

REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
COUNTY ASSEMBLY OF MACHAKOS



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MACHAKOS

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THIRD ASSEMBLY
(THIRD SESSION)

**REPORT OF THE DEVOLUTION AND INTERGOVERNMENTAL
RELATIONS COMMITTEE
ON**

**REPORT OF ASSUMPTION OF OFFICE OF THE SECOND
GOVERNOR OF MACHAKOS COUNTY**

APRIL, 2024

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1.0 INTRODUCTION

1. Hon. Speaker, Article 180 of the Constitution provides for the election of County Governor and Deputy Governor. Further, Article 182 provides for the circumstances under which the Office of the Governor is declared vacant. Section 30(1) of the County Governments Act, 2012 read with Assumption of Office of Governor Act, 2019 provides for the process of assuming office by a new Governor in a new Government.
2. Hon. Speaker, Pursuant to Section 18(2) of the Assumption of Office of Governor Act, 2019, the County Assembly received from the County Executive, the Assumption Office of Governor Committee handing over report on 29th September, 2022. The paper was laid at the Floor of the House on 6th December 2022 and it was committed to Devolution and Intergovernmental Relations Committee for consideration and reporting pursuant to Standing Order 189 that outlines the mandate of the Committee.

1.1 Establishment and Mandate of the Committee

3. Honorable Speaker, the Devolution and Intergovernmental Relations committee is established pursuant to Standing Order 189 to carry out the following functions;
 - i. Liaise with Institutions of the National Government on matters of devolution
 - ii. Liaise with Institutions of the National Government on non-devolved functions.
 - iii. Coordinate activities of the Assembly with the County Assemblies Forum
 - iv. Coordinate activities of the Assembly with International Bodies
 - v. Promote Inter County relations on matters of common interest
 - vi. Promote intergovernmental relations.

1.2 Committee Composition

4. Honorable Speaker, the committee as currently constituted is as follows:
 - i. Hon. Phoebe Koki - Chairperson
 - ii. Hon. Peninah Kisangai -Vice Chairperson
 - iii. Hon. Catherine Muia - Member
 - iv. Hon. Daniel Ndwiki ”
 - v. Hon. Everlyne Nzeki ”
 - vi. Hon. Fredrick Kitetu ”

5. Secretariat

The committee secretariat comprises of the following

- i.** Luke Maingi - Clerk Assistant
- ii.** Gedion Kisini - Clerk Assistant
- iii.** Lucia Nyamasyo -Hansard
- iv.** Daniel Ndambuki - Sergeant at Arms

2.0. LEGAL REQUIREMENTS FOR THE PROCESS OF THE ASSUMPTION OF OFFICE OF COUNTY GOVERNOR

6. Article 182 of the Constitution of Kenya.

This Article provides for the vacancy of a County Governor

7. The Assumption of Office of the Governor Act, 2019. This Article makes provision for;

- i)** establishment of Assumption of the Office of County Governor Committee provided in Section 5;
- ii)** Functions of the Assumption of the Office of County Governor Committee provided in Section 6;
- iii)** Establishment of Sub- committees provided in Section 7;
- iv)** Procedure of the Committee provided in Section 7;
- v)** Provision of the Security to Governor elect provided in Section 8;
- vi)** Provision of required information by the County Public Officers provided in Section 9;
- vii)** Swearing in ceremony by the Governor- Elect provided in Section 11;
- viii)** Taking of Oath and Signing of certificate of inauguration provided in Section 12;
- ix)** Handing over of instruments of Power and authority provided in Section 13;
- x)** Swearing in of the Deputy Governor provided in Section 15;
- xi)** Provision of security provided in section 17;
- xii)** Section 18 and 19 of the same Act provides for reporting by the Committee and Management of Information and record and the format of County Information reporting by respective Departments.

