

PARLIAMENT OF KENYA
THE SENATE
SENATE BILLS DIGEST
THE SPORTS (AMENDMENT) (NO. 2) BILL, 2024
(SENATE BILLS NO. 45 OF 2024)

Sponsor: Sen. Tom Ojienda and Sen. Raphael Chimera Mwinzangu
Date of Publication: 27th August, 2024
Date of First Reading: 8th October, 2024
Committee referred to: Standing Committee on Labour and Social Welfare
Type of Bill: Ordinary Bill

1. PURPOSE OF THE BILL

The purpose of this Bill is to amend the Sports Act (Cap 223), to create county academies of sports in all the counties. The Bill also seeks to protect minors engaged in sports from all forms of abuse and exploitation, whether physical, emotional or financial.

2. BACKGROUND OF THE BILL

Paragraph 4(h) of Part 2 of the Forth Schedule to the Constitution of Kenya lists sports and cultural activities and facilities as a function of county governments. Under Vision 2030, the government was to undertake a number of programs to promote sports development as source of employment for the youth including—

- (a) facilitation and encouragement of better management of sports;
- (b) establishment of facilities for five sports (football, swimming, basketball, netball volleyball) in each of the County Youth Development Centre of Excellence; and
- (c) upgrading existing sporting facilities at the county level to accommodate swimming, tennis, basketball and rugby.

The Public Finance Management, Sports, Arts and Social Development Fund was created to provide funding to support the development and promotion of sports and arts and the promotion of social development including universal health care.

The development and promotion of sports and arts in the counties continue to face difficulties despite National government interventions hence the need for a new framework for funding of sports and arts in the counties.

Current Law

The Sports Act, Cap.233, under Part IV provides for the establishment of Kenya Academy of Sports at the National level only.

Public Finance Citation Management (Sports, Arts and Social Development Fund) Regulations, 2018, object and purpose include, among others—

- (a) promotion of social development including universal health care;
- (b) financing the development of sports and recreation facilities including stadia, gymnasiums, buildings, tracks;
- (c) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions; and
- (d) facilitation for the acquisition and provision of equipment to sports and recreation facilities...

The proceeds of the Fund shall be apportioned as follows—

- (a) an amount not exceeding sixty percent to social development including universal health care;
- (b) an amount not exceeding thirty-five percent to the promotion and development of sports;
- (c) an amount not exceeding twenty percent to the promotion and development of arts; and
- (d) an amount not exceeding five percent to government strategic interventions whose expenditure shall be subject to approval by Cabinet.

Shortcomings of the current law

The two legislations have failed to address the issue of development and promotion of sports in the counties hence the need for a new legislation that is specific to the county governments.

The current law is also silent on management of minors' engagement in sports hence the need for this Bill.

The rationale for the Bill

The Bill therefore, seeks to establish a county sports academy in each county. The Bill additionally seeks to protect minors engaged in sports from child abuse and exploitation

3. OVERVIEW OF THE BILL

Who is to establish county sports academies?

The Bill mandates each county government to establish and maintain at least one county academy within its jurisdiction.

What are the objectives of a county academy?

The objectives of a county academy are to—

- (a) identify and nurture sporting talent within the county;
- (b) provide specialised coaching and training in various sports disciplines; and
- (c) collaborate with the Kenya Academy of Sports in talent development within the county.

Management of a county academy.

Each county academy shall be managed by a county academy management committee comprising of—

- (a) the respective county executive committee member or a county public officer designated by the member in writing;
- (b) county executive committee member responsible for matters relating to finance or a county public officer designated by the member in writing;
- (c) three other persons appointed by the County Public Service Board from among persons with expertise in sports management, management of sports facilities and coaching; and
- (d) two persons representing national sports organisations at the county level.

Does a county academy have a manager?

Under the Bill, each county academy shall have a manager who shall be appointed for a term of three years and may be reappointed once for a final term of three years.

What are the sources of funds of a county academy?

The Bill provides for funds of the county academy to comprise of—

- (a) such moneys as may be appropriated by the respective county assembly for purposes of the county academy;
- (b) gifts, grants, loans and additional allocations made to the academy; and
- (c) money from any other source received by the county academy for the performance of its functions under the Bill.

How does the Bill address protection of minors involved in sports?

The Bill provides for protection from child abuse and exploitation of minors involved in sports as follows—

- (a) institutions involved in sports shall put in place measures to ensure the physical and emotional well-being of minors participating in sports;
- (b) all sports programmes targeting minors shall provide the minors with an adequate sports education and training in line with the highest national standards;
- (c) all sports programmes targeting minors shall guarantee the minor access to basic education, in addition to sports education and training, which will allow the minor to pursue a career other than sports should the minor cease playing professional sports;
- (d) no contract involving a minor shall be valid unless it signed by the minor's parent or guardian; and if it is a professional sports contract, the minor involved has attained the age of seventeen years;
- (e) minors shall only be represented by agents who are accredited by the national sports association in charge of the relevant sport in Kenya; or by the international association in charge for the relevant sport for cross-border representation;
- (f) all local transfers shall comply with the rules of the national sports organisation in charge of the relevant sport in Kenya.

What are the provisions of the Bill on international transfer of minors?

Under the Bill any international transfer of a minor shall comply with the rules of—

- (a) national immigration laws;
- (b) international conventions on migration ratified by Kenya;
- (c) the national sports organisation in charge of the relevant sport in Kenya;
- (d) the international association to which the national sports organisation is affiliated;
and
- (e) the national sports organisation in charge of the relevant sport in the country of transfer.

Every international transfer contract shall be endorsed by the national sports organisation in charge of the relevant sport in Kenya.

4. CONSEQUENCES OF THE BILL

The Bill will lead to development of county academies of sports is therefore in fulfilment of the county government’s responsibilities under the paragraph 4(h) of Part 2 of the Fourth Schedule to the Constitution that lists cultural activities, public entertainment and public amenities, including sports and cultural activities and facilities as a function of county governments.

How does the Bill concern the public?

The Bill will enable counties to nurture talent development of talent in sports and develop their capacity on sports management.

5. WAY FORWARD

What next?

Pursuant to standing order 145 of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare shall facilitate public participation and shall take into account the views and recommendations of the public when the committee submits its report to the Senate.

What is expected of the members of public?

The members of the public are expected to present their views to the Standing Committee on Labour and Social Welfare for its consideration.

Next step

The Bill was Read a First Time in the Senate on 8th October, 2024. Pursuant to standing order 148 of the Senate Standing Orders, the Committee is required to submit its report to the Senate within thirty (30) calendar days of the committal of the Bill to the Committee, therefore, by 8th November, 2024.

Note:

1. This Digest reflects the Bill as published and does not cover any subsequent amendments to the Bill made after its publication.
2. The Digest does not have any official legal status.