

COUNTY ASSEMBLY OF BUNGOMA

CLERK

07 FEB 2023

REC

COUNTY GOVERNMENT OF BUNGOMA



COUNTY ASSEMBLY OF BUNGOMA

THIRD ASSEMBLY, SECOND SESSION

**REPORT BY THE PUBLIC ADMINISTRATION AND ICT
COMMITTEE**

**ON THE BUNGOMA COUNTY STATE OF COUNTY
ADDRESS BILL, 2022**

*Tabled on 15/2/23
at 2:30pm.
Tabled clerks
Milly*

February, 2023

Clerks Chambers
County Assembly Buildings
PO BOX 1886,
BUNGOMA, KENYA

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CHAPTER ONE

1.0 PREFACE

Mr. Speaker,

The Bungoma County State of County Address Bill, 2022; was first read in this House on 9th November, 2022 and consequently committed to the Committee on Public Administration & ICT for processing and feedback to the House.

The Bill seeks to outline the issues to be addressed during the State of the County Address by the Governor as stipulated in Section 30(2) (k) of the County Governments Act, 2012.

The proposed Bill was prepared pursuant to the provisions of Article 185 (2) of the Constitution of Kenya 2010 that confers powers to make legislation through County Assemblies.

This Bill was subjected to public participation across the county on 25th November, 2022 as per the advertisement in the Daily Nation Newspaper inviting the public for public hearings and submission of memorandum. (See annexure1)

The committee therefore wishes to present this report on the Bungoma County State of County Address Bill, 2022; for deliberation and approval by this Honorable House.

1.1 COMMITTEE MANDATE

The Public Administration & ICT committee was established on 26th October; 2022 in accordance with the Standing Order No.179.

The mandate of the Committee is derived from the Standing Order 217 (5) and matters assigned under the Second Schedule which shall be exercised within the limits contemplated under Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

The functions of a Sectoral Committee shall be to;-

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

- (b) Consider quarterly reports of the assigned departments and report to the house within 20 sitting days upon being laid
- (c) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (d) Study and review all county legislation referred to it;
- (e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (f) 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 County Assembly;
- (g) To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 208 (Committee on Appointments); and
- (h) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.2 COMMITTEE MEMBERSHIP

Mr. Speaker,

The following is the committee membership as currently constituted;

- | | |
|----------------------------|--------------|
| 1. Hon. Tony Barasa | Chair person |
| 2. Hon. Caleb Wanjala | Vice chair |
| 3. Hon. Stephen Wamalwa | Member |
| 4. Hon. Joseph Nyongesa | Member |
| 5. Hon. Jackson Wambulwa | Member |
| 6. Hon. Busolo Sudi | Member |
| 7. Hon. Francis Chemion | Member |
| 8. Hon. Simotwo Franklin | Member |
| 9. Hon. Grace Sundukwa | Member |
| 10. Hon. Cornelius Makhanu | Member |
| 11. Hon. Timothy Chikati | Member |
| 12. Hon. Stephen Kaiser | Member |
| 13. Hon. Jeremiah Kuloba | Member |
| 14. Hon. Florence Juma | Member |
| 15. Hon. Brigid Katasi | Member |

1.3 PROBLEM STATEMENT

Mr. Speaker,

This report arises from the obligation imposed on County Assemblies in Article 196 of the COK 2010; Section 6 (6) of the CGA, 2012 and the County Assembly of Bungoma Standing Orders 140 (1) (2) and (3) which provides that *the Sectoral Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism and take into account the views and recommendations of the public in its report to the House.*

The Bungoma County State of County Address Bill, 2022 was first read on 9th November, 2022 pursuant to Standing Order No 140. The committee then conducted public hearings and received memoranda on 25th November, 2022 at Santa Mara Hotel, Bungoma; from among the following key stakeholders: the Bungoma Civil Society Organization, Torch Africa, County Budget and Economic Forum, Citizen 4 Good Governance, Chamber of Commerce REDO among others whose valuable input has formed part of this report and annexed herein as annexure 3.

