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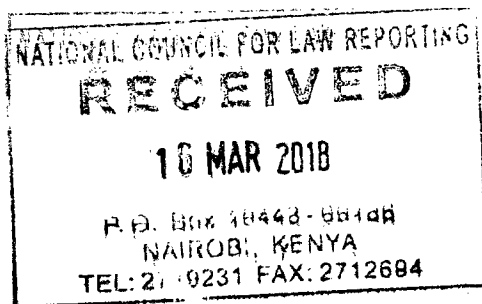
NAIROBI, 7th March, 2018

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THE COUNTY WARDS DEVELOPMENT EQUALISATION FUND BILL, 2018

A Bill for

AN ACT of Parliament to provide for the establishment of a kitty for promoting development in the Wards and to set up institutional framework for co-ordinating development initiatives and projects in the Wards, and for connected purposes.

ENACTED by the Parliament of Kenya, as follows —

PART I—PRELIMINARY

- | | |
|--|---|
| <p>1. This Act may be cited as the County Wards Development Equalisation Fund Act, 2018.</p> | <p>Short title.</p> |
| <p>2. In this Act, unless the context otherwise requires—</p> <p>“bank account of the Fund” means the County Ward Development Fund account maintained in accordance with section 7;</p> <p>“Board” means the County Ward Development Fund Board established under section 14;</p> <p>“committee” means the Project Proposal and Implementation Committee established under section 28;</p> <p>“community” means residents of a particular geographical area or region defined as a ward, location, sub location or village and having common interests;</p> <p>“fund” means the County Ward Development Fund established under section 5 (1);</p> <p>“fund manager” means the person appointed under section 21 and responsible for the day-to-day management of the affairs and staff of the Board;</p> <p>“revenue” has the meaning assigned to it under the Commission on Revenue Allocation Act, 2011; and</p> <p>“ward” means one of the wards into which Kenya is divided under Article 89 of the Constitution.</p> | <p>Interpretation.</p> <p>No. 16 of 2011.</p> |
| <p>3. The objects and purposes of this Act are to—</p> <p>(a) provide for the equitable development in each</p> | <p>Objects and purposes of the Act.</p> |

ward;

- (b) provide a mechanism for the identification of priority projects in each ward;
- (c) promote the decentralisation of functions and provision of services by county governments to the extent that it is efficient and practicable pursuant to Article 176 of the Constitution;
- (d) to ensure equitable sharing of resources within the county;
- (e) provide a mechanism through which the county governments are able to promote the interests of marginalized communities within the respective wards in accordance with Article 43 of the Constitution; and
- (f) provide a framework for the participation of residents in each county with respect to the application resources and the identification and implementation of projects through monies obtained from the resources allocated.

4. All persons and entities under this Act shall, in the performance of their functions under this Act, be guided by the following principles—

Guiding Principles.

- (a) the promotion of the social and economic development of all persons residing within the ward in order to ensure the realization of their economic and social rights under Article 43 of the Constitution;
- (b) the principles and objects of devolution set out under Article 174 of the Constitution;
- (c) equity and the need to ensure that persons residing in marginalised areas in the wards access facilities and services that are available to other residents in the respective county; and
- (d) the promotion of the national values and principles of governance set out under Article 10 of the Constitution.

PART II—ESTABLISHMENT OF THE COUNTY WARD DEVELOPMENT FUND

5. (1) There is established in each county, a fund to be known as the county ward development fund which

Establishment of the Fund.

shall be administered in accordance with this Act.

(2) The Fund shall comprise of—

- (a) at least eight percent of the share of revenue allocated to the respective county government for the respective year; and
- (b) such other monies that may lawfully accrue to the Board in the discharge of its functions under this Act.

(3) The Controller of Budget shall not authorize withdrawal of monies under Article 207 of the Constitution where a county fails to comply with the provisions of this Act.

6. (1) All disbursements from the Fund shall be—

Disbursements
from the Fund.

- (a) approved by the respective Board and recorded in the minutes of the Board; and
- (b) for specific projects as submitted by the Committee in accordance with the procedures outlined in this Act.
- (c) made through the county bank account maintained for every ward in accordance with section 7 of this Act.

