Bill for Introduction into the Senate—

The Petition to County Assemblies (Procedure) Bill, 2018

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THE PETITION TO COUNTY ASSEMBLIES
(PROCEDURE) BILL, 2018
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2 — Interpretation.
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5 — Consideration of petition.
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SCHEDULE – FORM OF PETITION
THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL, 2018

A Bill for

AN ACT of Parliament to give effect to Article 37 of the Constitution on the right to petition a county assembly; to provide the procedure for the exercise of that right; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Petition to County Assemblies (Procedure) Act, 2018.

2. In this Act—

"clerk" means a Clerk of a county assembly;

"petition" means a written prayer to a county assembly under section 15 of the County Governments Act;

"petitioner" means a person who petitions a county assembly;

"register" means the register maintained by a Clerk under section 6; and

"Speaker" means a Speaker of a county assembly.

3. A petition to a county assembly shall be in the form set out in the Schedule and shall—

(a) be handwritten, printed or typed;

(b) be in English or Kiswahili;

(c) be written in respectful, decorous and temperate language;

(d) be free of alterations and interlineations in its text;

(e) be addressed to the county assembly;

(f) have its subject-matter indicated on every sheet if it consists of more than one sheet;

(g) indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory;
(h) indicate whether the issue in respect of which the petition is made is pending before any court of law or other constitutional or legal body;

(i) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners with regard to the matter to which it relates;

(j) subject to paragraph (n), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;

(k) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;

(l) not have any letters, affidavits or other documents annexed to it;

(m) in the case of a petition presented by a member of a county assembly on behalf of a petitioner, be countersigned by the member presenting it; and

(n) be signed by the petitioner, or if the petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.

4. (1) A petition to a county assembly shall be—

(a) submitted to the respective Clerk by the petitioner; or

(b) presented by a member of the county assembly on behalf of a petitioner, with the consent of the Speaker.

(2) Despite subsection (1)(b), a member of a county assembly is not eligible to present a petition on his or her own behalf.

(3) The Clerk shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements specified under section 3.
(4) Where the Clerk considers that a petition does not comply with section 3, the Clerk may give such directions as are necessary to ensure that the petition is amended to comply with that section.

(5) A petition shall not be rejected merely because it is not addressed to the Clerk of a county assembly.

5. (1) The Clerk shall, if satisfied that the petition meets the requirements specified under this Act, forward the petition to the Speaker for reporting in the county assembly.

(2) The Clerk shall, if satisfied that the petition meets the requirements specified under this Act, forward the petition to the Speaker for reporting in the county assembly.

(3) A petition that is reported in a county assembly under this Act shall be considered in accordance with the Standing Orders of the county assembly.

(4) Notwithstanding sub-section (2), the relevant county assembly committee may in considering the petition—

(a) invite the petitioner to clarify or submit such further information as the committee may consider necessary; and

(b) conduct public hearings with respect to the petition.

(5) The respective county assembly may debate the report of a committee on a petition, and may either approve, vary the recommendations of, or reject the findings and recommendations of the relevant county assembly committee.

(6) The Clerk shall, within fourteen days of the decision of the county assembly, in writing, notify the petitioner of the decision of the county assembly.

6. (1) The Clerk shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the county assembly on the petitions.
(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

7. Section 15 of the County Governments Act is amended by deleting subsection (2) and substituting therefor, the following new subsection—

(2) The procedure for the exercise of the right to petition a county assembly under sub-section (1) shall be as set out in the Petition to County Assemblies (Procedure) Act and in the Standing Orders of the relevant county assembly.
SCHEDULE

[s. 3]

FORM OF A PETITION

Petition to the county assembly of ............................................ (state the relevant County)

I/We, the undersigned,

(Here, identify in general terms, who the petitioner or petitioners are, for example, citizens of Kenya, residents of ......................... County, workers of ......................industry, etc.)

DRAW the attention of the county assembly to the following:

(Here, briefly state the reasons underlying the request for the intervention of the county assembly by outlining the grievances or problems and by summarizing the facts which the petitioner or petitioners wish the county assembly to consider.)

THAT

[Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give any response or a satisfactory response.]

THAT

[Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.]

WHEREFORE your humble petitioner(s) Pray that the county assembly—

(Here, set out the prayer by stating in summary what action the petitioner(s) wish the county assembly to take or refrain from.)

And your PETITIONER(S) will ever Pray.

