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THE BOMET COUNTY CLIMATE CHANGE BILL, 2021
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THE BOMET COUNTY CLIMATE CHANGE BILL, 2021**A Bill for**

AN ACT of the County Assembly of Bomet to put in place the framework and mechanisms for mobilization and facilitation of the county government, communities and other stakeholders to respond effectively to climate change through appropriate adaptation and mitigation measures and actions and for connected purposes

ENACTED by the County assembly of Bomet as follows—

PART I—PRELIMINARY**Short title and Commencement**

1. This Act may be cited as the Bomet County Climate Change Act, 2021 and shall come into force on the fourteenth day after its publication in the Kenya Gazette.

Interpretation

2. In this Act unless the context otherwise requires—

“adaptation” means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects in order to moderate harm or exploit beneficial opportunities;

“adaptive capacity” means the ability of a system to adapt to the impacts, cope with the consequences, minimize potential damages, or take advantage of opportunities offered by climate change or climate variability;

“climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

“climate change unit” means the County Climate Unit established to support coordination of climate change matters in the County as envisaged by section 11 of this Act;

“constitution” means The Constitution of Kenya, 2010;

“county” means The County Government of Bomet;

“county assembly” means The County Assembly of Bomet;

“directorate” means the Climate Change Directorate established under section 9(1) of the Climate Change Act, 2016;

“environment” has the meaning assigned to it in section 2 of the Environmental Management and Coordination Act 1999;

“executive committee member” means the County Executive Committee Member for the time being responsible for climate change matters in Bomet County;

“fund” means the County Climate Change Fund established under section 46(1) of this Act;

“fund administrator” means the Administrator of The County Climate Change Fund established under section 46(2) of this Act;

“Governor” means the Governor of Bomet County;

“greenhouse gases” , are as defined by Intergovernmental Panel on Climate Change (IPCC) and includes but not limited to: carbondioxide, methane; nitrous oxide, hydro fluorocarbons, perfluorocarbons, sulphur hexafluoride and indirect greenhouse gases;

“mitigation” means efforts that seek to prevent, reduce or slow down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

“Planning committee” means the County Climate Change Planning Committee established under section 15 of this Act;

“private entity” means a body or person with functions of a private nature, and includes bodies registered under the Public Benefits Organizations Act, 2013;

“public entity” means a body or person with functions of a public nature;

“resilience” means the ability of a social, economic or ecological system to absorb disturbances while retaining the same basic structure and ways of functioning, the capacity for self-organization and the capacity to adapt to stress and change;

“steering committee” means the County Climate Change Steering Committee established under section 5 of this Act;

“vulnerability” means the conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a system to the impact of hazards;

“ward planning committee” means the Ward Climate Change Planning Committee established under section 23 of this Act;

Objects and purposes

3. (1) The object of this Act is to enhance climate resilience through development, management, implementation, regulation and monitoring of adaptation and mitigation measures and actions.

(2) Without prejudice to subsection (1), this Act shall be applied by the county government in all sectors of the economy to—

- (a) mainstream climate change responses into development planning, decision making and implementation;
- (b) implement coordinated and integrated response to climate change and its impacts by all actors and stakeholders;
- (c) facilitate effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change;
- (d) promote, support and facilitate community-based and community-initiated adaptation and mitigation activities;
- (e) enforce duties and provide incentives for the private sector to contribute to achievement of low carbon climate resilient development;
- (f) facilitate public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information;
- (g) establish frameworks and mechanisms for mobilization and transparent and accountable management of financial and other resources for climate change response;
- (h) establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development and transfer, training and capacity building;
- (i) integrate climate change into the exercise of power and functions of all levels of the county government, including in decentralized units and enhance cooperative climate change governance between the county, neighboring counties and the national government;
- (j) contribute to national efforts to address the adverse impacts of climate change;
- (k) put in place measures to minimize and continuously assess climate change risks and disasters;

- (l) encourage climate actions that maximize on the co-benefits and minimize trade-offs; and
- (m) continuously gather evidence on climate impacts in Bomet County.

