

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 29th March, 2022

The House met at 2.58 p.m.

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

PRAYERS

PAPER LAID

REPORT ON THE COUNTY BUDGET REVIEW AND OUTLOOK PAPER, 2021

Hon. Kamitu: Thank you very much, Hon. Speaker. I am holding brief for Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee. Hon. Speaker, I wish to lay the following Paper on the Table of the Assembly today, 29th March, 2022; the report of the Budget and Appropriation Committee on the County Budget Review and Outlook Paper, 2021.

Hon. Speaker: Thank you, Hon. Kamitu and the Paper is signed? Yes it is signed.

NOTICE OF MOTION

REPORT ON THE COUNTY BUDGET REVIEW AND OUTLOOK PAPER, 2021

Hon. Speaker: Under this order the business is as above; it is supposed to be presented by Hon. Dominic Ndambuki but I would ask Hon. Minority Leader will proceed and present the business.

Hon. Kamitu: Thank you, Hon. Speaker. I am standing in for Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee.

Hon. Speaker, that aware that the County Budget Review Outlook Paper is prepared in accordance with Section 118 of the Public Financial Management Act, 2012 which requires the County Treasury to prepare and submit it to the County Executive Committee for approval by 30th September in each financial year;

Aware that the County Executive Committee shall consider the County Budget Review and Outlook Paper with a view to approving it with or without amendments, not later than fourteen days after its submission;

Further aware that not later than seven days after the CBROP has been approved by Executive Committee, the County Treasury shall submit the paper to the Budget Appropriation Committee of the County Assembly to be laid before the County Assembly and publish and publicize the paper not less than fifteen days after laying the Paper before County Assembly;

Cognizant that the County Assembly received the County Budget Review and Outlook Paper on 18th October, 2021 and the Paper was committed to the Budget and Appropriations Committee;

Hon. Speaker, I wish to give motion that the House discusses and approves the report of the Committee on Budget and Appropriations on the County Budget Review and Outlook Paper, 2021.

Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Minority Leader

BILL

Second Reading

THE MACHAKOS COUNTY SOUTH EASTERN KENYA ECONOMIC BLOC BILL, 2021
KENYA GAZETTE SUPPLEMENT NO. 15 (MACHAKOS COUNTY BILLS NO. 7)

Hon. Speaker: Hon. Members, under this Order we have one business by Hon. Maitha. We have Hon. Kisini standing in for Hon. Maitha.

Hon. Kisini: Thank you, Hon. Speaker. I stand on behalf of Hon. Moffat Maitha, Chairperson, Justice and Legal Affairs Committee. Hon. Speaker, pursuant to Standing Order 121(1), I wish to move the motion that the Machakos County South Eastern Kenya Economic Bloc Bill, 2021 (Machakos County Bills No. 7) be now read a second time. Thank you, Hon. Speaker.

Hon. Speaker: Thank you.

Hon. Kisini: I wish to call Hon. Kalumu who is a Member of Justice Committee to second the motion.

Hon. Speaker: Hon. Kalumu.

Hon. Kalumu: Thank you, Hon. Speaker. I second.

Hon. Speaker: Thank you, Hon. Kalumu. Hon. Kisini you proceed now to the report, we shall assist each going through the report we notice it is a long one.

Hon. Kisini: Thank you, Madam Speaker and I acknowledge that we are going to assist each other because it is a very long report. I want to start with the background information. The Constitution of Kenya 2010 brought into place 47 counties in order to devolve resources. The formation of the counties was based on various factors such as geographical features, urban centers and community of interests, historical, economic and cultural ties.

With time, Counties bordering each other realized common interest in economic development and therefore resolved to pool their resources together. Article 189(2) of the Constitution of Kenya, 2010 as read together with Section 6(3) of the County Governments Act, 2012 allows Counties to set up joint committees, joint authorities and enter into partnerships with any public or private organization in accordance with the provisions of any law relating to public or private partnerships for any work, service or function.

