

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

**Tuesday, 24<sup>th</sup> November, 2020**

The House met at 10.23 a.m.

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

**PRAYERS**

*(Quorum Bell)*

**Hon. Speaker:** I need also to be shown the extended chamber so that ... here we have a quite a number. We have quorum, can you stop ringing the bell. So we can start the business for today and I will invite the clerk to read the Order Paper.

**COMMUNICATIONS FROM THE CHAIR**  
**BUIDLING BRIDGES INITIATIVE (BBI)**

**Hon. Speaker:** Hon. Members, I have one communication to make and it is about the BBI. Remember you are part and parcel a very important person of the Kenya society and as leaders you have the responsibility of involving yourself on matters that are of national importance such as the BBI. I have a communication, Hon. Members from the County Assemblies Forum (CAF), and it is a communication that is already been circulated to the different chapters of CAF. The letter is dated 18th November, 2020; it is by the chairman CAF Hon. Ndegwa Wahome and it is addressed to all members of the County Assemblies and it is copied to the secretary general CAF to all members of the governing council.

This Assembly is represented by Hon. Pauline Mene and Hon. Peter Mutiso, and the Speaker in the governing council. It is also sent to all Speakers of the County Assemblies, Majority party, County Assemblies the Leaders, all Leaders of the Minority party, the Whips of the Majority party, Whips of Minority parties, all the Clerks and there is an omission of the Deputy Speakers but that doesn't mean that the Deputy Speakers are not included in the communication.

So Hon. Members the following is the position of CAF on the BBI so that you can be notified, being part of the process. Hon. Members, following the launch of the report of the steering committee on the implementation of the BBI by the two principals, on the 26th October, 2020 at the Bomas of Kenya, the CAF governing council during its quarterly meeting held on 30th to 31st October, 2020, deliberated on the contents of the report of the BBI and discussed key issues of concern to County Assemblies. Consequently, the governing council formed a taskforce to consider the proposals that should go on to the BBI by the CAF and the proposal was also tabled before the governing council on 12th of November, 2020.

That is the proposals of the Task force and after that, the chapters of the Deputy Speakers, of leaders of Majority and Minority parties of the Whips of Majority and Minority parties, had a meeting on 17th November, 2020 and deliberated again further on that report and they appreciated the importance of CAF having a common stand on matters in the BBI that affect devolution and also strengthening County Assemblies that is Members of the County Assemblies. And so from those deliberations Hon. Members, the following are the issues that have been crystalized arising from the liberations so far held which form the position of CAF on the BBI.

#### Ward Development Fund

The Ward Development Fund, should be at least 30 per cent of the county development revenue.

*(Applause)*

That is to say the County Assemblies are asking for 30 per cent of the county governments development revenue. The further position of CAF is that the county ward development fund bill which is also part of the proposal under BBI should provide for the administration of the Ward Development Fund in a similar manner as the fund that is under the National Government Constituency Development Fund. In other words, just the way the MPs operate that fund should be the same way that the members of County Assemblies should operate the Ward Development Fund. I believe you know the importance of that.

Further, CAF says that parliament should pass the Ward Development Fund Bill 2020 within six months of the passing of the constitutional amendments; remember it can't be before because the 30 per cent is supposed to go to the constitution. So, once that is amended, parliament should pass that law to operationalize the Ward Development Fund and if parliament fails to do that then each County Assembly to proceed and legislate for the same to take effect.

#### Empowerment of all legislatures for effective oversight

Hon. Members, the position of CAF is that there should be equitable empowerment of County Assemblies so that they can effectively undertake their oversight mandate and equity should be the guiding principle in the mandate functions and benefits of both the national parliament and County Assemblies. In other words, in the same way National Assembly is administered and operates both on mandate and on benefits should come down to the County Assemblies of course in a truncated manner. CAF says that the operational frame work of the County Assemblies should be harmonized with that of the National Parliament to ensure effective and efficient oversight for development in counties.

#### Inclusivity and shared prosperity

CAF supports the protection of special interest groups such as persons with disabilities, marginalized communities, underserved and the poor; this has arisen from the report of the BBI. In addition, CAF says that the proposed amendments of the Disabilities Act No. 2014 of 2003

should be expedited because the persons living with disabilities have not benefited from that Act even as it is existing. Further, for purposes of women, CAF position is that the proposal to amend Article 177 of the Constitution to include a sunset clause should be removed, we still need nominations in County Assemblies as it has been happening for affirmative action.

#### Financial autonomy of County Assemblies

Members, you have had a nasty experience in the past and I would say without any fear that this clause has been pushed mostly from the interest and force and influence of Machakos County Assembly.

*(Applause)*

If you remember we went without salaries for quite a while and so CAF is happy that finally it is proposed that County Assemblies will have a fund where the monies will go into and not going to that general county revenue fund and out of that fund and County Assemblies will be accessing their money directly so that they won't have a A form C; the infamous form C.

So CAF is saying there should be an immediate enactment of the proposed section 24(a) of the Public Finance Management Act 2012, so that, that fund is created to secure financial autonomy of County Assemblies immediately. The amendment has no constitutional implications so the position of CAF is that it should be done immediately, it doesn't have to wait for the constitutional process that is coming on.

#### Qualifications for elections as an MCA

Hon. Members, this has been a great concern for Members of County Assemblies; particularly on the requirement of Section 22 of the Elections Act, a member vying for County Assemblies must have a degree; while CAF appreciates the importance of getting educated in the formal way and that having a degree is important, the position of CAF is that parliament should amend that law immediately to delete that clause. The reason is that the members of public will decide whom to elect to the County Assemblies, whether or not you have a degree because there are persons who don't have degrees and who have proved to be efficient leaders.

It is not just about having the degree but let it be known that we are not advocating illiteracy in County Assemblies; we are saying that members are going to educate themselves and indeed many have done it in difficult situations and there are many more who haven't yet. So, if this is going to be used as part of the requirements for elections in 2022, it is going to lock out very many members who are interested in being leaders in County Assemblies.

#### Structure of the county executive committee

You have heard where we have said under paragraph 2, that County Assemblies should be empowered in the same line as the national government. CAF noted that in the Constitution it is proposed that 50 per cent or some members from outside the parliament be appointed as ministers; well some members inside parliament be appointed as ministers. CAF is advocating for a situation where a similar principle will apply in County Assemblies, so that 5 per cent of the county executive committee members should be appointed from among members of County

Assemblies.

*(Applause)*

The reasoning is the same as that has been advanced in the national government because it was felt that ministers who are appointed outside of national parliament are not coming on time to answer questions in parliament and at the same time there should be a clause a connection between the people who are serving as ministers and the people who are on the ground, members of the public. The Members of County Assemblies having been elected by the public can also represent them much better in the CECs and at the same time in County Assemblies without compromising the oversight role.

#### Enactment of CAF into law

So far Hon. Members, CAF has been asking and making demands and making efforts for CAF to be recognized in law just like the CoG, because it is the mouth piece through which the MCAs can raise their concerns but that has not been the case and many proposals have been made and efforts made but up to now there has been no positive result. So, the proposal by CAF is that, CAF should be recognized in law and to that extend it should be supported financially by the government just like the CoG is supported and the failure to have those funds is what has actually weakened CAF and remember CAF is you and every other Member of the Assembly.

#### OPERATIONALIZATION OF COUNTY ASSOCIATIONS AND PARTNERSHIPS

Finally, Hon. Members, operationalization of county associations and partnerships. CAF has noted with great concern that there is a proposal to amend the County Governments Act 2012, to insert Section 23(a) which provides for creation of what we have been calling economic blocs through just a gazettelement by the National Treasury and legislation by the Senate. The question has been, County Assemblies have been given the mandate to legislate for matters that affect counties, particularly your county government.

You also have the mandate to pass budgets and you have the mandate to approve and pass policies; why is it now that some powers outside the Assemblies are the ones that are going to decide on economic blocs? The position and Hon. Maitha here know that he has been leading a joint committee and other members that have been coming up with legislation for the SEKEB in this region, but apparently, now all that power is to be taken away from County Assemblies. So, we are saying that County Assemblies are the ones that must legislate for matters of economic blocs within their regions because they are the same ones who are going to approve the budgets to run those blocs, they are the same ones who are going the oversight of the use of public funds by those economic blocs.

So, Hon. Members, those are the issues that CAF felt we need to agitate and to stand by and I know each of the sectors in Kenya have been voicing their positions. You notice that what CAF has come up with is what will strengthen devolution and what is going to strengthen County Assemblies or MCAs. So, members the CAF leadership will soon be coming to address you and to give you details. These are headings and within the headings there are details, they will come around to give you the details and then to hear your views on those details and that is not going to be just Machakos but they will be going to all the Assemblies in Kenya.

I appreciate that the collection of signatures is being launched tomorrow; that is alright it is still part of the BBI process but Members remember you need to have your position as well and so that you can also educate the public that you interact with. They will come asking you questions; you should be able to answer the questions. So, Hon. Members, this is a communication of the speaker there will be a forum for further discussions later.

