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REPUBLIC OF KENYA

## **KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2017**

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**NAIROBI, 16th June, 2017**

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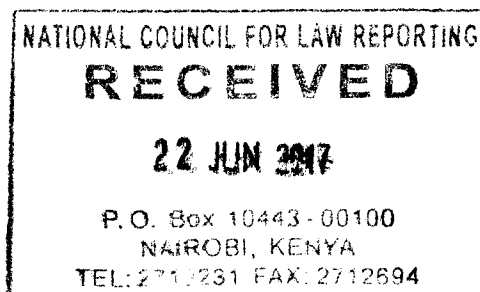
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**THE PUBLIC FINANCE MANAGEMENT  
(AMENDMENT) BILL, 2017**

**A Bill for**

**AN ACT** of Parliament to amend the Public Finance Management Act

**ENACTED** by the Parliament of Kenya, as follows—

**1.** This Act may be cited as the Public Finance Management (Amendment) Act, 2017.

Short title.

**2.** The Public Finance Management Act hereinafter referred to as “the principal Act” is amended in section 28 by inserting the following new sub-sections immediately after sub-section (1)—

Amendment of section 28 of No. 18 of 2012.

(1A) A bank account opened under subsection (1) for the purpose of collecting money raised or received by or on behalf of the national government shall be designated as a Revenue Collection Account and shall be used only for the purposes of collecting money raised or received by or on behalf of the national government.

(1B) Money paid into a bank account designated as a Revenue Collection Account shall be promptly credited into the National Exchequer Account and shall be withdrawn in accordance with Article 206 of the Constitution and section 17 of this Act.

(1C) Despite the provisions of this section, no expenditure shall be paid out of a bank account designated as a Revenue Collection Account except as otherwise authorized by law.

(1D) Each financial year, an Accounting Officer of a national government entity shall prepare and submit to the National Treasury a record of all bank accounts operated by that entity during that year, with a copy to the Controller of Budget and the Auditor-General.

**3.** Section 119 of the principal Act is amended—

Amendment of section 119 of No. 18 of 2012.

(a) by inserting the following new sub-sections immediately after sub-section (1) —

(1A) A County Treasury may authorize a county government entity, including a county assembly to open and operate bank accounts only at the Central Bank of Kenya except —

- (a) an imprest bank account which may be opened in a commercial bank account to facilitate the day to day operation of offices, provided the float for the account shall not exceed a limit set by the Cabinet Secretary;
- (b) a revenue collection account to facilitate receipt and transfer of revenue to the relevant County Revenue Fund;
- (c) a bank account relating to a county public fund established under section 116 of this Act to facilitate administration of the fund; or
- (d) any other bank account authorized by the Cabinet Secretary to be opened in a commercial bank.

(1B) A bank account opened under subsection (1A) for the purpose of collecting money raised or received by or on behalf of a county government shall be designated as County Revenue Collection Account and shall be used only for the purposes of collecting money raised or received by or on behalf of the county government.

(1C) Money paid into a bank account designated as a County Revenue Collection Account shall be promptly credited into the County Exchequer Account and shall be withdrawn in accordance with Article 207 of the Constitution and section 109 of this Act.

(1D) Despite the provisions of this section, no expenditure shall be paid out of a bank account designated as a County Revenue Collection Account except as otherwise authorized by law.

(1E) Each financial year, an Accounting Officer of a county government entity shall prepare and submit to the County Treasury a record of all bank accounts operated by that entity during that year, with a copy to the Controller of Budget, the Auditor-General and the National Treasury.

(b) in sub-section (2), by deleting the words “or a bank approved by the county treasury”.

4. Section 187 of the principal Act is amended—

Amendment of  
section 187 of No.  
18 of 2012.

(a) in sub-section (1) by inserting the following new paragraphs immediately after paragraph (h) —

“(i) the Controller of Budget or a person designated by the Controller of Budget; and

(j) the Chairpersons of the Committees of the Council of County Governors not exceeding fifteen in number”;

(b) by inserting the following new sub-section immediately after sub-section (6) —

(6A) A decision on any matter before the Council shall be by a majority of votes of the members present and voting, and in case of a tie, the Chairperson or the person presiding shall have a casting vote.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of objects and reasons for the Bill**

The principal object of this Bill is to amend the Public Finance Management Act No. 18 of 2012 in order to ensure smooth implementation of the Act.

Clause 1 of the Bill is the short title.

Clause 2 of the Bill proposes to amend section 28 of the Act to designate a Revenue Collection Bank Account and further provide that no expenditure shall be paid out of a bank account designated as a Revenue Collection Account except as otherwise authorized by law.

Clause 3 of the Bill proposes to amend section 119 of the Act to regulate the opening of county government bank accounts in commercial banks and to require county governments to designate Revenue Collection Bank Accounts and to bar the charging of expenses out of the Revenue Collection Bank Accounts except as otherwise authorized by law.

