

SPECIAL ISSUE

Busia County Gazette Supplement No. 2 (Bills No. 2)

COUNTY ASSEMBLIES FORUM (CAF)

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NAIROBI, KENYA



REPUBLIC OF KENYA

***BUSIA COUNTY GAZETTE
SUPPLEMENT***

COUNTY ASSEMBLY BILLS, 2014

NAIROBI, 4th April, 2014

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THE BUSIA COUNTY TRANSPORT BILL, 2014

A Bill for

AN ACT of the County Assembly of Busia to provide for matters relating to traffic, parking, street lighting, and public road transport, to establish the County Department of Transport, to create an integrated and efficient transport system for Busia County, and for connected purposes

ENACTED by the County Assembly of Busia as follows—

PART I—PRELIMINARIES

1. This Act may be cited as the County Transport Act, 2014 and shall come into operation on such date as the Member of the Executive Committee, with the concurrence of the Governor, may appoint.

Short title and commencement.

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

Interpretation

“authorised person” means any person responsible for carrying out any duty or function or delegated to carry out any duty or function in terms of this Act.

“certificate” means operating authority issued under this Act;

“County Roads” means all roads clarified as county roads by the Cabinet Secretary responsible for roads and infrastructure;

“directorate” means the County Directorate of Transport established under section 5 of this Act;

“director” means the county director of transport under this Act;

“hazardous materials” means a substance or material in a quantity and form which may pose an unreasonable risk to health, safety and property when transported in commerce by all modes;

“light railway” means a railway whether above, on or under the ground and includes underground metropolitan trains, trams, sky trains, cable trains and magnetic

levitation trains;

“motor vehicle” includes a vehicle, bus, tractor, motorcycle, truck trailer or semi-trailer, propelled drawn by mechanical power and used upon public roads in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails or track;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto;

“ranking facility” includes—

- (a) a place upon a public road from which a public transport service may ply for hire or convey and drop off passengers; and
- (b) any place demarcated or designated for the exclusive parking of specific public transport vehicles by a road traffic sign;

“Governor” means the Governor of Busia County Government;

“financial year” means a period of twelve consecutive months from 1st July to 30th June;

“Member of the Executive Committee” means the Member of the Executive Committee responsible for roads and infrastructure;

“person” includes a company, corporate body (whether incorporated by or under statute or statutory authority), association, fund, natural person, partnership and a registered scheme

“private land” has the meaning assigned to it in the Constitution;

“public land” has the meaning assigned to it in the Constitution;

“prescribed” means prescribed under this Act; and

“regulations” means regulations made under this Act

3. (1) The overriding objective of this Act is to

Overriding
objectives and

provide a harmonized, efficient and effective legal and regulatory framework for the development and regulation of county transport matters for the following purposes—

- (a) to establish appropriate institutional systems for county transport sector management, coordination and regulation;
- (b) to develop and maintain an integrated and coordinated county transport infrastructure for efficient movement of passengers and freight and support disaster management efforts;
- (c) to develop encourage the participation of the private sector in and development partners in county transport sector funding/financing mechanisms;
- (d) to integrate land use planning and management in county transport matters;
- (e) to deliver efficient and effective sector operations to enhance county and national productivity;
- (f) to apply information technology in county transport planning, operations and management to enhance sector efficiency;
- (g) facilitate intra-county trade; and
- (h) to incorporate environmental protection and resource conservation issues in county transport sector activities; and
- (i) to create an integrated transport system that is sustainable-in economic terms, in environmental terms and in social terms.

(2) All County Government institutions, agencies, public servants and bodies charged with development and regulation of county transport shall at all times have due regard to, and observe, the overriding objective of this Act as set out in subsection (1)

(3) Whenever there is a conflict between this Act and any county law, having a bearing on achievement of the overriding objective of this Act, the provisions of this Act shall prevail.

(4) In the exercise of the powers or the performance of

functions under this Act, the Member of the Executive Committee, Director, and staff shall be guided by the following principles:—

- (a) public participation and inclusiveness;
- (b) integrity, authenticity and safe custody of transport records;
- (c) elimination of gender discrimination in administrative and management practices;
- (d) transparent and cost effective administration of the transport system; and
- (e) public safety and security.

4. The Member of the Executive Committee shall create collaborative linkages with national government institutions and transport departments of neighboring counties to ensure a coordinated implementation and master planning of the transport sector.

Obligations to
create
collaboration

PART II—ADMINISTRATION OF THE TRANSPORT SECTOR

5. (1) There is established the Directorate of Transport in the County Department responsible for roads and county transport.

