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BUNGOMA COUNTY BILLS, 2025

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Bill for Introduction into the County Assembly of Bungoma—

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The Bungoma County Agriculture Institutions Development Bill, 2025 1

between the Act and any National laws the provisions of Article 191 of the Constitution shall take effect.

The enactment of this Bill will occasion an establishment of a Fund thus additional expenditure of public funds shall be provided for through the annual estimates

WAFULA WAITI,
Chairperson, Agriculture, Livestock, Fisheries, Irrigation and Co-operative Development.

THE BUNGOMA COUNTY AGRICULTURE INSTITUTIONS DEVELOPMENT BILL, 2025

ARRANGEMENT OF CLAUSES

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MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to Provide for the development, functions and management of Agricultural Institutions; a legal and institutional framework for anchoring Bungoma Agricultural Institutions to effectively perform their functions; and a framework for funding of the activities of the Agricultural Institutions.

PART I Provides for the short title and defines words and expressions used in the Bill. The part further provides for the objectives of the Bill, application of the Bill and the guiding principles.

PART II Establishes the Agricultural Institutions and empowers the County Executive Committee Member with the approval of the County Assembly, by order in the Gazette to establish one or more Agricultural Institutions within the County. The Part further provides for the establishment of Agriculture Institutions and their functions. The Agricultural Institutions shall include; Mabanga Agricultural Training Centre; Agricultural Mechanization Service Unit; Soil Laboratory Unit; Chwele Fish Farm and any other Institution that may be established as need arises.

PART III of the Bill looks at management and governance of the Agricultural Institutions, which shall include; the Board of management; The Officer In-charge of the Institution; and the Staff of the institution.

PART IV Provides for the financial provisions including the Funds, assets and liabilities of the Institutions; Strategic plans, budget and annual report; and Accounts and audit. For sustainable management of Agriculture Institutions Commercial Enterprises, there shall be established a Fund to be known as the Agricultural Institutions Enterprise Fund in accordance with section 116 of the Public Finance Management Act, 2012.

PART V This part provides for miscellaneous provisions including powers of the County Executive Committee Member to make Regulations and Guidelines for the better carrying out of purposes and provisions of this Act, Reporting, Protection from personal liability, Common seal and Power to make statutes by the Board.

The First Schedule provides for conduct of business and affairs of the board of management.

The Bill does not contravene any of the provisions of the Constitution of Kenya, 2010 and is not ultra vires to any of the provisions of any national law relating to livestock sale yards. In case of any conflict

FIRST SCHEDULE
CONDUCT OF THE BUSINESS AND AFFAIRS OF THE
BOARD OF MANAGEMENT

1. Meetings

- (1) The Chairperson shall convene meetings of the Board at least once in every quarter of a financial year, by issuing a fourteen-day notice.
- (2) The Chairperson may at any time or on receipt of a written request of at least Five members, convene a special meeting of the Board.
- (3) In the first board meeting, members shall elect Vice-chairperson of the Board.
- (4) In absence of the chairperson from any board meeting, the vice Chairperson shall preside.
- (5) At every meeting of the Board the person presiding shall have a casting and deliberative vote.
- (6) The quorum for the meetings of the Board shall be two thirds of the membership.

2. Sub-Committees

- (1) The Board may establish such sub-committees for effective performance of its functions under this Act.
- (2) The Board shall appoint the Chairperson of a sub-committee established under sub-paragraph (1) from amongst its members.
- (3) The Committee may invite an expert to attend the deliberations of any of its sub-committees.
- (4) All decisions by the sub-committees appointed under sub-paragraph (1) shall be ratified by the Board.

3. Declaration of Interest

- (1) A member who has a conflict of interest in any matter present at a meeting shall disclose the interest and not take part in the deliberations of the issue.
- (2) A disclosure of conflict of interest made under sub-paragraph (1) shall be recorded as minutes of the meeting.
- (3) A member of the board who contravenes sub-paragraph (1) may on the directive of the County Executive Committee Member, cease to be a member.
- (4) The removal under sub-paragraph (1) shall be subject to the provisions of Article 47 of the Constitution.

THE BUNGOMA COUNTY AGRICULTURE INSTITUTIONS
DEVELOPMENT BILL, 2025

A Bill for

AN ACT of the County Assembly of Bungoma to provide for the development and management of the Agricultural Institutions 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 Agriculture Development Institutions Act, 2025 and shall come into operation upon publication in the *Gazette*.

