

COUNTY ASSEMBLY OF BUNGOMA
CLERK

42 AUG 2020

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**REPORT BY THE LIAISON COMMITTEE ON
THE APPORTIONMENT OF ANNUAL
OPERATING FUNDS TO ASSEMBLY
COMMITTEES FOR THE FINANCIAL YEAR
2020/2021
AUGUST 2020**



**BUNGOMA COUNTY
ASSEMBLY:
SECOND COUNTY
ASSEMBLY:
FOURTH SESSION**

THE THIRD REPORT 2020

Standing Order 197 of the Bungoma County Assembly avers that the Liaison Committee shall inter alia; deliberate on and apportion the annual operating budgets among the Assembly Committees.

COMMITTEE MANDATE

Mr. Speaker, the Liaison Committee draws its mandate from Standing Order No. 197 (1, 2 &3) which states:

- (1) There shall be a select committee to be known as the Liaison Committee which shall consist of the Chairperson of Committees as the Chairperson and the Chairperson of all Committees of the County Assembly.
- (2) The Liaison Committee shall-
 - (a) Guide and co-ordinate the operations, policies and mandates of all committees;
 - (b) Deliberate on and apportion the annual operating budgets among the committees;
 - (c) Consider the programmes of all Committees, including their need to travel and sit away from the precincts of County Assembly;
 - (d) Ensure that Committees submit reports as required by these Standing Orders;
 - (e) Determine whenever necessary, the committee or committees to deliberate on any matter; and
 - (f) Give such advice relating to the work and mandate of select committees as it may consider necessary
- (3) The Liaison Committee shall consider reports of committees that have not been deliberated by the County Assembly and report to the County Assembly on the consideration of such reports.

The Liaison Committee is empowered, particularly under Standing Order 197(3), to report to the House from time to time and has occasionally carried out studies on the effectiveness of the committees of the House.

Mr. Speaker,

In the exercise of its legislative mandate as contained in Standing Order number 197, the Liaison committee, on Friday 7th August, 2020 retreated to Victoria Comfort Inn (Kisumu) with the following agenda:

- (i) to apportion the annual operating budget to assembly committees for the FY 2020/2021 and
- (ii) to review the performance of Assembly Committees in the 2019/2020 fiscal year.

COMMITTEE MEMBERSHIP

The Committee is comprised of the following members:-

Name	Committee	Designation.
1. Hon. Stephen Wamalwa	Liaison	Chairperson/DS
2. Hon. Emmanuel Situma	HBC/P&R/SP/PP	Speaker
3. Hon. Joseph Juma	Selection	Member
4. Hon. Barasa Mukhongo	Finance	Member
5. Hon. Jack Wambulwa	Budget	Member
6. Hon. Majimbo Okumu	Public Adm	Member
7. Hon. Godfrey Mukhwana	Gender	Member
8. Hon. Humphrey Sifuna	Lands	Member
9. Hon. Aggrey Mulogo	Housing	Member
10. Hon. Sospeter Nyongesa	Agric	Member
11. Hon. Jack Kawa	Roads	Member
12. Hon. Franklin Simotwo	Tourism	Member
13. Hon. Fredrick Musebe	Education	Member
14. Hon. George Makari	Health	Member
15. Hon. Luke Opwora	Youth	Member
16. Hon. Hillary Kiptallam	Delegated	Member
17. Hon. Everton Nganga	Labour	Member
18. Hon. Bethwell Mwambu	Implementation	Member
19. Hon. Tony Barasa	PAC	Member
20. Hon. Vitalis Wangila	PIC	Member
21. Hon. Ali Machani	Appts	Member

ACKNOWLEDGEMENT

Special appreciation goes to Honorable Members of the Liaison committee for their commitment and dedication. The committee also acknowledges the steadfast contribution of the secretariat in drafting this report.

The Committee finally appreciates the office of the Speaker of the Bungoma County Assembly and the Clerk for facilitating the report writing retreat.

Mr. Speaker,

It is my pleasant duty, pursuant to Standing Order 197 of the Bungoma County Assembly to present the Report of the Liaison Committee in respect to apportioning of the budgetary envelope to Assembly Committees FY 2020/2021.