Directorate of
transport

(2) The directorate shall be headed by a director who shall be appointed by the County Public Service Board through a competitive and transparent recruitment process.

6. (1) To qualify for appointment as director a person shall have had a distinguished career, and possess a university degree and at least five years working experience, in any of the following fields—

Qualifications for
appointment as
director

- (a) civil engineering;
- (b) land economics or real estate economics;
- (c) land survey or geospatial science;
- (d) land law;
- (e) environmental management or natural resources management;
- (f) physical planning;
- (g) land administration and management;

(h) infrastructure development.

(2) A person shall not be appointed as Director unless that person—

- (a) is of irreproachable integrity and moral standing;
- (b) has not been convicted of an offence involving fraud, dishonesty and abuse of office.

7. The County Public Service Board shall in consultation with the Member of the Executive Committee appoint such officers and other staff to work in the directorate to assist the directors to discharge functions of the directorate under this Act.

Appointment of
staff

8. The directorate by or through the director or duly authorized officers or employees, shall exercise the following functions—

Functions, powers
and duties of the
directorate

- (a) to co-ordinate and ensure the implementation of an efficient and sustainable transport system for the county;
- (b) to co-ordinate and assist in the balanced development and operation of transport facilities and services in the county;
- (c) to undertake studies and analyses of transport problems relating to any aspect of transport sector in the county.
- (d) to implement collaborative linkages with national government institutions and transport departments of neighboring counties to ensure a coordinated implementation and master planning of the transport sector.
- (e) to prepare plans, specifications, designs and estimates for the construction of county roads, parking facilities, bridges and related infrastructure;
- (f) to operate and maintain county roads, parking facilities, bridges and related infrastructure;
- (g) to promote safety in all forms of county public transport including the transportation of hazardous material;

- (h) carry out such activities, and undertake such projects, as may be necessary for the execution of its functions; and
- (i) perform such other functions as may be assigned to it by this Act, an Act of Parliament or any other Act of the County Assembly of Busia.

9. In the exercise of the powers and the performance of its functions the directorate shall—

Standard of
service by the
directorate

- (a) be bound in its respective activities by the provisions of the Constitution, relevant national laws, policies and the provisions of this Act;
- (b) demonstrate commitment, technical, infrastructural and administrative competence in carrying out its mandate;
- (c) adopt the principle of quality service and formulate relevant scheme of training for all categories of staff to uphold that principle;
- (d) be non-partisan and non-political in orientation and operations;
- (e) adhere to any performance targets that the Member of the Executive Committee may set from time to time in the discharge of its mandate; and
- (f) apply and promote such other positive values as the Member of the Executive Committee may, by regulations, prescribe.

10. (1) An authorized officer may, in enforcing the provisions of this Act, at any reasonable time and without prior notice—

Rights of entry

- (a) enter a public transport service facility to inspect the facility; and
- (b) make enquiries from a person connected with such facility.

(2) A person who prevents or attempts to prevent an authorised officer from undertaking his duties under this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to

both.

11. (1) A person shall not drive a motor vehicle on a public road—

Operating licence

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the relevant law or this Act; and
- (b) unless he or she keeps such licence or document or any other document with him or her in the motor vehicle.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

12. (1) A person shall not use force, intimidation, threats or by any other means, prevent or try to prevent:-

Preventing engagement of a public transport vehicle

- (a) any person from boarding a public transport vehicle;
- (b) the driver of a public transport vehicle from taking on passengers.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

13. (1) A person who is in charge of a public transport vehicle shall not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has been engaged, if that person or thing—

Conveying dangerous or offensive articles in public transport vehicles

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has obviously been exposed to or contaminated by an infectious or contagious disease.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

14. (1) A person shall not—

- (a) board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.
- (b) board a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry.
- (c) board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

Boarding and
disembarking
from public
service vehicles

A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

15. (1) The directorate shall establish ranking facilities in the county and may further erect or cause to be erected a queue sign or queuing barrier in any suitable form for the purpose of queuing;

Queues at public
transport facilities

(2) All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place must queue from the point at which it is indicated that such public transport vehicle will leave;

(3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle must form themselves into a queue not exceeding two abreast or in a single file when required to do so by an approved public transport conductor or authorised official of the County;

(4) A passenger may only enter a public transport vehicle when he or she gets to the front of the queue;

(5) Every passenger queuing must comply with all the instructions given by a public transport conductor, authorised officer or authorised official when on duty.

