

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT**Thursday, 7th April, 2016

The House met at 2:43p.m.

*(Deputy Speaker (Hon. Mswabah Rashid) in the Chair)***PRAYERS****Deputy Speaker** (Hon. Mswabah Rashid): You may have your seats Hon. Members.**STATEMENT**

Hon. Ibrahim Kondo.

Hon. Ibrahim Kondo: I just got some information, the statement was given out by Hon. Paul Onje but unfortunately we did not receive that communication so please give us time to work on it.**Deputy Speaker** (Hon. Mswabah Rashid): Okay.**STATEMENT**

The mover of the statement I think is me but I will bring this statement next week.

(Laughter)

Yes Hon. Nyamvula.

Hon. (Mrs.) Nyamvula: Thank you Mr. Speaker; I have two statements which I want to ask if I can be given the opportunity to present them.**Deputy Speaker** (Hon. Mswabah Rashid): We have a lot of business to transact today; if it's not a long statement then you can proceed.**Hon. (Mrs.) Nyamvula:** Thank you Mr. Speaker, it's not a log statement. Mr. Speaker on Thursday 30th of July 2015, Order paper 96 of the afternoon sitting I brought a Motion, a statement regarding the status of the 30 per cent procurement rule for women, Persons Living with Disabilities (PWDs) and youths. In that statement I had requested that I be given the status of the 30 per cent as regards to procurement in our County. Mr. Speaker I did get an answer which was not very satisfying, I did receive an answer after some time back, after pushing and trying so many times.Mr. Speaker I have again as a representative and the Chairperson of the Committee on Gender, Sports and Youths had some not really complaints from women both disabled, abled and youths have come to me and said *mama* Hon. Serah the chairperson we still are not being honored, the 30 per cent is not being honored. So my statement today Mr. Speaker is kindly can we revisit this issue of 30 per cent procurement, on issue of 30 per cent procurement on youths, gender and sports and CDWs to see if really our County Assembly and the County as a whole is honoring that rule.**Deputy Speaker** (Hon. Mswabah Rashid): Thank you. Hon. Saad Faraj.**Hon. Faraj:** Thank you Mr. Speaker. I think this is a very crucial item that has been brought by Hon. Serah Nyamvula and we have been conducting several meetings with the national government and our brother here the Chief Whip has been in charge of this process throughout and I want to ascertain this House that I have been one of the Members attending these meetings but my assumption is that this process is becoming like they are actually not really ready in terms of implementing these processes. It is becoming a public relations session; we attend and go and nothing happens Mr. Speaker. I think this is very crucial for the betterment of our youths and improvement of our people living with disabilities and to also be able to deal with the issue of affirmative action.

I therefore, Mr. Speaker call upon this House to take this issue very seriously and we can as well request for a report from the Chief Whip who has been on top of things since this initiative was brought up. Thank you so much.

Deputy Speaker (Hon. Mswabah Rashid): Thank you Hon. Saad I understand this issue was before this Hon. House but again I have to let the Chief Whip Hon. Omar Meti to inform us on the issues of procurement rule for youth, women and people living with disabilities. So Members are not satisfied with what is happening currently, so we need statistics we need to be told when the County government will honor the 30 per cent procurement plan to the said people. So Hon. Meti I think I will give Hon. Meti one week to come back to this House with an answer to how far we have reached to that plan, it is one way of implementing that plan.

Hon. Ahmed Ebrahim Omar: Thank you Mr. Speaker. I think one week will be enough because we as a County and I as its representative have actively been advocating for this issue of 30 per cent procurement rule and I remember we have gone to the various sub counties advocating for this issue and sensitizing the youths on the same, but I think it would be good if we get a report from the procurement department so that we can get to know how many youths, women and people living with disability have come to the County to seek for the 30 per cent procurement tenders and how many of them have been able to access the tenders. So I want to call a meeting of the Committee of gender and sports and with the Director of procurement.

(Interruption)

Deputy Speaker (Hon. Mswabah Rashid): Hon. Saad we are not going to debate this. It is a statement and we are going to send Hon. Meti to come back with a comprehensive answer in one week, please.

Hon. Ahmed Ebrahim Omar: I will call a meeting with the Committee of Youth and Sports together with the Director of Procurement of the Assembly and the executive so that they can give us a report and present to this Hon. House.

Deputy Speaker (Hon. Mswabah Rashid): So next week on Thursday is okay?

Hon. Ahmed Ebrahim Omar: Yes Hon. Speaker.

Deputy Speaker (Hon. Mswabah Rashid): Okay. Yes Hon. Saad.

