

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**  
**OFFICIAL REPORT**

**Tuesday, 1<sup>st</sup> December, 2020**

The House met at 10.45 a.m.

*[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]*

PRAYERS

*(Quorum Bell)*

**Hon. Speaker:** Let us see what the Membership is in the outside sitting through the ABU. Has it been communicated that we want to see the extended sitting? It is taking too long? We want to confirm the membership in the outside sitting so that we can start the sitting. So, we can start our sitting Hon. Members for this morning.

STATEMENT

BUSINESS FOR THE HOUSE FOR 1<sup>ST</sup> TO 8<sup>TH</sup> DECEMBER, 2020

**Hon. Speaker:** Hon. Members, under this order we have one business by the Hon. Majority Leader. Hon. Majority Leader.

**Hon. Muendo:** Thank you, Hon. Speaker. Hon. Speaker, the House Business Committee met today, 1<sup>st</sup> December 2020 to prioritize business for the House as forwarded by Committees and Hon. Members pursuant to the provisions of the Standing Order 151(5). The Committee reviewed business balloted for 1<sup>st</sup> December, 2020 as reported on 24<sup>th</sup> November, 2020 as some of the business balloted for that day was not transacted.

The Committee prioritized business as follows:

Tuesday, 1<sup>st</sup> December, 2020

*Morning at 10.00 a.m.*

- a. The Machakos County Village Polytechnics Bill 2019 by Hon. Daniel Kiilu, Chairperson Education Committee. Second reading; continuation of debate.
- b. The Machakos County Health Services Bill 2019 by Hon. Cosmus Masesi, Chairperson, Health and Emergency Services Committee; Second Reading.

*Afternoon at 2.30 p.m.*

The Machakos County Health Services Bill 2019 by Hon. Cosmus Masesi, Chairperson, Health and Emergency Services Committee. Second Reading; continuation of debate.

Tuesday, 8<sup>th</sup> December, 2020  
*Morning at 10.00 a.m.*

The Machakos County Cooperatives Development Enterprise Fund Bill 2019;  
Committee of the Whole House and Third Reading by Hon. Moses Mitaa –  
Chairperson, Agriculture Committee.

*Afternoon at 2.30 p.m.*

- a. The Machakos County Health Services Bill 2019; Committee of the Whole House and Third Reading by Hon. Cosmus Masesi, Chairperson, Health and Emergency Services Committee.
- b. The Machakos County Village Polytechnics Bill 2019; Committee of the Whole House and Third Reading by Hon. Daniel Kiilu, Chairperson Education Committee.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Majority Leader.

## **BILLS**

### *Second Readings*

#### THE MACHAKOS COUNTY VILLAGE POLYTECHNIC BILL, 2019

(MACHAKOS COUNTY BILL NO. 3)

*(The Chairperson, Education Committee on 24.11.2020)*

*(Resumption of Debate interrupted on 24.11.2020)*

**Hon. Speaker:** Hon. Members, under this Order, we have one business by the Hon. Daniel Kiilu. Hon. Hellen Matei, I saw you waking up. Quickly what do you want to tell us? The mover of the Motion is not here? Remember this is a motion already that is a business of the House.

*(Hon. (Ms.) Ndeti spoke off record)*

You can carry on. What I want to do Hon. Matei is you go on record as now standing in for the Hon. Chair of education Committee Mr. Daniel Kiilu and just to remind ourselves, we had the report read the last time so we want to start the debate now but it is important that the Chair, that is Hon. Matei now gives some short brief to the Members if you are in a position so that we can now start the debate.

If you feel that we go by what was read then we just start the debate because I am not sure that you had been prepared for this scenario now that you are just holding brief. So, Hon. Matei, feel comfortable and tell us how you want it done.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. I would have loved if the Chairman was around but he called when he was a bit far and said by the time we start he might be here but being the vice chairperson of the committee and being a believer in education and a believer in regulating the education system in our County the Bill had fully been read and it was our time to

debate so, I welcome Members to generously contribute towards this Bill. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Chair. Members, I had proposed the question so the Motion is open for debate including the Members in the extended sitting. Hon. Museku.

**Hon. Museku:** Thank you, Madam Speaker, for giving me this opportunity. First and foremost, I would like to congratulate the Chair, committee of education for this Bill which is very timely and which is coming at a time when this Country is in dire need of polytechnics to train our youth.

Madam Speaker, if you look at the Bill as it is, it aims at ensuring that we do have a village polytechnic in each and every Ward so that we can be able to cater for the needs of our youth. Gone are the times when we used to have white-collar jobs; today the number of students who are coming out qualified with certificate, education level in class 8 and also qualified with certificate level in Form Four is alarming. We have a very high number of students coming out every year; close to 300,000 and there is no such job creation which is going on in the economy.

This has been worsened by the current situation of COVID-19 which has deprived this Country off economic growth and the world at large. It is against that backdrop that I would like to thank the committee and their Members for having thought of coming out with this Bill which will ensure that we have a polytechnic in each Ward to be able to cater for the needs of our students who are coming out from the Secondary education and Primary education.

