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15/05/2024



REPUBLIC OF KENYA

② Rt. Hon. Speaker
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THIRTEENTH PARLIAMENT - THIRD SESSION

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THE SENATE

STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 40 OF 2023)

PAPERS LAID	
DATE	16/05/2024
TABLED BY	Sen. Boni Khalwale on behalf of chair
COMMITTEE	Finance & Budget
CLERK AT THE TABLE	Ms. Kiarie

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

May 2024

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LIST OF ABBREVIATIONS/ ACRONYMNS

COB	-	Controller of Budget
COG	-	Council of Governors
CRA	-	Commission on Revenue Allocation
ICRMS	-	Integrated County Revenue Management System
IGRA	-	Intergovernmental Relations Act
IGRA	-	Intergovernmental Relations Act
KRA	-	Kenya Revenue Authority
OAG	-	Office of Auditor General
OSR	-	Own Source Revenue
PFM	-	Public Finance Management

PREFACE

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124 (1) of the Constitution of Kenya provides that each House of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

Parliamentary committees consider policy issues, scrutinize the workings and expenditures of the national and county governments, and examine proposals for legislation. The end result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committee on Finance and Budget is established under section 8(1) of the Public Finance Management (PFM) Act, 2012 and standing order 228 of the Senate Standing Orders and is mandated to-

- a) investigate, inquire into, and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
 - (i) the Budget Policy Statement presented to the Senate;
 - (ii) the report on the budget allocated to constitutional Commissions and independent offices;
 - (iii) the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedules for county governments;
 - (iv) all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
- b) Pursuant to Article 228(6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.

MEMBERSHIP OF THE COMMITTEE

Following the constitution of the Standing Committees of the Senate of the Thirteenth (13th) Parliament on Thursday, 13th October, 2022, the Senate Standing Committee on Finance and Budget as currently constituted comprises the following Members-

- | | | |
|---|---|-------------------------|
| 1) Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | Chairperson |
| 2) Sen. Maureen Tabitha Mutinda, MP | - | Vice-Chairperson |
| 3) Sen. (Dr.) Boni Khalwale, CBS, MP | - | Member |
| 4) Sen. Joyce Chepkoech Korir, MP | - | Member |
| 5) Sen. Tabitha Karanja Keroche, MGH, MP | - | Member |
| 6) Sen. Mohamed Faki Mwinyihaji, CBS, MP | - | Member |
| 7) Sen. Richard Momoima Onyonka, MP | - | Member |
| 8) Sen. Shakila Abdalla Mohamed, MP | - | Member |
| 9) Sen. Eddy Gicheru Oketch, MP | - | Member |

CHAIRPERSON'S FOREWORD

PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, SENATE BILLS NO. 40 OF 2023

The Public Finance Management (Amendment) Bill, Senate Bill No. 40 of 2023 was published in the Kenya Gazette Supplement No. 160 of 2023. It was read a First Time in the Senate on 17th October, 2023 and committed to the Senate Standing Committee on Finance and Budget for consideration and to facilitate public participation.

The principal object of this Bill is to amend the Public Finance Management Act, Cap 412A to require county governments to develop and implement a county revenue collection system. This will boost revenue collection by the county governments and ensure counties realize their revenue targets. Further, the Bill proposes to amend the Act to provide for the process of funding for functions that have been transferred from one level of government to another under Article 187 of the Constitution.

The Bill proposes to insert a new section 160A requiring each county treasury, in consultation with the National Treasury and KRA, to put in place a county revenue collection system. This system shall respect the distinctiveness of the two levels of government, be secure, effective, efficient and transparent. Additionally, the proposed new section 160B requires the county treasury to report to the county assembly on the status of county revenue collection and performance. This report shall also be submitted to the Senate, the National Treasury and the Commission on Revenue Allocation.

The proposed new sections 191F and 191G provide for costing and funding where a function has been transferred from one level of government to another. This is to ensure adequate funding of the transferred functions and accountability.

Pursuant to Article 118 of the Constitution and standing order 145(5) of the Senate standing orders, the Committee invited members of the public to submit views on the Bill. An advert was published in the Daily Nation and Standard Newspapers on 20th October 2023. Further,

the Committee held consultative meetings with key stakeholders. The Committee received submissions from the following stakeholders-

- a) The National Treasury and Economic planning;
- b) The Council of Governors (CoG); and
- c) The Commission on Revenue Allocation.

Committee Observations

Having considered the Bill and submissions from the stakeholders, the Committee made several observations, including-

- a) That CoB reports on county governments budget implementation review indicate that counties have consistently missed their own source revenue targets which have led to accumulation of pending bills, stalled projects, failure to implement planned activities due to imbalanced budgets
- b) The National Policy to Support Enhancement of County Own Source Revenue requires counties to adopt an integrated county revenue management system to promote revenue collection, transparency, accountability and seal revenue leakages;
- c) A Multi-Agency Taskforce is in the process of developing an Integrated County Revenue Management System (ICRMS) to standardize revenue collection system in the forty-seven counties. Implementation of ICRMS will help curb pilferage in collection of county Own Source Revenue.
- d) Whereas the Intergovernmental Relations Act provides for the principles of transfer of functions, agreements on transfer or delegation, criteria for transfer and public participation it does not provide for modalities relating to funding.


Having considered the Stakeholders submissions and the Bill, the Committee recommends that the Senate approves the Bill with amendments as annexed in this report.

Acknowledgement

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40 of 2023) successful.

I also thank the offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment.



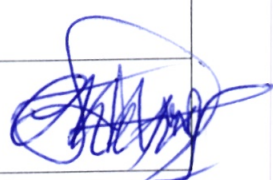
It is now my pleasant duty, pursuant to standing orders 148(1) and 223(6) of the Senate standing orders, to present the report of the Standing Committee on Finance and Budget to the Senate on the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40 of 2023)

Signature..........Date..02/05/24.....

**SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP,
CHAIRPERSON,
STANDING COMMITTEE ON FINANCE AND BUDGET**

**ADOPTION OF THE REPORT ON THE PUBLIC FINANCE
MANAGEMENT (AMENDMENT) BILL, SENATE BILLS NO. 40 OF 2023.**

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	Name	Designation	Signature
1.	Sen. Capt. Ali Ibrahim Roba, EGH, MP	Chairperson	
2.	Sen. Maureen Tabitha Mutinda, MP	Vice-Chairperson	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Tabitha Karanja Keroche, MGH, MP	Member	
5.	Sen. Joyce Chepkoech Korir, MP	Member	
6.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member	
7.	Sen. Richard Momoima Onyonka, MP	Member	
8.	Sen. Shakila Abdalla Mohamed, MP	Member	
9.	Sen. Eddy Gicheru Oketch, MP	Member	

CHAPTER ONE: OVERVIEW OF THE BILL

1.1 Background

1. The Public Finance Management (Amendment) Bill, Senate Bills No. 40 of 2023 is sponsored by Sen. Hamida Kibwana, MP.
2. The Bill was published on 1st September, 2023 and was read a First Time in the Senate on the 17th October, 2023 and committed to the Senate Standing Committee on Finance and Budget for consideration and to facilitate public participation.

1.2 Objects of the Bill

3. The Bill seeks to amend the Public Finance Management Act, Cap 412A to require county governments to develop and implement a county revenue collection system.
4. Further, the Bill proposes to amend the Public Finance Management Act to provide for the process of funding for functions that have been transferred from one level of government to another under Article 187 of the Constitution.
5. The Bill proposes to insert a new section 160A requiring each county treasury, in consultation with the National Treasury and KRA, to put in place a county revenue collection system. This system shall respect the distinctiveness of the two levels of government, be secure, effective, efficient and transparent.
6. The proposed new section 160B requires the county treasury to report to the county assembly on the status of county revenue collection and performance and submit copies of the reports to the Senate, the National Treasury and the Commission on Revenue Allocation.
7. The proposed new sections 191F and 191G provide for costing and funding where a function has been transferred from one level of government to another. This is to ensure adequate funding of the transferred functions and accountability.

1.3 Overview of the Bill

8. The Bill proposes the following amendments-

- a) **Clause 2** of the Bill proposes the insertion of new sections 160A and 160B to require a County Treasury, in consultation with the National Treasury and the Kenya Revenue Authority to design, develop and implement a county revenue collection system within one year of the coming into force of the proposed law. The Bill proposes that system shall have certain features including transparency, effectiveness and verifiability. The Bill further proposes to obligate a county treasury to prepare a report on the financial and non-financial performance of the system
- b) **Clause 3** proposes to amend the Act by inserting new sections 191F and 191G to provide a framework for determining the cost of a transferred function and the process of appropriation of adequate funds for this function. In the event that a function is being transferred from the national government to a county government, the Cabinet Secretary shall determine the cost of the transferred function, and the National Assembly shall appropriate money for this transferred function and these funds shall thereafter be transferred to the respective county revenue fund.

In the event that a function is transferred from a county government to the national government the respective county executive shall determine the cost of the transferred function for purposes of county assembly appropriating such monies for implementation of this function. Thereafter, these funds shall be transferred to the national government.

In both these instances, a report prepared by the Auditor General on the financial and non-financial performance of either a county government or the national government, as the case may be, in the discharge of a transferred function shall be submitted to the National Assembly, the Senate and the respective county assembly.

1.4 Implications of the Bill

9. The Bill envisions that the implementation of a county revenue collection system will increase revenue collection, mitigate revenue leakages, promote accountability and service delivery.
10. The Bill will provide for the process of funding for transferred functions from one level of government to another under Article 187(2)(a) of the Constitution.

CHAPTER TWO: SUBMISSIONS BY STAKEHOLDERS

11. This Chapter entails a summary of submissions received from the following stakeholders -
- a) The National Treasury and economic Planning;
 - b) The Commission on Revenue Allocation (CRA);
 - c) The Council of Governors (CoG);

2.1 The National Treasury and Economic Planning

12. On the proposal to insert new sections 191F and 191G to provide for the costing and funding of transferred, the National treasury submitted as follows;
- a) That Article 186 and the Fourth Schedule of the Constitution of Kenya, provide for the respective functions of the national government and county governments. The Article also provides for concurrent jurisdiction of both levels of government where a function or power is conferred on more than one level of government. The Article makes provision for retention by the national government of a function or power not assigned by the Constitution or national legislation to a county.
 - b) Further, Article 187 of the Constitution, provides for the transfer of functions between the two levels of governments while Article 189 provides for cooperation between and among governments.
 - c) The Intergovernmental Relations Act Cap 265F, that operationalizes the provisions of Articles 187 and 189 of the Constitution. Part III of the Act provides for matters pertaining to transfer of functions under Article 187.
 - d) There is no specific provision either in the IGRA or Public Finance Management Act, CAP 412 to provide for-
 - i) framework for the financial management of transferred functions between the two levels of governments;
 - ii) framework for financial management of cooperation between national and a county government or among county governments;

- iii) guiding policies and procedures for cooperation between the two levels and among county governments;
 - iv) administrative structures and roles in a cooperation;
 - v) legal instrument for use in effecting a cooperation;
 - vi) planning, budgeting, budget execution, accounting & reporting; and
 - vii) Oversight for transferred functions and cooperation envisaged in Article 187 and 189 of the Constitution, respectively.
- e) That the Bill does not provide for the above stated gaps.
 - f) That in an effort to provide for full operationalization of Articles 187 and 189 of the Constitution, the National Treasury had developed a comprehensive draft PFM (Amendment) Bill to address public finance management in case of a transfer of function between two levels of governments and amongst county governments. The National Treasury will fast track finalization of the Bill for submission to Cabinet and subsequently to Parliament for consideration and approval
 - g) The National Treasury therefore requested the Senate to consider withdrawing the proposed amendment, Bill.

13. The proposal to amend PFM Act to insert sections 160A and 160B is in contravention of section 12(1) (e) of the PFM Act, 2012 that obligates the National Treasury to design and prescribe efficient financial management system for national and county governments.

