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***KENYA GAZETTE SUPPLEMENT***

**VIHIGA COUNTY BILLS, 2024**

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# THE VIHIGA COUNTY WATER AND SANITATION SERVICES BILL, 2024

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## **THE VIHIGA COUNTY WATER AND SANITATION SERVICES BILL, 2024**

A Bill for AN ACT of the County Assembly of Vihiga to give effect to Article 43(1) (d) and Part 2 of the Fourth Schedule of the Constitution, 2010 and provide for the legal and institutional framework for provision of water and sanitation services in the County and for connected purposes

ENACTED by the County Assembly of Vihiga, as follows –

### **PART I – PRELIMINARY**

#### **Short title.**

1. This Act may be cited as the Vihiga County Water and Sanitation Services Act, 2024.

#### **Interpretation.**

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

“Authorized officer” means an authorized officer appointed under section 51;

“Authority” means the Water Resources Authority established under section 11 of Water Act, 2016;

“Board” means the Board of Directors established under section 6;

“County Government” means a County Government as provided for under Chapter 11 of the Constitution of Kenya;

“County Entity” means an entity of the County Government established in accordance with Section 5 of the Public Finance Management Act, 2012;

"County Executive Committee Member" means the County Executive Committee Member in charge of Water and Sanitation.

"CECM" means County Executive Committee Member

"Community Water Service" means water services provided by a community association on a self-help basis;

“County Water Sanitation and Sewerage Services Strategy” means the Integrated County Water Sanitation and Sewerage Services Strategy formulated by the County Executive Committee Member section 7 of this Act.

"County Water Services Provider" means a water services provider established by the County Government as a County Government entity for the provision of water services within the County;

“Chief Officer” means the chief responsible for water and sanitation services;

“County Director of Water and Sanitation” means the head of technical water and sanitation services in the County

“Department” means the Department of water and sanitation services as established by the County Executive Committee;

“Executive Member” means the County Executive Member for the time being responsible for Water Services;

"Effluent" means water that has been used and is not yet treated;

“Easement” means the right to occupy so much of the land of another as may be necessary for or incidental to the construction or maintenance of works authorised, or the exercise of rights conferred by a permit;

“Fund” means the County Water Trust Fund established in section 72 of this Act;

"Gazette" means the Kenya Gazette published by the Government Printer;

"Governor" means the County Governor of in terms of Article 179(4) of the Constitution of Kenya, 2010;

"Ground Water" means the water of underground streams, channels, artesian basins, reservoirs, lakes and other bodies of water in the ground, and includes water in interstices below the water table;

"Illegal connection" means a water system connected to a water network that has not been duly authorized and/or connected by County Water Service Provider or its authorized agent;

"Land holder", in relation to land, means the registered owner of the land or the person in whom the land is otherwise vested by law, and includes: —

(a) any person who by any established right, custom or estate is entitled to be the holder or possessor of land;

(b) any person lawfully holding or occupying land in accordance with the provisions of any law empowering the allotment of land upon the promise of title, subject to the fulfilment by the allottee of prescribed conditions; and

(c) any person to whom a mining lease or mining location has been granted under the Mining Act, 2016;

"Licence" means a licence in force under this Act;

"Licensee" means a water service provider licensed by the Regulatory Board under this Act;

"Limits of supply" in relation to a water services provider means the limits within which a County Water Service Provider is for the time being authorized to supply water;

"LVNWWDA" means Lake Victoria North Water Works Development Agency

"Non- viable area" means the inability of Water and Sanitation Services business, product, or service to compete effectively and make profit and therefore requires more government support

"Peri-urban water services" means services provided in peri-urban areas as shall be defined by the Regulatory Board from time to time;

"Permit" means a permit for the time being in force under this Act;

"Person" includes a company, association or other body of persons whether incorporated or unincorporated;

"Pollution", in relation to a water resource, means any direct or indirect alteration of the physical, thermal, chemical or biological properties of the water resource so as to make it: —

(a) Less fit for any beneficial purpose for which it is or is reasonably be expected to be used; or

(b) Harmful or potentially harmful to—

(i) The welfare, health or safety of human beings;

(ii) Any aquatic or non-aquatic life or property; or

(iii) The environment;

"Public officer" means a person serving as a public officer in the County Government of Vihiga or any of its agencies;

"Raw water" includes rainwater, ground water, water from infiltration wells, and water from bodies like lakes and rivers which have not undergone any form of physical, chemical or biological treatment

"Regulatory Board" means the Water Services Regulatory Board established under section 70 of Water Act 2016;

"Riparian land" is defined as a minimum meter or equal to the full width of water course up to a maximum or thirty meters on either side of the bank;

"Rural" means an area that may be designated by the County Government as rural under the Urban Areas and Cities Act, 2019;

"Rural Water Service Provider", means service providers in rural areas as shall be defined by the Regulatory Board;

"Salaries and Remuneration Commission" means the Salaries and Remuneration Commission established under Article 230 of the Constitution;

"Sanitation" means treatment and or final disposal of wastewater on site through latrines, septic tanks, conservancy tanks, soak-away pits, exhauster services and similar systems but does not include sewerage services;

"Sewerage services" means the development and management of infrastructure for transport, storage, "Sewerage services" means the provision of a piped network for the transport and or movement of wastewater for treatment and or final disposal offsite;

"Urban Areas" has the same meaning as assigned to it under urban areas and cities Act 2011;

"Vandalism" means will-full or malicious destruction of infrastructure of a facility of a water, sanitation and sewerage;

"VIWASCO" means Vihiga Water and Sanitation company

"Water Services Regulatory Board" means the

"WASREB" means Water Services Regulatory Board; or otherwise called the regulator or regulatory board

"Water catchment" means an area of land that water can drain across, over, or under to a common point on a stream, river, lake or wetland;

"Water course" means any natural channel or depression in which water flows regularly or intermittently;

"Water Service Provider" means Water and Sanitation Services Company established under section 4;

"Water Sector Stakeholders Forum" means the Water Sector Stakeholders Forum established under section 77;

"Water works" means any construction, excavation, piping, drainage of any land, supply or transportation of water, water abstraction works, management of storm water and floods or storage, impounding of water for supply to the public or for private purposes, drainage of any swamp or other land.

"Water services provider" means a company, public benefits organization or other person providing water services under and in accordance with a licence issued by the Regulatory Board for the service areas defined by the licence and established under section 4 of this Act.;

"Water resource" means 'any lake, 'pond, swamp, marsh, stream, water course, estuary, aquifer, artesian basin or other body of knowing or standing water, whether above or below ground;

"Works" means any structure, apparatus, contrivance, device or thing for storing, recharging, treating, carrying, conducting, providing or utilizing water or liquid waste, but does not include hand utensils or such other contrivances as may be prescribed by Regulations made under this Act.

"WRA" means Water Resource Authority;

"WRUA" means Water Resources User Association which is a community-based organization for collaborative management of water resources and resolution of conflict concerning use of water resources.

### **Purpose of the Act.**

**3. (1)** This Act shall apply to the provision of water and sanitation services in the County of Vihiga.



- (2) The purpose of this Act is to provide for a legal framework for implementation of Article 43 (1) (b) and (d) and section 10 (a) and 11 of part 2 of the Fourth Schedule to the Constitution
- (3) Institutional framework for Water and Sanitation Services in Vihiga County in order to: –
- (a) Provide for the regulation, development, and management of County Water and Sanitation public works;
  - (b) ensure access to sustainable, clean, potable, affordable, equitable and adequate water for domestic consumption and for industrial, agricultural and other purposes;
  - (b) provide for improved, appropriate and sustainable waste water management services including effective and efficient management of storm water in built-up areas;
  - (c) improve public and environmental health through sustainable, effective and efficient sanitation;
  - (d) improve and ensure high water quality for human consumption;
  - (e) empower communities and develop the capacity of communities for effective water and sanitation service delivery;
  - (f) facilitate effective water and sewerage and/or sanitation dispute resolution mechanisms; and
- (4) The rights conferred and duties imposed by this Act are in addition to those conferred and imposed by any other law.

### **Guiding Principles and Values**

4. (1) The County Executive Committee Member and any person administering or applying this Act shall be guided by the principles and values of the Constitution set out herein: -
- (a) National values and principles of governance in Article 10 of the Constitution
  - (b) The right of every person to clean and safe water in adequate quantities in Article 43(1)(d) of the Constitution; and
  - (c) The values and principles of public service in Article 232 of the Constitution.

## **PART II –ADMINISTRATION OF WATER AND SANITATION SERVICES**

### **Ownership and administration of water resources**

5. (1) Every water resource is vested in and held by the National Government in trust for the people of Kenya.
- (2) The County Government of Vihiga shall be responsible for water and sanitation services and storm water management systems as stipulated at part 2, section 11 (a) and (b) of the Fourth Schedule of the Constitution.

### **Assets under the directorate of Water and Sanitation**

6. (1) The County Government is the owner of all assets used for discharging the function of provision of water and sanitation services
- (2) The water and sanitation asset include:
- (a) the land where water and sanitation infrastructure are developed or established
  - (b) Plant and equipment which includes:
    - (i) Water and sanitation treatment plants and premises
    - (ii) Water bowsers
    - (iii)Exhausters
    - (iv) Drilling rigs
    - (v) Pipe networks and fittings
    - (vi) Any other assets listed in the directorate asset register
- (2). The County Executive Committee Member in charge of water services may-
- (a) Hire out county plant and equipment at prescribed rates for the development of community and household level water infrastructure in line with finance Act
  - (b) Ensure proper maintenance of the Water Department plant and equipment.
  - (c) Publicize the availability of the County plant and equipment through the multimedia platforms.

