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by the Chairman
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Souta Shitanda, MP
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**REPUBLIC OF KENYA
NATIONAL ASSEMBLY
NINTH PARLIAMENT – SECOND SESSION**

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**REPORT
OF THE
DEPARTMENTAL COMMITTEE
ON
FINANCE, PLANNING & TRADE**

**ON
THE CONSTITUENCIES DEVELOPMENT
FUND BILL, 2003**

OCTOBER, 2003

1.0 INTRODUCTION

Mr. Speaker Sir, on behalf of the Members of the Departmental Committee no. F on Finance, Planning and Trade and pursuant to the provisions of Standing Order N. 101 (3), I would like to take this opportunity to present to the House, the Report and recommendations of the Committee on the Constituencies Development Fund Bill, 2003.

The functions of the Departmental Committee as established under Standing Order No. 151 are inter alia:-

- (i) to study and review all legislation after First Reading subject to the exemptions under Standing Order No. 101 A (4)***
- (ii) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary and as may be referred to them by the house or a Minister.***
- (iii) to make reports and recommendations to the House as often as possible including recommendations of proposed legislation.***

The Constituencies Development Fund Bill, 2003 was referred to the Departmental Committee on Finance, Planning and Trade upon a motion moved by the Minister for Finance pursuant to the provisions of Standing Order No. 101(1).

The Committee held a total of three sittings and also held a consultative forum on the Bill for all Members of Parliament at Safari Park Hotel in July, 2003. The Committee deemed it necessary to hold the consultative forum so as to involve all Members of Parliament and get their opinions and suggestions on the Bill.

2.0 DELIBERATION ON THE CONSTITUENCY DEVELOPMENT FUND BILL, 2003

The Committee deliberated on the Bill as follows:-

- | | | |
|-----------------|---|----------------------|
| Clauses 1-2 | - | Amendments proposed. |
| Clause 3 | - | Agreed to. |
| Clause 4-12 | - | Amendments proposed. |
| Clause 13-18 | - | Agreed to. |
| Clause 19 | - | Amendment proposed. |
| Clause 20(1) | - | Agreed to. |
| Clause 21 | - | Agreed to. |
| Clauses 22-24 | - | Amendments proposed. |
| Clauses 25-28 | - | Agreed to. |
| Clause 29 | - | Amendment proposed. |
| Clauses 30-31 | - | Agreed to. |
| Clauses 32-33 | - | Amendments proposed. |
| Clauses 34-41 | - | Agreed to. |
| Clauses 42-47 | - | Amendments proposed. |
| Clauses 48-54 | - | Agreed to. |
| First Schedule | - | Amendment proposed. |
| Second Schedule | - | Agreed to. |

3.0 PROPOSED AMENDMENTS TO THE CONSTITUENCIES DEVELOPMENT FUND BILL, 2003 –

(i) **PART 1** - **PRELIMINARY**

Clause 1 - THAT, the words “*on such date*” be deleted and insert in place thereof the words “ *within thirty days after the assent*”.

Clause 2 - THAT, the term “ *Constituency Development Committee*” be included in the definitions (meaning the committee established under section 2 of the Act.)

- THAT, the words “*District Projects Account*” be deleted and insert in place thereof the words “*Constituency Account*”.

- THAT, the words “*Estimates Committee*” be deleted and insert in place thereof the words “*Constituencies Fund Committee*”.

(ii) **PART II** - **ESTABLISHMENT OF THE
CONSTITUENCIES DEVELOPMENT
FUND**

Clause 4 - THAT, a new Sub-section 4(5) be inserted to provide that:
“*The amount allocated to the Fund and to the various constituencies shall be tabled in Parliament before the annual budget is presented to the House*”.

- THAT, a new Sub-section 4(6) be inserted to provide that:

“If the Commencement comes midway in the financial year, then the Minister shall within a month of the Act coming into effect, table in Parliament the amount proposed to be paid into the Fund for that financial year and the amount shall be provided for through the supplementary estimates”.

- Clause 52(b)* - THAT, the Permanent Secretary of the Ministry of Agriculture be substituted with the Permanent Secretary Ministry of Planning in the membership of the National Committee.

