

Kenya Gazette Supplement No. 134 (Senate Bills No. 6)



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REPUBLIC OF KENYA

# **KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2013**

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**NAIROBI, 11th October, 2013**

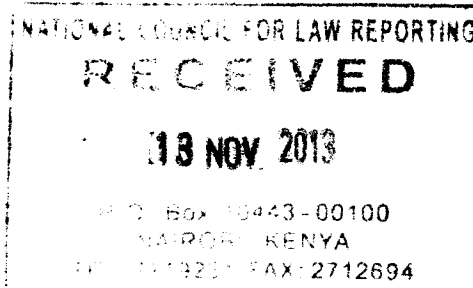
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**THE COUNTY INDUSTRIAL DEVELOPMENT  
BILL, 2013**

**A Bill for**

**AN ACT of Parliament to establish the County Industrial Development Board, to promote and facilitate economic growth through industrial development in all counties, and for connected purposes.**

**ENACTED** the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

Short title

1. This Act may be cited as the County Industrial Development Act, 2013 and shall come into force sixty days after its publication.

Interpretation

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

“Board” means the County Industrial Development Board established under section 4;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to industrial development;

“Chairperson” means the Chairperson of the Board appointed under section 4;

“Chief Executive Officer” means the Chief Executive Officer of the Board appointed under section 7;

“Clerk” means the Clerk of the Senate;

“Committee on County Industrialization” means the Committee of the Senate established in accordance with section 25;

“Commission on Revenue Allocation” has the meaning assigned to it in the Constitution;

“Community” means residents of a county or a geographical area or region within a County and having common interests;

“County” has the meaning assigned to it in the Constitution;

“County Assembly” has the meaning assigned to it in the Constitution;

“County Corporation” means a legal body corporate duly registered under the Companies Act, Cap 486 in which the county government is the sole shareholder or holds more than half of the shares.

“County Executive” means the County Executive as defined in the Constitution;

“County Industrial Development Committee” means the Committee established under section 10;

“Industrial park” means an area designated for establishment of industries where basic infrastructure such as roads, water and electricity have been provided;

“Small projects” means industrial projects whose cost does not exceed one half percent (0.5%) of the county government annual budget and which are intended to be funded directly by the county government from within their annual budget without requiring funding from the Board or other sources external to the county government;

“Produce” means produce from agricultural, livestock, fishing, mining, exploration or other activities within the county; and

“Project” means an eligible industrial development project as described in the Act.

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

- (a) promote and facilitate industrial development in the counties;
- (b) establish viable industries in the counties that add value to the produce of the counties;
- (c) enhance the economies of the counties; and
- (d) create employment opportunities within the counties through industrialization.

Objects and  
purposes of the Act

## PART II—THE COUNTY INDUSTRIAL DEVELOPMENT BOARD

Establishment of the Board

4. (1) There is established a Board to be known as the County Industrial Development Board.

(2) The Board shall be administered by a Board of Directors which shall consist of—

(a) a chairperson who shall be appointed by the Cabinet Secretary through an open and competitive process, with the approval of the Senate;

(b) the Principal Secretary in the ministry for the time being responsible for matters relating to industrialization, or an alternate designated by the Principal Secretary;

(c) the Principal Secretary in the ministry for the time being responsible for matters relating to finance, or an alternate designated by the Principal Secretary;

(d) four persons with qualifications and experience in industrial development, finance, accounting, engineering, economics, community development or any other relevant field, who shall be appointed by the Cabinet Secretary through an open and competitive process, with the approval of the Senate; and

(e) two persons, one man and one woman, appointed by the Governors' Council;

(f) the Chief Executive Officer who shall be an *ex officio* and the Secretary to the Board and who shall not be entitled to vote.

(3) In appointing the members of the Board under paragraphs (a) and (d) of sub-section (2), the Cabinet Secretary shall take into account regional and gender balance.

(4) The members of the Board shall, at the first meeting of the Board and whenever need arises, elect a vice-chairperson from amongst the members appointed under paragraphs (d) and (e) of subsection (2).

