

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 2nd February, 2022

The House met at 10.29 a.m.

[The Deputy Speaker (Hon. Museku) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR
REPORTS OF THE AUDITOR GENERAL

Hon. Deputy Speaker: Hon. Members, under this Order I have one communication to make and this is on reports of the Auditor General. Hon. Members, Article 229(4)(b) of the Constitution of Kenya provides that within six months after the end of each financial year, the Auditor General shall audit and report in respect of that financial year in the accounts of all funds and authorities of the National and County governments.

In addition, Article 229(5) of the Constitution provides that, the Auditor General may audit and report on the accounts of any auditing that is funded by public funds. Further Article 229(7) of the same constitution provides that the audit reports shall be submitted to Parliament or the relevant County Assembly. Pursuant to this provision of the Constitution, the Assembly received the following reports on the 24th day of January, in the year of our Lord 2022 from the Office of the Auditor General.

- a. Report of the Auditor General of Machakos on Machakos County Assembly Housing Scheme for the year ended 30th of June, 2019.
- b. Report of the Auditor General on Machakos County Assembly Car Loans scheme for the year ended 30th of June, 2019.

The reports are hereby Hon. Members committed to the Public Accounts and Investments Committee for scrutiny and submission to the Assembly for approval. The committee should report to the House within 90 days from the date this communication pursuant to Article 229(8) of the Constitution of Kenya 2010. Thank you, Hon. Members.

STATEMENT SOUGHT
IMPLEMENTATION OF THE DEVELOPMENT
BUDGET FOR 2020/2021 AND 2021/2022

Hon. Deputy Speaker: Hon. Members under this Order we have one Statement to be moved by Hon. Mitaa on behalf of the Majority Leader Hon. Mark Muendo. Hon. Mitaa

Hon. Mitaa: Thank you, Hon. Speaker. I wish to seek a Statement on the implementation of the fiscal year 2020/2021 and Fiscal year 2021/2022 budgets. Hon. Speaker, Section 104 of the County Governments Act 2012 states that a county government shall plan for the County and no public funds shall be appropriated outside a planning framework developed by the County Executive Committee and approved by the County Assembly. Section 15 of PFMA states that over the medium-term, a minimum of 30 per cent of the National/County Government County budget shall be allocated to development expenditure.

The County Assembly approved the Budget Estimates for the fiscal financial year 2020/2021 and 2021/2022 and approved a program-based budget for each year to give budgetary effect to Machakos County Integrated Development Plan (2018/2022) and the 2020/2021 and 2021/2022 Annual Development Plans. According to the Controller of Budget report of the fiscal year 2020/2021, out of a revised development budget of Ksh. 4,754,388,339, the County incurred an expenditure of Ksh. 2.59 billion on development programs. The reports further shows that the major projects implemented are as follows:

1. Construction of Kyeleni earth dam which spent Ksh. 55,483,510.
2. Construction of Gender-Based Violence Center education Machakos which spent Ksh. 30,519,588.
3. Partial payment for construction of Mully farm treatment plant water Yatta at Ksh. 11,200,000.
4. Routine maintenance of Makutano/Mwala road to Yatta and Mwala at Ksh. 15,041,149.
5. Construction of chambers, County Assembly Headquarters at Ksh. 82,796,855.
6. Construction of Ward Offices, County Assembly various wards Ksh. 58,000,000.
7. Construction of dormitory at Kituluni VTC education in Kangundo at Ksh. 11,786,348.

Hon. Speaker, in the current financial year 2021/2022 the County Assembly approved a development budget of Ksh. 3.8 billion and further approved the program-based budget which has pegged all the development projects that should be implemented in this particular financial year. It is noted that the County did not report any expenditure on development programs during the first quarter according to the report from the Controller of Budget.

Hon. Speaker, pursuant to Standing Order 41, I wish to seek the following Statement from Chairperson Budget and Appropriations Committee:

1. With evidence, how has the Executive realized the implementation of the development budget of Ksh. 2.5 billion as indicated in the report of the Controller of Budget for the fiscal year 2020/2021.
2. What is the status of the implementation of the development budget for the current financial year 2021/2022.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Moses, for that Statement. Hon. Members, as is the custom with such weighty Statements, I give members a few minutes to comment on it. Any

Member who want to comment on this specific Statement can do it now. Is there any member who wishes to comment on this specific Statement? Hon. Judas Ndawa.

