

SPECIAL ISSUE

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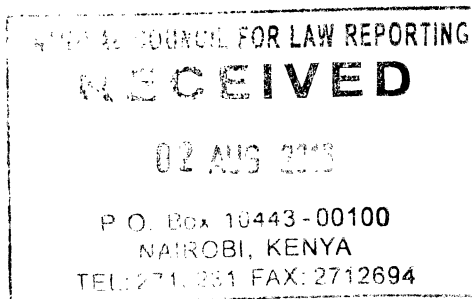
SENATE BILLS, 2016

NAIROBI, 28th June, 2016

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THE COUNTY STATISTICS BILL, 2016

A Bill for

AN ACT of Parliament to provide a framework for the collection, compilation, analysis and dissemination of statistical information; to establish a county statistics office; to establish the office of the county statistician; and for connected purposes

ENACTED by the Parliament of Kenya, as follows-

PART I—PRELIMINARY

1. This Act may be cited as the County Statistics Act, 2016. Short title.

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

“Board” means the county statistics board established under section 5;

“cabinet secretary” means the cabinet secretary responsible for matters relating to statistics;

“committee” means the consultative committee established under section 13;

“county executive committee member” means the county executive committee member for the time being responsible for matters relating to statistics;

“county public service board ” means the county public service board established under section 57 of the County Governments Act; No.17 of 2012

“county statistical system” means—

(a) the producers of statistics including departments in the county executive government;

(b) data users;

(c) data suppliers; and

(d) research institutions;

“Fund” means the county statistics fund established under section 23;

“Kenya National Bureau of Statistics” means the Kenya National Bureau of Statistics established under section 3 of the Statistics Act; Cap 112

“office” means the office of the county statistician established under section 3;

“official body” means—

- (a) a body corporate or other body established for a public purpose by or under an Act of Parliament or an Act of a county assembly; or
- (b) the holder of an office established for public purposes by or under an Act of Parliament or an Act of a county assembly; and

“statistician” means the county chief statistician appointed under section 4.

PART II—ESTABLISHMENT OF THE COUNTY STATISTICS OFFICE

3. (1) There is established, in every county, the county statistics office.

County statistics office.

(2) The office 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) taking purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) The county statistician shall be the chief executive officer of the county statistics office.

4. The county statistics office is responsible for—

Functions of the office.

- (a) collecting, compiling, analyzing, abstracting and disseminating statistical information on the matters set out in Part 2 of the Fourth Schedule to the Constitution;
- (b) maintaining a comprehensive and reliable county socio-economic database;

- (c) ensuring coordination of the operations of official bodies in the county in the compilation and dissemination of statistics and related information with particular regard to—
 - (i) the avoidance of duplication in the collection of statistical information;
 - (ii) the attainment of compatibility and the integration of statistics compiled by official bodies; and
 - (iii) the maximum possible utilization for statistical purposes of information and means of collection of information available to official bodies;
- (d) advising the county government on all matters related to the use and development of statistical information;
- (e) providing liaison between the national government and county government on matters relating to statistics;
- (f) coordinating the county statistical system;
- (g) developing and using statistical standards and appropriate methodologies, subject to the direction of the committee, in the county statistical system;
- (h) monitoring the technical quality of official statistics and promoting adherence to good practices and international recommendation and standards; and
- (i) carrying out all other functions relating to statistics.

PART III—THE COUNTY STATISTICS BOARD

5. (1) The management of the office shall vest in a Board consisting of—

Board of the office.

- (a) a chairperson competitively recruited and appointed by the governor with the approval of the county assembly;
- (b) the county executive committee member in charge of matters relating to statistics or a person designated by the county executive committee member in writing;

- (c) the county executive committee member in charge of matters relating to finance or a person designated by the county executive committee member in writing;
- (d) two persons, appointed by the governor with the approval of the county assembly, with relevant experience and knowledge in matters relating to statistics, planning and development; and
- (e) the county statistician who shall be an *ex-officio* member and secretary to the Board.

6. (1) A person is qualified for appointment as a member of the Board under section 5(a) and (d) if the person—

Qualifications and tenure.

- (a) holds at least a first degree from a university recognized in Kenya; and
- (b) has at least five years' experience in a relevant field.

(2) A person appointed under section 5(a) and (d) shall hold office for a term of four years in the first instance and is eligible for reappointment for a further non-renewable term of four years.

7. The Board shall meet at least once in every four months and the conduct of its meetings shall be governed by the provisions of the Schedule.

Conduct of the affairs of the Board.

8. (1) There shall be a county statistician who shall be the chief executive officer of the office and shall, under the direction of the Board, be responsible for—

County statistician.

- (a) the day to day management of the service;
- (b) the management of the county statistics fund;
- (c) the management of the staff of the service;
- (d) overseeing the implementation of the policies, programmes and objectives of the Board; and
- (e) performing any other duties that may be assigned to the county statistician by the Board.