1.4 OBJECTIVES AND TERMS OF REFERENCE

At the end of the exercise, the committee was determined to achieve the following objectives;

1. To consider proposals from the public participation fora and other stakeholders
2. To make recommendations from the proposals received from the stakeholders
3. To ensure that the proposed Bill does not contravene the Constitution or any other statute.
4. To consider and present to the House the proposed amendments on the Bungoma County State of County Address Bill, 2022

1.5 METHODOLOGY

In preparation of its report, the committee used the following methods;

1. Committee meetings
2. Public hearings
3. Written memoranda from the CECM Public Administration, Management and ICT
4. Summary of proposals and recommendations from the stakeholders

1.6 TOOLS OF REFERENCE

The committee made reference to the following documents and relevant laws to come up with its observations and recommendations-

1. The Constitution of Kenya, 2010
2. The County Governments Act, 2012
3. The County Assembly of Bungoma Standing Orders 2nd edition
4. The proposed Bungoma County State of County Address Bill,2022

1.7 ACKNOWLEDGEMENT

Mr. Speaker,

The Committee is particularly grateful to your Office and that of the Clerk of the County Assembly of Bungoma for the support received as it discharged its mandate.

The Committee equally appreciates the members of the Civil Society Organisation and other stakeholders for their valuable input to ensure timely collection and collation of the information incidental to the preparation of this report.

The significant role played by the Committee Members and Secretariat for their steadfastness in the compilation and completion of this report cannot be overlooked.

Lastly, the committee appreciates the sponsor of this Bill, Hon Stephen Wamalwa for his effort and initiative to prepare the Bill and have it committed to this committee for consideration.

Mr. Speaker,

I wish to confirm that the recommendations of the Committee in this report were unanimous. It is now my pleasant duty and privilege, on behalf of the members of the Public Administration & ICT Committee, to present to this House the Committee's report on the Bungoma County State of County Address Bill, 2022 for debate and adoption.

Signed:

Hon, Tony Khaoya Barasa; MCA – Lwandanyi Ward

DATE.....09/11/23.....SIGNATURE.....

CHAIRPERSON: Public Administration & ICT Committee,

CHAPTER TWO

1.0 THE BUNGOMA COUNTY STATE OF THE COUNTY ADDRESS BILL, 2022

2.1 INTRODUCTION

Mr. Speaker,

This scope covers the key points that the Bill seeks to address, the purpose and structure of the Bill, background information and the State of the Nation Addresses around the World, a comparative analysis.

2.2 THE BUNGOMA COUNTY STATE OF THE COUNTY ADDRESS BILL, 2022

Mr. Speaker,

Key Points

- ❖ The Bill seeks to outline the issues to be addressed during the State of the County Address by the Governor as stipulated in Section 30(2) (k) of the County Governments Act 2012.
- ❖ The Bill therefore concerns the County Governments since the Governor is obliged by the Act to deliver an annual state of the county address.
- ❖ The procedure for the notification of the intent for the address by the Governor, the action(s) to be taken by the Speaker and the general conduct of the Members during and after the address are outlined
- ❖ In line with the Constitutional right of the public to access the proceedings of the County Assembly, the Bill provides for access by both the public and the external media and provides guidelines for their conduct.
- ❖ The Bill does not delegate legislative powers to any party.
- ❖ In line with Article 114 of the Constitution of Kenya 2010, it's not a Money Bill and would therefore not have any financial implications in its implementation.

2.3 PURPOSE AND STRUCTURE OF THE BILL

Mr. Speaker,

The Bungoma County State of the County Address Bill, 2022 seeks to provide for the delivery of the annual State of the County Address by the Governor to the County Assembly.

The Bill is divided into three sections;

Part I outlines the preliminary provisions which include the short title and commencement, interpretation and outlines the purpose of the Bill;

Part II provides for the delivery of the annual state of the county address by the Governor. It stipulates the period during which the address should be done, the procedure to be followed and the contents of the address.

It further outlines the steps required to be taken by the Hon.Speaker upon receipt of the intent of the Governor to address the county. The conduct of the members when the Governor enters or leaves the chamber; the sitting arrangement (for the Speaker and the Governor) and the order to be maintained during the address.

Additionally, it outlines the process of tabling and debate of the address.

Part III stipulates the miscellaneous provisions which include access of the proceedings by the public and the external media.

The Bill provides the Memoranda of objects and reasons which clearly indicates the issues to be contained in the address. It further provides the statement of delegation of legislative powers, the limitations of fundamental freedoms and human rights, statement of how the Bill concerns the County Governments, statement as to whether the Bill is within the meaning of Article 114 of the Constitution and a statement of the financial implication of the Bill.

