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Bill for Introduction into the Nyamira County Assembly —

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THE NYAMIRA COUNTY WARD DEVELOPMENT FUND (WDF) BILL, 2014

A Bill for

An Act of the County Assembly to Provide for the Establishment of the Ward Development Fund

PRELIMINARY

1. This Act may be cited as the Ward Development Fund Act 2014 and shall come into operation on such date as the Minister of Finance and Economic Planning may by notice appoint, but not later than thirty days from the date of assent.

2. In this Act, unless the context otherwise requires:

   “Community” means residents of a particular area or region as a Ward, location or sub-county and having common interest;

   “Clerk” means the clerk of the County Assembly of Nyamira.

   “Ward Development Fund Committee” means the committee established under section 29.

   “Ward Account” means the account maintained for every Ward in accordance with section 41.

   “Fund” means the Ward Development Fund established under section 4.

   “Minister” means Secretary/Minister for Finance and Economic Planning for the time being responsible for matters relating to finance.

   “Ward Development Fund Management Board” means management board of County Government established in accordance with section 5 of this Act.

   “Officer administrating the Fund” means Nyamira County Minister for Finance and Economic Planning.

3. The provision of this Act shall apply, as more specifically provided for in the Act and shall ensure that specific portion of the County annual budget is devoted to the Wards for purposes of development and in particular the fight against poverty at the Ward level.
ESTABLISHMENT OF THE WARD DEVELOPMENT FUND

4. (1) There is established a fund known as the Ward Development Fund (in this Act referred to as the "fund") which shall be administered by the officer administering the fund under the direction of the Ward Development Fund Management Board.

(2) There shall be paid into the fund;

(a) An amount of money equal to and not less than 6% (six percent) of all County Government ordinary Revenue in every financial year.

(b) Any monies accruing to or received by the Ward Development Fund Management Board from any source.

(3) The expenditure from the fund shall be in the basis limited to the annual budget which shall be submitted to the Minister for approval in accordance with this Act before the beginning of the financial year which the budget relates.

(4) There shall be paid out of the fund payments in respect to any expense incurred in pursuance of the provision of this Act.

(5) If the Act comes into operation mid way in the financial year, then the Majority Leader shall within one month of the assent, table in the house the amount proposed to be put in the fund and the allocation to each Ward and the amount proposed shall be allowed for through supplementary estimates.

5. (1) There is established a board to be known as the Ward Development Fund Management Board.

(2) The board shall be administered by a board of directors

(3) The board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of-

(a) Suing and being sued

(b) Taking, purchasing or otherwise acquiring holding, charging or disposing of movable and immovable
property;

(c) Doing or performing all other acts or things for the proper performance of its function under this Act which may lawfully be done or performed by a body corporate.

6.(1) Functions of the Ward Development Fund Management Board;

a) To ensure allocation and disbursement of funds in every Ward

b) To ensure prudent management of the fund

c) To receive and discuss the annual reports and returns from the Wards

d) To ensure the compilation of proper records/returns and reports from the Wards

e) To ensure timely submissions to County Assembly of various returns, reports and information as required under this Act

f) To perform such other duties as the Ward Development Fund Management Board, in consultation with the Minister, may deem necessary from time to time for proper management of the fund

g) To consider project proposal submitted for various Wards in accordance with the Act and make appropriate recommendation to the County Assembly.

h) To consider and report to the County Assembly with recommendation, names of persons required to be approved by the County Assembly under this Act.

i) To oversee the implementation, policy framework and legislative matters that may arise in relation to the fund

j) To continually review the framework set out for the efficient delivery of development program financed through the fund and to carry out other functions relevant to the work of the fund

(2) The Ward Development Fund Management Board
shall scrutinize the list of projects received under section 15

(3) The quorum necessary for the transactions of the business of Ward Development Fund Management Board shall be one half of all the members.

7. (1) The officer administering the fund shall,

a) Be the Chief Executive officer of the board

b) Supervise and control the day to day administration of the fund.

c) Prepare monthly returns on the disbursements of the funds as appropriate for submission to the County Assembly.

d) Keep and cause to be kept proper books, of account and other books and records related to the fund.

e) Prepare sign and transmit to the auditor accounts of the fund.

