

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Wednesday, 1<sup>st</sup> December, 2021**

The House met at 2.33 p.m.

*[The Temporary Deputy Speaker (Hon. (Mrs.) Nzioka) in the Chair]*

**PRAYERS**

**BILL**

*Second Reading*

THE MACHAKOS COUNTY SENIOR CITIZENS BILL 2020, KENYA  
GAZETTE SUPPLEMENT NO. 12 MACHAKOS COUNTY BILLS NO. 8

**Hon. Temporary Deputy Speaker:** Okay, under this order we have one business by Hon. Betty Nzioki. *Mheshimiwa*.

**Hon. (Ms.) B. Nzioki:** Thank you, Mr. Speaker. Pursuant to Standing Order 121(1), I wish to move the motion that the Machakos County Senior Citizens Bill, 2020 (Machakos County Bills No. 8) be now read a second time. Thank you, Hon. Speaker; I want to request Hon. Mueni to second my motion. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Mueni?

**Hon. (Ms.) Mueni:** Thank you, Mr. Speaker. I stand to second.

**Hon. (Ms.) B. Nzioki:** Thank you, Mr. Speaker---

**Hon. Temporary Deputy Speaker:** *Mheshimiwa* I think you will not read the whole report. You will do the mandate, the overview, public participation and committee recommendations.

**Hon. (Ms.) B. Nzioki:** Thank you. I want to read on the mandate of the committee.

*1.2 MANDATE OF THE COMMITTEE*

Hon. Speaker, the Culture, Social welfare and Tourism Committee is established under the Second Schedule of the Machakos County Assembly Standing Orders to deal with all matters relating to cultural activities, public entertainment and public amenities, including betting, lotteries, casinos, racing, liquor licensing, cinemas, video shows and hiring, libraries,

national heritage, museums and cultural activities and facilities and county parks, beaches and recreational facilities and local tourism, culture, control of drugs and pornography: and annual animal control and welfare, including licensing of dogs and facilities for the accommodation, care and burial of animals and social welfare matters.

Further Hon. Speaker, Standing Order 190(8)(c) mandates sectoral Committees to study and review all county legislation referred to it.

### *1.3 COMMITTEE COMPOSITION*

Hon. Speaker, the committee as currently constituted has thirteen members as follows:

- |                           |                  |
|---------------------------|------------------|
| 1. Hon. Betty Nzioki      | Chairperson      |
| 2. Hon. Benedette Mueni   | Vice Chairperson |
| 3. Hon. Jeremiah Munguti  | Member           |
| 4. Hon. Stephen Mwanthi   | “                |
| 5. Hon. Justus Kiteng’u   | “                |
| 6. Hon. Dominic Ndambuki  | “                |
| 7. Hon. Daniel Kiilu      | “                |
| 8. Hon. Joshua Muli Nzuki | “                |
| 9. Hon. Alice Nzioka      | “                |
| 10. Hon. Pauline Munguti  | “                |
| 11. Hon. Francis Ngunga   | “                |
| 12. Hon. Irene Mbivya     | “                |
| 13. Hon. Thomas Mutinda   | “                |

I want to read, with your permission, Mr. Speaker, I want to read the overview of the bill.

### *3.2 Overview of the Bill*

The principle purpose and objective of the Bill is to make provisions for the establishment of a legal framework to empower and protect senior citizens living and residing within the County. The structure of the Bill is as follows:

#### **Part 1**

Clauses 1 to 3 of the Bill contain preliminary provisions which provides for the short title of the Bill, interpretation and objects and purpose of the Bill.

Clause 3 of the Bill provides for the objects and purposes of the bill which are to—

- (a) Provide for a framework for the promotion and protection of the rights of Senior Citizens as enshrined in the Constitution;
- (b) Promote and protect the status of Senior Citizens;
- (c) Prevent the abuse of senior citizens.

