

THE KILIFI COUNTY ASSEMBLY SERVICE BILL, 2014

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THE KILIFI COUNTY ASSEMBLY SERVICE BILL, 2013

A Bill for

AN ACT of the County Assembly of Kilifi to make further provisions for the County Assembly Service Board and the County Assembly Service as established under the County Governments Act and for connected purposes.

ENACTED by the County Assembly of Kilifi, as follows—

PART I—PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Kilifi County Assembly Service Act, 2014.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Board” means the County Assembly Service Board of Kilifi County established under section 12 of the County Governments Act, 2012;

“chairperson” includes the vice-chairperson or any other member of the Board when discharging the functions of the chairperson;

“Clerk” means the Clerk of the County Assembly of Kilifi appointed under section 13 of the County Governments Act, 2012;

"Constitution" means the Constitution of Kenya, 2010;

"County" means the County of Kilifi;

"Assembly" means the County Assembly of Kilifi County;

"County Assembly Service Code of Conduct" means the code of conduct prescribed under section 6;

"County Assembly Service values" means the values specified in or under section 5;

"office", in relation to the Board, means a paid office as an employee of the Board, not being the office of a member of the Board, or a part-time office, or an office the emoluments of which are payable at an hourly or daily rate;

"fund" means the Kilifi County Assembly Fund established under section 28.

"county public service board means the county public service board of Kilifi as established under section 57 of the County Governments Act, 2012.

"officer" or "employee" means any person who holds or acts in any office of the Board otherwise than as a part-time officer or employee;

"revenue fund" means a revenue fund established under Article 207 of the Constitution.

"Secretary" means the Clerk of the County Assembly of Kilifi or any other officer appointed by the Clerk, when discharging the functions of the secretary;

"Service" means the County Assembly Service established under section 4;

"services and facilities" includes all means by

which members of the County Assembly of Kilifi County are officially assisted in performing their legislative duties; and

“Speaker” means the Speaker of the County Assembly of Kilifi County.

Object and
purpose of the
Act.

3. The object and purpose of this Act is to—

- (a) provide for further functions and powers of the Board pursuant to section 12(7)(e) of the County Governments Act, 2012;
- (b) provide for the manner of appointment of a member of the Board under section 12(3)(d) of the County Governments Act, 2012;
- (c) give further effect to Article 232 of the Constitution in respect of the County Assembly Service;
- (d) prescribe the qualifications of a member of the Board to be appointed under section 12(2)(d) of the County Governments Act;
- (e) provide for the functions of the Clerk of the County Assembly and his functions as the Secretary to the Board;
- (f) provide for the procedure for the conduct of business and affairs of the Board;
- (g) provide for the execution of the functions of the Board;

- (h) establish the County Assembly fund and the purpose of the fund;
- (i) provide for such other matters as may be necessary for the welfare, security and proper administration of the Service.

PART II—THE COUNTY ASSEMBLY SERVICE

The County
Assembly
Service.

4. (1) There shall be a service to be known as the County Assembly Service.

(2) The Service shall be an institution of exemplary administrative and technical competence.

(3) In the performance of their functions, employees of the Service shall not seek or receive directions from any source external to the Service.

(4) Every member of the County Assembly shall respect the non-partisan and apolitical character of the Service and shall not seek to influence employees of the Service in the discharge of their functions.

County Assembly
Service values.

5. In addition to the national values and principles of governance set out in Article 10 of the Constitution, and the values and principles of public service set out in Article 232(1) of the Constitution, the Service shall uphold the following values—

- (a) the fostering of peace;
- (b) the provision of non-partisan and impartial advice and services to the Assembly, its committees and its members;

- (c) the maintenance of honesty, accountability and integrity in the delivery of services, having regard to the principles of political neutrality, professionalism, economy, efficiency, equality and fairness, courtesy and discipline;
- (d) the provision of a workplace that recognises the diverse backgrounds of the Service employees and promotes national integration;
- (e) the maintenance of the spirit of co-operation in the workplace based on consultation and communication;
- (f) the provision of a fair, flexible, safe and rewarding workplace;
- (g) the inspiration of public confidence in and respect for the institution of the Assembly;
- (h) the fostering of understanding and co-operation among the two arms of the County Government, namely, the Assembly and the County Executive Committee in the context of their autonomy and complementarity; and
- (i) such other values as the Board may, from time to time, prescribe.