2.4 BACKGROUND

Section 32(2) (k) of the County Governments Act 2012, stipulates one of the functions of the Governor as “*deliver annual state of the county address containing such matters as may be specified in county legislation.*” In order to avoid ambiguity and to provide guidelines on the

specific issues to be addressed, the Bungoma County State of Address Bill, 2022 therefore intends to provide for the specific matters that shall be addressed by the Governor during the state of the County Address and further stipulates the timeframe and the order for the address.

2.5 STATE OF THE NATION ADDRESSES AROUND THE WORLD- A COMPARATIVE STUDY

Mr. Speaker,

Presidential State of the Union addresses are a feature in several federal states, in particular in the United States, where the President gives a speech in the Capitol before a joint session of Congress, thus fulfilling the constitutional obligation to 'from time to time give to the Congress Information of the State of the Union' (Article II(3) US Constitution).

President George Washington was the first to address the Congress in 1790, and the exact form of the speech has evolved over time. Whereas President Washington established the precedent of delivering an annual State of the Union address, speaking before Congress, Thomas Jefferson preferred to deliver his message in writing. It was only in 1913 that the State of the Union address was delivered (by Woodrow Wilson) before a joint session of Congress; and Lyndon Johnson decided to move the speech from daytime to evening, to attract a larger audience.

With modern communication technology, the address has become a powerful rhetorical tool, broadcast to a wide audience and paid much attention by the media. The State of the Union address, as part of the US political system of checks and balances, reports on current conditions in the US and sets the policy agenda for the upcoming legislative year. This is all the more important in the US system of separation of powers, characterized by the absence of direct connection between the legislative and executive branches of the federal government, in which the President – as chief executive – does not participate in the proceedings of Congress.

In this context, commentators have argued that there are two ways in which the State of the Union address can affect legislation: either by influencing the actions of the legislators, who have a monopoly over legislative initiative; or by influencing the public first and thereby lawmakers. The legislative success of proposals mentioned in the State of the Union address is seen as an indicator of the President's policy success in general. Despite changes over time,

academics have identified three consistent rhetorical arguments that occur in all US presidential addresses: public meditations on values; assessments of information and issues; and policy recommendations.

However, State of the Union addresses can also be found in parliamentary systems (as opposed to systems of separation of powers), where the executive is dependent on Parliament and accountable to it. In fact, State of the Union addresses are rooted in 'speeches from the throne' that can be traced back to the 16th century. In the United Kingdom (UK), for instance, the 'Queen's Speech' is given at the State Opening of Parliament, which marks the start of a new parliamentary session. Although the Queen reads the speech, it is written by the government and outlines its policies and proposed legislation for the new parliamentary session.

In Canada, the 'Throne Speech', also marks the beginning of a session of Parliament, and is normally delivered by the Governor General on behalf of the Queen. As with the US State of the Union address, the Throne Speech is an opportunity for the government to announce to a wide audience its view on the state of the country and to set the stage for upcoming legislative proposals. In both the UK and Canada, the House of Commons votes on the speech following a debate. In the US, the opposition gives a formal response to the President's State of the Union address.

Speeches similar in form and substance can also be found in other parliamentary democracies, where they are usually called 'State of the Nation' addresses, e.g. in Spain, Philippines, Luxembourg and the Netherlands (Throne Speech).

In Africa, the President of the Republic of South Africa offers the State of the Nation Address, commonly known as SONA is at the annual opening of Parliament. The President addresses a joint sitting of the two houses of Parliament, the National Assembly and the National Council of Provinces. It focuses on the current political and socio-economic state of the nation.

In East Africa- Tanzania, Uganda et al just like in Kenya, the Presidents issue a state of the nation address at the commencement of a new parliament and then annually as per their respective Constitutions.

In Kenya, the Constitution under Article 132 stipulates the functions of the President among them to; address the opening of each newly elected Parliament, address a special sitting of Parliament once every year and may address Parliament at any other time. Additionally, once every year, the President is to report, in an address to the nation, on all the measures taken and the progress achieved in the realization of the national values, referred to in Article 10 and submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the republic.

CHAPTER THREE

3.0 STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS.

The Bill has been assessed on the compatibility with the human rights and freedoms as envisioned under Chapter Four of the Constitution. The Bill is considered compatible and does not limit any fundamental rights and freedoms.

The explanatory memorandum indicates that the Bill advances the right to access of the proceedings of the County Assembly by the public and does not negatively impact any human rights.

