

REPUBLIC OF KENYA



BOMET COUNTY  
COUNTY ASSEMBLY OF BOMET

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SECOND ASSEMBLY –FIFTH SESSION

WATER, ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE  
REPORT ON THE BOMET COUNTY CLIMATE CHANGE BILL 2021

MARCH, 2021



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## Preface

### 1.0 Introduction

#### 1.1 Evidence of Climate Change

Climate change has become a reality and its effects are here with us. It was predicted that the following events would be due to the effects of greenhouse gas emissions;

- (i) rising minimum temperatures.
- (ii) rising sea levels and flooding.
- (iii) higher ocean temperatures.
- (iv) an increase in heavy precipitation (heavy rain and hail)
- (v) Emergence of pest and diseases
- (vi) shrinking glaciers. (apply in temperate regions)
- (vii) thawing permafrost. (apply in temperate regions)

#### Evidence of Climate Change

Evidence of climate change is based on statistical analysis of trends in historical records of temperature, rainfall, sea level rise, mountain glacier coverage and climate extremes.

1. Temperature and rainfall records from the Kenya Meteorological Department over the last fifty years provide clear evidence of climate change in Kenya, with temperatures generally showing increasing trends in many parts of the country starting from the early 1960s. This evidence is also provided in the State of the Environment Reports published by the National Environment Management Authority.
2. Rainfall patterns indicate increased irregularity and variability with neutral to slightly decreasing trends in annual rainfall over most areas. Decreasing rainfall trends have been observed in the total annual rainfall and during the long rainfall season (March – May) in recent years. This season contributes the higher proportion of the total rainfall for most parts of the country. A general increase in rainfall

amounts has, however, been observed during the months of September to February in some parts of the country. This increase has been attributed to a tendency of the short rainfall season (October-December) to extend into the normally hot and dry months of January and February. Generally, the 24-hour rainfall intensity has shown a decreasing trend.

3. Since the early 1960s, Kenya has experienced increasing temperature trends in many parts of the country. For example, meteorological data demonstrates that the arid and semi-arid lands (ASALs) have witnessed a reduction in extreme cold temperature occurrences.
4. Impacts of temperature increase include the depletion of glaciers on Mount Kenya and sea level rise. These temperature increases will have negative implications on biodiversity and ecosystem services in the country.
5. A changing climate impacts the frequency, intensity, spatial extent, duration and timing of extreme weather and climate events. In recent years, evidence of higher frequency and intensity of extreme climate events such as droughts and floods has been noted in Kenya. The country's drought cycles have been reduced from 20 years (1964-1984), to 12 years (1984-1996), to two years (2004-2006), to a yearly occurrence of drought recorded in the period between 2007 and 2012.

County climate change as an emerging phenomenon has necessitated all the stakeholders to take crucial steps and put up framework on combating and mitigating the effects of climate change.

As the climatic factors keep fluctuating and change human health is at stake due to threats from disease outbreak, disasters and declined food production. Climate change also alters the habitats of natural species and this sets to impact the food chain balance in the ecosystem including agricultural food systems, availability of quality water.

## **1.2 Goal and Objectives of the Climate change Bill 2021**

The Bill provides a framework and mechanisms for mobilization and facilitation of the County Government, Communities and other stakeholders to respond to climate through adaptation and mitigation measures and actions.

1. To provide for the establishment of climate change Steering Committee, its functions and their term of office
2. To provide for the establishment of planning and Ward Planning Committees and their functions and term of office
3. To provide for the measures and actions for responding to climate change through the formulation of the climate Change Action plan
4. To establish duties and responsibilities of the private and public entities relating to climate change issues within the county. Monitoring and evaluation of climate change actions are also provided for
5. To provide for public participation and access to information
6. To establish Climate Change Fund
7. To provide sources of climate change funds

## **1.3 Committee Mandate.**

Mr. Speaker Sir, the Water, Energy, Environment & Natural Resources Committee is constituted under the provisions of Standing Order to undertake such functions as provided for in the standing order no 193(5) which defines its functions as being:

Furthermore, standing order 193(5) states the functions of a Sectoral Committee as follows: -

- 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 analyse 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. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

#### **1.4 The subject areas on the committee.**

All matters relating to electricity, gas and energy reticulation, water conservation and sanitation services, implementation of specific national government policies on natural resources and environmental conservation, forestry, control of air pollution, noise pollution, other public nuisances and outdoor advertising.