8. (1) Each and every disbursement from the fund shall be approved by the Ward Development Fund Management Board.

(2) All disbursements from the fund shall be for specific projects as provided for in printed estimates prepared for projects under this Act.

(3) All disbursements shall be made through the Ward bank accounts maintained for every Ward in accordance with section 41 of the Act.

(4) The record of amounts received by each Ward and the record of expenditure of amounts so received shall be submitted to the Ward Development Fund Management Board within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no disbursements for succeeding financial year shall be made into the accounts until the said records are received.

(5) The Ward Development Fund Management Board may set out general conditions and requirements for release of funds provided that such conditions shall be submitted to the County Assembly for approval before implementation.
(6) The Ward Development Fund Management Board may impose reasonable requirements including restrictions on a particular Ward due to previous misuse of funds and such restrictions requirements shall be reported together with monthly returns to be submitted to the County Assembly in accordance with this Act.

9. (1) Ward Development Fund Management Board shall for a financial year allocate funds for each Ward and the funds shall be reflected in the printed estimates of that particular financial year.

(2) Once funds are allocated for a particular project they shall remain allocated for that project and shall not be re allocated during the financial year for any other purpose whether in that Ward or anywhere else

(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for that project shall be returned to the fund and credited to the account of the Ward from which the funds were withdrawn.

10. (1) All receipts, savings and accruals to the fund and the balance of the fund at the end of each financial year shall be retained for the purpose for which the fund is established

(2) All funds allocated to a Ward shall be cumulative and shall be carried forward from one financial year to the next including funds returned to the account under section (9)(2) or funds which are not utilized for whatever reason

11. (a) A portion of the fund equivalent to five percent (5%) hereinafter referred to as “emergency reserve “which may be allocated to other projects at the end of the financial year.

COUNTY ASSEMBLY COMMITTEE ON WARD DEVELOPMENT FUND

12. The County Assembly shall in accordance with standing orders establish a Select Committee consisting of a chairperson and not more than 15 other members.

13: (1) The board shall on monthly basis submit a report to the County Assembly Select Committee detailing;

(a) A summary of project proposals received from the Wards in the preceding month and indicating the approval...
status of such projects

(b) A summary of the status of disbursements from the relevant departments from the treasurer to the ward account

(c) Any restrictions imposed on a ward account in accordance with the act.

(d) The board shall ensure that the list of projects forwarded to it by each Ward is upon approval, funded in accordance with the Act

SUBMISSION OF WARD PROJECT PROPOSALS

14. (1) The list of proposed Ward projects to be covered under this Act shall be submitted by elected member of County Assembly.

(2) The Ward Development Fund Management Board may designate a particular officer to receive and complete the list of proposed Ward projects submitted to him under this Act.

15. The list of the proposed Ward projects shall be submitted to the Ward Development Fund Management Board before the end of the month of February in each year or such a month as may be determined by the Minister in order to ensure timely inclusion of the projects in the annual County budget of a particular financial year.

16. (1) The list of projects shall be submitted on a standard Ward projects submission form set out in the second schedule of this Act.

(2) All projects proposed for every Ward shall be listed in the form together with the cost estimates of such projects.

17. (1) For every project listed in the form there shall be an attachment thereto, a standard project description form set out in the third schedule.

(2) The Ward Development Fund Management Board may by notice amend any of the schedules to this Act provided that the amendments shall first be referred to the County Assembly for approval.

18. The list of projects received by the Ward
Development Fund Board pursuant to section 14 shall be tabled by the clerk for a review at a meeting convened for that purpose.

19. Ward Development Fund Management Board shall after scrutiny of the list of projects submit to the Minister the list of projects received for all the Wards together with a summary showing the total number of projects and the total costs of projects for all the Wards.

20. The projects listed for each Ward in accordance with section 16 shall be numbered by the officer administering the fund in order to ensure that the same serial number every year until its completion.

21. (1) The budget ceiling for each Ward shall be;

(a) Eighty five percent (85%) of the amount specified in section 4(2) (a) Divided equally among all Wards.

