

*Report of the joint committee on the Isiolo County Education Bursary Fund
Bill, 2015*



REPUBLIC OF KENYA

COUNTY ASSEMBLY OF ISIOLO

1ST COUNTY ASSEMBLY – THIRD SESSION

REPORT OF THE JOINT COMMITTEE OF FINANCE, BUDGET AND APPROPRIATION
AND EARLY CHILDHOOD EDUCATION AND VOCATIONAL TRAINING ON THE
ISIOLO COUNTY EDUCATION BURSARY FUND BILL, 2015

November 19, 2015

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1.0 PREFACE

Mr Speaker Sir, on behalf of members of the Committees of Finance, Budget and Appropriation and Early Childhood Education and Vocational Training, it is my duty and privilege to present this report to this Honorable House under Standing Order 123 (4) of our Assembly Standing Orders. The report on the Isiolo County Education Bursary Fund Bill, Bill No 4 of 2015, is a joint effort of the Committees of Finance, Budget and Appropriation and Early Childhood Education and Vocational Training.

1.1 BACKGROUND

Mr Speaker Sir, the Isiolo County Education Bursary Fund Bill, 2015 was read in the House for the first time on Tuesday, October 6, 2015. Mr. Speaker Sir, you invoked your prerogative under Standing Order 123 (6) of our Assembly Standing Orders and consequently determined that the Bill be committed to the joint Committee of Finance, Budget and Appropriation and Early Childhood Education and Vocational Training.

The Committee was tasked with the responsibility of fine tuning the bill, receiving and considering expert opinions, and generally conducting public participation by considering the views of the public and other stakeholders as required under the Constitution.

This Committee, Mr Speaker, is obliged under Standing Order 123 (4) of our Assembly Standing Orders to report to the Assembly, its findings and recommendations on the Bill.

1.2 MEMBERSHIP OF THE JOINT COMMITTEE

Mr Speaker Sir, the joint Committee of Finance, Budget and Appropriation and Early Childhood Education and Vocational Training comprise the following members.

Finance, Budget and Appropriation Committee

- | | |
|------------------------|-------------|
| 1. Hon. Abdi Sora | Chairperson |
| 2. Hon. Nura Diba | Member |
| 3. Hon. Paul Mero | Member |
| 4. Hon. Sadia Abdi | Member |
| 5. Hon. Dahabo Bonaya | Member |
| 6. Hon. Hassan Diba | Member |
| 7. Hon. Salesio Kiambi | Member |

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Early Childhood Education and Vocational Training Committee

- | | |
|---------------------------|-------------|
| 1. Hon. Sadia Abdi | Chairperson |
| 2. Hon. Paul Mero | Member |
| 3. Hon. Adan Ali | Member |
| 4. Hon. Dekha Bonja | Member |
| 5. Hon. Peter Losu | Member |
| 6. Hon. Hassan Guyo Shano | Member |
| 7. Hon. Gladys Atiku. | Member |

Mr Speaker, in keeping with the custom and tradition of this House, the joint committee, by consensus, agreed to have Hon. Abdi Sora and Hon. Sadia Abdi as Chair and Co-Chair respectively.

1.3 PUBLIC PARTICIPATION

Mr Speaker Sir, one of the important innovations in the architecture of the Constitution of Kenya 2010, is the requirement to involve the public in law making. With regard to legislation in the County Assembly, Article 196(1) of the Constitution of Kenya provides that, '**The County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees**'.

Mr Speaker Sir, as you are aware, the Assembly is in the process of enacting an integrated Civic Education and Public Participation law. Mr Speaker, in order to mainstream public participation in law making, we have borrowed best practices from other jurisdictions, and in due course, the Assembly will enact this key legislation, which is one of the most comprehensive in the entire country.

