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SENATE BILLS, 2025

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(a) the County Public Service Board shall appoint a person to be county public service officer on a full-time basis and shall do so as soon as possible;

(b) a person appointed pursuant to clause (a) shall be provided with such powers, functions and duties as the Board may determine, which shall include the emergency functions, as assigned by the County Public Service Board in consultation with the relevant county chief officers;

(c) the appointments made pursuant to subsection (a) shall be reviewed by the County Public Service Board within a date fixed by the governing authority, and any appointment not examined within that period shall lapse.

10. Section 24 of the County Governments Act is amended by inserting the following new section immediately after section 23:

Amendment of section 24 of Chap. 265

265. County Public Service Act

(1) Within a month after the expiry of each year period the County Council shall consider county public service matters, and the governing authority shall comply with Article 242 of the Constitution and Part V of the Act.

(2) The Act shall be read subject to the report by the Senate and the relevant county Assembly.

(3) Within three months after receiving the report from the Senate and the relevant county Assembly, the Council shall consider the report and take appropriate action.

(4) Before subsection (1) of Article 242 of the Act is read, the County Council shall, within six months after the commencement of this section, conduct a county public service audit in each county government for the purposes of assessing compliance with Article

**THE COUNTY GOVERNMENTS LAWS
(AMENDMENT) BILL, 2025**

A Bill for

AN ACT of Parliament to amend the County Governments Act and the Public Appointments (County Assemblies) Approval Act; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the County Governments Laws (Amendment) Act, 2025.

Short title.

2. Section 24 of the County Governments Act, is amended —

Amendment of section 24 of Cap. 265.

(a) by inserting the following new subsection immediately after subsection (4)—

(4A) The Governor shall within seven days of receipt of a Bill submitted under subsection (4) assent to the Bill.

(c) by inserting the following new subsections immediately after subsection (6)—

(7) The Governor shall submit for publication in the *Gazette* the Bill assented to under subsection (2)(a), (4A), (5) or (6) within seven days of the assent.

(8) Where the Governor fails to submit a Bill under subsection (7), the Speaker may, within three days of the expiry of the period under subsections (2)(a), (4A), (5) and (6), submit the relevant Bill for publication in the *Gazette*.

(9) A Governor who contravenes subsection (7) shall be deemed to have committed a gross violation of this Act, which may constitute a ground for removal from office under Article 181 of the Constitution and section 33 of the County Governments Act.

3. Section 25 of the County Governments Act is amended in subsection (1) by deleting the words “county

Amendment of section 25 of Cap. 265.

Gazette and *Kenya Gazette*” appearing immediately after the words “published in the” and substituting therefor the word “*Gazette*”.

4. Section 30 of the County Governments Act is amended in subsection (2)(k) by inserting the words “at a sitting of the respective county assembly an” immediately after the word “deliver”.

Amendment of
section 30 of Cap.
265

5. Section 35 of County Governments Act is amended by—

Amendment of
section 35 of Cap.
265.

(a) inserting the following new subsection immediately before subsection (1)—

(A1) A county governor shall, within fourteen days of being sworn into office, nominate and deliver to the respective county assembly clerk the names of persons proposed for appointment as members of the executive committee.

(b) inserting the following new subsection immediately after subsection (2)—

(2A) The county assembly shall consider and determine the approval of a nominee for appointment as a member of the executive committee within twenty-one days of receipt of the name under subsection (A1) or the date of the first sitting of the assembly appointed under section 7B(1)(b), whichever occurs last.

6. Section 42 of the County Governments Act is amended by deleting subsection (2).

Amendment of
section 42 of Cap.
265.

7. Section 45 of the County Governments Act is amended—

Amendment of
section 45 of Cap.
265.

(a) in subsection (1) by inserting —

(i) the words “or when a Governor is sworn in subsequent to a general election” immediately after the words “a county chief officer”.

(ii) the following new subsection immediately after subsection (1)—

(1A) A county assembly shall consider and make a determination on the approval of a nominee for appointment as county chief

officer within twenty-one days of receipt of the nomination from the Governor.

- (c) by inserting the following new subsection immediately after subsection (1)—

- (1A) The number of county chief officers appointed under subsection (1) (b) shall not exceed twenty.

