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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – THIRD SESSION

THE SENATE

Devolution and
Intergovernmental
Relations
Chairperson

STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS

REPORT ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT)

BILL, 2024

(SENATE BILLS NO. 12 OF 2024)

② Hon. Speaker
You may approve for
tabling. MA
15/10/24

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

① Clerk
Forwarded and recommended
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September, 2024

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LIST OF ABBREVIATIONS/ ACRONYMS

CAF	-	County Assembly Forum
COG	-	Council of Governors (The Council)
CRA	-	Commission on Revenue Allocation
IGRTC	-	Intergovernmental Relations Technical Committee
SOCATT (K)-		Society of Clerks at The Table (in Kenyan County Legislatures)
SRC	-	Salaries and Remuneration Commission

PRELIMINARIES

Mandate of the Committee

The Senate Standing Committee on Devolution and Intergovernmental Relations is established under the Standing Order 228 (3) and the Fourth Schedule of the Senate Standing Orders. The Committee is mandated to “*consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments, cities, towns and urban areas.*”

Membership of the Committee

1. Sen. Sheikh Mohamed Abass, MP	-	Chairperson
2. Sen. Catherine Muyeka Mumma, MP	-	Vice Chairperson
3. Sen. (Dr) Oburu Oginga, MGH, MP	-	Member
4. Sen. Richard Momoima Onyonka, EBS, MP	-	Member
5. Sen. Peris Pesi Tobiko, CBS, MP	-	Member
6. Sen. Mohamed Said Chute, MP	-	Member
7. Sen. George Mungai Mbugua, MP	-	Member
8. Sen. Hezena M. Lemaletian, MP	-	Member
9. Sen. David Wafula Wakoli, MP	-	Member

The Minutes of the Committee sittings in considering the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024) are attached to this Report collectively as *Annex 1*.

CHAIRPERSON'S FOREWORD

Mr. Speaker,

The Intergovernmental Relations (Amendment) Bill, (Senate Bills No. 12 of 2024) was drafted by Directorate of Legal Services Senate with the approval of Senate Leader of the majority Party, Sen. Aaron Cheruiyot, MGH, MP.

The Bill seeks to enhance both vertical and horizontal intergovernmental relations by proposing to change the name of Intergovernmental Relations Technical Committee (IGRTC), and enhance its functions and powers in handling intergovernmental relations between the County Governments and the National Government. Additionally, the Bill anchors in law the Council of Governors (COG) Secretariat, the County Assemblies Forum (CAF) and its Secretariat to strengthen their role in intra governmental relations.

The Bill was published on 7th March, 2024 and read a first time in the Senate on Wednesday, 8th May, 2024. Following the First Reading in the Senate, the Bill stood committed to the Standing Committee on Devolution and Intergovernmental Relations for consideration pursuant to standing order 145(1) of the Senate Standing Orders.

In compliance with the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. The committee published an advertisement in the Daily Nation and Standard newspapers on Thursday, 16th May, 2024, inviting stakeholders and members of the public to submit any representations that they may have on the Bill by way of written memoranda.

In response to the advertisement and invitations, the Committee received written memoranda and further, conducted a public participation on the Bill on Monday, 15th July, 2024 at the County Hall Mini Chamber. The stakeholders who presented their oral and written submissions to the Committee were; Council of Governors (COG); County Assembly Forum (CAF); State Department for Devolution; Intergovernmental Relations Technical Committee (IGRTC); Society of Clerks At The Table (SOCATT); Commission on Revenue Allocation (CRA); and Mr. Kinuthia Wamwangi.

The Committee thereafter proceeded to consider extensively the provisions of the Bill and the submissions received thereon. Based on its deliberations, the Committee has made various observations which are set out in Chapter Four of this report. The final recommendation by the Committee is that the Senate proceeds to consider and pass the Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024) **with amendments** as proposed by the Committee.

Mr. Speaker,

May I take this opportunity to commend the Members of the Standing Committee on Devolution and Intergovernmental Relations for their devotion and commitment to duty, which made the consideration of the Bill successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the continued and steadfast support extended to the Committee in undertaking this important assignment. Lastly, I wish to acknowledge and thank the stakeholders who submitted written memoranda and who appeared before the Committee to present their comments on the Bill.

Mr. Speaker,

It is now my pleasant duty, pursuant to standing order 148 (1), to present the Report of the Standing Committee on Devolution and Intergovernmental Relations on the Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024).

Signed.....

Date.....

SEN. SHEIKH MOHAMED ABASS, MP

CHAIRPERSON,

**STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL
RELATIONS**

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON
DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON THE
INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE
BILLS NO. 12 OF 2024)**

We, the undersigned Members of the Standing Committee on Devolution and Intergovernmental Relations, do hereby append our signatures to adopt this Report-

Sen. Sheikh Mohamed Abass, MP	- Chairperson	
Sen. Catherine Muyeka Mumma, MP	-Vice-Chairperson	
Sen. (Dr.) Oburu Oginga, MGH, MP	-Member	
Sen. Richard Momoima Onyonka, EBS, MP	-Member	—
Sen. Peris Pesi Tobiko, CBS, MP	-Member	—
Sen. Mohamed Said Chute, MP	-Member	—
Sen. George Mungai Mbugua, MP	-Member	
Sen. Hezena M. Lemaletian, MP	-Member	—
Sen. David Wafula Wakoli, MP	-Member	

CHAPTER ONE: OVERVIEW OF THE BILL

1.1 Background

1. The Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024) is sponsored by Sen. Aaron Cheruiyot, MGH, MP, Senate Majority Leader. The Bill was published on 7th March, 2024 and read a first time in the Senate on Wednesday, 8th May, 2024. Following the First Reading in the Senate, the Bill stood committed to the Standing Committee on Devolution and Intergovernmental Relations for consideration pursuant to standing order 145(1) of the Senate Standing Orders. A copy of the Bill is attached to this Report as *Annex 2*.

1.2 Justification of the Bill

2. **Article 6 and Article 189** of the Constitution of Kenya, 2010 acknowledge the distinct and inter-dependent nature of the governments at the national and county levels, and provide for consultation and cooperation between the governments and among the county governments when conducting their operations.
3. The Bill intends to enhance both vertical and horizontal intergovernmental relations by proposing to change the name of Intergovernmental Relations Technical Committee (IGRTC) and enhance its functions and powers in handling intergovernmental relations between the County Governments and the National Government. Additionally, the Bill anchors in law the Council of Governors (COG) Secretariat, the County Assemblies Forum (CAF) and its Secretariat to strengthen their role in intra governmental relations.

1.3 Objects of the Bill

4. The principal purpose of the Bill is to —
 - a) establish a structured framework for intergovernmental and intra governmental relations;
 - b) change the name of the Intergovernmental Relations Technical Committee to Intergovernmental Relations Agency;

- c) provide for the Council of Governors Secretariat and County Assemblies Forum and its Secretariat; and
- d) provide for their role in horizontal intergovernmental relations.

1.4 Overview of the Bill

- 5. **Clause 1** of the Bill sets out the short title of the Bill.
- 6. **Clause 2** of the Bill proposes to change the name of the Intergovernmental Relations Technical Committee by introducing a new definition of the word “agency” to mean the Intergovernmental Relations Agency established under section 11. Clause 2 also proposes deletion of the definitions of the word “secretariat” and “technical committee”.
- 7. **Clause 3** of Bill seeks to amend Section 11 of the principal Act by deleting the words “Technical Committee” in subsection 1, 2, 3 and 6, and substituting therefor the word “Agency”. The Clause intends to remove the Principal Secretary responsible for matters Devolution from the Intergovernmental Relations Technical Committee. Clause 3 further proposes to delete sub-section 4 and 5 and substitute with new subsections that provide for the qualifications for appointment of the Chairperson and members of the proposed Agency and their terms of service.
- 8. **Clause 4** of the Bill intends to amend Section 12 of the principal Act to enhance the functions of the Intergovernmental Relations Agency to include following up on summit resolutions, maintaining a repository of information and knowledge on intergovernmental matters, facilitating dispute resolution between the national government and county governments, coordinating the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution and witness the execution of all relevant legal instruments pertaining to the transfer of functions.
- 9. **Clause 5** proposes the insertion of a new section 12A to give the Intergovernmental Relations Agency powers to;

- a) gather any relevant information from any source including any State organ, and to compel the production of such information where it considers necessary;
 - b) hold inquiries for the purposes of performing its functions under the Act;
 - c) take any measures it considers necessary to ensure compliance with the principles of cooperation between the national and county governments set out in Articles 6 and 189 of the Constitution;
 - d) issue directions with respect to intergovernmental disputes under this Act; and
 - e) summon any person to appear before it for the purposes of performing its functions under this Act.
10. **Clause 6** of the Bill proposes to amend subsection 1 under Section 13 of the principal Act, by replacing the words “Technical Committee” with the word “Agency”.
 11. **Clause 7** seeks to amend Section 14 by replacing the words “technical committee” with the word “Agency” in the introductory phrase. The Clause also seeks to provide for accountability to the Summit and quarterly submission of reports to parliament by replacing the words “the Council” with the word “Parliament” in paragraph (a) and deleting the words “and to the Council” in paragraph (b).
 12. **Clause 8** proposes to amend Section 15 of the principal Act by replacing the words “Technical Committee” with the word “Agency” in subsection 1, 2 and 5 (a), (e), (f). Clause 8 further proposes a deletion of paragraph (b) under subsection (4) and substituting with a new paragraph to provide that the Secretary shall be responsible to the Agency for the day-to-day administration of the affairs of the secretariat and implementation of the decisions of the Summit.
 13. **Clause 9** proposes to amend Section 16 of the principal Act by substituting the words “Technical Committee” with the word “Agency” in the introductory phrase.
 14. **Clause 10** seeks to delete section 17 of the principal Act and substitute a new section to state that; “The Agency may employ staff as are necessary for the proper discharge of the functions of the Agency under this Act.”
 15. **Clause 11** proposes to amend Section 18 of the principal Act by substituting the words “Technical Committee” with the word “Agency”.

16. **Clause 12** intends to insert a new section 20A to provide that sources of funding of the Council shall consist of mandatory annual subscriptions from County governments and donations to the Council.
17. **Clause 13** proposes to insert new sections 23A, 23B, 23C and 23D immediately after section 23, to provide for; establishment of the Council of Governor's secretariat in law, grounds for removal from office of the chief executive officer of the Council, employment of staff of the Council secretariat for the proper discharge of its functions, and remuneration of staff which may be determined by the Council in consultation with the Salaries and Remuneration Commission (SRC), respectively.
18. **Clause 13** further intends to insert new sections as follows;
- a) Section 23E seeks to establish in law the County Assemblies Forum, its composition and management;
 - b) Section 23F highlights the functions of the Forum including enhancing consultation and cooperation amongst county assemblies;
 - c) Section 23G provides for sources of funding of the Forum as mandatory annual subscriptions from County Assemblies and donations to the Forum;
 - d) Section 23H proposes that meetings of the Forum shall be at least once every year and Section 23I provides for submission of annual reports to the Senate;
 - e) Section 23J provides for the establishment of the Forum Secretariat headed by a chief executive officer. It also provides for the recruitment, qualifications for appointment and the responsibilities of the chief executive officer;
 - f) Section 23K highlights the grounds for removal from office of the chief executive officer; and
 - g) Section 23L and 23M provide for employment of staff of the Forum and remuneration of the staff as may be determined by the National Executive Board, in consultation with the Salaries and Remuneration Commission, respectively.
19. **Clause 14** proposes to amend Section 26 of the principal Act to include the Senate among the institutions to be notified of the decision to transfer a national government power, function or competency in both subsection (4) and (5), and further bring clarity

under subsection (5) by stating that the Assembly to be notified should be of the respective County.

20. **Clause 15** proposes to amend Section 30 of the principal Act in subsection (2) by deleting paragraph (b) to exclude resolution of disputes arising amongst county governments.
 21. **Clause 16** seeks to amend Section 33 of the principal Act in subsection (2) by replacing the word “may” and substituting with “shall” on the party’s discretion to declaring a dispute, and proposing that the disputes be referred to the Agency in place of the Summit and the Council.
 22. **Sub-clause 29** proposes to amend Section 34 of the principal Act in subsection (1) by substituting the twenty-one days period for formal declaration of a dispute with seven days, and replacing the Summit and the Council with the Agency on handling of disputes, under the introductory phrase.
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1.5 Consequences of the Bill

23. The Bill will change the name of the Intergovernmental Relations Technical Committee to Intergovernmental Relations Agency. It will further provide for the Council of Governors Secretariat and County Assemblies Forum and its Secretariat in law.

CHAPTER TWO: OVERVIEW OF PUBLIC PARTICIPATION

2.1 Introduction

24. In compliance with the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. The committee published an advertisement in the Daily Nation and Standard newspapers on Thursday, 16th May, 2024, inviting stakeholders and members of the public to submit any representations that they may have on the Bill by way of written memoranda. A copy of the advertisement is attached as *Annex 3*.
25. In response to the advertisement and invitations, the Committee received written memoranda and further, conducted a public participation on the Bill on Monday, 15th July, 2024 at the County Hall Mini Chamber. The stakeholders who presented their oral and written submissions to the Committee were;
- a) Council of Governors (COG);
 - b) County Assembly Forum (CAF);
 - c) State Department for Devolution;
 - d) Intergovernmental Relations Technical Committee (IGRTC);
 - e) Society of Clerks At The Table (SOCATT);
 - f) Commission on Revenue Allocation (CRA); and
 - g) Mr. Kinuthia Wamwangi.
26. The detailed submissions by stakeholders, organized clause-by-clause, are set out in a matrix attached as *Annex 4*. Additionally, copies of the stakeholder submissions on the Bill are attached collectively as *Annex 5*.

CHAPTER THREE: CLAUSE BY CLAUSE SYNTHESIS OF SUBMISSIONS

27. The Stakeholder submissions on the Intergovernmental Relations (Amendment) Bill, 2024 are summarized as follows;

a) Clause 1

28. The County Assemblies Forum (CAF) proposed to amend the Clause to state “This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2024 and shall come into force upon publication in the Gazette.” In their opinion, specifying the commencement date ensures that the provisions of the amendment take effect without delay, facilitating the immediate operationalization of the new framework and allowing for the swift transition of responsibilities.

Committee Observations on Clause 1

29. The Committee disagreed with the proposal since the Bill will automatically take effect immediately it is passed by Parliament.

b) Clause 2

30. The Intergovernmental Relations Technical Committee (IGRTC) submitted that this clause has corresponding implications to Section 2 of the Schedule to the Act. They therefore noted the need to amend Section 2 by deleting the word “the” and replacing it with the word “its” after the word “with”, to read as follows: “The chairperson and vice-chairperson of a body shall, in consultation with **its** Secretariat”. IGRTC was of the view that the definition in the Principal Act makes reference to the secretariat of the Technical Committee. However, the Bill provides for a secretariat for the Council of Governors, which shall bear the responsibility stated under Section 2(1) of the Schedule to the Act.

31. The State Department for Devolution suggested an amendment to insert a new definition of the word "Secretariat" to apply to the Secretariat of Council of Governors, for clarity on whether it is the secretariat of the Agency or that of the Council.

Committee Observations on Clause 2

32. The Committee rejected both proposals and resolved that Clause 2 is retained as it is in the Bill, since the Bill establishes two additional Secretariats and there is no need to define only one Secretariat, instead of three.

c) Clause 3

33. The Council of Governors (COG) proposed a further amendment to this clause on qualifications for appointment as a Chairperson of the Agency. They proposed that Clause 3 (d) reads as follows;

"Section 11 of the principal Act is amended; (d) by deleting subsection (4) and substituting therefor the following new subsection –

(4) A person shall be qualified for appointment as a chairperson of the Agency if such person

(a) holds a master's degree in law, humanities or social sciences from a recognised university;

(b) at least fifteen years of distinguished career experience and ten years in a managerial position;

(c) has a high moral character, integrity and impartiality; and

(d) meets the requirements of Chapter Six of the Constitution."

34. COG stated that, in order to strengthen the Agency to undertake its functions of inter alia advising the summit on legal matters and resolving complex intergovernmental disputes, the chairperson must be a professional with a proven track record and specific qualifications in alternative dispute resolution methods, such as mediation and arbitration.

35. The Council also proposed deletion of Clause 3 (e) and replacing it with a new Clause 3 (e) to provide that; “Section 11 of the principal Act is amended; (e) by deleting subsection (5) and substituting thereof with the following new subsections –
(5) A person shall be qualified for appointment as a member of the Agency if the person—

- (a) holds a degree from a university recognized in Kenya in the fields provided under section 5(b);
- (b) has knowledge and at least ten years’ experience in matters relating to any of the following fields —
 - (i) law;
 - (ii) public administration;
 - (iii) Alternative Dispute Resolution;
 - (iv) Economics or finance;
 - (v) Human rights;
 - (vi) Management; or
 - (vii) Social sciences;
- (c) has had a distinguished career in their respective fields; and
- (d) meets the requirements of Chapter Six of the Constitution.”

36. In the Council’s opinion, this will strengthen the composition of the agency as the intergovernmental relations between the National and County Governments encompasses complex and multifaceted range of issues. To effectively address these challenges, the members of the agency must possess a comprehensive understanding of the legal, administrative, and socio-economic factors that shape intergovernmental relations. Thus, requiring knowledge and experience in the proposed fields.

37. The IGRTC proposed a further amendment to Clause 3 to include professional experience for the position of a chairperson, which may be quantified through provision of number of years post academic qualification experience.

Committee Observations on Clause 3

38. The Committee agreed with the proposed amendments by the Stakeholders and suggested an inclusion of experience in dispute resolution to be an added advantage among the qualifications for appointment as a chairperson and a member of the agency

d) Clause 4

39. The Council of Governors proposed an amendment to Clause 4 to provide clarity on the functions of the Agency as the institution responsible to the Summit as well as determining the disputes between the National and County Governments read. Their proposed clause reads as follows; “Section 12 of the principal Act is amended; (a) by deleting section 12 and replacing with the following new section 12;

Functions of the Agency

12. The Technical Agency shall—

- (a) be responsible for the day-to-day administration of the Summit and in particular—
 - (i) facilitate the activities of the Summit; and
 - (ii) implement the decisions of the Summit;
- (b) advise the Summit on all matters of intergovernmental relations between the National and County Governments;
- (c) Determine disputes between the national government and county governments within the framework provided under this Act;
- (d) provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling, costing and assignment of functions;
- (e) receive and transmit to the Summit, reports from sectoral forums, joint committees and any other intergovernmental structures or mechanisms established under this Act;
- (f) coordinate the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution;

- (g) witness the execution of all relevant legal instruments pertaining to the transfer of functions;
- (h) provide a repository for the legal instruments for transfer of functions;
- (i) undertake research on intergovernmental matters; and
- (j) perform any other functions as may be conferred on it by the Summit, under this Act or any other legislation.

40. Further, COG proposed a deletion of Section 12 (c) of the Principal Act since the proposed role of the Intergovernmental Relations Agency will not require the agency to directly convene the County Secretaries, and also ensure alignment with the current amendments in the Bill.
41. The IGRTC proposed an additional amendment to Section 12 (a) by deleting the word “Council” in 12 (a), 12 (a) (i) and (ii), to provide that the Agency shall be responsible for the administration of the Summit only. The justification is that the Bill provides for the establishment of the Secretariat of the Council which shall be responsible for the administration of the Council of Governors including facilitating its activities and implementing its decisions.
42. The Commission on Revenue Allocation (CRA) gave their recommendation on Clause 4 regarding the proposed functions of the Agency, specifically on function 12 (ca), (cc) and (cd). CRA recommended that the Agency should collaborate with other PFM institutions (CRA, COB, NT, and others) in developing comprehensive recommendation(s) for appropriate actions that the Summit can adopt. This is to avoid duplication of roles by the distinct PFM institutions and the Agency.
43. Further CRA recommended that the technical assistance provided for in (cc) should be collaborative and could include the entire mandate of the Summit beyond Article 187 of the Constitution, which focuses on including unbundling, costing, and assignment of functions. Moreover, CRA recommended that the exchange of information and coordination of policies between the two levels of government as provided for in (cd) should be specific to the areas specified in the summit mandate and stated as such. In their opinion, this will ensure effective implementation of the recommendations for

both levels of government, including the monitoring and support from the appropriate PFM institutions. Therefore, they suggested that the provisions be recast to reflect this collaborative element.

44. The State Department for Devolution proposed an amendment to Clause 4, to bring Clarity on the functions of the Agency provided under (ca), (cb) and (cc) to read as follows;

“(ca) assess the performance of the national and county governments in the implementation of the resolutions of the Summit; and make recommendations to the Summit on the appropriate promotive, preventive or corrective action where necessary;
(cb) coordinate the resolution of disputes between the national government and county governments within the framework provided under this Act;
(cc) provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 and the Fourth Schedule to the Constitution including unbundling costing and assignment of functions;”

Committee observations on Clause 4

45. The Committee observed that the amendments seek to enhance the functions of the Agency to incorporate undertaking research on intergovernmental matters and also involve various institutions that have a role in budget making like the CRA, COB, National Treasury to assist in implementation of the functions, and therefore resolved to accept most stakeholder proposals.

e) Clause 5

46. The Council of Governors (COG) proposed to amend clause 5 by deleting section 12A (1)(e) in its entirety, to remove the Agency’s powers to summon any person for purposes of performing its functions. COG’s rationale was that the agency functions as the secretariat of the Summit therefore it would not be ideal for it to possess the authority to summon its principals who are the President and Excellency Governors.

47. The Commission on Revenue Allocation (CRA) gave their recommendations regarding the proposed powers of the Agency under section 12A (1) (a) and (b) to ensure that the Agency's powers are within the confines of the law and to ensure harmony with other institutions.
48. CRA stated that the Agency's powers to compel any source, such as State organs, to provide the required reports, records, documents, or any information may only be possible with the support of other institutions. CRA also highlighted that this may contravene some of the existing laws e.g. the Data Protection Act and the provision therefore needs to be limited to where there are no legal constraints to sharing of such information.
49. Further, CRA recommended that the Act should clearly prescribe the powers of holding inquiries, including their purpose, composition, functioning and procedures, for the matter to be considered in the inquiry.
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50. The State Department for Devolution proposed to amend the proposed Section 12A by deleting the word "Agency" and replacing it with the word "Summit" on the title to read "Powers of the Summit" and under section 12A (2), stating that the powers are domiciled in the Summit.

Committee observation on Clause 5

51. The Committee observed that the proposed amendments by stakeholders seek to limit the summoning power of the Agency in the performance of its functions under the Act. The Committee rejected most proposals stating that the power to summon is an administrative tool meant to empower IGRTC to perform its function. The Committee further resolved to amend the clause to include requesting for information in compliance with the Data Protection Act.

f) Clause 6

52. The IGRTC proposed an additional amendment to Section 13 (1) and (2) of the Principal Act to provide clarity and synergy in the establishment and convening of sector forums. The new section was proposed to read as follows:
- a. The Agency may establish and convene intergovernmental sector forums on sectoral issues of common interest to the national and county governments.
 - b. The Council of Governors may establish and convene sector forums on sectoral issues of common interest amongst county governments.
 - c. Nothing in this section may be construed as precluding a Cabinet Secretary or the Council of Governors from convening consultative fora on sectoral issues of common interest to the national and county governments, provided that it shall be done in consultation with the Agency.

Committee observation on Clause 6

53. The Committee accepted the amendment to allow the Agency to convene sector forums on issues of interest to both the national and county governments and the Council of Governors to convene sector forums on issues of interest amongst county governments.

g) Clause 10

54. The State Department for Devolution suggested an amendment to the marginal note to read “Staff of the Agency” instead of “Staff of the Summit” since the staff belong to the Agency and not the Summit. The State Department proposed a further amendment to Section 17 to state that; “the Agency shall, in consultation with the Summit, employ staff as are necessary to discharge their functions”.

Committee Observation on Clause 10

55. The Committee observed that this was an error done during drafting of the Bill and accepted the amendment.

h) Clause 12

56. COG proposed an amendment to Clause 12 to provide a comprehensive section on all matters finance including sources of funding, annual estimates, accounts and audit. They added that certain functions under different Laws including the Urban Areas and Cities Act required funds appropriated by parliament through the exchequer. The Council suggested that the proposed new Section 20A be amended to read as follows; “20A. (1) The funds of the Council shall consist of—

- (a) monies allocated annually by Parliament for the purposes of the Council;
- (b) Annual subscriptions by county governments;
- (c) any grants, gifts, donations or other endowments lawfully given to the Council;
and
- (d) such monies or assets as may accrue to the Council in the exercise of its powers,
or the performance of its functions under this Act or any other written law.

(2) The Council shall determine annually the amounts to be paid by county governments as subscriptions.

57. The Council also proposed the insertion of the following new sections;

“Financial year.

20B. The financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in each year.

Annual estimates.

20C. (1) The annual estimates of the Council shall be prepared at least three months before the commencement of each financial year in accordance with the Public Finance Management Act, 2012.

(2) The annual estimates prepared under subsection (1) shall provide for all the estimated expenditure of the entity for the financial year concerned and in particular shall provide for—

- (a) the payment of salaries, allowances and other operational expenses in respect of
the staff and members of the Council; and

(b) any other expenditure that may be necessary for the carrying out of the functions of the Council under this Act.

Accounts and audit

20D. (1) The Chief Executive Officer shall cause to be kept proper books and records of accounts of the income, expenditure, assets and liabilities of the Council.

(2) The accounts of the Council shall be prepared, reported and audited in accordance with the Public Audit Act, 2015.”

58. Similarly, the IGRTC suggested an amendment to the Clause to include funds allocated by Parliament, which would be the foremost source of funding for the secretariat of the Council of Governors, for effective implementation of the Council’s mandate.

59. The State Department for Devolution suggested that the proposed Section 20A be amended because funding of the Council is provided for in Section 37 of the Principal Act which addresses both the Government of Kenya funds and grants or donations from development partners.

60. Additionally, the Council of Governors recommended an amendment to section 20(c) of the principal Act on the functions of the Council, by deleting section 20(1)(c) and replacing with the following new section; “(1)(c) Facilitating capacity building for the members of the County Executive”. They stated that the Council of Governors facilitates capacity building of the Members of the Executive arm of the County Governments to enable them effectively discharge their functions, hence their proposal to have it in law.

61. COG further recommended that Section 20 of the principal Act, be amended by deleting the section 20(2) and replacing with the following new section; “20(2) The Council shall have powers to establish and convene intergovernmental sector forums including inter-city and municipality forums”. The rationale was to have a legislative backing to the already existing function, since the Council currently convenes meetings with key stakeholders including the national government on sector issues.

Committee observations on Clause 12

62. The Committee observed that the Council of Governors is an essential structure in the Intergovernmental space and require budgetary allocation in conducting their mandate. Therefore, the Committee accepted the stakeholder submissions and proposed further amendments to the Bill to include funds allocated by Parliament. The Committee also resolved that facilitating capacity building for CEC's should be a responsibility of the respective Governor.

i) Clause 13

23A

63. The State Department for Devolution proposed to amend Section 23A (6) to read; "The Chief executive officer shall be appointed for a term of three years renewable once". The justification was that this is in line with good governance practices in the public service and it allows for assessment of a Chief Executive officer's performance by the principal.

23B

64. The State Department for Devolution proposed the removal of the words "in accordance with the terms and conditions of service..." in the introductory phrase to enhance clarity.

23C

65. The Council of Governors proposed an insertion of a Saving and Transitional provisions for the staff currently serving under the Council, immediately after Clause 23C to state that; "23CA. The staff currently serving in Council of County Governors shall on the commencement of this Act be deemed to be the staff of the Council of County Governors Secretariat as provided for under section 23C."

