

**THE KILIFI COUNTY VOCATIONAL AND TECHNICAL (POLYTECHNICS) BILL
2016**

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A Bill for

A BILL of the County Assembly of Kilifi to provide for the establishment, governance and regulation of polytechnics; to provide for their registration and management and for connected purposes.

ENBILLED by the County Assembly of Kilifi as follows—

PART I—PRELIMINARY

Short title

1. This Bill may be cited as the Kilifi County Vocational and Technical (Polytechnics) Bill, 2016 and shall come into force on such date as the Executive Committee Member may, by notice in the Gazette, appoint, which date shall not be later than ninety days from the date of its publication.

Interpretation

2. In this Bill—

"Board" means a Board of Management appointed by the Executive Committee member under Section 4(1) to oversee the affairs of a polytechnic;

"Director" means the County Director of Youth Affairs heading the Directorate of Youth Affairs;

"Directorate" means the Directorate of Youth Affairs established by the County Public Service Board to manage all matters relating to education and training in youth Polytechnics;

"Executive Committee Member" means the County Executive Committee Member responsible for education, youth affairs and sports;

"polytechnic" means a youth polytechnic established by the county executive committee member;

"Principal" means the Principal appointed under section 22.

Object of the Bill

3. The object of this Bill is to promote the—
 - (a) establishment and progressive development of polytechnics in the county;
 - (b) acquisition of occupational trade skills by young persons through training;
 - (c) exchange of knowledge and skill and, in so doing, improve the economy of the county; and

- (d) carrying out of research and development that serves the County.

PART II—ESTABLISHMENT AND MANAGEMENT OF POLYTECHNICS

Establishment of a
polytechnic

4. (1) The Executive Committee Member may, by order in the Gazette, establish one or more polytechnics.

(2) Despite subsection (1), a person who meets the requirements set out in this Bill and any other applicable law may establish one or more polytechnics.

Powers of a
polytechnic

5. Every polytechnic established under this Bill shall have powers necessary for the execution of its functions under this Bill and any other written law.

Functions of a
polytechnic

6. (1) Every polytechnic shall—
- (a) provide full-time or part-time technical or vocational courses;
 - (b) provide such facilities for its students as it considers desirable;
 - (c) fix, demand and receive fees and other charges as may be appropriate;
 - (d) offer technical and consultancy services as it considers appropriate;
 - (e) make provision for the general welfare, recreational and social needs of its staff and students; and
 - (f) undertake any activity necessary for the fulfilment of any of the functions of the polytechnic.

Board of
Management

7. (1) The Executive Committee Member shall, by order in the Gazette, appoint a Board of Management of not less than three and not more than five members for each polytechnic that the he or she establishes.

(a) The Board shall be a body corporate with a common seal and capable of suing and being sued; and acquiring assets and incurring liabilities.

(b) No person shall be appointed to the Board under sub-section 1 above unless, the person holds a degree from a university recognized in Kenya.

(2) The Principal shall be appointed by the County Public Service Board under Part IV of this Bill and shall be the secretary of the board.

(3) The members of the board shall elect a chairperson and vice-chairperson amongst themselves.

Powers of a Board
of Management

8. (1) The Board shall have all powers necessary for the proper performance of the functions of the polytechnic under this Bill.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—

- (a) supervise the assets of the polytechnic in such manner as best promotes the purpose for which the polytechnic is established;
- (b) associate with any other institution so as to further the purpose for which the polytechnic is established;
- (c) receive grants, gifts, donations or endowments and make legitimate disbursements from them;
- (d) delegate any of its powers to any of its committees or employees; and
- (e) undertake any activity necessary for the fulfilment of any of the functions of the Board.

Functions of a
Board of
Management

9. The Board shall—

- (a) formulate policies relating to the polytechnic;
- (b) ensure efficient management of the polytechnic;
- (c) oversee prudent utilization of the funds allocated to the polytechnic;
- (d) ensure that the polytechnic observes high standards of corporate and business ethics; and
- (e) perform any other functions assigned to it under this Bill.

