

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

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REPUBLIC OF KENYA

**KISUMU COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

NAIROBI, 30th June, 2014

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THE KISUMU COUNTY CO-ORDINATION BILL, 2014

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THE KISUMU COUNTY CO-ORDINATION BILL, 2014

A Bill for

AN ACT of County Assembly to establish an administrative and institutional framework for co-ordination of County government functions at the county levels of governance; to give effect to Articles 131(1) (b) and 132 (3) (b) of the Constitution and for connected purposes

ENACTED by the County Assembly of Kisumu, as follows—

PART I—PRELIMINARY

1. This bill may be cited as the Kisumu County Co-ordination Bill, 2014 and shall come into force upon the announcement of the results of the first general elections under the Constitution.

2. (1) In this bill, unless the context otherwise requires

“Executive Member” means the executive member responsible for matters relating to the co-ordination of County government functions;

“County” means any one of the counties into which the territory of Kenya is divided as specified in the First Schedule to the Constitution;

“County government administrative officer” means an officer recruited and appointed as such under section 15;

“County government function” means a function assigned by the Constitution, this bill or any other law to the executive arm of government;

“Chief Officer” means a Chief Officer appointed under Article 155 of the Constitution.

(2) Despite subsection (1), until after the first general elections under the Constitution, references in this Bill to the expression “Cabinet Secretary” shall be construed to mean “Executive Member”

3. The object of this bill is to—

- (a) facilitate the exercise of executive authority pursuant to Articles 131(1)(b) and 132 (3) (b) and (c) of the Constitution;

- (b) provide for the effective co-ordination and administration of the County government functions prescribed in the Constitution, this bill or any other written law; and
- (c) Provide for the establishment of an administrative and institutional framework at the county and decentralized units to ensure access to County government services in all parts of the County.

4. In fulfilling its mandate, the Kisumu County government shall act in accordance with the County values and principles of the Constitution in particular, those set out in Articles 10, 189, 201(d) and 232.

5. The County government shall ensure reasonable access to its services in all parts of the County, so far as it is appropriate to do so having regard to the nature of the service pursuant to Article 6(3) of the Constitution.

6. Nothing in this bill shall be construed to

- (a) limit the powers of the Governor under Articles 179(1,2(a and b)3(a and b)4,5,6,and7 of the Constitution;
- (b) affect the co-ordination of county government functions as provided for under the Constitution or any other written law; or
- (c) Limit the powers of the county governor as conferred under the Constitution or any other written law.

PART II—COUNTY GOVERNMENT CO-ORDINATION FRAMEWORK

7. (1) The Governor may, for purposes of directing and coordinating the functions of the County government departments—

- (a) assign, through the respective County Executive Member the responsibility of discharging any function of the County executive to any person in accordance with the Constitution, this bill or any other written law; and
- (b) Require a person, to whom responsibility is assigned under paragraph (a) to prepare and submit a report on any matter.

(2) Without prejudice to subsection (1), the Governor shall use the following framework for the co-ordination of the County executive functions

- (a) The Office of the Governor;
- (b) The Executive Member
- (c) The Executive Office; and
- (d) The County Policing Authority as may be necessary.

8. (1) For purposes of co-ordination of Kisumu County government functions under the Constitution, this bill or any other written law, the Office of the Governor shall have such number of County Government Administrative Officers as shall be necessary for the effective and efficient co-ordination of County government functions.

9. (1) The Executives shall coordinate the functions of the County government at the County level.

(2) The Executives Member shall be accountable individually and collectively, to the Governor for the exercise of their powers and the performance of their functions.

(3) An Executive Member shall be responsible for policy formulation and guidance and, where required, implementation of the policy in respect of the respective County departments or agencies under him or her.

(4) An Executive Member shall be the link between the County department and the Governor or County Assembly as the case may be.

10. (1) Each Executive Member shall be responsible for the functions assigned to him or her by the Governor under the Constitution, this bill or any other written law.

(2) Collective responsibility of the Executive shall mean that all decisions of the executives are binding on all Executive Members.

(3) All members of the executive committee shall be bound by the principle of collective responsibility in all their cabinet decisions.

11. (1) There is established an office of Secretary to the Cabinet, which is an office in the public service and shall be headed by the Secretary to the County.

(2) In the discharge of the functions of the executives, the Secretary to the cabinet shall offer secretariat and support services to the executives.

(3) The County Public Service Board shall recruit and appoint such number of public officers as the Secretary to the executives may require for the effective and efficient discharge of the functions of the office.

(4) The Secretary to the Cabinet shall perform such other functions as may be assigned to it by the Governor or the executive.

12. Each member of the executive committee shall be assisted by a Chief Officer who shall be responsible for the administration of the department.

