

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 12 March, 2014**

The House met at 3.06 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****COMMUNICATION FROM THE CHAIR****CONTINUATION OF SITTING 011**

Hon. Speaker: Good afternoon members, you remember we were here in the morning session and broke out after an adjournment application so this session is a continuation of where we reached in the morning. Clerk, guide us.

MOTIONS AND BILLS**BURSARY FUND REGULATIONS 2014**

Hon. Speaker: I will call upon the mover to proceed and introduce the matter as we now proceed for debate.

Hon. Ndeto: Thank you Mr. Speaker. It is another opportunity that you have given me this afternoon....

Hon. Speaker: Point of order.

Hon. Nzoka: We have a member who is not dressed decently and that is a mockery to this House. Thank you. The member seated behind me.

Hon. Speaker: Point of order is dismissed because you have not named the member.

Hon. Nzoka: Sorry, Hon. Kavuu is not dressed according to our attire.

Hon. Speaker: I agree. Hon. Kavuu, kindly leave the chamber.

(Hon. Kavuu withdraws from the Chamber)

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Hon. (Ms.) Kaluki: Thank you Mr. Speaker sir, I would like to bring to your attention that we do not have quorum in the House.

Hon. Speaker: Clerk, kindly advise the House whether we have quorum.

(Clerk physically checks attendance of members)

Hon. Speaker: The advisory I have from the Clerk is that there is a quorum so business can continue. In the meantime, the bell can be rung. Proceed.

Hon. Ndeto: Thank you Mr. Speaker. I was worried because this is a very important document that honourable members should give their contributions and also pass because as I stated in the morning, we need to establish Bursary Fund Regulations so that the Controller of budget can release the funds allocated in the budget. As members give their contributions, I kindly request them to bear in mind that three months have passed from the time we allocated the bursary in December vacation and soon the year is ending and remember we still have some amount of money left before the financial year ends in June 2013. Kindly bear in mind that we are behind schedule and make sure we pass the regulations in the soonest time possible. Thank you.

Hon. Speaker: Thank you. Let's move on quickly. Hon. Members we are looking at the rules and think every member has a copy of the rules. The proper procedure is we go page by page, unless members tell me they had gone through the document and they are satisfied that they are good regulations. Every member can get hold of their copy and the arrangement is that the Clerk will go clause by clause.

(Clerk goes through the clauses)

ESTABLISHMENT OF BURSARY COMMITTEE

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. Mr. Speaker, I would like to start by giving a brief history of myself. In 2007, I was elected councillor for Kangonde ward under the old constitution. I am very proud that during the March 4, 2013 elections, the residents and my electorate of Kangonde Ward which was formerly a ward in the defunct Machakos County Council gave me their votes almost 100 per cent. The simple reason is that because of the way I managed the bursary funds for the County Council. For those five years, I used to go to every village and it was my prerogative to organize for beneficiaries of these bursaries Mr. Speaker but it was the duty of the villagers because they knew better about their village and parents who could not raise money to pay fees for their children in secondary schools. Mr.

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Speaker, in these regulations, part 4 on establishment of bursary committees, Mr. Speaker I am totally against establishment of these committees. Mr. Speaker, the best way for the elected members to be in touch with their electorate is to see their members going to the village level and identifying the beneficiaries of the fund. So Mr. Speaker, I strongly oppose establishment of these committees at ward level. Thank you, Mr. Speaker.

Hon. Speaker: As we are going through this document, we have reached at rule no. 8 and the objection that has been raised is from Part IV (9). It is important that I give the question on regulation 8 because the objection I have heard from the Leader of majority is in Part IV (9).

Hon. Katela: I read these regulations over lunch hour and it mostly concerns elected members and three quarters of them are not here. We may go through these regulations very fast and it might cause problems because this committee as in part IV (9), it states 'County Bursary Committee' but back in part III provides for 'Administration of the Fund.' It means the committee is the one that will administer the Fund. And then on regulation 6 (2) provides that the County Executive committee member responsible for matters relating to education shall second such staff.it means the elected members will not be directly the administrator of the Fund.

I am here to support what the Leader of Majority has said. We need to be taken through this document without hurry because I know it will cause problems. We will have an elected member given an administrator of the Fund who is an opponent on the ground. What will you do? This won't work. The way we did with the earlier one, we need to go to the wards and pick people by ourselves.

Hon. Speaker: As to what that member is saying, and the concerns he is raising, I will urge members to read Regulation No. 11 which provides for Ward Bursary Committee. Maybe, for a moment, we can have the mover of the motion take us through Regulation 11. May be that is where the solution lies.

Hon. Ndeto: Thank you, Mr. Speaker. One point that I want to notify the members is that, as per the current constitution, I understand that Hon. Members should not be implementing anything directly in the wards. It is the prerogative of the Executive to implement. Our roles are legislation, budget-making and oversight.

Hon. Speaker: I am happy to day that you are very energetic.

Hon. Katela: Thank you Mr. Speaker. I have come to understand that County Assemblies are the copycats of the National Assembly. I want to pose a question to the mover of the motion; who Administers CDF at the constituency level? Is it not the MP? Then why are we being left behind from administering what we pass here? Mr. Speaker, protect me.