8. Section 58 of the County Governments Act is amended—

Amendment of section 58 of Cap. 265.

- (a) in subsection (4)(a) by deleting the word “six” appearing immediately after the words “non-renewable term of” and substituting therefor the word “five”;
- (b) by inserting the following new subsection immediately after subsection (4)—

- (4A) Despite subsection (4)(a), members of the Board whose term expires during or after a general election shall continue to hold office until a new Board is appointed in accordance with section 58A, provided that such continuation shall not exceed six months after the general election.

9. Section 58A of the County Governments Act is amended in subsection (1) by inserting the words “or when a Governor is sworn in subsequent to a general election” immediately after the words “a county public service board”

Amendment of section 58A of Cap. 265.

10. Section 63 of the County Governments Act is amended by inserting the following new subsection (3) immediately after subsection (2)—

Amendment of section 63 of Cap 265.

- (3) Despite subsections (1) and (2), during the period beginning ninety days before the date of a general election under Article 101 of the Constitution and ending on the date a newly elected governor assumes office in accordance with the Assumption of the Office of Governor Act—

Cap 265A

- (a) the County Public Service Board may appoint a person to the county public service only on a contract basis for a period not exceeding six months;
- (b) appointments under paragraph (a) shall be limited to positions that are essential for the continuity of critical services, including health, water and sanitation, and emergency response, as determined by the County Public Service Board in consultation with the relevant county chief officers;
- (c) an appointment made under this subsection shall be reviewed by the County Public Service Board within ninety days of the governor assuming office, and any appointment not confirmed within that period shall lapse.

10. Section 86 of the County Governments Act is amended by inserting the following new section immediately after section 86 —

Amendment of
section 86 of Cap
265.

86A. County Public Service Audit

(1) Within six months after the end of every ten-year period, the Auditor-General shall conduct a county public service audit in every county government to assess compliance with Article 232 of the Constitution and Part VII of this Act.

(2) The Auditor General shall submit the audit report to the Senate and the relevant county Assembly.

(3) Within three months after receiving the audit report, the Senate and the relevant County Assembly shall debate and consider the report and take appropriate action.

(4) Despite subsection (1), the Auditor-General shall, within six months after the commencement of this section, conduct a county public service audit in each county government for the purposes of assessing compliance with Article

232 of the Constitution and Part VII of this Act.

11. Section 9 of the Public Appointments (County Assemblies Approval Act is amended by inserting the following new section immediately after section 9—

Amendment of section 9 of Cap 265B.

9A. Failure of a County Assembly to act on nomination

If, after expiry of the period for consideration specified in section 9, a County Assembly has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The purpose of the Bill is to amend the County Governments Act (Cap. 265) to provide clarity in the publication of county legislation passed by county assemblies, to mandate county governors to deliver annual state of the county addresses before respective county assemblies, to stipulate timelines for the nomination and appointment of county executive committee members and county chief officers, to provide for the appointment of new county public service boards after each general election and to provide for a county public service audit .

The Bill proposes to provide for the enhancement of the legislative process through ensuring the mandatory publication of assented legislation at the county level and assigning responsibilities to the parties responsible for publication of the legislation. In its current iteration, the County Governments Act is vague as to the mandatory publication of legislation passed by the county assemblies. This has led to delays in the legislative process and undue interference by county executives.

The Bill further mandates county governors to deliver annual state of the county addresses before their respective county assemblies to ensure that the addresses are delivered in the proper forum.

The Bill also proposes a statutory obligation on county governors to nominate the county executive members within fourteen days of being sworn in and county assemblies to approve or reject the nominations within fourteen days.

Currently, the County Governments Act does not provide a time frame within which county executive committee members are to be nominated, vetted and appointed. Consequently, the lack of a time line for appointing qualified persons to these critical positions has led to inefficiency of service delivery in the county. This proposed amendment is therefore intended to provide a period within which the nomination and appointment of county executive committee members is undertaken.

The Bill lastly proposes to amend the term of service of the county public service board. This amendment is aimed to reduce the delay in appointments and difficulties encountered in the effective management of counties due to the conflict between the boards and the county governors. The amendment further ensures compliance with section 59 of the County Governments Act.

