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**THE BUNGOMA COUNTY EDUCATION BURSARY
FUND BILL, 2014**

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**SCHEDULE—PROVISIONS AS TO THE CONDUCT
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THE BUNGOMA COUNTY EDUCATION BURSARY FUND BILL, 2014

AN ACT of County Assembly of Bungoma to provide for the establishment of the County Education Bursary Fund, to provide for the management, governance and the administration of the Fund, and for connected purposes

ENACTED by the County Assembly of Bungoma as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Bungoma County Education Bursary Fund Act, 2014.

Short title.

2. In this Act unless the context otherwise requires—

Interpretation.

“Chief Officer” means the county chief officer as appointed under section 45 of the County Governments Act, 2012 responsible to the county executive committee member for the time being responsible for education;

Act 17 of 2012.

“Committee” means the Ward Education Bursary Committee established under section 6;

“designated educational institution” means such public secondary schools and public special needs primary and secondary schools which have been designated as such in accordance with the Education Act, and the Basic Education Act;

“Executive Member” means the member of the county executive committee for the time being responsible for education;

“Fund” means the Bungoma County Education Bursary Fund established under section 4;

“Ward” has the meaning assigned to it in section 2 of the County Governments Act, 2012;

“Ward Administrator” has the meaning assigned to it in section 51 of the County Governments Act, 2012.

3. The purpose of this Act is to provide a legal framework for establishing a county education bursary fund for providing financial assistance to eligible students in the county, in order to—

Purpose of the Act.

(a) enhance access to education;

- (b) promote and increase enrollment, retention, completion and transition rates in schools;
- (c) improve education standards and literacy levels; and
- (d) reduce poverty and inequality.

PART II—THE EDUCATION BURSARY FUND

4. (1) There is established a Fund to be known as the Bungoma County Education Bursary Fund.

Establishment of the Fund.

5. (1) The Fund shall be used for—

Fund Expenditure.

- (a) providing education grants or bursaries to eligible students enrolled in secondary schools universities and colleges and special primary or secondary schools;
- (b) meeting any expenditure related to administration of the Fund as may be approved by the Executive Member:

provided that not more than three per cent of the total monies consisting of the Fund shall be utilized for administration of the Fund.

(2) The monies of the Fund shall be disbursed through the Wards.

(3) An amount totaling to eighty five per cent of the monies set aside for disbursement under this Act shall be allocated equally to all the Wards.

(4) An amount totaling fifteen per cent of the monies set aside for disbursement under this Act shall be allocated in accordance with the prescribed formula determined in accordance with the population of secondary school going children, poverty levels and such other criteria as may be determined under this Act.

6. (1) There is established a Fund to be known as the Bungoma County Education Bursary Fund.

Establishment and Administration of the Fund.

(2) The Fund shall consist of—

- (a) monies as appropriated by the county assembly;
- (b) sums received as contributions, gifts or grants from any lawful source;
- (c) monies earned or arising from any investment of the Fund; and

any money that may be payable or vested in the Fund.

(3) The County Executive Committee Member for finance shall designate the Chief Officer as the person responsible for administering the Fund and whose duties shall be to—

- (a) supervise and control the administration of the Fund;
- (b) be the accounting officer of the Fund;
- (c) prepare a budget and such plans for better administration of the Fund to be approved by the county executive committee;
- (d) impose conditions or restrictions on the use of any expenditure arising from the Fund;
- (e) cause to be kept proper books of account and other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;
- (f) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Audit Act, 2003, and in such details as the County Treasury may, from time to time, direct;
- (g) furnish such additional information as may be required for examination and audit by the Auditor-General, or under any law; and
- (h) designate such staff as may be necessary to assist in the management of the Fund.

(3) All monies received by the Fund shall be maintained in a separate bank account in the name of Bungoma County Education Bursary Fund opened and administered in accordance with the provisions of the Public Finance Management Act, 2012.

(4) The balance of the Fund at the close of each financial year shall be retained in the Fund for purposes for which the Fund is established.

7. (1) There is established for each Ward a Ward Education Bursary Committee.

Ward Education
Bursary Committee.

(2) The Committee shall consist of the following members—

- (a) a Chairperson appointed by the Executive Member through a competitive process and in consultation with the elected member of the county assembly;
 - (b) the elected member of county assembly who shall be an *ex officio* member;
 - (c) the county officer in charge of education in the Ward as secretary, who shall be an *ex officio* member;
 - (d) one person representing faith based organizations involved in education matters in the Ward, nominated by a joint forum of faith based organizations in the Ward;
 - (e) one person representing non-governmental organizations and community based organizations involved in education matters in the Ward, nominated by a joint forum of nongovernmental organizations and community based organizations in the Ward;
 - (f) one person experienced in education matters representing persons with disability, nominated by a joint forum of organizations of persons with disability in the Ward;
 - (g) one person representing the youth, nominated by a joint forum of youth organizations in the Ward; and
 - (h) two persons nominated by the county assembly Member and appointed by the Executive Member.
- (3) A person shall be qualified for appointment as a member under sub section (2) (d) (e), (f), (g) and (h) if the person—
- (a) holds at least a secondary level education certificate;
 - (b) meets the requirements of chapter six of the Constitution;
 - (c) is experienced in matters relating to education and community development; and
 - (d) is a resident of the Ward.

