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P.O. BOX 10443 - 00100
NAIROBI, KENYA
TEL: 2719231 FAX: 2712684

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SCHEDULE—PROCEDURE OF THE BOARD
THE COUNTY INDUSTRIAL DEVELOPMENT BILL, 2014

A Bill for

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

ENACTED by the Parliament of Kenya, as follows-

PART I—PRELIMINARY

1. This Act may be cited as the County Industrial Development Act, 2014 and shall come into force sixty days after its publication.

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 30;

“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:

"external investor" means a sponsor of a project who hails from outside the country or outside the county and whose primary goal is commercial return and profit:

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

"produce" means produce from agriculture, livestock, fishing, mining, exploration or other activities within the county; and

"project" means an eligible industrial development project as described in the Act.

"project sponsor" means the initiator and implementer of a project who has in addition invested resources into the project:

"public project" means a project to be sponsored by the county government through a county corporation, or otherwise, and intended for the use and benefit of the general public in the county;

"private project" means a project initiated and sponsored by private investors, whether local or external; and

"small projects" means industrial projects whose cost does not exceed one half percent 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:

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.

PART II—THE COUNTY INDUSTRIAL DEVELOPMENT BOARD

4. (1) There is hereby 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 a person designated by the principal secretary;

(c) the principal secretary in the ministry for the time being responsible for matters relating to finance, or a person designated by the Principal Secretary;

(d) six 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 Council of Governors; and

(f) the chief executive officer who shall be an ex officio member 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 sub-section (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 consecutive term of three years and an aggregate of a maximum of four terms.

(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) opening and operating bank accounts;

(c) purchasing, acquiring, holding or disposing of property;

(d) entering into contracts;

(e) doing or performing all such other acts as may be necessary for the proper performance of its functions under this Act;

(f) borrowing money or making investments subject to requirements of this Act or any written law governing or giving directions to state corporations; and

(g) lending money, subject to requirements of this Act and any written law.

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

(a) manage the County Industrial Development Fund established under section 42;

(b) 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;

(c) receive project proposals from the counties;

(d) ensure timely and efficient evaluation of project proposals received from the counties;

(e) approve viable project proposals from the counties that meet the requirements of this Act and of any other law;
(f) disburse funds, where applicable, for the implementation of approved project proposals and receive re-payments;

(g) ensure the compilation of proper records, returns and reports by the implementing bodies;

(h) exercise oversight over the implementation of approved projects in the counties; and 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.

(2) The Board shall set out the content and format of records, returns and reports contemplated in sub-section (1)(g) in respect of-

(a) projects fully or partly funded by the Board;

(b) private projects approved by the Board and implemented by entrepreneurs; and

(c) projects proposed by external investors.

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

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 accepting 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 (6), 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—

(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 shall be duly registered in their respective professional bodies.

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

**PART III—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 and the convener of the meetings of the committee;

(b) the Senators appointed under Article 98(1)(b), (c) and (d) of the Constitution, 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 speaker of the County Assembly;
(g) the chairperson of the County Assembly's committee dealing with matters relating to industrialization;

(h) maximum of three members who shall be co-opted by the Committee, at least two of whom shall be of a gender opposite to the majority gender in (a) – (g); and

(i) the executive committee member responsible for industrial development who shall be the secretary.

(2) Where the member under paragraph (a) of subsection (1) declines to be the chairperson, then a member of the committee under paragraphs (b) or (c) of sub-section (1) may be elected to be the 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 may admit the attendance of any experts, or resource persons as it may deem necessary.

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

(7) The Committee shall meet at least two times in a year.

11. (1) The functions of the Committee shall be-

(a) as the principal leadership in the County, to confer and set the shape and direction that matters of industrialization should take in the county;

(b) in view of the likely constraints in the availability of resources in comparison to the aspirations of the people, prioritize the project proposals and narrow down to a practical portfolio of specific large and small projects to be undertaken;

(c) to receive and consider project proposals from the constituencies, the county executive and from private and external investors;
(d) to receive representations for clarifications from prospective project sponsors, at the invitation of the committee;

(e) after consideration of the proposals and clarifications received under (c) and (d), to consider and submit approved project proposals to the county executive for implementation or to coordinate implementation in case of private projects; and

(f) to receive feedback from the office of the Governor on the implementation of projects.

(2) Receiving proposals from various quarters and sorting them into geographical, financial or any other suitable category, shall be carried out by the office of the secretary to the committee as per Section 10(1)(i) who shall table them before the committee for deliberations.

PART IV—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 the National Assembly 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 sub-county or a person designated by the official; and
(f) the sub-county administrator.

(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 once 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 within or from without its membership, according to the Committee’s own procedures.

(8) A member elected as chairperson under sub-section (2) shall be entitled to attend meetings of the County Industrial Development Committee and to participate in such meetings, but shall not have the right to vote.

