

## COUNTY GOVERNMENT OF KISUMU



### COUNTY ASSEMBLY OF KISUMU

### **THE HANSARD**

#### *Official Report*

#### **THIRD ASSEMBLY – SECOND SESSION**

**Wednesday 15<sup>th</sup> November, 2023**

**House met in the Main Chamber at 9:00 a.m.**

**(The Deputy Speaker (Hon. Nereah Okombo) in the Chair)**

#### **PRAYER**

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I want to request that pursuant to the provisions of Orders No. 32 (2) of the Kisumu County Assembly Standing Order that the Serjeant-at-Arms rings the quorum bell for five minutes.

*(Quorum bell rung for the first five minutes)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I can see the Deputy Leader of Majority in the House. Can you please confirm if we have attained the desired quorum?

**The Deputy Leader of Majority** (Hon. Owade, MCA, South East Nyakach Ward): Thank you Madam Speaker, we still don’t have quorum.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I want to direct that the Serjeant-at-Arms to again ring the quorum bell for another five minutes.

*(Quorum bell rung for five minutes)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I can see that we have quorum. Madam Clerk, take us through the Order Paper of the day.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Next order!!

### COMMUNICATION FROM THE CHAIR

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, in this House we are today privileged to have with us students from Moi University Eldoret, School of Arts and Social Sciences and they are accompanied by their lectures Mr. Daniel Mutua, Mr. Kenongi Wenani and Mr. Arnold Rono. Please feel most welcome to the Kisumu County Assembly. I am reminded that we have an alumni of Moi University in the House and I will give you a few minutes to welcome the guests. Please let me begin with the youngest in the House. Hon. Bill Oliver member representing Kobura Ward.

**Hon. Bill** (MCA, Kobura Ward): Thank you Madam Speaker. I want to take this opportunity to welcome the Students of Moi University to our Assembly. I was there few years ago and I served as the Secretary General and I was using the name Oliver Bill but now I am Bill Odhiambo. I am happy that you are here with us and I just want to encourage you that it is the university that helps in shaping the society. I want to inform you people that help us make a difference in this Country. I want to equally inform you that, to be in this Assembly, you don’t have to be practicing a particular profession. Do not follow your line in what you are doing because after university, you can be anything. Help us change this Country, help us fight for the rights of people in this Country. I am so happy that you chose to visit Kisumu. I want to inform you that Moi University is the one shaped me. I know some of the lectures that are here and don’t know me but I know them very well.

There are also some alumni of Moi University and this university is truly the foundation of knowledge. Thank you Madam Speaker.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Thank you Hon. Bill. Yes Hon. Reuben Rakwach.

**Hon. Rakwach** (MCA, East Kolwa Ward): Thank you Madam Speaker for giving me a chance to welcome students from Moi University. “A university with a difference”. I was in Moi University from the year 2006 to 2011 and it made who I am today. Take your studies seriously. Just as you have been told, Moi University is the “foundation of knowledge”. I know you are taking content course which are not mitigated and in Moi you cannot even cheat in exams. If you graduate as a teacher from Moi University then you are a true teacher. If you graduate from Moi University as an Engineer then you are true Engineer.

As you have been informed, in this House we have a collection of different professions. We never learnt legislation at the University but we have found it very interesting because of the knowledge we got from the university. I encourage you to work hard and be reminded that being a student of Moi University indicates that you have a bright future. Thank you and welcome.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Seth Okumu member representing East Seme Ward

**Hon. Okumu** (MCA, East Seme Ward): Thank you Madam Speaker. Allow me to join my fellow colleagues in welcoming students from Moi University. “The foundation of knowledge”. Members, if you didn’t know, Moi University was established in 1984 under Cap 2 (10) (a) of the laws of Kenya. When Rakwach says that it is the foundation of knowledge and the products of Moi University are true products of education and you can witness that.

Further, I want to encourage you that wherever you go as the products of Moi University, we want to see excellence in every aspect of life that you take. You are here to witness what is happening in the Assembly and I believe this is a process to encourage you pursue different professions. There are those who are interested in politics and those that are interested in professional careers. I believe that is why you are here and I believe as a product of Moi University you can do anything. When I was in Moi University, we used to have what is called problem based learning where lectures give 30 per cent and the student to look for 70 per cent of every subject that is supposed to be taught. That has given us opportunity because some of the Members are still struggling to use phones and IPAD but products of Moi University are so good and we are techno savvy. I want to encourage more visits from Moi University so that we can share how we can make our nation better. I remember when I was in university; I never knew there is something called tribalism. I believe university is one way of making as a nation. We are struggling to make Kenya a one nation without looking at tribes. I want to encourage you that let as work towards making Kenya one nation so that we can aspire greater as Kenya. Thank you Madam Speaker.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Thank you. Honourable Members, I can verify that the alumni of Moi University are not Chat GBT products. So let us not allow Artificial Intelligence robe us of God given intelligence. I believe you are going to come out as the Members you see here. They are competent and up to the task. Otherwise thank you. I don’t know if there are more contributions on the same.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Hon. Oiko Pete the member representing Kabonyo/Kanyagwal Ward.

**Hon. Oiko** (MCA, Kabonyo Kanyagwal Ward): Thank you Madam Speaker. The former students of Moi University have embraced themselves and giving it No. 1 in Kenya and yet we know where No. 1 belongs to.

*(Laughter)*

**Hon. Oiko** (MCA, Kabonyo Kanyagwal Ward): Madam Speaker, the students have come here to learn. This is a place of politics but it is not merely politics. They say politics is a dirty game but it's a noble profession because, in the whole world, no budget, the billions that are spent in every county must be approved by a legislative body before the technocrats put their hands down. See how important politics is. Politics is a combination of professions. Here you will teachers, transport managers commonly known as "Manambas".

*(Laughter)*

You will find professionals like Hon Seth Okumu. This House is a combination of classes of people. That is what politics entails. The most important thing is that it gives the country direction. That is, it builds or destroys. Therefore, look at these people and imagine how important they are to the County Government of Kisumu. They are the ones who give direction because of their oversight role. When things are going bad in Kisumu County, we shall be in the picture and we will be asked the role we are playing. The same way in Kenya when things are taking a wrong direction, we ask ourselves what our politicians are doing. You have come to the a House of politics which is very crucial in the management of the county.

I know you young people talk that it is time for the young people. "That you are the future leaders". How do you become a future leader when you have not built yourself? Start building yourself professionally so that when you mature or come of age to lead a community, then you will carry your head high and join politics. You will find it very interesting because we ask ourselves: what does the common man think of a politician? What do they usually consider to elect one? Those are issues that you will encounter in your life because I know most of you are ambitious, politically. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta "B" Ward): What is your point of order Hon Rakwach? Under which Standing Order are you arising?

**Hon Rakwach** (MCA, Kolwa East Ward): On a point of information.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta "B" Ward): Whom do you want to inform Hon Rakwach?

**Hon Rakwach** (MCA, Kolwa East Ward): Madam Speaker, the House.

*(Laughter)*

**The Deputy Speaker** (Hon Okombo): Please resume your seat Hon Rakwach.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Order!!Order!! Please resume your seat. Resume your seat Hon Rakwach. Our visitors, I know you may be concerned a little bit with the issue of affirmative action. I want to assure you that Kisumu County embraces Vision 2030. On affirmative action, we have 16 Members who are female and they are engaged in nation building in some other aspects with the leave of the Speaker. So, even if you do not see them here, kindly be notified that this Assembly has 16 women leaders, 10 nominated and six (6) elected. They are outside the Assembly with the blessings of the Speaker. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Next order!!

### **PAPERS LAID**

**The Deputy Speaker** (Hon Okombo): Yes, the Hon Leader of Majority

**The Leader of Majority** (Hon Ooko, MCA Ahero Ward): Thank you very much Madam Speaker. I would like to lay the following Papers. First, pursuant to the provisions of section 164(1) of the PFM Act, 2012, I wish to table today Wednesday 15<sup>th</sup> November, 2023, Annual Report and Financial Statements of Jaramogi Oginga Odinga Teaching and Referral Hospital (Level 5) for the year ended 30<sup>th</sup> June, 2023.

