Gauteng workshops on legislative drafting

Seidman, Robert

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Boston University
SOUTH AFRICAN DEMOCRACY SUPPORT PROJECT

20 Melle Street, Van Der Stel Building, 2nd Floor
Braamfontein 2001 South Africa

FACSIMILE TRANSMISSION

TO: Ann and Robert Seidman
FAX: ____________________________
FROM: Jennifer Pelzman, NDI
DATE: 3 July 1997
SUBJECT: _______________________
NUMBER OF PAGES (INCLUDING COVER PAGE): 8
MESSAGE: If the Seidmans are not in Boston, please forward!
Thank you.

If there is a problem with this transmission, please contact the
SOUTH AFRICAN DEMOCRACY SUPPORT PROJECT at (011) 403-8956.
Greetings, I hope this fax finds you well. I am excited to meet you very shortly...finally, after many faxes and phone calls.

I understand from Firoz that he had a useful phone call with you about his vision for the program, but I am sending the attached fax so you can see the information which is going out to the various Gauteng ministries. I wanted to raise a few more issues and questions, I don’t know if it will be possible for you to respond before your arrival but at least you will be briefed on what we will have to resolve upon your arrival.

1. I don’t have any information regarding your flight arrival date or time (though Firoz said he thought you arrived Monday, 7 July) or your contact information where you will be staying in Johannesburg. I would certainly be available to come and meet your flight – even if just to introduce myself, though of course I can also transport you to wherever you are staying – but if this a private family time, I certainly understand.

2. As discussed, I will provide you with meals & incidental per diem upon your arrival in South Africa. However, I believe it will be easier for NDI’s office in DC to provide you with reimbursement for the flight ticket, as they issue checks in dollars, which I cannot do. However, if this is a problem, we can figure it out upon your arrival. Firoz’s office will be paying your honorarium, and NDI will be covering the costs of the workshops.

3. In our last discussion, you mentioned you will need butcher block pads for the workshops. We will also organize pens and pads for participants, but I wanted to be sure you don’t have other needs – e.g. video or overhead projector, xerographing of handouts, etc.

4. Firoz has decided that, due to some changes in the process, the ethics bill will not be an appropriate exercise for the two week drafting program. However, he has identified two bills. One is related to the passage of subordinate legislation in the provinces (see Section 140, paragraphs 3 & 4 in the constitution – I have attached this page but it is part of Chapter 6: Provinces which I sent with other briefing materials) and the other will come from the Department of Development Planning & Local Government. I have reiterated to Firoz your request for background information as well as participants available from the affected departments.
Obviously, the issue of subordinate legislation is a provincial-wide matter, and we are expecting participants from the Department of Development Planning & Local Government. However, he doesn’t have any background documents or policy papers on subordinate legislation and we still have not received the Department bill. We can discuss further upon your arrival.

5. I have scheduled an orientation session for you involving Firoz, Michael Sachs (programme director for the Gauteng legislature who has worked closely with Firoz on this program) and myself at 10 am on Tuesday, 8 July. The head of the Gauteng legal services directorate will be hosting a luncheon for you later the same day. This luncheon will be attended by provincial officials including the Director General, the Speaker of the Legislature, the Chief Whip, Firoz and Michael as well as me. I am also trying to find some time with Matthew Chaskelson, although unfortunately he will be out of the country for the bulk of your program.

6. Additionally, I am working on consultations with the deans of Wits and UNISA law schools. I am assuming Firoz has already spoken to you about his interest in holding a workshop for the Gauteng ANC caucus on 1-2 August, to examine committee management of legislation. I am hoping that Matthew might be worked into this program as well.

7. Would it be possible for you to provide a day by day agenda for the workshop programs? Many of the departments have been asking for a more detailed agenda.

8. I also hope I can meet with you as soon as possible, in the interest of developing a short questionnaire which I can send to our participants for completion before the workshop – particularly the drafting techniques section – begins. Their responses will give you some sense of the various levels of expertise you will be facing. This practice is also important institutionally for NDI, so we can place post-workshop evaluations in the proper context.

9. It looks like we will have representation from all ten departments, as well as the Provincial Services Commission and the Legal Services Directorate (I am still waiting for a response from the Premier’s office). I think the number of people from each department will fall off after the three day program, but Firoz is comfortable with that. The numbers should range from a high of 40 to the mid-twenties. I expect to have a final list by close of business tomorrow.

If it is possible for you to respond to any of the above, you can fax or email as is easiest for you. Let me also give you my cellular phone number—outside of South Africa you dial 27 82 578 4556, inside SA 082 578 4556. My home telephone is 27 11 648 6383. I look forward to seeing you soon.
information entrusted to them, to properly benefit any other person.

transfer to a member of the Executive Council, describing the Council's obligations and stating any necessary -

(a) the intervention must end unless it is approved by the Cabinet member responsible for local government affairs within 14 days of the intervention;

(b) notice of the intervention must be tabled in the provincial legislature and in the National Council of Provinces within 14 days of their respective first sittings after the intervention began;

(c) the intervention must end unless it is approved by the Council within 30 days of its first sitting after the intervention began;

(d) the Council must review the intervention regularly and make any appropriate recommendations to the provincial executive.