Hon Ndawa: Thank you, Mr. Speaker. I would like to take this opportunity to congratulate *Mheshimiwa* for such a Statement. Mr. Speaker, as we are all aware, we are now winding up for our session and the projects that were fronted by all the members for the two financial years that is 2020/2021 and 2021/2022, some have stalled and we do not see any signs of the projects being completed. So I do agree with the *Mheshimiwa* that we need to get answers. I want to cite an example of projects which were started; we started many stadiums within the County and none of the stadiums have ever been completed. We started tarmacking some road including Matuu-Equity road and also Matuu Level IV hospital.

Right now the project stalled and no sign of it being completed and there is urgent need to get the answers because before the projects were started, we picked from the CIDP and the ADP. We did public participation and Members of the public who said this is a priority and if they do not see the projects being concluded, they start blaming the area MCA. Mr. Speaker, I agree with the Statement and request the answers be provided for immediately.

The only challenge with the Statement is that the answers are only being sought from the Budget Committee and I am very sure the Budget Committee did their work because they worked on the budget and they brought it and the House approved it. I thought the Statement would seek answers from the implementation arm because the person who was supposed to implement the project is the one with the information. If we are told that the implementation is zero and there is expenditure, how come we have spent funds and the project done is zero; it means the monies spent somewhere and we need to get answers so that we can explain to our electorates.

Remember, we are in an election year and each Member will be answerable to the electorates; you promised to do A-B-C-D so why haven't you done that. If we do not get these answers it means we may not have an answer to our electorates and there is urgent need to get them. Mr. Speaker, I will request your desk to give short time for the answers to be brought because if we talk of 10 to 20 days, it may go up to the end of the term. So kindly give a lenient time (??) so that we can get answers. Thank you, Mr. Speaker.

Hon. Deputy Speaker: If we have a very important Statement before you and I wanted you Members to look at the contents of that Statement because this is going to be committed to the Budget and Appropriations Committee. I want this Committee to look at the contents of that Statement properly and prepare us to engage on this issue which is vital before you pass the Supplementary budget. If there are any projects which have not yet been implemented, you need to look at the Supplementary budget and find out whether funds have been availed for you to be able to perform those specific projects.

If there is a project which is said to have been done like the ones highlighted here, it is important for the respective Members in those areas, when the Budget Committee will bring their response before the House, to confirm that each and every one of these projects have been implemented and completed.

For example, on the construction of Kyeleni earth dam, I would like the area MCA Hon. Kasyoki to confirm to the House that the facility is in existence. Construction of Gender-Based Violence Center in Machakos, that needs to be confirmed by the area MCA, Hon. Peter Joseph Mutiso. On partial payment for construction of Mully Farm in Yatta, evidence needs to be shown

of expenditure. On routine maintenance of Makutano-Mwala Road, do we see Ksh. 15 million in the maintenance of that road and also find out if Machakos County Government or the national government which was doing that maintenance because that highway is part of the national highway network of roads.

So, Members need to confirm whether this money was spent by the County government or the National Government and who is doing the maintenance. Construction of County Assembly Chambers at Ksh. 82 million, we need to get the Clerk with the Budget Committee to show Bills of Quantities which can ascertain the Chambers has so far consumed Ksh. 82 million. Construction of ward offices, how many have been constructed; do we have a ward without a ward office so that we can be able to ascertain the Ksh. 58 million which has been spent and of course the dorm in Kituluni in Kangundo, has this been constructed at a cost of Ksh. 11 million.

Let us prepare well and I am committing this to the Budget and Appropriations Committee to report on or before 16th February, 2022 which is in the next few days so that we can come here with detailed analysis and examine these items properly and report back to the House and have a health debate so that before we commit any more funds, we can get directions Hon. Ndawa has said in this year if you take yes for an answer where it is supposed to be a no, then you will be explaining to the electorates why you said so. Thank you very much. That Statement is committed to the Budget and Appropriations and Committee to report on or before 16th February, 2022.