Madam Speaker, in today's world, it is only those people who have got a skill in their brain who are going to be able to move forward. If you do not have a skill, today somebody who qualifies from the University, if I may give an example with a degree in History and Sociology, and somebody who qualifies from a polytechnic with a certificate in plumbing, the person who is bound to make money quickly and fast, is the person from the Village Polytechnic who has got a certificate in plumbing.

For example, I have money in my pocket, for me to be able to give you that money and you have a degree in history and sociology, I do not know whether I am going to ask you about zinjathropus or something like that but somebody who has got a certificate in plumbing can be able to come and do plumbing in my house, if they have got a certificate in electrical engineering they can be able to do electrical engineering in my house and therefore, such schools as have been created by this Bill, vocational institutions, are going to be able to equip our little ones with this life-sustaining necessary skills.

Therefore, I would like to thank the committee and tell them that the Bill is well thought of and in deed request the House to approve this Bill so that we can be able to give our youth the chance they deserve in ensuring that they can be able to make a living for themselves. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you. Just a moment Hon. Majority and Minority and Members, I remember when we were reading the Bill that time, I can see the Members are now remembering what was read and we appreciate what Hon. Museku has stated but when we were reading the Bill I just wanted to ask you Members, every legislation you pass, make sure that you do not let your powers go, you do not legislate away your powers. You will need to look at part 6 where they are talking of the regulations by the executive committee member and this usually is the

subsidiary legislation but the approval of the Assembly must always be there. I noted that just in case we tend to forget.

Remember every legislation make sure that you create your mandate; you remind people of your mandate do not let it go so that you remain relevant because you are exercising your powers. There is a communication I will be doing later in the afternoon and it still touches on the exercise of your powers so this is one thing that I noted as we were reading then the issue of public participation, I think Members it was well done. We commend the committee there was quite a robust public participation because quite a number of input from people in the education sector and stakeholders made important input.

So, public participation is another thing as an Assembly you need to make sure that the public does not just talk then you leave them there; let them see their inputs coming into the legislation that you are passing that is the other point I want to draw to you on this. Otherwise, the rest is normal when you talk of removal of a committee Member for misconduct please it is never misconduct. You know if you look at me badly with these eyes, that is misconduct but it is not gross so you talk of gross misconduct is what would lead somebody to be removed from a public office.

Those are some of the things at the committee of the Whole House; Mr. Chair of Chairs, you may need to look at to just do this very important legislation so that we have relatively water-tight legislation that is going to see the County far and we said it is not village polytechnics, we said it is Vocational Training. Let us forget about village polytechnics going forward; it is a demeaning name. We want to make our youth interested in joining these vocational trainings and I did history by the way and my degree is important. You get what I am saying? *Mheshimiwa* Museku gave an analogy of a historian and somebody who has done plumbing---

*(Laughter)*

I agree but it is okay, that is on a light touch. So, we can go on. Majority Leader then Minority Leader then I will come to you Members.

**Hon. Muendo:** Thank you, Madam Speaker, for giving me this chance to also put a few comments on the Bill. First of all, let me applaud and appreciate the committee of education for the job well done. Hon. Speaker, let me say the Vocational Trainings formerly Village Polytechnics are actually the most neglected in our Counties because when we started talking about degrees, most of our kids started thinking of the polytechnics or the Vocational Training schools as useless. When I look at the Bill in fact I wanted to say I will propose an amendment because number one, vocational training schools in our Ward are not enough. Looking at the population in our areas and also most of them are young people coming out of schools.

Madam Speaker, let me say, I am a contractor and I am dealing with artisans and today as we speak, I was even calling my site agent we are trying to look for people who have done carpentry because we need around 20 of them and they are not there. Reason? We have neglected our vocational training schools. Let me say, even the Konza City which falls in my area, I have chances of plumbers and artisans, masons with certificates and they are paid Ksh. 65,000 a month and I cannot get even more than two.

This shows us where we lost and as the Deputy Speaker has said; somebody who has done sociology and somebody who has done plumbing with a certificate today in our country the

plumber will earn much. Hon. Speaker, everybody here has a home, today Madam Speaker, if you want to get somebody urgent to fix your broken sewer, it might take about three to four days before you identify. Today if you want to get an electrician you have to make several calls to identify one and if you get one they will be busy and tell you they will come tomorrow. That is a fact.

Madam Speaker, in the Bill I have seen the formation of the board and I have seen the changes that will be done but Hon. Speaker, I would like also to caution Members as you said when you are making these Bills; you can see what National Assembly is doing they make these Bills and they make sure they are there. You make a Bill you say the CO will be the so, the director will be so and so and you leave the area MCA. In the village polytechnic you can leave them because at the end of the day we are the people who are responsible.

So in the formation of the board, we can create a position, that my suggesting, maybe of a patron. The MCA of the area to a patron or to be something a position where we will be also us be direct. I will give you an example Madam Speaker, of Kyemutheke polytechnic which is a very old one and which falls under my jurisdiction but let me tell you Hon. Speaker, even the manager does not know whether I exist.

The money which was given by the government and which is being given to the students by the government we received over Ksh. 70 million and I tried to question how it is being used but they tell me there is a vote so the MCA they just regulate here but then they are nowhere to be seen. So Members, as the Hon. Speaker, is saying we must create these Bills and also we must put our position not because of us, tomorrow there will be another MCA in Kinanie who is not me but it will be difficult for these vocational training schools without having Members of the County Assembly somehow placed somewhere even if they do not have a day to day duty somewhere they can actually be in the board and the village can feel they are present.

