

REPUBLIC OF KENYA

MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 13th June, 2017

The House met at 2.35 p.m.

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

PRAYERS

BILL

MACHAKOS COUNTY TAX WAIVERS ADMINISTRATION BILL, No. 3 OF 2017

Hon. Nzeki: Thank you, Hon. Speaker. Mr. Speaker, Sir, pursuant to Standing Order 121 (1), I wish to move the motion that the Machakos County Tax Waivers Administration Bill No. 3 of 2017 be now read a second time. Thank you, Mr. Speaker, Sir. I call upon Hon. Benedette Mueni to second.

Hon. (Ms.) Mueni: Thank you, Mr. Speaker, Sir. I stand to second the bill because everything that will be passed will be brought to the House to be discussed by the House. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you.

(Question proposed)

Hon. Nzeki: Thank you, Hon Speaker, once again. Mr. Speaker, Sir, Article 210 of the Constitution of Kenya states that no tax or licensing fee may be imposed, waived or varied except as provided by legislation, that a public record of each waiver shall be maintained together with the reason for the waiver; and that each waiver, and the reason for it, shall be reported to the Auditor-General.

Section 159 (1) of Public Finance Management Act states that the County Executive Committee Member for Finance may waive a county tax, fee or charge imposed by the County Government and its entities in accordance with criteria prescribed in regulations provided that:-

- a. The County treasury shall maintain a public record of each waiver together with the reason for the waiver and report on each waiver in accordance with Section 164 of this Act;

- b. A State Officer may not be excluded from payment of a tax, fee or charge by reason of the office of the state officer or nature of work of the State Officer;
- c. Such waiver or variation has been authorized by an Act of Parliament or County Legislation.

Mr. Speaker, Sir, The Machakos County Tax Waivers Administration Bill, 2017 seeks to give effect the principles set out in Article 210 Constitution of Kenya 2010 and Section 159 of the Public Finance Management Act by providing for the conditions of the administration of tax waivers.

The Bill was read for a first time in the House on 24th May, 2017 and committed to Finance and Revenue Collection Committee pursuant to Standing Order 120 (1) which states that a bill having been read a First Time shall stand committed to the relevant Sectoral Committee without question put.

The Bill was discussed by the Committee and taken to the public for public participation as per Standing Order 120 (3) which provides that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the House.

Mr. Speaker, Sir, the Second Schedule of the County Assembly Standing Orders defines the mandate of the Finance and Revenue Collection Committee to include all matters relating to the management of county public finance and revenue collection.

Mr. Speaker, Sir, the Finance and Revenue Collection Committee, as currently constituted, comprises of the Hon. Members as listed in the report.

Mr. Speaker, Sir, the Machakos County Tax Waivers Administration Bill 2017 delegates legislative authority of tax waiver to the Executive Committee Member responsible for finance on the procedures and timelines for application of waivers. The Bill is intended to ensure transparency in the administration and waiving of taxes and other revenues as well as provide for the requirements and procedure for tax waiver.

The Bill defines tax waiver to include the forbearance of tax collection, partial or full remission, spreading out a payment in respect of tax already accrued and any variation of the amount due or interest or penalty due on any amount owing to the County government. The bill recognizes the oversight role of the County Assembly by requiring the Executive Committee Member for Finance to submit tax waiver proposal to the Assembly for approval.

Mr. Speaker, Sir, the Committee discussed the Bill and facilitated public participation on the bill on 5th June, 2017 pursuant to Article 196 (1) (b) of the Constitution which states that a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees. The committee ensured all the Members of the County Assembly participate in the making of this important law by inviting them to a retreat in Naivasha on 7th to 10th June, 2017.

Mr. Speaker, Sir, the Committee conducted public participation in Machakos and Mlolongo towns. Members of the public welcomed the Bill saying that it was long overdue and that it will save many property owners whose property was in the verge of being auctioned for accumulated interest. Members of the public gave the following views:-

1. That the Executive Committee Member should file a report of having undertaken public participation forums when the approval of tax waiver is sought in the Assembly. This will ensure that the executive takes the exercise seriously.

