

REPUBLIC OF KENYA



*Paper Laid by Sen-
Mukia Kilonzo 50,0-
Wednesday, 30/03/2016
Adonyi*

PARLIAMENT

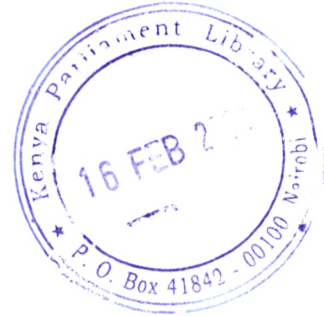
THE SENATE

ELEVENTH PARLIAMENT

THE STANDING COMMITTEE

ON

LEGAL AFFAIRS AND HUMAN RIGHTS



A REPORT ON PUBLIC HEARINGS ON THE COUNTY ASSEMBLIES
SERVICES BILL, 2014

Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.

March, 2016

*Approved
[Signature]
SEN
30/3/16*

*Rt. Hon. Speaker
You may approve for
tabling.
[Signature]
29/03/16*

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ABBREVIATIONS

SEN Senator

SO Standing Orders

SoCATT (K) Society of Clerks-At-The-Table in Kenyan Legislatures

PREFACE

Establishment of the Committee

The Standing Committee on Legal Affairs and Human Rights is established pursuant to the Senate Standing Order 208 and mandated to consider all matters related to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics and integrity; and implementation of the provisions of the Constitution on human rights.

Membership of the Committee

The Committee is comprised of the following members;

1. Sen. Amos Wako - Chairperson
2. Sen. Stephen Sang' - Vice Chairperson
3. Sen. Kembi Gitura
4. Sen. Kiraitu Murungi
5. Sen. Fatuma Dullo
6. Sen. Kipchumba Murkomen
7. Sen. Hassan Omar Hassan
8. Sen. Mutula Kilonzo Junior
9. Sen. Judith Sijeny

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of the public hearings. The Committee also expresses its gratitude to members of the public who made submissions, both orally and in writing.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 201, to present a Report of the Standing Committee on Legal Affairs and Human Rights on public hearings held on 19th November, 2014, on the County Assemblies Services Bill, 2014.

Signed.....



Date.....

29/03/16

SEN. AMOS WAKO, EGH, MP

CHAIRPERSON

STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS.

EXECUTIVE SUMMARY

The County Assemblies Services Bill, 2014 sponsored by Sen. Amos Wako provides a legal framework for the County Assembly Service Board which is established under section 12 of the County Governments Act, 2012. The Bill was read a First Time in the Senate on 10 June 2014. Following the First Reading in the Senate, it stood committed, pursuant to Standing Order 130(1), to the Standing Committee on Legal Affairs and Human Rights for facilitation of public participation.

Subsequently, the Committee, pursuant to Article 118 of the Constitution and Standing Order 130 (4), invited submissions from members of the public on the Bill via an advertisement on the Daily Nation Newspaper of Friday, 14th November, 2014. The Committee received both oral and written submissions from the Society of Clerks at the Table (SoCATT (K)) on the Bill during the public hearings held on 19th November, 2014 on first floor, Shimba Hills Hall at Kenya International Conference Centre, Nairobi.

The Committee observed that members of the SoCATT (K) generally approved of the County Assembly Services Bill, 2014 except for proposals for further amendment of various clauses of the Bill.

