

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

Paper Land
By Hon Mohamed
Sifthi on
Wednesday, Nairobi
5/11/12 or
2/2/2012
[Signature]

TENTH PARLIAMENT – FOURTH SESSION

DEPARTMENTAL COMMITTEE ON LOCAL AUTHORITIES



REPORT OF THE DEPARTMENTAL COMMITTEE ON LOCAL
AUTHORITIES ON THE INTERGOVERNMENTAL RELATIONS BILL,
2012

CLERK'S CHAMBERS
NATIONAL ASSEMBLY
NAIROBI

21ST FEBRUARY, 2012

TABLE OF CONTENTS

CONTENT	PAGE
PREFACE	3
PROPOSALS FROM STAKEHOLDERS ON INTERGOVERNMENTAL RELATIONS BILL, 2012	5
INTERNATIONAL COMMISSION OF JURISTS-KENYA	
CHAPTER	5
KENYA PRIVATE SECTOR ALLIANCE	6
SUMMARY OF PROPOSED AMENDMENTS BY THE COMMITTEE	7
ANNEX	
MINUTES OF THE COMMITTEE	

The Departmental Committee on Local Authorities (herein after referred to as ‘the Committee’) was established pursuant to provisions of Standing Order No. 198 and mandated to among other things, investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments. The Committee is also mandated to **study and review all legislation referred to it and make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.**

The Committee is comprised of the following Members:-

1. Hon. David Ngugi, M.P. - **Chairman**
2. Hon. Mahamud Sirat, M.P – **Vice Chairman**
3. Hon. Shakeel Shabir, M.P.
4. Hon. Fahim Twaha, M.P
5. Hon. Joshua Kutuny, M.P.
6. Hon. Gideon Mung’aro, M.P.
7. Hon. Mwalimu Mwahima, M.P.
8. Hon. Gideon Konchella, M.P.
9. Hon. Ali Hassan Joho, M.P.
10. Hon. Zakayo Cheruiyot, MP
11. Hon. Oyugi Magwanga, MP

The Intergovernmental Relations Bill, 2012 was published by the Deputy Prime Minister and Minister for Local Government on 3rd February, 2012. It was introduced formally in parliament through a first reading on 14th February, 2012 after which it was referred to the Committee for scrutiny. Debate on the Bill at the

second reading stage was undertaken on 21st February, 2012, during the morning sitting.

Due to the constitutional timelines provided for enactment of this Bill, the Committee held a retreat from 8th to 10th February, even before the Bill had been read a first time and went through the Bill with the assistance of the Parliamentary Legal Counsel and the Permanent Secretary, Ministry of Local Government in order to understand the contents of the Bill.

The Committee further organized a workshop at the Hotel La Mada in Nairobi from 17th to 18th February, 2012 after the Bill had been referred to it following the first reading where Members met stakeholders to receive the views of the public on the Bill.

This report therefore contains amendments proposed by Committee Members having considered and incorporated where appropriate views of stakeholders. It is my pleasure therefore, to present this report to the House.



HON. DAVID NGUGI, MP,

**CHAIRMAN, DEPARTMENTAL COMMITTEE ON LOCAL
AUTHORITIES**

21/02/2012

PROPOSALS FROM STAKEHOLDERS

On 17th February, the Committee met several stakeholders and discussed the Bill clause by clause pointing out any issues they felt were inadequately provided for. The stakeholders also submitted memorandum containing the following:

PROPOSALS BY INTERNATIONAL COMMISSION OF JURISTS-KENYA CHAPTER

Clause 1: Recommend that this be changed, or modified to account for issues of contested results, to delineated between announcement of National versus County results, and to provide an appropriate definition of what ‘final announcement’ means.

Clause 9 (a) on meetings of the Summit: We recommend that a cap be introduced for the regular meetings as prescribed for the Council in section 21 and as read with article 37 and therefore open ended provision for meeting should apply to special meetings as stipulated in the schedule.

