

**THE VIHIGA COUNTY MECHANICAL AND TRANSPORT FUND BILL
2019**

A Bill for

AN ACT of County Assembly of Vihiga to provide for the establishment and administration of the fund to provide funds for administration , planning, development, management, regulation, operation and maintenance of effective, economical, efficient mechanical and transport services in Vihiga County and other connected purposes.

ENACTED by the County Assembly of Vihiga, as follows –

PART 1- PRELIMINARY

1. This Act may be cited as the Vihiga County Mechanical and Transport Fund Act, 2018.

Interpretation

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

“Charges” means all sums received or receivable, charged or chargeable under this fund of subsidiary regulation made hereunder for and service or facilities provided by the Department;

“Chief Officer” means the Accounting Officer of the Department of transport and Infrastructure:

"County Executive Committee Member", means the County Executive Committee Member appointed under Section 35 of the County Government Act, 2012

“Department” means the Transport and Infrastructure Department responsible for matters relating to mechanical transport and plant services;

“Equipment” means workshop tools, equipment and machines used in workshops to service and repair plant and vehicles.

“Financial year” means the period of twelve months starting from 1st July, and ending on the 30th June the following year;

“Fund” means the mechanical and Transport Fund established under Section 3 of the Vihiga County Mechanical and Transport Fund Act, 2018.

“Management committee” means the County Mechanical and Transport Fund management committee as provided for under Section 5 of this Act.

“Machinery” means mechanical equipment in custody of the Fund

“Officer Administering the Fund” means a person designated by CECM Finance pursuant to Section 116(2) of Public Finance Act, 2012 in writing for that purpose

“Plant” means any machine or equipment used in industrial production

“Rates” means all sums, which may, under the provision of the Fund, be levied for, or in respect of any plant or any service rendered by the Department or any technical consultancy performed by any staff of the department or facility provided by the department.

“Regulations” means the Vihiga County Mechanical and Transport Fund Regulations, 2018 and

“Vehicle” means any automobile used for carrying passengers or transport of goods (cars, utility, buses, Lorries etc)

PART II- ESTABLISHMENT OF THE FUND

Objectives and Purposes of the Fund

3. The object and purpose of the fund is to provide additional fund and create a revolving fund for the administration, planning, development, management, regulation, operation and maintenance of the effective, economical and efficient mechanical and transport services in the county
4. (1) There is established a fund to be known as Vihiga County Mechanical and Transport Fund which shall provide for:-
 - (a) Additional funds
 - (b) Create a revolving fund for the administration , planning, development, management, regulation and operation
 - (c) Sustainable funding for equipping and maintenance of County mechanical workshop
 - (d) Maintenance and renewal of vehicles, plant and equipment
 - (e) Technical consultancy, mechanical and transport services
 - (f) Any other services as may be directed by the Fund Management Committee

PART III- Establishment of the Fund Management Committee

5. (1) There is established a committee to be known as Vihiga County Mechanical and Transport Fund Management Committee

- (2) The Fund Management Committee shall comprise of:-
 - a) The chairperson who shall be elected from amongst the management committee members on its first sitting
 - b) The Fund Administrator shall be the Chief Officer Transport and Infrastructure appointed under Section 116(2) of Public Finance Management Act, 2012 and shall be the secretary
 - c) Accountant in the Department of Transport and Infrastructure
 - d) County Director Transport and Infrastructure
 - e) A procurement Officer of Transport and Infrastructure
 - f) Mechanical Superintendent
 - g) Revenue Officer in the Department of Transport and Infrastructure
 - h) County Transport Officer

Functions of the Committee

- (3) The functions of the Fund Management Committee shall be;
 - a) Ensure prudent management of the Fund;
 - b) Review from time to time hire rates for all vehicles, plant and equipment and fees for services rendered by the department;
 - c) Determine the provision for the administration, planning development, management, regulation, operation and maintenance

- of effective, economical and efficient Mechanical and Transport services in Vihiga County;
- d) Receive, consider and approve quarterly reports, statements of accounts and other reports of the Fund from the Fund Administrator;
 - e) Not later than three months after the end of each financial year ensure presentation of the financial statements to the Auditor general and the County Assembly;
 - f) Approve expenditure of any funds of the Fund including funds as disbursed by the County treasury on monthly basis;
 - g) Formulate policies and rules for effective management, operation and maintenance of machines and equipment;
 - h) To guide and advice the officer administering the fund on all matters of the fund including the use and hiring of the machines and equipment of the fund;
 - i) To receive, consider and review any complaints relating to the overall administration of the Fund;
 - j) Advise on the investment of any surplus held in the reserve account of the Fund and;
 - k) Perform and exercise all other functions and powers conferred on the committee by this Act or the County Executive Committee member of transport and infrastructure.

