

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY, 4TH SEPTEMBER, 2024

Morning Sitting

3rd County Assembly

3rd Session

1

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COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

WEDNESDAY 4TH SEPTEMBER, 2024

The House met at the County Assembly Chamber at 9:30 a.m.

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

PRAYER

PAPERS

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

Mr. Speaker: Chair, vice chair or member of the committee of Public Administration and ICT, I think the committee must be organized that in case the chair is out, the vice chair must be here on time. Yes, Hon. Jack, sorry, let me give you the microphone.

Hon. Jack Wambulwa: Thank you, Hon. Speaker. I hereby table a report by the Committee on Public Administration and ICT in consideration of the Bungoma County Public Participation and Civic Education Bill. I table.

(Paper laid by Hon. Jack Wambulwa)

Mr. Speaker: Those who are making calls, I will send you out. There is enough space out for making calls. Hon. Wambulwa, you read afresh? Yes.

Hon. Jack Wambulwa: Thank you, Hon. Speaker. I hereby table a report on the consideration of the Bungoma County Access to Information Bill 2024.

(Paper laid by Hon. Jack Wambulwa)

Mr. Speaker: Having tabled it, you can't retain it. It's going to come among the following numbers. It's very far. It will be given in the other paper. Hon. Members, the report by the Committee on Public Administration and ICT, on the consideration of the Bungoma County access to Information Bill 2024, is hereby tabled, and it becomes the property of the house accordingly.

Next,

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

Mr. Speaker: Hon. Jack, proceed.

Hon. Jack Wambulwa: Thank you, Mr. Speaker. I rise to table a report on the consideration of the Bungoma County Public Participation and Civic Education Bill 2024.

(Paper laid by Hon. Jack Wambulwa)

Mr. Speaker: Hon. Members, the report by the Sectoral Committee on Public Administration and ICT, on the consideration of the Bungoma County Public Participation and Civic Education Bill 2024, is hereby tabled, and accordingly becomes the property of the House accordingly.

**REPORT BY THE SECTORAL COMMITTEE ON LANDS, URBAN FISCAL
PLANNING AND HOUSING, ON THE BUNGOMA COUNTY VALUATION AND
RATING BILL 2024**

Mr. Speaker: Hon. Eunice, proceed.

Hon. Eunice Kirui: Thank you, Hon. Speaker. I stand to table a report by the Sectoral Committee on Lands, Urban Fiscal Planning and Housing, on the Bungoma County Valuation and Rating Bill 2024.

(Paper laid by Hon. Eunice Kirui)

Mr. Speaker: Hon. Members, the report by the Sectoral Committee on Lands, Urban Fiscal Planning and Housing, on the Bungoma County Valuation and Rating Bill 2024, is hereby tabled and accordingly becomes the property of the House.

**REPORT BY THE POWERS AND PRIVILEGES COMMITTEE ON THE
INTEGRITY FRAMEWORK FOR BUNGOMA COUNTY ASSEMBLY**

Mr. Speaker: Yes, Hon. Katasi.

Hon. Brigid Katasi: Thank you, Mr. Speaker. I rise to table a report on the Integrity framework for Bungoma County Assembly.

(Paper laid by Hon. Brigid Katasi)

Mr. Speaker: Hon. Members, the report by the Committee of Powers and Privileges on the Integrity framework for Bungoma County Assembly is hereby tabled and formally it becomes the property of the House accordingly.

NOTICES OF MOTION

REPORT BY THE SECTORAL COMMITTEE ON PUBLIC ADMINISTRATION AND ICT ON THE CONSIDERATION OF THE BUNGOMA COUNTY ACCESS TO INFORMATION BILL 2024

Mr. Speaker: Hon. Jack, proceed.

Hon. Jack Wambulwa: Thank you, Hon. Speaker. I rise to give a notice of motion that this House adopts the report by the Sectoral committee on Public Administration and ICT on the consideration of the Bungoma County Access to Information Bill 2024.

Mr. Speaker: Hon. Members, a notice has been duly issued by the committee of Public Administration and ICT on the Bungoma County Access to Information Bill 2024. I do urge the clerks at the table to share this report with the Honourable MCAs the same will be coming up as a motion in the Order Paper in the course of the week or once the same is scheduled by the HBC on the Order Paper accordingly.

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

Mr. Speaker: Hon. Jack, proceed.

Hon. Jack Wambulwa: Thank you, Hon. Speaker. I hereby give notice that this House adopts the report by the Sectoral committee on Public Administration and ICT on the consideration of the Bungoma County Public Participation and Civic Education Bill 2024.

Mr. Speaker: Hon. Members equally, the notice of motion has been duly issued by the Sectoral committee of Public Administration and ICT on the consideration of the Bungoma Public Participation and Civic Education Bill 2024.

I do urge the clerks at the table to share the same with the honourable MCAs the same is going to come up as a motion on the Order Paper in the course of the week or once the same is scheduled by the HBC on the Order Paper accordingly.

THE REPORT BY THE SECTORAL COMMITTEE ON LANDS, URBAN, FISCAL PLANNING AND HOUSING ON THE BUNGOMA COUNTY VALUATION AND RATING BILL 2024

Mr. Speaker: Hon. Kirui,

Hon. Eunice Kirui: Thank you, Hon. Speaker. I rise to give a notice of motion that this House adopts the report by the Sectoral committee on Lands, Urban, Fiscal Planning and Housing on the Bungoma County Valuation and Rating Bill 2024.

Mr. Speaker: Hon. Members equally, a notice of motion has been duly issued by the Committee of Lands, Urban, Fiscal Planning on the Bungoma County Valuation and Rating Bill 2024.

I equally urge the clerks at the table to share the same report with the Honourable MCAs. The same will be coming up as a motion on the Order Paper in the course of the week or once of the same is scheduled by the HBC on the Order Paper accordingly.

QUESTIONS AND STATEMENTS

Mr. Speaker: You proceed and ask your statement. Honourable members, whenever we share the Order Paper of the weekly program Hon. Members be keen because once the HBC allocates time on the Order Paper and its read here on a day like Thursday or it was read yesterday by Hon. Ipara, we ought to be prepared for the following day's activities. So that we don't have a situation where we start now looking for members of Public Administration and it becomes an embarrassing situation.

Hon. Ken, proceed?

Hon. Kennedy Wanyama: Thank you, Mr. Speaker. Pursuant to section 49 of our Standing Orders, I seek a statement from...

Mr. Speaker: There are no sections in the Standing Order. There are no sections.

Hon. Kennedy Wanyama: Sorry Mr. Speaker.

Mr. Speaker: There are no articles in the Standing Orders.

STATEMENT IN RESPECT TO THE 300-BED CAPACITY MEDICAL FACILITY AT BCRH

Hon. Kennedy Wanyama: Thank you, Mr. Speaker. I stand to seek a statement from the Chairperson on the Committee of Health in respect of the 300-bed capacity medical facility at the county headquarters.

The chairperson to respond to the following;

1. How much has been allocated to the project so far?
2. Provide the status of the work done to date, detailing pending works to ensure the facility is fully operational.

3. How much has been paid to the contractor to date and details of any pending bills?
4. What plans the department has to ensure the facility is fully operational?

Thank you, Mr. Speaker.

Mr. Speaker: Hon. Member of the committee, Hon. Job Mukoyandali

Hon. Job Mukoyandali: Thank you, Hon. Speaker for allowing me this chance, I would like to seek your indulgence over the statement raised by the Hon. Ken Wanyama that this matter is under consideration as we speak by the committee and we are meeting to do a report over the same. I don't know if the Honourable member can be patient now that the matter is being handled by the committee so that he will get the answers because they are the same issues which we are handling in the committee and they will come up in the report.

Mr. Speaker: I think the best way to avoid conflicting responses; we will have a mention of his statement in one month time from now. In the meantime, you bring your statement. If it can't be able to answer all his queries as raised in the statement, then you will have to respond to the issue left out or you can look at what he has sought here and as a committee, you also take him on board so that when you give the feedback, it takes care of his interests.

Hon. Job Mukoyandali: Thank you, Hon. Speaker for your direction.

Mr. Speaker: Let me hear Hon. Joseph Nyongesa Majority Leader.

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. You know listening to Hon. Mukoyandali, I am left the wondering, you could tell us a time frame because he has just said, the committee is handling and may be the issues are not be the same that Hon. Wanyama has raised. Putting in mind that actually we have been in recess, I thought Hon. Mukoyandali could tell us that as a committee we have handled, we are tabling the report next week or next month, it will be better. So that at least we can also be assured because we also have interest in that issue.

Mr. Speaker: Hon. Mukoyandali I will give you a chance to give a response, but what I was wondering, if I was to give you 14 days, normal time for responses, and as you are doing your report, you also take care of these issues and give us a feedback. Would that be wrong for you people? These people are having an interest as MCAs. Hon. Jack.

Hon Jack Wambulwa: Thank you, Hon. Speaker. I rise to advise my colleague Hon. Mukoyandali that I am also a member of Health. But questions raised here by Hon. Ken might be totally different from what we are pursuing. So I wish and request that maybe his statement proceeds as we also do a report that will be brought to this House.

If there will be anything that will have been covered, then it will be good for him. But having looked at his statements, what we are pursuing is somehow different from what he is asking.

Mr. Speaker: Hon. Mukoyandali, now I have heard from your co-member of the committee. Let me allow you people to be heard.

Hon. Job Mukoyandali: Hon. Speaker, I am left wondering what Hon. Wambulwa is trying to talk about because these are the same issues that we have raised in the committee. We did a fact-finding mission last week on the 300-bed capacity. These are the same issues we were looking at. I don't know if he was part of the team that visited the 300-bed capacity or he was not there. And I don't know if he attended the meeting before we went to visit the 300-bed capacity, because I am speaking on behalf of the chair and I am on HANSARD

Mr. Speaker: Including him

Hon. Job Mukoyandali: I am on record when I say that this matter is already under consideration by the committee. I have looked at the issues raised by Hon. Ken Wanyama; they are the same issues that in the committee are looking at. When we called the CEC to come and appear before the committee, there are the same questions that we were rising to the CEC for them to give us the answers. The committee will be retreating I think this weekend, to do a report on the same. I wish that you give us that one month, the way you had directed, so that if maybe some matters have been left out in the committee interrogation, we bring them up according to the statement raised so that they become all inclusive.

Mr. Speaker: When can your report be ready? Because if you are retreating over the weekend, it simply tells us that by the next Wednesday, I ought to have your report. These are some of the reports we ought to have them fast-tracked. Then let's have a mention in three weeks to confirm the status of this, so that if they have all been covered fully, we will have to be able to go out with this, so that we are able to respond to it accordingly.

So let's have a mention in three weeks from now, which takes us to September 18th.

Hon. Job Mukoyandali: Thank you, Hon. Speaker.

Mr. Speaker: Those are two weeks, 25th of September.

Hon. Job Mukoyandali: Thank you, Hon. Speaker.

Mr. Speaker: But in the meantime, when the report is ready, we will have it and I think some of the items we want to have it cleared, like this one, so that when you are doing supplementary, you look at it so that we see how we can be able to take care, because there's no logic of having such a beautiful building, and the patients are congested somewhere else, so that the township is decongested, and we people from the village, we remain from our village dispensaries, don't come to town.

