REPUBLIC OF KENYA

COUNTY ASSEMBLY OF LAIKIPIA

THE HANSARD

Tuesday, 7th November, 2023

The House met at the Assembly Chambers at 2.30 p.m.

[The Speaker (Hon. Lantano Nabaala) in the Chair]

PRAYERS

QUORUM CALL

Speaker: Clerk confirm whether we have quorum?

(Lack of quorum confirmed)

Speaker: I direct the bell to be rang for 10 minutes.

(The quorum bell was rang for 5 minutes)

Hon. Simon Kanyutu: Mr. Speaker I think we have a quorum as I speak.

Speaker: Clerk confirm?

(Clerk confirmed achievement of Quorum)

COMMUNICATION FROM THE CHAIR

ASSEMBLY CALENDAR AND CONCLUSION OF HOUSE BUSINESS

Speaker: I want to take this opportunity to welcome back all Members from the one-week recess in accordance with our Assembly calendar for our regular sittings. Part 4 will begin today, Tuesday, 7th November, 2023 and will conclude at the rise of the County Assembly on the 7th December, 2023. Its worth noting that this will be the last segment of the second session of the Assembly calendar and it will be short.

It is in this context that I therefore urge the Hon. Members to double their efforts in ensuring that Assembly Business is complete before the second session comes to a close. I also urge the Liaison Committee headed by the Deputy Speaker, ensure that all pending business is considered in the Assembly in the remaining five (5) weeks.

MEMBERS' TRAINING

I also take this opportunity to thank all Members for holding a successful training during the recess. We shall endeavour to conduct more trainings to keep Members brisk on matters that pertains to areas of service.

CHANGE OF ASSEMBLY ISP

The other communication I wish to bring to the Members, as you call all see that today we have a screen opposite from what we have been having. I also want to let you know that our long-

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handed microphones are functional. We are in a transition between the internet's providers before and currently we are seeking the Safaricom Fibre Optic Cable direct and dedicated line to the Assembly. As a result, we've had a bit of challenges of internet coming in and back and sometime unable to upload all the e-parliament documents as usual. The officers are working hard to ensure that each Member has copy. We may give them a minute to have go through. Thank you.

PETITION

STATE OFFICERS RETIREMENT BENEFITS BILL, 2022

Hon. Catherine Umija: Thank you Mr. Speaker. On behalf of the Chairperson for Labour Committee, Hon. Irene Wachuka, I hereby give a report on the petition of Laikipia County Assembly to enact the Laikipia County Government State Officers' retirement Benefits Act, 2022 in pursuant to section 15 of the County Assembly Act, 2012 and Laikipia County Assembly Standing Orders. Mr. Speaker, I would like to commit this report to the Assembly.

Preface

Establishment and Mandate of the Committee Labour, Social Welfare and Community Service

The Sectoral Committee on Labour, Social Welfare and Community Service was constituted by the House on 26th October, 2022 during the First Session of the Third Assembly in Laikipia County. We had the mandate to look at the petition brought up by members of the public.

Committee Membership

The Committee as currently constituted, comprises of the following members;

1. Hon. Irene Wachuka - Chairperson
2. Hon. Eunice Salaten - Vice-Chairperson
3. Hon. Catherine Umija - Member
4. Hon. Caroline Kihika - Member
5. Hon. Nicholas Mwaniki - Member
6. Hon. Stephen Ndiritu - Member
7. Hon. Paul Leshuel - Member

Pursuant to Standing Order 202 (2), I am pleased to present and table the Report on the Petition to the Laikipia County Assembly to enact the Laikipia County Government State Officers Retirement Benefits Bill, 2022; pursuant to section 15 of the County Governments Act, 2012 & the Laikipia County Assembly Standing Orders

The petitioners submitted their prayers in line with Articles 37 and 119 of the Constitution and guided by the provisions of standing order 195 of the Laikipia County Standing Orders.

Acknowledgement

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Mr. Speaker, Sir, on behalf of the Labour, Social Welfare and Community Service Committee, I wish to extend my gratitude to the Members of the Committee for their dedication and commitment to their work. The committee also extends its appreciation to the office of the Speaker and Office of the Clerk of the County Assembly of Laikipia, for their support that has enabled the committee to participate in this duty and steer it on the path to accomplish its mandate.

