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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

PARLIAMENT
OF KENYA
LIBRARY

TWELFTH PARLIAMENT

THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL
AFFAIRS

REPORT

ON CONSIDERATION OF THE PETITION TO COUNTY
ASSEMBLIES (PROCEDURE) BILL, 2018
(SENATE BILL NO.22 OF 2018)



THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 11 OCT 2019

TUESDAY

FILED

CHAIRPERSON JUSTICE
MADJUMBEI AND
LEGAL AFFAIRS COMMITTEE

TABLED:

CLERK'S CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI
OCTOBER, 2019

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CHAIRPERSON'S FOREWORD

The Petition to County Assemblies (Procedure) Bill (Senate Bill No.22 Of 2018) was introduced in the National Assembly on 6th June, 2019 and thereafter committed to the Departmental Committee on Justice and Legal Affairs for review and report to the House pursuant to the provisions of Standing Order 216(5) (c).

Pursuant to the provisions of Article 118 of the Constitution of Kenya and Standing Orders 143(3) and 127 (3), the Committee confirmed and was convinced that the Senate did sufficient public participation on the Bill and considered most of the recommendations by the major stakeholders during its consideration of the Bill. Consequently, the Committee resolved that there was no need for the Committee to conduct another public participation exercise. The resolution is also in accordance with the provisions of Article 201 (d) of the Constitution which provides that public money shall be used in a prudent and responsible way.

May I take this opportunity to express gratitude to Committee Members for their resilience and devotion to duty which made the consideration of the Bill successful. May I also appreciate the Speaker and Clerk of the National Assembly for always providing guidance and direction to Committees in the discharge of their mandate. Finally, I commend the secretariat for exemplary performance in providing technical and logistical support to the Committee.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and duty to present to the House a report of the Committee on the consideration of the Petition to County Assemblies (Procedure) Bill (Senate Bill No.22 Of 2018).

Hon. William Cheptumo, M.P.
(Chairperson)

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Justice and Legal Affairs derives its mandate from Standing Order No. 216(5) which provides for the functions of Departmental Committees as follows-
 - (a) 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) Study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
 - (c) Study and review all legislation referred to it;
 - (d) Study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (e) Investigate and enquire 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) Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments)
 - (g) Examine treaties, agreements and conventions;
 - (h) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (i) Consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and
 - (j) Examine any questions raised by Members on a matter within its mandate.
2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-
 - a. Constitutional affairs;
 - b. The administration of law and Justice
 - c. The Judiciary;
 - d. Public prosecutions;
 - e. Elections;

- f. Ethics, integrity and anti-corruption; and
- g. Human rights.

1.2 Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017 and comprises the following Honourable Members-

Hon. William Cheptumo, M.P. (**Chairperson**)
MP Baringo North Constituency
Jubilee Party

Hon. Alice Muthoni Wahome, M.P. (**Vice Chairperson**)
MP Kandara Constituency
Jubilee Party