14. Further, sections 163-166 of the PFM Act sufficiently provide for financial reporting including the submission of revenue reports by county governments and their entities. The proposed amendment will therefore duplicate the above existing PFM provisions and create confusion in the reporting requirements sufficiently provided for under the law. Furthermore, it is not clear what value unaudited reports to the Senate would add given that the Senate receives quarterly reports from the

Office of the Controller of Budget as well as auditors reports that are more comprehensive and hence have the required information.

15. That the proposal to insert new sections 160A & 160B do not therefore find merit in light of the above.
16. In line with the National Policy to Support Enhancement of County Own Source Revenue, and in its fulfillment of its mandate, the National Treasury through a Multi-Agency Taskforce is in the advanced stages of developing an Integrated County Revenue Management System for use by all counties. Once finalized, the system will provide uniformity among county governments in the administration, collection and management of their revenues.
17. The National Treasury undertakes to fast-track the above process of recommending a system for use by the counties as envisaged in the PFM Act. The system once fully developed will address the issues that the Bill seeks to cure through the proposed amendment to section 160 of the PFM Act.

2.2 The Commission on Revenue Allocation

18. CRA recommended that clause 2 of the Bill be amended in the proposed new section 160A (1) be amended-
 - i) to provide that each County Treasury may consult the National Treasury and the Kenya Revenue Authority in designing, developing and implementation of a county revenue collection system. This is because the use of the word “shall” make it mandatory and leans on unconstitutionality.
 - ii) to add the CRA as part of the entities to be consulted in development of the revenue collection system.
 - iii) to provide that a county may consult in replacement of the revenue collection system.
 - iv) Alternatively, delete the proposed new section and substitute with a provision establishing an integrated county revenue system. In this respect, a multi-agency Committee be established to develop the system to ensure uniformity.

19. CRA recommended that the proposed new section 160 B regarding the report on county revenue collection system be amended by deleting the provision and amending section 158 of PFM Act, to provide that county treasury shall submit quarterly statement and report on performance of revenue collection system to county assemblies and the Senate. This is to avoid duplication of section 158 and 166 of PFM Act. Further, that CRA should be included to the list of the recipients of the quarterly statements and reports.
20. Alternatively, insert 160B (4) to provide that a county treasury shall prepare and submit a quarterly report on the level of adoption and implementation of Integrated Revenue Management System and the revenue streams on boarded to the system to the respective county assemblies, CRA, Senate and National Treasury. This alternative applies in the event the reporting is on implementation of a new system.
21. Proposed new section 191F (1) on functions transferred to National Government be amended to provide that the Cabinet Secretary shall determine the cost of the transferred function in consultation with the respective county government. This is to ensure transparency and accountability and to alleviate bias.
22. Under clause 3 in the marginal notes to the proposed new sections 191F and 191G be interchanged.
23. CRA proposed clause 3 (the proposed new 191G (4), the phrase “to the Senate” be substituted with the phrase “to Parliament” so as to include the National Assembly which has an oversight responsibility to the National government and should therefore receive copies of the report when a county government has transferred function to the national government.

2.3 The Council of Governors

24. COG appeared before the Committee and submitted as follows;
 - a) That the council appreciates the principal object of the bill to anchor county governments’ collection systems into law and further to provide for the process

of funding of the functions that have been transferred from one level of Government to another under Article 187 of the Constitution.

- b) COG noted that a significant number of counties are already implementing revenue collection systems that ought to be recognized by this law as public resources have been expended.
- c) The Presidential Directive given on 7th February, 2019 required counties to have an ICRMS to eliminate unnecessary cost duplication in procurement of county revenue collection system. As a result, a multi-agency task force was established and a report of the taskforce is pending implementation.
- d) ICRMS does not conform to the distinctness of county governments as required by the Constitution and that the Senate should be alive to this matter and consider legislating accordingly to protect the interests of the county governments.
- e) The proposed new section 160A(1) be amended to eliminate the mandatory requirement of a county treasury to consult the National Treasury and KRA in designing, developing and implementation of the county revenue collection system. This is because there is need to respect the distinctiveness of the two levels of government as stipulated in Article 6(2) of the Constitution.
- f) In addition, a new provision be inserted immediately after 160A (1) to provide that a county treasury may consult the National Treasury, KRA or any other authority in designing and developing of the system. This is to ensure that the technical assistance or expertise sought by counties is not limited to only two institutions. There are other institutions such as the CRA that could be instrumental in the process of the designing and developing of the system.
- g) Proposed new section 160B(2) be amended to provide that a county treasury shall submit copies of the quarterly statement and report on county revenue collection system to the OCOB and CRA. This is because financial reporting to the National Treasury is provided for in the PFM Act, and Senate receives reports on implementation of county budgets from CoB. The proposal for inclusion of CRA to receive the reports is based on Article 216 of the

Constitution which gives the CRA the function of making recommendations seeking to enhance the revenue sources of the national and county governments.

- h) Introduce a provision on transition. This is because county governments are already implementing various revenue collection systems with resources having been committed and spent thus far. Therefore, to prevent loss of public resources from procurement of a new system occasioned by this amendment, there is need for recognition of existing systems.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Observations

25. The Committee made the following observations-

- a) That the Controller of Budget (CoB) reports on county governments budget implementation review indicate that counties have consistently missed their own source revenue targets which have led to accumulation of pending bills, stalled projects, failure to implement planned activities due to imbalanced budgets
- b) The National Policy to Support Enhancement of County Own Source Revenue requires counties to adopt an integrated county revenue management system to promote revenue collection, transparency, accountability and seal revenue leakages;
- c) Counties are operating different revenue collection systems which increases cost and does not promote uniformity and accountability
- d) A Multi-Agency Taskforce is in the process of developing an ICRMS to standardize revenue collection system in the forty-seven counties. Implementation of ICRMS will help curb pilferage in collection of county Own Source Revenue.
- e) Whereas the IGRA provides for the principles of transfer of functions, agreements on transfer or delegation, criteria for transfer and public participation it does not provide for modalities relating to funding.
- f) Following the transfer of functions from Nairobi City County to the national government in 2020, the County Allocation of Revenue Act in every respective financial year thereafter has included provisions relating to costing and funding of functions transferred from a county government to the national government but not a transfer from national government to a county government. There is a lacunae in the law to give effect to the provisions of Article 187(2)(a) of the Constitution which provides that “if a function or power is transferred from a government at one level to a government at the other level arrangements shall be put in in place to ensure that the resources necessary for the performance of the function or exercise of the power *are transferred*”.

Recommendations

26. Having considered the Stakeholders submissions and the Bill, the Committee recommends that the Senate approves the Bill with the following amendments-

- a) That clause 2 of the Bill, in the proposed new section 160A, be amended to provide for -
 - (i) the establishment of a Revenue Collection System Committee. This Committee will be mandated to facilitate the design, development and coordination of implementation of an Integrated County Revenue Management System (ICRMS).
 - (ii) that the aforementioned Committee shall comprise representatives of the National Treasury, Kenya Revenue Authority, Commission on Revenue Allocation, Council of Governors and State Department for Devolution.
 - (iii) the timeline within which the Committee shall ensure the system is available for adoption by the counties.
 - (iv) the timeline within which the county governments should adopt or transition to the ICRMS.
- b) That clause 2 of the Bill, in the proposed new section 160B, be amended to provide that-
 - i) each county treasury shall prepare and submit a quarterly report on the status of the adoption and implementation of the ICRMS.
 - ii) the report prepared above shall be submitted to the respective county assembly, the Senate, Commission on Revenue Allocation and the Controller of Budget.
- c) That clause 3 of the Bill, in the proposed new section 191F(1), be amended to provide that in the event a function is transferred from the national government to a county government, the Cabinet Secretary for the National Treasury shall, in consultation with the respective county government, determine the cost of the function.

- d) That clause 3 of the Bill, in the proposed new section 191G(6), be amended to provide that the Auditor- General's report on Special audit, on the financial and non-financial performance of an entity to which a county government function is transferred to, shall be submitted to Parliament and respective county assembly.

Appendices

Committee Minutes

Proposed Committee Stage amendments

Stakeholders' submissions

Public Advert



MINUTES OF THE EIGHTY-NINTH HYBRID MEETING OF THE SENATE
STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON TUESDAY,
14TH NOVEMBER, 2023 AT COUNTY HALL, GROUND FLOOR BOARD ROOM,
PARLIAMENT BUILDINGS FROM 9.00 A.M.

PRESENT

- | | | |
|-------------------------------------|---|----------------------------|
| 1. Sen. Maureen Tabitha Mutinda, MP | - | Vice-Chairperson |
| 2. Sen. Mohamed Faki Mwinyihaji, MP | - | Member |
| 3. Sen. Richard Momoima Onyonka, MP | - | Member- Attended Virtually |
| 4. Sen. Eddy Gicheru Oketch, MP | - | Member- Attended Virtually |

ABSENT WITH APOLOGY

- | | | |
|--|---|-------------|
| 1. Sen. (Capt) Ali Ibrahim Roba, EGH, MP | - | Chairperson |
| 2. Sen. (Dr.) Boni Khalwale, MP | - | Member |
| 3. Sen. Shakila Abdalla Mohamed, MP | - | Member |
| 4. Sen. Joyce Chepkoech Korir, MP | - | Member |
| 5. Sen. Tabitha Karanja Keroche, MP | - | Member |

SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Mr. Jackson Wekesa | - | Legal Counsel |
| 4. Ms. Joan Mahinda | - | Researcher |
| 5. Mr. Daniel Kirwa | - | Sergeant-At-Arms |
| 6. Mr. Felistus Mutune | - | Media Relations Officer |
| 7. Ms. Angelicah Wachira | - | Protocol Officer |
| 8. Mr. Nicholas Arusei | - | Audio Officer |
| 9. Mr. Leone Binns | - | Attachee |
| 10. Mr. Yasir Adam | - | Student Attachee |
| 11. Mr. Juma Hockings | - | Student Attachee |
| 12. Mr. Royvictor Tanu | - | Student Attachee |

IN ATTENDANCE

THE COUNCIL OF GOVERNORS (CoG)

1. FCPA. Fernandes Barasa, OGW - Chairperson, Technical Committee on Finance and Economic Affairs
2. Mr. Stephen Momanyi - Program Officer

THE COMMISSION ON REVENUE ALLOCATION (CRA)

1. Mr. Koitamet Olekina - Vice-Chairperson
2. Ms. Hadija Juma - Commissioner
3. Dr. Isabel Waiyaki - Commissioner
4. Mr. Jonas Kuko - Commissioner
5. CPA. James Katule - CEO
6. Mr. Joseph Kuria - Director, ICT
7. Ms. Sheila Yieke - Director, Legal
8. Ms. Mary Muthui - Communications Officer

MIN/SEN/SCF&B/524/2023 PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:30 a.m. This was followed by a word of prayer, and thereafter, a round of introduction.

MIN/SEN/SCF&B/525/2023 ADOPTION OF THE AGENDA

The agenda was adopted after it was proposed by Sen. Mohamed Faki Mwinyihaji, MP, and seconded by Sen. Richard Momoima Onyonka, MP, as listed below-

1. Prayer;
2. Introduction;
3. Adoption of the agenda;
4. Confirmation of minutes of the 88th sitting;
5. Matters arising from the Minutes of the previous meeting;
6. Meeting with the Council of Governors and the Commission on Revenue Allocation to deliberate on the public Finance Management (Amendment) Bill (Senate Bills No. 40 of 2023) (*Committee Paper No. 70*);
7. Consideration of the pending legislative business (*Committee Paper No. 59C*);
8. Any Other Business; and
9. Date of the Next Meeting and Adjournment.

MIN/SEN/SCF&B/526/2023 CONFIRMATION OF MINUTES AND MATTERS ARISING

The agenda item was deferred to the next meeting.

