

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY 4TH OCTOBER, 2023

Morning Sitting

COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

WEDNESDAY, 4TH OCTOBER, 2023

The House met at 9:30 a.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

Visit by officers from Senate

Mr. Speaker: Honorable members, this is meant for the consumption of the Honourable members; we are privileged to have two officers from the Senate who have come to train our officers from the Seargent at Arms department. We have;

Wilson Bosmet - Principal Seargent at Arms

Patrick Murimo - Seargent at Arms

They are also in uniform and participated in the procession that brought in the Speaker. We proceed!

PAPERS

REPORT BY THE SECTORAL COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION ON THE BUNGOMA COUNTY WEIGHTS AND MEASURES BILL 2023

Mr. Speaker: Chair of Trade, Energy and Industrialization or a member of the said committee! Hon. Katasi, are you a member, table this report and also prepare to issue a notice accordingly. Proceed!

Hon. Brigid Katasi: Mr. Speaker Sir, I rise to table the report by the committee on Trade, Energy and Industrialization on the Weights and Measures Bill 2023.

(Member hands over report to Seargent for tabling)

Mr. Speaker: Hon. Brigid, you can't, it's her to table the report and bring it forward. There is no delegation on those duties.

(Hon. Brigid Katasi tables the report)

The report by the Committee on Trade, Energy and Industrialization on the Bungoma County Weights and Measures Bill 2023 is hereby tabled, and formally becomes the property of the House.

NOTICES OF MOTION

REPORT BY THE SECTORAL COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION ON THE BUNGOMA COUNTY WEIGHTS AND MEASURES BILL 2023

Mr. Speaker: Hon. Katasi, proceed and issue a notice.

Hon. Brigid Katasi: Mr. Speaker Sir, I rise to issue a notice of motion that this House notices the report by the sectoral Committee on Trade, Energy and Industrialization on the Bungoma County Weights and Measures Bill 2023.

Mr. Speaker: Honourable members, the Committee on Trade, Energy and Industrialization having duly issued a notice that the Honourable members take note of the report and equally they share out this report with the table clerks, the same is going to form business on our Order Paper in the course of this week or next week.

MOTION

CONSIDERATION OF THE BUNGOMA COUNTY PUBLIC ENTERTAINMENT AND AMENITIES BILL 2023

Mr. Speaker: Hon. Kawa, proceed and be able to move your motion accordingly.

Hon. Jack Kawa: Thank you, Honourable Speaker. This is a report by the Committee on Gender, Culture and Social Welfare of the Bungoma County Public Entertainment and Amenities Bill 2023.

Establishment and Mandate of the Committee

The Committee on Gender, Culture and Social Welfare is constituted pursuant to the provisions of the standing order No. (217) (1) of the County Assembly of Bungoma Standing Orders and executes its mandate in accordance with Standing Order (217) (5) which provides that the Committee functions shall be to-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, coordination, control and monitoring of budget;
- b) Consider quarterly reports of the assigned departments and report to the House within twenty-one (21) sitting days upon being laid;

- c) Study the programme and policy objectives of the effectiveness of the implementation;
- d) Study and review all county legislation referred to it;
- e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- g) To vet and report on all appointments where the constitution or any law requires the House to approve, except those under Standing Order 209(Committee on Appointments); and
- h) Make reports and recommendations to the House as often as possible, including recommendation of the proposed legislation.

Committee membership

The Committee on Gender, Culture and Social Welfare as currently constituted comprises the listed 15 members

Acknowledgement

Mr. Speaker: For Hansard Purposes, Hon. Kawa, the way you are putting it as currently constituted we do not know, the Hansard is not aware of that composition.

Go through the names for Hansard recording purposes!

Hon. Jack Kawa: For the HANSARD purposes;

Committee membership

1.	Hon. Jack	Kawa	Chairperson
2.	Hon. Abraham	Obama	Vice Chairperson
3.	Hon. Joseph	Juma	Member
4.	Hon. James	Mukhongo	Member
5.	Hon. Eunice	Yeko	Member
6.	Hon. Metrine	Nangalama	Member
7.	Hon. Florence	Juma	Member
8.	Hon. Alfred	Mukhanya	Member
9.	Hon. Jeremiah	Kuloba	Member
10.	Hon. John	Wanyama	Member
11.	Hon. Mourine	Wafula	Member
12.	Hon. Godfrey	Wanyama	Member
13.	Hon. Mildred	Barasa	Member
14.	Hon. George	Kwemoi	Member
15.	Hon. Sheila	Sifuma	Member

Acknowledgement

The Committee wishes to thank the offices of the Speaker and Clerk of the County Assembly of Bungoma for the support accorded to it that contributed to the success of this report.

Further, I would like to appreciate Honorable Members of the Committee for their Commitment in the consideration of the Bill. The Committee also wishes to thank the secretariat for the support accorded to it. Finally, the Committee is grateful to the Members of the public for their valuable contributions during the Public Participation exercise.

It is therefore, my pleasure and honor, on behalf of the Committee on Gender, Culture and Social Welfare to table this report on the Bungoma County Public Entertainment and Amenities Bill, 2023.

Signed by Hon. Jack Kawa; Chairperson

Background

The first reading of the Bungoma County Public Entertainment and Amenities Bill, 2023 (Bungoma County Bill No.7) sponsored by Hon. Jack Kawa, Chairperson committee on Gender, Culture and Social Welfare and published on 11th April, 2023 was on 27th May, 2023 pursuant to Standing Order 139 of the County Assembly of Bungoma Standing Orders. It was then committed to the Committee on Gender, Culture & Social Welfare for processing and reporting back to the House. The Bill was subjected to public participation through a notice on daily nation newspaper dated 9th May, 2023(annexed) in compliance with Standing Order 140 (2) of the County Assembly of Bungoma Standing Orders. The committee having considered all clauses of the bill and the received views from the public came up with proposed amendments to the Bill that the chairperson intends to move during the committee of the whole House.

Purpose and Objectives of the Act

The Bill provides for a legal framework for the implementation of the functions and powers of the County Government with respect to public entertainment and public amenities.