(Then)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Hon. Speaker left the Chair]

IN THE COMMITTEE

[Hon. Chairperson (Hon. Museku) took the Chair]

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

Hon. Chairperson: Members, as we do the Committee of the Whole House, it is important to note that the amendments have been posted on the Whatsapp wall. So here we normally do not read them and we normally say as proposed amendments but if you go to the wall you will be able to see the exact proposed amendments and what we are changing. So we are going to move quickly because I believe we have debated on this Bill which necessitated the amendments contained in the proposals.

I believe all the items that had been included in the Bill as presented before the House and the amendments brought on the floor of the House is what has been incorporated now in the Bill. Therefore, we should go and finalize on the Bill so that we can move to the next stage of processing this Bill.

Clause 3

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT, Clause 3 of the Bill be amended by:-

- (a) In paragraph (a) by inserting the following new words and their respective interpretation in alphabetical order—

“Director” means the Director in charge of the Climate Change Directorate appointed under section 10A;

“Directorate” means to the Climate Change Directorate created under section 10;

“Governor” means the Governor of Machakos County;

Question of the amendment proposed)

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

- (b) In paragraph (b)—

i. by deleting sub-paragraph (iii);

ii. in sub-paragraph (vi) by deleting the figure “45” and substituting therefor the figure “46A.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

- (c) By inserting the following new paragraph immediately after sub-paragraph (i)—
(ia) definition of the word “directorate”
definition of the word “climate change unit”

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 3 as amended agreed to)

Clause 4

Hon. Chairperson: Clause 4 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 4 of the Bill be amended by—

- (a) Deleting paragraph (a);

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(b) Inserting the following new paragraph immediately after paragraph (b)—

(ba) in paragraph (c) by deleting the words “and administer” appearing immediately after the words “funds into”.

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 4 as amended agreed to)

Clause 5

Hon. Chairperson: Clause 5 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 5 of the Bill be amended by deleting the entire Clause and substituting therefor the following new Clause—

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 5 as amended agreed to)

Clause 6

Hon. Chairperson: Clause 6 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 6 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 6 as amended agreed to)

Clause 7

Hon. Chairperson: Clause 7 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 7 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

Amendment of section 9

7. The Principal Act is amended by deleting section 9 and substituting therefor the following new section—

Removal of a Steering Committee Member

9. (1) A member of the Steering Committee may resign by issuing a one-month notice in writing to the Governor.
- (2) A member of the Steering Committee appointed under subsection (1)(f), (g), (h), and (i) may be removed from office by the Governor, with the approval of the County Assembly on any of the following grounds—
- (a) Failure to attend three consecutive meetings of the Steering Committee without reasonable cause duly communicated to the Chairperson of the Steering Committee;
 - (b) Gross violation of the Constitution or any other written law Gross misconduct;
 - (c) Physical or mental incapacity;
 - (d) Bankruptcy.
- (3) A person who is a member of the Steering Committee by virtue of office under section 7(1)(a),(b),(c),(d), or (e) shall cease to be a member of the Steering Committee upon being transferred from such office or ceasing to hold that office.
- (4) A member of the Steering Committee under section 7(1)(f),(g),(h), or (i) shall cease to be a member of the Steering Committee upon ceasing to be a member of the organization or upon being recalled by the organization for good cause and through written communication from an authorized official of the organization to the Chairperson of the Steering Committee.
- (5) Whenever a member of the Steering Committee is removed or otherwise ceases to be a member of the Committee, the Deputy Governor shall inform the Governor who shall appoint a replacement within 60 days of the vacancy.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 7 as amended agreed to)

Clause 8

Hon. Chairperson: Clause 8 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 8 of the Bill be amended by deleting the whole Clause and substituting therefore the following new Clause—

Amendment of section 14

8. The Principal Act is amended by deleting subsection (2) of section 14.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 8 as amended agreed to)

Clause 9

Hon. Chairperson: Clause 9 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 9 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 9 as amended agreed to)

Clause 10

Hon. Chairperson: Clause 10 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 10 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