Clause 4 of the Bill seeks to amend section 187 of the Act to include representation from the Office of the Controller of Budget and the Committees of the Council of County Governors at the Intergovernmental Budget and Economic Council and also bestows on the Chairperson a casting vote in case of a tie when a vote is taken.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not contain any provisions limiting any fundamental rights or freedom.

### **Statement of how the Bill concerns county governments**

The Bill contain provisions that affects the functions of County governments as set out in the Fourth Schedule to the Constitution and is therefore a Bill concerning county governments.

### **Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 13th June, 2017.

ADEN DUALE,  
*Leader of Majority Party.*

*Section 28 of the Act which the Bill proposes to amend—*

**Banking arrangements for national government entities**

28. (1) The National Treasury shall authorise the opening, operating and closing of bank accounts and sub accounts for all national government entities in accordance with regulations made under this Act.

(2) The National Treasury shall establish a Treasury Single Account into which all revenues received by national government entities shall be deposited and from which all payments of money to or on behalf of national government entities shall be made.

(3) The Treasury Single Account shall not be operated in any manner that prejudices any entity to which funds have been disbursed.

(4) An accounting officer for a national government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorised by the National Treasury or a board of a national government entity, if any.

(5) Subject to subsection (3), an accounting officer who authorises the bank account of a national government entity to be overdrawn is liable for the full cost of the overdrawn amount, in addition to any other disciplinary measures that—

(a) the Cabinet Secretary may impose by regulations; or

(b) any other relevant authority may impose under the provisions of any other legislation.

(6) The National Treasury shall keep complete and current records of all bank accounts for which it is responsible under the Constitution, this Act or any other legislation.

(7) The National Treasury shall give monthly statements on actual revenue collected in the accounts relating to Article 206 of the Constitution to the Commission on Revenue Allocation.

*Section 119 of the Act which the Bill proposes to amend—*

**Banking arrangements for county government and its entities**

119. (1) The County Treasury is responsible for authorising the opening, operating and closing of bank accounts for the county government and its entities, except as otherwise provided by other legislation and in accordance with regulations made under this Act.

(2) As soon as practicable, each County Treasury shall establish a Treasury Single Account at the Central Bank of Kenya or a bank approved

by the County Treasury through which payments of money to and by the various county government entities are to be made.

(3) The Treasury Single Account shall not be operated in a manner that prejudices any entity to which funds have been disbursed.

(4) An accounting officer for a county government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorised by the County Treasury or a Board of a county government entity, if any.

(5) A County Treasury shall keep complete and current records of all bank accounts for which it is responsible under the Constitution, this Act or any other legislation.

(6) Subject to subsection (3), an accounting officer who authorises the bank account of a county government entity to be overdrawn is liable for the full cost of the overdrawn amount, in addition to any other disciplinary measures that—

- (a) the County Executive Committee member for finance may impose under section 156; or
- (b) any other relevant authority may impose under the provisions of any other legislation.

*Section 187 of the Bill which the Bill proposes to amend-*

**Establishment, purpose and composition of the Intergovernmental Budget and Economic Council**

187 (1) There is established a council to be known as the Intergovernmental Budget and Economic Council comprising—

- (a) the Deputy President who shall be the Chairperson;
- (b) the Cabinet Secretary;
- (c) a representative of the Parliamentary Service Commission;
- (d) a representative of the Judicial Service Commission;
- (e) the Chairperson of the Commission on Revenue Allocation or a person designated by the Chairperson;
- (f) the Chairperson of the Council of County Governors;
- (g) every County Executive Committee member for finance; and
- (h) the Cabinet Secretary responsible for intergovernmental relations.

(2) The purpose of the Council is to provide a forum for consultation and cooperation between the national government and county governments on—

- (a) the contents of the Budget Policy Statement, the Budget Review and Outlook Paper and the Medium-Term Debt Management Strategy;
  - (b) economy and financial management and integrated development at the national and county level;
  - (c) matters relating to borrowing and the framework for national government loan guarantees, criteria for guarantees and eligibility for guarantees;
  - (d) agree on the schedule for the disbursement of basis of cash flow projections; available cash from the Consolidated Fund on the
  - (e) any proposed legislation or policy which has a financial implication for the counties, or for any specific county or counties;
  - (f) any proposed regulations to this Act; and
  - (g) recommendations on the equitable distribution of revenue between the national and county governments and amongst the county governments as provided in section 190; and
  - (h) any other matter which the Deputy President in consultation with other Council members may decide.
- (3) An appointed member of the Council holds office for two years and is eligible for re-nomination and re-appointment at the end of a term of office for another term not exceeding two years.
- (4) The National Treasury shall provide secretariat services to the Council and assign or appoint such support staff as may be necessary for the Council to effectively perform its functions.
- (5) The Council shall meet at least twice a year and the Deputy President shall decide the time and agenda for meetings of the Council in consultation with the other members of the Council.
- (6) In the absence of the Chairperson from any meeting of the Council, the Cabinet Secretary shall chair the meeting.
- (7) The Council may determine its own rules and procedures in such manner as it considers appropriate.
- (8) The Council may invite other persons to attend any of its meetings.