



Approved for tabling.
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29/11/23

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY


THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

REPORT ON

THE CONSIDERATION OF THE REGIONAL DEVELOPMENT AUTHORITIES
BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2023)

 THE NATIONAL ASSEMBLY PAPERS T A B L E D	
DATE: 29 NOV 2023	DAY: WED
TABLED BY:	<i>Hon Peter Kochakapong, MP Chairperson, Committee on Regional Development</i>
CLERK-AT THE TABLE:	<i>Esther Nginyo</i>

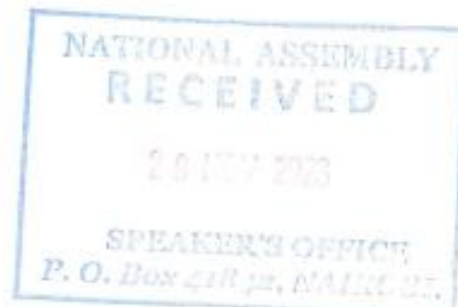
DIRECTORATE OF DEPARTMENTAL COMMITTEES

CLERK'S CHAMBERS

PARLIAMENT BUILDINGS

NAIROBI

NOVEMBER, 2023





Contents	
ANNEXURES.....	3
CHAIRPERSON'S FOREWORD	4
CHAPTER ONE	6
1.0 PREFACE.....	6
1.1 Establishment and mandate of the Committee	6
1.2 Subjects under the Committee.....	6
1.3 Committee Membership.....	7
1.4 Committee Secretariat	8
CHAPTER TWO.....	9
2.0 OVERVIEW OF THE BILL.....	9
CHAPTER THREE	14
3.0 OVERVIEW OF THE ACTS THE BILL SEEKS TO REPEAL	14
CHAPTER FOUR	15
4.0 PUBLIC PARTICIPATION IN CONSIDERATION OF THE BILL	15
4.1 Legal provision on public participation	15
CHAPTER FIVE	31
5.0 COMMITTEE OBSERVATIONS.....	31
CHAPTER SIX.....	32
6.0 COMMITTEE RECOMMENDATIONS	32
6.1 Schedule of proposed amendments	32

ANNEXURES

Annexure 1: Signed list of Members who considered and adopted the report

Annexure 2: Minutes

Annexure 3: Copies of the newspaper advertisement on public participation

Annexure 4: Copies of public memoranda

Annexure 5: Copies of the list of the members of the public who appeared before the Committee during the public hearings

CHAIRPERSON'S FOREWORD

Pursuant to the provisions of Standing Order 127 (1), the Regional Development Authorities Bill, 2023 (National Assembly Bills No. 7 of 2023) was Read a First Time on Tuesday 6th June, 2023 and committed to the Departmental Committee on Regional Development for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The principal object of the Bill is to consolidate the laws relating to Regional Development Authorities and to provide for the establishment, powers and functions of the six (6) existing Regional Development Authorities. These are Coast Development Authority, Ewaso Ng'iro North River Basin Development Authority, Ewaso Ng'iro South River Basin Development Authority, Kerio Valley Development Authority, Lake Basin Development Authority, Tana and Athi Rivers Development Authority.

The Bill further seeks to standardize the functions of Regional Development Authorities subject to the unique areas of operation of each Regional Development Authority. It further standardizes the membership of the Boards of each regional development authority to nine (9) members in line with best practices in corporate governance.

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and Standing Order 127 (3), the Committee, through an advertisement in the local daily newspapers of 12th June, 2023 invited the public to make representations on the Bill. In response to the advertisement, the Committee received memoranda from the following institutions; Ministry of East African Community (EAC), ASALs & Regional Development, Intergovernmental Relations Technical Committee, Kenya Law Reform Commission (KLRC), Council of Governors (CoG) and National Gender and Equality Commissions (NGEC).

The Committee further held meetings with the mentioned institutions on Friday 25th and Saturday 26th August, 2023 in Mombasa County and resolved to undertake public hearings on the Bill in Kilifi (Malindi), Kisumu, Isiolo and Elgeyo Marakwet (Iten) Counties from Thursday, 26th October to Saturday, 4th November, 2023. Subsequently, the Committee through local daily newspapers of 14th October, 2023 invited members of the public and organisations to attend the public hearings and submit their views or make oral presentations regarding the Bill

During the public hearings in the various counties, members of the public either individually or representing institutions and organizations made representations which the Committee took into account while considering the Bill.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings on consideration of the Bill. The Committee further wishes to thank all stakeholders who submitted their memoranda on the Bill and appeared before the Committee during the public hearings. Finally, I wish to express appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Regional Development and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the the Regional Development Authorities Bill, 2023 (National Assembly Bills No. 7 of 2023)

Hon. Lochakapong Peter, MP.
Chairperson, Departmental Committee on Regional Development

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and mandate of the Committee

- 1) The Departmental Committee on Regional Development is one of the twenty (20) Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - (i) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - (ii) *study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - (iii) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - (iv) *study and review all legislation referred to it;*
 - (v) *study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - (vi) *Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House;*
 - (vii) *vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointment);*
 - (viii) *examine treaties, agreements and conventions;*
 - (ix) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - (x) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - (xi) *Examine any questions raised by Members on a matter within its mandate.*

1.2 Subjects under the Committee

- 2) The Second Schedule of the Standing Orders on Departmental Committees further outlines the subjects of the Committee, as follows
 - (i) Regional development, including regional development authorities;
 - (ii) Refugee affairs;
 - (iii) Devolution;
 - (iv) Inclusive growth;
 - (v) Arid and semi-arid areas;
 - (vi) Disaster risk management;
 - (vii) Drought, famine and disaster response; and
 - (viii) Post- disaster recovery and rehabilitation.
- 3) The Committee in executing its mandate oversees the **State Department for Arid and Semi-Arid Lands (ASALs) and Regional Development** and the **State Department for Devolution**.

1.3 Committee Membership

- 4) The Committee was constituted by the House on Thursday 27th October, 2022 and comprises the following Members:

Chairperson

Hon Lochakapong Peter, M.P.
Sigor Constituency
United Democratic Alliance (UDA)

Vice Chairperson

Hon Njoroge Mary Wamaua Waithira, M.P
Maragwa Constituency
United Democratic Alliance (UDA)

Members

Hon. Kombe Harrison Garama, M.P.
Magarini Constituency
Orange Democratic Movement (ODM)

Hon. Kalasinga Joseph Majimbo, M.P.
Kabuchai Constituency
FORD-Kenya Party

Hon. Hon. Siyad Amina Udgoon, M.P.
Garissa County
Jubilee Party

Hon. Maina Mwago Amos, M.P.
Starehe Constituency
Jubilee Party

Hon. Tungule Charo Kazungu, M.P.
Ganze Constituency
Pamoja African Alliance (PAA)

Hon. Chererot Joseph Kimutai, M.P.
Kipkelion East Constituency
United Democratic Alliance (UDA)

Hon.(Maj) Dekow M. Barrow, M.P.
Garissa Township Constituency
United Democratic Alliance (UDA)

Hon. Mawathe Julius Musili, M.P.
Embakasi South Constituency
Wiper Democratic Movement-Kenya

Hon. Hon.Nabulindo Peter Oscar, M.P
Matungu Constituency
Orange Democratic Movement (ODM)

Hon. Letipila Dominic Eli, M.P.
Samburu North Constituency
United Democratic Alliance (UDA)

Hon. Abdi Khamis Chome, M.P.
Voi Constituency
Wiper Democratic Movement-Kenya

Hon. Yakub Farah Salah, M.P
Fafi Constituency
United Democratic Alliance (UDA)

Hon. Salasya, Peter Kalerwa, M.P
Mumias East Constituency
DAP-Kenya

1.4 Committee Secretariat

5) The Committee is facilitated by the following staff:

Ms. Halima Hussein
Clerk Assistant I/Head of Secretariat

Mr. Ellam Omuhinda
Clerk Assistant III

Mr. Salem Lorot
Legal Counsel I

Mr. James Muguna
Research Officer II

Mr. Isaac Wanyama Nabiswa
Legal Counsel II

Mr. Luka Mutua
Sergeant-at-Arms II

Mr. Cyrille Mutali
Fiscal Analyst III

Mr. Edwin Gathongo Gichane
Research Officer III

Ms. Rose Tabuke
Research Officer III

Mr. Ambrose Nguti
Media Relations Officer III

CHAPTER TWO

2.0 OVERVIEW OF THE BILL

- 6) The principal object of the Bill is to consolidate the laws relating to Regional Development Authorities and to provide for the establishment, powers and functions of the six (6) existing Regional Development Authorities. These are Coast Development Authority, Ewaso Ng'iro North River Basin Development Authority, Ewaso Ng'iro South River Basin Development Authority, Kerio Valley Development Authority, Lake Basin Development Authority, Tana and Athi Rivers Development Authority.
- 7) The Bill further seeks to standardize the functions of regional development authorities subject to the unique areas of operation of each Regional Development Authority. It further standardizes the membership of the Boards of each Regional Development Authority to twelve (12) members in line with best practices in corporate governance

Part I on preliminary provisions

- 8) **Preliminary** on establishment of Regional Development Authorities, administration of regional development authorities, financial provisions, provisions on delegated powers, miscellaneous provisions, and savings, transitional and repeal.
- 9) **Clause 3** provides for the general principles to guide implementation of the Act.
- 10) **Clause 4** provides for the regional development strategy. It provides that the Cabinet Secretary shall formulate and publish a regional development strategy at least once every ten years, to guide the protection, conservation, development and regulation of the country's basin based natural resources.

