

KERICHO COUNTY ASSEMBLY

THE HANSARD

Second Assembly

Sixth Session

Tuesday 22nd March 2022

(The House met at 2.30 p.m.)

[Deputy Speaker (Hon. Josphat Ruto) in the Chair]

PRAYERS

The Deputy Speaker (Hon. Josphat Ruto, Member for Soin Ward): Welcome honorable members to this afternoon session, order number one!

NOTICES OF MOTION

The Deputy Speaker (Hon. Josphat Ruto, Member for Soin Ward): Honorable Cheruiyot Bett!

Hon. Cheruiyot Bett (Member for Ainamoi Ward): Thank you Mr. Speaker Sir, allow me to give a notice of motion; That this House approves the Report on the Proposed Amendments to the Kericho County Bursaries (Amendment No. 2) Act, 2016.

The Deputy Speaker (Hon. Josphat Ruto, Member for Soin Ward): Next order!

STATEMENTS

The Deputy Speaker (Hon. Josphat Ruto, Member for Soin Ward): Honorable Chairman Agriculture, Livestock and Fisheries!

Hon. David Rono (Member for Kunyak Ward): Thank you Mr. Speaker for giving me this chance so that I can table this report on the statement raised by honorable William Soi.

On 9th November 2021, Hon. William Soi raised a statement on the floor of the house regarding the status of Ngormuswet Tea Buying Center and a pit latrine constructed at the said tea buying center.

The Committee was required to respond to the following;

- a) The status of Ngormuswet tea buying center and a pit latrine constructed at the said tea buying center.
- b) The contractor assigned to do the renovation works and the construction of the pit latrine.
- c) The name of the contractor who won the tender for renovation and the value of the contract and.
- d) Committee members at the tea buying center.

3.0 Response to the statement

The Clerk to the County Assembly sent a letter to the County Executive Committee Member in charge of Agriculture, Livestock and Fisheries to respond on the issues raised in the statement.

On 30th November, 2021, the County Executive Committee Member in charge of Agriculture, Livestock and Fisheries responded to the letter.

4.0 Response from the County Executive Committee Member in charge of Agriculture, Livestock and Fisheries;

The Committee held a meeting on the 4th January 2021 and analyzed the response from the County Executive Committee member. In his response to the statement, the County Executive Committee member highlighted the following;

- i. Ngormuswet Tea Buying Centre is operational and the toilet which was constructed has a crack which has developed on its floor along the doors and;

- ii. Bendeners Contractors won the tender for renovation works and the contract sum was Kshs.693,227.60 during the financial year 2017/2018

5.0 Committee Observation;

Further to scrutinizing the response, the Committee visited the tea buying center on 7th March, 2022 for fact finding and observed that;

- i. The buying center is operational and in good hygienic state;
- ii. Two door toilet was constructed but not in use because it has a cracked floor;
- iii. 1 No. 3,000 liter water tank is in the center for use by farmers;
- iv. The center has facial boards and gutters fixed and;
- v. The center is fenced with chain link.

6.0 Committee Recommendations

The Committee recommends that;

- The toilet be demolished and be reconstructed so as to avoid risks to the users.

7.0 Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Assembly for the necessary support extended to it in the execution of its mandate.

It is my pleasant duty, pursuant to Standing Order 205 to present the Report on the Statement raised by Hon. William Soi in regard to status of Ngormuswet Tea Buying Centre for consideration by this House.

The Deputy Speaker (Hon. Josphat Ruto, Member for Soin Ward): Next order!

