

REPORT

OF THE

COMMITTEE ON MINES AND ENERGY

ON THE

BUI AUTHORITY BILL

1.0 INTRODUCTION

The Bui Authority Bill was laid before the House on 23rd March 2007 by the Deputy Minister for Energy, Hon. K.T. Hammond, and was subsequently referred to the Committee on Mines and Energy for consideration and report in accordance with Article 103 (3), of the 1992 Constitution of Ghana and Standing Orders No. 188 of the House.

2.0 BACKGROUND INFORMATION

The Government of Ghana has considered adequate supply of electricity critical if it is to meet its social and economic development objectives.

Also, as part of its poverty reduction strategy, government intends to develop and procure significant additional power generation to

augment the generation of power from existing sources at the Akosombo, Kpong and Takoradi power stations.

Among other competitive sources, the Bui site of the Black Volta River is currently considered as the most attractive hydropower site in Ghana.

The development of the site is estimated to generate about 400 MW to augment the existing supply in the country.

The Bill therefore seeks to create the establishment of an authority, which will have the responsibility of generating electricity through the construction of a dam and power station at Bui on the Black Volta River. The Authority will also have local government functions over the Bui Township and the city in future.

The Authority, when established will be a cooperate body with the power to sue and be sued. It will also have the right to own moveable and immoveable property.

3.0 REFERENCE DOCUMENT

In considering the bill, the Committee made reference to the following documents:

- (i) The 1992 Constitution of the Republic of Ghana
- (ii) The Standing Orders of Parliament
- (iii) The Volta River Authority Act, 1961 (ACT 46)
- (iv) The National Petroleum Authority Act, 2005 (ACT 691)

4.0 OBSERVATION

The Committee observed that the construction of the additional hydro power station would enable the country meet part of its energy requirement for development.

The additional energy will also enable us meet the energy needs of industries to increase productivity and to expand avenues for the employment of our human resource.

The Committee is further of the view that the establishment of the authority will accelerate the socio-economic and the industrial development of the people in the catchments area of the Authority thereby giving them improved standard of living.

Mr. Speaker, Minority Members of the Committee expressed their concern about the creation of a new bureaucracy to manage the Bui project.

They argued that considering the immense experience of the VRA in hydropower and the ultimate linkage of the Bui River to the Volta Lake, it would be cost effective and much more easier to manage the flow of water from the Bui Dam if the VRA is allowed to manage the project

Mr. Speaker, Members of your Committee could not however arrive at consensus with respect to Clause 11 of the bill. Some Members were of the view that the Authority could not be allowed to perform functions of a Minister without the approval of Parliament. They argued further that adequate provisions are made to the Local Government Act to take care of the Local Government needs of such communities.

Proponents of the provision argued that it should be allowed to stay so as to enable the President exercise the power when the need arises. They further argued that the President in exercising this power would take the necessary steps to meet the requirement of the constitution of the Republic.

5.0 PROPOSED AMENDMENTS

The following amendments were proposed by members in the course of the committee's deliberations:

Short Title: After "Bui" insert "Power"

The amendment is to ensure that emphasis is put on the main object of the bill.

Clause 1: line 2, after "*functions*" delete "*and responsibilities*"

The amendment aims at ensuring simplicity and to avoid ambiguity.

Clause 2: delete the whole of sub clauses 2, 3, 4, 5, and 6.

The amendment is to minimize the fusion of different subject matters.

Clause 3: Add new clause 3 as follows:

"Tenure of Office"

3. (2) A member of the Board other than the Chief Executive may at any time resign by a letter addressed to the President through the Minister.

(1) A member of the Board other than the Chief Executive shall hold office for a period of four years and is eligible for reappointment but a member shall not be appointed for more than two terms in succession.

(2) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause shall cease to be a member.

(3) The Chairperson or other members of the Board may be removed from office by the President for inability to perform the functions of his office, for just cause or stated misbehaviour.”

The amendment is to ensure clarity and improvement on the earlier provision to meet modern standard.

Clause 4: Add new clause “4” as follows:

“Filling of Vacancies”

4. (1) when a member of the Board other than the Chief Executive is incapacitated by illness or any other cause from performing his/her functions of his office for more than 6 months, the President may appoint another person to perform the function of the member.

(2) Where a person is appointed to fill the vacancy, he shall hold office for the remainder of the term of the previous member and shall, subject to the provision of this Act, be eligible for reappointment.”