## **Powers and Duties of County Executive Committee Member**

7. (1) Subject to the provisions of this Act, the County Executive Committee Member shall exercise control and oversight over the development and provision of water, sanitation and sewerage services within the County.

(2). Without prejudice to the generality of the foregoing, the County Executive Committee Member shall have responsibility to-

- (a) Formulate and periodically review county policies, strategies and plans for the development and provision of water and sanitation services;
- (b) Formulate and review periodically strategies and plans for implementation of water resource standards and catchment protection in Vihiga County;
- (c) On behalf of the County Government put in place and maintain measures and arrangements to implement and give effect to the Constitution and National Law on the provision of water, sanitation and sewerage services;
- (d) Coordinate and oversee the development and provision of water, sanitation and sewerage services within the County in accordance with the County Water Master Plan, long term Strategic Plan aligned to the County Integrated Development plan (CIDP) and the County Investment Plan aligned to the County Annual Development Plan;
- (e) Mobilize financial and other resources for the provision of water, sanitation and sewerage services; and
- (f) Prepare report for the County Assembly annually, and from time to time as may be necessary on the state of water, sanitation and sewerage services in the County.

(3) In the performance of these functions and duties under this Act the County Executive Committee Member shall-

- (a) Consult and coordinate with departments, agencies and entities of the National and other County Government whose functions affect the development and provision of water and sewerage services in the County; and
- (b) Consult with relevant stakeholders including non-governmental organizations, the private sector and consumer groups.

(4). In the discharge of duties and functions under this Act, the County Executive Committee Member shall be responsible for coordination of the Department of Water and Sewerage Services.

## **County Water, Sanitation and Sewerage Services Strategy**

8. (1) The County Executive Committee Member shall, within one year (1) of commencement of this Act, following public participation, formulate and or adopt a County water, sanitation and sewerage services strategy.

(2) The County Water, Sanitation and Sewerage Services Strategy shall provide: -

- (a) Information on areas within the County in which access to basic water, sanitation and sewerage services is inadequate;
- (b) Plans and measures for the development and continuous improvement of water, sanitation and sewerage services within the County;
- (c) An investment program and timeframe for the development, expansion and improvement of water, sanitation and sewerage services in the County;
- (d) Improvement of access to basic water services within the rural areas and underserved urban areas;
- (e) Measures to facilitate the provision of water and sewerage services by County Water Service Providers, Community Water Service Providers and private sector and;
- (f) Criteria and procedures for the provision by the County Government of financial, technical and other assistance to County Water Service Providers and Community Water Service Providers and private sectors.

- (3) The County Water Services Strategy shall be published in the Gazette.
- (4) The County Water Services Strategy shall be reviewed periodically and, in any case, not later than every three years.
- (5) Every County public officer shall give effect to the gazetted County Water, Sanitation and Sewerage Services Strategy in the discharge of duties under this Act.
- (6) Every water service provider and any other relevant stakeholders shall take account of the County water and sanitation services strategy in their plans and programs.

### **The Directorate of Water and Sanitation**

9. (1) There shall be a Directorate of Water and Sanitation within the county public service.
  - (2) The Directorate shall be headed by a Chief Officer and assisted by the Director Water and Sanitation

### **Duties of the County Chief officer**

10. (1). The Chief Officer of the directorate designated under section 148 of the Public Finance Management Act 2012 shall undertake the responsibilities and duties of the accounting officer set out in section 147 of that Act, the County Governments Act and any other existing law. He/ she shall discharge her functions including and not limited to-

- (a) Coordinate the functions of the directorate of water and sanitation
- (b) an accounting officer of the department
- (c) Approve expenditure of resources in the department
- (d) Allocate and authorize resources use in the department
- (e) Develop strategies and plans for the department in line with the County Government Act
- (f) In charge of the staff planning, recruitment, and management
- (g) Approve procurement plans and processes

### **Duties of the Director Water and Sanitation**

11. (1) The Director water and sanitation shall be the technical head of the Directorate, and who shall be competitively recruited and vetted by the County Public Service Board, in accordance with its guidelines and regulations.

- (2) A person shall be qualified. for appointment as a Director under Section (10)(1) if the person—
  - (a) holds at least a Bachelor’s Degree in Civil Engineering, Water Engineering or any other relevant field from a recognized university;
  - (b) is registered by Engineers Registration Board of Kenya as an Engineer;
  - (c) has a current valid annual Practicing License from the Engineers Registration Board of Kenya;
  - (d) is a member to the Institution of Engineers of Kenya (IEK); and
  - (e) has knowledge and experience of at least five years in any relevant field;
  - (f) meets the requirements of Chapter Six of the Constitution; and
  - (g) has had a distinguished career in the field
- (3) The County Public Service Board may in consultation with the County Executive Committee Member determine the units and staff establishment required by the Directorate to effectively perform its functions under this Act.
- (4) The duties and functions of the Directorate shall be to—
  - (a) provide technical support and advice to the County Executive Committee member in the discharge of [his][her] functions;
  - (b) implement and give effect to the county water, sewerage and sanitation services strategy;
  - (c) subject to national legislation, implement a system and requirements for registration of water, sewerage and sanitation services providers operating within the county;
  - (d) subject to national legislation, formulate rules, standards and guidelines for water, sewerage and sanitation services within the county;

- (e) in consultation with the Regulatory Board, enforce rules, guidelines and standards for the provision of water, sewerage and sanitation services within the county;
- (f) gather, collate and analyse information and disseminate data on water, sewerage and sanitation services in the county;
- (g) maintain an inventory of the assets, facilities and other infrastructure of the county government for the provision of water, sewerage and sanitation services;
- (h) provide technical and other support to water, sewerage and sanitation service providers;
- (i) On the basis of a collaborative framework established between the county government and the Regulatory Board, receive and address complaints regarding the provision of water services within the County

#### **Other staff of the directorate of water and sanitation**

**12.** (1) The County Executive Committee Member shall, within one year (1) of commencement of this Act, shall adopt an approved staff establishment for the directorate of water and sanitation including the other staff necessary for the directorate to function.

### **PART III -ESTABLISHMENT AND OPERATION OF WATER SERVICES PROVIDERS**

#### **Establishment of County Water Services Provider(s)**

**13.** (1) The Water Services Providers established under this Act shall be as follows;

- (a) The Vihiga Water and Sanitation Company which shall be a public limited company as set out in section 11 of the Act and shall be responsible for water and sanitation in urban, peri-urban and such areas as mapped by WASREB;
- (b) Community water service providers that shall have jurisdiction over other areas including rural areas as set out in section 25 of the Act

(2) Within one (1) year of the commencement of this Act, the County Executive Committee member shall facilitate a mapping exercise and capacity assessment of water services within the county of Vihiga in order to formulate a water services strategy including the strategies for operation and management of urban and rural water services within the county.

(3) On the basis of the strategy the County Executive Committee member may, with the approval of the County Executive Committee and following a resolution of the County Assembly, through incorporation of limited liability companies, establish one or more additional water services providers to provide water and sewerage services in areas not adequately served by an existing county water services provider or where supplementary measures are deemed appropriate.

(4) The County Executive Committee member for Finance and Economic Planning following a resolution of the county assembly, *gazette* a county water services provider as a county entity county entity under section 5 of the Public Finance Management Act, 2012.

#### **Functions of the County Water Services Providers**

**14.** (1) As per the Water Act, 2016 provisions, the Vihiga Water and Sanitation Company and the other Water Services Providers established under this Act:

- (a) Shall be responsible for the economic and efficient provision of water and sewerage services, and for development and management of the related infrastructure and facilities, within their water supply areas.
- (b) Shall have the exclusive right to provide water services within their area of supply.
- (c) Shall obtain and maintain a license issued by the Regulatory Board under the Water Act, 2016.
- (d) With the approval of the County Executive Committee Member, may enter into a memorandum of understanding (MOU) or contract out the whole or aspects of their functions to a private water services provider, a community water services provider or another County entity which has the requisite capacity to provide water services.

#### **Duties of a County Water Service Provider (s)**

**15.** (1) A water services provider shall, as a licensee, have a duty to provide efficient and economical water services.

(2) For the purpose of the provision of water services, a water services provider, may-

- (a) Purchase, lease or otherwise acquire premises, plant, equipment and facilities;
- (b) Purchase, lease or otherwise acquire land, or request for its compulsory acquisition through consultation with the County Government.

(3) As part of its duty a water services provider shall establish a mechanism for handling consumer complaints, which meets the standard set by the Regulatory Board.

#### **Establishment of the Vihiga Water and Sanitation Company**

**16.** (1) There shall be established the Vihiga Water and Sanitation Company (VIWASCO) which shall be a public company limited by shares with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) Suing and being sued;
- (b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable property;
- (c) Borrowing money with consultation from the relevant CECM and approval from the CECM in charge of financial services;
- (d) Entering into contracts and agreements
- (e) Doing or performing all other matters or acts necessary for the proper discharge of its functions under this Act which may lawfully be done or performed by a body corporate.

