



**COUNTY
GOVERNMENT OF
BUNGOMA**

COUNTY ASSEMBLY OF BUNGOMA

HANDBOOK ON OPERATIONS OF THE COUNTY ASSEMBLY

May, 2023

COUNTY ASSEMBLY SERVICE BOARD

TABLE OF CONTENTS

FOREWORD.....	i
PREFACE.....	ii
PURPOSE OF THE HANDBOOK.....	iii
Procedure for institutions/guests visiting the County Assembly	iii
CHAPTER ONE	1
1.1 INTRODUCTION.....	1
1.2. Establishment of County Governments	2
1.3. Parliamentary terms.....	2
CHAPTER TWO.....	4
PRIMARY EDUCATION LEVEL	4
2.1 COUNTY GOVERNMENTS	4
2.2 COUNTY GOVERNMENTS COMPOSITION.....	4
2.3 THE COUNTY ASSEMBLY.....	6
2.4 THE COUNTY EXECUTIVE.....	6
SECONDARY EDUCATION LEVEL.....	8
3.1 FORMATION OF GOVERNMENT	8
3.2 FUNCTIONS OF THE NATIONAL GOVERNMENT	8
3.3 THE LEGISLATURE OR PARLIAMENT	8
3.3.1 National Assembly.....	8
3.3.2 Senate.....	9
3.4 RELATIONSHIP BETWEEN NATIONAL GOVERNMENT AND COUNTY GOVERNMENT	10
3.5 COUNTY GOVERNMENTS	11
3.5.1 Roles and Functions of County Governments.....	11
3.5.2 DECENTRALIZED UNITS OF COUNTY GOVERNMENT	11
3.5.3 STRUCTURE OF THE COUNTY GOVERNMENTS.....	11
3.6 COUNTY EXECUTIVE	11
3.6.1 REMOVAL OF GOVERNOR FROM OFFICE	12
3.6.2 ROLES OF THE COUNTY EXECUTIVE COMMITTEE.....	13
Procedure for removal of Member of County Executive Committee.....	13
3.7 THE COUNTY ASSEMBLY	14
3.7.1 Membership of the County Assembly	14
3.7.3 Recalling of a Member of County Assembly	14
Grounds to recall a Member of the County Assembly	15
3.7.4 Roles of the County Assembly.....	15
3.8 RELATIONSHIP BETWEEN COUNTY EXECUTIVE AND COUNTY ASSEMBLY.....	16
3.10 LAW MAKING PROCESS IN COUNTY ASSEMBLIES	17
a) Origin of Bills at the county level.....	18
b) Types of Bills.....	18
Private Bills	18
c) Process of Law Making in the County Assembly	18

3.11 FINANCES OF COUNTY GOVERNMENTS.....	21
1. Equitable share.....	21
2. Tax and charges	22
3. Borrowing/loans	22
4. Commissions from investments	22
5. Grants from the national and other development partners.....	22
6. Donor Funding.....	22
7. The Equalization Fund.....	23
8. Appropriations in Aid (A in A).....	23
How County Governments spend their revenue	23
CHAPTER FOUR	24
TERTIARY EDUCATION LEVEL.....	24
4.1 LEADERSHIP OF THE COUNTY ASSEMBLY	24
1) Speaker.....	24
Election of the Speaker of County Assembly	24
2) Deputy Speaker.....	25
3) Leader of Majority	25
4) Deputy Leader of Majority	25
5) Leader of Minority	25
7) Majority Chief Whip	26
8) Deputy Majority Chief Whip	26
10) Deputy Minority Chief Whip	26
11) County Assembly Service Board (CASB).....	27
4.2 DEPARTMENT AND SECTIONS IN THE COUNTY ASSEMBLY	27
4.3 THE BUDGET PROCESS FOR COUNTY GOVERNMENTS.....	29
4.5 RATIONALE OF THE OPERATIONS OF THE COUNTY ASSEMBLY.....	32
4.5.1 Procedures and committees of the County Assembly	33
4.5.2. Membership of Committees.....	33
4.5.3 Committee secretariat.....	34
4.5.4 PLENARY SESSIONS	34
4.5.5 ORDER PAPER.....	34
CHAPTER FIVE.....	37
5.0 CONCLUSION	37
5.1 REVIEW OF THE HANDBOOK.....	37

FOREWORD



The handbook on operations of the County Assembly of Bungoma is a brief on what the County Government entails and further breaks it down to mandates of County Executive and County Assembly.

It will enable students acquire knowledge, ability and insights in the roles, mandates, structures and legislative processes that take place in County Government specifically the County Assembly.

Being cognisant of the fact that County Assembly doesn't exist in isolation, the document explains different organs in the County and National Governments. It will promote an understanding of inter-governmental relationship between National and County Governments as well as correlation between the County Assembly and the County Executive.

Equally, the handbook encompasses guidelines for institution/guest visits to the County Assembly that need to be observed to the latter. I welcome all guests and institutions to partake of this wealth of knowledge.

A handwritten signature in blue ink that reads "Emmanuel M. Situma".

Hon. Emmanuel M. Situma
Chairperson, County Assembly Service Board.

PREFACE



This handbook is a tool that can be used to equip institutions/ guests with knowledge about the different arms of Government and their roles and mandates. It has broken down the structure of National and County Government and County Executive and County Assembly and how they correlate in delivering on their mandate.

It has summarized the mandate and structure of the County Assembly of Bungoma from its leadership to the various departments in the institution. It has laid down and simplified the processes of law making and budget making for a better understanding for school going students and general public who visit the County Assembly.

Owing to the rising number of schools that request to visit the County Assembly on a day to day basis and cognizant of the fact that the County Assembly is an open institution to the public, my administration saw the need to compile this handbook to serve that noble purpose.

A handwritten signature in blue ink, appearing to read 'Charles W. Wafula', written over a light blue horizontal line.

Charles W. Wafula
Secretary, County Assembly Service Board

PURPOSE OF THE HANDBOOK

This handbook serves to equip the public and groups visiting the County Assembly of Bungoma with relevant knowledge on devolution particularly the operations of the County Executive and the County Assembly. It explains the County Assembly membership, leadership, roles, Standing Orders, Rules and Procedures, budget making process and legislation. It seeks to inform students in primary schools, secondary schools, colleges, universities and the general public on the devolved governments in line with the school curriculum to enhance skills in leadership and governance.

It will enable students acquire knowledge, ability and insights in the roles, mandates, structures and processes that take place in County Government specifically the County Assembly. Being cognisant of the fact that County Assembly doesn't exist in isolation, the document explains different organs in the County and National Governments. It will promote an understanding of inter-governmental relationship between National and County Governments as well as correlation between the County Assembly and the County Executive. Equally, the handbook encompasses guidelines for school visits to the County Assembly.

Procedure for institutions/guests visiting the County Assembly

1. The visiting institution/ guests to send an official request to visit the County Assembly to the Clerk of the County Assembly.
2. The request letter is marked to the relevant offices that handle visitors at the Assembly (Public Communication section and Sergeant At Arms Department)
3. Officers from the two departments assigned with the responsibility of handling guests to allocate date for the visit in line with the County Assembly legislative calendar.
4. The assigned officers communicate the allocated date to the visiting institution/ guests.
5. The visiting institution to provide a list of the guests who intend to visit the County Assembly.
6. The list of guests and approved date of the visit is submitted to the Speaker and Clerk of the County Assembly prior to the visit.
7. The rules and regulations of conduct of the guests within the County Assembly is communicated to guests upon arrival at the Assembly precincts.

CHAPTER ONE

1.1 INTRODUCTION

Devolution is the transfer of power from a central government to subnational (e.g. state, regional, or local) authorities.