The Committee finally adopted of the Report on Public Hearing on the County Assemblies Services Bill, 2014 as follows;

| Name | Signature |
|-----------------------------------------|--------------------------------------------------------------------------------------|
| 1. Sen. Amos S. Wako - Chairperson |  |
| 2. Sen. Stephen Sang – Vice Chairperson | ----- |
| 3. Sen. Kembi Gitura | ----- |
| 4. Sen. Kiraitu Murungi | ----- |
| 5. Sen. Kipchumba Murkomen |  |
| 6. Sen. Hassan Omar | ----- |
| 7. Sen. Fatuma Dullo |  |
| 8. Sen. Judith Sijeny | ----- |
| 9. Sen. Mutula Kilonzo Junior |  |

The County Assembly Services Bill, 2014 was read a first time in the Senate following which it stood committed to the Standing Committee on Legal Affairs pursuant to Standing Order 130(1) of the Senate Standing Orders. The Committee, during its meeting held on 11th November, 2014 resolved to facilitate public participation on the Bill on Wednesday, 19th November, 2014 pursuant to Standing Order 130(4) of the Senate Standing Orders.

1.0 Object of the Bill

The principal object of this Bill is to establish a legal framework for the County Assembly Service Board which is established under section 12 of the County Governments Act, 2012. Section 12 of the County Governments Act, 2012 provides as follows-

- (1) There shall be a county assembly service board for each county assembly.*
- (2) The county assembly service board shall be a body corporate with perpetual succession and a common seal.*
- (3) The county assembly service board shall consist of—*
 - (a) the Speaker of the county assembly as the chairperson;*
 - (b) the leader of the majority party or a member of the county assembly deputed by him or her, as the vice-chairperson;*
 - (c) the leader of the minority party or a member of the county assembly deputed by him or her; and*
 - (d) one person resident in the county, appointed by the county assembly from among persons who have knowledge and experience in public affairs, but who is not a member of the county assembly.*
- (4) The county assembly clerk shall be the secretary to the county assembly service board.*
- (5) A member of the county assembly service board shall vacate office—*
 - (a) if the person is a member of the county assembly—*
 - (i) at the end of the term of the county assembly; or*
 - (ii) if the person ceases to be a member of the county assembly; or*
 - (b) if the person is an appointed member, on revocation of the person's appointment by the county assembly; or*
 - (c) if the person is the Speaker, leader of majority party or leader of minority party when the person ceases to be such Speaker, leader of majority party or leader of minority party.*
- (6) Despite subsection (5), when the term of the county assembly ends, a member of the county assembly service board under subsection (3)(d) shall continue in office until a new member has assumed office in the member's place in the next assembly.*
- (7) The county assembly service board is responsible for—*

- (a) providing services and facilities to ensure the efficient and effective functioning of the county assembly;*
- (b) constituting offices in the county assembly service, and appointing and supervising office holders;*
- (c) preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;*
- (d) undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and*
- (e) performing other functions—*
 - (i) necessary for the well-being of the members and staff of the county assembly; or*
 - (ii) prescribed by national legislation.*

The purpose of the County Assembly Services Bill is to provide a legal framework for the County Assembly Service Board by operationalizing the provisions of the County Government Act, 2012. It is also intended to enhance the independence and autonomy of the County Assembly from the County Executive which will improve the oversight role of the Assembly over the Executive.

The Bill proposes to establish the County Assembly Service and prescribes the values to be adhered to by members of the Service. The Bill further seeks to establish the County Assembly Fund to which all monies appropriated for the county assembly will be kept further enhancing the independence of the county assembly.

1.1 Salient provisions of the County Assembly Service Bill, 2014

Part I of the Bill contains preliminary provisions. It names the proposed Act, defines the words and expressions used in the Bill and lists objects of the proposed Act.

Part II of the Bill establishes the County Assembly Service and provides the values to be adhered to by officers of the Service and the formulation of the code of conduct by the Board to be observed by officers of the Service.

Part III sets out the administrative framework of the Bill, including- procedure for appointment of a member of the Board, removal of members of the Board and the powers and functions of the Board.

Part IV of the Bill provides for the appointment of the Clerk and other officers of the county assembly and the manner these officers can be removed from office.

Part V of the Bill sets out the financial provisions. It also provides for the establishment of a County Assembly Fund for each County Assembly Service which is to consist of such monies as the county assembly, may in the future, be appropriated from the Revenue Fund established for each county under Article 207 of the Constitution. In addition, Article 114 (4) of the Constitution excludes the appropriations from the Revenue Fund from the ambit of Article 114 of the Constitution.