The amendment is to ensure that adequate provisions are made to meet unforeseeable human conditions.

Clause 5: Delete clause 5 and Insert new clause “5” as follows:

“Condition for appointment of Members”

(4) Members of the Board shall be appointed on such other terms and conditions, as the President shall determine.”

Clause 6: Add new clause 6 as follows:

The amendment is to ensure that adequate provisions are made to guarantee orderly conduction of business.

"Meetings of the Board"

6. (1) The Board shall meet at least once every three months for the dispatch of business at the times and in the places determined by the Chairperson.
- (2) The Chairperson shall at the request in writing of not less than one-third of the membership of the Board Concern an extra-ordinary meeting of the Board at the place and time determined by the Chairperson.
- (3) The quorum at a meeting of the Board shall be four members of the Board and shall include the Chief Executive or the person acting in that capacity.
- (4) Every meeting of the Board shall be presided over by the Chairperson and in his absence by a member of the Board elected by the members present from among the members.
- (5) Decisions of the Board shall be by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.
- (6) The Board may co-appoint a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.
- (7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.
- (8) Subject to this section, the Board may determine the procedure for its meetings."

The amendment is to avoid ambiguity and to ensure that there is spelt out duties and responsibilities.

Clause 7: Heading, delete "Primary" and insert "Objects and"

The amendment is to ensure clarity.

Clause 7: Sub clause (1), line 1, delete "Board" and insert "Authority".

The amendment is to ensure clarity and avoidance of ambiguity.

- Clause 7:** Sub clause (1) line 1, delete "Execute" and insert "Construct".
- Clause 7:** Sub clause (1), line 1, delete "Dam" and insert "Hydro Electric Power Project".
The amendment is to ensure that authority remains within its core responsibility of generating power.
- Clause 7:** Sub-clause (1), paragraph (b), line 1, delete "distribution" and insert "evacuation"
The amendment is to avoid doubt and ensure that the right technical term is used for clarity.
- Clause 7:** Sub-clause (1), paragraph (b), line 2, after dam, insert "to the national electricity grid"
The Committee considers it necessary to widen the net to include all forms of consumers.
- Clause 7:** Sub-clause (1), paragraph (c), sub-paragraph (i), line 1, delete "public"
The amendment is to ensure that facilities needed are provided to ease human suffering.
- Clause 7:** Sub-clause, (1), paragraph (c), sub-paragraph (1), line 2, after "the", delete "supply" and insert "transmission of distribution of power to the public"
- Clause 7:** Sub-clause (1), paragraph (c), sub-paragraph (iii), line 3, delete "private"
- Clause 7:** Sub-clause (1), paragraph (d), line 1, after "provision" delete "when and so far as practical".
- Clause 7:** sub-clause (1), paragraph (d), line 3, after "uses" delete "such as fisheries and tourism and in any other manner"
- Clause 8:** Heading delete "flow" and insert "level"
- Clause 8:** Sub-clause (1), line 1, delete flow and insert level.

Clause 8: Sub-clause (1), paragraph (a).

Clause 9: Sub-clause (1), paragraph (a), line 1, before "enter", delete "to".

Clause 9: Sub-clause (1), paragraph (b), line 1, before "survey" delete "to".

The amendment corrected a grammatical error.

Clause 10: delete the whole of sub-clause 2

The Committee is of the considered view that the sub-clause is likely to divert the Authority from its main objective of generating power.

Clause 11: delete the whole of clause "11".

It is the opinion of the Committee that, the Authority should concentrate on its core business of power generation and leave Local Governance to the Ministry of Local Government and its agencies.

Clause 12: delete the whole of clause "12".

The Committee is of the view that such additional powers are not necessary in view of the fact that the prevailing conditions at the time of the construction of the Volta Lake are different from current circumstances.

Clause 14: Line 2 after "*Cooperation*" delete "*Fully*"

Clause 17: Heading, delete "*Aim at making profit*" and insert "*Operate on commercial line*".

The amendment is to ensure conformity with modern languages and usage.

Clause 17: Sub-clause (3), line 3, before "*Fund*" delete "*Reserve*"

Clause 17: Sub-clause (1), lines 2 after "commercial lines" delete the rest.

Clause 18: Sub-clause (1), line 1 after "May", insert "In consultation with the "Minister".

The Committee is of the view that the minister should be consulted in such an important matters.