In fulfillment of the constitutional requirement to involve the public in legislation, the joint committee, through the office of the Clerk to the Assembly, sent out notices to members of the public on November 2, 2015 inviting them to make their written comments and representations on this Bill to the Clerk on or before November 11, 2015. Mr Speaker, other than seeking written comments and memoranda, we also subjected the Bill to further public participation by facilitating an interactive session with members of the public at a forum held at the Catholic Hall, Isiolo on November 18, 2015. Special care was made to ensure a sizeable number of participants drawn from all the wards attended the public forum. We are pleased to report that the views and suggestions of members of the public have been incorporated in the proposed amendments in as far as it was possible. It is hoped that with the anticipated enactment of the Isiolo Civic Education and Public Participation Bill into law, public participation in the legislative process of the Assembly will gather pace.

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1.4 COMMITTEE SITTINGS

Mr Speaker Sir, the Committee retreated for purposes of scrutinizing the Bill and proposing amendments for consideration by the Committee of the Whole Assembly. The Committee met in Nanyuki at the Sportsman's Arms Hotel between November 2 and 7, 2015.

2.0 OBSERVATIONS, FINDINGS AND RECOMMENDATIONS

Mr Speaker Sir, our observations and findings are set out here below in the body of our report at 4.0. Mr Speaker, the joint Committee went through the draft Bill with a fine tooth comb and in some instances, proposed drastic changes to the Bill. For example, with respect to the Administration of the Fund, the Committee noted that it was very risky to leave the administration of the fund to the exclusive whim and discretion of the Chief Officer for the time being responsible for matters related to education.

Mr Speaker, the justification for creating a County Education Bursary Board to manage the bursary kitty is to promote transparency and accountability in the manner bursaries and scholarships are awarded. Mr Speaker, the Committee is alive to the fact that in the last financial year, monies that were set aside as bursaries did not get to the intended beneficiaries and mysteriously disappeared in what was attributed to Integrated Financial Management Information Systems dysfunction. To date, the whereabouts of that allocation meant for poor but bright students remain unaccounted for. It is for this reason that the Committee proposed the creation of a Board whose membership is broad based and representative to manage the funds prudently.

Other than this major innovation, the letter and spirit of the Bill remains essentially the same but for some proposed amendments.

3.0 ACKNOWLEDGEMENT

Mr Speaker Sir, on behalf of the joint committee and on our own behalf, we wish to register our appreciation to your office and that of the Clerk to the Assembly for facilitating the work of this committee and for ensuring that the logistical and documentation aspects of our work was attended to, sometimes at short notice.

Mr Speaker Sir, allow me to thank in similar vein, the members of the joint committee for their seriousness and commitment in interrogating the Bill and coming up with this report which we are pleased to table before the house today.

4.0 PART I- PRELIMINARY

1. In the table of contents clause 1 (page 2 of the Bill) add **“and commencement”** so that it reads **“Short Title and Commencement”**.
2. In the table of contents add the phrase **“Establishment of the Board”** (page 2 of the Bill) creation of a whole clause (*clause 5*)
3. In the long title (page 2 of the Bill), delete the article **“the”** between ‘and’ and ‘administration’ and replace thereof with **“its”** and delete the words **“of the fund”** between administration and ‘and for connected’ so that it reads; **“AN ACT of County Assembly of Isiolo to provide for the establishment of the County Education Bursary Fund and its administration and for connected purposes.”**
4. On clause 1 (page 2 of the Bill) after ‘2015’ add the phrase **“and shall come into force on the date of publication in the Gazette”** so that the clause reads; **“This Act may be cited as the Isiolo County Education Bursary Fund Act, 2015 (add) and shall come into force on the date of publication in the Gazette”**
5. On clause 2 (page 2 of the Bill) in the interpretation of an “executive member”, add the term **“committee”** between the words ‘executive’ and ‘for’ and add phrase **“matters related to”** between the words ‘for’ and ‘education’ so that it reads; **“Executive Member” means the member of the County Executive Committee for the time being responsible for matters related to education;**

PART II: THE COUNTY EDUCATION BURSARY FUND

6. There is creation of a whole clause (*this will be Clause 5*) and its title is **“Establishment of the Board”**. The clause explains on the Board’s establishment as below;

Establishment of the Board

5. (1) There is established a Board to be known as the County Education Bursary Board

(2) The Board shall be administered by a Board of Directors which shall comprise of:

(a) The Chief Officer for the time being in charge of County Finance or a designated alternate not below the level of a director.

