Bill for Introduction into the Trans Nzoia County Assembly — 1

The Trans Nzoia County Youth and Women Development Fund Bill, 2014 ................................................................. 1
ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

1—Short title.
2—Interpretation.
3—Objects and purpose of this Act.
4—Guiding principles.

PART II—ESTABLISHMENT OF THE COUNTY YOUTH AND WOMEN DEVELOPMENT FUND

5—Establishment of the Fund.
6—Powers and Functions of the Fund.
7—Sources of Revenue.
8—Management of the Fund.
9—Functions and Powers of the Board.
10—Appointment and qualifications of chairperson and members.
11—Term of office of members of the Board.
12—Removal from office.
13—Vacation of office.
14—Filling of vacancy.
15—Meetings of the Board.
16—Role and functions of the Chief Executive Officer.
17—Committees of the Board.
18—Delegation by the Board.
19—The Official Seal of the Fund.
20—Signing on behalf of the Board.
21—Protection of members of the Fund and Staff from individual liability.
22—Administration of the Fund.
23—Conditions of loan.

**PART III—FINANCIAL PROVISIONS**

24—Annual estimates.
25—Accounts and Audit.
26—Annual report and publication.
27—Financial year of the Authority.

**PART IV—MISCELLNEOUS PROVISIONS**

28—Disclosure of interest.
29—Regulations.
A Bill for

AN ACT of County Assembly of Trans Nzoia to provide for the establishment of the Trans Nzoia County Youth and Women Development Fund, and for matters incidental thereto and connected therewith

ENACTED by the County Assembly of Trans Nzoia as follows—

1. This Act may be cited as the Trans Nzoia County Youth and Women Development Fund Act, 2014.

2. (1) In this Act, unless the context otherwise requires—

“FUND” means the Trans Nzoia County Youth and Women Development Fund established under section 5.

“Board” means the Board of the Fund constituted under section 8.

“CEC” means the County Executive Member responsible for matters relating to youth & Women.

“Financial year” means the financial year of the Fund as provided for under section 28.

“Fund” means the Trans Nzoia Youth & Women Development Fund established under section 5.

“Member of the Board” means a person appointed or nominated under section 8.

“Youth” means any Kenyan citizen who has attained the age of eighteen but has not exceeded the age of thirty five years.

“Woman” means any female Kenyan citizen who has attained the age of 18 years or above.

Objects and purpose of this Act

3. The objects and purpose of this Act are to provide for—

(a) The establishment, functions, powers and responsibilities of the Trans Nzoia County Youth, & Women Development Fund; and

(b) measures for ensuring that the youth & women access employment pursuant to Article 55 of the Constitution.

Guiding principles

4. In the performance of the functions and exercise of powers under this Act, the Fund shall be guided by the values and principles set out in Articles 10,201 and 232 of the Constitution.
Establishment of the Fund

5. (1) There is established a fund to be known as the Trans Nzoia County Youth and Women Development Fund.

(2) The Fund shall be a body corporate, capable of suing and being sued in its corporate name.

(3) The offices of the Fund shall be located at the Trans Nzoia County Head Quarters at Kitale town.

Powers and Functions of the Fund

6. (1) The Fund in its corporate name shall further be capable of;

   (a) Taking, purchasing or otherwise acquiring, holding, charging and or Disposing of movable and immovable property, if any;

   (b) Entering into contracts;

   (c) Borrowing and lending money; and

   (d) Doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, and which may lawfully be done or performed by a body corporate.

6. (2) The core mandate of the Fund shall be to provide loans to the youth & women groups registered in Trans Nzoia County.

(3) Without prejudice to the generality of the provisions of subsection (1), the Fund shall—

   (a) provide enterprise development services;

   (b) facilitate employment of youth in the local and inter County labor market;

   (c) Perform any other lawful function for purposes of promoting youth & women enterprise.

   (d) The fund may consider facilitating already existing projects of youth and women at the ward level.

Sources of revenue for the Fund

7. (1) The funds and assets of the Fund shall comprise—

   (a) monies allocated by County Government for the purposes of the Fund;
(b) any grants, gifts, donations, loans or other endowments given to the County department of Gender;

(c) such funds as may vest in or accrue to the Fund in the course of the exercise of its powers or the performance of its functions under this Act; and

(d) Monies from any other lawful source accruing to the County department of Gender.

(2) The funds of the Fund shall be held in a Fund to be known as the Youth & Women County Development Fund which shall be administered, on behalf of county ministry of gender, by the Chief Executive Officer.

(3) There shall be paid from the Fund—
   (a) loans to the youth & women from Trans Nzoia county
   (b) capacity building, Training to women and Youth group
   (c) such other operational expenses incurred by the Fund in the performance of its functions; and
   (d) monies as are necessary for the Board to carry out its mandate
   (e) within the scope of this county Act.