MOTION BY THE CHAIRMAN EDUCATION AND CHILD WELFARE COMMITTEE

Hon. Cheruiyot Bett (Member for Ainamoi Ward): Thank you Mr. Speaker for giving me this opportunity to move the following motion that this House approves the report on the proposed

Page 3

Disclaimer: *The electronic version of the Kericho County Assembly Hansard Report is for information purposes only. A certified version of this report can be obtained from the Hansard Editor County Assembly of Kericho.*

amendments to the Kericho County Bursaries (Amendment No. 2) Act, 2016. Allow me to begin from no. 2.0 Report on the Proposed Amendments to The Kericho County Bursaries (Amendment No.2) Act, 2016

The proposed amendments followed an advisory from the Office of the Controller of Budget on The Kericho County Bursaries Act, 2014 and The Kericho County Bursaries (Amendment No.2) Act, 2016 with the following observations;

1. The Kericho County Bursaries Act,2014 and the Kericho County Bursaries (Amendment No.2) Act,2016 needed to be printed as a Kenya Gazette Supplement and not just as a County Gazette Supplement as it was. In Nairobi Petition No.52 of 2016 **James Gacheru Kariuki & Others – vs. – the Attorney General &Anor**, the court made a declaration that county legislation does not take effect unless it is published in the Kenya Gazette in line with Article 199 of the Constitution. It was held that for legislation to be deemed to have been published in the Kenya Gazette, the word “Kenya Gazette” must appear in the heading of the Kenya Gazette or the Supplement.
2. Section 3 provides that the Bursary Fund shall be managed and administered by the Board. This contradicts Section 116(2) of the Public Finance Management Act, 2012 (PFMA) which provides that the County Executive Committee Member for Finance shall designate a person responsible for administering the fund. Further, the Act does not provide for the legislative authority to establish the fund. Remember in our Act, it is the board that administers the fund but by the Public Finance Management Act, 2012 requires that the CEC in charge of Finance and Economic Planning to designate someone responsible for administering the fund.
3. Section 4(2) on payment in respect of any expenses incurred in pursuance of the purpose for which the fund is established should be aligned with Regulation 197(10(d) of the Public Finance Management (County Government) Regulations, 2015 which caps the administrative costs of any Fund at 3% of the approved

budgets of the fund and not on the total fund. On that section, if you look at that County Bursaries Act, it is not clear, there was a grey area and therefore the controller of budget saw it fit for the administrative fee to be set at 3% of the total approved and not the total money that was supposedly be set aside for the bursary.

4. Section 5(d) provides for borrowing and lending of money by the Board. This contradicts the provisions of the Public Finance Management on lending, borrowing, and on the roles of the accounting officers in the management of public finances. When you look at the Public Finance Management Act section 40(1), it should be the CEC in charge of Finance and Economic Planning who may at one point demand or write a letter for the county government to either borrow money. It should not be the function of the board but for the CEC in charge of Finance and Economic Planning. But in our Act it is role of the board which contradicts that section.
5. The provisions of sections 12,13 and 15 of the Act contravenes the provisions of Section 9(2) of the County Governments Act by allowing the elected Members of the County Assembly and their representatives to take part in the administration of the fund. You remember the reason why we did amend the part in 2016 was to remove the members of the county assemblies from being patron of those funds. But in their places we did proposes that there should a ward office coordinators who will sit in the ward bursaries committee. These ward office coordinators happen to be the members of the county assembly personal assistance. That is where the COB had issues with `this bursaries Act and when you look at the roles of the county assembly members is that the MCAs should not execute the functions of the county government directly or indirectly. So we therefore need to delete a section there.
6. The Act has also not provided for the roles of the administrative officer of the fund

In light of the inconsistencies and the concerns raised, the Office of the Controller of Budget urges that the necessary amendments be effected to ensure compliance with the law.

Consequently, the County Executive Committee Member in charge of Education and Child Welfare, through letter Ref: KEC/EDU/22/4/VOL.III (22) dated 14th March,2022 forwarded the proposed amendments to the office of the Controller of Budget which urges the Kericho County Assembly to amend the Kericho County Bursaries Act,2014 and the Kericho County Bursaries (Amendment) Act,2016 so as to conform to the provisions of the Public Finance Management Act, 2012 and Regulation 197(1) (d) of the Public Finance Management (County Government) Regulations ,2015.

