

COUNTY GOVERNMENT OF WAJIR

Hon. Speaker

You may approve for
tabling.



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D/Chairman

2/12/2024 P. COUNTY ASSEMBLY OF WAJIR

THIRD ASSEMBLY - THIRD SESSION

REPORT OF THE SECTORAL COMMITTEE ON TRADE, TOURISM,
COOPERATIVE DEVELOPMENT AND WILDLIFE ON THE WAJIR COUNTY
ENTERPRISE DEVELOPMENT FUND BILL, 2024.

DECEMBER 2024

Contents

1.0 PREFACE 3

2.0 ESTABLISHMENT AND MANDATE OF THE COMMITTEE 4

3.0 MEMBERSHIP OF THE COMMITTEE 5

ACKNOWLEDGEMENT 6

4.0 BACKGROUND INFORMATION OF COUNTY REVOLVING FUND 7

5.0 OVERVIEW OF THE WAJIR COUNTY ENTERPRISE DEVELOPMENT FUND BILL, 2024.... 8

6.0 VIEWS FROM THE PUBLIC 11

7.0 COMMITTEE'S FINDINGS AND RECOMMENDATIONS 12

8.0 THE COMMITTEE PROPOSED AMENDMENTS 14

1.0 PREFACE

Mr. Speaker Sir, on behalf of the members of the Sectoral Committee on Trade, Tourism, Cooperative Development and Wildlife and pursuant to the provision of Standing Order no.201(5)(f), it is my pleasure and duty to present to the House, the committee's report on the Wajir County Enterprise Development Fund Bill, 2024.

Mr. Speaker Sir, Article 174 of the Constitution of Kenya 2010 states the objectives of devolution, particularly promoting social and economic development.

Similarly, Section 116 of the Public Finance Management Act, 2012 (PFM ACT) emphasizes that the County Executive may establish funds with the approval of the County Assembly.

Further, Section 104 of the County Governments Act, 2012, states the obligation to plan for the development and economic priorities of the County as a cornerstone for the realization of impactful development within the County.

Mr. Speaker Sir, the Constitution of Kenya (2010): particularly Article 201 and 226, emphasizes transparency, accountability, equitable resource distribution and prudent use of public resources. It sets the foundation for laws and regulations related to financial management.

2.0 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The committee was established pursuant to the provisions of the Standing Order 201 (1-4) which states that;

- ✓ There shall be select committees to be known as Sectoral committees, the members of which shall be nominated by the County Assembly Committee on Selection in consultation with County Assembly parties at the commencement of every County Assembly.
- ✓ A member appointed to a Sectoral committee at the commencement of a County Assembly or at any other time during the term of the County Assembly shall, unless the County Assembly otherwise resolves, serve for the term of that County Assembly.
- ✓ Unless the County Assembly otherwise directs, the Sectoral committee and the subject matter respectively assigned to them shall be as set out in the second schedule.
- ✓ The mandate of the Sectoral committee in respect of the subject matter assigned under the second schedule of these Standing Orders shall only be exercised within the limits contemplated under part 2 of the fourth schedule of the Constitution.

The committee is mandated to:

- ✓ Investigate, inquire into and report on all the matters relating to the management, activities, administrations, operations and estimates of the assigned departments.
- ✓ Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly.
- ✓ To vet and report on all appointments where the constitution or any law requires the County Assembly to approve except those under Standing Order No.192 (Committee on Appointments)
- ✓ Make reports and recommendations to the County Assembly as often as possible, including recommendations of the proposed legislation.
- ✓ Study and review all County legislation referred to it.

3.0 MEMBERSHIP OF THE COMMITTEE

Mr. Speaker Sir, the committee on Trade, Tourism, Cooperative Development and Wildlife comprises of the following members:

1. Hon. Shamsa Issa Chairperson
2. Hon. Fatuma Sheikh Abass..... Vice Chairperson
3. Hon. Dahaba Yussuf..... Member
4. Hon. Adan Hussein..... Member
5. Hon. Habiba Issack..... Member
6. Hon. Ibrahim Hussein Member
7. Hon. Ayub Abdi Osman Member
8. Hon. Fatuma Fille..... Member
9. Hon. Adan Adow..... Member

ACKNOWLEDGEMENT

The Committee thanks the Office of the Speaker and the Clerk of the County Assembly for the support and facilitation to the Committee to undertake their mandate.