Hon. John Olago Aluoch, M.P.
Kisumu West Constituency
FORD-Kenya

Hon. George Peter Kaluma, M.P.
Homa Bay Town Constituency
ODM-Party

Hon. Roselinda Soipan Tuyu, M.P.
Narok County
Jubilee Party

Hon. Charles Gimose, M.P.
Hamisi Constituency
FORD-Kenya

Hon. Johana Ng'eno, M.P.
Emurua Dikirr Constituency
KANU-Party

Hon. W. Kamoti Mwamkale, M.P.
Rabai Constituency
ODM-Party

Hon. Ben Orori Momanyi, M.P.
Borabu Constituency
WIPER-Party

Hon. Zuleikha Hassan, M.P.
Kwale County
ODM-Party

Hon. Jennifer Shamalla, M.P.
Nominated MP
Jubilee Party

Hon. Beatrice Adagala, M.P.
Vihiga County
ANC-Party

Hon. Gladys Boss Shollei, CBS, M.P.
UasinGishu County
Jubilee-Party

Hon. John Munene Wambugu, M.P.
Kirinyaga Central
Jubilee -Party

Hon. George GitongaMurugara, M.P.
Tharaka Constituency
Jubilee-Party

Hon. Anthony Githiaka Kiai, M.P.
Mukurueni Constituency
Jubilee-Party

Hon. John KiarieWaweru, M.P.
Dagoretti South Constituency

Hon. Japheth Mutai, M.P.
Bureti Constituency

Jubilee-Party

Jubilee-Party

Hon. Adan Haji Yussuf, M.P.
Mandera West Constituency
Economic Freedom Party

1.3 Committee Secretariat

4. The Committee secretariat comprises the following staff-

Mr. Abenayo Wasike	-	Senior Clerk Assistant
Mr. Denis Abisai	-	Principal Legal Counsel I
Ms. Halima Hussein	-	Clerk Assistant II
Ms. Fiona Musili	-	Research Officer II
Mr. Omar Abdirahim	-	Fiscal Analyst III
Mr. Joseph Okongo	-	Media Liaison Officer

Support staff

Ms. Roselyne Ndegi	-	Serjeant-at-Arms I
Mr. Richard Sang	-	Assistant Serjeant-at-Arms

5. The Minutes of sittings of the Committee in respect of the pre-publication scrutiny of the legislative proposal are attached to this report annexure 1.

2.0 BACKGROUND

2.1 Committal of the Senate Bill to the Committee

6. The Petition to County Assemblies (Procedure) Bill(Senate Bill No.22 Of 2018) was introduced in the National Assembly on 6th June, 2019 and thereafter committed to the Departmental Committee on Justice and Legal Affairs for review and report to the House pursuant to the provisions of Standing Order 216(5) (c).

2.2 Outline of the contents of the Bill

7. The long title of the Bill provides that the Bill seeks to give effect to Article 37 of the Constitution on the right to present petitions to public authorities; to provide the procedure for the exercise of that right; and for connected purposes.

2.3 Short Title

8. Clause 1 of the Bill sets out the short title as the Petition to County Assemblies (Procedure) Act, 2018.

2.4 Interpretation

9. Clause 2 of the Bill sets out the interpretation of terms used in the Bill.

2.5 Form of Petition

10. Clause 3 of the Bill sets out the Form of Petition to a county assembly set out in the Schedule which shall-
 - (a) be handwritten, printed or typed;
 - (b) be in English or Kiswahili;
 - (c) be written in respectful, decorous and temperate language;
 - (d) be free of alterations and interlineations in its text;
 - (e) be addressed to the county assembly;
 - (f) have its subject-matter indicated on every sheet if it consists of more than one sheet;
 - (g) indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory;
 - (h) indicate whether the issue in respect of which the petition is made is pending before any court of law or other constitutional or legal body;
 - (i) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners with regard to the matter to which it relates;
 - (j) subject to paragraph (n), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;

- (k) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (l) not have any letters, affidavits or other documents annexed to it;
- (m) in the case of a petition presented by a member of a county assembly on behalf of a petitioner, be countersigned by the member presenting it; and
- (n) be signed by the petitioner, or if the petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.

2.6 Procedure for presenting Petition

11. Clause 4 of the Bill sets out the procedure for presenting which shall be submitted to the respective Clerk by the petitioner; or presented by a member of the county assembly on behalf of a petitioner, with the consent of the Speaker. The clause provides that the Clerk will determine whether the petition complies with Clause 3 within seven (7) days and give direction.

2.7 Consideration of a Petition

12. Clause 5 of the Bill sets out the procedure for the consideration of the petition by the county assembly in accordance with the Standing Orders of the county assembly. Clause 5 (6) provides that the Clerk shall inform the petitioner in writing of the decision of the county assembly within fourteen (14) days.

2.8 Register of Petitions

13. Clause 6 of the Bill provides for the Clerk to keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the county assembly on the petitions.