MIN/SEN/SCF&B/528/2023 MEETING WITH THE COUNCIL OF GOVERNORS AND THE COMMISSION ON REVENUE ALLOCATION TO DELIBERATE ON THE PUBLIC ON THE PUBLIC FINANCE

MANAGEMENT (AMENDMENT) BILL (SENATE
BILL NO. 40 OF 2023)

A) Meeting with the Council of Governors

Upon invitation, the Chairperson of the CoG Technical Committee on Finance and Economic Affairs submitted the following views on the Bill-

- a) A significant number of counties were already implementing revenue collection systems that ought to be recognised by the law since public resources had been committed.
- b) To standardise the systems across the 47 counties, there has been effort to establish an Integrated County Revenue Management System (ICRMS). A multi-agency taskforce was established and had since developed a report which was pending adoption and implementation.
- c) Clause 160A(1) of the Bill be amended to eliminate the mandatory requirement of a County Treasury to consult the National Treasury and KRA in designing, developing and implementation of the county revenue collection system. This is because there is need to respect the distinctiveness of the two levels of government as stipulated in Article 6(2) of the Constitution.
 - In addition, provide that the County Treasury may consult the National Treasury, KRA or any other authority in designing and developing of the system. This is to ensure that the technical assistance or expertise sought by counties is not limited to only 2 institutions. There are other institutions such as the CRA that could be instrumental in the process of designing and developing the system.
- d) Clause 160B(2) of the Bill be amended to provide that the County Treasury shall submit copies of the quarterly statement and report on county revenue collection system to the Controller of Budget and Commission on Revenue Allocation. This is because financial reporting to National Treasury is provided for in the PFM Act, 2012. Secondly, the Senate usually receives reports on implementation of county budgets from CoB.
- e) Introduce a new clause to provide for a transition provision. This is because County Governments are already implementing various revenue collection systems with resources having been committed and spent thus far. Therefore, there is need for recognition of existing systems.

B) Meeting with the Commission on Revenue Allocation

Upon invitation, the Vice-Chairperson of the Commission on Revenue Allocation submitted the following views on the Bill-

- a) Clause 160A.(1) be amended-
 - to provide that each County Treasury may consult the National Treasury and the Kenya Revenue Authority in designing, developing and implementation of a county revenue collection system. This is because the using the word “shall” makes it mandatory and hence unconstitutional.

- to add the CRA as part of the entities to be consulted in development of the revenue collection system.
 - to provide that County may consult in replacement of the revenue collection system.
- b) Alternatively, the clause be deleted and substituted with the provision of establishment of multi-agency Committee. This Committee be tasked to develop a uniform revenue collection system. This will ensure uniformity across the nation when an Integrated County Revenue Management System (ICRMS) is developed and established.
- c) Clause 160B regarding the report on county revenue collection system be amended-
- by deleting the provision and amending section 158 of PFMA, 2012 to provide that County Treasury shall submit quarterly statement and report on performance of revenue collection system to County assemblies and Senate. This is to avoid duplication of section 158 and 166 of PFMA, 2012.
 - by adding CRA as one of the recipients of the quarterly statements and report
- d) Clause 191F(1) *on functions transferred from National Government to a county government* be amended to provide that the Cabinet Secretary shall determine the cost of the transferred function in consultation with the respective county government. This is to ensure transparency and accountability and to alleviate biasness during budgeting.
- e) Marginal notes to Clauses 191F and 191G be interchanged.
- f) Clause 191G be amended to provide that the national government entity to which a county function has been transferred shall submit quarterly report to the Parliament and respective county assembly.

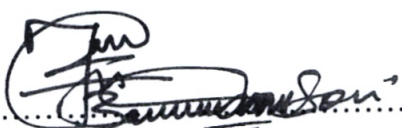
The Committee noted that there is multi-agency taskforce on establishment of an Integrated County Revenue Management System (ICRMS) to standardise the revenue collection systems across the 47 counties. The taskforce was due for gazettment by the CS, National Treasury.

MIN/SEN/SCF&B/529/2023 CONSIDERATION OF THE PENDING LEGISLATIVE BUSINESS (COMMITTEE PAPER No.59C)

The agenda item was deferred to the next meeting.

MIN/SEN/SCF&B/530/2023 ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12:00 p.m. The next meeting to be held on Thursday, 16th November, 2023.

SIGNATURE..........DATE.....23/11/2023.....

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP
(CHAIRPERSON)



**MINUTES OF THE NINETY-FOURTH MEETING OF THE SENATE
STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON
THURSDAY, 23RD NOVEMBER, 2023 AT COUNTY HALL, GROUND FLOOR
BOARD ROOM, PARLIAMENT BUILDINGS FROM NOON**

PRESENT

- | | | |
|--------------------------------------|---|----------------------------|
| 1. Sen. Maureen Tabitha Mutinda, MP | - | Vice-Chairperson |
| 2. Sen. (Dr.) Boni Khalwale, MP | - | Member (Chairing) |
| 3. Sen. Shakila Abdalla Mohammed, MP | - | Member |
| 4. Sen. Eddy Gicheru Oketch, MP | - | Member |

ABSENT WITH APOLOGY

- | | | |
|---|---|-------------|
| 1. Sen. (Capt) Ali Ibrahim Roba , EGH, MP | - | Chairperson |
| 2. Sen. Joyce Chepkoech Korir, MP | - | Member |
| 3. Sen. Mohammed Faki Mwinyihaji, MP | - | Member |
| 4. Sen. Tabitha Karanja Keroche, MP | - | Member |
| 5. Sen. Richard Momoima Onyonka, MP | - | Member |

SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Ms. Lucy Rdoli | - | Legal Counsel |
| 4. Mr. Kiminza Kioko | - | Fiscal Analyst |
| 5. Mr. Sekento Tonkei | - | Researcher |
| 6. Ms. Felistus Mutune | - | Media Relations officer |
| 7. Mr. Nicholas Arusei | - | Audio Officer |
| 8. Mr. Fredrick Ouma | - | Sergeant-At-Arms |
| 9. Mr. Leon Binns | - | Attachee |
| 10. Mr. Antony Kimani | - | Pupil |
| 11. Ms. Sandra Cherotich | - | Pupil |

IN ATTENDANCE

- | | | |
|-------------------------------|---|--|
| 1. Prof. Njuguna Ndung'u, CBS | - | Cabinet Secretary |
| 2. Mr. Samuel Kiptorus | - | Director, Intergovernmental Fiscal Relations |

The Temporary Chairperson called the meeting to order at 12:10 p.m. This was followed by a word of prayer, and thereafter a round of introduction.

The agenda was adopted after it was proposed by Sen. Eddy Gicheru Oketch, MP and seconded by Sen. Shakila Abdalla Mohamed, MP as listed below-

1. Prayer;
2. Introduction;
3. Adoption of the agenda;
4. Meeting with Cabinet Secretary, National Treasury and Economic Planning, to deliberate on the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No.40 of 2023) (*Committee paper No. 70A*);
5. Consideration of the pending legislative business (*Committee Paper No.59C*);
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

Upon invitation, the National Treasury and Economic Planning submitted the following views on the PFM(Amendment) Bill, 2023 (Senate Bills No.40 of 2023)-

- a) **Proposal of insertion of new sections 191F and 191G to provide for the costing and funding of transferred functions** where a function has been transferred from one level of government:
 - i. There exists the Intergovernmental Relations Act, 2012 that operationalizes the provisions of Articles 187 and 189 of the Constitution. Part III of the Act provides for matters pertaining transfer to transfer of functions under Article 187.
 - ii. The proposed Bill does not provide for-
 - framework for the financial management of transferred functions between the two levels of governments;
 - framework for financial management of cooperation between national and a county government or among county governments;
 - guiding policies and procedures for cooperation between the two levels and among county governments;
 - administrative structures and roles in a cooperation;

- legal instrument for use in effecting a cooperation;
 - planning, budgeting, budget execution, accounting and reporting; and
 - oversight for transferred function and cooperation envisaged in Article 187 and 189.
- iii. In an effort to provide for full operationalization of the Articles 187 and 189 of the Constitution, the National Treasury had developed a comprehensive draft PFM (Amendment) Bill to address public finance management in case of a transfer of function between two levels of governments and amongst county governments. The National Treasury will fast track finalization of the Bill for submission to Cabinet and subsequently to Parliament for consideration and approval.
- iv. The National Treasury requested the Senate to consider dropping the proposed amendments Bill.

Following deliberation,

- it was noted that projects funded through conditional grant on supplement for construction of county headquarters had delayed for an inordinately long time as a result of lack of proper financing framework. It was noted that there is a need for a multi-sectoral stakeholders consultative meeting on the appropriate way forward concerning these projects.
 - It was observed that the Bill is sponsored by Sen. Hamida Kibwana, MP, and it seeks to provide for existing legislative gaps. The proposal to drop the Bill may seem to be not in good faith. This is because if a bill is not comprehensive, amendments should be proposed to ensure it addresses all concerns. Thus, national treasury should forward their recommendations to the Committee in order to enrich the Bill.
- b) Proposal to **amend PFM Act to insert sections 160A and 160B** on county revenue collection system and reporting:
- i. this proposal is in contravention of section 12(1)(e) of the PFM Act, 2012 that obligates the National Treasury to design and prescribe efficient financial management system for National and county governments.
 - ii. National Treasury notes that sections 163 to 166 of the PFM Act provide for financial reporting including submission of revenue reports by county governments.
 - iii. 166B(1) provides that report on performance of county revenue collection system be submitted to the Senate. However, Senate receives quarterly reports from the Office of the Controller of Budget and Auditor-General. Thus, such proposal would lead to duplication.
- c) Development of an integrated County Revenue Management System- the National Treasury through a Multi-Agency Taskforce is in the advanced stages of developing an integrated County Revenue Management System. County Revenue Management System is a

The Committee was further informed that the Multi-Agency Taskforce on establishment of an integrated County Revenue Management System had -

- a) evaluated 23 systems revenue collection systems been applied in different counties;
- b) following assessments, the taskforce had settled on a revenue collection system used in Kwale County; and
- c) prepared and submitted a report to National Treasury and Economic Planning.

Following deliberations, the Committee resolved that the National Treasury and Economic Planning should submit to the Committee the report by the Multi-Agency Taskforce on establishment of an Integrated County Revenue Management System (ICRMS) on or before 28th November, 2023.

MIN/SEN/SCF&B/555/2023 **ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting adjourned at 1:26 p.m. The next meeting shall be by notice.

SUGNATURE..........DATE..27/10/2024.....

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP
(CHAIRPERSON)



MINUTES OF THE A HUNDRED AND FOURTEENTH (114TH) MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON TUESDAY, 12TH MARCH, 2024 AT COUNTY HALL IN THE GROUND FLOOR BOARDROOM, PARLIAMENT BUILDING AT 9:00 A.M.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | Chairperson |
| 2. Sen. Maureen Tabitha Mutinda, MP | - | Vice-Chairperson |
| 3. Sen. (Dr.) Boni Khalwale, CBS, MP | - | Member |
| 4. Sen. Eddy Oketch Gicheru, MP | - | Member |
| 5. Sen. Mohamed Mwinyihaji Faki, CBS MP | - | Member |
| 6. Sen. Shakila Abdalla Mohamed, MP | - | Member |

ABSENT WITH APOLOGY

- | | | |
|--|---|--------|
| 1. Sen. Richard Momoima Onyonka, MP | - | Member |
| 2. Sen. Joyce Chepkoech Korir, MP | - | Member |
| 3. Sen. Tabitha Karanja Keroche, MGH, MP | - | Member |

SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Ms. Lucy Radoli | - | Legal Counsel |
| 4. Mr. Constant Wamayuyi | - | Research officer |
| 5. Mr. Kiminza Kioko | - | Fiscal Analyst |
| 6. Mr. Stanley Gekore | - | Media Relations Officer |
| 7. Mr. Elijah Ichwara | - | Audio Officer |
| 8. Mr. Oliver Onyango | - | Intern |

MIN/SEN/SCF&B/659/2024 PRELIMINARIES

The Chairperson called the meeting to order at 9:24 a.m. This was followed by a word of prayer and a reading of the minutes of the previous meeting.

MIN/SEN/SCF&B/660/2024 **ADPTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Mohamed Mwinyihaji Faki, CBS MP and seconded by Sen. Shakila Abdalla Mohamed, MP as listed below-

1. Prayer;
2. Adoption of the agenda;
3. Confirmation of minutes of the 105th, 110th, 111th, 112th and 113th Sitting;
4. Matters arising;
5. Consideration of stakeholders' submissions on the Public Finance Management Bill, 2023
(Senate Bill No.40 of 2023) (*Committee paper No.83*)
6. Consideration and adoption of the report on a Petition regarding regulation of credit profession (*Committee Paper 80A*)
7. Any Other Business; and
8. Adjournment and Date of the Next Meeting.

