

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY 4TH OCTOBER, 2023

Afternoon Sitting

Third County Assembly

Second Session

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COUNTY ASSEMBLY OF BUNGOMA
THE HANSARD- OFFICIAL REPORT
WEDNESDAY, 4TH 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 ROYAL VISION ACADEMY MABANGA MIXED AND DAY SCHOOL
Honourable Members, in our public gallery we have pupils from Royal Vision Academy Mabanga Mixed and Day School. They have come to learn about the management and the functions of the County Assembly of Bungoma and how we transact Business in this House. They have been accompanied by teachers; they are 29 pupils. Kindly be upstanding pupils.

Pupils rose

Kindly be seated.

They are accompanied by the following two teachers;

- 1) Mr. Ouma Johsnton and
- 2) Madam Emily Awino

The teachers rose

Be seated please.

Honourable Members, at the appropriate time, I will allow Honourable Members to make some few remarks about our visitors who have come to learn from us here.

PAPERS

**1. REPORT ON THE BUNGOMA COUNTY YOUTH AND WOMEN EMPOWERMENT FUND FOR
THE PERIOD ENDED 30TH JUNE, 2021**

Mr. Speaker: Honourable Members, the said item is hereby expunged... my position remains; if a Committee is permitted to go and interrogate a document outside this plenary, even if your member sits here, for us, they are not part of today's sitting. That is the position! If there was a request from the Chair of the Committee that they were going to sit somewhere and interrogate the report of the Committee; to which I gave permission.

To us the PAIC committee is not part of today's sitting... so even if your member sits here, he is here illegally!

(Applause)

That remains the position because like now, when you see a member of Tourism walking around, to us, he is not supposed to be here because you sought permission which I gave. You cannot be in both! What saves you is that I don't have hand cuffs.

(Laughter)

That item is expunged from today's Order Paper. Equally the one under Notices is expunged and taken back to HBC.

2. REPORT ON THE BUNGOMA COUNTY OUTDOOR ADVERTISING AND SIGNAGE CONTROL AND REGULATION BILL, 2023

Mr. Speaker: Chair Committee on Lands, Urban, Physical Planning and Housing? Yes Hon. Linda?

Hon. Linda Kharaka: Hon. Speaker I rise to table the Report by the Committee on Lands, Urban, Physical Planning and Housing on the Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023.

Mr. Speaker: Honourable Members, the report by the Sectoral Committee on Lands, Urban, Physical Planning and Housing on the Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023 is hereby tabled and formally becomes the property of the House accordingly.

NOTICE OF MOTION

1. NOTICE ON THE REPORT BY THE SECTORAL COMMITTEE ON LANDS, URBAN, PHYSICAL PLANNING AND HOUSING

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

Hon. Linda Kharaka: Hon. Speaker I rise to issue a notice of motion on the Report by the Sectoral Committee on Lands, Urban, Physical Planning and Housing on the Bungoma County Outdoor Advertising and Signage Control And Regulation Bill, 2023.

Mr. Speaker: Honourable Members, a notice of motion having been duly issued, the House notes a Report by the Committee on Lands, Urban, Physical Planning and Housing on the Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023. I hereby direct the Clerks- at- the- Table before us to share this report with the Honourable MCAs. The same will form Business on our Order Paper in the course of the week.

QUESTIONS AND STATEMENTS

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

Mr Speaker: Honourable Members, I think at the stage of the Questions and Statements, allow me invite you to make some brief remarks about our pupils in the public gallery; from Royal Vision Academy Mabanga. You are welcome.

Hon. Caleb Wanjala: Thank you Mr. Speaker Sir for giving me this opportunity to encourage the students from Royal Academy which is just a neighbouring school from Bukembe-East Ward. We are all in Bukembe; but we have Bukembe East and Bukembe West; and Royal Vision is a school reputable for good academic standards in Bungoma South. Royal Vision neighbours my school which is a Springs Academy and we share a lot with the Royal Vision.

So mine is just to encourage the students that you made a good decision to come and learn from the Assembly here. I know even at the school we have what we call debates where we have the Speaker, Sergeant- at- Arms and everything. So I think now you are learning the real thing from this Assembly and I know that amongst the students who are sited here today, we have some who are candidates whose exam is just around the corner. I just encourage them and wish them all the best. I know your Honourable Member Hon. Lusenaka would have been here but he is out on official duty and I want just to encourage you and wish you all the best in your exams.

Mr. Speaker: Thank you Hon. Caleb Wanjala, Honourable Member from the Committee on Education and Vocational training Hon. Allan Nyongesa kindly, proceed.

Hon. Allan Nyongesa: Thank you Hon. Speaker for the chance. I also happen to know the school; Royal Academy is a school that I also have a history with. In the past few years I have a cousin there whom I have paying fees for and he actually did well. I also know the director of the school Pastor Chris, who is also a personal friend and so it is a school that I know very well.

I just want to take this chance to encourage the students to work hard and for the teachers to keep the good work they are doing because Royal Academy is one of the schools in this County that is actually doing extremely well when it comes to national exams. For the students, I encourage you to keep working hard and passing with flying colours because that has been the trend and the culture of that school.

Hon. Linda Kharaka: Thank you Mr. Speaker for the opportunity. I would like to encourage the students. Three things; as you go in for your exams, revise, revise and revise. Do not put aside a unit or a subject because you think you are not doing better .Through revision, you are able to grasp the things you cannot remember. Because by revising, you are able to jog your memory and grasp better.

Second is discipline; discipline has gotten most of us where we are including the Honourable Members here. They have learnt the art of discipline in time management and in knowing where to be and at what time; because by doing that, you are able to schedule your subjects better. If its mathematics in the morning, you don't skip it and do another subject that you feel is favourable to you; but you will go by the timetable.

Discipline in terms of respecting your teachers and in terms of praying. When you schedule your prayers, pray to God in areas you think you are able to perform better and he listens to our prayers and answers them. Lastly, I wish you all the best in your endeavours and I hope you will emerge successful. We want most of you to cross over and to come to this profession; it is a good place to be. As politicians, I am sure you will enjoy. We want to see most of you come here.

Mr. Speaker: Thank you Hon. Linda. Hon. Stephen Wamalwa our Deputy Speaker? Hon. Linda when you invite all of them, there are very few seats here, you are endangering some of us here.

Hon. Stephen Wamalwa: Thank you Hon. Speaker. I also rise to give a short remark about the pupils who are in the gallery today and I am informed that it is Royal Academy from Mabanga. Children from private schools are actually marginalised by the government because of what they call affirmative action. Never mind that teachers in those schools really toil and parents sacrifice a lot. Some of the parents whose children are in private schools are actually what they call in common language in Kenya today *Mama mbogas*. Those who sell *Sukuma wiki* (kales) those who toil in the *Jua kali* (artisan) sector and they ensure that their children go to get what they could not otherwise get anywhere else. Unfortunately the government looks at all the private schools and classifies them as high cost school in this country.

So I want first of all to congratulate the pupils who are learning in that school for choosing a good place that will shape your destiny and future. I want to congratulate the teachers because I understand; I know that teachers in private schools toil, you reach school very early in the morning and you leave very late in the evening. Never mind that it is not commensurate with what other people and other workers earn in some other areas. So teachers I want to congratulate you and encourage you that whatever you are doing is not only yours; many children who are blessed in this country are sons and daughters of teachers, just because their fathers and mothers served others.

Even the Speaker who is sitting here today is a son of a teacher and I want to believe that man worked well so that his child can be where he is. Myself I am a teacher and very many teachers are here. So we want to encourage you teachers that don't ever think that what you are doing is not worth it... it is worth more. We have people who plant perennial crops, other plant seasonal crops, but the best person is the one who plants in people and by teaching, you are planting; you will never regret.

For the candidates, this is what I can say. When this country attained independence, there was a lot of land. Our grandfathers our fathers were blessed and privileged to inherit a lot of land which is not there today. The only land and what I call the current settlement scheme that you can be given as a pupil; a child, a daughter and a son is education. A settlement scheme that you can fold and put in your bag and travel with it and live anywhere you want...

(Applause)

So I want to urge you to be very keen as you prepare to get that settlement scheme. During those days, there were those people who went for five acres others went for 10 acres; others went for 15 acres, 27 acres others acquired what they called special plots... hundred and a thousand acres. Where you are today you can choose the type of settlement scheme you want because it is that settlement scheme that you choose in terms of scores.

