

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**BARINGO COUNTY BILLS, 2021**

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**THE BARINGO COUNTY CLIMATE CHANGE BILL,  
2021**

**A Bill for**

**AN ACT of the County Assembly of Baringo to provide a legislative framework for coordinate and finance climate change response through adaptation and mitigation measures and for connected purposes**

ENACTED by the Baringo County assembly as follows—

**PART I—PRELIMINARY**

**Title and commencement**

1. This Act may be cited as the Baringo County Climate Change Act, 2021 and shall come into operation upon publication in the *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;

“Authority” means the National Environment Management Authority established by the Environmental Management and Coordination Act, 1999 as amended by the Environmental Management and Coordination (Amendment) Act, 2015;

“climate change” means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period of time;

“climate change unit” means the County Climate Unit established to support coordination of climate change matters in the County as envisaged by section 19(3) of the Climate Change Act, 2016;

“constitution” means the Constitution of Kenya, 2010;

“county” means Baringo County;

“county assembly” means the County Assembly of Baringo County;

“county government” means the Baringo County Government;

“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;

“executive committee member” means the County Executive Committee Member for the time being in charge of environmental matters in Baringo County;

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

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

“mitigation” means preventing, reducing or slowing 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 of this Act;

**Objects and purposes**

**3.** The object of this Act is to establish a mechanism to finance climate change activities, programs and projects in the County through—

- (i) initiating, coordinating and financing Climate Change Adaptation and Mitigation activities at the community level;
- (ii) facilitating community initiated Climate Change Adaptation and Mitigation activities;
- (iii) planning for Climate Change Adaptation and Mitigation in the County planning and budgetary framework;
- (iv) seeking and receiving grants from national and international entities, the National Government, the County Government and other relevant organizations;
- (v) providing support for the national Climate Change Policy and legislative framework;
- (vi) coordinating collection and dissemination of climate change information to the public to create awareness and preparedness; and
- (vii) enforcing duties and providing incentives for the private sector to contribute to achievement of low carbon climate resilient development.

**Guiding values and principles**

**4.** The application and interpretation of this Act shall be guided by the following values and principles—

- (a) community driven and bottom-up planning of response to climate change;
- (b) inclusion of gender, youth, PWDs and minority groups in climate change actions;
- (c) inclusion of all actors in planning and implementation of climate change response;
- (d) protection of the climate system for posterity; and
- (e) adherence to National values and principles of governance spelt out in the Constitution of Kenya, 2010.

## **PART II—INSTITUTIONAL FRAMEWORK AND OVERSIGHT**

### **A.COUNTY CLIMATE CHANGE STEERING COMMITTEE**

#### **Establishment of County Climate Change Steering Committee**

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

#### **Composition of Steering Committee**

**6.** The Steering Committee shall comprise of—

- (i) the Governor as Chairperson;
- (ii) Executive Committee Member as Secretary;
- (iii) Executive Committee Member in charge of the County Treasury;
- (iv) Executive Committee Member in charge of Agriculture, Livestock and Fisheries;
- (v) Executive Committee Member in charge of Health;
- (vi) Executive Committee Member in charge of Water and Irrigation;
- (vii) county representative of the special interest groups in Environmental Conservation activities; and
- (viii) One person representing the specific Funding Institution.

#### **Functions of Steering Committee**

**7.** The Steering Committee will oversee climate change response in the county, and in this connection shall—

- (i) mobilize funds and resources for climate change response projects approved by the Planning Committee
- (ii) approve estimates of revenue and expenditure of the Fund for each financial year;
- (iii) approve annual budget, work plan, procurement plans and cash plans for the Fund;
- (iv) allocate funding for cross-ward climate change response projects
- (v) approve the financial statements of the Fund prepared by the Fund Administrator before they are presented for

audit;

- (vi) approve the County Climate Finance Framework and the strategic plan of the Fund; and
- (vii) perform any other functions that may further the foregoing objectives and/or may be assigned by the Governor.

## **B. COUNTY CLIMATE CHANGE PLANNING COMMITTEE**

### **Establishment of Planning Committee**

8. There is established the County Climate Change Planning Committee, which shall comprise members appointed to the Committee by the Executive Committee Member.

