

**COUNTY GOVERNMENT OF BUNGOMA**

**COUNTY ASSEMBLY OF BUNGOMA**

**COUNTY ASSEMBLY DEBATES**

**THE DAILY HANSARD**

**TUESDAY, OCTOBER 24<sup>TH</sup>, 2023**

**Afternoon Sitting**

**COUNTY ASSEMBLY OF BUNGOMA**  
**THE HANSARD- OFFICIAL REPORT**  
**TUESDAY 24<sup>TH</sup> OCTOBER, 2023**

The House met at the County Assembly Chamber at 2:30 p.m.  
(The Deputy Speaker [Hon. Stephen Wamalwa] in the Chair)

**PRAYER**

**COMMUNICATION FROM THE CHAIR**

1. RESUMPTION FROM RECESS

I wish to welcome you back after from the short break that was necessary for us to generate as much business as possible; which I am very sure we now have as we converge in this Honourable House.

Our Honourable Speaker is away on official engagement and we pray for his wellbeing wherever he is.

2. ALTERATIONS IN COMMITTEES MEMBERSHIP

I have a communication from the Azimio Coalition in reference to the balancing of County Assembly Committees for its Members. They wish to make the following changes:

- i. Discharge of Hon. Aggrey Mulongo from the Committee on Delegated County Legislation; he has been replaced by Hon. Jeremiah Kuloba.
- ii. Discharge of Hon. Kuloba Jeremiah from The Committee on Implementation where he has been replaced by Hon. Florence Juma.

The changes take effect immediately and this communication is courtesy of the Hon. Vitalis Wangila- the Deputy Minority Whip.

*(Loud consultation)*

With due respect accorded to the senior Member, I will make a repeat of the same but I call upon your attention,

I repeat. The Office of the Speaker is in receipt of communication from the Azimio Coalition and this is in reference to balancing of county Assembly Committees for Azimio Coalition Members.

That the Azimio Coalition wishes to make the following changes:

- i. Discharge of Hon. Aggrey Mulongo from the Committee on Delegated County Legislation where he has been replaced by Hon. Jeremiah Kuloba.
- ii. Discharge of Hon. Kuloba Jeremiah from the Committee on Implementation. He has been replaced by Hon. Florence Juma.

The changes take effect immediately and this is courtesy of the Hon. Vitalis Wangila- the Deputy Minority Whip.

## **MESSAGE**

### 1. MESSAGE FROM HIS EXCELLENCE THE GOVERNOR- HON. KENNETH LUSAKA

To the Clerk, County Assembly of Bungoma,

#### **Notification and submission of name of the person nominated for vetting by the County Assembly for appointment as Member of the Bungoma County Public Service Board**

In exercise of the powers conferred upon me by section 58(a) of the County Governments Act, No. 17 of 2012, I appointed a selection panel for purposes of selecting a suitable person to be appointed as a member of the Bungoma County Public Service Board. The panel undertook its due diligence and submitted its final report to me on 6<sup>th</sup> October, 2023 in compliance with section 58(a)(7) of the Act as read with section 6(1) of the Public Appointments (County Assemblies Approval) Act No. (5) of 2017.

I hereby nominate and forward the name of the person appearing below to the Bungoma County Assembly for vetting and approval to enable subsequent appointment of the named person to the position of Member of the Bungoma Public Service Board.

**Name:** Kikete Mung'au Siambi

**Gender:** Male

**Constituency:** Bumula

**Position:** Member

Thank you in advance as you execute your statutory mandate.

Therefore this will be undertaken by the Committee on Labour so that they can execute the mandate bestowed on them. Thank you Honourable Members

## PAPERS

### 1. REPORT BY THE COMMITTEE ON IMPLEMENTATION ON THE STATUS OF IMPLEMENTATION OF REGULATIONS PASSED BY THIS HOUSE

**Hon. Aggrey Mulongo** (*Chairperson, Committee on Implementation*): Thank you Mr. Speaker, I rise to table a report by the Committee on Implementation on the status of implementation of regulations passed by the House.

*(Paper laid on the Table by Hon. Aggrey Mulongo)*

**Mr. Deputy Speaker:** Thank you Hon. Waliaula. Honourable Members, a report by the committee on Implementation having been laid on the floor of this House is now property of the Assembly.

### 2. REPORT BY THE POWERS AND PRIVILEGES COMMITTEE ON COMPLIANCE WITH WEALTH DECLARATION BY THE HONOURABLE MEMBERS

**Hon. Bridgit Katasi:** Thank you Mr. Speaker Sir. I rise to table the report by the Committee on Powers and Privileges on compliance with wealth declaration by Honourable Members.

*(Paper laid on the table by Hon. Bridgit Katasi)*

**Mr. Deputy Speaker:** Thank you Hon. Lusike Katasi Bridgit. A report by the Committee on Powers and Privileges having been laid on the Table of this House is now property of the Assembly.

### 3. THE BUNGOMA COUNTY BUDGET REVIEW OUTLOOK PAPER; FINANCIAL YEAR 2022/23

**Leader of Majority** (Hon. Joseph Nyongesa): Thank you Speaker, I rise to lay on the Table the Bungoma County Budget Review Outlook Paper; Financial Year 2022/23.

*(Paper laid on the table by Hon. Joseph Nyongesa)*

**Mr. Deputy Speaker:** A report on The Bungoma County Budget Review Outlook Paper; Financial Year 2022/23 having been laid stands committed to the Committee on Budget and Appropriation. All sector committees will be involved in the interrogations.

## NOTICES OF MOTION

### 1. REPORT BY THE COMMITTEE ON IMPLEMENTATION

**Hon. Aggrey Mulongo** (*Chairperson, Committee on Implementation*): Thank you Mr. Speaker. I stand to give a notice of a motion that this House adopts the report by the Committee on Implementation on the status of implementation of regulations passed by the House.

**Mr. Deputy Speaker:** Thank you Hon. Waliaula, you have tried. Members, a notice having been given, I therefore direct that it be shared by the respective officers to all Honourable Members for their perusal, consumption; and it will form part of Business that will be considered by this House.

## 2. REPORT BY THE POWERS AND PRIVILEGES COMMITTEE

**Hon. Bridgit Katasi:** Thank you Mr. Speaker Sir. I rise to give a notice of motion that this House adopts the report by the Committee on Powers and Privileges on compliance with wealth declaration by Honourable Members.

**Mr. Deputy Speaker:** Thank you Hon. Lusike Bridgit. A notice of motion having been issued I therefore direct it be circulated to all Honourable Members for their perusal, consumption; and will form part of business that shall be considered by this Honourable House.

## STATEMENTS

### MEMBER OF THE HOUSE BUSINESS COMMITTEE

**Hon. Jackson Wambulwa:** Thank you Hon. Speaker,

**Mr. Deputy Speaker:** Take your time Hon. Wambulwa. I know these are signs of aging...

**Hon. Jackson Wambulwa:** It is not about aging Hon. Speaker, it is about being prepared in time.

Pursuant to Standing Order No. 44, Business for the week commencing Tuesday 24<sup>th</sup> to Thursday 26<sup>th</sup> October, 2023.

**Tuesday 24th October 2023**

### Papers

1. Report by the Committee on Implementation on the status of implementation of regulations passed by the House
2. Report by the Powers and Privileges Committee on compliance with wealth declaration by Honourable Members
3. The Bungoma County Budget Review Outlook Paper 2022/23

**Mr. Deputy Speaker:** Hon. Jackson, I will request that you just read everything for purposes of the Hansard.

So just go through everything from number one, mention it and you give the ones that have appendices in that order so that the Hansard can capture everything.

**Hon. Jackson Wambulwa:** Okay.

### **Notices of motions**

1. That the House adopts the report by the Committee on Implementation on the status of implementation of regulations passed by the House.
2. That the House adopts the report by the Powers and Privileges Committee on compliance with wealth declaration by Honourable Members.

### **Questions and Statements**

1. It is notified that pursuant to Standing Order No. 47(2) (a), a Member of the House Business Committee shall inform the House of the weekly Business of the House.

A Member of the House Business Committee pursuant to Standing Order No. 47(2) (a) to present a statement informing the County Assembly of the weekly Business coming before the House from Tuesday 24<sup>th</sup> to Thursday 26<sup>th</sup> October, 2023.

### **Wednesday 25<sup>th</sup> October, 2023**

#### **Motions**

1. Report by the sectoral Committee on Tourism, Environment, Water and Natural resources on the status of garbage collection and management in the County.

That this House adopts the report by the sectoral Committee on Tourism, Environment, Water and Natural Resources on the status of garbage collection and management in the County

*Laid on the Table of the House on 20<sup>th</sup> September, 2023*

#### **Bill**

The Bungoma County Outdoor Advertising and Signage Control and Regulations Bill, 2023

A Bill for an Act of the County Assembly of Bungoma to provide for the regulation of outdoor advertisement and signage within Bungoma County and for connected purposes.