(2) Notwithstanding subsection (1), payments for a joint project or a joint procurement may be made directly to a supplier or to a joint account established by the respective wards for that purpose with the approval of the Board.

(3) The Board shall, for the purpose of ensuring the effective and efficient management of the funds, impose such conditions and requirements for the release of funds as it may consider appropriate.

(4) The Board may impose such conditions as it may consider appropriate, including restrictions on a particular ward and such conditions shall be reported together with the monthly returns to be submitted to the county executive member in accordance with this Act.

7. (1) There shall be opened and maintained an account approved by the county treasury into which all funds allocated to the wards under section 5(2) shall be

Bank Account of
the Fund.

deposited for the purpose of disbursements under this Act.

(2) The signatories to an account under subsection (1) shall be the fund manager and three other persons appointed by the Board from amongst its members.

(3) The signing instructions shall be such that the signature of the fund manager shall be mandatory on all payment cheques or instruments intended for actual release of money from the Fund, and at least two of the other three signatories.

8. (1) The county executive committee member shall, with the approval of the respective county assembly, allocate funds equally to all the wards in the respective county in each financial year in accordance with this Act.

Allocation of funds.

(2) Funds allocated for a project shall remain allocated for that particular project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

(3) If for any reason a project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the ward from which the funds were withdrawn.

(4) Unspent funds shall be allocated to any eligible project and such project may be new or ongoing at the end of the financial year.

(5) A return as set out in the First Schedule shall be made for the current financial year and every previous financial year on which funds remain unspent.

9. (1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund and applied in accordance with section 8(4) of this Act.

Funds to be retained in the Fund.

(2) All funds allocated to a ward shall be cumulative and shall be carried forward from one financial year to the next, including funds returned into the account or funds which are not utilized for whatever reasons.

10. The Board shall set aside a sum not exceeding one percent of the total allocation for the project to cater for its administration expenses.

Administration expenses.

11. The sums set aside under the fund shall be properly accounted for and proper books of accounts shall be kept and returns made on how the monies have been

Books of Account.

utilized.

12. (1) All funds received by the Board and the respective Committees pursuant to this Act shall be audited and reported upon by the Auditor-General. Audit.

(2) The Auditor-General shall submit a report under subsection (1) to the Senate for consideration.

13. (1) For the purpose of disbursement of funds under this Act there shall be opened and maintained by each ward, a ward account in any commercial bank approved by the County Treasury into which all funds allocated to the ward shall be kept and such an account shall be known by the name of the ward for which it is opened. Ward Account.

(2) Each ward shall maintain only one account with respect to disbursements of funds received pursuant to this Act.

(3) The signatories to an account under subsection (1) shall be the Fund Manager, the Committee chairperson, the Project Coordinator and one member appointed by the Committee.

(4) The signing instructions shall be such that the signature of the Fund Manager shall be mandatory on all payment cheques or instruments intended for release of money from the ward account and at least two of the other three signatories.

(5) The project coordinator shall hold the authority to incur expenditure of the funds in the ward account.

(6) Funds from the ward account shall only be withdrawn as disbursements for a particular project in accordance with section 4.

(7) Every payment or instruction for payment out of the ward fund account shall be made in accordance with the resolution of a meeting of the Committee approving the payment.

(8) All receipts, savings and accruals to a ward account and the balances thereof at the end of each financial year shall be retained in the ward account.

(9) All unutilized funds shall remain in the ward account and no investment elsewhere shall be permitted, provided that funds meant for a project that is cancelled or

discontinued shall be returned to the ward account in accordance with subsection 8.

(10) Any accruing revenues, interest and liabilities from any ward account shall be declared to the Board together with the annual returns.

PART III—ESTABLISHMENT OF THE COUNTY WARD DEVELOPMENT BOARD

14. (1) There is established, in each county, a Board to be known as the County Ward Development Board.

Establishment of
the Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

15. The functions of the Board shall be to administer the Fund established in the respective county and shall, for this purpose—

Functions of the
Board.