Meetings

- (4) (a) The Chairperson shall preside over all meetings of the committee unless he or she is absent from a particular meeting in which case the members present shall elect one of them to preside at that particular meeting or part thereof.
- (b) The committee shall meet six times every year but the Chairperson may, upon requisition in writing by at least three members convene a special meeting of the committee at anytime.
- (c) All questions at any meeting of the committee shall be determined by simple majority of the vote of the members present and voting.
- (d) The Chairperson shall, in case of equality of votes have a casting vote.
- (e) The Secretary of the committee shall cause minutes and proceedings of the committee meetings to be entered into the minute book for that purpose.

PART IV-ADMINISTRATION OF THE FUND

- 4. (1) The Officer administering the Fund shall be the Accounting Officer of the Department of Transport and Infrastructure or a person appointed in writing for that purpose by the County Executive Committee Member for Finance.

- (2) The Officer administering the Fund shall:-
- a) Be responsible for the day to day management and operations of the fund;
 - b) From the existing fleet as specified in the first schedule select the best to be operated by the fund and dispose of the rest by tender and the proceeds shall be used to acquire plant and vehicles to replace those disposed off in new accordance with Public Procurement and Disposal Act, 2015,
 - c) Create plant, machinery, vehicles and equipment asset register with all relevant information, such as type of plant, vehicle or equipment, serial and engine numbers of plant, machines vehicles, or equipment and components, working condition, year of manufacture and date put into service;
 - d) Draw up and prepare an annual budget for the Fund;
 - e) Institute prudent measures for the proper utilization for monies deposited in the fund using suitable internal controls and appropriate mechanisms for accountability including audit of accounts by internal auditors of the department responsible for matters relating to finance,
 - f) Cause to be kept proper books of accounts and records relating to the fund and all the activities, undertakings financed by the fund
 - g) Prepare, sign and transmit to the Controller of Budget and Auditor General in respect of each financial year and within four months after the end thereof, a statement of account relating to the fund specifying all contributions and the expenditure incurred from the Fund, with such additional information as may be sufficient for the purposes of examination and audit and submit the same to the management committee and the County Executive Committee,
 - h) In collaboration with the directorate of roads, carry out plant supply and demand based on road maintenance programs in the roads sector in the County,
 - i) Review annually, the hire rates for plant and vehicles,
 - j) Hire or lease out plant or vehicle as per the approved Vihiga County Financial Act.

PART V- FINANCIAL PROVISIONS OF THE FUND

5. Capitalization of the Fund

The fund shall consist of:-

- (a) Monies allocated and appropriated to the fund from the county revenue fund, from time to time, by the County Assembly
- (b) Any grants, gifts, donations, loans, or other endowments given to the Fund
- (c) Monies that may accrue to the fund in the course of the exercise or performance of its functions under this Act
- (d) Interest earned and income from investment of the funds of the Fund and,
- (e) Money from any other sources accruing to the Fund

Fund expenditure

- 6 (1) There shall be paid from the fund:-
 - a) Expense for maintenance, repair and replacement of machines and equipment.
 - b) Operation expenses incurred in the administration of the fund in accordance with Regulation 197 (1) (d) of the Public Finance Management Act Regulations 2015, (County Governments) including debts and other liabilities incurred by the fund and,
 - c) Any other specified and defined activity approved by the management committee
- (2) No monies shall be expended for any purpose other than the purposes for which the fund is established except in the provision of finance in respect of a specified and defined activity approved by the management committee

Estimates of income and expenditure

7. (1) At least three months before the commencement of each financial year, the committee shall cause to be prepared estimates of revenue and expenditure of the fund for that year.
- (2) The annual estimates shall make provisions for all the estimates of the expenditure of the fund of the relevant financial year and shall provide for:-
 - a) All monies as are necessary for the functioning and operation of the fund under this Act
 - b) The cost of administration and operations of the committee including payment of allowances
- (3) The financial estimates referred to under subsection 1 and 2 shall:-
 - a) Differentiate between recurrent and capital expenditure
 - b) Itemize every activity that the committee intends to undertake in respect of the fund in the coming financial year
- (4) The annual estimates shall be approved by the management committee before the commencement of the financial to which they relate and shall be submitted to County Executive Committee Member of Transport and Infrastructure for approval by the county executive committee before tabling in the County Assembly for its approval

