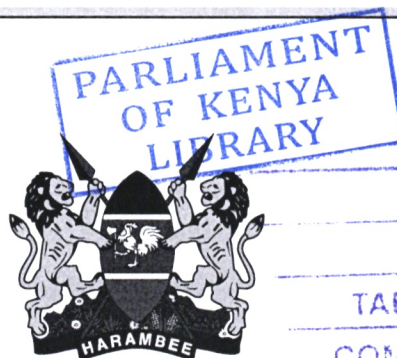


Rt. Hon. Speaker

Recommended for approval
for tabling

04/08/2026



PAPERS LAID	
DATE	06.08.2026
TABLED BY	Sen. Mohamed Abdir
COMMITTEE	Devolution & Inter-govt relations
CLERK AT THE TABLE	Mr. Mercy

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – FIFTH SESSION

THE SENATE

.....

STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS

REPORT ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024
(SENATE BILLS NO. 39 OF 2024)

05/08/26

APPROVED
RT. HON. SEN
MASON J. KINGI

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

AUGUST, 2026

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LIST OF ABBREVIATIONS/ ACRONYMS

CAF	-	County Assembly Forum
COG	-	Council of Governors
CPSBs-NCF	-	County Public Service Boards National Consultative Forum
CPSB	-	County Public Service Board
IGRTC	-	Intergovernmental Relations Technical Committee
IHRM	-	Institute of Human Resource Management

PRELIMINARIES

Mandate of the Committee

The Senate Standing Committee on Devolution and Intergovernmental Relations is established under Standing Order 228 (3) and the Fourth Schedule of the Senate Standing Orders. The Committee is mandated to “*consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments, cities, towns and urban areas.*”

Membership of the Committee

1. Sen. Sheikh Mohamed Abass, CBS, MP	-	Chairperson
2. Sen. Catherine Muyeka Mumma, CBS, MP	-	Vice Chairperson
3. Sen. (Prof.) Margaret Kamar, EGH, MP	-	Member
4. Sen. (Dr) Oburu Oginga, MGH, MP	-	Member
5. Sen. Peris Pesi Tobiko, CBS, MP	-	Member
6. Sen. Paul Karungo Thangwa, CBS, MP	-	Member
7. Sen. Richard Momoima Onyonka, EBS, MP	-	Member
8. Sen. Mohamed Said Chute, CBS, MP	-	Member
9. Sen. Hezena M. Lemaletian, MP	-	Member

The Minutes of the Committee sittings in considering the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024) are attached to this Report collectively as ***Annex I***.

CHAIRPERSON'S FOREWORD

Mr. Speaker,

The County Governments (Amendment) Bill (Senate Bills No. 39 of 2024) is sponsored by Sen. George Mbugua, MP. The principal purpose of the Bill is to amend the County Governments Act (Cap. 265) to streamline county public service administration by facilitating inter-county transfer of pensionable county public officers. It seeks to allow for the seamless movement of these officers between county public services without compromising their accrued benefits, thus promoting efficiency, national integration, cohesion, and the effective delivery of public services across counties.

The Bill also seeks to establish a County Public Service Boards Consultative Forum thereby enhancing the coordination of county public services across counties for better efficiency and cohesion.

The Bill was published on 15th July, 2024 and read a first time in the Senate on Wednesday, 18th September, 2024. Following the First Reading in the Senate, the Bill stood committed to the Standing Committee on Devolution and Intergovernmental Relations for consideration pursuant to standing order 145(1) of the Senate Standing Orders.

In compliance with the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. The committee published an advertisement in the Daily Nation and Standard newspapers on Monday 23rd September, 2024, inviting stakeholders and members of the public to submit any representations that they may have on the Bill by way of written memoranda, and to appear before the Committee during the public hearings on the Bill.

In response to the advertisement and invitations, the Committee received written memoranda and further, conducted public participation on the Bill on Monday, 7th October 2024 at the County Hall Mini Chamber.

The stakeholders who presented their oral and written submissions to the Committee were; Council of Governors (COG), County Assembly Forum (CAF), State Department for Devolution, Intergovernmental Relations Technical Committee (IGRTC), The Institute of Human Resource Management (IHRM), The County Public Service Boards, National Consultative Forum (CPSB-NCF), Arch. Philip Kung'u – Founder & Chairperson of the CPSB National Consultative Forum 2014 – 2019 and Mr. Edmond Ogutu.

The Committee thereafter proceeded to consider extensively the provisions of the Bill and the submissions received thereon. Based on its deliberations, the Committee has made various observations and recommendations which are set out at Chapter Three of this Report.

Mr. Speaker,

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Bill successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment. Lastly, I wish to thank the stakeholders and the general public, who submitted written memoranda and who appeared before the Committee to present their comments on the Bill.

It is now my pleasant duty, pursuant to standing order 148, to present the Report of the Standing Committee on Devolution and Intergovernmental Relations on the County Governments (Amendment) Bill, (Senate Bills No. 39 of 2024).

Signed Date.....

SEN. SHEIKH MOHAMED ABASS, CBS, MP

CHAIRPERSON,

**STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL
RELATIONS**

CHAPTER ONE: OVERVIEW OF THE BILL

1.1 Background

1. The County Governments (Amendment) Bill (Senate Bills No. 39 of 2024) is sponsored by Sen. George Mbugua, MP. The Bill aims to provide a legislative framework for the inter-county transfer of public officers, and to establish a County Public Service Boards Consultative Forum which will offer a more collaborative platform to facilitate the functions of County Public Service Boards
2. The Bill was published on 15th July, 2024 and read a first time in the Senate on Wednesday, 18th September, 2024. Following the First Reading in the Senate, the Bill stood committed to the Standing Committee on Devolution and Intergovernmental Relations for consideration pursuant to standing order 145(1) of the Senate Standing Orders. A copy of the Bill is attached herein as *Annex 2*.

1.2 Justification of the Bill

3. The County Governments Act does not provide for inter-county transfers of County Public Officers. The Bill therefore, seeks to provide a legislative framework that will facilitate the inter-county transfer of county public officers. It seeks to allow for the seamless movement of these officers between county public services without compromising their accrued benefits, thus promoting efficiency, national integration, cohesion and the effective delivery of public services across counties. The proposed legislation facilitates counties to send and receive experienced officers based on specific needs. By allowing officers to transfer between counties, the Bill ensures that expertise and competencies can be evenly distributed, thus enhancing the efficiency and effectiveness of public service delivery across the nation.
4. The Bill also seeks to establish a county public service board consultative forum which recognizes the critical role played by the individual County Public Service Boards and seeks to offer a more robust and collaborative platform to facilitate their functions.

1.3 Objects of the Bill

5. The principal purpose of the Bill is to amend the County Governments Act (Cap. 265) to streamline county public service administration by facilitating inter-county transfer of pensionable county public officers. It seeks to allow for the seamless movement of these officers between county public services without compromising their accrued benefits, thus promoting efficiency, national integration, cohesion, and the effective delivery of public services across counties.
6. The Bill also seeks to establish a County Public Service Boards Consultative Forum thereby enhancing the coordination of county public services across counties for better efficiency and cohesion.

1.4 Overview of the Bill

7. **Clause 1** of the Bill sets out the short title of the Bill.
8. **Clause 2** of the Bill seeks to amend Section 2 of the County Governments Act by inserting a new definition of the word “Forum” to refer to the County Public Service Boards Consultative Forum established under section 86A.
9. **Clause 3** proposes to amend Section 12 of the Intergovernmental Relations Act under paragraph (a) by inserting the words “County Public Service Boards Consultative Forum” immediately after the words “administration of the Summit”.
10. **Clause 4** proposes insertion of a new section 73A immediately after section 73 to provide for the procedure for **inter-county transfer of county public officers**. The Clause provides that an officer seeking transfer is required to apply in writing to the County Public Service Board (CPSB) of the county they are currently serving in. Upon receiving the application, the CPSB is required, within twenty-one days and subject to any relevant retirement benefit laws, to make recommendations regarding the transfer.
11. Further, the bill provides that for an officer to qualify for transfer, the officer must have served at their duty station continuously for at least three years. However, a CPSB may authorize a transfer even if this period has not been met. Any benefits accrued during the officer’s prior service shall not be lost upon transfer. The Bill also states that

transfers must not be arbitrary; they should be based on necessity and must be conducted in a manner that does not disrupt county operations.

12. **Clause 5** seeks to amend the principal Act by inserting the following new sections immediately after section 86;-

- a) 86A seeks to establish a **County Public Service Boards Consultative Forum** comprising of a representative from each of the forty-seven County Public Service Boards and a secretary to the Forum who shall be an ex-officio member and shall have no right to vote at any meeting of the Forum
- b) 86B highlights the purpose of the Forum which include; developing inter-county agreements for joint implementation of any activities related to efficient county public service delivery; be a platform for mutual consultation, coordination and collaboration among the forty-seven County Public Service Boards on all matters related to the public service; and mediate any disputes arising from the respective County Public Service Boards.
- c) 86C provides for meetings of the Forum which shall be at least once every year on a rotational County basis.
- d) 86D and 86E highlights the qualifications for appointment of the Secretary to the Forum and the functions of the Secretary, respectively.
- e) 86F makes provisions for the term of office of Secretary to the Forum which shall be a term of three years and they shall be eligible for reappointment for one more term.
- f) 86G highlights the grounds for removal from office of secretary to the Forum
- g) 86H makes provision for the staff of the Forum which the Forum may appoint in consultation with the Intergovernmental Relations Technical Committee, agents and staff.
- h) Section 86I makes provision for protection from Liability.
- i) Section 86J provides for funds of the Forum which shall consist of monies as may be lawfully granted or donated to the Forum.

- j) Section 86K and 86L makes provisions for the audit of accounts of the Forum and the submission of the programme and the annual report, respectively.

1.5 Consequences of the Bill

13. This Bill proposes a legislative framework to facilitate inter-county transfer of public officers, ensuring officers retain their benefits, such as pensions and retirement benefits. It also underscores the establishment of the County Public Service Boards Consultative Forum to enhance coordination among the 47 County Public Service Boards as it will streamline the secondment and transfer processes to ensure efficiency in public service delivery.

CHAPTER TWO: OVERVIEW OF PUBLIC PARTICIPATION

2.1 Attendance by Stakeholders

15. In compliance with the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. The committee published an advertisement in the Daily Nation and Standard newspapers on Monday 23rd September, 2024, inviting stakeholders and members of the public to submit any representations that they may have on the Bill by way of written memoranda, and to appear before the Committee during the public hearings on the Bill. A copy of the advertisement is attached as *Annex 3*.
16. In response to the advertisement and invitations, the Committee received written memoranda and further, conducted public participation on the Bill on Monday, 7th October 2024 at the County Hall Mini Chamber.
17. The stakeholders who presented their oral and written submissions to the Committee were;
 - a) Council of Governors (COG);
 - b) County Assembly Forum (CAF);
 - c) State Department for Devolution;
 - d) Intergovernmental Relations Technical Committee (IGRTC);
 - e) The Institute of Human Resource Management (IHRM);
 - f) The County Public Service Boards, National Consultative Forum (CPSB-NCF);
 - g) Arch. Philip Kung'u – Founder & Chairperson of the CPSB National Consultative Forum 2014 – 2019
 - h) Mr. Edmond Ogutu
18. The detailed submissions by stakeholders, organized clause-by-clause, are set out in a matrix attached as *Annex 4*. Additionally, copies of the stakeholder submissions on the Bill are attached collectively as *Annex 5*.

2.2 Submissions from Stakeholders and Committee Observations

19. The Stakeholder submissions on the County Governments (Amendment) Bill, 2024 are summarized as follows;

Clause 1

20. The County Public Service Boards National Consultative Forum (CPSBs-NCF) concurred with the proposal for the title of the Bill.

Clause 2

The Council of Governors (COG)

21. The Council of Governors opposed the provision stating that establishing a consultative forum aims to foster inter-county collaboration. However, by centralizing decision-making regarding county personnel matters, there is an eminent risk of diluting the autonomy of individual County Public Service Boards.
22. COG added that the provision is an affront to the provisions of Article 6(2) and Article 189(1)(a) which affirm the uniqueness and independence of county governments. The Forum's centralized oversight could interfere with counties' sovereign authority to manage their human resources independently.

The County Public Service Boards National Consultative Forum (CPSBs-NCF)

23. The CPSB consultative Forum agreed with the proposal and suggested that the Name should include the word "National" and the article "The" as per the currently registered Forum under the societies Act, which will be wound up to pave way for the new outfit once established under the Act whose full name should read as follows: "The County Public Service Boards National Consultative Forum" - CPSBs-NCF.

Committee Observations/Recommendations

24. The Committee observed that Clause 2 of the Bill sought to introduce a new definition of the term "Forum" under Section 2 of the County Governments Act (Cap. 265) to mean

the County Public Service Boards Consultative Forum proposed to be established under Clause 5 of the Bill.

25. Having resolved to delete Clause 5 of the Bill in its entirety, the Committee further resolved to delete Clause 2 of the Bill, as the definition of "Forum" is consequential to and rendered redundant by the deletion of the substantive provisions establishing the Forum.
26. The Committee noted that the purposes for which the Forum was proposed to be established can be adequately addressed through the Sector Working Groups or Committees established by the Council of County Governors pursuant to Section 20(3) of the Intergovernmental Relations Act (Cap. 265F), without the need for a new statutory definition or institution.

Clause 3

The Intergovernmental Relations Technical Committee (IGRTC)

27. The Intergovernmental Relations Technical Committee submitted that the proposed amendment would expand the mandate of IGRTC to being responsible for the day-to-day administration of the CPSB Consultative Forum. This includes: facilitating the activities of the CPSB Consultative Forum and implementing their decisions.
28. Unlike its legal and architectural structure which establishes IGRTC as a technical body that must of necessity serve the two levels of government, this amendment places IGRTC squarely in matters relating to one level of government, as opposed to both.
29. A purposive interpretation of the law, particularly Section 14 of the IGR Act, CAP 265F (in relation to this amendment), denotes that IGRTC would then submit IGRTC reports to; and be accountable to the CPSB Consultative Forum, in addition to the Summit and the Council of Governors.
30. The rationale was that IGRTC is modeled along the lines of independent constitutional commissions and statutory bodies that are empowered to exercise neutrality and impartiality in providing technical advice on decisions to be taken by the two levels of government. By playing an active role in the CPSB Consultative Forum as provided in

the amendment to Section 12, and noting that IGRTC would not play a similar role with the Public Service Commission. IGRTC would render itself biased towards one level.

31. Further noting the functions of CPSBs and that CPSBs exercise their powers on behalf of the County Executive, IGRTC would best play the role of a neutral technical advisory body. As most of the functions of CPSBs are intertwined with the day-to-day operations of county governments.

32. In light of the above, and noting that the CPSB Consultative Forum is established as an intergovernmental structure which serves county governments, IGRTC noted that they cannot be involved in its affairs as envisaged in Section 3 of the Bill.

The State Department for Devolution

33. The State Department for Devolution proposed that Amendment of Section 12 of Intergovernmental Relations Act Cap 265F should be done through an amendment to the said Act and not the County Government Act Cap 265. Their justification was that this will be as per the standard practice.

The Council of Governors

34. In opposing the provision, the Council of Governors submitted that while intergovernmental cooperation is constitutionally endorsed, embedding the Forum within a national framework may exert excessive control over county public service boards. This centralization could compromise counties' ability to autonomously manage their personnel.

35. Further, Constitutionally, Article 235 safeguards county control over public service matters. The Forum's centralized structure may encroach upon this authority, diminishing counties' capacity to independently manage their human resources.

The County Public Service Boards National Consultative Forum (CPSBs-NCF)

36. The CPSBs-NCF disagreed with the proposal stating that this insertion would have the effect of taking away the express independence of the CPSBs provided under section

59A of the County Government Act and hence have the effect of reducing their effectiveness as employers in counties.

Committee Observations/Recommendations

37. The Committee observed that Clause 3 of the Bill sought to amend Section 12 of the Intergovernmental Relations Act (Cap. 265F) by inserting the words "County Public Service Boards Consultative Forum" immediately after the words "administration of the Summit," thereby expanding the mandate of the Intergovernmental Relations Technical Committee (IGRTC) to include the day-to-day administration of the proposed Forum.
38. Having resolved to delete Clause 5 of the Bill, the Committee further resolved to delete Clause 3 of the Bill, as the proposed amendment to the Intergovernmental Relations Act no longer has a basis.
39. Further, the Committee noted that the mandate of IGRTC, as provided under the Intergovernmental Relations Act relates to intergovernmental relations between the two levels of government. Assigning IGRTC the responsibility of administering a forum concerned exclusively with county public service matters would derogate from its established role as a neutral and impartial technical body serving both levels of government, in a manner inconsistent with the provisions of the Intergovernmental Relations Act.

Clause 4

The Council of Governors

40. COG disagreed with the provision noting that permitting inter-county transfers disrupts county operations by introducing personnel not recruited or needed by the receiving county. This could impose unforeseen human resource burdens and undermine management of County officers at the County level. Further, that the provisions of Clause 4 assume that the 47 county governments are a single entity yet they are distinct governments.

The State Department for Devolution

41. The State Department for Devolution made the following proposals;

- (1) To amend section 73A (1) of the Bill to have the County Public officer's request for transfer of service, be accompanied by a letter of offer of appointment by the other recipient County Public Service Board. This will be in compliance with the Human Resource Policies and procedures.
- (2) That the duration under Section 73A (3) be increased to 5 years, to allow a county to benefit from the services of the officer and to protect against disruption of service delivery in a County.
- (3) That section 73A (4) be deleted since it may negate the object of subsection 3.
- (4) That section 73A(5) be deleted since it has been accounted for in sub-section 73A(1)
- (5) That a provision be added to section 73A (6), to indicate that there should be a no objection report for the applicant from the authorized officer. This will be for purposes of concurrence that the application will not compromise service delivery.
- (6) That under section 73A (7), it is important that the law provides for the portability of the benefits. The portability of benefits should be in line with the relevant policies and laws governing retirement benefits.
- (7) That section 73A (8) be deleted because it has been taken care of by the proposed amendment to 73A (7).

The County Assemblies Forum

42. The County Assemblies Forum made the following proposals;

- (1) to amend the Clause under section 73A (3) to read;- *“Subject to sub-section (2), in order to be considered for transfer, an officer shall be required to have served at a duty station for a continuous period of at least three years, unless exceptional circumstances, as defined by the County Public Service Boards, justify an earlier transfer. Such exceptional circumstances must be clearly documented and subject to public scrutiny.”* CAF stated that this amendment provides a clear framework for exceptions, ensuring that transfers do not disrupt county operations unnecessarily.

- (2) Amend Clause 4 under section 73A (9) to provide for a new subclause 73A (10) which states;- *“counties must prioritize the development and promotion of its local workforce before accepting external transfers.”* This amendment ensures that local employees are given priority, promoting local talent development and avoiding potential conflicts between external and local staff.
- (3) Amend by including a new clause, subsection (11) to state; *“County Public Service Boards shall submit annual reports to the County Assemblies detailing the number of inter-county transfers, the reasons for such transfers, and their impact on public service delivery”*. CAF opined that the provision promotes transparency and accountability by requiring County Public Service Boards to report on the implementation of the transfer process.

The County Public Service Boards National Consultative Forum (CPSBs-NCF)

43. The CPSBs-NCF made the following submissions with regards to Clause 4:

- (1) concurred with the proposals under Section 73A (1), (2), (3), (5), (7).
- (2) Under Section 73A (4), the Forum stated that the Exception Rules should be stated to cap it at a minimal no that may not be exceeded to check against misuse.
- (3) Under Section 73A (6), the Forum suggested that the section should be reviewed to make room for additional regulations to be developed by the Forum to ensure that the motivation for expressions of interest to move through inter-county transfers shall not be for selfish and personal reasons at the expense of exigencies of duty to avoid promoting nepotism and increasing the number of dominant communities at expense proportions that should be reserved for PLWDs, Marginalized and Minority Groups, as well as service needs in each county.
- (4) While agreeing with Section 73A (8), the Forum suggested that the section should be reviewed to provide for additional procedures and mechanisms to ensure that the management of Benefits are fully secured in each County so that they are available on notice.

- (5) Proposal to review Section 73A (9) to provide for the creation of an automated dash board of available opportunities which should be matched by an automated system to be developed and implemented by the Forum to ensure impartiality and identification of service needs by each county.

Committee Observations/Recommendations

44. **The Committee observed that Clause 4 of the Bill seeks to insert a new Section 73A into the County Governments Act (Cap. 265) to provide a legislative framework for the inter-county transfer of county public officers, including the procedure for application, the conditions for eligibility, and the protection of accrued benefits upon transfer.**
45. **The Committee noted that whereas the County Governments Act makes provision for promotions, redesignations and secondments under Part VII, it does not provide for inter-county transfers of county public officers. The Committee further noted that while a number of counties have adopted human resource policies that make provision for transfer of service, these policies are largely administrative in nature, vary significantly across counties, and do not prescribe structured timelines, coordinated procedures between releasing and receiving counties, or a minimum period of service before an officer may qualify for transfer. While this created an apparent gap, the Committee, on further consideration, determined that inter-county movement of officers is already provided for by the Constitution and the County Governments Act through competitive recruitment by the receiving County Public Service Board, and that the absence of a *transfer* mechanism is deliberate rather than a lacuna requiring legislative cure.**
46. **The Committee noted that the framework for transfer of service at the national level, as provided under Section 43 of the Public Service Commission Act (Cap. 185) and the Public Service Commission Regulations, 2020, operates within a single, unified public service of the Republic in which the Public Service Commission is the common employer under Article 234 of the Constitution. In that**

context, a transfer of service is a movement of an officer within one employer. The Committee observed that this structural precondition is absent at the county level, where, under Article 235 of the Constitution and Sections 56 and 57 of the County Governments Act, each of the forty-seven counties has its own distinct public service and each County Public Service Board is a separate body corporate that appoints officers on behalf of, and for the benefit of, its own county government.

