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committee clerk  
[Signature]

The Homa Bay County Climate Change Bill, 2022

THE REPUBLIC OF KENYA

② checked  
[Signature]

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HOMA BAY COUNTY ASSEMBLY  
THIRD ASSEMBLY – (FIRST SESSION)

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HOMA BAY COUNTY ASSEMBLY  
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08/11/22

REPORT OF WATER, IRRIGATION, SANITATION, ENVIRONMENT,  
ENERGY, FORESTRY AND CLIMATE CHANGE COMMITTEE

ON PUBLIC PARTICIPATION FOR THE HOMA BAY COUNTY  
CLIMATE CHANGE BILL 2022

Published by:

DEPARTMENT OF LEGISLATIVE AND COMMITTEE SERVICES.  
HOMA BAY COUNTY ASSEMBLY.  
HOMA BAY.

7<sup>TH</sup> NOVEMBER, 2022

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## **FORWARD**

Articles 42, 69, 70 & 72 of the Constitution provide for the rights to access clean and healthy environment as well as the mandate of the legislatures to enact legislations that enhance the attainment of the aforementioned clean and habitable environment. The County Assembly is vested with the legislative authority of the County of Homa Bay with specific mandate to make laws and exercise oversight over the county executive committee and any other county executive organ while respecting the principle of separation of powers as enshrined in Article 185 of the Constitution of Kenya, 2010. These functions cascade to the Committee.

The Committee having the mandate to conduct public participation as enshrined under Article 196 conducted the same. The aim of the public participation process is to make sure that the stakeholders, interested and affected parties as well as the general public are informed, are able to contribute inputs and to engage in the formal process (commenting on the Homa Bay County Climate Change Bill, 2022).

Various stakeholders, interested and affected parties were identified during this process which was conducted on 7/11/2022 at the Homa Bay County Assembly Committee Hall. These included the non-governmental organizations, the youth, persons with disability, women, and various other groups as well as the general public.

The Homabay County Climate Change Bill, 2022 is a Bill for an Act of the County Assembly of Homabay to provide a framework for the establishment of systems for the mainstreaming of climate change actions in the county and for the connected purposes.

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

The committee on Water, Irrigation, Sanitation, Environment, Energy Forestry & Climate Change is established pursuant to the provisions of the Standing Order No. 194 (3).

#### **(b) General Mandate**

The committee is generally mandated to -:

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Study the program and policy objectives of departments and the effectiveness of the implementation;
- (c) Study and review all county legislation referred to it;
- (d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointments) and
- (g) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

## 1.2 COMMITTEE MEMBERSHIP

The committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change Committee was reconstituted by the County Assembly of Homa Bay and is currently comprising of the following members:

NO	NAME	DESIGNATION
1.	Hon. Omollo Erick	Chairperson
2.	Hon. Walter Adongo	V/Chairperson
3.	Hon. Odock Paul	Member
4.	Hon. Vickins Bondo	Member
5.	Hon. Alice Oloo	Member
6.	Hon. Joan Ogada	Member
7.	Hon. Raphael Odongo	Member
8.	Hon. Michael Nyang'i	Member
9.	Hon. Florence Ouma	Member
10.	Hon. Tom Adinda	Member
11.	Hon. Evalyne Atieno	Member
12.	Hon. Victor Obuya	Member
13.	Hon. Richard Ogindo	Member
14.	Hon. Wilkister Awiti	Member
15.	Hon. Lazarus Ojango	Member

### **1.3 COMMITTEE SECRETARIAT**

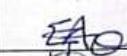
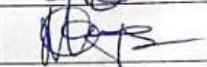
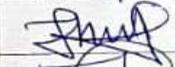
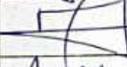
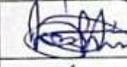
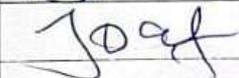
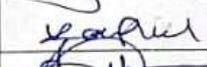
The Committee was served by the following secretariat:

<b>NO</b>	<b>NAME</b>	<b>DESIGNATION</b>
1.	Mr. Thomas Opere	Committee Clerk
2.	Ms. Clarice Okong'o	Committee Clerk
3.	Ms. Dorcas Osuri	Legal Officer
4.	Mr. John Oyoko	Sergeant At Arms

### 1.4 ADOPTION OF THE COMMITTEE REPORT

We, the members of the Sectoral Committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change have, in consonance with Standing Order No.180(4), adopted this report and affix our signatures to affirm our approval and confirm its accuracy and authenticity;

Date...7<sup>th</sup> November, 2022

NO.	NAME	DESIGNATION	SIGNATURE
1	Omollo Erick	Chairman	
2	Walter Adongo	V/Chair	
3	Alice Oloo	Member	
4	EVALYNE OTIENO	MEMBER	
5	Michael Mwangi	Member	
6	Florina Onma	Member	
7	Victor Obunga	Member	
8	Lazarus Ojango	Member	
9	JOAN OSADA	MEMBER	
10	Raphael Ojongo	member	
11	GENJO	Member	
12			
13			
14			
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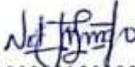
## 1.5 ACKNOWLEDGEMENT

The Sectoral Committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change Committee wishes to sincerely thank the office of the Speaker and the Clerk of the County Assembly for the logistical support accorded to it during this exercise.

The Chairperson takes this opportunity to thank the members of the committee for their input and valuable contributions during the deliberations and preparation of this report.

The committee wishes to record its appreciation for the services rendered by the staff of the County Assembly attached to the committee during the exercise. Their efforts made the work of the committee and preparation this report possible.

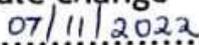
It is therefore, my pleasant duty and privilege, on behalf of the sectoral Committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change to present this report on the Public Participation on the Homa Bay County Climate Change Bill, 2022 in keeping with the provisions of standing order No 121(3) (4).

Signed.....

Hon. OMOLLO ERICK

Chairperson

Committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change

Date.....

## **2.0 BACKGROUND**

The Homa Bay County Climate Change Bill, 2022 underwent its first reading on 13<sup>th</sup> October 2022 vide Communication from the Chair No. 12 of 2022. The bill was subsequently committed to the Committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change to undertake public participation pursuant to the provisions of Articles 10(2) (a), 174(c) and 196(1) of the Constitution of Kenya 2010 and Section 87 of the County Governments Act, 2012.

The bill is informed by the provision of Article 42 of the Constitution on the need to have a clean and healthy environment which includes the right to have the environment protected for the benefit of present and future generations through legislative measures, particularly those contemplated in Article 69 and (b) to have obligations relating to the environment fulfilled under Article 70.

The bill seeks to provide for mainstreaming of climate change actions in all County policies, programs, plans and an effective framework for coordinated response in the County and connected purposes.

The legislative proposal further seeks to provide a legislative framework to coordinate the formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies.

The committee invited members of the public through a publication in the Standard Newspaper to a public participation exercise at County Assembly Committee Hall on 7<sup>th</sup> November 2022, where the committee noted views of the public with regard to the Bill whose views have been incorporated in this report.

### 3.0 OUTLINE OF THE GENERAL SCHEME

The table below summarizes the measures proposed in each section on the legislative proposal.

