

SPECIAL ISSUE

Kenya Gazette Supplement No. 5 (Bungoma County Bills No. 4)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BUNGOMA COUNTY BILLS, 2024

NAIROBI, 3rd May, 2024

CONTENT

Bill for Introduction into the County Assembly of Bungoma—

PAGE

The Bungoma County Public Participation and Civic Education Bill, 2024...1

**THE BUNGOMA COUNTY PUBLIC PARTICIPATION AND
CIVIC EDUCATION BILL, 2024
ARRANGEMENT OF CLAUSES**

Clause

PART 1 – PRELIMINARY

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Object and Purpose of the Act.
- 4—Application.
- 5—Guiding principles.

**PART II — CO-ORDINATION OF PUBLIC PARTICIPATION
AND CIVIC EDUCATION IN THE COUNTY**

- 6—Designation of public participation officer.
- 7—Role and functions the Chief Officer.

**PART III—CO-ORDINATION OF PUBLIC PARTICIPATION IN
THE COUNTY EXECUTIVE**

- 8—Opportunities for public participation.
- 9—Factors to be considered in conducting public participation and civic education.
- 10—Public Participation and Civic Education methods.
- 11—Civic Education Forums.
- 12— Stakeholders’ engagements.
- 13— Stakeholder engagement plan.
- 14— Stakeholder mapping.
- 15— Standards and good practices.
- 16— Public Participation methods.
- 17— Electronic governance.
- 18— Citizen duties and responsibilities.
- 19— Financial provisions.
- 20— Annual report.

**PART IV — PUBLIC PETITION TO THE COUNTY ASSEMBLY
AND EXECUTIVE**

- 21— Petition to County Assembly and Executive.

PART V — GENERAL PROVISIONS AND REPEAL

22— Regulations.

23— Repeal.

**THE BUNGOMA COUNTY PUBLIC PARTICIPATION AND
CIVIC EDUCATION BILL, 2024**

A Bill for

AN ACT of the County Assembly of Bungoma to establish modalities and a platform for citizen participation in the governance of the County, to establish a framework to undertake civic education in the County and for connected purposes

ENACTED by the County Assembly of Bungoma, as follows—

PART I — PRELIMINARY

Short title and commencement

1. This Act may be cited as the Bungoma County Public Participation and Civic Education Act, 2024 and shall come into force on the date of publication in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“advisory committee” means the Public Participation Advisory Committee established under Section 11 of this Act;

“County Assembly” means the County Assembly of Bungoma;

“County Department” means any office or department established in the County Government by the County Public Service Board or under any written law;

“Department” means the department of public participation established under section 8;

“Executive member” means the County Executive Committee Member for the time being responsible for public participation;

“Civic Education” means any steps taken and programme to equip the public with knowledge on a particular policy, legislation, project, subject, topic or matter;

“Public participation” includes the processes and methods designed to consult, involve and inform the public or stakeholders in order to allow those who would potentially be affected by a decision, any policy, legislation, program, project to have input into the process;

“Stakeholder” means a person or group of persons who have an interest in a public issue or who are likely to be directly or indirectly affected by a public issue, decision or policy whether negatively or positively;

“the public”, when used in relation to public participation in this Act means—

- (a) the residents of the county;
- (b) the rate payers of a particular urban area;
- (c) any resident civic organization or non-governmental, private sector, labour organization or faith based organization with an interest in the governance of the county or an urban area;
- (d) non-resident persons who by virtue of their temporary presence in the county make use of services or facilities provided by the county or an urban area.