Part II on the establishment of Regional Development Authorities

- 11) The Bill provides for the establishment of the Coast Development Authority, Ewaso Ng'iro North River Basin Development Authority, Ewaso Ng'iro South River Basin Development Authority, Kerio Valley Development Authority, Lake Basin Development Authority, Tana and Athi Rivers Development Authority.
- 12) **Clause 5** provides for the establishment of the Coast Development Authority.
- 13) **Clause 6** provides for the composition of the Board of the Authority consisting of 12 members comprising the following:
 - (i) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);
 - (ii) the Principal Secretary of the Ministry responsible for regional development or an office of that Ministry designated by the Principal Secretary in writing;
 - (iii) the Principal Secretary of the Ministry responsible for finance or an office of that Ministry designated by the Principal Secretary in writing;
 - (iv) the Principal Secretary of the Ministry responsible for environment or an office of that Ministry designated by the Principal Secretary in writing;

- (v) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority;
- (vi) the Managing Director of the Board who shall be an *ex-officio* member.

14) **Clause 7** provides for the functions of the Authority. The Authority shall-

- (i) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Coast region;
- (ii) co-ordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Coast region;
- (iii) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Coast region;
- (iv) maintain a database of natural resources and formulate and disseminate a long range development plan for the Coast region;

initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;
- (v) monitor and evaluate basin-based integrated development programmes and projects;
- (vi) advise the government and other institutions on sustainable integrated development, basin-based resource management and investment opportunities;
- (vii) organize consultative forums with relevant agencies and stakeholders on integrated development and sustainable utilization of natural resources in the Coast region;
- (viii) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;
- (ix) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (x) co-ordinate the design and implementation of the country's regional and international commitments pertaining to conservation and sustainable utilization of natural resources within the Coast region;
- (xi) approve, co-ordinate and intervene on matters affecting the natural resources within the Coast region;

- (xii) implement relevant National Government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;
 - (xiii) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
 - (xiv) provide information and advice to the Cabinet Secretary on the formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources; and
 - (xv) perform any other function which the Cabinet Secretary may, by notice in the Gazette, prescribe.
- 15) **Clause 8** provides for the Managing Director of the Authority.
 - 16) **Clause 9** provides for the establishment of the Ewaso Ng'iro North River Basin Development Authority.
 - 17) **Clause 10** provides for the composition of the Board of the Authority consisting of 12 members.
 - 18) **Clause 11** provides for the functions of the Authority
 - 19) **Clause 12** provides for the Managing Director of the Authority.
 - 20) **Clause 13** provides for the establishment of the Ewaso Ng'iro South River Basin Development Authority.
 - 21) **Clause 14** provides for the composition of the Board of the Authority consisting of 12 members.
 - 22) **Clause 15** provides for the functions of the Authority.
 - 23) **Clause 16** provides for the Managing Director of the Authority.
 - 24) **Clause 17** provides for the establishment of the Kerio Valley Development Authority.
 - 25) **Clause 18** provides for the composition of the Board of the Authority consisting of 12 members.
 - 26) **Clause 19** provides for the functions of the Authority.
 - 27) **Clause 20** provides for the Managing Director of the Authority.
 - 28) **Clause 21** provides for the establishment of the Lake Basin Development Authority.
 - 29) **Clause 22** provides for the composition of the Board of the Authority consisting of 12 members.

- 30) **Clause 23** provides for the functions of the Authority.
- 31) **Clause 24** provides for the Managing Director of the Authority.
- 32) **Clause 25** provides for the establishment of the Tana and Athi Rivers Development Authority.
- 33) **Clause 26** provides for the composition of the Board of the Authority consisting of 12 members.
- 34) **Clause 27** provides for the functions of the Authority.
- 35) **Clause 28** provides for the Managing Director of the Authority.

Part III on administration of regional development authorities.

- 36) **Clause 29** provides that the conduct and regulation of the business and affairs of the of the Boards of each regional development authority shall be as provided in the Schedule.
- 37) **Clause 30** provides for when a member of Board shall vacate office
- 38) **Clause 31** provides for the remuneration of the board members
- 39) **Clause 32** provides for the manner in which the board would appoint officers and staff of the Authorities on the advice of the Salaries and Remuneration Commission
- 40) **Clause 33** provides for delegation of powers by the Board to its Committees, officers, employee or agent of the Board in line with the provisions of this Act or any other law

Part IV on financial provisions

- 41) **Clause 34** provides for the source of funds for the Regional Development Authorities
- 42) **Clause 35** provides that the Financial Year of each Authority shall be the period of twelve months ending on the thirtieth of June each year
- 43) **Clause 36** provides for the preparation of the Annual Estimates for each Authority
- 44) **Clause 37** provides for the proper keeping of all account records for each Authority

Part V on delegated powers

- 45) **Clause 38** provides that the Cabinet Secretary may make regulations to provide for
 - (i) any matter which is required or permitted by this Act to be prescribed by regulations;
 - (ii) the management and sustainable development and utilization of basin based natural resources;
 - (iii) forms under the Act;
 - (iv) matters of procedure in relation to any application under this Act; and

- (v) any other matter which is necessary or expedient to prescribe in order to achieve or promote the objects of this Act.

Part VI on miscellaneous provisions

- 46) **Clause 39** provides for the protection of board members, staff and agent of the Authorities from liability if the matter or thing is done in good faith for executing the functions, powers and duties of the Authorities
- 47) **Clause 40** provides for the custodian of the Authorities' common seal
- 48) **Clause 41** provides for signification of all Authorities' documents
- 49) **Clause 42** provides for the acquisition of land for the Authorities

Part VII on savings, transition and repeal

- 50) **Clause 43** provides for saving and transitional regarding all property, assets, rights, liabilities, obligations, agreements, contracts and other arrangement
- 51) **Clause 44** repeals the Kerio Valley Development Authority Act, the Lake Basin Development Authority Act, the Tana and Athi Rivers Development Authority Act, the Ewaso Ng'iro South River Basin Development Authority Act, the Ewaso Ng'iro North River Basin Development Authority Act, and the Coast Development Authority Act.

CHAPTER THREE

3.0 OVERVIEW OF THE ACTS THE BILL SEEKS TO REPEAL

Kerio Valley Development Authority Act, Cap 441

- 52) An Act of Parliament to provide for the establishment of an authority to plan and co-ordinate the implementation of development projects in the Kerio and Turkwel catchment areas and for matters connected therewith and incidental thereto.

Lake Basin Development Authority Act, Cap 442

- 53) An Act of Parliament to provide for the establishment of an Authority to plan and co-ordinate the implementation of development projects in the Lake Victoria catchment area and for matters connected therewith and incidental thereto.

Tana and Athi Rivers Development Authority Act, Cap 443

- 54) An Act of Parliament to provide for the establishment of an authority to advise on the institution and co-ordination of development projects in the area of the Tana River and Athi River Basins; and for matters connected therewith and incidental thereto.

Ewaso Ng'iro North River Basin Development Authority Act, Cap 448

- 55) An Act of Parliament to provide for the establishment of an Authority to plan and co-ordinate the implementation of development projects in the Ewaso Ng'iro North River Basin and catchment areas and for connected purposes.

Ewaso Ng'iro South River Basin Development Authority Act, Cap 447

- 56) An Act of Parliament to provide for the establishment of an Authority to plan and co-ordinate the implementation of development projects in the Ewaso Ng'iro South River Basin and catchment areas and for connected purposes.

CHAPTER FOUR

4.0 PUBLIC PARTICIPATION IN CONSIDERATION OF THE BILL

4.1 Legal provision on public participation

- 57) Article 118 (1) (b) of the Constitution of Kenya provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.
- 58) Standing Order 127(3) provides that the Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including; inviting submission of memoranda; holding public hearings; consulting relevant stakeholders in a sector; and consulting experts on technical subjects.
- 59) Standing Order 127(3A) further provides that the Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.
- 60) Pursuant to the provisions of Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee through an advertisement in the local daily newspapers of 12th June, 2023 invited the public to make representations on the Bill.
- 61) The Committee received written memoranda from the following institutions:
- (i) State Department for ASALs & Regional Development;
 - (ii) Intergovernmental Relations Technical Committee (IGRTC);
 - (iii) National Gender and Equality Commissions (NGEC).
 - (iv) Council of Governors (CoG); and
 - (v) Kenya Law Reform Commission (KLRC).
- 62) In addition to receiving memoranda from the public and in order to facilitate comprehensive public participation, the Committee held meetings with all the relevant institutions on Friday 25th and Saturday 26th August, 2023 in Mombasa County and resolved to undertake public hearings on the Bill in the counties of Kilifi (Malindi), Kisumu, Isiolo and Elgeyo Marakwet (Iten) from Thursday, 26th October to Saturday, 4th November, 2023. Subsequently, the Committee through local daily newspapers of 14th October, 2023 invited members of the public and organizations to attend the public hearings and submit their views or make oral presentations regarding the Bill.
- 63) During the public hearings in the various counties, the members of the public either individually or representing institutions or organizations made presentations which the Committee took into account while considering the Bill. A total of six hundred and thirty-eight (638) persons and institutions/groups appeared before the Committee. Copies of the list of the members of the public who appeared before the Committee is attached to the Report as **annexure 5**

4.1.2 Stakeholder submissions

State Department for Arid and Semi-Arid Lands and Regional Development

64) The State Department for ASALs & Regional Development vide a letter dated 30th August, 2023 submitted the following amendments:

- (i) Amend the **long title** of the Bill by deleting the word "*bodies*" and substituting with the word "*authorities*". This is because the Bill seeks to establish regional development authorities which shall be managed by respective bodies.