Hon. Faraj: Mr. Speaker I was on a point of information. The report that we need to have is how the youths, women and people living with disability have accessed not only our programmes here but my suggestion is that we need to look into other parastatals that are under the national government because this is the problem with access to government procurement for the youth and the others for the gender. Mr. Speaker I think it is important that that element of cutting across all government institutions is very important. Thank you.

Deputy Speaker (Hon. Mswabah Rashid): Okay, then I think we have to give another ruling because Hon. Serah Nyamvula you are heading that docket so it is your Committee which should have done such a thing as to go outside Mombasa County, but I think it is your responsibility Hon. Serah Nyamvula within Mombasa, within the Mombasa County Assembly Hon. Meti can be held accountable but outside the Committee is supposed to do that. Thank you. Yes Hon.

Hon. (Mrs.) Nyamvula: Mr. Speaker that is why I actually quoted even the date when that statement came to this House, and if my colleagues can go back, I will give them a copy, I will give them a directive they will see what am actually referring to, am very aware of the matter and am praying on our own procurement processes within the Assembly.

Deputy Speaker (Hon. Mswabah Rashid): Okay but outside the County it is the duty of your Committee.

BILLS**AMENDMENTS OF MOMBASA COUNTY BILLS**

I think Hon. Members when we go to the Committee stage we should take all the Bills together, so order No.9, 10, 11, 12, and 13 are all amendments to these Bills and they all need to go to the Committee of the Whole House. I think we should take all of them at the same time so that we can finish with them once and for all once we go to the Committee stage we do all the Bills together and then we report on the Bills.

Members, this House is dissolved to Committee stage.

COMMITTEE OF THE WHOLE HOUSE

(Sergeant At Arms lowered The Mace)

Deputy Speaker (Hon. Mswabah Rashid) exited the Chair)

ORDER OF THE COMMITTEE IS READ

(Deputy Speaker (Hon. Mswabah Rashid) in the Chair)

Clerk: NOTICE TO AMEND THE MOMBASA COUNTY CHILD CARE BILL 2015
NOTICE is hereby given that the Chairperson of the Committee on Early Childhood Education and Vocational Training, Hon. Stephen Wangudi intends to move the following amendments to the Mombasa County Child Care Bill, 2015 with the Governor's recommendation as follows—

1. **THAT** the year of the Bill be changed from 2015 to 2016 hence the title of the Bill be amended to read 'Mombasa County Child Care Act, 2016.

(Question put and agreed to)

2. **THAT** the words, 'to facilitate the decentralization of related state organs' in the long title be deleted.

(Question put and agreed to)

(Interruption)

Chairperson: Hon. Wangudi.

Hon. Wangudi: I'm suggesting that the Clerk reads three Clauses at a time.

Chairperson: That is the proposal by Hon. Wangudi Members, I have to put a question to this proposal for the House to agree then we go on. Yes Hon. Hon. Saad.

Hon. Faraj: Mr. Speaker if we agree with one and disagree with two what is going to be the position.

Chairperson: Before I put a question you can write your disagreement. Let's read three amendments then put to question because we have a lot of amendments, so as the Clerk reads and you don't agree with the amendments you can stand and raise it.

Hon. Faraj: Mr. Speaker this House is guided by rules and regulations and as far as am concerned the procedure is that we go by each Clause.

(Question proposed)

Chairperson: I have to ask other Members if they agree for reading three amendments at a time.

(Question put and agreed to)

(Members requested for a division)

Okay those who agree to raise their hands.

I can see it has tied.

INTERPRETATION

3. **THAT** the following words in the Interpretation Clause be defined as follows:

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“Abuse” means any form of verbal, psychological, physical, sexual, eMotional abuse, cruelty, torture, inhuman treatment or neglect directed towards a child;

"Child care facility" means any facility that provides all forms of residence, pre-primary education, health, welfare, maintenance protection and recreation for children;

(Question of amendments proposed)

I propose that amendments 3 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 3 be part of the Bill.

(Amendments 3 agreed to)

4. **THAT** the words, ‘appointed by the Executive Committee Member’ under Clause 6(1)(c) be deleted.

THAT a new Clause 6(2) be inserted to read as follows; ‘The Members referred to in section 6(1) (b)(c) and (d) shall be appointed by the Governor in consultation with the Executive Committee Member.’

THAT Clause 6 thereafter be renumbered chronologically.

(Question of amendments proposed)

Chairperson: I propose that amendments 4 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 4 be part of the Bill.

(Amendments 4 agreed to)

5. **THAT** the following words be inserted as a new Clause 7(h) ‘Provide for training and capacity building of child care facility operators and assessors’ and thereafter the Clause be renumbered accordingly

(Question of amendments proposed)

Chairperson: I propose that amendments 5 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 5 be part of the Bill.

(Amendments 5 agreed to)

6. **THAT** the head note in Clause 8 be deleted and replaced with the following words ‘Board arrangements and agreements’

(Question of amendments proposed)

Chairperson: I propose that amendments 6 be part of the Bill.