3.0 PROCESS OF ASSUMPTION OF OFFICE BY THE GOVERNOR AS PROVIDED BY THE ASSUMPTION OF OFFICE OF GOVERNOR COMMITTEE HANDING OVER REPORT

3.1 Establishment of the assumption of office of County Governor Committee

8. Hon. Speaker, Section 6 of the Assumption of the Office of County Governor, 2019 provides that the Committee shall be an ad hoc (special) committee which shall consist of:
- i. The County Secretary who shall be the chairperson;
 - ii. The Officer in charge of legal matters in the county;
 - iii. The Chief Officer in the department responsible for matters relating to the county public service who shall be the Secretary
 - iv. Chief Officer in the department responsible for matters relating to information and communication;
 - v. The Chief Officer in the department responsible for matters relating to finance;
 - vi. The chief officer in the department responsible for matters relating to culture and social services;
 - vii. A representative of the Ministry responsible for matters related to devolution;
 - viii. the County Commissioner;
 - ix. A representative of the National Intelligence Service (NIS) at the county level;
 - x. A representative of the National Police Service (NPS) at the county level;
 - xi. The Clerk of the county assembly;
 - xii. A representative of the Judiciary at the county level; and
 - xiii. Two persons, one man and one woman, nominated by the Governor-elect.

9. In adherence to the above provision, the Committee was formed and it constituted of the following members;

No.	Name	Designation	Position in the committee
1.	Dr. Grace Munguti	County Secretary	Chairperson
2.	Mr. Joseph Ochwada	Chief Officer, Public Service Management	Secretary
3.	Mr. James Kathili	County Attorney	Member
4.	Ms. Rhoda Onyancha	County Commissioner	Member

5.	Joseph Mutisya	County Assembly Clerk	Member
6.	Ms. Jacinta Masila	Chief Officer, Treasury	Member
7.	Mr. James Guteta	Chief Officer, culture	Member
8.	Mr. Emmanuel K. Kimeu	Chief Officer, ICT	Member
9.	Mrs. Zuhura Kimeu	Chief Officer, Social Welfare	Member
10.	Dr. Silvia Vundi	Ministry of Devolution representative	Member
11.	Mr. Issa Mohamud	National Police Service representative	Member
12.	Mr. Evans Ogutu	National Intelligence Service Representative	Member
13.	Mr. Eric Analo	Judiciary Representative	Member
14.	Stellamaris Mutua	Nominee of the Governor Elect	Member
15.	Geoffrey W. Kilonzo	Nominee of the Governor elect	Member

10. Hon. Speaker, Pursuant to Section 6 of the said Act, the above committee undertook the following functions;

- i. Facilitated the handing over process by the outgoing Governor to the Governor-elect;
- ii. coordinated provision of security services to the Governor-elect;
- iii. Put in place the necessary facilities and deployed the necessary personnel for the Governor-elect upon assumption of office;
- iv. Co-ordinate the briefings of the Governor-elect by the relevant County public officers including submission of Departmental reports.

3.2. ESTABLISHMENT OF SUB- COMMITTEES AND THEIR FUNCTIONS

11. Hon. Speaker, pursuant to Section 7 (1) of the Act, the committee noted that the following sub-committees were constituted by the main Committee.

3.2.1 Security Sub- Committee

12. Members of this subcommittee was headed by the County Commissioner and comprised of;
- i. Ms. Rhoda Onyancha – County Commissioner – Chairperson
 - ii. Mr. Issa Mohamud- National Police Service Representative

- iii. Mr. Evans Ogutu- National Intelligence Service Representative
- iv. Dennis Odera- CIPU representative
- v. Robert Maitha- Chief Officer, Decentralized Units

13. The sub-committee's function was to basically provide security for;

- i. Both the outgoing and the incoming Governor Elect
- ii. Deputy- County Governor
- iii. Provision of security after declaration of the Electoral results and the swearing in ceremony.
- iv. For the residence of the Governor and the Deputy Governor Elect.

