

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2019

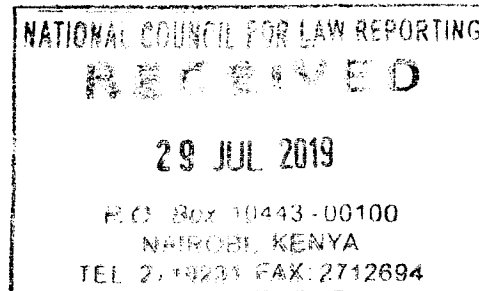
NAIROBI, 12th July, 2019

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Bill, 2019 907



**THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND
(AMENDMENT) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the National Government Constituencies Development Fund Act, 2015 and for connected purposes—

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Government Constituencies Development Fund (Amendment) Act, 2019.

Short title.

2. Section 3 of the National Government Constituencies Development Fund Act, 2015 (in this Act referred to as “the Principal Act”) is amended —

Amendment of section 3 of No. 30 of 2015.

(a) by inserting the word “equity” immediately after the words “human dignity” appearing in paragraph (e);

(b) by inserting the following new paragraph immediately after paragraph (o) —

“(p) provide for a public finance system that promotes an equitable society and in particular expenditure that promotes equitable development of the country by making special provisions for marginalized groups and areas pursuant to Article 201 (b) (iii) of the Constitution.”

3. The Principal Act is amended by deleting section 34 and substituting therefor the following new section—

Basis for budget ceiling.

“34. (1) The budget ceiling for each constituency shall be—

(a) three quarters of the amount specified in section 4(1) divided equally among all constituencies; and

(b) an amount equal to a quarter of the amount specified in section 4(1) divided by the national poverty

index multiplied by the constituency poverty index.

(2) The Chairperson of the National Assembly Committee shall table in the National Assembly a schedule showing the ceiling for each constituency, which shall be determined in accordance with subsection (1).

(3) Notwithstanding subsection (1), the National Government may, through the National Government Constituency Development Fund Committees established under section 43, where necessary, facilitate other projects or programmes falling within the purview of the National Government with funds other than the funds specified in section 4(1).

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill.

The Principal object of the Bill is to amend the National Government Constituencies Development Fund Act, 2015 to provide for the adjustment of the ceiling of the fund to reflect an equitable sharing of the Fund amongst the constituencies.

Statement of the delegation of legislative power and limitation of fundamental rights and freedoms.

The Bill does not delegate any legislative powers nor does it limit fundamental rights and freedoms.

Statement of whether the Bill concerns county governments.

This Bill is not a Bill concerning county government.

Statement of whether the Bill is a money Bill within the meaning of Article 114 of the Constitution.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 4th July, 2019.

D. E. SIMIYU,
Member of Parliament.

*Section 3 of No. 30 of 2015 which it is proposed to amend—***3. The objects of this Act are to—**

Objects of the Act

- (a) provide for the establishment and administration of the Fund;
- (b) recognise the constituency as a platform for identification, performance and implementation of national government functions;
- (c) facilitate the performance and implementation of national government functions in all parts of the Republic pursuant to Article 6(3) of the Constitution;
- (d) provide for the participation of the people in the determination and implementation of identified national government development projects at the constituency level pursuant to Article 10(2)(a) of the Constitution;
- (e) promote the national values of human dignity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized pursuant to Article 10 (2) (b) of the Constitution;
- (f) provide for the sustainable development of all parts of the Republic pursuant to Article 10(2) (d) of the Constitution;
- (g) provide a legislative and policy framework pursuant to Article 21 (2) of the Constitution for the progressive realization of the economic and social rights guaranteed under Article 43 of the Constitution;
- (h) provide mechanisms for the National Assembly to exercise oversight over the performance of specified national government functions at the constituency level as provided for under Article 95 of the Constitution;
deleted by Act No. 39 of 2016, s. 2;
- (i) authorize withdrawal of money from the Consolidated Fund as provided under Article 206 (2) (c) of the Constitution;

- (j) provide for mechanisms for supplementing infrastructure development at the constituency level in matters falling within the functions of the national government at that level in accordance with the Constitution;
- (k) provide a framework for citizens led development to assist the national government in planning and prioritizing the use of its resources;
- (l) create a harmonious relationship between citizens and the national government and its officers in local development;
- (m) provide a platform for citizens participation in service delivery; and
- (n) build local accountability and transparency in the use of resources.

Section 34 of No. 30 of 2015 which it is proposed to amend—

34. (1) The budget ceiling for each constituency shall be the amount specified in section 4(1) divided equally among all constituencies subject to the provision of section 8(1) and 23(1).

Basis for budget ceiling

(1A) Notwithstanding subsection (1) the National Government may, where necessary, facilitate other projects or programmes falling within the purview of National Government with funds other than the funds specified in subsection 4(1), through the National Government Constituency Development Fund Committees established under section 43.

(2) *Deleted by Act No. 39 of 2016, s. 7.*