

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF TRANS NZOIA

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KITALE

1. INTRODUCTION:-

This is the report of the County Budget and Appropriation Committee on **Trans Nzoia County Nawiri Fund Bill** following its sittings at the County Assembly Boardroom on the **4th, 5th and 9th February 2015**.

The members of the Committee are:-

- a. **HON. DAVID KISAKA CHAIRPERSON**
- b. **HON.SIMON MAKHANU - VICE CHAIRPERSON**
- c. **HON. DAVID KABOLOMAN-MEMBER**
- d. **HON. ALFRED WESWA-MEMBER**
- e. **HON. HILLARY KEMEI-MEMBER**
- f. **HON. EDWARD KITUR-MEMBER**
- g. **HON. FRANCIS WERE-MEMBER**
- h. **HON. GILBERT KITIYO-MEMBER**
- i. **HON. JOEL MILIMO - MEMBER**
- j. **HON. JOHN LIKOVELE-MEMBER**
- k. **HON. MUNENE MUKUHA-MEMBER**
- l. **HON. ANDREW KUTITILA-MEMBER**
- m. **HON. ANGELINE TOO - MEMBER**
- n. **HON. MARGARET WANJALA-MEMBER**
- o. **HON. SAMUEL YATOR-MEMBER**
- p. **HON. BETTY KIPSONGOK-MEMBER**

The Committee sat on the **4th, 5th and 9th February 2015**, the following members attended;

- a. **HON. DAVID KISAKA CHAIRPERSON**
- b. **HON.SIMON MAKHANU - VICE CHAIRPERSON**
- c. **HON. DAVID KABOLOMAN-MEMBER**
- d. **HON. ALFRED WESWA-MEMBER**
- e. **HON. HILLARY KEMEI-MEMBER**

- f. HON. FRANCIS WERE-MEMBER
- g. HON. GILBERT KITIYO-MEMBER
- h. HON. JOEL MILIMO - MEMBER
- i. HON. MUNENE MUKUHA-MEMBER
- j. HON. ANDREW KUTITILA-MEMBER
- k. HON. ANGELINE TOO - MEMBER
- l. HON. MARGARET WANJALA-MEMBER
- m. HON. SAMUEL YATOR-MEMBER

The following Honourable members were also in attendance;-

- a. HON. FARID MOHSEN MOHAMMED
- b. HON. MAGDALINE TUWEI
- c. HON. ROSE MALING'A

THE SECRETARIAT

- 1. ABRAHAM WALUBENGO – HANSARD
- 2. MOSES WANYONYI-PUBLIC RELATIONS OFFICER
- 3. DENNIS PANYAKO- BUDGET OFFICER
- 4. KATAMA NGEYWA-PRINCIPAL LEGAL COUNSEL
- 5. NICHOLAS NANDASABA- SERGENT- AT- ARMS

2. THE MANDATE OF THE COMMITTEE

The County Budget and Appropriation Committee is a Creature of Standing Order 187. The Committee is mandated to:-

- a) *investigate, inquire into and report on all matters related to coordination, control and monitoring of the County budget;*
- b) *Discuss and review the estimates and make recommendations to the County Assembly;*
- c) *Examine the County Budget policy Statement presented to the County Assembly;*
- d) *Examine Bills related to national(sic)County budget, including Appropriation Bills; and*
- e) *Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.*

3. AGENDA

Pursuant to the above mandate the Committee's agenda was to examine the **Trans Nzoia County Nawiri Fund Bill** and propose amendments thereof for subsequent consideration, debate and adoption by the plenary.

4. THE TRANS NZOIA COUNTY NAWIRI FUND BILL

PART 1- PRELIMINARY

Clauses 1, 3 (a) and 4 were adopted by the Committee **without amendments**

Clause 2 was amended to include the following;

"Committee means the Trans Nzoia County Nawiri Fund Ward Committee established under Section 12"

"Jua Kali" trader means small scale traders and entrepreneurs and includes artisans, open air traders, and vegetable and fruit vendors among other such traders.

In clause 3, paragraph (b) to (f) was introduced to read;

(b) To grand loans to both formal and informal traders of Trans Nzoia County in the individual capacities or as registered groups;

(c) To provide an opportunity to small scale entrepreneurs to gain commerce experience to enable them play their part in the industrial and commercial development of the County;

(d) To provide enterprise development services;

(e) To enhance small and medium enterprises' competitiveness as they graduate into bigger vibrant ones;

(f) To perform any other lawful function for purposes of promoting enterprise and entrepreneurship development in the County.

PART II -ESTABLISHMENT AND FUNCTIONS OF TRANS-NZOIA COUNTY NAWIRI FUND

Clause 5 (subsection 1&2) was adopted with no amendments

Clause 6 (section 1) was amended to read as follows;

To provide affordable and competitive credit to both formal and informal licensed traders resident in Trans Nzoia County and involved in production and trade in goods and services

Clause 6(2) was adopted without any amendment.

Clause 7(1) was amended to read as follows:

The offices of the Fund shall be located at the county Headquarters.

