

A BILL

FOR

AN ACT TO ESTABLISH THE SOUTH WEST DEVELOPMENT COMMISSION CHARGED WITH THE RESPONSIBILITY AMONG OTHERS TO RECEIVE AND MANAGE FUNDS FROM ALLOCATION OF THE FEDERATION ACCOUNT, INCLUDING DONATIONS AND GIFTS, FOR THE RECONSTRUCTION AND REHABILITATION OF ROADS, HOUSES AND OTHER INFRASTRUCTURAL DAMAGES SUFFERED BY THE REGION AND THE NEED TO TACKLE THE ECOLOGICAL PROBLEMS AND ANY OTHER RELATED ENVIRONMENTAL OR DEVELOPMENTAL CHALLENGES IN THE SOUTH WEST STATES AND FOR RELATED MATTERS

Sponsored by Hon. Gbajabiamila, Hakeem Femi

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ENACTED by the National Assembly of the Federal Republic of
Nigeria-

[] Commencement

1 PART 1- ESTABLISHMENT OF THE SOUTH WEST DEVELOPMENT

2 COMMISSION AND THE GOVERNING BOARD

Establishment
of South West
Development
Commission3 1.-(1) There is hereby established a body to be known as the South
4 West Development Commission (in this Bill referred to as "the Commission").

5 (2) The Commission:

6 (a) shall be a body corporate with perpetual succession and a common
7 seal;

8 (b) may sue and be sued in its corporate name.

9 (3) The Commission shall have its head office in Ibadan, Oyo State
10 and shall establish an office in each member-State of the Commission.Establishment
of the Governing
Board of the
Commission11 2.-(1) There is established for the Commission, a body to be known as
12 the Governing Board (in this Bill referred to as 'the Board') which shall consist
13 of-

14 (a) a Chairman;

15 (b) One person who shall be an indigene of the South West area to
16 represent the following member States, that is-

17 (i) Ekiti;

18 (ii) Lagos;

19 (iii) Ogun;

20 (iv) Ondo;

21 (v) Osun;

22 (vi) Oyo;

23 (c) three persons to represent the following Security Organisations:

24 (i) the Army, who shall not be below the rank of a Colonel;

25 (ii) the Police, who shall not be below the rank of Chief
26 Superintendent of Police; and27 (iii) the Civil Defence Corps who shall not be below the rank of
28 Deputy Commandant.

29 (d) one person to represent the Federal Ministry of Solid Minerals;

30 (e) one person to represent the Federal Ministry of Finance;

- 1 (f) one person to represent the Federal Ministry of Transport;
2 (g) one person to represent the Federal Ministry of Environment;
3 (h) the Managing Director of the Commission; and
4 (i) three Executive Directors;

5 (2) The Chairman and other members of the Board shall-

6 (a) be appointed by the President, subject to the confirmation of the
7 Senate;

8 (b) be person of proven integrity and ability.

9 (3) The members of the Board referred to in Clause 2 (c-f) of
10 paragraph 2 of this Bill shall be part-time members;

11 (4) The supplementary provisions set out in the Schedule to this
12 Bill shall have effect with respect to the proceedings of the Board and the
13 other matters contained therein.

14 3.-(1) Subject to the provisions of Clause 4 of this Bill, a member of
15 the Board, shall hold office for a non-renewable term of 4 years. Tenure of Office

16 (2) A member of the Board other than ex-officio member, may
17 resign his or her appointment by notice in writing addressed to the President,
18 which resignation shall take effect only upon a written approval by the
19 President.

20 4.-(1) Notwithstanding the provisions of Section 3 of this Bill, a
21 person shall cease to hold office as a member of the Board if: Cessation of
membership of
the Board

22 (a) he becomes of unsound mind, or incapable of carrying out his
23 duties;

24 (b) he becomes bankrupt, suspends payment or compounds with
25 his creditors;

26 (c) he is convicted of a felony or any offence involving dishonesty
27 or fraud;

28 (d) he is convicted of a serious misconduct in relation to his duties;

29 (e) in the case of a person possessing professional qualifications,
30 he is disqualified or suspended, from practising his profession in any part of

1 the world by an order of a competent authority made in respect of that member;

2 (f) resigns his appointment by a letter addressed to the President.

3 (2) Where a vacancy occurs in the membership of the Board, it shall
4 be filled by appointment of a person representing the area where the vacancy
5 exists, to complete the remainder of the term of office of the predecessor.