We have 400 marks, 350 marks and we even have 87 marks; the choice is yours. But the future is for those who work hard and smart because God is after those who hard and smart. I wish you well as you prepare for your exams and I want to pray that you will make a record. This class should make a record as the last KCPE class in that school so that you live to be remembered. May god bless you.

Mr. Speaker: Thank you Hon. Namakwa our Deputy Speaker. Honourable Members, join me on behalf of the entire Assembly; Honourable Members who are present here and the management of the Assembly wish the candidates the best of luck in the examination that is coming towards the end of the year.

We go to the next item on our Order Paper.

(Resumption of Business)

MOTIONS

1. REPORT FOR THE FINANCIAL YEAR 2023 WITH RESPECT TO THE COUNTY PUBLIC SERVICE BOARD AND THE COUNTY ASSEMBLY SERVICE BOARD

Hon. Hentry Nyongesa (*Chairperson, Committee on Labour Relations Member Services and Facilities*): Thank you Hon. Speaker. I rise to lay the Report by the Sectoral Committee on Labour Relations Member Service and Facilities on the Bungoma County Government nine months financial statements for the financial year 2023; with respect to the County Public Service Board and the County Assembly Service Board.

Mr. Speaker: Hon. Hentry you ought to be moving the motion.

(Laughter)

On our Order Paper it is a motion. Looking at the notice below, it was already tabled; it was laid on 21st of June, 2023. What you ought to do here is to execute it. Move the motion and have your members to fully support it to the end.

Hon. Hentry Nyongesa: Thank you Mr. Speaker; this being a report that is very slim, I will take very little time because it lies under a very slim department that is the Public Service Board and the County Assembly Service Board. I will quickly look chapter one, the preamble including the Membership of the Committee.

Mr. Speaker: For Hansard purposes, you must go through that Chapter one; you may leave out the Committee Mandate but the Membership must be placed on Hansard.

Hon. Hentry Nyongesa: Thank you Mr Speaker; if allowed I can now go to membership because the Mandate is well known to the Members.

Committee Membership

The following are the Members of the Committee on Labour Relations, Members Service and Facilities Committee:

1. Hon. Hentry Nyongesa	Chairperson
2. Hon. Catherine Kituyi	Vice Chairperson
3. Hon. Jack Wambulwa	Member
4. Hon. Anthony Lusenaka	Member
5. Hon. Joan Kirong	Member
6. Hon. Milliah Masungo	Member
7. Hon. Everton Nganga	Member
8. Hon. Charles Nangulu	Member
9. Hon. Jerusa Aleu	Member
10. Hon. Linda Kharakha	Member
11. Hon. Polycarp Kimeta	Member
12. Hon. Metrine Wilson	Member
13. Hon. Everlyne Anyango	Member
14. Hon. Alice Kibaba	Member
15. Hon. Brigid Katasi	Member

Acknowledgment

I take this opportunity to thank all the Members of the Committee for dedicating their time to examine the County Assembly Service Board and County Public Service Board nine months Financial Statements for the period ended 31st March, 2023. The Committee would also like to

appreciate the Secretariat commitment. Lastly, the Committee is grateful to your office and the office of the Clerk of the County Assembly of Bungoma for the logistical support received as it discharged its mandate.

It is therefore my privilege, on behalf of the Committee on Labour Relations, Members Service and Facilities, to table the Report on the Nine Months Financial Statements of the County Assembly Service Board and County Public Service Board for Bungoma County for Financial Year 2022/2023.

Signed by Hon. Hentry Nyongesa, MCA, Bumula Ward

Chairperson, Committee on Labour Relations, Members Services and Facilities

CHAPTER TWO

KEY HIGHLIGHTS ON THE NINE MONTHS QUARTERLY REPORT AND FINANCIAL STATEMENT FOR THE FINANCIAL YEAR 2022/2023

The total budget for the County in the financial year 2022/23 was Kshs14, 821,204,142 as per the approved first Supplementary budget with the breakdown of sources as indicated below

NO.	SOURCE	AMOUNT
1	Equitable Share	10,659,435,192.00
2	Equitable share Brought Forward	867,288,525.00
3	Retention	293,425, 903.00
4	Conditional Grants Development partners	1,540,443,462.00
5	Conditional Grants National Government	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 indicating an expenditure of less Kshs656, 656,521 of the approved amounts. The difference relates to AIA in the department of Health for facilities.

THE COUNTY PUBLIC SERVICE BOARD

The County Public Service Board within the current financial year 2022/2023 is operating on the total first Supplementary budget of Kshs64, 046,205 comprising of Kshs54, 046,205 for recurrent and Kshs10, 000,000 for development.

REVENUE

In the period under review, the County transferred from CRF account to respective operational accounts Kshs6, 303,156,902. This represents 45 per cent revenue realization from equitable fund as opposed to 75 per cent expected. Revenue realization from local revenue stood at 10 per cent. Level four and five Health facilities are not included.

Exchequer Releases

Description	Period ended 31st March 2023	Comparative period 31st March 2022.
	Kshs.	Kshs.
Total Exchequer release quarter 1	1,664,556,086	1,514,522,313
Total Exchequer release quarter 2	2,409,398,463	2,821,653,159
Total Exchequer release quarter 3	2,229,202,353	2,271,332,689
Total	6,303,156,902	6,607,332,689

In the period under review, the tabled document shows the Board received total revenue of Kshs27, 167,574 from exchequer release for recurrent and no development. Submissions from the department indicate the Board had received Kshs27, 173,342 on recurrent and Kshs3, 405,371 on development translating to absorption of 48 per cent

EXPENDITURE

Receipts and payments for the period ended 31st March, 2023

Of the Kshs6, 303,156,902 received during the period, Kshs99, 456,109 was from National Agricultural and Rural Inclusive Growth Project (NARIGP) and Kshs5, 344,642 from Agricultural sector Development Support Project (ASDSP).

Kshs6, 204,930,588 of the amount received was utilized in the period translating to 44 per cent absorption. Key Expenditure items include personnel emoluments 57 per cent, office operations 17 per cent and 6 per cent on development

Kshs772, 981,290 was transferred to the Assembly.

The table below illustrates the distribution;	Period ended 31 st March 2023	Comparative period 31 st March 2022
	Kshs.	Kshs.
Receipts		
Exchequer releases (Transfer from CRF)	6,303,156,902	6,607,508,161
Other receipts (Mabanga ATC)	18,395,495	16,616,359
Total receipts	6,321,552,397	6,624,124,520
Payments		
Compensation to employees	3,512,979,410	3,218,169,746
Use of goods and services	1,032,758,738	936,293,433
Transfer to other Government entities	772,981,290	696,343,439
Other grants and transfers	489,256,980	517,327,834
Social security benefits	46,456,661	2,275,629
Acquisition of assets (pg25)	348,638,108	900,272,579
Other payments	1,859,400	121,816,408
Total payments	6,204,930,588	6,392,499,067
Surplus /deficit	116,621,809	231,625,453

BUDGET EXECUTION BY PROGRAMMES AND SUB-PROGRAMMES

Budget execution by programs and sub-programs as indicated on *page 16* of the annexed document does not give clear information as to which activities were implemented by various specific departments. However, captured expenditure of Kshs.22, 671,128 and Kshs4, 496,446 relates to administrative services and Human resource management respectively.

The County Public Service Board Facilitated recruitments in the office of H.E the Governor and Deputy Governor renewed the contracts of CEF officers, carried out promotions/ re-designations to officers in department of Health. The department further carried out confirmation in appointments to officers in departments of; Education, Youth & sports and Lands at a cost of Kshs4, 987,505

It also facilitated Managerial and Administrative Functions of the Board at Kshs8, 823,484.

ACCOUNTS PAYABLE

Mr Speaker,

Accounts payable (Pending bill) had an allocation of Kshs6, 603,181 on recurrent and no allocation on development. The total expenditure on pending bills is Kshs7, 819,181 i.e., Kshs4, 413,810 recurrent and Kshs3, 405,371 developments. The Kshs3, 405,371 relates to development pending bills on BQs and building plan for the administration block incurred in the year 2015.