2. That not all people can access gazette notices and newspapers and that for the purpose of reaching as many people as possible, hard copies of the intended waiver should be fitted in public notices in addition to formal announcements in churches and Barazas through their leaders. The public also proposed to have banners and billboards displayed in all the big towns to help advertise on the intended waiver. This will increase publicity.
3. The consideration of tax waiver as stated in Section 7 (a) should not elicit double standards or partiality.
4. Tax Waivers Bill should not be used to reward some special people especially the ones with big companies and large pieces of land.
5. The Bill needs to have been taken to the other big towns of Machakos County like Tala, Kangundo, Matuu and Masinga.
6. There is need for feedback mechanism on how many bills have been implemented within a certain period or just the stage at which they have reached.

Mr. Speaker, Sir, the Machakos County Tax Waivers Administration Bill, 2017 is an improvement of the Machakos County Tax Waivers Administration Bill published in 2016 which lapsed at the end of the fourth session having not been read a second time.

Standing Order 133 (3) states that a Bill in respect of which the Second Reading has not been concluded at the end of a Session shall lapse at end of the Session in which it was published but may be re-published in the same or a different form in accordance with Standing Order 110 (Introduction of Bills).

Mr. Speaker Sir, the Machakos County Tax Waivers Bill, 2017 has taken into consideration public views given during public participation in all the eight sub-counties on 17th November, 2016. Members of the public had given the following recommendations:-

1. That the Executive Committee responsible for finance should forward the categories and areas of tax waiver and variation to the County Assembly for approval. They argued that this will ensure transparency and accountability on the management of County resources since the CEC will be checked against waiving taxes to friends and areas that are friendly to the County Government.
2. The public observed that the waiver may be a preserve of the elite and big businesses and called for public participation or a mechanism of having the information reach the rural areas whenever the Executive Committee Member intended to undertake waiving or variation of tax.
3. The public requested for a provision on a criterion that will be used to assist in the waiving and variation of taxes.
4. Further, the public proposed that the waiver should be for a limited period of time which should not exceed seven months.
5. The public also proposed that the County allows payment of taxes in installments as a measure to enhance adherence with the fees and charges laid down by the County.

Mr. Speaker, Sir, the committee considered the Bill and observed that public views given in 2016 had been incorporated in the new bill. The Committee proposed amendments to clause 7 (a) to substitute the words 'receive and consider applications for tax waivers' to read that the Executive Committee Member shall 'administer the tax waivers'.

The rationale for this was to simplify the process of waiving tax were the public did not need to apply for tax waiver. The CEC should consider the tax waivers to administer and then publish the waivers as per the legislation inviting the public to pay for accrued taxes so as to benefit from the waiver.

Mr. Speaker, Sir, the committee considered the public proposal to include advertisement through banners and proposed amendments to clause 8 (3) to include advertisements using billboards, posters and banners.

The committee further considered clause 8 (4) and proposed amendments by deleting the words 'a detailed list of the applications proposed for tax waiver' and substitute with the words 'a detailed proposal of the planned tax waiver accompanied by evidence of public participation' to be submitted to the Assembly for approval. Clause 10 (1) was also proposed for amendments by deleting the words 'in consultation with the committee' as it was an error. The committee further proposed the words in clause 10 (2) (a) to be fully substituted with words that 'a procedure for tax waivers.'

Mr. Speaker, Sir, attached herein with the report is the amendments which the committee recommends to this honorable House for approval.

Mr. Speaker, Sir, it is my duty and privilege, on behalf of the Committee of Finance and Revenue Collection Committee to present the report on Machakos County Tax Waivers Administration Bill of 2017 to this Hon. House for consideration and adoption. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you, chairman. Debate opens. I ask for contributions. Yes, Hon. Kitheka.

Hon. Kitheka: Thank you, Mr. Speaker, and the House at large. Mr. Speaker, the document in hand is a document which should have been passed in this House three years ago because of the weight of the document. Mr. Speaker, notwithstanding all that, I think this Bill has come at a time when it seems it can be misused as a document in this House.

Mr. Speaker, I tend to presume that this document, it is being brought into this House at this last hour, may not be used as a document for a government or other individuals or cronies to use it to solicit funds from companies or even to justify issues which have been happening. Mr. Speaker, this is a good document and last time we were discussing about another report which was in this House, we cited some companies which have not being paying taxes.