Term of the Board

9A. The members appointed to the Board by the Executive Committee member under section 7(1) shall, hold office for a period of three calendar years from the date of appointment, provided that a person shall be eligible for re-appointment for one further term.

Removal of a board
member

9B.(1) The Executive Committee member may remove a person appointed to the Board on the ground that the member has-

- (i) grossly violated the constitution;
 - (ii) demonstrated incompetency in the exercise of his or her duties as a member of the Board.
 - (iii) abused his or her office.
 - (iv) been affected by physical illness in such a manner leading to inability to perform his or her role as a member of the Board; and
 - (v) committed a crime in relation to his or her work as a member of the board.
- (2) A person appointed to the board shall cease to be a member if he or she-
- (i) dies;
 - (ii) has been convicted of an offence under national or county law and imprisoned for more than six months;
 - (iii) has been declared mentally unsound; and
 - (iv) has been convicted of a crime under international law.
- (3) Upon a person ceasing to be a member of the Board under sub-section 2 above, the Executive Committee member shall, appoint another person as a replacement to the board.

Requirement to consult with the County Education Board

- 10.** (1) The Executive Committee Member shall, in consultation with the County Education Board established under the Basic Education Bill—
- (a) plan, develop and coordinate training and research in the polytechnics in the county; and
 - (b) provide guidelines on the courses of study, their curriculum and minimum standards of the polytechnics.

PART III—REGISTRATION OF POLYTECHNICS

Registration of polytechnics

- 11.** (1) A person shall not operate a polytechnic unless it is registered under this Bill.
- (2) A person who operates a polytechnic which is not registered under this Bill commits an offence.

Application for registration of a polytechnic

- 12.** (1) An application for registration of a polytechnic shall be in a form prescribed by the Executive Committee Member in the regulations.

(2) An application for registration of a polytechnic shall be submitted to the Director.

(3) The Director shall forward a copy of the application to the County Education Board.

(4) The County Education Board shall, within fifteen working days after receiving the application—

(a) organize an inspection of the polytechnic; and

(b) conduct an interview with the applicant to assess the suitability of—

(i) the equipment of the polytechnic; and

(ii) the persons proposed to be employed in the polytechnic.

(5) The County Education Board shall within thirty days after the inspection and interview, forward its recommendation to the Director for the registration of the polytechnic or to take such other Billions as the Director may deem fit.

Applicant to pay
prescribed fee

13. A person making an application for the registration of a polytechnic shall pay the prescribed fees to the Directorate.

Provisional licence
to operate prior to
registration

14. (1) The Directorate may issue to the applicant for registration of a polytechnic a provisional licence to operate pending the fulfilment of the conditions required by the Directorate for the determination of the application.

(2) A provisional licence issued under subsection (1) shall cease to operate upon—

(a) the issuance of a certificate of registration to the applicant; or

(b) the expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the Directorate may specify in the notice.

(3) As a condition of the grant of a provisional licence under this section, the Directorate may prescribe a period within which the applicant must fulfil the conditions required by it for the improvements of the operation of the polytechnic.

(4) A provisional licence shall be in the form prescribed by the Executive Committee Member in the regulations.

(5) The holder of a provisional licence shall allow an inspector to enter the premises of the polytechnic during official working hours, for the purpose of carrying out any inspection to ascertain whether the polytechnic is in compliance with the conditions of the temporary licence.

Registration
certificate

15. (1) The Directorate shall, on registration of a polytechnic, issue a registration certificate and a license for the year which the registration has been effected to the applicant.

(2) A registration certificate issued under this Bill shall be subject to such conditions as the Director may determine and as are specified in the licence.

(3) The Director may at any time during the validity of a registration certificate—

(a) vary the conditions of the licence; or

(b) impose conditions or further conditions on the licence.

Revocation of
registration and
closure of a
polytechnic

16. (1) The registration referred to in section (15) remains valid but may be revoked in the following instances—

(a) an offence under this Bill, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder;

(b) a condition of the registration licence has been contravened or not complied with.

(c) where the polytechnic is being managed in a manner which is, in the opinion of the Executive Committee Member, harmful to the physical, mental or moral welfare of the students;

(2) Once registration of a polytechnic is revoked, it is deemed to be closed.