The Bill also provides for a legal framework on which the County Government will anchor its taxes, fees and charges in respect to public entertainment and amenities in the County. This is in line with Article 210(1) of the Constitution and section 132 of the Public Finance Management Act(2012).

Cultural activities, public entertainment and public amenities play a crucial role in the development of the County and well-being of the people through development and promotion of sports and cultural activities and facilities; promotion and exploitation of diverse culture and arts in the County and development of County libraries and museums. Imposition of taxes on gaming and betting will enhance County own source revenue.

Development and regulation of County parks and recreation facilities will not only provide aesthetic benefits but also economic benefits to the communities within the County.

The entertainment sector possesses enormous potential for job creation and youth empowerment especially through identification, nurturing and harnessing of talent through supporting local artists by allowing them to showcase their talent.

Overview of the Bill

Bungoma County Public Entertainment and Amenities Bill, 2023 is divided into six parts with at least 49 clauses.

The principle objective of this Bill is to regulate, protect and promote, the interest and enjoyment of the community and other persons visiting the County, public entertainment and amenities. It is designed to regulate public entertainment and the use of public amenities and for connected purposes.

Part I contains the short title and the interpretation as in the context of the Bill whereas **Part II** contains general provisions relating to public amenities. It has provisions relating to admission to public amenities, entrance fees, entrance tickets and consent for certain activities.

Part III provides for the regulation of public entertainment. Clause 7 requires the County Executive Committee Member to appoint such number of officers to oversee the activities taking place in places of public entertainment, public amenities, camping sites or cultural sites while clause 8 specifies the responsibilities of the department.

Clause 9 provides for Powers of the Department while clause 10 is to the effect that the owner of a public entertainment venue shall ensure adherence to the requirements of all the applicable laws. Clause 11 provides for the power of entry by authorised officer while clause 12 provides for the power of closure by an authorised officer. Clause 13 provides that the County Executive Committee Member may, where it is necessary in the public interest or for public security to do so and after consultation with the officer in charge of the police in the County impose any condition or conditions to be followed by the public.

Clause 14 provides for inspection by a police officer or authorised person while clause 15 requires the Executive Committee Member to declare any entertainment to which the public is admitted, whether admission is procured or not, to be a public entertainment venue for the purposes of the Act. Clause 16 provides that a person who mistreats any animal taking part in any public entertainment commits an offence and is liable on conviction, to a fine not exceeding fifty thousand shillings while clause 17 sets out the requirement that exits of public entertainment must be free from obstruction.

PART IV provides for administration of public amenities. Clause 18 provides for establishment of public amenities while clause 19 states that the Department shall, in relation to public amenities recommend to the County Executive Committee the applicable policy to be adopted by

the County Government. Clause 20 is to the effect that the Department may enter into a written agreement with any person, body, organisation, local community or organ of State for the use of any public amenity. Clause 21 provides for admission and activities in public amenities while clause 22 provides for closure and suspension of public amenities.

Clause 23 sets out the requirement of a notice board at the entrance or in the immediate vicinity of a public amenity on the prescribed information may be displayed. Clause 24 provides for the declaration of recreation grounds. Clause 25 prohibits any person from bringing an animal into a public amenity where animals are prohibited by notice displayed on the public amenity's notice board while clause 26 provides for prohibited actions or activities in public amenities. Clause 27 is to the effect that no person may bring into a public amenity any truck, bus, motor vehicle, motor cycle, bicycle or any other vehicle except in accordance with the directions of the Department while clause 28 provides for camping sites and camping.

PART V provides for licences and operational permits. Clause 30 and 31 provide for application for a license of a public entertainment venue and issuing of a licence respectively. Clause 32 requires any person who would like to use any public entertainment venue for a performance or presentation of a stage play, music show, cinema or other exhibition to apply to the Department for a permit to use the public entertainment venue while clause 33 provides for use of public amenities. Clause 34 provides for submission and inspection of a stage plays or other public entertainment. Clause 32 outlines the conditions of issuance of a licence whereas clause 36 states the conditions of a licence. Clause 37 provide for unlawful use of place of entertainment. Clause 38 contains circumstance that may lead to cancellation of a licence. Clause 39 provide for permit regarding flora and fauna while clause 40 is on use of camping sites. Clause 41 gives a person aggrieved by the decision of the Department a right to appeal to the County Executive Committee Member while clause 42 provides for exemption from obtaining a permit. Clause 43 is on security for compliance while clause 44 requires the Department to keep a record of all places of public entertainment, public amenities, cultural sites and camping sites to which licenses are issued or renewed.

PART VI contains miscellaneous provisions. Clause 45 is on liaison forums while clause 46 provides for protection from personal liability. Clause 47 gives the Executive Committee Member the power to make regulations to ensure the provisions of the Act are carried to effect. Clause 48 provides for powers of entry by police officer or authorised officer to enter any public entertainment venue, public amenity, camping site or cultural site to ensure that the provisions of this Act are complied with while clause 49 is on general penalty.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided for through the estimates.

Legal Framework

The functions of cultural activities, public entertainment and public amenities are vested in the County Government pursuant to paragraph 4 of part two of the fourth schedule to the Constitution of Kenya 2010. They include:

- (a) Betting, casinos and other forms of gambling
- (b) Racing
- (c) Liquor licensing
- (d) Cinemas
- (e) Video shows and hiring
- (f) Libraries
- (g) Museums
- (h) Sports and cultural activities and facilities; and
- (i) County parks, beaches and recreation facilities.

The objects of devolution under Article 174 of the Constitution include:

- (a) the rights of the communities to manage their own affairs and to further development
- (b) to promote social and economic development and the provision of proximate, easily accessible services throughout the country.

The need for County Governments to have reliable revenue is a key principle of Kenya's devolution. This is contained in Article 175(b) of the Constitution .

The Constitution defines County Government funding sources to include local revenues in form of taxes, charges and fees.

Under Article 210 of the Constitution on the imposition of tax, no tax or licensing fee may be imposed, waived or varied except as provided for by legislation. Pursuant to Article 209 of the Constitution, a county may impose-

- (3) (a) property rates
 - (b) entertainment taxes; and
 - (c) any other tax that it is authorised to impose by an Act of parliament
- (4) the National and County Governments may impose charges for services
- (5) the taxation and other revenue raising powers of a County shall not be exercised in a way that prejudices National economic policies, economic activities across County boundaries or the National mobility of goods, services, capital or labour.