Committee observations: The Committee agreed to the proposed amendment as seeks to establish regional development authorities which shall be managed by respective Authorities

- (ii) Amend **Clause 2** of the Bill by inserting the definition of "*basin*" to mean an area of land, including the exclusive economic zones, constrained by a watershed divide from where all surface water drains to a lower elevation. The amendment would create an understanding of the word "*basin*".

Committee observations: The Committee agreed to the proposed amendment because it would provide clarity

- (iii) Amend **Clause 2** of the Bill by inserting the definition of "*integrated development*" to mean a multi-sectoral development with interlinked actions that exploit synergy of multi-sectoral projects and programmes, natural resource systems and potentials for a lasting economic, physical, social and environmental improvement of a basin". This is to understand the concept of integrated development.

Committee observations: The Committee agreed to the proposed amendment as it would provide clarity on the term "*integrated development*"

- (iv) Amend the definition of "*Ewaso Ngiro South River Basin*" in **Clause 2** of the Bill by inserting the word "*related*" immediately before the word "*catchment*"; and inserting the words "*and parts of*" immediately after the word "Kajiado". This is to clarify on the area of operation.

Committee observations: The Committee agreed to the proposed amendment because it would provide clarity on the area of operation

- (v) Amend **Clause 3 (2)** of the Bill by deleting paragraph (h) and substituting it with national values and principles of governance under Article 10 of the Constitution to be in tandem with Article 10 of the Constitution.

Committee observations: The Committee agreed to the proposed amendment and recommended that paragraph (h) be substituted with the words "good governance, integrity, transparency and accountability" to confirm with provisions of Article 10 of the Constitution.

- (vi) Amend **Clauses 6 (1), 10 (1), 14 (1), 18 (1), 22 (1) and 26 (1)** of the Bill by deleting paragraph (d). This is because the technical expertise in environment may be sought on need basis at the management level.

Committee observations: The Committee observed that the Principal Secretary responsible for matters of Environment may be removed from the membership of the Board to achieve a membership of nine members in line with Mwongozo Code of governance. The Committee noted that the Principal Secretary or any other person may be co-opted when need arises.

- (vii) Amend **Clauses 6 (1), 10 (1), 14 (1), 18 (1), 22 (1) and 26 (1)** of the Bill by deleting the word "eight" and substituting the word "seven" in paragraph (e) to reduce the total Board Membership to a maximum of nine in line with Mwongozo Code of Governance for State Corporations.

Committee observations: The Committee agreed to the proposal to have a Board with a maximum of nine members excluding the *ex-officio* member Mwongozo Code of governance.

- (viii) Amend **Clauses 7, 11, 15, 19, 23 and 27** of the Bill in **paragraph (i)** by inserting the words "*of peaceful co-existence*" after the word "promotion" to emphasise on promotion of peaceful existence and resolution of basin-based resource use conflicts.

Committee observations: The Committee noted that paragraph (1) as published in the Bill was not clear and that the proposed amendment would clarify the function of the Authorities.

- (ix) Amend **Clauses 7, 11, 15, 19, 23 and 27** of the Bill in **paragraph (j)** by deleting the word "*self*" appearing before the word "*sustainability*". This is because the mandate of the Authorities is social economic as opposed to being profit-making.

Committee observations: The Committee observed that the mandate of the Regional Development Authorities is social economic development and therefore, the Committee agreed to the proposed amendment.

- (x) Amend **Clauses 8 (2), 12 (2), 16 (2), 20 (2), 24 (2) and 28 (2)** of the Bill by deleting the words "*in natural resources management, finance, business, strategic management or a related field*". This is because the integrated approach to regional development allows for a wide range of specializations in the leadership positions.

Committee observations: The Committee observed that limiting the requirement to certain specialization may be prejudicial to those who are holding other degrees. And therefore, the Committee agreed to the proposed amendment.

- (xi) Amend **Clauses 8 (2), 12 (2), 16 (2), 20 (2), 24 (2) and 28 (2)** of the Bill by inserting a new paragraph that provides for membership of a relevant professional body. This is because professional bodies encourage upholding of ethical standards and accountability of members including disciplinary measures.

Committee observations: The Committee observed that this proposal may be prejudicial and rejected the proposed amendment by the stakeholder.

- (xii) Amend **Clause 30** of the Bill by deleting paragraph (e) and replacing it with the following new paragraph: (e) if the Cabinet Secretary is satisfied that the member has displayed the following his/her appointment stands terminated for the interest of the Authority or in the case of the chairperson, recommends to the President that the appointment be terminated. The amendment would provide room to the appointing authority for decision making on termination of the appointments
- a) has been guilty of improper conduct considered to be inconsistent with the membership of the Authority;
 - b) is incapacitated to discharge his or her functions by reason of physical or mental infirmity; or
 - c) is unable or unfit, for any other reason, to discharge the duties of his or her office

Committee observations: The Committee observed that the provisions of the Clause as contained in the Bill is sufficient and rejects the proposed amendment.

- (xiii) Amend **clause 40 (2)** of the Bill by deleting the words "chairperson and"; and inserting the words "*and such other person as may be generally or specifically authorized by the Authority*" after the words "*Managing Director of the regional development authority*". The justification for the amendment is that the chairperson is non-executive and the Managing Director has delegated authority to run day to day activities of the Authority.

Committee observations: The Committee agreed to the amendment and observed that the provision is proper by having the seal being authenticated and by Managing Director or any other person authorized by Authority.

- (xiv) Delete **Clause 41** of the Bill and replace it with "*All documents, other than those required by law to be under seal made on behalf of the Board of a Regional Development Authority, shall be signified by the hand of the Managing Director*". This is because the Managing Director has delegated authority for the day to day activities of the Authority.

Committee observations: The Committee observed that signifying the Seal of the Authority by the hand of the Chairperson shall cause delay and bureaucracy in decisions making and the Managing Director is better placed since he/she is involved in the day to day operations of the Authority. The Committee therefore agreed to the proposed amendment.

- (xv) Delete **Clause 42 (2)** of the Bill to allow matters on land to be dealt with in line with the existing land laws.

Committee observations: The Committee observed that matters of land as provided in Clause 42 of the Bill are addressed in the Land Act, 2016 and Land Registration Act, 2012 and therefore the Committee proposed deletion of Clause 42.

- (xvi) Amend **paragraph 2 (4)** of the Schedule to the Bill by deleting the word "*Council*" and replacing with the word "*Board*". The justification is that the governing body of the Authorities is a Board and not a Council.

Committee observations: The Committee agreed to the proposed amendment as seeks to correct an error.

- (xvii) Amend **paragraph 3** of the Schedule to the Bill by deleting the word "*six*" and replacing with the word "*five*" to be in tandem with the proposed reduction of membership of the Boards.

Committee observations: The Committee agreed to the proposed amendment to ensure consistency with the proposed reduction of membership of the Boards.

Intergovernmental Relations Technical Committee (IGRTC)

65) Intergovernmental Relations Technical Committee (IGRTC) via a letter 25th August, 2023 submitted the following amendments;

- (i) Amend the definition of "*Kerio Valley*" in **Clause 2** of the Bill to include the county boundaries just as provided for under Coast region; Ewaso Ng'iro North River Basin; and Ewaso Ng'iro South River Basin. This is because the RDAs have been identified currently to perform county functions. There is therefore need to align them to geographical boundaries of the counties.

Committee observations: The Committee observed that it may be difficult to define the areas of operation using county boundaries because there are some authorities that operate in the same county.

- (ii) Amend **Clause 3 (2) (a)** of the Bill to provide for a principle directly related to the role of the national government. The justification is that the principle means that RDAs shall also be undertaking related functions to the county governments.

Committee observations: The Committee was of the view that Clause 3 of the Bill was drafted in general terms which was sufficient.

- (iii) Amend **Clause 4 (1)** of the Bill to include the role of county governments in the development of the strategy as there is need to provide clarity whether the RDAs shall only be implementing national government functions and if that is the intention, then a mechanism needs to describe how the county governments input shall be curated.

Committee observations: The Committee declined the proposal because the formulation of the regional development strategy will be subjected to public participation in line with Article 118 (1) (b) of the Constitution that will involve county governments.

- (iv) Amend **Clause 6 (1)** of the Bill by limiting the membership of the Board of the Regional Development Authorities to between seven and nine members to align the membership of the Board to the Mwongozo Code of Governance.

Committee Observation: The Committee agreed to this proposal in line with Mwongozo Code of governance.

- (v) Amend **Clauses 6 (1), 10 (1), 14 (1), 18 (1), 22 (1) and 26 (1)** of the Bill by deleting paragraph (e) and substituting it with the following new paragraph—“(e) four other members appointed by the relevant organizations representing persons with disabilities, youth, women and non-governmental organizations dealing with environment and conservation matters”. This is because the provision provides for the appointment of eight members with no criteria for distribution for purposes of adhering to principles of gender inclusion and equality. Also, the number has been reduced to four to comply with the Mwongozo Code of Governance.

