

PARLIAMENT OF KENYA
THE SENATE
SENATE BILLS DIGEST
THE SPORTS (AMENDMENT) BILL, 2024
(SENATE BILLS NO. 33 OF 2024)

Sponsor: Sen. Edwin Watenya Sifuna
Date of Publication: 20th June, 2024
Date of First Reading: 6th August, 2024
Committee referred to: Standing Committee on Labour and Social Welfare
Type of Bill: Ordinary Bill

1. PURPOSE OF THE BILL

The purpose of this Bill is to amend the Sports Act (Cap 223), to provide for the establishment and administration of the County Sports Associations Fund for each county.

2. BACKGROUND OF THE BILL

Paragraph 4(h) of Part 2 of the Forth Schedule to the Constitution of Kenya lists sports and cultural activities and facilities as a function of county governments. Under Vision 2030, the government was to undertake a number of programs to promote sports development as source of employment for the youth including—

- (a) facilitation and encouragement of better management of sports;
- (b) establishment of facilities for five sports (football, swimming, basketball, netball volleyball) in each of the County Youth Development Centre of Excellence; and
- (c) upgrading existing sporting facilities at the county level to accommodate swimming, tennis, basketball and rugby.

The Public Finance Management, Sports, Arts and Social Development Fund was created to provide funding to support the development and promotion of sports and arts and the promotion of social development including universal health care.

The development and promotion of sports and arts in the counties continue to face funding shortfalls despite National government interventions hence the need for a new framework for funding of sports and arts in the counties.

Current Law

The Sports Act, Cap.233, under Part VI provides for registration of county sports associations but does not provide for their funding by the respective county governments.

Public Finance Citation Management (Sports, Arts and Social Development Fund) Regulations, 2018, object and purpose include, among others—

- (a) promotion of social development including universal health care;
- (b) financing the development of sports and recreation facilities including stadia, gymnasiums, buildings, tracks;
- (c) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions; and
- (d) facilitation for the acquisition and provision of equipment to sports and recreation facilities...

The proceeds of the Fund shall be apportioned as follows—

- (a) an amount not exceeding sixty percent to social development including universal health care;
- (b) an amount not exceeding thirty five percent to the promotion and development of sports;
- (c) an amount not exceeding twenty percent to the promotion and development of arts; and
- (d) an amount not exceeding five percent to government strategic interventions whose expenditure shall be subject to approval by Cabinet.

Shortcomings of the current law

The two legislations have failed to address the issue of funding for county sports associations hence the need for a new legislation that is specific to the county sports associations funding.

The rationale for the Bill

The Bill therefore, seeks to establish a County Sports Associations Fund for each county to specifically fund and support the activities of county sports associations.

3. OVERVIEW OF THE BILL

Object of the County Sports Associations Fund

Under the Bill, the object of the County Sports Associations Fund is to provide funding to support registered county sports associations, including—

- (a) facilitation for the acquisition and provision of equipment to sports facilities;
- (b) support for the identification, nurturing and development of talent in sports;
- (c) facilitation of training and capacity building programmes for persons involved in sports; and
- (d) financing the development of sports facilities including stadia, gymnasiums, buildings, tracks.

Sources of monies for the Fund

The source of monies for the Fund include—

- (a) one percent of all monies paid into the county revenue fund;
- (b) such monies or assets as may accrue or received by the fund; and
- (c) all monies from loans, grants or donations from national government or international agencies for purposes of supporting county sports associations.

How will the Fund be disbursed?

The funds under the Fund shall be disbursed under the following conditions—

- (a) all disbursements from the Fund shall be approved by the respective county executive committee member responsible for matters relating to sports;
- (b) disbursements from the Fund shall be utilised to support the objects and purpose of this Fund; and
- (c) the county executive committee member shall set out other conditions and requirements for release of funds, to ensure efficient and effective management of resources.

