

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Tuesday, 1<sup>st</sup> February, 2022**

The House met at 10.34 a.m.

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

**PRAYERS**

**PAPER LAID**

**REPORT ON REVENUE ENHANCEMENT AND MONITORING EXERCISE**

**Hon. Speaker:** Hon. Members, under this order we have one business by Hon. Stephen Mwanthi or anybody who will hold his brief. I notice he is not here at the moment. Hon. Ndawa Proceed.

**Hon. Ndawa:** Thank you, Hon. Speaker. I wish to lay on the Table of the Assembly, today, Tuesday, the 1<sup>st</sup> day of February, 2022; the Report of Finance and Revenue Collection Committee on Revenue Enhancement and Monitoring Exercise. Thank you, Madam Speaker.

**Hon. Speaker:** Is it signed Hon. Ndawa?

**Hon. Ndawa:** Yes.

**Hon. Speaker:** Thank you.

**NOTICE OF MOTION**

**REPORT ON REVENUE ENHANCEMENT AND MONITORING EXERCISE**

**Hon. Speaker:** Hon. Members, under this order we have another business yet by Hon. Stephen Mwanthi and going by what has just happened Hon. Ndawa still holds the brief?

**Hon. Ndawa:** Thank you, Madam Speaker. I hold brief for the chairman finance and this is notice of motion.

Hon. Speaker, that aware that Article 185(3) of the Constitution of Kenya provides that a County Assembly, while respecting the principles of separation of powers, may exercise oversight over the County Executive Committee and any other County Executive organ;

Further aware that Standing Order 190(5) provides functions of a sectoral committee to include among others studying, assessing and analyzing the relative success of the Departments as measured by results obtained as compared with the stated objectives and making reports and recommendations as often as possible including recommendation of proposed legislation;

Noting that the Finance and Revenue Collection Committee undertook a fact-finding mission through site visits to establish the extent of implementation of the Machakos County Finance Act 2020 in an exercise dubbed revenue enhancement and monitoring;

Hon. Speaker, I wish to give notice of motion that this Hon. House discusses and approves the Report of Finance and Revenue Collection Committee on Revenue Enhancement and Monitoring Exercise.

Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Ndawa. Are we on the HANSARD now that power seems to have gone off? It is just the lighting! Next order.

### STATEMENT

BUSINESS FOR THE HOUSE FROM 1ST TO 2ND FEBRUARY, 2022

**Hon. Speaker:** Hon. Members, under this order we have one business by Hon. Mark Muendo Majority Leader. I note he is not here. Hon. Minority Leader -please proceed and prosecute the business.

**Hon. Kamitu:** Thank you, Hon. Speaker. Hon. Speaker, the House Business Committee met today, Tuesday, 1<sup>st</sup> February, 2022 to prioritize---

**Hon. Speaker:** What time did it meet?

**Hon. Kamitu:** At 8.30 in the morning.

**Hon. Speaker:** Thank you. Hon. Speaker, the House Business Committee met today, Tuesday, 1<sup>st</sup> February, 2022 to prioritize business for the House pursuant to the provisions of the Standing Order 151(5). The Committee balloted business as follows:

Tuesday, 1<sup>st</sup> February, 2022

*Morning at 10.00 a.m.*

The Machakos County Climate Change (Amendment) Bill, 2021; Second Reading by Hon. Robert Kisini, Chairperson, Environment, Energy, Lands and Natural Resources. Continuation debate interrupted on Wednesday, 8<sup>th</sup> December, 2021 at 2.30 p.m.

*Afternoon at 2.30 p.m.*

Report of Finance and Revenue Collection Committee on Revenue Enhancement and Monitoring Exercise by Hon. Stephen Mwanthi, Chairperson, Finance and Revenue Collection Committee.

Wednesday, 2<sup>nd</sup> February, 2022

*Morning at 10.00 a.m.*

The Machakos County Climate Change (Amendment) Bill, 2021; Committee of the Whole House by Hon. Robert Kisini, Chairperson, Environment, Energy, Lands and Natural Resources.

The Machakos County Climate Change (Amendment) Bill, 2021; Third Reading by Hon. Robert Kisini, Chairperson, Environment, Energy, Lands and Natural Resources.