Hon. Speaker: Ok, you have made your point. Let's hear this point of order.

Hon. Ngui: Mr. Speaker, is it in order for Hon. Leonard Katela to pose a question to another hon. Member?

Hon. Speaker: I agree, that was not in order, proceed let the mover lay the background.

Hon. Ndeto: Thank you Mr. Speaker and that hon. Member.

Hon. Speaker: When you are rising on a point of order you do not ask questions. That was out of order, grossly out of order. Proceed.

Hon. Ndeto: So the issue was in page 5, part four county bursary committee. There is an established committee to be known as the county bursary committee. This shall comprise of a county executive member who shall be responsible for matters relating to education who shall be the chair to that committee. There are two committees here; the county level and the ward level. The first one is at the level of the county which goes up to page 6 in the regulations. The functions of the county Bursary committee down to page 7 regulation No. 11 where we have the Ward Bursary committee.

The ward bursary committee shall consist of one person, not being a public officer experienced in public matters, who ordinarily resides in the ward and who shall be the chair person. The county officer will be responsible for matters, relating to education in the ward and shall be the secretary. The first person is the member of the county assembly, an officer who is from the department of education and an elected member of the county assembly from the ward that is the Honorable members, one person representing Faith based organizations, 3 persons who reside in the ward representing marginalized groups that is the physically challenged, marginalized and any other person who can fit in that classification.

The person's referred in paragraph (2a) that is the one person (2d) one person representing faith-based and (2e) 3 persons who are ordinarily residents shall be nominated by chief officer responsible for matters of education in the county, in consultation with the elected county assembly member from the ward. What I want to say is that elected members have the say to nominate but in consultation with the chief officer in charge of education.

In nominating the persons referred to in paragraphs (2a), (2d),(2e), the chief officer shall take into consideration, regional and gender balance in the committee. The person referred in paragraph (2a), (2d),(2e) shall serve for a single term of three years and shall be eligible for another one term of three years. Those are the few remarks about the regulations and Honorable members, should not feel they are sidelined because in fact you are at the centre of this committee. So it is up to the members to come up with the decision as we deliberate on this matter but remember we are not supposed to be implementing programs direct to the ward. Thank you

Hon. Speaker: Thank you very much. Yes let us hear Hon. Ndawa first.

Hon. (Ms.) Ndawa: Thank you Mr. Speaker, Sir. It is a good thing that today we are deliberating this regulations. I want to tell our hon. chair Mr. Ndeto that we in his house came up with the idea of bursaries in our wards. We did this because we realized that in the former regimes, there were bursaries in the councils where the councillors would issue to the needy students. We also realized that with our offices we can't do without bursaries.

Mr. Speaker, I want to say that in the ward committee there shall be no way that these Hon. Members especially the elected members will choose the ward bursary committees with the so-called county officers who are responsible for the matters of education because we understand our wards better. We know where we come from, the people who we can work with and we know the people who are closely related to, the people on the ground and we know the needy people. Mr. Speaker I want to say that the ward bursary committee should be under the member elected in that particular ward. For the other issue which was raised by Hon. Mwonga, it is a good thing that we have an established committee on the executive side.

We also want to make it clear that this County committee shall not be in contact with people on the ground and it is only for official use that this committee shall sit and deliberate on issues of the bursaries but not on the ground level where we are handling issues of the common mwananchi. Mr. Speaker, I would wish that this regulations be left behind with honorable members to go through them once more before we discuss them in this house so that we don't make mistakes which may affect this honorable members in the future Mr. Speaker.

Hon. Speaker: Thank you. Let us hear Leader of Majority.

Majority Leader (Hon. Mwonga): Thank you, Mr. Speaker, I would like to start by thanking Hon. Magdalene Ndawa but Mr. Speaker, members should know that our pupils in our wards are waiting for these bursaries eagerly, Mr. speaker, I would like to urge members not to postpone the debate on these regulations due to its urgency. We better say we go article after article. Mr. Speaker on Article 11, sub section (iii) on page 7, it is the ward bursary committee, but Mr. Speaker the person's referred to Article 2a, 2d and 2e are the key persons in this committee. 2 (a) states about a person, who is not a public officer, experienced in education matters and ordinarily resides in the ward and who shall be the chairperson of the committee.

Mr. Speaker, the mandate of nominating this person is the Chief Officer and becomes the automatic chair of the committee. Mr. Speaker, I do not agree to that and I would wish we amend and state that 'shall be nominated by the elected member of that particular ward.' In sub-section 'd' on the person to represent the faith-based organizations. Mr. Speaker, taking the example of the Chief Officer of Education we have now, I don't know which sub-county he comes from? Do you want to tell me that he knows all the faithful in my ward or it is me who knows them better? Mr. Speaker also in sub-section iv, on nominating the persons referred to in paragraphs 2 (a), 2

(d) and 2 (e), the Chief officer shall take into consideration regional and gender balance in the committee.