2.9 Amendment of section 15 of No. 17 of 2012

14. Clause 7 of the Bill seeks to amend Section 15(2) of the County Governments Act, 2012 to provide that the procedure for the exercise of the right to petition a county assembly shall be as set out in the Petition to County Assemblies (Procedure) Act and in the Standing Orders of the relevant county assembly.

3.0 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL AND RECOMMENDATIONS

15. The Committee considered the Bill at a Sittings on 27th September, 2019. The committee noted that the the Bill was largely based on the Petitions to Parliament (Procedure) Act, No. 22 of 2012 which has regulated the processing of petitions to Parliament since the beginning of the 11th Parliament (2013-2017). The Committee made the following observations and recommendations on each and every clause.

3.1 Clause 1 on short title of the Bill.

3.2 Committee observation and Recommendation

16. The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 1 of the Bill as per the Senate Bill

3.3 Clause 2 on interpretation of the terms used in the Bill

3.4 Committee observation and Recommendation

17. The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 2 of the Bill as per the Senate Bill

3.5 Clause 3 on form of petition

3.6 Committee observation and Recommendation

18. The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 3 of the Bill as per the Senate Bill

3.7 Clause 4 on procedure for presenting a petition

3.8 Committee observation and Recommendation

19. The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 3 of the Bill as per the Senate Bill.

3.9 Clause 5 on consideration of a petition

20. The Committee noted that the Senate Committee received submissions from-

- i) The Kenya National Commission on Human Rights(KNCHR)
- ii) The Institute of Social Accountability (TISA)

4.0 COMMITTEE'S OBSERVATIONS

21. The Committee noted that the Senate Committee took on board some of the submissions of the stakeholders and amended Clause 5 (3) of the Bill to provide for mandatory public hearings with respect to every petition. The Committee however did not agree with the current provision of Clause 5 (3).
22. The Committee observed that it is not feasible for the county assembly committee to invite the petitioner and conduct a public hearing for every petition submitted before it. Some of the petitions before a Committee may be fairly straightforward and the Committee should be able to make a decision without further reference to the petitioner or conducting public hearings.
23. The Committee further observed that the requirement for mandatory public hearings for all petitions in Clause 5(3) of the Bill will make the county assemblies incur unnecessary additional costs in inviting the petitioner and conducting public hearings on every petition submitted before a committee. The Committee was of the view that the requirements of Clause 5 (3) of the Bill run contrary to the provisions of Article 201 (d) of the Constitution which provides that public money shall be used in a prudent and responsible way.
24. On Clause 5(4), the Committee observed that the provision allows county assemblies to debate committee reports on a petition and either approve, vary or reject the findings and recommendations of the Committee. This is in stark contrast with the procedure in the consideration of petitions before the National Assembly where a debate on the Committee report can only be done in exceptional circumstances as may be allowed by the Speaker under Standing order 227(2). The Committee observed that matters of debate as of right should be restricted to Motions, Bills and other matters where the decision of the House is binding as per established parliamentary practice in democratic societies.

4.1 Committee's Recommendations

25. The Committee recommends that Clause 5 of the Bill be passed subject to the inclusion of the following amendments-
THAT, Clause 5 of the Bill be amended-
 - (a) by deleting sub-clause (3) and substituting therefor the following new sub-clause-
 - (3) The relevant county assembly committee may when considering the petition-
 - (a) Invite the petitioner to clarify or submit such further information as the committee may consider necessary;
 - (b) May make a site visit if it is deemed necessary to do so.

(b) by deleting sub-clause (4) and substituting therefore the following new sub-clause-

(4) The relevant county assembly committee shall respond to the petitioner by way of a report addressed to the petitioner and tabled in the county assembly and no debate on or in relation to the report shall be allowed except on the recommendation of the chairperson of the committee and with the approval of the speaker.

