

COUNTY GOVERNMENT OF KISUMU



THE COUNTY ASSEMBLY THIRD ASSEMBLY – SECOND SESSION

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COUNTY ASSEMBLY BILLS DIGEST

THE KISUMU COUNTY AGRICULTURAL FACILITIES IMPROVEMENT FINANCING BILL, 2023

Sponsor:	Hon. Eunice Alandoh (Nominate MCA)
Date of Publication:	2 nd November, 2023
Date of First Reading:	8 th November, 2023
Committee referred to:	Sectoral Committee on Agriculture, Livestock, Fisheries and Irrigation
Type of Bill:	Ordinary Bill

PURPOSE OF THE BILL

The Bill seeks to give effect to Section 5 (1) of the Public Finance Management Act, 2012 to mandate County Agricultural Entities to retain money received by or on behalf of the County Government for purposes of defraying their expense; and to provide for the financial management procedures for accounting and use of money retained by the County Agricultural Entities.

BACKGROUND OF THE BILL.

Operational Context of the Bill.

In the current legal framework, County Agricultural facilities are bound by law to remit their total revenues into the County Revenue Fund Account. The basis of the facilities remitting their collections to the County Treasury has been the PFM Act (2012) which centralized the county financial management. However, the PFM Act also states instances in which county entities are allowed to retain user fees for purposes of defraying their expenses in line with PFM Act, Part III Section 109 (2) (a, b & c). The cost sharing referred to as facility Improvement financing (FIF) and previously known as facility improvement fund - is the operational context of this Bill.

The Bill proposes that the sources of revenues that shall make up FIF for the Agricultural entities include:

- i. One and such amounts, not exceeding eighty per cent of the moneys raised by the entities retained for purposes of defraying their expenses;

- ii. voluntary contributions from public officers and private persons;
- iii. grants and donations from other county public entities such as the municipalities and water companies;
- iv. monies appropriated by the County Assembly and monies from any other source approved by the County Treasury.

Policy and Legislative Context

The Statutory underpinnings is currently provided by the Sections 5 and 109 of the Public Finance Management Act, 2012. The Bill also mirrors the legislative framework on the Facility Improvement Financing Act, 2023 and is slightly divorced from the subject matter of the Act.

There is no County Policy or National Policy that has formed a policy basis for the Bill.

OVERVIEW OF THE BILL.

The Bill therefore proposes as follows:

PART I of the Bill provides for preliminary matters and sets out various definitions, the guiding principles in relation to implementation of County Agricultural Entities Facility Improvement Financing, as well as the obligations of the County governments and the Department in the management of the entities.

This Part also makes provision for the establishment of the Agricultural Facilities as County Government Agricultural Entities and confers an obligation on the County Government to ensure that measures are put in place including facilities and institutions to ensure the entities are financially viable.

PART II provides for the procedures for the establishment of County Agricultural Management Committee that oversee the management of County Agricultural entities. Clause 10 also provides for the establishment of the Facility Management Committees that shall manage the entities.

This Part further outlines the procedures to be followed in removal of a member of the Facility Management Committee and the manner of handling matters related to conflict of interest by either the chairperson or a member of the facility management Committee.

Clause 18 specifies the functions and powers of the Chief Officer in the management of County Agricultural Entities.

PART III provides for the financial management and administration of the County Agricultural Entities including management of the Bank accounts, Funds and Revenue of the entities. This Part further provides for the procedures for generating estimates of income and expenditure of the County Agricultural Entities and submission of Audited Reports.

PART IV contains miscellaneous provisions of the Bill and provides the powers of the CEC Member for Agriculture to formulate Regulations for the better carrying into effect the provisions of this Act.

Clause 28 provides for the general offences and the protection of Public Officers from liability.

CONSEQUENCES OF THE BILL.

The Bill seeks to put in place a legal framework that creates governance in the establishment and management of County Agricultural Entities and mandates the entities to retain revenue for purposes of defraying their expenses. Therefore, if enacted, it will create significant changes to the current structure of county agricultural entities management and will reduce the reliance of the entities on County Assembly Appropriations.

WAYFORWARD.

Pursuant to standing order 123 of the Kisumu County Assembly Standing Orders, the Standing Committee on Agriculture, Irrigation, Livestock and Fisheries shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee submits its report to the County Assembly.

Further, pursuant to standing order 123 (4) of the Kisumu County Assembly Standing Orders, the Committee is required to submit its report on the Bill to the Senate within twenty-one (21) calendar days of the committal of the Bill to the Committee.

Any comments on the Bill may be submitted to the Office of the Clerk of the County Assembly located at the County Assembly of Kisumu premises along Uhuru Road and adjacent the Central Police Station or through P.O Box 86 – 40100, Kisumu, Kenya; email kisumuassembly@gmail.com.

Legal Disclaimer

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Members of the Public are advised to find the Bill in the Assembly website <https://kisumuassembly.go.ke/>