KENYA GAZETTE SUPPLEMENT

VIHIGA COUNTY BILLS, 2019

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Bill for Introduction into the County Assembly of Vihiga—

The Vihiga County Facilities Improvement Fund Bill 2019

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THE VIHIGA COUNTY FACILITIES IMPROVEMENT FUND BILL, 2019

A Bill for

AN ACT of the County Assembly of Vihiga to establish the Vihiga County Facilities Improvement Fund, to provide for the additional funding for the management of health systems and public Facilities Improvement in the County, to enable sustainable operations of health facilities, and for connected purposes

ENACTED by the County Assembly of Vihiga as Follows—

PART I—PRELIMINARY

Short title and Commencement

1 This Act may be cited as the Vihiga County Facilities Improvement Fund Act, 2019 and shall come into operation on the date of publication in the Gazette

Interpretation

2 In this Act unless the context otherwise requires—

"Administrator of the Fund" means the person designated by the County Executive Committee Member for Finance in accordance with Section 116 of the Public Finance Management Act 2012,

"board" means the Vihiga County Facility Improvement Fund Board established under section 5,

"Chief Officer" means County Chief Officer for the time being Chief responsible for matters relating to Medical Services of Public Health Services

"County Executive Committee Member" means the County Executive Committee Member for the time being responsible for matters relating to Health,

"financial year" means the period of twelve months beginning 1st July ending on the 30th June of the subsequent year,

"fund" means the Vihiga County Facilities Improvement Fund established under section 4,

"hospital" means gazetted county or sub-county hospital including registered faith based equivalent health facilities,
"health facility" means any other health establishment, licensed under any written law, other than a hospital which provides health services, and include health centres, mobile clinics and dispensaries.

Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established by Article 230 of the Constitution,

“user charges” means cost-sharing charges

Object of the Act

3 The object of the Act is to—

provide for a framework to allow the Health sector and health facilities retain monies received in accordance with provisions of section 109 (2)(b) read with section 116(1) of the Public Finance Management Act, 2012,

(a) establish a Vihiga County Facilities Improvement Fund,

(b) provide for the process of nomination and appointment of the Fund Board

(c) provide for the appointment of hospitals and health facilities management boards and committees,

(d) provide for a framework for performance based financing of health service in the County in order to—

(i) sustainably operate, maintain, equip, rehabilitate health facilities and procure emergency medical supplies in hospitals and health facilities in the county

(ii) enhance participation of relevant stakeholders and host communities in the planning and management of health facilities and hospitals located in their jurisdiction,

(iii) create incentives for hospitals and health facilities to sustainably generate resources,

(iv) provide funding for the day to day operations of hospitals and health facilities,

(v) provide for financing of preventive and promotional healthcare services, and

(vi) provide immediate funds for health related emergencies and disaster and
(vii) ensure that the 70% of the funds is used for curative and 30% of the funds is used for preventive and promotive health care services respectively

PART II — VIHIGA COUNTY FACILITY IMPROVEMENT FUND

Establishment of the Fund

4 (1) The County Executive Committee Member for Finance shall within thirty days after Gazettement of this Act establish the Vihiga County Facilities Improvement Fund

(2) The following monies shall be paid into the fund—

(a) monies that may be appropriated by the County Assembly for operations of health facilities except money provided in the budget for purchase of medical commodities as well as conditional allocations by national government,

(b) monies received as contributions, gifts or grants from any lawful source,

(c) monies earned or received as user charges,

(d) income generated from the proceeds of the Fund,

(e) income generated from public health or environmental health Facilities Improvement,

(f) funds from the free maternity service allocated to the County, and

(g) funds received as reimbursement from National hospital Insurance Fund

3 (a) All monies due to the fund shall be received and paid to the Fund in full and shall be collected and accounted through the established accounting system

(b) This Act shall exempt all monies raised or received directly by county health facilities from being paid into County Revenue Fund,

(c) the County Receiver of Revenue may designate a collector of revenue for purpose of collecting and accounting for revenue

(d) the revenue exempted from payment into the County Revenue Fund shall be received and accounted as Appropriation in Aid (AIA)
(4) (a) The budget estimates for the fund shall be submitted together with the estimates of the Department of health and sanitation services after approval by the Board to county treasury for consolidation.