(The Deputy Speaker (Hon. Josphat Ruto) leaves the chair)

(The Temporary Deputy Speaker (Hon. Anne Cherono) takes the chair)

3.0 Committee observation;

The Committee observed that;

- i. The County Executive Committee Member in charge of Finance and Economic Planning had sought an advisory from the Office of Controller of Budget via letter Ref: KCO/FIN/REC/VOL 8 (30) dated 5th February,2022 to review the Kericho County Bursary Act,2014 and the Kericho County Bursary(Amendment No.2) Act,2016.The Office of the Controller via letter Ref. COB/KCO/004/1(28) dated 10th March,2022 forwarded an advisory containing the proposed amendments which needed to be effected to ensure the Kericho County Bursary Act,2014 and the Kericho County Bursary(Amendment No.2) Act,2016 comply with the provisions of Public Finance Management Act.

- ii. The proposed amendments were in line with the Public Finance Management Act (County Government), 2015;
- iii. There was need to amend Sections 2 and 12(3) (a) of the Act.

4.0 Committee Recommendations;

The Committee on Education and Child Welfare recommends that;

- i. The Kericho County Bursaries Act be amended to capture the advice from the Controller of Budget and to ensure compliance with the Public Finance Management Act (County Government);
- ii. Section 2 of the Act be amended by adding the words **“driving schools”** immediately before the word **“tertiary”**; you know that we have been facing a lot of backlash that this bursary is not supposed to be given to driving schools so we saw it fit that we can use the opportunity to amend the law so that we can also sponsor these young *boda boda* riders.
- iii. Section 12 (3) (a) of the Kericho County Bursaries Act be amended by deleting the words **“nominated by the elected Ward representative and forward the names”** and be replaced by the words **“elected by the members of the public and their names forwarded”** and;
- iv. The Kericho County Bursaries (Amendment) Act is published in order to allow for the proposed amendments to be effected. These are the amendments that we sat down as a committee and we agreed on.

5.0 Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Assembly for the necessary support extended to it in the execution of its mandate.

Madam Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 205, to present the Report of the Education and Child Welfare Committee on the proposed amendments to the Kericho County Bursaries Act for consideration by this House.

Further, I want to inform the honorable house that these are the amendments that will Fast Track the monies that the committee had allocated to the needy students. I want to urge the honorable members that we speed up approving the amendments of these bursary act and the money will hit the schools accounts before the schools reopen next month. Allow me to call upon the honorable member representing the people of Kipchimchim to second this very important report, thank you.

Temporary Deputy Speaker (Hon. Ann Cherono, Nominated Member representing Women): The honorable member from Kipchimchim ward.

Honorable Bernard Mutai (Member for Kipchimchim Ward) bows in secondment

Temporary Deputy Speaker (Hon. Ann Cherono Nominated Member representing Women): Thank you.

Question proposed

Temporary Deputy Speaker (Hon. Ann Cherono Nominated Member representing Women): Honorable Alex Bett!

Hon. Alex Bett (Member for Litein Ward): Thank you Madam Speaker for giving me this opportunity to contribute to the motion before this House. First and foremost I wish to congratulate the committee on Education and Child Welfare led by the Member representing the great people of Ainamoi, Honorable Cheruiyot Bett for the work that they have done to make sure that this amendment is done. We have really waited for this bursary for a long time. This has come at the right time when we are also going back to our electorates to give a report on our performance. Unfortunately this has been a thorn in the flesh because every time we stand to give some of the performance that have given to our people, one thing that has come out is the bursary. Unfortunately I must lay blame squarely on the executive for delaying this amendment.

