

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 23rd May, 2017

The House met at 10.02 a.m.

[The Speaker (Hon. Mung'ata) in the Chair]

PRAYERS

Hon. Speaker: Good morning. Hon. Members.

MOTIONS

AMENDMENTS TO STANDING ORDERS

(Hon. Mwonga on 16.05.2017)

(Resumption of Debate on the Motion tabled on 16.05.2017)

Hon. R. Mutuku: Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, I am standing on behalf of a Member for Procedure and Rules committee to move the motion on the amendment of Standing Orders;

Mr. Speaker, Sir, that aware that the committee on Procedure and Rules is mandated to consider reports and also propose amendments to Standing Orders pursuant to Standing Order 187 (3) and (4);

Further, aware that the current Standing Orders, while they address majority of concerns of the Assembly way of conducting business, they fail in some instances, some instances to culture circumstances that are unique to the County Assembly of Machakos;

Mr. Speaker, Sir, involved first Standing Order 235 provides for periodic review of Standing Orders where at least once in every term of the Assembly, not later than six months to the end of the term, the Procedure and Rules Committee shall review the Standing Orders and make a report to the Assembly recommending the Standing Orders;

Remembering that, on 19th to 21st April, 2017, the committee on procedure and rules had a workshop in Mombasa to propose amendments to the current Standing Orders pursuant to Standing Order 235;

Mr. Speaker, Sir, I wish to move the motion that this Hon. House discusses and approves the report on the procedure and rules committee on amendments to Standing Orders.

I call upon Hon. Alice Nzioka to second the motion. Thank you, Mr. Speaker, Sir.

Hon. (Ms.) Nzioka: Asante Bw. Spika. Kama vile ambavyo unavyojua, bunge letu lina mwongozo na amri ambazo zinaongoza bunge ili bunge liwe linaendelea vizuri ama salama lazima tuwe na mwongozo. Nimesimama kuunga mkono kwamba hayo marekebisho na ripoti ambayo imeletwa, naiunga mkono sisi kama bunge tuiptishe ili tuwe na mwongozo mzuri katika bunge letu. Asante.

Hon. Speaker: The motion is laid. We can proceed with debate. Sorry, let us hear the report. It is alright.

Hon. R. Mutuku: Thank you, Mr. Speaker, Sir. Mr. Speaker, with your permission I will proceed with the report.

Mr. Speaker, Sir, Section 14 of the County Governments Act, 2012 stipulates that, a County Assembly may make Standing Orders consistent with the Constitution and this Act to regulate the procedure of the County Assembly including, in particular, orders for proper conduct of proceedings.

Standing Order 233 provides that the Procedure and Rules Committee may at any time propose amendments to these Standing Orders. The amendments may be on the initiative of a Member where a Member may, with the support of at least two other Members, request the Procedure and House Rules Committee to consider amendments to the Standing Orders as provided by Standing Order 234(1).

The request must be in writing and contain the text of the proposed amendment and the justification for the proposal and must also contain the names and signatures of the Members supporting the request and be lodged with the Speaker pursuant to Standing Order 234 (2).

Mr. Speaker Sir, if the Speaker is satisfied that the requirements have been met, he may forward the request to the Procedure and Rules Committee which shall, within 21 days of the receipt of the request, consider the request and table a report in the Assembly containing the amendments proposed in the request and the recommendations of the Committee on each such proposal pursuant to Standing Order 234(4).

Standing order 234 (5) adds that the Assembly shall consider the proposed amendments to the Standing Orders as reported from the Procedure and Rules Committee on a Motion that ‘the report of the County Assembly Procedure and Rules Committee be approved.’

Mr. Speaker, Sir, there is also an opportunity for periodic review of Standing Orders where at least once in every term of the Assembly, not later than six months to the end of the term, the Procedure and Rules Committee shall review the Standing Orders and make a report to the Assembly recommending the Standing Orders, if any, to be amended as stated by Standing Order 235.

Amendments to the Standing Orders, upon approval by the Assembly, take effect at the time appointed by the Assembly.

Mr. Speaker, Sir, with your permission, I will proceed with the mandate of the committee. Pursuant to Standing Order 187, the Committee on Procedure and Rules is mandated to, amongst other matters, consider and report on all matters relating to these Standing Orders. The Committee is also mandated to propose amendments to the Standing Orders for consideration by the House.