- (a) ensure timely and efficient disbursement of funds from the Fund;
- (b) ensure efficient management of the Fund;
- (c) consider project proposals submitted from various wards in accordance with this Act;
- (d) recommend for approval by the county assembly the funding of project proposals that are consistent with this Act;
- (e) co-ordinate the implementation of projects at inter-ward level;
- (f) receive and address complaints that may arise from the implementation of this Act;
- (g) encourage best practices in the implementation of

projects;

- (h) administer the funds and assets of the Board in such manner and for such purpose as shall promote the best interests of the Board in accordance with the Act to ensure efficient management of the Fund; and
- (i) perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.

Powers of the Board.

16. The Board shall have all the powers necessary for the proper performance of its functions under this Act, and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) receive gifts, donations, grants or other moneys and equipment and make legitimate disbursements therefrom;
- (b) receive and discuss annual reports and returns submitted by the wards; and
- (c) enter into association with such other persons, bodies or organisations within or outside Kenya as the Board may consider appropriate in furtherance of the objects of this Act.

17. (1) The Board shall consist of —

Composition of the Board.

- (a) the chief executive officer in the department for the time being responsible for matters relating to county economic policy and planning;
- (b) the chief executive officer in the department for the time being responsible for matters relating to finance;
- (c) three persons, competitively recruited by the County Public Service Board with the approval of the respective county assembly; and
- (d) the Fund manager, appointed under section 21 of this Act, who shall be the secretary the Board and an *ex officio* member without a right to vote.

(2) The members of the Board shall elect the chairperson of the Board from amongst the three persons appointed in accordance with subsection (1) (c).

(3) In appointing the persons under subsection (1) (c),

the County Public Service Board shall take into consideration the constitutional principles of gender and the representation of marginalized groups.

(4) Members appointed under subsection (1)(c) shall serve for a term of three years renewable for one further term.

18. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Second Schedule.

Conduct of the business and affairs of the Board.

(2) Except as provided in the Second Schedule, the Board may regulate its own procedure.

(3) Where any issues of policy arise in the course of the performance of its functions under this Act, the Board shall refer the issue to the county executive committee member.

(4) The Board may, in the discharge of its functions under this Act, make official or impromptu visits to projects at such times as it may consider appropriate.

19. The office of a member of the Board under section 17 (1) (c) shall become vacant if the holder—

Vacancies in the Board.

- (a) dies,
- (b) resigns from office by notice in writing addressed to the County Public Service Board; or
- (c) is removed from office under any of the circumstances contemplated under section 20.

20. (1) A member of the Board may be removed from office on the following grounds—

Removal of a member of the Board.

- (a) serious violation of the Constitution or any other law;
- (b) gross misconduct, whether in performance of the member's functions or otherwise;
- (c) if convicted of an offence punishable by imprisonment for at least six months;
- (d) physical or mental incapacity to perform the functions of office;
- (e) incompetence;
- (f) bankruptcy; or

(g) engaging in active politics.

(2) A person desiring the removal of a member of the Board under subsection (1) may present a petition to the county assembly setting out the alleged facts constituting the ground for removal.

(3) A member sought to be removed under subsection (1) shall be given a fair hearing before a decision is made by the county assembly.

(4) The county assembly shall, upon receiving a petition under subsection (2), consider the petition in accordance with its Standing Orders and may recommend that the member be suspended pending the outcome of the petition.

(5) The county assembly shall consider the petition and if it is satisfied that it discloses a ground under subsection (1), it shall make a determination that the member be removed from office and the member shall stand removed from office upon the making of that determination.

(6) A vacancy arising as a result of the removal of a member under subsection (5) shall be filled in the manner set out in section 15 within thirty days of the occurrence of the vacancy.

21. (1) There shall be a Fund manager who shall be competitively recruited by the County Public Service Board and approved by the respective county assembly.

The Fund
Manager.

(2) A person qualifies for appointment under subsection (1) if such person has a degree in finance, accounting, engineering, economics, community development, or a related field from a university recognized in Kenya with at least five years' experience in the relevant field;

(3) The Fund manager shall, subject to the directions of the Board, be responsible for the day-to-day management of the affairs and staff of the Board.