3.2.2 Finance Sub- Committee

14. This subcommittee consisted of the following members:

- i. Ms. Jacinta Masila- Chief Officer, County Treasurer (Chairperson)
- ii. Mrs Zuhura Rajab- Chief Officer, Social Welfare
- iii. Ms. Catherine Ngarachu- Chief Officer, Revenue Collection (co-opted)
- iv. Ms. Stella Miriti- Director, Budget (co-opted)

15. The above subcommittee undertook the below stated tasks;

- i. prepared the budget for the assumption of the Office of the Governor Committee
- ii. Compiled financial reports as per the Act
- iii. Compiled the register of County Assets and liabilities
- iv. Co-coordinating the submission County Financial Statements
- v. Preparation of summary of County Entities

3.2.3 Logistics sub-committee

16. This subcommittee consisted of the following persons;

- i. Mr. James Gutetah – Chief Officer, Culture (Chairman,)
- ii. Mr. Emmanuel K kimeu- Chief Officer, ICT
- iii. Mr. Ochwada Joseph – Chief Officer, Public Service and Quality Assurance
- iv. Mr. Robert Maitha – Chief Officer, Office of the Governor (Coopted)
- v. Mr. Justus Kasivu- Chief Officer, Transport (Co-opted)
- vi. Mrs Zuhura Rajabu- Chief Officer Social Welfare
- vii. Mr. Lawrence Ngovi –(Co-opted)

17. The said subcommittee undertook the below outlined functions;

- i. Prepared programs for the inauguration day
- ii. Procurement of goods and services for the inauguration day and other related events

- iii. Preparation of the inauguration venue.
 - iv. Swearing in Sub- Committee
18. Hon. Speaker, this subcommittee comprised of;
- i. Mr. Eric Analo Judiciary representatives (Chairperson)
 - ii. Mr. James Kathili- County attorney
 - iii. Mr. Joseph Mutisya- County Assembly Clerk
 - iv. Dr. Sylvia Vundi- Ministry of Devolution representative
 - v. Mr Geoffrey W Kilonzo – Governor Elect Representative

19. The above subcommittee undertook the following tasks;
- i. Prepared draft swearing in documents in liaison with the Judiciary
 - ii. Coordinate gazetement of swearing in ceremony
 - iii. Suggest the venue of swearing in ceremony and prepare the program.
 - iv. Assemble the symbols of power
 - v. Prepare the logistics of the swearing in ceremony

4.0 HANDING OVER REPORTS BY RESPECTIVE DEPARTMENTS

20. Hon. Speaker, Section 9 the Assumption of the Office of County Governor, 2019 requires that County Public Officer from whom information is requested under sub-section 2 shall provide the information within reasonable time. The committee noted that information requested was provided by the respective public officers on time.

21. The reports submitted contained the following information;
- i. An up to date asset register
 - ii. An up to date register of liabilities
 - iii. A complete list of all bank accounts and reconciled balances
 - iv. A report of staff establishment per department
 - v. A comprehensive report on County Entities or corporations and agencies containing information outlined in (i) to (iv)
 - vi. A report of all on-going projects including donor funded projects
 - vii. An up to date report on all pending legal cases
 - viii. County Source funding.

5.0 COMMITTEE GENERAL OBSERVATIONS

22. Hon. Speaker, the Committee scrutinized and interrogated the County Secretary on the procedures stipulated in Assumption of the Office of Governor Act, 2019, how the processes were

undertaken and if they were performed as per the said Act. The following were the general observations;

- i. **The Assumption of Office of the Governor's Committee.** This committee is established under Section 5 of the Act. The said committee was constituted and comprised of persons outlined earlier in this report.
 - ii. **The Assumption of Governor's report.** Section 18. (1) and (ii) of the Act states that *the Committee shall, within a period of one month from the date of the swearing-in of the County Governor-elect, cause to be prepared a report on the affairs of the Committee and the report shall be submitted to the respective County Assembly*
23. Hon. Speaker the committee observed that the said report was received in the Assembly on 29th September 2022 and the Assumption of Office of the Governor Committee complied well with the said provision
- iii. **Gazettement of the Assumption of Governor's report.** Section 18 (4) of the Act states that *the Committee shall cause the report to be published in the Gazette and in such other manner as the Committee may determine.*
24. Hon. Speaker, the Committee on Devolution requested from the office of the County Secretary via a letters REF:MKSCA/PCS/CMM/DEV/VOL.1/09, MKSCA/PCS/CMM/DEV/VOL.1/26 and MKSCA/PCS/CMM/DEV/VOL.1/30 to provide evidence of the publishing of the report and budget support documents. The County Secretary in response forwarded to the Committee a Local Purchase Order (LPO) No. 1451 and invoice number OG/620/10/23/24/R as evidence for gazettement process. The committee also noted that this provision on Gazettement does not specify the time frame under which the gazettement should be done after the report is submitted to the Assembly.
- iv. **Undertaking of functions by the Assumption of Office of the Governor's Committee.** The functions of this committee are established under Section 6 of the Act. After inauguration of this committee, it held meetings on various dates and transacted agenda as per the said provision. Hon. Speaker, the committee on Devolution confirmed this by going through minutes of the various sittings held as submitted by the County Secretary.