Committee observations: The Committee observed that the proposal is already catered for in the Bill.

- (vi) Amend **Clauses 6 (2), 10 (2), 14 (2), 18 (2), 22 (2) and 26 (2)** of the Bill by deleting the words “*the President and*”. This is because the appointing authority of the members under paragraph (e) in subclause (1) is the Cabinet Secretary and not the President.

Committee observations: The Committee observed that the appointing authority of the members under paragraph (e) in sub clause (1) is the Cabinet Secretary and not the President and therefore agreed to the proposed amendment as it correct an error.

- (vii) Amend **Clauses 7, 11, 15, 19, 23 and 27** of the Bill which provides for the functions of the Authorities to include a linkage with county governments. This is because some of the functions being played by the Authorities are devolved.

Committee observations: The Committee rejected this proposal because the Bill has standardized the functions of the Regional Development Authorities to play functions assigned to the national government.

National Gender and Equality Commission (NGEC)

66) The National Gender and Equality Commission (NGEC) vide a letter dated 20th June, 2023 submitted the following amendments:

- (i) Amend Clauses 6 (1), 10 (1), 14 (1), 18 (1), 22 (1) and 26 (1) of the Bill in paragraph (a) by deleting the words "from amongst the persons appointed under paragraph (e)". This is because the Mwongozo provides that it is the duty of the President to appoint chairpersons of State Corporations and from the way the paragraph is drafted, the President is expected to appoint a chairperson from persons appointed by the Cabinet Secretary.

Committee observations: The Committee declined this amendment since it will not achieve the desired number of nine members in line with Mwongozo Code of Governance.

- (ii) Amend Clauses 6 (1), 10 (1), 14 (1), 18 (1), 22 (1) and 26 (1) of the Bill by deleting paragraph (e) and substituting it with the following new paragraph—(e) four other members appointed by the relevant organizations representing persons with disabilities, youth, women and non-governmental organizations dealing with environment and conservation matters. This is because the provision provides for the appointment of eight members with no criteria for distribution for purposes of adhering to principles of gender inclusion and equality. Also, the number has been reduced to four to comply with the Mwongozo.

Committee observations: The Committee rejected the proposal because the criteria of appointment by the Cabinet Secretary has been provided for under clause 6 (2), 10 (2), 14 (2), 18 (2), 22 (2) and 26 (2).

- (iii) Amend Clauses 6 (2), 10 (2), 14 (2), 18 (2), 22 (2) and 26 (2) of the Bill by deleting the word "equity" and replacing it with the word "equality"; and inserting the words "and fair representation of persons with disability." This is because equity is the quality of being fair and impartial while equality is the state of being equal in status, rights and opportunities. Also, Article 54(2) of the Constitution prescribes the inclusion of persons with disabilities in all appointive positions.

Committee observations: The Committee observed that the dictionary definition of "equality" is "having the same status, rights, or opportunities" whereas "equity" refers to "the quality of being fair and impartial". Therefore, the Committee did not agree to the stakeholder's proposal to replace "equity" with "equality" as this may mean having equal number of men and women in the membership.

- (iv) Amend Clause 30 of the Bill by deleting paragraph (e). This is because the provision is prejudicial and discriminatory to persons with disabilities and offends the provisions on inclusion, equality and reasonable accommodation in the Convention of the Rights of Persons with Disabilities, the Constitution, and the Persons with Disabilities Act, 2003.

Committee Observation: The Committee rejected this proposal since the provision as contained is only for mental or physical infirmity to the extent of making the office bearer unable to discharge his/her roles.

- (v) Insert a new clause after **Clauses 8, 12, 16, 20, 24 and 28** of the Bill to provide for the appointment and roles of a Corporation Secretary as per the Mwingozo Code of Governance of State Corporations.

Committee Observation: The Committee declined this proposal since the Managing Director is designated as the Secretary to the Board.

Council of Governors (CoG)

- 67) The Council of Governors vide a letter dated 26th June, 2023 submitted the following amendments;

- (i) Amend the title of the Bill by deleting and substituting with "**The Inter-county Development Cooperation Bill, 2023**". This is to align the Bill with Articles 6 (2) and 189 of the Constitution on co-operation between national and county governments.

Committee observations: The Committee rejected this proposal because the functions of the Authorities are aligned to national government functions.

- (ii) Amend the long title by deleting and substituting with "**AN ACT of Parliament to repeal the laws relating to regional development; to provide for the establishment, powers and functions of intercounty development bodies; and for connected purposes**". The amendment would align the Bill with Articles 6(2) and 189 of the Constitution on co-operation between national and county governments.

Committee Observation: The Committee rejected this proposal because the functions of the Authorities are aligned to national government functions.

- (iii) Amend **Clause 2** by deleting the definitions of "Cabinet Secretary" and "Coast region" and substituting with the following new definitions: "*Cabinet Secretary*" means the Cabinet Secretary for the time being responsible for matters relating to national planning; "*Coast area*" means that part of the area covering Lamu, Mombasa, Kilifi, Tana River, Kwale and Taita/Taveta counties including the southern half of Garissa county and the exclusive economic zone". This is to anchor the regional development authorities as intergovernmental bodies that will undertake functions delegated by both national and county governments.

Committee observations: The Committee rejected the proposal to have the Cabinet Secretary in charge of national planning overseeing the implementation of the Act and retain the Cabinet Secretary in charge of regional development.

- (iv) **Amend Clause 4** by deleting the marginal note and substituting it with "Intercounty Development Strategy" and in subclause (1) by inserting the words "*in consultation with the Council of County Governors*" immediately after the word "*Cabinet Secretary*". This is to provide for consultation and collaboration with the county governments in the development of the strategy.

Committee observations: The Committee rejected this proposal because the functions of the Authorities are aligned to performing national government functions.

- (v) **Amend Clauses 6, 10, 14, 18, 22 and 24** in the following paragraphs to provide for adequate representation of the county governments where the Authority will be operating from
- a) Paragraph (b) by deleting the words "regional development and substituting with the words "national planning";
 - b) By deleting paragraph (d) and substituting it with the following new paragraph: One person with knowledge and experience in the development of Coast area appointed by the Council of Governors;
 - c) by deleting paragraph (e) and substituting it with the following new paragraph: eight members nominated by each of the County Governors of the counties from the area affected by the operations of the Authority on appropriate basis and appointed by the Cabinet Secretary.

Committee observations: The Committee rejected this proposal because the functions of the Authorities are aligned to national government functions.

Kenya Law Reform Commission (KLRC)

68) Kenya Law Reform Commission (KLRC) vide a letter dated 16th August, 2023 submitted the following amendments;

- (i) **Amend Clauses 6, 10, 14, 18, 22 and 24** to reduce the size of the Board. The Mwongozo Code provides that membership of the Board of a State Corporation shall be between 7 and 9 members.

Committee Observation: The Committee agreed to this proposal in line with Mwongozo Code of Governance.

- (ii) **Amend Clauses 8, 12, 16, 20, 24 and 28** to provide for the recruitment and appointment of the Managing Director to be done by the Board in line with Mwongozo Code which provides that recruitment of the Chief Executive Officer should be done by the Board. The Clauses as published in the Bill will present a challenge where the Board recommends to the Cabinet Secretary the appointment of the Managing Director and the Cabinet Secretary does not adhere to the recommendation.

Committee Observation: The Committee rejected the proposed amendments in line with Mwongozo Code of Governance.

4.1.3 Submissions from the public hearings Malindi, Kilifi County

- 69) The Committee conducted the public hearings on Friday 27th October, 2023 in Catholic Institute, Malindi town. A total of one hundred and five (105) persons comprising of individuals and representatives from institutions and groups appeared before the Committee and the following were submitted;
- (i) Omar Famau supported the Bill and proposed that the Clauses providing for the composition of the Boards of various Regional Development Authorities be amended to reduce representation from the national government and to delete the requirement of experience for the eight other members appointed by the Cabinet Secretary. He further proposed that the current number of sixteen members in various Acts should be retained.
 - (ii) Yasmin supported the Bill and proposed an amendment to the composition of the Boards of various Regional Development Authorities to include a health expert.
 - (iii) Kassim Bwana Abdalla informed the Committee that the Bill was an important one and that the Coast Development Authority had brought a lot of development in the area. He proposed that more of the local people should be included in the Board. He also supported the degree requirement for the Managing Director but proposed that the nature of the degree should not be specified in the Bill.
 - (iv) Alex Ngala from Rasi, Ngomeni area, stated that the Coast Development Authority was inclusive and since it works at grass-root level, it reduces discrimination and poverty. He therefore urged the Committee to strengthen Regional Development Authorities as provided in the Bill.
 - (v) Franklin Karisa supported the Bill and urged the Committee to retain the membership of the Board and noted that Regional Development Authorities brought development to the grassroots.
 - (vi) Charles Mosee informed the Committee that he represented the Taita Taveta Ranch Association and proposed that Regional Development Authorities should be allocated more funds and that livestock farming should be given priority.
 - (vii) Lulu Michael supported the Bill, stating that the Coast Development Authority had brought development to the Tana River project on mangoes. She proposed that the Bill should provide for strategies for modern farming of mangoes. She further proposed additional members of the Boards of various Regional Development Authorities.
 - (viii) The senior chief for Magarini informed the Committee that the Bill should be amended in the Clauses relating to the Boards of various Development Authorities to specify the different areas and specialization of the eight other persons to be appointed by the Cabinet Secretary. He also proposed that the Bill should provide for the amounts to be allocated to the Regional Development Authorities.

