



SOUTH AFRICAN LOCAL
GOVERNMENT ASSOCIATION

SALGA

Inspiring service delivery

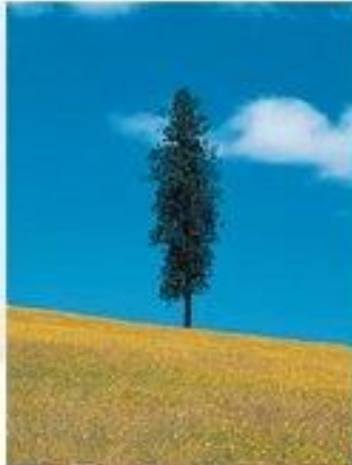
**LOCAL
GOVERNMENT –
POLITICAL AND
INSTITUTIONAL
ARRANGEMENTS**

**ILGM CONFERENCE
22 November 2018**

The Task of Transforming Local Government

THE CONSTITUTION
OF THE REPUBLIC OF
SOUTH AFRICA

JUTA'S
POCKET
STATUTES



14TH EDITION

UPDATED
JANUARY 2015



The Constitution envisioned a strong Local Government and required Local Government capacity to be built by continuous (systemic) support from National and Provincial Government..

Objects of Local Government (Determined by the Constitution of RSA)

1. Provide democratic and accountable government for local communities;
2. Ensure the provision of services to communities in a sustainable manner;
3. Promote social and economic development;
4. Promote a safe and healthy environment; and
5. Encourage involvement of communities & community organisations in matters of LG

SOME QUOTES!

“I do not get results by working through the council. I get results by working directly with officials”

“All the reporting is there but there is no real oversight”

“Of the 39 councillors, there are perhaps 6 or 7 that engage meaningfully”

“councillors may not interfere in the administration, while, at the same time, councillors must be effective representatives of their constituency to resolve problems”

“the poor caliber of councillors jeopardises the oversight function”

“Given the fact that the majority of councillors do not have other employment, the councils start working as if they are a full-time council”

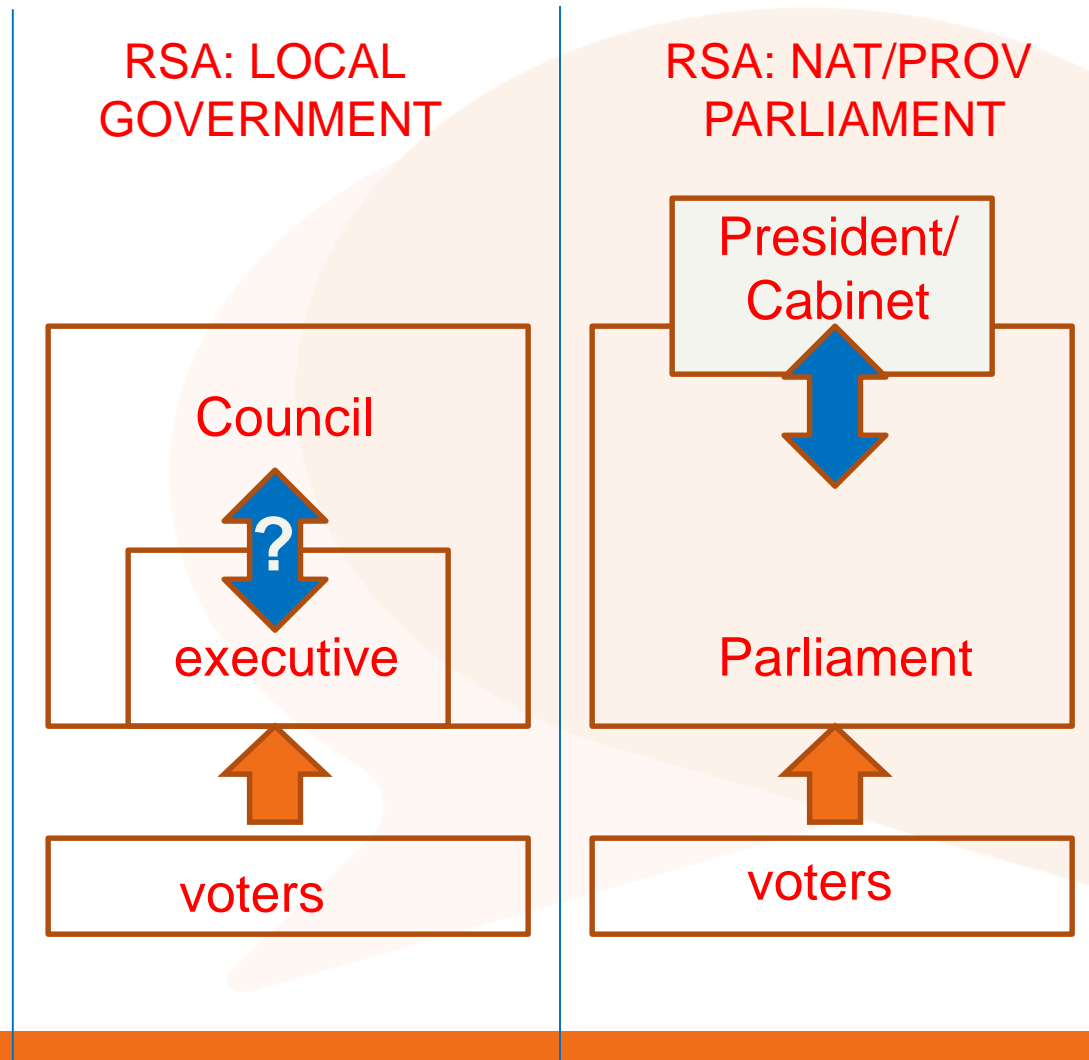
“Councils with opposition perform better than those with overwhelming majorities”

