

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

TUESDAY, 10TH SEPTEMBER, 2024

Afternoon Sitting

3rd County Assembly

3rd Session

COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

TUESDAY, 10TH SEPTEMBER, 2024

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

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

PRAYER

PAPERS

REPORT BY JUSTICE, COHESION AND LEGAL AFFAIRS COMMITTEE ON THE SCRUTINY OF ETHNIC AND DIVERSITY AUDIT OF THE COUNTY PUBLIC SERVICE, 2023

Mr. Speaker: Hon. Psero, you do have the honour of tabling the report of the committee, proceed.

Hon. Jacob Psero: Mr. Speaker, sir, I rise to table a report on the Scrutiny of Ethnic and Diversity Audit of the County Public Service, 2023. I table, sir.

(Hon Psero tabled the report)

Mr. Speaker: Hon. Members, the report by the Committee on Justice, Cohesion and Legal Affairs on the Scrutiny of the Ethnic and Diversity Audit of the Public Service, 2023, is hereby tabled. It becomes the property of the House accordingly.

NOTICES OF MOTION

REPORT BY THE JUSTICE, COHESION AND LEGAL AFFAIRS COMMITTEE ON THE SCRUTINY OF ETHNIC AND DIVERSITY AUDIT OF THE COUNTY PUBLIC SERVICE, 2023

Mr. Speaker: Hon. Psero, I am wondering which microphone is yours. I think I have given you a right microphone.

Hon. Jacob Psero: Mr. Speaker Sir, I issue a notice of motion that this House adopts the report by the Justice, Cohesion and Legal Affairs Committee on the Scrutiny of Ethnic and Diversity Audit of the County Public Service, 2023.

Mr. Speaker: Hon. Members, a notice of motion has been duly issued by the Committee on Justice, Cohesion and Legal Affairs on the Scrutiny of the Ethnic and Diversity Audit of the County Public Service, 2023.

I do hereby ask the clerks at the table to share this report with the MCAs. The same will be coming up as a motion and an order paper accordingly.

MOTION

REPORT BY THE SECTORAL COMMITTEE ON GENDER, CULTURE, SOCIAL WELFARE ON THE FIRST AND SECOND QUARTER FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR 2023/2024

Mr. Speaker: Yes, Hon. Florence, you have the honour. Proceed accordingly. The practice has been that whenever you come, you just come, the sergeant will bring you water, so proceed.

Hon. Florence Juma: Thank you, Hon. Speaker. Allow me to move a motion on the Committee on Gender, Culture and Social Welfare on the report on the 1st and 2nd quarter financial statements for the financial year 2023-2024.

Page 2, we have the table of contents.

Preface

The 1st and 2nd quarter financial statements for the financial year 2023/2024 were tabled on 21st February, 2024 and committed to all sector committees for interrogation and reporting back to this House. The committee held interrogation with the department of Gender and Culture on the two quarterly reports on Friday, 5th April, 2024 and therefore submits its report herein below.

The report contains the legal framework and objectives that informed the committee to analyse the financial statements as submitted and thereafter through an interrogation process. The report also highlights the County revenue performance, the department of Gender and Culture expenditure analysis that is budget execution by programme and sub-programmes, pending bills and outstanding imprest. Finally, it contains the committee's observation and recommendations on the 1st and 2nd quarter financial statements for the FY 2023/2024 with respect to the department of Gender and Culture

Mandate of the Committee

The Sectoral Committee on Gender, Culture and Social Welfare derives its mandate from the provisions of Standing Order 217.5 of the Bungoma County Assembly Standing Orders.

Committee Membership

The current composition of the Committee on Gender, Culture and Social Welfare is as follows;

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

Acknowledgement

I take this opportunity to extend my gratitude to the Office of the Speaker and the Clerk of the County Assembly for the logistical support accorded to the Committee in the execution of its mandate. My appreciation also goes to all members of the Committee for dedicating their time to examine the Bungoma County Government first and second quarter financial statements for the period ended 31st December 2023 with respect to the Department of Gender and Culture.

Further, this Committee extends its gratitude to the Executive Arm of the County Government, Department of Gender and Culture for honoring the invitation to appear before the Committee for the interrogation, offering explanations and supporting documents as requested by the Committee.

It is therefore my pleasant duty and privilege on behalf of the Sectoral Committee on Gender, Culture and Social Welfare to table this report to this House for deliberation and adoption. Report signed by Hon. Jack Kawa Chairperson Committee on Gender, Culture and Social Welfare.

