

REPUBLIC OF KENYA



KITUI COUNTY ASSEMBLY

FIRST ASSEMBLY-SECOND SESSION

THE AGRICULTURE, WATER AND IRRIGATION COMMITTEE

REPORT ON THE KITUI COUNTY ASSEMBLY SORGHUM BILL, 2014

30/6/2014

JUNE 2014

PREFACE.

Mr. Chairman, Standing Order 191(1) establishes Sectoral Committees with specific mandates among others to study and review all county legislations and make reports and recommendations to the Assembly on the proposed legislations. Under this Standing Order, the Sectoral Committees are charged with the following responsibilities;

To;

- i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- ii) study the programme and policy objectives of departments and the effectiveness of the implementation;
- iii) study and review all county legislations referred to it;
- iv) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- v) 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;
- vi) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointments) ; and
- vii) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

COMPOSITION OF THE COMMITTEE.

i) Hon Titus Kasinga	Chairman
ii) Hon Nzuki Wambua	Vice Chairman
iii) Hon Nzyoni Manguye	Member
iv) Hon Kalovo Musau	Member
v) Hon Kilonzo D. Kauthi	Member
vi) Hon Jemimah M. Mbiti	Member
vii) Hon Rodah Wambua	Member
viii) Hon Hussein Mwandia	Member

BY INVITATION

ix) Hon Grogan Tito Mbivi	Member
x) Hon Robinson M. Mativo	Member
xi) Hon Jamhuri Mwangi	Member
xii) Hon Nzungi Ngwele	Member

RAPPORTEUR

xiii) Gladys Kanyaa Mwendwa

May I take this opportunity to thank all members of the committee for their input and valuable contributions during the several meetings held. Further, on behalf of the Agriculture, Water and Irrigation Committee, I wish to thank the offices of the Hon. Speaker and the Clerk for the logistical support.

On behalf of the Sectoral Committee on Agriculture, Water and Irrigation and pursuant to the provisions of Standing Order 130 it is my pleasure to present to this Assembly the Committee's Report on Sorghum Bill, 2014.

Signed _____

Hon Titus Kasinga, MCA

Chairperson Agriculture, Water and Irrigation Committee

Date: _____

COMMITTEE PROCEEDINGS

Mr. Chairman, The committee held three sittings at the Nairobi Sixeighty Hotel from the 28th to 30th June 2014 during which it closely examined the subject Bill as well as scrutinized views collected from the public during the public participation exercise conducted by the Members of this Assembly on Sorghum Bill, 2014 on 17th June 2014.

In looking at the views collected during the public participation, the Committee also scrutinized Memos and Reports submitted from key stakeholders in the agriculture sector operating within the County. The views and the reports presented on the Sorghum Bill, 2014 from the public were of invaluable assistance to the Committee and they made a great contribution to the final report as well as in making positive deliberations on the Sorghum Bill, 2014 and the industry at large.

Mr. Chairman, the Kitui County Sorghum Bill,2014(County Assembly Bill No.5,2014) was published on 10th March 2014 pursuant to Section 23 of the County Governments Act No. 12, 2012 and was subsequently introduced to the Assembly on 22nd May 2014 in line with the Interim County Assembly Standing Orders 120 and 121(1).

Mr. Chairman, pursuant to the provisions of Article 196(1) (b) of the Constitution, the Agriculture, Water and Irrigation Committee facilitated public participation through three forums held on 17th June, 2014 in Mutomo, Mwingi Central and Kitui Central following an invitation to the public to take part in the said public participation exercise vide the Standard Daily Newspaper of 6th June 2014.

The Agriculture, Water and Irrigation Committee would like to appreciate members of the public, who turned in large numbers to give inputs on the Bill. The Committee would also like to thank all the institutions, groups and individuals who submitted memoranda and reports on the bill, particularly the

Kenya Producers Coalition (KEPCO) whose report was of great assistance to this committee.

Mr. Chairman, members of the public were very excited that the County government had taken an initiative to promote and regulate the production/growth of Sorghum in the County. The public was however concerned that the Bill could have encompassed a greater subject for instance dealing with all the traditional crops that are grown in Kitui County sentiments which this committee shares and had already shared the same with the Director of agriculture during one of our consultative meetings. The Committee will soon be making further recommendations on the way forward.

OVERVIEW OF THE KITUI COUNTY ASSEMBLY SORGHUM BILL 2014.

Mr. Chairman, the purpose of this Bill is to provide for the growth, development and regulation of Sorghum industry in the County and for connected purposes.

