

Wednesday, 4th December, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – fourth Session

Wednesday, 4th December, 2019

The House met at the County Assembly Chamber at 9.30 a.m.

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

PRAYER

MESSAGE

VILLAGE ADMINISTRATIVE UNITS BILL

Hon. Speaker: Hon.Members, I have a message for you from the Governor on referral of Village Administrative Units Bill. Hon. Members, you recall that on Wednesday, 13th November, 2019; this House during its afternoon sitting passed the Siaya County Village Administrative Unit Bill No. 3 of 2018.

Thereafter the Bill was presented to his Excellency the Governor for assent in accordance with the provisions of section 24 of the County Government Act 2012 and the County Assembly Standing Order no. 151. However, his Excellency the Governor by way of Memorandum dated 3rd December, 2019 and in accordance with Standing Order no. 143 (2) has referred the Bill back to the Assembly for consideration.

Pursuant with the provisions of section 24 (2b) of the County Government Act 2012, the Governor has expressed reservations to section 3 of the Bill which relates to the number of village units established.

The second schedule which highlights the villages as established, section 8 (i) of the Bill which sets the minimum age of appointment of Members to the village Council as captured in the Bill.

In this memorandum the Governor highlights factors that have necessitated the reconsideration of the section as follows; the operationalization of the 188 villages as envisaged in section 3 of the Bill which causes heavy burden to the already bloated wage bill. Furthermore, that if the Bill is operationalized as it is the percentage of the wage bill will rise from the recommended 35-46%.

With regard to section 8; the Governor is of the opinion that setting the minimum age limit of 18years for appointment to be a village elder makes it possible for 18years old to be

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appointed to this position which in his opinion is not feasible because by all standards a person below the age of 35 still lacks the requisite experience and authority to be a village elder.

Consequently, the Governor recommended the said sections of the Bill to be amended as follows; that the House considers establishing the number of village units that wouldn't suffocate the wage bill.

That the minimum age of appointment of persons as a village elder should be set at 35years and not 18years. Hon. Members, reservations by the Governor as contained in this memorandum now stands committed to the Committee on Governance and Administration for consideration and reporting to this House tomorrow, Thursday, 5th December, 2019 at 2.30p.m.

Hon. Members, I wish to draw your attention to Standing Order no. 143 which states as follows; that the Speaker shall within 14days forward a Bill passed by the Assembly to the Governor. The Governor shall within 14days after receipt of the Bill; assent to the Bill or refer the Bill back to the Assembly with memorandum outlining the reasons for referral.

That if the Governor refers back to the Assembly; the Assembly may following the appropriate procedure under which section amend the Bill taking to account issues raised by the Governor or pass the Bill without amendments. If the Assembly amends the Bill taking into consideration views raised by the Governor, the Speaker shall within 14days submit the Bill to the Governor for assent.

If the Assembly passes the Bill for a second time without amendment or with amendments which don't accommodate the Governor's concerns by a vote supported by two thirds of Members of the House, the Speaker shall within 7days resubmit the Bill to the Governor and the Governor shall within 7days assent to the Bill.

If the Governor doesn't assent to the Bill or refer it back within the period referred under paragraph 2 and 5 the Bill shall be taken to have been assented to on the expiry of the said period.

In addition, Hon. Members,I wish to draw your attention to the fact that section 24 (5) of the County Government Act provides that Members have the effect of fully accommodating the Governor's reservations by simple majority and on the other hand an amendment that doesn't fully accommodate the Governor's reservations including negating his proposed texts requires two thirds voting threshold to be passed.

Keeping with the provisions of the four mentioned sections, I wish to further reiterate that only the specific sections of the Bill that have reservations namely section 3 and 8 ought to be considered. I now direct the Clerk to circulate the memorandum from the Governor to all Members so as to familiarize themselves with the content, thank you.

PETITION

Hon. Speaker: Hon. Members, I will be giving directions tomorrow on a pending petition before the House.

STATEMENT**THE LAKE REGION ECONOMIC BLOC BILL 2019**

Hon. Speaker: We had agreed that the Chair of Education would give us a progress Report on Education tomorrow on a question that was asked by the Hon. Member representing GEM.

Hon. Ochola: Thank you, Mr. Speaker, Sir; I wish to present the Committee Report on the Lake Region Economic Bloc Bill, 2019 to be read. Mr. Speaker, Sir; this Bill was laid before the House sometime when it went through the First reading in July, 2019 and you accordingly directed and dedicated the Bill to our Committee.