66. The Commission on Revenue Allocation (CRA) and the State Department for Devolution recommended the deletion of the phrase "the it can only be staff of the council secretariat" appearing in the title, to enhance clarity and coherence.

23D

67. The State Department for Devolution proposed an amendment to the title to read “Remuneration of staff of the Council Secretariat” to enhance clarity.

23E

68. The County Assemblies Forum (CAF) proposed an amendment to the proposed Section 23E (3) to include the Secretary General who shall be a member of the County Assembly, and therefore read as follows; “(2) The forum shall be managed by a National Executive Board. (3) The members of the National Executive Board shall elect—

- (a) a chairperson who shall be a speaker of a County assembly;
- (b) a vice-chairperson; and
- (c) a Secretary General shall be a Member of County Assembly
- (d) six other members from amongst its members.”

69. CAF highlighted that including the Secretary General, who is a member of the County Assembly, ensures that the National Executive Board benefits from direct insights and perspectives of the elected representatives. This inclusion guarantees that the decisions made at the executive level are well-informed by the practical experiences and challenges faced by the County Assemblies.

70. The Commission on Revenue Allocation (CRA) proposed an amendment to the proposed Section 23E (2) to first establish the National Executive Board and provide for its membership.

71. The State Department of Devolution opposed the Clause suggesting that the existing provisions be retained. They stated that establishment of CAF will take care of the existing forums in the County like clerks, speakers and other caucuses under the umbrella of County assembly. However, the State Department noted that there are risks associated with the establishment of the CAF that include costs implications since the Intergovernmental structures are funded by the exchequer and there is a possibility of duplication of functions.

23F

72. The Council of Governors proposed an amendment to subclause 23F to read as follows; “(c) facilitating dispute resolution within county assemblies”. The Council’s opinion was that the initial provision could be interpreted to mean that the Forum has the responsibility to incite disputes within county assemblies hence the amendment brings clarity on the function.
73. CRA proposed an amendment to paragraph (c) to insert the word “resolution” after the word “dispute” for clarity. Additionally, they recommended expansion of the scope of dispute resolution to be between and among county assemblies for comprehensiveness.
74. CAF suggested that the clause be amended to incorporate additional functions of the Forum after 23F (1) (e) to provide that; “The Forum shall provide an avenue for –
(f) represent County Assemblies in all engagements with Intergovernmental Forums.
(g) consideration of reports from other intergovernmental forums on matters affecting County Assemblies or relating to the performance of county assemblies; and
(h) performing any other function as may be conferred on it by this Act or any other legislation or that it may consider necessary or appropriate.”
75. CAF submitted that this amendment is designed to enhance the functions of the Forum by expanding its roles to include representation of County Assemblies in all engagements with Intergovernmental Forums, as well as the consideration of reports from other intergovernmental forums on matters affecting County Assemblies. They stated that this expansion is necessary to ensure that County Assemblies have a unified and effective voice in intergovernmental matters, promoting better coordination and collaboration. Additionally, by including a provision for performing any other function deemed necessary or appropriate, the Forum is granted the flexibility to adapt to emerging challenges and opportunities, thereby strengthening its capacity to support the performance and development of County Assemblies comprehensively.

23G

76. The Intergovernmental Relations Technical Committee (IGRTC) suggested an amendment to include funds allocated by Parliament, which would be the foremost source of funding for the Forum and its secretariat, for the implementation of the Forum's mandate.

23K

77. CAF proposed an amendment to this section to remove the sentence "Where has this entity come from?" appearing immediately after the introductory phrase, since it has been mistakenly placed under the Clause.

23L

78. CAF proposed a further amendment to insert the following provisions after the proposed clause;

"1) The Forum may employ staff as are necessary for the proper discharge of its functions.

2) The operations, assets, liabilities, and staff, which immediately before the commencement date were held by or on behalf of the County Assemblies Forum, the society, shall transition to the Forum once the commencement date is effective."

79. CAF noted that this Clause ensures a seamless transition of all aspects related to the County Assemblies Forum to the newly established Forum. It addresses the continuity of operations, the management of assets and liabilities, and the absorption of staff to prevent any disruption in the functioning of the Forum.

Committee Observations on Clause 13

80. The Committee observed the need to include saving and transitional provisions for Staff of both the Council of Governors and the County Assemblies Forum, thereby accepting the proposed amendments by the stakeholders. Further, there were erroneous comments under Clause 23C and 23K, and therefore the Committee accepted proposals to delete the comments. The Committee noted that the County Assemblies Forum is also an

important intergovernmental structure hence proposed that the Bill is amended to include funding from the exchequer allocated by Parliament.

j) Clause 15

81. CAF and CRA both suggested removal of the sentence “– what is the rationale and what provisions will county governments rely on for dispute resolution?” appearing at the end of the clause, because it appears to be wrongly placed.
82. CRA further proposed the deletion of the amendment to retain the current provision. Similarly, IGRTC suggested that Section 30 (2)(b) be retained as it is in the Principal Act to provide for the resolution of disputes amongst county governments.

Committee Observation on Clause 15

83. The Committee observed that there was an erroneous comment under Clause 15 and accepted the amendments to delete the comment. Further, the Committee rejected the proposal to retain the previous provision since the Bill gives the Council a mandate to handle disputes between county governments.

k) Clause 16

84. The State Department for Devolution disagreed with the proposed amendment urging that Section 33 (2) remains as it is in the Principal Act for the following reasons;
- a) The principal Act uses the word “May” and not “Shall”;
 - b) It is the discretion of the parties to a dispute to submit to any other Intergovernmental structures as by the law so established.
 - c) All intergovernmental structures should be retained as avenues for referring disputes to.

Committee Observation on Clause 16

85. The Committee observed that the main aim of the Clause is to make it mandatory for a dispute to be referred to an intergovernmental structure, and therefore rejected the stakeholder proposal.

D) Clause 29

86. On the timelines for declaration of a dispute under section 34, IGRTC suggested that they should be amended to 14 days to pave way for expeditious processes in dispute resolution.

87. The State Department for Devolution proposed that the provisions for timelines under Section 34 of the principal Act are retained. In their view, the Senate through the Alternative Dispute Relations (Alternative Dispute) Regulations, 2022 has already provided the timelines, and further, the proposed seven (7) days is not practically viable considering these are issues affecting the various levels of governments.

Committee Observations on Clause 29

88. The Committee observed that the proposed timelines for declaration of a dispute in the Bill (seven days) is too short and therefore accepted the amendment to retain the provisions in the principal Act which gives twenty-one days for the formal declaration by the parties.

Additional Comments and Proposed Amendments

89. CRA submitted that the amendments to the Act are too many and should be enshrined in a new Bill which would then repeal the current Act.

90. The State Department for Devolution (SDD) proposed the insertion of the Chapter number of the Act "CAP 265" to the long title of the Bill, to align it to the revised Twenty-Fourth Annual Supplement of the Laws of Kenya.

91. IGRTC proposed to amend Section 22 (2) of the Principal Act, on transmission of the Council's reports within three months after the end of every financial year to the County Assemblies, to include submission of reports to the Senate and National Assembly.

92. The State Department for Devolution proposed an amendment to the objects and purpose of the Bill under the Memorandum of objects and reasons as follows;

Paragraph 1; Replace "establish a structured framework" with "Strengthen"

Paragraph 2; Amend to read;

1. The Bill proposes to establish Intergovernmental relations Agency in place of the IGRTC.
2. The Bill establishes the Secretariat for the Council of Governors with clear roles and responsibilities.

Paragraph 4; The Bill intends to strengthen intergovernmental relations between the two levels of government and amongst County Governments. In addition, the Bill aims at strengthening the COG operations through the creations of an independent Secretariat.

SOCATT-K

93. The Society of Clerks at The Table (SOCATT-K) requested to be established in Law under the Bill because the Bill seeks to anchor the existing Intergovernmental structures in law and SOCATT is one of the critical Intergovernmental organs which has been in existence since December 2014.

94. SOCATT (K) stated that transitioning them from a society under the Societies Act into a statutory organ could bring about a more formalized and standardized framework for governance and operations within the Devolution space. Additionally, subjecting SOCATT-K to statutory regulations and oversight would enhance accountability and transparency, leading to better governance outcomes as the institution transitions from its current quasi-government nature. They noted that the legislation may provide a platform for strengthening inter-governmental relations by defining clear roles and

responsibilities for different levels of government, hence facilitating more effective coordination and collaboration on issues of common interest.

95. SOCATT (K) proposed an amendment to Clause 13 by inserting new proposed sections immediately after the proposed section 23M, as follows;

23N: to provide for the Establishment of the Society of Clerks at the Table in Kenyan County Assemblies, its management and composition;

23O: to provide for the Functions of the Society including; facilitating the harmonization of parliamentary practice and procedure among the County Assemblies, establishing and maintaining a repository of information and knowledge on matters relevant to the operation of the Assemblies, and providing technical support to the County Assembly Forum.

23P: to provide for Funding of the Society consisting of mandatory annual subscriptions by County Assemblies Service Boards and monies lawfully granted or donated to the Society.

Mr. Kinuthia Wamwangi

96. Mr. Kinuthia Wamwangi, founder of the Kinuthia Wamwangi Foundation made his submissions in support of the Bill, giving an overview and his experience in both centralized and devolved system of government. Mr. Kinuthia gave suggestions and recommendations intended to enhance the effectiveness and implementation of the Bill as follows;

a) Change of Name

97. Mr. Kinuthia stated that the proposed change of name of the Technical Committee to an Agency gives the committee a greater functional identity and also acknowledges its expanded responsibilities and benefits. The change of name will enhance its authority, increase legitimacy to the body, enhance perception of power and influence, distinguish its role from other technical groups and improve its visibility and perceived importance among stakeholders and the public.

b) Empowering the Intergovernmental Relations Agency

98. Mr. Kinuthia advocated for clear and specified powers for the Agency, akin to those granted to the Transitional Authority, to enforce and implement decisions effectively hence avoiding ambiguity in its role and responsibilities, enhancing accountability for the Agency's actions, effectively coordinating intergovernmental relations, providing legal clarity and increasing confidence in the Agency's ability to manage and resolve intergovernmental issues.

c) Giving the Chairman Power to Gazette Decisions

99. Empowering the Chairman of the Intergovernmental Relations Agency to gazette decisions can provide several benefits including; centralizing the authority to formalize and communicate decisions, ensuring decisions are properly communicated and coordinated with other government bodies and stakeholders, enhancing transparency and accountability, streamlining the implementation process, ensuring compliance with legal and regulatory requirements, and promoting effective monitoring and evaluation.

d) Independent Vote for Intergovernmental Relations Agency

100. The Intergovernmental Relations Agency should be adequately funded from the consolidated fund, to improve operations of the Agency, allow for capacity building for staff of the agency, and support the implementation of key programs and initiatives. With proper funding, the Agency will be well-positioned to carry out its responsibilities effectively and contribute to improved governance and coordination between different levels of government.

e) Structural Changes

101. Mr. Kinuthia supported the proposals to have the Intergovernmental Relations Agency serving as the Secretariat for the Summit and being answerable solely to the Summit and also supported the establishment of the Council of Governors Secretariat. He added that the National Government should continue using the Ministry or the State Department of Devolution to coordinate its agenda and activities in preparation for the Summit.

102. This structure allows each entity to prepare and coordinate their agendas independently while ensuring a cohesive approach at the Summit. It also promotes effective governance, clear accountability, and efficient use of resources, ultimately leading to better management of intergovernmental relations.

f) Sectoral Working Groups, Forums or Committees

103. The new Bill should emphasize that the responsibility to establish working groups, forums, or other committees should exclusively rest with the Intergovernmental Relations Agency. Any committees established by the Ministry, State Departments, or the Council of Governors should strictly be on an ad hoc basis. This ensures a unified and streamlined approach to intergovernmental relations, reducing redundancy and enhancing coordination. It also maintains the autonomy and primary role of the Intergovernmental Relations Agency in managing sectoral collaboration and decision-making.

g) Autonomy for Intergovernmental Relations Agency

104. The Intergovernmental Relations Agency should operate autonomously from the Ministry, the State Department of Devolution, and the Council of Governors, and be directly answerable to the Summit. This will enable the Agency to fulfill its role more effectively, maintain impartiality, and contribute to improved governance and coordination between different levels of government.

Committee Observation on Additional Proposals

105. The Committee observed that the proposals by SOCATT(K) were not part of the provisions of the Bill as published hence could not be deliberated on during the considerations of the Bill. Additionally, the Memorandum of Objects and reasons is not part of the Bill hence the proposed amendments were rejected.

CHAPTER FOUR: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

4.1 Committee Observations

106. Having considered the Bill and the submissions received thereon, the Committee observed that:

- a) The Bill seeks to enhance consultation and cooperation between the national and county governments and amongst county governments, in line with Article 6 and 189 of the Constitution of Kenya, 2010.
- b) The Bill empowers the Intergovernmental Relations Technical Committee by changing its name to an Intergovernmental Relations Agency and enhancing its functions including dispute resolution. This change gives the agency more power and authority in performing its functions as specified under the Act. The Bill also establishes already existing structures in law that is; the Council of Governors and the County Assemblies Forum, enhancing their functions and providing for their secretariat for proper execution of their mandate.
- c) Most Stakeholders were in support of the proposed amendment in the Bill, acknowledging its major significance in strengthening devolution and streamlining inter and intra governmental relations. The stakeholders proposed further amendments to enrich the Bill and bring more clarity on the provisions.
- d) The Council of Governors and the County Assemblies Forum are both essential Intergovernmental Structures established to implement devolution and enhance intergovernmental relations. For that reason, the Committee resolved to amend the Bill to provide that COG and CAF should receive funds from the exchequer approved by Parliament.

107. Upon extensive deliberations, the Committee proposed amendments to the Bill which are attached to the report under *Annex 6*.

4.2 Committee Recommendations

108. Having considered the Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024) and the submissions received thereon, the Senate Standing Committee on Devolution and Intergovernmental Relations recommends that the Senate passes the Bill, **with amendments** as proposed by the Committee.

LIST OF ANNEXURES

Annex 1	Minutes of the Standing Committee on Devolution and Intergovernmental Relations
Annex 2	The Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024)
Annex 3	Advertisement published in the <i>Daily Nation</i> and <i>Standard</i> newspapers on Thursday, 16 th May, 2024
Annex 4	Matrix of the stakeholder submissions on the Bill received by the Committee on each clause of the Bill.
Annex 5	Copies of stakeholder submissions on the Bill
Annex 6	Proposed Committee amendments to the Bill

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Annex 1:

***Minutes of the Standing
Committee on Devolution and
Intergovernmental Relations***



MINUTES OF THE HUNDRED AND THIRTY-FOURTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 26TH SEPTEMBER, 2024, AT 10.00 AM IN COMMITTEE ROOM 4, BUNGE TOWER.

PRESENT

1. Sen. Sheikh Mohamed Abass, MP - Chairperson
2. Sen. Catherine Muyeka Mumma, MP - Vice-Chairperson
3. Sen. (Dr.) Oburu Oginga, MGH, MP - Member
4. Sen. Richard Momoima Onyonka, EBS, MP - Member
5. Sen. Peris Tobiko, CBS, MP - Member
6. Sen. Mohamed Chute, MP - Member
7. Sen. George Mbugua, MP - Member
8. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGY

- Sen. Hezena Lemaletian, MP - Member

IN ATTENDANCE

1. Hon. Abdulswamad Nassir - Governor, Mombasa County
2. Mr. Jeizan Faruk - County Secretary, Mombasa County
3. Mr. Evans Oanda - CECM, Finance, Mombasa County
4. Dr. Mbwarali Kame - CECM, Education, Mombasa County
5. Dr. Shem Patta - CECM Health, Mombasa
6. Mr. Swaleh Mwalizama - Chief officer, Finance
7. Mr. Vincent Ouma - Chief Accountant
8. Ms. Gloria Natore - Accountant

SECRETARIAT

1. Ms. Sylvia Nasambu - Clerk Assistant I
2. Mr. Desmond Rasugu - Clerk Assistant III (**taking minutes**)
3. Mr. Walters Omondi - Legal Counsel II
4. Ms. Mwanamisi Mwachasi - Research Officer III

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|-------------------------|---------------------------|
| 5. Ms. Amran Yunis | - Fiscal Analyst I |
| 6. Ms. Juliet Masinde | - Media Relations officer |
| 7. Mr. David Barasa | - Serjeant-At-Arms |
| 8. Mr. Johnstone Simiyu | - Audio officer |

MIN/SEN/DEVIR/666/2024:

PRAYER

The meeting was called to order at 10:15 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/667/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as presented after being proposed by Sen. Catherine Mumma, MP, and seconded by Sen. George Mbugua, MP, as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the minutes of the previous meetings (4 sets);
4. Pre-publication Scrutiny of the County Government laws (Amendment) Bill, 2024: A legislative proposal by Sen. Paul Karungo Thang'wa, MP;
5. Consideration and adoption of the report of the Committee of the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills. No. 12 of 2024);
6. Meeting with the Governor of Mombasa County for deliberation of the commercial bank accounts operated by the County Executive of Mombasa;
7. Any other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/668/2024

**CONFIRMATION OF THE MINUTES OF
THE PREVIOUS MEETINGS (4 SETS)**

- a) The minutes of the hundred and twenty-ninth meeting held on Thursday, 5th September, 2024 at 10.00 am were confirmed as a true record of the proceedings after being proposed by Sen. Catherine Mumma, MP, and seconded by Sen. George Mbugua, MP;
- b) The minutes of the hundred and thirtieth meeting held on Monday, 9th September, 2024 at 9.30 am were confirmed as a true record of the proceedings after being proposed by Sen. George Mbugua, MP and seconded by Sen. Catherine Mumma, MP;
- c) The minutes of the hundred and thirty-first meeting held on Thursday, 12th September, 2024 at 9.30 am were confirmed as a true record of the proceedings after being proposed by Sen. George Mbugua, MP and seconded by Sen. Catherine Mumma, MP; and
- d) The minutes of the hundred and thirty-second meeting held on Monday, 16th September, 2024 at 10.00 am were confirmed as a true record of the proceedings after being proposed by Sen. Catherine Mumma, MP, and seconded by Sen. George Mbugua, MP.

Under minute 656/2024 - Any other Business

The Committee noted that the Governor of Nyandarua County had not formally written to the Committee to request the Committee's intervention in the matter of the disputed land between Nyandarua and Laikipia Counties. It was resolved that the secretariat to prompt the office of the Governor to do so if it still needs the Committee's intervention.

MIN/SEN/DEVIR/670/2024

PRE-PUBLICATION SCRUTINY OF THE COUNTY GOVERNMENT LAWS
(AMENDMENT) BILL, 2024: A LEGISLATIVE PROPOSAL BY SEN. PAUL
KARUNGO WA THANG'WA, MP

1. The Committee considered the legislative proposal on The County Governments Laws (Amendment) Bill, 2024 sponsored by Sen. Paul Karungo Thang'wa, MP. The proposed Bill seeks to –
 - a) amend the County Governments Act Section 44 by providing the circumstances under which the office of a county secretary becomes vacant and to require a county governor to initiate the process of appointing a new secretary within 14 days from the date of the vacancy;
 - b) amend the County Governments Act Section 45 by providing clarity on the appointment of new county chief officers whenever a new county government is elected after a general election and that a person shall not hold office of a chief officer for a cumulative period of more than ten years;
 - c) amend the County Governments Act, Section 12 to provide that a member of the Board shall hold office for a term of five years and is eligible for re-appointment for one further term and shall serve on a part-time basis as well as provide clarity on the vacation from office of a member of a county assembly;
 - d) amend the County Governments Act, Section 63 to provide the period within which a county public officer can hold an office in an acting capacity. It proposes that an officer may be appointed in an acting capacity for a period not less than one month and not more than 6 months. That appointment may be extended once where efforts to substantively fill the position have not been successful;
 - e) amend the County Assembly services Act Section 10 to provide for the procedure for removal from office a member of a County Assembly Service Board;
 - f) amend the County Assembly services Act by introducing a new Section 24A to allow the County Public Service Board to have powers to appoint officers in acting capacity pending substantive appointment; and

- g) amend the Public Appointments (County Assembly Approval) Act, CAP 265 B Section 9 to introduce subsection 3 to provide that where a county assembly fails to consider and approve or reject the nomination of a candidate within the time required, the candidate shall be deemed to have been approved by the county assembly.
2. Having considered the text of the legislative proposal, the Committee resolved that the Bill be reviewed to change the proposed amendments to Section 63 of the County Governments Act to provide that a county public officer shall serve in an acting capacity for not more than six months. This removes the provision of extending the term of acting after six months;
 3. The Committee further resolved that the same amendment to be made to the proposed section 24A of the County Assembly Services Act to provide that any member appointed by the county public service board in an acting capacity shall not hold the position for more than six months; and
 4. Consequently, the Committee resolved that the legislative proposal be accepted and published as a Bill pursuant to Senate Standing Order 131 (2).

MIN/SEN/DEVIR/670/2024

CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE OF THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024 (SENATE BILLS. NO. 12 OF 2024);

The Committee considered and adopted the report of the Committee on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024 as presented.

MIN/SEN/DEVIR/671/2024

MEETING WITH THE GOVERNOR OF MOMBASA COUNTY FOR DELIBERATION OF THE COMMERCIAL BANK ACCOUNTS OPERATED BY THE COUNTY EXECUTIVE OF MOMBASA.

1. The Governor of Mombasa County submitted that the County Executive of Mombasa operates ninety-four (94) commercial bank accounts providing a breakdown of the specific purposes and departments that operate the accounts; the accounts are majorly operated by health facilities and vocational training colleges;
2. He further provided the details of the accounts, including the names of the accounts, the dates when they were opened, the signatories to the accounts the designations of the signatories to the accounts and the beneficiaries of the monies paid from the accounts;

3. The Governor informed the Committee that the County operates eighteen accounts at the Central Bank;
4. The Committee deliberated on the effectiveness of the Public Finance Management Act, 2012 on the laws that touch on County governments and resolved to give the Governor three weeks to submit to the Committee a matrix of the relevant laws in the Act that the Senate should look into with a view of making amendments.

MIN/SEN/DEVIR/671/2024 ANY OTHER BUSINESS

1. The Governor informed the Committee that the County Government of Mombasa was planning to establish administrative boroughs which are units for running the city County similar to the ones established in Nairobi County. The boroughs aim to facilitate easier provision of services to the residents. He stated that this was in line with the Urban Areas and Cities Act and committed that he will share more information to the Committee regarding the matter;
2. The Governor stated that he will submit a written response to the Committee on the questionnaire the Committee had requested the County's views on the postlegislative scrutiny of the Urban Areas and Cities Act, 2011.

MIN/SEN/DEVIR/672/2024

**DATE OF NEXT MEETING AND
ADJOURNMENT**

The Chairperson adjourned the meeting at 12:25 pm. The next meeting to be held on notice.

SIGNED.....

DATE..... 30.09/24.

**SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.**



MINUTES OF THE HUNDRED AND THIRTY- FIRST SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 12TH SEPTEMBER, 2024, AT 9.30 AM IN COMMITTEE ROOM 4, BUNGE TOWER.

PRESENT

1. Sen. Catherine Muycka Mumma, MP - Vice-Chairperson (Chairing)
2. Sen. (Dr.) Oburu Oginga, MGH, MP - Member
3. Sen. Richard Momoima Onyonka, EBS, MP - Member
4. Sen. Peris Tobiko, CBS, MP - Member
5. Sen. Mohamed Chute, MP - Member
6. Sen. George Mbugua, MP - Member
7. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGY

1. Sen. Sheikh Mohamed Abass, MP - Chairperson
2. Sen. Hezzena Limalctian, MP - Member

IN ATTENDANCE

1. Sen. John Mcthu, MP, - Senator, Nyandarua County
2. Hon. (Dr.) Moses Badilisha, - Governor, Nyandarua County
3. Hon. Mary Kamande - CECM Finance, Nyandarua County
4. Dr. Zakayo Kariuki - CECM, Health, Nyandarua County
5. Mr. Phoebe Mbiyu - Chief Accountant, Nyandarua
6. Mr. Joseph Wahome - Ag, Chief Officer Finance
7. Mr. Peter Thiari - Chief of Staff

SECRETARIAT

1. Ms. Sylvia Nasambu - Clerk Assistant I
2. Mr. Desmond Rasugu - Clerk Assistant III (taking minutes)
3. Mr. Walters Omondi - Legal Counsel II
4. Ms. Mwanamisi Mwachasi - Research Officer III
5. Ms. Amran Yunis - Fiscal Analyst I
6. Mr. Stanely Gikore - Media Relations officer

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|----------------------------|---------------------------------|
| 7. Mr. James Ngusia | - Serjeant-At-Arms |
| 8. Ms. Celestine Jepkosgey | - Public Communications Officer |
| 9. Mr. Johnstone Simiyu | - Audio officer |

MIN/SEN/DEVIR/652/2024:

PRAYER

The meeting was called to order at 9:40 am by the Ag. Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/653/2024

ADOPTION OF THE AGENDA

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of matrix on the memoranda received from stakeholders on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024);
4. Meeting with the Governor of Nyandarua County for deliberation of the Commercial Bank Accounts operated by the County Executive of Nyandarua;
5. Any other Business; and
6. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/654/2024

CONSIDERATION OF MATRIX ON THE MEMORANDA RECEIVED FROM STAKEHOLDERS ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 12 OF 2024)

1. The Committee considered a matrix of the memoranda that was received from various stakeholders on the Intergovernmental Relations (Amendment) Bill, 2024. The memoranda comprised views from the Council of Governors, the County Assemblies Forum, the Intergovernmental Relations Technical Committee; the State Department for Devolution, the Society of Clerks at the table; Mr. Kinuthia Wamwangi Former Chairperson of the Transitional Authority and the Commission on Revenue Allocation;
2. The matrix was a clause-by-clause analysis of each proposal made to the Bill which the Committee deliberated on and made a resolution on each;
3. Among the key resolutions the Committee made included --
 - a) Accepted amendment to clause 23L by the County Assemblies Forum to provide for a seamless transition of all aspects related to the County Assemblies Forum to the newly established Forum. It addresses the continuity of operations, the management of assets and liabilities, and the absorption of staff to prevent any disruption in the functioning of the Forum; and
 - b) Amend section 34 (1) of the Principal Act to 21 days as this will pave way for an expeditious process in dispute resolution.

MIN/SEN/DEVIR/655/2024

MEETING WITH THE GOVERNOR OF NYANDARUA COUNTY FOR DELIBERATION OF THE COMMERCIAL BANK ACCOUNTS OPERATED BY THE COUNTY EXECUTIVE OF NYANDARUA.

1. The Committee held deliberations with the Governor of Nyandarua County regarding the commercial bank accounts the county operates. The Governor reported on eighty six (86) commercial bank accounts which is the number that the controller of budget's report had indicated. The report provided the name of the accounts, the date opened, the purpose for the account, the signatories to the accounts and the designations for each;
2. However, the Governor disclosed that the County has got several other commercial accounts which could be more than 160 in number being accounts for vocational training colleges, dispensaries and health facilities in the County;
3. He further submitted that the all the accounts are audited internally by the County audit department and also by the Auditor General, and therefore are well known to the Controller of Budget;
4. The Governor, however, submitted that he was not sure of the exact total number of Commercial Bank accounts being operated by the County Executive and therefore requested for more time to provide the information.

Resolutions

With the foregoing, the Committee resolved to give the Governor 30 days to submit a list of all the commercial bank accounts operated by the county executive of Nyandarua providing the dates when they were opened, the signatories to the accounts, and their designations and the purpose for which the accounts were opened.