#### **Part II**

Clauses 4 to 9 make provisions for the rights of senior citizens; obligations of the county government to senior citizens, factors that persons delivering services to senior citizens must take into account, activities that the County Government must undertake in order to ensure that senior citizens right to family and community care and community based programs for the

care and protection of senior citizens residing within the county as well as prohibition from abuse.

Clause 4 the Bill provides that every senior citizen under the proposed law has the right to;

- a) Fully participate in the affairs of the community based on the senior citizen's interests and capabilities;
- b) Take part in activities that enhance the senior citizen's personal development and build capacity to generate income and to take part in activities that advance the senior citizen's economic development;
- c) Access social and legal services for the enhancement of the protection of the senior citizens' rights under the Constitution;
- d) Take part in activities that promote the senior citizen's social, physical, mental and emotional well-being; and
- e) Receive reasonable care, assistance and protection from their family and the State.

Clause 9 on prohibition from abuse, the Bill provides that a person shall not abuse or subject senior citizens to any form of physical or mental abuse and further stipulates that abuse includes—

- (a) Physical abuse which means any act or threat of physical violence towards a senior citizens;
- (b) Any conduct that violates the sexual integrity of a senior citizen;
- (c) Psychological abuse which means any pattern of degrading or humiliating conduct towards a senior citizen, including—
  - i. Repeated insults, ridicule or name calling;
  - ii. Repeated threats to cause emotional pain; and
  - iii. Repeated invasion of a senior citizens privacy, freedom, integrity or security;
- (d) Economic abuse including—
  - i. The deprivation of economic and financial resources to which a senior citizen is entitled under any law;
  - ii. The unreasonable deprivation of economic and financial resources which the senior citizens require out of necessity;
  - iii. The disposal of household effects or other property that belongs to the senior citizen without the senior citizens consent.

### **Part III**

Clauses 10 to 15 make provisions for the procedure for consideration of how much amount are payable to senior citizen as grant and the circumstances in which the grant payable may lapse. The amount of senior Citizens grant will be as may be determined by the County Executive Committee Member responsible for matters relating to social welfare and development.

A person qualifies for a senior citizens grant if that person—

- (a) Is a Kenyan citizen;
- (b) Is a permanent resident of Machakos county;
- (c) Has attained the age of 65;
- (d) Has no ascertainable means of support or income; and

(e) Is not a beneficiary of any other program with similar benefits.

Applications for the senior citizens grant shall be submitted to the office of the County Executive Committee Member at a designated office within the department to receive and process applications for the senior citizens grant. If a beneficiary abuses the grant, the officer in charge in consultation with the county executive committee member may—

- (a) Suspend payment of grant; or
- (b) Appoint a person to receive the grant on behalf of the beneficiary and to apply it, subject to the prescribed conditions and any other conditions that the county executive member may determine, for the benefit of the beneficiary.

On Termination of Senior Citizens Grant, the officer in charge may in consultation with the county executive member terminate payment of the grant to or on behalf of a senior if the—

- (a) Senior citizen is absent from the county, for a continuous period of six months or longer except for reasons of medication;
- (b) Grant was obtained through misrepresentation, deceit, fraud or failure to disclose any material information;
- (c) Grant is in excess of amounts permitted by this bill and Regulations made pursuant to this bill; and
- (d) Grant was approved and granted in error.

The County Executive Member may reinstate the suspended grant where the county executive member is satisfied that the reasons advanced by the applicant justify the reinstatement.

The Senior Citizens grant shall lapse when the beneficiary—

- (a) Dies;
- (b) Is admitted to a residential institution.

#### **Part IV**

Clauses 16 to 17 deal with miscellaneous provisions by providing for the general penalty for persons who contravene the provisions of the Bill. It also makes provisions for the development of subsidiary legislation to help in the better implementation of the Bill.

#### *3.3 Public Participation*

Hon. Speaker, Article 174(c) of the Constitution of Kenya, 2010 states that one of the objects of devolution is to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting. Further Article 196(1)(b) of the same Constitution provides that County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees.

Hon. Speaker, Standing Order 120(3) 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.