It is therefore my pleasant duty and privilege, on behalf of the Committee on Trade, Tourism and Cooperatives to table this report and recommend its adoption by the House.

Signed.....

Hon. Shamsa Issa MCA

(Chairperson)

Sectoral Committee on Trade, Tourism and Cooperatives

4.0 BACKGROUND INFORMATION OF COUNTY REVOLVING FUND

Mr. Speaker Sir, the Wajir County Revolving Fund was established as a financial mechanism aimed at addressing economic challenges faced by the community in Wajir County, one of the Northern counties in Kenya.

Mr. Speaker Sir, the inception of the revolving fund dates back to the establishment of the first County Government of Wajir in 2013. The government, under the leadership of its governor, recognized the severe economic hardships faced by many residents, particularly those living below the poverty line. The governor's administration was committed to alleviating poverty and improving socio-economic conditions in the county, as evidenced by its inclusion in the County Integrated Development Plan (CIDP).

Mr. Speaker Sir, the Wajir County Revolving Fund was established through the Wajir County Revolving Fund Act, 2014, and amended in 2016 (Gazette Supplement No. 10, Acts No. 1). This fund operates as a Shariah-compliant, interest-free loan aimed at promoting self-employment, reducing poverty, improving living standards, stimulating the local economy, and fostering entrepreneurship within Wajir County. It targets youth, women, persons with disabilities, local cooperative societies, business associations, and entities involved in value addition and micro-medium enterprise development.

In the context of Wajir County, the revolving fund was structured to support small-scale entrepreneurs, farmers, and livestock keepers by providing them with capital to start or expand their businesses. This initiative aimed to stimulate economic growth, create employment opportunities, and enhance household incomes within the county. By empowering local communities economically, the revolving fund sought to reduce poverty levels and improve overall living standards.

The fund's operations were guided by clear eligibility criteria and a transparent application process to ensure fairness and equity in accessing financial support. Additionally, the county government collaborated with relevant stakeholders such as financial institutions, community-based

organizations, and development partners to strengthen the fund's implementation and maximize its impact.

Mr. Speaker Sir, the Controller of Budget reservations highlighted critical legal and regulatory flaws in the Wajir County Revolving Fund (Amendment) Act, 2016, particularly regarding administrative costs at 10% of the allocated funds which contravenes PFM (197), which mandates that administrative costs for public funds must not exceed 3% of the total allocation.

Similarly, the Controller of Budget has raised concerns that the creation of multiple committees violates Article 201 (d) of the constitution of Kenya, which emphasizes prudence and responsibility in public expenditure.

Mr. Speaker Sir, to address structural flaws, legal non-compliance, and inefficiencies in the current Revolving Fund, the Executive has proposed replacing it with the Wajir County Enterprise Development Fund. This new fund will ensure compliance with PFM Act, 2016 and the Constitution of Kenya, 2010, while improving management efficiency, reducing costs and enhancing accountability.

5.0 OVERVIEW OF THE WAJIR COUNTY ENTERPRISE DEVELOPMENT FUND BILL, 2024

Mr. Speaker Sir, the Wajir County Enterprise Development Fund Bill, 2024, aims to establish a Fund to promote Entrepreneurship, eradicate poverty and empower women and youth economically in Wajir County.

Mr. Speaker Sir, the Bill repeals the Wajir County Revolving Act No 2 of 2014 and introduces a new framework to enhance the development of micro and small enterprises.

PART I of the County Enterprise Development Fund Bill outlines the objectives and purpose, which is to promote self-employment and entrepreneurship, facilitate economic empowerment for women, youth, and marginalized groups, and support the development of micro, small, and medium enterprises (MSMEs). This part aims to provide access to capital,

mentorship, and technical assistance to foster sustainable economic growth and inclusion.