*(Applause)*

### STATEMENT

BUSINESS FOR THE HOUSE 24<sup>TH</sup> NOVEMBER TO 1<sup>ST</sup> DECEMBER, 2020

**Hon. Speaker:** Hon. Members, we have a Statement by the Hon. Majority Leader, Mark Muendo from the House business committee. Hon. Mark Muendo called me in the morning and told me that he has a personal pressing issue and for the next two weeks he is not available but I know the Deputy Majority Leader is here, but I also appreciate that the minority leader is here. Protocol demands that it is Minority Leader who reads it. Thank you very much. Hon. Kamitu.

**Hon. Kamitu:** Thank you very much, Hon. Speaker. Hon. Speaker, the House Business Committee met on Monday, 23<sup>rd</sup> November, 2020 to ballot 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 24<sup>th</sup> November, 2020 as reported on 17<sup>th</sup> November, 2020 as it had received a request from the Chairperson of Education Committee to have his business transacted in the morning to enable him attend other matters of the County in the afternoon.

The Committee reviewed balloted business for 24<sup>th</sup> November, 2020 and balloted business for 1<sup>st</sup> and 8<sup>th</sup> December 2020 as follows:

Tuesday, 24<sup>th</sup> November, 2020

*Morning at 10.00 a.m.*

The Machakos County Village Polytechnics Bill 2019 by Hon. Daniel Kiilu, Chairperson Education Committee; Second reading.

*Tuesday at 2.30 p.m.*

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

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

*Morning at 10.00 a.m.*

The Machakos County Cooperatives 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.*

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.

The Machakos County Village Polytechnics Bill 2019; Committee of the Whole House and Third Reading by Hon. Daniel Kiilu, Chairperson Education Committee.

Tuesday, 8<sup>th</sup> December, 2020

*Morning at 10.00 a.m.*

Report of Agriculture Committee on the Performance report for the Department of Agriculture for FY 2019/2020 by Hon. Moses Mitaa, Chairperson, Agriculture Committee.

Thank you, Hon. Speaker.

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

### **BILL**

#### *Second Reading*

THE MACHAKOS COUNTY VILLAGE POLYTECHNIC BILL, 2019  
(MACHAKOS COUNTY BILL NO. 3)

**Hon. Speaker:** Hon. Members we have one business by Hon. Kiilu. Hon. Kiilu.

**Hon. Kiilu:** Thank you very much, Hon. Speaker. Hon. Speaker, pursuant to Standing Order 121(1), I wish to move the motion that, the Machakos County Village Polytechnic Bill, 2019 (Machakos County Bill No. 3) be now read a Second time. Thank you very much, Hon. Speaker and I request Hon. Angela Munyasya to second my motion.

**Hon. Speaker:** Hon. Angela.

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

**Hon. Speaker:** Thank you. Hon. Kiilu.

**Hon. Kiilu:** Thank you, Hon. Speaker. I want to start with the committee mandate.

**Hon. Speaker:** Hon. Kiilu, I think we know your mandate, so proceed to the committee membership because they want to know that one day they legislated.

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

#### *1.2 COMMITTEE MEMBERSHIP*

Hon. Speaker, the membership of the aforementioned committee is as follows:

1. Hon. Daniel Kiilu -Chairperson
2. Hon. Hellen Ndeti -V/Chair
3. Hon. Jane Nyawira -Members
4. Hon. Phoebe Koki
5. Hon. Alice Nzioka

6. Hon. Judas Ndawa
7. Hon. Angela Munyasya
8. Hon. Margaret Ndalana
9. Hon. Francis Kalumu
10. Hon. Joseph Musau
11. Hon. Geoffrey Kamulu
12. Hon. George King'ori
13. Hon. Benedette Mueni

### *1.3 Committee Secretariat*

The Committee is facilitated by the following secretariat

1. Ms. Sarah Mwanja –Clerk Assistant
2. Ms. Dorothy Kingoo - Legal Counsel

## *2.0 INTRODUCTION*

### *2.1 Background information*

The Machakos County Village Polytechnic Bill, 2019 (*Kenya Gazette Supplement No.8(Machakos County Bills No.3)*) sponsored by the Chairperson, Sectoral Committee on Education, Hon. Daniel Kiilu, was read a first time on 16th October, 2019 pursuant to Standing Order 119 of the County Assembly of Machakos. The Bill was committed to the Sectoral Committee on Education which was mandated to facilitate public participations and take into account the views and recommendations of the Public when making its report to the House pursuant to Standing Order 120(3) of the County Assembly of Machakos Standing Orders.

The Machakos County Village Polytechnic Bill, 2019 (*Kenya Gazette Supplement No.8(Machakos County Bills No.3)*) seeks to give effect to Section 9 of Part II of the Fourth Schedule of the Constitution; provide for matters relating to vocational training, establishment and Regulate Village Polytechnic and connected purpose.

### *2.2 Overview of the Bill*

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

- (a) This Bill is AN ACT of the County Assembly of Machakos to give effect to section 9 of Part II of the Fourth Schedule of the Constitution; to provide for matters relating to vocational training, the establishment and regulation of village polytechnics and for connected purposes.
- (b) Clause 3 provides that the objects of the Bill are to provide a legislative frame work on the:
  - (i) Establishment of village polytechnics;
  - (ii) Licensing and registration of village polytechnics;
  - (iii) Cooperation and consultation between national and county governments on matters relating to village polytechnics;
  - (iv) Acquisition of occupational trade skills by persons through vocational training;
  - (v) Innovation and creativity to enhance entrepreneurship in the county; and

- (vi) Research to inform policies relating to vocational training.

Part II of the Bill establishes the Machakos County Vocational Training Advisory Committee, its functions, vacancy of office and remuneration.

- (a) This part provides for the establishment of Vocational Training Advisory Committee comprising of:
  - (i) The Executive Committee Member responsible to matters relating to education who shall be the chairperson;
  - (ii) The Chief Officer responsible on matters relating to education or a designate not below the level of a Director, who shall be an *ex officio* member and the secretary to the Committee;
  - (iii) The Chief Officer responsible matters relating to Finance or a designate not below the level of a Director;
  - (iv) One representative of the managers of county government village polytechnics nominated by a forum of all managers of county government village polytechnics and appointed by the County Executive Committee Member;
  - (v) One representative of the managers of private village polytechnics nominated by a forum of all managers of private village polytechnics and appointed by the County Executive Committee member;
  - (vi) Three persons who ordinarily reside in the County and who have extensive experience in any of the following fields—
    - (a) Education;
    - (b) Social sciences; or
    - (c) Public administration;
  - (vii) Two persons who ordinarily reside in the County representing marginalized persons appointed by the County Executive Committee member.
- (b) The functions to be performed by the Vocational Training Advisory Committee includes:
  - (i) Advise the executive committee member on policies relating to vocational training;
  - (ii) Promote, advance and set standards relevant in the quality of education relating to vocational training;
  - (iii) Monitor and evaluate vocational training programs;
  - (iv) Undertake regular inspection of village polytechnics to ensure compliance with this Act.
  - (v) In consultation with village polytechnic Boards of Management; oversee the operation and management of Village polytechnics programmes in the county;
  - (vi) Plan, develop and coordinate training and research in village polytechnics in the county;
  - (vii) Develop linkages and collaboration with institutions of learning, professional organizations, private sector and other institutions with similar objectives;
  - (viii) Issue guidelines on fees payable on courses offered by village polytechnics;



- (ix) Doing or performing all other acts necessary for the proper performance of its duties under this Act or any other written law.
  - (c) Clause 6 of the Bill provides for instances when the office of a member of the Committee may become vacant. These include instances where a member resigns from office, unable to perform the functions of office, convicted of an offence and sentenced to imprisonment for a period of six months.
  - (d) Clause 7 of the Bill provides that the members of the Committee shall be paid allowances as may be approved by the Executive Committee Member in consultation with the Salaries and Remuneration Commission.
7. **Part III** of the Bill provides for the establishment and registration of Village polytechnics
- (a) Clause 8 of the Bill provides that the Executive Committee Member by order in the Gazette and in consultation with the Committee shall establish a Village Polytechnic.
  - (b) Clause 9 states that a person shall not operate a polytechnic unless it is registered under this Act.
  - (c) Clause 10 outlines the application procedure for a successful registration of a polytechnic as follows;
    - (1) An application for registration of a polytechnic shall be in a form prescribed by the Executive Committee Member in the regulations.
    - (2) An application for registration of a polytechnic shall be submitted to the Director.
    - (3) The Director shall forward a copy of the application to the Committee.
    - (4) The Committee shall, within fifteen working days after receiving the application—
      - (a) Inspect the polytechnic; and
      - (b) Interview the applicant to assess the suitability of—
        - (i) The equipment of the polytechnic; and
        - (ii) The persons proposed to be employed in the polytechnic.
    - (5) The Committee shall within thirty days after the inspection and interview, forward its recommendation to the Executive Committee Member.
  - (d) Clause 11 states that a person making an application for the registration of a polytechnic shall pay the prescribed fees to the Directorate
  - (e) Clause 12 provides that the Directorate may issue to the applicant for registration of a polytechnic a provisional license to operate pending the fulfillment of the conditions required by the Directorate for the determination of the application.
  - (f) A provisional license issued shall cease to operate upon—
    - (a) The issuance of a certificate of registration to the applicant; or
    - (b) The expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the Directorate may specify in the notice.
  - (g) Clause 13 provides for issuance of certificate where by the Directorate shall, on registration of a polytechnic, issue a registration certificate and a license for the year which the registration has been affected to the applicant.
  - (h) Clause 14 outlines cases which may lead to revocation of a polytechnic as outlined below;