KEY HIGHLIGHTS ON THE BUNGOMA COUNTY HALF YEAR QUARTER REPORT AND FINANCIAL STATEMENT FOR THE PERIOD ENDED 31ST DECEMBER, 2023

The County's approved 1st supplementary Budget for the FY 2023/24 was Kshs. 15,470,095,611 comprising Kshs. 5,643,037,428 (36%) and Kshs. 9,827,052,184 (64%) allocation for development and recurrent programmes respectively.

The department of Gender and Culture had an approved 1st Supplementary budget of Kshs. 126,479,728 comprising of Kshs. 86,236,906 recurrent and Kshs. 40,242,822 for Development expenditure programmes.

Actual revenue received

In the period under review, the County had projected revenues of Kshs. 7,735,047,805.50 as at 31st December, 2023. The total actual amount received by the County was Kshs. 4,090,592,450 (26.4%).

As at the 31st December, 2023, the department of Gender and Culture had received Kshs. 37,632,760 representing 30% absorption rate.

County Own Generated Revenue

The reports indicate that the County had a total target Own Source Revenue of Kshs. 2,020,272,853 in the FY 2023/24 and the target for the half year was Kshs. 1,010,136,426.50 out of which Kshs. 422,030,880 was realised representing 21%.

The department of Gender and Culture does not have any own source of revenue earmarked for collection.

Conditional Grants

In the FY 2023/24, the County had projected to receive total conditional grants of Kshs. 1,656,728,137 out of which Kshs. 1,543,977,937 was development partners while Kshs. 113,228,200 from National government.

The department of Gender and Culture was not entitled to any conditional grant.

Departmental Expenditure Analysis

The department of Gender and Culture has a budget of Kshs. 126,478,728 comprising of Kshs. 85,108,466 for recurrent expenditure and Kshs. 41,371,728 for Development expenditure as per the approved 1st Supplementary Budget FY 2023/24

The absorption rate for the department in the period under review is Kshs. 37,632,760 that was recurrent in nature representing 30%.

The following are programmes and sub-programmes under Budget execution in the department;

Recurrent Expenditure

General Administration planning and support services

- Compensation to employees, the approved allocation was Kshs. 34,907,953 the department absorbed Kshs. 14,006,477 which translates to 40.12%.

During interrogation, the Chief Officer explained to the Committee that the Kshs. 14,006,477 was not inclusive of the December, 2023 salary of Kshs. 3,649,713.30 and he submitted the monthly expenditures on personnel; Kshs. 2,476,003.30 in July, Kshs. 2,626,879.70 in August, Kshs. 3,015,318.65 in September, Kshs. 2,944,137.70 in October, Kshs. 2,944,137.70 in November and Kshs. 3,649,713.30 in December.

He added that variations in monthly personnel expenditure was as a result of annual salary increment in the month of August, the salary 10 staff for Kimilili library was moved from National Government to County Government (department of Gender and Culture) in September, the department stopped paying one staff at Kimilili library which led to the decrease in October and in December, increment was due to annual leave allowance for all the staff in the department.

- Staff pension with an allocation of Kshs. 3,139,442 had 0% expenditure

The Chief Officer submitted that staff pension (Lapfund and Laptrust) with zero utilization in the period under review would be reported in the subsequent quarterly financial statements as it would be paid in lamp sum.

- Planning and budgeting with a budget of Kshs. 1,400,000 had 100% utilization in the period under review.

During interrogation, the department highlighted that the amount was utilized on the following activities; Kshs. 400,000 on uploading of procurement plan in Nairobi, Kshs. 500,000 for preparation of County Review Outlook Paper and Kshs. 500, 000 used for preparation of the Annual Development Plan.

- Utility for office operations with a budget of Kshs. 260,000, Kshs. 75,000 was spent on office airtime representing 28.85%.
- On fuel, maintenance and insurance, Kshs. 300,000 was spent out of the approved allocation of Kshs. 942,330 representing 31.84%. The amount was paid to Webmar enterprises for fuel.
- Administrative service management (boards and committees, travel costs, others) with an approved allocation of Kshs. 5,216,553 had absorbed Kshs. 2,589,452 which translates to 49.64%.

The amount was spent on the following programmes as submitted by the department; Facilitation for devolution conference, Kshs. 1,023,400, Chief Officer Standing imprest

of Kshs.300,000, CECM office standing imprest Kshs. 100,000, imprest for office operations of Kshs. 300,000, payment for air tickets to African touch Safaris Kshs. 161,452, facilitation to attend Public Accounts Committee in Nairobi Kshs.79,600, facilitation to attend IDIDA meeting in Nairobi Kshs. 104,000 and lastly, Kshs. 521,000 was spent on facilitation for Bamasaba council of elders meeting.

