SPECIAL ISSUE

Kenya Gazette Supplement No. 160 (Senate Bills No. 40)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 1st September, 2023

CONTENT

Bill for Introduction into the Senate—

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Public Finance Management Act and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2023.

Insertion of new sections in No. 18 of 2012.

2. The principal Act is amended by inserting the following new sections immediately after section 160—

County revenue collection System.

160A. (1) A County Treasury shall, in consultation with the National Treasury and the Kenya Revenue Authority, design, develop and implement a county revenue collection system within one year of the coming into force of this Act.

(2) The county revenue collection system shall —

(a) be transparent, efficient, effective and verifiable;

(b) be simple;

(c) be adequately secure to prevent any fraud, losses;

(d) respect and promote the distinctiveness of the national government and the county government; and

(e) provide for separate accounting and reporting.

Report on county revenue collection system.

160B. (1) A County Treasury shall prepare and submit a quarterly statement and report on the performance of the County revenue collection System to the respective county assembly.

(2) The County Treasury shall submit copies of the quarterly statement and report to the Senate and the National Treasury.

(3) In preparing a quarterly statement and report, the County Treasury shall set out information on the financial and non-financial performance of the County revenue collection System.

3. The Public Finance Management Act, hereinafter the principal Act, is amended by inserting the following new Part immediately after section 191E—

Insertion of new Part in No. 18 of 2012.

PART VA – FUNDING TRANSFERRED FUNCTIONS

Functions transferred to National Government.

191F. (1) Where the National Government has transferred a function to a county government pursuant to Article 187 of the Constitution, the Cabinet Secretary shall determine the cost of the transferred function.

(2) The National Assembly shall appropriate such monies as may be required for the implementation of the transferred function in accordance with the determination made under subsection (1) and the allocation shall not be less than the amount appropriated by the National Assembly in the preceding financial year.

(3) The monies appropriated under subsection (2) shall be transferred to the county revenue fund of the respective county government.

(4) A county government or county government entity to which a National Government function has been transferred shall submit a quarterly report to the Senate and the respective county assembly on the status of the discharge of the transferred function.

(5) The Auditor-General shall, no later than three months after the end of a financial year, prepare a special audit report on the financial and non-financial performance of a county government or county government

entity to which a county government function has been transferred.

(6) A report prepared under subsection (5) shall be submitted to the National Assembly and the Senate.

Functions transferred to county governments.

191G. (1) Where a county government has transferred a function to the National Government pursuant to Article 187 of the Constitution, the county executive in consultation with the national government shall determine the cost of the transferred function.

(2) The respective county assembly shall appropriate such monies as may be required for the implementation of the transferred function in accordance with the determination made under subsection (1) and the allocation shall not be less than the amount appropriated by the County Assembly in the preceding financial year.

(3) The monies appropriated under subsection (1), shall be transferred to the national government.

(4) A national government entity to which a county government function has been transferred shall submit a quarterly report to the Senate and the respective county assembly on the status of the discharge of the devolved function.

(5) The Auditor-General shall, no later than three months after the end of a financial year, prepare a special audit report on the financial and non-financial performance of an entity to which a county government function has been transferred.

(6) A report prepared under subsection (5) shall be submitted to the Senate and the respective county assembly.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Public Finance Management Act, No. 18 of 2012 to require county governments to develop and implement a county revenue collection system. This will boost revenue collection by the county governments and ensure counties realise their revenue targets. Further, the Bill proposes to amend the Public Finance Management Act to provide for the process of funding for of functions that have been transferred from one level of government to another under Article 187 of the Constitution.

The Bill proposes to insert a new section 160A requiring each county treasury, in consultation with the National Treasury, to put in place a county revenue collection system. This system shall respect the distinctiveness of the two levels of government, be secure, effective, efficient and transparent. Additionally, the proposed new section 160B provides requires the county treasury to report to the county assembly and submit copies of the reports to the Senate, the National Treasury and the Commission on Revenue Allocation on the status of county revenue collection and performance.

The proposed new sections 191F and 191G provides for the costing and funding of transferred functions where a function has been transferred from one level of government to another.

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

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

Statement on how the Bill concerns county governments

County governments have two sources of revenue; the equitable share provided for under Article 202 of the Constitution and own sources of revenue. Article 209 of the Constitution gives power to both the national government and county governments to impose tax. This Bill seeks to put in place a legal framework for collaboration between the national government and county governments with regard to raising revenue by counties.

The Bill therefore concerns county governments in terms of Articles 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Constitution.

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

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

Dated the 14th August, 2023.

HAMIDA ALI KIBWANA,
Senator.