KENYA GAZETTE SUPPLEMENT

VIHIGA COUNTY BILLS, 2018

NAIROBI, 29th June, 2018

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THE VIHIGA COUNTY EDUCATION FUND (AMENDMENT) BILL, 2018

A Bill for

AN ACT of the County Assembly of Vihiga to amend the Vihiga County Education Fund Act No. 5 of 2014

ENACTED by the County Assembly of Vihiga, as follows—

Short Title

PART I—PRELIMINARY

1 This Act may be cited as the Vihiga County Education Fund (Amendment) Act, 2018

Amendment of the Section 2 of Act No. 5 of 2014

2 Section 2 of the Vihiga County Education Fund Act, 2014, referred to as "the Principal Act" is amended in the definitions and interpretation by adding, insertion and or deletion of words—

—CECM inserted as a new definition or interpretation to mean the County Executive Committee Member for Finance

—Fund Administrator has been inserted to repeal the term —Fund Manager a person appointed through competitive process to manage the Fund and substituted with a new meaning — a person designated by the CECM Finance to administer the Fund

—Student meaning a person pursuing higher education and who attained a minimum of C plain in the Kenya Certificate of Secondary Education or its equivalent or in the case of bursary, a person pursuing post primary education in a reputable and recognized institution is substituted with the new definition to mean any person who, being domiciled in Vihiga County and has been admitted to a duly accredited learning institution and is seeking financial assistance from the Fund

By repealing the term "The committee" and its meaning and replacing it with two new terms and definitions — The Management Oversight Committee under Section 10A (1) and — The Ward Management Committee to mean the committee established under Section 10B (1) of this Act

Amendment of the Section 5 of No. 5 of 2014

3 The Principal Act is amended by repealing Section 5 and replacing it therefore with the following new Section 5 with a marginal note Public Expenditure—

"5 (1) The Fund shall be used for —
(a) Providing supplementary education grants or bursaries to eligible students enrolled in secondary schools, universities, colleges, polytechnics and vocational institutions, and schools with students with special needs

(b) Granting scholarships in accordance with the criteria established under this Act, and

(c) Meeting any expenditure related to administration of the Fund as may be approved by the CECM Finance, provided that not more than three per cent of the total monies consisting of the Fund shall be utilized for administration of the Fund

(2) All monies received by the Fund shall be maintained in only one bank account in the name of Vihiga County Education Fund opened and administered in accordance with the provisions of the Public Finance Management Act, 2012

(3) The balance of the Fund at the close of each financial year shall be retained in the Fund for purposes for which the Fund is established

Amendment of the Section 6 of No 5 of 2014

4 The Principal Act is amended by repealing Section 6 and replacing it therefore with the following new Section and marginal note Sources of revenue to the Fund—

"6 (1) The Fund shall consist of—

(a) money appropriated by the County Assembly,

(b) grants, donations gifts or other bequests made to the Fund,

(c) income from investment of any balances in the Fund, and money paid to the Fund from any other source as may from time to time be approved by the County Executive Committee Member for Finance"

(2) The County Executive Committee Member responsible for matters relating to finance shall designate an officer to administer the Fund

(3) The responsibilities of the Officer Administering the Fund shall be to—

(a) supervise and control the administration of the Fund,

(b) prepare budget estimates and such other plans related to the administration of the Fund and submit to the County Executive Committee for approval,
(c) impose conditions or restrictions on the use of any expenditure arising from the Fund,

(d) cause to be kept proper books of accounts and other books and records relating to the Fund and all the activities financed under the Fund,

(e) advice the Executive Member for Finance and Education on any matter relating to the Fund,

(f) prepare, sign and submit to the Auditor General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Finance Management Act, 2012 and in such details as the County Treasury may from time to time direct,

(g) Furnish such additional information as may be required for examination and audit by the Auditor General, or under any other applicable law

(4) The Officer administering the Fund shall cause an account in the name of the Fund to be maintained for the Fund in accordance with the provisions of the Public Finance Management Act

(5) The Fund Administrator shall be the accounting officer of the Fund

(6) All monies payable to the Fund shall be received into the single bank account for the Fund

(7) The County Executive Committee Member for Education shall designate such public officers as may be required to provide secretariat services to the Fund

Amendment of the Section 7 of No 5 of 2014

5 The Principal Act is amended by repealing Section 7 (1) paragraph a and section 7 (2) substituting therefore the following section,

“7 (1) There shall be appointed for the Fund, Officers who shall include -

a) A Fund Administrator

(2) The appointment and terms of service of other Fund Officers named in sub-section 1(b) above shall be made by the County Public Service Board
Amendment of the Section 8 of No 5 of 2014

6 Section 8 (a) of the Principal Act is amended by deleting the words—Fund Manager and substituting therefore with the words—Fund Administrator.

Amendment of the Section 9 of No 5 of 2014

7 The Principal Act is amended by repealing Section 9

Amendment of the Section 10 A and B of No 5 of 2014

Establishment of the Management Oversight Committee and its functions

8 The Principal Act is amended by repealing Section 10 A and inserting the following new section -

"10(A) (1) There is established for the Fund, The Management Oversight Committee which shall consist of—

(a) A chairperson, appointed by the County Executive Member for Education and approved by the County Assembly,

(b) the Chief Officer responsible for matters relating to Finance or a designated alternate not being below the level of a finance director,

(c) the officer administering the Fund who shall be an ex-officio member with no right to vote and the secretary to the Committee,

(d) the director of social services in the County Government,

(e) director of polytechnics in the County Government,

(f) and two other persons qualified in matters relating to education, community development or law, appointed by the Executive Member through a competitive process

(g) One person living with disabilities appointed by the County Executive Member for Education and approved by the County Assembly,

