



**13TH PARLIAMENT | 4TH SESSION
THE SENATE**

**IN THE MATTER OF CONSIDERATION OF THE CONSTITUTION OF KENYA
(AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)**

FREQUENTLY ASKED QUESTIONS

1. What is the purpose of this Constitution of Kenya (Amendment), Bill, 2025?

The Bill seeks to streamline the bicameral system of Parliament and enhance devolution. It aims to harmonize the legislative functions of the National Assembly and the Senate by streamlining the law-making function to ensure that both Houses of Parliament participate fully in the legislative process.

2. Why is strengthening devolution a priority in this Bill?

Devolution is central to Kenya's constitutional framework as it brings services closer to the people and promotes equitable development. However, conflicting interpretations of roles between the National Assembly, the Senate, and the County Assemblies have undermined its full realization. This Bill seeks to address these concerns.

3. How will Kenyans benefit from this strengthened devolution framework?

Kenyans will benefit through ensured continuity of county government services even where there may be a delay in approving budget related bills. Kenyans will also benefit because there will be improved accountability and oversight on how funds are used at the county level.

4. What practical challenges in devolution does the Bill aim to resolve?

The Bill addresses ambiguity in legislative roles that previously stalled or invalidated laws. Furthermore, the Bill aims to provide clarity in the law-making function at the national level, ensuring that legislation enacted at the national level does not undermine devolution.

5. Which specific Articles of the Constitution are being amended or repealed?

The Bill proposes changes to over 20 Articles, including 94, 95, 96, 108–116, 157, 173, 215, 221–224, 228–229, 233, 250–251. Notably, it repeals Articles 110 and 114 in their entirety.

6. How does the Bill affect the role of the Senate?

The Senate will be empowered with—

- full legislative authority, including introducing and passing Bills (except for those on raising national revenue);
- participation in budget processes to ensure that at the point of allocation of resources, counties are protected by ensuring that the revenue raised is shared equitably and that resources follow functions;
- a clear order of precedence and leadership roles under Article 108; and
- representation of special interests and deliberation on matters concerning people in counties.

7. Does the National Assembly lose any powers under this Bill?

No. Instead, the Bill clarifies overlapping functions and promotes collaboration between the two Houses of Parliament.

8. What happens to the classification of “Money Bills”?

The Bill repeals Article 114, which defined “Money Bills,” removing the ambiguity that often led to disagreements over whether a Bill required Senate input. This change aims to reduce legislative gridlock and promote inclusivity in decision making.

9. Can both Houses now originate Bills?

Yes. Under the proposed amendments to Article 109, any Bill may be introduced in either House, except for Bills that raise national revenue, which may originate in the National Assembly.

10. What are “allocation” and “appropriation” Bills, and how are they handled under the Bill?

- Allocation Bills (like the County Allocation of Revenue Bill) may now originate in the Senate, with the National Assembly proposing amendments.
- Appropriation Bills (national government expenditure) may originate in the National Assembly, with the Senate proposing amendments.
- If one House disagrees with amendments by the other, a two-thirds majority from the originating House can veto them.

11. Is the Mediation process affected?

Yes. Article 113 is amended to exclude allocation and appropriation Bills from mediation, thereby simplifying the consideration and enactment of budget-related legislation, including the Budget Policy Statement, Division of Revenue Act, County Allocation of Revenue Act, Appropriation Acts, etc.

12. Does the Bill create any new constitutional provisions?

Yes. It introduces Article 199A, which establishes a County Assembly Fund for each county, to support the administrative and operational expenses of county assemblies.

13. Why was the County Assembly Fund introduced?

To ensure county assemblies function independently and efficiently, especially in carrying out oversight over county executives. This institutionalizes their funding and enhances financial autonomy and accountability at the local level.

14. How does the Bill affect the budget process at the national and county levels?

Under the Bill—

- both Houses of Parliament will review and approve budget estimates;
- committees of both Houses will involve the public in reviewing estimates; and
- where delays occur in passing revenue allocation Bills, Parliament may authorize interim withdrawals to sustain both national and county operations.