Part VI of the Bill contains provisions of a general nature including- submissions of annual reports for consideration by the National Assembly, the oaths of office to be administered to members of the Board, actions constituting offences and the respective penalties under the Bill and the power to make Regulations by the Board.

The Committee received written submissions from the Society of the Clerks at the Table (SoCATT (K)) on the County Assembly Services Bill, 2014.

2.0 Submissions from Society of Clerks at the Table

The Society appreciated the Senate's efforts to legislate on the Bill which will ensure uniformity and streamlined application of the same. However, the Society registered its objections to the Bill and proposed amendments as follows:-

| Clause | Subject Matter | Proposal | Rationale |
|--------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21 | Suspension or removal of the Clerk | that the Clauses be DELETED and framed as follows – <i>The Clerk may be suspended or removed from office in the same manner and grounds as provided in Part VII of the County Government Act, 2012.</i> | Align the Bill with provisions of the County Government Act, 2012, on removal of the Clerk as a County Public Officer, and provide crucial safeguards from blackmail and intimidation that may arise from the constant threat of a political process from Members of County Assembly. This will provide both procedural and due process safeguard. |
| 22 | Procedure for removal of Clerk | | |
| 9(1) | Qualifications and procedure for appointment. | <ul style="list-style-type: none"> Add the words “under section 12(3)(d) after the words, “member of the Board” to read, A person shall not be qualified for appointment as a member of the Board under section 12(3)(d) unless such person... | The qualifications set out in the County Governments Act are more specific and elaborate. |

| Clause | Subject Matter | Proposal | Rationale |
|--------|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | <ul style="list-style-type: none"> Qualifications (a) to (d) should be tied to the qualifications already set out in the County Governments Act. | |
| 10(1) | Removal from office | <p>The first line of that provision “A appointed” should be replaced with the phrase,</p> <p>“A person who is appointed as a....</p> | Typographical errors, there appears to have been omission of certain words. |
| 10(3) | Removal from office | This process should not be linked to the Standing Orders. The process should be tied to the existing procedure for removal of County Executive Committee Member as set out in s. 43 of the County Governments Act. | Some counties might not have included this provision in their standing orders will be forced to amend their standing orders to include such a provision. |
| 12 | Powers of the Board as a body corporate. | <p>Insert a new paragraph (aa) to read:</p> <p>(aa)to sue and be sued;</p> | The Board should clearly be set out as a body corporate with power to sue and be sued. |
| 16(1) | Functions of the Secretary | <p>Insert a new sub-clause 16 (1) to read:</p> <p><i>16(1) “the Clerk shall be the Secretary to the Board”</i></p> | The declaration of an office should precede the allocation of functions. |
| 16 (2) | | In paragraph (b) inset the words “ <i>and authorized</i> ” immediately after the words “ <i>accounting</i> ” | The Clerk is both the accounting and authorized officer of the Board |
| 19(4) | Procedural functions of the Clerk | in sub-section (4) delete the word “Deputy Speaker” after the words’ “...be under the direction of the...” | The office of the Deputy Speaker is not substantively provided for in the Constitution and in the County Governments Act. |