In reference to the above, the three Counties of Kitui, Machakos and Makueni constituted and approved an agreement for formation of a regional economic bloc known as the South Eastern Kenya Economic Bloc (SEKEB). The Governors of Kitui, Machakos and Makueni executed the Constitutive Agreement for the formation of the South Eastern Kenya Economic Bloc (SEKEB) on the 18th day of May, 2019.

Establishment of the Joint County Assemblies Committee

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Section 14 (5 and 6) of the County Governments Act 2012 states that a County Assembly may jointly with another County Assembly, establish committees consisting of Members of both County Assemblies. If a County Assembly establishes a joint committee with another County Assembly, the election of members and regulation of the conduct of the business of the joint committee shall be as agreed between the two County Assemblies.

The Joint County Assemblies Committee was established vide a resolution of the three County Assembly Speakers on 11th November, 2019.

Composition of the Joint County Assemblies Committee

The Joint County Assemblies Committee consists of the following; Hon. Speaker, the list is long and Members have it in their report.

Hon. Speaker: What you can do Hon. Kisini is to read the 1.3 (i) to (iii) and now the Members will read the rest.

Hon. Kisini: Okay.

1. Committee on Justice and Legal Affairs and Committee on Public Service and Administration, Kitui County Assembly;
2. Committee on Justice and Legal Affairs and Committee on Devolution and inter-governmental relations, Machakos County Assembly; and
3. Committee on Delegated County Legislation and Committee on Devolution and Public Service, Makueni County Assembly.

Joint Assemblies Committee Membership

The Joint Assemblies Committee membership comprises of the following 60 members from number 1 up to 56 as listed.

Background information of the SEKEB Bill, 2021

Pursuant to the Committee mandate, the Joint Assemblies Committee examined the Governors Agreement on South Eastern Kenya Economic Bloc and came up with a Joint Assemblies Committee report on the constitutive Agreement which was tabled and approved by each County Assembly. The report formed basis for a legislative proposal on the formation and operationalization of South Eastern Kenya Economic Bloc (SEKEB).

The South Eastern Kenya Economic Bloc (SEKEB) Bill, 2021 was drafted, published and introduced to the respective County Assemblies for the first time and committed to the respective Assembly Committees.

The Committees were mandated to facilitate public participation and take into account the views and recommendations of the public when writing their reports. The Bill was committed to the relevant County Assembly Committees pursuant to the provisions of their Standing Orders as tabulated below:

Title of the Bill	Date for 1st reading	Committal Date	Standing Order
Kitui County South Eastern Kenya Economic (Kitui County Assembly Bill No. 5 of 2021)	30th November, 2021	30th November, 2021	119
Machakos County South Eastern Kenya Economic	17th November, 2021	17th November, 2021	145

(Machakos County Assembly Bill No. 7 of 2021)			
Makueni County South Eastern Kenya Economic (Makueni County Assembly Bill No. 8 of 2021)	29th November, 2021	29th November, 2021	145

The principal object of the Bill is to provide for the ratification and implementation of the Constitutive Agreement of the South Eastern Kenya Economic Bloc (SEKEB).

Acknowledgement

On behalf of the Joint Assemblies Committee, I wish to thank offices of the Speakers and Clerks of the County Assemblies for the support offered to the Committee. The commitment and devotion to the duty of all those involved in this vigorous exercise made the work of the Committee and production of this report a success. I thank each one of them. On behalf of the Joint Assemblies Committee, I hereby present this report to the County Assembly for information.

Hon. Speaker: Hon. Kisini, tell us on the clauses like legal framework and mention the headings and so on without reading the details.

Hon. Kisini: Thank you, Madam Speaker. 3.0 is introduction, 3.1 is legal framework, 3.1.1 is Constitution of Kenya, 2010 and then I move to 3.1.2 which is the County Governments Act, 2012.

3.1.2 County Governments Act, 2012

Hon. Speaker, in each of them there are various Sections and the constitution has various Articles. Section 6(1),(2)(a), (b) and (c),(3),(4),(5) (a) and (b) and (6) of the County Governments Act, 2012 grants County Governments corporate powers with perpetual succession and power to enter into contracts, acquire, purchase or lease any land or delegate any of its functions to its officers, decentralized units or other entities within the County.

