

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

## REPUBLIC OF KENYA

### SIAYA COUNTY ASSEMBLY

#### THE HANSARD

#### Second County Assembly - Second Session

**Tuesday, 20th March, 2018**

The House met at the County Assembly Chamber at 2.30 p.m.

*[The Speaker (Hon. Okode) in the Chair]*

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### COMPUTATION OF BENEFITS

**Hon. Speaker:** This House has some housekeeping matters in relation to the computation of benefits in regard to the formal discussions we have had with our finance team and as soon as this Sitting will adjourn you will remain for engagement with our finance team and the payroll team. Largely discussing around the suspended Gazette Notice and the other Gazette Notice.

Secondly, I just want to share with you as we are all aware that we will be going on recess on the 28<sup>th</sup> March until 7th May so whatever urgent business we have we need to conclude them by that time however that doesn't bar us from with the permission of the Speaker having meetings depending on their urgency.

Hon. Members, I have some two communications which are in form of letter and one is from the County Executive which is signed by the County Secretary on County dialogue. It reads that as a build up the devolution conference which will be held in Kakamega between 23<sup>rd</sup> and 27<sup>th</sup> April, 2018, the Siaya County Dialogue is to be held on the 21<sup>st</sup> March, 2018 at Siaya Agricultural Training Centre (A.T.C) from 9.00 a.m.

The main thematic areas departments for the dialogue are Agriculture, food, livestock and fisheries, Enterprise & industrial development, health and sanitation, lands, physical planning, housing and development, public works, energy, roads and transport. However; all departments are expected to exhibit at the booths.

The purpose of this letter is to invite all Hon. Members to attend this function but remember Members we have a Sitting tomorrow at 9:30am. You will do your coordination to make sure that you don't lack quorum.

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Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

The other one is from Girl's Education challenge UK-AID which reads; invitation to a consultative discussion on budget, partnership engagements on an inclusive budget process with a view of promoting issues of disability within Siaya County running process for 2018/2022. Greetings from Siaya County working group and Leonard's treasured disability; we thank your office for the continued collaboration.

Disabled persons are likely to drop out as well as them starting school later than the non-disabled persons. Further by a copy of this letter we are requesting your office to invite for us Members of the County Assembly Education Committee, Majority Leader, Chief Whip and two Members of the Budget and Appropriation Committee i.e. the Chair and Vice Chair personally. The meeting is scheduled to be at Distinction hotel on the 21<sup>st</sup> to 22<sup>nd</sup> March, 2018, Wednesday and Thursday.

The meeting will be used to view the content of CIDP and Sectoral planning within the Education sector on the issues of disability. You are therefore requested to keep time. The organizers will also provide modest transport refund, for clarifications please get in touch with the undersigned, one Collins Olang'.

Hon. Members, you may not engage very actively on CIDP because it's within our Committees but there is no harm in listening to them and collecting their views but remember we have a sitting tomorrow in the morning so again coordinate appropriately.

I will be making some communication this week on Thursday; however, I also want to bring it to your attention that there is a Bill that is a known very dear to most of us if not all of us which is before the Senate as we speak and the Bill is The County Wards Development Equalization Fund Bill 2018.

I have endeavored to get you copies, go through them because I am sure we will be making presentation on memorandum to the Senate and therefore direct the Clerks to ensure that each Member gets a copy of that Bill, and do it in an organized manner and come up with structured memorandum for consideration by the Senate.

Finally, on the 12<sup>th</sup> March, 2018, the office of the Governor sent some four names for consideration by the Assembly to the County Executive Committee

**Hon. Adida:** The above subject refers, following a Motion Tabled on 15<sup>th</sup> February, 2018 in the County Assembly of Siaya. The department of Education, Youth Affairs, Gender and Social Affairs hereby confirms that it is only one Act which is in operation, and the first Act was rejected by the Controller of Budget on the grounds that clauses No. 5, page 5, under Ward Bursary Committee which states that;

For the purpose of appointing the Members under sub-section 2 H, the County Assembly Members shall propose three names of persons amongst whom the executive Member shall appoint one person to be the chairperson.