Hon. Speaker, when you look at the National Assembly, the Hon. Members of the National Assembly, in roads like for example KeRRA there is a part where they play a very a big role whereby they are given money by KeRRA and they identify the road they want to spend on and that is correct. When you are making that Bill of the roads they said we must also be, we cannot give you money and then we do not get something out of it.

Therefore, my concern Madam Speaker, is when I see the formation of the committee that is for the Members to think about. Hon. Speaker, in the village polytechnic or the vocational training schools, we need also as leaders to subsidize our people; my son, your son, your daughter. It is not a bad thing to go to be a mechanic, it is not a bad thing to be a mason and I appeal Hon. Speaker, to this House if somebody has carpenters I need about four and I need also masons; about 10. If somebody has he can contact me Madam Speaker. Why am I saying so? Because these people with certificates are nit there we do not have and our lifestyle is changing that we want everything to be done the correct way and the way we live.

Hon. Speaker, the other issue of the Bill that I want also to contribute is when we call them vocational training schools and we must also engage the boards and also the committee for them to come with modern training and not the old way of training our people. For example, our cars today are fully computerized. A mechanic of 1984 or 1990 cannot repair a car today because it's being computer analyzed all the problems in the car therefore, we should also get informed in this.

Also when we talk about plumbing let us also not forget and go for the old systems; we have pressure piping systems which are being done today so we need also when we create these Bill we also need to include that there should be training for the managers of these polytechnics,

Madam Speaker. As I finish, Hon. Speaker, we need to fast track this Bill and make sure we have those polytechnics before the term of Second Assembly expires. We must leave legacy of saying we have put in every ward a polytechnic or two; it is very important Madam Speaker. So the Bill is good and I support the Bill. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Majority Leader. The idea of fast tracking is proper is we will be going on recess on 15th of December but before we go we must finish this Bill so that now you will start thinking of where to get the monies or to revamp those which are already existing and to start those which have not been started. Hon. Minority Leader.

**Hon. Kamitu:** Thank you very much, Hon. Speaker. Madam Speaker, one thing I want to applaud our committee for the hard work they have done, they have come up with a Bill that is very important in regard to now not the village polytechnic but it should be promoted to vocational training and having said that Madam Speaker, my contribution is that I have gone through this report and there are very good recommendations in this report.

Madam Speaker, my emphasis is that as we talk about vocational training, it will be very important Madam Speaker, if in vocational training we are saying the board of management should be able, because it has been covered in this report, now the management board of these vocational training centers should ensure that the instructors who are employed in those training centers are well -versed, they are technical instructors relating to the grades to the programs that will be offered by those village polytechnics.

Again Madam Speaker, in this report I have also seen that they are also aware of inclusiveness in regards to people with disabilities. It is a very good report, Madam Speaker, it is covering that and again as what the Majority Leader has said I would also emphasis on saying the vocational training centers Madam Speaker, should be equipped with modern equipment so that they relate to the current technology that we have in the country.

Otherwise, Madam Speaker, also our emphasize should be also as legislators we should also ensure that the executive also collaborate with the National Government in regard to funding, in regard to such issues that when we collaborate and partner it means more funding will come through the National Government to the counties and thereafter to the vocational centers.

So, Madam Speaker, without wasting a lot of time this is a very good report and again we should be also on the lookout that having said that Madam Speaker, we should also consider increasing the number of instructors to those various institutions. Otherwise, thank you very much this is a very good Bill and we should all come out to support it. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Kamitu. Hon. Mutinda.

**Hon. Mutinda:** Thank you, Madam Speaker. I want to start by thanking the Chair of the committee---

**Hon. Speaker:** Hon. Mutinda, you are not being heard. You need to be a little bit louder, Hon. Mutinda.

**Hon. Mutinda:** Thank you, Hon. Speaker. I would like to start by thanking the chair and the committee for the good job done and Madam Speaker, I would say that it is important that

this House approves and supports this Bill and Madam Speaker, I think it is the high time our people benefit from their taxes. Madam Speaker, white collar jobs are no more and we now at this time where we need to have our people having skills and Madam Speaker, I think this is the way to go and I think it is important that the funding of the village polytechnics through our bursaries that support the polytechnics so that they move forward and they do not have challenges in finances.

As it is now you find some wards have one village polytechnic and others have none and others have two. We should try to see that every ward has two or three or more village polytechnics Madam Speaker, so that our people can benefit from learning these skills. Madam Speaker, I think it is the high time we support our people and currently it is important have skills that they can show. If you find a contractor, he might be in need of people who are going to work but most of the people who are there have just learned through the job but they have never had the opportunity to have a certificate so it is important they are trained to have something to show.

The other thing in support of these polytechnics is through our County Government Madam Speaker, to donate vehicles, computers and other necessary equipment to the village polytechnics which are modern and can support our students. It has been a challenge because in most polytechnics you find that the vehicles we have are from 1970s and 1980s but if we donate, as a County Government, the modern vehicles then our children will have hands-on knowledge on the modern day technology.