(2) A person is qualified for appointment as the county statistician if the person—

- (a) holds at least a degree in statistics, information technology, economics, social sciences or mathematics; and

- (b) has at least five years' experience in public administration.

9. The county statistician shall hold office for a term of five years in the first instance and may be re-appointed for a further non-renewable term of five years.

Tenure of office.

10. (1) The county statistician shall cease to hold office by—

Suspension or removal from office.

- (a) resignation in writing;
- (b) suspension by the Board; or
- (c) removal from office by the Board.

(2) The Board may suspend or remove from office the county statistician on the following grounds—

- (a) gross misconduct;
- (b) incompetence;
- (c) negligence of duty; or
- (d) conviction for an offence with a penalty of imprisonment for more than one year.

11. The Board, in consultation with the county public service board, may appoint such staff as may be necessary for the proper functioning of the service.

Staff of the office.

12. The county statistician may arrange with a national government agency or authority or an international organization for services of officers or employees of the agency, authority or organization to be made available to the office to assist in carrying out the functions of the office.

Persons seconded to the office.

13. There is established a consultative committee on statistics comprising of—

Consultative committee.

- (a) a governor nominated by the Council of Governors who shall be the chairperson;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to statistics;
- (c) two county executive committee members responsible for matters relating to statistics nominated by the Council of Governors; and
- (d) five other members appointed by the Cabinet Secretary to represent the bodies for the time

being recognized by the Government as representing—

- (i) the private sector;
- (ii) non-governmental organizations
- (iii) research institutions;
- (iv) public universities; and
- (v) the National Co-ordinating Agency for Planning and Development.

14. The committee shall —

Functions of the committee.

- (a) develop strategies which shall ensure uniform standards, policies and methodologies amongst the various offices of county statistician;
- (b) examine and make recommendations on the formulation and implementation of statistical programmes of the various offices of county statistician on an annual basis;
- (c) develop a framework for coordination within the county statistical system; and
- (d) coordinate the harmonization of national and county policy and methodologies relating to statistics.

15. (1) The committee shall meet at least twice a year at a time and place to be determined by the chairperson.

Meetings of the committee.

(2) The chairperson of the committee may call for a meeting of the committee at any other time that the chairperson may deem appropriate.

(3) The provisions of the First Schedule shall, with necessary modification, apply to the meetings of the committee.

PART IV—STATISTICAL INFORMATION

16. (1) The national government and the county government shall consult and cooperate with each other in the performance of their functions including the collection, analysis, dissemination and use of statistical information.

Coordination between governments.

(2) The Kenya National Bureau of Statistics and the offices of the county statistician shall ensure reasonable access to their respective statistical information by the other party.

17. (1) The office of the county statistician shall collect statistics relating to any of the matters within the functional areas of the county governments as set out in Part 2 of the Fourth Schedule to the Constitution.

Power to obtain information.

(2) In the execution of the functions under subsection (1), the county statistician may—

(a) by notice in writing require a person to—

(i) furnish in such form, time and manner as may be specified in the notice any information, estimates, return or particulars of a matter relating to any particulars; or

(ii) complete a form contained in the notice setting out particulars of any matter specified in the First Schedule;

(b) interview a person on any of the matters specified in the Schedule.

(3) A notice referred to in subsection (2) shall—

(a) state that it is served in exercise of the powers conferred on the statistician under this Act; and

(b) include a general statement of the purpose for which the information, estimate, return or particulars is required.

(4) The statistician shall publish in the county *gazette* and in a newspaper in circulation in the county a list of the classes or description of matters to which returns will be required for any of the purposes of this Act.

(5) Departments in the county government which produce statistics shall continue to do so subject to the standards and procedures determined by the statistician.

18. The statistician shall issue a code of practice that sets out professional standards to be followed by all departments and agencies of the county government.

Code of practice.

19. (1) Any person other than the statistician who wishes to conduct statistical survey in the county on any of the matters set out in the Fourth Schedule shall obtain the approval of the statistician.

Conduct of surveys by private institutions.

(2) A person referred to in subsection (1) shall submit plans to the statistician at least three months before the commencement of the intended survey.

(3) A person who obtains approval under subsection (1) shall submit a copy of the report of the survey to the statistics within three months of the completion of the survey.

20. (1) The powers of the statistician under this Act shall be subject to any law relating to the non-disclosure of any official secret, trade secret or any confidential information.

Confidentiality and disclosure.

(2) Any data collected for statistical purposes shall be treated as confidential and shall not be disseminated for purposes other than those contemplated under this Act.

(3) A person shall not publish any information obtained for statistical purposes under this Act without the prior written consent of the person to whom the information relates.

(4) Despite the provisions of subsection (2) information obtained for statistical purposes under this Act may be published without prior consent where the information is already published or available on a database accessible to the public.