#### **Committee of the whole House**

On the Bungoma County Outdoor Advertising and Signage Control and Regulations Bill, 2023

A notice is given that the Chairperson, sectoral Committee on Lands, Physical Planning and Housing intends to move the following amendments to the Bungoma County Outdoor Advertising and Signage Control and Regulations Bill, 2023 at the committee stage;

**Wednesday 25<sup>th</sup> October 2023 at 2:30 p.m**

**Papers**

1. Report by the sectoral Committee on Trade, Energy and Industrialization on the status of street lighting in Bungoma County by the chairperson.
2. County Government of Bungoma receiver of revenue annual financial statements and reports for the period ended 30<sup>th</sup> June, 2023.

**Notices of motion**

That this House adopts the report by the sectoral Committee on Trade, Energy and Industrialization on the status of street lighting in Bungoma County by the chairperson

**Questions and statements**

It is notified pursuant to Standing Order No. 49; the following members will ask questions for reply before the House;

Do I read the statement Speaker?

**Mr. Deputy Speaker:** Not the statement, maybe the member who will be asking the question.

**Hon. Jackson Wambulwa:** Thank you.

1. A question by the Member of Township, Hon. Jeremiah Kuloba seeking a response from the chairperson Lands, Urban, Physical Planning and Housing.
2. A response by the chairperson sectoral committee on Roads, Transport, Infrastructure and Public Works
3. Chairperson sectoral committee on Agriculture, Fisheries and Irrigation Development, this will be a response.

**Thursday 26<sup>th</sup> October, 2023 at 2:30 p.m**

**Papers**

A report by the Public Accounts and Investments Committee on the Bungoma County Youth and Women empowerment Fund for the period ended 30<sup>th</sup> June, 2021 by the chairperson

**Notices of Motion**

That this House adopts a report by the Public Accounts and Investments Committee on the Bungoma County Youth and Women Empowerment Fund for the period ended 30<sup>th</sup> June.

## **Motion**

That this House adopts a motion by the Public Accounts and Investments Committee on the Auditor General's report on financial statement on Bungoma County Youth and Women Empowerment Fund for the period ended 30<sup>th</sup> June, 2019.

That this House adopts a report by the Public Accounts and Investments Committee on the Auditor General's report on financial statements of Bungoma County Youth and Women Empowerment Fund for the period ended 30<sup>th</sup> June, 2019; laid on the Table of the House on 3<sup>rd</sup> October, 2023.

## **Bills**

The Bungoma County Weights and Measures Bill,

A Bill for an Act of County Assembly of Bungoma to establish a legal framework to develop structures of operation to develop a mechanism for the imposition of certain fees and charges for weights and measures for related activities and for related purposes; by the chairperson sector Committee on Trade

## **Committee of the Whole House**

Bungoma County Weights and Measures Bill, 2023

Having reached there, I think I am done. It is unfortunate that I was not prepared on time but it is good I have gone through as it is required.

**Mr. Deputy Speaker:** Thank you Hon. Jackson, don't worry, signs of aging come, all of us go through that; you have done it very well. Now Hon. Jackson can you now table it, bring it here... just finish the work you started.

Thank you Honourable Members, this is now the tentative programme for the week commencing today which is 24<sup>th</sup> to Thursday 26<sup>th</sup> October, 2023 which we have to acquaint ourselves with; so that we are prepared as we look forward to transacting Business before the House.

## **MOTIONS**

1. REPORT ON THE BUNGOMA COUNTY OUTDOOR ADVERTISING AND SIGNAGE CONTROL AND REGULATIONS BILL, 2023

**Hon. Francis Chemion** (*Chairperson, Committee on Lands, Urban and Physical Planning, Housing and Municipalities*): Thank you Hon. Speaker. I rise to move a motion on report by the Committee on Lands, Urban and Physical Planning and Housing on the Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023.



We are moving this report for noting purposes.

Chapter one; we have the establishment and mandate of the Committee which is well known by the House; maybe I go to Committee Membership

**Mr. Speaker Sir,**

The Committee on Lands, Urban Physical Planning, and Housing as currently constituted comprises the following members:-

1. Hon. Francis	Chemion	Chairperson
2. Hon. Linda	Kharakha	Vice-chairperson
3. Hon. Ali	Machani	Member
4. Hon. James	Mukhongo	Member
5. Hon. Henry	Nyongesa	Member
6. Hon. Metrine	Nangalama	Member
7. Hon. Busolo	Sudi	Member
8. Hon. Eunice	Kirui	Member
9. Hon. Johnston	Ipara	Member
10. Hon. Wafula	Waiti	Member
11. Hon. Edwin	Opwora	Member
12. Hon. Everlyne	Anyango	Member
13. Hon. Cornelius	Makhanu	Member
14. Hon. Mildred	Barasa	Member
15. Hon. Jeremiah	Kuloba	Member

### **Acknowledgement**

The Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly for the logistical support accorded to it during the report writing as it executed its mandate.

I wish to express my appreciation to the Honorable Members of the Committee for dedicating their time to sit and examine the Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023.

My sincere gratitude also goes to the members of the Secretariat for their technical advice and dedication towards compiling this report.

It is therefore my pleasant duty and privilege, and on behalf of the Committee on Lands, Urban Physical Planning, Housing and Municipalities to table this report on **The Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023** to this Assembly for deliberation and adoption. Signed by the chairperson Lands Committee.

## **CHAPTER TWO**

### **Background**

Mr. Speaker Sir.

The first reading of Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023(Bungoma County Bill No. 5), sponsored by Hon. Francis Chemion and published on 11<sup>th</sup> April, 2023 was on 27<sup>th</sup> of May 2023 pursuant to Standing Order No. 139 of the Bungoma County Assembly Standing Orders.

The Bill was committed to the Committee on Lands, Urban, Physical Planning and Housing for consideration and facilitation of public participation in accordance with Standing Order 140 of the Bungoma County Assembly Standing Orders read together with the provisions of Article 196 of the Constitution of Kenya, 2010.

The Committee did consider the Bill and the views from the public and has come up with amendments which will be moved during the Committee of the Whole House.

### **Purpose and Objective of the Bill**

The Constitution of Kenya, 2010 mandates and empowers the County Governments to deal with outdoor advertisements. Over the years, there has been need to enact a legislation that regulates outdoor advertisement and signage within Bungoma County and align it with the current planning laws.

The principle objective of the Bill therefore, is to establish a legal framework to regulate outdoor advertising and signage control, and in particular to:

- (a) provide for regularisation of applications and approvals on advertising signs in the county;
- (b) provide for requirements, exemptions and prohibitions for advertising signs;
- (c) make provisions for specific advertising signs for example signs suspended under verandas or canopies, signs on verandas or canopies over public street, project signs, pylon signs for on-premise advertising etc.

### **Overview of the Bill**

Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023 has six parts with at least 41 Clauses. Apart from the principle objective of the Bill which is to establish a legal framework to regulate outdoor advertising and signage control.

PART I of the Bill contains preliminary provisions.

PART II provides for approvals and applications for advertising signs. The procedure for an application for approval and the necessities when submitting the said application is provided for

under this part. This part also stipulates the factors that the Director shall consider when a person makes an application for approval of an advertising sign.

PART III makes provision for the requirements for advertising signs within the county for example the owner of an advertising sign shall ensure that the sign does not constitute a danger to any person or property. This part also provide for advertising signs that shall be prohibited within the county.

PART IV provides for specific advertising signs for example pylon signs for on-premises advertising and projecting signs.

More so, PART V makes provision for posters erected within the county and the procedure for approval of such posters. It also outlines the necessary requirements for any poster relating to elections or voter registration within the county.

Lastly, PART VI provides for the miscellaneous matters including provisions on how inspections of the signs shall be carried out. It further provides for the offences committed under the legislation and the penalties.

In a nutshell, the Bill complies with the following fundamental principles of enacting a law:-

1. The Bill does not infringe on the fundamental rights and freedoms enshrined under chapter four of the constitution, but it delegates the legislative authority to the County Executive Committee Member under Clause 41 to make Regulations for the better carrying into effect the provisions of the ultimate Act.
2. The Bill conforms to the Constitution and the relevant applicable laws.
3. The implementation of the Bill shall occasion additional expenditure on public funds which shall be provided for in the annual estimates.
4. The Bill makes provision for fees and charges in respect to services, licenses, permits and facilities.
5. As mentioned elsewhere in this report, outdoor advertising is a devolved function under paragraph three, part two of the Fourth schedule to the Constitution; thus the legislative proposal concerns County Governments.
6. However, the legislative proposal does not provide for objects and purpose of the Bill.

### **Legal Framework**

Article 185 of the Constitution of Kenya, 2010 provides that;

- a) The legislative authority of a county is vested in, and exercised by its County Assembly.

- b) A County Assembly may make any laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the fourth schedule.

Paragraph (3) of part 2 (County Governments) of the Fourth Schedule to the Constitution, 2010 states that the functions and powers of the County shall include control of air pollution, noise pollution, other public nuisances and outdoor advertising.

Further, Section 21(1) of the County Governments Act, 2012 is emphatic that, a County Assembly shall exercise its legislative power through Bills passed by the County Assembly and Assented to by the Governor.

Further, the provisions of the said Act on procedure for the exercise of legislative powers are replicated in Part; more particularly Standing Order 128, 132, 135, 139, 140, 155 of Bungoma County Assembly Standing Orders.

