COUNTY GOVERNMENT OF KISUMU

COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

SECOND ASSEMBLY – SISXTH SESSION

Thursday 24th March, 2022

House met in the Main Chamber at 2:30 p.m.

(The Temporary Speaker (Hon. Inviolate Adhiambo) in the Chair)

PRAYERS

The Temporary Speaker (Hon. Inviolate): Good afternoon Honorable Members. I want to request that pursuant to the provisions of County Assembly of Kisumu Standing Order No. 32 (2) that the Serjeant-at-Arms rings the quorum bell for five minutes.

(Quorum bell rung for five minutes)

The Temporary Speaker (Hon. Inviolate): Honorable Members, I want to request that under the same Standing Order No. 32 (2) that the Serjeant-at-Arms rings the quorum bell for another five minutes.

(Quorum bell rung for another five minutes)

The Temporary Speaker (Hon. Inviolate): Hon. Deputy Majority Whip, could you please confirm if we have the quorum.

Deputy Majority Whip (Obonyo): Thank you Madam Speaker. There is quorum.

The Temporary Speaker (Hon. Inviolate): Madam Clerk, please take us through the Order of this afternoon.

The Temporary Speaker (Hon. inviolate): Next order!!

MOTION

THE PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE REPORT ON ITS BENCHMARKING EXERCISE WITH SENATE PUBLIC ACCOUNTS COMMITTEE

BY

HON. MAUREEN OTIANG', MCA, CHEMELIL/TAMU WARD.

(CHAIRPERSON, PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE)

The Temporary Speaker (Hon. Inviolate): Yes, Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Madam Speaker, I seek you indulgence to allow me to present this report on behalf of Hon. Maureen Otiang'.

The Temporary Speaker (Hon. Inviolate): Please proceed.

Leader of Minority (Hon. Oiko): Thank you Madam Speaker and Honourable Members. PURSUANT to the provisions of the Kisumu County Assembly Standing Orders No. 194 (c) which mandates the House Committees to prepare programs and activities to be undertaken in each Fiscal Year before being approved by the Liaison Committee, the Public Accounts and Investments Committee prepared its Annual Work Plan for FY 2021/2022 detailing specific activities to be undertaken. The major errands to be transacted during the financial year were the interrogation of the Auditor General Reports on the Financial Statements of the County Executive of Kisumu for the FY 2018/2019 and FY 2019/2020. The Committee however felt that before embarking on the reports of the Auditor General, there was need for capacity building to improve the manner in which we interrogate the reports. After considering their budget, the committee settled on a benchmarking exercise with the sister Committee of the Senate.
This exercise was aimed at improving the manner in which we interrogate the reports from the Auditor General. The Committee worked on the logistics and after consideration, both Liaison committee and the Hon. Speaker approved the committee request to benchmark with the sister committee of the senate.

Establishment and Mandate of the Committee

Hon. Speaker, the Public Accounts and Investments Committee is established under Standing Order No. 188 of the Kisumu County Assembly Standing Orders whose mandates, pursuant to the Standing Order No. 188 (2) is as follows;

a. Examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the House as the committee may think fit;
b. Examination of the working of the Public Investments
c. Examine the reports and accounts of the Public Investments and,
d. Examine in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

1.3 Composition of the Public Accounts and Investments Committee

The Committee as currently constituted comprises of the following Honourable Members,

NAME		POSITION
1. Hon. Maureen Otiang'	-	Chairperson
2. Hon. Benny Oiko	-	Vice Chairperson
3. Hon. Paul Okiri	-	Member
4. Hon. Seth Okumu	-	Member
5. Hon. Johnson Guya	-	Member
6. Hon. Roy Samo	-	Member
7. Hon. Beatrice Pamela	-	Member
8. Hon. Nancy Owiti	-	Member
9. Hon. John Atieno	-	Member
10. Hon. Julius Genga	-	Member

COMMITTEE SECRETARIAT

1. Austine Ochieng	-	Committee Clerk
2. Charles Ageng'o	-	Audit
3. Edward Odanga	-	Hansard Reporter
4. Geoffrey Omollo	-	Secretariat
5. Dominic Muinde	-	Legal Counsel
6. Abraham Odegi	-	Serjeant-at-arms

Senate Public Accounts and Investments Committee Mandate

Hon. Speaker, the Senate Sessional Committee on County Public Accounts and Investments is established pursuant to Senate Standing Order No. 220 and is mandated to;

a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the County Governments,

b) Pursuant to Article 228(6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments,
c) Pursuant to Article 229(7) and (8) of the Constitution, to examine the reports of the Auditor-General on the annual accounts of the county governments,
d) To examine special reports, if any, of the Auditor-General on County government funds,
e) To examine the reports, if any, of the Auditor-General on the county public investments.

