



*Approved
SNA
19/8/25*

**REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY**

THIRTEENTH PARLIAMENT – FOURTH SESSION- 2025

DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

REPORT ON:

**THE CONSIDERATION OF THE KENYA ROADS (AMENDMENT) (NO. 3) BILL
(NATIONAL ASSEMBLY BILL NO. 34 OF 2025)**

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 AUG 2025	DAY: TUESDAY
TABLED BY: CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE	
CLERK-AT THE-TABLE: WILLS OBIEDO	

**Directorate of Departmental
Clerk's Chambers
Parliament Buildings
NAIROBI**

AUGUST, 2025

**NATIONAL ASSEMBLY
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ABBREVIATIONS

CECM	– County Executive Committee Member
COG	– Council of Governors
CS	– Cabinet Secretary
IEK	– Institute of Engineers of Kenya
KLRC	– Kenya Law Reform Commission
KRB	– Kenya Roads Board
PFM Act	– Public Finance Management Act
RMLF	– Road Maintenance Levy Fund

LIST OF ANNEXURES

Annexure 1: Signed list of Members who attended the sitting that considered and adopted the report

Annexure 2: Minutes of the Committee on sittings to consider the Bill and adoption of the report

Annexure 3: Copy of the Kenya Roads (Amendment) Bill (No. 3) National Assembly Bill No. 34 of 2025)

Annexure 4: Correspondence to stakeholders requesting for submissions on the Bill;

Annexure 5: Newspaper advertisement inviting the public to submit memoranda on the Bill.

Annexure 6: Written submissions from Stakeholders.

CHAIRPERSON'S FOREWORD

The Kenya Roads (Amendment) (No. 3) Bill (National Assembly Bill No. 34 of 2025) was read a First Time on 5th August 2025 and subsequently committed to the Departmental Committee on Transport and Infrastructure for consideration and reporting to the House pursuant to the National Assembly Standing Order 127(1).

While conducting public participation, the Committee placed advertisements in the print media on 6th August, 2025, seeking comments from the public on the Bill pursuant to the provisions of Article 118 of the Constitution and Standing Order 127(3). The Committee also invited relevant stakeholders, namely the Ministry of Roads and Transport; the Council of Governors and the Office of the Attorney General and the Kenya Law Reforms Commission.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. I wish to express my appreciation to the Committee Members and the Committee Secretariat for their resilience and devotion to duty, which made the consideration of the Bill successful. Finally, I wish to express gratitude to the Members of the public who submitted their views and comments on the Bill in the course of public participation. Their views and comments indeed were vital in the consideration of the Bill.

On behalf of the Committee and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honor to present to this House the report of the Committee on its consideration of the Kenya Roads (Amendment) (No. 3) Bill (National Assembly Bill No. 34 of 2025).

HON. GK GEORGE KARIUKI, CBS, MP
CHAIRPERSON

CHAPTER ONE

1.0 PREFACE

1.1 Introduction and Committee Mandate

1. The Departmental Committee on Transport and Infrastructure is established under the National Assembly Standing Orders No. 216 (I). The functions and mandate of the Committee as per Standing Orders, No. 216(5) include: -
 - a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - c) To study and review all the legislation referred to it;**
 - d) To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - e) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
 - g) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - h) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - i) To examine any questions raised by Members on a matter within its mandate.
 - j) To examine treaties, agreements and conventions;
2. The subject matter of the Departmental Committee on Transport and Infrastructure are stated in the Second Schedule of the National Assembly Standing Orders as follows: Transport, including non- motorized transport and maintenance of Roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.

1.2 Committee Subjects and Oversight

3. The Committee is mandated to consider the following subjects as per the Second Schedule of the Standing Orders:
 - (i) Transport, including non-motorized transport;
 - (ii) Construction and maintenance of roads;
 - (iii) Rails, air and marine transport; Seaports and national integrated infrastructure
 - (iv) policies and
 - (v) programmes; and
 - (vi) Transport safety.

4. The Committee oversees the Ministry of Roads and Transport which has three (3) State Departments namely:
 - i) The State Department for Roads;
 - ii) The State Department for Transport; and
 - iii) The State Department for Aviation and Aerospace Development.

5. Further, Committee oversees the State Department for Shipping and Maritime Affairs which is under the Ministry of Mining, Blue Economy, and Maritime Affairs.