Accounting officer of the Fund

The administrator of the Fund shall be the accounting officer responsible for matters relating to sports in the county or any other person designated by the county executive committee member, in writing, for that purpose.

What are the functions of the Administrator?

The administrator of the fund shall—

- (a) open and operate a separate bank account or accounts at the Central Bank of Kenya or a bank to be approved by the County Treasury;
- (b) supervise and control the administration of the Fund;
- (c) prepare a work plan in respect of a financial year to be approved by the county executive committee member;
- (d) cause to be kept proper books of accounts and other books and records relating to all activities and undertakings financed from the Fund;
- (e) prepare, sign and transmit, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and submit a copy to the County Treasury; and
- (f) prepare a quarterly report on financial and non-financial activities of the Fund in accordance with the provisions of the Public Finance Management Act, Cap. 412A.

Is there any budget circular for the Fund?

The Administrator of the Fund shall by the 30th August of each year issue a budget circular for the Fund to the eligible persons indicating—

- (a) the ceilings for funding under sports, and sports development;
- (b) priority programmes, projects and activities to be funded in that financial year; and
- (c) any other information that may be considered necessary.

Funding eligibility criteria.

Under the Bill, a registered county sports association, shall be eligible to apply for funding from the Fund if it—

- (a) is registered as a county sports association under the Sports Act (No. 25 of 2013);
- (b) has an annual work plan aligned to the strategic plan of the association and the medium-term plan approved by the governing body of the county sports associations; and
- (c) has, in the case of an infrastructure development project, prepared project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions.

Application criteria for funding.

An application for funding under the Bill shall be accompanied with, among others—

- (a) the certificate of registration issued under the Sports Act, 2013;
- (b) an annual work plan aligned to the strategic plan of the association and the medium-term plan approved by the governing body of the sports association;
- (c) the project designs, plans and bills of quantities, approved by the governing body and the requisite regulatory approvals from relevant government institutions, where applicable;
- (d) a statutory declaration of programmes funded through other sources; and
- (e) the details and signatories of the bank account in the name of the association where the funds shall be channelled.

Role of a recipient of funding

A recipient shall—

- (a) submit quarterly and annual progress reports of the programmes, projects and activities funded by the Fund; and
- (b) allow monitoring and evaluation of the programmes, projects and activities funded by the Fund.

What happens to a recipient who fails to comply with the Fund's requirements?

A recipient who fails to comply with the Fund's requirements shall not be eligible for any subsequent disbursement until full compliance.

What happens to unutilized funds

A recipient shall return any unutilized funds disbursed where—

- (a) the purpose for which the funds were disbursed was not undertaken; or
- (b) the purpose for which the funds were disbursed was undertaken but the funds were not fully utilized; or
- (c) savings are realized as a result of change in circumstances

4. CONSEQUENCES OF THE BILL

The Bill concerns county governments in that it contains provisions dealing with creation of County Sports Associations Fund in every county. Paragraph 4(h) of Part 2 of the Fourth Schedule to the Constitution lists cultural activities, public entertainment and public amenities, including sports and cultural activities and facilities as a function of county governments.

How does the Bill concern the public?

The Bill will enable counties to nurture talent development of talent in sports and develop their capacity on sports management.

5. WAY FORWARD

What next?

Pursuant to standing order 145 of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare shall facilitate public participation and shall take into account the views and recommendations of the public when the committee submits its report to the Senate.

What is expected of the members of public?

The members of the public are expected to present their views to the Standing Committee on Labour and Social Welfare for its consideration.

Next step

The Bill was Read a First Time in the Senate on 6th August, 2024. Pursuant to standing order 148 of the Senate Standing Orders, the Committee is required to submit its report to the Senate within thirty (30) calendar days of the committal of the Bill to the Committee, therefore, by 6th September, 2024.

Note:

1. This Digest reflects the Bill as published and does not cover any subsequent amendments to the Bill made after its publication.
2. The Digest does not have any official legal status.