

**THE VIHIGA COUNTY FIRE AND RESCUE SERVICES BILL,
2019**

A bill for

AN ACT of the County Assembly of Vihiga to provide for provision for a legal and institutional framework for fire disaster management system and for connected purposes.

ENACTED by Vihiga County Assembly as follows

PART I - PRELIMINARY

Short title 1.This Act may be cited as the Vihiga Fire and Rescue Services Bill, 2019 .

Interpretation 2.In this Bill, unless the context otherwise requires

“**Committee**” means the Fire and Rescue Committee;

“**emergency**” means an event or situation that causes or is likely to cause—

(a) one or more individuals to die, be seriously injured or become seriously ill; or

(b) serious harm to the environment and includes the life and health of plants and animals;

“**executive member**” means the County Executive Committee Member responsible for matters relating to fire and rescue services in the county; and

“**Equipment**” means a vehicle, or any other apparatus, intended to be used by the Authority in the performance of its functions.

“**Fire and Rescue Services**” includes the prevention,

fighting and investigation of fires.

Object of the Bill

3. The object of this Bill is to establish a legal and institutional framework for the fire disaster management system that includes collaboration among the different players in the sector.

Guiding Principles

4. In the performance of its functions or the exercise of the powers conferred under this Bill, the Committee shall—

- a. adopt an inclusive multi-disciplinary and multi-sectoral approach in firefighting;
- b. factor climate variations into fire and rescue services;
- c. disseminate information on fire safety;
- d. establish and encourage volunteer community fire fighters initiatives; and
- e. be guided by the—
 - i. national values and principles of governance set out by Article 10 of the Constitution; and
 - ii. Values and principles of public service set out by Article 232 of the Constitution.

PART II- ESTABLISHMENT ,COMPOSITION OF THE FIRE AND RESCUE COMMITTEE, ADMINSTRATION AND FUNCTIONS OF DIRECTORATE

Establishment of the fire and rescue committee

5.1) There is established the Fire and Rescue Services Committee in the County.

2. The Committee consists of—

- (a) a person appointed in writing by the Governor who shall be the chairperson;
 - (b) a representative nominated in writing by the chairperson of an association representing the interests of persons working in fire and rescue services in the public sector
 - (c) a person nominated in writing by the Secretary General of the Kenya Red Cross Society;
 - (d) a representative of the private sector nominated in writing by the chairperson of an association representing the interests of persons working in the fire and rescue service in the private sector; and
 - (e) the director of the Fire and Rescue Services Committee in the County or a person nominated in writing by the director.
- (2) The director appointed in section 7 shall be the Secretary of the Committee.

Functions of the committee

6. The functions of the Committee are to—

- a. promote fire safety in its area, and in doing so, make arrangements to provide information and publicity in respect of the steps to be taken to prevent—
 - (i) a fire;
 - (ii) death by fire;

- (iii) floods;
 - (iv) injury by fire; or
 - (v) collapse of a building.
- b. advice on how to prevent fires and restrict their spread in buildings and other property;
 - c. secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements;
 - d. secure the provision of training for personnel;
 - e. extinguish fires when they arise;
 - f. protect life and property in the event of a fire in its area;
 - g. identify and facilitate a means of escape from buildings and other property in case of fire;
 - h. in the event of a road traffic accident, protect people from harm to the extent it considers it reasonable to do so;
 - i. rescue victims in the event of road traffic accidents in its area;
 - j. provide rescue to any person or animal endangered as a result of a road traffic accident or any other accident, including one which does not involve the existence of a fire;
 - k. perform humanitarian services, including the protection of life and property, in the event of a disaster; and

1. do such other thing necessary for the discharge of its functions under this or as may be provided for by any law.

(2) The committee shall also make arrangements to—

(a) deal with calls for help and for summoning personnel;

(b) obtain information needed for the discharge of functions; and

ensure that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the discharge of functions

Other services

6.3(1) The committee may provide the services of any persons employed by it or any equipment maintained by it to any person for any purpose that appears to the committee to be appropriate.