15. Does this Bill promote better coordination between national and county governments?

Yes. By clarifying the roles of each House of Parliament and streamlining how revenue and legislation flow, the Bill promotes cooperation, reduces legal conflicts between the National Assembly and the Senate, and ensures timely service delivery to Kenyans.

16. What changes are made to the appointment of constitutional office holders?

Approval powers previously held solely by the National Assembly (e.g., for the Auditor General, Controller of Budget, Director of Public Prosecution, chairpersons and members of constitutional commissions) are now extended to Parliament as a whole, meaning that both Houses must be involved in their vetting and approval.

17. Will there be public participation before this Bill is enacted?

Yes. Articles 10 and 118 of the Constitution mandate public participation in the legislative process. Since this is a constitutional amendment, it requires a national referendum under Article 255. That means public views will be considered at multiple stages: after tabling in Parliament, during committee hearings, and in the referendum itself.

18. Why is public participation important in amending the Constitution?

The Constitution is the supreme law of the land. Public participation ensures that amendments reflect the will of the people, protect the public interest, and uphold democratic values. It also promotes transparency and trust in government decisions.

19. How can Kenyans be sure that their views will be taken seriously?

The Constitution obligates Parliament to seek and consider public views in lawmaking (Article 118). In addition, Parliamentary committees must prepare reports showing how public submissions were received and factored into the final Bill. These reports become part of the official legislative record.

20. Are there legal safeguards to ensure public participation is not just a formality?

Yes. The courts have ruled that public participation must be meaningful, not cosmetic. In key cases such as the *BBI Judgment*, the Courts emphasized that any law passed without adequate public input can be declared unconstitutional and invalid.

21. Can citizens challenge the process if they feel ignored?

Yes. If any citizen or group believes the public participation process was inadequate or bypassed, they have the right to seek redress in court under Articles 22 and Article 258 of the Constitution.

22. How can members of the public give their views on this Bill?

Kenyans can participate by—

- submitting written memoranda to the relevant Parliamentary Committees;
- attending public hearings or stakeholder forums organized by Parliament or county governments;
- engaging through media, civil society, and public barazas; and
- voting during the national referendum, which is mandatory for certain constitutional changes.

23. What happens to the feedback given during public forums?

All oral and written submissions will be—

- documented by the relevant committee;
- reviewed alongside expert input;
- reflected in the committee's report and possible amendments to the bill; and
- made available to the public upon request, thereby increasing transparency.

24. How can Kenyans track whether their views influenced the Bill?

You can—

- read the committee reports that will be tabled in Parliament;
- follow plenary debates where members refer to public submissions;
- access summaries from Parliament's website, civil society organizations, or media; and
- attend town hall debriefs organized after public hearings.

25. When will this Bill come into effect if passed?

It will come into force on the 14th day after the official declaration of the results of a national referendum, as per Article 255 of the Constitution.

26. Why is a referendum required for this Bill?

Under Article 255(1) of the Constitution, any amendment that touches on critical areas such as the structure of devolution, the role of Parliament, or the independence of constitutional commissions and independent offices must be approved by the people through a referendum.

27. Which parts of the Bill require a referendum?

Any proposed amendment affecting the structure of devolution, the functions of Parliament, the functions of the counties, or constitutional commissions and independent offices must be subjected to a referendum, as outlined in Article 255(1) of the Constitution.

28. Who is eligible to vote in the referendum?

Any Kenyan citizen registered as a voter is eligible to vote in the referendum.

29. Who will organise the referendum?

The Independent Electoral and Boundaries Commission (IEBC) is responsible for organising and conducting the referendum, just like it does for general elections.

30. What happens if the public rejects the proposed amendments in the referendum?

If the majority of voters reject the Bill during the referendum, it will not come into force, and the Constitution will remain unchanged. Parliament cannot override a referendum result. This underscores the sovereign power of the people, which is central to constitutional reform in Kenya.