Rotation of
Office of
Chairman

6 5.-(1) The office of the Chairman shall rotate amongst the member-
7 States of the Commission in the following alphabetical order-

8 (i) Ekiti;

9 (ii) Lagos;

10 (iii) Ogun;

11 (iv) Ondo;

12 (v) Osun;

13 (vi) Oyo.

Allowances of
members

14 6.-(1) There shall be paid to every member of the Board such
15 remuneration, allowances and expenses as the Federal Government may, from
16 time to time, direct.

17 PART II - FUNCTIONS AND POWERS OF THE COMMISSION, ETC.

Functions and
Powers of the
Commission

18 7.-(1) The commission shall-

19 (a) formulate policies and guidelines for the development of the South
20 West States;

21 (b) conceive, plan and implement, in accordance with the set rules and
22 regulations, projects and programmes for the sustainable development of the
23 South West States in the fields of transportation, health, education,
24 employment, agriculture, industrialization, housing and urban development,
25 water supply, electricity, solid mineral exploitation and telecommunications;

26 (c) cause the South West States to be surveyed in order to ascertain
27 measures which are necessary to promote its physical and socio-economic
28 development;

29 (d) prepare master plans and schemes designed to promote the
30 physical development of the South West States and the estimates of the costs of

1 implementing such master plans and schemes;

2 (e) implement all the measures approved for the development of
3 the South West States by the Federal Government and the member-States of
4 the Commission;

5 (f) identify factors inhibiting the development of the South West
6 States and assist the member-States in the formulation and implementation
7 of policies to ensure a sound and efficient management of the resources of
8 the South West States;

9 (g) assess and report on any project being funded or carried out in
10 the South West States by mineral extracting and mining companies, oil and
11 gas producing companies, and any other company including non-
12 governmental organisations and ensure that funds released for such projects
13 are properly utilised;

14 (h) tackle ecological and environmental problems that arise from
15 the extraction and mining of solid mineral, exploration of oil mineral in the
16 South West States and advise the Federal Government and the member
17 States on the prevention and control of oil spillages, gas flaring and
18 environmental pollution;

19 (i) liaise with the various solid mineral extraction and mining
20 companies and oil and gas prospecting and producing companies on all
21 matters of pollution prevention and control; and

22 (j) execute such other works and perform such other functions
23 which in the opinion of the Commission are required for the sustainable
24 development of the South West States and its people;

25 (k) receive donations and gifts from any legitimate, documented
26 source aimed at the advancement of its set goals, provided such donations
27 shall be reported to the relevant federal authorities.

28 (2) In exercising its functions and powers under the clause, the
29 Commission shall have regard to the varied and specific contributions of
30 each member State of the Commission.

- 1 (e) the Directorate of Utilities and Infrastructural Development;
2 (f) the Directorate of Environmental Protection and Control;
3 (g) the Directorate of Finance and Supply;
4 (h) the Directorate of Solid Minerals;
5 (I) the Directorate of Planning, Research and Statistics and
6 Management Information System;
7 (j) the Directorate of Legal Services;
8 (k) the Directorate of Education;
9 (l) the Directorate of Commercial and Industrial Development; and
10 (m) the Directorate of Health and Social Services;
11 (n) the Directorate of Projects Monitoring and Supervision.
12 (o) the Directorate of Agriculture and Fisheries.

13 (2) The Board may with the approval of the President, increase the
14 number of Directorates as it may deem necessary and expedient to facilitate
15 the realisation of the objectives of the Commission.

16 10. There shall be for the Commission, a Management Committee
17 which shall- Management
Committee

- 18 (a) consist of a Chairman who shall be the Managing Director;
19 (b) the Directors responsible for the Directorates established under
20 Clause 9 of this Bill and such number of other members as may be
21 determined from time to time by the Board;

22 © be responsible to the Board for the general administration of the
23 Commission.

24 11.-(1) There is hereby established for the Commission, a South Establishment
of the South West
Development
Advisory
Committee
25 West Development Advisory Committee (in this Bill referred to as 'the
26 Advisory Committee') which shall consist of-

- 27 (a) the Governors of the member-States of the Commission; and
28 (b) one person from the South West zone as may be determined,
29 from time to time, by the President of the Federal Republic of Nigeria.

30 (2) The Advisory Committee shall be charged with the

1 responsibility of advising the Board and guiding and monitoring the activities
2 of the Commission with a view to achieving the objectives of the Commission.