Thus, the County Governments are entrusted with fiscal powers to raise revenue to finance their budgets.

Regulating entertainment

Regulation of entertainment is a concurrent function between the National Government and the County Government in that the Constitution assigns County Governments powers to impose entertainment tax under Article 209(3)(b) and regulate public entertainment under the fourth schedule part 2 paragraph 4 of the Constitution. Whereas in taxing entertainment, National Government has a role under paragraph 34 part 1 of the fourth schedule for regulating and licensing betting, casinos and other forms of gambling.

National Government enabling legislations.

(a) Entertainment Tax Act (cap 479)

This provides for the imposition of a tax in respect of all payments for admission into an entertainment, an exhibition, entertainment or amusement. This encompasses theatres, movies, cultural and sporting events, night clubs, casinos and racetracks.

(b) Betting, Lotteries and Gaming Act (cap 131).

This provides for the control and licensing of betting and gaming premises, imposition of taxes on betting, lotteries, gaming and price competitions. It also establishes Betting Control and Licensing Board (BCLB) which has considerable regulatory powers including issuance of licenses and permits.

The County Governments are required to enact or operationalise required legislation to underpin revenue raising measures.

The practise by the National Government offers guidance on how County Governments should deal with revenue legislations. At the National level, the Finance Act does not impose taxes, fees and charges. The Finance Act merely alters the amount or rate of a tax or fee by amending a section in the principal law that dictates the rate. This approach is consistent with accepted revenue raising practices whereby sector specific legislations impose taxes, fees and charges hence providing for easier financial regulation of each sector.

Thus, the County Government is required to develop principle revenue legislation to anchor its taxes, fees and charges. This is in line with Article 210(1) of the Constitution and section 132 of the Public Finance Management Act (2012).

A county Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees.

Public participation

Article 196(1) (b) of the Kenyan constitution 2010 provides that:

A county Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees.

Section 87 of the County Governments Act provides for principles of citizen participation in Counties. The section outlines that citizen participation in County Governments shall be based upon the following principles:

- (a) Timely access to information, data, documents and other information relevant or related to policy formulation and implementation
- (b) Reasonable access to the process formulating and implementing and implementing policies, laws and regulations including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards.

Standing Order no.140 (2) of the County Assembly of Bungoma Standing Orders states that:

The Sectoral Committee to which a Bill is Committed shall facilitate public participation on the Bill through an Appropriate mechanism, including-

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

In compliance with the above laws, the committee sought for views from the public through the notice on Daily Nation 9th May, 2023 newspaper(annexed) where members of the public were invited to submit written memoranda on the Bill on or before 17th May,2023.

By close of business, 17th May 2023, one view had been received from Bungoma Hoteliers Association (BUHA) dated 16th May, 2023. The view is here below summarized:

All public Entertainment amenities must have the following:

1. Soundproof
2. Well ventilated
3. Have a well-functioning firefighting equipment
4. Have more access areas and doors in case of emergency and evacuation
5. They must be WASH compliant

In the consideration of these views, the committee felt that they would be best addressed through regulations.

Committee consideration of the Bill /proposed amendments

During the committee's consideration of the Bill, the committee agreed on some clauses and proposed amendments on other clauses as outlined below:

Clause 3- agreed to without amendments

Clause 4- agree to with amendments by deleting the entire clause

Clause 5- agreed to with amendments. That clause 5 be amended by deleting the entire clause

Clause 6-agreed to with amendments by deleting the entire clause

Part II of the Bill -agreed to with amendments by deleting Part II on general provisions relating to public amenities and by renumbering Part III, IV, V VI as II, III, IV, V respectively.

Justification

(a)The provisions under this part have been catered for in other clauses of the Bill.

(b)To avoid repetition of matters provided for in other clauses of the Bill.

(c) To ensure correct numbering occasioned by deletion of Part II of the Bill.

Clause 7- agreed to with amendments by inserting the word “after consultation with the County public Service Board” immediately after the word “shall” and by inserting the word “or” appearing immediately after the word “amenities”and by deleting the word “cultural sites” appearing immediately after the word “or”. So as to read:

7. The County Executive Committee Member shall, after consultation with the County Public Service Board by notice in the Kenya gazette, appoint such number of officers to be authorized officers to oversee the activities taking place in places of public entertainment, public amenities or camping sites under this Act.

Justification

To be in conformity with section 59 of the County Governments Act on the functions of the County Public Service Board

Legal framework in relation to cultural activities in the county is already provided for under the Bungoma County Cultural Heritage Act. To ensure correct grammar.

Clause 8- agreed to without amendments

Clause 9- agreed to without amendments

Clause 10- agreed to with amendments. That Clause 10 (d) of the Bill be amended by deleting the words “the officer in charge of the nearest police station “appearing immediately after the word “allow” and substituting therefor the words “a police officer” and by deleting the words “appointed for the purpose by the Department” appearing immediately after the word “officer”.

So as to read:

10 (d) allow a police officer or authorized officer to inspect the public entertainment venue at a reasonable period.

Justification

To avoid repetition of the matters already provided for in the Bill.

Clause 11- agreed to with amendments by deleting the entire Clause.

Justification

To avoid repetition of the matters already provided for.

Clause 12 -agreed to with amendments by deleting the entire clause

Justification

To avoid repetition

The provision can be prone to abuse

Clause 13- agreed to without amendments

Clause 14- agreed to with amendments. That Clause 14 of the Bill is deleted in its entirety.

Justification

To avoid repetition

Clause 15- agreed to with amendments by inserting the word “county” immediately after the words “approval of the” so as to read:

15. The county executive committee member may by notice in the Gazette and after approval of the County Assembly, declare any entertainment to which the public is admitted, whether admission is procured or not, to be a public entertainment venue for the purposes of this Act.