Altogether, the proposed amendments to the County Governments Act are intended to improve the rule of law and governance within the county governments.

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

This Bill does not delegate legislative powers nor does it limit fundamental rights or freedoms.

Statement on how the Bill concerns county governments

The Bill deals with the amendments to the legislative authority of the county assembly as envisioned under Article 185 of the Constitution.

Further, the functions of county governments in Kenya are enshrined under Part 2 of the fourth schedule of the Constitution. Article 176 to 185 of the Constitution form the foundation of devolution in Kenya. In addition, some of the key functions set out under the Fourth Schedule to the Constitution are overseen by county executive members and executed by county chief officers.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

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

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 9th July, 2025

ABDUL MOHAMMED HAJI,
Senator.

Section 24 of Cap. 265 that the Bill proposes to amend—

24. Assenting to a Bill

(1) The Speaker shall, within fourteen days, forward a Bill passed by the county assembly to the Governor.

(2) The Governor shall within fourteen days after receipt of a Bill—

(a) assent to the Bill; or

(b) refer the bill back to the county assembly with a memorandum outlining reasons for the referral.

(3) If the Governor refers a Bill back to the county assembly, the county assembly may, following the appropriate procedures under this section—

(a) amend the Bill taking into account the issues raised by the Governor; or

(b) pass the Bill without amendment.

(4) If a county assembly amends the Bill taking into consideration the issues raised by the Governor, the speaker shall within fourteen days submit the Bill to the Governor for assent.

(5) If a county assembly passes the Bill a second time, without amendment, or with amendments which do not accommodate the Governor's concerns by a vote supported by two-thirds of members of the county assembly, the speaker shall within seven days re-submit the Bill to the Governor and the Governor shall within seven days assent to the Bill.

(6) If the Governor does not assent to a Bill or refer it back within the period referred to under this section, the Bill shall be taken to have been assented to on the expiry of that period.

Section 25 of Cap. 265 that the Bill proposes to amend—

25. Coming into force of a law

(1) A legislation passed by the county assembly and assented to by the Governor shall be published in the county Gazette and Kenya Gazette within seven days after assent.

(2) Subject to subsection (3), the county assembly legislation shall come into force on the fourteenth day after its publication in the Kenya Gazette unless the legislation stipulates a different date on, or time at which, it shall come into force.

(3) A county assembly legislation that confers a direct benefit whether financial or in kind on members of the county assembly shall

come into force after the next general election of members of the county assembly.

(4) Subsection (3) does not apply to an interest that members of county assembly have as members of the public.

Section 30 of Cap. 265 that the Bill proposes to amend—

30. Functions and responsibilities of a county Governor

- (1) Deleted by Act No. 4 of 2019, s. 22 (a).
- (2) Subject to the Constitution, the Governor shall—
 - (a) diligently execute the functions and exercise the authority provided for in the Constitution and legislation;
 - (b) perform such State functions within the county as the President may from time to time assign on the basis of mutual consultations;
 - (c) represent the county in national and international fora and events;
 - (d) appoint, with the approval of the county assembly, the county executive committee in accordance with Article 179(2)(b) of the Constitution;
 - (e) constitute the county executive committee portfolio structure to respond to the functions and competencies assigned to and transferred to each county;
 - (f) submit the county plans and policies to the county assembly for approval;
 - (g) consider, approve and assent to bills passed by the county assembly;
 - (h) chair meetings of the county executive committee;
 - (i) by a decision notified in the county Gazette, assign to every member of the county executive committee, responsibility to ensure the discharge of any function within the county and the provision of related services to the people;
 - (j) submit to the county assembly an annual report on the implementation status of the county policies and plans;
 - (k) deliver annual state of the county address containing such matters as may be specified in county legislation; and

(1) sign and cause to be published in the county Gazette, notice of all important formal decisions made by the Governor or by the county executive committee.

(3) In performing the functions under subsection (2), the Governor shall—

- (a) provide leadership in the county's governance and development;
- (b) provide leadership to the county executive committee and
- (c) administration based on the county policies and plans;
- (d) promote democracy, good governance, unity and cohesion within the county;
- (e) promote peace and order within the county;
- (f) promote the competitiveness of the county;
- (g) be accountable for the management and use of the county resources; and
- (h) promote and facilitate citizen participation in the development of policies and plans, and delivery of services in the county.