County Governments were established following the promulgation of the Constitution of Kenya, 2010 in order to de-centralize power and resources to counties.

Pursuant to Article 175 of the Constitution, County Governments are established to reflect the following principles:

1. Democratic principles and the separation of powers
2. Reliable sources of revenue to enable them to govern and deliver services effectively, and
3. No more than two-thirds of the members of representative bodies in each County Government shall be of the same gender.

The objects of the devolution of government are:

- a) to promote democratic and accountable exercise of power
- b) to foster national unity by recognizing diversity
- c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them
- d) to recognize the right of communities to manage their own affairs and to further their development
- e) to protect and promote the interests and rights of minorities and marginalized communities
- f) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya; to ensure equitable sharing of national and local resources throughout Kenya.
- g) to facilitate the decentralization of State organs, their functions and services, from the capital of Kenya; and to enhance checks and balances and the separation of powers.

1.2. Establishment of County Governments

Article 176 of the Constitution establishes a County Government for each county, consisting of a County Assembly and a County Executive. It further states that every County Government shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so. There exists separation of powers in the two arms of government that is County Executive and County Assembly.

The power to legislate, represent and oversight is vested in the County Assembly. The executive authority of the county is vested in, and exercised by, a County Executive.

1.3. Parliamentary terms

- a) **Point of Order** - In parliamentary procedure, a point of order occurs when someone draws attention to a rules violation in a meeting of a deliberative assembly.

A point of order may be raised if the rules appear to have been broken. This may interrupt a speaker during debate, or anything else if the breach of the rules warrants it. The point is resolved before business continues.

- b) **Standing Orders** - These are written rules under which the House regulates its proceedings. The continuing or “standing” nature of rules means that they do not lapse at the end of a session or parliament. Rather, they remain in effect until the House itself decides to suspend, change or repeal them.

They contain the detailed description of the legislative process, the role of the Speaker, the nature of the parliamentary calendar and the rules governing the work of committees and private Members’ business. The House declares them ‘Standing Orders’ when it formally adopts them, and it periodically issues them as a publication for the guidance and use of all Members.

- c) **Order Paper** - is a paper showing the business to be placed before or taken by the County Assembly on a particular day, published and circulated by the Clerk.

Business of the House shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the County Assembly, direct.

- d) **Allotted Day** - means a day set aside for the consideration in committee of supply of proposals in respect of the annual and supplementary estimates,

- e) **Hansard** - is a verbatim record of what was said in the County Assembly and incorporates questions on notice answered on a sitting day. It also includes records of votes and written statements.
- f) **Coalition** - means an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement deposited with the Registrar
- g) **Precincts of Assembly** - includes the chamber of the Assembly, every part of the buildings in which the chambers are situated, the offices of Assembly, the galleries and places provided for the use and accommodation of Members of the Assembly, members of the public and representatives of the Press and any forecourt, yard, garden, enclosure or open space, appurtenant thereto and used or provided for the purposes of the Assembly;
- h) **Private Bill** - means any Bill, which is intended to affect or benefit some particular person, association or corporate body;
- i) **Public Bill** - means a Bill which is intended to affect the public generally, or a section of the public;
- j) **Quorum of the Assembly** - means one third of all the members of the Assembly;
- k) **Recess** - means a period during which the Assembly stands adjourned to a day other than the next normal sitting day;
- l) **Session** - means the sittings of the Assembly commencing when it first meets after a General Election or on a day provided for in the Standing Order (*Regular Sessions of the Assembly*) and terminating when the Assembly adjourns at the end of a calendar year or at the expiry of the term of Assembly.
- m) **Sitting** - means a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in Committee; but two or more periods of sitting within the normal period of one sitting, or within an equivalent period, shall not rank as more than one sitting;

CHAPTER TWO

PRIMARY EDUCATION LEVEL

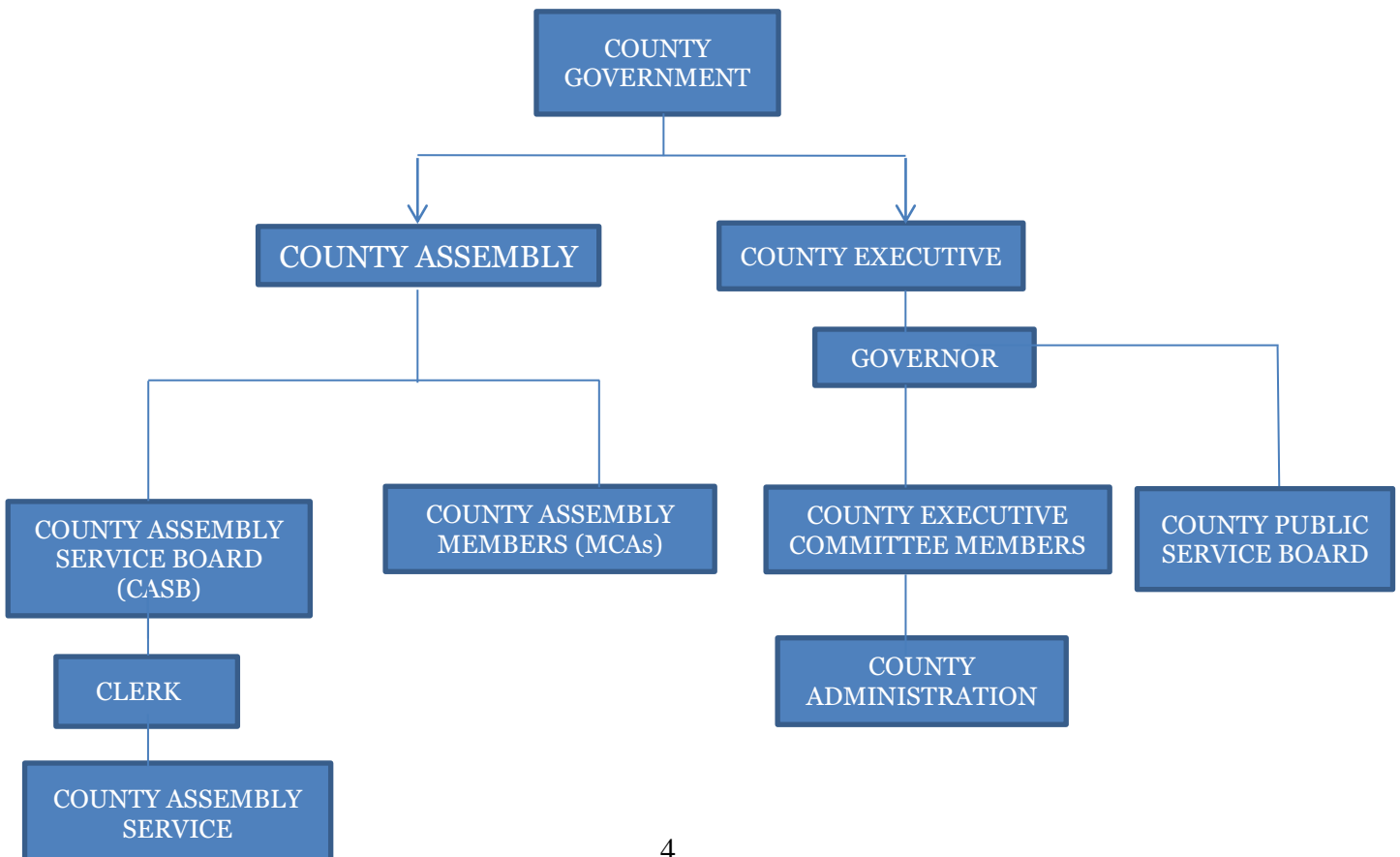
2.1 COUNTY GOVERNMENTS

Counties are geographical units within the Country. They came into being as a result of the Constitution of Kenya, 2010 which contributed to the formation of a County Government for each County.