Guiding values and principles

4. The application and interpretation of this Act and the making or implementation by the county government of any policy on climate change shall be guided by the following values and principles:

- (a) community driven and bottom-up planning of response to climate change;
- (b) commitment to informed participation of communities in planning and implementation of climate change response interventions;
- (c) recognition, respect and integration of knowledge, perspectives and experiences of communities in climate change response;
- (d) planning and implementation of climate change response to be anchored in and supportive of devolution;
- (e) flexible learning approach to addressing challenges of climate change;
- (f) investments focused on achieving equitable benefits;
- (g) inclusion of all major actors in planning and implementation of climate change response;
- (h) protection of the climate system for the benefit of present and future generations;
- (i) ensuring a just transition for all towards an environmentally sustainable economy and society in the light of county circumstances and developmental goals;
- (j) National values and principles of governance spelt out in Article 10 of the Constitution;
- (k) values and principles of public service spelt out in Article 232 of the Constitution;
- (l) promotion and protection of the right to a clean and healthy environment in accordance with Article 42 of the Constitution; and
- (m) commitment to fulfillment of the state obligations in respect of the environment as stipulated under Article 69 of the Constitution.

PART II—COORDINATION AND OVERSIGHT

Establishment of County Climate Change Steering Committee

5. There is established the County Climate Change Steering Committee.

Functions of Steering Committee

6. The Steering Committee shall coordinate and oversee climate change response in the county, and in this connection shall—

- (a) ensure mainstreaming of climate change into county planning and development processes;
- (b) coordinate formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;
- (c) mobilize funds into and administer the County Climate Change Fund established under this Act;
- (d) review, approve and monitor implementation of Regulations for administration and management of the Fund;
- (e) review and make recommendations on the biennial report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions in the county;
- (f) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate resilient development;
- (g) approve and oversee the implementation in the county of a comprehensive programme of climate change education awareness creation and capacity building;
- (h) provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders in the county;
- (i) ensure positive linkages, interactions and synergy between the county, neighboring counties and the national government in climate change response programming and action;
- (j) ensure a coordinated approach to climate change response programming and action within the county, between the county and national government, and among the different stakeholders in the county;

- (k) coordinate the formulation of a climate change reporting framework, and the preparation and dissemination of an annual report on climate change response activities in the county;
- (l) Perform any other functions that may further the foregoing objectives and/or as may be assigned by the Governor; and
- (m) The steering committee may from time to time establish sub-committees for the better carrying of its function.

Composition of Steering Committee and its Sub-Committees

7. (1) The Steering Committee shall comprise of not more than fifteen members who shall be appointed by the Governor.

(2) The members of the Steering Committee shall be—

- (a) Governor who shall be the chairperson and the Deputy Governor who shall be the Vice Chairperson;
- (b) County Commissioner;
- (c) Executive Committee Member as Secretary;
- (d) Executive Committee Member in charge of Finance;
- (e) Executive Committee Member in charge of Agriculture;
- (f) Executive Committee Member in charge of Environment, water and irrigation;
- (g) Executive Committee Member in charge of Disaster Management;
- (h) Executive Committee Member in charge of Energy;
- (i) one representative of a duly registered public benefit organizations working in the county nominated by the umbrella organization representing the largest number of public benefit organizations in the county;
- (j) one representative of the private sector in the county nominated by the umbrella organization representing the private sector in the county;
- (k) one representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county; and
- (l) one representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county.

(3) A person shall only qualify to be nominated for appointment under subsections (2) (i), (j), (k) and (l) if the person has demonstrable experience, expertise and interest in issues of climate change, natural resource management and/or environmental conservation and has actively and publicly engaged with these issues in the county.

(4) Without prejudice to the provisions of subsection (2) a person shall not qualify to be nominated for appointment under paragraphs (i), (j), (k) and (l) unless such person is—

- (a) a citizen of Kenya;
- (b) fulfills the requirements of Chapter 6 of the Constitution; and
- (c) has at least five years' experience in the relevant field.

(5) The Governor shall ensure compliance with the two thirds gender principle in the appointment of members of the Steering Committee.

(6) The steering committee may from time to time establish sub-committees for the better carrying out of its functions.

Approval of appointments by the County Assembly

8. Persons nominated for appointment under section 7(2) (i), (j), (k) and (l) shall be presented to the county assembly for approval.

Term of the Steering Committee

9. Members of the Steering Committee appointed under section (7)(2), (i), (j), (k) and (l) shall serve for one non-renewable term of five years.