Amendment of section 16

10. The Principal Act is amended by deleting section 16 and substituting therefor the following new section—

Composition of Planning Committee

16. (1) The Planning Committee shall consist of—

- (a) The Chief Officer who shall be the Chairperson;
- (b) The Director in charge of the Climate Change Directorate, who shall be the Secretary;
- (c) The Chief Officer responsible for the County Treasury;
- (d) The Chief Officer responsible for matters relating to agriculture;
- (e) The Chief Officer responsible for matters relating to water;

- (f) A woman and a man representing duly registered public benefit organizations working on matters relating to the environment in the County nominated by the umbrella organization representing the largest public benefit organization in the County;
 - (g) A representative of the private sector operating in the County nominated by the largest umbrella body of the private sector in the County;
 - (h) A representative of Persons Living With Disabilities duly registered with the National Council for Persons Living With Disabilities nominated by its Machakos Chapter.
 - (i) The Administrator of the Fund, who shall be an *ex-officio* member with no voting rights.
- (2) Members of the Planning Committee shall at their first meeting elect a Vice-chairperson from among the members appointed under subsection (1)(f), (g), or (h).

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 10 as amended agreed to)

Clause 11

Hon. Chairperson: Clause 11 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 11 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

Amendment of section 17

10. The Principal Act is amended by deleting section 17 and substituting therefor the following new section—

Appointment and Term of Planning Committee Members

- 17. (1) Members of the Planning Committee shall be appointed by the Executive Committee Member with the approval of the County Assembly.
- (2) Members of the Planning Committee appointed under section 16(1) (f), (g), and (h) shall serve for a term of three years and shall be eligible for re-appointment once.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 11 as amended agreed to)

Clause 12

Hon. Chairperson: Clause 12 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 12 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

Amendment of section 18

12. The Principal Act is amended in section 18—

(a) by deleting subsection (2) and substituting therefor the following new subsection—

(2) A member of the Planning Committee appointed under section 16(1) (f), (g), and (h) may be removed from office by the County Executive Committee Member with the approval of the County Assembly on any of the following grounds—

- (a) Failure to attend three consecutive meetings of the Planning Committee without reasonable cause duly communicated to the Chairperson of the Committee;
- (b) Gross violation of the Constitution or any other written law;
- (c) Gross misconduct;
- (d) Physical or mental incapacity; or
- (e) Bankruptcy.

(b) By deleting subsections (3) and (4) of section 18 and substituting therefor the following new subsections—

(3) A member of the Planning Committee by virtue of section 16. (1) (a), (b), (c), (d), or (e) shall cease to be a member of the Committee upon being transferred from the County or ceasing to hold such office.

(4) A member of the Planning Committee under section 16. (1) (f), (g), and (h) shall cease to be a member of the Committee upon ceasing to be a member of the organization or upon being recalled by the organization for good cause and through written communication from an authorized official of the organization to the Executive Committee Member.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 12 as amended agreed to)

Clause 13

Hon. Chairperson: Clause 13 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 13 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

Amendment of section 19

13. The Principal Act is amended by deleting the whole section and substituting therefor the following new section—

Secretariat of Planning Committee

19. The Directorate of Climate Change shall serve as the Secretariat for the Planning Committee.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 13 as amended agreed to)

Clause 14

Hon. Chairperson: Clause 14 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 14 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 14 as amended agreed to)

Clause 15

Hon. Chairperson: Clause 15 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 15 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 15 as amended agreed to)

Clause 16

Hon. Chairperson: Clause 16 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 16 of the Bill be amended by deleting the whole Clause and substituting therefor the following new Clause—

16. The Principal Act is amended in section 23 by inserting the following new paragraph immediately after paragraph (f)—

(ga) Ascertain the satisfactory completion of climate change projects in the Ward funded under this Act before payment.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 16 as amended agreed to)

Clause 17

Hon. Chairperson: Clause 17 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 17 of the Bill be amended by deleting the entire Clause and substituting therefor the following new Clause—