Bank accounts of the Fund

10. (1) The committee shall open a bank account of the fund and such other accounts in commercial banks as approved by the management committee with the approval of the County Executive Committee Member of finance
- (2) The signatories to the account of the fund opened and maintained in accordance with Sub-section (1), shall be the management committee secretary and two other persons nominated by the management committee and approved by the County Executive Committee Member in charge of matters of finance.

- (3) There shall be maintained books of accounts for the Fund in accordance with Government Financial Regulations.

11. Any surplus realized in any financial year from the operations of the fund shall be retained in the reserve account and any deficiency realized in any financial year shall, subject to prior concurrence of the county treasury to be offset against the realized surplus held in the reserve account of the bank

Personnel emoluments

12. The personal emoluments of the management committee members and staff providing service to the fund shall be determined in accordance with Salaries and Remuneration Commission guidelines

PART VI- DISPUTE RESOLUTION

13 (1) Any applicant aggrieved by the decision of the secretary or committee may appeal to the County Executive Committee Member of Transport and Infrastructure within seven days of receipt of the management committee or secretary's decision, the County Executive Committee Member may after giving the applicant hearing confirm or reverse the decision thereto.

(2) Upon being aggrieved by the decision of county executive committee member of Transport and Infrastructure, the aggrieved party shall within seven days of receipt of the decision of the County Executive Committee Member file an appeal to the County Secretary who after giving the applicant a hearing make a decision forthwith.

(3) An appeal against the decision of the County Secretary or Arbitor shall lie in the High Court of Kenya within thirty days

Winding up of the Fund

14 (1) The winding up of the fund shall be approved by the management committee and shall be submitted to County Executive Committee Member of finance to be approved by the County Executive Committee before submission to County Assembly for approval

2(a) the fund may be dissolved in accordance to regulation 199 (3) of the PFM Act, 2012, Regulations, 2015 (County Governments)

b) Upon winding up of the fund as contemplated in sub section 2(a) above, the decision shall be communicated to the County Executive Committee Member of finance for approval by the County Executive Committee for submission to the County Assembly for approval

3) Upon the winding up of the fund as contemplated in Section 1 and 2, any balances and assets standing into the credit of the fund, shall be credited to the County exchequer

PART VII- ANNUAL REPORTS AND PUBLICATION

13 (1) The management committee shall, within a period of three months after the end of each financial year submit to the county executive committee member of finance, report on the operations of the fund during that year.

(2) The county executive committee member of finance shall within seven days of the receipt of the report, table the same before the county executive committee for approval

(3) The county executive committee member of finance, shall after the approval of the report by the county executive committee, shall cause the report to be published in the Kenya gazette and publicized

(4) the county executive member of finance shall lay the reports before the county assembly, including the balance sheet and statements of the accounts, within a period of 14 days of the receipt of the reports and statements, or, if the county assembly is not sitting, within fourteen (14) days of the commencement of its next sitting.

PART VIII- MISCELLANEOUS PROVISIONS

Personal liability

14. No act, matter or thing done or omitted to be done by any member of the management committee, any member of staff or such other person in the service of the committee, or any person acting under the direction of the committee, shall if that act, matter or thing as done or omitted to be done in good faith in the execution of a duty or direction, render that member or person personally liable to any civil liability

Regulations

15. The County Executive Committee Member of Transport and Infrastructure shall make regulations for the proper and efficient administration of this Act.

MEMORANDUM OF OBJECTS AND REASON

The County Government of Vihiga pursuant to schedule (iv) of the Constitution of Kenya is conferred with the responsibility of construction and rehabilitation of County roads and public roads transport.

The principal object of the bill is to provide for additional funds and create a revolving fund for administration, planning, development, management, regulation, operation and maintenance of effective mechanical and transport services in the County.

The bill is not a money bill within the meaning of Article 114 of the Constitution of Kenya, 2010

Dated theday of.....2018

HON.EVANS CHUNGULI
Chairperson Transport and Infrastructure
Committee