
MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 25th November, 2015**

The House met at 2.37 p.m.

*[The Deputy Speaker (Mr. Nathaniel Nganga) in the Chair]***PRAYERS****Hon. Deputy Speaker:** Clerk, proceed.**PAPER LAID****STATUS OF WARD DEVELOPMENT FUND**

Hon. Ndolo: Thank you Mr. Speaker, Sir. Pursuant to Standing Order 190 (5), I wish to lay on the table of this House today, Wednesday, 25th November, 2015, report of Ward Development Fund Committee on the status of the Ward Development Fund. Thank you.

*(Hon. Ndolo laid the report on the Table)***NOTICE OF MOTION****STATUS OF WARD DEVELOPMENT FUND**

Hon. Ndolo: Thank you Mr. Speaker, Sir. Pursuant to Standing Order 190 (5), I wish to give notice of motion that this Hon. House discusses the report of Ward Development Fund Committee on the status of the Ward Development Fund. Thank you.

Hon. Deputy Speaker: Proceed.**STATEMENTS**

Hon. Kavuu: Thank you Mr. Speaker. Mr. Speaker, Sir. Mr. Speaker, Sir, I stand under Standing Order 41 (2) (a) where during the Statement Hour a member of the House Business Committee designated by the Committee for that purpose shall, every Thursday or on the last sitting day, for not more than ten minutes, present and lay on the Table, a statement informing the House of the business coming before the House in the following week.

Mr. Speaker, Sir, the House Business Committee met today, 25th November, 2015 and balloted business for the following week as follows:-

1	Tuesday afternoon 1/12/2015	<ul style="list-style-type: none"> • Report of Committee on Environment, Land, Energy and Natural Resources on the extent of water pollution in Fourteen Falls and Komo areas of river Athi • Report of Powers and Privileges Committee on commitment to Leadership and Integrity Code
2	Wednesday Morning 2/12/2015	<ul style="list-style-type: none"> • Report of Culture and Tourism Committee on KICOSCA games
3	Wednesday Afternoon 2/12/2015	<ul style="list-style-type: none"> • Machakos County E-Waste Management Bill, 2015, Second Reading by Environment Committee.
4	Thursday Afternoon 3/12/2015	<ul style="list-style-type: none"> • Machakos County Administrative Structures Bill, 2015 • Motion on Adjournment for Recess

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Proceed, Clerk.

BILL

Second Reading

MACHAKOS COUNTY GOVERNMENT HIV/AIDS MANAGEMENT BILL NO. 8 OF 2015

Hon. (Ms.) Ndinda: Thank you, Mr. Speaker, Sir. Mr. Speaker, Sir, pursuant to standing order 121 (1), I wish to move the motion that the Machakos County Government HIV and AIDS Management Bill number 8 of 2015, be now read a second time. I call Hon. Catherine Mbithe to second.

Hon. (Ms.) Nguluku: Thank you, Mr. Speaker. I stand to second that the Machakos County Government HIV and AIDS Management Bill No. 8, 2015 be read for the second time. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Proceed, Vice Chairperson.

Hon. (Ms.) Ndinda: Thank you Mr. Speaker, Sir. Health and Emergency Services Committee, that is the report which I want to read.

Public Participation and Interrogation by the Committee

Foreword

Mr. Speaker, Sir, Kenya has severe, generalized HIV epidemic but in recent years, the County of Machakos has experienced a notable decline in HIV prevalence, attributed in part to significant behavioral change and increased access to ART (Anti-Retroviral drugs).

Mr. Speaker, Sir, according to the National Aids Control Council, the HIV prevalence among women in Machakos is higher, that is 6.8 per cent than that of men which is 2.9 per cent. Approximately 921 adults and 177 children died of AIDS-related conditions in 2013 in Machakos County.

Over the years, the women living in the county have been more vulnerable to HIV infection than the men. This has been due to home delivery and promiscuity along the Mombasa Highway and about 73 per cent of people in Machakos County had not tested for HIV by the year 2009.

Introduction

Preamble

Mr. Speaker, Sir, the Machakos County Government HIV and AIDS Management Bill, 2015 was drafted pursuant to Article 185 (2) that, ‘A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.’

Mr. Speaker, Sir, the aim object and purpose of this bill is to establish an efficient institutional framework for the management of HIV and AIDS and resources mobilization among others as stated in Clause 3(1).

Mr. Speaker, Sir, the Machakos County Government HIV and AIDS Management Bill, 2015 was published on 15th June, 2015 sponsored by Hon. Kyalo Kyuli, Member of the County Assembly, Wamunyu ward.

Mr. Speaker, Sir, the Machakos County Government HIV and AIDS Management Bill, 2015 was read for the first time in the Assembly on the 15th September, 2015. Thereafter, it committed to the Health Committee and Emergency Services pursuant to Standing Order 120 (1) ‘A bill having been read the First Time shall stand committed to the relevant Sectoral Committee without question put.’

Mandate of the Committee

Mr. Speaker, Sir, Committee of Health and Emergency Services was established under the Second schedule of our Standing Orders with mandate to “ all matters related to the County health services including in particular county health facilities, pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, cemeteries, funeral parlors and crematoria and refuse dumps and solid waste disposal, fire-fighting services and disaster management.”

Committee Membership

Mr. Speaker, Sir, the Committee on Health and Emergency Services is comprised of the following members:

- | | | |
|---------------------------|---|------------------|
| 1. Hon. Cecilia Sereka | - | Chairperson |
| 2. Hon. Mary Ndinda | - | Vice Chairperson |
| 3. Hon. Magdalene Ndawa | - | Member |
| 4. Hon. Sammy Nduva | | “ |
| 5. Hon. Stephen Muthuka | | “ |
| 6. Hon. Catherine Nguluku | | “ |
| 7. Hon. Peninah Kaluki | | “ |
| 8. Hon. Winston Kanui | | “ |
| 9. Hon. Thomas Kasoa | | “ |
| 10. Hon. Brigid Kitili | | “ |
| 11. Hon. Kyalo Kyuli | | “ |
| 12. Hon. Amina Mutio | | “ |
| 13. Hon. Edrick Ngunzi | | “ |

Recommendations from the Committee

Mr. Speaker, Sir, the Committee and other members of the County Assembly considered the Bill at Sai-Rock Hotel in Mombasa, 13th November, 2015. Mr. Speaker, Sir, members commended the sponsor of the Bill as it would promote public awareness about the transmission, management and control of HIV and AIDS as well as promoting the realization of rights and fundamental freedoms of persons living with HIV and AIDS.

Mr. Speaker, Sir, Members recommended that the clause 4 (2) (a), the position of the Chairperson should be left for the Committee members to decide. Members also proposed that clause 4 (2) (b) be amended by deleting the CEC responsible for education and replacing with the Chief Officer for the department of Health and Emergency Services who shall be the Secretary of the Committee.

On clause 4 (2) (e), members also proposed that one person representing people who are physically challenged should be included. Further, a suggestion was put to include one person knowledgeable on issues of HIV and AIDS who shall be a member of the Committee and he/she should be appointed by the County Public Service Board, through a competitive process. Members felt that clause 4 (4) was very open and recommended its deletion. Also clause 5 (1) (f) should be amended to read “perform any other function on matters of HIV and AIDS as the CEC Health may deem fit.”

Mr. Speaker, Sir, on clause 6 (2) the Committee proposed that the criteria of creating the membership of the HIV and AIDS control unit should be similar to that of the County HIV and

AIDS Management Committee. Further, deletion of clause 6 (4) and (5) was recommended since members felt that it was ambiguous and prone to misuse.