Justification

To correct a typographical error

Clause 16- agreed to without amendments

Clause 17- agreed to without amendments

Clause 18- agreed to without amendments

Clause 19- agreed to without amendments

Cause 20- agreed to without amendments

Clause 21- agreed to with amendments by inserting at the beginning of paragraph (b) the words “display or” so as to read:

21 (b) Display, distribute pamphlets, placards, paintings, books, handbills.

And by inserting at the beginning of paragraph (c) the words “display any”. So as to read:

21 (c) Display any other printed, written or painted work

Justification

To ensure clarity of the provisions

Clause 22- agreed to without amendments

Clause 23- agreed to with amendments. That Clause 23 of the Bill be amended by deleting sub-clause (5) in its entirety.

Justification

The penalty prescribed under sub-clause (4) is sufficient.

Clause 24-agreed to without amendments

Clauses 25- agreed to without amendments.

Clause 26- agreed to without amendments.

Cause 27- agreed to without amendments.

Clause 28- agreed to without amendments.

Clause 29- agreed to without amendments.

Clause 30- agreed to without amendments

Clause 31- agreed to without amendments

Clause 32- agreed to without amendments.

Clause 33- agreed to without amendments.

Clause 34- agreed to without amendments

Clause 35-agreed to without amendments

Clause 36- agreed to without amendments

Clause 37- agreed to without amendments

Clause 38- agreed to without amendments

Clause 39- agreed to without amendments

Cause 40- agreed to without amendments.

Clause 41- agreed to without amendments.

Clause 42- agreed to with amendments. That Clause 42 of the Bill be amended by deleting the words “cultural sites” appearing immediately after the word “amenity” so as to read:

42. The County Executive Committee Member may exempt a person holding an activity in a public entertainment venue, public amenity, camping site or other place owned or managed by the Department from obtaining a permit under this Act for the purpose.

Justification

The legal framework in relation to cultural activities and sites in the County is already provided for under the Bungoma County Cultural Heritage Act.

Clause 43 - agreed to with amendments. That Clause 43 (1) of the Bill be amended by deleting the words “cultural sites” appearing immediately after the word “amenity “so as to read:

43 (1) The Department may, before issuing a permit in respect of a public entertainment venue, public amenity or camping site for purposes of public security and compliance to the conditions of the permit require-

Justification

The legal framework in relation to cultural activities and sites in the county is already provided for under the Bungoma county cultural heritage Act.

Clauses 44- agreed to without amendments.

Clause 45- agreed to without amendments.

Clause 46- agreed to without amendments.

Clause 47 -agreed to with amendments. That Clause 47(1) be amended by deleting the words “or cultural site” appearing immediately after the words “camping site” so as to read:

47 (1) A police officer or authorized officer appointed for the purpose by the County Executive Committee Member may at all reasonable times, enter upon any public entertainment venue, public amenity or camping site in which there is reason to believe that any activity or event is being or is about to take place with a view to ensuring that this Act is complied with.

Justification

The legal framework in relation to cultural activities and sites in the County is already provided for under the Bungoma county cultural heritage Act.

Clause 48 – agreed to without amendments.

Clause 49- agreed to with amendments .That Clause 49 of the Bill be amended by inserting a new paragraph (a) (a).So as to read:

49(a) entrance fees to public amenitiess

And in paragraph (d) by deleting the words “cultural sites” appearing immediately after the word “which” and substituting therefor the words “public amenities”. So as to read:

49(d) hours during which public amenities may be open to the public

Justification

The legal framework in relation to cultural activities and sites in the County is already provided for under the Bungoma county cultural heritage Act, 2023.

To give the regulation making authority power to make regulations on entrance fees to public amenities.

Schedules

That the schedules be amended-

(i) By deleting the words “Education, Culture, Youth, and Social Services” appearing immediately after the word “amenities” so as to read:

County Public Entertainment and Amenities

(ii)By deleting column 4 on “approved charges 2021/2022”

(iii) By deleting the words “proposed charges 2022/23” appearing in column 5 and substituting therefor the word “charges”. So as to read: Charges

Justification

To provide for charges to be imposed on the specific items for easier financial regulation of the sector. To align the provisions to the subject matter being regulated.

Clause 2- recommended without amendments.

Long title of the Bill-recommended without amendments.

Clause 1-recommended without amendments.

Committee Observations

The Committee having considered the Bill clause by clause, made the following observations:

1. The Bill is drafted as per the standards of Bill drafting.
2. The Bill is comprehensive in that all areas of public entertainment and amenities have been captured.
3. The Bill shall enhance own source revenue for the County.

Committee recommendation

THAT, this House adopts this report with the proposed amendments to the Bungoma County Public Entertainment and Amenities Bill,2023 to enable it move to the next stage.

We have the Membership; the adoption schedule was signed. I call Hon. Katila to second this report.

Mr. Speaker: Yes, Hon. Maureen Katila, proceed and be able to second the motion accordingly.

Hon. Maureen Katila: Thank you, Honourable Speaker. I stand on my feet to second.

(Applause)

Mr. Speaker: Honourable Members, this being a Bill we won't be taking a vote at the end of the debate, because after that it is going to go to the Committee of the Whole House. I will propose a motion for debate and allow you members to ventilate then at the end of the ventilation we will be able to have a reply from the mover. Then we won't take a vote because when you take a vote it means you are closing out the amendments. So Honourable members a motion has been moved and seconded that this House note the report by the Sector Committee on Gender, Culture and Social Welfare on the Bungoma County Public Entertainment and Amenities Bill 2023 laid on the table of the House on 19th September 2023, I propose.

Yes, Deputy Speaker Hon. Wamalwa.

Hon. Stephen Wafula: Thank you, Honourable Speaker. I rise to support the report that has been presented before the House. First of all, I want to commend and congratulate the mover the Hon. Jack Kawa for his eloquence and passion. For the first time, I have seen the Hon. Jack Kawa being very passionate...

Mr. Speaker: Hon. Deputy Speaker, now I will be asking this question once again, this instrument for measuring passion ...