So that is the way I would wish this Assembly supports that any support to the village polytechnics comes through donations instead of disposing our vehicles at the cost of Ksh. 100,000 or Ksh. 200,000 you find that Madam Speaker, we can donate and they will be of more help to our people. So, I think Madam Speaker, that this Assembly supports the polytechnics and also ensures that bursaries can be channeled to the village polytechnics to have them have a financial standing. So those few remarks I support Madam Speaker. Thank you.

**Hon. Speaker:** Thank you very much, Hon. Mutinda. Hon. Members and in particular Hon. Matei and Hon. Kamulu and others who...Hon. Angela through Hon. Katumo those who are in education have some relation in education. I think you also need to think about this particular Bill when it comes to the committee of the Whole on how the Assembly and the County Government can assist in creating civic education amongst the public on importance of vocational training.

This has arisen because I know there are very many *fundis* out there, every time you start a construction site you get request Hon. Kaloki for employment but none of them have the certificates and to get that NCA you need to give their certificates so those are members even when they are old they can be enticed by a very rigorous campaign through the county to join village polytechnics *kama masomo ya ngumbaru* so that they can get those certificates so that we do not just leave it to the young people who are leaving school now but even those who are already artisans and very good ones but they do not have the certificates.

Think about it; thank you. We have also Hon. Francis Kalumu the request I received? Hon. Francis Kalumu, his name was on the list that was brought but okay. Any member here who wishes? Hon. Kaloki.

**Hon. Kaloki:** Thank you, Madam Speaker. I am standing here to support the vocational training centers Bill. I think it is a very good idea and quite timely as you have just said. We have so many youths who are unemployed, so many youths who completed Form Four, others have been retrenched from some institutions and they have no certificates at all. What I would like to urge the County Government is to look for ways and means of sourcing for funding to support our polytechnics either from within the government or from our international partners or any other partners who are willing to partner with us.

If you go to the Western world you find that polytechnics are the most sought after institutions because they give what we call hands-on experience and especially when it comes to the real expertise of our people say carpenters, masons these are the people who are involved in the real and the actual work. As you have just put it Madam Speaker, we need to sensitize our people; actually that is what I wanted to say. About 10 or 15 years ago polytechnics were associated with failures; if you fail in Class 7 or class 8 you would be told that now that you cannot proceed to high school we will take you to a village polytechnic.

There are no longer village polytechnics. They are vocational training centers where even the Form Four leavers even university graduates say a graduate who has never found a good employment since leaving university they still do a Diploma, a Kenya National Examinations Council Diploma in a polytechnic and be employed as what we call building supervisors and again if you look at for example, the mechanics we have very good qualifications for mechanics who have Form Four certificates acquired through the polytechnics and examination is examined by the Kenya National Examinations Council or what we call National Industrial Training Authority (NITA). These are certificates which are internationally recognized which can be used anywhere in the Republic of Kenya and outside the Republic of Kenya.

Finally, I want to say this; I would want to give an example of where we come from especially Ukambani. You find if you want to do a nice, decent and modern ceiling or a roof, nice and modern roofing Madam Speaker, you have to get people from outside Ukambani like for example the Luo although I am not a tribalist but you hardly get good people within our locality. We must encourage our people; artisans are the most highly paid people. The minimum you can pay an artisan is Ksh. 1,000 per day to about Ksh. 1500 per day.

Even graduate teachers who are employed by the BOM cannot earn that kind of money. So we need to do a lot of sensitization, we need to talk to our government to seek funding. More and more funding so that they can equip our polytechnics with the modern equipment and whatever it takes to make them compete with international youth polytechnics. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Kaloki. So Hon. Members, on the sensitization, I am giving you a hint that because this is an abnormal situation you need to act abnormally; not normally. So you provide in this law for that concerted sensitization, get a way of making sure that you provide so that the law will say we will have to do this civic education because of 1-2-3 and where is the fund. Those are the things that you may need to think about as you legislate because once the vocational training gets root, then you can go back to normal times but now you need to take some drastic measures though the law. Hon. Kamulu.



**Hon. Kamulu:** Thank you very much, Hon. Speaker. I would start by thanking our Chair because of leading us well in the formation of the Bill which is in this Assembly. My concern right now is the change of the name village polytechnics to vocational training centres. Madam Speaker, you see even when we are addressing the Assembly, we are unable to forget the term village polytechnics.

If you recall, Hon. Mutinda never used the term vocational training centres. Why? I tend to think the reason is because we cannot just change the name; we should change it by doing something different from what is existing right now and the Bill is considering that by starting with the structures; that is the rooms, modern housing so that the people can see this is not the village polytechnic they used to see it is something which is different. We also focus on the facilities; modern equipment in all areas, be it carpentry, be it dressmaking and so on.

Madam Speaker, the training centres should have equipment but if we do not have enough instructors, I do not think we will be having what we are anticipating. We are appealing we have the modern vocational training centres with adequate trainers and qualified because in some of the centres, you can have someone with agriculture oriented skill being the manager and I have an example of that in my ward; Kyamwee Training Centre. The manager is there, he is qualified on agricultural issues yet he is the manager. So, we should have somebody who is oriented with the system.