Mr. Speaker, Sir, the committee was of the opinion that clause 9 be deleted as matters of strategic plan should not be legislated on. Further, on clause 15 (4), an amendment was proposed to put the Chief Officer, department of the Health and Emergency Services to be the accounting officer and not the CEC. Clause 16 was termed to be unconstitutional as it had already been covered in provisions of the penal code.

Recommendations from the public

Mr. Speaker, Sir, the Committee conducted public participation on the 16th November, 2015 in all eight Sub-Counties pursuant to Standing Order 120 (3) “The Sectoral Committee to which a Bill is committed, shall facilitate public participation and take into account the views and recommendations of the public when the committee makes its report to the County Assembly.” Mr. Speaker, Sir, 200 members of the public attended these forums in all the eight sub-counties.

The public proposed that, the appointment to the Committees should be fair, open and competitive. Further, clause 5 (5) should be amended by inserting the word ‘Financial’ before the word ‘year’ to read ‘financial year.’ On Clause 6, members of public proposed that there should be representatives of persons living with HIV from every ward in the Sub-County HIV and AIDS control Unit. There was also a suggestion that a representative of persons who are physically challenged should be included in all Committees to be formed.

Mr. Speaker, Sir, the public was concerned on previous cases of mismanagement of funds meant to support HIV and AIDS programs. They proposed that the HIV and AIDS management fund created under clause 15 (2) should be within the Public Fund Management Act. Finally, Mr. Speaker, Sir, members of the public appreciated the Machakos County Government HIV and AIDS Management Bill, 2015 and requested that its implementation be done the soonest.

Acknowledgement

The Committee on Health and Emergency Services wishes to thank Hon. Kyalo Kyuli for sponsoring the Bill, the drafters whose help has enabled the publishing of the Bill, all members of the County Assembly for their participation. The committee further thanks members of the public for their participation during the public hearing of the Bill.

Finally, Mr. Speaker, Sir, the committee wishes to thank each and every one who has contributed to this bill in one way or the other. Mr. Speaker, Sir, the Committee proposes the following amendments after considering recommendations made by the public and also by the Members of the County Assembly (MCAs). Amendments are annexed to the report. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Thank you. Madam Chairperson. The report of the Bill is properly before the House so I now invite contributions to the same. Any members who feel there is something they would want to add or opinions or remarks about the state of the Bill. The floor is open. Members of the Committee? Yes Hon. Nzoka.

Hon. Nzoka: Thank you, Mr. Speaker, Sir. I think we discussed these issues in Mombasa at length and we appreciate what we did and it is what we can see and the amendments which we said, so I think we are now ready to pass the Bill. Thank you.

Hon. Deputy Speaker: Thank you. Another Member? Any other Member with some input? In my own assessment then it appears that everybody is in tandem with the matters as they are with the report so, maybe at this point then I will call on the Chairperson to make a final commence and maybe call for the House to turn into a Committee of the whole House.

Hon. (Ms.) Ndinda: Thank you, Mr. Speaker, Sir, I would like to thank the whole House that is the Hon. Members for supporting the bill which we passed in Mombasa and I am very grateful because at least every person is supporting. Mr. Speaker, Sir, I hereby propose that the House turns into a Committee of the whole House to discuss the bill. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Therefore in accordance with the Standing Orders then, the House turns into a committee of the whole House you go through the various amendments.

(Question proposed)

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)

COMMITTEE OF THE WHOLE HOUSE

(The Deputy Speaker left the Chair)

IN THE COMMITTEE

(The Chairperson (Hon. Nzoka Munywoki) took the Chair)

MACHAKOS COUNTY GOVERNMENT HIV AND AIDS BILL, 2015

(Laughter)

Hon. Chairperson: Can we have order? Let us proceed now.

(Clause 2 agreed to)

Clause 3

Delete paragraph "d" of sub-clause 1 of clause 3, delete paragraph "f" of sub-clause 1 of clause 3 and replace it with paragraph "provide for mobilization of resources for prevention, management and control of HIV."

(Question of the amendment proposed)

(Question that clause 3 be amended as proposed put and agreed to)

Clause 4

- a) Delete the term "established" from sub-clause 1 of clause 4 and substitute therefore the expression "established a committee to be known as".
- b) Delete the words "shall comprise" from sub-clause 2 of clause 4 and substitute therefore the words "consists."
- c) Insert the phrase "matters relating to" in paragraph (a) of sub-clause 2 of clause 4 immediately before the word "health."
- d) Delete the word "matter" appearing after the word "health" in paragraph (a) of sub-clause 2 of clause 4.
- e) Delete paragraph (d) of sub-clause 2 of clause 4.
- f) Delete paragraph (c) of sub-clause 2 of clause 4.
- g) Delete the word "for" from paragraph (d) of sub-clause 2 and substitute therefore the phrase "responsible for matter relating to".
- h) Delete paragraph (e) of sub-clause 2 of clause 4 and substitute therefore the following paragraph (e) "for persons who ordinarily resides in the County and who represents Organization involved in matters relating to HIV and AIDS in the County representing: -
 - 1) The youth.
 - 2) Persons with disabilities.
 - 3) Faith-based Organizations.
 - 4) Private sector.
- i) Delete the word "appointed" from sub-clause 3 of clause 4 and substitute therefore the word "elected."
- j) Delete sub-clause 4 of clause 4.

(Question of the amendment proposed)

(Question that clause 4 be amended as proposed put and agreed to)

Clause 5

Delete sub-clause (1) of clause 5 and replace it with the following sub-clause ‘the function of the committee are’

- a) Insert the phrase "and other agencies" immediately after the word "Government" in paragraph (a) of sub-clause 1 of clause 5.
- b) Delete the phrase "and over see the implementation of HIV and AIDS policies in the County’ from paragraph (b) of sub clause 1 of clause 5 and replace therefore the following paragraph "the Government on matters relating to HIV and AIDS"
- c) Delete the phrase "regularly review a County HIV and AIDS management strategic plan" from paragraph (c) of sub clause 1 of clause 5 and replace therefore the phrase "oversee the implementation of HIV and AIDS policies"
- d) Delete the expression "and AIDS Control unit" from paragraph (d) of sub clause 1 of clause 5.
- e) Delete the paragraph (e) of sub clause 1 of clause 5.
- f) Delete the phrase "as maybe designed to it by the County Executive Member" from paragraph (f) of sub clause 1 of clause 5 and replace therefore the following phrase "in the attainment of the objectives of the Act".
- g) Delete sub clause 2, 3 and 4 of clause 5.
- h) Insert the expression "secretary of the" to sub clause 5 of clause 5 immediately before the word "committee".
- i) Insert the word "financial" immediately after the word "every" and before the word "year" in sub clause 5 of clause 5.