Mr. Speaker, between the Chief Officer and the member in the ward, who knows the people better than the other? It is the member in the ward. We should amend it and say in 'nominating this person, it is the ward representative.' Mr. Speaker, right now we are having a committee on social welfare and the chief officer was not involved in any way but we have these committees sitting down right now and it is the MCAs who came up with these committees. So Mr. Speaker, I have no problem with the term of three years and the renewal but I would like the MCA to be seen participating in and much involved in these bursary committees, so where we are having Chief officers involved in nominating or doing what, let us amend that and leave it to the member of that particular ward. I would beg all members to support this idea. Thank you Mr. Speaker

Hon. Ngui: Thank you. Mr. Speaker. I would like to support that we pass these regulations like last week because our people are suffering because we have so many students at home and over the weekend, I actually paid fees for three. I would like to disagree with the Majority Leader and the education chair has stated clearly that the work of the County Assembly and the executive. Mr. Speaker, I want you to help us understand our roles. As a hon. Member, the constitution bars us from directly being involved in executing development programmes. Mr. Speaker, we have projects of roads and water going on in our areas and us members only give the priorities even.....Mr. Speaker protect me.

Hon. Speaker: Allow that member to finish.

Hon. Ngui: Thank you Mr. Speaker for your protection.

Hon. Speaker: Proceed.

Hon. Ngui: Mr. Speaker, we have projects of water, social welfare and roads which are ongoing at the moment and we never passed any regulations here that members of this assembly be involved directly. It was just a favour that...Mr. Speaker protect me.

Hon. Speaker: Let us take the order now.

Hon. Kitheka: Thank you Mr. Speaker. I would like to inform the member who has just sat that now there is a ward social welfare committee and when it came into place, the chief officer was not involved at all. There was a board to regulate that that was set up and the MCA was directly involved because they are social functions and chief officers are not reflecting anywhere in implementation of the projects in the constitution.

Hon. Speaker: Another point of order.

Hon. (Ms.) Ndawa: Mr. Speaker, Sir, I think the hon. Member does not know what he is really talking about here because one, there is no point here.

Hon. Speaker: Before you proceed, I think that is too harsh to the member.

Hon. (Ms.) Ndawa: No, it is not harsh Mr. Speaker because---

Hon. Speaker: Proceed, proceed.

Hon. (Ms.) Ndawa: Mr. Speaker he deserves that---

Hon. Speaker: Hon. Members, I am in control. Hon. Ndawa, find some kind words for that member.

Hon. (Ms.) Ndawa: Ok, Mr. Speaker, I will try and be kind.

Hon. Speaker: Now begin.

Hon. (Ms.) Ndawa: Mr. Speaker, what I am saying is that the hon. Member for Katangi ward is misleading this House.

Hon. Speaker: Thank you, now proceed.

Hon. (Ms.) Ndawa: One, we are not involved anywhere in terms of monies, we are only forming a committee that will handle the bursary as the MCAs of the wards. We have said we have two committees: at the County Executive level that has the mandate to see whether the monies have been given in the proper way because there is nowhere where the MCAs are involved in monies Mr. Speaker. So I believe the MCAs should be given the mandate to form the ward committees. We know our people better, we know our wards better and we deserve to form those committees because we are the leaders and speak on behalf of those people.

Hon. Speaker: The point is made. Thank you. Let's hear hon..... This are only points of order I am taking. Is it a point or order?

Hon. Matheka: Not really a point of order.

Hon. Speaker: Ok, let us hear hon. Mutuku.

Hon. Speaker: Is it a point of order.

Hon. M. Mutuku: Yes.

Hon. Speaker: Good.

Hon. M. Mutuku: Mr. Speaker, Sir, as per the National Assembly and since we know County Assemblies are a reflection of the National Assembly where we have CDF whereby the committee is under prerogative of the MP who appoints the committee and more so the same should be the MCAs who has the mandate to constitute the Ward Bursary committee. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Is that a point of order?

Hon. Manyolo: Not a point of order but a communication.

Hon. Speaker: Then have your seat we will reach you. Any point of order? I want as we continue that you be adequately informed. Now you can conclude and utilize the information and learning you got.

Hon. Ngui; Thank you Mr. Speaker. I appreciate what the hon. Members are saying but I want to report that we had a sitting to discuss these regulations at City Cabanas hotel and the most of members complaining yet they are members did not attend so they are taking us back.

Hon. Speaker: That member is protected

Hon. Ngui: Thank you for the protection Mr. Speaker. I understand what these members are saying but in the social welfare fund the space give for the MCAs to nominate members was a local arrangement because there were no regulations that were passed in this House that MCAs can nominate members. These are regulations that will go to the Budget Controller and we don't want them to come back

Hon. Speaker: Let me ask this. What do you mean by saying local arrangement?

Hon. Ngui: A local arrangement is where the Executive get in touch with members through their relations.

Hon. Speaker: I rule that member is out of order because he is unable to sustain his argument. Let us proceed with the debate. Hon. Nzioki, please.

Hon. Nzioki: Thank you, Mr. Speaker. I request that we support this motion with the amendments that Hon. Mwonga gave because we have lost a lot of time and we have lost touch with our electorate. This is a fund and we are talking of a committee but we are not talking of how to implement but mandate of nominating the committee members because we know our people.

