

The local government system in

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South Africa


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Key facts

POPULATION (Census 2001): 44,819,781

AREA: 1,221,037 sq km

CAPITAL: Pretoria

LOCAL GOVERNMENT CONTRIBUTION TO GDP: 7.7%

CURRENCY: rand (ZAR)

HEAD OF STATE AND GOVERNMENT:

President Jacob Zuma

FORM OF GOVERNMENT: democratic republic

PARLIAMENTARY SYSTEM: bicameral

STATE STRUCTURE: unitary

LANGUAGES: Afrikaans, English, Ndebele, Northern Sotho, Sotho, Swazi, Tswana, Tsonga, Venda, Xhosa and Zulu (official)

NATIONAL ELECTIONS: last: 2008; **turnout:**

next: 2013

LOCAL ELECTIONS: last: 2006 **turnout:** -

next: 2011

SUMMARY

South Africa is a democratic republic with three spheres of government: national, provincial and local. Local government is enshrined within the constitution, which also outlines the various functions and resource distributions between the spheres of government, additionally there are numerous Acts governing various aspects of local government activity. The Department of Cooperative Governance and Traditional Affairs is responsible for supporting provinces and local government in fulfilling their constitutional and legal obligations. There are three types of municipality: six urban metropolitan municipalities and double-tier rural authorities, of which there are 46 first-tier district municipalities and 231 second-tier local municipalities. Service charges, followed by government grants, are the largest source of operating revenue for local authorities, whose responsibilities range from public health and utility provision to transportation and waste management.

Partnerships are encouraged and promoted between municipalities and traditional councils.

1. CENTRAL GOVERNMENT

South Africa is a democratic republic with a bicameral parliament. The national legislature consists of a 400-seat National Assembly and a 90-seat National Council of Provinces (NCOP). The head of state and government is the president, who is indirectly elected by the National Assembly for a period of five years, and is usually the leader of the largest represented party. National Assembly seats are allocated using a proportional representation system with closed lists of one national and nine provincial multi-member constituencies. Seats are first allocated according to the Droop quota. NCOP members are indirectly elected by each of the nine provincial legislatures. The provincial legislatures vary in size from 30 to 80 members depending on the population of the province and elections are also held under a list system of proportional

representation. The president appoints a cabinet drawn from members of the national assembly.

2. LEGAL BASIS FOR LOCAL GOVERNMENT

2.1 Constitutional provisions:

Local government is enshrined in Chapter 7 of the Constitution, adopted in 1996. It is further supported by Chapter 3, entitled 'The Principles of Cooperative Government', and Chapter 13, which focuses on local government finance.

2.2 Main legislative texts:

The main legislative texts include:

- Municipal Demarcation Act 1998 (Act No. 27 of 1998)
- Local Government: Municipal Structures Act 1998 (Act No. 117 of 1998)
- Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000)
- Disaster Management Act 2002 (Act No. 57 of 2002)

Table 1. Distribution of councils and population

Province	Number and type of local authorities				Population (Census 2001)
	Metropolitan (unitary)	District (1st tier)	Local (2nd tier)	Traditional councils	
Eastern Cape	1	6	38	217	6,436,763
Free State	0	5	20	11	2,706,775
Gauteng	3	3	9	2	8,837,178
KwaZulu-Natal	1	10	50	223	9,426,017
Limpopo	0	5	25	184	5,273,642
Mpumalanga	0	3	18	56	3,122,990
North West	0	4	20	58	3,669,349
Northern Cape	0	5	27	9	822,727
Western Cape	1	5	24	0	4,524,335
TOTAL	6	46	231	760	44,819,778

- Traditional Leadership and Governance Framework Act 2003 (Act No. 41 of 2003)
- Local Government: Municipal Finance Management Act 2003 (Act No. 56 of 2003)
- Municipal Property Rates Act 2004 (Act No. 6 of 2004)
- Intergovernmental Relations Framework Act 2005 (Act No. 13 of 2005)
- Municipal Fiscal Powers and Functions Act 2007 (Act No.12 of 2007).

3. STRUCTURE OF LOCAL GOVERNMENT

3.1 Local government within the state:

The republic has three spheres of government – national, provincial and local – which are distinct but interrelated.

3.2 Ministerial oversight:

In 2008 the Department of Provincial and Local Government (DPLG) became the Department of Cooperative Governance and Traditional Affairs (COGTA). COGTA currently has two departments under the one minister, the Department of Cooperative Governance (DCG) and the Department of Traditional Affairs (DTA) and has two functions: to develop national policies and legislation with regard to provinces and local government, and to monitor the implementation of such policies and legislation; and to support provinces and local government in fulfilling their constitutional and legal obligations. COGTA has published local government municipal performance regulations, which came into force in 2006.

3.3 Council types:

The local sphere consists of three categories of municipality: single-tier metropolitan municipalities in urban areas and double-tier district and local municipalities in more rural areas which share legislative and executive authority for their area.