Cultural Development and management programme

Under this programmes, the following sub-programmes were implemented;

- KICOSCA games in which the department spent Kshs. 15,354,200 out of the 1st supplementary approved budget of Kshs. 18,327,200.
The department responded that the breakdown on the expenditure of Kshs. 15,354,200 on KICOSCA 2023 was as follows:
 - ✓ Kshs.768,000 on KICOSCA logistics,
 - ✓ Kshs. 768,000 on KICOSCA games football men
 - ✓ Kshs. 488,000 on KICOSCA handball men
 - ✓ Kshs. 717,500 on Basketball women team spent
 - ✓ Kshs. 1,098,000 on Kamabeka team
 - ✓ Kshs. 570,500 on handball women
 - ✓ Kshs. 767,900 on basketball men
 - ✓ Kshs. 1,829,000 on KICOSCA folksong team,
 - ✓ Kshs. 446,000 on volleyball women was facilitated with
 - ✓ Kshs. 1,190,000 on KICOSCA athletics,
 - ✓ Kshs. 1,316,700 on medics and enforcement,
 - ✓ Kshs. 1,802,500 on KICOSCA Gender and Culture department staff
 - ✓ Kshs. 621,000 on KICOSCA netball team
- The department spent Kshs. 2,973,000 on facilitation for EALASCA games trials in Siaya County.
- Construction of Sang'alo multi-purpose hall with an approved budget of Kshs. 7,559,074 had 0% absorption in the period under review.
The department submitted that the contractor was on site, payments have been raised and are in the process
- Similarly, on celebration of communities culture (Sikhebo) had no absorption as at 31st December, 2023 because the celebration of communities cultural festival (Sikhebo) was not held in the period under review hence the 0% absorption on the budgeted amount.
- Liquor licensing with an approved budget of Kshs. 2,000,000 had 0% expenditure since the department had prepared documents and presented to treasury which had not yet been paid

Gender equality and empowerment of vulnerable Groups

Under this programmes, the department of Gender and Culture has the following sub-programmes:

- Operations of Gender Technical working Group with an approved budget of Kshs. 1,000,000 had 0% absorption,
- Gender mainstreaming with an approved budget of Kshs. 1,600,000 had absorption of Kshs. 113,000 equivalent to 7% that was spent on facilitation for Lake Region Economic Block meeting.
- Gender based violence response programs had an allocation of Kshs. 1,600,000 out of which Kshs. 436,360 was spent on facilitation for 16 days activism against men and women.
- Celebration of international days had an allocation of Kshs. 2,000,000 with no absorption since the days did not fall within the period under review.
- The Women Empowerment Fund and Disability Empowerment Fund with allocation of Kshs. 20,526,343 and Kshs. 12,317,615 respectively had 0% expenditure because the review of the regulations to operationalize the funds had not been finalized.

Ongoing projects

The department has one ongoing project that is construction of Sang'alo multipurpose hall with a contract amount of Kshs. 20,895,126, from this no amount has been paid to the contractor.

Pending Bills

As per the submission during interrogation, the department of Gender and Culture has a total pending bill of Kshs.7,976,541.50 as shown in the table below;

Progress on settlement of pending bills as at March, 2024

No	LPO/LSO Contract No.	Supplier /contractor Name	Date of the LPO/L SO contract No.	Details of work performed	Outstanding pending Bill Amount as of 30 th June,2023	Amount paid (Kshs.	Outstanding Bill as of March 2024
1	M/S value partners consulting ltd	IFMIS NEG NO:774811-2019-2020	2019/20	Development of departmental policies	4,851,196.50	0.00	4,851,196.50
2	Luson Genela Supplies ltd	NEG NO 833813-2020-2022	2019/20	Construction of Sang'alo multipurpose hall	849,845	-	849,845
3	Amonge Enterprises		2022/23	Equipping of Maeni Youth Center	970,000	-	970,000.00
4	Besimu General Supplies		2022/23	Purchase of tailoring machines	959,040	-	959,040.00
5	Fantastic	IFMIS NEG	2019/20	Supply and	103,795.00	-	103,795.000

	smart ltd	NO:769203 2019-2020		delivery of cleaning materials			
6	Sialo one general supplies		2022/23	Purchase of stationery	242,655	-	242,665.00
	Total				7,976,541.5 0	-	7,976,541.50

Outstanding Imprests

At the beginning of the financial year, the balance brought forward was Kshs. 30,994,011 while at closure of the half year un-surrendered imprests stood at Kshs. 244,667,700 Out of which Kshs. 10,197,660 was for both Gender and Culture and Youth and Sports departments.

