COUNTY GOVERNMENT OF KISUMU

COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – SECOND SESSION

Wednesday 22nd November, 2023

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

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYER

The Speaker (Hon. Oraro): Clerk, please take us through the Order Paper.

The Speaker (Hon. Oraro): Next order!!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I welcome you to this session. I have got one communication to make. This is a reminder to all the Committee Chairpersons, we had a retreat as the Liaison Committee and we agreed that you fast-track all your pending works of the committees.

Further, I to inform you that, we had a discussion with the Governor and I have already received a letter that on Friday 01st December, 2023, there shall be a State of the County Address at Tom Mboya Labour College and the Gazette Notice can come out any time. I will convey the same message once it is out. I am equally aware that the Budget and Appropriations Committee is meeting different departments of the County Executive, I want to encourage Members who are available to join them for the same course. Otherwise, welcome.

The Speaker (Hon. Oraro): Next order!!

STATEMENT

The Speaker (Hon. Oraro): Honourable Leader of Majority.

Leader of Majority (Hon. Ooko, MCA, Ahero Ward): Thank you Mr. Speaker. Pursuant to Standing Order No 41 (2) (b), I rise to seek a Statement from the Chairperson on Education on the matter of Electronic Transfer of Bursary to students in respective schools within the County.
Hon. Speaker, the bursary continues to be a lifeline to many needy students in the County. Concerns have been raised since the introduction of Electronic Transfer System currently being used towards the disbursement bursary for students. The glaring challenges include;

1. Even after bursaries have been disbursed, many students are not aware and occasionally sent home.
2. Parents are frequently caught off-guard, despite assurance that bursaries have been allocated for their children.
3. Some crooked bursars take advantage of this lack of communication with allegation that they do misappropriate these funds without the knowledge of the parents or students.
4. Confusion and disruption of studies to the students has erupted.
5. Psychological torture and mayhem meted on parents despite the assurance of the allocations by the department of education.

Hon. Speaker, consequently arising out of these challenges, parents and citizens in general make persistent inquiries through the Honourable Members which have become overwhelming and worrying since they are not in better position to address the underlying issues causing this problem. As it stands this Electronic Funds Transfer System seems to be shrouded in mystery and being exploited by unscrupulous individuals to the detriment of innocent citizens, whom we represent at the respective Wards.

In this statement request, the Committee Chairperson; should inform the House on

a) What measures he is putting in place to address the gaps as a matter of urgency.
b) Should consider transitioning to the traditional payment method using cheques systems which was more transparent and allowed for public distribution, facilitating prompt addressing of raised concerns.
c) Should consider increasing budgetary allocation for bursary in the next financial year, due to the growing student population in various institutions of learning including those in Junior Secondary Schools. Thank you Mr. Speaker.

The Speaker (Hon. Oraro): I noticed the Honourable Chair of the Education Committee.

Hon. Okumu (MCA, East Seme Ward): Thank you Mr. Speaker. Despite the fact that we need some time to give more in-depth response to some of the concerns, It is my belief that, I can respond on a few of the areas right now.

Mr. Speaker, on the question on what measures the department is putting in place to address the issue of bursary? Mr. Speaker, you know the Exchequer releases affects so much the payment of bursary because the Kshs 205 million that we allocated for bursary can only be given in two tranches. The first being the first two quarters and the last in the remaining quarter. We have agreed with Department of Finance that we shall be giving Kshs 10.5 million in each and every month. We believe that by January of each year, Kshs 150 million will available so that we can do payments on time to avoid interruptions. We shall also request for additional funds by the same month.

Honourable Speaker, on the issue of cheques and the IFMIS, the only reason why we moved from the traditional chequing system was because we believed we are going to save money up to Kshs 2 million because for the thousands of kids that we have, a leaf of a cheque cost like Kshs 150. That is why we transferred to the IFMIS system. I want to agree with the Leader of Majority that sometimes the system lacks the manifest that these kids can go to school with to show that money has been paid to them by the County Government.

Mr. Speaker, as a Committee we have tried the manifest but there are those that don't give it to the students as per the list and sometimes the kids may not know. We are torn between cutting cost and a proof of paying the bursary. This is something we can share with the Department and see on which is the best.

Mr. Speaker, the third question was increasing the allocation for bursary. I totally agree that there is need to increase the allocation for bursaries. With the Deputy Leader of Majority having mentioned that, there is need to address the same. Bursaries and Scholarships to the universities is not a function of the County Government but our objectives is to see that these kids go to school is much more important and I believe that, this is why we introduced bursary as County Governments.

The Leader of Majority and I are in the Select Committee of Budget and Appropriations and we are going to ensure that it is increased in the budget. I therefore, request that you give us time to give proof of those information as requested by inviting the department through the committee so that we can bring a comprehensive report on the same. Thank you Honourable Speaker.

The Speaker (Hon. Oraro): Yes Hon. Oiko.

Hon. Oiko (MCA, Kabonyo Kanyagwal Ward): On a Point of Order. Allow me to make a comment on this matter. The matter of bursary is a very crucial matter on the ground. It is killing us and you hear the Chair mentioning the saving of Kshs 2 million when the records don't flow. The department itself doesn't understand the record. When you ask for the list and it cannot be produced then, what are you doing? The Chair doesn't want us to promote education in our county because he keeps on mentioning the responsibility of the National Government.

Mr. Speaker, we also need to know the matter raised by the Leader of Majority that it is not only the Department of Education; the Finance Department is also involved in this matter. It should be included in his Statement because Bursary and Scholarship is a fund and the Administrator of this fund is appointed by the CECM for Finance and Economic Planning.

Mr. Speaker, we cannot solve this matter without the Department of Finance. The two departments should be invited in this House so that the Members can interrogate them. That is my plea. Both the Ward and Village Administrators don't understand the records too. The element of wiring money has become a problem in this County. Parents are being tossed left and right from January to December and you will hear them say that those who are completing their studies are not eligible for the payments. We need to address this. Please let this House invite the two departments. Thank you Mr. Speaker.

The Speaker (Hon. Oraro): Honourable Members, the Leader of Majority raised a Statement and the Chair of the Committee requested for more time to substantiate on the prayers of the Leader of Majority. I direct that the House Committee to bring a full report on Wednesday, 06th December, 2023 to this House. The report should be with the Liaison Committee or the House Business Committee earlier. Thank you.

The Speaker (Hon. Oraro): Next order!!

MOTION

ADOPTION OF A REPORT OF THE WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE COMMITTEE ON THE KISUMU COUNTY WATER BILL, 2023 (KISUMU COUNTY BILL NO. 6 OF 2023)

BY

HON. SAMUEL DEDE, MCA, NORTH KISUMU WARD

(CHAIRPERSON, STANDING COMMITTEE OF WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE)

The Speaker (Hon. Oraro): Hon. Samuel Dede.

Hon. Dede (MCA, North Kisumu Ward): Mr. Speaker and Honourable Members. The Kisumu County Water Bill, 2023 was read a first time on 27th September, 2023 and subsequently committed to the Sectoral Committee on Water, Environment, Natural Resources and Climate Change for consideration and thereafter report to the House pursuant to Standing Order No. 123 of the Kisumu County Assembly Standing Orders.

The Principal Object of the Bill is to give effect to the Fourth Schedule of the Constitution of Kenya, 2010 and to provide for legal and institutional framework for provision of water services in the county and for connected purposes.

The Bill therefore proposes to ensure access to sustainable clean, portable, affordable, equitable and adequate water for domestic consumption and for industrial, agricultural and other puposes. It also improves and ensures high water quality for human consumption as well as developing the capacity of communities for effective water and sanitation service delivery.

ESTABLISHMENT AND MANDATE OF THE COMMITTEE
The Committee on Water, Environment, Natural Resources and Climate Change was constituted on 18th October, 2022 Pursuant to Standing Order 193 during the first session of the Third Assembly and is composed of the following Members:

Committee Members

1. Hon. Samuel Dede — Chairperson
2. Hon Mickey Ochieng — Vice Chairperson
3. Hon Maurice Ngeta — Member
4. Hon Emily Oginga — Member
5. Hon Lumumba Owade — Member
6. Hon Vincent Jagongo — Member
7. Hon Peter Obaso — Member

Committee Secretariat
The Committee has a secretariat comprising of:

1. Mr. Allan Otieno — Clerk Assistant
2. Mr. Fanuel Okode — Hansard
3. Mr. Silas Kapesa — 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 look into: -

All matters relating to the provision of clean water for domestic use; implementation of specific National Government policies on Natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisance and outdoor advertising; Climate change.

ACKNOWLEDGEMENT.

Mr. Speaker and Honourable 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 Water 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 Water, Environment, Natural resources and Climate Change and pursuant to the provisions of the County Governments Act 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 the Report of the Committee on the Consideration of the Kisumu County Water Bill, 2023.

CONSTITUTIONAL FRAMEWORK OF PUBLIC PARTICIPATION.

Mr. Speaker and Honourable Members. Public Participation is a constitutional requirement for the democratic Governance and improved public service delivery in Kenya. Article 10 of the Constitution of Kenya includes public participation as a national value and principle of governance.

Article 118 of the Constitution directly invokes public participation in legislative process. The provision states 'Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees.' By 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 201 (a) – provides for openness and accountability, including public participation in financial matters;

OVERVIEW OF THE BILL.

Provisions of the Bill.

ABSTRACT

Mr. Speaker and Honourable Members, the Kisumu County Water Bill seeks to introduce an up to date legal and institutional framework for the management and administration of Water and Sanitation Services within the County in accordance with the Water Act, 2016 and its relevant amendment; the Water Act (Amendment), 2023 and to provide procedures for the protection and utilization of County water resources, assets and liabilities. The Bill proposes to establish County water service providers as companies and as County Government Entities established in accordance with Section 5 of the Public Finance Management Act, 2012 and to further establish the mechanisms for establishment of Private Water Service Providers and water vendors operating within the County. The Bill further proposes a replacement and a redefinition of administrative channels for water service provision to enable the County Government to fulfil the requirements of the Article 43(1) and relevant key international obligations.

The Bill contains 12 Parts and 55 Clauses as follows:

Part I of the Bill outlines the preliminary provisions.

This Part provides for the citation of the proposed Act, the interpretation,the Application, objects and purposes of the Act.

Part II of the Bill provides for Policy, Coordination and Supervision of Water Services.

Provides for the Powers and duties of the CEC Member for Water and includes the power to formulate and review water policies, strategies and plans, supervise water service provision and mobilize funds for the provision of water and sanitation services as well as matters to be included in the County Water and Sanitation Strategy

It also provides for the establishment of the Directorate of Water and Sanitation Services and functions of the Directorate.

Part III of the Bill provides for the establishment and operation of Water Service Providers.

Establishes the Kisumu Water and Sanitation Company and the Kisumu Rural Water and Sanitation Company as County Government entities and clearly states the powers and functions of the County Water Service Providers, the governance structures, procedures of management and utilization of assets, infrastructure and liabilities, the functions of the Chief Executive Officer and staff of the CountyWater Service providers.

The part also provide for the sources of funds for the County Water Service Providers, the administration of sewerage services charge, the establishment of Water Consumption Levy account, the administration of the conservancy charge and procedures of Auditing and Reporting.

Part IV of the Bill provides for the establishment of rural water and sanitation services,

This part provides for the establishment of the Kisumu Rural Water and Sanitation Company, its functions and governance, Meetings and Procedures for the Board of Directors of the Company

It further establishes the Rural Water and Sanitation Fund which shall support water and sanitation services in areas designated by the CEC Member as rural areas within the County and lastly mandates the CEC Member to provide the criteria for water service provision in rural areas by community or private water service providers.

Part V of the Bill provides for the Commercial viability and service delivery,

Provides for the procedures for the administration of water and sewerage tariffs, ring fences revenue produced by the County Water Service Providers, the procedures for interruption in the schedule of water service provision and the manner of handling customer relations and complains.

Part VI of the Bill provides for the inspection, evaluation and monitoring,

Part VI mandates the County Water Service Providers to establish an inspectorate service with adequate resources and staff and grants the inspectorate the power to enter any premise to which the Water Service Provider offers services to conduct inspection.

It also provides for the procedures of evaluation and monitoring of water service providers and mandates the CEC Member to conduct such evaluation and monitoring periodically.

Part VII of the Bill provides for the Offences relating to conduct of Employees of a water service provider,

This Part contains provisions in respect of offences relating to the conduct of Employees of CountyWater Service Providers and the penalties that apply to them.

Part VIII of the Bill provides for the General Offences,

This Part contains provisions in respect of general offences relating to the conduct of persons.

Part IX of the Bill provides for the Administration of Certain Water Supply and Infrastructure Services,

Provides for raw water abstraction permits and access rights and mandates County Water Service Providers to ensure availability and development of sources of water for abstraction and for the procedures for the management of Septic Tank Sludge and mandates the CEC Member to consult with the CEC Member for Health to make regulations governing the sustainable management of septic tank sludge, including licencing of exhauster service providers.

PART X of the Bill provides for the Approvals of Construction Works affecting Infrastructure,

Provides for the procedures for approval of construction works related to water and sanitation services.it also provides for the procedures for certification of property development works connecting water mains.

Part XI of the Bill provides for the Protection of Water Resources and

This part of the Bill gives provision for the procedures for the protection of storm water drainage. Rainwatercatchment and catchment conservations.

Part XII of the Bill provides for General provisions.

Provides the CEC Member with the power to formulate regulations for the better carrying into effect the provisions of the Act.

PUBLIC PARTICIPATION IN THE PROCESSING OF THE BILL.

Call for Public Participation

Mr. Speaker and Honourable Members, through an advertisement in the Nation and the Star Newspapers of 28th September, 2023 (Annexure i), the Committee invited the public to submit views or make representations 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 Water Bill, 2023

The Committee through the Office of the Clerk of the Assembly did not receive any memorandum in regards to the Kisumu County Water Bill.

Proposals and Comments from the Public.