SECTION	DEALS WITH	DESCRIPTION
1.	Short title and commencement	<ul style="list-style-type: none"> <li>• Provides for the short title and commencement date.</li> </ul>
2.	Interpretation	<p>Defines key terms including;</p> <ul style="list-style-type: none"> <li>• Climate change</li> <li>• Climate change directorate</li> <li>• Directorate</li> <li>• Environment</li> <li>• County Executive Committee Member</li> <li>• Fund</li> <li>• Fund administrator</li> <li>• Interest Groups</li> <li>• Mitigation</li> <li>• Technical committee</li> <li>• Governor</li> <li>• Public entity</li> <li>• Private entity</li> <li>• Resilience</li> <li>• Steering committee</li> <li>• Vulnerability</li> <li>• Ward committee</li> </ul>
3.	Objects and Purpose of the Act	<ul style="list-style-type: none"> <li>• Provide for mainstreaming of climate change actions in all County policies, programs, plans and an effective framework for coordinated response in the County and connected purposes.</li> </ul>
4.	Designation of climate change county executive member	<ul style="list-style-type: none"> <li>• The county executive committee member for water, irrigation, sanitation, environment, energy, forestry and climate change shall be</li> </ul>

		in charge of implementation of the climate change plan enshrined under section 30 of this act.
5.	Establishment of County Climate Change Committee	<ul style="list-style-type: none"> <li>establishes the County Climate Change Committee responsible for the various functions enshrined under Section 6 of this Act</li> </ul>
6.	Functions of the Committee	<ul style="list-style-type: none"> <li>To ensure the mainstreaming of climate change impacts into County planning and development processes;</li> <li>coordinate the formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;</li> <li>mobilize funds into the County Climate Change Fund established under this Act;</li> <li>review, approve and monitor implementation of Regulations for administration and management of the Fund;</li> <li>review and make recommendations on the biennial report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions;</li> <li>advise the County Government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate-resilient development;</li> <li>approve and oversee the implementation of a comprehensive program of climate change education, awareness creation and capacity building;</li> </ul>

		<ul style="list-style-type: none"> <li>• provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders;</li> <li>• ensure positive linkages, interactions and synergy between the County, neighbouring Counties and the National Government in climate change response programming and action;</li> <li>• coordinate the formulation of a climate change reporting framework, and the preparation and dissemination of an annual report on climate change response activities; and,</li> <li>• Perform any other functions that may further the foregoing objectives and/or as may be assigned</li> </ul>
7.	Composition of the Committee	<ul style="list-style-type: none"> <li>• The Committee shall comprise of 11 members who shall be appointed by the Governor upon the recommendation of the County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change</li> </ul>
8.	Gazettement of the Steering Committee	<ul style="list-style-type: none"> <li>• The Governor shall cause the appointed members to be gazetted in the County gazette within fourteen (14) days of their appointment and before their first sitting.</li> </ul>
9.	Term of the Committee	<ul style="list-style-type: none"> <li>• Members of the Committee appointed under section 7(2) (e) and (g) shall serve for one non-renewable term of three years</li> </ul>
10.	Removal of Member of the Committee	<ul style="list-style-type: none"> <li>• A member of the Committee may be removed from the Committee</li> </ul>

		<p>by the Governor on any one or a combination of the following grounds:</p> <ul style="list-style-type: none"> <li>• (a) failure to attend two consecutive meetings of the Committee without reasonable cause;</li> <li>• (b) serious violation of the Constitution or any other written law;</li> <li>• (c) gross misconduct;</li> <li>• Has been charged with a felony in a court of law;</li> <li>• (d) physical or mental incapacity; and/or,</li> <li>• (e) bankruptcy.</li> </ul>
<p>11.</p>	<p>Meetings of the Steering Committee</p>	<ul style="list-style-type: none"> <li>• Members of the Committee shall at their first meeting elect a vice-chairperson from amongst the members appointed under section 7(2) (l), (m), (n), (o) and (p).</li> <li>• (2) The Committee shall meet at least twice in each financial year.</li> <li>• (3) The quorum for meetings of the Committee shall be two-thirds of the membership, at least two</li> </ul>

		<p>(2) of whom shall be those appointed under Subsection (2) (e), (g) and (h).</p> <ul style="list-style-type: none"><li>• (4) A resolution of the Committee shall require an affirmative vote of at least one-half of the members present at a meeting, excluding the chairperson's vote which shall be a casting vote.</li><li>• (5) In the absence of the chairperson, the vice-chairperson shall chair meetings of the Committee, and in the absence of both the chairperson and the vice-chairperson, members in attendance shall elect one of them to chair the meeting.</li><li>• (6) The Committee may invite to its meetings any person, which it considers, will contribute to its deliberations, and the attendance and participation of such person shall be recorded in the Minutes of the Committee.</li></ul>
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12.	Allowances for members of the Committee	<ul style="list-style-type: none"> <li>Provides that members of the Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission from time to time</li> </ul>
13.	Allowances for members of the Committee	<ul style="list-style-type: none"> <li>Such allowances shall be paid by monies appropriated by the County Assembly to the climate change directorate</li> </ul>
14.	Delegation of powers by the Committee	<ul style="list-style-type: none"> <li>Subject to the provisions of this Act, the Steering Committee may, either generally or in a particular case, delegate specific functions under this Act to an ad hoc sub-committee or to any member of the Steering Committee or officer or agent thereof</li> </ul>
15.	Establishment of County Climate Technical Committee	<ul style="list-style-type: none"> <li>There is hereby established the Climate Change Technical Committee</li> </ul>
16.	Functions of the Technical Committee	<ul style="list-style-type: none"> <li>to coordinate planning, and implementation of projects and activities for climate change response in the County;</li> <li>to coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;</li> <li>establish guidelines to be used by Sub County Technical Committees in formulating climate response</li> </ul>

		<p>projects for funding by the County Climate Change Fund;</p> <ul style="list-style-type: none"> <li>• support Sub County Technical Committees in development and implementation of climate response projects;</li> <li>• coordinate the development and implementation of the County Climate Change Fund Regulations;</li> <li>• advise the Steering Committee on strategies, priority programmes, projects and activities for climate change response in the County;</li> <li>• formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the County;</li> <li>• coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto;</li> <li>• prepare and disseminate an annual report on climate change response activities in the County;</li> <li>• formulate and implement a county monitoring, evaluation and reporting framework for climate change response; and,</li> <li>• perform any other functions assigned to it by the Steering Committee.</li> </ul>
17.	Membership of Technical Committee	<ul style="list-style-type: none"> <li>• County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change and who shall be the chairperson</li> </ul>

		<ul style="list-style-type: none"> <li>• Chief Officer in charge of climate change matters who shall be the secretary;</li> <li>• Chief Officer in charge of finance and planning;</li> <li>• Director in charge of disaster management and administration;</li> <li>• Chief Officer in charge of agriculture, livestock and fisheries;</li> <li>• Director in charge of Public health;</li> <li>• County representative of the National Environment Management Authority or a designated representative;</li> <li>• County Director of Meteorology</li> <li>• County Ecosystem conservator.</li> <li>• Two (2) representatives of Civil Society Organizations involved in climate change activities in the County.</li> <li>• The Fund Administrator,</li> <li>•</li> </ul>
18.	Appointment and Term of Technical Committee	<ul style="list-style-type: none"> <li>• Members of the Technical Committee shall be appointed by the Executive Committee Member designated to be in charge of climate change.</li> <li>• (2) Members of the Technical Committee appointed under section 17(1) (ix), (x) and (xi), shall serve for one non-renewable term of three years.</li> </ul>

19.	Removal of member of the Technical Committee	<ul style="list-style-type: none"> <li>• The removal of members appointed under Section 18 (1) shall be governed by Section 10(2)</li> </ul>
20.	Meetings of Technical Committee	<ul style="list-style-type: none"> <li>• The Technical Committee shall meet at least once every quarter in each financial year.</li> <li>• The quorum for meetings of the Technical Committee shall be two-thirds of the members, at least one (1) of whom must be those appointed under 16 (x).</li> <li>• A resolution of the Technical Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson’s vote which shall be a casting vote.</li> <li>• In the absence of the chairperson and the vice chairperson, the members shall elect one of them to preside over the meeting.</li> <li>• (5) The Technical Committee may co-opt any person knowledgeable on the items of its agenda to attend its meetings.</li> </ul>
21.	Allowances for members of Technical Committee	<ul style="list-style-type: none"> <li>• Members of the Technical Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission from time to time</li> </ul>
22.	Establishment of Ward Climate Change Committees	<ul style="list-style-type: none"> <li>• There is hereby established a Ward Climate Change Committee in all the wards within the County.</li> </ul>