## **CHAPTER THREE**

### **3.1 Public Participation**

The Clerk of the County Assembly of Bungoma placed an advert in the Daily Nation Newspaper on 9<sup>th</sup> May, 2023, seeking views from the public on the Bill pursuant to the provisions of Article 196 (1) (b) of the Constitution of Kenya, 2010 as read together with Section 87 of the County Governments Act, 2012; and Standing Order No. 140 of the Bungoma County Assembly Standing Orders. The Members of the Public were asked to submit their written submissions to the office of the Clerk or a soft copy of their submission through the County Assembly official mail. By the deadline for submission of memorandums on the 17<sup>th</sup> May, 2023, the Committee had received one memorandum dated 16<sup>th</sup> May, 2023 from the Bungoma Hoteliers Association (BUHA), which is incorporated in this report. In the memorandum, the stakeholders raised the following proposals-

- a) Allow any organization that has paid a single permit license to put up their signage;
- b) Control outdoor advertisement billboards and signage near road junctions so that motorists can get a clear view;
- c) Charge those that are used for commercial advertisement agency higher than the normal ones; and
- d) All billboards and signage must have responsible messages and pictures that have no adverse effects to our children.

In considering the stakeholder proposals submitted by the said group, the Committee resolved as follows;

- i. In agreeing with the proposals under paragraphs (a) and (c) above, the Committee opined that the same would best be addressed through the provisions of Regulations as provided for under clause 41 of the Bill.
- ii. In relation to the proposals raised under paragraphs (b) and (d) of the stakeholders' memoranda, the Committee was of the view that the issues raised have been adequately provided for under clauses 6(1) (b) (ii) and 29 (6) (b), (g) (iii) and (h) of the Bill respectively.

## CHAPTER FOUR

### 4.1 Consideration of the Bill by the Committee

The Committee considered the Bill and in the spirit of Article 196 of the Constitution of Kenya, 2010, agreed to the majority of the clauses in the Bill and came up with amendments to some clauses as outlined in the table below;

CLAUSE	ITEM	PROPOSED AMENDMENTS	JUSTIFICATION
<b>1- Short title and commencement</b>		Be amended by deleting the words, “and Regulation” in their entirety.	Necessitated by the need to cure unnecessary ambiguities.
<b>Clause -2</b>	Interpretation		Agreed to
<b>Clause- 2A</b>		Be amended- <b>(i)by inserting a new clause named(3) on objects and purpose of the Act:</b>	<b>i. to provide for the objective and purpose for the enactment of the legislation; and also to-</b>  <b>ii. provide for the correct numbering occasioned by the</b>

		<p>“The object and purpose of the Bill is to regulate outdoor advertising and signage control, and in particular, to-</p> <p>(a) provide for regularization of applications and approvals on advertising signs in the county;</p> <p>(b) provide for requirements, exemptions and prohibitions for advertising signs;</p> <p>(c) make provisions for specific advertising signs for example signs suspended under verandas or canopies, signs on verandas or canopies over public street, project signs, pylon signs for on-premise advertising etc.</p> <p><b>(ii) that the subsequent clauses be re-numbered 4 onwards</b></p>	<b>insertion of a new clause (3)</b>
<b>Clause-3</b>	Application of and responsibility for complying with this Act		Agreed to as amended in Clause 2

<b>Clause-4</b>	Functions of the Department	Clause 4(i) be amended by deleting letter "b" immediately after the word visual	The amendment seeks to cure a grammatical error
<b>Clause – 5</b>	Approval of Advertising signs		Agreed to
<b>Clause-6</b>	Consideration of applications		A greed to
<b>Clause-7</b>	Withdrawal and amendment of approvals		Agreed to
<b>Clause-8</b>	General requirements, Exemptions and Prohibitions		Agreed to
<b>Clause-9</b>	Power cables and conduits to signs	Clause 9(2) be amended by deleting the word "to" appearing immediately after the word presented.	Amendment necessary to correct a grammatical error
<b>Clause-10</b>	Exempt advertising signs and advertisements		Agreed to
<b>Clause-11</b>	Prohibited signs		Agreed to

<b>Clause-12</b>	Signs suspended under verandas or canopies		Agreed to
<b>Clause-13</b>	Signs on verandas or canopies over public streets		Agreed to
<b>Clause-14</b>	Projecting signs		Agreed to
<b>Clause-15</b>	Pylon signs for on-premises advertising		Agreed to
<b>Clause-16</b>	Advertising signs placed flat on buildings and on bridges		Agreed to
<b>Clause-17</b>	Signs relating to the development of properties	Clause 17(1) be amended by deleting” 11” appearing after the word section and replacing it with “10”	Clause 11(2) does not exist, rather, what is being referred to under clause 17(1) falls under clause 10(2),
<b>Clause-18</b>	Requirements for sky signs	clause 18(1) be amended by deleting”10” appearing immediately after the word section and replacing it with “11”	Clause 10(t) being referred to does not exist. The said reference ought to fall under clause 11.



<b>Clause-19</b>	Screens for sky signs	clause 19(1) and 19 (1)(d) respectively be amended by deleting “14” and “14(5)” respectively appearing after the word section and replacing the same with “18” and “18(5)” in that order.	<p>i. <b>there is no relevance between what is being referred to under clause 19(1) and Clause 14 of the bill; and</b></p> <p>ii. <b>What is being referred to under clause 19(1) (d) belongs under clause 18(5) since Clause 14(5) does not exist.</b></p>
<b>Clause-20</b>	Signs on residential buildings, dwelling houses and dwelling units		Agreed to
<b>Clause-21</b>	Sun-blind advertisements		Agreed to
<b>Clause-22</b>	Advertisements on banners, flags and similar objects	clause 22(2) be amended by deleting “4” appearing after the word section and replacing it with “5”	<p>i. <b>Clause “4(2) does not exist;</b></p> <p>ii. <b>What is being referred to ought to fall under clause “5(2)” but not “4(2)” which is non-existent.</b></p>
<b>Clause-23</b>	Advertisements on blimps		Agreed to
<b>Clause-24</b>	Painted advertisements	clause 24(b) be amended by deleting “10” appearing after the word section and replacing it with “11”	What is being referred to under clause 24(b) falls under clause 11(v) since 10(v) does not exist.

<b>Clause-25</b>	Advertising signs relating to selling and letting of property	clause 25(f) be amended by deleting the word “to” appearing immediately after the word period	Amendment necessary to correct a grammatical error
<b>Clause-26</b>	Other temporary advertising signs		Agreed to
<b>Clause-27</b>	Advertisement on construction sites		Agreed to
<b>Clause-28</b>	Transit advertising	<ul style="list-style-type: none"> <li>i. The Committee proposed to amend clause-</li> <li>ii. 28(4) by deleting the word “in” appearing after the word “impounded”;</li> <li>iii. 28(4) by deleting “2” appearing after the word subsection and replacing it with “3”</li> <li>iv. 28(5) by deleting “2” appearing before the word may and replacing it with “3”</li> <li>v. 28(5) by deleting “5” appearing before the word subject and replacing it with “4”</li> <li>vi. 28(6) by deleting “3” appearing before the word destroy and</li> </ul>	occasioned by the need for proper alignment and relevance of various sections of the clause

		replacing it with “5” vii. 28(7) by deleting “4” appearing after the word section and replacing it with”5”.	
<b>Clause-29</b>	Approval of posters	amend section(11) of the clause by deleting “1” appearing after the word subsection and replacing it with “10”	Amendment occasioned by the need for proper alignment, relevance and clarity
<b>Clause-30</b>	Posters relating to election or voter registration	amend clauses- i. <b>30(2) of the Bill by deleting 28 appearing after the word section and replacing it with “29”;</b> ii. <b>30(3) of the Bill by deleting 28 appearing after the word section and replacing it with “29”.</b>	<b>I. Clause “28(6)(a) to (g) does not exist;</b> <b>I. What is being referred to ought to fall under clause “29(6)” but not “28(6)(a) to (g)” which is non-existent</b> <b>II. Similarly, clause 28(8) being referred to under clause 30(3) herein does also exist. The same correctly falls under clause “29(8)”</b>
<b>Clause-31</b>	Maintenance of the signs	clause 31(6) be amended by deleting”1” appearing after the word subsection and replacing it with “5”	need for proper alignment and relevance
<b>Clause-32</b>	Costs of removal and storage		Agreed to
<b>Clause-33</b>	Documentation		Agreed to

<b>Clause-34</b>	Public participation process		Agreed to
<b>Clause-35</b>	Consideration of applications	clause 35(1) be amended by deleting “33” appearing after the word section and replacing it with “34”	Amendment premised on the need for relevance
<b>Clause-36</b>	Termination of approvals of signs	clause 36(3) be amended as follows- <b>i. that the word section appearing before “3” be reframed to read “subsection”</b> <b>ii. that “3” appearing after the word section be deleted</b>	Amendment premised on the following reasons- <b>I. standardization</b> <b>II. What is being referred to ought to fall under clause “36 (2)” but not “3(2) which is non-existent</b>
<b>Clause-37</b>	Service of notices	under clause 37 of the Bill amend- <b>i. sub- clause (c) be amended by deleting it in its entirety and replacing it with the following,” by running a copy of the notice through the electronic media or through a newspaper of nationwide circulation”</b> <b>ii. sub-clause (h) by deleting the words “sixteen” and “managing” appearing after the words” at least and the” respectively and substituting</b>	Amendment justified by the following reasons- <b>I. the fax mode of communication has since become analogue</b> <b>II. a person aged sixteen years is considered a minor under the penal code, the children’s Act, 2022 and the Constitution of Kenya,2010</b> <b>III. The amendment relating to the word” managing” was occasioned by the need for clarity.</b>

