

**THE NAKURU COUNTY REVENUE ALLOCATION
BILL, 2018**

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**THE COUNTY REVENUE ALLOCATION BILL,
2018**

A Bill for

**AN ACT of Nakuru County Assembly to provide
for the establishment, administration and use of
the County Revenue Allocation and for
connected purposes**

ENACTED by County Assembly of Nakuru as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nakuru County Revenue Allocation Act, 2018, and shall come into operation upon the expiry of 30 days after publication.

Short title and commencement.

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

Interpretation.

“Clerk” means the Clerk to the Nakuru County Assembly;

“Community” means residents of a particular area or locality such as a Ward, location or sub – location within Nakuru County and having common interests;

“Member of the County Executive Committee” means the Member of the County Executive Committee responsible for finance and economic planning;

“County assembly member” means a member elected in accordance with Article 177 (1)(a) of the Constitution

“Ward” means an electoral unit within a constituency delimited in accordance with Article 89 of the Constitution

“sub county administrator” means a person appointed pursuant to section 50 (1) of the county government Act 2012 responsible for coordination, management and supervision of the general administrative function in the sub county unit

“ward administrator” a person appointed pursuant to section 51 (1) of the county government Act 2012 for each ward in a county responsible for coordination, management and supervision of the general administrative functions in the ward

3. The object and purpose of this Act is to ensure that a specific portion of the County annual budget is devoted to the Wards for purposes of development and in particular the fight against poverty at the Ward level.

Object and purposes of Act.

PART II—ESTABLISHMENT OF THE COUNTY ALLOCATION

4 (1) There is established a budgetary allocation to be known as the Nakuru County Revenue Allocation Bill 2018 which shall consist of

Establishment of the County Allocation

(2) “an amount of not less than 25 percent of equitable shares and county own local collection revenues.

(3) The amount referred to in section (2) shall be calculated on the basis of the most recent audited accounts of revenue received and shall exclude the facility improvement fund.

(4) All receipts, savings and accruals and the balance at the end of each financial year shall be retained for the purpose for which it was established.

(5) The amount referred to in subsection above shall be administered by the county treasury.

5. An accurate record of all payment made for projects to every Ward shall be kept and updated every month by the County Treasury.

Record of disbursements to be kept.

PART III—SUBMISSION OF WARD PROJECT PROPOSALS

6. (1) The list of proposed Ward based projects emanating from public participation forum to be covered under this Act shall be submitted by the ward administrator to the county Executive member.

Submission of projects

(2) The county Executive member shall receive and compile the list of proposed Ward projects submitted to it under this Act and grant the necessary approval where the requirements of this Act has been fulfilled.

- (3) The functions of the county Executive member shall be to
- (a) ensure allocation and disbursement of funds in every Ward;
 - (b) receive and discuss the annual reports and returns from the Wards;
 - (c) ensure the compilation of proper records, returns and reports from the Wards;
 - (d) ensure timely submissions to County Assembly of various returns, reports and information as required under Act;

- (e) consider project proposals submitted for various wards in accordance with the Act and make appropriate recommendations to the County Assembly;
- (f) continually review oversee the implementation, policy framework and legislative matters that may arise in relation to the ward projects;
- (g) Perform such other functions as may be provided for in this Act.

7. (1) Each unit of a ward shall come up with proposals, discuss them, select and prioritize a list of projects to be submitted to the County Executive member.

Proposal and prioritization of project

(2) The list of the proposed Ward projects shall be submitted to the county treasury before the end of the month of February in each year or such other month as may be determined by the Member of the County Executive Committee in order to ensure timely inclusion of the projects in the annual Government budget of a particular financial year.

Submission deadline.

(2) project proposals submitted for various wards in accordance with the Act should be included in the County Fiscal Strategy Paper of a particular year;

8. (1) The list of projects shall be submitted on a Ward Projects Submission Form set out in the Second Schedule to this Act.

Submission Form.

(2) All projects proposed for every Ward shall be listed in the Form together with the cost estimates, amounts allocated and amounts disbursed to such projects.

9. For every project listed in the Form, there shall be attached a Project Description Form set out in the Third Schedule.

Projects description Form.

10. The County executive committee shall scrutinize and approve for funding those project proposals that are consistent with the Act.

Approval of projects

11. The allocation of funds to various projects in each Ward is the responsibility of the Ward Administrator in consultation with the area county assembly member and the general public

Allocation of funds to projects.

