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**VIHIGA COUNTY GAZETTE
SUPPLEMENT**

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**THE VIHIGA COUNTY EDUCATION FUND ACT,
2014**

ARRANGEMENT OF CLAUSES

Date of Assent: 20th February, 2014

Date of Commencement: See Section 1

Clause

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**THE VIHIGA COUNTY EDUCATION FUND ACT
2014**

AN ACT of the County Assembly to provide for a Fund at the County level for financial assistance to bright and needy students from the County pursuing the categories of education falling within the functions and powers of the county government; to provide for the necessary legal framework for the administration of the Fund; to give effect to the constitutional requirement for prudent spending of public funds and for related purposes,

ENACTED by the County Assembly of Vihiga as follows:—

PART 1 – PRELIMINARY

1. This Act may be cited as Vihiga County Education Fund Act, 2014 and shall commence on the fourteenth day after its publication in the Gazette.

Short Title and
Commencement

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

Interpretation

“agent” means any person, body or institution engaged, on whatever terms to administer the Fund whether independently or jointly with the Committee but does not include officers of the Fund or members of the Committee.

“applicant” means a person applying to the Fund for financial assistance whether for his own benefit or for the benefit of another person.

“beneficiary” means a person who was awarded financial assistance from the Fund other than by way of payment for services rendered.

“bright” means a person pursuing studies whose educational graph is steadily rising and has exhibited the potential to score higher.

“bursary” means financial assistance for educational promotion.

“County Executive” means the County Executive Committee established in accordance with Article 176 of the Constitution and Part V of the County Governments Act

No. 17 of 2012

“County Treasury” has the same meaning as that provided under the Public Finance Management Act;

No. 17 of 2012

“County Government” means the form of devolved government established in accordance with Article 6 of the Constitution

“Contact Person” means a person whose name is provided by the applicant as having information regarding his whereabouts during and after completion of studies in the event that the applicant is inaccessible using the contacts provided on the date of the application

“County Public Service Board” means an organ of the County government dealing with employment established under Section 57 of the County Governments Act;

No. 17 of 2012

“Fund” means generally the financial programme established by the County Government of Vihiga under this Act to assist bright and needy children to advance higher education

“Fund Manager” means a person appointed through competitive process under this Act to manage the Fund.

“Fund officer” means a person appointed by the County Public Service Board under this Act, not being an agent, a partner or committee member, to work for the Fund under the Fund Manager

“guardian” means a person in charge of the welfare of a student under this Act who is not of age.

“he” refers to persons of both gender

“higher education” means a course of study leading to an award of at least a diploma in a recognized institution.

“needy” means genuine financial incapacity to meet personal obligations.

“harambees” means voluntary financial or material contribution to a course either upon drive or on invitation

“parent” means father or mother and includes a guardian.

“the Committee” means the Management Oversight Committee established under this Act

“student” means a person pursuing higher education and who attained a minimum grade of C plain in the Kenya

Certificate of Secondary Examination (KCSE) or its equivalent or, in case of bursary, a person pursuing post-primary education in a reputable and recognized institution.

“Student Forum” means the forum established pursuant to this Act bringing together students who are benefitting or have benefitted from the Fund,

3. The object and purpose of the Act is to—

The object and purpose of the Act

- (a) to establish a Fund for the County government for promotion of that category of education falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution through other forms of financial assistance;
- (b) to provide a stable revenue base from which bright and needy students in the County can easily access financial assistance to advance their pursuit for that category of education falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution;
- (c) to promote, through financial assistance, the urge for pursuit of studies in specialized and professional courses that are within that category of education falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution by students, from the County;
- (d) to provide for legal mechanism for prudent and accountable use of public funds allocated for educational purpose out of the County budget;
- (e) to establish a bursary fund for sustainable educational financial assistance system for the county;
- (f) to provide for involvement of other partners in the funding and management of the fund;
- (g) to accord partners a regular and structured process for contributing financially towards advancement of education in the County.

PART II – THE FUND AND BANK ACCOUNTS

4. (1) There is established for Vihiga County a Fund to be known as the Vihiga County Education Fund which shall be used for the furtherance of the objects and purposes set out in section 3.

Establishment of
the Fund

(2) The Fund shall, unless decided otherwise by the County Executive, be managed from the department of the County Government responsible for matters of education.