- Clause 5(2)(e)* - THAT, the Clerk of the National Assembly or his designated alternate be included in the National Committee membership.

- Clause 5(2)(f)* - THAT, the Officer administering the Fund shall be ex-officio member and secretary to the committee.

- Clause 5(2)(g)* - THAT, Six persons are appointed by the Minister from a list submitted in accordance with Clause 5(3)

- Clause 5(3)* - THAT, a new Sub-section 5(3) be inserted to provide that:

“The following organizations shall each submit the names of two nominees, one man and one woman.

Out of the twelve names so submitted, the Minister will then appoint six persons, at least a third of whom must be either gender, to be members of the National Committee”.

- *Law Society of Kenya*
- *Institute of Engineers of Kenya*
- *Architectural Association*
- *Institute of Certified Public Accountants of Kenya*
- *Kenya National Union of Teachers*
- *NGO Council of Kenya*

Clause 5(4) - THAT, a new Sub-section 5(4) be inserted to provide that:

“The name and curriculum vitae of each of the persons nominated for appointment as members of the National Committee, pursuant to clause 5(3), that of the Officer Administering the Fund and that of any person to be designated alternate, shall be submitted to Parliament for a approval before the appointments are made”.

Clause 6 - THAT, a new Sub-section 6(e) be inserted to provide that:

“to ensure the compilation of proper records, returns and reports”

- THAT, a new Sub-section 6(f) be inserted to provide that:
“to ensure timely submission to Parliament of various returns, reports and information as required in the Act”.

- THAT, a new Sub-section 6(2) be inserted to provide that:

“The quorum shall be one half of all the members”.

Clause 7 - THAT, Clause 7(1) (c) be deleted and the Officer administering the Fund be an ex-officio member of the Committee.

- THAT, Clause 7(1)(e) be amended by including the following words at the end.

“ of the Fund in accordance with section 18(2) of the Exchequer and Audit & Audit Act, cap 412”

- THAT, a new Sub-section 7(1)(f) be inserted to provide that:

“prepare monthly returns on the movement of funds appropriate for submission to Parliament”.

- THAT, a new Sub-section 7(1)(g) be inserted to provide that:

“perform any other duties that may reasonably be assigned by the National Committee from time to time”.

- THAT, a new Sub-section 7(3) be inserted to provide that:

“the officer administering the fund shall be appointed by the Minister from among Government public servants who have relevant training and at least five years experience in public finance”.

Clause 8 - THAT, Clause 8(2) be amended by deleting the words “ *approved by Parliament*” and inserting in place thereof the words “ *prepared for projects under the Fund*”.

- THAT, Clause 8(3) be amended to read as follows:

“All disbursements shall be made through the constituency bank accounts maintained for every constituency in accordance with section 44 of the Act”.

- THAT, a new Sub-section 8(4) be inserted to provide that:

“The record of amounts received by each constituency and the record of expenditure of the amounts so received must be submitted to the National Committee within thirty days of the close of the relevant financial year together with a copy of the relevant bank statements. No disbursements for the succeeding financial year shall be made until the said records are duly received”.

- THAT, a new Sub-section 8(5) be inserted to provide that:

“Notwithstanding the requirements of clause 8(4), the discussions or deliberations on the submissions from the constituencies shall not withhold disbursement of funds”.

- THAT, a new Sub-section 8(6) be inserted to provide that:

“The National Committee may set out general conditions and requirements for release of funds, provided the same have first been submitted to and approved by Parliament before promulgation”.

- THAT, a new Sub-section 8(7) be inserted to provide that:

“The National Committee may impose reasonable requirements, including restrictions, on a particular constituency due to previous errant use of funds. Such requirements shall be reported together with monthly returns to be submitted to Parliament under the terms of the Act”.

- Clause 9(3) - THAT, the following sentence be inserted after the word “Fund”.

“Funds so returned shall be credited to the book account of the constituency from which the funds were withdrawn”

- Clause 10(2) - THAT, a new sub section 10(2) be inserted to provide that:

“Any and all funds allocated to a constituency shall be cumulative and be carried forward from one financial year to the next, including funds returned under the terms of Clause 9(3) or unutilized funds for whatever reasons”.