The Committee sought to know why there was misapplication of funds with funds meant for construction of administration block diverted to payment of a pending bill. In defending the expenditure, the CEO indicated that there was a co-relation between the pending bill and the administration block since the bill was incurred on development of BQs and development plans for the administration block. He also submitted that the land issue to construct the block is yet to be resolved hence the allocation might remain un- utilized at the end of the Financial Year.

The recurrent pending bills of Kshs4, 413,810 relates to:

- Provision of catering services and conference at mill views hotel Kshs281,000
- Provision of catering services at Mabanga ATC Kshs2,293,600
- Provision of air tickets African touch safaris Kshs647,130
- Provision of catering and conference service Victoria suites Kshs220,000
- Repair of motor-vehicle KBZ 969D Kshs972, 080. The extent of the repairs included engine overhaul, replacement of ejector nozzles, replacement of shocks, battery all the tyres and full service.

The other programs implemented include:

- a) Recruitment of chief officers at Kshs1,977,850

- b) Promotion, re-designations and confirmation in appointments in departments of Health Kshs2,089,780
- c) Promotion, re-designations and confirmation in appointments in departments of Education, Youth, Lands and Finance Kshs919, 875.
- d) Facilitated consultative meeting with labour relations at a cost of Kshs2,017,600
- e) Facilitated review of village administrators' recruitments at Kshs1,444,800
- f) Meeting of County Public Service Boards National consultative Forum at Kshs783,600
- g) Payment of annual subscriptions to CPSB National consultative Forum Kshs600,000 for year 2021 and 2022
- h) Preparation of annual report 2022 at Kshs1,272,600
- i) Other office operation through standing imprests totalling to Kshs700, 000.

Accounts Receivable.

The Board had outstanding imprests totalling to Kshs3, 302,850 as at the end of the third quarter. During the end of period under review, the County Public Service Board had no un- surrendered imprests to report on.

THE COUNTY ASSEMBLY SERVICE BOARD

The total budget for the County Assembly in the financial year 2022/23 is Kshs1, 294,353,579 as per the approved first supplementary budget broken down as follows; Kshs1, 187,560,394 recurrent and Kshs106, 793,185 for development. The recurrent expenditure component consists of Kshs227, 000,000 for Members' car loan and staff mortgage facility.

The target total budget as at end of 31st March, 2023 was Kshs970, 765,184 i.e., 75 per cent of the total budget compared to an actual expenditure of Kshs706, 776,483.

The target recurrent budget was Kshs890, 670,296; the Assembly had an actual expenditure of Kshs681, 776,483.

On development the target budget utilization was Kshs80, 094,889 against an actual expenditure of Kshs25, 000,000.

REVENUE

In the period under review, the County Assembly received total revenue of Kshs772, 981,290 as transfers from the National government/exchequer release; recurrent release of Kshs747, 981,290 and development release of Kshs25 million. The releases were spread in each quarter as follows:

Quarter 1 Kshs136, 987,662

Quarter 2 Kshs329, 413,932

Quarter 3 Kshs306, 579,000

EXPENDITURE

The County Public Service Board was able to undertake the following activities:

Personnel expenditures

Payment of staff salaries at Kshs4, 496,448 for the period up to and including months of March 2023

- July 2022 Kshs549,910
- August 2022 Kshs549,910
- September 2022 Kshs549,910
- October 2022 Kshs549,910
- November 2022 Kshs554,170
- December 2022 Kshs634,298
- January 2023 Kshs554,170
- February 2023 Kshs554,170

Out of the Kshs772, 981,290 released in the three quarters, the Assembly was able to spend a total of Kshs706, 776,483 on the following items leaving a balance of Kshs66, 204,807.

a) **Compensation of employees. Kshs231,823,769**

- Basic salaries of permanent employees Kshs126,927,614
- Basic wages of temporary employees Kshs14,311,439
- Personal allowance paid as part of salary Kshs56,674,544
- Pension and other social security contributions Kshs33,163,372
- Employer contribution to compulsory National social scheme Kshs746,800

b) **Use of goods and services Kshs229,284,077**

- Utilities supplies and services Kshs543,305
- Communication supplies and services Kshs1,022,841
- Domestic travels and subsistence Kshs107,695,159
- Foreign travels and subsistence Kshs1,500,000
- Printing, advertising and information supplies and services Kshs5,090,104
- Training expenses Kshs11,746,667
- Hospitality supplies and services Kshs26,524,558
- Insurance costs Kshs33,163,264
- Specialized materials and services Kshs310, 772
- Office and general supplies and services Kshs2,191,863
- Fuel oil and lubricants Kshs954, 000
- Other operating expenses Kshs37,031,398
- Routine maintenance-vehicle and other transport Kshs1, 377,097
- Routine maintenance-other assets Kshs133,049

c) **Transfers to other Government Entities. Kshs203,357,706**

- County Assembly MCAs car loan and Mortgage scheme fund Kshs128, 000,000.
- County Assembly employee car loan and Mortgage scheme fund Kshs60, 000,000.

- County Assembly Ward Offices Kshs15, 356,706
- d) **Other Grants and transfers. Kshs844,699**
 - Membership Fees and dues and subscription to Organizations 844,699
- e) **Social Security Benefit. Kshs12,112,582**
 - Gratuity-Ward office partisan staff Kshs2,305,980
 - Gratuity-Members of county Assemblies Kshs9,806,602
- f) **Acquisition of Assets. Kshs2,595,666**
 - Purchase of Computers, Printers and Other IT equipment Kshs90,156
 - Research Studies, Project Preparation Design and supervision Kshs2,505,510
- g) **Other Payments. Kshs1,758,984**
 - KRA demand notice Kshs1,758,984
- h) **Development. Kshs25,000,000**
 - Completion of office Block Kshs25,000,000

The County Assembly had no pending bills during the period under review in the FY 2022/23.

BUDGET EXECUTION BY PROGRAMMES AND SUB-PROGRAMMES

Mr. Speaker,

The County Assembly had only one item under development under the period under review. The Board facilitated the completion of the new building at a cost of Kshs25, 000,000. The Office Block is currently under use.

ACCOUNTS PAYABLE

The County Assembly had no pending bills in the FY 2022/2023

CHAPTER THREE

GENERAL COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Committee General Observations.

The committee made the following observations.

1. The County Public Service Board had not kick started the construction of Board Administration Block since there was a conflict in identifying a parcel of land where the offices were to be done.
2. The County Public Service Board had a total pending bill of Kshs4, 413,810 as at 31st March, 2023.

3. Under development expenditure, the County Public Service Board spent Kshs3,405,371 on coming up with the BQs for the Administration Block dating back to the year 2015 but had no allocation.
4. Exchequer release as submitted by County treasury differs from the information held by the Board.
5. The County Public Service Board implemented some of the activities without appropriation e.g., Pending bill payout on BQs and plans for the administration block not reflecting in any budget documents including the second Supplementary budget FY 2022/23.
6. The two Boards had no un-surrendered imprests to report on.

Committee Recommendations

Mr. Speaker,

The following recommendations were made by the Committee:

1. **That**, the County Public Service Board should declare and prioritize the payment of pending bills when preparing proposed budget estimates to avoid unnecessary litigation and accumulation.
2. **That**, the County Public Service Board should see to it that the construction of the Administration Block on the land allotted to them by the County Government before the lapse of the Financial Year.
3. **That**, County Treasury should ensure the correctness of the financial statements by consulting the user departments.
4. **That**, Imprests should be managed according to the public finance management laws that states:
PFM Regulation 93(5) A holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.
5. **That**, the approved budgets should be implemented pursuant to PFMA 149 (1).

Mr. Speaker, the report was adopted by all the members of the committee. That is the end. I therefore request Hon. Metrine Wilson to second the report.

Hon. Metrine Wilson: Thank you Mr. Speaker Sir. I rise to second the report.

Mr. Speaker: Thank you. Honourable Members, allow me propose a motion for debate. A motion has been moved and seconded that the House does adopt the report by the Committee on Labour Relations, Members Services and Facilities on the nine months financial statements for the period ending 31st March, 2023.

(Motion proposed)

Hon. Alice Kibaba: Thank you Mr. Speaker sir for giving me this chance. From what the Chairperson labour has read, I have noted that the County Executive is not giving the County Public Service Board its independence. They have been playing push and pull on construction of the admiration block for the Board.

Two, the County Assembly Service Board is doing a commendable job as they have ensured that they had no pending bills by the time the report was being done. Additionally, they have no unsurrendered imprests. I support the motion.