SIGNED.....DATE.....

HON.STEPHEN WAMALWA
Chairperson, Liaison Committee

CHAPTER ONE: REVIEW OF COMMITTEE OPERATIONS IN THE 2019/2020 FISCAL YEAR

Mr. Speaker,

Strong committees, with the capacity to monitor the County Executive and hold it to account, are a necessary condition for effective County Assembly influence in ensuring a democratic system of checks and balances. It is for this reason that the Liaison Committee embarked on a review of the operations of Assembly Committees with a view to improving performance. Several thematic areas were considered.

(a) House Sessions and Committee Sitzings

Mr. Speaker,

Attendance of House and Committee sittings is obligatory unless one has written permission from the Honorable Speaker or is indisposed. Article 194 (1) (b) of the Constitution of Kenya, 2010 states that the office of a member of a county assembly becomes vacant—

if the member is absent from eight sittings of the assembly without permission, in writing, of the speaker of the assembly, and is unable to offer satisfactory explanation for the absence;

The attendance of Committee Sitzings by Members is important for an effective oversight Committee. However, there are instances where some committees did not raise the requisite quorum within the required time as provided for in the Standing Order 166 of the Bungoma County Assembly which states as follows:

“Unless quorum is achieved within thirty minutes of the appointed time, a meeting of a committee of the County Assembly shall stand adjourned to such time on another day as the Chairperson of the Committee shall appoint.”

Equally, some Committees were also unable to sustain quorum during deliberations of business before them.

In other instances, some members failed to attend external committee activities such as fact-findings and report writing retreats. Standing Order 168 of the Bungoma County Assembly avers in no uncertain terms that in the event of a member failing to attend four

(4) committee meetings without permission, such a member can be discharged from a committee. In light of the above, Members are urged to fully participate in Committee Sittings to enrich their deliberations and be seized of the matters under consideration to enable Committees to come up with impeccable findings and recommendations.

(b) Implementation of Committees' Work Plans.

It was noted that some committees had taken inordinately long to dispense of certain time-bound businesses. Given the available resource envelop it is only proper that committees embrace prudent management of the resources available to them. Committees are therefore advised to ensure (as is practicably possible) that related statutory documents are dispensed of in a single committee report writing retreat. Such an approach will eliminate prevalent backlogs.

Besides, as a means to fast-tracking oversight expenditure reports (by the County Executive), sector committees should consider a simultaneous interrogation of the said reports to be finance from a central kitty outside committee's annual budgetary envelop. Equally, expenditure reports from the Auditor General should where necessary be consolidated and interrogated simultaneously as opposed to piecemeal report writings which quickly consume budgetary allocations to committees.

(c) Covid-19 Pandemic and Implementation of Work Plans by Committees

The advent of COVID-19 marked a global watershed, not only in health and economic terms, but also for the unprecedented challenges posed to the functioning of democratic institutions such as the legislature.

During the pandemic, questions abound as to how to balance the extraordinary powers that the National and County Governments require to tackle the health emergency and economic crisis, on the one hand, with adequate controls, on the other, have followed shortly behind the coronavirus.

In normal times, the County Legislature which is responsible for guaranteeing the division of powers and the exercise of rights, as well as effective accountability by the executive branch has had its operations limited precisely at a time when it is needed most to pass laws, discuss emergency economic actions, and hold the County Executive to account.

One of the greatest lessons learnt from the emergence of COVID-19 is that legislatures must adapt its rules to ensure that it can function in any situation, however critical. Suffice it to say that neither our current operating rules, nor the technological tools would guarantee the legal certainty and cyber security needed to avoid jeopardizing legislative decisions. Despite the pandemic, efforts must be put in place to continue fulfilling the basic responsibilities of the county legislature, such as representing citizens and supervising the County Executive.

It is for the above stated reason that the House should continue convening physically (whilst exercising social distancing), but with a limited number of plenary sessions as well as committee meetings. In this regard, there is need to amend Rules of Procedure to allow remote working by videoconference (zoom) and other wireless protocols.