(4) The Fund may, subject to any other law relating to the management of public finances, apply the revenue generated from the discharge of its core mandate specified under section 6 (1) in supporting the functions specified under section 6 (2).

(5) The provision of any law or regulation relating management of public funds shall apply to the management of the Fund.

Management of the Fund

8. (1) The management of the Fund shall, subject to the Corporations Act, vest in the Management Board which shall consist of—

   (a) a non-executive chairperson nominated by the CEC member for the time being in charge of gender:

   (b) the Chief Officer for the Ministry for the time being responsible for Youth and Women;

   (c) the Chief Officer for the Ministry for the time being responsible for finance;

   (d) One person nominated by the County Youth Council and Appointed by the CEC member responsible for youth and women;
(e) Two people, one man and one woman, appointed by the CEC Member responsible for youth and women;

(f) Two members of the County assembly, one man and one woman, nominated by the County Assembly;

(g) A Chief executive officer of the Board, as the Secretary to the Board.

(2) A member of the Board who is a public officer may, in writing, appoint another Public officer to attend meetings of the Board in the member's absence and the alternate member appointed shall, when attending a meeting, be deemed for all purposes to be a member of the Board.

(3) An alternate member appointed under subsection (2) shall not delegate his/her appointment.

(4) The members of the board may be paid such sitting allowance as may be decided by the CEC member for Gender, Youth, Culture, Sports and Tourism.

**Function and Powers of the Board**

9. (1) The Board shall have such powers as may be necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Board shall –

(a) Prepare reports to the CEC member responsible for youth and women on affirmative Action and vet youth & women groups;

(b) Manage, control and monitor the Fund in such manner and for such purposes as best promotes the purpose for which the Fund is established;

(c) Receive and consider all loan applications from eligible persons and groups

(d) approve or reject such applications in accordance with the provisions of this Act;

(e) Monitor recovery of matured loans

(f) subject to the provisions of this Act, exercise discretion in the application of the Fund;
(g) Recommend opening of a bank account for the funds of the Fund into which all moneys received by the Fund shall be paid in the first instance and out of which all payments made by the Fund shall be made;

(h) register youth & women enterprises for purposes of lending on such terms and conditions as the Board may determine;

(i) Exercise such other lawful powers as may be conferred by this Act or other law.

(3) The Board may if it considers it necessary, partner with any person for purposes of achieving its objectives under this Act, including partnering with the credit reference bureaus in enforcing repayment of the loans.

Appointment and qualifications of chairperson and members

10. (1) The appointment and qualification of the chairperson and members of the Fund under section 8 (1) (a), (f) and (g) shall be in accordance with the provisions of this Act.

(2) A person shall be qualified for nominated as a chairperson under section 8 (1) (a) if such person—

(a) holds a minimum of a bachelors degree from a university recognized in Kenya;

(b) has a distinguished career in a senior management position in either the private or public sector;

(c) holds at least five years' post-qualification professional experience; and

(d) satisfies the requirements of Chapter six of the Constitution.

(3) A person shall be qualified for nominated as a member of the Fund under section 8 (1) (f) and (g) if such person—

(a) holds a minimum of a bachelor's degree from a university recognized in Kenya;

(b) has a distinguished career in their respective field;

(c) has at least five years' post-qualification professional experience in matters relating financial management, venture capital fund management or youth and women development; and
(d) satisfies the requirements of Chapter Six of the Constitution.

(4) A person shall not be qualified for nominated as the chairperson or a Member of the Fund if the person—

(a) is a member of county assembly;
(b) is a member of a governing body of a political party;
(c) is an undischarged bankrupt;
(d) has been removed from office for contravening the Constitution or any other law; or
(e) has, in the conduct of his affairs, not met any statutory obligations.

**Term of office of members of the Board**

11. (1) The chairperson and every member of the Board appointed by CEC Member responsible for youth and women shall hold office for a term of four years and shall be eligible for appointment for one further term based on satisfactory performance.

(2) The term of office of the chairperson and members of the Board as first constituted and at every nominated or change in membership shall commence on the date of the date approved by County Executive Members.

(3) The chairperson or a member of the Board may resign from office by written notification addressed to the CEC Member responsible for youth and women

**Removal from office**

12. (1) A member of the Board may be removed from office only for—

(a) gross violation of the Constitution or any other law;
(b) gross misconduct, whether in the performance of the member's Functions or otherwise;
(c) physical or mental incapacity to perform the functions of office; or
(e) incompetence or neglect of duty.

