

**THE COUNTY GOVERNMENT OF BUSIA**



**COUNTY ASSEMBLY OF BUSIA**

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**COUNTY ASSEMBLY BILL NO.....OF 2018**

**FEBRUARY, 2018**

**THE BUSIA COUNTY EDUCATION SUPPORT SCHEME (AMENDMENT) BILL,  
2018**

**A BILL FOR**

**AN ACT of Busia County Assembly to amend the Busia County Education Support Scheme Act, 2017 (herein “the Principal Act”).**

**ENACTED by the County Assembly of Busia, as follows —**

Short Title and  
Commencement

1. This Act may be cited as The Busia County Education Support Scheme (Amendment) Act, 2018 and shall come into force on the date of its publication in Kenya gazette or Busia County gazette.

Amendment of  
Section 8 of the  
Principal Act

2. Section 8 of the Principal Act is amended by deleting it and replacing therefor the following new provision;

“8 (1). There is hereby established in every Ward in the County a committee to be known as the Ward Education Support Scheme Committee which shall comprise:-

- a) the respective Ward Administrator;
- b) a person being an employee in the Department of Education designated by the Executive Committee Member who shall be the Secretary to the Committee;
- c) one person appointed by the Executive Committee Member representing each of the following groups:-
  - i. the umbrella religious organization in the ward;
  - ii. the Community Based Organizations in the ward;
  - iii. the Kenya National Union of Teachers; and

iv. the Kenya Union of Post-Primary Teachers.

(2) The members of the Committee shall elect the Chairperson and the Vice-chairperson from amongst themselves.

(3) In appointing members of the Committee under this section, the Executive Committee Member shall ensure that not more than two-thirds of the members are of the same gender and shall take into account the need for representation of the youth and persons living with disability.

(4) A member of the Committee may, except an ex-officio member, serve for a term of three (3) years renewable only once.

Amendment to  
section 17 of the  
Principal Act

3. Section 17 of the Principal Act is amended by deleting its entire provisions and replacing therefor the following new provision;

#### **County Education Revolving Scheme**

"17. (1) There is established a Scheme to be known as the Busia County Education Revolving Scheme.

(2) The Scheme shall consist of;

- (a) sums of money which may be voted by the County Assembly for the purpose of the Scheme;
- (b) sums which represent the repayment of the capital and interest of any loan granted from the Scheme;
- (c) (c) income from any investment made by the Scheme;
- (d) any sums of money borrowed with the approval of the County Assembly for the purposes of the Scheme; and
- (e) any gifts, donations, grants and endowments made to the Scheme.

(3) The Scheme shall be managed by the Busia County Education Support Committee

(4) Notwithstanding the provision of paragraph (3) herein, the County Education Support Scheme

Committee may enter into agreements with the Higher Education Loans Board or a financial institution for the purpose of management of the Scheme.

(5) Applications for loans under the Scheme, the consideration thereof, award of loans and disbursements thereof may be done only in accordance with;

- i. this Act;
- ii. the regulations made under this Act; and
- iii. any agreement entered into under this Act.

(6) The County Education Support Scheme Committee shall ensure any agreement entered into under this section contains such provisions on;

- i. conditions for grant of loans relating to guarantors or other security;
- ii. obligations of loanees and their employer;
- iii. conditions for repayment including repayment installments and penalties for delayed repayment or remittance; and
- iv. variation of any such conditions or obligations upon application by a loatee;

as may be sufficient to ensure security of the loans advanced under this Act.

(7) Regulations made under this Act may make further provisions regarding any agreement that may be entered into under this section.

Amendment of  
Section 21 of the  
Principal Act

4. Section 21 of the Principal Act is amended by deleting it entirely and replacing therefor the following new provision;

**“21.** Members of the Ward Education Support Scheme Committee and the County Education Support Scheme Committee shall be paid such allowances as may be determined by the County Public Service Board on the advice of the Salaries and Remuneration Commission.

## **MEMORANDUM OF REASONS AND OBJECTS**

### **Statement of Objects and Reasons**

The Busia County Education Support Scheme (Amendment) Bill, 2018 seeks to amend the provision of the Busia County Education Support Scheme Act, 2017 to comply with proper financial management principles espoused and codified at Article 201 Of the Constitution of Kenya and in the Public Finance Management Act, 2012 as well as the Public Finance Management (County Governments) Regulations, 2015.

Clause 2 of the Bill proposes to amend section 8 of the Principal Act in order to reduce the number of Committee members to six (6) down from the current ten (10) while at the same time remove the MCA from that membership in compliance with section 9(2) of the County Governments Act, 2012.

Clause 3(5) of the Bill seeks to amend the Principal Act at section 17 thereof such as to ensure the security of loans granted under the Act.

Clause 4 of the Bill seeks to amend section 21 of the Principal Act in order to align it to the provisions of Article 230 of the Constitution and section 59(1)(j) of the County Governments Act, No.17 of 2012.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedom**

The Bill does not limit fundamental rights and freedoms. The Bill delegates power to make regulations to the Executive Member for Education regarding agreements that may be entered into under the Act.

### **Statement that the Bill is not a money Bill, within the meaning of Section 21(4) of the County Governments Act**

This Bill is NOT a money Bill within the meaning of Section 21(4) of the County Governments Act, 2012 and does not, therefore, require the taking into account of the views of the Executive Committee Member for Finance under section 21(3) of the said Act.

Dated 27<sup>th</sup> February, 2018

HON. LINUS ASIBA

CHAIR, CHILDREN, EARLY CHILDHOOD EDUCATION & VOCATIONAL TRAINING  
COMMITTEE

**Section 8 of No. 9 of 2017 which the Bill proposes to amend;**

- “8. (1) There is established in every Ward a Ward Education Bursary Committee.
- (2) The Ward Education Bursary Committee shall consist of;
- (a) the Ward Administrator;
  - (b) the Secretary who shall be an employee of the County in the Department of Education and Vocational Training stationed within the sub county of the respective ward appointed by the Executive Committee Member.
  - (c) five persons, a religious leader, a youth, one person living with disability, one person representing a community based organization from the locality and a village elder.
  - (d) one representative of the Kenya National Union of Teachers
  - (e) one representative of the Kenya Union of Post Primary Teachers
  - (f) area Member of the County Assembly or his representative who shall be an ex-officio member
- (3) Members of the Ward Bursary Committee shall elect two persons amongst them to be the Chairperson and Vice Chairperson;
- (4) In making appointments under this Section, the Executive Committee Member shall take into consideration gender and regional balance within the ward.
- (4) Persons appointed under sub section (2) (b), (d), (e) and (f) shall hold office for a term of three years and shall be eligible for reappointment for one other term.”

**Section 17 of No. 9 of 2017 which the Bill proposes to amend;**

- “17. (1) There is established a County Education Revolving Scheme to be managed by the Busia County Education Support Committee and the Higher Education Loans Board through a service

contract agreement approved by the County Assembly and jointly signed by the County Government of Busia and the Higher Education Loans Board.

(2) All the funds that shall be committed to the County Education Revolving Scheme shall be managed, disbursed and paid back by the beneficiaries as per the signed service contract and the criteria set by the Busia County Education Support Committee and the Higher Education Loans Board.

(3) All applications for the Education Revolving Fund shall be submitted and processed as per the service contract.

(4) The Executive Committee Member shall make rules and regulations for implementation of the Education Revolving Scheme in line with the service agreement between the service provider and the county government.”

**Section 21 of No. 9 of 2017 which the Bill proposes to amend;**

“21. Members of the two committees shall be paid such allowances as may be determined by the Chief Officer in consultation with the County Public Service Board.”