Clause 10 on Reports by the Summit: We propose specific provision for availability to the public in line with Article 35 of the Constitution.

Clause 18 on Remuneration of staff: As the Technical Committee is accountable to the Summit, the consultative process should include the Summit.

Clause 26 (4): Seeing as transfer of a national government power should be a consultative process inclusive of the legislature of which the National Assembly is a part of, this provision alludes to the notion that such decision will be made without said consultation and as such against the provisions of Article 6 (2) of the Constitution.

We propose that this provision be amended.

PROPOSALS BY KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

CLAUSE 7

THAT Clause 7(2) be amended by inserting a new sub-clause after sub-clause 7 (2)(b) –

(7)(2) (c) the Cabinet Secretary who shall be the secretary of the summit

CLAUSE 11

THAT Clause 11 (2) be amended by inserting a new sub-clause after sub-clause 11 (2)(b) –

11 (2) (c) – the Principal Secretary for the time being responsible for matters related to intergovernmental relations

CLAUSE 12

THAT Clause 12 (a) (ii) be amended by deleting the word “implement” and substituting therefor the words “coordinate with the relevant level of government or agencies and facilitate the implementation of”

SUMMARY OF PROPOSED AMENDMENTS

THE INTERGOVERNMENTAL RELATIONS BILL, 2012

COMMITTEE STAGE AMENDMENTS

NOTICE is given that the chairperson of the Departmental Committee on Local Authorities, Hon. David Ngugi, intends to move the following amendments to the Intergovernmental Relations Bill, 2012 at the Committee Stage—

Clause 8

THAT clause 8 of the Bill be amended in paragraph (1) by inserting the words “or that it may consider necessary or appropriate” after the words “or any other legislation”.

Clause 11

THAT clause 11 of the Bill be amended in-

(a) subclause (2)-

(i) by inserting the words “competitively recruited and appointed by the Summit;

(ii) by inserting a new paragraph immediately after paragraph (b)-

(c) the Principal Secretary of the government department for the time being responsible for matters relating to devolution.

(b) by inserting the following new sub clauses immediately after subclause (3)-

(4) A person shall be qualified for appointment as a chairperson of the Technical Committee if such person-

(a) holds a masters degree from a university recognized in Kenya;

(b) has a distinguished career in senior management position in either private or public sector;

- (c) holds at least fifteen years post qualification professional experience; and
- (d) satisfies the requirements of Chapter six of the Constitution.

(5) A person shall be qualified for appointment as a member of the Technical Committee if such person-

- (a) holds a degree from a university recognized in Kenya;
- (b) has a distinguished career in their respective field;
- (c) has at least ten years post qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(6) A person shall not be qualified for appointment as the chairperson or a member of the Technical Committee if the person—

- (a) is a member of Parliament or County Assembly;
- (b) is a member of a governing body of a political party;
- (c) is an elected or nominated member of a local authority;
- (d) is a member of a Commission established under the Constitution;
- (e) is an undischarged bankrupt;
- (f) has been removed from office for contravening the Constitution or any other law; or
- (g) has, in the conduct of his affairs, not met any statutory obligations.

Clauses 12

THAT clause 12 of the Bill be deleted and substituted with the following new clause-

Functions of
the Technical
Committee

12. The Technical Committee shall-

- (a) be responsible for the day to day administration of the Summit and of the Council and in particular-

- (i) facilitate the activities of the Summit and of the Council; and
 - (ii) implement the decisions of the Summit and of the Council.
- (b) take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity; and
- (c) perform any other function as may be conferred on it by the Summit, the Council, this Act or any other legislation.