(b) The budget estimates shall comprise separate expenditure plans for all health facilities which raise or receive revenue from their services.

(c) Budget estimates of the fund shall indicate expenditure net of Appropriation-in-Aid (AIA) and shall be approved by the County Assembly.

(5) (a) The Board shall authorize payments out of the fund on the basis of quarterly budgets approved by Hospitals Boards and Health Facilities Committees.

(b) The Board shall ensure the amount payable to each Hospital and Health facility shall be at least the amount of collections from that Facility, and

(c) Notwithstanding the provisions of paragraph (b) above, the Board shall ensure equitable sharing of moneys appropriated by the county assembly for operational needs of the hospitals and health facilities.

Establishment of the Board

5 (1) There is established the Vihiga County Facilities Improvement Fund Board.

(2) The Board shall consist of—

(a) Executive Committee Member who shall be the Chairperson,

(b) the Chief Officer for the time being responsible for Medical Services who shall be the secretary and administrator of the Fund,

(c) the Chief Officer of the County department for the time being responsible for finance or his representative duly nominated in writing,

(d) Chief Officer for the time being responsible for matters relating to Public health Services

(e) Chief Officer for the time being responsible for matters relating to economic plans

the County Director of Health,
(f) the County Nursing officer

(g) the County Pharmacist, and

(h) one person, with experience in matters related to health, who is not a county government employee, who shall be appointed by the County Executive Committee Member

(3) The Board shall execute its function through the administrator of the fund

(4) The County Executive Member shall provide such public officers as may be necessary for the effective functioning of the Board

(5) The quorum at any meeting of the Board shall be five members and the Board shall meet not less than four times in each financial year

(6) The County Executive Committee Member may make regulations generally to give full effect to this section

Functions of the Board

6 (1) The Board shall—

(a) provide overall design and oversight of the Fund,

(b) consider, verify and approve funding to hospitals and health facilities,

(c) approve disbursement,

(d) ensure equitable distribution of resources to the hospitals and health facilities,

(e) review and approve disbursements or utilization of the fund,

(f) advise the County Executive Committee Member on the appropriate guidelines and procedures for better management of the Fund, and

(g) consider and approve funding for preventive and promotive health services

(h) receive reports on the performance of the Fund from management committee established under this Act,

(i) develop relevant guidelines and review them as the need arises, to guide the operations and implementation of the Fund,

(j) develop and facilitate sectoral linkage on the Fund,

(k) monitor and evaluate programs and activities under the Fund
(l) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member,

(m) oversee the management and administration of the Fund, and

(n) put in place necessary mechanisms for sanctions and their enforcements in case of mismanagement of funds

(2) Members of the Board shall serve the Board on part-time basis

Committee of the Board

7 (1) The Board may, for the effective discharge of its functions, establish committees

(2) The Board may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of the functions of the Board

Delegation of powers or functions

8 (1) The Board may, where appropriate and in writing, delegate any power or assign any duty conferred on it under this Act to the Administrator of the Fund, the County Executive Committee Member or committees of the board,

(2) A delegation or assignment under subsection (1) shall not prevent the Board from exercising the power in question

(3) A delegation under this section—

(a) shall be subject to any conditions the Board may impose

(b) shall not divest the Board of the responsibility concerning the exercise of the powers or the performance of the duty delegated and

(c) May be withdrawn, and any decision made by the person to whom the delegation is made may be withdrawn or amended by the board

Conduct of business

9 (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule and shall be in accordance with this Act
(2) Except as provided in the Schedule, the Board may regulate its own procedures.