<p>23.</p>	<p>Functions of Ward Climate Change Committees</p>	<ul style="list-style-type: none"> <li>• coordinate and mobilize communities and other stakeholders in the Ward to design and implement climate change response activities;</li> <li>• facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto;</li> <li>• Conduct public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto;</li> <li>• coordinate, facilitate and manage community consultations on climate change response activities;</li> <li>• participate in county planning and budgeting processes with a view to ensuring the mainstreaming of climate change and prioritization of climate change response in county development plans;</li> <li>• support communities in the Ward in developing proposals on climate change response projects for funding by the County Climate Change Fund and other sources;</li> <li>• Coordinate implementation of climate change response activities.</li> <li>• Monitor and report on all climate change activities and impacts to the county technical committee.</li> <li>• Perform any other functions that may be assigned to it by the County Technical Committee from time to time</li> </ul>
<p>24.</p>	<p>Composition of Ward Climate Change Committee</p>	<ul style="list-style-type: none"> <li>• The ward Committee shall be composed of 8 members</li> </ul>

		<p>representing the diverse interests in the community who shall be:</p> <ul style="list-style-type: none"> <li>• Ward Administrators who shall be the chair;</li> <li>• (ii) Ward officer for the department in charge of Environment shall be the Secretary;</li> <li>• (iii) Ward Agricultural Officer</li> <li>• (v) Ward forest officer</li> <li>• (vi) One representative of the youth</li> <li>• (vii) One representative of the People with Disabilities</li> <li>• (viii) One community representative from each ward with strict observance of gender rule.</li> <li>• (vii) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities;</li> <li>• (2) Appointment of members falling under subsections 24 (vi), (vii) and (viii) shall be done by the technical Committee which shall ensure the process is competitively done.</li> </ul>
25.	Meetings of the Ward Climate Change Committee	<ul style="list-style-type: none"> <li>• (1) The Ward Climate Change Committee at its first sitting shall elect the chairperson and the vice-chairperson from among the members</li> <li>• (2) The chairperson and the vice-chairperson shall not be members of the same gender</li> </ul>
26.	Qualifications for appointment to Ward Climate Change Committees	<ul style="list-style-type: none"> <li>• (1) A person shall not qualify for appointment to the Committee, unless he or she:</li> <li>• is a resident of the Ward;</li> </ul>

		<ul style="list-style-type: none"> <li>• fulfils the requirements of Chapter Six of the Constitution on leadership and integrity;</li> <li>• demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing the said challenges in the County.</li> </ul>
27.	Term of Ward Climate Change Committees	<ul style="list-style-type: none"> <li>• Members of the Committee appointed under clause 24 (vi) and (vii) and (viii) shall serve for one non-renewable term of three years</li> </ul>
28.	Removal of Member of Ward Climate change Committee	<ul style="list-style-type: none"> <li>• (1) A member of the Committee may at any time resign from the Committee by giving one month's notice to the CECM designate.</li> <li>• (2) The removal of members appointed under 24 (vi), (vii) and (viii) shall be governed by Clause 10(2)</li> </ul>
29.	Meetings of Ward Climate Change Committee	<ul style="list-style-type: none"> <li>• (1) The Committee shall meet twice in every year.</li> <li>• (2) Quorum of sub county climate change committee shall be two thirds of its membership.</li> <li>• (3) The Committee may co-opt not more than two persons in any meeting based on a specific required expertise as and when needed.</li> <li>• (4) A notice convening committee meetings shall be issued not less than 14 days prior to the date thereof, and shall be widely publicized through public barazas, the media, and by a notice placed prominently at the sub county office</li> </ul>
30.	Remuneration of members of Ward	<ul style="list-style-type: none"> <li>• Members of the Ward Committee shall be paid such allowances as are stipulated by guidelines from the</li> </ul>

	Climate Change Committees	salaries and remuneration commission from time to time.
31.	Part V- County Climate Change Action Plan	<ul style="list-style-type: none"> <li>• The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall formulate a County Climate Change Action Plan in consultation with the relevant stakeholders.</li> <li>• (b) In formulating the action plan, the CEC shall be informed by; scientific knowledge of climate change, technological innovation relevant to climate change, fiscal circumstances of the county, social circumstances and the constitution</li> <li>• (2) The County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan and County Integrated Development Plan.</li> <li>• Without prejudice to the provisions of subsection (1), the Executive Committee Member shall within one year of the coming into force of this Act coordinate development of an interim County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan.</li> </ul>
32.	Contents of County Climate Change Action Plan	<ul style="list-style-type: none"> <li>• The County Climate Change Action Plan shall:</li> <li>• (a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the County;</li> </ul>

		<ul style="list-style-type: none"> <li>• (b) contain a climate change needs and response assessment for the County;</li> <li>• (c) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for:             <ul style="list-style-type: none"> <li>• (i) guiding the County toward the achievement of low carbon climate-resilient sustainable development;</li> <li>• (ii) mainstreaming climate change into county integrated development plans, programmes, strategies and projects;</li> <li>• (iii) Adaptation to and mitigation of climate change;</li> <li>• (iv) Enhancing research, capacity building and knowledge management on climate change and climate change response;</li> <li>• (v) Enhancing public awareness for effective participation in climate change response; and,</li> <li>• (vi) Monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the County Climate Change Action Plan</li> </ul> </li> </ul>
33.	Approval of County Climate Change Action Plan	<ul style="list-style-type: none"> <li>• The County Climate Change Action Plan shall be approved by the Steering Committee and tabled in the County Assembly for adoption</li> </ul>
34.	Biennial review of County Climate Change Action Plan	<ul style="list-style-type: none"> <li>• The Technical Committee shall undertake a biennial review of the implementation of the Wards and County Climate Change Action Plan and report to the Steering Committee.</li> </ul>

<p>35.</p>	<p><b>PART V – DUTIES RELATING TO CLIMATE CHANGE</b></p> <p>Climate Change audits and penalties</p>	<ul style="list-style-type: none"> <li>• (1) The steering Committee may, on the recommendation of the County Executive Committee Member Environment and in consultation with relevant Executive Committee Members may conduct a climate change audit on the activities and operation of any private or public entity operating within the County.</li> <li>• (2) Based on the findings of the audit in Section (1) above the technical committee may recommend specific actions to be taken by the private entity to enhance mitigation and adaptation to climate change.</li> <li>• (3) Any private entity on which a recommendation as in Section (2) has been made shall in performing the said duty act in a manner best suited to the successful implementation of this Act and the County Climate Change Action Plan.</li> <li>• (4) Where any private entity receives the recommendation as in Section (3) and fails to perform the recommended actions, the directors shall be deemed to have committed an offence punishable under this Act.</li> <li>• (5) Any offence under this section will be punishable by             <ul style="list-style-type: none"> <li>• Suspension of the operating license of the entity within the County.</li> <li>• A fine not exceeding one million Kenya Shillings.</li> <li>• Imprisonment for a term not exceeding three (3) months.</li> </ul> </li> </ul>
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		<ul style="list-style-type: none"> <li>• The Environment and Land court shall have jurisdiction over any trial or appeal.</li> </ul>
36.	Mainstreaming Climate change actions in public entities	<ul style="list-style-type: none"> <li>• Without prejudice to the provisions of subsection (1), every public entity operating in the County shall have the duty to: <ul style="list-style-type: none"> <li>• (a) mainstream climate change actions into their policies, sectoral plans, strategic plans, work programmes, annual budget and other frameworks for implementing its statutory functions;</li> <li>• (b) perform its statutory functions in line with County Climate Change Action Plan;</li> <li>• (c) Prepare and submit annual report at end every financial year to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.</li> </ul> </li> </ul>
37.	Mainstreaming Climate change actions in private entities	<ul style="list-style-type: none"> <li>• Without prejudice to the provisions of subsection (1), every private entity operating in the County shall have the duty to: <ul style="list-style-type: none"> <li>• (a) In complying with relevant provisions from Environment Management and Coordination Act 2016 (EMCA) in corporate specific provisions for climate change adaptation and mitigation actions in their Environment impact assessment (EIA) reports;</li> <li>• (b) perform its proposed functions in line with County Climate Change Action Plan;</li> <li>• (c) Prepare and submit an annual report to the Steering Committee on the status and progress of performance and implementation of</li> </ul> </li> </ul>