Removal of Member of the Steering Committee

10. (1) A member of the Steering Committee may resign from the Committee by issuing one month's notice in writing to the Governor.

(2) A member of the Steering Committee may be removed from the Committee by the Governor on any one or a combination of the following grounds—

- (a) failure to attend two consecutive meetings of the Steering Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law;
- (c) gross misconduct;
- (d) physical or mental incapacity; and
- (e) bankruptcy.

(3) A person who is a member of the Steering Committee by virtue of his or her office under section 7(2) (a), (b), (c), (d), (e), (f), (g) and (h) shall cease to be a member of the Committee upon ceasing to hold that office.

(4) A person who is a member of the Steering Committee under section 7(2) (i), (j), (k) and (l) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the chairperson of the Committee.

(5) Whenever a member of the Steering Committee is removed or otherwise ceases to be a member of the Committee, the Executive Committee Member for the time being in charge of Climate Change shall advise the Governor within 14 days of the vacancy and the Governor shall appoint a replacement within 30 days for approval. The appointed person shall serve for the remainder of the term

Climate Change Unit

11. (1) There is established the Climate Change Unit under the department for the time being responsible for climate change.

(2) The Climate Change Unit shall serve as the Secretariat of the Steering Committee.

(3) The unit shall be headed by a Director who shall be competitively recruited by the County Public Service Board.

(4) A person shall be qualified for appointment as a Director for Climate Change if the person—

- (a) is a citizen of Kenya; and
- (b) has a postgraduate degree, Knowledge and experience in any of the following fields—
 - (i) Environmental Studies;
 - (ii) Climatology;
 - (iii) Natural Resource Management;
 - (iv) Agriculture; and
 - (v) such other relevant field as may be determined by the Executive Member in Consultation with the County Public Service Board.
- (c) have at least five years experience; and
- (d) meets the requirement of chapter six of the Constitution of Kenya 2010.

- (5) The climate change unit shall perform the following functions—
- (a) provide analytical support on climate change to the various sector departments, the steering, planning committee and Ward Planning Committees;
 - (b) establish and manage a county registry for appropriate mitigation actions by private and public entities;
 - (c) serve as the county knowledge and information management section for collating, verifying, refining, and disseminating knowledge and information on climate change;
 - (d) in collaboration with other agencies of the national and county governments
 - (i) identify low carbon development strategies and coordinate related measurements, reporting and verification;
 - (ii) develop strategies and coordinate actions for building resilience to climate change and enhance adaptive capacity; and
 - (iii) optimize the county's opportunities to mobilize climate finance.
 - (e) coordinate adherence to the county, national and international obligations including associated reporting requirements on matters climate change;
 - (f) coordinate implementation of gender and intergenerational climate change education, consultation and learning at the sub county and ward levels;
 - (g) provide, on instruction from the Executive Committee member, technical assistance based on needs identified by the county government.

(6) The County Public Service Board in consultation with the County Executive Member shall determine the staff establishment required for the Climate Change Unit to effectively perform its functions under this Act.

Meetings of the Steering Committee

12. (1) The Steering Committee shall meet at least once every quarter in each financial year.

(2) The quorum for meetings of the Steering Committee shall be two thirds of the membership.

(3) A resolution of the Steering Committee shall require an affirmative vote of at least one half of the members present at a meeting, excluding the chairperson's vote, which shall be a casting vote.

(4) In the absence of the chairperson, the vice-chairperson shall chair meetings of the Steering Committee, and in the absence of both the chairperson and the vice-chairperson members the chairperson shall delegate in writing the chairperson for that sitting.

(5) The Steering Committee may invite to its meetings any relevant technical staff who it considers will contribute to its deliberations, and the attendance and participation of such person shall be recorded in the Minutes of the Steering Committee.

Allowances for members of the Steering Committee

13. Members of the Steering Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission.

Delegation of powers by the Steering Committee

14. Subject to the provisions of this Act, the Steering Committee may, either generally or in a particular case, delegate the exercise of any of its functions under this Act to its sub-committee.

PART III—PLANNING AND IMPLEMENTATION

Establishment of Planning Committee

15. There is established the County Climate Change Planning Committee, which shall comprise of 16 members appointed by the Executive Committee Member for the time being in charge of climate change matters.

