



SUBMISSION ON THE COUNTY PUBLIC FINANCE LAWS (AMENDMENT) BILL, NO.39, 2023.

Submitted on 16th February 2024

Contact Information

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1.0. Introduction

The proposed County Public Finance Laws (Amendment) Bill seeks to amend section 109 of the Public Finance Management Act, 2012 to establish a County Assembly Service Fund to have monies for the running of county assemblies being separated from the county treasury. The Bill also seeks to provide for instances where the county assemblies can be able to spend money in emergencies.

The Coast Regional Budget Hub (CRBH), is pleased to submit views and comments on the draft County Public Finance Laws (Amendment), following a call for public input. The Coast Regional Budget Hub is a platform for Public Finance Management (PFM) practitioners that brings together regional voices for collective efforts and synergy to enhance public budgets and services across the Coast Region of Kenya. The Coast Regional Budget Hub is among the four hubs: The Nairobi Eastern and Central (NEC) Hub, The Rift Valley Hub and the Lake Region Hub, established and supported by International Budget Partnership Kenya.

2.0. Summary

1. The proposed County Public Finance Laws (Amendment) Bill seeks to amend section 109 of the Public Finance Management Act, 2012 to establish a County Assembly Service Fund to have monies for the running of county assemblies being separated from the county treasury. The Bill also seeks to provide for instances where the county assemblies can be able to spend money in emergencies
2. Section 109 E contradicts the bill's aim for County Assembly independence by still mentioning disbursements from the County Assembly and failing to address potential delays from the exchequer that could impact operations.
3. Section 109 D (1) allows the Clerk of a County Assembly to authorize expenditure but lacks clear guidelines on which specific positions can be authorized, risking potential abuse and necessitating clarity on the roles that can be delegated this authority.



4. The independence of County Assemblies is crucial for approving budgets and overseeing projects, as emphasized by Article 175(a) of the constitution, but County Governors have used unorthodox methods to block funds transfers, hindering their mandate and oversight roles.

3.0. Detailed submission

No.	PROVISION IN THE BILL/ CLAUSE	ISSUE OF CONCERN/ ASK	RECOMMENDATION	JUSTIFICATION
PART I				
2.	Section 109 E	There is a discrepancy between this Section 109 E County Public Finance Law (Amendment) Bill and Section 109A (7) and the general objectives of the proposal of the Act.	The bill proposes the independence of the County Assemblies by not relying on the County Treasury to do disbursements to the County Assemblies, but the section still mentions that disbursement would be from the County Assembly.	The Bill seeks the independence of the County Assemblies, section 109E contradicts the objectives of the Bill. There are instances when there are delays from the exchequer and the bill has not mentioned what happens in the event there are delays that cannot be blamed on the county treasury
3	Section 109 D(1)	Chapter 12 of COK This section proposes that the Clerk of a County Assembly may, in writing, authorize a member of staff of the County Assembly to incur expenditure for the efficient management of the County Assembly	There should be a clear description of the people who can be authorized by the clerk to incur expenditures. This should be indicated in the position and role of the person who can incur expenditure other than the clerk.	This is inconclusive because it hasn't indicated whether it's the accountant of the county assembly or finance officer for that matter and that not everyone can be given such roles and may be prone to abuse by the clerk of the county assembly and therefore should state clearly the person who can be delegated such roles



4.0. General Observations and Recommendations

1. The autonomy of the county assembly is paramount as the oversight body is mandated to approve county budgets and oversee the implementation of projects and programmes. The constitution in Article 175 (a) states that county Governments shall be based on democratic principles and the separation of powers. The county Governors have been using unorthodox means to frustrate the transfer of funds to county assembly accounts and that has hindered the execution of their mandate and the primary oversight roles.
2. The controller of the Budget should ensure that quarterly reports of the funds are submitted timely because counties have created so many funds and they haven't been submitting the quarterly reports as required.

5.0. Conclusion

To strengthen the independence and efficiency of County Assemblies, it is essential to address the discrepancies and ambiguities in the County Public Finance Law (Amendment) Bill. Ensuring clear guidelines for the authorization of expenditure and addressing potential delays in fund disbursements will enhance the oversight capabilities of County Assemblies. Additionally, the timely submission of quarterly reports by counties should be enforced to ensure transparency and accountability in the use of public funds.