Interpretation

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

“Administrator” means a person appointed as an administrator of the Fund under section 24 of this Act;

“agriculture” means cultivation of land and the use of land, whether or not covered by water, for any purpose of husbandry for crops, livestock, aquaculture, food production and includes—

- (a) crops;
- (b) livestock;
- (c) conservation and keeping of licensed game animals, game birds and other related organisms; and
- (d) aquaculture;

“Ancillary subject” means a subject that renders support to the core subject;

“Agricultural Institutions” means Agricultural institutions established under section 8 of this Act;

“Board” means the Board of management of the Institutions established under Part III of the Act;

“Chief Officer” means the Chief Officer for the time being responsible for matters relating to the Institution.

“Commencement date” means the day this Act becomes effective;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to the Department;

“County Assembly” means the County Assembly of Bungoma;

“Department” means the Bungoma County Department of Agriculture, Livestock, Fisheries, Irrigation and Co-operatives.

“Fund” means the Bungoma Institutions Enterprise Fund;

“officer in-charge” means a person appointed as the head of an institution as specified in section 7 and 18 of the Act;

“Value Chain Actors” means persons dealing with input supply, primary production, transportation, processing, manufacturing and retailing of agricultural products.

Objects and Purpose of the Act

3. The object and purpose of this Act is to —

- (a) provide for the development, functions and management of Agricultural Institutions;
- (b) provide a legal and institutional framework for anchoring Bungoma Agricultural institutions to effectively perform their functions; and
- (c) provide a framework for funding of the activities of the Agricultural Institutions.

Application

4. This Act shall apply to the Bungoma Agricultural institutions.

Guiding Principles

5. In the performance of its functions under this Act, the Board shall be guided by the following principles—

- (a) the promotion of socio-economic development in line with the Bungoma County Integrated Development Plan;
- (b) achievement of manpower development;
- (c) promotion of knowledge and skills acquisition, storage and dissemination;

(e) prescribing criteria for admission, assessment, examination , evaluation, discipline, and dismissal of trainees; and

(f) any other information relating to its functions that the Board considers necessary.

(2) Guidelines shall be made by a resolution made at a meeting of the Board and passed by a majority of not less than three-quarters of the members present and voting, not being less than half of the total membership of the Board.

(4) The County Executive Committee member shall table the report before the County Executive Committee, which shall deliberate on and forward the same to the County Assembly.

Protection from Personal Liability

36. A person shall not be personally held liable for any act or omission done, in good faith for the purpose of carrying out the provisions of this Act.

Common Seal

37.(1) There shall be a common seal for the Agricultural Institution.

(2) The common seal shall be kept by the Institution and shall be used in the manner authorized by this Act.

(3) The common seal of the any Agricultural Institution shall be kept in such custody as the Board shall direct, and shall be used upon the order of the Board.

(4) The common seal of the any Agricultural Institution shall be authenticated by the signature of the Secretary to the Board or any other authorized person in the service at the Institution.

(5) The common seal of the Institution affixed on a deed, instrument, contract or any other document and duly authenticated under sub-section (2) shall be binding to the Institution and its successors and can be discharged in the same manner as that in which it was executed.

(6) The common seal of the Institution, when affixed to any document and duly authenticated under sub-section (2), shall be binding, and unless the contrary is proved, the necessary order or authorization of the Board under this section shall be deemed to have been duly given.

Power to make Statutes

38. (1) In the performance of its functions under this Act, the Board shall make guidelines generally for the administration of the Institutions, and in particular for —

- (a) the establishment of departments of the institutions;
- (b) the requirements for the award of certificates or other awards of the Agricultural Training Centre and relevant assessment bodies;
- (c) conduct of examinations;
- (d) prescribing fees and other charges;

- (d) dissemination of research findings and the application of innovation to development; and
- (e) contribution to community service.

PART II—ESTABLISHMENT OF AGRICULTURAL INSTITUTIONS

Establishment of Institutions

6. (1) The County Executive Committee Member with the approval of the County Assembly may, by order in the *Gazette*, establish one or more Agricultural Institutions within the County.

(2) The Institutions established in 6(1) shall be a body corporate with perpetual succession and a common seal and shall be capable of—

- (a) making investments;
- (b) entering into contracts; and
- (c) doing such other things as may be necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

Agricultural Institutions

7. Agriculture Institutions shall include—

- (a) Mabanga ATC;
- (b) Agricultural Mechanization Service Unit;
- (c) Soil Laboratory Unit;
- (d) Chwele Fish Farm; and
- (e) any other Institution that may be established as need arises.