Functions of Planning Committee

16. The functions of the Planning Committee shall be—

- (a) to coordinate planning, and implementation of projects and activities for climate change response in the county;
- (b) to coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;
- (c) to establish guidelines to be used by Ward Planning Committees in formulating climate response projects for funding by the County Climate Change Fund;
- (d) to undertake capacity building for Ward Planning Committees;

- (e) to support Ward Planning Committees in development and implementation of climate response projects;
- (f) to coordinate development and implementation of the County Climate Change Fund Regulations;
- (g) to advise the Steering Committee on strategies, priority programs, projects and activities for climate change response in the county;
- (h) to formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;
- (i) to coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto;
- (j) to prepare and disseminate an annual report on climate change response activities in the county;
- (k) to formulate and implement a county monitoring, evaluation and reporting framework for climate change response; and
- (l) to perform any other functions assigned to it by the Steering Committee.

Composition of Planning Committee

17. (1) Members of the Planning Committee shall comprise of not more than nineteen members who shall be appointed by the Executive Committee Member—

- (a) chief Officer for the time being in charge of climate change matters who shall be the chairperson;
- (b) director in charge of the climate change unit, who shall be the Secretary;
- (c) chief Officer in charge of Environment;
- (d) chief Officer in charge of finance;
- (e) chief Officer in charge of agriculture;
- (f) chief Officer in charge of Disaster;
- (g) chief Officer in charge of water and irrigation;
- (h) chief Officer in charge of Energy;
- (i) county Director of National Environment Management Authority;
- (j) county representative in of Meteorology;

- (k) county representative in charge of Kenya Forest Service;
- (l) one representative of duly registered public benefit organizations working in the county nominated by the umbrella organization representing the largest number of public benefit organizations;
- (m) one representative of the private sector in the county nominated by the umbrella organization representing the largest number of private sector organizations in the county;
- (n) one representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county;
- (o) one representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county; and
- (p) the Administrator of the Fund, who shall be an ex-officio member with no voting rights.

(2) Members of the Planning Committee shall at their first meeting elect a vice-chairperson from among the members nominated for appointment under subsection (1)(i), (j), (k), (l), (m), (n) and (o).

Appointment and Term of Planning Committee

18. (1) Members of the Planning Committee shall be appointed by the Executive Committee Member for the time being in charge of climate change matters.

(2) Members of the Planning Committee appointed under section 17(1) (l), (m), (n) and (o) shall serve for one non-renewable term of five years.

Removal of member of Planning Committee

19. (1) A member of the Planning Committee may at any time resign from the Committee by giving one month's notice to the Executive Member for the time being in charge Climate Change.

(2) A member of the Planning Committee may be removed from the Committee by the Executive Member on any one or a combination of the following ground—

- (a) failure to attend three consecutive meetings of the Planning Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law;

- (c) gross misconduct;
- (d) physical or mental incapacity; and
- (e) Bankruptcy.

(3) A person who is a member of the Planning Committee by virtue of his or her office under section 17 (1) (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) shall cease to be a member of the Committee upon ceasing to hold that office.

(4) A person who is a member of the Planning Committee under section 17(1) (k),(l), (m),(n) and (o) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the Executive Committee Member.

(5) Whenever a member of the Planning Committee is removed or otherwise ceases to be a member of the Committee, the Executive Committee Member shall ensure that a replacement is appointed within 30 days of the vacancy.

Secretariat of Planning Committee

20. The County Climate Change Unit shall serve as the Secretariat of the Planning Committee.

Meetings of Planning Committee

21. (1) The Planning Committee shall meet at least once every quarter of each financial year.

(2) The Planning Committee may choose to rotate the location of its regular meetings to different wards in the county for purposes of engaging directly with communities and familiarizing itself with their climate change related challenges.

(3) The quorum for meetings of the Planning Committee shall be two thirds of its membership.

(4) A resolution of the Planning Committee shall require an affirmative vote of more than one half of the members present in a meeting, excluding the chairperson's vote, which shall be a casting vote.

(5) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting; provided that no two consecutive meetings shall be held without either the chairperson or the vice-chairperson being present.

(6) The Planning Committee may invite to its meetings any technical staff who it considers will contribute to its deliberations, and the attendance and participation of such person shall be recorded in the Minutes of the Planning Committee.