I.3 Committee Membership

6. The Committee comprises the following Members:

The Hon. G.K. George Kariuki, CBS, M.P - **Chairperson**
Ndia Constituency
United Democratic Alliance Party

The Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**
Kimilili Constituency
United Democratic Alliance Party

The Hon. Arama Samuel. M.P
Nakuru Town West Constituency
Jubilee Party

The Hon. Abdul Rahim Dawood, M.P.
North Imenti Constituency
Independent

The Hon. Naicca, Johnson Many, CBS, M.P
Mumias West Constituency
Orange Democratic Movement Party

The Hon. Elsie Muhanda, M.P.
Kakamega County
Orange Democratic Movement Party

The Hon. Francis, Kajwang' Tom Joseph,
CBS, MP
Ruaraka Constituency
Orange Democratic Movement Party

The Hon. Chege John Kiragu, M.P.
Limuru Constituency
United Democratic Alliance Party

The Hon. Kiaraho, David Njuguna, M.P. OI
Kalao Constituency
Jubilee Party

The Hon. Kiunjuri Festus Mwangi, M.P.
Laikipia East Constituency
The Service Party

The Hon. Bady, Bady Twalib, M.P.
Jomvu Constituency
Orange Democratic Movement Party

The Hon. Abdirahman, Husseinweytan
Mohamed, M.P.
Mandera East Constituency
Orange Democratic Movement Party

The Hon. Komingoi Kibet Kirui, M.P.
Bureti Constituency
United Democratic Alliance Party

The Hon. Saney Ibrahim Abdi, M.P
Wajir North Constituency
United Democratic Alliance Party

The Hon. Jhanda Zaheer, M.P
Nyaribari Chache Constituency
United Democratic Alliance

I.4 Secretariat

7. The following Members of Staff service the Committee:

Head of Secretariat
Ms. Tracy Chebet Koskei
Principal Clerk Assistant II

Mr. Mohamednur M. Abdullahi
Clerk Assistant

Ms. Clare Chopper Doye
Clerk Assistant

Mr. Abdinasir Y. Moge
Fiscal Analyst

Mr. Erick Kariuki
Research Officer

Ms. Faith Makena
Serjeant-at-Arms II

Ms. Patricia Gichane
Legal Counsel

Ms. Rinha Saineye
Media Relations Officer

Mr. Danton Kimutai
Audio Officer

CHAPTER TWO

2.0 BACKGROUND

2.1 Introduction

8. The Kenya Roads (Amendment) (No. 3) Bill (National Assembly Bill No. 34 of 2025) is sponsored by the Hon. Peter Kaluma, the Fifth Chairperson of Committees and the Member for Homabay Town. The principal object of the Bill is to amend the **Kenya Roads Act, Cap. 408** to classify public roads into national trunk roads and county roads, and to vest the management of county roads under the county governments.
9. This classification is intended to provide clarity in the maintenance, rehabilitation and development of the road network across the country. The Bill seeks to give effect to paragraph 5(a) of Part 2 of the Fourth Schedule to the Constitution.
10. The Bill also amends section 6 of the **Kenya Roads Board Act Cap 408A** that provides for the objects and purpose of the Board. The consequential amendments to the Kenya Roads Board Act, Cap 408A in section 6(2) paragraph (d) seeks to re-portion the Fund between the national government agencies and county governments.
11. The Bill further amends section 6 of the Kenya Roads Board Act, Cap 408A by introducing new subsections (3), (4) and (5) that provide for the utilisation of the Fund by county governments and the role of the Board in county road programmes and its power to ensure compliance with the Act.
12. The Bill was introduced following court judgement in **High Court Petition No. E423 of 2024: Council of County Governors & 4 others versus the National Assembly of Kenya & 8 others**. On June 5th, 2025, Justice L.N. Mugambi delivered a judgment in Nairobi, addressing a petition concerning the exclusion of county governments from the Road Maintenance Levy Fund (RMLF). The Court declared the classification of public roads under section 47 of the Kenya Roads Act and Section 6 of the Kenya Roads Board Act unconstitutional, citing violations of Article 186 and Section 18 of Part I of the Fourth Schedule of the Constitution.
13. The court held that the decision by the National Assembly to remove county governments as beneficiaries of the RMLF and conditional grants was a threat to devolution and unconstitutional, including any appropriation of RMLF funds not benefiting county governments. The court emphasized the importance of consultation and collaboration between national and county levels of government.

2.2 Overview of the Bill

14. The Bill contains six (6) Clauses.

15. **Clause 2** proposes to amend Section 2 of the Kenya Roads Act by deleting the definition of “national roads” and substituting therefore a new definition of “national trunk roads” as classified under Part A of the First Schedule, and inserting a new definition of “county roads” as classified under Part B of the First Schedule. The amendment provides for the definition of national roads and county roads.

16. **Clause 3** seeks to amend the principal Act by deleting Section 47 and substituting it with a new provision outlining that a public road shall be classified as set out in the First Schedule, with the Cabinet Secretary responsible for classification, ensuring accurate reflection of function and reasonable access across the country. The Cabinet Secretary shall review classifications at least once every five years. The amendment to the First Schedule provides for national roads and county roads, and vests the power to classify public roads in the Cabinet Secretary.

17. **Clause 4** introduces new Sections 47A and 47B. Section 47A outlines the responsibilities of county governments with regard to county roads, including maintenance, rehabilitation, development, policy implementation, traffic management, and adherence to axle load controls and national standards. Section 47B provides for road signage indicating classification and responsible authority, prescribes dimensions and content of signage, prohibits personal names, images, or likenesses, and prescribes penalties for contravention.

