

Legal and Constitutional Working Group

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Legal and Constitutional
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The South African Local Government Association (SALGA), the body representing the local government sphere nationally, as well as its provincial affiliates have recognised the need to ensure that organised local government plays a meaningful role in shaping legislation transforming local government.

Engaging the legislature

To this end, SALGA's Legal and Constitutional Working Group was formed, comprising of representatives from each of the nine provincial local government associations, and is chaired by Cllr Nazo, representing the SALGA Executive Committee. A technical team of local government practitioners, drawn from SALGA and the provincial associations, provide technical support to the Working Group. The Group, as such, is not a decision-making body but makes recommendations which are carried forward to the SALGA management committee which in turn makes appropriate recommendations to the executive committee of SALGA. The Working Group has played a pivotal role, both at a technical and political level, in ensuring that SALGA has, to a very large extent, been able to shape the Demarcation Act and the Structures Act.

The Working Group has entered into a co-operation agreement with the Local Government Project of the Community Law Centre, UWC. In terms of the agreement, the Project will provide legislative research assistance to SALGA, specific training to affiliates on key local government legislation and technical assistance on legislative drafting.

The Working Group is currently playing a similar role in respect of the draft Municipal Systems Bill and, as a result of regular interactions with the Department of Constitutional Development, a number of concerns raised by SALGA around the provisions of the Bill have been taken on board. The Working Group is also expanding its capacity to enable SALGA to put forward draft legislation on certain key issues and it is the intention of SALGA to

exploit fully the constitutional space accorded to local government within Parliament, and more particularly the National Council of Provinces. An important workshop was arranged during March where certain crucial aspects of the provincial supervision of local government were debated and which enabled SALGA to reach certain well considered positions on provincial support, monitoring and intervention.

Building capacity

An important focus area of SALGA is capacity building and information dissemination. To this end, Technical Team members from the Working Group and the Department of Constitutional Development have joined forces and are presently conducting a series of workshops throughout the country to brief municipalities on recent legislation which will impact on local government. The target audience for these workshops include councillors and officials from municipalities, officials and staff from organised local government and officials from provincial government. The scope of the information disseminated ranges from recent constitutional amendments impacting on local government, to Acts of Parliament transforming local government such as the Structures Act, the Demarcation Act, the Skills Development Act and the Systems Bill. The object of these workshops is to provide summaries of the legislation, to ensure that participants gain an understanding of the legislation and to ensure that participants are armed with the ability to disseminate information regarding these pieces of legislation. The material provided at the workshops include copies of the Acts referred to, as well as user-friendly manuals on the Demarcation- and the Structures Act which have been developed

in order to make such key legislation accessible to all those working within local government. The workshops have commenced on 7 April and sessions have already been held in the Free State, North West, Northern Province, Western Cape, Gauteng, Northern Cape, KwaZulu-Natal and Mpumalanga. The final workshops are scheduled to take place in the Eastern Cape and will take place on 21 and 28 May in East London and Umtata respectively.

Challenges

A major challenge for all provincial affiliates of SALGA, and especially the Legal and Constitutional Working Groups within those affiliates, is to devise effective and sustainable strategies to engage provincial legislatures on matters affecting local government. MECs responsible for local government wield substantial powers of monitoring and regulating local government, and there is clearly a need to duplicate the national representation of local government in the provincial setting also. A practice of consultation between provincial legislatures and SALGA's provincial affiliates needs to be developed and sustained so that full effect can be given to the democratic values enshrined in the Constitution.

The Working Group sees itself as the technical think-tank within SALGA on legislative and constitutional matters and wants to encourage all provincial affiliates to participate more actively in the operations of the Group. There is an opportunity now to shape the future of local government and local governance to the advantage of millions of South

Africans who have been denied access to, and the advantage of, dynamic and effective local decision-making. SALGA, through all of its Working Groups, will work tirelessly towards a better life for all.

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