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MOMBASA COUNTY BILLS, 2024

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THE MOMBASA COUNTY CLIMATE CHANGE BILL, 2024**A Bill for**

AN ACT of the County Assembly of Mombasa to provide for a regulatory framework, mechanisms, measures to achieve low carbon climate development, to enhance response to climate change and for connected purposes

ENACTED by the County Assembly of Mombasa, as follows—

PART I— PRELIMINARY**Short title and commencement**

1. This Act may be cited as the Mombasa County Climate Change Act, 2024 and shall come into force upon publication in the *Kenya Gazette*.

Interpretation

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

“adaptation” means adjustment in natural or human systems in response to Actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities;

“Adaptive Capacity” means the ability or potential of a system to respond successfully to climate variability and change, and includes adjustments in both behaviour and in resources and technologies;

“Climate” The average pattern for weather conditions occurs over a long time period. Weather refers to the atmospheric conditions at a specific place at a specific point in time. Climate has always varied because of natural causes. Increasingly, however, human increases in GHG emissions causing changes in climate as well;

“Climate Change” means shifts in the mean state of the climate or in its variability, persisting for an extended period (decades or longer). Climate change may be due to natural changes or to persistent anthropogenic changes in the composition of the atmosphere or in land use. “County Climate Change Steering Committee” means a county steering committee as enacted in section 4 of this Act;

“Climate proofing” a process of mainstreaming climate change into mitigation and/or adaptation strategies and programmes;

“County” means Mombasa County;

“County Assembly” means the County Assembly of Mombasa;

“County Government” means the County Government of Mombasa;

“Department” means the department responsible for Climate Change;

“Emission” means the release of greenhouse gases or their precursors into the atmosphere over a specified area and period of time where the emissions are attributable to human activities;

“Executive Member” means the County Executive Committee Member at the time being responsible for matters related to Climate Change;

“Greenhouse gas” means the atmospheric gases responsible for global warming and climate change;

“low-carbon development” means a development plan or strategy that encompasses low-emission economic growth that encourages greenhouse gases emissions that are lower than business-as-usual practice; and reducing the human causes of emissions by moving toward a resource efficient economy that is as low-carbon as possible and enhancing carbon sinks;

“mitigation” means efforts that seek to prevent or reduce the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for green-house gases;

“resilience” means the ability of a system and its component parts to absorb, accommodate, or recover from adverse effects of climate change in a timely and efficient manner through ensuring the preservation, restoration, or improvement of the essential basic structures and functions of that system; and

“Sustainable development” Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Object of the Act

3. The object of this Act is to—

- (a) mainstream climate change in each sector;
- (b) build resilience to an impact of climate change;
- (c) enhance adaptive capacity to an impact of climate change;
- (d) provide for identification, prioritization and implementation of adaptation and mitigation actions;
- (e) promote collaboration and partnerships in the implementation of climate actions across the County;
- (f) coordinate collection and dissemination of climate change information to the public to create awareness and preparedness;
- (g) providing support to the national climate change policy and legislative framework;

- (h) implement relevant obligations of the State under international agreements related to climate change;
- (i) strengthen the climate change department and provide it with adequate mandate and authority to enable it to coordinate, supervise, regulate and manage all activities related to climate change; requiring lead agencies including government, departments, and agencies, private sector, civil society organizations and individual citizens to undertake their own respective roles in climate change response measures; and
- (j) provide framework for county climate change governance.

PART II— ADMINISTRATION

County Climate Change Steering Committee

4. (1) There is established a steering committee to be known as county climate change steering committee.

- (2) The county climate change steering committee shall consist of—
 - (a) Chief Officer responsible for matters related to climate change who shall be the chairperson of the committee;
 - (b) Chief Officer representing the Department of Finance and Economic Planning;
 - (c) a Director in charge of matters related to climate change who shall be the Secretary of the committee;
 - (d) a Director representing the Department of Blue Economy, Agriculture and Livestock;
 - (e) a Director representing the Department of Environment and Solid Waste Management;
 - (f) a Director representing the Department of Health;
 - (g) a Director representing the Department of Lands, Housing and Urban Planning;
 - (h) a representative from the National Environment Management Authority;
 - (i) a representative from the Kenya Marine Fisheries Research Institute;
 - (j) a representative from the Civil Society Organization engaged in Climate Change.

(3) The committee may co-opt a person in charge of matters related to climate change.

Qualification for appointment

5. A member of the committee shall be appointed by the executive member in charge of the department responsible for climate change and shall be a holder of at least a degree certificate in matters related to environmental studies or its equivalent from a recognized institution.

Functions of the County Climate Change Steering Committee

6. The county climate change steering committee shall—
- (a) advise the Department on policy and other strategic matters relating to climate change;
 - (b) coordinate with institutions implementing climate change programmes;
 - (c) identify obstacles to the implementation of climate change policies and programmes;
 - (d) mainstream climate change projects and programs;
 - (e) perform any other functions that may be assigned by the Governor;
 - (f) review, prioritize and sequence projects submitted by community committees based on the set criteria.

Tenure of office

7. (1) An appointed committee member shall serve for three years and is eligible for reappointment for a further term of three years.