47. The Committee therefore determined that the movement of a county public officer from one county to another is not, in law, a transfer within a single employer but the termination of one employment relationship and the creation of a fresh appointment by a different employer. Such a fresh appointment is governed by Article 232(1)(g) of the Constitution and the Public Service (Values and Principles) Act, which require that appointments be made on the basis of fair competition and merit. The Committee observed that an officer wishing to serve in another county may already do so by competing for a vacancy declared and advertised by the receiving County Public Service Board, and that this is the established and constitutionally compliant practice across the forty-seven counties.
48. The Committee determined that Clause 4 would instead create a non-competitive, Board-to-Board channel through which a serving officer could acquire a county public office that was never opened to other qualified Kenyans, in derogation of the requirement of fair competition and merit under Article 232(1)(g), and in a manner inconsistent with the distinctness of county governments affirmed under Article 6(2) of the Constitution.
49. Having considered the submissions of stakeholders and the provisions of the Bill, the Committee resolved to delete Clause 4 of the Bill in its entirety.

Clause 5

The County assemblies Forum (CAF)

50. CAF made a proposal to delete the whole of Clause 5. The justification was that the County Public Service Boards Consultative Forum risks duplicating existing

mechanisms for inter-county collaboration and coordination. Currently the Intergovernmental Relations Technical Committee (IGRTC), serves as a platform for addressing matters related to inter-county coordination. Adding another forum would overlap with the IGRTC's mandate, leading to inefficiencies and redundancy in inter-county processes.

The Institute of Human Resource Management (IHRM)

51. The Institute of Human Resource Management proposed the insertion of: a new subsection, **86A** resource (2) (c) to read;- *“a representative from the Institute of Human Resource Management, who shall provide human resource management expertise and guidance on matters of standards and professional competence.”* The rationale was that given the human resource management nature of the Forum's mandate, IHRM's involvement ensures that national HR standards are upheld across all counties. This amendment strengthens HR practices within counties by aligning them with professional standards.
52. The IHRM added that the Forum's proposed functions include developing frameworks for public service issues, mediation of disputes, and creating inter-county agreements for service delivery, therefore the IHRM is well-placed to provide expert input on these functions. IHRM's experience in county HR matters (such as staffing, training, and payroll management) positions it as a key stakeholder in crafting inter-county HR policies.
53. Under Section **86D**, the IHRM proposes adding a requirement for HR expertise to ensure that the individual in this critical role possesses a deep understanding of HR management. Since the Forum's functions are heavily HR-oriented, the Secretary should have qualifications and experience in HR, regulated by IHRM. This would enhance the efficiency and relevance of the Forum's decisions, especially on staffing and HR policy.

The Council of Governors

54. The Council of Governors opposed the provision stating that the Forum's centralized structure could influence individual County Public Service Boards' internal decisions regarding staffing, recruitment, and transfers, thereby infringing upon counties' devolved powers. Further, that the Forum is not an employer of the county personnel and as such cannot make legally binding decisions regarding affairs of county employees.
55. With regards to section **86B**, COG submitted that Article 176(2) emphasizes the decentralization of powers, ensuring counties manage their resources, including human resources, without undue external interference. The Forum's authority over personnel matters threatens this autonomy. Further, intergovernmental relations is governed by the Intergovernmental Relations Act which has established structures for intergovernmental relations. Additionally, Section 20(d) of the Intergovernmental Relations Act assigns the responsibility of resolving disputes between counties to the Council of Governors.
56. On Section **86D** of the Bill, COG opined that the eligibility criteria for qualification to work as secretary to the Forum, that requires the secretary to be working for an institution (the IGRTC), is an affront to Article 27 of the Constitution and disfranchises other Kenyan Citizens who may be qualified to hold the same position.
57. In regards to section **86L**, COG observed that this immunity may protect individuals making decisions that infringe upon county autonomy, reducing accountability for actions that negatively impact county human resource management. While Article 236 provides protections for public officers, it should not be exploited to shield actions that contravene counties' constitutional autonomy. Accountability mechanisms must ensure that immunity does not facilitate autonomy violations.

The State Department for Devolution

58. The State Department for Devolution made the following proposals on Clause 5;

(1) Deletion of Section 86A (2)(b) and amendment of section 86A (4) to read;- "*....elect a chairperson, vice-chairperson, and any other officials from amongst their*

membership necessary for the operations of the forum.” The rationale was that the creation of the forum should not create another institution that creates financial implications to counties as explained in the memoranda and objects of the Bill.

- (2) Deletion of Section 86B (1)(a) since the forum cannot have power to make policy on behalf of county governments. This is the responsibility of the Council of Governors and respective County Public Service Boards.
- (3) Deletion of 86B (1)(b) because inter-county agreements are the responsibility of individual governments or the Council of Governors.
- (4) Retention of 86B (1)(c) which is the main purpose of the Forum.
- (5) Insertion of a new provision after 86B (1)(c) to provide that the Forum shall make recommendations to the Council of Governors on the improvement of County public service effectiveness and efficiency. The rationale being that the Forum consultations are a critical avenue for idea creation to improve on policies and practices of managing Human Resources at the County level.
- (6) That under Section 86B (1)(e), there is a need to qualify the nature of disputes that the forum will mediate on to prevent overlaps with other mediation bodies in the counties.
- (7) To introduce a new clause under 86C (2) to provide as follows:
 - (3) *‘The forum may utilize the services of seconded staff from any of the 47 County Public Service Boards Secretariats’*. This is for the purpose of mitigating against any additional expenditure of public funds in line with the memorandum of objects and reasons of the Bill.
- (8) Deletion of sections 86 D, E, F, G, H, since these are clauses intended to create a secretariat for the forum which is not in line with the objects and reasons of this Bill. Any staff requirements are to be addressed under the proposed 86C. (3) above.
- (9) Amend 86I (1) to read;- *‘...no matter or action taken by a member of the Forum in line with the functions, powers or duties of the Forum shall render the member or an officer seconded to the Forum personally liable for any action, claim or demand...’*. The rationale is that there are no employees at the Forum.

- (10) Deletion of section 86I (2). The rationale is that the creation of the Forum does not assign them the responsibility to sue or to be sued. It is not a legal entity. In the event that they have any liability or claims for compensation, the respective County Governments or the Council of Governors shall bear responsibility.
- (11) Amend section 86J to provide that the funds of the Forum shall consist of monies as may be lawfully granted through respective county Governments. This is to align to the PFM Act and other relevant provisions relating to public finance management.
- (12) Introduction of a new clause 86K (3) to read;- *‘the accounting officer for the funds of the Forum shall be the chief executive officer of the Council of Governors Secretariat...’*. This proposal will ensure that the Proposed Forum shall operate within the inter-county organizational structure under the Council of Governors.
- (13) Amend section 86L to exclude the senate and the county assemblies from the circulation of the annual report of the forum. They proposed to include the State Department for Devolution, State Department for Public Service, Public Service Commission, and Intergovernmental Relations Technical Committee in the circulation of the annual report of the Forum. This will ensure that the proposed Forum shall operate under the established governance structure for county governments and hence cannot report directly to the senate or the county assemblies.

Arch. Philip Kung’u – Founder & Chairperson of the CPSB National Consultative Forum 2014 – 2019

59. Architect Philip Kung’u made the following submissions with regards to the proposed Part VIIA;

- (1) **86A (2)(a)** to be amended to read;- *a representative nominated by each of the forty-seven County Public Service Boards and who shall comprise the Steering Committee of the Forum and which shall be the apex decision making body of the Forum.*

Justification – Experience has shown that inclusivity and representation in decision-making platforms is critical for all the 47 boards. The steering committee members

having been nominated by the boards themselves are held accountable to not only the Forum but their respective nominating boards. This worked very well in the original forum set up.

- (2) **86A (3)** be amended to read;- *The representative referred to in sub-section 2(a) shall be a member of the Board appointed under section 58(1)(a) or (b) nominated by his/her respective Board to sit in the Steering Committee of the Forum as its representatives.*

Justification – It is important that each board formally meets to elect their nominee to the Forum. This should not be left at the behest of the Board Chairperson or Secretary but must be a collective decision of each respective board.

- (3) **86A (4)** be amended to read;- *The Forum, at its first meeting shall elect a Chairperson and Vice-Chairperson from the members of the Steering Committee and regard shall be taken to ensure that both positions shall be of the opposite gender.*

Justification – The Steering Committee being the apex decision making body and which comprises of representatives of the boards is best placed to provide the leadership of the Forum including the Executive Committee who will provide leadership of the Forum.

- (4) Insertion of a new subsection **86A (7)** to read;- In addition to subsection (4) and at the first meeting the Forum shall elect an Executive Committee (EXCOM) comprising of the following: Regional Representatives drawn from the 8 Regions of the country who will represent regional interests and issues in the Forum.

Justification – Representation of the various regions (Central, Rift Valley, Nyanza, North Eastern, Eastern, Western, Coast and Nairobi). This was found necessary in the original Forum for greater inclusivity and representation of unique and peculiar issues and varying circumstances of Kenya's regions.

- (5) Under **86B**, omit existing subsection (a – e) and insert new subsections (a – f) as follows; *The purpose of the Forum shall be to –*

(a) Sensitize members on the mandates of the Boards;

- (b) Build consensus amongst all the forty- seven County Public Service Boards on all matters related to their powers and functions*
- (c) Share and disseminate knowledge and experience aimed at improving the operations and efficiency of the Boards*
- (d) Provide linkages with other relevant stakeholders for the furtherance of the functions of the Forum; and*
- (e) Mediate any disputes arising within and between the respective County Public Service Boards*
- (f) Prepare and submit Annual Reports to relevant authorities including the County Assemblies and Senate of the Kenya Parliament*

Justification – The functions of the Forum as contained in the founding constitution of the CPSB National Consultative Forum clearly spelt out the functions of this umbrella body and how it provides a platform for consultation, coordination and collaboration among the county Public Service Boards on matters related to their mandate, powers and functions. This was also intended to provide a framework of uniform norms and standards for operations of not only the boards themselves but also with National Government Ministries, Departments and Agencies where such is necessary for success of devolution but also the public service in Kenya

(6) Section **86C** be amended to read;-

- (1) The Forum shall hold an Annual General Meeting once a year on a rotational basis to discuss general business and pass resolutions as required, on matters relating to its operations, programs, finances and activities.*

Justification – The AGM is an important governance and accountability event in the calendar of the Forum where activities, policies and budget are scrutinized and approved. It further provides an opportunity for members of the Forum to evaluate the impact of activities undertaken.

- (2) The Executive Committee comprising the officials and 8 Regional Representatives elected under subsection 86A (7) shall meet once a quarter, or*

as may be directed by the Steering Committee to discuss general business or specific issues of the Forum. It shall submit regular reports as directed by Forum.

Justification – The Executive Committee (EXCOM) runs the affairs of the Forum in consultation with the Secretary. It facilitates the implementation of policies and programs of the forum as passed by the Steering Committee

- (3) *The Forum shall hold Regional Consultative Meetings, comprising of the County Public Service Boards in the respective regions referred to under once a quarter or as otherwise agreed at the Steering Committee to discuss emerging issues unique to respective region so as to further strengthen the Forum and its activities in the 8 regions under subsection 86A(7).*

Justification – Experience shows that attention needs to be paid to emerging issues that are specific to certain regions and consultations on the same are necessary for responsive interventions. In addition to this they are useful for understanding of peculiar circumstances and interests of the specific regions while building a greater sense of inclusivity and ownership of the Forum, its affairs and activities.

- (7) Removal of existing subsections, including **86E** (a-d) and 86F and insert a new subsection 86D that states;- *There shall be a secretary to the Forum who shall be recruited by the Forum through a competitive, open and transparent process and shall be qualified for appointment as Secretary to the Forum if that person –*

(a) Is a citizen of Kenya

(b) Holds a degree from a university recognized in Kenya

(c) Has at least ten years relevant professional experience, five of which should have been in a senior management position in a public or private sector organization

(d) Is a certified public secretary of good professional standing;

(e) Meets the requirements of Chapter Six of the Constitution

- (2) *The Secretary shall; hold office for a term of 3 years and shall be eligible for reappointment for one further term.*

(3) The Secretary shall be the Chief Executive Officer and Accounting Officer of the Forum and shall ensure that the resources and assets of the Forum are used in a way that is lawful, authorized, effective, efficient, transparent and accountable

(4) The Secretary shall be the head of the secretariat of the Forum and shall be subject to the direction of the Forum

(a) Be responsible for the day-to-day administration of the Forum,

(b) oversee and coordinate the implementation of the policies, programs and objectives of the Forum

(c) cause to be prepared for approval of the Forum, the Strategic Plan, Annual Work Plan and Annual Budget and Audited Accounts of the Forum

(d) Be the custodian of the records and seal of the Forum; and

(e) Perform such other duties as may be assigned by the Forum

Justification – The qualifications, experience and professional standing of the secretary are key ingredients for the proper functioning of the Forum given the stringent requirements of compliance by regulatory authorities, stakeholder engagement and implementation of Forum policies and programs. Further, Corporate governance, good ethics and best practice standards are essential for proper functioning of the organization. It is therefore fair and just to make the highest demands of qualifications, experience and professionalism in the occupant of the office. This is the commonly applied practice in other similar organizations. The proposal of the bill that the secretary of the Forum be an employee of the Inter-governmental Relations Committee is misguided, unnecessary and certainly not in line with good corporate governance principles. The Forum is envisaged as an independent body capable of running its own affairs in accordance with the provisions of the constitution. Secondly this would create grounds for interference into the affairs of the Forum without legal basis or precedence. It is ill-advised and must not be allowed to take root in any form or nature. There is no justifiable reason why the Secretary to the Forum must be an employee of IGRTC, as this will be an avenue for interference and control by the latter in the affairs of the Forum

It is important to note that functions under the purview of the County Public Service Boards were fully devolved and the Boards have been performing their functions under their mandate and does not need an ‘intermediary’ for the effective discharge of their mandate. Furthermore, the Forum requires a fulltime secretary to handle its affairs hence such a role cannot be accomplished by a person with another job elsewhere.

- (8) Remove existing subsections **86G (1) (2)** and insert new subsection 86E on removal from office of the Secretary to the Forum, to state;-

(1) The Forum may terminate the appointment of the secretary to the Forum for –

(a) Inability to perform functions of the office arising out of physical or mental incapacity

(b) Gross misconduct, insubordination or misbehavior

(c) Incompetence or neglect of duty

Justification – As mentioned earlier there is no justifiable reason why IGRTC should involve itself in Forum affairs because the devolution of functions under Schedule IV was completed and does not anticipate involvement or direction from the committee. There does not currently exist any residual functions being performed by IGRTC that are under the purview of the Boards. The Forum as an independent body must be allowed to function as such and be in control of its own affairs provided all these are done within the confines of applicable law. Constitutionally IGRTC has no powers over the boards as the latter are fully established under the Constitution and the County Governments Act 2012. The boards, therefore have not been and are not an extension of IGRTC

- (9) Remove existing subsections **86H (1) (2)** and insert new 86F (1) to read;- *(1) There shall be a secretariat to the Forum which shall comprise of–*

(a) Such technical and administrative officers and support staff as may be appointed by the Forum; and

(b) Such public officers as may be seconded to the Forum upon request

(c) The Forum shall ensure that the appointment made under section (1) shall comply with Articles 232(g), (h) and (i) of the Constitution

(d) The staff appointed under subsection (1) shall serve on such terms and conditions as the Forum may from time to time determine

Justification – The Forum as an independent body should have powers to recruit its own secretariat staff as it is the one that knows the qualifications, capacity and skills required for the proper discharge of the functions under this Act. The appointment of staff can be undertaken by the secretary under the direction of the Executive Committee of the Forum. There is no need for the involvement of IGRTC in this for reasons advanced earlier.

(10) Insert a new subsection **86G** to provide for the Seal of the Forum, to read as;-

(1) The seal of the Forum shall be such device as may be determined by the Forum and shall be kept by the secretary to the Forum

(2) The affixing of the seal shall be authenticated by the Chairperson and Secretary or any other person authorized by a resolution of the Forum

(3) Any document purported to be under the seal of the Forum, or issued on behalf of the Forum shall be received in evidence and shall be deemed to be so executed or issued, as the case maybe, without further proof unless the contrary is proved

Justification – This is a legally accepted and at times required way of proving that documents so issued are official and authentic and truly represent ownership of the position of the issuing authority on the relevant matter or decision conveyed. This is normal in public service where the law requires such.

(11) Remove existing subsections **86L (1)** and insert a new subsection (1) to read;-

(1) The Forum shall submit within a period of three months after the end of each financial year, submit to the Senate of the Kenyan parliament an Annual Report on its activities, operations and programs in the preceding financial year.

(2) A report of the Forum submitted under subsection (1) shall include an Annual Program outlining a comprehensive Work Plan for the subsequent financial year.

Justification – This is to align this requirement with other activities of the Forum based on quarters. The submission to the Senate is in-line with its constitutional mandate of overseeing county governments and their related institutions. County Public Service Boards are nevertheless required to individually submit reports to their respective County Assemblies on their activities and operations under the county Governments Act 2012 and which provide information for inclusion into the State of the Nation Address by the President.

- (12) Insert as new subsection **86M** to read; *(1) The Forum may acquire assets anywhere for its own use as may be determined and directed by its members.*

Justification – With growth of the Forum, a good sound asset base will be useful to further strengthen it financially by providing additional sources of revenue.

- (13) Insert as new subsection **86N** to read;- *(1) There shall be established a Board of Trustees as determined by the Forum and whose responsibilities shall include –*
(a) Manage and protect the assets acquired by the Forum
(b) Make such investments in organizations, bodies and financial institutions for the purpose of making the Forum financially sustainable
(c) Applying any profits, dividends, benefits etc, received from such investments for purposes as directed by the Forum

Justification – The purpose of this is basically to ensure financial sustainability for the Forum. It will also make it possible for the Forum to contribute and participate in Corporate Social Responsibility activities, programs and causes in the counties as may be determined or directed by the Forum. The work of CPSBs invariably also involves working with communities in some of the boards' activities.

- (14) Remove existing subsections **86J (1)** and insert new subsection on Funds of the Forum, to read as;-

(1) The funds of the Forum shall consist of monies drawn from the Consolidated Fund and approved by the Senate annual subscriptions by each county or other sources as may be lawfully granted or donated to the Forum.

(2) The Forum shall set rules and regulations for management and use of the funds so received.

Justification – The resourcing of even the original Forum was a perennial problem since most of the county governments refused or neglected payment of due subscriptions or even omitted the same when doing or approving their respective budgets of the Boards. This heavily impacted on the Forum’s proper functioning and ability to undertake its programs and activities.

Independent funding for the Forum is critical to its survival and protection from political interference or blackmail by vested interests given experience of pioneer Boards. It is necessary to legally obligate the counties to pay annual subscriptions since the counties will be primary beneficiaries of properly functioning County Public Service Boards.

The County Public Service Boards National Consultative Forum (CPSBs-NCF)

60. The CPSBs-NCF made the following submissions with regards to Clause 5:

- (1) The Forum agreed with Section **86A**. Additionally, that Section 86A(2)(a) should be reviewed to reflect the regional balance of Boards along the current schedule of CPSBs’ regional blocs. However, they disagreed with 86A(2)(b) because Secretaries are members of the Board by virtue of the technical expertise as Corporate Governance experts whose technical advisories makes a lot of impact on Board decisions and going by current jurisprudence guides where case law has shown that courts have rule that Secretaries are integral and equal Board Members of a CPSB.
- (2) The Forum proposed that **86A (3)** be expanded to include the scope of members appointed under section 58(1)(a), (b) and (c).
- (3) Opposed the proposal in **86A (4)** and suggested retaining the current model of the Forum where Individual members elect the office bearers of the Forum including the Chairperson and Vice Chairperson.

- (4) Proposal to expand Section **86A (5)** to include a schedule of list of CPSBs by regional blocs and election guidelines that makes one eligible for election by rotation every election year.
- (5) Under **86A (c)**, proposal to amend the period of a term of a member of the Board of the Forum to be 2 years along the model of current practice.
- (6) The CPSB-NCF concurred with the proposed Section **86B, 86C** and **86K**.
- (7) Proposal to insert a new section **86D** that will delete Clause (c) on reference to the Secretary being an employee of the IGRTC and insert new clauses as follows;-
- a) The Secretary must be a Certified Secretary in Good Professional Standing and a member of the Institute of Certified Secretaries of Kenya
 - b) The Secretary must be an employee of the Forum, who is competitively recruited by the Forum and is answerable to the Forum's Executive Committee and cannot be an employee of IGRTC or any other body;
 - c) The Secretary should have served a Secretary/CEO of a CPSB or a similar position and organization for at least 3 years;
 - d) The Secretary shall also be the CEO of the Forum and shall be the designated Accounting officer and the AIE holder of the Forum
- (8) Proposal to insert additional functions under **86E** including authority to approve Inter-County Transfers should be embedded in the Act.
- (9) Amendment of section **86F** to have a reasonable tenure of the Secretary/CEO of a Constitutional Commission which is 5 years and this should apply to the Forum.
- (10) Under **86G**, the forum submitted that the Secretary/CEO of the Forum should be afforded a reasonable threshold of protection of tenure and renewal once as provided for members of a CPSB and members of constitutional commissions whose work can be equated to the work of the Forum such as a high bar of 75% voting and a procedure to be heard like those afforded to secretaries/CEOs of a constitutional Commission and independent offices. This will guard against the tendency to manipulate the Secretaries/CEOs by other parties.