(4) The Fund manager shall be an employee in the county public service and shall serve upon such terms and conditions of service as the County Public Service Board may, in consultation with the Salaries and Remuneration Commission, determine.

22. The County Public Service Board shall recruit such officers and other staff as are necessary, but not more than two, for the proper management of the Fund and discharge of the functions of the Board under this Act, upon such terms and conditions of service as it may, in consultation with the Salaries and Remuneration Commission, determine.

Staff of the Board.

23. (1) There shall be set aside, at the beginning of the financial year, not more than one percent of the total allocation to the Fund as expenditure for running the Board and related purposes in accordance with the annual budget of the Board approved by the county executive member with the concurrence of the County Assembly.

Finances of the Board.

(2) The personal emoluments of county officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of a county government but any other emoluments or payments to such officers from the Fund shall be determined by the county executive committee member in consultation with the Salaries and Remuneration Commission.

PART IV—NATURE OF PROJECTS

24. A Project under this Act shall—

- (a) only be in respect of works and services falling within the functions of the county government under Part 2 of the Fourth Schedule to the Constitution; and
- (b) be community based to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area.

Projects to be in respect of county government functions.

25. (1) For the purpose of project implementation there shall be opened and maintained by the Committee, a project account for every approved project in any commercial bank approved by the County Treasury into which all approved project funds shall be kept and such an account shall be known by the name of the project for which it is opened.

Project Account.

(2) The signatories to an account under subsection (1) shall be the Project Co-ordinator and three members of the Committee nominated by the Committee.

(3) The signing instructions shall be such that the signature of the Project Co-ordinator shall be mandatory on

all payment cheques or instruments intended for release of money from the project account and at least two of the other three signatories.

(4) Funds from the project account shall only be withdrawn as disbursements for a particular phase of the project.

(5) Every payment or instruction for payment out of the project account shall be made in accordance with the resolution of a meeting of the Committee approving the payment.

(6) All receipts, savings and accruals to a project account and the balances thereof at the end of each financial year shall be retained in the project account.

(7) All unutilized funds shall remain in the project account and no investment elsewhere shall be permitted, provided that funds meant for a project that is cancelled or discontinued shall be returned to the ward account in accordance with subsection 6.

(8) All unutilized funds of the project management committee shall be returned to the ward account.

(9) Any accruing revenues, interest and liabilities from any project account shall be declared to the Board together with the annual returns.

26. (1) Any funding under this Act shall be for a complete project or a defined phase of a project and may include the acquisition of land.

Funding of projects.

(2) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.

27. (1) A Ward with unspent funds at the end of the financial year shall submit new proposals to the Board for approval in accordance with section 35.

Unspent funds and Joint projects.

(2) Wards may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the ward committees of each of the participating wards and shall be reflected on the projects listed for each of the participating wards.

(3) Where wards have joint projects, the respective

ward committees shall co-ordinate the projects.

(4) Where a national government or county government project has stalled, the Board may, on the request of the national government or the county government and having consulted the respective Ward, fund the stalled project upon a report having been submitted setting out—

- (a) total cost of the project and the cost of the unfinished part; and
- (b) the reasons as to why the project stalled.

PART V—THE PROJECT PROPOSAL AND IMPLEMENTATION COMMITTEE

28. (1) There is established in each ward, a Committee to be known as the Project Proposal and Implementation Committee.

Establishment of
the Committee.

(2) Each Committee shall comprise—

- (a) the county government officer responsible for the co-ordination of county government functions in the ward;
- (b) one man and one woman, one of whom shall be nominated by religious groups, appointed in accordance with subsection (3);
- (c) one person representing the youth;
- (d) one person with disability nominated by a registered group representing persons with disability in the ward in accordance with subsection (3);
- (e) the project coordinator, appointed under section 32 of this Act, who shall be the secretary to the Committee and an *ex officio* member without a right to vote.

(3) The persons specified under subsection (2)(b), (c) and (d) shall be nominated in such manner and shall have such qualifications as the County Public Service Board may prescribe.

(4) The County Public Services Board shall forward the names to the County Assembly for approval.

