

SPECIAL ISSUE

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REPUBLIC OF KENYA

**LAIKIPIA COUNTY GAZETTE
SUPPLEMENT**

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NAIROBI, 7th October, 2014

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

LAIKIPIA COUNTY INVESTMENT AUTHORITY BILL, 2014

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- (c) promoting local economic growth and job creation;
- (d) advising and facilitating the county government and county residents on investment opportunities within and outside the county;
- (e) assisting and facilitating investors from within or outside the county to establish investments in the county;
- (f) promoting and facilitating investment in the county;
- (g) acting as the focal agency for investment promotion and facilitation in the county;
- (h) advising Executive Member and the county executive committee on necessary policies, programs and plans to be adopted in order to attract and promote investments in the county;
- (i) carrying out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the county executive committee.

6. (1) The management of the Authority shall vest in the Board of Directors which shall consist of—

Board of the Authority.

- (a) a non-executive chairperson who shall be appointed by the Governor;
- (b) chief officer for the time being responsible finance;
- (c) the chief officer for the time being responsible for investment promotion;
- (d) two professionals appointed by the Executive Member through a competitive process in consultation with the Governor,

at least one shall be a woman.

(e) the chief executive officer who shall an *ex officio* member and secretary to the Board.

(2) A person shall not be qualified for appointment as a chairperson or a member appointed under subsection (1) (d) unless the person—

(a) holds a masters degree in economics, law, finance, accounting, business or any related field from a recognized university;

(b) has experience of at least five years in senior level management in public or private sector;

(c) meets the requirements of Chapter Six of the Constitution; and

(d) holds a masters degree in economics, law, finance, accounting, business or any related field from a recognized university;

(3) The term of office for the chairperson or a member appointed under sub section (1) (d) shall be three years, which may be renewed for one further term, after which the person shall retire from the Board for at least two years before being eligible for reappointment to the Board.

(4) Notwithstanding subsection (3), the members of the Board shall retire on rotation, in a manner that will ensure that not more than two thirds of the members retire at the same time.

7. The functions of the Board shall be to—

Functions of the Board.

(a) ensure proper and efficient exercise of the powers and performance of the functions of the Authority;

(b) advise the management of the Authority generally on the exercise of the powers and the performance of the functions of the Authority;

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12. (1) The common seal of the Authority shall be kept in the custody of the chief executive officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

The common seal of the Authority.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chief executive officer.

13. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Authority shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done *bona fide* be paid out of the funds of the Authority, unless such expenses are recovered by him or her in such suit or prosecution.

14. The provisions of section 13 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for damages.

15. The Authority shall establish and implement

Corporate governance.

corporate governance principles and practices applicable to similar entities.

16. (1) The Authority shall, within three months after the end of each financial year, prepare and submit to the executive member a report of the operations of the Authority for the immediate preceding year.

Annual report.

(2) The annual report shall provide information regarding the activities and plans of the Authority during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include—

- (a) details of the performance of the Authority against its key performance indicators;
- (b) report on the overall status of the investments in the county including the value of investments in the county;
- (c) such information and other material as the Authority may be required by this Act or regulations made thereunder to include in the annual report;
- (d) measures taken to implement corporate governance principles and practices;
- (e) the financial statements prepared under section 21;
- (f) report of the Auditor-General prepared under section 21 and
- (g) such additional information or other material as the Executive Member may request in writing.

(4) The Executive Member shall, within fourteen

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- (a) a statement of financial position as at the thirtieth day of June;
- (b) a statement of comprehensive income;
- (c) a statement of cash flow for the year ended;
- (d) a summary of significant accounting policies and other explanatory information;
- (e) other financial statements applicable to similar institutions.

No. 12 of 2003.

(2) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

PART IV—INVESTMENT PROMOTION

22. (1) The Authority shall prepare at least ten-year investment promotion strategy which shall be approved by the county executive committee.

Investment promotion
strategy.

(2) The investment strategy and plan shall provide among others for—

- (a) targeted sources of investment capital;
- (b) targeted investment opportunities;
- (c) specific investment projects and their respective projects appraisals that should be undertaken by the county government in order to promote investment in the county;
- (d) estimated cost of the investments;
- (e) any other matter as the Executive Member may prescribe.

(3) The Authority shall not undertake any investment promotion activity unless it is stipulated under the plan.

(4) The Authority may review the investment promotion strategy after each year in order to align it with the prevailing investment environment and trends.

(5) The Authority shall prepare annual plans for implementing the investment promotion strategy.

23. The Authority may enter into partnership or collaboration with any entity for the purposes of carrying out the objectives of this Act. Partnership.

PART VI—GENERAL PROVISIONS

24. (1) The Executive Member may, in consultation with the Board make Regulations generally for the better carrying out of the objects of this Act. Regulations.

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

(a) prescribe for the guidelines for undertaking investment or project appraisal; and

(b) prescribe matters related to investment promotion strategy.

SCHEDULE (s. 8) **PROVISIONS AS TO THE CONDUCT OF** **BUSINESS AND AFFAIRS OF THE BOARD**

1. A member of the Board other than the county government officers may— Vacation of office.

(a) at any time resign from office by notice in writing to the executive member;

(b) be removed from office by the Executive Member or the Governor in the case of the chairperson, if the person —

(i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;

(ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is adjudged bankrupt or enters into a

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proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the executive member any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

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

Code of conduct.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the Board shall publish the proposed code or amendments in the Gazette and in a newspaper circulating nationally, inviting public comments.

(3) The Board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.

5. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would

Execution of Interest.

not require to be under seal, may be entered into or executed on behalf of the Board by any person generally.

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

MEMORANDUM OF OBJECTS AND REASON

The Bill aims to establish an investment promotion Authority for the purposes of promoting and coordinating investments undertaken in the county. The Bill will enable the county government to efficiently and effectively promote the county as an investment destination.

Part I provides for the preliminaries. It provides for the purpose of the Bill, which include enhancement of investment promotion in the county and facilitation and coordination of investments in the county.

Part II establishes the Laikipia County Investment Authority as a body corporate. The Authority is charged with the responsibility of identifying investment opportunities in the county, promoting and facilitating investments in the county, undertaking business ventures in the county and to act as the focal agency on matters related to investments in the county. The Part also vests the management of the Authority to the Board of Directors, which consists of six members including the chief executive officer who is an *ex officio* member. It also provides for the administration of the Authority and also imposes a requirement for the Authority to prepare annual report in order to enhance accountability.

Part III provides for the finances of the Authority. It stipulates that the finances of the Authority include monies appropriated by the county assembly, loans, grants or revenues realized from the Authority's investments. The Part also obligates the Authority to maintain accounting and financial records as well as preparing financial records for auditing.

Part IV provides for investment promotion by the Authority. The Part obligates the Authority to prepare 10-year investment promotion strategy that should contains among others for the source of investment capital,

investment portfolio, targeted investment opportunities and cost of investments. It also requires the Authority not to undertake any investment promotion unless it is projected in the plan.

Part V provides for general provisions. It empowers the Executive Member to make regulations for better implementation of the Act. The Part also provides for the transfer of assets that may be set aside for investments for the purposes of investing under the Act.

Dated the 26th June, 2014.

JANE PUTUNOI,
*County Executive Member, Trade, Commerce,
Tourism and Enterprise Development.*