- (ix) Francis Chiku supported the Bill and proposed that the Managing Director should serve for five years instead of four years.
- (x) Muhideen Musa, Chairperson of the Beach Management Unit, informed the Committee that the Coast Development Authority had done a lot, including the coral reef restoration. He proposed that the Bill should address climate change issues and cleanliness in the beaches.
- (xi) Johnson Nyale proposed that the Bill should be amended in the composition of the Boards of Regional Development Authorities to include agricultural experts. He also proposed that the government should assist Regional Development Authorities and that the Coast Development Authority should have helped in the irrigation of mrangi.
- (xii) Lydia Kinuthia supported the Bill and proposed that the Clauses on the Boards of the Regional Development Authorities should be amended to provide for gender parity.
- (xiii) Abdinoor Abdi from the National Drought Management Authority submitted that the regional authorities cover ASAL areas and that they provide targeted development. He stated that there was no overlap between the functions of the national government and the county governments in terms of the functions of the Regional Development Authorities. He argued that the Fourth Schedule to the Constitution provides for concurrent functions between the national government and county governments and this applies to regional development authorities.
- (xiv) Abdimusa, coordinator for the National Drought Management Authority (NDMA) for Kilifi County, supported the Bill and stated that the NDMA has been working closely with county governments and the Coast Development Authority and that Regional Development Authorities were at the forefront in resource mobilization locally and internationally
- (xv) Mwendwa Ndula supported the Bill and proposed that the Board members proposed in the Bill should be increased and not reduced.
- (xvi) About Musa proposed that the Bill should address the employment of youths and their needs.

Kisumu town, Kisumu County

- 70) The Committee conducted the public hearings on Friday 27th October, 2023 in Mama Grace Onyango Social Centre, Kisumu town. A total of one hundred and two (102) persons comprising of individuals and representatives from institutions and groups appeared before the Committee and the following were submitted;
 - (i) Mr. Arori Antony expressed his support for the Bill and proposed to Clause 22 that the board members to be reduced from eight (8) to five (5) as this will bring the total number to nine (9) as it is in other similar government authorities like KRA, KPA, KEBs among others. He further proposed to reduce the 10 years' experience to five (5) years in Clause 24 (2) (b) of the Bill which Provides for the qualification of the Managing Directors to ensure inclusivity and cater for the youth

- (ii) Mr. Derrick Okinda expressed his support for the Bill as it proposes to strengthen the Regional Development Authorities, he stated that the Lake Basin Development Authority was undertaking several projects in the area which have really benefitted the locals for instance the Budalangi Rice Project where the Authority gives the seeds and fertilizer to the farmers and later buys the produce from the farmers.
- (iii) Mr. George Mboya supported the Bill and proposed an amendment to Clause 24(b) of the Bill on the qualification of the Managing Director of the Lake Basin Development Authority to reduce the 10 years' experience to five (5) years noting that the youths are left behind when the threshold is raised so high. He further proposed the to increase the term of the Managing Director from 4 years to a term of 5 years in Clause 24 (4) noting that most strategic plans run for 5 years.
- (iv) Mr. Boaz Ogolla expressed his support for the Bill where he informed the Committee that the Lake Basin Development Authority has started several projects in the area but due to poor management and wrong priorities all have stalled. He further noted that the appointing authority had been overlooking technocrats in Board appointment. He recommended that going forward the appointing authority should emphasize more on technocrats
- (v) Ms. Asma Adimo expressed her support for the Bill, noting the need to involve the locals in the projects being undertaken by the Lake Basin Development Authority and added that many projects have collapsed due to non- involvement of the locals.
- (vi) Mr. Agrey Otule proposed to reduce the 10 years' experience to five (5) years in Clause 24 (4) noting that the youths are left behind when the threshold is raised so high. He also proposed to increase the term of the Managing Director from 4 years to a term of 5 years to enable the Managing Director to complete his/her assignment in line with the Authority's Strategic plans
- (vii) Ms. Wanjiku Manyatta supported the Bill as it would align the old Acts with the 2010 Constitution because most of the Authorities stated operations way before the promulgation of the 2010 Constitution and the development partners had lost hope in the authority but with the new Bill the development partners will gain confidence again.

Iten, Elgeyo-Marakwet County

- 71) The Committee conducted the public hearings on Friday 3rd November, 2023 at Kenya Medical Training College (KMTC) Iten town. A total of one hundred and ninety-nine (199) persons comprising of individuals and representatives from institutions and groups appeared before the Committee and the following were submitted;

- (i) Stephen Keitany, Chairperson of the Keiyo Council of Elders, supported the Bill as it proposes to standardize all regional development authorities. He proposed that there should be a budget to provide for capacity building of the Boards of the Regional Development Authorities and quarterly performance ratings for RDAs.
- (ii) Patrick Lenges from Samburu County supported the Bill and proposed that the Bill should be amended to provide for a percentage of funding to be given by the national government to RDAs. He also proposed that the Bill should provide for equal distribution of resources in instances where a Regional Development Authority cuts across several counties.
- (iii) Mohamed Hussein supported the Bill stating that Kerio Valley Development Authority had helped a lot, particularly in livestock farming and mango processing in the region. He supported the composition of the Board as provided for in the Bill since it ensures ordinary citizens are represented.
- (iv) Mark Meghut from WeiWei, West Pokot, supported the Bill and lauded Kerio Valley Development Authority for its work at WeiWei Irrigation Scheme. He proposed that the Bill be amended to provide for a collaborative framework between county governments and Regional Development Authorities. He also proposed that Kerio Valley Development Authority should provide technical support to farmers in their respective areas. He further proposed that the Bill be amended in the first function of the RDA which provides for advising the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources to clarify whether the advice would be final and address situations where there is a conflict.
- (v) The County Executive Committee (CEC) for Baringo County stated that there was need to have a structured way of development by the Regional development Authorities and the county governments to ensure holistic approach to developments and he lauded Kerio Valley Development Authority for its projects particularly on livestock improvement.
- (vi) Douglas Lepoyare from Samburu County supported the Bill and proposed that Kerio Valley Development Authority should be empowered to provide environmental conservation and 10% of the funds allocated should be used to deal with soil erosion and planting of trees in Samburu County.
- (vii) Anna Elamat from Turkana County supported the Bill and stated that Turkana County was still not well developed and urged the Committee to prioritise development that ensure peace between warring communities
- (viii) Yusuf Keitany, an elder, supported the Bill but was opposed to the proposal to reduce the Board membership from sixteen to eleven. He stated that there will be no conflict between county governments and Kerio Valley Development Authority in terms of providing development to citizens.

- (ix) Thomas Maiyo County Executive Committee (CEC), Elgeyo-Marakwet County, supported the Bill and lauded the projects conducted by Kerio Valley Development Authority. He proposed an amendment to clause 42 of the Bill to include county governments in the acquisition of land. He further proposed a better coordination between county government and Kerio Valley Development Authority to avoid duplication of functions
- (x) Daniel Ngitome from Turkana County supported the Bill. However, he proposed that the Bill should clarify on how nomination would be conducted in Clause 18(1) (e) and proposed gender parity and youths should be considered in the nomination.
- (xi) Lucy Maira from West Pokot County supported the Bill and extolled Kerio Valley Development Authority for its work and proposed that more resources should be allocated to Kerio Valley Development Authority.
- (xii) Joseph Kipkach from Chamber of Commerce supported the Bill and the functions of Kerio Valley Development Authority and proposed that Kerio Valley Development Authority should not be amalgamated with other RDAs and that more resources should be allocated the numerous functions it performs.
- (xiii) Joel Magiri from Baringo County supported the Bill and urged the Committee to recommend its enactment. He stated that the construction of Chemberor Dam in Baringo County had stalled and implored the Committee to follow up on its completion. He proposed that more resources should be allocated to KVDA and sought assistance for better breeding of livestock.
- (xiv) Paulina Lotulia from Turkana County supported the Bill and urged the national government to allocate more resources to RDAs including KVDA in order to employ more staff, including an engineer.
- (xv) Gadaffi Johnson supported the Bill. However, he proposed an amendment to the Bill to reduce the experience of the Managing Director from ten years to five years. Further, he proposed that once a Managing Director completes his term, he or she should move to another RDA to serve as a Managing Director.
- (xvi) Dominic Keino proposed that the Bill should be amended to increase the term of a Board member from three years to four years. He also proposed that the Chairperson and members of the Board should be elected to curb favouritism.
- (xvii) The Leader of Majority of Elgeyo-Marakwet County Assembly proposed the following amendments to the Bill; amend Clause 34 to include investments by RDAs as one of the sources of its funds, and provide for affirmative action for PWDs, youths and either gender in Board membership and the Bill to clarify the role of the Governor, conflict resolution within the region, a formula for resource allocation,

- (xviii) Rosemary Nchinyiei from Turkana County and on behalf of KVDA supported the Bill and proposed an amendment to Clause 2 of the Bill on the definition "Kerio Valley" to indicate "catchment areas" since the definition restricts the mandate of KVDA and locks out Marsabit, Baringo and other areas. The proposed amendment should read as follows: *"Kerio Valley" means the area drained by, drained into and the catchment areas of Kerio and Turkwel Rivers and their tributaries;*
- (xix) Kerio Valley Development Authority representative supported the Bill and proposed the medical cover for Directors of the Board should cover the family and not be limited to the Director alone. Also, he proposed that for a reasonable amount of honoraria for Board members of RDAs.