(4) The organizations nominating members under paragraphs (d), (e), (f) and (g) of subsection 2 shall propose three names of persons to be considered for appointment to the Executive Member who shall appoint one for each category.

(5) For the purposes of appointing the members under sub- section 2(h), the county assembly Member shall propose three names of persons amongst whom the Executive Member shall appoint two persons.

(6) A person appointed under subsection (2) (a), (d), (e), (f), (g) and (h) shall serve for a term of three years which may be renewed for one further and final term which shall expire upon the constitution of a new committee in accordance with subsection (7).

(7) The term of the committee shall expire upon the final announcement of the results of the election of the Governor and members of county assembly during the general elections, but the members shall remain in office until a new Committee is constituted.

8. (1) The Committee shall be responsible for—

Functions of the
Committee.

- (a) receiving, reviewing and approving applications for education grant, bursary , as the case may be, under this Act;
- (b) determining the amount of education grant, bursary as the case may be, to be awarded to each approved applicant;
- (c) monitoring and evaluating the progress and performance of the eligible students supported under this Act;
- (d) creating awareness among the residents of the ward about the Fund;
- (e) carrying out such other roles as are necessary for the implementation of the object and purpose of this Act, and perform such other functions as may, from time to time, be assigned by the Executive Member.

(2) The secretary to the Committee shall provide secretarial services to the Committee.

9. (1) The conduct and regulation of the business and affairs of the Committee shall be as set out in the Schedule.

Conduct of
business.

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

10. The remuneration of the members of the Committee shall be as determined by the County Treasury.

PART III—EDUCATION GRANT AND BURSARY AWARDS

11. In awarding education grant or bursary, the Committee shall be guided by the following principles—

Guiding principles.

- (a) fairness in allocating monies;
- (b) equitable distribution of allocation of monies to all parts of the ward;
- (c) inclusivity and non discrimination in ensuring that all residents are included in the process;
- (d) public participation;
- (e) accountability and transparency; and
- (f) efficiency in funds disbursement.

12. An applicant may be eligible for an education grant or bursary under this Act if the applicant—

Eligibility for education grant or bursary.

- (a) has a parent or guardian who has been a resident in the ward for at least three years;
- (b) is a student, and attending a secondary school or, special school, at either primary or secondary level on a full time basis, or enrolled in a university or college;
- (c) has not received full financial support towards payment of the required school fees for that year; and
- (d) meets the conditions set out under section 13 of this Act.

13. An education grant, or bursary, under this Act shall only be granted to a person who is—

Conditions for education grant, bursary.

- (a) an orphan;
- (b) vulnerable due to family or social setting;
- (c) person with disability, or has special needs; or
- (d) poor, and whose parents or guardians have no means of providing financial support towards the person's education.

14. (1) An eligible student applying for an education grant or award of bursary under this Act shall apply to the Committee in the prescribed form.

Application for education grant, bursary.

(2) The Committee shall ensure that the forms are accessible in at least—

- (a) the office of the Member of County Assembly;
- (b) the county government office; (c) the county government website.

(3) Notwithstanding subsection (2), the Committee may partner or collaborate with education stakeholders such as schools, faith based or nongovernmental or community based organizations for provision of the forms to eligible students.

(4) An applicant shall not be charged any fee for accessing the forms prescribed under this Act.

(5) An applicant shall—

- (a) if a continuing student, submit the duly filled form by 5th December each year; or
- (b) if new student, submit the duly filled form by 31st January each year.
- (c) if enrolled in a university or college, submit an application form between the months of January to July in each year.

15. The Committee shall review and consider the applications submitted under section 14 within fourteen days after the expiry of the stipulated date of submission.

Review of applications.

16. (1) The Committee may, after considering an application under section 15, award an education grant, bursary as the case may be, in accordance with the criteria set out under subsection (2) and the guidelines issued by the Executive Member in regard to specific amounts that may be awarded to each category of applicant.

Awarding education grant or bursary.

(2) The Committee shall consider the following categories of applicants in determining the amount of the education grant, bursary awarded—

- (a) family status ranked as total orphan, partial orphan, single parent, or parents in financial need;

- (b) affirmative action or special circumstances such as girl-child, boy-child, children from informal settlements, marginalized areas or of special needs, or with disability;
- (c) discipline ranked as excellent, very good, good, fair or poor;
- (d) academic performance ranked as excellent, very good, good, average or below average; and
- (e) such other categories as may be prescribed by regulations by the Executive Member.