(5) The chairperson and the members of the Board appointed under paragraphs (d) and (e) of sub-section (2) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(6) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) purchasing, acquiring, holding or disposing of property;
- (c) entering into contracts;
- (d) doing or performing all such other acts as may be necessary for the proper performance of its functions under this Act;
- (e) borrowing money or making investments in accordance with the Constitution; and
- (f) lending money, subject to requirements of this Act and any written law.

5. (1) The functions of the Board shall be to—

Functions of the Board

- (a) guide the counties in the process of preparation of viable project proposals including carrying out of feasibility studies and detailed proposals on the proposed projects;
- (b) receive project proposals from the counties;
- (c) ensure timely and efficient evaluation of project proposals received from the counties;
- (d) approve project proposals from the counties that meet the requirements of this Act and of any other law and that are viable;
- (e) to manage the County Industrial Development Fund established under section 36;
- (f) disburse funds for the implementation of approved project proposals and receive repayments by county government;
- (g) ensure the compilation of proper records, returns and reports by the counties;



- (h) receive and discuss annual reports and returns from the counties;
- (i) exercise oversight over the implementation of approved projects in the counties; and
- (j) perform such other duties as the Board may deem necessary for the proper management of its affairs and for the promotion and facilitation of industrial development within the counties.

Conduct of business  
and affairs of the  
Board

6. The conduct and regulation of the business and affairs of the Board shall be as provided for in the First Schedule but subject thereto, the Board may regulate its own procedure.

Chief Executive  
Officer of the Board

7. (1) The Board shall, through an open, transparent and competitive recruitment process, appoint a suitably qualified person to be the Chief Executive Officer of the Board.

(2) A person shall be qualified for appointment as a Chief Executive Officer if the person—

- (a) is a citizen of Kenya;
- (b) possesses a university degree in a relevant field from a recognized university;
- (c) has at least ten years working experience in a relevant field;
- (d) has at least five years senior-level management experience either in the public or private sector; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) A person shall not be qualified for appointment as the Chief Executive Officer of the Board if the person—

- (a) is a State officer or a public officer;
- (b) is a member of a governing body of a political party;
- (c) is an undischarged bankrupt; or
- (d) has been removed from public office for contravening the provisions of the Constitution or any other written law.

(4) A person who would otherwise be unqualified under paragraphs (a) and (b) of sub-section (3) may apply and undergo the entire selection process and, if successful, shall be required to relinquish the state office, public office or political party position held before taking up the appointment.

(5) The Chief Executive Officer shall hold office for a term of five years and shall be eligible for re-appointment for one further term of five years.

(6) The Chief Executive officer may be removed from office by the Board on grounds of –

- (a) gross misconduct;
- (b) incompetence;
- (c) bankruptcy; or
- (d) inability to perform the functions of the office arising out of physical or mental incapacity;

(7) Before removal under sub-section (5), the Chief Executive Officer shall be—

- (a) informed in writing of the reasons for the intended removal; and
- (b) given an opportunity to put in a defence against any such allegations, either in person or through an advocate.

(8) The Chief Executive Officer shall, subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board.

8. The Board shall—

Board secretariat

- (a) establish a secretariat which shall be headed by the Chief Executive Officer; and
- (b) appoint such officers and staff as may be necessary for the proper management and discharge of its functions.

9. (1) The Board shall maintain, within its secretariat or its membership, experts in such fields as may be required to discharge its functions, provided that such experts are duly registered in their respective professional associations.

Expertise

(2) The Board may engage such consultants or firms as may be required to provide expertise that is not available within its secretariat.

### **PART III—COUNTY INDUSTRIAL DEVELOPMENT COMMITTEE**

Establishment of the  
County Industrial  
Development  
Committee

**10. (1)** There shall be established, in each county, a committee to be known as the County Industrial Development Committee comprising—

- (a) the Senator representing the county elected under Article 98(1) (a) of the Constitution, who shall be the chairperson of the Committee;
- (b) the Senators appointed under Article 98(1)(b), (c) and (d), who are registered as voters in the county;
- (c) all members of the National Assembly elected under paragraphs (a) (b) and (c) of Article 97(1) of the Constitution who are registered as voters in the county;
- (d) the Governor of the county or in the absence of the Governor, the Deputy Governor who shall be an alternate to the governor;
- (e) the national government official responsible for coordination of national government programmes in the county or a person designated as an alternate by the official;
- (f) the chairperson of the County Assembly's Industrial Development Committee dealing with matters relating to industrialization;
- (g) the executive committee member responsible for industrial development or a person designated as an alternate by the executive committee member; and
- (h) other members who shall be co-opted by the County Industrial Development Committee in order to satisfy the requirements of the Constitution on gender balance.

