

SPECIAL ISSUE

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

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MERU COUNTY GAZETTE SUPPLEMENT

BILLS, 2016

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**THE MERU COUNTY PUBLIC APPOINTMENTS (COUNTY
ASSEMBLY APPROVAL) BILL, 2016**

P.O. Box 73552 - 00200,
NAIROBI, KENYA

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**THE MERU COUNTY PUBLIC APPOINTMENTS (COUNTY
ASSEMBLY APPROVAL) BILL, 2016**

A Bill for

**AN ACT of the County Assembly of Meru to provide for the
procedure for the approval of public appointments by the County
Assembly and for connected purposes**

ENACTED by the County Assembly of Meru, as follows—

Short title

1. This Act may be cited as the Meru County Public Appointments (County Assembly Approval) Act and shall come into force on the date of publication in the Gazette.

Interpretation

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

“appointing authority” means any person who, under the Constitution or any other law, is required to make an appointment for which the approval of a County Assembly is required;

“appointment” includes any re-appointment to the same body, whether or not in the same capacity;

“candidate” means a person who has been proposed or nominated for appointment to a public office;

“Clerk” means the Clerk of the County Assembly of Meru; and

“Committee” means the relevant committee of a County Assembly or such other committee as the Speaker of the County Assembly may, for good reason, direct.

Objects and Purposes

3. The objects and purposes of this Act are to—

- (a) provide for the procedure for the approval of public appointments by the County Assembly; and
- (b) provide clarity and guidance to the County Assembly as it exercises its functions of approving public appointments.

Exercise of powers of appointment

4. An appointment under the Constitution or any other law for which the approval of the County Assembly is required shall not be made unless the appointment is approved by the County Assembly in accordance with this Act.

Notification of vetting requirements

5. Any advertisement inviting applications for nomination for appointment to an office to which this Act applies shall indicate that candidates so nominated shall be required to appear before a committee of the County Assembly for vetting.

Notification of nomination

6. (1) An appointing authority shall, upon nominating a person for an appointment to which this Act applies, notify the County Assembly accordingly.

(2) A notification under subsection (1) shall be—

(a) in writing;

(b) be lodged with the Clerk.

(3) A notification of appointment shall be accompanied by information concerning the nominee, having regard to the issues mentioned in section 8.

(4) For purposes of this Act, a notification of nomination shall be deemed to be duly given on the day on which it complies fully with subsections (2) and (3).

Approval hearing

7. (1) Following the receipt of the notification of nomination under section 6 (2) (b), the Speaker shall report the receipt of the notification to the County Assembly, following which the notification shall be committed to the relevant committee of the Assembly.

(2) The relevant committee of the Assembly shall determine the time and place for the holding of the approval hearing which shall not be later than seven days from the date of the committal of the notification to the committee, and the Chairperson of the relevant committee of the Assembly shall thereafter inform the Clerk of such date and time.

(3) The Clerk shall notify a candidate of the time and place for the holding of an approval hearing by notice in at least two newspapers of national circulation and by writing, and such other form of communication as the Clerk shall consider appropriate.

(4) The committee shall, by notice in at least two newspapers of national circulation, notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

(5) Subject to this Act, all Committee proceedings on public appointments shall be open and transparent.

(6) Despite subsection (5), a Committee may, on its own motion or on the application of a candidate or any other concerned person, determine that the whole or part of its sittings shall be held in camera.

(7) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.

(8) The criteria specified in the First Schedule and the assessment form specified in the Second Schedule shall be used by a committee during an approval hearing for the purposes of vetting a candidate.

(9) Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

(10) A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall thereupon lapse.

Issues for consideration

8. The issues for consideration by the County Assembly in relation to any nomination shall be—

- (a) the procedure used to arrive at the nominee;
- (b) any constitutional or statutory requirements relating to the office in question; and
- (c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.

Period for consideration and report

9. (1) Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the County Assembly for debate and decision within twenty one days from the date from the date on which the committee first sits to consider the nomination.

(2) At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report such recommendations as the Committee may consider necessary including a recommendation on whether or not the nominee should be approved for appointment to public office.

Failure of the County Assembly to act on nomination

10. If, after expiry of the period for consideration specified in section 9, the County Assembly has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.