		<b>therefore the words” eighteen” and “manager” in that order</b>	
<b>Clause-38</b>	Inspections		Agreed to
<b>Clause-39</b>	Appeals	since the CEC-Members are considered key policy makers on behalf of their respective county departments, the word “department” under this particular clause be deleted in its entirety and replaced with “the County Executive Committee Member”	i. <b>CEC-Members are key policy makers on behalf of their respective departments in the County executive</b>
<b>Clause-40</b>	Offenses and penalties		Agreed to
<b>Clause-41</b>	Regulations		Agreed to

## CHAPTER FIVE

### 5.1 COMMITTEE OBSERVATIONS

- 1) The Bill is long overdue as it seeks to establish a legal framework for the regulation of outdoor advertisement and signage control, and in particular, to;
  - a) provide for regularization of applications and approvals on advertising signs in the county;
  - b) provide for requirements, exemptions and prohibitions for advertising signs;

- c) make provisions for specific advertising signs for example signs suspended under verandas or canopies, signs on verandas or canopies over public street, project signs, pylon signs for on-premise advertising etc.
- 2) The Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023, requires the County Executive Committee Member for Lands, Urban, Physical Planning and Housing under clause 41 to make Regulations for the better carrying into effect the provisions of the Act.
- 3) Other relevant guidelines ought to be made to address the non-substantive issues that have not been adequately captured in the Bill.
- 4) Upon enactment of the ultimate Act, the relevant County department to make budgetary provisions in accordance with the Public Finance Management Act, 2012 to facilitate the operationalization of this legislation.

## 5.2 COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations:

**THAT** the House adopts this report together with the proposed amendments to the Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023

The adoption schedule is there where all the Members of the Committee adopted this report. We have the attachments to the report which I will not read but members to take time and look at them.

Hon. Speaker, I wish to end by inviting a member of Lands Committee to second the noting of the report. I can see Hon. Kuloba here. Can you second the noting?

*(Applause)*

**Hon. Jeremiah Kuloba:** Thank you Hon. Speaker. Having observed and listened carefully to the mover, I am of the opinion that sanity in advertisements has to be put in place. Secondly, when we look at the junctions most signage and advertisements are heaped at the junctions to an extent that road users do not have a clear view of the road. If this is put in place, I am of the opinion that we shall have proper road use.

The same advertisement and signage bill will cause revenue improvement because as of now nothing is being paid when putting up these signage and advertisements...

**Mr. Deputy Speaker:** Hon. Kuloba, are you sure that there is no any payment being done?

**Hon. Jeremiah Kuloba:** Very sure. I stay in town here and I know that there is no enforcement over the same. People wake up in the morning put up anything there and nobody cares about it. Even the law enforcers are not aware that...

**Mr. Deputy Speaker:** Hon. Kuloba with due respect; you know you are on the Floor and on HANSARD. The allegations you are making are serious because that is AIA and payment is normally made. Therefore, when you make that statement on the Floor of the House, it may not just be a statement, you have to substantiate.

**Hon. Jeremiah Kuloba:** Hon. Speaker...

**Mr. Deputy Speaker:** You can withdraw and say that you were not sure.

**Hon. Jeremiah Kuloba:** I don't withdraw.

*(Applause)*

**Mr. Deputy Speaker:** Then you have to substantiate.

**Hon. Jeremiah Kuloba:** Withdrawing and apologizing over the same...

**Mr. Deputy Speaker:** You are not apologizing. You have to be sure that there is AIA in operations of those billboards erected across the county and that is the truth. You are making a serious claim on the Floor of the House and there are officers involved in this. What is it Hon. Ipara?

**Hon. Johnston Ipara:** *(On a point of information)* I wanted to inform the Speaker that the Member on the floor is right. We don't have a regulation governing any advertisement within the county. Even if the enforcement agents make arrests, they will have challenges in prosecuting that matter before court. Therefore, he is right.

*(Applause)*

**Mr. Deputy Speaker:** Well. Hon. Kuloba you are prepared please proceed.

**Hon. Jeremiah Kuloba:** Hon. Speaker, as earlier I was not ready to apologize and retract the same statement because the law is not in place. The law enforcers do not know that these signage and billboards are supposed to be paid for. They don't know that even if you want to have your own road show to advertise...

**Mr. Deputy Speaker:** Let us give Hon. Machani a chance. What information Hon. Machani?

**Hon. Ali Machani:** *(On a point of information)* I wish to inform the House that we should allow to be on record that there is no collection of revenue. What we are transacting on the Floor is to put controls and measures that are within the law. We cannot say that there is no collection of revenue. The chairperson Finance Committee can agree with me that we have some controls that are not seriously being put in place. Currently, money is being collected but we are putting in place measures that will strengthen the collection. We cannot allow on record that money is not being collected. In the Finance Bill, there are collections from signage and advertisement. During campaigns, money is paid for erection of billboards.

**Mr. Deputy Speaker:** Hon. Kuloba, summarize, because some statements that you are putting across are not true. Order Member! Some statements that you are making are not true and when I sit here, I cannot watch as a mistake is being done in the House. Payment is done, even if they make road shows; they have to pay some money. Therefore, I will not allow that we make statements in this House against members of the public who are not here to defend themselves. You have to summarize and be within the parameters of seconding the motion.

**Hon. Jeremiah Kuloba:** Mr. Speaker, let me proceed from there. I meant to improve revenue collection which means there is something tangible that you are trying to enhance.

*(Applause)*

**Mr. Deputy Speaker:** That is agreed, you can proceed and summarize.

**Hon. Jeremiah Kuloba:** Lastly Mr. Speaker, it will control pollutant information that could end up being put anywhere. I second the Bill.

*(Applause)*

*Question proposed*

The House notes the motion before it on the Bungoma County Outdoor Advertising and Signage Control and Regulations Bill, 2023. The same will now proceed to the Second Reading in subsequent sittings of this Assembly.

**2. REPORT ON THE COUNTY REVENUE FUND STATEMENT F/Y 2022-2023 FOR PERIOD ENDED  
DECEMBER 31<sup>ST</sup>, 2022**



**Hon. Catherine Kituyi:** Thank you Mr. Speaker Sir. I rise to move a motion on the report by the Committee on Finance and Economic Planning on the County Revenue Fund Statements FY 2022/2023 for the period ended 31<sup>st</sup> December, 2022. I don't think I have to go through Chapter one.

**Mr. Deputy Speaker:** Hon. Mating' be strong enough and audible.

**Hon. Catherine Kituyi:** I am seeking for your indulgence, I don't have to go through Chapter one.

**Mr. Deputy Speaker:** If you skip any part you need to make reference so that it is captured on HANSARD.

**Hon. Catherine Kituyi:** I will skip the establishment and the functions of the committee. I will also skip the mandate of the committee and go to committee membership.

### 1.3 COMMITTEE MEMBERSHIP

Mr. Speaker Sir, the Committee on Finance and Economic Planning as currently constituted comprises of the following members:-

- |     |                         |             |
|-----|-------------------------|-------------|
| 1.  | Hon. James Mukhongo     | Chairperson |
| 2.  | Hon. Stephen Wamalwa    | Member      |
| 3.  | Hon. Everlyne Mutiembu  | Member      |
| 4.  | Hon. Violet Makhanu     | Member      |
| 5.  | Hon. Jack Kawa          | Member      |
| 6.  | Hon. Vitalis Wangila    | Member      |
| 7.  | Hon. Francis Chemion    | Member      |
| 8.  | Hon. Tony Barasa        | Member      |
| 9.  | Hon. George Makari      | Member      |
| 10. | Hon. Aggrey Mulongo     | Member      |
| 11. | Hon. Godfrey Wanyama    | Member      |
| 12. | Hon. Everton Nganga     | Member      |
| 13. | Hon. Christine Mukhongo | Member      |
| 14. | Hon. Catherine Kituyi   | Member      |

### 1.4 LEGAL FRAMEWORK

1.3 Guiding principles in the Examination of the Bungoma County Revenue Fund statements F/Y 2022/2023 for the period ended December 31<sup>st</sup>, 2022

In the execution of its mandate, the Committee on Finance and Economic Planning is given a legal backing under the Constitution of Kenya, 2010, Public Finance Management Act, 2012 and County Governments Act, 2012. These statutory provisions include the following:

### **1. Constitutional Principles on Public Finance**

Article 185 of the Constitution of Kenya, 2010 provides for the legislative authority of the County Assembly wherein states;

185. (1) the legislative authority of a county is vested in, and exercised by, its county assembly.  
(2) A county assembly may make any laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

(3) A County Assembly, while respecting the principle of the separation of powers, may exercise oversight over the County Executive Committee and any other county executive organs.