(5) The County Assembly shall vet and approve the

nominees and the County Public Service Board shall appoint and gazette the names of the persons approved under subsection (4).

(6) The County Public Service Board shall gazette the names forwarded by the county assembly within seven days from the date of receipt of the nominees from the County Assembly.

(7) Where the County Public Service Board fails to gazette the nominees pursuant to subsection (6), the persons approved by the County Assembly shall be considered to have been appointed upon the lapse of seven days from the date of publication.

(8) The Board shall gazette the date, time and place of the first meeting of the Committee.

(9) The members of the Committee shall elect the chairperson of the Committee from amongst persons appointed in accordance with subsection (2)(b), (c) and (d).

(10) The quorum of the Committee shall be three.

(11) The term of office of the members of the Committee shall be two years and may be renewed but shall expire upon the appointment of new members in the manner provided for in this Act, or at the expiry of the term of the County Assembly.

(12) The project coordinator shall be the custodian of all records and equipment.

(13) Whenever a vacancy occurs in the Committee by reason of resignation, incapacitation or demise of a member, the vacancy shall be filled from the same category of persons where the vacancy has occurred within a period of thirty days.

(14) The Committee shall meet at least six times in a year but it shall not hold more than thirty six meetings in the same financial year, including sub-committee meetings.

29. The functions of the Committee shall be to administer the funds set aside under this Act in the respective ward and shall, for this purpose —

Functions of the
Committee.

- (a) ensure efficient management of the funds allocated to the ward;

- (b) identify projects for funding under this Act;
- (c) undertake public participation in identifying projects for funding;
- (d) submit ward projects to the Board for recommendation to the county assembly for approval;
- (e) oversee and monitor the implementation of approved projects;
- (f) administer funds allocated to the ward and assets of the Board in such manner and for such purpose as shall promote the best interests of the Board in accordance with the Act; and
- (g) perform such other duties as the Board may deem necessary from time to time for the proper management of the funds set aside under this Act.

30. The office of a member of the Committee appointed under section 28(2)(b), (c), and (d) shall become vacant if the holder—

Vacancy in the Committee.

- (a) dies;
- (b) resigns from office by notice in writing addressed to the County Public Service Board; or
- (c) is removed from office under any of the circumstances contemplated under section 31.

31. (1) A person may present a petition to the County Assembly for the dissolution of a Committee or removal of a member of the Committee setting out the alleged facts constituting any one or more of the following grounds for dissolution or removal—

Removal of a member and dissolution of a Committee.

- (a) serious violation of the Constitution or any other law including a contravention of Chapter Six;
- (b) gross misconduct in performance of the member's functions or otherwise;
- (c) incompetence;
- (d) if convicted of an offence punishable by imprisonment for at least six months;
- (e) bankruptcy; or

(f) any other cause as may be deemed justifiable.

(2) On receiving a petition under subsection (1), the County Assembly may suspend the Committee or member, as the case may be, pending the outcome of the petition.

(3) The County Assembly shall consider the petition, hear all or part of the membership of the Committee and, where it is satisfied that the petition discloses sufficient ground for dissolution or removal, dissolve the Committee or remove a member.

(4) A decision to remove a member or dissolve the Committee under subsection (1) shall be made through a resolution of the County Assembly and the member sought to be removed shall be given a fair hearing before the resolution is made.

(5) Vacancies arising under subsection (3) shall be filled in the manner set out in section 28.

32. (1) There shall be a project co-ordinator who shall be competitively recruited by the County Public Service Board.

The project Co-ordinator.

(2) A person qualifies for appointment under subsection (1) if such person has a degree in finance, accounting, engineering, economics, community development, or a related field from a university recognized in Kenya.

(3) The project co-ordinator shall, subject to the directions of the Committee, be responsible for the day-to-day management of the affairs of the Committee.

(4) The project co-ordinator shall be an employee in the county public service and shall serve upon such terms and conditions of service as the County Public Service Board may, in consultation with the Salaries and Remuneration Commission, determine.

33. A project or any part thereof which involves personal awards to any person whether in cash or in kind, shall be excluded from the list of projects submitted in accordance with section 35 of the Act.

