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CONTENT

Bill for Introduction into the County Assembly of Garissa—

PAGE

The Garissa County Dryland Agricultural Development Authority Bill, 2015 1

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THE GARISSA COUNTY DRYLAND AGRICULTURAL DEVELOPMENT AUTHORITY BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART 1—PRELIMINARY

1—Short title.

2—Interpretation.

PART II—ESTABLISHMENT OF FUNCTIONS OF AUTHORITY

3—Establishment of Authority.

4—Objects and purposes of Authority.

5—Management of the Board.

6—Powers of the Board.

7—Appointment of the Chief Executive Officer and other officers of the Authority.

8—Delegation of by the Board.

9—Protection from liability.

10—Liability for damages.

PART III—FINANCIAL PROVISIONS

11—Financial Year.

12—Funds of the Authority.

13—Annual Estimates.

14—Accounts and Audit.

15—Investment of funds.

16—Annual report.

17—Regulations.

THE GARISSA COUNTY DRYLAND AGRICULTURAL DEVELOPMENTAUTHORITY BILL, 2015

A Bill for

AN ACT of the Garissa County Assembly to establish the Dryland Agricultural Development Authority in line with section 6(5) of County Governments Act (No. 17 of 2012) for purposes of promoting, facilitating and regulating the development of sustainable agriculture in Garissa County and for connected purposes

ENACTED by the Garissa County Assembly as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Dry lands Agricultural Development Authority Act.

Interpretation.

2. In this Act—

"agriculture" includes any activities relating to—

(a) afforestation;

(b) cultivation of crops;

(c) development and maintenance of pasture;

(d) fish-culture;

(e) fishing;

(f) horticulture;

(g) keeping or breeding of livestock or poultry.

"agricultural" shall be construed accordingly;

"board" means the Management Board of the Authority constituted under section 5 of this Act;

"county" refers to Garissa County;

"county executive committee member" means member appointed by the County Governor, with the approval of the A, from among persons who are not members of the Assembly;

"governor" means a County Governor elected in accordance with article 180 of the Constitution;

"dry land areas" means all cultivated lands, scrublands, shrub lands, grasslands, savannas, semi-deserts and true deserts areas of Garissa County which fall outside of the Garissa township, urban and town areas as defined in the Urban Areas and Cities Act (No.13 of 2011);

"improvement work" means work of any nature which is likely to enhance the productivity of land, or to reclaim or rehabilitate any land or to remedy, retard or prevent erosion or deterioration of land;

"livestock" means all domestic animal including cattle, goats, sheep, camels and poultry;

Establishment of Authority.

3. (1) For the purposes of this Act, there is hereby established a body to be known as the Dryland Agricultural Development Authority.

(2) The Authority shall—

(a) be a body corporate with perpetual succession and a common seal;

(b) have power to sue and be sued in its corporate name; and

(c) Acquire, hold and dispose of moveable and immoveable assets.

4. (1) The Authority shall, either on its own or in association with other authorities or persons, establish mechanisms to encourage and support agricultural activities in the drylands of Garissa County for purposes of ensuring food security, sustainability and avert effects of drought and famine.

(2) Without prejudice to the generality of subsection (1), the Authority shall—

(a) provide an efficient agricultural extension service and participate in the formulation and implementation of appropriate dry land development projects with a view to stimulating and facilitating the development of agriculture in the county;

(b) encourage and, so far as may be practicable, having regard to the financial and other resources and to the statutory powers of the Authority, to secure the proper economic and efficient utilization of all land in the rural areas;

(c) encourage and so far as may be practicable, having regard to the financial and other resources at the disposal of the Authority for such purpose to assist or to participate in the doing by private enterprise of any improvement work in the dry land areas to such extent and in such manner as the Authority may consider expedient;

(d) Perform such other functions as the County Executive Member in-charge of agriculture may from time to time by order prescribe.

(3) In the exercise of its functions under subsection (1) the Authority may carry on such activities as appear to it to be advantageous, necessary or desirable for or in connection with the performance of those functions including, without prejudice to the generality of the foregoing—

(a) marketing of the agricultural produce;

(b) promotion of carrying on of any such activities as aforesaid by other bodies or persons and for that purpose may—

(i) establish or expend or promote the establishment or expansion of other bodies to carry on those activities whether or not under the control or partial control of the Authority;

(ii) give assistance to such bodies or persons;

(c) carry on any such activities in association with other bodies or persons (including Government authorities) or as managing agents or otherwise on their behalf.

Management of the board.

5. The management of the Authority shall be vested on a board which shall consist of—

(a) A non-executive Chairman appointed by the Governor with the approval of the County Assembly;

(b) The chief office of the county department responsible for matters relating to agriculture;

(c) The chief officer of the county department responsible for finance;

(d) Four other members, not being public officers, appointed by the Governor and approved by the County Assembly, with qualifications and experience in any of the following;

(i) Financial management;

(ii) Dryland management;

(iii) Agriculture;

(iv) Environmental management; or

(v) Human resource management; and

(e) The Chief Executive Officer nominated by the Governor from among qualified and experienced persons competitively sourced and recommended by the board.