(6) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

PART III-DUTIES AND OBLIGATIONS OF PASSENGERS

16. A passenger must pay the prescribed fare for the use a public transport motor vehicle in such manner as the Member of the Executive Committee may determine.

Payment of fares

17. (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must disembark from the defective vehicle.

Rights of a passenger when the vehicle becomes defective

(2) Where the passengers have disembarked from the defective motor vehicle they are entitled to be refunded such amount of fare for the remainder part of the journey as may be prescribed..

18. (1) The following actions are prohibited on a public transport vehicle—

Actions prohibited on a public transport vehicle

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) interfering with the comfort of another passenger;
- (e) damaging anything and interfering with the equipment of the public transport vehicle;
- (f) forcibly causing the driver to deviate from his route .
- (g) endangering the life of another passenger;
- (h) interfering with the actions of the driver; and
- (i) showing or displaying any pornographic material

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

19. (1) The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must—

Property left in public transport vehicles

- (a) deliver that property to the person who left it

behind; or

- (b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer or to the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

20. (1) A person shall not park or allow a public transport vehicle to park in a stopping place designed for public transport vehicles.

Obstruction and
disruption of
traffic

(2) A person shall not cause a public transport vehicle to traverse a pedestrian crossing, when stopping to enable passengers to be picked up or dropped off.

(3) A person shall not cause a public transport vehicle to park in a demarcated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

(4) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

21. (1) A pedestrian shall cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.

Duties of
pedestrians

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.

(3) Where a traffic-control light signal, which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to

that in which he or she is proceeding.

(4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

(5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(6) A pedestrian shall not carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

(7) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

22. A person shall not use a sounding device or hooter of a vehicle on a public road except when such use is necessary in order to comply with the provisions of this Act or any other law or on the grounds of safety.

Use of hooter

23. (1) Subject to any other law, a person shall not drive a motor vehicle on a public road while holding, using or operating a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used.

Prohibition on the use of a communication device while driving

(2) An authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device.

(3) The authorised officer shall, when confiscating any hand held communication device-

- (a) inform the owner of such communication device of the reasons of confiscating and impounding;
- (b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and
- (c) follow all procedures contained in any law or policy of the County Government on the confiscation and impoundment of property.

(4) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

24. The county government shall install street lights within the County with special attention to the following areas:-

County to install street lighting

- (a). Major Traffic Routes,
- (b) High Crime Urban Areas,
- (c) Town Centers,
- (d) Pedestrian Crossings; and
- (e) Pedestrian Subways.

25. The directorate shall be responsible for the maintenance of street lights.

Maintenance of street lights

26. (1) A person shall not knowingly or carelessly damage a streetlight.

Maintenance of street lights

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

PART IV—PROVISIONS ON PARKING AND RELATED MATTERS

27. (1) A person shall not park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that impedes the flow of traffic.

Parking in a public road

(2) A person who contravenes the provisions of this

section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

28. (1) Unless required or permitted by this Act or by a traffic control device, or in compliance with the directions of a traffic officer, or to avoid conflict with other traffic, no person shall stop or park a vehicle;

Prohibited
parking areas

- (a) at an intersection nearer than ten (10) metres to the projection of the curb line immediately ahead or immediately to the rear;
- (b) within ten (10) metres on the approach to a stop sign or yield signs;
- (c) within five (5) metres of any fire hydrant, or when the hydrant is not located at the curb, within five (5) metres of the point on the edge of the roadway nearest the hydrant;
- (d) within ten (10) metres of the approach to a pedestrian crossing;
- (e) on a sidewalk;
- (f) facing oncoming traffic;
- (g) on any bridge or approach to any bridge;
- (h) in a passenger loading or unloading space posted as such by a traffic control device except when actually taking or discharging passengers;
- (i) on any portion of a public road posted as "No Parking";
- (j) on any land owned by the county which the county uses or permits to be used as a playground, recreation area, utility lot, or public park, except in such areas designated or posted for parking;
- (k) on any space posted as a fire lane except for emergency vehicles;
- (l) on any space posted for disabled persons parking unless such vehicle is designated as a disabled persons vehicle;

- (m) in a transit zone except a transit vehicle;
- (n) in such a manner so as to obstruct an emergency exit;
- (o) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station;

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

29. Despite the provisions of this Act, the directorate may cause moveable signs to be posted on or near a public road to indicate "No Parking", or "Street Maintenance" and when so posted, such signs shall take precedence over all other traffic control devices.

