

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

DAILY HANSARD

THURSDAY 12TH MAY, 2022

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

THURSDAY 12TH MAY, 2022

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

COMMUNICATION FROM THE CHAIR

Honorable members, this is to bring to your attention that the Second County Assembly end of term is drawing near hence all Honorable members are required to clear with the respective Departmental heads. Subsequently, you are therefore required to liaise with the Human Resource office for the purposes of collecting individual clearing files. The process of clearance will commence on Monday 16th - 20th May, 2020. Kindly start clearance accordingly. In essence I am not extending your term.

Honorable members, when you will be going for your nomination, you will require a clearance certificate. You may have been given a mortgage or car grant, so clear so that we give you the certificate. Let's proceed!

MOTIONS

THE REPORT BY THE SECTORIAL COMMITTEE ON PUBLIC ADMINISTRATION AND ICT ON THE ANNUAL REPORT 2021 FOR THE BUNGOMA COUNTY PUBLIC SERVICE BOARD PURSUANT TO SECTION 59 (1F) AND 59(V) OF THE COUNTY GOVERNMENT ACT 2012

Hon. Henry Majimbo (Chair, PA): Thank you, Mr. Speaker. I rise to table a motion on the report by the Committee on Public Administration and ICT on the Annual report 2021 for the Bungoma County Public Service Board pursuant to the provisions of section 59(1)(f) and 59(v) of the County Governments Act.

Page 1 is the table of contents, page 2 you will allow me to take the members through preface.

Preface

It is my pleasant duty on behalf of the committee to present this report on the annual report for the Bungoma County Public Service Board pursuant to the provisions of section 59(1f) and 59(v) of the County Governments act 2012.

Committee Membership

The following are the Members of the Committee on Public Administration and ICT:

1. Hon. Majimbo Okumu	Chairperson
2. Hon. Joan Kirong'	Vice Chairperson
3. Hon. Stephen Wafula	Member
4. Hon. Joseph Juma	Member
5. Hon. Francis Chemion	Member
6. Hon. Jack Wambulwa	Member
7. Hon. James Mukhongo	Member
8. Hon. Elly Tindi	Member
9. Hon. Tony Barasa	Member
10. Hon. Meshack Simiyu	Member
11. Hon. Grace Sundukwa	Member
12. Hon. Hillary Kiptalam	Member
13. Hon. Wapang`ana Erick	Member
14. Hon. Joseph Magudah	Member
15. Hon. Luke Opwora	Member

Mandate of the Committee

It is pursuant to Standing Order No.196 of the County Assembly of Bungoma and has executed its mandate in accordance with the aforementioned provisions of the said Standing Order; in particular Standing Order 196 (5) The next page it has laid down the mandate of the committee which is well known to these Honorable members. I will go to bullet 1.3 on page 3.

Submission of the Annual and Regular reports by the CPSB

It is a requirement under Section 59(1) (f) and 59(5) of the County Governments Act, 2012 that CPSB shall prepare regular reports for submission to the County Assembly on the execution of its functions and on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution of Kenya are complied with in the county public service.

The report referred to in section 59(5) shall be delivered each December to the County Assembly and shall include the following;

- a) all steps taken and decisions made by the board,
- b) specific recommendations that require to be implemented in the promotion and protection of the values and principles,

- iii. The Board holds regular meetings to deliberate on various correspondences and human resource matters in the Public Service. The decisions, instructions and guidelines are communicated to the respective authorized officers for implementation.

Delivery of Programmes (pursuant to Section 59 of the CGA 2012)