Object and purpose of the Act

3. (1) The purpose of this Act is to enhance, promote and facilitate public participation and Civic Education in the County Government and specifically to—

- (a) facilitate the implementation of constitutional provisions set out under—
 - (i) provision of articles 1, 10, 33, 35, 37, 48, 174, 196, 201, 232 and paragraph 14 of part 2 of the fourth schedule of the constitution; and
 - (ii) the provisions of part X of the County Governments Act, 2012 in particular section 98, 99, 100 and 101 of the Act;
- (b) give effect to public participation and Civic Education framework stipulated under the County Governments Act, the Public Financial Management Act, 2012 and the Urban Areas and Cities Act, and any other relevant written law relating to public participation and Civic Education;
- (c) promote participatory democracy;
- (d) transparency and accountability in decision making;
- (e) community empowerment and support;
- (f) promote partnership and collaboration in public processes;
- (g) reduce conflicts related to public or government decision;
- (h) enhance community ownership of public decisions;
- (i) Sustained citizens engagement in the implementation of the constitution;

- (j) improved understanding, appreciation and engagement in the operationalization of the County system of government;
- (k) Institutionalizing a culture of constitutionalism;
- (l) knowledge of Kenya’s transformed political system, context and implications;
- (m) Enhanced knowledge and understanding of the electoral system and procedures;
- (n) enhanced awareness and mainstreaming of the Bill of Rights and national values;
- (o) heightened demand by citizens for service delivery by institutions of governance at the county level;
- (p) ownership and knowledge of the principal economic, social and political issues facing county administrations and their form, structures and procedures;
- (q) appreciation of the diversity of Kenya’s communities as building blocks for national cohesion and integration.

(2) The Departments and the County Assembly shall ensure that the principles stipulated under this Act and the laws specified under sub-section (1) are integrated in each county department or agency and the County assembly policies, plans and service delivery processes.

Application

4. This Act shall apply to all County Government offices or agencies in the County and County Assembly.

Guiding principles

5. The following principles shall guide public participation and Civic Education under this Act—

- (a) provision of meaningful information in a format and language that is readily understandable and tailored to the needs of the target groups;
- (b) ensure equitable access to and timely Provision of the information that participants need in order to participate in a meaningful manner;
- (c) mutual consultation and dialogue and exchange;
- (d) openness and transparency;
- (e) inclusiveness in representation of views including vulnerable groups and marginalized;

- (f) processes free of coercion;
- (g) value for money;
- (h) objectivity in engagement and non-politicization of issues;
- (i) constructive dialogue between county government and the public or stakeholders;
- (j) clear mechanism for responding to people’s concerns, suggestions and grievances;
- (k) enhanced participation through Civic Education for purposes of creating an enlighten and empowered citizenry;
- (l) ensure development of appropriate feedback mechanisms;
- (m) that there shall be a monitoring and evaluation framework for public participation and Civic Education processes undertaken;
- (n) facilitate allocation of adequate financial resources for purposes of undertaking public participation and civic education.

PART II — COORDINATION OF PUBLIC PARTICIPATION AND CIVIC EDUCATION IN THE COUNTY.

Designation of public participation officer

6. (1) The Clerk of the County Assembly shall be responsible for public participation and civic education at the County Assembly.

(2) The Clerk may delegate the performance of the duties as the public participation and civic education officer to any other officer with necessary knowledge and skills in the County Assembly Service.

(3).The public participation and Civic Education officer at the County assembly shall be responsible for—

- (a) providing support and advise to the County Assembly on managing Public Participation and Civic Education process;
- (b) facilitating and co-coordinating committees of the County Assembly when carrying out Public Participation and Civic Education programs;
- (c) preparing reports on public participation and Civic Education facilitated by County Assembly;
- (d) facilitating and supporting County Assembly to develop networks and partnerships with key stakeholders for the purposes of enhancing public participation and Civic Education ;

- (e) availing all the assented Bills to the public through respective ward offices;
- (f) notification and public comment procedures on legislative and other business of the assembly and its committees;
- (g) public meetings and hearings by the appropriate decentralized unit and other political structures and political office bearers of the County, when appropriate;
- (h) consultative sessions with locally recognized community organizations and, where appropriate, traditional authorities;
- (i) report- back to the local community;
- (j) information communication technology based platforms;
- (k) county calendar events; and
- (l) carrying out any other function that may be assigned by the County Assembly Service board.