Hon. Speaker, the principle of public participation holds that those who are affected by a decision have a right to be involved in the decision-making process. It seeks and facilitates the involvement of those potentially affected by or interested in a decision. The Committee held public participation of the bill on 15<sup>th</sup>, 16<sup>th</sup>, and 17<sup>th</sup> September, 2021 in all the 40 wards of the County.

### *3.0 COMMITTEE OBSERVATIONS*

#### *4.1 Submissions from Public Participation*

Hon. Speaker, based on public participation done on 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> September 2021 the following views were presented;

1. The qualification age as stated in the bill of 65 years and above needs to be reviewed downwards to 60 years.
2. For proper administration of the Fund, village committees should include; religious leaders, local administration, and representation of the target population.
3. Access of the grant by citizens through bank accounts is sometimes tiresome and inconvenience to the beneficiaries. The members of the public proposed the use of Mpesa.
4. Applications for the grant should be one-off to make the program efficient.
5. Eligibility for the grant should come out clearly; members of the public proposed that the grant should be given to all Senior citizens whether they have able relatives or not since there are isolated cases whereby senior citizens may have able relatives who do not assist them.
6. Clear policies and regulations should be formulated to ensure that the money allocated are well utilized and by the right people.
7. Special considerations should be made to the elderly persons living with disabilities whilst disbursing the grant.
8. Members of the public proposed that a specific percentage of the County's Budget be allocated to the grant. They proposed that 0.1 per cent of the County's Budget in a specific Financial Year.

#### *4.2 Submissions from the County Executive*

Hon. Speaker, Article 195 (1) of the Constitution of Kenya, 2010 stipulates that “a County Assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information.

Section 39(2) of the County Government Act, 2012 states that “a committee of the county assembly may require a member of the executive committee to—

- (a) Attend or appear before the committee; and
- (b) Answer any question relating to the member's responsibilities.

Further Section 18(1) of the County Assemblies Powers and Privileges Act, 2017 states that “a county assembly or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person. In this respect, a county assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the Constitution.

This Committee requested for comments from the County Executive Committee Member, Department of Finance and Economic Planning and a copy to County Executive Committee Member Department of Education, Skills Training and Social Welfare through a letter reference No. MKSCA/ADM/BILL/SNR-CZNVOL.1/2 dated 11<sup>th</sup> August, 2021 and a subsequent reminder through a letter reference No. MKSCA/ADM/BILL/SNR-CZNVOL.1/10 dated 15<sup>th</sup> October, 2021.

The following response was obtained through a letter dated 28<sup>th</sup> October, 2021, the department indicated that it was not involved in the development of the published Senior Citizens Bill, 2020. However, the department was able to point out some issues concerning the Bill:

1. The suggested grant is a duplication of the existing National Government Cash Transfer Fund that is up scaled occasionally to include vulnerable Senior Citizens over 70 years old, a similar County Fund should only target very needy and vulnerable Senior Citizens over 70 years in need of county welfare support.
2. The Bill specifies that the CECM responsible for matters relating to social welfare and development is to be in charge of the Senior Citizens Fund. Possibly, with clear guidelines, a senior citizens Board should be given the mandate to operate a welfare fund.

#### *4.0 COMMITTEE RECOMMENDATIONS*

Hon. Speaker, based on the above observations, the Committee recommends the following:

1. Procedure for identification of beneficiaries of the senior citizen's grant should be clearly structured such that each senior citizen is treated fairly irrespective of being capable or not.
2. The Office of the Member of County Assembly in the respective wards should be involved in the identification of beneficiaries of the grant in the ward since members of the County Assembly are representatives of the people in the County Assembly.
3. For ease of access to the grant by senior citizens, arrangements should be made to have disbursement done through the Mpesa platform or any other module convenient for the beneficiaries without compromising accountability.
4. A County Committee should be included in the bill to oversee the senior citizen's grant rather than having the CECM perform that duty. Further Ward Committees should also be included and be responsible for the identification of the beneficiaries of the grant. Members of the County Committee should be vetted and approved by the County Assembly. Members of the County Assembly should be patrons in the Ward Committees responsible for the identification of the beneficiaries.
5. The Committee recommends a reduction of the minimum recommended age from 65 years to 60 years and 55 years for persons living with disability.
6. That 0.2 per cent of the Annual County Budget be allocated to the senior citizens grant every financial year. Out of this 10 per cent should be used for the administration of the grant.
7. Applications for the grant should be one-off to make the program efficient.
8. The CEC, Department of Finance and Revenue Collection should come up with clear regulations on administration of these funds sixty days after enactment of this act.