Functions and powers Agricultural Institutions

8. Functions and powers Agricultural Institutions include—

- (a) be an innovation hub for development and dissemination of agricultural innovations and adaptive on-farm trials;
- (b) offer residential and non-residential training (including outreach) on appropriate technologies on agricultural value chains to farmers and stakeholders;
- (c) serve as a bulking center for plant materials and multiplication of livestock or fingerlings for farmers;

- (d) to offer quality competency-based training to agricultural value chain actors for enhancing agricultural development;
- (e) to provide facilities for training on relevant agricultural technologies and other ancillary subjects;
- (f) to promote commercialization of agricultural enterprises and value addition;
- (g) to promote agricultural mechanization services for sustainable agriculture in County;
- (h) to offer laboratory testing, analysis and advisory services to farmers on soil and other relevant inputs;
- (i) to offer capacity development assistance on agricultural mechanization through practical training, technical assistance, technology transfer and human resource development;
- (j) to collaborate with the National Government, the private sector and non-governmental organizations in development of agricultural training and research; and
- (k) to carry out such other functions as may be necessary or incidental to the implementation of the objects and purposes of this Act and performance of such other functions as may from time to time be assigned by the Governor.

PART III—MANAGEMENT AND GOVERNANCE OF THE AGRICULTURAL INSTITUTIONS

Agricultural Institutions Management

9. The agriculture institutions shall include—

- (a) board of management;
- (b) the officer in charge of the institution; and
- (c) staff of the institution.

Board of Management

10. Subject to this Act and in order to regulate the governance, administration and management of an Agricultural Institution in the County as contemplated by this Act, there shall be established a Board of Management to assist in the overall governance and management of the institution.

- (4) The Board shall utilize at least 30% of its expenditure budget on development.

Charges for Goods and Services

33. (1) The Institution may charge such user charges or fees for the services rendered.

(2) Subject to sub-section (1) the County Executive Committee Executive Member in consultation with the Board shall prescribe the user charges and fees payable for the goods and services referred by each Agriculture Institution.

PART V—MISCELLANEOUS PROVISIONS

Power to make Regulations

34. The County Executive Committee Member shall make regulations and guidelines for the better carrying out of purposes and provisions of this Act.

Reporting

35. (1) The Board shall, at the end of each financial year, cause an annual report to be prepared.

(2) Without limiting what may be included, the annual report shall include—

- (a) the financial report of the Agricultural Institution;
- (b) description of the Activities of the Agricultural Institution;
- (c) such other statistical information as the Agricultural Institution may consider appropriate relating to its functions;
- (d) the impact of the exercise of any of its mandate or function;
- (e) any impediments to the achievements of the objects and functions of the Agricultural Institution;
- (f) such other information as the County Executive Committee Member may direct; and
- (g) any other information relating to its functions that the Board considers necessary.

(3) The Board shall submit the annual report within three (3) months after the end of the financial year to the County Executive Committee Member.

- (j) furnish such additional information as he or she may deem fit to be proper and sufficient for the purpose of examination and audit by the controller of budget and the Auditor-General; and
- (k) perform such other functions as assigned from time to time by the County Executive Committee Member for Finance.

Accounts for the Institutions

29. (1) The Board shall, subject to approval of the County Treasury, open bank accounts for the purposes of managing the Institutions.

(2) The Institutions shall open bank accounts into which monies received under section 25 shall be paid solely for the purposes of managing and administering the funds received.

(3) The Funds under this section shall be managed in accordance with the Public Finance Management Act.

Annual Estimates of the Fund

30. The annual estimates and budget making process shall be done in accordance with section 125 of the Public Finance Management Act, 2012.

Audit of the Funds

31. Not later than three months after the end of each financial year, prepare, sign and transmit to the Auditor-General a statement of accounts relating to the Fund, prepared and signed by the Fund Administrator specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board of Management may from time to time direct in accordance with the Public Finance Management Act;

Investment of the Surplus of Funds

32. (1) All receipts, earnings and accruals of the Fund and the balance of the Fund at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained for the purpose for which the Fund is established.

(2) The Board may in consultation with the Chief Officer responsible for the Institution and Finance invest such surplus Fund.

(3) The Board shall retain 70% of the revenue of the Fund to defray the expenses of running the institution and other infrastructural development and remit the balance of 30% to the County Revenue Fund.

Composition of the Board

11. (1) The County Executive Committee Member shall constitute the Board of Management.