'No parking' and
'street
maintenance'

30. (1) A vehicle parked contrary to this act may be towed away at the owner's expense.

Towing away of
vehicle

(2) The directorate or any authorised person shall not be responsible for any damage that is caused on the motor vehicle when it is towed.

31. (1) A person shall not park a vehicle on any alley unless traffic control device otherwise permits, except for the following purposes:

Parking on alleys

- (a) the loading or unloading of goods from a commercial vehicle for a reasonable period;
- (b) the loading or unloading of goods other than a commercial vehicle for passengers from a vehicle reasonable period;

(2) Notwithstanding the provisions of subsection (1) above, a person, while loading or unloading passengers or goods, shall not park in such a manner as may obstruct the passage of other vehicles along the alley.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

32. A person shall park not a vehicle or permit a vehicle to be parked on private property without the

Parking on private
property

permission or authorization of the owner of the private property or a person having lawful possession or control of the private property.

33. (1) A person shall not park or permit to be parked, a trailer upon any public road unless the said trailer is attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be deemed part of the vehicle and subject to the provisions pertaining to vehicles.

Parking of trailers
upon public roads

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

34. (1) A person shall not operate a cab business in Busia County unless such a person belongs to a recognised cab/taxi associations.

Taxi associations

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both

35. Notwithstanding the establishment of a taxi zone on a roadway, operator of a taxicab stopping or parking in such a zone shall comply with the requirements of this Act.

Parking on taxi
zone

36. (1) A person shall not park or permit to be parked a vehicle that is not a cab, in an area posted as a taxi zone.

Compliance of
this act by
taxicabs

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both

37. (1) When parking a vehicle on a roadway, a person shall park a vehicle:-

Parallel parking

- (a) with the sides of the vehicle parallel to the curb or edge of the roadway, and the right wheels of the vehicle not more than five hundred (500) millimeters from the right curb or edge of the roadway; or

- (b) in the case of a one-way highway where parking on either side is permitted, with the sides of the vehicle parallel to the curb or edge of the roadway, the wheels that are the closest to a curb or edge of the roadway not more than five hundred (500) millimeters from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both

38. When a sign indicates that angle parking is permitted or required and no parking guidelines are visible on the roadway:

Angle parking
when no parking
signs are visible

- (a) a person may only park a vehicle with the vehicle's sides at an angle of between thirty (30) and sixty (60) degrees to the curb or edge of the roadway; and
- (b) in the case of a vehicle other than a motorcycle, with the nearest wheel not more than five hundred (500) millimeters from the curb or edge of the roadway; or
- (c) in the case of a motorcycle, with the nearest wheel of the motorcycle not more than five hundred (500) millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

39. (1) The Member of the Executive Committee shall designate an area known as the Central Business District in a city, towns, or urban area in Busia County.

Prohibition of
heavy commercial
vehicles in the
Central Business
District

(2) Despite any provisions of this Act and unless allowed under subsection (4) a heavy commercial vehicle shall not be allowed to enter or park in the Central Business District for purposes of offloading goods.

Heavy commercial vehicles shall offload goods in designated warehouses located in such areas as may be prescribed.

The Member of the Executive Committee may by a notice in the County Gazette allow such number of heavy commercial vehicles to access and park in the Central Business District for purposes of off-loading goods that cannot be physically off-loaded at designated warehouses.

PART V—PROVISIONS ON LIGHT RAILWAYS

40. The directorate may develop light railway works in the county and in connection thereto may maintain, improve or repair the light railway.

Development of
Light railway

41. (1) An authorised officer may, on production of his or her authorization if so requested by any person affected, for the purposes of this part enter on any land and—

Power to enter
upon land

- (a) inspect and survey the land and make any inquiry, investigation or examination for the purpose of ascertaining whether or not the land is suitable for the purposes of the construction of a light railway;
- (b) carry out any investigation or examination thereon preliminary or incidental to the purposes aforesaid;
- (c) bring thereon such other persons or equipment as he or she may reasonably consider necessary for the purposes of his or her functions under this section;
- (d) line sight, drill, bore, probe or excavate, or take such samples and carry out such tests as he or she reasonably considers necessary or expedient for the purposes of such functions.

(2) Before an authorised officer enters any dwelling house under subsection (1), he or she shall obtain the consent (which shall not be unreasonably withheld) of any owner or occupier of the dwelling house.

