

Kitui County Assembly

THE HANSARD

First County Assembly – Second Session

Tuesday 28th October, 2014

The County Assembly met at 2.45 PM

(The Speaker {Hon. George Ndotto} in the Chair)

PRAYERS

(The Mace is placed on the Table)

PAPER(S) LAID

1)1) The Budget and Appropriation Committee Chairman hon Antony Muthui-
Report on the consideration of the Kitui County Finance Bill 2014, Assembly Bill
No.13, 2014

The Speaker (Hon. George Ndotto): Next Order

The County Assembly Clerk (Mr Mutambuki): Order No. 1, Administration of
Oath.

The Speaker: Next Order

The County Assembly Clerk: Order No. 2, Communication from the Chair.

The Speaker: Next order.

The County Assembly Clerk: Order No. 3, Messages.

The Speaker: Next order.

The County Assembly Clerk: Order No. 4, Petitions.

The Speaker: Next Order

The County Assembly Clerk: Order No. 5, Papers

The Speaker: Next order.

The County Assembly Clerk: Order No.6, Notices of Motions.

The Speaker: Next order.

The County Assembly Clerk: Order No.7, Statements- from a member of House
Business Committee (*Amendments to schedule of business for the week ending
31st October, 2014*)

The Speaker: Hon Mutemi

Hon Mutemi: Thank you Mr Speaker. There was a statement intended for the House Business Committee on rescheduling the business of the week but following reconfirmation that there is no standing order backing the same, I wish to withdraw. Thank you Mr Speaker.

The Speaker: Next Order

The County Assembly Clerk: Order No.8 Motions and Bills- A motion on approval of committee report on the consideration of the Kitui County Finance Bill 2014, Assembly Bill No.13, 2014 (Chairperson committee on Budget and Appropriation)

The Speaker: Hon Muthui.

Hon Muthui: Mr Speaker Sir, I would like to move that, Pursuant to the Provisions of the Interim Standing Order No. 130 (2), this house approves the report of the Committee on Budget and Appropriations on consideration of the Kitui County Finance Bill, 2014 (Assembly Bill No.13, 2014).

Mr Speaker Sir, I would like to draw to the attention of the house, that this report is already in their possession and I want to go straight to the report.

Mr Speaker Sir, page one of the report is the cover page of the report. I will move to page 2 of the report and I will start with the preface;

Mr. Speaker Sir, the Committee on Budget and Appropriations of the Kitui County Assembly is established under Standing Order 187 (3) and mandated inter alia: **'to study and review all legislative proposals referred to it'**.

The Committee is currently constituted of thirteen (13) members whose names and designations are as annexed to this report.

Mr. Speaker Sir, the Kitui County Finance Bill 2014 was read a First Time On 24th September 2014 and thereafter committed to the Committee on Budget and Appropriations for consideration pursuant to standing order number 121.

Mr. Speaker Sir, on 25th September 2014 the County Assembly advertised for public participation and call for memoranda pursuant to Article 196 (a) and (b) of the Constitution and County Assembly Standing Order No.121.

Subsequently Mr Speaker Sir, the Bill was taken for public participation in five (5) different centres namely Kitui Town, Mutomo Town, Mwingi Town, Zombe Town and Kyuso Town. This exercise took place from 30th September to 2nd October 2014, with members of this Committee sphere heading the exercise assisted by all other members of the County Assembly from the respective Sub-Counties.

Mr. Speaker Sir, the committee held a total of eight sittings to consider views captured from public participation and to review memoranda submitted by the public before preparing this report on the Bill.

Mr. Speaker the Committee also invited the County Executive Member for Finance and Economic Planning, as the implementing County Government Department, for comments and clarifications in the process of considering this Bill.

More significantly Mr. Speaker Sir, the committee engaged the County Department of Finance and Planning in reviewing the implementation of the Finance Act 2014, with a view to establishing the key milestones covered, and the major gaps and challenges experienced in the implementation of the Act.