(3) The Committee shall award scores in each category out of a possible one hundred, and the applicants with the highest scores shall be awarded an education grant, bursary or as the case may be.

(4) The Committee shall ensure that proper minutes and records of all the meetings are maintained.

(5) In considering the applications under this section, the Committee shall liaise, where applicable, with other relevant public or private entities to ascertain whether an applicant has been awarded an education grant, bursary under a similar scheme to cater for the same year and the amount awarded.

(6) Where the Committee establishes that an applicant has been awarded an education grant, bursary under subsection (5), it may award additional education grant or bursary to the applicant to meet the remaining fees deficit:

Provided that the Committee may give priority to applicants who have not received any education grant, bursary from any source.

17. The Committee shall verify all the information provided by the applicant, and may —

Verification of
information.

- (a) visit the residence of an applicant;
- (b) seek further information to support the application; or
- (c) invite the applicant to appear in person before the Committee.

18. (1) The Committee shall submit the list of beneficiaries and minutes of the proceedings to the Executive Member for final approval and preparation of payment for the education grant, bursary awarded.

Disbursement.

(2) Where an applicant who is not eligible under this Act is awarded an education grant, bursary by the Committee, the Executive Member may cancel the grant, bursary, and give further directives to the Committee.

(3) The Executive Member shall submit the final list of beneficiaries to the County Treasury for the processing of payments.

(4) The County Treasury shall make payments in favor of, and directly to, the designated educational institutions in which the eligible students are enrolled, and there shall be no payment to any eligible students.

(5) The County Treasury shall ensure that all the payments are processed—

- (a) in the case of continuing eligible students, not later than 31st January each year; and
- (b) in the case of new students, not later than the last day of February each year.
- (c) in the case of new students joining university or college within the month of intake as shall be specified in the application form.

19. The monies disbursed for an education grant, bursary may be applied towards any or all of the following uses depending on each eligible student's needs and any guidelines prescribed by the Executive Member —

Application of
Disbursed Funds.

- (a) the tuition fees in the designated educational institution in which the eligible student is registered;
- (b) the cost of books and other course-related supplies; and
- (c) the cost of school uniform; and
- (d) where the eligible student is enrolled in a designated educational institution outside the Ward in which he or she is resident and is required to board in such institution, the cost of boarding and lodging of the eligible student in the designated educational institution, and necessary supplies in reasonable quantities, for such student as prescribed by the designated educational institution.

20. (1) A person who is aggrieved by the decision of the Committee may appeal to the Executive Member.

Appeals.

(2) The Executive Member may uphold the decision of the Committee, or make further recommendations to the Committee within fourteen days after receiving an appeal under sub-section (1).

21. (1) The Committee shall publish the list of beneficiaries in—

Publication list of beneficiaries.

- (a) the office of the Ward Administrator;
- (b) the office of the Member of County Assembly;
- (c) the office of the county officer in charge of education in the Ward;
- (d) the office of the national government officer responsible for coordination of national government functions in the ward; and
- (e) such other place as the Executive Member may determine.

(2) The Committee shall ensure that list of beneficiaries is accessible to the public.

(3) The Committee shall convene a public forum for all the applicants awarded an education grant, bursary in each financial year and education stakeholders in the Ward, in order to inform them on the successful eligible students for the respective financial year.

22. The county government and the Committee may collaborate, consult or enter into partnership with other county governments, public entities or private entities for the purposes of implementing this Act.

Partnership.

23. (1) The Committee shall convene an annual forum for all successful eligible students and their parents or guardians who are beneficiaries of the education grant, bursary under this Act.

Annual forum.

(2) The annual forum shall provide a platform for reviewing and evaluating the education grant, bursary award scheme established under this Act.

24. The Executive Member may establish a mentorship and leadership empowerment program for students supported under this Act.

Mentorship.

Regulations.

25. (1) The Executive Member may make regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

- (a) prescribe additional guidelines regarding education grant or bursary awards;
- (b) prescribe the relevant forms.

(3) Pursuant to Article 94(6) of the Constitution, the authority delegated to the Executive Member in this section shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

----- SCHEDULE

(s. 9)

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

Vacation of office.

1. A member of the Committee may—

- (a) at any time resign from office by notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member, if the person—
 - (i) has been absent from three consecutive meetings of the Committee without the permission of the chairperson;
 - (ii) is convicted of a criminal offence, and sentenced to imprisonment;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is adjudged bankrupt, or enters into a composition scheme of arrangement with his or her creditors;
 - (v) is incapacitated by prolonged physical or mental illness, or is deemed otherwise unfit to discharge his or her duties as a member of the Committee; or

(vi) fails to comply with any of the provisions of this Act.