		<p>all assigned climate change duties and functions.</p> <ul style="list-style-type: none"> <li>• (d) Any private entity that fails to file a report within 30 days of the end of the year as provided under Section (c) above commits an offence under this Act.</li> </ul>
38.	Climate Change Inspection and enforcement	<ul style="list-style-type: none"> <li>• The ward committee team enshrined under Section 25 (1) shall have the mandate to conduct the inspection and enforcement of the climate change action plan and report to the technical committee</li> <li>• (2) The inspection and enforcement team shall have all powers necessary for purposes of inspection and investigation including the power to enter premises of any private entity and make an enquiry.</li> <li>• (3) The Technical Committee shall report to the Steering Committee on the performance of functions under subsection (1) on an annual basis, and such report shall form part of the report by the Steering Committee to the County Assembly</li> </ul>
39.	Committee may require a private entity to report on performance	<ul style="list-style-type: none"> <li>• Notwithstanding the provisions of Section 34, the Steering Committee may:</li> <li>• by notice in the Gazette, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and</li> <li>• require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to</li> </ul>

		<p>ensure future performance of those duties.</p> <ul style="list-style-type: none"> <li>• Recommend appropriate punishment for failure in clause 38 (b).</li> </ul>
40.	<p>Annual County Climate Change Response Report</p>	<ul style="list-style-type: none"> <li>• (1) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall, within three months after the end of every financial year, publish and submit a report on the implementation of the County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.</li> <li>• (2) The County Assembly shall, within three (3) months of receiving the report, provide recommendations and proposed actions to the County Executive Committee Member designate.</li> <li>• (3) A copy of the report issued under subsection (1) shall be forwarded to the Directorate for information purposes.</li> </ul>
41.	<p><b>PAR T VI – PUBLIC PARTICIPATION AND ACCESS TO INFORMATION</b></p> <p>County strategy for climate change education and public awareness</p>	<ul style="list-style-type: none"> <li>• (1) Within one year of this Act coming into force, the Technical Committee shall conduct a comprehensive capacity needs assessment for climate change adaptation and mitigation.</li> <li>• (2) Based on the needs assessment, the technical committee shall develop a capacity building program through a participatory process.</li> <li>• (3) The program shall be presented to the Steering Committee for approval and implementation.</li> </ul>

		<ul style="list-style-type: none"> <li>• (4) The program developed thereof shall be reviewed annually</li> </ul>
42.	Public participation and capacity building in formulation of climate change response plans	<ul style="list-style-type: none"> <li>• (1) Notwithstanding the provisions of section 41(1) the Technical Committee and ward Committees shall ensure that the development of any climate change response program, plan, project or activity is preceded by a comprehensive campaign, public sensitization and awareness creation to facilitate informed public participation.</li> <li>• (2) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy and Climate change shall ensure public participation is done in line with relevant County laws</li> </ul>
43.	Access to information	<ul style="list-style-type: none"> <li>• The Steering Committee, the Technical Committee and the Ward Committee shall publish, publicize and ensure access to all important climate change information in their possession in an appropriate format</li> </ul>
44.	<p><b>PART VII – COUNTY CLIMATE CHANGE FUND</b></p> <p>Establishment of County Climate Change Fund</p>	<ul style="list-style-type: none"> <li>• There is hereby established the Homa bay County Climate Change Fund to provide funding for priority climate change actions</li> </ul>
45.	County Climate Change Fund Regulations	<ul style="list-style-type: none"> <li>• The Executive Committee Member in charge of Finance shall, in consultation with the County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change, develop Regulations</li> </ul>

		<p>for administration and management of the Fund</p> <ul style="list-style-type: none"> <li>• .(2) The Regulations made under subsection (1) shall provide for the following, among others:</li> <li>• (a) formulation of the County Climate Finance Framework;</li> <li>• (b) appointment and removal of the Fund Board and Administrator;</li> <li>• (c) operation of the Fund;</li> <li>• (d) eligibility criteria for accessing money from the Fund;</li> <li>• (e) development of project proposals, application for and disbursement of money from the Fund;</li> <li>• (f) procurement of services and goods;</li> </ul>
46.	<p><b>PART VIII – FINANCIAL PROVISIONS</b></p> <p>Funding operations of Steering and Technical Committees</p>	<ul style="list-style-type: none"> <li>• .(1) Functions of the committees shall be financed through appropriation by the County Assembly to the department for the time being in charge of environment, and other funds receivable by the County Government for the purposes of climate Change Actions from time to time.</li> <li>• (2) The funds shall be administered and managed in accordance with the provisions of the Public Finance Management Act 2012 and Public Finance Management Regulations 2015.</li> </ul>
47.	<p><b>PART IX – MISCELLANEOUS PROVISIONS</b></p> <p>Protection from personal liability</p>	<ul style="list-style-type: none"> <li>• No action taken or thing done by a member, officer or agent of the Steering Committee, the Technical Committee or the ward Committee in good faith and in performance of functions or execution of powers vested in the said committees by this Act, shall render the member, officer</li> </ul>

		or agent or any person acting on their directions personally liable for any action, claim or demand what so ever, Except where a criminal act is proved to have been committed
48.	Offences and penalties	<ul style="list-style-type: none"> <li>• Stipulates the offences and penalties for persons found in breach of this Act.</li> </ul>
49.	Forfeiture, cancellation and other orders	<ul style="list-style-type: none"> <li>• Provides for the cancellation of the license or forfeiture of the items used to commit offences enumerated in the Act as well as other orders the court may deem fit</li> </ul>

## VIEWS OF MEMBERS OF THE PUBLIC

1. The members of the public were of the view that section 7(2) on the composition of the steering committee provides for 11 members yet the enumerated members are 10. It was their proposal that the missing membership be filled with a representative of a faith-based organization or an additional representation of the persons with disability or the director for disaster management.
2. It was also an observation that section (7)(2)(g) stipulates “One representative from a recognized **professional body** dealing with climate change in the county”  
The professional body mentioned above needs to be interpreted under section 2 in order to give more clarity to that provision.
3. Section 11 regarding the meetings of the steering committee, there is need for it to be amended and a subsection to be incorporated that provides for the vice chairperson to be of a different gender from that of the chairperson.
4. Section 18(2) on the renewal of appointment of the technical committee members appointed under section 17(ix)(x) and (xi) should be amended to provide categorically that the term renewal shall be for another one term only
5. Section 24 provides for the composition of the ward committee. It was the view of the public that members of the county assembly should form part of that committee in order for them to ensure the enforcement of the climate change action plan at the ward level.
6. Section 27 on the term of the ward committee provides for one non-renewable term. It was the view of the public that the section be amended to provide for an additional term of three years.