Composition of the sister committee of the senate
Hon. Speaker,
The PICPAC Committee of the senate as currently constituted comprises of the following members;

Member of the Committee		Position
Sen. Dr. Ochilo G.M. Ayacko.	-	Chairperson
Sen. Hargura Godana	-	Vice-Chairperson
Sen. Adan Dullo Fatuma	-	Member
Sen. Kimani Wamatangi Paul	-	Member
Sen. (Dr.) Langat Christopher Andrew	-	Member
Sen. (Prof.) Imana Malachy Ekal	-	Member
Sen. Kibiru Charles Reubenson	-	Member
Sen. Mwaruma Johnes M	-	Member
Sen. Chebeni Mercy	-	Member

Hon. Speaker, it is important to note that the Public Accounts and Investments Committee of the senate meetings brings together the above Hon. Members, the secretariat, representatives of the office of the National Treasury, office of the Auditor General and the office of the Ethics and Anti-Corruption Commission.

Acknowledgement
Hon. Speaker. May l take this opportunity to thank all members of the Public Accounts and Investments Committee for their input and valuable contributions during this exercise. The Committee also takes this opportunity to thank the offices of the Speaker and the Clerk of both County Assembly and the Senate for the logistical support accorded to it during the entire exercise. We are also appreciative of the secretariat attached to this Committee for their endless contributions towards the success of the whole benchmarking process.
It is now my privilege to table this report before this House for consideration and adoption.

OBJECTIVES OF THE BENCHMARKING EXERCISE
Hon. Speaker, the Committee set the following objectives for the exercise;

a. To learn and appreciate the role of the sister Committee of the Senate

b. To learn and appreciate the generic audit issues affecting both the County Executives and County Assemblies in as far as accounting for public money is concerned
c. To appreciate the recommendations in trying to resolve the generic issues affecting both the County Executives and County Assemblies.

Consequently, the secretariats from both Committees came up with a schedule which would help the two committees run the process smoothly for all the days of the benchmarking exercise.

LEGAL FRAMEWORK GUIDING THE TWO COMMITTEES

In the execution of their mandate, the PICPAC both in the Senate and the County level is guided by the core Constitutional and statutory principles of public finance management as well as established customs, traditions, practices and usage.

Key among the legislative tools are;

Constitution of Kenya 2010

All aspects of public finance shall be guided by the following principles-

a) Openness and accountability including public participation in financial matters.

b) The public finance system shall promote an equitable society, and in particular –

i) the burden of taxation shall be shared fairly;

ii) Revenue raised nationally shall be shared equitably among national and county governments and

iii) Expenditure shall promote equitable development of the country, including by making special provision for marginalized groups and areas

c) The burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;

d) Public money shall be used in a prudent and responsible way and;

e) Financial management shall be responsible, and fiscal reporting shall be clear.

Public Finance Management Act, 2012

The Act primarily provides for the effective management of public finances by the national and county governments; the oversight responsibility of Parliament and county assemblies; the different responsibilities of government entities and other bodies

The under *Section 3* emphasizes on the need for upholding the fiscal responsibility principles. This principles are to be observed in both the National and County levels of government.

The Act further mandates the County Accounting officers to monitor, evaluate and oversee the management of their public finances.

Public Procurement and Disposal Act, 2015

This Act primarily seeks to give effect to Article 227 of The Constitution; to provide procedures for efficient public procurement and for assets disposal by public entities. The disposal and procurement process ought to be transparent, accountable and cost-effective.