Mr. Speaker and Honourable Members, pursuant to the advertisement placed in both the Daily Nation and the Star Newspaper on 28th September, 2023, the Committee facilitated public participation in accordance with the following Schedule:

Sub-county	Ward	Time	Venue
1. Muhoroni	Muhoroni/Koru	9.00am	Masogo Nyangoma Hall
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. Nyakach	Central Nyakach	9.00am	Pap Onditi Hall

In considering the Kisumu County Water 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 following recommendations: That the bill should be specific on where the KRAWASCo. Headquarters/Offices will be domiciled. That the Bill have a clause putting a technical	The Public observed that: The current community water service providers have some cash from their activities. Are they

		person/staff in matters water issues in every ward. That the Bill should have a clause touching on those companies polluting water sources and a course of action on such. That the Bill should have a clause inhibiting pollution of water sources.	free to use the money before the formation of KIRWASCo. Or it will be audited.
2.	Kisumu East	During the public hearing of the Bill in Kisumu East Sub-County, the members of the public submitted the following recommendations: That there should be construction of boreholes that can be accessed by the public and the schools. That there should be proper treatments of water because of breakages of sewer lines. That part iii No.9 (2) the 'may' be replaced with 'shall' for more emphasis That the community water service providers should be factors in both rural and urban areas. That there should be provision to compel KIWASCO to take care of the environment majorly the sewer point.	The Public observed that: The charges of metres is too high especially the bills on KIWASCO.
3.	Seme	During the public hearing of the Bill in Seme Sub-	

		County, the members of the public submitted the following recommendations That In regards to the Kisumu County Water Bill,2023, the residents of Seme Sub-County agreed with the proposals in the Bill and recommended that the Bill to proceed to other subsequent stages	
4.	Kisumu Central	During the public hearing of the Bill in Kisumu Central Sub-County, the members of the public submitted the following recommendations: That the bill has not clearly explained the conservancy charge. That the County to consider in future engaging them on any amendments made on water tariffs for all the categories that is: whether for commercial, industrial, kiosks or domestic purposes That the participants wholeheartedly accepted the legislative proposal citing that it would be a good initiative to establish rural water entities in the communities because KIWASCO has for a long time shown laxity and enjoyed to a huge extent the benefits that comes with monopoly.	None
5.	Nyando	During the public hearing of the Bill in Nyando Sub-County, the members of the public submitted the following recommendations:	

		That water service providers to use the solar systems rather than electricity so as to cut the cost on expenses thus reduce on the levies charged. That sewerage/sanitation should be centralized and should therefore be captured in the Bill. That clause 47 (2)water service providers should reduce the duration from one year to three months for the private members to have an easy time when constructing boreholes That clause 47 on the construction of boreholes in private sector be expunged. The Bill should clearly elaborate on the appointment or formation of the board The Bill should regulate or give a percentage on the rates the consumer is charged.	
6.	Kisumu West	That clause 9(4), the term 'may' be replaced with the word 'Shall' to make it binding. That the Bill is Okay and should proceed to the next phase.	
7.	Nyakach	During the public hearing of the Bill in Nyakach Sub-County, the members of the public submitted the	

		following recommendations: That Each area to have their water Management team separately That water provision to be devolved further to each village to reduce cases where women and villagers walking long distances to fetch water as cases witnessed in Nyakach where some villages have been omitted yet water passes within their locality. That ways of renovating water points should be well captured in the Bill. That The County Government get enough funds and put good durable structures in place for the rural water provision. That the name Kisumu Rural Water Services company to include the Word "County" to read Kisumu County Rural Water Services Company so as not to confuse with the Kisumu rural (Seme and Kisumu West) that existed before. That Section 42(1), the fine should be Ksh 500,000 and imprisonment term not less than 20years to give weight to the matter	

COMMITTEE FINDINGS AND OBSERVATIONS.

Mr. Speaker and Honourable Members, the Committee made the following findings and observations from stakeholder submissions and its own views during the consideration of the Bill.

The Governance of water service providers: The Committee acknowledges that while the Bill provides for the Governance of water service providers, the Bill should specify whether the companies established in Clause are medium sized or large-sized companies.

The Governance of water service providers: The Committee also observed that the Bill has not provided for the rules and procedures for appointment and qualification of the members under regulations.

Sewerage service charges: The provision gives the county water service providers an exclusive mandate and right to impose sewerage charges contrary to the provision of Section 109(1) of the Water Act, 2016 which is the mandate of the Water Service Regulatory Board.

Reporting to the Directorate: The Committee found that the word "corporation" has been substituted with the word "company" pursuant to the approved Water Act (Amendment) Bill, 2023, if a later date is specified in the regulations, on that later date.

55. Without prejudice to the generality of Section 54 (1) the CEC Member for Finance and Economic Planning shall make regulations for the management and administration of the Rural Water and Sanitation Fund contemplated in Section 27

COMMITTEE RECOMMENDATIONS.

Mr. Speaker and Honourable Members, in light of the oral representations made before the Committee and the Committee deliberations on the Bill, the Committee Recommends: -

THAT PART I Interpretation*:* be amended to clearly define and specify areas to be regarded as 'rural areas' for purposes of provision of water and sanitation services.

The provision be amended to read as follows:

"Rural areas" means areas of supply not covered by KIWASCO

THAT CLAUSE 6 (1) be amended by adding the phrase "within 12 months upon the commencement of this Act" immediately after the word "County Executive Committee Member"

The provision be now read as follows:

The County Executive Committee Member shall within 12 months after the Commencement of this Act and following public consultation formulate a County Water and Sanitation Services strategy and Investment Plan

That Clause 6(3) be amended by deleting the phrase "be approved by the County Executive Committee and the County Assembly within six (6) months and shall be published in the *gazette* after the approval." And replace therefore with "come into force upon the approval of the County Assembly."

The provision be now read as follows;

The County Water and sanitation strategy and investment plan shall come into force upon the approval of the County Assembly.

That clause 6(5) be amended by deleting the provision

(No necessity for legislation)

THAT CLAUSE 8 (5) (c) be Amended by deleting the entire provision

Provision be provided under the Regulations

THAT CLAUSE 9(2) be amended by deleting Clause 9(2) since the subject matter of this provision has been provided for under Clause 6(1),(2) and amending Clause 6(2) by adding a new paragraph immediately after part. (a) as follows:

(b) *A mapping and capacity assessment of water services within Kisumu County;*

(c) Strategies for operation and management of rural water services within the County;

That clause 9(3) be amended by deleting the entire provision as the CEC Member for Water lacks the powers to establish County entities

That clause 9(4) be amended by deleting the phrase "may, following a resolution of the County Assembly," and replace therefore with "shall, following the Commencement of this Act," further delete the article "a" immediately after the word "*gazette*" and replace therefor with the article "the"

The provision be read as follows:

The County Executive Committee Member for Finance and Economic planning shall, following the commencement of this Act, gazette the County Water Service Providers as Kisumu County Government Entities in accordance with section 5 of the Public Finance Management Act, 2012.

THAT CLAUSE 10 (1) be amended by deleting the word "and sewerage" immediately after the words "A County Water" for it to be consistent with the terms and objects of the Act.

That clause 10(2) be amended by deleting the phrase " or following consultation with the County Executive Committee member".

THAT CLAUSE 11 (1) be amended by Deleting the entire provision and replacing therefore with the following:

11(1) There shall be established a Board of Directors for each County Water Service Provider contemplated in Section 9 of this Act and shall be constituted in accordance with the Companies

Act 2015 or any other written law and shall be nominated to service in accordance with company's memorandum of objects and articles of association.

(2) The Board of Directors shall consist of at least seven (7) members and not more than nine (9) members composed of:

a) A Non- Executive Chairperson who shall be appointed by the Governor;

b) the Chief Executive Officer who shall be the secretary of the Board and an *ex-officio* member;

c) The Chief Officer responsible for Water Services who shall be a mandatory member of the Board of Directors; and shall report effectively to the CECM on the happenings in the WSP based on county systems and structure on performance monitoring;

d) The Chief Officer responsible for Finance and Economic Planning and report to the CECM for Finance all fiduciary matters related to the WSP;

e) Four (4) other members appointed on the basis of relevant skills and experience.

(3) The Chief Officers contemplated in subsection 2 (b) and (c) above shall establish and maintain an information file or system for the County water service providers for purposes of seamless transition in oversight and prevent conflict due to information asymmetry

(4) No person shall be appointed as the Chairperson of the Board or as a member of the Board contemplated in sub-section (2) (d) above if such person is a public officer or has been a public officer within the immediately preceding one year.

12. (1) A person shall be qualified. for appointment as a chairperson or member appointed under sub section 11(2) (d) if such person—

a) holds at least a Bachelor's Degree from a recognized university;

b) has knowledge and qualification in accordance with the Corporate Guidelines from the Regulatory Board;

c) meets the requirements of Chapter Six of the constitution; and

d) has had a distinguished career in the field.

(2) The term of office for the chairperson or a member appointed under section 11 (2) (a) and (d) shall be three years which may be renewed for one further term after which the person shall retire from the Board.

Termination of appointment of the Chairperson and the Members of the Board of Directors.

(13) The appointment of a member, other than an *ex officio* member, may be terminated, in the case of the Chairperson by the Governor, and in the case of any other member, in accordance with the procedures provided for by the Companies Act, 2015 or any other written law.

Conduct of Business of the Board of Directors.

(14) (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Regulations of this Act.

(2) Except as provided in the Regulations and Schedules of this Act, the Boards may regulate their own Procedure.

THAT CLAUSE 12 (1) be rephrased to read as follows:

12 (1). *The Assets, facilities and other infrastructure used by County Water Service Providers shall: -*

(a) Be vested in and remain the property of the County Government; and

(b) Be utilized upon terms and conditions for use provided for by the County Executive Committee Member.

(2) Without prejudice to the provision of Sub-section 1(b) above, the terms and conditions for use shall not require the County Water Service Providers to pay any fees or charges other than monies required to repay loans for the development of the assets, infrastructure and facilities.

THAT CLAUSE 15 be amended by deleting "which shall be a percentage of the water consumption charge payable by the consumer in each billing month and replacing therefor with "in accordance with the regulations set by the Water Services Regulatory Board."

The Clause be now read as follows:

15. *A County Water Service Provider shall impose a charge for the provision of sewerage services in accordance with regulations set by the Water Service Regulatory Board*.

THAT CLAUSE 17 (1) be amended as follows:

17 (1) A County water service provider shall include in the monthly water bill a conservancy charge the amount of which shall: -

(a) Be determined by the County Executive Committee Member; and

(b) Be included in the Kisumu County Finance Bills for approval and enactment by the County Assembly.

That clause 17 (5) be amended as follows:

Introduce a new clause 18 and delete sub-clause 17(5)

18 (1) The CEC Member for Finance shall inspect the records of the collections of the conservancy charge by a County Water Service Provider for verification.

(2) Any shortfalls discovered pursuant to the verification contemplated in part. (1) above shall be made good by the County Water Service Provider and if in default shall be recovered as a civil debt.

THAT CLAUSE 18 (2) Amend by deleting the proviso and replacing therefor with the following provision:

18 (2) The Chief Executive Officer shall, within three months after the end of each financial year submit—

(a) To the CEC Member and the Board of Directors an annual financial report in respect of that year, containing—

(i) Financial statements of the company;

(ii) The company's performance indicators and any other related information;

(iii) A report on the status of operations of the company including its assets and liabilities as at 30th June of every financial year; and

(iv) Such other information as the Board of Directors and the CEC Member may deem fit; and

(b) To the Controller and Auditor-General, the accounts of the Company for the financial year; and the annual report referred to in paragraph (a) above.

Further amend by introducing a new sub-clause (3). under clause 18 and delete clause 20.

18 (3). The CEC Member shall cause copies of the annual financial report together with copies of the Controller and Auditor-General's report to be laid before the County Assembly within two months or at the next sitting of the County Assembly after he has received them, whichever is the earlier.

THAT CLAUSE 19 be amended by deleting the word "corporation" and replacing therefore with the word "company"

The word "corporation" is hereafter replaced with the word "company" wherever it may appear.

THAT CLAUSE 20 be deleted pursuant to the amendment in clause 18 (2)

THAT CLAUSE 21 be amended to read as follows:

21 (1). The Kisumu County Rural Water and Sanitation Company shall be responsible for the provision of water and sanitation services in rural areas and the Municipalities in Kisumu County.

Further amend the side-note as "coverage Kisumu County Rural Water and Sanitation Company"

THAT CLAUSE 27 be amended by deleting the provision and replacing therefore as follows:

27 (1) There shall be established the Kisumu County Rural Water and Sanitation Fund in accordance with the Public Finance Management Act, 2012.

(2) The purpose of the Fund shall be to:

a) Support the Kisumu County Rural Water Company in provision of water and sanitation services in areas designated as rural areas within Kisumu County.

Sources of the Fund

28 (1). The sources for the Fund shall consist of—

a) donations and grants;

b) money to which the Fund is entitled in terms of National Government Water Services Capitation;

c) any interest or return on investment made by the Fund;

d) any money paid erroneously to the Fund which, in the opinion of the CEC Member for Finance, cannot be refunded and;

e) any other money to which the Fund may become legally entitled.

2). *(a)* The Fund may where necessary be appropriated once by the County Assembly in order to achieve its purposes.

(b) Without prejudice to the generality of 2 (a) above, the Kisumu Rural Water and Sanitation Fund shall not be appropriated more than 2% of the County Annual Budget.

29 (1) The CEC Member for Finance and Economic Planning shall formulate Regulations for the implementation and establishment of the Fund within ninety (90) days of this Act coming into force.

30. The Fund shall be wound up after Four Financial Years.

THAT CLAUSE 40 the notes on the section be amended as follows:

Vandalism and/or Damage of Water and Sewerage Services Infrastructure.

Further amend Section 40 by introducing a new section immediately after Sub-section 40(1) as follows:

40 (2) Where damage is caused to infrastructure belonging to or used by the water services provider through the construction works, the person responsible for the works shall be liable to a surcharge of the full cost of repairs or replacement and such costs shall be a debt due to the water services provided recoverable at its stance through a suit in the appropriate court.

NOTE:

This amendment deletes Clause 49 (3).

THAT CLAUSE 43 (1) be amended by introducing a new paragraph immediately after paragraph (b) as follows;

(b) an unauthorized water construction works;

NOTE:

This Amendment consequently amends the Second Schedule under Penalties as follows:

Introduce a new offence in the schedule as follows:

Offence	Penalty
Unauthorized water construction works.	Not less than 100 thousand or imprisonment for a term not exceeding six months or both.

THAT CLAUSE 54 be Amended by deleting the provision and replacing therefore with the following new provision.

54 (1) The CEC Member shall make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act within 90 days following the commencement of this Act.

(2) A provision of the regulation shall—

a) be specific in its application;
b) authorize any matter or thing to be done from time to time; or
c) do any combination of the contemplation of paragraph (a) and (b) above.

(3) Regulations under subsection (1) shall not take effect unless approved by a resolution passed by the County Assembly and shall include: -

a) procedures for the operations and licensing of water kiosks, communal water points and stand pipes;
b) procedures for ownership and management of water vending kiosks including issuance of tariffs and charges;
c) procedures for the registration of water, sewerage and sanitation service providers operating within the County;
d) rules, standards and guidelines for water and sanitation services within the County; and rules and procedures for appointment and qualification of the members of the Board of Directors of the companies.

(4) Regulations approved under subsection (3) shall take effect on the day after the date on which the County Assembly approved them of this Act.

55) Without prejudice to the generality of section 54 (1), the CEC Member for Finance and Economic Planning shall make regulations for the management and administration of the rural water and sanitation fund contemplated in section 27 of this Act.

CONCLUSION.

Mr. Speaker and Honourable Members, the Committee having considered the Kisumu County Water Bill, 2023, the Committee therefore recommends that this Hon. House passes the Bill with the amendments herein. May I call upon Hon. Emily Oginga to second?

The Speaker (Hon. Oraro): Hon. Oginga.

Hon. Oginga (Nominated Member): Thank you Mr. Speaker. I would like to give a few comments on this report before I second. I appreciate the committee for coming up with a water tight legal document that will help in the Management of Water and Sanitation Services within

Kisumu County in accordance with the Water Act of 2016 and the subsequent amendment. I would like to comment on a few parts of the Bill that were a bit catchy. Mr. Speaker, we all know that water is fundamental human right and by improving on its access, we shall be doing a lot to the people of Kisumu County and more so considering that Kisumu County is geographically located next to Lake Victoria which is the third largest fresh water lake in the world.

Mr. Speaker and Honourable Members, I will pick on a part that suggest for the creation of Rural Water Sanitation Company. We know there has been a challenge for the provision of water in the rural areas and by introducing this; we shall be doing a lot by ring fencing water provision and revenue for Kisumu County. It has been open and anybody can tap into it and make money. By introducing this law, we shall be able to institutionalize the water provision within the county. I request the House to adopt this report so that we can have a Broad Water Services provision within Kisumu County. I second.