MIN/SEN/SCF&B/671/2024 **CONFIRMATION OF PREVIOUS MEETINGS**

Confirmation of the Minutes of the 105th, 110th, 111th, 112th and 113th was deferred to the next meeting.

MIN/SEN/SCF&B/672/2024 **CONSIDERATION OF STAKEHOLDERS' SUBMISSION ON THE PUBLIC FINANCE AMENDMENT BILL (SENATE BILLS NO.40 OF 2023) (COMMITTEE PAPER NO.83)**

The Committee considered Committee Paper No.83, stakeholders' submissions on the Public Finance Management (Amendment) Bill, (Senate Bills No.40 of 2023) and resolved as follows-

- a) Clause 2 of the Bill,
 - i. 160A(1) be amended to provide for constitution of a multi-agency taskforce (representation from the National Treasury, Commission on Revenue Allocation (CRA), Council of Governors (CoG), Kenya Revenue Authority (KRA), Central Bank of Kenya (CBK), and office of the Controller of Budget (OCOB)) to design, develop and establish the Integrated County Revenue Management System (ICRMS).
 - ii. 160A(1) be amended to provide that all the county governments shall adopt and implement the system within 9 months after its commission.
 - iii. 160B(2) be amended to provide that the quarterly reports on revenue collection system (both revenue performance and performance of the system) shall be

submitted to the National Treasury, Commission on Revenue Allocation, office of Controller of Budget, respective county assembly and the Senate.

b) Clause 3 of the Bill-

- i. 191F(1) be amended to provide that where the National Government has transferred a function to county government pursuant to Article 187, the cost of transferred function by the Cabinet Secretary shall be done in consultation with the respective county government.
- ii. 191G(4) be amended to provide that a national government entity to which a county government function has been transferred shall submit a quarterly report to Parliament and respective county assembly in discharge of the devolved function. This is because National Assembly has an oversight responsibility to national government.

The Committee further noted the following-

- a) The National Treasury in their submission indicated that they had developed a draft PFM (amendment) Bill to provide for public finance management in case of transfer of function between two levels of government. They had requested the Committee to consider dropping the Bill.
Committee Resolution: The Committee resolved to proceed with the Bill and further, to request the National Treasury and Economic Planning to provide additional submissions on the Bill within 7 calendar days.
- b) There already exists a multi-agency taskforce on development of ICRMS. Therefore, all counties will be required to implement the ICRMS within 9 months of coming into force of the law.
- c) Implementation of ICRMS will help curb pilferage in collection of county Own Source Revenue.

MIN/SEN/SCF&B/673/2024

CONSIDERATION AND ADOPTION OF THE
REPORT ON A PETITION REGARDING
REGULATION OF THE CREDIT PROFESSION
(COMMITTEE PAPER 80A)

The Committee considered and noted the contents of Committee Paper No.80A. Following consideration of the report on a Petition regarding regulation of credit profession, the Committee noted that proposed legislation would promote accountability in credit profession, proper debt management, sustainability of financial systems and institutions, appropriate debt recovery mechanisms, public trust and confidence.

The Committee unanimously adopted the report on regulation of credit profession having been proposed by the National Treasury, Commission on Revenue Allocation, office of Controller of Budget, respective county assembly and the Senate.

Khalwale, CBS, MP with resolution to sponsor a legislation on regulation of credit profession.

MIN/SEN/SCF&B/674/2024 **ANY OTHER BUSINESS**

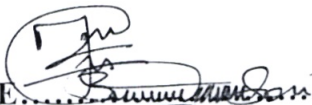
The Committee noted that the Kakamega County Governor had been summoned to appear before the Committee on Thursday, 14th March, 2024 at 9.30 am.

Following deliberations, and noting the scheduled Senate plenary sitting, on Thursday, 14th March, 2024 at 9 am, to consider the proposed removal from office by impeachment of the Deputy Governor of Kisii County, the Committee resolved to reschedule the meeting with County Government of Kakamega.

New date of the meeting to be agreed upon in subsequent meeting.

MIN/SEN/SCF&B/675/2024 **ADJOURNMENT AND THE DATE OF THE NEXT MEETING**

The meeting was adjourned at 11:05 a.m.

SIGNATURE.......... DATE.....21/03/04.....

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP
(CHAIRPERSON)



MINUTES OF HUNDRED AND TWENTY-FIFTH (125TH) MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON THURSDAY, 2ND MAY, 2024 IN THE GROUND FLOOR BOARDROOM, COUNTY HALL, PARLIAMENT BUILDING AT 9:00 A.M.

PRESENT

- | | | |
|---|---|--------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | Chairperson |
| 2. Sen. Maureen Tabitha Mutinda, MP | - | Vice-Chair |
| 3. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - | Member |
| 4. Sen. Richard Momoima Onyonga, MP | - | Member |
| 5. Sen. Eddy Oketch Gicheru, MP | - | Member |

ABSENT WITH APOLOGY

- | | | |
|---|---|--------|
| 1. Sen. Tabitha Karanja Keroche, MGH MP | - | Member |
| 2. Sen. (Dr.) Boni Khalwale, CBS, MP | - | Member |
| 3. Sen. Shakila Abdalla Mohamed, MP | - | Member |
| 4. Sen. Joyce Chepkoech Korir, MP | - | Member |

SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Ms. Lucy Radoli | - | Legal Counsel |
| 4. Ms. Millicent Makina | - | Fiscal Analyst |
| 5. Mr. Kiminza Kioko | - | Fiscal Analyst |
| 6. Mr. Nandemu Barasa | - | Media Relations Officer |
| 7. Mr. Constant Wamayuyi | - | Research officer |
| 8. Mr. Elijah Ichwara | - | Audio Officer |

MIN/SEN/SCF&B/734/2024 **PRELIMINARIES**

The Chairperson called the meeting to order at 9:06 a.m. This was followed by a word of prayer and a round of introduction.

MIN/SEN/SCF&B/735/2024 **ADPOTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Eddy Oketch Gicheru, MP, and seconded by Sen. Richard Momoima Onyonga, MP.

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the 122nd Sitting;
4. Matters Arising from the Minutes of the Previous Sitting;
5. Consideration of the County Governments Additional Allocations Bill, 2024 (*Committee Paper No.91*);
6. Consideration and adoption of the Report on the Public Finance Management (Amendment) Bill, 2024 (Senate Bills No.40 of 2024) (*Committee paper No.83A*);
7. Consideration of stakeholders' submissions on County Public Finance Laws Amendment Bill (Senate Bills No.39 of 2023) (*Committee Paper No.81B*);
8. Pending Legislative Business (*Committee Paper No.77*);
9. Any Other Business; and
10. Adjournment and Date of the Next Meeting.

MIN/SEN/SCF&B/736/2024 **CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

The Minutes of the Hundred and Twenty-Second (122nd) hybrid meeting held on Wednesday, 24th April, 2024 at 8:00 a.m. were confirmed as true record of the proceedings of the Committee having been proposed by Sen. Richard Momoima Onyonka, MP, and seconded by Sen. Eddy Oketch Gicheru, MP.

MIN/SEN/SCF&B/737/2024 **CONSIDERATION OF THE DRAFT COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL, 2024 (COMMITTEE PAPER NO.91)**

The Committee considered Paper No.91 regarding the draft County Governments Additional Allocations Bill, 2024, and noted the contents thereof. Thereafter, the meeting was informed that-

- a) The Bill provides for the transfer of conditional and unconditional allocations from the national government's share of revenue and from development partners to the county governments for the Financial Year 2024/2025.
- b) The proposed total county government additional allocations for the FY 2024/25 is Ksh.55.45 billion and is distributed in four Schedules –
 - i. The First Schedule contains conditional allocations to each county government from the National Government's share of revenue. The total allocation amounting to Ksh.8.21 billion.
 - ii. The Second Schedule contains Conditional Additional Allocations to County Governments from the Road Maintenance Levy Fund (RMLF) for FY 2024/25. The total allocation amounting to Ksh.10.522 billion.
 - iii. The Third Schedule contains unconditional additional allocations to County Governments from Court Fines of Ksh.7.43 million and the beneficiary

county governments 20% Share of Mineral Royalties amounting to Ksh.1.055 billion. The total allocations for the FY 2024/25 from the two entitlements amounting to Ksh.1.062 billion.

- iv. The Fourth Schedule contains conditional allocations financed by proceeds of loans and/or grants from development partners. The total allocations for the FY 2024/25 amounting to Ksh.35.66 billion from fourteen (14) different donor projects.

Committee observations

- a) The total allocations towards the construction of the county headquarters by the end of FY 2024/25 will amount to Ksh.1,736.89 million, resulting in a balance of Ksh.78.2 million of the total proposed contribution from the national government. However, as per the schedule, some counties may end up benefitting with amounts above the initially planned contributions from the national government.
- b) Committee report recommending hand over of the management of the projects to counties is before the House awaiting approval, however the multi-agency team spearheaded by IGRTC has since prepared the intergovernmental agreements and the projects handed over to the counties.
- c) Despite, the national government commitment on the allocation towards the county CAIPs, some benefiting counties are struggling with providing the matching Ksh.250 million within their budgets. This posed a risk of stalling of the projects.
- d) The CHPs Programme requires Ksh.3.23 billion as counterpart funding from the counties. However, counties indicated that they may not be able to accommodate this amount within their budget if the proposed county equitable share by the National Treasury is not enhanced.
- e) Meru-Njuri-Njeke Museum in Meru County was part of the delineated and transferred Museums as per the 2024 BPS. However, the Bill does not include Ksh.15.7 million for the Meru-Njuri-Njeke Museum.
- f) The conditional allocations from the Road Maintenance Levy Fund (RMLF)- The legal provisions on distribution of the fund may not be fully aligned to the devolved system of governance. This is because county governments are not recognized as part of road works implementation agencies. Further, in the classification of public roads (First Schedule of the Kenya Roads Act) no specific roads is designated for county governments as required by the Constitution.
- g) The unconditional allocations to the county governments from court fines and Mineral Royalties are indicated to be accruals of the Financial Year 2021/22 only. It is not clear if there were any amount that accrued in the FY 2022/23 and when these will be disbursed to the benefiting counties.
- h) Further, disbursements of court fines and Mineral Royalties has faced challenges arising from lack of frameworks and mechanism of collection and remittance of the funds directly to beneficiary counties. National Treasury has since advised that in

- i) A review of implementation of the FLLoCA Program showed that counties such as Mombasa and Nairobi are yet to meet the Minimum Access Conditions for the County Climate Institutional Support (CCIS) Grant, hence have not benefitted from the initial (level I) allocations of Ksh.22 million. Further, other counties are falling behind in meeting Minimum Performance Conditions for them to access the County Climate Resilience Investment (CCRI) Grant (level II).

The Committee resolved that once the Bill is read a First Time, key stakeholders such as the National Treasury, Commission on Revenue Allocation and the Council of Governors be invited to a meeting to submit their views and proposals on the Bill.

MIN/SEN/SCF&B/738/2024 **CONSIDERATION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO.40 OF 2023) (COMMITTEE PAPER NO.83A)**

The Committee considered the report on the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No.40 of 2023) and noted the contents thereof. The report contained the overview of the Bill, submissions from stakeholders, Committee observations and recommendations (which will translate to Committee's amendments to the Bill).