- (1) The registration of a polytechnic remains valid but may be revoked in the following instances-
  - (a) Where an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the license holder or any employee of the license holder;
  - (b) A condition of the registration license has been contravened or not complied with.
  - (c) Where the polytechnic is being managed in a manner which is, in the opinion of the Executive Committee Member, harmful to the physical, mental or moral welfare of the students;
- (2) Once registration of a polytechnic is revoked, it is deemed to have been closed.
- (3) The Director may serve a notice, in writing, not exceeding six months directing the Manager to remedy a situation to prevent revocation of the polytechnics registration.
- (4) Where a Manager has not complied with a condition imposed under subsection (3) within the stipulated period, the Executive Committee Member shall revoke the registration of the polytechnic and it shall be deemed to be closed.
- (5) Before the polytechnic is closed under subsection (3), the Manager shall be given an opportunity to be heard either in person or by a legal representative.
- (6) Despite the provisions of this section, a polytechnic shall be deemed to be closed if it is not in operation for a continuous period of five years.

**Hon. Speaker:** I read 5 before the polytechnic is closed. Hon. Kiilu is it five or six? Or do I have a different version?

**Hon. Kiilu:** It is five.

**Hon. Speaker:** Five?

**Hon. Kiilu:** Yes.

**Hon. Speaker:** What does it read Hon. Kiilu?

**Hon. Kiilu:** Before a polytechnic is closed.

**Hon. Speaker:** Go ahead please.

**Hon. Kiilu:** Number 5, let me repeat.

- (5) Before the polytechnic is closed under subsection (3), the Manager shall be given an opportunity to be heard either in person or by a legal representative.
- (6) Despite the provisions of this section, a polytechnic shall be deemed to be closed if it is not in operation for a continuous period of five years.
- (i) Clause 15 states that a license shall be valid for a period of five years from the date of issue and may be renewed on application by the operator of the polytechnic in accordance with this Act

- (j) Clause 16 provides that the Executive Committee Member shall, within sixty days after the registration of a polytechnic, publish the registration in the Gazette and in at least one newspaper with national circulation
  - (k) Clause 17 provides for registration of a village polytechnic where by the Directorate shall register a polytechnic if it is satisfied, based upon the written recommendation of the Committee that the application is in order.
  - (l) Clause 18 states that The Manager shall display the registration certificate of the polytechnic in a conspicuous place on the premises of the polytechnic
  - (m) Clause 19 states that the Directorate shall keep a register of all polytechnics operating in the county and shall include in the register names of the polytechnics and such other particulars as the Executive Committee Member may prescribe.
8. **Part IV** of the Bill deals with the management of village polytechnics.
- (a) Clause 20 provides for a Board of Management for every county government village polytechnic which shall consist of:
    - (1) two persons who ordinarily reside in the Sub –county in which the Village Polytechnic is situated and who have extensive experience in any of the following fields—
      - (i) Education;
      - (ii) Social sciences; or
      - (iii) Public administration;
    - (2) One person representing instructors of the village polytechnic;
    - (3) Two representatives of the Community in which the village polytechnic is situated;
    - (4) Two persons who ordinarily reside in the County representing marginalized persons;
    - (5) The manager of the village polytechnic who shall be the secretary to the Board.
  - (b) Clause 21 provides for application procedure as drawn below
    - (1) The Committee shall in writing request the nominating entities to forward names of qualified persons to be appointed as members of the Board of Management.
    - (2) The Committee shall vet the members of the Board of management.
    - (3) In nominating persons to the Board of Management the Committee shall ensure that—
      - (a) The persons nominated to the Board of Management meet the requirements of chapter six of the Constitution;
      - (b) Not more than two thirds of the members of the Board of Management are of the same gender.
    - (4) The Committee shall forward the names to the Executive Committee Member for appointment.
  - (c) Clause 22 provides the functions of the Board of Management which is to;
    - (i) Ensure efficient management of the village polytechnic;
    - (ii) Oversee prudent utilization of resources of the village polytechnic;
    - (iii) Ensure that the institution observes high standards of corporate and business ethics;

- (iv) Consider and approve annual estimates of income and expenditure of the institution;
  - (v) Source for donations, contributions or grants or raise funds by lawful means;
  - (vi) Make provisions for general welfare, recreational and social needs of its staff and students;
  - (vii) Undertake such other functions as may be necessary for the discharge of the functions of the institution.
- (d) Clause 23 provides for the Board of Management of a village polytechnic while Clause 24 provides for the reasons that will prevent a member of the Board of Management from holding the office. If a member
- (i) Is unable to perform the functions of the office by reason of mental or physical infirmity;
  - (ii) Is declared bankrupt;
  - (iii) Is convicted of a criminal offence and sentenced to a term of imprisonment of six month or more;
  - (iv) Resigns in writing to the Executive Committee Member;
  - (v) Is found guilty of professional misconduct by the relevant professional body;
  - (vi) Is disqualified from holding a public office under the Constitution;
  - (vii) engages in misconduct; or (viii) dies.
- (e) Clause 25 states that if the position of member of the Board of Management falls vacant, the Executive Committee Member shall appoint another person to fill the vacancy.
- (f) Clause 26 provides for filling of vacancy
- (g) Clause 27 provides for Qualification for appointment of manager in village polytechnic if that person—
- (a) Is a citizen of Kenya;
  - (b) Holds at least a degree in technical education from a university recognized in Kenya;
  - (c) Has at least three years' experience at management level;
  - (d) Has at least five years' experience in technical field; and
  - (e) Meets the requirements of chapter six of the Constitution;
- (h) Clause 28 provides for the functions of the Village Polytechnics where by the institution shall;
- (a.) Provide full time or part technical courses;
  - (b.) Provide such facilities for its students as it considers desirable;
  - (c.) Demand and collect fees and other charges as may be appropriate;
  - (d.) Provide technical and consultancy services to business and industries as it may deem appropriate;
  - (e.) Provide a favorable environment which offers positive health and is conducive to learning and social development without compromising diversity or disability.
  - (f.) Undertake any activity necessary for the fulfillment of the functions of the institution.

- (i) Clause 29 provides for the appointment of non-teaching Staff while Clause 30 provides for co-curricular Activities
6. **Part V** of the Bill provides for the financial provisions.
- (a) Clause 32 provides for the funds of the Village Polytechnic which shall consist of:
- (i) Monies allocated by the National or County Government for purposes of the Polytechnic;
  - (ii) Any grants, gifts, donations or other endowments given to the Polytechnic;
  - (iii) Such funds as may vest in or accrue to the Polytechnic in the performance of its functions under this Act or any other written law.
  - (iv) Any monies obtained by way of fees or other charges;
- (b) Clause 33 provides for annual estimates while Clause 34 provides for accounts and audit. Further, Clause 35 provides for Annual Reports

7. **Part VI** of the bill provides for the miscellaneous provisions.

- (a) Clause 36 provides for Regulations where by the Executive Committee member in consultation with the Committee, shall make Regulations generally for the better carrying out into effect of the provisions of this Act.
- (b) Clause 37 contains offences while Clause 38 provides for general Penalty

*PUBLIC PARTICIPATION IN LEGISLATIVE PROCESS 3.1*

*Introduction*

8. Article 10(1)(a),(b),(c ) and (2)(a) and (b) ,196(1) of the Constitution and Standing Order No. 120(3) requires all state officers and public officers to comply with the national values and principles of governance which includes public participation in governance. Based on the aforementioned, the Committee was required to conduct and facilitate public participation on the said Bill.
9. In compliance with Article 10(1)(a),(b),(c ) and (2)(a) and (b) ,196(1) of the Constitution, the office of the Clerk send letters to various entities and organization informing them that the Bill had been read for the first time and that they were invited to forward their recommendation if any to the Committee for consideration.

*Consideration of the Machakos County Village Polytechnic Bill, 2019*

10. In considering the Machakos County Village Polytechnic Bill, 2019, the Committee took into account the memoranda and oral submissions received from the public and its deliberations. The following constitutes the views of the Committee on the issues arising with regards to each clause of the Bill-

**Memoranda from County Department of Education and Skills Training**

11. The Committee received one memorandum from the **County** Department of Education and Skills Training containing submission relating to the following Clauses.