Powers of the board.

6. The board shall have all powers necessary for the proper performance of the functions of the Authority under this Act. Subject to this Act, the board shall have the power to—

(a) manage, control and administer assets of the Authority in such a manner and for such purposes as best promotes the purpose for which the Authority is established;

(b) convene all actors to ensure efficient and well co-ordinated utilization of drylands in the county;

(c) receive gifts, donations, grants or other moneys and equipment and to make disbursements therefrom in accordance with the provisions of this Act;

(d) in addition to raising its own funds, receive and borrow funds in accordance with the provisions of this Act;

(e) open a bank account for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made;

(f) establish committees consisting of members of the board to deal with such matters as the board may specify; and

(g) enter into associations with other persons, bodies or organizations within or outside Garissa County and outside Kenya as the corporation may deem desirable or appropriate and in furtherance of the purpose for which it was established.

Appointment of the Chief Executive Officer and other officers of the Authority.

7. (1) The Governor shall nominate the Chief Executive Officer on recommendation of the board following a competitive recruitment process.

(2) The Chief Executive Officer shall be responsible for the day to day management of the Authority.

(3) The board may employ such number of other members of staff as it considers necessary for the discharge of its functions and duties under this Act, on such terms as the County Executive Committee Member in-charge of agriculture may approve.

(4) The board may establish and make contributions to a pension, superannuation or medical Fund for the benefit of the employees and may require such employees to contribute to the Fund.

Delegation of by the board.

8. The board may, by resolution either generally or in any particular case, delegate to a committee of the board or to any member, or officer of the Authority the exercise of any powers or the performance of any of the functions or duties of the Authority.

Protection from liability.

9. No matter or anything done by the Chairman or any other member of the Authority or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith for the purposes of executing any provisions of this Act, render the Chairman, member, officer, employee or agent or any person acting under the directions of those persons personally liable to any action, claim or demand.

Liability for damages.

10. The provisions of this Act shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or his property or to any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any action.

FINANCIAL PROVISIONS

Financial Year.

11. The financial year of the Authority shall be the

period of twelve months ending on the thirtieth day of June in each year.

Funds of the Authority.

12. The funds of the Authority shall consist of—

(a) Such moneys or assets as may accrue to or vest in the Authority, in the course of the exercise of its powers or the performance of its functions under this Act;

(b) Any moneys which may in any manner become payable to or vested in the Authority in respect of any matter incidental to the carrying out of its functions;

(c) Any gifts as may be given to the Authority;

(d) Such moneys as may be appropriated by the County Assembly for the purposes of the Authority; and

(e) All moneys from any other source provided, donated or lent to the Authority.

Annual Estimates.

13. (1) At least three months before the commencement of each financial year, the board will cause to be prepared estimates of the revenue and expenditure of the Authority for the financial year.

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

(a) payment of salaries, allowances and other charges in respect of board members and the staff of the Authority;

(b) payment of pensions, gratuities and other charges in respect to retirement benefits of the staff of the Authority; and

(c) proper maintenance, repair and replacement of the equipment and other moveable property of the Authority.

(3) The board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the County Executive Committee Member for approval.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3) or with the authorization of the board given with prior written approval of the County Executive Committee Member.

Accounts and audit.

(1) The board shall cause to be kept proper books of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the board shall submit to the County Head of Audit for the purposes of subparagraph (3), the accounts of the Authority in respect of that year, together with—

(a) a statement of income and expenditure during the financial year;

(b) A statement of assets and liabilities of the Authority on the last day of the financial year.

(3) The accounts of the Authority shall be audited and reported in accordance to provisions of the Public Audit Act, 2003.

Investment of funds.

14. (1) The board may invest any of the funds of the Authority in securities in which the board may by law invest in trust funds or in any other securities which the County Treasury may from time to time approve.

(2) The board may place on deposit, with such bank or banks the County Treasury may approve from time to time, any moneys not immediately required for the purposes of the Authority.

Annual report.

15. (1) The Authority shall, within three months after the end of each financial year, prepare and submit to the County Executive Committee Member a report on the operations of the Authority for the period immediately preceding the financial year.

(2) The County Executive Committee Member shall lay the annual report before the County Assembly as soon as is practicable after the County Assembly next sits after the County Executive Committee Member has received the report.

Regulations

16. The Authority may with the approval of the County Executive Committee Member, make Regulations for the better carrying out of the purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principle object of this Bill is to establish dryland agricultural development board in line with 6(5) of County Government act for purpose of promoting, facilitating and regulating the development of sustainable agriculture in Garissa County and for connected purpose.

Dated the 7th May, 2015.

ABDI DEKOW OSMAN,
Chairperson,
Agriculture, Livestock and Fisheries.