(b) The Chief Officer for the time being in charge of County Education or a designated alternate not below the level of a director.

(c) One representative from every Ward Education Bursary Committee nominated by the respective committees.

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(d) One person qualified in matters of Education nominated by the Executive Member, with the approval of the Assembly, taking into account ethnic, gender, youth, marginalization and disability factors.

(e) The Funds Manager who shall be an ex-officio member and secretary to the Board.

(2) The Board in its first sitting shall elect a chairperson for a non-renewable term of three years.

“As occasioned by the addition of a new clause that became clause 5 as explained above, the clauses start progressively such that; clause 5 becomes clause 6 and continues to change in that order until the end of the clauses of the Bill.”

7. Clause 5 (on page 4 of the Bill) becomes **“Clause 6”** and changes in that order thereof until the end of the clauses; In Clause 6, Delete the phrase **“Administration of the Fund”** and substitute thereof with the phrase **“Functions of the Board”**;
8. Delete sub clause 6(1) (on page 4 of the Bill) which reads as follows; **“The Fund shall be administered by the Chief Officer for the time being responsible for education”**
9. On sub-clause 6(2) (on page 4 of the Bill), delete the term **“Chief officer”** add substitute thereof with the term **“Board”** such that the sub-clause reads as; **“The Board shall”**
10. On clause 6 (2) (on page 4 of the Bill), delete the sub-clause **“6(2)(b)”** *“be the accounting officer of the Fund”*
11. On clause 6(2)(c) (on page 4 of the Bill) add the phrase **“In consultation with the committee”** before the word ‘impose’ so that it reads;

“In consultation with the committee impose conditions or restrictions on the use of any expenditure arising from the Fund;”

12. On clause 6(2) (g) (on page 4 of the Bill), delete the phrase **“designate such staff as may be necessary to assist in the management of the Fund”** and substitute thereof with the phrase **“Perform such other duties necessary in furtherance of the object of this Act.”**
13. On clause 7 (2)(a) (on page 4 of the Bill), add the phrase **“who shall be the secretary”** so that it reads **“the Ward Administrator who shall be the secretary;”**
14. On clause 7 (2)(c) (on page 4 of the Bill), delete the phrase **“who shall be the secretary”** so that it reads **“the county officer in charge of education in the Ward;”**
15. On clause 7 (2)(d) (on page 4 of the Bill), add **“a hyphen(-)”** between the words ‘faith’ and ‘based’ to make it one word; that is, **“faith-based”**; it therefore reads as, **“one person representing faith-based organizations involved in education matters in the Ward nominated by the joint forum of faith based organizations in the Ward ;”**

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16. On clause 7(2)(e) (on page 5 of the Bill), add **“a hyphen(-)”** between the words ‘community’ and ‘based’ to make it one word; that is, **“community-based”**; so that it reads as, *“one person representing non-governmental organizations or community-based organizations involved in education matters in the Ward nominated by the joint forum of nongovernmental organizations and community based organizations in the Ward;”*
17. On clause 7 (2)(f) (on page 5 of the Bill), add the phrase **“and or the marginalized and minority groups”** so that it reads; *“one Ward resident experienced in education matters representing persons with disability and or the marginalized and minority groups nominated by the joint forum organizations of persons with disability in the Ward;”*

