

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Tuesday, 1st December, 2020

The House met at 2.41 p.m.

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

PRAYERS

Hon. Deputy Speaker: Serjeant at Arms, I think it will be necessary to ring the bell.

(Quorum Bell rung)

Serjeant at Arms, you can stop ringing the bell. We can start now. Good afternoon Members; we can start our afternoon sitting and I will ask the Clerk to start with the Order Paper.

COMMUNICATIONS FROM THE CHAIR
AUDITOR GENERAL REPORTS

Hon. Speaker: Hon. Members, I have three communications to make under this one. The first one is the report of the Auditor General, reports of the Auditor General Members. The Assembly received the following reports of the Auditor General on 27th of November, 2020 in accordance with Article 229(7) of the Constitution. The first one is the report of the Auditor General for the County Executive of Machakos for the year ended 30th June, 2019 and report of the Auditor General on the County Assembly of Machakos for the year ended 30th June, 2019.

Hon. Members, the reports are hereby committed to the committee on Public Accounts and Investments and the committee is required to interrogate the two reports and file reports of its findings in this House within three months as per the conditions of Article 229(8) of the constitution.

**THE COUNTY GOVERNMENT GENERAL REGULATIONS 2020 AND THE
INTERGOVERNMENTAL RELATIONS GENERAL REGULATIONS 2020**

The second matter, Hon. Members is still related it is about number two, a communication on account of devolution department in the ministry of devolution and this is on some draft regulations which are required. Hon. Members on 13th of October 2020 officers from the Assembly held a meeting with a team of officers from the department of devolution in the National Government, ministry of devolution. In that meeting, the devolution department took the Assembly officers through two draft regulations namely:

1. The County Government General Regulations 2020 and;
2. The Intergovernmental Relations General Regulations 2020

Hon. Members, it was proposed and strongly felt during that meeting that the Members of the Assembly need to be taken through the two pieces of legislation because they affect your operations in one way or another. The feeling is that these regulations be brought to the attention of the Members through the Assembly committees that are charged with matters to do with regulations and so this is supposed to be through the committee of Justice and Legal Affairs and the committee on Devolution and the Committee on Delegated Legislation.

So, in that regard Hon. Members, the two sets of regulations are committed to a joint committee consisting of the stated committees. There is still another communication Hon. Members that I had prepared and Dominic where is that communication? Hon. Members, sorry for that; I am tracing the other communication in the computer.

SENATE ON AUDIT REPORTS BY THE AUDITOR GENERAL

The other communication Hon. Members, still relates to the Senate on audit reports by the Auditor General and Hon. Members this is to notify you that on a letter that is dated 23rd November, 2020 the Senate Public Accounts Committee invited the chairperson and secretary of the County Assembly Service Board of your Assembly to appear before them on 29th of November, 2020, that is yesterday, and this is on account of Auditor General reports for the Assembly for the financial years 2013/2014, 2014/2015, 2015/2016, 2016/2017 and 2017/2018.

Hon. Members, the Senate had last year vide public advertisement in the daily newspapers of 17th of June, 2020 invited all chairpersons and secretaries of all the 47 County Assembly Service Board for interviews on what was stated as management of County Assemblies affairs and the same was stated to be to strengthen County Assemblies for oversight purposes.

So Hon. Members, on that basis we appeared before the PAIC of the Senate yesterday and we answered the questions that they needed to hear from us. The office of the Auditor General was also represented and there were also members from other institutions. What Hon. Members, I want to draw your attention to is that each County Assembly has a Public Accounts and Investments Committee and each County Assembly is constitutionally mandated to do oversight of the County Executive.

In last year, there was a meeting that we had with the Senate and that was the Chairs of the Public Accounts and Investments Committee, the chair of Budget and the chair of Finance. The feeling from the side of the Senate was that the County Assemblies are not doing their work effectively on oversight over the executive and it is the same that informed the decision that the Senate is now going to start doing oversight on you as County Assembly Members.

So it is upon you Hon. Members you have been given the powers to do the oversight effectively but if you appear to be failing in the eyes of others including the public then unfortunately the powers are going to be eaten into by other institutions and eventually even the public might decide to use the recall process against you.