Clause 7(2) was deleted from the Bill.

Clause 8(1) (2) were adopted without any amendment.

Clause 8(3) was amended as follows:

The Board shall consist of;

(a)The Chief Officer.

(b)Two officers from the department of trade affairs in the county; that is, the Director in charge of trade while the other member to be nominated by the County Executive Committee Member.

(c) The director in charge of gender affairs in the county.

(d) The director in charge of cooperative development in the County.

(e) Two representatives from a business membership organization operating within the County and one of whom shall be of either gender;

(f) A representative of a Savings and Credit Cooperative (SACCO) society legally constituted and actively operating within the County

(g) A representative of the youth

(h) Two people; one woman and a person with disability.

(I) The chairperson shall be appointed from among the members of the board referred to in paragraphs 8(3)(a) to (h) but who is not an employee of the County Government.

Clause 8(4) was amended as follows:

The members of the Board referred to in paragraphs 8(3) (a) to (i) shall be appointed by the Executive Committee Member upon approval by the County Assembly.

Clause 8(5) was amended as follows:

The members of the Board, other than those who are employees of the County government, shall hold at least a diploma from a recognized institution with at least five years post-qualification experience and shall hold office for a term of three years and may be eligible for re-appointment only once.

Clause 8(6) (7) and (8) were adopted without any amendment.

Clause 9 (subsection 1, 2 and 3) were adopted without amendments

Clause 9 (subsection 4) was introduced to read;

In the absence of the Secretary one of the officers contemplated under subsection 8 (3) paragraph (b) shall act as secretary thereof.

Clause 10(1) and (2) were adopted with the following amendment;

The Budget Committee recommended the removal of paragraph (f) of clause 10(2)

Clause 11(1) and (2) was adopted without any amendment.

Clause 11(3) was amended as follows:

The quorum necessary for transaction of the business of the Board shall be six (6) members provided that:

(a)The quorum at any requisitioned meeting shall be the members of the Board entitled to attend such meeting.

Clause 11(4) (5) (6) and (7) was adopted without amendment.

ESTABLISHMENT OF NAWIRI FUND WARD COMMITTEES

The budget committee recommended for the introduction of clause 12 and 13 as follows:

12 (1) There shall be a **Nawiri Fund Ward Committee** for each ward in the County

(2) The committee shall comprise of

a) The county assembly member for the ward who shall be the patrons and ex-official

Member

- b) A chair person
- c) The ward administrator who shall be the secretary
- d) One woman
- e) One person with disability nominated by persons with disabilities in the ward
- f) One person to represent the youths
- g) One person to represent religious organizations
- h) Two people of either gender from *JuaKali* sector

(3) The persons contemplated in 2(b) (d) (e) (f) and (g) above shall be appointed by the executive committee member in-charge of matters of trade in consultation with the member of the county assembly for each ward

(4) The quorum of the committee shall be 5 people of the total membership

(5) The term of office of the members of the committee shall be a term of three years but shall be renewable only once.

(6) The ward administrator shall be custodian of all the records of the committee.

(7) Whenever a vacancy occurs in the committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

(8)The committee shall meet at least two times in a year and may sit on such other occasions as may be directed by the Board.

(9)A member of the committee may be removed on any one or more of the following grounds:-

- (a) If he/she resigns in writing under his/her hand to the appointing authority through the secretary;
- (b) If the Board is satisfied that such a member, by reason of his/her physical mental infirmity, is unable to execute the functions of his/her office;
- (c) If he/she has been adjudged bankrupt by a competent court of law, or has committed a criminal offence which directly or otherwise reflects adversely on his/her suitability to be a member of the Board;

(d) Non-attendance of five consecutive meetings without written cause; or upon his/her death

(e) On grounds of lack of integrity

(10). A decision to remove a member under subsection (12) shall be made through a resolution of at least four members of the committee and the member sought to be removed shall be given a fair hearing before the resolution is made.

(11). The resolution to remove a member under subsection (13) shall be communicated to the Board which shall consider the merits and demerits of the case and take appropriate action.

(12). A vacancy arising as a result of the removal of a member under subsection (9) shall be filled in the manner set out in subsection (3)

(13). A member of the Committee shall hold at least a certificate of secondary education.

Functions of the committee

13. The functions of the committee shall be:

- a) To receive application forms from the Board
- b) To distribute the application forms in a manner that is equitable
- c) To receive duly filed forms from the members of the public
- d) To vet the applications received from their respective wards
- e) To forward duly vetted applications to the board for consideration and approval.

PART 3, ADMINISTRATION OF THE FUND

Clause 14 (1) was adopted without amendment

Clause 14 (2) was amended to read as follows:

There shall be paid out of the funds expenditure approved by the Board and incurred in connection with the administration of the funds provided it is not more than 3% of the fund.

Clause 15(1) was amended to read:

Any licensed trader wishing to be considered for the grant of a loan shall make any application to the board through the relevant ward committee in the prescribed form.

