

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY 11TH OCTOBER, 2023

Afternoon Sitting

Third County Assembly

Second Session

1

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

COUNTY ASSEMBLY OF BUNGOMA
THE HANSARD- OFFICIAL REPORT
WEDNESDAY, 11TH OCTOBER, 2023

The House met at the County Assembly Chamber at 2:30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

1. VISITING DELEGATION FROM EKAMBULI SECONDARY SCHOOL

Mr. Speaker: Honourable Members, in the public gallery we do have a delegation of students and teachers from Ekambuli Secondary School from Khwisero Sub County in Kakamega County. The delegation of 47 students comprise of form ones, form twos, form three and form fours accompanied by their teachers who have come to learn about the proceedings from the County Assembly and its operations. Be upstanding please!

(The Students rose)

Kindly be seated!

They have been accompanied by five teachers;

1. Mr. Wasike Joseph
2. Mrs. Sikuku Millicent
3. Mr. Benson Eshikati
4. Mr. Madara Pius
5. Mr. Okutu Augustine

Be upstanding.

(Teachers rose)

Kindly be seated!

Honourable members, at the appropriate time on our Order Paper I will allow few members to make some brief remarks towards our visitors who have come to learn from the Assembly of Bungoma. I we allow at most four contributors then we move.

PAPER

1. THE COUNTY ASSEMBLY OF BUNGOMA ANNUAL BUDGET AND FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE, 2023

Mr. Speaker: Yes Leader of Majority!

(Leader of Majority) Hon. Joseph Nyongesa: Thank you Mr. Speaker. Allow me table the submission of Financial Statements for FY 2022/2023 for the period ended June 30th, 2023.

Mr. Speaker: Honourable Members, the Bungoma County Government Annual report and Financial Statements for the Financial Year ending 30th June, 2023 is hereby tabled. I will urge each sector committee to extract and interrogate what belongs to them and report back to the House accordingly.

NOTICES OF MOTION

Mr. Speaker: Be guided, we are yet to do item number six.

QUESTIONS AND STATEMENTS

Mr. Speaker: Honourable Members, in view of the items coming under item number seven, I will urge that I allow members make brief remarks before I allow items starting from seven on questions and statements from the various Chairs of the sector committees to proceed.

(Interruption of Business to allow Members to make welcoming remarks to the visiting delegation)

Honourable Members, make brief remarks; at most four members. Chair, Education and other members it is now your chance to make brief remarks please! Let me start with Hon. George Makari who has laid a claim that the school from Khwisero belongs to his Ward. Hon. Makari, proceed!

Hon. George Makari: Thank you Hon. Speaker. Actually it is me who made efforts to have this school be hosted at this County Assembly. I wish to actually appreciate this school; that as much as it is coming from Kakamega County, they made an effort to visit these precincts of the County Assembly and they are on a learning expedition. I wish to appreciate all the teachers that saw it fit to come with the students here today to learn and I can maybe just give a brief outline of the school. It is called Ekambuli Secondary School, it is a mixed school.

The school started in 1965 and is located in Khwisero Sub County in Kakamega County and the area Member of Parliament for that particular area is called Hon. Aseka Wangaya. The first Principal of this school was Mr. Patel an Indian. The school has a population of 474 students; 251 boys and 223 girls and the total number of teachers as we speak is 19. It has a non-teaching staff of 14 and is sponsored by the Church of God in East Africa.

One of the teachers that you have mentioned Wasike is my younger brother and that formed the basis of the invitation to this County Assembly. I wish to state that we actually welcome them so much to this County Assembly of Bungoma. Maybe for the record, they are those students who might not have had an opportunity to visit any parliament or County Assembly and this being a learning expedition, they are now well able to see the Speaker live sited on his Chair, Members of the County Assembly, there is the opposition and Government side and of course you know where I am seated is on the Government side while the other side where we have Hon. Job is on opposition and Sudi Busolo.

This parliament consists of the opposition and the Government side. My teacher must know that I was the one who has invited them; I am in government and we do not invite a lot of issues; we are much organised people and we do things with a plan.

Mr. Speaker: Hon. Makari, are you implying that the other side is disorganised?

Hon. George Makari: Hon. Speaker, it is much disorganised; have you seen them coming up with any substantive issue?

Mr. Speaker: Hon. Mulongo, you keep quiet now because they are saying that you are much disorganised. Wait first for your chance. Hon. Job you will have chance to speak, so let me allow Hon. Makari to finish first.

Hon. George Makari: Hon. Speaker, maybe just to wind up so that other members, the Chair of Education can do a comment. These are history students from form one to form four and they are on a learning trip; and I would wish that they take in everything and I am happy that the communications Officer and Sergeant-at-Arms have sat with these entourage from 10:00 a.m. up to around 1:00 p.m. teaching them the rules of the Assembly and I know they are well prepared.

They were asking questions. I sat through the session and I could see the students were very sharp. They were asking questions like; who is the Presiding officer at the County Assembly, they were told it is the Speaker and here they are they have seen you. I think they will go home with a very good report and we wish them well.

Mr. Speaker: Thank you Hon. Makari. Now I can confirm your claim that they came from your area.

Hon. Otsiula, Chairperson, Committee on Education, proceed! I will have Hon. Job. Is that Hon. Kikechi or Obama? No, it is Kikechi. You know I am used to seeing some small bodied person there and I am wondering. Let us have Hon. Otsiula, Proceed!

Hon. Benjamin Otsiula: Thank you Hon. Speaker. First and foremost, I appreciate for this opportunity. I want to join hands with my senior.

Mr. Speaker: Honourable Members, your consultations are very loud especially from people who are very aged, the elderly ones, proceed!

Hon. Benjamin Otsiula: Thank you Hon. Speaker. I always recognise Hon. Aggrey Mulongo with his *gumbaru* (matured) expertise. I know he is preparing maybe to say something and I was saying I also join hands with my senior Hon. Makari to thank and appreciate the students of Ekambuli Secondary school all the way from Kakamega County who have come to learn from the County Assembly of Bungoma. I can confirm and I think they are now seeing that this is one of the best County Assemblies in the Republic of Kenya and that is the reason they can forego a tour the other assemblies and take their time to come and learn from this particular Assembly.

Testament to it, His Excellency the President of the republic of Kenya Hon. William Samoei Ruto came to this honourable place and officially opened the building; and I am sure they were sitting in the same auditorium today being taught. This is a very Honourable place and we are setting a good example.

Secondly, I know the exams are just around the corner. I wish to remind our students that this is their time, they have to prepare well, they have been preparing all through and as they go to sit for their exams, they have to remember that their teachers are not going to answer those questions on their behalf. Let them use the skills and the knowledge that has been imparted in their brains to answer the questions, because we expect that after this period, they become very important people who are going to transform the society. I am not going to repeat what my brother has said, I will say one thing; this House plays a role in fostering their right to Education, nowadays they are told they have a basic right to Education enshrined in the Constitution under Article 53 of the Constitution of Kenya.

This House plays a very important role in ensuring that they realise that right.

First and foremost, the House debates a budget, we secure money to be put under the vote head of education, this is the House that debates and approves the budget that runs the entire County Government of Bungoma. As a House we legislate and pass laws that foster to improve the education standards within the County Government of Bungoma. The same Assembly represents the wishes of the people who elect them to this House.

Finally, this House offers an oversight role meaning they put on toes the government of the day. The laws and regulations that are passed in this House are supposed to be implemented by the Executive and this House plays a role to ensure that the government of the day implements and works towards the realisation of the interest of the people of Bungoma County.

Finally, as you go back to sit for your final exams and your teachers, I wish you the very best as you gear up for your final preparation.

(Applause)

Mr. Speaker: Thank you Hon. Otsiula, Hon. Kikechi! Honourable Members whose gadgets are having some music, it is good to have your music on but on a low tone and I suspect they are not young people; they must be elderly people who are having such things.

Let's proceed!

Hon. Bernard Kikechi: Thank you Hon. Speaker. I also stand to say a word about our visitors in the gallery. Ekampuni, Ekamburi!

Mr. Speaker: It is called Ekambuli Secondary School.

Hon. Bernard Kikechi: Yes, thank you, Hon. Speaker.

Mr. Speaker: It is not *Kamakabuli* the way you may be imagining but Ekambuli. Let us proceed!

Hon. Bernard Kikechi: Thank you Hon. Speaker and why I was so much interested in this school. I once schooled in Kakamega County. I was a student at Mwiwila boys and I think it is just a neighbouring school to this one here and when I saw them, I remembered my high school days. Mine is just to encourage them to work hard. They should know that even us Honourable Members when we are sitting here, there was a time we were in their shoes. We were where they are and through our hard work and putting excellent work in our books; that is why we are now Honourable Members. I know some of them may be having ambitions of being Honourable Members of the County Assemblies or Members of Parliament or Governors. The key is education; so you work hard. Nothing is unachievable. Mine is just to encourage you that while you are in school, remember that your parents are paying heavily for you to be there, so kindly put in more effort.

Mr. Speaker: Consultations have gone up again from elders, kindly, let us proceed!

Hon. Bernard Kikechi: Thank you Hon. Speaker. I do not understand why they waited for me to start contributing and they start...

Mr. Speaker: You are protected, proceed!

Hon. Bernard Kikechi: Thank you Hon. Speaker. I do not have much to say. Mine is just to wish them well.

Mr. Speaker: Thank you. Hon. Job, then Hon. Tony, will be closing. We still have good business ahead of us please!

Hon. Job Mukoyandali: Thank you Mr. Speaker for giving me this chance. First of all, let me be part of the team in welcoming our students of Ekambuli Secondary School to this Assembly. Let me thank my senior Hon. Makari for actually making sure Bungoma County Assembly is on the road map where people can visit and see the wonderful business we do here. To the students, this Assembly of Bungoma transacts business on behalf of the people of Bungoma County.

We pass here legislations that make sure students go to school and learn. It is this Assembly that passed that each ward is going to receive Kshs 4, 000,000 and a million shillings from each ward will go towards scholarship. This House seriously values education I would like to tell Hon. Makari that in this House there is the side of the Government and the minority side and not the opposition side.

The opposition side is still reading from the old syllabus. In the new syllabus when these students will go to sit for their exams and a question is raised, it is not opposition Hon. Makari; in this syllabus we call it majority and minority side.

Let us not be misleading our students, it is important that they actually get this so that when they go to sit for their exams especially for me as a history teacher, I will not allow that to happen in this House. Otherwise, I want to encourage them that as they go back, let them sit and focus. Now that the terms are nearing to the end and the exams are around, let them go, sit in class and relax. At least they are having an opportunity of coming out.

I remember when I was a student, getting such an opportunity was a very motivating moment, I would go back to school and sit down and focus on what was ahead of me. The teachers have a good will and that is why they have taken these students out at such a time when they are just almost doing their exams. Therefore, let them go back relax, read seriously as they prepare for their exams and all the same, I wish the form fours the best of luck in their exams as they prepare. We pray for good health upon them.

Finally, this House has several teachers including me; so students as you grow up, do not take some... when we were growing we were asked what do you want to become, none of us said that we want to become a teacher, people wanted to pick very lucrative opportunities out there but eventually we ended up as teachers.

I have been in class, I have taught for several years. The People of West Bukusu elected me and right now I am here representing them. To the students, do not take teaching as an option. Let it be one of the main things that you are supposed to pick when you sit for your exams; and when somebody asks what you want to become, just say you want to become a teacher. Teachers are all round people. They see a lot of things.

Mr. Speaker: Thank you. So others are half round? Hon. Job, now you are even scaring other professions!

Hon. Tony Barasa proceed, please!

Hon. Tony Barasa:Asante mzungumzushi. Niruhusu kwanza niwakaribishe wanafunzi kutoka shule ya upili ya Ekambuli, Kakamega.