18. **Clause 5** seeks to amend the First Schedule by deleting it and substituting a new classification of public roads. Part A introduces new categories for national trunk roads, including Primary National Trunk Roads (*Class As, Class A, Class B*), Urban Roads (*Class Au, Class Bu, Class Cu*), Rural Roads (*Class C, Special Purpose Roads, Special Roads*). Part B provides for county road classifications, including *Class D, Class E, Class Du, and Class Eu*. The Bill proposes classification based on the functionality of roads.

19. **Clause 6** proposes consequential amendments to Section 6(2) of the Kenya Roads Board Act, redistributing the Road Maintenance Levy Fund among national government agencies and county governments. Amendments include adjusting percentage allocations to various road authorities, creating new sub-paragraphs allocating one and a half percent to the department responsible for roads, and five percent to county governments under Article 202(2) of the Constitution. New subsections require county governments to designate a responsible department, maintain a special purpose account, comply with standards set by the Cabinet Secretary, and submit annual road programmes. The Board is mandated to specify programme formats, monitor and evaluate funded works, and take measures to ensure compliance.

2.3 Situational Analysis

i) Road Classification

20. The Fourth Schedule of the Constitution on distribution of functions between the National Government and County Governments on provisions for transport provides:
 - Section 18 of the Fourth Schedule of the Constitution assigns the national government the responsibility of “constructing and operating national trunk roads” within the area of Transport.
 - Section 5 of the Fourth Schedule of the Constitution assigns county governments the responsibility for "County Roads" under the category of County Transport.
21. The Kenya Roads Act, Cap 408, Section 47, along with its First Schedule, classifies public roads in Kenya into three categories: National Roads, Rural Roads, and Urban Roads. All public roads managed by an Authority must be classified according to the First Schedule, which provides this tripartite categorization. Each public road also has a unique number, name, or description for identification within its class nationwide
22. High court ruling delivered on June 5, 2025 in the Case of *Chamao & 4 others v National Assembly of Kenya & 7 others* pronounced that classification of public roads as national roads, rural and urban roads under section 47 of the Kenya Roads Act, No. 2 of 2007 as read with the First Schedule of the Kenya Roads Act, No. 2 of 2007 not only undermines the objectives of devolution but is also unconstitutional for violating Article 186 and section 18 of Part I of the Fourth Schedule of the Constitution. Further, the Court ruling declared section 6 of the Kenya Roads Board Act that establishes the Kenya Rural Roads Authority as unconstitutional. However, the matter has been appealed.
23. This amendment seeks to categorise roads broadly into two categories, namely, National Trunk Roads (part A of the First Schedule) and County Roads (Part B of the First Schedule).
 - a) The national trunk roads shall be classified as provided for under part A of the First Schedule as follows:
 - A1. National Roads- Primary National Trunk Roads (National Roads)
Class- (As, A, B)
 - A2. Urban Roads- National Trunk Roads (Urban Roads)
Class- (Au, Bu, Cu)
 - A3. Rural Roads- Secondary National Trunk Roads (C), Special Purpose Roads (SP), Security Roads (SR)

b) The County Roads shall be classified as: Class (D, E, Du, Eu).

ii) Consequential amendments to section 6 of the Kenya Roads Board Act, Cap 408A

24. The Kenya Roads Board is established under the Kenya Roads Board Act, 1999. The mandate of the Board is to oversee the road network in Kenya, coordinate maintenance, rehabilitation, and development funded by the Fund, and advise the Cabinet Secretary in charge of roads on all matters related thereto. Furthermore, the Board administers the Roads Maintenance Levy (RMLF) in accordance with Section 6 of the Act.

25. Under the objects and purpose of the Board, section 6(2) (c) of the Kenya Roads Board Act provides that the Board shall manage the Fund and allocate monies from the Fund in the following manner

- I. Fifty per cent of the Fund shall be allocated for the purposes of section 32A which provides for the power to borrow and set aside funds to secure repayments. This Section provides that
 - a. The Board may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, borrow such monies as may be required for the proper discharge of its functions under this Act.
 - b. The Board may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, where it is necessary to meet financial demands for maintenance, development and rehabilitation of roads, set aside a portion of the Fund for purposes of securing additional funding.
 - c. The Cabinet Secretary shall make regulations for the better carrying out of this section.
- II. The remaining Fifty per cent of the Fund shall be allocated in accordance with the following criteria indicated in the Table below which indicates the current and proposed sharing criteria of the Proceeds of RMLF:

Entity	Current % Allocation	Proposed % Allocation
KENHA	40%	36%
KURA	15%	14%
KERRA	22% & 10%:32%	21% & 10%: 31%
KWS	1%	1%
KRB	2%	1.5%
Roads Department	-	1.5%
County Governments	-	5%
CS –Critical Interventions	10%	10%
Total	100%	100%