Clause 14

THAT clause 14 of the Bill be deleted and substituted with the following new clause-

<p>Reports by the Technical Committee, etc.</p>	<p>23D. The Technical Committee shall</p> <ul style="list-style-type: none"> (a) submit quarterly reports to the Summit and to the Council; and (b) be accountable to the Summit and to the Council.
---	--

Clause 15

THAT clause 15 of the Bill be amended-

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-
“(1) There shall a secretariat of the Technical Committee which shall be headed by a secretary”;
- (b) in sub-clause (5) by-
 - (i) inserting the words “the Council” after the words “of the Summit” in paragraph (a);
 - (ii) inserting the words “the Council” after the words “of the Summit” in paragraph (e); and
 - (iii) inserting the words “the Council” after the words “by the Summit” in paragraph (f).
- (c) by inserting the following new sub-clause after sub-clause (5)-
“The secretary shall be appointed for a single term of six years and shall not be eligible for re-appointment”.

Clause 17

THAT clause 17 of the Bill be amended by inserting the words “the Council” after the words “Technical Committee”.

Clause 19

THAT clause 19 of the Bill be amended in sub-clause (3) by deleting the words “not be eligible for re-election” appearing after the words “and shall” and substituting therefor the words “be eligible for re-election for one further term of one year”.

Clause 20

THAT clause 20 of the Bill be amended in paragraph (i) by inserting the words “or that it may consider necessary or appropriate” appearing after the words “or any other legislation”.

Clause 21

THAT clause 21 of the Bill be amended in sub-clause (1) by deleting the words “and in any case not more than four times a year” appearing after the words “twice a year”.

Clause 34

THAT clause 34 of the Bill be amended in sub-clause (3) by inserting the words “and may recommend an appropriate course of action for the resolution of the dispute” after the words “to resolve the dispute”.

Clause 36

THAT clause 36 of the Bill be amended in sub-clause (1) by deleting the words “section 34 if the person” appearing after the words “an offence under” and substituting therefor the words “this Act if in relation to section 34 the person”.

Schedule

THAT paragraph 2 of the Schedule be amended by deleting sub-paragraph (2) and substituting therefor the following new sub-paragraphs-

“(2) In the absence of the chairperson at a meeting of a body the meeting shall be chaired by the vice-chairperson.

(3) In the absence of both the chairperson and the vice-chairperson at a meeting of a body, the members present shall elect a member to chair the meeting”.



Hon. David Ngugi,

Member of Parliament.

21/04/2012

MINUTES OF THE 45TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LOCAL AUTHORITIES HELD ON MONDAY 20TH FEBRUARY, 2012 IN COMMITTEE ROOM 9 AT 2.30 PM

PRESENT

Hon. Mahamud Sirat, MP - Ag.-Chairman
Hon. Oyugi Magwanga, MP
Hon. Zakayo Cheruiyot, MP
Hon. Gideon Mung'aro, MP
Hon. Fahim Twaha, MP
Hon. Gideon Konchella, MP

ABSENT WITH APOLOGY

Hon. David Ngugi, MP - Chairman
Hon. Masoud Mwahima, MP
Hon. Shakeel Shabbir, MP
Hon. Ali Hassan Joho, MP
Hon. Joshua Kutuny, MP

IN ATTENDANCE

Mr. George Gazemba - Clerk Assistant
Mr. Edward Libendi - Clerk Assistant

MIN. NO./SC2/201/2011: - **Preliminaries**

The Chairman called the meeting to order at 2.45 pm and opened the meeting with a word of prayer.

MIN. NO./SC2/202/2011: - **Adoption of Agenda**

Members adopted the agenda of the meeting being deliberation and adoption of the report of the Committee on Scrutiny of the three devolution Bills

MIN. NO./SC2/203/2011: - **Deliberation on report of Scrutiny of the Bills**

The Members went through the report of the Bills with the assistance of the Legal Counsel of Parliament and resolved to adopt the report with amendments.

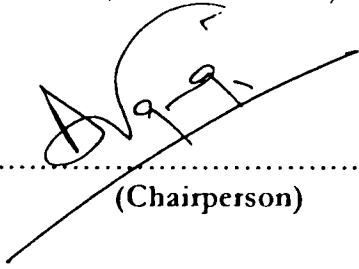
MIN. NO./SC2/204/2011:

-

Any Other Business and Adjournment

There being no other business, the Chairman adjourned the meeting at 5 40 pm

SIGNATURE.....