Jumba hili ni jumba ambalo ni la kutunga sheria na mwanzo nimshukuru mwenyezi Mungu kwa sababu tulipo Mungu alikuwa Mungu wa mpango na akasema binadamu unaweza mtafuta rafiki aidha uarabuni ama kule Mombasa; lakini la kina ni kwamba Mungu akasema sisi binadamu

atatupa jirani. Kwa hivyo Mungu alitupa jirani wakawa ni watu kutoka Kakamega ambapo wanafunzi wetu wametoka. Kwa hivyo, twamshukuru mola kwa kutupa jirani wema ambao ni Kakamega. Mara ya mwisho niliposkia neno Kakamega na haswa Khwisero unakumbuka tulipompoteza mwenzetu...

Mr. Speaker: Hon. Tony, I am seeing Hon. Stephen wants to say something! Hon. Deputy Speaker, what is the issue?

(Loud Consultation)

Honourable members order, order please!

Hon. Stephen Wamalwa: Asante sana Msathiki Mheshimiwa Spika kwa kunipa fursa hii ili nikaweze pengine kuuliza swali. Sijui Mheshimiwa anasema mzungumzushi, inafaa kwa sabaabu watahiniwa wako hapa pamoja na wakufunzi wao, mahamami, mahababi wako hapa na wanasababu

(Laughter)

Na mintarafu ya kuweza kuelewa mada kubwa ambayo imewaleta hapa, nitaomba sana kwa unyenyekevu kutoka katika mtima wangu kwa taadhima kubwa kwamba Mheshimiwa mpenzi wetu mwakilishi wa Lwandany Mheshimiwa Tony aeze kueleza mzungumzushi tueleze kuelewa.

(Laughter)

Mr. Speaker: Honourable Members, allow me say this, when we go to that direction, we won't go far and I am working around the clock with the members of my Committee on Rules and Procedures. In the near future, not far away from now, we will be having a date set aside for discussion in Swahili.

(Applause)

Once we have the standing orders translated into Kiswahili, we will be having a discussion strictly in Kiswahili like the National Parliament and on a day I will never be in the Chair, it will be the Deputy Speaker himself. Hon. Deputy Speaker, allow Hon. Tony to finish what he is saying; you will have the liberty of going to confirm *kwa kiswahili sanifu* (in correct Swahili) what he is saying is in order or not. Yes, before I allow you, I am seeing Hon. Linda is online on a point of information. Hon. Linda!

Hon. Linda Kharakha *(On a point of information):* Thank you Mr. Speaker for the opportunity. I do not know very good Swahili and so do most of the members seated here. How I wish to be informed that are we supposed to speak in proper layman language so that everybody else who does not understand the language in the heavy wording.

(Applause)

Mr. Speaker: Honourable Members, just be seated please. For guidance, this Assembly has three languages; Swahili, English and sign language. Whether it is deep Swahili or the layman Swahili is none of my business. So if it is the problem of Hon. Stephen Wamalwa using the Swahili terms he is using here, some of my members are not getting it. It is none of my business! But in the near future they have said we will be having Standing Orders in Swahili and I will be asking that that day the entire debate will be done in Swahili from the beginning to the end. On that day or as from now onwards, start preparing; watching National Assembly proceedings on Thursdays...if you watch Thursday sittings in the National Assembly, they transact Business in Swahili only and so watch in advance so that when it comes around, you are prepared.

Yes, Hon. Linda!

Hon. Linda Kharakha: Hon. Speaker, I am meant to understand that the procedures of the House are meant to communicate in a language that is understood; that is English, Swahili and sign language.

Mr. Speaker: But there is no rider which type of Swahili are you supposed to use whether the laymans Swahili or the professors Swahili. It is none of our problem.

Hon. Linda Kharakha: Hon. Speaker, the issue before me and other Honourable Members is that we will now lack communication because if I do not understand...

(Applause)

In my understanding, when you communicate, you are meant to be heard and understood... so I am sitting in a situation where a certain words have been spoken in Swahili and most of us are wondering... there is no communication.

Mr. Speaker: Hon. Linda, you are not barred to carry around your Kamusi to check what he is saying.

Hon. Linda Kharakha: Thank you.

Mr. Speaker: Let us proceed Honourable Members. Hon. Tony, wind up please.

Hon. Tony Barasa: Nashukuru wale wote ambao wamenikoso.

Mr. Speaker: Hon. Tony, I think they were just questioning; they haven't said that what you are saying is wrong; they are questioning.

Hon. Tony Barasa: Nashukuru, lakini tutakuwa na kikao na wao kwa sababu kuzungumza na yule ambaye anasimamia uzungumzaji huo ana jina lake. Kwa hivyo hapa tulipo tuko katika kikao cha kuzungumza, kuchambua na kunyambua maneno na kuna yule ambaye amesimamia kuzungumza ni mzungumzushi.

(Laughter)

Mheshimiwa Mzungumzushaji

(Laughter)

Mr. Speaker: Hon. Tony, wind up please!

Hon. Tony Barasa: Langu Mheshimiwa nilikuwa nataka kuwaeleza wanafunzi kwamba jumba hili si lazima tubebane na lugha ambayo ilikuja kutokea kwa bahari.

Si lazima ya kwamba tung'angane na lugha ambayo ililetwa na wazungu. Ni lazima tuongee lugha ya taifa ambayo inakubalika katika jumba hili katika utunzi, usemi na hata kwa kulia twaweza lia kwa Kiswahili. Kwa hiyo nawatakia wanafunzi kutoka jimbo jirani la Kakamega shule ya Ekambuli ambayo iko katika maeneo ya Khumusalaba. Khumusalaba tunaelewa katika lugha ya Kiswahili na msalaba katika lugha ya kibukusu...

Mr. Speaker: Hon. Tony!

Hon. Tony Barasa: Niruhusu niseme

Mr. Speaker: Hon. Tony!

Hon. Tony Barasa: Mheshimiwa Spika!

Mr. Speaker: Hon. Tony, I have given the history of the pupils, resume your seat please! Once we say Khwisero, it is done. The issue of Khumusalaba or wherever, is none of our business. Hon. Tony, wind up!

Hon. Tony Barasa: Kwa hiyo wanafunzi nataka niwatakieni kila la heri katika mitihani zenu na nashukuru kwa kunipa nafasi.

Mr. Speaker: Thank you. Honourable Members, now, allow me on behalf of all Honourable Members who haven't had a chance to speak; the Honourable Members and the County Assembly of Bungoma wish the candidates all the best in the form four exams, form three, twos and ones their end year exams. Let us proceed

(Resumption of Business)

QUESTIONS AND STATEMENTS

Mr. Speaker: Before we proceed, Honourable Members, when we resumed the sittings, I made a communication committing all statements and questions to the committees to transact and report back in 21 days. It has come to my attention that none of the committees has worked on that; so through my Deputy Clerk and the PCAs, we did inform all the Chairs and their Vice Chairs that if the Chairs are absent, they must give us status reports on what they have done on those statements. If they fail to do so, the House will take over and transact from here. I hope the Chairs who are here and the Vice Chairs are prepared to give us feedback on each statement and questions raised by Honourable Members.

Let us proceed!

1. RESPONSE FROM THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR EDUCATION AND VOCATIONAL TRAINING;

The question, Member for Tuuti- Marakaru Ward Hon. Joseph Nyongesa- MCA to seek a response from the CECM, Education and Vocational Training through the sectorial Committee on Education and Vocational Training in relation to the utilisation of the 3 per cent of both the Scholarship and Bursary Funds. The CECM to respond on the following;

1. Provide expenditure reports.

Mr. Speaker: Before we proceed, Chair, Education, is your CECM around? Let me put you on HANSARD first!

Hon. Benjamin Otsiula: Sorry, Mr. Speaker. He has not communicated to me. I made a call to my Committee Clerk to confirm whether he is around, but I checked from the other side, I did not see him unless he has arrived while we were underway.

Mr. Speaker: They have confirmed for me, the CECM is not around and I think we will be forced to sanction him because when he was here today, he said he was fixed in the open here when we were having a sitting. When HBC sat, it had to ratify that appearance for today. When he was trying to come to my inbox to ask me to change the dates, he was forgetting the date was fixed on the floor of the House and by the HBC. I think we will sanction him accordingly.

Hon. George Makari: Thank you Hon. Speaker. I wish to refer you to last week's appearance by the CECM for Education. In fact you gave him options and allowed him to choose which day he could appear and this could be disrespect to this House. When he appeared on Wednesday last week; and I remember the Hon. Leader of Majority was not here, I asked the Leader of Majority, if we could proceed and he told me he was in Kisumu but he would come and then the CECM would appear. The CECM had appeared to seek more days which you gave him, then he chose himself that he would appear today. So, he has not appeared and I think this House must take sanctions on this CECM.

Mr. Speaker: Yes Hon. Meshack!

Hon. Meshack Simiyu: Asante sana Mheshimiwa Spika kunipa nafasi. Nafikiria tuko hapa na tulitumwa na wananchi kuja kuwafanyia kazi na hii kazi kwa heshima kuu haswa watoto wetu wenye wanasomea bursary kusema ukweli wanaumia na ilikuwa jambo zuri sana kupitia kwa Mheshimiwa Nyongesa ili tupate nafasi kwa huyu waziri wetu atuelezee mambo na tuelewe kwa sababu tukifika kwa ofisi zetu nyumbani kila wakati watu wanatuuliza lakini hatuna jibu la kutosha. Nataka nikuombe tunataka kuona amri yako ili wengine waamke. Kwa hayo mengi, asanteni sana.

Mr. Speaker: Yes, members let me allow Hon. Jack then allow the Leader of Majority to say something then I will serve my ruling because... Yes please!

Hon. Jack Wambulwa: Thank you Hon. Speaker for giving me this opportunity. I wish to laud what my colleagues are saying that the CECM should take this House seriously especially on matters that have been raised by a senior member of this House. It is not only bursary but scholarships. As we talk to you, most of the students on scholarship have been sent away; some of them are candidates, whereas others are preparing. They are at home because nothing has been paid to their schools to sustain them, so if the CECM knew very well that today he was to appear here, as much as we are told he is engaged elsewhere, what is important? Is it the child of Bungoma or him going to a retreat to enjoy himself?

I want to request you through your powers that you make a decision that will serve as a lesson to others. Let him appear before this House so that he can confirm indeed where this money for scholarship and bursaries that we allocated is. We are not going to wait and see the CECM taking us round; he has taken this House for granted and its time you took action.

Hon. Joseph Nyongesa: Thank you Mr. Speaker. First, allow me make a comment to our students and say welcome to Bungoma and more so continue praying for Hon. George; he is always a firm and focussed man in Bungoma; we rely on him. As my colleagues are saying, indeed are the Chairperson of the Appointments Committee and your first question during vetting was, will you be available when needed by the Assembly? Every CEC Member was saying I will be 100 per cent available to give information when required. I am seeing it is upside down, but again, when we vetted and approved them, everything from this Assembly supersedes anything outside there on schedule and it is so painful. Apart from seeking the information as my colleagues are saying, the form one students whom the current government which I am serving on are at home and we have no solution.

For form two, three and four, we used to have an excuse that actually we had a very big debt from the former government; with the current government, what should we tell our people?

We are here to ensure that funds are properly utilised and if at all such characters could now start appearing in this first year, it is the high time for us as a House to stand firm and ensure that all is well. Otherwise, I will be patient, I have no personal interest on it, but my issue was our committees to at least benefit from what they did. The committees at our level did donkey work but the credit went to the committee of only nine people, but let me disclose when he is around. In your own digression you can give us direction.

Mr. Speaker: Honourable Members, while I was here, I was brought some communication and I think the CECM is not serious. When the CECM was here, he sought time to be away to attend a function at Maliki Secondary School in Milima Ward. So if it is in Bungoma, have the meeting in the morning and be here at 2:00 p.m. Now today he has brought me communication here requesting that we postpone his appearance before the House that he is engaged in Kisumu and I can confirm what the Honourable Leader of Majority has said; that during our vetting of the CECMs, there was a question put across to all of them. That if you are required to appear before the House, will you appear or not appear? They used to say they will appear when required.

Members the issue of bursary and scholarship in Bungoma County must be brought to an end and the issue of VTCs. So what are we going to do? We will inform him to appear tomorrow so that this item on bursary and scholarship is settled once and for all. We will allow because I am told they have a Cabinet meeting, but to my understanding, the County Assembly of Bungoma has equal powers like the one of a High Court.