13. (1) The functions of the Committee shall be-

(a) to receive and consider project proposals from all the wards in the county;

(b) to receive representations and clarifications from prospective industrial investors in the constituency, at the invitation of the Committee;

(c) after consideration of the proposals received under paragraphs (a) and (b), to submit approved project proposals to the County Industrial Development Committee; and

(d) Receive feedback on the implementation of projects in the constituency and the county.

(2) All approved project proposals emanating from the Constituency Industrial Committee shall be submitted to
the Secretary of 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.

(2) The ward forums shall be convened at least once in every two years.

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

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

(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;

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

(d) any other experts or consultants deemed 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 progress made in the implementation of earlier project proposals in the ward, the constituency and the county.

PART VI—TYPES OF 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) that enhance the economy of the county, including service industries.

(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, or an entire phase of a project, from inception to completion.

(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 for approval by the County Industrial Development Committee.

18. (1) County governments shall endeavour to establish public industrial projects in their counties with due regard to the aspirations of the people.

(2) A public project may incorporate a strategic partner on such terms and conditions as shall be specified in the project approval by the County Industrial Development Committee.

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

(4) A public project may incorporate shareholding by the residents of the county provided the county government shall maintain fifty-one per cent or more of the stake and
The County Industrial Development Bill, 2014

19. (1) The county government shall endeavour to encourage and, where necessary, facilitate the establishment of private industries in the county.

(2) Private projects shall qualify to be supported by part-funding from the County Industrial Development Fund upon application by the sponsors.

(3) The Board shall set out the terms and conditions of funding for private projects, provided such funding shall not exceed forty-nine percent of the total cost of the project.

20. (1) The county government shall endeavour to encourage establishment of industries by external investors.

(2) In inviting or accepting such external investors, the County Industrial Development Committee shall satisfy itself, on behalf of the people, that such investment is of benefit to the people of the county.

(3) An external investor may establish an industry in conjunction with the county government through a county corporation within such terms and conditions as may be approved by the County Industrial Development Committee.

21. (1) For harmony, proper co-ordination and avoiding undue duplication, all projects whether public or private, however funded and irrespective of ownership, must be submitted for consideration and approval by the County Industrial Development Committee.

(2) For avoidance of doubt, it is intended that through the considerations and approvals provided for in subsection (1), the principle leadership in the county is kept appraised of the industrial undertakings in the county and thereby helps to ensure that the undertakings are in keeping with the spirit of the people.

(3) In order to facilitate the national government and to co-ordinate the overall development agenda of the
nation, all industrial projects in each county must be submitted to the Board for information and approval, whether intended for financing by the Board or not.

22. (1) At least once in each year, the Governor shall convene an industrial conference to be attended by all the Members of Parliament, the Members of the County Assembly, all the members of the executive committee, sponsors and prospective sponsors of industrial projects and implementers of ongoing projects.

(2) The principle objective of the conference shall be to review progress in the industrialization of the county.

(3) At the conference—

(a) the County Industrial Development Committee shall present a summarized report of the proposals and approvals;

(b) the office of the Governor shall give a report on the implementation; and

(c) the sponsors shall give reports on progress of their projects.

(4) From the presentations and discussions, the office of the governor shall compile a status report of the industrialization of the County.

23. Each county shall submit its status report to the Board not later than two months after the end of the financial year.

PART VII—SUBMISSION OF PROJECT PROPOSALS TO THE BOARD

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

(2) 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) name, telephone and email of the secretary to the County Industrial Development Committee of the submitting county;

(f) a feasibility study report and the detailed proposal including cost estimates with elemental breakdown, for public projects and private projects requiring funding by the Board;

(g) a feasibility study, cost estimates and analysis of the benefits to be realized by the county, for other private projects; and

(h) minutes of the meeting of the County Industrial Development Committee at which the project proposal was approved.

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

25. (1) Each County shall submit to the Board a maximum of five public project proposals intended for financing by the Board, in each financial year.

(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).

26. A project proposal intended for inclusion for financing by the Board in a financial year shall be submitted to the Board at least six months prior to the commencement of the financial year.

27. (1) A project proposal received by the Board under Section 24 shall also include-

(a) a feasibility study report setting out the objectives and the expected outcomes;

(b) the projected income and expenditure of the project in the first five years and in subsequent years;

(c) cost estimates including preliminaries, capital development and startup capital; and
(d) viability of the project.

(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) not approved, in which case the submitting county shall be informed of the reasons why the proposal was not approved.

(3) Before approving any project proposal, the Board shall ensure that an environmental impact assessment has been done to the satisfaction of the Board.

28. 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.

29. (1) Three months prior to the end of each financial year, the Senate shall forward the schedule of projects received under section 28 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 county government and between the counties, take into account the schedule of projects received under sub-section (1).

