

**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MARSABIT**



**The Marsabit Water Services Bill
2016**

August 2016

Popular Version

1.0. Introduction

The county water services bill is prepared for AN ACT of the County Assembly of Marsabit to provide for the management of water services and implementation of National Government Policy on water conservation in the county; and for connected purposes.

Aligned to the CoK 2010, the bill recognizes the constitutional right of every person to clean and safe water in adequate quantities and therefore seeks to put measures in place to the progressive realization of the same. In ensuring these rights are upheld, the bill articulates that water for domestic uses such as drinking, cooking and personal hygiene shall take priority to all other uses during water scarcity.

2.0. Overview of the Bill

- The bill sets out to operationalize the devolved county functions relating to the water and sanitation sector by establishing an administrative framework whilst articulating the modalities for water services, coordination of water use, regulation of water works, water conservation, management of county water revenues and ownership and maintenance of county water supply and sanitation infrastructure.

Administration:

- The bill assigns the County Water Department, headed by the County Executive Committee Member, with the overall responsibility for water, sanitation and sewerage matters in the county. The County Executive coordinates and plans on the use of water in the County as well as ensuring water use projects undertaken by the National Government agencies are in line with the water use priorities of the County.

3.0. Water Supply and Service Management

- In line with the devolved functions stipulated in the CoK 2010, the bill mandates the County to establish County Water Services Providers (WSPs) which shall be responsible for water supply management.
- The bill assigns the responsibility of regulation of water use tariffs to the County Executive who shall publish the water use tariffs in the County on an annual basis.
- Water use reports detailing water supply demand and use in the County is also expected to be published annually. Privatization of water service provision is also allowed in the bill.
- The bill stipulates that the County is allowed to licence private persons to establish a water service provider which is bound to the terms and conditions outlined by the relevant county regulations.

- Water Quality Control mechanisms shall also be established by the County. WSPs are expected to conform to the water quality standards established by the Department.

4.0. Development of Waterworks:

- The bill proposes that the county executive shall develop water works for water service provision which may be handed over to licenced Water Service Providers for management. Development of any waterworks not owned by the County government shall also be overseen by the County Executive.
- The mandate to develop storm water management systems in urban areas including a storm water management physical plan for urban areas in the County has been vested on the County Executive.
- The tenets of transparency and accountability are upheld in the bill as it proposes that a water works priority schedule for waterworks development be developed and published in the County Gazette every financial year. The bill bestows power on the County Executive to acquire land for waterworks development.
- In consultation with relevant National government agencies, the bill charges the County Executive to undertake borehole site identification and prepare quarterly reports on the same, which should be made public. Further, the bill places the responsibility of monitoring all borehole drilling in the County and stipulates that no borehole drilling will be carried out without a certificate of authorization issues by the County.
- The bill ensures that the quality of the water resources are safe guarded; and therefore gives power to the County Executive to prosecute persons who cause water pollution. The bill proposes to construct wells for monitoring of ground water levels and water quality.

5.0. Water Harvesting

- To promote water conservation in the county, the bill proposes to establish a roof catchment policy for the county. It is proposed that institutions and permanent structures in urban areas in the county should have roof catchment and water storage systems, failure to which they are liable to a penalty. Regulations on the requirements for roof catchment systems in urban areas are proposed to be developed by the County Executive.

6.0. Public Private Partnerships

- The bill promotes the establishment of public private partnerships (PPPs) by giving the County Executive and County WSPs to enter into such partnerships as Contracting Authorities. The County WSP may enter into a PPP agreement for the exercise and performance of its functions whereas the County Executive to may do so for the development and maintenance of water works in the County.

7.0. Disaster Management

- The bill proposes a disaster management strategy be developed by the County Executive which contains relevant information of water related disaster management including early drought warning responses strategy, flood control

response strategy, short term interventions, long term interventions among others. This strategy may be developed in consultation with the Public Benefits Organizations. Water trucking is foreseen as a last resort to disaster management in the County, and the County Executive has been proposed to be responsible of setting out regulations on the same.

8.0. Financial Provisions

- The bill proposes the establishment of a Water Services Fund for financing activities of County WSPs, development of water infrastructure, payment of compensation and liability related to the County functions as well as for the provision of technical assistance and maintenance of community owned water works or projects.

Offences

- The bill permits the County Executive, County WSP, Company or compliance officer to institute and maintain criminal proceedings in any court against persons who go against the provisions made under the bill or any rules and regulations made under the Act.

9.0. Miscellaneous

- The bill further proposes the development and publishing of a transition plan for water service provision and supply management in the County.