The Constitution of Kenya 2010 has pursuant to the provisions of Schedule Four (4) devolved several functions to the County, particularly, the County government has been charged with the responsibility to implement national government policies and especially on issues of crop husbandry, plant disease control etc. It is on this premise that the Sorghum law was envisioned. This Bill was considered necessary because Kitui County being a semi-arid region and sorghum being a drought resistant crop can fair generally well. Further, it was also found necessary to promote the growth of sorghum because there is an economic value that can be exploited for the benefits of the residents/farmers thus this Bill provides for the legal framework through which the county government would participate regulating the sorghum industry. **Mr. Chairman,** this legislation will also assist our county in tackling food insecurity.

FINDINGS OF THE COMMITTEE

The Committee has proposed several amendments to the Bill. Further to the proposed amendments, the Committee makes the following findings relating to the sorghum industry:

1. **THAT**, as a matter of necessity, this Committee should engage the County Department of Agriculture with a view of coming up with a more inclusive legislation to cater for promotion of all traditional crops including cash crops that are grown within the county. These crops are cow-peas, millet, finger millet, castor seeds, green grams, cotton and sisal, among others.
2. **THAT**, for farmers to optimally gain from the promotion of sorghum production, it is necessary for the county department of agriculture to work in collaboration with stakeholders both in and outside the county to enhance and promote the sorghum industry.
3. **THAT**, birds are a major challenge to sorghum production, to counter this challenge, farmers should be encouraged to engage in large scale sorghum farming. Further, as a means of countering the birds' challenge the county government can work in collaboration with farmers and other partners/investors in the agricultural sector to invest in nets, this is one of the techniques that members of this assembly and particularly members of this committee learnt in Israel. This should be achieved progressively.
4. **THAT**, to mitigate losses caused by drought, crop disease or pest outbreak, it is necessary for the county government through its department of agriculture to engage insurance firms with a view of negotiating better terms for the farmers to access insurance covers. Such process of engagement should involve farmers and relevant institutions as the case may require.

5. **THAT**, as the production of Sorghum in the County continues to thrive/develop, it is anticipated that that there shall arise a need to provide storage facilities. Therefore, the county government should develop these facilities in the required areas. This should be achieved progressively.
6. **THAT**, since the county government is committed to promoting the production of sorghum in the county, it should set up a Sorghum Revolving Fund SUBJECT to the approval of this assembly for farmers to access affordable credit. This Revolving Fund subject to availability of funds and necessity can be established as from the year 2015/2016.
7. **THAT**, in order for the county government to fully exploit production of sorghum, there should be established a Board under the County Department of Agriculture SUBJECT to the approval by this Assembly. The Board will among other duties be charged with administration of the Fund under 6 above, management and research issues in the sorghum industry (and in the production of other crops), ensuring sustainable production of sorghum, and monitoring environmental issues among other duties. This Board should be set up when considered a necessary subject.

Mr. Chairman, the following are the proposed amendments to the Bill.

ARRANGEMENT OF CLAUSES WITHOUT AMENDMENTS.

The Committee recommends that clauses 1,2,4,5,6,7,8,9,11,12,13, 14 and 15 be as printed.

ARRANGEMENT OF CLAUSES WITH AMENDMENTS.

SUBTITLE PART I

THAT the arrangement of clauses be amended in the subtitle of part one by:

Deleting the word “**premiary**” and substituting thereof with the word “**preliminary**”.

CLAUSE 3

THAT the Bill be amended by deleting the word “**act**” and substituting thereof with the word “**Act**”.

CLAUSE 10

THAT the Bill be amended by rephrasing the clause to read “registration of growers’ or marketing associations or both”.

PROPOSED AMENDMENTS ON THE BILL.

CLAUSES WITH AMENDMENTS

CLAUSE 3

THAT the Bill be amended in Clause 3 by-

- (i) deleting the subtitle “objects and purpose of the Act” and inserting a margin note reading “objects and purpose of the Act”

- (ii) deleting the word **“country”** appearing on the last sentence and substituting thereof with the word **“county”**.

CLAUSE 4

THAT the Bill be amended in Clause 4 by-

- (i) deleting the subtitle “application” and inserting a margin note reading “application”
- (ii) deleting the words **“sorghum as well as to”** appearing on the first sentence and inserting the words **“dealing with sorghum”** at the end immediately after **“associations”**.

CLAUSE 5

THAT the Bill be amended in Clause 5 by deleting the subtitle “Role of County Government in Development of Sorghum” and inserting a margin note reading ““Role of County Government in Development of Sorghum””.