Hon. Speaker: What I mean is that, Hon. Kisini, when you come to the County Governments Act 2012; just indicate for record that there are various Sections which are cited under that provision.

Hon. Kisini: Thank you, Madam Speaker---

Hon. Speaker: The same with each other law that you are going to cite.

Hon. Kisini: Thank you, Madam Speaker. I repeat again and say

3.1.2 County Governments Act, 2012

There are various Sections which govern that Act

Hon. Speaker: Which govern the process.

Hon. Kisini: Which govern the process.

Hon. Speaker: Go to the next law.

Hon. Kisini: Hon. Members the next law is 3.1.3

3.1.3 Intergovernmental Relations Act, No. 2 of 2012

I say that again, there are various sections of that law

3.1.4 Public Private Partnership No.15 of 2013

There are various sections of that law---

Hon. Speaker: No, which govern the process.

Hon. Kisini: Which govern the process.

Hon. Speaker: It is safe to say that there are various Sections of that law then you proceed to the next one.

Hon. Kisini: There are various sections of the law.

3.1.5 Public Finance Management Act, 2012

There are various sections of the law.

Hon. Speaker: For that we are seeing only Section which is referred to Section 146.

Hon. Kisini: There are various sections that govern that law, Section 146 of the Public Finance Management Act, 2012.

3.1.6 Public Procurement and Asset Disposal Act no. 33 of 2015

There are various sections of the law.

Hon. Speaker: So clause 4.0 is overview of the Bill.

4.0 Overview of the Bill

The following is an overview of the Bill---

Hon. Speaker: That is huge we will not need to go through each one of them. So you just refer the Members to clause 4.0 is the various clauses of the Bill then you can go to clause 5.0 tells us what it is about and perhaps that one you need to read out. 5.0.

Hon. Kisini: Hon. Members, clause 5.0 provides for the objectives of the Bloc to include---

Hon. Speaker: Mine is showing public participation. Is it different? Clause 5.0.

Hon. Kisini: Thank you, Madam Speaker. I have gotten the right information.

5.0 Public Participation on the Bill

Article 196(1) (b) of the Constitution of Kenya, 2010, provides that “a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees.” Standing Orders 120(3) and (4), 120(3) and (4), 145(3) of Kitui, Machakos and Makeni County Assembly Standing Orders respectively which states that ‘the Sectoral Committee to

which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the County Assembly.”

In line with the above provisions, the County Assemblies vide adverts placed on various newspapers and County Assembly websites invited for submission of memoranda from members of the public and held public hearings as tabulated below:

No.	Name of County Assembly	Newspaper	Date of advert	Date Public hearings held
1.	Kitui	Kitui County Assembly website	22 nd February, 2022	25 th February, 2022

Hon. Speaker: And Kitui is Kitui County Assembly Website.

Hon. Kisini: Yes. Kitui County Assembly Website.

2.	Machakos	Nation	19th January, 2022	26th to 28th January, 2022
3.	Makueni	Standard	Thursday, 27th January, 2022	2nd February, 2022

The committee further consulted with the Kenya Law Reform Commission (KLRC) to give their views and advisory on the SEKEB Bill. Upon scrutiny of the Bill, the Kenya Law Reform Commission through an advisory dated 27th January, 2022 gave the following views for consideration by the Committee in executing the Bill.

Hon. Speaker: So the views and recommendations of KLRC are on Clause 5.1?

Hon. Kisini: Yes.

5.1 Proposed Amendments by KLRC

Hon. Speaker: It is proposed amendments and they are highlighted there, isn't it?

Hon. Kisini: Yes.

Hon. Speaker: So can we go to the next one because it is a long proposal; you do not need to read it. For Members you refer them to the proposals by the KLRC.

Hon. Kisini:

Submissions from the County Assembly Members

The Joint Assemblies Committee received submissions from three County Assemblies relating to the following Clauses

Clause 4 - on Ratification

Insert the word “as amended with necessary amendments as contained in this Act” immediately after the word ratified.

Hon. Speaker: So you are addressing clause what on submission by members? The Members also gave their proposal right?