Madam Speaker, my final concern is the contribution made by the Leader of Majority that we can isolate ourselves when we are legislating, yet we keep ourselves off. Hon. Members, you will notice that most of the vocational training centres have issues of management. If I go there and I am not supposed to I will be a foreigner but if the Bill empowers us to participate in the board in one way or the other we will be doing oversight in the right way when we are inside but not outside.

So, as a committee according to the advice given to us through the Speaker; if that opportunity arises we have to look at that one very keenly because if we are not careful, it will be like the BBI which we are supporting Madam Speaker; although that one is not within the current speech---

**Hon. Speaker:** Now is that on the table? I am told you are going to have a *Kamukunji* tomorrow.

**Hon. Kamulu:** Madam Speaker, I am not saying anything which is---

**Hon. Speaker:** You are giving an example.

**Hon. Kamulu:** It is just an example, I am not opposing or supporting, am just giving an example in relation to what we are doing. We are in the Assembly, for example half of us do not have degrees and BBI is kicking some of us home and we support and we go home. So you see we have to be very keen in looking at these things like the vocational centres; let us not keep ourselves off because our presence in the ward as the MCAs we will be fighting to have a best vocational training centres within our region when we are participating in the same.

We shall be able to identify and get the problems and challenges which are there, and then we pose them in the Assembly so that it can be legislated for the better. So Madam Speaker, that is my contribution; I thank our Chair because he led us very well. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you. The mover of the motion to reply; Hon. Matei

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. First and foremost, I wish to thank our Chair and entire Education Committee for the hours put in this Bill. Secondly, I wish to state that, I have picked the various issues that have been raised that should also be looked into before the Bill comes again to the House and we will ensure that we incorporate civic education, we will look at the legal wording as Madam Speaker has guided us as 'misconduct' and 'conduct'; we shall also review the naming from village polytechnic which demeans the entire thing of vocational centres.

Finally, as a Member of the committee, I would like to state that currently in the county we have got about 38 polytechnics. They are all in very deplorable state and this is because there was lack of a regulation. The committee on education through the Chair has seen the need to come up with a regulation and we pray that the this regulation is going now to ensure that we don't have rogue investors in the education docket in our county, just providing buildings with no proper regulations. So, Members, I would like to thank you very much for your contributions we have heard you and we thank you. I thank you very much.

**Hon. Speaker:** Thank you, Hon Matei.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

Hon Members, the Bill having passed the Second Reading it turns automatically committed to the Committee of the Whole House and the House Business Committee will do the needful. Because as we agreed we will need to finalize it before you go on recess. Thank you.

**Hon. Speaker:** Thank you. Next order.

THE MACHAKOS COUNTY HEALTH SERVICES BILL 2019 (MACHAKOS COUNTY BILL NO. 4)

**Hon. Speaker:** Hon. Members, on this one I now call upon the Hon. Cosmus Masesi Chair Health Committee.

**Hon. Masesi:** Thank you, Madam Speaker. I would like to do the second reading of the Bill. Pursuant to Standing Order 121(1), I beg to move the motion that the Machakos County Health Services Bill 2019; Machakos County Bill No. 4 of 2019 be now read a second time. I wish to call upon Hon. Angela Munyasya who is the sponsor of the Bill to second.

**Hon. Speaker:** Thank you. Hon. Angela, the promoter of the Bill.

**Hon. (Ms.) Munyasya:** Thank you, Madam Speaker. I stand to second the Bill.

**Hon. Speaker:** Thank you very much. Mr. Chairman.

**Hon. Masesi:** Thank you, Madam Speaker. I am going to do the report of the sectoral committee on education on consideration of the Machakos County Health Services Bill 2019 by the Health and Emergency services Committee.

### *Introduction*

#### *Preface*

Hon. Speaker, Article 185 (1) and (2) of the Constitution of Kenya, 2010 provides that:

- (1) The legislative authority of a county is vested in, and exercised by, its County Assembly.
- (2) A County Assembly may make any laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

Further Section 21(1) of the County Government Act, 2012 stipulates that: A county assembly shall exercise its legislative power through Bills passed by the county assembly and assented to by the governor.

#### *COMMITTEE MANDATE*

Hon. Speaker, the Health and Emergency Committee is established as per Standing Order 190. Under the second schedule that underlines the functions of the Committee to include all matters related to County Health services including in particular county Health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, cemeteries, funeral parlours and crematoria and refuse dumps and solid waste disposal; fire-fighting services and disaster management;

Further Standing Order 190(5)(c) stipulates that the functions of sectorial Committees shall be; to study and review all County Legislation referred to it.