Mr. Speaker: Thank you, Hon. George Makari

Hon. George Makari: Thank you Hon. Speaker. I want to applaud the Chairperson of the Sectoral Committee on Labour my good friend Hon. Nyongesa from Bumula for the good job. However, I expected my good friend also under Standing Order No. 96(2) to inform the House when the insurance for these Honourable Members will be due because if Hon. Waiti got an accident today like he did recently, there is no medical cover for him. Even before the chairperson who is supposed to protect Members' welfare started to move the report, he could have said he wants to inform members where they have reached with insurance cover for members. But I know when he will be replying he is a good friend of mine he will come and tell us when the insurance will be available.

I wish to say the report is good, it has no major issues. This same County Public Service Board has pending bills equivalent to Kshs6.4Million and somewhere within the report they said the money that we allocated for them in the previous financial year was used to pay for pending bills; when in reality they requested for that money to put up an Administration block. That is not proper utilization of the funds we gave them, why did they request for funds to put up an administration block then at the end of the day they go ahead and use the money to pay for pending bills? You remember that in the just read budget for this financial year, we again allocated some money to put up an administration block. Will we be playing this game of ping pong every other time, we give money they re-allocate, they seek for reallocation from putting up an administration block to pending bills. Where do the pending bills come from?

So, as much as I support the report, we will also go back to check the programmes to see if they are misallocating funds from other projects that we gave them. I think we will revisit that one. This is the same CPSB that recently recruited health professionals and they are also in the mud for recruiting Village Administrators who had not applied. Recently in the Health sector where I am the chairperson, they also recruited 235 people without even ...and when I was looking at the list, there is an Asian who was employed as a pharmacist, an Asian when our people from various wards did not even get the chance.

(Applause)

An Asian called Praby somebody, maybe this Praby comes from your ward Mr. Speaker because I have never seen the name...

Mr. Speaker: Hon. George I don't have a Ward; my Ward is Bungoma County. Let me hand over the microphone to Hon. Ali Machani.

Hon. Ali Machani: *(On a Point of Information)* Honourable Speaker, I am surprised, is it in order for the Honourable Member to raise such an alarm when he is aware that the procedure of employment is well stipulated in the Constitution and any other law guiding human resource and how people are hired? 30 per cent will always come from outside, so as much as I am a member elected, on oath I swore before this House that I will protect the constitution of this country. Is it in order for an Honourable Member who is elected and a senior member to pronounce the issue of people from outside that have been employed before this House?

Mr. Speaker: Yes Hon. Kawa, but Hon. Makari note that the sentiments from the onset, the ones touching on the Asian are unconstitutional, you will have to withdraw it.

Hon. Jack Kawa: *(On a Point of Information)* Thank you Speaker, I just want to inform Honourable Members that it is good to articulate issues here, it is on behalf of our people and let us call a spade a spade. There is an outcry out there and when we reach here we don't need to pretend. The Honourable Member was just citing an example.

Mr. Speaker: Hon. Kawa you are justified to use proper language; not the one that he used.

Hon. Jack Kawa: My point is, we represent people and I want to echo what the Honourable Member who is Chairperson of Health has just said; that there is an outcry outside there and so let us not pretend.

Mr. Speaker: Yes Hon. Makari I am back to you, proceed

Hon. George Makari: Honourable Speaker, I wish we could have four or five members here like Hon. Kawa, I would be very much at peace. My good friend the mayor from Webuye, let him visit Githunguri Constituency and wish to become the Clerk of the Assembly of Githunguri or Kiambu County and see if he will get that employment.

We should call a spade a spade, this Praby person cannot visit Migori County and get employment as a pharmacist under the sun... it cannot work! So let us not pretend and cover other tribes here. The Chairperson of Labour must look at this CPSB. If I go deeper into what they did, we could just open a Pandoras box; I wouldn't wish to go towards that direction.

I wish to also applaud the County Assembly because they don't have any pending imprests and pending bills as we speak. The only issue is there is money that was allocated for the construction of the new plenary; I haven't heard Hon. Nyongesa talk about that one. Maybe when he is replying he can also tell us when we are moving from this museum to a new plenary.

Mr. Speaker: For guidance purposes, the report ends on 31st March, 2023, so we are in October 2023, you want us to discuss what is going to come in the next report.

Hon. George Makari: Well guided Honourable Speaker, so I support the report

Mr. Speaker: But I think when you consult Hon. Ali Machani or Hon. Nyongesa; things are not bad.

Hon. George Makari: Hon. Ali Machani has chosen to close his ears and eyes to the reality of Bungoma County, he is my friend, but I would wish to consult somebody else.

Mr. Speaker: Thank you, let us proceed to the next item, Hon. Hentry you are invited back to give feedback

Hon. Hentry Nyongesa: (The Mover to reply): Thank you Mr. Speaker. One, I wish to say a big thanks to the members who have contributed and who have consumed the report. As I said from the onset, this report rotates among the two institutions which are key in the administration of this County; that is the County Assembly Service Board and the County Public Service Board. I want to agree with the members that there is no road that has no corners but you may realize that there are few corners in this report.

Mr. Speaker: So Hon. Hentry you are comparing a road and this report?

Hon. Hentry Nyongesa: I mean it is clear on every area. Members are worried about the administration block that the County Public Service Board requested for an allocation of money and I want to agree that there have been some delays but as we are talking, I want to let members know that the administration block is going to be constructed next to the labour office. There is one residential house that is going to be demolished and the Lands department has made that communication. We had two areas but they have settled on that one. Being at the center of the town, it will allow the consumers to comfortably access that office. So the construction is starting soon as we are talking.

I also want to say that we could have started with what Hon. Wasike has raised, the issue of welfare of members especially concerning the medical cover. The report is restricted for up to March 31st, 2023 and since it was not part of the report, I couldn't have put it on record but I want to assure members that the insurance cover is at the final stages. I am sure that because of the procurement procedures, they are waiting for the required period to lapse before they sign the contract and I am sure the time has lapsed.

It is clear that we had no pending bill but only what Hon. Wasike is putting across is how the Public Service Board settled for something indicated as a pending bill. Design works were done and during that time there was no allocation for the same. In the supplementary budget this department was given Kshs10 million out which they used about Kshs3 million to settle the above pending bill for design works for the construction of the administration block. I want to agree that we had challenges at the County Public Service Board during employment, but I want the House to know that we are guided by the law and it is clear that the employing entity will receive 70 per cent and the remaining 30 per cent will take care of those from outside the county.

I was thinking loudly when the Hon. Wasike mentioned about Praby; but we had also Praby who was married to a Bukusu in Webuye in Batecho clan. She is an Asian but married to a Bukusu called George Makari and is seeking for employment in Bungoma County. I think such cases cannot be denied an opportunity. Otherwise, I am delighted and I wish that the House approves this report the way it is for continuity purposes.

Question for adoption of the moved motion put and agreed to.

The ayes have it.

The report together is hereby adopted.

2. REPORT ON THE BUNGOMA COUNTY CO-OPERATIVE SOCIETIES BILL, 2023

Hon. Wafula Waiti (Chairperson, Committee on Agriculture, Livestock, Fisheries, Irrigation and Co-operatives Development): Thank you Mr. Speaker. I stand here to move a motion that this House notes the report by the Sectoral Committee on Agriculture, Livestock, Fisheries, Irrigation and Co-operatives Development on Bungoma County Co-operative Societies Bill, 2023.

Mr. Speaker, I seek for your indulgence that I skip chapter one on preface on mandate of the Committee and proceed from committee membership.

Mr. Speaker: Proceed from 1.3 on Committee membership.

Hon. Wafula Waiti: 1.3 Committee Membership;

Mr. Speaker Sir, the Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development as currently constituted comprises the following Members:

- | | | |
|-----|------------------------|----------------|
| 1. | Hon. Wafula Waiti | Chairperson |
| 2. | Hon. Idd Owongo | V. Chairperson |
| 3. | Hon. Busolo Sudi | Member |
| 4. | Hon. Everlyne Mutiembu | Member |
| 5. | Hon. Simotwo Franklin | Member |
| 6. | Hon. Jerusa Aleu | Member |
| 7. | Hon. Alfred Mukhanya | Member |
| 8. | Hon. Caleb Wanjala | Member |
| 9. | Hon. Edwin Opwora | Member |
| 10. | Hon. George Tendet | Member |
| 11. | Hon. Benard Kikechi | Member |
| 12. | Hon. Martin Chemorion | Member |
| 13. | Hon. Metrine Wilson | Member |
| 14. | Hon. Allan Nyongesa | Member |

15. Hon. Alice Kibaba Member

1.4 Acknowledgement

The Committee is grateful to the offices of the Speaker and the Clerk of the County Assembly of Bungoma for the logistical and technical support accorded to it during its sittings that culminated to this report.

