

REPUBLIC OF KENYA



THE COUNTY ASSEMBLY OF SIAYA

FIRST ASSEMBLY – THIRD SESSION

THE BUDGET, APPROPRIATIONS, FINANCE, PLANNING

AND VISION 2030

COMMITTEE REPORT ON

THE SIAYA COUNTY FINANCE BILL, 2015

COUNTY GOVERNMENT OF SIAYA

SEPTEMBER, 2015

TABLE OF CONTENT

Cover Page	1
Table of Contents	2
Introduction	3
Preface	4
Committee mandate	4
Committee membership	5
Committee meetings	5
Acknowledgements	6
Committee observations and findings	7
Committee recommendations	9
Annexes	14
i. Table showing the analysis of the Committee Recommendations.	

Introduction

Mr. Speaker, Sir, Article 209 (4) & (5) of the Constitution of Kenya, 2010 provides that counties may impose charges on the services they provide and that such taxation and other revenue-raising powers of a county shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour.

Mr. Speaker, Sir, it is envisaged that in preparing this Siaya County Finance Bill, 2015, the Executive brought it in line with the Siaya County Fiscal Strategy paper (CFSP), 2015/2016 that was passed in this Assembly in March, 2015, the Siaya County Medium Term Expenditure Framework (MTEF) 2015/2016 that was passed in this Assembly on Monday 29th June 2015, the 2013-2017 Siaya County Integrated Development Plan, and the integrated issues from the County Citizens during public participation forums between Wednesday 23rd September 2015 to Thursday 24th September 2015.

PREFACE

Mr. Speaker, Sir, Article 185 of the Constitution of Kenya, 2010 has placed significant responsibility on the County Assembly over the management of the county's public resources. The County Assembly in particular has the responsibility with regard to resource mobilization, allocation, monitoring and control. Section 133 of the Public Finance Management Act, 2012 gives this Assembly powers to consider and approve the Finance Bill with or without amendments. The Siaya County Assembly Standing Order No 218 (1) in particular gives this responsibility to the Committee on Budget, Appropriations, Finance, Planning and Vision 2030.

Mr. Speaker, Sir, in line with the provisions of Section 132(2) of the PFM Act, 2012, the proposed Siaya County Finance Bill, 2015 was submitted to the County Assembly on 22nd September 2015 thereafter committed to the Committee on Budget, Appropriations, Finance, Planning and Vision 2030 for discussion, review and making of recommendations to the County Assembly.

Mr. Speaker, Sir, the Budget, Appropriations and Finance Committee therefore has evaluated and examined the Bill and has subsequently made recommendations as contained in this report.

COMMITTEE MANDATE

Mr. Speaker, Sir, the Committee on Budget, Appropriations and Finance was established under Standing Order No. 187 and is mandated to do the following;

- 1) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget,
- 2) Discuss and review the estimates and make recommendations to the County Assembly;
- 3) Examine the County Fiscal Strategy Paper, as presented to the County Assembly;
- 4) Examine Bills related to the budget, including Appropriations Bills; and
- 5) Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

COMMITTEE MEMBERSHIP

Mr. Speaker, Sir, the Committee on Budget, Appropriations and Finance, as was constituted by this Assembly on Tuesday 30th April 2013 comprises of the following members;

Name of Member

- | | |
|-------------------------------------|--------------------|
| 1. Hon. Jack Odinga, MCA | - Chairperson |
| 2. Hon. Peter Muhula, MCA | - Vice Chairperson |
| 3. Hon. Joseph Kawuor, MCA | - Member |
| 4. Hon. Jared Abayo, MCA | - Member |
| 5. Hon. Sylvester Madialo, MCA | - Member |
| 6. Hon. Margaret Oketch, MCA | - Member |
| 7. Hon. William Owiti Angul, MCA | - Member |
| 8. Hon. Nicholas Ochieng Aneme, MCA | - Member |
| 9. Hon. James Obiero Otare, MCA | - Member |

COMMITTEE MEETINGS

Mr. Speaker, Sir, in reviewing this Siaya County Finance Bill, 2015, the Committee held 8 meetings. Mr. Speaker, Sir, one of these meetings was a joint meeting with the Committee on Delegated Legislation held at County Club, Siaya on Tuesday 15/9/2015. This joint meeting was held so as to ensure that the Committee on Delegated Legislation considers this Bill as an instrument pursuant to the County Assembly of Siaya Standing Order No 190 (2) & (3) (d). In line with Article 196 of the Constitution of Kenya, 2010 and Section 132 (3) & (4) of the PFM Act, 2012, the Committee also held public hearings with the Civil Society Organizations in Siaya County, and the general public at the Sub-County level. These hearings were held to get the views and recommendations of the people of Siaya County on the proposed Finance Bill. In addition to the public hearing meetings, this Committee received written memoranda from the county leadership fishermen among other county residents. This report has annexes of the public hearing meetings.