Rejection of nomination

11. Where the nomination of a candidate is rejected by the County Assembly, the appointing authority may submit to the County Assembly the name of another candidate, and the procedure for approval specified in this Act shall apply accordingly.

Notification of decision

12. (1) The Clerk shall notify the appointing authority of the decision of the County Assembly within seven days of the decision.

(2) The appointing authority shall, upon the approval of the nominees for appointment by the County Assembly and subject to the applicable written law, appoint the nominee within a period of seven days from the date of notification of the decision of the Assembly under subsection (1).

Powers of the committee

13. (1) The committee shall have power to summon any person to appear before it for the purpose of giving evidence or providing information during approval hearing.

(2) For purposes of subsection (1), the committee shall have the same powers as the High Court to—

- (a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;
- (b) compel the production of documents; and
- (c) issue a commission or request to examine witnesses abroad.

(3) Any person who—

- (a) disobeys any order made by a committee for attendance or for production of papers, books, documents or records; or

- (b) refuses to be examined before, or to answer any relevant question put by, a committee,

commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

Extension of time

14. (1) Despite the provisions of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the County Assembly relating to a public appointment, the County Assembly may, by resolution, extend that time by a period not exceeding seven days.

(2) Where an extension of time is granted under subsection (1), the doing of all other acts consequential thereto shall be deemed to have been extended accordingly.

(3) The power of the County Assembly contemplated under subsection (1), may be exercised —

- (a) only once in a session of the National Assembly in respect of a particular matter; and
- (b) only in exceptional circumstances to be certified by the Speaker.

Non-Money Bill Status

15. (1) For the avoidance of doubt, nothing in this Act may be construed as providing for or dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(2) There may be established a fund which shall consist of monies specified under subsection (3).

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from —

- (a) such gifts, grants or donations as may be given;

- (b) such monies as may, in the future, be provided by the County Assembly for defraying the expenses incurred in implementation of this Act; and
- (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Section 21 of the County Governments Act.

SCHEDULES
FIRST SCHEDULE

[Section 7(8).]

**CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR
APPOINTMENT TO PUBLIC OFFICE BY THE COUNTY
ASSEMBLY OF MERU QUESTIONNAIRE**

Notes: QUESTIONNAIRE

- (a) This questionnaire applies to appointments to public office arising by or under the Constitution or any other law where the approval of a County Assembly is required.
- (b) The questionnaire shall be used by the relevant Committee of a County Assembly to vet a nominee appearing before the committee in the process of approval.
- (c) The questionnaire shall be filled and submitted by the nominee to the relevant committee of the County Assembly through the Clerk on or before a date set by the committee.
- (d) The submission of false information in the questionnaire shall lead to the automatic disqualification of a nominee.
- (e) Any form of canvassing by a nominee shall lead to disqualification.
- (f) The nominee must answer all the questions.

1. **Name:** (State full name)
2. **Position:** (State office to which you have been nominated)
3. **Sex:**
4. **Date of Birth:** (State year and place of birth)
5. **Marital Status:**
6. **Daytime phone number:**
7. **Mobile phone number:**
8. **Email Address:**
9. **ID Number:**
10. **PIN Number:**
11. **Nationality:**
12. **Postal Address:**

13. **Town/City:**

14. **Knowledge of Languages:**
Languages).....

15. **Education:** (List, in reverse chronological order, each university, college, or any other institution of higher education attended and indicate, in respect of each, the dates of attendance, academic award obtained, whether a degree was awarded, and the dates on which each such degree was awarded).

16. **Employment Record:** (List in reverse chronological order all government agencies, business or professional corporations, companies, firms or other enterprises with which you have been affiliated as an officer, director, partner, proprietor, employee or consultant).

17. **Honours and Awards:** (List any scholarships, fellowships, honorary degrees, academic or professional honours, honorary society memberships, military awards and any other special recognition for outstanding service or achievement and in respect of each, state the date of award and the institution or organization that made the award).

18. **Professional Association** (where applicable): (List all professional associations of which you are or have a member and give any positions held and the respective dates when each such position was held).

19. **Memberships:** (List all professional, business, fraternal, scholarly, civic, charitable or other organizations, (other than those listed in response to Question 16) to which you belong or have belonged).