(c) In sub-clause (5) by inserting the words “relevant committee or the” immediately after the words “decision of the” when they first appear.

4.2 Justification for Committee’s recommendations

26. The Committee resolved to redraft Clause 5 (3) of the Bill by deleting the word ‘shall’ in the introductory paragraph and replacing it with the word ‘may’. The Committee also resolved to do away with the mandatory public hearings for all petitions as provided under Clause 5 (3) (b) and replace them with the option of conducting a site visit where necessary.
27. The Committee was of the view that it is not feasible for the county assembly committee to invite the petitioner and conduct a public hearing for every petition submitted before it. Some of the petitions before a committee may be fairly straightforward and the Committee should be able to make a decision without further reference to the petitioner or conducting public hearings.
28. The Committee was also of the view that the provisions in Clause 5(3) of the Bill will make the county assemblies incur unnecessary additional costs in inviting the petitioner and conducting public hearings on every petition submitted before a committee. This is in line with the provisions of Article 201 (d) of the Constitution which provides that public money shall be used in a prudent and responsible way.
29. On Clause 5(4), the Committee noted that the current provision allows county assemblies to debate committee reports on a petition and either approve, vary or reject the findings and recommendations of the Committee. This is in stark contrast with the procedure in the consideration of petitions before the National Assembly where a debate on the Committee report can only be done in exceptional circumstances as may be allowed by the Speaker under Standing order 227(2). The Committee was of the view that matters of debate as of right should be restricted to Motions, Bills and other matters where the decision of the House is binding as per established parliamentary practice in democratic societies.
30. The amendment in sub-clause 5 is consequential to the amendments the Committee has proposed to Clause 5(4) which provides that the relevant committee tables its report before the county assembly.

4.3 **Clause 6** on registrar of petitions

4.4 **Committee observation and Recommendation**

31. The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 6 of the Bill as per the Senate Bill

4.5 **Clause 7** on section 15 of No. 17 of 2012

4.6 **Committee observation and Recommendation**

32. The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 7 of the Bill as per the Senate Bill


5.0 COMMITTEE’S RECOMMENDATION

33. The Committee recommends that the House passes the Bill subject to the inclusion of the following amendments to Clause 5 of the Bill-

CLAUSE 5

THAT, Clause 5 of the Bill be amended-

- (a) by deleting sub-clause (3) and substituting therefor the following new sub-clause-
 - (3) the relevant county assembly committee may when considering the petition-
 - (a) invite the petitioner to clarify or submit such further information as the committee may consider necessary;
 - (b) may make a site visit if it is deemed necessary to do so.
- (b) by deleting sub-clause (4) and substituting therefore the following new sub-clause-
 - (4) The relevant county assembly committee shall respond to the petitioner by way of a report addressed to the petitioner and tabled in the county assembly and no debate on or in relation to the report shall be allowed except on the recommendation of the chairperson of the committee and with the approval of the speaker.
- (c) in sub-clause (5) by inserting the words “relevant committee or the” immediately after the words “decision of the” when they first appear.

Signed..........Date.....08.10.19.....

**Hon. William Cheptumo, M.P.
(Chairperson)**

Departmental Committee on Justice and Legal Affairs

ANNEXURE 1

**Minutes of Committee sittings on the consideration of
the Bill.**

**MINUTES OF THE ONE HUNDRED AND SEVENTY SECOND SITTING OF
THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS
HELD ON THURSDAY 3RD OCTOBER, 2019 AT 10.00 A.M. IN COMMITTEE
BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT
BUILDINGS**

PRESENT-

- | | | |
|------------------------------------|---|-------------------------|
| 1. Hon. William Cheptumo, M.P. | - | Chairperson |
| 2. Hon. Alice Muthoni Wahome, M.P. | - | Vice Chairperson |
| 3. Hon. John Olago Aluoch, M.P. | | |
| 4. Hon. Peter Opondo Kaluma, M.P. | | |
| 5. Hon. William K. Mwamkale, M.P. | | |
| 6. Hon. Charles Gimose, M.P. | | |
| 7. Hon. George G. Murugara, M.P. | | |
| 8. Hon. Anthony G. Kiai, M.P. | | |
| 9. Hon. Beatrice Adagala, M.P. | | |
| 10. Hon. John M. Wambugu, M.P. | | |