3.1 INVOLVEMENT OF THE PUBLIC, STAKEHOLDERS AND INTEREST GROUPS

Mr. Speaker,

Pursuant to Article 118 of the Constitution, Parliament is obligated to conduct its business in an open manner, and its sittings and those of its committees shall be open to the public. It shall further facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

Vide the notice on the local dailies (*Daily Nation, 18th November, 2022*) the public and various stakeholders were invited to submit memoranda on their views of the Bill on 25th November 2022. The views were incorporated in the report by the committee.

3.2 FINANCIAL IMPLICATIONS

Mr. Speaker,

The Bill has **NO** financial implications.

In line with Article 114 of the Constitution, it's not a Money Bill and would therefore not have any financial implications in its implementation.

Article 114 stipulates that:

114(3) In this Constitution, 'a money Bill' means a Bill other than a Bill specified in Article 218, that contains provisions dealing with-

- a) *Taxes;*
- b) *The imposition of charges on a public fund or the variation or repeal of any of those charges;*
- c) *The appropriation, receipt, custody, investment or issue of public money;*
- d) *The raising or guaranteeing of any loan or its repayment; or*
- e) *Matters incidental to any of those matters.*

CHAPTER FOUR

4.0 COMMITTEE CONSIDERATION ON THE BUNGOMA COUNTY STATE OF COUNTY ADDRESS BILL, 2022/ PROPOSED AMENDMENTS AND RECOMMENDATIONS

4.1 ARRANGEMENT OF CLAUSES

Mr. Speaker,

The following is the committee's clause by clause analysis on the Bungoma County State of County Address Bill, .2022;

| | |
|-----------------------------------|--------------------|
| Long title | agreed to |
| Clause 1 | agreed to |
| Clause 2 | proposed amendment |
| Clause 3 | agreed to |
| Clause 4 | proposed amendment |
| Clause 5 | agreed to |
| Clause 6 | agreed to |
| Clause 7 | agreed to |
| Clause 8 | agreed to |
| Clause 9 | agreed to |
| Clause 10 | proposed amendment |
| Memorandum of objects and reasons | proposed amendment |

4.2 COMMITTEE STAGE PROPOSED AMENDMENTS

Mr. Speaker,

The committee recommends the following proposed amendments on the Bungoma County State of County Address Bill, 2022

CLAUSE 2; **agreed to with amendments**

THAT Clause 2 be amended by having the following interpretation;

- i) **The “Governor”** means *the Governor of the County Government of Bungoma, while*
- ii) **‘Year’** means *the calendar year for the period beginning January and ending December*

CLAUSE 4 (4) **agreed to with amendments**

THAT Clause 4 sub clause (4) be amended;

By inserting an apostrophe on the word Governors so as to read;

The *Governor’s* address shall contain-----

CLAUSE 10 **agreed to with amendments**

THAT Clause 10 be amended by replacing the word *External Media* with Accredited Media

MEMORANDUM OF OBJECTS AND REASONS Agreed to with amendments;

THAT;

- i) The citation, Section 32 (2) (k) of the County Governments Act 2012 is replaced with Section 30 (2) (k) of the County Governments Act, 2012
- ii) Insert the word *calendar* between the words first quarter and the year so as to read;

This Bill intends to ensure that the Governor delivers the address in the County Assembly within the first quarter of the calendar year.

(iii) Section 32 (2) (j) of the County Governments Act 2012 is replaced with Section 30 (2)(j)

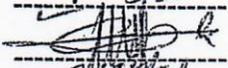
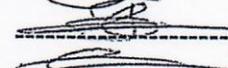
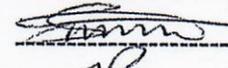
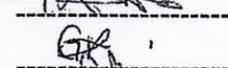
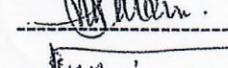
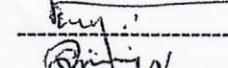
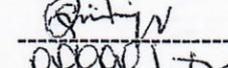
THAT; Statement of how the Bill concerns county government be amended by;

**Deleting the repeated word concerns between the words the Bill concerns and the County;
so as to read; *The Bill concerns the County Government of Bungoma***

v) Delete the word county between the words County Government of Bungoma County; so as to read the county government of Bungoma.

I beg to MOVE.

