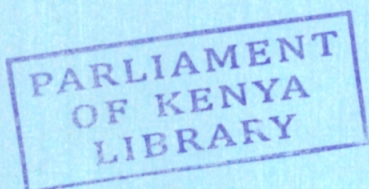


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CONTENT

Bill for Introduction into the Senate—

The County Governments (State Officers' Removal from Office) Procedure
Bill, 2024

PAGE

637

**THE COUNTY GOVERNMENTS (STATE
OFFICER'S REMOVAL FROM OFFICE)
PROCEDURE BILL, 2024**

ARRANGEMENT OF CLAUSES

Clause

PART 1 – PRELIMINARY

1—Short title.

**PART II – PROCEDURE FOR REMOVAL FROM
OFFICE OF A COUNTY GOVERNOR AND A
DEPUTY COUNTY GOVERNOR**

2—Motion for removal of a county governor by impeachment.

3—Proceedings in a county assembly for the removal of a county governor by impeachment.

4—Transmission of certificate and report to the Senate.

5—Proceedings before the Senate.

6—Investigation by the special committee.

7—Decision of the Senate.

8—Re-introduction of a motion.

9—Removal of a county governor for incapacity.

10—Procedure for removal of a county governor for incapacity.

11—Establishment and composition of tribunal.

12—Inquiry by the tribunal.

13—Report of the tribunal.

14—Decision of the county assembly.

15—Transmission of certificate and report to the Senate.

16—Consideration by the Senate.

17—Right of the county governor to appear and be heard.

18—Removal of a deputy county governor.

**PART III — PROCEDURE FOR REMOVAL
FROM OFFICE OF A COUNTY EXECUTIVE
COMMITTEE MEMBER**

- 19—Removal of a county executive committee member.
- 20—Procedure for the removal of a county executive committee member.
- 21—Investigation by the special committee of a county assembly.
- 22—Decision of the county assembly.
- 23—Dismissal of the county executive committee member.
- 24—Rights of the county executive committee member to appear and be heard.
- 25—Removal from office of a county secretary.

**PART IV — PROCEDURE FOR REMOVAL FROM
OFFICE OF A COUNTY SPEAKER AND COUNTY
DEPUTY SPEAKER**

- 26—Removal of a county speaker or county deputy speaker from office.
- 27—Approval of a motion for removal of a county speaker or county deputy speaker by the county assembly.
- 28—Determination of the county assembly.
- 29—Rights of a county speaker or county deputy speaker to appear and be heard.
- 30—Procedure for removal of a county speaker or deputy speaker on account of incapacity.
- 31—Conduct of business during vacancy in the office of the county speaker or county deputy speaker.

PART IV — MISCELLANEOUS

- 32—Substantiation of allegation.
- 33—Service.
- 34—Provisions of standing orders.
- 35—Public participation and access to proceedings notice and access to proceedings.
- 36—Speaker of county assembly to maintain neutrality.

37—Questions as to validity of removal of a county governor, deputy county governor, county executive committee member, county speaker or county deputy speaker.

38—Amendment to Cap 265.

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

**COUNTY GOVERNMENTS (STATE OFFICERS'
REMOVAL FROM OFFICE) PROCEDURE BILL,
2024**

A Bill for

AN ACT of Parliament to provide for the procedure for the removal from office of a county governor, deputy county governor, member of a county executive committee and a speaker of a county assembly; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART 1 — PRELIMINARY

1. This Act may be cited as the County Governments (State Officers' Removal from Office) Procedure Bill, 2024.

Short title.

**PART II — PROCEDURE FOR REMOVAL FROM
OFFICE OF A COUNTY GOVERNOR AND A
DEPUTY COUNTY GOVERNOR**

2. (1) Pursuant to Article 181 (1) (a), (b) and (c) of the Constitution, a member of a county assembly may, supported by at least a third of all the members of the county assembly, move a motion for the removal of the county governor.

Motion for removal of a county governor by impeachment.

(2) Notwithstanding subsection (1) no motion for removal of a county governor by impeachment shall be brought before the lapse of six months from the date of assumption of office of the county governor.

3. (1) A member of a county assembly who intends to move a motion under section 2 shall submit to the clerk of that county assembly the motion together with a list of the members of the county assembly who support the motion.

Proceedings in a county assembly for the removal of a county governor by impeachment.

(2) The list of members under subsection (1) shall be in the form prescribed in the First Schedule.

(3) The clerk of the county assembly shall confirm that the proposed motion—

- (a) specifies the grounds and particulars upon which the proposed motion is made;
- (b) is signed by the member; and

(c) is signed in support by at least a third of all the members of the county assembly.