*(The Leader of Majority lays the report before the House for consideration)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I confirm receipt of the Annual Report and Financial Statements of Jaramogi Oginga Odinga Teaching and Referral Hospital (Level 5) for the year ended 30<sup>th</sup> June, 2023. This report stand committed to the Standing Committee of Finance and ICT. You should report back to the House within 21 days.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Leader of Majority.

**Leader of Majority** (Hon Ooko, MCA Ahero Ward): Thank you Madam Speaker. Pursuant to the provisions of section 32 of the PFM Act, 2012, I wish to table today Wednesday 15<sup>th</sup> November, 2023, Report of the Auditor General on Chulaimbo County Level 4 Hospital for the year ended 30<sup>th</sup> June, 2022. Thank you.

*(The Leader of Majority lays the report before the House for consideration)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I confirm receipt of the Auditor General on Chulaimbo County Level 4 Hospital for the year ended 30<sup>th</sup> June, 2022 and it stands committed of PIC/PAC, to report back to the House within 21 days.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Leader of Majority.

**Leader of Majority** (Hon Ooko, MCA Ahero Ward): Madam Speaker, pursuant to the provision of section 9 (3) of the PFM Act, 2012, I wish to table today Wednesday 15<sup>th</sup> November, 2023, Report of the Auditor General on Muhoroni County Hospital for the year ended 30<sup>th</sup> June, 2022. Thank you.

*(The Leader of Majority lays the report before the House for consideration)*

**The Deputy Speaker** (Hon Okombo): Honourable Members, I confirm receipt of the report of the Auditor General on Muhoroni County Hospital for the year ended 30<sup>th</sup> June, 2022. The report stands committed to the PCI/PAC Committee, and they will report back to the House within 21 days. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Leader of Majority.

**Leader of Majority** (Hon Ooko, MCA Ahero Ward): Madam Speaker, pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone C; Kisumu Central Sub County Volume 1. Madam Speaker, I request to read all of them.

**The Deputy Speaker** (Hon Okombo): Alright.

**Leader of Majority** (Hon Ooko, MCA Ahero Ward): Madam Speaker, pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone C; Kisumu Central Sub County Volume 2.

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Kenya Railways Corporation.

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone C; Nyakach Sub County Volume 2.

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Draft Public Land Valuation Roll

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone A, Seme Sub County.

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone F, Muhoroni Sub County.

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone E, Nyando Sub County

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone B, Kisumu West Sub County. Lastly,

Pursuant to the provision of section 9 (3) of the Valuation for Rating Act Cap 266 (Rev 2012), I wish to table today Wednesday 15<sup>th</sup> November, 2023, Kisumu County Draft Valuation Roll 2017, Zone D, Kisumu East Sub County. Thank you very much Madam Speaker.

*(Leder of Majority lays before the House the Valuation Rolls for consideration)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, I want to confirm receipts of the following Draft Valuation Rolls, and I want to read all through and commit at once. I confirm receipt of the Kisumu County Draft Valuation Roll 2017 Zone C, Kisumu Central Sub County, Vol 1. I am also in receipt of Kisumu County draft valuation roll 2017, Draft public land Valuation Roll, Kisumu County Draft Valuation Roll 2017, zone A: Seme Sub-County, Kisumu County Draft Valuation Roll 2017, zone E: Nyando West Sub-County, Kisumu County Draft Valuation Roll 2017, zone B: Kisumu West Sub-County., and finally, I confirm receipt of Kisumu County Draft Valuation Roll 2017, Zone D: Kisumu East Sub-County.

Honourable Members, I want to therefore direct that the County Executive Committee Member in charge of Physical Planning, Lands, Housing and Urban Development and the CECM may go ahead and do the publication and make the documents available for public scrutiny. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Next Order!!

## MOTION

AN ADOPTION REPORT BY THE COMMITTEE ON EDUCATION, TECHNICAL TRAINING, INNOVATION AND SOCIAL SERVICES ON THE KISUMU COUNTY EARLY CHILDHOOD DEVELOPMENT AND EDUCATION BILL,2023. (KISUMU COUNTY BILL NO. 3)

BY

HON. SETH OKUMU, CHAIRPERSON, ASTANDING COMMITTEE OF EDUCATION,  
TECHNICAL TRAINING, INNOVATION AND SOCIAL SERVICES)

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Seth Okumu, member representing East Seme Ward.

**Hon. Okumu** (MCA, Central Seme Ward): Thank you so much Madam Speaker, allow me to move a motion on a report by the Committee on Education, Innovation, and social Services.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Please proceed.

**Hon. Okumu** (MCA, Central Seme Ward): Madam Speaker, the Kisumu County Early Childhood Development and Education Bill, 2023, was read for the First time in July, 2023. It was then referred to the Sectoral Committee on Education, Technical Training, Innovation and Social Services for consideration and thereafter, to report to the House Pursuant to Standing Order No. 183 of the Kisumu County Assembly Standing Orders.

Madam Speaker, the principal object of this Bill was to provide a framework for the establishment of systems for administration of childcare services, and early years education within Kisumu County. It was also to give effect of the Fourth Schedule part II of the CoK, 2010.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Dede, what is your point of order?

**Hon. Dede** (MCA, North-Kisumu ward): *(On a Point of Order)* Under Standing Order No. 36, I believe that the motion mover on the floor should have supplied the report 12 hours before it is read in the House. This is because it is also a voluminous document. Madam Speaker, kindly assist.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Dede you are out of Order. This is because; the report had been circulated more than 24 hours ago. Kindly check WhatsApp group.

**Hon. Dede** (MCA, North-Kisumu ward): Madam Speaker, this report has just been sent one hour ago.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, kindly check your app because the document had been sent earlier.

**Hon. Okumu** (MCA, Central Seme Ward): Thank you, Madam Speaker for protecting me. You know that that is why I mentioned earlier that the foundation of knowledge (*referring to Moi University*) produces students who are up to the task.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Order!! Hon. Dede.

*(Laughter)*

**Hon. Okumu** (MCA, Central Seme Ward): Honourable Speaker and Honourable Members, and Hon. Samuel Dede, I was saying that the objects of this Bill....

The Principal Object of the Bill is to provide a framework for the establishment of systems for the administration of Childcare Services and early years education within Kisumu County and to give effect to the Fourth Schedule, Part II of the Constitution of Kenya, 2010 which devolved Early Childhood Education to the Devolved Governments and for connected purposes.

The Bill therefore proposes to provide a mechanism to facilitate effective Administration and Management of Early Childhood Development and Education and Childcare Services within Kisumu County and accordingly gives effect to Section 5 (3) and Section 6 of the Early Childhood Education Act, 2021.

The Bill provides for preliminary matters including the short title, objects of the Act and the guiding principles that guide the management and Administration of Childcare Facilities and Early Childhood Education in Kisumu County. The Bill further designates the responsible authorities for purposes of developing institution specific guidelines for Early Childhood Development and Education and further designates responsible County Education Officers to undertake specific mandates conditioned to improve ECDE and Childcare Services Management.

The Bill mandates the CEC Member for Education to develop specific guidelines and policies for the identification of children with Special Needs and put in place such measures as may be necessary to ensure access to and provision of Childcare Services and Early Childhood Development and Education to children with special needs.

The Bill further proposes sources of funds which may be used to promote Early Childhood Development and Education and includes; monies appropriated by the County Assembly and monies provided by bilateral or multilateral donors among other sources. The primary object of these sources of funds are to provide necessary capitation funds to ECDE and Childcare Institutions in accordance with the criteria prescribed by the CEC Member responsible for Education, taking into account the respective institution’s output, efficiency and role in areas prioritized by the County Government.

The Bill delegates legislative powers to the CEC Member for Education to make regulations for the better carrying into effect of the provisions of the Act and does not limit any of the Rights and Fundamental freedoms contained in the Bill of Rights in the Constitution, 2010.

