

# PARLIAMENT OF KENYA

## THE SENATE

### SIMPLIFIED EXPLANATION OF THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2025)

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**Sponsor:** Senate Majority Leader & Senate Minority Leader

**Type of Bill:** Ordinary Bill

#### **A. Background**

The Constitution of Kenya (Amendment) Bill, 2025 is meant to make devolution work better. It proposes changes to the Constitution to clarify the roles of the National Assembly and the Senate. It also strengthens how laws are made and by ensuring that both Houses are involved in the passage of legislation. The Bill introduces special steps for handling financial laws. Overall, these changes are meant to create a clear, accountable, and more effective system of government in both national and county levels.

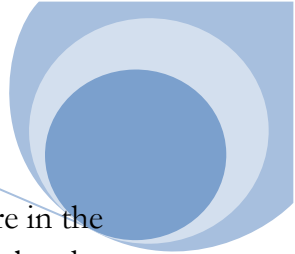
#### **B. Summary of the Clauses**

##### **1. Strengthening of the role of the Senate**

The Constitution of Kenya (Amendment) Bill, 2025 proposes to give the Senate more power and a bigger role in how the country is governed. Right now, the Senate mainly deals with laws that concern counties. But with this Bill, the Senate will take part in making all laws, not just those about county governments.

The Bill also says the Senate should represent special interest groups, such as women, youth, and persons with disabilities, in addition to counties. This will ensure that the voices of all Kenyans are heard in the law-making process.

Another important change is that the Senate will now help in making rules for removing state officers and approving people appointed to important public positions. This means the Senate will play a stronger role in ensuring that public officials are accountable.



The Bill also introduces a clear leadership structure in the Senate, just like the structure in the National Assembly. In this new structure, the order of seniority in the Senate will be the Speaker, the Majority Leader, and the Minority Leader in that order.

### **Why does this matter?**

Strengthening the Senate matters because it brings a better balance between the two Houses of Parliament. Today, many important decisions, especially about money and national laws, are made mostly in the National Assembly. This sometimes leaves counties and ordinary Kenyans underrepresented in national decisions.

By giving the Senate a stronger role, the Bill ensures that every county has a louder voice in Parliament. Senators, who represent counties, will now take part in making all laws, approving top government officials, and deciding how money is shared and used across the country. This means more accountability in government decisions, fairer distribution of resources between national and county governments, stronger protection for counties and devolution, and better oversight of public officials to ensure that they serve the people, and when they don't, there are clear procedures to remove them from office.

In simpler terms, when the Senate is stronger, counties will be better placed to deliver critical services to all Kenyans.

## **2. Reforming how laws are made**

The Bill changes how laws are made in Kenya. Right now, some laws can only be introduced in one House, usually the National Assembly, and there are often disagreements about which House has the final say.

The new Bill allows all Bills to start in either the National Assembly or the Senate, except for laws about raising taxes or revenue, which will still begin in the National Assembly, and thereafter be considered by the Senate. This change gives both Houses a fair and equal role in creating laws.

The Bill also removes Articles 110 and 114, which previously caused confusion over which Bills affected counties and whether the Senate should be involved in the passage of certain Bills. By removing these articles, the process of law making becomes clearer, faster, and fairer. Now, when a Bill is passed in one House, it must be sent to the other House for review and



approval. Both Houses must agree before the Bill goes to the President for signing. If there's a disagreement, a mediation process will be followed to find a solution.

The Bill also gives Parliament (both Houses) a joint role in dealing with the President's reservations when a law is returned for reconsideration.

### **Why does this matter?**

These changes reduce conflict between the National Assembly and the Senate, which has been a problem in the past. They also make the law-making process more efficient and respectful of the Constitution's vision of a bicameral Parliament. With these reforms—

- no House will dominate the other;
- laws will be made through consultation and cooperation; and
- the process will become more transparent and easier to understand.

These changes will create public trust that both Houses are working together to pass laws that respond to real needs across the country.

### **3. Promoting Clarity, Cooperation, and a Stronger Parliament**

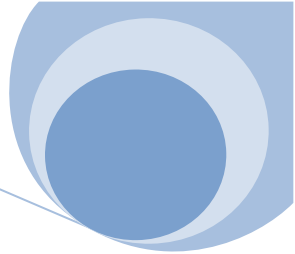
The Bill introduces reforms to help clarify the roles of the National Assembly and the Senate, reduce conflicts, and improve how Parliament works as a whole. In recent years, there have been disagreements between the two Houses, especially over which Bills should involve the Senate, how financial laws are passed, and who has final authority in certain processes. These disputes have ended up in a long, drawn out judicial process, sometimes delaying legislation and weakening the overall functioning of Parliament.