I wish to also express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

The Committee further wishes to thank all stakeholders who submitted views on the Bill.

It is therefore my pleasure to report that the committee has considered the Bungoma County Co-operative Societies Bill, 2023 and have the honour to table this report before this Honourable House for Consideration and Adoption.

Chapter Two

2.0 Background

The first reading of the Bungoma County Cooperative Societies Bill, 2023(Bungoma County Bill No.3) sponsored by Hon. Wafula Waiti, Chairperson, Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development was on 26th April,2023 pursuant to Standing Order No. 139 of the County Assembly of Bungoma Standing Orders and consequently committed to the Sectoral Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development for processing and reporting back to this House.

This Bill was subjected to public participation in compliance with Standing Order No. 140(2) of the County Assembly Standing Orders through print media on 9th May, 2023 as per the advertisement in the Daily Nation Newspaper inviting the public to submit memorandum (as annexed).

The Committee received memoranda by close of business 17th May, 2023, from the following stakeholders: JUMA HS &ASSOCIATES and NATURE KENYA whose valuable input has formed part of the amendments proposed to the Bill.

2.1 PURPOSE AND OBJECTIVE OF THE BILL

The principal objective of the Bill is to provide for a Legislative and institutional framework to facilitate the —

- (a) Promotion and development of co-operative societies pursuant to section 7 (e) of Part II of the Fourth Schedule to the Constitution;
- (b) Formation, registration and licensing of cooperative societies;
- (c) Promotion of cooperation between the national and county governments in matters relating to cooperative societies; and
- (d) Promotion of corporate governance of co-operative societies.

2.2 OVERVIEW OF THE BILL

The principles objective of the Bill is to give effect to paragraph 7 (e) of Part II of the Fourth Schedule of the Constitution of Kenya; to make provisions relating to the formation, registration and regulation of co-operative societies. It also seeks to implement the standards and norms established under the Co-operative Societies Act, Cap 490 in order to promote cooperative movement and regulate co-operative societies in Bungoma County.

The Bungoma County Cooperative Societies Bill, 2023 is divided into thirteen parts with a total of 89 clauses.

PART I of the Bill provides for preliminary matters. It contains the short title and interpretation of terms used in the Bill. This part further provides for object and purpose of the Bill. It seeks to provide for a Legislative and institutional framework to facilitate the —

- (a) Promotion and development of co-operative societies pursuant to section 7 (e) of Part II of the Fourth Schedule to the Constitution;
- (b) Formation, registration and licensing of cooperative societies;
- (c) Promotion of cooperation between the national and county governments in matters relating to cooperative societies; and
- (d) Promotion of corporate governance of co-operative societies.

PART II of the Bill: of the Bill provides for officers; the Executive Committee Member, Director and other officers who will be instrumental in the administration of the Bill. The County Executive Committee Member shall responsible for the growth and development of cooperative societies in the County. While the County Director registration, supervision and inspection of cooperative societies.

PART III of the Bill provides for the structure and registration of co-operative societies. It contains provision on essentials for registration of a co-operative society, procedure for registration and provisional registration. It also provides for amendments of by-laws by co-operative societies and appeal against refusal to register. This part also provide for protection of the name "co-operative" and what constitutes evidence of registration. Further It gives a co-operative society the status of a body corporate and provide that the by-laws to bind members of a co-operative society.

PART IV of the Bill provides for rights and liabilities of members of a co-operative society. It provides for qualification for membership, limitation of holding share capital, voting rights of members and transfer of shares. This part also provides for rights of members and member's rights vis-à-vis the rights of the co-operative society.

PART V of the Bill deals with duties of a co-operative society. It requires a co-operative society to have a registered address, to keep a copy of the Bill and by-laws in the registered office and to produce certain books and documents if needed. It also provides for Accounts and audit, General meetings, membership, powers and terms of the Committee.

PART VI of the Bill provides for Amalgamation and division of co-operative societies. It also deals with division of cooperative societies.

PART VII of the Bill provides for the rights and obligations of cooperative societies which includes the right of a co-operative society to have charge over a member's produce and debts as well as the relationship between a co-operative society and past members. It also stipulates the fines for violation of by-laws

PART VIII of the Bill provides for property and funds of co-operative societies. It provides for restrictions and limitation on borrowing, investment of funds and declaration of bonus and dividend. It further makes provisions for maintenance of reserve fund and distribution of net balance.

PART IX of the Bill provides for charging of property by cooperative societies.

PART X of the Bill provides for inquiry and inspection of cooperative societies by the Director. It provides for the expense of inquiry and the routine inspection. This part also provides for surcharge of officers of co-operative societies, appeal against the order of surcharge and recovery of surcharge.

PART XI of the Bill provides for dissolution of a co-operative society and consequential matters. It contains provisions on the procedure for dissolution, cancellation of registration and effects of cancellation. This part provides the extent of application of the Companies Act Cap 486 and appointment and powers of liquidators.

It goes further to spell out powers of the Directors during liquidation and enforcement of orders. It also provides for the institution of winding up proceedings and power to restrain convicted persons from being officers of co-operative societies.

PART XII of the Bill provide for settlement of disputes. It provides that the establishment, functions, proceedings and operation of tribunals will be governed by the Co-operative Societies Act Cap 490, Laws of Kenya.

PART XIII provides for general provisions. It contains provisions on remuneration of officers and members of the society and restriction on the use of the word "co-operative" This part establishes the County Cooperative Development Fund.

It empowers the Executive Member to make Regulations for the better carrying into effect of this Bill. This part also makes provision on exemptions on the provisions of this Bill and also additional powers of the executive committee member and the director.

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

2.3 Legal Framework

The legislative authority of the County

Article 185 of the Constitution makes provision for legislative authority of county assemblies.

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

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

Section 7 (e) of Part II of the Fourth Schedule to the Constitution provides as follows:

The function and powers of the county are:-

Trade development and regulations, including –

- a) Markets;
- b) Trade licenses (excluding regulations of professionals)
- c) Fair trading practices
- d) Local tourism
- e) Cooperative societies.

Thus, this provision mandates the County Government to regulate cooperative Societies especially primary cooperative societies.

The Bill complies with the following fundamental principles of enacting a Bill:-

1. The Bill does not infringe on the fundamental rights and freedom enshrined in the constitution, but it delegates the legislative authority to County Executive committee member to make Regulations for the better carrying into effect the provisions of this Act.
2. The Bill conforms to the Constitution and the relevant applicable laws.
3. The implementation of the Bill shall occasion additional expenditure on public funds which shall be provided for in the annual estimates as it establishes the County Cooperative Fund.
4. The Bill conforms to the style, form and structure of drafting of a Bill.
5. 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.

Chapter Three

3.1 Public Participation

The requirement of the Committee to conduct public participation on the bill is a constitutional imperative flowing from Article 196(1) (b) 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.

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 on 17th May, 2023, the Committee had received views from the following stakeholders:

- a) Juma HS & Associates
- B) Nature Kenya
- A) Nature Kenya

Role of County Executive Committee Member; section 4-Amend 4(g) to insert the word “sustainable development” to ensure Cooperative align to sustainable development goals for wellbeing of society, humans and the environment without affecting the future generations ability to connect with nature, to read “issue guidelines and regulations to facilitate growth, sustainable development and regulations of Co-operative societies”

Director, Deputy Director and other Officers; Section 5-Amend 5(3) to add some additional functions below that are linked to promotion of sustainability.

- (g) Provision of incentives to enhance sustainable production and marketing.
- (h) Improve access to credit facilities by members of Cooperative Societies.
- (i) Spearhead formulation and implementation of strategies and measures in line with international and national standards for sustainable Co-operatives sector in the County.