(Question put and agreed to)

I now put a question that Clause 6 be part of the Bill.

(Amendments 6 agreed to)

7. **THAT** the words ‘or entity’ be inserted immediately after the word ‘person’ in Clause 9.

(Question of amendments proposed)

Chairperson: I propose that amendments 7 be part of the Bill.

(Question put and agreed to)

I now put a question that Clause 7 be part of the Bill.

(Clause 7 agreed to)

8. **THAT the words** ‘or imprisonment to a term not exceeding two years, or to both’ be inserted at the very end of Clause 9(3) so that the offence reads as follows;

‘A person who operates a child care facility which is not registered under this Act commits an offence and is liable on conviction, to a fine not exceeding five hundred thousand Shilling or imprisonment to a term not exceeding two years, or to both.’

(Question of amendments proposed)

Chairperson: I propose that amendments 8 be part of the Bill. I now put a question that Clause 8 be part of the Bill.

(Interruption)

Hon. (Ms.) Auma: Mr. Speaker I have an amendment.

Chairperson: Amendments have to be written and forwarded to the chair before the session, Hon Serah.

Hon. (Mrs.) Nyamvula: Mine is not amendments but I wish my concerns to be recorded in this session because the person who takes care of the child facility has no intention most of the time to protect the child for me and I do realize there are people who do not have good will when they set up child protection services, I do register my concerns on that. When they go to set up they do it in good faith but the other concern is that the registration might take long and it might not be the case for the person who has set up the child facility. My concern is the punishment the person who is protecting the child.

(Question proposed)

Chairperson: Thank you, Members I now put to question that Clause 8 be part of the Bill.

(Clause 8 as amended agreed to)

9. **THAT** Clause 10(6) (b) be deleted and the following words be inserted therefore;
‘Any applicant not satisfied with the decision of the Committee may seek legal redress in a court of law.’

(Question proposed)

Chairperson: I propose that amendments 9 be part of the Bill.

(Question put and agreed)

I now put a question that Clause 9 be part of the Bill.

(Clause 9 as amended agreed to)

Hon. Ibrahim Kondo: Mr. Speaker I have a communication, at around 4:00p.m we will be accompanying the Governor to Changanwe so i request we do three Clauses at a time.

Chairperson: Yes Hon. Wangudi.

Hon. Wangudi: I also agree.

Chairperson: Hon Mary.

Hon. (Ms.) Akinyi: Chairman I wonder why they are reporting what we put to question earlier.

Chairperson: Hon. Kondo.

Hon. Ibrahim Kondo: When there is a need of urgency which has risen from the office of the Governor we don't need to oppose and in front of this House I want to communicate to you that even at around 4:00p.m we were supposed to go and bury the late Mother of Hon. Omar Mwinyi so let's take consideration of that.

Chairperson: Hon. Hatimy.

Hon. Mohamed Hatimy: Chairman I support what Hon. Kondo said, so let's read Clauses and put to question.

(Question proposed)

Chairperson: Okay Members it has been proposed that we go many Clauses at a time but if someone wants to change the rules I will put the question, it's for you to decide, so those who agree that four amendments be read at a time.

(Question put and agreed to)

10. **THAT** the words 'two years' under Clause 13(2) be deleted and the words 'one year' be inserted therefore.
11. **THAT** the word 'instruct' under Clause 20(1) be deleted and the word 'co-opt' be inserted therefore.
12. **THAT** Clause 21 on regulations be deleted. This in turn will affect the numbering hence the Bill be re-numbered accordingly.
13. **THAT** the words 'six months' under Clause 28 on offences be deleted and replaced with the words 'one year.'

(Question of amendments proposed)

I propose that amendments 10, 11, 12, 13 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 10,11,12,13 be part of the Bill.

(Amendments 10, 11, 12, 13, 14 agreed to)

14. **THAT** a new Clause be inserted immediately after offences to read as follows;

'Regulations'

The County Executive Committee Member may make regulations not inconsistent with this Act or the Constitution of Kenya, 2010 respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.'

15. **THAT** another new Clause be inserted immediately after the new section above to read as follows;

'Transition'

Any child care facility permit or license issued at the commencement of this Act, shall be operational for the remaining duration of the permit or license and thereafter any subsequent application shall be in accordance with the provisions of this Act.'

(Question of amendments proposed)

Chairperson: I propose that amendments 14, 15 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 14, 15 be part of the Bill.

(Amendments 14 and 15 agreed to)

I think we are done with that one now let's go to order number 10.