Projects involving personal awards to be excluded.

34. For the purposes of this Act, the Board may consider part funding of a project financed from sources other than the Fund provided that—

Counter-part funding to be permitted.

- (a) the other financiers or donors of that project have no objection; and
- (b) the part funding for the project availed pursuant to this Act goes to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.

PART VI—IDENTIFICATION AND SUBMISSION OF PROJECT PROPOSALS

35. (1) The Committee shall be responsible for the identification of projects to be funded under this Act, including joint projects with other wards and stalled projects, and shall prepare a list of projects proposed to be implemented in the ward projects submission form prescribed in the Third Schedule.

Identification and submission of projects.

(2) The projects submission form shall be submitted together with—

- (a) minutes of the Committee approving the projects;
- (b) a description of the projects set out in a Project Description Form in accordance with the Fourth Schedule;
- (c) any other report or thing as may be considered relevant by the Committee or required by the Board.

(3) In preparing the list of proposed projects under subsection (1), the Committee shall take into account the county development plans and policies and shall, for this purpose, determine and set out in the form, the projects that require implementation on a priority basis, both immediate and long term.

(4) The list of proposed projects prepared under subsection (1) shall be submitted by the Committee to the Board for consideration and approval in accordance with this Act.

36. (1) The list of the proposed projects prepared under section 35 shall be submitted to the Board before the end of the month of September in each year or such other month as may be determined by the county executive committee member in order to ensure timely inclusion of the projects in the annual county budget in a particular

Submission deadline.

financial year.

37. (1) The ward projects submission forms received by the Board pursuant to section 35 shall be tabled for consideration at a meeting of the Board.

Approval of projects.

(2) The Board shall consider the forms submitted to it and shall not recommend for approval for the allocation of funds to a ward unless the form and projects set out therein meet the requirements set out under this Act.

(3) Where the Board does not recommend for approval a ward projects submission form submitted to it under section 35, it shall refer the matter to the Committee setting out the reasons for the rejection of the projects.

(4) The Board shall submit all the forms received under this section and complying with this Act to the county assembly for approval.

38. The Committee shall be responsible for the allocation of funds to various projects in the ward and shall exercise this power at its own discretion in accordance with the provisions of this Act.

Discretion of the Committee.

39. The projects listed with respect to each ward shall be numbered by the Board and the serial numbers of all projects in a ward shall bear the number of the ward as delineated by the Independent Electoral and Boundaries Commission in order to ensure that a project retains the same serial number every year until its completion.

List to be serialised.

40. (1) The types of projects submitted for funding under this Act shall meet the requirements set out under this Act.

Criteria for projects.

(2) It shall be the responsibility of the Committee to ensure that the ward project submission form submitted for funding and the projects set out thereunder meet the requirements set out under this Act and the total cost of financing does not exceed the allowable ceiling for the particular ward.

(3) Where the ward project submission form submitted for funding does not meet the requirements set out under subsection (2) the same shall be referred back to the Committee for amendment and re-submission.

(4) Where the total costing for the implementation of projects in a ward is less than the allowable ceiling by

reason of the fact that a project has been rejected under subsection (3), or for whatever reason, the shortfall shall be indicated as unallocated amount against that particular ward on the list to be forwarded to the county executive committee member.

PART VII—IMPLEMENTATION OF PROJECTS

41. (1) Projects under this Act shall be implemented by the Committee established with respect to each county.

The Committee to implement.

(2) All fixed and movable assets, including equipment bought under this Act for use by the Committee shall be the property of the Board and shall be insured in the name of the Board.

(3) The property referred to in subsection (2)—

(a) shall bear the name and number of the ward as delineated by the Independent Electoral and Boundaries Commission; and

(b) if bought for public institutions shall remain in the exclusive use of those institutions.

(4) No asset acquired under this section shall be disposed of without prior approval of the Board.

(5) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (4) shall be credited to the account of the ward from whose funds the asset was acquired and such funds shall be reflected and declared as part of the ward's subsequent year funds.

42. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Asset Disposal Act.

Procurement of services and works.