### **Composition of Planning Committee**

9. Members of the Planning Committee will be—

- (i) the Executive Committee Member who will be the Chairperson;
- (ii) the chief officer in charge of finance who shall be the vice chairperson;
- (iii) county Director in charge of climate change, who will be the Secretary;
- (iv) county Director in charge of agriculture, livestock and fisheries;
- (v) county Director in charge of health;
- (vi) county Director in charge of water and irrigation;
- (vii) county representative of the National Environment Management Authority or a designated representative (NEMA);
- (viii) county Drought Management Officer or a designated representative (NDMA);
- (ix) county Director of Meteorology; and
- (x) the Administrator of the Fund, who will be an *ex-officio* member with no voting rights.

### **Functions of Planning Committee**

10. The functions of the Planning Committee will be to—

- (a) coordinate planning, development and implementation of the county climate change actions;

- (b) establish guidelines to be used by Ward planning committees in formulating climate response projects for funding by the county climate change fund;
- (c) support ward planning committees in development and implementation of climate response projects;
- (d) advise the steering committee on strategies, priority programmes, projects and activities for climate change response;
- (e) formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;
- (f) coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto; and
- (g) perform any other functions assigned to it by the Steering Committee.

### **C. WARD CLIMATE CHANGE PLANNING COMMITTEE**

#### **Establishment of Ward Planning Committees**

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

#### **Composition of Ward Planning Committee**

**12.** A Ward Planning Committee shall be composed of seven (7) members representing the diverse interests in the community, namely—

- (i) one male elder;
- (ii) one female elder;
- (iii) youth representative;
- (iv) a person living with disability;
- (v) the sub county environment officer as an *ex officio* with no voting rights;
- (vi) 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;
- (vii) the Ward Administrator who shall be the Secretary, and an *ex-officio* member with no voting rights;
- (viii) a representative of the minority /marginalized groups; and
- (ix) one person representing the faith based institutions.

**Appointment of ward climate change planning committee members**

13. Nomination of members falling under subsections will be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator at the Ward.

**Functions of Ward Planning Committee**

14. The functions of the Ward Planning Committee will be—

- (a) to coordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities;
- (b) to facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding;
- (c) to facilitate public education, awareness creation, and capacity building at the ward level on climate change, its impacts;
- (d) to coordinate, facilitate and manage community consultations on priority climate change response activities;
- (e) to facilitate public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities;
- (f) to coordinate, facilitate and provide support to communities in the ward in developing proposals on climate change response projects for funding by the County Climate Change Fund; and
- (g) oversee implementation of climate change response projects funded by the County Climate Change Fund to the Planning Committee.

**Qualifications for appointment to Ward Planning Committees**

15. (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) meets the requirements of Chapter Six of the Constitution of Kenya 2010, 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;

- (d) indicates willingness to serve the community; and
- (e) minimum of form four level of education.

### **Meetings of Ward Planning Committee**

16. (1) The Ward Planning Committee shall meet at least once in every quarter.

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

(3) A Ward Planning Committee may invite to its meetings any technical staff whose expertise and skills may be needed.

## **PART III—ESTABLISHMENT AND ADMINISTRATION OF THE FUND**

### **Establishment of the Fund**

17. There is established by the County Executive Committee Member for Finance, a fund to be known as the Baringo County Climate Change Fund which shall be disbursed in accordance with this Act.

### **Application of the Fund**

18. (1) The Fund shall be applied to—

(a) provide grants for climate change research and innovation, in the following fields—

- (i) industrial research;
- (ii) policy formulation;
- (iii) academic scientific research.

(b) finance climate change resilience and its assessment;

(c) finance implementation of approved climate change projects;

(d) finance monitoring and evaluation exercises including documentation, photography and video recording of climate change projects;

(e) defray administrative costs which shall not exceed three percent (3%) of the Fund per financial year;

(f) capacity building activities at the County level.

(2) The moneys in the Fund shall be disbursed according to criteria set out in the Regulations.

### **Sources of funds**

**19.** The Fund shall consist of—

- (a) monies as allocated by the County Assembly for the purposes of the Fund, of an amount of not less than 2% (two per centum) of all the County Government annual budget in every financial year;
- (b) moneys from the National Government;
- (c) grants and loans from the National Climate Fund;
- (d) climate finance from international entities and donors;
- (e) moneys received from Public Benefit Organizations;
- (f) fees and charges from climate finance activities; and
- (g) other grants and donations.

### **Administration of the Fund**

**20.** (1) The County Executive Committee Member responsible for finance shall designate a person from the County public service who will administer the Baringo County Climate Change Fund.

(2) The Fund Administrator appointed under subsection (1) shall be the accounting officer of the Fund.

