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THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2019

A Bill for

AN ACT of Parliament to amend the Public Finance Management Act and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2019.

Insertion of new sections in No. 18 of 2012.

2. The Public Finance Management Act, hereinafter referred to as the "principal Act", is amended by inserting the following new sections immediately after section 160—

County government revenue collection system.

160A. (1) Every County Treasury shall, in consultation with the National Treasury and the Kenya Revenue Authority, design, develop and implement a county revenue collection system.

(2) The county executive committee member for finance shall ensure that the county revenue collection system under subsection (1)—

(a) is transparent, efficient, effective and verifiable;

(b) is simple and easy to use;

(c) is properly managed and controlled to ensure accountability;

(d) is adequately secure to prevent any fraud, losses or any other violations;

(e) respect and promote the distinctiveness of the national government and the county government; and

(f) is separately accounted for and reported on.

(3) The National Treasury and the Kenya Revenue Authority may assist the County Treasury to develop technical capacities for efficient, effective and transparent revenue collection.

Reporting on county revenue collection and performance.

160B. (1) Every County Treasury shall prepare and submit bi-annual statements and an annual report on the status of the county revenue collection and performance to the county assembly.

(2) The County Treasury shall submit copies of the bi-annual statements and an annual report to the Senate, the National Treasury and the Commission on Revenue Allocation.

(3) In preparing the bi-annual statements and the annual report referred under subsection (1), the County Treasury shall ensure that the statements and report contain information on the financial and non-financial performance of the county revenue collection.

Failure to develop revenue collection system or report on its status.

160C. (1) The county executive committee member for finance shall, within a period of two years from the coming into force of this Act, ensure that the county revenue collection system referred under section 160A(1) is operational.

(2) The National Treasury may, pursuant to Article 225(3) of the Constitution, stop the transfer of a county's share of revenue raised by the national government if the County Treasury fails to—

(a) develop and implement a county revenue collection system; or

(b) report on the status of the county revenue collection and performance,

as required under this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Public Finance Management Act, No. 18 of 2012 to establish a collaborative framework for collection of revenues by the county governments and the National Treasury together with the Kenya Revenue Authority. This intended boost revenue collection by the county governments and ensure accountability.

The Bill proposes to amend the Public Finance Management Act by inserting new sections 160A, 160B and 160C. The proposed new section 160A intends to provide a framework for collaboration between the county governments and the National Treasury together with the Kenya Revenue Authority as regards collection of revenue by counties. The proposed new section requires the county treasury, in consult with the National Treasury and the Kenya Revenue Authority, to put in place a county revenue collection system. It requires that such a system shall respect the distinctiveness of the two levels of government, be secure, effective, efficient and transparent.

The proposed new section 160B on the hand provide for reporting on the status of revenue collection at the county. It requires the county treasury to report to the county assembly and submit copies of the reports to the Senate, the National Treasury and the Commission on Revenue Allocation on the status of county revenue collection and performance. The proposed new section 160C on its part require the county executive committee member to operationalize a county revenue collection system within a period of two from the coming into force of this Act. It also provide for stoppage of transfer of a county's equitable share of revenue for failure to operationalize the county revenue collection system or prepare and submit bi-annual statements or an annual report.

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

County governments have two sources of revenue; the equitable share provided for under Article 202 of the Constitution and own sources of revenue. Article 209 of the Constitution gives power to both the national government and county governments to impose tax. This Bill seeks to put in place a legal framework for collaboration between the national government and county governments with regard to raising revenue by counties. The Bill therefore concerns county governments in terms of

Articles 110(1)(a) of the Constitution in that it contains provisions that affect the functions and powers of the county governments as set out in the Constitution.

The Bill is therefore a Bill concerning county governments 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 5th March, 2019.

AGNES ZANI,
Senator.