Let's proceed.

MOTION

REPORT BY THE PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE OF BUNGOMA FOR THE PERIOD ENDED 30TH JUNE, 2022

Mr. Speaker: Hon. CPA Everton Nganga, proceed. Some of the ringtones I am hearing from the phones in this House, I don't know they are coming from August holiday or what? Kindly proceed.

Hon. Everton Nganga: Thank you, Mr. Speaker. Protect me from Hon. Sudi. This is the report by the Public Accounts and Investments Committee on the financial statements of the county executive of Bungoma for the period ended 30th June, 2022. Chapter one is just the mandate of the committee. With your guidance let me read the membership

Committee Membership

The committee as currently constituted comprises of the following members;

1. Hon. Everton Nganga	Chairperson
2. Hon Timothy Chikati	Vice Chairperson
3. Hon Anthony Luseneka	Member
4. Hon Everlyne Mutiembu	Member
5. Hon. Jerusa Aleu	Member
6. Hon Metrine Nangalama	Member
7. Hon Kennedy Wanyama	Member
8. Hon Stephen Kaiser	Member
9. Hon Alfred Mukhanya	Member
10. Hon Maureen Wafula	Member
11. Hon Everlyne Anyango	Member

Office of the Auditor General

1. Mr. Phinea Jakowa
2. Mr. Barack Mwaga

Acknowledgment

The Committee wishes to express its gratitude to your office and that of the Clerk for the support rendered during the consideration of the report of the Auditor-General on the County Executive of Bungoma for the year ended 30 June, 2022.

The Committee further wish to thank the County Executive Committee Member for finance, Chief Officers and Directors from various departments who appeared for their cooperation. Finally, the Committee acknowledges the valuable input and services condensed by the Office of the Auditor-General and the logistical support offered by the secretariat of the committee in considering submissions from the management of various line Departments.

On behalf of the Public Accounts and Investments Committee, I now wish to table this report and urge the House to adopt it with the recommendations herein.

Report signed by Hon. Everton Nganga Chairperson Committee on Public Accounts and Investments.

THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE OF BUNGOMA FOR THE YEAR ENDED 30TH JUNE, 2022

Introduction

This audit report covers the financial year 2021/2022 and is issued in accordance with the requirements of Article 229 of the Constitution of Kenya. The auditor's report on the financial statements of the County Executive of Bungoma gave a qualified opinion based on the following:

1. IN ACCURACIES IN THE FINANCIAL STATEMENTS

Audit findings

i) Variance between the financial statements and the IFMIS records

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs. 2,037,798,793 in respect to use of goods and services which includes domestic travel and subsistence allowances amount of Kshs. 472,971,099. However, review of the Integrated Financial Management Information System (IFMIS) payment details revealed that temporary imprest of Kshs. 822,490,935 was issued to staff during the year under review which is at variance with the domestic travel and subsistence amount of Kshs. 472,971,099 resulting to an un-reconciled and unexplained variance of Kshs. 349,519,836.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence allowances amount of Kshs. 472,971,099 could not be confirmed

Management response

The County Executive committee member for finance responded that; total imprest issued to county officers was Kshs. 822,490,935 with domestic travel and subsistence allowances at Kshs. 472,971,099. The balance of Kshs. 349,519,836 was imprest issued to facilitate other office operations as indicated in the table below.

Imprest analysis table.1

EXPENDITURE ANALYSIS OF KSHS 349,519,836	
Hospitality, Supplies and Services	218,156,988
Training Expenses	59,188,138
Rentals of Produced Assets	67,085
Printing, Advertising and Information Supplies Services	9,960,578
Communication and Supplies	7,669,741

Utilities, Supplies and Services	918,686
Routine Maintenance - Other Assets	5,967,526
Routine Maintenance - Vehicles and Other Transport Equipment	1,596,166

Oral Submissions

The accounting officer submitted that a list of imprests amounting to kshs.822, 490,935 and subsistence allowance at Kshs. 472,971,099 and that the balance of Kshs. 349,519836 was imprest issued to facilitate other office operations whose break down was given including the list of beneficiaries (appendix 001.a)

Committee Observations

The explanations and the breakdown of Kshs. 472,971,099 and the balance of Kshs. 349,519836 that was imprest issued to facilitate other office operations was supported with a break down including the list of beneficiaries (appendix 001.a)

Committee recommendations

The committee after ascertaining the breakdown of the temporary imprest amounting to Kshs.822,480,935 and the list of beneficiaries totalling to Kshs. 349,519836 that was provided, the matter is considered **resolved**

Variance in the exchequer releases

Audit findings

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflects an amount of Kshs. 10,614,043,797 in respect to exchequer releases (transfers from the CRF). However, the County Revenue Fund bank statements reflect exchequer releases of Kshs. 10,621,565,597 resulting to an unexplained and un-reconciled variance of Kshs. 7,521,800.

In the circumstances, the accuracy and completeness of the exchequer releases amount of Kshs. 10,614,043,797 could not be confirmed.

Management response

This was a credit from CRF to Recurrent on 17th February, 2022 which was debited on the same day by the Central Bank of Kenya as indicated in the attached CRF bank statement. Subsequently, a credit entry was done on 18th February, 2022 which transferred funds to recurrent account. The audit erroneously included the reversed transaction in casting. Therefore, the exchequer releases amount of Kshs. 10,614,043,797 was accurate and complete.

Table 2. Statement of receipts and payments

Txn. Date	Transaction Details	Dr (Cr). Amount
17/02/2022	Account Transfer	7,521,800
17/02/2022	Account Transfer	(7,521,800)

2		
18/02/2022	2 Account Transfer	7,521,800

Appendix 001 (b); Attached bank statements.

Oral submissions

Management tabled the bank statements from central bank. They submitted that the statement date relates to July and not February as reported.

Committee Observations

The management availed CBK recurrent bank statement generated on 13th June, 2024 to confirm the reversal of the Kshs. 7,521,800.

Committee recommendations

The management availed the authenticated bank reconciliation statements which were verified by the committee hence the issue is resolved.

1. ANOMALIES IN CASH AND CASH EQUIVALENTS

Audit findings

The statement of assets and liabilities reflects a balance of Kshs. 631,768,735 in respect of cash and cash equivalents which, as disclosed in Note 10A to the financial statements, comprise of balances in seventeen (17) bank accounts maintained by the County Government. However, bank reconciliation statements for five (5) bank accounts reflect receipts in cash book not recorded in bank statements totalling to Kshs. 530,243,870. No explanation was provided on why the receipts had not been banked as at 30 June, 2022.

In addition, Note 10A to the financial statements indicates that in 2020/2021, the County Government had forty-three (43) active bank accounts with balances. No explanation was provided on the circumstances under which the bank accounts reduced from forty-three (43) in 2020/2021 to seventeen (17) in the year under review and the fate of the balances in the twenty-six (26) accounts not disclosed.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.631, 768, 735 as at 30 June, 2022 could not be confirmed.

Management response

i. Receipts in Cash Book not recorded in the bank – Kshs. 530,243,870

These receipts were composed of treasury orders from CRF to various accounts as disclosed in the table below amounting to Kshs. 527,811,340.55 and transfers to the Deposit Account of Kshs. 2,432,529.65.

Category and Bank A/C	Amount (Kshs.)
Treasury Orders	
CBK – Recurrent& development and	527,811,341

donor		➤
Transfers to Deposit Account		➤
CBK – Deposit	2,432,530	➤
Total	530,243,870	

**End of Year Cut
Off Cash
Reconciliation**

The National

Treasury extended the date of closure of the financial transactions for the year ended 30th June, 2022 so as to allow for processing of payments that were already on Internet Bank Platform but awaiting Exchequer Receipts. These exchequer requisitions were approved late by the Office of the Controller of Budget. These payments were concluded on 26th July, 2022 and charged on 2021/22 budget

Appendix 002(a); Extract of bank statements for CBK-recurrent, CBK-Dev, CBK-Danida and CBK-Nargip

Transfers to Deposit Account

When the late payments were made for development expenditure, the withheld related deposits were similarly transferred to the Deposit Account after 30th June, 2022.

Bank reconciliation statement as at 30th June 2022 was prepared. It indicated the receipts that were subsequently reflected after cash book closure. The funds were since received into the deposit account from 4th to 11th July, 2022.

Appendix 002(b); Extract of CBK-Deposit Account

ii. Bank Accounts reduced from 43 to 17

During the year 2021/2022, several financial reporting templates were developed by the Public Sector Accounting Standards Board. Therefore, the self-reporting entities in Bungoma were increased. The transactions of these self-reporting entities were excluded from the Financial Statements of the County Executive so as to allow the entities to report independently. The entities that reported independently for the Financial Year ending 30th June, 2022 included:

- County Revenue Fund
- Level 4 and 5 hospitals
- Municipalities
- County Receiver of Revenue.

Therefore, the 26 bank account details were captured in the Financial Statements of the respective self-reporting entities.

Appendix 2(c); List of twenty-six bank accounts excluded from the Financial Statements of the County Executive

a) Action;

The National Treasury should commit to release funds on time to avoid such situations in Counties where exchequer is released after end of the Financial Year, causing counties to transact in the month of July to avoid accumulation of pending bills.

Oral Submissions

Management stated that the funds in question were received after the closure of the financial year. That the requisitions for the funds were raised in June but the funds were released in July.

That the said number of bank accounts have been reduced from 43 to 17 due to self-reporting of the various entities and the corresponding bank statements accompanied the respective financial statements.

Committee Observations

The committee confirmed from the bank statements that the funds were recorded in the cash book based on the receipt of treasury order form C .This was further confirmed from the bank statements provided that the funds were actually received after the closure of the financial year in July.

The committee confirmed that the bank accounts had been reduced from 43 to 17 after several reporting templates were developed by the Public Sector Accounting Standard Board and various entities reported independently thus exclusions from the County Government Financial Statements for the year ending 30th June 2022.

Committee recommendations

Based on the aforesaid findings the committee considered the issue resolved.

2. LONG OUTSTANDING AND IN ACCURATE PENDING BILLS

Audit findings

Note 1 under other important disclosures reflects a balance of Kshs. 1,199,306,316 in respect of pending accounts payable as disclosed in Annex 2 to the financial statements. The balances comprise of balance brought forward of Kshs. 438,603,086, additions during the year of Kshs. 1,039,275,422 and payments during the year of Kshs. 277,532,150. However, no explanation was provided for failure to clear the long outstanding bills brought forward, which relate to the years between 2015/2016 and 2020/2021.

Further, a recalculation of the balance brought forward, additions during the year and payments during the year gives a total balance of Kshs. 1,200,346,358 instead of the balance of Kshs.1, 199,306,316. The variance of Kshs.1, 040,000 was not explained or reconciled.

Management response

i) Status of pending bills

The County Government paid a total of Kshs. 670,121,353 of the outstanding pending bills in the Financial Year 2023/24. A further budgetary allocation has been made in the FY 2024/25 to clear half of the total outstanding eligible pending bills.

The County Treasury has established a pending bills verification committee to establish the correct position of pending bills in all departments. A draft report of the eligible pending bills is attached. This will inform financial plans around settlement of pending bills.