We now wonder whether this document will accommodate all that which has been happening because, we are aware that there are companies in Athi-River and Machakos which have not been paying taxes and because this document has not being in place, it may compromise the entire process of what has been happening.

So, Mr. Speaker, as good as the document is we are still looking forward for the document to be used in a very wise way. We are going to pass the document because we want our people to benefit from the same but we are still looking forward for it not to be used to make justification for issues which had been done wrongly.

Mr. Speaker, there is an issue I pointed out from the document on page 3 on consideration of the bill. There is an issue of forbearance of tax collection, partial or full remittance spread out of payment in respect of tax already accrued. Mr. Speaker, there is still an issue in all that because we have already passed documents, bills or even an act in which we allowed the County government of Machakos to be getting tax in terms of installments from the people.

We passed a document in which we allowed the tax of Machakos to be paid in installments because some of them are huge enough to be in installments for the people to pay promptly. So Mr. Speaker, on the same issue I can see in page 5, number 5, 'the public also proposed that the county allows payment of taxes in installments.' Exactly what is happening, I think it is a repetition of what is happening down there because installments are already allowed.

So, Mr. Speaker, I think the document is good and what we should only look forward is for the document not to be used to justify wrong issues which had been done in the County government of Machakos or even to be used to solicit funds for campaign for this government or cronies of this government. Thank you very much, Mr. Speaker.

Hon. Speaker: Thank you.

Hon. (Ms.) Kaluki: Thank you, Mr. Speaker, Sir, and the House at large. About the bill, I have some concerns on it. Mr. Speaker, Sir, as much as we have been in this county for the past four years and we are now completing our fifth year, it is well known that our county has never at any given time reached its target in revenue collection and we understand very well that the government runs its functions through the tax that is paid by the people of Machakos.

Now, I am wondering are we not crippling how the county government shall be working because there is this problem of deficiency of funds since we generate our income from taxes.

The public had concerns on the usage of the Bill, they were worried that it may be used to benefit a few like the major companies and those who have large parcels of land. Mr. Speaker, Sir, this Bill, I think will be subject to misuse if it goes through. It will be subject to misuse to benefit a few and many who pay the bills down there will still be subjected to hardships in paying taxes which are not benefiting them in any way.

Also, on the payment of taxes during the payment period, I think the government sets timelines on how the taxes are to be paid and when the time elapses, that is when the county can waive the penalties and then those who owe can pay the taxes. Mr. Speaker, I think this Bill is ill-timed and intended to frustrate the citizens of Machakos County. Thank you, Mr. Speaker, Sir.

Hon. Speaker: A point from the chairman.

Hon. Nzeki: Thank you, Hon. Speaker. On what Hon. Penina has said about the interest rates, we have only two major sub-counties which have ratable land rates or plot rates charges; that is Mavoko Sub-county and Machakos sub-county. In other sub-counties you will not find any ratable plots or land. What we are saying is that, in Machakos County, the land is ratable, in Mavoko it is ratable, but when you have to move to Mwala, they are not rated, so it will be an advantage to Machakos residents and even residents of Mwala who own plots in Machakos, in Mavoko, Lukenya and any other part of the two sub-counties. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Let me hear Hon. Mutuku.

Hon. M. Mutuku: Thank you Mr. Speaker, Sir for granting me the opportunity. I would like to echo the words of the previous member and say it is true, since we started the 2013 financial year of the county government of Machakos, we never actualized the revenue target. I would like to echo the words of the retired President Kibaki, who was an economist like me---

(Laughter)

Mr. Speaker, he said, the only way we can develop the country of Kenya or the county government of Machakos is through revenue. Mr. Speaker, in common practice, those who fail to pay taxes are penalized. We have a case of NSSF and NHIF, for those who don't pay because it is your duty to pay the taxes, you are always penalized.

Mr. Speaker, I would like to say the time of waiving these arrears is ill timed and I think there will be a misuse in it.

(Applause)

Mr. Speaker, having the expiry of a term does not mean the end of the world, there will be the next county assembly to come and it will be in a position to handle the matter and check all the loopholes.

(Applause)

Mr. Speaker, I would also say there is no way a taxpayer fails to pay the taxes and waits for the waiving and more so he needs services. That is against the law of common practice. It is against the tradition of managing governments and I would like to say I am not in support of the requisition of the report.