“The approach is to focus on section 80 committees that assist in the executive management of the municipality, rather than investing in section 79 committees that are concerned primarily with oversight”

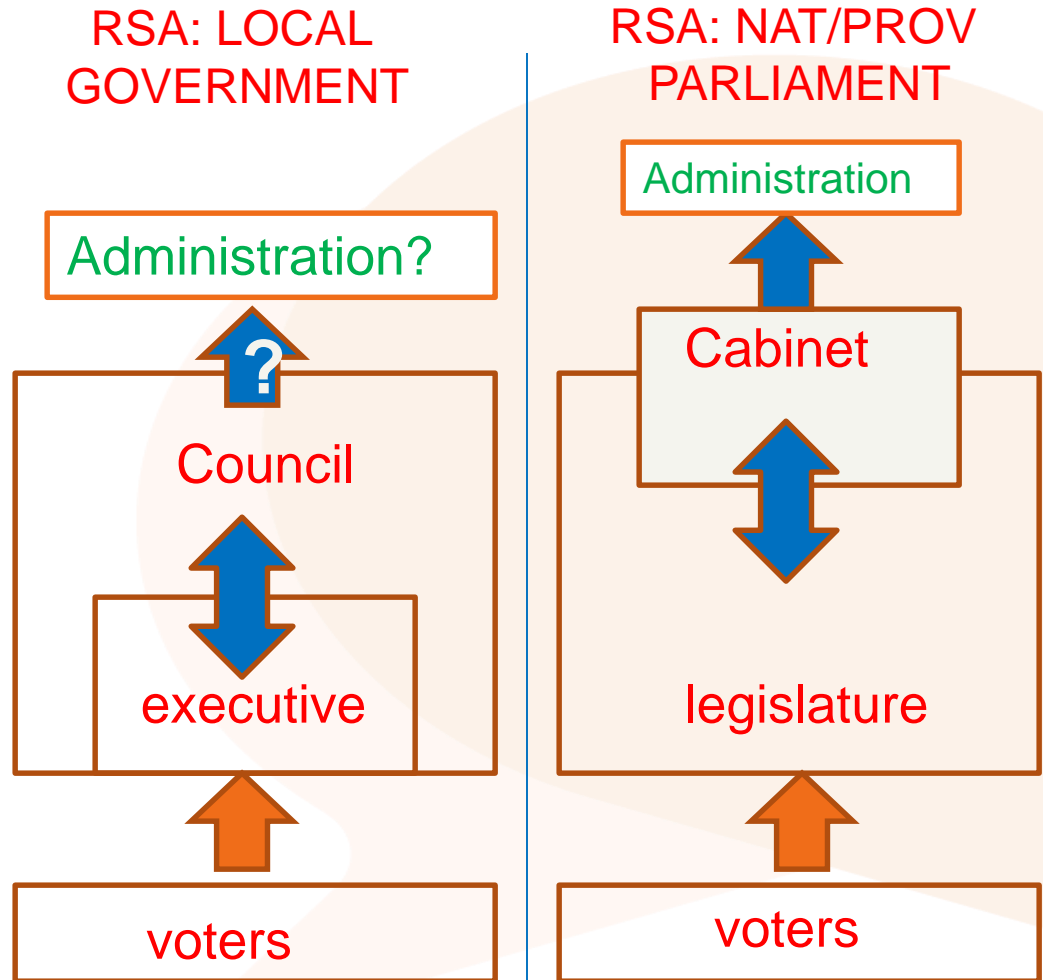
BACKGROUND

- **PROBLEM STATEMENT:** Inadequate governance and by extension governance structures in municipalities lead to service delivery failure / collapse, a key concern is so-called “political/administrative interface”;
- **QUESTION?:** Should **INSTITUTIONAL REFORM** be part of a broader strategy to address inadequate governance?