The Speaker (Hon. Oraro): Honourable Members, a motion on adoption of a report by Water, Environment, Natural Resources and Climate Change Committee on the Kisumu County Water Bill, 2023 has been moved and seconded by Hon. Chair and Hon. Oginga respectively; I want to propose a question that this report is now open for discussion.

The Speaker (Hon. Oraro): Hon. Peter Obaso.

Hon. Obaso (Nominated Member): Thank you Mr. Speaker. I rise to support the report. I want to commend this House Committee for the job well done. Water is a fundamental right and basic need. Provision of water in the rural areas that this bill tends to address is important. With this Bill, KIWASCO will now be confined within the City that is Kisumu Central, Kisumu East and parts of Kisumu East. This will allow proper provision of water in the county. Mr. Speaker, I wish this House could adopt this report to have it implemented as soon as possible. Thank you Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Vitalis K'Omudho.

Hon. K'Omudho (MCA, Muhoroni Koru Ward): Thank you Mr. Speaker. I want to thank the Chair of this House Committee and the Members for the good work done. We must ensure that the boundaries are created to enable other people not to cross other people's border to enjoy this service. I have seen that there are clear demarcations for the water areas in the Bill and this will lead to better management of the resource. I stand to support and indeed this is a good report and I encourage the Members to go deep and understand the report. I support.

The Speaker (Hon. Oraro): Hon. Henrietta Bodo.

Hon. Bodo (Nominated Member): Thank you Mr. Speaker. This report has come at the right time. Water is the most important commodity in human life. We are all aware that the boundaries of Kisumu City are expanding and we must also expand our infrastructure. I woke up one day and found the signage next to my gate and knew it was for the County and I wondered why it was there and there were no service offered as indicated. We still don't know what the county government is planning because most of the areas in the city have got septic tanks. We have to congratulate the Chair of the Committee for finding it right for coming up with this Bill so that we create a proper system for the delivery of water in the city and Kisumu County at large. I encourage the Members to support.

The Speaker (Hon. Oraro): Hon. Tom Nyaoke.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Mr. Speaker. I want to take this opportunity to appreciate this House Committee who has come a long way in developing this important Bill and up to this point that they are able to bring this elaborate report. It is worth noting that, water is life and in Somali they say *"bi yu walol".* This is something that you can survive on for so many days even if you don't have food.

Mr. Speaker, this report is giving us very important Bill that is going to affect the management of the water system and the water supply in our county which has come at the right time. The Bill that is going to be before us is creating something that is called Directorate of Water and Sanitation Services. The recruitment of staff to such position has been elaborately put by this House Committee showing the commitment they have in managing the water supply going forward in this County.

Mr. Speaker, once this directorate is established, we have heard before particularly water supply in both town and rural areas but the complaints have not been addressed. Sometimes there is no water in some of these areas for a very long time but no one comes for the rescue of the people. This Bill is now coming with the solution. There are people who should be held responsible for constant supply of this precious commodity. It is therefore my wish that we adopt this report so that we see the changes that we have yearned for and how it is going to reach people.

Mr. Speaker, we do have a lot of water services providers in our community and some of them are led by people who have less technical knowhow or expertise. If this Bill is adopted then we will probably come up with a chain on how water management system in the rural is going to work. There are many at times that even we ourselves as leaders have been forced to purchase water pipes leading to some beneficiaries out of our own pocket. It is my belief that by adopting this report, some of us are now going to get a bit of relief because the management of water system both in rural and towns is going to be managed properly. Thank you Mr. Speaker. I beg to support.

The Speaker (Hon. Oraro): Honourable Members, now that Hon. Nyaoke has spoken, let me give Hon. Tom Onditi then we go to Hon. Anne Ochola and Hon. James Omollo.

Hon. Onditi (MCA, Ombeyi Ward): Thank you Mr. Speaker. Thank you for considering me. I thought I was more senior that Hon. Tom Nyaoke. I have realized that the answer is the opposite. Mr. Speaker, please first allow me to start by thanking this House Committee for the job well done. As the Chair was reading the report, I was also following with him. There are so many issues that are important in this report and that is why by all means and purposes, this House should adopt this report. I come from a Ward where there is too much water. Like now there is too much water but it is known for distracting life and property. If this rain stops in two weeks, people will start crying for lack of water and there are diseases and deaths as a result of water borne diseases. That means we don't have water for consumption.

Mr. Speaker, KIWASCO who are the water service providers have not been able to reach the people. I don't know whether it is intentional or they are overwhelmed because in this county, big population is found within the rural areas. That is why introduction of Rural Water Companies and for our people, deaths related to water borne diseases are going to reduce. A lot of resources and finances are being spent in treating such diseases but this is something we can prevent from happening. If KIWASCO is able to reach half of the rural areas then, we would be talking a different story. Therefore, I support this report and I believe this House is going to adopt this report. We expect the department concern to move with speed and do the necessary so that operationalization of this Bill can take effect so that people in the rural areas can get services that they so require.

Mr. Speaker, this county is also losing a lot of Own Source Revenue because when the water doesn't reach the larger population especially the rural areas, people resort to other means of getting water and as you know, there are no sewer lines in the rural areas. People use pit latrines and wells. Water from the pit latrines at times find their way to the wells and this is causing a lot of problem. If treated well, and water is provided to the people then the county is going to save a lot of money in treating the population that is suffering from use of unclean water. I support this report. Thank you.

Hon. Ochola (Nominated Member): Thank you Mr. Speaker. Foremost, let me take this opportunity to support the report. I come from hardship area and at times it is very difficult to get water. I sympathize with my fellow women folks because they have to wake up very early in the morning to go fetch for water. Sometimes it is a walk that will take them three hours to reach the well. I support the report because it is going to change the lives of many people in the county. I thank the Chair and the committee Members for bringing this report. I support.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Point of Order!!

The Speaker (Hon. Oraro): What is it the Deputy Speaker?

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Mr. Speaker. This is House of Rules and Procedures and we subscribe to specific requirements. It has become a tendency for Honourable Members to just walk in naked in the House. I know you are blind but my eyes have just caught a very good friend of mine, Hon. Tom Onditi. Who is my *shemeji*. Honourable Members, give this House respect that it deserves. Thank you Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Nyaoke, can you check for me the dressing code of Hon. Tom Onditi.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Mr. Speaker. I have also advised him to go and dress well.

(Laughter)

(Hon. Onditi leaving the Chamber)

The Speaker (Hon. Oraro): Thank you Hon. Tom Nyaoke. Hon. Omolo, the Floor is yours.

Hon Omollo (MCA, West Nyakach Ward): Thank you Mr. Speaker. I want to thank the Standing Committee on Water and Environment for this report on the Bill. The report is precise and handles the problems we have in the rural areas.

Mr. Speaker, KIWASCO has jurisdiction of work and it is clear that it can only serve few Wards within the city. Some of us coming from the rural set up, we suffer a lot in terms of provision of water. As such, coming up with a Rural Water Company will give us a chance to benefit just as our city dwellers. Mr. Speaker, women in the rural areas take a lot of time to go fetch for water and they have had no clear way getting portable water within their reach. With a rural company, it will be their mandate to ensure that all the areas get access to clean water. It will be an opportunity for this company to seek for financial or technical support to enhance water provision to rural folks.

Mr. Speaker, this House needs to support this report so that we see this baby born. Mr. Speaker, I am not a member of the committee but I have been very keen because I wanted this Bill to capture the feeling of those on the ground.

Mr. Speaker, we shall have an opportunity to regulate water boreholes that will be sunk in all the areas. There will be now a regulatory authority to do that. KIWASCO could not do it because it was outside their jurisdiction. Mr. Speaker, in West Nyakach, we have NYANAS though it does

not reach my Ward. When KIWASCO went there, they did a good job and as at now, they can now reach North Nyakach, South West Nyakach, South East Nyakach and Central Nyakach. I believe that with this coming to be, I will also benefit from the service provision.

Mr. Speaker, we need to wind up the two companies, that is, Gulf and NYANAS. You know the history and I believe that as a county, we should wind up the two so that we can come up with this one which will now take care of what they used to take care of, in terms of water provision. Mr. Speaker, the Bill also addresses the people who vandalize the water infrastructure. You see, we put a lot of money in terms of service provision and installing infrastructure. The Bill will curb all these because those who will be found intentionally destroying infrastructure, they will face the full force of the law as spelt out in the Bill. If it becomes a law, it will be a deterrent measure to curb vandalism. I support and just wondering about its commencement date? This Bill should take effect immediately. It will now be upon the Department of Water and Environment that, once we get done with it, it is operationalized immediately. I support. Thank you.

The Speaker (Hon Oraro): Honourable Members, I wanted to give Hon. Adega before I give Hon. Mickey.

The Speaker (Hon Oraro): Hon Adega.

Hon Adega (MCA, Kajulu Ward): Thank you Mr. Speaker. First, I thank the Chair Water Committee for this wonderful work done. Mr. Speaker, women will be the most beneficiaries of this Bill, if it comes to law. Thank you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Point of Order!!

The Speaker (Hon Oraro): What is your point of order Hon Okombo?

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Mr. Speaker, my point of order is on a matter of irrelevance. Mr. Speaker, water is a basic need for all living things, men included. I have heard most contributors on this Floor associate water as only meant for women. Mr. Speaker, Hon Adega is smartly dressed this morning. You can see him dressed in a clean suit. You only clean suits and wash yourself using water. Water is therefore an essential commodity to all.

The Speaker (Hon Oraro): Hon. Deputy Speaker may be Hon Adega used something else that is not water to clean himself. Maybe the Member used paraffin or something else.

(Laughter)

The Speaker (Hon. Oraro): Yes, Hon Adega.

Hon Adega (MCA, Kajulu Ward): Thank you Mr. Speaker. I did not intend to demean women Mr. Speaker. I know water is life to everyone. You remember last time when I brought a Statement concerning women in Bukna where women were crying of missing *morning glory* because they are compelled to wake up very early in the morning to go fetch for water. Mr. Speaker, I thank this House Committee very much and we need implementation of this, soon. Thank you

(Laughter)

The Speaker (Hon Oraro): Whom do you want to inform Hon Dede?

Hon Dede (MCA, North Kisumu Ward): Thank you Mr. Speaker. It has already been overtaken by events.

The Speaker (Hon Oraro): Yes, Hon Deputy Speaker

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Mr. Speaker. Allow me to join my colleagues in supporting this report. Mr. Speaker, we know that for a long time, KIWASCO has been the main water service provider and enjoyed great monopoly in water provision. Mr. Speaker, this has prohibited constructive competition to enhance service delivery. Even though this Bill seeks to provide water to areas that are not covered by KIWASCO, when your neighbour is doing well and excelling in whatever they do then, you will also aspire to emulate him or her. Therefore, Mr. Speaker, I think this will be a motivation for KIWASCO to up their game and give better services that will ensure Kisumu residents have provision of quality water services. We have also noticed that this Bill provides for avenues of revenue collection. KIWASCO, as has been seen in the previous reports, has not been contributing to the revenue of the county. Mr. Speaker, by giving a chance to other water providers, will ensure that we increase our revenue collection base. This way, the development margin of our county will increase.

Mr. Speaker, owing to the fact that water provision has not been catered for in the areas not covered by KIWASCO, some unscrupulous dealers have taken advantage of this, and you find them charging as much as Kshs. 50 per gallon. It is my belief that this Bill will therefore control such kind of exploitation. As a leading count and in the spirit of *Tich Tire* – Work on Progress, I believe and trust that as residents of Kisumu County, we will show path to the rest of other counties because we are always emulated in everything. Mr. Speaker, currently, we are the cleanest city. You find other counties admiring how clean Kisumu is and with this Bill, they will also start admiring how efficient water provision is in Kisumu County.

Mr. Speaker, I also want to say that it is a great concern, as you have heard from the Floor, that water provision is, in a manner of speaking, a reserve for the women folk. It is also viewed as a deterrent to the enjoyment of *morning glory*. Mr. Speaker, it is not only women who enjoy the so

called morning glory; I believe that the other gender equally enjoys it more than women. And because this Bill will ensure water is brought to our doorsteps, it will therefore help them enjoy. As they hurry us to further their ends, Mr. Speaker, and as we rush to get water, they remain soundly asleep. Now, we will also enjoy with them as we remain sleeping. This will eventually promote good living for both genders. With those many remarks, I beg to support. Thank you.

The Speaker (Hon Oraro): Yes, Hon Bill of Kobura Ward.

Hon Bill (MCA, Kobura Ward): Thank you Mr. Speaker. First, I want to thank this House Committee for a very good work done. Mr. Speaker, water is a serious issue in our county and all over the world. I am happy that as we came to the leadership, one of the major issues that we have faced in our Wards is how people can get access to clean water. Mr. Speaker, those given the mandate and authority to manage water in our rural Wards, I am happy that this BILL is going to control what they do, because you realize that most of them look for MCAs to help fundraise yet they do some collection and you wonder where they take the money they collect. I am happy we will now have KIWASCO and KRIWASCO that the KRIWASCO is now going to help in rural water distribution.

Mr. Speaker, I am also happy that the Bill is going to touch on governance and qualifications. Most people managing the water points, some of them do not have any know-how on managing such facilities. This is why most of them end up end up losing money that has been collected. So, I am happy that we shall have KRIWASCO established. The county government is going to have a structure of collecting money and that will translate to development in our county. Mr. Speaker, I am also happy that the Bill touched on the offences, because you realize that the county government has endeavored to dig wells in nearly all the Wards as much as they are not so many, but at least some work has been done. Yet, in some areas, there is theft going on, people stealing installed wells. Now, with the offences well captured in the Bill, I believe it will help us to control theft by a great percentage. People will also recognize that a law exists. Mr. Speaker, I want to support this because it will bring development to the rural areas. Thank you.

The Speaker (Hon Oraro): Hon Alando.

Hon Alando (Nominated Member): Thank you Mr. Speaker. Going by the mood of the House, I wish to call upon the Mover to reply.

The Speaker (Hon Oraro): Yes, Hon Dede.

Hon Dede (MCA, North Kisumu Ward): Thank you Mr. Speaker. I saw a fellow Honourable Member from Kisumu West Sub County wanting to contribute. Kindly allow him some minutes to contribute.

The Speaker (Hon Oraro): Hon Dede, the Mover was called to reply. I did not see any Member on his feet.

Hon Dede (MCA, North Kisumu Ward): Thank you Mr. Speaker. Let me congratulate the communication department for having circulated the report at the correct time. Members had sufficient time to interact with the report comprehensively. I am glad that Members have raised their concerns being that the Water Bill is coming up with a company called KRIWASCO, it is now clear that areas which had been ignored, will now be covered. Majority of people will now get access to clean water at the right time.

Mr. Speaker, one of the Members while emphasizing the importance of water used a Somali word meaning that water is life - *biyuhu waa nolol.* I want thank Hon Nyaoke for that. Members have also talked about the safety of infrastructure. When vandalism of water infrastructure occurs, we do not have proper procedures to follow. The Bill has clearly spelt out what should be done in case of any vandalism.

Mr. Speaker, Hon. Bill also expressed optimism saying that with the formation of a Rural Water Company, many will have access to water. Hon Onditi also touched on his issue and expressed hope that access to safe and clean water will help reduce waterborne diseases in his Ward. Members also talked about quality time between spouses which had been affected when women have to wake up very early in search of water, leaving their husbands in bed. Access to water would therefore grant spouses time to enjoy their conjugal rights.

