

## COUNTY GOVERNMENT OF KISUMU



### COUNTY ASSEMBLY OF KISUMU

#### **THE HANSARD**

#### *Official Report*

#### THIRD ASSEMBLY – THIRD SESSION

Wednesday, 19<sup>th</sup> June, 2024

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

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

#### **PRAYERS**

**The Speaker** (Hon. Oraro): Honourable Members, I refer you to the provisions of Order No. 32 (2) of the Kisumu County assembly Standing Orders and I direct the Serjeant-at-Arms to ring the quorum bell for the first five minutes. When the bell is being rung, no Member is permitted to leave the Chamber except the Whip who may go out to whip the Members.

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

**The Speaker** (Hon. Oraro): Honourable Members, I am not able to spot the Whip but the Leader of Majority is in. Can you confirm if we have quorum.

**Leader of Majority** (Hon. Ooko, MCA, Ahero): Thank you Mr. Speaker. I can confirm, we have quorum.

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

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

**COMMUNICATION FROM THE CHAIR**

**Mr. Speaker** (Hon. Oraro): Honourable Members, I have one communication to make. This is in regard to the Standing Committee of Administration of Law Justice, Constitutional Affairs, Good Governance and Security; there is a request, for a Focus Group Meeting with the Department of Public Service on 21<sup>st</sup> June, 2024 at Acacia Premium Hotel from 07:30 a.m. The Chairperson JLAC and the Members of that Committee to take note. The Focus Group Meeting with the respective House Committee is in relation to the Formulation of Kisumu County Access to Information Policy. So the date is Friday, 21<sup>st</sup> June, 2024 from 07:30 a.m. at the Acacia Premium Hotel. Thank you.

**Mr. Speaker** (Hon. Oraro): Next Order!

**PAPERS LAID**

REPORT OF WELFARE AND EQUAL OPPORTUNITIES COMMITTEE, ON THE  
BENCHMARKING EXERCISE AT NAKURU COUNTY ASSEMBLY.

PRESENTED BY

HON. CARREN AJWANG ON BEHALF OF THE CHAIRPERSON

REPORT ON OF THE COMMITTEE OF STANDING OF FINANCE AND ICT ON THE  
MATTER OF CESS DEDUCTED FROM SUGARCANE FARMERS IN NYANDO AND  
MUHORONI SUB COUNTIES

PRESENTED BY

HON. CARREN AJWANG', MCA, KELOLENI/SHAURIMOYO

(CHAIRPERSON, STANDING COMMITTEE IF FINANCE AND ICT)

**Mr. Speaker** (Hon. Oraro): Hon. Mildred Ajumbo.

**Mr. Speaker** (Hon. Oraro): What is it Hon. Caren?

**Hon. Caren** (MCA, Kaloleni Shaurimoyo): Hon. Speaker, allow me on behalf of my Chairperson, Hon. Mildred Ajumbo, to table the Report.

**Mr. Speaker** (Hon. Oraro): Honourable Members, I want to make it very clear and please let us make it a norm and practice. That if a Member is absent, yes the Standing Orders provide that, the Vice Chairperson of the Committee, or a Member of the Committee can lay a Paper, can move a Statement, can move a Motion. But there should be some communication to the Chairperson. At least two hours. It is provided for in the Standing Order. So, by leave as the Speaker, I will allow you do that, but please let us make it a norm that in the absence of the

Chairperson, these records are very key, so that you communicated earlier enough. I am afraid that what if the Chairperson comes here and says that, he/she never gave permission to any Member to present a report or otherwise. So, for today please proceed, but moving forward, let us make it a practice.

**Mr. Speaker** (Hon. Oraro): Hon. Caren Ajwang’.

**Hon. Caren Ajwang’** (MCA, Kaloleni Shaurimoyo): Thank you Mr. Speaker, pursuant to provisions of Orders No. 182 (6) of the Kisumu County Assembly Standing Orders, I wish to table today Wednesday 19th June, 2024, a Report of Welfare and Equal Opportunities Committee, on the benchmarking exercise at Nakuru County Assembly.

*(Hon. Ajwang’ lays the report before the House for consideration)*

**Mr. Speaker** (Hon. Oraro): Honourable Members, I acknowledge receipt of the Report on of the Committee of Standing Committee of Welfare and Equal Opportunities on their Benchmarking Exercise with Nakuru County Assembly which is properly laid before the House. The House Business Committee to consider it for scheduling for debate.