CLAUSE 6

THAT the Bill be amended in Clause 6 -

- (i) by deleting the subtitle “promotion of Sorghum” and inserting a margin note reading “promotion of Sorghum”.
- (ii) paragraph (c) by-
- (a) inserting the word **“county”** immediately before **“ministry”**
- (b) deleting **“other crops”** appearing between **“and”** and **“for”** on the third sentence of the paragraph.
- (iii) Paragraph (d) by-
- (a) deleting **“other traditional crops”** on the first sentence appearing between **“and”** and **“by”**

- (b) deleting the word **“local”** appearing between **“the”** and **“National”**.
- (iv) By deleting Paragraph (f) and substituting thereof with the following paragraph **“buy excess/surplus sorghum from farmers for distribution in the county in case of food shortage emergency both as food for human consumption and animal feed”**
- (v) Paragraph (g) by deleting **“farmers’ ”** and substituting thereof with the word **“farmers”**
- (vi) By deleting paragraph (j) and substituting thereof with the following paragraph **“to secure domestic food supply in terms of sorghum production in the county”**.
- (vii) Paragraph (k) by inserting the words **“sorghum growers and dealers”** immediately after **“advise”**.
- (viii) Paragraph (m) by-
- (i) inserting the words **“to Cooperatives or any other buying agencies”** immediately after delivered appearing on the last sentence of the paragraph.
 - (ii) Inserting **“payable”** immediately after penalties.
- (ix) By renumbering paragraph (o) as paragraph (p)
- (x) By introducing a new paragraph (o) to read “ensure sustainable production of sorghum through promotion of environmentally sound means of production”

CLAUSE 7

THAT the Bill be amended in Clause 7 -

- (i) by deleting the subtitle “incentives to growers” and inserting a margin note reading “incentives to growers”.

(ii) Sub-Clause (1) by inserting the words **“committee member”** immediately after **“executive”**.

(iii) Sub-Clause (2) by-

(a) Inserting the word **“county”** immediately before **“ministry”**

(b) Inserting the word **“shall”** immediately after **“law”**

(c) deleting **“for ensuring”** appearing immediately after **“programme”** and substituting thereof **“to ensure”**.

(iv) Paragraph (d) by inserting an hyphen between **“on”** and **“farm”** to read **“on-farm”**

(v) By deleting paragraph (i).

CLAUSE 8

THAT the Bill be amended in Clause 8 -

(i) by deleting the subtitle “Regulation of Sorghum” and inserting a margin note reading “Regulation of Sorghum”.

(ii) Sub-clause 1 by inserting **“county”** immediately before ministry.

(iii) Paragraph (c) by-

(a) Inserting the words **“ensuring that”** at the beginning of the paragraph

(b) inserting the words **“of this Act”** immediately after **“provisions”**

(c) deleting **“promoting productivity”** appearing at the end of the paragraph.

(iv) Paragraph (d) by-

(a) Inserting the word **“taking”** at the beginning of the paragraph and immediately before **“measures”**

- (b) inserting a comma immediately after **“including”** appearing on the first sentence of the paragraph.
- (v) Paragraph (e) by –deleting the word **“relationship”** and substituting thereof with the words **“fostering collaboration”** immediately before **“between”**.
- (vi) Paragraph (m) by deleting **“of”** appearing in the sentence immediately after providing.
- (vii) Paragraph (o) by inserting the word **“promoting”** immediately before **“value”**.
- (viii) Sub-Clause (2) by rephrasing the sub-clause to read **“the county department responsible for agriculture shall have the power to issue guidelines under this Clause subject to the approval of the Assembly”**
- (ix) Sub-Clause (3) by inserting the word **“industry”** immediately after **“sorghum”** and before **“to”**

CLAUSE 9

THAT the Bill be amended in Clause 9 by-

- (i) deleting the subtitle “freedom to register” and inserting a margin note reading “freedom to register”.
- (ii) Deleting sub-clause 9(1) and paragraph (a) and substituting sub-clause 9(1) and paragraph (a) with a new sub-clause 9(1) reading “all growers in the county shall be registered with a cooperative of their choice for purposes of accessing economies of scale”
- (iii) Inserting a new sub-clause 9(2) reading “Notwithstanding sub Clause (1), every smallholder grower shall be at liberty to register or not to register with a cooperative of choice”.

CLAUSE 10

THAT the Bill be amended in Clause 10-

- (i) By deleting the subtitle “registration of growers/marketing association” and inserting a margin note reading “registration of growers or marketing associations or both”.
- (ii) Paragraph (a) by rephrasing the paragraph to read “ Registration of growers or marketing associations or both”
- (iii) Paragraph (b) by –
 - (a) deleting **“the”** at the beginning of the paragraph
 - (b) inserting **“the”** immediately before **“registration”**
 - (c) deleting **“production”** at the end of the paragraph and substituting thereof with the words **“the yield realized therefrom”**
- (iv) Paragraph (c) by deleting the word **“their”** and substituting thereof with the word **“its”**.
- (v) Paragraph (d) by deleting the word **“deem”** and substituting thereof with the word **“consider”**.
- (vi) By inserting a new paragraph (d) to read “quality of the sorghum produced if necessary”

CLAUSE 11

THAT the Bill be amended in Clause 11 by-

- (i) deleting the subtitle “registration of dealers” and inserting a margin note reading “registration of dealers”.
- (ii) Renumbering Clause 11 (2) as 11 (1).