*Afternoon at 2.30 p.m.*

Report of Finance and Revenue Collection Committee on Revenue Enhancement and Monitoring Exercise by Hon. Stephen Mwanthi, Chairperson, Finance and Revenue Collection Committee. Continuation of Debate.

Thank you, Madam Speaker.

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

### **BILL**

*(Second Reading)*

THE MACHAKOS COUNTY CLIMATE CHANGE (AMENDMENT) BILL OF 2021, KENYA  
GAZETTE SUPPLEMENT NO. 14, MACHAKOS COUNTY BILLS NO. 6.

*(The Chairperson, Environment, Lands, Energy and Natural  
Resources on 08.12.2021 Afternoon sitting)*

*(Resumption of Debate interrupted on 08.12.2021 Afternoon sitting)*

**Hon. Speaker:** Hon. Members, you recall that this is a matter that of debated on the 8th of December 2021 and it was interrupted just to suit the business of the House planning and Members debated the motion or the bill at length. You recall that Hon. Christine Koki was in the lead of the process so I just call upon Hon. Christine Koki to very briefly just remind the Members on the objects of the Bill and then we shall carry on from there. Hon. Christine Koki.

**Hon. (Ms.) C. Koki:** Thank you, Hon. Speaker. I am standing in for Hon. Kisini who is the Chairperson of this committee. Hon. Speaker, this report was on the floor of this House on 8th December, 2021 and debate had been completed. However, Hon. Brian Kisila had proposed the following amendments. The chairperson of the ward planning committee should be a Degree holder rather than a Diploma holder. Further Hon. Thomas Mutinda also proposed the following amendments: that the tenure of office of the Fund Administrator should be six years and shall be eligible for appointment for one more term of six years. The committee proposed that these amendments be considered in the committee of the whole House. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Christine----

**Hon. Ndawa:** Thank you, Madam Speaker. On the proposed amendments by the Hon. Members, and more so by Hon. Brian Kisila, we have committees that are within the ward, and if

we say that the chairperson of that ward committee must be a graduate, that means if we don't have anyone with a Degree within the ward we may not have the chairperson. So, Madam Speaker, I am trying to oppose that amendment and request that we retain the Diploma; we have somebody with Diploma to chair the committee, otherwise we may end up giving somebody because he is the only person who has the Degree in the ward and that particular person has got no financial sanity so we may end up losing our resources. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Ndawa, do we have only one or even ten people with degrees in the wards. *Watu wamesoma* but it is okay we hear you---

**Hon. Ndawa:** Just to add on that, Madam Speaker. I am just taking an example of the other committees that we have in the ward, like the primary schools we have boards, those people who can project are very busy they don't have time to be going to schools all the time, but people who are not busy who are free are the ones who are appointed as committee members of that particular school.

**Hon. Speaker:** Does the Bill put it as a minimum qualification or is it just straight it must be a Degree?

**Hon. Ndawa:** Originally, the proposal was a Diploma, so the member is seeking to change but I am opposing that.

**Hon. Speaker:** Okay. Hon. Kieti.

**Hon. Kieti:** Thank you, Madam Speaker. I want to concur with my brother Hon. Ndawa and also the observations of the committee on the chairman of the ward committee. At the committee level we discussed at length about who should be elected to chair that ward committee and we observed that while we are appreciating the importance of education and acknowledging that we have so many people who are learned in our wards, we appreciated the importance of education at that level. But we felt that with a Diploma as a minimum qualification for the Chair, it is not a raw deal on that position at the ward level.

Otherwise, Members of the committee felt that with a person with a Diploma we may not miss such a person in that ward and you may find people with Degrees who are not willing to serve at that stage at the ward level because we may not have an allowance that may attract a Degree holder at that level. That is why we felt that the person with a Diploma can work satisfactory at the ward level.

Otherwise, the other recommendation for the Fund Administrator, six years, I think that is a welcome idea because he will go along with the term of the MCA; that is the MCA serves for five years, so for a Fund Manager going for six years, I think there will be a good takeover with the next incoming MCA. Thank you, Madam Speaker.

**Hon. Speaker:** What do you take of the request for extension eligibility? Hon. Mutinda proposed six years with eligibility for an extension like for being given another six years. 12 years with one person on that seat is too long.

**Hon. Kieti:** Thank you. We cannot measure if someone is serving well or who is giving services that we need let us not look at the 12 years; let us look at the service the person is giving to our people.

