

**KERICHO COUNTY ASSEMBLY**

**THE HANSARD**

**Second Assembly**

**Wednesday, 5th December, 2018**

*(The House met at 2.30p.m.)*

*[The Deputy Speaker (Hon.Josphat Rutto) in the Chair]*

**PRAYERS**

**Communication from the chair**

**The Deputy Speaker (Hon.Josphat Rutto):** Honorable Members there is a quarterly report and Financial Statement for 30<sup>th</sup> September 2018 and I commit it to the Committee on Finance.

Next Order!

**The Kericho Health Services Bill 2018, Committee of the Whole House.**

**COMMITTEE OF THE WHOLE HOUSE**

*(The Deputy Speaker leaves the Chair)*

*(The Chairman takes the chair)*

**The Chairman (Hon. Evans Kibet):** Chairman Health Service's committee.

**The Chairman (Hon. Evans Kibet):** Welcome Honorable Members we can proceed.

**Report of the Committee Health Services on the amendments to the Kericho County Health Services Bill, 2018 (Bill no 3/2018).**

*CLAUSE 6*

*Sub clause 1*

THAT **Clause 6** Sub Clause 1 be amended by inserting the words ‘**subject to approval of the county assembly**’ immediately after the word ‘**and**’ and the word ‘**Act**’ appearing the second time respectively.

**The Chairman (Hon. Evans Kibet):** I call upon the Chairman Health Services (Hon. Erick Bii) to come and proceed.

**Hon. Erick Bii (Vice Chairman Health):** Thank you very much Chairman for this opportunity you have given unto me. The initial clause reads that **Clause 6** Sub Clause 1 be amended by inserting the word ‘**Chief officer shall** and the words ‘**subject to approval of the county assembly**’ immediately after the word ‘**and**’ and **the word ‘Act**’ appearing the second time respectively. The reason why we are making this amendment is that, initially the Chief Officer is the one in charge of all the revenue in the department and we would like to make him the overall person in charge of this Fund. So we have to make this amendment that he is the overall person in the department. Thank you.

*(Question on amendment proposed)*

**Hon. Albert Kipkoech:** Are we removing County Public services Board and replacing it with Chief Officer? Because if it is **Clause 6** (1) am only seeing that you have just written that Clause 6 (1) they are amended by inserting the words “**Chief Officer shall**”, and if you can read what is in the Bill it says the “**County Public Services Board shall**”, so are we removing so that we give all mandates to (CO) Chief Officer on issues of staffing. May be to me I want to reject that amendment because County Public Service Board (CPSB) is bestowed with the power of dealing with the staff and we cannot change that, it is a fact and we can give one person a responsibility to deal with staff and so with me Members all the responsibility rest with CPSB unless we want to hear stories like yesterday that there are some people who are employed underground.

**The Chairman (Hon. Evans Kibet):** I call upon the Vice Chairman Health Services to explain the context in detail. Chairman please come and explain to the Members.

**Hon. Erick Bii (Vice Chairman Health Services):** Thank you very much Chairman this is an issue concerning a Bill and it deals with revolving fund in the Department of Health. So I think

there is an issue that we didn't understand. Where Honorable Albert has said relating to Public Service Board, in consultation with the Executive Member. It means chief Officer cannot make decision alone. He has to consult with the Chief Executive Members, so it is not with power to say that you given power to the department of Health and a chief officer, He has consultation whereby the Executive Member is the one who liaise with the Board. So this is the power given to the Chief Officer in consultation with the Executive Member to establish Office of the County Health Facilities. The County Executive Committee member (CEC) has the mandate from the County Assembly to establish such offices. The reason why the Board should be removed was to allow the issues affecting the department in consultation with the CEC and the County Assembly. So we want to give powers to the Chief Officer to establish offices in consultation with the CEC whereby he is in charge. So he has powers to make his own decisions. Thank you.

**The Chairman (Hon. Evans Kibet):** Honorable Members , it is very clear that in **Clause 6 (1)** the County Public Service Board shall in consultation with the County Executive Member , establish offices and appoint such staff under the department , including county health facilities , in accordance with the County Government Act for implementation of this Act'. So if we amend then we are doing an illegality. So let's go back to the original position the way it was.