Hon. Speaker: Hon. Kyuli. Point of information? You are sure it is a point of information. You need emphasis. That is not a point of information.

Hon. Kyuli: Asante Bwana Spika. Nitaanza na kushukuru maana nimeoneka. Naunga mkono mswada huu wa kusaidia watoto wetu kuwalipia karo kwani tunasumbuliwa nyumbani kila siku asubushi watu wanakuja kutuuliza maswali ya mambo ya mwaka uliopita. Hivi leo manjua inabaki miezi michchae mwaka usonge na shule zifungwe kwa muhula wa kwanza. Wanafunzi tuliowasaidia kwa karo kwa muhula wa kwanza, wengi wao wamefukuzwa na wengi wao wako nyumbani. Mimi leo naomba tupitishie hili jambo kama vile Mhe. Mwonga kutoka Masinga alivyosema ili sisi tuwe tumeshika hatamu katika eneo zetu. Hivi sasa, mtu akija kutoka sehemu nyingine na kusema kuwa huyu bwana hajachaguliwa kutoka sehemu fulani ya wodi yangu, nitashangaa ni yeye anaifahamu wodi yangu ama ni mimi? Tupitishie mapendekezo ya Mhe. Mwonga ili sisi waheshimiwa tushike hatamu na watu wasituvuruga kule na hautaweza ati uklikuja kuwasaidia na karo. Tutakuwa tumepitwa na wakati. Nitasangaa sana kama kuna mheshimiwa ambaye amechaguliwa anaweza kusema sisi tutengwe. Tukitengwa tutakuwa tumejitenga. Kama wale waliandika huku hawana uwezo wa kupitisha mambo kama haya na katika imetupaia ruhusa mambo kama haya yakitengenezwa kule, watuletee na sisi tupige msasa amboa kwetu ni sisi tuwe wenye mamlaka ya kuteuwa wale wanakamati kwasababu tukiachilia

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wataleta watu kwa wodi amboa hatuwajui na sisi tutakuwa tumejitenga wenyewe. Hivyo Bwana Spika, tumepiga msasa na vile Mheshiwa wa masingi alivyopendekeza. Asante.

Hon. Speaker: Thank you. Asante sana.

Hon. (Ms.) Mueni: Thank you Mr. Speaker. Mine is to support. Tupitishie hii motion kwa sababu. Protect me Mr. Speaker.

Hon. Speaker: Proceed. Endelea.

Hon. (Ms.) Mueni: Thank you Mr. Speaker. I want to ask members to pass this motion because for elected members his Bursary issue has taken 50 per cent of you if we can go back to the electorate now. We have to pass it so that you can pass it. Thank you.

Hon. Speaker: Thank you very much. We can hear that member.

Hon. Mutisya: thank you Mr. Speaker. I would like to say I support this motion with the amendment made by the Majority Leader. This motion should have been passed by last week and because we have taken time to go through it, I support it fully.

Hon. Speaker: Now we have Chairman of Justice and Legal Services committee. Kindly tell us.

Hon. Itumo: Mr. Speaker, I support the document because it is vital motion and as one of us said, Hon. Mwonga, we should have total control of the wards as far as this committee is concerned because a person like maybe Chief officer could come to our wards and try to finish me in. I would like to quote Chinua Achebe 'when a hunter learns to shoot a Eneke bird without missing, Eneke bird learns to fly without perching on trees.' Those are guys brought our wards to coerce others to finish me. Mr. Speaker, I come from Kangundo and it is a hotspot of politics and I would like you to ask you Mr. Speaker.

Hon. Speaker: I was almost asking you. Kindly tell us what mean by saying finishing because we fear for your life.

Hon. Itumo: Let me proceed, Mr. Speaker.

Hon. Speaker: But tell us before, what is finishing you. You said you will be finished by these regulations.

Hon. Itumo: I restrain from that.

Hon. Speaker: Proceed.

Hon. Itumo: I support this motion with a total heart and I would like request members to pass this motion because several women came to my home and actually asked the bursary that I promised. I had no answers and they called me a liar. I would like ask members to make this document go through with amendment.

Hon. Speaker: Let us hear chair budget and then the other members.

Hon. Muinde: Thank you Mr. Speaker. I support the creation of this fund with necessary amendments. Before I pinpoint the areas of my concern, there is the equivalent of this fund at the

national government that is the CDF. In Masinga constituency, I am the chairman of that fund yet I am an elected member but this might not go line by line because the DO and MP sit at the end of a term of a committee to nominate members to sit in the CDF committee and the DO sends the names to the ministry for gazetting. In the same vein, I found out that it be inserted that the membership of that committee be created by the MCA and the education officer at the ward level in consultation.

At the constituency level, the first business is to elect the chair who is other than the MP and the DO. If we are to adopt that structure at the bursary committee, the education officer at ward level becomes the secretary automatically and he chairman from among those nominated. The MCA will ok with it if he or she participated in nominating. I think in page 7, clause 11, 2 a, we could amend that section so that the MCA will be directly in charge in nominating and will always sit in that committee as a patron and ensure everything is going on well. In article 16 on page 9, on allowances of the members, I think it is erroneous to state that their salaries will be determined by SRC because these are not public officers and they can only earn an allowance and not salaries.