Hon. Kisini: Clause 5(2).

Hon. Speaker: Clause 5(2) so we go on and there are several submissions.

Hon. Kisini: Amendment of the Act.

Hon. Speaker: No. Hon. Kisini, there are several proposals by County Assembly Members correct?

Hon. Kisini: Yes there are several proposals by the County Assembly Members and they were taken into account.

Hon. Speaker: Can you go to the next one; next proposals were there any other group that gave any other proposal?

Hon. Kisini: Yes, Madam Speaker.

5.3 Submissions from Members of the Public

The Committee received submissions from Members of the public across the three Counties relating to the following Clauses which are listed under Clause 5.3

Hon. Speaker: I am just confirming from you is that so?

Hon. Kisini: Yes it is so, Madam Speaker

Hon. Speaker: Okay. Can you proceed; you don't need to read each one of them you just refer the Members. You proceed to the next.

Hon. Kisini:

6.0 Committee Recommendations

Hon. Speaker, in light of the above submissions in the memoranda, the oral representations made and the committee deliberations on the Bill, the Joint Assemblies Committee recommends that the following amendments be considered during the Committee of the Whole Assembly in consideration of the South Eastern Kenya Economic Bloc Bill, 2021---

Hon. Speaker: So there is a proposal to address clause what? Just look at the clauses tell us the clauses the first Clause is clause 4 correct?

Hon. Kisini: Yes clause 4.

Hon. Speaker: There is a proposal that should be.

Hon. Kisini: That Clause---

Hon. Speaker: No. There is a proposal on how it should be. The next clause that is proposed to be addressed is clause what? We have Clause 5

Hon. Kisini: We have, Madam Speaker, new Clause

Hon. Speaker: No. They have also proposed that at the committee stage Clause 5 also be reconsidered. Is that so? Table Clerk please guide the Member and remember that he is only sitting in for a Chair of the committee. From my records, I can see there was clause 4 then clause 5.

Hon. Kisini: Yes, Madam Speaker, I am well-guided.

Hon. Speaker: Next clause is clause what?

Hon. Kisini: Clause 5.

Hon. Speaker: The next one after 5? Yes what we are doing is that Hon. Kisini when they say you address clause 5, they propose how it should be done isn't? So we go to Clause 6 and I can see they are proposing a reworking on clause 6. Is that correct?

Hon. Kisini: Yes Clause 6, Madam Speaker.

Hon. Speaker: Which other one do they propose to be reworked? Which other clause? You just go down your report.

Hon. Kisini: New clause---

Hon. Speaker: You just go down to the next clause which they say be addressed Table Clerk.

Hon. Kisini: Thank you, Madam Speaker, I am guided clause 7

Hon. Speaker: Clause 6 is very long and has a lot of provisions.

Hon. Kisini: Clause 7.

Hon. Speaker: Thank you. Clause 7 they also propose how it should be reworked

Hon. Kisini: Yes.

Hon. Speaker: Next.

Hon. Kisini: Clause 10.

Hon. Speaker: From clause 7 you go to clause 10.

Hon. Kisini: Yes.

Hon. Speaker: They have given proposals on how it should be reworked?

Hon. Kisini: Yes, Madam Speaker. Clause 11; First Schedule---

Hon. Speaker: After clause 11 they address First Schedule. They also make proposals on some amendments on First Schedule?

Hon. Kisini: Yes, Madam Speaker.

Hon. Speaker: Thank you. Is that all?

Hon. Kisini: Yes is that all, Madam Speaker

Hon. Speaker: Is that all? So there we are thank you Hon. Kisini you have manouvred and managed to do that report which is very long within a very reasonable time.

(Applause)

(Question proposed)

Hon. Members, I invite you to discuss that Bill so that we can move on to the next stage by way of legislation. Comments, Hon. Members, on the Bill Hon. Mitaa

Hon. Mitaa: Thank you, Hon. Speaker, for the opportunity. I first want to applaud the Committee for report which has just been tabled in this House. I also want to thank the three Counties for teaming up I understand they have been holding joint sittings to harmonize this Bill which is the future of our region. Once it becomes law, I think the three counties will be able now to bargain in a better position and take this across the three Counties in harmony.