ADOPTION SCHEDULE

| NAME | DESIGNATION | SIGNATURE |
|----------------------------|-------------|---|
| 1. Hon. Tony Barasa | Chairperson |  |
| 2. Hon. Caleb Wanjala | Vice chair |  |
| 3. Hon. Stephen Wamalwa | Member |  |
| 4. Hon. Joseph Nyongesa | Member |  |
| 5. Hon. Jackson Wambulwa | Member |  |
| 6. Hon. Busolo Sudi | Member |  |
| 7. Hon. Francis Chemion | Member |  |
| 8. Hon. Simotwo Franklin | Member |  |
| 9. Hon. Grace Sundukwa | Member |  |
| 10. Hon. Cornelius Makhanu | Member |  |
| 11. Hon. Timothy Chikati | Member |  |
| 12. Hon. Stephen Kaiser | Member |  |
| 13. Hon. Jeremiah Kuloba | Member |  |
| 14. Hon. Florence Juma | Member |  |
| 15. Hon. Brigid Katasi | Member |  |

ANNEXTURES

1. The Bungoma County State of Address Bill, 2022
2. The advert for public participation
3. The memoranda from stakeholders

1910-1911

| Year | Month | Day | Event |
|------|-------|-----|-------|
| 1910 | Jan | 1 | ... |
| 1910 | Jan | 2 | ... |
| 1910 | Jan | 3 | ... |
| 1910 | Jan | 4 | ... |
| 1910 | Jan | 5 | ... |
| 1910 | Jan | 6 | ... |
| 1910 | Jan | 7 | ... |
| 1910 | Jan | 8 | ... |
| 1910 | Jan | 9 | ... |
| 1910 | Jan | 10 | ... |
| 1910 | Jan | 11 | ... |
| 1910 | Jan | 12 | ... |
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| 1910 | Jan | 24 | ... |
| 1910 | Jan | 25 | ... |
| 1910 | Jan | 26 | ... |
| 1910 | Jan | 27 | ... |
| 1910 | Jan | 28 | ... |
| 1910 | Jan | 29 | ... |
| 1910 | Jan | 30 | ... |
| 1910 | Jan | 31 | ... |

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Tabled on
9/11/2022
edg.

SPECIAL ISSUE

Kenya Gazette Supplement No. 4 (Bungoma County Bills No.3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BUNGOMA COUNTY BILLS, 2022

NAIROBI, 16th February 2022

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**THE BUNGOMA COUNTY STATE OF THE COUNTY ADDRESS
BILL, 2022**

ARRANGEMENT OF CLAUSES

Clause

PART I — PRELIMINARY PROVISIONS

- 1—Short title.
- 2—Interpretation.
- 3— Purpose of the Act.

**PART II—DELIVERY OF THE ANNUAL STATE OF THE
COUNTY ADDRESS**

- 4—The Governor's Address.
- 5—Notification of place, date and time.
- 6—Governor entering or leaving the Chamber.
- 7—Delivery of Governor's Address.
- 8—Tabling and debate of Address.

PART III— MISCELLANEOUS PROVISIONS

- 9—Public access.
- 10— External media.

**THE BUNGOMA COUNTY STATE OF THE COUNTY ADDRESS
BILL, 2022**

A Bill for

AN ACT of the County Assembly of Bungoma to provide for the delivery of the annual State of the County Address by the Governor of Bungoma County to the County Assembly of Bungoma; and for matters incidental thereto

ENACTED by the County Assembly of Bungoma, as follows—

PART I—PRELIMINARY PROVISIONS

Short title and commencement

1. This Act may be cited as the Bungoma County State of the County Address Act, 2022 and shall come into force on the fourteenth day after its publication in the *Kenya Gazette* and *County Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“Address” means the state of the County Address delivered by the Governor in the County Assembly;

“Chambers” means the County Assembly debating chambers;

“County” means the County of Bungoma;

“Gazette” means the *Kenya Gazette* and *County Gazette*;

“Governor” means the Governor of Bungoma County;

“Member” means a member of the County Assembly of Bungoma as enshrined in Article 177 of the Constitution;

“Speaker” means the Speaker of the County Assembly of Bungoma; and

“Year” means the period beginning January and ending December.

Purpose of the Act

3. The purpose of this Act is to provide for the delivery of the annual state of the County Address by the Governor of Bungoma County to the County Assembly of Bungoma.

**PART II—DELIVERY OF THE ANNUAL STATE OF THE
COUNTY ADDRESS**

The Governor's Address

4. (1) The Governor shall deliver the annual State of the County Address at the County Assembly during a special sitting.