**Mr. Speaker** (Hon. Oraro): Next order!!

**Mr. Speaker** (Hon. Oraro): What is it Hon. Caren?

**Hon. Caren** (MCA, Kaloleni/Shaurimoyo): Mr. Speaker, I have another report to table.

**Mr. Speaker** (Hon. Oraro): Proceed.

**Hon. Caren** (MCA, Kaloleni/Shaurimoyo): Thank you Mr. Speaker. Pursuant to provisions of Orders No. 182 (6) of the Standing Orders, I wish to table today Wednesday 19th June, 2024, a Report of Finance and ICT Committee on the Matter of Cess Deducted from Sugarcane Farmers in Nyando and Muhoroni Sub Counties.

*(Hon. Ajwang’ lays the report before the House for consideration)*

**Mr. Speaker** (Hon. Oraro): Honourable Members, I acknowledge receipt of the Report on of the Committee of Standing of Finance and ICT on the Matter of Cess Deducted from Sugarcane Farmers in Nyando and Muhoroni Sub Counties which is properly laid before the House. The House Business Committee to consider it for purposes of scheduling it for debate.

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

## NOTICE OF MOTION

**The Speaker** (Hon. Oraro): Yes Hon. Caren.

**Hon. Caren Ajwang** (MCA, Kaloleni/ Shaurimoyo): Thank you Mr. Speaker. Pursuant to the provision of Orders No. 45 (1) of the Kisumu County Assembly Standing Orders, this House adopts the Report of the Standing committee of Welfare and Equal Opportunities Committee on the Benchmarking Exercise with their counterparts, Nakuru County Assembly. Thank you.

**The Speaker** (Hon. Oraro): Yes Hon. Caren.

**Hon. Caren Ajwang** (MCA, Kaloleni/Shaurimoyo): Mr. Speaker, another Notice of Motion. THAT, pursuant to the provision of Orders No. 45 (1) of the Kisumu County Assembly Standing Orders, this House adopts a report of Standing Committee of Finance and ICT on Matter of Cess Deducted from Sugarcane Farmers in Nyando and Muhoroni Sub-Counties. Thank you.

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

## STATEMENTS

**The Speaker** (Hon. Oraro): It is Statement time.

**The Speaker** (Hon. Oraro): If there is none. Next Order!

## MOTION

A REPORT OF MEDICAL SERVICES, PUBLIC HEALTH AND SANITATION  
COMMITTEE ON THE PROPOSAL TO AMEND THE KISUMU COUNTY HEALTH  
FACILITIES IMPROVEMENT FUND 2021 IN ACCORDANCE WITH THE FACILITIES  
IMPROVEMENT FINANCING ACT, OF 2023.

BY

HON. VINCENT JAGONGO, MCA, NORTH WEST KISUMU

(CHAIRPERSON, MEDICAL SERVICES, PUBLIC HEALTH AND SANITATION  
COMMITTEE)

*(The report presented by the Leader of Majority Hon. Ooko on behalf of the Chairperson)*

**The Speaker** (Hon. Oraro): Yes, the Hon. Leader of Majority?

**Leader of Majority** (Hon. Ooko, MCA, Ahero): Thank you Hon. Speaker, on behalf of Chair Medical Service, Public Health and Sanitation Committee, Hon. Vincent Jagongo, I wish to move a motion for the Adoption on The Report on the Proposal to Amend The Kisumu County Health Facility Improvement Fund Act 2021 in accordance with Facility Improvement Financing Act 2023.

Hon Speaker, pursuant to the provision of Orders No. 194(2)(c), the Committee on Medical Services, Public Health and Sanitation prepared, adopted and submitted to the Liaison Committee its annual workplan detailing the activities the Committee intended to undertake during the FY 2023/24. Among the activities as seen in Annexure 1 was to conduct review of existing health policies in accordance with Orders No. 193(5) (c) of the Standing Orders.

As part of its workplan and following the enactment of the Facilities Improvement Financing Act, 2023, the Committee resolved to prioritize the Kisumu County Health Facilities Improvement Fund Act, 2021.

Hon Speaker, the Kisumu County Facility Improvement Fund Act, 2021, was enacted to provide a framework for the improvement and financing of public health facilities in Kisumu County. However, with the introduction of the Facility Improvement Financing Act, 2023, several conflicts have arisen, necessitating amendment of the earlier Act.

One of the fundamental principles of law is that the provisions of a national law supersede those of a county law where there is a conflict. The Facility Improvement Financing Act, 2023, being a national law, therefore takes precedence over the Kisumu County Health Facilities Improvement Fund Act, 2021 in areas of conflict. It is thus this legal hierarchy underpinned the necessity to be caused amendments to ensure compliance and alignment with the national framework.