(Question of the amendment proposed)

(Question that clause 5 be amended as proposed put and agreed to)

Clause 6

Delete the term ‘an HIV and AIDS Control Unit’ from sub clause (1) of clause 6 replace thereof term ‘a sub county HIV and AIDS Committee’

- (a) Delete sub clause (2) of clause 6 and replace thereof the following sub clause ,
‘The committee consists of ‘
- (b) Delete paragraph (a) of sub clause (2) of clause 6 and sub substitute thereof the sub clause,
‘The sub county administrator who shall be the chairperson’

- (c) Delete paragraph (b) of sub clause (2) of clause 6 and substitute thereof the following paragraph,
‘The person in charge of health in the sub county as the secretary’
- (d) Delete paragraph (c) and (d) of sub clause (2) of clause 6.
- (e) Delete paragraph (e) of sub clause (2) of clause 6 and substitute thereof the following paragraph, ‘Five persons who ordinary resides in the sub county and who represents organization involved in matters relating to HIV and AIDS representing
- (i) the youth ,
 - (ii) persons with disabilities;
 - (iii) faith based organization ;
 - (iv) community based organization ;and private sector;’
- (f) Delete the word ‘appointed’ from sub clause (3) of clause 6 and substitute thereof the word ‘elected’
- (g) Delete sub clause (4) of clause 6.

(Question of the amendment proposed)

(Question that clause 6 be amended as proposed put and agreed to)

Clause 7

- (a) Insert the word ‘county’ immediately before the word ‘committee’ in paragraph (a) of sub clause (1) of clause 7.
- (b) Delete the phrase ‘among the various county government departments’ from paragraph (b) of sub clause (1) of clause 7.
- (c) Insert the term ‘on HIV and AIDS’ in paragraph (e) of sub clause (1) of clause 7 immediately after the word ‘development’
- (d) Delete sub clause (2) and (3) of clause 7.
- (e) Delete the word ‘unit’ appearing before the word ‘shall’ and replace it with the word ‘sub county committee’
- (f) Insert the word ‘county’ immediately before the word ‘committee’ in sub clause (4) of clause 7.

(Question of the amendment proposed)

(Question that clause 7 be amended as proposed put and agreed to)

Clause 8

Delete clause 8 and substitute thereof the following clause,

(8) (1) each county chief executive officer shall designate person as a person a vocal point on matters relating to HIV and AIDS

(2) The functions of the vocal person shall be -

(a) Liaise with the government agencies on matters relating to HIV and Aids

(b) Implement the decisions of the committee with the Department

To create awareness on officers within the department on matters relating to HIV and AIDS

(Question of the amendment proposed)

(Question that clause 8 be amended as proposed put and agreed to)

Clause 10

Delete sub clause (1) of clause 10 and replace thereof the sub clause,

(a) 'In implementing HIV and AIDS programs government and non-governmental agencies shall adopt the following approaches'

(b) Insert the word 'county' immediately before the word 'committee' in sub clause (2) of clause 10

(c) Delete the word 'infectious' from paragraph (c) of sub clause (2) of clause 10 and substitute thereof the word 'disease'

(d) Delete the word 'and' from sub paragraph (iii) of paragraph (j) of sub clause (2) of clause 10 and substitute thereof the word 'or'

(e) Delete sub paragraph (iv) of sub paragraph (j) of sub clause (2) of clause 10 and substitute thereof the following sub paragraph 'other essential services'

(Question of the amendment proposed)

(Question that clause 8 be amended as proposed put and agreed to)

Clause 13

(a) Insert the word 'county' before the word 'committee' in sub clause (1) of clause 13.

(b) Delete the word 'may' from sub clause (2) of clause 13 and substitute thereof

the word 'shall'

(c) Insert the phrase 'all sectors of the society including the following' immediately after the word 'target' in sub clause (2) of clause 13

(e) Delete paragraph (g) of sub clause (2) of clause 13 and substitute thereof the following paragraph,

(a) 'members of the public'

(Question of the amendment proposed)

(Question that clause 13 be amended as proposed put and agreed to)

Clause 14

Delete the expression,

'it shall be the reasonability of the Committee, in consultation with the relevant national government agencies to' from clause 14 and substitute thereof the phrase,

'The county committee in consultation of national government agencies shall'

Delete sub section (c) of clause 14

(Question of the amendment proposed)

(Question that clause 14 be amended as proposed put and agreed to)

Clause 15

Delete the marginal note of clause 15 and replace it the following marginal note 'establishment of the fund'

Delete sub clause (1) of clause 15

Delete the phrase 'for funding programmers under this Act' from sub clause (2) of clause 15 appearing immediately after the word 'fund'

Delete sub clause (4) of clause 15 and substitute thereof the sub clause

'The person administering the fund shall be the secretary to the county committee'

(Question of the amendment proposed)

(Question that clause 15 be amended as proposed put and agreed to)

Clause 17

Delete the words 'of the' appearing immediately after the words 'carrying out' and before the words 'provisions' and substitute thereof the words 'into effect the'

Delete the words ‘and purposes’ appearing after the word ‘provisions’ and before the words ‘of this Act’

(Question of the amendment proposed)

(Question that clause 17 be amended as proposed put and agreed to)

Deletion of Clauses

Clause 9

(Question of the deletion proposed)

(Question that clause 9 be deleted as proposed, put and agreed to)

Clause 11

(Question of the deletion proposed)

(Question that clause 11 be deleted as proposed, put and agreed to)

Clause 12

(Question of the deletion proposed)

(Question that clause 12 be deleted as proposed, put and agreed to)

Clause 16

(Question of the deletion proposed)

(Question that clause 16 be deleted as proposed, put and agreed to)

New Clauses

Clause 8

Insert the following paragraphs to sub clause (1) of clause 3

- (a) Provide for a framework for cooperation between the national government and the county government on matters relating to HIV and AIDS; and
- (b) Provide for the responsibilities for different organs on matter relating to HIV and Aids.

(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 9

Insert the following new part immediately after objects and purpose

(a) Every person has a right to the highest sustainable standard of health including protection from HIV infections.

(b) Every person living with HIV has the right to:-

- (i) Protection from compulsory HIV testing.
- (ii) Privacy of the individual.
- (iii) Protection from all forms of discrimination.
- (iv) Provision of basic healthcare and social services.
- (v) Protection from re-infection and opportunistic diseases.
- (vi) Access to universal safety precautions, practices and procedures that carry the risk of HIV transmission.
- (vii) Protection against stigmatization.

(c) (1) The government shall put in place measures to ensure the observance, respect, protection, promotion and fulfillment of the rights relating to HIV and AIDS-

(2) The government shall develop policies, laws, programmes, and other measures relating to HIV and AIDS services, ensure adequate, implement specific programs targeting vulnerable groups including women, persons with disabilities, children, youth older persons and other marginalized groups.

(d) (1) Non-governmental organizations including private agencies and community groups shall take measures for the prevention, management and control of HIV.

(2) Each government institution is responsible for the implementation of this Act.

(3) Government institution and non-governmental organization shall ensure safe working environment including measures to reduce risk of possible infection.

(e) Civil society organization and private sector organization shall cooperate with the government in providing access to information relating to HIV.

(f) The government shall collaborate with the national government institution including National AIDS Control Council and National AIDS and STD Council Programme in implementing programmes relating to HIV and AIDS.

(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 10

Insert the following new provisions to clause 4:-

(a) The chief officer responsible for matters relating to health.

(b) Three representatives of community groups of persons living with HIV and AIDS in the county.

(c) One person with experience on matter relating to HIV and AIDS, health, gender and social development or medicine.

(d) In appointing the person referred to in paragraph (c), (d) and (e) the county

executive committee member shall take in consideration gender and regional balance.

The persons referred to in paragraph (c), (d) and (e) shall serve for a single term of three years and shall be eligible for re-appointment for one further term.

(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 11

Insert the following provisions to the function of the County HIV and AIDS management Committee,

- (a) mobilize resources for HIV and AIDS control and prevention
- (b) organize public consultative forums and facilitate public education and capacity development on HIV and AIDS

Oversee the implementation of this Act.

