

This Week's Spotlight

Governors look up to Cooperative Societies to foster growth in Counties

Governors representing Kenya's county governments have begun considering a draft County Cooperative Policy which seeks to guide the development of appropriate laws and policies to



augment the cooperative sector in the Counties. The cooperative movement straddles many key sectors of the economy including finance, housing, agriculture, among others. Due to its significance in wealth creation, generation of employment and poverty reduction, the cooperative movement is of great relevance in stimulating

economic development in the counties. Kenya currently has about 16,000 cooperative societies commanding a membership of an estimated 12 million people.

At a consultative meeting organized by USAID FIRM and the Council of Governors in Naivasha last week, the need for a Policy framework that would inform the development of an appropriate legal framework governing the cooperative sector was considered and is expected to result in a generic Cooperative Societies Bill which will be adopted by specific counties with necessary modifications that reflect on their local priorities. Among the cooperatives expected to fall under the proposed law include: financial cooperatives, commodities marketing cooperatives, transport cooperatives, housing cooperatives and youth cooperatives.



The County governments are deliberating on the Cooperatives Societies Policy on the basis that the constitution assigns to Counties, the function to develop regulations on trade development which includes cooperative societies. Section 7 of the Fourth Schedule of the Constitution explicitly states that trade and development regulation is a function exclusively reserved for County Governments. Among the challenges that counties seek to address through strengthening cooperative societies include confronting unemployment and underemployment; reducing income gaps; and, improving access to housing, education, clean energy, water, health and land.

Currently, cooperative societies are regulated under the Cooperative Societies Act. However, the new devolved system of government has motivated a need for counties to develop specific legislation to regulate the Societies in addition to a need to respond to the emerging challenges and demands of a vibrant sector that demands a new legal framework. The proposed Policy on Cooperative Societies is expected to provide clear guidance on a wide range of issues such as consolidation of cooperative activities and improving on management within the Sector to safeguard the interests of members from mismanagement of their resources.

The proposed Cooperative Societies Policy is expected to provide a clear policy framework to promote the growth and development of cooperatives in the Counties and facilitate their survival in an increasingly competitive environment. The Cooperative Societies legislation to be enacted on the basis of the proposed policy will provide the necessary framework for implementation. The County Governors meeting in Naivasha was optimistic that a clear legal and Policy framework would better inform initiatives aimed at strengthening existing cooperatives, reviving dormant but potential cooperatives and promoting new ones to support employment creation, growth of economic assets, and creation of wealth and reduction of poverty.

Legislative Watch Tower

This section reviews Bills in the pipeline and due for debate before the National Assembly and/or the Senate highlighting the key elements and provisions of the proposed legislation. In this week's Issue, we focus on the Business Registration Service Bill, 2014

A new law, seen as critical in enhancing efficiency over business registration and other regulatory aspects, has finally been published. The new law – Business Registration Service Bill – is expected to create a legal framework that will facilitate a more effective and efficient administration of at least 11 laws that currently regulate business operations in Kenya. These laws include the Companies Act, Partnership Act, Limited Liability Partnership Act, Societies Act, College of Arms Act, Registration of Business Names Act, Hire Purchase Act, Books and Newspapers Act, Bankruptcy Act, Chattels Transfer Act and the National Flag, Emblems and Names Act.



The Registration Service Bill will deal with incorporation, registration, operation and management of companies, partnerships and firms – these being the most visible vehicles through which business is transacted. Through this proposed new law, the department of the Registrar-General which falls under the office of the Attorney General will be significantly reorganized. Indeed, the Bill sets out new clear parameters on the appointment of the Registrar-General on the basis of an open, transparent and competitive process pegged on a defined term limit not exceeding 10 years.

As Kenya seeks to enhance its attractiveness and competitiveness as an investment and business destination, the Registration Service Bill is seen as an important part in opening up the regulatory environment for business set-up and operations in support of private sector enterprise. The proposed law also reflects the determination to address some of the bottlenecks and challenges that are seen as undermining the business regulatory environment in the absence of a clear and defined structure for regulation. While the Bill does not repeal any

of the existing statutes governing different aspects of business operation, its role in creating the Business Registration Service to oversee the implementation of various laws on business regulation is of significance to the Private Sector.



In creating the Business Registration Service, the proposed law is expected to enhance effective and efficient decision-making including policy and legislative reform through the concept of a “one stop shop” since the Service will administer all relevant legislation on business regulation. Indeed, the Business Registration Service is vested with the responsibility of guiding “the formulation of policy” which entails, among other things, a revision of existing policies and guidelines on business registration. A focus on a review that is trailed on securing policies and guidelines that create a more enabling environment for business enterprise is a valid expectation and one of the essence once the Bill is enacted into law.

In terms of the administrative structure, the Bill has created a board which shall act as the governing arm of the Business Registration Service. However, it must be noted that this board is dominated by government representation and its composition would need review to make it more representative. In particular, and in view of the significance of the proposed law on



private enterprise, representation of the Private Sector on the board is important and would strengthen its focus on pertinent regulatory issues. It is, however, important that the board has been vested with the power to engage experts and consultants which will ensure access to a significant pool of knowledge and expertise in policy formulation geared towards improving the business regulatory environment.

Under the proposed law, the National Assembly will allocate funds to meet the operational budget of the Business Registration Service which is significant in ensuring that the Service delivers on its mandate even as the Service seeks additional revenue streams. The Bill also requires the Business Registration Service to submit an annual report on its work which would be a useful accountability tool on its performance and one which could be used by the Private Sector and other stakeholders to appraise the extent to which the Service has addressed and responded to pertinent issues on the business regulatory environment. Besides, the annual report will serve as a tracking and monitoring tool against various benchmarks relevant to its work and performance.