The County Governments were established based on the 1992 Districts of Kenya, after the scheduled general election of March, 2013. Previously before devolution, autonomous power lay in the National Government. In the current dispensation, the power has been devolved to 47 County Governments in Kenya. This is for the purpose of having equitable distribution of resources across the regions and for development to reach every part of the country.

2.2 COUNTY GOVERNMENTS COMPOSITION

Each County Government has a County Assembly and County Executive.



2.3 THE COUNTY ASSEMBLY

The County Assembly consists of:

- a) Elected Members of County Assembly (MCA), each representing a Ward.
- b) Special seat members nominated by political parties/coalitions to ensure that not more than two-thirds of the members in the House are of the same gender.
- c) Nominated members representing marginalized groups, persons living with disabilities and youth.
- d) The Speaker who is an ex-officio member.

An ex-officio member is a member of a body (notably a board, committee, council) who is part of it by virtue of holding another office.

The Speaker therefore does not vote on matters before the County Assembly and remains impartial/neutral (not to take sides) at all times.

2.4 THE COUNTY EXECUTIVE

The County Executive Committee exercises the democratic authority of the citizens at the County level.

This committee comprises of:

1. The Governor
2. The Deputy Governor
3. Members of County Executive Committee (not exceeding 10) appointed by the governor with the approval of the County Assembly who are not members of the Assembly.

Duties of the Governor

- a) To preside over the official opening of County Assembly.
- b) To oversee the implementation of County legislation.
- c) To supervise the management of County departments.
- d) To appoint members of the County Executive Committees with approval from the County Assembly.
- e) To chair the county executive committee meetings.
- f) Represent the county in intergovernmental relations (that is, relations between the national and County Governments, and also other counties).
- g) The county governor may perform such State functions within the county as the President may from time to time assign on the basis of mutual consultations.

CHAPTER THREE

SECONDARY EDUCATION LEVEL

3.1 FORMATION OF GOVERNMENT

A government is an administrative system which governs the people. The process of formation of government begins after the general elections.

In Kenya, there are two levels of government:

- i. National Government
- ii. County Government

Fourth Schedule of the Constitution of Kenya, 2010 stipulates the distribution of functions between the National Government and County Government.

3.2 FUNCTIONS OF THE NATIONAL GOVERNMENT

- i. Promote social and economic development in the country.
- ii. Uphold and protect human rights and freedom of all citizens.
- iii. Ensuring peaceful and harmonious co-existence through administration of justice and application of the rule of law.
- iv. Organizing an effective defense force to protect the country from external and internal aggression.
- v. Establishing sound foreign policies to promote international cooperation with other countries by setting up high commissions and embassies.
- vi. Protecting and promoting rights and interests of the minorities and marginalized communities.
- vii. Fostering national unity by recognizing the diversity of the various ethnic communities of Kenya and by ensuring equitable distribution of natural and local resources.

3.3 THE LEGISLATURE OR PARLIAMENT

It is a bi-cameral system consisting of the:

- i. National Assembly
- ii. Senate

3.3.1 National Assembly

The National Assembly is composed of:

- i. 290 members representing the constituencies
- ii. 47 elected women each representing a County

- iii. 12 members nominated by the political parties
- iv. The Speaker, as an ex-officio member

Functions of National Assembly

1. Represents the people in the various constituencies of Kenya and special interests.
2. Deliberates on matters of national and international concern to the people.
3. Has power to enact legislation that affect the whole country like those involving money bills.
4. Controls public revenue and expenditure as:
 - i. It determines the allocation of national revenue between the levels of government.
 - ii. It appropriates funds for expenditure by the national government and other state organs.
 - iii. It scrutinizes all expenditures of the government.
 - iv. It has a duty to review conduct of the president and deputy president and other state officers and initiate the process of removing them.
 - v. It approves the declaration of war and the extension of a state emergency.
 - vi. It exercises an oversight role over state organs to ensure efficiency, transparency and accountability.

3.3.2 Senate

The Senate consists of:

- i. 47 elected members, each representing a County
- ii. 16 Women members nominated by political parties
- iii. Two youth representing male and female gender
- iv. Two representatives of people living with disabilities (female and male)
- v. The Speaker, as an ex-officio member

Functions of Senate

- i. To protect the interests of the Counties and the County Governments.
- ii. To participate in law-making functions of parliament by initiating, debating and approving bills relating to the counties.
- iii. Determines the allocation of revenue among Counties.
- iv. Exercises oversight over the revenue allocated to the County Governments.

- v. Participates in oversight of state by conducting and determining any resolution to remove the president or deputy president.

3.4 RELATIONSHIP BETWEEN NATIONAL GOVERNMENT AND COUNTY GOVERNMENT

Although the Constitution has created two levels of government and forty-seven counties, Kenya is still a unitary state. Although the two levels are distinct, they are required to respect each other and work in harmony. This is provided for in Article 6 (2) of the Constitution. This means that relationship between the two must be consultative and cooperative.

- a) Neither the County nor the National Government is senior or superior to the other.
- b) County Governments receive funding from National Government.
- c) The equitable share allocated to the counties is unconditional. That is, the County Governments can spend the money without any restrictions from the national government.
- d) Some functions in Counties are not devolved hence still performed by National Government such as security, education, etc.
- e) The two governments and institutions established under them are required by the Constitution to ensure participation by citizens in their affairs.
- f) The two levels have democratically elected representatives and autonomous political authority. The elected representatives are for Senate, National Assembly, the President, the County Assembly and the Governor in each of the forty-seven counties.
- g) The two levels of governments have clear mandate to provide a range of significant services.
- h) The two governments can be taken to court or can take others to court. This is to say they are body corporate.
- i) They have the power to control own budget and accounts and the ability to raise own revenue.
- j) The County Governments have been given constitutional authority to make and enforce local legislation.
- k) Citizens equal access to available resources at either level is guaranteed
- l) All policies for all functions are developed at the National level

m) There exists a coordinating body that brings together all 47 Governors known as National and County Government coordinating summit; it is chaired by the President or in his absence the Deputy President.

3.5 COUNTY GOVERNMENTS

3.5.1 Roles and Functions of County Governments

- a) Delegating functions to County and Sub-County institutions
- b) Partnering with public private institutions for development initiatives
- c) Establishing agencies and departments for service
- d) Control of air and noise pollution, other public nuisances and outdoor advertising
- e) Pre-primary education, village, polytechnics, home craft and child care facilities
- f) Firefighting services and disaster management
- g) In charge of agriculture, Health services, Animal control, Trade development, County transport, public works, county planning and development.

3.5.2 DECENTRALIZED UNITS OF COUNTY GOVERNMENT

- a) Sub County Unit** - A constituency within the County headed by Sub County Administrator.
- b) Ward Unit** - an electoral unit within constituency delimited in accordance with the constitution that typically elects and is represented by a Member of the County Assembly (MCA).
- c) Village Unit** - Each village has a village council chaired by a Village administrator, consisting of not less than three and not more than five elders.

3.5.3 STRUCTURE OF THE COUNTY GOVERNMENTS

The County Governments are made up of two organs:

- a) The County Executive
- b) The County Assembly

These two organs work together to develop and implement policies, growth plans and budgets.

3.6 COUNTY EXECUTIVE

- a) The County Executive is the organ which ensures that the implementation of policies takes place and management of County administration.

