

PETITIONS TO COUNTY ASSEMBLIES BILL, 2012

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A Bill for

AN ACT of Parliament to give effect to section 15 of the County Governments Act 2012; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

Short title and commencement.

1. This Act may be cited as Petitions to County Assemblies Act, 2012, and shall come into operation upon the final announcement of the results of the first elections of county assemblies under the Constitution.

Interpretation.

2. In this Act unless the context otherwise requires—

“Clerk” means a Clerk of a County Assembly;

“person” means an individual, a company, association or other body of persons whether incorporated or unincorporated;

“petition” means a formal request to a County Assembly to consider any matter under section 15 of the County Governments Act, 2012;

“petitioner” means a person who petitions a County Assembly under section 15 of the County Governments Act, 2012, in accordance with the procedure set out in this Act;

“Register” means the register maintained by a Clerk under section 9; and

“Speaker” means the Speaker of a County Assembly.

Purpose of this Act

3. The purpose of this Act is to uphold the sovereignty of the people provided for under Article 1 of the Constitution, to promote the objects of devolution

under Article 174 and to facilitate the exercise of the right to petition a County Assembly by the people

Values and Principles

(4) The values and principles of the Constitution for the exercise of the right to petition a County Assembly are-

- (a) the rule of law, democracy, inclusiveness and participation of the people;
- (b) Social justice, good governance, integrity, transparency, accountability, and
- (c) Non-discrimination and protection of the marginalised.

(2) A County Assembly may be petitioned on any matter within its authority under the Constitution.

Form of petition.

5. (1) A petition to a County Assembly under section 15 of the County Governments Act, 2012 shall

(a) be in writing or in oral format and, presented in any communication format and technology

(i) Oral petitions may be presented in –

(a) a formal sitting of a County Assembly specifically convened for that purpose; or

(b) any other oral format prescribed by the County Assembly;

(ii) Each County Assembly shall facilitate procedures to collect petitions from all members of the public generally and in particular persons with disabilities and other marginalised groups and areas; and

(iii) A Member of a County Assembly shall establish mechanisms to facilitate the formal collection of petitions from the people of his or her constituency

(b) be in English or Kiswahili. The Clerk of a County Assembly shall make sure that any

petition made in any indigenous language and Braille is translated into English or Kiswahili

(c) be free of alterations in its text by any person other than the petitioner. Any alterations made to the petition shall be countersigned by the petitioner to authenticate the alteration;

(d) be addressed to the Clerk of the County Assembly, subject to section 6 (4);

(e) clearly state the intervention sought;

(f) subject to paragraph (i), contain the name, address, identification number, signature or an authenticating mark of each and every petitioner, where there is more than one petitioner; and

(i) if a petitioner is unable to sign, by a witness in whose presence the petitioner shall make his or her mark on the petition.

(2) Nothing in this Act shall preclude any person from presenting a petition on behalf of another.

Procedure for presenting petition.

6. (1) A petition to a County Assembly shall be submitted to the Clerk by the petitioner.

(2) The Clerk shall, within seven days of the date of receipt of the petition under subsection (1), review the petition to ascertain whether the petition complies with section 5 .

(3) Where the Clerk considers that a petition does not comply with section 5, the Clerk may request the petitioner to take such steps as may be necessary to ensure that the petition is amended to comply with that section.

(4) A petition shall not be rejected on the ground only that it is addressed to the Clerk of a wrong Legislative Assembly.

(5) Where a petition is addressed to a Clerk of a Legislative Assembly that has no authority to deal with the matter, the Clerk shall refer the petition to the relevant Legislative Assembly

(6) The process in this section shall be subject to Article 47 of the Constitution

Rejection of a petition by the Clerk

7. (1) The Clerk shall prepare a report of recommendations on the petitions to the Speaker of the County Assembly and the report shall contain details of-

(a) the petitions received; and

(b) the Clerk's recommendations, including the petitions he or she has recommended for rejection.

(2) Where a petition is rejected by the County Assembly, the Clerk shall notify the petitioner giving reasons for the rejection.

Consideration of petition.

8. (1) Where the Clerk is satisfied that the petition meets the requirements of section 5, the Clerk shall within fourteen days forward the petition to the Speaker for tabling in the County Assembly.

(2) A petition that is tabled in a County Assembly under this Act shall be considered in accordance with the Standing Orders of the County Assembly and this Act.

(3) The Clerk shall, within fifteen days of the decision of the County Assembly, in writing, notify the petitioner of the decision of the County Assembly.

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(4) Every petition shall be dealt with expeditiously, taking into account the facts, nature and circumstances under which the petition is made.

Register of petitions.

9. (1) The Clerk shall keep and maintain a register in which shall be recorded-

(a) all petitions and supporting documents and the decisions of the County Assembly; and

(b) all rejected petitions and reasons for the rejection.

(2) The register of petitions under subsection (1) shall be accessible, including in electronic format, to the public during working hours.

Reports to County Assembly

10. (1) Each relevant committee of a County Assembly shall, at the end of every County Assembly's session, table a report to the County Assembly on all matters under its authority relating to petitions they have handled.

(2) The contents of the report under subsection 1 shall include-

(a) the number of petitions received;

(b) the list of petitions discussed;

(c) the action taken on each petition; and

(d) the petitions rejected and the reasons for the rejection.

(3) The Speaker shall regularly and at a pre-determined sitting give a summary report to the County Assembly on matters pertaining to petitions under this Act.

Reports by County Assembly

11. Pursuant to Article 35(3) of the Constitution, a County Assembly shall publish and publicise all reports on petitions.

Offences

12. (1) Any person who wrongfully and without lawful justification obstructs the presentation of a petition under this Act commits an offence and shall upon conviction be liable to imprisonment of a term of not more than five years or a fine not exceeding five million shillings or both.

(2) Any person who gives false information pertaining to petitions under this Act commits an offence and shall upon conviction be liable to imprisonment of a term of not more than three years or a fine not exceeding one million shillings or both.

(3) In addition to the penalties under subsections (1) and (2), a public officer who is convicted of an offence under this Act shall-

(a) in the case of a Public officer, not be eligible to hold public office for ten years;

(b) in the case of a State officer, not hold a state office.

Petitions by popular initiative

13. (1) Where a petition is by popular initiative supported by more than one percent of the registered voters in a county, the House shall convene a sitting within seven days for that purpose, subject to subsection (2), and deal with the petition as a matter of priority.
(2) If a County Assembly is not sitting during the time contemplated under subsection (1), the petition shall be tabled in the County Assembly within seven days after it next sits

Petitions received by or in respect of County Assemblies

14. (1) Any petition received by a County Assembly relating to the National Assembly or Senate shall be forwarded to the relevant House.

(2) Any petition received by a county assembly relating to another County Assembly shall be forwarded to the relevant Assembly.

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Regulations

15. A County Assembly may make regulations for the better carrying out of the purposes and provisions of this Act