The Petitioners' Submissions

Mr. Speaker, Sir, the petitioners were invited to attend the committee meeting and to give their submissions at the County Assembly Boardroom…

Speaker: Order Hon. Umija! What is it Hon. Kanyutu?

Hon. Simon Kanyutu: Mr. Speaker, we do not know what is going on. We do not have the documents with us and we do not have the hard copies on the table. We just have what she is reading but we cannot get this from our gadgets.

Speaker: Thank you. In my communication, I had indicated that we have a problem on internet connectivity. The staff are getting the hardcopies for all the Members. If it is your feeling for the Hon. Member to wait until you get your copies, it is well or you can let her proceed since you are getting your copies. Do we continue Hon. Kanyutu?

Hon. Simon Kanyutu: If we are getting the copies it is okay to continue.

Speaker: The copies are coming as I had communicated. Continue Hon. Umija.

Hon. Catherine Umija: Thank you, Mr. Speaker. As I had earlier said, the petitioners had put their submissions to the committee. They were given an opportunity to present their oral submission and they informed the members the following;

On what they understand by the retirement of the Speaker;

They had raised many concerns in their submission including proposal for a board in their proposed Bill. In the Constitution, retired officers are paid from the consolidated fund or directly from the Government. In their draft, a retired Speaker is a person who, having held the office of a Speaker of County Assembly at any time after the general election of August 2022, and has ceased to hold office in such a manner as specified in the constitution. It is one term.

They also have provisions for when a Speaker dies, is impeached or anything else happens. Those are some of the amendments that need to be made to the draft bill so that it can include everyone, including a Speaker who has died in office or has been impeached.

There are provisions in the Constitution where for you to be termed as having served as a Governor, you should have served at least half of the period. They've made those amendments in their draft Bill, and have also considered the period that the Speaker has served.

On how they arrived at the criteria of two terms served for the MCAs;

They borrowed the idea of two terms from Members of Parliament. For them to receive pension, they must have served at least two terms, which do not have to be consecutive. As for the Members of the County Assembly, they will get a permanent VIP car sticker, the petition was brought to the County Assembly in order for the Members of the County Assembly to give their

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views on the same, and guide the petitioners since they are the people to pass the petition. Issues that affect the Members of the County Assembly would also be considered and addressed in the draft Bill.

On whether they are given the mandate to enact the bill according to the County Governments Act 2012, and how they will work in harmony with SRC on the same;

The petitioners indicated that in the draft, they have what is called formation of a County Government's state officer's retirement benefit. That is what is going to guide their remunerations. Taita Taveta County passed a similar Bill around 2021 and it was gazetted. According to the Constitution, on payment, the state pensions can be through consolidated fund or directly from the Government. This is captured in their draft Bill.

On whether they have had a chance to look at the Constitution of Kenya, Article 230 which deals with its legality, and what their views are on the same;

The Petitioners responded that they have looked at it. Sub article 4 says that the powers and functions of the Salaries and Remuneration Commission (SRC) shall be two:

1. Set and regularly review the remuneration of all state officers.

Article 260 defines what a state officer is. It includes a Governor, Deputy Governor, the County Executive and so on.

2. Advise the National and County Governments on the remuneration and benefits of all other public officers.

They considered part (A) which is the review of the remuneration and benefits of all state officers. They will use the consolidated fund in their draft Bill to guide them.

On whether they have had a chance to speak with SRC;

The Petitioners indicated that they have not. This means that they have not enquired on whether the Assembly has the capacity to pass such a Bill, given that the Constitution is very particular on who can regulate benefits for State Officers.

On whether they have had a chance to speak with the Senate;

The Petitioners stated that they have, and they were advised that for the Bill to be considered for debate by the Senate, it needs to be passed by at least 24 Counties. They have submitted a petition to the Senate over the same matter. When the Bill is passed at the County level, it is then debated by the Senate and if passed it becomes a National law, which subsequently will fall under the SRC.