- v. **Establishment of Sub-committees and the swearing in Ceremony:** These subcommittees are established pursuant to Section 7(1) of the Act and all have been explained earlier in this report and they undertook their tasks as required.

25. Hon. Speaker, the climax of the whole process was marked by the swearing in ceremony of the Governor elect and the Deputy Governor elect that was done on Thursday 25th August, 2022 as provided under Section 30(1) of the County Governments Act. The ceremony was presided by Lady Justice Hon. Grace Nzioka assisted by the Chief Magistrate Hon. Fred Andanyi and was done at Kenyatta Stadium. The ceremony was attended by several National and County Government officials, elected leaders and delegates from the 40 wards and an estimate of 10,000 people were in attendance.

vi). **Submission of Departmental reports by respective Public Officers pursuant to Sections 6(d) and 9 of the Act.** This Committee confirmed that all the Departmental reports requested for were submitted. The following Departments submitted hand over reports to the Assumption of Office of Governor' Committee and the reports contained the required information as per this provision.

- a. Department of Health and Emergency Service.
- b. County treasury.
- c. Finance and revenue collection.
- d. Labour, public service and ICT.
- e. Housing and urban development
- f. Office of the county attorney.
- g. Agriculture.
- h. Transport, Roads and Public Works.
- i. Economic, planning and external resource, Mobilization.
- j. Energy and Electrification.
- k. Public service and quality management.
- l. Tourism, culture, youth and sports.
- m. Housing and Urban development
- n. Education and skills training
- o. Machakos county public service board.
- p. Project delivery monitoring and evaluation.
- q. Office of the county secretary.
- r. Office of the Deputy Governor.

s. County public service board.

vii). The Budget. Section 21 of the Act states that *the funding for the assumption of office of a Governor committee shall be borne by the respective county government.*

26. Hon. Speaker, the said provision of the Act has not capped the total amount of budget that Assumption of office of the County Governor should utilize. This Committee observed that a total budget of Ksh. 29,590,400 was allocated but only 17,185,686 was received and this amount was used to facilitate the exercise. (*expenditure attached*).

viii). Regulations on Assumption of Office of the Governor. Section 24 of Assumption of Office of Governor's Act, provides that *the County Executive Committee Member responsible for the County Public Service may make regulations for the better carrying into effect of this Act.*

27. Hon. Speaker, this Committee observed that there are **no regulations** in place for the implementation of the Act as required by Section 24 of the Act.

6.0 COMMITTEE RECOMMENDATIONS

28. Hon. Speaker, following the above general observations, this Committee recommends as follows;

- i. **Budget for Assumption of Office of the Governor.** The Assembly should in the last financial year of transition of the County Government allocate enough budget proportional to all the activities required to successfully conduct the Assumption of Office of the Governor.
- ii. THAT in formulating the regulations to operationalize the Assumption of Office of the Governor Act, 2019, the CECM County Public Service should consider a specific percentage of the budget allocation under the Office of the Governor, in the final year of term, to cater for Assumption of Office of the Governor's process.