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## Establishment and Mandate of the Committee

The Committee on Education, Technical Training, Innovation and Social Services was constituted on 18<sup>th</sup> October, 2022 during the first session of the Third Assembly and reconstituted in the Second Session in accordance with Standing Orders No. 155 of the Kisumu County Assembly Standing Orders and is composed of the following Members:

### Committee Members

- |                         |                  |
|-------------------------|------------------|
| 1. Hon Seth Okumu       | Chairperson      |
| 2. Hon. Vitalis Komudho | Vice Chairperson |
| 3. Hon Samwel Onyango   | Member           |
| 4. Hon Ken Ouko         | Member           |
| 5. Hon James Omolo      | Member           |
| 6. Hon Benson Adega     | Member           |
| 7. Hon. Henrietta Bodo  | Member           |

### Committee Secretariat

The Committee has a secretariat comprising of:

- |                        |                 |
|------------------------|-----------------|
| 1. Mr. Harman Moses    | Clerk Assistant |
| 2. Ms. Jacklyne Otieno | Hansard         |
| 3. Mrs. Rose Baraza    | Serjeant-at-arm |

### Committee Mandate.

The Sectoral Committee is mandated, under Standing Order No. 193 and the Second Schedule of the Kisumu County Assembly Standing Orders to inter alia: -

*To inquire into and report on all matters relating to pre-primary education, adult education, village polytechnics, home craft centres and childcare facilities.*

### Acknowledgement.

Mr. Speaker and Hon. Members. May I take this opportunity to thank all the Members of the Committee for their input and valuable contributions and time during the deliberations on the Kisumu County Early Childhood and Development Bill, 2023 and the writing of this Report. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the County Assembly for the technical support accorded to it during the exercise.

On behalf of the Committee on Education, Vocational Training and Social Services and pursuant to the provisions of the County Governments Act, 2012 read together with Standing Order No. 123 and Order No. 193 of the Kisumu County Assembly Standing Orders, it is now my duty and

privilege to present to this House, the Report of the Committee on the Consideration of the Kisumu County Early Childhood Development and Education Bill, 2023.

Chapter Two.

Constitutional Framework for Public Participation.

Mr. Speaker and Hon. Members, the right to political participation is the foundation of public participation. Article 1(2) of the Constitution of Kenya enunciates this point on sovereignty of the people. It states that Kenyans may exercise their sovereign power either directly or through their democratically elected representatives. The language of this provision resonates with article 21 of the Universal Declaration on Human Rights (UDHR), article 13 of the African Charter on Human and People's Rights (ACHPR) and article 25 of the International Covenant on Civil and Political Rights (ICCPR).<sup>1</sup>

Article 10 of the Constitution of Kenya includes public participation as a national value and principle of governance. Clause 2 (a) of the article explicitly mentions 'participation of the people' as such. This value and governance principle is supposed to be adhered to whenever a '...state organ, state officer, public officer and all persons...enacts, applies or interprets any law...' Therefore, the processes of enacting legislations in the County Assembly must be bound by this provision of the Constitution.

Article 118 of the Constitution directly invokes public participation in legislative process. The provision states 'Parliament (parliament here is *pari materia* with the County Assembly) shall...facilitate public participation and involvement in the legislative and other business of Parliament and its committees.' By dint of this constitutional provision, the Assembly is compelled to engage the public in the process of law making or other legislative business.

Other provisions of the Constitution that provides the foundation of Public Participation are as follows:

*Article 174 (c)* – which provides for the objects of devolution – 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;

*Article 196 (1) (b)* – provides for public participation and county assembly powers, privileges and immunities and;

*Article 201 (a)* – provides for openness and accountability, including public participation in financial matters;

The County Governments Act, 2012, Clauses 87 and Clause 91 respectively which establish detailed principles and modalities and platforms for citizen participation in policy formulation

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<sup>1</sup> Kenya Small Scale Farmers Forum and 6 others v. Republic of Kenya and 2 others (2013) eKLR, paragraph 47

and legislation and the Kisumu County Public Participation Act, 2016 which provides for the procedures to be followed when conducting public participation exercise within Kisumu County.

Overview of the Bill.

Operational Context of the Bill.

Currently; Kisumu County is guided by the provisions of the Basic Education Act and the Early Childhood Education Act, 2021 in the management and administration of the Childcare Facilities and Early Childhood Development and Education; whose objects are to provide a framework for the establishment of systems for the administration of early childhood education within the County. However, Kisumu County is yet to legislatively give effect to the provisions of Section 5 (3) and Section 6 of the Early Childhood Education Act, 2021 which obligates the County Government to:

- a) provide free and compulsory early childhood education in public education centres within the county;
- b) establish such public education centres as may be necessary for the provision of free and compulsory early childhood education within the county;
- c) formulate programmes and plans and implement policies for the realization of the right to early childhood education;
- d) implement, in consultation with the relevant stakeholders, curriculum programs that promote positive culture and the holistic development of the child;
- e) provide the necessary infrastructure and funds necessary for the development of education centres and for the administration of early childhood education within the county;
- f) identify and undertake an assessment of children with disabilities in the county and put in place special programmes targeting such children in the provision of early childhood education;
- g) ensure that children belonging to marginalized, vulnerable or disadvantaged groups within the county are not discriminated against and prevented from pursuing and completing early childhood education;
- h) carry out public awareness and advocacy programmes in relation to early childhood development and education;

- i) ensure the provision of, and support investment in human resource, infrastructural facilities and learning resources to facilitate the provision of early childhood education;
- j) establish and maintain relationships with international, national and local institutions within the county involved in the provision of early childhood education;
- k) promote the circulation of and access to up-to-date and timely information on early childhood education and development; and
- l) develop a best classroom model for early childhood education centres within the respective county in accordance with the specifications set out in the First Schedule.

In this regard, the Bill has proposed the establishment of Public Childcare Facilities and Public ECDES in Clause 4 and Clause 13 of the Bill to provide for the mandatory establishment of these facilities in order to promote access to childcare and ECDE Services within the County and to obligate and compel an assured maintenance of good service standards to within the County's Education Sector.

The Bill also proposes some additional procedure for the establishment of Private Childcare Facilities and Early Childhood Development and Education Centers.

Policy and Legislative Context of the Bill.

The statutory underpinnings of the Kisumu County Early Childhood Development and Education Bill, 2023 is currently provided for by the Basic Education Act, 2013, the Early Childhood Education Act, 2021 and the National Pre-Primary Education Policy, 2017. The Bill has attempted to mirror the ECDE administrative structure contemplated in the National Pre-Primary Education Policy, 2017 by its proposal in Clause 26 to establish the County Early Childhood Education Committee (CECEC) but this may bring legal complications particularly in view of the enacted Early Childhood Education Act, 2021 which does not contemplate the creation of the County Early Childhood Education Committee.

The Bill has also been proposed in line with the Fourth Schedule, Part II of the Constitution of Kenya, 2010 which devolved the Pre-Primary Education Sectors to the Devolved Governments.

Principle Objects of the Bill.

Mr. Speaker and Hon. Members, this section of the Overview of the Bill examines the main provisions of the Bill, which is 25 pages long and contains eight (8) Parts and 49 Clauses. Due to the length and complexity of the Bill, this section contains a non-exhaustive overview of the principal provisions of the Bill.

The Bill contains eight (8) parts and 49 Clauses as follows:

PART 1 (Clause 1- 3) deals with PRELIMINARY PROVISIONS ie, short title, interpretations, Objectives of the Act and guiding principles.

PART II of the Bill provides for the procedures for the Establishment of Childcare Facilities.

This Part contains clauses 4 – 12 as follows:

- Clause 4 - Provides for the Categories of Childcare Facilities
- Clause 5 - Provides for the establishment of Public Childcare Facilities
- Clause 6 - Provides for the procedures for the registration of Private Childcare Facilities
- Clause 7 - Provides for the maintenance of Records of Public Childcare Facilities and Registered Private Facilities.
- Clause 8 - Provides Provisional Registration of Childcare Facility
- Clause 9 - Provides for the Review of Provisional Registration
- Clause 10 - Provides for the registration of Childcare Facilities
- Clause 11 - Provides for the Location of Registration
- Clause 12 - Provides for the establishment of Mobile Childcare Facilities

PART III of the Bill provides for the Framework for Early Childhood Development and Education.

- Clause 13 - Provides for the Categories of Early Childhood Development Education
- Clause 14 - Provides for the Establishment and Registration of Public or Private ECDE Centres
- Clause 15 – 17- Provides for the Procedures of Admission to a Public ECDE Centre and Childcare Facility.