 - If yes, what kind of reform will help?

COMPARING GOVERNANCE SYSTEMS



CHALLENGE: WHO DIRECTS THE ADMINISTRATION?



WHY NO SEPARATION OF POWERS IN 1996 CONSTITUTION?

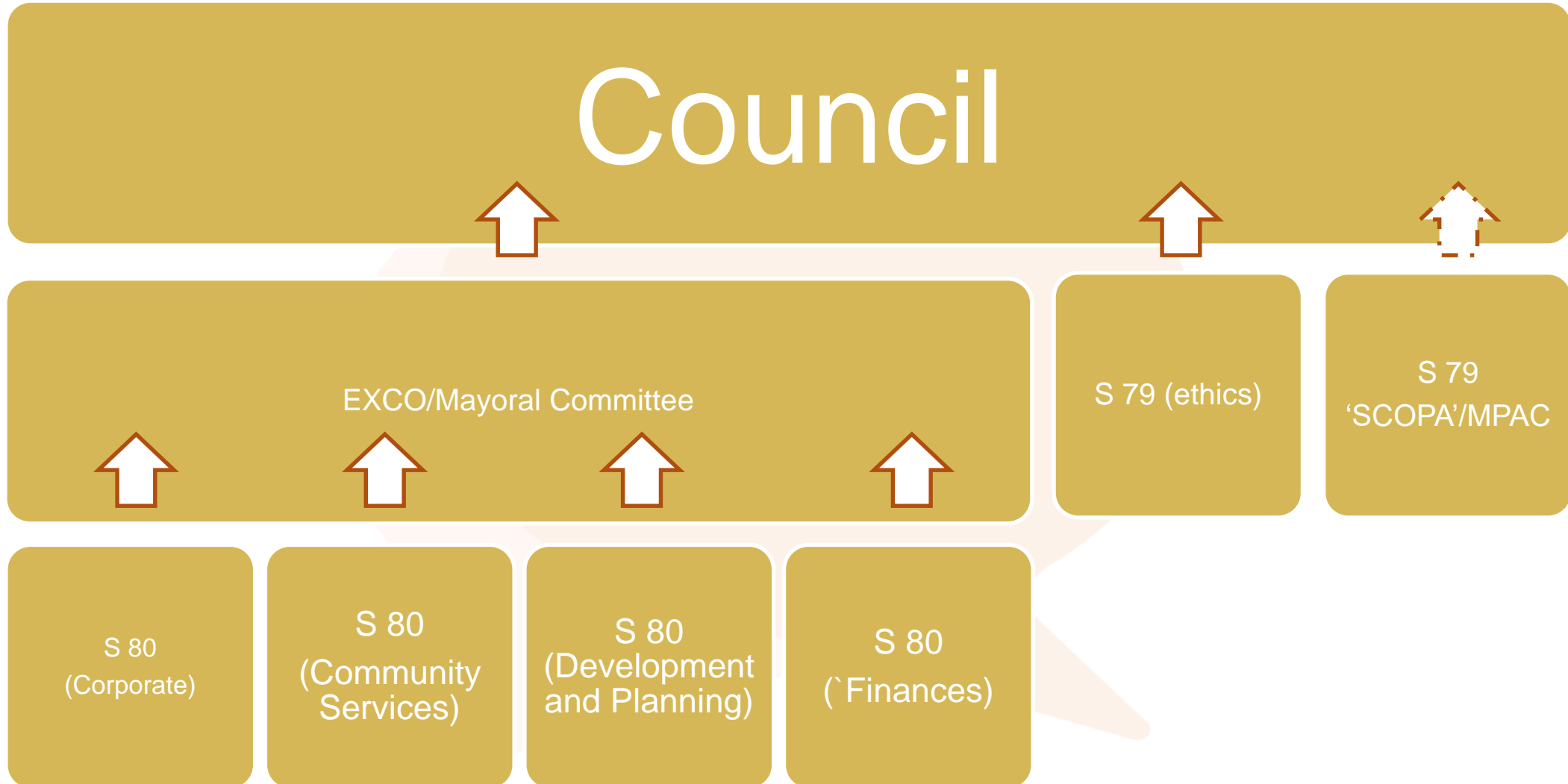
- **Inclusivity**, majority rule is not the only rule
 - But subsequent Executive Mayor system returned to strict majority rule
- **LG functions** “do not require tight executive oversight”
 - But changing role for LGs
- **Small municipalities**
 - But after demarcation:
257 municipalities for 55 million people
(compare Spain: 8000, Germany 12 500, Canada 5000)