A handwritten signature in black ink, appearing to be 'D. G. I.', is written over a horizontal dotted line. A diagonal line is drawn across the signature from the bottom left to the top right.

(Chairperson)

DATE

21/02/2012

MINUTES OF THE 44TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LOCAL AUTHORITIES HELD ON FRIDAY 17TH AND SATURDAY 18TH FEBRUARY, 2012 AT HOTEL LA MADA FROM 9.00 AM

PRESENT

Hon. David Ngugi, MP - Chairman
Hon. Oyugi Magwanga, MP
Hon. Zakayo Cheruyot, MP
Hon. Gideon Mung'aro, MP

ABSENT WITH APOLOGY

Hon. Mahamud Sirat, MP - Vice-Chairman
Hon. Masoud Mwahima, MP
Hon. Fahim Twaha, MP
Hon. Shakeel Shabbir, MP
Hon. Ali Hassan Joho, MP
Hon. Joshua Kutuny, MP
Hon. Gideon Konchella, MP

IN ATTENDANCE

Mr. Patrick Karanja - Ministry of Local Government
Mr. Jeremiah Ndombi - Senior Legal Counsel, Parliament
Mr. George Gazemba - Clerk Assistant
Mr. Edward Libendi - Clerk Assistant

MIN. NO./SC2/197/2011: - **Preliminaries**

The Chairman called the meeting to order at 9.30 am and opened the meeting with a word of prayer.

He welcomed the participants to the workshop and thanked them and thereafter called upon the participants to introduce themselves. He gave a brief explaining the purpose of the meeting and requesting the participants to be specific in their presentations to the Committee on proposed amendments.

MIN. NO./SC2/198/2011: - **Adoption of Agenda**

Members adopted the agenda of the workshop being Scrutiny of the three devolution Bills with stakeholders

The Chairman read through the Bills clause by clause beginning with the County Governments Bill, the Intergovernmental Relations Bill and the Transition to Devolved Governments Bill pausing at the end of every part of the Bill to allow the participants to raise any issue they considered pertinent.

The stakeholders among other issues raised the following proposals

PROPOSALS BY INTERNATIONAL COMMISSION OF JURISTS-KENYA CHAPTER

General - There needs to be clarity on the extent of the role of the Attorney General in regards to legal advice and representation in civil proceedings where county governments are parties. We propose that there should be an office mandated to offer legal advice to the County Governments and representation in legal proceedings.

Clause 4 (2) – Proposed addition of a section that also empowers County Assemblies to make regulations specifying the criteria and which County officers shall be entitled to display Armorial Ensigns or fly the National and/or County flag. Currently the *National Flag, Emblems and Names Act Cap 99, The National Flag, Emblems and Names (Flying of the National Flag and Displaying of Armorial Ensigns) Regulations* only allows the president, the vice-president, the chief justice, the speaker of the national assembly, a minister or the attorney-general to such privileges.

Clause 7 – That the Bill is silent on membership of the Senator in the County Assembly. It is recommended that section 7 include the Senator as an *ex officio* member of the County assembly as he has the function of representing the affairs of the county at the National level.

Clause 28 (c) - That the reasons for potential recall of a member of the County assembly should include 'commission of an offence under the Constitution and other laws of Kenya, not only the offences under the Bill.

Clause 32 (c) - There is no definition of "Accounting officer" and the role has not been prescribed. We recommend that office be defined for clarity and roles given. Alternatively, the section should be deleted.

In any event, the Governor should appoint the Accounting Officers for the various departments through transparent, competitive and accountable process, with the approval of the County assembly.

Clause 41 - Gross misconduct in sec. 41 (1) (c) should be expressly stated as in Article 251 (b) to include "whether in the performance of the members' or office holder's functions or otherwise"

Clause 42 - The records of the meetings of the Committee along with any resolutions made should be available and accessible to the public in line with section 94 of Bill.