Fines for violation of by-laws and offences; Section 41(1) and section 88(2) respectively- Fines and penalties needs to be reviewed to enhance compliance and introduce the value of what has been misappropriated. Revise to require those convicted to;

- i. Pay back to the Co-operative society an amount equivalent to 10 times the misappropriated total or
- ii. Pay a fine to the County Government of 10 times the amount misappropriated
- iii. Serve a specified imprisonment term or

iv. All of the penalties.

b) JUMA HS & ASSOCIATES (CPA/CS)

Section 5(1) & (2) –Creation of the Office of County Director for Cooperatives-Amend to have three distinctive offices of directors with clearly stated responsibilities:

1. Director- Registrar of societies and general administration of societies
2. Director- Co-operative Inspection to inspect all cooperatives, identify and prevent business risks in management of societies (Ref. Section 70). Weak societies in governance need to be visited twice in a year.

3. Director- Co-operative Audit to carry out annual audits of co-operatives in the County. These officers will be reporting to the Chief Officer or County Executive as it may be preferred.

Section 18(2)-Replace the word “their” by “there”

Section 22-The portion permitted in most of the corporation worldwide is one fifth or 20 per cent of the total share. A quarter or 25 per cent is a new phenomenon capital.

Sections 67 on Inquiry- Many inquiries have failed the test of the court of law for failure to observe Article 47 of the Constitution and Administrative Fair Act. Let there be reference to guide the Director on this part.

Supervisory Committee has been omitted in the Act- It is essential for Supervisory Committee be included in the Act as a vital organ that oversees the activities of the Management Committee (MC), report to MC its findings and report to members on how well their resources have been governed by the MC.

The Committee considered the views and will form part of the proposed amendments to the Bill.

Chapter Four

Committee Consideration of the Bill/Proposed Amendments

The Committee having considered the Bill, clause by clause and submissions by the various stakeholders, it proposed amendments on specific clauses together with their justifications as below;

Clause	Proposed Amendment	Committee Comments
Long title		Agreed to
1-Short title and commencement		Agreed to

2- interpretation	That Section 2 of the Bill, on the definition of the title “ Director ” be amended by deleting the word “ management ” appearing immediately after the word “cooperative” and substituting therefor the word “ Development ”	Justification: To correct the name of the department.
3-object and purpose of the Bill		Agreed to
4 -Role of the County Executive Committee Member	That Section 4 of the Bill be amended by: 1. inserting a new clause and re-numbering Clause 4 as 5 onwards so as to read “4. Guiding principles of cooperatives All persons shall, in the performance of their functions under this Act, be guided by the following principles- a) non-discrimination of members of cooperatives societies;	Justification: To provide for the guiding principle in the implementation of the Bill.

	<p>b) voluntary and open membership;</p> <p>c) democratic member control;</p> <p>d) autonomy and independence;</p> <p>e) public participation and continuous training and awareness creation;</p> <p>f) co-operation among cooperative societies;</p> <p>g) concern for community in general;</p> <p>h) self-responsibility and commitment in the conduct of the affairs of cooperative societies; and</p> <p>i) Equity in the distribution of income derived from cooperative societies.”</p> <p>2. That clause 4(g) be amended by deleting the words “issue guidelines and regulations ” appearing before the word “facilitation” and further delete the words “<i>and regulations</i>” appearing after the word “growth” substituting therefor with the words “sustainable development”.</p> <p>So as to read “ To facilitate growth and sustainable development of co-operative</p>	<p>Justification:</p> <p>To make provision for the aspect of sustainable development.</p>
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	societies”	
5- Director, Deputy Director and other officer	<p>That clause 5 of the Bill be amended :</p> <p>a) That clause 5(1) be amended by Inserting the words “and such number of officers, as may be necessary to assist the director in the administration of this Act”. Immediately after the word “Service”</p> <p>b) That clause 5(2) be amended by deleting the entire sub-clause.</p> <p>c) That clause 5(f) be amended by inserting paragraph (f), (g) and (h) and renumber paragraph 5(f) as 5(i) so as to read:</p> <p>(f) Provisions of incentives to enhance sustainable production and marketing;</p> <p>(g) improve access to credit facilities by members of cooperatives societies;</p> <p>(h) Spearhead formulation and implementation of strategies and measures in line with international and national standards for sustainable</p>	Justification: To avoid creating offices. This can be done administratively.

	<p>cooperatives sector in the County;</p> <p>d) That clause 5(4) be amended by deleting the entire sub-clause.</p>	
6- Structure of cooperative Societies.	<p>That clause 6 of the Bill be amended by deleting the words <i>“structure of co-primary”</i> appearing before the word <i>“cooperative”</i> and therefor substituting word <i>“primary”</i> and further delete the word <i>“cooperative”</i> appearing immediately after the word “Level and insert the words <i>“cooperative unions”</i> before the abbreviation “NACOs” “so as to read <i>“The structure of cooperative is made up of primary cooperative societies formed at the county level and inter county level cooperatives unions, NACOs and Apex societies”</i></p>	<p>Justification:</p> <p>To correct the sentence syntax.</p>
7- Formation of cooperative societies.		Agreed to
8- Qualification for membership		Agreed to

9- affiliation		Agreed to
10- types of cooperative		Agreed to
11- registration of cooperative societies		Agreed to
12 – Eligibility for registration as a cooperative societies		Agreed
13- Procedure for registration		<i>Agreed to</i>
14- provisional registration		<i>Agreed to</i>
15- Appeal against refusal to register		<i>Agreed to</i>
16- society not be registered under the name of existing society		<i>Agreed to</i>
17- Evidence		<i>Agreed to</i>
18. A cooperative society to be a body corporate.	2. <i>Clause 18: A cooperative society to be a body cooperate That clause 18(2) be amended by deleting the word “their” and substituting therefor the word “There”</i>	Justification <i>To correct the grammatical errors.</i>
19-Membership to apex society and annual		<i>Agreed to</i>

subscription		
20- By-laws to bind society and subscriptions		<i>Agreed to</i>
21- Amendments of by-laws		<i>Agreed to</i>
22- Limitation of holding shares Capital		<i>Agreed to</i>
23- Membership subject to authorization by annual general meeting		<i>Agreed to</i>
24- Membership of cooperative Societies		<i>Agreed to</i>
25- Limitation of membership to one society		<i>Agreed to</i>
26- Voting Rights of members		<i>Agreed to</i>
27- transfer of Shares		<i>Agreed to</i>
28- Rights of members		<i>Agreed to</i>
29- Member's Obligation		<i>Agreed to</i>
30- Registered office and address of cooperative societies		<i>Agreed to</i>

31- society to keep certain documents at registered office		<i>Agreed to</i>
32- Estimates of income and expenditure		<i>Agreed to</i>
33- Accounts and audit		<i>Agreed to</i>
34 –production of books and other documents		<i>Agreed to</i>
35 General Meetings		<i>Agreed to</i>
36- Membership and powers of the a Committee	That clause 36 of the Bill be amended by deleting the following words “ <i>may establish membership and committees</i> ” appearing immediately before the word “society” and therefor substituting the words “ <i>shall have a management committee</i> ”	Justification: to provide for a management committee of cooperative society.
37- supervisory Committee	That clause 37 of the Bill be amended by inserting a new clause 37 and re-numbering clause 37 as 38 onwards: 37(1) “A <i>cooperative society shall have a supervisory Committee consisting of not more than three members.</i> ” 37(2) the supervisory committee shall –	