(d) Submission of Committee Reports

Mr. Speaker,

It was noted that in the FY 2019/2020, a total of seventeen (42) reports from sectoral committees were tabled in the House against a total allocation of about Kshs. 82,664,952 (eighty two million, six hundred and sixty four thousand, nine hundred and fifty two shillings only). This means that on average, one sectoral committee report cost the County Assembly an average of Kshs. 1, 968,213 (one million, nine hundred and sixty eight thousand, two hundred and thirteen only). The majority of the sectoral committees produced two or less reports despite enjoying an equal resource envelope.

Mr. Speaker,

This trend is likely to have a negative impact on the performance of sectoral committees (and by extension the House's) overall cardinal mandates of oversight, representation and legislation. Going forward committees must put more premium on monitoring and reviewing of legislation, gathering of data that informs the oversight mandate and production of the attendant oversight reports.

Equally, majority of the Standing Committees did not fair on well in terms of reports availed to the House. There were a total of thirty seven (37) reports emanating from the Standing Committees. The total allocation to the Standing Committees stood at Kshs. 76, 008,152 (eighty

one million, five hundred and sixty one, two hundred eighty two only). On average a single report cost Kshs. 2,054, 274 (two million, fifty four thousand, two hundred and seventy four only).

Comparatively, the cost of production of one standing committee report was higher than that of a sectoral committee. The probable explanation lies in the fact that considerable amounts of monies were spent by standing committees in capacity enhancements and benchmarkings. There is therefore need for committees to devise better strategies for information gathering to ensure that capacity enhancements benchmarkings are cost-effective.

(e) Delay in concluding business before committee
Mr. Speaker,

Concerns are still being raised regarding the delay in conclusion of business committed to the Committees way past the set timelines. It is the Liaison's considered view that committees' endeavor at all times to observe constitutional and other statutory timelines for consideration of various statutory documents/items of business committed to them. A case in point is the Public Administration and ICT Committee that is yet to submit the reports on the *Task Force in respect to the Delineation of Village Administrative Units* as well as the report on Irregular Employment in Bungoma County Government since September 2017.

(f) Pending Legislative Statements

It was once again noted that there was delay by the County Executive in availing responses to legislative statements raised. This trend has impacted negatively on oversight mandate of the County Assembly. It was directed that chairpersons with pending Statements from the previous Session to date should move with speed to dispense of the statements in their respective Committees and give a status report to House. Chairpersons who fail to observe the directive will be required to report to the Speaker and give reasons for the failure.

(g) Post Legislative Scrutiny

Mr. Speaker,

The committee took cognizance of the fact that Post Legislative Scrutiny (PLS) enables the consistent appraisal of how laws respond to the issues they intend to regulate as well as enabling legislators to learn from experience, both in terms of what works and what does not and how

effective implementation is in terms of meeting objectives, with an eye to making even better legislation in future. It was observed that despite the House's resolution that Post Legislative Scrutiny (PLS) be initiated on legislation brought to life at least five years ago, this resolution is yet to be implemented.

CHAPTER THREE: APPORTIONMENT OF THE 2020/2021 BUDGETARY ENVELOPE TO ASSEMBLY COMMITTEES

Mr. Speaker Sir,

The budgetary allocation for committees' operations for the FY 2020/2021 stands at Kshs. 192,634,720 (One hundred and seventy two million only, six hundred and thirty four, seven hundred and twenty only).

Of the above, Kshs 20 million was set aside for facilitating sectoral committees for purposes of simultaneous report writing in respect to expenditure reports from the County Executive pursuant to Section 166 (1) of the Public Finance Management Act, 2012 (PFMA) 2012.

In respect to the Appointments Committee, it was observed that pursuant to Article 179 (1) (2) and (3) of the Constitution of Kenya 2010, section 44 of the County Governments Act, 2012, the County Executive Committee (CEC) is fully constituted except for the vetting of the yet to be nominated County Attorney. It was on that premise that it was resolved that the Appointments Committee be exempted from the derivative formula for allocation of the resource envelope but be allocated Kshs. 2,000,000.

It was further resolved that given the political nature of membership in committees and therefore the need to periodically review such membership, the Selection Committee be exempted from the derivative formula and be allocated Kshs. 4,500,000 (four million five hundred only).

In the same vein, the Rules and Procedures committee, the Speakers Panel and Committee on Appointments were allocated Kshs. 4,500,000 and Kshs, 2,500,000 respectively.

