

SPECIAL ISSUE

Kenya Gazette Supplement No 1 (Kitui County Bills No. 1



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KITUI COUNTY BILLS, 2019

NAIROBI, 20th March, 2019

CONTENT

Bill for Introduction into the County Assembly of Kitui—

PAGE

The Kitui County Ward Public Forums Bill, 2019 1

THE KITUI COUNTY WARD PUBLIC FORUMS BILL 2019

A Bill for

AN ACT of the County Assembly of Kitui to provide for the general framework for the effective involvement of the Kitui County residents into matters relating to governance, legislation, policy formulation; and to create an effective and efficient linkage between the members of County Assembly of Kitui and the residents of Kitui County and for all connected purposes

ENACTED by the County Assembly of Kitui as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Kitui County Ward Public Forums Act, 2019.

Interpretation

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

“county” means Kitui County established under Article 176 of the Constitution;

“county assembly” means Kitui County Assembly as established under Article 176 of the Constitution;

“assembly” means County Assembly of Kitui as established under Article 176 of the Constitution and shall include the Clerk of Assembly or any person authorized to undertake any activity on behalf of the Assembly whether as employee of the Board or otherwise;

“board” means the Kitui County Assembly Service Board established under Section 12 of the County Governments Act, 2012;

“committee” means a committee of the County Assembly of Kitui;

“constitution” means the Constitution of Kenya 2010;

“clerk” means the Clerk of the County Assembly appointed in accordance with section 18 of the County Assemblies Services Act, 2017;

“member” means a member of the County Assembly elected in accordance with the Constitution;

“governor” means the Governor of Kitui County;

“government” means the County Government of Kitui;

“persons with disabilities” has the meaning assigned to it under the Persons with Disabilities Act;

justification shall in that case be offered and communicated to the public;

- (c) the County residents shall have a responsibility to effectively take part and participate in giving their views on matters that affect them whether directly or indirectly;
- (d) the assembly shall provide the public with information in a format and language understandable to them and allow them sufficient time in order for them to make meaningful contribution towards the issue;
- (e) the forums shall be guided by the National Values and Principles of Governance set out under Article 10 of the Constitution;
- (f) the County assembly shall effectively communicate to the public how their views are likely to affect the issue under discussion;
- (g) the County assembly shall ensure that minorities and marginalized groups and communities have access to all the information required to ensure that they effectively participate in ward public forms;
- (h) clear mechanisms for giving feedback to the public; and
- (i) collaboration between the Assembly and non-state actors in ward public forums.

PART II—ADMINISTRATION

Quarterly Public Forums

6. (1) A Member shall on a quarterly basis in each financial year convene a ward public forum for deliberation, collection of opinion and views on matters respecting but not limited to—

- (a) good governance;
- (b) impact of implementation of County legislations;
- (c) policy formulation and implementation;
- (d) implementation of projects, plans and programs for economic and social development of the ward;
- (e) delivery of services by the County Government in the ward; and
- (f) any other issues that the public and the member of County Assembly shall consider fit to deliberate on.

(2) The forums shall be open to all persons in the ward desiring to attend and give their contributions.

(3) The forum shall provide a platform for consultation by stakeholders within the Ward on different issues.

(4) A Member shall publicize the ward public forum to enable attendance and participation by a wide section of the population in the Ward.

(5) The ward office assistant shall be the secretary to the ward public forum and shall ensure that records of all meetings are well kept and any decisions are communicated to the office of the Clerk.

(6) The forums shall be held in rotation within all market centers in each of the villages in the Ward.

Public Forum reporting

7. (1) After every forum, a member shall cause a report to be prepared by the ward office assistant for approval by the member and onward transmission to the office of the Clerk. The report shall contain *inter alia* the following—

- (a) public forum's deliberations; and
- (b) proposals made by the public or stakeholders in the public forum.

(2) The report shall be prepared and transmitted to the office of the Clerk within twenty-one days.

(3) The office of the Clerk in consultation with the members shall cause the reports from all forty (40) wards to be reduced into one report.

(4) The office of the Clerk in consultation with the members shall on a bi-annual basis cause to be prepared public forum reports, the reports shall contain *inter alia* the following—

- (a) the number of public forums undertaken;
- (b) the level of incorporation of proposals made or issues raised by the public;
- (c) challenges faced in the implementation of this Act;
- (d) proposed mitigation measures;
- (e) the performance of the public forums; and
- (f) any other information that the member shall consider fit to be in the report.

(3) A Member may bring a motion in the Assembly for consideration on a matter arising from any public forum report after which

the matter shall be committed to the relevant committee for necessary action.

Responsibilities of the Board

8. As relates to this Act, the Board shall have the following responsibilities—

- (a) to facilitate the carrying out of forums;
- (b) to facilitate, through the member, persons living with disabilities within the Ward to attend the meetings; and
- (c) facilitating committees of the County Assembly when carrying out public participation programs.