NOTICE OF AMENDMENTS TO MOMBASA COUNTY OUTDOOR ADVERTISING BILL, 2015

NOTICE is hereby given that the Chairperson of the Committee on Energy, Trade, Industry and Cooperative Development Hon. Ibrahim Kondo intends to move the following amendments to the Mombasa County Outdoor Advertising Bill, 2015 with the Governor's recommendations as follows—

1. **THAT** the year '2015' be deleted and the year '2016' be inserted therefore hence the title of the Bill be amended to read 'The Mombasa County Outdoor Advertising Act, 2016'.
2. **THAT** the following words 'and shall come into effect upon being published in the Gazette' be inserted in Clause 1 immediately after '2016' so as to read as follows;

'Short title and Commencement'

This Act may be cited as the Mombasa County Outdoor Advertising Act, 2016 and shall come into effect upon being published in the *Gazette*.’

3. **THAT** the following words be inserted or be defined in Clause 2 (Interpretation) as follows:

“Advertising device” includes any board, framework screen, signboard, flag, banner or lamp, neon signs, pamphlets, leaflets, flyers, bulletins, digital displays, murals, vehicles or any other fixture or device used or constructed for the purpose of advertisements;

“County Executive Committee Member” means the County executive Committee member responsible for matters relating to advertising;

“Department” means the Department, of the County responsible for matters relating to advertising;

“Outdoor advertising” means any advertising done outdoors that publicizes a business product or service;

“Owner” means the person in control of a building, premises or site or with legal and equitable right to an advertising device;

“Protected area” means an area declared to be a protected area under Clause 9 of this Act and any applicable law and no outdoor advertising shall be permitted in such area.

4. **THAT** Clause 3 be amended as follows;

➤ Clause 3(c) be deleted.

➤ The following new objects of the Act be inserted thereafter;

- d) To allow the promotion of information, industry and trade through outdoor advertising; and to regulate and manage outdoor advertising.

(Question of amendments proposed)

Chairperson: I propose that amendments 1, 2, 3, 4 be part of the Bill.

(Amendments 1, 2, 3, 4 agreed to)

Hon. Mohamed Hatimy: Clause 2 which reads *upon being published* to read as *upon been assented and published*.

Chairperson: So it was left out?

Hon. Mohamed Hatimy: Yes.

Chairperson: Okay I now put a question that amendments 1,2,3,4 be part of the Bill.

(Amendments 1, 2, 3, agreed to)

5. **THAT** Clause 5 be amended to read as follows;

‘This Act shall apply within the geographical boundaries of Mombasa County.

6. **THAT** the words ‘responsible for matters relating to Water, Environment and Natural Resources (in this Act referred to as the Department)’ in Clause 5 be deleted.

7. **THAT** the word ‘Department’ in Clause 7 be deleted and the words ‘County Executive Member’ be inserted therefore.

8. **THAT** Clause 7(f) be amended to read as follows;

(f) In consultation with the County Executive Committee, declare any area to be a protected area as provided for under this Act;’

(Question of amendments proposed)

Chairperson: I propose that amendments 5, 6, 7 8 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 5,6,7,8 part of the Bill.

(Amendments 5, 6, 7, and 8 agreed to)

9. THAT a new Clause 7(g) and (h) be inserted to read as follows;

(g) Enter into agreements, public private partnerships for the purposes of advertising;

(h) Perform any other function as may be required for the effective implementation of this Act.

10. THAT Clause 8 be deleted in totality.

11. THAT Clause 9(1) be amended to read as follows:

‘The County Executive Committee Member may, in consultation with the County Executive Committee, declare or undeclare an area to be protected for purposes of this Act and subject to any other laws on protected areas.’

12. THAT Clause 11(1) be amended to read:

‘Every permit issued under this Act shall be for a period of one calendar year unless cancelled prior to such expiration.’

(Question of amendments proposed)

Chairperson: I propose that amendments 9, 10, 11, 12 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 9, 10, 11, 12 be part of the Bill

(Amendments 10, 11 and 12 agreed to)

13. THAT Clause 12(1) be deleted and the following words be inserted therefore;

‘The advertisements specified in sub Clause (2) are exempted from payment of fees chargeable under this Act.’

14. THAT the size of the advertisement under Clause 12(1)(b) be amended to read 0.3m² instead of 0.3m and the brackets in this sub Clause be deleted.

15. THAT Clause 12(1) (d) be amended to read:

‘A non-illuminated advertisement, or notice relating to a place of worship, public schools, public hospitals and police stations.’

16. THAT Clause 14(a) be rephrased to read;

‘Any advertising device, other than an exempted sign, which is not permitted by this Act, or any other written law;’

(Question of amendments proposed)

Chairperson: I propose that amendments 13, 14, 15, 16 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 13, 14, 15, 16 be part of the Bill.