S. 56(4) (c) - This section provides that for a person to be appointed the chairperson of the county board he/she should have 15yrs experience. This requirement denies the youth an opportunity to serve as Chair or vice chair of the Board, contrary to the right to equal opportunities (art. 27 [3] [6]) and access to employment under the Constitution (Art. 55).

PROPOSALS BY KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

CLAUSE 24 - THAT Clause 24 be amended by inserting a new sub-clause after sub-clause (7) - (7) A. The standing orders referred to in section 13 (1) (a) shall provide for procedure of debating and passing Bills similar to the standing orders applicable to the National Assembly with necessary modifications including committee system and citizen participation.

CLAUSE 31 - THAT Clause 31(2) of the Bill be amended as follows-

(a) In sub clause 31 (2) (j) by inserting the words "on all the measures taken and the progress achieved in the realization of the national values referred to in Article 10 of the Constitution of Kenya in the county which shall be published in the county gazette" after the words "address".

(b) by inserting a new sub paragraph (m) after paragraph (l) as follows-

(32) (2) (m) address the opening of each newly elected county assembly.

(c) by inserting a new sub paragraph (n) after the proposed paragraph (m) as follows-

(32) (2) (n) address a special sitting of the county assembly once every year and may address the county assembly at any other time.

CLAUSE 89 - THAT Clause 89 of the Bill be amended as follows-

(a) by deleting clause 89 (c) and substituting therefore the following paragraph -

89 (c) budget preparation, validation, implementation and monitoring
and evaluation

(b) by inserting a new sub-clause 89 (g) after sub-clause (f)-

89 (f) Development Committees at county and other levels of development

CLAUSE 117 - THAT Clause 117 of the Bill be amended by deleting the word "governor" appearing at the beginning of sub clause (1) and sub clause (3) and substituting therefor the following words "county executive committee"



CLAUSE 118 - THAT Clause 118 (3) of the Bill be amended by inserting a new paragraph (j) after paragraph (i) as follows-

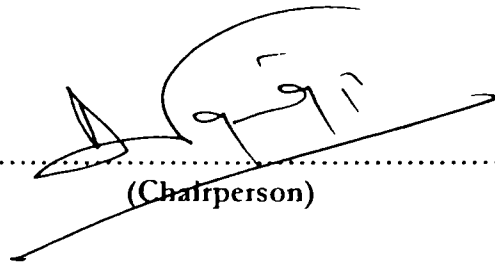
(118) (3) (j) subsidies on tariffs shall only be maintained if they do not distort the market related to that particular service.

MIN. NO./SC2/200/2011:

- Any Other Business and Adjournment

The Chairman thanked the participants for their informative views and informed them that the Committee would meet later on to consider the views submitted and to agree on which ones to incorporate in the report of the Committee.

SIGNATURE.....



(Chairperson)

DATE.....

21/02/2012

MINUTES OF THE 43RD SITTING OF THE DEPARTMENTAL COMMITTEE ON LOCAL AUTHORITIES HELD ON WEDNESDAY 15TH FEBRUARY, 2012 IN THE SMALL DINING, MAIN PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

Hon. David Ngugi, MP - Chairman
Hon. Oyugi Magwanga, MP
Hon. Zakayo Cheruiyot, MP

ABSENT WITH APOLOGY

Hon. Mahamud Sirat, MP - Vice-Chairman
Hon. Masoud Mwahima, MP
Hon. Fahim Twaha, MP
Hon. Shakeel Shabbir, MP
Hon. Ali Hassan Joho, MP
Hon. Joshua Kutuny, MP
Hon. Gideon Konchella, MP
Hon. Gideon Mung'aro, MP

IN ATTENDANCE

Mr. George Gazemba - Clerk Assistant
Mr. Edward Libendi - Clerk Assistant

MIN. NO./SC2/193/2011: - **Preliminaries**

The Chairman called the meeting to order at 10.30 am and opened the meeting with a word of prayer.