I don't want to invoke those powers to summon him, but I will invite him to come tomorrow. If he fails to come, we will take drastic action including declaring him *persona non grata* in this Assembly where we can't allow him to transact anything until he budes that contempt. The children of Bungoma County supersede any other meeting of the Executive, because looking at the Constitution; they say there shall be a County Government, the County Assembly then the Executive

(Applause)

So we are not seconding the Executive; we come first in these transactions. So the Clerks- at-the- Table, one of you must go out and prepare the invitation. It will be sent to him on whichever means, be it WhatsApp or whichever way it must be delivered before we rise from this sitting so that there is no excuse of appearing at 2:30 p.m. tomorrow.

Equally, the response that was brought back here be sent to the MCAs because what Hon. Joseph is trying to say, the consumers of the funds that you are questioning are nine members and none of them is an Honourable MCA in this House.

(Loud consultations)

What are you asking?

The response I shared, it is in this House and it is saying that basically they paid nine members of the executive Kshs11Million. Let him come and clarify those issues. It is his own response, it is not my response, and it is the CECM's response to the House. So I think to cut the story short, let us allow the CECM to appear tomorrow at 2:30 p.m. In the meantime, let us share the report with every Honourable Member; look at it and prepare for that response accordingly.

2. RESPONSE FROM THE CHAIRPERSON, SECTORIAL COMMITTEE ON ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS

Mr. Speaker: Hon. Simotwo, Vice Chair Polycarp?

Hon. Polycarp Kimeta: Thank you Mr. Speaker Sir. I wish to respond to the questions by Member of Kimaeti Ward, Hon. Jack Wambulwa on the status of CEF roads projects in Kimaeti Ward for the financial year 2021/2022; and Member for Kabula Ward Hon. Vitalis Wangila in reference to the rehabilitation of the road for Kabula - Catholic Church Naburereya done in financial year 2021/2022. As directed by the House, the Committee considered the two statements under the CEF Project financial year 201/2022. Mr. Speaker protect me; there is a lot of noise here.

Mr. Speaker: Honourable Members, consult in low tones please.

Hon. Polycarp Kimeta: We were provided for all the projects across the County and the Committee has prepared a report which will be tabled in the House for adoption.

Mr. Speaker: If the report is ready, kindly have the same channelled to the Clerk's office to be forwarded to the HBC for balloting on the Order Paper accordingly. Thank you Hon. Polycarp Kimeta let us proceed.

3. RESPONSES FROM THE CHAIRPERSON, SECTORAL COMMITTEE ON AGRICULTURE, LIVESTOCK, FISHERIES, IRRIGATION AND COOPERATIVE DEVELOPMENT

Mr. Speaker: Hon. Waiti Wafula, Chair, Agriculture...

Hon. Waiti Wafula: Thank you Hon. Speaker. I rise to give a progress report by Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development. The Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development had questions raised in the House with regard to term Field Extension Officers and status of cattle dips within Ndalu/Tabani Ward. They were referred to the Committee and the response is as follows;

Status of the statements; the Committee handled all statements with regards to terms and the report has been forwarded to the office of the Clerk for onward transmission to the House.

A statement by Hon. John Kennedy in respect to field extension officers in the Department of Livestock and Fisheries is still pending before the Committee.

The Committee is in receipt of written submissions from the CECM. I wish to request for 21 days to deliberate on the matter and report back to this House.

Mr. Speaker: It will be given 14 days not the 21 that you were already given.

Hon. Waiti Wafula: A statement by Hon. Tim Chikati in respect to cattle dips within Ndalu/Taabani Wards.

This statement is still pending before the Committee. The committee is in receipt of written submissions from the CECM and shall act on it as from 12th October, 2023; that is tomorrow. I wish to request for 21 days to deliberate on the matter and report back to the House.

Mr. Speaker: You equally have 14 days

Hon. Wafula Waiti: Thank you Mr. Speaker. I submit.

Mr. Speaker: Now, you haven't spoken about Namasanda dam from Musikoma Ward?

Hope Chair when you say the report is ready, you forward it to the Clerk and by the end of the day, the report will be in the office of the Clerk and not being taken to a Committee somewhere else.

4. RESPONSE FROM THE CHAIRPERSON, SECTORAL COMMITTEE ON HEALTH SERVICES

Mr. Speaker: Hon. Makari?

Hon. George Makari: Thank you Honourable Speaker. I wish to give a progress report from the Committee on Health Services. Standing Order No.54 of the County Assembly of Bungoma provides that the Chairperson of the Committee shall submit a progress report to the House on questions;

- a) Referred to the committee
- b) Replied to
- c) Which the committee has directed the County Executive Committee Member to provide additional information or further reply
- d) Pending before the committee.

A question was raised by Hon. Ken Wanyama seeking explanation on the management of Bungoma County Referral Hospital, Kimilili Sub County and Webuye County Hospital. Also, a question was raised by Hon. Chemion on construction of Kaptalel Dispensary, maternity wing in Kaptama Ward. I wish as the Chair of the Committee to state that the Committee has prioritized the questions in consultation with the Office of the Clerk and will be hearing submission from the research team of the County Assembly on 15th October, 2023 and thereafter invite the relevant Committee Executive Member responsible and then give a response within 14 days.

Mr. Speaker: Thank you. You will have 14 days to give us a feedback.

Members as we are doing so, let the owner of the statement consult and appear before the Committee as they are doing the interrogation.

5. RESPONSE FROM THE CHAIRPERSON, SECTORAL COMMITTEE ON YOUTH AND SPORTS

Mr. Speaker: Chair, Youth and Sports? Vice Chair, Hon. Everlyne Anyango?

Hon. Everlyne Anyango: Hon. Speaker thank you very much for giving me this opportunity but I want to state that I am not the Vice Chair, I am just a Member of the Committee.

Mr. Speaker: Who is the Vice Chair?

Hon. Everlyne Anyango: Hon. Grace Sundukwa...

Mr. Speaker: It is okay proceed.

Hon. Everlyne Anyango: Thank you Mr. Speaker Sir. I rise to give a progress report on a statement raised.

Progress report by Committee on Youth Affairs and Sports; Standing Order No.54 of the County Assembly... Mr. Speaker, the Honourable Members here are making a lot of noise.

Mr. Speaker: Honourable Members order!

Hon. Everlyne Anyango: Thank you. Standing Order No.54 of the County Assembly of Bungoma...

Mr. Speaker: Yes Hon. Ali Machani, what is the issue?

Hon. Ali Machani: (*inaudible*) ...for the benefit of the students in this House, is it in order for it to be on record that members who are serious citizens can make noise?

(*Laughter*)

Mr. Speaker: Honourable Members, the proper term is consulting loudly. Please let us maintain silence as the Hon. Anyango is giving us the report please.

(*Loud Consultations*)

Hon. Everlyne Anyango: Thank you Mr. Speaker Sir. Standing Order No. 54 of the County Assembly of Bungoma provides that the Chairperson of the Committee shall submit a progress report to the House on questions

- a) Referred to the committee
- b) Replied to
- c) Which the committee has directed the County Executive Committee Member to provide additional information or further reply
- d) Pending before the committee.

The Committee on Youth Affairs and Sports had a question raised in the House and referred to it for response. Question by Member of Kapatama Ward, Hon. Francis Chemion with regard to the construction of Chemoge High Altitude Training Centre in Kaptama

The response from the CECM

The Committee would like to state that the response reached the Committee on 4th October, 2023. When the Committee was interrogating the Annual Development Plan... It should further be noted that the question raised is a matter that the Committee is handling as one of its primary activities in the financial year 2023/2024. The Committee has therefore scheduled to interrogate the CECM on Gender, Culture, Youth and Sports on 19th of October, 2023.

The response shall be conclusive and shall provide answers to the areas asked in the question through the report that shall be submitted to this House. The Committee requests for 21 days to conclude on this matter.

Mr. Speaker: You will be given 14 and not 21 days. What we are going to do, because there is no business before the HBC, we will adjourn the House to allow the Committee transact all pending reports in one week's time.

6. RESPONSE FROM THE CHAIRPERSON, SECTORAL COMMITTEE ON LANDS, URBAN, PHYSICAL PLANNING AND HOUSING

Mr. Speaker: Hon. Chemion, proceed!

Hon. Francis Chemion: Thank you Hon. Speaker. This is a progress report from the Committee on Lands, Urban, Physical Planning and Housing. The Standing Order No. 54 of the County Assembly of Bungoma provides that the Chairperson of the Committee shall submit a progress report to the House on questions;

- a) Referred to the committee
- b) Replied to
- c) Which the committee has directed the County Executive Committee Member to provide additional information or further reply
- d) Pending before the committee.

The Committee on Lands had three questions raised in the House and referred to it for reply;

1. A question by the Member for Bumula Ward, Hon. Henry Nyongesa with regard to the purchase of lands for various projects within Bungoma County.
2. Question by Member for Musikoma Ward, Hon. George Makari in relation to various unclear information concerning the Municipality Board Members for both Kimilili and Bungoma.
3. Question by Member for Khalaba Ward, Hon. Cornelius Makhanu concerning the construction of Pamus road.

Response from the CECM

The County Executive Committee Member provided physical reply to two questions before the Committee. The question by Hon. George Makari has so far not been replied to or the response has not reached the Committee. Disposing the question under Standing Order No. 51, the Committee would like to state that the reply reached the Committee in early October, 2023, when the Committee was interrogating the Department on a complain letter from the Bungoma Municipality Board and the interrogation of the ADP 2024/2025.

However, the Committee has prioritised the question in the sequence the statements were requested for and would be interrogating the County Executive Committee Member responsible starting Monday of October 16th, 2023. The Committee is still awaiting one response from the municipality members for Kimilili and Bungoma respectively.

Mr. Speaker: So what you will need to do, you have said some are incomplete, so you will be given 14 days running from today. When we resume our sittings after the break, we agree that you have all the statements ready for tabling before the House.

7. RESPONSE FROM THE CHAIRPERSON, SECTORAL COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION

Mr. Speaker: Hon. Ken Wanyama proceed please

Hon. Ken Wanyama: Thank you Mr. Speaker. This is a progress report by the Trade, Energy and Industrialization Committee. Standing Order No. 54 of the County Assembly of Bungoma provide that the Chairperson of the Committee shall submit a progress report to the House on questions;

- a) Referred to the committee
- b) Replied to
- c) Which the committee has directed the County Executive Committee Member to provide additional information or further reply
- d) Pending before the committee.

The Committee on Trade, Energy and Industrialization had a question raised in the House and referred to it for response. This was question by the Member for Musikoma Ward, Hon. George Makari with regard to status of street lighting in Bungoma County.

Response from the CECM;

The Committee received a written response from the CECM and proceeded to have her oral submissions on the 3rd of October, 2023 in the presence of Hon. George Makari. The response was satisfactory save for question where the CECM did not provide the allocation for the street lighting programme for the financial year 2022/20223.

In addition Hon. Makari wished to know the specific areas in Musikoma Ward where the repairs were done and lastly the directors of the companies that were tendered to maintain the street lights.

The Committee is waiting for the Department to submit a detailed report on the two areas that were not satisfactory to Hon .Makari. In addition, the Committee has actually finalised a status report on the street lighting for Bungoma County and we have already submitted the same to the Clerk's office for tabling.

Mr. Speaker: Thank you. Honourable Members, all the chairs and the Committee Members the 14 days lapses on the 25th of this month, so by virtue of your status reports, you have sought an extension to give us the final report. So I think by close of business on 25th, we need to have all the reports on committees taken to the Clerk's office for balloting on our Order Paper.

That means we will be having enough business to run the House for the next month before we go for long recess. So with that, the Chairs and membership of the committees take time to prepare the final reports for the House consumption. If you fail, we take over as a House and prosecute the same on the Floor.

MOTIONS

1. REPORT BY THE COMMITTEE ON PUBLIC ADMINISTRATION AND ICT ON THE NINE MONTHS FINANCIAL STATEMENTS FOR THE PERIOD ENDED MARCH 31ST, 2023

Mr. Speaker: Yes Hon. Tony, you proceed and prosecute your motion accordingly!