ABSENT WITH APOLOGIES-

1. Hon. Roselinda Soipan Tuya, M.P.
2. Hon. Ben Momanyi, M.P.
3. Hon. Johana Ng'eno, M.P.
4. Hon Zulekha Hassan, MP
5. Hon. Gladys Boss Shollei, CBS, M.P.
6. Hon. Jennifer Shamalla, M.P.
7. Hon. Adan Haji Yussuf, M.P
8. Hon. Japheth Mutai, M.P.
9. Hon. John Kiarie Waweru, M.P.

IN ATTENDANCE-

- | | | |
|-----------------------|---|---------------------------|
| 1. Mr. Abenayo Wasike | - | Senior Clerk Assistant |
| 2. Mr. Denis Abisai | - | Principal Legal Counsel I |
| 3. Ms. Halima Hussein | - | Second Clerk Assistant |
| 4. Ms. Fiona Musili | - | Research Officer II |
| 5. Mr. Simon Maina | - | Support staff |

COMMITTEE SECRETARIAT-

MIN No. 693/2019:-

The meeting commenced at 10.00 a.m. with a word of prayer from Hon. John Munene

PRELIMINARIES

MIN No. 694/2019:-

**CONFIRMATION OF MINUTES OF
PREVIOUS SITTINGS**

The following minutes were confirmed-

1. Minutes of the 163rd Sitting held on Thursday 8th September, 2019 at 10.23 a.m. in Committee Room 12, New Wing were confirmed as a true record of

the proceedings. The confirmation was proposed by Hon Peter Kaluma and seconded by Hon William Kamoti.

2. Minutes of the 164th Sitting held on Tuesday 17th September, 2019 at 10.00 a.m. in Committee Boardroom on Second Floor, Protection House were confirmed as a true record of the proceedings. The confirmation was proposed by Hon WILLIAM Kamoti and seconded by Hon George Murugar.
3. Minutes of the 165th Sitting held on Wednesday 18th September, 2019 at 10.17 a.m. in Committee Room 12, New Wing were confirmed as a true record of the proceedings. The confirmation was proposed by Hon George Murugara and seconded by Hon Beatrice Adagala.

MIN No. 695/2019:-

**CONSIDERATION AND ADOPTION
OF THE DRAFT REPORT ON THE
PETITION TO COUNTY
ASSEMBLIES (PROCEDURE) BILL,
2018 (SENATE BILL NO. 22 OF 2018**

The Committee considered and unanimously adopted its report on the Petition to County Assemblies (Procedure) Bill, 2018 (Senate Bill No. 22 of 2018 with the following recommendations; THAT;

Clause 5 of the Bill be amended as follows;

- (a) by deleting sub-clause (3) and substituting therefor the following new sub-clause-
 - (3) The relevant county assembly committee may when considering the petition-
 - (a) invite the petitioner to clarify or submit such further information as the committee may consider necessary;
 - (b) May make a site visit if it is deemed necessary to do so.
- (b) by deleting sub-clause (4) and substituting therefore the following new sub-clause- (4) The relevant county assembly committee shall respond to the petitioner by way of a report addressed to the petitioner and tabled in the county assembly and no debate on or in relation to the report shall be allowed except on the recommendation of the chairperson of the committee and with the approval of the speaker.
- (c) In sub-clause (5) by inserting the words “relevant committee or the” immediately after the words “decision of the” when they first appear.

The adoption of the report was proposed by Hon Olago Aluoch and seconded by Hon Beatrice Adagala.

MIN No. 696/2019:-


ANY OTHER BUSINESS

There was no matter that arose.