(2) The committee may also provide services under this Act within its area as well as out of the area of the committee.

Power to respond to other eventualities

6.4 (1) The committee may take any action it considers appropriate—

(a) in response to an event or situation of a kind mentioned in subsection (2);

(b) for the purpose of enabling action to be taken in response to such an event or situation.

(2) The event or situation is one that causes or is likely to cause—

- (a) one or more persons to die, be injured or become ill; or
 - (b) harm to the environment, including the life and health of plants and animals.
- (3) The power conferred by subsection (1) includes power to secure the provision of equipment. Powers of a fire-fighter in an emergency.

Establishment of
directorate

7.1. There is established the Fire and Rescue Services Directorate in the county which shall be a department in the County Public Service

2. The directorate shall

a. be the secretariat of the Committee

b. be under the direct management and supervision of the Committee

c. The Committee shall, in consultation with the County Public Service Board determine such number of staff as may be required for the proper execution of the functions of the directorate.

Administration of
directorate

8.1. The directorate shall be headed by a chief fire officer

2. The director shall be appointed by the County Public Service Board through a competitive and transparent process

3. A person shall be appointed as a chief fire officer if that person;

- a. is a Kenyan citizen
 - b. is a holder of at least a first university degree in a course relevant to matters of disaster and emergency management.
 - c. satisfies the requirements of chapter six of the constitution and
 - d. has the knowledge ,experience and distinguished career of not less than five years in the relevant field
4. The chief fire officer shall be the overall head of the directorate and shall be responsible for-
- (a) day to day running and operation of the directorate;
 - (b) administration, organization and control of staff of the directorate;
 - (c) management of funds, property and affairs of the directorate;
 - d. Fire and Rescue Services
 - (e) implementation of policies and programmes of the directorate and reporting thereon to the Committee;
 - (f) development of operational plans for achieving the objectives of the directorate; and
 - (g) performance of any other function necessary for the implementation of this Act, as may be determined by the

Committee.

Functions of the
directorate

9.(1) The functions of the directorate are to—

- (a) advise the County Government on matters relating to fire and rescue services ;
- (b) formulate the County fire and Rescue Services policy;
- (c) promote education, training and capacity building on Fire and Rescue Services in the County including in schools;
- (d) advise the County Government regarding all financial matters in relation to fire and rescue services;
- (e) promote an integrated and co-ordinated approach to fire and rescue services in the County, with special emphasis on prevention, mitigation and risk reduction by other role-players involved in fire and rescue services in the county;
- (f) collaborate with the national government and relevant agencies on matters relating to fire and rescue services;
- (g) act as a repository of, and conduit for, information concerning—
 - (i) fire;
 - (ii) impending disasters; and
 - (iii) rescue services in the county;

(h) act as an advisory and consultative body on issues concerning fire and rescue services in the County to—

(i) state organs;

(ii) the private sector and non-governmental organizations;

(iii) communities and individuals;

(i) initiate and facilitate efforts to make funding of fire and rescue services in the county available; and

(j) give advice and guidance by disseminating information regarding fire and rescue services in the county.

PART III- RIGHTS OF ENTRY IN EMERGENCIES AND OTHER FIRE INVESTIGATIONS

Powers of a fighter
in an emergency

10(1) An employee of the directorate, whom the Committee authorizes in writing, for the purposes of this section, may do anything they believe to be necessary to prevent or limit damage to property—

m. if the employee is informed or reasonably believes a fire to have broken out or to be about to break out, for the purpose of extinguishing or preventing the fire or protecting life or property;

n. if the employee reasonably believes a road traffic accident to have occurred, for the

purpose of rescuing people or protecting them from serious harm; or

- o. if the employee reasonably believes an emergency of another kind to have occurred, for the purpose of discharging any function conferred on the fire and rescue authority in relation to the emergency.

(2) In particular, an employee who is authorized as mentioned in subsection (1) may—

- (a) enter a premise or a place, by force if necessary, without the consent of the owner or occupier of the premises or place;
- (b) move or break into a vehicle without the consent of its owner;
- (c) close a road;
- (d) stop and regulate traffic; or
- (e) Restrict the access of persons to premises or a place.