Mr. Speaker, Sir, important to note is that the Committee extensively engaged the County Executive arm led by the CECM for Finance and the County Head of Revenue.

The table below shows the schedule of public meetings by the Committee;

No	Sub County	Date	Time	Venue
1.	Bondo	23/9/2015	9.00am	Bondo CDF Office
2.	Ugunja	24/9/2015	9.00am	Ugunja Town Hall
3.	Ugenya	24/9/2015	9.00am	Ukwala Town Hall
4.	Rarieda	24/9/2015	2.30pm	Aram Market
5.	Alego Usonga	24/9/2015	2.30pm	Siaya ATC
6.	Gem	24/9/2015 and 25/9/2015	2.30pm and 9.00am respectively	Wagai D.O's Office

ACKNOWLEDGEMENTS

Mr. Speaker, Sir, on behalf of this Committee I wish to thank the people of this County who came out in numbers during the public participation at the Sub Counties. This Committee similarly extends its gratitude to Executive's Finance Department of the county government for the role it played in preparation of this Bill. The Committee is also particularly grateful to the offices of Siaya County Assembly Speaker and the Siaya County Assembly Clerk for the support received as it discharged its mandate of examining the Siaya County Finance Bill, 2015.

Mr. Speaker, Sir, it is therefore my pleasant duty and privilege, on behalf of the Budget, Appropriations and Finance Committee, to table this report and recommend it to the Assembly for adoption.

Signed

Hon. Jack Odinga, Chairman,
Budget, Appropriations and Finance Committee,
County Assembly of Siaya.

Date

COMMITTEE OBSERVATIONS AND FINDINGS

Mr. Speaker, Sir, during public participation and subsequent Committee meetings with the Executive particularly the Revenue Department, the Committee observed the following;

- i. The total local County revenue expected for the 2015/2016 is Ksh 230,000,000 which amounts to 3.68% of the Total county (MTEF) Budget for FY 2015/2016 of Ksh 6,257,975,264, this projection is however a reduction as compared to the Ksh 300,000,000 for the last financial year. Of this, only 54% (Ksh. 162,000,000) was collected. Compared with other counties, the committee is concerned that this amount is indeed very little for sustainability.
- ii. Under categorization of markets, Aram and Sega markets were left out despite their sizes and the level of trading activities.
- iii. Mr. Speaker, Sir, with the amalgamation of the Constitution of Kenya, 2010, the affirmative action and in particular the consideration of some interest groups has taken center stage in issues governance and legislation in particular. However, this Committee observed that this Bill had no provision for the exemption of the People With Disability when it comes to levying of fees.
- iv. The proposed Bill was not submitted to the Assembly in good time. Coming just 8 days to the Constitutional deadline of approving the Finance Bill, 2015, the Committee could not get adequate time to fully engage the members of the public and other stakeholders.
- v. The attendance during the public participation was very poor and unrepresentative. This could have been because of the short notices given to the public and the distance to the venues of these public meetings. Given that this Bill has a direct effect on the livelihoods of the common *mwananchi*, this could only be better.
- vi. This Committee also observed that the Siaya County Trade License Act, 2014 was misquoted as Siaya County Trade License Act, 2015 (pages 1 and 5 of the Bill) while the Siaya County Rating Act, 2014 was misquoted as the Siaya County Rating Act, 2015/2016 (page 4 of the Bill). Worse still, the Siaya County Rating Act, 2014 has not been enacted yet was referred to in preparing this Bill.
- vii. Upon engaging the County Revenue Department and during the public hearing meetings, this Committee observed that the Siaya County Finance Act, 2014 was not

- implemented to the letter. In some instances, Mr. Speaker, Sir, the County Government collected revenue using the rates earlier used by the Defunct Local Authorities contrary to the provision of the Act. The Revenue Department had also not prepared a business register which would enable it effectively plan the revenue collection.
- viii. Mr. Speaker, Sir, this Committee wishes to report here that one of the major challenges that faced the revenue collection in the last financial year was political interference in some towns and markets. These cases were conspicuous in Akala, Ugunja, Boro and Segla towns.
 - ix. In the implementation of some of the provisions of this Bill, the Committee observed that there is lack of space to keep the impounded animals in some towns. This is a major challenge in Bondo town hence may hinder the administration of this activity.
 - x. It was also observed that the proposed tourism facilities (Page 10) in regard to Lake Victoria beaches and Mageta Island were not specific as to which beaches at which levies will be charged.
 - xi. The Committee also observed that all the cooling plants and ice plants in Wichlum, Usenge, Lwanda Kotieno and Uhanya are not operational. This has caused great loss of revenue arising from fish and the related products which would otherwise be a boost for the development of this sector.
 - xii. A budgetary allocation was put aside for digitalization of the revenue collection. This Committee however observed that this has not been implemented except for a pilot project that was carried out by the County.
 - xiii. Despite the National Policy on Health that all deliveries in health facilities shall be free, this Bill proposed Ksh 400 for deliveries.
 - xiv. Despite the budgetary allocations in the 2015/2016 budget estimates to cater for the operations and maintenance of the ambulances, this Bill still proposes to charge the services provided by such ambulances.
 - xv. Mr. Speaker, Sir, this Committee wishes to report that it emerged that there has been an attempt or attempts on the part of Executive to come up with a valuation roll but those attempts apparently have not been in compliance with the provisions of Chapter 266 and 267 of the Laws of Kenya mentioned above.

