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**THE FACILITIES IMPROVEMENT FINANCING
BILL, 2023**

A Bill for

AN ACT of Parliament to provide for public health facility improvement financing and management and administration of the improvement financing and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Facilities Improvement Financing Act, 2023.

Short Title.

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

Interpretation.

“expenditure committee” means a committee constituted by the Chief Officer for health for the purposes of receiving, interrogating and approving the plans and budgets from county and sub-county hospitals, health centers, dispensaries;

“Chief Officer” means the chief officer responsible for health in a respective County;

“county health facility” includes county and sub county hospitals, health centers, dispensaries and any other health entity registered to provide health services;

“director of medical services” means the county director of medical services appointed by the respective county public service board;

“dispensary” means a health facility at level 2;

“entity” means a county health facility declared to be a County Government entity under section 5(1) of the Public Finance Management Act;

No. 18 of 2012.

“county executive committee member” means the member of the county executive committee responsible for health matters in a respective County;

“exemptions” means exemptions as defined in national policies;

“health center” means a health facility at level 3;

“health facility committee” means the existing and currently constituted administrative arm that manages health facilities;

“hospital” includes sub-county and county health facilities at levels 4 and 5 respectively; Cap. 242.

“hospital management board” means the administrative arm that manages hospitals and includes the appointed and gazette Boards as currently constituted;

“Hospital Management Team” means the executive management team of the hospitals as currently constituted;

“operational and management costs” includes planned and budgeted activities by county health facilities;

“facilities` improvement financing” means revenue collected, retained, planned for and used by public health facilities and units;

“public health facilities” means the whole or part of a public institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service;

No. 18 of 2012.

“schemes” means a proposed benefit package that covers in-patient and out-patient services to a specific group or population offered under the National Health Insurance Fund;

“source of funds” means all sources of monies and receivables collected for public health facilities` improvement financing.

3. The objects and purposes of this Act is to—

- (a) provide for an efficient, secure and accountable mechanism for the collection, retention and management of revenue derived from health services rendered at public health facilities in Kenya.
- (b) establish a governance framework that will facilitate effective planning, coordination, mobilization and access of public health facilities` improvement financing in Kenya;
- (c) provide for the appropriation, management and use of retained health services revenue to supplement operations and facilitate quality service delivery in public health facilities;

Objects and purposes of this Act.

- (d) promote equitable health facilities improvement financing including benefit sharing in accordance with the relevant laws of Kenya; and
- (e) provide for a unified system to guide financial management in public health facilities, improving efficiency and effectiveness and ultimately quality health service delivery.

4. Subject to section 5, this Act shall apply to up to level 5 public health facilities in Kenya.

Application of this Act.

5. Where there is a conflict between the provisions of this Act and the provisions of any other law in matters relating to public health facilities improvement financing, the provisions of this Act shall prevail.

Conflict with other laws.

PART II –PUBLIC HEALTH FACILITIES IMPROVEMENT FINANCING

6. (1) There shall be retention of all monies raised or received by or on behalf of all public health facilities.

Retention of public health facilities improvement financing.

(2) There shall be opened a facility improvement financing account for each public health facility into which shall be paid all monies received by or on behalf of the respective public health facility.

(3) Non-financial receivables and donations may be retained in whole or be re-donated to another public facilities upon full disclosure as provided for in the relevant laws of Kenya.

(4) The income and other receivables retained by the public health facilities shall be considered as a supplement to the budgets and resources appropriated to the public health facilities by the respective county government and not a substitute.

7. The sources of revenue and other receivables for public health facilities improvement financing shall include—

Sources of the public health facilities improvement financing

- (a) own source revenues that include monies received as user fees, charges and monies paid as reimbursement for services received from insurance firms or other relevant entities;
- (b) money appropriated by the County Government to the health facilities from the equitable share;

- (c) conditional grants; and
- (d) donations and gifts.

8. The finances retained by Public Health Facilities shall be used to —

Uses of the finances retained by public health facilities.

- (a) support the respective public health facilities' optimal operations for effective service delivery throughout the financial year;
- (b) subject to applicable financial laws and regulations, ensure readily available financial resources for purchase and acquisition of urgent goods and services at the respective health facility;
- (c) enhance, where applicable, the accessibility and predictability of finances for procurement of essential products, commodities and technologies;
- (d) ensure that health services are available, accessible, acceptable, affordable and of good quality and standard;
- (e) guarantee that health facilities are optimally resourced to offer quality care to all patients;
- (f) facilitate primary health care and preventive services at the community level; and
- (g) sustain daily operations and promote improved access to health services to all residents in the Republic of Kenya;

PART III—MANAGEMENT AND ADMINISTRATION OF THE IMPROVEMENT FINANCING

9. The National Government, through the Ministry responsible for health, shall provide policy and regulatory direction in the administration of facility improvement financing by—

Role of the National Government.