Allowances for members of Planning Committee

22. Members of the Planning Committee shall be paid such allowances as stipulated by Guidelines from the Salaries and Remuneration Commission.

1. WARD CLIMATE CHANGE PLANNING COMMITTEE

Establishment of Ward Planning Committees

23. There shall be established a Ward Climate Change Planning Committee in each ward.

Functions of Ward Planning Committee

24. The functions of the Ward Planning Committee shall be—

- (a) to oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the Planning Committee;
- (b) to coordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities;
- (c) to support research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto;
- (d) to support and conduct public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto;
- (e) to coordinate and manage community consultations on priority climate change response activities;
- (f) to liaise with the county planning and budgeting team with a view to ensuring the mainstreaming of climate change and prioritization of climate change response in county development plans;
- (g) to support public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities;

- (h) to coordinate and support provision of technical support to communities in the ward in developing proposals on climate change response projects for funding; and
- (i) to perform any other functions that may be assigned to it by the Planning Committee.

Composition of Ward Planning Committee

25. (1) A Ward Planning Committee shall be composed of the following members representing the diverse interests in the community who shall be appointed by the County Executive Member—

- (a) the Ward Administrator who shall be an ex-officio member with no voting rights;
- (b) a representative of the County Climate Change Unit at the ward who shall be the secretary to the Ward Planning Committee;
- (c) two community members of both genders;
- (d) two youths of both genders;
- (e) one representative of persons with disability;
- (f) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities who shall be nominated by an umbrella organization representing the largest number of such organizations in the Ward; and
- (g) the chief(s) within the ward who shall be ex-officio member(s) with no voting rights.

(2) Nomination of members under subsections (1) (c), (d), (e) and (f) shall be conducted by representatives of the respective groups at a meeting convened and chaired by the Ward Administrator at the Ward headquarters for that purpose and the Climate Change Officer or a representative thereof as the secretary.

(3) The Ward Administrator shall ensure that all interest groups are equitably represented by location at the nominations meeting, and the list of persons attending the meeting disaggregated by interest group and location shall constitute part of the record of the meeting.

(4) The notice convening the meeting under subsection (2) shall be issued not less than 14 days prior the date thereof, and shall be widely publicized by any form of media available in the ward.

(5) Nomination of the representative of Community-Based Organizations shall be done through a meeting convened by the relevant

network for that specific purpose, and communicated to the Ward Administrator in writing with a certified copy of the resolution.

(6) Where there is no officially recognized ward level network of Community-Based Organizations, the Ward Administrator will consult with the chiefs in the ward to agree on the appropriate representative under subsection (1)(f).

(7) Within 30 days of the conclusion of the nominations, the Ward Administrator shall present the list of nominees to the County Executive Member who shall formally appoint the members, publicize the list as widely as possible within the ward, and share it with the County Planning Committee for information.

Officers of the Ward Planning Committee

26. (1) The first activity of the Ward Planning Committee at its first sitting shall be the election of a chairperson and a vice-chairperson from among the members under section 25(1) (c), (d), (e) and (f).

(2) The chairperson and the vice-chairperson shall not be members of the same gender.

Qualifications for appointment to Ward Planning Committees

27. (1) A person shall not qualify for appointment to serve on the Ward Planning Committee, unless he or she—

- (a) is a resident of the ward;
- (b) fulfills the requirements of Chapter Six of the Constitution on leadership and integrity;
- (c) demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing the said challenges in the county; and
- (d) indicates willingness to serve the community.

(2) Without prejudice to the provisions of subsection (1), persons nominated under section 25(1) (c), (d), (e) and (f) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the Executive Committee Member shall determine the appropriate educational qualification through regulations.

Term of Ward Planning Committees

28. (1) Members under section 25(1) (c), (d), (e) and (f) shall serve for one non-renewable term of five years.

Removal of Member of Ward Planning Committee

29. (1) A member of the Ward Planning Committee may at any time resign from the Committee by giving one month's notice to the Executive Committee Member.

(2) A member of the Ward Planning Committee may be removed from the Committee by the Executive Committee Member on any one or a combination of the following grounds—

- (a) failure to attend three consecutive meetings of the Ward Planning Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law
- (c) gross misconduct
- (d) physical or mental incapacity
- (e) bankruptcy

(3) A person who is a member of the Ward Planning Committee by virtue of his or her office under section 25(1)(a), (b),(c),(d),(e) and (g) shall cease to be a member of the Committee upon ceasing and/or relocating from that ward.