**Clause 1 –Short title**

12. The title of the Bill be renamed to read — The Machakos County Vocational Training Centers Bill, 2019

*Justification*

The County Department of Education and Skills Training submitted that the Technical and Vocational Education and Training Authority established under Section 6 of the Technical and Vocational Education and Training Act, 2013 directed that all Village Polytechnic within Kenya be renamed as — *Vocational Training Centres*”

**Clause 2 Interpretation**

13. Amend the interpretation of the term trainee and manager to comply with the terminologies referred to in **Technical** and Vocational Education and Training Act, 2013

**Clause 4 – Vocational Training Advisory Committee**

14. The composition of the Machakos County Vocational Training Advisory Committee be changed as following
- (a) Delete Clause 4(2)(c) which states that —the Chief Officer responsible for matters relating to Finance or a designate not below the level of a Director”
  - (b) Insert the word —technical” before the word —education” in Clause 4(2)(f)(i) which states that —three persons who ordinary reside in the County and who have extensive experience in any of the following fields (i) education”
  - (c) Insert the following to be members of the Machakos County Training Advisory Committee
    - (i) One person representing all trainees within the County; and
    - (ii) The Director, who shall be the Secretary of the Committee and shall have no voting rights”

*Justifications of proposed amendment in clause 4*

- (a) Having two Chief Officers in the Committee will create conflict of interest;
- (b) There is need to have person with the required expertise, skills and trainings who shall guide in the effective implementation of the Act;
- (c) The principle of self-governance mandates public institutions to adhere to the principle of participation and inclusion in decision making. This is especially on matters that directly or indirectly affect persons to be affected by the decisions hence necessities the trainers to be members of the Machakos County Vocational Training Advisory Committee.
- (d) There is need to a secretary of the Machakos County Vocational Training Advisory Committee to be member of the Committee. The Role of the Secretary shall be day to day administration and execution of the mandate of the Committee.

**Clause 5 –Functions of the Committee**

15. Incorporate the following changes to the functions of the Machakos County Vocational Training Advisory Committee:
- (a) Delete the word “set” from the following phrase and substitute therefor the word “ maintain” —*promote, advance and set standards relevant in the quality of education relating to vocational training*”
  - (b) Delete the word “courses” and substitute therefor the word “trades”

*"issue guidelines on fees payable on courses offered by village polytechnics"*

- (c) Insert the following as a function of the Committee
- (i) —*collaborate and coordinate with other institutions for effectively implementation of the Act; and*
  - (ii) *Develop schemes of service for officers working for village polytechnic."*

*Justifications of proposed amendment in Clause 5*

- (a) The functions of the Technical and Vocational Education and Training Authority established under Section 6 of the Technical and Vocational Education and Training Act, 2013 includes ensuring that there is uniform standards, quality, relevance and harmonization of vocational training within Kenya in all polytechnic. The County Government can only maintain the standards and relevance and quality of education relating to the vocational training.
- (b) Trades applies in technical training fields
- (c) National and County Government must in their performance collaborate with other institutions for effective implementation of its functions. By collaborating with other institutions, internship will be offered to trainers.

**PART III**

**Establishment and Registration of Village Polytechnics (Clause 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18)**

16. Delete the following clauses
- (a) Clause 9—Requirement for Registration.
  - (b) Clause 10—Application for Registration of a Polytechnic.
  - (c) Clause 11—Applicant to Pay Prescribed Fee.
  - (d) Clause 12—Provisional License to Operate Prior to Registration.
  - (e) Clause 13 — Registration Certificate.
  - (f) Clause 14 — Revocation of Registration and Closure of a Polytechnic.
  - (g) Clause 15—Validity of a License.
  - (h) Clause 16—Requirement to Publish the Registration of a Polytechnic.
  - (i) Clause 17—Registration of a Village Polytechnic.
  - (j) Clause 18—Registration Certificate to be displayed.

**Justification for amending Clause 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19**

Technical and Vocational Education and Training Act, 2013, PART IV makes provisions for licensing, registration and accreditation of institutions and trainers. Specifically, Section 17(1) provides that no person or institutions shall offer training in Kenya unless the person or institution has been accredited and registered under the Act to offer such training.

**Clause 20**

17. Incorporate the following clauses to establish the selection panel for electing the members of the Board of Management of every county government village polytechnic.

(a) two persons who ordinarily reside in the Sub –county in which the Village Polytechnic is situated and who have extensive experience in any of the following fields—

- (i) Education;
- (ii) Social sciences; or
- (iii) Public administration;

(b) Two representative of the Community in which the village polytechnic is situated;

(c) Two persons who ordinarily reside in the County representing marginalized persons;

“There is established of a selection panel for appointing the above mentioned members who shall consist of the following persons:

(a) Area Chief where the Village Polytechnic is located;

(b) Ward Administrator where the Village Polytechnic is located;

(c) Education officer;

(d) Principal of the Institution; and

(e) Sponsor or Proprietor in case of private Institution.”

18. Incorporate a transitional provision to provide for principal of institutions who do not have the qualification which have been stipulated in the Bill once it is enacted by the Assembly.

#### *Justification*

This shall allow for smooth transition of activities

#### *Public Participation forums*

19. As had been indicated, the Committee held public engagement in eight - sub counties and received both oral and written submissions. The following were the key observations and recommendations from each sub-county.

#### *KANGUNDO SUB-COUNTY*

20. Clause 1 be amended to read —*Machakos County Technical and Vocational Training Bill, 2020*” This is because the word —*technical*” will assist in raising the profile as well as attract partners who would wish to invest in the county.

21. The object and purpose of the Bill be framed in a way to support the graduates of the institutions after getting the entrepreneurial skills. These can be achieved by creating industrial packs which can be established in each sub-county to absorb the graduates to acquire employment. Further, insert the following phrase to clause 3(e) immediately after the words “*entrepreneurship in the County; and “value addition, research to inform policies relating to technical and vocational training”*”

#### *MWALA SUB-COUNTY*

22. Clause 1 (Short Title) be renamed to read —*The Machakos County Technical and Vocational Training Centers bill 2019*”

23. Clause 2 which provides for interpretation be amended to incorporate the following changes



- (a) Insert the following new word and its interpretation therefor accordingly  
“Industrial liaison officer” who shall deal with matters of industrial linkages for job placement of the graduates and industrial attachments.”
- (b) Delete the word manager and substitute therefor the word —principal while retaining the interpretation
- 24. Clause 8 be amended by providing that before any village polytechnic is established in each ward, public participation and consultation forum is undertaken in consultation with the area MCAs and the public.
- 25. Clause 20(2) be amended by incorporating the following changes
  - (a) Incorporate the following persons into composition of the Board of Management of County Government Village Polytechnic
    - “(i) a religious leader; and
    - (ii) a representative of interested persons from jua kali sector”
  - (b) Incorporate a new provision providing for dissolution of the Board of management which was not initially provided for.
- 26. Clause 27, be amended by incorporating the following as additional conditions for a person to qualify for appointment as a manager;
  - (a) At least a diploma and A degree in technical education should be an added advantage; and
  - (b) Has a management course certificate”
- 27. Clause 30 which relates to the appointment of non- teaching staff be amended by providing that the non- teaching staff shall be remunerated by the County Government.

#### *MACHAKOS SUB- COUNTY*

- 28. Clause 2 as relates to the —Village Polytechnic be amended to read —Vocational Centers. This will attract trainees with high academic qualifications to acquire the technical skills.
- 29. Clause 4(f) on the composition of the Machakos County Vocational Training Advisory Committee be amended by providing that the following “three persons who ordinarily reside on the county and have extensive experience in education, social sciences and public administration” must be residents of the county.
- 30. Insert a transitional Clause which shall take into account the structures of the current existing Polytechnics Boards.

#### *YATTA SUB COUNTY*

- 31. Clause 1 on the Short title of the Bill be amended to read —*The Machakos County Technical and Vocational Training Centres Bill, 2019*. This is because Technical and Vocational Education and Training Act, 2013 had already amended the word polytechnic to Vocational Training Centres.
- 32. Clause 2 be amended by incorporating the following new interpretation of words
  - (a) —Principal instructor to mean a person appointed as the head of county technical and vocational training Centre;

- (b) —Deputy Principal Instructor assistant to refer to the person deployed as the head of County Technical and vocational training Centre;
  - (c) —Industrial liaison officer to mean Office established to deal with matters of industrial linkages for job placement of county technical and vocational training Centers, graduates and industrial attachments;
  - (d) —Industrial liaison officer to mean public office deployed in industrial liaison office;
  - (e) —County technical and Vocational Training Centre to mean Vocational Training Centre established under this Act to provide Vocational Training services;
  - (f) Sub - county assistant director to mean officer appointed to coordinate, supervise programs for county technical and vocational training Centers at sub county levels; and
  - (g) —County technical and vocational fund to mean a fund established under this Act for improvement and establishment of county technical and vocational training Centers.
33. Incorporate a provision relating to the establishment of the Machakos county technical and vocational training Centre or Machakos technical and vocational training Centre Directorate as one of the administrative structure. Further, the following should constitute personnel of the county technical and vocational Training Centers directorate as listed below;
- (a) Director
  - (b) Appointment of director
  - (c) Assistant director
  - (d) Appointment of assistant director
  - (e) Industrial liaison officer
  - (f) Inspection and quality assurance officer
34. The Bill should be framed to recognize the post of sub - County Vocational Directors for effective coordination of programs, reporting and other related activities of the whole function
35. Delete the word polytechnic and replace with the word —County Technical and Vocational Training Centre on the sub-title —**PART III--ESTABLISHMENT AND REGISTRATION OF COUNTY TECHNICAL AND VOCATIONAL TRAINING CENTRE**”
36. PART IV of the Bill be redrafted to read —**management of county technical and vocational training Centre**”
37. Clause 25 of the Bill be amended by redrafting:
- (a) the short title of the Bill to read —*dissolution of management committee*’
  - (b) **Clause 25** to read —Where in the opinion of the Executive Committee Member that a Management Committee has failed to discharge properly its functions, the Executive Committee Member may in writing suspend the Management Committee from the exercise of the performance of all its powers and functions and appoint an Interim Committee to exercise and perform all the powers and functions of the Management Committee for a period not exceeding three months.”