(3) An employee exercising a function under this section shall properly identify themselves to the occupant or owner or any other relevant person at the scene by the production of their badge, tag or other identification device provided by the directorate.

(4) A person commits an offence, if without reasonable excuse, the person obstructs or interferes with an

employee taking action authorized under this section.

(5) Upon conviction of an offence under subsection (4), a person is liable to a fine not exceeding five hundred thousand shillings; or to imprisonment of not more than six months or to both.

General power to deal with other forms of emergencies

11(1) The Executive Committee Member may, by notice in the county Gazette, confer on the Committee functions relating to emergencies, other than fires and road traffic accidents in relation to which the Committee has functions.

(2) A notice under this section may require functions conferred on the Committee under this section to be discharged outside the Committee area.

(3) A notice under this section may make provision as to what the Committee shall or may do for the purpose of a function conferred under this section, and may in particular require or authorize the Committee—

- (a) to secure the provision of personnel, services and equipment;
- (b) to secure the provision of training for personnel;
- (c) to make arrangements for dealing with calls for help and for summoning personnel;
- (d) to make arrangements for obtaining information needed for the purpose of discharging the function;

- (e) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from discharging the function;
 - (f) to carry out investigations on the causes of fires;
 - (g) to preserve the scene of a fire incident; and
 - (h) to perform such other functions as may be necessary to discharge its duties under this Bill or as may be provided by any other law.
- (4) A notice under this section may confer a function, including a function of providing particular equipment, on the Committee.
- (5) Before making a notice under this section, the executive committee member shall consult any persons considered appropriate.

PART IV- COLLABORATION WITH OTHER AGENCIES

Collaboration
strategies

- 12.(1) The Committee may enter into an arrangement with—
- (a) an entity of the national government;
 - (b) a Fire and Rescue Services Authority or Committee in another county; or
 - (c) any other person for the discharge to any extent by that other Fire and Rescue Authority or person of a function conferred on the Committee under any of sections 22 and 23.

(2) Despite subsection (1), the Committee may enter into an arrangement with a person under subsection (1) in relation to its function of extinguishing fires only if the person employs fire-fighters.

(3) An arrangement under this section may include provision as to the terms on which a function is to be discharged and this may include provision on payment.

(4) The Committee shall formulate contingent plans and operational procedures for handling a fire related emergency

Directions as to
arrangements

13(1) The Executive Committee Member may direct the committee to—

- (a) enter into arrangements under section 12 in the terms specified in the direction;
- (b) make one or more specified variations to any such arrangements; or
- (c) cancel any such arrangements.

(2) The Executive Committee Member may give a direction under subsection (1) through their own initiative or at the request of an Executive Committee Member responsible for matters relating to fire and rescue services from another county.

Charging of fees

14(1) The Executive Committee Member may, by regulation, authorize the committee to charge a person of a specified description for any action of a specified description taken by

the Committee.

(2) An order under subsection (1) may authorize charging for extinguishing fires, or protecting life and property in the event of fires but shall not authorize charging for emergency medical assistance.

(3) The power in subsection (1) includes power to authorize a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the Committee.

(4) If the Committee is authorized by an order under subsection (1) to charge for taking action of a particular description and the Committee decides to do so—

- a. the amount of the charge is to be set by the Committee;
- b. the committee may charge different amounts in different circumstances; or
- c. the Committee may not charge anything.

(5) In setting the amount of a charge, the committee shall ensure that, taking one financial year with another, the income of the committee from charges does not exceed the cost to the committee of taking the action for which the charges are imposed.

(6) Before making an order under this section, the Executive Committee Member shall consult any persons the Executive

Committee Member considers appropriate.

PART V-- FIRE SAFETY AND PREVENTION

Equipment
,facilities, service
and organization

15.1) The Executive Committee Member may provide and maintain, or contribute to the provision and maintenance of, any equipment, facilities and services the Executive Committee member considers appropriate for promoting the efficiency and effectiveness of the Committee.