(4) The clerk of the county assembly shall, within three days of receipt of the proposed motion, submit the motion to the speaker of the county assembly advising the speaker of the determination made under subsection (3).

(5) The speaker of the county assembly shall examine the motion and the list of supporting members submitted under subsection (1) and, within four days, if satisfied that the motion—

(a) complies with sections 2 and 3, approve the motion and notify the member; or

(b) does not comply with sections 2 and 3, decline to approve the motion and inform the member giving reasons for the refusal in writing.

(6) If the speaker of the county assembly fails to respond within seven days of receiving the motion as required under subsection (5) —

(a) the motion shall be taken to have been approved; and

(b) the member of the county assembly may proceed to give a notice of motion under subsection (7).

(7) The member of a county assembly who intends to move the motion under subsection (1) shall give notice of the approved motion within seven days of the approval of the motion under subsection (5) (a) or (6) (a).

(8) The member shall move the motion within twenty one days of giving notice under subsection (7).

(9) Within two days of a member of the county assembly giving notice under subsection (7), the clerk of the county assembly shall advertise—

(a) the particulars of the motion; and

(b) a call for submission of written memoranda to the office of the clerk from the public in relation to the charges against the county governor within fourteen days.

(10) The clerk of the county assembly shall ensure that the advertisement under subsection (9) is published in at

least one newspaper of nationwide circulation and at least two prominent local media of countywide circulation in the respective county.

(11) The clerk of the county assembly shall, at least seven days before the date on which the motion is to be moved in the assembly—

- (a) serve the county governor with—
 - (i) a copy of the motion; and
 - (ii) copies of the written memoranda submitted under subsection (9)(b);
- (b) invite the county governor to appear and be heard by the county assembly at a specific date and time before a vote on the motion is held.

(12) If a motion under subsection (8) is supported by at least two-thirds of all the members of the county assembly—

- (a) the speaker of the county assembly shall inform the Speaker of the Senate of that resolution within three days; and
- (b) the county governor shall continue to perform the functions of the office of County Governor pending the outcome of the proceedings required by this Act.

4. (1) The speaker of a county assembly shall, for the purposes of section 3 (12) (a), submit to the Speaker of the Senate—

Transmission of certificate and report to the Senate.

- (a) a certificate under the speaker's hand confirming that the procedure specified in section 3 has been complied with and enclose evidence of such compliance;
- (b) the notice of motion; and
- (c) any other supporting documentation.

(2) The certificate issued under subsection (1) (a) shall be in the form prescribed in the Third Schedule.

5. (1) Within ten days of receiving the resolution from the speaker of a county assembly under section 3(12)(a)—

Proceedings before the Senate.

- (a) the Speaker of the Senate shall convene a meeting of the Senate to hear the charges against the county governor; and
- (b) the Senate shall, by resolution, appoint a special committee comprising not more than eleven of its members to investigate the matter.

(2) A special committee appointed under subsection (1) (b) shall first determine whether or not section 3 was complied with in respect of the proceedings in the respective county assembly.

(3) If the special committee is not satisfied that the respective county assembly complied with the procedure set out under section 3, the special committee shall not proceed any further and shall report that finding to the Senate within three days from the date of its first meeting.

(4) If the Senate resolves that the county assembly did not comply with the procedure set out under section 3, the Speaker of the Senate shall notify the speaker of the county assembly of the resolution of the Senate and that the Senate shall not proceed with the impeachment process.

(5) If the Senate resolves that the county assembly complied with the procedure set out under section 3, the special committee shall proceed with the impeachment process in accordance with section 6.

6. (1) The special committee shall—

- (a) investigate the matter;
- (b) call for and consider submissions from the public in relation to the charges against the county governor; and
- (c) within fourteen days, report to the Senate on whether or not it finds the particulars of the allegations against the county governor to have been substantiated.

(2) Within two days of the determination of the special committee under section 5 (2), the Clerk of the Senate shall invite the county governor to appear before the special committee and shall specify the date, time and place of the proceedings.

Investigations by
the special
committee.

(3) Where a special committee finds any allegation against the county governor to have been established, the special committee shall specify, in its report, whether in the opinion of the special committee, the allegation is substantiated within the meaning of section 32.

(4) Once the special committee tables its report, the Senate shall, after according the county governor an opportunity to be heard, vote on the impeachment charges in accordance with Article 123 of Constitution.

(5) The vote by the Senate under subsection (4) shall be undertaken whether or not the special committee reports that any of the allegations against the county governor have been substantiated.

7. (1) If a majority of the county delegations of the Senate vote to uphold any impeachment charge—

Decision of the Senate.

