

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY 1ST MARCH, 2023

Afternoon Sitting

3rd County Assembly

2nd Session

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COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

WEDNESDAY MARCH 1ST, 2023

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

PAPERS

1. REPORT BY IMPLEMENTATION COMMITTEE ON THE IMPLEMENTATION STATUS OF THE BUNGOMA COUNTY INDUSTRIALIZATION AND BUNGOMA COUNTY DRILLING RIG POLICIES

Hon. Jacob Psero (*Chairperson, Implementation Committee*): Thank you Mr. Speaker for allowing me this opportunity to table a report from the Committee on Implementation on the Implementation Status of the Bungoma County Industrialization and Bungoma County Drilling Rig Policies.

Mr. Speaker: Honourable Members, the report by Implementation Committee on the Implementation Status of the Bungoma County Industrialization and Bungoma County Drilling Rig Policies is hereby tabled by the Committee and it now becomes the property of the House.

2. MEMORANDUM SUBMITTED BY BUNGOMA COUNTY CHILD RIGHTS NETWORK TO THE COUNTY ASSEMBLY ON HOLISTIC SKILLS DEVELOPMENT IN BUNGOMA COUNTY

Hon. Joseph Nyongesa (*Leader of Majority*): Thank you Mr. Speaker. Allow me table the memorandum submitted by the Bungoma County Child Rights Network to the County Assembly on holistic skills development in Bungoma County.

Mr. Speaker: Honorable Members, a memorandum by Bungoma County Child Rights Network is hereby tabled. I proceed to commit the same to the Committee on Education and Vocational Training for processing and reporting back to the House.

NOTICES OF MOTION
REPORT BY IMPLEMENTATION COMMITTEE ON THE IMPLEMENTATION
STATUS OF THE BUNGOMA COUNTY INDUSTRIALIZATION AND BUNGOMA
COUNTY DRILLING RIG POLICIES

Hon. Jacob Psero (*Chairperson, Implementation Committee*): Thank you Mr. Speaker Sir. I stand to issue a notice of motion that this House adopts a report by the Implementation Committee on the Implementation Status of the Bungoma County Industrialization and Bungoma County Drilling Rig Policies.

Mr. Speaker: A notice of motion having been dully issued by the Committee on Implementation, I hereby direct the Table Clerks to share this report with the Honorable Members. It is going to form business on our Order Paper in the course of the week.

BILLS
THE BUNGOMA COUNTY CULTURAL HERITAGE BILL, 2022

Hon. Jack Kawa (*Chairperson, Gender Committee*): Thank you Hon. Speaker. I move that the Bill be read for the second time.

Mr. Speaker: Honourable Members the Bill be read for the second time.

A Bill of an Act of the County Assembly of Bungoma to promote and protect culture and cultural heritage in the County and for Connected Purpose; Second Reading

Mr. Speaker: Hon. Kawa, are you the one taking care of the Committee of the Whole House?

Hon. Jack Kawa (*Chairperson, Gender Committee*): Yes Sir.

Mr. Speaker: Of course what happens next is that we collapse into the Committee of the Whole House. I will vacate the chair and allow the Deputy Speaker to chair the Committee of the Whole House. We rise up; lower the mace as I vacate the chair.

(Speaker vacates his seat as the House collapses into the Committee of the Whole House to consider the above said Bill)

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): You can be seated Honourable Members.

Welcome Honourable Members to the Committee of the Whole House, we are going to be guided by the Standing Order No. 145 as we transact our business. The Clerks will read clause after Clause, so, let us go to Clause 3.

The Clerks will read the clauses that have proposed amendments.

Clause 10 on determination of article of a cultural nature

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members, I propose the question that clause 10, be part of the Bill.

The question was put that clause 10 be part of the Bill and was agreed to.

Clause 12 on the registration of a cultural article

Clause 13 on establishment of a cultural and creative industry

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members, I propose the question that Clause 12 and Clause 13 be part of the Bill.

The question in respect to Clause 12 and Clause 13 being part of the Bill was put and agreed to

Clause 15 on protection of cultural site

Clause 16 on private cultural sites

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Now Honorable Members, I propose the question that Clause 15 and Clause 16 be part of the Bill.