(Applause)

Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. Yes, Hon. Nganga.

Hon. Nganga: Thank you, Mr. Speaker, Sir and the House at large for this opportunity. I want to take this occasion to register my opposition to this Bill. For more than six reasons, I am opposed to this Bill because of the manner in which this Bill might end up impacting negatively to the people of Machakos County and even to the people of the ward that I represent, Mr. Speaker.

If you go to page three of the report, under the consideration of the Bill, it expressly in the first statement---

Hon. Speaker: Which page is that?

Hon. Nganga: Page three, Mr. Speaker. On top there it says, 'Machakos County Tax Waivers Administration Bill 2017 delegates legislative authority of tax waiver to the Executive committee member responsible for finance.' Mr. Speaker, I would just stop there. That in itself means we are now ready to cede the authority that is bestowed upon us on deciding in this House who is supposed to benefit on this issues; 59 of us to cede that authority to one person.

Mr. Speaker, when we cede an authority of that nature it means we are collapsing the nature in which our constitution has been structured and the laws of this country where we have checks and balances because, through which mechanism shall we know whether there is fairness being exercised when the CECM is coming up with the proposals of the persons to benefit with this Bill, Mr. Speaker. That is a red flag.

(Applause)

Down in the second statement it says, ‘the Bill defines tax waiver to include the forbearance of tax collection, partial of full remissions.’ For instance, because we have people who have debts worth millions of shillings to this county, if tomorrow the CECM responsible wakes up and says that we will forbear full remittance of the revenue that is supposed to be given; what check and balances shall we have, Mr. Speaker?

We are ceding authority and giving out arbitrary power that is prone to abuse like it used to be in the KANU days when a chief could arrest somebody and put them under their own arrest.

Mr. Speaker, in page four, there are recommendations that have been given over this Bill; ‘the member who forwards the categories and the areas of tax waiver and variation to the county assembly for approval.’ Mr. Speaker, I feel the committee fell short of doing its duty because the committee could go ahead and propose the various categories, be very specific so that they curtail the possibility of abuse of this Bill, Mr. Speaker. Because when you leave it this way it becomes vague and it is subject to misuse. So, the committee on that aspect failed Mr. Speaker to undertake its duty.

Number two, they observed that this can be a preserve of the elite and big businesses. This country is run on pure elitism, Mr. Speaker. We know the learned, the wealthy and the people who have ways and means, a good percentage control what happens in this country and the same thing happens in this county. There is no way you will deter the elite from controlling what is going to happen during tax waiver arrangements.

So this in itself is another loophole were you will have lost the ability to control what the CECM will be doing. The committee could have looked into that loophole and presented a solution. Mr. Speaker, I feel that the committee did not meet the expectations of the House. Passing this Bill is granting authority to the CECM and he will be able to use it in a manner that will have.... and even if we take action over the CECM, the action that we will take, we will already have lost funds, so we better be preventive than curative Mr. Speaker.

In the health circles they say prevention is better than cure and that applies across the board even in matters of financial controls.

Number three in page five, they are saying that ‘the public requested for our provision on a criterion that will be used to assist in the waiving and variation of taxes.’ Going by experience by what has been happening in this country, Mr. Speaker, even for the monies that are supposed to go to county governments, the Committee of Experts provided for a formula on how these monies will be computed in the constitution, Mr. Speaker.

You cannot give blatant authority on which parameters will be used in computing how these variants of taxes will be used. This committee had the capacity to ask for financial experts. None that have studied economics. They would have lent the man from the Air Force some better advice, Mr. Speaker, some better advice on what he should have presented to this House. Mr. Speaker I feel it is a letdown.

Number five, 'the public proposed that the county allows payment of taxes in installments.' Mr. Speaker, the moment you allow payment of this rates in installments, that means the revenue collection of this county will be unreliable and it will present a lot of challenges when we are doing budget making, because you cannot predict how much of the revenue this county can collect at a particular time, because people would use that loophole to ask for room to pay in installments, Mr. Speaker.

(Applause)

So the development agenda will be delayed by the need to give some few persons the room to use the property of this county in a manner we will have no control of.