- b) The Governor is the chief executive of the County Government.
- c) To be elected governor one must be eligible for election as a member of the County Assembly.
- d) The Governor is directly elected by the voters registered in the county.
- e) The Governor nominates a running mate to become the Deputy County Governor. When the County Governor is absent, the Deputy Governor shall act as the Governor.
- f) Members of a county executive committee are accountable to the Governor for the performance of their functions and exercise of their powers.
- g) If a vacancy arises in the office of the County governor, the Deputy Governor assumes office for the remainder of the term of the County Governor. If the Deputy Governor is not able to act, the Speaker of the County Assembly acts as the Governor for a period of 60 days then elections will be held.

3.6.1 REMOVAL OF GOVERNOR FROM OFFICE

Reasons for removal of Governor from Office

- i. Gross violation of the Constitution or any other law
- ii. Where there are serious reasons in believing that the County Governor has committed a crime under national or international law
- iii. Abuse of office or gross misconduct
- iv. Physical or mental incapacity to perform the functions of the office of the Governor

Procedure for removal of the Governor by impeachment

Pursuant to Article 181 (1) of the Constitution, a member of a County Assembly may, supported by at least a third of all the members of the County Assembly, move a motion for the removal of a Governor.

According to Section 33 of the County Governments Act, 2012 and the County Assembly of Bungoma Standing Order 75, states the procedure for the removal of a Governor from holding office.

Procedure for removal Of Deputy Governor

Pursuant to the Standing Order 76; Where a Member proposes the removal of the Deputy Governor on the grounds in terms of Article 181 of the Constitution, Standing

order 75 (*procedure of removal of Governor by impeachment*) shall with the necessary modifications, apply.

3.6.2 ROLES OF THE COUNTY EXECUTIVE COMMITTEE

Pursuant to Article 183 of the Constitution of Kenya, 2010, A County Executive Committee shall:

(1) Implement county legislation;

(a) Implement, within the county, national legislation to the extent that the legislation so requires;

(b) Manage and coordinate the functions of the county administration and its departments; and

(c) Perform any other functions conferred on it by this Constitution or national legislation.

(2) A county executive committee may prepare proposed legislation for consideration by the County Assembly.

(3) The county executive committee shall provide the County Assembly with full and regular reports on matters relating to the county.

Other Senior Officers in the County Executive are:

a) **County Secretary:** serves as the head of county public service, conveys decisions of executive committee to the appropriate person or authority, and is responsible for arranging the business and keeping minutes of the executive committee meetings.

b) **Chief Officers:** Reports to respective County Executive Committee member for the administration of a County Department.

Reasons for removal of a County Executive Committee member

a) Gross violation of a provision of the Constitution or of any other law;

b) Where a CEC has committed a crime under national or international law;

c) Gross misconduct.

Procedure for removal of Member of County Executive Committee

The provisions of section 40 (1) of the County Governments Act, 2012 and the County Assembly of Bungoma Standing order 77 (1) shall apply in the removal of a member of County Executive Committee.

3.7 THE COUNTY ASSEMBLY

The County Assembly of Bungoma is the legislative arm of the County Government. It is the organ where elected County leaders sit and make laws. It serves as the parliament of the County.

3.7.1 Membership of the County Assembly

It consists of 45 elected members and nominated members whose membership is pegged on the number of elected female MCAs.

The County Assembly is headed by the Speaker, who is an ex officio member.

The County Assembly is elected for a term of 5 years.

Qualifications for person to contest for MCA seat

To qualify as a candidate to contest for the position of MCA in the election one must:

1. Be a registered voter
2. Meet the educational, ethical and moral standards prescribed in the constitution or an act of parliament.
3. Be nominated by a political party.
4. To be an independent candidate, one must be supported by at least 500 registered voters in the ward he or she wishes to represent.

3.7.2 Duties and Responsibilities of Member of County Assembly (MCA)

- a) Maintain close contact with the electorate and consult them on issues before or under discussion in the County Assembly.
- b) Present views, opinions and proposals of the electorate to the County Assembly.
- c) Attend sessions of the County Assembly and its committees.
- d) Provide a linkage between the County Assembly and the electorate on public service delivery.
- e) Extend professional knowledge experience or specialized knowledge to any issue for discussion in the County Assembly.

3.7.3 Recalling of a Member of County Assembly

Section 27 to 29 of the County Governments Act, 2012 provides for the right to recall a Member of the County Assembly in Kenya. The electorate in a county ward may recall their Member of the County Assembly (MCA) before the end of the five-year term of the member on any of the grounds mentioned below. Recall shall be initiated by a

petition by a voter in the ward filed to the Independent Electoral and Boundaries Commission (IEBC).

The process of recalling an MCA who is nominated is different from an MCA who is elected. The recall for nominated Members of the County Assembly (MCAs) is subject to the political parties that nominated them. The political parties can recall a nominated MCA that they sponsored to the County Assembly at any time.

Grounds to recall a Member of the County Assembly

The following are the grounds to recall a Member of the County Assembly:

- a) Gross violation of the Constitution or any other law;
- b) Incompetence;
- c) Gross misconduct; or
- d) If convicted of an offence punishable by imprisonment for at least six months

A recall of a Member of the County Assembly should only be initiated twenty-four months after the election of the member and not later than twelve months immediately preceding the next general election.

Therefore, a recall can only be initiated in the third and fourth year of the five year term of a Member of the County Assembly. A recall petition should not be filed against a Member of the County Assembly more than once during the term of that member in the County Assembly. After a successful petition, a recall election is conducted in that particular Ward.

3.7.4 Roles of the County Assembly

- a) Representation** – One of the critical roles of the Members of the County Assembly (MCAs) is to represent the residents of their respective Wards in the County Assembly. The MCAs have a duty to maintain close contact with the electorate and consult on issues before or under discussion in the County Assembly, present views, opinions and proposals of the electorate to the County Assembly, attend sessions of the County Assembly and its committees and provide a linkage between the County Assembly and the electorate on public service delivery.

- b) Legislation-**The County Assembly is mandated to make laws and policies that are necessary for the effective performance of the functions and exercise of the powers of the County Government under the 4th schedule of the Constitution.
- c) Oversight-**The County Assembly while respecting the principle of the separation of powers, has the mandate to exercise oversight over the County Executive Committee and any other County Executive Organs.
- d) Approving of plans and policies-** The County Assembly is mandated to receive and approve plans and policies for: the management and exploitation of the county's resources; the development and management of its infrastructure and institutions.
- e) Vetting and approval-**To vet and approve nominees for appointment to county public offices.
- f) Consider County Government Budget Estimates-** Section 131 of the Public Finance Management Act states that the County Assembly shall consider the County Government budget estimates with a view of approving them, with or without amendments. Any recommendations by the County Assembly should take into account the views of the County Executive Committee Member for finance and the Public.
- g) Approve borrowing by County Government-** Article 212 of the Constitution provides that a County Government may borrow only when the loan is guaranteed by the National Government and with the approval of the County Assembly.
- h) Approve county development planning-** section 8 of the County Government Act provides that one of the roles of the County Assembly is to approve County Development Planning.
- i) To perform any other role set out by the Constitution or legislation.**

3.8 RELATIONSHIP BETWEEN COUNTY EXECUTIVE AND COUNTY ASSEMBLY

- a) County Executive formulates budget proposals, the County Assembly approves the same with or without amendments
- b) Legislative proposals emanate from the County Executive then they are forwarded to the County Assembly for consideration.