- (2) The Board of Management shall consist of—
 - (a) a non-executive Chairperson appointed by the County Executive Committee Member;
 - (b) the Chief Officer in the Department for the time being responsible for matters relating to Agricultural institutions;
 - (c) The Chief Officer in the Department for the time being responsible for matters relating to any complementary functions performed by the institution or officer designated by him or her in writing;
 - (d) the Chief Officer in the Department for the time being responsible for matters relating to the County Treasury or an officer designated by him or her in writing;
 - (e) eight persons representing farmers with the County;
 - (f) the Officer In-charge of the agriculture institution who shall be the secretary to the board and an *ex-officio* member;
 - (g) the officer in-charge of the institution shall be the rank of a director in the Bungoma County service; and

(3) Persons appointed to the Board shall be of mixed expertise and experience for the purpose of providing policy direction and guidance to the management of the Institution.

(4) Appointment of Board members shall be in writing by the County Executive Committee Member for the time being responsible for matters relating to Agriculture.

(5) In making appointments under subsection 2(a) and (e) consideration should be made based on the nine (9) Sub-counties of Bungoma County.

(6) In making appointments under sub-section 2(e) consideration to be made to the two third gender rule, PLWD, youth and the provisions of Article 27 of the Constitution of Kenya.

Eligibility for Appointment of Members of the Board

12. (1) A person shall be qualified for appointment as Chairperson under section 11 (2) (a) if the person—

- (a) is a Kenyan citizen;
- (b) holds a degree from a recognized university;
- (c) has experience in management of not less than ten years of which five must have been in senior management;
- (d) meets the requirement of Chapter Six of the Constitution; and
- (e) has had a distinguished career in their respective field.

(2) A person shall be qualified for appointment as a member under section 11 (2) (e) if the person—

- (a) is a Kenyan citizen;
- (b) holds a minimum of diploma from a recognized institution of higher learning;
- (c) has practical experience in their field of practice of not less than five years;
- (d) meets the requirement of Chapter Six of the Constitution.

Co-option of Members

13. (1) The Board may co-opt a person whose knowledge and expertise is necessary to assist it effectively discharge its functions under this Act.

(2) The number of co-opted members shall not exceed three (3) at any particular Board meeting and such members shall have no voting rights.

Responsibilities of the Board

14. (1) Subject to this Act, the Board shall—

- (a) ensure compliance with standards of training and services in the Institution;
- (b) promote, the public interest for which the institution is established and ensure its development;
- (c) promote partnerships with other stakeholders and development partners as it may deem appropriate and in furtherance of the purpose for which the Institutions is established;
- (d) advice on development and operations of the Institution;
- (e) mobilize resources and oversee utilization for growth and development of the Institution;

Administration of the Fund

27. The County Executive Committee Member for the time being responsible for Finance shall designate a person to be the fund administrator on recommendation from the County Executive Committee Member responsible for Agriculture.

Functions of the Administrator

28. Supervision and Control of Administration of the Fund include—

- (a) undertake supervision and control of administration of the Fund;
- (b) ensure that the money held in the Fund is spent only for the purposes for which the fund is established;
- (c) ensure disbursement of the monies out of Fund is done in accordance to this Act;
- (d) ensure all incomes are made in accordance to the provisions of this Act;
- (e) cause to be kept the proper books of accounts and other books and accounts in relation to fund and for all loans financed from the Fund;
- (f) prepare financial statements and ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time;
- (g) prepare quarterly financial statements for the Fund including its financial and non-financial performance in a form prescribed by the Accounting Standards Board;
- (h) not later than fifteen days after the end of each quarter, submit quarterly reports to the Board of Management for approval and onward submission to the County Executive Committee Member and further submission to the County Assembly;
- (i) not later than three months after the end of each financial year, prepare, sign and transmit to the Auditor-General a statement of accounts relating to the Fund is prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board of Management may from time to time direct in accordance with the Public Finance Management Act;

Committee Member may approve, submit to the County Executive Committee Member a report on the operations and activities of the ATC.

(5) The financial year of the Agricultural Institutions shall be the period of twelve months ending on the thirtieth June, in each year.

Accounts and Audit

23. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Institution.

(2) The accounts of the Board shall be prepared and submitted for examination annually by the Auditor-General in accordance with the Public Audit Act.

Establishment of the Agriculture Institutions Enterprise Fund

24. For sustainable management of Agriculture Institutions Commercial Enterprises, There shall be established a Fund to be known as the Agricultural Institutions Enterprise Fund in accordance with section 116 of the Public Finance Management Act, 2012.

Composition of the Fund

25. The Fund shall consist of—

- (a) such monies as may be appropriated by the County Assembly for the purposes of the Fund;
- (b) monies received as fee for services rendered by the Institutions in accordance with the provisions of this Act;
- (c) revenues earned from activities of the Institutions in the accordance with the provision of this Act;
- (d) revenues earned from approved investments by the Institutions;
- (e) grants, gift, donations made to the Fund; and
- (f) any other funds received by the Institutions in the performance of its functions as stipulated in this Act.

