

(FIRST ASSEMBLY)
(067)

SECOND SESSION (169)



COUNTY GOVERNMENT OF KITUI

THE COUNTY ASSEMBLY

FIRST ASSEMBLY - (SECOND SESSION)

VOTES AND PROCEEDINGS

WEDNESDAY, 23RD JULY, 2014 AT 2.30 PM

1. The House assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with prayer.
3. **COMMUNICATION FROM THE CHAIR**

The Hon. Speaker made the following communication from the Chair;

Hon. Members, I am sure that you are aware there will be annual Agriculture Show for Kitui County starting from tomorrow up to Saturday. Tomorrow 24th, 25th and 26th the ASK Show for Kitui County at Ithookwe Show Ground. You are all invited. The official opening will be on Friday by His Excellency the Governor. I will be the Chief Guest tomorrow in the morning session, and therefore you are all invited. If you want to go you are free to do so. Obviously the committee on Agriculture, I am sure they will be interested to attend. There is a letter which I want to read to you from the Anti- corruption because I think it's important we all read the letter. To know what is happening elsewhere and what is not happening here. This letter is from ethics and Anti- Corruption Commission. It's important you listen to the content and if you want to read it more, I will hand it over to the Clerk, you can seek clarification from the Clerk.

The letter is addressed to the Honourable Speaker of Assembly,
Reference of the letter is:

REF. CONDUCT OF MEMBERS OF COUNTY ASSEMBLIES DURING DEBATE IN THE COUNTY ASSEMBLIES.

Read; Our attention has been drawn to the behavioural practises and conduct of some Members of County Assemblies (MCAs) who falls short of the prescribed standards of conduct for holders of public office under Chapter Six of the Constitution and the Leadership and Integrity Act, 2012. In particular the Commission notes that some MCAs are engaging in

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unethical conduct including but not limited to physical fighting, forcefully evicting their colleagues from offices and name calling.

The Commission wishes to remind all MCAs that they are designated as State Officers pursuant to Article 260 of the Constitution and as such, their conduct and behaviour should at all times be guided by the leadership and integrity requirements under Chapter Six of the Constitution of Kenya and Part 11 of the Leadership and Integrity Act No.19 of 2012(LIA) Article 73(1) of the Constitution states that; Authority assigns to a State Officer-

- a) Is a public trust to be exercised in a manner that:
 - Is consistent with the purpose and objects of this constitution;
 - Demonstrates respect for the people;
 - Brings honour to the nation and dignity to the office; and
 - Promotes public confidence in the integrity of the office.

Article 75 Section (1) (c) states that; a State Officer shall behave whether in public and official life, private life, or in association with other persons, in a manner that avoids-demeaning the office the officer holds

Article 75 Section (2) further provides that; a person who contravenes clause (1) or Article 76, 77

(a) Shall be subject to the applicable disciplinary procedures for the relevant office; and

(b) May, in accordance with the disciplinary procedure preferred to in paragraph (a), be dismissed or otherwise removed from the office.

Section 11 of the Leadership and Integrity Act (LIA) 2012 provides that: a State Officer shall:-

(a) Carry out duties of the office in a manner that maintains public confidence in the integrity of the office;

(b) Treat members of the public and other public officers with courtesy and respect;

The responsibility bestowed upon State Officers by the Constitution (Article 73) is of public trust and should be exercised in manner that promotes confidence in the integrity of the office.

In view of the above observations, the commission requires you to urgently institute measures to combat all event of unethical conduct in your County Assembly and submit a status report to the Commission within 30 days of this letter of measures in place. Such measures should include but not limited to the following:

Organize sensitization programmes in collaboration with the Commission on Chapter Six and the Leadership and Integrity Act 2012 for all MCAs;

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Institute mechanisms for whistleblowing and reporting on unethical conduct and corruption and take action on reported cases;
Finalize the development of the entity's Specific Leadership and Integrity Code (refer to our reference EACC.7/10 dated 22nd April 2014) and submit the same to the Commission for review in line within Section 39(1) of LIA 2012;
Ensure that all MCAs sign and commit to the Specific Leader and Leadership and Integrity Code as contemplated under Section 40 of LIA 2012 once the Code has been approved. Attached is a brochure on obligations of State and Public Officers for your further information.(The same can be downloaded for the commission website on WWW.EACC.GO.KE)

This letter is very interesting. I want to assure you that honourable MCAs of Kitui County Assembly, this letter does not apply to you almost 90%. I think it is meant for other people. The things they are talking about in this letter, they have never happened in this house. They have never happened with the MCAs and I will reply accordingly and tell them these things are strange to this Assembly.

**4. PROCEDURAL MOTION ON EXEMPTION TO – (Chairperson-
Health and Sanitation Committee)**

Motion made and question proposed;

THAT, Pursuant to the provisions of the County Interim Standing Order Number 228(1), the Kitui County Health Facilities Management Bill, 2014, Assembly Bill No. 6, 2014, be exempted from the provisions of Standing Order No. 126(2).

