on:

- Salaries 35%

- Bulk services 24%
- Repairs and maintenance 7%
- Other 34%

8 ORGANISATIONS OF LOCAL GOVERNMENT

The role of organised local government is enshrined in Section 63 of the constitution. The Organised Local Government Act 1997 recognises the South African Local Government Association (SALGA), plus the nine provincial local government associations, as the national voice of local government. The Act allows organised local government to designate up to ten part-time representatives to the National Council of Provinces and to further nominate two people to the Financial and Fiscal Commission (FFC) which advises the Treasury on budgetary issues.

9 INTERGOVERNMENTAL RELATIONS

A unique element of South Africa's constitution is the chapter on cooperative government (Section 41) which requires the different spheres to consult and inform one another on issues of common concern. The ultimate organ for the resolution of intergovernmental disputes is the courts.⁹

The primary location of the intergovernmental relations system is the Department for Provincial and Local Government (DPLG) in conjunction with the Cabinet Governance and Administration Cluster. DPLG is responsible for various programmes and policy interventions geared towards predictability, stability and institutionalisation of the intergovernmental relations system, leading to the Intergovernmental Relations Framework Act (No. 13) 2005.

The local government budget forum consists of national ministers, representatives from the national association, and one representative from each of the provincial local government associations.

In May 2007 DPLG launched the intergovernmental relations toolkit which consists of a number of publications designed to inform and educate officials across the three spheres of government.

10 E-GOVERNMENT

The government of South Africa launched the Batho Pele (people first) gateway in 2004 to provide for more accessible, streamlined governance; the gateway deals with information provision and service delivery issues. All category A municipalities have their own websites, with categories B and C increasingly so.

According to the International Telecommunications Union there were 5.1 million internet users in South Africa in 2006, or 10% of the population.

11 ENVISAGED REFORMS

The Extended Cabinet Lekgotla in January 2007 mandated the Minister and DPLG to initiate a process to develop a White Paper on provincial government and to review the existing White Paper. This process will draw on the lessons of a decade or more of practice, wide public consultation and comprehensive research, geared towards making proposals about the institutional framework for provincial local government in South Africa.

12 MISCELLANEOUS

12.1 The role of traditional authorities

Traditional leaders are recognised as having a role to play in municipal councils in terms of Chapter 12 of the Republic of South Africa Constitution Act 1996. This is established under the Municipal Structures Act.

The number of traditional leaders permitted to take part in a municipal council is limited to 20% of the total number of councillors. However, when a decision of the council will have direct impact on a traditional authority, the council must give the traditional leader of that authority the right to express their views on the matter.

Traditional leaders are represented in:

- A national house of traditional leaders
- A provincial house of traditional leaders
- Local houses are expected to be established in the near future.

13 SUMMARY

Local government in South Africa has been

under rapid transition since 1993. As part of the development agenda, concerted efforts have been launched to improve the lives of the poor eg through social grants, the provision of housing, access to clean water and health, improving education and access to it, and boosting the economy.

During the first decade of freedom major strides forward were taken to reconstruct the state machinery, making it sensitive to the needs of the people, and ensuring that it is able to provide quality services to all South Africans.

References

- 1 CIA World Factbook 2007
- 2 Government of South Africa, 2007
- 3 South Africa Yearbook, Pretoria, 1998, p.40
- 4 Chapter 6, Section 139 of the constitution
- 5 The categories are referred to in official documents as A, B and C; in common parlance as metro councils (A), local councils (B) and district councils (C)
- 6 The population information comes from the Municipal Demarcation Board, accessible at www.demarcation.gov.za. The 1996 Census is found at www.statssa.gov.za/census96
- 7 Information in this section is drawn from the National Treasury Intergovernmental Fiscal Review 2003, Pretoria, 2003
- 8 R7.36 = US\$1, 'FT Guide to World Currencies', 12 September 2003.
- 9 For a fuller discussion see the CLGF report 'Co-operative Governance: intergovernmental relations in South Africa', Commonwealth Local Government Handbook 2002, London, 2002. See also Chapter 3, 'Co-operative Government', of the Constitution of South Africa
- 10 CIA World Factbook 2006.



Service	Delivering authority					Remarks
	Central government	Provinces	Local government			
			Metro	District	Local	
GENERAL ADMINISTRATION						
Police	●		●			
Fire protection			●	●	●	
Civil protection		●	●	●	●	
Criminal justice	●					
Civil justice	●					
Civil status register	●					
Statistical office	●					
Electoral register	●					
EDUCATION						
Pre-school	●	●				
Primary	●	●				
Secondary	●	●				
Vocational and technical	●					
Higher education	●					
Adult education	●					
Other	●					
SOCIAL WELFARE						
Kindergarten and nursery			●			
Family welfare services	●					
Welfare homes	●					
Social security	●					
PUBLIC HEALTH						
Primary care	●	●	●	●	●	
Hospitals	●	●				
Health protection	●	●	●	●	●	
HOUSING AND TOWN PLANNING						
Housing	●	●	●		●	
Town planning			●	●	●	
Regional planning		●				
TRANSPORT						
Roads	●	●				
Transport	●	●	●			
Urban roads			●	●		
Urban rail	●					
Ports	●					
Airports	●		●	●		
ENVIRONMENT AND PUBLIC SANITATION						
Water and sanitation			●	●	●	
Refuse collection and disposal			●	●	●	
Cemeteries and crematoria			●	●	●	
Slaughterhouses			●	●	●	
Environmental protection	●	●	●	●	●	
Consumer protection	●		●	●	●	
CULTURE, LEISURE AND SPORTS						
Theatre and concerts	●	●				
Museums and libraries	●	●	●			
Parks and open spaces			●		●	
Sports and leisure	●	●	●		●	
Religious facilities			●		●	
Other cultural facilities	●	●				
UTILITIES						
Gas services			●			
District heating						
Water supply			●	●		
Electricity			●	●		
ECONOMIC						
Agriculture, forests and fisheries	●					
Economic promotion	●	●	●	●		
Trade and industry	●					
Tourism	●	●	●	●		

● = discretionary service by the local authority