

SPECIAL ISSUE

Marsabit County Gazette Supplement No. 6 (Act No. 6)



REPUBLIC OF KENYA

**MARSABIT COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 23th June 2015

CONTENT

Bills for Introduction into the Marsabit County Assembly—

PAGE

The Marsabit County Investment And Development Corporation Bill, 2015...101

**MARSABIT COUNTY INVESTMENT AND DEVELOPMENT
CORPORATION BILL, 2015**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title and Commencement.
- 2—Interpretation.
- 3—Object of the Act.

**PART II—THE INVESTMENT AND DEVELOPMENT
CORPORATION UNIT**

- 4—Establishment of the Investment and Development Corporation unit.
- 5—Management and Composition of the unit.
- 6—Functions of the unit.
- 7—Staff of the unit.
- 8—Corporate governance.
- 9—Annual report.

PART III—INVESTMENT MANAGEMENT

- 10—Investment principles.
- 11—Investment powers.
- 12—Investment strategy and Plan.
- 13—Project appraisal and Financial analysis.
- 14—Sustainability, Profitability and Competitiveness.
- 15—Partnership.
- 16—Dividend policy.

PART IV—MISCELLANEOUS

- 17—Regulations.
- 18—Meetings.
- 19—Minutes.

**THE MARSABIT COUNTY INVESTMENT AND DEVELOPMENT
CORPORATION BILL, 2015**

A Bill for

AN ACT of the County Assembly of Marsabit to provide for the establishment of institutional framework for investment and development management and for connected purposes

ENACTED by the County Assembly of Marsabit as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Marsabit County Investment and Development Corporation Act, 2015 and shall come into force on the fourteenth day after its publication in the Gazette.

Interpretation

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

“Committee” means the committee of the County investment and development corporation unit established under section 5(1) of this Act;

“County Executive Committee” means the County Executive Committee of County government of Marsabit;

“Executive Member” means the County Executive Member for the time being responsible for finance;

“Governor” means the Governor of Marsabit County;

“Investment and development corporation unit” means the County investment and development corporation unit established under section 4 of this Act.

Object and Purpose of Act

3. The object and purpose of this Act is to provide for the establishment of institutional framework for County government investment system in order to—

- (a) enhance financial and economic prudence in County Government investments;
- (b) establish an efficient and effective instrument for managing County government investments;
- (c) enhance competitiveness of County Government investments;
- (d) promote local economic development;
- (e) enhance County revenue base.

PART II—THE INVESTMENT AND DEVELOPMENT CORPORATION UNIT

Establishment of the Investment and Development Corporation Unit

4. There is established a unit to be known as Investment and Development corporation unit within the department of Finance and Economic planning.

Management and Composition of the Unit

5. (1) The unit shall be managed by a committee comprising of the County Secretary who shall be the Chair and the Chief Officer Finance & Planning who shall be the Secretary and four other members who shall include—

- (a) Chief Officer Department of Trade;
- (b) the County Attorney;
- (c) Head of Planning Unit and;
- (d) the Economic Advisor.

Functions of the Unit

6. (1) The functions of the Unit shall be to—
- (a) hold properties and assets on behalf of the county for the purposes of investments and development;
 - (b) undertake any investment on behalf of the county for the purposes of generating revenue for the county government;
 - (c) undertake any development initiative for the county with a business or social purpose;
 - (d) identify strategic investment opportunities for the benefit of the county;
 - (e) undertake business ventures for the benefit of the county;
 - (f) promote local economic development and job creation;
 - (g) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the Governor.

Staff of the Unit

7. The Department of Finance and Economic Planning shall attach such number of staffs as may be necessary for the operation of the Unit.

Corporate Governance

8. The Unit shall establish and implement corporate governance principles and practices applicable to similar entities.

Annual Report

9. (1) The Committee shall, within three months after the end of each financial year, prepare and submit to the executive member a report of the operations of the Unit for the immediately preceding year—

- (a) report on the overall status of the investment portfolio and profitability of each investment venture including the unit's projections for the following year;
- (b) such information and other material as the unit may be required by this Act or regulations made thereunder to include in the annual report;
- (c) such additional information or other material as the executive member may request in writing.

(2) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration.

(3) The County Assembly may after considering the report make recommendations to the executive member on appropriate ways of effectively implementing the Act.