(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 12

Insert the following new provisions to sub clause (2) of clause 6,

- (a) Three persons representing groups of persons living with HIV and AIDS in the county ;
- (b) One person with experience on matter relating to HIV and AIDS, health, gender and social development or medicine;

The persons referred to in paragraph (c), (d) and (e) shall be appointed by the Executive Committee member;

(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 13

A member of a Committee shall be paid such allowances as may be determined by the county public service Board.

The persons referred to in paragraph (c), (d) and (e) of sub section (2) of section 10 and 12 shall serve for a single term of three years and shall be eligible for re-appointment for one further term.

(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 14

(1) A member of a Committee appointed under paragraph (c), (d) and (e) of sub sections (2) of section 10 and section 12 may resign from the Committee by giving a notice in writing addressed to the County Executive Committee member responsible for matters relating to health.

(2) A member of the any Committee appointed under paragraph (c), (d) and (e) of sub sections (2) of section 10 and section 12 may be removed there from if the member—

- (a) is absent from three consecutive meetings of the Committee without prior notice to the Chairperson and without good cause;
- (b) ceases to be a member of the organization he or she represents;
- (c) ceases to be resident in the respective county;
- (d) is in serious violation of this Act;
- (e) is convicted of a criminal offence;
- (f) commits acts of gross misconduct;
- (g) suffers physical or mental incapacity to perform the functions of the Committee;
- (h) Is declared bankrupt or dies.

(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 15

Insert the following new provisions to clause 15.

In administering the Fund, secretary:-

- (a) Shall be responsible for the day to day activities of the Fund;
- (b) Shall supervise the administration of the Fund;

May recommend to the county committee the imposition of necessary conditions on the administration of the Fund'

(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 16

Insert the following provisions to clause 15, ‘the County Committee shall, subject to the relevant laws relating to the management of public finances, put in place measures for resource mobilization’

(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 17

Insert the following new provision to clause 15, ‘the secretary shall cause to be kept books of accounts and other books and records in relation to the Fund.’

(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 18

‘(1) The secretary shall within three months after the end of a financial year prepare a statement of accounts for the Fund’s for that financial year and submit it to the County Assembly.

(2) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned’

(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 19

Insert the following provisions as part of clause 15,

(1) The officer administering the fund shall cause to be opened a bank account for the fund.

(2) The secretary of the county committee shall be a mandatory signatory for the bank accounts of the fund.

(3) as soon as is practicable, the secretary of the fund shall cause to be banked in the Fund revenue account, all monies received as user fees.

(4) Every withdrawal from the bank account of the fund shall be from a specific vote duly budgeted for and specifically authorized.

(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 20

Insert the following as new provisions, ‘the provisions of the HIV and AIDS control Act apply to the extent of the functions of the national government.’

(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)

(Cover page agreed to)

(Title agreed to)

(Clause 1 agreed to)

Hon. (Ms.) Ndinda: I beg to move that the committee do report its consideration to the Machakos County Government HIV and AIDS Management Bill 2015 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Deputy Speaker [Mr. Nathaniel Nganga] in the Chair]

REPORT AND THIRD READING

MACHAKOS COUNTY GOVERNMENT HIV AND AIDS BILL, 2015

Hon. Nzoka: Hon. Speaker, I wish to report that the committee do report to the House its consideration of the Machakos County Government HIV and AIDS Management Bill 2015 and its approval thereof with amendments. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: I now put the question that the committee does report to the House its consideration of the Machakos County Government HIV and AIDS Management Bill 2015 and its approval thereof with amendments.

(Question put and agreed to)

Hon. Deputy Speaker: Chairperson.

Hon. (Ms.) Ndinda: Mr. Speaker, Sir, pursuant to standing order 131 (1), I wish to move the motion that the Machakos County Government HIV and AIDS Management Bill No. 8 of 2015, be now read a third time. I therefore call Hon. Catherine Nguluku to second. Thank you, Mr. Speaker, Sir.

Hon. (Ms.) Nguluku: Thank you, Mr. Speaker, Sir. I stand to second that, the Machakos County Government HIV and AIDS Management Bill number 8, 2015, be read for the third time. Thank you Mr. Speaker, Sir.

Hon. Deputy Speaker: Any contributions from Members? Chairperson, your final response on the matter of the bill.

Hon. (Ms.) Ndinda: Thank you, Mr. Speaker, Sir. I stand to thank the whole House for supporting the amendment of this bill. I know it will be of good effect to Machakos County as a whole and through the health committee and through the Hon. Members, I am sure we are going to make sure that, we go to zero rating of HIV and AIDS if we support this bill just the way we have done it and we know that our people will be a healthy County and they will live to serve the County. Thank you, Mr. Speaker, Sir.

(Question put and agreed to)

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

(Question put and agreed to)

Hon. Deputy Speaker: Proceed, Clerk.

MOTIONS

STATUS OF WARD DEVELOPMENT FUND

Hon. Ndolo: Mr. Speaker, Sir, that aware that one of the objects of devolution is to promote social and economic development and provision of proximate, easily accessible services throughout Kenya, aware that the Assembly enacted the Machakos County Ward Development Fund Act 2014, and amended it in 2015 to allow for the separation of powers and make the process of operationalization easier.

Informed that the object of the Ward Development Fund is to create a fund for purpose of development, wealth creation and in particular, the fight against poverty at the Ward level, aware that the Assembly appropriated money for the fund in 2015/2016 financial year and aware that the first half of the financial year was coming to an end soon, aware that the Hon. Members need to be informed of the progress of the operationalization of the fund, I wish to move the motion that, this Hon. House, discusses the report of Ward Development Fund Committee on the status of the Ward Development Fund. Thank you, Mr. Speaker, Sir and I call Hon. Alphonse Wambua to second the motion.

Hon. A. Wambua: Thank you, Mr. Speaker. I stand to second the report of the Ward Development Fund Committee on the status of the Ward Development Fund. Thank you, Mr. Speaker.

Hon. Deputy Speaker: What is the point of order?

POINT OF ORDER

Hon. R. Mutuku: Mr. Speaker, Sir, I am standing under Standing Order 32, to draw your attention that we do not have quorum and the matter that is being discussed now, concerning ward development fund is a very sensitive matter and I do not see whether it will be of good essence if we discuss without quorum in the House. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Clerk, confirm whether we have quorum. Proceed, Chairperson, with tabling of your report, your motion has already been seconded.

Hon. Ndolo: Thank you, Mr. Speaker, Sir.

Introduction

Preface

Mr. Speaker, Sir, the Ward Development Fund is established pursuant to section 4 (1) of the Machakos County Ward Development Fund (Amendment) Act, 2015 which states that---

Hon. Deputy Speaker: I am informed that we do not have quorum but we will have the procedure taking place so the bell will be rang and no Member inside the Chamber will be allowed to move out. Proceed, Chairperson.

(Quorum bell rung)

Hon. Ndolo: Okay, thank you. Let me start. Mr. Speaker, Sir, the Ward Development Fund is established pursuant to section 4 (1) of the Machakos County Ward Development Fund (Amendment) Act, 2015 which states that ‘there is establishment fund to be known as the Ward Development Fund which shall be administered by the Officer administrating the Fund under direction of the County Ward Development Fund Management Committee.’ This Fund was appropriated Ksh. 805 million by the County Assembly in the 2015/2016 Budget.

Mr. Speaker, Sir, the purpose of this report is to provide the progress on the operationalization of the fund and call upon members to support the Ward Development Fund Committee in its push in ensuring the Fund was in place.