| Clause | Subject Matter | Proposal | Rationale |
|--------|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | Section 12(3) of the County Governments Act is also clear on the composition of the Board and the hierarchy as such. The Deputy Speaker is not a member of the Board. |
| 23(3) | Offices in the Service. | In clause (3) insert the words “ <i>on the advice of the Clerk</i> ” immediately after the expression “ <i>from time to time</i> ” | The Clerk is the administrative head of the County Assembly and thus versed with knowledge of the day to day technical operations of the Assembly. |
| 26 (3) | Disciplinary control of officers. | In sub-clause 3 by inserting the words “ <i>and Part VII of the County Government Act</i> ” immediately after the words “ <i>Article 236</i> ” | This is in order to link the provision with the provisions set out in Part VII of the County Governments Act. Section 76 and 77 clearly set out elaborate procedures in disciplining county public officers. |
| 27 (1) | Establishment of the Management Committee. | In clause (1) delete the words “ <i>the Board shall establish</i> ” at the beginning of the sub-clause substitute therefor with the “ <i>There is established a committee...</i> ” | The Clause should be categorical that it is established the Management Committee |
| 27 | | The Management Committee should act on the advice of the Clerk with regard to its operations set out in 27(2). | The Clerk is the administrative head of the County Assembly and thus versed with the day to day technical operations of the |

| Clause | Subject Matter | Proposal | Rationale |
|--------|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| | | | Assembly. |
| 28 | Establishment of the Staff Advisory Committee. | The Staff Advisory Committee should compose of Deputy Clerk and the Heads of Department with the Deputy Clerk being the Head. | The membership should comprise of staff and not politicians as such to avoid ambiguity. |
| 29 | Retirement and resignation of employees. | This provision should be harmonized with sections 79 and 80 of County Governments Act. | |
| 30(3) | Non-money Bill status | In section 30(3)(b), replace the National Assembly with the County Assembly. | |
| 34 | Establishment of a County Assembly Fund. | <ul style="list-style-type: none"> • Declare the Clerk as the administrator of the Fund. • Outline the purpose of the Fund. | |
| 43 | | <p>Draft a provision amending section 12(3) of the County Governments Act to:-</p> <ol style="list-style-type: none"> i. increase the number of members of the Board to five members (i.e. two members of public and two MCA's) in Assemblies with less than 60 MCA's and Seven for Assemblies having over 60 MCA's(i.e. three members of public and three MCA's) while observing relative party strength in the Assembly and gender balance; ii. To remove the Leader of the Majority party and Minority Party from the | |

| Clause | Subject Matter | Proposal | Rationale |
|-----------------------------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| | | <p>Board in order to make the Board more professional. This two offices only micro manage the Assemblies;</p> <p>iii. to two representing each gender. The Board would then have five members which is preferable especially when it comes to voting.</p> <p>iv. Include a transition clause in the Bill to ensure there are no retrospective applications and appointments.</p> <p>v. Include a clause on confidentiality agreement.</p> | |
| 2 nd Schedule | Paragraph 8 | Delete the word, "consent" in paragraph 8. | |

3.0 Further Submissions from Society of Clerks at the Table

The Society appreciated the importance and implication of the Bill. However, the Society registered its additional objections to the Bill and proposed amendments as follows:-

| Clause | Subject Matter | Proposal | Justification |
|--------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 6 | Code of Conduct | Amend the Clause by providing that the Code of Conduct provided under the Public Officer Ethics Act and the Code of Conduct for state officers provided for under section 37 of the Leadership and Integrity Act shall apply to the officers of the Service. | The clause should avoid duplication of provisions already provided for under other existing laws. |
| 8 | Qualification | Amend section 12(3) of the | The provision will cure the |

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| | for members of the Board | <p>County Government Act by inserting the follow provision:</p> <p>(3) The members of the Board shall consist of</p> <p>(a) the Speaker of the County Assembly who shall be the Chairperson.</p> <p>(b) Two members one man and one woman elected by the Assembly from among the members.</p> <p>(c) Two residents of the county, one man and one woman, appointed by the County Assembly from among persons who are have knowledge and experience in public affairs but are not members of the County Assembly.</p> | voting problem where currently the four members can have tie. It will also cure the problem of quorum since the current members are too few and promote democratic participation of members of the Assembly and the public in the affairs of the Assembly. |
| 11 | Functions of the Board | <p>Amend the Clause 11 by inserting a new sub clause (3) to read as follows:</p> <p>11(3) The Board shall serve on a part time basis.</p> | The workload of the Board does not justify a full time Board. |
| 16 | Functions of the Secretary | Amend clause 16(2) by deleting the word “the Chairperson of” . | The Chairperson is part of the Board and the Secretary should report to the Board corporately in line with good corporate Governance. |
| 21 | Suspension or removal of the Clerk | <p>Amend Clause 21 by inserting the following words after the word “Clerk”:</p> <p>“or any other officer of the Service”.</p> | The disciplinary process for Clerk and other officers should be uniform since all of them are public officers. |
| 22 | Procedure for the removal of the Clerk | Delete Clause 22 of the Bill | The office of the Clerk to the County Assembly is an office in the county public service pursuant to section 2 of the County Government |