(2) Without prejudice to the provisions of any Code of Conduct prescribed under subsection (1), every employee of the Service shall, in the course of his or her employment—

- (a) be patriotic and loyal to the county government and at all times conduct himself or herself in a manner that promotes the image and interests of the country;
- (b) conduct himself or herself with honesty and integrity and act with care and diligence;
- (c) use the resources of the county government conscientiously and combat corruption and misuse or wastage of public resources;
- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;
- (e) treat all persons with respect and courtesy and, in particular, protect persons with disabilities and other vulnerable groups against any form of abuse, harassment or ill-treatment;
- (f) promote gender equality and respect for the rights and freedoms of others;
- (g) comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;

- (h) maintain appropriate confidentiality about dealings that the employee has with the Assembly, its committees, its members and its staff (including employees of members, if any);
- (i) disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with the Service;
- (j) not provide false or misleading information in response to a request for information that is made for official purposes;
- (k) not make improper use of—
 - (i) any information obtained through or in connection with the office of such employee and which is not yet made available to the public; or
 - (ii) the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for him or herself or for anyone else;
- (l) conduct him or herself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the Service;
- (m) while on duty overseas, conduct him or herself in a manner that

promotes the good image of Kenya and the County Government;

- (n) comply with any other requirements of conduct as may be prescribed by the Board.

Complementarity of values and codes of conduct.

7. The County Assembly Service values and the County Assembly Service Code of Conduct provided for in sections 5 and 6 shall be in addition to, and not in derogation from any others that may be specified by or under any other written law in relation to the citizens of Kenya generally.

PART III—COUNTY ASSEMBLY SERVICE BOARD

Qualifications of members of the Board.

8. In nominating or appointing any person as a member of the Board under section 12(2)(d) of the County Governments Act, 2012, the County Assembly, shall have regard to—

- (a) the person's experience or interest in consolidating and advancing the ideals and objectives of Parliamentary democracy;
- (b) the national values and principles set out in Article 10 of the Constitution;
- (c) the regional and ethnic diversity of the people of the County.

Qualifications and procedure for appointment.

9. (1) A person shall not be qualified for appointment as a member of the Board under section 12(3)(d) of the County Governments Act, 2012 unless such person—

- (a) is a citizen of Kenya and a resident of the County;
- (b) has at least ten years experience in public affairs; and
- (c) meets the requirements of leadership and integrity in Chapter Six of the Constitution.

(2) The procedure for appointment of the member of the Board referred to in subsection (1) shall be as set out in the First Schedule.

(3) The member of the Board referred to in subsection (1) shall serve on a part time basis and shall be paid such allowances as shall be determined by the Board.

Removal from office.

10. (1) A member of the Board may be removed from office on any of the following grounds-

- (a) Violation of the Constitution;
- (b) Inability to discharge his duties for any reason;
- (c) Bankruptcy
- (d) If he is convicted for any offence with a sentence of more than six months imprisonment.

(2) Any person may petition the Assembly for removal of the member of the Board on the grounds stated in (1) above.

(3) A member of the Board who is a member of the Assembly may in addition vacate office-

- (a) at the end of the term of the county assembly;

- (b) if the person ceases to be a member of the county assembly; or
- (c) if the person is an appointed member, on revocation of the person's appointment by the county assembly; or
- (d) if the person is the Speaker, leader of majority party or leader of minority party when the person ceases to be such Speaker, leader of majority party or leader of minority party.

(4) The procedure for removal of a member of the Board above shall be as prescribed in the Standing Orders of the Assembly.

(5) Despite subsection (3), when the term of the county assembly ends, a member of the county assembly service board shall continue in office until a new member has assumed office in the next assembly.

Functions of the Board.

11. (1) In addition to the functions set out in section 12(7) of the County Governments Act, 2012, the Board shall—

- (a) direct and supervise the administration of the services and facilities provided by, and exercise budgetary control over, the Service;
- (b) determine and review the terms and conditions of service of persons holding or acting in the offices of the Service;

- (c) initiate, co-ordinate and harmonize policies and strategies relating to the development of the Service;
- (d) initiate programmes-
 - (i) that may incorporate former members of the Assembly to promote ideals of parliamentary democracy;
 - (ii) that promote public awareness and participation in the activities of the Assembly;
- (e) do such other things as may be necessary for the well-being of the members and staff of Assembly.