PARLIAMENTARY MODEL FOR LARGE MUNICIPALITIES?

How should it work?

- Executive still elected by council but separate mandate
- Executive Mayor / EXCO has all executive powers and directs administration
- Council enacts by-laws, adopts policies and exercises oversight over executive
- Institutionalisation of oversight through Section 79 Committees

'TYPICAL' STRUCTURE



PROPOSED AMENDMENT

- Deletion of Sections 7 (c), 9 (e), 9 (f) and 10 (c) of the Act, meaning the removal of all reference to plenary type municipalities.
- Section 20 of the Act is amended to provide for a minimum of 15 councillors (instead of the current 3) in a municipality and to allow the MEC to deviate by 20% (from 10%) when the size of a municipal area exceeds 20 000 square kilometres.

IMPACT

1. In light of the broader implementation implications, it may be necessary for these amendments to only come into effect with the next local government elections;
2. The broader financial implications for municipalities due to the increase in the salary bill for the increased number of councillors;
3. There is a clear link between these proposed amendments and the policy framework for recognition of full-time and part-time councillors (Section 18 (4) of the Act). The policy framework should likewise be subjected to review.

“Cooling off period”

PROPOSED AMENDMENT

- Section 21 of the Act is amended in order to insert a new subsection (1A). Subsection (1A) prohibits a councillor who has been removed from office by an MEC in terms of item 16(6)(b) of the Code of Conduct for Councillors from standing as a candidate in an election for any municipal council for a period of two years from the date on which such person was removed from office.

IMPACT

- To ensure that there is a “cooling-off” period of 2 years for a person to be eligible as a councillor again after such a person is removed from office as a councillor.

PROPOSED AMENDMENT

- The proposed amendment seeks to strengthen the functions of speakers, and to, amongst other matters, ensure that the legislative arm of the municipality functions effectively.

IMPACT

The following new functions will be allocated to Speakers:-

- i. must ensure that the legislative authority of the municipality functions effectively;
- ii. is responsible for the effective oversight over the executive authority of the municipality;
- iii. must ensure the effectiveness of the committees of the municipal council established in terms of section 79; and
- iv. is responsible for the ethics and accountability of the municipal council.”

Whips of Municipal Councils

PROPOSED AMENDMENT

- New provisions are inserted to provide for a new Part 3: Whips of Municipal Councils, as follows:
 - Section 41A: Election of whip;
 - Section 41B: Functions of whip;
 - Section 41C: Term of office;
 - Section 41D: Vacation of office;
 - Section 41E: Removal from office; and
 - Section 41F: Acting whips.

IMPACT

- Currently, there is no provision that provides for the appointment or election of a whip of the municipal council; this amendment therefore “regularises” this issue.

Functions and Powers of Exco and Executive Mayors

PROPOSED AMENDMENT

- Section 44 and 56 are amended in order to clarify that only reports from section 80 committees may be submitted to EXCO and Mayoral Committee.

IMPACT

Section 79 Committees will report and submit reports directly to Municipal Councils.

Section 24 – Establishment of the MPACs

PROPOSED AMENDMENT

- The amendment seeks to insert a new section 79A which provides for the establishment of the Municipal Public Accounts Committee (“MPAC”).
- The insertion prohibits certain councillors from becoming members of the MPAC, and it outlines the roles and responsibilities of the MPAC.
- Importantly, reports of the MPAC are submitted to the speaker who must table such reports in the next meeting of the municipal council.

IMPACT

The establishment of MPACs is intended to strengthen oversight and promote good governance in municipalities.

THANK YOU