	<ul style="list-style-type: none"> a) Evaluate programmes of the societies; b) Check minutes of the Committee and General meetings for policy matters c) Verify investment in banks, buildings, Insurance firms and stocks among others; d) Analyze expenses of the society in relation to the budget; e) Ensure that standardized accounting system is implemented in the society; f) Listen to members complaints and assist them find solution g) Seek for solutions for weaknesses in management h) Prepare and present report to the Management Committee on quarterly basis and to the annual general meeting annually; i) Receive the report of the internal auditor and take 	
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	action on the same or recommend for action by the Committee.	
37- Term of the Committee		Agreed to
38- Amalgamation of cooperative societies		Agreed to
39-Division of cooperatives societies		Agreed to
40- Society to have charge over members' produce		Agreed to
41- Fines for violation of by-laws		Agreed to
42- society to have first charge over debts, assets in certain cases		Agreed to
43- Society to have first charge over members' share		Agreed to
44- Failure to remit sum deducted		Agreed to
45- Member's shares not subject to attachment		Agreed to
46- liabilities of the past		Agreed to

members		
47- liabilities of the deceased member		Agreed to
48- Transfer of shares or interest of the deceased members		Agreed to
49- Evidence of member's interest in the society		Agreed to
50- Restriction on production of society's book		Agreed to
51- Application of society's property and funds		Agreed to
52- Restriction on giving loans		Agreed to
53- Restriction on borrowing		Agreed to
54- Investment of society's Fund		Agreed to
55- Declaration and payment of bonus		Agreed to
56- Maintenance of Reserve Fund		Agreed to
57- Distribution of Net		Agreed to

balance		
58- creating charge over society's property		Agreed to
59- Charge to comply with applicable laws		Agreed to
60- Charges to be registered by the director		Agreed to
61- register Charges		Agreed to
62- Certificate of satisfaction of charges		Agreed to
63- Receivers to give notice of appointment		Agreed to
64- Society to keep a copy of instrument of charge at registered office		Agreed to
65- Society to keep register of particulars of charges		Agreed to
66- register of particulars of charges open for Inspection		Agreed to
67- Inquiry by the director		Agreed to
68- Inspection of books of indebted		Agreed to

society		
69- Expenses of inquiry		Agreed to
70- Routine inspection		Agreed to
71- procedure for dissolution		Agreed to
72- cancellation of registration		Agreed to
73- Effects of cancellation		Agreed to
74- Winding up of the cooperatives societies	That clause 74(2) of the Bill be amended by deleting the entire sub- clause 74(2) of the Bill.	Justification: Amendment of any of the provisions relating the Act should be done by the County Assembly.
75 – appointment of liquidators		Agreed to
76- Powers of the liquidators		Agreed to
77- Liquidation account of societies		Agreed to
78- powers of the directors	That clause 78(d) of the Bill be amended by inserting the word “ this ” immediately before word “ section ” and further delete	Justification: To correct wrong cross referencing.

	the number “77”	
79- Appeal against order of liquidator	That clause 79(1) of the Bill be amended by deleting Number “79” appearing immediately after the word “ section ” and therefor substituting the number “78”	Justification: To correct wrong cross referencing.
80- Institution of winding up proceedings		Agreed to
81- Power to restrain convicted persons from being officers of the society	That clause 81 of the Bill be amended by inserting the word “ or those ” before word “ specified ” further delete number 81 appearing immediately after the word “ section ” and therefor substituting the phrase “88 “ of this Act ”	Justification: to correct wrong citation
82- Dispute		Agreed to
83- Remuneration of officers and members of the society		Agreed to
84- Restriction on use of the word “Co-operative”		Agreed to
85- County Co-operative Development Fund		Agreed to

86- Regulations		Agreed to
87- Exemptions		Agreed to
88- Offences		Agreed to
89- Savings		Agreed to
Clause – Schedules	<p>That the schedules be amended by:</p> <p>a) Deleting second last column of the schedule.</p> <p>b) Deleting the following words “proposed 2022/23” appearing at the top of the last column</p>	<p>Justification:</p> <p>To provide for the charges under this Act.</p>

Committee Observations and Recommendations

Committee Observations

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

1. The Bill is long overdue as regulation and promotion of cooperatives will spur the economic development.
2. Other guidelines ought to follow to address the non-substantive issues not captured in the Bill.
3. Clause 85 of the Bill establishes the Bungoma County Co-operative Development Fund which needs to be appropriated by the County Assembly.

1.1 5.2 Committee’s Recommendations

The Committee recommends that this House adopts this report with the proposed amendments to the Bungoma County Cooperative Societies Bill, 2023 to enable it move to the next stage.

At that level the adoption schedule follows where members appended their signatures. At that point, I beg for your indulgence as I call upon Hon. Metrine Wilson Nangila to second the motion.

Mr. Speaker: Thank you Hon. Waiti for work well done

(Applause)

Hon. Metrine, you have the honour of seconding the motion. Proceed!

Hon. Metrine Wilson: Thank you Hon. Speaker. First, I would like to thank my able Chair for reading the report eloquently and secondly I would like to second the report.

Mr. Speaker: Thank you Hon. Metrine for seconding the report. Honourable Members, I will now proceed and propose a motion for the House to debate.

Motion proposed

Hon. Hentry Nyongesa: Thank you Hon. Speaker. I wish to first thank the Committee for having been very keen on coming up with this Bill that is going to uplift the lives of our people through the co-operative movement. As I contribute to this motion, there are areas that are very sensitive and we need to handle it very carefully because most of the co-operatives are dying in this country and more so in this County because of the legislative part of it. You find that somebody can walk in a co-operative society and even become an executive member and he eats what is in the co-operative and leaves.

As the Chair was reading the punishment that is supposed to be aligned under that part, I wish they would specify that if you run away with the monies of the co-operative, you are given a punishment like 10 years of jail or a fine of Kshs100, 000 depending on what you have stolen; so that when people run away with people's monies, they know the consequences.

When you talk about jail term, you want to cap it that if you run away with some small money from the co-operative, you are liable for imprisonment of 10, 20 Or 50 years so that people respect the co-operative movement. Otherwise, as it is, it is a Bill that is waiting and I want to give an example. When it comes to the membership of the co-operative societies or unions, some people have wrangles because they do not have the guidelines.

You may realise that if there is no term limit for executive members of the co-operatives; somebody who has bad motives can come in and rattle the membership of the co-operative and make it fail. It is also supposed to be capped that the executive of the co-operative must have the specific time within the office so that it is also respected by the law and somebody going against it is also supposed to be liable for a certain punishment under the law.

Lastly, the shares in the co-operative must also, though it will be depending with the various co-operatives, be opened that when somebody is coming in as a new member, what the conditions are supposed to guide him so that he does not just come and take over the co-operative; even if he is a new member to that society. Otherwise, we support the Bill because it is going to assist our people. I support.

Mr. Speaker: Thank you. Hon. Makari you go!

Hon. George Makari: Thank you Mr. Speaker. Once again I wish to applaud my good friend and the committee for Agriculture. Mr. Speaker, help me wonder aloud if this energetic man would have died in that accident, who would have given us this wonderful report? It is good that he survived to give us such wonderful reports, we are very grateful for that survival and may God continue...As a bishop, I say may God continue helping him to survive more and more years.

This report does not need a lot of debate from my end from what I have seen; only one or two areas. I would wish to believe that there is a time when they will also come up with regulations to operationalize this. Once it goes through, I think those ones who understand very well, there must be regulations to operationalize this Bill.

Why do I say this? Most co-operatives die due to mismanagement of Finances. I can give you an example; there was a co-operative here in Bungoma called Kitinda Dairy Co-operative. It is still around by name, but it has no foundation up to today... it is wobbling, it had no head, it is directionless, like it is not even in existence because people went there as management to take money out of it.

I can also give you another example, there was a very giant Co-operative Union in Bungoma called Bungoma Teachers Co-operative Society and I can give an example which I would wish that is not quoted in this House. An example of those members who were in the accounts department was our CEC member for Finance and I can remember one Hon. Rosemary Khisa was also in that giant Bungoma Teachers SACCO...

Mr. Speaker: Now, Hon. Makari...

Hon. George Makari: Hon. Speaker, I said you close your ears and eyes to my reference.

Mr. Speaker: Hon. Makari, unfortunately the Hansard is not closing its ears. I have closed mine, what happens to what goes to the Hansard? It is going to be a record permanently. I wish you do not mention names. Just withdraw the names so that you just say people who were there. It will be safer that way.

Hon. George Makari: Thank you Honourable Speaker but you see they mismanaged even if the records are put here straight, it will show that they mismanaged. However, let me withdraw...

Reference to those two giant co-operatives that actually went under is because the people we put there to manage the co-operatives go there to enrich themselves and steal from those co-operatives. I wish the Chair to be alert on this so that when they bring regulations to operationalize this bill, they must look at number 39 that the society to have first charge over members produce.

It is my produce but you as the society you have first charge over my produce. I think it is going to be in the regulations to explain more on that one. Because I cannot get my produce, bring to the society and you as a society has the first charge; unless there are liabilities that I have that enables you to have first charge over my produce and I think that one will come out in the regulations.