(3) The Director may serve a notice, in writing, not exceeding six months directing the Principal to remedy a situation to prevent revocation of the polytechnic's registration.

(4) Despite subsection (2), the Cabinet Secretary responsible for matters relating to security may order the immediate closure of a polytechnic, if in the Cabinet Secretary's opinion, there are compelling reasons for its immediate closure.

(5) Where a Principal has not complied with a condition imposed under

subsection (3) within the stipulated period, the Executive Committee Member shall revoke the registration of the polytechnic and it shall be deemed to be closed.

(6) Before the polytechnic is closed under subsection (3), the Principal shall be given an opportunity to be heard either in person or by a legal representative.

(7) Despite anything contained in this section, a polytechnic shall be deemed to be closed if it is not in operation for a continuous period of five years.

Issuance of a licence

17. (1) A licence shall be valid for a period of five years from the date of issue and may be renewed on application by the operator of the polytechnic in accordance with this Bill.

(2) The licence issued together with the certificate of registration shall remain valid until the end of the year which it is issued.

Requirement to publish the registration of a polytechnic

18. The Directorate shall, within sixty days after the registration of a polytechnic, publish the registration in the county Gazette and in at least one newspaper with national circulation.

Registration of a youth polytechnic

19. (1) The Directorate shall register a polytechnic if it is satisfied, based upon the written recommendation of the County Education Board, that the application is in order.

(2) The Directorate shall, within a reasonable period after registration of a polytechnic, forward the name and all relevant information on the polytechnic to the County Education Board.

(3) A person aggrieved by the decision of the Directorate under this section may, within thirty days of being notified of the decision, appeal against the decision to the authority responsible for higher education.

Registration certificate to be displayed

20. The registration certificate issued under section 16 and the licence issued under section 17 shall be displayed, by the Principal, in a conspicuous place on the premises of the polytechnic.

Register of polytechnics

21. (1) The Directorate shall keep a register of all polytechnics operating in the county and shall include in the register names of the polytechnics and such other particulars as the Executive Committee Member may prescribe.

(2) The Directorate shall forward all the particulars recorded in the register to the County Education Board.

PART IV—ADMINISTRATION OF YOUTH POLYTECHNICS

Principal of a
polytechnic

- 22.** (1) There shall be a Principal for each polytechnic who shall be the chief executive officer.
- (2) The Principal of a polytechnic that receives public funds shall be appointed by the County Public Service Board.
- (3) The Principal of a polytechnic that is not publicly funded shall be appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.
- (4) Despite subsections (2) and (3), the appointment of every Principal shall be through a competitive recruitment process.
- (5) A person is qualified for appointment as a Principal if the person—
- (a) is a citizen of Kenya;
 - (b) holds at least a diploma in technical education from a recognized institution in Kenya;
 - (c) has at least three years experience at management level;
 - (d) has at least five years experience in any technical field; and
 - (d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.
- (6) The Principal is the accounting officer of the polytechnic and, subject to the direction of the Board, is responsible for the—
- (a) implementation of the decisions of the Board;
 - (b) day to day management of the affairs of the polytechnic;
 - (c) organization and management of the staff; and
 - (d) any other function that may be assigned by the Board.
- (7) The Principal may be removed from office on the recommendation of the Board.
- (8) Before the Principal is removed under subsection (7), the Principal shall be given—
- (a) sufficient notice of the allegations made against them; and

(b) an opportunity to be heard either in person or by a legal representative.

(9) This section applies to the deputy Principal.

Staff

23. (1) The polytechnic teaching and non-teaching staff shall have such academic, technical and other staff, as may be determined by the County Public Service Board for the teaching staff and the Board for the other staff.

(2) In addition to the staff referred to in subsection (1), the County Public Service Board may, upon request by the polytechnic, second to the polytechnic such number of staff as may be necessary for the performance of the functions of the polytechnic.

(3) Staff seconded to the polytechnic shall, during the period of secondment, be deemed to be staff of the polytechnic and shall be subject only to the direction of the polytechnic.