Isiolo town, Isiolo County

- 72) The Committee conducted the public hearings on Friday 3rd November, 2023 in CDI Catholic Pastoral Centre, Isiolo town. A total of two hundred and thirty two (232) comprising of individuals and representatives from institutions and groups appeared before the Committee and the following were submitted
- (i) Mr. Chalfano Guyo supported the Bill and stated that Ewaso Ng'iro North River Basin Development Authority was the largest Authority covering 39 Constituencies in the country and despite the Authority receiving peanut budgetary allocation from the exchequer it has done a lot of projects in the region. He urged the Committee to fast-track the consideration of the Bill as it would strengthen the Regional Development Authorities. He stated that the Bill should endeavour to ensure that locals are considered the Board members
 - (ii) Mr. Yussuf Wako Representing Friends of Nomads International supported the Bill and stated that there is need to standardize the number of Board members with other Authorities and the need for additional funding for Regional Development Authorities to stop depending on donors. He further noted that the Regional Development Authorities plays a key role in terms of conflict resolution among the Counties and as such it was good to anchor it in Law as one of the functions of the Authority.
 - (iii) Abdi Rashid Sora Majority Leader Isiolo County Assembly expressed his support for the Bill noting that the Ewaso Ng'iro North River Basin Development Authority was undertaking several projects in the area which have really benefitted the locals. He informed the Committee that the Board does not have a representative from Isiolo County and that in future appointment one person needs to be from the County.
 - (iv) Dr. Caroline Ouko- Centre for Training, Integrated Research and Asal Development and expressed her support for the Bill and proposed the need to address the issue of partnership in the Bill.
 - (v) Mr. Ahmed Seit, Chairman of Interfaith Council supported the Bill and recommended that when appointing the Board Membership, the appointing authority should emphasize more on technocrats and experts. He requested for more resources to be allocated to Regional Development Authorities to enable

them harvest rainwater during rainy season and come up with other industries in the region for instance Tannery, bone processing factories and diversify into farming noting that the region produces most of the best quality fruits. He noted the need for consultation with the locals during decision making regarding projects for prioritization

- (vi) Mr. Mohamed Boru, Deputy County Secretary Isiolo County supported the Bill and urged the Committee to lobby for more resource allocation to Regional Development Authorities

CHAPTER FIVE

5.0 COMMITTEE OBSERVATIONS

73) Upon considering the Bill Clause by Clause, the submissions from stakeholders and views of the general public during the public hearings, the Committee made the following observations:

- (i) The principal object of the Bill is to consolidate the laws relating to Regional Development Authorities and to provide for the establishment, powers and functions of the six (6) existing Regional Development Authorities. These are Coast Development Authority, Ewaso Ng'iro North River Basin Development Authority, Ewaso Ng'iro South River Basin Development Authority, Kerio Valley Development Authority, Lake Basin Development Authority, Tana and Athi Rivers Development Authority.
- (ii) The Bill further seeks to standardize the functions of Regional Development Authorities subject to the unique areas of operation of each Regional Development Authority. It further standardizes the membership of the Boards of each regional development authority to nine (9) members in line with best practices in corporate governance;
- (iii) The Committee observed that the current Acts that provide for the establishment the six (6) Regional Development Authorities were enacted before the promulgation of the 2010 Constitution and therefore, the need to align them with the Constitution;
- (iv) The Committee noted that there were concerns raised regarding the proposed ten (10) years' experience for the Managing Directors in Clause 24 (2) (b) of the Bill which would disadvantage the youth, however the Committee was of the view that the proposed ten (10) experience for the post of Managing Director was sufficient;
- (v) The Committee also noted that in all the counties where the public hearings were conducted, there was a proposal that the appointing authority should take into account technocrats and experts and the locals in appointing members of the various Boards of the Regional Development Authorities; and
- (vi) The Committee observed that there were general concerns regarding underfunding of Regional Development Authorities which has led to many development projects stalling and that there was an urgent need to allocate enough financial resources to the six Authorities to address equitable and balanced social economic development in the country. The Committee noted that despite inadequate resource allocation, the Regional Development Authorities have transformed the lives of many Kenyans in the ASAL counties.

CHAPTER SIX

6.0 COMMITTEE RECOMMENDATIONS

74) The Committee, having considered the Regional Development Authorities Bill, 2023 (National Assembly Bills No. 7 of 2023) Clause by Clause and submissions from stakeholders recommends that the House **approves** the Bill with amendments as proposed in the schedule below;

6.1 Schedule of proposed amendments

75) The Committee proposes the following amendments to be considered by the House during the Committee stage:

LONG TITLE: THAT the long title of the Bill be amended by deleting the word "*bodies*" appearing immediately after the words "regional development" and substituting therefor the word "*authorities*".

Justification: The object of the Bill is to establish the regional development authorities and not regional development bodies.

CLAUSE 2: THAT, clause 2 be amended—

- (a) by inserting the following new definitions in proper alphabetic sequence—
 - "basin" means an area of land, including the exclusive economic zones, constrained by a watershed divide from where all surface water drains to a lower elevation;
 - "integrated development" means multi-sectoral development with inter-linked actions that exploit synergy of multi-sectoral projects and programmes for a lasting economic, physical and environmental improvement;
- (b) in the definition of "Coast region" by deleting the word "region" appearing immediately after the word "Coast" and substituting therefor the word "Basin";
- (c) in the definition of "Ewaso Ng'iro South River Basin" by—
 - (i) inserting the word "related" immediately before the word "catchment";
 - (ii) inserting the words "parts of" immediately after the word "Kajiado";
- (d) in the definition of "Kerio Valley" by inserting the word "Basin" immediately after the word "Valley"; and
- (e) in the definition of "Tana and Athi rivers areas" by deleting the word "areas" appearing immediately before the word "means" and substituting therefor the word "basin".

Justifications

- (i) The inclusion of the word "basin" and "integrated development" in the interpretation clause is necessary so as to give the reader of the law a better understanding of those words which are used in the law' and
- (ii) The inclusion of the word "basin" in the definition of Coast region, Kerio Valley and Tana and Athi Rivers area will ensure the areas of operation of the regional development authorities are clear enough.
- (iii) The insertion of the words "related" and "parts of" in the definition of the Ewaso Ng'iro South River Basin is to make the area of operation of the authority clear.

CLAUSE 3: THAT, clause 3 be amended in subclause (1) by inserting the words “integrity, transparency and accountability” immediately after the word “governance” in paragraph (g).

Justification: To align with the provisions of Article 10 (2) (c) of the Constitution which provides for good governance, integrity, transparency and accountability.

CLAUSE 6: THAT, clause 6 be amended—

(a) in subclause (1) by—

- (i) deleting paragraph (d); and
- (ii) deleting the word “eight” appearing immediately before the word “other” in paragraph (e) and substituting therefor the word “seven”.

Justification: To reduce the membership of the Board to nine members excluding the Managing Director in line with the *Mwongozo* Code of Governance for State Corporations.

(b) in subclause (2) by deleting the words “the President and” appearing immediately after the words “the Cabinet Secretary”.

Justification: The Cabinet Secretary is the appointing authority of the members of the Board under subclause (1) (e). Therefore, the Cabinet Secretary is the one who should observe the principal of gender equity and regional balance.

CLAUSE 7: THAT, clause 7 be amended in—

- (a) paragraph (a) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”;
- (b) paragraph (b) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”;
- (c) paragraph (c) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”;
- (d) paragraph (d) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”;
- (e) paragraph (h) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”;
- (f) paragraph (i) by inserting the words “of peaceful co-existence” immediately after the word “promotion”;
- (g) paragraph (j) by deleting the word “self” appearing immediately before the word “sustainability”
- (h) paragraph (k) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”; and
- (i) paragraph (l) by deleting the word “region” appearing immediately after the word “Coast” and substituting therefor the word “basin”.

Justifications

- (i) The deletion of the word “region” and replacing with the word “basin” is informed by the proposal to amend the definition of “Coast area” to “Coast basin”;
- (ii) The insertion of the words “peaceful co-existence” in paragraph (i) is to emphasize on promotion of peaceful co-existence and resolution of basin-based resource use conflict; and
- (iii) The deletion of the word “self” is because the mandate of the Authorities is not-profit making.

CLAUSE 8: THAT, clause 8 be amended in subclause (2) by deleting the words “in natural resources management, finance, business, strategic management or a related field” appearing before the word “Kenya” in paragraph (a).

Justification: This is to allow persons from different specialization to be able to be recruited and appointed as the Managing Director by the Board.

CLAUSE 10: THAT, clause 10 be amended—

- (a) in subclause (1) by—
 - (i) deleting paragraph (d); and
 - (ii) deleting the word “eight” appearing immediately before the word “other” in paragraph (e) and substituting therefor the word “seven”.

Justification: To reduce the membership of the Board to nine members excluding the Managing Director in line with the *Mwongozo* Code of Governance for State Corporations.

- (b) in subclause (2) by deleting the words “the President and” appearing immediately after the words “the Cabinet Secretary”.