So this is a wakeup call Members; where we have the Public Accounts and Investments Committee please do your work because otherwise, even the chairperson of the Public Accounts and Investments Committee yesterday was kept on repeating that if we were doing our work we would not be called before them. It is upon you Members to jealously guard your mandate just like the National Assembly guards its mandate; it never allows any other institution to eat into their mandate.

If you do not do it, it is unfortunate even the powers the constitution has given you will have to be eaten away and you will only have yourselves to blame. So that is the lesson we learnt yesterday in that appearance. Other Assemblies continue to appear after us. So, Hon. Members, I am hoping that you are taking note to exercise our mandate seriously when we have it. Thank you very much.

BILL

Second Reading

THE MACHAKOS COUNTY HEALTH SERVICES BILL 2019 (MACHAKOS COUNTY BILL NO. 4)
(The Chairperson, Health and Emergency Services Committee on 01.12.2020)
(Resumption of Debate interrupted on 01.12.2020)

Hon. Speaker: Hon. Members, remember we had the reading of the report in the morning by Hon. Chair of the relevant committee and I proposed the question so now we are going to have the debate and I would really want to appreciate the promoter of the Bill; it is not something that is easy and it is always a joy when a promoter of a Bill sees it moving towards the logical conclusion.

So, I am going to ask Hon. Angela to open this for us and give us some highlights of that Bill as a way of reminding the Members because you remember we had the reading in the morning. Hon. Angela; highlights of the Bill and also as a way of your contribution.

Hon. (Ms.) Munyasya: Thank you, Madam Speaker. I would like to appreciate the support I have gotten from the Health Committee headed by the Chair Hon. Masesi, the Clerk Assistants and the legal counsel who really played a big part in making sure that this Bill comes to the stage we are at.

Secondly, I would also like to appreciate all the MCAs for any input they might have put in to this Bill especially during the public participation; they were very supportive, they turned out in large numbers and they were able to put in whatever they thought was necessary to ensure that the Bill comes to fruition.

Madam Speaker, I am delighted to note that most of what we have participated in negotiating in this Bill has been very well received mostly by the public and the Executive who also had their turn in contributing to the Bill. Many of the matters that we have touched just to mention one about the CHVs, was very well-debated and we came to a consensus that we need to look into the affairs of the CHVs.

Another item that we touched largely on is about the distance where public and private hospitals would be. It was argued and to our satisfaction that it is not the distance between the public and private hospitals that will make us not deliver or will make the items in the public hospitals to be stolen and sold to the private ones. The distance has nothing to do with the impunity or somebody that steal medication from a public hospital to take it to private hospitals; you could steal take medication in Machakos County and take it all the way to Mombasa. So it is not the distance that will make you steal or not steal.

So, we debated and agreed that what needs to be put in place are measures to ensure that the checks and balances are in place and nothing is taken from the public hospitals. Again the other argument came in that, the public hospitals may have inadequate facilities that could be available in a private hospital and sending a patient to a very distant hospital will be unfair just to ensure that there is a distance between a public and private hospital.

So, I am sure that the Members will debate effectively and at the end we will have a Bill that will effectively govern the medical facilities in Machakos County making it the best in the republic. Thank you, Madam Speaker.

Hon. Speaker: Thank you, very much Hon. Angela for the contribution. Any Member who wishes to contribute? Hon. King'ori, what does the Bill say about the people of Muthwani? Are they happy?

Hon. King'ori: It is not about the people of Muthwani, Madam Speaker, but the people of Machakos.

Hon. Speaker: I said Muthwani in particular for a good reason because you are representing them here. So go ahead and tell us, what you think of Muthwani; do we have the level IV or level III?

Hon. King'ori: Do we do not have any hospital at the stage of Level III or Level II, we only have Katani dispensaries and Kwakalusya, we do not have any other facility that is working at the moment but we are getting services from other corners of Machakos like Kangundo level IV; that is where my people visit most.

What we need and according to what I understand from the Bill is that we need to look upon the people of Machakos. What we are expected to do is to give better ways of doing business in Machakos than any other area in Kenya because Machakos is the best place to have good results because we have somewhere to compare ourselves with like Nairobi. Like the way NMS have built 24 hospitals in Nairobi; Machakos we should have all those hospitals which were built by the Governor completed and operationalized.