(a) the county governor shall cease to hold office; and

(b) the Speaker of the Senate shall—

(i) notify the speaker of the relevant county assembly of the resolution of the Senate; and

(ii) publish the resolution of the Senate in the *Gazette*.

(2) If the vote in the Senate fails to result in the removal of the county governor, the Speaker of the Senate shall notify the speaker of the relevant county assembly of the resolution of the Senate.

8. (1) A motion by a county assembly for the removal of the county governor by impeachment may, subject to subsection (2), only be re-introduced in the county assembly on the expiry of ninety days from the date of a vote by the Senate under section 7.

Re-introduction of a motion.

(2) Despite subsection (1), a motion for the removal of the county governor by impeachment may be introduced in the county assembly if it relates to particulars other than those which formed the subject of previous impeachment proceedings.

9. Pursuant to Article 181 (1) (d) of the Constitution, a member of a county assembly may, supported by at least a quarter of all the members of the county assembly, move a motion for the investigation of the county governor's physical or mental capacity to perform the functions of office.

Removal of a county governor for incapacity.

Procedure for
removal of a
county governor
for incapacity.

10. (1) A member of a county assembly who intends to move a motion under section 9 shall submit to the clerk of the county assembly the motion together with a list of the members of the county assembly who support the motion.

(2) The list of members under subsection (1) shall be in the form prescribed in the Second Schedule.

(3) The clerk of the county assembly shall confirm that the proposed motion—

- (a) specifies the particulars upon which the proposed motion is made;
- (b) is signed by the member; and
- (c) is signed in support by at least a quarter of all the members of the county assembly.

(4) The clerk of the county assembly shall, within two days of receipt of the proposed motion, submit the motion to the speaker of the county assembly advising the speaker of the determination made under subsection (3).

(5) The speaker of the county assembly shall examine the motion and the list of supporting members submitted under subsection (1) and, within two days, if satisfied that the motion—

- (a) complies with subsection (3), approve the motion and notify the member; or
- (b) does not comply with subsection (3), decline to approve the motion and inform the member in writing giving reasons for the refusal.

(6) If the speaker of the county assembly fails to respond within two days of receiving the motion as required under subsection (5)—

- (a) the motion shall be taken to have been approved; and
- (b) the member of the county assembly may proceed to give a notice of motion under subsection (7).

(7) The member of a county assembly who intends to move the motion under subsection (1) shall give notice of the approved motion within seven days of the approval of the motion under subsection (5) (a) or (6) (a).

(8) The member shall move the motion within seven sitting days of giving notice under subsection (7).

(9) If a motion under subsection (1) is supported by a simple majority of all the members of the county assembly—

- (a) the speaker of the county assembly shall inform the Chief Justice of that resolution within two days; and
- (b) the county governor shall continue to perform the functions of the office pending the outcome of the proceedings required under this section.

11. (1) Within seven days of receiving notice of the resolution under section 10 (9) (a) from the speaker of a county assembly, the Chief Justice shall appoint a tribunal consisting of—

Establishment and composition of tribunal.

- (a) a chairperson being an advocate of the High Court nominated by the Law Society of Kenya;
- (b) three persons who are qualified to practise medicine under the laws of Kenya, nominated by the Kenya Medical Practitioners and Dentists Council; and
- (c) one person nominated by the Council of County Governors.

12. The tribunal shall inquire into the county governor's physical or mental capacity to perform the functions of office and, within thirty days of its appointment, report its finding to the Chief Justice and to the speaker of the county assembly.

Inquiry by the tribunal.

13. (1) The speaker of the county assembly shall cause the report of the tribunal to be tabled before the county assembly within two days of receiving it.

Report of the tribunal.

(2) The report of the tribunal shall be final and not subject to appeal and if the tribunal reports that the governor is capable of performing the functions of the office, the speaker of the county assembly shall so announce in the county assembly.

14. (1) If the tribunal reports that the county governor is incapable of performing the functions of the office, the

Decision of the county assembly.

county assembly shall, after according the county governor an opportunity to be heard, vote on whether to ratify the report.

(2) If a simple majority of all the members of the county assembly vote in favour of ratifying the report—

- (a) the speaker of the county assembly shall inform the Speaker of the Senate of that resolution within two days; and
- (b) the county governor shall continue to perform the functions of the office of County Governor pending the outcome of the proceedings required by this Act.

15. (1) The speaker of a county assembly shall, for the purposes of section 14 (2) (a), submit to the Speaker of the Senate—

Transmission of certificate and report to the Senate.