MIN/SEN/DEVIR/656/2024

ANY OTHER BUSINESS

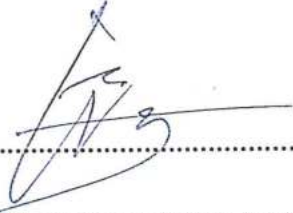
The Governor brought to the attention of the Committee a matter of disputed land between Nyandarua County and Laikipia County which he alleges belongs to Nyandarua but is forcefully being encroached by Laikipia. He reported that the matter had already been registered in court but still requested the committee to assist in resolving the dispute. It was resolved that the Governor of Nyandarua formally write to the Senate regarding the matter then thereafter, the Committee shall determine the next steps.

MIN/SEN/DEVIR/657/2024

DATE OF NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 11:45 am. The next meeting to be held on notice.

SIGNED.....



DATE.....

26/09/24

SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



**MINUTES OF THE HUNDRED AND THIRTIETH SITTING OF THE SENATE
STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 9TH
SEPTEMBER, 2024, AT 9.30 AM IN COMMITTEE ROOM 4, BUNGE TOWER.**

PRESENT

1. Sen. Sheikh Mohamed Abass, MP - Chairperson
2. Sen. Catherine Muyeka Mumma, MP - Vice-Chairperson
3. Sen. (Dr.) Oburu Oginga, MGH, MP - Member
4. Sen. Richard Momoima Onyonka, EBS, MP - Member
5. Sen. Peris Tobiko, CBS, MP - Member
6. Sen. Mohamed Chute, MP - Member
7. Sen. George Mbugua, MP - Member
8. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGY

- Sen. Hezema Lemaletian, MP - Member

IN ATTENDANCE

1. Sen. Enoch Wambua, MP, - Senator, Kitui County
2. Hon. (Dr.) Julias Malombe, EGH, - Governor, Kitui County
3. Mr. Peter Kilonzo, - CECM, Finance Kitui County
4. Mr. John Makau - CECM, Finance, Kitui County
5. Mr. Joel Muyanga - Head of Accounting Kitui
6. Ms. Gladys Mwambua - Chief Officer, Agriculture Kitui

SECRETARIAT

1. Ms. Sylvia Nasambu - Clerk Assistant I
2. Mr. Desmond Rasugu - Clerk Assistant III (taking minutes)
3. Mr. Walters Omondi - Legal Counsel II
4. Ms. Mwanamisi Mwachasi - Research Officer III
5. Ms. Amran Yunis - Fiscal Analyst I
6. Mr. Stanely Gikore - Media Relations officer
7. Mr. James Ngusia - Serjeant-At-Arms

8. Ms. Celestine Jepkosgey - Public Communications Officer
9. Mr. Johnstone Simiyu - Audio officer

MIN/SEN/DEVIR/646/2024:

PRAYER

The meeting was called to order at 9:40 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/647/2024

ADOPTION OF THE AGENDA

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of matrix on the memoranda received from stakeholders on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024);
4. Meeting with the Governor of Kitui County for deliberation of the Commercial Bank Accounts operated by the County Executive of Kitui;
5. Any other Business; and
6. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/648/2024

CONSIDERATION OF MATRIX ON THE MEMORANDA RECEIVED FROM STAKEHOLDERS ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 12 OF 2024)

1. The Committee considered a matrix of the memoranda that was received from various stakeholders on the Intergovernmental Relations (Amendment) Bill, 2024. The memoranda comprised views from the Council of Governors, the County Assemblies Forum, the Intergovernmental Relations Technical Committee; the State Department for Devolution, the Society of Clerks at the table; Mr. Kinuthia Wamwangi Former Chairperson of the Transitional Authority and the Commission on Revenue Allocation;
2. The matrix was a clause-by-clause analysis of each proposal made to the Bill which the Committee deliberated on and made a resolution on each;
3. Among the key resolutions the Committee made included
 - a) Accepted the proposal by the State Department for Devolution to retain the amendment on section 34 of the Principal Act on the number of days for convening a meeting from the date of a formal declaration of a dispute from seven (7) days to twenty-one (21) days;
 - b) Accepted the proposal by the Council of Governors to insert a new provision after clause 23C on Saving and Transitional Provisions of the Council to provide for the transition of the staff currently serving under the Council of Governors to the Council of County Governors Secretariat upon the commencement of the new law as provided for in section 23C;

- c) Accepted the proposal by the County Assemblies Forum to amend clause 13 to provide that the Secretary General of the Forum shall be a member of the County Assembly who shall also be a member of the National Executive Board. This will ensure that the National Executive Board benefits from the direct insights and perspectives of the elected representatives.
4. The Committee resolved to conclude consideration of the matrix in the next sitting.

MIN/SEN/DEVIR/649/2024

MEETING WITH THE GOVERNOR OF KITUI COUNTY FOR DELIBERATION OF THE COMMERCIAL BANK ACCOUNTS OPERATED BY THE COUNTY EXECUTIVE OF KITUI.

1. The Committee held deliberations with the Governor of Kitui County regarding the commercial bank accounts the county operates. The Governor presented a report of the five (5) commercial bank accounts which is the number of accounts that the Controller of Budget's report had indicated. The report provided the names of the accounts, the dates which the accounts were opened, the purpose for the accounts, the signatories to the accounts and their designations;
2. However, the Governor disclosed that the County has operates several other commercial accounts including for each of the 308 dispensaries and health facilities in the county. He further submitted that the accounts were officially examined by the office of the Auditor General and therefore are well known to that office and that of the Controller of Budget;
3. The Governor therefore submitted that the County is not operating any undisclosed accounts and any information needed regarding all the commercial bank accounts in the county can be readily be provided;
4. The Committee therefore clearly observed that their was a huge difference in the number of accounts the Controller of Budget had reported on with what the Governor submitted; and

Resolution

With the foregoing, the Committee resolved to give the Governor thirty (30) days to submit to the Committee, a list of all the commercial bank accounts operated by the county executive of Kitui, the dates when they were opened, the signatories to the accounts, and their designations and the purpose for which the accounts were opened.

MIN/SEN/DEVIR/650/2024 ANY OTHER BUSINESS

There was no any other business.

MIN/SEN/DEVIR/651/2024

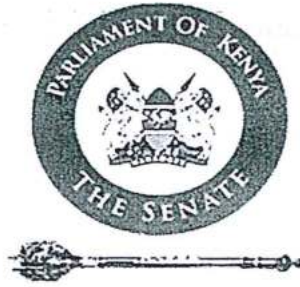
DATE OF NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 11:50 am. The next meeting to be held on notice.

SIGNED.....

DATE.....26/09/24

SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



MINUTES OF THE HUNDRED AND TWENTY-NINTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 5TH SEPTEMBER, 2024, AT 10.00 AM IN COMMITTEE ROOM 4, BUNGE TOWER.

PRESENT

- | | |
|-------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP | - Chairperson |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
| 4. Sen. Peris Tobiko, CBS, MP | - Member |
| 5. Sen. George Mbugua, MP | - Member |
| 6. Sen. David Wafula Wakoli, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 1. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 2. Sen. Mohamed Chute, MP | - Member |
| 3. Sen. Hezena Lemaletian, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Mr. Walters Omondi | - Legal Counsel II |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |
| 5. Ms. Amran Yunis | - Fiscal Analyst I |
| 6. Mr. Stanely Gikore | - Media Relations officer |
| 7. Mr. James Ngusia | - Serjeant-At-Arms |
| 8. Ms. Celestine Jepkosgey | - Public Communications Officer |
| 9. Mr. Johnstone Simiyu | - Audio officer |

MIN/SEN/DEVIR/640/2024:

PRAYER

The meeting was called to order at 10:15 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu.

MIN/SEN/DEVIR/641/2024

ADOPTION OF THE AGENDA

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of Legislative Proposal on the County Attorney (Amendment) Bill, 2024;
4. Consideration of matrix on the memoranda received from stakeholders on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024);
5. Any other Business; and
6. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/642/2024

CONSIDERATION OF LEGISLATIVE PROPOSAL ON THE COUNTY ATTORNEY (AMENDMENT) BILL, 2024

1. The Committee considered the Office of the County Attorney (Amendment) Bill, 2024, a legislative proposal drafted by the Directorate of Legal Services on the instructions of Sen. David Wakoli, MP;
2. In summary, the Bill seeks to amend the Office of the County Attorney Act Section 5(2) to enhance the qualification of the County Attorney from an advocate of the High Court of Kenya of at least five years to an advocate qualified to be appointed as a Court of Appeal judge in terms of Article 166 (4) of the Constitution;
3. The Bill further seeks to amend Section 6(1) of the Act to revise the tenure of office of the County Attorney from the current 6 years, for the County Attorney to serve for the term of the Governor;
4. Additionally, the Bill proposes to amend section 17(2) to enhance the qualification of the County Solicitor from an Advocate of the High Court of Kenya of at least five years to an advocate qualified to be appointed as a Court of Appeal judge in terms of Article 166(4) of the Constitution;
5. The Committee having heard the views of the sponsor of the Bill, considered the text of the legislative proposal, and resolved that the legislative proposal be reviewed to change the proposed amendment of Section 5 (2) to enhance the qualification of the County Attorney from being qualified to be appointed as a court of Appeal Judge to possession of a minimum of ten years as an advocate;
6. Consequently, the Committee resolved that the legislative proposal be accepted and published as a Bill pursuant to Senate Standing Order 131 (2).

MIN/SEN/DEVIR/643/2024

CONSIDERATION OF MATRIX ON THE MEMORANDA RECEIVED FROM STAKEHOLDERS ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 12 OF 2024)

1. The Committee considered a matrix of the memoranda that was received from various stakeholders on the Intergovernmental Relations (Amendment) Bill, 2024. The memoranda comprised views from the Council of Governors, the County Assemblies Forum, the Intergovernmental Relations Technical Committee; the State Department for Devolution, the Society of Clerks at the table; Mr. Kinuthia Wamwangi Former Chairperson of the Transitional Authority and the Commission on Revenue Allocation;
2. The matrix was a clause-by-clause analysis of each proposal made to the Bill which the Committee deliberated on and made a resolution on each;
3. Among the key resolutions the Committee made included –
 - a) Accepted the proposal to anchor the Council of Governors secretariat in law;
 - b) Accepted the proposal to anchor the County Assemblies Forum in law;
 - c) Accepted the proposal to change the name of the Intergovernmental Relations Technical Committee to the Intergovernmental Relations Agency;
 - d) Accepted the proposal to fund the Council of Governors from the exchequer by funds allocated by Parliament for that purpose;
 - e) Accepted the proposals made on the powers and functions of the Intergovernmental Relations Agency;
 - f) Accepted the proposals made on the functions of the County Assemblies Forum with few amendments;
 - g) Accepted the proposals made on the functions of the Intergovernmental Relations Agency with few amendments;
 - h) Accepted the proposal made on the functions of the Council of Governors as presented;
4. The Committee resolved to conclude consideration of the matrix in the next sitting.

MIN/SEN/DEVIR/644/2024

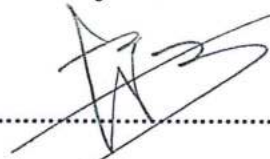
ANY OTHER BUSINESS

There was no any other business.

MIN/SEN/DEVIR/645/2024

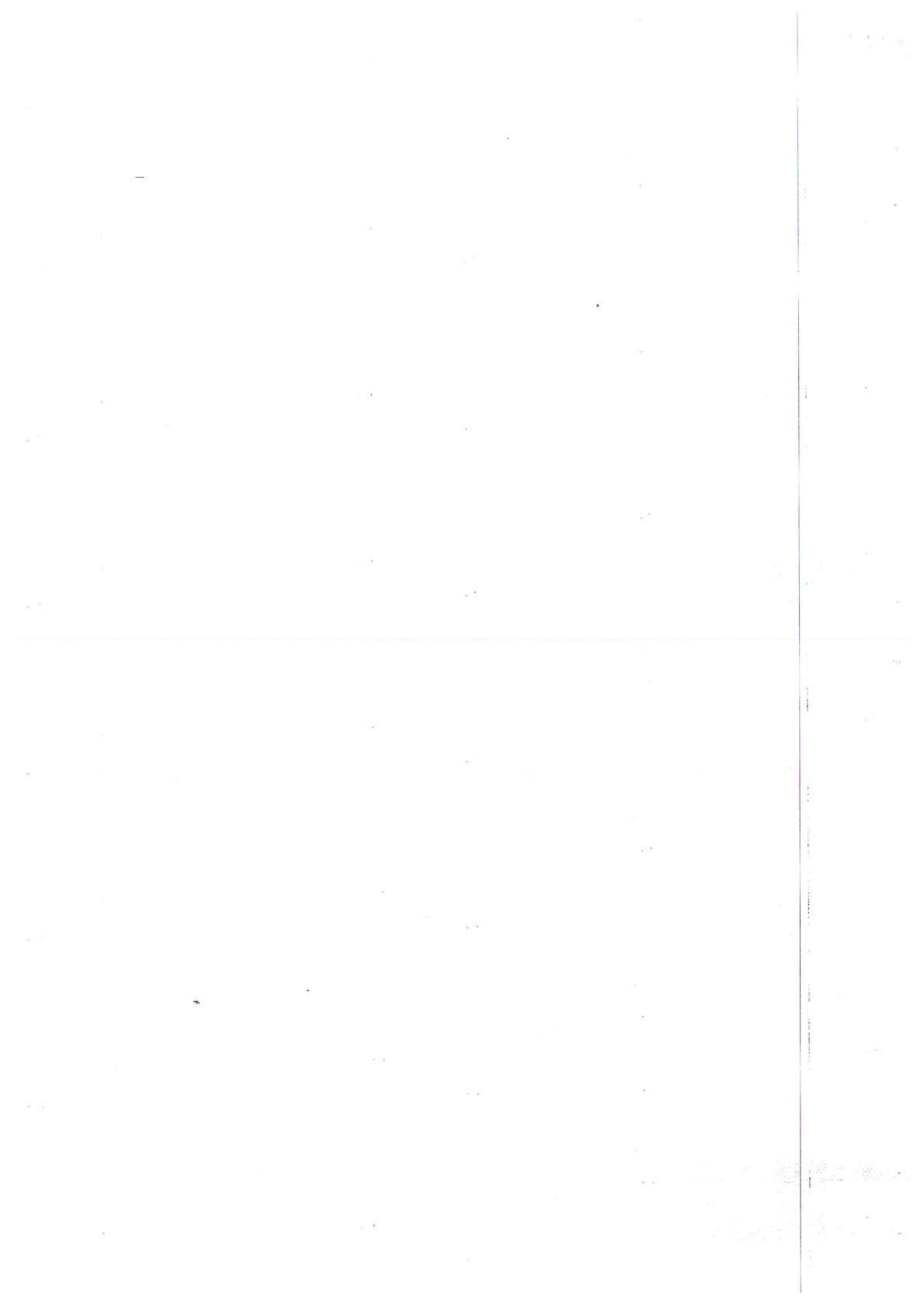
DATE OF NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 12:55 pm. The next meeting to be held on notice.

SIGNED.....


DATE.....
 26/09/24

SEN. SHEIKH MOHAMED ABASS, MP,
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.





MINUTES OF THE HUNDREDTH AND TWENTY-FOURTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 25TH JULY 2024, AT 10.00 AM AT COMMITTEE ROOM 4, BUNGE TOWER.

PRESENT

- | | |
|--|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP | - Chairperson |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 4. Sen. Peris Tobiko, CBS, MP | - Member |
| 5. Sen. Mohamed Chute, MP | - Member |
| 6. Sen. George Mbugua, MP | - Member |
| 7. Sen. Hezena Lemaletian, MP | - Member |
| 8. Sen. David Wafula Wakoli, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|----------------------------------|----------|
| Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
|----------------------------------|----------|

IN ATTENDANCE

- | | |
|---|---|
| 1. Ms. Teresia Malokwe, CBS - PS, State Department for Devolution | |
| 2. Mr. Githinji Kiragu, | - Chairperson, IGRTC |
| 3. Dr. Kipkirui Chepkwony, | - CEO, IGRTC |
| 4. Ms. Lonah Losem | - CEO, CAF |
| 5. Mr. Kennedy Nyambati | - Director, State Department for Devolution |
| 6. Ms. Sophy Amutavy | - Director, Legal IGRTC |

SECRETARIAT

- | | |
|----------------------------|---|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Mr. Walters Omondi | - Legal Counsel I |
| 4. Ms. Lucianne Limo | - Media Relations Officer |
| 5. Ms. Celestine Jepkosgey | - Public Communications Officer |
| 6. Mr. David Barasa | - Serjeant-At-Arms |
| 7. Mr. Johnstone Simiyu | - Audio officer |

MIN/SEN/DEVIR/614/2024:

PRAYER

The meeting was called to order at 10:25 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasmbu. Thereafter, there was a round of introductions by all those who were present.

MIN/SEN/DEVIR/615/2024

ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted as presented after being proposed by Sen. George Mbugua, MP and seconded by Sen. David Wakoli, MP as follows -

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with various stakeholders to receive their views on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024)
4. Any other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/616/2024

MEETING WITH VARIOUS STAKEHOLDERS TO RECEIVE THEIR VIEWS ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 12 OF 2024)

1. The Committee received views of the State Department for Devolution and the Intergovernmental Relations Technical Committee on the Intergovernmental Relations (Amendment) Bill, 2024;
2. The two institutions informed the Committee that after extensive consultations between their offices, it was unanimously resolved that the State Department for Devolution withdraws its earlier submissions to the Committee regarding the Bill and instead resubmit revised views that were jointly agreed upon;
3. In the new submissions, the State Department for Devolution supported all the provisions on the proposed powers and functions of the Intergovernmental Relations Agency, the qualifications for appointment as a member of the Agency, the establishment of the County Assemblies Forum in law as an Intergovernmental Relations Relations structure. This was contrary to their previous submissions which opposed the above provisions; and
4. The state Department for Devolution proposed to amend section 34 of the proposed Act which provides for 7 days since the declaration of an intergovernmental dispute to be retained at 21 days as contained in the current Act.

MIN/SEN/DEVIR/617//2024

ANY OTHER BUSINESS

The Committee resolved to invite the Principal Secretary for the State Department for Devolution to a meeting of the Committee to deliberate on the status of transfer of Devolved functions.

MIN/SEN/DEVIR/618/2024

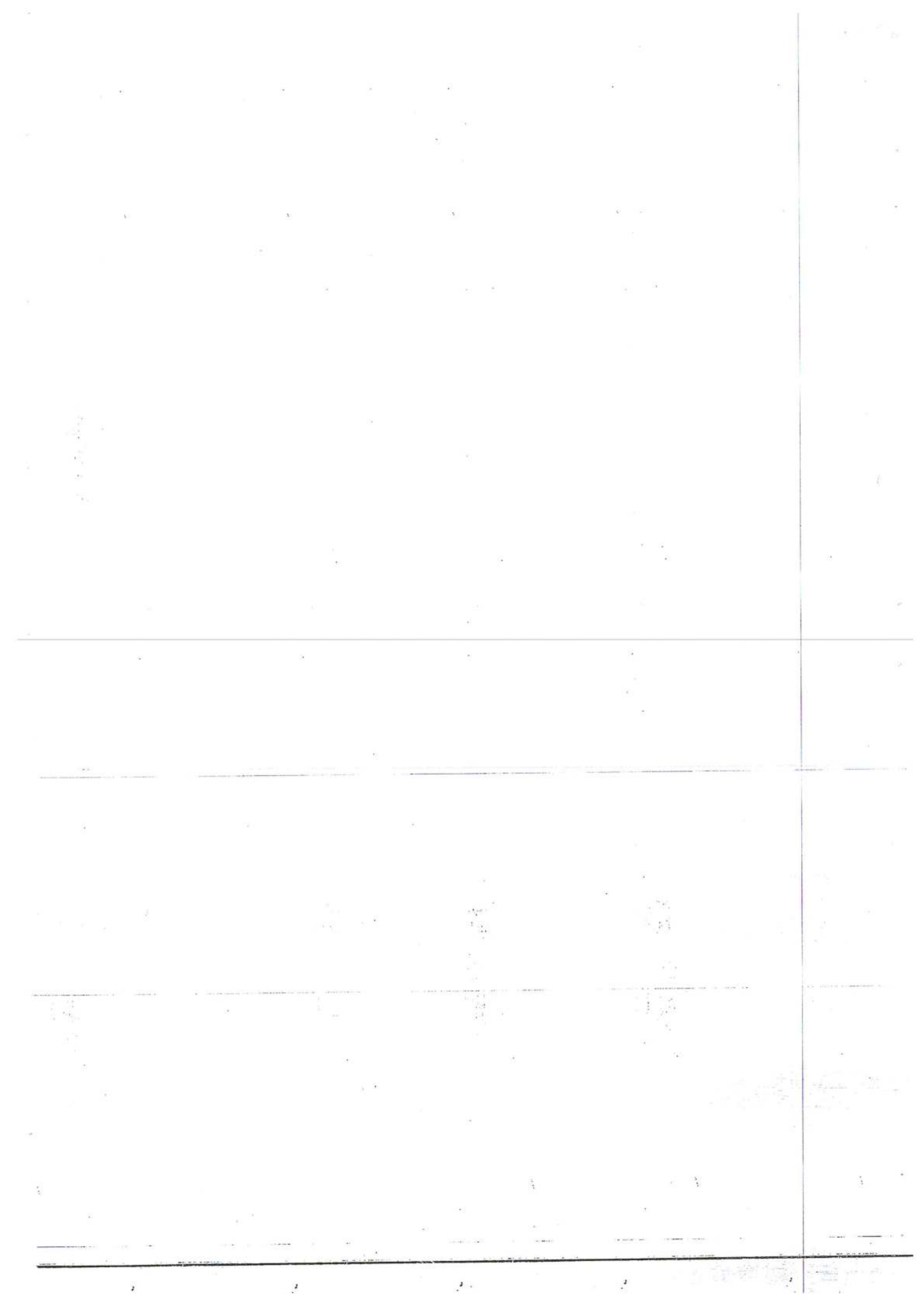
DATE OF NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 12:35 pm. The next meeting to be held on Monday, 29th July, 2024.

SIGNED.....

DATE.....19/07/2024.

SEN. SHEIKH MOHAMED ABASS, M.P
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.





MINUTES OF THE HUNDREDTH AND TWENTY-FIRST SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 15TH JULY, 2024, AT 10.00 AM AT MINI CHAMBER, COUNTY HALL BUILDING

PRESENT

- | | |
|--|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP | - Chairperson |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. (Dr.) Oburu Oginga, MGH, MP | - Member |
| 4. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 5. Sen. Peris Tobiko, CBS, MP | - Member |
| 6. Sen. Mohamed Chute, MP | - Member |
| 7. Sen. George Mbugua, MP | - Member |
| 8. Sen. Hezena Lemaletian, MP | - Member |

ABSENT

- | | |
|------------------------------|----------|
| Sen. David Wafula Wakoli, MP | - Member |
|------------------------------|----------|

IN ATTENDANCE

- | | |
|-----------------------------------|--|
| 1. Hon. Ann Waiguru, EGH, | - Chairperson, COG |
| 2. Hon. Stephen Sang, EGH, | - Governor, Nandi County |
| 3. Hon. (Dr.) Ochilo Ayacko, EGH, | - Governor, Migori County |
| 4. Hon. Mutahi Kahiga, EGH, | - Governor, Nyeri County |
| 5. Mr. Kithiji Kiragu, CBS, | - Chairperson, IGRTC, |
| 6. Mr. Mwaura Chege | - Secretary General, CAF |
| 7. Ms. Mary Mwiti | - CEO, COG |
| 8. Ms. Lonah Losem | - CEO, CAF |
| 9. Mr. Kipkirui Chepkwony | - CEO, IGRTC |
| 10. Mr. Kamau Aidi | - Chair, SOCATT |
| 11. Mr. Kinuthia Wa Mwangi | - Former Chairperson, Transitional Authority |

SECRETARIAT

- | | |
|----------------------------|--|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant I |
| 2. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |
| 3. Mr. Walters Omondi | - Legal Counsel II |
| 4. Ms. Mwanamisi Mwachasi | - Research Officer III |
| 5. Ms. Amran Yunis | - Fiscal Analyst I |
| 6. Ms. Lucianne Limo | - Media Relations Officer |
| 7. Ms. Celestine Jepkosgey | - Public Communications Officer |
| 8. Mr. David Barasa | - Serjeant-At-Arms |
| 9. Mr. Johnstone Simiyu | - Audio officer |

MIN/SEN/DEVIR/599/2024:

PRAYER

The meeting was called to order at 10:10 am by the Chairperson followed by a word of prayer by Ms. Sylvia Nasambu. Thereafter, there was a round of introductions by all those who were present.

MIN/SEN/DEVIR/600/2024

ADOPTION OF AGENDA

The Agenda of the meeting was adopted as presented after being proposed by Sen. George Mbugua, MP and seconded by Sen. Peris Tobiko, MP –

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with various stakeholders to receive their views on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024)
4. Any other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/DEVIR/601/2024

MEETING WITH VARIOUS STAKEHOLDERS TO RECEIVE THEIR VIEWS ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 12 OF 2024)

The Chairperson in his opening remarks welcomed all those present at the meeting and stated that the Committee was looking forward to hear their views regarding the Intergovernmental Relations (Amendment) Bill, 2024. He explained that the principal objective of the Bill is to establish a structured framework for intergovernmental and intragovernmental relations; provide for the Council of Governors Secretariat and County Assemblies Forum and its Secretariat; and provide for their role in horizontal intergovernmental relations.

He thereafter invited each of the stakeholders to present their views on the Bill.

Submissions by the Council of Governors

The Council of Governors in their submissions made the following proposals to the Bill-

1. An amendment to clause 3(d) to make the academic qualifications of the Chairperson of the Agency to be possession of a masters degree in law, humanities or social sciences This is in order to strengthen the Agency to undertake its functions of inter alia advising the summit on legal matters and resolving complex intergovernmental disputes;
2. An amendment to clause 3(e) to have persons appointed to be members of the Agency have experience in matters relating to law, public administration, ADR, Economics or finance, human rights, management or social sciences. Justifying the proposal that it strengthens the composition of the agency as the intergovernmental relations between the National and County Governments encompasses a complex and multifaceted range of issues. Consequently, to effectively address these challenges, the members of the agency must possess a comprehensive understanding of the legal, administrative, and socio-economic factors that shape intergovernmental relations;
3. An amendment to section 12 to provide clarity and the functions of the Agency as the institution responsible to the Summit as well as determine the disputes between the National and County Governments;
4. A deletion of section 12(c) of the Principal Act as the role of the Intergovernmental Relations Agency as proposed will not require the agency to directly convene the County Secretaries to be in line with the current amendments in the Bill;
5. A Deletion of section 12A(1)(e) in its entirety considering that the agency functions as the secretariat of the Summit whose membership is provided under section 7 of the Act, it shall not be ideal therefore, for it to possess the authority to summon its principals who are the President and Governors;
6. An amendment to section 20 1 (c) to make the Council facilitate capacity building for the members of the County Executive since The Council of Governors facilitates capacity building of the Members of the Executive arm of the County Governments to enable them to effectively discharge their functions;
7. An amendment to clause 12 on the funds of the Council to provide for a comprehensive section on all matters of finance including sources of funding, annual estimates, accounts and audits;and
8. Insertion of a new provision immediately after Clause 23 (c) on saving and Transitional Provisions of the Provisional Staff of the Council. This provides for the transition of the staff currently serving under the Council of Governors to the Council of County Governors Secretariat upon the commencement of the Law as provided for under section 23C.