(4) A person who is a member of the Ward Planning Committee under section 25(1) (f) shall cease to be a member of the Committee upon ceasing to be a member of the Community-Based Organization or upon being recalled by the umbrella organization for good cause and through a written communication from an authorized official of the umbrella organization to Executive Committee Member.

(5) Whenever a member of the Ward Planning Committee is removed or otherwise ceases to be a member of the Committee, the Executive Committee Member shall ensure a replacement is appointed within 30 days of the vacancy.

Meetings of Ward Planning Committee

30. (1) The Ward Planning Committee shall meet at least twice in every quarter.

(2) Save for the inaugural and emergency meetings, which shall be held at the ward headquarters, regular meetings of the Ward Planning Committee shall be convened and held in the different locations of the ward on a rotational basis.

(3) The quorum for meetings of the Ward Planning Committee shall be two thirds of the members.

(4) A resolution of the Ward Planning Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson's vote, which shall be a casting vote. The resolution shall be documented.

(5) In the absence of the chairperson, the Vice-Chairperson shall preside over a meeting, and in the absence of both the Chairperson and the Vice-Chairperson, the members in attendance shall elect one of them to chair the meeting; provided that no two consecutive meetings shall be held without either the chairperson or the vice-chairperson being present.

(6) Regular meetings of the Ward Planning Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Planning Committee.

(7) A Ward Planning Committee may invite to its meetings any technical staff whose expertise and skills may be needed for purposes of a matter before the Committee, and the Ward Administrator shall ensure that the technical staff in the ward are available to advise the Committee as and when necessary.

Reimbursement of members of Ward Planning Committees

31. Members of the Ward Planning Committee shall serve on a voluntary basis, but shall be reimbursed reasonable allowances at a rate to be determined by the County Treasury, Executive Committee Member and the Fund Administrator in consultation with the Steering Committee.

COUNTY CLIMATE CHANGE PLANNING COMMITTEE

PART IV—MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

County Climate Change Action Plan

32. (1) The Executive Committee Member shall in consultation with the Steering Committee and relevant sectors and through a participatory process involving relevant stakeholders formulate a County Climate Change Action Plan.

(2) The County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan and County Integrated Development Plan.

(3) Without prejudice to the provisions of subsection (1), the Executive Committee Member shall within one year of the coming into force of this Act coordinate development of an interim County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan.

(4) The County Climate Change Action Plan shall be reviewed and updated every five years through the same participatory process as the one followed in its formulation.

Contents of County Climate Change Action Plan

33. The County Climate Change Action Plan shall—

- (a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the county;
- (b) be aligned to the County Environment Action Plan;
- (c) contain a climate change needs and response assessment for the county;
- (d) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for—
 - (i) guiding the county toward the achievement of low carbon climate resilient sustainable development;
 - (ii) mainstreaming climate change into county development plans, programmes, strategies and projects;
 - (iii) adaptation to and mitigation of climate change;
 - (iv) enhancing research, capacity building and knowledge management on climate change and climate change response;
 - (v) enhancing public awareness for effective participation in climate change response; and
 - (vi) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the County Climate Change Action Plan.

Approval of County Climate Change Action Plan

34. The County Climate Change Action Plan shall be approved by the Steering Committee and the County Executive Committee and shall be laid before the County Assembly for adoption.

Biennial review of County Climate Change Action Plan

35. The Planning Committee shall undertake a biennial review of the implementation of the County Climate Change Action Plan and report to the Steering Committee.

PART V—DUTIES RELATING TO CLIMATE CHANGE

Climate change duties of public entities

36. (1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any public entity operating within the county.

(2) The imposition of climate change duties under subsection (1) shall be effected through regulations and preceded by public sensitization and consultations.

(3) Any public entity on which a climate change duty has been imposed shall in performing the said duty act in a manner best suited to the successful implementation of this Act and the County Climate Change Action Plan.