Appendix 003 (a); Analysis of pending Bills

ii) Variance of Kshs. 1,040,000

The Management acknowledges the casting error. The error emanates from the following underreported pending bills;

Contractor	Outstanding Bal Reported	Outstanding Bal (Correct – Not Reported)	Variance
	(d)	(e=a+b-c)	(f=e-d)
Paed Hope enterprises	2,398,150	3,438,191	1,040,000

However, this did not affect the accuracy of the Financial Statements, as pending bills Constitute additional disclosures under IPSAS Cash Basis of Reporting.

c) Action;

The County Treasury has since issued a circular giving the following directives on pending bills;

- Directive to entities to develop clear strategies to manage pending bills;
- Restrictions on subsistence and allowances to allow for clearing of pending bills
- The County Fiscal Strategy Paper (CFSP) has categorised pending bills as high risk and substantial amount has been provided to address the issue.

Appendix 003(b): County Treasury Circular

Oral Submissions

Management averred that it has put in place a pending bills verification committee where each department submitted its estimates for verification. That the verified amounts were factored for inclusion in the budget for FY 2024/25, where the allocation for pending bills was put at Kshs. 500M.

That the Kshs 500M was exclusive of pending bills realized from Ward Fund projects which shall be factored once the allocation for Ward Fund projects is determined.

That management has resolved to settle pending bills on an aging basis

On variances, management acknowledged the error as reported and has been corrected to record the correct figure of pending bills.

Committee Observations

The committee recognized that the executive had a variance of Kshs 1,040,000 in the pending bills in the year under audit not recognized. There is an outstanding amount of pending bills totalling to Kshs. 529,559,963 after paying Kshs. 670,121,353 in the FY 2023/24.

Committee recommendations

- The committee recommends for the accounting officer to adhere to **regulation 42(1) of the PFMA (County Governments) 2015** by exercising budget control measures.
- The County Treasury should endeavour to verify the pending bills as committed and give a clear strategy on how it's going to clear the same.
- That**, the validated report on the verification of pending bills should be submitted to the County Assembly sectorial committee on finance and economic planning within 30 days from the date of adoption of this report.

3. ANOMALIES' IN FIXED ASSETS.

Records maintained by the County Executive indicated that during the years between 2017/2018 and 2021/2022, the County Government purchased a total of thirty-five (35) parcels of land valued at Kshs. 18,700,000. Although the parcels of land had been paid for as at 30 June, 2022, the County Government has not obtained title deeds for all of them as at the time of audit in January, 2023.

Further, Annex 4 to the financial statements on summary of non-current assets register reflects additions during the year amounting to Kshs. 1,780,973,782 which is at variance with the corresponding amount of Kshs. 1,609,935,884 shown in the statement of cash flows. The variance of Kshs. 171,037,898 has not been explained or reconciled.

In addition, the Management did not provide an updated asset register with details relating to: nature or type of asset, date of purchase, cost, supplier, unique identification number, current value, current location, user, accumulated depreciation and net book value.

In the circumstances, the accuracy, completeness and ownership of the non-current assets valued at Kshs. 22, 891, 249,443 as at 30 June, 2022, could not be confirmed.

Management response

Management Response:

The Management would wish to comment as follows, including action taken;

a) Comments

i) Land Without title deeds

The County Government allocated funds to process title deeds for various land parcels. Title deeds for thirteen (13) parcels have been processed to date. Additional budgetary allocation of Kshs. 3,103,200 has been allocated in the current FY 2023/24 to process lands titles. This will facilitate processing of titles for the remaining land parcels.

Appendix 004 (a): List of 35 parcels of land indicating status of title deeds, the processed title deeds of Processed Land Parcels and Budget Extract for the year 2023/2024

ii) The variance of Kshs.171,037,898

The amount was composed of assets acquired from donor funds. These funds were accounted for under note 6 as *Other capital grants and transfers* part of which was used to acquire assets. These grants were budgeted for under the economic sub-item 2640503 and expensed as follows;

Grant	Amount (Kshs.)
RMLF - National Government	44,719,735
KDSP	115,948,541
DANIDA	10,369,623
Total	171,037,899

These assets were categorized in the respective class of assets as follows;

Class of assets	Amount (Kshs.)
Infrastructure assets – Roads, Rails	44,719,735
ICT Equipment	8,706,680
Buildings	107,241,861

Office equipment, furniture and fittings	2,900,000
Buildings and structures	7,469,623
Total	171,037,899

iii) Un-updated asset register.

The Management acknowledges that the register has not been fully updated. The County Treasury is currently updating the asset register.

Appendix 004(b): Asset Register as extracted from the Asset Management System

Oral Submissions

The Accounting Officer submitted that the County Government allocated a budget to enable the processing of 13 title deeds. That 15 title deeds have been processed in the current financial year and a sum of Kshs 3.5M has been budgeted towards processing of title deeds in the coming financial year. A list for the said titles due for processing was provided to the Committee. That the challenge faced while processing title deeds for CEF projects was the lack of provision of administrative fees as well land succession procedures. Currently, the department is working within the provided budgets to finalize the processes.

On the variance of Kshs171M, Management submitted that the sums were classified under donor funds whereas under cash flow statements, they were presented under changes in the grants.

On the lack of an updated asset register, management stated that it was in the process of on boarding accrual basis of financial reports and updating the asset management system while broadening the asset classification system. That Management shall provide an updated register within two weeks.

Committee Observations

- i. The variance of Kshs171M has been addressed and classifications given under donor funds.
- ii. The Budget Extract for the year 2023/2024 amounting to Kshs. 3,103,200 for processing of title deeds was availed to the committee under the program for acquisition of land documents.
- iii. The County Asset register is in the process of being updated as indicated in Appendix 004(b).

Committee recommendations

- i. The accounting officer should ensure full absorption of the Budget for the year 2023/2024 amounting to Kshs.3, 103,200 for acquisition of land documents/ processing of title deeds and submit the implementation status to the County Assembly Sectoral committee on Lands, Urban and Physical Planning within 60 days after the closure of the financial year 2023/2024 in furtherance to the allocated amount in the FY 2024/2025.
- ii. The accounting officer should ensure updating and conclusion of the County Asset register pursuant to Section 153 of the PFM Act which provides that, the accounting officer for a County Government entity shall:
 - a) *Be responsible for the management of the entity assets and liabilities and*
 - b) *Manage those assets in a way which ensures that the County Government entity achieves value for money in acquiring, using and disposing of those assets.*

The committee further directs the accounting officer to submit the report on finalized updated Asset register to the County Assembly sector committee on finance and economic planning within 60 days from the date of adoption of this report.

5. TRANSFERS TO OTHER GOVERNMENT ENTITIES

Audit findings

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs. 962,742,192 in respect to transfers to other Government entities. However, the amount excludes amounts of Kshs. 44,273,433 and Kshs. 75,717,730 transferred to Bungoma and Kimilili Municipalities respectively, shown in IFMIS payment details.

In the circumstances, the accuracy and completeness of transfers to other Government entities of Kshs.962, 742, 192 could not be confirmed.

Management Response:

The Management would wish to comment as follows, including action taken;

(a) Comments

The Management agreed with the finding and commented as follows;

- i. Transactions relating to operations in the Municipalities were processed in IFMIS and were paid through a CBK Recurrent and Development bank accounts which was disclosed in the executive financial statements.
- ii. Only funds meant for donor funded programmes were transferred to the operational accounts of the Municipalities from CRF.

Appendix 005; IFMIS Payment Details for Bungoma and Kimilili Municipalities and sample Extract of the CBK-Recurrent Bank Account

Actions;

- i. The County Treasury has given authority to open recurrent and development accounts at Central Bank of Kenya for Bungoma and Kimilili Municipalities.
- ii. The Municipal PFM Officers were trained on the new Financial Reporting Template issued by the Public Sector Accounting Standards Board. The Municipalities prepared independent financial reports from the year 2022/2023.

Oral submissions

The accounting officer averred that they had complied with Action (i) as provided for in the management response. That challenges relating to the IFMIS were not major and they were in the process of strengthening reporting terms to eliminate issues of variances.

Autonomy of Municipalities- That transfers to municipalities were recorded as other county government entities; the accounting officer submitted that officers had been trained to implement IFMIS in the municipalities where the County Treasury is planning to release funds.

The department provided the IFMIS details under appendix 003.

Committee findings

- i. The IFMIS payment details for the municipalities were not provided as indicated in the responses.
- ii. The committee noted that the functions for the municipalities had not been transferred as required by the approved Bungoma and Kimilili Municipalities Charters and in the Urban Areas and Cities Act
- iii. The County Treasury was delaying opening of CBK accounts for Bungoma and Kimilili Municipalities.

Committee recommendations

1. The CEC Member for finance should ensure operationalization of CBK accounts for the municipalities to give full autonomy for its operations as provided for under section 179 of the PFMA which provides;
 - i. *An urban area or city shall open and maintain a bank account in the name of the Urban Area or city and with the approval of the respective County Executive committee member for finance*
 - ii. *All money received by an Urban Area or city shall be paid to its bank account or accounts and this shall be done promptly and in accordance with this Act and any requirements that may be prescribed*
2. The respective sector committee on Lands, Urban, Physical Planning, Housing and Municipalities should follow up on the matter and ensure the autonomy of the Municipalities is fully operationalized. This should be done within 90 days from the date of adoption of this report.

6. OTHER GRANTS AND TRANSFERS

Audit findings

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects other grants and payments amount of Kshs. 1,304,180,080 which includes Kshs. 754,180,080 in respect of other capital grants and transfers. However, the amount includes Kshs. 95,315,640 relating to development of roads. No explanation was provided on the misallocation of the expenditure.

In the circumstances, the accuracy and completeness of the expenditure on other grants and transfers of Kshs. 754,180,080 could not be confirmed.

Management Responses

The funds of Kshs. 95,315,640 for the Road Maintenance Levy Fund were budgeted for, paid and reported under economic item 2640503 a code meant for Other Capital Grants and transfers.

Appendix 006: Extract of the budget FY 2021-2022 and IFMIS payment details

Oral Submissions

The accounting officer tabled IFMIS payment details for RMLF in respect of other capital grants and transfers amounting to Kshs. 95,315,640.

Committee Observations

The committee confirmed the correction in the misallocation of the expenditure of Kshs. 95,315,640 after submission of the IFMIS payments details showing that the monies were budgeted and payments made on code 2640503 item -other capital grants and transfers.

Committee recommendations

In considering the evidence submitted the issue has been addressed.

7. UNSUPPORTED SOCIAL SECURITY BENEFITS

Audit findings

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.44, 019,521 in respect of social security and benefits. However, supporting schedules were not provided for audit.

In the circumstances, the accuracy and completeness of the social security benefits amount of Kshs. 44,019,521 could not be confirmed.

Management response

The accounting officer submitted that this was payment of gratuity for officers who exited service. However the ledgers and copies of payment vouchers were submitted as indicated.

Appendix 007: Supporting Schedule

Oral submissions

Management submitted that the said ledgers totaled Kshs39, 010,039 and not Kshs44, 019,521 as reported. However, they were unable to explain the variance of Kshs5, 009,250.