Submissions by Intergovernmental Relations Technical Committee, IGRTC

The Chairperson of IGRTC in their submissions made the following proposals to the Bill -

1. An amendment to the qualifications of the Chairperson of the agency to include professional experience since the position of the Chairperson calls for extensive professional experience which may be quantified through provision of the number of years post-academic qualification experience;
2. An amendment to section 12 to have the agency be responsible for the day to day administration of the summit and in particular to facilitate the activities of the summit and to implement the decisions of the Council;
3. Add a new section by amending section 13(1) and (2) of the Principal Act to clauses that provide clarity and synergy in establishing and convening the sector forums;
4. Amend section 20 (A) on funding of the Council to include funds allocated by Parliament for the implementation of the mandate of the Council which could be the foremost source of funding for the secretariat of the Council of Governors;
5. Amend section 22 of the Principal Act on reports of the Council to include the submission of the said reports to the Senate and the National Assembly within three months after the end of every financial year;
6. Amend section 23 (G) on funding of the County Assemblies Forum to include funds allocated by Parliament for the implementation of the mandate of the Forum as the foremost source of funding for the Forum;
7. Amendment to section 30 of the Principal section by deleting section 30 (2) (b) to retain the section to maintain the role of the Agency in providing for the resolution of disputes amongst county governments; and
8. An amendment to section 34 (1) of the Principal Act on the timelines required after a formal declaration of a dispute to fourteen (14) days. This will pave the way for an expeditious process in dispute resolution.

County Assemblies Forum

The County Assemblies Forum in their submissions made the following proposals to the Bill -

1. An amendment to Clause 1 the Bill to state that the Act shall come into force upon publication in the Gazette to ensure that the provisions of the amendment take effect immediately;
2. Amend clause 13 of the Principal Act to include the Secretary General of the Forum as a member of the National Executive Board;
3. Amend section 23 (F)(1) of the Principal Act on the functions of the Forum to include the representation of County Assemblies in all engagements with intergovernmental forums as well as the consideration of reports from other intergovernmental forums on matters affecting County Assemblies;

4. Amend 23 (L) to add a new clause on the employment of the staff by the Forum to ensure a seamless transition of all aspects related to the County Assemblies Forum to the newly established Forum. It addresses the continuity of operations;

Submissions by the State Department for Devolution

The State Department for Devolution in their submissions made the following proposals to the Bill -

1. An amendment to the act to retain the existing qualifications for appointment as a chairperson of the Agency as in the Principal Act;
2. Deletion of clause (ca) on giving the agency the function of analyzing the resolutions of the summit in regard to the performance of national and county governments as this attempts to assign to the agency, the responsibility assigned to the CS responsible for Intergovernmental Relations as per section 21 of the County Government Act;
3. Deletion of clause (cb) as the principal Act under section 33 already provides a comprehensive mechanism for dispute resolution which cannot be an exclusive function of the agency;
4. Deletion of clause (cc) the responsibility of the agency on matters of transfer ends once the function has been transferred to either level of government. It is the responsibility of the State Department to monitor and assess the performance of the transferred functions;
5. Deletion of (cd) on the agency providing a forum for coordination of policies between the two levels as the act provides for intergovernmental sector forums for this function;
6. Deletion of (ch) as the responsibility of witnessing the execution of legal documents rests with the Attorney General for all intergovernmental instruments;
7. An amendment to clause 12 (A) by deleting clause (b) as the agency does not have powers to hold inquiries;
8. An amendment to 12 (A) by deleting clause (c) as the proposal is against the letter and spirit of Articles 6 and 189 of the Constitution on mutual consultation and cooperation. It instead introduces coercion and intimidation in the management of Intergovernmental Relations;
9. An amendment to section 15 (6) of the Principal Act to replace the term secretary to the agency with Chief Executive Officer;
10. An amendment 23 C to on staff of the Council to be appointed by the Council with the approval of the Public Service Commission (PSC) as this is in line with the constitutional mandate of PSC on approving all appointments in Public Service;

11. Expunge all provisions concerning the creation of the County Assemblies Forum as part of the Intergovernmental structures. Since unlike Governors, county assemblies are represented at the National level by the Senate. County Assemblies do not have an intergovernmental relations mandate;
12. The period of convening a meeting upon the declaration of a dispute be retained at 21 days as provided for in the Principal Act. The seven days proposed is not practically viable considering these are issues affecting the various levels of government.

Society of Clerks at the Table;

In their submissions, the Society of Clerks at the table submitted the following proposals to the Bill-

1. The Bill be amended by inserting a new clause for the establishment of the Society of Clerks at the Table which shall be a forum consisting of all the technical officers of the forty-seven County Assemblies;
2. A clause to provide for various functions of the Society; and
3. That funding of the Society shall consist of mandatory annual subscriptions by the County Assemblies Service Board and any monies that shall be lawfully granted.

Mr. Kinuthia Wamwangi,

In his Submissions, Former Chairperson of the Transition Authority, Mr. Kinuthia Wamwangi submitted as follows-

1. Supported the change of name of the from Intergovernmental Relations Technical Committee to Intergovernmental Relations Agency as this will give the Committee a greater functional identity;
2. Supported the proposed powers of the agency as they are akin to those granted to the Transitional Authority which will enhance its effectiveness, ensure clear governance, and improve overall implementation of resolutions of the Summit;
3. Proposed a provision empowering the Chairperson of the Intergovernmental Relations Agency to gazette decisions of the Agency;
4. The new Bill should emphasize the responsibility of establishing sectoral working groups or other Committees to exclusively rest with the Intergovernmental Relations Agency; and
5. The Intergovernmental Relations Agency should operate autonomously from the Ministry or State Department for Devolution and the Council of Governors and be directly answerable to the summit.

Resolutions

Upon receiving views from all the stakeholders present and considering that some of the proposals needed more clarity by allowing the stakeholders to respond to the submissions touching on the mandate of the organizations that they represented, the

Committee resolved to have another hearing on Thursday, 25th July, 2024 to receive more views.

MIN/SEN/DEVIR/602//2024

ANY OTHER BUSINESS

There was no any other Business.

MIN/SEN/DEVIR/603/2024

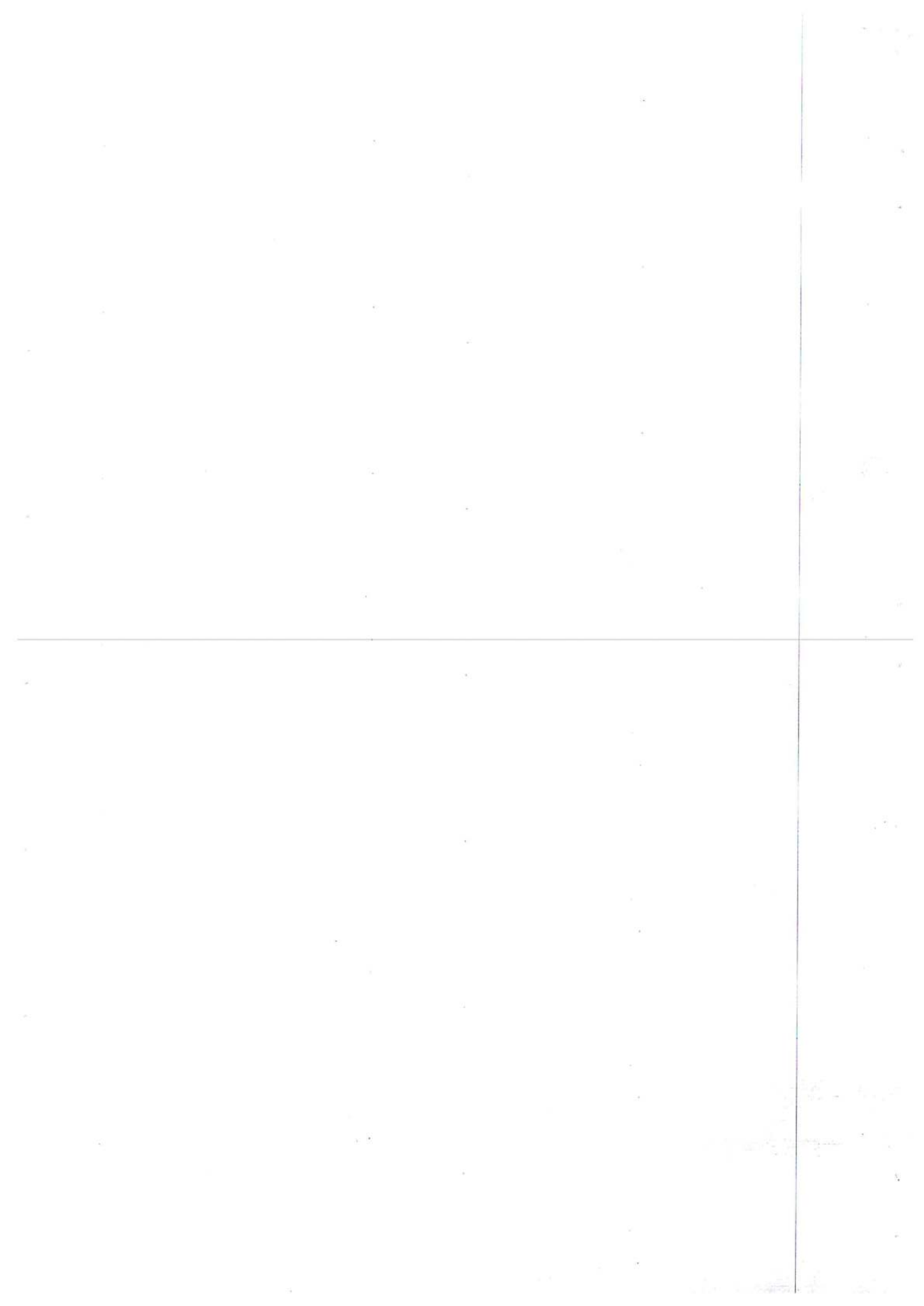
DATE OF NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 14:28 pm. The next meeting to be held on Thursday, 18th July, 2024.

SIGNED.....

DATE.....6/09/24.....

SEN. SHEIKH MOHAMED ABASS, M.P
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS.



Annex 2:

**Copy of the Intergovernmental
Relations (Amendment) Bill
(Senate Bills No. 12 of 2024)**

SPECIAL ISSUE

Kenya Gazette Supplement No. 54 (Senate Bills No. 12)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 7th March, 2024

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**THE INTERGOVERNMENTAL RELATIONS
(AMENDMENT) BILL, 2024**

A Bill for

**AN ACT of Parliament to amend the
Intergovernmental Relations Act and for connected
purposes.**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2024. Short title.

2. The Intergovernmental Relations Act, in this Act referred to as “the Principal Act”, is amended in section 2 by—

(a) insert the following new definition—

“agency” means the Intergovernmental Relations Agency established under section 11;

(b) deleting the definition of “secretariat”; and

(c) deleting the definition of “technical committee”.

3. Section 11 of the principal Act is amended —

(a) in subsection (1) by deleting the words “Technical Committee” appearing immediately after the words “Intergovernmental Relations” and substituting therefor the word “Agency”;

(b) in subsection (2) by —

(i) deleting the words “Technical Committee” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Agency”; and

(ii) deleting paragraph (c);

(c) in subsection (3) by deleting the words “Technical Committee” appearing immediately after the word “The” and substituting therefor the words “members of the Agency”;

(d) by deleting subsection (4) and substituting therefor the following new subsection —

(4) A person shall be qualified for appointment as a chairperson of the Agency if such person—

Amendment of
section 11 of Cap.
265F.

- (a) holds a Master's degree from a university recognized in Kenya;
 - (b) meets the requirements of Chapter Six of the Constitution; and
 - (c) has had a distinguished career in their respective fields.
- (e) by deleting subsection (5) and substituting therefor the following new subsections –
- (5) A person shall be qualified for appointment as a member of the Agency if such person—
- (a) holds a degree from a university recognized in Kenya;
 - (b) has knowledge and experience of at least ten years in matters relating to devolved functions;
 - (c) meets the requirements of Chapter Six of the Constitution; and
 - (d) has had a distinguished career in their respective fields.
- (5A) The chairperson and members of the Intergovernmental Agency shall serve on a full-time basis and shall hold office for a single non-renewable term of six years.
- (f) in subsection (6) by deleting the words “Technical Committee” appearing immediately after the words “member of the” in the introductory phrase to and substituting therefor the word “Agency”.
4. Section 12 of the principal Act is amended—
- (a) in the introductory phrase by deleting the words “Technical Committee” and substituting therefor the word “Agency”;
 - (b) by inserting the following new paragraphs immediately after paragraph (c)—
 - (ca) analyse the resolutions of the Summit with regard to the performance of national and county governments in the provision of services and recommend to the Summit the

appropriate promotive, preventive or corrective action where necessary;

- (cb) facilitate dispute resolution between the national government and county governments within the framework provided under this Act;
- (cc) provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling, costing and assignment of functions;
- (cd) provide a platform for exchange of information and coordination of policies between the two levels of government;
- (ce) receive and transmit to the Summit, reports from sectoral forums, joint committees and any other intergovernmental structures or mechanisms established under this Act;
- (cf) establish and maintain a repository of information and knowledge on intergovernmental matters;
- (cg) coordinate the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution;
- (ch) witness the execution of all relevant legal instruments pertaining to the transfer of functions; and
- (ci) provide a repository for the legal instruments for transfer of functions.

5. The principal Act is amended by inserting the following new section immediately after section 12—

Insertion of section 12A of Cap 265F

12A. Powers of the Agency

(1) The Agency shall have all the powers necessary for the performance of its functions under this Act and, in particular, shall have the power to, on its own motion—

- (a) gather, by such means as it considers appropriate, any relevant information including requisition of

reports, records, documents or any information from any source, including any State organ, and to compel the production of such information where it considers necessary;

- (b) hold inquiries for the purposes of performing its functions under this Act;
- (c) take any measures it considers necessary to ensure compliance with the principles of cooperation between the national and county governments set out in Articles 6 and 189 of the Constitution;
- (d) issue directions with respect to intergovernmental disputes under this Act; and
- (e) summon any person to appear before it for the purposes of performing its functions under this Act.

(2) In the exercise of its powers and the discharge of its functions, the Agency—

- (a) may receive written or oral statements; and
- (b) is not bound by the strict rules of evidence.

6. Section 13 of the principal Act, is amended in subsection (1) by deleting the words “Technical Committee” appearing immediately after the word “The” and substituting therefor the word “Agency”.

Amendment of
section 13 of Cap
265F

7. Section 14 of the principal Act is amended in—

Amendment of
section 14 of Cap
265F

- (a) by deleting the words “technical committee” appearing immediately after the word “The” in the introductory phrase and substituting therefor the word “Agency”;
- (b) paragraph (a) by deleting the words “the Council” appearing immediately after the words “and to” and substituting therefor the word “Parliament”;
- and
- (c) paragraph (b) by deleting the words “and to the Council” appearing immediately after the words “to the summit”.

8. Section 15 of the principal Act is amended in—

Amendment of
Section 15 of Cap
265F

- (a) subsection (1) by deleting the words “Technical Committee” appearing immediately after the

words “secretariat of the” and substituting therefor the word “Agency”;

- (b) subsection (2) by deleting the words “Technical Committee” appearing immediately after the words “appointed by the” and substituting therefor the word “Agency”;
- (c) subsection (4) by deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) responsible to the Agency for the day to day administration of the affairs of the secretariat and implementation of the decisions of the Summit;
- (d) in subsection (5) —
 - (a) by deleting the words “the Council and the Technical Committee” appearing immediately after the words “of the Summit” in paragraph (a) and substituting therefor the words “and the Agency,”;
 - (b) by deleting the words “the Council and the Technical Committee” appearing immediately after the words “expenses of the Summit” in paragraph (e) and substituting therefor the words “and the Agency”; and
 - (c) by deleting the words “the Council and the Technical Committee” appearing immediately after the words “by the Summit” in paragraph (f) and substituting therefor the words “and the Agency”.

9. Section 16 of the principal Act is amended in the introductory phrase by deleting the words “Technical Committee” appearing immediately after the words “office by the” and substituting therefor the word “Agency”.

Amendment of
Section 16 of Cap
265F

10. The principal Act is amended by deleting section 17 and substituting therefor the following new section—

Amendment of
Section 17 of Cap
265F

Staff of the summit.

17. The Agency may employ staff as are necessary for the proper discharge of the functions of the Agency under this Act.

11. The principal Act is amended in section 18 by deleting the words “Technical Committee” appearing immediately after the words “determined by the” and substituting therefor the word “Agency”.

Amendment of
Section 18 of Cap
265F

12. The principal Act is amended by inserting the following new section immediately after section 20—

Insertion of a new
Section 20A of
Cap 265F

20A. Funding of the Council

(1) The funds of the Council shall consist of—

- (a) annual subscriptions by county governments; and
- (b) such monies as may be lawfully granted or donated to the Council.

(2) The Council shall determine bi-annually the amounts to be paid by county governments as subscriptions.

13. The principal Act is amended by inserting the following new sections immediately after section 23—

Insertion of new
sections.

23A. Establishment of the Council Secretariat

(1) There shall be a secretariat to the Council which shall be headed by a chief executive officer.

(2) The chief executive officer shall be competitively recruited and appointed by the Council.

(3) A person is qualified to be appointed as the chief executive officer if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least ten years relevant professional experience;
- (c) has demonstrable competence in administration of not less than five years; and
- (d) satisfies the requirements of leadership and integrity provided under Chapter Six of the Constitution.

(4) The chief executive officer shall be—

- (a) the accounting officer of the secretariat;
- (b) the Secretary to the Council; and
- (c) responsible to the Council for the day to day administration of the affairs of the Secretariat.

(5) Without prejudice to the generality of the provisions of subsection (4), the chief executive officer shall be responsible for—

- (a) the implementation of decisions of the Council;
- (b) the establishment and development of an efficient administration of the Secretariat;
- (c) the organization, control and management of staff of the Secretariat;
- (d) maintaining accurate records on financial matters and resource use;
- (e) ensuring the preparation and approval of the budget for the required funding of the operational expenses of the Council; and
- (f) performing any other duties as may be assigned by the Council.

(6) The chief executive officer shall be appointed for a single term of six years and shall not be eligible for reappointment.

23B. Removal from office of the chief executive officer

The chief executive officer may be removed from office by the Council in accordance with the terms and conditions of service, for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or

- (d) any other ground that would justify removal from office under the terms and conditions of service.

23C. Staff of the Council-the it can only be staff of the council secretariat

The Council may employ staff as are necessary for the proper discharge of its functions.

23D. Remuneration of staff

The Chief Executive Officer and staff of the Secretariat shall be paid such salaries, benefits and allowances for expenses as may be determined by the Council, in consultation with the Salaries and Remuneration Commission.

23E. Establishment of County Assemblies Forum

(1) There is established a County Assemblies Forum which shall consist of all the members of County Assemblies and speakers of the forty-seven county assemblies.

(2) The forum shall be managed by a National Executive Board.

(3) The members of the National Executive Board shall elect—

- (a) a chairperson who shall be a speaker of a County assembly;
- (b) a vice-chairperson; and
- (c) seven other members from amongst its members.

(4) Notwithstanding the generality of subsection under (3) members of County assemblies shall have at least 5 members in the National Executive Board.

(5) No County Assembly shall have more than two board members.

(6) The National Executive Board of the forum shall serve for a term of two years and shall be eligible for re-election for one further term.

23F. Functions of the Forum

(1) The Forum shall provide an avenue for—

- (a) consultation amongst county assemblies;
- (b) sharing of information on the performance of the County Assemblies in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;
- (c) facilitating disputes within County Assemblies;
- (d) considering matters of common interest to County Assemblies; and
- (e) facilitating capacity building for members of the forum.

(2) The Forum may establish working groups or committees for the better carrying out of its functions.

23G. Funding of the Forum

(1) The funds of the Forum shall consist of—

- (a) mandatory annual subscriptions by County Assemblies; and
- (b) such monies as may be lawfully granted or donated to the Forum.

(2) The Board shall determine bi-annually the amounts to be paid by County Assemblies as subscriptions.

23H. Meetings of the Forum

(1) The Forum shall meet at least once every year.

(2) The Forum shall prescribe its own procedures.

23I. Reports by the Forum

(1) The Forum shall submit an annual report to the Senate.

(2) The report under subsection (1) shall be transmitted to the county assemblies within three months after the end of every financial year.

23J. Establishment of the Forum Secretariat

(1) There shall be a Secretariat of the Forum which shall be headed by a chief executive officer.

(2) The Chief Executive Officer shall be the Secretary to the Forum.

(3) The chief executive officer shall be competitively recruited and appointed by the National Executive Board.

(4) A person is qualified to be appointed as the chief executive officer if that person—

(a) holds a degree from a university recognised in Kenya;

(b) has at least ten years relevant professional experience;

(c) has demonstrable competence in administration of not less than five years; and

(d) satisfies the requirements of leadership and integrity provided under Chapter Six of the Constitution.

(5) The chief executive officer shall be—

(a) the accounting officer to the Forum;

(b) the Secretary to the forum; and

(c) responsible to the Forum for the day to day administration of the affairs of the Secretariat.

(6) Without prejudice to the generality of the provisions of subsection (5), the Chief Executive Officer shall be responsible for—

(a) the implementation of decisions of the Forum;

(b) the establishment and development of an efficient administration of the Secretariat;

- (c) the organization, control and management of staff of the Secretariat;
- (d) maintaining accurate records on financial matters and resource use;
- (e) ensuring the preparation and approval of the budget for the required funding of the operational expenses of the Forum; and
- (f) performing any other duties as may be assigned to them by the Forum.

(7) The chief executive officer shall be appointed for a term of three years and shall be eligible for reappointment once.

23K. Removal from office of the Chief Executive Officer

The chief executive officer may be removed from office by the National Executive Board in accordance with the terms and conditions of service, for— - where has this entity come from?

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

23L. Staff of the Forum

The Forum may employ staff as are necessary for the proper discharge of its functions.

23M. Remuneration of staff

The Chief Executive Officer and staff of the Forum shall be paid such salaries, benefits and allowances for expenses as may be determined by the National Executive Board, in consultation with the Salaries and Remuneration Commission.

- 14.** Section 26 of the principal Act is amended in — Amendment of
Section 26 of Cap
265F
- (a) subsection (4) by inserting the words “and the Senate” immediately after the words “The National Assembly”; and
 - (b) subsection (5) by deleting the words “A County Assembly” appearing at the beginning of the subsection and substituting therefor the words “The Senate and respective county assembly”.
- 15.** Section 30 of the principal Act is amended in subsection (2) by deleting paragraph (b). — what is the rationale and what provisions will county governments rely on for dispute resolution? Amendment of
Section 30 of
Cap 265F
- 16.** Section 30 of the principal Act is amended in subsection (2) by— Amendment of
Section 33 of Cap
265F
- (a) deleting the word “may” appearing immediately after the words “party to the dispute” and substituting therefor the word “shall”; and
 - (b) deleting the words “Summit, the Council” and substituting therefor the word “Agency”.
- 29.** Section 34 of the principal Act is amended in subsection (1) by — Amendment of
Section 34 of Cap
265F
- (a) deleting the words “twenty-one” appearing immediately after the word “Within” in the introductory phrase and substituting therefor the word “seven”; and
 - (b) deleting the words “Summit the Council” appearing immediately after the words “a dispute the” and substituting therefor the word “Agency”. — it needs to be clear where these words are. If it is in the introductory clause, it might be necessary to combine this deletion with the one under (a) above since the words are not far from each other and rewrite the phrase.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Intergovernmental Relations Act, No. 2 of 2012 to establish a structured framework for intergovernmental relations. This will enhance intergovernmental relations amongst the national government, County executive and County assemblies.

The Bill proposes to provide the vertical role of Intergovernmental Relations Agency and enhance its functions and powers. The Bill proposes to amend the Intergovernmental Relations Act to provide for the Council of Governors Secretariat as well as the County Assemblies Forum and Secretariat to provide for their role in horizontal intergovernmental relations.

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

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

Statement on how the Bill concerns county governments

Intergovernmental Relations Technical Committee handles intergovernmental relations between Counties and National Government. The Council of Governors and County Assemblies Forum are Intergovernmental structures that deal with the unity of County executives and County Assemblies respectively.

The Bill is therefore a Bill concerning county governments in terms of Article 110(1)(a) of the Constitution.

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

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

Dated the 6th March, 2024.

AARON CHERUIYOT,
Senate Majority Leader.

Section 10 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

10. Reports by the Summit

(1) The Summit shall submit an annual report to the National Assembly, the Senate and the county assemblies, within three months after the end of every financial year.

(2) The procedure and details of the report under subsection (1), shall be provided by Regulations.

(3) The National Assembly, the Senate or the county assemblies shall, upon receiving the annual report under subsection (1), make such recommendations to the Summit as they may consider necessary.

(4) Despite subsection (1), the National Assembly, the Senate or the county assemblies may, at any time, request information from the Summit on any matter.

Section 11 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

Intergovernmental Relations Technical Committee

11. Establishment of the Intergovernmental Relations Technical Committee

(1) There is established an Intergovernmental Relations Technical Committee.

(2) The Technical Committee shall comprise—

(a) a chairperson competitively recruited and appointed by the Summit;

(b) not more than eight members who shall be competitively recruited and appointed by the Summit; and

(c) the Principal Secretary of the State department for the time being responsible for matters relating to devolution.

(3) The Technical Committee shall be appointed on such terms and conditions as the Summit may determine.

(4) A person shall be qualified for appointment as a chairperson of the Technical Committee if such person—

(a) holds a masters degree from a university recognized in Kenya;

(b) has a distinguished career in senior management position in either private or public sector;

(c) holds at least fifteen years' post qualification professional experience; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(5) A person shall be qualified for appointment as a member of the Technical Committee if such person—

(a) holds a degree from a university recognized in Kenya;

(b) has a distinguished career in their respective field;

(c) has at least ten years' post qualification professional experience; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(6) A person shall not be qualified for appointment as the chairperson or a member of the Technical Committee if the person—

(a) is a member of Parliament or County Assembly;

(b) is a member of a governing body of a political party;

(c) is an elected or nominated member of a local authority;

(d) is a member of a Commission established under the Constitution;

(e) is an undischarged bankrupt;

(f) has been removed from office for contravening the Constitution or any other law; or

(g) has, in the conduct of his affairs, not met any statutory obligations.

Section 12 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

12. Functions of the Technical Committee

The Technical Committee shall—

(a) be responsible for the day to day administration of the Summit and of the Council and in particular—

(i) facilitate the activities of the Summit and of the Council; and

(ii) implement the decisions of the Summit and of the Council;

(b) take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity;

- (c) convene a meeting of the forty-seven County Secretaries within thirty days preceding every Summit meeting; and
- (d) perform any other function as may be conferred on it by the Summit, the Council, this Act or any other legislation.

Section 13 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

13. Sectoral working groups or committees

(1) The Technical Committee may establish sectoral working groups or committees for the better carrying out of its functions.

(2) Nothing in this section may be construed as precluding a Cabinet Secretary from convening consultative fora on sectoral issues of common interest to the national and county governments.

Section 14 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

14. Reports by the Technical Committee etc.

The Technical Committee shall—

- (a) submit quarterly reports to the Summit and to the Council; and
- (b) be accountable to the Summit and to the Council.

Section 15 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

15. Establishment of the Intergovernmental Relations Secretariat

(1) There shall be a Secretariat of the Technical Committee which shall be headed by a Secretary.

(2) The secretary shall be competitively recruited and appointed by the Technical Committee, with the approval of the Summit.