Functions of the Office of the Clerk

9. The office of the Clerk shall be responsible for the following—

- (a) offering technical advice and support to the forums;
- (b) providing administrative and logistical support to the forums;
- (c) preparing forum reports for tabling before the Assembly;
- (d) provide documentation necessary for any forum in a form and language that is understandable to any person attending the forum;
- (e) facilitate and support committees in creating networks that assist in undertaking forums;
- (f) carrying out any other function that may be assigned by the Board; and
- (g) prepare bi-annual reports on forums undertaken and cause the reports to be laid in the Assembly.

Feedback reports

10. Members shall ensure that the decisions made by the Assembly from a forum report are communicated back to all the relevant stakeholders.

Forum Notices

11. The Clerk shall, in consultation with a member—

- (a) issue adequate and sufficient notice and information on any public forum to be undertaken;
- (b) a notice shall be issued under this section by pinning the notice on all conspicuous places within the Ward, having the local

radio stations run the adverts and using any other medium as may be considered appropriate;

- (c) submit request for views and proposals from the stakeholders or the public where the stakeholders or the public are required to participate in a forum under this Act; and
- (d) sufficient notice in this case shall be a seven days' notice.

Provision of information

12. The Clerk shall provide the applicable information in any form necessary to aid and facilitate the efficient carrying out of public forums.

Citizens duties and responsibilities

13. (1) A resident or any member of the public with interest in the County shall have the duty and responsibility to—

- (a) constructively participate in the public forums;
- (b) share information and make proposals to the Assembly regarding governance and service delivery; and
- (c) not to negatively interfere with public forum.

(2) For purposes of this section, to negatively interfere with a public forum means—

- (a) to interrupt on-going public forum without permission;
- (b) to cause chaos during a public forum; or
- (c) any other behavior that would negatively affect an on-going public forum.

PART III—FINANCIAL PROVISIONS

Facilitation of Ward Public Forums

14. The Assembly shall appropriate funds for the undertaking of ward public forums.

PART IV—MISCELLANEOUS PROVISIONS

Simplicity of documents

15. The Assembly shall ensure that all documents relating to the Forums are simple and concise and shall provide summary of the issues or matter for consultation and clearly setting out the questions to be addressed.

Forum Responses

16. The Assembly shall ensure that all responses are carefully and open mindedly analyzed and the results made available to the public, including an account of the views expressed and reasons for the decisions taken.

Disclosure

17. The Assembly shall disclose all the information relevant for the public to understand and evaluate any decisions taken under this Act.

Fair Participation

18. The Assembly shall ensure that the stakeholders have fair and equal access to the public participation process and are given a fair opportunity to make decisions in the process.

Decisions to be made in good faith

19. The Assembly and the Member shall ensure that all decisions and commitments made to the public under this Act are made in good faith.

Participation by the public

20. The Assembly shall undertake and encourage actions that build trust and credibility for the Forums process among the participants.

Validity of Data

21. The Assembly shall be responsible for the validity of all data collected, analysis performed, or plans developed by it or under its direction under this Act.

General Penalty

22. A person who contravenes any provision of this Act shall be liable to a fine not exceeding Kenya Shilling one hundred thousand or imprisonment to a term not exceeding six months.

Code of Conduct

23. A person shall not engage in any conduct involving dishonesty, fraud, deceit, misrepresentation as relates to the undertaking of any activities under this Act.

Guidelines

24. (1)The Board may make guidelines for the better carrying out of the effects of this Act.

(2) Without the generality of subsection (1) the board may make guidelines regarding—

- (a) timeframe for consultations noting to allow reasonable time for each stage of the process;
- (b) type of the public to be consulted whether it is the community or professionals to be consulted and what manner is to be employed;
- (c) publication and distribution of documents and reports relating to the Forums.

MEMORADUM OF OBJECTS AND REASONS

The Kitui County Assembly Ward Public Forums Bill, 2019 seeks to provide for a mechanism to efficiently involve the people of Kitui County in governance and government decision making processes.

The bill also seeks to ensure that the Member of County Assembly effectively performs his or her role in providing a linkage between the County Assembly and the public on service delivery as envisioned in section 9 (1) (d) of the county governments Act, 2012.

The bill further seeks to promote democracy and accountability by increasing the involvement of the public in decision making and therefore creating avenues for further checking government powers.

The bill also seeks to promote involvement of the people in policy making processes by ensuring access to timely and accurate information that is relevant to policy formulation and implementation.

The bill emphasizes the need for the assembly to directly interact with the public in order to create a platform through which the public can participate in ensuring good governance and providing checks and balances.

The bill does not limit any fundamental rights and freedoms.

The bill will occasion expenditure on the part of the County Assembly as the public forums will require to be facilitated.

Finally, the bill promotes the protection of the interests and rights of the minorities, marginalized groups and disadvantaged communities and their access to relevant information from Kitui County Government.

Dated the 8th August, 2018.

DAVID THUVI,
Member of County Assembly.