(Laughter)

Hon. Stephen Wafula: Hon. Speaker, this passion probably was measured by myself and even if I explain in a thousand words no one can understand, because I have observed the body language of the Hon. Kawa for quite some time and this is the sixth year I have been observing him and

today he has been very passionate and he seems to be very excited. This could be because this is the second bill that he is actually presenting before this House

(Applause)

I know it is a milestone which must be emulated by other chairpersons in this House. I am very excited about part three of this Bill which provides for regulations of public entertainment. What stops implementation is actually regulation and now we see the Executive coming to this. We believe that we are moving forward, Martin Luther King Jr once said “If you can't fly then run, if you can't run then walk, if you can't walk then crawl, but whatever you do, you have to keep moving forward”.

So this is an indicator that the Executive actually wants to move forward and in this area of culture sites, Parks, entertainment spots is an avenue where this County government can generate revenue. When you go to the Maasai land, their culture and their entertainment is not wasted. When you move near a Maasai man to take photo, you will have to give money. But when you come to Bungoma where we also have very rich culture, we are just sleeping and I believe this County can increase its revenue, so that we can have our own source which can improve the standards of living of our people, because apart from what we get from the national government as revenue, we have to be able to raise substantial revenue for ourselves, so that we can supplement and improve areas that otherwise the revenue from the national government cannot support.

On Legal frame Work, that is an area where the CECM actually has to be very active and what makes me happy is that we already have legal frame work in place courtesy of the Bungoma Cultural Act that was enacted by this Assembly and which makes it now possible that this Bill when we enact it, will automatically move forward to be able to generate revenue for this County.

I want to believe if in the event that we enact this Bill to be an Act of this Assembly, I want to pray that the Implementation Committee in this House should make a follow up so that we can implement and ensure that it is not just a waste of time and resources.

When you go to Malindi, an area we hear that Al Shabaab are almost there because Lamu and Malindi are just a nose and mouth apart. But when you go to Malindi, despite the fact that it is a hardship area, I have been there and the place is very dry. I am told an acre of land is 5,000 shillings just because people are not keen to live there but they are rich in culture.

Mr. Speaker: Hon. Stephen, when you say that you will make Hon. Job run away from Bungoma, You know...

(Laughter)

Hon. Stephen Wafula: Hon. Speaker, I know why he camouflages and I know. In Malindi they just have a culture, sorry I may use a word that is very harsh but I look at it and wonder it is almost weird but they cherish it and use it to generate revenue. Donkey racing is done for

several days and that is where Hon. Mukoyandali goes to race the donkeys, yet we have donkeys in Bungoma.

(Applause)

And no one can create such situations here in Bungoma County so that we can also generate revenue from the same. So I want to call upon the implementation committee of this House to come out of their slumber and ensure that when we enact this Bill into an Act of this Assembly plus other Acts, let us see implementation so that our electorates can benefit.

(Applause)

So I pray that Honourable Members, let us support this motion that has been moved by the Hon. Kawa and after this we focus on the implementation of the same for the county to generate much more revenue to support our welfare. I support the motion.

Mr. Speaker: Thank you, Hon Job. I saw you online you are allowed to proceed and make your contributions please.

Hon. Job Mukoyandali: Thank you, Mr. Speaker. I would appreciate you for seeing that I was interjecting though I was not given that chance but all the same I want to support. First, let me appreciate the mover of the motion. Culture is key all over this world. We can earn a lot of revenue as a county if we actually support our culture. I have been at the Coast region of this Country as Hon. Deputy Speaker has said, and those people have propagated their culture. Sometimes we pay a lot of money just going there to get involved in the dance that the Giriama are doing.

Look at this western region especially Bungoma County. Those days we used to have, as much as I don't advocate for FGM but that used to be a culture among the people of the Mt. Elgon and I want to say that this people had a reason why they were upholding on that particular culture and I know this people through that culture, there is a lot that they were getting out of that culture.

Look at Bukusu culture, we have been doing this traditional circumcision but currently we have done away with it. Majority of our boys have gone the Christian way of doing circumcision and this has totally killed our culture.

There are some other cultures within our community, those dances that used to be there those days when I was a baby and all this things have been eradicated. The other day we were having our CASA games and I looked at the presentations we were having and I discovered that we are more of embracing other people's culture at the expense of our own culture. But you realise that the Bukusu culture is not embraced by any other people, the main reason is that we have killed our own culture.

So once we enact this Act, then we have moved today in a place and making sure that we put it in action, this law will protect our culture and as a County we will earn something out of the same. It happens that even in Bungoma County we do not have a theatre where we can look at the artefacts of our culture, those things that used to be there, we only move from here to go to

maybe Giriama, look at that County. They have stored their artifacts very well and we pay money to see them.

As a County, we have to get something, in the words of the Deputy Speaker, we have to do something especially coming up with a theater where we can put our data where somebody can come and learn about the Bukusu culture. What the mover of the motion has come up with, we might not get much as a County in respect to ensuring that as a County, we protect our culture and earn some revenue out of the protection of our culture. I support the motion.

Mr. Speaker: Thank you, Hon. Job. Allow me invite Hon. Kawa to reply to the motion.

Hon. Jack Kawa (The mover): Thank you, Hon. Speaker. Allow me appreciate my colleagues for supporting this Bill. As Deputy Speaker has said, as an Assembly we are playing our part but when it goes to the Executive, we leave it for them to do the implementation. I am calling upon the Implementation Committee that implementation is done by the Executive. Otherwise, I want to thank Honourable members for supporting the motion.

Mr. Speaker: Thank you, Hon. Kawa. Honourable Members as I said earlier on, we are complying with section 147; it does not require us to take a vote on the same because we are going to the next stage which is the Committee of the Whole House.

Next item,

**CONSIDERATION OF AUDITOR GENERAL'S REPORT ON PENDING BILLS OF THE COUNTY
GOVERNMENT, COUNTY ASSEMBLY OF BUNGOMA FOR FINANCIAL YEAR 2018/19 TO 2019/20**

Mr. Speaker: Honourable members, the said item on our Order Paper will be expunged because when the HBC sat yesterday, I had sanctioned the Committee on PAIC to sit and be able to have visitors from Kakamega Auditor's office who are doing interrogation in our board rooms. Since they are away on my permission, we cannot have their report proceeding in their absentia. It is taken back to HBC for fresh allocation on our Order Paper.