For a long time almost a year now we have been waiting for this bursary and the only thing that had delayed this bursary was this amendment. But thank God this thing has come today. I can see from the letter that came from the department of education, it is dated 14th of March and today is 22nd March so within that short period, less than one week the committee has worked tirelessly to make sure that this amendment was done. I wish to really stand and support this amendment because one of the things that I can see it has been amended is insertion of the word driving school. I am one of the people who has suffered because I had trained some of the people in my ward, but unfortunately because of this amendment that was not in the Act, they have never been given driving licenses but thank God today after the passage of this motion I am sure that now the driving schools which trained some of this young people in my ward will be paid. I want to mention this amendment that bans us from being part of the ward bursary committees. We would want to be part of this team but you see the role where we have to play oversight will have been lost. So I think this amendment also will help us to do more oversight on bursary. Otherwise Madam Speaker I really support this amendment and I wish this motion is passed today and then by this week we will have the bill published. Thank you.

Temporary Deputy Speaker (Hon Ann Cherono Nominated Member representing Women): Thank you Hon. Member from Litein, honorable member from Kisiara!

Hon. Gilbert Ngetich (Member for Kisiara Ward): Thank you Madam Speaker for giving me this opportunity to represent the good people of Kisiara and also to join my colleagues in supporting this motion. Let me take this opportunity to congratulate the committee being led by the able Chair Honorable Cheruiyot Bett for working tirelessly to come up with this amendment motion. It has been long overdue but I am glad that from today we shall receive the bursary and this being an election period we are now somehow safe. I think I squarely blamed the executive side because I think if we were given time we would have salvaged the situation by now, we have all seen that the committee worked on it in a week and we have achieved what was expected. I have seen that there is this amendment on including driving school as beneficiaries, our youths have really suffered but I am glad now they have an opportunity to be trained and

obtain their licenses, and hence we can now be safe in our roads. As we passed this particular motion today I want to ask the Chairman whether it is possible to have bursary disbursed within a very short period of time because we want to pass this motion now for us to salvage the situation. Further I want to ask the Chairman Implementation Committee that you see to it that this motion is passed and implemented so that this money can be disbursed to the schools faster preferably before nominations because by so doing I am sure we will be seen better to be working. This motion will assist our people from now and posterity. Thank you Madam Speaker

Temporary Deputy Speaker (Hon. Anne Cherono, Nominated Member representing Women): Any other member before honorable Cheruiyot comes to respond? Honorable Cheruiyot Bett!

Hon. Cheruiyot Bett (Chairman Education and Child Welfare Committee): Thank you once again Madam Speaker for giving me this opportunity. First I would like to thank the honorable members who have supported this motion and even those ones who never got a chance to speak but I know they are also supporting this motion. Secondly, I want to respond to what the honorable member has inquired, you all should know that the blame lies in the department because the main reason why the money was delayed was because there was a time the governor formed a special audit committee to audit the bursary and some of these recommendations never came from the audit committee, so if the problem was amending this act as indicated by the CEC then I assure you we would have amended this act like yesterday. You have seen that the Chairman for Finance and Economic Planning has alluded that we didn't receive communication that there are some sections of this act that are to be amended before the monies are to be released and we acted immediately we received the letter on the 14th day of this month and by today the 22nd, less than a week we are done with the drafting of the amendment of the Kericho County Bursary Act. I want to assure the members that this was what the controller of budget required before the release of the money. We have talked with the Clerk of the County Assembly and he has assured me that he is going to send this amended version to the government printers for printing tomorrow very early in the morning. In my view I want to assure the members that

the money will hit the school account before nominations are done because they were waiting for these amendments. We will be pushing the department to make sure that they requisition for the money as soon as possible so that by the time schools reopen our children will get their fees. Otherwise I thank the members for supporting this report on the amendment on the Kericho County Bursary Act. I want to assure them that as the committee Chairman I will always push the department to make sure that whatever we discuss here is implemented. Lastly, I wish everyone success as we go to meet our electorate to seek fresh mandate to represent them. Thank you.

Temporary Deputy Speaker (Hon. Anne Cherono, Nominated Member representing Women): Thank you honorable Bett, I also wish you wish you the best.

(Question put and agreed to)

(Adjournment)

Temporary Deputy Speaker (Hon. Anne Cherono Nominated Member representing Women): This house adjourns until Tuesday 29th March 2022. Thank you.

(The house rose at 3:00pm)