This clause was deemed to be in conflict with their oversight role and this prompted changes in order for the Controller of Budget to allow disbarment of bursaries in Financial Year 2016/2017 to date. The department of education intends to arguably review the bursary act to

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

align it with emerging issues and policies such as free day secondary school education among others.

This will give new Hon. Members opportunity to enrich the act. The department welcomes the concerns the Hon. Member has with the Board bursary committee as currently constituted and is addressing this concerns case by case.

In conclusion, the department has embarked on the roll out for the processing of bursaries application for financial year 2017/2018 of which the deadline for submission ended on 15<sup>th</sup> February. Thank you in advance for your kind consideration and support.

Kind regards,

Peter Odhiambo,

Acting CEO; Education, Youth Affairs, Gender and Social services.

Siaya County.

**Hon. Speaker:** Members, you can have supplementary questions or do you want to seek some clarifications on those answers? Hon. Otiato!

**Hon. Otiato:** Thank you, Mr. Speaker, Sir. It would be so bad for me to miss out in a question that I raised. You do realize that this is a serious matter and the manner in which the department is handling it, I don't feel comfortable.

For one, we are dealing with a case where a law passed in this Assembly was manipulated and the department doesn't tell us whether that Bill or Act was rejected or not. If it was rejected, did it come back to this Assembly? Was it discussed in this Assembly? And who made the amendments for it to be accepted? Thank you.

**Hon. Speaker:** Hon. Oriaro.

**Hon. Oriaro:** Thank you, Mr. Speaker, Sir. In deed my attention has been drawn to that line of reply as underscored by Hon. Otiato. And I can recall my path of contribution, let me use simple language. The question I had raised is the fear of somebody interfering with our products; straight products. The question that should be asked here is if the Controller of Budget was not satisfied then I think they ought to have followed the right channel and bring it for consideration.

So the question is who came up with the new act? This will be very important. But unfortunately the replies I am getting are not part of that Motion and it is like new matters have been reintroduced to that Motion. So our key concern is that who came up with that new law which was not Assembly's product? This should concern you because you were chairing then and you are still the chair now.

**Hon. Speaker:** Yes, Hon. Erick.

**Hon. E. Odawa:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute. I must say that I find this letter to be very shallow and it doesn't address our concerns. Because our concerns were as pertains membership of the bursary committee at the various Wards.

This letter is still taking us round in cycles, the issue of addressing the concerns of Members case by case. What are they telling us? We don't want case by case handling of the

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

situation; we want a full handling of issues and I think we need to be told which law they are for. Is it the one that they tempered with or is it the one that came from this House?

I also think that these people are not taking us seriously because time is moving and we need this matter solved so that we can disperse bursaries in a manner which Members of this House are comfortable with. So I would request through the Speaker; our honorable and able chair Committee on Implementation to consult with these people, get their input and if at all they are not cooperative, come back to the House so that we can see what to do about it. Thank you.

**Hon. Speaker:** Yes, Hon. Member for Yala.

**Hon. Kinyanyi:** Thank you, Mr. Speaker, Sir. I think both of us from the Executive and the Assembly can manage the bursary either through the Director or for the executive through the minister. That will stop us from having a lot of issues because we are the people who live with these people and we are the ones who know their problems more than anybody else.

To generalize them is a bit complicated. If we can also introduce a way in which MCAs will have to handle their bursary in a different way and the executive also does it differently.

**Hon. Speaker:** Any comment? It is important for the chairperson to pick the feeling of the House in relation to the answers provided from the executive side so that I can chose to engage them further or introduce an intervention.

Chair, do you have anything to say about the concerns that the reply has not addressed the material issues that were raised in the statement? And secondly, the procedure used to adopt the report would be the now applicable law if it didn't come through the House. And the issue of which is the operating law of the two. If you have answers you can read and if you don't you can promise to give the House another day.

**Hon. Adida:** Thank you, Mr. Speaker, Sir. Allow me to say that the feelings of our Hon. Members are the same with that of Education Committee and for sure we are following up with them because through the meeting it was contemplated that we have one law yet they are two.

So we are still following up as Education committee and for sure they had even promised that we are going to sit as Education Committee and again verify or do amendment to one, so that we have one Bill for the House. Thank you.