Committee Observations

Hon. Catherine Umija: Mr. Speaker Sir, having met the Petitioners, the Committee made the following observations: -

i. That the Constitution in Article 230 establishes the Salaries and Remuneration Commission. In Article 230(4), the powers and functions of the Salaries and Remuneration Commission shall be to Set and regularly review the remuneration and benefits of all State officers.

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ii. That the County Assemblies are granted the legislative authority by Article 185 of the Constitution which role they are to discharge as per the provisions of the Fourth Schedule of the Constitution.

iii. That the Fourth Schedule does not provide for enactment of County Laws on the pension or Retirement Benefits of State Officers namely the Governor, the Deputy Governor, the Speaker and the Members of the County Assembly. Therefore, the County Assembly lacks the mandate to enact a law on the Retirement Benefits of County State Officers.

iv. That the Constitutional Body that is granted the mandate to set and regularly review the remuneration and benefits of State officers among them being the Governor, the Deputy Governor, the Speaker and the Members of the County Assembly is the Salaries and Remuneration Commission. Thereafter, the National Assembly is mandated to enact a law on the Retirement benefits of other State officers namely the Governor, the Deputy Governor, the Speaker and the Members of the County Assembly. The Senate will also be involved as the matter touches on the County Government. The Proposed Pension law will be enacted in accordance with Article 109(4) of the Constitution.

Committee Recommendations

Mr. Speaker Sir, having considered the Petition to Laikipia County Assembly to enact the Laikipia County Government State Officers Retirement Benefits Bill, 2022; Pursuant to Section 15 of the County Governments Act, 2012 and the Laikipia County Assembly Standing Orders, the Labour, Social Welfare and Community Services Committee made the following recommendations that;

i. The Petitioners do present the Petition to the Salaries and Remuneration Commission so that it may consider reviewing the Pension benefits of the County State officers namely the Governor, the Deputy Governor, the Speaker and Members of the County Assembly.

ii. The Petitioners to also Petition the National Assembly so that it may enact the County Government State Officers Pension Bill to provide for Retirement benefits of the Governor, the Deputy Governor, the Speaker and Members of the County Assembly.

iii. The Petitioners to also petition the Senate on the same matter because Article 109(4) provides that a Bill concerning the County Government may originate from the National Assembly or Senate.

Thank you, Mr. Speaker.

Speaker: Hon. Members, I want to refer you to our Standing Orders No. 201 which states as follows:

'The Speaker may allow comments, observations or clarifications in relation to a Petition presented or reported and such total time shall not exceed thirty minutes.'

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I therefore open the floor for comments if any, and any clarification that may be sought as presented by the petitioners. Hon. Members, the floor is open for any clarifications or probably comments. Without any comment, we therefore move to the next order.

PAPERS LAID

QUARTERLY REPORT AND FINANCIAL STATEMENTS FOR PERIOD ENDED SEPTEMBER 2023

Hon. Simon Kanyutu: Thank you, Mr. Speaker. On behalf of the Majority Leader, Hon. John Gichuki Maina, I relay the quarterly report and financial statements for the period dated September, 2023.

(Hon. Simon Kanyutu laid the paper on the table)

Hon. Joseph Gitahi: Hon. Speaker and the whole House, I admit ignorance on some matters, but should Hon. Kanyutu read a statement that is on behalf of the Majority Leader yet he does not even belong to that party? He does not belong to that party. Some of the things that we are doing are so misleading. If we allow whatever is happening today, tomorrow, Hon. Umija, Hon. Lekopien or Hon. Lempaira will be reading statements from the ruling party, the party in government.

We cannot allow outsiders to come and purport to represent us. I think as a party, even after what is happening here, we need to meet behind the tent so that we can square out some matters. This is intrusion and I seek your indulgence on the whole matter. I would also want to understand whether there is such a provision in the standing order. I started by saying that I admit ignorance on such matters. Thank you.

Speaker: Thank you, Hon. Gitahi. Hon. Kanyutu, you want to interject?

Hon. Simon Kanyutu: Mr. Speaker, I do not want to interject but, fortunately, yesterday I was the UDA party leader in our region. We had a meeting somewhere and he even guided me on how to register online. He guided me that there is no objection or anything I cannot do, and that I am a member of the party having registered online.