PART VIII—SENATE SELECT COMMITTEE

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

(2) The functions of the Committee shall be to-

(a) oversee industrial development in the counties;

(b) consider the report of the Board and 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.

31. (1) The Board shall submit to the Senate-
(a) a quarterly report on the implementation status of approved projects; and
(b) the annual report of its activities which shall include the status of industrialization across the counties.

(2) The annual report in sub-section (1)(b) shall be submitted to the Senate, not later than three months after the close of the financial year.

PART IX—COUNTY ASSEMBLY INDUSTRIAL COMMITTEE

32. (1) Each county assembly shall, in accordance with its standing orders, establish a committee to be known as the Industrial Development 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) A county Assembly that already has a committee whose docket includes industrialization shall not establish another separate industrial committee.

PART X—IMPLEMENTATION OF PROJECTS

33. (1) Public 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.

34. Sponsors of private projects, including those by external investors, shall implement their projects within the terms and conditions set out in the approval by the County Industrial Development Committee.

35. (1) Notwithstanding section 33, 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.

(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 that 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 24 sub-section (1).

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

(a) the Board through a loan to the county corporation concerned or other sponsor;

(b) a development, commercial or other financier whose terms have previously been approved by the Board;

(c) the county government in case of a small project; and

(d) any other source, in case of a public project, 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 County Industrial Development Committee of the industrial undertaking shall be mandatory.

(3) All project proposals submitted to the Board shall 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, projects financed specifically through funds sourced from local or foreign development partners, comply with any and all applicable conditions relating to such funds.

(6) In its determination of the revenue allocation formula between the counties, Parliament shall allow an amount, equal to one percent of the total amount allocated to counties to be divided equally by all the counties to be utilized in facilitating the industrialization process in the counties.

(7) For purposes of sub-section (6), facilitation shall include meeting expenses.

(8) 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.

(9) The Commission on Revenue Allocation and Parliament shall take into account the annual report provided for under section 48, in budgetary allocations.

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

(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 monies so managed.
38. (1) The County Corporation or the Committee as the case may be, as established under section 33, 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 shall 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 35, the records shall be maintained pursuant to sub-section (1) by the implementing government department or community group and the annual report shall be submitted to the County Assembly not later than three months after the close of the financial year.

39. All works, services and goods relating to public projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposal Act, 2005.

40. The County Industrial Development Committee shall oversee the implementation of approved projects and may appoint a sub-committee to oversee implementation of one or more projects in the county.

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

PART XI—THE COUNTY INDUSTRIAL DEVELOPMENT FUND

42. (1) There is hereby 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;

(c) such monies as the Cabinet Secretary may grant to the Board, out of monies provided by Parliament, or otherwise;

(d) such monies as may accrue to the Board pursuant to section 44(2); and

(e) such monies as may be provided by Parliament from time to time.

43. The Fund shall be applied to the following purposes:

(a) general administration expenses of the Board which, in each financial year, shall not exceed five per cent of the monies in the Fund;

(b) disbursement of monies for implementation of projects approved for funding under this Act;

(c) an industrial activity for which a donor has specifically availed funds; and

(d) such other activities as may be necessary for the fulfillment of the Board’s mandate.

PART XII—FINANCES OF THE BOARD

44. The finances of the Board shall be from:

(1) The County Industrial Development Fund; and

(2) monies and other resources from any lawful source.

45. The financial year of the Board shall be concurrent with the financial year of the national government.

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

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

47. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.
(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 Board together with—

(a) a statement of the income and expenditure of the Board during that year; and

(b) a statement of the assets and liabilities of the Board on the last day of that year.

(3) The accounts of the Board 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 Board shall be audited and reported in accordance with the provisions of the Public Finance Management Act, 2012.

48. (1) The Board shall, within three months of the end of a financial year, prepare and submit to Parliament an annual report on the operations of the Board for the preceding year.

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

(a) the financial statements of the Board; and

(b) a detailed report of the activities of the Board.

PART XII—MISCELLANEOUS PROVISIONS

49. (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 coordinate the industrial development activities in the County and be the assistant to the secretary of the County Industrial Development Committee principally to ensure that the tasks contemplated under sections 11(2) and 13(2) are duly executed.

50. (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 five 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.

51. (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.

(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.

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

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

SCHEDULE

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, provided that a decision to hold a Board meeting other than at its designated headquarters shall only be made by a resolution of the Board.

(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.

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

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

   (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.

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.

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 that fact.

   (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.
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 industrial development 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. It also establishes a platform for encouraging and facilitating private investors, both local and external, to set up industries in the county.

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 public projects and handling funds meant for the implementation of projects funded by the Board.

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(1)(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.

MURIUKI KARUE,
Senator.