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- iii. THAT the County Executive Committee Member responsible for the County Public Service; formulates and submits Assumption of Governor's Regulations to the County Assembly for consideration and approval pursuant to Section 24 of Assumption of Office of Governor's Act
- iv. THAT In future all the required information and departmental hand over reports included in the Assumption of Office of the Governor Act, 2019, should be annexed to the report on the Assumption of Office of Governor's Committee before being submitted to the County Assembly for consideration.

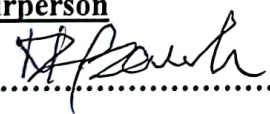
7.0 ACKNOWLEDGEMENT AND CONCLUSION

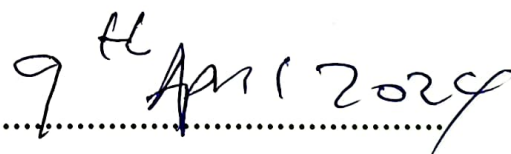
29. Hon. Speaker, the Committee is grateful to the Offices of the Speaker and that of the Clerk of the County Assembly for the support accorded during the execution of this task. Appreciation also goes to the Hand over Committee of the Assumption of Governor's Office for their commitment in ensuring a smooth transition process.

30. I wish to express my appreciation to the Honorable Members of the Committee who sacrificed their time to participate in this exercise. On behalf of the Committee on Devolution and Intergovernmental Relations, and pursuant to Section 5(10) of the Assumption of Office of the Governor's Act, 2019; it is now my duty and privilege to present to this House, the report on Assumption of Office of the third Governor of Machakos County for consideration and adoption.

Thank you Hon. Speaker.

Hon. Phoebe Koki,
The Chairperson

Signed..........

Date..........

4. EXPENDITURE REPORT

Below is the expenditure report for the assumption to the office of the governor committee. The report shows the actual amounts spent vis-a-vis the budget and pending payments

No.	Item	Approved Budget (Ksh.)	Actual Expenditure	Amount Paid (Ksh.)	Balance to be paid (Ksh.)
1	Venue Set up - Tents, Seats, Water Points & Décor (2 tents)	550,000	1,252,000	30,500	1,221,500
2	Invitation Cards	50,000	50,000	50,000	
3	Event Programs	25,000	25,000	25,000	
4	Media Facilitation (External)	180,000	64,000	64,000	
5	Mobile Toilets	160,000			
6	Meals for Security Personnel	20,000	219,800	219,800	
7	Lunch for Security on main day	169,800	160,000	160,000	
8	Tent for PWDs at Stadium	10,000			
9	Podium for swearing in	200,000	200,000	200,000	
10	VIP Seats	150,000	150,000	150,000	
11	Lunch for VIP Guests - 1000Pax	2,000,000	2,000,000	2,000,000	
12	Lunch for Guests - 7000Pax	2,800,000	2,975,000	2,975,000	
13	MC Facilitation (2@25k)	50,000	50,000	50,000	
14	Facilitation for the Clergy	100,000	100,000	100,000	

15	Entertainment (8Groups@50k)	400,000	400,000	400,000	
16	PA System	250,000	150,000	150,000	
17	Fuel Facilitation	500,000	349,400	349,400	
18	Hire Prado (2No.)	840,000	666,400	539,296	127,104
19	Sign Language Interpreter	10,000	10,000	10,000	
20	Protocol/Ushers	120,000	100,000	100,000	
21	Buses - 100 Buses @25,000)	2,500,000	2,500,000	2,500,000	
22	Invited Delegates Facilitation (40 wards/nine sub-counties) -4,428@KShs. 1,000	4,428,000	2,801,500	2,801,500	
23	Invited Delegates Facilitation (Groups Machakos Town) - 1,500Pax@KShs. 500	750,000	750,000	750,000	
24	Invited PWDs (100 pax @Kshs. 2,000/-	200,000	200,000	200,000	
25	Paper Sun Hats/Hand Flags - 10,000No. @Kshs. 10/-	100,000	100,000	100,000	
26	Sub County Banners	24,000	24,000	24,000	
27	Banners - Tear drops	72,000	72,000	72,000	
28	Identification Sashes – Ushers	50,000	7,500	7,500	
29	Identification of AOG Members	10,000	10,000	10,000	
30	Airtime for AOG Committee	75,000	42,000	42,000	
31	Kenyatta Stadium Venue preparation	919,000	2,997,084		2,997,084
32	Security Expenses	1,415,400	1,038,800	1,038,800	
33	Fuel Expenses - Security Team	103,600			
34	Facilitation- Judiciary	200,000	66,000	66,000	
35	Advertisement for Swearing-in (Nation Newspaper)	200,000	183,280	183,280	