BILLS

THE BUNGOMA COUNTY PUBLIC ENTERTAINMENT AND AMENITIES BILL 2023

Hon. Jack Kawa (Chairperson, Gender and Culture): Thank you, Hon. Speaker. Pursuant to Standing Order 141(1), I move that the Bungoma County Public Entertainment and Amenities Bill 2023 be read a second time. You can allow me call Hon. Jeremiah Kuloba to second.

Mr. Speaker: Hon. Kuloba you proceed. I thought you are supposed to be using your microphone from where you are sitted, you know when you are contributing from where you are to us it is from the dispatch... proceed please. Sometimes when you see people who are very aged...

Hon. Jeremiah Kuloba: Thank you, Mr. Speaker. I stand to second and maybe according to my age, I don't have to contribute a lot.

Mr. Speaker: Thank you, Hon. Jeremiah. Honourable members, a motion has been moved and seconded that the Bungoma County Public Entertainment Amendment Bill be read a second time,

(Motion proposed)

Honourable members, in the absence of contribution, I will proceed and be able to put a question that a motion has been moved and seconded that the Bungoma County Public Entertainment Bill 2023 be read a second time

(Question put and agreed to)

The same be read a second time accordingly.

A BILL FOR AN ACT OF THE COUNTY ASSEMBLY OF BUNGOMA TO REGULATE PUBLIC ENTERTAINMENT AND THE USE OF PUBLIC AMENITIES AND FOR CONNECTED PURPOSES, *second reading.*

Mr. Speaker: Honourable members, the bill having been read for the second time, accordingly we invoke Standing Order 142 and collapse the House to the Committee of the Whole House. We all be upstanding to allow the Speaker to exit as I invite the Chairperson of the Committee of the Whole House to chair the same.

COMMITTEE OF THE WHOLE HOUSE

Order for Committee read

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

IN THE COMMITTEE

(Mr. Chairperson [Hon. Stephen Wamalwa] took the Chair)

THE BUNGOMA COUNTY PUBLIC ENTERTAINMENT AND AMENITIES BILL 2023

Mr. Chairperson: Honourable members, I can see Hon. Jack Kawa is very happy and is being disturbed by a member who says he is very old, Hon. Kuloba.

Honorable members, you are welcome to the Committee of the Whole House to consider the Bungoma County Government Public Entertainment Amenities Bill 2023. The procedure for the Committee of the Whole House is stipulated under Standing Order 144 on sequence to be observed on a bill in the committee.

The Bill has been circulated and thus you can follow through including the committee report. I therefore invite the lead Clerk at the Table to read the clauses as printed in the proposed Bill

Clause 3: Object of the Act

(Question proposed)

(Question put and agreed to)

Clause 4: Admission to public amenity

(Question proposed)

The chairperson to move the amendments on clause 4

Hon. Jack Kawa (Chair, Committee on Gender): Thank you, Mr. Chairperson. I propose Clause 4 of the Bill be amended by deleting clause 4. I call upon Hon. Katila to second the amendment

Hon. Moureen Katila: Thank you, chairperson. I stand on my feet to second.

Chairperson: I now propose the question that Clause 4 as amended be part of the Bill

(Question proposed)

(Question put and agreed to)

Clause 5: Entrance fees

(Question proposed)

Chairperson proceed with amendments

Hon. Jack Kawa: Honourable chairperson, that the Bill be amended by deleting clause 5. Allow me call Hon. Godfrey Mukhwana to second.

Hon. Godfrey Mukhwana: Thank you chairperson, I stand to second.

(Question proposed)

(Question put and agreed to)

Clause 6: Consent required for certain activities

(Question proposed)

Hon. Chairperson, proceed with the proposed amendment

Hon. Jack Kawa: Thank you honourable chairperson, I propose Clause 6 of that the Bill be amended by deleting Clause 6. Allow me call Hon. Mildred Barasa to second the amendment.

Hon. Mildred Barasa: Chairperson, I stand to second the amendment.

(Question proposed)

(Question put and agreed to)

Clause 7: Authorized officers

(Question proposed)

Honourable chairperson, proceed with proposed amendments.

Hon. Jack Kawa: Thank you, honorable chairperson. I propose that Clause 7 of the Bill be amended by;

1. Inserting the words 'after consultation with the County Public Service Board' immediately after the word 'shall'
2. Deleting the words 'by notice in the gazette' before the word 'appoint'
3. Insert the word 'or' immediately after the word 'amenities' and by deleting the word 'cultural sites' appearing immediately after the words 'or' so as to read.

'The county executive committee members shall after consultation with the County Public Service Board appoint such number of officers to be authorized officers to oversee the activities taking place in the place of public entertainment, public amenities or camping sites under this Act.'

Thank you, Honourable chairperson. I call upon Hon. Katila to second

Hon. Moureen Katila: Thank you chairperson, I rise again to second the amendment.

(Question proposed)

(Question put and agreed to)

Clause 8: Responsibilities of the department

Clause 9: Powers of the department

(Question proposed)

(Question put and agreed to)

Clause 10: Responsibility of the owner of a place of entertainment

(Question proposed)

Hon. Jack Kawa: Thank you, Honourable chairperson. I propose that Clause 10 be amended in sub-clause 10(d) by deleting the words 'the officer in charge of the nearest police station' appearing immediately after the word 'allow' and substituting therefore the words a 'police officer' and deleting the words 'appointed for the purpose by the department' appearing immediately after the word 'officer' so as to read;

'10(d) allow a police officer or authorized officer to inspect the public entertainment venue at a reasonable period.' Thank you honourable chairperson, I call upon hon. Godfrey Mukhwana to second the amendment.

Hon. Godfrey Mukhwana: Thank you chairperson, I rise to second.

(Question proposed)

(Question put and agreed to)

Clause 11: Power of entry by police or authorized officer

(Question proposed)

Hon. Jack Kawa (Chairperson Gender and Culture): Thank you chairperson, I propose that the Bill be amended by deleting Clause 11. I call upon Hon. Mildred Barasa to second.

Hon. Mildred Barasa: Chairperson, I stand to second the amendment

(Question proposed)

(Question put and agreed to)

Clause 12: Power of closure by authorized officer

(Question proposed)

Hon. Jack Kawa: Thank you, Honourable chairperson. I propose that Clause 12 of the Bill be amended by deleting Clause 12, allow me call Hon. Godfrey Mukhwana to second.