*(Question without amendment put and agreed to)*

## **NEW SUB CLAUSE**

### **CLAUSE 7**

THAT, **Clause 7** be amended by inserting a new sub clause immediately after sub clause 2 which shall read as follows;

**(3) 'The Executive Member may assign a health unit through a gazette notice in the Kenya Gazette'**

**The Chairman (Hon. Evans Kibet):** I call upon the Vice Chairman to proceed.

**Hon. Erick Bii (Vice Chairman Health):** Thank you Chairman. The Committee considered that the County Health Services Bill, 2018 with or without amendment. Thank you Chairman, *the*

***Executive Member may assign a health unit through a gazette notice in the Kenya Gazette'***

this is where the CEC will have to assign a health unit through a Kenya Gazette. I think this is to ensure that there is sensitization of everyone included before setting up of this health unit. If there is any amendment to be made everyone should be aware that we are setting up a health unit either in any Ward. So this is an issue of sensitization to make people aware. The Executive will ensure that before setting up a unit or a facility in a ward or in anywhere in the County, there should be a gazette notice so that people will be aware and it is not general sensitization, so I request these Honorable Members we make this amendment. It is a prudent enough for us to be aware of any health unit being set up in our county. Thank you.

*(Question on amendment proposed)*

**Hon. Benard Mutai:** Thank you very much Chair. First of all chair allow me ask the chair Health Committee Services, What a Health unit is? Can he explain to us what that means so that we move forward.

**The Chairman (Hon. Evans Kibet):** Hon. Erick Bii, please respond.

**Hon. Erick Bii (Vice Chairman Health):** Thank you very much Chair, I want to make a definition of what a health unit is. Health unit is a facility either dispensary, health center or a sub county hospital. The definition is very clear, it is a health unit. It is prudent for the County Executive Member to put a gazette notice before establishing one of these health units. That means any dispensary being proposed to be build should appear in the Kenya gazette.

**The Chairman (Hon. Evans Kibet):** Thank you, Hon. Benard Mutai?

**Hon. Benard Mutai:** Thank you very much Chair. This is a very emotive Bill and whatever these people are inserting to this Bill or the amendment they are making. I don't see if we really understanding. I do beg this House that this Bill is moved to another day so that Honorable members can go through the Bill, analyze and try to understand better than they way they are discussing now. Otherwise I disagree with the amendments made to the Bill.

**The Chairman (Hon. Evans Kibet):** Let's have Hon. Alex Bett, then Hon. Albert

**Hon. Alex Bett:** Thank you Chair. I also want to go as per the suggestion of Hon. Benard Mutai that actually we defer this Bill so that we understand more. The way the Chair of Health Committee Services is trying to explain in **Clause 7** is talking about County Health Facilities but when we again introduce a sub clause after **Clause 2**, I think the whole thing is trying to bring a different definition and if the word **Health unit** is to be introduced, I think even from the beginning there should have been an interpretation for somebody to understand what a health unit is. Mr. Chairman I want to understand that this Bill that we are trying to pass should not be subject that is ambiguous, it has to be understood clearly by everybody even they laymen outside there. Because here in **Clause 7** we are talking about County health facilities and again we are introducing something new called health unit, I think we are getting confused. So let's defer it so that we seek further clarification. Thank you.

**The Chairman (Hon. Evans Kibet):** Hon. Anthony Rutto?

**Hon. Anthony Rutto:** We have not understood what this particular document is about. So I want to team up with the Hon. Members from Kipchimchim and Litein that please let us defer this report so that we can have humble time to go through this report so that when that time comes for the adoption of this particular report we shall be able to adopt a report that we have understood as a house. Than using this particular house as a rubber stamp on something we haven't understood. So I want to suggest something that we defer this report till another time. Thank you.

**The Chairman (Hon. Evance Kibet):** Hon. Albert Kipkoech?

**Hon. Albert Kipkoech:** Thank you chairman I want to echo sentiments of Honorable members that this department is a very crucial department and we cannot do things casually. For example the first clause that was being amended, **Clause 6**. There is no true picture on what is happening. We are only told that **Clause 6 sub-clause 1** be amended by inserting the word "**Chief Officer**" and we were not told that we are removing County Public Service Board. That is being very casual. At the same time Chairman to support the Honorable Members to defer this thing is that lets say for example am not in good terms with the CEC and is allowed to gazette the entity. What if he says because am not in good terms with you, am not going to gazette any entity in

your Ward. So we need to be cautious about this. Thank you so much. Chairman and Members. Let us defer this thing until another day.