#### **Duties of the Vihiga Water and Sanitation Company (VIWASCO)**

**17.** (1) VIWASCO shall progressively ensure that:

- (a) Every person has access to safe and clean water for domestic use within their mandated area,
- (b) there is accessible water for agricultural, livestock and industrial use,
- (c) equitable distribution of water between consumers in urban and rural areas

(2) VIWASCO may enter into service agreements performance agreements with any entity in carrying out its functions on behalf of the County Government

#### **The Governance of Vihiga Water and Sanitation company**

**18.** (1) The County Government of Vihiga shall appoint a Board of Directors as provided in section 14 of this Act to govern the Vihiga County Water and Sanitation company (VIWASCO)

#### **Establishment of the Board of Directors**

**19.** (1) There shall be established a Board of Directors which Shall be responsible for governance of the VIWASCO

(2) Management of VIWASCO shall be vested in the Board of Directors who shall adhere to the governance standards set by WASREB while performing their functions.

(3) The Board of Directors shall carry out its function on such terms and conditions as shall be set by the Vihiga County Public Service Board in consultation with the management of the Water Services regulatory Board.

(4) The rules and procedures of the County Government on the appointment, composition and qualifications of members of the Board of Directors of a County water services provider shall be in conformity with the standards and guidelines prescribed by the Water Service Regulatory Board (WASREB).

#### **Composition of the Board of Directors**

**20.** (1) The board of directors of VIWASCO shall be constituted as follows;

- (a) the County Executive Committee member in charge of, water and sanitation or his designated representative not below the rank of a director from his department;
- (b) the County Executive Committee member responsible for finance or his designated representative not below the rank of a director in the County public service;
- (c) the CEO Lake Victoria North Water Works Development Agency or his representative
- (d) Independent Directors from each Sub County who shall be selected through a competitive process
- (e) The Managing Director of VIWASCO shall be an ex-official member and the secretary of the Board and shall have no right to vote at any meeting of the Board.

(2) The members shall appoint their Chairperson from the members under section 14(1) (d) annually on a rotational basis

(3) The chairperson and members of' the Board, except the County Executive Committee members, shall serve for a term of three years renewable once provided that the one-third retirement rule shall be observed.

(4) The term of the members under section 14 (1) (d) shall not be affected by the expiry of the term of office of the County Government.

(5) The CECM shall determine the terms of service on the basis of SRC guidelines

(6) the members appointed under section 14(1) (d) shall apply to be members of the Board through the office of the County secretary thereafter shall be vetted and appointed by the committee constituted by the County Secretary consisting of the following persons:

- (i) the representative of the legal fraternity issues;
- (ii) secretary of the County Public Service Board who shall be the secretary;
- (iii) the county attorney
- (iv) a representative of agency;

### **Qualifications of the members of the Board**

**21.** members of the Board shall have the following qualifications

- (a) possess a degree from a recognized university;
- (b) have experience in management of public/private entities for a period of not less than seven (7) years;
- (c) meet the requirements of chapter six of the constitution of Kenya, 2010; and
- (d) must be a resident of the County

### **Grounds and procedure for removal of Board of Directors**

**22.** (1) A member of the Board of Directors may-

- (a) at any time resign from office by issuing notice in writing to the managing director
- (b) be removed from office for-
  - (i) serious violation of the Constitution or any other written law;
  - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise
  - (iii) physical or mental incapacity to perform the functions of the office
  - (iv) incompetence; or
  - (v) bankruptcy

### **The Managing Director of VIWASCO**

**23.** (1) VIWASCO shall have a managing director who shall be the Chief Executive Officer of the Company and shall be competitively recruited by the Board.

(2). The Managing Director shall hold office for a period of five years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment for a further and final term of five years.

(3) The Managing Director shall, in accordance with this Act, and under the general direction of the Board, be responsible for the daily management and performance of the functions and duties of the VIWASCO

### **Qualifications of the Managing Director**

**24.** (1) To be eligible for appointment as a Managing Director, a person must -

- (a) possess a degree in the relevant field from a recognized university;
- (b) have experience in management of public/private entities for a period of not less than five (5) years;
- (c) meet the requirements of chapter six of the constitution of Kenya, 2010;
- (d) must be a resident of the county.

### **Duties of the Managing Director**

**25.** (1) The Chief Executive Officer / Managing Director shall, in accordance with this Act, and under the general direction of the Board, be responsible for the daily management and performance of the functions and duties of the VIWASCO;

(2) The Managing Director shall be responsible for the day-to-day management and direction of the affairs and transactions of the Board of Directors;

(3) The Managing Director shall be the secretary of the Board of directors;

(4). The Managing Director shall hold office for a period of five years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment for a further and final term of five years;

### **Grounds and procedure for removal of Managing Director**

**26.** (1) A Managing Director may-

- (a) at any time resign from office by issuing a one month notice in writing to the Board of Directors;
- (b) be removed from office for-
  - (i) serious violation of the Constitution or any other written law;
  - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
  - (iii) physical or mental incapacity to perform the functions of office;
  - (iv) incompetence; or
  - (v) bankruptcy.

## **PART IV- PROVISION OF WATER SERVICES BY VIWASCO**

### **Carrying out of public works on private property**

**27.** (1) VIWASCO may for the purpose of carrying out Its functions, erect or develop water works and public works on a public or private property;

(2) Notwithstanding the provisions of subsection (3), VIWASCO shall seek consent of the owner of private land or the relevant government agency occupying or in whose custody the public land falls where it seeks to erect any water works" or public works and shall provide the prescribed compensation;

(3) VIWASCO shall in collaboration with the department of roads identify and establish specific areas on any road where public works under this Bill may be earned out;

(4) VIWASCO shall seek easements from the owner or occupier of any land for construction of water works or public works to be undertaken on such land;

## **County Scheme to provide water services**

**28.** (1) VIWASCO may with the approval of the County Executive Committee Member initiate a county scheme to Provide services under this Bill for public benefit

(2) Where VIWASCO deems necessary to erect or establish such a scheme or related public works on private property or land, the County Government may purchase the property or accordance with the laws governing compulsory acquisition seek such compulsory acquisition

(3) A County scheme shall take precedence over any private or community scheme

## **Levying of water tariff**

**29.** (1) VIWASCO shall levy tariffs and any Water tariffs appropriate user charges for the purposes of supplying efficient water services;

(2) The tariffs and user charges levied under this section shall be established in accordance with the principles set out under the County Governments Bill, 2012 and any other written law;

(3) The tariffs and user charges collected under this Section shall be administered as follows—

(1) 99% of revenue collected to VIWASCO

(ii) 1% of the revenue collected to the County water trust fund for providing efficient and quality water services under this Bill

(4) The tariffs and user charges imposed or levied under this section shall comply with WASREB

## **PART V- COMMUNITY AND RURAL WATER GOVERNANCE**

### **Establishment of the Vihiga County Community Water Board**

**30.** (1) There shall be established the Vihiga County Community Water Board which shall be responsible for governance of other water service providers.

### **Constitution of the Board**

**31.** (1) The established Board shall consist of the following members-

(a) the Chairperson who shall be elected among the board members in their first sitting;

(b) the Chief Officer in charge of, water and sanitation or his designated representative not below the rank of a director in the County public service;

(c) the Chief Officer responsible for finance or his designated representative not below the rank of a director in the County public service;

(d) Five (5) Sub County Stakeholder representatives elected from Rural Water Supply Schemes with a minimum qualification of a diploma in accordance with the guidelines issued by the CECM;

(2) In appointing the members referred to in subsection 1(d) the County Executive Committee Member shall ensure one third gender rule is observed, People with disability, youth and other special interest groups are represented when constituting the Board.

### **Terms of Office**

**32.** (1) The chairperson and members of the Board shall be appointed for a term of three years.

(2) The County Executive Committee Member shall determine the terms of service on the basis of SRC guidelines

(3) The Board members shall be eligible for re-appointment only once.

(4) qualifications of the Chairperson shall be as follows-

(a) possess a degree from a recognized university;

(b) have experience in management of public/private entities for a period of not less than seven (7) years;



- (c) meet the requirements of chapter six of the constitution of Kenya, 2010; and
- (d) must be a resident of the County.

### **Functions and Powers of the Board**

- 33.** (1) The Board shall have the powers and functions necessary for the performance of its functions under this Act, and in particular, the Board shall have powers to-
- (a) Oversee the running and management of community water services providers;
  - (b) Evaluate, monitor and report to County Executive Committee Member on matters relating to water services provision;
  - (c) Harness community water services providers within the County towards a harmonized goal of water service provision; and
  - (d) any other functions that may be assigned to them by the County Executive Committee Member

### **Registration and regulation of Community Water service providers**

- 34.** (1) All Rural Community Water Projects/water service providers shall be registered with the Vihiga County Community Water Board.
- (2) Community Water projects shall prepare budgets for water conservation activities rehabilitation, construction and extension within their jurisdiction each financial year and submit to the Board.
  - (3) The Executive Committee Member shall provide funding for the conservation activities, rehabilitation, construction and extension from funds allocated to the department by the County Government.
  - (4) The Community Water Projects shall be subject to Audit annually supervised by the Board.
  - (5) Application for registration shall be done annually as prescribed in the third schedule and upon production of relevant documents e.g. certificate of registration as community-based organizations
  - (6) Certificate of registration shall be issued by the board as prescribed in the third schedule
  - (7) Registration fees shall be determined by the Board after consulting with the County Executive Committee Member

### **Reporting by a Water Service Provider**

- 35.** (1) A water service providers shall, through the Board of Directors established under sections 13 and 30 prepare and submit to the County Executive Committee Member–
- (a) quarterly reports of its operations; and
  - (b) annual status report which shall cover among others-
    - (i) the financial statements and status;
    - (ii) the number of persons supplied with water connections during the year;
    - (iii) challenges faced in carrying out its functions;
    - (iv) strategies and measures adopted to facilitate access to water and sanitation services in the area assigned; and
    - (v) any other matter as may be required by the County Executive Committee Member
  - (2) The County Executive Member shall, within fourteen days upon receipt of a report prepared under sub clause (1), submit the report to the County Executive Committee for consideration and adoption;
  - (3) The County Executive Committee shall, within twenty-one days upon receipt of a report prepared under sub clause (1), consider it and may make any necessary recommendations or take any appropriate measure;
  - (4) The Executive Member shall, within fourteen days upon the consideration of the report by the County Executive Committee, transmit it to the County Assembly;

### **Clustering of Areas of water services provider**

- 36.** (1) The County government of Vihiga may, in consultation with the Regulatory Board and the County Assembly or and any other County Government-
- (i) Permit the joint provision by two or more licensees of water services on such terms as it may approve; or

- (ii) Permit the transfer of a water service, or part thereof, of one licensee to another licensee.
- (2) A licensee aggrieved by the provisions of the order may appeal to the national water tribunal.

