

Draft

IN THE SECOND SESSION OF THE SIXTH PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

**REPORT OF THE FINANCE COMMITTEE ON THE GHANA
INFRASTRUCTURE INVESTMENT FUND BILL, 2014**

1.0 INTRODUCTION

The Ghana Infrastructure Investment Fund Bill was presented to Parliament and read the first time by the Hon. Deputy Minister for Finance, Mr. Cassiel Ato Baah Forson on Tuesday 17th June, 2014 and referred to the Finance Committee for consideration and report in accordance with Article 174 (1) of the 1992 Constitution and Order 169 and 125 of the Standing Orders of the Parliament of Ghana.

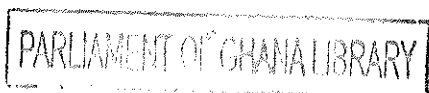
Pursuant to the referral, the Committee met with the Hon. Minister for Finance, Mr. Seth Terkper, Officials of the Ministry of Finance and Attorney General's Department and deliberated on the referral.

The Committee is grateful to the Hon. Minister and the Officials for attending upon it.

2.0 REFERENCE

The Committee referred to the following documents at its deliberations:

- a. The 1992 Constitution of Ghana.
- b. The Standing Orders of the Parliament of Ghana.
- c. The Budget Statement and Economic Policy of the Government of Ghana for the 2014 Financial Year.
- d. Interpretation Act, 1960 (CA 4)



3.0 BACKGROUND

In its quest to ensure a reliable and sustainable funding and accelerate infrastructure development throughout the country, the Government in the 2014 Budget Statement and Economic Policy proposed the establishment of an Infrastructure Fund. Ghana, as a middle income country has realised an impressive growth from 5.1% in 2003 to 14.4% in 2011 and 7.1% in 2012 and also has an advanced infrastructure platform when compared with other countries in the region. The country in recent time spends approximately GHC3.12 billion (approximately 7.5% of GDP) every year on infrastructure. However, to support continued growth and also to raise it to the infrastructure endowment levels of other middle-income countries in the region, the country faces annually, an efficiency and funding gap in infrastructure of GH¢4.5 billion (US\$1.5 billion). Further, there is limited fiscal space to provide public sector financing for infrastructure projects since the country is currently faced with the task of optimising its debt stock and reforming its debt management.

The Government therefore recognises that public funding alone will not be sufficient to meet the financing gap and has identified Private sector participation as one of the options to address this financing gap and to improve the quality of infrastructural services. It is in this regard that the Ghana Infrastructure Investment Fund, which will partner with the private sector to finance critical infrastructure projects, is being established.

The establishment of the fund will also enable self-financing projects to be taken off the government's debt stock and managed as commercial projects, thus freeing up debt capacity.

4.0 PURPOSE OF THE BILL

The Bill seeks to establish an Infrastructure Fund that is wholly owned by the Republic of Ghana to mobilize and provide financial resources to manage, coordinate and invest in a diversified portfolio of infrastructure projects in Ghana for national development.

Rewrite
as amended
in
clause
2

5.0 DIVISION OF THE BILL

The Ghana Infrastructure Investment Fund Bill, 2014 is divided into four parts with thirty-four (34) Clauses.

Clause 1, establishes the Ghana Infrastructure Investment Fund, as a body corporate with perpetual succession with the power to acquire and hold property.

The object of the Fund is provided for in clause 2.

Clause 3 empowers the Fund to create sub-funds, affiliates or subsidiaries in other jurisdictions in furtherance of its objects.

Clause 4 guarantees the independence of the Fund.

Clause 5 provides for the sources of moneys for the Fund whiles clause 6 caters for the bank account into which moneys for the Fund would be paid.

Clause 7 provides for the location of the head office of the Fund.

Composition and functions of the governing body of the Fund are provided for in Clauses 8 and 9.

Clause 10 specifies the duties and liabilities of the members of the Board.

Tenure of office of members of the Board is provided for in clause 11.

The standard or provisions on meetings of the Board, disclosure of interest, establishment of committees and allowances for members are provided for in clauses 12, 13, 14 and 15 respectively.

Clause 16 deals with disbursement of moneys from the Fund.

Clause 17 specifies the manner in which a sponsor of an infrastructure project may apply to the Fund for funding.

Clause 18 provides for administrative and other expenses related to the management of the Fund to be charged on the Fund whilst clause 19 exempts the Fund from the payment of any form of tax.

Functions and tenure of members of the Advisory Council are respectively provided for in clauses 21 and 22.

Clause 23 makes provision for meetings of the Advisory Council.

Disclosure of interest for members of the Advisory Council is dealt with in clause 24.