(2) The Governor shall deliver the annual state of the county address not later than the 30th day of March each calendar year.

(3) The Governor shall notify the Speaker in writing of his/her intent to deliver the annual state of the County Address at least fourteen days prior to the delivery.

(4) The Governor address shall contain—

- (a) a report on all the measures taken and the progress achieved in the realization of the national values referred to in Article 10 of the Constitution of Kenya, 2010;
- (b) a report on the implementation status of the county policies and plans;
- (c) a report on the performance reports of the county executive committee and public service based on the performance management plan;
- (d) a report on citizen participation in the affairs of the county government; and
- (e) any other information that the Governor may deem fit.

(5) The Governor shall cause to be published in the *Gazette* the details of the measures and progress under section 4(a) above.

Notification of place, date and time

5. (1) The Speaker shall notify the Members and the general public of the place, date and time of the sitting under section 4(1) *vide a Gazette Notice* at least seven days prior to the delivery of the Address.

(2) Whenever the Speaker has been informed that the Governor will address a special sitting of County Assembly on a specified day and time, then on that day, no Motion for the adjournment of the County Assembly shall be made before the time for which the Governor's arrival has been notified.

Governor entering or leaving the Chamber

6. Members shall be called to order and stand in silence whenever the Governor enters or leaves the Chamber.

Delivery of Governor's Address

7. (1) The Governor may be accompanied in the Chamber.

(2) During the address of the Governor to the County Assembly, the Speaker shall take the seat on the right of the Governor.

(3) When delivering the address to the County Assembly, the Governor shall be heard in silence and the address shall not be followed by any comment or question.

Tabling and debate of Address

8. (1) A Member shall lay the Address on the table of the County Assembly in the next sitting of the County Assembly following the reading of the Address.

(2) A Member may give a notice of Motion that "The Thanks of the County Assembly be recorded for the exposition of public policy contained in the Address of the Governor".

(3) The debate on the Motion in subsection (2) shall not exceed four sitting days.

PART III—MISCELLANEOUS PROVISIONS

Public Access

9. (1) The public may access the County Assembly during the delivery of the address subject to section (4).

(2) The County Assembly may not exclude any person from a sitting of the County Assembly or of a committee unless, in exceptional circumstances, the Speaker has determined that there are justifiable reasons for the exclusion.

External Media

10. (1) The proceedings of the County Assembly may be broadcast by the County Assembly Broadcasting Unit established under the County Assembly Standing Orders.

(2) No external media assembly or other person may broadcast any proceedings of the Assembly except as received from the broadcast feed provided by the County Assembly Broadcasting Unit or with the permission of the Speaker.

(3) An external media that receives a broadcast feed from the County Assembly Broadcasting Unit shall broadcast it without any manipulation or distortion.

(4) No camera or other recording or broadcasting equipment shall be allowed in the Assembly without authorization.

(5) Accredited journalists shall be allowed access to designated areas for purposes of following the proceedings and taking notes and any journalist so allowed shall observe the Standing Orders and these Rules.

MEMORANDUM OF OBJECTS AND REASONS

Section 32(2)(k) of the County Governments Act, 2012 obliges the Governor of the County Government of Bungoma to deliver annual state of the county address containing such matters as may be specified in county legislation. This Bill intends to ensure that the Governor delivers the address in the County Assembly within the first quarter of the year. The state of the county address shall contain;

- (a) a report on all the measures taken and the progress achieved in the realization of the national values referred to in Article 10 of the Constitution of Kenya, 2010;
- (b) a report on the implementation status of the county policies and plans pursuant to Section 32(2)(j) of the County Government Act, 2012;
- (c) a report on the performance reports of the County Executive Committee and public service based on the performance management plan pursuant to Section 47(3) of the County Government Act, 2012;
- (d) a report on citizen participation in the affairs of the county government pursuant to Section 92(2) of the County Government Act, 2012; and
- (e) any other information that the Governor may deem fit.

Statement of the delegation of legislative powers and the limitations of fundamental rights and freedoms

The Bill does not delegate legislative powers neither does it limit any fundamental right and freedom.

Statement of how the Bill concerns county government.

The Bill concerns the concerns County Government of Bungoma County in line with the provisions of Section 32(2)(k) of the County Government Act, 2012 which obliges the Governor of the County Government of Bungoma to deliver annual state of the county address.

