

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
LOCAL GOVERNMENT:
MUNICIPAL DEMARCATION
BILL**

[B 36-98]

(As agreed to by the Portfolio Committee on Constitutional Affairs (National Assembly))

[B 36A—98]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WETSONTWERP OP
PLAASLIKE REGERING:
MUNISIPALE AFBAKENING**

[W 36-98]

*(Soos goedgekeur deur die Portefeuljekomitee oor Staatkundige Aangeleenthede
(Nasionale Vergadering))*

[W 36A—98]

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AMENDMENTS AGREED TO

LOCAL GOVERNMENT MUNICIPAL DEMARCATION BILL [B 38-98]

CLAUSE 1

1. On page 6, in line 10, to omit “section 26(1)” and to substitute “the Local Government: Municipal **Structures** Act, 1998”.
2. On page 6, from line 13, to omit the definition of “municipality” and to substitute:

“municipality” means a **municipality** mentioned in section 155(6) of the Constitution and includes a municipality which existed when this Act took effect; (xi)
3. On page 6, in line 22, to omit “section 32 and”.
4. On page 6, in line 25, to omit “those” and to substitute “the”.

CLAUSE 4

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 3:

Function

4. The function of the Board is to determine municipal boundaries in accordance with this Act and other appropriate legislation enacted in terms of Chapter 7 of the Constitution.

CLAUSE 5

1. On page 8, in line 9, after “may” to insert “reasonably”.

CLAUSE 6

1. On page 8, in line 14, to omit “11” and to substitute “seven”.

CLAUSE 7

1. On page 8, in line 32, before “development” to insert “integrated”.
2. On page 8, after line 33, to insert the following subparagraph:

(iv) traditional leadership and traditional communities;

3. On page 8, after line 41, to insert the following subparagraph:

(xii) transport planning.

4. On page 8, in line 45, to omit paragraph (b) and to insert the following paragraphs:

(b) a person who is placed under curatorship;

(c) a person who is declared to be of unsound mind by a court of the Republic; or

5. On page 8, in line 46, after “who” to insert “after 4 February 1997”.
6. On page 8, in line 48, to omit “(b)” and to substitute “(d)”.

CLAUSE 8

1. On page 10, from line 11, to omit “on Constitutional Affairs and Public Administration”.
2. On page 10, in line 12, after “Provinces” to insert “responsible for local government matters”.

CLAUSE 12

1. On page 12, in line 17, to omit “or” and to substitute “and”.

CLAUSE 13

1. On page 12, in line 27, to omit paragraph (d).
2. On page 12, in line 33, after “is” to omit “appointed as”.

CLAUSE 15

1. On page 12, in line 52, after “but” to insert “must convene a meeting if”.
2. On page 14, in line 1, to omit “may”.

CLAUSE 16

1. On page 14, in line 7, to omit “own” and to substitute “internal”.

CLAUSE 18

1. On page 14, in line 25, to omit the first “and”.
2. On page 14, in line 25, after “12” to insert “and 13(3) also”.
3. On page 14, in line 25, to omit “in such application” and to substitute:

when those sections are applied to members of a committee

CLAUSE 21

1. On page 16, from line 10, to omit paragraph *(a)* and to substitute:

(a) must determine municipal boundaries in the territory of the Republic; and
2. On page 16, after line 13, to insert the following subsection:

(2) Any determination or redetermination of a municipal boundary must be consistent with this Act and other appropriate legislation enacted in terms of Chapter 7 of the Constitution.

CLAUSE 22

1. On page 16, from line 23, to omit paragraphs *(a)* and *(b)* and to substitute:

(a) (i) on its own initiative;
 (ii) on request by the Minister or a MEC for local government;
 or
 (iii) on request by a municipality with the concurrence of any other municipality affected by the proposed determination or redetermination; and

(b) in accordance with priorities and reasonable time-frames for demarcation determined by the Minister in consultation with the MEC'S for local government after the Board has been consulted.

CLAUSE 23

1. On page 16, from line 23, to omit paragraph *(a)* and to substitute:

(a) will affect the representation of voters in the council of any of the municipalities affected by the boundary determination, the determination takes effect from the date of the next election in the area concerned; or

CLAUSE 24

1. On page 18, in line 1, to omit “a” and to insert “an equitable and”.
2. On page 18, in line 5, to omit “social and economic planning and”.