Hon. Tony Barasa (Chairperson, Committee on Public Administration and ICT) : Report by the Committee on Public Administration and ICT on nine months financial statements for the period ended March, 31st, 2023, in respect to the offices of the County Secretary, Governor and Deputy Governor and Public Service Management and Administration.

CHAPTER ONE

PREAMBLE

It is my pleasant duty to present the Bungoma County Government report on nine month financial statements for the periods ended 31st December, 2022 and 31st March, 2023; in respect to the Departments of County Secretary, Governor and Deputy Governor and Public Service Management and Administration.

These documents were tabled in the County Assembly of Bungoma on 1st March, 2023 and on 3rd May, 2023 respectively and committed to each of the Sectoral Committee for their interrogation, input and recommendations through a report to this Honourable House.

Acknowledgment

I take this opportunity to thank your Office and that of the Clerk of the County Assembly of Bungoma for the support received as the Committee discharged its mandate.

I also appreciate committee members for dedicating their time to examine and analyze the Bungoma County Government half year and Quarterly reports and financial statements for the periods ended 31st December, 2022 and 31st March, 2023.

Further, I would also like to appreciate the secretariat who worked with us for their commitment.

It is therefore my pleasant duty and privilege, on behalf of the Hon. Members of the Sectoral Committee on Public Administration and ICT, to table this report and recommend it to the Assembly for consideration and adoption.

CHAPTER TWO

KEY HIGHLIGHTS IN THE BUNGOMA COUNTY GOVERNMENT NINE MONTHS REPORT AND FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31ST MARCH, 2023.

INTRODUCTION

The committee extracted from the consolidated half year and 3rd quarter financial statements, the financial reports relating to the Departments of; The Governor and Deputy Governor's Office, County Secretary/County Attorney/ICT and Public Service Management and Administration. The committee further conducted a one on one interrogation on 31st May, 2023 for the nine month statements to seek clarity on the expenditures and the rate of absorption of the budget.

The total budget for the County in the financial year 2022/23 is Kshs**14, 821,204,142** as per the approved 1st supplementary budget with the breakdown of the sources as indicated below:

No.	Source	Amount
1	Equitable share	10,659,435,192.00
2	Equitable share b/f	867,288,525.00
3	Retention	293,425,903.00
4	Conditional grant Devt partner	1,540,443,462.00
5	Conditional grants National	113,228,200.00

6	Local revenue as per act	500,000,000.00
7	AIA	847,382,860.00
	Grand Total	14,821,204,142.00

The financial statement submitted gives an expenditure outlay of Kshs14, 164,547,621 i.e. Kshs656, 656,521; less the approved amounts. The difference relates to AIA in the department of health for facilities.

ANALYSIS OF REVENUE

In the period under review, the County received total revenue of Kshs6, 321,552,397. The source of the amount is as shown here below;

- a) Exchequer releases - Kshs6,303,156,902
- b) Other receipts (Mabanga ATC) – Kshs18,395,495

COUNTY OWN GENERATED REVENUE

The report does not indicate what the County managed to collect in the period under review except Mabanga ATC reporting a collection of Kshs18, 395, 495. In reference to Mabanga; these translates to 70.4 per cent of the set target in nine months hence an under achievement of 5 per cent. As stated above the financial statement submitted gives an expenditure outlay of Kshs14, 164,547,621 i.e. Kshs656, 656,521 less the approved amounts. The difference relates to AIA in the department of health for facilities.

CONDITIONAL GRANTS

The conditional grants from development partners and National Government

An actual amount of Kshs489, 256,980 was remitted in the county as grants for implementation of:

- Scholarships and other educational benefits Kshs200, 000,000.
- Other capital grants and transfers (medical services, NARIGP Kshs289,256,980 detailed as below:

- NARIGP Kshs237, 245,331
- ASDSP II Kshs5,344,642
- KDSP Kshs32,416,882
- Health Kshs14,250,125

CHAPTER THREE
COMMITTEE ANALYSIS OF DEPARTMENTAL EXPENDITURES
PUBLIC SERVICE MANAGEMENT

The department had an approved budget of Kshs539, 392,013; recurrent and Kshs8, 422,621 for development expenditure programs. The development allocation was on the supplier for credit vote. The absorption of the budget was Kshs204, 528,819 translating to absorption of 37.3 per cent of the recurrent budget and no expenditures were recorded on development. However, Submissions from the department indicate a release/absorption of Kshs228, 160,031 with monthly exchequers as below:

Month	Exchequer Release(Kshs)
July	0
August	35,559,019
September	15,262,127
October	71,137,649
November	20,620,798
December	28,513,304
January	6,484,450
February	17, 096,850
March	33,485,834

Expenditures

The committee analysed the expenditure on the programmes and sub-programmes of the Department cumulatively for the half year and third quarter and presents as follows;

Budget execution by programs and sub-programs as indicated in the submitted document did not give clear information as to which activities were implemented by various specific departments. Submission from the department indicates that Kshs228, 160,031 was released to them as indicated above. The summarised expenditures are as below:

	ITEM	AMOUNT (Kshs)
1	Salaries	161,946,626.65
2	Imprest	19,214,000.00
3	Pending bills	1,943,335.00
4	Suppliers	41,456,069.35
5	Sub-county Administration	3,600,000.00
	TOTAL	228,160,031.00

3.1.1 Personnel emoluments (Salary)

The department had an allocation of Kshs225, 497,407 and Kshs11, 703,320 as allocation for salaries for staff on P&P and contractual respectively. By the end of quarter three, the absorption on personnel vote stood at Kshs161, 946,626 representing an absorption 71.82 per cent which is close to the target of 75 per cent in nine months. The payments per month are:

Month	Payments(Ksh)
July	17, 839,743.55
August	17,690,821.55
September	17,626,435.50
October	17,571,508.55
November	17,472,983.55
December	21, 556, 536.95
January	17,413,378

February	17, 204,825
March	17, 569,885

The Committee noted that the December pay-out is high due to the leave allowance paid in this month.

There were no expenditures of the 11.7 million for contractual staff due to pending issues surrounding this cadre of staff.

Pending bills

Accounts payable (Pending bill) has outstanding amount of Kshs18, 145,327 against a budget provision of Kshs6, 769,503 on recurrent and an allocation of Kshs8, 422,621 on development. By end of the 3rd quarter, only one pending bill had been paid worth Kshs1, 943,335 and it relates to cleaning services at Bungoma Referral Hospital incurred in the FY 2021/22. The list of development pending bills was not captured in the statement.

Pending staff receivables (Outstanding Imprests)

Pending staff receivables (outstanding imprests) in the department is Kshs19, 214,000. Some imprests date back to the year 2019, 2020 and 2021. However, Submissions from the Department indicated the activities done through imprest as follows:

- Standing office imprest Kshs3,787,700
- Taskforce Kshs3,291,000
- Preparation of Annual Development Plan Kshs889, 000.
- Preparation of sector plan Kshs889,000
- Preparation of CBROP Kshs1, 144,000.
- Assumption of office Kshs.955, 000.
- Review of the projects from 2019-2022 Kshs1,590,000
- Civic education on county government programs Kshs181,000
- Reimbursement Kshs411, 800
- Mashujaa day celebrations Kshs3, 649,000.

- Kenya printers-Nairobi Kshs248, 293
- Katiba ground taskforce Kshs994,000
- Facilitation for training at Mombasa Kshs623,700
- Jamhuri day celebration Kshs3,539,200
- Midterm expenditure framework Kshs894, 000.
- KICOSCA games Kshs700, 000
- Working during holidays Kshs310, 000
- Mombasa induction course Kshs825,000
- Handing over of Lwandanyi Ward office Kshs941, 490.
- Training at KSM Kshs303,100
- Facilitation to Kakamega for cycling Kshs14,500
- Preparation for procurement plan Ksh527,640
- Consolidated reports for consultative meeting Kshs646,720
- Consultative meeting with the county Assembly Kshs3, 464,220
- System reconciliation of outstanding office imprests Kshs590,750
- Ward rent Kshs804,000
- Facilitation to KSG Kshs64, 800

Suppliers

- Hotel Itoya for catering services Kshs4,520,689.65
- Top Flight Security Limited paid for security services Kshs5,449,074.20
- Payment of cleaning crew for cleaning services Kshs2,718.345.70
- Newham services international limited paid for security services Kshs2, 205,310.35
- Hotel Itoya was paid for catering services Kshs4,502,508.60
- The cleaning crew on reimbursement Kshs1,359,332.05
- Webmar investment limited reimbursement of Kshs250,000
- Top Flight Security Limited paid for security services Kshs10,917,803.60
- Newham services international ltd for security services Kshs4, 410,620.70
- Kenya power and lighting company was paid Kenya power bill Kshs76,932
- Safaricom limited paid for credit cards Kshs36,000

- M'BIG Limited paid for rent Kshs12,980,407.60
- Zabibu restaurant was paid for catering services Kshs1,138,034.50
- The Global Procurement Academy Limited payment for academy services Kshs444,600
- Nzoia Water Services Company Limited on water bills Kshs123,000
- Top Flight Security Limited paid for security services Kshs13,622,685.50
- KIMS KISIKA Multi-Suppliers cleaning services Kshs1,568,335.35
- SHREEJI Service Station paid for fuel services Kshs250, 000
- Terranova Autospares Limited on payment for serving of motor vehicles Kshs839,988.35

SUB-COUNTY ADMINISTRATION

The Sub County Administration had an allocation of Kshs10, 971,617 out of which Kshs3, 600,000 was spent on operations as shown below:

- Kanduyi sub County Kshs580,000
- Tongaren Sub County Kshs460, 000
- Webuye sub County Kshs340,000
- Kimilili sub County Kshs340,000
- Bumula Sub County Kshs520,000
- Sirisia Sub County Kshs280,000
- Mt Elgon Sub County Kshs460,000
- Webuye East Sub County Kshs280,000
- Kabuchai Sub County Kshs340,000

COUNTY SECRETARY/COUNTY ATTORNEY/ICT

The department had a total approved budget of Kshs128, 451,014 recurrent and Kshs.82, 653, 81 on development.

Budget execution by programs and sub-programs as indicated in the submitted document does not give clear information as to which activities were implemented by various specific departments. However, the programs executed amounts to Kshs115, 192,795;

- General administration, planning and support services Kshs78, 338,578.

- Kenya devolution Support programme Kshs32,416,882
- ICT and information management services (development) Kshs4,442,335

3.3.1 Revenue

Submissions from the department indicate a release/absorption 33.45 per cent of Kshs70,623,839 with monthly exchequer as below:

Month	Exchequer Release(Kshs)
July	0
August	7,300,237
September	3,064,308
October	4,897,726
November	27,100,577
December	14,996,477
January	3,824,450
February	7,993,802
March	1,446,262

Expenditures

The summarised expenditures are as below:

	ITEM	AMOUNT (KShs)
1	Salaries	5,632,692.25
2	Imprest	11,947,880
3	Pending bills	0
4	Suppliers	53,043,266.75
	TOTAL	70,623,839.00

Personnel Emoluments/Salaries

The approved budget was Kshs15, 213,886. The absorption by end of quarter 3 stood at Kshs5, 632,692 translating to 37.02 per cent. In the supplementary budget Kshs32.1 million worth of personnel budget and payroll was reallocated to Public Administration.

Pending staff receivables (outstanding imprest)

Pending staff receivables (outstanding imprests) in the department is Kshs11, 947,880. Some of the imprests are long overdue with dates in the year 2016,2019,2020,2021. Submissions from the department indicate the following activities funded by the imprests:

- Facilitation for functions of assumption of office of the Governor Kshs1, 150,000.
- Meeting with ECDE teachers Kshs1,203,600
- Facilitation for attending training on Government redress mechanism and to access to information Kshs122,000
- Facilitation for preparation of procurement plan at Nairobi for ICT Kshs1, 541,720.
- Consultative workshop Kshs31,500
- Innovation and creativity in public service in Nairobi campus Kshs162,800
- Facilitation of 6 officers to attend training at Kenya School for Government Nairobi Kshs686, 800.
- Office imprest Kshs984,000
- ICPAK training Kshs304,400
- Facilitation for uploading of procurement plan county attorney Kshs404, 000.
- Facilitation to attend performance management on automation of performance contract Kshs198, 400.
- Meeting in Nairobi Kshs65, 400 for CS.
- Workshop review and calculation of management of public finance by county government Kshs224, 100.