Justification: The Cabinet Secretary is the appointing authority of the members of the Board under subclause (1) (e). Therefore, the Cabinet Secretary is the one who should observe the principal of gender equity and regional balance.

CLAUSE 11: THAT, clause 11 be amended in—

- (a) paragraph (i) by inserting the words “of peaceful co-existence” immediately after the word “promotion”; and
- (b) paragraph (j) by deleting the word “self” appearing immediately before the word “sustainability”.

Justification: The insertion of the words “peaceful co-existence” in paragraph (i) is to emphasize on promotion of peaceful co-existence and resolution of basin-based resource use conflict. The deletion of the word “self” is because the mandate of the Authorities is not-profit making.

CLAUSE 12: THAT, clause 12 be amended in subclause (2) by deleting the words “in natural resources management, finance, business, strategic management or a related field” appearing before the word “Kenya” in paragraph (a).

Justification: This is to allow persons from different specialization to be able to be recruited and appointed as the Managing Director by the Board.

CLAUSE 14: THAT, clause 14 be amended—

- (a) in subclause (1) by—
 - (i) deleting paragraph (d); and
 - (ii) deleting the word “eight” appearing immediately before the word “other” in paragraph (e) and substituting therefor the word “seven”.

Justification: To reduce the membership of the Board to nine members excluding the Managing Director in line with the *Mwongozo* Code of Governance for State Corporations.

- (b) in subclause (2) by deleting the words “the President and” appearing immediately after the words “the Cabinet Secretary”.

Justification: The Cabinet Secretary is the appointing authority of the members of the Board under subclause (1) (e). Therefore, the Cabinet Secretary is the one who should observe the principal of gender equity and regional balance.

CLAUSE 15: THAT, clause 15 be amended in—

- (a) paragraph (i) by inserting the words “of peaceful co-existence” immediately after the word “promotion”; and
- (b) paragraph (j) by deleting the word “self” appearing immediately before the word “sustainability”.

Justification: The insertion of the words “peaceful co-existence” in paragraph (i) is to emphasize on promotion of peaceful co-existence and resolution of basin-based resource use conflict. The deletion of the word “self” is because the mandate of the Authorities is not-profit making.

CLAUSE 16: THAT clause 16 be amended in subclause (2) by deleting the words “in natural resources management, finance, business, strategic management or a related field” appearing before the word “Kenya” in paragraph (a).

Justification: This is to allow persons from different specialization to be able to be recruited and appointed as the Managing Director by the Board.

CLAUSE 18: THAT clause 18 be amended—

- (a) in subclause (1) by—
 - (i) deleting paragraph (d); and
 - (ii) deleting the word “eight” appearing immediately before the word “other” in paragraph (e) and substituting therefor the word “seven”.

Justification: To reduce the membership of the Board to nine members excluding the Managing Director in line with the *Mwongozo* Code of Governance for State Corporations.

- in subclause (2) by deleting the words “the President and” appearing immediately after the words “the Cabinet Secretary”.

Justification: The Cabinet Secretary is the appointing authority of the members of the Board under subclause (1) (e). Therefore, the Cabinet Secretary is the one who should observe the principal of gender equity and regional balance.

CLAUSE 19: THAT, clause 19 be amended in—

- (a) paragraph (a) by inserting the word “Basin” immediately after the word “Valley”;
- (b) paragraph (b) by inserting the word “Basin” immediately after the word “Valley”;
- (c) paragraph (c) by inserting the word “Basin” immediately after the word “Valley”;
- (d) paragraph (d) by inserting the word “Basin” immediately after the word “Valley”;
- (e) paragraph (h) by inserting the word “Basin” immediately after the word “Valley”;
- (f) paragraph (i) by inserting the words “of peaceful co-existence” immediately after the word “promotion”;
- (g) paragraph (j) by deleting the word “self” appearing immediately before the word “sustainability”;
- (h) paragraph (k) by inserting the word “Basin” immediately after the word “Valley”;
- (i) paragraph (l) by inserting the word “Basin” immediately after the word “Valley”; and

Justification: The insertion of the word “Basin” after the word “Valley” is informed by the proposal to amend the definition of “Kerio Valley” to “Kerio Valley Basin”. The insertion of the words “peaceful co-existence” in paragraph (i) is to emphasize on promotion of peaceful co-existence and resolution of basin-based resource use conflict.

CLAUSE 20: THAT, clause 20 be amended in subclause (2) by deleting the words “in natural resources management, finance, business, strategic management or a related field” appearing before the word “Kenya” in paragraph (a).

Justification: This is to allow persons from different specialization to be able to be recruited and appointed as the Managing Director by the Board.

CLAUSE 22: THAT, clause 22 be amended—

- (a) in subclause (1) by—
 - (i) deleting paragraph (d); and
 - (ii) deleting the word “eight” appearing immediately before the word “other” in paragraph (e) and substituting therefor the word “seven”.

Justification: To reduce the membership of the Board to nine members excluding the Managing Director in line with the *Mwongozo* Code of Governance for State Corporations.

- (b) in subclause (2) by deleting the words “the President and” appearing immediately after the words “the Cabinet Secretary”.

Justification: The Cabinet Secretary is the appointing authority of the members of the Board under subclause (1) (e). Therefore, the Cabinet Secretary is the one who should observe the principal of gender equity and regional balance.

CLAUSE 23: THAT, clause 22 be amended in—

- (a) paragraph (i) by inserting the words “of peaceful co-existence” immediately after the word “promotion”
- (b) paragraph (j) by deleting the word “self” appearing immediately before the word “sustainability”.

Justification: The insertion of the words “peaceful co-existence” in paragraph (i) is to emphasize on promotion of peaceful co-existence and resolution of basin-based resource use conflict. The deletion of the word “self” is because the mandate of the Authorities is not-profit making.

CLAUSE 24: THAT, clause 24 be amended in subclause (2) by deleting the words “in natural resources management, finance, business, strategic management or a related field” appearing before the word “Kenya” in paragraph (a).

Justifications: This is to allow persons from different specialization to be able to be recruited and appointed as the Managing Director by the Board.

CLAUSE 26: THAT, clause 26 be amended—

(a) in subclause (1) by—

(i) deleting paragraph (d); and

(ii) deleting the word “eight” appearing immediately before the word “other” in paragraph (e) and substituting therefor the word “seven”.

Justification: To reduce the membership of the Board to nine members excluding the Managing Director in line with the *Mwongozo* Code of Governance for State Corporations.

(b) in subclause (2) by deleting the words “the President and” appearing immediately after the words “the Cabinet Secretary”.

Justification: The Cabinet Secretary is the appointing authority of the members of the Board under subclause (1) (e). Therefore, the Cabinet Secretary is the one who should observe the principal of gender equity and regional balance.

CLAUSE 27: THAT, clause 27 be amended in—

(a) paragraph (a) by deleting the word “area” appearing immediately after the word “rivers” and substituting therefor the word “basin”;

(b) paragraph (b) by deleting the word “area” appearing immediately after the word “rivers” and substituting therefor the word “basin”;

(c) paragraph (c) by deleting the word “areas” appearing immediately after the word “rivers” and substituting therefor the word “basin”;

(d) paragraph (d) by deleting the word “areas” appearing immediately after the word “rivers” and substituting therefor the word “basin”;

(e) paragraph (h) by deleting the word “areas” appearing immediately after the word “rivers” and substituting therefor the word “basin”;

(f) paragraph (i) by inserting the words “of peaceful co-existence” immediately after the word “promotion”;

(g) paragraph (j) by deleting the word “self” appearing immediately before the word “sustainability”

(h) paragraph (k) by deleting the word “areas” appearing immediately after the word “rivers” and substituting therefor the word “basin”; and

(i) paragraph (l) by deleting the word “areas” appearing immediately after the word “rivers” and substituting therefor the word “basin”.

Justifications

(i) The deletion of the word “region” and replacing with the word “basin” is informed by the proposal to amend the definition of “Tana and Athi rivers areas” to “Tana and Athi rivers basin”;

(ii) The deletion of the word “self” is because the mandate of the Authorities is not-profit making.

(iii) The insertion of the words “peaceful co-existence” in paragraph (i) is to emphasize on promotion of peaceful co-existence and resolution of basin-based resource use conflict.

CLAUSE 28: THAT, clause 28 be amended in subclause (2) by deleting the words “in natural resources management, finance, business, strategic management or a related field” appearing before the word “Kenya” in paragraph (a).

Justification: This is to allow persons from different specialization to be able to be recruited and appointed as the Managing Director by the Board.

CLAUSE 29: THAT, clause 29 be amended in subclause (1) by deleting the words “of the” appearing immediately before the word “Boards”

Justification: To remove the repetition of the words “of the”.

CLAUSE 42: THAT, the Bill be amended by deleting clause 42.

Justification: This clause provides for acquisition of land for the purposes of a regional development authority. It provides that the authority may acquire private land through transfer or compulsory acquisition. It also provides that an authority may transfer or surrender any surplus land. The provisions on acquisition of an interest in land are well articulated in the Land Act, 2016 and the Land Registration Act, 2012.

SCHEDULE: THAT, the Schedule to the Bill be amended—

(a) in paragraph (2) by deleting the word “Council” appearing immediately after the word “members of the” in sub-paragraph (4) and substituting therefor the word “Board”.

Justification: The correct term is members of the Board and not Council.