21. The county statistician may, at the request of any person and upon the payment of any prescribed fee, provide to that person any information relating to the functions of the service under this Act.

Statistician to give information.

22. The county statistician shall be required to-

Dissemination and access.

- (a) provide up to date information on the methods and procedures used to compile official county statistics; and
- (b) disseminate and make available to the public any analysis of statistical information.

PART V—COUNTY STATISTICS FUND

23. (1) There is established in each county a county statistics fund.

Establishment of county statistics fund.

(2) The county executive committee member shall with the approval of the county executive committee and the county assembly, make Regulations for the management of the Fund.

24. (1) For the avoidance of doubt, nothing in this Act may be construed as providing for or dealing with—

Non-money Bill status.

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from –

- (a) such gifts, grants or donations as may be given;
- (b) such monies as may, in the future, be provided by the National Assembly for defraying the expenses incurred in the implementation of this Act; and
- (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution.

PART VI—MISCELLANEOUS PROVISIONS

25. (1) The statistician shall, four months after the end of each financial year, make a report to the county executive committee member and the governor on the operations of the office.

Annual reports.

(2) The county executive committee member shall transmit the report referred to under subsection (1) to the Kenya National Bureau of Standards and the committee.

(3) The governor shall, upon receipt of the report, cause the report referred to in subsection (1) to be tabled before the county assembly and the Senate.

26. A person who—

Offences and penalties.

- (a) is employed for any of the purposes of this Act, and who without lawful authority, publishes or communicates to any person, otherwise than in the course of that persons employment, any information acquired by the office;
- (b) fails to furnish any information, estimate, return or particulars which that person is required to furnish

under this Act; or

- (c) recklessly or willfully makes a false statement in the course of furnishing any information, estimate, return or particular required by the statistician;

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding six months or to both.

27. (1) The cabinet secretary may make Regulations for the better carrying out of this Act.

Regulations.

(2) Without prejudice to the generality of the foregoing, the cabinet secretary may make Regulations prescribing—

- (a) the forms and manner in which returns may be made under this Act; and
- (b) any fees payable under this Act.

28. Section 18 of the Statistics Act is amended in subsection (1) by deleting the words “or local level” appearing immediately before the word “shall”.

Amendment to Cap 112.

SCHEDULE (s.7, 15(3))

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. (1) The Board shall meet at such place in Kenya as the chairperson may determine and the meetings shall be convened by the chairperson.

Meetings

(2) The Board shall have at least four meetings in every financial year and not more than three months shall elapse between one meeting and the next meeting.

(3) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member by the secretary.

(4) The chairperson may, at his or her discretion or at the written request made by at least half of the members of the Board and within seven days of the request, convene an extraordinary meeting at such time and place as he or she may appoint.

(5) Meetings shall be presided over by the chairperson or in his or her absence by the vice-chairperson.

(6) The members of a Board shall elect a vice-chairperson from among themselves—

- (a) at the first sitting of the Board; and
- (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(7) Where the chairperson or vice-chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Board.

(8) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

2. (1) If any person has a personal or fiduciary interest in a project, proposed contract or any matter before the Board, and is present at a meeting of the Board at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

Conflict of interest

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

3. (1) Subject to subparagraph (2), the quorum of the meeting shall not be less than half of the appointed members of the Board.

Quorum.

(2) Where the persons present at a meeting of the Board do not constitute the quorum necessary to hold a meeting under this Act or where by reason of exclusion of a member from a meeting, the number of members present falls below the quorum necessary to hold a meeting, the Board shall postpone the consideration of the matter in question until there is a quorum.

4. A question before the Board shall be decided by a simple majority of the members present and voting and the chairperson shall, in the case of an equality of votes, have a casting vote.

Voting.

5. The Board shall—

Rules Of Procedure

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal objective of this Bill is to put in place a framework for the collection, analysis and dissemination of information by the county governments. Statistics are an important part of the planning process for any government and they also act as a yardstick for governments to determine whether they are meeting their goals in providing services to their people. This Bill therefore seeks to establish a county statistical system that will assist county governments to plan for the development of counties and to measure the gains made by the county governments in improving the lives of the people in the counties.

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

Clause 28 of the Bill provides that the county executive committee member may make Regulations with the approval of the county assembly. The Bill therefore delegates legislative powers to the county executive committee member. The Bill however does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Part 2 of the Fourth Schedule to the Constitution provides for county statistics as one of the functional areas of county governments. The Bill therefore concerns county governments in terms of Articles 110(1)(a) of the Constitution in that it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

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

This Bill proposes to establish the office of the Chief Statistician which shall be an office in the office of the county executive committee member for the time being responsible for matters relating to statistics. Any expenses that will be occasioned by the office of the statistician shall be met by any money that is appropriated by the county assembly to the county executive.

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

Dated the 30th May, 2015.

NAISULA LESUUDA,
Senator.