- Clause 18 - Provides for the prohibitions and incentives in the Management of ECDE Centres and Childcare Facilities.
- Clause 19 - Provides for the Obligations of the Early Childhood Development and Education Centres.
- Clause 20 - Provides for the protocols of handling matters related to absenteeism.

PART IV of the Bill provides for the Management and Administration of Early Childhood Development in the County.

This Part covers Clauses 21 – 37 as follows:

- Clause 21 - Provides for the establishment of an administrative structure which enables children to access quality childcare and early learning at any level in a sequence, and at a place that may be commensurate with the individual child's physical, mental and intellectual abilities.
- Clause 22 - Provides for the Functions of the CEC Member in the Management and Administration of ECDEs.
- Clause 23 - Provides for the Functions of the Chief Officer in the Management and Administration of ECDEs.
- Clause 24 - Provides for the Establishment of the Office of the Director ECDE
- Clause 25 - Provides for the functions of the Director in the Management and Administration of ECDE.
- Clause 26 - Provides for the establishment of County Early Childhood Education Committee (CECEC)
- Clause 27 - Provides for the Functions of the County Early Childhood Education Committee (CECEC)
- Clause 28 - Provides for the procedures for the maintenance of records of registered early childhood development and education centres.

- Clause 29 - Provides for the mechanisms of the free feeding program in ECDEs.
- Clause 30 - Provides for the Governance of Early Childhood Development and Education Centres and Childcare Facilities and establishment of the Board of Management for the ECDEs.
- Clause 31 - Provides for the establishment of Parents Associations for ECDEs.
- Clause 32 - Provides for the establishment and Management of Special Units in Early Childhood Development Education Centers and Childcare Facilities.
- Clause 33 - Provides for the duty of County Early Childhood Education Committee to support functional assessment services.
- Clause 34 - Provides for the procedures for reporting on Children with Special Needs
- Clause 35 - Provides for the right of access and admission into private ECDE and Childcare Services
- Clause 36 - Provides for eligibility for recruitment of Early Childhood Education and Development teachers.
- Clause 37 - Provides for the terms and conditions of Service of Teachers in the County ECDE sector.

PART V of the Bill provides for the Financial Provisions.

This Part covers clauses 38 – 40 as follows:

- Clause 38 - Provides for the sources of Funds which are proposed to be used to promote Early Childhood Development and Education within the County.
- Clause 39 - Provides for the auditing of accounts of the Department or ECDE centre.
- Clause 40 - Provides for the establishment of centre-based audit.

PART VI of the Bill provides for Quality Assurance and Standards.

This Part covers clauses 41 – 44 as follows:

- Clause 41 - Provides for the appointment of quality assurance and standards Officers for the purposes of the Act.
- Clause 42 - Provides for the powers of the ECDE Quality Assurance and Standards Officers
- Clause 43 - Provides for the responsibility for maintenance of standards
- Clause 44 - Provides for County Qualification Framework which is intended to set the standards and benchmarks for qualifications and competencies including skills, knowledge, attitudes and values.

PART VII of the Bill provides for the General Provisions.

This part covers clauses 45 – 49 as follows:

- Clause 45 - Provides for actions that may be taken against a Childcare Facility.
- Clause 46 - Provides for procedures for the suspension of Registration of Childcare Facilities.
- Clause 47 - Provides for Cancellation of Registration
- Clause 48 - Provides for General Penalties
- Clause 49 - Provides for delegated legislation.

### Chapter Three

#### Public Participation in the Processing of the Bill.

##### Call for Public Participation

Mr. Speaker and Hon. Members, through an advertisement in the Nation and the Star Newspapers of 14<sup>th</sup> July, 2023 (Annexure i), the Committee invited the public to submit views

or make presentations regarding the Bill as required by the provisions of Article 118 of the Constitution and Standing Orders No 123 of the Kisumu County Assembly Standing Orders.

Receipt of Submissions and Public Hearings on the Kisumu County ECDE Bill, 2023

Mr. Speaker and Hon. Members, following the request to the general public to submit Memoranda, the Committee received the Memoranda from the following persons:

- a) Kisumu County Inter-Faith Network.
- b) Tunza Bora (We Care Network)
- c) Kenya Private Schools Association (KPSA)

#### MEMORANDUM FROM THE KISUMU COUNTY INTER-FAITH NETWORK

Hon. Speaker, Kisumu Inter-Faith Network through Inter Religious council of Kenya is implementing a program on strengthening Faith Systems for ECD advocacy in Kenya, hence its interest is drawn to this Bill in order to ensure its adequate support in nurturing care for ECD in Kisumu County.

The Committee received a Memorandum on the Bill from the Kisumu County Inter-Faith Network on 24<sup>th</sup> August, 2023 (*annex ii*) proposing amendments to the Bill as follows:

- i. THAT the definition of the Term “Private Institutions” under Clause 2 be expanded to include faith-based Childcare Facilities or alternatively; “Faith-based Institutions” be introduced under Clause 4 as a category of Childcare facility.
- ii. THAT an amendment be caused on Clause 6 by introducing a new Sub-Clause immediately after Sub-Clause 3 to include additional registration requirement for religious institutions that may want to register a childcare facility within the premises of the institution. These requirements may include:
  - a) Compulsory production of a certificate of registration of such religious institution and the religious society; and
  - b) A Certificate or ordination.
- iii. THAT Clause 26(1) under composition of the County Early Childhood Education Committee be amended to include a representative of the Kisumu Inter-Religious Committee.
- iv. THAT Clause 9 (5) be amended by deleting ‘five’ immediately after the word ‘at least’ and replacing therefor with the word “ten”. The rationale of this proposal is that the minimum number of five mentioned in the Bill does not make economic sense as well as it does not guarantee quality of service provision.

- v. THAT clear provisions on the management and administration of Mobile Childcare Facilities be provided in Clause 12.
- vi. THAT the limitations of free admission to Public ECDEs and Childcare Facilities provided for in Clause 15 be provided. Currently, fees are charged for admission into Public ECDEs and Childcare Facilities.

MEMORANDUM FROM TUNZA BORA (WE CARE INITIATIVE)

Hon. Speaker, this Memorandum was necessitated by the findings of the Organization of African Youth made from a survey conducted in Nairobi and Kisumu in December, 2020 that explored the challenges and opportunities in childcare ecosystem in informal settlements.

The Committee received the observations and recommendations of Tunza Bora (We Care Initiative) on 25<sup>th</sup> July, 2023 as follows:

- i. THAT the Bill in Clause 6 (3) is not cognizant of diversity of Childcare facilities and that if registration is too high, some already established caregivers may be deregistered.
- ii. THAT Clause 6 under registration of Private Childcare Facilities is ambiguous since it does not provide how the registration fee shall be determined that is; who decides the fee and how; putting into consideration the unique needs of childcare.
- iii. THAT Clause 8 (2) and Clause 8(5) is contradictory in terms of time period for the provisional registration.
- iv. THAT Clause 8(3) (c) is not clear on the definition and composition of the Association and is ambiguous in regards to whether the Association is at the Sub-County level or County Level.
- v. THAT Clause 6(3) be amended to include procedures for registration of home-based Childcare facilities and that home-based childcare be obligated to be registered under a single umbrella body or CBO.
- vi. THAT Clause 27 under functions of the County Early Childhood Education Committee be amended to include:
  - a) Develop of pathways for referrals from learning facilities to health facilities in case of health related emergencies and;

- b) Prescribe standards for construction of public ECDE Centres in concurrence with relevant agencies.

MEMORANDUM FROM THE KENYA PRIVATE SCHOOLS ASSOCIATION (KEPSA-KISUMU)

Hon. Speaker and Hon. Members. The Kisumu Branch of the Kenya Private Schools Association (hereinafter KPSA) is an umbrella body for private education institutions and duly registered by the registrar of societies according to the law. Membership of KPSA comprises proprietors of private schools i.e. Pre- Primary, Primary, Secondary, and the Private Teacher Training institutions (Low cost, Medium Cost, and High cost), duly registered, and pursuing a curriculum approved by the Government. The Association has representative branches in all the 47 counties and represents the interests of private schools in all the County Education Boards (CEB) in Kenya.