Further, the Committee may, from time to time, propose rules for the orderly and effective conduct of business of Committees. Such rules, once approved by the House have the same effect as the Standing Orders.

Mr. Speaker, Sir, the compositions of the Committee is as under-listed.

Hon. Bernard Mung'ata	- Chairman
Hon. Nathaniel Nganga	- Vice Chairman
Hon. Joshua Mwonga	- Member
Hon. (Ms.) Cecelia M Sereka	“
Hon. Joseph M. Muli	“

Mr. Speaker, Sir, the current Standing Orders, while they address majority of concerns of the Assembly's way of conducting business, they fail in some instances, to capture circumstances that are unique to the County Assembly of Machakos. In addition, there was need to alter some parts of these Standing Orders to match with the County Governments Act and the National Assembly Standing Orders as well as well as correction of typographical errors.

It is on these challenges that the committee resolved to study and analyse the current Standing Orders with a view to recommending appropriate amendments thereto which shall address the unique circumstances of the County Assembly of Machakos. Common practices, traditions as well as rulings on similar matters from different places were used as basis to do the amendments.

Mr. Speaker Sir, on 19th to 21st April, 2017, the committee on Procedure and Rules committee held a workshop in Mombasa to propose amendments to Standing Orders pursuant to Standing Order 235 and the following are some of the main critical parts of the Standing Orders the committee considered for amendments;

- Interpretation of allotted days;
- Special motions;
- Action to be taken on refusal to withdraw;
- Lapsing and re-introduction of a Bill;
- Procedure of handling Money Bills;
- Mandate of Justice and Legal Affairs;
- Committee on Supply;
- CEC summon to make presentation in the Assembly;
- Procedure for removal of Chairperson of Committees;
- Reduction of the number of sectoral committees;

Inclusion of Committee on Powers and Privileges;
Membership in Public Accounts and Investments Committee,
Re-arrangement of some Standing Orders and corrections of grammatical errors; and
Removal of unnecessary words.

Mr. Speaker, Sir, the Committee, therefore, recommends THAT, the House resolves to amend the County Assembly Standing Orders as follows;

In Standing Order 2(1)(a)

Delete words Allotted Day and its definition. This is because it relates to the committee on Supply which has also been deleted from the Standing Orders.

Standing Order 2(1)(c)

Insert the words *First, Second, Third and Fourth Chairpersons of Committees* immediately after the word *includes*.....These are the members of the Speakers Panel.

Standing Order 3(8)

Change the time that *Assembly shall commence at 9.00 a.m. to 10.00 a.m.* This is to ensure that the section is in conformity with Assembly meeting hours which were changed to 10.00 am vide a motion approved by the House in 2014.

Part VI on the Title

Delete the word *Presiding*. It is irrelevant and misplaced.

Standing Order 32

On the title delete the word '*preceding*' and substitute there in with the word '*proceedings*'. This is a grammatical error.

Standing Order 32

Insert a new standing order 32(4) that reads '*a member who leaves the chamber during the counting shall be deemed to engage in disorderly manner.*' This helps to prevent the Hon. Member from defeating the quorum hence the need to punish the Hon. Member for being disorderly.

Standing Order 43

Insert a definition for special motion to include '*a Motion that require a threshold of 75 per cent of the members or Motion that requires the removal of the Speaker or Motion seeking a resolution of the house to approve an appointment or re-appointment.*' This definition is as per Standing Order 61 of the National Assembly Standing Orders.

Standing Order 58

Insert a new Standing Order 58 (5) to read '*the procedure for removal of Chairperson of Committees shall, with necessary modification, be the same as that prescribed for removal of the Speaker.*'

Standing Order 107

Delete the phrase *‘during the remainder of the session’* and substitute therein with *‘28 days and if more than 28 days, the House must approve the decision.’* The Committee found that suspending a member for the remainder of the session was too harsh hence the need to reduce the punishment.

Standing order 110 (2) (a)

Delete the number *‘114’* and substitute with *‘Section 21 of the County Governments Act’*. This change is occasioned by the fact that 114 is in reference to National Assembly Standing Orders.