MIN No. 697/2019:-

ADJOURNMENT

There being no other business to transact, the meeting was adjourned at 11:20am.

Signed.....
Chairperson

Date.....

MINUTES OF THE ONE HUNDRED AND SIXTY EIGHTH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON FRIDAY 27TH SEPTEMBER, 2019 AT 10.00 A.M. IN PRIER HALL, ENGLISH POINT HOTEL, MOMBASA

PRESENT-

1. Hon. Alice Muthoni Wahome, M.P. - **Vice Chairperson**
2. Hon. John Olago Aluoch, M.P.
3. Hon Zulekha Hassan, MP
4. Hon. Charles Gimose, M.P
5. Hon. George G. Murugara, M.P.
6. Hon. Japheth Mutai, M.P.
7. Hon. Beatrice Adagala, M.P.

ABSENT WITH APOLOGIES-

1. Hon. William Cheptumo, M.P. - **Chairperson**
2. Hon. Roselinda Soipan Tuya, M.P.
3. Hon. Ben Momanyi, M.P.
4. Hon. Johana Ng'eno, M.P.
5. Hon. Peter Opondo Kaluma, M.P.
6. Hon. William K. Mwamkale, M.P.
7. Hon. John M. Wambugu, M.P.
8. Hon. Adan Haji Yussuf, M.P
9. Hon. John Kiarie Waweru, M.P.
10. Hon. Anthony G. Kiai, M.P.
11. Hon. Gladys Boss Shollei, CBS, M.P.
12. Hon. Jennifer Shamalla, M.P.

IN ATTENDANCE-

- | | | |
|-----------------------|---|---------------------------|
| 1. Mr. Denis Abisai | - | Principal Legal Counsel I |
| 2. Ms. Halima Hussein | - | Second Clerk Assistant |
| 3. Mr. Salem Lorot | - | Legal Counsel II |
| 4. Ms. Fiona Musili | - | Research Officer II |
| 5. Mr. Simon Maina | - | Support staff |

COMMITTEE SECRETARIAT-

MIN No. 676/2019:-

PRELIMINARIES

The meeting commenced at 10.00 a.m. with a word of prayer from Hon. Japheth Mutai

MIN No. 677/2019:-

THE PETITION TO COUNTY ASSEMBLIES BILL, 2018 (SENATE BILL NO. 22 OF 2018)

The Committee considered the Petition to County assemblies Bill, 2018 (Senate Bill no. 22 of 2018) as follows; THAT

1. The public participation done by Senate on the Bill was sufficient and most of the recommendations by the major stakeholders were considered by Senate during its consideration of the Bill. Consequently, there was no need to conduct another public participation exercise.

2. Clause 1 on short title of the Bill.

The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 1 of the Bill as per the Senate Bill

3. Clause 2 on interpretation of the terms used in the Bill

The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 2 of the Bill as per the Senate Bill

4. Clause 3 on form of petition

The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 3 of the Bill as per the Senate Bill

5. Clause 4 on procedure for presenting a petition

The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 4 of the Bill as per the Senate Bill.

6. Clause 5 on consideration of a petition

The Committee noted that the Senate Committee received submissions from-

- i) The Kenya National Commission on Human Rights(KNCHR)
- ii) The Institute of Social Accountability (TISA)

Committee observed THAT;

1. The Committee noted that the Senate Committee took on board some of the submissions of the stakeholders and amended Clause 5 (3) of the Bill to provide for mandatory public hearings with respect to every petition. The Committee however did not agree with the current provision of Clause 5 (3).
2. The Committee observed that it is not feasible for the county assembly committee to invite the petitioner and conduct a public hearing for every petition submitted before it. Some of the petitions before a Committee may be fairly straightforward and the Committee should be able to make a decision without further reference to the petitioner or conducting public hearings.
3. The Committee further observed that the requirement in Clause 5(3) of the Bill would make the county assemblies incur unnecessary additional costs in inviting the petitioner

and conducting public hearings on every petition submitted before a committee. This is in line with the provisions of Article 201 (d) of the Constitution which provides that public money shall be used in a prudent and responsible way.