Clause 15(2) and (a) (b) were adopted without amendment.

Clause 15(3)(c) was amended to read;

Is granted a loan based on false information shall be guilty of an offence and in the case of paragraph (a) and (b) shall be liable to punishment such as is prescribed under the Penal Code, chapter 63 of the Laws of Kenya.

Clauses 16(1), (2), (3), (4) were adopted without amendment.

Clause 16 (5) was amended to read;

Wherever a loanee or a guarantor who has been notified by the Board under subsection (4) (a) and (b) fails or refuses to repay such loan together with any interest accrued thereon, the loanee and guarantor shall be liable to civil proceedings or seizure of any security securing the loan for recovery of the sum of money owing plus interest and other incidentals thereof.

Clause 17 (1) paragraph (a) was adopted without amendment.

Clause 17(1) paragraph (b) was amended to read;

To repay his/her loan together with any interest and any other penalties accrued thereon as indicted in the loan agreement signed between the loanee and the Board.

Clause 17(c) paragraph was amended to read as;

To provide any security or guarantee as may be provided for under this Act or Regulations thereof

Clause 18 (1) paragraph (a) paragraph (b) were adapted without amendment

Clause 18(1) Paragraph (c) was introduced to read;

Initiate civil proceedings for recovery of any such loan or interest or other sum owing

Clause 18(2) was adopted without amendment

PART V – FINANCIAL PROVISIONS

Clause 19 was adopted by the committee without any amendment

Clause 20(1) was amended by the committee to read;

The Board shall submit to the Executive Committee Member an estimate of its income and expenditure for the succeeding Financial Year not later than 31st January in the current Financial Year.

Clause 20 (2) was amended by the committee to read

The Executive Committee Member shall communicate to the Fund the approval of the annual estimates by County Assembly at least one calendar month after the commencement of the Financial Year

Clause 20(3) paragraph (a) was amended by the committee to read;

The cost of administration of the Fund, including payment of allowances and other charges whatsoever payable to the staff and members of the board and ward committees

Clause 20(3) paragraph (b) was amended to read;

The payment or reimbursement to the members of the board and ward committees of monies in respect of expense incurred during the attendance of meeting of the fund.

Clause 20 (3) paragraph (c) was adopted without amendments

Clause 20 (4) was amended by the committee to read.

Except with the approval of the County Assembly no expenditure shall be incurred for the purpose of the fund except in accordance with the annual estimates approved under subsection (2)

Clause 21(1) was amended to read:

Accounts and Audit

The Fund shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property may from time to time approve and shall within a period of three months after the end of the financial year, cause to be prepared signed and forwarded to the county Executive Committee responsible for finance.

Paragraphs (a) and (b) of clause 21 (c) were adopted without amendment.

Clause 22(2) was adopted without amendments.

Clause 21 (3) was amended to read;

Accounts and Audit

The accounts of the Fund shall be examined, audited and reported upon annually by the County Executive responsible for finance in accordance with the public Audit Act Cap 412(b) and shall cause it to be presented to the County Assembly within 21 days after its reception.

PART VI -MISCELLANEOUS PROVISIONS

Clause 22 (1) was amended by the committee to read;

The common seal of the fund to be kept in the custody of the secretary and May only be used upon the order of the board.

Clause 22 (2) was amended to read;

The common seal shall, when affixed to a document and authenticated, be prima facie evidence of any such transaction unless the contrary is proved.

Clause 22(3) was adopted without amendment

Sub section (4) of clause 22 was deleted by the budget committee

Clause 23 (1) and (2) was adopted by the committee without amendment

Clause 24 (1) and (2) (a) were adopted without amendment

Clause 24(2) paragraph (b) was amended to read;

Otherwise than for the purpose of this Act, shall be guilty of an offence and liable to imprisonment for a period not exceeding three months in jail or to a fine not exceeding Kenya Shillings Fifty Thousand or to both.

Clause 25 was amended to read;

No matter or thing done by the chairman or any member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done bona fide for the purpose of executing any provision of this Act or in the course of employment render the chairman, member, officer, employee or agent or any person or group of persons acting on their directions, personally liable to any civil action, claim or demand whatsoever.

Clause 26 was adopted by the committee without amendment.

Clause 27 was amended to read;

Subject to the approval by the relevant committee of the County Assembly, the Executive Committee Member may make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the forgoing; the executive committee member may make regulations in respect to the following.

Clause 28(b) paragraph (a) (b) (c) (d) (e) and (f) were adopted without amendments.

However, paragraph (g) was introduced that reads;

The prescribed application and other forms

MEMORANDUM OF OBJECTS AND REASONS

The Budget Committee made amendments to the following paragraph, to read;

The Bill seeks to provide affordable and competitive credit to both formal and informal resident traders involved in production or trade in goods and services to residents of Trans-Nzoia County.

Paragraph (a) was amended to read;

Providing an opportunity to small scale entrepreneurs to gain commercial experience to enable them play their part in industrial and commercial development of the County

Dated at Kitale this day of February 2015