

BRIEFING SELECT COMMITTEE ON FINANCE ON SUPPORT TO MUNICIPALITIES IN TERMS OF SECTION 139 OF THE CONSTITUTION

11 September 2013



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Presentation Outline

- Background: Section 139 Constitution linked with MFMA
- Support for development of Municipal Financial Recovery Plans
- Support on financial management via the MFIP programme
- Interventions and related challenges

Background: Section 139 Constitution linked with MFMA(1)

- Section 139 of the Constitution provides for provincial intervention in local government
- MFMA Chapter 13
 - provides for provincial intervention in local government related to financial problems
 - provides for discretionary and mandatory interventions
 - establishes the Municipal Finance Recovery Services
 - regulates the implementation and processes relating to financial management
 - It also sets criteria for such interventions, including the option to request support by a province and municipalities on development of recovery plans

Background: Section 139 Constitution linked with MFMA(2)

- Discretionary provincial intervention (financial problems) in terms of section 137 of MFMA is linked to section 139(1) of the Constitution
 - Criteria – failure to make payment, expenditure exceeds revenue, operating deficit, late submission of AFS, disclaimed audit opinion
- Mandatory provincial intervention (financial crisis) in terms of section 139 of MFMA is linked to section 139(5) of the Constitution
 - Criteria – failure to pay lender or investor, failure to meet contractual obligations as security for loans, failure to make substantial payments, implications for other municipalities on loans, continuous failure to meet obligations impact on SCM
- Further interventions are provided for in Sections 26 and 136(3) of the MFMA
 - Failure of a municipality to approve the budget or any revenue raising measures linked to section 139(4) of the Constitution

Support rendered to Municipalities

- Issued a Guide to support provinces and national to improve coordination and practical steps consistent with the legal framework
- Municipal Finance Recovery Services in NT offers direct support to Provinces and Municipalities upon request for assistance in development of financial recovery plan and technical assistance on financial management, via MFIP
- For example, direct support provided to the following:
 - Madibeng (NW) since August 2010, implementation in progress
 - Mahikeng (NW) since Dec 2010, implementation in progress
 - Msunduzi (KZN) since Nov 2011, implementation advanced stage
 - Naledi (FS) since Dec 2012, implementation in progress
 - Bushbuckridge (MP) since July 2013, in process to Council

Support on FM via MFIP

- 70 municipalities receiving support, upon request, based on the approved Support Plans by Councils after consultation with Provinces
- MFIP also provided additional technical support to municipalities receiving assistance through the Financial Recovery Plans
- Assisted with FM and Institutional changes
- Designed to improve capacity by hand on transfer of skills to municipal officials focusing on technical and institutional capacity building of officials, councillors and interns
- MFIP is also designed not to duplicate other Provincial or National support measures

Interventions and related Challenges (1)

- Interventions are not always supported by structured plans, conditions, relevant support, monitoring and follow through
- Interventions are often ended earlier than appropriate since the objectives may not have been achieved
- Conditions for lifting interventions were not in place, resulting in repeated interventions
- Before interventions are terminated all reasons for the intervention should have been resolved
- Terms of reference with concise deliverables and timelines for Administrators
- Improved coordination efforts by provincial departments and at national can strengthen outcomes
- Improved monitoring and reporting can assist the Executive and Legislatures to gauge progress and take corrective measures

Observation on Interventions and related Challenges (2)

- DCoG has developed the Intergovernmental Monitoring, Support and Interventions Bill
- This Bill, amongst others, seek to regulate in the case of municipalities, process for all type of interventions - in terms of section 139 of the Constitution
- National Treasury has worked with DCoG to improve the draft Bill for alignment with the PFMA and MFMA
- The observations raised earlier are being dealt with in the Bill as it strengthens the current weaknesses
- Legislatures can also improve oversight monitoring in instances of interventions with a view to confirming outcomes prior to provincial executive termination
- The Committee should consider Joint sittings of Finance and Cooperative Governance, when processing the Bill