Two, may be the last one. I think that was number 43; that the society to have first charge over members shares. Also this one unless as a shareholder has several liabilities arising from my shareholding; because how can you have first charge over my shares unless I have liabilities, which of course, let it come out in the regulations. That is why the society should have first charge over my shares;

One, if I have done this or have these liabilities, if I have borrowed; then my shares are now explained to be collateral for what I borrowed. As I support, let the regulations define what Hon. Chair has put across, there are very fine statements but can be abused by directors and officials of the society if they are no regulations for that.

Mr. Speaker: Thank you. Hon. Makari. Deputy Speaker, Hon. Stephen Wamalwa!

Hon. Stephen Wamalwa: Thank you Hon. Speaker. First of all, I take this opportunity to actually applaud Hon. Waiti who is black for the eloquence and stamina displayed during the presentation of this report. The bill originating from the department of the sector he chairs and I want to also appreciate and thank all the members of Agriculture Committee for the work that has been proven on the floor of the House to be worth the allowance that they received; because it has been a good piece with very minimal errors.

Having said that, I wish to support the report presented to this House and I support because I know that the co-operative movement has been a way through which economic emancipation of the people has been realised and only those people- great men and women who faithfully and with a lot of fidelity have stuck to the rules; have actually succeeded and it never comes easily.

It is because the authors, the people with the vision who come up with these movements that have lived within the rules, regulations that govern the same movements without greed, selfishness and without caring about themselves at the expense of others; but bearing in mind that unity of purpose will propel them forward.

This County of Bungoma was once a giant and renown in co-operative movement. I was not there, I am a student of history and I was made to understand that there was a great man called Nabwana in this County and they explained that there was a time that even Bungoma had to support I don't know if it was UK or Britain because of the co-operative movement... Bungoma was rich. There was a co-operative movement in this County that was so rich and they were able to even support financially, materially other places, but I think regulations were not put in place to sustain the riches and protect them and that is why today Bungoma cannot be counted among the best places when we talk about co-operative movements.

Other regions of this country have developed and moved forward. We mentioned some of them. This bank called Faulu is a product of the co-operative movement. There is another bank that members here are customers called Equity Bank. It is a child of co-operative movement not to mention Family Bank, K-rep which is today called Sidian among others; are products of co-operative movements. It is because those people operated within the framework that was agreed, put in place through regulations and they never thought about themselves but thought about the unity of purpose.

I want to support this and believe when I look at part two on page seven where they say part two of the Bill provides for offices; that is the Executive Committee Member, Director and other officers who will be instrumental in the administration of the Bill. The County Executive Committee Member shall be responsible for the growth and development of co-operative societies in the County. That is where I am

I am trying to imagine if the speed, the gist, passion that is exhibited by the said officer can propel this or not. I want to say this Chair Agriculture; the CECM Agriculture has to pull up her socks because she has been a subject on the floor of this House. There are some issues that are pending in this House courtesy of that department and now we want to place this in her hands... so the report should reach her and she has no otherwise but actually to pull up her socks to fit the bill; so that we can trust that actually the co-operative moment in this County can be moved to the next level.

Where I come from- Soysambu, Hon. Waiti the Chair of Agriculture you can in fact assure the House and confirm that Soysambu was a name replacing the former name which was called co-operative. That place was called co-operative and they were saying those days where we come from that milk was flowing like flood water courtesy of co-operative movement. I want to urge the House to support this motion as recommended by the Committee.

Mr. Speaker: Honourable Members, the House takes note.

Hon. Stephen Wamalwa: To take note?

Mr. Speaker: Yes, of the report.

Hon. Stephen Wamalwa: We take note of this report and pray to our God more so Jesus Christ that the CECM...

Mr. Speaker: Hon. Stephen, now when you hear the Bishop doing that, it means he doubts what you are saying. That is the implication.

Hon. Stephen Wamalwa: Yes Hon. Speaker.

Mr. Speaker: You were denied. Proceed Hon. Deputy Speaker!

Hon. Stephen Wamalwa: Thank you for protecting me Hon. Speaker. I was just trying to say that yes bishops are here and they should assist us in praying especially Bishop Makari. Nowadays I do not see him praying so much, but I know we have even the wives of Pastors and Bishops in this Assembly; the likes of Hon. Florence and others and the Reverend next to me.

We have to pray that the CECM will help us realise this dream for the benefit of this County. Let us pray that regulations will be developed that will deter those selfish people with self-interest who may infiltrate the movement so that they scuttle the dreams that this great County needs to actualise and move forward. I support.

Mr. Speaker: Thank you. Hon. Kawa!

Hon. Jack kawa: Thank you Hon. Speaker. First and foremost, allow me applaud our able Chair Hon. Waiti for the eloquence. I will be very brief. As I support the motion before us, I just want to urge that let us put the Executive on toes so that whatever we pass here let them implement it within the expected period. We have passed many reports and Bills here, but when it reaches the Executive side as the second arm; it becomes the house of rats for producing... I want to urge and support what Hon. Makari and the Deputy Speaker have said that the Executive must be put on toes so that they implement what we pass here. Otherwise, I support

Mr. Speaker: Thank you. Hon. Nyongesa, reply to the motion! Sorry, Sorry Hon. Waiti!

Hon. Wafula Waiti (The mover to reply): Thank you Mr. Speaker, I was wondering why Hon. Nyongesa should reply to my motion but thank you for that correction.

Mr. Speaker: Hon. Waiti when you grow old, these are challenge you face.

Hon. Wafula Waiti: I am almost there and I am seeing that I had even started closing my eyes. Thank you Honourable Members for taking your time and planning to support this motion. May I make you aware Honourable members that Bungoma County as it stands today, the co-operatives are suffering. The co-operative movement is in danger because they are operating in a scenario where they do not have any guidance; and that is why as a Committee we came up with this and like on the issue which was highlighted here about the punishment; if you look at page 12, it is very clear that we cited the punishment to be awarded to whoever will mess up with the position he/she holds in that co-operative.

One must pay back to the co-operative society an amount equivalent to ten times the misappropriated; or a fine to the County Government of 10 times the amount misappropriated. There is also a penalty; one can serve a specified imprisonment and so nothing was left out. I want to assure you that as the Chair of the Committee, guided by the able Speaker who is our supervisor, that as a Committee our work remains oversight and we shall make sure we oversight that CECEM to make sure that the good work is done. Otherwise, I want to take this opportunity to congratulate my colleagues who have contributed in support of the Bill.

Mr. Speaker: Thank you

(Applause)

Honourable Members, the House takes note of the report. Honourable members I just wish to refer you to the Standing Order No. 147; that is the report that emanates from the committee. We have taken note of the report and being a report arising from the Bill, you cannot take a vote; just because the next second reading it will be taken to the Committee of the Whole House for input of the amendments. Based on that, we have taken note of the report and go to the next item on our Order Paper.

BILL

THE BUNGOMA COUNTY PUBLIC ENTERTAINMENT BILL, 2023

Mr. Speaker: Hon. Kawa, Proceed!

Hon. Jack Kawa: Hon. Speaker, 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.-Third reading.

Mr. Speaker: Hon. Kawa, you ought to have read the short title and invite the seconder that it be read for the third time. Hope you have a seconder in this House. Proceed!

Hon. Jack Kawa: Thank you Mr. Speaker. The Bill be read for the third time. I now call upon Hon. Apiyo to second.

Mr. Speaker: Hon. Mildred Apiyo, proceed!

Hon. Mildred Apiyo: Mr. Speaker Sir, I rise to second the Bill.

(Applause)

Mr. Speaker: Honourable Members, a motion has been moved that the Bungoma County Public Entertainment Amenities Bill, 2023 be read for the third time.

(Question put and agreed to)

The ayes have it

Now it be read for the third time as per the law.

A Bill of an Act of the County Assembly of Bungoma to regulate public entertainment and use of public amenities and for connected purposes-Third reading

Mr. Speaker: Honourable Members, the Bill having been read for the third time, the same now becomes an Act of the County Assembly of Bungoma. It should be forwarded to the Governor in compliance with Section 24 of the County Governments' Act for assent. The Clerk should make sure that the Bill is forwarded to the Governor.

ADJOURNMENT

Honourable Members, I appreciate all of you. That was the last item on our Order Paper. We will adjourn our sitting and resume on Thursday, 5th of October, 2023 at 2:30 p.m. We adjourn accordingly!

(House adjourns)