



(Third Assembly)



(Third Session)

(085)

COUNTY ASSEMBLY OF KERICHO

THIRD ASSEMBLY – (THIRD SESSION)

ORDER PAPER

TUESDAY 12th NOVEMBER 2024 AT 9.30A.M

ORDER OF BUSINESS

PRAYER

1. Administration of Oath
2. Communication from the chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion :-

1. (Hon. Haron Rotich)

WHEREAS:

1. **Article 2** of the Constitution of Kenya, 2010 (hereinafter “*the Constitution*”) restates the supremacy of the Constitution as the supreme law of the Republic and binds all persons and state organs at both levels of Government;
2. **Article 10** of the Constitution, **Sections 3 and 16** of the *Leadership and Integrity Act, 2012*, and **Sections 9, 10 and 12** of the *Public Officer Ethics Act, 2003* establish (among others) the rule of law, democracy, human dignity, courtesy, respect, social justice, inclusiveness, equality, human rights, probity, professionalism, non-discrimination,

protection of the marginalized, good governance, transparency and accountability as part of the **national values and principles of governance**;

3. **Articles 10, 73, 75, and 232** of the Constitution require State Officers, at all times, whether in public or private life, to behave in a manner that, *inter alia*; (i) brings honour to the nation and dignity of the office that a State Officer holds (ii) portrays selfless service based solely on the public interest, demonstrated by honesty in execution of public duties, and declaration of any personal interest that may conflict with public interest; (iii) ensures decisions made by the State Officer are not influenced by nepotism, favouritism and improper motives; demonstrates discipline towards discipline and commitment in service to the people; and (iv) avoids demeaning the office that the State Officer holds;
4. **Article 73(2)(d) (e) and 232 (1)(e) the Constitution** provides for accountability of a state officer to the Public for all decisions made in exercise of the powers of the office they hold, and that accountability is a critical principle of leadership and integrity.
5. **Section 11A of the County Governments Act, 2012, Standing Order No. 13B of Standing Orders of the County Assembly of Kericho** provides for the removal of the Deputy Speaker of the County Assembly on any of the following grounds —
 - (a) gross violation of the Constitution or any other law; (b) incompetence; (c) **gross misconduct**; (d) if convicted of an offence punishable by imprisonment for at least six months; or (e) inability to perform the functions of the office of speaker arising from mental or physical incapacity.
6. **Section 11A of the County Governments Act, 2012 and Standing Order No. 13B of the Kericho County Assembly Standing Orders** further provides for the procedure to be followed in the removal of a deputy speaker of a county assembly from office.
7. The Deputy Speaker has, in a number occasions, directly and indirectly engaged in acts and conduct which, severally and collectively, amount to gross misconduct.
8. By his acts and conduct, the Deputy Speaker has engaged in activities which do not befit the Office of the Deputy Speaker of the County Assembly of Kericho, and the overall membership has lost confidence in the Honourable Deputy Speaker.

9. The Hon. Eric Bett has persistently undermined, demeaned, and committed acts of insubordination against both the County Assembly, and the Speaker of the County Assembly instead of assisting them in the execution of the County Assembly's mandate.
10. Whereas the Deputy Speaker is required to diligently execute the duties and obligations conferred by the County Assembly Standing Orders, the Hon. Eric Bett has openly sabotaged the County Assembly's efforts and discharge of its Constitutional mandate of legislation and oversight.
11. The conduct of the Hon. Eric Bett has been antithetical to the oath he took to protect and preserve the integrity of the Assembly and the high office of the Deputy Speaker, and contrary to the Constitutional values and principles spelt by the Constitution and the law.
12. The conduct of the Deputy Speaker has made it impossible for the County Assembly to function as it ought to, compromised execution of the Assembly's mandate, and jeopardized the discharge of the County Assembly's mandate.
13. The Deputy Speaker's continued stay in office has, and will continue to undermine effective service delivery to the detriment of the people of Kericho County, and the discharge of the County Assembly's mandate.

Further aware that there is evidence of the Deputy Speaker's engagement, connivance, and complicity in the preceding acts of gross misconduct which is to be found in:

- i. The Affidavits of 16 members of the County Assembly sworn on 2nd October, 2024.
- ii. Internal Memo from the Clerk dated 28th February 2023

NOW THIS ASSEMBLY RESOLVES TO REMOVE HON ERIC BETT FROM OFFICE OF THE DEPUTY SPEAKER under SECTION 11A of the County Governments Act, 2012, and Standing Order No. 13B of Kericho County Assembly Standing Orders on the FOLLOWING GROUNDS:

A. GROSS MISCONDUCT

1. On various occasions, the Deputy Speaker has repeatedly engaged in (i) *gross misconduct* by:

- (a) Persistently undermining the leadership of the county assembly and committing acts which collectively amount to insubordination instead of assisting the speaker and the assembly deliver its roles.
- (b) Openly sabotaging the County Assembly's efforts to discharge its roles under **Article 185 of the Constitution of Kenya, and Section 8 of the County Governments Act, 2012.**
- (c) Consistently failing to provide leadership and assist the speaker of the assembly.
- (d) Employing divide and rule tactics to undermine the members of the County Assembly and being a model of disunity.
- (e) Failing to exhibit impartiality in the execution of his duties.
- (f) Consistently using his power and office to implement and further sectarian, parochial and personal interests that profit him at the expense of the trust bestowed in the office he holds.
- (g) On 2nd October 2024 when the County Assembly had important agenda to discuss on the motion for impeachment of the Governor, Hon. Erick Bett held a separate meeting with other members and derailed the members from exercising their voting rights on that particular day and instead lured them to sign an affidavit restraining them from participating in the business of the assembly said business, thus hampering the assembly's effective discharge of its mandate under Article 181 of the Constitution of Kenya.
- (h) As the chairperson of the Liaison committee, he has failed in the coordination of the sectoral and select committees and this has majorly derailed the operations of the Assembly. The Liaison Committee being the one tasked with co-ordinating the

mandate of all the committees of the Assembly should not be chaired by one who creates disharmony amongst the members of the County Assembly. The committee failed to have its meetings in the month of October despite the fact that they were on recess.

- a. The Deputy Speaker is only required to assume the role of the Speaker in instances where the Speaker is incapable of dispensing his duties. On 28th February 2023 without getting formal instructions from the Speaker and or the Clerk of the Assembly communicated to the County Assembly nomination of various persons to various dockets by H.E. the Governor.

The acts of the Deputy Speaker enumerated above have collectively brought dishonour and disrepute into the Office of the Deputy Speaker of the County Assembly of Kericho, and constitute gross misconduct, a ground for removal from office of the Deputy Speaker of the County Assembly, to the extent that:

- i) They are incompatible with the high calling and dignified status of a state officer and a person of the stature of the Deputy Speaker of the County Assembly.
- ii) They undermine from within the effective discharge of the Constitutional mandate of the County Assembly conferred by Article 185 of the Constitution, and Section 8 of the County Governments Act, 2012.
- iii) Potentially, they are likely, giving the prevailing leadership crisis in the county, to significantly diminish public confidence in the County Assembly and its capability to check the excesses of the Executive arm of the County Government.
- iv) They run afoul the oath of office taken by state officers to obey, preserve, protect and uphold the Constitution at all times without fear, favour, ill-will, affection or prejudice.

GIVEN THE GROUNDS outlined in this motion and whose particulars I have enumerated above, I humbly urge this House to uphold this Motion and **RESOLVE** pursuant to the provisions of **Section 11A of the County Governments Act, 2012** and **Standing Order No. 13B of the Kericho County Assembly Standing Orders** to remove from office **Hon. Eric Bett, Deputy Speaker of the County Assembly of Kericho.**

2. Notice of Motion (Hon. Kiprotich Rogony)

THAT AWARE THAT Health Services is a devolved function under Part 2 of the Fourth Schedule of the Constitution of Kenya 2010;

FURTHER AWARE THAT the National Hospital Insurance Fund (NHIF) has transitioned to the Social Health Insurance Fund (SHIF) through an enabling statute of Parliament, the Social Health Insurance Act, No. 16 of 2023 established to give effect to Article 43(1) (a) of the Constitution and among others establish the Social Health Authority;

NOTING THAT the transition from NHIF to SHIF has been fast and procedurally so towards meet the objective of Universal Health Coverage as part of the Plan of the Kenya Kwanza Government under the Bottom Up Economic Transformation Agenda (BETA);

COGNIZANT THAT the County Public Service Board (CPSB) has powers to recruit staff and that such powers can be delegated to the department of Health Services in writing for ease of staffing of the lower level health care facilities in line with the Kericho County Health Services Act and the Social Health Insurance Act, 2023;

CONCERNED THAT as a matter of requirement and procedure towards implementation of SHIF, level 3 & level 4 facilities have been downgraded because of staffing to lower levels, case in point is Roret Hospital, Londiani and Sigowet Sub-County Hospitals. Sigowet and Londiani Sub – County Hospitals were reinstated upon intervention by the department of Health.

CONCERNED THAT maternity services and laboratory services have been affected at level 1 facilities that initially offered those services implying that laboratory technicians and key staff offering maternity services may have their jobs at bay;

FURTHER CONCERNED THAT level 1, 2, 3 & 4 facilities have own Facility Improvement Fund(FIF) allocation that can be utilized to improve service delivery including hiring of health care workers to bridge the personnel requirement gap;

FURTHER CONCERNED THAT the delegated authority of the County Public Service Board Pursuant to Section 86 (1) & (2) of the County Government Act, 2012 can be exercised to support the Healthcare facilities that their staffing level is low to meet the requirements and categorizations by the Social Health Authority (SHA);

NOW THEREFORE I urge this honorable House to resolve in support of the roll out and implementation of the Social Health Insurance Act, 2023 that:-

- (1) the CPSB delegate its authority to the department of health and to independent facilities to recruit staff on contract so as to meet the criteria for SHIF
- (2) a multi-stakeholder County Sub-Committee be established to ensure the smooth transitions from NHIF to SHA in all he Kericho County Health facilities.

7. Statements



Martin Epus Patrick
Clerk to the Assembly