- (a) a certificate under the speaker's hand confirming that the procedure specified in sections 10 and 14 has been complied with and enclose evidence of such compliance;
- (b) the notice of motion;
- (c) the report of the tribunal; and
- (d) any other supporting documentation.

(2) The certificate issued under subsection (1) (a) shall be in the form prescribed in the Third Schedule.

16. (1) Within seven days of receiving the resolution from the speaker of a county assembly under section 14(2)(b)—

Consideration by the Senate.

- (a) the Speaker of the Senate shall convene a meeting of the Senate to consider the matter; and
- (b) the Senate shall, after according the county governor an opportunity to be heard, vote on whether to ratify the report of the tribunal.

(2) If a majority of the county delegations of the Senate vote to ratify the report of the tribunal—

- (a) the county governor shall cease to hold office; and
- (b) the Speaker of the Senate shall—

- (i) notify the speaker of the relevant county assembly of the resolution of the Senate; and
- (ii) publish the resolution of the Senate in the *Gazette*.

(3) If the vote in the Senate fails to ratify the report of the tribunal, the Speaker of the Senate shall notify the speaker of the relevant county assembly of the resolution of the Senate.

17.(1) A county governor shall have the right to appear and be represented before the Senate, a special committee of the Senate, the county assembly or the tribunal, as the case may be, during their respective consideration of matters under this Part.

Right of the county governor to appear and be heard.

(2) The county governor may appear before the Senate, a special committee of the Senate, the county assembly or the tribunal in person, by advocate or in person and by advocate.

18. The procedure for the removal from office of a county governor under this Part shall, with necessary modifications, apply to the removal from office of a deputy county governor.

Removal of a deputy county governor.

PART III — PROCEDURE FOR REMOVAL FROM OFFICE OF A COUNTY EXECUTIVE COMMITTEE MEMBER AND A COUNTY SECRETARY

19. A member of the county assembly, supported by at least a third of all the members of the county assembly, may propose a motion requiring the Governor to dismiss a county executive committee member on any of the following grounds—

Removal of a county executive committee member.

- (a) incompetence;
- (b) abuse of office;
- (c) gross misconduct;
- (d) gross violation of the Constitution or any other law;
- (e) physical or mental incapacity to perform the functions of office; or
- (f) conviction of an offence punishable by imprisonment for at least six months.

20. (1) A member of a county assembly who intends to move a motion under section 19 shall submit to the clerk of the county assembly the motion together with a list of the members of the county assembly who support the motion.

Procedure for the removal of a county executive committee member.

(2) The list of members under subsection (1) shall be in the form prescribed in the First Schedule.

(3) The clerk of the county assembly shall confirm that the proposed motion—

- (a) specifies the grounds and particulars upon which the proposed motion is made;
- (b) is signed by the member; and
- (c) is signed in support by at least a third of all the members of the county assembly.

(4) The clerk of the county assembly shall, within three days of receipt of the proposed motion, submit the motion to the speaker advising the speaker of the determination made under subsection (3).

(5) The speaker of the county assembly shall examine the motion and the list of supporting members submitted under subsection (1) and if satisfied that the motion—

- (a) complies with subsection (3), approve the motion and notify the member within two days; or
- (b) does not comply with subsection (3), decline to approve the motion and inform the member in writing within two days giving reasons for the refusal.

(6) The member of the county assembly who proposes to move the motion under subsection (1) shall give notice of the approved motion within seven sitting days of approval of the motion under subsection (5) (a).

(7) The member of the county assembly shall move the motion within fourteen days of giving notice under subsection (6).

(8) The county assembly shall dispose of the motion within fourteen days from the day the motion is moved.

21. (1) Upon the notice of motion being given under section 20 (6), the county assembly shall appoint a

Investigation by the special committee of a

special committee of not more than nine of its county assembly.
members who shall—

- (a) investigate the matter; and
 - (b) within fourteen days, report to the county assembly on whether or not it finds the particulars of the allegations against the county executive committee member to have been substantiated.
- (2) The clerk of the county assembly shall, at least seven days before the date on which the motion is to be moved in the assembly—
- (a) serve the county executive committee member with a copy of the motion; and
 - (b) invite the county executive committee member to appear and be heard by the special committee on a specified date, time and place.

22. (1) Upon the tabling of the report pursuant to section 21 (1) (b), the county assembly shall forthwith—

Decision of the county assembly.

- (a) accord the county executive committee member an opportunity to be heard; and
- (b) debate and vote on whether to approve the resolution requiring the county executive committee member to be dismissed.

(2) If a resolution under subsection (1) (b) is supported by a simple majority of all the members of the county assembly, the speaker of the county assembly shall submit the resolution to the county governor within three days of the resolution.