38. Clause 26 of the Bill be amended:
- (a) By deleting the word —Manager and replacing it with the phrase —principal of county technical and vocational training Centre
  - (b) In Clause 26 (2) to read —the county public service Board shall appoint, deploy, transfer or remove from office the principal in accordance to human resource manual”
39. Clause 27 be amended by redrafting it to read as follows:  
on qualification for appointment, amended in reference to the scheme of service for youth training personnel to read;  
“The principal of a vocational training center should be appointed by the county public service board on such terms and conditions set out in the scheme of service.  
The person is qualified for appointment as a principal if the person÷
- (1) is a Kenyan citizen;
  - (2) holds at least a diploma in Technical Education from a recognized institution in Kenya;
  - (3) has at least three years’ experience in management level;
  - (4) has at least 5 years’ experience in technical field as an instructor;
  - (5) possess a management course (diploma in education management); and
  - (6) a degree in technical education should be an added advantage.

### *Justification*

This will warrant the serving officers opportunities for such posts posing a need for job promotion, inspire the trainees in those vocational Centers to be heads since the system of their training would offer them such an opportunity. The above requirements should be the core basis of such appointments through the Public Service Board

40. PART V - on financial provisions be amended by redrafting it to read “establishment of technical and vocational training fund”.
41. Insert the following new provision in Clause 32 “There shall be established technical and vocational training fund that is aimed at improving, developing and maintaining the county technical and vocational training Centre.”

### *KATHIANI SUB-COUNTY*

42. Clause 4- On the composition of the vocational training advisory committee, the public proposed that a representative of the youth and persons living with disabilities be included and also urged that gender parity be observed.
43. Clause 5-On the functions of the Vocational Training Advisory committee, the public proposed that the committee to liaise with stakeholders including NGO’s, and other companies so as to ensure that the trainees are offered scholarships and employment after successful completion. Further, they proposed that the committee should advise the county government on offering financial assistance to needy trainees.
44. Clause 6- The public proposed that the County Public Service Board shall be mandated to fill such vacancies that may occur in the Machakos County Vocational Training Advisory Committee.

45. Clause 8-On the establishment of a polytechnic, specifically on the registration of a private polytechnic, the public urged the county government to waive all fees and single business permits(SBP) applicable to its registration and also ensure that the process is simple so as to encourage investors to invest in private polytechnics.
46. Clause 11-On Applicant to pay prescribed fee for registration, the public proposed the fee be set constant at Kshs.3, 000.
47. Clause 20-On the board of management, the public proposed to have a representative of the youth and Persons with Disabilities (PWD) in the Board. Further, they proposed that the County Public Service Board should competitively source and recruit the board members.
48. Clause 33-On the annual estimates, the public proposed that the manager shall prepare estimates of the revenue and expenditure of the polytechnic and forward to the County Assembly for consideration.
49. Clause 35-On the annual reports, the public proposed that the board of management shall submit them to the county assembly their annual reports for consideration.
50. On PART VI which provides for miscellaneous provisions and preparations of regulations; the public proposed that after the executive committee member should draft the regulations and forward them to the county assembly for consideration and approval to operationalize the Act.

#### *MAVOKO SUB-COUNTY*

51. Under PART III of the Bill, which provides for establishment and registration of Village Polytechnics, the public proposed that there should be at least one village polytechnic in every ward, after which more will be established depending on the population of the ward and in consultation with the area MCAs and the public through public participation.
52. Under PART VI on miscellaneous provisions, Clause 36, the public proposed that the word “*may*” be replaced with —*shall*”
53. The Board of Management of every county government village polytechnic should have autonomy to ensure controls of any funds received, and also to enable the Board work objectively.
54. All the courses to be undertaken should be highlighted in the Bill.

#### *MASINGA SUB-COUNTY*

55. The table below highlights the recommendation that was given by the members of the public during the consultative and public participation forum in Masinga Sub-County.

<b>NO</b>	<b>CLAUSE</b>	<b>INPUT</b>	<b>JUSTIFICATION</b>
1.	SHORT TITLE	To Change to Machakos County Vocational Training Bill 2020	This is to accommodate the secondary school leavers

2.	Clause 4 (f) 4(g)	To have a member with technical knowledge Youth and PWDs to be included in the boards	Polytechnic are technical institutions To be in line with Kenya Constitution 2010 (Inclusivity)
3.	Clause 14(1)(a)	Delete the clause which lead to revocation of registration of Polytechnic if an offence is committed by the employee of the license holder	The institution should not be closed subject to individuals mistakes as there are students involved
4.	Clause 27	Qualification of a manager to be lowered to a diploma from recognized institution and where the institution is offering diploma the manager to have higher national diploma. To include PTA to represent the parents of trainee To change the name of students to trainees	The degree qualification considered to be too high for a village polytechnic manager

*MATUNGULU SUB COUNTY*

5	Clause 8	Consider registration and also have quality assurance officer Also space (land acreage) to be considered	To ensure compliance with existing laws
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6	Clause 25	<p>Clarify the issue of appointing authority – the criteria when the board is constituted</p> <p>Members appointed should be from within the locality of the institution</p> <p>The procedure of appointing managers to be competitive as per the procedure of appointing board members</p> <p>PWDs and youth to be considered to membership</p> <p>MCA and administration to be ex-official</p>	<p>Section 8 referred to as not related to appointments. For inclusion and also checks and balances</p>
7	Clause 14	<p>Issue of revocation of an institution to start from the County Board Committee.</p> <p>The function of the committee to be clear and members to include technical persons eg technical with skills in order to assist the board</p>	<p>For authenticity</p> <p>Proper functioning of the boards</p> <p>Advise the executive on youth employment policy</p>
8	Clause 21	<p>Application procedure for nominating panel is left out.</p>	<p>There is need to clarify the procedure to be followed</p>

56. That representative for the medically challenged should be incorporated within the composition of the Board of Management of every county government village polytechnic established in Clause 20.
57. There is a need to do a re-branding of the name of village polytechnics to avoid the word village.
58. Clause 27 that requires 3 years of experience to accommodate youths who have never had an opportunity to get the 3 years 'experience to apply for jobs after completion of university or college be deleted.
59. The public proposed the following provisions be inserted
  - (a) That the idea that public ethics should be added as a clause of its own;

- (b) That the polytechnics should come up with programs that are gender sensitive to ensure uptake of courses by female students;
- (c) The Government to think about having more and better courses that are demand driven to promote employment of the youth;
- (d) The Government to equip polytechnics with tractors for grading roads;
- (e) To contemplate reducing or subsidizing fees charged by polytechnics.
- (f) Have an additional polytechnic within the sub-county;
- (g) The recruitment of more instructors to ensure quality training is done.
- (h) That the National through the CDF and the County Government should co-ordinate to ensure prudence and equitable distribution of resources meant to establish and equip polytechnics.

### *COMMITTEE RECOMMENDATIONS*

60. In light of the above submissions in the memoranda, the oral representations made and the committee deliberations on the Bill, the Committee recommends—

### *LONG TITLE*

**THAT** LONG TITLE of the Bill is amended by—

Deleting the word —vocationall and substituting therefor the words —technical and vocational Training Centers

### *CLAUSE 1*

**THAT** CLAUSE 1 of the Bill is amended by—

Deleting the words —Village Polytechnicll and substituting therefor the words —Technical and Vocational Training Centers

Deleting the phrase —and regulation of village polytechnicll and substituting therefor the phrase —County technical and training Centersll

### *CLAUSE 2*

**THAT**, Clause 2 of the Bill is amended by –

(a) Inserting the following new definitions in the proper alphabetical sequence

—Board to mean the County Public Service Board established under Section 57 of the County Governments;

**Hon. Speaker:** ‘Board’ to mean the county .... established under section 57 of the County Governments Act; did you intend to say that?