(3) A person is qualified to be appointed as the secretary if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least five years relevant professional experience;
- (c) has demonstrable competence in administration of not less than five years; and
- (d) satisfies the requirements of leadership and integrity provided under Chapter Six of the Constitution.

(4) The secretary shall be—

- (a) the chief executive and accounting officer of the Secretariat; and
- (b) responsible to the Technical Committee for the day to day administration of the affairs of the Secretariat and implementation of the decisions arising from the intergovernmental relations structures established under this Act.

(5) Without prejudice to the generality of the provisions of subsection (4), the secretary shall be responsible for—

- (a) the implementation of decisions of the Summit, the Council and the Technical Committee;
- (b) the establishment and development of an efficient administration of the Secretariat;
- (c) the organization, control and management of staff of the Secretariat;
- (d) maintaining accurate records on financial matters and resource use;
- (e) ensuring the preparation and approval of the budget for the required funding of the operational expenses of the Summit, the Council and the Technical Committee; and
- (f) performing any other duties as may be assigned to him by the Summit, the Council and the Technical Committee.

(6) The Secretary shall be appointed for a single term of six years and shall not be eligible for reappointment.

Section 16 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

16. Removal from office of the Secretary

The Secretary may be removed from office by the Technical Committee with the approval of the Summit in accordance with the terms and conditions of service, for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

Section 17 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

17. Staff of the Summit and Technical Committee

The Technical Committee may employ officers and staff as are necessary for the proper discharge of the functions of the Technical Committee, the Council and the Summit under this Act.

Section 18 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

18. Remuneration of staff

The Secretary, officers and staff of the Secretariat shall be paid such salaries, benefits and allowances for expenses as may be determined by the Technical Committee, in consultation with the Salaries and Remuneration Commission.

Section 20 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

20. Functions of the Council

- (1) The Council shall provide a forum for—
- (a) consultation amongst county governments;
 - (b) sharing of information on the performance of the counties in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;
 - (c) considering matters of common interest to county governments;
 - (d) dispute resolution between counties within the framework provided under this Act;
 - (e) facilitating capacity building for governors;
 - (f) receiving reports and monitoring the implementation of inter-county agreements on inter-county projects;
 - (g) consideration of matters referred to the Council by a member of the public;
 - (h) consideration of reports from other intergovernmental forums on matters affecting national and county interests or relating to the performance of counties; and

- (i) performing any other function as may be conferred on it by this Act or any other legislation or that it may consider necessary or appropriate.

(2) The Council shall have powers to establish other intergovernmental forums including inter-city and municipality forums.

(3) The Council may establish sectoral working groups or committees for the better carrying out of its functions.

Section 23 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

23. Joint committees

The national or a county government may establish a joint committee with a specific mandate where such a committee is necessary for the achievement of—

- (a) the objects and principles of devolution provided in Articles 174 and 175 of the Constitution; and
- (b) the objects and purposes of this Act.

Section 26 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

26. Agreements on transfer or delegation of powers, functions or competencies

(1) A transfer or delegation of powers, functions or competencies under this Part shall be by a written agreement.

(2) The agreement for the transfer or delegation under subsection (1) shall include—

- (a) the function, power or competency transferred or delegated;
- (b) the specific legal provisions supporting the transfer or delegation;
- (c) the reasons for the transfer or delegation;
- (d) the performance standards and frameworks in respect of the transfer or delegation;
- (e) the resourcing framework for delivery of the powers, function or competency transferred or delegated;
- (f) the capacity of the receiving entity to exercise or perform the powers, function, or competency transferred or delegated;

- (g) the capacity building framework for enhancing any deficits identified in the entity to which the transfer or delegation has been effected;
 - (h) the method of resolving any dispute that may arise under the agreement; and
 - (i) the terms and conditions for the exercise or performance of the power, function or competency including the time frame.
- (3) The agreement shall be—
- (a) signed by an authorized person or officer; and
 - (b) published in the Kenya Gazette and the county Gazette in respect of the county to which it relates, at least fourteen days before the effective date of the transfer or delegation.
- (4) The National Assembly shall be notified of the decision to transfer a national government power, function or competency.
- (5) A county assembly shall be notified of the decision to transfer a county government power, function or competency.

Section 30 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

30. Application of this Part

- (1) In this Part, unless the context otherwise requires, "dispute" means an intergovernmental dispute.
- (2) This Part shall apply to the resolution of disputes arising—
- (a) between the national government and a county government; or
 - (b) amongst county governments.

Section 33 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

33. Formal declaration of a dispute

- (1) Before formally declaring the existence of a dispute, parties to a dispute shall, in good faith, make every reasonable effort and take all necessary steps to amicably resolve the matter by initiating direct negotiations with each other or through an intermediary.
- (2) Where the negotiations under subsection (1) fail, a party to the dispute may formally declare a dispute by referring the matter to the Summit, the Council or any other intergovernmental structure established under this Act, as may be appropriate.

Section 34 of No. 2 of 2012 of the laws of Kenya, which it is proposed to amend—

34. Procedure after formal declaration of a dispute

(1) Within twenty-one days of the formal declaration of a dispute, the Summit, the Council or any other intergovernmental structure established under this Act shall convene a meeting inviting the parties or their designated representatives—

(a) to determine the nature of the dispute, including—

(i) the precise issues in dispute; and

(ii) any material issues which are not in dispute; and

(b) to—

(i) identify the mechanisms or procedures, other than judicial proceedings, that are available to the parties to assist in settling the dispute, including a mechanism or procedure provided for in this Act, other legislation or in an agreement, if any, between the parties; or

(ii) subject to Article 189 of the Constitution, agree on an appropriate mechanism or procedure for resolving the dispute, including mediation or arbitration, as contemplated by Articles 159 and 189 of the Constitution.

(2) Where a mechanism or procedure is specifically provided for in legislation or in an agreement between the parties, the parties shall make every reasonable effort to resolve the dispute in terms of that mechanism or procedure.

(3) Where a dispute referred to the Council or any other intergovernmental structure established under this Act, fails to be resolved in accordance with section 33 (2), the Summit shall convene a meeting between the parties in an effort to resolve the dispute and may recommend an appropriate course of action for the resolution of the dispute.

Annex 3:

**Advertisement published in the
Daily Nation and Standard
newspaper on Thursday, 16th
May, 2024**

President's state visit to US will have huge impact, says Whitman

- ▶ The meetings and interactions will be formal.
- ▶ President will first spend two days in Atlanta.

STEPHANIE WANGARI, STANDARD

President William Ruto's upcoming state visit to the United States on May 23 underscores the robust, six-decade-long relationship between Kenya and the US, the US envoy has said.

In an interview with Spice FM, US Ambassador to Kenya Meg Whitman emphasized the importance of the visit. She said that a state visit represents the highest honor the US can bestow on a sitting head of state, featuring formalities such as a state dinner at the White House.

These dinners, which are attended by approximately 300 to 400 guests, are exclusive to state visits and signify the exceptional status of such diplomatic engagements.

"We have been working together

for 60 years on regional peace and security, trade and investment, and climate solutions. This has been a tight working relationship for many years. It has had its ups and downs like every relationship, but it has been a very solid relationship. We will discuss important issues to both countries," said Whitman.

The ambassador revealed plans for bilateral engagements between the Kenyan Cabinet and their US counterparts. She said the itinerary includes a formal welcome ceremony, extensive interactions with various branches of the US government, and engagements with the American populace, marking the visit as a notable honor for Kenya.

"There will be a very formal welcome ceremony and then lots of interaction with other branches of the government. So, it's very formal and a big honour for the Kenyan people," she said.

Whitman noted that President Joe Biden's administration has hosted only five other state dinners during his tenure, with Ruto's visit marking the sixth and final one of



US ambassador to Kenya Meg Whitman during a radio interview at Spice FM which is owned by The Standard Group on May 15th 2024. (Collins Oduor, Standard)

his first term. Before heading to Washington DC, President Ruto will first land in Atlanta where he will spend two days.

"He will have a number of different engagements there. Atlanta is one of the biggest cities and is home to many companies. It is a technology hub and a creative economy hub. A lot of the Los Angeles film, television and music has moved to go

there. Atlanta is a very vibrant part of the country, and we thought it was good to go there," she said.

In addition to diplomatic matters, Whitman also spoke about her rapport with Azimio leader Raila Odinga, emphasizing mutual respect. She spoke about Raila's potential to lead the African Union Commission, which she termed as beneficial for East Africa and Kenya.

LAMU

Murkomen: Repair of roads, bridges to cost Sh30 billion

The government needs Sh30 billion to repair critical infrastructure including roads and bridges damaged by floods across the country.

Speaking in Lamu yesterday, during inspection of Gamba section of the Lamu-Witu-Garsen road that was damaged by floods, Transport CS Kipchumba Murkomen said movement of goods and people had been disrupted.

"We are heavily impacted by the floods, we have lost infrastructure, especially roads and bridges. From the assessment we have done, it is estimated that between Sh25 billion to Sh30 billion is needed to restore the damaged infrastructure," said Murkomen.

He said that the water volume and flow depth was still high and the road remained impassable for vehicles.

"The situation has been worsened by the spillover from the Seven Forks dams, and experts expect this situation to remain so for sometime," he said.

He said the situation has forced the travellers to use canoes to complete their journeys from Mombasa to Lamu and back.

[Emmanuel Kipchumba]



CO-OPTRUST INVESTMENT SERVICES LIMITED
(A subsidiary of the Co-operative Bank of Kenya Ltd.)
Tel: 020 3276120 - 0711 049 000/0711 049 120,
P.O. Box 48231 - 00100 Nairobi,
Co-operative House 5th Floor, Haile Selassie Av.

NOTICE OF THE CO-OP UNIT TRUST ANNUAL GENERAL MEETING FOR THE YEAR ENDED 31 DECEMBER 2023

Dear Unit Holder,

NOTICE IS HEREBY given that pursuant to Regulation 84 of the Capital Markets (Collective Investment Schemes) Regulations 2001, the 5th Annual General Meeting of Co-op Unit Trust Fund will be held on 14th June 2024 from 10:00am via electric means to transact the following business:

1. To read the notice convening the meeting and determine if quorum is present.
2. To confirm the minutes of the last general meeting held on 22nd June 2023.
3. To receive, consider and if deemed fit, adopt the Annual Report and Financial Statements for the year ended 31st December 2023, together with the Auditors' report, Trustee report, Custody report and Investment report.
4. To transact any other business of the Co-op Unit Trust Fund of which due notice has been received.

Issued by the Fund Administrator
Co-optrust Investment Services Limited
Dated 16th May 2024

Notes:

1. Every member entitled to attend and vote at the above meeting is entitled to appoint a proxy to attend and vote on his behalf. A proxy need not be a unit holder. A form of proxy is enclosed and should be returned to the Secretary, P.O. BOX 48231 - 00100 Nairobi, to arrive not later than 48 hours before the meeting or adjournment thereof.
2. Any unit trust holder wishing to follow the virtual meeting should send an email to co-optrust@co-opbank.co.ke. Registration begins from 20th May 2024 and will close on 12th June 2024 at 10am.
3. Unitholders who wish to raise any questions or clarifications regarding the AGM may do so by sending their written questions to co-optrust@co-opbank.co.ke.
4. Unit holders will receive a registration link via email through which they can use to register for the AGM.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Wednesday, 8th May, 2024, 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 **Thursday 30th May, 2024 at 5.00 p.m.**

Bill	Committee Referred To	Email Address
a) The Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024)	Standing Committee on Devolution and Intergovernmental Relations	Senate.devolution@parliament.go.ke
b) The County Assemblies Pensions Scheme Bill, 2024 (Senate Bills No. 14 of 2024)	Standing Committee on Labour and Social Welfare	laboursocialwelfarecomm.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. NYEGENYE, CBS,
CLERK OF THE SENATE.

Anti-graft agency repossesses Sh3bn grabbed public property in Eldoret

BY TITUS OMINDE

A residential house hosting a judge of the Environment and Land Court in Eldoret, Uasin Gishu County, is among grabbed public property worth Sh3.2 billion that has been recovered by the anti-corruption watchdog.

Most of the grabbed government assets were recovered from companies

linked to high-profile individuals, prominent families, and former powerful politicians in the Kanu regime, the Ethics and Anti-Corruption Commission (EACC) revealed yesterday.

At the same time, the EACC has revealed that Moi University is one of the public institutions that is a hotbed of corruption. According to the commission, the grabbed public property in Eldoret belongs to the Judiciary, Administration Police, the Uasin Gishu County Referral Hospital, a fire station, and the County Assembly. Most of the grabbed houses are in the posh Elgon View Estate in Eldoret town, EACC Spokesperson Eric Ngumbi revealed.

Mr Ngumbi said the title deeds for repossessed land were initially in the hands of powerful individuals.

Ninety-seven other properties worth Sh7.4 billion in Eldoret are still in private hands and investigations are ongoing, according to the anti-graft body.

Speaking during an anti-corruption workshop for county assembly staff from Vihiga, Elgeyo Marakwet, and Kisumu, Mr Ngumbi said some of the powerful Kanu-era politicians who had grabbed the land have since died.

North Rift EACC Regional Director Charles Rasagu said cases of grabbing public land are on the rise, promising to do everything possible to repossess such land.

"Land-grabbing in Eldoret is rampant and we are doing everything possible to ensure that such land is reposed to create room for expansion of the town as it eyes city status," said Mr Rasagu.

He wants the court to allow the issues raised by his wife to be sorted out of court amicably between them. He also admits that he sold the matrimonial property but insists that it was with the consent of his wife.

According to Mr Komen, he sold 120 acres to Mr Kipchoge and Mr Kirputo jointly, and not 150 acres as alleged by his wife, 50 acres to the third defendant, and 20 acres to the fourth defendant.

In a replying affidavit, Mr Kipchoge says that, in September and October 2011, they were informed by Mr Komen that he wanted to sell his land.

"We informed him that we were interested in purchasing the property and Mr Komen entered into a sale agreement with us on October 4, 2011, where we bought the property at a sum of Sh10

million. We did due diligence and confirmed that the land in question was indeed registered under his name," stated Kipchoge.

Mr Kipchoge says they paid the money through the firm of Kimaru Kiplagat and Company Advocates, who were acting on his behalf and that of Mr Kipruto. He says that, while they were in the process of finalising the deal, Mr Komen offered to sell them a further 80 acres for Sh25.6 million.

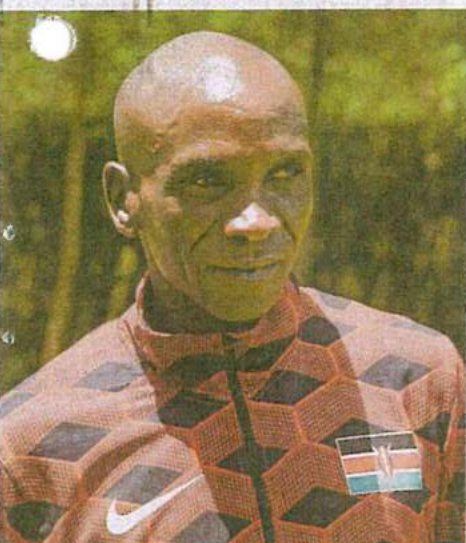
They requested Mr Komen to effect a transfer of the initial property to their names first. Mr Kipchoge says they have since employed five guards and other workers and planted crops on the land. Justice Nyakundi ordered the parties to appear before him on May 20 for further directions.

tominde@ke.nationmedia.com

Lawsuit Woman wants the court to declare the land sale a nullity for trampling on her rights over matrimonial property

Eliud Kipchoge dragged into fight over matrimonial land

Woman's wife claims that he sold the family's land without involving her in the transaction



Two-time Olympic marathon champion Eliud Kipchoge during the training of the Kenyan marathon team to the Paris Olympics in July at Kenmosa Resort in Eldoret, Uasin Gishu County, on May 1.

BY TITUS OMINDE

Renowned athlete Eliud Kipchoge has been dragged into a legal battle over the ownership of a multimillion-dollar property pitting former 5,000 metres world champion Daniel Komen against his wife Joyce Kimosop Komen.

Ms Komen, a lecturer at Moi University's Eldoret campus and head of its Management Science department, has sued her husband, double Olympic champion Eliud Kipchoge, and Mr Brimin Kipruto, the men's 3,000 metres event winner in the 2008 Beijing Olympic games, over the legal sale of the 200-acre piece of land without involving her. In the case that is before Justice Suben Nyakundi of the Eldoret High Court, Ms Komen says she is shocked to learn that Mr Kip-

Sh10m

Amount of money that was paid to Daniel Komen by the four buyers for the property that is at the centre of the dispute.

she contributed a substantial amount of money towards the development of the property, and it is currently worth well over Sh100 million.

"My husband has never mentioned it to me that he had sold the land, leave alone the intention to sell the property," says Ms Komen, terming the sale illegal.

She says she and her husband acquired and developed the land jointly even though it was registered in his name.

"I took various loans to fund the purchase and development of the property, which was the only family home as I married Komen at a time when he had no place to call home," she states in her court documents.

According to Ms Komen, she and her husband got married on November 5, 1998 through a church wedding in Eldoret and are blessed with three children.

The university don claimed that "the purported sale" was riddled with fraud and deceit, and that no consent was obtained from the Lands Control Board.

"I talked to the area chief, Mr Tarus, who ought to have given his consent under normal circumstances, but he has informed me that he never wrote any letter to the Land Control Board."

Ms Komen has listed five constitutional issues she wants determined; one, whether or not, as Komen's wife, she has a right to be involved in a transaction involving family property.

She also wants the court to determine whether the purported transaction conducted on February 8, 2012 is a clear violation of her constitutional rights.

The court is also expected to determine whether the purported transaction is a nullity for violating clear provisions of the law.

Ms Komen is urging the court to determine, whether as a spouse, she is entitled to an equal share of the property in question and in addition, whether she is entitled to costs and any other relief.

In his response, Mr Komen has

dismissed his wife's claims that they owned the land jointly insisting that he is the sole registered owner of the suit property.

"It is true we jointly applied for a loan of Sh6 million to settle the [balance of the purchase price owed] to the former owners, the family of Kwambai and Chesire," the athlete told the court.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION
THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

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

Annex 4:

**Matrix of the stakeholder
submissions on the Bill received
by the Committee**

THE SENATE



PUBLIC PARTICIPATION MATRIX

THE INTERGOVERNMENTAL RELATIONS AMENDMENT BILL, SENATE BILLS NO 12 OF 2024

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
1	STATE DEPARTMENT OF DEVOLUTION	Amend the Long title, insert the Chapter number of the Act CAP 265F	To align it to the revised twenty-fourth annual supplement of the Laws of Kenya.	
	COUNTY ASSEMBLIES FORUM	Amend the Short-title to state: “ This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2024 and shall come into force upon publication in the Gazette.”	Specifying the commencement date ensures that the provisions of the amendment take effect without delay, facilitating the immediate operationalization of the new framework and allowing for the swift transition of responsibilities.	
2	STATE DEPARTMENT OF DEVOLUTION	Amend to insert new definition of the “secretariat” to apply to the Secretariat of Council of Governors		
	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE	Amend Section 2 by deleting the word “the” and replacing it with the word “its” afraid the word “with”, as follows:	The provision in the definition in the Principal Act makes reference to the Secretariat of the Technical Committee. However, the Bill has made provision for a secretariat for the	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
3	STATE DEPARTMENT OF DEVOLUTION	<p>“ The chairperson and vice-chairperson of a body shall, in consultation with its secretariat”</p> <p>A bachelor degree to be the basic minimum qualification for appointment as chairperson of the Agency</p>	<p>Council of Governors, which shall bear the responsibility stated under S. 2 (1) of the Schedule to the Act.</p> <p>Majority of the stakeholders felt that the bachelor’s degree should be the minimum qualification.</p>	
	STATE DEPARTMENT OF DEVOLUTION	<p>Retain provisions existing in the principal Act. This is the change has knowledge and experience of at least ten years in matters</p>	<p>All professionals have experience in devolved functions</p>	
	COUNCIL OF GOVERNORS	<p>Amend clause 3 (d) to read as follows: Section 11 of the Principal Act is amended d) by deleting subsection (4) and substituting therefore with the following new subsection- (4) A person shall qualify for appointment as a chairperson of the Agency if such person- a) holds a master’s degree in law, humanities or social sciences from a recognised university b) at least 15 years of distinguished career experience and ten years in a managerial position c) has a high moral character, integrity and impartiality; and</p>	<p>This is in order to strengthen the Agency to undertake its functions of interalia advising the summit on legal matters and resolving complex intergovernmental disputes, the chairperson must be a professional with a proven track record and specific qualifications in alternative dispute resolutions methods, such as mediation and arbitration.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
	COUNCIL GOVERNORS	<p>d) meets the requirement of Chapter Six of the Constitution</p> <p>Amend by deleting clause 3(e) and replacing with the following new clause 3(e).</p> <p>Section 11 of the Principal Act is amended-</p> <p>e) by deleting subsection (5) and substituting thereof with the following new subsections-</p> <p>5. A person shall be qualified for appointment as a member of the Agency if the person-</p> <p>a) holds a degree from a university recognized in Kenya in the fields provided under section 5 (b);</p> <p>b) has knowledge and at least ten years' experience in matters relating to any of the following fields-</p> <p>(i) law;</p> <p>(ii) public administration;</p> <p>(iii) Alternative Dispute Resolution;</p> <p>(iv) economics or finance;</p> <p>(v) human rights;</p> <p>(vi) management; or</p> <p>(vii) social sciences;</p> <p>c) has had a distinguished career in their respective fields; and</p> <p>d) meets the requirements of Chapter Six of the Constitution</p>	<p>To strengthen the composition of the agency as the intergovernmental relations between the National and County Governments encompasses complex and multifaceted range of issues.</p> <p>To effectively address these challenges, the members of the agency must possess a comprehensive understanding of the legal, administrative, and socio-economic factors that shape intergovernmental relations. Thus, requiring knowledge and experience in the proposed fields.</p>	
	INTERGOVERNMENTAL RELATIONS	<p>Amend to include professional experience.</p>	<p>The position of Chairperson calls for extensive professional</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
4	TECHNICAL COMMITTEE	<p>Amend section 12 of Cap 265F as follows:</p> <p>Section 12 of the Principal Act is amended-</p> <p>(a) By deleting section 12 and replacing with the following new section 12.</p> <p><u>Functions of the Agency</u></p> <p>12. The Technical Agency shall-</p> <p>(a) be responsible for the day-to-day administration of the Summit and in particular-</p> <p>(i) facilitate the activities of the Summit; and</p> <p>(ii) implement the decision of the Summit;</p> <p>(b) Advise the Summit on all matters of intergovernmental relations between the National and County Governments;</p> <p>(c) Determine disputes between the national government and county governments within the framework provided under this Act;</p>	<p>experience, which may be quantified through provision of number of years post academic qualification experience.</p> <p>To provide clarity and the functions of the Agency as the institution responsible to the Summit as well as determine the disputes between the National and County Governments.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>(d) Provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling, costing and assignment of functions.</p> <p>(e) Receive and transmit to the Summit , reports from sectoral forums, joint committees and any other intergovernmental structures or mechanisms established under this Act;</p> <p>(f) Coordinate the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution;</p> <p>(g) Witness the execution of all relevant legal instruments pertaining to the transfer of functions;</p> <p>(h) Provide a repository for the legal instruments for the transfer of functions;</p> <p>(i) Undertake research on intergovernmental matters; and</p> <p>(j) Perform any other functions as may be conferred on it by</p>		

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		the Summit, under this Act or any other legislation.		
	COUNCIL OF GOVERNORS	Delete section 12 (c) of the Principal Act	The role of the Intergovernmental Relations Agency as proposed will not require the agency to directly convene the County Secretaries this is in line with current amendments in the Bill.	
	STATE DEPARTMENT OF DEVOLUTION	Amend (ca) to read as follows: "...assess the performance of the national and county governments in the implementation of the resolutions of the Summit; and make recommendations to the Summit on the appropriate promotive preventive or corrective action where necessary."	This will bring clarity on the function of the Agency.	
	STATE DEPARTMENT OF DEVOLUTION	Amend (cb) "... coordinate the resolution of disputes between the national government and county governments within the framework provided under this Act."	This will bring clarity on the function of the Agency	
	STATE DEPARTMENT FOR DEVOLUTION	Amend (cc)"...provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 and Fourth Schedule to the Constitution including unbundling, costing and assignment of functions."	This will bring clarity on the functioning of the Agency	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE	<p>Amend Section 12 (a) (i) and (ii) by deleting the word Council. Amend to read as follows: The Agency shall be responsible for the day-to-day administration of the Summit and in particular-</p> <p>(i) Facilitate the activities of the Summit; and (ii) Implement the decisions of the Summit</p>	<p>The Bill provides for the establishment of the Secretariat of the Council which shall be responsible for the administration of the Council of Governors including facilitating its activities and implementing its decisions.</p>	
COMMISSION REVENUE ALLOCATION	ON	<p>1. The Agency shall collaborate with other PFM institutions (CRA, COB, NT and others) in developing comprehensive recommendation (s) for appropriate actions that the Summit can adopt. 2. Similarly, the technical assistance should be collaborative and could include the entire mandate of the Summit beyond article 187 of the Constitution which focuses on including unbundling, costing and assignment of functions; Moreover, the exchange of information and coordination of policies between the two levels of government should be specific to the areas specified in the Summit mandate and stated as such.</p>	<p>1. To avoid duplication of roles by the distinct PFM institutions and the Agency. 2. To ensure effective implementation of the recommendations for both levels of government, including e monitoring and support from the appropriate PFM institutions.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
5	STATE DEPARTMENT OF DEVOLUTION	<p>The provision should therefore be recast to reflect this collaborative element.</p> <p>Amend 12A by replacing the title to read "Powers of the Summit" instead of Agency</p> <p>Amend 12A (2) by deleting the word "agency" and replacing it with the word "Summit"</p>	<p>The powers are domiciled in the Summit.</p>	
	COUNCIL OF GOVERNORS	<p>Amend clause 5 by deleting section 12A (1) (e) in its entirety.</p>	<p>Considering that the agency functions as the secretariat of the Summit whose membership is provided under section 7 of the Act, it shall not be ideal for it to possess the authority to summon its principals who are the President and Excellency Governors.</p>	
	COMMISSION ON REVENUE ALLOCATION	<p>1. The Agency's powers to compel any source, such as, State organs to provide the required reports, records, documents or any information may only be possible with support of other institution. Also, it may even contravene some of the existing laws e.g. the Data Protection Act and the provision therefore needs to be limited to where there</p>	<p>To ensure that the Agency's powers are within the confines of the law and to ensure harmony with other institutions.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
6	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE	<p>are no legal constraints to sharing of such information.</p> <p>2. The Act should clearly prescribe such powers of holding inquiries including their purpose, composition, functioning and procedure for the matter to be considered in the inquiry.</p> <p>Amend section 13 (1) and (2) of the Principal Act to read as follows:</p> <p>a. The Agency may establish and convene intergovernmental sector forums on sectoral issues of common interest to the national and county governments.</p> <p>b. The Council of Governors may establish and convene sector forums on sectoral issues of common interest among county governments.</p> <p>c. Nothing in this section may be construed as precluding a Cabinet Secretary or the Council of Governors from convening consultative fora on sectoral issues of common interest to the national and county governments, provided that it shall be done</p>	<p>This proposal provides clarity and synergy in the establishment and convening of sector forums.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
10	STATE DEPARTMENT OF DEVOLUTION	in consultation with the Agency. Amend the marginal note to read” ...Staff of the Agency” Amend the proposed section to add “..the agency shall in consultation with the Summit employ staff as are necessary to discharge their functions. Amend 20 A	The staff belong to the Agency and not the Summit.	
12	STATE DEPARTMENT OF DEVOLUTION	Amend 20 A	Funding of the Council is provided for in Section 37 of the Principal Act which addresses both Government of Kenya funds and any grant or donations from development partners.	
	COUNCIL OF GOVERNORS	Amendment of Section 20 (c) of Cap 265F as follows: 12(1) The principal Act is amended in section 20 by deleting section 20 (1)(c) and replacing with the following new section 20 (1) (c): Section 20(1)(c): Facilitating capacity building for the members of the County Executive.	The Council of Governors facilitates capacity building of the Members of the Executive arm of the County Governments to enable them to effectively discharge their functions.	
	COUNCIL OF GOVERNORS	Amendment to section 20 (2) of cap 265F as follows: 12 (1). The principal Act is amended in section 20 by deleting the section	The Council of Governors currently convenes meetings with key stakeholders including the national government on sector issues and this will provide	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>20 (2) and replacing with the following new section 20 (2):</p> <p>20 (2) The Council shall have powers to establish and convene intergovernmental sector forums including inter-city and municipality forums.</p>	<p>legislative backing to the already existing function.</p>	
	<p>COUNCIL GOVERNORS</p> <p>OF</p>	<p>Amend Clause 12 to read as follows;</p> <p>20A. (1) The funds of the Council shall consist of-</p> <ul style="list-style-type: none"> a) Monies allocated annually by Parliament for the purposes of the Council; b) Annual subscriptions by county governments; c) Any grants, gifts, donations or other endowments lawfully given to the Council; and d) Such monies or assets as may accrue to the Council in the exercise of its powers, or the performance of its functions under this Act or any other written law. <p>2) The Council shall determine annually the amounts to be paid by county governments as subscriptions.</p> <p><u>Insert the following new sections</u></p>	<p>This provides a comprehensive section on all matters finance including sources of funding, annual estimates, accounts and audit. Certain functions under different laws including the Urban Areas and Cities Act (section 4 (a) require funds appropriated by parliament through the exchequer.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>Financial Year. 20B. The financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in each year. <u>Annual Estimates</u> 20C.</p> <p>1) The annual estimates of the Council shall be prepared at least three months before the commencement of each financial year in accordance with the Public Finance Management Act, 2012.</p> <p>2) The annual estimates prepared under subsection (1) shall provide for all the estimated expenditure of the entity for the financial year concerned and in particular shall provide for-</p> <p>a) The payment of salaries, allowances and other operational expenses in respect of the staff and members of the Council; and</p>		