FINDINGS/ LESSONS LEARNT

Hon. Speaker, the Committee attended several sessions in which various County Executives and County Assemblies were being interrogated on the Auditor General's Report on the Financial Statements of various County Executives and County Assemblies for the Financial Year ended 30th, June 2019;

The following were the major audit issues that were noted across the County Executives and Assemblies during the sessions;

1. Lack of Remittance of Statutory Deductions

While interrogating different managements, lack of remittance of statutory deductions was a generic audit query. It is a case where some County Executives/Assemblies made statutory deductions from employees but failed to remit the same to the relevant bodies. This is disregard of the law and according to the representatives of the office of the Auditor General who were in attendance, this practice may attract loss of public funds through penalties.

2. Presence of Worst Audit Opinions

Hon. Speaker, it was noted that most County Executives/Assemblies received disclaimers and adverse audit opinions. Extensive inadequacies in management of finances was the major observation in those County Executives/County Assemblies. The most notorious features identified include;

a) Failure to present documents for audit;
b) Poor record keeping
c) Fraudulent practices
d) Non-compliance to laws and procedures; and
e) Failure to recruit qualified personnel, among others.

As a result of these inadequacies, the Auditor General presented the worst audit opinions for this particular Counties, implying that the financial management situation in those Counties has been deplorable. In encouraging the managements to run away from worst audit opinions, the sister

Committee informed them that disclaimer opinions would have severe implication on the County Governments, such as not attracting development partners' investments in the Counties.

3. Persistent Weak Human Resource Management.

Hon. Speaker,
For the financial year in question, it was observed that many counties recruited staff without following due recruitment procedures and in absence of policy to determine optimal staffing levels. In addition, there were cases of engaging casuals for too long who were paid outside payroll through petty cash as opposed to payment through Integrated Personnel Payroll Data (IPPD). As a result, the true wage bills cannot be explicitly established through IPPD. In most cases, the total compensation to employees exceeded the set limit of 35% of the total county revenues. This also led to reduction of money available for other functions such as development expenditure thresholds of at least 30% of the total county budgetary expenditures.
Two officers from the office of the Auditor General who were part of the meetings stressed on the need to have all employees paid through the Integrated Personnel Payroll Data (IPPD).
In their responses, many County Assemblies cited constant change of employees entitled to the Members of the County Assembly as the major challenge leading to the above query.

4. Flagrant Non-compliance & Adherence to Relevant Laws

Hon. Speaker, it was noted that County Executives and County Assemblies are flouting various pieces of legislation on public finance management and other laws such as the Public Procurement and Disposal Act, the Public Finance Management (County Governments) Regulations, 2015, the County Governments Acts, Public Audit Act, various circulars from statutory bodies such as Salaries and Remuneration Commission, the defunct Transition Authority, the Income Tax Act among others with respect to various facets in relation to set down procedures and regulations.

5. Incomplete & Non-Utilized Projects

There were cases of incomplete and not utilized projects across many Counties with most projects status being incomplete long after expiry of intended completion dates. This shows total disregard of completion timelines and yet contract agreements should have clauses with respect to liquidation damages for non-completion of contracts. This denies the citizens service delivery and value for money. Counties were to implement various projects and programmes by different departments during the financial year. However, in most cases, most projects had not started, others were ongoing while some were completed but not utilized.

6. Irregular Procurement of Goods and Services

The Committee noted that County governments are irregularly procuring goods and services worth substantial amounts across many counties. This may be as a result of single sourcing, disregard of procurement rules and regulations, flouting laid down procedures and acting in disregard of processing procurement in compliance with relevant legislations, policies and guidelines within devolved units

7. Outstanding Imprest

It was noted that most County Executives and County Assemblies record Imprest on payment schedules instead of issuing the holders with Imprest warrants for proper accountability. Further, it was revealed that across most counties, officers are issued with additional Imprest while holding the previous ones and the Imprest register do not show dates when the Imprest is being issued, when they are due for surrender or the designations and personal numbers of the Imprest holders.

8. Accrued uncollected land rate, rent, property rates and utility bills

Hon. Speaker, it was observed that there are various challenges facing the County Executives in the collection of monies owed to them. The Committee also noted that many County Executives failed to keep proper books of accounts with regard to monies owed in form of land rates, rent and utility bills.