That due to misfiling concerns at the office, access to the relevant payment vouchers to justify the variance had proven to be futile.

Committee Observations

The payment vouchers and evidence availed amounted to Kshs. 39, 010, 271 and not Kshs44, 019, 521 thus leaving a variance of Kshs. 5,009,250 that remains unexplained.

Committee Recommendations

1. The Accounting Officer should comply with section 104(1) of the PFMR 2015 which provides that;

All receipts and payments vouchers shall be supported by sufficient explanations, authorizations and documentation to facilitate accounting adjustments to be understood.

2. The accounting officer should be surcharged the unexplained/unsupported payments totaling to Kshs.5, 009,250.

8. UN SUPPORTED FACILITATION OF MEMBERS OF THE COUNTY ASSEMBLY OF BUNGOMA

Audit findings

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs. 2,037,798,793 which includes an amount of Kshs. 377,187,730 in respect of hospitality supplies and services, out of which Kshs.3, 717,200 was incurred in facilitating Members of County Assembly (MCAs) of Bungoma for various activities carried out by the County Executive. However, supporting documents like invitation letters, letter from the speaker of the County Assembly

confirming that the MCAs' allowances were authorized by the County Assembly were not provided for audit.

In the circumstances, accuracy, completeness and propriety of the expenditure of Kshs.3, 717,200 could not be confirmed.

Management response

The accounting officer submitted that, the facilitation was in respect to a consultative meeting on Debt management Strategy paper and County Fiscal Strategy Paper 2022 for the Members of the County Assembly on request from the Clerk of the County Assembly.

Appendix 008: Letter from the County Assembly requesting for facilitation

Oral submissions

Management responded that the Payment Vouchers for the stated amounts could not be traced from the finance department. However they undertook to submit a list of beneficiaries and budget for the activity.

Committee observations

- i. The payment vouchers and the list of beneficiaries for the amount of Kshs. Kshs.3, 717, 200 incurred in facilitating Members of County Assembly (MCAs) of Bungoma for various activities carried out by the County Executive were availed by the accounting officer for scrutiny by the committee

Committee Recommendations

The committee having considered the records availed confirmed the expenditure and the activity hence resolving the query. The Committee however recommends that going forward such requests should be funded through transfer of the funds to County Assembly for expenditure.

9. UN RESOLVED PRIOR YEAR MATTERS

Audit findings

Progress on follow up of auditor's recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2022. Management had not provided satisfactory reasons for the delay in resolving the issues.

Management response

The audit report for the year ended 30 June, 2020 raised seven issues and the audit report for the year ended 30 June, 2021 raised thirteen issues on the Department whose status is as follows;

Status	No. of issues
---------------	----------------------

2020	2021
------	------

Resolved	10	10
Partially resolved	13	14
Not Resolved	6	2
Total	29	26

Appendix 010;

Progress on Prior Year Issues

Action – The County Treasury shall continue to pursue the partially resolved and unresolved issues. Some of the issues need external interventions such as delayed Exchequer Receipts, Variances between IFMIS and Financial Statements etc. The County Treasury shall work jointly with the related agencies on issues that carry an external risk so as to resolve them.

Committee observations

The committee noted that outstanding issues had not been fully resolved as required.

Committee Recommendations

THAT, Pursuant to Section 53 of the Public Audit Act, which provides for ;

(1) The relevant accounting officer of a state organ or public entity shall within three months after Parliament has considered and made recommendations on the audit report— (a) take the relevant steps to implement the recommendations of parliament on the report of the Auditor-General; or (b) give explanations in writing to the Parliament on why the report has not been acted upon.

(2) Failure to comply with the provisions of subsection (1), the accounting officer shall be in contempt of Parliament or County Assembly and upon determination by Parliament or relevant County Assembly, Parliament or relevant County Assembly may recommend administrative sanctions such as removal as the Accounting Officer, reduction in rank among others.

The Public Accounts Committee therefore directs that the previous unresolved prior year audit issues as reported, together with the recommendations of this report, be implemented by the respective accounting officers and a report tabled to the Assembly within three months for consideration by the committee on Implementation, which will report to the House for action for any non-compliance as per section 53 (2) of the Public audit Act.

10. BUDGETARY CONTROL AND PERFORMANCE

Audit findings

The budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs. 13,913,111,772 and Kshs. 10,761,624,843 respectively, resulting to under-funding of Kshs. 3,151,486,929 or 23% of the approved budget. Similarly, the County Executive incurred actual expenditure of Kshs. 10,969,013,054 against approved budget of Kshs. 13,913,111,772 resulting to under- performance of Kshs. 2,944,098,718 or 21% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

Management response

- a) The accounting officer responded that, the under-absorption was caused by;
 - i. Delay in receipt of Exchequer Releases. The Exchequer was not received on timely to allow for sufficient time for planning and making payments for the planned activities.
 - ii. That the County Government received Kshs. 906,051,991 Exchequer Releases in June, 2022 and Kshs. 852,754,819 in July, 2022(Extended period). This totals to Kshs. 1,758,808,810 and accounts for 15% of the Annual Cash flow Plan for the Exchequer Releases. The late receipts did not provide sufficient time for effective planning and full spending of the same.

Appendix 009 (a): Extract of the County Revenue Fund Bank Statement

- iii. Local revenue – The County Government collected 66% of its revenue targets. The County Government had forecasted to collect Kshs. 1,488,336,493 but collected Kshs. 983,296,708, hence a shortfall of KShs.505, 039,785.
- iv. Other contributing factors to a limited extent include projects that had not been completed, incidences of terminated contracts due to non-performance.

Action– As explained above, the major contributor to under-absorption is delayed Exchequer Releases. The County Government is increasingly advocating for timely release of funds to Counties through the Council of Governors. This will ensure a near full budget and expenditure execution. Other planned controls include;

- a) Introduced and implementing measures aimed at enhancing own source revenue Appendix 009 (b); Revenue raising measures.
- b) Put in place measures aimed at increasing efficiency in public procurement processes so as to procure items on time and within the applicable legislations.

Appendix 009 (c); County Executive Order No. 1

- c) To strengthen the governance structure that will enhance revenue collection.

Appendix 009 (d); Budget Circular 2023/2024

- d) Engage the Office of the Controller of Budget on faster processing of county exchequer requisitions.

Committee observations

- i. Local revenue – The County Government collected Kshs. 983, 296, 708 translating to 66% of its revenue targets. This led to a short fall of KShs.505,039,785 from the forecast of Kshs. 1,488,336,493
- ii. The committee observes unrealistic local revenue projections set by the County Executive
- iii. The committee also notes low collection of revenue and yet the County Government purchased and introduced a revenue collection system; Bungoma Automated Revenue Management System (BARMS) that is expected to maximize revenue collection.
- iv. The office of National Treasury delays in exchequer releases hence affecting the County Cash flow and operations.

Committee recommendations

- i. The Office of the Auditor General should carry out an audit on the County Revenue system (**Bungoma Automated Revenue Management System**) to assess lapses that contribute to revenue decline and pilferage. They should also establish the system security mechanisms in place. The audit office to include this as part of its scope of work during the periodic audits for the financial year ended 30th June 2024 and report to the County Assembly procedurally as per Public Audit Act Section 39.
- ii. The accounting officer should enhance Continuous capacity building of revenue collectors on new strategies and on matters of integrity as provided by the Public Officers Ethics and conduct Act.
- iii. The Sectoral committee on Finance and Economic Planning should pursuant to its mandate follow up on quarterly revenue reports and make recommendations on revenue enhancement that will guide the executive to increase revenue collection in the County and undertake trend analysis on quarterly basis.
- iv. The accounting officer should deploy and equip substantive revenue officers in all sources of revenue streams with a proper work plan for effective revenue collection.
- v. The Senate should intervene with clear guidelines and policies for the office of Controller of Budget and Treasury for expedition of processing exchequer releases to Counties.

THE BASIS FOR CONCLUSION ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES WAS ON:

1. OUTSTANDING IMPRESTS

Audit findings

The statement of assets and liabilities reflects a balance of Kshs. 46,734,065 in respect of accounts receivable - outstanding imprest which, as disclosed in Note 11 to the financial statements, relates to Government imprest. Out of the balance e, imprests totaling to Kshs. 35,149,850 were issued in 2016/2017, 2018/2019, 2019/2020 and 2020/2021 financial years, while the balance of Kshs. 11,584,215 relates to the year under review. No explanation was provided for failure to account and recover the imprests from the defaulting officers, contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015, which requires an imprest holder to surrender or account for imprest within seven (7) working days after returning to duty station.

In the circumstances, Management was in breach of the law.

Management response

a) Comments – The summary status of imprest in the Department of Finance is as follows;

Category and remarks

i.	Surrendered	Kshs.21,405,715	Payment vouchers available	
ii.	Taken by EACC	Kshs. 7,681,650	Supporting documents were taken before the imprests were fully processed.	
iii.	Un-Surrendered	Kshs.17,646,700,	Payroll Recovery initiated	Total Kshs.46,734,065

Appendix 011 (a) – Analyses of Imprests

Appendix 011 (b) – Payment Voucher for the surrendered imprest

Appendix 011 (c) – Documents submitted to EACC

b) Action;

- i. The County Treasury has since issued a circular establishing the following controls on imprests;
- Reemphasis on surrender of temporary imprests within seven days after return to duty station and/or completion of the activity;
- Upper ceiling on standing imprests;
- Surrender of standing imprests by 15th June of every year;

The County Treasury has directed for surcharge to officers with long outstanding imprest from salary.

Appendix 011 (d) – County Treasury Circular

Appendix 011-Letter of Imprest Recovery to Payroll Office

Oral submissions

Management provided Payment vouchers for the outstanding imprests totaling Kshs21M. They reported that EACC had Payment Vouchers for Kshs.7, 681,650 were picked by the EACC and thus making it impossible to conclude the surrender of the corresponding imprests.

That there were recoveries for the long outstanding imprests on the pay slips of the imprests holders in line with the PFM Regulations; and management undertook to provide evidence in the form of a schedule of monthly deductions from payroll.

Committee observations

- ii. Out of the outstanding imprest of Kshs. 21,405,715 the document's availed accounted for only Kshs 10 million leaving a balance of Kshs.11, 405,715.
- iii. The payment vouchers and the list of beneficiaries on the imprests amounting to kshs.17, 646, 900 was not provided to the committee. **Appendix. 9 (a)**

- iv. The accounting officer did not provide the imprest surrender register to the committee for verification.
- v. The imprests voucher's held by EACC for Kshs7M have overstayed hence delayed the surrender of the imprest.

Committee recommendations

- i. The accounting officer is directed to recover the outstanding imprest amounting to Kshs. 17,646,700 from the imprest holders indicated in appendix 9(a) pursuant to regulation 93(5) (6) and (7). The progress report should be submitted to sector committee of finance and economic planning within 60 days after the date of adoption of this report.
- ii. The Director of Ethics and Anti-Corruption Commission is called upon to expedite the investigations on the imprest vouchers held in their office amounting to Kshs 7,581,650 and report progress to the County Assembly.