**Hon. Speaker:** If you look at the Constitution, just to guide you on that issue; when the constitution puts six-year terms it is usually without eligibility of extension because six years is taken to be long enough. We want fresh blood especially in these issues but if you put like five-year term, perhaps you could provide for eligibility for extension and even then there is a feeling that then the person gets another five years it is little too long. You might stick with one character for too long as not to allow change or even forward progress. But the proposer of the amendment is here we are not putting it down before we hear him. Hon. Minority leader, if you can allow Hon. Mutinda to address the issue.

**Hon. Mutinda:** Thank you, Hon Speaker. Thank you for this opportunity and my issue on amendments were two issues. One was the term of office for the officer, and in my thinking, I knew when you talk of re-appointment, then someone is likely to put more effort so that they can fight for another one more term. So, I had proposed the six years ideally not to match the five years of the elected leaders, so whichever way if we take it the not even the six years or the four years, it will be good but we retain that re-appointment if someone serves well because if someone is given the opportunity to serve and he or she knows that its five years of six years without more time----

**Hon. Speaker:** What Section of this are you talking about?

**Hon. Mutinda:** It is the term of office. Actually security of tenure and also addressed down there, there is the security of tenure where I had also requested and tried to move an amendment that the person or the officer will be employed through the County Public Service Board and also approved by the County Assembly and also through the exit, the County Assembly should be consulted so that we may have the security of tenure for that office because the fund might bring a problem as we work. You will find that the fund is there but it is like the Assembly has no control over those funds if the officer is at the mercy of the Executive.

**Hon. Speaker:** You know when you provide for security on tenure, you must provide the grounds upon which that person can be removed from office. Now what that means is that this person has the ability even to go to court and stay in that office on the orders of a court so I am just guiding you especially on this period of six years and then extension. Supposing you extend it and then on the seventh year the person is not behaving well? What do you do? You start doing cases with them in court.

**Hon. Mutinda:** Madam Speaker, down there, there is the term in which the officer can be removed down there in the amendments---

**Hon. Speaker:** That is why I am saying that if there are grounds which you have provided you just need to rethink the issue of extension for another term.

**Hon. Mutinda:** On the extension, that one we can change

**Hon. Speaker:** If you give them security of tenure, at least they can work for six years and six years is a very long time. They will have done what they should do and it was wise thinking that their five years for the MCA and then one year at least for whatever change so that was good thinking because there is continuity in that office under the leadership of the current MCA then they exit and then that person finishes six years.

The only thing is that when you are providing for eligibility and somebody having been in that office they have a possibility of even going back to the office on the basis of that they have institutional memory then now you want to remove the person they have security of tenure you have to go all the way to the court and they can get court stay orders they are in that office and this is a very critical fund.

**Hon. Mutinda:** We can change whether we can maybe take it for one term.

**Hon. Speaker:** Just think about that because it is your proposal.

**Hon. Mutinda:** Thank you very much, Madam Speaker

**Hon. Speaker:** Hon. Kamitu.

**Hon Kamitu:** Thank you very much, Madam Speaker. In regard to the Fund Administrator, I was also on the guidance that you have given us because normally for six years somebody to serve in an office if he is an effective administrator, he would have been seen to have impacted his knowledge, his experience in those six years and as the guidance you have given us Madam Speaker, it is very true when we extend another six years, it becomes a monopoly and that person may also slumber and because he knows he will be there for the next six years he may start a slow working atmosphere so my request and my humble appeal to Hon. Members is that the first six years tenure of office are more than enough.

For the extension, Madam Speaker, I am not for it and through practices and through experience, the first six years will be very effective. Any extension of other six years that is monopoly those are my feelings, Madam Speaker. Otherwise, for the other one, the order of the Ward Committee a Diploma would be the minimum because also practically it is also not hindering anybody with a Degree but it should be a minimum of anyone with a Diploma course. If we happen to get a good person with a Degree then there is no objection.

Otherwise I stand to support minimum in regard to what committee Chair over Diploma then for the extension we should not have an extension for the Fund Administrator. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Minority Leader. Hon. Musyimi

**Hon. Musyimi:** Thank you, Hon. Speaker. My opinion is in the case of who to own the office with a Degree or a Diploma, I propose one with a minimum of a Diploma and for the tenure, six years is a very long time and maybe in a case where one will not be either be serving the people well that term, it will be a mess. So I propose a term of three years which might be given a term of a renewal of another three years so that it totals six years when it has already been renewed . Thank you, Madam Speaker.