22. (1) The type of projects submitted for funding under this Act shall comply with this Act.

(1) It shall be the responsibility of the Ward Development Fund Committee to ensure that the list of projects submitted for funding comply with provisions of this Act, and their costs does not exceed the allowance ceiling for the particular Ward.

(2) If the list of projects submitted for funding is in contravention of subsection (2) the same shall be referred back to the Ward Development Fund Committee for amendment and re-submission.

TYPES OF PROJECTS

23. Project to be Ward based.

(1) Projects under this Act shall be Ward based in order to ensure that the prospective benefits are available to a wide spread cross-section of the inhabitants of the Ward.

(2) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input.

(3) Funds provided under this Act shall not be used
for the purpose of supporting political bodies or political activities.

(4) Projects may include the acquisition of vehicles, machinery and other equipments for the Ward.

(5) Sports activities shall be considered as development projects for purpose of this Act.

(6) Monitoring of and evaluations of ongoing projects and capacity building of various operatives may be considered as development project.

(7) Environmental activities may be considered as development project for purpose of this Act.

24. (1) The number of projects to be included in the W.D.F are outlined and listed in section 17 (1) of this Act and as provided in the project description form set out in the third schedule of this Act.

(2) Project activities of a similar nature in a particular Ward may Combined and considered as one project for purpose of Subsection (1) provided that the sub projects are listed in the Third schedule of this Act.

(3) Wards may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Ward Development Fund Committee of each of the Participating Wards and shall be reflected on the projects Listed for each of the participating Wards.

(4) Where Wards have joint projects, the Ward Development Fund Committee shall co-ordinate such projects.

25. (1) The Ward Development Fund Committees may make appropriate consultations with the relevant Government department to ensure that cost estimation for projects are as realistic as practically possible.

(2) The Award Development Fund Committee shall rank the Projects in order of priority and in the opinion of the Board, the total cost of the projects listed exceed the ceiling of a particular Ward then the order in which they are listed shall be taken as the order of priority for allocation of Funds, provided that on-going projects shall take precedence.

26. (1) A project or part thereof which involve
personal awards to any

Person in cash or in kind, shall be excluded from the list of projects submitted in accordance to this Act.

(2) Educational bursary scheme, Mocks and continuous Assessment test shall be considered as development Projects in this Act, notwithstanding the provision of Subsection (1).

27. The Ward Development Fund Management Board may consider Part funding of a project financed from financiers or donors of that project have no objection and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated.

28. Proposed to be included in printed estimates. The Chairperson of the Ward Development Fund Board shall Table a list of the projects and their respective printed Estimates in the Assembly for purposes of allocation of Funds for that Ward by the Assembly.

WARD DEVELOPMENT FUND COMMITTEE

29. (1) There shall be a Ward Development Fund Committee for every Ward which shall be constituted by the elected member of County Assembly within the first thirty days of a new assembly.

30. (1) Composition of the Ward Development Fund Committee shall comprise;

a) Elected member of County Assembly as the chairperson
b) Ward administrator who shall be the secretary
c) One male youth representative
d) One female youth representative
e) One male representative
f) One woman representative
g) One representative from local NGO's/religious organizations
h) One member representing special interest groups
(2) Ward administrator shall in accordance with subsection (1)(b) have no right to vote but shall attend every meeting and keep records.

31. (1) Each Ward shall come up with proposals, discuss them, select and prioritize a list of projects to be submitted to the Ward Development Fund Management Board.

(2) The Ward Development Fund Committee shall deliberate on project proposals from the Ward and any other project which the committee considers beneficial to the Ward then draw up priority project list both immediate and long term, out of which the list of projects to be submitted to County Assembly in accordance with section 14.

(3) The quorum of the Ward Development Fund Committee shall be one half of the total membership.

32. (a) Twenty percent (20%) of each Ward's annual allocation to be used for an education bursary scheme and can fund school fees, examination fees and even continuous assessments and mock examination fees.

(b) An amount not exceeding five percent (5%) to be used as expenses for running Ward Development Fund (WDF) which may include rent and utilities, staff salaries and committee allowances.