Mandate of the Committee

Mr. Speaker, Sir, the Committee on Ward Development Fund was established pursuant to the section 35 (1) of the Machakos County Ward Development Fund (Amendment) Act, 2015 which states that ‘the County Assembly Shall, in accordance with its Standing Orders, establish a Select Committee consisting of the Chairperson and not more than ten other members of the County Assembly.’

The Committee is mandated to consider and recommend to the Assembly any matter requiring action by the County Assembly pursuant to the provisions of the Act, to oversee implementation of the Act, oversee the policy framework and legislative matters that may arise in relation to the Fund, continuously review the framework set out for the efficient delivery of

the development programs financed through the Fund and consider report to the Assembly with recommendations, names of persons required to be approved by the County Assembly under the Act.

Committee Composition

Mr. Speaker Sir, the committee has nine (9) members as follows:-

- | | | |
|----|----------------------|--------------------|
| 1. | Hon. Francis Matheka | - Chairman |
| 2. | Hon. Benson Kasyoka | - Vice Chairperson |
| 3. | Hon. Isaac Muinde | - Member |
| 4. | Hon. Geoffrey Munyao | “ |
| 5. | Hon. Rachael Nduku | “ |
| 6. | Hon. Sammy Nduva | “ |
| 7. | Hon. Phillip Ndolo | “ |
| 8. | Hon. Charles Mutisya | “ |
| 9. | Hon. Gideon Kavuu | “ |

Status of the Operationalization of the Fund

Mr. Speaker, Sir, as stated in the preamble, the Assembly appropriated Ksh. 805 million for the purpose of this Fund. The Assembly on 6th October, 2015 approved amendments to the Machakos County Ward Development Fund Act, 2014, thereby providing for the separation of powers between the Executive who implement and the Assembly that oversees. The Amendment Act made provision that makes it possible for the operationalization of the Fund before all the Committees are formed.

Mr. Speaker, Sir, members of the Ward Development Fund Committee were nominated and approved by the Assembly on 29th October, 2015 pursuant to Section 35 (1) of the Act. The Committee, since its nomination, has pursued that matter of the operationalization of the fund aggressively. The Committee has engaged the Chief Officer from the department of Finance and Revenue Management and her counterpart in the Trade, Economic Planning, Investment and Industrialization. The Committee also organized training for the members and two Chief Officers on the operationalization of the Fund.

Mr. Speaker, Sir, during the training members were encouraged to ensure each project had project management committee made up of the local community who will run the projects after completion. The project management committee could include institutional committees in case the project being done was in an institution such as school, health center, etcetera. This was seen as a way of ensuring full community participation and continuity after the project was completed and handed over to the community as well as to minimize costs in paying allowances to project management committees.

Further, Mr. Speaker, Sir, at the end of the training the Chief Officer Finance promised to fast-track operationalization of the Fund even though she tied its operationalization to signing,

approvals and gazettelement of the Machakos Ward Development Fund regulations (2015) by the Executive Committee Member Finance and Revenue Management.

Mr. Speaker, Sir, when the Committee noticed that the Chief Officer was using the Regulations to delay the operationalization of the Fund, members resolved to invite both the CEC member and the Chief Officer to clarify the situation since the appointment of the Committee, both at the County and at the Ward, were not depending on the regulations. The CEC member appeared before the Committee without the Chief Officer on 19th November, 2015. The Chief Officer did not send any apology or explanation as to why she did not honor invitation by the Committee.

Mr. Speaker, Sir, members of the Committee engaged the CEC member on the Fund and the following came up from the discussion:-

1. That, the CEC had sought to advice the Controller of the Budget concerning the regulations and that the Controller of the Budget had responded positively with few comments on the regulations. Among the concerns raised by the Controller of Budget was how the Chairperson of the Ward Development Fund Committee will be nominated and also how the technical persons mentioned in the Act and the regulations will be appointed. On these two matters and a few others which the CEC could not remember, the meeting agreed---

Hon. Deputy Speaker: We now have quorum so the ringing of the quorum bell can be stopped. Proceed, Chairman.

Hon. Ndolo: The meeting agreed that the Legal Officers to deal with them as soon as possible.

2. The CEC informed members that she had send a copy to the Assembly with observations from the Controller of Budget but this fact could not be established immediately. The copy of regulations with observations from the Controller of Budget was received in the Assembly on 24th November, 2015 and the Legal Officers have been tasked to work on them and ensure the final document goes to the CEC for signing latest Thursday, 26th November, 2015. It is expected that if the CEC signs the regulations forthwith, the regulations will be approved next week before the Assembly goes for the recess.
3. The CEC member further informed the Committee that, she had constituted the County Management Committee pursuant to section 5 of the Act, that she was expecting the Chief Officer, Finance who was the Chairperson and Officer administering the Fund to convene the first meeting as soon as possible. She also informed members that she had briefed the Chief Officer, Finance when they met to nominate person who shall appoint officers administering the Fund at the Ward level. She hinted to the members that she was

planning to appoint the County Administrators and their deputies to be officers administering the Fund at ward level. This meant that each officer may be in-charge of two to three wards.

4. The Committee together with the CEC discussed the issue of e-procurement and they agreed that the local community was to be involved in doing the projects and that special interest groups like youth, women and persons with disabilities needed to have registered groups so that they could be given projects. The CEC informed the committee that all finance CEC members in the Counties were meeting the Treasury on 25th November, 2015 to address the issue of having all projects paid for through the Central Bank of Kenya.
5. The Committee together with the CEC resolved that all the Committees pertaining to the Fund should be in place by 28th November, 2015 so that next phase of the project identification and implementation could commence before January. This would enable the CEC member to start requisitioning funds for the payment of the projects (contractors) by the end of January since there has to be proof of work done for the funds to be released by Central Bank.
6. The meeting further resolved that members can start compiling list of bursary beneficiaries since bursary award did not need to go through procurement. Members of the Committee were concerned of the mode of payment, whether direct deposit to the account or by cheques. The CEC informed members that she will clarify on the matter after meeting of County CEC members of finance. Members informed her that they preferred cheques to avoid problems witnessed previously. The Committee also informed her to explore the possibility of opening a Ward Development Fund account with the Central Bank where all payments to the Ward projects will be made and thereafter transfers made to respective contractors of projects.
7. The Committee deliberated on the Bursary regulations and it was agreed that the CEC to make guidelines to be used by the bursary sub-committee of the Ward Development Committees in awarding bursaries. The guidelines should be drawn from the bursary regulations.
8. In addition the CEC was asked to write to the Sub-County Administrators and their deputies giving them guidelines that they should involve the MCAs in identifying projects pursuant to a circular issued by the Controller of Budget on the guidelines of the operationalization of the Ward Development Fund. Guideline 4 of the circular states that “The Constitution requires clear separation of powers (Article 175 and 179 of the Constitution and Section 9 (2) (a) of the County Governments Act, 2012) between implementation and oversight. As such, the role of the Members of County Assembly

shall be to mobilize the residents of each ward for the purpose of identifying priority projects for each financial year. In identifying the projects, public participation is critical.

Mr. Speaker Sir, the Committee asked the Executive Committee Member Finance to ensure the Chief Officer moves swiftly to convene the first meeting of the County Management Committee and to ensure the committees were operational as per the timeline agreed (one week's time). The CEC promised her total support to ensure the fund was operational and also to ensure capacity building for the officers elected to the committees. The CEC was tasked to organize for a session between the County Management Committee and Ward Development Fund Committee of the Assembly.