#### *COMMITTEE MEMBERSHIP*

Hon. Speaker, the Health and Emergency Services Committee as currently constituted comprises of the following Honorable Members:

- |                            |                    |
|----------------------------|--------------------|
| 1. Hon. Cosmus Masesi      | - Chairperson      |
| 2. Hon. Pauline Munguti    | - Vice Chairperson |
| 3. Hon. Johana Munyao      | - Member           |
| 4. Hon. Annastaciah Mutuku | "                  |
| 5. Hon. Patrick Kituku     | "                  |
| 6. Hon. Titus Ikusya       | "                  |
| 7. Hon. Jacinta Luka       | "                  |
| 8. Hon. Peter Mutiso       | "                  |
| 9. Hon. Paul Museku        | "                  |
| 10. Hon. Antony Mulu       | "                  |
| 11. Hon. Tariq Mulatya     | "                  |
| 12. Hon. Winfred Mutua     | "                  |
| 13. Hon. Daniel Mbevi      | "                  |

### *CONSIDERATION OF THE MACHAKOS COUNTY HEALTH SERVICES BILL, 2020 INTRODUCTION OF THE BILL*

Hon. Speaker, pursuant to the provision of Standing Order 110(2) a legislative proposal was received from Hon. Angela Munyasya, a Member of this County Assembly with the intention to enact a County Law which establishes County Health services system and provide for the coordination of the provision of the highest attainable standards of health care according to the provisions of Article 43(1)(a) of the Constitution of Kenya, 2010.

Since no committee was in charge of the Legislative proposal, it was referred to the Committee on health and Emergency Services for prepublication scrutiny and comments pursuant to Standing Order 110(3)(b). The legislative proposal having been developed to a Bill was published and first reading done on 24th October, 2019.

Standing Order 120(1) states that a Bill having been read a first time shall stand committed to the relevant Sectorial Committee. It is in line with this provision that the Bill was committed to the Health and Emergency Services Committee.

#### *PUBLIC PARTICIPATION AND SUBMISSIONS OF MEMORANDA*

Hon. Speaker, Article 196(b) of the Constitution that states that a County Assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees. Further, Standing Order 120(3) stipulates that the Sectorial Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committees makes its report to the house.

It is on the basis of the above provisions that the Committee held public participations in all the Sub Counties on 1st September, 2020. The following were the Submissions from members of public;

#### *Machakos Sub-County*

1. The Current setting of the Department of Health is that there are more than 9 directors and hence the need to be specific on the director who shall be the secretary in the Health Services Committee under Clause 4. The members of public proposed that a director general be appointed from amongst the directors in the Department. This Director General shall be the secretary of the Health Services Committee.
2. The appointment of the persons under clauses 4(f) and 9(2)(e) should be appointed by the County Public Service Board and not the CEC, Department of Health.
3. The persons mentioned under clause 4(f) should be residents of the County.
4. Under transitional and savings in clause 36, it should be amended to include that the Current Hospital Boards/Committees shall continue to serve until the proposed Committees/Boards are formed.
5. The frequency of meetings for the Health Services Committee and Facility Committees shall be not less than 3 times in a year.
6. Under Clause 9(2)(e) the five persons should just be of extensive experience and good professional standing and not necessarily from the medical field because such persons may not be available in the locality of dispensaries and health centers.
7. Ambulance services should be included as part of Emergency Treatment under Clause 14.
8. The Authority of utilizing funds in health facilities should be granted to the facility in-charge, with the approval of the facility Committee Clause 31(1).

9. Clause 31(1)(d) and (e) should be deleted as it is the responsibility of the County Public Service Board and is subject to misuse by the facility in charge.

#### *Yatta Sub-County*

1. Include a clause on Community Health Volunteers. In the clause, matters of appointment letters, remuneration, equipment and budget should be provided for.
2. In Clause 7, include a sub-county health services committee comprising of a director, nurses, head of units and nutritionists.
3. Procedure for appointment of Health facility committee is not provided and there is need for it to be included in the regulations for operationalization of this Act.

#### *Mwala Sub-County*

1. Under Clause 4(f), the public proposed that the following people should be part of the Health Services committee:
  - i. A representative of religious leaders (Clergy).
  - ii. A representative of the County Health Volunteers (CHVs).
2. The same proposal on composition should also apply for the membership of Health facility Committees under Clause 9 of the Bill.

The public proposed that the health facility committees be given power to waive. This will ensure that members of the public who cannot afford the user fee charges are able to access services at the facility.

#### *Matungulu Sub-County*

1. Clause 4(f) should be amended to include one person with experience in the field of finance/accounting in the composition of the Health Services Committee.
2. Members of public proposed that there was a need to involve the community in the health facilities by expanding the membership of health facility committees under clause 9 to include:
  - a) One person with experience in any other medical field;
  - b) One person with experience in psychology, anthropology or any other social sciences.

#### *Kathiani Sub-County*

1. The locals proposed the inclusion of Persons with Disability in the health services committee.
2. On Emergency treatment, the locals proposed to have a punishment of imprisonment up to five years to a health care provider who refuses to offer emergency medical treatment to a patient.

#### *Mavoko Sub-County*

1. The public proposes that the Health Services Committee under Clause 4 should not be chaired by the CECM, Department of Health or the Chief Officer, but an independent person competitively appointed by the County Public Service Board.

2. Under Clause 4(f), the public proposed that the following people should be the membership of the Health Services committee;
  - iv. A representative of the business community.
  - v. A representative of religious leaders.
  - vi. A representative of the County Health Volunteers.
  - vii. A representative of Marginalized groups.

#### *Masinga Sub-County*

1. On Clause 4, the public proposed that the membership of the Health Services Committee should include a representative of the marginalized groups and persons from other professionalism like Human resource.
2. Further, the Health Services Committee under clause 4 should be decentralized to Sub County Level since different Sub Counties have different needs.