KPSA submitted this memorandum in line with its mandate to its Members and to respond to the invitation for public participation and submission of memoranda by the Kisumu County Assembly dated 25<sup>th</sup> July, 2023. This memorandum highlights KPSA's select views on the proposals included in the Kisumu County ECDE Bill, 2023 and provides observations on select proposed provisions contained in the Bill.

KEPSA's views have been informed not only by membership dialogue forums that KPSA convened and on thematic discussions on constitutional, legal, and policy reform proposals for ECDEs and Childcare Services but also KPSA's mandate to its members. In this regard, KPSA's conclusions have been premised on the fact that the 2010 Constitution which pursuant to the 4<sup>th</sup> Schedule devolved Early Childhood Education to the Counties is relatively young and more legislative action is required towards the implementation of Early Childhood Education in the Counties.

THE ISSUES PROPOSED BY KEPSA FOR AMENDMENT.

Part I – Preliminary Provisions.

Observations: KEPSA noted that pursuant to the recommendations submitted by this Memorandum, the definition of KPSA be provided under interpretation of terms.

Recommendations

KEPSA thus recommends:

- a) That unless the context in the Bill otherwise requires KPSA be defined under interpretation of terms as follows:

“KPSA” means an association of Private Schools comprising of proprietors of private schools i.e. Pre- Primary, Primary, Secondary, and the Private Teacher Training institutions (Low cost, Medium Cost, and High cost), duly registered, and pursuing a curriculum approved by the Government.

## Part II – Childcare Facilities

### Clause 6 (3)

*Clauses 6 (3) proposes that an applicant who intend to establish a registered Private Childcare Facility is under a duty to submit the following alongside the application:*

- a) A certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company;*
- b) Duly completed and signed application forms for the management of the childcare facility in the prescribed form;*
- c) Duly completed and signed application forms for the Centre Manager of the childcare facility in the prescribed form;*
- d) A childcare facility assessment report by the Quality, Assurance and Standard Committee;*
- e) A public health or sanitary inspection report;*
- f) The Title deed, allotment letter or a valid lease agreement covering a period not less than five years and*
- g) Prescribed fees.*

Observations: - Since the purpose of this provision is to provide for the procedures for registration for Private Childcare Facilities, it is not clear why a certificate of registration would be required under Clause 6 (3) (a) from the applicant and who issues the registration certificate contemplated in Clause 6 (3) (a).

KEPSA further notes that the procedure for registration does not provide clarity as to what happens to already registered Private Childcare Facilities since the Bill has no transitional clauses.

Recommendations:

KEPSA therefore recommends:

- i. That Clause 6 (3) (a) be expunged;
- ii. That a transitional Clause be provided in the Bill to transition the already operating Childcare Facilities during the implementation phase of the legislative proposal.

- iii. That the form and nature of the application form contemplated in Clause 6 be provided in the Regulation

Clause 8: Provisional Registration of Childcare Facility.

*Clause 8 (1) proposes that where a person or an entity which was registered under the Basic Education Act, 2013 intends to offer Childcare services, the same be registered in accordance with the proposals of the Bill.*

Observations: KEPSA submits that it is not clear whether this registration entails registration of the institution or merely an approval to offer Childcare Services.

Recommendations:

KEPSA recommends:

- a) That this provision be clearly provided for under the transitional Clauses.

*Clause 8 (2) further proposes that a person intending to offer Childcare services but does not meet all the requirements for registration as set out in Clause 6 (3) be issued with provisional registration valid for 12 months.*

Observations:

KEPSA observed that the current procedures for provisional registration under the Basic Education Act, 2013 provides for a valid period of 18 months and not 12 months.

Recommendation:

KEPSA therefore recommends;

- a) That Clause 8 (2) be amended by deleting the word “12 months” and replacing therefor the word “18 months” immediately after the phrase “...registration valid for”.

*It is further proposed in Clause 8 (2) (c) that Private Facilities shall pay levies through their Association to the County Government.*

Observations: KEPSA further observed that the proposal risks interfering with the independence of KPSA or any Private Schools Association. Pursuant to this proposal, KPSA will be legitimately expected to collect levies on behalf of the County Government a function which does not fall within our mandate.

Recommendations;

KEPSA recommends:

- a) That levies be submitted by individual institutions to the relevant County Authority.
- b) That Clause 8 (2) (c) be amended by deleting the phrase “through their Association to the County Government” immediately after the word “levies”.

Clause 11 – Location of Registration

*Clause 11 (1) proposes that Management Committees shall not change the location of the Centre nor acquire additional premises for the purpose of running the Childcare Facility unless it has applied to and obtained the approval of CECEC.*

Observations: The proposal bars the Management Committee from acquiring additional premises for the running of Childcare Facility. It is our conclusion that since private Childcare facilities are private properties, this provision inadvertently infringes a right to acquire property and may injure the cumulative intention of Clause 11 (1).

Recommendation:

KEPSA proposes;

- a) That Clause 11 (1) be amended by deleting the phrase “nor acquire” and replacing therefor the phrase “or use” immediately before the phrase “additional premises”.

Clause 12 – Mobile Childcare Facilities.

*Observations: KEPSA observed that the proposed provisions contemplated in Clause 12 are the same provisions contemplated in Clause 11.*

Recommendation.

KEPSA proposes;

- a) That Clause 12 be drafted or deleted from the Bill.

Part IV – MANAGEMENT AND ADMINISTRATION OF EARLY CHILDHOOD DEVELOPMENT IN THE COUNTY

Observation: KEPSA submits that the place, function and responsibilities of KPSA is not provided for in the Bill. We wish to note that KPSA is a major player in the Management and Administration of ECDEs in the Country and for better and uninterrupted management of ECDEs pursuant to this Legislation, we wish to propose as follows:

Recommendations;

KEPSA therefore recommends;

- a) That application for registration of ECDEs and/or Childcare Facilities be approved upon a showing of a compulsory membership with the KPSA.
- b) That KPSA be established and/or anchored with an establishing provision in the Bill.

Clause 26 – Establishment of County Early Childhood Education Committee (CECEC)

*Clause 26 (1) proposes a CECEC membership of not more than ten (10) composed as follows:*

- a) The CEC Member for Education*
- b) The CEC Member for Health*
- c) The CEC Member for Agriculture*
- d) The Chief Officer for Education*
- e) The Director for ECDE*
- f) Representative of County Public Service Board*
- g) Representative of County Department of Public Works*
- h) Representative of TSC*
- i) County Children’s Officer*
- j) Representative of the Minister for Education (Quality Assurance and Standards)*
- k) Early Assessment Resource Centre*
- l) Representative of Faith-Based Organization*
- m) Representative of Non-State Actors.*

Observations: KEPSA observed that while Clause 26 (1) proposes a membership of ten, the list of Members provided is thirteen (13).

KEPSA further observed that certain identification of members is not clear, such as Early Assessment Resource Centre, we are unable to establish which institution or office is represented by this Member. The Membership is also evidently bloated and it is not substantial to have both the Chief Officer and the Director in the same Committee.

Further it observed that the Association of Private Schools is not represented in the Committee despite being a major stakeholder in the County’s Education system.

Recommendation:

KEPSA therefore recommends:

- a) That the phrase Early Assessment Resource Centre contemplated in Clause 26 (1) (k) be deleted and replaced therefor with the phrase “Representative of KPSA”
- b) That Clause 26 (1) (l) be amended by introducing the phrase “registered in KPSA” immediately after the word “Faith-based Organization”.
- c) That KPSA be reserved at least three slots in the membership of the Committee.