Speaker: So, you are a registered member of the party. Hon. Gitahi?

Hon. Joseph Gitahi: I can confirm that he is not. I do not want to call them lies, but they are alternative facts. It is so bad to give alternative facts. The said MCA asked in front of UDA officials and he was not permitted. You see, the law is very clear.

Hon. Speaker, the law is very clear. Here in the Assembly, we understand as elected Members and our party, unless you want to resign and get to another side. I find it so misleading and I would want to understand the interpretation of it legally before we move on. We have other Members here; we even have our Deputy Speaker and the Majority from the UDA Party.

To the extent that we had to lease someone who is not even in the party, it is very serious. We even have a Member from an affiliated Party (TSP). It would be better to be represented by him than to be represented by an outsider. Whatever he says is not binding to me. Thank you.

Speaker: Thank you, Hon. Gitahi. I have taken your matter and I will give a substantive response at 2.30 p.m. Thank you. Hon. Anthony, I have seen you trying to swich on your microphone. Do you want to say something or I proceed?

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Hon. Anthony Theuri: Thank you, Mr. Speaker. I was just trying mic test here but the output is very good and therefore, I would like to congratulate whoever is in charge of this. I would also wish to echo the statement by Hon. Macharia from Githiga. I think that people should mind their own business.

We might be humble but we know our boundaries. Hon. Kanyutu had the chance to be in UDA but luckily or unluckily for us, I don't think we should stomach him for behaving how he behaved here today. Let everybody mind their own party. We are here by choice so kindly Mr. Speaker, protect us and also remember that you also a fruit of this beautiful party called UDA.

Speaker: Thank you, Hon. Members. I have given out a directive that I will give a determination tomorrow at 2.30 p.m. I therefore wish that we would proceed to the rest of the business. Hon. Kanyutu, you wait for my determination tomorrow, thank you.

ADP 2024/2025

Hon. Samuel Mugambi: Thank you, Mr. Speaker. I want to lay a paper on the report of the Laikipia County Annual Development Plan for the Financial year 20254/2025 on behalf of the Chairperson for Finance and County Planning Committee, Hon. Stephen Ndiritu.

(Hon. Samuel Mugambi laid the Paper on the table)

NOTICE OF MOTION

ADP 2024/2025

Hon. Stephen Ndiritu thro' Hon. Samuel Mugambi: Hon. Speaker, I beg to give notice of the following motion;

THAT this Assembly adopts the report by the Finance and County Planning Committee on the Laikipia County Annual Development Plan for the financial year 2024/2025 dated 24th October, 2023, on behalf of Hon. Stephen Ndiritu.

STATEMENT

THE IMPLEMENTATION OF THE ASSEMBLY RESOLUTIONS

Hon. Samuel Mugambi: Mr. Speaker, Sir, we want to request for extension of time on the response on the implementation of the Assembly resolutions. This is a statement that was requested by Hon. Sammy Lekopien. Mr. Speaker, the Committee on Implementation is mandated to;

1. Scrutinize the resolution of the Assembly including the adopted committee reports, petitions and the undertakings given by the CECs and examine whether or such decisions and undertakings have been implemented and if implemented, the extent to which they have been implemented and whether such implementations have taken place within the minimum time necessary.

2. Whether or not the legislations passed by the Assembly have been operationalized and where operationalized, the extent to which such opalization have taken place within the minimum time necessary.

The statement was raised by Hon. Sammy Lekopien on 24th October, 2023 regarding the implementation status of all the House resolutions. A committee requested for a response to the

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statement from all the departments and the status of the adopted motions to be received on or before 28th November, 2023. Mr. Speaker, Sir, the committee hereby requests for an extension of time so as to table a comprehensive response to the statement.

Speaker: What time do you require to be able to give us a substantive response?

Hon. Samuel Mugambi: Two weeks will be enough.

Speaker: Thank you. Two weeks it shall be.

ADJOURNMENT

Speaker: The sittings of this House now stand adjourned until tomorrow Wednesday, 8th November, 2023 at 9.00 a.m.

The House rose at 3.02 p.m.

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