

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY, 11TH SEPTEMBER, 2024

Afternoon Sitting

3rd County Assembly

3rd Session

COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

WEDNESDAY 11TH SEPTEMBER, 2024

The House met at the County Assembly Chamber at 2:30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

Hon. Members I wish to make some adjustments on our Order Paper. Item number nine, the Bungoma County Evaluation Rating Bill that was to go to the second reading and go to the committee of the Whole House under 10, has been taken out of today's Order Paper. I intend to have a sitting with all the Hon. Members plus the executive and the Committee on Finance so that they are taken through on what is in this rating bill. So that they are able to make their decision over the same, so that we don't have situations where we approve and start complaining, so that we know after it's approved, it becomes part of the law to be made accordingly because to collect revenue, we must have some laws in place. So, it is taken out of the Order Paper.

We are going to arrange as soon as possible. Once we have agreed, it will be taken back to HBC for reallocation on the Order Paper.

MOTION

REPORTS BY THE PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE BUNGOMA COUNTY DISASTER AND EMERGENCY FUND FOR THE PERIOD ENDED 30TH JUNE, 2022

Mr. Speaker: Hon. Tim Power, Timothy Chikati, some of these nicknames are good, but sorry, Hon. Timothy Chikati, you proceed.

Hon. Timothy Chikati: Thank you, Hon. Speaker. I stand to move a report on the Bungoma County Disaster and Emergency Fund for the period ended 30th June 2022. We have the table of contents, of which I request for permission to jump, and page three, it's a preface.

Preface

The Bungoma County Disaster and Emergency Fund was created partially under the provisions of sections 116 of the Public Finance Management Act 2012, and its approved regulations of 2020. In addition, section 110 of the Public Finance Management Act 2012 empowers the government executive committee member for finance with the approval of the county assembly to establish an emergency fund for the county government whose funds shall consist of money from time to time appropriated by the county assembly by an appropriation law.

Further, section 114 of the same act states that;

1. The County Executive Committee Member for Finance shall seek approval from the County Assembly within two months after payment is made from the emergency fund.
2. The County Assembly is not sitting during the period referred to in subsection one, or soon thereafter, the county executive committee member for finance shall seek the approval for the payment within 14 days after the County Assembly next sits.
3. As soon as practicable, after the County Assembly has approved the payment, the County Executive Committee Member for Finance shall cause a draft of the Appropriation Bill to be introduced in the County Assembly for the appropriation of money paid and for the replenishment of the County Government's Emergency Fund to the extent of the amount of the payment.

Regulations 28.1 and 2 and 33 of the Bungoma County Disaster and Emergency Fund Regulations 2020 provide that;

- i. The secretariat of the fund may design a project relating to disaster emergencies and submit it to the County Government for consideration and funding.
- ii. The secretariat of the fund may design a project relating to disaster emergencies and submit it to the faith-based organization or non-government organizations or community-based organizations for consideration and co-funding.

Pursuant to Regulation 28, the resources of the fund shall be expended on the various disaster and emergency risk management components approved by the committee, including but not limited;

- a) To reliance and preparedness.
- b) Response and interventions, and
- c) Recovery interventions.

The County Public Accounts and Investment Committee strongly holds the view that these provisions of the law were intended to be fully deployed to operationalize the principles set out under Article 201 of the Constitution and to ensure prudent and responsible management of public funds. The committee has accordingly invoked these provisions in recommending varying disciplinary actions against persons or public officers who bear responsibility for breach of the law and are responsible for the loss, misappropriation, or wastage of public resources.

The Bungoma County Disaster and Emergency Funds Audit Report aims to provide a comprehensive review of the fund's management, utilization, and effectiveness in addressing emergencies and disasters within the county. This report is prepared to ensure transparency, accountability, and effectiveness of monies allocated to the fund. The audit that was carried out by the Office of the Auditor General and the report of this committee is meant to evaluate the adequacy of the disaster and emergency funds in Bungoma County, examining the processes and controls in place for the fund allocation, disbursement, and utilization.

The scope of the audit covers the financial year 2021-2022, focusing on key areas such as inaccuracies in the financial statements, budgetary controls, and performance, unresolved prior matters, and lack of an approved budget. Of more emphasis is compliance with the relevant laws and regulations and the impact of funded activities and disaster preparedness. The report of the Auditor General on the financial statements of Bungoma County Disaster and Emergency Funds for the period ending 30 June 2022 was tabled on 13 June 2023 and stood committed to the Public Accounts and Investment Committee for processing and reporting back to this House.