2. LATE RECEIPT OF EXCHEQUER RELEASES FROM NATIONAL TREASURY

Audit findings

Review of bank statements and cash books of the County Executive revealed that out of the exchequer releases of Kshs. 10,614,043,797 reflected in the statement of receipts and payments, exchequer releases totaling to Kshs. 571,770,689 were received on diverse dates between 16 June, 2022 and 15 July, 2022. This is contrary to Section 17(6) of the Public Finance Management Act, 2012 which provides that the National Treasury shall, at the beginning of every quarter, and in any event not later than the fifteenth day from the commencement of the quarter, disburse monies to County Governments. No explanation was provided on why funds from the National Treasury were not received in time as required by law.

In the circumstances, the County Executive was not able to accomplish its activities and programs as projected in the annual budget.

The statement of receipts and payments reflects expenditure of Kshs.4,842, 460, 885 in respect of compensation of employees, which represents 45% of the total receipts in the year of Kshs.10,761,624,843. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percent of the County Government's total revenue

In the circumstances, Management was in breach of the law.

Management response

Delayed disbursement of funds has continuously affected implementation of activities and programs for County Government. It's requested that the Senate to prevail upon the National Treasury to comply with section 17(6) of the PFMA 2012

Oral submissions

The accounting officer submitted that the matter of timely release of exchequer funds has been escalated to the Council of Governors for intervention by the Senate.

Committee Observations

The committee notes that Matters of delayed exchequer release from the National treasury is affecting nearly all County Governments.

Committee recommendations

The Senate Parliament should intervene with the National Treasury and the office of the Controller of Budget to adhere to counties work plans on release of exchequer monies both for recurrent and development.

3. EXCESS WAGE BILL

Audit findings

The statement of receipts and payments reflects expenditure of Kshs.4, 842, 460,885 in respect of compensation of employees, which represents 45% of the total receipts in the year of Kshs.10, 761,624,843. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percent of the County Government's total revenue

In the circumstances, Management was in breach of the law.

Management response

- a) Comments – The Management agrees that the wage bill is beyond the prescribed 35%. This has been occasioned by a number of factors as discussed in the previous audit reports with the County Assembly. The factors include;
 - i. The wage bill is generally expected to experience an increment of 1-2% per annum, holding all other factors constant. This increase occurs as a result of the annual automatic increments as per the job scales to each employee;
 - ii. Implementation of the Collective Bargaining Agreement for the Health Personnel in the year 2017/2018;

That there was no further engagement of casual workers and focus had shifted to personnel with technical skills; while following the structure on the number and qualifications of employees as provided for by the Salaries and Remunerations Commission.

Committee observations

- i. The County's wage bill has ballooned above the expected 35% contrary to regulation 25(1) (b) of the Public Finance Management Act

- ii. Despite the executive issuing a circular stopping the recruitments the process is still ongoing.
- iii) The County Government has initiated to stop casual workers engagements who pose a danger for being absorbed hence increasing the wage bill.
- iv) The department of Public Service has not concluded undertaking an audit of all staff members to ascertain the actual numbers of county employees

Committee recommendations

- i. The County Executive should adhere to the provisions of regulation 25(1) (b) of the Public Finance Management Act to regulate the ballooning wage bill. The County Government should strive to achieve this by the year 2028 as per the National Government projections.
- ii. The County Secretary should ensure the conclusion of staff audit of all staff members within 30 days from the date of adoption of this report to ascertain the actual numbers of county employees. The report of the same should be filed to the sector committee of labor relations, member service and facilities.

ENGAGEMENT OF TEMPORARY WORKERS

Audit findings

The statement of receipt and payments reflects expenditure of Kshs. 4,842,460,885 in respect of compensation of employees which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs. 215,778,183 relating to basic wages of temporary employees, including Kshs. 78,000,000 paid to three thousand two hundred and sixty-eight(3,268) volunteer community health workers serving in three hundred and twenty-nine(329) community health units at a token payment of Kshs.2,000 per volunteer per month. However, it was not explained how the temporary employees and community health workers were identified and engaged since Management did not provide a needs assessment report, application letters from the workers, terms and conditions of the workers and reports from the field on achievements of the workers. This is contrary to Section 379(1)(6) of the Employment Act, 2007 which provides that a casual employee is one who performs work which cannot reasonably be expected to be completed within a period or a number of working days amounting in aggregate to the equivalent of three months or more. In the circumstances, Management was in breach of law.

Management response

Community Health Volunteers (CHVs)

The department acknowledges the observations made during audit verification. Engagement of CHVs was anchored on Kenya Community Health Policy (2020 – 2030) and Bungoma Community Health Services Regulations, 2021. The Kenya Community Health Policy provides for selection of CHVs within the community. The policy further guides on compensation of community Health Volunteers. The County paid the CHVs stipend to motivate them in providing the service as per the policy requirement. The monthly stipend of Ksh. 2,000 is provided for in the policy shift on community strategy.

Temporary Workers

The temporary workers were hired in the health department. The temporary job vacancies were placed within the respective facility notice boards. Interviews were conducted by the Hospital Management Team

Action-The County Public Service Board has issued an advisory on recruitment of temporary workers. It further directed all authorized officers to stop recruitment of casual workers in their respective departments.

The County Government has prepared a draft policy on Casual Workers that has been submitted in the County Assembly.

Appendix 013 (a): Minutes of Recruitment of Casual Workers

Appendix 013 (b): Draft Policy on Engagement of Casual Employees

Appendix 013 (c): Advisory from the County Public Service Board

Appendix 013 (d): Resolution of Health Sector Coordinating Committee

Appendix 013 (e): Muster Rolls

Appendix 013 (f): CHVs Data Collection Forms

Oral submissions

Management stated that initially, the 3,268 Community Health Volunteers were engaged on voluntary basis. With the introduction of the Kenya Community Health Policy In the year 2020, it provided for a paid stipend to motivate the Community Health Volunteers. The County Government pays the CHVs Kshs 2,000 and the National Government tops up with Kshs5, 000.

That there is a policy on casual workers that has been approved by the County Assembly whose implementation is marked for July, 2024 to aid in the management of the County casual labor force.

Committee observations

The accounting officer submitted supporting documents indicating engagement of CHVs which anchored on Kenya Community Health Policy (2020 – 2030) and Bungoma Community Health Services Regulations, 2021. The Kenya Community Health Policy provides for selection of CHVs within the community and further gives guidelines on compensation of community Health Volunteers

Committee recommendations

The committee confirmed the guiding policies as submitted by the accounting officer with the Kenya Community Health Policy (2020 – 2030) and Bungoma Community Health Services Regulations, 2021 which was used to engage the Community Health Volunteers, thus the query being resolved.

4. PROJECTS IMPLEMENTATION STATUS

Audit findings

The County Executive had projected to implement three hundred and eighty-two (382) development projects during the year under review. However, as at 30 June, 2022, one hundred and nineteen (119) or 31% had been completed, one hundred and eighty-two (182) or 48% were ongoing, two (2) projects had been halted while seventy-nine (79) or 21% had not been started.

In the circumstances, the public did not receive value for money from the projects.

Management response

The delay in project implementation was occasioned by delay in project initiation due to inadequate technical officers and untimely receipt of equitable share funds.

Action

- i. Timely initiation of projects by ensuring early preparation of Bills of Quantities;
- ii. Employment of technical officers has been prioritized to ensure timely initiation and supervision of projects.

Appendix 014: Project implementation status.

Oral submissions

Management stated that currently, there were 255 complete projects, 66 ongoing and six terminated county projects across the departments.

Committee Observations

- i. From the submission of the accounting officer, the committee noted that the County had earmarked to undertake 382 development projects as at 30th June 2022 out of which 119 had been completed, 182 are still on-going, 2 had been halted and 79 had not been started. This is put in place by vide letter dated 11th June 2024 to verify the status of the projects in the County.
- ii. The accounting officer had put in place a project status committee to verify the status of the projects in the County vide a letter dated 11th June 2024

Committee Recommendations

1. The accounting officer should hasten and conclude the report on the 382 audited projects and submit the report to the County Assembly within 30 days from the date of adoption of this report. The County Assembly respective sector committees should endeavor to follow up on the implementation status of their respective projects domiciled in the respective ministries from the report that will be brought to the County Assembly.

5. UNSUPPORTED PROVISION OF CONSULTANCY SERVICES

Audit findings

The statement of receipts and payments reflects an amount of Kshs.2, 037,798,793 in respect of use of goods and services which, as disclosed in Note 4 to the financial statements, includes Kshs. 376,244,300 relating to other operating expenses. This amount includes an amount of Kshs. 8,942,765 paid to five (5) law firms for provision of legal services to the County Government. However, procurement documents relating to the law firms including advertisements, tender opening and evaluation minutes, professional opinion, letters of award and regret letters, were not provided for audit review. It was therefore not possible to confirm how the consultants were identified and if proper procurement procedures were followed. This is contrary to Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services.

In the circumstances, Management was in breach of the law.

Management response

The firms that were paid were as follows:

No	Firm	Matter	Amount
1.	Gumbo and Associates Advocates		2,350,000
2.	Olando, Okello and Lusenaka Advocates		1,841,260
3.	Wabwile and Company Advocates		315,505
4.	Annet Namulasi and Company Advocates		2,436,000
5.	A.S. Kuloba, Wangila & Company Advocates		2,000,000
	Total		8,942,765

- i. Provision of legal services fall within the precinct of professional services whose engagement and remuneration is guided by the Advocates Act Cap. 16 Laws of Kenya and Advocates (Remuneration) (Amendment) Order, 2014. Section 5 (1) of the Public Procurement and Disposal Act, 2015 exempts such services.

The legal firms were empaneled through prequalification subsequent to which the County Attorney issued a letter of instructions to the specific law firm based on the nature of assignment.

Appendix 015: Legal firms' details

Action;

The Management is in the process of staffing the Office of the County Attorney following the adoption of the Office of the County Attorneys Act, 2020 in order to avoid future engagement of legal firms

Oral submissions

Management responded that the consultancy services in the County Attorney's office were necessitated by urgent and specialized court matters that the County Attorney's Office lacked expertise on.

Committee observations

The procedure applied to source for the legal firms was not provided by the accounting officer and was against the Public procurement and Asset Disposal Act which provides the methods for sourcing of service providers.

Committee recommendations

The accounting officer violated the provisions of Public Procurement and disposal Act section 91 on direct procurement of goods and services. The committee therefore recommends for a reprimand to the accounting officer and the evidence of action be filed to the County Assembly within 30 days after adoption of this report.

6. UN REMITTED STATUTORY CONTRIBUTIONS

Audit findings

Records maintained by the County Government revealed that as at 30 June, 2022, the County Executive had not remitted statutory deductions amounting to Kshs. 461,337,574 due to five (5) statutory bodies. The amount of Kshs. 461,337,574 is made up a principal amount of Kshs. 361,218,466 and accumulated interest of Kshs. 100,119,108 arising from the non-remittance of the statutory dues.

In the circumstances, Management was in breach of the law.