COMMITTEE RECOMMENDATIONS

Mr. Speaker, Sir, the Budget, Appropriations and Finance Committee having examined and discussed the Bill, incorporating the views of the Committee on Delegated Legislation, wishes to recommend in the various parts and schedules that;

Part II – Categories of Markets

- i. Aram Market, currently serving as a Sub-County headquarters as well as its size and level of trading activities taking place should be elevated to Class A. Similarly, Sega market given its size and the level of trading activities should be under Class B. In addition, the County Government should undertake to determine gazette the market days for all the markets in Siaya County.
- ii. For Category A where the County Government charges 100% levies, the County Government should budget for specific services to these towns so that the higher charges in such towns are commensurate to the services offered in such towns. In relation to this, the Trade Department should determine the basic utilities that will be needed in Categories A, B and C. Additionally, the department should map out the utilities that are already available and the needs of the various towns and markets as per the category after which budgetary allocations should be made to provide for the gaps. Such facilities should include modern markets, modern toilets, and floodlights among others. This will warrant the charging of the 100% levies hence in line with the principle of *'There should no taxation without representation'*.

County Enforcement Unit

- iii. Cognizant of the fact that legislation will always be enforced during implementation, this committee noted that there is lack of enforcement unit and this has led to the failure to collect revenue as expected; The Committee therefore recommends that the County Executive Arm expeditiously set up the relevant offices in the county enforcement unit, i.e. the directorate and the office of the County Prosecutor. To effectively implement this, a policy should therefore be put in place to establish this unit.
- iv. Following uncontrolled movement of animals in major towns within the county, the Committee recommends that there should be in place a policy on the movement of

- animals within the towns and market centres. Mr. Speaker, Sir, this Committee further recommends that the rates chargeable on the impounded animals should also take care of the feeding costs for the animals and to avoid additional costs on maintaining of the impounded animals when such animals are kept for long, the Committee recommends that all impounded animals shall be kept for a maximum of seven days after which they shall be auctioned by the County Government. Similarly, all perishable goods shall be kept for a maximum of six hours after which they shall be donated to the vulnerable persons within the community.
- v. Having noted that Section 9 of this Bill proposes that penalties should be applied as per the market categories; this Committee recommends that penalties should be charged equally across the County.
 - vi. Given that categorization is done in relation to the towns and markets, services e.g. health, environment, land rates etc; provided outside the towns and markets should not be dependent on the categorization.
 - vii. Having piloted the digitized revenue collection system, this Committee recommends its full operationalization so as to improve the revenue collection and reduce the pilferage that has always been experienced in the past.

First Schedule – Property Rates

- viii. Mr. Speaker, Sir, cognizant of the constitutional provisions that the County Government may only levy taxes on property and entertainment, this Committee recommends that particular attention be given to the development of valuation roll for purposes of rating properties and charging rates on these properties in accordance with the provisions of the laws enacted by this Assembly read together with the provisions of Chapter 266 and 267 of the Laws of Kenya. Without this, there may be a difficulty and the Committee so recognizes in justifying the charges levied against property owners and the basis upon which those levies are charged. Mr. Speaker, Sir, in stating this, the Committee wishes to report that it emerged that there has been an attempt or attempts on the part of Executive to come up with a valuation roll but those attempts apparently have not been in compliance with the provisions of Chapter 266 and 267 of the Laws of Kenya mentioned above. This Committee further recommends that in undertaking this exercise, the Executive engages proper

professional advice to avoid employing monies allocated for this exercise in a process that will be flawed.

In addition, the Committee recommends that the Agricultural land should not attract any charge. In relation to the residential plots, provided that such residential plots are within the categorized areas and pursuant to Section 9 of this Bill, the County Government should charge Ksh 1,200 flat rate while Commercial plots should be charged at Ksh 1,500.