3.3.1 Urban metropolitan municipalities are large single-tier council areas encompassing urban populations and often including a major city and surrounding towns. They perform all 38 functions as listed in the constitution for local authorities.

3.3.2 District municipalities are the first-tier local authorities covering larger, more rural, areas. They work in partnership with the smaller second-tier authorities within their jurisdiction known as local municipalities.

3.3.3 Local municipalities are second-tier authorities within the district municipality jurisdiction, which provide a range of local functions. They are classified into four types depending how many local authority functions they perform: type four (containing large urban areas) average 24 functions, type three (small towns) average 20 functions, type two (rural with small towns) average 18 functions and type one (rural with no towns) average 11 functions.

3.3.4 District management areas (DMAs) comprise ten areas of low population, eight World Heritage sites, nine provincial parks and four national parks, which are currently outside the jurisdiction of any municipal area. DMAs will be integrated into local municipalities as from the next local elections in 2011 however, resulting in local municipalities covering the whole territory of South Africa.

3.4 Traditional leaders:

Traditional leaders are specifically accommodated in South Africa's system of governance. Chapter 12 of the constitution as well as the Traditional Leadership and Governance Framework Act (TLGFA) 2003 pave the way for the entrenchment of traditional leadership in the governance of

South Africa. The TLGFA 2003 provides for the establishment of three houses of traditional leaders: one each at the national, provincial and local levels. The TLGFA 2003 specifically provides for a partnership between the institution of traditional leadership and municipalities. This particular provision must be read in conjunction with section 81 of the Municipal Structures Act 1998 which provides for ex-officio participation of traditional leaders in municipal councils. It further obliges the national government and all provincial governments to promote these partnerships between municipalities and traditional councils.

4. ELECTIONS

4.1 Recent local elections:

The municipal elections held on 1 March 2006 had a 48.42% voter turnout, similar to the 48.07% recorded in the 2000 municipal elections.

4.2 Voting system:

There is a dual local government electoral system consisting of proportional elections based on party lists and ward elections for individual councillors. The division between proportional representatives and ward representatives is 50:50 for metropolitan and local councils.

4.3 Elected representatives:

Any person who is entitled to vote for a municipal council can be elected as a councillor for a term of up to five years. There are three forms of executive that municipalities may adopt: collective executive system (executive authority exercised through an executive committee); mayoral executive system (executive authority exercised by an executive mayor assisted by a mayoral committee); and plenary executive system (executive authority exercised by the whole council). Provincial legislation determines the types of municipality for each of the three categories.

4.4 Women's representation:

in 2006, of the 8,350 elected council seats, 39.7% went to women, up from 28% in 2000. The Municipal Structures Act of 1998 encourages political parties to field equal numbers of women and men as candidates.

5. SYSTEMS FOR COMMUNITY INVOLVEMENT

5.1 Legal requirement:

The constitution places an obligation on local government to encourage the involvement of communities and community organisations in matters of local government. Additionally, the Local Government: Municipal Structures Act 1998 sets clear guidelines for ward committees. Section 72 of the Act states that the object of a ward committee is to enhance participatory democracy

Table 2. Aggregate revenue and expenditure for local government 2009/2010 (mid-term estimates)

Revenue	Rm	Expenditure	Rm
Government transfers	28,491	Administrative and operational	-
Local tax	-	Employee costs	38,433
Service charges	54,777	Repairs and maintenance	9,587
Investment revenue	4,133	Finance charges	8,759
Other own revenue	16,167	Materials and bulk purchases	26,715
Property rates	24,135	Capital expenditure	-
-	-	Water and sanitation	8,664
-	-	Electricity	4,063
-	-	Housing	4,221
-	-	Roads and storm water	5,013
-	-	Other capital expenditure	8,376
-	-	Other expenditure	12,346
TOTAL	127,705	TOTAL	126,176

Source: National Treasury, Local Government Budgets & Expenditure Review, 2003–2010⁴

in local government. The Local Government: Municipal Systems Act 2000 obliges local government to 'encourage the involvement of the local community and to consult the community about the level, quality, range and impact of municipal services provided by the municipality, either directly or through another service provider.'

5.2 Implementation:

The most common structure established by municipalities to interact with the community (apart from ward committees) is the integrated development planning representative forum (IDP forum). IDP Forums are established specifically with the intention of involving the community in the development and review of the municipality's integrated development plan.

Community development workers' (CDWs) programmes are another mechanism aimed at assisting local communities in accessing government services and in meeting their needs. CDWs have been appointed in different parts of the country.

5.3 E-government:

There is no e-government strategy in place.

6. ORGANISED LOCAL GOVERNMENT

6.1 National local government association:

The South African Local Government Association (SALGA) is recognised by the Organised Local Government Act 1997 and its role is enshrined in section 63 of the constitution. SALGA's key role is the effective representation of local government in the legislative processes of all spheres of government, and in intergovernmental processes. The 1997 Act allows organised local government to nominate up to ten part-time representatives to the National Council of Provinces and to further nominate two representatives to the Financial

and Fiscal Commission, which advises the Treasury on budgetary issues.