No. 33 of 2015.

(2) Projects whose total cost is less than five hundred thousand Kenyan Shillings shall be labour contracted.

43. The Committee shall compile and maintain a record showing all receipts, disbursements and actual expenditures, on a monthly basis, in respect of every project under this Act.

Record of receipts and disbursement.

44. The Board shall ensure that the list of projects forwarded to it by each Committee is, upon approval by the

Project funding.

county assembly, funded in accordance with this Act.

45. The Board shall ensure that no duplication of projects occur particularly where it is prudent to combine efforts on projects designed to benefit a large section of a community which traverses two or more wards.

Duplication of projects to be avoided.

PART VIII—COUNTY ASSEMBLY SELECT COMMITTEE

46. (1) Each county assembly shall, in accordance with its standing orders, establish a select committee on the County Wards Development Committee consisting of a chairperson and not more than eight other members of the county assembly.

Establishment of the County Assembly Select Committee.

(2) In determining the membership of the county assembly committee, the county assembly shall ensure proportionate representation of the county assembly's political parties.

(3) The term of office of the members of the county assembly committee shall be three years renewable or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier.

(4) The procedures and rules for the operations of the county assembly committee shall be governed by the standing orders of the county assembly.

(5) The functions of the county assembly committee shall be to—

- (a) oversee the implementation of this Act and in this respect, shall after every two years, submit a report to the county assembly and where necessary, propose any amendments to this Act, in particular, with respect to the quantum of funds repayable into the Fund in accordance with section 5 of this Act;
- (b) oversee the policy framework and legislative matters that may arise in relation to the Fund;
- (c) continually review the framework set out for the efficient delivery of development programmes financed through the Fund;
- (d) consider and report to the county assembly, with recommendations, names of persons required to be approved by the county assembly under this Act;

and

- (e) carry out any other functions relevant to the work of the Fund or as directed by the county assembly.

(6) The county assembly committee may make reports other than the statutory report stated in subsection 5(d) to inform the county assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

47. (1) The Board shall, on a quarterly basis, submit a report to the county assembly committee detailing—

Quarterly reports on projects and disbursements.

- (a) a summary of the project proposals received from the wards in the preceding months and indicating the approval status of such projects;
- (b) a summary of the status of disbursements of funds to the wards for the preceding months;
- (c) a summary of the status of funds received by the Board; and
- (d) any restriction imposed on a ward account in accordance with the Act.

(2) The county assembly committee shall consider the reports received from the Board under subsection (1) and table a report to the County assembly within fourteen days of receipt of the reports.

PART IX—MISCELLANEOUS PROVISIONS

48. Whenever a county assembly considers any report or any matter under this Act and a vote is required to be taken, it shall vote by delegation.

Voting.

49. (1) The provisions of this Act shall be complimentary to any other development efforts by the county government or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programmes.

Provisions in the Act are complimentary.

(2) County government development allocations shall continue alongside the projects funded under this Act.

50. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, commits an offence and shall, upon conviction, be liable to imprisonment for a term of not less than five years or to a fine of not less than Kenya

Offences and Penalties.

Shillings five hundred thousand, or both.

51. (1) A person may lodge a complaint to the Board.

Dispute
resolution.

(2) Complaints of a criminal nature shall be forwarded by the Committee to the relevant agencies with prosecutorial powers.

(3) Subject to this Act, no person in the management of the Fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the Fund.

52. (1) The Board may make Regulations for better carrying into effect the provisions of this Act.

Regulations.

(2) For the purposes of Article 94 (6) of the Constitution—

(a) the purpose and objective of the delegation under this section is to enable the Board to make Regulations for better carrying into effect the provisions of this Act; and

(b) the authority of the Board to make Regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.

(3) Without prejudice to the generality of subsection

(1) the Committee may make regulations prescribing —

(a) the Forms to be used for various purposes; and

(b) any other matter as may be prescribed from time to time

(4) The absence of regulations under this Act shall not hinder the implementation of this Act.

FIRST SCHEDULE

(S. 8(5).)