- iv. The report highlights the Board's achievements and challenges during the year together with recommendations for improvements and intents for the year 2021.
- v. The Board used respective National schemes of service as career progression guidelines to recruit, promote and re-designate staff. In line with its mandate under Section 59(1) (b) of the CGA 2012, the Board appointed , regularized appointments, renewed contracts, undertook promotions, re-designations and upgrading of personnel as outlined below:
 - a) Competitive appointment of two hundred and forty nine (249) personnel in the departments of Finance, Governor's Office, PSMA and Water. Among those appointed nine (9) were persons living with disability, one hundred and eighty one (181) were male while sixty eight (68) were female. 211 were from the Luhya tribe, 3 Teso, 4 Luo, 1 Maasai, 2 Kikuyu and 28 Kalenjin.
 - b) Translation of terms from contract to permanent and pensionable terms of one hundred and sixteen (116) personnel from the CPSB and the Department of Health and Sanitation. Among them, forty one (41) were male representing 35% and seventy five (75) were female representing 65%.
 - c) Confirmation in appointment of forty four (44) personnel in the departments of PSMA, Agriculture, Water and CPSB.
 - d) Regularization in appointment of forty seven (47) personnel in the Department of Health and Sanitation.
 - e) Renewal of Contracts of eleven (11) personnel in the Department of Water and Natural Resources.
 - f) Promotion of two hundred and eighteen (218) personnel in the departments of Health and Sanitation(96), Roads, Infrastructure and Public Works(4), CPSB (3), Public Administration (15), Lands(19), Finance and Economic Planning (81).
 - g) Re-designation of one hundred and sixteen (116) personnel in the departments of Roads , Infrastructure & Public Works (3), Health and Sanitation (52), Public Administration (9), Lands (5) and Finance & Economic Planning (47)
- vi. During the year under review, a total of one hundred and twenty one (121) officers exited the County Public Service. Out of which seventy (70) were male representing 58% while fifty one (51) were female representing 42%. *The detailed list of exits by gender, ethnicity and nature of exits is outlined on page 12 of the submitted report.*

That report is an annexure on this report by the committee. The detailed list of all personnel, appointed, confirmed, regularized, contracts renewed, promoted and re-designated were submitted to the committee for scrutiny and are hereby attached.

Promotion of Values and Principles

The Standards, Quality, Assurance and Development Committee's (SQADC) main function is to implement Section 59(1) (c), (e), (f) & (i) and 59 (4) of the County Governments Act 2012.

In compliance with the provisions of Section 59(1) (c), (e), (f) & (i) and 59 (4) of the County Governments Act 2012 and the Public Officers Ethics Act, 2003; County employees declared their income, assets and liabilities for the period 2019 to 2021.

The annual report indicated that the number of public officers on the payroll as at 31st October 2021 were six thousand, three hundred and fifty (6350) who all submitted their declarations on time.

Capacity Building for staff on Governance and National Values

Induction of the County Human Resource Management Advisory Committee (CHRMAC) and Departmental Human Resource Management Advisory Committee (DHRMAC)

One of the objects for the establishment of the County Public Service is to provide for institutions, systems and mechanisms for human resource utilization and development in a manner that best enhances service delivery by the county public service institutions. County Public Service Boards are responsible for the management of human resource in the county public service as stipulated in Section 57 and 59 of the County Government Act 2012.

The Board performs its functions with support and cooperation from various Chief Officers responsible for various departments through the County Human Resource Management Advisory Committee (CHRMAC)

During the year under review, the Board carried out sensitization training on the CHRMAC and Departmental Human Resource Management Advisory Committee (DHRMAC) human resource members so as to sensitize members on their specific roles regarding human resource management; since the committees make critical decisions that affect employees in the County Public Service at Joventure Hotel - Kisumu.

A total of seventy five (75) officers were trained, broken down as:

i.	Board Members	7
ii.	CECMs	10
iii.	Chief Officers	13
iv.	Directors	15
v.	Human Resource officers	26
vi.	Board Secretariat	4
	Total	75

a) Sensitization of the CPSB Secretariat and other county employees on Code of Conduct and Ethics.

Pursuant to Sections 59(1)(e),(4) (a) & (c) of the County Government Act 2012, the Board is mandated to promote the Values and Principles of Governance , Values and Principles of Public Service in the County.

During the year under review, the Board carried out sensitization training on the Code of Conduct and Ethics for Public Officers at Kabula Pastoral Centre-Bungoma for one thousand, three hundred and sixty four (1364) employees as outlined below:

There is a table there for taking care of all the CECMs and the total here is 1364

3.5. Financial Report

During the financial year 2020/2021, the Board was allocated recurrent funds of Kshs. 47,102,840 and Kshs. 33,714,920 for FY 2021/2022..The Board has not been allocated any development funds since 2015.