(2) In the performance of its functions under the Constitution and this Act, the Board shall apply—

- (a) the national values and principles of governance set out in Article 10 of the Constitution;
- (b) the values and principles of public service set out in Article 232(1) of the Constitution.

Powers of the Board as a body corporate.

12. 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;
- (d) despite the provision of any other written law, establish a pension scheme for officers of the Service and, from time to time, determine:
 - (i) the rates of contribution to the scheme; and
 - (ii) the multiple of the annual basic salary for the group life and group personal accident benefits;
- (e) doing or performing all such other things or acts for the proper performance of its functions under this Act and any written law, which may lawfully be done or performed by a body corporate.

Comment [MK1]: To address the conflict between the Treasury and the Commission.

Committees of the Board.

13. (1) The Board may from time to time establish such committees as may be necessary for the better carrying out of its functions and the exercise of its powers.

(2) The Board may co-opt into the membership of any of the committees established under subsection (1) any person or persons whose knowledge and skills are necessary for the proper performance of the functions of the Board.

(3) A person co-opted under subsection (2) shall have no right to vote at any meeting of the committee.

Seal of the Board.

14. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Secretary.

(3) Any document purporting to be under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Secretary to the Board

15. The County Assembly Clerk shall be the secretary to the Board.

Conduct of business and affairs of the Board.

16. The conduct of business and affairs of the Board shall be as set out in the Second Schedule.

Functions of the Secretary.

- 17.** (1) The Secretary shall be—
- (a) the chief executive officer of the Board;
 - (b) the accounting officer of the Board;
 - (c) the administrative head of the County Assembly Service;
 - (d) the custodian of the Board's records;
 - (e) responsible for—
 - (i) the execution of the decisions of the Board;
 - (ii) assignment of duties and supervision of the staff of the Board;
 - (iii) facilitating, co-

coordinating and ensuring the execution of Board's mandate;

- (f) the preparation and submission of the programmes necessary for the achievement of the Board's mandate for approval by the Board;
- (g) causing to be kept records of the proceedings and minutes of the meetings of the Board and such other records as the Board may direct;
- (h) ensuring staff compliance with public service values, principles and ethics; and
- (i) the performance of such other duties as may be assigned by the Board or any other written law.

(2) The Board may delegate to the Secretary such of its functions as are necessary to carry out the day to day management of the Service, and subject to such directions as may be given by the Board.

(3) The Secretary may, in consultation with the Board, assign or delegate the functions under this section to any employee of the Service.

PART IV —THE CLERKS AND OTHER STAFF

Appointment.

18. (1) The nomination of a person for appointment as a Clerk of the Assembly shall be done through an open, transparent and competitive recruitment

process.

(2) A person shall be qualified for appointment as Clerk if the person —

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya or its equivalent;
- (c) has had at least five years relevant professional experience;
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution;

(3) The name of a person nominated by the Board for appointment as a Clerk of the Assembly shall be submitted to the Assembly for approval in accordance with the standing orders of the assembly.

(4) The Board shall, within seven days of receipt of the resolution of the Assembly approving a person for appointment as a Clerk of the Assembly, appoint that person as Clerk.

Procedural
functions of the
Clerk.

19. (1) The procedural functions of the Clerk shall include—

- (a) rendering expert, non-partisan and impartial advice to the members of the Assembly on the legislative process, and parliamentary procedure and practice;
- (b) carrying out such other duties and exercising powers as may be conferred on him or her by law or by the standing orders and practices of the Assembly.

(2) In carrying out the functions specified in subsection (1), the Clerk shall be assisted by such other officers of the Service as may be necessary.

(3) Subject to this Act and any other written law, the Clerk shall, in carrying out and exercising the power conferred on him or her by the standing orders and practices of the Assembly, be under the direction of the Speaker.

(4) At any time when the office of the Speaker is vacant or the holder of the office is unable for any reason to carry out the duties and exercise the powers and functions of his or her office, the Clerk shall, during that period and in relation to the carrying out of the duties and exercise of the powers and functions referred to in this section, be under the direction of the Deputy Speaker.

Exercise of functions of a Clerk during vacancy or inability.

20. If the office of the Clerk is vacant, or if for any reason the Clerk is unable to exercise the functions of his or her office, any other person for the time being performing the duties of the Clerk pursuant to the standing orders of the Assembly or by direction of the Speaker shall have and may exercise all the functions, duties and powers of the Clerk.

Suspension or removal of a Clerk.