WARD PROJECTS RE-ALLOCATION FORM

Ward No. Ward Name Financial year

<i>Project No.</i>	<i>Project Title</i>	<i>Amount allocated (KSh.)</i>	<i>Amount disbursed (KSh.)</i>	<i>Balance (KSh.)</i>	<i>Unspent to be reallocated</i>
Totals					

Signature	Date
Name	Position

SECOND SCHEDULE (S. 18(1) and (2).)**CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD****1. Tenure of Office**

The Chairperson or a member of the Board other than *ex officio* members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for one further term.

2. Meetings

(1) The Board shall not meet less than six and not more than eighteen times in the financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least three members, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be three members.

(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

3. Committees of the Board

(1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the Chairperson of a committee established under subparagraph (1) from among its members.

(3) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

4. Disclosure of interest

(1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

Contracts and investments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

6. Common seal

(1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson, the fund manager and one member nominated by the Board and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson, the fund manager or that member nominated by the Board.

(3) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

7. Provisions of the Schedule to apply to the conduct of the business of the Committee

The provisions of this Schedule shall apply to the conduct of the business of the Committee but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of the Act.

THIRD SCHEDULE

(S. 35(1))

WARD PROJECTS SUBMISSION FORM

Ward No.	Ward Name	Financial year
Chairperson Committee	Signature	Date

Serial	Name of Project	Amount Allocated
Total for the Financial Year		

FOURTH SCHEDULE (S. 35(2)(b))
PROJECT DESCRIPTION FORM

Ward No.		
Ward Name	County	
Project Number		
Project Title.		
Sector.....		
Status of projects (tick one)		
New	Extension	Ongoing
Rehabilitation		

Brief statement on project status at time of submission

.....

Financial year	1st July ...	to 30th June
Original Cost estimates, in KSh		dated
Amount allocated last financial year		
Person completing form:		
Signature		Date
Name		Position

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The Bill seeks to provide a framework for establishment of a County Ward Development Fund and the establishment of administrative structures to oversee the management of the Fund. It also seeks to provide a framework for the determination of projects that are to be implemented through the Fund by the county governments and an oversight mechanism to ensure the efficient and proper use of the funds and implementation of the projects.

The Bill principally seeks to promote the decentralization of development within the counties by identifying projects that are beneficial to the residents of the respective wards and the county generally and providing a framework for the implementation of such projects. The Bill is premised on Article 174 of the Constitution which sets out the objects of devolution, among them being—

- (a) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- (b) to recognize the right of communities to manage their own affairs and to further their development;
- (c) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya by decentralizing the provision of services pursuant to Article 176(2) of the Constitution; and
- (d) to ensure equitable sharing of national and local resources throughout Kenya.

The Bill therefore seeks to establish a County Wards Development Fund consisting of at least eight percent of the revenue allocated to the respective county government in each year and such other monies that may accrue to the Fund. This Fund is to be managed by County Wards Development Board which shall be responsible for the administration of the Fund.

The Bill also provides a framework relating to the projects that are to be implemented through the Fund. It sets out the framework for the identification of such projects in each Ward by the Projects Proposal and Implementation Committee which is required to identify projects and prepare a project list for submission to the Board for the purposes of funding. It sets out the framework for the application of funding with respect to the projects in the Wards within each County.

The Bill further provides a structure for the implementation and management of projects implemented in the manner set out under the Bill and also provides an oversight mechanism through the county assembly which is to ensure that all entities proposed to be established under the Bill conduct their affairs in an effective manner and that funds are properly utilized.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill under Clause 52 proposes to empower the Board to make regulations for the better carrying into effect the provisions of this Act. However, the Bill does not limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill seeks to provide a framework for the funding of projects identified under Clause 24 at the ward level in each county with a view to promote the socio-economic development in the respective counties. The Bill specifically requires that such projects shall be within the functions of county governments as set out under Part 2 of the Fourth Schedule to the Constitution.

The Bill is therefore one that concerns county governments in terms of Article 110(1)(a) of the Constitution as its provisions affect the functions and powers of county governments as set out in the Fourth Schedule to the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 16th January, 2018.

IRUNGU KANG'ATA,
Senator.