As at 31st December, 2021, the absorption rate stood at Kshs. 16,070,077, representing 48% of the approved budget for the FY 2021/2022. These funds were expensed as outlined below totalling to 16,070,077

Pending Bills

As at 30th June 2021, the CPSB had pending bills totalling to Kshs.6,146,589 consisting of Kshs. 3,599,951 balance from last financial year 2019/20 and Kshs.2, 546,638 accrued within the financial year 2020/2021. Details of the pending bills are attached.

West-end consultancy had been contracted to develop BQs and building plans was owed Kshs.3, 405,371. The committee noted that the BQs and development plans were developed with intentions of constructing an Administration block, inclusive of supervision fees. Given that the CPSB currently does not have a development vote; this pending bill has been carried forward from the previous years.

Challenges faced during the reporting period

During the year under review the Board reported the following challenges:

1. Delay in disbursement of funds by the National Government. This affected the smooth operation of the Board since there was no money to facilitate the Board activities.
2. Insufficient funding due to reduction of the budget hence the Board was unable to fully facilitate its programmes as expected.
3. Delay by some departments to make timely payments to media companies concerning adverts made on their behalf by the County Public Service Board.
4. Lack of office space.
5. Shortage of four (4) staff.
6. Due to Corona Pandemic, some activities were not fully implemented as earlier planned like the training of members and secretariat was adversely affected by this.

COMMITTEE GENERAL OBSERVATIONS AND RECOMMENDATIONS

Committee Observations

The committee made the following observations:

1. The committee takes cognizance of the Board's effort in compliance with the provisions of Section 59(f) of the County Government Act, 2012; in submission of the Annual report for the year 2021 to the County Assembly.

2. Section 59(5) of the CGA, 2012 outlines the specific information that the annual report from the CPSB to the County Assemblies should contain. The committee made the following observations in regard to the submitted report;

- a) The CPSB complied with the provisions of 59(5) (a) which requires that the annual report is to be delivered each December to the County Assembly. The committee noted that the report was received by the Office of the Clerk on 22nd December 2021 and tabled on 11th January 2022.
- b) The report did not include all the steps taken and decisions made by the Board contrary to Section 59(5) (b).
- c) The report did not indicate the specific recommendations that require to be implemented in the promotion and protection of values and principles as required by Section 59(5) (c).
- d) The report did not include the specific decisions on particulars of persons or public body who had violated the values and principles, including the action taken or recommended against them as provided in Section 59(1) (d).
- e) The report did not indicate any impediment in the promotion of values and principles.
- f) The report included the training programs the board undertook in the medium term towards the promotion of the values and principles.

3. The Board demonstrated the extent to which the values and principles of equality, inclusiveness, non-discrimination and protection of the marginalized referred to in Article 10 and 232(1g, h & i) had been complied with. The report indicated the gender, region and ethnicity of all the categories of personnel appointed during the year under review. The report further demonstrated the extent to which equal opportunities for appointment and advancement were accorded to men and women, members of ethnic groups and persons with disabilities.

4. With regard to the responsibility of the Board in upholding the values and principles pursuant to Article 10(2) (b), the committee noted that justice needed to be rendered to the seven County government staff namely: John Juma Matjanza, Oscar Ojwang', Arlington Omusheni,

Howard Lugadiru, Rueben Ruto, Jaqueline Namukali and Ayub China who were charged in the Kakamega CMC EACC Criminal case No. 1 of 2017. The committee observed that following an appeal to the High Court of Kakamega, the case was quashed on 1st October, 2020 and the sentence thereof set aside.

5. The report provided statistical data on the appointment, translation of terms from contract to permanent and pensionable, confirmation on appointment, re-designation, promotion, regularization and renewal of contracts of personnel in the County Public Service. Details of the criteria and human resource policy documents used were submitted to the committee for scrutiny.

6. The report highlighted a number of officers who were trained during the year under review, however the training needs assessment report was not submitted to enable the committee determine whether there was budgetary allocation for the same and if there was value added to the county public service by the trained officers.