3 (3) The Advisory Committee may make rules regulating its own
4 proceedings, including the appointment of a Chairman who shall not be from
5 the same State as the Board Chairman, or the Managing Director.

6 PART IV- STAFF OF THE COMMISSION

7 12.-(1) There shall be for the Commission, a Managing Director, who
8 shall be an indigene of a South West State other than the states of origin of the
9 Board Chairman and shall-

10 (a) have such qualifications and experience as are appropriate for a
11 person required to perform the functions of that office under this Bill; and

12 (b) be the Chief Executive and Accounting Officer of the
13 Commission;

14 (c) be appointed by the President of the Federal Republic of Nigeria
15 and confirmed by the Senate;

16 (d) hold office on such terms and conditions as to emolument,
17 conditions of service as may be specified in his letter of appointment and
18 subject to the provision of clause 3 of this Bill.

19 13.-(1) There shall be for the Commission, three (3) Executive
20 Directors each of whom shall supervise all the Directorates as approved by the
21 Management.

22 (2) The Executive Directors shall be indigenes of States other than
23 those of the Managing Director, the Chairman of the Board and the Chairman
24 of the Advisory Committee of the Commission.

25 14.-(1) There shall be for the Commission a Secretary who shall be
26 responsible for:

27 (a) keeping the books and proper records of the proceedings of the
28 Board;

29 (b) the administration of the Secretariat of the Commission.

30 (2) The Secretary shall be a fit and proper person who shall be a legal

1 practitioner of not less than 10 years post-Call to Bar experience.

2 15. The Board shall have power to:

3 (a) approve the employment and promotion of management staff;

4 (b) approve the recruitment, either directly or by secondment from
5 any civil or public service in the Federation or a State, such number of
6 employees as may, in the opinion of the Board, be required to assist the
7 Board in the discharge of any of its function under this Bill; and

8 (c) approve payment to persons so employed such remuneration
9 (including allowances) as the Board may, after consultation with the Federal
10 Civil Service Commission, determine.

11 16.-(1) Service in the Commission shall be approved service for
12 the purposes of the Pensions Act.

Service in the
Commission to
be Pensionable

13 (2) The officers and other persons employed in the Commission
14 shall be entitled to pensions, gratuities and other retirement benefits as are
15 enjoyed by Persons holding equivalent grades in the civil service of the
16 Federation.

17 (3) Nothing in subsections (1) and (2) of this Clause shall prevent
18 the appointment of a person to any office on terms which preclude the grant
19 of pension and gratuity in respect of that office.

20 (4) for the purposes of the application of the provisions of the
21 Pensions Act, any power exercisable there under by the Minister or other
22 authority of the Government of the Federation, other than the power to make
23 regulations under section 23 thereof, is hereby vested in and shall be
24 exercisable by the Commission, and not by any other person or authority.

25 PART V- FINANCIAL PROVISIONS

26 17.-(1) The Commission shall establish and maintain a fund, the
27 proceeds of which shall be used to defray all expenditures incurred by the
28 Commission.

Fund of the
Commission

29 (2) There shall be paid and credited to the fund established
30 pursuant to sub-clause (1) of this paragraph monies-

1 (a) from the Federal Government, the equivalent of fifteen (15) per
2 cent of the total monthly statutory allocations due to member States of the
3 Commission from the Federation Account;

4 (b) 3 percent of the annual budget of any federal port operating in the
5 South West;

6 (c) 3 percent of the total annual budget of any oil producing company
7 operating, on shore and off shore, in the South West States: including gas
8 processing companies;

9 (d) 3 percent of the total annual budget of any Solid mineral extracting
10 mining company operating in the South West States;

11 (e) 50 percent of monies due to member-States of the Commission
12 from the Ecological Fund;

13 (f) such monies as may from time to time, be granted or lent to or
14 deposited with the Commission by the Federal or a State Government, any
15 other body or institution whether local or foreign;

16 (g) all monies raised for the purpose of the Commission by way of
17 gifts, loan, grants-in-aid, testamentary disposition or otherwise; and -

18 (h) the proceeds from all other assets that may, from time to time,
19 accrue to the Commission.

20 (3) The fund shall be managed in accordance with the rules made by
21 the Board, and without prejudice to the generality of the power to make rules
22 under this sub-clause, the rules shall in particular contain provisions-

23 (a) Specifying the manner in which the assets or the fund of the
24 Commission are to be held, and regulating the making of payments into and out
25 of the fund; and

26 (b) Requiring the keeping of proper accounts and records for the
27 purpose of the fund in such form as may be specified in the rules.