(2) Where the member under sub-section (1) paragraph (a) declines to be the chairperson, then a member of the committee under paragraph (b) or (c) of sub-section 1 may be elected to be chairperson of the committee.

(3) The members of the committee shall elect a vice-chairperson, from among the members of the committee.

(4) In the absence of the chairperson the vice-chairperson shall chair a meeting of the committee and in the absence of both the chairperson and the vice chairperson, a member elected by the members present shall chair the meeting.

(5) The committee shall meet at least four times in a year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(6) The committee may admit the attendance of any experts, or technical resource persons as they may deem necessary.

(7) The quorum of the committee shall be at least one-third of the members of the committee.

(8) The committee shall appoint a secretary from among its members.

**11. The functions of the Committee shall be—**

Functions of the  
Committee

- (a) to receive and consider project proposals from each constituency;
- (b) to receive and consider project proposals from the county executive;
- (c) to receive representations from the residents, groups and government of the county on their ideas and suggestions for project proposals to be submitted to the Board;
- (d) after consideration of the proposals received under paragraphs (a), (b) and (c), to consider and submit approved project proposals to the county executive for feasibility study and detailed proposals;
- (e) to receive and consider feasibility studies and submit approved feasibility studies to the Industrial Coordination Officer for detailed proposals; and
- (f) to receive and consider detailed project proposals and submit approved projects to the county executive for formal submission to the Board.

## PART IV—CONSTITUENCY INDUSTRIAL COMMITTEE

Establishment of the  
Constituency  
Industrial  
Committee

**12. (1)** There shall be established, in each constituency; a committee to be known as the Constituency Industrial Committee comprising-

- (a) the member of the National Assembly representing the constituency elected under Article 97(1)(a) of the Constitution, who shall be the chairperson of the Committee;
- (b) the members of Parliament nominated under Article 97(1)(c) of the Constitution who are registered voters in the constituency;
- (c) the members of the county assembly representing the wards in the constituency, elected under Article 177(1)(a) of the Constitution;
- (d) all the members of the County Assembly nominated under Articles 177(1)(b) and (c) who are registered as voters in any of the wards in the constituency;
- (e) the national government official at the county or a person designated by the official;
- (f) the executive committee member responsible for industrial development or a person designated by the executive committee member;
- (g) two persons, one a man and one a woman, who are residents of the constituency and who shall be appointed by the Governor with the approval of the county assembly;
- (h) the sub-county administrators; and
- (i) the ward administrators in the constituency

(2) Where the member under sub-section (1) paragraph (a) declines to be the chairperson then the committee shall elect one of the members under paragraphs (b) or (c) to be the chairperson.

(3) The members of the committee shall elect a vice-chairperson, from among the members of the committee.

(4) In the absence of the chairperson the vice-chairperson shall chair a meeting of the committee and in

the absence of both the chairperson and the vice chairperson, a member elected by the members present shall chair the meeting.

(5) The Committee shall meet at least twice a year to consider proposals and to receive progress reports.

(6) The quorum of the committee shall be at least one-third of all the members of the committee.

(7) The committee shall appoint a secretary from among its members.

13. The functions of the Committee shall be-

Functions of the Committee

- (a) to receive and consider project proposals from each ward in the county;
- (b) to receive representations from the residents of the constituency on their ideas and suggestions for project proposals to be submitted to the County Industrial Development Committee; and
- (c) after consideration of the proposals received under paragraphs (a) and (b), submit approved project proposals to the County Industrial Development Committee.

#### PART V—WARD FORUMS

14. (1) The county government shall facilitate a ward forum in each ward which shall be chaired by the member of the county assembly representing the ward elected under Article 177(1)(a) of the Constitution.