21. The Clerk may be suspended or removed from office by the Board for—

- (a) inability to perform the functions of the office, whether arising from infirmity of body or mind;
- (b) gross misconduct or misbehaviour;
- (c) incompetence;
- (d) bankruptcy;

Procedure for
removal of a
Clerk.

- (e) violation of the provisions of the Constitution, including Chapter Six of the Constitution;
- (f) violation of the provisions of this Act; or
- (g) any other sufficient cause.

22. (1) Where the Board considers it necessary to remove a Clerk under section 20, the Board shall, in the following sequence—

- (a) frame a charge or charges against the Clerk;
- (b) forward the statement of the said charge or charges to the Clerk together with a brief statement of the allegations in support of the charges;
- (c) invite the Clerk to respond to the allegations in writing setting out the grounds on which the Clerk relies to exculpate himself or herself; and
- (d) invite the Clerk to appear before the Board, either personally or with an advocate as he or she may opt, on a day to be specified, to exculpate himself or herself.

(2) If the Clerk does not furnish a reply to the charge or charges within the period specified, or if in the opinion of the Board, the Clerk fails to exculpate himself or herself, the Board shall give notice of a motion seeking that Assembly revokes the appointment of the Clerk.

(3) A motion under subsection (2) shall specify—

- (a) the grounds set out in section 20 in which the Clerk is in breach;
- (b) the facts constituting that ground.

(3) Upon notice of the motion under subsection (2), the Speaker of the relevant House shall refer the matter to the liaison committee to investigate the matter within ten days of receipt of the motion.

(4) The liaison committee shall, within ten days, report to the Assembly whether it finds the allegations against the Clerk to be substantiated.

(5) The Clerk shall have the right to appear and be represented before the liaison committee during its investigations.

(6) The Assembly shall consider the report of the liaison committee and resolve whether to approve the motion.

(7) If the Assembly approves a motion filed under this section, the Clerk against whom the motion was filed shall be deemed to have been removed from office from the date the motion was approved.

Directorates or departments in the Service.

23. (1) The Board shall establish such offices, directorates or departments in the County Assembly Service as it considers necessary or expedient for the efficient performance of the functions of the Service.

(2) The offices, directorates or departments established under subsection (1) shall be set out in an organisational structure issued by the Board.

(3) The Board may from time to time—

- (a) allocate functions to any directorate or department of the Service;
- (b) make such arrangements as appear to the Board expedient in connection with the creation, division, amalgamation or abolition of any directorate or department of the Service.

(4) The Board shall, before reviewing the organisational structure issued under subsection (2), appoint a reputable consultant or human resource firm to advise on the effectiveness and efficiency of the intended review.

County Assembly
schemes of
service.

24. (1) The Board shall formulate and disseminate to officers of the County Assembly Service schemes of service setting out the terms and conditions for the appointment of the officers and other staff of the Service which shall provide for—

- (a) the appointment and confirmation of appointment of officers and other staff;
- (b) promotions, resignations and termination of appointments;
- (c) secondment of staff and transfer of service;
- (d) the scales of salaries and allowances payable; and
- (e) the designation and grades of officers and other staff.

(2) The Secretary shall be responsible for the administration of the schemes of service for the staff of the County Assembly Service.

Social security scheme.

25. Notwithstanding the provisions of any other law, the Board—

- (a) shall establish a contributory pension scheme for all its employees;
- (b) shall determine the rates of contribution to the pension scheme referred to in paragraph (a);
- (c) may establish or adopt a contributory optional superannuation, provident or medical fund or other scheme for its employees and may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any employee.

Disciplinary control of officers.

26. (1) The Board shall exercise disciplinary control over the officers of the Service.

(2) The Board may terminate the employment of an employee of the Service in accordance with the provisions of this Act and the regulations made thereunder.

(3) The provisions of Article 236 of the Constitution shall apply in relation to the exercise of the powers conferred under this section.

Establishment of the Staff Advisory Committee.

27. (1) For the purposes of discipline and removal of officers and staff of the County Assembly Service, the Board shall establish a committee to be

known as the Staff Advisory Committee which shall consist of-

- (a) the Clerk as the chairperson;
- (b) the officer in charge of human resource, as the secretary;
- (c) the officer in charge of legal services in the Board;
- (d) One more officer, appointed by the Board on the recommendation of the Clerk.

