

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2022

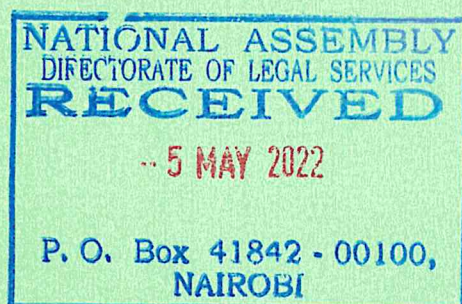
NAIROBI, 18th March, 2022

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**THE KENYA ROADS BOARD (AMENDMENT)
BILL, 2022**

A Bill for

AN ACT of Parliament to amend the Kenya Roads Board Act, 2009 and for connected purposes

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Kenya Roads Board (Amendment) Act, 2022.

Short title.

2. Section 6 of the Kenya Roads Board Act, 1999, is amended in subsection (2)—

Amendment of section 6 of No. 7 of 1999.

(a) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) manage the fund and allocate monies from the Fund in the following manner—

(i) fifty per cent of the Fund allocated in accordance with paragraph (d); and

(ii) fifty per cent of the Fund allocated for the purposes of section 32A (2).”

(b) in paragraph (d) (i), by deleting the words “monies from the fuel levy” appearing immediately after the words “Constituency of the” and substituting therefor the words “allocated funds”;

(c) in paragraph (d) (ii), by deleting the words “monies from the Fund” appearing immediately after the words “percent of the” and substituting therefor the words “allocated funds”;

(d) in paragraph (d) (iii), by deleting the words “monies from the fuel levy” appearing immediately after the words “percent of the” and substituting therefor the words “allocated funds”;

(e) in paragraph (d) (iv), by deleting the words “monies from the fuel levy” appearing immediately after the words “percent of the” and substituting therefor the words “allocated funds”;

(f) in paragraph (d) (v), by deleting the words “monies from the fuel levy” appearing

immediately after the words “percent of the” and substituting therefor the words “allocated funds”; and

- (g) in paragraph (d) (vi), by deleting the words “monies from the Fund” appearing immediately after the words “percent of the” and substituting therefor the words “allocated funds”.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

The principal object of this Bill is to amend Section 6 of the Kenya Roads Board Act, 2009 to enable the Board to manage the Kenya Roads Fund in a manner that allows it to better finance the construction and maintenance of roads.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate any legislative power or limit any fundamental rights or freedoms.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 5th January, 2022.

DAVID PKOSING,
*Chairperson, Transport,
Public Works and Housing Committee.*

Section 6 of No. 7 of 2009 which it is proposed to amend—

Object and purpose of the Board

6. (1) The object and purpose for which the Board is established is to oversee the road network in Kenya and coordinate the maintenance, rehabilitation and development funded by the Fund and to advise the Minister on all matters related thereto.

(2) Without prejudice to the generality of subsection (1), the Board shall—

- (a) co-ordinate the optimal utilisation of the Fund in implementation of programmes relating to the maintenance, rehabilitation and development of the road network;
- (b) seek to achieve optimal efficiency and cost effectiveness in roadworks funded by the Fund;
- (c) manage the Fund;
- (d) based on a five year road investment programme approved by the Minister and the Minister for Finance, determine the allocation of financial resources from the fuel levy required by road agencies for the maintenance, rehabilitation and development of the road network to ensure that the allocation of funds is pegged to specific categories of roads and that not less than—
 - (i) twenty-two percent, which shall be deposited into a special bank account to be called Constituency Roads Fund Account to be maintained by every Constituency of the monies from the fuel levy is allocated equally to all constituencies in the country to be administered by the Rural Roads Authority;
 - (ii) ten percent of the monies from the Fund is allocated for the maintenance or development of link roads between constituencies and to serve as Government counterpart funds in funding works on rural roads, to be administered by the Kenya rural Roads Authority and that the said percentum shall be equally distributed to the Constituencies where Kenya Rural Roads Authority has the mandate;
 - (iii) forty percent of the monies from the fuel levy is allocated in respect of the national roads to be administered by the National Highways Authority;
 - (iv) fifteen percent of the monies from the fuel levy is allocated in respect of the urban roads to be administered by the Urban Roads Authority; and

- (iv) one percent of the monies from the fuel levy is allocated in respect of roads in national parks and reserves to be administered by the Kenya Wildlife Service, and
 - (vi) a maximum of two percent of the monies from the Fund is allocated in respect of the recurrent expenditure of the Board under section 31(5);
- (e) ensure that the remainder of the monies from the Fund described in paragraph (d) shall be allocated annually by the Board with the approval of the Minister to road authorities based on an annual work programme derived from the five-year road investment programme approved by the Minister responsible for roads and the Minister for Finance;
 - (f) ensure that a maximum of ten percent of all monies allocated to each road agency is utilized for development purposes by said agency;
 - (g) monitor and evaluate, by means of technical, financial and performance audits, the delivery of goods, works and services funded by the Fund;
 - (h) in implementing paragraph (g), pay due regard to public procurement and disposal regulations and additional guidelines issued or approved by the Minister;
 - (i) recommend to the Minister appropriate levels of road user charges, fines, penalties, levies or any sums required to be collected under the Road Maintenance Levy Fund Act, 1993 and paid into the Fund;
 - (j) recommend to the Minister such periodic reviews of the fuel levy as are necessary for the purposes of the Fund; and
 - (k) identify, quantify and recommend to the Minister such other potential sources of revenue as may be available to the Fund for the development, rehabilitation and maintenance of roads;
 - (l) the Highways Authority, the rural Roads Authority and the Urban Roads Authority may utilize such portion of monies received from the Fund for operational and administrative expenses as may be approved by the Minister on the advice of the Board:

Provided that such expenditure shall not in any year exceed, as a proportion of the projected annual expenditure of the Fund —

- (i) in the case of the Highways Authority, four percent;

- (ii) in the case of the Rural Roads Authority, five and half percent;
and
- (iii) in the case of the Urban Roads Authority, five and a half percent.