- c) All County Development Plans are formulated at County Executive before transmission to the County Assembly for approval or otherwise. All Sector based regulations and policies are formulated by County Executive.
- d) All revenue at the County is collected by County Executive.
- e) County Executive Committee nominees, Chief Officers and County Public Service Board members must be approved by the County Assembly.
- f) The County Assembly oversees the County Executive.
- g) Any County borrowing must be approved by the County Assembly.

3.9 BUDGET CYCLE IN COUNTY GOVERNMENT

The following is the budget making cycle:

1. Formulation of Budget

It involves identification of sector priorities, preparation and consolidation of the Budget Estimates by the County Executive.

2. Approval of Budget

This involves debating and amending the budget estimates by the County Assembly.

3. Implementation of Budget

The Government raises revenues and allocates it to spending units. Every three months, the County treasury prepares a report to be submitted to the County Assembly.

These reports are presented as the proposed budget for implementation. Whenever there are discrepancies in spending, the gaps are identified and corrected by the County Executive before the fiscal year is over.

4. Audit

The Auditor General and County Assembly review whether actual spending was in line with the approved budget.

3.10 LAW MAKING PROCESS IN COUNTY ASSEMBLIES

The process of law-making in the County Assembly in Kenya takes place in several stages, from the First Stage to assent by the County Governor.

Article 1 of the Constitution delegates the people's sovereign power to legislative assemblies in the County Governments, among other State Organs.

A Bill, in this case, is a proposal for a new, or a proposal to change existing, law presented for debate before the County Assembly.

a) Origin of Bills at the county level

A Bill may originate from the following:

- i. Political party - introduced in the County Assembly in the name of the Leader of the Majority Party or the Leader of the Minority Party, or their respective deputies;
- ii. The County Executive - introduced in the name of the Leader of the Majority Party or Leader of the Minority Party, or the name of the Chairperson of the relevant Committee;
- iii. Individual members of the County Assembly - introduced in the name of the member sponsoring the Bill;
- iv. Committee of the County Assembly - introduced in the name of the Chairperson or a member designated by the Committee;
- v. A member of the public may also petition the Assembly according to the provision of Section 15 of the County Governments Act and the Standing Orders to legislate on a matter - introduced by way of a Petition conveyed by the Speaker and committed to the relevant Departmental Committee for consideration and publication of the consequential Bill;
- vi. Alternatively, members of the public may forward legislative proposals to Members of the County Assembly.

b) Types of Bills

Private Bills

These are bills intended to affect a particular people, associations or people living in a part of the County.

Public Bills

Public bills are divided into two:

- a) Government Bills
- b) Private member Bills

They deal with matters of public policy that affects all citizens of the County.

Government bills are introduced by County Executive Committee members while private member bills are introduced by Members of the County Assembly.

c) Process of Law Making in the County Assembly

The Process of law-making in the County Assembly occurs in several stages through which a bill passes through the Assembly after its publication.

First Reading

It involves the Assembly Clerk introducing the Bill to the Assembly for the first time by reading its title. The stage is a formality where no voting or debate occurs.

The Bill is then committed to the relevant Departmental Committee of the Assembly for consideration.

The Committee then facilitates public participation through appropriate means such as:

- a) Inviting submission of memoranda
- b) Holding public hearings
- c) Consulting relevant stakeholders; and
- d) Consulting experts on technical subjects.

The Committee considers the views and recommendations of the public when considering the Bill and preparing its report to the Assembly.

The Committee then scrutinises the Bill by calling in the sponsor of the Bill, inviting various stakeholders and later compiles a report to the Assembly with any specific proposed amendments that the Committee of the Whole Assembly considers later.

Second Reading

Second reading is a stage in the law-making process in the County Assembly where a draft of a Bill is read out for the second time. Members of the County Assembly debate the main purpose and principles of the Bill while seated in plenary. The sponsor of the bill opens the debate for a second reading by setting out the case for the Bill and outlining its provisions, while another member seconds it. A Bill that is not seconded is withdrawn. The discussion covers all aspects of the Bill, including its goals, principles, and how its passage will affect the general public. The report of the Departmental Committee assists the members to debate the Bill, particularly to grasp the views of the public or the effects of the Bill on other laws.

The County Assembly Speaker permits a Bill's proposer to react to any issues expressed by the Assembly after the debate. The Speaker then poses the question, causing the Assembly to vote on whether or not the Bill should go to the next stage.

No amendments can be made to the (text of the) Bill at this stage, although members may give an idea of the changes they will be proposing later.

Committee Stage

The stage takes place through the Committee of the Whole Assembly. The committee stage entails a careful (line-by-line) study of the Bill's many parts (clauses) and voting by members of the Committee on each modification. The Committee of the Whole Assembly consists of all members of the Assembly seated in form of a committee, who the Deputy Speaker or any member of the Chairpersons' panel presides. The Committee decides whether each clause of the Bill should remain in it. Every clause in the Bill is agreed to, changed or removed. Following the conclusion of the meeting, the Committee, through its Chairperson, submits a report to the Assembly for approval.

Report Stage

This stage takes place in the chamber of the Assembly during plenary sitting. The Assembly only discusses amendments during this stage. The Assembly receives a report and votes on it following a procedural Motion. At this stage, any Member may, with reasons, also move the Assembly to resolve itself into a Committee again to reconsider any specified clauses of the Bill. This is known as re-committal.

The amendments may change what is in the bill already or may involve new provisions being added.

Third Reading

The third reading of a Bill involves a general discussion of the Bill immediately after the Report Stage. Amendments (proposals for change) cannot be made to a Bill at the third reading, though tidying up amendments might be acceptable. Debate is usually short and limited to what is actually in the Bill, rather than what might have been included, like in the Second Reading. At the end of the debate, the Assembly takes a final vote on the Bill, that is, it decides (votes on) whether to approve the third reading of the Bill.

County Governor's Assent

Once the Assembly passes the Bill, the Speaker presents it to the County Governor who, within fourteen days, may:

- a) Assent to the Bill;
- b) Refer the Bill back to the County Assembly with a memorandum of reservations.

If the County Governor assents a Bill, it becomes an Act. The law may not take effect immediately and the date of commencement may be indicated (as a later date).

The legislation comes into force either after being published in the Kenya Gazette or upon the lapse of 14 days from the date of the assent.

Referral of a Bill back to the County Assembly

If the County Governor refers a Bill back to the Assembly, the Assembly should reconsider the Bill confining itself to the clauses the County Governor expressed reservations, including any recommendations the County Governor may make on the clauses, and

- a) The County Assembly may either amend the Bill in light of the County Governor's reservations or pass the Bill a Second time without amendments. If the Assembly passes the Bill fully accommodating the County Governor's reservations, the Speaker presents the Bill to the County Governor for assent; the Assembly may pass the Bill a second time; and
- b) Notwithstanding the County Governor's reservations insist on its initial text; or
 - Pass the Bill a second time with amendments that do not fully accommodate the County Governor's reservations.
 - Both cases require a two-thirds majority of the County Assembly. Thereafter, the Speaker presents the Bill again to the County Governor for assent.

3.11 FINANCES OF COUNTY GOVERNMENTS

County Governments get their income in the following ways:

1. Equitable share

The Constitution provides in Article 203 (2) that "For every financial year, the equitable share of the revenue raised nationally that is allocated to County Governments shall be not less than fifteen per cent (15%) of all revenue collected by the national government" This is the money to be given to counties. The national government remains with eighty-five percent (85%). This is the first source of revenue for counties. The law guiding management of County Government finances is the Public Finance Management Act, 2012.

The Senate uses a revenue-sharing formula developed by the Commission on Revenue Allocation (CRA) to divide the equitable share among the Counties.

The equitable share is the money parliament shares vertically between the national and the County Governments. The money comes from the ordinary tax revenue the national government collects at the national level.