Mr. Speaker, with those remarks, I beg to reply and urge Members to support this report and look at those areas which can still be amended during the Second Reading of the Bill. We can make it tighter as we proceed to deliberate upon it. Thank you. I beg to reply.

The Speaker (Hon Oraro): Honourable Members, a Motion for the adoption of Report of the Water Environment Natural Resources and Climate Change Committee on the Kisumu County Water Bill 2023 (Kisumu Bills No. 6 of 2023) was moved by Hon Dede, seconded, debated and as per our Standing Orders, I want to put a question.

(Question put and agreed to)

The Speaker (Hon Oraro): Honourable Members, this now gives authority for the Bill to proceed to the Second Reading. Thank you.

The Speaker (Hon Oraro): Next order!!

MOTION

SECOND READING OF THE KISUMU COUNTY WATER BILL, 2023 (KISUMU COUNTY BILLS NO. 6 OF 2023)

BY

HON. SAMUEL DEDE, MCA, NORTH KISUMU WARD

(CHAIRPERSON, STANDING COMMITTEE OF WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE)

The Speaker (Hon Oraro): Yes, Hon Dede.

Hon Dede (MCA, North Kisumu Ward): Thank you Mr. Speaker. I request the Clerk to read the Bill for a second time.

(Clerk-at-the-Table reads Kisumu County Water Bill, 2023 for the second time)

THE KISUMU COUNTY WATER BILL, 2023

A Bill for

AN ACT of the County Assembly to give effect to Article 43 (1) (d) and Part 2 of the Fourth Schedule of the Constitution 2010 to provide for legal and institutional framework for provision of water services in the County and for connected purposes.

The Speaker (Hon Oraro): Yes Hon Dede.

Hon Dede (MCA, North Kisumu Ward): Thank you Mr. Speaker, now that the Bill has been read for the Second time, I would like to request that the House converts to the Committee of the Whole House.

The Speaker (Hon Oraro): Honourable Members, our Standing Orders provides that when a Bill has been read for the Second time and a request has been made that we convert to the Committee of the Whole House, there is no question put. We shall therefore convert to the Committee of the Whole.

(House converts to the Committee of the Whole)

COMMITTEE OF THE WHOLE

[The Speaker (Hon Oraro) left the Chair]

IN THE COMMITTEE

[*The Chairperson (Hon Okombo) in the Chair*]

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the Kisumu County Water Bill, 2023 (Kisumu County Bills No. 6 of 2023) has been read for the second time and we are required as a Committee of the Whole House

to consider the sequence of going Clause by Clause. We look at the new Clauses, new schedules, new interpretation, preamble, if any, long title and he Clause providing for citations. I want us to vote whether to go clause by clause or the guillotine way. I want to ask the Chair, Water Committee to Move.

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Chair. I propose that we go the guillotine way. I would like to call upon Hon Oginga to second.

Hon Oginga (Nominated): Thank you Chair. I second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you. The Chair has proposed that we go the guillotine way, seconded by Hon Oginga. Any contrary opinion? If there is none, I will put a question.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Therefore, we are going to go per Part I of the Bill, that is, we are going to look at Part I. If there are any proposed amendments in Part I, then we consider them as we move. Any amendments Committee on Water? Members, we are beginning with Part I of the Bill. Any amendments on Part I Hon Chair?

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Chair. We have an amendment in this Part. It should be amended to read as follows;

THAT, PART I on Interpretation be amended to clearly define and specify areas to be regarded as 'rural areas' for purposes of provision of water and sanitation services.

The provision be amended to read as follows:

"Rural areas" means areas of supply not covered by KIWASCO. I would like to call upon Hon. Mickey to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon Mickey

Hon Mickey (Nominated Member): Thank you Chairperson. I would like to second.

(Question of the amendment proposed and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, Part I as amended becomes part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Part II Hon Chair?

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Chair. I beg to move the following amendment;

THAT, CLAUSE 6 (1) be amended by adding the phrase "within 12 months upon the commencement of this Act" immediately after the word "County Executive Committee Member"

The provision be now read as follows:

The County Executive Committee Member shall within 12 months after the Commencement of this Act and following public consultation formulate a County Water and Sanitation Services strategy and Investment Plan.

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): I call upon Hon Mickey to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon Mickey, Deputy Chair, Water Committee.

Hon Mickey (Nominated Member): Thank you Chair. I second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Honourable Members. Part II has been proposed for amendment. Any other amendments from the Floor?

(Question of the amendment proposed and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, clause 6 (1) as amended now forms part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, I believe that the Chair of Water had further amendments that escaped his attention. Because we are not going Clause by Clause, I want to allow him to make further amendments. Yes, Chair

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Chair for coming to my rescue. I beg to move the following amendment;

THAT, CLAUSE 6 (3) be amended by deleting the phrase "be approved by the County Executive Committee and the County Assembly within six (6) months and shall be published in the *gazette* after the approval." And replace therefore with "come into force upon the approval of the County Assembly."

The provision be now read as follows;

"The County Water and sanitation strategy and investment plan shall come into force upon the approval of the County Assembly".

That clause 6(5) be amended by deleting the following provision:

No necessity for legislation

Further amendments in Clause, I beg to move:

THAT, CLAUSE 8 (5) (c) be amended by deleting the entire provision:

Provision be provided under the Regulations.

Thank you Chair. I would like to call upon Hon Obaso to second.

Hon Obaso (Nominated Member): Thank you Chair. I second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, amendments have been proposed as moved by the Chair, Water committee.

(Question of the amendment proposed and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, clauses 6 (3), 6(5) and 8 (5) (c) as amended now forms part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, let us now move to Part III of the Bill contains the Establishment of County Water Service Provider, Functions of the County Water Service Providers, Governance of Water Service Providers, Assets Infrastructure and Facilities, Chief Executive Officer and other employees of County Water Service Providers, Finances of Water Service Providers, Sewerage Service Charge, Water Consumption Levy Account, the Administration of the Conservancy Charge and Procedures of Auditing and Reporting to the Directorate and finally to the County Assembly.

I want to give the first opportunity to the Chair of the Committee of Water, Environment, Natural Resources and Climate Change, to put forward any amendments that the committee might have had. Thank you.

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Madam Chair, we have numerous amendments on Part III of the Bill.

THAT, CLAUSE 9(2) be amended by deleting Clause 9(2) since the subject matter of this provision has been provided for under Clause 6(1), (2) and amending Clause 6(2) by adding a new paragraph immediately after part. (a) as follows:

(b) *A mapping and capacity assessment of water services within Kisumu County;*

(c) Strategies for operation and management of rural water services within the County;

THAT, Clause 9 (3) be amended by deleting the entire provision as the CEC Member for Water lacks the powers to establish County entities

THAT, CLAUSE 9(4) be amended by deleting the phrase "may, following a resolution of the County Assembly," and replace therefore with "shall, following the Commencement of this Act," further delete the article "a" immediately after the word" gazette" and replace therefor with the article "the"

The provision be read as follows:

The County Executive Committee Member for Finance and Economic planning shall, following the commencement of this Act, gazette the County Water Service Providers as Kisumu County Government Entities in accordance with section 5 of the Public Finance Management Act, 2012.

THAT, CLAUSE 10 (1) be amended by deleting the word "and sewerage" immediately after the words" A County Water" for it to be consistent with the terms and objects of the Act.

THAT, CLAUSE 10(2*)* be amended by deleting the phrase "or following consultation with the County Executive Committee member".

THAT, CLAUSE 11 (1) be amended by Deleting the entire provision and replacing therefore with the following:

11(1) There shall be established a Board of Directors for each County Water Service Provider contemplated in Section 9 of this Act and shall be constituted in accordance with the Companies Act 2015 or any other written law and shall be nominated to service in accordance with company's memorandum of objects and articles of association.

(2) The Board of Directors shall consist of at least seven (7) members and not more than nine (9) members composed of:

f) A Non- Executive Chairperson who shall be appointed by the Governor;

g) the Chief Executive Officer who shall be the secretary of the Board and an *ex-officio* member;

h) The Chief Officer responsible for Water Services who shall be a mandatory member of the Board of Directors; and shall report effectively to the CECM on the happenings in the Water Service provider based on county systems and structure on performance monitoring;

i) The Chief Officer responsible for Finance and Economic Planning and report to the CECM for Finance all fiduciary matters related to the Water Service Provider;

j) Four (4) other members appointed on the basis of relevant skills and experience.

(3) The Chief Officers contemplated in subsection 2 (b) and (c) above shall establish and maintain an information file or system for the County water service providers for purposes of seamless transition in oversight and prevent conflict due to information asymmetry

(4) No person shall be appointed as the Chairperson of the Board or as a member of the Board contemplated in sub-section (2) (d) above if such person is a public officer or has been a public officer within the immediately preceding one year.

12. **(**1) A person shall be qualified. for appointment as a chairperson or member appointed under sub section 11(2) (d) if such person—

e) holds at least a Bachelor's Degree from a recognized university;

f) has knowledge and qualification in accordance with the Corporate Guidelines from the Regulatory Board;

g) meets the requirements of Chapter Six of the constitution; and

h) has had a distinguished career in the field.

(2) The term of office for the chairperson or a member appointed under section 11 (2) (a) and (d) shall be three years which may be renewed for one further term after which the person shall retire from the Board.

Termination of Appointment of the Chairperson and the Members of the Board of Directors.

(13) The appointment of a member, other than an *ex officio* member, may be terminated, in the case of the Chairperson by the Governor, and in the case of any other member, in accordance with the procedures provided for by the Companies Act, 2015 or any other written law.

Conduct of Business of the Board of Directors.

(14) **(**1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Regulations of this Act.

(2) Except as provided in the Regulations and Schedules of this Act, the Boards may regulate their own Procedure.

That clause 12 (1) be rephrased to read as follows:

12 (1). *The Assets, facilities and other infrastructure used by County Water Service Providers shall: -*

(a) Be vested in and remain the property of the County Government; and

(b) Be utilized upon terms and conditions for use provided for by the County Executive Committee Member.

(2) Without prejudice to the provision of Sub-section 1(b) above, the terms and conditions for use shall not require the County Water Service Providers to pay any fees or charges other than monies required to repay loans for the development of the assets, infrastructure and facilities.

THAT, CLAUSE 15 be amended by deleting "which shall be a percentage of the water consumption charge payable by the consumer in each billing month and replacing therefor with "in accordance with the regulations set by the Water Services Regulatory Board."

The Clause be now read as follows:

15. *A County Water Service Provider shall impose a charge for the provision of sewerage services in accordance with regulations set by the Water Service Regulatory Board*.

That clause 17 (1) be amended as follows:

17 (1) A County water service provider shall include in the monthly water bill a conservancy charge the amount of which shall: -

(a) Be determined by the County Executive Committee Member; and

(b) Be included in the Kisumu County Finance Bills for approval and enactment by the County Assembly.

That clause 17 (5*)* be amended as follows:

Introduce a new clause 18 and delete sub-clause 17(5)

18 (1) The CEC Member for Finance shall inspect the records of the collections of the conservancy charge by a County Water Service Provider for verification.

(2) Any shortfalls discovered pursuant to the verification contemplated in part. (1) above shall be made good by the County Water Service Provider and if in default shall be recovered as a civil debt.

That clause 18 (2) Amend by deleting the provision and replacing therefore with the following provisions:

18 (2) The Chief Executive Officer shall, within three months after the end of each financial year submit—

(a) To the CEC Member and the Board of Directors an annual financial report in respect of that year, containing—

(i) Financial statements of the company;

(ii) The company's performance indicators and any other related information;

(iii) A report on the status of operations of the company including its assets and liabilities as at 30th June of every financial year; and

(iv) Such other information as the Board of Directors and the CEC Member may deem fit; and

(b) To the Controller and Auditor-General, the accounts of the Company for the financial year; and the annual report referred to in paragraph (a) above.

Further amend by introducing a new sub-clause (3). under clause 18 and delete clause 20.

18 (3). The CEC Member shall cause copies of the annual financial report together with copies of the Controller and Auditor-General's report to be laid before the County Assembly within two months or at the next sitting of the County Assembly after he has received them, whichever is the earlier.

That clause 19 be amended by deleting the word "corporation" and replacing therefore with the word "company"

The word "corporation" is hereafter replaced with the word "company" wherever it may appear.

THAT, CLAUSE 20 be deleted pursuant to the amendment in clause 18 (2)

I think that those are the amendments that were proposed in Part III of the Bill, and I call upon Hon. Emily Oginga to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon. Oginga.

Hon. Oginga (Nominated Member): Madam Chair, I second the proposed amendments.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Chair, Honourable Members, various amendments have been proposed by the committee in Part III of the Bill, that an amendment be done in Clauses 9(2), 9(3), 9(4), 10(1), 10(2), 11(1), 12(1), 15, 17(1), 17(5), 18(2), 19, and 20.

So, Honourable Members, as moved, proposed, and seconded by Hon. Chair, and Hon. Emily Oginga respectively, that Clause 9(2) be amended by deleting Clause 9(2) since the subject matter of this provision has been provided for under Clause 6(1), (2) and amending Clause 6(2) by adding a new paragraph immediately after part. (a) as follows:

(b) *A mapping and capacity assessment of water services within Kisumu County;*

(c) Strategies for operation and management of rural water services within the County;

THAT, CLAUSE 9(3) be amended by deleting the entire provision as the CEC Member for Water lacks the powers to establish County entities

THAT, CLAUSE 9(4) be amended by deleting the phrase "may, following a resolution of the County Assembly," and replace therefore with "shall, following the Commencement of this Act," further delete the article "a" immediately after the word" gazette" and replace therefor with the article "the"

The provision be read as follows:

The County Executive Committee Member for Finance and Economic planning shall, following the commencement of this Act, gazette the County Water Service Providers as Kisumu County Government Entities in accordance with section 5 of the Public Finance Management Act, 2012

That clause 10 (1) be amended by deleting the word "and sewerage" immediately after the words" A County Water" for it to be consistent with the terms and objects of the Act.

That clause 10(2*)* be amended by deleting the phrase "or following consultation with the County Executive Committee member".

That clause 11 (1) be amended by Deleting the entire provision and replacing therefore with the following:

11(1) There shall be established a Board of Directors for each County Water Service Provider contemplated in Section 9 of this Act and shall be constituted in accordance with the Companies Act 2015 or any other written law and shall be nominated to service in accordance with company's memorandum of objects and articles of association.

(2) The Board of Directors shall consist of at least seven (7) members and not more than nine (9) members composed of:

k) A Non- Executive Chairperson who shall be appointed by the Governor;

l) the Chief Executive Officer who shall be the secretary of the Board and an *ex-officio* member;

m) The Chief Officer responsible for Water Services who shall be a mandatory member of the Board of Directors; and shall report effectively to the CECM on the happenings in the Water Service provider based on county systems and structure on performance monitoring;

n) The Chief Officer responsible for Finance and Economic Planning and report to the CECM for Finance all fiduciary matters related to the Water Service Provider;

o) Four (4) other members appointed on the basis of relevant skills and experience.

(3) The Chief Officers contemplated in subsection 2 (b) and (c) above shall establish and maintain an information file or system for the County water service providers for purposes of seamless transition in oversight and prevent conflict due to information asymmetry

(4) No person shall be appointed as the Chairperson of the Board or as a member of the Board contemplated in sub-section (2) (d) above if such person is a public officer or has been a public officer within the immediately preceding one year.