During the interrogation, the Chief Officer clarified that in the period under review, the department of Gender and Culture had outstanding imprest amounting to Kshs. 6,965,700 out of which Kshs. 5,239,340 had been surrendered thus imprest worth Kshs. 1,726,360 was outstanding and the Chief Officer submitted evidence that he had made a warning letter to the respective officers with un-surrendered imprest. (*See attached*)

Committee Observations and Recommendations

Committee Observations

The committee observed the following:

1. Departmental monthly/ annual work plans and the budget implementation status report we're not submitted to the committee for comparison purposes with the financial report.
2. The outstanding imprest as at 31st December was kshs.1,726,360
3. The pending bill in the department stood at Kshs.7,976,51.50 as at 31st December,2023
4. The absorption rate for the department in the period under review was 30% as compared to the expected 50%
5. Pending bills and outstanding imprests was reported together with youth and sports.

Committee Recommendations

1. **THAT** the department should be submitting its monthly/annual work plans and detailed budget implementation report together with the financial statements for easy comparison and oversight purposes.
2. **THAT** the department should ensure compliance of **Regulation 93(5 and 6 of PFM Regulation, 2015** on surrendering imprest and also enhance imprest management system. A holder of a temporary imprest shall account or surrender the imprest within seven working days after returning to duty station. That the Chief Officer should ensure surcharging of the officers with outstanding imprest 14 days after approval of this report.
3. **THAT** the department should prioritize pending bills, since it is provided in law that

pending bills **MUST** be given first charge. Section 94 (i) of the (PFM) Act, 2012 *states that failure to make any payments as and when they fall due by the public entity may be an indicator of material breach of measures established under law. To ensure pending bills are paid in time, Article 225 of the Constitution and section 96 of the PFM Act give the treasury powers to stop transfer of funds to the concerned public entity.*

4. THAT the department should begin the procurement process immediately after approval of the annual budget in order to ensure timely implementation of the budget.
5. **THAT** the department should report expenditures for Gender and Culture separate from Youth and Sports as it is seen in the report on pending bills and un-surrendered imprests

Allow me now call upon Hon. Joseph Juma Nyongesa to second the report

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. First, allow me appreciate the mover of this report, Hon. Florence for eloquently moving it and again also thank members in that committee though as we speak now most of them are engaged in PAIC committee but they are really committed they are not like other members who could miss without a reason. As I do appreciate the mover of the report, there are a few things that we should note, as you see the report, most of the departments may be operating minus the work plan and it is upon this Honourable House through our Chairs to ensure that we go through the work plans so that when we do our oversight role we shall be looking at their work plans.

Another thing that is becoming a song in our quarterly reports is the issue of surrendered imprests because as per the law, imprests should be surrendered within 7 days but as per 30th December, almost KShs.1.7Million was not surrendered. Sometimes we fail to understand why because if you had an activity and then an officer was given an imprest, he/she should surrender it immediately. I don't know, should we change to mode of operation so that at least this issue of un-surrendered imprest could be handled in another way so that most of the departments could adhere to.

Lastly, the only development project in this department was Sang'alo cultural centre but for 6 months the department had not paid anything to that contractor so as much as we are working so hard to run away from issues of pending bills, some officers are just sited creating pending bills. As you can also observe, it was a half year report but even the recurrent had only been spent 30 per cent, that clearly indicates that they were operating minus the work plan otherwise i do support and second and urge this House to approve it.

Mr. Speaker: Thank you, Hon. Leader of Majority, allow me propose a motion for debate

(Motion proposed)

(Question put and agreed to)

The report by the committee is adopted by the House accordingly, next item

**REPORT BY THE SECTORAL COMMITTEE ON PUBLIC ADMINISTRATION AND ICT ON THE
CONSIDERATION OF BUNGOMA COUNTY PUBLIC PARTICIPATION AND CIVIC EDUCATION
BILL 2024**

Mr. Speaker: Hon. Francis Chemion, you proceed!

Hon. Francis Chemion. Thank you, Hon. Speaker. On behalf of my Chair Public Administration committee, I rise to move a motion on sectorial committee on Public Administration and ICT. Report on consideration of the Bungoma County...

Mr. Speaker: Members, be very keen as he is doing so. This motion is for noting. There is no voting at the end of this motion because it's a bill which is going to go second stage in the committee of the whole House in the next stage of this bill so we will be noting. Anybody who wants to propose any amendment you ought to be keen and note what he wants to propose as amendments. Proceed!

Hon. Francis Chemion: Thank you, Hon. Speaker. Report on consideration of the Bungoma County Public participation and Civic Education Bill 2024.