(3) The Fund office shall be in an open and easily accessible location with a prominent label in capital letters on the door or the outer wall marked “VIHIGA COUNTY EDUCATION FUND”

(4) Next to the Fund office shall permanently be kept a metal box sufficient to receive and hold a reasonable quantity of written suggestions labeled in capital letters with the words “VIHIGA COUNTY EDUCATION FUND SUGGESTIONS BOX”

(5) The Committee shall sensitize the public sufficiently to channel any suggestions on the administration of the Fund through the suggestions box.

(6) The suggestions Box shall be securely locked at all times and the key kept in the custody of an appointee of the County Executive.

(7) The suggestions Box shall be opened on every date of the County Executive meeting and any complaints received through the box be dealt with as disputes in accordance with section 21 of this Act.

5. There shall be deposited in the Fund –

Sources of
revenue to the
Fund

- (a) monies allocated to the Fund through the annual County Government budget and approved by the County Assembly;
- (b) monies paid to the Fund by educational partners and other interested persons or well wishers;
- (c) all other monies lawfully due to the account;
- (d) monies raised through public collections or harambees.

6. (1) All monies paid to or received on behalf of the Fund shall be deposited in a savings account to be opened with the approval of the County Executive in the name of

Banking and
operation of the
Fund accounts

the Fund in a reputable banking institution operating within the County;

(2) No monies shall be withdrawn from or paid directly out of the Fund account except by way of transfer to a current operation account to be opened and managed at ward level with the approval of the County Executive in the name of the Fund in a different but equally reputable banking institution operating within the county.

(3) The Committee shall recommend to the County Executive the banking institutions with which to operate the accounts and the signatories to the accounts.

(4) The Fund and the bank accounts shall be managed by the Committee in a manner that is prudent and accountable.

PART III – MANAGEMENT OF THE FUND

7. (1) There shall be appointed for the Fund officers who

Appointment of
Fund Manager
and other officers

shall include –

- (a) A Fund Manager
- (b) Other Fund officers

(2) The appointment and terms of service of officers named in subsection (1) of this section shall be made by the County Public Service Board.

(3) Despite subsection (2) of this section, Fund officers shall serve on contract of three years and may be re-appointed to one similar term.

8. No person shall be appointed as Fund officer under section 7 of this Act unless-

Qualification for
appointment as
Fund officer

- (a) in the case of the Fund Manager, he holds at least a first degree in business administration or related discipline from a recognized institution with not less than three years experience in a relevant organization; or
- (b) in the case of any other officer, he holds at least a grade of C plus in Kenya Certificate of Secondary Examination or its equivalent;

(c) he has complied with the requirement of Chapter Six of the Constitution

9. (1) Responsibilities of the Fund officers shall be –

Responsibilities of
the Fund Officers

- (a) to manage the daily business of the Fund;
- (b) to create awareness of the existence, operations and benefits of the Fund within the County;
- (c) to invite, with the approval of the Committee, and receive applications for financial assistance from the Fund;
- (d) to open and maintain the registers required to be kept by the Fund under this Act;
- (e) to develop and keep all data required by the Fund;
- (f) to verify information submitted to the Fund and analyze the applications received for financial assistance and make the necessary recommendations to the Committee.
- (g) to keep proper records of accounts.
- (h) to inform the Committee of all the obligations to be met by the Fund under this Act;
- (i) to maintain efficient systems of the bursary;
- (j) to ensure compliance with all the requirements of this Act;
- (k) to make periodic or other reports of the Fund to the Committee;
- (l) resource mobilization;
- (m) perform any other responsibility assigned by the Committee.

(2) The Fund officers shall be answerable to the Fund Manager who shall in turn be answerable to the committee;

(3) The Fund Manager shall be the accounting Officer of the Fund.

10. A. (1.) There shall be appointed for the Fund in the manner provided under this Act a Management Oversight Committee.