Clauses 25 and 26 provides for the appointment and duties of the Chief Executive Officer of the Fund.

The appointment of other staff for the Fund is provided for in clause 27.

Standard provisions relating to accounts, audit, annual and other reports are provided for in clause 28 and 29 respectively.

Investment policy statements, codes of practices, regulations and internal guidelines for the Fund are dealt with in clause 30.

Indemnity for an officer or agent of the Fund for an act done by that officer or agent in good faith for the purpose of executing a provision of the Act is provided for in clause 31.

Clause 32 provides for the transfer of moneys into the Fund upon the passage of the Act.

Clause 33 empowers the Minister responsible for Finance to make Regulations, by legislative instrument, for the effective implementation of the Act.

Clause 34, provides for the interpretation of words and expressions used in the Bill

6.0 OBSERVATIONS

6.1 *Rationale for the Bill*

Explaining the rationale for the establishment of the Fund, the Minister of Finance stated that the purpose is to create a special purpose vehicle that is capable of raising and mobilising funds from the private sector to finance the country's infrastructural deficits. The Minister indicated that the long term objective is to facilitate investments in infrastructure projects that significantly enhance the economic competitiveness of the country by improving economic output or productivity. The Minister added that aside Asia and North/Latin America, many middle-income countries in Africa are moving towards the creation of a dedicated fund aimed at accelerating the infrastructural expansion to accelerate economic growth and Ghana could not be left out.

6.2 *Sources of Funds*

The Committee noted during its deliberations that a number of sources of money have been earmarked as sources of funding for the Fund. These are the revenues accruing to the state from the 2.5% percentage point increase in VAT, an amount not exceeding 25% of the Annual Budget Funding Amount (ABFA), moneys raised on its own or in partnership with others from domestic and international markets and proceeds from the sale and disposal of State Owned Enterprises. However, considering the objective of the Fund and the fact that the Fund's ability to attract the confidence of international investors and borrow on its own balance sheet depends largely on regular and sustainable inflow of funds, the Minister of Finance is urged by the Committee to ensure regular and timely transfer of funds into the Fund.

6.3 *Earmarked Fund*

Responding to the Committee's concern about the excessive earmarking of the country's revenue, the Minister admitted that a sizable portion of the national revenue has been earmarked for one activity or the other leaving little room for flexible and optimum use of the country's resources. According to the Minister, the IMF and other multilateral

institutions have on numerous occasions expressed concerns about the excessive earmarking of our national revenue. The Minister however, indicated that unlike many of the existing earmarked funds where resources are mainly expended on goods and services, the GIIF would be solely dedicated to funding infrastructural projects which are commercially viable. Mentioned was also made of the alarming increase in public sector wage which is crowding-out investment in infrastructure development. The Minister also added that since the ABFA is an already earmarked fund, the 25% out of it will not constitute a new earmarking.

7. PROPOSED AMENDMENTS BY THE COMMITTEE

1. Clause 1 – **Amendment Proposed** – Sub-clause (2), line 2, delete “other”

2. Clause 2 – **Amendment Proposed** –
 - i). Sub-clause (1), delete and insert the following:

“The object of the Fund is to mobilize, manage, coordinate and provide financial resources for investment in a diversified portfolio of infrastructure projects in Ghana for national development”
 - ii). Sub-clause (2),
 - a). paragraph (d) line 1, delete “promoting, in Ghanaian personnel” and insert “ensuring in respect to its investment”
 - b). paragraph (f) line 2, insert the following after “to” “internationally recognized best practices for”
 - c). paragraph (f) (i), line 1, delete all words before “asset”
 - d). paragraph (f) (ii) line 2, after “Fund” insert “and” and paragraph (f) (iii) line 2, delete “and”
 - f) paragraph (f) (iv), delete

3. Clause 4 – **Amendment Proposed** – Sub-clause (1) line 2, delete all words after “functions”

4. **Clause 5 – Amendment Proposed –**

- i. paragraph (a), lines 2 and 3 delete all words after “revenue”
- ii. paragraph (b), line 1, delete “equivalent to” and insert “not exceeding”.
- iii. add a new paragraph as follows
“(h) monies borrowed and raised from local and international capital market or from its affiliates”
- iv. Add a new sub-clause as follows
“(2) the sources of moneys under paragraphs (a) and (b) of sub-clause (1) designated for the Fund shall be due for payment into the Fund from the 1st of January, 2015”.

5. **Clause 6 – Amendment Proposed –** Sub-clause (2), line 1, deletes “fourteen” and insert “thirty”.