(3) If the vote under subsection (2) does not result in the removal of the county executive committee member—

- (a) the county executive committee member shall continue to hold office; and
- (b) a motion for the removal of that county executive committee member may, subject to subsection (4), only be re-introduced in the county assembly on the expiry of ninety days from the date of the vote by the county assembly under subsection (2).

(4) Despite subsection (3) (b), a motion for the removal of a county executive committee member may be introduced in the county assembly at any time if it relates to particulars other than those which formed the subject of previous removal proceedings in the assembly.

23. (1) Within seven days of receipt of the resolution under section 22 (2), the county governor shall dismiss the member from the county executive committee in writing.

Dismissal of the county executive committee member.

(2) The county governor shall report a dismissal under subsection (1) to the speaker of the county assembly within three days of the dismissal and the speaker shall communicate such dismissal to the county assembly within two sitting days.

(3) Where a county governor fails to dismiss a member from the county executive committee as required under subsection (1), the member will cease to hold office at the expiry of the seven days.

24. (1) A county executive committee member has the right to appear and be represented before the county assembly and the special committee during its consideration of the relevant motion.

Rights of a county executive committee member to appear and be heard.

(2) The county executive committee member may appear before the county assembly and the special committee in person, by advocate or in person and by advocate.

25. The procedure for the removal from office of a county executive committee member under this Part shall, with necessary modifications, apply to the removal, from office, of a county secretary.

Removal, from office, of a county secretary.

PART IV — PROCEDURE FOR REMOVAL FROM OFFICE OF A COUNTY SPEAKER AND COUNTY DEPUTY SPEAKER

26. (1) A member of a county assembly, supported by at least a third of all the members of the county assembly, may move a motion for the removal of the county speaker or county deputy speaker from office for —

Removal of a county speaker or county deputy speaker from office.

(a) gross violation of the Constitution or any other law;

- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy; or
- (e) conviction of an offence punishable by imprisonment for at least six months.

(2) A member of a county assembly who proposes to move a motion under subsection (1) shall deliver to the clerk of the county assembly a copy of the proposed motion in writing—

- (a) stating the grounds and particulars upon which the proposed motion is made;
- (b) signed by the member; and
- (c) signed in support by at least a third of all the members of the county assembly.

(3) The list of members under subsection (2) (c) shall be in the form prescribed in the First Schedule.

(4) A motion received under subsection (2) shall be approved by the member sponsoring the motion and, within seven days of receipt, approved by—

- (a) the county speaker if it is a motion for the removal of the county deputy speaker; or
- (b) the county deputy speaker if it is a motion for the removal of the speaker.

(5) If the county speaker or the county deputy speaker fails to respond within seven days of receiving the motion as required under subsection (4)—

- (a) the motion shall be taken to have been approved; and
- (b) the member of the county assembly may proceed to give a notice of motion under subsection (6).

(6) A member of a county assembly shall give three days' notice of the motion under subsection (1) within three days of the approval of the motion under subsection (4) or (5).

(7) The relevant clerk shall set out on the order paper on which the motion is listed—

- (a) the grounds and particulars upon which the proposed motion is made;

- (b) the name of the member of the county assembly sponsoring the motion; and
- (c) the members of the county assembly in support of the motion.

27. (1) If a motion for the removal from office of a county speaker or county deputy speaker is passed by a simple majority of all the members of the county assembly—

Approval of a motion for removal of a county speaker or county deputy speaker by the county assembly.

- (a) the county assembly shall forthwith appoint a special committee comprising not more than nine of its members to investigate the matter; and
- (b) the special committee shall, within seven days, investigate and report to the county assembly on whether it finds the allegations against the county speaker or county deputy speaker to be substantiated.

(2) The county speaker or county deputy speaker whose motion for removal from office is passed under subsection (1) shall not perform any of the functions of the office pending the determination of the county assembly.

28. (1) Upon the tabling of the report pursuant to section 28 (1) (b), the county assembly shall, within four days—

Determination of the county assembly.

- (a) furnish the county speaker or county deputy speaker with the report of the special committee, together with any other evidence adduced before the special committee at least three days before the day scheduled for her or his appearance before the county assembly;
- (b) afford the county speaker or county deputy speaker an opportunity to be heard;
- (c) consider the report of the special committee; and
- (d) vote on whether to approve the motion requiring the removal from office of the county speaker or county deputy speaker.

(2) Subject to section 29, if a motion for the removal from office of a county speaker or county deputy speaker is supported by at least two-thirds of all the members of a

county assembly, the county speaker or county deputy speaker shall cease to hold office.