Mr. Speaker Sir the committee had become aware that there were serious challenges and gaps in the collection of revenue that had led to various problems, including failure to meet the overall revenue target set in the budget estimates for 2013/2014 financial year, and a big public outcry in the manner in which revenue was being collected by officers of the County Government.

Mr. Speaker Sir, The Committee therefore gives here an overview on the key milestones covered, challenges and gaps experienced, and its proposed solutions so that these can inform the perspectives of this honourable Assembly as we discuss the current Finance Bill.

REVIEW ON IMPLEMENTATION OF THE KITUI COUNTY FINANCE ACT, 2014

Mr. Speaker I will start by giving us a brief background. Section 133 of the Public Finance Management Act 2012 and Standing Order no. 217 provides that a County Assembly shall consider and approve the Finance Bill not later than ninety days after passage of the Appropriations Bill. Mr Speaker the Kitui County Finance Act was signed into law on 18th May, 2014 and its implementation started thereof immediately.

Mr. Speaker Sir, it is noted that enactment of this law was delayed for 8 months due mainly to lack of staff and capacity within the newly established County Government Act to put in place the appropriate arrangements for developing the Bill. Another significant challenge was bringing together the diverse tax regimes of the four former authorities, as well as harmonization of operations in a fast shifting transition environment.

Mr. Speaker Sir, this Finance Act 2014 tries to harmonise taxes and charges levied at different rates by the defunct Local Government Authorities. Most of the items of charge were lifted from the defunct authorities, the devolved ministries and **departments' fees and charges without any modifications. It therefore did not cover all** areas and items of charge by the County Government. In considering this current Finance Bill, the Committee will be seeking to broaden the County revenue base by exploring more new revenue streams.

Mr Speaker, I want to guide the house on the Milestones in Implementation of Kitui County Finance Act 2014.

Mr. Speaker Sir, as noted above, the enactment of Kitui County Finance Act was delayed for 8 months. There has therefore been a very short period for implementation, and not sufficient time for the County to record any good results out of its application.

However Mr Speaker, the following has been achieved:

1. Harmonization of rates, fees and charges to a single county revenue unit from the former defunct Local Authorities
2. Its implementation has brought about new accountable documents such as receipts books in line with the Finance Act, and closure to usage of the **former defunct Local Authorities' documents.**
3. Integration and upgrading of the Local Authorities Integrated Financial Operations Management Systems (LAIFOMS) to be in line with Finance Act 2014, and being able to capture the rates, fees and charges as repealed by the Act.
4. Integration of revenue staff from the different defunct Local Authorities into a single County revenue unit, therefore breaking cartels and regionism inherited from the defunct councils.

5. The county has unitized collection by having a single revenue collection account for timely banking of revenue while maintaining decentralized collection zones.

Mr. Speaker Sir, in this period the main revenue streams for the County were as follows:

<u>Revenue Stream</u>	<u>Collection</u>
1. Single Business Permit	Ksh 72,285,394
2. Cess	Ksh 61,179,768
3. Market Fees	Ksh 44,298,900
4. Land Rates	Ksh 21,850,734
5. Parking Fees	Ksh 13,880,695
6. Sale of Tender Documents	Ksh 9,775,530

Mr. Speaker, the full analysis of revenue streams and their performance across the former Local Government Authorities is as in the annexed schedule. As you will see in this schedule, the total revenue collected through the former Local Government Authorities for the 2013/2014 Financial Year was Ksh 257,271,880, against a projected target of Ksh 240,000,000, therefore realising a growth of Ksh 17 million.

Mr. Speaker Sir, the total revenue targeted to be collected from local revenue and all the devolved Ministries for the financial year 2013/14 was Kshs. 448 million. However, notwithstanding the above milestones, the actual revenue realised during the year under review had a short fall of Ksh 209 million. This means that the County Government of Kitui was not able to meet its budgetary projections for providing services to our people owing to this big shortfall in revenue collection.

