

SPECIAL ISSUE

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SENATE BILLS, 2023

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**THE COUNTY ASSEMBLY SERVICES
(AMENDMENT) BILL, 2023**

A Bill for

AN ACT of Parliament to amend the County Assembly Services Act; and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the County Assembly Services (Amendment) Act, 2023.

Short title.

2. Section 3 of the County Assembly Services Act, in this Act referred to as “the principal Act” is amended in paragraph (e) by inserting the words “and administrative” immediately after the words “provide for the procedural”.

Amendment of section 3 of No. 24 of 2017.

3. Section 10 of the principal Act is amended—

Amendment of section 10 of No. 24 of 2017.

(a) in subsection (2) by inserting the words “by submitting a petition to the office of the respective Clerk, in the prescribed form” immediately after the words “specified under subsection (1)”;

(b) by deleting subsection 3 and substituting therefor the following new subsection—

(3) Upon receipt of a petition under subsection (2), the Speaker shall report the petition to the Assembly within seven days.

(c) by inserting the following new subsections immediately after subsection (3)—

(4) Upon reporting of the petition under subsection (3), the Speaker shall refer the petition to a select committee of the county assembly to investigate the matter.

(5) The committee referred to in subsection (4) shall consist of eleven members and shall be established in accordance with the Standing Orders of the respective county assembly.

(6) The select committee shall investigate the matter within ten days of the receipt of the petition and report to the assembly whether it finds the allegations against the member of the Board to be substantiated.

(7) The member of the Board shall have the right to appear and be represented by an Advocate before the select committee during its investigations.

(8) If the Committee find that the allegations against the member are unsubstantiated, no further proceedings shall be taken further proceedings shall not be in respect of that allegation.

(9) The assembly shall consider the report of the select committee and resolve whether to approve the motion.

(10) If the assembly approves a motion filed under this section, the member of the Board against whom the motion was filed shall be deemed to have been removed from office from the date the motion was approved.

(11) The Clerk shall inform, in writing, a member who is removed under this section, of the resolution of the county assembly.

4. Section 11 of the principal Act is amended in subsection (1)—

Amendment of section 11 of No. 24 of 2017.

- (a) by deleting paragraph (a); and
- (b) inserting the following new paragraph immediately after paragraph (c)—
 - (ca) The Board shall approve the membership of the assembly to any national, regional or international organization.

5. Section 12 of the principal Act is amended by inserting the following new paragraph after paragraph (c) —

Amendment of section 12 of No. 24 of 2017.

- (ca) by resolution, subscribe or join the membership of national, regional or international organizations that promote the well-being of members of the county assembly and undertake programs that promote the ideals of parliamentary democracy.

6. Section 17 of the principal Act is amended in subsection (2) by deleting the words “chairperson of the

Amendment of section 17 of No. 24 of 2017.

Board and the” appearing immediately after the words “responsible to the”.

7. Section 19 of the principal Act is amended—

Amendment of section 17 of No. 24 of 2017.

(a) in paragraph (a) by deleting the word “and” appearing immediately after the words “the county assembly;” and;

(b) inserting the following new paragraph after paragraph (a)—

(aa) exercise supervisory control over the staff of the County Assembly; and

8. The principal Act is amended by inserting the following new section immediately after section 22—

Insertion of new section in No. 24 of 2017.

Procedure for suspension of Clerk.

22A. (1) Where the Board considers it necessary to suspend the Clerk under section 22, the Board shall—

(a) inform the Clerk in writing of the reasons for the suspension;

(b) invite the Clerk to respond within seven days, in writing, to the reasons set out under paragraph (a);

(c) invite the Clerk to appear before the Board on a specified date to exculpate himself or herself.

(2) The Board shall not suspend a Clerk under section 22 for a period exceeding six months.

9. Section 23 of the principal Act is amended—

Amendment of section 23 of No. 24 of 2017.

(a) in subsection (1)—

(i) by deleting the words “section 20” appearing immediately after the words “the Clerk under” in the introductory phrase and substituting therefor the words “section 22”;

(ii) by inserting the words “within fourteen days” immediately after the words “allegations in writing” appearing in paragraph (c);

(iii) by inserting the words “within fourteen days of the lapse of the period of response under paragraph (c)” immediately after the words “invite the Clerk” appearing in paragraph (d).

(b) in subsection (8) by inserting the words “two-thirds of the members of” immediately after the word “if”.

10. Section 25 of the principal Act is amended by inserting the following new subsections immediately after subsection (1)—

Amendment of
section 25 of No.
24 of 2017.

(1A) The County Assembly Service Board shall put in place measures to protect its officers on secondment from loss or disadvantage with respect to pension benefits, gratuity or other terminal benefits.

(1B) Unless there is an agreement to the contrary, it shall be the responsibility of the Board to pay the salaries, remuneration, allowances and other benefits due to the staff on secondment.

(1C) An employee on secondment shall not lose any of their benefits.

(1D) If for any reason it is not necessary for an officer on secondment to remain seconded and the secondment period has not lapsed, the officer shall be entitled to revert back to the position the public officer held before secondment.

(1E) The Board shall not second an officer of the service without the officer’s consent.

(1F) The Board shall not allow the secondment of an officer unless it has considered representation by the concerned authorized officer or head of department of the officer proposed to be seconded.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The purpose of this Bill is to amend the County Assembly Services Act, No. 24 of 2017 to clarify on the procedure for removal of a member of the County Assembly Service Board. Additionally, the Bill proposes to provide for a procedure for the suspension of a Clerk of the County Assembly taking into account principles of fair administrative action. In this respect, the Bill proposes to set out the pendency of a suspension.

Further, the Bill seeks to ensure that the Clerk of a County Assembly exercises effective control over the staff of the Assembly in order to ensure the efficient running of the respective legislature.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative power nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill proposes amendments to the County Assembly Services Act which provides for the efficient management of county assemblies. Article 176 (1) provides that there shall be a county government for each county comprising of a county assembly and a county executive. The Bill is therefore one that concerns county governments in terms of Article 110 (1) (a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 15th June, 2023.

MOHAMED CHUTE,
Senator.