MIN. NO./SC2/194/2011: - **Adoption of Agenda**

Members adopted the day's agenda being discussion on the way forward regarding the Devolution Bills

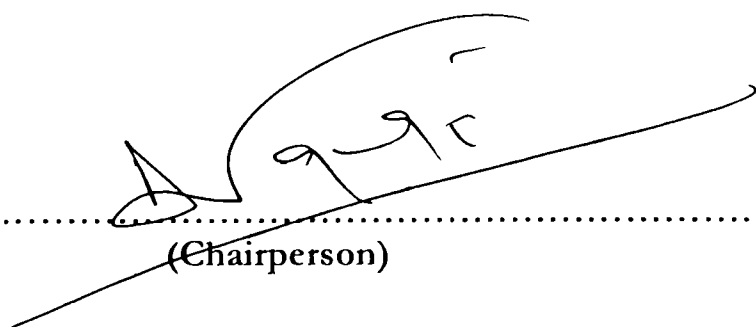
MIN. NO./SC2/195/2011: - **Way forward on the Devolution Bills**

Members noted that despite the decision of the House on 14th February, 2012 to commit the County Governments Bill to the Committee for scrutiny after first reading, the House Business Committee had gone ahead to schedule the Bill for second reading before the Committee could table its report.

Members deliberated on what course of action to take in the current circumstances and resolved to be prepared to go ahead with debate on the Bill and organize a workshop at the weekend (17th and 18th February) during which the Committee would meet stakeholders and listen to their views on the Bill.

MIN. NO./SC2/196/2011: - **Any Other Business and Adjournment**

There being no other business to transact, the Chairman adjourned the meeting at 11 15 am.

SIGNATURE.....
(Chairperson)

DATE 24/02/2012

MINUTES OF THE 42ND SITTING OF THE DEPARTMENTAL COMMITTEE ON LOCAL AUTHORITIES HELD ON THURSDAY 9TH TO FRIDAY 10TH FEBRUARY, 2012 AT HOTEL LA MADA FROM 9.00 AM

PRESENT

Hon. David Ngugi, MP - Chairman
Hon. Mohamud Sirat, MP - Vice-Chairman
Hon. Oyugi Magwanga, MP
Hon. Gideon Konchella, MP
Hon. Zakayo Cheruiyot, MP

ABSENT WITH APOLOGY

Hon. Masoud Mwahima, MP
Hon. Fahim Twaha, MP
Hon. Shakeel Shabbir, MP
Hon. Ali Hassan Joho, MP
Hon. Gideon Mung'aro, MP
Hon. Joshua Kutuny, MP

IN ATTENDANCE

Prof. Karega Mutahi - Permanent Secretary, Ministry of Local Government
Amb. Owade - Ministry of Local Government
Mr. Jeremiah Nyegenye - Director, Legal Services, Parliament
Mr. Jeremiah Ndombi - Senior Legal Counsel, Parliament
Mr. George Gazemba - Clerk Assistant
Mr. Edward Libendi - Clerk Assistant

MIN. NO./SC2/189/2011: - **Preliminaries**

The Chairman called the meeting to order at 9.00 am and opened the meeting with a word of prayer.

He welcomed the Members to the retreat and thanked the Permanent Secretary and officials from the Ministry for accepting to meet the Committee despite the short notice and explained to the Members the objects of the meeting stating that the meeting had been convened to read through the Bills so that the Members could understand the contents therein before parliament reopens so as to expedite their enactment in the House. He then invited the Permanent Secretary to take the Members through the Bills.

MIN. NO./SC2/190/2011: - **Adoption of Agenda**

The Members adopted the workshops agenda being review of the three Devolution Bills

The Permanent Secretary explained the policy behind the three Devolution Bills, The County Governments Bill, the Intergovernmental Relations Bill and Transition to Devolved Governments Bill before taking the Members through the contents of the Bill, clause by clause and allowing them to intervene and propose amendments where necessary. The following amendments were proposed by Members

THE COUNTY GOVERNMENTS BILL, 2012

The Committee was agreeable with the provisions of Part I and II.