Ward forums

(2) The ward forums shall be convened at least once a year.

(3) As far as is reasonably practicable, all the ward forums shall be programmed to take place within the same week in all the wards in the constituency.

15. Technical assistance and advice to the forum shall be provided by a panel of facilitators comprising—

Panel of facilitators

- (a) the county executive committee member responsible for industrial development or a person designated by the member;
- (b) the county executive committee member responsible for finance or a person designated by the member;

Functions of the ward forums

(c) the county executive committee member responsible for planning or a person designated by the member; and

(d) any other experts or consultants necessary;

16. A ward forum shall provide opportunity for the residents of the ward to-

(a) deliberate on matters of county industrial development;

(b) give their ideas and suggestions for project proposals that would benefit the ward; and

(c) receive feedback on the implementation of project proposals in the ward, the constituency and the county..

#### **PART VI—TYPES OF PROJECTS**

Criteria: for projects

17. (1) In exercising its functions under section 5, the Board shall consider and approve county-based industrial projects—

(a) for processing or partly processing and adding value to the produce of the county;

(b) for manufacturing goods from the produce of the county;

(c) that have the potential to create employment opportunities within a county; and

(d) enhance the economy of the county.

(2) Despite subsection (1), a project may include improvement of existing produce or marketing activities for existing products or new products.

(3) A project proposal shall cover an entire project from inception to completion or an entire phase of a project.

(4) A proposal may include costs relating to studies, planning, design or other technical input and may include acquisition of land or buildings necessary for implementation of the project.

(5) The development of an industrial park, with or without sheds, may be considered as an industrial project for purposes of this Act and, despite section 18, private

projects may be established in the industrial park, provided the terms of lease or rental of such premises shall be part of the project proposal to be submitted to the Board.

18. (1) All projects under this Act shall be public projects intended for the use or benefit of the general public and no proposal for a private project shall be considered or approved by the Board

Private Projects to be excluded

(2) Despite subsection (1), a project may incorporate a strategic partner on such terms and conditions as shall be specified in the project proposal and approved by the Board.

(3) A strategic partner incorporated under sub-section (2) shall be a partner who shall bring technical, managerial or other certifiable added advantage to a project to the satisfaction of the Board.

(4) Despite sub-sections (1) and (2), a project may incorporate shareholding by the residents of the county but no person shall hold more than five percent of all the shares in the project.

**PART VII—SUBMISSION OF PROJECT PROPOSALS TO THE BOARD**

19. (1) Project proposals shall be submitted by the County Government to the Board.

Form of project proposals

(2) All submissions shall comply with the guidelines set out in the Second Schedule and any other requirements that may be stipulated by the Board.

(3) The county government may with the concurrence of the County Industrial Development Committee, opt to prudently submit a feasibility report to sound the Board, to be referred to as enquiry stage and upon principal acceptance by the Board, later submit the detailed proposal referred to as final stage.

20. (1) Each County shall submit a maximum of five project proposals to the Board in each financial year.

Number of project proposals per county

(2) Two or more counties may make a proposal for a joint project and in such case, each participating county shall include the joint project as part of the projects submitted under sub-section (1).

21. A project proposal intended for inclusion in a financial year shall be submitted by the county government

Deadline for submission of project proposals



at least six months prior to the commencement of the financial year.

Evaluation and approval of projects

**22.** (1) A project proposal received by the Board under section 19 shall include—

- (a) a feasibility study report setting out the objectives, the expected outcomes and the viability of the project; and
- (b) the projected income and expenditure of the project in the first five years and in subsequent years; and
- (c) cost estimates for any capital development required including preliminaries and startup capital.

(2) Upon receipt of a project proposal, the Board shall ensure expedient evaluation of the proposal and shall determine whether the proposal should be—

- (a) approved for implementation;
- (b) approved for funding, where funding is sought from the Board;
- (c) returned back to the submitting county with such recommendations for improvement or refinement as may be necessary; or
- (d) rejected, in which case the submitting county shall be informed of the rejection and reasons for the rejection.

(3) Before approving any project proposal, the Board shall ensure that an Environmental Impact Assessment has been done to the satisfaction of the Board.