(Hon. Joyce Mwendemutemi)

Debate arising;

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

Resolved accordingly

THAT, Pursuant to the provisions of the County Interim Standing Order Number 228(1), the Kitui County Health Facilities Management Bill, 2014, Assembly Bill No. 6, 2014, be exempted from the provisions of Standing Order No. 126(2).

5. COMMITTEE OF THE WHOLE COUNTY ASSEMBLY

IN THE COMMITTEE

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THE KITUI COUNTY HEALTH FACILITIES MANAGEMENT BILL, 2014, (ASSEMBLY BILL NO. 6, 2014)

(Chairperson Committee on Health and Sanitation)

Clause without amendments

CLAUSE 3 -

Agreed to.

Amendments proposed

CLAUSE 4

Motion made and question proposed;

THAT, Clause 4 be amended as follows:-

- i) by renumbering it Clause 4(1)
- ii) Clause now renumbered 4(1):-
 - by deleting the word "stated" immediately after the word "as" and replace thereof with the word **listed**,
 - by inserting the word **first** between the words "the and schedule" and
 - by inserting the words **to this Act** between the words "schedule and the".
- iii) by introducing a new sub-clause 4(2) to read as follows; **There is established a process of nomination of the committee members as stated in Part II clause 7 and 8. The County Executive Committee Member for Health and Sanitation will recommend the nominees to the Governor for approval and appointment.**

Question on the motion put and agreed to

Clause 4 - as amended agreed to

CLAUSE 5

Motions made and questions proposed;

THAT, clause 5 be amended as follows:-

- i) 5 (1) by:-
 - by deleting the word " nine" appearing between the words "be and members" in the first line and replacing thereof with the word **Eleven (11)**

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- by deleting the words coming immediately after “ by the” and replace thereof with the following words **the County Executive Committee member for Health and Sanitation** and inserting the words **and forwarded to the Governor Kitui County for approval** immediately after the word “sanitation”.
- ii) Clause 5(1)(a)
 - by inserting the words **shall be** between the words “chairperson and appointed”
 - by deleting entirely the words appearing immediately after the word “by the” in the first line and replace thereof with the following words **11 members forwarded to the County Executive Committee Member for Health and Sanitation Kitui County and approved by the Governor.**
- iii) Clause 5(1)(b) by inserting the words **and an Ex-officio** immediately after the word “committee”.
- iv) Clause 5(1)(c) be amended by entirely deleting the words under this sub-clause and replace thereof with the following words to read; **town administrator for the case of Mwingi and Kitui General Hospitals and Sub County Administrators for the reminder of hospitals under the First Schedule to this Act.**
- v) Clause 5(1)(d) by deleting the words “ the Kitui and Mwingi Chambers of commerce for Kitui and Mwingi” and replace thereof with the words **Chambers of commerce for Mwingi and Kitui General Hospital respectively** and insert the words **shall have medical background, public health or trained professional counselor immediately after** “respectively”
- vi) Clause 5(1)(e)
 - by deleting the words “A person” at the beginning of the sentence and replacing thereof with the words **one person jointly**
 - by replacing the letter “a” between the words “by and registered” with the word **all** and further by inserting the letter “s” to the word “group”
- vii) Clause 5(1)(f)
 - by deleting 5(1)(f)(i) entirely.
 - by renumbering the following sub-clauses as:-
 - “5(1) (f) (ii)” as **5(1) (f) (i)**
 - “5(1) (f) (iii)” as **5(1) (f) (ii)**

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-“5(1) (f) (iv)” as **5(1) (f) (iii)**

- “5(1) (f) (v)” as **5(1) (f) (iv)**

viii) Clause renumbered 5(1)(f)(i)

- by inserting the words **anactive** between the words “by and women”
- by inserting the words **where the facility is situated** immediately after the word “groups”.

ix) Clause renumbered 5(1) (f)(ii) by inserting the words **dominant in respective area where the facility is situated** immediately after the word “organization”.

x) Clause 5 by deleting the unnumbered paragraph between Clause “5(1) (f)(iv) and sub-clause 5(2)”

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

THAT, further amend Clause 5 as follows:-

xi) Clause renumbered 5(1) (f)(iii) by inserting the words **with a gender rule bias based on other members nominated in that committee where the facility is situated** immediately after the word “groups”.

xii) Clause renumbered 5(1) (f)(iv) by inserting the words **with a gender rule bias based on other members nominated in that committee where the facility is situated** immediately after the word “group”

Debate arising;

Amendment proposed on amendments to Clause 5 – (Member for Ngomeni ward)

(Hon. Joseph M. Ngwele)

Motion made and question proposed;

THAT, Clause 5 be amended as follows:-

i) 5 (1) (f) paragraph (i) to read “ one person nominated in writing by the County Executive Committee of Maendeleo ya Wanawake Organization.