(b) in paragraph 3 by deleting the word “six” appearing immediately after the word “members” and substituting therefor the word “five”.

Justification: Due to the proposed reduction of the membership of the Boards, there is need to reduce the number of members required to achieve quorum in a meeting.

SIGNED.....

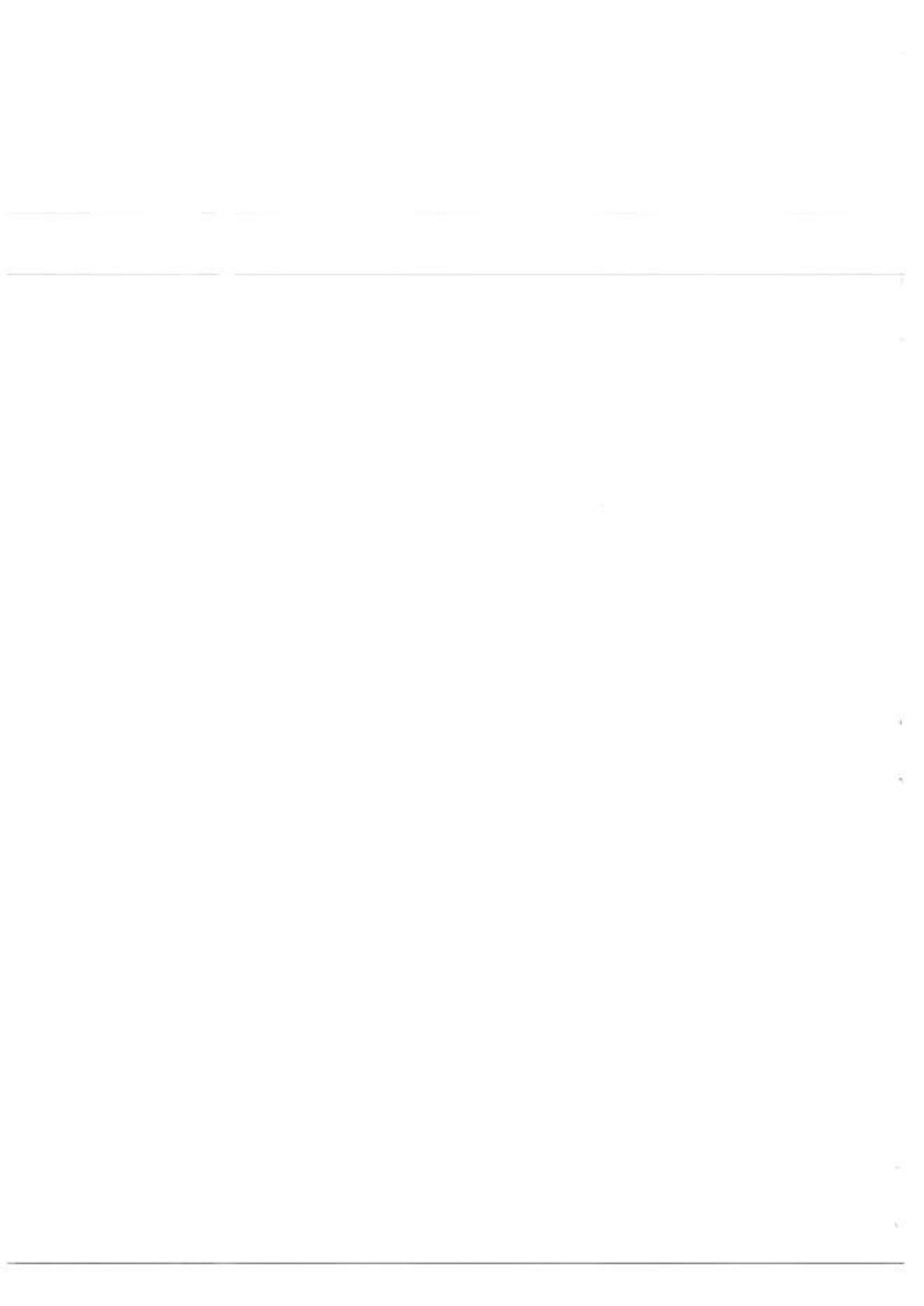


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29/11/2023

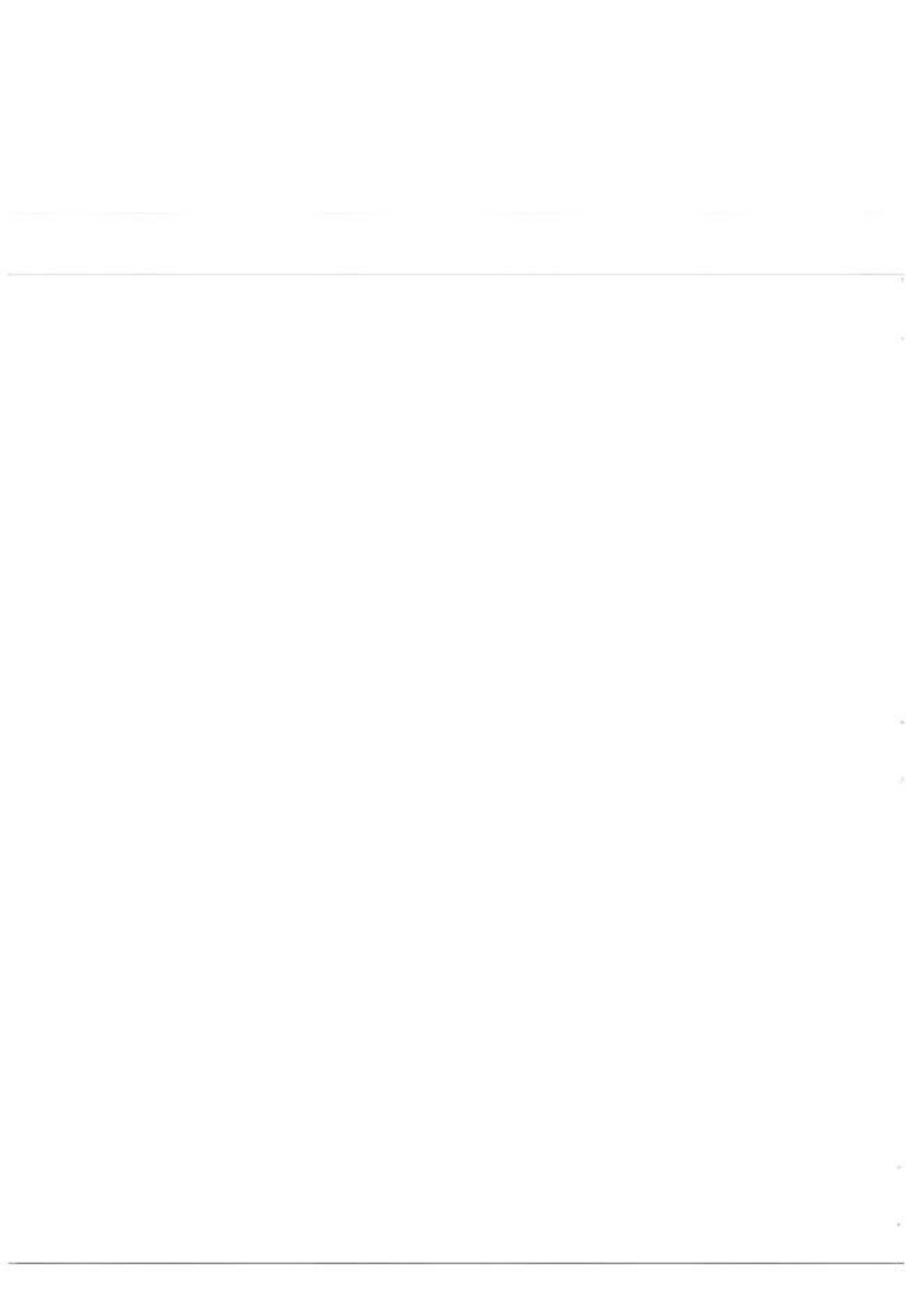
HON. LOCHAKAPONG PETER, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT



ANNEXURE 1

ADOPTION LIST





THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON REGIONAL DEVELOPMENT

ADOPTION LIST FOR THE REPORT ON THE CONSIDERATION OF THE REGIONAL DEVELOPMENT AUTHORITIES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2023)

Date:

Venue:

NO.	NAME	SIGNATURE
1.	Hon Lochakapong Peter, M.P. - Chairperson	
2.	Hon Njoroge Mary Wamaua Waithira, M.P. - Vice- Chairperson	
3.	Hon. Kombe, Harrison Garama, M.P.	
4.	Hon. Mawathe, Julius Musili, M.P.	
5.	Hon Kalasinga Joseph Majimbo, M.P	
6.	Hon. Nabulindo, Peter Oscar, M.P.	
7.	Hon Chererot Joseph Kimutai, M.P.	
8.	Hon Maj (Rtd) Dekow M. Barrow, M.P.	
9.	Hon. (Eng.) Khamis Chome Abdi, M.P.	
10.	Hon Letipila Dominic Eli, M.P.	
11.	Hon. Maina Mwago Amos, M.P.	
12.	Hon. Salasya Peter Kalerwa, M.P.	
13.	Hon. Siyad Amina Udgoon, M.P.	
14.	Hon Tungule Charo Kazungu, M.P.	
15.	Hon Yakub Farah Salah, M.P.	