(4) A County Assembly may receive and approve plans and policies for—

2. The management and exploitation of the county's resources; and
3. The development and management of its infrastructure

### **2. Power for the county to collect taxes**

Article 209(4) and (5) provides that the National and County Government may impose charges for the services. The taxation of other revenue raising powers of a county shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or national mobility of goods, services capital or labour.

In addition Article 210(1) of the Constitution on imposition of tax states that no tax or licensing fee may be imposed, waived or varied except as provided by legislation.

There is established, for each county a County Revenue Fund in accordance with Article 207 of the Constitution.

(2) The County Treasury for each county government shall ensure that all money raised or received by or on behalf of the county government is paid into the County Revenue Fund, except money that—

(a) Is excluded from payment into that Fund because of a provision of this Act or another Act of Parliament, and is payable into another county public fund established for a specific purpose;

(b) may, in accordance with other legislation, this Act or County legislation, be retained by the county government entity which received it for the purposes of defraying its expenses; or

(c) Is reasonably excluded by an Act of Parliament as provided in Article 207 of the Constitution.

(3) The County Treasury shall administer the County Revenue Fund and ensure that the county government complies with the provisions of Article 207 of the Constitution.

(4) The County Treasury shall—

(a) arrange for the County Revenue Fund to be kept in the Central Bank of Kenya or a bank approved by the County Executive Committee Member responsible for Finance and shall be kept in an account to be known as the "County Exchequer Account; and

(b) Ensure that all money authorized to be paid by the county government or any of its entities for a public purpose is paid from that account without undue delay.

(5) The County Treasury shall ensure that at no time is the County Exchequer Account overdrawn.

(6) The County Treasury shall obtain the written approval of the Controller of Budget before withdrawing money from the County Revenue Fund under the authority of—

(a) An Act of the County Assembly that appropriates money for a public purpose;

(b) An Act of Parliament or county legislation that imposes a charge on that Fund; or

(c) This Act in accordance with sections 134 and 135.

(7) The approval of the Controller of Budget to withdraw money from the County Revenue Fund, together with written instructions from the County Treasury requesting for the withdrawal, is sufficient authority for the approved bank where the County Exchequer Account is held to pay amounts from this account in accordance with the approval and the instructions.

(8) Any unutilized balances in the County Revenue Fund shall not lapse at the end of the financial year but shall be retained for the purposes for which it was established.

(9) Financial reports shall be submitted to the Commission on Revenue Allocation with a copy to the Controller of Budget of the County Government

### **3. Direct Personal Liability**

Article 226(5) of the Constitution of Kenya, 2010 is emphatic that “If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”.

### **4. Obligations of Accounting Officers**

Section 166 Public Finance Management Act, 2012 states as follows;

1. An Accounting Officer for a county government entity shall prepare a report for each quarter of the financial year in respect of the entity.

2. In preparing a quarterly report for a county government entity, the Accounting Officer

Shall ensure that the report—

(a) contains information on the financial and nonfinancial performance of the entity; and

(b) is in a form determined by the Accounting Standards Board.

1. *Not later, than fifteen days after the end of each quarter, the Accounting Officer shall submit the quarterly report to the County Treasury.*

2. *Not later than one month after the end of each quarter, the County Treasury shall—*  
*(a) consolidate the quarterly reports and submit them to the county assembly;*  
*(b) deliver copies to the Controller of Budget, National Treasury and the Commission on Revenue Allocation; and*

*(c) Publish and publicize them.*

### **Establishment, Powers and role of the County Treasury**

Section 103 (1) of Public Finance Management Act establishes for each county government, an entity to be known as County Treasury which comprises-

a) The County Executive Committee Member for Finance;

(b) The Chief Officer; and

(c) The department or departments of the County Treasury responsible for financial and fiscal matters.

(3)The County Executive Committee Member for Finance shall be the head of the County Treasury.

Section 104(1) of the PFM Act 2012 Subject to the Constitution, a County Treasury shall monitor, evaluate and oversee the management of public finances and economic affairs of the county government including—

(a) Developing and implementing financial and economic policies in the county;

- (b) Preparing the annual budget for the county and coordinating the preparation of estimates of revenue and expenditure of the county government;
- (c) Co-coordinating the implementation of the budget of the county government;
- (d) Mobilizing resources for funding the budgetary requirements of the county government and putting in place mechanisms to raise revenue and resources;

Section 109 (1) of PFM Act, there is established, for each county a County Revenue Fund in accordance with Article 207 of the Constitution.

- (2) The County Treasury for each county government shall ensure that all money raised or received by or on behalf of the county government is paid into the County Revenue Fund, except money that—
  - (a) is excluded from payment into that Fund because of a provision of this Act or another Act of Parliament, and is payable into another county public fund established for a specific purpose;
  - (b) may, in accordance with other legislation, this Act or County legislation, be retained by the county government entity which received it for the purposes of defraying its expenses; or

Section 158 (1) of PFM Act 2012, receiver of revenue for a County Government may authorize any public officer employed by that County Government or any of its entities to be a collector of revenue for the purpose of collecting revenue for that county government and remitting it to the receiver.

- (2) Any other public officer, other than a receiver of revenue or collector of revenue for a county government, who collects revenue for that Government shall, not later than three days after receiving it, deliver the revenue to a receiver or collector of revenue for that County Government.
- (3) A receiver of revenue' for a County Government shall provide quarterly statements to the County Treasury with copies to the National Treasury and the Commission on Revenue Allocation.

Section 165 (1) of PFM Act 2012 at the end of each Financial Year, a receiver of revenue for a county government shall prepare an account in respect of the revenue collected, received and recovered by the receiver during that financial year.

- (2) The account under subsection (1) shall include—
  - (a) A statement of receipts and disbursement in a form prescribed by the Accounting Standards Board from time to time; and

- (b) A statement of arrears of revenue.
- (3) Not later than three months after the end of the financial year, the receiver of revenue- for the county government shall—
  - (a) Submit the accounts to the Auditor-General; and
  - (b) Deliver a copy to the National Treasury, the Controller of Budget, County Treasury, and the Commission on Revenue Allocation.
- (4) Not later than two months after the end of each financial year, a receiver of revenue shall submit to a County Assembly a report with respect to all waivers and variations of taxes, fees or charges granted by the receiver during that year.
- (5) The receiver shall include in the report the following details in respect of each waiver or variation-
  - (a) The full name of each person benefiting from the waiver or variation;
  - (b) The amount of tax, fee or charge affected by the waiver or variation;
  - (c) The year to which the waiver or variation relates;
  - (d) The reasons for waiver or variation; and
  - (e) The legislation in terms of which the waiver was authorized

**Mr. Speaker Sir**, Section 132(2) of the PFM Act, 2012 provides as follows:

*“The County Executive Committee Member for Finance shall, on the same date that the revenue raising measures are pronounced, submit to the County Assembly the County Finance Bill, setting out the revenue raising measures for the County Government, together with a policy statement expounding on those measures.”*

#### **ACKNOWLEDGMENT**

On behalf of my Chair, I take this opportunity to express my gratitude and sincere thanks to the Members of the Committee for dedicating their time to sit and examine the County Revenue Fund statements FY 2022/2023 for the period ended December 31<sup>st</sup>, 2022.

The Committee would also like to register appreciation to the members of the secretariat who worked with us for their unwavering commitment.

Lastly, the Committee is grateful to the offices of Honorable Speaker and the Clerk of the County Assembly of Bungoma for the support received as it discharged its mandate of reviewing the Bill.

It is therefore my singular duty, on behalf of the Committee of Finance and Economic Planning, to table this report and recommend it to the County Assembly for consideration and adoption.

Signed by the Chair- Hon. James Barasa Mukhongo, MCA Chwele/Kabuchai Ward and Chairperson, Committee on Finance and Economic Planning

## CHAPTER TWO

### Examination of the Bungoma County Revenue Fund statements FY 2022/2023 for the period ended December 31<sup>st</sup>, 2022.

During the 2022/2023 financial year, the County budgeted to receive Kshs13, 473,821,282 as exchequer release from the National Government. In the period under review, the County received total revenue of Kshs3, 517,613,613 which represents 26 per cent of the budget amount with a comparative receipt of Kshs4, 423,665,603 in the FY 2021/2022.

The source of the amount is as shown here below;

Do I read?