So, it is good for us to think of how those hospitals will be opened so that people can get services in our county and that Bill will help a lot when those hospitals are opened and for those CHVs will also enjoy working in Machakos because they will have something to take to their children. So, Madam Speaker I support the Bill. Thank you.

Hon. Speaker: Thank you very much. Hon Museku the Bill on Health and emergency services.

Hon. Museku: Thank you, Madam Speaker, for giving me this chance to contribute on this Bill. Again I would like to thank the Chair of health and the committee for the tireless efforts they have put in ensuring that they give us this Bill before the House. Madam Speaker, looking at the Bill and the issues it creates to resolve in as far as matters health are concerned, Madam Speaker, it is going to address key issues which have been affecting our health sector.

There is the issue of management of funds, especially on the Level IVs and below, whereby the creation of the fund which will be able to ensure that there is revolving funds happening in the health facilities such that health facilities do not need to call the Level V or all the way to head office to be able to replenish some of the small items they require to provide services at the Level IV and III facility levels. Madam Speaker, the creation of that fund is going to go a long way in ensuring the independence of those facilities and ensure that decision-making

on matters regarding to health which needs to be made there and then do not need to be unnecessarily delayed as a matter of because there are no funds.

Madam Speaker, you will realize that most of the funds which have been being collected in these facilities are all banked into the CRF and for them at times they have been treated as if they were revenue instead of being ploughed back to the facilities, they need to be again requisitioned afresh for them to go back there. So this Bill is going to be able to cater for that.

Madam Speaker, on the issue of the CHVs as the previous Hon. Member have said, is critical for us to be able to ensure that our community health volunteers are recognized in law and in such, this Bill seeks to ensure that they are recognized and they are rewarded, they are given recognition and the remuneration they deserve. Madam Speaker, these people have done a tremendous job especial during this time of the coronavirus of ensuring that our people are first of all given civic education on coronavirus and also assisting out people to get the health facilities.

Madam Speaker, the Bill seeks to recognize them and I do believe if we have this Bill handling those two issues, being able to create the fund to ensure that the hospitals can make decisions on their level and catering for the CHVs, then we will be going along way in ensuring that the health of our people is taken care off. Also the structure they are putting in place, the various boards which are being put in place in the management of our health both at the Level V, IV and all the way going down, those structures are going to assist this County in ensuring that our health facilities are managed in a structured way and in a much more organized and efficient way to ensure optimal service is given top our people in matters health.

Madam Speaker, without health, health is a number one resource which a county can have because health comes first anything else comes last and therefore I thank the chair and his committee of which I am a member of for the good work which they have done in bringing this Bill before the House. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Museku. Hon. Jeremiah Munguti in the extended sitting.

Hon. Munguti: Thank you, Madam Speaker. First I would like to applaud the chairman who has brought and read this Bill. Madam Speaker, what I wanted to say on the Bill is that it was well-articulated and for our people to get those services we need to have the following; first is to recognize the CHVs who have been proposed by many members. It is very open that since we had the inception of the CHVs, the services to *wananchi* have been so good.

Also on this issue of health, we need to have our facilities well-equipped and to equip them, we need to have directors in the proposed Bill and also the clergy to be represented. Also, I have noted that we have no *ex-officio* in the Bill which should be included so that incase of matters concerning administration for arbitration then the administration can be part of it.

The other issue is about the emergency services; we have a problem in our department of health because many times we have been called as leaders so that we can fuel they ambulances and therefore it will be prudent that the department of emergency services can be included as a director in the committee and this will enhance the good facilitation of our healthcare. Therefore I support the Bill and these are my submissions. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Jeremiah. Hon. Masesi, just thinking aloud; I know there were emergency regulations that came and they rather got a drawback because of this Bill. What are you thinking of doing and because we are hoping that this Bill is going to be made law even before you go for recess? What plans have you; was it *Mheshimiwa* King'ori and *Mheshimiwa Masesi* on the emergency regulations. What has happened? I mentioned them sorry *waheshimiwa* because *Mheshimiwa* Jeremiah mentioned the issue of emergency services that put a lot of pressure on the members here because if the ambulance is not working, then the next person who is thought of is you that you need to fuel it and the pressure has been felt for a while. *Mheshimiwa* King'ori just a moment we hear what the chair has to say.