4. On Clause 5(4), the Committee observed that the provision allows county assemblies to debate committee reports on a petition and either approve, vary or reject the findings and recommendations of the Committee. This was in stark contrast with the procedure in the consideration of petitions before the National Assembly where a debate on a Committee report can only be done in exceptional circumstances as may be allowed by the Speaker under Standing order 227(2). The Committee noted that matters of debate as of right should be restricted to Motions, Bills and other matters where the decision of the House is binding as per the established parliamentary practice in democratic societies.

Committee recommended THAT;

1. Clause 5 (3) of the Bill be amended by deleting the word 'shall' in the introductory paragraph and replacing it with the word 'may'.
2. The Committee also recommended to do away with the mandatory public hearings for all petitions as provided under Clause 5 (3) (b) and replace them with the option of conducting a site visit where necessary.

3. Clause 6 on registrar of petitions

The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 6 of the Bill as per the Senate Bill

4. Clause 7 on section 15 of No. 17 of 2012

The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 7 of the Bill as per the Senate Bill

MIN No. 678/2019:-

ADJOURNMENT

There being no other business to transact, the meeting was adjourned at 1pm.

Signed.....
Chairperson

Date.....08.10.19.....


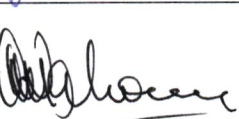
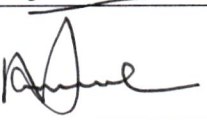
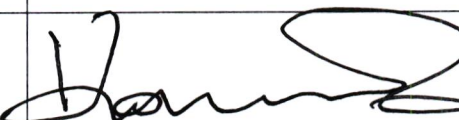


ANNEXURE 2

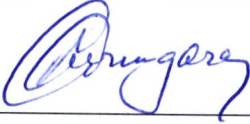



Adoption list

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS
ADOPTION LIST FOR THE REPORT ON THE CONSIDERATION
OF THE PETITION TO COUNTY ASSEMBLIES
(PROCEDURE) BILL, 2018 (SENATE BILL NO.22 OF 2018)

DATE: THURSDAY 3RD OCTOBER, 2019

VENUE: COMMITTEE ROOM ON 2ND FLOOR, PROTECTION HOUSE

NO.	NAME	SIGNATURE
1.	Hon. William Cheptumo, M.P. - Chairperson	
2.	Hon. Alice Wahome, MP. - Vice Chairperson	
3.	Hon. John Olago Aluoch, MP.	
4.	Hon. Roselinda Soipan Tuya, MP.	
5.	Hon. Ben Momanyi, MP.	
6.	Hon. William Kamoti, MP.	
7.	Hon. Peter Opondo Kaluma, MP.	
8.	Hon. Zuleikha Hassan, MP.	
9.	Hon. Johana Ngeno Kipyegon, MP.	
10.	Hon. Charles Gimose, MP.	

11.	Hon. John Kiarie Waweru, MP.	
12.	Hon. George Gitonga Murugara, MP.	
13.	Hon. Adan Haji Yussuf, MP.	
14.	Hon. Japheth Kiplangat Mutai, MP.	
15.	Hon. Anthony Githiaka Kiai, MP.	
16.	Hon. Jennifer Shamalla, MP.	
17.	Hon. Beatrice Adagala, MP.	
18.	Hon. John Munene Wambugu, MP.	
19.	Hon. Boss Shollei, CBS, MP.	