Again the Bill will help our people especially business people because I understand it has given priorities to regions or else counties where if a County majors in one line is given priority over the other Counties and I believe this will also distribute resources and the way our people do businesses and other activities.

Hon. Speaker, it will also open movement for our people because it will allow, assuming Machakos residents who have interest in Kitui to do business as if they are in their mother County so it is a great move is something we need to be attached with as a second county because this I the future as again as I said again is the future for this region and history cannot go wrong that this is the Assembly that undertook such a good move, passed the law and allowed the three counties to do business or to transact issues as if it's one region.

Hon. Speaker, even issues to do with industrialization, natural resources to find not all counties have equal resources, so priority will be given to the county which has advantage over other counties. So, Hon. Speaker, I believe this is the best thing, also sharing budgets in some infrastructure, especially along the borders instead of one county investing; they can team up and come up with one project which will be owned by the three counties. So it is something I support as a person and as a representative of Kangundo Central ward people and Machakos people at large. Thank you, Madam Speaker.

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

Hon. (Ms.) Mueni: Thank you, Madam Speaker. What I can say is that we pass this report the people of Machakos, Kitui and Makueni will have an advantage because the outside country want to help the Eastern region projects so that they can be benefiting. During the time we were in the meeting, I met people who are working outside Countries and they taught me they are looking for money for the SEKEB, so we will get money. Not this Assembly but the other Assembly will be benefiting and I hope the people in this Assembly will be there and will notice the advantage. Thank you.

Hon. Speaker: Thank you, Hon. Mueni. Hon. Kalumu.

Hon. Kalumu: Thank you, Madam Speaker. I would like to thank the Committee for the work it has done. It has brought the SEKEB law which is key to our bloc because it will enable us as a County to come together with other Counties who have the same idea and also take advantage of specialties of member counties. For example, if Kitui has the specialty of weaving the clothes like the way they have KICOTEC and us having for example, we had an idea of coming up with fruits, we can make the region a hub or economic bloc to enable our people to grow economically.

It will bring resources together; we as Machakos County cannot handle some things alone but because of this law we are now by the SEKEB Bill which is now after sometime will become a law and will have a cement factory in Kitui which we can say it is for Machakos, Kitui and Makueni as the bloc. So it is a good thing for the people of all the member counties and it will uplift the living standards of the people in the member counties. Thank you.

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

Hon. (Ms.) Ndeti: Thank you, Madam Speaker. I have listened to the Bill and it is very much in line with the motto of this Assembly *Kyaa kimwe kiyuaa ndaa*. That togetherness of the three counties is going to give them resources, give them human resources and they will surge ahead and maybe attract foreign investors to the three counties because of the already resources that we have and are untapped.

They should be able to do mega projects that will have an impact in our three counties. So, I personally feel that the people who came up with this idea are very special to the three Counties because I see a lot of development, a lot of employment for our youths, and a lot of resources flowing to the three counties. Thank you, Madam Speaker.

Hon. Speaker: Thank you, I will call upon the mover of the motion Hon. Kisini to reply.

Hon. Kisini: Thank you, Madam Speaker. I want to say a lot of thank you to the Members for the contribution they have made to this Bill which surely is going to uplift the living standards of the people living in the three Counties. It will also be able to see that the three Counties get a grant, the three Counties as a bloc will also be able to work jointly on the areas where they can tap resources and benefit the people.

I specifically want to thank you Madam Speaker; as a member of Justice and Legal Affairs Committee, I have seen you spearhead this process, which was long, we have been to Nairobi, Mombasa, we have communicated through the audio and I want to specifically thank you for the Bill which when signed will become an Act. This is a landmark which will make you happy. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kisini.

(Question put and agreed to)

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

ADJOURNMENT

Hon. Speaker: Hon. Members, at this time the sitting of this Assembly will be adjourned and will continue on the 30th day March, 2022 at 10.00 a.m. Thank you.

The House rose at 3.40 p.m.