Mr. Speaker, under the second statement under point five, it says, 'the committee proposed amendments to clause 7(a) to substitute the words receive and consider application for tax waivers to read that the Executive member shall administer tax waivers.' Mr. Speaker, we have seen how the Executive of this county has been using the power they have been granted by the laws of this land. How can we again in our own sound minds, give another authority to these very same persons that will make most members of this house not to be elected for failure of implementing the projects---

(Applause)

Hon. Speaker: Order! The matter is not giving authority to a person. We are talking about the office. It is important that you look at this as a legislation for the county not for the current regime.

Hon. Nganga: Thank you Mr. Speaker for the advice. Mr. Speaker, the reason why I am raising that particular sentiment is because there are two months to go before we do the next election and the constitution is very clear and the County Governments Act, these particular office holders will be in office until a new team is nominated and approved by this county assembly. So there is a window for them to implement parts of this Bill immediately we approve it through this House. Mr. Speaker, I want to point out the---

Hon. Speaker: Order! Hear my order.

Hon. Nganga: Thank you, Mr. Speaker.

Hon. Speaker: This is a Bill that can be passed but the operation date postponed. Those are the amendments you ought to be bringing before the House.

Hon. Nganga: Mr. Speaker in the report, the chairman did not present a recommendation for the postponement of the implementation of this report.

Hon. Speaker: That ought to be your contribution now Hon. Nganga.

Hon. Nganga: Mr. Speaker that will constitute part of my conclusion.

Hon. Speaker: Proceed.

Hon. Nganga: Mr. Speaker, the five reasons, this bill is ill-timed because we are at the last day of our session of our elective term and being the last day, it will raise eyebrows, why are we passing this Bill at this hour. Two, the mandate of the implementation arm that is the county executive of Machakos, is in limbo, Mr. Speaker, since we are under an election time. They don't have the full mandate and the moral authority from the people to implement some of these prerogatives, Mr. Speaker.

So they may use this opportunity to and abuse the room that we would create by passing this bill. Mr. Speaker, number three, we might suffer---

Hon. Speaker: Hon. Nganga, that is number three for the second time, you need to-

Hon. Nganga: Mr. Speaker, I took you through the report on the issues that I found glaring and now I am giving the five points that I consider important for us to consider as we make the decision on the way forward.

Hon. Speaker: Proceed.

Hon. Nganga: Mr. Speaker, number three, we are under a serious risk, Mr. Speaker, and if we pass this Bill the way it is. It might be abused within the two months, there are people that have not paid their rates for the last 10, 15 or 20 years to this county. They may come running and give half or even collude with the officers to have been rated as if they paid when they did not Mr. Speaker.

Two months before an election is done, it is such a very serious issue and for those who have been in government before, they know very well, these months are prone to abuse, Mr. Speaker.

Number four, there is conflict of interest, Mr. Speaker. I am informed well that the chairman of the committee has an interest in this Bill, Mr. Speaker. And he did not declare his interest in this report.

(Applause)

Mr. Speaker, the chairman wants to have a direct benefit to himself that I very well know, but he did not provide that information Mr. Speaker.

Hon. Katela: Point of order.

Hon. Speaker: Point of order is taken.

Hon. Katela: Thank you, Mr. Speaker. I thought the Hon. Member was contributing towards the contents of the report. Why is he directly attacking the chairman of the finance committee? I tend to think he is out of order and he should forthwith cease contribution. Thank you, Mr. Speaker.

Hon. Speaker: The point of order is granted. The Hon. Member is found to be out of order. Let us proceed with debate. Another contributor.

Hon. Nganga: Point of information.

Hon. Speaker: It is denied. You are out of order. Let us hear the mover.

Hon. Nzeki: Hon. Speaker, thank you. I want to come up with some sentiments which have been made by our Deputy Speaker, Hon. Nganga---

Hon. Speaker: Hon. Chairman, you have been protected by the House.

Hon. Nzeki: Okay. Thank you.

Hon. Speaker: Let us proceed with debate. You are already disgraced.

Hon. (Ms.) Sereka: Thank you, Mr. Speaker and the House at large. I stand to support the Bill, because in my ward, people need this waiver like yesterday. I had a meeting with my people and they are willing to pay their land rates and they are asking for a waiver, Mr. Speaker. People of Mavoko, because this Bill were most people need the waiver is Mavoko and Machakos---

Hon. Kitheka: Point of order.