PART III—INVESTMENT MANAGEMENT

Investment Principles

10. (1) The Committee shall be guided by the following principles while undertaking any investment—

- (a) value for money;
- (b) prudence in financial and investment management;
- (c) efficiency;
- (d) economy;
- (e) competitiveness in approach to business;
- (f) financial sustainability.

Investment Powers

11. (1) Subject to any written law on governance of public investments, and with the approval of the County Executive Committee, the Committee shall have powers to—

- (a) establish subsidiaries or holding entities for any business venture for the purposes of realizing its objectives;
- (b) invest in property or real assets, bonds, securities, bank deposits, trust funds, Treasury Bills or any investment venture approved by the County Treasury.

(2) The Unit shall not borrow money by way of loans or floating of bonds unless such borrowing is related to capital investments.

Investment Strategy and Plan

12. (1) The Unit shall prepare at least a five-year investment strategy and plan which shall be approved by the County Executive Committee.

(2) The Investment Strategy and Plan shall provide among others for—

- (a) source of investment capital;
- (b) targeted investment opportunities;
- (c) investment portfolio;
- (d) expected return on capital or investment;
- (e) specific investment projects and their respective projects appraisals including rate of return on investment or capital employed;
- (f) estimated cost of the investments;
- (g) any other matter as the executive member may prescribe.

(3) The Unit shall not undertake any investment unless it in accordance with the Investment Strategy and Plan.

(4) The Committee may review the Investment Plan or strategy after each year in order to align it with prevailing market trends.

(5) The Committee shall prepare annual plans for implementing the investment plan and strategy.

Project Appraisal and Financial Analysis

13. (1) The Unit shall not undertake any investment or project unless it has undertaken an investment or project appraisal and financial analysis in accordance with prescribed guidelines.

Sustainability, Profitability and Competitiveness

14. (1) The Committee shall undertake an assessment after every two years to measure the sustainability, profitability and competitiveness of each investment venture.

(2) The Executive Member may require at any time the unit to undertake the assessment stipulated under subsection (1) in relation to any investment venture where the Executive Member is of the opinion that the venture does not meet the required threshold for sustainability, profitability and competitiveness.

(3) Where an investment venture ceases to be sustainable, profitable or competitive, the Committee may—

- (a) restructure the investment;
- (b) merge the investment with other investments; or
- (c) recommend termination of the investment by way of sale, disposal, transfer or liquidation where the investment was carried out by a subsidiary as the sole business.

Partnership

15. (1) The Unit may enter into partnership or collaboration with any entity for the purposes of carrying out the objectives of this Act.

No. 15 of 2013

(2) Where the Unit enters into partnership through the public private partnership business model, the Public Private Partnership Act, 2013 shall apply to such partnership.

Dividend Policy

16. (1) The Committee shall in consultation with the Executive Member establish a dividend policy which shall be reviewed annually.

- (2) The dividend policy shall stipulate among others for—
 - (a) the business conditions under which dividend shall be paid out;
 - (b) minimum percentage of annual dividend payout to the county government and;
 - (c) any other matter as the Executive Member may prescribe.

PART IV—MISCELLANEOUS

Regulations

17. (1) The Executive Member may, on recommendation of the Committee make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

- (a) prescribe guidelines for undertaking investment or project appraisal;
- (b) prescribe the matters related to dividend policy and;
- (c) prescribe matters related to investment plan and strategy.

Meetings

18. The Committee shall regulate its business and shall as such meet as and when need arises.

Minutes

19. The Unit shall cause minutes of all resolutions and proceedings of meetings of the committee to be entered in books kept for that purpose.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to provide for the establishment of legal and institutional framework for investment and development management in Marsabit County. The Bill is set out in four parts as follows.

PART I of the Bill provides for the preliminaries, which include the short title and commencement date, interpretation of terms used in the Bill as well as the objects and purpose of the Bill.

PART II of the Bill provides for the establishment, composition and functions of an Investment and Development Corporation Unit and a committee to manage its operations.

PART III of the Bill provides for investment management principles, investment powers, investment strategy and plan, project appraisal and financial analysis, sustainability, profitability and competitiveness, financial sustainability, partnership and dividend policy.

PART IV of the Bill provides for miscellaneous matters which include regulations and conduct of business and affairs of the Committee.

The enactment of the Bill will not occasion additional expenditure of public funds.

Dated the 27th May, 2015

SULEIMAN KHALIF,
Majority Leader, County Assembly of Marsabit.