

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**KILIFI COUNTY BILLS, 2023**

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**THE KILIFI COUNTY CLIMATE CHANGE (AMENDMENT)  
BILL, 2023**

**A Bill for**

**AN ACT of the County Assembly of Kilifi to amend the Kilifi County  
Climate Change Act, 2021 and for connected purposes**

**ENACTED** by the County Assembly of Kilifi, as follows —

**Short title and commencement**

1. This Act may be cited as the Kilifi County Climate Change (Amendment) Act, 2023.

**Amendment of Section 2 of the principal Act**

2. The principal Act is amended in Section 2 by inserting the following new definition—

“Carbon market” means mechanism that enables and allows public and private entities to transfer and transact emission reduction units, mitigation outcomes or offsets generated through carbon initiatives, programmes and projects;

**Amendment of Section 6 of the principal Act**

3. Section 6 of the Kilifi County Climate Change Act, 2021, in this Act referred to as the “principal Act” is amended—

- (a) by deleting the words “coordinate and” appearing immediately after the word “shall”;
- (b) in paragraph (d), by deleting the words “review, approve and” appearing immediately before the word “monitor”;
- (c) in paragraph (g), by deleting the words “approve and” appearing immediately after the word “oversee”.

**Amendment of Section 7 of the principal Act**

4. The principal Act is amended by repealing Section 7 and substituting therefor the following new section 7—

7. (1) The Steering Committee shall comprise of not more than nine (9) members who shall be appointed by the Governor including—

- (a) County Executive Committee Member responsible for matters related to Climate change who shall be the chairperson;
- (b) County Executive Committee Member responsible for matters related to Finance who shall be the secretary;



- (c) County Executive Committee Member responsible for matters related to Agriculture;
- (d) County Executive Committee Member responsible for matters related to Energy;
- (e) County Attorney;
- (f) four (4) members nominated by the Executive Committee Member for appointment by the Governor who shall be persons representing—
  - (i) Public Benefit Organizations active on matters climate change within the County;
  - (ii) business community;
  - (iii) women; and
  - (iv) youth.

(2) A person shall not qualify to be nominated for appointment under subsection 1(f) unless the person has demonstrated experience, expertise and interest on issues of climate change, natural resource management or environmental conservation and has actively engaged with these issues in the county.

(3) Without prejudice to the generality of subsection (2), a person shall not qualify to be nominated for appointment under subsection (1) (f) unless the person—

- (a) is a resident of Kilifi County;
- (b) holds at least a diploma qualification from a reputable academic institution;
- (c) has relevant experience in any aspect of environment management, climate change or related field for at least seven years; and
- (d) meets the requirements of Chapter Six of the Constitution.

(4) Not more than two-thirds of the membership shall belong to the same gender and the Governor shall take this into consideration when appointing members under subsection (1)(f).

(5) The Executive Committee Member, in consultation with the County Executive Committee Member in charge of Finance, shall develop rules and regulations for the proper administration of this section.



**Amendment of Section 9 of the principal Act**

5. The principal Act is amended by deleting section 9 in its entirety.

**Amendment Section 18 of the principal Act**

6. The principal Act is amended by repealing Section 18 and substituting therefor the following new section 18—

**18.** (1) The Planning Committee shall comprise of not more than nine (9) members who shall be appointed by the Governor including—

- (a) Chief Officer in charge of matters related to climate change who shall be the chairperson;
- (b) Fund Manager who shall be the secretary;
- (c) Director in-charge of matters related to climate change;
- (d) Director in-charge of matters related to Agriculture;
- (e) Director in-charge of matters related to Disaster Management;
- (f) four (4) members nominated by the Executive Committee Member for appointment by the Governor who shall be persons representing—
  - (i) the Public Benefit Organizations active on matters climate change within the County;
  - (ii) the business community;
  - (iii) Women; and
  - (iv) Youth.

(2) A person shall not qualify to be nominated for appointment under subsection 1(f) unless the person has demonstrated experience, expertise and interest on issues of climate change, natural resource management or environmental conservation and has actively engaged with these issues in the county.

(3) Without prejudice to the generality of subsection (2), a person shall not qualify to be nominated for appointment under subsection 2(f) unless the person—

- (e) is a resident of Kilifi County;
- (f) holds at least a diploma qualification from a reputable academic institution;



- (g) has relevant experience in any aspect of environment management, climate change or related field for at least two years; and
- (h) meets the requirements of Chapter Six of the Constitution.

(4) Not more than two-thirds of the membership shall belong to the same gender and the Governor shall take this into consideration when appointing members under subsection 2(f).

(5) The Executive Committee Member shall develop rules and regulations for the proper administration of this section.

#### **Amendment Section 20 of the principal Act**

7. The principal Act is amended in Section 20—

- (a) by inserting the following new paragraphs immediately after paragraph (i)—
  - (ia) provide guidance in the development and implementation of carbon markets and non-market approaches in compliance with existing law; and
  - (ib) any other assigned function.

#### **Amendment of Section 27 of the principal Act**

8. The principal Act is amended by repealing Section 27 and substituting therefor the following new section 27—

27. (1) A Ward Planning Committee shall be composed of not more than seven (7) members appointed by the Executive Committee Member representing—

- (a) one (1) person who shall be the chairperson and who shall meet the following minimum qualifications—
  - (i) not be a public officer;
  - (ii) be a resident of the Ward;
  - (iii) able to read and write in English;
  - (iv) exhibits good leadership and trusted by the Ward community;
  - (v) proven track record of engaging in ward development initiatives;
- (b) four (4) people representing the main economic activities in the Ward;



(c) one (1) person nominated by Community-Based Organizations actively engaged in climate change response activities in the Ward;

(d) The Ward Administrator who shall be the Secretary and an *ex-officio* member with no voting rights.