In the CDF, we earn an allowance that is determined by the ministry because they only have four sittings in a year unless there is an extraordinary item coming in. Why do we have to pay them a salary that is earned every month? If you allow them to earn a salary, there are these committees that are coming up at the ward level, they will all demand to earn a salaries. Will this County afford to pay salaries every person assigned a duty? The wage bill may not be sustainable. At this level, members can determine and at the constituency bursary fund, we only Ksh. 25,000 which will cater for the allowances of the members and stationery or any other incidental costs although I find that to be very little because some people earn only Ksh. 500 and they come from very far and it can only cater for their transport but at least we can determine a fair amount where every sitting that a member can earn an allowance.

Basically it is a voluntary service of helping the needy in the society but even in helping we don't have to make the volunteers miserable when giving service to the citizens. I hope my concerns will be taken and that we pass this document. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. Hon. Rachel.

Hon. (Ms.) R. Nduku: Thank you Mr. Speaker. I am fully supporting this document with amendments as per my colleague honorable member from Masinga has said. I am only worried about page 8, No. IV which is almost connected to what Hon. Muinde which states hat in nominating the persons referred to in paragraph 2 (a), (d) and (e) the chief officer shall take into consideration regional and gender balance in the committee. We all agree with all that but, I don't think the chief officer knows our regional areas so I support what Honorable members are putting in place and support the motion with amendments. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. If I was to get you clearly I think you support what the Majority Leader said that the chief officer be replaced with the member of county assembly. So that we can go quickly to paragraph under rule 11, sub rule 3, then we replace the chief officer with the MCA. Will that alone cure the entire paragraph 11?

Hon. Matheka: Thank you Mr. Speaker, and the entire House at large. I have noted that the honorable members are quoting the CDF act which they want to replicate to bursary fund. CDF Act used a different style to nominate their members. I think the key word here is nominating. In the CDF neither the MP nor the DO, if am correct who is given the mandate to nominate members of the Fund but it is the public who go as per ward, nominate members and then the MP has the authority of just forwarding the names and not nominating. So..... Mr. Speaker, sir. Protect me Mr. Speaker, I want to finish what am saying.

Hon. Speaker: I ask first we allow that honorable member to finish his valuable point.

Hon. Matheka: Mr. Speaker, Sir, when members of that committee are nominated by the public the names are forwarded to the MP who chooses from a pool of many then he chooses whoever he wants to be the members of that committee. So Mr. speaker sir, If we want to follow that route it's the members of the public who have to nominate these members then the MCA will have the authority to chose the final list then he will forward the final list to the Chief officer who will appoint not nominate. I think we should get the difference between those two words. Nominating and appointing are two different words. Nomination will be done by the public and the MCA should forward the names for appointing by the chief officer. You forward the names of five, then the appointing should done by the Chief Officer. Thank you Mr. Speaker Sir.

Hon. Speaker: Hon. Nziva.

Hon. (Ms.) Nziva: Thank you Mr. Speaker. I am supporting the motion with amendments but if I got Hon. Muinde well, there is a Constituency Bursary Fund which I also represent in Yatta its not CDF but a Constituency Bursary Fund of which the MP nominates the members. So an MCA can also nominate members of the Ward Bursary Fund. Thank you.

Hon. Speaker: Thank you very much. Can we hear a direction from the mover of the motion? My understanding is that they had adequately lobbied for this document and it doesn't appear that you did what I thought was enough.

Hon. Ndeto: Thank you Mr. Speaker. I want to thank the Majority Leader because he changed his mind from deleting the whole to amendment. Thank you for that. What I want to bring your attention to is on page 2, which states in exercise on powers conferred under section 116 of the Public Finance Management Act 2012, the executive member in charge of finance and revenue collection in Machakos County makes the following regulations that is Machakos County Bursary Fund regulations and these regulations is just for the money that we get and then got stuck. A Bill is on the way to establish the Fund. These regulations are specifically for the

money we need to distribute and a Bill is coming. Just get me; a Bill is coming where you will make all these changes. I am not opposed to the changes that members want to be changed about the Ward Bursary committee. It is just to interchange the paragraph and it can be nominating by the MCA I consultation with the Chief Officer.

Hon. Speaker: Sorry. Have some decorum I the House please because there is a member on the floor.

Hon. Ndeto: Why I am saying this is because we sat down with the legal officer and my position was what you are having right now. I was totally against this but the legal advisor told me that there is no way or leeway. Even at the Cabanas meeting we had a standoff like we are having. The legal mind I the Assembly advised us clearly that if it goes that way the regulations will not pass the test of the legal minds.

Hon. Speaker: The mover of the motion is passing a point that he invited you to City Cabanas to discuss this matter. Hon members kindly hear me we can discuss because we can even discuss in the night. Way forward. I want way forward.