12. **(**1) A person shall be qualified for appointment as a chairperson or member appointed under sub section 11(2) (d) if such person—

a) holds at least a Bachelor's Degree from a recognized university;
b) has knowledge and qualification in accordance with the Corporate Guidelines from the Regulatory Board;
c) meets the requirements of Chapter Six of the constitution; and
d) has had a distinguished career in the field.

(2) The term of office for the chairperson or a member appointed under section 11 (2) (a) and (d) shall be three years which may be renewed for one further term after which the person shall retire from the Board.

On the termination of appointment of the Chairperson and the Members of the Board of Directors**.**

That;

(13) The appointment of a member, other than an *ex officio* member, may be terminated, in the case of the Chairperson by the Governor, and in the case of any other member, in accordance with the procedures provided for by the Companies Act, 2015 or any other written law.

On the conduct of Business of the Board of Directors.

That;

(14) **(**1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Regulations of this Act.

(2) Except as provided in the Regulations and Schedules of this Act, the Boards may regulate their own Procedure.

THAT, CLAUSE 12 (1) be rephrased to read as follows:

12 (1). *The Assets, facilities and other infrastructure used by County Water Service Providers shall: -*

(a) Be vested in and remain the property of the County Government; and

(b) Be utilized upon terms and conditions for use provided for by the County Executive Committee Member.

(2) *Without prejudice to the provision of Sub-section 1(b) above, the terms and conditions for use shall not require the County Water Service Providers to pay any fees or charges other than monies required to repay loans for the development of the assets, infrastructure and facilities.*

That clause 15 be amended by deleting "which shall be a percentage of the water consumption charge payable by the consumer in each billing month and replacing therefor with "in accordance with the regulations set by the Water Services Regulatory Board."

The Clause be now read as follows:

15. *A County Water Service Provider shall impose a charge for the provision of sewerage services in accordance with regulations set by the Water Service Regulatory Board*.

That clause 17 (1) be amended as follows:

17 (1) A County water service provider shall include in the monthly water bill a conservancy charge the amount of which shall: -

(a) Be determined by the County Executive Committee Member; and

(b) Be included in the Kisumu County Finance Bills for approval and enactment by the County Assembly.

That clause 17 (5*)* be amended as follows:

Introduce a new clause 18 and delete sub-clause 17(5)

That;

18 (1) The CEC Member for Finance shall inspect the records of the collections of the conservancy charge by a County Water Service Provider for verification.

(2) Any shortfalls discovered pursuant to the verification contemplated in part. (1) above shall be made good by the County Water Service Provider and if in default shall be recovered as a civil debt.

That clause 18 (2) Amend by deleting the provision and replacing therefore with the following provisions:

18 (2) The Chief Executive Officer shall, within three months after the end of each financial year submit—

(a) To the CEC Member and the Board of Directors an annual financial report in respect of that year, containing—

(i) Financial statements of the company;

(ii) The company's performance indicators and any other related information;

(iii) A report on the status of operations of the company including its assets and liabilities as at 30th June of every financial year; and

(iv) Such other information as the Board of Directors and the CEC Member may deem fit; and

(b) To the Controller and Auditor-General, the accounts of the Company for the financial year; and the annual report referred to in paragraph (a) above.

Further amend by introducing a new sub-clause (3). under clause 18 and delete clause 20.

18 (3). The CEC Member shall cause copies of the annual financial report together with copies of the Controller and Auditor-General's report to be laid before the County Assembly within two months or at the next sitting of the County Assembly after he has received them, whichever is the earlier.

That clause 19 be amended by deleting the word "corporation" and replacing therefore with the word "company"

The word "corporation" is hereafter replaced with the word "company" wherever it may appear.

And Finally in Clause 20, a proposal is made to delete it pursuant to the amendment in clause 18 (2).

Honourable Members, those are the proposed amendments by the committee. Do we have any further amendments coming from the floor?

(No responses)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): If no further amendments are proposed then allow me to propose that the amendments as read, to form part of this Bill.

(*Question put and agreed to*)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, Part III as amended now forms part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Chair, are there any amendments on Part IV?

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Madam Chair, there are further proposed amendments in Part IV of the Bill.

That;

THAT, CLAUSE 21 be amended to read as follows:

21 (1). The Kisumu County Rural Water and Sanitation Company shall be responsible for the provision of water and sanitation services in rural areas and the Municipalities in Kisumu County.

Further amend the side-note as "coverage Kisumu County Rural Water and Sanitation Company"

THAT, CLAUSE 27 be amended by deleting the provision and replacing therefore as follows:

27 (1) There shall be established the Kisumu County Rural Water and Sanitation Fund in accordance with the Public Finance Management Act, 2012.

(2) The purpose of the Fund shall be to:

b) Support the Kisumu County Rural Water Company in provision of water and sanitation services in areas designated as rural areas within Kisumu County.

Sources of the Fund

28 (1). The sources for the Fund shall consist of—

f) donations and grants;

g) money to which the Fund is entitled in terms of National Government Water Services Capitation;

h) any interest or return on investment made by the Fund;

i) any money paid erroneously to the Fund which, in the opinion of the CEC Member for Finance, cannot be refunded and;

j) any other money to which the Fund may become legally entitled.

28 (2)*(a)* The Fund may where necessary be appropriated once by the County Assembly in order to achieve its purposes.

(b) Without prejudice to the generality of 2 (a) above, the Kisumu Rural Water and Sanitation Fund shall not be appropriated more than 2% of the County Annual Budget.

29 (1) The CEC Member for Finance and Economic Planning shall formulate Regulations for the implementation and establishment of the Fund within ninety (90) days of this Act coming into force.

30. The Fund shall be wound up after Four Financial Years. I therefore call Hon. Morris Ngeta to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon. Ngeta.

Hon. Ngeta (MCA, Awasi-Onjiko ward): Thank you, Chair, I rise to second the proposed amendments.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, proposals for amendments has been put on Part IV of the Bill and it talks of the Establishment of Rural Water and Sanitation Services provider, Function of the Corporation, Governance of Corporation, Meeting and Procedures of the Board, Chief Executive officer and other Employees of the Corporation, Finances and Corporation, Rural Water and Sanitation Fund, Annual Estimates of the Corporation, Accounts and audit, and finally Clause 30; that is community or private provision of water services in rural areas. I want to inquire if we have any further amendments from the floor?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon. Emily Oginga.

Hon. Oginga (Nominated Member): Thank you Madam Chair, I would like to propose an amendment in this Clause, if not then I would propose that we delete it. This is because, by introducing a fund, a Kisumu Rural Water and Sanitation Fund, which will be managed through the County Executive Committee Member for Finance and Economic Planning, will render the capacity of this company useless. It will be more like moving back to what we are trying to avoid that happened with the two companies, NYANAS and GULF. I would like to propose that if we can actually introduce an Act specific to this fund through this House that will help in managing the fund then it is my belief that, this would be better. Unless somebody has a better way to put it. I would like to ask Hon. James Omollo… sorry, Hon. Maurice Ngeta to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ngeta.

Hon. Ngeta (MCA, Awasi-Onjiko ward): Madam Chair, I would like to remind my good friend Hon. Emily Oginga that I am not Omollo but Maurice Ngeta representing Awasi- Onjiko Ward, I

have just changed my sitting position, thank you. I want to second the amendment because what we are trying to avoid is the proxy aspect of it. We have been seeing how things have been working through other organizations and therefore would like to concur with my colleague here that we avoid the proxy and create semi-autonomy to the department of West Kenya Water and the Rural Water Supply. This will enable us get direct services and not going through the Department of Finance. This will create a long way of reaching out the service providers Madam Chair, thank you and I second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honorable Members, an amendment has been proposed in clause 27, that gives provision for Establishment of a Fund, Water Management Fund, by Hon. Emily Oginga and seconded by Hon. Maurice Ngeta, and I now want to open this proposal for debate.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon. James Omollo.

Hon. Omollo (MCA, West Nyakach Ward): Thank you, Madam Chair, I support the amendment because we are creating a company which we are supposed to give powers to on how to manage its own finances, it can receive grants, and we can appropriate money to it. By the powers of this House, we are able to give directly to the company money which we want them to spend in any way and they will not have any restrictions. When we create a fund, I believe that this will come with a lot of restrictions on the Directors to absorb the funds. So, as a House, we will be able to appropriate any money we want at any percentage we would need to the company for their use in the rural set-up. Once we delete this Clause then we should go that way that we get grants, partners and the funding to go directly to the company, thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, any further contributions on the same Clause? Hon. Emily, please approach the Chair.

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Madam Chair; there is no further amendments to Part VI, thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the Committee makes no amendment in Part VI, any amendment coming from the floor? If there is no amendment proposed, I therefore want to put a question that; may part VI as has been read form part of the Bill.

(Question put and agreed to)

Chairperson of the Committee of the Whole (Hon. Okombo): Honourable Members, and part VI forms part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we are on Part VII which is; Offences Related to Conduct of Employees of a Water Service Provider. Through the Chairperson, I give the committee a chance to put a cross any amendment.

Hon. Dede (MCA, Kisumu North Ward and Chair, Water Committee): Thank you Madam Chair; there is no proposed amendment in part VII.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the Committee finds no appropriate amendment in Part VII.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Any Member with an amendment? If there is no amendment proposed, Hon. Members, I therefore want to put a question that; may part VII as has been read form part of the Bill.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, therefore, Part VII as has been read now forms part of the Bill

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Part VIII, Hon. Chair?

Hon. Dede (MCA, Kisumu North Ward and Chair, Water Committee): Thank you Madam Chair, there are some amendments in part VIII stating as follows that;

THAT, the notes on Clause 40 be amended as follows;

"Vandalism and/or damage of water and sewerage services infrastructure.

Further amend clause 40 by introducing a new section immediately after sub section 41 as follows;

42, where damage is caused to infrastructure belonging to or used by the water service provider through the construction works, the person responsible for the work shall be liable to a surcharge of the full cost of repair or replacement and such cost shall be a debt due to the Water Service Provided recoverable as it stands through a seat in the appropriate court.

Note; this amendment deletes clause 49 (3) that Clause 43 (1) be amended by introducing a new paragraph immediately after paragraph (b) as follows;

"be an authorized water construction works.

Note that this amendment consequently amends the Second Schedule under penalties as follows; introduce a new schedule in the offence as follows;

Offence: Unauthorized water construction work.

Penalty: Not less that Kshs 100, 000 or imprisonment for a term not exceeding six months or both.

Madam Chair, I believe that that is the only amendment we have Madam Chair.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, amendments have been proposed in Part VII but, the Chairperson of the Committee has not asked for a seconder.

Hon. Dede (MCA, Kisumu North Ward and Chair, Water Committee): Thank you Madam Chair, after the amendments, I then call upon Hon. Peter Obaso to second, Thank you.

Hon. Obaso (Nominated Member): Thank you Madam Chair, I stand to second the amendments on part VIII of the Bill as proposed by the Chair.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, an amendment has been proposed in Part VIII, that is Clause 40 to read that; the notes on the clause be amended by adding the words "and / or" immediately before the word vandalism. The new Clause to read as follows;

"Vandalism and/or damage of water and sewerage services infrastructure".

Honourable Members, a further amendment has been made in the same Clause Part two by introducing a new section immediately after sub section 41 reads as follows; which is now 42 and this is;

"where damage is caused to infrastructure belonging to or used by the water service provider through the construction works, the person responsible for the work shall be liable to a surcharge of the full cost of repairs or replacement and such cost shall be a debt due to the Water Service Provided recoverable as it stands through a seat in the appropriate court".

Therefore, Honourable Members, it is worth noting that; this amendment deletes clause 49 (3).

Further, amendment is proposed in Clause 43 (1) and it is amended by introducing a new paragraph immediately after paragraph (b) as follows;

"an authorized water construction works".

Honourable Members, It is also worth noting that; this amendment consequently amends the Second Schedule under penalties as follows that; it is introducing a new Clause, a new Offence as reads follows that;

"Unauthorized Water Construction Works that attract a penalty not less that Kshs 100, 000 or imprisonment for a term not exceeding six months or both".

Those are the amendments proposed by the Committee, any further amendments from the floor?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Honourable Emily.

Hon. Oginga (Nominated Member): Thank you Chair, I would like to propose an amendment in Clause 43 where we have… maybe I would just go through it and make specific correction that I would like to be put.

Madam Chair, in Clause 43, there is Note that; this amendment consequently amends the Second Schedule under penalties as follows; introduce a new schedule in the offence as follows;

"Offence: Unauthorized water construction works and the Penalty is; Not less that Kshs 100, 000 or imprisonment for a term not exceeding six months or both.

So I would like to propose that the word "exceeding" should be replaced by the word "less" because…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): So, you are proposing that…

Hon. Oginga (Nominated Member): Madam Chair, I am proposing that we delete the words *"not exceeding"* and replace it with the words *"not less than six months"* so that it becomes six months and above.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): So, you mean this one meant six months and below?

Hon. Oginga (Nominated Member): Yes. Which I believe is more lenient and…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Do you have a seconder on that proposal?

Hon. Oginga (Nominated Member): Yes. I would like to request Hon. Benson Adega to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Adega.

Hon. Adega (MCA, Kajulu Ward): Thank you Madam Chair, I second the same.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, a proposal has been made to amend the proposal in the Second Schedule. That is; Penalties stating that;

"the offence of unauthorized water construction works attracts not less than Kshs 100, 000 or imprisonment for a term not exceeding six months or both".

Honourable Members, I want to open this for matter for debate and as we do that, I want us to take note that the intention of this Clause is to bar members of the public from undertaking unauthorized construction and not to punish by imposing an imprisonment terms that exceeds six months which will imply that we will now be punishing and not putting across control measures. So, Honourable Members, I throw it back to the floor for consideration. Do we intend to correct and deter unwarranted constructions or do we intend to punish the offenders? The proposal is therefore pen for discussion.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Onditi.

Hon. Onditi (MCA, Ombeyi Ward): Thank you Madam Chair. The House Committee proposes that we amend Clause 43 (1). There is a table in the report, the committee proposed and amended by introducing a new paragraph immediately after paragraph (b) that will read as follows;

"Unauthorized water construction works"

The House Committee again states that they also introduced a new offence in the schedule that;

"any unauthorized water construction works to attract a penalty of not less than Kshs 100, 000 or imprisonment for a term not exceeding six months or both.

Meaning, you could be fined that amount or, you could be imprisoned for a term not exceeding six months or, you could be penalized and at the same time imprisoned.

However, the amendments proposed by Hon. Oginga is suggesting or requesting that we amend to imprison for a term not less than six months meaning we charge you Kshs 100, 000 and or imprison you for a term not less than six months which could be six months and above.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon. Nyaoke.

(Hon. Ngeta Consults loudly)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Order! Hon. Ngeta, can you resume your seat so that Hon. Nyaoke contributes is when I give you a chance to be heard.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Madam Chair, in as much as my colleague Hon. Emily is talking about *"Not less than six months".* We also have a constitution to follow. In as much as we are making this Bill, the turning point should be that of the Kenyan Constitution. There is no way you can be jailed for a term of not less than six months. You know that more than six months can even be a hundred years. That is why we normally put not more. So, the issue of not more than cannot be removed from the document at this particular point. Thank you, Madam Chair.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, Hon. Maurice Ngeta, I want to give you this opportunity to air your views on this proposed amendment.