MIN/SEN/SCF&B/739/2024 **ADOPTION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO.40 OF 2023)**

Having considered the draft report on the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No.40 of 2023), the Committee unanimously adopted the report having been proposed by Sen. Maureen Tabitha Mutinda, MP, and seconded by Sen. Eddy Oketch Gicheru, MP, with the following recommendations-

- a) Clause 2 of the Bill, *proposed new section 160A* of the PFM Act be amended to provide for-
- establishment of a Revenue Collection System Committee. This Committee will be mandated to design, develop and coordinate implementation of Integrated County Revenue Management System (ICRMS).
 - the membership of the Committee which should comprise representatives from the National Treasury, Kenya Revenue Authority, Commission on Revenue Allocation, Council of Governors and State Department for Devolution.
 - timeline within which the committee should ensure the system is available for adoption by the counties.
 - timeline within which the county governments should adopt or transition to the ICRMS.
- b) Clause 2 of the Bill, *proposed new section 160B* of the PFM Act be amended to provide-

- That each county treasury shall prepare and submit a quarterly report on the status of the adoption and implementation of the ICRMS.
- That the quarterly report shall be submitted to the respective county assembly, the Senate, Commission on Revenue Allocation and the Controller of Budget.
- c) clause 3, *proposed new section 191F(1)* of the PFM Act be amended to provide that in case where a function is transferred from the national government to county government, the Cabinet Secretary in determining the cost of the transferred function, shall do so in consultation with the respective county government.
- d) clause 3 of the Bill, *proposed new section 191G(6)* of the PFM Act be amended to provide that Auditor-General's Special Audit on the financial and non-financial performance of an entity to which a county government function is transferred to, shall be submitted to Parliament and respective county assembly.

MIN/SEN/SCF&B/740/2024 CONSIDERATION OF STAKEHOLDERS' SUBMISSIONS ON COUNTY PUBLIC FINANCE LAWS AMENDMENT BILL (SENATE BILLS NO.39 OF 2023) (COMMITTEE PAPER NO.81B)

Committee considered Paper No.81B on stakeholders' submissions on the on the County Public Finance Laws Amendment Bill (Senate Bills No.39 of 2023), a Bill that seeks to provide for financial autonomy of county assemblies. Following deliberations, the Committee resolved-

- a) the proposed new sub-sections 109A.2(b), (c) and (d) of PFM Act, that stipulates the monies such as grants, gifts, donations or bequests, levies/fees, monies accruing to or received any other source, to be paid into the proposed County Assembly Fund, be deleted. This was attributed to the following-
 - the Fund should only receive funds appropriated by the county assembly, which should be channelled through County Revenue Fund;
 - Any grants, levies or other revenue should be factored in the Appropriation Act; and
 - That the Fund being an equivalent of a county exchequer accounts should only receive funds through an Appropriation Act.
- b) Since the Bill designates the Clerk of the County Assembly as the Administrator of the County Assembly Fund, section 19 of the County Assembly Services Act, 2017 which provide the roles of the Clerk should be amended to introduce the new role as the Administrator of the County Assembly Fund.
- c) Proposed new section 109A. (10) contradicts section 136 of the PFM Act that provides that any unspent balances at the end of a financial year lapses, and unutilized funds should be reappropriated. Thus, the section should be deleted or replaced with a provision that unutilized funds shall lapse and should not be reappropriated.

- d) Proposed new section 190A. (11) of the PFM Act should be amended to provide that financial reports shall be submitted to National Treasury, County Treasury, County Assembly, Commission on Revenue Allocation, and Controller of Budget. Further, specify the timelines within which the financial reports shall be submitted to the named agencies.
- e) Proposed new section 109B.(c) of the PFM Act that provide that the administrative expenses as may be incurred by the Fund be deleted. This is because the expenses from the Fund are majorly recurrent in nature and shall be utilized in line with the recurrent budget ceilings proposed by CRA and approved by the Senate.
- f) For clarity, proposed new section 109D (2) be amended to provide that the Clerk of the County Assembly shall design the guidelines on the authority to incur expenditure.
- g) Clause 8 of the Bill on amendment of section 134 of the PFM Act be amended by deleting the word “Service” in the phrase “County Assembly Service Fund” since the Bill provides for establishment of County Assembly Fund.

The Committee took note of the proposal by SOCATT on establishment of a County Assembly Budget Office. The office is meant to offer professional and technical guidance to the members of the county assembly to enable them make informed decisions on public finance. The office will emulate the Parliamentary Budget Office established under section 9 of the PFM, Cap.412A. The Committee, aware of standing order 147, noted that the proposal was outside the subject matter.


The Committee, thus, resolved to sponsor an amendment Bill providing for establishment of county assembly budget office and any other related matter.

MIN/SEN/SCF&B/741/2024 ANY OTHER BUSINESS

The Committee considered an invitation by the State Department for Agriculture to a retreat on sensitization on the World Bank Agriculture portfolio projects/initiatives: the National Agricultural Value Chain Development Project (NAVCDP) and Food Systems Resilience Project (FSRP) that was scheduled for 2nd to 4th May, 2024 in Mombasa County. The Committee observed that the notice was short and resolved not to attend the retreat.

MIN/SEN/SCF&B/742/2024 ADJOURNMENT AND THE DATE OF THE NEXT MEETING

The meeting adjourned at 11:24 a.m. Next meeting shall be by notice.

SIGNATURE  DATE 09/05/2024

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP
(CHAIRPERSON)

14th May, 2024

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

**COMMITTEE STAGE AMENDMENTS TO THE PUBLIC FINANCE
MANAGEMENT (AMENDMENT) BILL, SENATE BILLS NO. 40 OF 2023**

NOTICE is given that Sen. Ali Ibrahim Roba, Chairperson, Committee on Finance and Budget, intends to move the following amendments to the Public Finance Management (Amendment) Bill, Senate Bills No. 40 of 2023, at the Committee Stage-

CLAUSE 2

THAT the Bill be amended by deleting clause 2 and substituting therefore the following new clause-

Insertion of new
sections in Cap.
412A

2. The principal Act is amended by inserting the following new sections immediately after section 160 —

Establishment of
Committee.

160A. (1) There is established a Revenue Collection System Committee which shall consist of-

- (a) the Cabinet Secretary or a person designated in writing;
- (b) the Principal Secretary for matters related to Devolution;
- (c) the Controller of Budget or a person designated in writing;
- (d) the Commissioner General of the Kenya Revenue Authority or a person designated in writing; and
- (e) two persons nominated by the Council of Governors.

(2) The Committee shall, within nine months of the coming into force of this Act, design, develop and coordinate integrated county revenue system which shall—

- (a) be transparent, efficient, effective and verifiable;

- (b) ensure data accuracy and protection;
- (c) respect and promote the distinctiveness of the national and county governments;
- (d) be adequately secure to prevent any fraud, losses or leakages; and
- (e) provide for separate accounting and reporting

(3) Within three months of the development of the system under subsection (3), each county government shall adopt and implement the integrated county revenue management system

Reports.

160B. (1) A county treasury shall prepare and submit a quarterly report on the status of the adoption and implementation of the integrated county revenue management system.

(2) A report under subsection (1) shall be submitted to the respective county assembly, the Senate and the Controller of Budget.

CLAUSE 3

THAT clause 3 of the Bill be amended in the proposed new section 191F(1) by inserting the words “in consultation with the respective county executive committee member” immediately after the words “Cabinet Secretary shall”.

Dated 14 / 05 / 2024.



Sen. Ali Ibrahim Roba,
Chairperson,
Committee on Finance and Budget.



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921
FINANCE-NAIROBI
Fax No.: 310833
Telephone: 2252299

THE NATIONAL TREASURY
P O BOX 30007 - 00100
NAIROBI
KENYA

When Replying Please Quote

REF: IGFR/SG/01/A/ (61)

15th November, 2023

J.M Nyegenye, CBS
Clerk of the Senate
Clerk's Chambers
Parliament Buildings
P.O Box 41842 - 00100
NAIROBI



Dear

M. Nyegenye

RE: COMMENTS ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 40)

Reference is made to letter Ref: SEN/DSEC/F&B/CORR/2023/99(b) dated 26th October, 2023 from the Clerk of Senate on the above subject matter.

The letter is inviting the Cabinet Secretary, National Treasury and Economic Planning to a meeting with the Senate's Standing Committee on Finance and Budget on Thursday 23rd November, 2023 to present National Treasury's comments on the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No.40 of 2023).

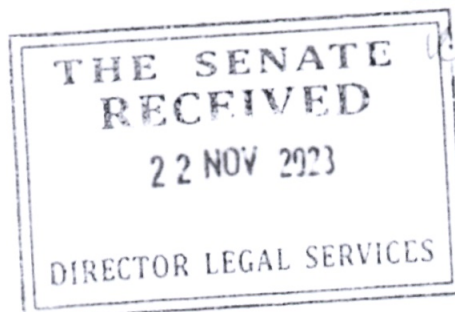
The purpose of this letter, therefore, is to forward to you the National Treasury's comments on the said Bill (please see attached) and further confirm attendance for the said meeting.

Yours

Sincerely,
[Signature]

DSEC
DTF

NJUGUNA NDUNG'U, CBS
CABINET SECRETARY



Kindly deal.
[Signature]
22/11/2023

General comments

1. Proposal on insertion of new Sections 191F and 191G to provide for the costing and funding of transferred functions where a function has been transferred from one level of government.

Article 186 and the Fourth Schedule of the Constitution of Kenya, 2010 provide for the respective functions of the national government and county governments. The Article also provides for concurrent jurisdiction of both levels of government where a function or power is conferred on more than one level of government. Further, the Article makes provision for retention by the national government, of a function or power not assigned by the Constitution or national legislation to a county.

Further, Article 187 of the Constitution of Kenya, 2010 provides for the transfer of functions between the two levels of governments while Article 189 provides for cooperation between and among governments.

In order to operationalize the provisions of Articles 187 and 189, Parliament enacted the Intergovernmental Relations Act, 2012 (IGRA) to establish a framework for consultation and cooperation between the national and county governments and amongst county governments; to establish mechanisms for the resolution of intergovernmental disputes pursuant to Articles 6 and 189 of the Constitution, and for connected purposes. Part III of the IGRA provides for the following matters pertaining to transfer of functions under Article 187 and co-operation under Article 189: (a) transfer and delegation of powers, functions and competencies; (b) principles of transfer or delegation of powers, functions and competencies; (c) agreements on transfer or delegation of powers, functions and competencies; (d) service standards; and (e) public participation.

However, there is no specific provision either in the IGRA and Public Finance Management Act, 2012 to provide for:

- framework for the financial management of transferred functions between the two levels of governments;
- framework for financial management of cooperation between national and a county government or among county governments;
- guiding policies and procedures for cooperation between the two levels and among county governments;
- administrative structures and roles in a cooperation;
- legal instrument for use in effecting a cooperation;
- planning, budgeting, budget execution, accounting & reporting; and
- oversight for transferred functions and cooperation envisaged in Article 187 and 189 of the Constitution, respectively.

We note the proposed **Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40)** has still not provided for the above stated gaps.

We wish to inform the Senate that, the National Treasury, in an effort to provide for full operationalization of the Articles 187 and 189 of the Constitution, has developed a comprehensive draft PFM amendment Bill to comprehensively address public finance management in case of a transfer of function or cooperation between the two levels of government and amongst the county governments. The draft Bill has addressed all the gaps highlighted above and has since undergone public participation and consultation with all relevant stakeholders. The National Treasury undertakes to fast track the process of finalization of the Bill for submission to Cabinet and Parliament for approval.

In this regard therefore, the National Treasury requests the Senate to consider dropping the proposed amendments as contained in the proposed **Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40)** as the draft Bill by the National Treasury, contains comprehensive proposals in regard to transfer of functions and cooperation between the two levels of governments and among county governments.

2. Proposal to amend PFM Act to insert sections 160A and 160B

i. The proposal is in contravention of Section 12(1)(e) of the PFM Act, 2012

The proposed amendment requires County Treasury to design, develop and implement a county revenue collection system in consultation with National Treasury and Kenya Revenue Authority and gives reporting requirements on the same.

The National Treasury is of the opinion that the proposal is in contravention of Section 12(1)(e) of the PFM Act, 2012 which states *inter alia*, that,

“subject to the Constitution and this Act(PFMA), the National Treasury shall design and prescribe an efficient financial management system for the National and county governments to ensure transparent financial management and standard reporting as contemplated by Article 226 of the Constitution.”

A county revenue system is a financial system that addresses collection, administration and management of revenues and is therefore an important aspect of financial management. As highlighted in the above quoted provision of the PFMA, 2012, the law assigns the National Treasury that responsibility and not County Treasuries as envisaged in the proposed amendment.