(Amendments 13, 14, 15 and 16 agreed to)

17. THAT Clause 14 (f) be re-drafted to read;

‘Any advertising device that prevent access or exit from a building;’

18. THAT Clause 14(h) and (i) be deleted.

19. THAT Clause 14(j) be amended to read;

‘Any poster otherwise than on a hoarding, legally erected, for the purpose of accommodating such poster;’

20. THAT Clause 13(n) and (p) be deleted;

(Question of amendments proposed)

Chairperson: I propose that amendments 17, 18, 19, 20 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 17, 18, 19, 20 be part of the Bill.

(Amendments 17, 18, 19 and 20 agreed to)

21. THAT Clause 16(1)(c) be amended and rephrased to read;

‘Obtains any document with an intent to have a licence or permit issued or renewed by forgery or fraud;’

22. THAT Clause 16(2) be deleted.

23. THAT Clause 18 on regulations be deleted and a new 18 be inserted therefore to read;

‘The County Executive Committee Member may make regulations not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.’

24. THAT a new Clause be inserted immediately after Clause 18 to read as follows;

Transition

‘Any outdoor advertising permit or license issued at the commencement of this Act, shall be operational for the remaining duration of the permit or license and thereafter any subsequent application shall be in accordance with the provisions of this Act.’

25. THAT the entire Bill be renumbered chronologically due to the amendments incorporated.

(Question of amendments proposed)

Chairperson: I propose that amendments 21, 22, 23, 24, 25 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 21, 22, 23, 24, 25 be part of the Bill.

(Amendments 21, 22, 23, 24 and 25 agreed to)

**NOTICE TO AMEND MOMBASA COUNTY CONSOLIDATED REVOLVING FUND BILL,
2016**

NOTICE is hereby given that the Chairperson of the Committee on Finance, Hon. Mohamed Hatimy intends to move the following amendments to the Mombasa County Consolidated Revolving Fund Bill, 2016 with the Governor’s recommendation as follows;

1. THAT the word “trade” and year “2015” be deleted from the title and the word “Consolidated” and year “2016” be inserted to read as follows;

“The Mombasa County Consolidated Revolving Fund Bill, 2016”

Clause 2

2. THAT the following words be inserted and defined as follows under Clause 2;

“County Secretary” means the County secretary of Mombasa;

“Fund” to include both revolving fund and grant;

Clause 3

3. THAT Clause 3 be deleted and rephrased to read as follows;

(a) “Expand access to finance in the promotion of youth and women enterprises to spur wealth creation;

(b) Generate gainful self employment;

(c) Establish the mechanisms for community driven development

(d) Establish Mombasa County Consolidated Revolving Fund;

(e) Finance technology transfer for efficiency, sustainability of projects or promote use of technology;

(f) Promote education, business management literacy for capacity building of the enterprises”.

(Question of amendments proposed)

Chairperson: I propose that amendments 1, 2, 3 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 1, 2, 3 be part of the Bill.

(Amendments 1, 2, and 3 agreed to)

PART II: ESTABLISHMENT OF THE FUND AND THE BOARD

Clause 4

4. **THAT** Clause 4 be deleted and rephrased to read as follows;

4 “(1) There is established a Fund to be known as the Consolidated Revolving Fund which shall be administered by the board.

(2) At the County level, there shall be a Fund Management Office, under the office of the Governor headed by the Fund Manager who will also be Secretary to the Board.”

5. **THAT** the words “County Executive Committee Member” under Clause 6(2)(b) be deleted and the words “County Executive Committee” be inserted therefore to read as follows;

“(b) Three Members appointed by the County Executive Committee in consultation with the Governor from any of the following categories”

6. **THAT** the word “bachelors” under Clause 7(2) be deleted and the word “post-graduate” be inserted to read as follows;

“The chairperson shall possess a minimum qualification of a post graduate degree from a recognized university with at least five years working experience in the relevant field.”

7. **THAT** the words “posses at least post-secondary education” be inserted under Clause 7(3) to read as follows;

“The Members appointed under section 6(2) (b)(ii), (iii), (iv) and (v) shall possess at least post-secondary education with at least five years experience in the field of competence on which basis they are appointed.”

(Question of amendments proposed)

Chairperson: I propose that amendments 4, 5, 6, 7 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 4, 5, 6, 7 be part of the Bill.

(Amendments 4, 5, 6 and 7 agreed to)

8. **THAT** the words “but shall be eligible for re-appointment for one further term of three years” under Clause 8 be deleted and the words, “without possibility of re-appointment thereafter” be inserted thereof to read as follows;

“A Member of the board appointed under section 6(2) (a) and (b) shall hold office for a term of three years without possibility of re-appointment thereafter.”