(3) If a motion for the removal from office of a county speaker or county deputy speaker is not supported by at least two-thirds of all the members of a county assembly, the county speaker or county deputy speaker shall resume performing the functions of the office.

29. (1) A county speaker or county deputy speaker has the right to appear and be represented before the county assembly and the special committee during its consideration of the relevant motion.

Rights of a county speaker or county deputy speaker to appear and be heard.

(2) The county speaker or county deputy speaker may appear before the county assembly and the special committee in person, by advocate or in person and by advocate.

30. The procedure for removal of a governor on account of physical or mental incapacity shall, with necessary modifications, apply to the removal of the county speaker or deputy speaker.

Procedure for removal of a county speaker or deputy speaker on account of incapacity.

31. (1) If the office of county speaker falls vacant at any time before the expiry of the term of the county assembly, no business shall be transacted by the assembly until the election of a new county speaker.

Conduct of business during vacancy in the office of the county speaker or county deputy speaker.

(2) The county deputy speaker shall preside over the election under subsection (1) but if the office of county deputy speaker is vacant, a member elected by the assembly in accordance with Article 178 (2) (b) of the Constitution shall preside.

(3) If the office of county deputy speaker falls vacant at any time before the expiry of the term of the county assembly, the county assembly shall elect a new county deputy speaker within fourteen days.

PART V — MISCELLANEOUS PROVISIONS

32. In this Act, an allegation shall be considered to be substantiated if it is established and rises to the threshold contemplated in the Constitution and this Act.

Substantiation of allegation.

33. An invitation to appear before the Senate or its committee or a county assembly or its committee under this Act may be effected—

Service.

- (a) by personal service;
- (b) through an agent appointed in writing by the person who is sought to be impeached; or
- (c) by notice in at least one newspaper with national circulation.

34. (1) The Senate and each county assembly shall provide in their respective standing orders a detailed procedure, consistent with this Act, for each relevant removal process under this Act.

Provisions of standing orders.

(2) Where there is a conflict between this Act and the standing orders of the Senate or a county assembly, the provisions of this Act shall prevail.

35. (1) The clerk of the Senate or a county assembly, as the case may be, shall publish a notice in at least two newspapers with national circulation informing the public of the date, place and time that hearings under this Act are to take place.

Public participation and access to proceedings.

(2) All proceedings under this Act shall be open to the public unless in exceptional circumstances where the person presiding over the proceedings has determined that there are justifiable reasons for the exclusion of the public.

(3) Subject to subsection (2), the proceedings under this Act may be broadcast in accordance with the broadcasting rules of the Senate or the relevant county assembly.

36. A speaker of a county assembly shall maintain neutrality when undertaking any function under this Act.

Speaker of county assembly to maintain neutrality.

37. (1) A person may apply to the High Court for review within fourteen days of the decision of the Senate under section 7 or a decision of a county assembly under sections 22, 23 (3), 29 or 31 (2).

Questions as to validity of removal of a county governor, deputy county governor, county executive committee member, county speaker or county deputy speaker.

(2) A matter filed under sub-section (1) shall be heard and determined within thirty days.

(3) An appeal to the Court of Appeal or to the Supreme Court from any decision of the High Court under subsection (1) shall be—

(a) filed within fourteen days of the decision; and

(b) heard and determined within forty-five days.

38. The County Governments Act is amended—

Amendment to
Act No. 17 of
2012.

(a) deleting section 11 (1) (c), (2), (3), (4), (5), (6), (7) and (8);

(b) deleting section 11A (1) (b) and (2);

(c) deleting section 33; and

(d) deleting section 40.

FIRST SCHEDULE

(Sections 3(2), 20(2) and 27(3))

List of members supporting Motion, for removal of

I
intend to move a Motion, under Article..... of the Constitution
and/or section..... of this Act, for the removal of
..... holding the position
of, on the grounds outlined in
the attached Motion.

The members listed hereunder, whose number and
are within the requisite number of members as specified in
....., are in support of the Motion.

No.	Name	Signature
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Signature of sponsor of the Motion

Date

(add more pages if necessary)

SECOND SCHEDULE

(Section 10 (2))

List of members supporting the Motion for the investigation of the physical or mental capacity to perform the functions of office of , the Governor of County

I intend to move a Motion, under Article.... of the Constitution and/or section..... of this Act, for the investigation of the physical and mental capacity of holding the position of Governor, County, to perform the functions of office.

The members listed hereunder, who number and are within the requisite number of members as specified in , are in support of the Motion.