Hon. (Ms.) Sereka: Mr. Speaker, protect me.

Hon. Speaker: Proceed.

Hon. (Ms.) Sereka: Mr. Speaker, when I sat down with my people, they asked me for a waiver and I am here to support what my people want because if they get the waiver, they will pay without penalties and interest. Mr. Speaker, when you look at what our people are supposed to pay, when you don't pay at the right time, you are supposed to pay interest and penalties. Our people are just asking to pay the premium but not the interests or the penalties, Mr. Speaker.

I think people have been getting waivers even before this Assembly. In the last regime, people used to get waivers and most people gained, and these are our people. They gain and they pay their land rates, Mr. Speaker. So, I support and I wish this Hon. House could know how our

people down there like Mavoko are suffering because of the penalties and the interests. Thank you, Mr. Speaker.

Hon. Speaker: Yes, Majority Leader.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. First and foremost, I want to thank the chairman and his committee and say I feel much privileged to contribute on this last Bill, which if approved will be the last Bill to be approved by this Assembly, Mr. Speaker.

Mr. Speaker, I want to urge my fellow colleagues to pass this Bill as it is. We are not passing this Bill for the current government but for the future government or so. Mr. Speaker, politics aside from this Bill, the business before this House is not for the current government. When we are talking about waiver, we are just taking away or throwing away the accrued penalties and interests, Mr. Speaker.

I don't want to echo the sentiments of the Hon. Penina Kaluki but she said that we are not realizing our revenue targets. Why are we not realizing them? Because the people who are supposed to pay rent are not doing so because of the accrued interests and penalties. So if we allow them to pay the rates without the interests and penalties, we are going to have a lot of revenue because it is only that people are not paying but if they can be told to pay and it is not Machakos county government which is doing this, we are seeing it all over on TV.

Kwale County is doing it, Kisii County just to name a few. So members, let us not take a lot of time on this. This is a very important Bill, let us pass it in one voice. Thank you, Mr. Speaker.

Hon. Speaker: Let me hear Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Mr. Speaker, Sir. I think when I supported the Bill, the Members did not understand what I said. I said, before the waiver is done, the names of those people whose rates are being waived will be brought of the House. So, the rates will not be waived as if the Executive is the one that will be doing this. It will be done by the Assembly. Thank you, Mr. Speaker, Sir.

Hon. Speaker: I do not know but perhaps as we continue with further debate, it is important that perhaps I give this House some directions. When you look at section 10 of the Act, this is following the sentiments that I have heard from the Deputy Speaker. Looking at section 10 (1), it reads, 'that the Executive Committee Member in consultation with the committee shall make regulations generally for the better carrying out of the provisions of this Act.'

The regulations of carrying out this Act are yet to come. This is just a framework on the law that ought to have been done in the beginning. So, regulations will still be filed in the House for adoption. Let us proceed. Yes Hon. Raphael.

Hon. R. Mutuku: Thank you, Mr. Speaker, Sir. I support the bill and the reasons why I am supporting the Bill, is when Members go through the Bill itself, it is very self-explanatory and I wish as I do this debate, the Deputy Speaker was in the House. Mr. Speaker, if Members go through the proposed Bill, that is clause 8 (1), it talks of 'where the Executive Committee Member intends to waive any tax, he or she shall publish such intention in the gazette not less than fourteen days before the date of the waiver.'

Mr. Speaker, when you are trying to accuse that some Officers will abuse these powers, how will you abuse your powers as an office holder while you are supposed to gazette and again two talks of ‘the notice referred to in sub-section 1, shall indicate the reasons for the intended waiver and shall invite comments from the public on the intended waiver.’ Mr. Speaker, this is self-explanatory.

Part 3 of it talks of ‘the executive committee Member shall publicize the intention to waive taxes in at least two newspapers with National circulation and in electronic media.’ Mr. Speaker, with just those few clauses, it self-explanatory that, when any intention for the waiver or even when the executive committee Member intends to waive, this one will be in public domain and I am very sure the public will be able to comment either to say this and that is or is not in the right direction.

So, I stand to differ with the comments that were contributed by the Hon. Deputy Speaker. Mr. Speaker, with that, I support. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. Finally, Hon. Veronica.