7. (1) The Chief Officer for the time being responsible for matters public Administration, ICT and Public Service Management department shall be responsible for the public participation and Civic Education within the county.

(2) The Chief Officer may delegate in writing the performance of the duties as the public participation and civic education officer to any other officer with necessary knowledge and skills within the department.

(3) The functions of the Public Participation and Civic Education Officer at the County Executive shall be to—

- (a) co-ordinate public participation and Civic Education programmes at the County Executive and other County agencies;
- (b) facilitate capacity building and provide support to other county government departments on public participation and Civic Education processes;
- (c) mobilize and organize the public, stakeholders and local communities to participate in county governance and decision making processes;
- (d) monitor and evaluate public participation and Civic Education processes undertaken by each department or agency;
- (e) sensitize the public on county structures and opportunities for public participation and Civic Education;

- (f) receive public complaints on issues emerging from public participation process and liaising with respective departments for redress;
- (g) prepare an annual report on public participation and Civic Education;
- (h) advise the County Executive Committee generally on appropriate policies, plans and strategies for enhancing public participation and Civic Education in the county; and
- (i) carry out any other function in furtherance to the objects and purpose of this Act and as may be assigned by the County Executive Committee Member.

(4) The County Public Service Board in consultation with the Executive Member shall designate such staff as necessary to work in the department for the administration of this Act.

PART III — COORDINATION OF PUBLIC PARTICIPATION AND CIVIC EDUCATION PROCESS

Opportunities for public participation

8. (1) The public participation and civic education officer shall provide reasonable and meaningful opportunities for public participation and civic education programs within the county.

(2) In determining what is reasonable, the public participation and civic education officer shall take into consideration the —

- (a) nature of legislation or decision to be made;
- (b) importance of the legislation or decision;
- (c) the intensity of the impact of the legislation or decision on the public.

(3) The public participation and civic education officer shall facilitate continuing civic education on public engagement activities and techniques.

Factors to be considered in conducting public participation and civic education

9. The public participation and civic education officer shall before conducting public participation or civic education on a particular matter, identify—

- (a) the purpose of the public participation or civic education;
- (b) urgency of the matter;

- (c) the number and circumstances of interested parties and affected parties;
- (d) the ability of the targeted participants to access the necessary information and the venue.

Notification to the members of the public

10. (1) The public participation and civic education officer shall ensure that adequate notice is given to the public to make their input to the issues.

(2) For purposes of subsection (1) the public participation and civic education officer shall establish mechanisms to enable the widest reach which may include publication of notices in—

- (a) television stations;
- (b) information communication technology centers;
- (c) websites;
- (d) community radio stations;
- (e) newspapers;
- (f) any other media that may be prescribed.

(3) The department shall install notice boards in the most appropriate and conspicuous places in each village.

4) The Executive Member shall ensure that all relevant notices related to public participation are posted in the notice boards provided under this section in a timely manner.

(5) Notwithstanding sub-section (3) and (4), a county department or agency and County Assembly shall use the most appropriate communication methods to publicize any process, forum or issue requiring public participation.

Public Participation and civic education methods

10. (1) A county department or agency or the County Assembly may apply any of the following Public Participation and Civic Education methods in addition to the platforms stipulated in the County Governments Act—

- (a) Citizen forums and public hearings;
- (b) Citizen advisory or consultation committees;
- (c) Focus group discussions and workshops;
- (d) Open days/exhibitions;

- (e) Broadcasting the county assembly proceedings to the members of the public;
- (f) Service charters and social networking facilities; county magazines/ monthly newsletters; information bulletins;
- (g) Surveys;
- (h) Direct mail;
- (i) Invitations for public submissions;
- (j) Partnerships and collaborations;
- (k) Joint auditing and evaluation of county government performance including project audits;
- (l) Collaborating with TV stations on public participation and civic education programs;
- (m) interest based interactive platform;
- (n) any other form of mass media.

