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SCHEDULE – FORM OF PETITION

**THE PETITION TO COUNTY ASSEMBLIES
(PROCEDURE) BILL, 2018**

A Bill for

AN ACT of Parliament to give effect to Article 37 of the Constitution on the right to petition a county assembly; to provide the procedure for the exercise of that right; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Petition to County Assemblies (Procedure) Act, 2018. Short title.
2. In this Act— Interpretation.
 - “clerk” means a Clerk of a county assembly;
 - “petition” means a written prayer to a county assembly under section 15 of the County Governments Act; No. 17 of 2012.
 - “petitioner” means a person who petitions a county assembly;
 - “register” means the register maintained by a Clerk under section 6; and
 - “Speaker” means a Speaker of a county assembly.
3. A petition to a county assembly shall be in the form set out in the Schedule and shall— Form of petition.
 - (a) be handwritten, printed or typed;
 - (b) be in English or Kiswahili;
 - (c) be written in respectful, decorous and temperate language;
 - (d) be free of alterations and interlineations in its text;
 - (e) be addressed to the county assembly;
 - (f) have its subject-matter indicated on every sheet if it consists of more than one sheet;
 - (g) indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory;

- (h) indicate whether the issue in respect of which the petition is made is pending before any court of law or other constitutional or legal body;
- (i) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners with regard to the matter to which it relates;
- (j) subject to paragraph (n), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (k) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (l) not have any letters, affidavits or other documents annexed to it;
- (m) in the case of a petition presented by a member of a county assembly on behalf of a petitioner, be countersigned by the member presenting it; and
- (n) be signed by the petitioner, or if the petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.

4. (1) A petition to a county assembly shall be—

Procedure for presenting petition.

- (a) submitted to the respective Clerk by the petitioner; or
- (b) presented by a member of the county assembly on behalf of a petitioner, with the consent of the Speaker.

(2) Despite subsection (1)(b), a member of a county assembly is not eligible to present a petition on his or her own behalf.

(3) The Clerk shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements specified under section 3.

(4) Where the Clerk considers that a petition does not comply with section 3, the Clerk may give such directions as are necessary to ensure that the petition is amended to comply with that section.

(5) A petition shall not be rejected merely because it is not addressed to the Clerk of a county assembly.

5. (1) The Clerk shall, if satisfied that the petition meets the requirements specified under this Act, forward the petition to the Speaker for reporting in the county assembly.

Consideration of a petition.

(2) The Clerk shall, if satisfied that the petition meets the requirements specified under this Act, forward the petition to the Speaker for reporting in the county assembly.

(3) A petition that is reported in a county assembly under this Act shall be considered in accordance with the Standing Orders of the county assembly.

(4) Notwithstanding sub-section (2), the relevant county assembly committee may in considering the petition—

- (a) invite the petitioner to clarify or submit such further information as the committee may consider necessary; and
- (b) conduct public hearings with respect to the petition.

(5) The respective county assembly may debate the report of a committee on a petition, and may either approve, vary the recommendations of, or reject the findings and recommendations of the relevant county assembly committee.

(6) The Clerk shall, within fourteen days of the decision of the county assembly, in writing, notify the petitioner of the decision of the county assembly.

6. (1) The Clerk shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the county assembly on the petitions.

Register of petitions.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

7. Section 15 of the County Governments Act is amended by deleting subsection (2) and substituting therefor, the following new subsection—

Amendment of
section 15 of No.
17 of 2012.

(2) The procedure for the exercise of the right to petition a county assembly under sub-section (1) shall be as set out in the Petition to County Assemblies (Procedure) Act and in the Standing Orders of the relevant county assembly.

SCHEDULE

[s. 3]

FORM OF A PETITION

Petition to the county assembly of (state the relevant County)

I/We, the undersigned,

(Here, identify in general terms, who the petitioner or petitioners are, for example, citizens of Kenya, residents of County, workers ofindustry, etc.)

DRAW the attention of the county assembly to the following:

(Here, briefly state the reasons underlying the request for the intervention of the county assembly by outlining the grievances or problems and by summarizing the facts which the petitioner or petitioners wish the county assembly to consider.)

THAT

[Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give any response or a satisfactory response.]

THAT

[Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.]

WHEREFORE your humble petitioner(s) Pray that the county assembly—

(Here, set out the prayer by stating in summary what action the petitioner(s) wish the county assembly to take or refrain from.)

And your PETITIONER(S) will ever Pray.

Name of petitioner

Full Address

National ID or Passport No.....

Signature/ Thumb impression

* This form may contain such variations as the circumstances of each case may require

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The main objective of this Bill is to provide for the procedure for petitioning a county assembly. Article 37 of the Constitution provides that every person has a right to present petitions to public authorities. Section 15 of the County Governments Act specifically provides for the right to petition a county assembly. On the procedure for the exercise of the right, section 15(2) of the County Governments Act requires each county assembly to provide for the procedure to be applied in the respective county assembly. This may result in the enactment of different procedures for petitioning county assemblies across the forty-seven counties. This Bill therefore seeks to provide a uniform and harmonized procedure that would apply in all county assemblies. The procedure is similar to that applicable to the national Parliament as set out in the Petition to Parliament (Procedure) Act, No. 22 of 2012.

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

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

Statement of how the Bill concerns County Governments

One of the functions of the county assemblies in terms of section 37 of the Constitution and section 15 of the County Governments Act is to consider petitions that are lodged with the respective county assemblies. Petitions cover a wide range of the matters that fall within the functions and powers of the county government. This Bill seeks to provide a uniform and harmonized procedure by which the county assemblies are to receive, consider and dispose of petitions lodged with the county assemblies. As such the Bill affects the powers and functions of the county governments and it is therefore a Bill that concerns county government in terms of Article 110 (1) (a) of the Constitution.

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

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

Dated the 13th June, 2018.

JUDITH PARENO,
Senator.