- (a) developing policy guidelines, including on revenue management and governance to promote transparency and prudent use;
- (b) collecting, receiving, collating and analyzing data for facility improvement financing policy formulation and support;

- (c) establishing a repository for financial information systems facility improvement financing linking county level plans to national level health policy interventions;
- (d) providing feedback based on data received to assist the national and county government performance monitoring of the facility improvement financing to ensure effective implementation;
- (e) coordinating of other relevant entities, prescribe and assist in the setting up of a standardized facility improvement financing health data systems;
- (f) supporting facility improvement financing capacity building initiatives across the republic of Kenya; and
- (g) co-ordinating and monitoring the facility improvement financing conditional and unconditional grants in the health sector.

10. The respective county government shall in accordance with health functions set out under the Fourth Schedule to the Constitution and other written law, support the implementation of the facility improvement financing by—

Role of the
County
Governments.

- (a) facilitating effective collection and retention of facility improvement financing revenue by the public health facility in accordance with this Act; collating and reporting on all facility improvement financing revenue collected by public health facilities and ensure their reflection in the County Budget Implementation Review Report as Appropriation in Aid;
- (b) implementing policies that will ensure direct complementary funding for all public health facilities;
- (c) reviewing and approving expenditure plans and issuance of timely authority to incur expenditure to health facilities;
- (d) subject to the relevant financial laws, overseeing health facilities to ensure optimal management of revenues;
- (e) planning and budgeting support to health facilities to ensure integration into the county planning and

budgeting process on facility improvement financing;

- (f) evaluating the quality of health services and its linkage to health resource allocation decisions on facility improvement financing;
- (g) ensuring that community members are represented in the facility improvement financing governance structures of public health facilities;
- (h) appointing health facility management committees, health management committees and Boards where applicable and publish in the official gazette; and
- (i) Performing any other role that the county or national legislation may prescribe on facility improvement financing.

11. (1) There is established a County Health Management Team in each County.

Establishment of County Health Management Team.

(2) The county health management team shall be appointed by the County Executive Committee Member for health as follows—

- (a) the County Director of Health, who shall be the Chairperson;
- (b) the administrative officer of the department, who shall be the secretary to the team;
- (c) all section or unit heads within the health department; and
- (d) the medical superintendents of all county hospitals.

12. The county health management team shall, in relation to facility improvement financing, perform the following functions—

Functions of the County Health Management Team.

- (a) coordinating and overseeing the interpretation and implementation of county health laws and national health policies, including maintenance of standards on quality, performance, coordination and regulation, and control of all health and private sectors in their areas of jurisdiction;

- (b) reviewing, monitoring the implementation and advising the County Department of Health on appropriate measures to be adopted for effective implementation of relevant national and county legislation and policies;
- (c) coordinating, supporting, and supervising the planning, implementation, monitoring, and evaluation of technical and managerial activities for health services in the county;
- (d) ensuring that good governance and management standards are applied within facilities and in the relations between facilities;
- (e) supporting sub-county health management teams and facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (f) reviewing and approving the consolidated facility plans submitted by sub-counties hospitals;
- (g) providing support and supervision to the management of county health facilities;
- (h) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (i) making due provision and developing criteria to compensate health care facilities for debts arising through failure to secure payment for bills, or from non-payment of treatment of indigent users;
- (j) checking the accuracy and timeliness of all financial reports submitted by the sub-county health facility management team to facilitate prompt approval of spending by facilities;
- (k) ensuring that available qualified human resources are equitably deployed for capacity building needs are assessed and any identified gaps effectively addressed, including disciplinary measures;
- (l) ensuring an efficient and effective vertical and horizontal flow of information;

- (m) reviewing and approving annual financial statements and reports before submission to the Chief Officer of Health; and
- (n) Ensuring that health facilities are adequately resourced in terms of budgetary provisions, health products and technologies, equipment and human resources.

13. (1) There is established a Sub County Health Management Team for each sub-county in a county.

Establishment of the Sub-County Health Management Team.

(2) The Sub-County Health Management Team shall be appointed by the County Executive Committee Member for health as follows—

- (a) the Medical Officer in charge of the sub-county;
- (b) the Sub-County Administrative Officer;
- (c) all Unit heads within the sub-county department;
- (d) the Medical Superintendent of the sub-county hospital; and
- (e) any other officer as the County Executive Committee Member for health may, in consultation with the County Health Management Team, designate

14. The Sub-County Health Management Team shall, in relation to facility improvement financing—

Functions of the Sub-County Health Management Team.