(2) The CEC Member responsible for youth and women may, upon the recommendation of the Board terminate the nomination of a member of the Board on any of the grounds specified under subsection (1).

**Vacation of office**

13. A person shall cease to be a member Board if such person—
(a) resigns in writing, to the CEC Member responsible for youth and women
(b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
(c) is declared bankrupt;
(d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
(e) dies.

Filling of vacancy
14. Where a vacancy occurs in the membership of the Board under section 12 or 13, the CEC Member responsible for youth and women shall, if the vacancy relates to any of the positions specified under section 8 (a), (f) or (g), appoint a new member in accordance with the provisions of this Act.

Meetings of the Board
15. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall convene the ordinary meetings of the Board at the premises of the Board.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he considers it expedient for the transaction of the business of the Board.

(4) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board shall be given to every member of the Board by the chief executive officer.

(5) The quorum for the conduct of the business of the Loans Board shall be two-thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Loans Board at which he is present and in his absence, the members of the Loans Board present shall elect one person from their number to preside over the meeting of the Board and he shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members
present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of any relevant written law the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings thereof.

Roles and functions of the Chief Executive Officer

16. (1) The Chief Executive Officer of the Fund shall be the chief officer of the ministry of Gender, Youth, Culture, Sports and tourism who shall also be the Secretary to the Board.

(2) The Chief Executive Officer shall—

(a) be responsible to the Board for the day-to-day management of the affairs of the Fund;

(b) be the accounting officer;

(c) Custodian of all records of the Board;

(d) responsible for—

(i) implementation of decisions of the Board;

(ii) assignment of duties and supervision of all employees at the department level;

(iii) facilitating, coordinating and ensuring execution of the Board’s mandate;

(iv) ensuring staff comply with chapter six of the constitution;

(v) the performance of such other duties as may be assigned by the law and the Loans Board.

Committees of the Board

17. (1) The Board may establish such committees as it may consider necessary for the performance of its functions and the exercise of its powers under this County Act.

(2) The Board may co-opt into the membership of a committee established under Subsection (1), other persons whose knowledge and skills are found necessary for the functioning of the Board.

Delegation by the Board

18. The Board may, in writing generally or in any particular case, delegate to a member, Chief Executive Officer, the exercise on any of its powers or the performance of any of the functions under this Act.
Official Seal of the Fund

19. (1) The Official seal of the Fund shall be kept in the custody of the CEC Member responsible for youth and women and used except upon the order of the CEC Member.

(2) The Official seal shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved any order or authorization by the Fund under this section shall be presumed to have been duly given.

(3) The affixing of the Official seal of the CEC Member responsible for youth and women shall be authenticated by the signatures of the Chairperson or the Chief Executive Officer.

(4) In the absence of the Chairperson or the Chief Officer, the Board shall nominate a member of the Board to authenticate the Official seal of the Authority on behalf of either the Chairperson or the Chief Executive Officer.

Signing on behalf of the Board

20. (1) All letters and instruments written or made by or on behalf of the Board, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the Chairperson or the Chief Executive Officer.

(2) In the absence of the Chairperson or the Chief Executive Officer, a member of the Board, authorized as such, may sign any letter or instrument.

Protection of members of the Fund and staff from liability

21. Liability shall not attach to the Fund or to any of its members, officer, and agent or staff for loss or damage incurred by any person as a result of any act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Administration of the Fund

22. (1) Youth and women wishing to be considered for a loan shall make an application to the Board in the prescribed form.

(2) Any person who —

(a) In filling a loan application form, knowingly makes any false statement, whether orally or in writing relating to any matter affecting a request for a loan;
(b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or

(c) is granted a loan based on false information, commits an offence and in the case of paragraphs (a) and (b) shall, upon conviction, be liable to a fine of not exceeding one hundred thousand shillings or to imprisonment for a term of not exceeding eighteen months and in the case of paragraph (c) to a fine of not exceeding two hundred thousand shillings or to imprisonment for a term of not exceeding three years.

(3) The Board shall recommend the youth & women groups either directly or through other mechanisms as the Board may determine.

**Conditions for grant of Loan**

23. (1) The Board shall grant a loan to an applicant upon such terms and Conditions as the Board may deem fit.

(2) Notwithstanding subsection (1), the Board may set the criteria and Conditions governing the granting of loans including the rate of interest to be charged, taking into consideration the need to ensure sustainability of the Fund and affordability of the loan.

(3) Any unrepaid loan, including administrative management fee thereon, shall be recoverable by the Board as a civil debt, but prejudice to the board's right of realization of any security advanced in securing the loan.

(4) Security for any loan to be advanced shall be subject to the terms and conditions as may be set by the lending financial institution an/or agency.