**Allowances**

10 The chairperson and members of the Board shall be paid such allowances as the County Public Service Board may, on the advice of the Salaries and Remuneration Commission, determine.

**PART III— ADMINISTRATION OF THE FUND**

**Capital of the Fund**

11 The initial capital of the Fund shall be such amount of money as may be appropriated by County Assembly in the financial year.

**Expenditure on the Fund**

12 (1) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Board for approval.

**Application of Government Regulations and procedures**

13 Subject to the provisions of the Public Finance Management Act, 2012, existing Government Regulations and Procedures shall apply in the administration of the Fund.

**Administration of the Fund**

14 (1) The Executive Committee Member for finance shall designate an administrator of the Fund in accordance with section 116 of the Public Finance Management Act, 2012.

(2) The Executive Committee Member for finance shall designate the Chief Officers as the Accounting Officer for purposes of this Act.

(3) The administrator of the Fund shall—

(a) open and operate bank accounts with a bank to be approved by the County Treasury;

(b) supervise and control the administration of the Fund;

(c) consult with the County Executive Committee Member and the Board on matters relating to the administration of the Fund.
(d) cause to be kept proper books of accounts and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund

(e) prepare, sign and transmit 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 and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the Public Sector Accounting Standards Board shall prescribe,

(f) furnish additional information which is proper and sufficient for the purpose of examination and audit by the Auditor-General in accordance with the provisions of the Public Audit Act 2003,

(g) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Board for gazettement by the 21st of every fourth month,

(h) prepare, sign and transmit to the County Facilities Improvement Board and County Treasury in respect of each financial year and within three months after the end thereof a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the treasury may from time to time direct, in accordance with the provisions of the Public Finance Management Act, 2012,

(i) furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the County Head of Audit and Auditor-General in accordance with the provisions of the Public Audit Act,

(j) develop the criteria for the allocation of funds for approval by the Board,

(k) prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to health facilities,

(l) prepare in consultation with the Board, impose conditions on the use of expenditure authorized by him or on his behalf and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure,
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(m) institute prudent measures for the proper utilization for monies deposited in the Funds using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors,

(n) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund,

(4) Every statement of account shall include details of the balance between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned

Role of the County Executive Committee

15 The County Executive Committee shall facilitate, and Member oversee the operations of the Board in the implementation of the Fund and in particular shall—

(a) develop policy measures relating to the Fund,
(b) give guidelines on the fund allocation formula for distribution to hospitals and health facilities,
(c) make regulations to give effect to the objects of the Fund, and
(d) performance of any other functions assigned to him or her under this Act or any other written law

Disbursement of funds

16 The funds shall be disbursed under the following conditions—

(a) all disbursement from the Fund shall be approved and minuted by the Board,
(b) the record of the amounts received by each hospital and health facility and the record of expenditure of amounts so received shall be submitted to the 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 the succeeding financial year shall be made into the accounts until the said records are duly received,
(c) the Board may impose reasonable requirements, including restrictions, on a particular hospital or health facility and such restrictions or requirements shall be reported together with the
monthly returns to be submitted to the Executive Committee Member

(d) the board shall allocate twenty five percent of the total collections from the health facilities to be utilized for public health services that is disease outbreaks and prevention of disease upsurges. The Chief Officer Public Health Services shall ensure the execution

Winding-up of the Fund

17 In the event of winding up of the Fund the cash balances shall be transferred to the County Revenue Account while other assets of the Fund shall be transferred to the Department for the time being responsible for matters relating to Health

PART IV—HOSPITAL MANAGEMENT BOARDS

County hospital management boards

18 (1) There is established a hospital management board for each county hospital

(2) The Board shall consist of nine members who shall be—

(a) the chairperson appointed by the County Executive Committee Member

(b) the area sub-county administrator appointed under Section 50(b) of the County Government Act, 2012 or his representative nominated in writing,

(c) the area Sub-County Administrator appointed under Section 50 of the County Governments Act, 2012 or his representative nominated in writing,

(d) the medical superintendent who, shall be the secretary

(e) a person with knowledge and experience on health matters appointed by the Executive Committee Member,

(f) three persons who shall be residents of the area of jurisdiction, appointed by the Executive Committee Member representing the following categories of person—

(i) one person who shall have knowledge and experience in finance and administration matters,

(ii) two people to representing special interest group (people living with disability, youth or women,
(3) The Executive Committee Member shall cause the names of chairperson and members of the hospital management board published in the Gazette at least 30 days after their appointment.