Application of the Fund

26. There shall be paid out of the Fund, any expenditure approved by the Board pursuant to provisions of this Act.

- (f) approve and adopt quarterly and annual budgets, plans and reports;
- (g) advise the County Executive Committee Member on human resource, capacity needs, and best practices of managing the Institution;
- (h) oversee guidelines on fees and how they are administered;
- (i) approve the quarterly and annual reports for the Institution;
- (j) review asset and security status of the Institution and make recommendations;
- (k) participate in the annual valuation of the assets of the institution; and
- (l) perform any other function as may be conferred on it by this Act.

Tenure of the Board

15. Members of the board appointed under section 11 (2) (a) and (e) above shall hold office for a term of 3 years from the date of their appointment and shall be eligible for reappointment for a further and final term of 3 years.

Vacation from the Office

- 16.** The office of a member of the Board shall fall vacant if—
 - (a) the member resigns in writing to the County Executive Committee Member;
 - (b) the Board is satisfied that the member is, by reason of physical or mental infirmity, unable to execute the functions of his/her office;
 - (c) if the member has been absent without leave for three consecutive meetings of the Board;
 - (d) the member violates provisions of Chapter Six of the Constitution of Kenya;
 - (e) a member is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
 - (f) the appointment of the member is revoked by the County Executive Committee Member in writing;
 - (g) the member is adjudged bankrupt;

- (h) the term of the Board expires; or
- (i) the member dies.

Filling of Vacancy in the Board

17. (1) Where the office of a member of the Board falls vacant under section 16, the Secretary shall notify the County Executive Committee Member within two weeks upon occurrence.

(2) Where a notification has been made as per the provisions above the County Executive Committee Member shall fill the vacancy within one (1) month after occurrence and such persons shall meet the qualifications specified in this Act.

Remuneration of Members of the Board

18. The members of the Board shall be paid such allowances in line with relevant guidelines issued by the Salaries and Remuneration Commission.

Conduct of the Business and Affairs of the Board.

19. (1) The conduct of the business and affairs of the Board shall be as stipulated in Schedule 1 of this Act and any regulation that the County Executive Member for agriculture may provide from time to time.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure.

Staff of the Institutions

20. (1) The Chief Officer for the time being in charge of matters relating to the respective institution shall deploy officers in charge based on the departments organogram and structure of the Department.

(2) The Officers In-charge of institutions shall be the overall head of institutions as spelt out in the respective existing schemes of service.

(3) The Chief Officer for the time being in-charge of matters relating to the Institution shall deploy staff according to the staff establishment structure and needs of the respective institutions.

PART IV—FINANCIAL PROVISIONS

Funds, Assets and Liabilities of the Institution

21. The funds, assets and liabilities of the Institution shall consist of—

- (a) such sums as the County Executive Committee Member may, with the consent of the County Treasury, make available for the purposes of this Act out of monies provided by the County Assembly recurrent and development;
- (b) any assets, liabilities, rights and privileges held by or on behalf of the Mabanga Agricultural Training Centre, Agriculture Mechanization Centre, Soil Laboratory Unit and the Chwele Fish Farm at the commencement of this Act;
- (c) any sums or property which may in any manner become payable to, or vest in the Institutions in respect of tuition fees and other services or any other matter incidental to the carrying out of its functions;
- (d) all monies from any other source provided for or donated or lent to the existing institutions; and
- (e) any sums or property which may be donated to, or borrowed by the institution:

Provided that the Board shall not be obliged to accept a donation for any particular purposes unless it approves the terms and conditions attached to that donation.

Strategic plans, budget and annual report

22. (1) The Board shall, as soon as practicable after the commencement of this Act and in a period not exceeding three years, prepare or cause to be prepared a five year strategic plan pertaining to the Institution which shall be submitted to the Board for approval.

(2) The Board shall, not later than the end of April in every year, prepare and submit to the County Executive Committee Member subsequent financial year annual budget incorporating estimates of the Institutions revenue and expenditure for onward submission to the County Assembly for approval.

(3) A plan or budget submitted to the County Executive Committee Member under this Act, unless earlier disapproved by the County Executive Committee Member, shall be approved by the County Executive Committee Member with or without such modifications not later than three months after it has been submitted.

(4) The Board shall, within a period of three months after the end of each financial year or within such longer period as the County Executive