Amendment of section 24

17. The Principal Act is amended by deleting section 24 and substituting therefor the following new section—

Composition of Ward Planning Committee

24. (1) A Ward Planning Committee shall comprise—

- (a) One person who has knowledge and demonstrated experience in public affairs, who ordinarily reside in the Ward and who shall be the Chairperson;
- (b) The County Government officer responsible for matters relating to climate change who shall be the Secretary, and an *ex-officio* member with no voting rights;
- (c) A representative of the youth who ordinarily resides in the Ward;
- (d) A representative of persons with disabilities who ordinarily resides in the Ward;
- (e) A representative of women who ordinarily resides in the Ward;
- (f) A representative of the business community who ordinarily resides in the Ward;

- (g) A representative of Faith-Based Organizations who ordinarily resides in the Ward; and
 - (h) A representative of Community-Based Organizations who ordinarily resides in the Ward.
- (2) The Ward Planning Committee Members under paragraphs (1) (a), (c), (d), (e), (f), (g) and (h) shall be nominated by members of the public at a public meeting convened for that purpose by the County Officer responsible for matters relating to climate change in the Ward.
- (3) In consultation with area leaders, the County Officer responsible for matters relating to climate change in the Ward shall ensure that all stakeholders including interest groups eligible for nomination as members of the Ward Planning Committee are equitably represented in the nomination meeting.
- (4) The notice convening the meeting under subsection (2) shall be issued not less than 14 days before the date thereof and shall be widely publicized through public barazas, community radio stations, and other forms of media available in the Ward.
- (5) Within seven days of the nomination of members of the Ward Planning Committee, the County Officer responsible for matters relating to climate change in the Ward shall forward the names of the nominees to the Steering Committee.
- (6) Within fourteen days of receipt of the nominees to the Ward Planning Committee, the Steering Committee shall compile a list of nominees from all the Wards and forward it to the County Assembly for approval.
- (7) The Steering Committee shall publish in the Gazette, the names of the Members of the Ward Planning Committee appointed under this section.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 17 as amended agreed to)

Clause 18

Hon. Chairperson: Clause 18 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 18 of the Bill be amended by deleting the entire Clause and substituting therefor the following new Clause—

Amendment of section 28

18. The Principal Act is amended by deleting section 28 and substituting therefor the following new section—

Qualifications for appointment to Ward Planning Committees

Section 28 of the Principal Act is amended—

- (a) In subsection (1) by inserting the words “appointed under section 24 (1) (a), (c), (d), (e), (f), (g) and (h)” immediately after the words “Ward Planning Committee”;
 - (b) in subsection (2) by inserting the words “appointed under section 24 (1) (a), (c), (d), (e), (f), (g) and (h);” immediately after the words “Ward Planning Committee”;
 - (c) In subsection (3) by deleting the words “24 (1) (f) and (g), appearing immediately after the words “under section” and substituting therefor the words “Section (1) (b)”;
 - (d) By deleting subsection (4);
 - (e) By deleting subsection (5) and substituting therefor the following new subsection
- (3) Whenever there is a vacancy in the Ward Planning Committee, the County Officer responsible for matters relating to climate change shall initiate and complete the nomination process of a replacement within 60 days of the vacancy.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 18 as amended agreed to)

(Clause 19 agreed to)

Clause 20

Hon. Chairperson: Clause 20 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 20 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) By deleting subsection (1) and substituting therefor the following new subsection—
 - (1) The Steering Committee shall, in consultation with the relevant sectors and through a participatory process involving relevant stakeholders, formulate a County Climate Change Action Plan.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 20 as amended agreed to)

(Clauses 21, 22 and 23 agreed to)

Clause 24

Hon. Chairperson: Clause 24 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 24 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 24 as amended agreed to)

Clause 25

Hon. Chairperson: Clause 25 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 25 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 25 as amended agreed to)

Clause 26

Hon. Chairperson: Clause 26 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 26 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 26 as amended agreed to)

Clause 27

Hon. Chairperson: Clause 27 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 27 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 27 as amended agreed to)

Clause 28

Hon. Chairperson: Clause 28 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 28 of the Bill be amended by deleting the entire Clause and substituting therefor the following new Clause—

Amendment of section 45

28. Section 45 of the Principal Act is amended by deleting subsections (3), (4), (5), and (6).

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 28 as amended agreed to)