7. Section 29(2) on the meetings of the ward climate change committee stipulates, “(2) Quorum of **sub county** climate change committee shall be two thirds of its membership.”

The reference to sub county is erroneous and should be replaced with the term “ward”

8. Section 33 provides for the tabling of the county climate change action plan for approval and adoption by the county assembly. The time frame within which that should be done is lacking and can be open to abuse.

9. It was a view of the public that section 22 of the bill be amended and the provision on 40 wards to read ..... “All the wards”

10. A member of the public suggested that the provisions under section 24 (1) be amended to add the community representatives in the ward committee to be two

#### **4.0 RECOMMENDATION**

4.1 Section 2 to be amended and the word “professional body” should be interpreted to mean, “an **organization or institute that holds individual members who are personnel associated with a specific profession, interest or occupation.**”

4.2 Section 7(2) be amended by inserting the following:

- (i) **A representative from a faith-based organization**

4.3 Section 11 to be amended by inserting the following:

**11(2) the chairperson and vice chairperson shall not be of the same gender**

1.4 Section 18(2) be amended to read as follows:

(2) Members of the Technical Committee appointed under section 17(1) (ix), (x) and (xi) shall serve for one term of three years subject to renewal **for one additional term** on the basis of performance.

4.5 Section 27 be amended to read as follows:

Members of the Committee appointed under Section 24 (vi), (vii) and (viii) shall serve for one term of three years **subject to renewal for one additional term on the basis of performance**

Section 29(2) be amended by deleting the words “sub county and replacing them with the word “ward”

Section 33 be amended to read as follows;

The County Climate Change Action Plan shall be approved by the Steering Committee and tabled in the County Assembly for adoption **before the end of every financial year.**

Section 24(1) (vi) be amended by deleting ‘one’ and replacing it by ‘two’

## **5.0 CONCLUSION**

The County Assembly is vested with the legislative authority of the County of Homa Bay with specific mandate to make laws and exercise oversight over the county executive committee and any other county executive organs while respecting the principle of separation of powers as enshrined in Article 185 of the Constitution of Kenya, 2010. These functions cascade to the Committee.

The Committee having conducted public participation on the Hombay County Climate Change bill, 2022 in consultation with the relevant stakeholders has recommended a raft of amendments that ought to be incorporated in the Bill.

## **6.0 Prayer**

The committee prays that the Homabay County Climate Change Bill, 2022 be read a second time.

## 7.0 ANNEXTURES

### i. Speaker's Communication



**HOMA BAY COUNTY ASSEMBLY  
3<sup>RD</sup> ASSEMBLY – FIRST SESSION  
COMMUNICATION (NO. 12) 2022**

**WITH REGARDS TO HOMA BAY COUNTY CLIMATE CHANGE  
BILL 2022**

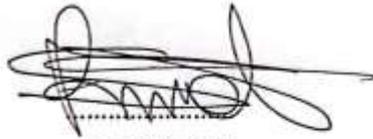
**Honorable Members**, on the 12<sup>th</sup> October, 2022, the office of the Speaker received a legislative proposal on the Homa Bay County Climate Change Bill 2022 sponsored by the Water, Sanitation, Irrigation, Environment, Energy and Climate Change Committee.

**Honorable Members**, the legislative proposal is for a Bill for An Act of the County Assembly of Homa Bay to put in place the framework and mechanisms for mobilization and facilitation of the County Government Communities and other stakeholders to respond effectively to climate change through appropriate adaptation and mitigation measures and actions and for connected purposes.

**Honorable Members**, Pursuant to the provisions of Standing Order no.111 (2), I have received comments from the Clerk that the legislative proposal conforms to the Constitution, the County Government Act 2012 and the County Assembly Standing Orders, as to format and style.

**Honorable Members**, in light of the aforementioned, I therefore refer ~~to~~ this legislative proposal to the Water, Sanitation, Irrigation, Environment, Energy and Climate Change Committee to undertake Pre-Publication scrutiny and subsequently submit its comments to the Speaker within 14 days of receipt of the legislative proposal in keeping with Standing Order no. 111 (3) (b)

**I thank you.**

A handwritten signature in black ink, appearing to read 'Julius Gaya', written over a horizontal dotted line.

**JULIUS GAYA**  
**COUNTY ASSEMBLY SPEAKER**

*13<sup>TH</sup> OCTOBER, 2022*

ii. Public participation advert



**HOMA BAY COUNTY ASSEMBLY**  
**THIRD ASSEMBLY – (FIRST SESSION)**

**PUBLIC PARTICIPATION**

Pursuant to Articles 10(2)(a), 196(1)(b), 174(c) of the Constitution of Kenya, 2010 and Section 87 of the County Governments Act, 2012, the Homa Bay County Assembly Committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate Change invites the members of the public, private sector organizations, interested parties and all stakeholders to submit any representations they may have on The Homa Bay County Climate Change Bill, 2022.

Public hearings will be held in the County Assembly committee room on Monday 7<sup>th</sup> November, 2022 from 9.00 a.m. to 2.00 p.m.

The representations may be made orally or by written memorandum in the following manner;

Written memorandum may be forwarded to the Clerk, Homa Bay County Assembly, P. O. Box 20-40300, Homa Bay, or hand delivered to the office of the Clerk, Homa Bay County Assembly Building in Homa Bay town or emailed to [info@homabayassembly.go.ke](mailto:info@homabayassembly.go.ke) to be received on or before **Monday 7<sup>th</sup> November, 2022.**

Members of the public can download copies of the Bill from the County Assembly of Homa Bay Website; <https://www.homabayassembly.go.ke>

**F.A. Apuko**  
**County Assembly Clerk**

iii. Attendance for public participation.

REPUBLIC OF KENYA



THE COUNTY ASSEMBLY OF HOMA BAY

THE HOMA BAY COUNTY CLIMATE CHANGE BILL 2022

**PUBLIC PARTICIPATION ATTENDANCE LIST**

VENUE: COUNTY ASSEMBLY HALL

DATE: 7/10/2022

NO	NAME	TITLE/WARD	CONTACT	SIGNATURE
1	SAMUEL HAMISI	ANASACBO-G-NORTH WARD	0723376100	
2	WATSON O. OCHI	ANASACBO-G-NORTH WARD	0723376189	
3	WILIAM A. MABUS	ANASACBO-G-NORTH WARD	0725934657	
4	CLIFFORD OMODI	CLIMATE LOGIST	0727966547	
5	Charles Juma	HOCEN co-op-HOTE	0718153363	
6	Daniel Ashik	CUTS-VCA Nairobi	0799441005	
7	HEZRON BUKU NYANG	ENVIRONMENT P.P.	0716399880	
8	BICKEN ODHAMBO	HBCA	0780700290	
9	WILLYS DKEGO OMBAGO	ALIONA MURAGE HBSM	07048372	
10	Lawrence Ashim Chua	HBSM Secretary	0700127495	
11	Engineer Victor Dkane	Renewable Energy Engineer	0713881506	
12	SALVATOR OKECH	Sign language Interpreter	0724338823	
13	Dr William Kocholle	MCA	0722703657	
14	Evelliphe Akiwo	Disaster Committee	0729546149	
15	Lance Ochieng	Kangundo	0712790670	
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Summed