Hon. Godfrey Mukhwana: Thank you chairperson, I second.

(Question proposed)

(Question put and agreed to)

Clause 13: Prohibition of public entertainment

(Question proposed)

(Question put and agreed to)

Clause 14: Inspection by police officer or authorized person

(Question proposed)

Hon. Jack Kawa: Thank you, Clause 14 that the Bill be amended by deleting clause 14, allow me call upon Hon. Katila to second.

Hon. Moureen Katila: Thank you, Honourable chairperson. I rise to second.

(Question proposed)

(Question put and agreed to)

Clause 15: Declaration of any entertainment to be public entertainment

(Question proposed)

Hon. Jack Kawa: Chairperson, that Clause 15 of the Bill be amended by inserting the word 'County' immediately after the words 'approval of the' so as to read that 'the County executive committee may by notice in the gazette and after approval of the County Assembly declare any entertainment to which the public is admitted whether admission is procured or not to be a public entertainment venue for the purposes of this Act'. I call upon Hon. Mildred Barasa to second.

Hon. Mildred Barasa: Thank you chairperson, I stand to second the amendment.

(Question proposed)

(Question put and agreed to)

Clause 16: Cruelty to animals

Clause 17: Exit to be free from obstruction

Clause 18: Establishment of the public amenities

Clause 19: Responsibility of the department in relation to public amenities

Clause 20: Agreement with another party

Chairperson: I propose the question that clause 16, 17, 18, 19, 20 be part of the bill.

(Question proposed)

(Question put and agreed to)

Clause 21: Admission and activities in a public amenity

(Question proposed)

I call upon Hon. Jack Kawa to proceed with the proposed amendments.

Hon. Jack Kawa: That clause 21 of the Bill be amended on sub-clause 4 by inserting at the beginning of paragraph (b) the word 'display' so as to read '21(4) (b) Display and distribute pamphlets, placards, paintings, books hand bills' and by inserting at the beginning of paragraph (c) the words 'Display any' so as to read '21(c) Display any other printed, written or painted work.

(Question proposed)

(Question put and agreed)

The ayes have it

Clause 22 Closure and suspension of public amenities

(Question proposed)

(Question put and agreed to)

The ayes have it.

Clause 23 Notice Boards

(Question proposed)

Hon. Jack Kawa: Thank you, Mr. Chairman. That Clause 23 of the Bill be amendment by deleting sub-clause (5) in its entirety. I call upon Hon. Godfrey Mukhwana to second the amendment.

Hon. Godfrey Mukhwana: Thank you Chairman. I rise to second the amendment.

(Question proposed)

(Question put and agreed to)

The ayes have it.

Clause 24 Declaration of recreational ground

Clause 24 Restriction on animals

Clause 26 Prohibited action or activities
Clause 27 Use of a vehicle in a public amenity
Clause 28 Camping sites and camping
Clause 29 Powers of the department
Clause 30 Application for a license of a public entertainment venue
Clause 31 Issuing of a license
Clause 32 Use of public entertainment venue for performance or exhibition
Clause 33 Use of public amenity
Clause 34 Submission and inspection of stage place or other public entertainment
Clause 35 Condition for issuance of license
Clause 36 Condition of a license
Clause 37 Unlawful use of a place of entertainment
Clause 38 Cancellation of a license of permit
Clauses 39 permit regarding flora and fauna
Clause 40 Use of camping site
Clause 41 Appeal against decision of the department

(Question proposed)
(Question put and agreed to)

The ayes have it.

Clause 42 Exemption from obtaining a permit

(Question proposed)

Hon. Jack Kawa: Thank you, Mr. Chairman. That Clause 42 of the Bill be amended by deleting the words "cultural sites" appearing immediately after the word "amenity" so as to read; Clause 42 "The County Executive Committee Member may exempt a person holding an activity in a public entertainment venue, public amenity, camping site or other place owned or managed by the department from obtaining a permit under this Act for the purpose". I call upon Hon. Apiyo to second this amendment.

Hon. Mildred Barasa: I stand to second the amendment.

(Question proposed)

(Question put and carried)

Clause 43 Security for compliance

(Question proposed)

Hon. Jack Kawa: Thank you, Mr. Chairman. That Clause 43 of the Bill be amended in sub-clause (1) by deleting the words "cultural sites" appearing immediately after the word "amenity" so as to read; 43 (1) the department may before issuing a permit in respect of public entertainment venue, public amenity or camping site for purposes of public security and compliance to the conditions of the permit require". I call upon Hon. Katila to second the amendment.

Hon. Moureen Katila: Thank you, Hon. Chairman. I rise to second.

(Question proposed)

(Question put and accepted)

The ayes have it.

Clause 44 Records of license and permits

Clause 45 Liaison Forums

Clause 46 Protection from personal liability

Question proposed that the above clauses be part of the Bill

Question put and agreed to

The ayes have it.

Clause Powers of entry by police officer or authorized officer

(Question proposed)

Hon. Jack Kawa: Thank you, Mr. Chairman. That Clause 47 be amended in Sub-clause (1) by deleting the words "or cultural sites" appearing immediately after the words "camping site" so as to read; " 47 (1) a police officer or authorized office appointed by the purpose by the County Executive Committee Member may at all reasonable times enter upon any public entertainment venue, public amenity or camping site in which there is reason to believe that any activity or is being is about to take place with a view to ensuring that this Act is complied with". Hon Chairman, I call upon Hon. Katila to second the amendment.

Hon. Moureen Katila: Thank you Chairman. I rise to second the amendment.

(Question proposed)

(Question put and agreed to)

The ayes have it.

Clause 48 General penalty

(Question proposed)

(Question put and agreed to)

Clause 49 Regulations

(Question proposed)

Hon. Jack Kawa: Thank you, Mr. Chairman. That Clause 49 of the Bill be amended by inserting a new paragraph a (a) so as to read; '49 (a) (a) entrance fees to public amenities. And in paragraph (d) by deleting the words "cultural sites" appearing immediately after the word "which" and substituting the words "public amenities" so as to read "49 (d) hours during which public amenities may be open to public". Schedule of the Bill be amended by deleting the words "education...