CLAUSE 25

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 24:

Factors to be taken into account

25. In order to attain the objectives set out in section 24, the Board must, when determining a municipal boundary, take into account—

- (a) the interdependence of people, communities and economies as indicated by—
 - (i) existing and expected patterns of human settlement and migration;
 - (ii) employment;
 - (iii) commuting and dominant transport movements;
 - (iv) spending;
 - (v) the use of amenities, recreational facilities and infrastructure; and
 - (vi) commercial and industrial linkages;
- (b) the need for cohesive, integrated and unfragmented areas, including metropolitan areas;
- (c) the financial viability and administrative capacity of the municipality to perform municipal functions efficiently and effectively;
- (d) the need to share and redistribute financial and administrative resources;
- (e) provincial and municipal boundaries;
- (f) areas of traditional rural communities;
- (g) existing and proposed functional boundaries, including magisterial districts, voting district, health, transport, police and census enumerator boundaries;
- (h) existing and expected land use, social, economic and transport planning;
- (i) the need for co-ordinated municipal, provincial and national programmed and services, including the needs for the administration of justice and health care;
- (j) topographical, environmental and physical characteristics of the area;
- (k) the administrative consequences of its boundary determination, on—
 - (i) municipal creditworthiness;
 - (ii) existing municipalities, their council members and staff and
 - (iii) any other relevant matter; and
- (l) the need to rationalise the total number of municipalities within different categories and of different types to achieve the objectives of effective and sustainable service delivery, financial viability and macro-economic stability.

CLAUSE 26

Clause rejected.

CLAUSE 27

1. On page 20, in line 20, after “notice” to insert “in the area concerned”.
2. On page 20, from line 21, to omit subsection (3) and to substitute:
 - (3) The Board must send by registered post, electronic means or by hand a copy of the notice to—
 - (a) the MEC for local government in the province concerned;
 - (b) each municipality that will be affected by the Board’s consideration of the matter;
 - (c) the magistrate concerned if any magisterial district is affected; and
 - (d) the provincial House of Traditional Leaders concerned established by provincial legislation in terms of section 212(2)(a) of the Constitution if the boundary of a traditional authority is affected,

and invite them to submit written representations or their views on the matter to the Board within the period determined in terms of subsection (1).

CLAUSE 29

1. On page 20, after line 37, to insert the following subsection:
 - (2) When the Board publishes a notice, it must convey, where appropriate, by radio or other appropriate means of communication the contents of the notice in the area concerned.

CLAUSE 31

1. On page 22, in line 6, after “person” to insert “who in its opinion has information which is material to the investigation”.
2. On page 22, in line 16, to omit “examine” and to substitute “question”.
3. On page 22, in line 16, to omit “examined” and to substitute “questioned”.

CLAUSE 32

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Demarcation affecting existing municipalities

31. The legal, practical and other consequences resulting from the area of a municipality **being** wholly or partially incorporated in or combined with the area of another municipality, must be dealt with in terms of the Local Government: Municipal Structures Act, 1998.

CLAUSE 37

1. On page 24, in line 31, after “source” to insert “through the National Revenue Fund”.

CLAUSE 40

1. On page 26, in line 10, to omit “Annual report” and to substitute “Accountability and reporting”.
2. On page 26, from line 11, to omit subsection (1) and to substitute:

(1) *(a)* The Board is accountable to Parliament and must annually

submit to both Houses of Parliament a written report on the activities of the Board during a financial year.

(b) A copy of the report must also be submitted to each provincial legislature.

CLAUSE 41

1. On page 26, in line 27, to omit “person, including” and to substitute “member of”.

CLAUSE 42

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Regulations

41. The Minister may make regulations not inconsistent with this Act or any Act of Parliament—

- (a) by **presiding**, on the advice of the Board, further procedures relating to the way in which the Board operates when performing its function;
- (b) by prescribing objectives and general targets for the rationalisation of municipalities as contemplated in section 25(1); or
- (c) concerning any matter referred to in this Act which in the opinion of the Minister is necessary or expedient for the effective carrying out or furtherance of the provisions and objects of this Act.

CLAUSE 46

1. On page 28, in line 12, after “1998” to insert:
, and takes effect on the date on which the Local Government: Municipal Structures Act, 1998, comes into effect
(2) Chapter 1 comes into effect on the date of the publication of this Act.