- (11) Opposed Section **86H** stating that the technical officers and Staff, and agenda of the Forum should be appointed by the Forum. The Forum as an independent body should have powers to recruit its own secretariat staff as it is the one that knows the qualifications, capacity and skills required for the proper discharge of the functions under this Act. The appointment of staff can be undertaken by the Secretary-General under the direction of the Executive Committee of the Forum. Therefore, there is no need for the involvement of IGRTC.
- (12) In agreeing with section **86I**, they proposed that section 86I (2) needs to be refined to define what the works of the Forum Mean and the need to cap the level of compensation to a reasonable level subject to financing of the Forum by the Exchequer and its ability to meet such liabilities. This is a potentially litigious element that must be managed and amended as necessary to avoid unnecessary legal traps when the Forum may not have the capacity to pay any compensation.
- (13) The insertion of **86J** should be amended to provide that;- *Funds of the Forum shall include but not limited to:*
- 1) *Annual Subscriptions payable by each CPSB at rates to be determined by the Forum every 2 years or a need basis by a resolution of the Forum at its Annual General Meeting (AGM) or Special General Meeting (SGM);*
 - 2) *any other monies that shall be legally provided for by statute or donated to the forum or from investments of the Forum;*
 - 3) *Provided that each CPSBs shall receive a guaranteed minimum ceiling of its Budget pegged to at least 2.5% of its respective County's Annual Equitable Revenue share or Kshs. 125 Million per year, whichever is more*
- (14) Section **86L** be amended to read;- *The Forum shall, within a period of three months after the end of each financial year, submit to the Senate, an annual report on the activities and operations of the Forum in the preceding financial year. The Forum should make report only to the Senate to avoid micromanagement.*

Committee Observations/Recommendations

61. **The Committee observed that Clause 5 of the Bill sought to insert a new Part VIIA into the County Governments Act (Cap. 265) establishing the County Public Service Boards Consultative Forum, and providing for its composition, purpose, meetings, secretariat, funds, accounts and annual reporting obligations.**
62. **The Committee noted that the establishment of the Forum risked duplicating existing intergovernmental structures, particularly the Sector Working Groups and Committees established by the Council of County Governors under Section 20(3) of the Intergovernmental Relations Act (Cap. 265F), which can adequately address the purposes for which the Forum was proposed to be established.**
63. **The Committee further noted that the establishment of the Forum would introduce a centralized layer of oversight over county public service matters in a manner that derogates from the devolved powers of county governments over the management of their respective public services, as provided under Article 235 of the Constitution.**
64. **Having considered the submissions of stakeholders and the provisions of the Bill, the Committee resolved to delete Clause 5 of the Bill in its entirety.**

General Comments

The Council of Governors

65. **The Council of Governors submitted that the Bill presents several provisions that potentially compromise the autonomy of county governments and principles of human resource management. In addition, COG raised the following issues;**
 - (1) **Interference with County Human Resource Management: The establishment of the County Public Service Boards Consultative Forum and mechanisms for inter-county transfers dilute counties' authority over their personnel, as protected under Article 235.**

(2) Centralization of Decision-Making: The Forum introduces a centralized layer of decision-making, conflicting with the Constitution's devolution principles under Article 174 of the constitution.

(3) Financial and Operational Implications: Obligations for counties to fund the Forum and the imposition of external oversight through annual reporting undermine both financial and operational autonomy, violating Article 209(5).

66. In conclusion, the Council called upon the Senate to withdraw the bill as there are already intergovernmental structures in place under the Intergovernmental Relations Act 2012.

County Assemblies Forum

67. The County Assemblies Forum made the following comments on the Bill;

(1) That the provision for inter-county transfers will enhance mobility within the county public service, allowing for the equitable distribution of skills across counties. This aligns with the national goal of promoting efficient and effective public service delivery.

(2) The retention of accrued pension and other benefits for officers transferring between counties is a positive step. This provision ensures that public officers do not suffer financial setbacks due to their transfers, thus promoting job security.

(3) The establishment of the County Public Service Boards Consultative Forum fosters collaboration between counties. This forum will help resolve administrative issues more effectively and streamline the management of county public services.

(4) The flexibility given to County Public Service Boards to transfer officers without adhering to the three-year minimum service requirement could disrupt county operations. There needs to be a clear framework limiting such exceptions to avoid unnecessary disruptions.

(5) While the Bill addresses the need for public officers to serve for at least three years before applying for a transfer, it lacks clarity on the specific criteria for granting

transfers. The absence of explicit guidelines could lead to inconsistent application of this provision across counties.

- (6) Clause 4(6)(c) requires County Public Service Boards to consider the skills and competencies of existing staff in the receiving county when approving transfers. However, there is a risk that local staff could be overlooked or displaced, leading to dissatisfaction among employees. The Bill should provide stronger safeguards to protect the interests of local county employees

The Intergovernmental Relations Technical Committee (IGRTC)

68. The IGRTC commented that Section 5 of the Intergovernmental Relations Act, 2012 empowers IGRTC to facilitate consultations and cooperation between the two levels of government; and to provide a forum for coordinating government policies, legislation and functions. Section 13 (1) of the Act on the other hand empowers IGRTC to establish sectoral working groups or committees where the two levels of government may discuss matters of common interest. In this regard, IGRTC may engage with the proposed CPSB Consultative Forum and the Public Service Commission through the consultative sector fora provided under Section 13 (1).
69. IGRTC submitted that there is need to provide for reporting structures for the CPSB Consultative Forum. Further, that there is need to carefully determine the issue of inter-county transfers, as county governments are independent entities. Additionally, there are disparities between counties in their staff establishments and job descriptions and grading structures, which may heavily impact seamless intercounty transfers.
70. IGRTC noted the need to address the inconsistent and contradictory practices among county governments in relation to staff recruitment and placement.

Mr. Edmond Ogutu

71. Mr. Edmond Ogutu highlighted some potential drawbacks of the Bill which are;
- (1) Administrative Costs: Managing inter-county transfers, including protecting accrued benefits, could increase the administrative burden on county governments.

This may result in increased costs for counties that need to manage pension funds, retirement benefits, and other accrued benefits efficiently during transfers.

- (2) Coordination and Forum Costs: The establishment of the County Public Service Boards Consultative Forum could lead to additional expenses for counties, particularly in funding meetings, reports, audits, and staffing the forum. Though the Bill allows for lawful grants and donations, counties may still face financial strain in coordinating and funding these activities.
- (3) Risk of Unequal Resource Distribution: Counties with fewer financial resources may struggle to implement the provisions of the Bill effectively, particularly in terms of protecting the benefits of transferring officers or contributing to the functioning of the Forum. This could lead to disparities between counties in managing public service human resources.
- (4) Complexity of Implementation: The requirement to retain and transfer accrued benefits, including pensions and retirement benefits, could create challenges in aligning financial policies and processes across different counties. This might result in delays or disputes during inter-county transfers, potentially causing disruptions in public service delivery

72. Mr. Ogutu stated that while the Bill aims to improve coordination and efficiency, there could be significant financial and administrative demands placed on counties, especially those with limited resources.

The County Public Service Boards National Consultative Forum (CPSBs-NCF)

73. The CPSB-NCF submitted that memorandum of objects and reasons for the bill are inadequate since it does not demonstrate how the framework will not lead to a skewed flow of officers from other counties to their home counties in a manner that may lead to the latent promotion nepotism and vested interests veiled as exigencies of service since current experiences shows that there is a tendency of people to seek transfers from their current counties to their home counties for other reasons other than flow of knowledge and expertise and certainly does not lead to diversity of Communities unless

deliberate measures are put in place to cap certain levels of transfers. The Framework should also demonstrate how the vacancies can be declared and balanced using a technology-enabled system and reporting.

74. A revised Memorandum would be preferred and this bill be re-published to cater for much more than Inter-County Transfers since only string Boards with a guaranteed financial and operational autonomy will ensure a successful implementation of the Inter-County Transfers under this legal framework.
75. They added that while this is not a Money Bill, scope should be found to guarantee at least 2.5% of County's equitable revenue as the CPSBs Budget Ceiling.

Committee Observations/Recommendations

Council of County Governors

76. **The Committee noted the concerns raised by the Council of County Governors regarding the potential interference with county human resource management, the centralization of decision-making, and the financial and operational implications of the Bill. The Committee further noted the Council's call for the withdrawal of the Bill on the grounds that intergovernmental structures already exist under the Intergovernmental Relations Act, 2012.**
77. **In response to the concerns raised, the Committee observed that it had already resolved to delete Clause 5 of the Bill, which sought to establish the County Public Service Boards Consultative Forum, and Clauses 2 and 3, which were consequential to the establishment of the Forum. The Committee determined that the concerns of the Council of County Governors regarding centralization and interference with county autonomy are therefore addressed by those resolutions.**
78. **With respect to the inter-county transfer provisions under Clause 4, the Committee concurred with the Council of County Governors that the counties are distinct governments under Article 6(2) of the Constitution and that each is a separate employer of its officers under Article 235. The Committee determined**

that a statutory transfer channel between separate county employers cannot be reconciled with the requirement of fair competition and merit under Article 232(1)(g), and accordingly resolved to delete Clause 4 of the Bill.

County Assemblies Forum

79. The Committee noted the observations of the County Assemblies Forum acknowledging the merits of the inter-county transfer provisions, including the enhancement of mobility within the county public service and the protection of accrued benefits for transferring officers.
80. The Committee further noted the concerns raised regarding the flexibility accorded to County Public Service Boards to authorize transfers outside the prescribed minimum service period, and the absence of explicit guidelines on the criteria for granting transfers. The Committee determined that these concerns are addressed by the deletion of Clause 4, since the constitutionally compliant route for an officer to serve in another county is through competitive recruitment against an advertised vacancy declared by the receiving Board.

Intergovernmental Relations Technical Committee

81. The Committee noted the submissions of the Intergovernmental Relations Technical Committee regarding the need for clear reporting structures, the independent nature of county governments, and the disparities in staff establishments, job descriptions and grading structures across counties, which may affect the seamless implementation of inter-county transfers.
82. The Committee determined that the disparities in staff establishments, job descriptions and grading structures across counties, to which the Intergovernmental Relations Technical Committee drew attention, reinforce the conclusion that the counties are distinct employers and that inter-county movement is properly effected through fresh competitive recruitment by the

receiving County Public Service Board rather than through a statutory transfer of service. The Committee accordingly resolved to delete Clause 4 of the Bill.

Mr. Edmond Ogutu

83. The Committee noted the concerns raised by Mr. Edmond Ogutu regarding the administrative costs, coordination costs, risk of unequal resource distribution, and complexity of implementation associated with the provisions of the Bill.
84. The Committee determined that the deletion of Clause 5, which sought to establish the County Public Service Boards Consultative Forum, addresses the concerns relating to coordination and forum costs. With respect to the inter-county transfer provisions, the Committee noted that the administrative-cost, resource-distribution and implementation concerns raised are addressed by the deletion of Clause 4, which removes the obligation on a receiving county to absorb, onto its payroll and pension liabilities, an officer it did not competitively recruit.

County Public Service Boards National Consultative Forum

85. The Committee noted the concerns raised by the County Public Service Boards National Consultative Forum regarding the adequacy of the memorandum of objects and reasons of the Bill, the risk of skewed transfers driven by personal interests rather than service needs, and the need for a technology-enabled system to manage vacancies and transfers.
86. The Committee noted the concern of the County Public Service Boards National Consultative Forum that the proposed framework could produce a skewed flow of officers driven by personal rather than service considerations. The Committee determined that this risk is avoided by the deletion of Clause 4, since the declaration and competitive filling of vacancies by each receiving Board, in accordance with Article 232(1)(g), safeguards both merit and the representation of Kenya's diverse communities.

Institute of Human Resource Management

87. The Committee noted the proposals by the Institute of Human Resource Management for the amendment of Section 58 of the County Governments Act to require that the Chairperson of the County Public Service Board be appointed from among qualified human resource management professionals. The Committee determined that these proposals fall outside the scope of the Bill and did not adopt them. The Committee however acknowledges the importance of human resource expertise in the management of county public services and encourages the relevant stakeholders to pursue these proposals through the appropriate legislative process.

Additional Proposals

The Institute of Human Resource Management (IHRM)

88. The IHRM submitted that it is clear from the objectives and functions of the CPSB, highlighted in Section 55 and 59 of the County Governments Act (Cap265), that the functions of the CPSB are HR in nature. They involve handling issues of county government employees and no better person can oversee the implementation of these functions than a qualified HR of good professional standing.
89. Therefore, it is the Institute's considered position that in addition to the proposed amendments in the County Governments (Amendment) Bill, 2024; the Senate should consider further amendments that will see the Chairperson of the CPSB, Section 58 (1) (a) of the County Governments Act, 2012, appointed from among highly qualified Human Resource Management professionals of good standing.
90. The IHRM proposed amendment of Section 58 (3)(c) to include; *A member of the Institute of Human Resource Management of good professional standing*. They stated that the CPSB carries out functions that are HR in nature and it is only prudent to have a person well-versed with HR qualifications and work experience chairing the Board.

The County Public Service Boards National Consultative Forum (CPSBs-NCF)

91. The CPSBs-NCF made additional proposals including;

- (1) Amendment of section 57 of the County Governments Act, on establishment of a CPSB by inserting the following new sections immediately after section 57 —
 - i) The Public Service Commission Act is amended to change the name of the "Public Service Commission" to "National Public Service Commission "
 - ii) Amend the County Governments Act at section 57 to change the name of the "County Public Service Board" to the "County Public Service Commission"
 - iii) The title of a "Member" of a CPSB to "Commissioner" of a County Public Service Commission
 - iv) The Title of the member of the County Public Service Commission appointed pursuant section 58(1)(c) shall be amended from "Secretary" to "Secretary and Chief Executive Officer, CEO"
- (2) Insert a section immediately after Section 59A to state that: *"A County Public Service Commission is a State Office in the County Government, which is an independent Constitutional Commission, and not an extension of the County Executive but a distinct state organ, which is the employer of all officers in the County Public Service"*
- (3) Insert a new section on the roles and functions of the Chairperson, Vice-chairperson and members of a County Public Service Commission.
- (4) Amend Section 58 of the County Governments act to provide for and express statement by the statute that Board Members of the CPSBs shall be "State Officers" and shall comprise all members of the Board (including the Secretary/CEO) appointed pursuant to section 59(a); (b) and (c) as per the provision of Article 260 on the definition of a state office.
- (5) Amend section 58 of the County Governments Act to provide for a direct funding of the CPSBs by the exchequer in the same way as the funding provided for all other Constitutional Commissions and independents officers by:

a) declaring that there is established a Revenue Fund Account for each CPSB into which a proportion of at least 2.5% of their respective County Governments Equitable Revenue share and any other sums and donations that are legally provided for and receivable by a CPSB shall be deposited directly by the Central Bank as a direct charge to the Consolidated Fund when the Annual Budgets are made every year and shall be operated by its Secretary/CEO as its official accounting Office and AIE holder without any interference by their County Executive and/or their County Assembly

b) The Secretary of the Board appointed under section 58(1) (c) shall be the designated Chief Executive Officer (CEO) and the Official Authorized Officer and accounting officer of the Board who shall also be its AIE Holder

Rationale – is to shield the Board from any further manipulation of the CPSBs by the County executive, who not only underprovide budgets to execute the Board's function effectively, but also tend to interfere in the performance of their functions contrary to section 59A of the CGA and often hold them ransom as noted in the widespread woes of CPSBs who have been impeached or threatened with impeachment on flimsy grounds, most of which are related to the lack of financial and hence leads to the lack of operational autonomy of the Boards (CPSBs).

(6) Amend section 58 of the County Governments Act to provide for equating the remuneration and benefits and privileges of Board members of CPSBs to those of members of similar constitutional Commissions and especially the Public Service Commission. In this regard, the following new insertion should be considered:-

“The Salaries and other remunerations of the members of the members of County Public Service Boards shall be equated as much as possible to the salaries and remunerations, benefits and privileges of the holders of equivalent roles of members and Secretary/CEO of the Public Service Commission in line with the principle of equal pay for work of equal value and the principle of equality of similar officers before the law”

Rationale – the amendment is intended to guard against the subjective under-grading and under-remuneration of members of the CPSBs as successfully argued by the Boards in their Constitutional Petition No E029 of 2023, whose landmark ruling is pending implementation by SRC and subject to ongoing consultations.

- (7) Amend section 45 and 46 of the County Governments Act to cap the Number of Chief Officers to not more than 15 and provide for timelines and principles to be adhered to by any County Government Executive re-organizing its administration to avoid the rampant “abuse of office” tendency by most county executives to appoint a myriad of Chief Officer and interference of the County Public Service, despite relevant advisories by their respect CPSBs. In this regard, they proposed the following insertion; *“While constituting its county departments and functions, the County Executive shall take into account the advisory of their respective CPSBs and shall limit the number of County Chief Officers to not more than 15 unless with the concurrence of the CPSB, provide adequate justification for approval by the Board which is the only authority in the County Government which shall be responsible for establishing and approving all offices in the County Public Service and shall be the official employers of all officers in the county Public service, including the County Secretary, which is an office established in the County Public service, who shall be employed on terms and official appointment letters and employment contract, drawn by the Board and signed by the Secretary/CEO of the Board”*

Rationale – the need to avoid having bloated staff establishments at the discretion of the County Executive and manage the attendant wage bill issues that has bene a huge challenge in the public service.

- (8) Amend Section 74 of the County Governments Act to provide for the overall management of the HR Function in the County Public service including the role of managing the payroll to be subject to the authority of the Board. Insert a new provision to state;- *“The CPSB shall be the only authority upon which an employment of any officer, whether causal, volunteer, contract or permeant and pensionable staff shall be regulated and approved. Any officer paid by county public*

funds can only be included in the County Payroll, upon the request to and approval by the Board. The actions of to add and/or remove of an officer in and/or from the county staff payroll, must be approved by the Board through a procedure to be designed and approved by the Board”

Rationale – Intended to curb the currently widespread problem of overemployment by the county executive who have blatantly flouted section 74 of the County Governments Act and employed casuals and other officers without the authority or concurrence of the Board through manipulation and threats to the Boards.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1 Committee Observations

The Committee made the following observations in line with its consideration of the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024) —

Clause 2

The Committee observed that Clause 2 sought to amend Section 2 of the County Governments Act (Cap. 265) by introducing a new definition of the term "Forum" to mean the County Public Service Boards Consultative Forum proposed to be established under Clause 5 of the Bill. The Committee noted that the definition is entirely consequential upon the establishment of the Forum under Clause 5. Having resolved to delete Clause 5 of the Bill, the Committee determined that the definition of "Forum" under Clause 2 no longer has a basis in law and accordingly resolved to delete Clause 2.

Clause 3

The Committee observed that Clause 3 sought to amend Section 12 of the Intergovernmental Relations Act (Cap. 265F) to expand the mandate of the Intergovernmental Relations Technical Committee (IGRTC) to include the day-to-day administration of the proposed County Public Service Boards Consultative Forum. The Committee noted that this proposed amendment no longer has a basis in law following the resolution to delete Clause 5 of the Bill.

Further, the Committee observed that the mandate of IGRTC, as established under the Intergovernmental Relations Act, relates to intergovernmental relations between the two levels of government. The Committee determined that assigning IGRTC the responsibility of administering a forum concerned exclusively with county public service matters would derogate from its established role as a neutral and impartial technical body serving both levels of government, in a manner inconsistent with the provisions of the

Intergovernmental Relations Act. The Committee accordingly resolved to delete Clause 3 of the Bill.

Clause 4

The Committee observed that the national transfer-of-service framework under Section 43 of the Public Service Commission Act (Cap. 185) and the Public Service Commission Regulations, 2020, operates within a single public service of the Republic under a common employer, the Public Service Commission, and that this structural precondition is absent among the forty-seven counties, each of which is a distinct public service under Article 235 of the Constitution and Sections 56 and 57 of the County Governments Act, with each County Public Service Board a separate body corporate appointing officers for its own county, as affirmed in *Kenya Medical Practitioners, Pharmacists and Dentists' Union v County Government of Kilifi* (2022).

The Committee determined that the movement of a county public officer from one county to another is therefore not a transfer within a single employer but a fresh appointment by a different employer, which is governed by the requirement of fair competition and merit under Article 232(1)(g) of the Constitution and the Public Service (Values and Principles) Act. An officer wishing to serve in another county may already do so by competing for a vacancy declared and advertised by the receiving County Public Service Board. Clause 4 would instead create a non-competitive channel by which a serving officer could acquire a county public office never opened to other qualified Kenyans, in derogation of Article 232(1)(g) and of the distinctness of county governments under Article 6(2). The Committee further determined that this defect is not curable by amendment, since any requirement for a letter of offer of appointment from the receiving Board concedes that the process is an appointment and thereby attracts the competitive-recruitment obligation the clause was designed to avoid.

The Committee accordingly resolved to delete Clause 4 of the Bill in its entirety.

Clause 5

The Committee observed that Clause 5 of the Bill sought to insert a new Part VIIA into the County Governments Act to establish the County Public Service Boards Consultative Forum and to provide for its composition, purpose, meetings, secretariat, funds, accounts and annual reporting obligations.

The Committee noted that the establishment of the Forum risked duplicating existing intergovernmental structures, particularly the Sector Working Groups and Committees established by the Council of County Governors under Section 20(3) of the Intergovernmental Relations Act, which can adequately address the purposes for which the Forum was proposed to be established.

The Committee further observed that the establishment of the Forum would introduce a centralized layer of oversight over county public service matters in a manner that derogates from the devolved powers of county governments over the management of their respective public services, as provided under Article 235 of the Constitution.

The Committee accordingly resolved to delete Clause 5 of the Bill in its entirety.

Additional Proposals

The Committee noted the additional proposals submitted by the County Public Service Boards National Consultative Forum (CPSBs-NCF) and the Institute of Human Resource Management (IHRM), which sought amendments to the County Governments Act beyond the scope of the Bill, including proposals relating to the renaming of County Public Service Boards, the remuneration and financial autonomy of Board members, the capping of the number of County Chief Officers, and the designation of the Board Secretary as Chief Executive Officer and Accounting Officer.

The Committee observed that while the proposals raise matters of public importance that merit consideration, they fall outside the scope of the County Governments (Amendment) Bill, 2024 and cannot be addressed within the framework of the present Bill.

3.2 Committee Recommendations

The Committee having reviewed the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024) and conducted public participation, made the following recommendations —

Clause 2

That Clause 2 be deleted, as it is consequential upon the deletion of Clause 5 of the Bill.

Clause 3

That Clause 3 be deleted, as the proposed amendment to the Intergovernmental Relations Act (Cap. 265F) no longer has a basis following the deletion of Clause 5, and further, as the proposed assignment of functions to IGRTC is inconsistent with its established mandate under the Intergovernmental Relations Act.

Clause 4

That Clause 4 be deleted, as the inter-county transfer of a county public officer constitutes a fresh appointment by a distinct county employer that must be made on the basis of fair competition and merit in accordance with Article 232(1)(g) of the Constitution, and as the officer's movement to another county is already provided for through competitive recruitment against a vacancy declared by the receiving County Public Service Board.

Clause 5

That Clause 5 be deleted in its entirety. The Committee recommends that the purposes for which the County Public Service Boards Consultative Forum was proposed to be established be addressed through the Sector Working Groups and Committees established by the Council of County Governors under Section 20(3) of the Intergovernmental Relations Act (Cap. 265F).