Standing Order 110 (3) (a) (b) and 110 (4)

The above Standing Orders regard to the procedure of debating Money Bills and they are redrafted as follows;

- 110 (3) (a) Where the Speaker is of the opinion that a legislative proposal is not a draft Money Bill in terms of Section 21 of the County Governments Act -
- (b) Direct that the proposal be referred to the relevant Sectoral Committee for prepublication scrutiny in case of a legislative proposal not sponsored by a Committee;
 - (c) Direct that the proposal be published into a bill, in the case of a legislative proposal sponsored by a committee.
- 110 (3) (b) Where the Speaker is of the opinion that a legislative proposal is a draft Money Bill in terms of Section 21 of the County Governments Act, direct that the legislative proposal be referred to the Budget and Appropriations Committee and the proposal shall be proceeded with only in accordance with the recommendations of the Budget and Appropriations Committee after taking into account the views of the County Executive Committee Member responsible for Finance.
- 110 (4) The Budget and Appropriations Committee shall consider only the Money Bill or financial aspects of the proposal and submit a report to the Speaker within twenty one (21) days of receipt of the proposal.
- 110 (5) A report under paragraph (4) shall contain;
- (a) The views of the CEC Member responsible for finance, if any;
 - (b) A detailed examination of the manner in which the legislative proposal affects the current and future budgets and may include implications on tax measures;
 - (c) A recommendation on whether or not the proposal should be proceeded with;
 - (d) Any other appropriate recommendation relating to money-bill aspects of the proposal.
- 110 (6) Upon receipt of the recommendations of the Budget and Appropriations Committee, the Speaker shall direct that;

- (a) The proposal be subjected to pre-publication scrutiny before the relevant Sectoral Committee in case of a legislative proposal not sponsored by a Committee, or
 - (b) The proposal be published into a bill, in the case of a legislative proposal sponsored by a committee, or;
 - (c) The legislative proposal be not proceeded with.
- 110 (7) The Sectoral Committee to which a legislative proposal is referred to for pre-publication scrutiny under paragraphs (3)(a)(i) and (6)(a) shall consider the proposal and submit a report to the Speaker within twenty-one (21) days and advising whether or not the proposal should be proceeded with, or any other appropriate recommendation.
- 110 (8) Following the recommendations of the relevant Sectoral Committee, the Speaker shall direct either that the legislative proposal be not proceeded with or that it be published into a bill.
- 110 (9) The Speaker may exempt a legislative proposal with origins from the Executive if the Speaker is satisfied that the proposal has been approved by the County Executive Committee and may have undergone prior public consultations.

Standing Order 133

Insert the words '*Lapsing and....*' on the title

Delete Standing Orders 133 (1), (2), (3), (4) and (5) and redraft them as follows;

- 133(1) A Bill, the Second Reading or Third Reading of which has been rejected may be introduced again in the next Session, or after the lapse of six months in the same Session but subject to fresh publication as provided in Standing Order on *Introduction of Bills*.
- 133(2) A Bill that has been published, read a First Time or in respect of which the Second Reading has not been concluded-
- (a) At the end of a Session in which it was published shall not lapse at the end of that Session but shall resume in the next Session of the same Parliament at the stage where it was last interrupted;
 - (b) At the end of two consecutive Sessions of the same Parliament, shall lapse at the end of the second Session and may be republished in the same or different form in accordance with Standing Order on *Introduction of Bills*.
- 133(3) Subject to paragraph (2), a Bill in respect of which the Second Reading has been concluded at the end of a Session shall resume in the next Session of the same Parliament at the stage where it was interrupted at the end of the Session.
- 133(4) A Bill the consideration of which has not been concluded at the end of the term of a Parliament shall lapse.

Standing Order 154(3)

Delete '3 sectoral committees' and substitute with '2 sectoral committees'. The reduction of the number of sectoral committees for which a member can belong to is meant to enhance efficiency in committees' operations.

Standing Order 185

Delete the word 'County' on the title so that the committee name reads "*Public Accounts and Investments Committee*". The word has been repeated several times and it is not necessary.

Standing Order 185(3)

Delete the word 'Four' and Substitute with 'Six of which at least three are from minority party'. The idea is to increase membership of the PAIC Committee to strengthen and diversify committee input and decision making.

Standing Order 186

Delete the word 'County' on the title so that the committee name reads '*Budget and Appropriations Committee*'. The word has been repeated several times and it is not necessary.