#### **1.5 Methodology**

Climate Change Bill 2021 was tabled on **Tuesday 9<sup>th</sup> March 2021** after undergoing first reading. Prior to its publication, Climate Change Bill 2021 was subjected to a number of stages involving stakeholders by holding consultative meetings and public participation. Initially, there were a number of proposed amendments noted which were incorporated as part of the final Bill and as a Committee we have few amendments as our recommendations for consideration.

#### **1.6 Acknowledgment**

Mr. Speaker Sir, on behalf of the committee on Water, Environment, Energy and Natural Resources I wish to recognize and appreciate in a special way the committee's steadfast dedication in analyzing, reviewing and subjecting it for stakeholder input. Gratitude is further extended to the technical team who participated throughout the process including collection of views from the members of public and stakeholders in the county. As a Committee we are also grateful to the executive department of Environment who contributed towards the drafting of the Bill.


I am also aware that there are many individuals, groups or departments whom I have not named though they actively participated in one aspect or the other in the process. To all

those involved, I would like to express my personal and committee's gratitude for the participation, assistance and contribution. We all acknowledge, and indeed we now shift our focus to, the greater challenge of ensuring that the executive implements the document in the latter and spirit of its objectives and in accordance to the Assembly's resolutions and recommendations.

### 1.7 Membership and Ownership of the Report

We, honourable members of the Water, Energy, Environment and Natural Resources Committee, do hereby affix our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity: -

No.	Name	Position	Signature
1.	Hon. Wesley Bett	Chairman	
2.	Hon. Leonard Ngeny	Vice. Chairman	
3.	Hon. Robert Langat	Member	
4.	Hon. Haron Kirui	Member	
5.	Hon. Ridha Chepkirui	Member	
6.	Hon. Winnie Bore	Member	
7.	Hon. Kiprotich Wesley	Member	

Signed.....

THE HON. WESLEY BETT

CHAIRPERSON: WATER, ENERGY, ENVIRONMENT AND NATURAL RESOURCES  
COMMITTEE

DATE.....12/3/2021.....



## **2.0 Legal and Institutional Framework on Climate change legislations**

**Article 185(1) of the Constitution** states that the legislative authority of a county is vested in, and exercised by, its county assembly. As well, Article 185 (2) A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

**Standing Order 193(5) (c).** Study and review all county legislation referred to it;

### **Obligations in respect of the Environment**

Article 69(1) of the Constitution emphasizes that the State shall-

*Ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;*

*Work to achieve and maintain a tree cover of at least 10% of the land area of Kenya;*

- i. Protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;*
- ii. Encourage public participation in the management, protection and conservation of the environment;*
- iii. Protect genetic resources and biological diversity;*
- iv. Establish systems of environment impact assessment, environmental audit and monitoring of the environment.*
- v. Eliminate processes and activities that are likely to endanger the environment*
- vi. Utilize the environment and natural resources for the benefit of the people of Kenya.*

Article 69(2) of the Constitution states that every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

### **Principles of citizen participation in Counties**

#### **County Government Act 2012 Section 87**

Citizen participation in County governments shall be based upon the following principles-

- (a) *timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;*
- (b) *reasonable access to the process of formulation and implementing policies, laws and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards*
- (c) *Protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;*
- (d) *Legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;*
- (e) *Reasonable balance in the roles and obligations of county governments and non-state actors in decision making processes to promote to promote shared responsibility and partnership, and to provide complementary authority and oversight.*

### 3.0 Public Participation/Views and Comments from stakeholders

Public participation was conducted on Wednesday 17<sup>th</sup> March at the Assembly Grounds and the following comments and views was collected;

1. It was proposed that the Sub-Ward should be the lowest level in terms of project implementation of climate change issues instead of Ward level.
2. It was also proposed that when formulating Climate change action plans, reference to existing climate change plans should be referred to for example the Mara River Basin conservation plan, Water catchment action plans and so forth
3. Members of the public also suggested that environmental conservation incentives should be put in place to encourage communities to adopt climate change mitigation measures.
4. The Bill should also capture how offenses and penalties on climate change will be enforced to control environmental destruction.

#### 4.0 Committee Recommendations/Amendments

Mr. Speaker Sir, we noted that the following amendments are necessary as part of Bill

1. Section 17(1)(j) of the bill is amended by inserting the word **'charge'** immediately after **'in'** therein.
2. Section 40 (2) of the bill is amended by deleting the word **'three'** appearing after the word **'within'** and substituting thereof with the word **'one'**