Submission of approved projects to Parliament

**23.** The Board shall at the end of each quarter of the year, submit to the Senate a schedule of all county industrial projects that have been approved by the Board for scrutiny.

Submission to the Commission on Revenue Allocation

**24.** (1) Three months prior to the end of each financial year, the Senate shall forward the schedule of projects received under section 23 to the Commission on Revenue Allocation.

(2) The Commission on Revenue Allocation shall, in its recommendations for revenue allocation between the

national government and the counties and between the counties, take into account the projects received under sub-section (1).

### **PART VIII—SENATE SELECT COMMITTEE**

**25.** (1) The Senate shall, in accordance with its Standing Orders, establish a committee to be known as the Committee on County Industrialization.

Establishment of the  
Senate Committee

- (2) The functions of the Committee shall be to—
- (a) oversee industrial development in the counties;
  - (b) consider the report of the Board and to make recommendations to the Senate on the report;
  - (c) consider and report to the Senate on any matter requiring the action of the Senate under this Act;
  - (d) oversee the implementation of this Act; and
  - (e) carry out any other functions relevant to county industrialization.

**26.** The Board shall submit to the Senate -

Periodic reports

- (a) an annual report of its activities;
- (b) quarterly report on the implementation status of approved projects; and
- (c) the status of industrialization across the counties.

### **PART IX—COUNTY ASSEMBLY INDUSTRIAL COMMITTEE**

**27.** (1) Each county assembly shall, in accordance with its standing orders, establish a committee to be known as the Industrial Development Committee.

Establishment of the  
County Assembly  
Industrial  
Committee

- (2) The functions of the committee shall be to—
- (a) consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;
  - (b) oversee the implementation of this Act within the mandate of the county government; and
  - (c) carry out any other functions relevant to the implementation of this Act.

(3) Notwithstanding sub-section (1), a county assembly that already has a committee whose docket

includes industrialization will not need another separate industrial committee for the purpose.

### **PART X – IMPLEMENTATION OF PROJECTS**

Implementation by  
County Corporation

**28.** (1) Projects under the Act shall be implemented by a county corporation.

(2) Funds from the Board, or from any other source, intended for industrial development, shall be held by a legal entity in the form of a county corporation.

(3) The directors of a county corporation engaged in or intended for industrial development shall possess a minimum of a post secondary diploma or its equivalent.

(4) The directors of a county corporation under this Act representing the county government shall be appointed by the governor with the approval of the county assembly.

(5) A corporation which was established for purposes other than industrial development but subsequently engages or is intended to engage in activities under this Act shall conform to the requirements of this section.

Small Projects

**29.** (1) Notwithstanding Section 28, small projects may be implemented directly by a department of the executive or a community group, without the involvement of a county corporation, provided that the county government sets up a proper management structure to implement and operate the industry, to the satisfaction of the Board.

(2) The county government shall form an industrial implementation committee to monitor projects under sub-section (1), which shall be chaired by the executive member responsible for matters relating to industrialization, whose function will be to oversee implementation of such projects as do not fall under a county corporation.

(3) Community groups cited in sub-section (1) shall not be political or religious groups or organizations.

(4) Small projects shall not be counted for purposes of section 20 sub-section (1).

Funding of  
Industrial Projects

**30.** (1) An industrial development project may be funded by—

- (a) the Board through a loan to the county corporation concerned;
- (b) a development, commercial or other financier whose terms have previously been approved by the Board;
- (c) by the county government in case of a small project; and
- (d) any other source approved by the Board.

(2) Nothing in this section shall be construed as preventing a county government from funding any of the projects within the county from its own funds, but approval by the Board of the industrial undertaking shall be mandatory.

(3) A project proposal submitted by a county to the Board must indicate the intended source of funding.

(4) All funding of projects by the Board shall be in the form of a soft loan to the concerned county corporation at a reducing annual interest of not more than three percent per annum.

(5) The Board shall ensure that all funds deposited in the Fund, from local or foreign development partners, comply with all applicable conditions relating to such funds.

(6) Nothing contained in the Act shall be construed to mean that a county government cannot apply for funding of small projects or that the Board cannot fund small projects.