Debate arising;

Question on the motion put and **negatived**

Motion made and question proposed;

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- ii) 5 (1) (f) by inserting a new paragraph as no. (v) - **the area members of the County Assembly in the Sub-County where the hospital is situated shall be at liberty to attend any meetings of the Committee in furtherance of their oversight roles.**
- iii) Amend the renumbered clause (iii) to read "one youth nominated in writing by the County Executive Committee of the National Youth Council;
- iv) Amend the renumbered clause (iv) to read "one person with disability nominated in writing by the County office of the National Council of Persons with Disability;

Debate arising;

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

Question on the amended amendment put and **agreed to**;

Clause 5- as amended **agreed to**

CLAUSE 6

Motion made and question proposed;

THAT, Clause 6 be amended as follows:-

- i) Sub clause 6(2) by deleting the words " the annual allocation or grants" appearing between the words "limited to and and" in the second line of sub clause 6(2) and replace thereof with the words **the provisions of sub-clause 6 (1) (a)(b)(c)(d) and (e) above**".
- ii) Clause 6(4) be amended by inserting the words **and made public as a matter of practice or on demand** after the word "funds" at the end of the second line of sub clause 6(4).

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

Clause 6 - as amended **agreed to**

CLAUSE 7

Motion made and question proposed;

THAT, Clause 7 be amended as follows:-

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- by deleting the words “Section 5” appearing between “under and unless” in the second line and replacing thereof with the words **Clause 5**
- by deleting the words “**the committee shall be responsible to the Chief Officer in the Ministry of Health and Sanitation**” appearing immediately after the word “equivalent”

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

Clause 7 - as amended **agreed to**

CLAUSE 8

THAT, amend Clause 8 by deleting it entirely

Amendment proposed on amendments to Clause 5 – (Member for Ngomeni ward)

Motion made and question proposed;

THAT, Delete all amendments to clause 8 and re-insert a new clause 8 to read as follows:

Nomination Coordinating Committee and Nomination Process

1. The Nomination Coordinating Committee shall consist of:

- (a) Officer in charge of the hospital
- (b) Members of the County Assembly
- (c) Sub-County Administrator

2. (a) The nomination will be coordinated by the officer in charge of the hospital who will convene the nominating Committee and serve as its Secretary;

(b) The officer in charge of the hospital will forward the report of the nomination coordinating Committee to the CEC for Health.

3. (a) The County Executive Committee Member for Health shall within 21 days upon commencement of this Act direct in writing the Officer in Charge of the respective hospitals directing him/her to convene the nomination coordination committee referred to in clause 8.1 to start the Committee nomination process;

(b) Upon receipt of the directive under section (a) above the Officer in charge of the respective hospitals shall within 14 days convene a meeting of the Nomination Coordinating

Committee, and the nomination coordinating committee shall write to the respective groups referred to in

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clause 5 to nominate members, and give a period within which the names of nominated members should be received by the committee;

(c) Upon receipt of the names of the nominated persons the nomination committee shall forward the names to the county executive committee member for health and sanitation, and the county executive committee member for health shall cause the names to be published in the county gazette within 14 days.

(Hon. Joseph M. Ngwele)

Debate arising;

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

Question on the amended amendment put and **agreed to**;

Clause 8 - as amended **agreed to**

CLAUSE 9

Motion made and question proposed

THAT, Clause 9 be amended by rephrasing the clause to read “upon appointment of the members of the Hospital Management Committee as per section 8, the County Executive Committee Member shall within Fourteen (14) days cause the names to be published in the County gazette or the Kenya gazette and the members shall assume office upon gazettement or as shall be specified in the gazette notice”.

CLAUSE 10

Motion made and question proposed

THAT, Clause 10 be amended as follows-

- i) Sub Clause 10(3) be deleted.**
- ii) Sub clause 10(1) by inserting the words **allow a room for emergency meetings in case of outbreaks or disasters** immediately after the word “deliberations”.**
- iii) Sub clause 10(2) by deleting the words “five” appearing between the words “be and of” in the first line of sub clause and replacing thereof with the words **seven**.**
- iv) Sub clause 10(4) by inserting the word **Committee** between “Executive and Member” and further amend by inserting the words **and the committee members** immediately after the word “member”.**

- v) Sub clause 10(6) by inserting the word **Committee** between "Executive and Member".

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

6. REPORT OF PROGRESS PURSUANT TO STANDING ORDER 127

Motion made and question proposed;

THAT, the committee (whole county Assembly) do report the progress on the consideration of The Kitui County Health Facilities Management Bill, 2014, (Assembly Bill No. 6, 2014)

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

HOUSE RESUMED

Hon. Speaker on the Chair

7. MOTION ON PROGRESS REPORT – CHAIRPERSON WHOLE COUNTY ASSEMBLY COMMITTEE

Motion made and question proposed;

THAT, pursuant to provisions of Standing Order 127, this committee (whole county Assembly) do hereby report the progress and further seeks leave to sit again for resumption of proceedings on the consideration of The Kitui County Health Facilities Management Bill, 2014, (Assembly Bill No. 6, 2014)

(Hon. Titus N. Mbiti)

With no debate arising;

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

8. ADJOURNMENT

And the time being thirty minutes past Four O'clock, the Hon. Speaker deferred the business in orders numbers 10, 11, and 12 and adjourned the house.

9. ASSEMBLY ROSE- at thirty minutes past Four O'clock

MEMORANDUM

*The Honourable Speaker will take the chair on 24th July, 2014
Today at 2.30 pm*