It was further resolved that the reserve kitty (capped at 10% of the entire budgetary envelope) shall be set aside to support committees that exhaust their budgets yet they still have critical pending activities to be implemented. This translated to **Kshs. 9,835,420** only). Any facilitation from this kitty must be sanctioned by the Liaison Committee. It was resolved that the reserved kitty shall also facilitate the publishing and translation of the revised Standing Orders.

Further, it was resolved that Kshs. 10,000,000 (ten million) be set aside to take care of the Monitoring, Learning and Evaluation (MLE) component in respect to the operations of Assembly Committees. (See attached template).

From the foregoing, a balance of Kshs. 139, 299,300 was set aside for allocation to sectoral and standing committees as follows:

- (a) That the equalization fund (10% of Kshs. 139,159,300)) is to be used by the Budget and Appropriations Committee, Finance and Economic Planning Committee, Public Administration as well as Public Accounts Committee given the volume of activities handled by the aforementioned committees.
- (b) That 10% of the funds be set aside as equalization fund (Kshs. 13,929,930)
- (c) That 80% of the total budgetary envelope is to be shared among Assembly committees based on the formula below:

Item	%	Amount (Kshs)
(I) Equal Allocation to all Committees	45%	62,684,685
(II) Pro rata	45%	62,684,685

Mr. Speaker,

Equalization Fund took into consideration committees that have many time-bound statutory documents as well as committees that have a high volume of work as evidenced through the many oversight reports tabled in the House. The statutory documents include but are not limited to:

- I. The County Annual Development Plan
- II. The County Fiscal Strategy Paper
- III. The County Budget Review Outlook Paper
- IV. The County Annual Appropriations Act
- V. The County Annual Finance Bill
- VI. The Auditor General Reports

These committees considered for additional funding on account of processing the statutory documents and petitions. These were identified as:

- (i) BUDGET AND APPROPRIATIONS

(ii) FINANCE AND ECONOMIC PLANNING

(iii) PAC

(iv) Public Administration and ICT

Mr. Speaker,

Taking all the above factors into consideration, the budgetary allocation to assembly committees was thus as **shown in annex two**.

CHAPTER FOUR: MONITORING, LEARNING AND EVALUATION

Mr. Speaker,

The Committee discussed the performance of Assembly committees, with the larger objective being to initiate the process of developing an effective Monitoring, Learning, and Evaluation (MLE) framework for managing committee performance in the Assembly.

The committee took note of the fact that section 147 of the Public Finance Management Act (PFMA) 2012 empowers the County Assembly Clerk to come up with mechanisms to ensure prudent use of public funds. It avers that:

147. (1) ...the accounting officer of a county assembly shall monitor, evaluate and oversee the management of their public finances, including—

(a) promoting and enforcing transparency, effective management and accountability with regard to the use of their finances;

(b) ensuring that accounting standards are applied;

(c) implementing financial policies in relation to their finances;

(d) ensuring proper management and control of, and accounting for, their finances in order to promote the efficient and effective use of budgetary resources;

(e) preparing annual estimates of expenditures;

(f) acting as custodian of the entity's assets except as may be provided by other legislation or the Constitution;

(g) monitoring the management of their finances and their financial performance;

As a first step towards actualizing MLE, a mapping exercise was to be undertaken with a view to determining the capacity needs for improving the management of committee performance; and strategies to overcome challenges in implementing committee work-plans. Committees are therefore expected to submit their revised quarterly, annual and five-year legacy reports, which shall constitute self-assessment tools used by the committees for reflection and proactive improvement. In this regard, the County Assembly's Finance Department was tasked to prepare

CHAPTER FIVE: FINDINGS/OBSERVATIONS

- (i) That the advent of Covid 19 pandemic has had a great impact on the Assembly Committees' (and by extension the House's) execution of their Constitutional mandates.
- (ii) There is unnecessary delay by some committees considering and submitting to the County Assembly reports on legislative statements/ documents committed to them.
- (iii) There was delay by the County Executive in availing responses to legislative statements raised in the House.
- (iv) Most committees tabled in the House less than two reports despite enjoying an equal resource envelop.
- (v) Post Legislative Scrutiny is yet to be undertaken despite the House resolution.