Mr. Speaker Sir, we now look at the challenges and gaps that occasioned this big shortfall in revenue collection, and make recommendations of what must be done in order to avoid such big revenue losses in the future.

CHALLENGES AND GAPS IN REVENUE COLLECTION

Mr Speaker Sir, one of the challenges and gaps identified was:

1. Lack of supportive legislation:

Mr. Speaker Sir, there have been serious lapses and delays in the development and presentation of various important Bills such as the Alcohol Drinks Control Bill, Market Trade Control Bill, and Licensing Bill. This in effect denies the County Government the supportive legislation needed to regulate and collect revenue in important sectors of the County. The Revenue Department has therefore failed to collect taxes and rates in some of the more lucrative sectors, while at the same time some of the revenue is collected by agencies of the National Government such as NACADA.

Mr. Speaker Sir, Some of the Ministries devolved under Schedule 4 of the Constitution did collect and utilize their revenue without surrendering the same to the County Treasury. The County Government must henceforth enact legislation to administer all revenues from the devolved functions. Mr Speaker, the committee strongly recommends that the County Treasury must ensure all monies from the devolved functions are efficiently collected and surrendered intact before being put into expenditure through the appropriated vote heads.

Mr. Speaker Sir, the committee further noted with great concern that the County Treasury had no control over funds collected by the local water companies such as KITWASCO, despite giving them annual grants for subsidy. Some of these institutions are known for rampant corruption, to the extent that they could not break even or balance their budgets. For this reason, it was strongly recommended that these firms must be brought to accountability by the County Treasury, failure to which all the grants and subsidies they enjoy should stand withdrawn. Public money must be spend prudently and in a responsible manner.

2. Staffing:

Mr. Speaker Sir, the County Revenue Department has few professional staff who cannot cover all the revenue collection areas, resulting to deployment of a large number of casual workers to support this unit. These casuals lack the relevant knowledge and skills to competently handle revenue collection, especially where functions are automated. Staff discipline and management also becomes difficult for the supervisors working with the casuals, since it is not easy to transfer or reshuffle them.

Mr. Speaker Sir, It is recommended that the County Government should have a comprehensive plan to train the already existing staff to equip them with the necessary skills on customer care and attitude change, modern revenue techniques including using ICTs. The Department should also carry out competitive recruitment to address shortfalls of professional staff in the unit.

3. High rate of default on rate payments:

Mr. Speaker Sir, the revenue department experiences an inordinately high rate of default on payments, especially for annual rates and licences. This owes partly to in-conducive business environment, high levels of poverty, but also to poor business planning and wilful ignorance of the law.

Mr. Speaker Sir, we recommend that the Revenue Department develops a system of constant monitoring of rate payment either through its own officers or by using other departments of the County Government such as Ward and Village Administrators. In addition, there is need for more legal clarity that defaulting on rate payment is an offense that is punishable by law. There needs to be systematic legal steps for enforcing compliance for all rate payers.

4. Revenue enforcement:

Mr. Speaker Sir, during public participation on the Finance Bill it emerged from all centres that there have been serious cases of harassment of rate payers by the enforcing members staff. These include confiscation of goods and property, harassment of traders and extortion for bribes. Such incidents have tainted the image of the County Government as a carryover from the defunct local authorities and dampen public expectations on devolution. In addition to this Mr Speaker, the Revenue Department does not have in place its own professional enforcement unit and has to rely on staff occasionally borrowed from other units of the County Government.

Mr. Speaker Sir, to move away from this, the Committee recommends a complete overhaul of the enforcement unit, recruitment of new professional staff, identification of skills gaps, training and motivation. This should go hand in hand with putting in place a good revenue enforcement law and adequate staffing of the unit.

5. Inadequate logistics:

Mr. Speaker Sir, The Revenue Department is under-resourced in terms of financial and human resources. It uses a few vehicles inherited from the defunct Local Authorities most of which are old and insufficient for effective mobility of the unit. The revenue department needs to be provided with a sufficient budget allocation to facilitate the necessary logistics such as purchase of vehicles and motor bikes to increase mobility for revenue drives, inspections and awareness campaigns.