(7) The Commission on Revenue Allocation and Parliament shall take into account the provisions of section 42 in budgetary allocations.

31. (1) The Board may, with the approval of the Cabinet Secretary, engage the services of a commercial bank or an investment bank for the purpose of processing and disbursing loan funds to county corporations, and for managing receipts of repayments.

Engagement of banks

(2) A bank specified under sub section (1) shall be identified competitively and shall not charge interest on the

funds managed but shall be entitled to a management fee, which shall not exceed two per cent per annum of the amount of the loan borrowed.

Records

**32. (1)** The County Corporation or the Committee, as established in section 29(2), shall keep and maintain a record of the progress made in the implementation of projects, including a record of expenditure in the project.

(2) The implementing county corporation shall compile and maintain a record of all receipts, disbursements and actual expenditures and repayments in respect of each project, and submit to the Board,

(a) a monthly report; and

(b) an annual report which shall be submitted not later than sixty days after the end of the financial year.

(3) In the case of projects funded by the county government under section 29, the records shall be maintained pursuant to subsection (1) by the implementing government department or community group but the report shall in that case be submitted to the County Assembly.

Procurement of  
services and works  
Act. No.3 of 2005

**33.** All works, services and goods relating to the projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposal Act.

Oversight over  
projects

**34.** The County Industrial Development Committee shall monitor and oversee the implementation of approved projects and may appoint a sub-committee to oversee implementation of a project in the county.

Audit

**35.** All funds received from the Board shall be audited and reported by the Auditor-General.

#### **PART XI—THE COUNTY INDUSTRIAL DEVELOPMENT FUND**

Establishment of the  
Fund

**36. (1)** There is established a Fund to be known as the County Industrial Development Fund which shall be administered by the Board.

(2) The Fund shall consist of—

(a) such funds as may be provided by bilateral or multilateral donors or development partners for the purposes of the Fund;

- (b) gifts, grants or donations; and
- (c) monies and other resources from a source approved by the Board.

**37.** The Fund shall be applied to the following purposes—

Application of the Fund

- (a) general administration expenses of the Board which, in each financial year, shall not exceed three per cent of the monies in the Fund; and
- (b) disbursement of monies for implementation of projects approved under this Act.

**38.** The financial year of the Fund shall be the period of twelve months ending on the thirtieth of June in every year.

Financial year

**39.** (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that financial year.

Annual estimates

(2) The Board shall approve the annual estimates before the commencement of the financial year to which they relate.

**40.** (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund.

Accounts and audit

(2) Within a period of three months from the end of the financial year, the Board shall submit to the Auditor-General or to an auditor appointed under sub-section (3), the accounts of the Fund together with—

- (a) a statement of the income and expenditure of the Fund during that year; and
- (b) a statement of the assets and liabilities of the Fund on the last day of that year.

(3) The accounts of the Fund shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(4) The accounts of the Fund shall be audited and reported in accordance with the provisions of the Public Audit Act.

**41.** (1) The Board shall, within three months of the end of a financial year, prepare and submit to Parliament an

Annual report

annual report on the operations of the Fund for the preceding year.

(2) The annual report submitted under sub-section (1) shall include—

- (a) the financial statements of the Fund; and
- (b) a detailed report of the activities of the Fund.

## **PART XII—MISCELLANEOUS PROVISIONS**

Facilitation by the  
county government

**42. (1)** The county government shall facilitate the process of county industrialization from the ward, constituency to the county level.

(2) Each county governor shall appoint one officer to be the industrial coordination officer, who shall carry out or coordinate the feasibility study and detailed proposals, directly or through consultants.

Offences and  
penalties

**43. (1)** Any person who misappropriates any funds or assets reserved for activities under the Act, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding two hundred thousand shillings or both.

(2) A person who is convicted of an offence under sub-section (1) shall be liable to recovery of any misappropriated amounts or assets that may be ordered by a court of law.

Dispute resolution

**44. (1)** All complaints arising from the administration of this Act shall be forwarded to the Board.

(2) Where a complaint forwarded under sub-section (1) is—

- (a) of a criminal nature, the Board shall forward the complaint to the relevant government agencies with prosecutorial powers; and
- (b) of a civil nature, the complaint shall where necessary be referred to arbitration in the first instance, in accordance with the Arbitration Act.