- (a) supporting health facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (b) reviewing and consolidating plans submitted by health facility management teams;
- (c) consolidating and sending annual and quarterly facility budgets to the County Health Management Team for approval by the Department of Health; and
- (d) Checking the accuracy and timeliness of all financial reports submitted by the Hospital Management Team in order to facilitate prompt release of quarterly funds.

15. Every hospital in the County shall have a Hospital Management Team which shall consist of—

The Hospital Management Team.

- (a) the medical superintendent;
- (b) the hospital administrator; and the hospital accountant the hospital procurement officer; and
- (c) all departmental heads.

16. The Hospital Management Team shall, in relation to Improvement Financing—

Functions of the Hospital Management Team.

- (a) prepare and present the annual hospital work plan and budget;
- (b) prepare monthly, quarterly and annual financial reports;
- (c) monitor the performance target of the Improvement Financing and other sources of funds to the facility;
- (d) undertake resource mobilization for the hospital;
- (e) ensure internal audits are periodically undertaken to mitigate financial risks;
- (f) ensure external audits are undertaken on a timely basis;
- (g) ensure efficient and effective utilization of resources paid into the Improvement Financing; and
- (h) receive reports and monitor collection, waivers, exemptions, expenditure and use of funds.

17. (1) There shall be established a Health Facility Management Team which shall comprise of the health facility in-charge and all the section or unit heads.

Establishment of the Health Facility Management Team.

(2) The Health Facility Management Team shall oversee the overall management of the health facility with collaboration from the Health Facility Management Committee.

18. (1) The Health Facility Management Committee shall consist of not less than seven and not more than nine members appointed by the County Executive Committee Member for health as follows—

Composition of the health facility management committee.

- (a) the in-charge of the health facility, who shall be ex-officio and the Secretary to the Committee;
- (b) the Sub County Medical Officer of Health or their representative;
- (c) a village representative;
- (d) one person, who is a resident of the area, nominated by a joint forum of women's organizations in the area and appointed by the county executive committee member;
- (e) one person, who is a resident of the area, nominated by a joint forum of youth organizations in the area;
- (f) one person, who is a resident of the area, nominated by a joint forum of faith-based organizations; and
- (g) two people representing the interest of the vulnerable and marginalized communities.

(2) The Chairperson of the Committee shall be elected from amongst the members of the Committee.

(3) In constituting the Committee, at least one third of the total membership of the Committee shall be from the opposite gender and the interests of diverse groups in the catchment area such as women, persons with disability, youth, and marginalized communities shall be represented.

19. The Health Facility Management Committee shall, in relation to the Improvement Financing—

- (a) consider and submit for approval to the Chief Officer the annual facility work plan and budgets;
- (b) consider and submit for approval to the Chief Officer the facility quarterly budgets;
- (c) ensure the quarterly implementation plans and budgets are based on available resources;
- (d) monitor the utilization of facility improvement financing; take corrective action in relation to implementation challenges identified that hinder efficient absorption of funds;
- (e) ensure all financial procedures and reporting requirements are met by the facility in-charges and

Role of the Health Facility Management committee.

conform to the Public Finance Management Regulations;

- (f) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;
- (g) ensure public awareness on administration of the Improvement Financing through public participation during annual planning and budgeting;
- (h) receive the audit report; and initiate response to management queries and
- (i) act as liaison between the health center or dispensary and the community to strengthen delivery of quality health services.

No. 33 of 2015.

20. (1) The appointments of the members to the Board and Committee mentioned above shall be in such a manner that the respective expiry of their terms shall fall at different dates.

Terms and conditions of appointment.

(2) The members referred to in subsection (1) shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

PART IV – FINANCIAL PROVISIONS

21. (1) There shall be opened and operated a special purpose account for every entity into which all monies received by and on behalf of the entities for the facility improvement financing shall be paid into.

Bank account for the Facility Improvement Financing.

(2) With respect to a hospital, the mandatory signatories to the bank accounts shall be the medical superintendent and the hospital administrator.

(3) With respect to a health center and dispensary, the mandatory signatory to the bank account shall be the facility-in-Charge and sub county accountant.

22. (1) The Chief officer for Health shall be the accounting officer.

Authority to Incur Expenditure.

(2) The hospital medical superintendent and facility in-charge shall receive authority to incur expenditure from the Chief Officer for health.