28 18.-(1) The Commission shall apply the proceeds of the fund
29 established pursuant to Clause 17 of this Bill to-

30 (a) the cost of administration of the Commission;

1 (b) the payment of salaries, fees, remuneration, allowances,
2 pensions and gratuities payable to the members of the Board specified in
3 clause 2 of this Bill or any committee of the Board and the employees of the
4 Commission;

5 (c) the payment for all contracts, including mobilization,
6 fluctuations, variations, legal fees and cost on contract administration;

7 (d) the payment for all purchases; and

8 (e) undertaking such other activities as are connected with all or
9 any of the functions of the Commission under this Bill.

10 19.-(1) The Commission may accept gifts of land, money or other
11 property on such terms and conditions, if any, as may be specified by the
12 person or organization making the donation.

Gifts to the
Commission

13 (2) The Commission shall not accept any gift if the conditions
14 attached by the person or organization making the gift are inconsistent with
15 the functions of the Commission under this Bill.

16 20.-(1) The Commission may borrow, on such terms and conditions
17 as the Commission may determine, such sums of money as the Commission
18 may require in the exercise of its functions under this Bill.

Powers to borrow

19 21.-(1) The Board shall, not later than 30th October in each year,
20 submit to the National Assembly through the President of the Federal
21 Republic of Nigeria, an estimate of the expenditure and income of the
22 Commission during the next succeeding year.

Annual Estimates
and Expenditure

23 (2) The Board shall cause to be kept proper accounts of the
24 Commission in respect of each year and proper records in relation thereto
25 and shall cause the accounts to be audited not later than 6 months after the
26 end of each year by Auditors appointed from the list and in accordance with
27 the guidelines supplied by the Auditor-General for the Federation

28 22.-(1) The Commission shall, at the end of every quarter in each
29 year, submit a Quarterly Report to the President of the Federal Republic of
30 Nigeria, on the activities and administration of the Commission.

Quarterly Report

Annual Report 1 23.-(1) The Board shall prepare and submit to the President of the
2 Federal Republic of Nigeria, not later than 30th June in each year, a report in
3 such form as the President of the Federal Republic of Nigeria, may direct, on
4 the activities of the Commission during the immediately preceding year, and
5 shall include in the report a copy of the audited annual accounts of the
6 Commission for the preceding operating year and the Auditor's report thereon.

7 (2) the President of the Federal Republic of Nigeria shall, upon receipt
8 of the report referred to in sub-section (1) of this Clause, cause a copy of the
9 report and the audited accounts of the Commission and the Auditor's report
10 there on to be submitted to each House of the National Assembly.

11 PART VI - MISCELLANEOUS

Monitoring
Committee 12 24.-(1) There is hereby established for the Commission a Monitoring
13 Committee which shall consist of such number of persons as the President of
14 the Federal Republic of Nigeria, any deem fit to appoint from the public or civil
15 service of the Federation.

16 (2) The Monitoring Committee shall-

17 (a) monitor the management of the funds of the Commission and the
18 implementation of the projects of the Commission; and

19 (b) have access to the books of account and other records

Offices and
Premises of the
Commission 20 25.-(1) For the purposes of providing offices and premises necessary
21 for the performances of its functions under this Bill, the Commission may,
22 subject to the Land Use Act-

23 (a) purchase or take on lease any interest in land, or other property;

24 and

25 (b) construct offices and premises and equip and maintain same.

26 (2) The Commission may, subject to the Land Use Act, sell or lease
27 out any office or premises held by it, which office or premises are no longer
28 required for the performance of its functions under this Bill.

Directives by
the President 29 26.-(1) Subject to the provisions of this Bill, the President of the
30 Federal Republic of Nigeria, may give to the Commission directives of a

1 general nature or relating generally to matters of policy with regard to the
2 performance by the Commission of its functions and it shall be the duty of
3 the Commission to comply with the directives.

4 27.-(1) Subject to the provisions of this Bill, the provisions of the
5 Public Officers Protection Act shall apply in relation to any suit instituted
6 against any officer or employee of the Commission.

Limitation of
Suits against the
Commission
etc.