(4) Without prejudice to the provisions of subsection (1), every public entity operating in the county shall have the duty to—

- (a) mainstream climate change into sectoral strategies, plans and other frameworks for implementing its statutory functions;
- (b) perform its statutory functions in a manner that contributes to the implementation of the County Climate Change Action Plan;
- (c) support the Steering Committee and the County Government in its planning, programming, implementation and monitoring of climate change response in the county; and
- (d) report annually to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.

Climate change duties of private entities

37. (1) The Steering Committee may, on recommendation of the Executive Committee Member in consultation with relevant Executive Committee Members, impose duties relating to climate change on any private entity operating within the county.

(2) The Steering Committee shall make regulations governing the nature and procedure for reporting on performance of climate change duties by private entities, including monitoring and evaluation of compliance.

Monitoring and reporting on compliance

38. (1) The Executive Committee Member shall with the assistance of the representative of the National Environment Management Authority and on behalf of the Steering Committee, monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change duties, and in performance of this function he or she shall—

- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
- (b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function.

(2) The Executive Committee Member shall report to the Steering Committee on the performance of functions under subsection (1) on annual basis, and such report shall form part of the report by the Steering Committee to the County Assembly.

Steering Committee may require private entity to report on performance

39. Notwithstanding the provisions of section 34, the Steering Committee may—

- (a) by notice in the Kenya Gazette, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and
- (b) require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to ensure future performance of those duties.

Annual County Climate Change Response Report

40. (1) The Steering Committee shall, within three months after the end of every financial year, publish publicly and submit a report on implementation of the County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.

(2) The County Assembly shall, within three months of receiving the report, provide recommendations and proposed actions to the Steering Committee.

(3) A copy of the report issued under subsection (1) shall be forwarded to the Directorate for information purposes pursuant to section 19(5) of Climate Change Act, 2016.

Values and principles to apply to planning and implementation

41. The planning and implementation of climate response in the county shall be informed by the values and principles specified in section 4 of this Act.

County strategy for climate change education and public awareness

42. (1) Within one year of this Act coming into force, the Planning Committee shall develop a comprehensive county strategy for public education and awareness creation on climate change.

(2) The strategy shall be developed through a participatory process involving all stakeholders in the county, and validated at public meetings organized by Ward Planning Committees in every ward.

(3) The strategy shall be approved by the Steering Committee and its implementation mainstreamed into the County Climate Change Action Plan.

Public sensitization to precede formulation of climate change response plans

43. (1) Notwithstanding the provisions of section 42(1) the Planning Committee and Ward Planning Committees shall ensure that the development of any climate change response programme, plan, project or activity in the county is preceded by comprehensive campaign of public sensitization and awareness creation to facilitate informed public participation.

(2) The Planning Committee and the Ward Planning Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme,

plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee under sections 38 and 40 of this Act.

Capacity building for effective public participation

44. (1) The Steering Committee shall ensure that the Planning Committee and Ward Planning Committees implement comprehensive programmes of capacity building to equip individual citizens and communities in the county for effective participation in climate change governance and response.

(2) The Planning Committee and Ward Planning Committees shall support communities to establish Community-Based Organizations and other frameworks for mobilization and engagement with climate governance and response issues in the county.

Access to information

45. The Steering Committee, the Planning Committee and the Ward Planning Committees shall publish, publicize and ensure access to all important climate change information in their possession

PART VI—PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

Establishment of County Climate Change Fund

46. (1) There is hereby established the County Climate Change Fund to provide funding for priority climate change actions and interventions identified by communities and other stakeholders and approved by the Steering Committee.

(2) The Fund shall be vested in the County Treasury, administered by the Steering Committee and managed by the Fund Administrator appointed by the Executive Committee Member for the time being in charge of the Treasury in consultation with the Executive Committee Member.

Sources of the Fund

47. The Fund shall be financed through—

- (a) Initial capital appropriated by the County Assembly, being not less than two percent of the county development budget;

- (b) Money appropriated annually by the County Assembly, which shall be not less than two per cent of the annual development budget of the county;
- (c) Money received from the National Climate Change Fund;
- (d) International Climate Finance received by the county directly or through the National Designated Authority, National Implementing Entity or other agency;
- (e) Donations, endowments, bequests, grants and gifts from individuals, organizations, public and private entities local or foreign;
- (f) Charges, fees, levies or fines received by the county government in connection with activities that adversely impact on climate in the county; and
- (g) Interest and any other money that may lawfully accrue to the Fund in any form.