Executive decisions

140. (1) A decision by the Premier of a province must be in writing if it -

(a) is taken in terms of legislation; or

(b) has legal consequences.

(2) A written decision by the Premier must be countersigned by another Executive Council member if that decision concerns a function assigned to that other member.

(3) Proclamations, regulations and other instruments of subordinate legislation of a province must be accessible to the public.

(4) Provincial legislation may specify the manner in which, and the extent to which, instruments mentioned in subsection (3) must be -

(a) tabled in the provincial legislature; and

(b) approved by the provincial legislature.

Motions of no confidence

141. (1) If a provincial legislature, by a vote supported by a majority of its members, passes a motion of no confidence in the province's Executive Council excluding the Premier, the Premier must reconstitute the Council.
From: Jennifer Pelzman, Program Officer

Date: 3 July, 1997

Message...Message...Message...Message

Dear Ms. Mackay-Langa:

Michael Sachs from the Gauteng Legislature requested that I contact you regarding a workshop that the office of the Leader of the House, in conjunction with the National Democratic Institute (NDI), will be holding this month on legislative drafting. The Executive Council has approved the participation of senior officials involved in policy development and legal drafting.

The workshops will be led by Anne and Robert Seidman. The Seidmans are co-directors of the Legislative Training Program at the School of Law at Boston University, Massachusetts, in the United States. In addition to their work at university, the Seidmans have run legislative drafting and development clinics in emerging democracies throughout Africa and Asia.

We very much hope you will be able to attend, or appoint the right people to attend from your office. Please see the attached schedule.

Please contact me at your earliest convenience if you or your designate are able to attend.
1st Workshop: "Theory and Methodology of Legislative Drafting"
Dates: 9-11 July, 1997
Venue: USIS
2nd Floor, 1066 Building, corner Pritchard & Loveday
Time: Each day will begin promptly at 09h00 and finish before 16h30, with a lunch break.

This workshop will explore theoretical and methodological aspects of legislative drafting, examining the relationship between the process of policy development and legislative drafting. The drafting of cabinet memoranda proposing legislative solutions and drafting instructions will be used to provide a practical focus. It is crucial that departmental officials involved in policy development and legal drafting attend this workshop over three days.

2nd Workshop: "Drafting Techniques"
Venue: USIS
2nd Floor, 1066 Building, corner Pritchard & Loveday
Time: Each day will begin promptly at 09h00 and finish before 16h30, with a lunch break.

Over this two week period we will concentrate on drafting techniques and the actual drafting of bills through practical exercises. Only drafting staff (both departmental and those within the legal services directorate) need attend.
Chief Director Hanekom
Agriculture, Conservation & Environment
Gauteng Province
Johannesburg

By Facsimile  011 333-0667

3 July, 1997

Dear Chief Director Hanekom:

I am writing to you at the request of Leader Firoz Cachalia, in the interest of recruiting a participant from your department to participate in the legislative drafting training program which the Leader discussed during last week's cabinet meeting. I have also forwarded this request to the Honourable Nomvula Mokonyane.

At the request of the Leader, the National Democratic Institute (NDI), is assisting in the organization and facilitation of the training program. The goals of the program are to:

- provide participants with a comprehensive grounding in essential legislative drafting techniques;
- instruct participants in preparing research reports to assess the impact of a proposed piece of legislation;
- explore the theory of legislation as a transformative tool in new democracies; and,
- create a framework for future drafting procedures.

The workshop, envisioned to take place over three weeks, will be led by Anne and Robert Seidman. The Seidmans are co-directors of the Legislative Training Program at the School of Law at Boston University, Massachusetts, in the United States. In addition to their work at university, the Seidmans have run legislative drafting and development clinics in emerging democracies throughout Africa and Asia.

The Leader is hoping that you will be able to appoint at least one representative who has a specific responsibility regarding legislative development to attend this program. He hopes you will take advantage of this opportunity to develop for your department in-house, professional and responsible legislative development and drafting expertise. We are confident that this expertise, even if never put to use in the actual drafting of legislation, will contribute towards improving the efficiency and effectiveness of the Gauteng government's law-making process.
As soon as the formal program is completed it will be forwarded to your office. If you would like to meet personally with the Seidmans to discuss the program I would be pleased to arrange an appointment upon their arrival in the first week of July.

I will contact your office this week to learn of your reaction to this letter. NDI joins the Leader in hoping that you will be able to send a participant.

Thank you for your consideration.

Sincerely,

Jennifer Pelzman
Program Officer