*(Question on deferment put)*

*(The Chairman leaves the Chair)*

*(The House Resumes)*

*(The speaker takes the Chair)*

**The Deputy Speaker (Hon. Josphat Rutto):** The Chairman?

**The Chairman (Hon. Evance Kibet):** Thank you Mr. Speaker Sir for giving me this chance. I would like to report that the Health Bill has been deferred indefinitely. Thank you.

**The Deputy Speaker (Hon. Josphat Rutto):** Thank you. Chairman Health?

**Hon. Erick Bii (Vice Chairman Health):** Thank you very much Mr. Speaker for this opportunity. I would like to comment that the amendment approved by the members that in due time you will understand. I know in the Health Department, there are terminologies that are conversant with the Members and I think that they are actually unaware. So I think the deferment is ripe. You need to be given time so that members can understand given the [priority that we are going to discuss with Members so that they understand what the Health Bill entails. Otherwise thank you.

**The Deputy Speaker (Hon. Josphat Rutto):** Thank you Chair Health.

*(Question on deferment proposed)*

*(Question on deferment put and agreed to)*

**The Kericho County Flag, Emblems and Names Protection Bill 2018 Committee of the Whole House.**

*(The Speaker leaves the Chair)*

**COMMITTEE OF THE WHOLE HOUSE**

*(The Chairman takes the Chair)*

**The Chairman (Hon. Evance Kibet):** I can see we don't have the Chair ICT let me call upon the Vice Chair ICT.

**2.1 Proposed amendments to Kericho County Flag, Emblem and Names Protection Bill, 2018**

That **Clause 2** on the first definition of be amended by deleting the word “**emblem**” and Substituting with the word “**Emblem**” and wherever it appears

That **Clause 2** on the definition of Member of County Executive Committee be further amended by inserting the word “**Technology**” immediately after the word “**Communication**”

That **Clause 2** on the definition of specified likeness be amended by deleting the word “**dignities**” and substituting it with the word “**dignitaries**”

**The Chairman (Hon. Evance Kibet):** I now call the Vice Chairperson Honorable Ann Tumm to proceed.

**Hon. Ann Tumm (Vice Chairperson ICT):** Thank you Chair for giving me this opportunity so that I can support the amendments on the Bill. The first amendment was “**emblem**” to substitute with the word “**Emblem**” that Emblem is a proper noun and it should start with a capital letter.

Second is inserting the word “**technology**” immediately after the word “**communication**”. That was an omission error. The other amendment is “**dignities**”. It is being substituted by the word “**dignitaries**” that was a spelling error and it was going to change the meaning of the word. So we are deleting the word “**dignities**” and substitute with the word “**dignitaries**”.

The other amendment is the “**county Flag**” and “**county Emblem**”, County being a proper noun and flag should start with a capital letter same case with “**county Emblem**” that is why it should start with a capital letter. Thank you.

**The Chairman (Hon. Evance Kibet):** There is another amendment at the back. Page five.

**Hon. Ann Tumm (Vice Chairperson ICT):** Thank you Chair. **Clause 3(b)** the changes **national flag** to **National Flag** still it is a proper noun and it should start with a capital letter N for national and capital F for Flag. Thank you

*(Question on amendment Proposed)*

*(Question Put and agreed to)*

## **Part II County Flag and other symbols.**

That **Clause 6** sub clause 3 be amended by deleting the word “**as the county secretary may deem fit**” and Substituting with the with words “**as may prescribed be prescribed by the regulations under this Act**”

That **Clause 8** sub clause 1 be further amended by keeping the words “**County Secretary**”, “**Members of County Executive Committee**” and “**Deputy Speaker**”

That **Clause 8** sub clause 1 be further amended by keeping the following order;

- a) **Governor;**
- b) **Deputy Governor;**
- c) **Speaker of the County Assembly;**

That **Clause 9** sub clause 1 (a) be amended by deleting the word “**is**” and substituting with the word are “**are**” and by further deleting the words “**County Secretary**” appearing in the last sentence.