Clause 29

Hon. Chairperson: Clause 29 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 29 of the Bill be amended by deleting the entire Clause and substituting therefor the following new Clause—

29. The Principal Act is amended—

- (a) In section 48 by deleting subsection (1);
- (b) By deleting subsection (2) and substituting therefor the following new subsection—

(2) The administrative expenses of the Steering Committee, the Planning Committee and the Ward Planning Committees and their secretariats shall be defrayed out of the Fund.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 29 as amended agreed to)

Clause 30

Hon. Chairperson: Clause 30 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 30 of the Bill be amended by deleting paragraph (b).

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 30 as amended agreed to)

Clause 31

Hon. Chairperson: Clause 31 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 31 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 31 as amended agreed to)

Clause 32

Hon. Chairperson: Clause 32 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 32 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 32 as amended agreed to)

Clause 33

Hon. Chairperson: Clause 33 has proposed amendments.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move THAT Clause 33 of the Bill be amended by deleting the entire Clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 33 as amended agreed to)

(Clauses 34 to 54 agreed to)

New Clauses

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move:-

THAT the Bill be amended by inserting the following new Clause immediately after Clause 7—

7A. The Principal Act is amended by deleting section 10 and substituting therefor the following new section—

Climate Change Directorate

10. (1) There is established the Machakos County Directorate of Climate Change.

(2) The Directorate shall, in addition to any other functions assigned to it by this Act, the Climate Change Act, 2016 or any other law—

- (a) Implement national laws and policies on climate change;
- (b) Implement the County Climate Change Action Plan, County Climate Change Finance Framework and other climate change related policies, plans programmes and projects;
- (c) Advise the County Government on matters relating to climate change;

- (d) Undertake research and create public awareness on climate change in the County;
- (e) Be the repository of climate change related information;
- (f) Formulate policies, programmes and plans related to climate change;
- (g) Monitor, evaluate and report on climate change related issues;
- (h) Liaise with the national government and other stakeholders concerning climate change; and
- (i) Perform such other functions as may be necessary for the implementation of this Act or any other law.

(2) The Board shall appoint such personnel of the Directorate as may be necessary for the realization of the objectives of this Act.

(3) The personnel of the Directorate shall serve on such terms of service as the Board, on the recommendation of the Salaries and Remuneration Commission may determine.

Insertion of Section 10A.

Climate Change Director

10A. (1) There shall be a Director in charge of the Directorate of Climate Change who shall be competitively recruited by the Board and approved by the County Assembly.

(2) A person qualifies for appointment as the Director if that person—

- (a) Is a citizen of Kenya;
- (b) Has a first degree in any of the following fields—
 - (i) Environmental studies;
 - (ii) Environmental engineering;
 - (iii) Meteorology;
 - (iv) Climatology;
 - (v) Environmental law;
 - (vi) Community development;
 - (vii) Public administration; or
 - (viii) Economics.
- (c) Has knowledge, experience and a distinguished career of not less than ten years in a relevant field;
- (d) Has held a leadership position in a public service or private sector organization for at least five years; and
- (e) Meets the requirements of Chapter Six of the Constitution.

(2) The functions of the Director are to be—

- (a) The head of the Directorate and Accounting Officer;
- (b) Responsible for the implementation of the County Climate Change Action Plan, County Climate Change Finance Framework and other climate change related policies, plans programmes and projects;
- (c) Responsible for the operational coordination of climate change response measures and actions in the County;