Based on the direction that we were given, we took the Bill through requisite Public Participation which we did accordingly and before that we did advertisements in the newspapers with a wider circulation and we also sought views of members of the public and the Executive based on the proposals that we gave in the Bill.

I do not want to delve into the details of the Lake Region Economic Bloc, Members, having gone through it but I wish to point out that maybe in our knowledge purview the bloc comprises of 14 counties within the lake region which are Bungoma, Kakamega, Kisii, Homabay, Migori, Nyamira, Busia, Kisumu, Siaya, Vihiga, Nandi, Bomet, Kericho and Transnzoia.

According to the Act which was established in 2018 it requires that at least 6 members of County Assemblies mentioned members of the bloc at least to assent to this Bill to give it a legal entity.

For purpose of records I wish to point out that at least 6 counties have signed this Bill and now as we speak the bloc is now a legal entity. For the purpose of information those counties are Kakamega, Busia, Migori, Nyamira, Kisii and Kisumu.

Counties that are yet to sign are the ones that are not in the list which includes our Assembly and it is my pleasure that today we are presenting this Bill for a Second Reading with the hope that we are going to assent to it.

The gist of this Bill is just to leverage on the powers of coming together and power of numbers. When you bring all the counties mentioned together we will be talking of a Kshs. 14 million strong membership which will be forming the bloc and at least the Bill seeks to leverage on the strength based on seven key areas of intervention which include Agriculture, Tourism, Education, Health, ICT, Financial Services and Infrastructural sectors

The way it is premised is that each particular County will be leading in a given sector and as it stands now Siaya County though not being a member so far we have been allocated the sector for education. I am just equating this Bill to the regional blocs that we have in international level like the COMESA, EAC etc. and we have seen the strength which they draw

Question arises like what are the benefits that we can have as a County? We have been taken through by members of the secretariat and at least we draw from the fact that apart from financial capacity when we come together, we can leverage on benefiting from infrastructural and other resources which are in member counties which are not available in Siaya.

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Without delving much into this Report I wish to encourage members that we pass this Bill. I also wish to bring to the attention of the Members that during our receiving submissions from stakeholders there were certain reservations that were given and we addressed them accordingly.

Reservations included how membership within the County Assembly within the bloc; what would be the role of running the bloc though our reservations and concerns how the CO of the bloc would be appointed and they were also pointing at some lack of clear and tangible objectives and targets.

This we have addressed as a committee but bottom line we give a recommendation that should this House pass this Bill and we enact it and we become members we will be able to bring in amendments and proposals once we are inside as a member of the Lake Region Economic Bloc.

With those few highlights I request Hon. Winga to second.

Hon. Winga: I second.

(Question proposed)

(Question put and agreed to)

BILL

Second Reading

THE PROJECTS MANAGEMENT BILL 2019
(COUNTY ASSEMBLY BILL NO. 7 OF 2019)

Hon. Oduor: Thank you Mr. Speaker, Sir allow me to present the Report for the Siaya County Projects Management Bill 2019. This is a Report that was moved by a private member Hon. Akuno and it was committed to the Committee on Finance and it has done what is necessary, it has gone to the people and collected the views so may I go straight to page 7.

The Siaya County Management Bill 2019 comes hot in the heels of several oversight issues on various cases of malpractices in the management of PMC allowances in Siaya. County Assembly of Siaya has previously pronounced herself on various instances of misappropriation of funds meant for PMC members and related projects and management costs in various reports of the Committee on Finance Appropriation approved by the house

The committee therefore considers this Bill as complimentary mechanism in sensitizing and or streamlining the management of projects by entrenching the participation of the people in all aspects of the project management into the law. The Projects Management Bill is a private member Bill sponsored by the Hon. Ambrose Akuno of West Asembo Ward.

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The genesis of this Bill lies on the realization of the fact that the County Government of Siaya has continuously initiated and implemented various projects amid claims of limited transparency and participation of the people.

The concept of the Project Management Committee is a creation of the Constitution of Kenya in a bid to make necessary platforms to involve the people in the planning, implementation, execution of and evaluation of various government projects. In this area the County Government of Siaya developed a PMC in 2015 to help streamline the management of people in project management

However, the operationalization of the policy and the management of PMC operations have been shrouded with misappropriations of funds meant for ghost PMC members due to lack of appropriate records of substantive PMCs and limited management of projects by PMCs because they are not provided BQs at the inceptions of the projects.

The PMCs have overseen various County Government Projects since the inceptions of Devolution in FY 2013/2014 and that is the reason a private Member had to sponsor this so that we can go and get proper recommendations from the people.