23. (1) Upon issuance of authority to incur expenditure to the medical superintendent or facility in charge, the user department shall raise vouchers for payment for services or procurement of commodities.

Expenditure of the facility improvement financing.

(2) The vouchers shall be verified by the respective hospital accountant, or the accountant responsible for the health center, whichever is applicable.

(3) The vouchers shall be presented to the County Department for Health Accountant for confirmation that the items requested are in the vote book and thereafter approved.

(4) The voucher shall revert to the medical superintendent or facility in charge for initiation of payment.

(5) An integrated financial management system shall be used as the primary accounting platform for the county entities.

(6) All county entities shall not expend any finances without express authority to incur expenditures.

(7) The Chief Officer for County Treasury in consultation with the Chief Officer provided in Section 2 may appoint accountants for health centers, and dispensaries for purposes of proper financial accounting and record keeping.

(8) The expenditure incurred by the health facilities shall be on the basis of, and limited to, the available finances in the respective bank accounts and the authority to incur expenditure.

(9) Health facilities shall be expected to file returns/accounts in the prescribed format for the preceding quarter to the Chief Officer before a new authority to incur expenditure is issued.

24. The facility improvement financing shall be subjected to audits in accordance with the Public Audit Act.

Audit.
No. 34 of 2015.

25. (1) The accounting officer shall ensure that the facility improvement financing accounts are not overdrawn.

Overdraft and continuity.

(2) The facility improvement financing shall not lapse with the turn of a new financial year, but any residue of

finances shall be captured in the following financial year budget and annual plans and rolled over.

26. In circumstances when a health facility is closed and the improvement financing is to be wound up, the balances shall be swept to the County Revenue Fund and a certificate sent to the accounting officer for the department of health.

Winding up of Improvement Financing.

PART V—MISCELLANEOUS PROVISIONS

27. (1) All members of the current Hospital Management Board or Committees and Health Facility Committees shall continue to operate as per existing regulations up to the expiry of their respective term

Transitional provisions.

28. The penalties stipulated in the Public Finance Management Act and the Public Procurement and Asset Disposal Act and other written laws on misuse, misappropriation and other deviations shall apply.

Penalties.
No. 12 of 2012.
No. 33 of 2015.

29. The county executive committee member for Health shall make regulations for the better carrying out of the provisions of this Act.

Regulations.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

The principal object the bill is to provide for public health facility improvement financing and management and administration of the improvement financing. The justification for the Bill is found in section 109(2)(b) of the Public Finance Management Act, 2012, which stipulates that the county treasury for each county government shall ensure that all money raised or received by or on behalf of the county government is paid into the county revenue fund, except money that may, in accordance with other legislation, the Act or county legislation, be retained by the county government entity that received it for the purposes of defraying its expenses.

The Bill aims to ringfence money generated by health facilities, ensuring a predictable, regular and steady source of funding for health facility operations in counties. This is intended to guarantee that funds are utilized for the improvement of patient care at individual health facilities, preventing them from being absorbed into county coffers. Consequently, this approach is expected to stimulate increased revenue collection by health facilities, contributing to the realization of the Universal Health Coverage target of augmenting expenditure on healthcare infrastructure throughout the country.

PART I of the Bill contains preliminary provisions that include: the short title; interpretation; objects and purposes of the act; application of the act; and conflict with other laws

PART II of the Bill contains provisions regulating public health facility improvement financing that include: retention of public health facilities improvement financing; sources of the public health facilities improvement financing; and functions of the public health facilities improvement financing

PART III of the Bill contains provisions regulating management and administration of the improvement financing that include: role of the national government; role of the county government; establishment of county health management team; functions of the county health management team, establishment of the sub-county health management team; functions of the sub-county health management team; the hospital management team; functions of the hospital management team; role of the hospital management board; establishment of the health facility management team; role of the health facility management committee; and terms and conditions of appointment

PART IV of the Bill contains financial provisions regulating: bank account for the facility improvement financing; authority to incur expenditure; expenditure of the facility improvement financing; audit; overdraft and continuity; and winding up of the improvement financing

PART V of the Bill contains miscellaneous provisions that include: transitional provisions; penalties and regulations.

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

The Bill delegates legislative power to the respective county executive committee members responsible for health to make regulations for the carrying into effect of its provisions. The Bill does not however limit any fundamental rights or freedoms.

Statement of how the Bill concerns county governments

The Bill concerns county governments in that it makes provision for financing of health facilities. This is in line with the function assigned to county governments under paragraph 2(c) of Part 2 of the Fourth Schedule to the Constitution.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

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

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 14th September, 2023.

AARON CHERUIYOT,
Senator.