Conclusion

Mr. Speaker, Sir, this is the status of the Ward Fund as at now and the Committee calls upon members to be vigilant of what goes on in their Wards as they look forward to constituting Ward Committees and undertaking project identification. The Committee should be informed immediately of any officer administering the Fund who is not willing to consult the area Member of the County Assembly in the project identification and implementation including the process of procurement.

In addition, Mr. Speaker, Sir, the Committee is closely watching the Chief Officer, Finance and Revenue Management to see whether she has goodwill of having the Fund operational knowing very well that she failed to honor the committee invitation where the Executive Committee member was also invited. In case of any lack of cooperation by the Chief Officer, the Committee will be coming back to the Assembly to seek permission for sanctions to be undertaken against her.

Mr. Speaker, Sir, I thank the members of the Committee for their co-operation and zeal to ensure the Fund was operational. I also thank the Executive Committee Member for appearing before the Committee. Moreover, I thank the Management of the Assembly for organizing training for the Committee. Finally, I thank you all the Hon. Members for the moral support you are giving the committee members.

Mr. Speaker, Sir, it is therefore my privilege to present this report on the status of the Ward Development Fund for you to digest, deliberate on and preparedness for project identification or the next course of action. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Thank you members and the Chairperson. The report is properly before the House and the floor is now open for contributions so I invite remarks, sentiments, input on the same. Any Member with contribution over the said report? Yes, Hon. Kitheka.

Hon. Kitheka: Thank you, Mr. Speaker, Sir, and the House at large. Mr. Speaker, Sir, I think we may be on the wrong footing. As we delay much about the implementation of this issue,

it will cost us, as a House or as Members of the Assembly. Mr. Speaker, what is happening and I believe you can as well see, there is some kind of delaying tactics from the executive for us not to implement this issue. As you can see, the Members are not sincerely open even when they are called to the Assembly. One Member comes and the other one fails to come and you find that there is no legitimacy in what we are doing. Mr. Speaker, we are calling upon the committee to be extra ordinarily vigilant in this matter because I can see if we it goes up to next year, January, the next talk, will be there is no money and we will have approached a new financial year.

So, Mr. Speaker, I think now this is the high time the House allocates the committee a lot of time to deal with this issue in the best way it can because that is the only survival we can have in the wards. Mr. Speaker, there is the issue of the bursary. Now that the bursaries have got no this much issue of regulations simply because we had.....it is just going through and we had set some regulations there before, Mr. Speaker, I do not see the essence of retaining the regulations which we had passed in this House in the department of education because it may be mistaken in one way or another the bursaries are being issued in the department of education.

So, this is the high time, Mr. Speaker, now we nullify the regulations which are existing in that office so that they cannot be used at any one given time and we call upon the committee to fast track, get the regulations, bring them into this House amended to suit the Ward development Fund and be passed because if we retain them there, the guys there because they are good in doing shoddy jobs, they may arm twist our hands, the funds may be taken to that department and they may be issued. There are many cases of people, of Hon. Members here, who have not even awarded the previous bursaries to the students.

So Mr. Speaker, it is my appeal that the Committee fast track for the next few days, one to two days and pull out the regulations which we had passed and they are in that department so that now they can have accommodative regulations which can be used. Thank you, Mr. Speaker.

Hon. Speaker: Yes, Hon. Muli.

Hon. Muli: Thank you, Mr. Speaker. Mr. Speaker, I can smell a rat and more so a rotten rat. I want to put attention that, when the House was informed that the House has no quorum, Mr. Speaker, only one Member for this committee who was presenting the report was in the House. It is a clear indication that even the Members of this committee have started to lose hope. The information which has been already presented here, Mr. Speaker, indicates very well.

(Applause)

It indicates very well that the Chief Officer is not even concerned on this issue of Ward Development Fund and, Mr. Speaker, we did a budget, we approved the budget, we allocated Ward Development Funds and we sourced those funds from other vote heads, Mr. Speaker and I

wonder, already the disbursement of the money on the process and the ratio of the Ward Development Fund has not been already released.

I would urge that, Mr. Speaker, let the Committee be very much serious and I would like to inform them that we are watching them and Mr. Speaker, this is not a laughing matter of this issue of Ward Development Fund. We knew, Mr. Speaker, when we were trying to budget for the ward we understood the importance of it and now is the high time, after we pass the regulations and agree on the report which has been presented, they fast track as fast as possible to make sure the implementation have been started. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Kiilu.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. First and foremost I want to start by thanking the Hon. Member for Ndithini alias Government Spokesman.

(Laughter)

Mr. Speaker, I want to echo his sentiments by saying, there is no seriousness by the Committee Members. One, Mr. Speaker, even now, that Committee has no quorum in this House. That committee has a Chairperson and it has a Vice Chairperson. Mr. Speaker, the two of them came into this House after the quorum bell was rung, Mr. Speaker. This shows that there is no seriousness by members of this Committee. Mr. Speaker, due to the seriousness of this matter and looking the membership of the House now, I wish to propose that this is an important issue for the County, not even for the Members of this House. I want to propose that, with the leave of the House and the permission of the Chair, this matter be deferred to next week when Members will be in so that we can debate on this matter exhaustively.

(Applause)

Mr. Speaker, I can see the mood of the House, I can read the mood of the House. By that applause Mr. Speaker, please I seek your indulgence that we debate on this matter next week when the House will be full. Thank you.

Hon. Deputy Speaker: Who seconds your proposal before we take the point of order? Hon. Joshua, you are making a proposal and you are not calling for somebody to second your proposal.

Majority Leader (Hon. Mwonga): Sorry. I want to call upon Hon. Alphonse Wambua to second my proposal that, this matter be deferred to next week.

Hon. Deputy Speaker: Hon. Member, we are coming to your point of order, let us hear the seconding.

Hon. A. Wambua: Thank you Mr. Speaker. I stand to second that this matter be deferred because it is very serious for this County. Thank you.

Hon. Deputy Speaker: Yes, your point of order Hon. Kitheka

POINT OF ORDER

Hon. Kitheka: Mr. Speaker, can the Hon. Majority Leader convince this House that he is not an emissary for the Executive to make sure that this process does not go ahead.

Majority Leader (Hon. Mwonga): Mr. Mr. Speaker---

Hon. Deputy Speaker: Order, order Hon. Joshua. Yes what is your point of information?

POINT OF INFORMATION

Hon. Festus Ndeto: I would also like to(*inaudible*) about the committee chairperson is here, Hon. Matheka.

Hon. Deputy Speaker: Thank you for your point of information. Yes Hon. Kiilu there are something.

Majority Leader (Hon. Mwonga): Yes I am responding to what has been raised by Hon. Kitheka and Hon. Festus Ndeto. Mr. Speaker, I want to start with what has been raised by Hon. Kitheka. I am not an emissary of the Executive. One, I do represent a ward known as Masinga Central ward.

(Applause)

I may be in need of this Ward Development Fund more than he thinks. Secondly, on the issue which has been raised by Hon. Ndeto, I did not say the Chairperson is not in the House. I said before the quorum bell was rung, the Chairperson and the Vice Chairperson were out. They only came in when they heard the bell ring.

Hon. Deputy Speaker: Thank you for the clarification. Now we are debating in line with the proposal from the deferment of the debate until next week. Hon. Majority Chief Whip.