The Committee reviewed the Bill and consequently subjected it to the statutory public participation forums across the six Sub-Counties.

These were the Committee reviews;

- The Committee reviewed the legal and policy justification of the Bill and finds that there is a gap in the lack of County Government of Siaya legislation that specifically aimed at entrenching the role of the Citizens at the grassroots level in project management.
- The existence of the Siaya County PMC policy of 2015 therefore, gives a foundation for the development of this Bill,
 1. Legal justification of the Bill, section 91 of the County Governments Act 2012, establishment of modalities and platforms for Citizens participation. It provides that the County Government shall facilitate the establishment of structures for Citizens participation including participation in development projects. The Bill offers an opportunity for a structured involvement of the people in actual participation in project initiation, management and oversight of implementation.
 2. Section 115 of the County Governments Act 2012, public participation in County planning section 115(2) states that each County Assembly shall develop Laws and regulations giving effects to the requirements for effective Citizen participation in development planning and performance management within the County and such Laws and guidelines shall adhere to minimum National requirements. The Bill seeks to actualize this section of the Act at both the policy initiation and the implementation stages.
 3. Article 176(2) of the Constitution of Kenya 2010, every County Government shall decentralize its functions and the provision of its services to the extent that it is efficient and practical to do so. The Bill decentralizes decisions making with regards

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to project initiations, implementation and oversight of utilization to the grassroots Citizens within the areas, which the projects are implemented.

4. Article 185 of the Constitution of Kenya 2010, A County Assembly may make any Laws that are necessary for incidental tool, the effective performance of the functions and excesses of the powers of the County Government and at the fourth schedule. The Bill is legislated within the roles of the Assembly as provided for by this Article of the County Government of Kenya 2010. Let me now go to the clauses; we have from clause 1,2,3,4 and 5. Am sure that most of us have gone through this Bill and therefore, they can see that we have the gap and the provisions of the Bill that seeks to fill the gap and so I will not read it again.

I will therefore, go directly to the findings and observations.

During the entire Legislative review process of the Bill, Committee made the following observations and findings;

1. The Committee finds that the Bill seeks to regulate the management, implementation and the utilization of County funded projects through the establishment of PMC unit for each County funded project.
2. The Bill seeks to graduate the provisions of the Siaya County PMC policy 2015 into an Act of the Assembly.
3. The Bill seeks to give people of greater and ultimate role in project decision making thus giving more meaning and reality to the concept of the public participation as envisaged by the Law.
4. The Bill also seeks to guide the establishment of activities and the operations of the PMCs. It also provides for meetings and payment of allowances the PMC members for meetings attended.
5. The Committee noted that the Bill makes provisions for the payment of PMC allowances direct to the PMC members account through authorized payment mechanism.
6. The Committee notes that the Bill reduces the involvement of the roles of Ward Administrator in the activities of the PMCs in order to allow for objective PMC decisions and smooth operations of the PMCs and general implementation of the projects.
7. The Committee notes that the Bill enhances the role of the MCAs in PMC activities by giving them a patron role over the activities of the PMCs including composition, cessation of membership and the resolution of grievances from the PMC members or the community on the project activities.

Committee recommendations;

1. The Committee recommends that immediately after the enactment of the Project Management Bill the CECM Finance to pay all the pending bills.
2. That the House adopts the Committee proposed amendments as detailed in the attached schedule. We have a schedule and I hope most of us have read it.

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3. That the CECM Finance comes up with the regulations on how the PMCs allowances will be paid.

To that point I believe there is nothing much to say. We only have the amendments that are attached to this Bill and I believe that all or most of us have gone through it. May I call upon Hon. Booker to second?

(Hon. Booker seconded)

(Question Proposed)

(Question Put and agreed to)

(The Bill was read a Second time and committed to a Committee of the Whole)

THE COUNTY ANNUAL DEVELOPMENT PLAN 2020/2021

Hon. Speaker: Yes chairman, I know that the Committee had requested that they Move this tomorrow.

Hon. Ochola: Thank you Mr. Speaker Sir, as had been indicated in the Order paper we were to Move the Motion but we had requested that we be allowed to Move it tomorrow with your kind permission.

Hon. Speaker: Permission granted. The report be discussed tomorrow in the afternoon session.

MOTION
ADJOURNMENT

Hon. Speaker: Members, you will be staying behind for some communication otherwise, Hon. Members would we be upstanding for adjournment. Hon. Members, there being no other business this House stands adjourned until tomorrow Wednesday, 4th December, 2019 at 9.30 a.m. in the chamber.

The House rose at 9.57 a.m.