Part III

- 1 Amend Clause 9 (1). Role of members of the County Assembly-To read that the roles shall be in addition to those set out in the Constitution.
2. Amend Clause 12 on County Assembly Clerk to ensure Independence of the County Assembly as follows:
 - a) 12(1) by deleting the words “County Public Service Board” and replacing them with “County Assembly”
 - b) 12(4) Delete the words, “the County Public Service” and replace them with “County Assembly”
- 4 Introduce a new clause 12. Establishing the Office of County Commissioner to consist of a few Members of the County Assembly: The Office shall be a body corporate with perpetual succession.
- 5 Introduce a new clause providing ‘the AG may at the request of the County Government represent the County Government in court or in any other legal proceedings to which the County government is a party, other than criminal proceedings in accordance with article 156(4) (c) of the Constitution’
6. Amend clause 15 by deleting the word “in” in the last sentence and replacing it with “of”
- 7 Amend clause 17(1) to include “and sign language” after the word English – As the Constitution provides that the official language shall be English, Kiswahili and Sign language
 - a) Amend 17 (3) by deleting all the words after “in either of” in the last sentence and adding the words ‘the official language in which it was said’
 - b) Add clause 17 (4) to read “outlaw use of any non-official language”
8. Amend clause 20 by borrowing language used in article 109 of the Constitution – as County Assembly can only initiate a Bill through its members.
9. Amend Clause 21 to remove the requirement for a Motion to be passed by the Assembly. This may prevent the County Executive from enacting laws if Motion is not passed or may slow down the legislative process

- 10 Amend clause 24. To amend the procedure of enacting laws to mirror the procedure used in the National Assembly

PART IV

11. Amend clause 28 – to mirror provisions for recall of a Member of Parliament as provided in the Elections Act.
12. Review clause 29 on recall to ensure it mirrors recall procedure for MPs as provided in the Elections Act.

PART V-COUNTY EXECUTIVE

13. Amend clause 31 (2) to read: Subject to the Constitution, the governor shall:-
 - a) Add a sub-clause after (h) requiring the Governor to publish such assignment of responsibilities in the County Gazette-to mirror words of article 132(3)(c).
 - b) Delete sub-clause (l) and draft amendment to reflect which County Gazette the Governor can sign.
14. Delete clause 32 as the powers of governor to remove the Executive is covered under clause 41.
15. Delete clause 34(7) as it is unconstitutional-*(the Constitution in article 123(4)(c) provides that a decision of the Senate on any matters affecting Counties will be determined by a vote of the majority of the delegations)*
16. Include a new clause 34 (9) to provide for the Deputy Governor to take over if the Governor is removed from office as provided in article 182 (2) of the Constitution
17. Amend clause 42 (3) to reflect provisions in article 35 of the Constitution-Borrow the words of clause 27 in the Transition to Devolved Governments Bill, 2012

The Committee was agreeable with the provisions of Part VI and VII.

PART VIII-CITIZEN PARTICIPATION

1. Amend clause 88 (1) (a) to read “ laws and petitions which are supported by at least 25% of the registered voters” – This is to eliminate the need for referendum on all laws and petitions and limit it to only those laws and petitions supported by at least 25% of the registered voters in the county.
- 2 Add a new clause 88 (1) (c) to include requirement for referendum on any other matter that the County Executive may decide.

The Committee was agreeable with the provisions in Part IX to XV including the Schedule

THE INTERGOVERNMENTAL RELATIONS BILL, 2012

This Bill derives its basis from Article 6 and 189 of the Constitution of Kenya, 2010.