(2) The Executive Committee Member may establish and maintain, or contribute to the establishment and maintenance of, any entity that the executive committee member considers appropriate for promoting the efficiency and effectiveness of the Committee.

Directions for public
safety purposes

16.(1) The Executive Committee Member may, if it is considered necessary for public safety purposes, by notice in the county Gazette, give general or specific directions to the committee about the use or disposal of property or facilities.

(2) The notice given under subsection (1) may include provision on the—

(a) use or disposal by the committee of property or facilities belonging to or under its control;

(b) use by the committee of property or facilities belonging to or under the control of a person who has made, or is willing, to avail the property or facilities;

(c) Payments to be made by the committee to another Fire and Rescue Services Authority or Committee or to any other person, in respect of the use of property or facilities.

(3) The references in subsection (2) to property or facilities belonging to a person include land occupied by the person.

(4) Before issuing a notice under this section, the executive committee member shall ensure that the public is involved in arriving at a decision

17. (1) The Executive Committee Member may, if it is considered necessary for public safety purposes, by notice in the county Gazette, give general or specific directions to the Committee about the use or disposal of property or facilities.

(2) The notice given under subsection (1) may include provision on the—

(a) use or disposal by the Committee of property or facilities belonging to or under its control;

(b) use by the Committee of property or facilities belonging to or under the control of a person who has made, or is willing, to avail the property or facilities;

(c) Payments to be made by the Committee to another Fire and Rescue Services Authority or to any other person, in respect of the use of property

or facilities.

(3) The references in subsection (2) to property or facilities belonging to a person include land occupied by the person.

(4) Before issuing a notice under this section, the executive committee member shall ensure that the public is involved in arriving at a decision.

Decorations ,medals
and certificate

18.1) The Governor may, on advice by the Executive Committee Member, award decorations or medals for services rendered in relation to fire and rescue services.

(2) The Executive Committee Member may, subject to such requirements as the Executive Committee Member may consider appropriate, to any member of the Committee—

(a) in respect of their service; or

(b) to any other person in respect of exceptional service rendered under this Bill.

PART V – WATER SUPPLY AND FIREFIGHTERS

Duties to secure
water supply

19.(1) The Committee, through the Executive Committee Member, shall take all reasonable measures for securing that an adequate supply of water is available for the Committee use in the event of a fire.

(2) The Committee may use any suitable supply of water for the purposes of extinguishing a fire or protecting life or property in the event of a fire.

(3) Despite subsection (2), the Committee shall pay reasonable compensation for the water.

Supply other persons 20. For the purposes of section 35 (1), the Committee may enter into an agreement with any person—

- (a) to secure the use of water under the control of a person;
- (b) improve access to any such water; or
- (c) to lay and maintain pipes and to carry out other works in connection with the use of such water.

Fire hydrants 21.(1) A water undertaker shall cause the function of every fire hydrant provided by it to be clearly indicated by a notice or a distinguished mark.

(2) A water undertaker may place such a notice or mark on a wall or a fence adjoining a highway or public place.

(3) A person commits an offence if they use a fire hydrant otherwise than for —

- a. the purpose of firefighting;
 - b. any purpose authorized by any person to whom the fire hydrant belongs.
 - c. for any purpose approved by the Committee;
- or

(4) A person commits an offence if they damage or

obstruct a fire hydrant otherwise than in consequence of use for the purpose mentioned in subsection (6).

(5) A person who proposes to carry out works for the purpose of supplying water to any part of the area of the Committee shall give notice of at least six weeks, in writing, to the Committee.

(6) A person who proposes to carry out works affecting a fire hydrant shall give at least seven days' notice in writing to the fire and rescue service authority in whose area the hydrant is situated.

(7) A person commits an offence if without reasonable excuse they fail to give notice in writing as required under this section.

(8) A person convicted of an offence under subsection (7) is liable to a fine not exceeding five thousand shillings.