No.	Name	Signature
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Signature of sponsor of the Motion

Date

(add more pages if necessary)

THIRD SCHEDULE
CERTIFICATION OF CONFIRMATION OF COMPLIANCE
[Sections 4 (2) and 15 (2)]

I certify that the procedure carried out in the county assembly of

.....

(Name of county)

as specified under this Act with respect to the removal from office of

.....

(Name of the person being removed from office)

as the

.....

(designation of the person being removed from office)

of

.....

(name of the county)

was conducted in accordance with this Act.

Dated this day of, 20.....

Name

Signature

Speaker, County Assembly of

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The object of this Bill is to put in place a robust legal framework for the removal from office of a county governor, a county speaker, a county deputy governor, a county executive committee member and a county secretary. It achieves this by clearly setting out the procedure for removal of a county governor and a county deputy governor either by impeachment or for incapacity and the procedure for removal of a county speaker, a county executive committee member and county secretary through a resolution of the relevant county assembly.

This Bill is necessitated by the lack of a comprehensive statutory framework for the removal, from office, of the said four categories of county state officers. The County Governments Act, 2012 makes general provisions on the removal of the officers but its provisions have proven inadequate and necessitated each county adopting its own procedure for removal of the officers through respective county assembly standing orders. The various frameworks for removal of the officers have resulted in various challenges identified from the proceedings for removal that have been carried out and court proceedings emanating from the same.

The Bill therefore seeks to provide for a harmonized framework for removal from office of a county governor, a county deputy governor, a county executive committee member and a county speaker.

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

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

Statement on how the Bill concerns county governments

The Bill concerns county governments as it provides for the removal, from office, of a county governor, a county speaker, a county deputy governor, a county executive committee member and a county secretary all of whom are county state officers and are fundamental to the performance of the functions of county governments.

The Bill is therefore a Bill concerning county governments in terms of Article 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 30th day of May, 2024.

KARUNGO PAUL THANGWA,
Senator.

Section 11 of No. 17 of 2012 which it is proposed to amend—

11. Vacation of office of speaker

(1) The office of speaker shall become vacant—

- (a) when a new county assembly first meets after an election;
- (b) if the office holder is disqualified from being elected as a member of a county assembly on grounds specified under Article 193 (2) of the Constitution;
- (c) if the county assembly so resolves by a resolution supported by at least two-thirds of all the members of the county assembly;
- (d) if the office holder resigns from office in a letter addressed to the county assembly; or
- (e) if the office holder dies.

(2) The speaker may be removed pursuant to subsection (1) (c) on any of the following grounds—

- (a) gross violation of the Constitution or any other law;
- (b) incompetence;
- (c) gross misconduct;
- (d) if convicted of an offence punishable by imprisonment for at least six months; or
- (e) inability to perform the functions of the office of speaker arising from mental or physical incapacity.

(3) A notice of the intention to move a motion for a resolution to remove the speaker under subsection (1) (c) shall—

- (a) be given in writing to the clerk of the county assembly;
- (b) be signed by at least one third of all the members of the county assembly; and
- (c) state the grounds for removal as specified in subsection (2).

(4) A motion for the removal of the speaker shall specify—

- (a) the grounds for removal as specified in subsection (2) in which the speaker is in breach; and
- (b) the facts constituting those grounds.

(5) Upon notice of the motion being given under subsection (2)—

- (a) the clerk of the county assembly shall within five days—

- (b) notify the speaker; and
- (c) invite the speaker to respond, within seven days, in writing setting out the grounds of opposition;

(6) The speaker shall not perform any of the functions of the office of the speaker pending the resolution of the county assembly.

(7) The speaker shall have the right to appear and be represented before the county assembly during its investigations.

(8) The county assembly shall consider the motion within fourteen days and resolve whether to approve the motion.

Section 11A of No. 17 of 2012 which it is proposed to amend—

11A. Vacation of office of deputy speaker

(1) The office of a deputy speaker shall become vacant if—

- (a) the office holder vacates office pursuant to Article 194 of the Constitution; or
- (b) the county assembly so resolves by a resolution supported by at least two-thirds of all the members of the county assembly.

(2) Section 11 (2) to (8) shall, with necessary modifications, apply to the removal of a deputy speaker under subsection (1) (b).

Section 33 of No. 17 of 2012 which it is proposed to amend—

33. Removal of a governor

(1) A member of the county assembly may by notice to the speaker, supported by at least a third of all the members, move a motion for the removal of the governor under Article 181 of the Constitution.