#### *7.0 CONCLUSION AND ACKNOWLEDGEMENT*

Hon. Speaker, allow me to thank the Members of this House, County Executive Committee Member, Department of Education, Skills Training and Social Welfare and the Public for their input during consideration of this Bill. Special appreciation to Hon. Constance Mbula for sponsoring the Bill. I wish to appreciate my fellow Committee members and secretariat for their dedication during committee sittings and compiling of this report.

Hon. Speaker, the Committee is also grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the continuous and relentless support received as it discharged its oversight mandate. It is, therefore, my duty, on behalf of the Culture, Social Welfare and Tourism Committee to table this report and recommend it to this Hon. House for consideration and adoption. Thank you, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Betty.

*(Question proposed)*

Members, I now invite you for debate. Hon. Kamulu.

**Hon. Kamulu:** Thank you, Hon. Speaker. I start by recommending the good work which is done by the committee under the leadership of Hon. Betty. Hon. Chair, this is a Bill which is very timely because under the existing National Government cash transfer programme, it is not all the members of this Republic who are taken care of. Hon. Speaker, I have a concern on the negative mood which we have noted when the Finance Officer or the person in charge, the CECM who did not come up to give direct contribution towards this Bill on claim that it was not originated from the department.

Hon. Speaker, however, I concur with them because of the recommendations which they gave in their contribution through a letter dated 28th October, 2021. Although they are claiming this is a duplicate or a duplication of the existing National Government Cash Transfer, Hon. Speaker, the committee made several amendments on what has come up here because they are dropping the edge of the beneficiaries from 70 years to 60 years.

Hon. Speaker, I think this is a very good observation because there are people who are very vulnerable who are not benefiting from the National grant yet they are members of this County. So Hon. Speaker, I concur, agree and recommend seriously on the recommendation which the committee said let the age be reduced from 65 to 60 years. I also commend the committee because of remembering the vulnerable or the people living with disability because those ones are not given special attention as far as the National Government cash transfer fund is concerned but here in our bill the committee is recommending 55 years.

Mr. Speaker, 55 years is even too much; I think if actually we could drop it to 50 years it would be very much in order. Mr. Speaker recommendation No. 2 on the involvement of the member of County Assembly in this program is very necessary. Remember Hon. Speaker, when this people bring complains they always bring them to the Members of County Assembly because we are their representatives and if the Members of the County Assembly are isolated, the way we have been isolated in so many things, Hon. Speaker I think things will not be good. So I actually thank the committee because of recommending that we also play a role in participation.

Even sometimes when people are actually trying to get the right people, sometimes people are biased so this recommendation that this bias should not be there in choosing who should be beneficiaries should be fair and the right people should benefit from the program.

Hon. Speaker, No. 4 there is need for Regulation which will guide clearly on who will be the members of the committee. Hon. Speaker, the CECM is recommending a board; however, I concur with the committee instead of having a board we should have a committee which actually should be well-defined on who will be the members on the same and also their qualifications.

Finally, Hon. Speaker, at times we have so many Bills yet the mandate of enacting them, assenting to them lies on hands of the Governor so it is my appeal that when this Bill goes through this system it is assented to and this vulnerable people in our county benefit. I want to thank the committee because of No. 8 where they are giving a deadline immediately after enacting the Act where they are saying Regulations on how to go about it should be done within 60 days. That is timely and that is very good. Otherwise, Hon. Speaker, I support the Bill and thank the committee because of the good work.