42. A person who trespasses on a light railway that is not on a public road or trespasses on any land, machinery or equipment used for the purposes of the light railway commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both

Trespass on a
railway

43. A person who uses or attempts to use a vehicle on a light railway with flange wheels or wheels suitable

Use of a vehicle
on a light railway

only for use on the rails of a light railway without the written consent of the directorate commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both.

PART VI—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

44. A person who obstructs or interferes with or assists a person to obstruct or interfere with any person in the performance of a function conferred on that person under this Act commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both

Obstructing
officers
authorised

45. (1) The directorate shall develop and periodically review a transport plan for Busia County.

Development of a
transport plan

(2) The transport plan shall be based on a national master plan of the transport sector, relevant national government policies and legislation.

(3) A transport plan developed under this section shall be submitted to the County Assembly before being implemented.

46. (1) The directorate shall cause an annual report to be prepared for each financial year.

Annual report

(2) The directorate shall cause the annual report to be published in the County Gazette and shall send a copy of the report to the Member of the Executive Committee and to the County Assembly.

(3) The annual report shall contain, in respect of the year to which it relates, a detailed description of the activities of the directorate.

47. The Member of the Executive Committee shall, in consultation with the County Public Service Board, National Government Ministry responsible for roads and transport, formulate and implement administrative measures to ensure smooth and orderly transition to the legal regime established by this Act.

Duty to ensure
smooth transition

48. (1) The Member of the Executive Committee shall make regulations generally for the better carrying out the

Power to make
rules and
regulations

provisions of this Act, and without prejudice to the foregoing, may make regulations in respect of the following—

- (a) recognition and modes of dealing with of cab/taxi associations;
- (b) management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof;
- (c) management and regulation of transport issues in dams, rivers and other waterways for recreation services;
- (d) in consultation with the National Land Commissions, procedures for the recovery of illegally and unprocedurally acquired public land meant for the construction transport infrastructure;
- (e) development and regulation of non-motorized means of transport and
- (f) public surveillance of projects funded under this Act.

(2) The regulations under this Act shall be approved by the County Executive Committee and the County Assembly before they take effect.

49. (1) The Act applies to applies—

Application

- (a) light rail systems including trains and trams;
- (b) county roads and vehicles, including cars, trucks and bicycle;
- (c) recreational vessels; and
- (d) county transport in both national trunk roads and county roads.

(2) In this Act “Transport system”—

- (a) includes system infrastructure and conveyances;
- (b) communication systems and other technologies;
- (c) strategic, business and operational plans;
- (d) schedules, timetables and ticketing systems;
- (e) labour components; and
- (f) service components.

MEMORANDUM OF REASONS & OBJECTS

The Bill has been submitted by the Member of the Executive Committee responsible for roads and infrastructure. The bill seeks to provide a legal regime for matters relating to traffic, parking, street lighting, and public road transport, to establish the County Department of Transport.

Article 3 states the overriding objective of the bill as to provide a harmonized, efficient and effective legal and regulatory framework for the development and regulation of county transport matters for the following purposes:-

- (a) to establish appropriate institutional systems for county transport sector management, coordination and regulation;
- (b) to develop and maintain an integrated and coordinated county transport infrastructure for efficient movement of passengers and freight and support disaster management efforts;
- (c) to develop encourage the participation of the private sector in and development partners in county transport sector funding/financing mechanisms;
- (d) to integrate land use planning and management in county transport matters;
- (e) deliver efficient and effective sector operations to enhance county and national productivity;
- (f) to apply information technology in county transport planning, operations and management to enhance sector efficiency;
- (g) facilitate intra-county trade; and
- (h) to incorporate environmental protection and resource conservation issues in county transport sector activities;

Article 3 (2) provides that all County Government institutions, agencies, public servants and bodies charged with development and regulation of county transport shall at all times have due regard to, and observe, the said overriding objective.

Article 3 (4) provides that in the exercise of the powers or the performance of functions under the Act, the Member of the Executive Committee, Director, and staff shall be guided by the following principles:-public participation and inclusiveness, public safety and security, amongst others.

Article 4 provides that the Member of the Executive Committee shall create collaborative linkages with national government institutions and

transport departments of neighboring counties to ensure a coordinated implementation and master planning of the transport sector.

Article 5 establishes the directorate of transport which shall be headed by a director who shall be appointed by the County Public Service Board through a competitive and transparent recruitment process. To qualify for appointment as director a person shall have had a distinguished career, and possess a university degree and at least five years working experience, in any of the following fields:-

- (a) civil engineering;
- (b) land economics or real estate economics;
- (c) land surveyor geospatial science;
- (d) land law;
- (e) environmental management or natural resources management;
- (f) physical planning;
- (g) land administration and management;
- (h) infrastructure development.