By John Ojoko Sergeant at Arms

**iv. HOMA BAY COUNTY CLIMATE CHANGE BILL 2022**

**HOMA BAY COUNTY CLIMATE CHANGE BILL 2022**

**ARRANGEMENT OF SECTIONS**

**PART I - PRELIMINARY**

Section

1. Title and commencement
2. Interpretation
3. Objects and purposes

**PART II – COORDINATION AND OVERSIGHT**

4. Guiding Values and Principles
5. Establishment of County Climate Change Steering Committee
6. Functions of Steering Committee
7. Composition of Steering Committee
8. Approval of appointments by the County Assembly
9. Term of the Steering Committee
10. Removal of Member of the Steering Committee
11. Secretary and Secretariat of the Steering Committee
12. Meetings of the Steering Committee
13. Allowances for members of the Steering Committee
14. Delegation of powers by the Steering Committee

**PART III – INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION**

**A. COUNTY CLIMATE CHANGE TECHNICAL COMMITTEE**

15. Establishment of Technical Committee
16. Functions of Technical Committee
17. Composition of Technical Committee
18. Appointment and term of Technical Committee
19. Removal of Member of the Technical Committee
20. Secretariat of Technical Committee
21. Meetings of Technical Committee
22. Allowances for members of Technical Committee

## B. WARD CLIMATE CHANGE COMMITTEE

23. Establishment of Ward Climate Change Committees
24. Functions of Ward Climate Change Committees
25. Composition of Ward Climate Change Committees
26. Officers of the Ward Climate Change Committees
27. Qualifications for appointment to Ward Climate Change Committees
28. Terms of Ward Climate Change Committees
29. Removal of Member of Ward Climate Change Committees
30. Meetings of Ward Climate Change Committees
31. Allowances for members of Ward Climate Change Committees

## **PART IV – MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE**

32. County Climate Change Action Plan
33. Contents of County Climate Change Action Plan
34. Approval of County Climate Change Action Plan
35. Biennial review of County Climate Change Action Plan

## **PART V – DUTIES RELATING TO CLIMATE CHANGE**

36. Climate change duties of public entities
37. Climate change duties of private entities
38. Monitoring and reporting on compliance
39. Steering Committee may require a private entity to report on performance
40. Annual County Climate Change Response Report

## **PART VI – PUBLIC PARTICIPATION AND ACCESS TO INFORMATION**

41. Values and principles to apply to planning and implementation
42. County strategy for climate change education and public awareness.
43. Public participation and capacity building in formulation of climate change response plans

## **PART VII – COUNTY CLIMATE CHANGE FUND**

44. Establishment of County Climate Change Fund
45. Sources of the Fund
46. County Climate Change Fund Regulations

## **PART VIII – FINANCIAL PROVISIONS**

47. Funding operations of Steering and Technical Committees

## **PART IX – MISCELLANEOUS PROVISIONS**

48. Protection from personal liability
49. Offences and penalties
50. Forfeiture, cancellation and other orders
51. Regulations

**THE HOMA BAY COUNTY CLIMATE CHANGE BILL, 2022**

**A Bill for**

**An ACT of the Homa Bay County Assembly to provide appropriate legal framework and mechanisms for mainstreaming climate change actions.**

**PART I – PRELIMINARY**

Title and commencement

1. This Act may be cited as the Homa Bay County Climate Change Act 2022 and shall come into force upon Gazettement.

Interpretation

2. In this Act unless the context otherwise requires:

"**adaptation**" means an adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects to moderate harm or exploit beneficial opportunities

"**Adaptive capacity**" means the ability of a system to adapt to the impacts, cope with the consequences, minimize potential damages, or take advantage of opportunities offered by climate change or climate variability

"**Authority**" means the National Environment Management Authority established by the Environmental Management and Coordination Act, 1999 as amended by the Environmental Management and Coordination (Amendment) Act, 2015;

"**Climate change**" means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period

"**County climate change directorate**" means the County Climate Change Directorate established in section 10(11) of this Act, to support coordination of climate change matters in the County as envisaged by section 19(3) of the Climate Change Act, 2016

"**constitution**" means the Constitution of Kenya, 2010

"**county**" means Homa Bay County

"**County assembly**" means the County Assembly of Homa bay County

"**County government**" means the Homan Bay County Government

"**directorate**" means the Climate Change Directorate established under section 9(1) of the Climate Change Act, 2016,

"**environment**" has the meaning assigned to it in section 2 of the Environmental Management and Coordination Act

"**Executive committee member**" means the County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change

"**fund**" means the County Climate Change Fund established under section 46 of this Act

"**Fund administrator**" means the Administrator of the County Climate Change Fund established under section 46 of this Act

**“Governor”** means the Governor of Homa Bay County

**Interest groups** means any association of individuals or organization, formalized on the basis of shared concern as regards climate change impacts

**"mitigation"** means preventing, reducing or slowing down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases

**“Technical Committee”** means the County Climate Change Technical Committee established under Section 15 of this Act

**"Private entity"** means a body or person with functions of a private nature, and includes bodies registered under the Public Benefits Organizations Act, 2013

**“Professional body”** means an organization or institute that holds individual members who are personnel associated with a specific profession, interest or occupation.

**"Public entity"** means a body or person with functions of a public nature;

**"resilience"** means the ability of a social, economic or ecological system to absorb disturbances while retaining the same basic structure and ways of functioning, the capacity for self-organization and the capacity to adapt to stress and change

**“Steering committee”** means the County Climate Change Steering Committee established under section 5 of this Act

**"vulnerability"** means the conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a system to the impact of hazards

**“ward Committee”** means the Ward Climate Change Committee established under Section 23 of this Act

Objects and purpose

(1) The object of this Act is to allow for mainstreaming of climate change actions in the County including adaption, resilience for sustainable development in the County.

(2.) Without prejudice to sub-section 1, other objects of this Act include to:

- a) Implement coordinated and integrated response to climate change and its impacts.
- b) Promote and support community led adaptation and mitigation activities
- c) Establish frameworks and mechanisms for mobilization of funds and accountable management of financial and other resources for climate change response.

- d) Establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development, training and capacity building.
- e) Integrate climate change into the exercise of power and functions of all levels of county government including in decentralized units and enhance cooperative climate change governance between the county, neighbouring counties, and the national government
- f) Contribute to the national efforts to address the adverse impacts of climate change

## PART II – COORDINATION AND OVERSIGHT

### PART III – INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION

#### A. CLIMATE CHANGE TECHNICAL COMMITTEE

- |   |  |
|---|--|
| Establishment of Climate Change Technical Committee | 15. There is hereby established the Climate Change Technical Committee.  |
| Functions of the Committee                          | 16. The functions of the Committee shall be: <ul style="list-style-type: none"><li>(a) to coordinate planning, and implementation of projects and activities for climate change response in the County;</li><li>(b) to coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;</li><li>(c) establish guidelines to be used by Sub County Technical Committees in formulating climate response projects for funding by the County Climate Change Fund;</li><li>(d) support Technical Committees in development and implementation of climate response projects;</li><li>(e) coordinate the development and implementation of the County Climate Change Fund Regulations;</li><li>(f) advise the Steering Committee on strategies, priority program, projects and activities for climate change response in the County;</li><li>(g) formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the County;</li><li>(h) coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto;</li><li>(i) prepare and disseminate an annual report on climate change response activities in the County;</li><li>(j) formulate and implement a county monitoring, evaluation and reporting framework for climate change response; and,</li><li>(k) perform any other functions assigned to it by the Steering Committee.</li></ul> |
| Membership of Technical Committee                   | 17. (1) Members of the Committee shall be: <ul style="list-style-type: none"><li>(i) County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change and who shall be the chairperson</li><li>(ii) Chief Officer in charge of climate change matters who shall be the secretary;</li><li>(iii) Chief Officer in charge of finance and planning;</li></ul>  |

