SPECIAL ISSUE

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REPUBLIC OF KENYA

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SENATE BILLS, 2014

NAIROBI, 4th April, 2014

CONTENT

Bill for Introduction into the Senate—

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THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2014

A Bill for

AN ACT of Parliament to amend the Public Finance Management Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2014.

Short title.

2. Section 15 of the Public Finance Management Act, hereinafter referred to as the "principal Act", is amended in sub-section 2(a) by deleting the words "and county governments" appearing immediately after the words "of the national" and substituting therefor the word "government".

Amendment of section 15 of No. 18 of 2012.

3. Section 107 of the principal Act is amended in sub-section 2(b) by deleting the words "thirty percent" appearing immediately after the words "minimum of" and substituting therefor the words "sixty percent".

Amendment of section 107 of No. 18 of 2012.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the objects and reasons of the Bill

This Bill seeks to amend section 15(2)(a) and section 107(2)(b) of the Public Finance Management Act, 2012 in order to provide, as a county government fiscal responsibility principle, that a minimum of sixty percent of the budget of the county governments be allocated to development expenditure.

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

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

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110 (1) (a) of the Constitution. The amendments that are proposed are intended to provide, as a county government fiscal responsibility principle, that a minimum of sixty percent of county government budgets be allocated to development expenditure. This principle is intended to apply at the county level of government and it therefore affects the functions and powers of the county governments in terms of Article 110(1)(a) of the Constitution.

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

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

Dated the 4th April, 2014.

KITHURE KINDIKI,
Senate Majority Leader.

BEATRICE ELACHI,
Senate Majority Whip.

KIPCHUMBA MURKOMEN,
Senator.

STEPHEN SANG',
Senator.

Section 15 of the Act that the Bill proposes to amend—

The National Treasury to enforce fiscal responsibility principles

15. (1) The National Treasury shall manage the national government'spublic finances in accordance with the Constitution, and the principles of fiscal responsibility set out in subsection (2).

(2) In managing the national government's public finances, the National Treasury shall enforce the following fiscal responsibility principles—

(a) over the medium term a minimum of thirty percent of the national and county governments budget shall be allocated to the development expenditure.

(b) the national government's expenditure on wages and benefits for its public officers shall not exceed a percentage of the national government revenue as prescribed by regulations;

(c) over the medium term, the national government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure;

(d) public debt and obligations shall be maintained at a sustainable levelas approved by Parliament for the national government and the county assembly for county government;

(e) fiscal risks shall be managed prudently; and

(f) a reasonable degree of predictability with respect to the level of tax rates and tax bases shall be maintained, taking into account any tax reforms that may be made in the future.

(3) For the purposes of subsection (2) (c), short term borrowing shall be restricted to management of cash flows and in case of a bank overdraft facility it shall not exceed five per cent of the most recent audited national government revenue.

(4) The National Treasury shall ensure that the level of National Debt does not exceed the level specified annually in the medium term national government debt management strategy submitted to Parliament.

(5) Regulations made under this Act may add to the list of fiscal principles set out in subsection (2).

Section 107 of the Act that the Bill proposes to amend—

County Treasury to enforce fiscal responsibility principles

107. (1) A County Treasury shall manage its public finances in accordance with the principles of fiscal responsibility set out in subsection (2), and shall not exceed the limits stated in the regulations.

(2) In managing the county government's public finances, the County Treasury shall enforce the following fiscal responsibility principles-

(a) the county government's recurrent expenditure shall not exceed the county government's total revenue;

(b) over the medium term a minimum of thirty percent of the county government's budget shall be allocated to the development expenditure;

(c) the county government's expenditure on wages and benefits for its public officers shall not exceed a percentage of the county government's total revenue as prescribed by the County Executive member for finance in regulations and approved by the County Assembly;

(d) over the medium term, the government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure;

(e) the county debt shall be maintained at a sustainable level as approved by county assembly;

(f) the fiscal risks shall be managed prudently; and

(g) a reasonable degree of predictability with respect to the level of tax rates and tax bases shall be maintained, taking into account any tax reforms that may be made in the future.

(3) For the purposes of subsection (2) (d), short term borrowing shall be restricted to management of cash flows

and shall not exceed five percent of the most recent audited county government revenue.

(4) Every county government shall ensure that its level of debt at any particular time does not exceed a percentage of its annual revenue specified in respect of each financial year by a resolution of the county assembly.

(5) The regulations may add to the list of fiscal responsibility principles set out in subsection (2).