#### *Kangundo Sub-County*

1. The Bill should provide for the procedure of removal of committee members (Health services Committee and Health facility Committees).
2. The Bill should include a provision to recognize the Community Health Volunteers.

The Committee also received written memoranda from the public and organizations as follows:

1. Health Rights Advocacy Forum Machakos (HERAF) proposed the following:
  - a. The professional qualifications under clause 9(c) should be deleted as it will attract retirees who have the same knowledge as the person in charge of the health facility.
  - b. The procedure of nominating persons under clause 9(3) should be clearly articulated to give the residents being served in a health facility an opportunity to participate in the nomination.
  - c. There is need to include the Community Health Volunteers in the Health facility Committees membership.
  - d. The Bill should provide for an annual or bi annual County Health forum where stakeholders/partners meet to review and enhance networking and collaboration to improve health service delivery.
  - e. Clause 27 on the Machakos County Health Services Fund should be set against a certain denominator for example 25 per cent of annual county allocation
2. A memorandum from the Kenya Union of Clinical Officers proposed the following:
  - a. Sub Committees (clause 7), be deleted and replaced with:
    - (1) There shall be formed a county health management committee made up of the following:
      - a) Directors
      - b) Assistant /Deputy Directors and
      - c) All heads of units.
    - (2) The committee established above shall be involved in the day to day running of

- the department and shall report to the health service committee under clause 4 on all technical matters on health and the health human resource.
- The creation of this committee in the law shall ensure smooth transition because currently we have directors serving and not factored anywhere in the proposed Bill. It will also ensure the technical part of running the department is considered.
- b. Clinical Officers should be included in the composition of the Health services Committee under clause 4(f) since they primarily interact with patients.
  - c. Clinical Officers should be included in the composition of the Health facility Committee under clause 9(2)(e) for the same reason as above.
3. Memorandum from Machakos County Civil Society Network proposed the following:
- a. The Director under Clause 4 should to be the chief officer in charge of public health and community outreach.
  - b. The proposed persons under the membership of the Health Services Committee should be citizens of the county who reside in the county and should be nominated by the proposed professional bodies and then appointed by the CEC of health.
  - c. The memorandum further proposed that the following also be added in the Health Services Committee; NGOs, CSOs, private sector and other non-health professional bodies like LSK, teachers (KNUT/KUPPET) among others.
  - d. On clause 31 they proposed that the levies collected at the health facilities (FIF) to be used locally by the health facility in - charge to fill in gaps which have not been covered under the county health facility allocation. Sub Clause 31(d) and (e) should be deleted because those functions are within the mandate of the County Public Service Board.

#### *PROPOSALS FROM THE CECM, HEALTH AND EMERGENCY SERVICES*

Hon. Speaker, the committee invited the CECM, Department of Health and Emergency Services vide letter reference no. MKSA/PSC/CMM/HES/VOL.2/73 to a meeting held on 27th August, 2020 to present his views on the proposed Bill. The CECM proposed the following;

1. The Health Services Committee established under Clause 4 should be changed to Health and Emergency services Committee to include the aspect of Emergency Services.
2. On the Composition of the Health Services Committee, the secretary of the Committee should be the Chief Officer responsible for matters relating to health and emergency services and not the director because Chief Officers are responsible for the implementation of the Act in the current situation.
3. The Directors responsible for matters relating to health and emergency services Including medical services, public health, Health programs, Nursing, administration and finance, pharmacy and diagnostic, and emergency and rescue services, and Hospitality services should be members of the Health services Committee because they are responsible for day to day running of the Health Services.
4. Further the Health and Emergency Committee Services under Clause 4 shall establish a County Technical Units Heads committee which shall comprise of all directors responsible for health and emergency services, all assistant directors responsible for health and emergency services, and all technical heads of the following units: Reproductive, maternal newborn, child, adolescent health; primary

- health care; health programs; Health information systems, quality assurance, monitoring and evaluation; Rehabilitative services;
5. The Health and Emergency Services committee shall establish sub-county health committees and the committees shall be headed by sub-county medical officer of health. The committees shall consist of technical heads of units.
  6. For all level 4 and 5 Hospitals there should be hospital management board and not health facility Committees. The health facility Committees should be for level 3 and 2 health facilities. The CECM, proposed that the hospital management board shall consist of:
    - a. One person with experience in matters relating to governance, leadership, management or public policy and who shall be the chairperson;
    - b. The hospital chief executive officer/ manager who shall be the secretary
    - c. The hospital medical superintendent, nursing manager, health administrative officer who shall be members of the hospital management boards.
    - d. Four persons who reside in the sub-county in which the hospital is situated and who have extensive experience and good professional standing; one each from the following fields—
      - i. Public health;
      - ii. Medicine.
      - iii. Nursing.
      - iv. Pharmacy.
      - v. Finance, governance, leadership
  7. The four persons above shall be nominated and appointed by the Executive Committee Member. The minimum qualifications of the persons shall be a diploma in the relevant field.