Second Schedule – Fees Trade License

Item 1 – Fees for Grant or Renewal of Trade License

- ix. Mr. Speaker, Sir, for purposes of planning and effective revenue projections, the County Government needs to collect data among the business and conduct the business census, this Committee recommends that an application fee for the Single Business Permit should be a flat rate of Ksh 300 instead of the graduated rates of Ksh 500, Ksh 300 and Ksh 200 as per the categorization of towns/markets.

Transport Storage and Communication

- x. Having noted that initially, a single permit would be used across board in the County, this Committee recommends that the permit given to transport companies should only apply for the town where the company has an office and not one permit used in more than one town. This is because the County Government provides separate services in every town. This Committee therefore recommends that the statement in page 6 of the Bill (*Once you pay for a business permit once, it is applicable to all other centres within the county*) should be deleted.
- xi. Mr. Speaker, Sir, to enable effective monitoring and enhanced revenue collection, this Committee recommends that the Trade Department should register all the ferries and boats doing transport.
- xii. Due to the fact that a lot of money can be raised from the *bodaboda* sector and that this can only be done with proper management of the collection of such revenue coupled with ease of identification and security issues, this Committee recommends that the *bodaboda* operators should be registered in form of a County Sacco through

- groups in towns and markets. The operators shall apply and get stickers which shall be charged at a monthly rate of Ksh 200. The operators shall be given unique numbers depending on their wards and sub counties of origin.
- xiii. Given that there are no clear parking areas in the towns and markets in the County; this Committee recommends that private salon cars should not be charged for parking in towns. However, taxis, pick-ups and Lorries etc. which are parked for the purposes of doing business should be charged appropriately.

Accommodation and Catering

- xiv. Mr. Speaker, Sir, for the County Government to legalize the collection of revenue from the related business and improve the local revenue from liquor, this Committee recommends that the enactment of the Liquor Licensing Act, 2014 should be fast-tracked. Similarly, application for health certificate, liquor license and the SBP for trades dealing in liquor should be merged because all these are done by one government. However, payment can be done separately for the three for ease of accountability.
- xv. To ensure proper management of tourism facilities within the county and meaningful revenue collection from such facilities. Specifically, there is need to identify the beaches, clearly mark the entry points to the tourism sites and the specific tourism sites should be developed and marketed for enhanced revenue collection.

Agriculture, Forestry and Natural Resources Extraction

- xvi. Mr. Speaker, Sir, the County Government should operationalize the cooling plants and ice plants so as to ensure that all fish traders buy ice from such plants. Specifically, the CECM for Agriculture should determine the cost of operationalizing all the cooling plants and ice plants for consideration of budgetary allocation in the next financial year. This Committee also recommends the registration of fishermen should be done through the formation of Sacco. Important to note is that this Assembly had considered and passed a Motion on the formation of The County Fishermen Sacco which though to date, nothing much has been done on this.

Private Education, Health and Entertainment

- xvii. Mr. Speaker, Sir, the use of herbal medicine is increasingly finding more relevance today, especially with the recognition that we are facing more challenges in the treatment of some medical conditions such as diabetes and cancer. Based on this fact and that they have been considered in a revenue bracket, this Committee recommends that before these herbalists are licensed to operate within the County, it is important that they first register with the Herbalist Society of Kenya.

Public Health

- xviii. Given that the National Policy on Health provides that deliveries in health centres should be free, this Committee recommends that the Ksh 400 proposed on deliveries and admissions done a few days before delivery be waived. The Committee further recommends that theatre (caesarian) under emergency should not be charged as it only occurs under life – saving situations.
- xix. Mr. Speaker, Sir, the ambulance services in this County are always provided to save life of the County citizens. Similarly, this Assembly passed a budgetary allocation to cater for the operations and maintenance of ambulances that are currently possessed by the County Government. Mr. Speaker, Sir, we will also recall that in our 2015/2016 budget, we had allocated funds to contract ambulance services. These funds will cater for the operations and maintenance of these ambulances. Considering the issues mentioned above, this Committee recommends that the ambulance services within the County from facility to facility be offered at no cost.

Cross Cutting Issues

- xx. Taking into account the printing cost of the receipts used in collecting revenue, and that some proposed rates are as low as Ksh 5 and also taking into consideration of the effect of continuing depreciating value of the Kenya Shilling against the US Dollar, this Committee is of the view that the minimum rate chargeable as per the Finance Bill, 2015 be fixed at Ksh 20.
- xxi. Mr. Speaker, Sir, the People With Disability should not be charged any fee provided it is confirmed that such person with disability is registered with the National Council of People With Disability (NCPWD). Upon confirmation of this registration, the County Government shall give the certificate of exemption to these PWDs which should be done annually.