

Municipal Systems Bill

labour's responses

COSATU and SAMWU

'Local governments have a critical role to play in social and economic development. Yet municipalities are confronted with a legacy of apartheid development as manifest in the huge infrastructure and service backlogs, especially in black areas

In general, the resources of the municipalities are not adequate to address these backlogs, especially in rural areas and former black townships. There is a need for injection of resources from the national fiscus. Therefore, the litmus test for the bill is the extent to which it will enable municipalities to address apartheid spatial geography, meet the needs of the poor and provide services in a sustainable manner.'

Municipal services-general duty

'The bill does not contain a definition of "basic municipal services". We propose that the definition should be similar to that of the Framework Agreement: "the minimum level of service necessary to ensure acceptable and reasonable quality of life, which takes into account health and environmental considerations".'

COSATU has major concerns with both the definition of financial sustainability in the bill and the injunction that municipal services must be provided in a financially sustainable manner. Pressure for municipal services to show a profit or reasonable

Etienne Vlok compiled shortened edited extracts of labours' responses to the Municipal Systems Bill that were presented to the Portfolio Committee on Provincial and Local Government Affairs on 12 May 2000.

surplus will make cross-subsidisation between services impossible. Secondly, it elevates profitability at the expense of other developmental considerations of providing municipal services. This would create undue pressure to hand over services to the private sector. This formulation contradicts the stated intention to provide services in an equitable manner.

Against this background, COSATU proposes this clause should be removed from the bill and emphasis should be placed on proper financial management and prudent utilisation of public resources.'

Service tariffs

'COSATU welcomes the provisions of section 68 as they broadly reflect the need for sound tariff policies. In particular we

welcome the explicit recognition of measures to assist poor households such as lifeline tariffs. Lifeline is easier to administer compared to the means test. It fulfils the requirement to ensure a minimum basic level of services across the board. While tariffs should reflect costs reasonably associated with providing municipal services, explicit recognition of subsidies and lifeline tariffs would ensure that poor households have access to services.'

Provision of services

'In our view, the establishment of service utilities and business enterprises should not blur accountability. They should be under the direct control and ownership of the municipality.

This approach is contrary to the creation of independent service utilities run at arms-length. We prefer internal ring fencing along the line of internal trading entities envisaged by section 70(b) of the bill. Further, it is important that the setting of goals and targets for such units be an open and transparent process in which communities and stakeholders participate.

More fundamentally, we are concerned that corporatisation should not be seen as a preliminary step to full privatisation. In addition, it should not lead to undermining workers' job security and conditions of employment.

COSATU's preference is for the public sector provision of municipal services. The public sector is understood broadly to include local governments, parastatals and other organs of state including water boards. The public sector and the private sector are driven by a different ethos: a profit maximisation in the case of the latter and meeting community needs in the case of the former.

In our view, the private sector should only be engaged in so far as this will build

the capacity of the public sector to provide public services.

Despite the improvement in the bill noted above, it still essentially adopts a "neutral" posture between the public and private sector. There is no privileging of the public sector in the bill. As such, private and public provision of services are treated as equal in the bill. Our view is that the bill must give effect to the notion of the public sector as a preferred option. This means, in practice, service agreements with the private sector should be considered after the consideration of public options including public-public partnerships. It is for this reason that we proposed the exclusion of the public sector from the competitive bidding process.'

Local public administration and human resources

'Granting the minister power to regulate on matters covered by the LRA which the employer and employees have to reach agreement on is problematic. In all probability it is unconstitutional in the extent to which it undermines collective bargaining.'

Performance management

'COSATU supports the underlying principles of performance management to evaluate the performance of municipalities. Key performance indicators should include the extent to which municipalities provide quality services to historically under-served communities. In our original submission, we proposed that for the system to work in practice an incremental approach must be adopted, to at least allow municipalities to build their necessary capacity.

In this vein, the role of the national Department of Provincial and Local Government Affairs is pivotal to assist

struggling municipalities to implement a performance management system.

Ultimately, in our view, the yardstick to measure this bill is the extent to which it consolidates transformation by ensuring that municipal services are provided to all, particularly the poor.

We are concerned that the bill is introduced prior to finalisation of a policy framework on municipal services and in the absence of the long promised Municipal Financial Management Bill.'

FEDUSA and IMATU

'FEDUSA and its affiliate, IMATU, who is directly involved in the municipal sector, support the restructuring of local government.'

Admission of public to meetings

'FEDUSA fails to understand the reason for the exclusion. In practice, the executive committee is where most of the deliberations take place and final recommendations and decisions for ratification are formulated. We therefore request that labour, having a direct need to have knowledge of the reasoning underpinning a decision, be allowed to be present during the meeting.'

Regulations and guidelines

The bill proposes that the minister may, after consulting the bargaining council for local government established in terms of applicable labour legislation, issue guidelines or make regulations on a range of areas such as job evaluation systems, remuneration and working conditions.

'FEDUSA understands the concern that seems to underpin this section but is extremely concerned about the negative impact this will have in practice. The reasons for this is that there is a bargaining council in existence. All the main role

players in the sector are represented on this council, for example SALGA, SAMWU and IMATU.

The function of the bargaining council is to regulate the relations between the parties and to regulate all human resource aspects, such as job evaluation, remuneration, conditions of service and all other personnel aspects. We therefore cannot agree to this clause and want to reiterate our concern in respect of this clause.

We believe that the minister should only have the power to intervene, once the bargaining council has failed to deliver and only after the minister has placed the bargaining council on terms to perform and it failed in this respect.'

Municipal services

'In general FEDUSA wants to request that formal status be given to the established Sectoral Forum, in terms of the National Framework Agreement, in this chapter. A specific clause should be inserted to that effect. Further, that a section, stipulating the role and involvement of labour in the whole process, be inserted. This chapter is silent on labour's involvement.

FEDUSA also believes that it should not only be a consultation process with labour but a proper negotiating process, catering for dispute resolution mechanisms as well. Councils should not be able to decide on this restructuring unilaterally but should only be free to restructure once labour agrees, either by consensus or through arbitration.'

Mechanisms for provision of services

'This clause just lists the various options available and fails to focus on the "agreed to" principle contained in the National Framework Agreement, that the public service delivery option is the preferred option.' ★