13. The projects listed for each Ward shall be numbered by the County Executive Committee and the serial numbers of all projects in a Ward

List to be serialized

shall bear the number of the Ward as delineated by the Independent Electoral and Boundaries Commission in order to ensure that a project retains the same serial number every year until its completion.

14. (1) The Member of the County Executive Committee, with the concurrence of the County Assembly shall for each financial year allocate funds to each Ward in accordance with section 15.

Allocation of funds

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year in accordance to section 154 of the Public finance management Act 2012.

(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be retained for the purpose it was established.

(4) Unspent funds shall be allocated to any eligible project and such project may be new or ongoing at the end of the financial year.

(5) a return as set out in the First Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

PART IV—ALLOCATION CRITERIA.

15. (1) The budget ceiling, for each Ward shall be—determined by a criteria that incorporates proportion of population, basic equal share and land area as set out in the fourth schedule subject to approval by the County Assembly

Basis for budget ceiling.

(2) subject to Section 15 (1) above, the following weights shall apply to the above mentioned parameters; population 30 per centum; equal share 60 per centum and land area 10 per centum.

(3) subject to clause 15(2) above, the parameters will be updated after every census or economic survey by the Kenya National Bureau of statistics to reflect changes in the ward demographic variables

(4) The Chairperson of the relevant Committee of the County Assembly shall table in the Assembly a schedule showing the ceiling for each Ward, which shall be determined in accordance with sub section (1).

16. (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.

Criteria for Projects.

(2) It shall be the responsibility of the County Executive Committee member to ensure that the list of projects submitted for funding comply with the provisions of the Act and their total cost does not exceed the allowed ceiling for the particular Ward or is not below that ceiling.

(3) If the list of projects submitted for funding is in contravention of subsection (2) the same shall be referred back to the Ward for amendment and re-submission.

(4) Whenever the amount for projects in a Ward is less than the allowed ceiling for reasons of projects being deleted in accordance with sub-section (3), or for whatever reason, the shortfall shall be indicated as unallocated amount against that particular Ward on the list to be forwarded to the Member of the County Executive Committee.

Un allocated
project

(5) Subject to Section 15(1) above the following allocation may be used as follows-

- a) an amount not exceeding three per cent may be used for sports at the ward level;
- b) an amount not exceeding three per cent may be used for disability;
- c) an amount not exceeding seven per cent may be used for bursary;

PART V—TYPES OF PROJECTS

17. (1) Projects under this Act shall—

- (a) be in respect of those falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution; and
- (b) Is community based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area.

Projects to be
community based.

(2) Any funding under this Act shall be for a complete project or a defined phase, of a project and may include the acquisition of land and buildings.

(3) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.

(4) The allocation may be used as follows—

- a) Education Sector – development of social halls, Early Childhood Development, Youth Empowerment Centers, Home craft, and Village Polytechnics
- b) Health - construction and equipment of healthcare facilities at

ward level

- c) Agriculture Livestock and Fisheries Development
- d) Trade, Markets, and Cooperatives Development
- e) Road Infrastructure and street lighting
- f) Water Infrastructure and Climate Mitigation
- g) Ward Administration Infrastructure
- h) Sports, people living with disability and bursary
- i) Refuse removal, refuse dumps and solid waste disposal.

(5) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities

(6) the number of projects to be included in the ward project submission form specified in the second schedule shall be in accordance to the county policy on project identification and implementation.

18. (1) The County Executive member shall make appropriate consultations with the relevant Government departments to ensure that cost estimates for the projects are as realistic as possible.

Cost estimates to be realistic.

(2) The ward administrator in consultation with the area Member of County Assembly and the general public shall rank the projects in order of priority and whenever, in the opinion of the County Executive member, the total cost of the projects listed exceed the ceiling for a particular Ward, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.

19. (1) A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted in accordance with the Act.

Personal awards to be excluded.

20. For the purposes of this Act, the County Executive member may consider part funding of a project financed from other sources so long as the other financiers or donors of that project have no objection and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.

Counter-part funding to be permitted.

SUBMISSION OF QUARTERLY REPORT

21. (1) The County Executive member shall, on a quarterly basis, submit a report to the County Assembly Select Committee detailing—

Quarterly reports on projects and disbursements.

- (a) a summary of the project proposals received from the wards in the preceding month and indicating the approval status of such projects;
- (b) a summary of the status of disbursements of funds to the wards for that preceding month;
- (c) Any restriction imposed on a Ward project in accordance with the Act.

(2) The County Executive member shall ensure that the list of projects forwarded to him /her by each ward is, upon approval, funded in accordance with the Act.