(2) If a motion under subsection (1) is supported by at least two-thirds of all the members of the County Assembly—

- (a) the Speaker of the County Assembly shall inform the Speaker of the Senate of that resolution within two days; and
- (b) the Governor shall continue to perform the functions of the office pending the outcome of the proceedings required by this section.

(3) Within seven days after receiving notice of a resolution from the Speaker of the County Assembly—

- (a) the Speaker of the Senate shall convene a meeting of the Senate to hear charges against the Governor; and

(b) the Senate, by resolution, may appoint a special committee comprising eleven of its members to investigate the matter.

(4) A special committee appointed under subsection (3) (b) shall—

(a) investigate the matter; and

(b) report to the Senate within ten days on whether it finds the particulars of the allegations against the Governor to have been substantiated.

(5) The Governor shall have the right to appear and be represented before the special committee during its investigations.

(6) If the special committee reports that the particulars of any allegation against the Governor—

(a) have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation; or

(b) have been substantiated, the Senate shall, after according the Governor an opportunity to be heard, vote on the impeachment charges.

(7) If a majority of all the members of the Senate vote to uphold any impeachment charge, the Governor shall cease to hold office.

(8) If a vote in the Senate fails to result in the removal of the governor, the Speaker of the Senate shall notify the Speaker of the concerned county assembly accordingly and the motion by the assembly for the removal of the governor on the same charges may only be re-introduced to the Senate on the expiry of three months from the date of such vote.

(9) The procedure for the removal of the President on grounds of incapacity under Article 144 of the Constitution shall apply, with necessary modifications, to the removal of a governor.

(10) A vacancy in the office of the governor or deputy governor arising under this section shall be filled in the manner provided for by Article 182 of the Constitution.

Section 40 of No. 17 of 2012 which it is proposed to amend—

40. Removal of member of executive committee

(1) Deleted by Act No. 11 of 2020, s. 14.

(2) A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion

requiring the governor to dismiss a county executive committee member on any of the following grounds—

- (a) gross violation of the Constitution or any other law;
- (b) incompetence;
- (c) abuse of office;
- (d) gross misconduct; or
- (e) if convicted of an offence punishable by imprisonment for at least six months.

(3) If a motion under subsection (2) is supported by at least one-third of the members of the county assembly—

- (a) the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and
- (b) the select committee shall report, within ten days, to the county assembly whether it finds the allegations against the county executive committee member to be substantiated.

(4) The county executive committee member has the right to appear and be represented before the select committee during its investigations.

(5) If the select committee reports that it finds the allegations—

- (a) unsubstantiated, no further proceedings shall be taken; or
- (b) substantiated, the county assembly shall vote whether to approve the resolution requiring the county executive committee member to be dismissed.

(6) If a resolution under subsection (5) (b) is supported by a majority of the members of the county assembly—

- (a) the speaker of the county assembly shall promptly deliver the resolution to the governor; and
- (b) the governor shall dismiss the county executive committee member.

Section 44 of No. 17 of 2012 which it is proposed to amend—

44. Appointment of county secretary

(1) There is established for each county the office of the county secretary who shall be secretary to the county executive committee.

(2) A person shall be qualified for appointment as a county secretary under subsection (1), 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;
- (d) has at least five years' experience in a leadership position at senior management level in a public service or private sector organization; and
- (e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

(2A) The Governor shall, for the purpose of competitive recruitment of a county secretary under subsection (2), constitute a selection panel.

(2B) The selection panel 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.

(2C) The provisions of section 58A shall, with such modification as shall be necessary apply to the recruitment of a county secretary.

(2D) Upon interviewing the applicants for the position of county secretary—

- (a) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as county secretary; and
- (b) the governor shall submit the name of one applicant to the county assembly for approval for appointment as county secretary by the governor.

(2E) The county secretary shall hold office for a term of five years and shall be eligible for reappointment once.

(2F) The county secretary shall be an ex officio member of the County Executive Committee with no voting rights.

(3) The county secretary shall—

- (a) be the head of the county public service;
- (b) be responsible for arranging the business, and keeping the minutes, of the county executive committee subject to the directions of the executive committee;
- (c) convey the decisions of the county executive committee to the appropriate persons or authorities; and
- (d) perform any other functions as directed by the county executive committee.

(3A) The county secretary may be removed from office on the following grounds —

- (a) inability to perform functions of the office arising out of physical or mental infirmity;
- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy; or
- (e) violation of the Constitution.

(3B) Before removal under subsection (3A), the county secretary shall be informed, in writing, of the reasons for the intended removal.

(3C) Subject to section (3A), (3B) and conditions of appointment, a county secretary may be removed from office by the governor.

(4) The county secretary may resign from office by giving thirty days written notice to the governor.