- (iv) Director in charge of disaster management and administration;
  - (v) Chief Officer in charge of agriculture, livestock and fisheries;
  - (vi) Director in charge of Public health;
  - (vii) County representative of the National Environment Management Authority or a designated representative;
  - (viii) County Director of Meteorology
  - (ix) County Ecosystem conservator.
  - (x) Two (2) representatives of Civil Society Organizations involved in climate change activities in the County.
  - (xi) The Fund Administrator,
- (2) Members of the Technical Committee shall at their first meeting elect a vice-chairperson from among the members nominated for appointment under subsection (1)(vii) and(x)
- Appointment and Term of Technical Committee
18. (1) Members of the Technical Committee under Section 17(x) shall be appointed by the Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change with the approval of the steering committee
- (2) Members of the Technical Committee appointed under section 17(1) (ix), (x) and (xi) shall serve for one term of three years subject to renewal for one additional term on the basis of performance.
- Removal of member of the Technical Committee
19. (1) The removal of members appointed under Section 18 (1) shall be governed by Section 10(2)
- Meetings of Technical Committee
20. (1) The Technical Committee shall meet at least once every quarter in each financial year.
- (2) The quorum for meetings of the Technical Committee shall be two-thirds of the members, at least one (1) of whom must be those appointed under 17 (x).
- (3) A resolution of the Technical Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.
- (4) In the absence of the chairperson and the vice chairperson, the members shall elect one of them to preside over the meeting.
- (5) The Technical Committee may coopt any person knowledgeable on the items of its agenda to attend its meetings.

Allowances for members of Technical Committee

21. Members of the Technical Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission from time to time.

## B. WARD CLIMATE CHANGE COMMITTEE

Establishment of Ward Climate Change Committees

22. There is hereby established a Ward Climate Change Committee in all the wards in Homa bay County

Functions of Ward Climate Change Committees

23. The functions of the Ward Climate Change Committees shall be to:

- (a) coordinate and mobilize communities and other stakeholders in the Ward to design and implement climate change response activities;
- (b) facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto;
- (c) Conduct public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto;
- (d) coordinate, facilitate and manage community consultations on climate change response activities;
- (e) participate in county planning and budgeting processes with a view to ensuring the mainstreaming of climate change and prioritization of climate change response in county development plans;
- (f) support to communities in the Ward in developing proposals on climate change response projects for funding by the County Climate Change Fund;
- (g) Implement climate change response activities.
- (h) Monitor and report on all climate change activities.
- (i) Perform any other functions that may be assigned to it by the County Technical Committee from time to time.
- (j) To come up with ward climate change adaptation action plans.

Composition of Ward Climate Change Committee

24. (1) The ward Committee shall be composed of 9 members representing the diverse interests in the community who shall be:

- (k) Ward Administrators who shall be the chair;
- (ii) Ward officer for the department in charge of Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall be the Secretary;
- (iii) Ward Agricultural Officer
- (iv) Ward forest officer
- (v) One representative of the youth
- (vi) One representative of the People with Disabilities

- (vii) Two community representatives from each ward with strict observance of gender rule.
- (vii) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities;
- (2) Appointment of members falling under subsections 24 (v), (vi), (vii) and (viii) shall be done by the technical Committee which shall ensure the process is competitively done.
- Meetings of the Ward Climate Change Committee 25. (1) The first activity of the Ward Climate Change Committee at its first sitting shall be the election of a vice-chairperson from among the members.
- (2) The chairperson and the vice-chairperson shall not be members of the same gender.
- Qualifications for appointment to Ward Climate Change Committees 26. (1) A person shall not qualify for appointment to the Committee, unless he or she:
- (a) is a resident of the Ward;
- (b) fulfils the requirements of Chapter Six of the Constitution on leadership and integrity;
- (c) demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing the said challenges in the County.
- Term of Ward Climate Change Committees 27. Members of the Committee appointed under Section 24 (v), (vi), (vii) and (viii) shall serve for one term of three years subject to renewal for one additional term on the basis of performance
- Removal of Member of Ward Climate change Committee 28. (1) A member of the Committee may at any time resign from the Committee by giving one month’s notice to the chairperson of the Ward Climate Change Committee.
- (2) The removal of members appointed under Section 24 (v), (vi), (vii) and (viii) shall be governed by Section 10(2)
- Meetings of Ward Climate Change Committee 29. (1) The Committee shall meet at least twice in every quarter of each financial year.
- (2) Quorum of the ward climate change committee shall be two thirds of its membership.
- (3) The Committee may co-opt not more than two persons in any meeting based on a specific required expertise as and when needed.
- (4) A notice convening committee meetings shall be issued not less than 14 days prior to the date thereof, and shall be widely publicized through public barazas, the media, and by a notice placed prominently at the sub county office.

Remuneration of members of Ward Climate Change Committees      30. Members of the Ward Committee shall be paid such allowances as are stipulated by guidelines from the salaries and remuneration commission from time to time.

## PART IV – MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

County Climate Change Action Plan      31. (1) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall formulate a County Climate Change Action Plan in consultation with the relevant stakeholders.

(b) In formulating the action plan, the CEC shall be informed by; scientific knowledge of climate change, technological innovation relevant to climate change, fiscal circumstances of the county, social circumstances and the constitution

(2) The County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan and County Integrated Development Plan.

(3) Without prejudice to the provisions of subsection (1), the Executive Committee Member shall within one year of the coming into force of this Act coordinate development of an interim County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan.

Contents of County Climate Change Action Plan      32. The County Climate Change Action Plan shall:

(a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the County;

(b) contain a climate change need including adaptation, resilience mitigation and disaster management and response assessment for the County;

(c) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for:

(i) guiding the County toward the achievement of low carbon climate-resilient sustainable development;

(ii) mainstreaming climate change into county integrated development plans, programs, strategies and projects;

(iii) Adaptation to and mitigation of climate change;

- (iv) Enhancing research, capacity building and knowledge management on climate change and climate change response;
- (v) Enhancing public awareness for effective participation in climate change response; and,
- (vi) Monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the County Climate Change Action Plan.

Approval of County Climate Change Action Plan

33. The County Climate Change Action Plan shall be approved by the Steering Committee and tabled in the County Assembly for adoption before the end of every financial year.

Biennial review of County Climate Change Action Plan

34. The Technical Committee shall undertake a biennial review of the implementation of the Wards and County Climate Change Action Plan and report to the Steering Committee.

## PART V – DUTIES RELATING TO CLIMATE CHANGE

Climate Change audits and penalties.

35. (1) The Steering Committee may, on the recommendation of the Executive Committee Member Environment and in consultation with relevant Executive Committee Members may conduct a climate change audit on the activities and operation of any private or public entity operating within the County.

(2) Based on the findings of the audit in Section (1) above the steering committee may recommend specific actions to be taken by the private entity to enhance mitigation, resilience and adaptation to climate change.

(3) (1) Any private entity on which a recommendation as in Section (2) has been made shall in performing the said duty act in a manner best suited to the successful implementation of this Act and the County Climate Change Action Plan.

(2) Where any private entity receives the recommendation as in Section (3) and fails to perform the recommended actions an offence shall be deemed to have been committed and the directors shall be liable to an offence punishable under this Act.

(4) Any offence under this section will be punishable by

- i. Suspension of the operating license of the entity within the County.
- ii. A fine not exceeding one million Kenya Shillings.
- iii. Imprisonment for a term not exceeding three (3) months.

The Environment and Land court shall have jurisdiction over any trial or appeal.

Mainstreaming Climate change actions in public entities

36. Without prejudice to the provisions of subsection (1), every public entity operating in the County shall have the duty to:

(a) mainstream climate change into the County Integrated development plan, County annual development plan, County fiscal policies, County annual budget and other frameworks for implementing its statutory functions;

(b) perform its statutory functions in line with County Climate Change Action Plan;

(c) Prepare and submit annual report at the end of every financial year to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.