(4) This section only applies to polytechnics funded by public monies.

Academic Board

24. A polytechnic shall have an academic board consisting of the Principal, Deputy Principal, heads of academic divisions, heads of academic departments and any other person specified by the Board.

Functions of the
Academic Board

25. (1) The Academic Board shall determine the—

(a) criteria for the admission of students;

(b) curricula, the academic standards, validation and review of courses;

(c) procedure to assess and examine students;

(d) appointment and dismissal of internal and external examiners;

(e) procedure for the award of qualifications;

(f) procedure for expelling students on academic grounds;

(g) development of the academic activities of the polytechnic;

(h) establishment of links with different industries and businesses to ensure the entrepreneurial development of students;

(2) The Academic Board shall also—

(a) advise the Board on academic policy and other matters of academic importance to the polytechnic; and

- (b) consider the resources required to support the academic activities of the polytechnic.

Committees of
Academic Board

- 26.** (1) The Academic Board may establish committees for the better carrying out of its functions.
- (2) Every committee shall, before establishment, be approved by the Board.
- (3) The Academic Board may co-opt persons to committees established under subsection (1) for a particular reason and such persons shall hold office for such period as the Board may determine.
- (4) The persons co-opted under subsection (2) shall not be more than two.

PART V-FINANCIAL PROVISIONS

Funds of the
polytechnic

- 27.** The funds and assets of the polytechnic consist of—
- (a) such monies or assets as may accrue to or vest in the polytechnic in the course of the exercise of its powers or the performance of its functions under this Bill;
- (b) such monies as may be payable to the polytechnic pursuant to this Bill or any other law;
- (c) such monies as may be appropriated by the County Assembly for the purposes of the polytechnic; and
- (d) all monies from any other source provided, donated or lent to the polytechnic.

Financial year

- 28.** The financial year of the polytechnic shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates

- 29.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the polytechnic for that financial year.
- (2) The annual estimates shall make provision for all the estimated expenditure of the polytechnic for the financial year concerned and, in particular, shall provide for the—
- (a) payment of the salaries, allowances and other charges in respect of the Board members, staff or agents of the polytechnic;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the

polytechnic;

- (c) funding of the registration, monitoring and evaluation of activities of the polytechnic;
- (d) the maintenance of the buildings and grounds of the polytechnic;
- (e) funding of training, research and development of activities of the polytechnic;
- (f) reserve funds to meet future or contingent liabilities in relation to retirement benefits, insurance or replacement of buildings or equipment; and
- (g) any other expenditure necessary or required for the purposes of this Bill.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member for tabling before the relevant County Assembly Committee.

Accounts and audit

30. (1) The polytechnic shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the polytechnic in respect of that year together with—

- (a) a statement of the income and expenditure of the polytechnic during that year; and
- (b) a statement of the assets and liabilities of the polytechnic on the last day of that financial year.

(3) The annual accounts of the polytechnic shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Annual report

31. (1) The Board shall, at the end of each financial year cause an annual report to be prepared.

(2) Without limiting what may be included in the annual report, the annual report shall include—

- (a) the audited financial report of the polytechnic;

- (b) description of the Billivities of the polytechnic;
- (c) such other statistical information as the polytechnic may consider appropriate relating to the polytechnic's functions;
- (d) the impBill of the exercise of any of its mandate or function;
- (e) any impediments to the achievements of the objects and functions of the polytechnic;
- (f) such other information as the Executive Committee Member may direct; and any other information relating to its functions that the Board considers necessary.

(3) The Board shall submit the annual report to the Governor three months after the end of the year to which it relates.

(4) The annual report shall be published and publicized in a manner that the polytechnic may determine.

PART VI—MISCELLANEOUS PROVISIONS

Collaboration

32. A polytechnic may collaborate with any other polytechnic or any other training institution to promote its development.

Inspection of
polytechnics

33. The Directorate shall, in consultation with the County Education Board, inspect and monitor the standards of the polytechnics in the county.

Regulations

34. (1) The Executive Committee Member may, in consultation with the Chairperson of the County Education Board, make regulations generally for the better carrying out into effect of any provisions of this Bill.