PART III: EDUCATION BURSARY AWARDS

18. On clause 12(b) (on page 7 of the Bill) delete the conjunction **“and”** between the words ‘student’ and ‘attending’; Delete the word **“schooling”** between the words ‘attending’ and ‘any’; delete the word **“secondary”** between ‘any’ and ‘school’; Add **“a comma (,)”** after ‘primary’ and ‘or’ and delete the conjunction **“or”** and add the words **“and institutions of higher learning”** so that 7(b) reads as; *“is a student attending any school or special school at either primary, secondary level and institutions of higher learning;”*
19. On clause 14 (3) (on page 7 of the Bill), add **“a hyphen (-)”** between the words ‘faith’ and ‘based’ to make it one word; that is, **“faith-based”**; the clause therefore reads as, *“Notwithstanding subsection (2), the Committee may partner or collaborate with education stakeholders such as schools, faith-based organizations or nongovernmental or community based organizations for provision of the forms to eligible students.”*
20. On clause 16(1) (on page 8 of the Bill), delete the term **“Executive Member”** and substitute thereof with the term **“Board”** so that it reads as; *“The Committee may, after considering an application under section 13, award bursary, in accordance with the criteria set out under subsection (2) and the guidelines issued by the Board in regard to specific amounts that may be awarded to each category of applicant.”*
21. On clause 18(1) (on page 9 of the Bill), delete the term **“Executive Member”** and substitute thereof with the term **“Board”** so that it reads as; *“The Committee shall submit the list of Beneficiaries and minutes of the proceedings to the Board for final approval and preparation of payment for the bursary awarded.”*
22. On clause 18(2) (on page 9 of the Bill), delete the word **“to”** after ‘eligible’ and substitute thereof with the word **“for”**; and, delete the term **“Executive Member”** and substitute thereof with the term **“Board”** so that it reads as; *“Where an applicant who is not eligible for award of bursary under this Act is awarded bursary by the Committee, the Board may cancel the award and give further directives to the Committee.”*
23. On clause 18(3) (on page 9 of the Bill), delete the term **“Executive Member”** and substitute thereof with the term **“Board”** so that it reads as; *“The Board shall submit the final list of beneficiaries to the County Treasury for the processing of payments.”*

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24. On clause 19(1) (e) (on page 10 of the Bill), delete the term **“Executive Member”** and substitute thereof with the term **“Board”** so that it reads as; *“such other place as the Board may determine.”*

PART IV: GENERAL PROVISIONS

25. On clause 20(1) (on page 10 of the Bill), delete the term **“committee”** and substitute thereof with the term **“Board”** for it to read as; *“The county government and the Board may collaborate, consult or enter into partnership with other government or private entities for the purposes of implementing this Act.”*
26. On clause 21 (1) (on page 10 of the Bill), delete the term **“Executive Member”** and substitute thereof with the term **“Board”** so that it reads as; *“The Board shall prepare an annual report which shall be submitted to the County Executive Committee and transmitted to the County Assembly not later than the last day of February each year.”*
27. On clause 22 (1) (on page 10 of the Bill), delete the phrase **“Executive Member in consultation with the committee”** and substitute thereof with the term **“Board”** so that it reads as; *“The Board may establish a scholarship scheme for persons who are eligible for bursary under this Act.”*
28. On clause 22 (2) (on page 10 of the Bill), delete the phrase **“Executive Member in consultation with the committee”** and substitute thereof with the term **“Board”** to read as; *“The Board shall prescribe procedures for administration and management of the scholarship scheme”*
29. On clause 23(1) (on page 11 of the Bill), delete the term **“committee”** and substitute thereof with the term **“Board”** for it to read as; *“The Executive Member in consultation with the Board may, make Regulations generally for the better carrying out of the objects of this Act.”*

SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

30. On Schedule 1(on page 12 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** so that the first statement of the schedule reads as; *“A member of the Board may-”*
31. On Schedule 1(b)(i) (on page 12 of the Bill), delete the word **“from”** and replace with the word **“for”** so that the statement reads as; *“has been absent for three consecutive meetings of the Committee without the permission of the chairperson;”*
32. On Schedule 2 (1) (on page 12 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”**; on the same statement, delete the number **“twelve”** and substitute thereof with the number **“four”** so that it reads as; *“The Board shall meet not more than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.”*
33. On Schedule 2 (2) (on page 12 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **two** instances that the word ‘committee’ appears. The statement will read as; *“Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least seven members with the approval of the executive member*

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convene a special meeting of the Board at any time for the transaction of the business of the Board.”