Establishment of
the Committee

(2.) The Committee shall comprise of –

- (a) a chairperson, appointed by the county Executive Committee member in charge of Education, and approved by the County Assembly;
 - (b) The county government director of education serving in the National Government or his or her designate;
 - (c) one person from each sub-county who must be a reputable educationist appointed by the County Executive member responsible for education in consultation with the sub-county education officer, and approved by the County Assembly;
 - (d) one person appointed by the person in charge of the County Government legal department;
 - (e) Two persons nominated in writing by the body or bodies responsible for the welfare of secondary and primary school teachers;
 - (f) One person appointed by the County Executive Committee Member responsible for education on the recommendation in writing of the partners or agents engaged in the administration of the fund;
 - (g) Two student representatives of the opposite gender elected by the Students Forum in accordance with Section 16 of this Act;
 - (h) One person living with disabilities appointed by the County Executive Committee member responsible for education and approved by the County Assembly
 - (i) The Fund Manager shall be the Secretary to the Committee.
 - (j) Two persons to be appointed by faith-based organizations to represent them
- (3) A person shall not qualify for appointment to the Committee unless—
- (a) he holds at least a diploma from a recognized institution or KCSE for a ward committee.
 - (b) is a student currently pursuing a course of study leading to an award of atleast a diploma in a

recognized institution and is elected in the manner provided under this Act and

(c) has complied with the requirements of Chapter Six of the Constitution

(4) Gender equity shall be observed in making appointments to the Committee.

(5) Persons appointed to the Committee shall, unless removed for lawful reasons serve for-

(a) a period of three years or

(b) in the case of Student Representatives for a period of one year.

(6) Despite subsection (5) of this Section, a member of the Committee may be removed through a resolution of the County Executive for incompetency or misconduct

(7) The Committee shall meet at least once in every three months and may meet in case of an emergency.

(8) The Committee shall regulate its own affairs so long as they are in line with the constitution.

(9) The Ward Committee shall determine the form of sitting allowances to be paid to the Committee members.

10. B (1) There shall be a management committee for this fund at ward level under this Act.

(2) The committee shall comprise of;-

(a) A chairperson, elected by the committee members from each sub-location,

(b) A secretary of the committee serving in the ward as a ward administrator,

(c) A third signatory to the account, elected by the committee members,

(d) One person from each sub-location, elected by the public,

(e) The County government area Education officer serving in the national government or his or her designate.

(f) One person living with disability, elected by members of the public from each ward,

- (g) The chief(s) in the ward(s) shall be ex-officio to the committee,
- (h) The patron of the committee shall be a member of county Assembly.

(3) Membership of each ward committee shall have a minimum of five and a maximum of eleven members.

11. (1). The functions of the Committees shall be—

Functions of the
Committee

- (a) to oversee the management of the Fund,
- (b) to develop the Fund policy,
- (c) to formulate and review the rules and regulations of the Fund, and be approved by the county Assembly,
- (d) to develop the forms and other legal instruments to be used by the Fund, and be approved by the county Assembly,
- (e) to analyze the applications for financial assistance and to decide on the beneficiaries and the limit of financial assistance for each applicant, and be approved by the county Assembly,
- (f) to operationalize banking for the Fund,
- (g) to decide on the amount of fees and other charges for services rendered to the Fund,
- (h) to develop and execute vigorous systems for revenue generation to the Fund,
- (i) to provide an enabling environment for donor contribution to the Fund,
- (j) to do everything lawful for the success and sustainability of the Fund,
- (k) perform other responsibilities as may be assigned by the County Executive.

(2) The quorum at all Committee sittings shall be one half of all the members but any business transacted by the Committee shall be valid notwithstanding a vacancy in its membership.

(3) The Committee may delegate its responsibilities under this section to one or more of its members or

subcommittees, but responsibilities performed in exercise of delegated power under this subsection shall be ratified by the Committee

(4) The Committee shall be answerable to the County Executive through the County Executive member responsible for education.

PART IV –FINANCIAL ASSISTANCE

12. A person shall not qualify for financial assistance from the Fund unless—

Requirements for financial assistance

- (a) he was born and brought up in Vihiga County or
- (b) has been a resident of Vihiga County for a continuous period of twelve years preceding the date the application for financial assistance is made or
- (c) he or his parents own land within Vihiga County where either or both intend to settle permanently or
- (d) has proved by national identification card or other documentary evidence to be from Vihiga County
- (e) he has passed Kenya Certificate of Secondary Education with at least a mean grade of C plain or its equivalent and
- (f) has been admitted to a recognized institution of higher education for a course of study leading to an award of at least a diploma;
- (g) he has satisfied the Committee that by reason of his disadvantaged social background, he is needy and
- (h) has satisfied other requirements set by the Committee and
- (i) has applied to the Committee for financial assistance

13. (1) Applications for financial assistance shall be in such form as may be prescribed and the application form may also be made available in braille.