(2) Notwithstanding sub-section (1), a county department or agency and the County assembly may enter into public private partnership with any person for the purpose of effectively discharging a function.

Civic Education Forums

11. (1) There shall be civic education forums in—

- (a) the county convened by the Governor;
- (b) the sub-county convened by the respective Sub-county Administrator;
- (c) the ward convened by the respective Ward Administrator;
- (d) the village convened by the respective Village Administrator; and
- (e) each town convened by respective managers.

(2) The civic education forums stipulated under sub-section (1) shall be convened at least once every financial year and shall provide a platform for consultation, review and deliberations on critical matters affecting respective levels.

(3) The Civic Education Forums shall be based on a civic education plan developed by the Chief Officer public administration and the clerk of the County Assembly.

(4) The civic education forums shall be conducted to—

- (a) Inform county residents on issues including but not limited to—

- (i) County policy making;
- (ii) law making processes;
- (iii) public finance management processes;
- (iv) development planning processes
- (v) monitoring and evaluating county budget implementation;
and
- (vi) evaluating periodic county reports;
- (b) improve understanding, appreciation and engagement in the operationalization of the county system of government;
- (c) institutionalize a culture of constitutionalism;
- (d) heighten demand by citizens for service delivery by institutions of governance at the county level;
- (e) enhance ownership and knowledge on the principal economic, social and political issues facing Bungoma County administration and their form, structures and procedures; and
- (f) enhance appreciation for the diversity of communities in county as building blocks for county cohesion and integration.

(7) Where appropriate, the Chief Officer and Clerk to the Assembly shall consolidate their efforts towards providing support for facilitation of the forums referred to under this section for purposes of efficiency and effectiveness.

(8) The respective chief officers shall ensure that all important information affecting the county is published and publicized within their mandate.

Stakeholders' engagements

- 12.** (1) Each county department and the County assembly shall—
- (a) while developing legislation and policy or designing or implementing programs or delivering services encourage and engage the relevant stakeholders and the public;
 - (b) continuously report and communicate to the stakeholders and the public on the process, outcome and impact of policies, programs and services delivered;
 - (c) provide or issue adequate and sufficient notice and information to stakeholders or the public where the stakeholders or the public are required to participate in an issue or forum stipulated under this Act.

(2) Subject to section 100 of the County Governments Act, 2012 certified civic education providers who are non-state actors may conduct civic education in the county as per county civic education guidelines.

(3) Non-state actors may coordinate with the department in charge of civic education on how to carry out civic education.

(4) The county responsible Chief officer shall publish a quarterly report on—

- (a) number of certified non-state civic education providers;
- (b) number of civic education sessions conducted by non-state actors; and
- (c) assessment of the impact of civic education conducted by non-state actors.

Stakeholder engagement plan

13. (1) Each County Department or Agency and County assembly shall develop and implement a stakeholder engagement plan.

(2) A stakeholder engagement plan shall provide among others for—

- (a) objectives of stakeholder engagements;
- (b) major issues requiring public and stakeholder engagement and consultation;
- (c) timeframe within which public consultations would be held;
- (d) process to be undertaken in stakeholder public participation and Civic Education;
- (e) determination of public participation and Civic education method;
- (f) method of providing information to the public.

Stakeholder mapping

14. Each county department or agency and the County assembly shall—

- (a) identify and liaise with the stakeholders in the respective sectors;
- (b) maintain and publish database of the stakeholders identified under paragraph (a); and
- (c) ensure continuous and effective communication with the stakeholders.

Standards and good practices

15. In facilitating stakeholder engagement or public participation and Civic Education a county department or agency and the County assembly shall adopt the following standards and good practices—

- (a) stakeholder identification and analysis;
- (b) information disclosure;
- (c) stakeholder consultation;
- (d) negotiation and partnerships;
- (e) grievance management through establishing accessible and responsive means for stakeholders to raise concerns and grievances;
- (f) stakeholder involvement in monitoring and evaluation of projects, programs and policies;
- (g) reporting to stakeholders on performance;
- (h) efficient and strategic management of stakeholder process.