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>b) Any other expenditure that may be necessary for the carrying out of the functions of the Council under this Act.</p> <p>Accounts and audit</p> <p>20D. (1) The Chief Executive Officer shall cause to be kept proper books and records of accounts the income, expenditure, assets and liabilities of the Council.</p> <p>(2) The accounts of the Council shall be prepared, reported and audited in accordance with the Public Audit Act, 2015.</p>		
	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE	Amend Section 20A to include funds allocated by Parliament for the implementation of the mandate of the Council.	This makes provision for funds allocated by Parliament, which would be the foremost source of funding for the secretariat of the Council of Governors.	
13	COUNCIL OF GOVERNORS	Insert a new provision immediately after Clause 23C; Saving and Transitional Provisions for the staff of the Council	This provides for the transition of the staff currently serving under Council of Governors to the Council of County Governors Secretariat upon the commencement of the Law as provided for section 23C.	
	COUNCIL OF GOVERNORS	Amend 23CA. The staff currently serving in Council of County		

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		Governors shall on the commencement of this Act be deemed to be staff of the Council of County Governors Secretariat as provided for under section 23C.		
	COUNCIL OF GOVERNORS	Amend section 23F (c) to read as follows: (c) facilitating dispute resolution within county assemblies.	This section could be interpreted as the forum has the responsibility to incite dispute within county assemblies.	
	STATE DEPARTMENT OF DEVOLUTION	Remove the use of the words "in accordance with the terms and conditions of service..."	To enhance clarity	
	STATE DEPARTMENT OF DEVOLUTION	Amend 23C title to read "...Staff of the council Secretariat" and delete the words "it can only be staff of the council Secretariat."		
	STATE DEPARTMENT OF DEVOLUTION	Amend the title to read "read" ...remuneration of staff of the Council Secretariat.	To enhance clarity	
	STATE DEPARTMENT OF DEVOLUTION	Amend the title to read "remuneration of staff of the Council Secretariat."	To enhance clarity	
	STATE DEPARTMENT OF DEVOLUTION	Retain all existing provisions in 23E on the establishment of County Assemblies Forum	Establishment of CAF will take care of the existing forums in the county like clerks, speakers and other caucuses under the umbrella of County assembly.	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
			<p>However, we take note that there are risks associated with the establishment of the CAF that include cost implications since the Intergovernmental structures are funded by the exchequer and possibility of duplication of functions.</p>	
	<p>COUNTY ASSEMBLIES FORUM</p>	<p>Amend the Clause 13 to state: (2) The forum shall be managed by Board shall elect - "(2) The forum shall be managed by a National Executive Board. (3) The members of the National Executive shall elect</p> <ul style="list-style-type: none"> (a) a chairperson who shall be a speaker of a County assembly; (b) a vice-chairperson; and (c) a Secretary General shall be a Member of County Assembly; (d) Six other members from amongst its members. <p>4) Notwithstanding the generality of subsection under (3) members of County assemblies shall have at least 5 members in the National Executive Board.</p> <p>5) No County Assembly shall have more than two board members.</p>	<p>Including the Secretary-General, who is a member of the County Assembly, ensures that the National Executive Board benefits from the direct insights and perspectives of the elected representatives. This inclusion guarantees that the decisions made at the executive level are well-informed by the practical experiences and challenges faced by the County Assemblies.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>6) The National Executive Board of the forum shall serve for a term of two years and shall be eligible for re-election for one further term.</p>		
	<p>COUNTY ASSEMBLIES FORUM</p>	<p>Amend section 23 F to read: 23F. Functions of the Forum (1) The Forum shall provide an avenue for-</p> <ul style="list-style-type: none"> a) Consultation amongst county assemblies; b) Sharing of information on the performance of the County Assemblies in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action; c) Facilitating disputes within County Assemblies; d) Considering matters of common interest to County Assemblies; and e) Facilitating capacity building for members of the forum. f) Represent County all engagements with Intergovernmental Forums. 	<p>The proposed amendments to Section 23F (1) of the Principal Act are designed to enhance the functions of the Forum by expanding its roles to include representation of County Assemblies in all engagements with Intergovernmental Forums, as well as the consideration of reports from other intergovernmental forums on matters affecting County Assemblies. This expansion is necessary to ensure that County Assemblies have a unified and effective voice in intergovernmental matters, promoting better coordination and collaboration. Additionally, by including a provision for performing any other function deemed necessary or appropriate, the Forum is granted the flexibility to adapt to emerging challenges and opportunities, thereby</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>g) Consideration of reports from other intergovernmental forums on matters affecting county assemblies or relating to the performance of county assemblies and</p> <p>h) Performing any other function as may be conferred on it by this Act or any other legislation or that it may consider necessary or appropriate</p>	<p>strengthening its capacity to support the performance and development of County Assemblies comprehensively.</p>	
		<p>Amend Clause 23K by removing the sentence “<i>where has this entity come from?</i>” to state as follows; -</p> <p>Removal from office of the Chief Executive Officer</p> <p>The chief executive officer may be removed from office by the National Executive Board in accordance with the terms and conditions of service for-</p> <ul style="list-style-type: none"> a) Inability to perform the functions of the office arising out of physical or mental incapacity; b) Gross misconduct or misbehaviour; c) Incompetence or negligence of duty or; d) Any other ground that would justify removal from office 	<p>The Forum proposes that the highlighted sentence be removed as it is a mistake.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
13	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE	under the terms and conditions of service... Amend section 23G to include funds allocated by Parliament for the implementation of the mandate of the Council.	This makes provision for funds allocated by Parliament which would be the foremost source of funding for the Forum and its secretariat.	
13.	COMMISSION REVENUE ALLOCATION	Amend section 23 C by deleting the phrase “-it can only be staff of the Council and Secretariat” Amend section 23 e to establish the National Executive Board and provide for its membership first.	For good order and coherence.	
13	COMMISSION REVENUE ALLOCATION	Amend section 23F by adding the word “resolution” after the word “dispute”. Additionally, consider adding the scope to between and among county assemblies for comprehensiveness.	For clarity.	
15	COMMISSION REVENUE ALLOCATION	Amend section 30 by deleting the amendment to retain the current provision. Further, delete the comment in the clause i.e. “what is the rationale and what provisions will be county governments rely on for dispute resolution?”	For coherence.	
15.	COUNTY ASSEMBLIES FORUM	Amend the clause as by removing the sentence “what is the rationale and what provisions will county	The Forum proposes that the highlighted sentence be removed as it is a mistake.	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
16	STATE DEPARTMENT OF DEVOLUTION	<p><i>governments rely on for dispute resolution?</i>” to state as follows; - Section 30 of the principal Act is amended in subsection (2) by deleting paragraph (b) Section 33(2) should remain as it is in the Principal Act.</p>	<p>a) The Principal Act uses the word “May” and not “Shall”; b) It is the discretion of the parties to a dispute to submit to any other Intergovernmental Structure. c) All intergovernmental structures should be retained as avenues for referring disputes to.</p>	
	STATE DEPARTMENT OF DEVOLUTION	<p>Retain 21 days as provided for in the Principal Act. The proposed amendment (b) is not necessary therefore we retain the provisions under section 34 of the Principal Act.</p>	<p>a) The Senate through the Alternative Dispute Relations (Alternative Dispute) Regulations, 2022 has already provided the timelines. b) The proposed 7 days is not practically viable considering these are issues that affect the various levels of government.</p>	
	STATE DEPARTMENT OF DEVOLUTION	<p>Consider amending the objects and purpose of the Bill:</p>		

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		<p>Paragraph 1 Replace “establish a structured framework” with “Strengthen” Paragraph 2 Amend to read:</p> <ol style="list-style-type: none"> 1. The Bill proposes to establish an Intergovernmental Relations Agency in place of the IGRTC. 2. The Bill establishes the Secretariat for the Council of Governors with clear roles and responsibilities. 3. Paragraph 4: The Bill intends to strengthen intergovernmental relations between the two levels of government and among County Governments. In addition, the Bill aims at strengthening the COG operations through the creation of an independent Secretariat. 		
	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE	Retain section 30 as it is in the Principal Act	To provide for the resolution of disputes amongst county governments.	
23	COUNTY ASSEMBLIES FORUM	Amend clause 23L by introducing the new clause after the proposed clause stating: -	This clause ensures a seamless transition of all aspects related to the County Assemblies Forum to the newly established Forum. It addresses the continuity of	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
29	INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE STATE DEPARTMENT OF DEVOLUTION	<p>1) The Forum may employ staff as are necessary for the proper discharge of its functions.</p> <p>2) The operations, assets, liabilities and staff, which immediately before the commencement date were held by or on behalf of the County Assemblies Forum, the society, shall transition to the Forum once the commencement date is effective.”</p> <p>Amend section 34 (1) of the Principal Act to 14 days.</p>	<p>operations , the management of assets and liabilities , and the absorption of staff to prevent any disruption in the functioning of the Forum.</p>	
		<p>Consider amending the objects and purpose of the Bill as follows:</p> <p>Paragraph 1 Replace establish a structured framework with” Strengthen”</p> <p>Paragraph 2 Amend to read: 1.The Bill proposes to establish Intergovernmental Relations Agency in place of the IGTRC 2.The Bill establishes the secretariat for the Council of Governors with clear roles and responsibilities. 3. Paragraph 4</p>	<p>This will pave way for expeditious processes in dispute resolution.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
		The Bill intends to strengthen intergovernmental relations between the two levels of government and among county governments. In addition, the Bill aims at strengthening the COG operations through the creations of an independent secretariat.		

OTHER COMMENTS:

The Society of Clerks at the Table (SOCATT-K)

1. **SOCATT-K** is a membership organization of all County Assembly Services (Technical staff of the County) across the 47 County Assemblies in Kenya registered under the Societies Act. They attended as stakeholder and submitted their memorandum which they request to be established in law under the amendment Bill.
2. **KINUTHIA WAMWANGI FOUNDATION**- is a Kenyan Citizen who came and gave an overview and experience in both centralized and devolved system of Government. He supported the idea of changing the name of IGR TC from a committee to an Agency and empowering them.

Stakeholders

1. Council of Governors
2. County Assemblies Forum
3. Intergovernmental Relations Technical Committee
4. Commission on Revenue Allocation

5. State Department of Devolution

Annex 5:

***Copies of Stakeholders
submission on the Bill***



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Our Ref: COG/6/12 Vol. 13 (12)

11th July 2024

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

Dear Mr. Nyegenye

**INVITATION TO SUBMIT MEMORANDA ON THE INTERGOVERNMENTAL RELATIONS
(AMENDMENT) BILL 2024 (SENATE BILLS NO 12 OF 2024)**

The above subject matter and your letter dated 4th July 2024 refer.

The Council of Governors appreciates that in realizing the objects of Devolution, the principles of consultation and cooperation under Article 6(2) and Article 189 of the Constitution are inevitable.

Based on these principles, the Council of Governors has reviewed the Intergovernmental Relations (Amendment) Bill, 2024 and would like to forward for your consideration the following legislative memorandum attached herewith.

Please be assured of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti
Chief Executive Officer



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILLS NO. 12 OF 2024)

TO

THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

FROM

THE COUNCIL OF GOVERNORS

9TH JULY, 2024

The Council of Governors,

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution;

Hereby notes as follows on the **Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bill No. 12 of 2024);**

A. GENERAL COMMENTS;

Following the twentieth Ordinary session of the Intergovernmental Budget and Economic Council meeting held on 5th June 2023 and the Tenth Ordinary Session of the National and County Governments Coordinating Summit that was held on Monday 18th December, 2023, it was agreed that the Intergovernmental Relations Act be amended to among others provide for the **renaming** of Intergovernmental Relations Technical Committee as well as **provide for the secretariat of the Council of Governors among others.**

Having reviewed the **Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bill No. 12 of 2024)** in its entirety, the Council of Governors recommends the following amendments to the Bill for consideration;

B. SPECIFIC AMENDMENTS;

CLAUSE AND PROVISION OF THE BILL	COUNCIL PROPOSED AMENDMENTS	JUSTIFICATION
Amendment of section 11 of Cap. 265E 3. Section 11 of the principal Act is amended — (d) by deleting subsection (4) and substituting therefor the following new subsection —	Amend clause 3(d) to read as follows: 3. Section 11 of the principal Act is amended — (d) by deleting subsection (4) and substituting therefor the following new subsection — (4) A person shall be qualified for appointment as a chairperson of the Agency if such person —	This is in order to strengthen the Agency to undertake its functions of <i>inter alia</i> advising the summit on legal matters and resolving complex intergovernmental disputes, the chairperson must be a professional with a proven track record and specific qualifications in alternative

<p>(4) A person shall be qualified for appointment as a chairperson of the Agency if such person—</p> <p>(a) holds a Master's degree from a university recognized in Kenya;</p> <p>(b) meets the requirements of Chapter Six of the Constitution; and</p> <p>(c) has had a distinguished career in their respective fields.</p>	<p>(a) holds a master's degree in law, humanities or social sciences from a recognised university</p> <p>(b) at least fifteen years of distinguished career experience and ten years in a managerial position</p> <p>(c) has a high moral character, integrity and impartiality; and</p> <p>(d) meets the requirements of Chapter Six of the Constitution</p>	<p>dispute resolution methods, such as mediation and arbitration.</p>
<p>3. Section 11 of the principal Act is amended —</p> <p>(e) by deleting subsection (5) and substituting therefor the following new subsections —</p> <p>(5) A person shall be qualified for appointment as a member of the Agency if such person—</p> <p>(a) holds a degree from a university recognized in Kenya;</p> <p>(b) has knowledge and experience of at least ten years in matters relating to devolved functions;</p>	<p>Amend by deleting clause 3(e) and replacing with the following new clause 3(e).</p> <p>3. Section 11 of the principal Act is amended —</p> <p>(e) by deleting subsection (5) and substituting thereof with the following new subsections —</p> <p>5. A person shall be qualified for appointment as a member of the Agency if the person—</p> <p>(a) holds a degree from a university recognized in Kenya in the fields provided under section 5(b);</p> <p>(b) has knowledge and at least ten years' experience in matters relating to any of the following fields—</p> <p>(i) law;</p>	<p>To strengthen the composition of the agency as the intergovernmental relations between the National and County Governments encompasses complex and multifaceted range of issues. To effectively address these challenges, the members of the agency must possess a comprehensive understanding of the legal, administrative, and socio-economic factors that shape intergovernmental relations. Thus, and socio-economic factors that shape intergovernmental relations. Thus, requiring knowledge and experience in the proposed fields.</p>

<p>(c) meets the requirements of Chapter Six of the Constitution; and</p> <p>(d) has had a distinguished career in their respective fields.</p>	<p>(ii) public administration;</p> <p>(iii) <u>Alternative Dispute Resolution</u>;</p> <p>(iv) <u>economics or finance</u>;</p> <p>(v) <u>human rights</u>;</p> <p>(vi) <u>management; or</u></p> <p>(vii) <u>social sciences</u>;</p> <p>(c) <u>has had a distinguished career in their respective fields; and</u></p> <p>(d) <u>meets the requirements of Chapter Six of the Constitution.</u></p>	
<p><u>Amendment to section 12 of Cap 265F</u></p> <p>4. Section 12 of the principal Act is amended—</p> <p>(a) in the introductory phrase by deleting the words “Technical Committee” and substituting therefor the word “Agency”;</p> <p>(b) by inserting the following new paragraphs immediately after paragraph (c)—</p> <p>(ca) analyse the resolutions of the Summit with regard to the performance of national and county governments in the provision of services and recommend to the</p>	<p>Amend section 12 of Cap 265F as follows:</p> <p>4. Section 12 of the principal Act is amended—</p> <p>(a) by deleting section 12 and replacing with the following new section 12.</p> <p><u>Functions of the Agency</u></p> <p>12. The Technical Agency shall—</p> <p>(a) <u>be responsible for the day to day administration of the Summit and in particular—</u></p> <p>(i) <u>facilitate the activities of the Summit; and</u></p> <p>(ii) <u>implement the decisions of the Summit;</u></p> <p>(b) <u>advise the Summit on all matters of intergovernmental relations between the National and County Governments;</u></p>	<p>To provide clarity and the functions of the Agency as the institution responsible to the Summit as well as determine the disputes between the National and County Governments.</p>

<p>Summit the appropriate promotive, preventive or corrective action where necessary;</p> <p>(cb) facilitate dispute resolution between the national government and county governments within the framework provided under this Act;</p> <p>(cc) provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling, costing and assignment of functions;</p> <p>(cd) provide a platform for exchange of information and coordination of policies between the two levels of government;</p> <p>(ce) receive and transmit to the Summit, reports from sectoral forums, joint committees and any other intergovernmental structures or mechanisms established under this Act;</p> <p>(cf) establish and maintain a repository of information and knowledge on</p>	<p>(c) <u>Determine disputes between the national government and county governments within the framework provided under this Act;</u></p> <p>(d) <u>provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling, costing and assignment of functions;</u></p> <p>(e) <u>receive and transmit to the Summit, reports from sectoral forums, joint committees and any other intergovernmental structures or mechanisms established under this Act;</u></p> <p>(f) <u>coordinate the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution;</u></p> <p>(g) <u>witness the execution of all relevant legal instruments pertaining to the transfer of functions;</u></p> <p>(h) <u>provide a repository for the legal instruments for transfer of functions;</u></p> <p>(i) <u>undertake research on intergovernmental matters; and</u></p>
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<p>intergovernmental matters;</p> <p>(cg) coordinate the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution;</p> <p>(ch) witness the execution of all relevant legal instruments pertaining to the transfer of functions; and</p> <p>(ci) provide a repository for the legal instruments for transfer of functions.</p>	<p>(j) perform any other functions as may be conferred on it by the Summit, under this Act or any other legislation.</p>	
	<p>Delete 12 (c) of the Principal Act</p>	<p>The role of the Intergovernmental Relations Agency as proposed will not require the agency to directly convene the County Secretaries this is in line with the current amendments in the Bill.</p>
<p><u>Insertion of section 12A of Cap 265E</u></p> <p>5. The principal Act is amended by inserting the following new section immediately after section 12—</p> <p><u>12A. Powers of the Agency</u></p> <p>(1) The Agency shall have all the powers necessary for the performance of its functions under this Act and, in particular, shall have the power to, on its own motion—</p>	<p>Amend clause 5 by deleting section 12A (1)(e) in its entirety.</p>	<p>Considering that the agency functions as the secretariat of the Summit whose membership is provided under section 7 of the Act, it shall not be ideal for it to possess the authority to summon its principals who are the President and Excellency Governors.</p>

<p>(e) summon any person to appear before it for the purposes of performing its functions under this Act.</p>		
<p>12. Amendment of Section 20 of Cap 265F</p>	<p>We recommend amendment to section 20(c) of the Cap 265F as follows:</p> <p>12 (1). The principal Act is amended in section 20 by deleting the section 20(1)(c) and replacing with the following new section 20(1)(c):</p> <p><u>Section 20(1)(c): Facilitating capacity building for the members of the County Executive.</u></p>	<p>The Council of Governors facilitates capacity building of the Members of the Executive arm of the County Governments to enable them effectively discharge their functions.</p>
	<p>We recommend amendment to section 20(2) of the Cap 265F as follows:</p> <p>12 (1). The principal Act is amended in section 20 by deleting the section 20(2) and replacing with the following new section 20(2):</p> <p><u>20(2) The Council shall have powers to establish and convene intergovernmental sector forums including inter-city and municipality forums.</u></p>	<p>The Council of Governors currently convenes meetings with key stakeholders including the national government on sector issues and this will provide legislative backing to the already existing function.</p>
<p>Insertion of a new Section 20A of Cap 265F</p> <p>12. The principal Act is amended by inserting the following new section immediately after section 20—</p>	<p>Amend Clause 12 to read as follows;</p> <p><u>20A. (1) The funds of the Council shall consist of—</u></p> <p><u>(a) monies allocated annually by Parliament for the purposes of the Council;</u></p>	<p>This provides a comprehensive section on all matters finance including sources of funding, annual estimates, accounts and audit. Certain functions under different Laws including the Urban Areas and Cities</p>

<p>20A. Funding of the Council</p> <p>(1) The funds of the Council shall consist of—</p> <p>(a) annual subscriptions by county governments; and</p> <p>(b) such monies as may be lawfully granted or donated to the Council.</p> <p>(2) The Council shall determine bi-annually the amounts to be paid by county governments as subscriptions.</p>	<p>(b) <u>Annual subscriptions by county governments;</u></p> <p>(c) <u>any grants, gifts, donations or other endowments lawfully given to the Council; and</u></p> <p>(d) <u>such monies or assets as may accrue to the Council in the exercise of its powers, or the performance of its functions under this Act or any other written law</u></p> <p>(2) <u>The Council shall determine annually the amounts to be paid by county governments as subscriptions.</u></p> <p><u>Insert the following new sections</u></p> <p><u>Financial year.</u></p> <p>20B. The financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in each year.</p> <p><u>Annual estimates.</u></p> <p>20C. (1) The annual estimates of the Council shall be prepared at least three months before the commencement of each financial year in</p>	<p>Act (see section 4(a) require funds appropriated by parliament through the exchequer.</p>
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<p>13. The principal Act is amended by inserting the following new sections immediately after section 23— 23C. Staff of the Council-</p>	<p>accordance with the Public Finance Management Act, 2012.</p> <p>(2) The annual estimates prepared under subsection (1) shall provide for all the estimated expenditure of the entity for the financial year concerned and in particular shall provide for—</p> <p>(a) the payment of salaries, allowances and other operational expenses in respect of the staff and members of the Council; and</p> <p>(b) any other expenditure that may be necessary for the carrying out of the functions of the Council under this Act.</p> <p>Accounts and audit.</p> <p>20D. (1) The Chief Executive Officer shall cause to be kept proper books and records of accounts of the income, expenditure, assets and liabilities of the Council.</p> <p>(2) The accounts of the Council shall be prepared, reported and audited in accordance with the Public Audit Act, 2015.</p>	
	<p>Insert a new provision immediately after Clause 23C;</p> <p><i>Saving and Transitional Provisions for the staff of the Council</i></p>	<p>This provides for the transition of the staff currently serving under Council of Governors to the Council of County Governors Secretariat upon the commencement of the Law as provided for under section 23C.</p>

<p>The Council may employ staff as are necessary for the proper discharge of its functions.</p>	<p><u>23CA. The staff currently serving in Council of County Governors shall on the commencement of this Act be deemed to be the staff of the Council of County Governors Secretariat as provided for under section 23C.</u></p>	
<p>23F Functions of the Forum (c) facilitating disputes within assemblies</p>	<p>Amend to read as follows (c) facilitating dispute resolution within county assemblies</p>	<p>The section could be interpreted as the forum has the responsibility to incite disputes within county assemblies.</p>

C. CONCLUSION;

The Council of Governors respectfully requests the Senate to consider incorporating these recommendations to strengthen the governance structure of the intergovernmental institutions. Additionally, we recommend strengthening the composition of the agency to empower it to effectively fulfil its mandate of resolving intergovernmental disputes between the two levels of government.





LEGISLATIVE MEMORANDUM ON THE INTERGOVERNMENTAL RELATIONS
(AMENDMENT) BILL, 2024

PRESENTED TO:
THE STANDING COMMITTEE OF THE SENATE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS DURING THE PUBLIC PARTICIPATION HELD ON
15th JULY 2024

1. PREAMBLE

AKNOWLEDGING the Constitutional tenets on cooperative government as envisaged in Articles 6 (2) and 189 of the Constitution;

COGNIZANT of the objectives and principles of devolved government as provided in Articles 174 and 175 of the Constitution;

RECOGNIZING the collective aspirations of Kenyans for the attainment of the objects of devolution;

RESOLUTE that intergovernmental relations between the two levels of government and amongst county governments; is the foundation for the success of the devolved system of governance;

NOW THEREFORE the Intergovernmental Relations Technical Committee submits its memorandum to the Senate on the Intergovernmental Relations (Amendment) Bill, 2024.

2. INTRODUCTION

The Intergovernmental Relations Technical Committee (IGRTC) is established under Section 11 of the Intergovernmental Relations Act, 2012, as an intergovernmental structure whose objectives include *inter alia*, to facilitate cooperation and consultation between the National and County Governments and amongst County Governments as provided under Articles 6 and 189 of the Constitution. The functions of the Technical Committee are provided for in Sections 12, 13 and 33 of the Act. In addition to the above, IGRTC bears the responsibility of ensuring that the functions of the National and County Government Co-ordinating Summit (The Summit) are successfully implemented.

3. OVERVIEW OF THE BILL

3.1 General Observations

The Bill amends the Intergovernmental Relations Act, 2012 as follows:

1. The term "Technical Committee" is amended to read the "Agency" in all instances in the Amendment Bill.
2. The function of the Technical Committee under are amended to provide a direct linkage between the functions of the Summit and the Agency, as its secretariat.
3. The Secretariat of the Council is established as provided in new sections 23A – 23D
4. The Bill further establishes the County Assemblies Forum as provided in section 23E – 23M

3.1 Specific comments

The matrix below provides for specific provisions relating to IGRTC.