(3) The Fund Administrator shall—

- (a) prepare and keep the accounts of the Fund in each financial year;
- (b) submit financial statements relating to those accounts to the Auditor-General; and
- (c) present financial statements to the County Assembly.

(3) The Fund Administrator shall cause an account to be opened approved by the County Treasury, and the account shall be known as the “Baringo County Climate Change Fund Account”.

### **Regulations**

**21.** The County Executive Committee Member responsible for finance shall issue regulations on the Fund pursuant to the provisions of the Public Finance Management Act, 2012.

### **County Climate Change Fund Regulations**

**22.** (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;
- (g) complaints mechanism; and
- (h) monitoring, evaluation, reporting and learning.

#### **PART IV – ACTIONS FOR RESPONDING TO CLIMATE CHANGE**

##### **County Climate Change Action Plan**

**23.** (1) The steering Committee through a participatory process involving stakeholders, will formulate a County Climate Change Action Plan.

(2) The County Climate Change Action Plan will be for a period of five years.

(3) the Executive Committee Member will within 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 referred to in sub-section (1).

##### **Contents of County Climate Change Action Plan**

**24.** The County Climate Change Action Plan will—

- (a) be aligned to the National Climate Change Action Plan and respond to the specific needs and circumstances of the county;
- (b) contain a climate change needs and response assessment for the county;
- (c) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for;
  - (i) 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**

**25.** The County Climate Change Action Plan will be developed by the Executive and submitted to the County Assembly for adoption.

#### **Review of County Climate Change Action Plan**

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

#### **Regulation for Administration and Management of the Fund**

**27.** (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;
- (g) complaints mechanism; and
- (h) monitoring, evaluation, reporting and learning.

**Funding operations of Steering and Planning Committees**

**28.** Functions of the Steering Committee, the Planning Committee and Ward Planning Committees and the secretariats thereof shall be financed through the climate change vote in the Department of Environment.

**PART V—DUTIES RELATING TO CLIMATE CHANGE****Duties of public & private entities**

**29.** (1) The Steering Committee may assign duties relating to climate change on public and private entities operating within the county.

- (2) Every 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) contribute to the implementation of the County Climate Change Action Plan; and
  - (c) support the Steering Committee and the County Government in its planning, programming, implementation and monitoring of climate change response.

**Compliance of public & private entities**

**30.** (1) The County Director of Environment will liaise with the assistance the National Environment Management Authority monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change actions.

(2) The County Director of Environment shall report to the Steering Committee on the performance of functions under subsection (1).

**Strategy for climate change education and public awareness**

**31.** (1) Within three months of this Act coming into force, the Planning Committee will 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 in every ward.

**Formulation of climate change response plans**

**32.** (1) The Committees will ensure that any climate change response programme, project or activity in the county will be preceded by public sensitization and awareness creation.

(2) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities will be included in the reports of the Steering Committee.

**Capacity building**

**33.** The Steering Committees will undertake capacity building for effective participation in climate change governance and response.

**Access to information**

**34.** The Steering Committee, the Planning Committee, the Ward Planning Committee shall publish, publicize and ensure access to all important climate change information.

**PART VI—MISCELLANEOUS PROVISIONS**

**Offences and penalties**

**35.** Any person who—

- (a) ignores or fails to obey any instructions issued by the Committees in performance of the functions under this Act; or
- (b) willfully obstructs the Committees discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to any of the committees in exercise of powers or under this Act

commits an offence and shall be liable upon conviction to the punishment provided for under section 33(1) of the Climate Change Act, 2016

**Regulations**

**36.** The Executive Committee Member shall make various Regulations for the proper administration of this Act.

**MEMORANDUM OF OBJECTS AND REASONS**

The County Government of Baringo seeks to put in place a framework and mechanisms for mobilization of the County Government, communities and other stakeholders to respond effectively to climate change through appropriate adaptation and mitigation measures and actions.

This Legislation is to establish county structures that will ensure people-driven consultation on matters climate change adaptation and mitigation as provided for in the Constitution and the County Government Act, 2012. These structures are for effective Public Participation and ownership of Climate Change actions.

Further, the Bills seeks to provide resource mobilization mechanisms from the National and Global Climate Change Finance which cannot be channeled through the normal budgets. The Fund shall allow a Multi stakeholder participation in the County Climate Change actions.

Dated the 2nd October, 2021.

SHADRACK AKENO MAILUK,  
*Chairperson, Environment and Natural Resources.*