- Facilitation to Uganda trip (CS, CO ICT and driver) Kshs1, 032,080.
- Allowance for attending assembly committee Kshs70, 200.
- Reimbursed to CS for attending Nairobi Court Kshs110, 800.
- Facilitation for opening and evaluation of Tenders Kshs210,000
- Facilitated CS training at KSG Mombasa Kshs137, 600.
- ICPAK training in Mombasa Kshs270, 100.
- Periodical Newspapers and Magazines Kshs24,000
- Cabinet meeting in Mombasa Kshs290,100
- Capacity building for staff's Kshs1, 850,600.
- Kicosca games in Kisumu Kshs539, 000.
- Paid for legal dues Kshs2, 168,648.55.
- Facilitation for training on human resource Management system Kshs878, 800.
- Facilitation for uploading of procurement plan County Attorney Kshs58,400
- Facilitation for preparation of procurement plan 2022/23 for ICT department Kshs1, 697.50.

Pending Bills

Accounts payable (Pending bill) had a budget provision of Kshs7, 203,760 on recurrent. By 3rd quarter no expenditures were reported on pending bills.

Suppliers

The following suppliers were paid in the period under review:

- Telkom Kenya paid for internet services Kshs584, 640.
- Safaricom limited on purchase of office airtime Kshs24, 000.
- Kenya school of government lower Kabete on tuition fees Kshs137, 940.
- Institute of Certified public secretary for annual subscription fee Ksh12, 500.
- Makokha Wattanga and Luyali Association on legal fee Kshs4, 681,980.
- Meritad law Africa limited liability on legal fee Kshs980, 793.10.
- A. S Kuloba and Company for legal fee Kshs982, 758.60.
- Kenya school of government Mombasa for tuition fees Kshs75,000
- Kenya school of government lower KA for tuition fees Kshs37, 050.
- Dawn rise two Enterprise supplied' and delivered laptops and desktops Kshs998, 228.
- Divine homes resort limited on payment for catering and conference facility Kshs515, 948.30.
- Webmar investment limited was paid for fuel a total Kshs884, 482.75.
- Nzoia water Services Company limited was paid for water bills Kshs14, 080.

- Nation Media group limited was paid for advertisement Kshs347, 700.
- National Hospital insurance fund for statutory deduction Kshs22, 269,496.

GOVERNOR'S AND DEPUTY GOVERNOR'S OFFICE

The Office had an approved budget of Kshs554, 310,467 recurrent: Governor's office Kshs542, 419,144 and DG's office Kshs11, 891, 322. There was no allocation on development.

Revenue

The office had a total exchequer release of Kshs407, 581, 606 translating to 73.53 per cent as shared below:

Month	Exchequer Release (Ksh)
July	0
August	58, 753,808
September	82,744,380
October	52,069,327
November	28,522,326
December	53,655,988
January	21,914,272
February	55, 176,710
March	54,744,795

Expenditure

The summarised expenditures are as below:

	ITEM	AMOUNT (Kshs)
1	Salaries	237,672,256.00
2	Imprest	35,111,650.00
3	Pending bills	8, 488,970.00
4	Gratuity	46,913,744.00
5	Suppliers	79,394,986.00
	TOTAL	407,581,606.00

Salaries

The approved budget was Kshs338, 121,374. The absorption by end of 3rd quarter stood at Kshs237, 672,256 translating to 70.3 per cent as in the table below.

MONTH	MONTHLY PAYMENT(KSH)
July	27, 630,021.90
August	22, 905,874.55
September	23, 943,867.50
October	24, 029,365.10
November	22, 182,515.05
December	29, 480,773.20
January	31, 998,985.25
February	28, 384,655.00
March	27, 115,825.05

Pending staff receivables (Outstanding imprests)

Pending staff receivables (outstanding imprest holders) in the department is Kshs35, 111,650. The activities funded were specified as below:

- Assumption of office by Governor Kshs2,512,800
- Standing office imprest Kshs15,040,000
- Bungoma Religious leaders and CBO meeting's Kshs1,568,000
- Small scale traders meeting in Kanduyi Kshs2, 368,850.
- Capacity building Kshs5, 308,700.
- Facilitation for induction to Mombasa Kshs896, 900.
- Facilitation for meeting with community health workers Kshs.1, 562,000.
- Facilitation to Nakuru for a consultative meeting Kshs2, 171,600.
- Facilitation for preparation of ADP office of Governors and DG Kshs791, 000.
- Facilitation for women stakeholder's meeting in Mt Elgon Sub county Kshs907, 100.
- Facilitation for H.E the governor to Nairobi for council of GVN's committees' Kshs667, 000.
- Facilitation to Kilifi for induction Kshs1, 092,000.
- Facilitation to purchase accountable documents Kshs985, 800.

- Facilitation allowance for interim transition committee Kshs1, 550,000.
- Facilitation for capacity building in Kisumu Kshs1, 169,000.
- Facilitation to trainings in Mombasa Kshs115, 800.
- Facilitation stakeholders to service delivery Kshs728, 500.
- Status of Development projects exercise Kshs1,525,000
- Engagements of Sirisia farmer’s Kshs3, 213,100.
- Facilitation to Nairobi for Development partners and COG meetings Kshs1, 031,000.
- Facilitation of CECM’s swearing in Kshs725, 000.
- Preparation of CBROP Kshs989, 000.
- Facilitation for engagement on security status in Mt Elgon Kshs800,000
- Facilitation to induction in Kisumu Kshs332, 400.
- Payment for attend ICPAK trainings Kshs850, 200.
- Payment for attend KISM trainings Kshs.234, 500.
- Preparation of procurement plan Kshs841, 000.
- CECM bonding in Mombasa Kshs377, 000.
- Structured planning meeting for first ladies in Kisumu Kshs204, 000.
- Consultative forum with university student’s Kshs1, 366,500.
- Assessment of staff training needs Kshs710, 000.
- Facilitation for youth and women sensation Kshs915, 000.
- Facilitation for Bungoma OVCs forum Kshs995, 000.
- Facilitation for stakeholder’s engagements Kshs2, 307,000.
- Facilitated for reconciliation of half year transactions Kshs694, 000.
- CBOS meetings Kshs976, 000.
- Reimbursement of funds used on official duties Kshs1.500,000
- KICOSCA games-Kisumu Kshs2, 608,150.
- Reconciliation after supplementary Kshs858,500
- Facilitation to Nairobi Kshs952, 000.
- Facilitated to training at KSG Embu Kshs1, 033,200.
- Facilitation on county youth leadership forum Kshs1, 893,000.
- Facilitation to official duties Kshs492, 900.
- Facilitation on consultative forum with county government Kshs1, 537,500.
- Facilitation to engagement with the national assembly Kshs1, 978,800.
- Meeting with traders in Chwele market Kshs725, 000.
- Facilitation IEBC meeting in Naivasha Kshs793,100
- Kimilili and Kamukuywa market traders’ consultative meeting with the CGB Kshs1, 491,500
- Facilitated for risk identification and management programme Kshs992,000
- Kinshasa trip Kshs314, 400

- Columbia trip Kshs2,268,060
- Italy trip Kshs1,397,638
- Rwanda trip Kshs967,878
- Facilitation to Busia Kshs387, 000.
- Consultative forum with the Bungoma ECDE and TVET stakeholders' Kshs1, 894,000.
- Facilitation to Kisumu Kshs483, 800.
- Facilitation to Nairobi for assessment of office space Kshs196, 000.
- Facilitation to Kilifi Kshs763, 600.
- Preparation for CFSP Kshs784, 400.
- Facilitation for stakeholder's engagement Kshs1,789,500
- Facilitation to KSG to Nairobi Kshs28, 050
- Office imprest on reimbursement Kshs1,405,000
- Facilitation to LREB to Migori & Kisumu Kshs2,222,800
- Preparation of PBB KShs993,400
- Facilitation for service and repair of ICT equipment's Kshs515,500
- Facilitation to ICPAK Mombasa KShs113, 000.
- Facilitation for Fistula camp in Kakamega Kshs77,200
- Payment for motor Vehicle inspection Kshs18, 200.
- Assessment and documentation of county development projects KShs44, 800.
- Facilitation to seminar in Mombasa Kshs137,400
- Allowances for HR taskforce Kshs1,243,500
- Allowances to Nairobi to assess office space Kshs66,000

Suppliers

- Nzoia Sugar Company Ltd for catering services during inauguration Kshs548, 458.
- Hotel Itoya for catering services during inauguration Kshs1,395,517
- Hotel Itoya for catering services during inauguration Kshs1,164,568.95

Mr. Speaker: Hon. Tony is bullet one and two the same?

Hon. Tony Barasa: They are different, the same hotel different figures and they explained Mr. Speaker.

- Webmar Investments Limited total fuel costs services Kshs4, 391,379.
- Tarana Holdings Limited was paid for printing services Kshs1, 370,948.
- Hotel Itoya for catering services during inauguration Kshs4,068,620.70
- African touch safaris limited for air travels services a total of Kshs9,155,838
- Lake Region Economic bloc contributed to legal and administrative services Kshs1,900,000
- DT Dobie and Company ltd for motor vehicles maintenance Kshs237, 479.

- Safaricom Limited had purchased 3 mobile phones Kshs240,000
- The ALPS Hotel was paid for hospitality services Kshs2,476,551.70
- Joventure Hotel for catering services they offered Kshs1,117,887.95
- SHREEJI services station paid for fuel services Kshs800,000
- Enashipai Resort and SPA was paid for catering services Kshs1, 396,500.
- Roman insurance agency was paid insurance Kshs594, 812.
- Administration police welfare and sport Kshs1, 500,000.
- Bridge capacity building and Government tuition fees Kshs117, 931.
- ICPAK institute on Tuition fees Kshs57,982.75
- Standard Group limited was paid for advertisement and publicity services Kshs2, 952,108.

Pending bills

Accounts payable (Pending bill) has an outstanding amount of Kshs15, 448,238 as per the list provided against a budget provision of Kshs11, 595,249 on recurrent. By end of the 3rd quarter, pending bills worth Kshs8, 488,970 had been paid and it related to:

- Administration police welfare Kshs1, 500,000.
- African Touch Safaris Kshs4,092,070
- The Standard Group PLC Kshs2,896,900

CHAPTER FOUR

COMMITTEE OBSERVATIONS

The Committee made the following observations;

1. **THAT**, Exchequer release in each of the sector as submitted by County treasury varied from the information submitted by the departments.
2. **THAT**, absorption of pending bills funds is low across the departments contradicting the notion of pending bills being a first charge at the budgeting stage.
3. **THAT**, Officers are advanced imprests without considering whether previously held imprests have been surrendered, resulting in multiple un-surrendered imprests held by an individual. Further, Imprests went beyond the seven days limit to have them surrendered. The standing office imprests lack limits and needs to be regulated. Imprests held as reimbursement for official duties lack the activities that were undertaken.
4. **THAT**, most imprest activities have resultant reports that should be submitted to the Assembly for consideration by this Honourable House. Apart from the taskforce reports, planning and budgeting documents, other reports are yet to be submitted to this House i.e. Reports emanating from foreign trips and SDU reports.

5. **THAT**, Expenditures were reported on LREB activities yet the LREB bill has not been enacted by the County Assembly.
6. **THAT**, Departments implemented activities without appropriation e.g, the activity on assumption to the office by H.E The Governor, has seen imprests drawn from all the three sectors yet it was solely budgeted for under the Governor's office; KICOSCA was also centrally budgeted for under the department of Gender and Culture.

COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations

1. **THAT**, the County treasury **MUST** ensure the correctness of the financial statements by consulting the user departments before submission to the County Assembly for consideration.
2. **THAT** Pending bills should be paid by 2nd quarter to avoid litigations and also in line with the County treasury circular that put pending bills a first charge.
3. **THAT**, The Accounting Officers **MUST** comply with the provisions of Regulation 93(5), (6), (7) and (8) of the Public Finance Management Regulations, 2015 in respect to management of Imprests which states that;

(5) A holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

(6) In the event of the imprest holder failing to account for or surrender the imprest on the due date, the accounting officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest of the prevailing Central Bank Rate.

(7) If the Accounting Officer does not recover the temporary imprest from the defaulting officer as provided for in this regulation, he/she commits an offence as provided under the Act.

(8) In order to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer or AIE Holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary”

4. **THAT**, the departments **MUST** declare an accurate and detailed report on all pending bills to the County Assembly for proper budgeting and scrutiny by the Committee two weeks after adoption of these report.
5. **THAT**, the MDAs should desist from attending to LREB activities until the LREB bill is passed.
6. **THAT**, the budgets should be implemented as approved pursuant to PFMA 149 (1).

We have the adoption schedule; the members of the sectoral Committee on Public Administration and ICT hereby adopt and append the signatures to this report with comments therein. Allow me call upon my good friend Hon. Stephen Wamalwa to second the report.

Hon. Stephen Wamalwa: Thank you Hon. Speaker, I rise to second this report from our Committee and the mover of this report Hon. Tony Khaoya who has actually presented in a very eloquent manner. I wish to applaud him for the speed and eloquence. I want also to appreciate the committee for doing this very accurate work.

The Committee has spoken and when you look at the report, it is very detailed and precise. As an oversight body we have done our work and have brought it forward. I want to believe that this report is going to be acted upon because every government that comes in office should be ready to live and walk the talk. In as much as we can promise to observe the rule of law while campaigning, while making promises, it is worrying that sometimes when human beings step into the office they disregard the tenet and the rule of law.

When you look at the issue of pending bills, it should be a first charge; any government that is pro people should always ensure that pending bills are treated as first charge. When we look here, we see imprests and they are multiple, some officers have not even surrendered and the reports are not accompanied yet when we talk about pending bills. It is like no one is seeing that people worked for this county. Some of them went into financial institutions and took loans and put their property as collateral and they are on the verge of even losing their property, yet the government is not keen to ensure that they pay the service providers in time so that we don't always mention this issue of pending Bills.

The issue of Lake Region Economic Block, this House has pronounced itself and we have said that Bungoma is not a member of the bloc not until and when this honourable House will pronounce itself that Bungoma has accepted to be part and parcel of the Economic Bloc. Any activity done is not within the rule of law. I must say this because this is impunity, it is throwing the law through the window and we do things as if we are above the law. I want to urge that these recommendations from this committee should be acted upon without being put on the shelf to gather dust.

When we look at the trips here, the expenditure across board in the department is worrying and the report is explicit. I don't want to repeat because I will be wasting time. What I want to urge this House is that let us pass this motion as recommended by the Committee then believe that the Implementation Committee will swing into action and ensure that the recommendations of the report are adhered to. I second.

Mr. Speaker: Thank you Hon. Stephen Wamalwa our Deputy Speaker, Honourable Members, allow me propose a motion for debate.

(Motion proposed)

(Question put and agreed to)

The ayes have it!

The report plus its recommendations are adopted by the House for forwarding to the relevant sector for implementation.

2. REPORT BY THE SECTORAL COMMITTEE ON PUBLIC ADMINISTRATION AND ICT ON THE BUNGOMA COUNTY INSPECTORATE COMPLIANCE AND ENFORCEMENT BILL, 2023

Mr. Speaker: Hon. Chemion you have the honour to move on behalf of the Committee for us to note the contents

Hon. Francis Chemion: Thank you Hon. Speaker; on behalf of Public Administration Committee, I have the opportunity to move this report for noting by the County Assembly.

This is a report by the Sectoral Committee on Public Administration and ICT on the consideration of the Bungoma County Inspectorate Compliance and Enforcement Bill, 2023. We have the preface.

The Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023 was first read in this House on 27th April, 2023 and consequently committed to the Sectoral Committee on Public Administration & ICT for processing and feedback to the House.

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

This Bill was subjected to public participation through print media on 9th May, 2023 as per the advertisement in the Daily Nation Newspaper inviting the public to submit memorandum, as attached (annexure 2). The Committee received memoranda by 17th May, 2023 from the following key stakeholders: The Bungoma Hoteliers Association (BUHA) whose valuable input has formed part of this report and annexed herein.

The committee therefore wishes to present this report on the Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023; for noting and adoption by this Honourable House.

I don't need to read the Committee's mandate because it is well known.

COMMITTEE MEMBERSHIP

The following is the committee membership as currently constituted;

- | | |
|--------------------------|--------------|
| 1. Hon. Tony Barasa | Chair person |
| 2. Hon. Caleb Wanjala | Vice chair |
| 3. Hon. Stephen Wamalwa | Member |
| 4. Hon. Joseph Nyongesa | Member |
| 5. Hon. Jackson Wambulwa | Member |
| 6. Hon. Busolo Sudi | Member |
| 7. Hon. Francis Chemion | Member |
| 8. Hon. Simotwo Franklin | Member |

9. Hon. Grace Sundukwa	Member
10. Hon. Cornelius Makhanu	Member
11. Hon. Timothy Chikati	Member
12. Hon. Stephen Kaiser	Member
13. Hon. Jeremiah Kuloba	Member
14. Hon. Florence Juma	Member
15. Hon. Brigid Katasi	Member

ACKNOWLEDGEMENT

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

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

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

Lastly, the Committee appreciates the sponsor of this Bill Hon. Barasa Mukhongo; for the initiative to prepare and have it for consideration

I wish to confirm that the recommendations of the Committee in this report were unanimous. It is now my pleasant duty and privilege, on behalf of the members of the Public Administration and ICT Committee, to present to this House the Committee's report on the Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023 for noting and adoption.

It is signed by Hon. Tony Barasa, MCA Iwandanyi ward and the Chairperson of the Committee.

CHAPTER TWO

BACKGROUND INFORMATION

The Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023 was published on 11th April, 2023, it was first read on 27th April, 2023, and thereafter committed to the Sectoral Committee on Public Administration and ICT for consideration pursuant to Standing Order No. 140(1).

The Bill seeks to establish the Bungoma County Enforcement Inspectorate Unit, provide an institutional framework for the enforcement of Bungoma County Laws and regulate the actions of County Inspectorate Officers.

The Bill concerns the County Governments since the County Executive is obliged in the County Governments Act, 2012 to implement county legislation.

The Bill outlines the functions of the directorate and provides grounds for discipline of the enforcement officers, given that previously the unit had usurped extra powers that were vindictive to the public. It further provides for offenses, penalties and the procedures to tackle the public who obstruct or impersonate an Enforcement Officer.

In respect of the Intergovernmental relations between the National and County Governments, the Bill recognizes the need to put in place arrangements with the Director of Public Prosecution, the Judicial Service Commission and other relevant bodies dealing with matters of criminal suspects and convicts.

The Bill does not delegate legislative powers to any party

SALIENT FEATURES OF THE BILL

Purpose and objective of the Bill

The Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023 seeks to provide for the establishment of the Bungoma County Enforcement Inspectorate Unit and an institutional framework for the enforcement of County laws. It also seeks to regulate the actions of County Inspectorate Officers.

The Bill is divided into six sections:

Part I outline the preliminary provisions which include the short title, interpretation and outline the purpose of the Bill. It further limits the powers and responsibilities under the Bill to the jurisdiction of Bungoma County.

Part II provides for the composition and administration of the inspectorate. It stipulates the composition and functions of the inspectorate, recruitment, deployment, promotion and discipline of the enforcement officers and general rules for the administration of the inspectorate.

Part III stipulates the powers and duties of officers. It provides for the general duties performed by the officers and the specific duties towards the public, arrested persons, and duties to keep order in public places. The Bill provides power for the officers to inspect and search suspected persons and places and handle animals and unclaimed properties.

Part IV outlines the regulations that govern erection of barriers on streets, stray dogs and unfit animals. It also delegates power to the County Executive Member to make regulations.

Part V outlines the offenses, penalties and procedures to be followed for members of the public who may cause obstruction or impersonate an enforcement officer and general penalties for contravening the Act.

Part VI provides for the miscellaneous provisions which include indemnity to officers of the Inspectorate, complaint mechanisms and provisions for arrangements between the county government and other law implementing institutions.

The Bill provides the Memoranda of objects and reasons which clearly outlines the issues contained in the Bill. It further provides the statement of delegation of legislative powers, and statement as to whether the Bill is within the meaning of Article 114 of the Constitution.

Statement of compatibility with Human Rights

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

Involvement of the Public, Stakeholders and Interest Groups

Pursuant to Article 196 of the Constitution, County Assembly is obligated to conduct its business in an open manner, and its sittings and those of its committees shall be open to the public. It shall further facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

Financial Implications

In line with Article 114 of the Constitution of Kenya, 2010, it is not a money Bill and would therefore not have any financial implications in its implementation.

Article 114 of the Constitution of Kenya, 2010 stipulates that:

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

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

CONSTITUTIONAL AND LEGAL FRAMEWORK

Inadequacy of the legal and institutional framework is the root of all other challenges experienced in the enforcement of county laws in Kenya. These challenges include lack of capacity for the enforcement of county laws by the counties, corruption menace, and lack of a uniform code of conduct for County Enforcement Officers, the novelty of devolution to County Enforcement Officers and the general public and the lack of county courts to resolve disputes involving counties and enforce county laws.

Proposals for addressing these challenges are given stressing on the need to enact legislation to provide for the legal and institutional framework for the enforcement of county laws in Kenya. This is important because one of the ways through which the objects of devolution can be achieved in Kenya is through the effective and efficient enforcement of county laws and regulations.

The 2010 Constitution has provided for the powers and functions of both the legislative and executive structures at the county level of government. The County Executive Committees handle the executive functions while the County Assemblies have the mandate on matters of county legislation. These legislative powers include the regulation of various matters within the purview of the powers and functions of the county government.

County legislation, just like any other laws, requires implementation and enforcement. It is through the enforcement and implementation of the county legislation that the objects of devolution can be achieved. Generally speaking, the County Executive Committees implement county legislation. Practically, to achieve the implementation and enforcement of the county laws, the county governments should through legislation, establish a proper institutional framework with specific powers geared at enforcing the county laws and regulations. County laws include the Acts of the County Assembly of the respective county or subsidiary county laws.

The County Assemblies have been enacting county laws which make some acts and/or omissions offences without clearly indicating who should be responsible for enforcing such laws. This is the problem which the County Inspectorate, Compliance and Enforcement Bill seeks to address.

Enforcement includes inspection of compliance with county laws, arresting those who offend county laws, their prosecution, judicial determination of accusations and punishment of those who offend the county laws and regulations.

Enforcement further extends to impoundment of property and animals which is and/or are traded and/or kept contrary to the county laws and regulations. The arresting and/or impounding officer(s) must have a legal backing from which such powers should be given.

2.1.6. Comparative Analysis with other Counties

It is upon the above background that some Counties such as Mombasa, Nairobi City and Nakuru counties have enacted county legislation providing for the establishment of county laws enforcement units and their powers. Others such as Kakamega, Mandera and Trans Nzoia counties have hired county enforcement officers and/or county security officers through their respective County Public Service Boards to assist in the enforcement of county laws- including identifying, developing, implementing and maintaining security processes, protocols and programs to reduce risk, respond to incidents, and limit exposure; overseeing the physical security and safety of county government staff and assets; and enforcement of county legislation.

2.1.7. Constitutional and legal framework for enforcement of County laws

a) Constitution of Kenya, 2010

The county assemblies have the powers to legislate for the counties while the county executive committees implement county legislation. As a result, the enforcement of county laws is arguably a function of county executive committees and they are required to cooperate with the police, judiciary, independent commissions and offices and other organs of the national government in implementation.