This Bill proposes to—

- remove unclear provisions that have caused overlap or confusion (like Articles 110 and 114);
- refine how Bills should be introduced, debated, amended, and approved;
- set out clear steps for handling presidential assent, including timelines; and
- strengthen the process of mediation, so that when the two Houses disagree on a Bill, there is a structured way to resolve it.

### **Why does this matter?**

When Parliament works well, laws are passed on time, resources are shared fairly, and the needs of Kenyans are addressed efficiently. These reforms help Parliament—

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- avoid unnecessary conflict;
  - work more smoothly and respectfully between the two Houses;
  - focus more on serving the public than debating technicalities; and
  - build trust by showing unity and clarity in law-making.

These changes help Parliament function as one strong, cooperative body in making laws that are clear, fair, and timely for the benefit of all Kenyans.

#### **4. Budget Process and Oversight**

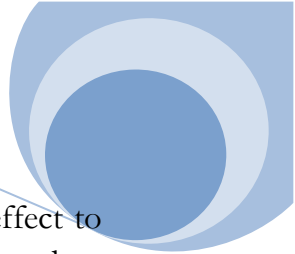
This Bill makes important changes to how the national budget is prepared, discussed, and approved. Currently, the National Assembly plays the biggest role in the budget-making process, while the Senate has a limited say, even though counties rely on that money to serve the people.

The new Bill allows both the Senate and the National Assembly to take part in reviewing and approving the national budget, estimates of revenue and spending, and appropriation and allocation laws, which decide how money is shared and used. The Bill removes old rules that made the National Assembly the final decision-maker on public finance.

The Constitution, under Article 249(3), requires Parliament to allocate adequate funds to each commission and independent office to enable them to perform their functions. It also states that the budget of each commission and independent office must be presented as a separate vote, giving visibility and protection to these institutions in the national budget process. Despite this provision, the practice has often seen the Senate left out of reviewing and approving national budget estimates and appropriation Bills, even in cases where the Senate has a constitutional duty in overseeing the institutions concerned.

The Bill addresses this gap by formally involving the Senate in the entire budget process. This includes the review of estimates, public participation, committee recommendations, and the passage of appropriation laws. By doing so, the Bill harmonises Articles 221 and 249(3) ensuring that both Houses of Parliament, acting jointly, play their full role in public finance management.

The Senate's participation also brings a broader, more representative perspective to budgeting, especially on matters that touch on devolution and institutions with mandates across both levels of government. It also ensures greater transparency, accountability, and alignment with constitutional principles, including equity and inclusivity in resource allocation. Harmonising



the process not only strengthens the role of Parliament as a whole, but also gives effect to Article 249(3) in a way that reflects the spirit of bicameralism and respect for independent institutions.

Additionally, if there's a delay in passing the laws that allow money to be shared with counties, the Bill allows Parliament to approve temporary access to funds so that counties can keep running basic services.

### **Why does this matter?**

Money is power and how it's shared affects all Kenyans. These changes mean that—

- counties will no longer have to wait or struggle with funding because of delays in Parliament;
- the Senate will now help protect your devolved county allocations;
- there will be stronger checks and balances so that funds are not misused; and
- both Houses will have to listen to the public when reviewing budget estimates.

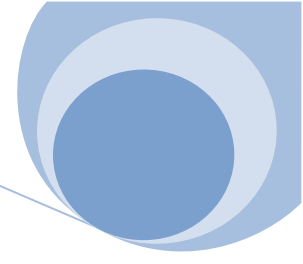
This reform makes sure your money is better planned, better managed, and better protected both at the national level and in your county.

## **5. Strengthening of Counties**

The Bill proposes key changes to make counties stronger, more independent, and better able to serve their people. One of the main proposals is the creation of a County Assembly Fund in every county. This Fund will support the administration and day-to-day work of the county assembly, including paying staff, running offices, and carrying out oversight duties.