Applications by persons living with disabilities.

(2) Application for financial assistance by a person living with disabilities or prevented from making the

application in person by reasonable cause may be made on his behalf by a parent or a guardian if the applicant is unable to make the application in person

(3) Application made under subsection (2) shall be accompanied by consent in such form as may be prescribed signed by the beneficiary in person seeking financial assistance.

(4) In the case where the application is made by a person other than the beneficiary, the person applying for financial assistance shall make the application as though he was the beneficiary himself and shall be bound by all terms for financial assistance applicable to the actual beneficiaries.

14. (1) The ward Committee shall have the final decision on the persons to benefit from the Fund and the limit of financial assistance to award each beneficiary.

(2) Any financial assistance from the Fund shall be limited to payment of tuition fees and reasonable student maintenance.

(3) All disbursements for financial assistance from the Fund shall be paid directly to the learning institution by cheque signed by authorized signatories.

(4) Once an approval is made by the Committee for financial assistance to an applicant, payment shall be released to the respective institutions and beneficiaries not later than fourteen days.

(5) All Funds disbursed by way of financial assistance to beneficiaries under this Act shall be in form of educational bursaries.

(6) Nothing in this section shall be construed to confer the right to the Committee to hold monies in the Fund that are in excess of that required for administrative running to the end of the financial year when applications for financial assistance remain unsatisfied.

(7) Despite this section, the committee may, with the approval of the county executive, award bursaries to bright and needy students from the county pursuing education in other learning institutions upon terms to be determined by the committee.

Bursaries and
other financial
disbursements

(8) The amount of money awarded by the Committee as bursaries under subsection (7) of this section shall not exceed thirty percent of the total annual budget of the Fund.

15. (1) Within six months after the commencement of this Act, the County Executive shall initiate the process for establishment of a Students Forum.

Establishment of
Students Forum

(2) The membership of the Students Forum shall comprise of the present and former beneficiaries of the Fund.

(3) The present and former beneficiaries shall be categorized into New and Old Chapters respectively.

(4) Save as may be decided by the County Executive, membership to the Students Forum shall be free of charge and effective on the first date the student become a beneficiary of the Fund.

(5) The registers kept by the Committee for student beneficiaries of the Fund shall be the same registers to be kept for Students Forum save that the register in respect of the Students Forum shall be separated to accord with the New and Old chapters category respectively.

(6) The County Executive shall, within twelve months of the Fund coming into operation and in every year organize for election of two students representatives of the opposite gender as members of the Committee.

(7) Despite subsection (5) of this section, the students forum may establish their own management committees and elect students leaders to the said committees.

(8) Students representatives elected to the Committee under subsection (5) of this section shall be from the New Chapter of the Students Forum and shall hold office for a period of one year and may be re-elected to two similar terms.

(9) The primary duty of the Student Representatives on the committee shall be to maintain the link between the Fund and the Students Community for efficient administration.

(10) Once in every year, there shall be a conference of both Chapters, of Students Forum addressed by the

Governor outlining the achievements and challenges of the Fund in the year ending on the date of the Annual Address.

(11) The Governor may, on the date of the Annual Address confer awards to beneficiaries of the Fund for academic excellence.

PART V - RECORDS AND AUDITS OF THE FUND

16. (1) There shall be maintained by the Fund registers each for –

Registers, records and audits of the Fund

- (a) all the applications received by the Fund for financial assistance every year.
- (b) all applications approved by the Committee for financial assistance in every year.
- (c) all applications for financial assistance by persons living with disabilities received by the Fund in every year.
- (d) names of all persons living with disabilities approved for financial assistance from the Fund in every year.
- (e) all contact persons and parents or guardians of the applicants.

(2) The registers to be maintained under subsection (1) of this section shall contain sufficient details of all the applicants, all the contact persons and parents or guardians of the applicants, the amount of financial assistance applied for by every applicant, the amounts awarded by the Committee to each beneficiary and the expected year of completion of studies of every applicant.

(3) Nothing in this section shall bar the committee from maintaining additional records for the Fund that are vital for efficient and satisfactory administration of the Fund.