**Hon. Kiilu:** Yes, I think so. It should be like that. Let me repeat. Board to mean the County Public Service Board established under Section 57 of the County Governments Act.

—County to mean the County of Machakos;

—County Polytechnic to mean an institution registered under the Technical and Vocational Education and Training Act, 2013 to offer vocational or technical training and includes village polytechnics and training Centers as contemplated under Section 9, Part 2 of the Fourth Schedule of the Constitution;

—Department to mean the Department responsible for matters relating to education;

- (b) In the definition of the word —Board of Management amend by deleting the interpretation of the word — board of management and substituting therefor the following  
—Refer to the entity established under Section 10 to oversee the management of a public County technical and vocational training Centers
- (c) In the interpretation of the word —Committee amend by deleting the word —vocational training Advisory and substituting therefor the phrase —Technical and vocational Training
- (d) In the interpretation of the —Community, amend by deleting the words —village polytechnic whenever it appears and substituting therefor the words —county Technical and vocational Training Centers
- (e) In the interpretation of the word —curriculum by deleting the words —village polytechnic and substituting therefor the words —County Technical and vocational Training Centers
- (f) In the interpretation of the word —Directorate~~l~~ by deleting the words —village polytechnic and substituting therefor the words —County Technical and vocational Training Centers
- (g) In the interpretation of the word —Executive Committee Member~~l~~ amend by deleting the words —in the county from the interpretation
- (h) In the interpretation of the word —manager amend  
i) By deleting the word —manager and substituting therefor the word —principall; ii) By deleting the words —village polytechnic and substituting therefor the word —technical and vocational training Centers
- (i) In the interpretation of the word —trainee amend  
(a) By deleting the word —trainee and substituting therefor the word —learners~~l~~  
(b) By deleting the words —village polytechnic~~l~~ and substituting therefor the word —technical and vocational training Centers
- (j) By deleting the word — county village polytechnic~~l~~ and its interpretation therefor and substituting the following  
—Institution~~l~~ refers to the technical and Vocational Training Centre established pursuant to the provisions of the Act and other relevant laws

### *Justification*

To include the interpretations of words that has been repeatedly used in the Act



*CLAUSE 3*

THAT Clause 3 is amended as follows;

- (a) In Sub-Clause (a) amend by deleting the words —village polytechnic and substituting therefor the words —institution
- (b) In Sub-Clause (b) amend
  - (i) By deleting the words —the licensing;
  - (ii) By deleting the words —village polytechnic and substituting therefor the words —institutions;
- (c) In Sub-Clause (c) amend by deleting the words —village polytechnic and substituting therefor the words —institution
- (d) In Sub-Clause (d) amend by inserting the words —technical and immediately after the word —through and immediately before the words —vocational training
- (e) In Sub –Clause (e) amend by inserting
  - (i) The words — and value addition immediately after the words —entrepreneurship in the county and immediately before the word —and
  - (ii) The words —and employability after the word —entrepreneurship and immediately before the words — in the county
- (f) Insert the following sub-clause immediately after subs clause (e)  
—the equipping of trainees with practical technical skills that are relevant to the society and which are readily applicable in the job market;
- (g) In Sub Clause (f) amend by inserting the words —technical and immediately after the words  
—relating to and immediately before the word —training

*Justification*

The amendments seek to outline and clearly further what the objective of the Act is for so that it can easily be implemented.

*CLAUSE 4*

THAT Clause 4 of the Bill is amended as follows;

- (a.) In Sub Clause (1) amend by deleting the words — vocational Training Advisory and substituting therefor the words — technical and vocational training center
- (b.) In Sub Clause (2)(b) by deleting the phrase —who shall be an ex officio member and the secretary to the Committee
- (c.) In Sub Clause 2(c) by deleting Sub Clause 2(c)
- (d.) In Sub Clause 4(2)(d) by
  - (i) deleting the word —the managers of county government village polytechnics nominated by a forum of all managers of county governments village polytechnics and appointed by the county executive committee member and substituting therefore the words —principals of public institutions nominated by a forum for all public institution principals;
- (e.) In Sub Clause 4(2)(e) amend by
  - (i) deleting the words — the managers of private village polytechnics nominated by a forum of all managers of county government village polytechnics and appointed by the county executive committee member and substituting

therefore, the words —principals of private institution nominated by a forum of all private institution principals

- (f.) In Sub Clause 4(2)(f) amend
  - (i) By Deleting the word —extensive and substituting therefore the phrase —at least five yearsl
  - (ii) By inserting the word —technical before the word —educationll in Sub Clause 4(2)(f)(i)
- (g.) In Sub Clause 4(2)(g) amend by
  - (i) Inserting the phrase —being one woman and one man, ll immediately after the phrase —reside in the county and immediately before the phrase —representing marginalized persons;
  - (ii) Deleting the phrase —appointed by the County Executive Committee Memberll
- (h.) Inserting the following new sub - clauses after Sub - Clause 4(2)(g)
  - (i) —one representative of the informal sector nominated by the largest umbrella organization representing the informal sector in the Countyll
  - (ii) —Director recruited by the Board who shall be the Secretary to the committee and who shall be an ex official member.
- (i.) Inserting the following new sub - clause immediately before (3) and arranging it alphabetically
  - (3) The persons referred to in subsection (2) (e), (f) and (g) shall be competitively recruited by the Board and appointed by the Executive Committee Member.
  - (4) In recruiting and appointing the persons in Sub section (2) (e)(f) and (g), the Board and the Executive Committee Member shall take into consideration the following—
    - (a) regional, ethnic and gender diversity and representation of persons with disability; and
    - (b) Compliance with the principles of public participation through extensive consultations with the relevant stakeholders, community leaders and members of the public.
- (j) In Sub - Clause 4(4) amend by
  - i) By deleting the words —section 4(2) f, (g) and (h) and substituting therefor the words —Sub section 4(2)(d), (e), (f) and (g);
  - ii) By deleting the words — and are eligible for reappointment for one further termll

### *Justification*

To incorporate the members of the public and representative to oversee the management and governance of public and private technical and vocational training Centre. This will help in ensuring that their inclusion in decision making and also appreciation of divergent views based representative of various entities.

### *CLAUSE 5*

THAT Clause 5 of the Bill is amended

- (a) In Sub Clause 5(1)(a) by Inserting the words —technical and immediately after the word —relating to and immediately before the word —training
- (b) In Sub Clause 5(1)(b) amend by
  - (i) Deleting the word —set and substitute therefor the word —maintain;
  - (ii) Inserting the words —technical and immediately after the word —relating to and immediately before the word —training
- (c) In Sub Clause 5(1)(c) amend by inserting the words —technical and immediately after the word —evaluate and immediately before the word —vocational
- (d) In Sub Clause 5(1)(d) amend by deleting the words —village polytechnic and substituting therefor the words —**institutions**
- (e) In Sub Clause 5(1)(e) amend by deleting the words —village polytechnic whenever they appear and substituting therefor the words —**institutions**
- (f) In Sub Clause 5(1)(f) amend by deleting the words —village polytechnic and substituting therefor the words —**institutions**
- (g) In Sub Clause 5(1) h) amend by
  - (i) Inserting the phrase —upon public consultation, immediately before the phrase —issue guidelines;
  - (ii) deleting the word —courses and substituting therefor the word —trades; and
  - (iii) deleting the words —village polytechnic and substituting therefor the words —**institutions**
- (h) Inserting the following new sub clauses immediately before Sub Clause 5(1)(h) and immediately before Sub Clause 5(1)(i) and re-arrange accordingly
  - (i) promote the uptake of technical training in the society;
  - (j) Ensure that institutions are well equipped with the relevant machinery and tools;
  - (k) Provide support to graduate trainees in finding internships, employment and industrial attachments

### *Justification*

Provide more functions in the mandate of the proposed Machakos County Vocational and Technical Committee whose functions can be well implemented based on their capacity, resources and uniformity. It also incorporates the concept of self-governance by allowing members of the public to participate in decision making relating to technical and vocational institutions.

### *NEW CLAUSE*

THAT the Bill be amended by inserting the following new Clause immediately after Clause 5

#### 5. Conduct of business and affairs of the Committee

- (1) The conduct and regulation of the business and affairs of the Committee shall be as provided in the First Schedule.
- (2) Except as provided in the First Schedule, the Committee may regulate its own procedure.

### *Justification*

Madam Speaker---

**Hon. Speaker:** Hon. Kiilu, just take your seat briefly.

**Hon. Kiilu:** Okay, thank you.

**Hon. Speaker:** Hon. Members, I note at this time I am supposed to interrupt the debate for extension of time but noting that this Bill deals with a very important mandate of County Governments; the vocational training centers and we want to revamp them through this legislation I want to give Members sufficient time to debate it and you remember this afternoon we have another pressing function of the Assembly so we will not extent time at this time but Hon. Kiilu will proceed and finalize reading this report and then it will go back for balloting for coming back to the House urgently so that Members can have all the time to debate before you go to the committee of the whole House. That is agreeable? Okay, so Hon. Kiilu please proceed at least it gave you a break.