**Hon. Temporary Deputy Speaker:** Hon. Mutinda.

**Hon. Mutinda:** Thank you, Mr. Speaker. I start by congratulating the committee for the good work done Mr. Speaker and also congratulate the sponsor of the Bill Hon. Constance Mbula for this timely Bill and I think it is the high time this Assembly supports our people because down there like in my placed I have some aged people over 90 years who ask me when the National Government will open up for them to be enrolled in this programme, but luckily enough the County Government of Machakos came in place to compliment the efforts of the National Government on this matter.

So I think I would urge the House to support this so that people of Machakos can benefit from the County Revenue so that we do not have our people suffering so much. This is because ideally I am privileged to be a member of this committee and also what we had in mind was to complement those who have had no opportunity to get services from the National Government.

So I think it is important that we approve this and the County Government sees to it that it gives our people some good stipend so that we can have them listed for those people earning less than a dollar a day; that means we have a figure of over 3,000 so that we can count them as people who are enabled by their government, Mr. Speaker. Let us support this and also check from the Kenya Bureau of Statistics on the demographic distribution of people that we may see these people who are over 60 to 70 years as recommended by the committee are and is it sustainable and if sustainable so that we see to it that Regulations are brought and approved so that in the coming supplementary budget our people can be factored.

Some in my place as me; does it mean we shall go until we die before we are listed for this programme? So this is an avenue where people can be assisted and I think we will have people be able to move forward. Mr. Speaker, remember as age goes on, people start ailing and when you go to hospital is when you are told that you take this medicine but after eating. So at a certain age if you are not able to eat well then even the medicine will not help you. So I think it is a good programme, a good idea and it is good we support it so that our people benefit. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Katumo.

**Hon. Katumo:** Thank you, Hon. Speaker, I just stand to support this great report on the Senior Citizen Bill, 2020, thanking the committee under the able chair Hon. Betty Nzisa, also not forgetting especially to congratulate the promoter of this Bill Hon. Mbula. Any Bill that supports the vulnerable, I really support because we are all going there, we are aging every day; we came here in 2017 now is 2021 and this day is almost over my friend and I think we are aging and we need to think in posterity; the future is coming.



Hon. Speaker, I want to say two things. Firstly, we have had a programme by the National Government where it has been helping the elderly from 65 years and above; I think when Counties came, they came along with resources to make sure that many things are cascaded downwards to make sure that we help and assist our people who are in the age of the society or the senior citizens. If you move around, you will find that they are suffering especially this time of drought and a little bit of hunger; you find their basic needs are huge and we need to see to it that we have legislation in place to make sure that they are helped in good time.

I have also seen that one of the recommendations of the committee is to make sure that they also consider people with disabilities. Hon. Speaker, that is my constituency and I think we will also need to think broadly to make sure that not only the elderly or the aged PWDs should also be getting because we are people who need to be empowered all through but I like that recommendation that everywhere the ages are reduced to make sure they are captured early in advance. Actually, I have also found out that last two months that the County Government and especially the County Government of Machakos also gives stipends to its PWDS to make sure that you get an extra Ksh. 20,000 so that you can help yourself.

I did not know that I would have requested the Assembly to do the same and I did it this morning to make sure that we are also assisted so much so that we also empowered and feel good. So I think this committee looking into it that it has the inclination for PWDs in Machakos County going forward.

I have also noted with a lot of concern when the Chair was reading through; I found that when the other arm of this County Government was invited to come and give their views, he stated categorically especially the CEC Member that they could not come because this did not originate from them. I think this is a great concern that they are just joking around and I concur with the Governor that some of this Executive officers need to be sent home because they do not know their role.

How do you call somebody to come and he is an officer of Machakos while we are doing this for the benefit of Machakos and they refuse to come? I sponsored the PWDs Bill of 2016 and other two Bills before the House; does it mean that if you sponsor from this side they should not contribute? I think this is a concern and we should get to know what is happening; if it is incompetence we should also be told. Therefore Hon. Speaker, I support together with the recommendations therein. I find 60 years not so far and I think 65 is okay. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Mbula.