Hon. Stephen Wamalwa: Chairperson Committee of Gender, be short like as Zakayo was. Only 49 please. Just repeat 49 only.

Hon. Jack Kawa: Thank you, Mr. Chairman. That Clause 49 of the Bill be amended by inserting a new paragraph (a) (a) so as to read "49 (a) (a) entrance fees to public amenity. And in paragraph (d) by deleting the words "cultural sites appearing immediately after the word 'which' and substituting therefore, the words "public amenities" so as to read; "49 (d) hours during which public amenities may be open". I call upon Hon. Godfrey Mukhwana to second the amendment.

Hon. Godfrey Mukhwana: Thank you Chairman. I rise to second the amendment.

(Question proposed)

(Question put and agreed to)

The ayes have it.

Schedule to the Bill; County Public Entertainment and Amenities

(Question proposed)

Hon. Jack Kawa: Thank you, Mr. Chairman. That schedule of the Bill be amended;

1. by deleting the words "Education, Culture, Youth and Social Services" appearing immediately after the word "amenities" on the title of the schedule so as to read "County Public Entertainment and amenities"
2. by deleting column 4 on approved charges 2021-2022 in its entirety
3. By deleting the words "proposed charges 2022-2023" appearing in column 5 and substituting therefore the word "charges" so as to read; "charges". Thank you Mr. Chairman. Allow me call upon Hon. Apiyo Mildred to second the amendment.

Hon. Mildred Barasa: Thank you Chairman. I rise to second.

(Applause)

(Question proposed)

(Question put and agreed to)

The ayes have it

Clause 2 On interpretation

Long title of the Bill; An Act of the County Assembly of Bungoma to Regulate Public Entertainment and Use of Public Amenities and for Connected Purposes

(Question proposed)

(Question put and agreed to)

The ayes have it.

Clause 1 Short title

(Question proposed)

(Question put and agreed to)

Honourable members, we have come to the end of that session and I want to congratulate Hon. Zakayo not forgetting our beloved mother Hon. Apiyo, my uncle the beloved Hon. Godfrey Mukhwana and our beautiful brown sister Hon. Katila Khanjila.

(Applause)

Well, you can relax for a while as we move to the next level.

Honourable members, I hope you have had a wonderful short period of relaxation; I now call upon the Chairperson of the Gender Committee Hon. Jack?

Hon. Jack Kawa: Thank you, Hon. Chairman. Pursuant to Standing Order No.145 (16), I beg to move that the committee to report to the House its consideration of Bungoma County Entertainment Amenities Bill, 2023. I call upon Hon. Katila to second.

Hon. Moureen Katila: Thank you Chairman. I rise to second.

(Applause)

(Question put and agreed to)

The ayes have it.

(Applause)

(Committee of the Whole House ends)

(Mr. Speaker resumes his seat)

CHAIRMAN COMMITTEE OF THE WHOLE HOUSE TO REPORT BACK TO THE HOUSE

Mr. Speaker: Thank you, Hon. Members. Allow me invite the Chairperson of the Committee of the Whole House to report back to the Speaker in compliance with Standing Order 48(1).

Hon. Stephen Wamalwa (Chairperson Committee of the Whole House): Thank you, Hon. Speaker. The Committee of the Whole House considered Bungoma County Public Entertainment and Amenities Bill, 2023 as follows;

1. Clause 3 was approved without amendments
2. Clause 4 was approved with amendments by deletion of the entire clause.
- Clause 5 was approved with amendments by deletion of the entire clause
- Clause was approved with amendments by deletion of the entire clause
- Clause 7 was approved with amendments
- Clause 8 was approved without amendments
- Clause 9 was approved without amendments
- Clause 10 was approved with amendments
- Clause 11 was approved with amendments by deletion of the entire clause

Clause 12 was approved with amendments by deletion of the entire clause
Clause 13 was approved without amendments
Clause 14 approved with amendments by deletion of the entire clause
Clause 15 was approved with amendments with amendments
Clause 16 was approved without amendments
Clause 17 was approved without amendments
Clause 18 was approved without amendments
Clause 19 was approved without amendments
Clause 20 was approved without amendments
Clause 21 was approved with amendments
Clause 22 was approved without amendments
Clause 23 was approved with amendments by deletion of the entire clause
Clause 24 was approved without amendments
Clause 25 was approved without amendments
Clause 26 was approved without amendments
Clause 27 was approved without amendments
Clause 28 was approved without amendments
Clause 29 was approved without amendments
Clause 30 was approved without amendments
Clause 31 was approved without amendments
Clause 32 approved without amendments
Clause 33 approved without amendments
Clause 34 approved without amendments
Clause 35 approved without amendments
Clause 36 approved without amendments
Clause 37 approved without amendments
Clause 38 approved without amendments
Clause 39 approved without amendments
Clause 40 approved without amendments
Clause 41 approved without amendment
Clause 42 approved with amendments
Clause 43 approved with amendments
Clause 44 approved without amendments
Clause 45 approved without amendments
Clause 46 approved without amendments
Clause 47 approved with amendments
Clause 48 approved without amendments
Clause 49 approved with amendments
Schedules approved without amendments
Clause 2 approved without amendments

Long title was approved without amendments

Clause 1 was approved without amendments.

Mr. Speaker: Thank you, the chairperson of the Committee of the Whole House. Allow me now invite the Chairperson of the Committee Hon. Jack Kawa to be able to confirm the report arising from the Chairperson of the Committee of the Whole House which also require to be seconded.

Hon. Jack Kawa (Chairperson, Gender and Culture): Thank you, Hon. Speaker. Pursuant to Standing Order 148 (1) I beg to move that the House does agree with the committee in the said report. Let call Hon. Apiyo Mildred to second.

Hon. Mildred Barasa: Hon. Speaker, I rise to second.

(Applause)

(Question put and agreed to)

The ayes have it.

The House does agree with the report that came from the Committee of the Whole House.

ADJOURNMENT

Thank you, Honourable members. That was the last item on our Order Paper for the morning session. We will adjourn and resume at 2:30 p.m.

(House Adjourns)