S/NO	PROVISION OF THE BILL	SUBMISSIONS BY IGRTC	RATIONALE
1.	The principal Act is amended in Section 2 by deleting the definition of Secretariat	This section has corresponding implications to Section 2 of the Schedule to the Act. There is need to amend Section 2 by deleting the word "the" and replacing it with the word "its" after the word "with", as follows: "The chairperson and vice-chairperson of a body shall, in consultation with <u>its</u> Secretariat"	The provision in the definition in the Principal Act makes reference to the secretariat of the Technical Committee. However, the Bill has made provision for a secretariat for the Council of Governors, which shall bear the responsibility stated under S. 2(1) of the Schedule to the Act.
2.	Qualifications of the Chairperson of the Agency	Amend to include professional experience	The position of Chairperson calls for extensive professional experience, which may be quantified through provision of number of years of academic qualification experience

S/NO	PROVISION OF THE BILL	SUBMISSIONS BY IGRTC	RATIONALE
3.	New Section to amend Section 12 (a) (i) and (ii) of the Principal Act	<p>Amend Section 12 (a) (i) and (ii) by deleting the word Council.</p> <p>Amend to read as follows: The Agency shall be responsible for the day to day administration of the Summit and in particular— (i) facilitate the activities of the Summit; and (ii) implement the decisions of the Summit</p>	<p>The Bill provides for the establishment of the Secretariat of the Council which shall be responsible for the administration of the Council of Governors including facilitating its activities and implementing its decisions.</p>
4.	New Section to amend Section 13(1) and (2) of the Principal Act	<p>Amend to read as follows:</p> <ol style="list-style-type: none"> a. The Agency may establish and convene intergovernmental sector forums on sectoral issues of common interest to the national and county governments. b. The Council of Governors may establish and convene sector forums on sectoral issues of common interest amongst county governments. c. Nothing in this section may be construed as precluding a Cabinet Secretary or the Council of Governors from convening consultative fora on sectoral issues of common interest to the national and county governments. 	<p>This proposal provides clarity and synergy in the establishment and convening of sector forums.</p>

S/NO	PROVISION OF THE BILL	SUBMISSIONS BY IGRTC	RATIONALE
		provided that it shall be done in consultation with the Agency.	
5.	Section 20A on funding of the Council	Amend to include funds allocated by Parliament for the implementation of the mandate of the Council	This makes provision for funds allocated by Parliament, which would be the foremost source of funding for the secretariat of the Council of Governors
6.	New section to amend Section 22 (2) of the Principal Act on the reports by the Council	Amend Section 22 (2) to include the Senate and National Assembly	This provision is for the submission of the reports to the three legislative organs within three months after the end of every financial year
7.	Section 23 G: Funding of the County Assemblies Forum	Amend to include funds allocated by Parliament for the implementation of the mandate of the Council	This makes provision for funds allocated by Parliament, which would be the foremost source of funding for the Forum and its secretariat
8.	Amendment to Section 30 of the Principal Act by deleting Section 30 (2) (b)	This section should be retained as is in the Principal Act	To provide for the resolution of disputes amongst county governments

S/NO	PROVISION OF THE BILL	SUBMISSIONS BY IGRTC	RATIONALE
9.	Amendment to Section 34 (1) of the Principal Act on the timelines after formal declaration of disputes	This section should be amended to 14 days	This will pave way for expeditious processes in dispute resolution

OTHER COMMENTS

1. The proposed amendment in section 16 of the Bill to amend section 30 of the Act is not aligned. The proposed amendment should be seeking to amend section 33 of the Act.

REPUBLIC OF KENYA



COUNTY ASSEMBLIES FORUM (CAF)

Fleming Towers, 5th Floor, Ring Road, Nairobi. P.O. Box 10850, 00100 Nairobi, Kenya. Tel: 0722 146903

CAF MEMORANDUM ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENTS) BILL, 2023

TO: Mr. Jeremiah Nyegenye, CBS
Clerk of the Senate, Parliament of Kenya.

FROM: The County Assemblies Forum.

DATE: 15th July 2024

SUBJECT: CAF Memorandum on the Intergovernmental Relations (Amendment) Bill, 2023



1.0 INTRODUCTION

- i. The County Assemblies Forum (CAF) is the coordinating body of the 47 County Assemblies in Kenya. The primary mandate of CAF is to promote networking and synergy among the 47 County Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development. Our Mission is to provide effective leadership and coordination of the 47 County Assemblies and through policy and legislative action, promote a conducive working environment for all its members, and in that way deliver quality services to the people.
2. As one of the pillars of the devolved government system, CAF is committed to engage in processes that lead to the further strengthening of Intergovernmental Relations institutions.

2.0. BACKGROUND

- 2.1. The Bill mainly seeks to amend the intergovernmental Relations Act to establish a structured framework for intergovernmental Relations. This will enhance intergovernmental Relations amongst the national government, County executive and County Assemblies.
- 2.2. Historically, intergovernmental relations in Kenya have faced challenges due to a lack of a clear framework and coordination mechanisms. These challenges have often led to inefficiencies and conflicts between different levels of government, hindering the delivery of services to the public.
- 2.3. The Bill proposes to establish the County Assemblies Forum (CAF) and its Secretariat within the legal framework, providing a formal avenue for consultation, dispute resolution, and capacity building among County Assemblies. By doing so, it aims to promote best practices, initiate preventive or corrective actions where necessary, and ensure a unified approach in handling matters of common interest.
- 2.4. The amendments also seek to define the vertical role of the Intergovernmental



Relations Agency and enhance its functions and powers. This includes facilitating engagements with Intergovernmental Forums and considering reports from these forums on matters affecting County Assemblies or relating to their performance.

- 2.5. Furthermore, the Bill introduces provisions to empower the Forum to perform any other function conferred by the Act or any other legislation, thus providing flexibility to adapt to emerging needs and challenges in intergovernmental relations.
- 2.6. Overall, the Intergovernmental Relations (Amendment) Bill, 2023, is a significant legislative measure aimed at strengthening intergovernmental coordination, promoting the welfare of County Assemblies, and ensuring efficient service delivery through a structured and well-defined framework.



3.0. GENERAL COMMENTS.

- 3.1. CAF appreciates the Senate Majority Leader, Hon. Aaron Cheruiyot, and the Senate Standing Committee on Intergovernmental Relations and Devolution for sponsoring and considering this important legislation.
- 3.2. The establishment of a structured framework for intergovernmental relations is a significant step towards enhancing coordination and cooperation between the national government, County executives, and County Assemblies. This will ultimately lead to more efficient governance and improved service delivery to the public.
- 3.3. The inclusion of CAF and its Secretariat within the legal framework provides a formal platform for consultation, dispute resolution, and capacity building among County Assemblies. This is essential for promoting best practices and ensuring a unified approach in addressing common issues.
- 3.4. The enhancement of the functions and powers of the Intergovernmental Relations Agency will facilitate more effective engagements with Intergovernmental Forums, ensuring that the interests of County Assemblies are adequately represented and considered in intergovernmental discussions.
- 3.5. The provision allowing the Forum to perform any other function conferred by the Act or any other legislation ensures that it can adapt to new challenges and opportunities, thereby maintaining its relevance and effectiveness in intergovernmental relations.
- 3.6. CAF appreciates the opportunity to contribute to this Bill and on the basis of the foregoing proposes the following amendments

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

NO.	CLAUSE	PROPOSED AMENDMENT	JUSTIFICATION
1.	<p>Clause 1 of the Bill</p> <p>Short Title</p> <p>This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2024.</p>	<p>Amend the Clause to state</p> <p><i>"This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2024 and shall come into force upon publication in the Gazette."</i></p>	<p>➤ Specifying the commencement date ensures that the provisions of the amendment take effect without delay, facilitating the immediate operationalization of the new framework and allowing for the swift transition of responsibilities.</p>
2.	<p>Clause 13 of the Principal Act</p> <p>Section 23 (E) (2) of the Principal Act</p> <p>(2) The forum shall be managed by a National Executive Board.</p> <p>(3) The members of the National Executive Board shall elect –</p>	<p>Amend the Clause to state:-</p> <p><i>"(2) The forum shall be managed by a National Executive Board. (3) The members of the National Executive Board shall elect –</i></p> <p><i>(a) a chairperson who shall be a speaker of a County assembly;</i></p> <p><i>(b) a vice-chairperson; and</i></p>	<p>➤ Including the Secretary General, who is a member of the County Assembly, ensures that the National Executive Board benefits from direct insights and perspectives of the elected representatives. This inclusion guarantees that the decisions</p>

<p>(a) a chairperson who shall be a speaker of a County assembly;</p> <p>(b) a vice-chairperson; and</p> <p>(c) seven other members from amongst its members.</p> <p>(4) Notwithstanding the generality of subsection under (3) members of County assemblies shall have at least 5 members in the National Executive Board.</p> <p>(5) No County Assembly shall have more than two board members.</p> <p>(6) The National Executive Board of the forum shall serve for a term of two years and shall be eligible for re-election for one further term.</p>	<p>(c) a Secretary General shall be a Member of County Assembly</p> <p>(d) six other members from amongst its members.</p> <p>(4) Notwithstanding the generality of subsection under (3) members of County assemblies shall have at least 5 members in the National Executive Board. (5) No County Assembly shall have more than two board members.</p> <p>(6) The National Executive Board of the forum shall serve for a term of two years and shall be eligible for re-election for one further term."</p>	<p>made at the executive level are well-informed by the practical experiences and challenges faced by the County Assemblies.</p>
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3.	<p>Clause 13 of the Principal Act</p> <p>Section 23 (F) (1) of the Principal Act</p> <p>23F. Functions of the Forum (1) The Forum shall provide an avenue for –</p> <p>(a) consultation amongst county assemblies;</p> <p>(b) sharing of information on the performance of the County Assemblies in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;</p> <p>(c) facilitating disputes within County Assemblies;</p>	<p>Kindly amend the clause to state as follows; -</p> <p>23F. Functions of the Forum (1) The Forum shall provide an avenue for –</p> <p>(a) consultation amongst county assemblies;</p> <p>(b) sharing of information on the performance of the County Assemblies in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;</p> <p>(c) facilitating disputes within County Assemblies;</p> <p>(d) considering matters of</p>	<p>➤ The proposed amendments to Section 23F (1) of the Principal Act are designed to enhance the functions of the Forum by expanding its roles to include representation of County Assemblies in all engagements with Intergovernmental Forums, as well as the consideration of reports from other intergovernmental forums on matters affecting County Assemblies.</p> <p>➤ This expansion is necessary to ensure that County Assemblies have a unified and effective voice in intergovernmental matters, promoting better coordination and collaboration. Additionally, by including a</p>
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4.	<p>(d) considering matters of common interest to County Assemblies; and</p> <p>(e) facilitating capacity building for members of the forum.</p>	<p>common interest to County Assemblies; and</p> <p>(e) facilitating capacity building for members of the forum.</p> <p>(f) represent County Assemblies in all engagements with Intergovernmental Forums.</p> <p>(g) consideration of reports from other intergovernmental forums on matters affecting County Assemblies or relating to the performance of county assemblies; and</p> <p>(h) performing any other function as may be conferred on it by this Act or any other legislation or that it may consider necessary or appropriate</p>	<p>provision for performing any other function deemed necessary or appropriate, the Forum is granted the flexibility to adapt to emerging challenges and opportunities, thereby strengthening its capacity to support the performance and development of County Assemblies comprehensively.</p>
	Clause 13 of the Bill	Clause 23 (K)	The Forum proposes that the

<p>Section 23 (K) of the Principal Act</p> <p>Removal from office of the Chief Executive Officer</p> <p>The chief executive officer may be removed from office by the National Executive Board in accordance with the terms and conditions of service, for — - where has this entity come from?</p> <p>(a) inability to perform the functions of the office arising out of physical or mental incapacity;</p> <p>(b) gross misconduct or misbehaviour;</p> <p>(c) incompetence or</p>	<p>Kindly amend as by removing the sentence "<i>Where has this entity come from?</i>" to state as follows; -</p> <p>"Removal from office of the Chief Executive Officer</p> <p>The chief executive officer may be removed from office by the National Executive Board in accordance with the terms and conditions of service, for—</p> <p>(a) inability to perform the functions of the office arising out of physical or mental incapacity;</p> <p>(b) gross misconduct or misbehaviour;</p> <p>(c) incompetence or</p>	<p>highlighted sentence be removed as it is a mistake.</p>
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	<p>negligence of duty; or (d) any other ground that would justify removal from office under the terms and conditions of service.</p>	<p>negligence of duty; or (d) any other ground that would justify removal from office under the terms and conditions of service..</p>	
<p>5.</p>	<p>Clause 15 of the Bill Section 30 of the Principal Act Amendment of Section 30 of Cap 265F "Section 30 of the principal Act is amended in subsection (2) by deleting paragraph (b). - what is the rationale and what provisions will county governments rely on for dispute resolution?"</p>	<p>Kindly amend the clause as by removing the sentence " - what is the rationale and what provisions will county governments rely on for dispute resolution?" to state as follows; - "Section 30 of the principal Act is amended in subsection (2) by deleting paragraph (b). -"</p>	<p>The Forum proposes that the highlighted sentence be removed as it is a mistake.</p>
<p>Clause 23 L Staff of the Forum</p>		<p>Amend the Clause by new clause</p>	<p>This clause ensures a seamless</p>

<p>"The Forum may employ staff as are necessary for the proper discharge of its functions."</p>	<p>after the proposed clause stating: -</p> <p>"1) The Forum may employ staff as are necessary for the proper discharge of its functions.</p> <p>2) The operations, assets, liabilities, and staff, which immediately before the commencement date were held by or on behalf of the County Assemblies Forum, the society, shall transition to the Forum once the commencement date is effective."</p>	<p>transition of all aspects related to the County Assemblies Forum to the newly established Forum. It addresses the continuity of operations, the management of assets and liabilities, and the absorption of staff to prevent any disruption in the functioning of the Forum.</p>
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Yours sincerely,



HON. PHILEMON K. SABULEL,
CHAIRPERSON CAF





**OFFICE OF THE DEPUTY PRESIDENT
STATE DEPARTMENT FOR DEVOLUTION**

**AMENDED SUBMISSIONS TO THE SENATE STANDING COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL RELATIONS**

**MEMORANDUM ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024
(SENATE BILLS NO. 12 OF 2024)**

INTRODUCTION

WHY STATE DEPARTMENT FOR DEVOLUTION EXISTS

The President of the Republic of Kenya has the responsibility to steer and nurture devolution in Kenya. Therefore, one of the structures established in the Executive as a vehicle to deliver and nurture devolution is the State Department for Devolution which is under the Executive Office of the President. For the President to steer devolution agenda, there is need for a structured system he can use to address and deliver on his obligation and mandate on devolution.

Mandate of the State Department for Devolution

To provide policy direction and leadership on the devolved system of government; including the promotion of harmonious intergovernmental relations; and the provision of support to county governments for effective service delivery.

The mandate of the State Department for Devolution (SDD) is drawn from:

A. Constitution of Kenya

- Article 6 which requires the national and county governments to conduct their mutual relations on the basis of consultation and cooperation
- Article 187 which provides for the transfer of functions and powers between two levels of government
- Article 189 which requires the national and county governments to cooperate in their discharge of functions and to respect their functional and institutional integrity of government at the other level
- Article 190 which obligates the national government to provide adequate support to county governments to enable them perform their functions

- Schedule 1V (part 32) which obligates the national government to build capacity and provide technical assistance to county governments in performance of their functions

B. Legislative

The principal Acts administered by the State Department for Devolution are:

- County government Act Cap 265
- Intergovernmental Relations Act Cap 265F
- Urban Areas and Cities Act, Cap 275
- Assumption of Office of Governor Act, Cap 265A

C. Executive Order No. 2 of 2023

Co-ordinate intergovernmental relations between the national government and County Governments.

BACKGROUND

The Intergovernmental Relations Act Chapter 265F was enacted to facilitate cooperative governance between the national and county governments as outlined in the Constitution of Kenya, 2010. This pivotal constitutional change introduced a devolved system of government, fundamentally restructuring the relationship between the national and county levels. The Act aims to enhance collaboration, coordination, and consultation between the two levels of government, ensuring that the functions and powers of each are respected and effectively managed. By providing a legal framework for the establishment of intergovernmental structures and mechanisms, the Act seeks to promote efficient and transparent governance.

The Constitution of Kenya, particularly in Articles 6, 189 and 187 lays the foundation for intergovernmental relations. Article 6(2) provides that the governments at the national and

county levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation. Article 189 further elaborates on the cooperation between the national and county governments; mandating that they assist, support, and consult each other and, as appropriate, implement legislation to ensure effective governance. Additionally, Article 187 provides for the transfer of functions and powers between the two levels of government if it would be more effectively performed or exercised by the receiving government.

The Intergovernmental Relations Act emphasizes the importance of maintaining a balance between autonomy and interdependence, recognizing that a cohesive relationship between the national and county governments is crucial for the country's overall development and stability. Since its enactment, the Act has been instrumental in guiding the interactions and cooperation between different levels of government, ensuring that the objects of devolution as set out in Article 174 of the Constitution are achieved; thus, fostering a more integrated and responsive governance structure.

The experience of twelve years of devolution; the lessons learnt; and the emerging issues necessitate amendments to the Intergovernmental Relations Act.

Specific Comments:

The table below highlights specific comments to the Senate Intergovernmental Relations (Amendment) Bill, No 12 of 2024:

Clause	Provision of Senate's Bill	SDD's Proposal	Justification
2	Long title Deletion of the definition of "Secretariat"	Insert the Chapter number of the Act; CAP 265F Provide a definition of the word "Secretariat" to apply to the Secretariat of Council of Governors	To align it to the revised Twenty-Fourth Annual Supplement of the Laws of Kenya The word "Secretariat" needs to be defined so that it is clear as to whether it is the secretariat of the agency or that of the Council
4	Functions and powers of the Agency (ca) "...analyse the resolutions of the Summit with regard to the performance of national and county governments in the provision of services and	Amend the following provisions in clause 4 on the functions of the Agency to read as follows: - (ca) "...assess the performance of the national and county governments in the implementation of the resolutions of the Summit; and make	This is will bring clarity on the function of the Agency

	<p>recommend to the Summit the appropriate promotive, preventive or corrective action where necessary;”</p>	<p>recommendations to the Summit on the appropriate promotive, preventive or corrective action where necessary;”</p>		
	<p>(cb) “...facilitate dispute resolution between the national government and county governments within the framework provided under this Act;”</p>	<p>(cb) “...coordinate the resolution of disputes between the national government and county governments within the framework provided under this Act;”</p>	<p>This is will bring clarity on the function of the Agency</p>	
	<p>(cc) “...provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling,</p>	<p>(cc) “...provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 and the Fourth Schedule to the Constitution including unbundling,</p>	<p>This is will bring clarity on the function of the Agency</p>	

	costing and assignment of functions;”	costing and assignment of functions;”	
5	Powers of the Agency	<p>Replace the title of the proposed 12A to read “Powers of the Summit” instead of “Agency”</p> <p>Amend 12A (2) by deleting the word “agency” and replacing it with the word “Summit”</p>	The powers are domiciled in the Summit
10	<p>Staff of Summit</p> <p>The Agency may employ staff as are necessary for the proper discharge of the functions of the Agency under this Act.</p>	<p>Amend the marginal note to read “...Staff of the Agency”</p> <p>Amend the proposed section to read “...the Agency shall, in consultation with the Summit, employ staff as are necessary discharge of their functions</p>	The staff belong to the Agency and not the Summit.
12	20A. Funding of the Council	Amend 20A	Funding of the Council is provided for in Section 37 of the Principal Act which addresses both the Government of Kenya funds and grants or donations from development partners.

	<p>(1) The funds of the Council shall consist of—</p> <p>(a) annual subscriptions by county governments; and</p> <p>(b) such monies as may be lawfully granted or donated to the Council.</p> <p>(2) The Council shall determine bi-annually the amounts to be paid by county governments as subscriptions.</p>				
13	<p>23A Establishment of the Council Secretariat.</p> <p>(6) The chief executive officer shall be appointed for a single term of six years and shall</p>	<p>Amend 23A (6) to read “...shall be appointed for a term of three years renewable once.”</p>		<p>This is in line with good governance practices in the public service and it allows for assessment of a Chief Executive officer’s performance by the principal.</p>	

	not be eligible for reappointment.		
	<p>23B Removal from office of the Chief Executive officer</p> <p>The chief executive officer may be removed from office by the Council in accordance with the terms and conditions of service, for—</p>	Remove the use of the words "in accordance with the terms and conditions of service..."	To enhance clarity
	23C Staff of Council	Amend 23C title to read "...Staff of the council Secretariat" and delete the words " the it can only be staff of the council Secretariat "	
	23D Remuneration of staff	Amend the title to read "... remuneration of staff of the Council Secretariat"	To enhance clarity

	<p>23E Establishment of County Assemblies Forum</p>	<p>Retain the existing provisions</p>	<p>Establishment of CAF will take care of the existing forums in the County like clerks, speakers and other caucuses under the umbrella of County assembly</p> <p>However, we take note that there are risks associated with the establishment of the CAF that include costs implications since the Intergovernmental structures are funded by the exchequer and possible duplication of functions.</p>
<p>16</p>	<p>Section 30 of the principal Act is amended in subsection (2) by— (a) deleting the word “may” appearing immediately after the words “party to the dispute” and substituting therefor the word “shall”;</p>	<p>Section 33 (2) should remain as it is in the Principal Act</p>	<p>a) The principal Act uses the word “May” and not “Shall”;</p> <p>b) It is the discretion of the parties to a dispute to submit to any other Intergovernmental structures as by the law so established.</p> <p>c) All intergovernmental structures should be retained as avenues for referring disputes to.</p>

16	Section 34 of the principal Act is amended in subsection (1) by — (a) deleting the words “twenty-one” appearing immediately after the word “Within” in the introductory phrase and substituting therefor the word “seven”	Retain 21 days as provided for in the Principal Act The proposed amendment (b) is not necessary therefore we retain the provisions under section 34 of the principal Act	a) The Senate through the Alternative Dispute Relations (Alternative Dispute) Regulations, 2022 has already provided the timelines. b) The proposed 7 days is not practically viable considering these are issues affect the various levels of governments.
	Memorandum of objects and reasons for the Bill	Consider amending the objects and purpose of the Bill as follows; - Paragraph 1 Replace “establish a structured framework” with “Strengthen” Para 2 Amend to read; 1. The Bill proposes to establish Intergovernmental relations Agency in place of the IGRTC.	

		<p>2. The Bill establishes the Secretariat for the Council of Governors with clear roles and responsibilities.</p>		
		<p>3. Para 4 The Bill intends to strengthen intergovernmental relations between the two levels of government and amongst County Governments. In addition, the Bill aims at strengthening the COG operations through the creations of an independent Secretariat.</p>		



(2) FDV - COMMUNICATIONS
LEROI CHANG - DEPARTMENT
KIMBY Deal
17/07/2024



Director General
The Submarine
Director General
The Submarine
Director General
The Submarine

Committee
of the
Parliament
of Kenya
2024

COMMENTARY ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024

Clause by Clause Recommendations to Parliament on the Intergovernmental Relations (amendment) Bill, 2024

The Commission has considered the Intergovernmental Relations (amendment) Bill, 2024 and has drafted a memorandum with recommendations for your consideration by Parliament. We hereby submit our recommendation based on the following Constitutional provisions.

A. Constitutional Basis of our memorandum

This memorandum is premised on the objects of Chapter 12 of the Constitution of Kenya (COK) 2010 on Public Finance as articulated under Articles 201(a), (b), and Article (c), 205(1) and (2), and (2), Article 219 and Article 249 (1) (a) of the Constitution.

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.

B. Specific Constitutional Mandate

Over and above the above powers and functions outlined in the above section, Article 216 of the CoK outlines the key mandate of the Commission as below:

- (1) The principal function of the Commission on Revenue Allocation is to make recommendations concerning the basis for the equitable sharing of revenue raised by the national government—
 - (a) between the national and county governments; and
 - (b) among the county governments.
 - (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.
 - (3) 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.

BACKGROUND INFORMATION

This Bill seeks to amend intergovernmental relation act and for connected purposes.

C. ANNEXTURE 01/2024 CLAUSE BY CLAUSE ANALYSIS

Serial No.	Clause	Recommendations	Justification for CRA Position
1.	<p>Clause 4 Amendment to section 12 of Cap 265F</p>	<p>This clause amends section 12 of the Principal Act- (b) by inserting the following new paragraphs immediately after paragraph (c)— (ca) Analyse the resolutions of the Summit with regard to the performance of national and county governments in the provision of services and recommend to the Summit the appropriate promotive, preventive, or corrective action where necessary;</p> <p>(cc) provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution, including unbundling, costing and assignment of functions;</p> <p>(cd) provide a platform for the exchange of information and coordination of policies between the two levels of government;</p> <p>Recommendations: 1.The Agency shall collaborate with other PFM institutions (CRA, COB, NT, and others) in developing comprehensive recommendation(s) for appropriate actions that the Summit can adopt. 2.Similarly, the technical assistance should be collaborative and could include the entire mandate of the Summit beyond Article 187 of the</p>	<p>1.To avoid duplication of roles by the distinct PFM institutions and the Agency.</p> <p>2. To ensure effective implementation of the recommendations for both levels of government, including the monitoring and support from the appropriate PFM institutions.</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		<p>Constitution, which focuses on including unbundling, costing, and assignment of functions;</p> <p>Moreover, the exchange of information and coordination of policies between the two levels of government should be specific to the areas specified in the summit mandate and stated as such.</p> <p>The provision should therefore be recast to reflect this collaborative element.</p>	
2.	<p>Clause 5</p> <p>Insertion of section 12A of Cap 265F</p>	<p>12A. Powers of the Agency</p> <p>(1) The Agency shall have all the powers necessary for the performance of its functions under this Act and, in particular, shall have the power to, on its own motion—</p> <p>(a) gather, by such means as it considers appropriate, any relevant information, including the requisition of reports, records, documents, or any information from any source, including any State organ, and to, compel the production of such information where it considers necessary;</p> <p>(b) hold inquiries to perform its functions under this Act;</p> <p>Recommendations:</p>	<p>To ensure that the Agency's powers are within the confines of the law and to ensure harmony with other institutions.</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
3.	<p>Clause 13</p> <p>Insertion of new sections</p>	<p>1. The Agency's powers to compel any source, such as State organs, to provide the required reports, records, documents, or any information may only be possible with the support of other institutions. Also, it may even contravene some of the existing laws e.g. the Data Protection Act and the provision therefore needs to be limited to where there are no legal constraints to sharing of such information.</p> <p>2. The Act should clearly prescribe such powers of holding inquiries, including their purpose, composition, functioning, and procedures, for the matter to be considered in the inquiry.</p> <p>a) 23(C) the marginal note reads- <i>Staff of the Council -the it can only be staff of the council secretariat</i> <i>This statement is incoherent, and includes a comment.</i> Recommendation: Delete the phrase "<i>-the it can only be staff of the council secretariat</i>"</p> <p>b) 23(e) also reads in part- (1) There is established a County Assemblies Forum which shall consist of all the members of County Assemblies and speakers of the forty-seven county assemblies. (2) The forum shall be managed by a National Executive Board.</p>	<p>For good order and coherence</p>

Serial No.	Clause	Recommendations	Justification for CRA Position
		<p>Recommendation: Establish the National Executive Board and provide for its membership first.</p> <p>23(F) Functions of the Forum Under paragraph (c) facilitating disputes within County Assemblies;</p> <p>Recommendations: Add the word "resolution" after the word "dispute". Additionally, consider adding the scope to between and among county assemblies for comprehensiveness.</p>	For clarity
4.	<p>Clause 15 Amendment of Section 30 of Cap 265F</p>	<p>Section 30 of the principal Act is amended in subsection (2) by deleting paragraph (b). --what is the rationale and what provisions will county governments rely on for dispute resolution?</p> <p>Recommendations:</p> <ol style="list-style-type: none"> 1. Delete the amendment to retain current provision. 2. Delete the comment in the clause i.e. "<i>what is the rationale and what provisions will county governments rely on for dispute resolution?</i>" 	For coherence
General Comment			

1. The amendments are too many and should be enshrined in a new Bill which would then repeal the current Act.
2. Correct editorial errors apparent in the content



Society of Clerks-At-The-Table in Kenyan Legislatures

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REF: REF: SOCATT/SENATE/VOL 1(54)

May 30th, 2024

To: The Chairperson,
Senate Standing Committee on Devolution and Intergovernmental Relations.