Hon. Nzoka: Thank you Mr. Speaker, Sir. I am one of those who attended that committee and my Chairman has said that this was a contentious issue in No. 11. That is why in No. 3, it is ending with the person referred in paragraph 2 (a), (d) and (e) 'shall be nominated by the Chief Officer responsible for education matters in the County in consultation with the elected members. That is why we put ourselves there. That is the loophole where we tried to put ourselves in but it was contentious and I agree the discussions are very healthy. I am still on.

Hon. Speaker: Point of information. Let's still take. I agree you are still on.

Hon. Muinde: Mr. Speaker.

(Loud consultations)

Hon. Speaker: Order, hon. Members.

Hon. Muinde: Mr. Speaker, as we debate this it is very clear in our mind that the entire education system in Kenya or the ministry is not devolved but as a County we can come in and help our needy students. The members of the Assembly will lose control if they have no say in the Fund. The secretary is the CEO at the ward level and is a member of the national government and is the main person. Even when auditors come, it is the officer who will be audited and not the MCA.

If the MCA is appointing members but not the secretary because that is an automatic position and that is a public officer. So, even as we sit and help in distribution of his funds, we cannot be accused of implementing but only giving direction because we are patrons. Hon. Matheka talked about nomination and why don't we agree and harmonize these dissenting views

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that the MCA in consultation with the secretary who is the officer responsible for education nominate and the nominees be sent to the Executive Committee member in charge of education for appointment so that the person is nominated at the ward level by the person who knows the people and that is the MCA. So that is the only way that people we know, of integrity and can be of help are nominated to this committee.

Hon. Speaker: Way forward. Hon. Kitheka, proceed.

Hon. Kitheka: Mr. Speaker, the member is trying to dictate.

Hon. Speaker: That member is almost out of order.

Hon. Kitheka: Thank you Mr. Speaker, first and foremost, I was in that committee that was at City Cabanas. We agreed on some issues and other issues we agreed they will be sorted out in this House. On issue No. 11, we said that the full House has an upper hand on its outcome.

Hon. Speaker: You are saying issue No. 11.

Hon. Kitheka: Mr. Speaker, issue No. 11 on Ward Bursary Committee. We said it is going to be given the final nod in this House. Mr. Speaker, there is imminent danger in 11 (2) (a) and (d) because for nomination of the Chairman, there will be the influence of the Chief Officer. The secretary will also be coming from the office of the Chief Officer. When you go to No. 15, the mandate to convene a meeting will be on the secretary in consultation with the respective Chairman. If the two conspire to eliminate the MCA, definitely they will do it and the MCA will not reflect anywhere and will not be in the picture. So Mr. Speaker I suggest we pass the regulations with the amendments because they are necessary and good for the survival of the MCAS in their respective wards.

Hon. Speaker: Thank you.

Hon. Kitheka: And notwithstanding my final words. In No. 24 about applicants who are aggrieved by the Ward Bursary Committee that they may appeal to the County Bursary Committee. Mr. Speaker, if that person intends to appeal the appeal will not pass through the same channel so if we eliminate the MCA in at No 11, 2 (a) and (b) and No. 24 and he is skipped and the appeal is taken to the upper Committee and the other appeal is in No. 25 where the other appeal will only go to the court, the MCA will not feature anywhere in the process of appeal. Even in parts of the appeal the MCA will not be considered. I kindly appeal that we amend this regulations and pass them now because the people out here are waiting for the bursaries. Thank you.

Hon. Speaker: Let me hear you again on regulations 24 and 25. What is your point there?

Hon. Kitheka: Mr. Speaker, No. 11, 2 (a) and (b).

Hon. Speaker: I am ok with that.

Hon. Kitheka: I am just giving you the chronology.

Hon. Speaker: Okay.

Hon. Kitheka: No 11, 2 (a) and (b) if we engage the Chief Officer, he will have an upper hand on the Chairman and the Secretary and in No. 15, they have the mandate to convene meetings of the committees. They can call the meeting even when the MCA is abroad and pass everything. Then after passing everything and when it comes to the appeal as provided in No. 24 and 25, you find that the Ward bursary committee is not featuring anywhere. The other appeal will go to the court. Now Mr. Speaker, I am just asking members to pass this document and if the MCA is to participate, let them be in the initial stages in No. 11 (i) and (ii) and if they want it to stay on the issue of appeal, they can stay the way they are. We shall feel accommodated. Thank you.

Hon. Speaker: But members, as we debate this, we agree that the issues at hand are the membership of the two committees. Is there another different issue? Yes.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. I would like to thank members who have supported my amendment. When members were being given this document, I was being grilled by Ethics and Anti-Corruption Commission and I had not time to go through the document and I want to thank the immediate speaker for highlighting that in the same document, we have room for appeal. Mr. Speaker, it is my wish that we delete completely Regulation 24 which provides for appeal. If we allow this, these members will never issue bursaries because we have rivals in the wards.

Immediately we issue bursaries, he will appeal. What will happen? Our people will go without bursaries. If he is not satisfied, there is also room to go the courts. What shall we be doing? Let us not create this room. Let's say the committee at ward level whose membership has the upperhand in the ward, its decision is final. I urge members to support my amendment that we delete regulations 24 and 25 completely.

Hon. Speaker: We hear Hon. Matheka.