### **Issuance of permits and licenses**

- 37.** (1) A person intending to carry out or maintain any water works shall apply for a permit to the County Executive Committee Member for recommendation by the Community Board;
- (2) A person who prior to the commencement of this Bill was carrying out water works, managing or maintaining any waterworks shall within thirty days apply for a permit;
  - (3) A person who contravenes this Section commits an offence and is liable to a fine not exceeding Two hundred thousand or imprisonment for a term not exceeding three years or both;

### **Procedure for Application of a permit**

- 38.** (1) An application for a permit shall, where applicable, be accompanied by an environmental impact assessment report in accordance with the Environmental Management and Coordination Act, 1999 and certification from WARMA and shall specify among others—
- (a) the purpose and nature of works to be undertaken,
  - (b) the duration within which the works are expected to be completed
- (2) A person may lodge an objection to an application for a permit
- (3) Every objection to an application shall be made in writing to the Executive Member setting out grounds for such objection
- (4) The County Executive Committee Member shall upon receiving the application send a notice of the objection received to the applicant for a permit
- (5) The County Executive Committee Member may where appropriate conduct public hearings on the objection
- (6) An objector or an applicant for a permit may appear personally or by an advocate at the hearing of an objection proceeding
- (7) The County Executive Committee Member shall consider the application within thirty days of such an application and may where he is satisfied that the applicant has fulfilled all the requirements of this Bill or any other written law grant a permit in the prescribed form subject to any such conditions as may be prescribed and upon the applicant paying the prescribed fees
- (8) The County Executive Committee Member may decline to grant a permit to an applicant citing the reasons for such decline
- (9) An applicant to whom the application is returned under subsection (8) may resubmit the application within sixty days
- (10) On receipt of any revised application under subsection (9), the County Executive Member shall within Thirty days determine the application in accordance with this Bill and upon such determination, if satisfied, issue a permit
- (11) Notwithstanding the above provisions, the County Executive Committee Member shall present the appropriate conditions related to equipment and technology, design, construction, operation and maintenance of water works;
- (12) The registration of permits shall be accessible to members of the public upon payment of the prescribed fees

### **Conditions of carrying out Construction Works**

- 39.** (1) A person who carries out any construction works under this Bill on any public property shall ensure that —
- (a) there is no interference with the normal usage of any part of property or land,
  - (b) necessary measures are taken to prevent members of the public from being exposed to any danger or harm as a result of such works,
  - (c) any parcel of land or property where the works were taking place are restored to their original form

### **Collection of data on the water services providers**

**40.** (1) The County Executive Committee Member shall, in consultation with the Community Board audit and assess the number of persons providing water services in the County whether the persons are authorized or not

(2) The data, and information collected under this Section shall be used on policy directive on management of water services in the County

#### **Performance Agreement**

**41.** (1) A County Water Service Provider shall enter into a performance agreement with the County Government for purposes of exercise and performance of all its powers and functions under the license issued to the County Water Service Provider

(2) The performance agreement shall specify the targets to be achieved under the license issued to the County Water Service Provider.

(3) The performance agreement may also make provisions with respect to the indemnity by the Vihiga County Water and Sanitation service providers of any liability to the County Government arising from performance or non-performance of functions conferred by the water service provision license.

#### **Easements and access rights**

**42.** (1) The acquisition of easements for purposes of water services infrastructure shall follow the procedures set out in this Act, section 39 and the third schedule of the Water Act 2016 and any other relevant law;

(2) The Executive Committee Member shall ensure that if a water services provider acquires easements, access rights and or property rights over land on or over which its facilities and infrastructure is constructed shall ensure that it has obtained and registered the property or access rights in its name and it has in its custody the relevant title documents;

(3) The water services provider shall take steps to obtain and maintain in its records "as built" drawings of its facilities and infrastructure, reference maps and plans and other relevant documents which show the location and layout of the water infrastructure;

(4) The County Executive Committee Member shall prescribe rules for protecting access rights to point water sources enjoyed by community members on traditional or another non-statutory basis;

#### **Raw water abstraction permits and access rights**

**43.** (1) The County water services provider(s) shall regularly assess the availability of sources of water for abstraction as necessary to sustain supply of adequate quantities and quality of water to its consumers;

(2) A water services provider shall apply for and secure an abstraction permit from the relevant national Regulatory authority and the County Government, access rights, easements and source development agreements as may be necessary to enable it obtain such raw water as it requires for the performance of its functions;

(3) Where the water services provider does not have access to adequate sources of raw water for supply to consumers within its area of supply it shall, with the support of the County Executive Committee Member, make arrangements for the purchase of water in bulk;

#### **Special provision with respect to non-viable commercial areas**

**44.** (1) It shall be the responsibility of the County Government to put in place measures for the provision of water services to rural areas which are non-viable for the provision of water services on a commercial basis.

(2) The measures taken by the County Government shall include developing point sources, small scale piped systems and stand pipes which meet the standard set by the national water Regulatory Board and which may be managed by the community associations, non-governmental organizations or by a private person under a contract with the County government.

#### **Agreements to protect sources of water**

**45.** (1) A County Water Service Provider may enter into an agreement with any person with respect to the execution and maintenance, by any party to the agreement, of such works as the licensee considers necessary or as the conditions of his or her license may require for the purpose of protecting the catchment areas, drainage of land, carrying out soil conservation measures or the control of vegetation or more effectively collecting, conveying or preserving the purity and quantity of water which the County Water Service Provider is for the time being authorized to take.

(2) An agreement under this section may be registered against any land of the person with whom it is made, and shall be binding upon and enforceable against such land or such person or his successor in time.

#### **Power of County Water Service Provider to restrict use of water**

**46.** (1) A County Water Service Provider who is of the opinion that there is a serious deficiency of water available for distribution or that such a deficiency is threatened may, with the consultation of the County Executive Committee Member, for such period as he thinks necessary prohibit or restrict as respects the whole or any part of its limits of supply, - the use for any specified purpose of water supplied by him.

(2) Before any such prohibition or restriction comes into force, public notice shall be given by the County Water Service Provider in the local media.

(3) Rules and Regulations made under this Act may provide that any person who while such prohibition or restriction is in force contravenes its provisions shall be guilty of an offence and liable on conviction to a penalty prescribed in the fifth schedule.

#### **Water works construction and protection**

**47.** (1) A County Water Service Provider may, on any land belonging to it or in which it has acquired any necessary easement or protection right, construct and maintain drains, sewers and other works for intercepting, treating or disposing - of any foul water arising or flowing upon such land or otherwise for preventing water belonging to the licensee, or which it is for time being authorized to take, from being polluted: Provided that before constructing any works the County Water Service Provider, if the proposed works ,viii affect or be likely to affect any water resource, it shall obtain the consent with Water Resources Authority.

(2) Any County Water Service Provider proposing to construct any such drain, sewer or other works may, with the consent of the state organ concerned and subject to such conditions as the state organ may impose, carry, the drain, sewer or other work under, across or along any road or road reserve or public place, whether within or outside the area of water service of the County Water Service Provider.

(3) A consent required under subsection (1.2) shall not be unreasonably withheld, nor shall any unreasonable condition be attached to such consent, and any question arising from the operation of this subsection shall be decided by consultation between the state organs concerned.

### **PART VI—CONDUCT OF EMPLOYEES OF A WATER SERVICES PROVIDER AND RELATED OFFENCES**

#### **Offences by employees**

**48.** (1) Employees of a county water services provider shall have immunity from liability and prosecution for any losses arising from action taken in good faith in execution of lawful duties in line with Cap. 63, Cap. 65, and Cap. 183.

(2) Notwithstanding (1) above, any actions of employees of a county water services provider involving solicitation and receiving of bribes and corrupt practices shall be punishable, as appropriate, under Public Officer Ethics Act, Penal Code, or the Anti-Corruption and Economic Crimes Act or their replacement or amendment.

(3) It is an offence for a employee of a county water services provider to wilfully fail to—

- (a) read a metre when it is his/her duty to do so;
  - (b) disconnect water services to a customer who has defaulted in making payment contrary to rules set by the water services provider; and
  - (c) notify the water services provider of an illegal or unauthorized access and utilization of the water and or sewerage services.
  - (d) Forcefully gain entry without proper identification.
- (4) It is an offence for an employee of a county water services provider to collude with other persons to allow or assist such persons illegally to access and use water services contrary to rules set by the water services provider.
- (5) Upon conviction for an offence under this section the person shall be liable to a sentence of not less than three months imprisonment or a fine not exceeding Thirty Thousand Shillings, or both such fine and imprisonment.
- (6) For purposes of this section, an employee of a county water services includes a person engaged on casual terms of service, as well as a contractor when performing duties falling within the scope of this section.

