SPECIAL ISSUE

Tana River County Gazette Supplement No. 5 (Bills No. 4)

Republic of Kenya

TANA RIVER COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

NAIROBI, 24th June, 2014

CONTENT

Bill for Introduction into the Tana River County Assembly—

The Tana River County Service Delivery Co-ordination Bill, 2014..............1

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI
THE TANA RIVER COUNTY SERVICE DELIVERY CO-ORDINATION BILL, 2014

ARRANGEMENT OF SECTIONS

Clause

PART I — PRELIMINARY

1 — Short title.
2 — Interpretation.

PART II — DECENTRALISED UNITS

3 — Decentralized Units.
4 — Sub-County Administrator.
5 — Deputy Sub-County Administrator.
6 — Ward Administrator.
7 — Village/Area Administrator.
8 — Village Council.

PART III — PARTICIPATORY GOVERNANCE

9 — Participatory Governance.
10 — Modalities and platforms for citizen participation.

PART IV — GENERAL PROVISIONS

11 — Protection from personal liability.
13 — Regulations.
TANA RIVER COUNTY SERVICE DELIVERY CO-ORDINATION BILL, 2014

A Bill for

AN Act of the Tana River County Assembly to provide for decentralized units of the county of Tana River; to establish offices to oversee the decentralized units; and for matters incidental thereto

ENACTED by the Tana River County Assembly as follows: —

PART I – PRELIMINARY

1. This Act may be cited as the Tana River County Service Delivery Co-ordination Act, 2014; and shall commence on such a day as the Governor may determine.

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

“administrator” means the Sub-County, Ward and Village Administrators, and the offices established under the Urban Areas and Cities Act, No. 13 of 2011;

“council” means the village council established under section 7 of this Act;

“elder” includes the member representing the youth under section 8(2) of the Act;

“sub-counties” has the same meaning assigned to a constituency within the county, identified under Article 89 of the Constitution;

“urban areas” has the same meaning as the urban areas identified by the relevant national government agency under the Urban Areas and Cities Act, No. 13 of 2011;

“village” has the same meaning assigned to it under section 48(1)(d) of the County Governments Act, No. 17 of 2012; and

“ward” has the same meaning assigned to a ward within the county, identified under Article 89 of the Constitution, and section 26 of the County Governments Act No. 17 of 2012.
PART II – DECENTRALISED UNITS

3. (1) There is established the following decentralized units for the county: —

(a) urban areas within the county;
(b) sub-counties;
(c) wards; and
(d) village units.

(2) For the avoidance of doubt, the decentralized units under subsection (1) (b), (c) and (d) shall be those specified in the Schedule.

4. (1) There is established the Office of the Sub-County Administrator.

(2) The Sub-County Administrator shall be recruited competitively by the County Public Service Board; and shall possess the following minimum qualifications—

(a) be a Kenyan citizen;
(b) hold at least a Bachelors degree from a university recognized in Kenya, with five years’ working experience in middle level administration or management; or
(c) hold at least a Diploma with at least fifteen years’ working experience in the public service.

(3) The Sub-County Administrator shall perform the same functions assigned under section 50(3) of the County Governments Act.

(4) The Sub-County Administrator shall submit quarterly reports to the county chief officers on service delivery in the sub-county.

5. The County Public Service Board may also appoint two deputy sub-county administrators for every sub-county, who shall deputise the Sub-County Administrator.

(2) A Deputy Sub-County Administrator shall hold the following minimum qualifications—

(a) be a Kenyan citizen;
(b) hold at least a Bachelors degree from a
university recognized in Kenya, together with at least five years’ working experience in administration or management in the public or private sector; or

(c) hold at least a Diploma together with at least fifteen years’ working experience in the public service.

6. (1) There is established the Office of the Ward Administrator.

(2) The Ward Administrator shall be recruited competitively by the County Public Service Board; and shall possess the following minimum qualifications:

(a) be a Kenyan citizen—

(b) hold at least a diploma or other post-secondary qualifications; and

(c) experience in community service or community development.

(3) The Ward Administrator shall perform the same functions assigned under section 51(3) of the County Governments Act.

(4) The Ward Administrator shall submit quarterly reports to the Sub-county Administrator on service delivery in the ward.

7. (1) There is established the Office of the Village/Area Administrator.

(2) The Village Administrator shall be recruited competitively by the County Public Service Board.

(3) A Village Administrator shall possess the following minimum qualifications—

(a) be a Kenyan citizen;

(b) attained at least O-Level education; or

(c) five years’ experience in public administration.

(4) The Village Administrator shall perform the same functions assigned under section 52(3) of the County Governments Act.

(5) The Village Administrator shall submit quarterly reports to the Ward Administrator on service delivery in the village.
8. (1) The Village Administrator shall competitively appoint five village elders to constitute the Village Council under section 53(1)(b) of the County Governments Act; taking into account the principle that not more than two thirds of the members of the Council shall be of the same gender.

(2) The Village Administrator shall ensure that the youth are represented in the membership of the Council.

(3) In appointing the village elders under subsection (1), the Village Administrator shall also endeavor to incorporate the traditional village elders recognized as such in the village to the farthest extent possible.

The Council shall deliberate on matters affecting their village or area of jurisdiction.

PART III – PARTICIPATORY GOVERNANCE

9. (1) The administrators shall ensure that members of the public within their areas of jurisdiction participate effectively in matters affecting them, by providing timely access to information in policy, planning and budgeting.

(2) The information referred to in sub-section(1) shall be presented to the members of the public in a language and form most easily understood.

10. The administrators shall employ the modalities and platforms for citizen participation under section 91(a) to (g) of the County Governments Act; and any other platforms more suitable for the sub-county, ward or village.

PART IV – GENERAL PROVISIONS

11. No action or proceeding may be commenced against the administrators or their agents for any act done in good faith in the performance or intended performance of a responsibility or in the exercise or intended exercise of an authorized action under this Act, or for any neglect or default in the performance of a responsibility or the exercise of an authorized action in good faith.

12. The allowances for the administrators as may be determined by the County Public Service Board; and any funds for the operationalization of this Act shall be drawn
13. The Governor may prescribe regulations for—

(a) the appointment of village elders;

(b) the procedure for meetings of the Council; and

(c) any other matter that may be necessary for the proper implementation of the Act.

**SCHEDULE**

**Tana River Sub-Counties**

1. Bura
2. Galole
3. Garsen

**Tana River County Wards**

1. Bangale
2. Sala
3. Madogo
4. Hirimani
5. Chewele
6. Wayu
7. Chewani
8. Mikinduni
9. Kinakomba
10. Garsen North
11. Garsen West
12. Garsen Central
13. Garsen South
14. Kipini West
15. Kipini East

There shall be one hundred and thirty village units in the county; to be determined by the County Assembly.
MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to give effect to the provisions of the County Governments Act 2012 on the following decentralized offices:

1. urban areas and cities;
2. sub-counties;
3. wards; and
4. village units.

The Bill further seeks to expound on the role of Sub-County Administrators; Ward/Area Administrators, Village Administrators and Village Councils.

The Bill seeks to inculcate the principles of public participation in the governance and affairs of the decentralized units particularly in matters relating to policy, planning and budgeting.

Finally, the Bill provides for the sub-counties, wards and number of village units in Tana River County.

The Bill does not contravene any of the provisions of the Constitution; and is not *ultra vires* any of the provisions of any national laws relating to devolution. In case of any conflict between the Bill and any national laws, the provisions of Article 191 of the Constitution shall take effect.

Dated the 27th May, 2014.

BORU DELA MASHA,
Leader of Majority Party, Tana River County Assembly.