26. The amendment further specifies the modalities regarding the utilisation of the funds by the county governments, including having a dedicated department, opening and maintaining a special purpose account, complying with standards, and submitting to the board an annual roads programme.
27. The amendment further mandates KRB to specify the form and content of the annual roads programme; monitor and evaluate works and services financed by the fund; and take remedial, supplementary or alternative measures to ensure compliance.
28. The Kenya Roads (Amendment) (No.3) Bill, 2025, therefore seeks to classify roads under the two broad categories as specified under the Fourth Schedule of the Constitution that refers to either National Trunk Roads or County Roads. This amendment is in compliance with the Constitutional provisions.
29. Further, the consequential amendment to the Kenya Roads Board Act, Cap. 408A expands the entities that are subject to benefit from the proceeds of RMLF by adding County Governments and the Roads Department, and further making slight adjustments to the percentage allocations to accommodate the added entities.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION / STAKEHOLDER ENGAGEMENT

30. To undertake public participation in the Constitution and Standard Orders, an Advertisement inviting the public to submit memoranda on the Bill was published in the newspaper on Wednesday, 6th August 2025. The Committee also invited comments on the Bill from relevant stakeholders namely, the Ministry of Roads and Transport vide a letter Ref: NA/DDC/IT&I/2025/065 dated 7th August 2025; the Solicitor General and the Kenya Law Reform Commission vide a letter Ref: NA/DDC/IT&I/2025/070 dated 11th August 2025

31. The Committee received submissions from the following stakeholders:

- a) The Ministry of Roads and Transport;
- b) The Council of Governors
- c) The Institute of Engineers of Kenya
- d) Kenya Law Reform Commission

32. The submissions of the stakeholders are outlined below:

3.1 Submission by the Ministry of Roads and Transport

33. The Cabinet Secretary for Roads and Transport, Mr. Davis Chirchir, appeared before the Committee on Thursday, 14th August 2025 and submitted as follows;

34. Over the years, the Roads Sector has had a funding challenge towards the development and maintenance of the Kenyan Road Network. The Roads Maintenance Levy Fund has been primarily utilised for the maintenance of Roads, while development (new construction, upgrading, and major rehabilitation) has been undertaken through exchequer allocations.

35. Due to inadequate budgetary allocation, the pending bills in the sector ballooned to over Kshs 175 billion, leading to stalling of major development works. At the same time, the maintenance of the network was strained due to shortfalls in the Roads Maintenance Levies.

36. The Cabinet Secretary stated that to revive the projects that had stalled, Kenya Roads Board utilized the provisions of Section 32A and sold a portion of the RMLF receivable to a bankruptcy remote SPV which has raised the funds from lenders and the consideration and amounts have been paid to KRB and are now being utilized to accelerate road works that have been in progress.

37. The import of this is that the proposed Amendment Bill will need to be cognizant of the development and maintenance needs of the road network and the need to consolidate the gains made over the years.

38. Specifically, the Ministry's recommendations are premised on the following principles;
- (i) Appreciation of the interdependencies of all parts of the network hence the need to provide support to National and County roads;
 - (ii) Consideration of the specific functions and the needs of the roads in the network in the classification and allocation of funds;
 - (iii) The sustainability of both development and maintenance initiatives for the country's network; and
 - (iv) The safeguarding of public interest through effective enforcement of standards.
39. The Cabinet Secretary submitted that it is against this backdrop that having reviewed the proposed Bill, and in line with the provisions of the fourth Schedule of the Constitution, which provides for the roles and functions of the two levels of Government and specifically:
- (i) Part I sub-section 18 (b) & (c)
 - Transport and communications, including, in particular
 - (b) The construction and operation of national trunk roads;
 - (c) standards for the construction and maintenance of other roads by counties
40. For Clause 3 (Classification of Roads), the Cabinet Secretary submitted that the Ministry was in agreement with the amendment as the National Government is responsible for road classification under the Fourth Schedule of the Constitution.
41. For Clause 4 (Responsibilities of County Government), the Cabinet Secretary submitted that the Ministry supported the amendment while noting that County Governments have been obliged to adhere to standards set by the Cabinet Secretary and supported the provision.
42. The Ministry of Roads and Transport proposed the following amendments:

Clause 4

43. That Clause 4 is amended by inserting a new section 47 B to read as follows: ***“A public road shall bear signage including its classification, road code, including the level of Government responsible for its maintenance, rehabilitation and development.”***

Justification

44. This is to ensure that a road is identifiable by its class and number, and to also clearly indicate the level of Government responsible for the maintenance, rehabilitation and development of the road.