(2) An appointed committee member shall serve a maximum of two terms.

Removal from office

8. An appointed member may be removed from office on the grounds of—

- (a) non – compliance with Chapter Six of the Constitution;
- (b) gross misconduct;
- (c) physical or mental incapacity;
- (d) incompetence; or
- (e) bankruptcy.

Remuneration

9. A member may be paid an allowance as determined by the Salaries and Remuneration Commission.

Community Climate Change Committee

10. (1) There is established a community climate change committee in each ward.

(2) The community climate change committee shall consist of—

- (a) a ward administrator who shall be the chairperson;
- (b) climate change officer;
- (c) a youth representative;
- (d) a woman representative;
- (e) a representative of community health volunteers;
- (f) a representative of community forest associations;
- (g) a representative of farmers and livestock keepers; and
- (h) a representative of beach management unit.

(3) A chairperson shall be elected by members of the committee and ratified by the Planning Committee.

Appointment of a Committee Member

11. (1) A committee member shall be appointed by the Executive Committee Member.

(2) A committee member shall be a resident of the respective ward.

Functions of the Community Climate Change Committee

12. The Community Climate Change Committee shall—

- (a) hold consultative meetings within the community to enable identification of climate risks;
- (b) carry out resilience assessments for identification of challenges arising from increasing climate variability;
- (c) prioritize and design investments that will promote climate change resilience for improved livelihood;
- (d) review and prioritize project proposals from the community interest groups and submit them to the County Climate Change Steering Committee for consideration and approval; and
- (e) conduct public participation and sensitization on climate change matters.

Tenure of office

13. An appointed community committee member shall serve for three years and is eligible for reappointment for a further term of three years.

Removal from office

14. An appointed member may be removed from office on the grounds of—

- (a) Non-compliance with Chapter Six of the Constitution;
- (b) gross misconduct;
- (c) physical or mental incapacity;
- (d) incompetence; or
- (e) bankruptcy.

PART III — DUTIES

Duties of the County Government

15. The County Government shall have the following duties—

- (a) integrate the climate change action plan into sectoral strategies, action plans and other implementation projects for the assigned legislative and policy functions;
- (b) report on county greenhouse gas emissions for the national inventory;
- (c) regularly monitor and review the performance of the integrated climate change functions;
- (d) put in place and implement mechanisms for sustainability in performance of departmental mandates;
- (e) report annually to the County Assembly on the status and progress of performance and implementation of all assigned climate change duties and functions;
- (f) carry out air quality monitoring on greenhouse gases emissions and ozone layer depleting gases; and
- (g) conduct capacity building on climate change adaptation and mitigation mechanisms.

Duties of private entities

16. (1) A private entity shall—

- (a) embrace use of technology and innovation that enhances adaptation and mitigation towards climate change;
- (b) report on greenhouse gas emissions annually to the directorate;
- (c) adopt the county climate change action plan;

- (d) protect and conserve the environment and ensure ecologically sustainable development and use of natural resources; and
- (e) adopt climate proofing infrastructure that reduce climate change related vulnerability and risks.

(2) A private entity which contravenes sub section (1) commits an offence and shall be liable, upon conviction to a fine not exceeding five hundred thousand shillings or imprisonment to a term not exceeding three years or both.

Climate change duties of individuals

17. (1) A person shall —

- (a) participate in building county resilience towards climate change adaptation and mitigation;
- (b) cooperate with the County and other persons to protect, conserve the environment, ensure sustainable development and use of natural resources;
- (c) participate in their respective county climate change community committees;
- (d) support technological application and innovation for enhancing energy efficiency and low carbon development;
- (e) support county government efforts in increasing forest cover;
- (f) promote and adopt agricultural climate smart technologies, practices and agroforestry;
- (g) promote and adopt efficient water harvesting, storage and irrigation; and
- (h) participate in public participation on climate change.

(2) A person who contravenes sub section (1) commits an offence and shall be liable, upon conviction to a fine not exceeding two hundred thousand shillings or imprisonment to a term not exceeding one year or both.

PART IV — MISCELLANEOUS

Transition

18. An officer serving in the directorate at the commencement of this Act, shall be deemed to be an officer of the directorate under this Act.

Power to make Regulations

19. The Executive Member may make Regulations to give effect to this Act.

MEMORANDUM OF OBJECTS AND REASONS

Climate change has been universally identified as one of the greatest global challenge facing humanity requiring international attention and action. It is considered as one of the most serious threats to sustainable development globally. This impact cuts across diverse aspects of society including the economy and environment.

Part I of the Bill addresses the interpretation of the terms used in the Bill together with a short summary of what it entails.

Part II of The Bill deals with the administration which includes establishment of the county climate change steering committee and the community climate change committee.

Part III of the Bill addresses duties of all stakeholders.

Part IV of the Bill provides for miscellaneous which entails transition and developing further regulations for the effective implementation of this Act.

The enactment of this Bill will not infringe on the Fundamental Rights and Freedoms as envisaged in the Constitution, 2010.

The enactment of this Bill shall occasion additional expenditure of public funds.

LEILA NYACHE,
*Chairperson on Committee for Water,
Natural Resources and Climate Change Resilience.*