7 (2) Notwithstanding anything contained in any other law or
8 enactment, no suit shall lie against any member of the Board, the Managing
9 Director or any other officer or employee of the Commission for any act
10 done in pursuance or execution of this Bill or any other law or enactment, or
11 of any public duty or authority or in respect of any alleged neglect or default
12 in the execution of this Bill or such law or enactment, duty or authority, shall
13 lie or be instituted in any court unless-

14 (a) it is commenced within three months of the act, neglect or
15 default complained of.

16 28.-(1) A notice, summons or other document required or
17 authorized to be served upon the Commission under the provisions of this
18 Bill or any other law or enactment may be served by delivering it to the
19 Managing Director or by sending it by registered post and addressed to the
20 Managing Director at the principal office of the Commission.

Service of Notices,
Summons and
other Documents

21 29.-(1) Any sum of money which may, by the judgment of any
22 court be awarded against the Commission shall, subject to any direction
23 given by the court where notice of appeal of the said judgment has been
24 given, or not, be paid from the general reserve fund of the Commission.

Execution of
Judgment Debts

25 30.-(1) A member of the Board, the Managing Director, any other
26 officer or employee of the Commission shall be indemnified out of the assets
27 of the Commission against any proceeding, whether civil or criminal, in
28 which judgment is given in his favour, or in which he is acquitted, if any such
29 proceeding is brought against him in his capacity as a member of the Board,
30 the Managing Director, officer or employee of the Commission.

Indemnity of
Officers

Regulations 1 31.-(1) The Commission may, with the approval of the President of
2 the Federal Republic of Nigeria, make regulations, generally for the purposes
3 of giving full effect to this Bill.

Interpretation 4 32. In this Bill-
5 "Chairman" means the Chairman of the Board;
6 "Commission" means the South West Development Commission established
7 by Clause 1 of this Bill;
8 "Board" means the governing Board established for the Commission under
9 Clause 2(1) of this Bill;
10 "member" means a member of the Board and includes the Chairman,
11 Managing Director, Executive Directors, officers and other employees of the
12 Commission;
13 "member States" include Ekiti, Lagos, Ogun, Ondo, Osun, Oyo.

Short title 14 33. This Bill may be cited as the South West Development
15 Commission (Establishment etc.) Bill, 2019.

16 SCHEDULES

17 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

18 1.-(1) Subject to this Bill and section 27 of the Interpretation Act, the
19 Board may make standing orders regulating its proceeding or those of any of its
20 committee.

21 (2) The quorum of the Board shall be the Chairman or the person
22 presiding at the meeting, Managing Director or one Executive Director and one
23 third other members of the Board. The quorum of any committee of the
24 Commission shall be as determined by the Board.

25 2.-(i) The Board shall meet whenever it is summoned by the
26 Chairman and if the Chairman is required to do so by notice given to him by not
27 less than 4 other members, he shall summon a meeting of the Board to be held
28 within 14 days from the date on which the notice is given.

29 (ii) At any meeting of the Board, the Chairman shall preside but if he
30 is absent, the members present at the meeting shall appoint one of their

1 members to preside at the meeting.

2 3.-(i) The Board may appoint one or more committees to carry out
3 on behalf of the Board, such functions as the Board may determine;

4 (ii) A committee appointed under this paragraph shall consist of
5 such number of persons as may be determined by the Board and a person
6 shall hold office on the committee in accordance with the terms of his
7 appointment;

8 (iii) A decision of a committee of the Board shall be of no effect
9 until it is confirmed by the Board.

10 *Miscellaneous*

11 4.-(1) The fixing of the seal of the Commission shall be
12 authenticated by the signatures of the Chairman or any other member of the
13 Board generally or specifically authorized by the Board to act for the
14 purpose and the Managing Director.

15 (2) A document purporting to be a document duly executed under
16 the seal of the Commission shall be received in evidence and shall, unless
17 and until the contrary is proved, be presumed to be executed.

18 5. The validity of any proceedings of the Board or of a committee
19 shall not be adversely affected by-

20 (a) A vacancy in the membership of the Board or committee;

21 (b) A defect in the appointment of a member of the Board or
22 committee; or

23 (c) Reason that a person not entitled to do so took part in the
24 proceedings of the Board or committee.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the South West Development Commission charged with the responsibility among others, to receive and manage funds from allocation of the Federation Account and to receive donations and gifts for the reconstruction and rehabilitation of roads, houses and other infrastructural damages suffered by the region as well as tackle the ecological problems and any other related environmental or developmental challenges in the South West States.