The question was put that Clause 15 and 16 be part of the Bill and was agreed to.

Clause 18 on notice board at a site

Clause 19 on condition for entry

Clause 20 on register for cultural articles and sites

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I propose the question that Clause 18, Clause 19 and Clause 20 be part of the Bill.

The question in regard to Clauses 18, 19 and 20 being part of the Bill was put and agreed to

Clause 21 on grant of short term custody

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members, I propose the question that Clause 21, be part of the Bill.

(Loud consultations)

Hon. Kawa. Honourable Members let us be orderly. I now propose the question which is that clause 21, be part of the Bill.

Hon. Hentry Nyongesa: Thank you Chair. Bear with my colleagues, but I want to exclude myself that Members look like they don't have anything to refer to. They are just waiting for me that is their concern chair.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Thank Hon. Nyongesa, I think you can check on your emails; it has been sent to your emails, unless your gadget has an issue or is faulty. So let us proceed.

The question with regard to Clause 21 being part of the Bill was put and agreed to

Clause 24; Declarations of national culture articles activity/sites

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members, I now propose the question; that Clause 24, be part of the Bill.

The question with regard to Clause 24 being part of the Bill was put and agreed to

Clause 26 Regulations

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members, I propose the question; that Clause 26 be part of the Bill.

The question with regard to Clause 24 being part of the Bill was put and agreed to

CLAUSE 28 General Penalties

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members I now proposed the question; that Clause 28 be part of the Bill.

The question with regard to Clause 28 being part of the Bill was put and agreed to

Clause 3

Hon. Jack Kawa: Thank you Chair, I move that the Clause 3 be amended by deleting the words “*regulate, protect and promote the following activities and the services of County importance for the interest and enjoyment of the community and persons visiting the county*” immediately after the words “*Act are*” and the paragraph “a and b” be deleted and the words “*cultural sites and cultural activities*” be part of the paragraph so as to read;

3 (a) “*the objects of the Act are to regulate protect and promote the cultural sites and the cultural activities for the interest and enjoyment of the community and persons visiting the County*”

And that sub clauses from “c, d, e, f, g, h, i” be re arranged as “b, c, d, e, f, g “respectively.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Thank you. I now propose the question which is that the clause three, as amended be part of the Bill. I now propose the question which is that clause 3 be amended as proposed.

The question with regard to Clause 3 as amended being part of the Bill was put and agreed to.

Clause 4: Application of the Act

Hon. Jack Kawa: Thank you Chair. I move that Clause 4, Sub Clause 4 (c) be approved with the amendments by inserting the words “or *Acts of Parliament* “immediately after the word “*Constitution*” so as to read, “*vested under the national level of government by virtue of the Constitution or Acts of Parliament*”.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Thank you, Chair. Honorable Members, I now propose the question that Clause 4, as amended be part of the Bill.

The question with regard to Clause 4 as amended being part of the Bill was put and agreed to.

Clause 5: Authorized Officers

Hon. Jack Kawa: Thank you Honorable Chair, I move that the Clause 5 be approved with the amendments by inserting the word, (a) “*in consultation with the County Public Service Board*” after the word “*Member*” and (b) and by deleting the word “*County*” so as to read “*the Executive Committee Member in consultation with the County Public Service Board shall by notice in the gazette appoint such a number of officers with knowledge and experience in culture to be authorized Officers to oversee the activities taking in cultural sites under this Act*”.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Thank you, Chairperson Gender now Honorable Members, I propose the question that Clause five be amended as proposed

(Question proposed)

I now put the question which is that Clause 5 be amended as proposed

The question with regard to Clause 5 as amended being part of the Bill was put and agreed to

Clause 6: Responsibilities of the County Government

Hon. Jack Kawa: Thank you Chair. On Clause 6, I move that sub clause 6 (1) (a) be approved with amendments by inserting the word “*thereto*” immediately after the word “*individual*” so as to read, “*all in trust for the communities in the county and the cultural articles and cultural sites not owned by an individual thereto or organization*” and that Sub

Clause one be amended by deleting the words “*items of*” after the word “*protect*” and inserting therefore the words “*and promote their intellectual property relating to*” so as to read, “*assist community groups and individuals to protect and promote their intellectual property relating to their cultural activity or heritage*” and that paragraph (a) deleted and paragraph(0) and(p) be renumbered respectively, I move chair

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members, I now propose that the question which is that Clause 6 be amended as proposed.
(*Question proposed*)

The question with regard to Clause 6 as amended being part of the Bill was put and agreed to.