General Recommendation

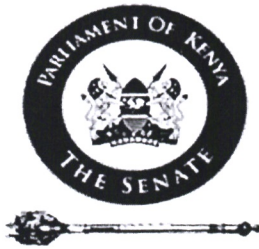
The Committee, having resolved to delete Clauses 2, 3, 4 and 5 of the Bill, observed that the only remaining provision is Clause 1, which sets out the short title, and that the Bill is therefore left without any operative provision. The Committee accordingly recommends that the County Governments (Amendment) Bill (Senate Bills No. 39 of 2024) be not read a second time.

LIST OF ANNEXURES

<i>Annex 1</i>	Minutes of the Standing Committee on Devolution and Intergovernmental Relations
<i>Annex 2</i>	The County Government (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024)
<i>Annex 3</i>	Advertisement published in the Daily Nation and Standard Newspaper on Monday, 23 rd September, 2024
<i>Annex 4</i>	Copies of stakeholder submissions on the Bill
<i>Annex 5</i>	Proposed Committee amendments to the Bill

Annex 1:

***Minutes of the Standing
Committee on Devolution and
Intergovernmental Relations***



MINUTES OF THE 236TH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 2ND JULY, 2026 AT 9:00 A.M AT COMMITTEE ROOM 4, FIRST FLOOR, BUNGE TOWER AND ON THE ZOOM ONLINE PLATFORM

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Sheikh Mohamed Abass, CBS, MP | - Chairperson |
| 2. Sen. Catherine Mumma, CBS, MP | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 4. Sen. Dr. Oburu Oginga, MGH, MP | - Member |
| 5. Sen. Paul Karungo Thangwa, CBS, MP | - Member |
| 6. Sen. Mohamed Said Chute, CBS, MP | - Member |
| 7. Sen. Hezena Lemaletian, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|----------------------------------|----------|
| 1. Sen. Richard Onyonka, EBS, MP | - Member |
| 2. Sen. Peris Tobiko, CBS, MP | - Member |

SECRETARIAT

- | | |
|---------------------------|---|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Ms. Angela Kagunyi | - Legal Officer I |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |
| 5. Mr. Stanely Gikore | - Media Relations Officer III |
| 6. Ms. Julia Gachoki | - Serjeant -At-Arms |
| 7. Mr. Charles Oyosi | - Audio Officer III |
| 8. Ms. Umlikier Mohamed | - Attachee |

MIN/SEN/DEVIR/1234/2026:

PRAYER

The meeting was called to order at 9:17 a.m. by the Chairperson, followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/1235/2026:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as presented after being proposed by Sen. Mohamed Chute, CBS, MP and seconded by Sen. (Prof.) Margaret Kamar, EGH, MP as follows -

1. Prayer;
2. Adoption of the agenda;
3. Confirmation of the Minutes of the Previous Meeting;
4. Consideration of Matters Arising from the Minutes;
5. Consideration of the Report on the Cooperation Agreement between the National Government and Nairobi City County;
6. Consideration of the Report on the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024)
7. Any other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/1236/2026:

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.

- a) The minutes of the 233rd sitting held on Thursday, 11th June, 2026 were confirmed as a true record of the proceedings after being proposed by Sen. Mohamed Chute, CBS, MP, and seconded by Sen. (Prof.) Margaret Kamar, EGH, MP.
- b) The minutes of the 234th sitting held on Monday, 22nd June, 2026 were confirmed as a true record of the proceedings after being proposed by Sen. Hezena Lemaletian, MP and seconded by Sen. Mohamed Chute, CBS, MP.

MIN/SEN/DEVIR/1237/2026:

CONSIDERATION OF MATTERS ARISING FROM THE MINUTES

There were no matters arising from the minutes that were confirmed.

MIN/SEN/DEVIR/1238/2026:

CONSIDERATION AND ADOPTION OF THE REPORT ON THE COOPERATION AGREEMENT BETWEEN THE NATIONAL GOVERNMENT AND THE COUNTY GOVERNMENT OF NAIROBI CITY.

The Committee resumed consideration of the Report on the Cooperation Agreement between the National Government and the Nairobi City County Government, and reviewed the recommendations as amended to reflect the changes adopted during its previous sitting on the matter. Upon further deliberation, the Committee resolved to recommend that the Cooperation Agreement be **temporarily suspended** to allow for the negotiation of a revised framework. The renegotiated Agreement should be subjected to comprehensive public participation, incorporate a detailed implementation

workplan, and provide explicit reporting obligations requiring the implementing parties to submit periodic implementation reports to Parliament and the Nairobi City County Assembly, among other necessary provisions.

The Report was unanimously adopted after being proposed by Sen. Mohamed Chute, CBS, MP, and seconded by Sen. Hezena Lemaletian, MP.

MIN/SEN/DEVIR/1239/2026:

CONSIDERATION OF THE REPORT ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

The Committee resumed consideration of its Report on the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024) and resolved to recommend the deletion of all clauses of the Bill. The report was unanimously adopted after being proposed by Sen. (Prof.) Margaret Kamar, EGH, MP and seconded by Sen. Hezena Lemaletian, MP.

MIN/SEN/DEVIR/1240/2026:

ANY OTHER BUSINESS

- a) The Committee resolved to invite the Governors of Kiambu and Makueni Counties to appear before the Committee for deliberations on matters relating to its ongoing inquiry into the governance and management of municipalities; and
- b) The Committee further resolved to undertake an oversight visit to Samburu County at the earliest opportunity, subject to the Committee's scheduling and logistical considerations.

MIN/SEN/DEVIR/1241/2026:

ADJOURNMENT AND DATE OF NEXT MEETING

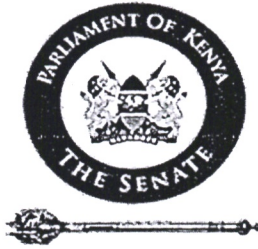
The Chairperson adjourned the meeting at 10:30 a.m. The next meeting to be held on Monday, 13th July, 2026.

SIGNED.....

SEN. SHEIKH MOHAMED ABASS, CBS, MP,

CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS.

DATE..... 14.07.26



MINUTES OF THE 227TH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON FRIDAY, 8TH MAY, 2026 AT 2:00 P.M AT SERENA HOTEL, MOMBASA COUNTY AND ON THE ZOOM ONLINE PLATFORM

PRESENT

1. Sen. Sheikh Mohamed Abass, CBS, MP - Chairperson
2. Sen. Catherine Mumma, CBS, MP - Vice-Chairperson
3. Sen. Paul Karungu Thangwa, CBS, MP - Member

ABSENT WITH APOLOGY

1. Sen. (Prof.) Margaret Kamar, EGH, MP - Member
2. Sen. (Dr.) Oburu Oginga, MGH, MP - Member
3. Sen. Richard Onyonka, EBS, MP - Member
4. Sen. Peris Tobiko, CBS, MP - Member
5. Sen. Mohamed Said Chute, CBS, MP - Member
6. Sen. Hezena Lemaletian, MP - Member

SECRETARIAT

1. Mr. Njenga Njuguna - DGAC
2. Mr. Ibrahim Leruk - Principal Clerk Assistant I
3. Ms. Sylvia Nasambu - Clerk Assistant I
4. Mr. Desmond Rasugu - Clerk Assistant III (**taking minutes**)
5. Ms. Angela Kagunyi - Legal Officer II
6. Ms. Mwanamisi Mwachasi - Research Officer III
7. Mr. Stanley Gikore - Media Relations Officer III
8. Ms. Julia Gachoki - Serjeant -At-Arms
9. Mr. Charles Oyosi - Audio Officer III
10. Mr. Joseph Wangai - Office Assistant

MIN/SEN/DEVIR/1193/2026:

**REPORT OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL 2024
(SENATE BILLS NO. 39 OF 2024)**

The Committee deliberated on the County Governments (Amendment) Bill, 2024, (Senate Bills No. 39 of 2024) which seeks to establish a legislative framework to facilitate the inter-county transfer of county public officers. The Bill aims to enable the seamless movement of officers between county public services without compromising their accrued benefits, thereby promoting efficiency, national integration, cohesion, and improved service delivery across counties.

Upon examining the proposals and noting their implications, particularly the fact that county governments are distinct employers under the Constitution, the Committee resolved to reject all clauses of the Bill. The Committee agreed to provide justification for the rejection of each clause in its report.

MIN/SEN/DEVIR/1194/2026:

**CONSIDERATION OF THE COUNTY GOVERNMENT LAWS
(AMENDMENT) BILL, 2025 (SENATE BILLS NO. 14 OF 2025)**

The Committee considered the County Government Laws (Amendment) Bill, 2025 (Senate Bills No. 14 of 2025) and expressed agreement with its general provisions. However, Members noted that two additional Bills proposing amendments to the same Act on related governance matters within county governments are currently underway.

To ensure coherence, avoid duplication, and facilitate efficient processing of legislative amendments, the Committee resolved to request the sponsors of the two Bills—Sen. Mohamed Chute, CBS, MP, and Sen. Karungo Thangwa, CBS, MP, to consolidate their proposed amendments into a single Bill. The Committee observed that a unified amendment Bill would provide a neater and more streamlined legislative framework.

MIN/SEN/DEVIR/1195/2026:

ANY OTHER BUSINESS

There was no any other business.

MIN/SEN/DEVIR/1196/2026:

**ADJOURNMENT AND DATE OF NEXT
MEETING**

The Chairperson adjourned the meeting at 3:15 p.m. The next meeting is to be held on Monday, 11th May, 2026.

SIGNED.....

DATE..... 22/06/26

SEN. SHEIKH MOHAMED ABASS, CBS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



MINUTES OF THE 204TH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 16TH FEBRUARY, 2026 AT 10:00 A.M. AT COMMITTEE ROOM 2, 1ST FLOOR, BUNGE TOWER, AND ON THE ZOOM ONLINE PLATFORM

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Sheikh Mohamed Abass, CBS, MP | - Chairperson |
| 2. Sen. Catherine Mumma, CBS, MP | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 4. Sen. Richard Onyonka, EBS, MP | - Member |
| 5. Sen. Mohamed Said Chute, CBS, MP | - Member |
| 6. Sen. Hezena Lemaletian, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|----------|
| 1. Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
| 2. Sen. Peris Tobiko, CBS, MP | - Member |
| 3. Sen. Paul Karungo Thangwa, CBS, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|---|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Ms. Angela Kagunyi | - Legal Counsel II |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |
| 5. Mr. Staneley Gikore | - Media Relations Officer III |
| 6. Ms. Celestine Jepkosgei | - Public Communications III |
| 7. Ms. Julia Gachoki | - Serjeant-At-Arms III |
| 8. Mr. Charles Oyosi | - Audio Officer III |

MIN/SEN/DEVIR/1069/2026**PRAYER**

The meeting was called to order at 10:20 a.m by the Chairperson, followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/1070/2026:**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted as presented after being proposed by Sen. Catherine Mumma, CBS, MP and seconded by Sen. Mohamed Chute, CBS, MP as follows –

1. Prayer;
2. Adoption of the agenda;
3. Confirmation of the Minutes of the Previous Meetings;
4. Consideration of Matters arising from the Minutes;
5. Consideration of the submissions received on the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024);
6. Consideration of request by Mr. David Manyara for the dissolution of the County Government of Meru;
7. Any other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/1071/2026:**CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETING**

- a) The minutes of the 198th Sitting of the Committee held on Monday, 10th November, 2025 were confirmed as a true record of the proceedings after being proposed by Sen. Catherine Mumma, CBS, MP and seconded by Sen. Mohamed Chute, CBS, MP;
- b) The minutes of the 199th Sitting of the Committee held on Tuesday, 11th November, 2025 were confirmed as a true record of the proceedings after being proposed by Sen. Mohamed Chute, CBS, MP and seconded by Sen. Catherine Mumma, CBS, MP;
- c) The minutes of the 200th Sitting of the Committee held on Thursday, 20th November, 2025 were confirmed as a true record of the proceedings after being proposed by Sen. Richard Onyonka, EBS, MP and seconded by Sen. Mohamed Chute, CBS, MP;
- d) The minutes of the 201st Sitting of the Committee held on Monday, 24th November, 2025 were confirmed as a true record of the proceedings after being proposed by Sen. Richard Onyonka, EBS, MP and seconded by Sen. Mohamed Chute, CBS, MP;
- e) The minutes of the 202nd Sitting of the Committee held on Monday, 1st December, 2025 were confirmed as a true record of the proceedings after being proposed by Sen. Mohamed Chute, MP and seconded by Sen. (Prof.) Margaret Kamar, EGH, MP; and

- f) The minutes of the 203rd Sitting of the Committee held on Thursday, 12th February, 2026 were confirmed as a true record of the proceedings after being proposed by Sen. (Prof.) Margaret Kamar, EGH, MP and seconded by Sen. Hezena Lemaletian, MP.

MIN/SEN/DEVIR/1072/2026: CONSIDERATION OF MATTERS ARISING FROM THE MINUTES

There were no matters arising from the minutes that were confirmed.

MIN/SEN/DEVIR/1073/2026:

CONSIDERATION OF THE SUBMISSIONS RECEIVED ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

The Committee resumed consideration of the matrix of submissions on the above Bill, which seeks to provide for a framework for inter-transfer of services from one county to another and noted that the Council of Governors opposed Clause 4 of the Bill, arguing that permitting inter-county transfer disrupts county operations by introducing personnel not recruited or needed by the receiving County. This could impose unforeseen human resource burdens and undermine the management of County Officers at the County level.

During deliberations, it was observed that the provision of the said clause assumes that the forty-seven (47) county governments are a single entity, yet each is a distinct government with its own county public service board. Upon extensive discussions on the clause, the Committee resolved to make a final resolution on the provision, at another meeting, where the sponsor of the Bill, Sen. George Mbugua, MP, shall be invited to discuss the implications of the Bill on the current laws and policies guiding public service in the Country.

MIN/SEN/DEVIR/1074/2026: CONSIDERATION OF THE REQUEST BY MR. DAVID MANYARA FOR THE DISSOLUTION OF THE COUNTY GOVERNMENT OF MERU

The Committee considered the letter by Mr. David Manyara addressed to the Clerk of the Senate in which he requested for the dissolution of the County Government of Meru, alleging that the county government is engaged in bad politicking, unlawful practices and a disregard for the rule of law, resulting in violations of constitutional rights, dereliction of duty and abuse of office. It further cites unresolved complaints raised by the petitioner since 2022, including environmental degradation, failure to address pollution and financial mismanagement which have hampered service delivery and denied residents their rights under the Constitution. With the foregoing matters, the petitioner prayed for the Senate's intervention to ensure transparency, accountability

and adherence to principles of governance under Articles 10 and 232 of the Constitution.

The Committee examined the legal provisions for suspension of a county government as provided in Article 192 of the Constitution and Section 123 of the County Governments Act and noted that the petitioner did not meet these provisions, as his petition bypasses the initiation by the President through an independent commission of inquiry and directly seeks the Senate's approval without evidence of such prior steps of confirmation of exceptional circumstances by the required bodies. Consequently, the Committee resolved that -

- a) the petitioner be informed by the Office of the Clerk about the due Constitutional process under Article 192 and section 123 of the County Governments Act (Cap.265) for dissolution of a county government;
- b) the petitioner be advised by the Office of the Clerk to pursue the specific issues contained in the letter such as alleged violations of constitutional rights and financial irregularities, through a properly framed petition as provided in the Petitions to Parliament (Procedure) Act (Cap 7E), to enable proper consideration and referral to the relevant Committee of the Senate; and
- c) the issues raised in the letter on financial irregularities reported by the Auditor General and the Controller of Budget be forwarded to the Senate County Public Accounts Committee for consideration.

MIN/SEN/DEVIR/1075/2026:

ANY OTHER BUSINESS

The Vice Chairperson, Sen. Catherine Mumma, CBS, MP, requested the Committee for funds to facilitate her travel to attend the 70th Session of the Commission on the Status of Women (CSW70) to be held in the USA in March, 2026. The Committee deliberated on her request, noting that the Committee's balance of funds for foreign travel was Ksh. 2.8M and further noted that the Senator is due for a foreign trip, resolved to fund the Senator for the aforementioned travel with an amount of **Ksh. 1.4M**. The Committee further resolved that the remaining balance of Ksh. 1.4M be reserved for Sen. Hezema Lemaletian, MP, who is also due for a foreign travel.

MIN/SEN/DEVIR/1076/2026:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 12:01 p.m. The next meeting to be held on Thursday, 19th February, 2026.

SIGNED.....

DATE..... 1. 03. 26

SEN. SHEIKH MOHAMED ABASS, CBS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



**MINUTES OF THE HUNDRED AND FORTY THIRD (143RD) SITTING OF
THE SENATE STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS HELD ON TUESDAY, 3RD
DECEMBER, 2024, AT 9:30 AM AT COMMITTEE ROOM 1, BUNGE TOWER.**

PRESENT

- | | |
|----------------------------------|---------------|
| 1. Sen. Sheikh Mohamed Abass, MP | - Chairperson |
| 2. Sen. Mohamed Chute, MP | - Member |
| 3. Sen. David Wafula Wakoli, MP | - Member |
| 4. Sen. George Mbugua, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------------|--------------------|
| 1. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 2. Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
| 3. Sen. Richard Onyonka, EBS, | - Member |
| 4. Sen. Peris Tobiko, CBS, MP | - Member |
| 5. Sen. Hezena Lemaletian, MP | - Member |

IN ATTENDANCE

- | | |
|-----------------------|------------------------------|
| 1. Hon. Jared Kopiyu | - Chair, CPSBNCF |
| 2. Ms. Farida Abdalla | - Vice-Chairperson, CPSBNCF |
| 3. Mr. Samson Kibii | - Secretary General, CPSBNCF |
| 4. Mr. William Gatehi | - Member, CPSBNCF |
| 5. Ms. Yvonne Kinya | - Secretariat, CPSBNCF |

SECRETARIAT

- | | |
|----------------------------|---|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Mr. Walters Omondi | - Legal Counsel II |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |
| 5. Ms. Celestine Jepkosgey | - Public Communications Officer III |
| 6. Mr. Alex Mutuku | - Senior Serjeant-At-Arms |
| 7. Mr. Johnstone Simiyu | - Audio Officer III |

MIN/SEN/DEVIR/719/2024:

PRAYER

The meeting was called to order at 9:50 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/720/2024

ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted as presented after being proposed by Sen. David Wakoli, MP and seconded by Sen. George Mbugua, MP as follows -

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with the County Public Service Board National Consultative Forum to receive their views on the County Governments (Amendment) Bill, 2024 (Senate Bills. No 39 of 2024)
4. Any other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/721/2024

MEETING WITH THE COUNTY PUBLIC SERVICE BOARD NATIONAL CONSULTATIVE FORUM TO RECEIVE THEIR VIEWS ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

The Committee heard the views of the Forum on the above-mentioned Bill which in summary were as follows –

1. Supported the anchoring in the law of the County Public Service Boards Consultative Forum;
2. Proposed that the term of office of the secretary to the Forum be amended from 3 years to 5 years;
3. Proposed a review to increase the threshold for removal from office of the secretary to the forum to afford a reasonable threshold of protection of his tenure such as a three-quarter vote of the members of the Forum;
4. A clause to provide that the Forum to submit an annual report of its activities to the Senate, Council of Governors and County Assemblies within four months after the end of each financial year; and
5. Amend the clause of the funds for the Forum to provide for funding from the exchequer a sum equivalent to 2.5% of the equitable share of revenue each county.

(A copy of the full submission is annexed)

Resolution

The Committee noted that the memorandum contained issues that are not related to the Bill under consideration which could make it difficult to distinguish the specific clauses the Forum was proposing amendments to. Upon deliberation, the Committee resolved to give the Forum three (3) days to resubmit a revised memorandum that separates the issues presented on the Bill and those that are not related to the provisions of the Bill for easier consideration and determination by the Committee. The memorandum is to be submitted by Friday, 6th December, 2024.

MIN/SEN/DEVIR/722/ 2024

ANY OTHER BUSINESS

There was no any other Business.

MIN/SEN/DEVIR/723/2024

DATE OF NEXT MEETING AND ADJOURNMENT

The Chairperson adjourned the meeting at 11:50 am. The next meeting is to be held on Thursday, 5th December, 2024.

SIGNED.....

DATE..... 5.12.24.

SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



**MINUTES OF THE HUNDRED AND FORTY SECOND (142ND) SITTING OF
THE SENATE STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 25TH
NOVEMBER, 2024, AT 9:30 AM AT COMMITTEE ROOM 6, BUNGE TOWER.**

PRESENT

- | | |
|----------------------------------|---------------|
| 1. Sen. Sheikh Mohamed Abass, MP | - Chairperson |
| 2. Sen. Richard Onyonka, EBS, | - Member |
| 3. Sen. Peris Tobiko, CBS, MP | - Member |
| 4. Sen. George Mbugua, MP | - Member |
| 5. Sen. Hezena Lemaletian, MP | - Member |
| 6. Sen. David Wafula Wakoli, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------------|--------------------|
| 1. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 2. Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
| 3. Sen. Mohamed Chute, MP | - Member |

IN ATTENDANCE

- | | |
|--------------------------|----------------------------|
| 1. Mr. Laban Omusundi | - Petitioner |
| 2. Ms. Quresha Abdullahi | - Executive Director, IHRM |
| 3. Ms. Irene Kimacia | - Director, IHRM |
| 4. Mr. Wycliffe Nyakina | - Director, IHRM |

SECRETARIAT

- | | |
|----------------------------|--|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Mr. Walters Omondi | - Legal Counsel II |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |
| 5. Ms. Amran Yunis | - Fiscal Analyst I |
| 6. Ms. Celestine Jepkosgey | - Public Communications Officer III |
| 7. Mr. David Barasa | - Serjeant-At-Arms |
| 8. Mr. Johnstone Simiyu | - Audio Officer III |

MIN/SEN/DEVIR/714/2024:

PRAYER

The meeting was called to order at 9:45 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/715/2024

ADOPTION OF THE AGENDA

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with Mr. Laban Omusundi for consideration of petition on branding public projects with images of Governors and MCAs and branding county vehicles;
4. Meeting with the Institute of Human Resource Management to receive their submissions on the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024);
5. Any other Business; and
6. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/715/2024

MEETING WITH MR. LABAN OMUSUNDI FOR CONSIDERATION OF PETITION ON BRANDING PUBLIC PROJECTS WITH IMAGES OF GOVERNORS AND MCAS AND BRANDING COUNTY VEHICLES

1. The Committee heard the views of Mr. Laban Omusundi on his Petition on the matter of branding public projects with images of Governors and MCAs and branding county vehicles. In his submissions, the Petitioner stated that branding public projects and vehicles with individual names creates a perception of bias and favoritism which may erode public trust;
2. He further submitted that personalization of the projects could create a sense of individual ownership and may raise legal and ethical issues if public funds are used to promote personal interests, contrary to the provisions of the Constitution and Public Finance Management Laws;
3. He reported that he had made efforts to the Council of Governors and the Attorney General to address the issue but no response was provided;
4. He therefore sought the following prayers from the Senate –
 - a) to amend the County Government Act 2012 to insert a clause to restrain permanently the Governors and Members of County Assemblies from branding their respective portraits, images or names on public funded projects of the Counties as it was done to the national currency;
 - b) to make sure that all public funded projects are branded as “courtesy of taxpayers of Kenya” ;
 - c) to come up with regulations or amend any law in existence to make sure that all County Government vehicles are branded with colours of our National flag to make them easily identifiable; and

- d) Any other course that deems fit in the Senate's wisdom in the subject matter.