The Senate then allocates the equitable share for the Counties (from the vertical share) horizontally among the 47 counties.

The equitable share is the biggest source of revenue for the County Governments in Kenya.

2. Tax and charges

These are charges imposed on services provided by the County Government in accordance with the stipulated laws. Own revenue is raised through levying taxes approved by the residents of a county. Some types of these own source revenue include property rates, land rates, entertainment taxes- collected from parks, clubs, hotels, and other entertainment spots, parking fees, building permits and fees from billboards, advertisements and sale of single business permits to traders, organizations and institutions within the County.

3. Borrowing/loans

Loans as sources of revenue for County Governments in Kenya may come from external sources or private lenders. The County Governments can borrow or access loans, which they repay with interest.

4. Commissions from investments

This is a minor source of revenue for County Governments in Kenya. Counties can receive returns or profits from undertaking investments (return on investments). That is, the counties can invest in some resources and the resulting returns or profits become revenue for the County Government.

5. Grants from the national and other development partners

The County Governments can receive additional allocations from the national government's equitable share of revenue (from the vertical sharing). These additional allocations are conditional allocations or grants.

6. Donor Funding

Donor funding as a source of revenue for County Governments in Kenya involves aid from international donors or development partners.

International donors or development partners provide aid in the form of loans and grants.

The donors or development partners can send the money directly to the counties. These funds are usually in the form of conditional grants. They can also send grants to the counties through the national government ministries, departments and agencies (MDAs).

7. The Equalization Fund

It is established by the Constitution in Article 204. This Fund is strictly for special groups and regions that over time were left out in terms of development.

8. Appropriations in Aid (A in A)

Appropriation-in-Aid means any revenue which the County Government receives and is approved by County Assembly for that department to finance its activities.

Appropriation-in-Aid means any revenue which a department collects in the ordinary course of business which have been approved by County Assembly to be used by the department.

How County Governments spend their revenue

1. They pay wages and salaries to the people who are employed by the County Government.
2. They provide basic services to the people in the County. Such as water supply, street lighting, garbage collection and disposal.
3. They construct and maintain public facilities in the respective counties. These facilities include roads, cemeteries, public parks, markets, museums, libraries and houses, among others.
4. They provide the infrastructure needed to facilitate the provision of education such as books and construction of classrooms for Early Childhood Development Education (ECDE) and Youth Polytechnics.
5. They undertake environmental conservation projects such as forests and soil conservation, and protection of water catchment areas.
6. They provide emergency services in counties such as firefighting and ambulance services.

CHAPTER FOUR

TERTIARY EDUCATION LEVEL

(Universities, Colleges, Technical Training Institutes and Vocational Schools)

4.1 LEADERSHIP OF THE COUNTY ASSEMBLY

1) Speaker

Pursuant to Article 178 of the Constitution of Kenya, each County Assembly shall have a Speaker elected by the County Assembly from among persons who are not members of the Assembly. Speaker presides over the sittings and is the overall spokesperson of House matters in the Assembly. In the absence of the Speaker, another member of the assembly elected by the assembly can preside over.

The County Assembly is headed by the Speaker who is also the chairman of the County Assembly Service Board.

Election of the Speaker of County Assembly

For a candidate to be elected to the office of Speaker, one must meet the qualification to be elected as a Member of County Assembly as such under Article 193 of the Constitution of Kenya. The election of Speaker is conducted during the first sitting of a new County Assembly upon gazettelement of the sitting by the Governor.

Functions and Mandate of the Speaker

- a) Presiding over sittings of the Assembly and maintaining law and order in the House
- b) Applying and interpreting the rules of procedure (Standing Orders), conventions, practices and precedents of the Assembly
- c) Defender and protector of the Assembly privileges, practices and traditions
- d) Is the Official Representative and Spokesperson of the Assembly both within and outside
- e) Is the Chairperson of the top policy organ of Legislative Assembly (County Assembly Service Board)
- f) Administering the oath of office to Members of the County Assembly

- g) Recognizing Members for the purpose of debates and contributions in the house
- h) Referring Bills and Resolutions of the House to Committees
- i) Presiding over the general conduct of business and proceedings of the House while in session
- j) Making informed Rulings and decisions in the House derived from the debates and contributions of the Members of the County Assembly.

2) Deputy Speaker

The Deputy Speaker is a member of County Assembly elected by other members through voting, and deputizes the Speaker of the County Assembly. He presides over Chambers upon request by the Speaker or in absence of the Speaker and chairs the Committee of the Whole House. The Deputy Speaker also chairs the Liaison Committee which is the Committee consisting of all chairpersons of Committees and is a member of the Speaker's Panel.

3) Leader of Majority

The Leader of Majority is elected amongst members of the largest party or coalition of parties. He directs the activities of the majority party on the floor of the House and also act as spokesperson for the party's position on issues.

Primary functions of Leader of Majority are;

- a) He is the lead speaker for the majority party during floor debates.
- b) Plays key role in developing the Assembly calendar.
- c) He also assists the speaker with Programme development, policy formulation and policy decision through County Assembly Service Board (CASB).
- d) Leader of Majority is the link between the County Executive and County Assembly.
- e) He develops the majority caucus agenda with the principal leaders as well as presiding over the majority caucus meetings.

4) Deputy Leader of Majority

Deputizes the Majority Leader

5) Leader of Minority

The Leader of Minority party represents the second largest political party or coalition of parties in the County Assembly.

Functions of leader of Minority;

- a) The Minority Leader speaks for the Minority Party and its policies, strives to protect the minority's rights, organizes and leads criticism of the Majority Party, and devises parliamentary strategies and tactics that can put to best use the abilities of his party to influence legislative outcomes.
- b) The Minority Leader chairs his party's Committee Assignment Panel.

6) Deputy Leader of Minority

Deputizes the Leader of Minority

7) Majority Chief Whip

They ensure that Members of the County Assembly of the majority party attend to the House Business, select members from their party to serve in various committees and are also in-charge of enforcing party discipline.

Whip of Majority Party or Coalition of Parties shall be responsible for:

- a) Mobilizing members of the Majority County Assembly Party or Coalition of Parties for the purpose of transacting business in the Assembly.
- b) The office is also responsible for enforcing party discipline among its Members.

8) Deputy Majority Chief Whip

Deputizes the Majority Chief Whip

9) Minority Chief Whip

They ensure that Members of the County Assembly of the minority party attend to the House business, select members from their party to serve in various committees and are in-charge of enforcing party discipline.

The Whip of the Minority Party or Coalition shall be responsible for:

- a) Mobilizing members of the Minority County Assembly Party or Coalition of Parties for the purpose of transacting business in the Assembly;
- b) Any other responsibility that shall be accorded to him or her by these Standing Orders; and
- c) Any other function that the Assembly may resolve.

10) Deputy Minority Chief Whip

Deputizes the Minority Chief Whip

11) County Assembly Service Board (CASB)

The County Assembly Services Act, establishes the County Assembly Service Board consisting of:

- a) The Speaker of the County Assembly, as the chairperson;
- b) Representative of Majority party/ coalition of as the vice-chairperson
- c) Representative of Minority party/ coalition
- d) One man and one woman appointed by the County Assembly from amongst persons who are experienced in public affairs, but are not members of the County Assembly.

The mandate and responsibilities of the County Assembly Service Board

- a) Providing services and facilities to ensure the efficient and effective functioning of the County Assembly;
- b) Constituting offices in the County Assembly service and appointing and supervising office holders;
- c) Preparing annual estimates of expenditure of the County Assembly services and submitting them to the County Assembly for approval and exercising budgetary control over the service;
- d) Undertaking, singly or jointly with other relevant organizations, programs to promote the ideals of parliamentary democracy;
- e) Performing other functions necessary for the well-being of the members and staff of the County Assembly or prescribed by the national legislation.