Act No. 4 of 1995

(3) Where the complaint is against the Board, the matter shall be referred to the Cabinet Secretary who shall act in accordance with sub-section (2) with necessary modifications.

45. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

Regulations

(2) Regulations made under sub-section (1) shall be approved by the Senate before gazettelement.

### FIRST SCHEDULE

(s.6)

#### PROCEDURE OF THE BOARD

1. (1) The Board shall hold such number of meetings at such places and at such times as the Board shall consider necessary for the proper discharge of its functions.

Meetings of the Board of Committee.

(2) Notwithstanding sub-section (1), the Board shall meet not less than four times in each financial year.

(3) At least seven days notice shall be given prior to any meeting of the Board.

2. The chairperson or any three members may call a special meeting whenever it is expedient for the transaction of the business of the Board by giving not less than three days notice to the members.

Special meetings.

3. The quorum for the conduct of business at a meeting of the Board shall be a majority of the members of the Board .

Quorum at meetings.

4. (1) A decision on any matter before the Board shall be by a majority of votes of the members present.

Voting.

(2) In the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

5. Subject to the provisions of this Act or of Regulations made pursuant to this Act, the Board may determine its own procedure.

Procedure at meetings.



6. Proceedings of the Board shall not be invalid by reason only of a vacancy in the membership of the Board or by reason of a defect in the appointment of a member.

Vacancies and defects in appointment.

7. (1) If a member of the Board is directly or indirectly interested in a contract, proposed contract or other matter before the Board, such member shall as soon as is practicable after the commencement of that meeting, disclose the fact.

Disclosure of interest.

(2) A member to whom sub-section (1) applies shall not be present at a meeting of the Board, or a committee of the Board, at which the matter in which the member has disclosed an interest is considered by the Board.

8. The Chief Executive Officer shall ensure that all records of proceedings and minutes of meetings of the Board are properly kept.

Records.

## SECOND SCHEDULE

(s.19)

### GUIDELINES FOR SUBMISSION OF PROJECT PROPOSALS TO THE BOARD

A project proposal shall include the following information-

- (a) name of submitting county;
- (b) serial number of project;
- (c) title of the project;
- (d) name of implementing, or proposed implementing body together with its postal address, telephone and email;
- (e) the Industrial Coordination Officer of the submitting county; name, telephone and email;
- (f) stage of project submission whether enquiry stage or final stage;
- (g) attach feasibility study report if enquiry stage or detailed proposal if final stage;
- (h) cost estimates with elemental breakdown; and
- (i) minutes of the meeting of the County Industrial Development Committee at which the project proposal was approved.

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## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal objective of the Bill is to create a system through which the counties will be encouraged and assisted to establish industries focusing, primarily, on the produce of each county.

In furtherance of the principal objective, the Bill establishes the County Industrial Development Board mandated to rationalize all the industrial projects across all the counties. The Board will ensure that counties engage in viable projects that will enhance the economic growth of each county and create employment opportunities.

The Bill also establishes the County Industrial Development Fund as an organ of the Board, through which donors and development partners, among others, will avail funds for industrial undertakings by the counties.

The Bill establishes a participatory system of the residents and interest groups in a county to come up with ideas and suggestions on industrial project proposals, through the ward forums, the constituency committee, culminating in the County Industrial Development Committee.

The Bill also sets out the implementation mechanism for the projects by setting up county corporations which will be charged with the task of implementing the projects and handling funds meant for the implementation of approved projects.

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

The Bill mandates the Cabinet Secretary the power to make Regulations for the better carrying out of the provisions of the Act. The Regulations are to be made with the approval of the Senate before they are gazetted. The Bill does not limit any fundamental rights and freedoms.

### **Statement of how the Bill concerns county governments**

The Bill concerns county governments in terms of Article 110(a) of the Constitution as it affects the functions and powers of County Governments set out in the Fourth Schedule.

**Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 17th July, 2013.

MURIUKI KARUE,  
*Senator.*