CHAPTER SIX: RECOMMENDATIONS

- i. That as a matter of urgency, the House has to amend Rules of Procedure to allow remote working by videoconference (zoom) and other wireless protocols and that Honorable Members and Secretariat to Committees be trained on the above to enable maximum transaction of business before committees.
- ii. That committees embrace prudent management of the resources available to enable unhindered execution of their constitutional mandates. Further Committees should plan to expend within the monthly exchequer releases to avoid over expenditures of the votes.
- iii. That the Office of the Clerk was directed to prepare a comprehensive tracker for the business pending before committees, detailing clearly the dates of the committal, when they were due, the status before the committees where the matters was committed.
- iv. That the County Assembly should carry out post legislative scrutiny to ensure that laws that have been enacted are brought into effect and that their implementation has an impact.

the annual expenditure report by assembly committees to be interrogated by the Liaison Committee at an appointed date.

PROPOSED APPORTIONMENT OF THE BUDGETARY ENVELOPE TO ASSEMBLY COMMITTEES FY 2020/2021

BUDGETARY ENVELOPE-KSHS. 192,634,720

1. It was further resolved that Kshs. 20 million be set aside for activities of the whole House including interrogation of quarterly reports, supplementary budgets.
2. The remainder of the money (Kshs. 172,634,720) was to be shared as below indicated:

NO	COMMITTEE	No. of MCAs and Secretariat	EQUAL ALLOCATION (A) Kshs. 62,684,685 (45%)	PRORATA (B) Kshs. 62,684,685 (45%)	EQUALIZATION (C) Kshs. 13,929,930 (10%)	TOTAL (Kshs)
1	LANDS, URBAN, PHYSICAL PLANNING TRADE, ENERGY AND INDUSTRIALIZATION	21	2,984,985	3,033,129		6,018,129
2	HEALTH	21	2,984,985	3,033,129		6,018,129
3	AGRICULTURE, FISHERIES AND COOPERATIVES	21	2,984,985	3,033,129		6,018,129
4	TOURISM, FORESTRY, ENVIRONMENT AND NATURAL RESOURCES	21	2,984,985	3,033,129		6,018,129
5	EDUCATION	21	2,984,985	3,033,129		6,018,129
6	ROADS AND PUBLIC WORKS	21	2,984,985	3,033,129		6,018,129
7	YOUTH AND SPORTS		2,984,985	3,033,129		6,018,129
8	GENDER AND CULTURE	21	2,984,985	3,033,129		6,018,129
9	HOUSING AND SANITATION	21	2,984,985	3,033,129		6,018,129

10	FINANCE AND ECONOMIC PLANNING	21	2,984,985	3,033,129	3,482,482.5	9,500,597.419
11	PUBLIC ADMINISTRATION	21	2,984,985	3,033,129	3,482,482.5	9,500,597.419
12	BUDGET AND APPROPRIATIONS	18	2,984,985	2,599,825.645	3,482,482.5	9,067,293.145
13	PAC	16	2,984,985	2,310,956.129	3,482,482.5	7,606,897.258
14	DELEGATED	16	2,984,985	2,310,956.129		5,295,941
15	IMPLEMENTATION	16	2,984,985	2,310,956.129		5,295,941
16	PIC	16	2,984,985	2,310,956.129		5,295,941
17	LABOUR AND SOCIAL WELFARE	16	2,984,985	2,310,956.129		5,295,941
18	JUSTICE AND LEGAL AFFAIRS	16	2,984,985	2,310,956.129		5,295,941
19	LIAISON	32	2,984,985	4,621,912.258		7,606,897.258
20	POWERS AND PRIVILEGES	16	2,984,985	2,310,956.129		5,295,941
21	HBC	24	2,984,985	3,466,434.193		6,451,419.193
22	SELECTION	16				4,500,000 (D)
23	RULES AND PROCEDURES	12				4,500,000 (E)
24	SPEAKER'S PANEL	10				2,500,000 (F)
25	APPOINTMENTS	16				2,000,000 (G)
		434	RESERVE KITTY			
			M.L&E			
			GRAND TOTAL			
			172,634,720			