## **PART VII -DEVELOPMENT AND MANAGEMENT OF WATERWORKS IN THE COUNTY**

### **Development and Maintenance of County Water Works**

**49.** (1) The County government shall develop waterworks for water service provision in the County which shall include-

- (a) implementation of development and investment plans for waterworks proposed in the County Development Plans and policy documents;
- (b) designing, documentation, post contracting and project management of County water works;
- (c) providing technical assistance to community-initiated projects, Non- governmental organizations, National Government agencies and any other persons;
- (d) rehabilitation and maintenance of County owned and operated water, works;
- (e) construction of waterworks for domestic, industrial and agricultural purposes;
- (f) any other waterworks development undertaken by the County.

(2) in developing water works under this section the county government shall adhere to the Water Resources Management Rules, 2007 and other regulations governing development of water works

(3) Where an entity not owned by the County Government develops waterworks, the County Executive Committee Member shall oversee such development.

(4) The County Executive Member may hand over completed County water works for water use to the County Water Service Provider or the Vihiga Rural Water Board for management.

(5) In case of damage or destruction from a natural calamity, the County Executive Committee Member shall, with the consultation of the County Assembly, devise modalities of compensation to affected persons and observe a reasonable time frame.

### **Water Works Priority Schedules**

**50.** (1) The CECM shall develop a water works priority schedule for water works development in the County based on County development plans and policies.

(2) The waterworks priority schedule under subsection (1) shall be updated every financial year.

(3) The waterworks priority schedule developed under subsection (I) shall guide the activities of all other agencies undertaking waterworks development in the County.

### **Compulsory Acquisition of Land**

**51.** (1) The County Government may compulsorily acquire land within its jurisdiction to develop water works for public purposes.

(2) The County Government shall abide by the provisions of the Land Act, 2012 in undertaking compulsory acquisition under this section.

(3) Where a person donates land for construction of County water works, the County government shall ensure that requisite transfer documents are processed before the works commence.

#### **Easement for Water Works**

**52.** (1) The holder of a license under this part which authorizes the construction of water works that would, when constructed, be situated upon lands not held by the license holder shall acquire an easement on, over or through the land on which the, works would be situated and, unless the works have previously been lawfully constructed, shall not construct or use the works unless and until he has acquired such an easement.

(2) The County Executive Committee Member shall ensure that easements held under subsection (1) adhere to the requirements of the Land Act, 2012.

#### **Road crossings.**

**53.** (1) A permit holder constructing any authorised works—

(a) shall, during the construction, keep open for safe and convenient travel all public roads and rights of way publicly used as such, when they are crossed or interfered with by the works; and

(b) shall, before water is admitted to the works, construct to the satisfaction of the county government or, at the option of the county government, refund to it the costs of construction by it —

(i) a substantial bridge with proper and sufficient approaches thereto over the works; and

(ii) such railings, fences, guard posts, culverts, face-walls and other structures and appurtenances as the county government, with the approval of the company or community board, may declare to be necessary in the public interest.

(2) All respective bridges, approaches and appurtenances shall be maintained by the permit holder, or alternatively, at the option of the county government, by the county government at the expense of the constructor.

(3) The county government may at any time at its own cost, renew or alter any such bridge or any structure or works in connection therewith.

#### **Completion certificate and inspections.**

**54.** (1) Upon the expiration of the time limited by a permit for construction of works authorised by the permit, or where the construction is completed before the expiration of that time, the permit holder shall submit a completion certificate in the prescribed form.

(2) On submission of the certificate in sub-paragraph

(1), an officer appointed for the purpose by the company or community board, may make an inspection of the works to ascertain that—

(a) the works have been completed in accordance with the permit;

(b) the easements, if any, for the works have been obtained;

(c) agreements, if any are necessary, have been entered into for the supply of water for utilization on lands which are not the property of the permit holder or for the drainage of lands; and

(d) the works as constructed are of the required capacity.

(3) If construction is not completed within the time limited by the permit, a progress report shall be submitted in lieu of a completion report, and the permit holder may apply for an extension of time.

(4) An extension of time under subparagraph (3) may be refused or may be sanctioned upon such terms as the company or community board may specify.

#### **Forfeiture of rights if works not completed within time allowed.**

**55.** (1) Upon the expiration of the time set out in the permit or any extension of that time for the construction of works authorised by the permit, the rights granted to the permit holder under the permit shall cease, and any works constructed, erected, fixed or acquired at the date of such determination may be taken over and operated, or disposed of, in such manner as the Company or Community Board may specify.

#### **Works to be kept in repair**

**56.** (1) Every permit holder shall maintain and retain his or her works in a good, proper and workman like manner to the satisfaction of the Company or Community Board.

(2) Pursuant to subparagraph (1), every permit holder shall ensure that—

- (a) the works at all times are of sufficient strength and capacity for the fulfilment of the purposes for which they were constructed; and
- (b) no damage occurs to any road, property or work in their vicinity.

#### **Construction of boreholes within supply area**

**57.** (1) subject to this section a person shall not drill a borehole in the county without a certificate of no objection issued by the company and a certificate of authorization issued by the Water Resource Authority in accordance with this Act and Water Act, 2016

(2) In considering an application for a “no-objection” the county water services provider shall take account of its ability to provide the water services in respect to which the application for the borehole has been made and, if it reasonably believes that it can provide the required water services within a period not exceeding one year, it shall decline the request for a “no-objection.”

(3) Where the county water services provider wishes to take water from the borehole for supply to its customers it shall enter into a contract with the owner of the borehole for the purchase of water from the owner of the borehole.

(4) Any dispute between the owner of the borehole and the county water services provider over the use of the borehole by the county water services provider for the provision of water to the county water service provider’s customers shall be submitted to the Water Tribunal for determination.

#### **Regulation of water vendors**

**58.** (1) The County Executive Committee member shall, within twelve (12) months of this law coming into effect, make regulations on water vending business.

(2) Without prejudice to the generality of subsection (1) such regulations may make provision with respect to—

- (a) the operations and licensing of water kiosks, communal water points and stand pipes;
- (b) sources of water and tariffs chargeable such tariffs as provided by WASREB for water sold and purchased at water vending kiosks;
- (c) optimal location of kiosks; and

### **PART VIII - WATER RESOURCE PROTECTION, CONSERVATION AND HARNESSING**

#### **Rain Water Harvesting and Storage**

**59.** (1) The County Executive Committee Member shall develop and implement a Rain Water Harvesting and Storage Strategy for the County.

(2) The County Government shall develop guidelines for roof catchment and water storage systems at households, public Institutions and business premises within the County as it shall be prescribed in the strategy from time to time.

(3) The County Executive Committee Member shall make Regulations on the requirements for rainwater harvesting and storage systems in rural and urban areas.

(4) Without prejudice to this section it shall be lawful for the residents to set up roof harvesting systems

### **Conservation of Catchment Areas**

**60.** (1) The County Executive Committee Member shall in accordance with the designated water catchment areas by the relevant agencies conserve wholly or partly an area from which rainwater flows into a watercourse.

### **Water Resources Management Strategies**

**61.** (1) Upon the designation of catchment area, the Department shall formulate e a County water resources management strategy, which shall be in consistent with the National Water Resources Management Rules, in accordance to this Act and the Water Act, 2016-

(a) put in place measures to fulfil the water resource quality objectives for each class of water resource in the catchment area;

(b) describe the measures to be put in place for the sustainable management of water resources of the catchment area;

(c) Provide a Strategy for financing the water resources sub catchment management Plans.

(2) The County Executive Committee Member may enforce such conditions and requirements regulating or prohibiting certain activities in relation to the water conservation area.

### **Water Resource Users Associations**

**62.** (1) The County Executive Committee Member shall collaborate with the Water Resource Authority and contract Water Resource Users Associations as agents to perform some functions in catchment protection and water resource management.

### **Conservation of underground, soil and surface water**

**63.** (1) The County Executive Committee Member shall, in collaboration with other entities, develop and implement policies and strategies for underground, soil water and surface water conservation.

### **Management of Wetlands**

**64.** (1) The County Executive Committee Member shall develop and gazette wetland management guidelines in consultation with other stakeholders for sustainable management of wetlands.

(2) Community water springs and their source will be delineated, protected and conserved as a public and water sensitive resource. Planting of water consuming trees and invasive species shall be prohibited.

### **Sub Catchment Management Plans**

**65.** (1) Each Sub Catchment, represented by the Water Resources Users Associations shall in consultation with the Water Resource Authority formulate and review a Sub Catchment Management plan which shall -

- (i) provide systems, facilities and incentives to enable users of water resource within the catchment;
- (ii) participate in managing the water resources of the catchment area;
- (iii) each sub catchment water resources management plan in force for the time being shall be published in the Gazette; and
- (iv) mobilize resources for implementation of the plans.

### **Monitoring Implementation of Sub Catchment Management Plan**

**66.** (1) The County Executive Committee Member shall collaborate with the Water Resources Authority, and the Water Resource Users Association to monitor the implementation of sub Catchment management plan.



## **Demarcation and Pegging of Riparian Land**

**67.** (1) The County Executive Committee Member shall in consultation with Water Resource Authority and other stakeholders enforce the guidelines for demarcation and pegging of riparian lands.