Further, we note that Sections 163-166 of the PFM, Act, 2012 sufficiently provide for financial reporting including the submission of revenue reports by county governments and their entities. The proposed amendment will therefore duplicate the above existing PFM provisions and create confusion in the reporting requirements sufficiently provided for under the law. Furthermore, it is not clear what value unaudited reports to senate would add given that the Senate receives quarterly reports by the Office of the Controller of Budget as well as auditors reports that are more comprehensive and hence have the required information.

The Proposal to amend Sections 160A & 160B do not therefore, in our view, find merit in light of the above.

ii. Development of an Integrated County Revenue Management System

We wish to inform the Senate that, in line with the *National Policy to Support Enhancement of County Own Source Revenue*, and in its fulfillment of its mandate, the National Treasury through a Multi-Agency Taskforce is in the advanced stages of developing an Integrated County Revenue Management System for use by all counties. Once finalized, the system will provide uniformity among county governments in the administration, collection and management of their revenues.

The National Treasury undertakes to fast-track the above process of recommending a system for use by the counties as envisaged in the PFMA. The system once fully developed will address the issues that the bill seeks to cure through the proposed amendment to Section 160 of the PFMA, 2012.

iii. Conclusion

Based on the above explanations and considering that the proposed amendment contravenes Section 12(1)(e) of the PFMA, 2012, we urge the Senate to drop the proposed PFM amendment to insert new sections 160A and 160B.



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

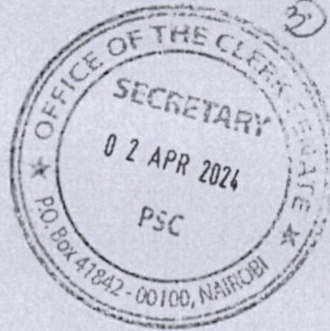
Telegraphic Address: 22921
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THE NATIONAL TREASURY
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NAIROBI
KENYA

When Replying Please Quote

REF: IGFR/CGTF/01/B (66)

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



② DDSEC (D)
Kindly deal
03/04/2024
① DSEC
Kindly deal -
Ep
③ Mr. Gwongwa
Kindly deal
03/04/2024
27th March 2024
DATE
02 APR 2024
DEPUTY CLERK

Dear *Mr. Nyegenye,*

RE: **COMMENTS ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO.40 OF 2023)**

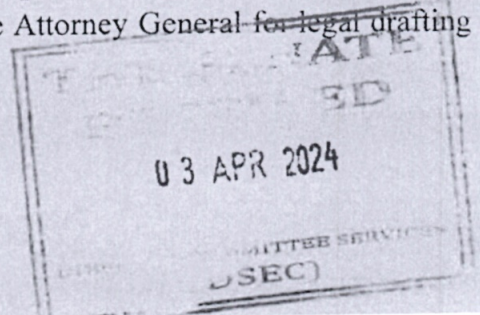
Reference is made to your letter **Ref. SEN/DSEC/F&B/2024/26** dated 22nd March 2024 on the above subject matter.

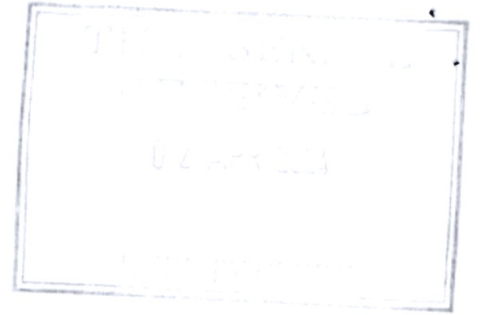
It is observed that you requested the National Treasury to provide specific amendments that may be made for the financing of transferred functions and a status report on the approval of the Public Finance Management (Amendment) Bill developed by the National Treasury.

The Senate invited the Cabinet Secretary, National Treasury and Economic Planning to a meeting with the Senate's Standing Committee on Finance and Budget on 23rd November, 2023 to present National Treasury's comments on the Public Finance Management (Amendment) Bill, 2023 (Senate Bills No.40 of 2023). The purpose of the Bill was to provide for among others, costing and funding of transferred functions where a function has been transferred from one level of government to another level.

The National Treasury, while providing comments on the Bill, requested the Senate to consider dropping the proposed amendments. The Senate was informed that there was a draft Bill (Public Finance Management (Amendment) Bill, 2024) containing comprehensive proposals with regard to transfer of functions between the two levels of governments.

The National Treasury has finalized on development of the Bill and developed a Cabinet Memorandum to seek approval of Cabinet before submitting to Parliament. The Bill and the Cabinet Memorandum will be submitted to the Office of the Attorney General for legal drafting and countersigning to facilitate submission to Cabinet.





**REPUBLIC OF KENYA
THE NATIONAL TREASURY & ECONOMIC PLANNING**

**BRIEF TO SENATE ON STATUS OF DEVELOPMENT OF THE PUBLIC FINANCE
MANAGEMENT (AMENDMENT) BILL, 2024 TO PROVIDE FOR FINANCING OF
TRANSFERRED FUNCTIONS**

I. Background:

1. Article 1 and 6 of the Constitution establishes two levels of government (National Government and county governments) which are distinct and interdependent but requires them to consult and cooperate.
2. Article 186 of the Constitution has provided for assignment of respective functions and powers of the two levels of government as contemplated in the Fourth schedule.
3. Article 187 of the Constitution of Kenya, 2010 (CoK) provides for transfer of functions and powers between levels of government. The Article provides that a function or power of government at one level may be transferred to a government at the other level by agreement between the governments if the function or power would be more effectively performed or exercised by the receiving government; and the transfer of the function or power is not prohibited by the legislation under which it is to be performed or exercised.
4. The Article further requires that if a function or power is transferred from a government at one level to a government at the other level, arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred.
5. The Intergovernmental Relations Act, 2012 (IGRA) was enacted to establish a framework for consultation and cooperation between the National and county governments and amongst

county governments. The IGRA further establishes mechanisms for the resolution of intergovernmental disputes pursuant to Article 6 and 189 of the Constitution.

6. The Public Finance Management Act, 2012 (PFMA) provides for the effective management of public finances by the National and county governments, the oversight responsibility of Parliament and county assemblies and the different responsibilities of government entities and other bodies.
7. Notably, the provisions of both laws do not adequately provide for financial management of transferred functions between the two levels of government.
8. It's against this background that the National Treasury and Economic Planning developed the Public Finance Management (Amendment) Bill, 2024.
9. The Bill proposes to amend the Public Finance Management Act, 2012 to provide for a framework for financial management of transferred functions between the two levels of governments.

II. Salient Features of The PFM (Amendment) Bill, 2024

10. The Bill proposes amendments to the PFMA, by inserting a new Section to provide for: -
 - (i) financing of transferred functions,
 - (ii) costing of transferred functions,
 - (iii) Management of assets and liabilities in relation to transferred function,
 - (iv) Cash flow projections in relation to transferred function,
 - (v) Quarterly and annual financial and non- financial reports in relation to transferred function.

III. Status on the approval of the draft Bill.

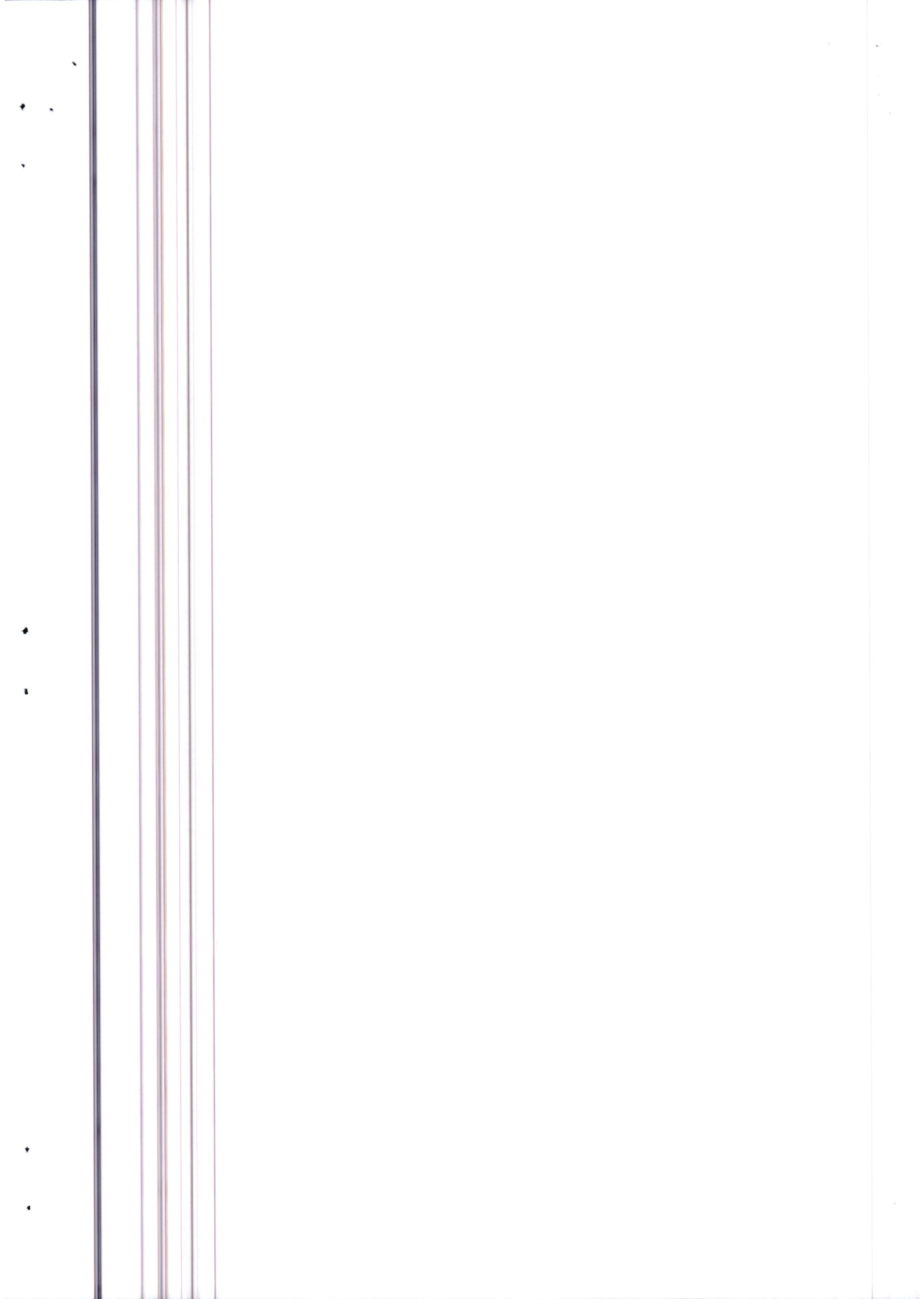
The National Treasury finalised on development of the Bill and developed a Cabinet memorandum to seek approval of Cabinet before submitting to Parliament. The Cabinet Memorandum will be submitted to the Office of the Attorney General for countersigning to facilitate submission to Cabinet.

NJUGUNA NDUNGU, EGH

CABINET SECRETARY/THE NATIONAL TREASURY & ECONOMIC PLANNING

SIGNATURE: _____





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14 Riverside Drive
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P.O. Box 1310 - 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/CSO/P&S/11/VOL.IV(35)

DATE: 10th November 2023

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



RECEIVED
14 NOV 2023

Dear *J.M. Nyegenye,*

RE: MEETING TO SUBMIT VIEWS ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 40 OF 2023)

We acknowledge receipt of your letter dated 7th November, 2023 rescheduling the meeting with the Standing Committee on Finance and Budget to Tuesday 14th November, 2023.

In view of your letter and the upcoming meeting, please find enclosed our memorandum touching on several provisions in the Public Finance Management (Amendment) Bill, 2023 for your consideration.

We thank you for the continued support and collaboration.