Committee Membership

The membership of the Public Accounts and Investment Committee comprise the following;

- | | |
|----------------------------|-------------------|
| 1. Hon. Everton Nganga- | Chairperson |
| 2. Hon. Timothy Chikati- | Vice-Chairperson, |
| 3. Hon. Anthony Luseneka- | Member |
| 4. Hon. Evelyn Mutiembu- | Member |
| 5. Hon. Jerusa Aleu- | Member |
| 6. Hon. Evelyn Anyango | Member |
| 7. Hon. Metrine Nangalama- | Member |
| 8. Hon. Alfred Mukhanya | Member |
| 9. Hon. Kennedy Wanyama- | Member |
| 10. Hon. Stephen Kaiser- | Member |
| 11. Hon. Maureen Wafula- | Member. |

The Office of the Auditor General comprises;

1. CPA Phinea Jakoa

2. CPA Baraka Mwaka.

Acknowledgement

I extend my sincere thankfulness for your office and that of the Clerk to the County Assembly for facilitating the committee to undertake the interrogations and report writing that allow this report. I further extend my gratitude to the members of the Public Accounts and Investment Committee for their commitment throughout the time of preparing this report.

Further, thanks to the Account Executive Member for Finance and the team for their cooperation that led to the success of coming up with this report. The invaluable technical guidance by the Office of the Auditor General and the Committee Secretariat is highly appreciated.

Report is signed by Hon. Everton Nganga Chairperson, Public Accounts and Investment Committee.

The report of the Auditor General on the financial statements of Bungoma County Disaster and Emergence Fund for the period end of 30th June 2022

Inaccuracies in financial statements

Audit findings

The statement of cash flows reflects a comparative balance for three items which are at variance with the corresponding balances shown in the audited financial statements for the year end of 30 June 2022.

Management response

The notes of the audited financial statements for the year end of 2020-2021 reflected the balances that were brought forward. However, the balances reflected in the statement of cash flows for the year 2020-2021, though not reflecting the balances in the notes of the financial statements, did not affect the accuracy of the computations.

Oral submissions

The accounting officer submitted that the comparative for the three items which were at variance with the corresponding balances did not affect the accuracy of the computations.

The committee observations

It was observed that the comparative for the three items which were at variance with the corresponding balances did not affect the accuracy of the computations.

Committee recommendations

The accounting officer should effect the adjustments in the subsequent financial statements to forestall unnecessary current of the query.

Key audit matters.

This refers to issues most significant in audit of the financial statements.

Budgetary control and performance

The statement of comparison of budget and actual amounts reflects a final expenditure budget and actual on a comparable basis of 47 million and 10,988,552 respectively, resulting to under-performance of Kshs at 36,011,448 or 77% of the budget.

Management response

The management said that the statement of comparison of budget and actual amounts in the approved financial reporting template of the fund was not exhaustive. Therefore, the conclusion of underperformance could not be accurate but required to look at all aspects of financial statements. The current deficiencies include;

- i) It does not include reporting on acquisition of assets in IPSA's accrual basis of reporting. This expenditure is included in the fixed asset movement schedule property, plan and equipment under note six. There was a capital expenditure of Kshs 40,572,728.
- ii) It does not recognize prior cash and cash equivalents as a source of funds for financing the current year budget. The total cash available for the year 2021-2022 was at Kshs 50,010,940.

Oral submissions

The management said that the disaster and emergency fund reports using the accrual basis while the Office of the Auditor General applied the formula under cash basis of accounting to determine the absorption rate that under the accrual basis of accounting fixed assets are not presented under the statement of receipts but are disclosed under cash flow statements which, when you extract the acquisition of assets, it increases the absorption rate to 94%. Management submitted to the committee documentation on expenditure of Kshs 40,572,728.

Committee observations

The committee notes that the auditor has used cash basis while auditing whereas the fund used the accrual basis. This has led to variance of 7 million. The breakdown of the amount of Kshs 40,404,908 was not recognized in the audit.

Committee recommendations

The committee finds the query partially addressed after accounting officer failing to ascertain the breakdown of Kshs 40,404,908. The accounting officer is directed to adhere to a PFM 116 section 4 which states as follows; The administrator of the county public fund shall ensure that money held in the fund including any earnings or accruals referred to in subsection 3 is spent only for the purpose for which the fund is established.