(4) At least one third of the membership of the hospital management board shall be from the opposite gender.

(5) Membership of the hospital management board shall respect and reflect the diversities in the County.

**Sub-County Hospital Management Boards**

19 (1) There is established a hospital management board for each sub-county hospital.

(2) The Board shall consist of seven members who shall be—

(a) the chairperson appointed by the Executive Committee Member,

(b) the area sub-county administrator appointed under Section 50(b) of the County Government Act 2012 or his representative nominated in writing,

(c) the medical superintendent or his or her equivalent, who shall be the secretary,

(d) a person with knowledge and experience on health matters appointed by the Executive Committee Member,

(e) three persons who shall be residents of the area of jurisdiction, appointed by the Executive Committee Member representing the following categories of person—

(i) one person who shall have knowledge and experience in finance and administration matters

(ii) two people to representing special interest group (people living with disability, youth or women)

(3) The Executive Committee Member shall cause the names of chairperson and members of the sub-county hospital management board published in the Gazette at least 30 days after their appointment.

(4) At least one third of the membership of the sub-county hospital management board shall be from the opposite gender.

(5) Membership of the hospital management board shall respect and reflect the diversities in the sub-county.
Qualifications, appointment, quorum, tenure, etc

20 (1) A person shall not be eligible for appointment as the chairperson of the County or sub-county hospital management board unless that person—

(a) holds a degree from a university recognized in Kenya,
(b) has demonstrated high level of integrity and leadership at senior level either in public or private sector
(c) meets the requirements of Chapter Six of the Constitution, and
(d) is not serving as a State officer

(2) A person shall not be appointed as a member of the Board under this Act unless that person holds at least O-level certificate of education or its equivalent

(3) A member of the Board, apart from ex-officio, shall hold office for a period of three years and may be eligible for appointment for one further term

(4) The Board shall meet at least four times in every year and shall maintain records of its deliberations

(5) Copies of deliberations and records in (4) above should be forwarded to the Board not more than one month after the hospital board meetings

(6) The quorum of the board shall be at least five members

(7) The hospital management board shall be responsible to the accounting officer for the execution of their functions under this Act

Functions of the chairperson and secretary of the management board

21 (1) The responsibilities of the chairperson of the County and sub-county hospital management boards shall be—

(a) setting schedules of meetings in consultation with the secretary,
(b) presiding over the board meetings,
(c) overseeing all committees of the Board
(d) any other duty as may be assigned by the Executive Committee Member, the accounting Officer or the County Facilities Improvement Fund Board
(2) The secretary to the county or sub-county hospital management boards shall be responsible to the board for—

(a) keep records of the deliberations of the board,

(b) communicate decisions of the board to all the staff and relevant bodies and offices, and

(c) implement decisions of the Board

Functions of the hospital management board

22. The county and sub-county hospital management boards shall —

(a) be responsible for the supervision of the funds allocated to the respective hospitals,

(b) open and operate bank accounts at a bank(s) to be approved by the County Executive Members responsible for matters related to finance in the County,

(c) recommend activities to be included in the hospital work plans based on the County health sector strategic plan,

(d) cause to be kept books of accounts and records of accounts of the income expenditure, assets and liabilities of the hospital as prescribed by the Accounting Officer,

(e) cause to be prepared and submitted to the administrator of the fund monthly, quarterly and annual financial reports as prescribed, and