- (d) Responsible for the provision of technical support to County government departments on the integration and mainstreaming of climate change response measures and actions into all County Government development policies, plans, programmes and projects;
 - (e) Responsible for the provision of technical support to communities and other stakeholders in the County in formulating and implementing low carbon development strategies and actions to build resilience and enhance adoptive capacity to climate change;
 - (f) Responsible for the coordination of climate change related research activities, knowledge dissemination and public awareness in the County;
 - (g) Responsible for the coordination of public participation and facilitation access to information pertaining to climate change with regard to all development plans, programmes and projects in the County;
 - (h) Responsible for the coordination of the measurement, reporting and verification of all climate change policies, plans, programmes and projects in the County;
 - (i) A signatory to the Fund;
 - (j) The secretary to the County Planning Committee;
 - (k) Responsible for the—
 - (i) Execution of the decisions of the County Planning Committee;
 - (ii) Preparation and submission to the County Planning Committee for approval, of programs necessary for the achievement of the Directorate's mandate;
 - (iii) Preparation of quarterly report on the implementation of this Act; and
 - (iv) Performance of such other duties as may be assigned by the County Planning Committee or any other law.
- (3) The Director shall hold office for a term of three years and shall be eligible for re-appointment once.
- (4) The Board may recommend to the County Assembly for the removal from office of the Director on the following grounds—
- (a) Violation of the Constitution or any other law;
 - (b) Inability to perform the functions of the office due to physical or mental infirmity;
 - (c) Incompetence;
 - (d) Gross misconduct; or
 - (e) Bankruptcy.
- (5) Before removal from office under subsection (4), the Director shall be informed in writing, of the reasons for the intended removal, and shall be afforded an opportunity to defend themselves against such allegations, either in person or through a legal representative.
- (6) The Director may resign from office in writing, addressed to the Board.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be

read a Second Time, proposed)

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move:-

THAT the Bill be amended by inserting the following new Clauses immediately after Clause 16—

Amendment of section 25

16A. The Principal Act is amended in section 25 by deleting the words “a Chairperson and” appearing immediately after the words “shall elect”.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be
read a Second Time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move:-

THAT the Bill be amended by inserting the following new Clauses immediately after Clause 17—

Amendment of section 26

17A. The Principal Act is amended by deleting section 26 and substituting therefor the following new section—

Qualifications for appointment to Ward Planning Committees

26. A person shall qualify for appointment to the Ward Planning Committee if that person—

- (a) has a diploma in a relevant field;
- (b) demonstrates basic knowledge of climate change and environmental issues;
- (c) has engaged in activities aimed at addressing climate change and environmental issues in the County;
- (d) meets the requirements of Chapter Six of the Constitution;
- (e) indicates willingness to serve the community.

Amendment of section 27

17B. Section 27 of the Principal Act is amended by deleting the words “24 (1) (a), (b), (c), (d) and (e), appearing immediately after the words “under section” and substituting therefor the words “Section (1) (a), (c), (d), (e), (f), (g) and (h)”;

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move:-

THAT the Bill be amended by inserting the following new Clauses immediately after Clause 28—

Amendment of section 46

28A. Section 46 of the Principal Act is amended by inserting the following new subsections at the end of the section—

- (1) In developing the annual County budget, the County Executive Committee Member for Finance shall ensure that at least 0.5 % of the budget is allocated to the Fund.
- (2) The Fund shall be utilized as follows—
 - (a) 5% of the Fund shall be set aside for administration purposes and
 - (b) 95% of the Fund shall be utilized to fund the Ward-based projects as follows—
 - (i) 80% to be distributed equally among the Wards; and
 - (ii) 20% to be distributed equitably among the Wards according to population.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move:-

THAT the Bill be amended by inserting the following new Clauses immediately after Clause 28B—

Amendment of section 47

28C. The Principal Act is amended in Section 47 by deleting paragraph (b) of subsection (2).

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move:-

THAT the Bill be amended by inserting the following new section immediately after section 46—

Fund Administrator

46A. (1) The Fund shall be administered by a Fund Administrator who shall be competitively recruited by the Board and approved by the County Assembly.

(2) Upon recruitment under subsection (1), the Fund Administrator shall be designated as such by the County Executive Committee member for Finance in accordance with section 116 (2) of the Public Finance Management Act, 2012.

