

SPECIAL ISSUE

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY
COUNTY ASSEMBLIES FORUM (CAF)
P.O. Box 73552 - 00200,
NAIROBI, KENYA

Kakamega County Gazette Supplement No 7 (Bills No 7)



REPUBLIC OF KENYA

KAKAMEGA COUNTY GAZETTE SUPPLEMENT

BILLS, 2015

NAIROBI, 16th , June 2015

CONTENT

Bill for Introduction into the County Assembly of Kakamega —

The Kakamega County Equity and Equalization Bill, 2015

PAGE

1

**THE KAKAMEGA COUNTY EQUITY AND EQUALIZATION
BILL, 2014**



ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title and Commencement
- 2—Interpretation
- 3—Object and Purposes of Act

PART II—EQUITY

- 4—Entrenchment of Equity
- 5—Allocation
- 6—Operationalization
- 7—Role of Sub-County
- 8—Ward Equity Share Committee
- 9—Functions of the Committee
- 10—Role of the County Assembly
- 11—Computation of Equity Share

PART III—EQUALIZATION

- 12—Equalization
- 13—Flagship Projects

PART IV—MISCILINEOUS PROVISIONS

- 14—Role of County Executive Committee

THE KAKAMEGA COUNTY EQUITY AND EQUALIZATION BILL, 2015

A Bill for

**AN ACT of the County Assembly of Kakamega to provide for the
Entrenchment of Equity and Equalization and for related
purposes**

ENACTED by the County Assembly of Kakamega as follows—

PART I—PRELIMINARY

Short title and Commencement

1 This Act may be cited as the Kakamega County Equity and Equalization Act, 2015 and shall come into operation upon the expiry of thirty days from the date of publication

Interpretation

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

“County Government” means the Executive Arm of the County Government of Kakamega County,

“County Assembly” means the Legislative Arm of the County Government,

“Development Budget” means the total sum allocated for development and excluding all recurrent expenditure of the County Government,

“Ward” means an electoral area within a county delineated in accordance with article 89 of the Constitution and section 26 of the County Governments Act, 2012,

“Ward Equity Share” means the allocated sum awarded to every ward,

“Ward Equity Share Committee” means the committee for the time being elected and nominated into office for the management of the Ward Equity Share,

“Ward Administrator” means a person charged with the executive powers of administration as contemplated by the constitution,

“Sub-County” means an administrative unit for the time being recognized by the county government for the purposes of devolution and service delivery in the county,

“Village Unit” means the decentralized unit of the County Government delineated in accordance with section 48 of the County Governments Act, 2012

Object and Purpose of Act

3 The purpose of this Act is to provide for a framework for implementation of the principles of devolution as enumerated in Article 174 of the Constitution, and for decentralization of functions and provision of services by the Kakamega County Government in accordance with Article 176 (2) of the Constitution

PART II—EQUITY

Entrenchment of Equity

4 Unless where expressly provided for in this law, this Act is for the operationalization of Equity as enshrined in the Constitution and contemplates the same in the following broad areas—

- (a) Appointments into employment by the county leadership,
- (b) Implementation of flagship projects,
- (c) Implementation of such other projects that target poverty eradication and uplifting of living standards of the people of the county,
- (d) The award of tenders and sourcing of all materials in connection with County Projects and with specific regard to women, youths and residents of the county

Allocation

5 In this Act, unless where expressly provided for, 45% of the County Development Budget shall be shared equally among the County's 60 Wards

(1) For all intents and purposes contemplated in this Act, there shall be a 45% absorption at ward level of labour, materials and personnel and all other connected resources for the growth and development of the County

Operationalization

6 The criteria of operationalization of the section 5 above shall be made through the existing line ministries of the County Government

(1) The said share available in the line ministries shall only be utilized for purposes of development within the 60 wards

(2) The Ward Equity Share shall be managed at the Sub-county level by the sub-county Administrators through ward and village administrators

Role of Sub-county

7 The sub-county office shall be charged with the responsibility of Procurement, Monitoring and Evaluation and any other function contemplated in the Public Finance Management Act No 18 of 2012

Ward Equity Share Committee

8 The Ward Equity Share Committee is hereby established to oversee the implementation of the *Ward Equity Share*

(1) The Committee shall comprise of the—

- (a) Ward Administrator who shall be the secretary,
- (b) A representative of the Area MCA,
- (c) Village Administrators,
- (d) A representative of the Religious Community,
- (e) A representative from the Civil Society,
- (f) A representative of the Professional Body

(2) In the event of an even number in the membership of the committee, the Area MCA shall nominate an extra person onto the committee

(3) The committee shall elect one member to serve as Chairperson of the committee for a period of not more than two financial years

(4) The elected Chairperson shall retain the right of election in subsequent elections for the same position

(5) Decisions will be made by the committee through election and or consensus

(6) In this Act, a Chairperson can be ousted before the expiry of his term by a resolution of more than one half of the committee members

Functions of the Committee

9 The committee established under Section 8 of this Act shall be charged with the duty and responsibilities of—

- (a) Receiving proposals from members of the public in their respective wards on the development projects,

- (b) Prioritizing the projects proposed in line with existing ministry policies,
- (c) Compiling and Submitting the proposed projects to the County Assembly for approval on or before the 28th Day of February of each Calendar year,
- (d) Supervising the implementation of the Ward projects

Role of County Assembly

10 Upon receipt of the proposals from the Ward Equity Share Committee, the County Assembly shall deliberate, debate, approve and forward the same to the County Executive to be itemised in the subsequent county Budget within 21 days

Computation of Equity Share

11 The Equitable Allocations and planned proposals envisaged in Section 10 shall be computed on the basis of the approved estimates of the current financial year

PART III—EQUALIZATION

Equalization

12 In this Act, unless where the context expressly contradicts, 15% of the County Government Development Budget shall be set aside for equalization

(1) Equalization shall be based on poverty index, demographic factors, geographical area, population and any other factor contemplated in the Revenue Allocation Act

Flagship Projects

13 Nothing in this Act shall be construed to estop the County Government from making Flagship Projects using the remaining 40% of the county development budget

(1) In making the flagship projects in accordance with this section, the County Government shall be guided by section 174 of the constitution as read together with Section 3 of this Act

PART IV—MISCELENEOUS PROVISIONS

Role of County Executive Committee

14 (1) The Member of the County Executive Committee may make rules for the better carrying out of this Act and such Rules shall be approved by the County Assembly before Gazettement

(2) Without prejudice to the generality of subsection (1) the rules shall provide for the definition of roles and lines of cooperation between different levels of administration under the same line ministries

(3) The rules contemplated in Section 15(1) shall also provide for the boundaries of village units in line with the requirements of the constitution, and the County Government Act

(4) The provisions of this Act shall be complementary to the provisions of the County Government Act, 2012 in relation to the establishment and administration of ward units within the County

MEMORANDUM AND OBJECTS

The Kakamega County Equity and Equalization Bill seeks to provide for the entrenchment of equity and equality in all County Government of Kakamega employments, award of tenders and allocation of resources

Part I of the Bill entails preliminaries including the Short Title, Commencement and Interpretation

Part II concerns equity provisions while **Part III** is in respect to equalization provisions

Part IV is in regard to miscellaneous provisions

This Bill concerns County Government of Kakamega and does not affect the National Government at all

The enactment of this Bill will not occasion any extra use of the County's funds as it is only meant to ensure that the already allocated funds to the County Government of Kakamega are used in all equitable and equal manner

Cleophas Malala,
Member of County Assembly