**Mr. Deputy Speaker:** Yes, proceed! Hon. Catherine, for HANSARD purposes, some figures should be captured. Don't mind the signs from Hon. Mukhongo

**Hon. Catherine Kitui:** The table has two columns

	Period ended December, 2022 (Kshs)	Comparative period December, 2021
Receipts		
Exchequer releases	3,517,613,613	4,423,665,603
Transfers from other Government agencies	-	2,500,000
Own source revenue	94,655,764	105,219,461
Return to CRF Issues	1,111,963	1,836,702
<b>Total receipts</b>	<b>3,613,381,340</b>	<b>4,533,221,766</b>

<b>Payments</b>		
Transfer to County Executive	3,607,552,955	3,982,732,960
Transfer to county Assembly	466,401,594	353,442,512
Other transfers	-	-
<b>Total Payments</b>	<b>4,073,954,549</b>	<b>4,336,175,472</b>
Net increase (decrease ) in cash for the year	<b>(460,573,209)</b>	<b>197,046,294</b>
Add opening balance b/f	867,288,525	230,677,452
Closing fund balance for the period	406,715,315	427,723,746

**Mr. Speaker Sir**, own sources Revenue comprises of Local revenues and Appropriation in Aid (AIA).

The county budgeted to receive Kshs1, 347,382,860 representing 10 per cent of total budget. Actual amount of money received in the county revenue fund as at 31<sup>st</sup> December, 2022 from local revenue sources was Kshs94, 655,764. This report indicates that no money had been received from Appropriation in Aid facilities; however Kshs105, 219,461 was received during same period in financial year 2021/2022. Revenue collected in the period is only 18 per cent of target (Kshs500m) as at half year and just 7 per cent of total target of own source revenue of Kshs1, 347,382,860. The source of the money as per revenue streams is as follows:

Description	Period ended December, 2022	Comparative period 2021
Cess	28,884,695	13,502,276
Land /Poll rate	3,529,247	1,076,122
Single /Business permits	3,648,405	31,869,898
Property rent	5,430,168	8,212,025
Parking fees	29,659,670	22,292,143
Market fees	11,549,222	20,094,770



Advertising fees	1,934,714	4,110,295
Public Health service fees	1,207,124	1,452,745
Physical planning and development	2,887,518	0
Administration control fees and charges	743,697	1,878,283
Miscellaneous	5,181,304	730,904
<b>Total</b>	<b>94,655,764</b>	<b>105,219,461</b>

### Transfers to County Executive from County Revenue fund

	Period ended December, 2022	Comparative period, 2021
	Kshs.	Kshs.
Recurrent Account	3,536,936,595	3,387,637,319
Development Account	70,184,715	592,595,641
Special purpose Account	431,645	2,500,000
<b>Total</b>	<b>3,607,552,955</b>	<b>3,982,732,960</b>

Mr. Speaker Sir, out of the Kshs3,607,552,955 transferred from the County Revenue Fund to the executive in the period under review, Kshs3,536,936,595 relates to recurrent expenditure and Kshs70,184,715 relates to development.

On the other hand, the County Assembly received Kshs466, 401,594, from CRF, where Kshs441, 401,594 relates to recurrent expenditure while Kshs25M relates to development expenditure.

## Chapter Three

### Committee Observations

The Committee made the following observations:

1. In the half year County Revenue Fund statement FY 2022/2023 for period ended December 31<sup>st</sup>, 2022, the Department reported the local revenue collected as Kshs94, 655,764, while in the County Fiscal Strategy Paper for same period indicated the county received Kshs134, 842,273.
2. In the half year County Revenue Fund statement FY 2022/2023 for period ended December 31<sup>st</sup>, 2022, the Department reported that there was no collection in terms of

AIA, while in the County Fiscal Strategy Paper for same period, it is indicated the county received Kshs297, 000,539.

3. The county Government acquired an integrated Revenue management system (BARMS) in 2016/2017, over time, the system has gone through continuous enhancements with an aim of optimizing revenue collection as well as to :
  - i. Monitor revenue collection from different sources on real time basis.
  - ii. Minimize cash handling by the revenue collectors.
  - iii. Enhance efficiency, integrity, accountability and transparency.
  - iv. Ensure accurate and timely reporting for well-informed operational decisionsYet revenue collection has remained low and cash is still largely being handled by staff leading to pilferage.
4. Most revenue streams are performing dismally for instance Single Business Permit dropped from Kshs31.8M in Financial Year 2021 /2022 to 3.6M in the period under review. Market fees dropped from Kshs20M to Kshs.11.5M.
5. On transfers from other government agencies ,the Committee noted that the report has only indicated Agricultural sector Development support programme II Kshs2.5M; no mention has been made of other agencies
6. The poor state of auction rings, sanitation facilities, Slaughter houses on the major markets and deplorable condition of County houses (Chwele, Kimilili, Kamkuywa, Misikhu, Webuye and Mbakalo) has adversely affected the collection of revenue.
7. The Department still has eight six (86) revenue casuals who have not received a salary for the last thirty-five (35) months. They however still collect revenue. The matter remains un- concluded by the County Public Service Board.

## COMMITTEE RECOMMENDATIONS

The committee recommends the following:

1. The Committee directs the Department to reconcile own source revenue reported in the County Fiscal Strategy Paper, 2023 and Bungoma County Revenue Fund statements F/Y 2022/2023 for the period ended December 31<sup>st</sup>, 2022 and provide accurate information within 30 days from adoption of this report.
2. The Committee hereby recommends the Department to carry out an audit of the revenue Automation system currently in use to ascertain its effectiveness and efficiency of the system in revenue collection. This report should be submitted to the County Assembly within 60 days from the adoption of the report.

3. The Internal Audit Directorate should conduct an audit on all revenue streams that registered abnormal drop and collection of AIA and furnish the County Assembly with a report within 60 days from adoption of this report. In addition, the Directorate of Revenue should set targets for receivers of revenue and follow up on collection monthly to address any drop in good time. The Department of Finance and Economic Planning should effectively use revenue collection officers with the support of enforcement officers to tap on all the existing revenue streams in the County.
4. The Department is hereby directed to submit a comprehensive report on transfers from all other development partners within 60days from the date preceding the adoption of this report.
5. The County Executive should set aside funds to provide the necessary infrastructure required on all markets within the county e.g. auction rings and sanitation facilities
6. The department should liaise with the County Public Service Board with a view to confirm the 86 casuals who are revenue collectors and have demonstrated commitment, integrity and achieved targets and allocate money for wages on the supplementary to pay 35 months arrears that is owed to them.
7. The Directorate of Revenue within the Finance and Economic Planning department should be fully in charge of all the revenue streams including Appropriation In Aid (AIA) in all the departments of the County Government of Bungoma.

#### ADOPTION SCHEDULE

We, the undersigned members affix our signatures adopting this report with the contents there in. All members signed the report. That's the discipline of the Finance Committee. We have all the annexures. Therefore, Mr. Speaker Sir, I will call upon my elder brother Hon. Chemion to second the report.

*(Applause)*

**Mr. Deputy Speaker:** Thank you so much Hon. Matin'g for the eloquence in moving the report. It is now time for Hon. Masai Chemion to second.

**Hon. Francis Chemion:** Thank you Hon. Speaker. I am very sure members have noted very many things that the Committee noted. These are serious reports that come to the House and when they come like this, this is the time for members to scrutinize such reports and make their input; because it is a report on what we have received that is called County Revenue Fund.

It is a statement and you know it is out of the revenue that we perform our duties as a County Government. It is a very critical document for the House. I just wish to mention a few areas as I second this report;

There is a recommendation number two that the Executive should audit the automation system that we have so that this system...you know we have been putting money to upgrade in the budget. They should now audit it so that we get to know whether that system is as effective as we think.

Having the system is one thing and checking its effectiveness is another thing. We have recommended as a Committee that the Executive checks the automation system that we currently have and we pay a lot of money around Kshs49, 000,000 in a year. We need to check whether it is effective or not.

Secondly, we have the Internal Audit Directorate of the Finance Department. That team must also up their game. We should not depend on the external audit alone. They should audit all revenue streams especially those ones which are registering a drop. If you see from that report there are revenue streams that are registering a drop. They are having negatives in comparative periods; and so the internal audit should also push to ensure that they audit all the revenue streams that are registering a drop.

We the have the Directorate of Revenue in the same Department; if we do not collect enough money, then most of the projects that we proposed will not get implemented. The Directorate of Revenue has been asked to set targets to the revenue receivers and make a follow up to ensure that they meet the targets.

For any achievement, you must set a target; so the revenue receivers must set a target and ensure that they achieve a target or give reasons why they would not have achieved the target.

The revenue collectors you have heard from our report that we have casuals who have not been paid for more than 35 months and they are still on duty. I want to ask; a person who is going to the field to collect money and he has not been paid for 35 months, do you think everything will come to the coffers and what makes them remain in service for all that long and yet they are not being remunerated.

There must be another way they are remunerating themselves maybe... so the County Public Service Board, there is a recommendation there. They must do something for those revenue collectors otherwise they could be putting in their own personal revenue account rather than depositing it in the County Revenue Account; and so the report is very clear on that. They are also talking about the infrastructure in our market centres so that we enhance revenue, building of the auction rings, market stalls, providing street lighting in those areas.

These are very good proposals for the department to act on and if they did what we are saying and as a committee, we gave them timelines. We gave recommendations with timelines that they should act by this time so that we are able to collect enough revenue.

I want to end by saying look at recommendation five where the committee is saying; the County Executive should set aside funds to provide the necessary infrastructure and that one is very clear. If you go to Kamkuywa where *baba wa imani* comes from that is Hon. Obama, we are not collecting....