(d) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall table the said report under subsection c to the county assembly for approval at the end of every financial year

Mainstreaming Climate change actions in private entities

37. Without prejudice to the provisions of subsection (1), every private entity operating in the County shall have the duty to:

(a) In complying with relevant provisions from Environment Management and Coordination Act 2016 (EMCA) in corporate specific provisions for climate change adaptation and mitigation actions in their Environment impact assessment (EIA) reports;

(b) perform its proposed functions in line with County Climate Change Action Plan;

(c) Prepare and submit an annual report to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.

(d) Any private entity that fails to file a report within 30 days of the end of the year as provided under Section (c) above commits an offence under this Act.

Climate Change Inspection and enforcement

38.(1)The ward committee team enshrined under Section 25 (1) shall have the mandate to conduct the inspection and enforcement of the climate change action plan and report to the technical committee

(2) The inspection and enforcement team shall have all powers necessary for purposes of inspection and investigation including the power to enter premises of any private entity and make an enquiry.

(3) The Technical Committee shall report to the Steering Committee on the performance of functions under subsection (1) on an annual basis, and such

report shall form part of the report by the Steering Committee to the County Assembly

Steering Committee may require a private entity to report on performance

39. Notwithstanding the provisions of Section 34, the Steering Committee may:

- (a) by notice in the Gazette, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and
- (b) require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to ensure future performance of those duties.
- (c) Recommend appropriate punishment for failure in Section 35(5).

Annual County Climate Change Response Report

40. (1) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall, within three months after the end of every financial year, publish and submit a report on the implementation of the County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.

(2) The County Assembly shall, within three (3) months of receiving the report, provide recommendations and proposed actions to the County Executive Committee Member designate.

(3) A copy of the report issued under subsection (1) shall be forwarded to the Directorate for information purposes.

## PART VI – PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

County strategy for climate change education and public awareness

41(1) Within one year of this Act coming into force, the Technical Committee shall conduct a comprehensive capacity needs assessment for climate change adaptation and mitigation.

(2) Based on the needs assessment the technical committee shall develop a capacity building program through a participatory process.

(3) The program shall be presented to the Steering Committee for approval and implementation.

(4) The program developed thereof shall be reviewed annually.

Public participation and capacity building in formulation of climate change response plans

42 (1) Notwithstanding the provisions of Section 41(1) the Technical Committee and Sub County Committees shall ensure that the development of any climate change response program, plan, project or activity is preceded by a comprehensive campaign, public sensitization and awareness creation to facilitate informed public participation.

(2) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall ensure public participation is done in line with relevant County laws.

Access to information

43 (1) The Steering Committee, the Technical Committee and the Ward Committee shall publish, publicize and ensure access to all important climate change information in their possession in an appropriate format to make it useable by different actors

## PART VII – COUNTY CLIMATE CHANGE FUND

Establishment of County Climate Change Fund

44.(1) There is hereby established the County Climate Change Fund to provide funding for priority climate change actions.

County Climate Change Fund Regulations

45(1) The Executive Committee Member in charge of Finance shall, in consultation with the County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change, develop Regulations for administration and management of the Fund

(2) The Regulations made under subsection (1) shall provide for the following, among others:

- (a) formulation of the County Climate Finance Framework;
- (b) appointment and removal of the Fund Board and Administrator;
- (c) operation of the Fund;
- (d) eligibility criteria for accessing money from the Fund;
- (e) development of project proposals, application for and disbursement of money from the Fund;
- (f) procurement of services and goods;
- (g) complaints mechanisms; and,
- (h) monitoring, evaluation, reporting and learning.

## PART VIII – FINANCIAL PROVISIONS

Funding operations of Steering and Technical Committees

46.(1) Functions of the committees shall be financed through appropriation by the County Assembly to the department of Environment, and other funds receivable by the County Government for the purposes of climate Change Actions from time to time.

(2) The funds shall be administered and managed in accordance with the provisions of the Public Finance Management Act and the Public Finance Management (County Governments) Regulations.

## PART IX – MISCELLANEOUS PROVISIONS

- Protection from personal liability
- 47.(1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Technical Committee or the Ward Committee in good faith and in performance of functions or execution of powers vested in the said committees by this Act, shall render the member, officer or agent or any person acting on their directions personally liable for any action, claim or demand what so ever, Except where a crime is proved to have been committed.
- Offences and penalties
- 48.(1) Any person who
- (a) without lawful excuse ignores or fails to obey any instructions issued by any member or officer or agent of the Steering Committee, the Technical Committee or Ward Committee in exercise of the powers or performance of the functions of the Committees under this Act; or
  - (b) willfully obstructs any member or officer or agent of the Steering Committee, the Technical Committee or Ward Committee in the discharge of their lawful duties; or
  - (c) misrepresents, knowingly submits false or misleading information to any member or officer or agent of the Steering Committee, the Technical Committee or Ward Committee in the exercise of powers or the performance of the functions of the said Committees; or
  - (d) Fails to file a report within the provided timelines; or
  - (e) Knowingly commits an act of omission or commission contrary to any provisions of this Act.
- commits an offence and shall be liable upon conviction to the punishment provided for under Section 33(1) of the Climate Change Act, 2016
- (2) When an offence under this Act is committed by a body corporate, the body corporate and every director or officer of the body corporate who had the knowledge of commission of the offence and fails to exercise due diligence to ensure compliance with this Act shall be guilty of an offence
- Forfeiture, cancellation and other orders
- 49.(1) The Court before which a person is charged with an offence under this Act or any regulations made thereunder may in addition to any other order.
- (a) Upon the Conviction of the accused or;
  - (b) If it is satisfied that an offence is committed notwithstanding that no person has been convicted of the offense;
- Order that the item or items by means by which the offense was committed be forfeited to the County.
- (2) In making the order for forfeiture the court may also order that cost of any disposal thereof be borne by the person convicted thereunder.

(3) The Court may further order that any license, permit or any authorization given under this Act unto which the offense relates be cancelled.

(4) The Court may further issue an order requiring that a convicted person restores at his/her own cost the environment as near as it may be to its original state prior to the offense.

### **MEMORANDUM OF OBJECTS AND REASONS**

The main object of this Bill is to establish the county climate change fund which shall be financed through appropriation by the county assembly to the department of Environment and other funds receivable by the County Government for purposes of climate change Actions from time to time.

Part I of the Bill sets out the preliminary matters including the commencement date and the definition of various terms used in the Bill. This part of the Bill establishes objectives of the bill.

Part II of the Bill outlines coordination and oversight by creating an administrative body referred to as the steering committee and their functions in ensuring the oversight of the climate change technical committee which is in charge of the implementation of the Climate Change Bill.

Part III of the bill provides for the institutional framework for planning and implementation which forms the technical committee which implements the projects and plans regarding the county climate change.

Part IV of the bill outlines the measures and actions for responding to climate change from the time when an impact of climate change is reported to when it is addressed.

Part V of the bill stipulates the duties of the various entities created within the county in enforcing the climate change action plans

Part VI of the bill is in regards to public participation and access to information which elaborates how the climate change response program, plan, project or activities will be disseminated to members of the public

Part VII of the bill outlines the financial procedures with respect to the administration and use of the Fund. This Part provides for the allocation and disbursement of funds from the Fund and requires books and records of account and income, expenditure and assets to be kept and an audit to be done within the span of three months after the end of each financial year.

Part VIII of the Bill provides for miscellaneous clauses to ensure proper utilization of funds and also provides for penalties against any person who misappropriates funds meant for development projects under the Bill.

**ERICK OMOLLO**

*Chairperson, committee on Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change*