Through: Jeremiah Nyegenye, CBS
The Clerk of the Senate, and
Secretary to the Parliamentary Service Commission,
Parliament Buildings,
NAIROBI.



RE: SOCATT-K MEMORANDUM ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024: (SENATE BILLS NO. 12 OF 2024)

The above subject refers.

We make reference to your invitation to submit view on the Intergovernmental Relations (Amendment) Bill, 2024 (Senate Bills No. 12 of 2024); and have convened our membership to consider the Amendment Bill and input into a memorandum which we hereby submit for your consideration.

Further, kindly note that SOCATT(K) leadership is keen to engage with the Senate Standing Committee on Devolution and Intergovernmental Relation when it sits to consider this memorandum, and on subsequent matters touching on County Assembly Services.

Thank you for your continuous consideration and support to County Assemblies.


Regina Mutheu,
EXECUTIVE DIRECTOR.





MEMORANDUM ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024

A. Introduction

The Society of Clerks at the Table in Kenyan County Legislatures, SOCATT (K), is the membership organization for the Technical Services across the 47 County Assemblies in Kenya. The primary objective is to facilitate the harmonization of procedures and practices while creating platforms that enhance technical skills and capacities, experience sharing, collaboration and networking for the County Assembly Service.

Our theory of change is based on the belief that an exemplary and competent County Assembly Service facilitates effective and efficient operation of the legislative arm of the county governments. We foster this by:

- i) Providing the platform for sharing of parliamentary and management practices among Legislatures in Kenya particularly to the technical staff;
- ii) Providing the platform for professionals who teach management of legislatures to discuss and share knowledge on parliamentary and management practice and issues;
- iii) Sponsoring and promoting educational and training programs and activities that advance parliamentary practice, management and traditions in Kenya;
- iv) Advancing the professional status, public service and interdisciplinary collaboration among the parliamentary managers in Kenya, and;
- v) Creating linkages between the County Assembly Services and devolution stakeholders, development partners, civil society and private sector;
- vi) Publishing an annual journal on matters of procedure, privilege, constitutional law and management practices in relation to Parliament and Legislatures.

B. Contextual Significance of SOCATT-K in Devolution

SOCATT(K) as its name reflects, was modelled on the Society of the Clerks-at-the-Table in Commonwealth Parliaments which was formed in 1932 to provide a means by which the Parliamentary practice of various Legislative Chambers of the Commonwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such Legislature in the exercise of their professional duties; and to Foster among Officers of Parliament a mutual interest in their duties, rights and privileges.

The contextual significance of SOCATT-K in devolution is multifaceted. Specifically, SOCATT-K has proved crucial in:

- 1) Advocacy for Devolution through effective implementation of devolution principles and the empowerment of County Assemblies to fulfill their mandates;
- 2) Capacity Building and Training through over 50 capacity training workshops conducted so far and provision of knowledge resources to enhance their understanding of devolution principles, governance structures, and their roles and responsibilities within the devolved system of government. By equipping technical officers with the necessary skills and knowledge, SOCATT-K contributes to the effective implementation of devolution initiatives.

- 3) SOCATT-K plays a role in harmonization of procedure and practice across the 47 County Assemblies through research and knowledge development of best practices drawn from across the commonwealth, national parliament and experiences of various Counties.
- 4) Representation of County Assembly officers as a platform to voice their views and experiences in implementing devolution and contribute to policy discussions;
- 5) Policy Engagement and Dialogue with National Parliament, including the Committees of Senate and National Assembly (through technical representations, submission of memoranda and collating data); and with various stakeholders including constitutional commissions/bodies, national government agencies, civil society organizations, and development partners with a view to influence policies and decisions that strengthen the devolved system and address challenges faced by County Assemblies.
- 6) Represented the County Assembly Services in engagements with Intergovernmental Relations including discussions with Constitutional Commission, Development Partners and various stakeholders.
- 7) SOCATT-K has also promoted professional standards and ethical conduct among County Assembly Officers by providing training, professional development opportunities, and networking forums aimed at enhancement of skills and competencies in performing their duties effectively.
- 8) Promotion of Good Governance (*i.e.* transparency, accountability and ethical standards) in County Assemblies as a means of enhancing oversight, legislation and representation thus ultimately enhancing service delivery and development outcomes for citizens.

SOCATT-K serves as a professional association with significance in providing upholding procedural integrity in devolved legislatures, promoting professional standards, and advocating for institutional support within County Assemblies.

C. Impact of Inclusion in the Intergovernmental Relations (Amendment) Bill, 2024

The Intergovernmental Relations (Amendment) Act 2024 seeks to anchor the existing Intergovernmental structures in law; noting the evolution of the governance sector since the passage. While we support the broader goal of enhancing transparency and accountability within our devolution, it's crucial to ensure that this transition is fair and inclusive. Specifically, the bill omits the Society of Clerks at the Table in Kenyan County Legislatures (SOCATT-K), one of the critical Intergovernmental organs which has been in existence since December 2014.

1. **Formalization and Standardization**
 - Transitioning SOCATT-K from a society under the Societies Act into a statutory organ could bring about a more formalized and standardized framework for governance and operations within the Devolution and Intergovernmental Relations space.
2. **Enhanced Accountability**
 - By subjecting SOCATT-K to statutory regulations and oversight, there is the potential to enhance accountability and transparency. This would lead to better governance outcomes as the institution transitions from its current quasi-government nature.
3. **Strengthened Inter-governmental Relations**
 - The legislation may provide a platform for strengthening inter-governmental relations by defining clear roles and responsibilities for different levels of government. This could facilitate more effective coordination and collaboration on issues of common interest.

D. Proposed Clauses

CLAUSE 13

THAT Clause 13 of the Bill be amended by inserting the following new proposed sections immediately after the proposed section 23M.

23N. Establishment of the Society of Clerks at the Table in Kenyan County Assemblies

- (1) There is established the Society of Clerks at the Table in Kenyan County Assemblies which shall be a forum consisting all the technical officers of the forty-seven County Assemblies.
- (2) the Society of Clerks at the Table in Kenyan County Assemblies shall be a professional body acting as a forum representing the members of staff of all the County Assembly Services in Kenya.
- (3) The Society shall be managed by an Executive Committee.
- (4) The Executive Committee shall comprise of—
 - (a) a chairperson who shall be elected from amongst the clerks of all the County Assemblies;
 - (b) a vice-chairperson;
 - (c) seven other members from amongst the Clerks of the County Assemblies; and
 - (d) the Executive Director who shall be an *ex-officio* member of the Executive Committee and head of the secretariat.
- (5) Members of the Executive Committee shall serve for a term of two years and shall be eligible for re-election for one further term.

23O. Functions of the Society

- (1) The Society shall provide an avenue for—
 - (a) facilitating the harmonization of parliamentary practice and procedure among the County Assemblies through extensive research and development of best practices with a view to promoting procedural integrity and standards in the County Assemblies;
 - (b) promoting professional standards and ethical conduct among members of staff of the County Assembly Services by providing high standard training, professional development opportunities aimed at enhancement of skills and competencies in the effective performance of their duties;
 - (c) promote professionalism and excellence among the members of staff of County Assembly Services;
 - (d) creating a platform that enhance experience sharing, exchange of information, collaboration and networking for members of staff of County Assembly Services;



- (e) establish and maintain a repository of information and knowledge on parliamentary procedure and practice, administrative and technical matters relevant to smooth functioning and operation of County Assemblies;
- (f) fostering and disseminate among members of staff of County Assembly Services the County Assembly Service values enshrined under Section 5 of the County Assembly Services Act;
- (g) fostering and disseminate among members of staff of County Assembly Services the County Assembly code of conduct enshrined under Section 6 of the County Assembly Services Act;
- (h) provide a platform for members of staff of County Assembly Services to voice their views and experiences in implementing devolution and contribute to policy and legislative discussions at both the county and national level of government;
- (i) represent the members of staff of the County Assembly Services in engagements with the Intergovernmental Relations Agency including discussions with Constitutional Commission, Development Partners and various stakeholders;
- (j) provide technical support to the County Assembly Forum in their policy and legislative engagement with Parliament and other stakeholders with a view to strengthen the devolved system and address challenges faced by the County Assemblies;
- (k) facilitating capacity building for members of staff of County Assembly Services on new and emerging issues with a view to promote broader understanding of understanding of parliamentary practice and procedure, devolution principles, and governance structures within the devolved system of government; and
- (l) facilitate effective coordination and collaboration amongst the members of staff of County Assembly Services on issues of common interest.

(2) For better carrying out of its functions, the Society shall establish committees for various professional cadres working within the County Assembly Services.

(3) The Executive Committee shall facilitate and coordinate the activities of the committees established under subsection (2).

23P. Funding of the Society

- (1) The funds of the Society shall consist of—
 - (a) mandatory annual subscriptions by County Assemblies Service Boards; and
 - (b) such monies as may be lawfully granted or donated to the Society.
- (2) The Executive Committee shall determine bi-annually the amounts to be paid by County Assembly Service Boards as subscriptions.

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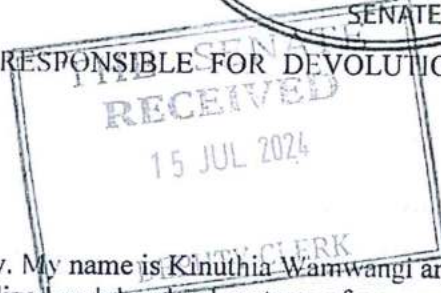
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PETITION TO THE SENATE COMMITTEE RESPONSIBLE FOR DEVOLUTION AND INTERGOVERNMENTAL RELATIONS



Honorable Senators,

Thank you for the opportunity to address you today. My name is Kinuthia Wamwangi and I bring with me 50 years of experience with both decentralized and devolved systems of government, not only in Kenya but also across the continent of Africa. Throughout my career, I have been deeply involved in and observed the development and functioning of these systems, giving me a comprehensive understanding of their intricacies and challenges.

In the past, I have had the honor of addressing the Senate on several occasions (specifically in Mombasa, Naivasha, and Nairobi) on the pressing need for an autonomous body to oversee and facilitate the coordination and implementation of the devolved system. This is a crucial moment to revisit and reinforce the need for such an Agency, ensuring that our intergovernmental relations are managed with the autonomy and effectiveness they require to thrive. If the proposed Bill is enacted into law, it will enable the Intergovernmental Relations Agency to fulfill that purpose.

In these circumstances, I am here to support the proposed Intergovernmental Relations Bill, which I have thoroughly read, understood, and agree with. However, I would like to make specific observations and recommendations that may not be fully captured in the Act. These suggestions are intended to enhance the effectiveness of the Bill and support its successful implementation. My observations and recommendations are as follows:

1. Change of Name

The Intergovernmental Relations Committee serves as the Secretariat of the Summit. In this respect I wish to emphasize the critical importance of empowering the Intergovernmental Relations Committee by changing its name to the *Intergovernmental Relations Agency*. This proposed change, as outlined in the Act, is not merely symbolic. It gives the committee a greater functional identity and also acknowledges its expanded responsibilities and benefits as shown below:

- a) *Enhanced Authority*: The term "Agency" conveys a sense of formal authority and importance, distinguishing it from a committee and suggesting a more influential role in governance.
- b) *Improved Identity*: "Agency" provides a clearer and more distinctive identity, which can help the organization stand out and be recognized more easily in official and public contexts.



① DGAC
 ② HOD - Governance
 Head Clerk - Devolution
 Kindly deal
 17/07/2024
 Kindly deal.
 15/07/2024

- c) *Increased Legitimacy*: The name change can lend greater legitimacy to the body, reflecting its significant role in overseeing and coordinating intergovernmental relations.
- d) *Greater Visibility*: "Agency" implies a more permanent and established presence, which can improve its visibility and perceived importance among stakeholders and the public.
- e) *Enhanced Perception of Power*: The term "Agency" often implies a level of power and influence that a "Technical Committee" may not, potentially increasing the respect and seriousness with which it is regarded.
- f) *Clarified Function*: It helps in distinguishing the body's role from other committees or technical groups, clarifying its function as a central player in intergovernmental coordination and decision-making.
- g) *Improved Communication*: A more authoritative name can enhance the effectiveness of communication and negotiations with other government bodies and stakeholders by establishing a stronger and clearer presence.
- h) *Better Alignment with International Standards*: The term "Agency" aligns with international practices and standards, making it easier to engage with global partners and institutions.

Changing the name to "Intergovernmental Relations Agency" thus better reflect its expanded role, enhance authority, and improved overall image.

2. Empowering Intergovernmental Relations Agency

Here I am advocating for specified powers in the Act for the Intergovernmental Relations Agency.

- a) *Effective Implementation*: Like the Transitional Authority, the Agency needs clear, specified powers to enforce and implement decisions effectively. This ensures that actions and policies are carried out as intended.
- b) *Clear Authority*: Specified powers provide the Agency with a clear mandate and authority, avoiding ambiguity in its role and responsibilities, which can help in executing its duties more efficiently.
- c) *Enhanced Accountability*: Clear powers and responsibilities make it easier to hold the Agency accountable for its actions and outcomes, ensuring that it meets its objectives and adheres to its mandate.
- d) *Streamlined Operations*: Just as the Transitional Authority had defined powers to manage the devolution process, the Agency needs similar powers to coordinate intergovernmental relations effectively and manage the complexities involved.
- e) *Consistency and Stability*: Specified powers help ensure consistency and stability in governance and intergovernmental relations, preventing gaps or overlaps in responsibilities that could arise without a clear mandate.
- f) *Increased Confidence*: Empowering the Agency with defined powers can increase the confidence of County Governments and the National Government in the Agency's ability to manage and resolve intergovernmental issues.

- g) *Improved Coordination*: With clear authority, the Agency can better coordinate activities and decisions between various levels of government, fostering stronger collaboration and more effective governance.
- h) *Legal Clarity*: Specified powers enshrined in the Act provide legal clarity, which is essential for the Agency's operations and for managing interactions with other government entities and stakeholders.

Empowering the Intergovernmental Relations Agency with specified powers, akin to those granted to the Transitional Authority, can enhance its effectiveness, ensure clear governance, and improve the overall implementation of intergovernmental policies.

3. Giving the Chairman Power to Gazette Decisions

Empowering the Chairman of the Intergovernmental Relations Agency to gazette decisions can provide several benefits:

- a) *Centralized Authority*: Empowering the Chairman to gazette decisions centralizes authority, ensuring that there is a single, accountable figure responsible for formalizing and communicating decisions.
- b) *Streamlined Implementation*: Gazetting decisions through the Chairman streamlines the implementation process by providing official and clear documentation that can be uniformly applied.
- c) *Enhanced Accountability*: The Chairman's role in gazetting decisions enhances accountability, as this individual is directly responsible for overseeing the execution and impact of decisions.
- d) *Legal Validity*: Gazetting decisions grants them legal validity and recognition, ensuring they are formally acknowledged and can be enforced effectively.
- e) *Improved Coordination*: The Chairman can ensure decisions are properly communicated and coordinated with other government bodies and stakeholders.
- f) *Monitoring and Evaluation*: The Chairman's involvement allows for more effective monitoring and evaluation, as decisions are officially recorded and tracked for their implementation and outcomes.
- g) *Transparency*: Gazetting promotes transparency by making decisions publicly accessible, allowing for scrutiny and feedback from stakeholders.
- h) *Consistent Messaging*: The Chairman can ensure that messaging around decisions is consistent and accurate, reducing the risk of misinterpretation.
- i) *Regulatory Compliance*: Official gazetting ensures compliance with legal and regulatory requirements, reinforcing the Agency's credibility and authority.
- j) *Facilitates Enforcement*: Gazetting provides a formal record that aids in the enforcement of decisions and addresses non-compliance and disputes.
- k) *Prevents Contradiction or Control*: By having the authority to gazette decisions, the Chairman is less likely to be contradicted or countermanded by others, ensuring that decisions are implemented as intended without external interference.

These justifications underscore the importance of empowering the Chairman with the authority to gazette decisions, ensuring effective implementation, oversight, and accountability within the Intergovernmental Relations Agency.

4. Independent Vote for Intergovernmental Relations Agency

It is crucial that the Intergovernmental Relations Agency should be adequately funded from the consolidated fund for the following reasons:

- a) *Effective Operation*: Sufficient funding ensures that the Agency can operate efficiently and effectively, fulfilling its mandate without resource constraints.
- b) *Resource Allocation*: With proper funding, the Agency can allocate resources to critical areas such as staffing, technology, and operational costs, which are essential for managing intergovernmental relations.
- c) *Capacity Building*: Adequate funding allows the Agency to build capacity, enhance its capabilities, and provide training to its staff, improving overall performance and effectiveness.
- d) *Program Implementation*: Funding supports the implementation of key programs and initiatives, enabling the Agency to address intergovernmental issues comprehensively.
- e) *Enhanced Efficiency*: Proper funding reduces the strain on the Agency, allowing it to focus on its core responsibilities rather than being bogged down by financial limitations.
- f) *Sustained Operations*: Consistent and adequate funding ensures the Agency can maintain its operations and fulfill its long-term objectives without disruption.
- g) *Public Trust*: Well-funded agencies are better equipped to demonstrate transparency and accountability, which enhances public trust and confidence in their work.
- h) *Strategic Initiatives*: Adequate resources enable the Agency to undertake strategic initiatives and respond effectively to emerging challenges in intergovernmental relations.

By securing funding from the consolidated fund, the Intergovernmental Relations Agency will be well-positioned to carry out its responsibilities effectively and contribute to improved governance and coordination between different levels of government.

5. Structural Changes

I propose the following changes to improve the functioning and efficiency of intergovernmental relations:

- a) *Autonomous Intergovernmental Relations Agencies*: The Intergovernmental Relations Agency should be answerable solely to the Summit. This change will enhance its neutrality and effectiveness, ensuring that it can act impartially and focus on its core role as the Secretariat for the Summit.

- b) *Council of Governors' Secretariat*: The Council of Governors, which is established by an Act of Parliament, should establish its own Secretariat recognized in the proposed Act. This dedicated Secretariat should be funded from public resources and will support the Council in its intergovernmental relations activities. This structure ensures that the Council of Governors has the necessary support for its agenda and can operate independently from the Intergovernmental Relations Agency.
- c) *National Government Coordination*: The National Government should continue using the Ministry or the State Department of Devolution to coordinate its agenda and activities in preparation for the Summit. This ensures that the National Government's interests and issues are effectively managed and represented.
- d) *Clear Roles and Responsibilities*: By having the Intergovernmental Relations Agency serve as the Secretariat for the Summit, while both the Council of Governors and the National Government have their own Secretariats, roles and responsibilities will be clearly defined.

This structure allows each entity to prepare and coordinate their agendas independently while ensuring a cohesive approach at the Summit. It also promotes effective governance, clear accountability, and efficient use of resources, ultimately leading to better management of intergovernmental relations..

6. Sectoral Working Groups, Forums or Committees

The new Bill should emphasize that the responsibility to establish working groups, forums, or other committees should exclusively rest with the Intergovernmental Relations Agency. Any committees established by the Ministry, State Departments, or the Council of Governors should strictly be on an ad hoc basis.

This ensures a unified and streamlined approach to intergovernmental relations, reducing redundancy and enhancing coordination. It also maintains the autonomy and primary role of the Intergovernmental Relations Agency in managing sectoral collaboration and decision-making. The following is the justification for this recommendation.

- a) *Centralized Coordination*: Having the Intergovernmental Relations Agency as the sole body responsible for establishing forums ensures centralized coordination, which is crucial for maintaining consistency and avoiding overlap in intergovernmental activities.
- b) *Standardization*: The Agency can set uniform standards and procedures for the forums, ensuring they operate under a consistent framework that supports effective and coherent intergovernmental relations.
- c) *Expert Oversight*: The Agency has the expertise and mandate to oversee the functioning of these forums, ensuring they align with broader intergovernmental policies and objectives.
- d) *Enhanced Authority*: Centralizing the establishment of forums under the Agency reinforces its authority and legitimacy, providing a clear and recognized body responsible for managing and facilitating intergovernmental dialogue.
- e) *Reduced Fragmentation*: Exclusive authority prevents fragmentation and duplication of efforts, ensuring that forums are not created independently by various entities, which could lead to inefficiencies and confusion.

- f) *Focused Resource Allocation:* The Agency can allocate resources effectively and ensure that forums are adequately supported, avoiding resource strain that might occur if multiple entities established their own forums.
- g) *Consistent Representation:* The Agency can ensure that all relevant stakeholders are consistently represented in forums, providing balanced and equitable participation across different levels of government.
- h) *Strategic Alignment:* By controlling the establishment of forums, the Agency can align them with strategic priorities and objectives, ensuring they address key intergovernmental issues and contribute to overall policy goals.
- i) *Effective Management:* The Agency can oversee the management and operations of forums, ensuring that they function efficiently and effectively, which might be challenging if multiple authorities were involved.
- j) *Ad Hoc Flexibility:* Allowing other authorities to form forums on an interim or ad hoc basis provides flexibility to address immediate or specific needs, while still maintaining overall control and coordination under the Agency.

7. Autonomy for Intergovernmental Relations Agency

Intergovernmental Relations Agency should operate autonomously from the Ministry, the State Department of Devolution, and the Council of Governors, and be directly answerable to the Summit. This structure provides several benefits:

- a) *Neutrality and Objectivity:* Operating autonomously ensures that the Agency remains neutral and objective, free from potential biases or influences of any specific ministry or council, allowing it to address intergovernmental issues impartially.
- b) *Enhanced Authority:* Direct accountability to the Summit strengthens the Agency's authority and reinforces its role as a central coordinating body in intergovernmental relations, enhancing its legitimacy and effectiveness.
- c) *Focused Mandate:* Autonomy allows the Agency to focus solely on its mandate without being diverted by the interests or administrative constraints of other bodies, leading to more effective implementation of intergovernmental policies.
- d) *Improved Efficiency:* Being answerable directly to the Summit reduces bureaucratic hurdles and streamlines decision-making processes, enabling the Agency to respond more quickly and effectively to emerging issues.
- e) *Clear Accountability:* Direct reporting to the Summit establishes clear lines of accountability, ensuring that the Agency's actions and decisions are transparent and directly aligned with the highest level of governance.
- f) *Prevention of Conflicts of Interest:* Autonomy helps prevent potential conflicts of interest that could arise from being influenced by or having to align with the priorities of other governmental bodies.
- g) *Better Coordination:* As a standalone entity, the Agency can coordinate intergovernmental relations more effectively, without the need to navigate complex relationships with other ministries or councils.
- h) *Strategic Independence:* Independence from other bodies allows the Agency to pursue strategic initiatives and reforms without being constrained by the agendas of other entities.

- i) *Focused Expertise:* The Agency can develop and apply specialized expertise in intergovernmental relations, enhancing its ability to manage and resolve issues effectively.

By operating autonomously and being answerable directly to the Summit, the Intergovernmental Relations Agency can fulfill its role more effectively, maintain impartiality, and contribute to improved governance and coordination between different levels of government.

Hereby submitted with my complements.

Kinuthia Wamwangi, EBS

MSc (HR), LLM, LLB, Advocate, FIHRM, FCS, FKIM, Governance Auditor

Founder and CEO Kinuthia Wamwangi Foundation and Ambassador for Older Persons in Kenya

Annex 6:

Proposed Committee
amendments to the Bill

9th October, 2024

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

**RE: COMMITTEE STAGE AMENDMENTS TO THE INTERGOVERNMENTAL
RELATIONS (AMENDMENT) BILL, SENATE BILLS NO. 12 OF 2024**

NOTICE is given that Sen. Sheikh Mohamed Abass, Chairperson, Standing Committee on Devolution and Intergovernmental Relations intends to move the following amendments to the Intergovernmental Relations (amendment) Bill, Senate Bills No. 12 of 2024, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended—

- (a) in paragraph (d) in the proposed new sub-section (4) (a) by inserting—
- i. the words “in law, humanities or social sciences” immediately after the words “a Master’s degree”;
 - ii. the following new paragraph immediately after paragraph (c)
(d) has at least 15 years working experience, ten of which should have been held in a managerial position;
- (b) in paragraph (e) by deleting the proposed new section 5(b) and substituting therefor the following new paragraph -
- (b) has knowledge and experience of at least ten years in matters relating to
-
- i. law;
 - ii. public administration;
 - iii. alternative Dispute Resolution;

- iv. economics;
- v. finance;
- vi. human rights;
- vii. management; or
- viii. social sciences;

CLAUSE 4

THAT clause 4 of the Bill be amended—

(a) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) The Agency shall be responsible for the day to day administration of the Summit and in particular—

- (i). facilitate the activities of the Summit; and
- (ii). implement the decisions of the Summit.

(b) in paragraph (b) by inserting the following new paragraph immediately after paragraph (ci)—

(cj) undertake research on intergovernmental matters.

CLAUSE 6

THAT clause 6 of the Bill be deleted and substituted with the following new clause—

6. Section 13 of the principal Act, is amended—

- (i). in subsection (1) by deleting the words “Technical Committee” appearing at the beginning of the subsection and substituting therefor the word “Agency”;
- (ii). by inserting the following new subsection immediately after subsection (1)—

1A. The Council of Governors may establish and convene sector forums on sectoral issues of common interest among county governments.

CLAUSE 12

THAT clause 12 of the Bill be amended in the proposed new Section 20A (1) by inserting the following new paragraph immediately after paragraph (a)—

(aa) Monies allocated annually by Parliament for the purposes of the Council.

CLAUSE 13

THAT clause 13 of the Bill be amended-

(a) in the new proposed new section 23C by deleting the words “the it can only be staff of the council secretariat” appearing in the marginal note;

(b) by inserting a new Section immediately after the proposed new section 23C-

23CA. The staff serving in the Council shall at the commencement of this Act be deemed to be staff of the Council as provided for under section 23C;

(c) in the proposed new section 23E (3)-

(i). by inserting the following new paragraph immediately after paragraph (b)-

(ba). a Secretary General who shall be a member of a County Assembly;

(ii). by deleting the word “seven” appearing at the beginning of paragraph (c) and substituting therefor the word “Six” ;

(d) in the proposed new section 23F(1) –

(i). by inserting the word “resolution” immediately after the words “facilitating disputes” in paragraph (c);

(ii). by inserting the following new paragraphs immediately after paragraph (e)-

(f). representing County Assemblies in all engagements with Intergovernmental Forums;

(g). considering reports from other intergovernmental forums on matters affecting County Governments;

(e) in the proposed new Section 23G (1) by inserting the following new paragraph immediately after paragraph (a)—

- (aa) Monies allocated annually by Parliament for the purposes of the Forum.
- (f) In the proposed new Section 23K by deleting the words “for— - where has this entity come from?” appearing immediately after the words “conditions of service”.

CLAUSE 29

THAT clause 29 of the Bill be deleted.

Dated... 15. 10. 242024.


Sen. Sheikh Mohamed Abass,

Chairperson,

Committee on Devolution and Intergovernmental Relations.