(2) The Governor may appoint such number of Chief Officer as may be necessary for the effective discharge of the County government functions.

13. (1) The Governor shall establish such committees of Chief Officers and such other committees or mechanisms as may be necessary for the effective co-ordination of the County government functions under the Constitution, this bill or any other written law.

(2) The Governor, through the Executive Member, may decentralize, to the extent necessary the mechanisms or committees referred to under subsection (1).

(3) The executive Member may, with the approval of the Governor, make regulations to give effect to this section.

(4) The Governor may assign such functions, as he or she considered necessary to the committees established under this section.

(5) The committees established under this section shall have all the necessary powers for the proper performance of their functions under this bill or any other written law.

14. (1) The Executive Member may, with the approval of the Governor and by a notice in the Gazette, establish County government service delivery co-ordination units.

(2) In establishing the County government service delivery co-ordination units, the Executive Member shall accord and respect the county government decentralised units established under section 48 of the County Government Act, 2012.

(3) Where a county government has not decentralised its units pursuant to section 48(1)(e) of the County Government Act, 2012, the County government may, where necessary, establish its own service delivery co-ordination units for purposes of co-ordination of County government functions.

(4) For purposes of this section, the locations and sub-locations in existence immediately before the commencement of this bill shall continue to exist as County government service delivery units.

(5) The County government service delivery co-ordination units established under this section shall be headed by County government administrative officers appointed under section 15.

PART III—APPOINTMENT, ROLES AND RESPONSIBILITIES OF COUNTY GOVERNMENT ADMINISTRATIVE OFFICERS

15. (1) In accordance with the County government functions under the Constitution, this bill or any t or any other written law, the County Public Service Board shall, in consultation with the Executive Member, recruit and appoint County government administrative officers to coordinate county al County government functions and to perform such other functions as may be assigned to them under this bill or any other law.

(2) Pursuant to subsection (1), the County Public Service Board shall appoint—

- (a) County Secretary.
- (b) Director of Administration.
- (b) Chief Officers.
- (c) Directors
- (d) Sub-County Administrator
- (e) Ward Administrator.

(f) Village Administrator

(g) Any other national government administrative officer in respect of a service delivery unit established under section 14.

16. Subject to the Constitution, this bill or any other written law, a County government administrative officer appointed under this bill shall have all the powers necessary for the proper performance of the functions under this bill or any other written law.

17. Subject to the Constitution, this bill or any other written law, a County government administrative officer appointed under section 15, shall be responsible for the co-ordination of County government functions as set out in the Constitution, this bill and any other written law at the county level and other decentralized units as far as may be necessary.

18. The Executive Member shall, on the recommendation of the County Public Service Board, prescribe a scheme of service for County government administrative officers.

PART IV—COLLABORATION AND DISPUTE RESOLUTION BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS ON ISSUES OF APPARENT CONCURRENT MANDATE

19. (1) where a dispute arises as to the mandate or Constitution of powers of any of the officers, or roles of respective mediation team officers of the county governments and those of the national Government, a mediation team shall be constituted to deal with the dispute.

(2) The mediation team constituted under subsection (1) shall consist of two eminent persons appointed by the Governor and two eminent persons appointed by the executive Member for the time being responsible for national County government coordination,

(3) The mediation team shall be guided by the constitutional principles and the respective constitutional mandates of each respective government

(4) The mediation team shall undertake and finalize its task within a period of fourteen days.

(5) Should the mediation team fail to resolve the dispute within the stipulated time, the matter may be referred to the Summit under the Inter-Governmental Relations Act, 2012 for resolution.

PART V—MISCELLANEOUS PROVISIONS

20. (1) Subject to this bill a County officer who immediately before the commencement of this bill was serving as a chief, assistant chief or an administrative officer shall be deemed to be a County government administrative officer appointed under this bill.

(2) Subject to this bill, a person who immediately before the commencement of this bill was serving as an employee of the system of government known as provincial administration shall be redeployed in the County public service.

21. All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this bill and vested in, acquired, incurred or entered into by or on behalf of the system of administration commonly known as the provincial administration, shall upon the commencement of this bill, vest in the County government to the same extent as they were enforceable by or against the system of administration commonly known as provincial administration before the commencement of the bill.

22. Nothing done by a public officer appointed under this bill shall, if done in good faith for the purpose of executing the functions of the office, render such officer personally liable for any action, claim or demand.

23. The executive Member may with the approval of Regulations the Governor, make regulations for the better carrying into effect of the purposes of this bill.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of the bill is to establish an administrative and institutional framework for co-ordination of county government functions at the county levels of governance according to the Constitution of Kenya.

SAMWEL ONYANGO ONGOU,
Majority Leader.

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