Committee observation

45. The Committee adopted this amendment.

Clause 5

46. Delete the description for Secondary National Trunk Road C and replace with "**Roads linking major designated towns and forming a continuous network with A and B road.**"

Justification

47. This is to provide for clarity and ensure functionality of roads is embedded in the classification.

Committee Observation

48. The Committee agreed with the amendment.

3.2 Submission by the Council of Governors

49. The Council of Governors made a written submission vide a letter **Ref: COG/6/42 VOL. 8 (34)** dated 12th August 2025, stated as follows;

(i) Alignment with Devolution

50. The Council of Governors stated that the Bill partially aligns with the Constitution of Kenya, 2010, by recognising county roads as a county function under the Fourth Schedule. However, it creates ambiguity regarding county autonomy, centralizes decision-making in the national government, and fails to uphold the spirit of devolution as enshrined in Articles 6(2), 174, 175, and 187 of the Constitution.

ii. Over-centralisation of Classification and Oversight Functions

51. COG stated that the Bill grants the Cabinet Secretary powers to classify and reclassify all roads, including county roads, which contradicts Article 186 and the Fourth Schedule. These provisions assign the function of county roads exclusively to county governments. The COG proposed a joint classification mechanism involving both national and county governments to respect the constitutional status of counties.

iii. Financial Allocation to Counties

52. COG submitted that the Bill imposes conditions on the utilization of funds, such as compliance with standards set by the Cabinet Secretary, which may unduly constrain county autonomy. The COG recommended that counties be allowed to develop their own road maintenance standards, aligned with national policy and standards, as provided for in Article 190 of the Constitution.

iv. Allocation to County Governments

53. The COG proposed that allocations to county governments should not be less than 15% of the total collections from the levy. Additionally, no more than 5% of the county allocations should be used for operations and supervision, in line with provisions for other agencies.

54. The Council of Governors proposed the following Amendments:

Clause 3

55. Amend Clause 3 by deleting subsection (4) of section 47 and inserting a new subsection (4) as follows;

“47(4) The Cabinet Secretary shall in consultation with the county governments through the Council of Governors be responsible for classification of public roads and at least once every five years, review the classification and assignment of public roads.”

Justification

56. COG seeks to ensure that the power given to the CS for classifying public roads is undertaken in consultation with the COG.

Committee observation

57. The Committee adopted this amendment.

Clause 4

58. Proposed that **paragraph (f)** of the proposed Section 47A (1) be deleted, which assigns the oversight of traffic and road safety on county roads to the county government.

Justification

59. Since this is an exclusive county function under the Fourth Schedule of the Constitution, the COG recommended deleting this provision.

Committee observation

60. This section already provides the function of oversight of traffic and road safety on county roads to county governments, this amendment was misplaced.

Clause 4 subsection (2)

61. The CoG proposed that subsection (2) of section 47A be deleted and replaced with the following:

(2) County governments shall implement road policies and standards that are aligned with national frameworks but customized to local contexts as provided in county legislation.

Justification

62. The COG submitted that the provision limits the ability of counties to develop standards suited to their context, contrary to the principle of distinct functions under section 6(2).

Committee observation

63. The Committee rejected this amendment as the standards for the construction and maintenance of other roads by counties are a function of the National Government as per the Fourth Schedule of the Constitution.

Clause 5

64. The COG proposed a new classification of roads as per the proposed First Schedule in their submissions. They also proposed that the description of the roads align with the Urban Areas and Cities Act, especially for Class A and Class C public roads. They therefore submitted that the roads be classified as follows:

(i) National Roads: Primary trunk roads, highways connecting cities, international corridors, major urban arterials, and roads strategic to national security.

(ii) *County Roads: Roads linking sub-county headquarters, inter-ward roads, urban collectors, minor arterials, and local access roads.*

Justification

65. The proposed classification blurs jurisdictional lines between national and county roads. Further, some roads classified as national roads (such as minor urban arterials, collectors) may lie within the functional jurisdiction of counties.

Committee observation

66. The Committee rejected this amendment as the standards for the construction and maintenance of other roads by counties are a function of the National Government as per the Fourth Schedule of the Constitution.

Clause 6

67. The CoG proposed that the Bill be amended in subsection (4) to read “*counties submit their own road programs through their county executive members and to submit to the Board for information and funding allocation.*”

Justification

68. The CoG submitted that the provision undermines the financial and operational autonomy of counties under Article 203 and the Public Finance Management Act.

Committee observation

69. The Committee rejected this proposal as the Board is exercising its mandate as provided in the Act and is not overreaching.

Clause 6 subsection (3)(a) and (b)

70. Delete subsection (3)(a) and (b), which impose administrative requirements on counties, such as designating a department for road maintenance and opening special-purpose accounts.

Justification

71. The COG argued that these are internal administrative matters and should be deleted.

Committee observation

72. The Committee rejected this proposal as this provision promotes the principle of fiscal responsibility in the utilisation of the funds pursuant to Article 201 (d).

Clause 6 (5)

73. Amend the proposed subsection (5) of section 6 by limiting the Board's role to financial accountability monitoring while technical oversight to be undertaken by the respective county government or the Senate.

Justification

74. The Board will overlap the county oversight role and violate Article 183 (3) and 185 of the Constitution.

Committee observation

75. The Committee rejected the proposed amendment as the Board is mandated to oversee the road network in the country, coordinate optimal utilisation of the Fund and also oversee the maintenance, rehabilitation and the road network.