**Hon. Speaker:** Alright. That is another line of thinking. Hon. Mutiso.

**Hon. Mutiso:** Thank you, Madam Speaker. I think on the chairmanship, I have a different opinion and I say that if we can have a person with a Degree, it will be better for the good services and good leadership and also we need someone who can offer or have good skills. For example, Madam Speaker, you know that in different areas, when advertisements are done, you can see in the advertisement we need a person with a such and such Degree or relevant Degree.

So we should not lower the qualification because it will be a problem also and I know that Kenyans are learned. Even in Machakos people are learned and if we can offer a chairman or membership of a person with a Degree it would be better for this County. So Madam Speaker, I support we consider, or this Hon. Members consider a person with a degree. Thank you, Hon. Speaker.

**Hon. Ndawa:** Point on information.

**Hon. Speaker:** He has finished Hon. Ndawa. Now I will leave it to the Members. Hon. Mitaa.

**Hon. Mitaa:** Thank you Hon. Speaker. Hon. Speaker, this issue was deliberated in our last sitting though majority were for stay of how it was---

**Hon. Speaker:** How was it? Was it a Degree?

**Hon. Mitaa:** It was Diploma, Hon. Speaker, but I have noticed that there is a way they have changed because it was very specific in terms of specialty, it was trying to someone to someone who has knowledge on matters related to environment. From what I have heard, Hon. Kisila or else the proposal is majoring on Degree without specifications if I got it right and Hon. Speaker, I want to agree that in every village we cannot miss a Degree holder. Where we will find it hard to achieve is when we say a Degree holder specializing on matters related on environment. That would be very tricky.

**Hon. Speaker:** It will be limiting?

**Hon. Mitaa:** It will be very limiting, Madam Speaker, because you know people are doing matters on environment are very few but a Degree is achievable. So Hon. Speaker---

**Hon. Ndawa:** Point on information.

**Hon. Speaker:** Point of information from Hon. Ndawa

**Hon. Ndawa:** Thank you, Madam Speaker. I want to inform my Hon. Member from Kangundo Central that the committees have already been set. We have committees and they have already been advertised and when the committees were being formed that requirement was not there so if we change it means now we will go back to start forming the committees again. So, I just want to inform you that.

**Hon. Speaker:** Hon. Mitaa.

**Hon. Mitaa:** Hon. Speaker I want to tell Hon. Ndawa, I want also to inform him that this Assembly is very superior. Personally, I was not consulted when those committees were being formed, I just heard from residents there is formation of Environment Committees in the Ward and my input as a leader is very important and it cannot be assumed. So even if there are committees, this House has the right, has the powers to come up with the right committees because those committees the way they were formed were to satisfy a certain element somewhere so that they would control them, so that they would manipulate them in terms of how they are operating.

Hon. Speaker, as we agreed this is the time to get it right so Hon. Ndawa, I would not want, I would not want to think of a Committee which is somewhere because that would mean whatever we are doing here is nothing and irrelevant. In fact, now it is like he is telling us whatever we are doing is irrelevant; that is why we are amending this law Hon. Speaker. If there are some Committees which were formed, they will have to be formed again and they will have to involve all leaders because Hon. Mutinda is even talking about the term which involves elected leaders. Why is he invoking that term? Because we have to operate together in that Committee as elected leaders. So, if there are Committees that were formed and have hiccups here and there, they will have to amend so that the Committees are properly constituted as per our expectations, Hon. Speaker.

Going back to the issue of qualification, I believe every village there is a Degree holder and that should not be an issue to be discussed here.

Secondly, when it comes to Hon. Mutinda's amendment, it is a good idea and I believe six years are enough and if someone was to perform, that is enough time for someone to perform. Everyday better leaders are coming up and we cannot tie that Mitaa is good and there will never be another better person than him. So, Hon. Mutinda will have that good leader and after his/her term, another better leader will come and by doing so we will be having fresh minds, fresh ideas, new ways of doing things.