Management response

This relates to; GOK Public Service Superannuation Scheme, Kenya Revenue Authority, National Health Insurance Fund and National Social Security Fund

- a) Comments – non-remittance of pension was occasioned by inadequate budgetary allocation and delayed exchequer release.
- b) Action –The County Government has taken the following actions;
 - i. The arrears amounting to Kshs. 119,736,627 of the principal sums have since been paid. The County Treasury has budgeted for the remaining amount of Kshs. 241,481,839 to be settled in the year 2023/2024 and 2024/25. The settlement of the arrears will allow the County Government to negotiate for full or partial waiver of interest on the outstanding principal.

Appendix 016; Listing of settled arrears, acknowledgements from Pension Funds and Negotiation Minutes for waiver of interest and penalties.

- ii. The current dues are remitted on time so as to avoid further recurrence. The County Treasury has also guided the MDAs to ensure that personnel costs are accurately projected.

Oral response

Management reported that already there were negotiations between the County Government and the Pensions team to settle the matter and that in the FY 2024/25 budget, Kshs385M had been budgeted to settle the employees' pension contribution arrears.

Committee Observations

The County is not compliant with statutory deductions and remittance of the LAP Trust and LAP Fund as required by the retirements benefit Act CAP 197 which has led to huge penalties and interests that have accrued as reported by the Auditor. As at 19th March, 2024 the County owed LAPTRUST Kshs. 142, 934, 130.12 and LAP FUND Kshs. 890,536,212 being the amount owed to the schemes.

Committee recommendation

1. The accounting officer should ensure all the outstanding remittances and interests accrued as negotiated should be budgeted for and paid in full to LAP FUND and Lap Trust schemes and the attendant report be submitted to the County Assembly sector committee on labour and welfare within 90 days after the adoption of this report.
2. The County Executive should endeavor budgeting adequately for employees' pension contributions and adhere to remittances on time to avoid penalties.
3. The committee of Labour and Welfare should investigate into the current status of statutory contributions relating to employees and report back to the house within 30 days from the date of adoption of this report.

7. NON ADHERENCE TO ONE THIRD BASIC SALARY RULE

Audit findings

The statement of receipts and payments reflects an amount of Kshs. 4,842,460,885 in respect of compensation of employees which, as disclosed in Note 3 to the financial statements, includes Kshs. 4,443,865,745 relating to basic salaries of permanent employees. However, review of the Integrated Payroll and Personnel Database (IPPD) as at 30 June, 2022 revealed that an average of 374 employees were earning net salaries that were less than one-third of their basic salaries during the year under review. This is contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of the respective basic salaries.

In the circumstances, Management was in breach of the law.

Management Response:

The noted exceptions occurred due to;

- a) Statutory obligations e.g. The Finance Act, 2021 that adjusted the House Rent to higher figure which affected most of the staff that were occupying Government Houses
- b) Staff who were downgraded by the County Public Service Board and the resultant overpayment in salaries recovered
- c) Cases where the pension deductions were effected on employees who had already made loans commitments.
- d) Some cases are disciplinary where an employee is either on interdiction/suspension while others have recoveries for various reasons.
- e) Imprest recoveries
- f) Employees with court cases who were only earning a half-salary and House Allowance.

Appendix 017: Analysis of payroll extract for the affected staff and the current status

Committee Observations

The County was in contravention of the employment Act by allowing officers to be deducted beyond the two-thirds of their respective basic salaries as reported by the Auditor.

Committee recommendations

The accounting officers should sensitize employees to the adherence of the one third rule on the pay slips and should not allow commitment beyond the provided threshold. Consequently, the accounting officers are to ensure compliance to this requirement within 90 days of adoption of this report and file an attendant report with the sectoral committee on Public Administration.

8. STAFF ETHNICITY

Audit findings

Records provided for audit revealed that during the year under review, the County Executive recruited two hundred and fifty-six (256) employees. However, out of this number, two hundred (214) or 84% were from the dominant ethnic community in the County. This is contrary to Section 65 (1) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider that at least thirty (30) percent of the vacant posts are not from the dominant ethnic community in the County.

In the circumstances, management was in breach of the law.

Management response

Among the recruitments made during the year, the larger number of vacant positions (236) filled were for Village administrators. As per the advertisement and in compliance with

Section 7 (3) (b) of the Bungoma County (Decentralized units) Administration Act, 2015 one of the requirements for appointment was that one must have been a resident in the respective village Unit for a continuous period of not less than 5 years prior to the appointment thus attracted most applicants from within and eventually the appointment of people from the dominant ethnic community.

Appendix 018 (a): Copy of Advertisement for positions of village administrators

Appendix 018 (b): Copy of the Bungoma County (Decentralized units) Administration Act, 2015

Appendix 018 (c): Appointed applicants and ethnicity analysis

Additional sixteen (16) staff were appointed as per the departmental needs on three months contract which elapsed and because of the tenure of service (3 months contract), these could not attract people from outside.

Appendix 018 (d): MDAs Contractual Appointments

As a county government, we are committed to adhere to the set laws, rules and regulations governing human resource in the public sector.

Oral submissions

Management stated that there was an ongoing Human Resource Audit and the actual status on ethnic diversity shall be reported upon conclusion of the report. That the matter of staff ethnic composition was escalated during the recruitment of village Administrators whom were required to have been residents of the area of jurisdiction as per the requirements of the Decentralized Units Act.

Committee observations

The matter of ethnicity and diversity as reported, was in regard to the recruitment of the village administrators which was based on the Decentralized of unit Act passed by the County Assembly.

Committee Recommendations

Human Resource Audit is on-going and the actual status on ethnic diversity to be fast-tracked and reported to the Assembly upon conclusion.

9. FAILURE TO MAINTAIN STAFF ESTABLISHMENT RECORD

Audit findings

During the year under review, the County Executive of Bungoma did not maintain a staff establishment record. This is contrary to Section 5(2) (f) of the County Governments Act, 2012 which provides that a County Government is responsible for the establishment and staffing of its public service. It was therefore not possible to confirm to confirm the County

Government's optimum staffing levels, areas of overstaffing and any other staffing requirements.

In the circumstances, Management was in breach of the law.

Management response

The County Public Service Board has prepared a Draft Staff Establishment that is undergoing stakeholder participation.

Appendix 019: Copy of Draft Staff Establishment

Oral Submissions

Management stated that owing to succession management, all Chief Officers submitted a draft report on the staff establishment within the departments of the County Government to the State Department for Public Service

Committee Observations

The County didn't have an approved staff establishment record to confirm optimal staffing levels, areas of staffing, and requirements. This may have led to the high over establishment and the high wage bill.

Committee recommendations

The report on Job establishment to be concluded and forwarded to the Public Administration Committee of the County Assembly within three months of adoption of this report.

10. UNSUPPORTED CONTRIBUTION OF MATERNAL CHILD WARD BLOCK

Audit findings

As disclosed in Note.8 to the financial statements, the statements of receipts and payments reflect acquisition of assets amount of Kshs. 1,609,935,884 which includes an amount of Kshs. 653,973,092 in respect to construction and civil works, out of which Kshs. 12,354,500 was incurred as preliminary expenses in the proposed construction of a maternal child ward block. The preliminary expenses included purchases of two (2) project vehicles, insurance cover, payment to the resident clerk of works, purchase of seven (7) laptop, capacity building and supply of water and electricity. However, logbook for the two (2) vehicles, receipts for the laptops purchased and insurance policies were not provided for Audit.

In the circumstances, ownership and regularity of the expenditure of Kshs.12,354,500 could not be confirmed.

Management response

Receipts for the laptops purchased and insurance policies were a component of preliminary expenses for the project. The copies of motor vehicle logbooks and insurance policies are attached.

Appendix 020 (a): Motor vehicles logbooks.

Appendix 020 (b): Copy of Motor Vehicle Insurance Policy.

Oral submissions

Management submitted that at the point of initiation, the project was funded by the Kenya Devolution Support Program and domiciled in the Office of the County Secretary where the project was first issued. That upon transfer of the Project to the Health Department, not all documents were availed thus making it difficult to fully account for the assets.

That owing to challenges in records management, all the receipts for the seven laptops could not be accessed, but all the laptops are traceable. The Logbook for the vehicle in question and insurance cover was provided.

Committee Observations

The sampled copies of S11 were submitted to justify that the Lap tops were purchased and received in the inventory of the department.

The 2 log books for the motor vehicles purchased are still registered in the name of the contractor as reviewed by the committee.

Committee recommendations

The Log books of the 2 motor vehicles to be registered in the names of the County Government once the project is handed over.

11. UN DELIVERED MEDICAL EQUIPMENT

Audit finding

As disclosed in note.8 to the financial statement, the statement of receipts and payments reflects acquisition of assets amount of Kshs. 1,609,935,884 which includes an amount of Kshs. 28,280,580 with respect of purchase of specialized plant, equipment and machinery out of which Kshs. 17,684,600 was incurred on purchase of medical equipment for casualty department. However, review of documents and physical inspection of the equipment carried out in July, 2022 revealed that the supplier delivered medical equipment worth Kshs. 14,462,300 resulting to undelivered equipment worth Kshs. 3,222,200. No explanation was provided for a failure to have the remaining equipment delivered.

In the circumstances, the County Executive did not obtain value for money from the investment in the equipment.

Management response

The total cost of supply was Ksh. 17,684,600. The supplier delivered medical equipment for casualty department worth Ksh. 14,462,300. The supplier was paid for the actual delivery.

Appendix 021(a): Copy of the Payment Voucher

Appendix 021(b): Copy of Counter Receipt Voucher, S13

Oral submissions

Management responded that the actual amount paid and verified on IFMIS and Internet banking platform is Kshs. 14, 462,300 and the cost for the medical equipment delivered is for Ksh. 14, 462,300.

Committee observations

Despite the payment being Ksh. 14, 462,300, the financial position indicated acquisition at Kshs. 17,684,600. The balance of Kshs 3,222,300 could not be justified. Further the the medical equipment was received vide counter receipts amounting to Kshs. 10,640,000 and not Kshs. 14,462,300 as submitted by the accounting officer.

Committee recommendations

The sector committee on health to take up the matter with the accounting officer to establish the whereabouts of Kshs 3,222,300 that could not be justified and report back to the house within 30 days from the date of adoption of this report.

12. CONSTRUCTION OF MAMA MBOGASHEDS AT KOLANI AND SHIUNDU MARKETS

Audit findings

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects acquisition of assets amount of Kshs.1, 609,935,884 which includes an amount of Kshs.653,973,092 in respect of construction and civil works, out of which Kshs.1,897,974 was incurred in the construction of two (2) mama mboga sheds, each at Kolani and Shiundu markets in Namwela ward. However, the contractor used gauge 30 roofing iron sheets instead of gauge 28 as provided for in the Bill of Quantities. In addition, the sheds did not also have selling stalls for displaying merchandize as provided for in the Bill of Quantities.

In the circumstances, the County Executive did not obtain value for money from the project.

Management response

- a) Use gauge of 30 roofing iron sheets instead of gauge 28

The contractor requested for variation in material and iron sheets were among them citing high cost in the market necessitated by Covid 19 impact on the hardware material vide request letter dated 22nd April 2021.

Appendix 022(a): Material variation request

The project Manager (Public Works) approved the request and ratified by the respective officers vide site minutes dated 26th April 2021

Appendix 022(b): Site Minutes

- b) No selling stalls for displaying merchandize.