**Hon. Kiilu:** Thank you very much, Hon. Speaker. I was about to read the justification that is on page 3 the last two sentences.

*Justification*

Gives the Machakos County Technical and Vocational Training Centers Committee the guiding procedures to be followed in undertaking and discharging its mandate

*CLAUSE 7*

THAT Clause 7 of the Bill is amended by  
Deleting the words —executive Committee Member and substituting therefor the word  
—Boardl

*Justification*

The only institution mandated to oversee the payment of benefits to persons servicing in public institution in the County Government is the County Public Service Board as established in Section 57 of the County Governments Act,2012 and whose functions is stipulated in Section 59(1)(j) of the Act.

*CLAUSE 8*

THAT Clause 8 of the Bill is amended as follows;

(i) In Sub Clause 8 (1) inserting the phrase — Subject to the provisions of the Technical and Vocational Education Training Act, 2013, immediately before the words —the executive Committee member.

(ii) In Sub Clause 8(2) by deleting the words ‘village polytechnic’ and substituting therefor the ‘public institution’;

(iii)Inserting the following new clause immediately after Sub Clause (2)  
‘The Department shall take measures in order to ensure there is established at least one public institution in every Ward’.

*Justification*

This will help to ensure that the public are given an opportunity through their representative to determine when and where any proposed vocational and training learning institution is to be established. This will also help in ensuring that the executive Committee member responsible for education does not misuse his or her powers as the same is limited and controlled. Further, establishment of vocational and technical learning institution in every ward will assist in promotion and uptake of vocational and training courses among the residents in the region hence assist in meeting the objective for which the Act seeks to meet.

*CLAUSE 9*

THAT Clause 9 of the Bill is amended by deleting Clause 9

*CLAUSE 10*

THAT Clause 10 of the Bill is amended by deleting Clause 10

*CLAUSE 11*

THAT Clause 11 of the Bill is amended by deleting Clause 11

*CLAUSE 12*

THAT Clause 12 of the Bill is be amended by deleting Clause 12

*CLAUSE 13*

THAT Clause 13 of the Bill is amended by deleting Clause 13

*CLAUSE 14*

THAT Clause 14 of the Bill is amended by deleting Clause 14

*CLAUSE 15*

THAT Clause 15 of the Bill is amended by deleting Clause 15

*CLAUSE 16*

THAT Clause 16 of the Bill is amended by deleting Clause 16

*CLAUSE 17*

THAT Clause 17 of the Bill is amended by deleting Clause 17

*CLAUSE 18*

THAT Clause 18 of the Bill is amended by deleting Clause 18

**Hon. Speaker:** What did we say on Clause 12 Hon. Kiilu?

**Hon. Kiilu:** We have said that Clause 12 of the Bill is be amended by deleting Clause 12

**Hon. Speaker:** So, you correct that.

**Hon. Kiilu:** You cancel 13 and insert 12

*Justification*

Deletion of clauses 9 to 18 of the Bill seeks to ensure uniformity within republic of Kenya on matters relating to licensing, registration and accreditation of vocational and technical institutions and trainers which is undertaken by Technical and Vocational Educational and Training Authority as established under Section 6 of the Technical and Vocational Education and Training Act, 2013

*CLAUSE 19*

THAT Clause 19 of the Bill is amended by deleting the word 'polytechnic' whenever it appears and substituting therefor the phrase 'private and public Institution'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 20*

THAT Clause 20 of the Bill is amended as follows;

(a) In Sub Clause 20(1) by deleting the phrase 'county government village polytechnic' and substituting therefor the phrase 'public institution'

(b) In Sub Clause 20(2)(a) by deleting the words 'village polytechnic' and substituting therefor the words 'the public'

(c) In Sub Clause 20(2)(a) by deleting the word 'extensive'

(d) In sub Clause 20(2)(a)(i) by inserting the word 'technical' before the word 'education'

(e) amend by deleting Sub Clause 20(2)(a)(ii)

(f) amend by deleting Sub Clause 20(2)(b) and substituting therefor the following Sub Clause 'one representative of the staff of the institution elected by the instructors'

(g) amend by deleting Sub Clause 20(2)(c) and substituting therefor the following sub clause 'one representative of special interest groups in the community';

(h) amend by deleting Sub Clause 20(2)(d) and substituting therefor the following 'one person to represent persons with special needs'

(i) amend by inserting a new sub clauses immediately after sub clause 20(2)(d)  
- a representative of the parents association of the institution  
- a representative of the students 'council who shall be an ex officio member.

(j) In Sub Clause 20(2)(e) amend by deleting

(i) the word 'manager' and substituting therefor the word 'principal' and

(ii) deleting the words 'village polytechnic' and substituting therefor the word 'institution'

(k) insert the following new sub clauses immediately after Sub Clause 20(3)

(4) The Board of Management may from time to time co-opt into its membership such persons as it is satisfied, who possess skills and experience to assist in the discharge of the Board's functions.

(5) The number of members of the Board of Management co-opted under subsection (4) shall not exceed three at any particular time and such members do not have a right to vote at the meetings of the Board"

(6) Sub Clause 20(4) is amended by deleting the word 'fourth' and substituting therefor the word 'second'

#### *Justification*

Allow members of the public and representatives of organization directly or indirectly affected by the affairs of the technical and vocational institution to participate in management, governance and decision making of public technical and vocational learning institutions.

#### *NEW CLAUSE*

By inserting the following new clause immediately after Clause 20

(1) There shall be a parents association for every public institution which shall be constituted in the manner set out in the Third Schedule.

(2) Every private institution shall establish a parents 'teachers association. Justification Allows parents and guardian of learners for the technical and vocational learning institution to form an organization through which they can be able to discuss matters relating to technical and vocational learning institution

#### *CLAUSE 21*

CLAUSE 21 of the Bill is amended by deleting Clause 21 and substituting therefor the following new clause:

(21)

(1) The Executive Committee Member shall, for the purpose of competitive recruitment of a Board of Management under Section 10, constitute a Selection Panel.

(2)The Selection Panel shall consist of the following persons:

- (a) A representative of the Directorate who shall be the Chairperson;
- (b) The Ward administrator in which the institution is located
- (c) The Chief of the area in which the institution is located;
- (d) The sponsor, if any, of the institution
- (e) A representative of the Parents Association, of the institution;
- (f) The head of institution, who shall be the committee Secretary.

(3) In appointing persons as members of a board of management, the nominating and appointing authority shall observe and respect

- a) The ethnic and regional diversity of the people of Kenya;
- b) Impartiality and gender equity; and
- c) Article 10 and Chapter Six of the Constitution.

*Justification*

This will ensure proper mechanisms are put in place to determine and select the appropriate persons who shall be members of the board of management of technical and vocational learning institutions.

*CLAUSE 22*

CLAUSE 22 of the Bill is amended

(a) By inserting the following new sub clause immediately after Sub Clause 22(a) 'promote the best interests of the institution and ensure the institution's development'

(b) In Sub Clause 22(a) by deleting the words 'village polytechnic' and substituting therefor the word 'institution'

(c) In Sub Clause 22(b) by deleting the words village 'polytechnic' and substituting therefor the word 'institution' ; and

(d) In Sub Clause 22(f) by deleting the word 'students' and substituting therefor the word 'trainers'

*Justification*

Incorporate more functions of the Board of Management which seeks to ensure that the object of the Act is achieved.

*CLAUSE 23*

CLAUSE 23 of the Bill is amended by deleting the word 'village polytechnic' and substituting therefor the word 'institution'

*Justification*

This seeks to provide uniformity of terminologies used in the Act

*CLAUSE 26*

CLAUSE 26 of the Bill is amended

(a) By deleting the marginal note and substituting therefor the following 'principal of institution'

(b) In Sub Clause 26(1) by deleting the word 'manager' and substituting therefor the word 'principal';

(c) In Sub Clause 26(1) by deleting the word 'Village Polytechnic' and substituting therefor the word 'institution';

(d) In Sub Clause 26(2) by deleting the word 'manager' and substituting therefor the word 'principal';

(e) In Sub Clause 26(2) by deleting the words 'county public service' and



(f) In Sub Clause 26(3) by deleting the words ' county public service'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 27*

CLAUSE 27 of the Bill is amended by deleting the word 'manager' and substituting therefor the word 'principal'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 28*

CLAUSE 28 of the Bill is amended

(a) In the marginal note by deleting the word 'manager' and substituting therefor the word 'principal'

(b) In Clause 28 by deleting the word 'manager' and substituting therefor the word 'principal'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 29*

CLAUSE 29 of the Bill is amended in the marginal note by deleting the words 'village polytechnic' and substituting therefor the word 'institution'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 30*

CLAUSE 30 of the Bill is amended by deleting the word 'student' whenever it appears and replacing it with the word 'trainees'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 32*

CLAUSE 32 of the Bill is amended

(a) By deleting Sub Clause 32(1) and substituting therefor the following Sub Clause 'The funds of the Directorate shall consist of'