That a new sub clause (f) be added immediately after (e) to read as follows” **County institutions such as County Polytechnic, Hospitals and any other County entity”.**

**The Chairman (Hon. Evance Kibet):** I call upon the Chair to proceed.

**Hon. Ann Tumm (Vice Chairperson ICT):** Thank you chair

**Part b** County Flag and other symbols amendments on that part, that is **Clause 6** as the “**county secretary may deem fit**”. We are deleting that because of there should be regulations guiding not the County Secretary to decide but there should be regulations under the Act which should be guiding. The other Clause is deleting the word is deleting the word “**County Secretary**” and “**Members of County Executive Committee**” those are not public servants and should be deleted and “**Deputy Speaker**” will be replaced by the “**Speaker**” that is why there is deletion.

Further is the order after deleting “**Deputy Speaker**” the order will remain “**Deputy Governor**”, “**Governor**” and “**Speaker of the County Assembly**”.

Another one is **Clause 9**, deleting the word “**is**” and substituting with the word “**are**”. “**Is**” is a Singular and it should be in Plural and that is why there is a deletion and substitution.

Further is deleting the word “**County Secretary**” appearing in the last sentence, “**County Secretary**” is not a state officer. Insertion of a new clause f so that it reads: **County institutions such as County Polytechnic, Hospitals and any other County entity**”. This is added so that all County entities are included in the Bill. Thank you.

*(Question on amendment Proposed)*

**The Chairman (Hon. Evance Kibet):** The floor is open for the Members. Hon. Albert?

**Hon. Albert Kipkoech:** Thank you chairman with me I support this one, if you can read the bill what it says, notwithstanding anything which is contained in any law by the time it is being enforced, a person shall not except with a written permission by the county secretary. This means Chairman we were given County Secretary all the powers. Let say for example our Speaker gives permission to use emblems and all those things which is required if we are not in good terms with County Secretary then that is the time we will get problems. So it’s about time

we use regulations because we shall be part and parcel of making that regulations, I support this thank you very much Chairman.

*(Question on amendment put and agreed to)*

#### FIRST SCHEDULE

That part III of the first schedule be amended by deleting the word **‘dignities’** and substituting it with the word **‘Dignitaries’**

#### SECOND SCHEDULE

That part I of the second schedule be amended by adding number ‘7’ with the wordings

**‘Sinendet- a traditional crowning the shield representing the culture of the people of Kericho’**

That part II of the second schedule be amended by distributing evenly around the public seal of the County Government of Kericho the words, **‘County Government of Kericho’**.

That part III of the second schedule be amended by deleting the **whole coat of the County Government of Kericho and substituting it with the Coat of the defunct County Council of Kipsigis** as it contains salient features desirable to the County.

That part III (2) (b) be amended by deleting the whole sentence and substituting it with the following words. **‘The middle field with a black background signifies the colour of the people of Kericho County, a cog wheel with six levers representing the six sub counties in the county, the diversity of processing industries and technology’**.

That part III (5) of the schedule be amended by deleting the words ‘a rampant Sheep’ and ‘a ram’ and substituting it with the words **‘a lion’** and **‘a bull’**

**That the Coat of arms of County Government of Kericho be deleted in part II of the second schedule and substituted by a new coat of arms as amended in part III of the second schedule.**

**The Chairman (Hon. Evance Kibet):** Chairman?

**Hon. Ann Tumm (Vice Chair ICT):** Thank you Chair the First Schedule that is dignities being substituted by dignitaries was a spelling error and it changed the meaning.

Second schedule, there is an additional element to the six that is number 7 that is **‘Sinendet- a traditional crowning the shield representing the culture of the people of Kericho’**.

The other one is evenly distributing the word.

On part three of the second schedule the amendment is deleting the **“whole coat of the County Government of Kericho”** and substituting it with **“the Coat of the defunct County Council of Kipsigis”** as it contains salient features desirable to the County.

That part III (2) (b) be amended by deleting the whole sentence and substituting it with the following words. **‘The middle field with a black background signifies the colour of the people of Kericho County, a cog wheel with six levers representing the six sub counties in the county, the diversity of processing industries and technology’**.