Additionally, the Board is required to conduct technical, financial and performance audits of all works, goods and services funded by the Fund in accordance with section 26 of the Act.

New Clause 7

76. The CoG Proposed consequential amendment to the Kenya Roads Board Act, Cap. 408 to amend section 7 (1) of the Act on the membership of the Board by inserting a new sub-paragraph as follows;

“Three representatives of the County Governments nominated by the Council of Governors”

Justification:

77. This is to include representation of counties in the Kenya Roads Board.

Committee observation

78. The Committee rejected the proposed amendment as it unduly expands the scope of the Bill.

3.3 Submission by the Institute of Engineers of Kenya

79. The **Institute of Engineers of Kenya** made a written submission vide a letter **Ref: IEK/PRE/CEO/MA/3309/2025** dated 12th August 2025 stated as follows;

Clause 2

80. IEK noted that there was need to define the terms “national trunk roads” and “county roads” to distinguish between the two clearly and eliminate ambiguity. For example, Class C roads (linking county headquarters) could overlap with county roads, causing confusion.

Justification:

Clear classification is essential for public and administrative clarity, ensuring proper identification and management of the road network.

Committee observation

The Committee rejected this proposal and the description of the is provided for in the First Schedule of the Bill

Clause 4

81. IEK noted that the Bill mandates County Executive Members (CECMs) to oversee road maintenance, rehabilitation, and development, a structure IEK deems inefficient, mirroring outdated national models. They proposed that section 47A be amended to include the formation of county road agencies similar to the water subsector. The Council also proposed an amendment be included to provide for qualifications for those who shall head such agencies.

82. Further, the Council of Governors proposed that the heads of department in each county government department are professional engineers with experience in Highway Engineering.

Justification

83. This is to ensure effective delivery of county roads, so that funds meant for roads are ring-fenced and also ensure professionalism in the delivery of county roads.

Committee observation

84. The Committee rejected this proposal as it unduly expands scope of the Bill into administrative concerns of the CEC member and qualifications of heads of proposed agencies.

Clause 5

85. On Road Classification and Jurisdiction (Part A & B, Sections A1–A3), the IEK submitted that that the current classification blurs jurisdictional lines and lacks functional clarity.

86. They **proposed** a three-tier classification be established:

- (i) **National Roads:** Principal arterials (major highways) and minor arterials (regional connectors).
- (ii) **County Roads:** Collector roads (linking local areas) and local roads (residential/access roads).
- (iii) **Municipal/City Roads:** Urban-specific categories.

87. They further proposed that each category to have four primary classes that include:

- (i) Principal Arterials
- (ii) Minor Arterials
- (iii) Collector Roads
- (iv) Local Roads

Justification

88. Functional classification aligns with road usage and ensures appropriate management by respective authorities.

Clause 6

89. The IEK noted that counties receive meagre funding despite constitutional mandates for equitable revenue sharing (Articles 201, 202, 203). They proposed that Counties be allocated at least 15% of RMLF, reflecting their 81% share of the road network.

Justification: Constitutional principles and the scale of county responsibilities necessitate proportional funding to prevent network deterioration.

90. The IEK proposed the following adjustments to the apportionment of the RMLF:

(a) *National Trunk Roads: 39% (up from 36%);*

Justification - The reduction from 40% to 36% is substantial and will result in inadequate maintenance of trunk roads. National trunk roads can deteriorate quickly due to the volume of traffic using them.

(b) *Urban Roads: 13% (down from 14%);*

Justification: the national road network under urban areas is significantly lower.

(c) *Roads Department: 0.5% (down from 1.5%).*

Justification: The State Department for Roads is responsible for road infrastructure standards; its mandate is limited, therefore, an allocation of 1.5% is not reasonable.

(d) *County Roads: 9% (up from 5%).*

Justification: County roads as at 2016, form more than 121,000 km out of 161,000 km nationally, which is around 81% of the roads. An allocation of 5% will not have much impact on the maintenance of these roads.

91. IEK also made the following recommendations:

- (i) **Professional Standards:** Ensure all road projects adhere to national engineering standards, with mandatory involvement of registered engineers.
- (ii) **Legislative Clarity:** County and municipal roads should be legislated separately by respective governments to avoid jurisdictional conflicts.
- (iii) **Court Compliance:** Align funding allocations with judicial precedents to avoid legal challenges.