Section 35 of Cap. 265 that the Bill proposes to amend—

35. Appointment of county executive members

(1) The Governor shall, when nominating members of the executive committee—

- (a) ensure that to the fullest extent possible, the composition of the executive committee reflects the community and cultural diversity of the county; and
- (b) take into account the principles of affirmative action as provided for in the Constitution.

(2) The county assembly shall not approve nominations for appointment to the executive committee that do not take into account—

- (a) not more than two thirds of either gender;
- (b) representation of the minorities, marginalized groups and communities; and
- (c) community and cultural diversity within the county.

(3) A person may be appointed as a member of the county executive committee if that person—

- (a) is a Kenyan citizen;

- (b) is a holder of at least a first degree from a university recognised in Kenya;
- (c) satisfies the requirements of Chapter Six of the Constitution; and
- (d) has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

(4) A member of the county executive committee shall not hold any other State or public office.

Section 42 of Cap. 265 that the Bill proposes to amend—

42. County executive to remain in office after elections

(1) When a general election is held for a county government, the outgoing county executive committee shall remain in office until a new county executive committee is constituted after the election.

(2) The constitution of a new executive committee after an election under subsection (1) shall be finalized within twenty-one days of the swearing in of the members of the county assembly.

Section 45 of Cap. 265 that the Bill proposes to amend—

45. Appointment of county chief officers

(1) Whenever a vacancy arises in the office of a county chief officer, the respective Governor shall within fourteen days—

- (a) nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and
- (b) with the approval of the county assembly, appoint county chief officers.

(2) The office of a county chief officer shall be an office in the county public service.

(3) A county chief officer shall be responsible to the respective county executive committee member for the administration of a county department as provided under section 46.

(4) The county chief officer shall be the authorized officer in respect of the exercise of delegated power.

(5) The Governor may re-assign a county chief officer.

(6) The office of the county chief officer shall become vacant if the officer—

- (a) dies;
- (b) resigns by notice in writing addressed to the Governor; or
- (c) is removed from office in accordance with the terms of service or any other written law applicable to the officer.

Section 58 of Cap. 265 that the Bill proposes to amend—

58. Composition of the County Public Service Board

- (1) The County Public Service Board shall comprise—
 - (a) a Chairperson appointed in accordance with section 58A;
 - (b) at least three but not more than five members appointed in accordance with section 58A;
 - (c) a certified public secretary of good professional standing nominated and appointed by the Governor, with the approval of the county assembly, who shall be the secretary to the board.
- (2) Deleted by Act No. 11 of 2020, s. 17.
- (3) A person shall be qualified to be appointed as a member under subsection (1) if that person—
 - (a) satisfies the provisions of Chapter Six of the Constitution;
 - (b) is not a state or public officer;
 - (ba) has not, at any time within the preceding five years, held office, or stood for election as—
 - (i) a member of Parliament or of a county assembly; or
 - (ii) a member of the governing body of a political party;
 - (bb) is, or as at any time been, a candidate for election as a member of Parliament or of a county assembly;
 - (bc) is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a county assembly;
 - (c) in the case of Chairperson or vice-Chairperson, possesses a minimum qualification of a bachelor's degree from a recognised university and working experience of not less than ten years; and
 - (d) in the case of any other members—

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

Section 9 of Cap. 265B that the Bill proposes to amend—

9. Period for consideration and report

(1) Unless otherwise provided in any law, a committee shall consider a nomination and table its report in the County Assembly for debate and decision within twenty-one sitting days from the date on which the committee first sits to consider the nomination.

(2) At the conclusion of an approval hearing, the committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated and shall include in the report such recommendations as the Committee may consider necessary, including a recommendation on whether or not the nominee should be approved for appointment to public office.

(12) The selection panel shall stand dissolved upon the appointment of the Chairperson and members under subsection (9).

(13) Where the provisions of subsection (10) apply, the selection panel shall continue to exist but shall stand dissolved upon the requisite appointments being made.