(c) Two percent (2%) of each Ward annual allocation to be used for sporting activities.

(d) Two percent (2%) of each Ward annual allocation to be used for environmental activities.

(e) Two percent (2%) of each Ward annual allocation to be used on capacity building.

(f) Purchasing running and maintenance of computers and other equipments must not take more than two percent (2%) of the total annual allocation.

33. (1) All funds received under this Act shall be audited and reported upon by the Public Accounts Committee to the County Assembly within 3 months (quarterly) period.

34. (1) Projects to be initiated by the community shall
be eligible for support under this Act provided that such projects shall be submitted with other projects in conformity with the requirements of this Act.

35. Any ongoing or existing projects initiated by a community prior or after commencement of this Act intended to be supported under this Act shall undergo a technical and financial evaluation by the Ward Development Fund Committee and project status, before it is listed for support in accordance with provisions of this Act.

IMPLEMENTATION OF PROJECTS

36. (1) Projects under this Act shall be implemented by the Ward Development Fund Committee and all payments through cheques or otherwise are processed and effected in accordance with County Government regulations for the time being in force.

37. (1) All works and services relating to projects under this Act shall be sourced using County Government procurement regulations.

38. (1) The Ward administrator of each Ward shall keep and maintain records of the disbursed funds and progress of the projects funded under this Act.

39. The Ward Development Fund Committee in every Ward shall compile and maintain records showing all received funds and disbursement on a monthly basis in respect of every project under this Act and summit annual returns to the Ward Development Fund Management Board not later than sixty (60) days after the end of every financial year.

FINANCE AND ADMINISTRATION

40. (1) The Minister/Secretary may designate such other officers he considers necessary but not more than ten (10) and qualified in matters relating to finance, accounting and engineering, for proper management of the fund.

(2) Names and curriculum vitae of persons designated by the Minister/Secretary shall be submitted to the County Assembly for approval before the appointments are made.

41. (1) For purposes of funds under this Act there shall be opened and maintained Ward account for every ward at
Commercial Bank approved by the Minister

(2) At least 3 signatories are required for every cheque or instrument on actual payment or withdrawal funds from a Ward account, and signing instructions shall be such that the elected member of the County Assembly, the Ward administrator and one other member as will be decided upon by the Ward Development Fund Committee.

(3) Funds from the Ward account shall only be withdrawn as disbursement of a particular project in accordance to the provisions of section 8(3) of this Act.

(4) Each and every payment out of the Ward account shall strictly be on the basis of a minute resolution by the Ward Development Fund Committee.

(5) All receipts, savings and accruals to the Ward account and the balances thereof at the end of each financial year shall be retained in the Ward account for purposes which the account is maintained.

(6) All unutilized funds shall remain in the Ward account and no investments elsewhere shall be permitted provided that funds meant for a project that is cancelled or discontinued shall be returned in the fund in accordance with section 9.

(7) Any accruing revenues, interests and liabilities of the Ward account shall be declared by Ward Development Fund Management Board together with annual returns.

42 (1) A bank account of the fund shall be opened and maintained by the County Government.

(2) The signatories to the account of the fund maintained in accordance with subsection (1) Shall be officer administrating the fund and two other people appointed by the Ward Development Fund Management Board from among its members.

(3) The signature of the officer administrating the fund shall be mandatory on all payment cheques and or instruments intended for actual realization of money from the fund.

43 (1) An accurate record of all disbursement made for projects in the Ward shall be kept and updated every month by the officer administrating the fund.
(2) The disbursement of funds to the Ward account shall be effected within the first quarter of each financial year as soon as return is received.

**MISCELLANEOUS PROVISIONS**

44. (1) The personal emoluments of the County Government Officers working or involved in the management of the fund shall be determined by the Officer Administering the fund in consultation with the Ward Development Fund Management Board and shall be provided under the recurrent expenditure of the County government.

(2) Out of pocket expenses incurred by any persons officially involved in the management of the fund or the implementation of the project under the fund including Public officers may be reimbursed, upon provision of authentic receipts or prove, provided that not more than Three Percent (3%) of the total allocation in the financial year may be used for this purposes.