#### Review

The Committee looked at the sections of the Act vis-à-vis those of the FIF 2023 and also invited the user facilities, who have firsthand experience with the Act's operation, to submit their feedback and proposals for considerations.

Based on the results of its review and user feedback, the Committee identified sections conflicting with the national Act and their impacts. Additionally, the Committee proposes amendments in other areas, outlining the impacts and suggested changes as detailed in pages 6 - 11.

This report therefore outlines the proposed areas for amendments to the Kisumu County Health Facilities Improvement Fund Act, 2021. The goal is to ensure legal congruence and effective implementation of health financing at the county public health facilities.

#### Recommendations

Hon Speaker, the Committee thus recommends;

1. THAT to ensure adequate funding for facilities, FIF should be considered supplemental to, not a replacement for, regular recurrent and development budget allocations during budgeting.

2. THAT the CECM for the department of Medical Services, Public Health and Sanitation to initiate the process of considering these amendments to eliminate the currently existing conflicts and aligning the Act with the Facility Improvement Financing Act, 2023.
3. THAT the amended proposal be submitted to this House within three (3) months of receipt of a copy of this report.

#### Acknowledgement

Hon Speaker, the Committee sends its gratitude to your office and that of the Clerk of the County Assembly of Kisumu for offering extreme support that culminated to success of the exercise and further production of this report.

Utmost and sincere gratitude to the managements of the health facilities for their full cooperation and dedication to this course, not forgetting the Members and Secretariat of this Committee for their dedication and resilience towards achievement of the Committee's set targets.

Finally, Hon Speaker, it is my finally my pleasure Hon Speaker, to move,

THAT, this House adopts this report of the Medical Services, Public Health and Sanitation Committee on the proposal to amend the Kisumu County Health Facilities Improvement Fund Act, 2021 in accordance with the Facilities Improvement Financing Act, 2023.

#### Establishment and mandate of the Committee

Hon Speaker, Medical Services, Public Health and Sanitation Committee was established pursuant to Orders Nos. 156, 158(3),193 of the Kisumu County Assembly Standing Orders.

#### Membership

The committee on Medical Services, Public Health and Sanitation Committee as was constituted vied the Selection Committee report of Wednesday 3<sup>rd</sup> April, 2024.

SRL NO.	NAME	POSITION
<b>Members</b>		
1.	Hon Vincent Jagongo	Chairperson
2.	Hon Emily Oginga	Vice Chairperson
3.	Hon Seth Okumu	Member
4.	Hon Nereah Okombo	Member
5.	Hon Kennedy Ooko	Member
6.	Hon Joachim Oketch	Member

7.	Hon Lumumba Owade	Member
Secretariat		
1.	Mr. Owen Ojuok	Clerk of the County Assembly
2.	Ms. Angelyne Obonyo	Clerk Assistant
3.	Mr. William Ogada	Sergeant-at-arm
4.	Ms. Jacklyne Otieno	Hansard Reporter

### Committee Mandates

The Committee executes its mandate in accordance with the provisions Orders No. 193(5) and the Second Schedule of the Kisumu County Assembly Standing Orders.

Orders No. 193(5) mandates the Committee to;

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- (c) study and review all County legislation referred to it;
- (d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 187 (*Committee on Appointments*); and
- (g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

### Legal Framework

Hon Speaker, the following are the legal status that guided the Committee during this exercise.

#### 2.1.1. Article 185(3) of the Constitution of Kenya, 2010

##### Legislative authority of county assemblies

- (3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

#### 2.1.2. Section 8(1)(f) of the County Governments Act No.17 of 2012

##### Role of the county assembly

- 1) The county assembly shall -

f. perform any other role as may be set out under the Constitution or legislation.

2.1.3. Kisumu County Assembly Standing Orders No. 194(2)(c)

Which provides for preparation of annual Workplans by Committees in each Fiscal Year.

2.1.4. Kisumu County Assembly Standing Orders No. 193(5)

The functions of a Sectoral Committee shall be to —

- (c) study and review all County legislation referred to it;
- (g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

### Introduction

#### Background to the study

Hon Speaker, the Kisumu County Facility Improvement Fund Act, 2021, was enacted to provide a framework for the improvement and financing of public health facilities in Kisumu County. However, with the introduction of the Facility Improvement Financing Act, 2023, several conflicts have arisen, necessitating a review and amendment of the earlier Act.

One of the fundamental principles of law is that the provisions of a national law supersede those of a county law where there is a conflict. The Facility Improvement Financing Act, 2023, being a national law, takes precedence over the Kisumu County Facility Improvement Fund Act, 2021 in areas of conflict. This legal hierarchy underpins the necessity for the proposed amendments to ensure compliance and alignment with the national framework.