## **Prohibited activities on riparian land**

**68.** (1) A person shall not carry out any of the following activities on riparian land-

- (a) Tillage or cultivation; clearing of indigenous trees or vegetation;
- (b) Building of permanent structures; disposal of any form of waste within the riparian land;
- (c) Excavation of soil or development of quarries; planting of exotic tree species that may have adverse effect to the water resource or any other activity that in the opinion of the Water Resource Authority or the County Government and any other relevant stakeholder may degrade the water resource; and
- (d) The minimum distance for planting of exotic trees should be capped at a minimum of 30m from the river banks of the water body or otherwise stipulated in the Environmental Management and Coordination Act [EMCA] 1999 Part VI Section 58(1)

## **Storm Water Management and Land Use Practices.**

**69.** (1) The County Executive Committee Member shall in collaboration with relevant agencies, stakeholders and residents promote sound water and land use practices.

## **Provision of Stormwater Infrastructure**

**70.** (1) The County Executive Committee Member may-

- (a) Construct, expand, alter, maintain or lay any drains, pipes or other structures related to the storm water systems or under immovable property;
- (b) Drain storm water or discharge water from any County public works into any natural water course in accordance with the law.
- (c) Do any other thing necessary to give effect to this Act; and
- (d) Ownership of any drains, pipes or structures related to storm water shall be vested in the County.

## **PART IX -SANITATION SERVICES**

### **Waste water effluent management**

**71.** (1) Water service providers shall provide the necessary sanitation systems and framework for sewerage services in their area of jurisdiction.

(2) It shall be the duty of a County Water Service Provider receiving effluent into its sewerage system to ensure that it has measures in place for the receipt and handling of the effluent without causing pollution of the environment, harm to human health, damage to the sewerage system, a contravention of applicable laws or contravention of standards set by the regulator

(3) No person shall discharge any effluent from any premises into the sewers of a County Water Service Provider without the consent of the County Water Service Provider.

(4) An application shall be writing and as prescribed in sixth schedule for consent shall be made to the County Water Service Provider and shall state-

- (a) the nature or composition of the effluent;
- (b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
- (c) the highest rate at which it is proposed to discharge' the effluent; and
- (d) any other information required by the licensee as prescribed in the sixth schedule

The form may be amended from time to time in consultation with the CECM

(5) The County Water Service Provider's consent may be given subject to conditions, including conditions requiring pre-treatment and payments to the licensee of charges for the discharge.

(6) A person who contravenes the provisions of this section shall be guilty of an offence as prescribed in the fifth schedule.

### **Decentralized Wastewater Sanitation Management**

**72.** (1) The County Executive Committee member shall as soon as reasonably practicable following coming into effect of this Act, make regulations governing the sustainable management of decentralized wastewater systems (Septic Tank Sludge and Onsite Sanitation), including the licensing of exhauster service providers, and disposal of sludge after collection from septic tanks by exhauster service providers.

(2) Operation and management of onsite sanitation is the responsibility of the owner of the premises.

(3) the County Government shall implement progressive measures to provide space for public Decentralized Treatment Facility (DTF) for effluent disposal where sewerage facilities are not available

### **Septic Tank Sludge Management**

**73.** (1) The County Executive Committee member, in consultation with the County Executive Committee member in charge of public health shall, as soon as reasonably practicable, following coming into effect of the Act, make regulations governing the sustainable management of septic tank sludge, including the licensing of exhauster service providers, and disposal of sludge after collection from septic tanks by exhauster service providers.

(2) Regulations made under this section may require one or more county water service providers to establish and maintain facilities for the disposal of septic tank sludge and waste water from exhausters operating within the area of supply of the county water services provider.

### **Water pollution control**

**74.** (1) A person shall not throw or convey, or cause or license to be thrown or conveyed, any rubbish, dirt, refuse, effluent, trade waste or other offensive or unwholesome matter or thing into or near to any water resource in such a manner as to cause, or likely to cause, pollution of the water resource.

(2) A person who contravenes subsection (1) above, commits an offence under this Act and upon conviction shall be liable to a fine not less than three hundred thousand shillings or a sentence not exceeding 3 years imprisonment or both.

## **PART X - PUBLIC PRIVATE PARTNERSHIPS**

### **Public Private Partnerships Policy**

**75.** (1) The County Executive Committee Member shall develop a public private partnership policy for the County water sector.

(2) The public private partnership policy may provide for the following-

- (a) projects identified for public private partnerships;
- (b) citizen participation and community involvement in public private partnerships;
- (c) engagement of the youth and women;
- (d) reporting on public private partnerships in the county; and
- (e) any other issue that is relevant to such public private partnership.

### **Public Private Partnerships for Water and Sanitation Services**

**76.** (1) Subject to provisions of the Public Private partnerships Act 2013 and requisite approval of the Regulatory Board-

(2) The County Water Service Providers may enter into a public private partnership agreement for the exercise and performance of any of its functions in consultation with the County Executive Committee Member.

(3) The County Water Service Providers shall serve as the contracting authority when instituting a public private partnership under this section.

(4) In establishing a public private partnership under this section, the CEO /Managing Director of the WSP (s) shall be part of the contract node; subject to the approval of the WSP (s) Board of Directors.

### **Public Private Partnerships for Water and sanitation Works**

**77.** (1) Subject to provisions of the Public Private partnerships Act, 2013-

(a) The County Executive Committee Member may enter into a public private partnership agreement with any person for the development and maintenance of water works in the County;

(b) The County Executive Committee Member shall serve as the contracting authority when instituting a public private partnership; and

(c) In establishing a public private partnership under this section, the Chief Officer shall be part of the contract node.

(d) The County director of water and sanitation shall be the technical lead in ensuring the County benefits from the highest quality of water and sanitation works.

(2) The CECM shall develop guidelines on establishment of Water and sanitation Sector Stakeholders Forum and networks to create synergy in the sector and coordinate efforts towards achieving international, national and county sector development goals.

## **PART XI- FINANCIAL PROVISIONS**

### **Financial Year**

**78.** The financial year shall be the period of twelve months commencing on the first of July and ending on the thirtieth June in each year.

### **Accounts and Audit**

**79.** (1) The County Water Service Provider(s) shall keep proper books of account of their respective income, expenditure, assets and liabilities in accordance with the PFM Act 2012.

(2) The annual accounts of a County Water Service Provider (s) shall be prepared, reported and audited in accordance with the Public Audit Act 2015.

### **Funds for Water and sanitation sector in the County**

**80.** (1) the fund of the department of water and sanitation will be as appropriated by the County assembly including:

(a) allocation from the annual budget

(b) Fund from development partners

(c) Revenue from services rendered

(d) Fine and levies from charges provided in the finance act and applicable regulations

(2) The funds and assets of the County Water Service Provider(s) shall consist of-

(a) Such moneys as may be appropriated by the County Assembly for the purpose of the Service Provision;

(b) Revenues realized from billing of water and sanitation services;

(c) Revenues realized from investments undertaken by the Service Provider;

(d) Such gifts, grants or monies received from any lawful source (e) All monies borrowed from securities market or received as loans to the Service Provider; and

(3) The County Water Service Provider shall apply the money provided under this Section for the furtherance of its purpose and performance of the functions of the Service Provider and as prescribed under this Act.

### **Establishment of the County Water Trust Fund**

**81.** (1) There shall be established a fund to be known as the County Water Trust Fund

(2) The Fund shall consist of—

(a) Money voted for annually by the County Assembly on recommendation by the Executive Member

(b) any other monies accruing or received by the Company from any other source to be distributed as a grant by the County Government through the Executive Member

(3) The Fund shall be used in carrying out such activities as—

(a) catchment rehabilitation,

(b) river bank protection,

(c) wetland riparian area protection,

(d) rural water infrastructure and any other water related activities that may be prescribed by the Executive Member

(4) The Executive Member shall appoint a committee to vet applications of works to be earned out by the Fund

(5) The Fund shall be administered by a technical committee appointed by the Executive Member and drawn from the directorate of water, VIWASCO and County Community Water Services Board. The Director of water and sanitation shall be the chair of the Committee

(6) County Executive Member shall develop regulations for institution framework and operations of the fund

## **PART XII— COMMERCIAL VIABILITY AND SERVICE DELIVERY**

### **Tariffs for water and sewerage services**

**82.** 1) Subject to the national policy and such requirements as may be imposed under national law, the tariff structure and pricing of water supply and sanitation services by the County Water Service Provider(s) shall be established with an aim of facilitating sustainable provision of water and sanitation services as provided for by WASREB guidelines.

(2) The County Executive Committee Member will undertake a financial needs assessment for all County Water Service Providers and make necessary financial support.

(3) To achieve energy efficient water schemes, the County Executive Committee Member shall promote renewable energy supply for water schemes and adopt other technological solutions to improve water and sanitation service delivery in the county

(4) The county government may provide financial assistance to enable a county water services provider which satisfies financing criteria laid down by the County Government offset a portion of capital investment or operation and maintenance costs.

(3) Subject to Article 209 (5) of the Constitution, a county water services provider providing water services in an area other than a rural area may impose a charge for accepting into its sewerage system and treating wastewater from industrial and other trade premises within its supply area.

(4) A county water services provider which provides desludging and or exhauster services may impose a charge for treating the sludge and or wastewater.

(5) Not less than fourteen (14) days prior to the due date of payment a county water services provider shall avail a bill or other invoice to each of its customers prepared whenever practicable on the basis of metered supply.

### **Ring fencing of revenues**

**83.** (1) All funds of a county water services provider, and all revenues arising from provision of water services by a county water services provider shall not form part of the general revenues of the county government but shall be retained by the county water services provider for its purposes.