- (iii)* Deleting paragraph *(a)*
- (iv)* Renumbering paragraph *(b)* as *(a)*
- (v)* Renumbering paragraph *(c)* as *(b)*
- (vi)* Renumbering paragraph *(d)* as *(c)*
- (vii)* Renumbering Clause 11 (3) as 11 (2).
- (viii)* Deleting the “2” appearing on the first sentence of the now renumbered Clause 11(2)

CLAUSE 12

THAT the Bill be amended in Clause 12-

- (i)* By deleting the subtitle “general power to impose levies” and inserting a margin note reading “general power to impose levies”.
- (ii)* Sub-clause (1) by –
 - (a)* inserting the words “**committee member**” immediately after executive
 - (b)* inserting **Kenya gazette** immediately before the county gazette
- (iii)* Sub-clause 12(2) by-
 - (a)* inserting “Committee member” immediately after executive
 - (b)* inserting “**subject to approval by the county assembly**” immediately after sub -clause(1).

CLAUSE 13

THAT the Bill be amended in Clause 13-

- (i)* By deleting the subtitle “infected areas” and inserting a margin note reading “infected areas”.

(ii) Sub-Clause 13(1) by inserting the words **“Committee member”** immediately after executive.

(iii) paragraph (b) by-

(a) inserting letter **“s”** in the word “dealing”

(b) inserting the word **“other”** on the second sentence of the paragraph and between **“any”** and **‘purpose’**.

(iv) Sub-Clause 13 (2) by rephrasing the Clause to read **“the county executive committee member may by regulations make further provisions for the control of infected areas subject to the approval of the county assembly”**.

CLAUSE 14

THAT the Bill be amended by inserting a new Clause 14 with a margin note reading “General Penalty”. The clause thereof to read **“A person who contravenes a provision of this Act where no other penalties are provided commits an offence and is liable upon conviction to a fine not less than five thousand Kenya shillings and not exceeding fifteen thousand Kenya shillings or to imprisonment for a term not exceeding 3 months, or to both such fine and imprisonment.”**

CLAUSE 15

THAT the Bill be amended in Clause 15 by-

(i) deleting the subtitle “regulations” and inserting a margin note reading “regulations”.

(ii) deleting the word **“shall”** and substituting thereof the word **“may”**.

INTERPRETATION

THAT the Bill be amended in Clause 2 by-

- (i) deleting the subtitle “interpretation” and inserting a margin note reading “interpretation”.
- (ii) Inserting the word “**county**” immediately before “**ministry**”
- (iii) Defining “**sorghum processor**” to mean person or persons who are engaged in the business of adding value to sorghum.
- (iv) defining “**sorghum grower**” to mean person or persons who are engaged in farming or production of sorghum within Kitui County.
- (v) defining “**Smallholder grower**” to mean any person or persons who engages in farming of sorghum on a land measuring zero to one acre.

LONG TITLE

The Committee recommends that this clause be as printed.

SHORT TITLE AND COMMENCEMENT

THAT the Bill be amended in Clause 1 by-

- (i) deleting the subtitle “**short title and commencement**” and inserting a margin note reading ““**short title and commencement**””.
- (ii) inserting the words “**Kitui County**” immediately before “sorghum”.

**ADOPTION OF THE COMMITTEE REPORT ON SORGHUM BILL, 2014 (BILL.
NO. 5)**

<u>NAME</u>	<u>POSITION</u>	<u>SIGNATURE</u>
i) Hon Titus Munyoki Kasinga	Chairman	_____
ii) Hon Nzuki Wambua	Vice Chairman	_____
iii) Hon Kalovo Musau	Member	_____
iv) Hon Dominic Kilonzo Kauthi	Member	_____
v) Hon Jemimah Mbiti	Member	_____
vi) Hon Rodah Wambua	Member	_____
vii) Hon Antony Kyalo Muthui	Member	_____
viii) Hon Mwove Kinyala	Member	_____
ix) Hon Nzyoni Manguye	Member	_____
x) Hon Allan Kithikii Kavindi	Member	_____
xi) Hon Deiys Maithya Mukala	Member	_____
xii) Hon Jane Mueni Muli	Member	_____
xiii) Hon Bernard Munyasya	Member	_____

BY INVITATION

- i) Hon Jamhuri Mwango _____
- ii) Hon Hussein Mwandia _____
- iii) Hon Grogan Tito Mbivi _____
- iv) Hon Robinson M. Mativo _____
- v) Hon Nzungi Ngwele _____
- vi) Hon Alex Nganga _____