We have the table of content then the executive summary.

Executive Summary

This report contains proceedings of the Sectorial Committee on Public Administration and ICT on its consideration of the Public Participation and Civic Education Bill (Bungoma County Bill No. 4 of 2024), published on 3rd May 2024. The Bill went through the First Reading on 15th May 2024 and was thereafter committed to the Sectorial Committee on Public Administration and ICT for consideration and reporting to the House under the provision of Standing Order 140. The Bill has twenty three (23) clauses and seeks to establish mechanisms for citizen participation in governance and to promote civic education in Bungoma County. The Bill aims to enhance transparency, accountability, and community engagement in the county's decision-making processes.

Following the placement of advert in the print media on 22nd May 2024 requesting comments on the Bill from members of the public and relevant stakeholders under Article 196 of the Constitution of Kenya 2010 and Standing Order 140 (2) the Committee received written memoranda from one stakeholder, The Kenya Worker's Right and Harmonization Program (KWRHP). The Committee, in line with the requirements of Article 196 of the Constitution and Standing Order 140 (2) of the County Assembly of Bungoma held 4 meetings to consider the Bill and memoranda from the public.

Thereafter, the Committee proceeded for a report writing retreat which provided the opportunity to consider the submissions of the public and stakeholders and to further draft, consider and approve its Report.

In its consideration of the Bill, the Committee was guided by the benefits of access to information and participation, such as improved governance, enhanced citizen engagement, and prevention of corruption and to ensure the bill aligns with national laws and regulations on public participation.

On behalf of the Sectorial Committee on Public Administration and ICT and under the provisions of the Standing Order 140 (1), it is my pleasant privilege and honor to present to this House the Report of the Committee on its consideration of the Public Participation and Civic Education Bill, 2024.

Committee Mandate

That is well captured under Standing Order 217(5).I will therefore not read because it is something that is with the members.

Committee Membership

The following is the committee membership as currently constituted;

1. Hon. Tony Barasa	Chair person
2. Hon. Caleb Wanjala	Vice chair
3. Hon. Joseph Nyongesa	Member
4. Hon. Jackson Wambulwa	Member
5. Hon. Busolo Sudi	Member
6. Hon. Francis Chemion	Member
7. Hon. Simotwo Franklin	Member
8. Hon. Grace Sundukwa	Member
9. Hon. Johnston Ipara	Member
10. Hon. Stephen Kaiser	Member
11. Hon. Cornelius Makhanu	Member
12. Hon. Timothy Chikati	Member
13. Hon. Jeremiah Kuloba	Member
14. Hon. Job Mukoyandali	Member
15. Hon. Brigid Katasi	Member

Acknowledgment

The Committee extends its sincere gratitude to the Office of the Speaker of the County Assembly and the Clerk of the County Assembly for their invaluable logistical and technical support throughout its sittings. Their assistance facilitated the Committee's deliberations and ensured the smooth progress of its work.

The Committee in a special way acknowledges and appreciates the participation of all Stake holder and members of the public who diligently submitted their comments on the Bill. Their insights and contributions have enriched the Committee's understanding of the various perspectives on the proposed measures.

Further, the Committee wishes to express its heartfelt appreciation to the Honorable Members of the Committee and the dedicated Committee Secretariat whose commitment, expertise and collaborative efforts were instrumental in preparing and producing this report.

On behalf of the Sectorial Committee on Public Administration and ICT and pursuant to Standing Order 140 (1), it is both a privilege and an honor to present to the House, the Report of the Committee on consideration of the Public Participation and Civic Education Bill No. 4 of 2024.

Report signed by Hon. Tony Khaoya Barasa Chairperson Sectoral Committee On Public Administration And ICT.

Background Information

The Bungoma County Public Participation and Civic Education (Bill No 4 of 2024) sponsored by the Leader of the majority party Hon. Joseph Nyongesa was published on 3rd May 2024, first read on 15th May 2024 and thereafter committed to the Sectorial Committee on Public Administration and ICT for consideration pursuant to Standing Order No. 140(1) for consideration and reporting to this house.

2.1.1 Overview of the Bill.

The Bungoma County Public Participation and Civic Education Bill, 2024, is a legislative framework designed to establish mechanisms for citizen participation in governance and to promote civic education in Bungoma County.

1. Part I of the Bill provides for preliminary provisions and sets out the objects and purposes of the Bill

This Bill aims to enhance transparency, accountability, and community engagement in the county's decision-making processes.