#### *SUBMISSIONS OF OTHER MEMBERS OF THE COUNTY ASSEMBLY*

Hon. Speaker, the Committee also received further proposals from members of this House as follows:

1. The appointment of the members of the Health Services Committee should be done by the County Public Service Board and not CECM, Department of Health because according to the law, the mandate of County Public Appointments is bestowed with the Board.
2. The County Assembly should approve the membership of the four persons stipulated under clause 4(f). This is in line with provisions of section 8(1)(a) of the County Government Act, 2012 which provides that “the county assembly shall— (a) vet and approve nominees for appointment to county public offices as may be provided for in this Act or any other law;
3. On the composition of the Health Services Committee, the CECM and Chief Officers should not be members. The County Public Service Board with the approval of the County Assembly should appoint the Chairperson. The secretary should be a director appointed from the pool of directors in the Health Department by the CPSB and he/she shall be the link to the Department. This way the Health services Committee will work with autonomy and without interference from the Department of Health and Emergency Services.



4. Clause 17(c) should be deleted because it can be used to deny treatment to persons who are mentally challenged.
5. The clause on the minimum distance from public health facilities to set private health facilities should be deleted because it can be used to deny the public crucial services which are not available in public health facilities. Further, such provisions may contravene with the existing laws like the County Planning Act.
6. The membership of the health facilities under clause 9(e) should be amended to include other professions because the facility in-charge are medical personnel.

### *COMMITTEE OBSERVATIONS*

Hon. Speaker, the Health and Emergency Services makes the following observations:

1. The Bill proposes in the Health Services Committee that the Director shall be an Ex Officio member and the secretary of the Committee. In the Current establishment, the Department of Health and Emergency Services has 8 directors hence need to come out clearly on the criteria of identifying the specific director mentioned in the Bill.
2. The following consideration should be made when constituting the health services committee under clause 4(f)
  - a) Include a person with knowledge on matters of governance and finance.
  - b) Include a representative from the marginalized groups.
  - c) Include a person with knowledge in Clinical Services.
  - d) Include a representative from the Clergy.
  - e) Include a representative from NGOs since they partner with the county Government on matters of health.
3. The mentioned persons under clause 4(f) should be residents of the County because only residents of the county can be aware of the challenges facing the health sector in the County.
4. That there is dire need for the Health Services Committee to be autonomous and to work without the interference from any arm of Government.
5. That the CECM proposes that the Secretary of the Health Services Committee to be Chief Officer of the Department of Health and Emergency services and not a director as stipulated in the Bill. The rationale behind this proposal is that the Chief Officer is the accounting officer and will be in charge of implementation of the act.
6. The Hospitals and Health facilities have existing boards and committees respectively and there is need to provide a clause on their transition.
7. The Bill should provide for the procedure of removal of members of the Health Services Committee and Health facilities Committees
8. The membership of the Health facility Committees as provided in clause 9(c) should be reviewed with an intention to remove the medical field professionalism and include other fields because the facility in -charge can offer medical advice.

### *COMMITTEE RECOMMENDATIONS*

Hon. Speaker, based on the above observations, the Committee makes the following recommendations:

1. That the County Health Service Committee be amended to read the County Health Service. The composition of the Service should exclude the CECM, Department of Health. A Chief Executive Officer should alternatively be appointed by the County public service Board and with the approval of the County Assembly pursuant to the provisions of Section 8(1) of the County Government Act, 2012. The exclusion of the CECM from the service is to give the service autonomy in execution of its mandate. The link between the service and the Department should be the Chief Officer who is a member of the service.
2. The functions of the County Health service shall be to advise the Department rather than implementation as previously set out in the Bill. This is to avoid conflict of interest between the Department and the County Health Service.
3. Community Health Service providers such as Community Health Volunteers should be anchored in this act. This will give them a sense of belonging and provide a framework of how they can be engaged by the Department of Health and Emergency Services. This will also provide for avenues of their capacity building and remuneration.
4. That there should be a provision of Hospital Boards for the management of Level 4 and Level 5 Hospitals. This will distinguish them from Dispensaries and Health Centers which will be managed by Dispensary Committees and Health Center Committees respectively.

Appointment of the members of the Hospital Boards, Dispensary Committees and Health Center Committees should be done by County Public Service Board and not the CECM. This is because it is the mandate of the County Public Service Board to do appointments pursuant to section 59(1)(b) of the County Government Act, 2012. These appointments should be approved by the County Assembly.

#### *CONCLUSION AND ACKNOWLEDGEMENT*

Hon. Speaker, allow me to thank members of the public and various organizations who took time to participate in the consultations and whose views were taken into account in this report. The Health and Emergency Services Committee is also grateful to the Department of Health and Emergency Services and all the Members of the County Assembly who participated in the process for their hard work and dedication in making sure that this Committee plays its rightful role in legislation.

Hon. Speaker, the Committee is grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the continuous and relentless support received as it discharged its mandate. It is therefore my duty, on behalf of the Health and Emergency Services Committee, to table this report and recommend it to this House for consideration and adoption. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you very much Hon. Masesi.

*(Question proposed)*

Hon. Members, this is a point when we would start debate on the Bill but we also look at the time, we will carry on with the debate in the afternoon. Just come prepared for that particular aspect.

### ADJOURNMENT

**Hon. Speaker:** So at this point Hon. Members, the sitting will adjourn, it is going to resume on the 1st day of December, 2020 at 2.30 p.m. Thank you.

The House rose at 12.03 p.m.