That part III (5) of the schedule be amended by deleting the words ‘a rampant Sheep’ and ‘a ram’ and substituting it with the words **‘a lion’** and **‘a bull’**

**That the Coat of arms of County Government of Kericho be deleted in part II of the second schedule and substituted by a new coat of arms as amended in part III of the second schedule.**

*(Question on amendment Proposed)*

**The Chairman (Hon. Evance Kibet):** The floor is open for debate. Hon. Albert?

**Hon. Albert:** Thank you Chairman. I support everything. I wanted to say that if you can see part three whereby there is a substitution of a lion and a bull. We know that what they had put officially was funny and Chairman if you allow me to say that the supporters of the shield are a rampant sheep. So I am surprised if the people of Kericho are supporters of a rampant sheep. Finding sheep 8in Kericho is a process unless in the hilly places. They were also saying that it

represents good leadership. I am surprised because Kipsigis men are not humble as sheep are. Sometimes they are also primitive. I am sorry to use that term. We cannot be sheep so we better use the lion and a bull because we are that. Thank you.

*(Question on amendment put and agreed to)*

**Hon. Benard Mutai:** Thank you very much for giving me this chance to make an amendment that is part 3(6) that the word ‘*Mogornotet ko Biik*’ which is a Kipsigis phrase that means human is the greatest resource be replaced with ‘*Kibagenge ko kimnot*’ which means unity is power. So we delete human is the greatest resource and replace with unity is power. Thank you.

*(Question on amendment Proposed)*

**Hon. Albert:** Chairman I want to support that because unity is power and we have been united since. So I want to support that and it will help all of us to remain united all the time. Thank you.

*(Question on amendment put and agreed to)*

**Hon. Ann Tumm (Vice Chair ICT):** Thank you Hon. Chair, I beg to move that the Committee reports to the Assembly its consideration to the Kericho County Flag, Emblems and Names Protection Bill 2018 and its approval thereof with amendments. Thank you.

*(The Chairman leaves the Chair)*

*(The House resumes)*

*(The Speaker takes the Chair)*

**The Chairman (Hon. Evance Kibet):** I want to report that the Committee of the Whole House has considered The Kericho County Flag, Emblems and Names Protection Bill 2018 and its approval thereof with amendments. Thank you.

**The Deputy Speaker (Hon. Josphat Rutto):** Chair ICT?

**Hon. Ann Tumm (Vice Chair ICT):** Thank you Mr. Speaker. I beg that the house do agree with the committee on the said report. I urge Hon. Albert to second.

**Hon. Albert:** Thank you Chair, I want to second what has been said by the Chair and also propose that the House do agree with the report. Thank you.

**The Deputy Speaker (Hon.Josphat Rutto):** Thank you Members. May be I can give to few members to comment. It seems there is none. Thank you.

*(Question Proposed)*

*(Question Put)*

Next Order!

**The Kericho County Flag, Emblems and Names Protection Bill 2018, Third Reading**

**The Deputy Speaker (Hon.Josphat Rutto):** Chair?

**Hon. Ann Tumm (Vice Chair ICT):** Thank you Chair, I beg to move that The Kericho County Flag, Emblems and Names Protection Bill 2018, be read now for the third time. Thank you. I urge Hon. Albert still, to second.

**Hon. Albert:** Thank you Mr. Speaker. I second that this Bill be read for the third time. This is because as we speak, the Bill has all the salient features that we require as a County. Initially we had a rampant sheep and that is not our personality. As we speak now we have a bull and that is the one that is salient. Thank you.

*(Question Proposed)*

*(Question Put)*

**The Deputy Speaker (Hon.Josphat Rutto):** The long title?

**THE KERICHO COUNTY FLAG, EMBLEMS AND NAMES PROTECTION BILL 2018,**

**A Bill for**

**AN ACT of the County Assembly of Kericho to provide for the County Flag and other symbols and to prevent the improper use of the County Flag and of certain symbols,**

**names, words and likeness for professional and commercial purposes, and for connected purposes**

*(Adjournment)*

There being no other business this house stands adjourned till tomorrow at 2.30 pm.

*(The House rose at 3.50 pm)*