7. The Board demonstrated compliance to Article 232(1) (b) by submitting the quarterly reports and financial statements, and a breakdown of expenditures as proof of efficient, effective and economic use of resources appropriated to it.

8. The Board demonstrated compliance with Section 59(e) of the CGA, 2012 where it is required to inform and educate county public service officers and the public about the values and principles; through the training of the 1364 public officers against a workforce of 6350. Additionally, the Board facilitated awareness and publicity on employment opportunities to the public and supervised the declaration of income, assets and liabilities among the entire County Public Service.

9. There was no proof of compliance or any explanations for non-compliance to Section 59(6) of the CGA 2012 which requires that: the Board shall publish a report required under this section in the County Gazette not later than seven days after the report has been delivered to the County Assembly.

10. The CPSB has not adhered to the provisions of Article 10(2) (b) of the Constitution of Kenya on ethnic balancing in the recruitment of officers to the service. The current threshold as per the law is 30 per cent non locals; a condition which the CPSB falls below par for the period under review.

11. The County has a bloated wage bill as 46% of the County revenue that is currently being spent on the county personnel emoluments contrary to the provisions of Regulation 25(1)(b) of the PFM Regulations, 2015 and Section 107(2) (c) of the PFM Act, 2012. Therefore, the County Executive has been unable to adhere to the fiscal responsibility principles provided in law. This has been occasioned by the CPSB's failure to advise the County executive to operate within the confines of Sec. 59 (1) (g) of the CGA, 2012

12. The CPSB provided a comprehensive list of one hundred and twenty one (121) staff exits from service; this report shall enable the County Assembly appropriate funds meant for personnel emoluments reflective of the officers in service during the budgeting cycle.

Committee's recommendations

The committee recommends as follows:

1. That, for impartial and effective service delivery, the independence of the CPSB should be guaranteed. The CPSB has continued to rely on the County Executive for exchequer releases to execute its functions. As a body corporate, the CPSB should be allowed to run its own accounts and manage its exchequer releases.
2. That the CPSB should hasten the process of customization of the schemes of service and career progression guidelines to aid in the human resource management specific to the needs of the County Government. Currently the Board relies on these documents from the National Government.
3. That the CPSB should adhere to the ruling of the High Court of Kakamega appeal case No.90 made on 1st October 2020 and reinstate the seven (7) county government staff to the positions they held before dismissal. A report on the steps taken by the Board to reinstate the officers should be submitted to the County Assembly within thirty (30) days of adoption of this report.
4. That the CPSB should play its advisory role as envisaged under Sec. 59 (1) (g) of the CGA, 2012, as read together with Section 107(2) (c) of the PFM Act, 2012 and Regulation 25(1)(b) the PFM Regulations, 2015 and take to task the County Executive on adherence to the management of the County Public Service wage bill .
5. The CPSB should uphold the law while observing statutory requirements in their obligation to submit their annual report to the County Assembly within the stipulated timelines as outlined in Sec. 59 (5) (1) (a) of the County Governments Act, 2012.
6. That henceforth the CPSB must ensure compliance in totality to the provisions of Section 59(5) of the CGA during the preparation of the annual report.

The report is signed by members. We have annexures and other supporting documents. Members present here were silently asking themselves how this bulky report going to add up? These are just annexures.

I want to call upon my good member of the Committee, Hon. Stephen Wamalwa, MCA for Mitua/Soysambu and our Deputy Speaker who is also a member of this Committee to second the report.

Mr. Speaker: Hon. Majimbo, look at the adoption schedule. Are you safe with him?

Hon. Henry Majimbo: Hon. Barasa Mukhongo, I smell you from behind; kindly second me.

(Applause)

Hon. James Mukhongo: Thank you, Mr. Speaker. I wish to second the Motion over a report that has been tabled by my good friend, my chair Hon. Majimbo. I only urge the members to look at the challenges faced during the report writing and you will see that even the Service Board is not executing its work so well because of disbursement of funds.

However, the main challenge is that there is insufficient funding. It is up to this House to ensure that because of independence of the office, we need to give enough funds to the office, so that it can execute its mandate. Many a times, they are at the mercy of the executive and you will find that they are doing so many anomalies because of insufficient funding. If they do not do that then they will not be given enough funds to run its activities.