4.2 DEPARTMENT AND SECTIONS IN THE COUNTY ASSEMBLY

a) Office of the Clerk

The Clerk is the administrative and procedural head of the Assembly and oversees the day to day operations and affairs of the County Assembly.

He is also the Chief Executive Officer and Accounting Officer of the County Assembly.

All members of Staff serve under the Clerk of the County Assembly.

The Clerk is assisted by the Deputy Clerk Legislative Services and Deputy Clerk Administration in the execution of his duties.

b) Legal Department

The department drafts bills, amendments on existing legislations, drafting motions and statements, advising the Speaker, Clerk, Hon. MCAs, and staff of the Assembly on legal matters, and ensures compliance.

c) Hansard Department

This department is responsible for the verbatim records of proceedings of plenary sittings and that of committees and publishing of the Hansard reports of each sitting.

d) Human Resource and Administration

The department runs the human capital of the County Assembly. It formulates, interprets, implements and review appropriate Human Resource Management Policies, Rules, Regulations and Procedures for effective and efficient service delivery.

It has the following sections:

- i. **Administration** - Handling administrative matters of County Assembly.
- ii. **Records** - Ensures safety and security of information and records (registry)
- iii. **Transport** - In-charge of vehicles belonging to County Assembly.

e) Legislative Procedural and Chamber Services

The department provides procedural and legislative advice, administrative support and an interface between the House, internal and external stakeholders on legislative and procedural matters.

f) Committee Services Department

The Department provides administrative services that support Members of the County Assembly in their various Committees.

g) Sergeant-At-Arms Department

The Department enforces the Speaker's Orders to ensure order and decorum. The department performs ceremonial duties including carrying of the mace to and from the House during sittings of the County Assembly.

h) Information Communication Technology (ICT) Department

The section provides ICT solutions and support to all departments. It coordinates the customization, configuration and installation of IT systems, deploy and maintain networks, administer computer applications, email services and General Information Security System.

i) Public Communication and Media Relation Section

The Section is responsible for enhancing public relations activities both within and outside of County Assembly.

j) Finance, Accounts and Procurement Department

The department consists of three sections whose mandates are:

- i. **Finance-** Preparation of planning and budget documents, sourcing of funds for the County Assembly and advising on prioritization of programs for resources allocation.
- ii. **Accounts-** Processing of payments, preparation of section work plans as well as monthly, quarterly and annual financial statements
- iii. **Procurement-** Procurement of goods, works and services, preparation of annual procurement and disposal plan, Preparation of Monthly, quarterly and other statutory reports and Stores and inventory Management.
- iv. **Budget Office-** Provides overall guidance in the preparation and analysis of budget information for the County Assembly Committees.

k) Research and Library Department

Provides non- partisan professional research services to the County Assembly, oversees the assessment of strengths and weaknesses of government policy options, Initiating and conducting anticipatory research/analysis on key policy issues.

Library is a resource Centre that selects, acquires, processes and organizes relevant informational materials.

l) Internal Audit Department

An independent, objective assurance and consulting department designed to add value and improve County Assembly of Bungoma operations.

4.3 THE BUDGET PROCESS FOR COUNTY GOVERNMENTS

The major stages that take place in the budget cycle are:

- 1) Formulation(August – June)
- 2) Approval (August of the current year and June of the next year).
- 3) Implementation (Takes place from July of the next year to June of the year after that).
- 4) The audit should take place thereafter and the audit reports released by 30th December.

The budget process for County Governments in Kenya is a cycle. Each cycle contains a financial quarter of three months. Thus, there is the:

- a) First Quarter that begins from 1st July to 30th September;
- b) Second Quarter that begins from 1st October to 31st December;
- c) Third Quarter that begins on 1st January to 31st March; and
- d) Fourth Quarter that begins from 1st April to 30th June

a. FIRST QUARTER (1ST JULY TO 30TH SEPTEMBER)

August 30: On this date, every County Treasury issues a circular to every county department (Health, Agriculture, Environment, etc.). The circular should contain:

- The guidelines for the budget process for the coming financial year; and
- The procedures to follow to involve the public in the budget process (public participation). The County Treasury (department of finance) for every county should make the circular available to the public.

September 1: The County Planning Department tables the Annual Development Plan (ADP) in the County Assembly. The department should then make the ADP public within seven days after tabling it before the Assembly for the public input.

There is no specific date in any law (Public Finance Management Act, the Constitution, etc.) by which the County Assembly should approve the ADP.

September 1 to February 15: The County Treasury should conduct sector hearings. The sector hearings allow the public and other stakeholders to give their views at the sectoral level (e.g. health, agriculture etc.).

September 30: The County Treasury should produce the Budget Review and Outlook Paper by this date. It is also the deadline for the County Assembly to consider and approve the Finance Bill for the current financial year (that begins on 1st July).

b. SECOND QUARTER (1ST OCTOBER-31ST DECEMBER)

October 21: The County Treasury should table the County Budget Review and Outlook Paper before the County Assembly.

October 31: This is the deadline for County Governments to publish their first-quarter budget implementation reports. The reports cover the first quarter (the period from 1st July to 30th September) of the current financial year. The County Treasury should then make the reports public through the websites.

December 30: Deadline for the Auditor-General to publish and publicize the County Government audit reports for the previous fiscal year.

c. THIRD QUARTER (1ST JANUARY-30TH MARCH)

January 31: County Governments should publish and publicize their 2nd quarter budget implementation reports. The reports cover the period from 1st October to 31st December of the current financial year.

February 28: The County Treasury should table the County Fiscal Strategy Paper (CFSP) before the County Assembly by this date.

March 7: This is the deadline for the County Treasury to publish and publicize the Fiscal Strategy Paper after tabling it before the County Assembly.

14 March: The County Assembly should approve the County Fiscal Strategy Paper by this date.

d. FOURTH QUARTER (1ST APRIL-30TH JUNE)

30th April: This is the deadline for the Counties to publish their third-quarter budget implementation reports for the period of 1st January to 30th March.

The County Treasury should also submit the county budget proposal (or budget estimates) to the County Assembly on this date.

Each County Assembly clerk should prepare, and submit to the County Assembly on this date, the budget estimates for the County Assembly. The clerk should submit a copy of the estimates to the County Executive Committee Member for Finance (County Treasury).

May 1 to June 30: Some of the activities that take place during this period have no specific timelines or deadlines.

- i. The Budget Committee for the County Government will begin to conduct public hearings on the budget proposals or estimates.
- ii. The County Executive Member for Finance should publicize the county budget estimates 'as soon as practicable' after he or she table them before the County Assembly.
- iii. The County Assembly should consider the County Government budget estimates. The Assembly should then approve the estimates, with or without amendments, in time for the Appropriation Bill and any other laws required to implement the budget (except the Finance Bill) and pass the estimates by 30th June.
- iv. Not later than twenty-one days after the County Assembly has approved the budget estimates, the County Treasury should consolidate the estimates, publish, and publicize them respectively. (Approved Budget)

- v. Upon approval of the budget estimates by the County Assembly, the County Executive Member for Finance should prepare and submit an Appropriation Bill of the approved estimates to the County Assembly.

June 30: This is the deadline for the County Assembly to pass the Appropriation Bill.

July 31 Deadline for the County Government to publish and publicise the fourth quarter budget implementation report. This period covers the period of 1st April to 30th June.