**Hon. (Ms.) C. Nzioki:** Thank you, Hon. Speaker. I wish to request that I remove my mask because I get choked when I talk with it on. I want to say that before I came up with this Bill, I had traversed Machakos County as chairlady of Maendeleo ya Wanawake to this date and I saw how old people are suffering. Their children have gone to work in town and seem to have forgotten their parents and you find a whole home is an old man and a lady and cannot even cook for themselves and I thought we have a government; can't the government do something really and that is how I came up with the Bill and I am happy now that the Bill has seen the light of the day and I want to ask the concerned department to move with speed and do what is supposed to be done so that our parents and grandparents can be assisted.

Hon. Speaker, it pains so much when you see men and women driving around the villages during funerals and they are going to bury their own parents who died of hunger or

medical problems and that is the time they come up with the WhatsApp groups to make money for themselves but when the parents were alive they did not care of them. So I want ask the Members to pass this Bill and the department to wake up and do something to support the old people.

Hon. Speaker, I will not go page by page because I know what is in here; I was part of it and I want to thank the committee of culture and social welfare for their work, they have done very well I cannot see anything that was left out as I had done in my Bill and I thank the committee very much and ask the Hon. Members of this House to support it so that we can move ahead. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Johana.

**Hon. Munyao:** Thank you, Mr. Speaker. I also wish to support the Bill and also applaud the sponsor of the Bill. I wish to challenge ourselves, both the Assembly and the Executive more so on the Bills we pass in this Assembly; on implementation and on the sustainability of the Bill. There are Bills which require funds. The greatest question we should be asking ourselves is; when we come up with numbers and the Bill under discussion is talking of 0.2 per cent of our annual budget and I am not sure what that translates to *vis-a-vis* the number of beneficiaries because on the other we are lowering the age from 65 to 60 meaning we are broadening the numbers of those benefiting.

It is just a challenge that as we come up with nice Bills like the one we are discussing here that we sit and think of the sources of funds, whether they are adequate because that will ensure sustainability and the mode of identifying the beneficiaries. I would like to say that if this Bill if implemented well, it is going to serve our people. I have gone to a country like Singapore where the popular fund called *pesa za uzeeni* and I am sorry to have mixed the languages but you do not just sit at home to benefit; you are also supposed to be active.

You look at the teachers and other civil servants who are retiring at the age of 60 and you will not even imagine some are retired. So it is a Bill which should in the course of implementation be made a reality by working with figures but it is a nice Bill. I support it so that we ensure that as we go towards that age group and benefit from the Bill, we are also assured of getting the Bill in place when we get to that age. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Mover can you reply.

**Hon. (Ms.) B. Nzioki:** Thank you, Mr. Speaker. I want to take this opportunity and thank this Hon. House. As an Assembly, we have played our role of legislating and it is my humble request to the Executive, because they are the ones to implement, to move with speed. All the Hon. Members in this House can attest that when we are in our wards it is a big challenge and it is a thorn in the flesh because most of our electorates do not know as a County we do not have such a Bill and they feel as MCAs we have role to enrol them for this grant.

So, Mr. Speaker, I would request the Executive to implement this Bill for the benefit of our people and as Hon. Katumo has said; we tried our level best to invite the CEC Member and he declined to attend because as they said the Bill did not originate from them. But I can say as an Assembly, we played our role and now we leave it to the Executive because I know one day one time we shall be answerable of what as leaders we did for the people of Machakos County. Thank you very much, and God bless you Hon. Members.

*(Applause)*

**Hon. Temporary Deputy Speaker:** Thank you.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed  
to a Committee of the whole House tomorrow)*

*(Applause)*

So Members you have made a decision and as an Assembly we have done our work.

### **ADJOURNMENT**

**Hon. Temporary Deputy Speaker:** So, Hon. Members, at this time, the House stands adjourned to 7th December, 2021 at 10.00 a.m.

The House rose at 3.20 p.m.