

REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR ON THE LOCAL GOVERNMENT (AMENDMENT) BILL, N.A.B. NO. 9 OF 2014 FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON TUESDAY, 23RD SEPTEMBER, 2014

Consisting of:

Mr K K Hamudulu, MP (Chairperson); Ms C Ngimbu, MP; Dr S Musokotwane, MP; Mr G G Nkombo, MP; Mr F Mutati, MP; Mr V Lombanya, MP; Mr G B Mwamba, MP; and Mr L C Bwalya, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

Your Committee has the honour to present its Report on the Local Government (Amendment) Bill, N.A.B. No.9 of 2014 for the Fourth Session of the Eleventh National Assembly referred to it by the House on Friday, 28th November, 2014.

Functions of the Committee

2.0 In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other order of the House, your Committee is mandated to consider any Bills that may be referred to it by the House.

Meetings of the Committee

3.0 Your Committee held three (3) meetings to consider the Local Government (Amendment) Bill, N.A.B. No.9 of 2014.

Procedure adopted by the Committee

4.0 In order to acquaint itself with the ramifications of the Bill, your Committee sought both written and oral submissions from stakeholders. The stakeholders who appeared before your Committee are listed at Appendix II.

Objectives of the Local Government (Amendment) Bill, N.A.B. No.9 of 2014

5.0 The object of the Bill is to amend the *Local Government Act*, so as to provide for:

- a) the establishment of the Local Government Equalisation Fund;
- b) the disbursement of funds from the Fund to councils;
- c) the deletion of the provision relating to the Government making grants and loans to councils; and
- d) matters connected with, or incidental to, the foregoing.

Salient Provisions of the Bill

6.0 The salient provisions of the Local Government (Amendment) Bill, N.A.B. No.9 of 2014 are set out hereunder.

Clause 2 – Amendment of Section 2

The clause defines "Fund" as the Local Government Equalisation Fund.

Clause 4- Insertion of New Section 45a

The clause provides that the Fund shall disburse supplementary funds to finance council functions. The Fund shall be vested in the Minister responsible for finance and the Minister responsible for local government. Funds shall be disbursed on a formula based on the population of each council adjusted by poverty levels to ensure an equitable allocation of funds. Funds may only be released on condition that a council observes sound financial management practices. The Minister for finance in consultation with the Minister for local government may make regulations for the sound administration of the Fund. The Minister responsible for local government shall cause annual reports on operations of the Fund to be tabled before the National Assembly. The Minister responsible for finance may, in consultation with the Minister responsible for local government, make specific grants to councils for additional functions that may be devolved to the councils. Councils shall ensure that at least twenty percent of the funds received are used on capital projects and the balances at each financial year shall be retained by the Fund.

Concerns Raised by Stakeholders

7.0 The concerns raised by stakeholders are as set out below.

Some stakeholders were of the view that sub-section (3) of section 45 of the Principal Act should not be deleted as the Equalisation Fund may not be a sufficient source to enable local authorities deliver services and invest in infrastructure as well as other developmental programmes.

Further, under clause 45 A (2), the Bill states that the purpose of the Equalisation Fund is to disburse funds to councils to supplement the financing of councils for the performance of their functions listed in the Second Schedule. Sub-section (3) of the Principal Act contains some of the Principal functions of the council. It, therefore, follows that if sub-section (3) of section 45 of the principal Act is deleted, then the Fund will be playing a substitutionary role as opposed to the supplementary role. This will make the intent and purpose of introducing the Fund not to be achieved.

Other stakeholders noted that sub-section (3) of the Principal Act imposes an obligation on the Government to make specific grants to the councils for water and sanitation, health services, fire services, road services, police services, primary education, agricultural services and salaries of principal officers and officers of a council. The stakeholders proposed that the existing provision for salary support to councils for Division I, II, and III employees be maintained in order to ensure the retention of skilled personnel, especially in rural areas which were severely handicapped financially and whose revenue sources had been removed or inhibited by Government action or inaction.

Under clause 45(4), some stakeholders were of the view that the Minister responsible for local government should be omitted from this provision in order to cut down on red tape.

Under clause 45(5), stakeholders were of the view that, in addition to the twenty percent of the fund to be used on capital expenditure, the Government should continue providing capital grants to councils.

Under clause 45(6), stakeholders submitted that the clause be deleted as sub-section (8) of the Bill has provided for the making of regulations for the administration and management of the Fund; therefore, there is no need for the conditionalities. In addition, both central government and local government exist to provide public services in the community and better the quality of life at local level. Therefore, the conditionalities attached to the disbursement of the funds would negatively affect service delivery at local level. Further, stakeholders submitted that there was nothing wrong in withholding disbursement of funds to a local authority on account of failure to observe sound financial management practices and the delivery of a prescribed minimum level of service, as long as it was done objectively. They added that past experience showed that political considerations had been applied to deny certain local authorities their dues on the pretext that they failed to comply with laid down conditions just because of having opposing views.