Hon. Matheka: Thank you Mr. Speaker and the House at large. I fully support the motion because I need the bursary. We have two groups here. One that was at City Cabanas reading from a different script from the one in the House. Hon. Katela, when you are in---

Hon. Speaker: You are getting out of order.

Hon. Matheka: Oh sorry Mr. Speaker. It is my humble request that we adjourn for 30 minutes so that we can harmonize the two groups and come out with a refined document. Thank you, Mr. Speaker.

Hon. Speaker: Let us have those who support that idea.

Hon. Ngui: I want to support adjournment we go to a *Kamukunji* and agree on the issues we had at City Cabanas meeting.

Hon. Speaker: Yes.

Hon. Kitheka: I totally disagree because we cannot evade our responsibilities to go to cocoons and *kamukunjis* to make decisions for this House

Hon. Speaker: I urge you to use better language. I don't understand what is a cocoon?

Hon. Kitheka: A cocoon is a gathering of a few people trying to make a decision for others.

(Laughter)

So Mr. Speaker I kindly request that we continue for the next 20 minutes and iron out the amendments because I can see the amendments we are pushing for we are in consultation and there is nothing we shall discuss outside other than the amendments of the appeal and the issue of Regulation 11. Thank you.

(Loud consultations)

Hon. Speaker: Then can I move the question? Ok, before I move the question, can I hear the burning issue?

Hon. Kyuli: Thank you Mr. Speaker. First, because I have two issues, I want to support the amendments as were brought by Hon. Mwonga. Number two, there is an issue of allowances here that I wanted to propose to members because it is said there will be some allowances, I wanted to propose that because it is only four sittings, that for every sitting, let us give members Kshs. 1,000 only so that we do not leave it open to go to the Sarah Serem's Commission because that is too far. We have always had, for example the other committee hat sat, although we never gave the ...

Hon. Speaker: Hon. Member, to the extent that you are suggesting an allowance o be put directly in the regulation, I think that will not be proper. This is a regulation that will be there for a long time to come. Allowances ought to be determined by the committee that is in place or the committees that will be appointed because an allowance of Kshs. 1000 now may make sense but may not make sense ten years to come.

Hon. Kyuli: Mr. Speaker I agree to that and therefore I support the amendments even throwing away Article 24 and Article 25. Thank you.

Hon. Speaker: Can I move the question. Are you saying something different? Let's hear the mover of the motion.

Hon. Ndeto: Before the question is moved, I think we are in agreement. The issue of contention was the Ward Committee and the proposal for Mwonga which was seconded by Muinde---

Hon. Speaker: You are out of order. You need to refer to you colleague as Hon.

Hon. Ndeto: Sorry for that. Hon. Mwonga and supported by Hon. Muinde, I think Hon. Muinde did put it very well. He said this, “the committee can be nominated by Hon. Members in consultation with the secretary then forwarded.” I am scared if we postpone, it may go to another day.

(Loud consultations)

Hon. Speaker: Let me understand the point. What is the problem? Let me hear the problem

Hon. Ndeto: My point is...

Hon. Speaker: Order, let me hear the member. Let me understand the point

Hon. Ndeto: After the question, if we adjourn, we may lack quorum and this document is very important. I think we can

(Loud consultations)

Hon. Speaker: Hon. Member, I think the point where we had reached, was this, we now understand the areas of amendment that we need and I would want to put those questions before you for your approval and after the motion succeeds or fails, that will be the close of business. So we are not adjourning for another session. I think that is what the mover had not understood. Let's hear from Hon. Veronica

Hon. (Ms.) V. Mbithe: Thank you, Mr. Speaker and the entire House. I stand here his afternoon to support this document with amendments and I strongly feel that no. 24 will be a bi loophole for the Honourable Members because if no. 24 and 25 are removed, it will be better for us. Why? Because Mr. Speaker, question No. 4 is always there. You realize that application of bursaries all the time is applied by more than the number of people required meaning that all the time there will be people left and all the time we will have problems so let us not give it a loophole. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. Now we can hear Hon. Mutuku.

Hon. M. Mutuku: Thank you Mr. Speaker, Sir, for granting me the opportunity. Mr. Speaker, I stand to support this motion in line with amendments. Mr. Speaker I'd like article 11 (2) to read, “The member of the county Assembly shall form a committee which shall consist ‘a’, ‘b’ *mpaka* ‘e’ then 3 and 4 be deleted then I would also like to support the amendment of 24 and 25 to be deleted. Therefore Mr. Speaker, I am in concurrence with the previous Hon. Members who said we should not give loopholes or provision for appeal, provisions for High Court and

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still we should not make Hon. Members who were elected irrelevant in their respective wards but we can make them relevant in their wards if we delete 3 and 4 in article 11 page 7. So Mr. Speaker sir I stand to support the motion with those amendments. Thank you

Hon. Speaker: It would appear that Hon member is introducing fresh amendments.....

Majority Leader (Hon. Mwonga): *(inaudible)* Article 11, sub (i) I have no issue with the way it is, there is established to each ward.....to the end but the amendments that I brought and they were agreed to by the mover of this regulation who is the chair of education were only that members, as stipulated in 2a,2d, and 2e shall not be nominated by the chief officer but by the area member of that particular ward that was my first amendment which was agreed to by majority of these members and Mr. speaker I think you can read the mood of the members Mr. Speaker.