**Hon. Speaker:** somebody wants to say something? Yes, Hon. Otiato!

**Hon. Speaker:** Hon. Mboha.

**Hon. Mboha:** Thank you, Mr. Speaker, Sir. The forms that were disbursed were for all students; both in day and boarding. This policy they talk about of free day school is still a document that has not even reached the Education committee. This was just something shared with us that instead of giving day scholars money they organize for a feeding program which is not even for this year but for next financial year. So we should know that this is something that is not for this financial year therefore does not need to be discussed before us now.

Therefore, my concern is that we need to find a way of helping the students who applied on 15<sup>th</sup> February. The applications had been done, so what the Assembly wants is to help facilitate the process so that it doesn't stall simply because we are not agreeing on the

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

constitution of the members of the bursary committee. So that's why we are asking as Education committee that as you work on this you get response from the executive.

Can they use the law that was being used before? And I will ask my chair to provide us with that clear note, so that for instant if I am comfortable with using the members that are there and they are able to give me fair judgment. Why don't we allow them to do that then as the year progresses we rectify every other thing that is wrong in that bill.

Because whatever the bone of contention here is; the constitution of the committee members. So if in my Ward I feel that the members who are there currently are able to serve the interest of "Wananchi" then I guarantee that we are comfortable as we wait for other things. So that instead of faulting the whole process just waiting for the compositions of members we can proceed and get guidance even from the Members.

**Hon. Speaker:** Hon. Oriaro.

**Hon. Oriaro:** Thank you, Mr. Speaker, Sir. I thought this one ought to be a simple matter, but it's like you have allowed the House to make the Education committee to wash their dirty linen in the public/House. What you are seeing is like Education committee is yet to meet, so even that we are discussing here is not on a sectorial basis.

Going by other contributions, certain matters should be set straight because we are representatives. Because it's like he is the acting not even the chief officer, because is when such a name is yet to be brought before us so that he becomes a genuine Chief Officer talks of enriching the act.

The Act is enriched by way of regulation such even if we needed to navigate the issue of free boarding, it should come by way of regulation, and regulation is their business not even ours. So the bottom line is there is a problem. We may be helping the executive just as another Member preempted the use of money for free lunch, etc. So it's like we will be dancing to the tune of the executive from what I am seeing.

These people may not even be interested in issuing bursary, they are buying time so that in the end it will be said that it's the House that stood on their path. The question is do we need that bursary? The education committee meet weekly, can't they sermon the persons in charge? We have got a CECM on Education, how do they dialogue on this matter? We need a straight answer it can even be by next week. Thank you.

**Hon. Speaker:** Hon. Member for Sigomre.

**Hon. E. Odawa:** Thank you, Mr. Speaker, Sir, mine is just to request you to give us maybe guidance on who is supposed to review the bursary act. Is it the ministry of education or the Assembly? Because here it is written that they are reviewing!

**Hon. Speaker:** Hon. Members, I allowed that lengthy discussion so that you would really engage and get to know that the committee is doing enough. The committees business is not just to answer statements, and you will realize that when you get answers on statement requests you should think beyond the answers you are getting. Because the moment you present those answers they will be critiqued and then it will glaringly show that perhaps you didn't think wide enough.

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

What are the roles of sectorial committees? Standing Orders No. 200(5) talks about functions of a Sectorial committee and this is not only for Education Committee.

Part (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;

(b) study the programme and policy objectives of departments and the effectiveness of the implementation;

(c) study and review all County legislations referred to it;

(d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;

(e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the House;

And you remember the House referred this to you that you investigate and enquire into that matter relating to the legislation, which one is in operation, the disbursement do we still require the bursary or not as to the legality of the existence of bursary.

As to the constitution committee, do we proceed with once that are in place or do we nominate others. Such are the enquiries that we need to make, and then make reports and recommendation with the House as often as possible including recommendations on proposed legislations.

So as we speak does the committee have a mandate to on its own Motion recognize that we have a challenge around disbursement of bursaries, the conflict of law, the legality of bursary as it were and the constitutional Committees?

Yes, you do!