(f) cause to be kept a permanent records of all its deliberations

Committees of the management boards

23. (1) The hospital management boards may, for the effective discharge of its functions, establish committees

(2) The composition and membership of the committees established under subsection (1) shall be determined by the chairperson in consultation with the Chief Officer

(3) There is established the following committees—

(a) executive committee,

(b) finance and general purpose committee,

(c) quality of Facilities Improvement committee, and

(d) special and ad hoc committee
(4) without prejudice to the generality of subsection (3) the executive committee membership shall be—

(a) Chairperson of the hospital board

(b) Chairpersons of two sub committees (Finance and General Purpose Committee and the Quality of Facilities Improvement Committee)

(c) secretary of the hospital board

(d) the members of the hospital executive expenditure shall be ex-officio members

(5) The function of the executive committee is to prepare agenda for board meetings, advise the board on matter related to its functions and make recommendations for consideration by the county or sub-county board

(6) Finance and general purpose committee whose membership shall be not more than five members with two members from the hospital board and three from the hospital departments

(7) The finance and general purpose committee shall elect chairperson from among the five members

(8) The functions of the finance and general purpose committee shall be—

(a) to review the hospital budgets,

(b) review fiscal management of the hospital, its assets and liabilities,

(c) make recommendations to the board, and

(d) perform any other function as directed by the county or sub-county hospital management board

(9) The quality of Facilities Improvement committee shall comprise of not more than five members with at least two from the hospital board and the rest from the hospital departments

(10) The quality health services committee shall elect the chairperson from among the five members

(11) The function of the quality Facilities Improvement committee shall be—

(a) to established and maintain a hospital quality improvement program,
(b) review the hospital quality assessment reports and make recommendations to the county or sub-county hospital management board

(c) to perform any other function as may have been assigned to it by the board

(12) The chairperson of the county or sub-county board may constitute a special and ad hoc committee to deal with any urgent matters or assist the board in any specific issues pertaining to its responsibilities

PART VI— HEALTH MANAGEMENT COMMITTEES

Health management committees

24 (1) There is established health centres and dispensaries health management committee in each health centre and dispensary in the county

(2) The health management committee shall be nine members

(3) The health management committees shall consist of—

(a) a ward administrator in the area of jurisdiction,
(b) the officer in charge of the health facility, who shall be the secretary,
(c) the area chief or assistant chief,
(d) five other members appointed by the County Executive Member in consultation with the area member of the County Assembly, who are residents of the area of jurisdiction—

(i) one person who shall have knowledge and experience in
(ii) one person who shall have knowledge and experience in
finance and administration and
(iii) Four other persons representing gender, youth and persons with disabilities,

(4) The health management committees shall nominate the chairperson from amongst their numbers

(5) The chairperson appointed under subsection (4), shall not be an ex-officio member

(6) A person shall not be qualified to be appointed as a chairperson of the health management committee unless that person has post-secondary certificate
(7) A member of the Committee, other than the ex officio member, shall hold office for a period of three years and shall be eligible for re-election for one further term.

(8) The health management committee may, if necessary, appoint sub-committee from its members that shall carry out specific functions assigned to it by the committee.

(9) The health management committee shall meet four times in each financial year and shall maintain records of its deliberations.

(10) The quorum for the meeting of the health management committees shall be seven of all the members excluding the secretary.

(11) The health management committee shall be responsible to the Accounting Officer of the Fund.

**Functions of the health management committee**

25 The health management committee shall—

(a) supervise and control the administration of the funds allocated to the facilities,

(b) open and operate a bank account at a bank approved by the County Executive Committee member responsible for finance,

(c) cause to prepare work plans and procurement plans,

(d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the officer administering the Fund,

(e) prepare and submit certified periodic financial and performance reports as prescribed,

(f) cause to be kept a permanent record of all its deliberations.