Hon. Masesi: Thank you, Madam Speaker. Madam Speaker, you know this Bill was first scheduled for public participation even before March when the pandemic struck us and we really have come from far, and again there is a time the *Waziri* called us on issues to do with regulations so as to enable the department to be able to make sure that people or residents of Machakos follow the laid down guidelines.

Madam Speaker what the department said what the department said is that, they are making sure that we will have enough ambulances and remember there was a time I did a statement on having special ambulances for cases of COVID-19 which the department is yet to actualize and what I would like to assure the House is that we will do a follow up and get a quick response. Although every now and then we can see the Governors are still saying that they were not been given development money for the last three months so it is a big challenge in terms of when the department says that they do not have funds remember we cannot do much but I am hoping that soon we will get money and as a committee we can always assure the House that we will keep the department on toes to make sure that all the issues raised in this House and passed are implemented to the letter.

Otherwise, we still had an issue during the regulations because the legal team advised us that we do not have an Act or a Bill in place which we can anchor the regulations so I want to believe once the Bill is passed then the committee will be allowed to move very fast and make sure that we have the regulations in place.

Hon. Speaker: That is well-put. Hon. King'ori, has *Mheshimiwa* Masesi answered?

Hon. King'ori: I just want to say that we have to differentiate between the work of the hospitals and emergencies; those are two different things so the health department must have its own emergency when doing work so I do not see any conflict at all. Thank you.

Hon. Speaker: What Hon. King'ori is saying is that emergencies need not have a medical implication but more or almost every other emergency, if it is fire you will need hospitals, if it terrorists and God forbid, you will need hospitals. So, it is almost everything to do with health and life which means that the regulations can somehow still be anchored in this Act in a very properly-crafted manner. Do we have any other Member? The mover of the Motion, Hon. Masesi, please reply.

Hon. Masesi: Thank you, once again Madam Speaker. First and foremost, allow me to appreciate the mover of the Motion, the Bill is very key to this County Government of Machakos. If you look at the objectives of the Bill, you will see that we have very key points because you have heard Hon. King'ori saying that, all our people have to travel all the way from Muthwani to Kangundo and the Bill is addressing that because there must be access to health care within the sub-locations, villages and there must be drugs because when someone visits the hospital the end result is getting drugs not just getting the services of being told that you are sick of this or that and at the end of the day when you go to the laboratories, the pharmacies you find there is nothing.

Madam Speaker, there is full realization of the highest attainable standards of health as assured by the Constitution and when we had invited the Executive, the big challenge which were there were the functions of the service. Remember there will be formation of County Health Service where we omitted the committee just to do away with a lot committees within the County so we agreed that let it be a service which will govern the whole County and we agreed that in our new recommendations, the bigger part of the service will be to advise the department not to implement or make policies just to make sure that there is no conflict of interest and again we have said that let us have an independent Chairperson and exclude the CECM just to give the service some autonomy in execution of its mandate.

Madam Speaker, again, we have changed the word, Community Health Volunteers to Community Health Service Providers just to do away with the word volunteers because it is making these people suffer a lot because the terms of employment we are told that they are volunteers. Basically we are being told that it is not a must they get paid anything but if we call them Health Services Providers, there will be some assurance of getting paid at the end of the month and at this point I would like to request the budget committee, through you, to make sure that at least at this month end, the amount which we budgeted for this CHVs; let them be paid.

We have Ksh. 84 million in place for the CHVs, they have done 20 months without pay so how I wish this House could do the best to have these CHVs get what belongs to them at the end of the day and I wish from now henceforth, at least we had agreed that let some money be put aside to make sure that at the end of the month they are getting something then in June next year we will budget the difference.

Otherwise, Madam Speaker, I am very happy, today we are doing the second reading and the third reading will be coming very soon and have the Bill implemented. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Masesi

(Question put and agreed to)

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

(Applause)

ADJOURNMENT

Hon. Speaker: Thank you. So, Hon. Members the Bill stands committed to the committee of the Whole House and it is at this point that we will adjourn our sitting this afternoon and we shall resume on 8th of December, 2020 at 10.00 a.m.

The House rose at 3.20 p.m.