Standing Order 187

Delete the word 'Assembly' on the title and insert the word 'House' immediately after the word 'and' so that the committee name reads '*Procedure and House Rules Committee*'.

Immediately after Standing Order 189A (3) (e)

Insert Standing Order 189B to read '*for purposes of section 15(1)(b) of the County Assemblies Powers and Privileges Act, the committee shall be composed of:-*'

- (a) The Speaker who shall be the Chairperson;
- (b) The Chairperson of Committees; and
- (c) Not more than three other members.

Standing Order 207

Delete this Standing Order it since the Committee on Supply is redundant.

Standing Order 209, 210 and 211

Delete all the above three Standing Orders because they relate to the committee on supply which is redundant and has been deleted

Standing Order 214 (3)

Delete this Standing Order as it as it makes reference to the Committee on Supply.

Standing Order 215 (1) (2) (3) (4)

Delete all these Standing Orders since the roles stated here are for sectoral committees and Budget and Appropriations committee.

Standing Order 215 (5)

Delete this Standing Order as it relates to the committee on supply which is said to be redundant.

Standing Order 216

Delete it since it is provided in the Public Finance Management Act

Standing Order 224 (2) (b)

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Delete this provision which admits the County Executive Committee Member to the Chamber while responding to summons by the Assembly. This is because the CEC for Finance only reads proposals of budget whereas the sectoral committees and the Budget and Appropriations Committee have the mandate for making budget and can make changes to the budget.

Standing Order 236(1)

Amend the quoted Standing Order '235 (5)' to read as '234 (5)'.

Second Schedule on Sectoral Committees

In the committee for Agriculture and Cooperative Development, delete the words '*and cooperative development*' so as to read '*Agriculture*'. In the functions, the function written '*cooperative societies*' is shifted to the '*Committee on Trade, Economic Planning and Industrialization*'.

Delete the Committee on Culture and Tourism and transfer the mandate of culture to '*Education and Social welfare committee*' and the mandate of Tourism to '*Trade, economic planning and industrialization committee*'.

Delete the Committee on Decentralized Units and Urban Areas and transfer the mandate of this committee to the '*Committee on Trade, economic planning and industrialization*'.

Delete the Committee on Youth, Women and Sports and transfer the mandate of this committee to '*Committee on Education and Social welfare*'.

The function on intergovernmental relations provided in the Committee on Justice and Legal Affairs was deleted since it is already provided in Standing Order 189(a) under the committee on Devolution and intergovernmental Relations.

The rationale of merging some of the sectoral committees with others was to ensure that Hon. Members get manageable number of committees for the purpose of enriching discussion in the committees.

In conclusion, Mr. Speaker, Sir, the Committee on Procedure and Rules is indebted to acknowledge the office of the Speaker and that of the Clerk for facilitating the Committee to amend the Standing Orders.

Further, special thanks go to Mr. Kipkemoi arap Kirui, the Principal Clerk of the National Assembly for his technical guidance without forgetting the members of the committee and staff for their participation in the amendments to the Standing Orders and in preparation of this report.

Mr. Speaker, Sir, it is therefore my pleasant duty and privilege to table this report on Amendments to Standing Orders before this Hon. House for discussion and adoption.

Thank you, Mr. Speaker Sir.

Hon. Speaker: Thank you, Hon. Raphael. Hon. Members that is the report that the procedure committee and I urge for deliberations. Then I take that the report has been taken under approval and Members I can proceed with the question.

(Question put and agreed to)

Let us proceed, Clerk.

STATUS REPORT ON PERFORMANCE OF AGRICULTURE DEPARTMENT FOR
2015/2016

(Hon. Muli on 09.05.2017)

(Resumption of Debate on the Motion tabled on 09.05.2017)

Hon. Speaker: Is there any Member for the committee of Agriculture? Yes, Hon. Muinde.

Hon. Muinde: Mr. Speaker, I do not have briefs from my Chairman but today is a special day for the Members of the Assembly who are vying to come back in the next session, we have a date with the IEBC and our Chairman is the one of those in the ballot box. Mr. Speaker, with your permission, I would wish that the matter be deferred to the next day for debate.

Hon. Speaker: Thank you, Hon. Members. With that I will refer the matter to the House Business Committee for further balloting. Any other matter?

ADJOURNMENT

Hon. Speaker: Then that is the end of the morning business.

The House rose at 10.30 a.m.