We have come up with some of the proposals for this financial budget for same office, where we have also proposed them to have an office because it's one of the challenges they are facing. They work from the premises of the Governor and you know what it means. I don't want to labour on that.

Mr. Speaker: I don't know.

Hon. James Mukhongo: I'm telling the Members here for they understand what I'm saying because it is not news. I mean, the situations they are in. Otherwise, I second this report and urge the House to pass the way it is.

Mr. Speaker: Thank you, Hon. James Barasa. Honorable Members, a Motion has been moved and seconded that the House adopts the report by the sectoral Committee on Public Administration and ICT on the annual report 2021 for the Bungoma County Public Service Board pursuant to section 59(i) and 59(v) of the Bungoma County Government Act. I propose.

(Question proposed)

Hon. Rosemary Khisa: Thank you Honorable Speaker for giving me this opportunity to contribute on this report. First of all, I want to appreciate the Chairperson of Public Administration and ICT Committee for his elaborate report that he has taken us through. I also want to appreciate the members of this committee for the work that they did. My observation is on page 10 of the document. I want to ask the Chairperson on the issue of (6) in respect to the promotion of 218 personnel in the Department of Health and Sanitation. I want this particular point to merge with the HANSARD report because as he was reading it, it is like he was reading the last one on Finance and Economic Planning. He did not mention about 81. It is like he read the other way round. I want this to be corrected because when he reached there, he was stuck. Chair, you can take note of this on (f) so that the HANSARD report merges with the hard copy.

When we pass the budget is not enough, it is the duty of this House to look into it to make sure that if we want them to be independent, then we must make sure that we allocate enough funds for them to perform their mandate.

Hon. Stephen Wamalwa: Thank you Mr. Speaker for giving me this chance to also highlight on this report. First of all, I want to laud the Chairperson, Hon. Henry Majimbo for the eloquence and proper flow of the report. I want to go straight to the observations made by the committee especially number (2). It suggests that the service board is doing something that was not requested of them. This is because there are some of the areas of the report that did not provide some information. I want it to go to the HANSARD that it has been at some point a trend that the service board was ready to provide some information especially when called upon to do by the Public Administration Committee. This is the trend when you look at for example (b) the report did not include all the steps taken in decisions made by the board contrally to Section 59 (c). The report did not indicate the specific recommendations that require to be implemented in the promotions.

On recommendation 7, the board complied with Article 232 as they submit the quarterly reports and financial statements and also breakdown of expenditures. I pray that in future the board will comply with every requirement and will also demonstrate the desire to be independent because part of the problems that the board is experiencing and it was exhibited when there was the need for recruitment of the village administrators in this county. There was a problem because it is true that not all the board members were reading from the same script and it is an issue that is brought about because of lack of the willingness to be independent.

The report has suggested that there should be budgetary allocations to enable the board carry out its activities in almost an independent way, which I pray that we have to enable them and encourage them. But increasing financial allocations to the board does not translate into the board being independent. But it calls leaders to engage and encourage officers in the board to know the importance of being independent. Because the Service board should be an independent body devoid of influence from the executive or even the Assembly. This far the Service board has not demonstrated the desire to be independent.

We have to work hard and the HANSARD should record this; that as we speak the County Public Service Board in this county is not independent. It is an entity that is a subject of a certain quarter or section of the County. I want to urge that going forward, the Service Board should be bold enough to stand its ground and demonstrate that it can be independent; it cannot be a subject of arm twisting or forced to act in a way that is contrally to the requirements of the law. I support this report and believe that the House will pass it without amendments as we pray that the County Public Service Board rises to the occasion and becomes independent.

Hon. Everton Nganga: Thank you, Mr. Speaker. First, I would like to laud the mover of the motion for moving the motion eloquently. I remember well that there were a number of vacancies that were advertised last year and the previous year that our people in Bungoma County should be employed and up to now some of those vacancies have not been filled despite the fact that others already did interviews while others are yet to be invited for interviews.