Clause 10

9. **THAT** Clause 10 be deleted and rephrased to read as follows;

10. (1) The functions of the Board shall be —

(a) To develop policies, procedures and manuals to operationalise the Fund guided by the CIDP and County vision;

(b) To oversee equitable, timely and efficient processing of loan and disbursement;

(c) To ensure compilation of proper data, records, returns and reports;

(d) To receive and discuss annual reports and returns;

(e) Perform such other duties as may be deemed necessary from time to time for the proper management of the Fund.

Clause 11

10. **THAT** Clause 11 be deleted and rephrased to read as follows;

11. (1) "There shall be a Fund Manager under the office of the Governor which shall be administered by the Board.

(2) The Fund Manager shall be the Secretary to the board."

Clause 12

11. **THAT** Clause 12 be deleted and rephrased to read as follows;

12. "The Fund Manager shall;

(a) Develop and review criteria and guidelines for applicants;

(b) Receive, evaluate and approve applications for loans;

(c) Implement communication and decisions of the board;

(d) Recommend to appointed disbursing agents to release the fund;

(e) Monitor and evaluate activities under the fund;

(f) Manage and oversee the implementation of the Fund."

(Question of amendments proposed)

Chairperson: I propose that amendments 8, 9, 10, 11, be part of the Bill.

(Question put and agreed to)

Chairperson: I now put a question that amendments 8, 9, 10, 11 be part of the Bill.

(Amendments 8, 9, 10 and 11 agreed to)

Hon. Mohamed Hatimy: I propose we read six Clauses.

(Question proposed)

Chairperson: I now put a question on that.

(Question put and agreed to)

Clause 13

12. **THAT** Clause 13 be deleted.

Clause 15

13. **THAT** Clause 15 be rephrased to read as follows;

15. "The borrowing limits of the loans shall be set as determined by the Board from time to time."

Clause 16

14. **THAT** Clause 16 be deleted.

Clause 17

15. **THAT** Clause 17 be rephrased to read as follows;

17(1)"Any loan shall attract an interest rate that will be determined by the Board upon consultation with the Governor and the Executive Committee from time to time.

(2)The County Secretary shall disseminate the rate to the public."

Clause 18

16. **THAT** Clause 18 be deleted.

17. **THAT** a new Clause be inserted after Clause 20 to read as follows;

"The accounts of the Fund shall be audited as per the law governing public finance management."

Clause 22

18. **THAT** Clause 22 be deleted.

Clause 23

19. **THAT** Clause 23 be deleted.

(Question of amendments proposed)

Chairperson: I propose that amendments 12, 13, 14, 15, 16, 17, 18, 19 part of the Bill

(Question put and agreed to)

I now put a question that amendments 12, 13, 14, 15, 16, 17, 18, 19 be part of the Bill.

(Amendments 12, 13, 14, 15, 16, 17, 18 and 19 agreed to)

Hon. Faraj: Mr. Speaker I have a proposal we move from six to ten Clauses.

(Laughter)

(Question proposed)

(Question put and agreed to)

Clerk: NOTICE FOR AMENDMENT OF MOMBASA COUNTY PORT HEALTH BILL, 2014

NOTICE is hereby given that the Chairperson of the Committee on Health, Hon. Kibwana Swaleh Baya intends to move the following amendments to the Mombasa County Port Health Bill, 2014 with the Governor's recommendation as follows—

1. THAT the year of the Bill be changed from 2014 to 2016 hence the title of the Bill be amended to read 'Mombasa County Port Health Act, 2016.

2. THAT the long title be amended by deleted the words 'port health officer' and inserting the words 'port health services' therefore so that it reads as follows;
'AN ACT of the County Assembly of Mombasa to provide for the powers and functions of port health services and connected purposes.'

3. THAT the commencement be redrafted to read as follow;

'This Act shall come into operation upon publication in the *Gazette*.'

4. THAT the interpretation Clause should include definition of the following terms as follows;

"Coasting trade" means trade carried on by water between neighboring ports within the Country, as distinguished from foreign trade or trade involving long voyages.

"Customs Officer" means an officer of revenue and customs appointed by the Kenya Revenue Authority;

"Port" includes harbors and airports;

"pratique" means license or permission to use a port, given to a vessel after quarantine or on showing a clean act of health;

"Vessel" includes aircraft and sea crafts;

5. THAT objects of the Bill under Clause 4 be as follows;

- a) Establish, manage, regulate and control port health services;
- b) Provide for inspection of vessels to ensure public health standards are met;
- c) Control infectious diseases on board incoming vessels by undertaking health checks to vessels;
- d) Provide for investigation of reported sickness and deaths on vessels.

6. THAT Clause 5 be in continuous prose and to read as follows;

'The provisions of this Act as regards vessels shall apply to vessels anchoring or arriving in any port within Mombasa, provided that the Executive Member may, subject to such conditions or limitations as may be prescribed by him, exempt from any such provisions any warship of Kenya or of any foreign country, or any vessel engaged solely in the coasting trade.'

