REPUBLIC OF KENYA

COUNTY ASSEMBLY OF LAIKIPIA

THE HANSARD

Wednesday, 20th May, 2020

The House met at the Assembly Chambers at 9.00 a.m.

[The Speaker (Hon. Patrick Waigwa) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

NORMAL CALENDAR AND RECESS

Speaker: As we all know Members, we have gone back to our normal calendar and it shows that tomorrow in the afternoon we are breaking for a one-week recess. It is important for Members to do their consultation because that remains that way unless there is a procedural motion so that Members can agree what they want to do. As per the normal calendar we have a one week recess as from tomorrow after the Thursday sitting. It is good for you to consult and agree then whatever agreement you will have you can address the Leader of Majority Party.

MOTION

COVID-19 EMERGENCY RESPONSE FUND REGULATIONS REPORT

(*Resumption of Motion deferred on Wednesday, 13th May, 2020*)

THAT this Assembly adopts the report on the Laikipia County Public Finance Management (COVID-19 Emergency Response Fund) Regulations 2020 by the Committee on Delegated Legislation dated 11th May, 2020.

Speaker: This was moved by Hon. Chris Mark last week?

Hon. Chris Mark: Yes, I had moved it on behalf of the Chair. The reason we deferred it is because Members suggested some changes. I will spell what the changes were, of which if you look at the regulations which is a three-page document.

Part IV of it talks about 'The object and purpose of the Fund', if you go down farther to number 2(b) it says, to fund programmes and initiatives towards cushioning and provision of emergency relief to most vulnerable older people, persons in urban and informal settlements.

There are Members who strongly felt they had left out the word rural areas they had just written urban and informal settlements. Members had noted this in the Committee and had even directed on how to do it. Part III talks about management of the fund. No. 7 of it, Hon. Peter Matunge felt they needed to specify the professionals so that if it is something to do with health,

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it is clearly specified that there needs to be health practitioners in such a committee. That one was duly noted by the Committee.

On the next page there is **'Administration of the Fund'** and No. 9 says; Administration of the fund shall designate officers under the County Treasury as secretariat to the fund. Members were afraid that this legislation will give members allowances but the Committee noted that, and after enquiring with the CECM himself he said since they are already members working for the County, they will not be entitled to more allowances. The Committee will recommend that when writing their report, to direct the CEC that no member of the secretariat will be given any extra allowances because they are already employees of the County.

Part V talks about the General Provisions, which read that; **'The Governor may dissolve…'** which raised a question of change from **MAY** to **SHALL**. If the National Government says that Corona is over, it **'Shall'**, so there was that change from **'May'**. With those noted, one clarification I will make to Members of the House is that the House has no mandate to change a regulation on the floor of the House. What happens is that the Committee writes a report back to the CECM relevant (in this case being the CECM Finance), then the CECM re-gazettes because something gazetted is hard to come and amend here again. The CECM then amends it and brings it back again.

Notwithstanding, we would like to urge the House that it would not interfere if we adopt the report because if you look at the Committee's resolutions and recommendations is that, this House approves the establishment of the Laikipia County Public Finance Management (Covid-19 Emergency Response Fund), as provided for in the Laikipia County Public Finance Management Regulations, 2020. If there are more changes Members would see, the Committee is still open because after this we will direct the CECM on what Members felt needed changed. That was the point of information I would like to give so that if any Member has something before we vote on it they can put forward, thank you.

Speaker: With that explanation, we had moved it and it was seconded. The question was proposed then it was deferred. It is time for Members to make a contribution then after that we will ask the mover to give a reply.

Hon. Catherine Nyawira: Thank you, Mr. Speaker I am not sure I really understood what Hon. Chris Mark was saying because I just came in. Is the Committee on Delegation asking us to pass this bill as it is with the recommendations we had made for amendments? If we pass it like this, what is the chance that the same will be changed? If you look at the formation of the committee that is looking into the pandemic, we had asked for some changes in terms of professionalism. I need clarification, with these recommendations we had made, are we passing it as it is or will it have to be re-gazetted? Thank you Mr. Speaker.