(2) The Board may, by resolution, delegate the following disciplinary powers to the Staff Advisory Committee—

- (a) the power of appointment (including acting appointment), promotion and transfer;
- (b) the power of confirmation in appointment of an employee on probation or the extension of the probationary period of an employee;
- (c) the power to terminate the probationary appointment of an employee;
- (d) the power to retire compulsorily an employee who has reached the age at which he can lawfully be required to retire from the County Assembly Service;
- (e) the power to retire an employee on the ground of ill health;

- (f) the power to interdict any employee;
- (g) the power to suspend any employee;
- (h) the power to stop, withhold or defer normal increment of an employee;
- (i) the power to stop the pay or salary of an employee;
- (j) the power to reprimand an employee;
- (k) the power to inflict reduction in rank or seniority.

(3) The procedure of the Staff Advisory Committee shall be as prescribed.

Retirement and resignation of employees.

28. (1) An employee shall retire from the Service on attaining the age of sixty years.

(2) An employee may—

- (a) after attaining the age of fifty years, elect to retire from the Service at any time; or
- (b) in such manner as may be prescribed, resign from the Service at any time.

(3) The Board may, subject to subsection (4), require an employee to retire from the Service at any time.

(4) The retirement under subsection (3) shall be—

- (a) done in such manner and for such reasons as may be prescribed; and
- (b) upon payment of all the benefits owing to the officer at the time of retirement and such other exit package as may be prescribed.

PART V— FINANCIAL PROVISIONS

Establishment of
a County
Assembly Fund

29. There is established a fund to be known as the Kilifi County Assembly Fund.

(1) There shall be paid into the Kilifi County Assembly Fund—

- (a) such monies as may be appropriated out of the Revenue Fund pursuant to this Act;
- (b) any grants, gifts, donations or bequests; and
- (c) such monies as may be allocated for that purpose from investments, fees, or levies administered by the Board.

(2) There shall be paid out of the fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act or any other related law.

(3) The administrator of the fund shall ensure that the earnings of, or accruals to the fund are retained in the fund; and spent only for the purposes for which the fund is established.

(4) Subject to this section and any other law on the regulation of the fund for the time being in force, the Chairman of the Board shall, by regulations, provide for the management and administration of the fund and for anything incidental to and connected therewith.

(5) The Secretary to the County Assembly Service Board shall, on the directions of the Board, open and operate such bank accounts as may be necessary for the purposes of the fund

Financial estimates.

30. (1) At least three months before the commencement of each financial year the Secretary to the Board shall cause to be prepared, estimates of all the expenditure required for the purposes of this Act for that year, and shall present such estimates to the Board for review.

(2) The Board shall review the estimates forwarded under sub-section (1) and may make such alterations thereto as it may consider necessary, and shall thereafter forward them to the Assembly for approval

(3) The Secretary shall provide the County Treasury with a copy of estimates as reviewed by the Board under subsection (2).

(4) Upon the approval of the estimates by the Assembly, all monies from time to time required for the purposes of this Act, shall be paid from the Revenue Fund into the County Assembly Fund.

Accounts and audit.

31. (1) The Board shall cause to be kept all proper books of accounts of the income, expenditure and

assets of the Board.

(2) Within three months after the end of each financial year, the Secretary to the Board shall-

- (a) submit to the Auditor-General the accounts of the Board for the year with copies to the County Treasury and the Controller of Budget; and
- (b) publish and publicize the financial statement.

(3) In preparing the financial statement for the County Assembly Fund, the Secretary shall ensure that the report contains information on the financial and non-financial performance of the Fund.

Remuneration of members and staff of the Board.

32. (1) Members of the Board shall receive such allowances as may be determined by the Salaries and Remuneration Commission.

(2) The employees of the Board shall be paid such remuneration and allowances as shall be determined by the Board.

Expenses of the Board.

33. (1) The expenses of the Board incurred in the execution of their functions under the constitution and this Act shall be charged on and issued out of the revenue fund

(2) without prejudice to subsection (1), there may be made to the Board grants, gifts, donations or bequests towards achievements of the objects of the Board

(3) The Board shall not accept any grant, gifts, donations or bequests made on any condition that the Board or the Assembly performs any function or discharges any duty or obligation other than duties under the County Governments Act, 2012 and this Act.

PART VI—MISCELLANEOUS PROVISIONS

Legal proceedings
against the Board.

34. (1) Proceedings against the Board shall be commenced in the name of the Board.