ANNEXURE 3

**Copy of the Petition to County Assemblies
(Procedure) Bill, 2018 (Bill No. 22 of 2018)**



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 22 of 2018)

**THE PETITION TO COUNTY ASSEMBLIES
(PROCEDURE) BILL, 2018**

(A Bill published in the Kenya *Gazette* Supplement No. 111 of 10th August, 2018 and passed by the Senate, with amendments, on 22nd May, 2019)

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL, 2018

ARRANGEMENT OF CLAUSES

Clauses

- 1 — Short title and commencement.
- 2 — Interpretation.
- 3 — Form of petition.
- 4 — Procedure for presenting petition.
- 5 — Consideration of petition.
- 6 — Register of petitions.
- 7 — Amendment to No. 17 of 2012.

SCHEDULE – FORM OF PETITION

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL, 2018

A Bill for

AN ACT of Parliament to give effect to Article 37 of the Constitution on the right to petition a county assembly; to provide the procedure for the exercise of that right; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows-

Short title.

1. This Act may be cited as the Petition to County Assemblies (Procedure) Act, 2018.

Interpretation.

2. In this Act—

“Clerk” means a Clerk of a county assembly;

“petition” means a written prayer to a county assembly under section 15 of the County Governments Act;

No. 17 of 2012.

“petitioner” means a person who petitions a county assembly;

“register” means the register maintained by a Clerk under section 6; and

“Speaker” means a Speaker of a county assembly.

Form of petition.

3. A petition to a county assembly shall be in the form set out in the Schedule and shall—

(a) be handwritten, printed or typed;

- (b) be in English or Kiswahili;
- (c) be written in respectful, decorous and temperate language;
- (d) be free of alterations and interlineations in its text;
- (e) be addressed to the county assembly;
- (f) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- (g) indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory;
- (h) indicate whether the issue in respect of which the petition is made is pending before any court of law or other constitutional or legal body;
- (i) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners with regard to the matter to which it relates;
- (j) subject to paragraph (n), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (k) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (l) not have any letters, affidavits or other documents annexed to it;
- (m) in the case of a petition presented by a member of a county assembly on behalf of a petitioner, be

countersigned by the member presenting it; and

(n) be signed by the petitioner, or if the petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.

Procedure for
presenting
petition.

4. (1) A petition to a county assembly shall be-

(a) submitted to the respective Clerk by the petitioner; or

(b) presented by a member of the county assembly on behalf of a petitioner, with the consent of the Speaker.

(2) Despite subsection (1)(b), a member of a county assembly is not eligible to present a petition on his or her own behalf.

(3) The Clerk shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements specified under section 3.

(4) Where the Clerk considers that a petition does not comply with section 3, the Clerk may give such directions as are necessary to ensure that the petition is amended to comply with that section.

(5) A petition shall not be rejected merely because it is not addressed to the Clerk of a county assembly.

Consideration of
a petition.

5. (1) The Clerk shall, if satisfied that the petition meets the requirements specified under this Act, forward the petition to the Speaker for reporting in the county assembly.

(2) A petition that is reported in a county assembly under this Act shall be considered in accordance with the Standing Orders of the county assembly.

(3) The relevant county assembly committee shall, in considering the petition, -

(a) invite the petitioner to clarify or submit such further information as the committee may consider necessary; and

(b) conduct public hearings with respect to the petition.

(4) The respective county assembly may debate the report of a committee on a petition, and may either approve, vary the recommendations of, or reject the findings and recommendations of the relevant county assembly committee.

(5) The Clerk shall, within fourteen days of the decision of the county assembly, in writing, notify the petitioner of the decision of the county assembly.

Register of
petitions.

6. (1) The Clerk shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the county assembly on the petitions.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

Amendment of
section 15 of
No. 17 of 2012.

7. Section 15 of the County Governments Act is amended by deleting subsection (2) and substituting therefor, the following new

7. Section 15 of the County Governments Act is amended by deleting subsection (2) and substituting herefor, the following new subsection—

Amer
section
17 of

(2) The procedure for the exercise of the right to petition a county assembly under sub-section (1) shall be as set out in the Petition to County Assemblies (Procedure) Act and in the Standing Orders of the relevant county assembly.