**PART IV—FINANCIAL PROVISIONS**

**Annual Estimates**

24. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

(2) The financial estimates referred to under sub-paragraph (1) shall—

(a) differentiate between recurrent and development expenditure; and

(b) itemize every activity that the Fund intends to undertake in the coming financial year under a separate vote head.
(3) The Chief Executive Officer shall lay the proposed estimates before the Executive Member representing youth and women for review and approval.

(4) The Board may make alterations to the estimates and shall thereafter submit them to the CEC Member representing youth and women for transmission to the County Assembly for approval.

(5) Upon approval of the estimates by the County Assembly, all monies from time to time required for purposes of the this Act shall be paid into the Fund.

(6) If after approval of the budget the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act as contemplated under Article 223.

(1) (a) of the Constitution, the Secretary shall prepare supplementary estimates of revenue and expenditure in the manner specified under paragraph (2).

(7) Supplementary estimates referred under paragraph (6) shall not exceed the ten percent of the sum appropriated by Parliament for that financial year unless special circumstances exist as contemplated under Article 223(5).

(8) If there are any special circumstances to warrant exceeding the limit stipulated under paragraph (7), the supplementary estimates shall contain a description of the circumstances and a justification for requesting for more funds.

(9) Supplementary estimates shall be presented to the CEC for Gender then Submission to the county assembly for approval.

Accounts and Audit

25 (1) The Fund shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the CEC member representing youth and women may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the CEC – Finance;

(a) a balance sheet showing details of the assets and liabilities of the Fund and

(b) Such other statements of account as the CEC Member may approve
(2) The accounts of the Fund shall be examined, audited and reported
upon annually by the CEC - Finance in accordance with the Public Audit
Act.

(3) The Fund shall submit to the CEC - Finance all books and
accounts of the Loans Board, together with all vouchers in support
thereof, and all books, papers and writings in its possession or control
relating thereto, and the Auditor-General shall be entitled to require from
any member, officer, employee or agent of the Fund such information and
explanation as he may consider necessary for the performance of his duties
as CEC - Finance.

Annual report and publication

26. (1) The Fund shall, within a period of three months after the end
of the financial year or within such longer period as the CEC Member may
approve, submit to the CEC member representing youth and women a
report of the operations of the Fund during such year, and the yearly
balance sheet and such other statements of account as the CEC member
representing youth and women shall require, together with the County
Report.

(2) The Fund shall, if CEC member so requires, publish the report,
balance sheet and statements submitted under subsection (1) in such
manner as the CEC member may specify.

(3) The CEC member shall lay before the County Assembly the
reports, balance sheet and statements submitted under subsection (1), and
such statements of accounts as may be approved, within a period of
fourteen days of the receipt of the reports and statements, or, if the
County Assembly is not sitting, within fourteen days of the
commencement of its next sitting.

Financial year of the Fund

27. The financial year of the Fund shall be the period of twelve
months ending on the thirtieth June in each financial year.

PART IV—MISCELLNEOUS PROVISIONS

Disclosure of interest

28. (1) If a member is directly or indirectly interested in any contract,
proposed contract or other matter before the Board and is present at a
meeting of the Board at which the contract, proposed contract or other
matter is the subject of consideration, the member shall, at the meeting and
as soon as reasonably practicable after the commencement thereof,
disclose his or her interest in the matter and shall not take part in the
deliberations over, or vote on, the matter.
(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Fund by any person generally or specifically authorized by the Board for that purpose.

Regulations

29. The executive member for Gender, Youth, Culture, Sports and Tourism may make regulations for better performance of the functions of the management committee and of the board, and for giving full effect to this act.
MEMORANDUM OF OBJECTS AND REASONS

Article 55 (b) and (c) of the Constitution requires the County Government to take measures to, among other things, ensure that the youth have opportunities to associate, be represented and participate inter alia in social and economic spheres of life and access employment. The constitution further underlines the principal of affirmative action in the management of public affairs.

This Bill seeks to provide the necessary legislative framework in this regard. The Bill establishes a County Youth and Women Development Fund which shall be managed by a Board comprising of members drawn from both public and private sectors. The core mandate of the Board shall be to lend money to the youth and women either in their individual capacities or as registered groups. In addition to giving of loans, the Board may also provide for other services including—

(a) the provision of market access services;

(b) youth oriented commercial infrastructure;

(c) enterprise development services; and

(d) facilitation of youth and women to participate in the local and inter County labour market. The Board shall lend to the youth & women either directly or through partnering institutions and may incorporate a subsidiary to undertake certain commercial functions of the Board.

Dated the 24th March, 2014.

A. O. INDAKWA,
Clerk Of The County Assembly.