Hon. Ngeta (MCA, Awasi Onjiko Ward): Madam Chair, now, you are giving me the opportunity when the junior member has just contributed…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Order!!Hon. Ngeta. You have just used a term which is rogue or didn't I hear you well…

Hon. Ngeta (MCA, Awasi Onjiko Ward): Madam Chair, the reason why I used the word rogue…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Ngeta, can you please substantiate or you withdraw.

Hon. Ngeta (MCA, Awasi Onjiko Ward): Yeah, give me time to substantiate Madam Chair. In our tradition, if you want to talk, you either raise your hand or you stand up so that you will be seen by the Chair or the Speaker then you are given a chance. You don't just shout unnecessarily 'no, no, no, Madam Speaker and that can only be done somewhere in the village like North West Nyakach. Yes, I am telling you the truth that, that can only be done in such places but not in this Honourable House.

(Loud consultations)

On the same note, I want to concur with my fellow colleague that at the same time concerning the same amendment, not more than six months. If we have to make an amendment that you can be in jail for not less than six months then that means that, you can be jailed for six months going forward which it may imply ten to hundred plus years. So, it should not be "more than six months", that is six months and below, thank you Madam Chair.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you. Hon. Odari, were you on a point of order or you were…

Hon. Adonijah (MCA, Chemelil Tamu Ward): Hon. Adonija on a Pint of Order!!

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Adonija, what is your point of order?

Hon. Adonijah (MCA, Chemelil Tamu Ward): Thank you madam Chair, I just wanted to inform the House.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, does the House needs to be informed?

(Several Hon. Members in agreement)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Okay, inform the House Hon. Odari.

Hon. Adonijah (MCA, Chemelil Tamu Ward): Madam Chair, the Honourable Member who is contributing before us here is naked and he is a senior Member. Madam Chair, you have even heard him referring to Hon. Nyaoke as a guy before the Members, thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Hon. Odari. That is noted. I know the proceedings and etiquette of the Committee of the Whole House should be the same as those of the plenary. However, in matters not specified under the Standing Orders, the Speaker has the discretion to decide and given that the rules are a little reflects onto the Committee of the Whole House, I want to allow him to sit in but immediately the Speaker takes the Chair, I want to address that he goes out and dresses appropriately, thank you.

Hon. Members, I think…

(Hon. Obaso rises on his feet)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Obaso, do you want to contribute on the amendment concerning the penalties? Yes Hon. Member, but, you are a member of the committee and had already forwarded your amendments.

Hon. Obaso (Nominated Member): Yes, thank you Madam Chair, I just want to express my objection towards the proposal…

(Hon. Oginga rises on her feet)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Emily, what is it?

Hon. Oginga (Nominated Member): Yes, Madam Chair, I would like to move a motion on Extension of Time pursuant to Standing Order No. 28 (3) and (4). It states; *"Notwithstanding paragraph (1) and (2), the County Assembly may resolve-*

(a) to extend its sitting time; or

(c) to meet at any other time on a sitting day; or

(b) to meet on any other day in order to transact business. (4) A motion under paragraph (3) (a) shall be moved at least thirty minutes before the time appointed for adjournment".

So, Madam Chair, I would like to request for the Extension of Time for this sitting because as you can see, we still have a lot to deliberate on for further one hour. That is my proposal. I would like to call upon the Chairperson Water, Environment, Natural Resources and Climate Change Committee Hon. Dede to second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Dede.

Hon. Dede (MCA, Kisumu North Ward and Chair, Water Committee): Thank you Madam Chair, because a Member has proposed for the extension of time, since we still have major amendments to make in the Kisumu County Water Bill, 2023, I support that we extend for sometimes to deliberate on the remaining major amendments, thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, a proposal for Extension of Time has been moved by Hon. Emily according to our Standing Orders No. 28, seconded by the Chairperson Water, Environment, Natural Resources and Climate Change Committee. I therefore want to direct that the House do proceed for a period of not more than one hour.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Odari, you were on the floor. Ooh, you are done?

Hon. Adonijah (MCA, Chemelil/Tamu Ward): Madam Chair, yes, I am done.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes, it was Hon. Obaso.

Hon. Obaso (Nominated Member): Thank you Madam Chair. I just wanted to express my objection on the proposal that had been made by the Hon. Emily. I believe her proposal shall be harsh and we should be a bit lenient. Madam Chair, the previous proposal should stand (not exceeding six months).

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Hon. Members, I now want us to…

(Hon. Ouko stood rises on his feet)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ken Ouko

Hon. Ouko (MCA, West Kisumu Ward): Thank you, Lady Speaker, actually, we are making laws which are punitive while others are corrective. But, we have a case here where somebody comes in willfully and vandalize the property meant for the public. This person should be punished. It is very clear and when we read this. It is saying *"shall be liable to a sentence of not less than six months imprisonment"* it means that it is not five months and below but it is from six months. This is very open and can even go for three two to three years so long as it is not less than that.

Madam Chair, again when we come to the fine which is a bit lenient, *"Not less than Kshs 30,000 Shillings"*. You see, these are people who vandalize an installation done by the County Government. These people have money. They maybe even have some water lorries to do all these things. Then you tell him that small amount, it is my considered opinion that, it should be amended to read *"Kshs 100,000"* so that we deter anything like this to happen.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we recognize that the Assembly is a House of Orders and Procedures. The procedure is that we ought to have reverted back to the plenary before moving a motion of extension of time. Therefore, it is wise that we follow the procedure and just revert before that motion is moved again. So, I just want us to wait for the Speaker to take the Chair before we can proceed.

(House reverts to Plenary)

(The Chairperson, Committee of the Whole House (Hon. Okombo) left the Chair)

(The Speaker (Hon. Oraro) in the Chair)

The Speaker (Hon. Oraro): Chairperson Liaison Committee or Chair Committee of the Whole House.

The Deputy Speaker (Hon. Okombo, MCA Manyatta "B" Ward): Thank you Mr. Speaker, the Committee of the Whole House is in progress on the Second Reading of the Kisumu County Water Bill, 2023.Mr. Speaker, considering that the hours of debate within the Assembly are dictated by the Standing Orders, Mr. Speaker, we have reverted back to the plenary to request for the Extension of Time to allow us to continue with the second reading. It is therefore my proposal that I request Hon. Emily Oginga to move a motion on extension of time.

The Speaker (Hon. Oraro): Honourable Chair, it is not your responsibility to request the Hon. Emily to move a Motion of Extension. However, I am aware that our calendar and the timing states that we end at 12: 30 pm. So, it is only in order that if we are still progressing that we do

an extension of time. So, Hon. Emily, I believe you are standing in for the Hon. Leader of Majority.

Hon. Oginga (Nominated Member): Thank you Mr. Speaker I would like to move this motion on Extension of Time as per our Standing Order No. 28 (3) and (4). It states that;

"Notwithstanding paragraph (1) and (2), the County Assembly may resolve-

(a) to extend its sitting time; or

(c) to meet at any other time on a sitting day; or

(b) to meet on any other day in order to transact business. (4) A motion under paragraph (3) (a) shall be moved at least thirty minutes before the time appointed for adjournment".

So, I would like to call upon the Chairperson Water, Environment, Natural Resources and Climate Change Committee Hon. Dede to second, thank you.

Hon. Dede (MCA, Kisumu North Ward): Thank you Hon. Speaker. Being that the Committee of the Whole House was still in progress of the amendments on the Kisumu County Water Bill, 2023, I do second the request made by the Honourable Member that according to the Standing Order 28 which stipulate that the time shall be extended. I second the proposal, thank you.

The Speaker (Hon. Oraro): Honourable Members, a motion has been moved for Extension of Time, seconded. I want to propose that it be opened for debate. Hon. Ngeta.

Hon. Ngeta (MCA, Awasi Onjiko Ward): Thank you Mr. Speaker. For the interest of time and looking at the mood of the House, I want to request the mover to reply.

The Speaker (Hon. Oraro): Hon. Emily.

Hon. Oginga (Nominated Member): Thank you Mr. Speaker, as you know we are carrying out an important matter on the amendment on the Kisumu County Water Bill, 2023 and I would like to appreciate the team for allowing this extension of time. Otherwise, I reply.

The Speaker (Hon. Oraro): Hon. Emily, you did not tell for how long we should extend.

Hon. Oginga (Nominated Member): Thank you Mr. Speaker, I would like to request for an extension of time for one hour.

The Speaker (Hon. Oraro): Honourable Members, a motion has been moved for an Extension of Time with one hour into the morning session debate, seconded and I want to put a question?

(Question put and agreed to)

The Speaker (Hon. Oraro): Honourable Members, the House's debating time stands extended for one hour. I have already received a report from the Chairperson of the Committee of the Whole House that the Committee of the Whole House was still in the process of making amendments to the Kisumu County Water Bill, 2023. Therefore, our Standing Orders also provides that, once you start that particular committee, we cannot stop but have to conclude it. Without putting a question, I want to say that the House reverts to the Committee of the Whole House so that we can proceed and conclude the amendments.

(House Reverts to the committee of the Whole House)

COMMITTEE OF THE WHOLE HOUSE

(The Speaker (Hon. Oraro) Leaves the Chair)

IN THE COMMITTEE

(The Chairperson, Committee of the Whole House (Hon. Okombo) in the Chari)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we will now continue with the amendments on the Kisumu County Water Bill and we were already on Part VIII of the Bill and there was a proposal by Hon. Emily for extension of imprisonment term to a period not less than six months. The committee had earlier amended by introducing a new Schedule of penalties of Kshs 100,000.00 (Kshs One Hundred Thousand Only) or imprisonment for a term not exceeding 6 (six) month or both. Honourable Members, a proposal of amendment was put by Hon. Oginga and it was debated and I don't know if we still have a member who wants to add his/her voice on the same?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Chair, you are Out of order!!

(No responses)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members the feeling that has been received from the floor of this House is that the penalty is meant to be a corrective but not a punitive measure. Therefore, I want to put a question that; May as many as are of the opinion that the clause remain as earlier amended by this House Committee?

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the penalty hereby reads as follows; That;

"A fine of not less than Kshs 100,000.00 (Kshs One Hundred Thousand Only) or imprisonment for a term not exceeding 6 (six) month or both"

Honourable Members, may as many as are of the opinion that part 8 as amended becomes part of the Bill?

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, and Part VIII as amended now forms part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we now move to Part IX.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes the Honourable Chair.

Hon. Dede (Chairperson, Water and Environment Committee, MCA, North Kisumu Ward): Thank you Madam Chair. There is no proposed amendment in part IX of the Bill. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the House Committee finds no amendments in Part IX. Are there any proposed amendments that are emanating from the floor?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, Part IX talks of Administration of certain Water Supplies and Infrastructure Services that is Raw Water Abstraction Permits and Access Rights, Septic Tanks Large Management, Easement Access Rights, Construction of Boreholes with Supply areas and the Regulation of Water Vending Kiosks. Do we have any amendments on that part coming from the floor?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Onditi the member representing Ombeyi Ward.

Hon. Onditi (MCA, Ombeyi Ward): Thank you so much Madam Chair, under the Construction of Boreholes in a supply area in 47 (2) which talks about application for no objections. Madam Chair, considering Application for no Objection, the County Water Supply providers shall take account of its ability to provide the water services in respect to which the application for the Borehole has been made. And if reasonably believe that it can provide the required water services within a period of not exceeding one year.

Madam Chair, my concern is that in the event that you get sorry to use the word "rogue officer" and somebody was interested in the development of their own borehole. Then, the officer processes for you these documents taking a period of a whole one year and somebody is in

serious need of the water supply and they are informing you that yes, we are going to do it. Madam, Chair, was this the spirit of the one year or was it tied to a budget of a certain financial year or what was it for? This is because if not so, then I would propose that we reduce this period to at least 6 (six) months.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, are you proposing a further amendment to that part?

Hon. Onditi (MCA, Ombeyi Ward): Yes Madam Chair, I am proposing an amendment…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, so, please can you make clear or explicit prayers.

Hon. Onditi (MCA, Ombeyi Ward): Madam Chair, my clear prayers are that, this House considers reducing this period from 1 (one) year to 6 (six) months.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Onditi, who is seconding your proposed amendment?

Hon. Onditi (MCA, Ombeyi Ward): The young man seated next to you.

(Laughters)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Nyaoke the members representing North Nyakach Ward.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Madam Chair. I dully second the amendment proposed by my brother Hon. Onditi. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, Hon. Onditi has proposed an amendment in clause 47 (2) which reads as follows;

"In considering an application for a no objection, the County water services provider shall take account of its ability to provide the water services in respect to which the application for the Borehole has been made and if it is reasonable, believes that it can provide the required water services within a period of not exceeding one year it shall decline a request for a no objection"

Honourable Members, a proposal has been made to reduce the period of No Objection from *"one year" to "six months"* and a proposal is therefore made that the clause be amended to read as follows:

"In considering an application for a no objection, the County water services provider shall take account of its ability to provide the water services in respect to which the application for the

Borehole has been made and if it is reasonable, believes that it can provide the required water services within a period of not exceeding six months it shall decline a request for a no objection"

Honourable Members, I want to propose that this proposed amendment is now open for debate.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ouko, member representing West Kisumu Ward.

Hon. Ouko (MCA, West Kisumu Ward): Thank you Madam Chair. It is my belief that, there must be a procedure for doing all these things and a specific guideline to be followed. Madam Chair, as long as an applicant has satisfied these guidelines required and all the necessary documentations are in place. Then, why do we have to wait for six months? This is a way of denying the citizenry access to water supply and what is the need of conducting a process that will take six months? Madam Chair, why don't we propose and put it that, as long as all the due diligence are put in place…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Order!! Order!! Hon. Ouko. Hon. Onditi has made a proposal that the processing period be reduced to six months. So, can we focus our debate this proposal and if you have a counter-proposal then, we discuss yours after we are done with the one raised by Hon. Onditi. So, unless you are contributing to his proposal.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Chief Whip.

The Chief Whip (Hon. Kanga, MCA, Market/Milimani Ward): Thank you Madam Chair. It is my considered opinion that this Bill was formulated as a result of a wider consultation with experts in the water and environmental sectors. Madam Chair, when you make an application to drill and equip a borehole, there are several issues that must be taken into consideration. There are issues to do with Environmental Impact Assessment (EIA) which is done by national Environment Management Authority (NEMA), Water Resources Management Authority (WARMA) which equally does some assessments and even litigations might arise due on one reason or the other. So, when these experts placed the application at one year, I believe that they considered several factors including issues to do with assessments based on environmental and other factors. So, when we put it at six months as was proposed by Hon. Onditi, sometimes various factors may not be so conducive with the proposal of six months. So, when the experts placed these applications at one year, I believe that, they had considered several factors that includes and not limited to the factors that I mentioned. Madam Chair, I so object the proposals made by Hon. Onditi and we retain the applications at one year as was formulated in the Bill due to those key factors. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Chief Whip for that insight.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Nyaoke.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Madam Chair. I am the one who seconded the proposal made by Hon. Onditi and I don't know if I can proceed if you allow?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Apologies, are you the one who seconded that proposal?

Hon. Nyaoke (MCA, North Nyakach Ward): Yes Madam Chair.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, sorry then, you are Out of Order!! You should have reserved your time and contributed at a later time.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Emily Oginga, nominated Member.