(3) Sitting allowances and other allowances for members of Ward Development Fund Management Board shall be fixed by the Officer administering the fund limited to one sitting per month.

45 (1) The officer administering the fund makes regulations for the same running of the fund and such regulations be approved by County Assembly before implementation.

46 (1) The provisions of this Act compliments other development efforts by the County Government or other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any development programs by the County Government or other agency.

(2) For the avoidance of doubt, normal County Government development allocation should continue alongside the projects funded under this Act.

47. (1) Any person who misappropriates money from the fund, or assists, or causes any person to misappropriate or apply the funds otherwise than in the manner provided in the Act is guilty of imprisonment or a fine not exceeding two hundred thousand shillings or both.
**FIRST SCHEDULE**

GOVERNOR TO APPOINT MINISTER FOR FINANCE AND ECONOMIC PLANNING TO THE WARD DEVELOPMENT FUND MANAGEMENT BOARD

**SECOND SCHEDULE**

WARD PROJECTS SUBMISSION FORM

WARD NO...........WARD NAME..............FINANCIAL YEAR.........................

MEMBER OF COUNTY ASSEMBLY........SIGNATURE..................................

DATE.............................................

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<th>SERIAL NO</th>
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TOTAL OF THE FINANCIAL YEAR
THIRD SCHEDULE SEC15

STANDARD PROJECTS DESCRIPTION FORM

WARD

Project name

Status projects: new.........................on-going.........................

Extension................................rehabilitation..........................

Brief description of the type and scope of project

..............................................................................................
..............................................................................................

Statement on progress at time of submission

..............................................................................................
..............................................................................................

Original estimates, costs in kshs..................times in weeks...................

Current estimate to completion, costs
kshs..............................................................

Total disbursement last financial year
kshs..............................................................

Funds proposed/to be allocated this financial year
kshs..............................................................

Person completing form........................................signature..........................
MEMORANDUM OF OBJECTS AND REASONS

The main objective of this bill is to establish a fund to be known as the Ward Development Fund into which the amount equivalent to 5% of the total County Government annual revenue shall be paid to facilitate development at the Ward level.

Part I of the bill sets out the preliminary matters including definitions of various terms used in the bill.

Part II of the bill establishes the Ward Development Fund and a management board and set out the quantum of funds to be availed for purpose of the fund.

Part III of the bill provides for the establishment of a County Assembly Select Committee, by the County Assembly to, oversee the process of receiving and forwarding project proposals to the Minister among other functions.

Part IV of the bill provides for the submission of Ward project proposals by elected member of the County Assembly.

Part V of the bill provides for the type of projects that may be included for funding under this bill, in particular, this part provides that such projects must be development based. This part also sets out minimum number of projects to be funded under this bill to ensure distribution of projects within the Ward and maximum number in a bid to avoid spreading out too thin. The eligibility of some projects for funding under this bill such as counter-part funding is also addressed in this part.

Part VI of the bill provides for the establishment of Ward Development Fund Committee. This part sets out the composition, functions of the committee and maximum allocation and restrictions.

Part VII of the bill provides for the procedure to be followed in the implementation of the Ward based projects. It is proposed in the bill that actual implementation of the ward based projects be done by the relevant County Government department in the Ward.

Part VIII of the bill provides for the financial and administrative aspects of the management of the fund. It specifies the chief officers of the fund as well as accounting frame work under the fund and the creation of the Ward Account for purposes of disbursement.

Part IX of the bill provides for miscellaneous clauses to ensure proper utilization of funds AND ALSO provides for penalties against any person who misappropriates fund meant for development projects under the bill.
The first schedule sets out the government to nominate the Minister for Finance and Economic Planning to the Ward Development Fund Management Board.

The second schedule to the bill seeks to harmonize the format submitting projects proposals for various Wards. A standard Ward projects submission form is specified.

The third schedule to the bill provides for a simplified but standard form of describing each of the listed projects. A project description form is specified in the scheduling in which certain cardinal information is spelt out.

Dated the 18th March, 2014

ATUTH NYAMEINO KENNETH,
Member of County Assembly.