9. Delayed release of equitable share to County Governments

Hon. Speaker, this has been one of the major factors that has derailed the budget absorption for counties. It has been a norm that funds from the national treasury are released late and in many occasions inadequate. This has portrayed counties as entities that have no capacity to absorb monies disbursed to them. It has also led to accumulation of huge pending bills and portrays the incorrect position of surplus in the Financial Statements.

10. Staff ethnic composition

Hon. Speaker, it was noted that this is a common phenomenon across counties. Counties are not working towards attaining the requirement of the provisions of section 65(1) (e) of County Government Act on ethnic inclusivity

11. Unresolved Prior Year

Hon. Speaker, it is only fair if audit issues raised in a particular financial year are resolved and are not repeated in the subsequent years. It was however noted that this is not the case for many counties.

COMMITTEE RECOMMENDATIONS

Hon. Speaker, based on the foregoing learning points and findings of the committee from the benchmarking exercise, the committee makes the following recommendations;

1. Human Resource Management

On Human Resource Management, and based on the observations and findings, the Committee recommends that the County Public Service Board and the Assembly Service Board should undertake their mandates as stipulated in the County Government Act, 2012.

The County Government of Kisumu should ensure that it complies with the Salaries and Remuneration Commission circulars and PFM guidelines on limits of wages and benefits as stipulated in section 107(2) and Regulation 25(1) (a) and (b).

By adhering to these laws, the County Government of Kisumu will be moving away from unfavorable opinions of the Auditor General.

2. Debt Management

The Committee recommends that the County Executive Committee member for Finance and Economic Planning to designate persons to be responsible for collecting, receiving and accounting of all revenues as contemplated in section 157 of the PFM Act, 2012. The receiver of revenue to come up with optimization of collection of revenue in the county. Furthermore, the county should set realistic and achievable revenue targets.

3. Surrender of Imprest

The Committee recommends that the accounting officers and Authority to Incur Expense (AIE) holders should strictly enforce the laid down procedures as stipulated in Regulations of the PFM Act, 2012 and ensure compliance. The County Executive Committee member for Finance and Economic Planning and the Finance officer of the County Assembly should ensure that imprests are surrendered within the timelines.

By adhering to these, issues of non-surrendered imprests will no longer be in the Audit Report on our financial statements.

4. Delayed Release of equitable share to County Governments

Hon. Speaker, there is not much the County Governments can do in regards to this issue. However, the Committee recommends that appropriate measures be taken to ensure that however late and inadequate the disbursements may be, the absorption rates and the operations of the County at large are not verily affected.

One of the appropriate measures would be to pay the pending bills budgeted for however late the money arrives.

At Senate level, it was recommended that the Cabinet Secretary for National Treasury strictly adheres to release of funds to county governments as per the cash disbursement schedule as approved by the Senate.

5. Persistent Weak Human Resource Management

Hon. Speaker, as was recommended by the sister Committee of the senate on the engagement of casuals for too long leading to payments outside payroll, the committee recommends the same in this manner;

a) That engagement of casuals should be regulated
b) That the Boards should stand against the rampant dismissal of ward staffs in cases where there are. Cases involving the ward staff should be handled according to the labour laws.
c) That the Human Resource Management for the County Assembly of Kisumu should ensure that all employees are captured in the Integrated Personnel Payroll Data (IPPD).

6. Unresolved Prior Year Matters

The Committee recommends that the accounting officers should ensure that matters raised in a particular financial year are resolved and are not repeated in the subsequent years.
For example, matters such as non-remittance of statutory deductions, once resolved and the auditor advice, managements should ensure that a similar query does not appear in the subsequent years.

CONCLUSION

Hon. Speaker, the Committee therefore presents this report on the benchmarking exercise for consideration and adoption. May I call upon Hon. Beatrice Pamela to second?

The Temporary Speaker (Hon. Inviolate): Hon. Pamela.

Hon. Beatrice Pamela: Thank you Madam Speaker. I rise to second.

The Temporary Speaker (Hon. Inviolate): Honourable Members, The report from the Select Committee of Public Investments and Accounts on its Benchmarking Exercise with Senate Public Accounts Committee has been tabled by the Vice Chairperson Hon. Oiko and seconded by Hon. Beatrice Pamela. I therefore, open it for discussion. Hon. Aslam Khan.

Hon. Khan: Madam Speaker, I have just come in, I hope the report is already open for debate.