(2) Any notice or other processes in respect of legal proceedings under subsection (1) shall be served upon the Secretary to the Board.

Annual report of
operations of the
Board.

35. (1) Within three months after the end of each calendar year, the Board shall prepare and lay before the Assembly, a report of its operations during that year.

(2) The annual report shall in respect of the year to which it relates, contain—

- (a) the financial statements of the Board;
- (b) the activities the Board has undertaken;
- (c) an evaluation on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the public service;
- (d) information relating to performance of the County Assembly Service and attendant challenges; and
- (e) any other information that the Board may consider relevant.

(3) The Board shall cause the annual report to be

published in the Gazette.

Designated member may present documents, etc., in the Assembly.

36. A member of the Board authorised by the Board in that behalf may—

- (a) lay before the Assembly any document or other matter;
- (b) reply to a question relating to the affairs of the Board.

Oath of office for members and staff of the Board.

37. (1) The chairperson, vice-chairperson and members shall, before assuming office, take and subscribe to the oath or affirmation of office prescribed in the Third Schedule.

(2) The Secretary and such other officers of the Board as the chairperson may require so to do, shall, on first appointment, take an oath in the form prescribed in the Third Schedule to this Act.

(3) Where any person required to take an oath has no religious belief or the taking of such oath is contrary to his religious belief, he or she may make and subscribe a solemn affirmation in the form of the oath appointed, substituting the words “solemnly and sincerely declare and affirm” for the word “swear” and omitting the words “So help me God”.

(4) Every oath or affirmation taken by the chairperson shall be administered by the secretary and every oath or affirmation taken by any other member or the secretary shall be administered by the chairperson.

(5) Every oath or affirmation taken by any other officer shall be administered by the secretary.

Power to order attendance of witnesses.

38. The Board or any committee thereof may, subject to section 38, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control

of that person.

Privileges of witnesses.

39. Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Board or a committee thereof shall be entitled, in respect of that evidence or the disclosure of any communication or the production of any paper, book, record or document to the same right or privilege as before a court of law.

Evidence of proceedings in the Board not to be given without leave.

40. (1) A member or an officer of the Board or any person employed to take minutes or evidence before the Board or any committee shall not give evidence elsewhere in respect of the contents of those minutes or evidence or of the contents of any document laid before the Board or that committee or in respect of any proceedings or examination held before the Board or that committee without special leave first obtained from the chairperson.

(2) The special leave referred to in subsection (1) may be given by the vice-chairperson in the absence or other incapacity of the chairperson.

Protection of members and staff of the Board.

41. (1) Any act or thing done by any member of the Board or by any officer or servant of the Board shall not, if the act or thing was done in good faith for the purposes of carrying out this Act into effect, subject him or her personally to any liability, action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for an injury suffered by them, their property, or any of their interests arising directly or indirectly from the exercise of any power conferred by this Act.

Communication of Board

42. (1) A person shall not in any legal proceedings be permitted or compelled to produce or

privileged.

disclose any communication, written or oral which has taken place between the Board or any member or officer of the Board, in the exercise of, or in connection with the exercise of, the function of the Board unless in accordance with this section.

(2) Pursuant to Article 24 of the Constitution, the Board may decline to give information to an applicant where —

- (a) the giving of the information requested is prejudicial to national security or the interests of Parliament in the performance of its functions;
- (b) the information requested is at a deliberative stage by the Board;
- (c) there is failure to pay the prescribed fee; or
- (d) the applicant fails to satisfy any confidentiality requirements by the Board.

(3) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

(4) Every member and employee of the Board shall sign a confidentiality agreement.

Offences and penalties under the Act.

43. (1) Any person who—

- (a) in connection with an application by himself or herself or any other person for employment, appointment or promotion in the Service, or in connection with any matter on which it is the duty of

the Board to require information or evidence, or into which it is the duty of the Board to inquire, wilfully gives to the Board or to any member thereof any information which is false or misleading in any material particular;

- (b) in a manner contrary to the provisions of this Act, publishes or discloses to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his or her duties under this Act, and any person who knowingly acts in contravention of this paragraph;
- (c) having possession of any information which to his or her knowledge has been published or disclosed in contravention of paragraph (b) of this section, publishes or communicates to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his or her duty any such information;
- (d) otherwise than in the course of duty, directly or indirectly by himself or herself or by any other person in any manner whatsoever unlawfully influences or attempts to influence any decision of the

Board or of any member thereof;

- (e) disobeys any order made by the Board or a committee for attendance or for production of papers, books documents or records; or
- (f) refuses to be examined before, or to answer any lawful and relevant question put by the board or a committee,

commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

(2) Subsection (1)(d) shall not prohibit any person from giving a certificate or testimonial to any applicant or candidate for the Service or supplying any information or assistance upon formal request made by the Board.