Speaker: For the sake of Hon. Catherine and those who may not have gotten clearly what you are saying, this House does not amend regulations. You can only revoke in totality but we said, if there are amendments that are needed the committee will write back to the CECM for Finance so that they make the changes and then re-gazette without bringing it back to the House. What we are seeking as a recommendation is establishment of this fund. Maybe you can say it better then Members will have a basis to make their contributions.

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Hon. Chris Mark: Thank you, Mr. Speaker. Just to clarify to my Colleague; what we are doing in this House is not passing the regulations. This is already gazetted, what the Committee on Delegated Legislation does is bringing a report. This morning we are adopting the report of what we have gone through as a Committee as mandated to see what the regulations are. The law allows the CECM to come up with such for purposes of a fund. Members in the House raised issues that made us defer. We want Members to feel comfortable when passing a report, they asked for some changes, the **'Rural areas'** to be added, and as she said **'The Professionals'**.

As a Committee we realised that this board has already been set up. The Governor went ahead before the regulations and set it up. Maybe after this is done, the Governor will re-evaluate that COVID-19 Emergency Board. It was gazetted and I think it was on social media because people had issues that there were no people in health and so it is timely. What I am urging Members is for them to adopt the report because it will allow for the creation of this fund.

Mr. Speaker, if people contribute and there are more reservations or if there will be queries, the Committee does direct the CECM immediately on where to change. Within seven days upon receipt of our recommendations, the CECM sends another gazettement to the gazette office in Nairobi office, to change whatever he had done earlier. We all know that we cannot change or amend these regulations on the floor of the House because they are already gazetted, thank you Mr. Speaker.

Speaker: I believe you have the clarification; you can continue then give to Hon. Mutahi.

Hon. Catherine Nyawira: Thank you Mr. Speaker. I now fully understand however, I still have reservations because the bill has already been gazetted; that even what the Committee is recommending on professionals, people from health who understand dealing with emergencies. That means that the Governor **May** and not **Shall**. Essentially when we pass something it should not be defective. It then means that we will be urging as an Honourable House for the government to reconstitute this committee so that we have more health professionals. I have reservations on that and I hope the same will be adopted by the Governor and he will put the Committee's recommendations into paper and into practice, thank you Mr. Speaker.

Speaker: Just for clarification, I am reminded that some Members had already contributed to this report. The rules do not allow you to contribute twice.

Hon. Mutahi Muritu: Mheshimiwa Spika, kwa kupitia mwongozo wa kiti chako hata kama tuko kwenye taratibu hizo, ripoti tunayoijadili imefanyiwa marekebisho.

Speaker: The report has not been amended it is the same as we had it the only thing that we have done is to allow the mover to clarify that we cannot amend it in this House. It will be our choice to vote on the report depending on whether we are satisfied to establish the fund, or not. For the regulations we cannot make amendments only the committee can scrutinise and write to the CEC Finance.

Hon. Mutahi Muritu: Mheshimiwa Spika, naomba mwongozo wako. Sheria hii ilipoingia kwenye Bunge na tukatoa mchango, kama alivyosema mzungumzaji mwingine na mtoa hoja, ni kuwa Gavana alishateua kamati kabla kanuni hazijaundwa. Ili nisiwe ni kama navunja sheria, leo

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asubuhi ulipokuwa ukiongoza maombi tunayoomba hapa, hilo ombi liliniingia kama kiongozi. Yaani majukumu niliyopewa kama kiongozi akili yangu inngie kwamba nitende kwa haki.

Speaker: What exactly is the clarity that you are seeking because you cannot contribute twice on the floor?