(9) For the purposes of this section, a water undertaker means a company appointed under the Water Act to provide water to a defined geographical area which includes fire hydrants.

PART VI – FINANCIAL PROVISIONS

Funds

22. The funds of the Committee consist of—

- (a) monies allocated by the County Assembly for the purposes of the committee;

- (b) such monies or assets as may accrue to the committee in the course of the exercise of its powers or in the performance of its functions under this Bill; and
- (c) all monies from any other source provided, donated or lent to the committee.

Financial year 24. The financial year of the Committee is the period of twelve months ending on the thirtieth of June in each year.

Annual estimates 25.(1) Before the commencement of each financial year, the Committee shall cause to be prepared estimates of the revenue and expenditure of the committee for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the committee for the financial year concerned and, in particular, shall provide for the—

- (a) payment of the salaries, allowances and other charges in respect of the staff of the Committee;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Committee;
- (c) maintenance of the buildings and grounds of the Committee;
- (d) funding of training, research and development of activities of the Committee;
- (e) creation of such funds to meet future or

contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment; and

(f) such other matters as the Committee may consider fit.

(3) The annual estimates shall be approved by the committee before the commencement of the financial year to which they relate and shall be submitted to the executive committee member for transmission to and tabling in the County Assembly.

(4) Expenditure of the Committee shall not be incurred except in accordance with the annual estimates approved under subsection (3).

Accounts and Audit 26.1) The chief fire officer shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the committee.

(2) The annual accounts of the Committee shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Bank accounts 27.The committee shall open and maintain such bank accounts as is necessary for the performance of its functions

PART VII- MISCLLEANOUS PROVISIONS

Regulations 28(1) The Board shall, in consultation with the executive

member, make regulations generally for the better carrying out of the provisions of this Bill.

2. Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the uniforms, and identification of members of the Committee;
- (b) the safety requirements to be complied with on premises in order to reduce the risk of a fire or other danger, or to facilitate the evacuation of the premises in the event of such danger;
- (c) the storage, transportation or handling of explosives, fireworks, petroleum or any other flammable or combustible substance, gas or any other dangerous substance;
- (d) the specifications and standards with which the equipment and material of the Committee shall comply; and
- (e) the control over and registration of the members of the Committee;
- (f) training and development of the staff of the Committee;
- (g) standards of fire hydrants;
- (h) the services that may be charged by the Committee and the amount to be charged

for those services;

(i) any matter which may or is prescribed under this Bill; and

(j) any matter which the Executive Committee Member considers necessary or expedient so as to achieve the objects of this Bill.

Protection from personal liability

29. No act done by any member of the Committee, or employee of the Committee shall, if the act was done in good faith for the purpose of carrying out the provision of this Bill, subject the person to any liability, action, claim or demand.

offences

30(1) A person who knowingly gives or causes to be given a false alarm of fire to a person acting on behalf of the Committee commits an offence.

(2) Upon conviction of an offence under subsection (1), a person is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(3) Despite subsection (1), a person commits an offence for knowingly failing to respond to a fire drill.

General offences

31. A person who commits an offence under this Bill for which no penalty is prescribed is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding six months, or to both.

MEMORANDUM OF OBJECTS AND REASONS

The bill provides for establish a legal and institutional framework for the fire disaster management system that

includes collaboration among the different players in the sector.

The bill is divided into seven parts

PART I of the bill provides for the preliminary matters including the short title, the interpretation of words and expression, objects of the bill and the guiding principles of the bill

PART II of the bill provides for the establishment of Fire and Services Committee, its function and powers ,a directorate to the Fire and Services Committee , its administration and functions

PART III contains provisions for the right of entry in emergencies and other fire stations

PART IV provides for collaboration by the committee with other agencies

PART V contains provisions on the water supply and fire fighters

PART VI provides for the financial provisions

PART VII contains miscellaneous provisions that include offences and general offences , protection from personal liabilities and provision to make regulation

Dated.....

Hon Collins Ayugu
Chairperson Transport and Infrastructure

Committee