### Objectives

The primary objectives of this exercise were to:

- a) Align the Kisumu County Facility Improvement Fund Act, 2021, with the Facility Improvement Financing Act, 2023.
- b) Ensure compliance with Section 109 of the Public Finance Management (PFM) Act.
- c) Promote efficient and effective financial management at county public health facilities.
- d) Clarify roles and responsibilities to avoid misinterpretation and improve accountability.

### Methodology

The methodology for this report involved a thorough review of:

- a) The Kisumu County Facility Improvement Fund Act, 2021.
- b) The Facility Improvement Financing Act, 2023.
- c) The Public Finance Management (PFM) Act.
- d) Input from key stakeholders including County Assembly Members, health facility administrators and Medical superintendents, and legal experts.

### Analysis of the Kisumu County Facility Improvement Fund Act, 2021

Hon Speaker, he analysis focused on identifying sections of the 2021 Act that are in conflict with the new Facilities Improvement Financing Act, 2023 and other areas that warrant amendment.

#### Conflicting Sections identified

The Committee identifies the following as the key areas of conflict which included the establishment and management of public funds, the exemption of funds from financial regulations, and the administration and expenditure of funds as shown in the table below;

SRL No.	Section of the FIF Act, 2021	Provision	Conflict	Impact	Conflicting Section of FIF, 2023
1.	Section 4	Establishment of a Public Fund	The Kisumu County Health Facilities Improvement Fund Act, 2021, establishes a Public Fund, which conflicts with the Facility Improvement Financing Act, 2023, and Section 109 of the PFM Act regarding the retention procedure.	This creates legal discrepancies in the management of the fund and its compliance with national financial management standards.	Section 5
2.	Section 5	Retention of Public Health Facilities Improvement Financing	The 2021 Act's provisions on revenue retention and management are not in line with the Facility Improvement Financing Act, 2023, which provides statutory authority for revenue retention.	Misalignment causes confusion and inefficiency in managing retained revenue.	Section 5
3.	Section 6	Exemption of the Fund	The Act exempts the fund from certain financial regulations. This	This redundancy is a recipe for potential	

			is redundant because establishing a Public Fund inherently requires ring-fencing of funds, as outlined in the Facility Improvement Financing Act, 2023.	mismanagement and lack of clarity in financial regulation.	
4.	Section 7	Expenditure of the Fund	Details on the fund's expenditure management in the 2021 Act contradict the Facility Improvement Financing Act, 2023, which provides a comprehensive framework for expenditure.	This section undermines the efficiency and purpose of the fund, reverting facilities to their status quo instead of advancing their financial management.	Section 7
5.	Section 8	Administration of the Fund	The administration of the fund by the County Treasury as per the 2021 Act conflicts with the operational requirements under the Facility Improvement Financing Act, 2023.	Misalignment in administration leads to inefficiencies and hinders the specialized management needed for facility-level operations.	
6.	Section 9	Role of County Government	The responsibilities of the County Government in the 2021 Act are not clearly defined in accordance with the Facility Improvement Financing Act, 2023.  The role of the County Government should be included to	Lack of clarity leads to misinterpretation and ineffective role management.	Section 9

			revolve around supporting effective collection, retention, and management of FIF revenues, ensure proper budgeting and planning, and include community representation in governance structures.		
7.	Section 23	Bank Accounts for Facility Improvement Financing	The requirement for separate bank accounts for each facility in the 2021 Act directly conflicts with the PFM Act, which prohibits multiple accounts for a single Public Fund.	This leads to legal non-compliance and potential financial mismanagement.	Section 20

## Additional issues for consideration

Hon Speaker, the Committee identified the following as the existing gaps that were not encompassed in the Act but require inclusion for effective administration and accountability.

Srl No.	Issue	Impact	Proposal
1.	The Public Health Unit in Kisumu County collects revenue but is not included in the Kisumu County Facilities Improvement Fund Act, 2021	Ensures comprehensive financial management and inclusion of all relevant health units within the county framework	Inclusion of the Public Health Unit Revenue
2.	The absence of the Chief Officer for Finance and ICT Services in the committee may lead to gaps in financial oversight and the integration of ICT solutions in fund management.	The Chief Officer for Finance and ICT Services brings valuable expertise in financial management, which is essential for the efficient and transparent administration of the fund. Their inclusion will enhance accountability, ensure proper financial practices, and leverage technology for better fund management.	Inclusion of the Chief Officer for Finance and ICT Services in the Health Facilities Management Committee (Section 16)
3.	Part III a) Amendment of the title		Renaming the title from "Facility Management Services" to "Management and Administration of the Health Facilities Improvement Fund".
	b) Introduction of Stakeholder roles	Defining stakeholder roles ensure effective fund administration.	<ul style="list-style-type: none"> <li>Define stakeholder roles</li> <li>Deleting the role of a fund administrator due to conflicts with reporting structures and potential audit issues.</li> </ul>