Hon. Oginga (Nominated Member): Thank you Madam Chair. I would like to support or concur with the sentiments made by the Chief Whip. This is because, some of these procedures you don't just wake up and you want to dig and equip a borehole. This is because you have to go through the required and rigorous procedures. Madam Chair, I want to propose that we introduced a sub-clause to this clause that indicates the procedures for the approval for the construction of boreholes within a supply area to be provided in the regulations. If we can introduce that sub-clause, it will offer guidance for the duration that was proposed in the initial Bill. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Emily Oginga, yes that is a very noble observation to be considered for inclusion in the regulations but, Hon. Onditi had proposed for a reduction in the duration of giving a reply of doing individual boreholes. Honourable Members that proposal has drawn a need for a clause to provide for in the regulations in the construction of boreholes and Hon. Oginga is very right but, I want us to first cause a division (vote) on Hon. Onditi's proposal before we allow Hon. Oginga to put in her proposal.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ouko, please take the floor.

Hon. Ouko (MCA, West Kisumu Ward): Thank you Madam Chair. Maybe the formulation of that clause was not very clear to us but, it is explicit that the formulators of this Bill are giving us a blank cheque by indicating that if reasonable we believe that it can provide the required water

services within a period not exceeding one year then, that implies it is from day one to days 365. So, we as Members are accorded that opportunity which got me worried about because as long as you are done all the required documentations, even within three months you should get access to water. Madam Speaker, the initial interpretation is not clear to everybody so that if you do it fast but not more than so that, these residents can get access to this supply of water within that period. I stand guided. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ngeta Member representing Awasi/Onjiko Ward.

Hon. Ngeta (MCA, Awasi/Onjiko Ward): Thank you Madam Chair. Taking into consideration of other factors perhaps you make an application for drilling a borehole today and then, somebody informs you that you will get access to these services in the next eight months. Madam Chair, let us take for instance that you have just jetted in from abroad or from any other jurisdictions within the country then, you are compelled to wait for another eight months. Madam Chair, we need to be provided with a clear stipulated time duration so that we make amendment to this proposal that states THAT, within two to five months. This is because, even the six months that was proposed by Hon. Onditi, is too long. Madam Chair, just to bring you up to speed, we have been making applications for electricity connections to Kenya Power and then you want to wait for three months, this is very long. We are all ware that water is life and we cannot do without it. So, we need to consider reducing that even the six months to two months or even less so that we can have a stipulated time on the same. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Honourable Members. A proposal has been made by Hon. Onditi to reduce the application of grant a no objection reply within a period of "six months" which was seconded and debated upon. I want to put a question?

(Question put not clear)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, I want to repeat because it is like the "Noes" and the "Ayes" have it in equal measure. So, I want to put a question on the proposal that, a duration to provide the required water service be within a period of not exceeding "one year" be reduced to a period not exceeding "six months"

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the "Ayes" have it and the amendment has therefore been done on clause 47 (2) that will now read as follows;

"In considering an application for a no objection, the County water services provider shall take account of its ability to provide the water services in respect to which the application for the Borehole has been made and if it is reasonable, believes that it can provide the required water services within a period of not exceeding six months it shall decline a request for a no objection"

Consequently, I want tom put a question? THAT, clause 47 (2) as amended be part of the Bill.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Ouko, do you have a further proposed amendment in clause 47?

Hon. Ouko (MCA, West Kisumu Ward): Thank you Madam Chair. I have no further proposed amendment to that clause.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, if there are no any further proposed amendments in part 9 then, we move to part 10. That is the Approvals for Constructions Works affecting Infrastructure which are clauses 49 and 50.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Chair, Water and Environment.

Hon. Dede (MCA, North Kisumu Ward and Chair, Water Committee): Thank you Madam Chair; there are no proposed amendments in clauses 49 and 50 respectively.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the House Committee did not find it necessary to amend Part X. Are there any proposed amendments from the floor?

(No responses)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, if there are no amendments proposed in Part X then, I want to put a question that Part 10 as read form part of the Bill?

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, Part 10 as read now form part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we now move to Part XI which is Protection of Water Resources (Catchment Areas, Storm Water Drainage, Rain Water Catchments and Catchment Conservations) that is clauses 51, 52and 53.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Chair, Water and Environment.

Hon. Dede (Chairperson, Water and Environment Committee, MCA, North Kisumu Ward): Thank you Madam Chair; there are no proposed amendments to Part XI clauses 51, 52 and 53. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Member, the House Committee found it in order to leave Part XI as was formulated. Do we have any proposed amendments emanating from the floor?

(No responses)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, if there are no amendments proposed in Part XI then, I want to put a question that Part XI as read be part of the Bill?

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, Part XI as read now form part of the Kisumu County Water Bill, 2023. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we now move to Part XII which talks of the General Observations which is (Regulations and the Transitional Provisions) which is clauses 54 and 55. Yes Chair, Water and Environment.

Hon. Dede (MCA, North Kisumu Ward, Chair, Water Committee,): Thank you Madam Chair; in Part XII there was proposed amendment that clauses 54 be amended by deleting the provision and replacing therefore with the following new provision.

54 (1) The CEC Member shall make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act within 90 days following the commencement of this Act.

(2) A provision of the regulation shall—

a) be specific in its application;
b) authorize any matter or thing to be done from time to time; or
c) do any combination of the contemplation of paragraph (a) and (b) above.

(3) Regulations under subsection (1) shall not take effect unless approved by a resolution passed by the County Assembly and shall include: -

e) procedures for the operations and licensing of water kiosks, communal water points and stand pipes;
f) procedures for ownership and management of water vending kiosks including issuance of tariffs and charges;
g) procedures for the registration of water, sewerage and sanitation service providers operating within the County;
h) rules, standards and guidelines for water and sanitation services within the County; and rules and procedures for appointment and qualification of the members of the Board of Directors of the companies.

(4) Regulations approved under subsection (3) shall take effect on the day after the date on which the County Assembly approved them or a later date is specified in the regulation orb that late date of this Act.

55) Without prejudice to the generality of section 54 (1), the County Executive Committee Member for Finance and Economic Planning shall make regulations for the management and administration of the rural water and sanitation fund contemplated in section 27 of this Act.

Madam Chair, I therefore want to call upon Hon. Maurice Ngeta to second. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ngeta!!

Hon. Ngeta (MCA, Awasi/Onjiko Ward): Thank you Madam Chair. I arise to second the amendment.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, this House Committee has proposed a raft of amendments in Part XI which has been seconded by Hon. Ngeta the member representing Awasi/Onjiko Ward and I propose that we open these proposed amendment for debate.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Chief Whip.

The Chief Whip (Hon. Kanga, MCA, Market/Milimani Ward): Thank you Madam Chair. Those are not proposed amendments and they are new clauses to the Bill. This is because amendments are proposed when you are amending the parent Bill. Madam Chair, as was read by the Chairperson, Water Committee, he has proposed new insertions to be included in the Bill. Madam Chair, it would have been prudent that, if the Chair was to bring in new proposals, then, we Members should have been furnished or supplied with these proposals so that we are able to read through and interrogate other than reading for us sub-clauses (a), (b), (c) and (d)…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Order!! Chief Whip, I want to direct that you are Out of Order!!

The Chief Whip (Hon. Kanga, MCA, Market/Milimani Ward): Madam Chair, I have not concluded.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Whip, I would want to inform you that amendments are brought in way of expunging a clause, substituting a clause and insertion of new clauses. The new clauses proposed by this House Committee are part of the report on the Kisumu County Water Bill, 2023 that was moved earlier and these amendments are not being proposed as new proposals on the floor. So, the Honourable Chair of Water and Environment is in order to make these proposals. So, please proceed Hon. Whip.

The Chief Whip (Hon. Kanga, MCA, Market/Milimani Ward): Thank you Madam Chair. I want to state here that I am very much confused and this is because, this is a Gazetted Bill and when the Chair of this House Committee had planned to introduce new clauses in this Bill, the Chair should have ensured that the Clerks-at-the-table prints the new clauses and furnish Members with them to be able to read and dissect what he has just presented to us. Madam Speaker, but for the Chair to read for us these new clauses, I find it not in order…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Whip, those amendments being proposed formed part of the report from the Public Participation that was conducted on 28th September, 2023 in all the seven Sub-counties. May be you have just walking in because if you look at the Committee Report, these amendments had been discussed in the House and adopted. So, the Chairperson, Standing Committee of Water and Environment is very much in order. Honourable Whip, I believe that you have been furnished with the report in your WhatsApp page. Thank you.

The Chief Whip (Hon. Kanga, MCA, Market/Milimani Ward): Madam Chair, we are not discussing the report, we are discussing the Kisumu County Water Bill, 2023 as was gazetted…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Chief Whip, for your information, the report was adopted and became part of the Bill. This reports has the said proposals and kindly check the report which is in your possession…

The Chief Whip (Hon. Kanga, MCA, Market/Milimani Ward): Then Madam Chair, let me then reserve my comments. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Hon. Chief Whip. Honourable Members, amendments have been proposed.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Emily Oginga, nominated Member.

Hon. Oginga (Nominated Member): Thank you Madam Chair. I would like to add two amendments to this clause that has just been read by the Honourable Chair for Water and Environment. Madam Chair, in clause 54 sub-clause (3) that talks about Regulations under Sub-section (1) that shall not take effect unless approved by a resolution passed by the County Assembly and shall include: - we have;

a) procedures for the operations and licensing of water kiosks, communal water points and stand pipes;
b) procedures for ownership and management of water vending kiosks including issuance of tariffs and charges;
c) procedures for the registration of water, sewerage and sanitation service providers operating within the County;
d) rules, standards and guidelines for water and sanitation services within the County; and rules and procedures for appointment and qualification of the members of the Board of Directors of the companies.

Madam Chair, I would like to introduce a sub-clause (e) that actually guides in the discussions that we have just had on clause 47.

"That, the procedures for the approval of the construction of Boreholes within the supply areas".

Madam Chair, if we can have that included in the Bill, I believe that would equally guide us this is because; we just had a discussion about it.

Madam Chair, my other amendment that I would like to introduce to this clause is number 55. Clause 55 talks about;

"Without prejudice to the generality of section 54 (1), the County Executive Committee Member for Finance and Economic Planning shall make regulations for the management and administration of the rural water and sanitation fund contemplated in section 27 of this Act".

Madam Chair, if you can recall, we expunged section 27 of the Act. So, I propose that this House considers deleting that section. Thank you. I want to call upon the Chair to second.

Hon. Dede (MCA, North Kisumu Ward and Chairperson, Water Committee): Madam Chair, I second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, you recall that, we deleted clause 27 that was establishing a fund and a proposal has been rightfully made by Hon. Emily Oginga and seconded by the Chair, Water and Environment that this House considers expunging clause 55? This is because; this clause now becomes null and void. I open this matter for debate.

(No responses)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, if we don't have any further debates on this. Honourable Member, I want to put a question that Part XII as amended forms part of this Bill.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, Part XII as read now form part of the Kisumu County Water Bill, 2023. Thank you.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we are now through with Second Reading of the Kisumu County Water Bill, 2023. We went Part by Part which is the guillotine way and I just want to request that as we await for the Clerk to incorporate the amendments to the Bill, I would like to inquire if we may have any further amendments that you wish to propose then, they can be considered. I don't know what the Chair has to say? Do you have any further amendments that were not introduced at the Committee stage?

Hon. Dede (MCA, North Kisumu Ward and Chairperson, Water Committee): Thank you Madam Chair, there is an amendment that we proposed at the Committee stage but, it was an oversight because it was not well captured by the Committee Clerk.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Chair, which amendment is that?

Hon. Dede (MCA, North Kisumu Ward and Chairperson, Water Committee): Thank you Madam Chair, in the principle Act, page 10, Part III…

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Chair, which clause is that?

Hon. Dede (Chairperson, Water and Environment Committee, MCA, North Kisumu Ward): Madam Chair, Part III, clause 9 (b) the Establishment of Corporation of Water Service Providers. Madam Chair, in Part III, clause 9 (1) (b), it states that;

"The Kisumu Rural Water and Sanitation Company which shall provide water service within Kisumu Rural Areas"

Madam Chair, the abbreviated short name of Kisumu Rural Water and Sanitation Company should be "KIRWASCO" not "KARWASCO" . Madam Chair that is the change we proposed to be made. I want to call upon Hon. Emily Oginga to second.

Hon. Emily Anyango Oginga (Nominated MCA): I second.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you. Are there any further amendments from the floor of the House?

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ngeta.

Hon. Ngeta (MCA, Awasi Onjiko): Madam Chair, I rise to support what the Chairperson of Water Committee has just read this is because I can remember when we were on the committee level, we agreed that we named it as 'KRIWASCO'.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the Chairperson talks of 'KRUWASCO' and Hon. Ngeta is talking of 'KRIWASCO'. So I would like Hon. Dede to repeat his statement.

Hon. Dede (Chairperson, Water and Environment Committee, MCA, North Kisumu Ward): Thank you Hon. Chairperson and the abbreviation will be K-R-U-W-A-S-C-O. Thank you.

The Chairperson Committee of the whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Hon. Nyaoke, an amendment has been proposed in Part III 1(b) to amend the abbreviation of 'KRAWASCO' to read 'KRUWASCO', that is where we are and we are still taking a vote.

Hon. Nyaoke (MCA, North Nyakach Ward): Madam Chair, I have s further amendment to put across on the abbreviation. If we look at part (a), we have put 'K-I', that is KIWASCO and it would be reasonable to start the second one to be 'KIRWASCO' so that we maintain the abbreviation 'K-I' for Kisumu the 'R' for Rural.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, those are now two proposals and we can either adopt the Chairperson's proposal or Hon. Nyaoke's proposal but we cannot have two proposals in one amendment.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Ngeta.

Hon. Ngeta (MCA, Awasi Onjiko Ward): Madam Chair, this was done at the committee level and the only thing which was left here was just to read the amendment. We cannot insert another amendment on the amendment again.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Order!! Hon. Ngeta. There are provisions in the Standing Orders that we can actually make and

amendment within an amendment. So, we first have to adopt the committee's amendment and then if there is need for an amendment within another amendment then we will allow Hon. Nyaoke to now put across his amendment. Remember we have an afternoon session. I therefore want to put a question on the amendment by the committee on the abbreviation of Kisumu Rural Water and Sanitation Company to read 'KRUWASCO'.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the abbreviation of Kisumu Rural Water and Sanitation Company to read 'KRUWASCO' now forms part of the Bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Nyaoke.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Madam Chair, if you critically look at my proposal, I believe that it is something that should be understood because as I was explaining that part (a), we have put 'K-I', that is KIWASCO and it would be reasonable to start the second one to be 'KIRWASCO' so that we maintain the abbreviation 'K-I' for Kisumu the 'R' for Rural. I call upon Hon. Millicent Omuya to second.

Hon. Omuya (MCA, North Seme Ward): Thank you Madam Chair, I stand to second the proposal by Hon. Nyaoke. Our tongue is used to the word 'KI' and I was just wondering the reason as to why Hon. Ngeta was complaining yet earlier on he was not in a position to pronounce that word.

(Loud laughter)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, an amendment has been proposed in clause 9 (1) (b) that is the abbreviation for Kisumu Rural Water and Sanitation Company to read 'KIRWASCO' and not 'KRUWASCO'. I therefore want to open this for debate.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Onditi.