| | | | |
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| | | | Act and Article 260 of the Constitution of Kenya, 2010. The Clerk is not a state officer and therefore should not be removed using the process of removing a state officer. The process for discipline of officers provided for under the amended clause 26 of the Bill is sufficient. The process of disciplining the officers and the right to appeal to the Public Service Commission pursuant to Article 234(2)(i) and (j) has been provided for. It also makes the service to remain and be seen to be apolitical. |
| 26 | Disciplinary control of the Clerk and other officers | Amend Clause 26(2) by deleting the words “ and the Regulations made thereunder. ” Appearing immediately after the word “ Act ” | The disciplinary procedure for public officers in provided for under the Employment Act and Clause 26 of the Bill. |
| New Sub Clauses (4) to (15). | | <p>Insert new sub clauses under Clause 26 to read as follows:</p> <p>(4) In exercising its disciplinary powers, the Board shall observe the principles of natural justice.</p> <p>(5) No public officer may be punished in a manner contrary to any provision of the Constitution or any Act of Parliament.</p> <p>(6) Nothing in this section shall limit the powers conferred on any other lawful authority discharging a disciplinary function from</p> | <p>Clerk and other officers are public officers pursuant to Article 260 of the Constitution of Kenya, 2010 and therefore the Act requires a process of disciplining the officers. The discipline process should provide for appeal to the Public Service Commission pursuant to Article 234(2)(i) and (j). It also make the service remains and is seen to be apolitical.</p> |

retiring an officer from the service on the ground of public interest.

(7) In this section, retirement on the ground of public interest may be imposed instead of any other punishment if the decision maker considers that although the misconduct has been proven—

(a) the officer has nevertheless raised a mitigation factor that renders imposition of a punishment too harsh in view of the circumstances of the case; or

(b) the length of service benefits accrued and previous good record of the officer justifies the retirement; or

(c) imposing a punishment against the officer is likely to adversely affect the reputation of the Board or the service generally.

(8) If criminal proceedings are instituted against a public officer in the Service, disciplinary proceedings against the officer for dismissal or imposition of any other punishment on any grounds involved in the criminal charge shall not be taken

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| | | <p>until the conclusion of the criminal proceedings and the determination of any appeal therefrom has been made.</p> <p>(9) Nothing in this Act shall be interpreted as prohibiting or restricting the power of the Board or the authorized officer or other lawful authority to interdict or suspend or take any interlocutory decision against the public officer.</p> <p>(10) Any person dissatisfied or affected by a decision made by the Board or a person in exercise or purported exercise of disciplinary control against any county public officer may appeal to the Public Service Commission (in this Part referred to as the "Commission") against the decision.</p> <p>(11) The Commission shall entertain appeals on any decision relating to employment of a person in a county government including a decision in respect of—</p> <ul style="list-style-type: none">(a) recruitment, selection, appointment and qualifications attached to any office;(b) remuneration and terms and conditions of service;(c) disciplinary control; | |
|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

(d) national values and principles of governance, under Article 10, and values and principles of public service under Article 232 of the Constitution;

(e) retirement and other removal from service;

(f) pension benefits, gratuity and any other terminal benefits; or

(g) any other decision the Commission considers to fall within its constitutional competence to hear and determine on appeal in that regard.