According to the BOQ and Design/Drawings, the selling sheds were not factored and the contractor executed the works as per the Bill of Quantities.

Appendix 022(c):(Drawing, Design BQP and photo

Oral submissions

Management stated that the flagged out items are not in the BQs and that variation was approved by the Department of Public Works. Photographs were submitted to that effect.

Committee Observations

The variations report was provided with explanations that COVID 19 had caused the increase in prices of goods and services. The variations were procedurally approved.

Committee recommendations

The matter was resolved

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Composition of Audit Committee and Failure to Operationalize the Risk Management Policy Framework

Audit findings

As reported previously, review of the audit committee members' appointment letters and the audit committee meeting minutes revealed that as at 30 June, 2022, the committee lacked two (2) members: an independent member and a representative of the County Treasury. The positions fell vacant on 4 December, 2018 and 3 March, 2020 respectively.

In addition, the County Government was yet to operationalize the approved Risk Management Policy framework and did not have an updated risk register, contrary to Regulation 158(1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, effectiveness of internal controls, risk management and governance of the County Government could not be confirmed.

Management response

i) Composition of the audit committee;

Ms. Millicent Khaoma was replaced by Mr. Bernard Muchanga as a representative of the County Treasury.

Appendix 23(a): Recruitment of Audit Committee Members

The County Government is committed to establishing an active internal audit committee. The County Treasury placed an advert to recruit a Chairperson and Three Members of the Internal Audit Committee through the County Public Service Board. A shortlist has been done. This process was expected to be completed by 30th April, 2024.

ii) Failure to Operationalize the Risk Management Policy Framework

The County Internal Audit Department has developed a Risk Register for the MDAs that will help to jump-start risk management activities in the MDAs. The County Treasury will support in capacity building of technical officers and risk champions who were not trained on risk management.

Appendix 23(b): Extract of Teammate+ Risk Register

a) Action;

- i.** The County Treasury trained some selected officers from MDAs. Other officers are yet to be trained.

Appendix 23 (c): Sample Certificates

The County Treasury plans to undertake further trainings of the MDAs on risk management

Oral submissions

Management responded that the process was on course and 100 officers have been trained.

That the County Public Service Board is yet to concluded the recruitment process of the Chairperson and three members of the Audit committee.

Committee Observations

The effectiveness of internal controls, Risk Management and Governance confirms that the internal controls, Risk management and governance were not effective as hereunder:

a) Composition of Audit committee and failure to operationalize the risk management policy frame work

Committee recommendations

The committee recommends the accounting officer to operationalize the Risk Management Committee within 60 days from the adoption of this report.

CONCLUSION

The report of the Public Accounts and Investments Committee underscores the necessity for Bungoma County Government executive to address audit issues on; financial management; procurement irregularities and revenue collection to improve transparency and efficiency in financial management and effective service delivery to its resident's .

Page 68 here we have said we have the appendices

1. The certificate of audit on the Financial Statements of the County Executive for the period ended 30th June .That is now the audit report after the audit work.
2. Responses from the County executive on the audit of Financial Statements of the County Executive of Bungoma for the period ended 30th June 2022.
3. Minutes of the committees on the adoption of the report of the County executive of Bungoma for the period ended 30th June 2022 on page 68.

The next page has the adoption schedule.

Mr. Speaker Sir, we the members of the Public Accounts and Investment committee having prepared this report hereby append our signature. The signatures have been appended here.

I know it has been a very long report. Before I sit down I would like to request Hon. CPA Kennedy Wanyama to second the report. Thank you Honourable Speaker and members who have stayed behind to listen to the report.

Mr. Speaker: You should be thanking Hon. Ken and Katila, they are the only saviour of yours now.

(Applause)

Yes, Hon Ken proceed!

Hon. John Kennedy Wanyama: Thank you, Mr. Speaker. I rise to second the motion by the Public Accounts and Investments committee on the Financial Statements of the executive for the Financial Year ended 30th of June 2022. This is a qualified report which means that apart from the few financial misstatements that the office of the auditor general noted, the report reflects a fair view of the financial position of the executive of Bungoma County.

We have highlighted several issues that were the basis of the qualified opinion by the office of the Auditor General. I will just touch on three or four issues so that I can leave the rest of the issues to Honourable members as they contribute to the motion.

On pending bills; as it has been highlighted in the report, total pending bills were 1.4 billion out of which within the Financial Year 2023/2024 a total of 670,121,353 shillings was paid leaving a balance of Kshs 529, 559,963.

As per section 15 (2)(f) of the Public Finance Management Act 2012 it clearly states that pending bills should always be a first charge and this directive was issued to ensure that we have fiscal discipline and this fiscal discipline helps to avoid accumulation of pending bills so

as much as I want to applaud the County Treasury for paying the 670,000,000 I want to urge them to ensure that going forward all pending bills are treated as a first charge so that we can be able to clear all the outstanding amounts because a lot of people have been auctioned as a result of these pending bills.

The second issue is on County Assets register. As it has been well highlighted in our report, there is a draft document which is in possession with the executive but as per section 153 of the PFM Act, there is a need to have an assets register in place to ensure that there is value for money while acquiring, using and disposing off assets that belong to the County Government of Bungoma and the other question that one would ask is that without an asset register in place how does the County treasury then calculate depreciation of these assets minus the assets register so there is need to have this in place and as we have clearly recommended in our report, this should be done and submitted to the committee on Finance and Economic planning as soon as possible.

The third issue is on municipalities, this is Bungoma and Kimilili. Pursuant to section 179 of the PFM Act 2012, municipalities are supposed to be fully autonomous. We noted that the County Treasury is yet to facilitate opening of bank accounts of Bungoma and Kimilili municipalities at the central bank of Kenya. We want to urge the County Treasury again to facilitate and first track opening of this bank accounts so that the municipalities can be fully operational and autonomous.

Lastly; on own source revenue or local revenue. In the Financial Year under review, we collected a total of 983,296,708 against a projection of 1,488,336,493 translating to a performance of about 66%. We witnessed this trend in subsequent financial years due to unrealistic projections by the County Treasury and these unrealistic projections actually result to underperformance because as you are well aware even development projects are planned based on projected income so when we make unrealistic projections, then development projects are affected.

I want to urge the County Treasury led by the CECM Finance and Economic planning to adhere to section 118(a)(b) of the Finance Management Act 2012 and if you will allow me to read them for the record, this section says that in preparation its County Budget Review and Outlook paper, the County Treasury shall specify;

- a) Details of the actual physical performance in the previous year compared to the Budget Appropriation for that year.
- b) The updated economic and financial focus with sufficient information to show changes from the focus in the most recent County Fiscal Strategy Paper.

Despite all these guidelines and with the professionals in the County Treasury, I still do not understand why we always have unrealistic projections. For now, I will hold my horses on this issue because I am aware the Honourable member for Tongaren has a statement on why we have a very low collection of own source revenue. I am hoping that when the CEC appears to respond maybe he will give us direction on this issue. I submit.

Mr. Speaker: You cannot raise a point of order when he is already done. Yes please!

Hon. Everlyne Anyango: Mr. Speaker, I am rising on a point of information that I seek for extension of time for the motion to be dealt with up to conclusion and with Standing Order 33(3) (a).

Mr. Speaker: Before you call the seconder, let me just be able to know...It's not yet a half past noon unless you are telling me you want to debate this motion up to around 1.30. If that is the case then you will be able to go away with it but if not, you still have an hour to debate it.

If you are foreseeing a situation of debating up to 1.30, I will allow you to proceed but if not, call your seconder so that I put a question.

Hon. Everlyne Anyango: Mr. Speaker Sir, I call upon Hon. Maureen Katila to second.

(Applause)

Mr. Speaker: I want to get Maureen on her microphone, I am not seeing her. Its okay, it's here. Proceed!

Hon. Maureen Katila: Thank you, Hon. Speaker. I second

(Applause)

Mr. Speaker: Now, I will proceed and be able to frame the motion for debate. A motion within a motion so that you extend your time as you wish.

Hon. Members, a motion has been moved and seconded that this House sitting be extended until the determination of the motion beforehand. I propose.

(Motion on the extension of time proposed)

Hon. Joseph Nyongesa,

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. I think the committee members just want to play with our minds. We are here following the report and have been sitting here since 9.30 up to now, so they cannot curtail us to sit until we finish. There is the afternoon session, so, let them be patient so that at least we can also internalise and have some contributions on this report. There is no issue of hurrying. I do not support.

Mr. Speaker: Let me hear Hon. Linda. The mic is yours!

Hon. Linda Kharakha: Thank you, Mr. Speaker. I think the committee members are not considering some of us, health issues. We have been sitting here since...

Mr. Speaker: Now, when you are staring you say you oppose or support.

Hon. Linda Kharakha: I oppose the motion to extend this sitting. We have sat here for long. Also our minds are not able to ...

Mr. Speaker: Speak for yourself. Mine is very young and steady.

Hon. Linda Kharakha: My mind is already exhausted and I would like to have more time so that I can also internalise what they have been reading and what the committee has been doing. You realise that the matters of maths and figures need proper internalisation. Also on matters of health, it is almost lunch time. Can we eat so that our sugar levels are up to be able to debate!

Mr. Speaker: I am surprised you still eat lunch in this country. I always advise people that you have ugali for breakfast then you are done. Hon. Hentry!

Hon. Hentry Nyongesa: Hon. Speaker, I stand to oppose that we extend time until we finish the report. You find that this voluminous report which you have actually been following but you realize we require some time to actualise on some serious issues which the committee has made recommendations and as a House you remember that this is something that requires a lot of attention so, I oppose.

Mr. Speaker: Hon. Anyango, you reply to the motion!

Hon. Everlyne Anyango: Hon. Speaker, we are having other motions on the floor in the evening and according to me as I was looking around, I was seeing very energetic Honourable members who just came back yesterday from recess and when I look at the majority whip, he looks very strong and sober and he motivated me to think that we can execute this motion up to conclusion and that's why I was on my feet and asking for extension.

Mr. Speaker: Now, I will proceed. Hon. Members, a motion has been moved, seconded and debate having ensued that this House extends its sitting until determination of the motion beforehand.

(Question put and negatived)

The nays have it, the extension is declined.

(Laughter)

We proceed! Having done so I think the seconder had finished, I will now be able to propose a motion as per the motion moved by the Chair PAC.

Hon. Members, a motion has been moved and seconded that this House adopts the report by the Public Accounts and Investment committee on the Financial Statements of the County Executive of Bungoma for the period ending 30th June 2022 laid on the table of the House on the 3rd September 2024. I propose.

(Question proposed)

Hon. Joseph Nyongesa!

Hon. Joseph Nyongesa: Thank you, Mr. Speaker and also allow me appreciate members who are seated up to now. Actually, this report is very crucial and important. How I wish that even our senators could be waiting for such reports to make comments and make a follow up only that he was not aware.

As I appreciate the members of the committee for this good work but internally they were playing safe but not smart. I do appreciate the Chair and allow me remind him that actually he was really playing safe to ensure that he saves some members here but we indeed had a mess and when we receive this quarterly reports, these are the guidelines of how money was spent and that is why I was saying that actually members need to internalise this report. I was not lucky that my gadget was full therefore I am not receiving the emails but I thank the secretariat ,they did me a favour and gave me a hard copy that I have been following keenly.