Public Participation methods

16. (1) While carrying out public participation and Civic Education, county department or agency and County Assembly may—

- (a) inform the public in order to enhance understanding of the problems, alternatives, opportunities and solutions;
- (b) consult in order to obtain public feedback on analysis, alternatives and solutions;
- (c) involve the public directly throughout the process to ensure that public concerns and aspirations are consistently understood and considered;
- (d) collaborate with the public in each aspect of the decision, including development of alternatives and the identification of the preferred solution;

Electronic governance

17. (1) Each county department or agency and the County assembly shall provide all applicable information, forms, documents, statistics and data through electronic system such as online system websites and portal in a timely, efficient and in a usable manner in order to facilitate public participation and Civic Education

(2) The Executive member responsible for information, communication and technology and the Clerk of the County assembly shall ensure that the systems referred under subsection (1) facilitate interactive engagement with county residents and are comprehensive in terms of the information provided.

Citizen duties and responsibilities

18. A resident or any member of the public with interest in county affairs has the duty and responsibility to —

- (a) constructively participate in the forums and platforms created by the county government for public participation and civic education;
- (b) share information and make proposals to the County Government during the law, policy and decision making process as well as service delivery mechanisms; and
- (c) contribute where appropriate and practicable resources for developing or implementing public services delivery processes.

Financial provisions

19. Every responsible authority shall include in its annual estimates provisions for expenses for purposes of undertaking public participation and Civic Education

Annual report

20. (1) The respective departments, agencies and the county assembly shall prepare an annual report on public participation and Civic Education programmes which shall contain among others—

- (a) the number of public participation and Civic Education forums facilitated by each department or agency and the County assembly;
- (b) the level of implementation of stakeholder engagement plan;
- (c) the level of engagement by participants during public participation and civic Education process;
- (d) the level of incorporation of proposals made or issues raised by stakeholders or the public;
- (e) challenges faced in the implementation of this Act and proposed mitigation measures;
- (f) any other prescribed matter.

(2) The department shall submit the report to the Executive Member not later than 2 months after the end of financial year.

(3) The Executive Member shall, within twenty one days, transmit the report to the County Executive Committee for consideration.

(4) The Executive Member shall, within fourteen days of approval of annual report by the executive committee, transmit it to the Clerk of the

County Assembly for tabling before the County Assembly for consideration and approval.

**PART IV — PUBLIC PETITION TO THE COUNTY ASSEMBLY
AND EXECUTIVE**

Petition to County Assembly and Executive

21. (1) A Petition to the County Assembly shall be handled as provided for in the County Assembly Standing Orders and the relevant laws.

(2) The Executive Committee Member shall prescribe guidelines on the manner of processing the public petitions to the County Executive.

(3) Notwithstanding the provisions under subsection (1) and (2) each responsible authority shall develop guidelines for undertaking public participation in the respective institutions.

PART V — GENERAL PROVISIONS AND REPEAL

22. The Executive Committee Member may make regulations for the better carrying into effect the provisions of this Act.

Repeal

23. This Act repeals the Bungoma County public participation Act of 2016.

MEMORANDUM OF OBJECTS AND REASONS

PART I of the Bill provides for preliminary. It highlights the key objectives of the Bill and guiding principles

PART II of the bill provides for the designation of public participation officer in the County Government.

PART III of the Bill provides for the coordination of public participation and civic education process, Opportunities for public participation, Factors to be considered in conducting public participation and civic education, Notification to the members of the public, Public Participation and civic education methods, Civic Education Forums, Stakeholders engagements, Stakeholder engagement plan, Stakeholder mapping, Standards and good practices, Electronic governance, Citizen duties and responsibilities, Financial provisions and Annual report

PART IV of the Bill provides for public petition to the County Assembly and Executive

PART V of the Bill provides for general provisions and repeal.

JOSEPH NYONGESA,
Leader of the Majority Party.