

SPECIAL ISSUE

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SENATE BILLS, 2021

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THE ELECTIONS (AMENDMENT) (No. 2) BILL, 2021

A Bill for

**AN ACT of Parliament to amend the Elections Act; and
for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Elections (Amendment)(No. 2) Act, 2021.

Short title.

2. Section 22 of the Elections Act is amended by deleting (1) and substituting therefor the following new subsection—

Amendment of section 22 of No. 24 of 2011.

- (1) A person may be nominated as a candidate for an election under this Act if that person is qualified to be elected to that office under the Constitution and this Act, and—
 - (a) in the case of a Member of Parliament, holds a degree from a university recognized in Kenya; and
 - (b) in the case of member of a county assembly—
 - (i) holds a certificate of secondary education; or
 - (ii) does not hold a certificate of secondary education but has served for two terms, one term as a member of a county assembly under the Constitution of Kenya 2010 and another term as a member of a local authority under the repealed Local Government Act.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the objects and reasons for the Bill**

The principal object of this Bill is to amend the Election Act, No. 24 of 2011 in order to ensure equality to all candidates who aspire to vie as members of a county assembly during elections. The Bill addresses the requirement of a degree for one to contest as member of county assembly taking into account low literacy levels, especially in marginalized counties.

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 the fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments as it contains provisions relating to the qualification for nomination of candidates to contest in an elective post or be included in a party list for nomination to be a member of a legislature at both the national and county level. 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

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

Dated the 30th June, 2021.

LEDAMA OLE KINA,
Senator.

Section 22 of No. 24 of 2011 which it is proposed to amend-

22. Qualifications for nomination of candidates

(1) A person may be nominated as a candidate for an election under this Act only if that person —

- (a) is qualified to be elected to that office under the Constitution and this Act; and
- (b) holds —
 - (i) in the case of a Member of Parliament, a degree from a university recognised in Kenya;
 - (ii) in the case of member of a county assembly, a degree from a university recognised in Kenya.

(1A) Notwithstanding subsection (1), this section shall come into force and shall apply to qualifications for candidates in the general elections to be held after the 2017 general elections.

(1B) The provisions of this section apply to qualifications to nomination for a party list member under section 34.

(2) Notwithstanding subsection (1)(b), a person may be nominated as a candidate for election as President, Deputy President, county Governor or deputy county Governor only if the person is a holder of a degree from a university recognised in Kenya.

(2A) For the purposes of the first elections under the Constitution, section 22(1)(b) and section 24(1)(b), save for the position of the President, the Deputy President, the Governor and the Deputy Governor, shall not apply for the elections of the offices of Parliament and county assembly representatives.