**Submission and approval of budgets etc**

26 (1) At the end of each quarter, the responsible hospitals will prepare a quarterly budget, quarterly implementation and procurement plan.

(2) The quarterly budget referred to in subsection (1) shall, where appropriate, indicate how much resources the hospital has raised to finance their quarterly budget and the deficit.
(3) The budget together with quarterly implementation and quarterly procurement plan shall be submitted to the hospital management board or health management committee for approval.

(4) The approved budget shall then be submitted to the administrator of the Fund for consideration and action.

(5) Upon approval by the Facilities Improvement Fund Board, the administrator of the Fund will prepare a schedule to the county treasury indicating the additional funds the treasury needs to disburse to the health facilities to finance their budgets.

(6) The schedule referred to in subsection (5) shall be accompanied by an authority to incur expenditure.

(7) The approved funds shall be disbursed to the hospital or health facilities not more than fourteen days after appropriate documentation have been submitted to the county treasury.

(8) All the spending units shall prepare monthly, quarterly and annual financial reports in a prescribed format to the county Facilities Improvement committee.

Allowances etc

27 (1) Chairpersons and members of the health management boards and committees shall be paid such allowances as may be approved by the county public service board in consultation with the Salaries and Remuneration Commission.

(2) Allowances referred to in subsection (1) shall be payable in relation to four full board meetings annually and any other meeting which shall not exceed four in a quarter.

PART VII—FINANCE AND AUDIT

Annual estimates

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

(2) The annual estimates shall make provision for all the estimated expenditure for the financial year concerned and, in particular, shall provide for the—
(a) payment of remuneration or allowances in respect of the members and staff of the various boards and committees,

(b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds,

(c) maintenance of the buildings

(d) funding of training, research and development of activities of the Boards and committees,

(e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the chief officer may think fit, and

(f) any other expenditure necessary or purposes of this Act

(3) The annual estimates shall be approved by Board the before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member for tabling in County Assembly

Financial year

29 The financial year shall be—

(a) the period commencing on the day on which this Act comes into operation and ending on the thirtieth day of June of the subsequent year,

(b) the period of twelve months commencing on the first of July and ending on the thirtieth of June of the subsequent year

Accounts and audit

30 (1) The Chief Officer shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities under this Act

(2) Within a period of three months after the end of each financial year the Chief Officer shall submit to the Auditor-General the books accounts in respect of that year together with a—

(a) statement of the income and expenditure during that year, and

(b) statement of the assets and liabilities on the last day of that financial year
(3) The annual accounts shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit

PART VIII—MISCELLANEOUS PROVISIONS

Bank accounts

31 (1) Each health management board or committee shall cause a bank account to be opened funds disbursed to it under this Act

(2) The account shall be opened and maintained at a commercial bank approved by the Executive Committee Member in charge of finance,

(3) The signatory to the accounts of the fund maintained by the county board shall be the secretary and two other persons appointed by the executive member of the finance

(4) The signatory to the accounts of the fund in each dispensary or health centre shall be the officer in charge or medical superintendent, as the case may be, and one other person appointed by the executive committee member responsible for finance

(5) The bank signing instructions shall be such that the—

(a) signature of the person designated by County treasury in respect of the hospitals shall be mandatory,

(b) signature of the chairman of the dispensary or health centre shall be mandatory

Funds for emergency purposes

32 (1) Where funds have been disbursed to hospital management boards and committees support the ambulance services to facilitate referral of clients in disasters and emergencies of large magnitude, the officer responsible for emergency services shall prepare claims by hospitals involved in provision of the emergency services for reimbursement by the County Health Services Fund Board,

(2) The County Facilities Improvement Fund Board shall seek approval of such expenditure from the County Executive Member responsible for finance in not more than one month after such expenditure has been incurred
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Reports

33 (1) The County Health Services Fund Board shall prepare an annual report, which shall be submitted to the County Assembly for consideration.