6. Lack of a revenue data base:

Mr. Speaker Sir, the County depends on data inherited from the defunct local authorities, which has not been updated for a long time. Therefore it is not possible for the Department to indicate with certainty how many prospective rate payers there are in the County, their levels and localities. We recommend that the Department conducts revenue resource mapping which will be used to build a data base for all businesses operating within the County, and their matching rates capacity. The resource mapping should also capture new or emerging revenue potentials such as in the mining industry, and propose how to maximise collections from such streams.

7. Revenue automation:

Mr. Speaker Sir, the County Department of Trade, Industry and ICT has been mandated to develop a data centre which integrates, among others, a system for collection and monitoring of revenue. Regrettably Mr Speaker, this has taken too long to design and procure. The delay means that the Revenue Department largely uses the same old manual system of receipting that is acknowledged to be open to fraud and manipulation. It is public knowledge that only a small part of the revenue collected daily from barter markets and cess is remitted to the County Government.

Mr. Speaker Sir, the County Government needs to embark as soon as possible on electronic revenue collection and monitoring systems, at least beginning with the County and Sub County headquarters. We recommend fast-tracking of the design and procurement of the data centre. This might call for setting up of an inter-ministerial committee to expedite the necessary processes for design and procurement. The committee strongly recommends the transformation and modernization of the County revenue sector, including use of advanced modern technology and upgrading of staff working in the sector.

8. Operation costs for revenue collection:

Mr. Speaker Sir, because of the use of manual revenue collection, the department is forced to deploy a large number of revenue collectors, often on a daily basis. This not only translates to very high operation costs through payment for casuals and their transportation, but also increases the risk for cash fiddling by staff. We recommend that the department explores options of monthly or annual licences such as for barter markets, street parking, bodaboda and bus parking.

COMMITTEE CONSIDERATIONS AND RECOMMENDATIONS ON FINANCE BILL 2014

Mr. Speaker Sir, after conducting the foregoing review on implementation of the Finance Bill 2013/2014, the committee considered the proposed Finance Bill 2014 and made the following observations:

- 1) The principle object of the Bill is to repeal the existing Kitui County Finance Bill, 2014 and come up with a new Act as required by Section 133 of the Public Finance Management Act, 2012.
- 2) Part I of the Bill contains preliminary provisions, with clause 2 of this part bearing the objects and purposes of the Act. It seeks to prescribe taxes, fees and charges for the financial year 2014/15, and the rates at which taxes and other charges will be payable during this period.
- 3) Part II of the Bill provides for imposition and revision of taxes and charges. Clause 3 of this part provides for powers to levy taxes, fees and charges as applicable for various items at the rates which are set out therein in the new charges fees schedule.

Additionally, this Clause makes provision for possible imposition by the County Government of other charges not included in this Act, but which were previously provided for under the by – laws of the defunct Local Government Authorities.

Mr Speaker clause 4 of the Act provides for the legal support framework on the directions and resolutions made under provisions of the Local Government Act Cap 265 by the Defunct Local Authorities, which were valid immediately before the cessation of application of Cap 265.

1. Part III of the Bill provides for penalties on outstanding property tax, rent and business permits. Clauses 6, 7 and 8 give powers to levy penalties and the rates at which such penalties shall be computed.
2. Part IV of the Bill provides for miscellaneous provisions on measures to prevent non – remittance of the collected revenue. Clause 9 empowers the relevant County Executive Member to issue directives on ensuring efficient revenue collection and administration, including use of ICT and carrying out surveys to establish revenue potential.

Mr. Speaker Sir, the Committee wishes to note at this point that this Bill does not clearly set out the systematic legal steps to be used in enforcing payments of taxes and rates, and the sanctions applicable to defaulters. Neither does it recognise this as an offence punishable under this Act. This is a significant omission that needs to be addressed in subsequent legislation.