Therefore, Hon. Speaker, I will request we stick to six years because it has taken care of the transition; five years for the elected person, one year for the incoming person in case there is change. Let us allow fresh ideas to come in terms of doing things; so six years to me is okay Hon. Speaker. Thank you.

**Hon. Speaker:** Thank you, Hon. Mitaa. Hon. Mueni.

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. Mine is to say that as an Assembly we have to think of making laws but not our friends in the village with Diplomas or not. Let us pass with a Degree because there will come another Assembly which will be thinking that in this Assembly there where Members who had brains. Children are studying and we have children in the villages with degrees even if they are not our children. Others are in Nairobi with no jobs and are coming back to the villages to look for jobs.

Thank you Madam Speaker I have finished I do not know what Mheshimiwa is informing me and I do not want to be informed.



**Hon. Speaker:** Mheshimiwa Mueni, I was not even going to allow the information so it is okay because you were finishing. Hon. Hellen Ndeti.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. I agree with Mheshimiwa Mitaa that the selection of ward committees, MCAs should be involved in order to avoid conflicts and they will be playing oversight role. It is also good to know the composition of that committee; let them have some input and that will make work flow faster.

**Hon. Speaker:** Just to make a comment, Hon. Members, on this legislation. I have had a lot of interest on environmental matters and it is high time we put every issue of nature that is put in our hands to manage very seriously and we avoid these selfish interests. If you look at the climate change issue that is going to be addressed under this Fund is a matter of global importance and the money we are talking about is going to come from the international community. Take someone who has a Diploma in the village and then you are telling them of Conference of Parties (COP26). The other day the President and a Kenyan delegation and the world was in Glasgow; they were talking about climate change and that is what COP stands for Conference of parties to the international treaty that has been set aside to address the issues of environment.

So in that COP, that was the 26th in the next year that will be the 27th that is COP27 and they are trying to push developed countries to pay for the damage to environment that they caused while they were doing industrialization.

Now put somebody who has a Diploma to head those funds; will that person even be able to go at an international level and participate and talk one on one with people from other countries and see how they can even attract more funding in this county? Let us think big and objectively not because of somebody in the village. In fact the setting up those committees should be as consultative as possible, including the public down there. So let us set the pace through the law and do the right thing because if we do not do it we will get anywhere and that is why for many years we have been talking about development and we are getting nowhere because we have self-interests in what we are doing.

Let us forget what some relatives and friends are going to get out of that committee or how somebody is going to manipulate the fund because we want to see environment change.

*(Applause)*

So, I perfectly agree let it be a Degree and this Assembly should be involved in setting up of those committees and I am saying every time am here I am making beds on which I can lie on. I do not want this thing of making some law which is so flimsy so that I can use it and exploit for my advantage. It is not right; we need to move forward on development; environmental, economic, social and everything. *Tusahau hii mambo ya---* I hope I am speaking something. Thank you.

**Hon. (Ms.) Ndeti:** I had not finished. I also wanted to support my colleague, Mheshimiwa Mueni because environment is so scientific and we need people who have Degrees and even probably a Degree in that area of environment. Currently, our universities are teaching environment Degrees and I know we have got many young graduates who have done engineering in environment and have no jobs. So I do not think it is a must that the person must come from your ward; you can always import that talent in your ward because what we want as Madam

Speaker says, is to lay a bed that you can sleep on later. You want somebody who understands the subject matter. Thank you, Madam Speaker.

**Hon. Speaker:** I call upon the mover of the motion to reply. Hon. Christine Koki.

**Hon. (Ms.) C. Koki:** Thank you, Madam Speaker and Hon. Members, for the healthy debate that we have had on the amendment of this Bill. I appreciate you all, it is a thorny matter but then I thank you all because you have been sober in making your submissions. If we go ahead and approve the Bill I urge you to remember that we have our community back there who we are representing and they are relying on us to lead them to make the climate change and leave a fulfilled life. Thank you, Hon. Members, and thank you, Hon. Speaker.

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

*(Question put and agreed to)*

*(The Bill accordingly read a second time and committed to the Committee of the Whole House tomorrow)*

#### **ADJOURNMENT**

**Hon. Speaker:** Hon. Members that marks the end of the Order Paper for the morning sitting and the House stands adjourned to resume on 1st February, 2022 at 2.30 p.m.

The House rose at 11.16 a.m.