Clause 2 provides for interpretation section which contains the definitions of key terms used in the Bill. It defines terms such as:

“Stakeholder” which means a person or group of persons who have an interest in a public issue or who are likely to be directly or indirectly affected by a public issue, decision or policy whether negatively or positively;

“The public”, when used in relation to public participation in this Act means:-

- a) the residents of the county;
- b) the rate payers of a particular urban area;

- c) any resident civic organization or non-governmental, private sector, labor organization or faith based organization with an interest in the governance of the county or an urban area;
- d) Non-resident persons who by virtue of their temporary presence in the county make use of services or facilities provided by the county or an urban area.

Clause 3 highlights the object and purpose of this Bill which is to enhance, promote, and facilitate public participation and Civic Education in the County Government.

This Bill applies to all County Government offices or agencies in the County and the County Assembly.

This part sets forth the guiding principles such as inclusiveness, transparency, mutual consultation, and equitable access to information.

2. Part II: Coordination of Public Participation in the County

In the County Assembly

Clause 6(1) of the Bill establishes the office of the Clerk as responsible for managing public participation and civic education in the County Assembly. It further provides for the delegation of those powers to any officer with the necessary skills and knowledge in the Assembly service.

Functions of the Officer: It details the responsibilities, including facilitating public participation and civic education processes, preparing reports, and developing networks with stakeholders.

In the County Executive

The Bill accords responsibility to the Chief Officer the Department of Public Service Management and ICT to be responsible for public participation and civic education within the County Executive.

Functions of the Public Participation Officer: The functions include coordinating programs, capacity building, monitoring and evaluation, and sensitizing the public on county structures.

3. Part III outlines the coordination of Public Participation & Civic Education Process

Public Participation Advisory Committee: The Bill stipulates the requirements for the formation and functions of the committee that advises on public participation and civic education.

Citizen Forums and Stakeholder Engagement: It outlines the procedures for organizing public forums and factors to be considered when organizing forums and engaging stakeholders.

Cause 10 of the Bill provides for various methods and platforms for engaging the public i.e Public Participation Methods.

Electronic governance: It mandates each County Department or agency and the County Assembly to provide all applicable information, forms, documents, statistics and data through electronic system such as websites and portals in a timely and usable manner to facilitate public participation and civic education.

Citizen duties and responsibilities: It highlights the duties and responsibilities of a resident or any member of the public with an interest in county affairs. The citizens are expected to constructively participate in forums, share information and make proposals to the government agencies for implementation.

Financial Provisions: The Bill mandates the responsible authorities to include in the annual estimates provisions for expenses for undertaking public participation and civic education.

Annual Report: The Bill gives responsibility to departments, agencies and County Assembly to prepare an annual report on public participation and civic education programs. It outlines the information to be included in the report and the timelines for submission and approval of the report by the County Assembly.

4. Part IV: Public Petition to the County Assembly

It provides for petitions to the County Assembly to be handled as provided for in the County Assembly Standing Orders and relevant laws.

It also provides for the CECM responsible to prescribe guidelines on the manner of processing public petitions to the County Executive.

Part V: General Provisions

The Bill makes provisions for the formulation of regulations by the CEC Member to facilitate the implementation of the Act.

Compliance of the Bungoma County Public Participation And Civic Education Bill, 2024 With The Constitution Of Kenya, Other Laws, And International Conventions

The Bungoma County Public Participation and Civic Education Bill, 2024, demonstrate significant compliance with the Constitution of Kenya, other national laws, and international conventions. It aligns with constitutional provisions on public participation, access to information, and inclusivity, and supports national laws that promote democratic governance and citizen engagement.

Additionally, the Bill upholds the principles of international human rights instruments by ensuring that all citizens, including marginalized groups, have the right to participate in governance processes.

1. Compliance with the Constitution of Kenya

Article 1: Sovereignty of the People

The Bill aligns with Article 1 by promoting the participation of citizens in governance, recognizing that sovereignty belongs to the people and is exercised at both national and county levels through elected representatives and direct participation.

Article 10: National Values and Principles of Governance

The Bill supports the principles of democracy, public participation, inclusiveness, and transparency outlined in Article 10. It provides a structured framework for public participation and emphasizes civic education, fostering a participatory and transparent governance process.

Article 33: Freedom of Expression

By encouraging public participation and the exchange of ideas, the Bill upholds the right to freedom of expression as provided in Article 33.

Article 35: Access to Information

The Bill mandates proactive disclosure of information by county entities, in line with Article 35, which guarantees citizens the right to access information held by the state.

Article 174: Objects of Devolution

The Bill supports the objectives of devolution by promoting democratic and accountable exercise of power, fostering public participation, and ensuring the involvement of marginalized communities in governance, as outlined in Article 174.