- Clause 11 - THAT, Clause 11 be amended to read as follows:

Clause 11(1) – *“While awaiting the enactment of a law to cater for emergencies nationally, the District*

Projects Committee shall have the leeway to provide for response to a calamity that may occur and affect the district in whole or in part” .

Clause 11(2)- *“The report of such a calamity , the action taken and the funds so committed shall be reported to the National Committee together with the next monthly return form the district.”*

(iii) PART 111 - SUBMISSION OF CONSTITUENCY PROJECT PROPOSALS

Clause 12(2) - THAT, Clause 12(2) be deleted.

Clause 13 - THAT, Clause 13 be amended to read as follows:

“The list of proposed constituency projects shall be submitted to the Clerk of the National Assembly, ^{Who} ~~The~~ may designate a particular officer to receive and compile the information on his behalf”.

Clause 16(2) - THAT, Clause 16(2) be amended to read as follows:

The National Committee may by notice published in the Gazette amend any of the Schedules provided the amendments have first been referred to Parliament for approval”.

Clause 17 - THAT, the word “*Estimates*” be deleted and substituted with the words “*Constituencies Fund*”

- Clause 20(2)* - THAT, the word “minimum” be inserted after 2.5%.
- Clause 21* - THAT, Clause 21 be deleted and the following new Sub-sections be inserted:

Clause 21(1) –Types of projects submitted shall comply to the provisions in the Act.

Clause 21(2) - If some of the items on the list for a constituency are found non-compliant to the provisions in the Act, then they will be removed from the list that shall be forwarded less the unacceptable items.

Clause 21(3) - If the total cost listed in the amount column exceeds the allowable ceiling for a constituency, then the order in which the items are listed shall be taken as the order of priority and item(s) shall be struck off from the bottom of the list so that the total amount of the items is within the allowable ceiling.

(iv) PART IV - TYPES OF PROJECTS

- Clause 22* - THAT, a new Sub- section 22(6) be inserted to provide that:-

“A Constituency office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for

the office. Notwithstanding the provisions of Clause 22(3), the constituency office project may include running expenses up to a maximum of 5% of the total annual allocation for the Constituency”.

Clause 23 - THAT, a new Sub section 23(4) be inserted to provide that:-

“Constituencies may pool resources for a joint project provided the decision is adopted by the Constituency Development Committee of each of the participating Constituencies and is reflected on the projects listed for each of the participating constituencies”.

Clause 24 - THAT, Clause 24 be deleted and the following four new Sub-sections be inserted:-

Clause 24(1)- *There shall be a Constituency Development Committee for every Constituency comprising:*

- (a) The area Member of Parliament*
- (b) All the Councillors in the constituency*
- (c) The District Officers of each of the Division the constituency*
- (d) All the divisional Community Development Officers in the constituency*
- (e) All the divisional Education Officers*
- (f) Up to four persons representing religious organizations in the area*
- (g) One person who is chairman of a Board of Governors for a secondary school*
- (h) Two persons nominated from among women organizations*
- (i) One person nominated from among active NGO's in the area*
- (j) One person nominated from among youth organizations.*

Clause 24(2) - *The Member of Parliament shall, within the first nine months of a new Parliament, convene locational leaders meeting in each of the locations in the constituency. The meeting shall deliberate on development matters in the locations, the constituency and the district, and come up with a list of priorities to be submitted to the Constituency Development Committee. Locations may be combined for purpose of the meeting when it is prudent to do so. The meetings shall be well publicized and attended by all types of leaders who wish to attend.*

Clause 24(3) - *The Constituency Development Committee shall deliberate on project proposals from all the locations in the constituency and any other projects which they consider beneficial to the constituency, including joint efforts with other Constituencies, then draw up a priority project list both immediate and long term, out of which the list of projects to be submitted to Parliament in accordance with Clause 12 is drawn.*

Clause 24(4) - *The elected Members of Parliament shall be the Chairperson of the Constituency Development Committee, unless he/she opts out, in which case the committee shall elect another member to be the chairman. The quorum shall be one third of the members.*