PART VI—IMPLEMENTATION OF PROJECTS

22. (1) Projects under this Act shall be implemented with the assistance of the relevant department of County Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

Relevant county department shall implement the projects

(2) Where a project in a Ward involves the purchase of equipment, such equipment shall remain for the exclusive use of that Ward.

(3) The County Executive member shall be responsible for monitoring the implementation of projects and shall submit a report on the ongoing projects to the County Assembly committee.

(4) All fixed and movable assets, including equipment bought under this Act for use by the Ward administrator shall be the property of the County Government to be insured in the name of the County Government but serialized to reflect the name of the Ward.

(5) No asset or equipment acquired under this section shall be disposed of by the County Government without the prior approval of the County Executive member.

23. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act 2005.

Procurement of services and Works.

PART VIII—MISCELLANEOUS PROVISIONS

24. (1) The Member of the County Executive Committee may make regulations for the smooth running of the Act and such regulations shall be

Member of the County Executive Committee to make regulations.

approved by the County Assembly.

(2) The Member of the County Executive Committee may amend any of the Schedules through a notice in the Gazette, provided that such amendments shall first be approved by the County Assembly.

25. (1) The provisions of this Act shall be complimentary to any other development efforts by the national government, the county governments or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programs.

Provisions in the Act are complimentary

(2) For clarity, County Government development allocations shall continue alongside the projects funded under this Act.

26. Except as otherwise provided by this Act, a person who is found guilty of committing an offence under this Act for which no other punishment is given, that person is liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding five hundred thousand shillings, or to both

Offences and penalties.

27. (1) All complaints and disputes by persons arising due to the administration of this Act shall be forwarded to the County Executive member in the first instance.

Dispute resolution.

(2) Complaints of a criminal nature shall be forwarded by the County Executive member to the relevant government agencies with prosecutorial powers.

(3) Disputes of a civil nature shall be referred to the County Executive member in the first instance and where necessary an arbitration panel whose costs shall be borne by the parties to the dispute, shall be appointed by consensus of the parties to consider and determine the matter before the same is referred to court.

(4) Notwithstanding subsection (3), parties shall be at liberty to jointly appoint an arbitrator of their choice in the event of a dispute but where parties fail to jointly agree on an arbitrator, the Member of the County Executive Committee may appoint an arbitrator whose costs shall be jointly borne by the parties.

Signature Date

NamePosition

SECOND SCHEDULE

(s. 21)

WARD PROJECTS SUBMISSION FORM

Ward No. Ward Name Financial year

Ward Administrator

Signature Date

Serial	Name of Project	Amount allocated
Total for the Financial Year		

THIRD SCHEDULE

(s. 22)

PROJECT DESCRIPTION FORM

Ward No: Ward Name County

Project Number

Project Title

Sector

Status of projects (tick one) New Extension On-going

Rehabilitation

Brief statement on project status at time of submission

.....
.....
.....
.....

Financial year1st July To 30th June

Original Cost estimates, in KSh. Dated

Amount allocated last financial year

Person completing form: Signature

Name Position

Date

**FOURTH SCHEDULE
BASIS FOR BUDGET CEILINGS**

No.	Parameter	Proportion (%)
1	Population	30
2	Equal Share	60
3	Land Area	10
	Total	100

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to establish the Nakuru County Revenue Allocation into which an amount equivalent to twenty five of the total County Government annual revenue shall be used to facilitate development at the Ward Level by ensuring that a specific portion of the county annual budget is devoted to the purposes of development and in particular the fight against poverty at the Ward level.

Part I of the Bill sets out the preliminary matters including the commencement date and the definition of various terms used in the Bill.

Part III of the Bill outlines the financial procedures with respect to the administration and use of the Fund.

Part IV of the Bill provides for the submission of ward project proposals by elected member of the County Assembly. The Part outlines the format for presentation of projects to be undertaken under the fund and also provides the manner of sharing of the moneys from the allocation which shall be based at sixty percent equal and fifteen percent based on population and other factors.

Part V of the Bill provides for the type of projects that may be included for funding under this Act. In particular, this Part provides that such projects must be development based. This Part also sets out a minimum number of projects to be funded so as to ensure distribution of projects within the Ward and a maximum number in a bid to avoid

spreading out too thin. The eligibility of some projects for funding such as counter – part funding is also addressed in this Part.

Part VI of the Bill provides for the procedure to be followed in the implementation of the Ward based projects. It is proposed in the Bill that actual implementation of the Ward based projects be done by the relevant County Government Department in a Ward.

Part VII 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.

PETER NDERITU MWANGI,
Member of the County Assembly.