Statement as to whether the Bill is within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

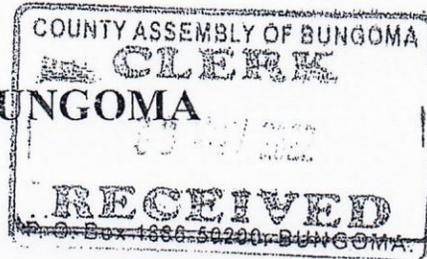
Statement of financial implication

The Bill has no financial implication whatsoever.

STEPHEN WAFULA,
Member of the County Assembly.

1) DCI (3)
7.11.22
2) Committee Clerk
PA & ICT
Take action
30/11/22

COUNTY GOVERNMENT OF BUNGOMA



DEPARTMENT OF PUBLIC SERVICE MANAGEMENT AND ADMINISTRATION
OFFICE OF THE COUNTY CHIEF OFFICER

Telephone: 0725 393939

Email: bungomacountygovt@gmail.com

County Headquarters
P.O. Box 437 – 50200
BUNGOMA, Kenya

Our Ref: CG/BGM/PSM/CCO/CAB/VOL.II(39)

Date: 25th November, 2022

The Clerk
County Assembly of Bungoma
P.O Box 1886 – 50200
BUNGOMA

RE: SUBMISSION OF VIEWS: BUNGOMA COUNTY STATE OF ADDRESS BILL 2022

Your letter Ref: no. BCA/CC/SEC/7(175) dated 16th November, 2022, refers.

We submit our views as follows:

1. Memorandum of objects and reasons:

The County Government Act 2012 Section that obliges the Governor to deliver an Annual state of the County is section 30 (2) K and Not 32 (2) K.

2. Interpretation:

- a) "Governor" to mean "Governor for County Government of Bungoma"
- b) "Year" to mean period covering County Financial Year (i.e 1st July to 30th June). To align the address with the FY.

3. Governors address

- (a) 4 (1) – provide a case of delivering an address for ordinary/emergency cases wherever the governor feels fit and need arises too, apart from a special sitting.
- (b) 4 (2) County Address to take place not later than 30th day of every September, which could be within 1st quarter of the Financial Year (FY). And by doing so, the bill should take care of transition period; when new governors are elected.

4. Delivery of Governors Address

(7) (1) – specify who and the number of those entitled to accompany the Governor for the address, from the Executive arm of the Government.

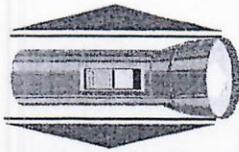
Thank you

Stephen W. Makhanu
Chief Officer – PSM & Administration



CC. CECM – PSM & Admin

Received,
30/11/2022
[Signature]
etc.



② Committee PA & ICT
 Clerk
 Take note of this
 Memorandum
 TORCH AFRICA
 Dec 5 13/12/22

① Jch
 ZARA
 9/12/22

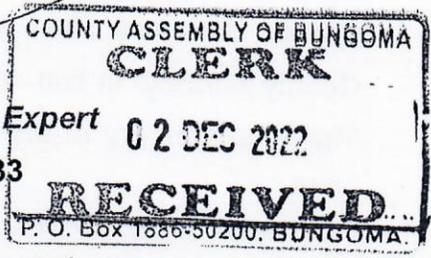
Training for Responsibility & Change

PO BOX 447-50204
 BUNGOMA COUNTY

By Barasa K. Nyukuri, Policy & Governance Expert

TEL: +254- 720 369 518/+254 756 833 333

Email: torchfrica@gmail.com



28th November 2022:

TORCH AFRICA's MEMORANDUM ON THE BUNGOMA COUNTY STATE OF THE COUNTY ADRESS BILL, 2022

THROUGH

THE CLERK OF THE COUNTY ASSEMBLY OF BUNGOMA

TO

THE COUNTY ASSEMBLY FOR PUBLIC ADMINISTRATION & SERVICE:

About Torch Africa:

Torch Africa, is a registered Civil Society Organization based in Bungoma County. It has carried out its programs and activities in Bungoma and its environs since 2008. It specializes in lobbying and advocacy for social accountability, good governance, sound legislation, public policy and quality service delivery and prudent management of public funds and other resources

Introduction and Rationale for the Bill:

This is a very important Bill that is long overdue since the inception of the County Government of Bungoma in 2013. Whereas the County Governments Act, 2012 requires that on or before 30th day of March every calendar year, the County Governor

must give an annual state of the county address at the precincts of the County Assembly of Bungoma pursuant to Section. It is important to note that the former County Governor, **Hon. Wycliffe Wafula Wangamati** failed to give the state of the County Address in two calendar years 2019 and 2020 without any justifiable reasons. This was contrary to the provisions of Section 32(k) of the County Governments Act, 2012.