Article 7 provides that the County Public Service Board shall in consultation with the Member of the Executive Committee appoint such officers and other staff to work in the directorate to assist the directors to discharge functions of the directorate under the Act.

Article 8 lists the functions of the directorate as follows:-

- (a) to coordinate and develop a comprehensive and balanced transport policy and planning for the county;
- (b) to coordinate and assist in the balanced development and operation of transport facilities and services in the county;
- (c) to undertake studies and analyses of transport problems relating to any aspect of transport in the county.
- (d) to implement collaborative linkages with national government institutions and transport departments of neighboring counties to ensure a coordinated implementation and master planning of the transport sector.
- (e) to exercise all functions, powers and duties relating to traffic regulation and control as set forth in this Act;

- (f) to prepare plans, specifications, designs and estimates for the construction of county roads, parking facilities, bridges and related infrastructure;
- (g) to operate and maintain county roads, parking facilities, bridges and related infrastructure;
- (h) to promote safety in all forms of county public transport including the transportation of hazardous material

Article 10 provides for rights of entry by authorised officers a public transport service facility.

Article 11 provides for operation of a motor vehicle only when has been licensed to do so.

Article 13 prohibits conveying dangerous or offensive articles in public transport vehicles

Article 14 provides for the manner of boarding and disembarking from public service vehicles

Article 15 provides for queues at public transport facilities

Article 16 provides for payment of prescribed fares

Article 17 provides for rights of a passenger to be refunded fare when the vehicle becomes defective

Article 18 list actions prohibited on a public transport vehicle . The following actions are prohibited on a public transport vehicle:-

- (a) smoking ;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) interfering with the comfort of another passenger;
- (e) damaging anything and interfering with the equipment of the public transport vehicle;
- (f) forcibly causing the driver to deviate from his route
- (g) endangering the life of another passenger;
- (h) interfering with the actions of the driver; and
- (i) showing or displaying any pornographic material

Article 19 provides a framework for the recovery of property left in public transport vehicles.

Article 20 prohibits obstruction and disruption of traffic.

Article 21 lists the duties of pedestrians.

Article 22 provides that a person shall not use a sounding device or hooter of a vehicle on a public road except when such use is necessary in order to comply with the provisions of the Act or any other law or on the grounds of safety.

Article 23 prohibits the use of a communication device while driving

Article 24 provides that the County shall install street lighting with special attention to the following areas:-

- (a) Major Traffic Routes
- (b) High Crime Urban Areas,
- (c) Town Centers,
- (d) Pedestrian Crossings; and
- (e) Pedestrian Subways.

Article 27 prohibits parking in a public road

Article 28 lists the prohibited parking areas

Article 29 provides for the towing away of vehicle

Article 31 prohibits parking on alleys

Article 33 prohibits parking of trailers upon public roads

Article 34 provides for the formation of taxi associations as a precondition of doing cab business in Busia County.

Article 35 provides for parking on taxi zone

Article 37 prohibits parallel parking

Article 38 provides for angle parking when no parking signs are visible

Article 39 prohibits heavy commercial vehicles in the Central Business District

Article 40 provides for the development of Light railway

Article 41 provides for the power to enter upon land during the development of light railway

Article 42 prohibits trespass on a railway

Article 43 prohibits the use of a vehicle on a light railway.

Article 45 requires the directorate of transport to develop and periodically review a transport plan for Busia County. The said transport

plan shall be based on a national master plan of the transport sector relevant national government policies and legislation. The Act further requires that a plan developed for the sector be submitted to the County Assembly before being implemented.

Article 46 requires the directorate to prepare an Annual report detailing the activities of the commission for each financial year. The report shall be submitted to the Member of the Executive Committee and to the County Assembly.

Article 48 provides the power of the Member of the Executive Committee shall make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, may make regulations in respect of the following matters amongst others :-

recognition and modes of dealing with of cab/taxi associations;

management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof; and public surveillance of projects funded under this Act.

The regulations under this Act shall be approved by the County Executive Committee and the County Assembly before they take effect.

Article 49 provides that the Act applies to applies to light rail systems including trains and trams; county roads and vehicles, including cars, trucks and bicycle; and recreational vessels.

The enactment of the Bill shall occasion additional expenditure of public funds which shall be provided for in the County Government of Busia estimates.

LUCAS WAKULOB,
MCA Chairperson,
Roads and Transport Committee of the County Assembly of Busia.