#### Proposals and Comments from the Public.

Pursuant to the advertisement placed in both the Daily Nation and the Star Newspaper on ....., the Committee facilitated public participation in accordance with the following Schedule:

Sub-county	Ward	Time	Venue
1. Muhoroni	Muhoroni/Koru	9.00am	Muhoroni PAG Church
2. Kisumu East	Kolwa Central	9.00am	Ragumo Community Hall
3. Seme	Central Seme	9.00am	Kombewa Huduma Centre
4. Kisumu Central	Market/Milimani	9.00am	Kisumu Social Hall
5. Nyando	Ahero Ward	9.00am	Karanda AIC Church
6. Kisumu West	South West	9.00am	Ojola Resource Centre
7. <u>Nyakach</u>	Central Nyakach	9.00am	Pap Onditi Hall

In considering the Kisumu County TVET Bill, 2023, the Committee took into account oral submissions from the public during its sittings in the Sub-Counties. The Committee noted as follows:

S/No.	Sub-County	Recommendations	Observations
1.	Muhoroni	During the public hearing of the Bill in Muhoroni Sub-County, the members of the public submitted the	None

		<p>following recommendations:</p> <p>That the Bill should provide clear procedures on the registration of home-based childcare facilities.</p> <p>That the following organizations be included in the composition of County Early Childhood Education Committee:</p> <ul style="list-style-type: none"> <li>a) Faith-based organization</li> <li>b) Special needs</li> <li>c) Civil Societies</li> </ul> <p>That clear procedures be provided how ECDE teachers will be remunerated and appraised.</p>	
2.	Kisumu East	<p>During the public hearing of the Bill in Kisumu East Sub-County, the members of the public submitted the following recommendations:</p> <p>That the timeline for formulation of regulation for the implementation of the Act be provided.</p> <p>THAT clear provisions on the management and administration of Mobile Childcare Facilities be provided in Clause 12.</p> <p>THAT the limitations of free admission to Public ECDEs and Childcare Facilities provided for in Clause 15 be provided. Currently, fees are charged for admission into Public ECDEs and Childcare Facilities.</p>	None

3.	Seme	<p>During the public hearing of the Bill in Seme Sub-County, the members of the public submitted the following recommendations</p> <ul style="list-style-type: none"> <li>a) That levies be submitted by individual institutions to the relevant County Authority.</li> <li>b) That Clause 8 (2) (c) be amended by deleting the phrase “through their Association to the County Government” immediately after the word “levies”.</li> <li>c) That Clause 27 under functions of the County Early Childhood Education Committee be amended to include: <ul style="list-style-type: none"> <li>i. Develop of pathways for referrals from learning facilities to health facilities incase of health related emergencies and;</li> <li>ii. Prescribe standards for construction of public ECDE Centres in concurrence with relevant agencies.</li> </ul> </li> </ul>	<p>The Public observed that:</p> <p>Current ECDEs are experiencing budget deficits and there is need for sufficient budget to manage the institutions.</p>
4.	Kisumu Central	<p>During the public hearing of the Bill in Kisumu Central Sub-County, the members of the public submitted the following recommendations:</p> <ul style="list-style-type: none"> <li>a) That Clause 11 (1) be amended by deleting the phrase “nor acquire” and replacing therefor the phrase “or use” immediately before the phrase “additional premises”.</li> <li>b) That the form and nature of the application form</li> </ul>	None

		contemplated in Clause 6 be provided in the Regulation	
5.	Nyando	<p>During the public hearing of the Bill in Nyando Sub-County, the members of the public submitted the following recommendations:</p> <p>.THAT procedures for the management of Mobile Childcare Facilities particularly in the Market areas be provided.</p> <p>THAT qualification of childcare service providers be provided for in the Bill.</p>	<p>The Public observed that:</p> <p>Current ECDEs within the Sub-county has an acute understaffing and this interferes with its operations.</p> <p>That new ECDEs should have basic social amenities and infrastructure</p>
6.	Kisumu West	<p>During the public hearing of the Bill in Kisumu West Sub-County, the members of the public submitted the following recommendations</p> <p>THAT the Bill in Clause 6 (3) is not cognizant of diversity of Childcare facilities and that if registration is too high, some already established caregivers may be deregistered.</p> <p>THAT Clause 6 under registration of Private Childcare Facilities is ambiguous since it does not provide how the registration fee shall be determined that is; who decides the fee and how; putting into consideration the unique</p>	

		needs of childcare.	
7.	Nyakach	<p>During the public hearing of the Bill in Nyakach Sub-County, the members of the public submitted the following recommendations:</p> <p>That procedures for the funding of school feeding program be provide and the program be made compulsory.</p>	None

## Chapter Six

### Committee recommendations.

In light of the submissions of the memorandum, the oral representations made before the Committee and the Committee deliberations on the Bill, the Committee Recommends: -

- i. THAT Clause 8 (2) (c) be amended by deleting the phrase “through their Association to the County Government” immediately after the word “levies”.
- ii. THAT Clause 11 (1) be amended by deleting the phrase “nor acquire” and replacing therefor the phrase “or use” immediately before the phrase “additional premises”.
- iii. THAT Part II under Childcare Facilities be amended by introducing the following new Clauses immediately after Clause 6 as follows:

### Establishment of a Childcare Management Committee.

7. (1) There shall be established in every Public Childcare Facility, a Childcare Management Committee.

(2) The Management Committee shall be capable of:

- a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

- b) receiving donations and grants;
- c) doing or performing all other things or acts for the proper performance of its functions under this Act or any other function as may be directed by the CEC Member for Education.

3). In the performance of its functions under paragraphs (a) and (b) of subsection (2), the Management Committee shall first seek the approval of the CEC Member.

8. Without prejudice to the generality of Section 7 of this Act, a Public Childcare Facility established inside an ECDE Centre shall be managed by an ECDE Board of Management established in accordance with Section 29 of the Early Childhood Education Act, 2021.

#### Composition of the Management Committee

9. The Management Committee shall be composed of:

- a) one person elected by the parents to represent parents of the children within the facility;
- b) the Centre Manager who shall be the Secretary;
- c) two persons with experience in matters of childcare, nutrition and social services nominated by the CEC Member and;
- d) one person living with disability to represent children with disabilities; and
- e) in the case of a sponsored childcare facility, one person nominated by the sponsor who shall be an *ex-officio* Member.

#### Functions of the Management Committee.

10. (1) The functions of the Management Committee shall be to:

- a) identify the needs of childcare services within their local communities and develop viable strategies for meeting these needs;
- b) mobilize the parents and local communities to initiate and sustain the facility and support childcare programmes;
- c) manage childcare programmes in the centre in ensuring the provision of quality childcare services;

- d) identify local resources necessary to equip the childcare facilities and identify sources for, and undertake fundraising activities to raise funds for the facility;
  - e) ensure the provision of adequate equipment and facilities within the childcare facility that such equipment and facilities are well maintained;
  - f) carry out advocacy in relation to the needs and the rights of the child in relation to childcare; and
  - g) carry out such other functions as may be necessary for the implementation of this Act within the childcare care facility.
- THAT Clause 30 of the Bill be amended by deleting the words “and Management Committee for every ECDE Centre and Childcare Facility respectively’ immediately after the words ‘Board of Management’ and replacing therefor with the words ‘established in accordance with Section 29 of the Early Childhood Education Act, 2021.

Clause 30 is therefore proposed to provide as follows:

30. There shall be a Board of Management established in accordance with Section 29 of the Early Childhood Education Act, 2021.

- THAT Clause 49 under Delegated Legislation be amended by deleting the entire proviso and replacing therefor with the following new Clauses:

49. (1) The CEC Member shall make regulations generally for the better carrying out of the provisions of this Act.

(2) The CEC Member shall, prescribe minimum operation standards relating to public Early Childhood Education Centres and Childcare Facilities within ninety (90) days of enactment of this Act.

(3) Without prejudice to the generality of subsection (1), the CEC Member shall —

(a) prescribe minimum standards relating to the following matters—

(i) premises and facilities;

(iii) practices in relation to children's learning and development;

(iv) staffing and parental or caregiver participation;

(v) health and safety;

(vii) communication and consultation with parents;

(viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care, education, and safety of children attending licensed early childhood services;

(c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of one or more specified kinds for service providers for each kind of early childhood and childcare services;

(d) prescribe the conditions subject to which such registration certificates may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such certificates;

(e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers;

(f) prescribe the records to be kept by education centres in respect of children attending registered centres; and

(g) prescribe fees required to be paid under this Act.

(h) prescribe standards for the management of Mobile Childcare Facilities.

(4) Regulations made under subsection (2) may prescribe different standards and other requirements—

(a) for early childhood services of different types or descriptions; and

(b) in respect of different kinds of registrations.

(5) the authority of the CEC Member to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfillment of the objectives specified under subsection (1); and

the principles and standards set out under the Interpretation and General Provisions Act, (Cap. 2) and the Statutory Instruments Act, (No. 23 of 2013) in relation to subsidiary legislation shall apply to regulations made under this Act.