Hon. Mutahi Muritu: Mheshimiwa Spika, tuliweza kutoa mchango wetu, lakini kwa kweli kwa sababu ya kuahirisha kila wakati hili jambo ni muhimu kwa sababu ni pesa za walipa kodi. Hata hatuna hoja nyingine kwa sasa kwenye Bunge lako. Kwa nini usitupe nafasi kutoa mchango kwa sababu hizi ni pesa za walipa kodi. Hii kanuni ilipoletwa tuliambiwa tukaisome na siku hio ndio iliwasilishwa. Hatupingi kuna sheria lakini ni jukumu letu kutoa maoni na kuchangia mjadala ili tuweze kuelewa. Sasa hivi tumeona kamati inavyoundwa, usimamizi na itavunjwa lini, hatujui ugonjwa utaisha lini ama kama utaishi na sisi. Sisi tumejukumiwa kwa hivyo nakuomba uturuhusu tutoe mchango, kwani ndiyo tumeweza kuisoma zaidi. Ukiona ni busara kuwa tusifanye hivyo tuko tayari, asante.

Speaker: It is good that you have made a request. Let the Members who have not made any contributions give contributions then I will think if I will allow you to make some additional contributions. We first give priority to those who were not on the list then I will think whether to give you a chance.

Hon. Stephen Ndiritu: Asante Sana, Bwana Spika. Nashukuru kwa kunipa hii nafasi kuweza kutoa maoni yangu kuhusu hii sheria inayoundwa. Ulimwenguni kote tuko na ugonjwa wa Korona na ambao uliingia kwenye nchi yetu siyo muda mrefu uliopita. Ni vizuri kwa kuwa kanuni ziko hapa na nataka kuishukuru hiyo Kamati kwa kufuatilia mpaka kuwe na kanuni kama hizi. Hakuna pesa za umma zinaweza kutumiwa bila sheria kwa hivyo Bwana Spika sheria ni muhimu.

Tunapounda sheria pia, tujukumwike sisi kama Bunge na kuona kuwa tunapitisha sheria itakayomfaa mwananchi wa Kenya. Nikisoma hii ripoti ya mwisho kuhusu mapendekezo ya Kamati, hakuna kitu nimeona na ningependa jambo lielezewe kwani nikiangalia naona hakuna mapendekezo kwenye ripoti, ukurasa wa saba ukisoma; '*COMMITTEE'S RESOLUTION Pursuant to Section 116 of the Public Finance Management Act, 2012 which requires approval of the County Assembly for the CEC Finance and County Planning to establish a public fund, the committee recommends the following: That this House approves the establishment of the Laikipia County Public Finance Management (COVID-19 Emergency Response Fund) as provided for in the Laikipia County Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020'.*

Speaker: That is the recommendation.

Hon. Stephen Ndiritu: Bwana Spika, hilo pendekezo lao limenishika vizuri sana ingawa nimeliona. Sikuwa nimeona pale. Tunapopitisha sheria kama hii tupitishe jambo ambalo halitadunisha Bunge hili. Covid-19 tusiichukulie kama ni mwisho wa dunia. Hili ni jambo ambalo litapita, Covid-19 sio ugonjwa wa kwanza duniani kwani kulikuwa na ukimwi na tunaishi nao duniani. Tunapopigana na Korona tujue pia haiendi mahali kwani WHO wamesema kuwa huu ugonjwa tutaishi nao kwa hivyo tujipange na tuendelee na kazi zetu ugonjwa ukiwapo. Kuna magonjwa yanaelezewa yalikuwepo na mwishowe yaliisha.