The date, day and venue of the State of the County Address is an important occasion when the County Governor of Bungoma is expected to provide a report on all measures taken and the progress made in the institutionalization and realization of the National Values and Principles of Governance stipulated in Article 10 of the Constitution of Kenya, 2010 as well as values and Principles of Public Service stipulated in Article 232 of the same Constitution. The Governor's special address must give a report of the implementation status of the county policies and plans pursuant to Section 32 (2) (j) of the County Governments Act, 2012. The State of the County Address should contain a report on the performance of the County Executive Committee and public service based on the performance management plan pursuant to Section 47 (3) of the County Government Act, 2012. It should also provide a scorecard on citizens' participation in the affairs of the county government in line with the directive principle in Section 92(2) of the County Governments Act, 2012.

OBSERVATIONS AND RECOMMENDATIONS FOR IMPROVEMENT:

- ✓ Torch Africa and BCSF hereby confirms that the proposed Bill does not delegate the legislative powers of the County Assembly of Bungoma. It does not limit the constitutional rights and fundamental freedoms stipulated in Chapter 4 of the Constitution of Kenya, 2010. It is in line with the Standing Orders of the County Assembly and the Bungoma Powers and Privileges of the County Assembly Act, 2017.
- ✓ It is our considered opinion that the Bill is not a Money Bill within the meaning of Article 114 of the Constitution of Kenya, 2010 as read together with Section 21 of the County Governments Act, 2012 and its design does not have any financial

implication on the County Assembly and/or County Executive Committee of Bungoma.

Values and Principles Underpinning the Act: This should come below the Interpretation. These may include the following:

- Integrity
- Respect for Human Dignity
- Responsibility and Service to Humanity
- Transparency and Accountability
- Effectiveness and Efficiency
- Discipline and Decorum
- Public Participation

Objects and Purpose of the Act: The purpose of this Act is to provide for effective and meaningful delivery of the Annual State of the County Address by the Governor of Bungoma County at the precincts of the County Assembly of Bungoma.

Recommendation: There is need to have clear bullet points on the objects and Purpose of the Act. These objectives can be summarized as follows:

The **objectives of the Act** are to:

- a) Maintain order, sanity and decorum on that special day and significant occasion in the Annual Calendar of the County Government of Bungoma;
- b) Observe the laid down procedures out in the Standing Order No. 28 of the County Assembly of Bungoma;
- c) Observe protocol and dignity of the County Assembly and County Executive Committee of Bungoma.
- d) To limit and control the number of people, including security officers accompanying the County Governor to both the Plenary of the County Assembly

Recommendation: The Act should spell out the constitutional mandate and functions of the County Assembly. These are; *representation, legislation, oversight and public education* on the state of the county and related affairs.

Recommendation: The Act should have a small section after the Objects and Purpose on the rights and responsibilities of those accompanying the Governor to the County Assembly precincts and plenary hall at the County Assembly. This should be in line with provisions of **Article 118** of the Constitution of Kenya, 2010 on **Access and Participation** of members of the public in the County Assembly.

The Act should provide for publication and publicization of the State of the County Address on the **websites** of the County Assembly and that of the County Executive Committee of Bungoma. The State of the County Address should also be deposited in the offices of the Ward and Sub County Administrators for public review and reference.

Recommendation on Section 10 of the Act: There is need to replace external media with accredited media and rephrase the entire section to acknowledge, reflect and respect the directive principle in **Article 34** of the Constitution of Kenya, 2010 on the Freedom of the Media. The Act should not be seen gagging the constitutional freedom of the media in reporting on the state of the county address by the Governor.

Recommendation: The State of the County Address should be broadcasted live by the County Assembly of Bungoma.

Recommendation: There is need for civic education on the standing orders of the County Assembly of Bungoma.

The Template for the Presentation should be annexed as a Schedule of this Act

Dated 28th November 2022 at Bungoma



**Submitted By Barasa K. Nyukuri,
Executive Director - TORCH AFRICA CSO**