- (v) **PART V - ESTIMATES COMMITTEE**
THAT, the term “Estimates Committee” be deleted and substituted with

“Constituencies Fund Committee”

Clause 29 - THAT, a new Sub section 29(4), be inserted to provide that:

The functions of the Constituencies Fund Committee shall be:

- (a) *To consider project proposals submitted from various constituencies under the terms of the Act and make recommendations for onward transmission by the Clerk.*
- (b) *To consider and report to the House with recommendations, names of persons required to be approved by Parliament under the Act.*
- (c) *To consider and recommend to the house action on any documents requiring action by Parliament pursuant to provisions in the Act.*
- (d) *To oversee the implementation of the Constituencies Development Fund Bill,*
- (e) *To oversee the policy framework and legislative matters that may arise in relation to the Fund.*
- (f) *To undertake the study of similar grass-root development programmes in various countries in different parts of the world with a view to improving the Kenyan model.*
- (g) *To make recommendations for improvements to the framework set out for the efficient delivery of development programmes financed through the Fund.*

(vi) **PART V1** - **IMPLEMENTATION OF PROJECTS**

Clause 32(3) - THAT, a new Sub-section 32(3) be inserted to provide that:

“The Constituencies Development Committee shall be responsible for monitoring the implementation of projects. The committee may designate a sub-committee, a locational committee or a project

committee, the functions of monitoring an on-going project”.

Clause 33(4) - THAT, a new Sub-section 33(4) be inserted to provide that:

“The Committee of a community project being financed under the Act may compile documents which may be used for obtaining tenders or quotations provided such documents have been approved by the Departmental head with or without amendments”.

Clause 34(2) - THAT, the words “*District Projects*” be deleted and substituted with the words “*Constituencies Development*”.

(vii) PART VII - DISTRICT PROJECTS COMMITTEE

Clause 43 (8) - THAT, a new Subsection 43(8) be inserted to provide that:

“Members of the committee who are Government public servants shall be ex-officio”.

Clause 44 - THAT, Clause 44 sub-sections (1) and (2) be amended to read as follows:

Clause 44(1)- *For the purpose of disbursement of funds under this Act, there shall be opened and maintained a bank account for each of the constituencies in a district at any branch of a commercial bank, approved by Parliament, into which*

all funds shall be kept. The account for each constituency shall be titled and be known by the name of the constituency’.

Clause 44(2) – *The bank accounts shall be separate from that of the District Treasury. Signatories to the constituency accounts shall be four, two nominated from among members of the District Projects Committee and two among the members of the relevant Constituency Development Committee. None of the signatories shall be Members of Parliament or Civic Councillors. The signing instructions shall be such that at least three signatories are required on each and every cheque or instrument for actual payment or withdrawal of funds.*

(viii) PART VIII- ROLE OF THE DISTRICT DEVELOPMENT COMMITTEE

Clauses 45-47 - THAT, Clauses 45-47 be deleted.

(ix) PART IX - FINANCE AND ADMINISTRATION

Clause 48 - *THAT, the words “Officer administering the Fund” be deleted and substituted with the word “Minister”.*

(X) PART X - MISCELLANEOUS PROVISIONS

Clause 50(2)- *THAT, the following words be inserted at*

the end:

“The last of which shall be not later than the end of March in that financial year”.

First Schedule - THAT, the contents of the Constituencies Projects Submission Form be modified to include two (2) other signatories from Members of the Constituency Development Committee and District Projects Development Committee to reflect consensus generated at the Constituency level.

4.0 CONCLUSION

The Committee recommends that the House adopts the Constituencies Development Fund Bill, 2003 together with the recommendations contained in the Committee's report.

Mr. Speaker Sir, may I take this opportunity to thank Members of Finance, Planning and Trade Committee for their input and the other Members of Parliament for their valuable contributions during the consultative forum on the Bill. I would also like to thank Hon. Eng. Karue Muriuki, MP for initiating this important Bill.


Hon. Soita Shitanda, MP
Chairman of the Departmental Committee on
Finance, Planning and Trade

Date 18.10. 03