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Ningependa kama Bunge tusiweke sheria ambayo itazuia maendeleo katika Kaunti ya Laikipia. Vile vile, tusione kama Korona ikiwa iko hakuna nchi kwa sababu lazima Laikipia itaendelea Korona iwe ama isiwe. Kwa hayo machache ninaungana na Kamati na kwa kuwa nimeipitia ripoti, naomba tukipitisha sheria tuipitishe tukiwa tumeangalia kona zote za sheria tusije tukakosea. Tayari Gavana ameunda hii kamati na mambo mengine pia yameshafanywa, kwa hivyo naona kama hapa tunapiga muhuri tu yale mambo ambayo yashafanywa. Kwa hayo machache nashukuru na naunga sheria mkono lakini tuiangalie kwa makini. Pia ningeomba uweze kuwapa waliochangia hii ripoti nafasi ya kupeana maoni mengine.

Speaker: Hon. Members, it has been clarified that those who had made their contributions in the morning and as we all know we had agreed that we defer both documents to the afternoon of the same day that it was tabled. Hon. Deputy Speaker…

Hon. Daniel Nyausi: Thank you, Hon. Speaker, I would like to inform this House that those Members who contributed on this motion recommended that we defer it. So, they actually did not contribute but recommended that we push farther. Thank you Mr Speaker.

Speaker: That is exactly what I wanted to say because I remember we deferred the two documents to the afternoon, and then only one was discussed while the other was deferred to today morning. I think there was that confusion from the Table Clerks but that means the discussion was on deferment. Then that makes it open for all of us to make contributions, we can take note of that, we can take note of that.

Hon. Mutahi Muritu: Asante, Mheshimiwa Spika. Kwanza kabisa nilikuwa na wasiwasi kwa sababu uliposoma jina langu kati ya waliochangia na sikuwa nimechangia kwenye sheria hii nikaona demokrasia yangu imepuuzwa. Nilipokuwa natoa ombi, nilisoma ombi la asubuhi na nanukuu aya inayosema, *"Tunakuomba ututeremshie Baraka zako sisi tuliokutanika hapa na utujalie kuyatenda, kuyafikiria mambo yote yatakayofikishwa mbele yetu kwa njia ya haki na uaminifu ili utukufu wako na sifa ziendelezwe".*

Mheshimiwa Spika, nilikuwa natafakari kama Mutahi na kujiuliza jukumu langu katika Bunge la pili la Kaunti ya Laikipia ni lipi? Nitakuwa natenda haki ama nitakuwa nafurahisha watu flani na kumuasi Mungu? Nitaungana na mzungumzaji aliyesema ugonjwa hili halituwachi kwani kumekuwa na magonjwa mengine mbeleni. Nilikuwa naangalia suala hili kwenye Kaunti yetu baada ya kupitisha mfuko wa dharura na nikajiuliza suala hili la gonjwa liko katika idara gani, na nikaona ni idara ya Afya.

Nilipoichambua nilikosa nguvu sana kama Mwakilishi wa Tigithi. Mwaka wa serikali 2017-2018 walipewa zahanati na haikujengeka, mwaka wa 2018-2019 tukapewa nyingine na haikujengeka. Mimi Mjumbe napitisha bajeti hapa, naomba unisaidie hapa kwenye hizi sheria. Tunasema kuna sheria na tunatengeneza kanuni zitakazotumika katika hizo pesa, kitu tunachojadili hapa ni matumizi tu. Spika kupitia kiti chako, nimeongea na Gavana, Katibu wa Kaunti hii na nimeongea na Afisa Mtendaji katika wizara hiyo. Kama ni Covid-19 inatengewa fedha za dharura na inawekewa kanuni lakini fedha zilizotengewa zahanati miaka mitatu iliyopita, na ni haki ya wananchi hazijawahi kujenga zahanati.

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Sisi tuliyopewa majukumu kulingana na maombi haya, tumegeuka kuwa mabundi ambao wanaomba watu waugue ama wafe. Itakuwaje hapa napitisha sheria lakini pesa zikipitishwa bado wananchi wanakufa huko. Kwa mfano majuzi; mama mmoja alikuwa akienda kujifungua lakini hakufika hospitalini na mwanawe. Solio hospitali ilipewa shilingi milioni tano lakini tunadanganywa kuwa itajengwa na Yule Afisa. Hatumwombi mtu bali ni haki yetu fedha zimeingia kwenye bajeti.