**Mr. Deputy Speaker:** Hon. Chemion, who is Hon. Obama?

**Hon. Francis Chemion:** Hon. Obama is the MCA representing Kamkuywa Ward.

**Mr. Deputy Speaker:** No, no, no!

**Hon. Francis Chemion:** He is Hon. Obama Kimungui!

**Mr. Deputy Speaker:** Is that his official name?

**Hon. Francis Chemion:** Yes, just check!

**Mr. Deputy Speaker:** Very well. Obama.

**Hon. Francis Chemion:** Yes, I was right. If you go there...

**Mr. Deputy Speaker:** You could have added there Waliekeke.

**Hon. Francis Chemion:** If you go there, currently we do not have a place where livestock farmers sell their livestock and we are losing a lot of revenue. Go to Misikhu, Chwele... they must ensure that we have infrastructure that provides conducive environment for the traders to pay revenue. It is a very key report. We have given 60 days for them to submit a comprehensive report on all transfers. Looking at the report, they did not give us the transfers from all the partners. So we are asking them that in the next 60 days after the adoption of this report, they should give a comprehensive report to this House on how much we received from all the donors and partners so that the House can get to know what how much we received in total. Otherwise I wish to second this very critical report for the House and ask that we adopt it with or without amendments.

*(Applause)*

**Mr. Deputy Speaker:** Thank you Hon. Maasai for seconding. Honourable Members, a motion having been moved and duly seconded I now propose it to the House for debate.

*(Question proposed)*

**Hon. Jack Wambulwa:** Thank you Hon. Speaker. First of all, I wish to applaud the Committee on Finance for coming up with that good report on which they have made recommendations. As I speak I wish to support whatever they presented. Like my good friend Hon. Chemion has put it. This issue of the county system that collects revenue is becoming an animal in this House from the time this tender was awarded to an individual who has been running this programme.

We happen to be losing a lot of revenue. For once you remember there were machines that were being used to collect revenue every now and then they would break down and then people would casually collect money with the receipts which cannot be accounted for. That is a challenge that the Department of Finance needs to address and more importantly get a competent organization to run the process of collecting funds so that we can have enough revenue collected through own source.

The main challenge again is about the casuals serving as revenue collectors. Majority of the revenue collectors... 80 per cent are unemployed. They have been casuals for the last almost four years. These are individuals who have never been paid a single penny and are the same people who are sent to the market and we expect them to collect for us. But if you meet some of them, you will be shocked to find that they are healthier than you. They are putting on better suits than what you put on. They are not complaining! They are quite comfortable... So what does that mean? That these revenues end up into people's stomachs, it is hand to mouth collection.

This is something that we need to address as an Assembly... let the sons and daughters of Bungoma be paid. Once they start getting paid, you will see the revenue rising up in Bungoma County; but as long as we continue saying we don't recognize them, we have to follow the due process. Due process was followed, they have letters and these letters have always been renewed. What is so difficult... we have been setting aside budgets! If you can remember, even in the last Assembly and I remember you were there. We always allocated funds year in year out to clear these revenue collectors.

This money has never reached them! Who takes away their money? Why is it that they don't pay them? As I sum up, another thing that can motivate this House to do so well... how I wish own source revenue should be plyed back to areas that they have received. We mean wards that actually collect funds towards the Finance Department...

*(Applause)*

...should be rewarded with something; but just collecting and then we end up sharing equally as an Assembly we shall not move anywhere. That is something that we need to put in the report so that it can motivate members. I support the report.

(Applause)

**Mr. Deputy Speaker:** Thank you The Hon. Ouma...the Hon. Kuloba Jeremiah- Member for Township?

**Hon. Jeremiah Kuloba:** Thank you Mr. Speaker. The animal is about revenue. Same revenue collectors appear to be side-lined. Revenue in town for example in this Ward is collected by enforcement officers and I think something has to be done about these enforcement officers. They are the ones who pocket a lot of money. You get them on the streets at six in the morning while real revenue collectors who are supposed to be there at that time are not there.

(Applause)

You get a bunch of them using a motorbikes moving from one lorry to the other collecting revenue. Something has to be done so that this menace is done away with. People who collect revenue don't earn. Enforcement officers don't go minus salary; while these ones who collect revenue go without salary...how do we expect them to bring us money? How do you expect us to force them to bring money when they go home hungry? It appears there is a cartel. Revenue collection appears to have been automated but in real sense you have to pay your money. You have to pay your revenue using your phone. We have got to look for another better method of collecting revenue other than paying using our phones.

Take for example the small *mama mbogas* (groceries vendors) who are operating within the streets. Will they know that they have to use a phone? I have been trying to educate them on the importance of paying the taxes. We must have a meeting with these people; with these traders... educate them on the importance of paying revenue. I have been telling my people in town, the services you see here, the drainage you are seeing here, the street lights you are seeing here, this is your money. In case you have a problem, maybe we are allocating *kiosks*; the first people to be considered are those ones who are captured in the system, who are captured to be true taxpayers. So awareness has to be taken to people.

We have to educate our people and tell them not to be giving out 20 shillings or 30 shillings instead of paying 100 shillings; and lastly I think the revenue officers have to be taken back for refresher courses so that they know how to handle these people. They know how to handle traders; you see you harass them today, tomorrow they will not come. I rest my case.

**Mr. Deputy Speaker:** Thank you Hon. Kuloba. You have really rested your case. You have given it passionately. Thank you so much. Hon. Wasike?



**Hon. George Makari:** Mr. Speaker, thank you. I want to applaud the Committee led by the Chair and then remind you that I am also a Member of this Committee. It is a very serious committee by the way if you don't know and it is led by Hon. Mukhongo

**Mr. Deputy Speaker:** You should make me know Hon. Wasike.

**Hon. George Makari:** If you check the content of the report, you must know that this is a very serious one. Unless you are not following; but if you are following you will agree with me that it is a very serious committee. Let me also applaud the mover of the motion. I never knew she can be as eloquent as Hon. Ipara Okasida of Tongaren and Hon. Chemion of *Mlima* Elgon and many others. Maybe just on overview; I think we have a problem and we must agree. In finance and the whole of the revenue department, we have a problem...

Now, being a very serious Bishop, the Holy Spirit tells me this... this time these people are stealing a lot of money. If we are very serious, we could be collecting Kshs3 billion in a financial year and not Kshs700 million. This is a very huge County. A lot of resources from Mt. Elgon to Kabula going to Harambe, Kakamega all the way to Uganda in Lwandanyi Ward. This is a very big county; we cannot be collecting Kshs1.1 billion at the end of the financial year.

I think there is a serious problem and the more we address this problem, I don't know who will save us because Jesus Christ saved people once and I don't know if He will save again. This time around Bungoma needs a saviour. Otherwise we are in very serious trouble.

How do you explain that Single Business Permit revenue dropped and while they say it dropped, there is an increase in more businesses that are coming up? Are you seeing the logic? Are we not going to talk about increment in revenue or a drop in revenue because the existing businesses are still there and more businesses have been added on? Should we look at a decrease in revenue or an increase in a Single Business Permit? There is a problem and even this system they are putting in place that Hon. Wambulwa is talking about is just to hoodwink members of the public and Members of the County Assembly. There is a serious leakage of revenue and maybe we just need to put... I don't know if there is...and implore Hon. Mukhongo as the chair of Finance; we must look for ways to address this problem.

Otherwise we are going to have the shortfalls in revenue every other year. As one member put in, you have not paid people for those five years. Yes and those guys have sharpshooters in their legs. They have tummies bigger than mine. They have nice suits. Where do they get this money from? They have four wives, even six. They are rivaling Hon. Mukhongo with the four or five wives

*(Laughter)*



While Mukhongo has three, they have seven and yet in 35 months, these people have never been paid. What are we saying? That is why I tell you. I have another one who comes from my neighbourhood. He was as thin as Hon. Mulongo

*(Laughter)*

Right now he cannot go through that door. If he goes through, he must go in another style that is not straight because he cannot pass there.

**Mr. Deputy Speaker:** Hon. Mulongo... resume your seat

*(Loud Consultations)*

Your thinness is confirmed, so you resume your seat

*(Laughter)*

Proceed, Hon. Wasike. Order Hon. Mulongo! Thin people or slender people are good so you should be appreciating that.

**Hon. George Wasike:** Thank you Hon. Speaker for saving me. We must underscore the seriousness of this issue we are dealing with and I am happy because some of the recommendations were referred to the Committee on Implementation Committee; and fortunately this Committee is headed by my good friend Hon. Mulongo of Kibingei Ward. So you must deal with those recommendations; so that we find a way out on how we are going to raise this revenue; otherwise there is nowhere we are going.

Lastly, the observations talked about the poor state of auction rings and markets. Before you go to milk a cow, you must feed the cow. These guys go to collect revenue from markets and auction rings that do not even have fencing; they do not even have water, they do not even have toilets! They must make these amenities available for them to be able to collect revenue from those markets. So I support the report; but we must check on the leakages.

**Mr. Deputy Speaker:** Thank you Hon. Wasike. We have online The Hon. Ipara Johnston Okasida, then the Hon. Waliaula in that order.

**Hon. Ipara Johstone:** Hon. Speaker, I don't know what Hon. Mulongo was shouting about...maybe confirm with him why he was shouting before I stood up.