In order to give effect to Chapter Eleven of the 2010 Constitution: Devolved Government, the Kenyan Parliament enacted the County Governments Act, No- 17 of 2012 to provide for the county governments' powers, functions and responsibilities to deliver services and for connected purposes.

The legislative organs of the county governments are their respective county assemblies while the executive structures are their respective county executive committees. County executive committee's function to:

- a) Implement county legislation;
- b) Implement, within the county, national legislation to the extent that the legislation so requires;
- c) Manage and coordinate the functions of the county administration and its departments; and
- d) To perform any other functions conferred on it by the 2010 Constitution or national legislation.

Article 185(1) of the 2010 Constitution provides that the legislative authority of a county is vested in, and enforced by, its respective county assembly. The power of county assemblies to enact legislation means that implementation and enforcement of county laws is a key component of the county governments.

According to Article 185(2), county assemblies have the powers to make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county governments under the Fourth Schedule to the Constitution. With regard to this Article, County assemblies have enacted county laws which make several acts and/or omissions done contrary to county laws as offences punishable under such county laws.

Informed by the recognition that county governments require officers who can be responsible for ensuring compliance with and the enforcement of county laws, county governments have hired officers for this purpose...

Counties refer to these officers as County Enforcement Officers and/or security officers and/or security wardens. Members, I hope you are getting the right title for these officers. Hon. Speaker,

sometimes members call them reinforcement officers, and that is not the right term. The right term here is Enforcement Officers. Generally, these officers ensure compliance with and enforcement of the county laws and regulations.

It is also important to note that, county governments inherited the council *askaris* who previously worked under the now defunct local authorities in the former highly centralized system of government. Both the newly employed county enforcement officers and/or security officers and/or security wardens by the counties and the inherited council *askaris* work in order to fulfill the sole mandate of ensuring compliance with and the enforcement of the county laws and regulations.

b) County Government Act, 2012

The County Government Act, 2012 is an Act of Parliament to give effect to Chapter Eleven of the 2010 Constitution: Devolved Government; to provide for county governments powers, functions and responsibilities to deliver services and for connected purposes. The Act provides for the powers, functions and responsibilities of the county governments to deliver services and development to the Kenyan people.

In line with these purposes, the Act has relevant provisions which empower county governments with both legislative and executive powers and functions.

Section 5 (2) gives the responsibilities of county governments to include:

- i. County legislation in accordance with Article 183 of the 2010 Constitution;
- ii. Exercising executive functions in accordance with Article 186; and
- iii. Functions provided for in Article 186 and assigned in the Fourth Schedule to the Constitution.

The Act recognizes the two organs of the county governments as their respective county assemblies and county executive committees. The county assemblies are the legislative organs of the counties responsible for county legislation and the county executive committees are responsible for implementing county legislation. For the county plans and policies to be achieved, there is need for a proper implementation of the county legislation which includes the enforcement of county laws. Proper enforcement of county laws is one of ways through which county governments can achieve the objects of devolution as set out under Article 174 of the 2010 Constitution.

c) County Legislation

With regard to the relevant provisions of the Constitution of Kenya, 2010 and the County Governments Act, 2012, the county assemblies have been enacting laws for effective performance and exercise of the functions and powers assigned to counties under Part II of the Fourth Schedule of the Constitution. The county laws which have been enacted by the respective

county assemblies have created offences to be committed by those persons who offend such laws. The acts and/or omissions resulting in criminal offences in reference to county laws are punishable by either imprisonment and/or payment of a fine.

Based on the foregoing, some of the counties have enacted county legislation providing for the establishment, organization, powers and functions and the conduct of inspectorate officers within the county governments. The objectives of the county legislation are to provide for a legislative and institutional framework for the enforcement of the county laws and other applicable laws and the regulation of the actions of county inspectorate officers.

Generally, the inspectorate units are responsible for the enforcement of and compliance with county laws and regulations. Some counties have empowered the inspectorate units to collect service fees and land rates. For example, both the Mombasa County Inspectorate Act, 2016 and the Nakuru County Laws Enforcement Inspectorate Unit Act, 2014 have empowered their respective inspectorate units to collect service fees and land rates. This results in duplication of roles which is wasteful of resources because County Revenue Clerks are also responsible for county revenue collection including service fee and land rates.

In accordance with the spirit of cooperative government as provided in Articles 6(2) and 189 of the 2010 Constitution, the County Inspectorates offer secondary support to services that are primarily the preserve of the national government, such as county traffic control and security. Some counties such as Mombasa have their inspectorate departments comprised of well-trained people-friendly security teams inclusive of fire-fighters who take charge of security operations in the county by effectively and efficiently responding to emergencies. Mombasa County also has ever present and agile traffic marshals who work hand in hand with the traffic police and this has resulted to efficient management of traffic.

It is important to note that some Counties such as Kilifi, Tana River, Uasin Gishu, Kakamega, Kwale, Embu, Bomet and Tharaka Nithi do not have inspectorates' units for ensuring compliance with and enforcement of County laws. Instead, they have security officers and/or Security Wardens and/or County Enforcement Officers and/or Security Enforcement Officers popularly known as County *askaris* whose responsibilities include:

- (a) Enforcement of and compliance with county laws and regulations;
- (b) Patrol and guarding of access points;
- (c) Controlling crowds; (d) protection of county government property; and
- (e) Providing market security.

The conclusion is that Counties have organized their officers responsible for compliance with and enforcement of the County laws differently. Despite these differences, all these officers are commonly referred to as County *askaris* who are generally responsible for compliance with and the enforcement of the county laws and regulations.

2.1.6. Challenges Experienced in enactment of County Laws

The challenges experienced include:

a) Inadequate legal and institutional framework:

A few county governments have enacted legislation providing for a legislative and institutional framework for the enforcement of and compliance with county laws and regulations; Bungoma County inclusive.

Instead, County Public Service Boards have employed Security Officers /Security Wardens /Security Enforcement Officers /County Laws Enforcement Officers popularly referred to as county *askaris* whose responsibility is to ensure compliance with and enforcement of the county laws and regulations.

These county *askaris* work under the department of Public Service. This clearly shows that most county governments lack legal and institutional frameworks for ensuring effective and efficient enforcement of and compliance with county laws and regulations.

b) Lack of capacity for the enforcement of County laws by the counties;

Generally, County Inspectorate Officers who are commonly referred to as county *askaris* are supposed to enforce the county laws and regulations. A close scrutiny of their performance depicts numerous glitches which should be addressed by the respective county governments to ensure that they discharge their mandates within the confines of the law and uphold human rights. This raises the questions of whether the county governments really have the needed capacity to maintain inspectorate units of professional county *askaris*.

Most of the county *askaris* hardly undergo any training besides the minimum secondary school education requirement and being physically and mentally fit. As a result, the capacity of the county *askaris* is low considering their training schools, curriculum and training modes and length being questionable.

c) Corruption;

d) Lack of code of conduct for county *askaris*;

e) Devolution still novel to county *askaris* and the public; and

f) Lack of county courts to resolve disputes involving county governments and to enforce county laws.

CHAPTER THREE

3.0. PUBLIC PARTICIPATION

The requirement of the Committee to conduct public participation on the bill is a constitutional imperative flowing from Article 196 of the Constitution which provides that the County Assembly shall;

- a) Conduct its business in an open manner and hold its sittings and those of its Committees', in public; and
- b) Facilitate public participation and involvement in the legislative and other business of the assembly and its committees.

The Committee is required pursuant to Standing Order No.140 (2) to facilitate public participation on the Bill through appropriate mechanism including.

- a) Inviting submission of memoranda
- b) Holding public hearings
- c) Consulting relevant stakeholders in the sector
- d) Consulting experts on technical subjects

3.1. SUMMARY OF THE VIEWS FROM THE PUBLIC

Following the call for submission of memoranda from the public as contained in the advert in the Daily Nation on 9th May, 2023, the Committee received memoranda from one entity. The proposals were deliberated on and considered by the Committee. Below are the views from Bungoma Hoteliers Association and recommendations of the Committee.

1. The enforcement officers to be well trained to handle Bungoma business communities with decorum.
2. They should have good public relations and etiquette.
3. Be presentable and responsible.
4. Avoid using force in the discharge of duties.
5. They should be well guided and focused while serving Bungoma residents
6. Let them not be used during political rallies and political duties.

Hon. Speaker,

The Committee observed that these are finer details and recommends that this should be captured while formulating the regulations.

CHAPTER FOUR

4.0 Committee Consideration on the Bungoma County Compliance and Inspectorate Bill, 2023 / Proposed Amendments and Recommendations

Having considered the memoranda on each of the clauses, the Committee proposes the following amendments.

CLAUSE 1: Agreed to.

CLAUSE 2: Agreed to with amendments.

THAT; introduces the word “Director” to mean Director of inspectorate

Justification: To address the omission.

CLAUSE 3: Agreed to.

CLAUSE 4: Agreed to.

PART II-COMPOSITION AND ADMINISTRATION OF THE INSPECTORATE

On Composition of the County Inspectorate; agreed to with amendments

THAT sub-clause numbered 4(1) be amended so as to read, 5(1)

Justification- To correct the typographical error

THAT the current erroneous Clause 4(2) in the Bill be amended by inserting the word “County”, before the word “Executive” so as to read;

5(2) the inspectorate shall consist of such number of officers and be constituted in such a manner and such organization as the County Executive Member may, in consultation with the County Public Service Board, determine.

Justification-To have it harmonized with the definition under interpretation.

CLAUSE 6: Agreed to with amendments

THAT (1) (b) be amended by inserting the word “policies” at the end of the clause.

So as to read; enforcing the compliance with the Bungoma County Laws, Regulations and Policies

Justification-To give room for enforceability on all legal instruments in the County

CLAUSE 6: Agreed to with amendments

THAT (1) f to be amended by inserting the words, “liaising with other revenue collection agencies” in at the start of the sub-clause

So as to read; Liaising with other revenue collection agencies in enforcing service fee and land rates collection.

Justification-To have them work as a team in assisting the enforcement of the fees and rates collection.

CLAUSE 6: Agreed to with amendments

THAT (1) (g) be deleted in entirety

Justification-Clause 6(1) (b) has covered the provisions under it.

CLAUSE 7: Agreed to.

CLAUSE 8: Agreed to with amendments.

THAT on the powers and duties of the Director be approved with amendment by adding the words “and any other enacted regulations” so that the clause reads;

8(1) the director shall be subject to consultation with the Executive Member exercise such powers and perform such duties as are or may be provided by or under this Act and any other enacted regulations.

Justification: To bring clarity on the reporting and working structure.

THAT a sub-clause named 9(2) be introduced to read;

9(2) the recruitment shall be based on the provisions of the Constitution and other supporting laws

Justification-To have constitutional provisions adhered to terms of employment.

CLAUSE 10: Agreed to with amendments.

THAT clause 10(2) be amended by deleting the words “County Secretary” and replacing it with the words “Chief Officer” so as it reads;

10(2) despite sub-section (1), the County Public Service Board may delegate any of its functions of deployment, promotion and discipline of officer, in writing, to the Chief Officer responsible for matters pertaining to the enforcement of County laws or the Director.

Justification-To align the roles provided to the relevant office.

CLAUSE 11; Agreed to with amendments.

THAT clause 11(1) to be amended by deleting the word “disciple” and replacing with the word “discipline” so as to read;

11(1) the grounds constitute a breach of discipline by officers of the inspectorate which includes-

Justification-To correct typographical errors

CLAUSE 11: Agreed to with amendments.

THAT clause 11(1, e) be amended by deleting the word “remissness” and replacing it with the word “negligence” so as to read;

e) Negligence in discharge of any duty

Justification-For better clause understanding by all

CLAUSE 12; Agreed to with amendments.

THAT clause 12 be amended by inserting a new clause 12(g) and (h) so as to read:

12(g) Nature and manner of recordings to be maintained by the inspectorate

12(h) Handling of all impounds

Justification-To provide for wide range of regulations for easy enforcement of the law

CLAUSE 13: Agreed to.

CLAUSE 14: Agreed to with amendments

THAT clause 14(d) on duties of officers towards the public and arrested persons be amended by inserting the following phrase after the words “custody”, so as to read;

d) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody by surrender them to the police.