Regulations by
the Board.

44. (1) The Board may make regulations generally for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this Act may provide for—

- (a) anything required by this Act to be prescribed;
- (b) the conduct of the business of the Board;
- (c) the administration and management of the services and

facilities;

- (d) the terms and conditions of service, pension and other retirement benefits of employees;
- (e) the measures for the discipline of employees;
- (f) the financial procedures of the Board;
- (g) the orientation and training of members of the Assembly and employees;
- (h) the security of members of the Assembly;
- (i) the handling of the assets and other resources of the Board;
- (j) the delegation of the Board's functions or powers; and
- (k) any other matter required under the Constitution, this Act or any other written law.

(3) 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 and give directions for the orderly conduct of business of the Board, to guarantee safety of Members and to ensure the Assembly is properly equipped and facilitated for effective

discharge of its functions.

- (b) the regulations made and directions given under this section shall be of such nature, scope and within the limits as specified under this section;
- (c) the principles and standards applicable to the regulations made and directions given under this section are the usages, forms, precedence, customs, procedures and traditions of the Parliament of Kenya to which the Assembly is premised and other jurisdictions to the extent that these are applicable to Kenya.

Transitional provisions.

45. (1) Where the transfer of any property transferred to or vested in the Board is required by any written law to be registered, the Board shall, within three months from the commencement of this Act or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the Board or any person by way of registration fees, stamp or other duties—

- (a) make such entries in the appropriate register as shall give effect to the transfer;
- (b) where appropriate, issue to the Board a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as

may be necessary; and

- (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.

FIRST SCHEDULE (s. 9(2))

PROCEDURE FOR APPOINTMENT OF A MEMBER OF THE BOARD

1. Upon the convening of the first sitting of County Assembly or where a vacancy arises in the membership of the Board under section 12(5) of the County Governments Act, 2012, the Secretary to the Board shall, within fourteen days of that first sitting or the occurrence of the vacancy, by notice in the Gazette and at least two daily newspapers of national circulation, declare a vacancy and invite interested qualified persons to apply.

2. Any person qualified in accordance with

this Act may make an application to the Secretary within fourteen days of the publication of the notice.

3. The selection panel established under paragraph 9 shall, within fourteen days after the last date of submission of application under paragraph 2, consider the applications, shortlist, conduct interviews and recommend the name of one applicant qualified for the position.

4. The name of the person recommended under paragraph 3 shall be submitted to the Assembly for approval and appointment in accordance with the Standing Orders of the Assembly.

5. If the Assembly approves the name recommended under paragraph 3, the Secretary shall, within seven days after the approval, publish the name in the Gazette.

6. Where the Assembly rejects the name recommended under paragraph 3, the Speaker shall communicate its decision to the selection panel and request for a fresh nomination by the selection panel.

7. In submitting a new nominee under paragraph 6, the selection panel shall within seven days, submit to the National Assembly and the Senate a fresh nomination from amongst the persons shortlisted by the selection panel under paragraph 3.

8. If the Assembly rejects any of the subsequent nominees submitted by the selection panel for approval under paragraph 7, the provisions of paragraphs 1 to 6 shall apply.

9. For the purposes of this Schedule, the selection panel shall consist of—

- (a) The Speaker of the Assembly;

- (b) one member of the County Assembly, being the senior most member in terms of period of service to Assembly;
- (c) the Member elected to deputize the Speaker pursuant to Article 178(2)(b) of the Constitution;
- (d) The Clerk who will be the secretary of the selection panel.

10. Whenever there is a tie in seniority of members under paragraph 9(b), seniority shall be determined by having regard to the age of the members.

11. Notwithstanding the above provisions, the Board shall be constituted within 30 days after the first sitting of the Assembly after a general election.

SECOND SCHEDULE

(s. 15)

PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD

- 1.** The Board shall meet as often as may be necessary for the carrying out of its business but it shall meet at least once every calendar month.
- 2.** A meeting of the Board shall be held on such date and at such time as the chairperson shall determine.
- 3.** The chairperson or in the absence of the chairperson, the vice-chairperson, shall, within seven days of receipt of a written application of at least three members, convene a special meeting of the Board.