(12) An appeal under subsection (1) shall be in writing and made within ninety days after the date of the decision, but the Commission may entertain an appeal later if, in the opinion of the Commission, the circumstances warrant it.

(13) The Commission shall not entertain an appeal more than once in respect to the same decision.

(14) Any person dissatisfied or affected by a decision made by the Commission on appeal in a

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| | | <p>decision made in a disciplinary case may apply for review and the Commission may admit the application if—</p> <p>(a) the Commission is satisfied that there appear in the application new and material facts which might have affected its earlier decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given; or</p> <p>(b) there is an error apparent on record of either decision.</p> <p>(15) An application for review under subsection (14) shall be in writing and made within the time prescribed by the Commission in regulations governing disciplinary proceedings, but the commission may entertain an application for review later if, in the opinion of the Commission, the circumstances warrant it.</p> | |
| 27 | Establishment of the Management Committee | Amend Clause 27 by deleting “the Board shall established” and inserting the words: “there is established” | |
| 28 | Establishment of Staff Advisory | Amend the side note of Clause 28 to read | The provision will reduce duplication, bureaucracy and wastage by making the |

| | | | |
|----|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Committee | <p>“Other functions of the Management Committee”</p> <p>Delete the words “Board shall establish a Committee to be known as the Staff Advisory Committee which” and insert the words: “The Management Committee established under section 27(1) shall”</p> | functions of the proposed staff advisory committee to be the functions of the management committee. It also reduces possible conflict among the two committees. |
| 34 | Establishment of County Assembly Fund | We appeal to the Committee to retain this Fund to ensure the autonomy of the Assembly is safeguarded similar to the Parliamentary Service Fund. This will ensure that the Assembly is financially autonomous of the County Executive. | Promotes the autonomy and independence of the legislative arm of the County Government. |
| 47 | Amendment to Section 13(1) of the County Government Act No 17 of 2012 | Amend Clause 47 by inserting a new sub-clause (2) Section 13(1) of the County Government Act is amended by deleting the words “with the approval of the Assembly” appearing immediately the word “Board”. | The intention of this clause is to depoliticise the appointment of the Clerk of the County Assembly in line with the practices and procedures of the National Parliament whose appointment is not subjected to the approval of the Senate or the National Assembly. The same should apply at the County Assembly Clerk. |

The Committee observed that-

1. to require that the regional and ethnic composition of the County be represented on the Board as provided in **Clause 8(c)** might greatly affect the criteria adhered to in achieving the composition of the Board in counties that have skewed ethnic compositions.
2. the provision of **Clause 9** should be harmonized with the Clause 8 and 9 which are qualified by Section 12(3) (d) of the County Governments Act which states as follows-
 - (1) *There shall be a county assembly service board for each county assembly.*
 - (3) *The county assembly service board shall consist of—*
 - (d) *one person resident in the county, appointed by the county assembly from among persons who have knowledge and experience in public affairs, but who is not a member of the county assembly.*
3. the inclusion of the Cabinet Secretary as in **Clause 46** could affect the implementation of the Bill hence, the authority to make regulations should be with the Board
4. in **Paragraph 8** of the **2nd Schedule** states that *'the Board may by regulations or otherwise regulate its own procedure and, with the consent of the County Public Service Board, as may be appropriate, may confer powers or impose duties on any public officer or authority for the purpose of the discharge of its functions.'* The Committee opined that the County Public Service Board and County Assembly Services Board are envisioned as independent bodies.

The Committee makes the following recommendations that:-

CLAUSE 8

THAT clause 8 of the Bill be amended by-

- (a) deleting sub-clause (a);
- (b) deleting sub-clause (c) and substituting therefor the following new sub-clause-
- (c) community and cultural diversity of the county.