PART II of the Bill establishes the County Enterprise Fund as a legal entity with perpetual succession and a common seal, enabling it to acquire and dispose of property, enter into contracts, and sue or be sued in its name. The Fund will draw resources from 2.5% of county development funds for five years, as well as income from investments, grants, donations, and other lawful sources. Of the total funds, 97% will be allocated to support MSME activities, while 3% will cover administrative costs.

PART III of the Bill outlines the governance of the County Enterprise Fund through the County Enterprise Development Fund Board. The Board will include a chairperson with expertise in business, Islamic finance, or economics, and representatives from women's organizations, minority communities, religious leaders, and trade and finance sectors, alongside a legal advisor from the County Attorney's office. Its functions include overseeing fund administration, approving applications and disbursements, monitoring loan performance, and ensuring adherence to Islamic finance principles.

PART IV of the Bill details the process for accessing the County Enterprise Fund. Eligibility extends to individuals, youth and women groups, local cooperatives, and organizations engaged in enterprise development. Applicants must submit forms in a prescribed format, which the Board reviews to approve or reject, with reasons provided for any rejections. An appeals process allows aggrieved applicants to contest decisions within 14 days.

PART V of the Bill addresses the administration and financial oversight of the County Enterprise Fund. A Fund Administrator, appointed by the County Executive for Finance, oversees daily operations and maintains board records, requiring qualifications in Islamic finance, economics, or business, and five years of experience. Financial management involves holding funds in designated accounts at the Central Bank of Kenya or

reputable commercial banks, enforcing strict accounting practices, and mandating the submission of annual income and expenditure estimates.

PART VI of the Bill includes miscellaneous provisions, repealing the Wajir County Revolving Act No. 2 of 2014 and establishing regulations to guide the Fund's operations. It defines penalties for fund misuse in compliance with national financial management laws and resolves conflicts between county and national laws by adhering to national legislation, as mandated by the Constitution.

Mr. Speaker Sir, the Wajir County Enterprise Development Fund Bill, 2024, was introduced to the house as First Reading on **Tuesday, 26th November, 2024** and was effectively committed to the Committee on Trade, Industry, Tourism and Cooperatives. Pursuant to Article 196(1) (b) of the Constitution of Kenya and Standing Order 128(3) which demands public participation and involvement in the legislative and other business of the County Assembly and its Committees, a notification was placed in the mainstream print media on **27th November, 2024**, informing the public that the Committee was considering the Wajir County Enterprise Development Fund Bill, 2024 and inviting them to submit any representations they might have on the proposed Bill.

Mr. Speaker Sir, the Committee held a total of four meetings and a retreat to consider the Bill. A number of meetings were held with stakeholders from the County Executive during the scrutiny of the Bill. The committee did not receive any written memorandum regarding the bill, however, the members of the public made oral submissions during the public participation held on the **28th November 2024 and 29th November 2024** at the County ICT Hall as stipulated by Article 196(b) of the Constitution.

Mr. Speaker Sir, the Bill is very important to the County since it shall establish a fund for purposes of financing start up and existing businesses, including agri-business, micro- and small enterprises business sector. The fund is for granting business funds to youth, women, persons with disabilities and vulnerable persons.

Mr. Speaker Sir, the committee notes that the bill if passed by this County Assembly is a game changer in the development of the business community in the county, especially for the youth, persons with disabilities, women and the vulnerable groups. Livelihoods are bound to change and more businesses will be created with this fund and thus the County will create employment and increase revenue for the county.

Mr. Speaker Sir, the Bill is set to drive significant impacts, including economic growth through enhanced access to capital and entrepreneurial support for MSMEs, increased inclusion by empowering youth, women, and marginalized groups, and strengthened accountability through transparent governance and financial controls. It lays a solid foundation for sustainable enterprise development, fostering economic resilience and self-reliance in Wajir County.