Resolution

Upon deliberations on the submissions of the petitioners, the Committee resolved to consider the matter in another meeting to come up with appropriate recommendations to make on the issues raised in the petition in its report to the Senate.

MIN/SEN/DEVIR/716/2024

MEETING WITH THE INSTITUTE OF HUMAN RESOURCE MANAGEMENT TO RECEIVE THEIR SUBMISSIONS ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

1. The Committee met with the Institute of Human Resource Management to receive their views on the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024). The Institute proposed that the Bill be amended to provide for additional qualifications of the Chairpersons of a County Public Service Board. This is to build the capacity of the County Public Service Boards to enable them to execute their mandate in a professional manner;
2. They justified their proposal by arguing that there has been serious concerns over service delivery in key human resources functions such as recruitment, selection, performance management, training and development, change management and human resource development by the county governments since their inception;
3. They further submitted that the head of the secretariat of the proposed County Public Service Board National Consultative Forum be a seasoned Human Resource Management Professional who is capable of guiding and directing the Forum appropriately;
4. They observed that the management of Human Resource in counties has stood out as one of the weakest links in the realization of devolution. While other functions such as accounting and procurement are properly regulated and standardized, they submitted that Human Resource Management lacks such standards and controls. They further reported that the Institute has in the past done audits on staff establishments in some counties and their findings revealed many irregularities in the whole Human Resource management in the Counties.
5. The Institute offered to work with the Committee in looking into the major Human resource challenges in counties based on the observations they have made from the Counties that they have considered.

Resolution

Following the offer by the Executive Director to assist the Committee in identifying the Human Resource management irregularities in the counties, it was resolved that the institute to prepare and submit a report to the Committee pointing out the major Human Resource irregularities in counties and the guidelines they propose to address them.

MIN/SEN/DEVIR/717/2024

ANY OTHER BUSINESS

1. The Committee was informed that the Committee's visit to Siaya County to meet with the Governor and the Deputy Governor of the County in an effort to mediate their strained working relationship shall be take place from 28th -30th November, 2024; and
2. The Committee resolved to reschedule its proposed visit to Turkana County for inspection of various development to January, 2025.

MIN/SEN/DEVIR/718/2024

DATE OF NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 11:08 am. The next meeting to be held on Thursday, 28th November, 2024.

SIGNED.....

DATE.....

SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



**MINUTES OF THE HUNDRED AND THIRTY-SIXTH SITTING OF THE
SENATE STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 7TH
OCTOBER, 2024, AT 9:30 AM IN MINI-CHAMBER, COUNTY HALL
BUILDING.**

PRESENT

- | | |
|--|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP | - Chairperson |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
| 4. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 5. Sen. Peris Tobiko, CBS, MP | - Member |
| 6. Sen. George Mbugua, MP | - Member |
| 7. Sen. David Wafula Wakoli, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------|----------|
| 1. Sen. Mohamed Chute, MP | - Member |
| 2. Sen. Hezena Lemaletian, MP | - Member |

IN ATTENDANCE

- | | |
|-------------------------------|---------------------------------------|
| 1. Ms. Teresia Mbaika Malokwe | - PS, State Department for Devolution |
| 2. Mr. Kennedy Nyambati | - State Department for Devolution |
| 3. Ms. Jackson Mwangi | - State Department for Devolution |
| 4. Mr. Stephen Mukiya | - State Department for Devolution |
| 5. Dr. Perminus Nyagah | - Member, IGRTC |
| 6. Ms. Sophie Amutavy | - Director, IGRTC |
| 7. Mr. Philip Kungu | - Former Chair, CPSBNCF |

SECRETARIAT

- | | |
|---------------------------|--|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Mr. Walters Omondi | - Legal Counsel II |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |

- | | |
|----------------------------|-------------------------------------|
| 5. Ms. Celestine Jepkosgey | - Public Communications Officer III |
| 6. Mr. David Barasa | - Serjeant-At-Arms |
| 7. Mr. Johnstone Simiyu | - Audio Officer III |

MIN/SEN/DEVIR/680/2024:

PRAYER

The meeting was called to order at 9:45 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/681/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as presented after being proposed by Sen. David Wakoli, MP, and seconded by Sen. George Mbugua, MP, as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of the Bill Digest of the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024)
4. Public hearing of the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024);
5. Any other Business; and
6. Date of the Next Meeting and Adjournment

MIN/SEN/DEVIR/682/2024

CONSIDERATION OF THE BILL DIGEST OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

The Committee considered committee paper no. 93, a bill digest on the County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024). The digest explained the purpose of the Bill, the rationale and the overview of the Bill. The Committee also heard the views of the sponsor of the Bill, Sen. George Mbugua, MP, who explained the reasons for coming up with the amendment and what its proposal seeks to cure.

MIN/SEN/DEVIR/683/2024

PUBLIC HEARING OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

The Committee held a public hearing session of the Bill, where each of the stakeholders made oral submissions and tabled a written memorandum on the Bill. The stakeholders present were-

- a) the State Department for Devolution;
- b) the County Assemblies Forum;

- c) the Intergovernmental Relations Technical Committee (IGRTC); and
- d) Mr. Philip Kungu, Former Chairperson, County Public Service Board National Consultative Forum.

The Committee also received a written memorandum from the Council of Governors, who were not physically represented in the meeting.

(See Annex I -Submissions on the bill from stakeholders)

MIN/SEN/DEVIR/684/2024

ANY OTHER BUSINESS

There is no any other business.

MIN/SEN/DEVIR/685/2024

**DATE OF NEXT MEETING AND
ADJOURNMENT**

The Chairperson adjourned the meeting at 12:25 pm. The next meeting to be held on Tuesday, 8th October, 2024 at 9.00 a.m.

SIGNED.....

DATE.....

**SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.**

Annex 2:

***The County Government (Amendment) Bill,
2024 Senate Bills No. 39 of 2024)***

SPECIAL ISSUE

Kenya Gazette Supplement No. 140 (Senate Bills No. 39)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 15th July, 2024

CONTENT

Bill for Introduction into the Senate—

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**THE COUNTY GOVERNMENTS (AMENDMENT)
BILL, 2024**

A Bill for

AN ACT of Parliament to amend the County Governments Act to provide for inter-county transfers of county public officers, the establishment of the county public service boards consultative forum and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the County Governments (Amendment) Act, 2024.

Short title.

2. Section 2 of the County Governments Act, (hereinafter referred to as “the principal Act” is amended by inserting the following new definitions immediately after the definition of the term “Disciplinary Control;”—

Amendment of section 2 of Cap. 265.

“Forum” means the County Public Service Boards Consultative Forum established under section 86A;

3. Section 12 of the Intergovernmental Relations Act is amended in paragraph (a) by inserting the words “, County Public Service Boards Consultative Forum” immediately after the words “administration of the Summit”

Amendment of section 12 of Cap. 265F.

4. The principal Act is amended by inserting the following new section immediately after section 73—

Insertion of section 73A in Cap. 265.

Inter-county transfer.

73A. (1) A county public officer desirous of transferring his or her services from one county to another may apply in writing to their respective County Public Service Board, through the authorised officer from which the officer is coming, for a transfer of service.

(2) A County Public Service Board shall, within twenty-one days of receipt of an application, make recommendations subject to any relevant written law in force relating to retirement benefits.

(3) Subject to sub-section (2), in order to be considered for transfer, an officer shall be required to have served at a duty station for a continuous period of at least three years.

(4) Despite subsection (3), a County Public Service Board may determine an officer's transfer without due regard to the period prescribed in paragraph (3).

(5) Where a county public officer is offered an appointment in another county, the request for transfer of service shall be made in writing to the relevant county public service.

(6) In making a decision to recommend the transfer of a county public officer, the County Public Service Board shall take into account the—

- (a) written application from the county public officer;
- (b) efficiency and effectiveness of public service delivery;
- (c) existing skills and competencies in the receiving county so as not to disadvantage public officers already serving in the county; and
- (d) promotion of representation of Kenya's diverse communities, men and women, the members of all ethnic groups and persons with disabilities.

(7) Where a county public officer is transferred from one county public service to another, the public officer's accrued benefits relating to the previous period in public service shall not be lost.

(8) For purposes of subclause (7), the benefits include—

- (a) accrued pension in accordance with relevant written law relating to pension;
- (b) retirement benefits;
- (c) accrued leave;
- (d) or any other benefit as may be agreed upon by the concerned county public service boards.

(9) A transfer shall not be arbitrary and shall be based on necessity and shall be carried out in a manner that shall not disrupt the operations of a county public service.

5. The principal Act is amended by inserting the following new sections immediately after section 86—

Insertion of
new Part
VIIA.

PART VIIA – COUNTY PUBLIC SERVICE BOARDS CONSULTATIVE FORUM

Insertion of section
86A in Cap. 265.

Establishment of the
County Public
Service Board
Consultative Forum.

86A. (1) There is established a County Public Service Boards Consultative Forum.

(2) The Forum shall comprise –

- (a) a representative from each of the forty-seven County Public Service Boards; and
- (b) a secretary to the Forum who shall be an ex-officio member and shall have no right to vote at any meeting of the Forum.

(3) The representative referred to in subsection 2(a) shall be drawn from the membership of the Board appointed under section 58(1)(a) or (b).

(4) At the first meeting, the Forum shall elect a chairperson and a vice-chairperson amongst their membership and regard shall be taken to ensure that the chairperson and vice-chairperson shall be of the opposite gender.

(5) The position of chairperson and vice-chairperson of the Forum shall be held by the various county public service boards on a rotational basis in such manner as the Forum may determine.

(6) A member of the Forum appointed under subsection (2)(a) shall hold office for a term of three years and shall not be eligible for reappointment.

Insertion of section 86B in Cap. 265. Purpose of the Forum.

86B. (1) The Forum shall —

- (a) develop criteria and framework for determining County public service matters requiring inter-county consultation;
- (b) develop inter-county agreements for joint implementation of any activities related to efficient county public service delivery; and
- (c) be a platform for mutual consultation, coordination and collaboration among the forty-seven County Public Service Boards on all matters related to the public service.
- (d) provide linkages with other relevant stakeholders for the furtherance of the functions of the Forum; and
- (e) mediate any disputes arising from the respective County Public Service Boards.

Insertion of section 86C in Cap. 265. Meetings of the Forum.

86C. (1) The Forum shall meet at least once every year on a rotational County basis

(2) The forum shall prescribe its own procedures for its meetings.

Insertion of section 86D in Cap. 265. Qualifications for appointment of Secretary to the Forum.

86D. A person shall be qualified for appointment as a secretary to the Forum if that person —

- (a) holds a degree from a university recognised in Kenya;

- (b) has knowledge and at least ten years work experience in a senior management position;
- (c) is an employee of the Intergovernmental Relations Technical committee;
- (d) meets the requirements of Chapter Six of the Constitution;
- (e) has not been adjudged bankrupt; and
- (f) has not been convicted of an offence and sentenced to imprisonment for at least six months.

Insertion of section
86E in Cap. 265.

Functions of the
secretary to the
Forum.

86E. In exercise of functions under this Act, the secretary to the Forum shall, subject to the direction of the Forum —

- (a) be responsible for the day-to-day management of the Forum;
- (b) oversee and coordinate the implementation of the policies, programmes and objectives of the Forum;
- (c) cause to be prepared for the approval of the Forum —
 - (i) the strategic plan and annual plan of the Forum; and
 - (ii) the annual budget and audited accounts of the Forum; and
- (d) perform such other duties as may be assigned to the secretary by the Forum.

Insertion of section
86F in Cap. 265.

Term of office of
secretary to the
Forum.

86F. The secretary to the Forum shall hold office for a term of three years and shall be eligible for reappointment for one further term.

Insertion of section
86G in Cap. 265.

Removal from
office of secretary
to the Forum.

86G. (1) The Forum may terminate the appointment of the secretary to the Forum for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) is no longer an employee of the Intergovernmental Relations Technical Committee.

(2) The termination under Subsection (1) shall not affect the employment terms of the Secretary to Intergovernmental Relations Technical Committee.

Insertion of section 86H in Cap. 265. Staff of the Forum.

86H. (1) The Forum may appoint such officers in consultation with the Intergovernmental Relations Technical Committee, agents and staff as are necessary for the proper and efficient discharge of the functions of the Forum under this Act.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions as the Forum may, in consultation with the Intergovernmental Relations Technical Committee, determine.

Insertion of section 86I in Cap. 265. Protection from personal liability.

86I. (1) In accordance with Article 236, No matter or thing done by an officer or an employee of the Forum shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Forum, render the officer or employee so acting, personally liable for any action, claim or demand.

(2) Subsection (1) shall not relieve the Forum from liability to pay compensation or damages to any person for any injury to that person, or other loss caused by the exercise of any power conferred by this Act or any other written law or by the failure of any works of the Forum.

Insertion of section 86J in Cap. 265. Funds of the Forum.

86J. (1) The funds of the Forum shall consist of monies as may be lawfully granted or donated to the Forum.

Insertion of new
section 86K in Act
Cap. 265.

Accounts and audit.

86K. (1) The Forum shall cause to be kept proper books and other records of accounts of the income, expenditure and the assets of the Forum.

(2) The accounts of the Forum shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

Insertion of section
86L in Cap. 265.

Annual report and
programme.

86L. (1) The Forum shall, within a period of four months after the end of each financial year, submit to the Senate, the County Assemblies and the Council of County Governors an annual report on the activities and operations of the Forum in the preceding financial year.

(2) A report of the Forum submitted under subsection (1) shall include an annual programme outlining a comprehensive plan of action for the subsequent financial year.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a legislative framework that will facilitate the inter-county transfer of pensionable county public officers. It seeks to allow for the seamless movement of these officers between county public services without compromising their accrued benefits, thus promoting efficiency, national integration, cohesion, and the effective delivery of public services across counties. The proposed legislation opens the avenue for counties to send and receive experienced officers based on specific needs. By allowing officers to transfer between counties, the Bill ensures that expertise and competencies can be evenly distributed, thus enhancing the efficiency and effectiveness of public service delivery across the nation.

The Bill further seeks to establish a county public service board consultative forum which recognizes the critical role played by the individual County Public Service Boards and seeks to offer a more robust and collaborative platform to facilitate their functions.

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

The Bill does not contain any provisions limiting any fundamental rights or freedoms in the Bill of Rights and it does not delegate legislative powers.

Statement on how the Bill concerns county governments

The Bill concerns county governments as stipulated under Article 110(1)(a) of the Constitution. The Bill addresses the inter-county movement of pensionable county public officers, a matter directly linked to the human resource functions of county governments as highlighted in the Fourth Schedule. By providing a framework for the transfer of officers between counties, the Bill has a direct bearing on the powers and responsibilities of counties to manage their personnel for effective service delivery. Furthermore, the safeguarding of rights and benefits for transferring officers also impacts county financial obligations and administrative functions. Therefore, the Bill affects the functions and powers of county governments as enumerated in the Fourth Schedule of the Constitution.

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

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated on the 15th May, 2024.

GEORGE MBUGUA,
Senator.

Section 2 of Cap 265 of the laws of Kenya, which it proposes to amend—

2. Interpretation in this Act, unless the context otherwise requires—

“analysis of functions” means processes of, and mechanisms for reviewing and reassigning powers and competencies between the national government and county governments in accordance with the provisions of the Constitution generally and in particular, the provisions of the Fourth Schedule thereto;

“apex body” means the body established under the law governing inter- governmental relations;

“appointment” includes an acting appointment, reappointment, promotion and re-designation;

“authorized officer” includes—

- (a) the holder of the office of county chief officer in a county department; or
- (b) in case of a department that is not assigned or under direct administration of a county chief officer, the head of that department; and
- (c) any other public officer appointed by the County Public Service Board to be an authorized officer with respect to a specified public body including a city or urban area;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to inter-governmental relations;

“city” has the meaning assigned to it under the Urban Areas and Cities Act (Cap. 275);

“code of conduct” means any written standard issued by a lawful authority to guide the conduct of any county public officer or category of county public officers;

“competencies” means powers given to a public authority in respect of a specific activity which is key to ensuring the provision of a public service and includes powers of planning, regulating, setting standards, constructing, financing, managing, monitoring and evaluating, sanctioning or intervening in any way to ensure that a function is discharged;

“conditions of service” include any criterion or circumstance or factor for a person’s—

- (a) appointment, secondment, deployment, promotion or discipline with respect to a public office;
- (b) retention in employment as a public officer; or
- (c) remunerative, retirement and other benefits;

“Constitution” means the Constitution of Kenya, 2010;

“county assembly” means a county assembly established under Article 176 of the Constitution;

“county assembly member” means a member elected or nominated in accordance with Article 177(1) of the Constitution;

“county chief officer” means a county chief officer appointed under section 45;

“county executive committee” means a county executive committee established in accordance with Article 176 of the Constitution;

“county Gazette” means a Gazette published by the authority of the county government or a supplement of such Gazette;

“county government” means the county government provided for under Article 176 of the Constitution;

“county government election” means an election of Governor and county assembly members;

“county public office” means an office in the county public service or an office in a public body but does not include any office specifically exempted by the Constitution from the powers of the county government;

“county public officer” means any person appointed by the county government and holding or acting in any county public office whether paid, unpaid, or on contractual or permanent terms but does not include a person engaged on a part-time basis in a county public body paid at an hourly or daily rate;

“county public service” means the collectivity of all individuals performing functions within any department of the county government or its agency, but does not include the Governor, deputy Governor, members of the county executive committee and the members of the county assembly;

“deputy Governor” means a person nominated by the Governor in accordance with Article 180 of the Constitution;

“disciplinary control” means the imposition of any punishment against a public officer on account of breach of a code of conduct;

“GIS based database system” means a geographical information management system that integrates hardware, software and data for capturing, managing, analyzing and displaying forms of geographically referenced information;

“Governor” means a county Governor elected in accordance with Article 180 of the Constitution;

“input indicator” means an indicator that measures the costs, resources or time used to produce an output;

“marginalised group” has the meaning assigned to it by Article 260 of the Constitution;

“merit” when used with reference to a person who is a candidate for appointment, promotion or re-designation to a county public office, means —

(a) the abilities, qualifications and personal qualities required to satisfy any prescribed criteria for appointments in the county public service, or to carry out the duties of the county public office; and

(b) the person’s potential for development;

“outcome indicator” means an indicator that measures the quality or impact of an output in achieving a particular objective;

“output indicator” means an indicator that measures the results of activities, processes and strategies of programmes or projects of a county government;

“promotion” means the conferment upon a person in the county public service of an office to which is attached a higher salary or salary scale than that attached to the previous office substantively held by that person;

“public officer” has the meaning assigned to it in Article 260 of the Constitution;

“qualification” means any prescribed factor of eligibility or ineligibility attached to holding or acting in a county public office;

“re-designation” means the conferment upon a person, of a county public office at a grade equal to or substantially equal to the one previously held by that person and whose major consequence is to change from one cadre to the other to facilitate that person’s horizontal mobility characterized with change in career path;

“retirement” means the removal of an officer from the public service with full separation benefits including pension benefits, gratuity or such other terminal benefits as may be provided for in the applicable law or the contract of service or a special retirement scheme agreed upon between the public officer and the relevant lawful authority;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established under Article 230(1) of the Constitution;

“secondment” means a temporary leave from discharging the duties of a county public office with a view of the concerned county public officer being employed outside the county public service or in another public body;

“shared services” means —

- (a) the centralisation at a county or other level of those administrative functions of a county that could be performed by different units including matters such as supply chain management, human resource management, information technology, purchasing, inventory, payroll, hiring, and information technology; or
- (b) partnerships between counties, a county or counties and national government and public private partnerships to deliver a specified set of public services;

“speaker” means the speaker of a county assembly elected under Article 178 of the Constitution;

“the public”, when used in relation to public participation in this Act, means —

- (a) the residents of a particular county;
- (b) the rate payers of a particular city or municipality;
- (c) any resident civic organisation or non-governmental, private sector or labour organization with an interest in the governance of a particular county, city or municipality;
- (d) non-resident persons who because of their temporary presence in a particular county, city or municipality make use of services or facilities provided by the county, city or municipality;

“urban area” has the meaning assigned to it under the Urban Areas and Cities Act (Cap. 275);

“Ward” means an electoral unit within a constituency delimited in accordance with Article 89 of the Constitution and any other relevant law; and

“Ward representative” means a county assembly member representing a particular Ward.

Section 12 of Cap 265 of the laws of Kenya, which it proposes to amend—

The county assembly service board

12. (1) There shall be a county assembly service board for each county assembly.

(2) The county assembly service board shall be a body corporate with perpetual succession and a common seal.

(3) The Board consists of—

- (a) the Speaker of the county assembly, as the Chairperson;
- (b) a vice-Chairperson elected by the Board from the members appointed under paragraph (c);
- (c) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly; and
- (d) one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs, but are not members of the county assembly.

(3A) The members of the Board appointed under section 12(3)(d) shall serve on a part-time basis.

(4) The county assembly clerk shall be the secretary to the county assembly service board.

(5) A member of the county assembly service board shall vacate office—

- (a) if the person is a member of the county assembly—
 - (i) at the end of the term of the county assembly; or
 - (ii) if the person ceases to be a member of the county assembly; or
- (b) if the person is an appointed member, on revocation of the person's appointment by the county assembly; or
- (c) if the person is the Speaker, when the person ceases to be such Speaker.

