PROCEDURE OF PASSING A BILL IN PARLIAMENT AND COUNTY ASSEMBLY

A Bill is draft legislation for consideration by Parliament or County Assembly. At the level of Parliament, a Bill passes through the following stages:

01. PUBLICATION AND CIRCULATION
A Bill is published in a special or supplementary issue of the Kenya Gazette to notify the public and invite representations through the elected Members or direct submission of memoranda and petitions.

02. FIRST READING
Intended to draw the attention of the Members and the public to the Bill. The Bill, here, may be referred to the relevant Sectoral Committee.

03. SECOND READING
The mover introduces and outlines the main purpose, objectives and any other details of the Bill. The members discuss the Bill and the views of the Mover together with the report of the Sectoral Committee.

04. COMMITTEE OF THE WHOLE HOUSE
The Bill is subjected to the whole House and is considered clause by clause. Members are allowed to propose amendments but only if they do not affect the original proposal, or objective of the Bill.

05. REPORT STAGE
The Committee informs the House sitting in Plenary of their consideration of the Bill.

06. THIRD READING
Members may again debate the principles of what is already in the Bill but further amendments should not be proposed, except to defer its Third Reading for six months. Literally—"killing the Bill".

Once the Bill is approved and Assented to by the President or Governor, it becomes an Act of Parliament or County Assembly.

PROCEDURE OF PROCESSING A BILL

- Parliament exercises legislative power through Bills which may be introduced by any member or committee of the relevant House of Parliament.
- The National Assembly may originate any Bill while a Bill concerning County Government may originate from the National Assembly or the Senate.
- Bills concerning county government include bills that affect the functions and powers of county governments, have implications for the election of members of county governments, and impact the finances of county government. These types of bills are further divided into Ordinary and Special bills. The procedure of processing a Bill in this case depends on whether it is an Ordinary, Special or Money Bill.
- A Special bill relates to the election of members of county governments or annual revenue allocations to counties.
- A Special bill is not considered a Special bill.
- Apart from the two types of bills, a “Money bill” is (excluding bills that relate to the annual division and allocation of revenue between the national and county governments) one containing provisions dealing with taxes, imposition or variation of taxes on a public fund, appropriation, receipt, custody, investment or issue of public money, or raising or guaranteeing of any loan or its repayment.
- In the case of Ordinary Bills concerning county government, if one House passes the Bill and the second House rejects it, the Bill is referred to a Mediation Committee. If one House passes the Bill and the second House passes it in an amended form, it is referred back to the other House for reconsideration.
- For a Special Bill concerning the counties, the Senate may only be vetoed by two-thirds majority vote of the National Assembly.
- A Money Bill may only be proceeded in accordance with the recommendations of the relevant committee.
- The Mediation Committee reconciles bills referred to mediation under any of the above-described scenarios. The Committee consists of an equal number of members from the National Assembly and the Senate appointed by the Speaker of each house. If the Committee is unable to agree on a version or the version it proposes is rejected by either house, the Bill fails.

ASSENT OF BILLS

- Assent of the Bill is a statutory requirement in the legislation process and cannot be delegated.
- A Bill passed by Parliament or County Assembly becomes law once it is assented by the President or the Governor.
- However, bills may upon publication acquire force of law without assent if the President or the Governor has not assented or returned it back within 14 days.

POLICY FORMULATION PROCESS IN KENYA

A policy is as a statement of government intent, which articulates basic principles to be pursued to attain specific goals and actions. In the context of legislation, a policy is a document which outlines what a government or an individual aims to achieve for a society as a whole.

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**Stage I: Policy Initiation**

Government Ministries, County Departments and Agencies (MDAs), citizens, political parties, institutions, and stakeholder groups, among others, can initiate policy. The relevant MDA formulates policy guidelines for discussion within the MDA and other government departments.

**Stage II: Research**

The respective MDA conducts comprehensive and comparative research on the policy issue, and seeks expert opinion on the problem. To guarantee acceptability and ownership, views from all relevant MDAs and other actors are sought through taskforces, committees and other consultative forums.

**Stage III: Negotiation and Public Participation**

Debates and negotiations on content of the draft policy framework take place. Various stakeholders are involved including the public, opposition parties, non-governmental organizations and all interest groups. Stakeholders participate by attending parliamentary committee hearings, meetings with the Cabinet Secretary, CEC or departmental heads, workshops, seminars and/or retreats, etc.

**Stage IV: Finalization of the Policy**

After considering all the issues raised by various stakeholders and options available, the MDA draws up a final policy document.

**Stage V: Cabinet or County Committee Approval**

The Cabinet Secretary or County Executive Committee Member reviews the final policy document to ensure that proper analysis has been conducted, different approaches have been identified and discussed, and that the policy document provides the best option available to redress a situation. They also ensure that the fiscal, constitutional and other possible implications of the policy are clearly brought out in the policy. Once satisfied, the policy document is submitted to the Cabinet or the County Executive Committee for approval.

**Stage VI: Parliamentary or County Assembly Approval**

Once the policy document is approved by the Cabinet or the County Executive Committee, it is published and tabled in the respective House or Assembly for debate and approval. The respective legislative body, in accordance with the Standing Orders, introduces the policy document in the House and subjects it to the relevant House Committee for scrutiny and further consideration. The policy document may be approved by the House with or without amendments. The views of the Executive may be sought for value addition and further clarification.

**Stage VII: Assent**

Once the policy is passed by the respective House, the Speaker of the respective House submits the approved policy to the President or the Governor for formal endorsement, by affixing the National Seal or County Seal, and signing. This process is called Assent.

**Stage VIII: Publication**

Upon assent, the policy is published as a White Paper (a statement of intent and a detailed policy plan, which often forms the basis of legislation). The Executive is expected to widely circulate the policy and keep the public informed of the likely effects of the Policy.

**Stage IX: Draft Bill**

If it is determined that the new law is necessary to achieve the objectives and the implementation of the policy (White Paper), the concerned MDA will commence the process of drafting the Bill. In its early stages before a new law is tabled in the House, it is called a legislative proposal. Once it has been so tabled it is called a Bill.

**SOURCE OF GOVERNMENT LEGISLATIVE AGENDA**

The agenda for legislation is set from an outline of policy priorities made in the Presidential or Governor’s speech at the opening of a new session or county Assembly, which outline in broad terms what the government hopes to achieve. It may also be set from the budget outline for the coming financial year. The number of bills and their urgency and priority is set by the Executive and managed through the office of the Leader of Majority.