Hon. (Ms.) V. Mbithe: Thank you, Mr. Speaker, Sir. Mr. Speaker, Sir, according to my observation, this committee, that is the Finance Committee, did its best and I think it is in order for this House to approve this Bill because it is needed and it is a legislation. It will not be in order for the entire committee to have spent taxpayers’ money in preparation of all this and then it is rubbish and thrown through the window in one sitting.

Mr. Speaker, Sir, I feel it will be a disservice to the entire electorates of Machakos County. I therefore support the Bill. Thank you, Mr. Speaker, Sir.

(Applause)

Hon. Speaker: Then I call the mover, Hon. Nzeki.

Hon. Nzeki: Thank you, Hon. Speaker. My comments are that, if you check on page three, the Bill recognizes the oversight role of the County Assembly requiring the Executive committee Member for finance to submit the tax waiver proposal to the Assembly for approval. Mr. Speaker, Sir, this Bill will start working in the next Assembly and not this Assembly because it has to go all through regulations, everything will be brought to this House, not to the present Members but to the coming Members who will be elected next time. And again the Bill is meant to assist in collection of revenue.

You find when we were in the Municipal Council, I was a councilor by then and we used to waive land rates and plot rates. I do not see why this House is refusing such a good deal. It is Hon. Mutuku and he lies at Mavoko where the land rates and plot rates are being charged and people are refusing to pay rates because if the interest rates are too high, they are just being told to pay the principal amount not interest rates will be waived and what I ask the Members, the bill is good for you as you go out to campaign. It will add some points to your points which you have right now. Thank you, Mr. Speaker, Sir.

Hon. Nganga: Point of order.

Hon. Speaker: Let me take the point of order.

Hon. Nganga: Mr. Speaker, I want to refer to the very last sentiments of the Chairman. Mr. Speaker, he is saying, the bill will be good for us during campaign. Meaning, he wants a public relations response instead of doing what is good for the people and doing due diligence in assessing the decision that this House is just about to make. Mr. Speaker, he has also said, the Bill will be implemented in the next House. Where is that in your report and in the Bill, Mr. Speaker?

Hon. Speaker: Order! Hon. Nganga. I think when you stepped out I gave these directions and maybe for your sake, let us go to the Act, Section 10 (1), it reads that ‘the Executive committee Member, in consultation with the committee, shall make regulations generally for the better carrying out of the provisions of this Act.’ Meaning that therefore, regulations will still be presented to the House.

This is an Act which is basically a framework, it is not the Act that composes the regulations, the regulations are yet to be made and filed in the House for debate and approval.

Hon. Muthuka: Point of information.

Hon. Speaker: Yes.

Hon. Muthuka: Thank you, Mr. Speaker, for the opportunity. I want to inform that still in the report towards the end tail of the recommendations, the committee has also indicated that clause 10, the one that you have already cited that is clause 10 (1), was also proposed for amendments by deleting the words ‘in consultation with the committee.’

(Applause)

It was an error. So, Mr. Speaker, looking at that point itself, I do not want to stand here and then support this report when it has those anomalies. So, Mr. Speaker, if we can get some clarifications on that maybe, we can deliberate and then make a wise decision for the people of Machakos. Thank you.

Hon. Speaker: Then that is indeed what you need to consider in the committee of the whole and refuse the amendment. Let us proceed.

Hon. Nzeki: Thank you, Hon. Speaker. I move that the House dissolves to the committee of the whole House. Thank you.

(Hon. Speaker consulted the clerk at the Table)

Hon. Speaker: What? Sorry. Let me hear you. I did not hear you.

(Laughter)

Hon. Speaker: Order! Let me proceed and put a question on adoption of the report.

(Question put and negatived)

Let me proceed to put the question once again for clarity.

(Laughter)

(Question put and negatived)

(Applause)

The Bill stands defeated.

(Applause)

**COMMUNICATION FROM THE CHAIR
ADJOURNMENT FOR SINE DIE RECESS**

Hon. Speaker: Order! Hon. Members. As I had indicated that there was this communication that was deferred to be made about this time. Hon. Members today's sitting marks the culmination of the County Assembly sittings for the fifth session of the First Assembly. As the curtains of the First Assembly draw to a close, I wish to take this opportunity to thank and congratulate all the Members of the House for their exemplary work and service undertaken during the five sessions of this Assembly.