As I appreciate the Chair PAC and its members, they have done their best. Allow me start from page 53 on the issue of unremitted statutory contributions and when the management was saying that they had insufficient budget, I thought it could also be captured in our annexures to see because that time I was a member of Budget Committee and in fact the key issue that we are budgeting for was for this statutory contribution and following keenly this report you could see how the committee was playing safe on some members who were the key participants in this field.

This remittance affected our workers. If our employees could retire now, there could be no pension, purposely it was done by some few members who thought maybe they would escape and that is why I want to remind the Chair that actually what you have done is excellent, so that at least it should be an eye opener on how we should also be considering some members in some elective posts and that is why they are putting some people in trouble.

How I expected that this committee could make some recommendations to ensure that if it was done deliberately then they could also show us where this money meant for pension schemes is, was diverted or what? So in future we need to be keen. I have gone through their recommendations but I have not seen anything on the same .They are only recommending that the executive to give priority so that at least we budget for this money by not knowing who used what was budgeted for. If you want to be clean, let us also show some accountability as an Assembly and that is why one day I said here that I really feel bitter for the few sympathisers of the wrong doers like what has happened here.

On the issue on page 52, these are the oil firms and I'm glad that you are also here, Mr. Speaker. If the...

Mr. Speaker: Hon. Linda what is your issue? Let me hear Hon. Linda, I'm seeing her requesting.

Hon. Linda Kharakha: Mr. Speaker, I don't know if it is because we have sat here for long, I'm trying to listen to the Leader of Majority. It looks like he's speaking more in parables and we would like him to expound more so that we really get what he's saying.

Mr. Speaker: There are no parables. The wrongdoers are wrongdoers.

(Laughter)

Hon. Linda Kharakha: Mr. Speaker, I request that he maybe lighten a little bit.....

Mr. Speaker: Hon. Majority, as a bishop, now use the simple language for a lay man like us so that we understand.

Hon. Linda Kharakha: Thank you, Mr. Speaker.

Mr. Speaker: we are a class of leaders, don't worry.

(Laughter)

Hon. Joseph Nyongesa: Thank you, Mr. Speaker, I know one thing that everybody is having this report and may be some do not have.. Mr. Speaker, I said I don't appreciate the committee for playing safe but not smart.

(Laughter)

That's the reality, they really played safe, but they were not smart. And I said, if you can go to page number 54, on non-remittance on statutory contributions to our workers, I hope now she is following. Deliberately some officer's diverted money that was meant for their contribution in Lap Fund, NHIF and other statutory deductions whereby I thought the committee could be smart to show us that actually this is what was budgeted for and the money was diverted. But in their recommendation, they are requesting or urging the Executive to ensure that they budget for. And in that regime I was on Budget Committee, seeing the oral response, they are saying the budget was not enough and the key thing here is, they could have said, we had some delays in disbursement that is why maybe they could not remit in time. Where did money go? That's why I'm saying the committee was playing safe to ensure that at least they are now covering some wrongdoers so that at least it can be seen as if there was nothing being done. So I hope Hon. Linda is now getting me.

On page 52, and I was saying, we are lucky that we are having you as a lawyer and as an expert and you know lawyers, we tend to think that actually they are the people to guide in terms of law. But now when we see what these companies or these firms did, they are receiving unlawful money and the committee is just silent on them. I thought the committee could say, these firms should be blacklisted in offering services to the County Government of Bungoma. By so doing we shall be now actually doing an oversight role. But see the recommendation. Because from the management, I just heard in the course of time, Mr. Speaker, if you can give him time so that at least I see where the management said. Roman One (i) says, provision of legal services fall within the presence of the professional services whose engagement and remuneration is guided by the Advocates Act Cap 16 laws of Kenya and advocates, the Public Procurement and Disposal Act 2015 exempt such services.

The legal firms were impeded only through pre-qualification subsequent to which the county attorney issued a letter of instructions to specific law firms based on the nature of the assignment. Here, I thought maybe now the committee could clearly come out and make some recommendation on that particular officer who was in charge, whom I know was suspended but at least he is still earning. But see what he did to these firms. He recommended for payments and these payments were unlawful. So, when a firm dealing with law receiving

money which is unlawful, what could we recommend? So sometimes Mr. Speaker, we need your wisdom as a lawyer also to guide us so that we see in the future this Kshs. 8.9 million that was lost. In this Mr. Speaker, how do we now recover such money?

Mr. Speaker: Hon. Leader of Majority, I don't understand when you say it's unlawful. The only thing that I want to seek from I think Hon. Nganga, when you are replying because once they are pre-qualified and paid for, I'm sure that payment voucher which has the case number they acted for, so that we are able to know if there was service provided for. Payment cannot be unlawful, because what the Leader of Majority saying is that these law firms do not have any matter in your own chart, there's no case done by these law firms. I think you need to clarify that issue. Majority proceed, please.

By the way, I'm also concerned because any time we pay money in this Assembly, they ask the case number and the judgment to support the payment. Now in this situation, you ought to be able to clarify. Hon. Majority Leader, proceed

Joseph Nyongesa: Because the whole of the submission Mr. Speaker says that, the management responded that the consultant services in the County attorney office were necessitated by the urgent and specialized court matters that the County Attorney office lacked expertise on it, So how now? Was it just a way of escaping that actually we don't have these experts, or how? Because one day Mr. Speaker, the County boss said that actually we have the best top-notch lawyer in the County representing us as the County Attorney, now which services did they lack? And in this, you see the accounting officer is now being caught, just purposely, that which was not meant for her.

How I wish that this same accounting officer was also given time so that at least, or given a chance to clarify with the committee what she did by that time. And you know, we are all human beings. We may depend on the current officers to give us what is necessitated without knowing that actually. In the absence of the person who was in office, whoever may be in could give whatever he feels, because you know governments are always competitors to each other.

So how I wish the committee could also give a chance to the former accounting officer, because I know he is still in this County Government and she could avail herself to ensure that actually what she did, she can stand with it.

On page 35, the recommendation on the Kshs 5 Million, the accounting officer should be surcharged, the unexplained and unsupported payments totaling to five million. On this one, I don't know if the committee gave them time, specifically the officer who was in charge or they relied on the current officer, maybe who said he doesn't see where the vouchers were. Before we say the issue of surcharging, we could have also given her a fair hearing on this, because down there you can see, allow me to say this.

On the same page number eight, on unsupported facilitation of the members of the County Assembly, you could see that actually there is a fair game, there is brotherhood, but on this.....

Mr. Speaker: If anything Leader of Majority, I was going to ask equally the Chair Hon. Everton Nganga, this surcharge goes to which Chief Officer? Is it the current Robert Simiyu, or Makhandia or Dina who were Chief Officers in those offices? Because you are just saying that Chief Officer Finance needs to be surcharged, so you want to surcharge who? You know, like you must specify here, because we have had three, the last regime we had Makhandia, and Dina, now we are having Robert Simiyu, so you want to surcharge which Chief Officer?

Hon. Joseph Nyongesa: Thank you, Hon. Speaker for that clarification. And all of them are still within the County Government of Bungoma. So I wish if the Chair could also respond, so that we know if Makhandia or Dina were also given a chance to explain where these vouchers are, or where this disparity was, at least it could be fair for us as a House to also rubber stamp and ensure that actually what the committee has come up with will really help us in the future. Because I have also gone through where the County Assembly members also went through, and the way they have recommended.

And I think whoever will be following this this could see malice. Sometimes I like being honest because actually, we as the County Assembly members, sincerely we are not supposed to be paid by the executive. This is so clear. And in fact, it should be a learning lesson to us also from today, so that actually we should not be caught in such issues again. And I'm saying so because I'm also part of those members of Budget Committee that was supported by the Executive. So I'm not saying that... That's why I'm saying I'm seeing some fairness. And how I wish this one could also be given a chance to clear on what happened?

On the issue of pending bills, because I have seen actually the committee was so clear that the management responded by saying they put in a place a team verify all pending bills. I don't know if that report was out, you shared it or not, because we have seen you had a pending bill of Kshs.1.2b. And so far, as per the report, almost Kshs. 670 million was paid. And then basing on the verification, at least we can say that we are heading somewhere. And maybe whatever we projected may not be right.

Otherwise Mr. Speaker, I do support and urge the chair to shed light on those few things.

Mr. Speaker: Yes, I will have Hon. Cornelius.

Hon. Cornelius Makhanu: Thank you, Mr. Speaker sir for according me this opportunity also contribute. First of all, I would like to thank the committee for the good work they did and the mover of the motion. I have just two issues about the report. The first is about the statutory deductions that are now even attracting fines. The paymaster here, I don't know from the report they have not said even the first time they have failed to submit those deductions or the first time or maybe they have repeated. We have had a problem with this County where we have been paying fines.

On pending bills, the contractors have been charging this County fines and even interest. Then you come to the statutory deductions, we are also paying fines and in those recommendations, as the Leader of Majority has said, we are using this word surcharging, it is a soft way of maybe letting them go scot-free. Mr. Speaker, on your pay slip, first they will deduct pay as you earn, maybe if you have a loan, but when it comes to these other statutory deductions like NHIF and NSSF, they failed to do that. And with NHIF, if you are an in-patient, bedding is supposed to be catered for by the NHIF. So our workers have been going through hell. You have to pay cash if your NHIF is not working. Apart from that NHIF again, NSSF, if retirees as the Leader of Majority has said, they will suffer.

Now, I suppose this committee should have been a bit tough on them because they are lenient in those recommendations. We cannot continue paying fines in millions; Ultimately, we shall be required to pay these statutory deductions plus fines. Now, the County is being surcharged let me use the same word. We shall pay as a County, we shall pay fines, but it's not the cost of the County, it's the paymaster. This paymaster, how are we going to surcharge him? Do we interdict them? Do we sack them? Do we cause them to refund the money? That is why I would like maybe the committee to look into it.

The second one, I'm happy, we MCAs who are in municipalities, we have gone through like this last year, we have had a problem with the municipalities because of the lack of autonomy. They cause to advertise tenders as a municipality but when it comes to evaluation and even awarding, it is the line ministries. But later on the contractor will pick the award from the municipality. When it comes to payment, it is not even the municipality, it is the line ministry. So because of that confusion, some of our contractors have not been paid up to date. It's going into now pending bill.

Some of the contractors even did not even manage to start the work, some projects are even pending. So I'm happy they have at least recommended that the CEC Finance should first track for the municipalities to open an account with the Central Bank of Kenya so that it can be autonomous so that for us who are now in the municipality, our projects can move as other areas. But still there, I find giving the CEC for another 90 days just to open an account; I felt maybe that is a long period of time. They could have recommended a shorter time so that also our projects can take off as quickly as other areas. Otherwise, I support the report.

ADJOURNMENT

Mr. Speaker; Hon. Members are looking at the clock; we adjourn and resume at 2 p.m. On the motions, this motion will be the first one to start. So the mover of the motion be prepared and be ready. As I'm looking at my computer here, the first one will be Hon. Okasida.

The House rose at 1:06 p.m.