(14) The department responsible for public service shall provide secretariat services to the selection panel.

(15) In nominating or appointing a person as a member of the Board, the selection panel and the Governor shall—

- (a) observe the principle of gender equity, ethnic and other diversities of the people of Kenya, and shall ensure equality of opportunity for persons with disabilities; and
- (b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.

(16) Despite the foregoing provisions of this section, the Governor may extend the period specified in respect of any matter under this section by a period not exceeding fourteen days.

(17) Subject to this section, the selection panel may determine its own procedure.

Section 63 of Cap. 265 that the Bill proposes to amend—

63. Powers of the County Public Service Board to make appointments

(1) Except as provided for in the Constitution or legislation, the County Public Service Board has the power to make appointments including promotions in respect of offices in the county public service.

(2) The power of the County Public Service Board under subsection (1) shall be exercised—

- (a) at the request of the relevant county chief officer of the department to which the appointment is to be made;
- (b) *deleted by Act No. 11 of 2020, s. 20;*
- (c) on the County Public Service Board's own motion on account of best interest of the county public service and parity of treatment of public officers taking into account the circumstances of each case.

Section 86 of Cap. 265 that the Bill proposes to amend—

86. Delegation by County Public Service Board

(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.

(3) The Governor shall, in nominating members to the selection panel, ensure that not more than two-thirds of the nominees are of the same gender.

(4) The Chairperson shall convene the first meeting of the selection panel within five days of his or her appointment.

(5) The selection panel shall, within seven days of convening, invite applications from persons who qualify for nomination and appointment as Chairperson or member of the county public service board by advertisement in at least two daily newspapers of national circulation.

(6) The selection panel shall within seven days of receipt of applications under subsection (5)—

(a) consider the applications to determine their compliance with the provisions of the Constitution and this Act;

(b) shortlist the applicants;

(c) interview the shortlisted applicants; and

(d) submit the names of three qualified applicants for the position of Chairperson, six qualified applicants for the position of a member and two qualified applicants for the position secretary to the Governor.

(7) The Governor shall, within seven days of receipt of the names forwarded under subsection (6), nominate one person, and at least three but not more than five others for appointment as Chairperson and members of the county public service board, respectively, and forward the names to the county assembly for approval.

(8) The county assembly shall, within twenty one days of receipt of the names of the nominees from the Governor, consider each nomination received under subsection (7) and approve or reject any of them.

(9) Where the county assembly approves the nominees, the Speaker of the county assembly shall, within five days, forward the names of the approved applicants to the Governor for appointment.

(10) Where the county assembly rejects any nominee, the Speaker shall within five days communicate the decision of the county assembly to the Governor and request the Governor to submit fresh nominations from amongst the persons shortlisted and forwarded by the selection panel under subsection (6).

(11) If the county assembly rejects any or all of the subsequent nominees submitted by the Governor for approval under subsection (9), the provisions of subsections (6) and (7) shall apply.

- (i) possesses a minimum of a bachelor's degree from a recognised university and working experience of not less than five years; and
 - (ii) is a professional, demonstrates absence of breach of the relevant professional code of conduct.
- (4) A member of the Board shall—
- (a) hold office for a non-renewable term of six years; and
 - (b) may serve on a part-time basis.
- (5) The members of the Board may only be removed from office—
- (a) on grounds set out for the removal of members of a constitutional commission under Article 251(1) of the Constitution; and
 - (b) by a vote of not less than seventy five percent of all the members of the county assembly.
- (6) The board shall elect a vice-Chairperson from amongst its members.
- (7) The Chairperson and vice-Chairperson shall be of opposite gender.

Section 58A of Cap. 265 that the Bill proposes to amend—

58A. Procedure for nomination and appointment of members of the Board

(1) Whenever a vacancy arises in a county public service board, the Governor shall nominate and, with the approval of the county assembly, appoint members to a selection panel for the purpose of selecting suitable candidates for appointment as members of the county public service board.

(2) The selection panel under subsection (1) shall consist of the following persons—

- (a) a Chairperson, not being a public officer;
- (b) one person from the private sector;
- (c) an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;
- (d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and
- (e) one person from an association representing workers.

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