6.0 VIEWS FROM THE PUBLIC

The Committee noted and considered suggestions by the members of the public as follows;

1. Increase in Allocation: The proposed 2.5% allocation to the fund should be increased and sourced from the county's development budget.

2. Fund Manager Qualifications: It is recommended that the Fund Manager possess a CPA (K) certification to ensure financial expertise.

3. Youth Representation: The board composition should include representation from the youth to address their specific needs and perspectives.

4. Collateral Requirement: The public suggests removing the collateral requirement, as it may pose a significant barrier to many potential applicants.

5. **Application Limitations:** It is proposed that the criteria for application include a cap on the number of applicants, rather than allowing unlimited applications.

6. **Public Awareness:** The department should enhance awareness efforts through radio broadcasts to ensure that information reaches people in rural areas, not just those in urban centers who attended the public participation forums.

7.0 COMMITTEE'S FINDINGS AND RECOMMENDATIONS

The Committee deliberated on the Bill and made the following findings and recommendations;

FINDINGS

1) The Wajir County Enterprise Development Fund Bill, 2024, aligns with the Public Finance Management (PFM) Act, 2012, particularly in ensuring accountability and transparency in the utilization of public funds. The Bill mandates the establishment of a fund administrator, board, and financial reporting mechanisms as outlined in Section 12 of the PFM Act.

2) The Bill adheres to Article 227 of the Constitution of Kenya, ensuring fair, equitable, transparent, competitive, and cost-effective management of public resources. Furthermore, provisions on representation within the Board align with Article 27, promoting inclusivity and gender equity.

3) The Bill prioritizes MSMEs by earmarking a good amount of the Fund for enterprise development activities, fulfilling its objective of eradicating poverty, empowering marginalized groups, and promoting self-employment.

4) Potential conflicts with national laws, such as the Public Procurement and Asset Disposal Act, 2015, are addressed under the miscellaneous section, with the national legislation taking precedence under Article 191 of the Constitution.

RECOMENDATIONS

1) Enhance provisions under Part V (Administration and Finances) to include periodic audits by an independent auditor and public disclosure of the Fund's annual financial reports in compliance with the PFM Act, 2012.

2) Initiate training programs for board members (once appointed), fund administrators, and beneficiaries to strengthen their understanding of fund management and adherence to PFM and constitutional provisions.

3) Monitor and evaluate the inclusivity of special interest groups (youth, women, and persons with disabilities) within the Fund, ensuring compliance with Article 56 of the Constitution.

5) Simplify the application process to enhance accessibility and expedite fund disbursement to eligible beneficiaries.

6) Increase stakeholder engagement in the formulation of regulations as per Article 10 and Article 201 of the Constitution to ensure the Bill reflects the needs and aspirations of the county's population.

8.0 THE COMMITTEE PROPOSED AMENDMENTS

CLAUSE 2

Definition of Fund Administrator the words “section 13” be deleted and insert the word: “section 9”

To read “Funds Administrator” means a person appointed under section 9 of this Act”

CLAUSE 3

Insert sub-section (e) to read as

(e) Promote the training and sensitization, monitoring and evaluation of SMEs in the County.

CLAUSE 4

THAT, the words “hereby” and the word “revolving” be deleted

Delete the words “which shall be managed and administered by the County Enterprise Development Fund Board established under section 4 of this Act”

To read “there is established Fund to be known as the Wajir County Enterprise Development Fund”

Justification Stating that the Fund shall be administered by the Board goes contrary to sec. 116 of the PFMA since a fund admin should be designated by the CEC. Proposes that the Section should just establish the Fund then delete the provisions about management by the Board.

CLAUSE 6 (1) (a)

THAT the word “at least” be introduced before the statement

Delete “two and half percent of the monies allocated and appropriated for development” and replace with “one percent of the monies allocated and appropriated as equitable share”

To read “At least one percent of the monies allocated and appropriated as equitable share by the county government for five successive years”

CLAUSE 6 (3)

Delete Clause 6(3) because Clause 6 (1) is sufficient on the source of funds.