Article 196 (Public Participation and County Assembly Proceedings): The Bill aligns with Article 196 by ensuring that county assemblies conduct their business in an open manner and facilitate public participation and involvement in legislative processes.

Compliance with other National Laws

County Governments Act, 2012

The Bill supports the County Governments Act, 2012, particularly the sections on public participation and civic education, by establishing detailed processes and structures to facilitate these activities at the county level.

National Public Participation Act, 2018

The Bill aligns with the Public Participation Act, 2018, by providing a framework for public participation in county governance, including the establishment of mechanisms and structures to facilitate citizen engagement.

Access to Information Act, 2016

The Bill's provisions for proactive disclosure of information and access to information by citizens align with the requirements of the Access to Information Act, 2016.

2. Compliance with International Conventions

Universal Declaration of Human Rights (UDHR), 1948

The Bill promotes the principles of the UDHR, particularly Section 21, which emphasizes the right to participate in government and public affairs, either directly or through freely chosen representatives.

International Covenant on Civil and Political Rights ICCPR, 1966

The Bill aligns with the ICCPR, especially Article 25, which guarantees every citizen the right to take part in the conduct of public affairs and the right of equal access to public service.

African Charter on Human and Peoples' Rights ACHPR, 1981

The Bill supports the principles of the ACHPR, particularly Sections 9 and 13, which emphasize the right to receive information and the right to participate freely in government.

United Nations Convention on the Rights of Persons with Disabilities (CRPD), 2006

The Bill promotes inclusivity and ensures that persons with disabilities are included in public participation processes, in line with Article 29 of the CRPD, which guarantees the right of persons with disabilities to participate in political and public life.

PUBLIC PARTICIPATION

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

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

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

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

Following the call for submission of memoranda from the public as contained in the advert in the Daily Nation on 22nd May, 2024; the Committee received a memorandum from one entity -The Kenya Workers Rights and Harmonization Program (KWRHP). Below are the views entity and recommendations of the Committee.

KWRHP submitted that meaningful participation and civic education should be anchored in the following principles.

Consultation: The organization recommended that relevant stakeholders and the general public, including the County Assembly and the Executive, be consulted and given an opportunity to provide their opinions, which should be considered when making decisions. They emphasized that civic education should be conducted quarterly in every financial year to ensure proper consultation.

Involvement: They submitted the inclusion of stakeholders and the public where they are invited to civic education processes and are provided multiple opportunities to give their input in decision-making.

- a) The county assembly should ensure that the decision arrived at from the public participation is fair, transparent, non-partisan, and seen not to result in a conflict of interest.
- b) Need to have a public participation plan rather than a stakeholder's engagement plan since it is open to all members of the public.

Collaboration: They expressed the need to involve the public and stakeholders in developing decision criteria and identifying the preferred solution. They noted that, notwithstanding section 46 2(g) of the County Governments Act, the County Assembly Committee should consider the necessity of participatory decision-making.

Empowerment: They submitted that the county assembly should implement the decisions made by the public by allowing them to determine the processes and alternatives available. They referred to section 115 of the County Governments Act, which states that each county shall develop laws and regulations to ensure effective citizen participation in development and planning, adhering to minimum national requirements.

The entity reiterated that an inclusive process is key to achieving the desired outcome. They expressed confidence that the County Assembly would endeavour to do everything in its power to secure an informed citizenry.

CONSIDERATION OF THE PUBLIC PARTICIPATION AND CIVIC EDUCATION BILL, 2024

Upon receipt of the memorandum, the Committee held a meeting to deliberate on the proposals from the Kenya Workers Rights and Harmonization Program.

In considering the Bill, the Committee took into consideration the memorandum received from the public and its deliberations. The following constitutes the views of the Committee on the issues arising with regard to each Clause of the Bill as raised in the proposal:

Clause 11 Civic Education Forum: Agreed to with amendments

The Kenya Workers Rights and Harmonization Program proposed that civic education should be conducted quarterly in every financial year to ensure proper consultation. The Bill had proposed that Civic Education to be convened at least once every financial year

The Committee did not agree with the proposals to amend the provisions of Clause 11(2) but proposed that civic education be convened at least once a year and when need arises citing that this attracts use of resources.

Clause 13 Stakeholder engagement plan: Agreed to

The Kenya Workers Rights and Harmonization Program proposed the need to have a public participation plan rather than a stakeholder engagement plan since it is open to all members of the public.

