

SPECIAL ISSUE

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SENATE BILLS, 2025

NAIROBI, 16th July, 2025

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THE ENERGY (AMENDMENT) BILL, 2025**A Bill for**

AN ACT of Parliament to amend the Energy Act to exempt county governments from the requirement of consent for purposes of levying charges, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Energy (Amendment) (No. 2) Act, 2025.

Short title.

2. The Energy Act is amended in section 223 by—

Amendment of
section 223 of
Cap 314.

(a) renumbering the existing provision as subsection (1); and

(b) inserting the following new subsection (2) immediately after subsection (1) —

(2) Subsection (1) shall not apply to county governments.

MEMORANDUM OF OBJECTS AND REASONS

This amendment Bill seeks to exempt county governments from public bodies that need to seek consent from the Cabinet Secretary in charge of Energy and Petroleum, before levying charges on wayleaves.

By exempting county governments from the provision of section 223 of the Act, county governments are free to charge levies on the wayleaves laid by the Energy sector without seeking consent from the Cabinet Secretary. This is meant to increase avenues for the counties to raise their revenue in exercise of their powers under Article 209 (3) of the Constitution.

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

The Bill concerns counties as it affects the powers of counties under Article 209 of the Constitution. Article 209 (3) and (4) of the Constitution, counties have powers to impose charges and levies for the services they provide, as a means to increase their own source revenue.

Further, under Part 2 of the fourth schedule to the Constitution, county roads are a function of the counties and wayleaves are laid underground affecting the quality of roads within the counties. The trenches that are left after wayleaves are laid, are often left unattended to by the laying entity leaving the counties with the burden of covering and generally maintaining those roads and spaces. By allowing counties to charge levies for wayleaves, counties are able to use the monies collected from the wayleaves to repair and generally maintain county roads, in addition to raising their revenues.

This is therefore a Bill that concerns counties 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

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

Dated the 12th June, 2025.

OBURU OGINGA,
Chairperson.
Standing Committee on Energy.

Section 223 of Cap 314 which it is propose to amend—

223. Levies on Energy Infrastructure

No public body shall charge levies on public energy infrastructure without the consent of the Cabinet Secretary in writing.