Unresolved prior matters

Audit findings

In the audit of previous year, several issues were raised under the report on the financial statements. Report on lawfulness and effectiveness in use of public resources and report of effectiveness and of internal controls, risk management and governance. However, the management has not resolved the issues or provided reasons for the delay in resolving them. Further, the issues included under the progress on follow-up of the auditor's recommendation of the financial statements do not relate to the issues raised in the report for the year ended 30 June 2021.

Management response

The accounting officer in the management response submitted as follows.

- a) Unresolved year matters.

The section reported on 30 findings whose current status is as follows;

I) Non-inclusion of 2020-2021

Audit findings

The final report of the auditor general on Bungoma County disaster and emergency fund for the year ended 30 June 2021 was issued on 15 September 2022 but received in the county on 9 November 2022 when the financial statements had already been concluded. The findings were subsequently included in the financial statements for the year ended 30 June 2023.

Oral submissions

Management submitted that currently the county treasury is understaffed in terms of technical capacity, that the optimal number of accountants is pagged at 60, whereas there are only 31 accountants in the office. The status of prior matters is as follows, as attached in appendix 2A.

Committee observations

1. The committee finds that the final report of the auditor general on Bungoma County disaster and emergency management fund for the year ended 30 June 2021 was issued on 15 September 2022 but received in the County on 9 November 2022 when the financial statements had already been concluded, thus making it to be included in the financial statements for the year ended 30th June 2023.
2. That the county treasury is understaffed in terms of technical capacity that the optimal number of accountants is pagged at 60, whereas there are only 31 accountants in the office.

Committee recommendations

1. The committee directs the accounting officer to update the financial statements within three months after the adoption of this report. This passed under the provisions of

section 53 of the public audit act 2015, which provides that the relevant accounting officer of a state organ or a public entity shall within three months after parliament has considered and made recommendations on that audit report ;

- a) To take the relevant steps to implement the recommendations of the parliament of the report of the auditor general or
- b) Give explanations in writing to the parliament on why the report has not been acted upon.

2. Failure to comply with the provisions of subsection 1, the accounting officer shall be in contempt of parliament or account assembly and upon determination by parliament or relevant account assembly may recommend administrative sanctions such as removal as an accounting officer, reduction in rank among others.

II) Lack of approved budget.

Audit findings

During the audit management, during the audit management did not provide an approved budget for the year under review as required by section 33 of the Bungoma County Disaster and Emergency Management Act 2019, which provides that the estimates are prepared, approved by the committee and submitted to the Count Executive Committee Member in charge of Finance for transmission to the account assembly for approval.

Management response

The accounting officer submitted that the fund administration will ensure that it adheres to section 33 of the Bungoma County and Emergency Management Act 2019, which states that there shall be a fund committee approval on the fund resources, oral submissions. The accounting officer stated that at the time of the audit, the emergency and disaster committee was not in place to approve the fund's budget. Currently, the committee is in place and shall approve the budget for the year 20, financial year 2024-2025.

Committee observations

1. The committee noted that the fund administrator has never complied with the section 114 of the Public Finance Management Act of 2012 since its inception
2. That the fund administrator has failed to comply with the regulations administering the fund, more particularly regulation 33 of the Bungoma County Disaster Management and Emergency Fund Regulations 2020, which requires that there shall be a fund committee approval on the fund resources.

Committee recommendations

1. The committee directs the accounting officer to invoke the provisions section 114, 1 and 2 of the Public Finance Management Act 2012 on the role of the executive committee member of finance to seek approval for payments from the emergency funds.
2. The committee further directs the accounting officer to adhere to section 166 of the PFM Act by preparing quarterly financial reports of the entity and section 113 on limitation of powers of the CEC member for finance to make payments from the fund with approval by the County Assembly.

General conclusions

The committee calls for the Bungoma County Government to implement comprehensive reforms to improve the management of disaster and emergency funds, thereby ensuring that these resources are effectively used to respond to emergencies and support the affected communities. It is therefore the view of the committee that enhanced oversight and regular audits are put in place to foster transparency and public trust in the county's financial practices.

We have the appendices;

1. The copy of the audit certificate for Bungoma County Disaster and Emergency Fund 2022.
2. Responses from the accounting officer on the queries
3. Three minutes of the committee adopting the report.