36	Contingency	2,000,000			
	OOG Supplies		450,000	450,000	
	stadium Workers		135,000	135,000	
	Stadium day cleaners		30,000	30,000	
	Advertisement for Swearing-in (Nation Newspaper)		20,620	20,620	
	Sub County Banners		64,000	64,000	
	Podium for swearing in		50,000	50,000	
	Facilitation for the Clergy		20,000	20,000	
	Entertainment-Salvation Army Band		50,000	50,000	
	Paper Sun Hats/Hand Flags		100,000	100,000	
	VIP Seats		21,500	21,500	
	Event preparation - (Tents, lunch and dinner)		1,282,020		1,282,020
	Fumigation, pest control and cleaning services		1,263,202		1,263,202
	Bank Account charges		24,490	24,490	
37	Committee Sitting Allowance	1,750,000	1,026,000	632,000	394,000
38	Sub – Committees	1,736,000	380,000	220,000	160,000
39	Report Writing	3,766,600	4,062,800		4,062,800
40	Conference - Report Writing	675,000	840,000		840,000
	Total	29,559,400	29,533,396	17,185,686	12,347,710
	Bank Account closure - estimate		24,490		24,490
	Total Expenditure and Bank account Closure Estimate	29,559,400	29,557,886	17,185,686	12,372,200

PAYMENT VOUCHER

Payee's Name and Address: MKS 2310202-365412
GOVERNMENT PRINTERS (I) Site : NAIROBI , P.O. BOX 30128-00100

Number 8

Particulars	LPO/LSO	Invoice	Amount	
			KSh	Cts
Gazettement of Assumption to office of Governor report	1451	OG/620/10/23/ 24/R	334,080.00	

Amount Payable (in words)
 (THREE HUNDRED THIRTY-FOUR THOUSAND EIGHTY)

Total KSh. 334,080.00

Authority Reference No : CO

<p>AIE HOLDER CERTIFICATE</p> <p>I certify that the expenditure detailed above has been incurred for the authorized purpose and should be charged to the item shown here below</p> <p>Date: <u>27.10.23</u> Sign: <u>[Signature]</u></p> <hr/> <p>VOTE BOOK CONTROL</p> <p>I certify that the expenditure has been entered in the Vote Book and that adequate funds to cover it are available against the chargeable item as shown here below.</p> <p>Date: <u>27.10.2023</u> Sign: <u>[Signature]</u> Accountant for V.A.</p> <hr/> <p>INTERNAL AUDIT</p> <p>.....</p> <p>.....</p>	<p>EXAMINATION</p> <p>Voucher examined by: <u>[Signature]</u></p> <p>Date: <u>27/10/2023</u> Sign: <u>[Signature]</u></p> <hr/> <p>AUTHORISATION</p> <p>I certify that the rate/price charged in/are according to regulation/contract, fair and reasonable, that the expenditure has been incurred on the proper authority and should be charged as under, where appropriate a certificate has been completed. I hereby AUTHORISE payment of the amount shown above without alteration.</p> <p>Date: <u>27/10/2023</u> Sign: <u>[Signature]</u> Accounting Officer/District Accountant</p>
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INVOICE DISTRIBUTIONS	
Account Code	Amount
0-3761-3761000101-00001001-0701013760-2210504-37600001-000 Advertising, Awareness and Publicity Campaigns	334,080.00

APPROPRIATE CERTIFICATE

.....

.....

Signature.....Date.....

CASH RECEIPTS

Received the amount of this claim as stated above on the face hereof Shs 334,080.00 Cts.

Date ID.No. Signature