On the issue of independence as a House that legislates and oversees the County executive, how are we going to separate the County Public Service Board with the executive. I would like to know if there is a rule from the devolution laws that govern county governments that require an amendment so that we can make the Service board independent, for them to be able to work effectively, transparently and assist people in our County.

I'm not privy to those rules that show the relationship between the County Public Service Board and the executive. That is where we should start and make the County Public Service Board to be independent and work for our people.

Hon. Henry Majimbo: Thank you Mr. Speaker for giving me an opportunity to reply to the motion. I want to thank members who have contributed to this motion on the annual report of the County Public Service Board. I want to first re-affirm what Hon. Rosemary Khisa MCA for Luuya/Bwake pointed out on page 10 with specific reference to the committee analysis that is bullet (3) (2) down to (f) on the promotion of 218 personnel in the departments of Health and Sanitation were 96, Roads and Infrastructure 4, County Public Service Board 3, Public Administration 15, Lands 19, Finance and Economic Planning 81...

Mr. Speaker: Is age catching up with you Hon. Majimbo?

Hon. Henry Majimbo: I wish my wife was here to attest whether I'm old.

(Applause)

Mr. Speaker: Hon. Sophie is extremely excited.

Hon. Henry Majimbo: I want to repeat (f) that promotion of 218 in the following departments; department of Health and Sanitation 96, Roads, Infrastructure and Public Works 4 were promoted, County Public Service Board 3 were promoted, Public Administration 15 were promoted, Lands 19 were promoted, Finance and Economic Planning 81 were promoted for Hansard purposes.

I want to respond to the submission of Hon. Stephen Wamalwa MCA for Soysambu/Mitua and Hon. Everton Nganga on the independence of the Service Board. The independence of the Service Board will depend on good will from the County Executive Committee and if there is no good will there can never be any independence. We have discussed with the board members

about their independence and what the Hon. Wamalwa was submitting was part of what has been featuring in our discussions with them. We have as a committee recommended to the Budget Committee to have a development allocation which will enable them to construct an office outside the Governors compound and see whether they can be kind of independent.

There have been complaints that some of the decisions have been unpalatable and their fears have been that they have been receiving some threats. We assured them that in the budget 2022/2023, we will recommend and which we have already done so that they can construct an office block outside the compound.

There have been allegations which are not coming from me that this Service Board is a department in the Governor's office, I don't want to go that direction. Those are words that have been said in the streets but I know that the Service board is supposed to be independent. We have always been trying to increase their ceiling; the executive has been pulling down their annual ceiling. I want to thank the House for accepting in many of the supplementary budgets to increase their ceiling. There was a time they were given a ceiling of 32 million but we increased to 47 and I want to thank the honourable members for that good gesture.

On observation 2, indeed there are some documents that the board had not demonstrated that it had complied with the provisions of the law and we thought it wise as a committee that it was important to capture this under observations. I want to thank the Hon. Wamalwa for coming up strongly on that.

There is an issue on the insufficient funding raised by Hon. Rosemary. I can report that the House has been good to the board because in subsequent supplementary budgets, we have been increasing their budget and the board has been appreciative because it has enabled them to perform some of their mandates like trainings and sensitization of members of staff.

I want to thank the members in general on the support they have accorded us as a committee especially on our reports and still request the members to approve this report. I hope this is the last report in this Assembly; we are optimistic that if not all of us then majority of us will be back here on 10th of August to continue transacting the business of this House. If you don't have a pass word see you in my home, I will give you a pass ward for re-election.

(Applause)

Mr. Speaker: Hon. Opwora, he has said that you see him at his place not here. Honorable members, I put the question that this House adopts the report by the sectoral Committee on Public Administration and ICT on the annual report 2021 for the Bungoma County Public Service Board pursuant to section 59(i) and 59(v) of the Bungoma County Government Act

(Question put and agreed to)

(Applause)

The ayes have it. The report, its observations and recommendations is hereby adopted and should be taken to relevant consumers for action.

Honourable members, that was the last item in our Order Paper. We will adjourn for now and resume our sitting on 17th of May 2022 in our normal sitting at 2:30 p.m.

(House Adjourns)