Hon. Onditi (MCA, Ombeyi Ward): Thank you Madam Chair, in support of the amendments raised by Hon. Nyaoke; I thinks the term 'Kisumu' caters for every part of Kisumu County and since KIWASCO has been more domiciled within the city than in the rural, then we are now creating another animal just to serve the other part of Kisumu better.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we only have less than 22 minutes and the proceedings of this committee have to be reported back to the plenary. I therefore want to put a question that Kisumu Rural Water and Sanitation Company be abbreviated as 'K-I-R-W-A-S-C-O' and not 'K-R-U-W-A-S-C-O'.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, the abbreviation for Kisumu Rural Water and Services Company now reads 'KIRWASCO' and now forms part of the bill.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Honourable Members, we were done with the amendments and we were going the guillotine way. I want to thank you for your corporation and wonderful contribution on the Kisumu County Water Bill, 2023 (Kisumu County Bill No. 6) and it is my considered opinion that ths House Committee is now ready to report back to the plenary.

Chairperson, Committee of the Whole House (Hon. Okombo, MCA, Manyatta "B" Ward): Yes Hon. Dede.

Hon. Dede Sa (MCA, Kisumu North Ward and Chair. Water Committee): Thank you Madam Chair, I request the House to revert to plenary. Thank you.

(House revert to plenary)

(The Speaker resumes the chairing the plenary session)

The Speaker (Hon. Oraro): Yes Chairperson, committee of the whole House.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Mr. Speaker. The Committee of the whole House sat to consider the 2nd reading of the Kisumu County Water Bill that is Bill No. 6 of 2023 and the House adopted the guillotine way after it was proposed, seconded and unanimously adopted. The House considered the Bill in parts as followed.

THAT, PART I Interpretation*:* be amended to clearly define and specify areas to be regarded as 'rural areas' for purposes of provision of water and sanitation services.

The provision be amended to read as follows:

"Rural areas" means areas of supply not covered by KIWASCO

THAT CLAUSE 6 (1) be amended by adding the phrase "within 12 months upon the commencement of this Act" immediately after the word "County Executive Committee Member"

The provision be now read as follows:

The County Executive Committee Member shall within 12 months after the Commencement of this Act and following public consultation formulate a County Water and Sanitation Services strategy and Investment Plan

That Clause 6(3) be amended by deleting the phrase "be approved by the County Executive Committee and the County Assembly within six (6) months and shall be published in the *gazette* after the approval." And replace therefore with "come into force upon the approval of the County Assembly."

The provision be now read as follows;

The County Water and sanitation strategy and investment plan shall come into force upon the approval of the County Assembly.

That clause 6(5) be amended by deleting the provision

(No necessity for legislation)

THAT CLAUSE 8 (5) (c) be Amended by deleting the entire provision

Provision be provided under the Regulations

THAT CLAUSE 9(2) **be** amended by deleting Clause 9(2) since the subject matter of this provision has been provided for under Clause 6(1),(2) and amending Clause 6(2) by adding a new paragraph immediately after part. (a) as follows:

(b) *A mapping and capacity assessment of water services within Kisumu County;*

(c) Strategies for operation and management of rural water services within the County;

There was also an amendment in Clause 1(b) that is the abbreviation of the Kisumu Rural Water and Sanitation Company to read 'KIRWASCO' that was initially reading 'KRAWASCO'

That clause 9(3) be amended by deleting the entire provision as the CEC Member for Water lacks the powers to establish County entities

That clause 9(4) be amended by deleting the phrase "may, following a resolution of the County Assembly," and replace therefore with "shall, following the Commencement of this Act," further

delete the article "a" immediately after the word "*gazette*" and replace therefor with the article "the"

The provision be read as follows:

The County Executive Committee Member for Finance and Economic planning shall, following the commencement of this Act, gazette the County Water Service Providers as Kisumu County Government Entities in accordance with section 5 of the Public Finance Management Act, 2012.

THAT CLAUSE 10 (1) be amended by deleting the word "and sewerage" immediately after the words "A County Water" for it to be consistent with the terms and objects of the Act.

That clause 10(2) be amended by deleting the phrase " or following consultation with the County Executive Committee member".

THAT CLAUSE 11 (1) be amended by Deleting the entire provision and replacing therefore with the following:

11(1) There shall be established a Board of Directors for each County Water Service Provider contemplated in Section 9 of this Act and shall be constituted in accordance with the Companies Act 2015 or any other written law and shall be nominated to service in accordance with company's memorandum of objects and articles of association.

(2) The Board of Directors shall consist of at least seven (7) members and not more than nine (9) members composed of:

p) A Non- Executive Chairperson who shall be appointed by the Governor;

q) the Chief Executive Officer who shall be the secretary of the Board and an *ex-officio* member;

r) The Chief Officer responsible for Water Services who shall be a mandatory member of the Board of Directors; and shall report effectively to the CECM on the happenings in the WSP based on county systems and structure on performance monitoring;

s) The Chief Officer responsible for Finance and Economic Planning and report to the CECM for Finance all fiduciary matters related to the WSP;

t) Four (4) other members appointed on the basis of relevant skills and experience.

(3) The Chief Officers contemplated in subsection 2 (b) and (c) above shall establish and maintain an information file or system for the County water service providers for purposes of seamless transition in oversight and prevent conflict due to information asymmetry

(4) No person shall be appointed as the Chairperson of the Board or as a member of the Board contemplated in sub-section (2) (d) above if such person is a public officer or has been a public officer within the immediately preceding one year.

12. **(**1) A person shall be qualified. for appointment as a chairperson or member appointed under sub section 11(2) (d) if such person—

i) holds at least a Bachelor's Degree from a recognized university;

j) has knowledge and qualification in accordance with the Corporate Guidelines from the Regulatory Board;

k) meets the requirements of Chapter Six of the constitution; and

l) has had a distinguished career in the field.

(2) The term of office for the chairperson or a member appointed under section 11 (2) (a) and (d) shall be three years which may be renewed for one further term after which the person shall retire from the Board.

Termination of appointment of the Chairperson and the Members of the Board of Directors.

(13) The appointment of a member, other than an *ex officio* member, may be terminated, in the case of the Chairperson by the Governor, and in the case of any other member, in accordance with the procedures provided for by the Companies Act, 2015 or any other written law.

Conduct of Business of the Board of Directors.

(14) **(**1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Regulations of this Act.

(2) Except as provided in the Regulations and Schedules of this Act, the Boards may regulate their own Procedure.

THAT CLAUSE 12 (1) be rephrased to read as follows:

12 (1). *The Assets, facilities and other infrastructure used by County Water Service Providers shall: -*

(a) Be vested in and remain the property of the County Government; and

(b) Be utilized upon terms and conditions for use provided for by the County Executive Committee Member.

(2) Without prejudice to the provision of Sub-section 1(b) above, the terms and conditions for use shall not require the County Water Service Providers to pay any fees or charges other than monies required to repay loans for the development of the assets, infrastructure and facilities.

THAT CLAUSE 15 be amended by deleting "which shall be a percentage of the water consumption charge payable by the consumer in each billing month and replacing therefor with "in accordance with the regulations set by the Water Services Regulatory Board."

The Clause be now read as follows:

15. *A County Water Service Provider shall impose a charge for the provision of sewerage services in accordance with regulations set by the Water Service Regulatory Board.*

THAT CLAUSE 17 (1) be amended as follows:

17 (1) A County water service provider shall include in the monthly water bill a conservancy charge the amount of which shall: -

(a) Be determined by the County Executive Committee Member; and

(b) Be included in the Kisumu County Finance Bills for approval and enactment by the County Assembly.

THAT, CLAUSE 17 (5) be amended as follows:

Introduce a new clause 18 and delete sub-clause 17(5)

18 (1) The CEC Member for Finance shall inspect the records of the collections of the conservancy charge by a County Water Service Provider for verification.

(2) Any shortfalls discovered pursuant to the verification contemplated in part. (1) above shall be made good by the County Water Service Provider and if in default shall be recovered as a civil debt.

THAT, CLAUSE 18 (2) Amend by deleting the provision and replacing therefore with the following provision:

18 (2) The Chief Executive Officer shall, within three months after the end of each financial year submit—

(a) To the CEC Member and the Board of Directors an annual financial report in respect of that year, containing—

(i) Financial statements of the company;

(ii) The company's performance indicators and any other related information;

(iii) A report on the status of operations of the company including its assets and liabilities as at 30th June of every financial year; and

(iv) Such other information as the Board of Directors and the CEC Member may deem fit; and

(b) To the Controller and Auditor-General, the accounts of the Company for the financial year; and the annual report referred to in paragraph (a) above.

Further amend by introducing a new sub-clause (3). under clause 18 and delete clause 20.

18 (3). The CEC Member shall cause copies of the annual financial report together with copies of the Controller and Auditor-General's report to be laid before the County Assembly within two months or at the next sitting of the County Assembly after he has received them, whichever is the earlier.

THAT, CLAUSE 19 be amended by deleting the word "corporation" and replacing therefore with the word "company"

The word "corporation" is hereafter replaced with the word "company" wherever it may appear.

THAT, CLAUSE 20 be deleted pursuant to the amendment in clause 18 (3)

THAT, CLAUSE 21 **be** amended to read as follows:

21 (1). The Kisumu County Rural Water and Sanitation Company shall be responsible for the provision of water and sanitation services in rural areas and the Municipalities in Kisumu County.

Further amend the side-note as "coverage Kisumu County Rural Water and Sanitation Company"

THAT, CLAUSE 27 be amended by deleting the provision in entirety.

Hon. Speaker there were no amendments in parts V, VI and VII.

In part VIII;

THAT, CLAUSE 40 the notes on the section be amended as follows:

By adding the notes on the sections the words 'and/or damage' immediately before the word vandalism.

The new clause now reads as follows;

Vandalism and/or damage of water and sewerage services infrastructure.

2. Adding the word damaged and/or immediately before the word vandalism. The new clause now reads;

Vandalism and/or damage of water and sewerage services infrastructure.

3. Introducing a new section that is…

The Speaker (Hon. Oraro): What is it Hon. Ouko?

Hon. Ouko (MCA, West Kisumu Ward): Thank you Mr. Speaker. Pursuant to the provisions of our Standing Orders No. 28 (3) (a), I propose that we Extend the Time of debate for further 30 minutes to enable this House dispense off with the Second Reading of the Kisumu County Water Bill, 2023 (Kisumu County Bill No. 6). Mr. Speaker, I therefore call upon Hon. Ngeta to second.

Hon. Ngeta (MCA, Awasi Onjiko): Thank you Mr. Speaker, I rise to second the extension of time so that it can help us to deliberate on the Bill before us. Thank you.

The Speaker (Hon. Oraro): Honourable Members, you are aware that there was an extension of one hour which has elapsed and Hon. Ouko has proposed a further extension of 30 minutes for us to exhaust the business at hand. I therefore want to propose a question that the motion for extension of time is open for debate.

The Speaker (Hon. Oraro): Yes Hon. Onditi.

Hon. Onditi (MCA, Ombeyi): Thank you Mr. Speaker. Given the necessity of the matter at hand, I don't think there is need for further debate. In that regard, I wish to call the mover to reply.

The Speaker (Hon. Oraro): Yes Hon. Ouko.

Hon. Ouko (MCA, West Kisumu Ward): Thank you Hon. Members. Given the importance of what we are discussing it is very important that we proceed with the debate. I therefore dully reply.

The Speaker (Hon. Oraro): Honourable Members, I therefore want to put a question that the Motion for Extension of Time for further 30 (thirty) minutes be adopted.

(Question put and agreed to)

The Speaker (Hon. Oraro): Honourable members, we therefore have be accorded an extension of 30 minutes.

The Speaker (Hon. Oraro): Yes Chairperson, Committee of the Whole House.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta "B" Ward): Thank you Mr. Speaker. I continue with the proposed amendments that were moved and adopted during th Committee of the Whole House which are as follows;

THAT, CLAUSE 43 (1) be amended by introducing a new paragraph immediately after paragraph (b) as follows;

(b) an unauthorized water construction works;

NOTE:

This Amendment consequently amends the Second Schedule under Penalties as follows:

Introduce a new offence in the schedule as follows:

Offence	**Penalty**
Unauthorized water construction works.	Not less than a hundred thousand or imprisonment for a term not exceeding six months or both.

An amendment was done in clause 47 (2) which was amended by deleting the words 'one year' immediately after the phrase 'not exceeding' and replace with 'six months' to read as follows;

In considering an application for a 'no-objection' the County water services provider shall take account of its ability to provide the water services in respect to which the application for the borehole has been made and, if it reasonably believes that it can provide the required water services within a period not exceeding six months, it shall decline the request for a 'no-objection.

There were no amendments in part IX, X and XI.

THAT, CLAUSE 54 be Amended by deleting the provision and replacing therefore with the following new provision.

54 (1) The CEC Member shall make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act within 90 days following the commencement of this Act.

(2) A provision of the regulation shall—

d) be specific in its application;
e) authorize any matter or thing to be done from time to time; or
f) do any combination of the contemplation of paragraph (a) and (b) above.

(3) Regulations under subsection (1) shall not take effect unless approved by a resolution passed by the County Assembly and shall include: -

i) procedures for the operations and licensing of water kiosks, communal water points and stand pipes;
j) procedures for ownership and management of water vending kiosks including issuance of tariffs and charges;
k) procedures for the registration of water, sewerage and sanitation service providers operating within the County;
l) rules, standards and guidelines for water and sanitation services within the County; and rules and procedures for appointment and qualification of the members of the Board of Directors of the companies.
m) Procedures for the approval of the construction of boreholes.

(4) Regulations approved under subsection (3) shall take effect on the day after the date on which the County Assembly approved them or/of this Act.

Hon. Speaker, there were no further amendments to the Bill. I want to ask Hon. Dede to second.

Hon. Dede (MCA, Kisumu North Ward): Thank you Mr. Speaker, I second the report from the Committee of the whole House as presented by the lady Chair, Committee of the Whole House.

The Speaker (Hon. Oraro): Honourable Members, there Chairperson of the Committee of the Whole House has presented a report of the deliberations of the Committee of the Whole House, seconded by Hon. Dede, I therefore want to put a question THAT, this House adopts the report from the Committee of the Whole House on the Kisumu County Water Bill, 2023 (Kisumu County Bill No. 6)?

(Question put and agreed to)

The Speaker (Hon. Oraro): Honourable Members, the report of the committee of the Whole House on the Kisumu County water Bill, 2023 is adopted today 22nd November, 2023 and forms part of the Bill.

The Speaker (Hon. Oraro): Next Order!!

The Speaker (Hon. Oraro): Honourable Members, I received some communication that I have to make before we proceed. This is a communication from the Regional Commissioner; it is about the notification of the Public Participation Forums on the Implementation of the Two Thirds (2/3rds) Gender Principle which will happen tomorrow Thursday, 23rd November, 2023 at Kisumu Tom Mboya Labour College Hall from 9.00 a.m. to 4.00 p.m. The Chairperson of Culture Committee and any other Member can attend. I am saying that because I am aware that there is also a Gazette Notice on the Public Participation on the Kisumu County Budget Review and Outlook paper FY 2022/2023 that will be happening in all the Sub-Counties. Please be guided accordingly. Thank you.

The Speaker (Hon. Oraro): Next order!!

ADJOURNMENT

The Speaker (Hon. Oraro): Honourable Members, there being no any other business to transact, the House stands adjourned to today Wednesday, 22nd November, 2023 at 2.30 p.m.

(House rose at 01.46 p.m.)

Addendum

Hansard Team

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

Disclaimers: *The electronic version of the Official Hansard Report is for information purposes only. A Certified Version of this report can be obtained from the Hansard Editor*