6.2 Other local government associations:

Nine provincial local government associations are also recognised by the Organised Local Government Act 1997.

7. INTERGOVERNMENTAL RELATIONS

Section 41 of the constitution requires the three spheres of government to consult and inform one another on issues of common concern. A number of executive intergovernmental instruments, most of which are non-statutory, have been developed at national and provincial level, these include:

- The Presidential Coordination Council (PCC): this comprises the President, the Minister of COGTA, and provincial premiers together with SALGA by invitation
- The Local Government Budget Forum: national ministers, representatives from SALGA, and one representative from each of the provincial local government associations
- The Forum of South African Directors General (FOSAD): national and provincial directors general of all ministries. FOSAD is chaired by the Presidency director general, and is organised much like a 'cabinet committee cluster'
- Fifteen intergovernmental forums, called MinMecs, based on national sector departments with overlapping competencies
- Premier coordinating forums: these exist within each provincial government and report both upwards to the PCC and downwards to all 46 mayoral forums
- Mayoral forums: also known as district intergovernmental relations forums, these provide a supportive mechanism for district

municipalities to engage with intergovernmental issues. District mayors rationalise and coordinate local structures, ensure that there is a district-wide development vision informed by local IDPs, and monitor national and provincial sector commitments.

In addition, COGTA has developed an intergovernmental relations toolkit consisting of a number of educational and informational publications, and a series of case-studies.

Informal intergovernmental relations forums have been formed along sectoral lines consisting of national ministers and their provincial members of executive committees. These are the engagements between ministers and members of the provincial executives. SALGA represents where local government interests are involved.

8. MONITORING SYSTEMS

There are a number of state institutions to support constitutional democracy and provide independent scrutiny, including the Public Prosecutor and the Auditor General. The Public Prosecutor has the power to investigate the conduct of public administration in any sphere of government and to take remedial action. The Auditor General is required to audit and report on the accounts and financial management of all local authorities.

9. FINANCE, STAFFING AND RESOURCES

The Municipal Fiscal Powers and Functions Act 2007 regulates the exercise by municipalities of their power to impose surcharges or fees for services provided under section 229 (1) (a) of the constitution and provides for the authorisation of taxes, levies and duties that municipalities may impose under section 229 (1) (b) of the constitution.

Chapter 13 of the Constitution (Act 108 of 1996) sets out the financial arrangements that underpin the functional responsibilities of each sphere of government. Each sphere is entitled to an equitable share of nationally raised revenue. In addition, provinces and local government may receive additional allocations from national government in the form of grants, and subject to national legislation they can raise certain taxes, impose charges for services, and raise loans.

9.1 Locally raised revenue:

Municipalities raise a large proportion of revenue from their own sources, such as taxes and service charges. In 2009/2010 service charges were the largest contributor to operating revenue, followed by government grants.

9.2 Transfers:

The 'local government equitable share' (LGES) formula and allocation was first introduced in the 1998/1999 financial year. The size of the LGES grant to the local sphere of government takes into account each area's fiscal capacity, fiscal efficiency, developmental needs, extent of poverty and backlogs. The LGES grant is the largest national transfer to municipalities and has experienced a rapid growth over the last decade, largely due to increases in the allocations for indigent households.

9.3 Local authority staff:

Each municipality recruits its own staff and also has the power to discipline and dismiss staff. The only officers local authorities are required to have by law are a municipal manager who acts as head of the administration, a chief accounting officer and a chief financial officer. Each municipal authority is free to determine its own staffing structure. A secondment programme called Project Consolidate allows national and provincial government, with private-sector partners, to find new ways of working with local government. The programme has provided a focus and capacity-building to municipalities identified for assistance.

10. DISTRIBUTION OF SERVICE DELIVERY RESPONSIBILITY

The constitution assigns executive powers to local government for air pollution, building regulations, childcare facilities, electricity and gas networks, fire services, local tourism, municipal planning, municipal health, public transport and public works, storm water management, trading regulations, water, sewage and sanitation services, refuse removal, decisions about land use, and encouragement of the involvement of communities and community organisations in matters of local government.

References and useful websites

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Census 2001
www.statssa.gov.za/census01/html/RSAPrimary.pdf
2. UN statistics
<http://unstats.un.org/unsd/demographic/products/dyb/dyb2008/Table03.pdf>
3. IMF statistics
www.imf.org/external/data.htm
4. Local Government ministry website
www.cogta.gov.za
5. National government portal www.gov.za
6. UNDP Human Development Report 2010
www.hdr.undp.org
7. South Africa Local Government Association
www.salga.net
8. Election Commission Website:
www.elections.org.za
9. Cooperative Governance and Traditional Affairs Website www.thedplg.gov.za
10. Municipal Demarcation Board
www.demarcation.org.za

Annex A. Summary of service provision in different spheres of government

Service	Delivering authority					Remarks
	Central	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