Clause 7: Protection of Individuals

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now propose that clause 7 be part of the Bill.

Hon. Jack Kawa: Thank you Chair. I move that the Clause 7 sub clause (a) of the Bill be approved with the amendments by deleting the words, “*shall contain another*’ after the words “*no person*” and substituting it therefore with the words “*is compelled*”. So as to read, “*No person is compelled to perform, observe or undergo any cultural practice or rite*”
I move.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now propose the question which is that Clause 7 be amended as proposed.

The question with regard to Clause 7 as amended being part of the Bill was put and agreed to.

Honourable Members, I propose the question that Clause 7 as amended be part of the Bill.

I now put the question that Clause 7 as amended be part of the Bill.

(Question put and agreed to)

Clause 8 Establishment of Cultural Centres

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members I now propose the question that clause 8 be part of the Bill.

Hon. Jack Kawa : I move that clause 8 (i) of the Bill be approved with amendments by deleting the Words ‘Establishing cultural infrastructure’ after the word ‘shall’ and inserting ‘establish’ so as to read, ‘ that the department shall in consultation with the Kenya Cultural Centre establish at least one cultural Centre project of which are to provide.’

I move the amendment.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now propose the question that Clause 8 be amended as proposed and Put the question that Clause 8 be amended as proposed.

(Question put and agreed to)

I now propose the question that Clause 8 as amended be part of the Bill and put the question that Clause 8 as amended be part of this Bill.

The question with regard to Clause 8 as amended being part of the Bill was put and agreed to.

Clause 9 Establishment of a cultural forum

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now propose a question that Clause 9 be part of the Bill.

Hon. Jack Kawa: Thank you. I move that Clause 9 sub clause (ii) of the Bill be approved with amendments by inserting the words cultural immediately after the word Public, so as, the Public cultural forum shall consist of...

I move the amendment.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now propose the question that Clause 9 be amended as proposed. I now put the question that Clause 9 be amended as proposed.

(Question put and agreed to)

Honourable Members I now propose the question that Clause 9 as amended be part of the Bill and put the question that Clause 9 as amended be part of the Bill.

(The question with regard to Clause 9 as amended being part of the Bill was put and agreed to)

Clause 11 protection of cultural articles

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members I now propose the question that Clause 11 be part of the Bill

Hon. Jack Kawa: I move that head notes in Clause 11 of the Bill be approves with amendments by inserting the words 'activities' immediately after the word 'articles' so as to read;

‘Protection of cultural and activities’; I move the amendments.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members I now propose the question that Clause 11 be amended as proposed and now put the question that Clause 11 be amended as proposed.

(Question put and agreed to)

Honourable Members I therefore propose the question that Clause 11 as amended be part of the Bill.

I now put the question which is that Clause 11 as amended be part of the Bill.

The question with regard to Clause 11 as amended being part of the Bill was put and agreed to

Clause 14, declaration of cultural sites

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members, I now propose that Clause 14 be part of the Bill.

Hon. Jack Kawa: I move that Clause 14(i) of the Bill be approved with amendments by inserting the words 'and members of the 'Community' immediately after the word 'Government' so as to read 'the Executive Committee Member responsible for cultural activities after consultation with the National Government and Members of the Community and after taking into consideration the usage historical significance and other relevant matters relating to a site declare any site to be a cultural site protected under this Act'. I move the amendments.

Hon. Stephen Wamalwa (*Chairperson Committee of the Whole House*): I now propose the question Honourable Members that Clause 14 be amended as proposed and now put the question, that Clause 14 be as proposed.

(Question put and agreed to)

Honourable Members I now propose the question that Clause 14 as amended be part of the Bill.

I now put the question that Clause 14 as amended be part of the Bill.

The question with regard to Clause 14 as amended being part of the Bill was put and agreed to

Clause 17 Mission of Cultural sites

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members I now propose the question that Clause 17 be part of the Bill.