And therefore allow me to direct that the Committee on Education to investigate as provided for in the Standing Orders, enquire and report to this House preferably by Tuesday next week as to which law is operating, and more so, which law in relation to the composition of the Committee. And then also report on whether you recommend to the House to approve as to whether bursaries should be distributed/ disbursed or not.

I expect that you will say something like “ The Committee has found out that the law in operation is this law which provides that the Bursary Committee be disbanded after three years or the Bursary committee be disbanded at the end of the term of the Assembly or Government. You have answered.

Then you go ahead and say; we for example propose to this House that we allow the bursaries which have been processed to be disbursed or not. So what will sort out that proposal or that recommendation is the ayes or nays. So you would have made a proposal. Then we would also expect to indulge you on matters of; is it legal today to give out bursaries or not.

That is when you will even argue as a Committee that much as the Government policy says we no longer have bursaries for the free education, you will argue out your case, as to whether we still need it or not. That is a Committee Report. You will go ahead and say what your take on the legislation that is operating is.

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

So we expect you to provide an answer or a Report like; we have since established that the Legislation that was passed was this other one and this demeans the integrity of the Assembly, Mr. Speaker. That the other law which is now operating is illegal. Then you go ahead and recommend, for example, that we recommend as Committee that we amend this Law forthwith, on your own Motion.

You can bring amendments to that law even now, and then we process it. You don't have to wait for the Executive to propose amendment. You just propose that amendment, you take it to your Committee, and you invite the CECM in charge.

Things like you hear when an Honorable Member is asking, that an acting Chief Officer is responding to the House. Those are things you need to find out. You can go and ask, who should respond to the questions asked by the House? Is it the acting chief officer; is it the CECM in place? Those are the things you need to ask. Then by way of that Report, this House will decide. If they want to amend, this House will decide and this matter will be settled.

As I said, I allowed you to engage so that you know that answers from the Executive will not necessarily solve the issues we have. What will solve the problem that we have is the Committees appreciating that we have a problem, and digging into that problem and making recommendations so that we vote on it.

So that if I were a Member of that Committee, you would provide those answers, and you know, it is not just answers that a Committee is vested upon, they can answer, and after you've answered, you now apply your oversight intellect into it. You've replied, then you now tell us that we, as a Committee, however, are not satisfied with this, and we have invited the CECM to answer one, two, three, four, five, and that Report will be availed to this House in the shortness of time.

So the Committee stands directed to provide a Report around that matter, but use the next week, I hope you don't have so much so that we rest this matter. Next Statement? I am aware they were two other Statements which were replied to but there is the one for Finance, which I understand the Chair said he would do it on Thursday, and the other one is for Chief Officers. Is that again the same Finance? Governance, you are replying tomorrow?

**Hon. E. Odawa:** Mr. Speaker, Sir, I think we will give it tomorrow morning. Maybe if I can expound on that, we did some letter to the Executive, but we are yet to get responses.

**Hon. Speaker:** Okay. who are the Chief Officers and when is their term ending?

**Hon. E. Odawa:** Sure

**Hon. Speaker:** Okay. So the Secretariat with you to engage with the Chairperson. So then you have no answers tomorrow? If they are not ready? But I believe the answers are there, so will share with the Chair of the Committee, and you will decide if he is ready to answer tomorrow morning or afternoon. Next Order!

## MOTION

### SPLITTING THE TWO COMMITTEES

Tuesday, 20<sup>th</sup> March, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

There was supposed to be a Motion which we declined to approve, the Motion on splitting the two Committees. You remember we had an informal meeting and agreed that we reserve that section for reasons of the Hansard recording.

We want to split Committees. So, the Motion that was to come was to be for splitting of that Committee and that will be suspended because it didn't come in good time for the House Business Committee to approve it. Yes, next Order!

**MOTION**  
ADJOURNMENT

Honorable Members, there being no other Business, will you be upstanding for adjournment? As I said, you will remain and engage our finance team, constructively, very aggressively, because never again should we be discussing about allowances, then I will get a Report tomorrow.

There being no other Business, this House stands adjourned until tomorrow 9.30 a.m.

The House rose at 3.30 p.m.