Mheshimiwa Spika, ukiangalia hizi sheria kama wao hao ndio watakaoteuliwa kusimamia hizi fedha, kweli kutakuwa na haki? Hakuna haki kwa sababu hizi fedha zitapelekwa kwenye hiyo idara ya Afya ambayo inachukua asilimia kubwa sana na inafaa iangaliwe sana. Tunapopiga kelele tunaenda kusemwa, nimepata wasiwasi kutokana na hii sheria iliyoletwa lakini wasiwasi wangu sipingi. Ukienda katika *General Provisions* inasema;

1. *The Governor may dissolve the fund once the president has declared the Covid-19 pandemic as no longer a threat to the socio-economic and political stability of the country.*
2. *Upon such declaration as provided for under paragraph 1 the fund shall lapse (winding up of the fund), upon lapsing of the fund in the manner provided for and as regulation 16, the fund will be wound up in accordance with the provision of the act and the regulation made thereunder.*

Mamlaka yote katika hii sheria iko mikononi mwa Gavana na nashukuru sana kwa sababu ukiangalia sheria, Gavana ndiye atakayevunja kamati. Tunaambiwa na shirika kuu la afya duniani kwamba huu ugonjwa hauishi na ni ukweli kwa kuwa mimi pia sioni dalili zozote za huu ugonjwa kuisha mapema. Nataka kushauri tupitishe hizi sheria kama tulivyopitisha fedha kwenye hili Bunge. Kwa mfano; tuko na chekechea na hatujui mpango gani umewekwa na juzi niliuliza. Watoto wa chekechea katika Kaunti hii ni 23,000 na ukijumlisha wanaotoka sekta za kibinafsi wanakuwa zaidi ya 30,000.

Hadi wa leo tunaambiwa vitanda vinanunuliwa lakini jukumu letu kama Kaunti hatujui watoto wa chekechea wako wapi, shule za anuwai ni afadhali. Nataka kushauri ikiwezekana sheria ifuatiliwe ili tujue, na kwa sababu wanafunzi watarudi shule siku moja je hizo shule zitapata vitenda kazi? Fedha tunazopitisha, je imewekwa kwenye mpango kujua kwamba tutanunulia shule zote za chekechea vitenda kazi. Isiwe hapa kuwa fedha zote tunazopitisha zitapingwa.

Mheshimiwa Spika, naiunga sheria mkono ili nisiwe kikwazo. Hizo fedha tusipoziangalia kwa umakinifu hii ndiyo itakayokuwa kashfa mbaya zaidi kwani kunao wanaoficha maovu kwa kusingizia huu ugonjwa. Na wajue laana wataipata, napatwa na machungu nikiangalia ati tunapambana na Korona ilhali kwa miaka mitatu vituo vya afya havijajengwa. Hatutapigia yeyote magoti na nitapeana ujumbe Gavana afikishiwe kwani huwa tunasema muda unaenda na siyo muda uendao ni sisi tunaenda na muda tutauwacha hapa.

Gavana awe makini kwani hao maafisa anaofanya kazi na wao sanasana maafisa watendaji wasije wakamwingiza maovuni. Maafisa wengi wanaosimamia fedha kwenye hii Kaunti ya Laikipia asilimia kubwa wanakaimu kinyume na sheria, na siyo bure atanunua hadi haki zetu. Atanyima watu wa Laikipia haki anunue kura ili apitishe anayokusudia. Gavana aangalie

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alikotokea, aliko na anakoelekea. Tusipofanya hivyo tutakuwa kwenye vyombo vya habari tukisema tunapigana na Korona lakini fedha huenda zikatumika visivyo.