CLAUSE 9

THAT clause 9 of the Bill be amended in the introductory phrase by inserting the words “under section 12(3)(d) of the County Governments Act” immediately after the words “member of the Board”.

CLAUSE 10

THAT clause 10 the Bill be amended by deleting the words “A appointed” appearing at the beginning of the clause and substituting therefor the words “A person”.

CLAUSE 12

THAT clause 12 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (a)-

- (aa) sue and be sued;

CLAUSE 16

THAT clause 16 of the Bill be amended at subsection (2) by inserting the words “and the Board” immediately after the words “chairperson of the Board”.

CLAUSE 30

THAT clause 30 of the Bill be deleted.

CLAUSE 43

THAT clause 43 of the Bill be deleted.

CLAUSE 46

THAT clause 46 of the Bill be amended at subsection (3) by deleting the words “Cabinet Secretary” appearing immediately after the words “the authority of the” and substituting therefor the word “Board”.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clauses immediately after clause 14-

Allowances for
the members of
the Board

14A. Members of the Board shall be paid such allowances as the Salaries and Remuneration Commission may determine.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clauses immediately after clause 47-

Amendment
of No. 17 of
2012

48. Section 12 of the County Governments Act is amended by-

(a) deleting subsection 3 and substituting therefor the following new subsections-

(3)The Board consists of—

- (a) the Speaker of the county assembly, as the chairperson;
- (b) a vice-chairperson elected by the Board from the members appointed under paragraph (c);
- (c) two members of the County Assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly; and
- (d) one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs, but are not members of the county assembly.

(b) inserting the following new sub-section immediately after subsection (3)-

(3A) The members of the Board appointed under section 12(3)(d) shall serve on a

part-time basis.

(c) deleting subsection (c) of paragraph (5) and substituting therefor the following new subsection-

(c)if the person is the Speaker, when the person ceases to be such Speaker.

Transition
and savings.

49. (1) Subject to subsection (2) each county assembly shall appoint the members of county assembly service board under sections 12(3)(b), (c) and (d) within thirty days after the commencement of this Act.

(2) Upon the commencement of this Act and before the first general elections held after the coming into force of this Act, a person, who immediately before the commencement of this Act served as a member of a county assembly services board appointed under section 12 (3)(d) of the County Governments Act in force before the commencement of this Act, shall continue to serve as a member of the Board, as one of the persons appointed under section 12 (3)(d).