PART II-ESTABLISHMENT OF INTERGOVERNMENTAL RELATIONS STRUCTURE

1. Amend clause 15 (1) to read "There shall be a secretariat of the Technical Committee headed by a secretary"
2. Amend 15 to include the tenure of the Secretary should be six years non-renewable.
3. Amend clause 19 (3) to enable the chairperson and vice chairperson of the Council of County Governors to serve a maximum of two terms of one year.-This is meant to ensure continuity especially in the formative years.
4. Amend clause 20 to include sub-clause j, to read "Consider any other matter of national interest or of common interest"
5. Amend clause 21 (1) by deleting all the words after "twice a year". This will allow the Council to meet anytime they have an issue to address so that there meetings are not tied to four just like the Summit.
6. Amend clause 23 to include a sub-clause (c) establishing the Secretariat of the Technical Committee to serve also as secretariat of the Council

PART IV-DISPUTE RESOLUTION MECHANISMS

7. Amend clause 34 by including an additional sub-clause 4 to read: The summit may after listening to the parties to the dispute, make recommendations to resolve the dispute.-This is to ensure that there is some finality in dispute resolution so that parties do not just go round and round.
8. Amend clause 36 (1) by including the words '**this Act if in violation of**' between the words '**under**' and '**section**' and deleting the word '**if**' after '**34**'. -The new clause will now read "*A person commits an offence under this Act if in violation of section 34, the person:-*"

SCHEDULE

9. Amend section 2 (1) by deleting the word "**the**" before secretariat and replacing it with the word "**its**" to connote that a chairperson of any body consults his secretariat to determine agenda before calling a meeting.
10. Amend clause 2 (2) (b) by inserting the words, "**the Vice-chairperson or where there is no vice-chairperson**" between the word "**bodies**" and "**the members**" in the first sentence. The clause will now read "in the case of other bodies, the vice-chairperson and where there is no vice-chairperson, the members present shall elect one member to chair the meeting".

THE TRANSITION TO DEVOLVED GOVERNMENTS BILL, 2012

PART II-TRANSITION MECHANISM TO DEVOLVED GOVERNMENT SYSTEM

1. Amend clause 5 (1) (a) to read: the Members of the Transition Authority shall be nominated by the Public Service Commission, and appointed by the President with approval of parliament.-This is meant to ensure Parliamentary approval of Members of the Transition Authority.
2. Amend clause 5 to include in the Authority a nominee of the Clerk of the Senate to facilitate in establishment of the County Assemblies
3. Amend clause 17 (1) by deleting the word 'Authority' in the third sentence and replacing it with the word "Salaries and Remuneration Commission".
4. Amend Clause 23 (2) by deleting "in the prescribed manner" to read "In the manner prescribed in clause 24" after the words the Authority in the third sentence.

PART V-FINANCIAL PROVISIONS

5. Delete clause 32 which allows the Transition Authority to invest any of its funds as this would facilitate corruption.

PART VI-MISCELLANEOUS PROVISIONS

6. Amend clause 34 by distinguishing the penalties so that we have harsh penalty for clause 34 (c) of a fine of Ksh.10 million and or imprisonment of 7 years and maintain the penalty for sub-clauses (a), (b) and (d) but to read "not less than five hundred thousand shillings or to imprisonment for a term not less than two years, or to both.
7. Amend clause 36 to include a new sub-clause (d) to invalidate any such transfer that is contrary to the law.
8. Amend clause 38 (1) by deleting all the words after 'earlier' in the third sentence.-This is because section 15 of the sixth schedule requires that the transition take a maximum of three years which period cannot be extended.

FIRST SCHEDULE

9. Amend section 12 (b) (1) of First schedule: to include the word "Being" before the word "absent"

Conclusion

The Permanent Secretary concluded by thanking the Committee for the opportunity to discuss the Bills with the Committee and requested that the Bills be passed in the following manner due to the interrelations among the Bills:

- 1 The County Governments Bill, 2012
- 2 The Intergovernmental Relations Bill, 2012

3. The Transition to Devolved Governments Bill, 2012

MIN. NO./SC2/192/2011:

- Any Other Business and Adjournment

The Chairman thanked the Ministry officials once again for their commitment during the review process and expressed confidence that the Committee was now well prepared to tackle the Bill when parliament resumes its sittings on 14th February, 2012.

SIGNATURE.....


(Chairperson)

DATE

21/02/2012

TEBC Ad.