**Mr. Deputy Speaker:** You proceed, I know why.

**Hon. Johston Ipara:** Or maybe he was confirming that he was slim as a purported by Hon. Makari

**Mr. Deputy Speaker:** He is not sure.

**Hon. Johstone Ipara:** Hon. Speaker, What makes me wonder is how Hon. Makari conducts surveys or research on those who were employed when they were slender and today they are bigger than they were? Allow me to take this opportunity to laud the Committee for Finance and I see you are shaking your hand because it is a rare opportunity for me to applaud them.

Actually, this is a wonderful report and thank you for this because one, this report informs, it creates awareness and it provokes the Honourable Members to think more than they were thinking; and you have come up with a very good observations and recommendations and I wish to touch on two. One is on Internal Auditors and the last one is on casual employees.

Just imagine a person is a casual attached to a department that is very sensitive and this particular person is not paid. The end product is this person will end up diverting what he collects to reward herself or himself. So this recommendation that they should be employed, I think is right and the two should be done today and not tomorrow; because actually, if we really build that trust with this particular officers who currently serve on casual terms, what is this that restrains us from employing them on permanent terms? I think this recommendation must be followed by the Committee on Implementation; make sure that actually the Executive through the Department of Finance follows the right procedures and implement this one.

You have seen the report says we are on the decline on our own source revenue. The reason is very simple. If the Internal Auditor does not understand the importance of that particular department, he will never bring order! He will never create transparency, he will never bring accountability and more so equity will not exist and when you are talking this. If any fraud is about to take place, the person that is supposed to alert us is the Internal Auditor because he is the person who checks any payment that is initiated by any department; and he makes sure that what is being paid has been offered to the county government or to the department that is seeking for that payment, When they are compromised, then we end up losing a lot of money.

I also want to buy the Committee's recommendation and observation. A department that brings in more money in terms of our own source revenue is a department that should also receive the lion's share on the same; except the Department of Education whose work is provision of service. I don't know why Honourable Members are quiet or you are taking a deep thought about it. That is one; If we do that, we shall be proud of ourselves and the county and the people of this county will be proud of this Honourable House for the good things that you initiate.

When we want to talk about an increase in revenue, the Internal Auditor must professionally do his or her work. If we want to know if the right things are happening, it is the Internal Auditor that is supposed to inform the administration that this is right or this is not right. If that is done and if we want to uphold the morale of the workers, it is through the Auditor who will make sure equity is being respected by all of us and when that is done, I think this county will be among the best counties within the country. One thing that one begins to wonder is whether these good observations and recommendations... we have not seen any of them see the light of day. Have never seen and this is a challenge that we want to take to the steps of the Hon. Mulongo who is the Chair, Implementation.

Hon. Mulongo, you must be firm. You must be fair and make sure this recommendations and everything is implemented to the latter. We shall not wait and see every other time here when you are called that you are slim, you will stand up and shout and laugh... is not a laughing matter. You must be serious on your assignment and with that I support the report.

*(Applause)*

**Mr. Deputy Speaker:** A very passionate submission by the Hon. Ipara as we he gives way to the slim Honourable Member for Kibingei Waliaula himself. Proceed!

**Hon. Aggrey Mulongo:** Thank you, Hon. Speaker. First of all, I take this opportunity to thank our mover of the motion. Secondly, it is to our Chair, a serious competent vibrant Chair of Finance Committee. This finance report it is now an eye opener to almost all of us in this Honourable House. With the comparison for 2021/ 2022 and 2022/2023, there is a very big variance in and drop in our own collection, why is it so? There is a lot of reluctance in our focus on quarterly reports. Are they giving us quarterly report in this House? Are they reporting or do we always receive the quarterly financial reports? If not, we need now to wake up and at least arrest. All this...

**Mr. Deputy Speaker:** Hon. Mulongo Waliaula! You are a Member of this House; you are doing your second term. Quarterly reports, if I may pick on that so that you can refresh yourself and for the benefit of the members; do you think are submitted here or not?

**Hon. Aggrey Mulongo:** If they are submitted, we couldn't have come with such...

**Mr. Deputy Speaker:** Honourable Member, for your consumption and HANSARD purposes. Do we always receive quarterly reports or not?

**Hon. Aggrey Mulongo:** We usually receive

**Mr. Deputy Speaker:** Very well, proceed.

**Hon. Aggrey Mulongo:** So we need to be very keen. We need to be very observant when they come up with such reports; because it can't take six months or nine months down the line and then we are seeing this report. Whatever we are having in this report, the decline that we have today it is wanting. We need to pull up our socks as the oversight committees. The recommendations alone, I am just waiting for them in my committee now.

With the casuals, I think it was in April or so when they went to court; the report came out. Now it is over 60 days. I need to have that report. I think those casuals came up with a number that was 198, 268, 460, 600... When I was here with the report of the Ad- hoc Committee, those casuals are really suffering; and they are not even suffering because they are having money in their pockets. That is why they are quiet.

**Mr. Deputy Speaker:** So the Hon. Chair for Implementation, you have mentioned about casuals and you have given us different figures and alluded that they are suffering, so which is which?

**Hon. Aggrey Mulongo:** The report itself came up with three kinds of numbers 198, 463, and then 660. When you go to that report, the Ad- Hoc committee's report, you will find all those numbers there. So when we want to employ, how are we going to employ? How many are we going to employ? Are they 198, 463 or 640? So those numbers alone are giving us headache...some of us who know that report. If they are going to employ, how many are we going to employ? As a committee on Finance, we keenly watched it and that is why we have come up with that report. I simply say I support that report, but when 60 days lapse on my desk...

**Mr. Deputy Speaker:** Thank you, the Hon. Waliaula. He wants the report on his desk at the end of 60 days; he is very serious as you can see. The other things I do not to mention... Members, are you done Hon. Mulongo? Let us call the mover to reply to the concerns raised by the members; the Hon. Mating Kitui Catherine.

**Hon. Catherine Kitui:** Thank you Mr. Speaker Sir. I wish to take this opportunity to thank the members who have contributed to the motion. Thank you so much. There are a few concerns raised but majorly they were contributing to the recommendations that we made. However, for example, the Member who has just left the floor talked about casuals. In Finance Committee, we are talking about 86 casuals. Those are the ones I am talking about or they are the ones we are advocating for their absorption and payment. So I don't know about others.

One Member talked about harassment from the reinforcement officers, I believe we have the revenue officers who collect revenue; they are supported by the reinforcement officers, but if the enforcement officers collect funds, then that is illegal... we will raise it with the department. Another Member also talked about the enforcement officers harassing business people, I think we will raise it with the *Waziri* (CECM) to address with the concerned department, rather, for that; and then salary to the revenue collectors.

We have talked about that and we have made our recommendations. Then one Member also talked about rewarding wards that collect more. I don't think that is possible because that is an area of debate that we can talk about, because even from the national level, there are counties that say they contribute more and they want to receive more. For example, a market like Chwele, the goods come from the wards around there. So I don't think it will be possible to say we reward Chwele and yet most of the goods are coming from the wards around there to the said market; they cost share. Maybe we can talk about that. That is my response.

**Mr. Deputy Speaker:** Proceed. Proceed, Hon. Mating.

**Hon. Catherine Kitui:** Yes, so it is not possible to reward a ward that is hosting a market and yet goods come from wards around that same market. That is my submissions.

**Mr. Deputy Speaker:** Thank you Hon. Mating for your response. You are so brave and courageous enough to respond and make things straight. Honourable Members, now, I wish to put question.

*(Question put and agreed to)*

The Clerks- at- the- Table will do the needful so that various stakeholders are involved appropriately as per the recommendations of the Committee. Thank you so much.

## **BILL**

### **1. THE BUNGOMA COUNTY INSPECTORATE COMPLIANCE AND ENFORCEMENT BILL, 2023**

**Mr. Deputy Speaker:** The Chair

**Hon. Francis Chemion:** Thank you Hon. Speaker. I rise to ask that the Bungoma County Inspectorate Compliance and Enforcement Bill, 2023 be read for the third time and I will take this opportunity to ask Hon. Joseph Juma Nyongesa to second

**Mr. Deputy Speaker:** Our Leader of Majority, Hon. Joseph Juma

**Hon. Joseph Nyongesa:** Thank you Mr. Speaker. I second.

**Mr .Deputy Speaker:** Thank you Hon. Juma. Now the Clerk- at- the- Table

**A Bill for an Act of the County Assembly of Bungoma; to provide for the establishment of Bungoma County Enforcement and Inspectorate units and for matters connected thereto**  
*(Third Reading)*

**Mr. Deputy Speaker:** Thank you Honourable Members. A Bill having been read the third time, in this County Assembly of Bungoma therefore will be forwarded to His Excellency the Governor for assent within the stipulated time, which is 14 days from this date. Other factors can follow. The Clerk should ensure that the same is disseminated to the respective office for assent in time.

### **ADJOURNMENT**

**Mr. Deputy Speaker:** Honourable Members, this is the last item on the Order Paper this 24<sup>th</sup> day of October, 2023; therefore the House will stand adjourned to the 25<sup>th</sup> day of October, 2023 at 9:30 a.m.

*(House Adjourns)*