The Temporary Speaker (Hon. Inviolate): Yes it is Hon. Khan. Please proceed.

Hon. Khan: Thank you Madam Speaker, I rise to support the report and as you can see, the buckle of any institution is accountability. The benchmarking trip report as presented by Hon. Pete Oiko is relevant and has come at a good time. They wanted to compare the oversight with the National Revenue Allocation for County Governments and the Auditor General, in order for them to see where there are gaps so that corrections are made in our Own Source Revenue and especially in the County Assembly Committees.

Madam Speaker, even if you look at the composition of the Senate Committee, you will find that it is headed by very serious individuals such as Hon. Dr. Ochilo Ayako and Hon. Fatma Dulo. The report indicates in various sections where different County Assemblies were being interrogated on Annual Auditor General’s Report of the Financial Statements of various County Executives. This is why the Select Committee saw an opportunity to get such information first hand to help them identify what can be done. Consequently, there is the issue of remittance of Statutory Deductions, which has often brought havoc back here as well. I remember a Member brought that matter up in the House regarding basically our Community Health Workers suffering the same predicament, and we discussed it heavily. Madam Speaker, the CHWs have not been paid for sometimes and we have discussed this issue severally.

Finally, Madam Speaker, if we look at the weak Human Resource Management that has actually been there, you will find out that the total expenditure threshold of at least 30% of the total County Budget Expenditure goes to the same and this must be done to make it sure.

I therefore believe that this report gives us some in-depth to ensure that we can look at it especially in terms of the Departmental Management. Even the recommendations that has been given by the Select Committee for example ; 'CEC Member for Finance to designate persons to be responsible for Collecting, receiving and accounting of all revenues as contemplated in Section 157 of the PFM Act, 2012….' Madam Speaker, this therefore can give us a leeway including surrendering of Imprest. Therefore, I support it, thank you Madam Speaker.

The Temporary Speaker (Hon. Inviolate): Thank you. Yes, Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Going by the mood of the House, I wish to call upon the mover to reply

The Temporary Speaker (Hon. Inviolate): Yes Hon. Oiko

Leader of Minority (Hon. Oiko): Thank you Madam Speaker, the report is very explicit and touches on our lives in the Assembly .It highlight how we should carry ourselves, how the records should be kept when we use the public money that is given to us. Another issue Madam Speaker, we have learned that when the Audited Account is being interrogated, it is not a laughing matter, and it is a very serious matter. Senior government officers from the relevant department are present and that should show us how serious this Select Committee is taken and how serious the government take the report of the Auditor General.

Madam Speaker, during such deliberations the Senate Committee invited officers from the following relevant department that is the National Treasury, the Auditor General and the EACC. We also learn that when we are given imprests we must surrender them, when we do not do so that is a crime and we can be charged.

Madam Speaker, when we were there, there was a sister assembly who had been ordered to reimburse imprests they were given simply because the records were not properly kept. So, whenever public money is spent, records must be kept so that when the Auditors come, they have what they can rely on to write their report.

Madam Speaker as conclusive as the report is, I hope it has sunk into Members and I know they will take their time to read it more so that we know more about the management of the finances at the County Executive and at the County Assembly. Thank you.

The Temporary Speaker (Hon. Inviolate): Thank you. A report from the Select Committee of PIC/PAC on its Benchmarking Exercise with the sister committee of the Senate has been moved by t7he Leader of Minority, seconded by Hon. Beatrice Pamela and debated by Hon. Members, I therefore propose to put a question on the adoption of the same.

(Question put and agreed to)

The Temporary Speaker (Hon. Inviolate): The report from the Select Committee of PIC/PAC on its Benchmarking Exercise with the sister committee of the Senate is hereby adopted today Thursday, 24th March 2022 at 15:25 hours. Therefore, I direct that same report be submitted to the Clerk for further action. Thank you.

The Temporary Speaker (Hon. Inviolate): Next Order!

ADJOURNMENT

The Temporary Speaker (Hon. Inviolate): There being no any other business to transact, the House stands adjourned to Tuesday, 29th March 2022 at 2.30 p.m.

(House rose at 3.27 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Jesca Otieno – Hansard Reporter

Vallery Achieng' – Hansard Reporter