4. Unless the majority of the total membership of the Board otherwise agree, at least seven days' written notice of every meeting of the Board shall be given to every member of the Board.

5. The quorum for a meeting of the Board shall be three members.

6. The chairperson shall preside at every meeting of the Board and in the absence of the chairperson at a meeting, the vice-chairperson shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number to preside and who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

7. Subject to this section, the Board may by regulations or otherwise regulate its own procedure and, with the consent of the County Public Service Board, as may be appropriate, may confer powers or impose duties on any public officer or authority for the purpose of the discharge of its functions.

8. Subject to any regulations made under paragraph 7, the Board may act notwithstanding a vacancy in its membership or absence of a member, and its proceedings shall not be invalidated by the presence or participation of a person not entitled to be present at or to participate in those proceedings.

9. The Board shall endeavour to reach every decision by consensus.

10. Where on any matter consensus cannot be obtained, the decision of the Board shall require the concurrence of a majority of all the members present at the meeting.

11. The Board may, by directions in writing, delegate any of its powers under this section to any one or more of its members or to any officer in the County Assembly Service.

12. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books for that purpose.

13. Except as provided by this Schedule, the Board may

regulate its own procedure.

THIRD SCHEDULE

(s. 36)

OATH/AFFIRMATION OF OFFICE

Oath/Affirmation of Member of the Board

I having been appointed as Chairman/Vice Chairman/Member of the County Assembly Service Board do swear/solemnly and sincerely declare and affirm that I will without fear or favour, affection or ill-will discharge the functions of the office of Chairman/Vice-Chairman/Member of the County Assembly Service Board, and that I will not, directly or indirectly, reveal any matter relating to such function to unauthorised persons or otherwise than in the course of my duty.

SO HELP ME GOD.

Sworn/Declared by the said

before me this day of

Chairman/Secretary
County Assembly Service Board

Oath of Confidentiality

I having been appointed as Chairman/Vice Chairman/Member of the County Assembly Service Board do swear/solemnly and sincerely declare and affirm that I will without fear or favour, affection or ill-will discharge the functions of the office of Chairman/Vice-Chairman/Member of the County Assembly Service Board, and that I will not, directly or indirectly, reveal any matter relating to such function to unauthorised persons or otherwise than in the course of my duty.

SO HELP ME GOD.

Sworn/Declared by the said

before me this day of

Chairman/Secretary
County Assembly Service Board

Oath/Affirmation of Officer of the Board

I being called upon to exercise the functions of secretary Officer/[other] of the County Assembly Service Board, do swear/solemnly and sincerely declare and affirm that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Board.

SO HELP ME GOD.

Sworn/Declared by the said

before me this day of

Chairman/Secretary
County Assembly Service Board

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish a legal framework for the Kilifi County Assembly Service Board which was established by the County Governments Act, 2012. This is intended to enhance the independence and autonomy of the Assembly from the County Executive hence improve the oversight role of the Assembly over the Executive.

The Bill proposes to establish the County Assembly Service and prescribes the values to be adhered to by members of the Service.

The Bill further seeks to establish the County Assembly Fund to which all monies appropriated for the Assembly will be kept further enhancing the independence of the Assembly.

Part I (clauses 1–3) of the Bill contains preliminary provisions. It names the proposed Act, defines the words and expressions used in the Bill and lists the objects of the proposed Act.

Part II (clauses 4–7) of the Bill establishes the County Assembly Service and provides the values to be adhered to by officers of the Service.

Part III (clauses 8–16) sets out the administrative framework of the Bill, including the procedure for appointment of a member of the Board, removal of members of the Board and the powers and functions of the Board..

Part IV (clauses 17–27) of the Bill provides for the appointment of the Clerk and other officers of the Assembly and the manner these officers can be removed from office.

Part V (clauses 28–32) of the Bill sets out the financial provisions. This part establishes the County Assembly fund and provides the manner of operating the accounts of the institute.

Part VI (clauses 33–44) of the Bill contains provisions of a general nature.

This law when enacted will confer on a number of bodies and persons authority to make provisions having the force of law in Kenya in terms of Article 94 (6) of the Constitution of Kenya, 2010.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided through the estimates.

Dated the, 2014

XXXXXXXX,
Member of the County Assembly.

ZERO DRAFT