FIRST SCHEDULE

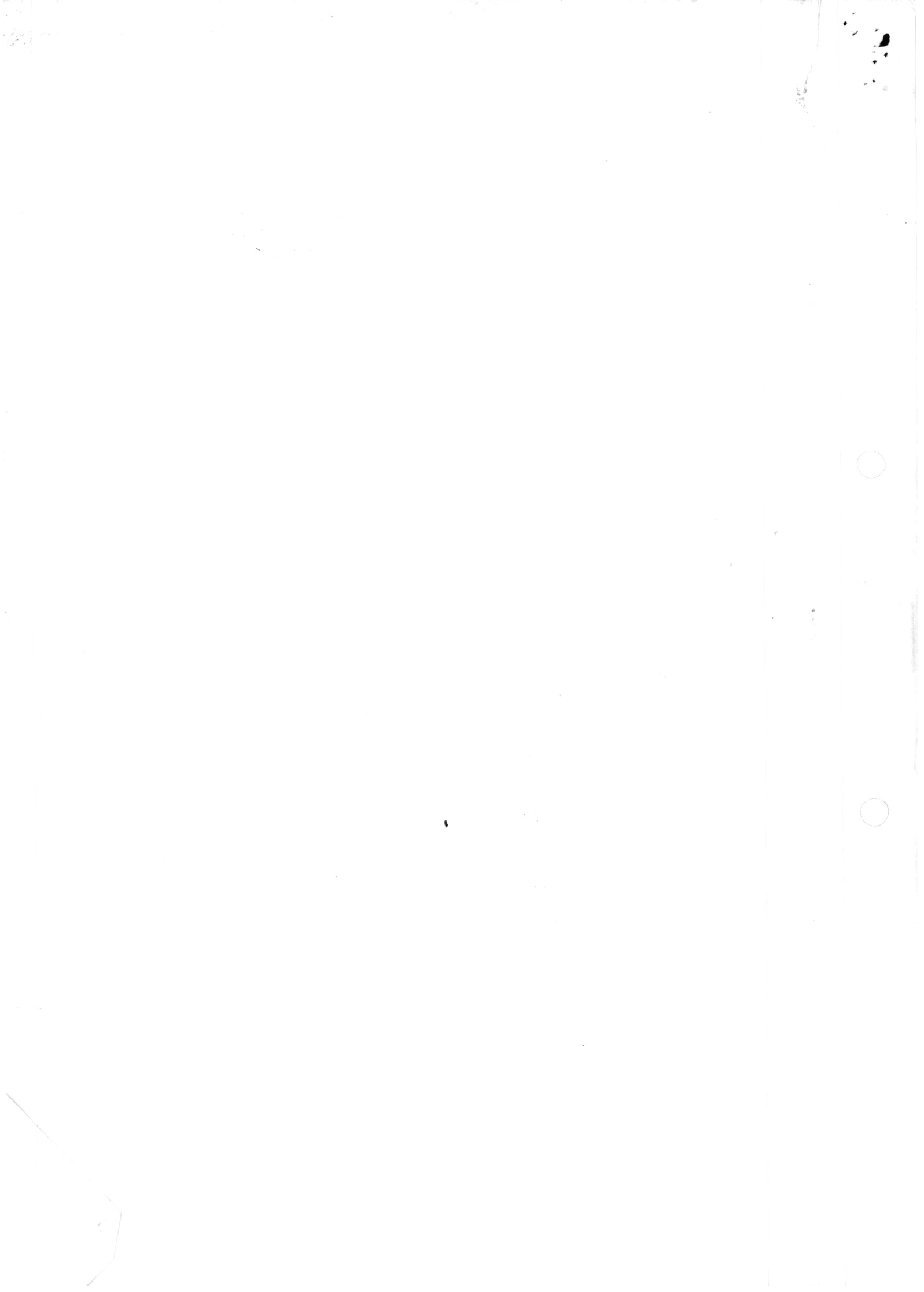
That the First Schedule to the Bill be amended in paragraph 1 by inserting the words “under section 12(3)(d) of the County Governments Act” immediately after the words “in the membership of the Board”.

SECOND SCHEDULE

That the Second Schedule to the Bill be amended -

- (a) by deleting paragraph 8; and
- (b) in paragraph 9 by deleting the expression “Subject to any regulations made under paragraph 7” appearing at the beginning of the paragraph.

2: That the Senate adopts this report



CHAPTER THREE COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

The Committee made the following observations having considered the submissions of members of the public on the following Bills:-

3.1 The County Assemblies Powers and Privileges Bill, 2014

The Committee approves of the County Assemblies Powers and Privileges Bill, 2014, except for proposals for further amendments as follows:-

Clause 26

THAT Clause 26 of the Bill be amended in paragraph (b) of sub-clause (1) by inserting the words “threaten, use abusive language” immediately after the word “assault” appearing at the beginning of the paragraph.

Clause 34

THAT the Bill be amended in Clause 34 by inserting the following new sub-clause immediately after sub-clause (1)-

(1A) Where an offense is suspected to have been committed under section 26(1)(b), the Clerk shall make a request to the Director of Public Prosecutions to take such action as may be appropriate.

3.2 The Public Appointments (County Assemblies Approval) Bill, 2014

The Committee approves of the Public Appointments (County Assemblies Approval) Bill, 2014

3.3 The Public Fundraising Appeals Bill, 2014