Conclusion

From June 30th, the budget process for County Governments in Kenya for the next year begins afresh from August. You should again expect the Auditor General reports by 30th December to close the cycle for the previous year. Despite that, a new budget cycle or process begins in August going forward.

4.4 GUIDING LAWS OF THE COUNTY ASSEMBLY

a) Standing Orders

These are set of rules and procedures that are used to guide the operations of the County Assembly during committee and plenary meetings.

b) Rules

It is a set of rules that guide the conduct of honourable members, staff and members of the public visiting the County Assembly. It gives guidelines on how to behave within the precincts, the areas to access, the limitations and privileges for honourable members.

Other Laws on Devolution

Apart from the Speakers rules and Standing Orders, the County Assembly relies heavily on the Constitution of Kenya 2010, County Governments Act, 2012, amended 2020, Urban Areas and Cities Act, Powers and Privileges Act 2017, Public Finance Management Act, County Assemblies Services Act, 2019 etc. Further, the assembly also relies on order of precedents, practices, traditions, conventions and statutes.

4.5 RATIONALE OF THE OPERATIONS OF THE COUNTY ASSEMBLY

The County Assembly of Bungoma performs its functions through committee system and plenary. It is worth noting that close to 70% of the businesses of the County Assembly are generated at committee level with the plenary accounting for about 30%.

Nonetheless, plenary has final say on all the decisions made by the respective committees. The plenary can reject in totality, reject with amendments, uphold in entirety or uphold with amendments decisions made by different committees through the committee reports.

4.5.1 Procedures and committees of the County Assembly

- a) Any appointments which require approval of the County Assembly, is first considered by a Committee of the County Assembly.
- b) The Committee recommendations are then be tabled before the County Assembly for approval.
- c) Proceedings of the Committee and the County Assembly are open to the public.
- d) Legislative proposals, policies, regulations, Annual Development Plans, reports from independent bodies i.e. the Office of the Auditor General e.t.c, are some of the documents that are forwarded to the County Assembly for its action. They follow the following process:
 - i. They are first of all tabled in the House.
 - ii. The Speaker commits them to respective committees basing on their mandates.
 - iii. The committees are then given timelines to act on the documents and report back to the House in form of reports with recommendations therein.

4.5.2. Membership of Committees

While establishing committees, the County Assembly shall ensure that each member of the County Assembly is appointed to at least one committee. Committees are chaired by a chairperson with a deputy and the rest are members. At the County Assembly of Bungoma, Standing Committees have a membership of 11 while Sectoral Committees have a membership of 15.

A County Assembly can jointly establish committees with another County Assembly consisting of members of both County Assemblies. Election of members and regulation of the conduct of the business of the joint committee shall be as agreed between the two County Assemblies.

4.5.3 Committee secretariat

All committees have a secretariat that compromise members of staff drawn from different departments under the Assembly establishment. It comes in handy in the organization of committee meetings, activities, benchmarking visits, workshops, trainings retreats and generation of reports for individual committees.

4.5.4 PLENARY SESSIONS

This refers to the sitting of the County Assembly presided over by the Speaker. In the absence of the Speaker, plenary sitting(s) can be presided over by the Deputy Speaker. When both the Speaker and Deputy Speaker are away, the Speaker can delegate in writing one of the members of the Speakers Panel to preside over the plenary sittings. Decisions in the plenary are reached upon either by acclamation or secret voting depending on the issue at hand.

4.5.5 ORDER PAPER

All businesses that come before the plenary are listed in a document called the Order Paper which guides the House from the start to its adjournment. (Annex 1).

The Order Paper takes the format hereunder;

Prayer- This is a predetermined written prayer that is normally said by the Speaker, Deputy Speaker, or Presiding Speaker.

1. Administration of oath

Before taking office, all members of the County Assembly must take either an oath of office or oath of affirmation after the general election.

After a by-election a new member must take an oath of office or oath of affirmation

2. Communication from the chair

Any communication to the House is made by the Speaker under this item. It is important to note that all communications to the House are normally written.

3. Messages

These are communications either from the Governor or Senator that are delivered to the Speaker who in turn reads them to the members of the County Assembly during plenary.

4. Petitions

A petition refers to a written prayer to the County Assembly by a member(S) of the public requesting the House to consider any matter within its authority, including enacting, amending or repealing any legislation.

Before a petition is admitted by the County Assembly it must conform to the format set out in the Third Schedule of the County Assembly of Bungoma Standing Orders.

5. Papers

Documents laid on the floor of the House for committal to committees or subsequent debate. They could be from government Institutions or Reports of committees of the County Assembly.

6. Notice of Motion

Any member or committee chairperson who intends to move a motion must notify the House at this stage. The Speaker can either refer the notice of motion to the House Business Committee for allocation of time or allocate time when the motion will be moved and debated by the House.

7. Statements

This is a written question or inquiry by a Member of the County Assembly to the respective County Executive committee member. Statements are usually asked through the chairman of the respective committee.

It can also a response from the County Executive to a question by asked by a Hon. Member usually communicated to the Office of the Clerk.

8. Motions

All matters that were given notice under order (6) are normally moved or read to the House upon allocation of time either by the Speaker or the House business Committee.

After the mover reading through, the Speaker proposes a question allowing members to debate on the motion.

When all members interested in the motion have debated, the Speaker will invite the mover of the motion to reply on the issues raised by members before the Speaker puts a question for members to either approve or reject the motion. Further, if the motion does not elicit any debate, the Speaker will put the question without a reply from the mover.

9. Bill

This refers to a legislative proposal for consideration and approval by the County Assembly before being forwarded to the Governor for assent to become law. Once tabled at the County Assembly, a bill is read for the first time and committed to the relevant committee for consideration. The relevant committee will report back to the House through a report with or without any proposed

amendments to the bill. This stage is referred to as Seconding Reading where members of the County Assembly are allowed to debate the committees report and even suggest amendments to the proposed bill as they may deem fit.

The Committee will then collapse into a committee of the Whole House where the bill will be voted on clause by clause. At this stage, all proposed amendments are also voted on and either rejected or approved to be part of the bill. During the committee of the Whole House, the Speaker vacates his seat and retreats to his chambers. The mace is then lowered relaxing the rules of the House and the session is now chaired by either the Deputy Speaker or any member delegated by the Speaker.

Upon completion of the Committee of the Whole House, the Speaker will resume his seat and the chairperson of the Committee of the Whole House will report back to the Speaker. After this the Speaker the question to the House to reject or incorporate the amendments adopted during the Committee of the Whole House.

After a node from the House, the Speaker will order the bill to be read for a third time without putting a question. It is important to note that after the Third Reading, members can be allowed to speak on the substance of the bill without introducing or proposing further amendments to the bill.

After the third reading, the bill is now forwarded to the Governor for assent to become an Act of the County Assembly of Bungoma. The bill will come into force after 14 days.

CHAPTER FIVE

5.0 CONCLUSION

This handbook has provided information to students in primary schools, colleges and universities and the general public on the devolved governments, demystifying the role of the County Executive and County Assembly. It has explained the structures of County Government, rationale of operations of the County Assembly, Legislation process and budget making process in County Governments. It bears a resource that will empower and enrich the readers in comprehending devolved units and governance.

5.1 REVIEW OF THE HANDBOOK

County Assembly of Bungoma reserves the right to review this handbook on need basis.



**COUNTY GOVERNMENT OF
BUNGOMA**

CONTACTS

P.O. BOX 1886 – 50200 Bungoma



info@bungomaassembly.go.ke



0208000663/0202651905



www.bungomaassembly.go.ke



Bungoma County Assembly



@AssemblyBungoma