(2) Any excess of revenue over expenditure at the end of the financial year shall not be paid over to the county government but shall be retained by the county water services provider to be used for the improvement of water services within the area of supply of the county water services provider.

#### **Interruptions in the schedule for water services**

**84.** (1) On each occasion of a planned interruption or variation in the schedule for supply of water, a water services provider shall notify its customers not less than twenty-four (24) hours prior to the planned interruption or variation in the schedule and shall indicate the expected duration of the interruption.

(3) Where an interruption in services extends for a period longer than fourteen (14) days or three consecutive scheduled supplies the water services provider shall, as far as is practicable, take remedial measures to provide consumers with a basic supply of water through bowsers and other mobile means or make alternative arrangements to enable consumers access a basic supply of water.

#### **Customer relations and complain redress mechanism**

**85.** (1) A county water services provider shall at all times maintain a customer relations system.

(2) A county water services provider shall formulate and regularly review a service delivery charter, including implementation mechanisms

(3) A County water service provider shall establish a complain redress mechanism in conformity with WASREB guidelines and as well as outlined in by Water Tribunal

### **PART XIII: SUPERVISION MONITORING AND EVALUATION OF WATER PROVISION**

#### **Public works inspections**

**86.** (1) The County Government shall in addition to the works done by the County Water Service Providers carry out public works inspections and audits within the County for the following purpose-

- (a) the supply, distribution or apportionment of water for use in the County;
- (b) protection of any water resource, its source or catchment in collaboration with relevant bodies for that particular purpose;
- (c) water resource development in form of boreholes, dams among others;
- (d) wastewater management;
- (e) water for agriculture and related works in collaboration with the National Irrigation Board and other relevant bodies;
- (f) construction of water harvesting and storage systems;
- (g) recycling treated effluent water;
- (h) rehabilitation and restoration of water service infrastructure; and
- (i) any other works done in exercise and performance of the mandate of the County Governments stipulated in the fourth Schedule of the Constitution.

(2) The County Executive Committee Member may in consultation with water service providers develop guidelines to direct and guide water vendors in the County on water quality management and mode of operations.

(3) Provided the absence of guidelines shall not exempt a vender from complying with the provisions above

#### **Power of entry and inspection**

**87.** (1) A county water services provider shall establish and maintain an inspectorate service with adequate resources and staff.

(2) An inspector employed by the county water services provider may enter any premises to which it provides water and or sewerage services in order to inspect and monitor—

- (a) the distribution system
- (b) the metre(s)

- (c) water storage systems
- (d) the sewerage system
- (e) such other elements of the water and sewerage services as the County Executive Committee member, may, through regulations, authorize.

(3) An inspection may only be undertaken between the hours of 8am and 6pm except in an emergency or in cases of suspected crime.

(4) A water services provider shall communicate to its customers the recommended methods and procedures of verifying the identity of inspectors seeking entry into premises and maintain at all times a customer help line to which customers may telephone to verify any information provided to them by the inspector.

(5) Nothing in this subsection (4) shall prevent a water services provider from disconnecting and terminating the water services from a point outside the premises in question if it cannot lawfully gain access into the premises as a last resort upon all processes and procedures being exhausted.

### **Evaluation and monitoring of water service providers**

**88.** (1) The County Executive Committee member shall periodically, with the technical assistance of the Directorate undertake monitoring and evaluation of the performance of each water services provider to ascertain the extent of compliance with the county water services strategy and performance targets.

(2) The County Executive Committee member shall, on the basis of recommendations of the monitoring and evaluation report take appropriate remedial measures to ensure the continuous improvement of the standard and quality of water and or sewerage services provided by or under a contract with the county water services providers.

(3) The County Executive Committee member shall on a quarterly basis submit a summary of the evaluation and monitoring report to the county assembly.

## **PART XIV - GENERAL PROVISIONS**

### **Enforcement of relevant Acts and regulation**

**89.** (1) The Executive Committee Member for water department shall:

- (a) Enforce relevant Acts and regulations applicable to water and sanitation sector for compliance and sustainable service delivery
- (b) Enforce regulations through polluter pay principle under the EMCA Act 2015 and other relevant law; and
- (b) Direct treatment of effluent water, re-use or recycle it for irrigation and other purposes in the County; and put in place any other lawful measure for control of pollution.

### **Public Participation**

**90.** (1) Procedures undertaken under this Act that directly affect Community interests shall be subjected to public participation.

(2) The County Executive Committee Member shall put in place proper modalities to ensure adherence to Public Participation Principles as prescribed under section 87 of the County Government Act 2012 and County legislation governing public participation.

(3) the County Executive Committee Member shall establish a mechanism for participation of key stakeholders in a County Water and sanitation stakeholder's network/forum

### **Resource mobilization, planning and research**

**91.** (1) The County Executive Committee Member shall establish and operationalize a resource mobilization, planning and research mechanism in the sector to ensure participation of other key duty bearers in bridging the resource gap and enhance the resource envelope

(2) Mainstream research and knowledge management in the sector to support informed decision making

### **Inclusion of Special Interest Groups**

**92.** (1) The appointment of persons to serve in any body established under this Act shall take cognizance of regional, ethnic and gender balance including affording equal opportunities to persons with disabilities, youth, marginalized groups, ethnic and other minorities in the County.

(2) The County Executive Committee Member shall take special measures to ensure that vulnerable groups are represented in public participation forums referred to in this Act.

### **Dispute Resolution Mechanism**

**93.** (1) Any conflict arising from the performance of any function under this Act, shall be resolved through Mediation in the first instance.

(2) The Governor shall in the case of any conflict appoint a mediation Panel of at least three persons, who are not employed by the County Government, to hear and resolve the conflict.

### **Protection from Liability**

**94.** (1) Nothing done by a person exercising authority or a power under this Act shall, if the matter or thing was done or omitted in good faith for the purpose of executing this Act or any rule, regulation or order made under this Act shall not be subjected to any action, suit, claim or demand whatsoever.

### **Regulations**

**95.** (1) The County Executive Committee Member shall develop and publish regulations for matters relevant to the operationalization and performance of the functions and objectives under this Act.

(2) Regulations made under this Act shall be subjected to public consultations and, where appropriate, may be approved by the County Assembly.

### **Transitional provisions**

**96.** (1) The Third Schedule shall have effect with regard to the transition period.

## **SCHEDULES:**

### **FIRST SCHEDULE**

#### **COUNTY WATER SERVICE PROVIDERS**

**(Section 10, 13, and 27)**

1. Vihiga Water and Sanitation Company Limited (VIWASCO)
2. Vihiga Community Water services board

### **SECOND SCHEDULE**

#### **GOVERNANCE OF COUNTY WATER SERVICE PROVIDERS**

##### **Mmembership and procedure of boards and committees**

1. (1) This Schedule applies to—

- (a) the board of the Vihiga Water and Sanitation company;
- (b) the board of the County community water services board;
- (c) the of board Vihiga County Water Trust Fund;

(2) In this Schedule, unless the context otherwise requires—

“board” means a board to which this Schedule applies;

“Company” means a Vihiga Water and Sanitation company

“Chairperson” means the Chairperson of a company or board, or Committee;

“member” means a member of a board, or committee.

“Authority” means the Water Resources Authority established under section 11 of the water Act, 2016;

##### **Application of this schedule.**

2. (1) In making an appointment to a board, or a committee, the person making the appointment shall have regard to—

- (a) Article 10 of the Constitution of Kenya on national values and principles of governance;
- (b) Article 232 of the Constitution of Kenya on values and principles of public service;
- (c) the academic qualifications, professional experience, expertise, character and integrity of the potential candidates for appointment;
- (d) gender, regional and ethnic diversity; and

(e) the degree to which water users, or water users of particular kinds, are represented on the board or committee at the time the appointment is made.

(2) The Chairperson and members shall be identified for appointment through an open competitive process.

##### **Term of office.**

3. (1) A member shall hold office for such term, not exceeding three years, as may be specified in the instrument of appointment.

(2) A member shall be eligible for re-appointment for one further term.

##### **Acting chairperson.**



4. (1) A member may be appointed to act in the office of Chairperson during the illness or absence of the Chairperson, and a member so appointed shall have all the powers and be able to carry out all the functions of the Chairperson.

(2) An appointment under this paragraph may be made, and at any time revoked, by the person or body who appointed or elected the Chairperson.

**Terms and conditions of service.**

5. The terms and conditions of service of a member, including the remuneration, allowances and other expenses to which the member shall be entitled to, shall be prescribed by regulations made under this Act and per WASREB guidelines

**Vacancy in office of member**

6. (1) The office of a member shall become vacant if—

(a) such member dies, resigns or is removed from office;

(b) such member absents himself or herself from four consecutive meetings of the board or committee of which reasonable notice has been given to the member, unless—

(i) the board or committee has granted the member leave to be absent from those meetings; or

(ii) within four weeks after the last of the four meetings, the member is excused by the board or committee for having been absent from the meetings;

(c) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

(d) such member is adjudged or declared by any competent court or tribunal to be of unsound mind; or

(e) such member is convicted of an offence punishable by imprisonment for twelve months or more.

(2) If the office of a member becomes vacant, the respective appointing authority shall fill the vacancies as prescribed in this Act.

**Disclosure of pecuniary interest.**

7. (1) A member who has a direct or indirect pecuniary interest—

(a) in a matter which is being considered, or is about to be considered, at a meeting of a board or committee of which he or she is a member; or

(b) in a thing being done or about to be done by the board or committee, shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board or committee.