Mheshimiwa Spika, inaniuma sana na nitafuatilia mpaka kupitia ofisi yako ikibidi, miaka miwili hata miaka mitatu. Vituo viwili; kile cha Malle na *'Solio Health centre'* havijajengwa na fedha zimetengwa. Fedha zilitengwa shilingi milioni tano, na kile cha Malle walitenga shilingi milioni tatu na hakijajengwa lakini pesa ziko kwenye mifuko ya watu. Unasema utaweza kujengea watu wakati kuna ugonjwa na unasema kuwa wewe ndiye mtendaji zaidi kwenye Kaunti hii? Hiyo ni ovyo na kama ni mwizi tutamwita mwizi.

Nitawahakikishia hapa kwenye hili Bunge tukufu, kama hicho kituo hakitajengwa hakuna mkutano wote utakaofanyika kule Solio. Nitawashauri wananchi waje wadai haki yao, watu wa Malle hospitali zao hazijajengwa. Kukitokea mkurupuko, wataenda wapi? Mheshimiwa Spika, nashukuru.

Speaker: Mheshimiwa, kidogo tu. Ni vyema kutumia ile lugha ya *atatuambia* ili isionekane kama unamwelekezea Spika wa Bunge. Naelewa unawaelekezea wanaohusika lakini tuzoee kutumia nafsi ya tatu.

Hon. Mutahi Muritu: Nimeshukuru sana kwa kunikosoa Mheshimiwa Spika. Kwa sababu nimetumwa hapa nikiwa Mwakilishi wa wananchi wa Tigithi, naweka wazi kwenye kumbukumbu ya Bunge kuwa, kama kituo hakitajengwa watatuambia haki yetu iko wapi. Hata kama itabidi mgomo ama kuenda mahakamani ni sawa, hiyo haitapotea tukiwa hai.

Speaker: If there are no more contributions, then I will call upon the mover to give a reply.

Hon. Chris Mark: Thank you Mr Speaker and I also commend my colleagues for being vigilant and also giving their input. I would like to say that these regulations we are passing is not establishing the fund. Honourable colleagues you already gave the money, this regulation will make sure the fund which you passed in the Emergency Fund which is in a basket, that the share for COVID-19 is drawn from there in a prudent and appropriate manner. We are just passing regulations to ensure the money is used prudently.

It is true the WHO has said that we might have to adjust our lifestyle to the pandemic but until the President of the Republic of Kenya says it is no longer an emergency only then the focus will stop going to the COVID. He has said there is Cancer, HIV and other diseases, but the government has not declared them an emergency only Corona has been declared an emergency. That is why all the 47 governments and the national government included are inclined to make such steps to set up funds and affirmative actions to sort out issues of the COVID-19.

I thank my colleagues and even re-affirm to you that the Committee has noted all the concerns. It is our mandate and the Committee on Delegated is a serious and militant committee which holds the executive to task day to day to make sure regulations are passed so that we can leave here sure that Members sleep comfortably knowing money is used prudently. It shall be re-gazetted immediately after we adopt this report. We will write a binding letter so that it is not ignored, so whatever we write will be recommended, re-gazetted and these amendments shall be considered. I urge my colleagues to adopt this report so that we can have the establishment of the COVID-19 fund, thank you Mr. Speaker.

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Speaker: Hon. Chris Mark has just said that they have a military kind of Committee and I know of a Member in that Committee who has trained on Karate. I don't know whether it is her story that makes it a military kind of Committee.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

NORMAL ASSEMBLY CALENDAR AND RECESS

Speaker: Honourable Members, as I had said you need to do the consultation on the calendar of the Assembly which gets us back to recess after tomorrow's sitting. It is upon you to do consultation so that if we are not going for recess we advise the Leader of majority party accordingly for a procedural motion to be done in this House, I think it is important to do that.

ADJOURNMENT

Speaker: This House now stands adjourned until later today, Wednesday, 20th May, 2020 at 2.30 p.m.

The House rose at 9.44 a.m.

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