We have the adoption schedule that is signed by all members of Public Accounts and Investment committee and the annexures are attached.

At this time, I call upon the Chairperson of the committee, CPA Everton Nganga to second.

Mr. Speaker: Hon. CPA Nganga, you have the honour of seconding the committee report. You can use the dispatch because I understand the situation you are in. Proceed.

Hon. Everton Nganga: Thank you, Hon. Speaker. First, I would like to applaud the move of the motion. He has read the motion eloquently in a manner that every Member can understand very well. I rise to second the motion that has been moved.

I only want to say something on one issue here, a query that was raised by the Office of the Auditor General, which was an oversight. When we interrogated the report, there was an expenditure that was spent here. It was a capital expenditure but here, the auditor flagged out the query as the expenditure that was included in the fixed asset movement schedule.

Any capital expenditure is not supposed to be included in the fixed asset movement schedule. We discovered that there was inaccuracy in the financial statement. When the auditor was auditing this fund, we discovered that he was using the cash basis, cash basis of accounting. When we use cash basis of accounting, it doesn't show that this fund is a fund that has to exist for a very long time. In fund accounting, we normally use the accrual basis.

Even currently most funds and the current accounting basis that has been approved by ICPAK and even the accounting basis that has been recommended to be used in most public offices is the accrual basis. So the auditor flagged out an issue on the accounting, which was brought out by the accounting basis that was used, that was cash. But in the fund accounting, we normally use the accrual basis of accounting. A fund should be seen as an entity or something that has a growing concern. It has no limitation or intention to stop its operation.

The issue of lack of budget; actually, we discovered that during the formation of the disaster and the emergency fund, there was no committee to approve. But currently, in the current government, in the year 2023-2024, there is a committee that is mandated to approve the budget. I urge Honourable Members to adopt the report and the recommendations therein. I second the report.

Mr. Speaker: Thank you. Hon. CPA Nganga. Hon. Members, a motion has been moved and seconded that this House approve the report by the Public Accounts and Investment Committee on the Bungoma County Disaster and the Merchants Fund for the period ended 30th of June 2022, laid on the table of the House, on 3rd of September 2024. I propose.

(Low consultations)

Hon. Members, what is coming out is that the report is in a very simple language, where even non-accountant can understand it.

So I will proceed and be able to put a question because I am looking at the gadget nobody who wants to contribute, so do I force you? So, if it's in simple language, where non-accountant like me can understand, so we ought not to.

(Applause)

Hon. Members, a motion has been moved and seconded that this House adopts the report by Public Accounts and Investment Committee on the Bungoma County Disaster and the Emergency Fund for the period ending 30th of June 2022, laid on the table of the House, on 3rd of September 2024.

(Question put and agreed to)

Next item,

BILLS

THE BUNGOMA COUNTY PUBLIC PARTICIPATION AND CIVIC EDUCATION BILL 2024

Mr. Speaker: Hon. Chemion, proceed.

Hon. Francis Chemion: Thank you, Hon. Speaker. Pursuant to Standing Order 152(2), I move that the Bungoma County Public Participation and Civic Education Bill 2024 be now read a third time. And I call upon Hon. Sudi Busolo to second.

Mr. Speaker: Hon. Sudi, you do have the honour trying to get your microphone.

Hon. Sudi Busolo: Thank you, Hon. Speaker. I second.

(Laughter)
(Loud Consultations)

Mr. Speaker: Hon. Members a Motion having been moved and seconded that the Bungoma County Public Participation and Civic Education Bill 2024 be read a third time.

(Question put and agreed to)

Now it be read for the third time.

Bungoma County Public Participation and Civic Education Bill 2024; A Bill for an Act of the County Assembly of Bungoma to establish modalities and a platform for citizen participation in the governance of the county to establish a framework to undertake civil education in the county and for connected purposed (Third Reading)

Mr. Speaker: The bill having been read for the third time its deem to have been passed by this House, we now invoke the provisions of section 24 of the County Government Act forwarding to the Governor for assent to the same accordingly.

(Loud consultations)

ADJOURNMENT

Hon. Members, there is indication that having handled Item number 11 on our Order Paper, we will be able to adjourn our sitting for now and be able to resume tomorrow 12th of September, 2024 2:30 p.m.

The House rose at 3:12 p.m.