Justification-To align with the provision of the Constitution

CLAUSE 15: Agreed to.

CLAUSE 16: Agreed to with amendments.

THAT clause 16(2) be amended by inserting the word “or her” immediately after the word “him”

Justification-To have all the gender covered in the provision.

CLAUSE 17: Agreed to.

CLAUSE 18; Agreed to with amendments.

That clause 18 be amended by inserting the following words immediately after the word “laws” “in conjunction with other law enforcement agencies” so as to read;

18. An officer generally or specially authorized by the Executive Member may enter any shop or premises for the purpose ensuring compliance with County laws in conjunction with other law enforcement agencies.

Justification: To bring clarity on the roles and powers of the officers involved.

CLAUSE 19: Agreed to.

CLAUSE 20: Agreed to.

CLAUSE 21: Agreed to with amendments.

THAT the clause 21 be amended by inserting the following words after the word “property” “which shall attract penalties on a daily basis as shall be provided in supporting legislation and guidelines” so as to read

An officer has a duty to seize and take to any public pound for confinement therein for 14 days any animals found straying in any street or trespassing upon any public property which shall attract penalties on a daily basis as shall be provided in supporting legislation and guidelines.

Justification to deter those whose animals are confined from taking advantage of them

CLAUSE 22: Agreed to with amendments.

THAT clause 22(2) be amended by inserting the words “in the regulations” at the end of the clause so as to read;

An officer taking charge of any property under sub-section (1) shall hand over the property in a manner as may be prescribed by the Executive Member in the regulations

CLAUSE 22: Agreed to with amendments.

THAT sub-clause 22(3) on charge of unclaimed property be amended by deleting the words “three months” and replacing it with the word “fourteen days”.

So as to read;

3)The executive member shall issue proclamation notice specifying unclaimed property and requiring any person who may have a claim to appear before him/her or some other officer delegated to an act in this his/her behalf to establish his/her claim within fourteen days from the date of such proclamation.

Justification: To shorten the period since the County does not have enough space for storage and feeds for the case of animals.

THAT sub-clause 22(5) be amended by inserting the following words after the word “property”, “upon the claimant’s payment of appropriate fees and charges” so as to read;

The Executive Member shall on being satisfied of the title of the claimant to the property referred to in this section (4) release the property upon the claimant’s payment of appropriate fees and charges

Justification: To bring clarity on the terms and conditions applied before release of property the claimant.

THAT sub-clause 22 (6) be amended by inserting the word “County” immediately before the word “government” so as to read;

(6) If no person establishes a claim to such property within the period prescribed in sub-section (4), it shall be at the disposal of the County Government

Justification- To specify which kind of government

CLAUSE 23: Agreed to with amendments.

THAT clause 23(1) be amended by deleting the words “may, in the absence of any county laws” appearing immediately after the word “Member” and substituting therefor with the word “shall” so as it reads;

The Executive Member shall make regulations for-

Justification-To make it mandatory in making the regulations

THAT clause 23(1) (a) (b), (e) (l), (m), (n) and (p) be deleted.

Justification –To align the provisions with other laws

THAT sub-clauses 23(2) be amended by deleting the word “newspaper” appearing after the word “local” and replacing therefor with the word “media”.

So as to read;

23(2) the regulations made under this section shall be published in the County gazette and in the locality affected thereby by affixing copies thereof in conspicuous places or by advertising the same in such local media.

Justification-To give room for more advertising platforms

CLAUSES 24: Agreed to with amendments.

THAT erection of barriers on streets be amended by inserting the words “on” between the words driven and county and deleting the word “been” appearing between the words not and contravened

Further be amended by deleting the phrase in respect of any such vehicle and in order to collect chess or royalties so as it reads;

24. The Executive Member may authorize the inspectorate to erect barriers on any street for the purpose of stopping temporarily vehicles driven on the County roads in order to satisfy they have not contravened licensing laws.

CLAUSE 25: Agreed to.

CLAUSE 26: Agreed to.

PART VII- OFFENCES, PENALTIES AND PROCEDURE

CLAUSE 27: Agreed to with amendments.

THAT clause 27 be amended by deleting the word “hundred” appearing immediately before the word “thousand” and replacing with the word “ten” and further delete the words “one year” appearing before the “exceeding” and substituting therefor with the words “three months” so as to read;

27. A person who intentionally resists arrest, obstructs or interferes with the duties of an officer commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months or both.

Justification-The penalty is too punitive.

CLAUSE 31: Agreed to with amendments.

THAT new sub-clause 31(b) be introduced to read;

A complain Committee shall be formed in the regulations and will act upon the Complain

Justification-To avoid injustices

THAT a new transitional clause be introduced so as to read;

Any officer currently serving in any rank that may be varied by this Act in terms of educational qualifications, shall continue doing so until his/her retirement

CHAPTER FIVE

COMMITTEES OBSERVATIONS

The Committee made the following observations

1. THAT the Bill is well drafted as per the standards of Bill drafting.
2. The Bill once enacted shall provide Legal framework for the enforcement of laws in the County.

5.1 COMMITTEES RECOMMENDATIONS.

The Committee recommends THAT this House adopts this report with the proposed amendments on the Bungoma County Inspectorate, Compliance and enforcement Bill, 2023 further; the Committee recommends that the Bill moves to the next stage.

Thank you Hon. Speaker. I invite Hon. Mukoyandali to second the report.

Hon. Job Mukoyandali: Thank you Mr. Speaker. I rise to second this motion. When you look at the report of the Committee where I am a Member, there are many issues that directly touch on our people and the operations of our County *Askaris*. Initially we had to accept that their performance has not been up to date. Like around the shop, when park wrongly, these are people who will sit at a corner and watch you parking and may be you are not doing so in a proper way. Instead of them coming to notify you before you leave that you have parked your vehicle wrongly, they will wait until may be you enter a super market before they clamp your vehicle. At the end of the day, they end up demanding a lot of money from you. During collection of revenue, I happened to run a Kiosk where they went to the Kiosk when I was not around and terrorized whoever that was working for me. They carried some items from the same Kiosk...

Mr. Speaker: Which items? Or they are items like what Hon. Waiti like taking?

Hon. Job Mukoyandali: Mr. Speaker, it is a story for another day...

Mr. Speaker: Because when you say that they carried some items from a Kiosk...

Hon. Job Mukoyandali: Mr. Speaker, a Kiosk can sell food items. The commodities like those Hon. Jeremiah sells at his Kiosk. They carried those food stuffs and we could not trace them later on. It has been a norm by these *Askaris* within the county and when we look at the justification and the education levels of most of them, you will realize just like the report puts it; it is wanting. That is why they cannot face the issues the way they are and reason with somebody.

Looking at the recommendations that were made by the traders unions and the recommendations that have been forwarded by the committee, I believe the recommendations will adversely address the issues that have been affecting our people within the county. I am sure if these recommendations are put in place, we will not get members of the public and traders who are adding value to the county in terms of helping us raise revenue; not be subjected to weird conditions by our county askaris.

In the report, you have seen that we went round making comparisons with different counties on how they contact their issues. The other day I was in Nairobi and when I was parking at a wrong place, the County *Askari* came to tell me that I was parking at a wrong place. When they tried to check in the system, the vehicle that I was using happened to have been given some parking penalties for about three occasions. Therefore, I was supposed to pay KShs3, 800; but they came and told me that I am supposed to go to their office and explain myself why these penalties had accrued.

As a county, we would like to see such working condition not a condition where someone clamps your vehicle and they begin demanding for money at that particular time when maybe you don't have that kind of money to pay. We as an Assembly support the collection of revenue. Last week at the *Kamukunji*, you heard the discussions on how we are supposed to raise revenue within the county and most of these things that we discussed if implemented, especially vehicles accessing town, people that we are going to depend on to implement collection of revenue are

the county *askaris*. If they are not disciplined enough, we will end up having people running away from Bungoma. Therefore, if the recommendations that have been forwarded to this House are put in place and followed properly, we will have a good county where everybody will be willing to pay taxes. Mr. Speaker, I second.

Question proposed

Hon. Jeremiah Kuloba: Thank you Mr. Speaker for giving me this chance. Mine is to support all the recommendations that have been given by this Committee though some Members have complained because they don't encounter these officers where they come from. The Honourable Members should be patient because I encounter them every moment I leave this Assembly...

Mr. Speaker: Are you saying we don't stay in Bungoma County?

Hon. Jeremiah Kuloba: I stay in Bungoma County.

Mr. Speaker: I stay in Khalaba.

Hon. Jeremiah Kuloba: Yes, you stay in Khalaba, but they are not there, they are here where I am Hon. Speaker.

Mr. Speaker: Have not seen any of the officers besides you yet you are saying they are where you are.

Hon. Jeremiah Kuloba: Well, Mr. Speaker, these Enforcement Officers appear to be having a target where they walk, the target is where money is. We want to see a friendly enforcement team; a team that comprises of officers who can control traffic the way Hon. Job has put it, that which is lacking in our enforcement. If all this is put in place, they will carry their duties with decorum.

As it has been said, there is a team of enforcement officers who are not allowed to collect taxes but you will see them walking in shops, get revenue from locals when we have specific revenue collectors. If everything is put in order, I think we shall enhance our revenue.

Further, I request that continuous refresher course be given to these Enforcement Officers. Although it has been indicated that those who are illiterate without any education that they will continue with the service until they retire, but they should be trained every now and then. I think if we take them to continuous refresher courses, they will handle our people with decorum and good public relations. They should avoid using force when handling traders because they are their brothers and sisters who understand. They should approach them the way the Hon. Mukoyandali has indicated how he was handled in Nairobi. We want our enforcement team to

emulate such officers. This can only come through if we take them for continuous refresher courses. I support.

(Applause)

Hon. Francis Chemion (Mover to reply): Thank you Hon. Speaker. What Hon. Jeremiah has said is captured in the Bill and I think it will address most of the worries of the community of Bungoma. I urge that we note the report.

Question for noting the report put and agreed.

The ayes have it and the report is noted and it now proceeds to the next stage.

(Applause)

BILLS

THE BUNGOMA COUNTY COOPERATIVE SOCIETIES BILL, 2023

Hon. Wafula Waiti (Chairperson, Agriculture): Thank you Mr. Speaker Sir. I request that the Bungoma County Cooperative Societies Bill, 2023 be read a Third Time. I now call upon Hon. Alice Kibaba to second.

Mr. Speaker: Is she a Member of the Committee?

Hon. Wafula Waiti: I know all my members Mr. Speaker.

Mr. Speaker: Proceed, Hon. Alice Kibaba

Hon. Francis Chemion: Hon. Speaker, you asked a question which has not been answered?

Mr. Speaker: Is she a member of the Committee?

Hon. Wafula Waiti: Mr. Speaker, I have a committee of 15 members and Hon. Alice Kibaba is one of them.

Mr. Speaker: I have confirmed she is a Member of the Committee. Hon. Kibaba you can now proceed.

Hon. Alice Kibaba: Thank you Mr. Speaker Sir. I second.

(Applause)

A Bill of the County Assembly of Bungoma to give effect to Paragraph 7 (e) of Part II of the Fourth Schedule of the Constitution to make provisions relating to Formation, Registration and Regulation of Cooperative Societies and Connected Purposes. Third Reading

Mr. Speaker: Honourable Members, the said Bungoma County Cooperative Societies Bill, 2023 has now become an Act of the County Assembly of Bungoma; having been approved by this House. The next process follows as provided under Section 24 of the County Governments Act; the same is forwarded to Executive for assent.

ADJOURNMENT

Honourable Members, that is the last item on our Order Paper; I thank every Honourable Member who has sat to confirm that we are able to clear today's transaction as planned.

As you look around, one of the items for tomorrow's *Kamukunji* is the state that we are in now as we finish this business. I think every Member has received a message for the Speaker's *Kamukunji* in this House starting at 9:30 a.m. Don't come at 10:00 a.m. and start asking what we discussed between 9:30 a.m. and 1:00 p.m. Keep time!

We adjourn and resume our sitting tomorrow at 2:30 p.m.

(House Adjourns)