

REGULATORY ACTS

WATER (AMENDMENT) ACT 2016

The President assented the **Water (Amendment) Act**, marking a significant milestone for Kenya's water and sanitation sector! This crucial development paves the way for Public-Private Partnerships (PPPs) to drive infrastructure financing and enhance water service delivery across the country.

Key to note is the strengthening of the Regulatory Board (WASREB) in providing licensing, pricing and enforcement of provisions within the legal and regulatory framework.

Key Highlights of the Amendment

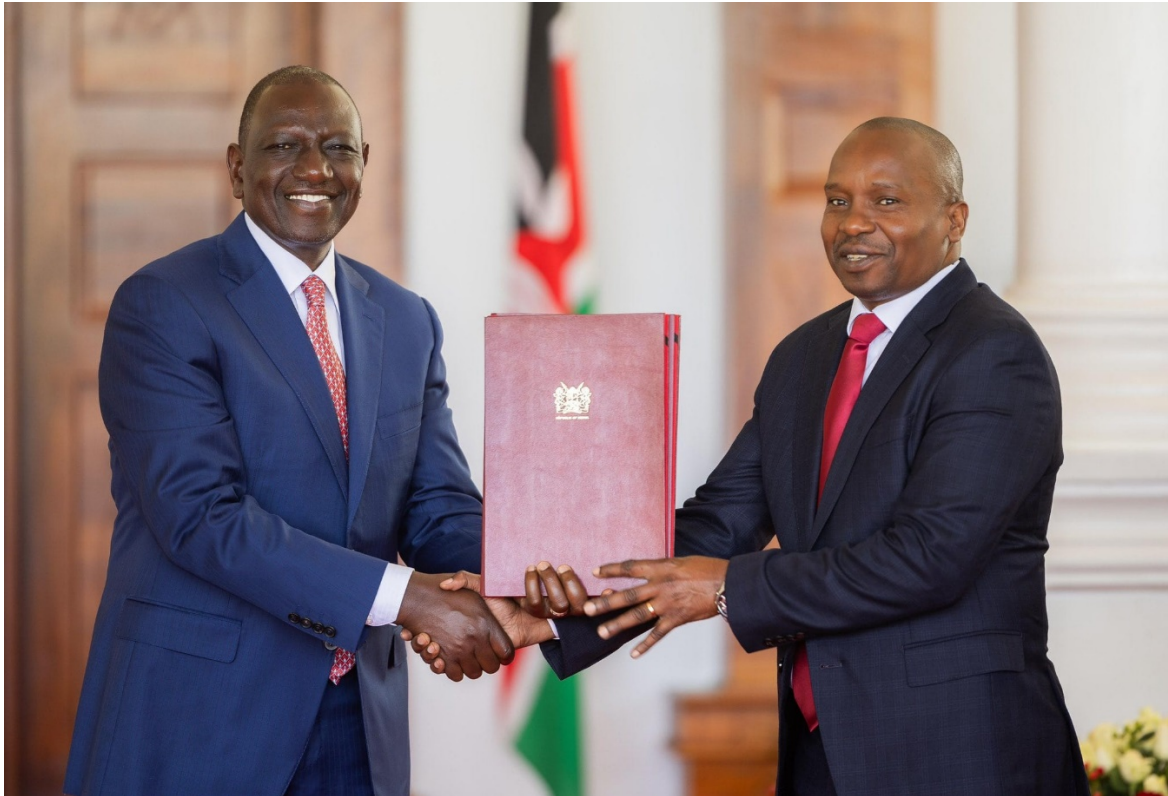
- 💧 **Public Entities** at both the National and County level have been empowered to enter into PPP Agreements.
 - 💧 **Bulk Water Services Providers (BWSP)**: These have been enhanced to include water services providers, contracting authorities, or other entities providing bulk water services under a license from the Regulatory Board (WASREB).
 - 💧 The **National Water Harvesting & Storage Authority (NWHSA)** can now enter into PPPs directly with private parties or water works development agencies, in consultation with WASREB.
 - 💧 The nine **Water Works Development Authorities (WWDAs)** have expanded authority to operate bulk waterworks and form partnerships with investors and water services providers.
 - 💧 WWDAs to continue temporarily operating waterworks until responsibility is transferred to local governments or water services providers. **Transfers** exclude national public waterworks, which cannot be handed over to county governments.
 - 💧 WASREB, the Regulatory Board will have expanded powers to oversee and regulate bulk water services and water works development agencies.
1. **Issuing Licenses**: The Board issues licenses for bulk water service providers (BWSPs), including water services providers, contracting authorities, and other entities, specifying the service areas in the license.

2. **Tariff Setting:** To evaluate, recommend, and approve bulk water tariffs for domestic, commercial, and irrigation use, ensuring consumer protection.
3. **Consultation and Approval:** The Board is involved in consulting and approving bulk water purchase agreements between BWSPs and various entities such as investors or water works development agencies, ensuring these agreements comply with the Public-Private Partnerships Act.
4. **Standards and Conditions for Licensing:** The Regulatory Board is tasked with publishing and updating standards and conditions for licensing waterworks development agencies, ensuring they operate within the regulatory framework established by the Act.
5. **Public Participation:** The Board ensures that public participation is conducted when entering into agreements related to water works, especially those involving investors or water services providers.

💧 The amendment has provisions for Contracting authorities to complete projects if a partner fails to deliver, ensuring timely service delivery and prudent resource utilisation.

💧 The Cabinet Secretary will now create clear guidelines for bulk water supply license applications, enhancing regulatory clarity.

💧 The amendment defines the constitution, qualifications, terms and remuneration for Water Tribunal members to ensure effective oversight.



President William Ruto signed into law the Water (Amendment) Bill (National Assembly Bill No. 33 of 2023).