Yours

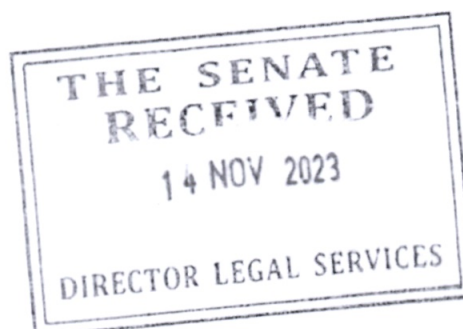
Sincerely

James Katule
CPA James Katule
COMMISSION SECRETARY/CEO

DSKC

DRG

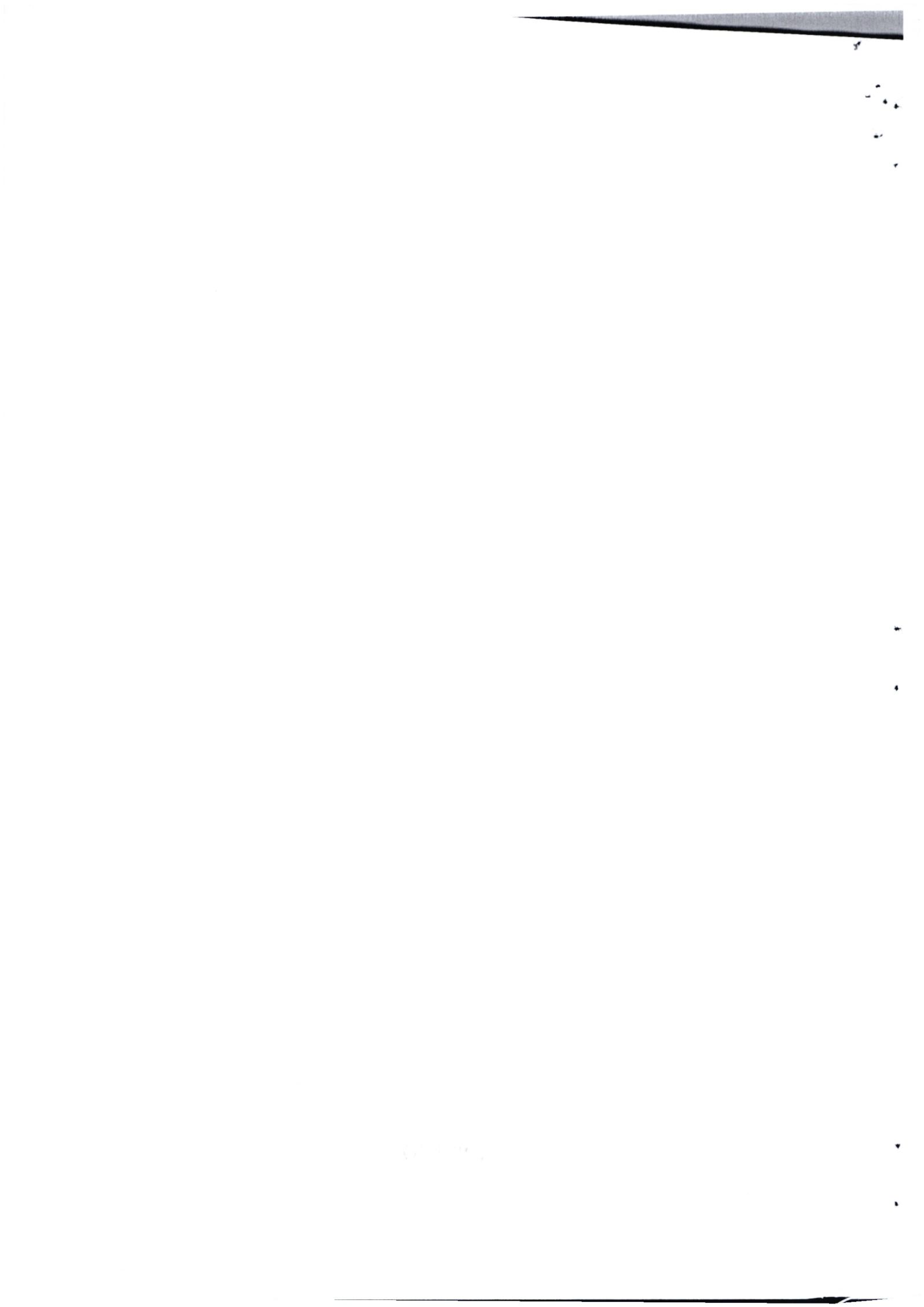
kindly deal



118 pages

14/11/2023

Ms. Raddi
Ms. Wokera
Kindly note & deal
15/11/23





**COMMENTS ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL, 2023**

A. Constitutional Basis of our Memorandum

This memorandum is premised on Chapter 12 of the Constitution, Articles 205(1), 209(5) and 216(2).

1. Of special reference, is Article 205(1), which spells out the requirement to make recommendations to Parliament “(1) When a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate

AND

2. Article 205(2), which states that these recommendations shall be tabled in Parliament, and each house shall consider the recommendations before voting on the Bill.

Specifically, the Commission comments are based on the functions related to the automation of county financial management as defined in Art 216 (2) which mandates the Commission to make recommendations on other matters concerning the financing of, and financial management by, county governments, as required by this Constitution and national legislation.

Further, in formulating recommendations, the Commission shall seek--

- (a) to promote and give effect to the criteria set out in Article 203 (1);
- (b) when appropriate, to define and enhance the revenue sources of the national and county governments; and
- (c) to encourage fiscal responsibility.

B. Clause by Clause Analysis

Serial No.	Clause	Recommendations	Justification for CRA Position
1.	<p>Clause 160A.</p> <p>County government revenue collection system</p>	<p>This amendment under sub clause (1) provides-</p> <p><i>(1) Every County Treasury shall, in consultation with the National Treasury and the Kenya Revenue Authority, design, develop and implement a county revenue collection system within one year of the coming into force of this Act.</i></p> <p><u>Option 1</u></p> <p>a) The wording of this clause leans on unconstitutionality due to use of the word 'shall' in the sense that it makes it mandatory for the counties to consult National Treasury and Kenya Revenue Authority for a mandate that is constitutionally theirs as regards county revenue (Article 209).</p> <p>b) The word 'Shall' also makes it mandatory for county governments to develop individual revenue collection systems.</p> <p>c) In addition to the above, CRA in making its</p>	<p>To align with-</p> <p>a) Article 209 on county autonomy over their revenue streams</p> <p>b) Article 216 of the Constitution on the CRA constitutional mandate</p> <p>c) Section 160 of the Public Finance and Management Act</p> <p>d) Addition of the replacement aspect ensures comprehensiveness</p> <p>e) The Commission supports the one-year period due to the urgency to improve financial management and reduce revenue leakages.</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		<p>recommendations is required under Article 216 (3)(b) to when appropriate, define and enhance the revenue sources of the national and county governments and also encourage fiscal responsibility yet it is omitted in this clause.</p> <p>d) The clause also contradicts the very law it seeks to amend more so section 160 of the PFMA which makes it optional for counties to authorize KRA as a revenue collector, this clause makes it mandatory to involve KRA.</p> <p>Recommendations:</p> <p>a) Delete the word 'shall' before 'National Treasury and Kenya Revenue Authority' and substitute it with the word 'may' to make the consultations optional.</p> <p>b) Add the Commission on Revenue Allocation</p>	

Serial No.	Clause	Recommendations	Justification for CRA Position
		<p><i>as part of the entities to be consulted with in development of the system and also as one of the entities under sub clause (1)</i></p> <p>c) Add 'replace' after the word 'develop' in sub clause (1).</p> <p><u>Option 2</u></p> <p>d) Delete and Substitute the provision with the establishment of an <i>Integrated County Revenue Management System (ICRMS)</i></p> <p><i>(1) Establish A multi-agency Committee comprising of Commission on Revenue Allocation, The National Treasury, Council of Governors, 5 select Counties, State Department of Devolution, the Council of Governors (COG), the Ministry of Information Communication Technology (MICT), Office of the Deputy President State Department for Devolution, the Kenya Revenue Authority (KRA), the Central Bank of Kenya (CBK), the Office of the Controller of Budget (OCOB) appointed by Cabinet Secretary national treasury.</i></p>	<p>a) Insertion of new sub-clause to introduce an integrated revenue system in line with IBEC resolution.</p> <p>b) Based on Article 190 (2) County governments shall operate financial management systems that comply with any requirements prescribed by national legislation</p> <p>c) Based on Article 191(3) (b) where national legislation is prescribed for a matter to</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		<p><i>(2) The Committee shall develop the system within 1 year of appointment.</i></p> <p><i>Function</i></p> <p><i>1(a) The Committee shall design, develop, and coordinate the implementation and adoption of a Single Integrated County Revenue Management System for all the 47 County government</i></p> <p><i>(b) The National Treasury shall provide adequate financial resources to acquire the ICRMS.</i></p> <p><i>(a) Each County Shall implement the ICRMS within 1 year of development of the ICRMS system</i></p> <p><i>(b) Each County Government Shall independently operate the ICRMS.</i></p> <p><i>(3) The Integrated County Revenue Management System shall: -</i></p> <p><i>(a) Be transparent, efficient, effective and verifiable;</i></p> <p><i>(b) Ensure data accuracy, robust security, and legal compliance to protect financial information;</i></p> <p><i>(c) Provide smooth integration with various government systems for unified financial operations;</i></p> <p><i>(d) Respect and promote the distinctiveness of the National Government and the County Government; and</i></p>	<p>be dealt with effectively, requires uniformity across the nation and the national legislation provides that uniformity by establishing norms and standards.</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		<i>(e) Provide discrete accounting functionalities and reporting capabilities.</i>	
2.	Clause 160B. Report on county revenue collection system	<p><u>Option 1</u></p> <p>This clause generally provides for quarterly statements and report by County Treasury on the performance of the <u>county revenue collection system</u> to county assemblies with copies to Senate and the National Treasury.</p> <p>This appears to be a duplication of section 158 and 166 of the PFMA that requires reports that appear to be similar in content to the ones envisioned under these clauses be submitted COB, National Treasury, and CRA.</p> <p><i>Recommendation:</i></p> <p><i>Delete this provision and add the missing recipients to section 158 of the PFMA i.e. county assemblies and Senate</i></p> <p><u>Option 2</u></p> <p><i>Insert sub-clause (4)</i></p> <p><i>(a). A County Treasury shall prepare and submit a quarterly report on the level of adoption and implementation of Integrated Revenue Management System and the revenue streams on</i></p>	<p>(1) To avoid duplication</p> <p>(2) in the event that the reporting is on adoption of the new system, then we provide a measure of performance</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		<p><i>boarded to the system to the respective County Assemblies, CRA, Senate and National Treasury.</i></p> <p><i>(d) In preparing the quarterly statement and report, the County Treasury shall set out information on the success and challenges in the implementation of the system in the respective County. The report should provide information on notable improvement in revenue collection and administration arising from the system.</i></p>	
3.	<p>Clause 191F Functions transferred to National Government</p>	<p>Sub clause 1 reads-</p> <p><i>Where the National Government has transferred a function to a county government pursuant to Article 187 of the Constitution, The Cabinet Secretary shall determine the cost of the transferred function.</i></p> <p>Recommendation: add the phrase <i>“in consultation with the respective county government”</i> after the word <i>“function”</i>.</p>	<p>For transparency and accountability and to alleviate bias.</p>
4.	<p>Marginal notes to clauses 191F and 191G</p>	<p>Marginal notes for these two clauses are wrongly placed.</p> <p>Recommendation: Inter-change the marginal notes as follows-</p>	<p>The marginal notes are misplaced</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		191F 'Functions transferred to County Governments' and 191G to read 'Functions Transferred to National Government'	
5.	Clause 191(G) Functions transferred to county governments	<p>Under sub clause 191(G)(4) the provision reads-</p> <p><i>(4) A national government entity to which a county government function has been transferred shall submit a quarterly report to the Senate and the respective county assembly on the status of the discharge of the devolved function.</i></p> <p>Recommendation: substitute the phrase "to the Senate" with the phrase "to Parliament" so as to include the National Assembly.</p>	National Assembly has an oversight responsibility to the National government and should therefore receive copies of the report when a county government has transferred functions to the National Government.