(2) The functions of the Committee shall be to—

(a) Formulate policies for the management of the Fund,

(b) Distribute the bursary funds among the Wards in the county,

(c) Monitor allocations of bursaries to ensure needy students benefit,
(d) Raise and solicit funds and other assistance for the Fund,

(e) Produce and share disbursement reports with the Governor and the County Assembly every three months,

(f) Consider and entertain appeals from the Ward Management Committees,

(g) Approve disbursement of bursaries to awarded students,

(h) Maintain and up to date database of all applicants and beneficiaries of the Fund,

(i) Receive gifts, donations, grants or endowments made to the Fund and Committee,

(j) Monitor and evaluate the activities of the Ward committees to ensure the implementation of this Act in a manner that promotes the objects of the Fund,

(3) Members of the Committee appointed under subsection (1) (e) shall serve for a term of three years and shall be eligible for appointment for a further one term.

(4) The Committee may invite a technical person to attend any of its meetings and participate in its deliberations, except where the subject is of classified nature and such an invitee shall not have a vote in any decision of the Committee.

(5) Current Membership of the Committee, for purposes of transition shall further hold a fixed term of three years and shall not be eligible for any other appointment of the Committee.

(6) The Committee shall meet at least once in every three months and whenever any emergency occurs.

(7) Gender equity shall be observed in making appointments to this committee.

(8) Person appointed to this committee shall, unless removed for lawful reasons serve for three years.

(9) Despite subsection (8) of this section, a member of this committee may be removed through a resolution of the County Executive Committee for incompetency or misconduct.

"10(B) (1) There is established for the fund the Ward Management Committee at the Ward level which shall consist of—

(a) A chairperson appointed by the Executive Committee Member for Education through a competitive process,
(b) The Ward administrator who shall be the secretary to the committee,

(c) One person with experience in education matters nominated by a joint forum on faith based organizations in the ward,

(d) One person experienced in education matters nominated by a joint forum of Non-Governmental Organizations in the ward,

(e) One person experienced in education matters nominated by joint organizations of persons with disability in the ward and

(f) One person nominated by a joint forum of youth in the ward

(g) Two persons of both genders nominated by the area Member of County Assembly and appointed by the Executive Member

(2) The Functions of the Committee shall be—

(a) Inviting, receiving, reviewing and approving applications for education grant, bursary or scholarship, as the case may be, under this Act,

(b) Determining the amount of education grant, bursary or as the case may be, to be awarded to each approved applicant,

(c) Monitoring and evaluating the progress and performance of the eligible students supported under this Act,

(d) Creating awareness among the residents of the ward about the Fund,

(e) Carrying out such other roles as are necessary for the implementation of the object and purpose of this Act, and perform such other functions as may, from time to time, be assigned by the Executive Members

(f) And display separate list of applicants and beneficiaries indicating the amount awarded per beneficiary for public viewing, and forwarded to the Bursary oversight management Committee minutes and records of nominated bursary beneficiaries

(3) The Committee shall cooperate and work harmoniously with the Oversight Management Committee in the administration of the purposes for which the fund was established

(4) The quorum at all Committees sittings shall be when over half of the composition of the Membership is in attendance but any business transacted by the committee shall be valid notwithstanding a vacancy in its membership
Amendment of the Section 11 of No 5 of 2014

9 The Principal Act is amended by repealing Section 11

Amendment of the Section 14 of No 5 of 2014

10 The Principal Act is amended by repealing section 14 and inserting the following new section -

"14 (1) The Ward Committees shall submit the list of all beneficiaries and any other documents that may be required to the Oversight Management Committee

(2) The Oversight Management Committee shall approve the disbursement of the education grant, bursary or scholarships to the beneficiaries not later than seven days after receipt of the list of beneficiaries from the Ward Committee

(3) The Oversight Management Committee shall publish a list of all the beneficiaries in all Sub-County and Ward offices

(4) Where a person listed as a beneficiary is found to have given false information during the application process, the Management Oversight Committee may remove such a person from the list of beneficiaries

(5) Payments of funds from the Vihiga County Education Fund account shall be made directly to the learning institutions via Electronic Funds Transfer where the beneficiaries are enrolled at, not later than fourteen days after approval by the Oversight Management Committee "

Section 23 of No 5 of 2014

11 The Principal Act is amended by introducing a new section 23 with the following,

"23 (1) A person aggrieved by the decision of the Ward Management Committee may appeal to the Oversight Management Committee within fourteen days of that decision

(2) The Committee shall consider the appeal within fourteen days and make recommendations to the County Executive Committee Member for Education to —

(a) Confirm the decision of the Ward Management Committee, or

(b) Reverse the decision of the Ward Management Committee and award education grant, bursary or scholarship to the appellant in such terms as the Oversight Management Committee may determine"
(3) In considering an appeal under this Section, the Committee shall be bound by rules of Natural Justice and the criteria set out under this Act or Regulations

Section 24 of No 5 of 2014

12 The Principal Act is amended by introducing a new section 24 with the following,

"24 The County Government and the Committees established under this Act may collaborate, consult or enter into partnership with any public or private institution for the proper implementation of this Act"

The Principal Act

13 The Principal Act is amended by renumbering the sections, subsections and paragraphs accordingly
MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Vihiga County Education Fund Act, 2014 by making compliant the County Legislation to conform to the Provisions of the Constitution of Kenya 2010 and Public Finance Management Act in as far as capping of 3% administrative cost to public fund, adherence to the principle of separation of powers between the arms of County Government and reconstitution of the Oversight Management Committee and the Ward Management Committee as recommended by the Office of the Controller for prudent and better management of Public funds.

Dated the 29th June, 2018

ALFRED INDECHE,
CECM Finance and Economic Planning