17. (1) There shall be kept for the Fund a proper and clear financial and accounting, management systems every financial year that shall reflect—

Financial and accounting records

- (a) all monies voted to the Fund by the County Government in its budget

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- (b) all monies received by the Fund from educational partners and other interested parties or well wishers.
- (c) monies raised through public collections popularly known as harambees.
- (d) any other monies received by the Fund from any other source.
- (e) all monies approved by the Committee for financial assistance to the applicants.
- (f) all monies transferred from the Fund to the operation account.
- (g) the total number of beneficiaries and the amount paid to each from the Fund
- (h) all other expenditures from the Operation Account.

(2) For purposes of this Act, the financial year shall be the period of twelve months beginning on the date of the commencement of this Act.

18. (1) Not later than thirty days after the end of every financial year, the Committee shall, in consultation with the County Executive member responsible for the County Treasury, cause the books of accounts of the Fund to be audited.

Audit of the Fund

(2) Despite subsection (1) of this section, the County Executive may, at any time call for the audit of the books of accounts of the Fund.

19. (1) The Fund Manager shall in every three months, prepare and submit to the Committee quarterly reports concerning the operation and the status of the Fund.

Annual and other periodic reports of the Fund

(2) Not later than fifteen days after receipt of the quarterly reports from the Fund Manager, the Committee shall, at a sitting to be convened,

deliberate on the report and adopt it with or without amendments.

(3) At least thirty days before the close of every financial year, the Committee shall cause to be prepared a consolidated report of the operations of the Fund and submit the same to the Governor through the respective County Executive Committee Member.

(4) The Governor shall, after consideration of the report by the County Executive Committee and not later than sixty days after the close of the financial year, submit the report to the County Assembly.

(5) The records held by the Fund shall be accessible to the public and copies may be provided on payment of reasonable fee to be determined by the Committee.

(6) The records of the Fund kept or submitted under this Act shall be both in soft and hard form.

PART VI – MISCELLANEOUS PROVISIONS

20. (1) Where a dispute arises between the beneficiaries to the Fund and the Fund or generally concerning the administration of the Fund, not being a dispute involving third parties over services rendered to the Fund—

Dispute resolution
mechanisms

(a) a report shall be made of the dispute in writing by the aggrieved party to the County Secretary who shall table it before the County Executive meeting on the first day the committee meets after receipt of the report.

(b) the County Executive shall on receipt of the report, proceed to hear and determine the dispute or disputes in case of several expeditiously.

(2) The County Executive may form a dispute resolution subcommittee for purposes of settling disputes arising under this subsection and any decision made by the subcommittee on the disputes shall be binding.

(3) Any dispute involving the Fund which does not fall under the mechanism of resolution provided under subsection (1) of this section shall be resolved through arbitration PROVIDED that the Fund shall have the right to appoint one member to the panel charged with the arbitration of the dispute.

(4) A resolution of any dispute under this Section shall be communicated in writing to the affected persons not later than seven days from the date of the decision.

21. Any person who—

Offences under
the Act and
penalties

- (a) while employed as an officer of the Fund knowingly posts any false information regarding a beneficiary of the Fund or an applicant or a contact person, parent or guardian or causes the posting of such entries whether he has benefitted from the same or not shall be guilty of an offence or
- (b) while applying for financial assistance from the Fund knowingly makes a false or misleading entry in any form, application or instrument with the intention to mislead or deceive in order to secure such financial assistance or
- (c) shifts his residence or home or changes his contacts without notice to the Fund, from those provided to the Fund at the time of applying for financial assistance or
- (d) while benefitting from the Fund monies, conceals or fails to disclose to the Fund and the Student Forum his whereabouts and his employment status on completion of studies or
- (e) either frustrates or conspires with any person to frustrate the provisions of this Act, commits an offence and liable on conviction to imprisonment for a term not exceeding six months or to a fine of shillings one hundred thousand or to both such fine or imprisonment.

22. (1) The member of the county Executive committee may make rules for the better carrying out of the provisions of this Act.

Rule making
power

(2) Without prejudice to the generality of subsection (1), such rules may provide for-

- (a) the forms to be used under this Act;
- (b) the fee payable under this Act
- (c) the consent of beneficiary and of the contact person;
- (d) prescribe anything required under this Act to be prescribed.