6. **Clause 7 – Amendment Proposed –**

- i). line 1, delete “Accra” and insert “Ghana”
- ii). line 3, after “country” insert “subject to the approval of the Minister”.

7. **Clause 9 – Amendment Proposed –** Sub-clause (1), line 2, before “policy” insert “operational”.

8. **Clause 10 – Amendment Proposed –**

- i. Sub-clause (2), paragraph (b), line 3, delete “reasonably”
- ii. Sub-clause (2) paragraph (c) line 1, delete “avoid” and insert “desist from”
- iii. Sub-clause (3) line 3, delete “three” and insert “fifty” and delete “six” and insert “one hundred”
- iv. Sub-clause (4) line 3, delete all words after “than” and insert “fifty thousand penalty units and not more than one hundred thousand penalty units and to a term

of imprisonment of not less than five years and not more than ten years or to both”

9. Clause 11 – **Amendment Proposed** – Head note, insert “non-executive” after “of”.

10. Clause 12 – **Amendment Proposed** –

- i. Sub-clause (1), line 2, delete “Board” and insert “Chairperson”
- ii. Sub-clause (2), line 3, delete “Board” and insert “Chairperson within seven days”
- iii. Sub-clause (4), line 2, delete “one” and insert “the”.

11. Clause 14 – **Amendment Proposed** – Sub-clause (2), line 2, delete “member” and insert “non-member”.

12. Clause 18 – **Amendment Proposed** – **flagged for more information on capping the administrative expenditure of the Fund**

line 2 after "Fund" add "in consultation with the Ministers"

13. Clause 20 – **Amendment Proposed** –

- i. Head note, delete “Council” and insert “Committee” and wherever it appears, delete and insert same.
- ii. paragraph (d), delete
- iii. paragraph (e), line 1, delete “three” and insert “two” and after “sector” delete “at least”

14. Clause 22 – **Amendment Proposed** – Sub-clause (2) line 2, delete “the comma” after “Ghana” and insert “and” and lines 3 and 4 delete “and the Chief Executive Officer of the Fund”.

15. Clause 23 – **Amendment Proposed** –

- i.) Sub-clause (1), line 3, delete “Advisory Council” and insert “Chairperson”
- ii. sub-clause (3) line 1, delete “five” and insert “three”

16. **Clause 26 – Amendment Proposed –**

- i. Sub-clause (1), line 3, delete “Board” and insert “Fund”
- ii. Sub-clause (2), line 2, delete “function” and insert “functions”

17. **Clause 27 – Amendment Proposed –** Sub-clause (1), line 3, delete “Board” and insert “Fund”

18. **Clause 28 – Amendment Proposed –**

- i. Sub-clause (1) and (2), delete
- ii. Sub-clause (6), line 1, delete “technical” and insert “other”

19. **Clause 29 – Amendment Proposed –**

- i. Sub-clause (2), line 2, after “performance” insert “of the Fund” and delete “Fund’s”
- iii. Sub-clause (3), line 2, delete “statement” and insert “statements”

20. **Clause 30 – Amendment Proposed –**

- i). sub-clause (3) line 2, delete “or” and insert “and” and delete “national” and insert “state owned”
- ii). Sub-clause (4), line 3, delete “national” and insert “state owned”

21. **Clause 32 – Amendment Proposed – Delete**

22. **Interpretation – Amendment Proposed –**

- i. Fund – line 1, delete “and”
- ii. infrastructure – delete and insert a new definition as follow: “infrastructure projects means capital expenditure on projects including ports, roads, railway systems, barges, communication equipment, hospitals, irrigation systems, power systems, schools, oil and gas systems and housing”
- iii. International Reporting Financial Standards - Delete.

23. Long Title- **Amendment proposed** – *delete* and *insert* the following:

“AN ACT to establish a Fund, wholly owned by the Republic of Ghana, to mobilize, manage, coordinate and provide financial resources for investment in a diversified portfolio of infrastructure projects in Ghana for national development and to provide for related matters”

8.0 **CONCLUSION**

The Committee after careful examination of the Bill is of the view that, the establishment of the Fund will enable self-financing projects to be taken off the government’s debt stock and manage as commercial projects, reduce the country’s infrastructural deficit and accelerate economic growth and development. The Committee therefore recommends to the House to adopt its report and take the Ghana Infrastructure Investment Fund Bill, 2014 through second reading in accordance with Article 106 of the Constitution and Orders 126 and 127 of the Standing Orders of the House.

Respectfully Submitted

HON. JAMES KLUTSE AVEDZI
(CHAIRMAN, FINANCE COMMITTEE)

ROSEMARY ARTHUR SARKODIE
(CLERK, FINANCE COMMITTEE)