(2) A disclosure to the Board or committee that the member concerned—

(a) is a member, or is in the employment, of a specified company or any other body;

(b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or a specified person, shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The board or committee shall cause particulars of any disclosure made under subparagraph (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection, free of charge, of any person.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing under subparagraph (1) or (2), the member shall not, unless it is otherwise determined—

(a) be present during any deliberation, or take part in any decision of the board or committee with respect to that matter; or

(b) exercise or perform any powers or functions under this Act with respect to the subject matter of the disclosure.

(5) A determination under subparagraph (4) may only be made—

(a) in relation to the Board of the company or the community by the County secretary;

(c) in relation to a community water board by the CECM

(6) Subparagraph (4) does not apply to a member whose interest consists merely of the fact that the member is the holder of a permit.

(7) A contravention of this paragraph does not invalidate any decision of the board or committee or the exercise or performance of any power or function under this Act.

(8) A reference in this paragraph to a meeting of a board or committee includes a reference to a meeting of any subcommittees of the board or committee.

#### **General procedure.**

**8.** Except as otherwise provided by or under this Act—

(a) meetings of a board or committee shall be held as often as maybe necessary for the dispatch of their business but they shall not be less than four any financial year.

(b) a meeting of the board or committee shall be held on such date time and place as the chairperson may decide;

(c) the chairperson shall, on the written application of one third of the members convene a special meeting of the board or committee;

(d) unless the majority of the total membership of the board or committee otherwise agree, at least fourteen days written notice of every meeting of the board or committee shall be given to every member of the board or committee; and

(e) the procedure for the convening of meetings and for the conduct of business at those meetings shall be as determined by the Chairperson.

#### **Quorum.**

**9.** A third of the members of a board or a committee shall constitute a quorum at any meeting of the board or committee.

#### **Presiding members.**

**10.** The Chairperson or, in the absence of the Chairperson, the acting Chairperson or in his or her absence, a member appointed by the members then present shall preside at a meeting of a board or committee.

#### **Decisions.**

**11.** (1) A decision supported by a majority of the votes cast at a meeting of a board or committee at which a quorum is present shall be the decision of the board or committee.

#### **Proceedings.**

**12.** Subject to paragraph 9, proceedings of the board or committee shall not be invalid by reason only of a vacancy among the members.

#### **Record of proceedings.**

**13.**(1) The presiding member at a meeting of a board or committee shall cause a record of the proceedings at the meeting to be made.

(2) Records made for the purposes of this paragraph may be destroyed after the expiry of the period prescribed by Regulations made under this Act.

#### **First meeting.**

**14.** (1) The first meeting of the company, Authority shall be called by the County Secretary.

(2) The first meeting of the county water services community Water board, Authority shall be called by the County Executive member or in such manner as it considers necessary.

**THIRD SCHEDULE:**  
**APPLICATION AND REGISTRATION FORMS**  
**FORM I –WATER SERVICES**  
**(Section 31,**

**1. Application/ registration for water services**

(1) The form should have the following details and not limited to:

The form should have the following details and not limited to:

- i. the client names
- ii. client identification number
- iii. contact details
- iv. the location including coordinates for GPS mapping
- v. area of operation for the sake of business/ commercial establishment
- vi. residence
- vii. category/ type of water service
- viii. Signature and dates

(2) The board of the water service providers will develop the registration form to suit their needs

**FORM II –SANITATION/SEWERAGE SERVICES**

**2. Application/ registration for sanitation/sewerage services**

(1) The form should have the following details and not limited to:

- i. the client names
- ii. client identification number
- iii. contact details
- iv. the location including coordinates for GPS mapping
- v. area of operation for the sake of business/ commercial establishment
- vi. residence
- vii. category/ type of sanitation or sewerage service
- viii. signature and dates

(2) The board of the water service providers will develop the registration form to suit their needs

**FORM III –REGISTRATION OF SMALL-SCALE SERVICE PROVIDERS**

**3. Registration for small scale service provider for water, sanitation and sewerage services**

(1) The form should have the following details and not limited to:

- i. the service provider names
- ii. legal identification/certificate number and compliance
- iii. contact details
- iv. the location/office including coordinates for GPS mapping
- v. area of operation for the sake of business
- vii. category/ type of water, sanitation or sewerage service undertaking
- viii. signature dates
- ix. the nature or composition of the effluent
- x. the maximum quantity of the effluent which it is proposed to discharge on any one day;
- xi. the highest rate at which it is proposed to discharge the effluent; and
- xii. any other information required by the licensee as prescribed in the sixth schedule

(2) The CECM will develop will develop the form necessary to facilitate smooth water, sanitation and sewerage service delivery and that will suit departments needs

(3) . The forms developed in (4) above will be subject to periodic review

## FOURTH SCHEDULE

### (Section 96)

#### TRANSITIONAL PROVISIONS

##### **Existing institutional arrangements**

1. Prior to the establishment of the county water services providers established under this Act, Amatsi Water Services Company (AWASCO) shall be transitioned to Vihiga Water and Sanitation Company (VIWASCO) and continue its obligations under the existing agreement with the County Government of Vihiga to deliver water and sanitation services within its mandated areas

2. After establishment of Vihiga Community Water Services Board, all community schemes which are under community or scheme management committees shall be registered under Vihiga community water services board

##### **Transition support to the established institutions.**

3. (1) Within twelve (12) months of the commencement of this Act, but after the establishment of the County water service providers and following the approval of the County Assembly, the county government shall provide transitional financial support to the County water service provider's for establishment and performance of their functions.

(2) The County Executive Committee shall present a budget proposal to the County Assembly as a basis for providing the financial support referred to in subclause (1) herein.

##### **Community or scheme water committee to hand-over to Vihiga community water services board.**

4. (1) As soon as is practicable after the establishment of the Vihiga community water services board shall by a Deed of Handover and Acceptance signed amongst the county government, the board and the community water committees, handover to the board the responsibility of the delivery of water and sanitation services in their areas of supply

(2) With effect from the handover date, the board shall assume responsibility for the collection of any bills not older than ninety (90) days and the responsibility for settling any commercial obligations of the water and sanitation services in the areas of community schemes that are not older than ninety (90) days.

(3) Staff of the the community water committee shall undergo suitability test and those found suitable to serve shall be established within the community water committee management structure with effect from the handover date, and the community committee's obligations with respect to the payment of salaries and remuneration of the employees shall continue to be discharged as was before but through new terms of service as will be determined by the com Vihiga Community Water Services Board.

(4) During the period of transition, referred to in subclause (3), the board shall implement a staff rationalization programme in order to determine the number of staff sufficient for the performance of the respective schemes's functions under this Act and that meets the standards set by WASREB.

(5) Community water schemes management committees shall prepare a list of all property, assets, facilities, including a debtors' and creditors' list in respect to water services in the areas of supply and annex the list to the Deed of Handover.

(6) Notwithstanding subclause (5), all property, assets, facilities and other rights of the community schemes shall be deemed to have been handed over to the Vihiga Community Water Services Board at the handover date whether or not listed and appearing in the Deed of Handover and Acceptance.

(7) The County Executive Committee Member shall publish in the *gazette* notice the list of community schemes registered under Vihiga Community Water Services Board, specifying the effective date of handover.

### **Transition of the water service providers to the new entities**

**5.** (1) The county government shall assume responsibility for discharging outstanding liabilities older than ninety (90) days of community schemes and assume ownership of the assets and facilities of provided that the county government shall give to the new entities the right of operation and use of the assets and facilities for the provision of water and sanitation services in the designated rural areas and the satellite towns.

(2) The County Government shall within twelve (12) months of the commencement of this Act or upon such further extension of time not exceeding twenty-four (24) months as approved by the County Executive Committee, complete the transition process of the Company in accordance with the requirements of the Companies Act, 2015.

## MEMORANDUM OF REASONS AND OBJECTS

The fundamental object of this Bill is to provide for a legal and institutional framework for implementation of Article 43(1)(d) and paragraphs 8 (d), 10(a), 11 and 13 of Part 2 of the Fourth Schedule of the Constitution in order to: –

- (a) ensure access to sustainable, clean, potable, affordable, equitable and adequate water for domestic consumption and for industrial, agricultural and other purposes;
- (b) provide for improved, appropriate and sustainable waste water management services including effective and efficient management of storm water in built-up areas;
- (c) improve public and environmental health through sustainable, effective and efficient sanitation;
- (d) improve and ensure high water quality for human consumption;
- (e) empower communities and develop the capacity of communities for effective water and sanitation service delivery;
- (f) facilitate effective water and sewerage and/or sanitation dispute resolution mechanisms; and
- (g) enhance soil and water conservation efforts.

### **Statement of how the Bill concerns the County Government of Vihiga**

The Bill concerns the county government of Vihiga in terms of Articles 43 and the 4th Schedule Part II of the Constitution of Kenya 2010.

### **Statement of delegation of legislative powers and limitation of fundamental rights and freedoms.**

The Bill does not contain any provision limiting any fundamental rights or freedoms. The Bill however delegates legislative authority to the CECM for the time being responsible for Water, Environment and Natural Resources to make regulations for operationalization and implementation of this Act.

### **Statement that the Bill is a money Bill, within the meaning of Article 114 of the Constitution.**

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

### **Financial Impact Statement**

The enactment and implementation of this Bill shall occasion additional expenditure of public funds.

Dated the *(Day)*, *(Month)*, 2024.

Hon.....,  
Chairperson, Environment, Water, Energy and Natural Resources Committee.