The other amendment, Mr. Speaker was that we delete completely, regulation 24 and 25 or we remain with regulation 24 and emphasis that the ward bursary committee is final. I had highlighted the same concern in that article 4, the Chief officer shall taken into consideration, that is why I am saying it is not the chief officer who knows my ward better, it is me, so we are amending it to say, the member of that ward will take into consideration, regional and gender balance in the committee. Those were the amendments which I proposed and these members are supporting me. Thank you.

Hon. Speaker: Honourable members, it has now been firmly cleared and I'd wish to put the question on regulations 11, 24 and 25.

(Question put and agreed to)

Hon members I want to refer you to article number 16, Regulation on 16 allowances for members. A question was put there by Mheshimiwa Kyalo Kyuli and he was proposing an amendment I don't know whether he withdrew that amendment.

Majority Leader (Hon. Mwonga): Mr. Speaker, I don't want to fault the expert who was coming up with these regulations but Mr. Speaker, little did he know that Sarah Serem only deals with state officers. Mr. Speaker, these are committee members and Sarah Serem has no business with them. Mr. Speaker, I think we should amend that regulation and say, the members will earn an allowance considered may be by the county bursary's committee so that it can be uniform in all the wards. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Do you agree?

Hon. (Ms.) Ndawa: Mr. Speaker, Sir, I believe the issue of allowances to committee members on how they should earn, maybe we borrow from the CDF where CDF members in every sitting they earn Ksh. 5000. That will cater for their transport because at some point you

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realize we have to consider people who come from each corner to represent the others in these committee so it will cater for their package.

Hon. Speaker: That is okay but the point is, who will determine their allowance?

Hon. (Ms.) Ndawa: This House Mr. Speaker because we are the people who know our wards better.

Hon. Speaker: The bursary Committee or the county executive committee?

Hon. (Ms.) Ndawa: The bursary committee.

Hon. Speaker: The bursary committee.

Hon. Kitheka: Mr. Speaker, I think if we go by the constitution and every law which applies to this, the person who is supposed to determine the allowances for these people is the person who is the administrator of the fund and it happens to be the county executive committee member for finance. Because if we take it to the county bursary committee, they will not have any power to execute any executive order so I think it goes straight to the county executive committee member for finance. Thank you

Hon. Speaker: I think I support those members for this. That ought to be the position, that we cannot leave it to the same committee to determine its allowances, it may take the entire bursary. So now the proposal then for the regulation 16 is that there be an amendment to the extent that consultation with SRC be deleted

(Question put and agreed to)

With that then, the motion as put by Hon. Festus Ndeto, the Chairman Early Childhood Education and Vocational training has succeeds as approved by the House. I will give the chairman Festus Ndeto to give a speech and perhaps congratulate the members for what they have done and forget the Chairman of Justice and Legal Services committee, he must have assisted you after the break. Before Hon. Ndeto proceeds, am reminded the only question we put was for the amendment; we need to put a second question for the approval of the motion. For those who now have approved the motion as amended.

(Question put and agreed to)

Thank you very much. Now we can have the mover of the motion.

Hon. Ndeto: Thank you Mr. Speaker and also hon. members for supporting and passing this motion with amendments. It is great because I believe there will be no other barrier and by the beginning of next week I tend to believe because this is what was waited and now that we have passed it I believe by Monday a communication will come from the executive that money

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be wired to the accounts of the beneficiaries. So, thank you members it is great, have seen members contribute very well. In fact this is how it will be in other motions. So thank you members and God bless you.

ADJOURNMENT

Hon. Speaker: Thank you very much and I think with that, we have come to the end of business and I will urge you to have a good evening. Sorry, a moment. I thought the majority leader wanted to have a word with you so the honourable members are requested to wait there is a point of information that will be communicated by the Majority Leader.

Hon. Muinde: Mr. Speaker I don't know whether your office just forgot or you have decided to defer the letter that was tabled in the morning sitting as given to us by Dr. Nuh from the Speakers Forum, on the meeting with the CRA on the allocation of revenues to the counties where there is an appeal for members to lobby their local MPs so that the budget and appropriation committee of the National Assembly does not downscale money to the county. You had directed that we discuss in the afternoon but in case there is no time I thought it should be clear or just mention if it will be debated another time.

Hon. Speaker: I don't know whether members had a copy of that document.

Hon. Muinde: Mr. Speaker the copies were here and most of the members picked their copies.

Hon. Speaker: I apologize to the chair budget and I am told it was taken to be discussed tomorrow morning because there is a special session tomorrow morning. That is when the Fiscal strategy paper will be discussed and it will be among the agendas. So, members tomorrow morning, we have a special sitting.

Hon. Muinde: Thank you, Mr. Speaker.

Hon. Speaker: I will remind the Majority Leader that you arrange the questions that will be asked tomorrow morning so prepare you file. Otherwise have a good afternoon.

The House rose at 4.36 p.m.