Mr. Speaker Sir, the Committee will propose appropriate amendments to the Bill to ensure that the Bill complies with the fundamental principles of taxation. Enforcement is a key issue when it comes to taxation, this bill shall be amended to provide for legal mechanisms to ensure compliance of the provisions of the Act. The barbaric and cruel style inherited from the defunct Councils has immensely tainted the image of this County. The tax rates will be reviewed with regard to the prevailing economy and ofcourse considering other factors such business potential, location (prime) and size of the business.

Mr. Speaker Sir, the Committee is thankful to the Office of the Speaker and the Clerk of the County Assembly for the logistical and technical support accorded to it during its sittings both at the Assembly and Mombasa for this report writing. The Committee wishes to thank all the stakeholders for their participation in scrutinizing and proposing their inputs to the Bill. I wish to express my appreciation to the Honourable Members of this Committee and the House at large for sacrificing their time to participate in the activities of the Committee and preparation of this report.

Mr. Speaker Sir, it is therefore, my pleasant duty and privilege, on behalf of the Committee on Budget and Appropriations, to table this report in the House on the consideration of the Kitui County Finance Bill, 2014/15 for approval as provided under Standing Order no. 130.

(Foot thumping)

Mr Speaker Sir, the committee made several recommendations and proposed amendments to the County Finance Bill 2014/2015.

I don't know Mr Speaker whether I will continue with these amendments at this point or we will continue to this at the committee of the whole house.

The Speaker: No this will be done at the committee of the whole house.

Hon Muthui: And with those few remarks Mr Speaker, thank you so much for giving me this opportunity to table the report to the Assembly and I therefore Mr Speaker, beg to move.

(Hon Muthui lays the paper on the table)

The Speaker: Who will second your motion?

(Hon Ngwele seconds the motion by rising and bowing)

The Speaker: Thank you honourable Ngwele. Now honourable members, this is a finance Bill, which is very important to every member to understand before you come to the end of it, to read, and understand it before you approve it. I think we need to give members a little bit time to look at the figures before we start debating the Bill, what do you think?

(Foot thumping)

Because I have gone through with the chairman as he read and I want to congratulate him for he has done excellent as the Minister for Finance. This is the way it used to be done when I was in parliament. Exactly the same way by the Minister...

(Foot Thumping)

It very well presented, very well researched, I therefore want to propose we debate this Bill tomorrow in the morning session, is that ok? Is that enough time for you?

The Members: Yes

The Speaker: you like us to start debate tomorrow at 9 O'clock?

The Members: Yes

The Speaker: So that you will have time to look at it and please loot at it because as an MCA, the taxes, you will be asked many questions by your people. Why did you put this tax? Why did you propose this tax? Why did you do ABCDE? And if **you don't know, you will be** contradicting yourself. It is a very short statement; you can read it in 20 or 30 minutes and then start digesting it so that by the time we come tomorrow, you are ready to say what you want to say with authority.

The County Assembly of Kitui

I therefore direct the Bill will be discussed tomorrow at 9 am with your concurrence. Can I hear the late concur?

(Foot Thumping)

As many as are of that opinion say Ayes

The Members: Ayes!

As many as of the contrary opinion say Nay!

(Silence)

The Speaker: The Ayes have it, and that brings us to the end of our business this afternoon, and we can now adjourn the house.

(Members rise in their places)

The Speaker: The House now, and I direct, the Ministry Mr Clerk, I direct that you invite the ministry of finance and if possible the others who are involved in taxation, the officials should be here to listen to what members will be saying, so that at least when you go back, you know the feeling of the house. I can only see one gentleman here; **I don't know whether that one is enough. Please convey this message** to the Minister for Finance. We want him to hear what the members are saying about the finance Bill

The House now stands adjourned until tomorrow morning at 9.00am.

The County Assembly rose at 3.23pm