The Committee agreed with the proposals to amend the provisions of Clause 13(1)

Clause 16: Public Participation methods: Agreed to

The Kenya Workers Rights and Harmonization Program emphasized on the need to involve the public and stakeholders in developing decision criteria and identifying the preferred solution. They noted that, notwithstanding section 46 2(g) of the County Governments Act, the county assembly committee should consider the necessity of participatory decision-making. The Committee noted that this was an emphasis of what was already captured in the Bill in Clause 16(1) (d)

COMMITTEE CONSIDERATION ON THE BUNGOMA COUNTY PUBLIC PARTICIPATION AND CIVIC EDUCATION BILL, 2024 PROPOSED AMENDMENTS AND RECOMMENDATIONS

Having considered the Bill and pursuant to Article 196 of the constitution of Kenya, 2010, the committee agreed to the majority of the clauses in the Bill and came up with amendments to some clauses as outlined in the table below;

CLAUSE	AMENDMENTS	JUSTIFICATION
Clause 1: Short Title and Commencement	Agreed to without amendments	
Clause 2: Interpretation	Agreed to with amendments: THAT deletes the word “department” after the word “County” and replace with “Directorate” to mean Directorate of Public Participation. ‘So as to read ‘County Directorate’	To adhere to the provisions of Section 30 of the County Governments Act.
Clause 3: Object and Purpose of the Bill	Agreed to without amendments	
Clause 4: Application	Agreed to with amendments: Introduce the number 4 instead of 3.	To address the numbering error.

Clause 5: Guiding Principles	Agreed to without amendments	
Clause 6: Designation of Public Participation Officer	Agreed to without amendments	
Clause 7	Agreed to without amendments	
Clause 8: Opportunities for Public Participation	Agreed to without amendments	
Clause 9: Notification to Members of the Public	Agreed to without amendments	
Clause 10: Public Participation and Civic Education Methods	Agreed to without amendments	
Clause 11: Civic Education Forums	Agreed to with amendments: Insert the words “or when need arises” after the word “year.” So as to read ‘at least once every financial year or when need arises’	To allow flexibility in convening forums as necessary.
Clause 12: Stakeholders Engagements	Agreed to without amendments	
Clause 13: Stakeholder Engagement Plan	Agreed to with amendments: Proposal to replace "stakeholder's engagement plan" with "public participation plan."	To ensure inclusivity and open participation to all members of the public.
Clause 14: Stakeholder Mapping	Agreed to without amendments	
Clause 15: Standards and Good Practices	Agreed to without amendments	
Clause 16: Public Participation methods	Agreed to without amendments	
Clause 17: Electronic Governance	Agreed to without amendments	
Clause 18: Citizens' Duties and Responsibilities	Agreed to without amendments	
Clause 19: Financial Provisions	Agreed to without amendments	
Clause 20: Annual Report	Agreed to without amendments	
Clause 21: Petition to County Assembly and Executive	Agreed to without amendments	
Clause 22: Regulations	Agreed to without	

	amendments	
Clause 23: Repeal	Agreed to without amendments	

Committee Observations

The Committee made the following observations

1. **THAT** the Bill is well drafted as per the standards of legislative drafting.
2. The Bill once enacted shall provide a Legal framework for adequate public participation and civic education.

Committee Recommendations

The committee concludes that the Bungoma County Public Participation and Civic Education Bill, 2024, is a necessary and timely piece of legislation that will significantly enhance public participation. The committee recommends its approval with the proposed amendments. Further the committee recommends that the Bill moves to the next stage.

Adoption Schedule

We the undersigned members of the Public Administration & ICT Committee append our signatures adopting this report with the contents therein.

ANNEXURES

1. The Bungoma County Public Participation and Civic Education Bill, 2024
2. The advert for public participation.
3. The memoranda from stakeholders.

That marks the end of the report. I now take this opportunity to welcome Hon. Jack Wambulwa a Member of the committee to second this report for noting.

Hon. Jack Wambulwa: Thank you, Hon. Speaker. First of all, let me appreciate the committee for coming up with this Public Participation Bill. As you are aware Hon. Members we have been doing public participation without following due process. This time round pursuant to Standing Order 142 we actually inviting submission of memorandums and also holding public hearings, consulting relevant stakeholders in the sector and experts on technical matters to ensure that whatever that we do is in line with the constitution. I hereby second for noting.

Mr. Speaker: Thank you Hon. Jack for seconding the motion for noting purposes.

(Question proposed that the House notes the motion as moved)

Thank you for noting.

ADJOURNMENT

That was our last item on the Order Paper, we therefore adjourn and resume tomorrow 11th of September, 2023 in our 9:30 a.m. sitting.

The House rose at 3:49 p.m.