- (3) A person qualifies for appointment as the Fund Administrator if that person—
- (a) has a first degree in finance, economics, or business administration;
 - (b) has at least five years in finance management;
 - (c) is a member of a recognized professional body;
 - (d) demonstrates basic knowledge of environmental matters; and
 - (e) meets the requirements of Chapter Six of the Constitution.
- (4) The Fund Administrator shall be in-charge of the Fund and shall—
- (a) be responsible for the day-to-day management of the affairs of the Fund;
 - (b) provide technical assistance to the Ward Planning Committees;
 - (c) process and ensure timely disbursement of project funds as approved by the County Planning Committee;
 - (d) prepare quarterly returns on the movement of funds as appropriate for submission to the County Assembly;
 - (e) cause to be kept proper books of accounts and other books and records related to the Fund;
 - (f) ensure that the accounts and financial statements for the Fund comply with international accounting standards or other standards as may from time to time be prescribed by the Accounting Standards Board.
 - (g) not later than three months after the end of each financial year, prepare and submit to the County Assembly, financial statements relating to those accounts; and
 - (h) perform such other duties as may be assigned by the County Planning Committee.
- (3) The Fund Administrator shall hold office for a term of three years and shall be eligible for re-appointment once.
- (4) The Board may recommend to the County Assembly for the removal from office of the Fund Administrator on the following grounds—
- (a) violation of the Constitution or any other law;
 - (b) inability to perform the functions of the office due to physical or mental infirmity;
 - (c) incompetence;
 - (d) gross misconduct; or
 - (e) bankruptcy.
- (5) Before removal from office under subsection (5), the Fund Administrator shall be informed in writing, of the reasons for the intended removal, and shall be afforded an opportunity to defend themselves against such allegations, either in person or through a legal representative.

(6) The Fund Administrator may resign from office in writing, addressed to the Board.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

(Clause 2 agreed to)

(Long Title agreed to)

(Clause 1 agreed to)

Hon. Chairperson: Thank you, Hon. Members.

Hon. (Ms.) C. Koki: Mr. Chairman, I beg to move that the Committee do report to the House its consideration of the Machakos County Climate Change Amendment Bill No. 6 of 2021 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Hon. Deputy Speaker in the Chair]

REPORT AND THIRD READING

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

(By Leave of the House)

Hon. Deputy Speaker: Hon. Christine.

Hon. (Ms.) C. Koki: Thank you, Hon. Speaker. I wish to report that the committee of the whole House has considered the Machakos County Climate Change (Amendment) Bill, 2021

(Machakos County Bills No. 6) and has approved the same with amendments. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Christine. Hon Moses.

Hon. Mitaa: Thank you, Hon. Speaker. I beg to move that the House do agree with the committee in the said report. Thank you, Hon. Speaker. I wish to call Hon. Betty to second the motion.

Hon. (Ms.) B. Nzioki: Thank you, Mr. Speaker. I wish to second. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you very much.

(Question proposed)

(Question put and agreed to)

Hon. (Ms.) C. Koki: Hon Speaker, pursuant to Standing Order 131(2), I wish to move the motion that the Machakos County Climate Change (Amendment) Bill, 2021 (Machakos County Bills No. 6) be now read a third time. I call upon Hon. Moses Mitaa to second. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Christine. Hon. Moses Mitaa.

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

(Question proposed)

Hon. Deputy Speaker: I can call Hon. Christine or even any other Member to just give comments on this before I put the question.

Hon. (Ms.) C. Koki: Thank you Hon. Speaker. I don't have much to say at this juncture, but to thank the Hon. Members for their participation in adopting this Bill. Thank you, Hon. Speaker.

(Applause)

Hon. Deputy Speaker: Thank you, Hon. Christine Koki.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

Hon. Deputy Speaker: Thank you, Hon. Members, with that. Hon Members we now have as a House put in place the Machakos County Climate Change (Amendment) Bill, 2021, Kenya Gazette Supplement No. 14 (Machakos County Bills No. 6). It is an Act which we can be proud of as an Assembly because this is going to facilitate this County to acquire the required resources with structures in place to mitigate and ensure we get gains in as far as climate change is concerned.

My hope is that this Bill will be assented to as quickly as possible by the Executive so that the residents of this County can start enjoying the benefits which will accrue as a result of this Hon House passing this very vital Bill which will enable our people to access resources to help them mitigate on climate change issues. Thank you very much and congratulations to the House.

(Applause)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, this House now stands adjourned to resume on Wednesday the 2nd day of February, 2022 at 2.30 p.m. Enjoy your lunch.

The House rose at 11.26 a.m.