Hon. Jack Kawa: I move that clause 17(i) of the Bill be approved by with amendments by deleting the expression (20) and substituting therefore the expression 14 so as to read; 'the departments shall determine the times, dates and the conditions under which the cultural sites may under 14 if opened to the Public,' and (v) by inserting the words 'cultural site' and a

person ordered to leave immediately after the word 'leave' So as to read; 'where a person in a cultural site commits an offense relating to this part, an authorized officer may ask that person to leave the cultural site and a person ordered to leave must leave the premises by the shortest route available to the Public'. I move.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members, I now propose the question, that Clause 17 be amended as proposed and now put the question that Clause 17 be amended as proposed.

(Question put and agreed to)

Honourable Members, I now propose the question that Clause 17 as amended be part of the Bill and now put the question that Clause 17 as amended be part of the Bill.

The question with regard to Clause 17 as amended being part of the Bill was put and agreed to

Clause 22 Offenses

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members I propose the question, that Clause 22 be part of the Bill.

Hon. Jack Kawa: I move that Clause 22 of the Bill be approved with amendments by deleting the words 'Commits an offense and replacing with 'who' and introducing a new sub clause (i) so as to read, 22(i) A person who, and (ii) be amended by deleting the words 'or any other section under this part' appearing after the words under (i) so as to read; 22(ii) A person who commits an offense under (i) is liable on conviction to a fine not exceeding Ksh. 200,000 or to a term of imprisonment not exceeding 2 years or both and by deleting (iii) in its entirety. I move.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members, I now propose the question that Clause 22 be amended as proposed and now put a question that Clause 22 be as amended.

(Question put and agreed to)

I now propose the question that Clause 22 as amended be part of the Bill and now put the question that Clause 22 as amended be part of the Bill.

The question with regard to Clause 22 as amended being part of the Bill was put and agreed to

Clause 23 Power to issue permits

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honourable Members, I propose the question that Clause 23 be part of the Bill.

Hon. Jack Kawa: I move that Clause 23 be approved with amendments by inserting the words, 'any relevant' after the words 'this act' so as to read; the department may issue permits relating to the management of cultural Centres, sits or institutions and use of protected flora

or fauna of cultural importance in accordance with the provisions of this Act and any relevant national legislation. I move the amendment.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Honorable Members, I now propose the question that Clause 23 be amended as proposed. I now put the question that Clause 23 be amended as proposed.

(Question put and agreed to)

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now put the question honourable members that Clause 23 as amended be part of the Bill.

The question with regard to Clause 23 being part of the Bill was put and agreed to

Clause 25: Rotation from Personal Liability

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now propose the question that clause 25 be part of the Bill.

Hon. Jack Kawa (*Chairperson, committee on Gender*): Thank you Hon. Chair, Clause 25, I hope it will be approved with amendments by deleting the words 'as long as the said Act is in line with the constitution and the public officer's code of conduct' so as to read 'no action or omission by a public officer shall if the Bill was done in good faith for the purpose of carrying out the provisions of this Bill or any other law subject the person to any liability action delaying or demand.' I move the amendment.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Thank you Hon. Kawa, I now propose the question that clause 25 be amended as proposed.

(Question put and agreed to)

I now propose the question that clause 25 as amended be part of the Bill.

The question with regard to Clause 25 being part of the Bill was put and agreed to.

CLAUSE 27: POWER OF ENTRY BY POLICE OFFICER OR AUTHORIZED OFFICER OR AUTHORIZED OFFICER

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): I now put the question Honourable Members that Clause 27 be part of the Bill.

Hon. Jack Kawa (*Chairperson, Committee on gender*): Thank you Hon. Chair, I hope that Clause 27(2) be approved with amendments by deleting the word 'inspector' after the article 'the' and substituting therefore the words 'such an officer' so as to read 'despite subsection, such an officer shall produce a valid identification document before entering any premises'. I move the amendments for Clause 27.

Hon. Stephen Wamalwa (*Chairperson, Committee of the Whole House*): Thank you Hon. Kawa, Honourable Members I now propose the question that Clause 27 be amended as proposed.

(Question put and agreed to)

Honourable Members I now propose the question that clause 27 as amended be part of the Bill.

The question with regard to Clause 27 being part of the Bill was put and agreed to.

