



COUNTY GOVERNMENT OF KITUI
THE COUNTY ASSEMBLY
FIRST ASSEMBLY - (THIRD SESSION)
VOTES AND PROCEEDINGS
THURSDAY, FEBRUARY 19TH, 2015 AT 2.30PM.

1. The Assembly convened at thirty minutes past two O'clock.
2. The proceedings were opened with prayer.
3. Hon. Speaker on the Chair.
4. COMMUNICATION FROM THE CHAIR.

The Honourable speaker gave the following communication from the chair;
Honorable members

As you are aware, the **Kitui County Health Facilities Management Committees Bill, 2014** (C/A Bill No. 6 of 2014) and the **Kitui County Business Licensing Bill, 2014** (C/A Bill No. 10 of 2014) were published as County Gazette Supplement Nos. 9 and 6 respectively on 10th March 2014. These two (2) bills were committed to the Assembly for legislative processing, passed, and subsequently forwarded for Governor's Assent on 19th August 2014.

Honorable members

On 8th October 2014, the Assembly received Memorandums in respect of the two Bills from His Excellency the Governor, dated 6th October 2014, referring the Bills back to the Assembly and outlining the reasons for the said referral. Important to note is that

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the said memorandums were time barred in line with Standing Order No. 135(2) and my office declined to approve the same for discussion by the Assembly. Standing Order No. 135(2) provides that:-

The Governor shall within fourteen days after receipt of a Bill—

(a) Assent to the Bill; or

(b) Refer the bill back to the county assembly with a memorandum outlining reasons for the referral

Honorable members,

The memorandums had pointed out several constitutional issues and based on the said issues and in adherence to Section 5(3) of the County Government Act, the Assembly wrote to the Kenya Law Reform Commission on 13th November 2014, seeking advisory opinions on the same. The issues in question are as follows:-

i) Kitui County Health Facilities Management Committees Bill, 2014:

THAT, under **Clauses 4 & 5** the Principle of Separation of Powers as enshrined in the Constitution under Articles 174(i), 175(a), 183(2), and 185(2),(3) and Section 9(2) of the County Government Act has been contravened.

and

ii) Kitui County Business Licensing Bill, 2014:

Clause 17 contravenes the Principle of Separation of Powers as enshrined in the Constitution under Articles 174(i), 175(a), 183(2), and 185(2),(3) and Section 9(2) of the County Government Act.

Honorable Members

In a letter dated 25th November 2014, the Kenya Law Reform Commission advised that, the clauses were indeed unconstitutional and the Assembly needed to review the same.

Honorable Members

I therefore wish to guide the Assembly as follows:

i) **THAT**, the matter now stands committed to the Committee of the Whole County Assembly.

ii) **THAT**, the Bill sponsors being the Chairpersons of:-

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- a. Committee on Health and Sanitation, and
 - b. Committee on Trade, Industry, ICT and Cooperatives,
- shall move amendments as guided by the Commission(KLRC).
- iii) **THAT**, the House Business Committee shall allocate time, for the Committee of the Whole Assembly to sit and deal with the matter.
 - iv) **THAT**, Procedures outlined under S.O.s 126, 127, 128, and 129, shall apply.
 - v) **THAT**, the matter shall stand concluded immediately the committee of the whole county assembly reports to the plenary upon a motion that, **"the house do agree with the committee in the said report"**

Honorable Members,

I would wish to further refer you to the provisions of Article 2(4) of our Constitution 2010, which provides that;

"Any law that is inconsistent with this constitution is void to the extent of the inconsistency, and any act or omission in contravention of this constitution is invalid."

In light of this provision, I kindly urge you to reflect on the issues raised and deal with this matter appropriately. In this regard, I am directing the office of the Clerk of the Assembly to ensure that every Member receives a copy of the Commission's advisory opinion on the two Bills.

Please cooperate.

5. STATEMENTS.

The following statement was given pursuant to standing order no 41(2) and 41(c).

- i. Member house business committee (*Hon Daniel N. Ngoima*)
The schedule of business for the assembly committee and plenary for the week ending 27th February, 2015.
- ii. Member Changwithya East (*Hon Boniface M. Katumbi*).

6. PROCEDURAL MOTION-(*Hon Titus K. Kasinga*).

Motion made and question proposed;

THAT, Pursuant to provisions of Standing Order No 49(1) this Assembly postpones the debate on The Kitui County Villages Bill (C/A NO.15 2014) until the next sitting.
Debate arising;

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Question on the motion put and **agreed to**

7. ADJOURNMENT

And the time being ten minutes past four o'clock, the Hon Speaker adjourned the house.

8. HOUSE ROSE- at ten minutes past four O'clock.

MEMORANDUM

*The Honourable Speaker will take the chair on
Tuesday 24th February, 2015 at 2.30PM*