3.4 Submission by the Kenya Law Reform Commission

92. The Kenya Law Reform Commission made a written submission vide a letter **Ref: KLRC/8/64 VOL. V (21)** dated 13th August 2025 stated as follows;
93. On the Kenya Roads Act, Cap 408, regarding Clause 1 (Short Title), the Kenya Law Reforms Commission agrees with the proposed amendments since it is a standard provision in any amendment Bill.
94. On Clause 2 (Amendment of Section 2 – Definitions), the KLRC concurred with the proposed provision as the definitions adhere to international road classification standards and align with paragraph 5(a) of Part 2 of the Fourth Schedule to the Constitution.
95. On Clause 3 (Amendment of Section 47 – Classification of Roads), the KLRC concurred with the proposed amendments as the amendment clearly classifies roads and defines the role of the Cabinet Secretary in reviewing the classification and assignment of public roads.
96. On Clause 4 (Insertion of Sections 47A and 47B – County Road Management), KLRC submitted that it was in agreement with the amendments since the proposal outlines the roles and responsibilities of county governments in managing county roads, as mandated by the Constitution.
97. On Clause 5 (Amendment to the First Schedule – Road Classification Details), the KLRC submitted that it agreed with the amendments noting that the amendment provides a clear classification of national, urban, and rural roads, including detailed delineation of inter-ward roads and routes under county jurisdiction.
98. On the Kenya Roads Board Act, Cap 408A:
- (i) On Clause 6 (Consequential Amendments to Section 6(2) – Fund Allocation) KLRC concurs with the provision with a note of caution, since the amendment adjusts the allocation of RMLF funds to reflect the new road classifications. However, the KLRC recommended further consultation among the Cabinet Secretary for Finance, the Cabinet Secretary for Transport, and the Kenya Roads Board to ensure that fund allocations are pegged to specific road categories and needs.
99. In conclusion, KLRC submitted that it supported the Bill as it aligns with constitutional provisions, particularly paragraph 5(a) of Part 2 of the Fourth Schedule. However, the Commission emphasized the need for:
- (i) **Public Participation:** Further engagement with stakeholders, including the Ministry of Finance, Ministry of Transport, and Kenya Roads Board, to ensure transparent and equitable allocation of RMLF funds.

- (ii) **Financial Clarity:** Detailed discussions on the percentage allocations to different road categories to ensure adequate funding for maintenance, rehabilitation, and development

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

100. The Committee, having had engagements with stakeholders and considered submissions received, made the following observations;

- 1) The Kenya Roads (Amendment) (No.3) Bill, 2025 was introduced to comply with the court judgement in High Court Petition No. E423 of 2024: Council of County Governors & 4 others versus the National Assembly of Kenya & 8 others. The High Court decision declared the previous road classification framework unconstitutional. The amendments attempt to remedy shortcomings by aligning with Constitutional principles on devolution and equitable sharing of resources;
- 2) The Bill seeks to classify roads under the two broad categories as specified under the Fourth Schedule of the Constitution, that refers to either National Trunk Roads or County Roads;
- 3) The Committee observed that vesting exclusive classification authority in the Cabinet Secretary, without a clear set-out criteria, risks conferring arbitrary powers by granting excessive discretion. The Committee emphasised the need to incorporate a consultative mechanism to ensure that the Cabinet Secretary's decisions are guided by objective criteria and aligned with constitutional requirements;
- 4) The provisions of the Bill grant county governments responsibility over county roads, while adhering to compliance with standards set by the Cabinet Secretary, as per the Fourth schedule of the Constitution Part I paragraph 18 (c). The Committee noted that provisions requiring counties to maintain special-purpose accounts and designate a department responsible for the rehabilitation of county roads seek to promote transparency and accountability in line with Article 201 of the Constitution;
- 5) The proposals to expand the membership of the Kenya Roads Board to include county government representatives were noted but found to fall outside the scope of the Bill; and
- 6) The re-apportionment of the Roads Maintenance Levy Fund (RMLF) to include county governments (5%) is a positive step towards strengthening devolution. The Committee observed that this allocation is adequate to support county governments in fulfilling their mandate on county roads, provided that the funds are managed transparently and complemented by equitable revenue sharing under Article 202 of the Constitution.

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

101. The Committee, having had engagements with stakeholders and considered submissions received, recommends that the House **approves** the Kenya Roads (Amendment) (No. 3) Bill (National Assembly Bill No. 34 of 2025 with amendments as per the Schedule of amendments forming Chapter 6 of this report.

6.0. SCHEDULE OF AMENDMENTS

102. Upon considering the Kenya Roads (Amendment) Bill, 2025, National Assembly Bill No. 34 of 2025 and submissions from stakeholders, the Committee proposes the following amendments:

I. CLAUSE 3

103. **THAT** Clause 3 of the Bill be amended by deleting subsection (4) of the proposed section 47 and inserting a **new subsection (4)** as follows;

47(4) The Cabinet Secretary shall, in consultation with the relevant county government, be responsible for classification of public roads and at least once every five years, review the classification and assignment of public roads.

Justification:

104. The National Government is charged with the responsibility for standards of public roads for both level of government. Classification of roads is an element of roads standards which may take into consideration several factors such as the road functions, traffic levels, levels of service and right of way / wayleaves among others. The amendment seeks to create a consultative mechanism between the relevant county government and the Cabinet Secretary's when classifying roads and reviewing the classification of roads.

