



REPUBLIC OF KENYA

THARAKA NITHI COUNTY GAZETTE SUPPLEMENT

BILLS, 2015

NAIROBI, 24th April, 2015

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**THE THARAKA NITHI COUNTY PUBLIC APPOINTMENTS
(COUNTY ASSEMBLY) APPROVAL BILL, 2015**

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

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**THE THARAKA NITHI COUNTY PUBLIC APPOINTMENTS
(COUNTY ASSEMBLY) APPROVAL BILL, 2015**

A Bill for

**AN ACT of County Assembly of Tharaka Nithi to provide for
procedures for County Assembly approval of statutory
appointments and for connected purposes.**

ENACTED by the County Assembly of Tharaka Nithi, as follows-

PART I—PRELIMINARIES

Short title

1. This Act may be cited as the Tharaka Nithi County Public Appointments (County Assembly) Approval Act, 2015.

Interpretation

2. In this Act, unless the context otherwise-

“Appointing authority” means any person who, under the County Governments Act, 2012 or any other written law, is required to make an appointment for which Approval of County Assembly is required;

“Candidate” means a person who has been proposed or nominated for appointment to a County Public Office.

“Clerk” means the Clerk of the County Assembly;

“Committee” means the relevant Committee of County Assembly or such other Committee as the Speaker may direct.

Purpose of the Act.

3. The purpose of this Act is to provide for the procedure of vetting and approval of appointments made by an appointing authority where approval of County Assembly is required in order to-

- (a) Ensure compliance with necessary legal requirements
- (b) Enhance accountability
- (c) Promote transparency in public appointments

PART II—APPOINTMENTS APPROVAL PROCEDURE

Exercise of Powers of Appointment

4. (1) an appointment under the County Governments Act, 2012 or any other written law for which the approved or deemed to have been approved by the County Assembly in accordance with this Act.

(2) An appointment made contrary to subsection one shall not have effect.

Notification of Vetting Requirements

5. An advertisement inviting applications for nomination for appointment to an office to which this Act applies shall indicate that a candidate so nominated shall be required to appear before a Committee of 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.

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

(a) In writing;

(b) Be lodged with the Clerk of the County Assembly.

(3) A notification of appointment shall be accompanied by information concerning the nominee, having regard to the issues mentioned in section 7(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).

Vetting Process

7. (1) Upon receipt of a notification of nomination the clerk shall-

(a) Notify the relevant Committee; and

(b) Invite the relevant Committee to conduct vetting of the respective candidate.

(2) Upon receipt for of a notification under subsection (1) the Committee shall determine time and place for holding of an approval hearing and shall inform the Clerk.

(3) The clerk shall notify a candidate of the time and place for holding of an approval hearing.

(a) The committee shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

(b) The committee shall make the notice referred to under subsection (4) above using modalities applicable under section 91 of the County Government Act.

(5) The Committee shall vet the respective candidate by scrutinizing the information provided by the appointing authority and holding approval hearing in accordance with this Act and the County Assembly Standing Orders.

(6) Subject to this Act, All committee proceedings on public appointments shall be open and transparent.

(7) Despite subsection (6), Committee proceedings 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 closed session on the following grounds;

- (a) If making public the matters subject to discussion in the sittings is likely to endanger public security or
- (b) So as to protect public decency or
- (c) If it would be against public interest to make public matters subject to discussion in the sitting.

(8) An approval hearing shall focus on a candidate's suitability for the position to which the candidate has been nominated which shall include—

- (a) academic credentials;
- (b) professional training and experience
- (c) personal integrity and background;-and
- (d) any other matter as the Committee may determine

(9) The committee shall use the questionnaire specified in the schedule as the criteria for vetting a candidate.

(10) 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.

(11) 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 County Assembly shall consider the following issues in relation to any nomination –

- (a) The procedure used to nominate the candidate.

- (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 qualifications, abilities, experience and qualities meet the requirements of the office to which the person has been nominated.

Period for consideration and report

9. The Committee shall consider a nomination, prepare its report table it in the County Assembly for consideration within fourteen days from the date on which the notification of nomination was given under section 6

Failure of County Assembly to act on nomination.

10. (1) The County Assembly shall, upon receipt of the Committee report under section 9 debate on the report and make a decision to approve or reject the appointment within seven days.

(2) If, after expiry of the period referred under subsections (1), the County Assembly has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.

Notification of Decision

11. The Clerk shall notify the appointing Authority of the decision of the County Assembly within seven days of decision being made.

Rejection of Nomination.

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

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 witness and examine them on oath, affirmation or otherwise;
- (b) compel the production of documents; and
- (c) issue a commission or request to examine witness 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 lawful and relevant question put by a committee, commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year, or to both.

PART III--MISCELLANEOUS

Rules

14. The speaker may in accordance with the Standing Orders of the County assembly make rules generally for the purpose of this Act.

Savings

15. A person who, prior to the commencement of this Act was appointed to a position for which approval of the County Assembly is required, and was vetted and approved for appointment by the County Assembly, shall be deemed to have been appointed in accordance with this Act.

**CRITERIA FOR VETTING/APPROVAL OF NOMINEE FOR
APPOINTMENT TO PUBLIC OFFICE BY COUNTY ASSEMBLY**

QUESTIONNAIRE

Notes:

- (a) This questionnaire applies to appointments to public office arising by or under the County Governments Act, 2012 or any other written law where County Assembly approval is required.
- (b) The questionnaire shall be used by the relevant County Committee to vet a nominee appearing before the Committee in the process of County Assembly approval.
- (c) The questionnaire shall be filled and submitted by the nominee to the relevant County Assembly Committee through the Clerk on or before a date set by the Committee.
- (d) The submission of false information in the questionnaire is an offence and may result in prosecution.
- (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. E-mail Address:
9. ID Number/Passport Number:
10. Personal Identification Number:
11. Nationality:
12. Postal address:
13. City /Town:
14. Knowledge of Languages (specify 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 such degree was awarded).
16. Employment Record :(List in reverse chronological order all Government agencies, Business or Professional corporations, Companies, firms or other enterprise with which you have been affiliated as an officer, ~~director, partner, proprietor, employee or consultant~~).
17. Honors and Awards: (List any Scholarships, Fellowships, Honorary degrees, Academic or Professional honors, 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 been 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 to have belonged).

20. Published Writings:

- (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.

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, either 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, 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 Leaderships and Integrity Act, 2012?
- (d) Have you ever been adversely associated with practices that depict bias, favoritism or nepotism in the discharge or 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 arrangements to pursue outside employment with or without compensation during your service in office? If so explain).

24. Sources of Income :(List sources and amounts 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 (or to the County Government where applicable) up to the end of the financial year immediately preceding the nomination for appointment).

26. Statement of Net Worth: (State your financial net worth).
27. Potential Conflicts of Interests:
 - (a) Identify 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 devoted to each)
29. Have you ever been charged in a court of 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 investigatory report of County Assembly or any other Commission of inquiry in the last three years?
31. Do you have 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).

MEMORANDUM AND OBJECTS OF REASONS

PART I Provides for preliminaries that is short title and commencement, interpretation and objects and purpose.

PART II Provides for appointments approval procedure that is: exercise of powers of appointment, notification of vetting requirements, notification of nomination, vetting process, issues for consideration, period for consideration and report, failure of County Assembly to act on nomination, rejection of nomination, notification of decision and powers of the committee

PART III provides for miscellaneous and rules relating thereto.

JOHN MBABU,
Chairperson, Committee on Appointments.