34. On Schedule 2 (3) (on page 12 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **three** instances that the word ‘committee’ appears so that it reads as; *“Unless three quarters of the total members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board shall be given to every member of the Board.”*
35. On Schedule 2 (4) (on page 12 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** for it to read as; *“The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.”*
36. On Schedule 2 (5) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** for it to read as; *“The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.”*
37. On Schedule 2 (6) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** for it to read as; *“Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.”*
38. On Schedule 2 (7) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** for it to read as; *“Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.”*
39. On Schedule 3 (1) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **four** instances that the word ‘committee’ appears so that it reads as; *“If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:
Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.”*
40. On Schedule 3 (2) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the two instances that the word ‘committee’ appears so that it reads as; *“A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.”*
41. On Schedule 3 (3) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **three** instances that the word ‘committee’ appears so that it reads as; *“Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.”*
42. On Schedule 3 (4) (on page 13 of the Bill), delete the term **“Executive Member”** and substitute thereof with the term **“Board”** for the statement to read as; *“If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Board in writing.”*
43. On Schedule 3 (5) (on page 13 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **two** instances that the term ‘committee’ appears so that it reads as;

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“Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination”

44. On Schedule 3 (6) (on page 14 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **two** instances that the term ‘committee’ appears so that it reads as; *“Where the Board determines that the conflict is likely to interfere significantly with the member’s proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.”*
45. On Schedule 3 (7) (on page 14 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **three** instances that the term ‘committee’ appears so that it reads as; *“The Board shall report to the executive member any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.”*
46. On Schedule 3 (8) (on page 14 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** so that it reads as; *“The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.”*
47. On Schedule 3 (10) (on page 14 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** so that it reads as; *“A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty thousand shillings, or both.”*
48. On Schedule 4 (on page 14 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** so that it reads as; *“The Board shall comply with the code of conduct governing public officers.”*
49. On Schedule 5 (on page 14 of the Bill), delete the term **“Committee”** and substitute thereof with the term **“Board”** in the **two** instances that the term ‘committee’ appears so that it reads as; *“The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.”*
50. A new schedule was added which becomes **schedule 6** and is as follows; *“The conduct and regulation of the Business and affairs of the committee as stated in this schedule shall apply mutatis mutandis to that of the Board.”*

5.0DECLARATION BY MEMBERS

Mr Speaker Sir, I wish to confirm that the recommendations of this report were adopted by members of the joint committee as signified by the respective members. Mr Speaker, it is now my pleasure and duty to table the report and recommend the same for adoption by this Honourable House.

NAME	DESIGNATION	SIGNATURE
1. Hon. Abdi Sora	Chairperson	_____
2. Hon. Sadia Abdi	Co-Chairperson	_____
3. Hon. Nura Diba	Member	_____
4. Hon. Paul Mero	Member	_____

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|----------------------------|--------|-------|
| 5. Hon. Dahabo Bonaya | Member | _____ |
| 6. Hon. Hassan Diba | Member | _____ |
| 7. Hon. Salesio Kiambi | Member | _____ |
| 8. Hon. Adan Ali | Member | _____ |
| 9. Hon. Dekha Bonja | Member | _____ |
| 10. Hon. Peter Losu | Member | _____ |
| 11. Hon. Hassan Guyo Shano | Member | _____ |
| 12. Hon. Gladys Atiku | Member | _____ |

SIGNED

THIS..... **DAY OF** **2015**

HON. SADIA HAJJ ABDI
CO - CHAIR, JOINT COMMITTEE OF FINANCE, BUDGET AND APPROPRIATIONS
AND EARLY CHILDHOOD EDUCATION AND VOCATIONAL TRAINING