(6) Despite subsection (5), when the term of the county assembly ends, a member of the county assembly service board under subsection (3)(d) shall continue in office until a new member has assumed office in the member's place in the next assembly.

(7) The county assembly service board is responsible for—

- (a) providing services and facilities to ensure the efficient and effective functioning of the county assembly;
- (b) constituting offices in the county assembly service, and appointing and supervising office holders;
- (c) preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;
- (d) undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and
- (e) performing other functions—
 - (i) necessary for the well-being of the members and staff of the county assembly; or
 - (ii) prescribed by national legislation.

Section 73 of Cap 265 of the laws of Kenya, which it proposes to amend—

Secondments

73. (1) The national government shall put in place measures to protect its public officers on secondment to the counties from loss or disadvantage with respect to pension benefits, gratuity or other terminal benefits.

(2) Unless there is an agreement to the contrary, it shall be the responsibility of the national government to pay the salaries, remuneration, allowances and other benefits due to the staff seconded to a county government during the transition period.

(3) 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 public office held before secondment.

(4) The County Public Service Board shall not allow a public officer to proceed on secondment if it is not in the interest of the public officer or the concerned county public service.

(5) The County Public Service Board making a decision on secondment shall not allow the secondment unless it has considered the representation by the concerned authorized officer or head of department.

Section 86 of Cap 265 of the laws of Kenya, which it proposes to amend—

Delegation by County Public Service Board

86. (1) The County Public Service Board may delegate, in writing, any of its functions to any one or more of its members and the county secretary, county chief officer, sub-county or Ward administrator, village administrator, city or municipal manager and town administrators.

(2) The provisions of this Part shall apply to the person to whom the powers are delegated under this section.

Annex 3:

Advertisement published in the Daily Nation and Standard Newspaper on Monday, 23rd September, 2024

Mbadi to shed light on airport deal in Senate

► Kisii Senator Richard Onyoka has sought a statement on the deal between the Indian firm and the government.

► Roads and Transport CS Davies Chirchir said the government had not yet entered into a deal with Adani.

EDWIN NYARANGI, NAIROBI

Treasury Cabinet Secretary John Mbadi will be appearing before the Senate today over a statement sought by Kisii Senator Richard Onyoka on the leasing of Jomo Kenyatta International Airport (JKIA) to Adani Airport Holdings, an Indian private company.

Mbadi will appear before Senate Roads and Transport Committee barely a week after his Roads and Transport counterpart Davies Chirchir had a difficult time convincing Kenyans that the government had not yet entered into a deal with Adani.

Onyoka had sought confirmation on whether Kenya Airports Authority (KAA) had signed an agreement with Adani to lease out JKIA under the Build Operate Transfer Model of Public Private Partnership (PPP). The Kisii senator wants terms of the agreement and associated costs to be incurred by airlines and other users of JKIA made public.

Chirchir told the Senate that there was no Concession Agreement existing between Kenya Airports Authority and Adani pursuant to the latter's Privately Initiated Proposal (PIP) application of March 1, 2024 currently undergoing stakeholder engagement, due diligence and drafting of the concession agreement.

Fiscal constraints

The Senate committee was chaired by Kiambu Senator Karungo Thangwa.

"The Adani Airport Holdings Limited of India submitted a PIP to Build, Operate and Transfer JKIA under PPP model with the government pursuing the PPP model on account of fiscal constraints in the face of acute infra-

structure constraints," Chirchir told the committee.

The Kisii senator asked the CS to clarify whether public participation was carried out and if not, at what stage it would be undertaken.

Chirchir said that within the Act, public participation happens after the feasibility stage. The CS said the government had commenced the public participation process, including engagement with KAA senior management, KAA section heads, over 500 KAA staff, airline operators under their umbrella Kenya Association of Airline Operators, ground handlers, retailers and concessionaires, Kenya Civil Aviation Authority (KCAA) and Kenya Airways. The government is currently considering this feedback, comments and proposals, with the next phase of stakeholder engagements and the media.

The CS said that the matter is now in court and the government intends to use the court process to ensure that all the relevant information is made available to all stakeholders to facilitate clarity and understanding on the development of this major national



Treasury CS John Mbadi at the African Green Climate Finance National Designated Authorities Conference in Nairobi on August, 22, 2024. [Samson Wire, Standard]

infrastructure.

"I wish to remind us of the great benefits that this proposed model is expected to bring to the nation, which is among others, a modernised facility to balance capacity leading to operational excellence and regional competitiveness as an aviation hub, improved service quality and associated trade activities while maintain-

ing Kenya as a premium anchor state in the region," said Chirchir.

Onyoka asked Chirchir to provide the contract documents of this agreement and indicate the ownership of Adani Commercial Limited, the processes undertaken to identify and award the lease and state whether there was public participation in the process.



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DEUTSCHE ZUSAMMENARBEIT

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Technische Zusammenarbeit
für wirtschaftliche
Entwicklung

CALL FOR OFFERS

Procurement of Services: Capacity Development of Gum Arabic Collectors and Business Groups

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is a federal Enterprise with worldwide operations in 120 countries. GIZ supports the German Government in the fields of international cooperation for sustainable development. Through its work, GIZ assists people and societies in shaping their own futures and improving living conditions.

Improving the employment situation for women and a faster ecological transformation are essential to achieve the partner countries' development objectives. WE4D is implementing a private sector development project. The objective of this project is to **enhance the competitiveness and environmental sustainability of micro enterprises within the gum Arabic value chain and promote employment for women's economic empowerment and improved food security in North of Kenya.**

To achieve this objective, the project will provide target micro entrepreneurs with technical skills, knowledge and capacity in the following areas of focus:

- **Promote employment** of women and youth by providing technical skills and business support for enhanced business capacity of gum collectors and business groups in gum collection.
- **Promote gender diversity** and support **enhanced gender equality** by promoting gender equality that enhance women's access to business opportunities.
- **Promote Green Transformation** by supporting adoption of skills and approaches that reduce and recycle waste and promote regeneration of forests.

To achieve the above, GIZ is seeking the services of a consultant to implement support in the implementation of the following tasks:

- **Establish gum arabic agency model and build capacity of agents by:** Providing Technical Skills and Business Support to Gum Collectors to sustainably harvest, store and supply gum to Acacia EPZ while ensuring conservation of existing acacia tree cover.

Promoting Gender Equality by addressing the challenge of gender inequality as a big factor of access to business opportunities along gum arabic value chain.

- **Promote sustainable management of waste gum and invasive prosopis** through provision of skills in waste management and recycling and linkages to market.
- **Provide technical capacity in agroforestry and complementary value chains** by providing skills training in nursery management and business support with the goal of providing additional alternative economic opportunities that will also contribute to food security and environmental conservation.

Interested firms/companies should send a blank email with tender reference: **83471779** in the subject line to **KE_Quotation@giz.de** between **23.09.2024 to 25.09.2024.**

An email response will provide the ToRs and relevant tender documents with further information on **26.09.2024**, thereafter **no tender documents will be shared.**

Clarification must be sent through the email (**KE_Quotation@giz.de**) by **30.09.2024** to be responded to via email by **02.10.2024.**

Kindly submit your **signed and stamped financial and technical proposals in two separate envelopes, enclosed in a SEALED ENVELOPE** clearly marked Tender No. **'83471779'** to the address below:

TENDER No. 83471779
GIZ Office Nairobi, RECEPTION
9th Floor, Riverside Square, Riverside Drive
P.O. Box 41607 - 00100
Nairobi, Kenya

Failure to address correctly will lead to disqualification.

Deadline for Submission: 14.10.2024 @1630hrs (East African time)

Bidders are not allowed to contact or discuss any aspect of the tender/EOI with GIZ personnel before closing of the tender as it will lead to automatic disqualification.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA AND PUBLIC HEARING

THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

The County Governments (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024) was read a First Time in the Senate on Wednesday, 18th September, 2024 and thereafter stood committed to the Standing Committee on Devolution and Intergovernmental Relations for consideration. The Committee is required, under standing order 145(S) of the Senate Standing Orders, to facilitate public participation on the Bill and to consider the views and recommendations of the public when the Committee makes its report to the Senate.

The principal object of this Bill is to provide a legislative framework that will facilitate the inter-county transfer of pensionable county public officers. It seeks to allow for the seamless movement of these officers between county public services without compromising their accrued benefits, thus promoting efficiency, national integration, cohesion, and the effective delivery of public services across counties. The proposed legislation opens the avenue for counties to send and receive experienced officers based on specific needs. By allowing officers to transfer between counties, the Bill ensures that expertise and competencies can be evenly distributed, thus enhancing the efficiency and effectiveness of public service delivery across the nation.

The Bill further seeks to establish a county public service board consultative forum which recognizes the critical role played by the individual County Public Service Boards and seeks to offer a more robust and collaborative platform to facilitate their functions.

In accordance with the provisions of Article 118 of the Constitution and standing order 145 (S) of the Senate Standing Orders, the Standing Committee on Devolution and Intergovernmental Relations now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to senate.devolution@parliament.go.ke to be received on or before **Monday, 7th October, 2024 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Monday, 7th October, 2024 at 10.00 a.m.** in the Senate Chamber, Parliament Buildings, Nairobi. Members of the public are welcome to attend this hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.**

Peace initiatives Kenya joins the world in marking UN World Tourism Week from today

Kenyans to get free access to game parks and reserves this Saturday

CS Miano announced the move yesterday, saying it is meant to promote domestic tourism

BY KEVIN CHERUIYOT

The government has granted Kenyans free entry to all game parks and game reserves on Saturday, September 28, as the country marks UN World Tourism Week from today. Tourism and Wildlife Cabinet Secretary Rebecca Miano said yesterday that the move was aimed at promoting domestic tourism, and enabling Kenyans to sample and enjoy Kenya's heritage. Kisumu County will host this year's tourism week, which will be attended by government and county officials.

"The culmination of this crucial event will grant Kenyans free access to any of our game parks and reserves for free on Saturday, September 28, 2024," Ms Miano said at Sereolipi School in Samburu County during the ceremony to mark World Rhino Day.

She urged Kenyans to turn out in large numbers to discover what the country has to offer in its parks.

"I encourage Kenyans to show up in their numbers but also implore them to observe the laid-down rules as they tour the parks and reserves teeming with wildlife to avoid any hazards," she said.

UN World Tourism Day 2024 is focused on highlighting the vital role of the tourism sector in fostering peace and understanding between nations and cultures and in supporting reconciliation.

This year's theme is Tourism and Peace.

On Rhino conservation, the CS said Kenya had made efforts to save rhino populations and other wildlife for posterity.

"At the ministry level through the relevant organs, we have adopted novel technologies such as the use of drones and forensic evidence to up our ante in rhino conservation..."

"I assure the global community that Kenya will continue to play her rightful role in wildlife conservation while laying special emphasis on rhino range expansion and conservation."

Kenya is an important rhino habitat, hosting 80 per cent of the eastern black rhino subspecies found in eight realms nationally.

These include the Maasai Mara Game Reserve, Sera Community Conservancy and five private sanctuaries within the Laikipia area. Laikipia, for the record, is home to more than half of Kenya's total rhino population.



Black rhinos in Nairobi National Park on World Wildlife Day on March 3. The day was marked to raise awareness about wildlife conservation. LUCY WANJIRU | NATION

From a population of less than 400 in 1989, by the end of 2022, the rhino population estimates stood at a staggering 1,890 rhinos: 966 black, 922 white and two northern whites.

Kenya's black rhino population is ranked third after South Africa and Namibia.

There is a likelihood that Kenya's rhino population will exceed

WILDLIFE

Rhino population in Kenyan habitat

Kenya hosts 80 per cent of the eastern black rhino subspecies found in eight realms nationally. These include the Maasai Mara Game Reserve, Sera Community Conservancy and five private sanctuaries in the Laikipia area.

Laikipia is home to more than half of Kenya's total rhino population. From less than 400 in 1989, by the end of 2022, the rhino population estimates stood at a staggering 1,890 rhinos: 966 black, 922 white and two northern whites.

the 2022 numbers once the ongoing national wildlife census is concluded, Ms Miano said.

"Kenya is proud to host the world's only remaining female northern white rhino following the death of Sudan in 2018 whose stuffed figurine is quarantined at the Nairobi National Museums as an enduring relic of an iconic freak of nature in our wide-ranging stock of wildlife species," she said.

"Meanwhile, I am glad that—the Wildlife Research and Training Institute— together with other researchers around the world—are working to bring the northern white rhino back from extinction.

"This daring and truly commendable feat— itself akin to reversing fate— hopes to produce northern white rhino embryos from genetic material and eventually implanting them in southern white rhino females to sire calves."

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION THE SENATE

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J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

Annex 4:

***Copies of stakeholder
submissions on the Bill***



COUNCIL OF GOVERNORS

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401-00100,
Nairobi.

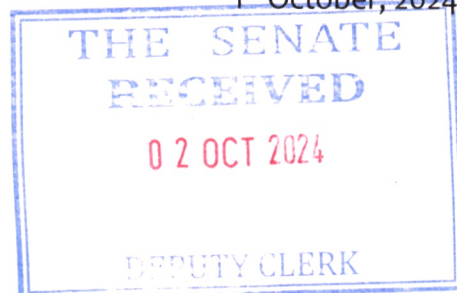
Tel: (020) 2403314, 2403313
E-mail: info@cog.go.ke



Ref : COG/6/40 Vol.12 (101)

1st October, 2024

Mr. Jeremiah M. Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
NAIROBI



Dear Mr. Nyegenye,

REQUEST TO RESCHEDULE THE MEETING ON SUBMISSION OF MEMORANDA ON THE COUNTY GOVERNMENT (AMENDMENT) BILL 2024 (SENATE BILLS NO. 39 OF 2024)

The above subject matter refers.

Reference is made to your letter **SEN/DGAC/DEVIR/GE/2024/113** dated 30th September 2024 inviting the Council to make submissions on the above bill.

This is to kindly inform you that the Council will be having its meeting which will culminate into elections of the executive and chairs of various committees on the proposed date. In view of the above, we kindly request for rescheduled of the same to a new date, probably from the week starting 21st, October 2024.

Our officer **Ms. Carolyn Mage** of Email: carolyn.mage@cog.go.ke, Mobile no. 0722 588 335 will follow up with your office to agree on a suitable date.

Enclosed herein, please find the Council Memoranda for your records and information.

Please be assured of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti
Chief Executive Officer



① DGAC

kindly deal

02/10/2024

Copy: **H. E. Anne Waiguru, EGH**
Chairperson
Council of Governors
NAIROBI

② HOD-Governance
Lead Clerk - Devolution
kindly deal
02/10/2024



COUNCIL OF GOVERNORS

OFFICE OF THE SECRETARY
COUNCIL OF GOVERNORS
MANILA

OFFICE OF THE SECRETARY
COUNCIL OF GOVERNORS
MANILA



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE COUNTY GOVERNMENTS (AMENDMENT) 2024

TO

THE SENATE

FROM

THE COUNCIL OF GOVERNORS

30th September, 2024

A. INTRODUCTION

THE COUNCIL OF GOVERNORS

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Articles 6 (2) and 189 of the Constitution;

In further recognition of the national values and principles of governance in Article 10 of the Constitution which binds all State organs, State officers, public officers and all persons in the process of implementation of the Constitution.

Aware of the need for coordinated action between the National and County Governments to ensure that legislation properly respond to the key issues, and further reflects the spirit and purpose of devolution.

Having reviewed the **County Governments (Amendment) Bill, 2024**, the Council of Governors on behalf of the 47 County Governments rejects the bill in **toto** for the following specific reasons;

B. SPECIFIC CONCERNS REGARDING THE BILL

CLAUSE	RATIONALIZATION WHY COG IS OPPOSED TO THE PROVISION IN THE BILL
2. Section 2 of the County Governments Act,(hereinafter referred to as “the principal Act” is amended by inserting the following new definitions immediately after the definition of the term “Disciplinary Control;”— “Forum” means the County Public Service Boards Consultative Forum established under section 86A	Establishing a consultative forum aims to foster inter-county collaboration. However , by centralizing decision-making regarding county personnel matters, there is an eminent risk of diluting the autonomy of individual County Public Service Boards. The provision is an affront to the provisions of Article 6(2) and Article 189(1)(a) which affirm the uniqueness and independence of county governments. The Forum's centralized oversight could interfere with counties' sovereign authority to manage their human resources independently.
6. Section 12 of the Intergovernmental Relations Act is amended in paragraph (a) by inserting the words “, County Public Service Boards Consultative Forum” immediately after the words “administration of the Summit”	While intergovernmental cooperation is constitutionally endorsed, embedding the Forum within a national framework may exert excessive control over county public service boards. This

	centralization could compromise counties' ability to autonomously manage their personnel. Constitutionally, Article 235 safeguards county control over public service matters. The Forum's centralized structure may encroach upon this authority, diminishing counties' capacity to independently manage their human resources.
4. The principal Act is amended by inserting the following new section immediately after section 73A. (1) A county public officer desirous of transferring his or her services from one county to another may apply in writing to their respective County Public Service Board, through the authorised officer from which the officer is coming, for a transfer of service. (2) A County Public Service Board shall, within twenty-one days of receipt of an application, make recommendations subject to any relevant written law in force relating to retirement benefits. (3) Subject to sub-section (2), in order to be considered for transfer, an officer shall be required to have served at a duty station for a continuous period of at least three years. (4) Despite subsection (3), a County Public Service Board may determine an officer's transfer without due regard to the period prescribed in paragraph (3). (5) Where a county public officer is offered an appointment in another county, the request for transfer of service shall be made in writing to the relevant county public service. (6) In making a decision to recommend the transfer of a county public officer, the County Public Service Board shall take into account the— (a) written application from the county public officer; (b) efficiency and effectiveness of	Permitting inter-county transfers disrupts county operations by introducing personnel not recruited or needed by the receiving county. This can impose unforeseen human resource burdens and undermine management of County officers at the County level. Further, the provisions assume that the 47 county governments are a single entity yet they are distinct governments.

public service delivery; (c) existing skills and competencies in the receiving county so as not to disadvantage public officers already serving in the county; and (d) promotion of representation of Kenya's diverse communities, men and women, the members of all ethnic groups and persons with disabilities. (7) Where a county public officer is transferred from one county public service to another, the public officer's accrued benefits relating to the previous period in public service shall not be lost. (8) For purposes of sub clause (7), the benefits include— a) accrued pension in accordance with relevant written law relating to pension; (b) retirement benefits; (c) accrued leave; (d) or any other benefit as may be agreed upon by the concerned county public service boards. (9) A transfer shall not be arbitrary and shall be based on necessity and shall be carried out in a manner that shall not disrupt the operations of a county public service.	
5. Establishment of the County Public Service Boards Consultative Forum (Insertion of New Sections 86A - 86L) - Provision: Creates a Forum comprising representatives from all 47 County Public Service Boards. 86A. (1) There is established a County Public Service Boards Consultative Forum. (2) The Forum shall comprise – (a) a representative from each of the forty-seven County Public Service Boards; and (b) a secretary to the Forum who shall be an ex-officio member and shall	The Forum's centralized structure could influence individual County Public Service Boards' internal decisions regarding staffing, recruitment, and transfers, thereby infringing upon counties' devolved powers. Further the forum is not an employer of the county personnel and as such cannot make legally binding decisions regarding affairs of county employees.

have no right to vote at any meeting of the Forum. (3) The representative referred to in subsection 2(a) shall be drawn from the membership of the Board appointed under section 58(1)(a) or (b). (4) At the first meeting, the Forum shall elect a chairperson and a vice-chairperson amongst their membership and regard shall be taken to ensure that the chairperson and vice-chairperson shall be of the opposite gender. (5) The position of chairperson and vice-chairperson of the Forum shall be held by the various county public service boards on a rotational basis in such manner as the Forum may determine. (6) A member of the Forum appointed under subsection (2)(a) shall hold office for a term of three years and shall not be eligible for reappointment.	
86B. (1) The Forum shall — (a) develop criteria and framework for determining County public service matters requiring inter-county consultation; (b) develop inter-county agreements for joint implementation of any activities related to efficient county public service delivery; and (c) be a platform for mutual consultation, coordination and collaboration among the forty-seven County Public Service Boards on all matters related to the public service. (d) provide linkages with other relevant stakeholders for the furtherance of the functions of the Forum; and (e) mediate any disputes arising from the respective County Public Service Boards.	Article 176(2) emphasizes the decentralization of powers, ensuring counties manage their resources, including human resources, without undue external interference. The Forum's authority over personnel matters threatens this autonomy. Further intergovernmental relations is governed by the Intergovernmental Relations Act which has established structures for intergovernmental relations. Section 20(d) of the Intergovernmental Relations Act assigns the responsibility of resolving disputes between Counties to the Council of Governors.

86D. A person shall be qualified for appointment as a secretary to the Forum if that person — (a) holds a degree from a university recognised in Kenya; (b) has knowledge and at least ten years work experience in a senior management position; (c) is an employee of the Intergovernmental Relations Technical committee; (d) meets the requirements of Chapter Six of the Constitution; (e) has not been adjudged bankrupt; and (f) has not been convicted of an offence and sentenced to imprisonment for at least six months.	The eligibility criteria for qualification to work as secretary to the forum that requires the secretary to be working for an institution (The Intergovernmental Relations Technical Committee is an affront to Article 27 of the Constitution and disfranchises other Kenyan citizens who may be qualified to hold the same position.
86I. (1) In accordance with Article 236, No matter or thing done by an officer or an employee of the Forum shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Forum, render the officer or employee so acting, personally liable for any action, claim or demand. (2) Subsection (1) shall not relieve the Forum from liability to pay compensation or damages to any person for any injury to that person, or other loss caused by the exercise of any power conferred by this Act or any other written law or by the failure of any works of the Forum.	This immunity may protect individuals making decisions that infringe upon county autonomy, reducing accountability for actions that negatively impact county human resource management. While Article 236 provides protections for public officers, it should not be exploited to shield actions that contravene counties' constitutional autonomy. Accountability mechanisms must ensure that immunity does not facilitate autonomy violations.

Conclusion

The **County Governments (Amendment) Bill, 2024** presents several provisions that potentially compromise the autonomy of county governments and principles of human resource management.