CLAUSE 7(2)

Delete the entire sub-section 7 (2) (a) (b) and (c) and insert a new sub-section to read as;

An amount

(a) Not less than 92% of the Fund shall be utilized for funding activities under sub section (1) (a); and

(b) Not more than 5% of the Fund shall be utilized for training, sensitization, monitoring and evaluation of the Fund;

(c) Not more than 3% of the Fund shall be utilized for administration costs;

(d) the funds referred to in (2)(a) shall be for perpetual credit revolving purposes as long as there is a credit balance available in the Fund Account.

CLAUSE 8(1)

Delete the words “which shall administer the fund”

Clause 8(1) the Board cannot administer the Fund. Delete the part that states that the Board shall administer the Fund.

To read "There shall be established the County Enterprise Development Fund Board"

CLAUSE 8 (5) (c)

THAT the word "persons" be deleted.

To read " the membership to include special interest groups, women, youth and persons with disability"

CLAUSE 8(8)

Delete the term "committee". This Act establishes a board not committee.

To read "The office of a member of the Board shall fall vacant"

CLAUSE 10(b)

THAT the word "understand" be deleted and insert the word "understanding"

To read " enter into a memorandum of understanding with a designated bank for disbursement and recovery of credit facilities"

CLAUSE 11 (2)

THAT the words "three times" be deleted and insert the word "quarterly"

To read " The board shall meet at least quarterly per year but the chairperson shall, upon requisition in writing by at least three members, convene a special meeting of the board at any time"

CLAUSE 11 (3)

THAT the words “four members” be deleted and insert the words “simple majority”

THAT the words “there at” to be one word to read “thereat”

To read “The quorum necessary for transaction of business by the members shall be simple majority provided that, the meeting shall be free to adopt any procedure thereat at suitable in the circumstances”

CLAUSE 15.

Delete the entire Clause and re-align the numbers.

Justification, how can it be that the people are appealing to the same board that gave them the decision?

CLAUSE 16(3)

Amend the numbering, “Clause 16 to read Clause 15”

Insert sub section (f) and (g) to read as

“(f) Keeping books of account”

“(g) Preparing reports for audit”

CLAUSE 18(1)

Amend the numbering, “Clause 18 to read Clause 17”

The statement should start with inserting the words “With the approval of County Executive Committee Member in charge of Finance” and delete the words “approved by the County Executive Committee Member for the time being for finance”

To read “With the approval of County Executive Committee Member in charge of Finance a bank account of the fund shall be opened and

maintained at the Central Bank of Kenya. A reputable bank shall be designated to disburse and recover the credit proceeds”

CLAUSE 19 (2) (b)

Amend the numbering, “Clause 19 to read Clause 18”


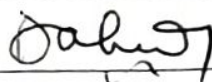




THAT the word “Boards” be deleted and inserting the word “Board” and also deleting the words “of monies”

To read “the payment or reimbursement to the members of the Board in respect of expenses incurred during the attendance of the meetings of the Board”

CLAUSE 20

Delete the entire clause and re-align the numbers.

Mr. Speaker Sir, In light of this, the Committee adopted this report as signed below and prays that the Wajir County Assembly passes and adopts this report.

S/NO	NAME	DESIGNATION	SIGNATURE
1.	Hon. Shamsa Issa	Chairman	
2.	Hon. Fatuma Sheikh Abass	V/Chairman	
3.	Hon. Dahaba Yussuf	Member	
4.	Hon. Adan Hussein	Member	
5.	Hon. Ayub Abdi Osman	Member	
6.	Hon. Habiba Issack	Member	
7.	Hon. Ibrahim Hussein	Member	
8.	Hon. Fatuma Fille	Member	
9.	Hon. Adan Adow	Member	

Mr. Speaker Sir, It is my humble prayer and privilege to present this comprehensive report to the esteemed members of the house. This report, stemming from the diligent efforts of the Wajir County Assembly Committee on Trade.

Mr. Speaker Sir, I beseech the house to pass and adopt this report.

Thank you for your attention and consideration in this important matter and God bless us all.