(Question of amendments proposed)

Chairperson: I propose that amendments 1, 2, 3, 4, 5, 6 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 1, 2,3,4,5, 6 be part of the Bill.

(Amendments 1, 2, 3, 4, 5, 6 agreed to)

PART II – ADMINISTRATION AND MANAGEMENT OF PORT HEALTH

7. THAT all reference to officers and or implementers of the legislation be amended by capitalizing the first letter, for example ‘port health officer’ be amended to read, ‘Port Health Officer.’

8. THAT the word “danger” under Clause 6(1) be deleted and the word ‘emergency’ be inserted therefore.

9. THAT the head note, ‘Powers of the Port Health Officer’ under Clause 8 be amended to read ‘Powers and functions of the Port Health Officer’;

THAT a new sub Clause 3 be inserted therein to read as follows;

- 3) The Port Health Officer shall perform the following function;
 - a) Ensure that vessels carrying into the port meet port health standards;
 - b) Develop, communicate and disseminate the port health standards;
 - c) Implement and enforce the standards of health, infectious disease control mechanisms/interventions, through issuance of permits, notices, quarantine, grants;
 - d) Provide treatment and management of standards through vaccinations, decontamination, application of disease control mechanism and other preventive and take all precautionary measures;
 - e) Co ordinate with other departments, agencies, government and private entities in providing port health services;
 - f) Issue, approve and revoke licenses, permits, clearance certificates and inspection reports
 - g) Order quarantine and issue pratique;
 - h) Collect charges for all port health services;
 - i) Maintain reports and records of all vessels carrying into the port;
 - j) Perform any other function relating to the implementation of this Act or any other applicable law.
10. **THAT** the offence and penalty under Clause 8(2) be redrafted to read as follows;
‘Any person who refuses to allow any such officer to board any vessel or to make any inspection or medical examination as aforesaid, or otherwise obstructs or hinders any such officer in the execution of his duty, or who fails or refuses to give any information which he may lawfully be required to give, or who gives false or misleading information to any such officer knowing it to be false or misleading, shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or imprisonment to a term not exceeding one year, or to both.’
11. **THAT** Clause 9 be redrafted to read as follows;
‘Upon the occurrence on any vessel of any case of death from any notifiable infectious disease, or of such other disease as the Executive Member may prescribe, or of any sickness or mortality among rodents or other animals on any vessel or within the harbor area suspected to be due to any formidable epidemic disease, the Port Health Officer shall forthwith inform the medical officer of health of the area in or adjoining which the port is situated of;
 - a) The occurrence of death from any notifiable disease;
 - b) Any sickness or mortality among rodents or other animals on any vessel or within the harbor
 - c) The measures taken or intended to be taken in connection therewith.’

12. **THAT** the offence and penalty under Clause 12(2) be amended to read;

‘Any master of a vessel failing to comply with sub section (1) and enters any port in Mombasa shall, unless he satisfies the court that he was unaware of the measures required to be taken by him and that he took all reasonable means to ascertain whether it was his duty to take any such measures, be guilty of an offence and liable to a fine not exceeding Five Hundred thousand shillings or imprisonment to a term not exceeding two years, or to both.’

THAT other penalties in the Bill be amended to be as follows;

a) Failure and or willful obstruction of execution of the law be amended to read;

‘Any person who refuses or fails to comply with, or willfully obstructs the execution of, any requirement lawfully made under this section shall be guilty of an offence and liable to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.’

b) Clause 19(2) be amended to read as follows;

‘Any person who contravenes or fails to comply with an order made under sub section (1) shall be guilty of an offence and liable to a fine not exceeding Fifty thousand shillings or to imprisonment for a period not exceeding three months or to both.

13. **THAT** the words ‘or cremated’ be inserted immediately after the word ‘buried’ so that Clause 17 reads as follows;

‘Where there is any dead body on board any vessel at any port in Mombasa, it shall be the duty of the master of such vessel to cause such body to be properly buried or cremated.’

14. **THAT** Clause 21 and 22 be deleted in totality and the following Clauses be inserted therefore;

‘21.Regulations

The County Executive Committee Member may make regulations not inconsistent with this Act or the Constitution of Kenya, 2010 respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.

22. General penalty

Any person contravening any provision of this Act, for which no other punishment is given is liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.’

(Question of amendments proposed)

Chairperson: I propose that amendments 7, 8, 9, 10, 11, 12, 13, 14 part of the Bill.

(Question put and agreed to)

I now put a question that amendments 7, 8, 9, 10, 11, 12, 13, 14 be part of the Bill.