20. **Published Writings:** (If Any)

(a) List the titles, publishers and dates of books, articles, reports letters to the editor, editorial pieces or other published materials you have authored or edited.

(b) Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of any bar association, committee, conference or organization of which you were a member. (If any)

21. **Public Office, Political Activities and Affiliations:**

(a) List chronologically any public offices you have held or are currently holding, including the terms of service and whether such positions were elected or appointed.

(b) List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election

committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign including the candidate, dates of the campaign, your title and responsibilities. Also include any linkage you have to a political party at present.

- (c) Have you ever been dismissed or otherwise removed from office for a contravention of the provisions of Article 75 of the Constitution?
- (d) Have you ever been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties?

22. Deferred Income/Future Benefits: (List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, etc).

23. Outside commitment during service in office: (Do you have any plans, commitments or agreements to pursue outside employment with or without compensation during your service in office? If so explain).

24. Sources of Income: (List sources and mounts of all income received during the calendar year preceding your nomination and in the current calendar year).

25. Tax Status: (State whether you have fully complied with your tax obligations to the State up to the end of the financial year immediately preceding the nomination for appointment).

26. Statement of Net Worth: (State you financial net worth).

27. Potential Conflicts of Interest:

- (a) Identity the family members or other persons, parties, categories of litigation or financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to rise.
- (b) Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

28. Pro-Bono/Charity Work/Donations to charity: (Describe what you have done by way of pro bono or charity work, listing specific

instances, the amount contributed and the amount of time (if any) contributed to each).

29. Have you ever been charged in a court or law in the last three years? If so, specify the nature of the charge, where the matter is ongoing, the present status of the matter, or where the matter is concluded, the judgment of the court, or otherwise, how the case was concluded.

30. Have you ever been adversely mentioned in an investigatory report of Parliament, County Assembly or any other Commission of inquiry in the last three years?

31. Have you any objection to the making of enquiries with your present employer/referees in the course of consideration of your nomination?

32. **References:** (List three persons who are not your relatives who are familiar with your character, qualification and work).

DatedDay..... of2016

.....

(Name of Nominee)

.....

(Signature)

SECOND SCHEDULE

[Section 7(8).]

VETTING ASSESMENT FORM

Name of Candidate

Position

RATINGS			
	Marks Available	Marks Awarded	Comments
Work experience (As it relates to the position)	25		
Education/training (Relevant to the position)	25		
Interest in and knowledge relating to specific position	15		
Communication Skills (Written/Oral)	10		
Presentation (promptness, neatness of resume/application, appearance)	10		
Decision making/problem solving skills	15		
Total marks	100		
Date:.....			

Note: The relevant experience to be assessed will depend on the job in question Each panel member should fill the form independently

MEMORANDUM OF OBJECTS AND REASONS

P. O. Box 73552 - 00200,
NAIROBI, KENYA

Statement of the Objects and Reasons for the Bill

The main objective of this Bill is to provide a legislative framework through which nominees for appointment to public offices, for which the approval of a County Assembly is required under the Constitution or any other law, are vetted and approved for appointment by the County Assemblies.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill facilitates the vetting of appointees to public office by the relevant committee of the County Assembly

One of the functions of the County Assemblies is to approve the appointment to office of various public officers. This Bill is intended to provide guidance and clarity on the process to be followed by a County Assembly and the relevant committee of the Assembly while considering a nomination for appointment to public office.

Statement that the Bill is not a money Bill within the meaning of Section 21 of the County Governments Act

Clause 15 of the Bill specifically removes the Bill from the ambit of the matters listed under Section 21 of the County Governments Act. The clause further provides that any expenses that may be occasioned by the implementation of the Act are to be provided from such gifts, grants or donations as may be given or from such monies as the County Assembly may, in the future, provide for the defraying of such expenses. The Bill also provides that a fund may be established for the purposes of the custody of such funds. The Bill does not therefore appropriate funds for the implementation of the Act; any appropriation would be effected through separate legislation which would be introduced and enacted in terms of Section 21 of the County Governments Act. This Bill is therefore not a money Bill within the meaning of Section 21 of the County Governments Act.

JOSEPH KABERIA I.A,
Chairperson, Select Committee on Appointments.