2. (1) The Committee shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

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

(4) The quorum for the conduct of the business of the Committee shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Committee at which he or she is present but, in his or her absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of votes of the members present and voting and, in the 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 Committee shall be invalid by reason only of a vacancy among the members thereof.

Conflict of interest.

3. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Committee, and is present at a meeting of the Committee at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, 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 contract or matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose, but such member shall not have the right to vote on the matter in question.

(2) A member of the Committee shall be considered to have a conflict of interest for the purposes of this Act if he or she acquires any pecuniary or other interest that could conflict with the proper performance of his or her duties as a member of the Committee.

(3) Where the Committee becomes aware that a member has a conflict of interest in relation to any matter before the Committee, the Committee shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he or she shall, in addition to complying with the other provisions of this section, disclose the conflict in writing to the Executive Member.

(5) Upon the Committee becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Committee, and the member with the conflict of interest shall not vote on this determination.

4. Within six months of the commencement of this Act, the Committee shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Committee in the performance of their duties.

Code of conduct.

5. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

Minutes.

MEMORANDUM OF OBJECTS AND REASONS

This Bill establishes the Bungoma County Education Bursary Fund Bill. The Fund is expected to provide financial assistance to the poor and vulnerable students and pupils resident in the County who need to access public secondary education or public special needs education at both primary and secondary school level.

The Bill is structured as follows:

Section 1 provides for the short title of the Act when enacted.

Section 2 provides for the interpretations of terms used in the Act. This is intended to provide clarity during the interpretation and implementation of the Act.

Section 3 describes the purpose of the Act. Section 4 establishes the Fund.

Section 5 Fund Expenditure provides for the manner in which the expenditure of the Fund shall be incurred. It also prescribes a limit to the maximum percentage of the Fund that should be allocated towards operational expenses to ensure that the monies within the Fund are largely utilized towards the realization of the objectives of the Fund and not towards operational expenses. The Section also addresses how the monies of the Fund shall be allocated amongst the Wards within the County.

Section 6 provides for the manner in which the Fund will be capitalized including from appropriations from the County Revenue Fund, donations, gifts, grants and such other funds as may accrue to the Fund. This section also makes provision for the administration of the Fund.

Section 7 establishes the Ward Education Bursary Committee. It also prescribes the members of the Committee and the manner of their appointment.

Section 8 outlines the functions of the Committee.

Section 9 provides for the manner of the conduct of business of the Committee. This is further prescribed in the Schedule to the Bill.

Section 10 provides for the manner in which the Committee members will be remunerated as prescribed by the County Treasury.

Section 11 outlines the Guiding Principles in the award of the educational grants, bursaries under the Act.

Section 12 provides the eligibility criteria for students applying for education grant, and bursary.

Section 13 provides for the conditions to be met by students who are eligible for receipt of an education Grant, Bursary under the Act.

Section 14 provides for the manner in which eligible students may lodge applications for the and Education Grant, Bursary

Section 15 makes provision for the review of applications made by eligible students under the Act. It prescribes the number of days within which the Committee shall review such applications.

Section 16 provides for the manner in which the Committee shall award an Education Grant, Bursary.

Section 17 provides for the manner in which the Committee may verify information that has been provided by eligible students during the application process.

Section 18 provides for the manner in which the education grant, bursary is to be awarded and specifically requires that such disbursement shall be made to the designated educational institution and not directly to the eligible students.

Section 19 provides for the manner in which the education grant, bursary will be applied including towards tuition fees, costs of books, costs of boarding and lodging and other reasonable necessary supplies

Section 20 provides for an appeals mechanism by applicants who are aggrieved by the decision of the Committee.

Section 21 requires that the list of beneficiaries be published and provides for the manner in which such publication shall be effected.

Section 22 makes provision for the County Government and the Committee to enter into partnerships with other public and private entities for purposes of implementing the Act.

Section 23 requires that the Committee convene an Annual Forum for the successful eligible students and their parents or guardians who are beneficiaries of the education grant, bursary under this Act.

Section 24 empowers the County Executive Committee member to establish a mentorship and leadership empowerment program for students supported under this Act.

Section 25 provides for the promulgation of regulations to the Act.

The Schedule prescribes the manner in which business and affairs of the Committee shall be conducted under Section 9 of the Act. It addresses various issues including vacation of office, conduct of meetings, conflict of interest, development of the Code of Conduct for the Committee and requires the Committee to maintain minutes of the meetings of such Committees.

The Act shall occasion additional expenditure to the County. The expenditure will be appropriated by the County Assembly.

Dated the 17th October, 2014.

EVERLYNE MUTIEMBU,
Member of the County Assembly.

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