(b) By deleting Sub Clause 32 (1)(a) and substituting therefor the following sub clause 'Monies appropriated by the County Assembly for the purposes of the Directorate'

(c) In sub clause 32(1)(b) by deleting the word 'polytechnic' and substituting therefor the word 'directorate'

(d) In Sub Clause 32(1)(c ) by deleting the word 'polytechnic' and substituting therefor the word 'directorate'

(e) By inserting the following new clause immediately after sub clause 32(1)(d) 'Monies from any other lawful sources'

(f) By deleting Sub Clause 32(2) and substituting therefor the following new sub clause 'The funds shall be used to promote vocational and technical training and education within the county'

*Justification*

Seeks to ensure the principle of public finance as stipulated in Article 201 of the Constitution is adhered to. Further, this will ensure that there is transparency, openness and accountability in utilizing funds allocated to manage the affairs of technical and vocational learning institution by the department of education

*CLAUSE 33*

CLAUSE 33 of the Bill is amended by

(a) deleting the word 'manager' whenever it appears and substituting therefor the word 'principal'

(b) deleting the word 'polytechnic' whenever it appears and substituting therefor the word 'institution'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 34*

CLAUSE 34 of the Bill is amended by deleting the word 'polytechnic' whenever it appears and substituting therefor the word 'institution'

*Justification*

Seeks to provide uniformity of terminologies used in the Act

*CLAUSE 35*

CLAUSE 35 of the Bill is amended by deleting the word 'polytechnic' whenever it appears and substituting therefor the word 'institution'

*Justification*

Seeks to provide uniformity of terminologies used in the Act.

*NEW CLAUSE*

Insert the following new Clause immediately before Clause 36 'Transition and Savings'.

35(1) Any person who immediately before the commencement of this Act was an employee of the Board attached to the Directorate shall, upon the commencement of this Act continue serving.

(2) Notwithstanding the provisions of this Act, any public institution existing immediately prior to this Act shall continue to operate as such, subject to the standards set in this Act.

(3) Upon the coming into force of this Act, the Executive Committee Member shall by regulation, provide for the staggering of the terms of the existing staff of public institution in order to ensure compliance with the provisions of the Act.

#### *Justification*

Seeks to ensure that there is smooth transition of activities relating to vocational and technical learning institution and education when the Act comes into force.

#### *CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE*

##### 1. Vice Chairperson

The Committee shall, at its first meeting, elect a Vice-Chairperson of the Committee from amongst the persons appointed under section 4 (2)(d)(e ),(f) and (g) of this Act.

##### 2. Meetings of the Committee

The Committee shall hold such number of meetings at such places and at such times as the Committee shall consider necessary for the proper discharge of its functions.

##### 3. Special meetings

The Chairperson may at any time convene a special meeting of the Committee and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

##### 4. Chairperson to preside

(1)The Chairperson shall preside at all meetings of the Committee, in which the Chairperson is present and in the case of his or her absence, the Vice Chairperson shall preside.

(2) At a meeting of the Committee at which neither the Chairperson or Vice- Chairperson is present, the members of the Committee present shall elect one of their numbers to preside, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted during the meeting.

##### 5. Quorum

The quorum for the conduct of the business of the Committee shall be more than half of all the members of the Committee.

##### 6. Voting procedure

The decisions of the Committee shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

##### 7. Validity of proceedings

The validity of any proceedings of the Committee shall not be affected by any vacancy among the membership thereof, or by reason of a defect in the appointment of a member.

##### 8. Minutes of the meeting

Minutes of the proceedings at meetings of the Committee shall be kept in such a manner as the Committee directs, and, on the written request of the Executive Committee Member shall be made available to him or her or any person nominated by him or her.

#### 9. Disclosure of interest

(1) If a member of the Committee is directly or indirectly interested in a contract, proposed contract or other matter before the Committee and is present at a meeting of the Committee at which the contract, proposed contract or other matter is the subject of consideration, that member shall disclose the fact as soon as is practicable after the commencement of that meeting.

(2) A member to whom subsection (1) applies shall not participate in the consideration, discussion or voting on the matter in which the member has disclosed an interest.

#### 10. Records

The Secretary to the Committee shall keep a record of all proceedings and meetings of the Committee.

### *CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF MANAGEMENT*

#### 1. Incorporation of Board of Management

The Board of Management shall be a body corporate with perpetual succession and a common seal, and shall in their corporate names, be capable of—

- a) Suing and being sued;
- b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- c) Borrowing, lending and granting money;
- d) Entering into contracts; and
- e) Doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

#### 2. Tenure

(1) Unless the appointment of the chairperson or a member of the Board of Management is earlier terminated under this Act, a person appointed as chairperson or as a member shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term of a period not exceeding three years.

(2) In reappointing members of the Boards of Management, the Executive Committee Member shall maintain a proportion of new membership that ensures continuity in the affairs of the Boards of Management.

(3) Notwithstanding the foregoing, a person who has served as a member of a Board of Management for one term at the date of the commencement of this Act may be re-appointed for a second and final term of three years.

#### 3. Resignation from the Board of Management

(1) A member of a Board of Management may at any time resign by giving notice in writing to the County Education Board.

(2) A person giving notice under subsection (1) shall cease to be a member of the Board of Management from the date specified in the notice or, if no date is specified, from the date of the receipt by the County Education Board of the notice.

#### 4. Frequency of meetings of the Board of Management

(1) A Board of Management shall meet at least once every four months.

(2) Every meeting of the Board of Management shall be convened by giving at least fourteen days' notice in writing to every member unless three quarters of the total Members of a Board of Management otherwise agree.

(3) Notwithstanding the provisions of subsection (1), the chairperson of a Board of Management may, on his own motion or upon requisition in writing by at least five members of the Board, convene a special meeting of the Board of Management or at any time for the transaction of specific business.

#### 5. Quorum of the Board of Management

(1) The quorum for the conduct of business at a meeting of a Board of Management shall be two-thirds of the total number of members of the Board of Management.

(2) Subject to the provisions of subparagraph (1) no proceedings of a Board of Management shall be invalid by reason only of a vacancy among the members thereof.

#### 6. Chairperson to preside over a meeting of Board of Management

(1) The Chairperson shall preside at every meeting of the Board of Management at which the chairperson is present and in his absence, the deputy chairperson shall preside.

(2) In the absence of both the chairperson and the deputy chairperson at any meeting, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

#### 7. Decision of the Board of Management

Unless a unanimous decision is reached, a decision on any matter before a Board of Management shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

#### 8. Disclosure of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before a Board of Management and is present at a meeting of the Board of Management at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

### *THIRD SCHEDULE*

#### *ESTABLISHMENT AND FUNCTIONS OF PARENTS ASSOCIATION*

1. There shall be a Parents Association for every public or private Institution consisting of:

- (a) every parent with a trainee in the institution; and
- (b) a representative of the instructors in the school.

2. The Parents Association shall, at its first meeting, elect a Chairperson and Vice-Chairperson from amongst themselves.

3. The Association shall elect a person who shall be co-opted to the Board of Management.

4. The Head or Principal shall be the Secretary to the Association.

5. The functions of the Parents Association shall be to:

(a.) promote quality care, nutritional and health status of the trainees;

(b.) maintain good working relationship between instructors and parents;

(c.) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance;

(d.) explore ways to motivate the instructors and trainees to improve their performance in academic and co-curricular activities;

(e.) discuss and recommend charges to be levied on trainees or parents;

(f.) undertake and oversee development projects on behalf of the whole Parents Association;

(g.) assist the school management in the monitoring, guidance, counseling and disciplining of trainees;

(h.) discuss and recommend measures for the welfare of staff and trainees.

6. The Parents Association shall hold such number of meetings at such places and at such times as the Association shall consider necessary for the proper discharge of its functions.

7. Subject to the provisions of this Schedule, the Parents Association shall regulate its own procedure.

### *Justification*

Seeks to provide rules and guidelines on how the Machakos Technical and Vocational Committee Board of Management and Parents Association of Technical and Vocational Institutions shall conduct their proceedings in execution of their mandate. So, I think have come to the end of the report, thank you Hon. Speaker for the time.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Kiilu for that lengthy reading of the second reading of the Bill; it was important for it to be read the way you have done because it will facilitate the Members on the debate.

*(Question proposed)*

Hon. Members, at this point the Bill is obviously property of this Assembly and because we know that we have another pressing business in the afternoon, we chose not to extend time so at this point we are going to adjourn the House so that the balloting will be done for the debate of this Bill and it will be urgently done.

## **ADJOURNMENT**

**Hon. Speaker:** In view of the function that the Assembly has in the afternoon, the sitting of the House will be adjourned to resume on the 1st December 2020 at 10am that is next week.

So, Hon. Members, have a pleasant afternoon. And for the function in the afternoon, it is proposed that it starts earliest at two o'clock so that Members have almost one and half hours to have their lunch. The meeting is going to be in the tent so that there is sufficient space for the social distance. Thank you, Members.

The House rose at 12.25 p.m.