1. Interference with County Human Resource Management: The establishment of the County Public Service Boards Consultative Forum and mechanisms for inter-county transfers dilute counties' authority over their personnel, as protected under Article 235.
2. Centralization of Decision-Making: The Forum introduces a centralized layer of decision-making, conflicting with the Constitution's devolution principles under Article 174 of the constitution.
3. Financial and Operational Implications: Obligations for counties to fund the Forum and the imposition of external oversight through annual reporting undermine both financial and operational autonomy, violating Article 209(5).
4. The Council calls upon the Senate to withdraw the bill as there are already intergovernmental structures in place under the Intergovernmental Relations Act 2012.



REPUBLIC OF KENYA



LEGISLATIVE MEMORANDUM ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024

PRESENTED TO:

THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

7TH OCTOBER 2024

1. PREAMBLE

ACKNOWLEDGING the Constitutional tenets on cooperative government as envisaged in Articles 6 (2) and 189 of the Constitution;

COGNIZANT of the objectives and principles of devolved government as provided in Articles 174 and 175 of the Constitution;

RECOGNIZING the collective aspirations of Kenyans for the attainment of the objects and principles of devolution;

RESOLUTE that harmonious intergovernmental relations between the two levels of government and amongst county governments is the foundation for the success of the devolved system of governance;

NOW THEREFORE the Intergovernmental Relations Technical Committee submits its memorandum to the Senate on the County Governments (Amendment) Bill, 2024.

2. INTRODUCTION

The Intergovernmental Relations Technical Committee (IGRTC) is established under Section 11 of the Intergovernmental Relations Act, 2012, as an intergovernmental structure whose objectives include *inter alia*, to facilitate cooperation and consultation between the National and County Governments and amongst County Governments as provided under Articles 6 and 189 of the Constitution. The functions of the Technical Committee are provided for in Sections 12, 13 and 33 of the Act. In addition to the above, IGRTC also ensures that the functions of the National and County Government Co-ordinating Summit (The Summit) under Section 8, are successfully implemented.

3. BACKGROUND

The County Governments (Amendment) Bill, 2024 has been developed to: amend the County Governments Act to provide for intercounty transfers of county public officers, the establishment of the county public service boards consultative forum and for connected purposes.

SECTION IN THE BILL	PROVISION OF THE BILL	SUBMISSIONS BY IGRTC	RATIONALE
3 Amendment of section 12 of Cap. 265F.	Section 12 of the Intergovernmental Relations Act is amended in paragraph (a) by inserting the words “, County Public Service Boards Consultative Forum” immediately after the words “administration of the Summit”	The proposed amendment would expand the mandate of IGRTC to being responsible for the day to day administration of the CPSB Consultative Forum. This includes: facilitating the activities of the CPSB Consultative Forum; and implementing the decisions of the CPSB Consultative Forum. Unlike its legal and architectural structure which establishes IGRTC as a technical body that must of necessity serve the two levels of government, this amendment places IGRTC squarely in matters relating to one level of government, as opposed to both. A purposive interpretation of the law, particularly Section 14 of the IGR Act, CAP 265F (in relation to this amendment), denotes that IGRTC would then submit reports to; and be accountable to the CPSB Consultative Forum, in addition to the Summit and the Council of Governors.	IGRTC is modeled along the lines of independent constitutional commissions and statutory bodies that are empowered to exercise neutrality and impartiality in providing technical advice on decisions to be taken by the two levels of government. By playing an active role in the CPSB Consultative Forum as provided in the amendment to Section 12, and noting that IGRTC would not play a similar role with the Public Service Commission, IGRTC would render itself biased towards one level. Further noting the functions of CPSBs, and that CPSBs exercise their powers on behalf of the County Executive IGRTC would best play the role of a neutral technical advisory body, as most of the functions of CPSBs are intertwined with the day to day operations of county governments. In light of the above, and noting that the CPSB Consultative Forum is

SECTION IN THE BILL	PROVISION OF THE BILL	SUBMISSIONS BY IGRTC	RATIONALE
			established as an intergovernmental structure which serves county governments, IGRTC cannot be involved in its affairs as envisaged in Section 3 of the Bill.

General Comments

- a) Section 5 of the Intergovernmental Relations Act, 2012 empowers IGRTC facilitate consultations and cooperation between the two levels of government; and to provide a forum for coordinating government policies, legislation and functions. Section 13 (1) of the Act on the other hand empowers IGRTC to establish sectoral working groups or committees, where the two levels of government may discuss matters of common interest. In this regard, IGRTC may engage with the proposed CPSB Consultative Forum and the Public Service Commission through the consultative sector fora provided under Section 13 (1).
- b) There is need to provide for reporting structures for the CPSB Consultative Forum
- c) There is need to carefully determine the issue of inter-county transfers, as county governments are independent entities.
- d) There are disparities between counties in their staff establishments and job descriptions and grading structures, which may heavily impact seamless intercounty transfers.
- e) There is need to address the inconsistent and contradictory practices among county governments in relation to staff recruitment and placement.

Recommendation

The establishment of the Consultative Sector Fora envisaged under Sections 13 (1 and 2) and 20 (2) has been negatively impacted by lack of Regulations to operationalize these. IGRTC therefore requests the Senate Committee to consider development of these Regulations, which will greatly support IGRTC and the two levels of government in advancing consultations and cooperation.



OFFICE OF THE DEPUTY PRESIDENT

STATE DEPARTMENT FOR DEVOLUTION

**SUBMISSIONS TO THE SENATE STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS**

**MEMORANDA ON COUNTY GOVERNMENTS(AMENDMENT) BILL, 2024
(THE SENATE BILLS NO. 39 of 2024)**

S/NO	CLAUSE OF THE BILL	COMMENTS	JUSTIFICATION
1.	3-Amendment of Section 12 of Cap. 265F	Amendment of Section 12 of Intergovernmental Relations Act Cap 265F should be done through an amendment to the said Act and not the County Government Act Cap 265	As per the standard practice
2.	4-Inter-County Transfer	73A. (1) We propose that the County Public officer requests for transfer of service be accompanied by a letter of offer of appointment by the other recipient County Public Service Board	In compliance with the Human Resource Policies and procedures.
		73A. (3) Propose that the duration be increased to 5 years	To allow a county to benefit from the services of the officer and to protect against disruption of service delivery in a County.
		73A. (4) Delete	This provision may negate the object of subsection 3 Above.
		73A. (5) Delete	This has been accounted for in sub-section 73A. (1)

		73A. (6) Add a provision that there should be a no objection report for the applicant from the authorized officer.	For purposes of concurrence that the application will not compromise service delivery.
		73A. (7) it is important that the law provides for the portability of the benefits	The portability of benefits should be in line with the relevant policies and laws governing retirement benefits.
		73A. (8) Delete	Taken care of by the proposed amendment to 73A. (7)
3.	5- Establishment of the County Public Service Board Consultative Forum	86A. (2)(b) Delete 86A. (4) Amend 86A. (4) to read; <i>..." Elect a chairperson, vice-chairperson, and any other officials from amongst their membership necessary for the operations of the forum."</i>	The creation of the forum should not create another institution that creates financial implications to counties as explained in the memoranda and objects of the Bill.
		86B.1(a) Delete	The forum cannot have power to make policy on behalf of county governments. This is the responsibility of the Council of Governors and respective county

			Public Service Boards
		86B.1(b) Delete	Inter-county agreements are the responsibility of individual governments or the Council of Governors.
		86B.1(c) Retain	This is the main purpose of a forum.
		Insert a new provision after 86B.1(c) to provide that the Forum shall make recommendations to the Council of Governors on the improvement of County public service effectiveness and efficiency.	The Forum consultations are a critical avenue for idea creation to improve on policies and practices of managing Human Resources at the County level.
		86B.1(e) There is a need to qualify the nature of disputes that the forum will mediate on.	This is to prevent overlaps with other mediation bodies in the counties.
	Meeting of the Forum	86C. Introduce a new clause after 86C. (2) to provide as follows: (3) <i>'The forum may utilize the services of seconded staff from</i>	To mitigate against any additional expenditure of public funds in line with the memorandum of objects and reasons of the Bill.

		<i>any of the 47 County Public Service Boards Secretariats'</i>	
	Qualification for appointment of the Secretary of the Forum	86 (D), (E),(F),(G),(H)- Delete	All the clauses intended to create a secretariat for the forum which is not in line with the objects and reasons of this Bill. Any staff requirements are to be addressed under the proposed 86C. (3) above.
	Protection from Liability	86I. (1) Amend to read '<i>...no matter or action taken by a member of the Forum in line with the functions, powers or duties of the Forum shall render the member or an officer seconded to the Forum personally liable for any action, claim or demand...</i>'	There are no employees at the Forum.
		86I. (2) Delete	The creation of the Forum does not assign them the responsibility to sue or to be sued. It is not a legal entity. In the event that they

			have any liability or claims for compensation, the respective County Governments or the Council of Governors shall bear responsibility.
	Funds of the Forum	86J. Amend to provide that the funds of the Forum shall consist of monies as may be lawfully granted through respective county Governments.	To align it to the PFM Act and other relevant provisions relating to public finance management.
		Introduce a new clause 86K. (3) to read... <i>‘the accounting officer for the funds of the Forum shall be the chief executive officer of the Council of Governors Secretariat...’</i>	The Proposed Forum shall operate within the inter-county organizational structure under the Council of Governors.
	Annual report and programme	86L. (1) Amend the provision to exclude the senate and the county assemblies from the circulation of the annual report of the forum. Include the State Department for Devolution, State	The proposed Forum shall operate under the established governance structure for county governments and hence cannot report directly to the senate or the county assemblies.

		Department for Public Service, Public Service Commission, and Intergovernmental Relations Technical Committee in the circulation of the annual report of the Forum.	
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The proposed amendments above are in furtherance of the statement that the Bill is not a money Bill as contained in the memorandum of objects and reasons.

REPUBLIC OF KENYA



COUNTY ASSEMBLIES FORUM (CAF)

Flamingo Towers, 5th Floor Wing B, Mara Road, Upper Hill P.O. Box 73552-00200 Nairobi Kenya Tel: 0701 046 933
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CAF MEMORANDUM ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF 2024)

TO: Mr. Jeremiah Nyegenye, CBS
Clerk of the Senate, Parliament of Kenya.

FROM: The County Assemblies Forum.

DATE: 7th October 2024

SUBJECT: CAF Memorandum on The County Governments (Amendment) Bill, 2024
(Senate Bills No. 39 of 2024)

1.0 INTRODUCTION

1. The County Assemblies Forum (CAF) is the coordinating body of the 47 County Assemblies in Kenya. The primary mandate of CAF is to promote networking and synergy among the 47 County Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development. Our Mission is to provide effective leadership and coordination of the 47 County Assemblies and through policy and legislative action, promote a conducive working environment for all its members, and in that way deliver quality services to the people.
2. As one of the pillars of the devolved government system, CAF is committed to engage in processes promote good governance at the County Level.

2.0. BACKGROUND

- 2.1. The County Governments (Amendment) Bill, 2024, seeks to establish a legal framework for the inter-county transfer of pensionable county public officers, providing a more structured approach to human resource management within the devolved units. The bill also proposes the establishment of the County Public Service Boards Consultative Forum to enhance collaboration and facilitate the smooth operation of county public services.
- 2.2. Clause 4 of the Bill introduces Section 73A, which outlines the process for transferring pensionable county public officers between counties. The Bill establishes a structured process for such transfers, ensuring the seamless movement of officers while maintaining the continuity of public service.
- 2.3. One of the most critical provisions of the Bill is the protection of accrued benefits for county public officers who transfer to other counties. Clause 4(7) of the Bill ensures that any pension, retirement benefits, or accrued leave earned by an officer in their previous county will not be lost upon their transfer. This provision is designed to safeguard the financial security and rights of county public officers, encouraging their mobility without fear of losing their entitlements.



- 2.4. In recognition of the need for enhanced collaboration among County Public Service Boards, the Bill proposes the creation of a **Consultative Forum**. This forum will serve as a platform for dialogue, mutual consultation, and the resolution of disputes among the County Public Service Boards. The forum is also expected to enhance coordination in the management of county human resources, enabling counties to share expertise and experiences for the betterment of public service delivery. Through this platform, counties can address challenges related to staff transfers, harmonization of policies, and other matters of shared interest..
- 2.5. The Bill does not impose any additional financial burden on public funds and does not limit any fundamental rights or freedoms. It aligns with the constitutional principles of devolved governance and aims to promote national cohesion by facilitating the smooth and equitable distribution of skilled personnel across counties.
- 2.6. By creating a formal mechanism for the inter-county transfer of public officers, the Bill supports the broader objective of strengthening devolution and ensuring that counties can share resources and expertise to improve service delivery across Kenya.

3.0. GENERAL COMMENTS.

- 3.1. The provision for inter-county transfers will enhance mobility within the county public service, allowing for the equitable distribution of skills across counties. This aligns with the national goal of promoting efficient and effective public service delivery.
- 3.2. The retention of accrued pension and other benefits for officers transferring between counties is a positive step. This provision ensures that public officers do not suffer financial setbacks due to their transfers, thus promoting job security.
- 3.3. The establishment of the County Public Service Boards Consultative Forum fosters collaboration between counties. This forum will help resolve administrative issues more effectively and streamline the management of county public services.
- 3.4. The flexibility given to County Public Service Boards to transfer officers without adhering to the three-year minimum service requirement could disrupt county operations. There needs to be a clear framework limiting such exceptions to avoid unnecessary disruptions.
- 3.5. While the Bill addresses the need for public officers to serve for at least three years before applying for a transfer, it lacks clarity on the specific criteria for granting transfers. The absence of explicit guidelines could lead to inconsistent application of this provision across counties.
- 3.6. Clause 4(6)(c) requires County Public Service Boards to consider the skills and competencies of existing staff in the receiving county when approving transfers. However, there is a risk that local staff could be overlooked or displaced, leading to dissatisfaction among employees. The Bill should provide stronger safeguards to protect the interests of local county employees.
- 3.7. CAF appreciates the opportunity to contribute to this Bill and on the basis of the foregoing proposes the following amendment.

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

NO.	CLAUSE	PROPOSED AMENDMENT	JUSTIFICATION
1.	Clause 4(3) Clause 73A of the Principal Act “Subject to sub-section (2), in order to be considered for transfer, an officer shall be required to have served at a duty station for a continuous period of at least three years.”	Amend the Clause to provide: - “Subject to sub-section (2), In order to be considered for transfer, an officer shall be required to have served at a duty station for a continuous period of at least three years, unless exceptional circumstances, as defined by the County Public Service Boards, justify an earlier transfer. Such exceptional circumstances must be clearly documented and subject to public scrutiny.”	➤ This amendment provides a clear framework for exceptions, ensuring that transfers do not disrupt county operations unnecessarily.

2.	Clause 4(9) "A transfer shall not be arbitrary and shall be based on necessity and shall be carried out in a manner that shall not disrupt the operations of a county public service."	Amend the Clause 4(9) to provide for a new subclause 4(10) which shall state <i>"counties must prioritize the development and promotion of its local workforce before accepting external transfers."</i>	➤ This amendment ensures that local employees are given priority, promoting local talent development and avoiding potential conflicts between external and local staff.
3.	Clause 4 (11) Additional Clause	Amend by Including a new clause 4(11) to state "County Public Service Boards shall submit annual reports to the County Assemblies detailing the number of inter-county transfers, the reasons for such transfers, and their impact on public service delivery."	➤ This provision promotes transparency and accountability by requiring County Public Service Boards to report on the implementation of the transfer process.
4.	Clause 5	Delete the whole of Clause 5	➤ County Public Service

	County Public Service Board Consultative Forum		Board Consultative Forum risks duplicating existing mechanisms for inter-county collaboration and coordination. Currently, the Intergovernmental Relations Technical Committee (IGRTC) serves as a platform for addressing matters related to inter-county coordination. Adding another forum would overlap with the IGRTC's mandate, leading to inefficiencies and redundancy in inter-county processes.
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Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philemon K. Sabulei', written in a cursive style.

HON. PHILEMON K. SABULEI,
CHAIRPERSON CAF

PART VIIA - COUNTY PUBLIC SERVICE BOARDS NATIONAL CONSULTATIVE FORUM

Memorandum submitted by Arch. Phillip Kungu - Founder & Chairperson CPSB National Consultative Forum 2014 - 2019

1.0 BACKGROUND

The County Public Service Boards National Consultative Forum was first mooted at the induction of Chairpersons of County Public Service Boards in 2013 at the School of Monetary Studies, Nairobi

2.0 STRUCTURE

The Forum was formally registered on 14th September 2014 under the Societies Act CAP108 & SOC/71519 Registration No. 45750. It was registered with a Constitution that provided for the following office bearers:

- 1) Chairperson
- 2) Vice Chairperson
- 3) Secretary
- 4) Treasurer

The structure of the Forum provided for the following;

- Steering Committee (47 Representatives from each board)
- Executive Committee (Office bearers + 8 Regional Representatives)
- Committees (drawn from members of CPSBs)
- Annual General Meeting (Steering Committee)
- Annual Convention (Meeting of ALL members of the boards to share knowledge and experience and addressed by keynote speakers)
- Regional Consultative Meetings (specific meeting of board members for specific regions)
- Stakeholder Engagement (PSC, FKE, SRC, COG, KLRC, Senate, COB, CRA, Treasury)

The Forum was also registered with the Federation of Kenya Employers (FKE) as a Corporate Member in 2016

3.0 OBJECTS

The Forum was registered with the following objects;

- a) To **articulate** issues specific to the mandates of the respective County Public Service Boards countrywide.
- b) **Build consensus** amongst all the 47 CPSBs
- c) **Participate in decision making** on agreed actions to address challenges that are facing all the respective CPSBs in the execution of their duties.
- d) **Share knowledge and experience** amongst the members of all respective CPSBs
- e) Provide a forum for **constructive engagement** with other relevant stakeholders in the delivery of their mandates.
- f) Provide and show necessary **leadership** for the success of the devolved system of government.
- g) **Liaise with all stakeholders and assist in the formulation and enactment of relevant laws and regulations critical for the success of the devolved system of government**
- h) Provide a forum for **peaceful resolution of disputes** that may arise within CPSBs or with other parties

4.0 GENERAL COMMENTS ON PROPOSED AMENDMENTS/ CHANGES TO PART VIIA

Generally the memorandum has suggested changes to the proposed amendments cognizant of the following;

1. There still exists a County Public Service Boards National Consultative Forum which was registered in 2014 and brings together all members of respective CPSBs. Upon the passing of the proposed amendments, it will have to be dissolved in accordance with its own constitution
2. This memorandum has recommended the revision, amendment, removal and or inclusion of new subsections to cover other important areas
3. This memorandum draws heavily from the experience of the pioneer CPSBs, and founder Steering & Executive Committee members of the original Forum. The changes contained herein should be seen as the culmination of the then boards' objective to see their Forum entrenched in law and allow it to be the platform that represents and articulates their interests by being the true voice of the boards
4. It is my considered opinion that the collective experience and knowledge of the founders of the Forum would give useful lessons and insights in the quest to now have a proper legal and institutional framework to drive its agenda and engagement with strategic stakeholders and partners.
5. While I am alive to the fact that the Senate is under no obligation to accept views and suggestions presented here, I would humbly submit that it also looks at the County Public Service Boards Bill 2019 submitted by the County Public Service Boards National Consultative Forum (2013 - 2019) in which I served as Chairperson. It was the result of an intensive 6 months of serious research study and engagement of not only stakeholders but also strategic partners like the Kenya Law Reform Commission who were instrumental in its development and drafting. This would facilitate a more comprehensive approach to dealing with not only the issues raised here but the challenges that continue to make it difficult for CPSBs to operate fully and deliver on their mandates

The proposed changes/amendments to Part VIIA of The County Governments (Amendment) Bill 2024 are summarized in the table below to cover;

1. Section/subsection of the Bill
2. Proposed changes
3. Justification/rationale for the proposed changes

5.0 THE PROPOSED AMENDMENTS/CHANGES

ITEM NO.	SECTION IN BILL	PROPOSED CHANGE	RATIONALE/JUSTIFICATION
1.0	86A (2) (a) Steering Committee of the CPSB Consultative Forum	A representative nominated by each of the forty-seven County Public Service Boards and who shall comprise the Steering Committee of the Forum and which shall be the apex decision making body of the Forum	Experience has shown that inclusivity and representation in decision-making platforms is critical for all the 47 boards. The steering committee members having been nominated by the boards themselves are held accountable to not only the Forum but their respective nominating boards. This worked very well in the original forum set up
2.0	86A (3)	The representative referred to in sub-section 2(a) shall be a member of the Board appointed under section 58(1)(a) or (b) nominated by his/her respective Board to sit in the Steering Committee of the Forum as its representatives	It is important that each board formally meets to elect their nominee to the Forum. This should not be left at the behest of the Board Chairperson or Secretary but must be a collective decision of each respective board
3.0	86A (4)	The Forum, at its first meeting shall elect a Chairperson and Vice- Chairperson from the members of the Steering Committee and regard shall be taken to ensure that both positions shall be of the opposite gender	The Steering Committee being the apex decision making body and which comprises of representatives of the boards is best placed to provide the leadership of the Forum including the Executive Committee who will provide leadership of the Forum
4.0	86A (7) Executive Committee of the Forum (Insert new)	In addition to subsection (4) and at the first meeting the Forum shall elect an Executive Committee (EXCOM) comprising of the following: Regional Representatives drawn from the 8 Regions of the country who will represent regional interests and issues in the Forum	Representation of the various regions (Central, Rift Valley, Nyanza, North Eastern, Eastern , Western, Coast and Nairobi This was found necessary in the original Forum for greater inclusivity and representation of unique and peculiar issues and varying circumstances of Kenya's regions

5.0	86 B Purpose of the Forum (omit existing subsection a - e and insert new a-f))	The purpose of the Forum shall be to - (a) Sensitize members on the mandates of the Boards; (b) Build consensus amongst all the forty seven County Public Service Boards on all matters related to their powers and functions (c) Share and disseminate knowledge and experience aimed at improving the operations and efficiency of the Boards (d) Provide linkages with other relevant stakeholders for the furtherance of the functions of the Forum; and (e) Mediate any disputes arising within and between the respective County Public Service Boards (f) Prepare and submit Annual Reports to relevant authorities including the County Assemblies and Senate of the Kenya Parliament	The functions of the Forum as contained in the founding constitution of the CPSB National Consultative Forum clearly spelt out the functions of this umbrella body and how it provides a platform for consultation, coordination and collaboration among the county Public Service Boards on matters related to their mandate, powers and functions. This was also intended to provide a framework of uniform norms and standards for operations of not only the boards themselves but also with National Government Ministries, Departments and Agencies where such is necessary for success of devolution but also the public service in Kenya
6.0	86C Meetings of the Forum Annual General Meeting Executive Committee Meetings Regional Consultative Meetings	(1) The Forum shall hold an Annual General Meeting once a year on a rotational basis to discuss general business and pass resolutions as required, on matters relating to its operations, programs, finances and activities (2) The Executive Committee comprising the officials and 8 Regional Representatives elected under subsection 86A (7) shall meet once a quarter, or as may be directed by the Steering Committee to discuss general business or specific issues of the Forum. It shall submit regular reports as directed by Forum (3) The Forum shall hold Regional Consultative Meetings, comprising of the County Public Service Boards in the respective regions referred to under once a quarter or as otherwise agreed at the Steering Committee to discuss emerging issues unique to respective region so as to further strengthen the Forum and its activities in the 8 regions under subsection 86A(7)	The AGM is an important governance and accountability event in the calendar of the Forum where activities, policies and budget are scrutinized and approved. It further provide an opportunity for members of the Forum to evaluate the impact of activities undertaken The Executive Committee (EXCOM) runs the affairs of the Forum in consultation with the Secretary. It facilitates the implementation of policies and programs of the forum as passed by the Steering Committee Our experience shows that attention needs to be paid to emerging issues that are specific to certain regions and consultations on the same are necessary for responsive interventions. In addition to this they are useful for understanding of peculiar circumstances and interests of the specific regions while building a greater sense of inclusivity and ownership of the Forum, its affairs and activities.