II. CLAUSE 4

105. **THAT** Clause 4 of the Bill be amended in subsection (1) of the proposed section 47B by inserting the term "road code" after the term "classification".

47B. (1) A public road shall bear signage indicating its classification, road code including the level of government responsible for its maintenance, rehabilitation and development.

Justification:

106. The amendment seeks to ensure that the road is identified by its class and number.

III. CLAUSE 5

107. **THAT** Clause 5 of the Bill be amended in Part A of the proposed First Schedule that provides for National Trunk Roads in Class Cu under part A2 on National Trunk Roads (Urba Roads) by inserting the term "towns and " after the term "main" and before the term "residential areas"—

A3. Urban Roads-

National Trunk Roads

Class Cu- Major urban collectors that provide the link between arterials and county roads, distributing traffic to residential and other defined zones, typically taking the form of radial roads between arterials or spine roads serving the main towns and residential areas or other defined zones.

Justification:

108. The amendment seeks to provide a concise and clear description of the proposed Class Cu.

IV. CLAUSE 5

109. **THAT** Clause 5 of the Bill be amended in Part A of the proposed First Schedule that provides for National Trunk Roads by deleting Class C under part A3 on Secondary National Trunk Roads and inserting the following new description—

A3. Rural Roads- Secondary National Trunk Roads C (Secondary national trunk roads)- Roads linking major designated towns and forming a continuous network with A and B roads.

Justification:

110. The amendment seeks to provide a concise and clear description of the proposed Class C.

V. CLAUSE 5

111. **THAT** Clause 5 of the Bill be amended in Part A of the proposed First Schedule that provides for National Trunk Roads by inserting under part A3 on Secondary National Trunk Roads, the following new class, immediately after Class Security Roads SR—

Last Mile City Roads LM — **A3. Rural Roads- Secondary National Trunk Roads**
Last Mile City Roads LM - Notwithstanding classification of Urban Roads, link roads providing last mile connections in cities by collecting substantial traffic from arterials and conveying the same to residential terminals so as to form a contiguous network between residential areas and estates or other defined zones.

Justification:

112. The amendment seeks to provide a new class of roads within urban areas that provide for last mile connectivity.

VI. CLAUSE 6

113. **THAT** Clause 6 of the **Bill be amended in paragraph (a)** by deleting the term “twenty one percent” and substituting therefor with the term “twenty five percent”.

Justification:

114. The amendment seeks to provide for an increase in disbursement of the Constituency Road Fund that is administered by the Rural Roads Authority (KERRA), which is an equitable fund.

VII. CLAUSE 6

115. **THAT** Clause 6 of the Bill be amended by inserting a new paragraph (aa) immediately after paragraph (a) as follows—

(aa) deleting the words “ten percent” appearing in sub-paragraph(ii) and substituting therefor the words “seven percent”.

Justification:

116. The amendment seeks to provide a reduction to the allocation to national roads administered by Kenya Rural Roads Authority for the maintenance and development of link roads.

VIII. CLAUSE 6

117. **THAT** Clause 6 of the Bill be amended in paragraph (b) by deleting the term “thirty-six percent” and inserting the term “thirty eight percent”.

Justification:

118. The amendment seeks to provide an increase to the allocation to national roads administered by the National Highway Authority due to the large road network under KENHA.

IX. CLAUSE 6

119. **THAT** Clause 6 of the Bill be amended in paragraph (e) by inserting a new sub-paragraph (ix) as follows—

(ix) The cabinet secretary shall, in his discretion, consider objective criteria such as maintaining overall roads equity, emergency, primary oversight, audit or administration expense, amongst others, in utilization of funds allocated under sub-paragraph (vii).

Justification:

120. To introduce objective criteria for the exercise of discretionary consideration in the utilization of the Cabinet Secretary’s allocation consistent with good governance.

X. CLAUSE 6

121. **THAT** Clause 6 of the Bill be amended in paragraph (f) in the proposed new sub section (3) by inserting a new paragraph (da) as follows—

(da) The Kenya Roads Board shall not approve disbursement of funds unless the relevant county government has met the requirements set out in subsection (3) (a) and (b).

Justification:

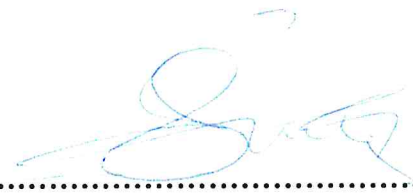
122. The amendment seeks to provide for conditions before the disbursement of the funds to the county government to ensure financial prudence and accountability.

XI. CLAUSE 6

123. **THAT** Clause 6 of the Bill **be amended in paragraph (f)** in the proposed **new sub section (4)(a)** by deleting the term “3(c)” and inserting the term “3(d)”.

Justification:

124. The amendment seeks to provide for the accurate reference to the annual road programme that is provided in subsection 3 (d).

SIGNED.....  DATE..... *19/8/2025*

HON. GK GEORGE KARIUKI, CBS, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