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

- (a) implementation of this Bill;
- (b) general management of the polytechnic; and
- (c) such other matters as the polytechnic considers necessary.

General penalty

35. A person who contravenes any provision of this Bill for which no other penalty is prescribed, commits an offence and is liable, on conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding two years or to both.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to promote the establishment and progressive development of polytechnics in the county and acquisition of occupational trade skills by young persons through training as well as the exchange of knowledge and skill.

The structure of the Bill is as follows:

Part I (clauses 1–3) of the Bill contains preliminary provisions. Clause 1 states the title of the Bill and clause 2 deals with interpretation of terms as used in the Bill. Clause 3 sets out the object of the Bill.

Part II (clauses 4-10) of the Bill deals with establishment and management of youth polytechnics.

Clause 4 states that the Executive Committee Member may, by order in the Gazette, establish one or more polytechnics. Clause 5 provides for powers of a polytechnic while clause 6 sets out the functions of the youth polytechnics which are, among others, to provide full-time or part-time technical or vocational courses.

Clause 7 establishes the Board of Management while clause 8 is to the effect that the Board shall have all powers necessary for the proper performance of the functions of the polytechnic under the Bill. Clause 9 provides for functions of the Board which include formulating policy relating to the polytechnic.

Clause 10 provides that the Executive Committee Member shall, in consultation with the County Education Board, plan, develop and coordinate affairs and research in the county polytechnics and provide guidelines on the courses of study, their curriculum and minimum standards of the polytechnics.

PART III (clause 11-21) provides for registration of polytechnics.

Clause 11 provides that a person shall not operate a polytechnic unless it is registered under the Bill while clause 12 provides for application for registration of a polytechnic. Clause 13 provides for the Applicant to pay prescribed fee while clause 14 is to the effect that the Directorate may issue to the applicant for registration of a polytechnic a provisional licence to operate pending the fulfilment of the conditions required by the Directorate for the determination of the application.

Clause 15 provides the requirement that the Directorate, on registration of a polytechnic, shall issue a registration certificate to the applicant.

Clause 16 provides for grounds of revocation of registration and closure of a polytechnic while clause 17 is to the effect that a licence shall be valid for a period of five years from the date of issue and may be renewed on application by the operator of the polytechnic in accordance with the Bill. Clause 18 deals with the requirement to publish the registration of a polytechnic while clause 19 provides that the Directorate shall register a polytechnic if it is satisfied, based upon the written recommendation of the County Education Board, that the application is in order. Clause 20 provides for the registration certificate to be displayed while clause 21 is to the effect that the

Directorate shall keep a register of all polytechnics operating in the county and include in the register names of the polytechnics and such other particulars as the Executive Committee Member may prescribe.

PART IV (clause 22-26) is on administration of village polytechnics.

Clause 22 provides the requirement that there shall be a Principal for each polytechnic who shall be the chief executive officer while Clause 23 is on the polytechnic teaching and non-teaching staff to have such academic, technical and other staff, as may be determined by the County Public Service. Clause 24 provides for the Academic Board while clause 25 sets out the functions of the Academic Board to include determining the criteria for the admission of students. Clause 26 provides that the Academic Board may establish committees for the better carrying out of its functions.

PART V (clause 27-31) sets out the financial provisions.

Clauses 27 and 28 set out the funds and assets of the polytechnic and the financial year respectively. Clause 29 provides the requirement of annual estimates while clause 30 is on accounts and audit of the polytechnic. Clause 31 requires the Board to, at the end of each financial year, cause an annual report to be prepared.

PART VI (clause 32-35) is on miscellaneous provisions.

Clause 32 provides that a polytechnic may collaborate with any other polytechnic or any other training institution to promote its development while clause 33 provides for the inspection of polytechnics. Clause 34 sets out the power of the Executive Committee Member, in consultation with the Chairperson of the Board, to make regulations while clause 35 provides a general penalty.

Dated the2016

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Getrude Mbeyu Mwanyanje
Chairperson Scholarship and
Vocational Training Committee