Name of petitioner .................................................................

Full Address ..............................................................................

National ID or Passport No.....................................................

Signature/ Thumb impression ..................................................

* This form may contain such variations as the circumstances of each case may require
MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The main objective of this Bill is to provide for the procedure for petitioning a county assembly. Article 37 of the Constitution provides that every person has a right to present petitions to public authorities. Section 15 of the County Governments Act specifically provides for the right to petition a county assembly. On the procedure for the exercise of the right, section 15(2) of the County Governments Act requires each county assembly to provide for the procedure to be applied in the respective county assembly. This may result in the enactment of different procedures for petitioning county assemblies across the forty-seven counties. This Bill therefore seeks to provide a uniform and harmonized procedure that would apply in all county assemblies. The procedure is similar to that applicable to the national Parliament as set out in the Petition to Parliament (Procedure) Act, No. 22 of 2012.

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 fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

One of the functions of the county assemblies in terms of section 37 of the Constitution and section 15 of the County Governments Act is to consider petitions that are lodged with the respective county assemblies. Petitions cover a wide range of the matters that fall within the functions and powers of the county government. This Bill seeks to provide a uniform and harmonized procedure by which the county assemblies are to receive, consider and dispose of petitions lodged with the county assemblies. As such the Bill affects the powers and functions of the county governments and it is therefore a Bill that concerns county government 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

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

Dated the 13th June, 2018.

JUDITH PARENO,
Senator.
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THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2018

A Bill for

AN ACT of Parliament to make amendments to the Statutory Instruments Act, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Statutory Instruments (Amendment) Act, 2018.

2. The Statutory Instruments Act, in this Act referred to as the "principal Act", is amended in section 11 by—

(a) deleting the words "responsible Clerk" appearing immediately after the words "transmitted to the" in subsection (1) and substituting therefor the words "Clerk of the Senate and the Clerk of the National Assembly";

(b) deleting subsection (2); and

(c) deleting the words "responsible Clerk" appearing at the beginning subsection (3) and substituting therefor the words "Clerk of each House".

3. The principal Act is amended in section 15 by deleting subsection (3) and substituting therefor the following new subsection—

(3) Despite the provision of subsection (2), the extension of time by resolution of the House shall not exceed twenty-one days.
MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons

The purpose of the Bill is to amend the Statutory Instruments Act in order to expressly include the Senate in the statutory instruments scrutiny process. As part of the Parliament of Kenya, the Senate of Kenya has a role in the making of the laws of Kenya which includes statutory instruments. Excluding the Senate from such an important aspect of law making would deny the Counties the right to be represented.

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 fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it affects the functions and powers of County Governments set out in the Fourth Schedule.

Statutory Instruments form part of the Laws of Kenya. The content of these instruments may have an impact on the functions of county governments as stipulated in Part 2 of the Fourth Schedule to 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 23rd July, 2018.

SAMUEL POGHISIO,
Chairperson, Delegated Legislation Committee.
Section 11 of No.23 of 2013 which it is proposed to amend—

Laying of statutory instruments before Parliament

11. (1) Every Cabinet Secretary responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before the relevant House of Parliament.

(2) Notwithstanding subsection (1) and pursuant to the legislative powers conferred on the National Assembly under Article 109 of the Constitution, all regulation-making authorities shall submit copies of all statutory instruments for tabling before the National Assembly.

(3) The responsible Clerk shall register or cause to be registered every statutory instrument transmitted to the respective House for tabling or laying under this Part.

(4) If a copy of a statutory instrument that is required to be laid before the relevant House of Parliament is not so laid in accordance with this section, the statutory instrument shall cease to have effect immediately after the last day for it to be so laid but without prejudice to any act done under the statutory instrument before it became void.

Section 15 of No.23 of 2013 which it is proposed to amend—

Report to Parliament

15. (1) The Committee shall make a report to Parliament containing only a resolution that the statutory instruments that stands permanently referred to the Committee be revoked.

(2) Where the Committee does not make the report referred to in subsection (1) within twenty eight sitting days after the date of referral of the statutory instrument to the Committee under section 12, or such other period as the House may, by resolution approve, the statutory instrument shall be deemed to have fully met the relevant considerations referred to in section 13.

(3) Despite the provision of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to the handling of a statutory instrument, the National Assembly may, by resolution, extend that time by a period not exceeding twenty-one days.