7.0	86D Secretary to the Forum (remove existing subsections 86E (a - d) 86F and insert new 86D (1) (2) (3) & (4)	There shall be a secretary to the Forum who shall be recruited by the Forum through a competitive, open and transparent process and shall be qualified for appointment as Secretary to the Forum if that person - (1) (a) Is a citizen of Kenya (b) Holds a degree from a university recognized in Kenya (c) Has at least ten years relevant professional experience, five of which should have been in a senior management position in a public or private sector organization (d) Is a certified public secretary of good professional standing; (e) Meets the requirements of Chapter Six of the Constitution (2) The Secretary shall; hold office for a term of 3 years and shall be eligible for reappointment for one further term. (3) The Secretary shall be the Chief Executive Officer and Accounting Officer of the Forum and shall ensure that the resources and assets of the Forum are used in a way that is lawful, authorized, effective, efficient, transparent and accountable (4) The Secretary shall be the head of the secretariat of the Forum and shall be subject to the direction of the Forum (a) Be responsible for the day to day administration of the Forum, (b) oversee and coordinate the implementation of the policies, programs and objectives of the Forum (c) cause to be prepared for approval of the Forum, the Strategic Plan, Annual Work Plan and Annual Budget and Audited Accounts of the Forum (d) Be the custodian of the records and seal of the Forum; and (e) Perform such other duties as may be assigned by the Forum	The qualifications, experience and professional standing of the secretary are key ingredients for the proper functioning of the Forum given the stringent requirements of compliance by regulatory authorities, stakeholder engagement and implementation of Forum policies and programs. Corporate governance, good ethics and best practice standards are essential for proper functioning of the organization. It is therefore fair and just to make the highest demands of qualifications, experience and professionalism in the occupant of the office. This is the commonly applied practice in other similar organizations. The proposal of the bill that the secretary of the Forum be an employee of the Inter-governmental Relations Committee is misguided, unnecessary and certainly not inline with good corporate governance principles. The Forum is envisaged as an independent body capable of running its own affairs in accordance with the provisions of the constitution. Secondly this would create grounds for interference into the affairs of the Forum without legal basis or precedence. It is ill-advised and must not be allowed to take root in any form or nature. There is no justifiable reason why the Secretary to the Forum must be an employee of IGRTC. It will be an avenue for interference and control by the latter in the affairs of the Forum It is important to note that functions under the purview of the County Public Service Boards were fully devolved and the Boards have been performing their functions under their mandate and does not need an 'intermediary' for the effective discharge of their mandate. Furthermore, the Forum requires a fulltime secretary to handle its affairs hence such a role cannot be accomplished by a person with another job elsewhere.
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8.0	86E Removal from office of the Secretary to the Forum remove existing subsections 86G (1) (2) and insert new 86E (1) (2) (3) & (4)	(1) The Forum may terminate the appointment of the secretary to the Forum for - (a) Inability to perform functions of the office arising out of physical or mental incapacity (b) Gross misconduct, insubordination or misbehavior (c) Incompetence or neglect of duty	As mentioned above there is no justifiable reason why IGRTC should involve itself in Forum affairs because the devolution of functions under Schedule IV was completed and does not anticipate involvement or direction from the committee. There does not currently exist any residual functions being performed by IGRTC that are under the purview of the Boards The Forum as an independent body must be allowed to function as such and be in control of its own affairs provided all these are done within the confines of applicable law. Constitutionally IGRTC has no powers over the boards as the latter are fully established under the Constitution and the County Governments Act 2012. The boards, therefore have not been and are not an extension of IGRTC
9.0	86F Secretariat Appointment of staff to the Forum remove existing subsections 86H (1) (2) and insert new 86F (1)	(1) There shall be a secretariat to the Forum which shall comprise of - (a) Such technical and administrative officers and support staff as may be appointed by the Forum; and (b) Such public officers as may be seconded to the Forum upon request (c) The Forum shall ensure that the appointment made under section(1) shall comply with Articles 232(g), (h) and (i) of the Constitution (d) The staff appointed under subsection (1) shall serve on such terms and conditions as the Forum may from time to time determine	The Forum as an independent body should have powers to recruit its own secretariat staff as it is the one that knows the qualifications, capacity and skills required for the proper discharge of the functions under this Act. The appointment of staff can be undertaken by the secretary under the direction of the Executive Committee of the Forum There is no need for the involvement of IGRTC in this for reasons advanced earlier
10.0	86G Seal of the Forum Insert as new subsection 86G	(1) The seal of the Forum shall be such device as may be determined by the Forum and shall be kept by the secretary to the Forum (2) The affixing of the seal shall be authenticated by the Chairperson and Secretary or any other person authorized by a resolution of the Forum (3) Any document purported to be under the seal of the Forum, or issued on behalf of the Forum shall be received in evidence and shall be deemed to be so executed or issued, as the case maybe, without further proof unless the contrary is proved	This is a legally accepted and at times required way of proving that documents so issued are official and authentic and truly represent ownership of the position of the issuing authority on the relevant matter or decision conveyed. This is normal in public service where the law requires such.

11.0	86H Annual report and programme remove existing subsections 86L (1) and insert new (1)	(1) The Forum shall submit within a period of three months after the end of each financial year, submit to the Senate of the Kenyan parliament an Annual Report on its activities, operations and programs in the preceding financial year. (2) A report of the Forum submitted under subsection (1) shall include an Annual Program outlining a comprehensive Work Plan for the subsequent financial year.	This is to align this requirement with other activities of the Forum based on quarters The submission to the Senate is in-line with its constitutional mandate of overseeing county governments and their related institutions County Public Service Boards are nevertheless required to individually submit reports to their respective County Assemblies on their activities and operations under the county Governments Act 2012 and which provide information for inclusion into the State of the Nation Address by the President
12.0	86M Assets Acquisition of Assets Insert as new subsection 86M	(1) The Forum may acquire assets anywhere for its own use as may be determined and directed by its members	With growth of the Forum, a good sound asset base will be useful to further strengthen it financially by providing additional sources of revenue
13.0	86N Trustees Trustees of the Forum Insert as new subsection 86M	(1) There shall be established a Board of Trustees as determined by the Forum and whose responsibilities shall include - (a) Manage and protect the assets acquired by the Forum (b) Make such investments in organizations, bodies and financial institutions for the purpose of making the Forum financially sustainable (c) Applying any profits, dividends, benefits etc, received from such investments for purposes as directed by the Forum	The purpose of this is basically to ensure financial sustainability for the Forum It will also make it possible for the Forum to contribute and participate in Corporate Social Responsibility activities, programs and causes in the counties as may be determined or directed by the Forum The work of CPSBs invariably also involves working with communities in some of the boards' activities
	86P Funds of the Forum remove existing subsections 86J (1) and insert new (1)	(1) The funds of the Forum shall consist of monies drawn from the Consolidated Fund and approved by the Senate annual subscriptions by each county or other sources as may be lawfully granted or donated to the Forum (2) The Forum shall set rules and regulations for management and use of the funds so received.	The resourcing of even the original Forum was a perennial problem since most of the county governments refused or neglected payment of due subscriptions due or even omitted the same when doing or approving their respective budgets of the Boards. This heavily impacted on the Forum's proper functioning and ability to undertake its programs and activities. Independent funding for the Forum is critical to its survival and protection from political interference or blackmail by vested interests given experience of pioneer Boards. It is necessary to legally obligate the counties to pay annual subscriptions since the counties will be primary beneficiaries of properly functioning County Public Service Boards

6.0 ADDITIONAL NOTES

It is important to note that the original CPSB National Consultative Forum was first registered as a Society with more or less the same objects and purpose set out in the proposed amendments. The Forum also drafted and submitted to the Senate, The County Public Service Board Bill 2019 the fore runner of the now proposed amendments. This in the view of the boards of that time, had become necessary given the emerging issues and challenges they faced at the time and which the existing legal framework was unable to deal with or resolve

In this memorandum, I have consulted with many of my colleagues of the time and who unreservedly support the proposals I am submitting. As pioneer CPSB members and especially me as the founder Chairperson of the Forum would not miss to take up this opportunity to not only make suggestions but also build on and add value to previous such efforts. It still is our considered opinion that ultimately the answer to all the challenges faced by the boards does not lie in piecemeal amendments but a comprehensive look at the gaps, emerging issues and challenges in both the legal and institutional frameworks that still make it difficult for the boards to fully discharge their mandate. The CPSB Bill 2019 was certainly the first step of this journey

I have in this memorandum suggested on not 're-inventing the wheel' but rather to build on the proposals of our Bill which comprised of cumulative experiences and attempts to confront these same issues. We are confident that the structure of the original forum comprising Steering Committee, Executive (EXCOM) Committee which took into account and implemented gender balance, regional representation, diversity of academic and professional qualifications and leadership skills provided a firm base on which forum operated on and with unprecedented success achieved.

It is my hope and prayer that the Senate will favorably consider the suggestions contained in this memorandum with a view to enact the same to make the County Public Service Boards National Consultative Forum the true voice of the Boards in Kenya. I am ready and willing to engage, in person, the relevant committee of the Senate to further discuss the suggestions made in this memorandum. I look forward to such an invitation should the Senate deem it fit.



ARCHITECT PHILLIP KUNGU M.Arch, B.Arch (Hons) FAAK (A)
FOUNDER & CHAIRPERSON OF THE CPSB NATIONAL CONSULTATIVE FORUM 2014 - 2019
7TH OCTOBER 2024

The County Governments (Amendment) Bill, No. 39 of 2024

Potential Drawbacks:

1. **Administrative Costs:** Managing inter-county transfers, including protecting accrued benefits, could increase the administrative burden on county governments. This may result in increased costs for counties that need to manage pension funds, retirement benefits, and other accrued benefits efficiently during transfers.
2. **Coordination and Forum Costs:** The establishment of the County Public Service Boards Consultative Forum could lead to additional expenses for counties, particularly in funding meetings, reports, audits, and staffing the forum. Though the Bill allows for lawful grants and donations, counties may still face financial strain in coordinating and funding these activities.
3. **Risk of Unequal Resource Distribution:** Counties with fewer financial resources may struggle to implement the provisions of the Bill effectively, particularly in terms of protecting the benefits of transferring officers or contributing to the functioning of the Forum. This could lead to disparities between counties in managing public service human resources.
4. **Complexity of Implementation:** The requirement to retain and transfer accrued benefits, including pensions and retirement benefits, could create challenges in aligning financial policies and processes across different counties. This might result in delays or disputes during inter-county transfers, potentially causing disruptions in public service delivery.

While the Bill aims to improve coordination and efficiency, there could be significant financial and administrative demands placed on counties, especially those with limited resources.

Received on
Email from - Edmond Ogutu.



Institute of
Human
Resource
Management

The Professional Body of HR Practitioners in Kenya

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Website: www.ihrm.or.ke

When replying please quote:

Ref. No. IHRM/L/3/ (007/09) 2024

27th September 2024

Mr. Jeremiah M. Nyegenye, CBS,
The Clerk,
Senate of the Republic of Kenya,
P.O. Box 41842 – 00300,
NAIROBI.

Dear Sir,

**RE: MEMORANDUM OF THE INSTITUTE OF HUMAN RESOURCE
MANAGEMENT (IHRM) ON THE COUNTY GOVERNMENTS (AMENDMENT)
BILL, 2024 (SENATE BILL NO. 39 OF 2024)**

The Institute of Human Resource Management (IHRM) is a Statutory Professional Body established under the Human Resource Management Professionals (HRMP) Act, CAP. 538. Its mandate is to regulate the Human Resource profession in Kenya and enhance competencies and capacities while supporting innovative and transformative HR practices and standards. The Institute is a State Corporation under the Ministry of Public Service & Human Capital Development.

Reference is made to the above-captioned subject matter and your invitation to interested members of the public to submit any representations they may have on the County Governments (Amendment) Bill, 2024 via memoranda. Having read the Bill, the Institute submits its views thereon as follows:

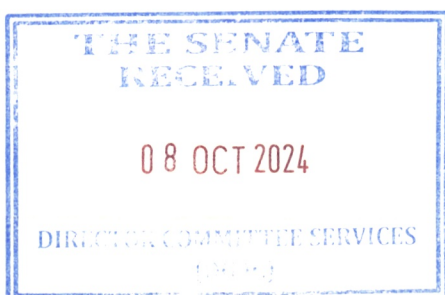
The Legal Mandate of IHRM

The Institute is a professional body of HR practitioners established under Section 3 of the Human Resource Management Professionals Act, CAP. 538, with its functions set out under Section 6 of the Act.

Specifically, Section 6 mandates the IHRM to, *inter alia*,

- Establish, monitor, and publish the standards of professional competence and practice amongst human resource professionals;
- Register persons who meet the required professional and ethics standards;
- Regulate the practice, competence, and professional conduct of human resource professionals; and
- Promote and protect the welfare and interests of the human resources profession.

The Institute has over 19,000 registered HR practitioners across the country and registers both individual and corporate HR practitioners, including consultants, in the Kenyan HR sector. The Institute also oversees compliance and member welfare, which includes, but is not limited to, offering workshops and webinars for its members through Continuous Professional Development programs.



③ HOD - Governance
Lead Clerk - Devolution
Kindly Seal
09/10/2024.

The Constitutional and Legal Objects of County Public Service

Each of the 47 Counties must have its own County Public Service Board (CPSB) in accordance with Article 235 of the Constitution and Sections 56 and 57 of the County Governments Act, 2012. Section 55 of the County Governments Act, 2012 provides that the objectives of a CPSB are to, *inter alia*:

- a)
- b) provide for the organization, staffing, and functioning of the county public service in ways that ensure efficient, quality, and productive services for the people of the county;
- c) provide for institutions, systems, and mechanisms for human resource utilization and development in a manner that best enhances service delivery by county public service institutions
- d) provide a framework of uniform norms and standards to be applied in all counties in respect of—
 - i. establishment and abolition of offices in the county public service;
 - ii. appointment of persons to hold or act in those offices;
 - iii. confirming appointments; or
 - iv. exercising disciplinary control over and removal of persons holding or acting in those offices;
- e) provide for the promotion of the values and principles set out in Articles 10 and 232 of the Constitution in the county public service;
- f) provide for human resource management and career development practices;
- g) address staff shortages and barriers to staff mobility between counties;
- h) provide for standards to promote ethical conduct and professionalism in county public service; and
- i) provide for the establishment of County Public Service Boards.

Functions and powers of a County Public Service Board

Section 59 of the County Governments Act, 2012 sets out the functions of the CPSB. The functions shall be, among others, to –

- a) establish and abolish offices in the county public service;
- b) exercise disciplinary control over, and remove, persons holding or acting in those offices as provided for under this Part;
- c) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- d) advise the county government on human resource management and development;
- e) advise county government on implementation and monitoring of the national performance management system in counties; and
- f) make recommendations to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions, and gratuities for county public service employees.

Human capital is, globally recognized, as the most important asset of an organization. Cognizant of this fact, the Institute has been at the forefront of equipping HR professionals with the relevant skills, competencies, and expertise in order for them to optimally deliver on their mandate in their respective workplaces including at the county government level.

It is clear from the aforementioned objectives and functions of the CPSB that the functions of the CPSB are HR in nature. They involve handling issues of county government employees and no better person can oversee the implementation of these functions than a qualified HR of good professional standing.

Therefore, it is the Institute's considered position that in addition to the proposed amendments in the County Governments (Amendment) Bill, 2024; the Senate should consider further amendments that will see the Chairperson of the CPSB, Section 58 (1) (a) of the County Governments Act, 2012, appointed from among highly qualified Human Resource Management professionals of good standing.

Additionally, the Institute recognizes the significant amendments proposed, particularly on the County Public Service Board (CPSB) Consultative Forum of the Bill. We believe that the Institute has a pivotal role in this section due to its mandate and expertise in HR matters.

Section of the County Governments Act, 2012	Provisions of the Act	Proposed Amendment	Justification
Composition of the County Public Service Board: Appointment of the Chairperson			
58 (3) (c)	The Section provides that a person shall be qualified to be appointed as a member under subsection (1) if that person in the case of chairperson or vice-chairperson, possesses a minimum qualification of a bachelor's degree from a recognized university and working experience of not less than ten years.	Section 58 (3) (c) is amended to include: <i>A member of the Institute of Human Resource Management of good professional standing.</i>	The CPSB carries out functions that are HR in nature and it is only prudent to have a person well-versed with HR qualifications and work experience chairing the Board.
Clause of the County Governments (Amendment) Bill, 2024	Provisions of the Bill	Proposed Amendment	Justification
County Public Service Boards (CPSB) Consultative Forum			
86A (2)	The Forum shall comprise – (a) a representative from each of the forty-seven County Public Service Boards; and (b) a secretary to the Forum who shall be an ex-officio member and shall have no right to	We propose insertion of a new sub-section, 86A (2) (c): <i>a representative from the Institute of Human Resource Management, who shall provide human resource management expertise and guidance on matters of standards and professional competence.</i>	Given the human resource management nature of the Forum's mandate, IHRM's involvement ensures that national HR standards are upheld across all counties.

vote at any meeting of
the Forum.

This amendment
strengthens HR
practices within
counties by
aligning them with
professional
standards.

The IHRM is the only statutory body authorized to regulate HR professionals in Kenya, and the role of the CPSB is HR-centric. It is essential that the County Public Service Boards Consultative Forum includes IHRM to align HR practices across counties with national HR standards. By overseeing HR competencies and professional conduct, the IHRM would ensure that HR professionals operating within county governments are well-equipped to meet the demands of public service delivery.

The Forum's proposed functions include developing frameworks for public service issues, mediation of disputes, and creating inter-county agreements for service delivery. The IHRM is well-placed to provide expert input on these functions. IHRM's experience in county HR matters (such as staffing, training, and payroll management) positions it as a key stakeholder in crafting inter-county HR policies.

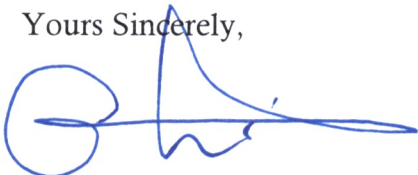
The Bill, Clause 86D, outlines the qualifications for the County Public Service Boards Consultative Forum's secretary, requiring a degree and ten years of management experience. The IHRM proposes adding a requirement for HR expertise to ensure that the individual in this critical role possesses a deep understanding of HR management. Since the Forum's functions are heavily HR-oriented, the Secretary should have qualifications and experience in HR, regulated by IHRM. This would enhance the efficiency and relevance of the Forum's decisions, especially on staffing and HR policy.

The Institute of Human Resource Management is a key stakeholder in the HR Management landscape of Kenya. The County Governments (Amendment) Bill, 2024, addresses critical issues in HR management within counties, and it is only fitting that the IHRM is actively involved in these processes.

On behalf of the Institute, we wish to express our sincere appreciation to the drafters of the County Governments (Amendment) Bill, 2024. The provisions laid out in the Bill, particularly those concerning the County Public Service Boards Consultative Forum and inter-county transfer of public officers, reflect a deep understanding of the importance of human capital in enhancing public service delivery. We are especially grateful for the foresight demonstrated in promoting collaboration and professional development across counties. The Institute remains committed to supporting these efforts, and we look forward to working together with all the counties to strengthen human resource management standards and practices in line with the objectives of this important legislation.

We look forward to your favourable consideration of our recommendations.

Yours Sincerely,



CHRP Quresha Abdullahi
EXECUTIVE DIRECTOR.

Annex 5:

Proposed ***Committee***
amendments to the Bill

18.07.2026 July, 2026

The Clerk of the Senate
Parliament Buildings
NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE COUNTY
GOVERNMENT (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 39 OF
2024).**

NOTICE is given that Sen. Sheikh Mohamed Abass, the Chairperson to the Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Government (Amendment) Bill, 2024 (Senate Bills No. 39 of 2024), at the Committee Stage—

CLAUSE 2

THAT clause 2 of the Bill be deleted.

CLAUSE 3

THAT clause 3 of the Bill be deleted.

CLAUSE 4

THAT clause 4 of the Bill be deleted.

CLAUSE 5

THAT clause 5 of the Bill be deleted.

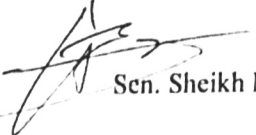
LONG TITLE

THAT the long title of the Bill be deleted.

CLAUSE 1

THAT clause 1 of the Bill be deleted.

Dated ..15.07.26.....2026.


Sen. Sheikh Mohamed Abass,
Chairperson,
Committee on Devolution and Intergovernmental Relations.