County Climate Change Fund Regulations

48. (1) The Executive Committee Member in charge of Finance shall, in consultation with the Executive Committee Member, develop Regulations for administration and management of the Fund.

(2) The Regulations made under subsection (1) shall provide for the following, among other matters—

- (a) formulation of the County Climate Finance Framework;
- (b) appointment and removal of the Fund Administrator;
- (c) operation of the Fund;
- (d) eligibility criteria for accessing money from the Fund;
- (e) development of project proposals, application for and disbursement of money from the Fund;
- (f) procurement of services and goods;
- (g) complaints redress mechanism; and
- (h) monitoring, evaluation, reporting and learning.

PART VII – COUNTY CLIMATE CHANGE FUND

Funding operations of Steering and Planning Committees

49. (1) Functions of the Steering Committee, the Planning Committee and Ward Planning Committees and the secretariats thereof

shall be financed through a vote in the estimates of revenue and expenditure of the relevant Department.

(2) Participation of representatives of State and County Executive Departments in the Steering Committee, the Planning Committee and Ward Planning Committees shall be financed by the Fund in accordance with Guidelines from the Salaries and Remuneration Commission.

(3) Finances and accounts of the Steering Committee, the Planning Committee and Ward Planning Committees shall be administered and managed in accordance with the provisions of the Public Finance Management Act, 2012 and the Public Finance Management (County Governments) Regulations, 2016.

Annual estimates for Steering and Planning Committees

50. At least three months prior to the commencement of each financial year, the Executive Member shall cause to be prepared the estimates of revenue and expenditure of the Steering Committee, the Planning Committee and the Ward Planning Committees for the year.

Financial year of Steering and Planning Committees

51. The financial year of the Steering Committee, the Planning Committee and the Ward Planning Committees shall be the period of twelve months ending the thirtieth June in each year.

Accounts and audit of Steering and Planning Committees

52. The Steering Committee, the Planning Committee and Ward Planning Committees shall cause to be kept all proper books and records of account and income, expenditure and assets, and shall cause the accounts to be audited within a period of three months after the end of each financial year.

PART VIII – FINANCIAL PROVISIONS

PART IX – MISCELLANEOUS PROVISIONS

Protection from personal liability

53. (1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Planning Committee or the Ward Planning Committees in good faith and in performance of functions or execution of powers vested in the said committees by this Act, shall render the member, officer or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Steering Committee, the Planning Committee or Ward Planning Committees of

liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by negligence in the exercise of any power conferred by this Act or any other written law or by failure wholly or partially of any works.

Offences and penalties

54. Any person who—

- (a) without lawful excuse ignores or fails to obey any instructions issued by any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committees in exercise of the powers or performance of the functions of the Committees under this Act;
- (b) willfully obstructs any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committees in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committees in exercise of powers or the performance of the functions of the said Committees under this Act commits an offence and shall be liable upon conviction to the punishment of a fine of not exceeding KSh 10 million or imprisonment of not exceeding three (3) years or both.

Regulations

55. The Executive Committee Member shall make Regulations for the proper administration of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill provides for a framework and mechanisms for mobilization and facilitation of the County Government, Communities and other stakeholders to respond effectively to climate change through appropriate adaptation and mitigation measures and actions.

Part I of the Bill provides for the objects and purposes of the Bill; this part also includes the guiding principles in implementation of this Act.

Part II of the Bill provides for the establishment of the Climate Change Steering Committee, its function and their term of office.

Part III of the Bill provides for the establishment of the establishment of the Planning and ward Planning Committees, their functions and term of office.

Part IV of the Bill provides for the measures and actions for responding to climate change through the formulation of the Climate Change Action Plan.

Part V of the Bill provides for the duties and responsibilities of private and public entities relating to climate change issues within the county. This part also provides for monitoring and evaluation.

Part VI of the Bill provides for public participation and access to information.

Part VII of the Bill provides for the establishment of the Climate Change Fund.

Part VIII of the Bill provides for the sources of the Fund.

Part IX of the Bill provides for the offences and penalties and the powers of the County Executive Committee Member to make Regulations for further implementation of the Bill.

Dated the 2nd, October 2020.

WESLEY BETT,
*Chairperson Committee on Water, Environment, Energy and Natural
Resources.*