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023 (SENATE BILLS NO.40)

TO

THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET

FROM

THE COUNCIL OF GOVERNORS



COUNCIL OF GOVERNORS

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 Article 6 (2)

In further recognition of the need to ensure that all legislation is cognizant of devolved governments; and

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 Public Finance Management (Amendment) Bill, 2023, the Council of Governors on behalf of the 47 County Governments submits the proposals highlighted herein below for consideration:

A. GENERAL COMMENTS.

1. The Council appreciates the principal object of the Bill to anchor County governments' revenue collection systems into law and further to provide for the process of funding for of functions that have been transferred from one level of government to another under Article 187 of the Constitution. **We wish to note that a significant number of Counties are already implementing revenue collection systems that ought to be recognized by this law as public resources have been used.**
2. We also wish to bring to the attention of the Senate of efforts to establish an **Integrated County Revenue Management System (ICRMS)** with the principal object being to standardize the systems across the 47 Counties. This was due to the Presidential Directive on 7th February 2019 that Counties should have an ICRMS to eliminate unnecessary cost duplication by the Counties as they procure different systems at different costs. Following this directive, a multi-agency taskforce was established and have since come up with a report pending implementation. The view of the Council is that ICRMS does not conform to the distinctness of the County governments as required by the Constitution of Kenya. **The Senate should therefore be alive to this matter and consider legislating accordingly to protect the interests of the County governments.**



COUNCIL OF GOVERNORS

B. SPECIFIC CONCERNS

The Council proposes the following specific amendments to the Public Finance Management (Amendment) Bill, 2023:

Section	Provision	CoG's proposal	Rationale/Justification
County revenue collection System 160A	160A. (1) A County Treasury shall, in consultation with the National Treasury and the Kenya Revenue Authority, design, develop and implement a county revenue collection system within one year of the coming into force of this Act.	Delete the phrase “ in consultation with the National Treasury and the Kenya Revenue Authority ” appearing immediately after the word “shall” to read as follows: 160A. (1) A County Treasury shall design, develop and implement a county revenue collection system within one year of the coming into force of this Act.	The Bill has pronounced itself on the need for the system to respect the distinctiveness of the two levels of government which is in line with Article 6 (2) of the Constitution. Therefore, to ensure that this distinctness is respected the Counties should not be compelled to consult or rely on the National Treasury and Kenya Revenue Authority while designing and developing the system. The Counties should be at liberty to consult any institution/entity/agency that will result in developing the desired system as this will allow wider and more meaningful consultations.
	New clause	Insert a new clause immediately after 160A. (1) to read as follows: In designing and developing the	This is to ensure that the technical assistance or expertise sought by Counties is not limited to only 2 institutions as there are other institutions



COUNCIL OF GOVERNORS

		<p>system a County may consult the National Treasury, Kenya Revenue Authority, or any other entity/institution it will deem necessary.</p>	<p>such as the Commission on Revenue Allocation that could be instrumental in the process of designing and developing the system.</p> <p>Secondly, over time Counties have developed the requisite capacity to design and develop a system without necessarily having to consult the National Treasury or Kenya Revenue Authority.</p>
<p>Report on county revenue collection system.</p> <p>160B</p>	<p>160B (2) The County Treasury shall submit copies of the quarterly statement and report to the Senate and the National Treasury.</p>	<p>Delete the words “Senate and the National Treasury” and replace therefor with “Controller of Budget and the Commission on Revenue Allocation” to read as follows:</p> <p>160B (2) The County Treasury shall submit copies of the quarterly statement and report to the Controller of Budget and the Commission on Revenue Allocation.</p>	<p>Revenue collection is an administrative and budget performance matter and therefore reports to either the Senate or the National Treasury should not be compulsory as they are bereft of any legal backing. Additionally, any other Financial and Non-financial reports to the National Treasury are already provided for in the PFM Act, 2012.</p> <p>On reports to the Senate for purposes of oversight, Article 96 (3) of the Constitution of Kenya, 2010 is only on national revenue allocated to the county</p>



COUNCIL OF GOVERNORS

			<p>governments. Revenue collected by the County governments through the system does not constitute national revenue.</p> <p>Article 96 (3): <i>“The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.”</i></p> <p>In any case, the Senate is entitled to receive reports on implementation of County budgets by dint of Article 228 (6) which provides as follows: <i>“Every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the national and county governments.</i> The Controller of Budget therefore is Constitutionally aligned to receive such reports.</p> <p>On the part of the Commission on Revenue Allocation, our proposal for</p>
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COUNCIL OF GOVERNORS

		<p>their inclusion to receive the reports is based on Article 216 of the Constitution which gives the CRA the function of making recommendations seeking to enhance the revenue sources of the national and county governments. It is our view therefore, that the reports to CRA on revenue performance of the Counties may aid in making such recommendations.</p> <p>Article 216 (2): “The Commission shall also make recommendations on other matters concerning the financing of, and financial management by, county governments, as required by this Constitution and national legislation.</p> <p>(3) In formulating recommendations, the Commission shall seek— (b) when appropriate, to define and enhance the revenue sources of the national and county governments.”</p>
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COUNCIL OF GOVERNORS

<p>Transition Provisions</p>	<p>Insert new clause</p>	<p>Insert a new clause to read as follows:</p> <p>Any revenue collection system designed, developed and implemented by a county government prior to the commencement of this Act shall be deemed to have been designed, developed and implemented in accordance with this Act.</p>	<p>Most of the County governments are already implementing various revenue collection systems with resources having been committed and spent thus far. Therefore, to prevent lose of public resources from procurement of a new system occasioned by this amendment, there is need for recognition of existing systems. Without transitional provisions, County governments may be forced to design, develop and implement a revenue collection system afresh which may lead to wastage of resources in cases where systems already exist.</p>
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National News

Advice Court dismisses application by Aimi ma Lukenya Society to stop the demolitions on EAPCC land in Mavoko
Vacate public land now, Wahome warns

Cabinet secretary says having a share certificate is not enough for anyone to claim ownership of any parcel of land

BY NYABOGA KIAGE AND PIUS MAUNDU

Anyone who is currently occupying public land should vacate with immediate effect, Lands Cabinet Secretary Alice Wahome has said. In what looks like a move to play catch up in order to avert more Kenyans from losing their property as it happened in the Mavoko land case, the CS said the eviction processes will be implemented by the Ethics and Anti-Corruption Commission (EACC), Anti-Recovery Agency (ARA) and the National Police Service.

Wahome, who was recently transferred to the ministry, also warned Kenyans that having a share certificate is not enough for anyone to claim ownership of any piece of land.

"The ministry wishes to send out a strong message that any person on public land should vacate with immediate effect. I wish

to advise the public that there are people out there conning members of the public to buy land using share certificates. Share certificates are not legal documents to confirm ownership," Ms Wahome said.

The CS, who was accompanied by the ministry's principal secretary Nixon Korir, asked Kenyans to carry out due diligence by checking the status of the parcels they want to purchase from the Lands ministry, where they will be given maps from the survey department.

In relation to Mavoko land which has hit the headlines, Ms Wahome and Mr Korir said records at the ministry clearly show that it belongs to the East African Portland Cement Company (EAPCC).

"Any other documents purported to be held in respect to the said land do not originate from this office. The ministry has already forwarded the relevant documents to the office of the Director



Lands Cabinet Secretary Alice Wahome after officially opening the Regional Conference on Customary Tenure Rights in Eastern Africa in Nairobi on Tuesday. WILFRED NYANGARESI / INATION

The ministry wishes to send out a strong message that any person on public land should vacate with immediate effect

Lands CS Alice Wahome

of Criminal Investigations (DCI) to support them in the ongoing investigations," she said.

Until a week ago, some of the people who were occupying the Mavoko land were paying money meant for acquiring title deeds after they were asked to do so by the management of Aimi Ma Lukenya Sacco management.

Asked whether the ministry will compensate the people whose buildings were demolished, Ms Wahome said the only people who will do so are those who fraudulently sold the land to them. "Those who sold the parcel of land knowing very well that they did not own it are the peo-

ple who should do the compensation," she said.

Yesterday the Environment and Lands Court sitting in Machakos dismissed an application to stop the demolition of houses on the EAPCC land in Mavoko.

Lady Justice Annet Nyukuri said the application by Aimi ma Lukenya Society, which claims the land, did not meet the legal threshold to warrant an injunction. "There is no evidence to support the plaintiff's claim that it purchased the property in question. Therefore, I find that the applicant has failed to establish a prima facie case," Ms Nyukuri said.

Wiper leader Kalonzo Musyoka represented the Aimi ma Lukenya Society in the application, which followed a ruling by the same court in favour of EAPCC.

Mr Musyoka had argued that the demolitions, which started on Friday last week, were a violation of the right to housing and a crime against human rights. But Ms Nyukuri said Mr Musyoka had introduced the human rights issue as an afterthought.

Machakos Governor Wavinya Ndeti had led a team of county officials to attend the hearing.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | SECOND SESSION
THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sittings of the Senate held on Tuesday, 17th October, 2023 and Wednesday, 18th October, 2023, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills 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 the email addresses of the respective Committee indicated at the fourth column below, to be received on or before Friday, 3rd November, 2023 at 5:00 p.m.

Bill	Committee Referred To	Email Address
a) The Public Holidays (Amendment) Bill, 2023 (Senate Bills No. 31 of 2023)	Standing Committee on National Security, Defence and Foreign Relations	senate.nsdfr@parliament.go.ke
b) The Parliamentary Powers and Privileges (Amendment) Bill, 2023 (Senate Bills No. 37 of 2023)	Standing Committee on Justice, Legal Affairs and Human Rights	senatellahrc@parliament.go.ke
c) The Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 39 of 2023)	Standing Committee on Roads, Transportation and Housing	roadstranshousingcomm.senate@parliament.go.ke
d) The Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40 of 2023)	Standing Committee on Finance and Budget	financebudgetcomm.senate@parliament.go.ke
e) The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023)	Standing Committee on Trade, Industrialization and Tourism	tradeindtourismcomm.senate@parliament.go.ke
f) The Energy (Amendment) Bill, 2023 (Senate Bills No. 42 of 2023)	Standing Committee on Energy	energycommittee.senate@parliament.go.ke
g) The Sugar Bill, 2023 (National Assembly Bills No. 34 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries	agriculturecomm.senate@parliament.go.ke

The Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

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



SUOMI
 FINLAND



giz

INVITATION TO TENDER: TENDER FOR SUPPLY OF ASSORTED BRANDED MERCHANDISE- 91176330

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is implementing technical cooperation measures on behalf of the Government of the Republic of Finland and the Federal Republic of Germany.

The GIZ Office Nairobi invites bidders to submit, **free of charge, and without obligation on part of GIZ**, a bid based on the indicated terms and conditions. Non-conformity to all conditions mentioned will lead to exclusion of the bid. Bids should be submitted in the requested quantity. Partial or incomplete bids will be considered non-responsive.

Send a blank email expressing your interest with tender reference GIZ/91176330 in the subject line to KE_Inquiry@giz.de between 20.10.2023 to 24.10.2023. When sending a blank email, please enable email tracking or delivery receipt/confirmation on your email so that you can easily track if the email reached us.

You will receive tender documents with further information on 25.10.2023, thereafter no tender documents will be received. Clarification requests must be sent through the email KE_Inquiry@giz.de by 26.10.2023 at 14:00hrs to be responded to via email by 26.10.2023.

If interested, please submit your stamped and signed technical proposal, requested eligibility documents separately from financial offer (as per price schedule) as attachments in two separate emails via the following email: KE_Inquiry@giz.de upon receipt of the tender documents on the stated date above.

NOTE: Please enable email tracking when sending your response/s to GIZ. This is to ensure that if an email is not received, we can use the email tracking information to determine exactly what time the email reached our servers.

General Purchase Conditions and Procurement procedures of GIZ apply.

Deadline for Submission: 31.10.2023 before midnight.

Bidders **WILL NOT** be allowed to contact or discuss any aspect of the tender with GIZ before closing of the tender as this will lead to automatic disqualification. All clarifications to this tender to be channelled through the official email, KE_Inquiry@giz.de.