Committee's Observations and Recommendations

8.0 Having considered the various submissions and concerns raised by stakeholders, your Committee recommends that the Bill be supported by the House subject to the specific observations and recommendations set out below.

- a) Your Committee observes that the Bill proposes to amend section 45 of the Principal Act by the deletion of sub-section (3) of the Principal Act which imposes an obligation on the Government to make specific grants to the councils for water and sanitation, health services, fire services, road services, police services, primary education, agricultural services and salaries of principal officers and officers of a council. This appears to directly contradict the intent of the Bill, which is to supplement rather than substitute the existing Government financing to councils. Your Committee is cognisant of the fact that the current grants are inadequate to enable the local authorities meet their principal functions.

In this regard and in agreeing with the intent of the Bill, your Committee strongly recommends that sub-section (3) of section 45 of the Principal Act should not be deleted as the Equalisation Fund may not be a sufficient source to enable local authorities deliver services and invest in infrastructure as well as other developmental programmes. In particular, your Committee is seriously concerned that the amendment proposes to remove the provision of grants to local authorities to meet expenditure on personal emoluments. This is likely to create a very serious problem with most councils failing to pay salaries as has been the case in the past.

Your Committee further notes that the grants referred to in the above mentioned Section 45 have never been disbursed to most of the councils. However, if sub-section (3) of the Principal Act must be deleted, your Committee strongly recommends that the minimum percentage of the total amount to be appropriated through the Equalisation Fund be increased from five percent to ten percent.

- b) Your Committee observes that the phrases “sound financial management practices” and the “delivery of a prescribed minimum level of service” are vague and could be subject to abuse.

Your Committee recommends that in order to curb arbitrariness in the use of the power to withhold the disbursement of the Equalisation Fund, clause 45 (6) be recast by adding the phrase “which shall be prescribed in a subsidiary law” at the end of the sentence and may read as follows:

“The Minister responsible for local government may, in a financial year, make the receipt of part or all of the funds to be disbursed from the Fund to a council conditional upon the council observing sound financial management practices in the council and the delivery of a prescribed minimum level of service which shall be prescribed in a subsidiary law”.

Further, your Committee recommends that where there is clear abuse of the funds, the employees found wanting should be dealt with, but the funds should still be disbursed to the council.

Conclusion

9.0 Your Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Mr Speaker, for affording it an opportunity to scrutinise the Bill. Your Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly and the permanent witnesses from the Ministry of Justice.

We have the Honour to be, Sir, your Committee on Economic Affairs, Energy and Labour mandated to consider the Local Government (Amendment) Bill, N.A.B. No.9 of 2014 for the Fourth Session of the Eleventh National Assembly.

Mr K K Hamudulu, MP
(Chairperson)

Ms C Ngimbu, MP
(Member)

Dr S Musokotwane, MP
(Member)

Mr V Lombanya, MP
(Member)

Mr L C Bwalya, MP
(Member)

Mr F Mutati, MP
(Member)

Mr G B Mwamba, MP
(Member)

Mr G G Nkombo, MP
(Member)

December 2014
LUSAKA

K K Hamudulu, MP
CHAIRPERSON

APPENDIX I

List of National Assembly Officers

Mr S C Kawimbe, Principal Clerk of Committees
Ms M K Sampa, Deputy Principal Clerk of Committees
Mr F Nabulyato, Committee Clerk (FC)
Mr M F Kateshi, Committee Clerk (SC)
Mrs M E Z Banda, Assistant Committee Clerk
Ms C Musonda, Assistant Committee Clerk
Mrs C T Kasonde, Assistant Committee Clerk
Mr S Samuwika, Assistant Committee Clerk
Ms F Hamakalu, Typist
Mr C Bulaya, Committee Assistant

APPENDIX II

WITNESSES

Ministry of Justice (Permanent Witness)

Mrs P D Jere, Permanent Secretary
Mr E Jere, Parliamentary Counsel
Mrs Y Chirwa, Principal Parliamentary Counsel

Ministry of Finance

Mrs P C Kabamba, Permanent Secretary (BEA)
Mr M Masiye, Director (Budget)
Mr K Chimfwembe, Chief Analyst (Budget)
Ms M Chikuba, Principal Budget Analyst
Mr I Munjunga, Economist
Mr R Kasuba, Economist

Lusaka City Council

Mr V Mazimba, Finance Director
Ms N M Kalufyanya, Director of Administration

Chibombo District Council

Ms J Phiri, Council Secretary

Ministry of Local Government and Housing

Mr S S Msichili, Permanent Secretary
Mr C Hamulyata, Director

Local Government Association of Zambia

Mr M Mbolela, Executive Secretary
Mr D Longwe, Programme Officer

Local Government Service Commission

Mr S M Mushinge, Chairman
Ms M S C Kapihya, Commissioner
Mr B M Simpokolwe, Commissioner
Mr D S Phiri, Commissioner
Ms C Katunasa, Commission Secretary
Mr P Zimba, Deputy Secretary