Conclusion.

Mr. Speaker and Hon. Members, the Committee having considered the Kisumu County Early Childhood Development and Education Bill, 2023, on behalf of the Committee on Education, Technical Training, Innovation and Social Services, I wish to move this Motion for consideration by the Hon. House. I want to call Hon. James Omollo to second this motion. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes, Hon. James Omollo.

**Hon. Omollo** (MCA, West Nyakach Ward): Thank you, Madam Speaker. I stand here to second the motion, and to say that this motion will see that our ECDEs, both public and private ones are properly managed. It comes at a time that this County needs to move very fast and enhance how we provide services to the children. Thank you, Madam Speaker.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, a motion of Adoption of a Report by the Committee on Education, Technical Training, Innovation and Social Services on the Kisumu County Early Childhood and Education Bill, 2023, has been moved by Hon. Seth Okumu, Chairperson of the Committee, and seconded by Hon. James Omollo, a member of the committee. I therefore want to put a question that the report be open for discussion.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes, Hon. Nyaoke Tom member representing North Nyakach Ward.

**Hon. Nyaoke** (MCA, North Nyakach ward): Thank you Madam Speaker, I first want to take this opportunity to thank the Chair of this committee, who happens to be an alumni of Moi University. It is a coincidence that he is also a Chairperson of this House Committee on Education, Technical Training, Innovation and Social Services we have in this Assembly. Madam Speaker, this House Committee has done quite an elaborate job, particularly in dealing with this ECD Bill, 2023. There are just a few things that I wanted us to note, as we appeal for the adoption of this good report.

Madam Speaker, I will refer to the public participation that was conducted in Nyakach Sub-county, where they suggested that the procedures for funding the school feeding program be provided and the program be made compulsory. Madam Speaker, Early Childhood Education is fundamental foundation to our children as they grow up. Some of us did a lot of investments at the early childhood education, and it is from that foundation that we lead them to a better stage as they are now approaching the education standards Madam Speaker.

Madam Speaker, from where we are coming, we do encounter a lot of challenges particularly in the feeding programs for these ECDEs. There are certain interventions that require leaders to address like that one, they collect all the funds from different schools or learning centers as one vote then remit these funds to the County Government. Madam Speaker, at times it may be a tall order even though we are operating different financial management systems and it is my considered opinion that this ECDs should be managed by as was proposed by tis House Committee which will be very important but then, the collection of funds from each and every institution or school the way it was raised in Seme that each institution should be able to submit their own collection directly to the County Assembly...

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Order!! Order!! Honourable Member, does the County Assembly have the authority to receive any funds?

**Hon. Nyaoke** (MCA, North Nyakach Ward): Madam Speaker, no, apologies for that. I withdraw and apologize for that. It is the County Government and not the County Assembly. Madam Speaker, from that submission and if taken into consideration it is my belief that would be the best so that sometimes we could decide to place those funds in one Votehead and you will realize that while other are contributing others are just rallying behind others. So, that was a very significant contribution and a concern that we need to put in place and it will be one of the greatest move that we will have made as a County government in term of our education centres. Thank you and I beg to support the adoption of this report.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Hon. Ouko member representing West Kisumu Ward.

**Hon. Ouko** (MCA, West Kisumu Ward): Thank you Madam Speaker. May I take this opportunity to applaud my Chair Hon. Seth Okumu for leading this House Committee and coming up with this report. Madam Speaker, this Bill was procedurally introduced in this House and it was taken through all the required processes notably the public participation where amendments were proposed and incorporated in the production the final report. Again, I sincerely want to that this House Committee.

Madam Speaker, the essence of Public Participation came out clearly because these are some of the fundamental issues when making reference to law and we are making legislation like what we are doing now. Madam Speaker, I am proud to be associated with this House Committee because this is one of the rare moments where we are accorded the opportunity to give our inputs on how to guide our ECD systems within the County Government establishment. Madam Speaker, one of the devolved functions is to make laws and this is what we are in this House doing. I once again want to applaud his House Committee and its members and as a House we are really delighted and it is my hope and prayer that the Almighty God will continue giving guidance to Kisumu County. Thank you I support.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Vitalis K’omudho member representing Koru Ward.

**Hon. K’omudho** (MCA, Koru Ward): Many thank you Madam Speaker and to my colleagues Honourable Members. As I stand here I support and appreciate this committee report and this goes to the Chair and the Vice-chairperson for an articulate, clear, specific and indicative report that captured all the issues raised during the public participation conducted in all the seven Sub-counties. We went according to each category and Sub-county together with their views which were considered and of course you clearly heard from the Chair that this is the mandate of this House Committee. I once again wish to thank my colleagues in this very sincere House Committee for bringing a very accomplished report. Madam Speaker, I stand here to support this report 101%. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Millicent Omuya member representing North Seme Ward.

**Hon. Omuya** (MCA, North Seme Ward): Thank you Madam Speaker. First, let me take this opportunity to thank the Education Committee under the able leadership of Hon. Seth Okumu, this is a very good report just like your father...

*(Laughters)*

Hon. Okumu, I have just heard that Hon. K’omudho is your Vice-chair and I believe that one day the Member will equally do a report like this one on the Ward Development Fund...

*(Laughters)*

Hon. K’omudho, I want to thank you so much for being a Vice-chair of this House Committee and also for preparing such a good report. Madam Speaker, I must say that this House Committee has done a commendable job and the Committee has listed a number of issues that will make this Bill be perfect for the operationalization and management of ECD Centers. Madam Speaker, from the entire proposal that have been made; it is my wish that we make our priorities right and if I am asked on the proposals that pertains the running of ECDs, it is my prayer that we place major emphasis on the development of infrastructure. This is because, as we speak, you will visit a school and you will find one classroom taking care of three stages of ECD. So, it is my wish that we start with the development of infrastructure in our ECD Centres by constructing adequate classes thereafter, we focus on personnel. Madam Speaker, as much as we require free ECD Centers, we might not be able to achieve this fete because so many school lack the ECD personnel. So, if we put more emphasis on the development of infrastructure and adequate personnel then, we will be in a position to move to those other issues that we wish to complement with. I stand to support. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Adeg a member representing Kajulu Ward.

**Hon. Adeg a** (MCA, Kajulu Ward): Thank you Madam Speaker. I arise to support this motion. Madam, Speaker, thus Bill is very important for our children learning in ECD Centers. Just to inform this House, there is a primary school run by the National Government and these ECDs were initially established under these primary schools and now there is established a Children’s Management Committee which will be a Board Management for ECDs. So, there will be no conflicts between the ECDs and the Primary School’s Management Committees. I support this report. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): The Deputy Leader of Majority and member representing South East Nyakach Ward neighbouring Kericho County.

**The Deputy Leader of Majority** (Hon. Lumumba, MCA, South East Nyakach Ward): Thank you Madam Speaker. I arise to support this good report that has been presented by the Chair, Education Committee. Madam Speaker, I want to say that, I will not support this report 100% because this House Committee should have done much better. Why do I say so?

Madam Speaker, in the report I did not see the Memorandum of Understanding (MOU) between the ECD and the Ministry of Education. Madam Speaker, Education has different department because we have education at the National and that at the County level. We share facilities and quite a lot of facilities and this requires a Memorandum of Understanding that will protect or cushion both the primary and the ECDs. Madam Speaker, we equally have standalone ECDs and I have not seen anywhere in the report where it is indicate how we will partner with these facilities. Madam Speaker, I would have wished that this House Committee should have come out boldly to advice the County Government that they are not responsible with national government facilities or functions as it is now. This County Government has apportioned Bursary to even students in Secondary Schools and the tertiary institutions (Universities) yet, that is the function of the national Government and denying the ECDs their rightful share. This implies that, by now, we would have been done with all the infrastructure development that the Honourable Member for North Seme has raised. Now that the National ECDs were devolved to the Counties yet, funds are being apportioned and they are being used and taken to the wrong functions. Madam Speaker, it is my wish and hope that this House, if it is not for political policies should stand up and direct that funds meant for ECDs be channeled to the Counties enable us complete all those infrastructure development. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Hon. Benny Oiko Pete the member representing Kabonyo/Kanyagwal Ward, Nyando Sub-county.