(Amendments 7, 8, 9, 10, 11, 12, 13 and 14 agreed to)

NOTICE OF AMENDMENTS TO MOMBASA COUNTY CORPORATIONS BILL, 2015

NOTICE is hereby given that the Chairperson of the Committee on Energy, Trade and Industry, Hon. Ibrahim Kondo intends to move the following amendments to the Mombasa County Corporations Bill, 2015 with the Governor’s recommendation as follows;

1. **THAT** the year “2015” be deleted from the title and the year “2016” be inserted to read as follows;

“The Mombasa County Corporations Bill, 2016”

2. **THAT** the long title be deleted and rephrased to read as follows;

“**AN ACT** of the County Assembly of Mombasa to make provision for the establishment of County Corporations and Entities, their control and regulation and for connected purposes.”

3. THAT the short title and commencement be rephrased to read as follows;

“This Act may be cited as the Mombasa County Corporations and Entities Act, 2016 and shall come into operation upon publication in the gazette.”

4. THAT the following word be inserted and defined as follows under Clause 2;

“Public Officer” means any officer, employee or member, including an unpaid, part-time or temporary officer, employee or member of the County Government of Mombasa;

5. THAT the word “County” under Clause 6 (1) (c) be deleted and the word “chief” be inserted to read as follows;

“The Chief Officer of the parent Department”;

6. THAT the words “County” and “County Treasury” under Clause 6 (1) (d) be deleted and the words “Chief” and Finance Department be inserted respectively to read as follows;

“The Chief Officer to Finance Department”;

7. THAT a new sub-Clause 2 in Clause 6 be introduced to read as follows;

“A person shall be qualified for appointment as a Chief Executive Officer or board member if that person—

- a. Holds a degree from a university recognized in Kenya;
- b. Meets the requirements of Chapter 6 of the Constitution;
- c. Has knowledge and experience for not less than five years in the relevant field;”

8. THAT a new sub-Clause 3 be introduced to read as follows;

“Sub section (2) above shall not apply to the chairperson”

9. THAT the words “County” and “Treasury department” under Clause 27 (1) (b) be deleted and the words “Chief” and Finance Department be inserted respectively to read as follows;

“The Chief Officer to the Finance Department”;

10. THAT Clause 27 (1) (c) be deleted and rephrased as follows;

“The Chief Executive Officer;

11. THAT Clause 27(1) (e) be deleted and rephrased as follows;

‘County Attorney’

(Question of amendments proposed)

Chairperson: I propose that amendments 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 be part of the Bill.

(Question put and agreed to)

I now put a question that amendments 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 be part of the Bill.

(Amendments 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 agreed to)

Members I think we have finished with the Committee of the Whole House, now it is reporting time. Thank you.

(The Mace is raised)

(The House resumed business)

(Deputy Speaker (Hon. Mswabah Rashid) in the Chair)

Deputy Speaker (Hon. Mswabah Rashid): Thank you Members for the completion of the Committee of the Whole House. So it’s time for the movers of these amendments to report what transpired In the House. Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Thank you Mr. Speaker *(Inaudible)*.

Deputy Speaker (Hon. Mswabah Rashid): Hon. Hatimy you are supposed to report what transpired in the House; it must be reported to this Hon. House so that the House can proceed to the next stage. Yes Hon. Wangudi I can see you want to share something.

Hon. Wangudi: Thank you Mr. Speaker sir I would like to report to this House that the amendment on the Bill of Mombasa Child care 2015 was discussed and passed in the Whole House Committee without further amendments, so I beg this House through the chair to take these amendments to the next stage. Thank you, Mr. Speaker.

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Thank you Mr. Speaker, I take this opportunity to table to this House the amendments of the Bill of Mombasa County Consolidated Revolving Fund Bill, 2015 for approval.

Deputy Speaker (Hon. Mswabah Rashid): Thank you, if there is no other chair, the deputy chairs, yes Hon. Meti.

Hon. Ahmed Ebrahim Omar: Thank you Mr. Speaker; as a Member of the Committee on Water Environment and Natural resources I think I can table the report that the amendment of the Mombasa County Outdoor Advertisement Bill which was discussed on the Committee of the Whole House and the amendments that were made I wish it to be moved to the next level.

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Thank you Mr. Speaker I am a member of Trade and Energy and I take this opportunity to table for approval the amendments of the Mombasa County corporation Bill 2015 to proceed. Thank you, Mr. Speaker.

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Caroline Auma.

Hon. (Ms.) Auma: Mr. Speaker I would like to table the amendments for the County Port Health Bill.

Deputy Speaker (Hon. Mswabah Rashid): Thank you.

ADJOURNMENT

Members this House stands adjourned until next week Tuesday at 2:00p.m.

The House rose at 4:17p.m.