Clause 18: Sub-clause (1), line 1, after "Minister", insert "of Finance".
The amendment is to ensure clarity.

Clause 18: Sub-clause (1), Line 2, after "Of" delete "Over draft or otherwise".

The Committee is of the view that it should be within that capacity of the board to take decisions on overdrafts.

Clause 19: delete the whole of clause "19" and insert new clause "19" as follows:

19. (1) Fund of the Authority include:

- (a) Money provided by Parliament.
- (b) Any fee or charge determined be the Board in consultation with the Energy Minister and the Minister of Finance
- (c) Loans granted to the Authority by the Government or by any other person or body.
- (d) Donations, grants and gifts, and
- (e) Any other money that is approved by Parliament.

(2) Funds received by or on behalf of the Authority shall be deposited by the appropriate person or authority to the credit of the Authority in an account in a bank or banks approved by the Authority.

(3) Each payment from the Funds shall be signed by the

- (a) Chief Executive
- (b) The Officer responsible for financial matters designated by the Board.

(5) Revenue accruing from tariffs.

The amendment is to ensure that funding and financial process of the Authority is in line with the modern accounting processes approved by the House.

Clause 20: delete the whole of clause "20"

The Committee is of the view that the authority should come to Parliament whenever the need arises for that exemption.

Clause 21: line 2, after "11" delete and "12"

The amendment is consequential to the deletion of clause 12.

Clause 22: delete the whole of clause "22" and substitute the following:

"Accounts Audit"

22. (1) The Board shall keep proper books of account and records in relation to them in the form approved by the Auditor-General.

(2). The Board shall submit the accounts of the Authority to the Auditor-General for audit within three months after the end of the financial year.

(3). The Auditor-General shall, not later than six months after the receipt of the accounts, audit the accounts and submit a copy of the audit report to Parliament.

(4). The financial year of the Authority is the same as the financial year of the Government."

The amendment is to ensure that the rendition conforms to earlier legislations passed by the House.

Clause 26: line 2, delete "Government" and insert "Republic"

The Committee is of the considered view that it should be the responsibility of the Republic and not the Government.

Clause 27: delete the whole of clause 27.

The Committee is of the opinion that the provision is not necessary as it is within the power Government to provide guarantees to state owned companies when the need arises.

Clause 28: delete the whole of clause "28" and substitute the following:

“Annual Report and Other Reports”

28. (1). The Board shall within one month after the receipt of

The audit report, submit an annual report to the Minister covering the activities and the operations of the Authority for the year to which the report relates.

(2) The annual report shall include the report of the Auditor- General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports, which the Minister may require in writing.”

The amendment is to ensure that procedures for reporting conforms to earlier laws passed by the House.

Clause 31: delete the whole of clause “31”

The committee is of the considered view that the clause was derived from the Volta River Development Act of 1961 which caters for earlier agreements entered into prior to the constructions of the dam and that the current situation at Bui is not the same.

Clause 32: Sub-clause 1, tine 2, after “it” delete “*expedient*” and insert “*necessary*”

Clause 33: delete the whole of Clause “33”

The amendment is consequential to the deletion of clause “33”.

Clause 32: Sub-clause (1), line 3, delete “*do so*”

Clause 34: Add “*Minister*, means Minister responsible for energy except where the contrary occurs.”

The amendment is to ensure clarity.

Clause 35: add new clause 35 as follows:

“Repeals and Consequential Amendments”

Section 35 (1) of the Volta River Development Act 46 as amended is further amended by the deletion of “Black Volta” in the definition of “River Volta”

The amendment is to ensure that no conflict is created between the VRA and the Bui Authority in the management of the Dam.

Long Title: Line 3 after “potential”
delete “hydrolic”

Long Title: Line 3 after “power”
delete “sites” and insert “sources”

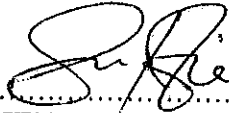
Long Title: Line 3 and 4 delete “on the Black Volta River”

Long Title: Line 10, after “matter” insert “enacted by President and Parliament.”

The amendments are to ensure that the power generation capability of the Authority is not limited to hydro, but other possible sources.

6.0 **CONCLUSION**

In conclusion, the Committee wishes to state that considering the need to provide a lasting solution to the energy situation in the country and the need to accelerate the socio-economic growth and development of our people, the Committee wishes to recommend to the House to adopt its report on the Bui Authority Bill.



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