**Hon. Oiko** (MCA, Kabonyo/Kanyagwal Ward): Thank you Madam Speaker. Generally, when Honourable Members rise on their feet to contribute, they commence by saying that I support or

oppose and that has been the trend of argument in the Assemblies but, with the experience that some of the Honourable Members have acquired because your contribution will be tailored towards whether you are in support or opposing. Madam Speaker, and as Hon. Okumu stated that Moi University whose motto is a “foundation of knowledge” and this depends on how knowledgeable, and how skilled on is. Madam Speaker, this is a report and when a matter was raised while citing the provisions of Kisumu County Assembly Standing Orders No. 36 you opposed as a result of the vast powers that you wield but, please be informed that the Member was very right because the report was sent to the members at 08:59 a.m. See how you are not fair to the Members.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Order!! Hon. Oiko Pete. The office of the Clerk had communicated that the report had been sent prior. I want to believe that you have a hard copy and you might have missed noticing the one that was sent online. You know it is a requirement that under Standing Order No. 36 and they confirm having conformed to that very Standing Order proceed and stick to you point.

**Hon. Oiko** (MCA, Kabonyo Kanyagwal): Madam Speaker, the report is very good because a Bill had been brought in this Assembly on the Basic Education Act of 2012, the Early Childhood Education Act of 2021. The Kisumu County Government has seen it fit to domicile the Early Childhood Education Act, 2021 so that they can manage the Early Childhood Education which is very good. We shall now see how they are going to manage the childcare in Kisumu County in terms of the infrastructure and personnel management and at the end we shall see how our young children are well taken care of. That is the essence of this report as per the Bill that was brought in this House.

Madam Speaker, it is also good that as we domicile this National Government Act into Kisumu County Government Act, we are informed that the resources for early childhood when you look at page 11 clause 39 provides for the Auditing of Accounts to the Department of ECD centres. This means that, all the resources that Kisumu County will be using for early childhood will be audited and we shall now see how efficient, how caring the Kisumu County Government is on matter early childhood which is very important for us because we know that the primary is for the National Government but when it comes to infrastructure, we know that the early childhood is centered in our primary schools. That will bring no problem because the primary schools are owned by the community.

Madam Speaker, KEPSA (Kenya Private Schools Association) had demanded that they also form part of the community and they wanted three slots and that one has not been captured in the final report but the three slots they requested for would look a lot. They are our developers on matters of private education of early childhood and therefore we cannot ignore them but let them have at least one slot that they had been given so that we can walk the talk with them.

Madam Speaker, this report with the regulations that will follow; it is our hope that the early childhood education in Kisumu County will be well managed. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Hon. Oiko, thank you for that powerful submission.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Hon. Samuel Onyango the member representing Railways Ward.

**Hon. Onyango`** (MCA, Railways Ward): Thank you Madam Speaker, I wish to call the mover to reply.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, the mover has been called to reply, do we have any Member who still has anything to submit?

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Yes Hon. Dede.

**Hon.** (MCA, North Kisumu Ward): Thank you Madam Speaker. I want to express gratitude to this House Committee for enhancing our ability to regulate the education system, especially in Early Childhood Development (ECD). Madam Speaker, since the inception of devolution, we've operated under National Government Acts, lacking specific guidance from our own Acts. It's encouraging that this is being rectified now. The comprehensive findings indicate that all necessary aspects have been adequately addressed. The approach involved extensive public participation, collating community opinions that were crucial in shaping our direction. Additionally, input from various stakeholders such as Tunza Bora, the Kisumu County Interfaith Network, and the Kenya Private Schools Associations, shared via their memorandums, has been invaluable. I extend my thanks to this House Committee for taking these memorandums into consideration. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Thank you. The mover had been called upon to reply.

**Hon. Okumu** (MCA, East Seme Ward): Thank Madam Speaker. I want to thank all the Honourable Members for agreeing to adopt this report that will bring changes to the proposed Bill that was read in this House for the first time. I want to agree with the Honourable Member representing North Seme that we need to focus on infrastructure and ECD teachers. The purpose of this Bill and why we are enacting it is to instill that in the County of Kisumu.

Madam Speaker, I want to link that to what the Deputy Leader of Majority, Hon. Owade stated that, for this to happen then Counties need to focus on the devolved functions. It is true that we spent a lot of our found on other activities which are not devolved in nature and it is needed by our pupils which is close to 210 million on bursaries but this is a function that is mostly a national function.

Madam Speaker, even though our people need bursaries but this makes us omit the devolved functions that we had in the 2010 Constitution on education which is Early Childhood Development Education and Vocational Training Centres. That money would help us focus on infrastructure and the recruitment of ECD teachers that you mentioned above.

Hon. Pete talked about the inclusion of KEPSA (Kenya Private Schools Association) in CSEC. The composition of the CSEC is provided for in the policy of the Act. So as an Assembly, if we have a National Act then we cannot change that composition unless otherwise. So we picked the composition as provide for in the policy and the Act and that is what we have brought into the Kisumu County ECD proposal.

Honourable Members, I believe that it has severally been mentioned here and I consider that it was started by Hon. Dede and has been propagated by Hon. Pete on Standing Orders No. 36 which states that;

*“Order Paper To Be Prepared And Circulated”*

*The order paper shall be prepared by the Clerk showing the business to be undertaken by the County Assembly and the order to which is to be taken including notice showing the business for each sitting day or of the week together with such information that the Speaker may time to time direct.*

*The order paper shall be published in the County Assembly Website and shall be made available to Members at least 12 hours before the County Assembly meets but supplementary Order paper shall be made available at least one hour before the County Assembly meets.*

Madam Speaker, relating to Standing Orders No. 36 to the provisions of the report in this Assembly is not only misleading by not fit for the senior Members like Hon. Dede and Hon. Pete. It is my belief that they were out of order to quote an Order which did not fit what they wanted to be done. We are all aware and know that it is only Hon. Pete in this Assembly who is not able to read from the digital equipment. So, we provide hard copies for him and I believe that we did the same today and if he did not have, I was prepared with this copy to provide for him. But again I want to agree with their submissions on the report and even with such short notice; they gave very valid information to this committee that will inform the second reading of this Bill.

Madam Speaker and Honourable Members, I want to let you know that this Bill is very important in management of our ECD centres and it is not only ECD centres but also managing childcare facilities. If you still have any recommendation or any changes on this Bill, then make it a practice that while we will be doing the 2<sup>nd</sup> reading in the afternoon, you need to be available and provide those necessary amendments that you might be having into the Bill so that we have proper management of our ECD centres and childcare facilities. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, a report of the Education, Technical Training, Innovation and Social Services on the Kisumu County Early Childhood Development and Education Bill, 2023 (Kisumu County Bill No. 5) has been moved, seconded and debated upon, I therefore want to put a question on the adoption of the same.

*(Question put and agreed to)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, the report of the Education, Technical Training, Innovation and Social Services on the Kisumu County Early Childhood Development and Education Bill, 2023 (Kisumu County Bill No. 5) is hereby adopted today Wednesday, 15<sup>th</sup> November 2023 at 11:03 hours.

Honourable Members, I direct that the report together with the Hansard Report be prepared and forwarded to the House Business Committee to enable the relevant House Committee to prepare for their submission the Bill for 2<sup>nd</sup> reading. Thank you.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Next Order!!

## **ADJOURNMENT**

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, there being no any other business to transact, the House stands adjourned to today Wednesday, 15<sup>th</sup> November 2023 at 02.30 p.m.

*(House rose at 11.04 a.m.)*

*Addendum*

**Hansard Team**

<i>Zablon Otiende</i>	-	<i>Senior Hansard Reporter (In-charge)</i>
<i>Edward Odanga</i>	-	<i>Hansard Reporter</i>
<i>Fanuel Okode</i>	-	<i>Hansard Reporter</i>
<i>Patrick Okoyo</i>	-	<i>Hansard Reporter</i>
<i>Jesca Otieno</i>	-	<i>Hansard Reporter</i>
<i>Dennis Onyango</i>	-	<i>Hansard Reporter</i>
<i>Jacklyne Otieno</i>	-	<i>Hansard Reporter</i>
<i>Valery Achieng'</i>	-	<i>Hansard Reporter</i>