Hon. T. Kilonzo: Mr. Speaker, Sir, I think according to what has been said by the Majority Leader, this is one of the crucial projects or whatever you may call it, this is the money we needed yesterday. Mr. Speaker, I thought it was good to have the members full in the House so that we may discuss it fully and have a quorum because Mr. Speaker, it is like even the

Chairperson himself did not talk. He is quiet, sitting and he was.....and Mr. Chairman, that Chairperson was ready to take off the task but now he is seated. Not even talking, not even giving ideas.

(Laughter)

Chair, I hope that we adjourn and have another day. That will have a good quorum---

Hon. Deputy Speaker: Let us hear the Majority Whip. You are done? Okay. What is your point of order Hon.Nzoka?

POINT OF ORDER

Hon. Nzoka: Thank you. In fact Mr. Speaker, Sir, there are Members here who are evil to others. It is that they know and they are aware he was locked in. He has come out through a bond of Ksh. 20,000. He was locked in, even he cannot talk. If it was you and you were locked in court---

Hon. Deputy Speaker: Hon. Nzoka, what do you mean when you say he was...eh.

Hon. Nzoka: He was locked. He was in Court.

Hon. Deputy Speaker: Hon. Nzoka, what do you mean when you say he was locked? Where was he locked? The Chair may not be able to substantiate where he was locked.

Hon. Nzoka: Yes. I want to confirm to this Hon. House that, the Chairman of Ward Development Fund committee and other 10, they had a case and the mention was today and instead of being mentioned, they took plea and they were locked in.

Hon. Deputy Speaker: Okay.

Hon. Nzoka: So we had to look for some funds. They are out on bond for Ksh. 20,000 each so that is why you can see he has a mental problem. Thank you.

(Laughter)

Hon. Deputy Speaker: Before we hear the Chairperson, let us hear the Chairperson, Finance.

Hon. Nzeki: Thank you, Hon. Speaker. One thing I noticed in the composition of the Committee Members it is not gender-sensitive. Another thing, I am standing here---

(Applause)

Hon. Deputy Speaker: Order, order Hon. Majority Leader. Hon. Munyaka, our deliberations are in line with the request for deferment. Can you debate in line with that?

Hon. Nzeki: Yes, Mr. Speaker, in support of our Majority Leader, I seek a leave to defer the debate....

(Applause)

Until next week because now I can even see the members of that committee are only four and they are underrepresented. So, Mr. Speaker, Sir, I can even say like, talk like our Chief Whip that the fund is overdue. It was supposed to be of yesterday but because we need it very much and there is a lot to be discussed about the Chief Officer of Finance, it is a lot to be talked because we will talk about her and then on that day, I think much will be talked about her and I can see it is about.....she will be censured. What is said here, they have recommended that, that Chief Officer be censured and now I do not see whether we will have a quorum to censure the Chief Officer. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Hon. Chairman. Respond to the issues and request for deferment.

Hon. Matheka: Mr. Speaker, Sir, I would like to start by saying that good leadership entails some few things, one of them being delegating your duties. That is why I delegated to one of my committee members to come and read the report. However, I could have read it and as Hon. Nzoka has put it, I attended a court case this morning, courtesy of the leadership of this House including the Speaker and that is where I was until 2.30 p.m. That is why I sent somebody to come and do it.

I want to deal with the issue of quorum. Mr. Speaker, Sir, we should not adjourn this sitting because of quorum. The quorum is there and the Chairman of Ward Development Fund Committee does not whip members. The Whip, Minority and the Whip, Majority are squarely responsible for that. Any quorum, each, on this House should squarely be addressed by such people. I am wondering and I will never stop wondering in this House, the Chief Whip complaining about quorum and it is his responsibility.

(Applause)

He should be ashamed of that. Mr. Speaker, Sir, I am equally ashamed by the Hon. Member from Ndithini, trying to dictate how a committee should work. It is not the work of the Chairman and the committee to go and get money. It is the work of the Chairman and the committee to give the framework. We have done it. We have highlighted eight good points of what should be done and we have given here, in this report of the date the CEC gave us as the

last date for the Committees to be constituted. As we talk now, there is a County Committee headed by the Chief Officer, Finance.

Even though we did not do anything else, that is something, Mr. Speaker, Sir. By 28th, the Ward Committees should be in place. We did that. So, I am wondering Mr. Speaker, Sir, it is here in black and white, I am not getting it from my head. It is here in this report. So it seems Members do not follow the report but they are just out here to come and complain and more so to who is the Chairman of this and this. Mr. Speaker, Sir, it is my submission to this House that we should move on with the report and whoever is not here will come and the report and read what we said.

We are not going to carry other people's burden but each and every Member who is elected in a Ward will carry his or her own Ward to his or her own ward. So, Mr. Speaker, Sir, I stand here to oppose the postponing of this motion until next week because we have quorum and the Committee Members are here and the Chairman has explained why he came in late and it is a regulatory framework we are dealing with, not the money. Mr. Speaker, Sir, with that I think I can rest my case. Thank you.

Hon. Deputy Speaker: Hon. Majority Whip, the Chairperson alleges that you might have de-whipped rather than whipped Members to be in the House. Your take on that?

Hon. T. Kilonzo: I think I have done my work. These are Hon. Members and if you tell them to go and assemble in the Assembly, if they do not come, I do not have even the whip to beat. It is the whip to tell them to come in.

(Laughter)

Hon. Deputy Speaker: We continue with the debate on the request for adjournment before we put the question. Hon. Geoffrey Munyao.

Hon. Munyao: Thank you Mr. Speaker, Sir. I am a Member of this Committee and I wanted to support the sentiments of my Chairperson. Mr. Speaker as you know very well this is one of the active committee ever in this Assembly.

(Applause)

This Committee was constituted just two weeks ago and the work this Committee has done for the last few weeks, Mr. Speaker, is a lot. So, Mr. Speaker, I am differing with the Leader of Majority saying that we have got no quorum yet he is the one---

Hon. Deputy Speaker: Yes, what is your point of order Hon. Kitheka?

POINT OF ORDER

Hon. Kitheka: Mr. Speaker, there is a ploy to kill this issue because Majority of the Government side have been whipped out. Consider that.

Hon. Deputy Speaker: Proceed Hon. Geoffrey.

Hon. Munyao: Thank you, Mr. Speaker, Sir---

Hon. Deputy Speaker: However, Members are urged to stay in until we are done with this business.

Hon. Munyao: Thank you, Mr. Speaker, Sir. I think these Hon. Members are getting out of this Hon. House because they are not serious about whatever is being discussed in this Assembly. Mr. Speaker, this Committee, when you go to their conclusion, I think Mr. Speaker in the second paragraph, it is saying, 'in addition, Mr. Speaker, Sir, the Committee is closely watching the Chief Officer, Finance and Revenue Management to see whether she has goodwill of having the fund operational knowing very well that she failed to honour the Committee's invitation where the Executive Committee Member was also invited. In case of any lack of cooperation by the Chief Officer, the Committee will be coming back to the Assembly to seek permission for sanctions to be undertaken against her.'

Mr. Speaker, I think that is clear enough to this Hon. House, the far this committee has gone. So, these allegations these Hon. House are making to the Committee, to me are not genuine. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Therefore, there being no other contribution, I proceed to put the question that, the matter of debate on the Committee on Ward Development Fund be deferred until next week.

(Question put and negatived)

The debate proceeds on the report as it is. So, I now invite contribution on the debate as it is of the report. Any Member with submissions? Yes, on. Kitheka.