CLAUSE 2: INTERPRETATIONS

Hon. Stephen Wamalwa (*Chairperson, Committee of Whole House*): Honourable Members, I now propose the question that Clause 2 be part of the Bill.

Hon. Jack Kawa (*Chairperson, Committee on Gender*): Thank you Chair, I move that Clause 2 of the Bill be amended by deleting the interpretation of the word vehicle in its entirety.

Hon. Stephen Wamalwa (*Chairperson, Committee of Whole House*): Thank you Hon. Kawa, I now propose the question Honourable Members that Clause 2 be amended as proposed

(Question put and agreed to)

Honourable Members, I now propose the question that Clause 2 as amended be part of the Bill.

The question with regard to Clause 2 being part of the Bill was put and agreed to

CLAUSE: 1 SHORT TITLE

Hon. Stephen Wamalwa (*Chairperson, Committee of Whole House*): Honourable Members, I propose the question that Clause 1 be part of the Bill.

(Question put and agreed to)

Honourable Members, I now call upon the Chairperson, Gender to come and move.

Hon. Jack Kawa (*Chairperson, Committee on Gender*): Thank you Honourable Members of this House, Hon. Chairman, I am under Standing Order No. 145(16) that the Bill as amended be reported to the House.

Hon. Stephen Wamalwa (*Chairperson, Committee of whole House*): Thank you Hon. Kawa, Honourable Members, the Chair has moved that under Standing Order 145(16), that the Bill as amended be reported to the House.

(Question put and agreed to)

(House resumes)

(Speaker in the chair)

Mr. Speaker: Thank you Honourable Chair of the Committee of the Whole House, allow me invite the Chair of the Committee of the Whole House to report back to the Speaker then we proceed.

Hon. Stephen Wamalwa (*Chairperson, Committee of Whole House*): Thank you Hon. Speaker. Pursuant to Standing Order 147, I report that the committee of the Whole House has considered the Bill as follows;

Clause 3: Objects and purpose, approved with amendments

Clause 4: Application of the Act, approved with amendments

Clause 5: Authorized officers, approved with amendments

Clause 6: Responsibilities of the county government, approved with amendments

Clause 7: Protection of individuals, approved with amendments

Clause 8: Establishment of cultural centers, approved with amendments

Clause 9: Establishment of cultural forum, approved with amendments

Clause 10: Determination of a cultural nature, approved without amendments

Clause 11: Protection of cultural articles, approved with amendments

Clause 12: Registration of cultural articles, approved without amendments

Clause 13: Establishments of cultural and creative industries, approved without amendments

Clause 14: Declaration of cultural sites, approved with amendments,

Clause 15: Protection of cultural sites, approved without amendments

Clause 16: Private cultural sites, approved without amendments

Clause 17: Admission of cultural sites, approved with amendments

Clause 18: Notice board at a site, approved without amendments

Clause 19: Conditions of entry, approved without amendments

Clause 20: Register of cultural articles and sites, approved without amendments

Clause 21: Grants of short term custody, approved without amendments

Clause 22: Offences, approved with amendments

Clause 23: Power to issue permit, approved with amendments

Clause 24: Declaration of national cultural article activity or site, approved without amendment

Clause 25: Protection from personal liability, approved without amendments

Clause 26: Regulations, approved without amendments

Clause 27: Powers of entry by police officer or authorized officer, approved with amendments

Clause 28: General penalty, approved without amendments

Clause 2: Interpretations, approved with amendments

Clause 1: Short title, approved without amendments.

Thank you Mr. Speaker.

Mr. Speaker: Thank you Hon. Chair. Honourable Members, allow me invite the Chair of the Committee to move the motion accordingly.

Hon. Jack Kawa (*Chairperson, Committee on Gender*): Thank you Hon. Speaker. I am under Standing Order number 148(1), I move that the House does agree with the Committee in the said report

Mr. Speaker: Honourable Members, a motion has been moved that the House does agree with the Committee of the Whole House report as per the Standing Order number 148(1)

(Question put and agreed to)

Honourable members, I was just confirming with my Table Clerks before me here, they confirm that was the last item on our Order Paper. We adjourn for now and resume our sitting tomorrow being a Thursday, 2nd of March, 2023.

(House adjourns)

