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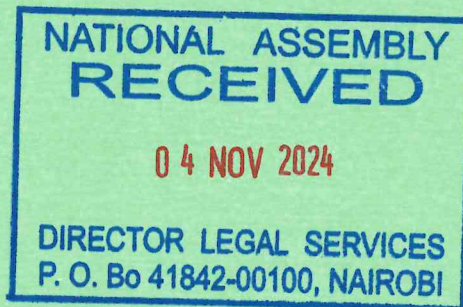
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CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Public Finance Management (Amendment) (No.3) Bill, 2024 989



NATIONAL ASSEMBLY
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**THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) (NO. 3) BILL, 2024**

A Bill for

AN ACT of Parliament to amend the Public Finance Management Act to provide for financial management in the transfer of functions between Article 187 of the Constitution and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I— PRELIMINARY PROVISIONS

1. This Act may be cited as the Public Finance Management (Amendment) (No. 3) Act, 2024.

Short title.

2. The Public Finance Management Act is amended by inserting the following new Part immediately after section 186—

Insertion of new Part into *Cap.* 412A.

**PART IVA— FINANCIAL MANAGEMENT IN
TRANSFER OF FUNCTIONS**

Interpretation of this Part.

186A. In this Part, unless the context otherwise requires—

Cap. 265F.

“transfer agreement” means the agreement on transfer or delegation of powers, functions or competencies as provided for under section 26 of the Intergovernmental Relations Act.

Application of the Part to transfer of functions.

186B. This Part applies to transfer of functions as provided for under Article 187 of the Constitution and sections 24 to 28 of the Intergovernmental Relations Act.

Financing transferred functions.

186C. (1) Subject to the Constitution, this Act and any other Act of Parliament, and with the approval of the National Assembly and the concerned county assembly, transferred functions shall continue to be funded from previous sources as contained in the approved

budgets of the transferring level of government.

(2) Where there is need for additional financial resources for a transferred function —

- (a) both parties shall consult and agree on the need for the additional financial resources; and
- (b) the transferring level of government shall provide the additional financial resources.

(3) The process of approval and disbursement of the additional financial resources in subsection (2) shall be provided for in the transfer agreement between the two levels of government.

Cost of transferred functions.

186D. (1) The cost of the transferred functions shall be based on the costing framework provided in the national and county government budget manuals.

(2) The cost of transferred functions as determined under subsection (1) shall form the basis for the additional financial resources for the transferred functions.

(3) The additional financial resources for transferred functions —

- (a) in the case of a county government to the national government for a financial year, shall be provided as a separate schedule in the budget estimates, identifying allocations from the county government revenue and clearly specifying appropriations-in-aid, additional allocations and proceeds from loans and grants; and
- (b) in the case of the national government to a county

government for a financial year, shall be provided as a separate schedule in the budget estimates, identifying allocations from the national government revenue and clearly specifying appropriations-in-aid, additional allocations and proceeds from loans and grants.

(4) The allocations under subsection (3) shall be included in the budget estimates of both the county and national government and shall be submitted to Parliament and the respective county assembly for approval.

Management of
assets and liabilities.

186E. (1) A transfer agreement between the two levels of government shall, in addition to the requirements under section 26 of the Intergovernmental Relations Act, include a provision on acquisition, disposal and transfer of assets and liabilities.

(2) Where assets are acquired and liabilities incurred in the duration of a transfer of a function to either level of government, the level of government receiving the functions shall—

- (a) keep, maintain and update the register of assets and liabilities in accordance with the applicable law; and
- (b) take appropriate measures to ensure that at the end of the transfer period, the assets and liabilities are transferred to the transferring level of government.

(3) The process of transfer of assets and liabilities upon the expiry of the transfer period shall be in accordance with the transfer agreement or as may be prescribed by the Cabinet Secretary in regulations.

Cash flow projections in relation to the transferred functions.

186F. (1) The transferring level of government shall prepare cash flow projections based on revenue projections from various sources of revenue.

(2) The transferring level of government shall publish and publicize the cash flow projections within fifteen days of the commencement of the transfer period.

Quarterly and annual financial and non-financial reports.

186G. (1) The accounting officer in a county government, in case of a transfer of a function from the national government to a county government, shall prepare and submit quarterly and annual financial and non-financial reports to the Controller of Budget; the County Treasury; and the responsible national government entity.

(2) The accounting officer in the national government in case of a transfer of a function from a county government to the national government shall prepare and submit quarterly and annual financial and non-financial reports to the Controller of Budget; the County Treasury; and the responsible county government entity.

(3) The copies of the reports prepared under sub sections (1) and (2) shall be submitted to the Senate, the National Assembly, the Auditor General and the respective county assembly in accordance with the Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Public Finance Management Act, in order to provide for the financing of transferred functions between the two levels of government in accordance with Article 187 of the Constitution.

The Bill provides that transferred functions shall continue to be funded from previous sources as contained in the approved budgets of the transferring level of government and that the cost of the transferred functions shall be based on the costing framework provided in the national and county government manuals.

Additionally, the Bill provides that a transfer agreement between the two levels of government shall include a provision on acquisition, disposal and transfer of assets and liabilities. Further, that the transferring level of government shall be required to prepare cash flow projections based on revenue projections from various sources of revenue.

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

This Bill confers upon the Cabinet Secretary the power to make Regulations on the process of transfer of assets and liabilities upon the expiry of the transfer period in accordance with the transfer agreement.

The Bill does not limit any fundamental rights or freedoms.

Statement on whether the Bill concerns county governments

The Bill contains provisions concerning county governments within the meaning of Article 110 of the Constitution and the Fourth Schedule to the Constitution and is therefore a Bill concerning county governments.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill is a money Bill within the meaning of Article 114 of the Constitution.

Dated the 23rd October, 2024.

KIMANI ICHUNG'WAH,
Leader of Majority.