Right now, many county assemblies depend on county executives (governors) to access money. This can lead to delays, interference, or pressure on MCAs. With this new Fund, county assemblies will receive their funds directly, making them more independent and able to do their job without fear or favour.

Each county assembly will be required to pass its own law to guide how the Fund is managed and used. The money will come from the county's share of national revenue, and once approved, it will be a direct charge, meaning it cannot be denied or withheld by the county executive.



## **Why does this matter?**

Strong counties need strong, independent county assemblies. These reforms mean that—

- County assemblies will be able to oversee governors more effectively;
- MCAs can work without interference, helping to fight corruption and misuse of funds;
- counties will be more responsive to local needs and better deliver services; and
- the principle of separation of powers will be respected at the county level.

These changes help protect the voice of the people at the local level by making county assemblies financially independent, transparent, and effective.

## **6. Joint Approval of State Officers**

The Bill proposes that the approval and oversight of key public officials be carried out jointly by both the National Assembly and the Senate, rather than by one House alone. This means that Parliament will act as a united institution when vetting and approving certain high-level appointments. This change will apply to the following positions—

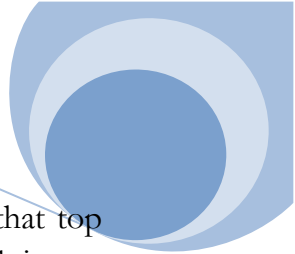
- The Director of Public Prosecutions (DPP);
- The Controller of Budget;
- The Auditor General;
- Members of the Public Service Commission;
- Chairperson of the Commission on Revenue Allocation;
- Chairpersons and members of other constitutional commissions

Under the proposed amendment, the two Houses will also have a shared role in removal processes for these offices, following constitutional grounds such as misconduct, incapacity, or breach of public trust.

## **Why does this matter?**

This reform ensures that both Houses of Parliament take part in important national decisions. It encourages broader consultation, promotes consensus, and reflects the spirit of a bicameral system. With joint vetting—

- there will be balanced input from across the country;
- appointments will benefit from diverse perspectives;
- the role of Parliament as a whole will be strengthened and unified; and
- institutions will gain greater legitimacy through inclusive processes.



Sharing this responsibility between the Senate and the National Assembly ensures that top public appointments are considered from both a national and regional viewpoint, helping to build a more accountable and representative government.

### **C. Conclusion**

The Constitution of Kenya (Amendment) Bill, 2025 proposes important changes to how laws are made and how power is shared between the National Assembly and the Senate. It allows most Bills, except those related to raising national revenue, to be introduced in either House. This means both Houses will now have a more equal say in making laws and overseeing government activities. The Bill also gives the Senate a stronger role in decisions about the national budget, how funds are shared between national and county governments, and in approving key state officers. This creates a more balanced and fair system of governance.

The Bill goes further to ensure that both Houses play an equal role in financial matters. It removes old rules that gave the National Assembly more power over the national budget and spending. By changing how financial Bills are handled, including how budgets are prepared and how presidential reservations are addressed, the Bill makes Parliament work more as a unit. This change gives the Senate a real voice in how money is raised, shared, and spent across the country, leading to better oversight and accountability.

It also improves how senior public officials are appointed. Positions like the Director of Public Prosecutions, the Auditor General, the Controller of Budget, and members of key commissions will now be approved by both Houses of Parliament. This helps protect the independence of these offices and strengthens public trust in the process.

To support devolution, the Bill creates a County Assembly Fund in each county. This Fund will help county assemblies manage their daily operations and perform their duties independently. It ensures that MCAs can work without relying too much on county executives, making county governments more accountable and efficient.

Finally, the Bill clears up confusion about the roles of the two Houses in the law-making process. It outlines how Bills should move between the Houses, how mediation should work when there is a disagreement, and how the President should give assent. These changes aim to reduce conflicts and promote cooperation in Parliament, leading to a stronger, more responsive legislative system.



#### **D. What We are Asking from You**

As a citizen, your voice matters. This Bill proposes changes that will affect how our country is governed, from how laws are made, to how public money is spent, to how county governments operate.

We invite you to read and understand the proposed changes, ask questions where things are unclear, and share your honest views. Whether you support the changes, oppose them, or have suggestions to improve them, your opinion counts. Please attend public forums, submit your views in writing, join community discussions, or engage through available online and social media platforms. As a citizen, you have the right to influence the Constitution. Your views will help strengthen our democracy.