(2) The report shall provide among others for—
(a) the performance of the Fund against the set targets,
(b) the number of beneficiaries aggregated in accordance to gender and ward in respect of the execution of this Act,
(c) challenges faced in the implementation of this Act and mitigation measures taken,
(d) any other matter as may be directed by the County Executive Committee or the county assembly.

Protection from personal liability

34 Nothing done by the accounting officer, chairperson, member of the board or by any person working under the instructions of the Board or the Executive Committee Member shall, if done in good faith for the purpose of executing the powers, functions or duties of the Board under this Act render such member or officer personally liable for any action, claim or demand.

Code of conduct

35 The Executive Committee Member shall within one year of coming into force of this Act prescribe publish and publicize a code of conduct to guide the operations and conduct of chairpersons, members, and any other person assigned a task under this Act.

Offences and penalty

36 A person who contravenes any of the provisions in this Act, commits a crime and shall on conviction be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding three years, or to both.

Regulations

37 The Executive Committee Member may, in consultation with the Board, make regulations generally for the better carrying out of the objects of this Act.
Transition and savings

38 The health management boards and committees established under the repealed Act shall stand automatically disbanded within 30 days of coming into the operation of this Act and shall therefore be reconstituted within one month.
SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY FACILITIES IMPROVEMENT FUND BOARD

Board meetings

1  (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) Notwithstanding the provisions of sub paragraph (2), above, the chairperson may, and upon requisition in writing by at least four members, shall convene a special meeting of the board at any time for the transaction of the business of the Board or Committee.

   (3) Unless three quarters of the total 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.

   (4) The chairperson shall preside at every meeting of the Board at which he is present, but in his absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted therein, have all the powers of the chairperson.

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

   (6) Subject to subparagraph (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

Conflict of interest

2  (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board at which the matter is the subject of consideration, that member shall, at the meeting as soon practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contractor other matter, or be counted in the quorum of the meeting during consideration of the matter.

   Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to
the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restriction as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Board shall be considered to have a conflict of interest for the purpose of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has conflict of interest, he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the board in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member’s proper and effective performance, the members shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the department of Health service any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence is guilty of misconduct.
Code of conduct

3 The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Kenya Constitution

Minutes of the meetings

4 The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose
MEMORANDUM OF OBJECTS AND REASON

PART I of the Act provides for preliminary matters. It provides for the short title and Commencement of the Act, interpretation and sets the objects of the Act.

PART II of the Act establishes the Vihiga County Facilities Improvement Fund. The purpose of the Fund is to facilitate execution of Facilities Improvement in the county and to ensure that all hospitals and health facilities in the County are adequately resourced.

It establishes the Board and sets out the functions of the Board, which amongst others is to oversee the disbursement of the funds from the Fund, approve and participate in strategic planning of Facilities Improvement delivery in the County.

PART II further provides for the composition of the Board which is representative of all relevant stakeholders in the Health sector. It provides for the tenure, vacancy, removal from office, establishment of ad hoc Committee of the Board to facilitate effective execution of the Board’s functions. It also provides for delegation of powers and assignment of functions, conduct of business and allowances.

PART III of the Act provides for the administration of the Fund. It sets out the capital of the Fund, what constitute the expenditure on the Fund and how the Fund would be managed which is in accordance with Government Regulations and procedures. Part III further sets out the role of the County Executive Committee Member, mode of disbursement of funds, winding-up of the Fund.

PART IV of the Act provides for county and sub-county hospital management boards. The boards are established to ensure effective and efficient delivery of health services in hospitals in both county and sub health sector. It further provides for the qualifications, appointment, quorum, tenure, etc. of the board members.

PART V of the Act provides for health management committees responsible for administration of health centres and dispensaries in the county. It sets out the functions of the health management committee, Allowances etc.

PART VI of the Act provides for general matters. It provides for opening of respective bank accounts, funds for emergency purposes, reports and Regulations.

ELISHA AMARA,
Chairperson, Committee on Health Services