	County Health Management Team (CHMT) and Hospital Management Team (HMT)	The CHMT will coordinate the implementation of, support health facilities in planning and budgeting, develop income sources, ensure accurate financial reporting, and resource allocation.	There be established a CHMT appointed by the County Executive Committee Member (CECM) for Health, that will include various health officials to coordinate and oversee health services.
			There be established an HMT for each facility to be responsible for preparing work plans, financial reports, resource mobilization, and ensuring internal and external audits.
4.	Audit of FIF	Will ensure fulfillment of the Public Audit Act 2015.	That FIF be subjected to auditing

### Recommendations

Hon Speaker, the Committee thus recommends;

4. THAT to ensure adequate funding for facilities, FIF should be considered supplemental to, not a replacement for, regular recurrent and development budget allocations during budgeting.
5. THAT the CECM for the department of Medical Services, Public Health and Sanitation to initiate the process of considering these amendments to eliminate the currently existing conflicts and aligning the Act with the Facility Improvement Financing Act, 2023.
6. THAT the proposal be submitted to this House within three (3) months of adoption of this report.

**Conclusion**

In conclusion Hon Speaker, the Committee believes that these changes will not only ensure legal compliance but also enhance the efficiency, accountability, and effectiveness of financial management in public health facilities across Kisumu County.

It is now my pleasure on behalf of the committee to move;

THAT this House adopts a report of Medical Services, Public Health and Sanitation Committee on the proposal to be caused amendments to the Kisumu County Health Facilities Improvement Fund Act, 2021 in accordance with the Facilities Improvement Financing Act, 2023. Mr. Speaker I want to ask Hon. Okoyo to second, thank you.

**Hon. Okoyo** (MCA,. Central Kisumu) (Bows)

**Mr. Speaker** (Hon. Oraro): Honourable Members, now that the Motion for Adoption of the Report on Medical Services, Public Health and Sanitation Committee on the Proposal to Amend the Kisumu County Health Facility Improvement Fund (FIF) Act 2021 in accordance with Facilities Improvement Financing Act 2023 has been moved and seconded.

Honourable Members, as per our Standing Order I want to propose a question and I propose that the motion is open for debate

**Hon. Ouko** (West Kisumu Ward): Mr. Speaker, having observed and given the mood of the House, may I call the mover to reply, thank you.

**Leader of Majority** (Hon. Ooko, MCA, Ahero): Thank you very much Hon. Speaker, silence means that Members have fully consented to this report of the House Committee and fully satisfied. So, I do not need to speak much because when I look at the Report it is self-explanatory. Hon. Speaker, I do reply thank you.

**The Speaker** (Hon. Oraro): Honourable Members, the Motion for Adoption of A Report for Medical Services, Public Health and Sanitation Committee on the Proposal to Amend the Kisumu County Health Facility Improvement Fund (FIF) Act 2021 in accordance with the Facilities Improvement Financing 2023 has been moved, seconded and debated upon. I therefore want to put a question on the adoption of the same.

*(Question put and agreed to)*

**The Speaker** (Hon. Oraro): Honourable Members, the report of Medical Services, Public Health and Sanitation committee on the Proposal to Amend the Kisumu County Health Facilities Improvement Fund (FIF) Act, 2021 in accordance with the Facilities Improvement Financing Act, 2023 is hereby adopted today Wednesday, 19<sup>th</sup> June, 2024 at 09:31 hours.

Honourable Members, I direct that the Medical Services Committee commences the process of engagement with the stakeholders for purposes of amending the said Act. Additionally, the Clerk should provide necessary facilitation in terms of generating legislative proposal for purposes of amending the Act. 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, 19<sup>th</sup> June, 2024 at 02.30 p.m.

*(House rose at 09.32 a.m.)*

*Addendum**Hansard Team*

*Zablon Otiende - Senior Hansard Reporter (Acting Editor)*

*Edward Odanga - Hansard Reporter*

*Fanuel Okode - Hansard Reporter*

*Patrick Okoyo - Hansard Reporter*

*Jesca Otieno - Hansard Reporter*

*Jacklyne Otieno - Hansard Reporter*

*Valery Achieng' - Hansard Reporter*

*Jactone Obonyo - Intern*

*Mercy Rapando - Intern*

*Wendy Akinyi - Intern*