The services rendered by Committees have indeed gone a long way in contributing to the delivery of the overall constitutional mandate accorded to the County Assembly in the three key areas of representation, legislation and oversight.

In the First Assembly, 49 statements were sought in accordance with Standing Order 41, while 15 petitions were presented to the County Assembly pursuant to Standing Orders 193 to 203 as well as Article 37 of the constitution.

Additionally, on the same period, Members have debated and approved over 250 motions and passed a total of 39 Bills to law. However, both the County Assembly Service Bill and the Powers and the Privileges Bill lapsed as they were not within the jurisdiction of the County Assembly but that of the National Parliament.

The First Assembly has played its rightful role in the implementation of the constitution of Kenya, 2010 and the time has come for us to call it a day. I am happy to note that we have been able to finalize on the business that was pending before the House and that we shall not leave any matter of the First Assembly of Machakos unattended.

The electioneering period is with us and for this reason, Hon. Members and in order to give you sufficient time to go and interact with your respective constituents with a view of obtaining wananchi's agenda for prioritization in the Second Assembly, it is hereby notified that all businesses and activities of all committees of the House as well as the plenary sessions shall stand suspended from Wednesday, 14th of June 2017, when the *sine die* recess period shall begin.

However, Hon. Members, should the House be required to consider any particular business that is of utmost importance to the County, the Speaker can be requested to recall the

Members on any sitting day between 14th June, 2017 and 7th August, 2017 for a special sitting in the House.

I thank you all for the diligence you have shown in undertaking your mandate since we started the First Session of this Assembly in 2013 up until now and do wish you well as you proceed to your respective wards to seek for fresh mandate from the electorates to represent them in the Second Assembly. Thank you and may God bless you all.

(Applause)

Let me hear the next matter.

MOTION
SINE DIE ADJOURNMENT

Majority Leader (Hon. Mwonga): Thank you, Mr. Speaker. Mr. Speaker, Sir;

That aware that Article 177 of the constitution states that, a County Assembly shall constitute Members elected by the registered voters of the wards, each ward constituting a single Member constituency, on the same day as a general election of Members of Parliament being the second Tuesday in August, in every fifth year;

Aware that the general elections have been slated for 8th August, 2017 and aware that the official campaign period began on 28th May, 2017.

Acknowledging that the House approved an Assembly calendar which was published in the Gazette, Assembly website and in newspapers pursuant to Standing Order 25 (1) and (2);

Aware that the Assembly calendar indicates that the Assembly will adjourn *sine die* on 15th June, 2017;

Further aware that the House approved a motion on 14th March, 2017 to change hours of meeting from Thursday, 2.30 p.m. to Tuesday, 10.00 a.m. for this Fifth session only pursuant to Standing Order 27 (3);

Aware that there is no business balloted for 14th June, 2017 which is the last sitting day as per the Assembly Calendar.

Mr. Speaker, Sir, pursuant to Standing Order 25 (4), I wish to move the motion that this Hon. House adjourns its sittings *sine die* in accordance with the Assembly Calendar.

Thank you, Mr. Speaker and I call upon the Deputy Leader of Majority, Hon. Felix Ngui to second the *sine die* motion. Thank you, Mr. Speaker.

Hon. Ngui: Thank you, Mr. Speaker, Sir. Mr. Speaker, I second the motion for the *sine die*, noting that there are only 50 days remaining to the general elections and for us breaking for the *sine die* will give us enough time to do our campaigns within our wards and Mr. Speaker, I will take this opportunity also to congratulate the Members of this First Assembly of Machakos for being competent, for standing firm and articulating the agenda of Machakos County in this First Assembly.

Mr. Speaker, I would also want to wish all those who are vying for various positions, there are those who have graduated to vie as Members of Parliament, those who are vying for the

Members of the County Assembly, and I want to wish them well. We meet here on 9th for the Second Assembly of Machakos. Thank you, so much.

ADJOURNMENT

Hon. Speaker: Thank you. Hon. Members, the motion is very procedural and therefore this Assembly adjourns *sine die*

House rose at 3.28 p.m.