(2) At least one-third of the members under subsection (1) shall not be of the same gender, include a competent person living with disability and a competent youth provided the total membership does not exceed 7.

(3) Nomination of members under subsection 1(b) and (c) shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator for that purpose and presided over by the Sub-County Environment Officer or his designate.

(4) The Executive Committee Member, in consultation with the County Executive Committee Member responsible for matters Finance and County Climate Change Planning Committee, shall develop rules and regulations for the proper administration of this section.

**Amendment of Section 28 of the principal Act**

9. Section 28 of the principal Act is amended by deleting subsection (2).

**Amendment of Section 35 of the principal Act**

10. The principal Act is amended in Section 35 by—

deleting the words “approved by the Steering Committee and laid before the Cabinet for approval and then the County Assembly for adoption” and substituting therefor the words “laid before the Cabinet for approval and thereafter tabled in the County Assembly for adoption”.

**Amendment Section 37 of the principal Act**

11. The principal Act is amended by deleting Section 37 in its entirety.

**Amendment of Section 38 of the principal Act**

12. The principal Act is amended by deleting Section 38 in its entirety.



**Amendment of Section 39 of the principal Act**

13. The principal Act is amended by deleting Section 39.

**Amendment of Section 40 of the principal Act**

14. The principal Act is amended by deleting Section 40.

**Amendment of Section 41 of the principal Act**

15. The principal Act is amended in Section 41—

- (a) in subsection (1), by deleting the words “The Steering Committee shall, within three months after the end of every financial year, publish publicly” and substituting therefor the words “Executive Committee Member in consultation with the County Climate Change Planning Committee shall, within three months after the end of every financial year, publish”,
- (b) in subsection (2), by deleting the words “Steering Committee” and substituting therefor the words “Executive Committee Member”,

**Amendment Section 43 of the principal Act**

16. The principal Act is amended in Section 43—

in subsection (3) by deleting the words “Steering Committee” and substituting therefor the words “County Climate Change Planning Committee”,

**Amendment Section 44 of the principal Act**

17. The principal Act is amended in Section 44—

by deleting subsection (2) and subsection (3) and inserting the following new subsections immediately after subsection (1) —

(2) The Ward Planning Committees shall submit a report to the County Climate Change Planning Committees detailing public sensitization campaigns undertaken with reference to climate change programs in the county.

(3) The report of the Executive Committee Member to the County Assembly in Section 41 shall demonstrate how public sensitization has improved community decision making regarding climate change response in the county.

**Amendment of Section 45 of the principal Act**

18. The principal Act is amended by repealing Section 45 and substituting therefor the following new section 45—



45. (1) The Executive Committee Member, on the advice of the County Climate Change Planning Committee, shall implement a comprehensive programme of capacity building to equip individual citizens and communities in the county for effective participation in climate change governance and response.

(2) The Executive Committee Member, on the advice of the County Climate Change Planning Committee, shall support communities to establish Community-Based Organizations and other frameworks for engagement with climate change governance and response in the county.

**Amendment of Section 46 of the principal Act**

19. The principal Act is amended by repealing Section 46 and substituting therefor the following new section—

46. The Executive Committee Member shall publish, publicize, and ensure access to relevant climate change information in the possession of all County Departments.

**Amendment of Section 47 of the principal Act**

20. The principal Act is amended by repealing subsection (2) and substituting therefor the following new section—

47. (2) The Fund shall be vested in the in the County Treasury and administered by the Fund Administrator designated by the County Executive Committee Member responsible for Finance in consultation with the Executive Committee Member.

**Amendment Section 48 of the principal Act**

21. The principal Act is amended in Section 48—

by deleting paragraph (a) and inserting the following new paragraph—

(aa) initial capital appropriated by the County Assembly, being not less than 3 percent of the annual county development budget and an annual appropriation by the County Assembly, which shall not be less than 2 percent of the county annual development budget.

**Amendment of Section 50 of the principal Act**

22. The principal Act is amended in Section 50—

(a) in subsection (1), by deleting the words “and the Steering Committee” appearing immediately after the word “Finance”



and substituting therefor with the words “and the County Climate Change Planning Committee”,

(b) in subsection (2), by inserting the following new paragraph immediately after paragraph (h)—

(ia) any matter in respect of which is necessary or expedient to make regulations in order to achieve the objects of this Act.

**Amendment of Section 56 of principal Act**

**23.** The principal Act is amended by deleting Section 56.



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**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to amend the Kilifi County Climate Change Act, 2021 in order to provide for the allocation of adequate funds into the County Climate Change Fund for enhanced implementation of climate change adaptation and mitigation activities in the county.

The Bill makes further provision for the streamlining of membership and functions of key institutions mandated to implement the Act by enhancing oversight and public participation. The Bill further delineates the complimentary yet differentiated roles of both levels of government and eliminates potential role overlaps between county departments with a mandate on climate change. This is essential to enable the County Government of Kilifi to perform its functions as provided under Part 2 of the Fourth Schedule to the Constitution.

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

The enactment of this Bill may occasion additional expenditure of public funds to be provided for in the annual estimates.

BENSON KARISA NGIRANI,  
*Chairperson, Water, Environment and  
Natural Resources Committee.*