Hon. Kitheka: Mr. Speaker, there is issue of the ward, the Sub-County administrators being the people to administer the fund. Mr. Speaker, I do not see it clearly because there is something we are missing like the Ward Administrators who can be the best to administer this. So, I kindly request because it is being said that, the Sub-County Administrators will be used to administer the funds and I think they are not the accounting officers and they bring a lot of controversy in terms of administering of the fund and I do not see whether in the constitution or in the PFM Act whether there is delegation of such a magnitude of administering a fund. If it is

there, it can be brought to my attention that, the CEC Member for Finance can delegate to another person the issue of administering funds.

Secondly, Mr. Speaker, there is the issue of cheques being written to finance the issues of bursary. Mr. Speaker, we highly support this but we can see it may be used as a weapon of delay of the release of funds simply because there is the IFMIS system which is being administered right now. So, Mr. Speaker, we want the CEC member to come clear whether this is a move which can be achieved. If it cannot be achieved we develop a very systematic way of doing it. Mr. Speaker, I wish to bring to your attention that, when money was channeled to the schools in the previous fund which was being disbanded, three quarters of the funds was not utilized by the schools simply because they were given wrong accounts, the money was not sent and if any member came to the department to enquire whether the head teachers had received the money, it was all in vain. There could be no any good response.

I wish to bring to your attention that, a lot of funds was not remitted to the schools which they had been intended for .So, Mr. Speaker, I wish to call upon the Chairman and the committee to prevail on this matter because we know very well there is good will and intention by the committee to make sure that they deliver but I can see there are issues which are cropping up like the one of adjournment, issues of no quorum which are trying to derail the process of this funds. Mr. Speaker, I may not mince my words when I say somebody might have been sent to make sure that the process cannot continue. So Mr. Speaker, when the wise man said that "no man can ride on your back unless you bend for him to do so," he was very right.

We are now bending for the CEC Member to ride on our back simply because, us in this Assembly, we are trying to bring in very simple walls so that at least we can derail the process. So, Mr. Speaker, when you are making your recommendations, I wish you fire a very strong warning to those people who I think that they should derail the process in saying that the Chairman is not ready, saying the Committee Members are not here, we are not waiting for a particular person to come and participate in the debate. If it was for a particular person to come and debate, even some of the people we are waiting to come and participate, some have not even made their maiden speech in this House.

So, I do not know whether we are just waiting for masses of the people or we are waiting for people who can participate. So, Mr. Speaker, we thank you very much for your consideration for the continuity of this House and putting the question for determination. Thank you, Mr. Speaker and May God bless you. Thank you.

Hon. Deputy Speaker: Any further contribution? Yes Hon. Chairperson. You can respond on the matter that has been raised by the Member. You can respond to the matters that have been raised by the

Hon. Matheka: Thank you, Mr. Speaker, Sir, that is what I wanted to do. On the issue of Sub-county administrators being the Officers in-charge at the ward level, Mr. Speaker, Sir, we

are not dealing with the PFM Act neither are we dealing with any other document apart from this Act. It was a bill and it became an act. It is a law of this House and it states very well that, there shall be two committees; the County Management Committee and the Ward Management Committee. Those are two different entities. The sub-county administrators are coming in this way because of the fact that, a substantive County Management Committee will take time to be constituted at the County level, we estimated and saw that it will go up to April next year.

We agreed with the CEC finance to constitute another County Management Committee which will be headed by the Chief Officer, Finance, then from there the Chief Officer, Finance will have the mandate to constitute the ward committees and the Ward Committees will be headed by an Officer from the County Government which has to be seconded by the County Management Committee.

That is where the Sub-county Administrators and their deputies are coming in. They are just holding brief until the other committees are set then they will hand over their work to the best persons who are suited to do the jobs and those are the Ward Administrators. The Ward Administrators are the designate officers of the fund in the wards so they are just holding brief.

On the other issue of cheques, I totally agree with Mheshimiwa Machakos Central. We agreed on the bursary issue we cannot go the IFMIS way. We once tried it, we were beaten twice we have to be shy. We requested the CEC member to have cheques for bursaries and Mr. Speaker, Sir, I do not know, I will not stop wondering. It is clearly written in this report here that until.....that is No. 6, 'the CEC member informed us that they were meeting the other County CECs all over the Country at the Treasury today and she said until they meet and come up with a report because the issue here was the cheques and the IFMIS payment. Until they meet and come up with a clear report of what will happen, she cannot commit herself to how the bursaries will be paid but we agreed we can go ahead and requisite for the bursaries.

Mr. Speaker, Sir, I would also like Members to see annexure there. There is an annexure, I do not know whether they saw it, No. 4 and it is underlined 'the role of the Member of the County Assembly' and that is from the Controller of Budget. As such, I am reading that part 'the role of Members of County Assembly shall be to mobilize the residents of each ward for the purpose of identifying priority projects for each financial year. In identifying the projects, public participation is crucial.'

Mr. Speaker, Sir, the Committee cannot put it better than that, It is in black and white and every member here is literate enough to know what it means unless Members need an interpreter. They know their role and they should not force the Committee to do otherwise. The Controller of Budget has said it. So, Mr. Speaker, Sir, as a Committee, ours was just a regulatory framework and we are waiting for the final copy of regulations, then we table them in this House.

The rest will be for the Members, the rest will be for the Committee of implementation not the Committee of Ward Development because we would have done our job and done it very well. Thank you, Mr. Speaker, Sir.

Hon. Deputy Speaker: Hon. Rachel

Hon. (Ms.) R. Nduku: Thank you, Mr. Speaker. Being a Member of this Committee, I want to support this report and remind the Members that, Ward Development Fund is not for Members to benefit themselves but it is for the projects in grassroots at our ward level. Mr. Speaker, I am wondering this Ward Development Fund has taken too long to be implemented because when we interact with other Counties, for example Nairobi County, I met Governor for Nairobi County who toured my ward last week, and he told me that he is going to give the MCAs in his County the third time the money for Ward Development Fund and as Machakos County being according to the slogan "the place to be", we should be leading in all the sides as Machakos County rated number one.

We should be number one in project implementation and we should number one in releasing monies which are to benefit the people at the grassroots. So, Mr. Speaker, my take in this is to call upon the Members to support this Ward Development Fund at all costs because at the end of the day, our people will benefit, our people will see what is the meaning of devolution and it will bring at least a change and some light at ward level. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. I want to close the debate. Hon. Member for Muthesya, your final submissions please.

Hon. Nzioki: Thank you, Mr. Speaker. Mr. Speaker I want to support this report by saying that Mr. Speaker this report is a very crucial document for this Assembly and particularly for the development for the wards that we represent. Mr. Speaker, I want to say this, may be after we break, we will come back here in February and the County Government will be receiving their last tranche of monies from the treasury.

Mr. Speaker, if this document is not passed, early enough, Mr. Speaker, by February we will be told that there is no money, the last tranche was just for paying salaries, Mr. Speaker, and that year will have gone for us not doing anything to our electorates. Mr. Speaker, I would say this, if there is any Member in this House who want to derail this report, Mr. Speaker, I would say he is an enemy of our people because they do not want development to reach Mashinani. Thank you, Mr. Speaker.

Hon. Deputy Speaker: I now proceed to put the question that, the House adopts the report by the Committee on Ward Development Fund as it is today the 25th November, 2015.

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: Proceed clerk. There being no further business the House adjourns until next week on Tuesday afternoon, 2.30 p.m. Thank you

The House rose at 4.15 p.m.