Tuesday, 28th July, 2015.

Afternoon Session

Time: 02:30 pm

(Prayers by Madam. Speaker, Hon. Pamela Omino)

Motion:

1. ***The Kisumu County Public Participation Bill,2014 (2nd Reading)***

Madam. Speaker (Hon. Pamela Omino): Order Hon. Members, may I call upon the Clerk to take us through the Order paper of the day.

Asst. Clerk to Assembly: This is Order Paper No. 85, First Assembly, third session of Tuesday, 28th July, 2015 at 02:30 p.m.

Asst. Clerk to Assembly: Order No Six, **Notices of Motion.**

Hon. Salome Lunghafa: Thank you Madam Speaker, I rise to give a notice of motion on Public participation Bill be read for the 2nd time.

Hon. Maurice Aloo: Madam Speaker, I think we skipped Order No.5 and I wanted to lay a paper.

Madam Speaker (Hon. Pamela Omino):Hon. Member we didn't skipped you didn't just get it, but you can go ahead and lay it.

Hon. Maurice Aloo: Madam Speaker, I laid a paper and it has never been adopted in this House, Time is running out and remember, we were given one month to investigate. Madam Speaker, we have been sitting because the list has not been adopted. I therefore request you to consider it so that we don't waste a lot of time.

Madam Speaker (Hon. Pamela Omino): Point noted.

Asst. Clerk to Assembly: Order No Seven, Statements.

<u>Commencement of business.</u>

Order Number 8: Motion: Kisumu County Public Participation Bill 2014 2nd Reading.

Madam Speaker (Hon. Pamela Omino): Yes, Hon. Salome.

Leader of Majority (Hon. Salome Lunghafa): I rise to Move a Motion on the Kisumu County Public Participation Bill 2014, 2nd reading to be read for the second time and I want to request Hon. Jane Omollo to second.

Hon. Jane Omollo: Madam Speaker, I rise to second that the Kisumu County Public Participation Bill 2014, be read for the second time.

Madam Speaker (Hon. Pamela Omino): The Kisumu Public Participation Bill has been moved for the second reading and I propose a question for further debate.

Hon. Salome Lunghafa: Thank you Madam Speaker, I propose we revert to the Committee of the Whole House and I ask Hon. Jane Omollo to second.

Hon. Jane Omollo: Thank you Madam Speaker, I rise to second that we revert to the Committee of the Whole House as proposed by Hon. Lunghafa.

(Reverting to the Committee of the Whole House)

Mr.Chairman (Hon. Moses Ochele): Hon. Members, we are now in the committee of the Whole House for the second reading of the Kisumu County Public Participation Bill 2014 and may I request the Clerk to take us through the Bill.

Asst. Clerk to Assembly: The Kisumu County Public Participation Bill be read for the second time.

KISUMU COUNTY PUBLIC PARTICIPATION BILL, 2014

ARRANGEMENT OF CLAUSES

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SCHEDULES

FIRST SCHEDULE— PUBLIC PARTICIPATION GUIDELINES
SECOND SCHEDULE—MEETINGS AND PROCEDURE FOR THE OFFICE
THIRD SCHEDULE—FORM OF A PUBLIC PETITION

A Bill for

AN ACT of the Kisumu County Assembly to give effect to paragraph 14 of part 2 of the Fourth Schedule of the Constitution; to establish modalities and platform for public participation in the governance of the county and for connected purposes

ENACTED by the Kisumu County Assembly of as follows—

PART I – PRELIMINARY

Citation.

1. This Act may be cited as the Kisumu County Public Participation Act, 2013.

Interpretation.

2. In this Act, unless the context otherwise requires—

"Constitution" means the Constitution of Kenya, 2010;

"**executive committee**" means Kisumu county executive committee established in accordance with Article 176 of the Constitution;

"**county secretary**" means a county secretary appointed under section 44 of the County Government Act, 2012;

"county *Gazette*" means a *gazette* published by the authority of the county government or a supplement of such *gazette*;

"government" means Kisumu county government;

"county public officer" means any person appointed by the county government and holding or acting in any county public office whether paid or unpaid or on contractual or permanent terms but does not include a person engaged on a part time basis in a county public body paid at an hourly or daily rate;

"output indicator" means an indicator that measures the results of activities, processes and strategies of programmes or projects of the Office;

"Office" means the Office of Public Participation established under section 5;

"public participation" means any process that directly engages the public in decision making and gives full consideration to public input in making that decision;

"the public", when used in relation to public participation in this Act, means—

(a) the residents of the county;

(b) the rate payers of a particular city or municipality;

(c) any resident civic organisation or non-governmental, private sector
or labour organization with an interest in the governance of the county, city or municipality;

(d) non-resident persons who because of their temporary presence in a the county, city or municipality make use of services or facilities provided by the county, city or municipality.

Objects and purposes of the Act.

3. The objects and purposes of this Act are, subject to Articles 1(4), 10, 201 and 232 (1) (e) of the Constitution, to establish a legislative framework to give effect to —

(a) paragraph 14 of part 2 of the Fourth Schedule of the Constitution;

(b) the objects and principles of devolution set out under Article 174 (c) and (d) of the Constitution; and

(c) Part VIII of the County Governments Act, 2012.

Guiding Principles.

4. Subject to section 87 of the County Governments Act, public participation in the county government activities will be guided by the following principles—

(a) the communities, organizations and citizens to be affected by a decision shall have a right to be consulted and involved in the decision making process;

(b) public contributions shall be taken into consideration when making the decisions;

(c) promotion of sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers;

(d) facilitation of the involvement of communities, organizations and citizens potentially affected by or interested in a decision;

(e) mandatory participants consultation and input in designing how they participate;

(f) participants equitable access to the information they need to participate in a meaningful manner;

(g) communication to participants on how their input affected the decision;

(h) adherence to the national values and principles of governance set out under Article 10 of the Constitution;

(i) adherence to the values and principles of public service set out by Article 232 of the Constitution;

(j) adherence to the principles of leadership and integrity set out in Chapter Six of the Constitution; and

(k) adherence to the principles of citizen participation set out in Section 87 of the County Governments Act, 2012.

Mr. Chairman (Hon. Moses Ochele): That is the second reading of the part ii, may I propose a question if any Member has amendment to make.

Hon. Philip Anayo: No amendment.

Mr. Chairman (Hon. Moses Ochele): It seems that there are no amendments, so therefore may I put a question that the title and arrangement of clauses be part of the Bill.

(Question and agreed)

PART II — ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE OFFICE OF PUBLIC PARTICIPATION.

Establishment of Office.

5. There is established an office to be known as the Office of Public Participation which shall be a public office in the county government and whose remuneration, administration costs and other expenses shall be provided by the County Assembly and payable from the county Revenue Fund.

Composition of Office.

6. (1) The Office shall comprise—

(a) a chairperson who shall be appointed by the Governor with approval of the County Public Service Board

(b) three members nominated by the bodies and organizations specified under subsection (2), who shall be appointed by the Governor with approval of the County Assembly

(c) ex-officio members representing the county departments specified under subsection (3); and

(d) the secretary who shall be an ex-officio member.

(2) The members referred to under subsection (1) (b), shall be nominated by—

(a) an association representing the private sector in the county;

(b) a cluster representing the registered associations of the informal sector in the county;

(c) and a cluster representing the civil society and nongovernmental organizations.

(3) The members referred to under subsection (1) (c) shall be senior public officers representing the departments responsible for—

(a) Finance;

(b) Public Works;

(c) Agriculture;
(d) Environment
(e) Education; and
(f) Planning.

Appointment and qualifications of chairperson and members.

7. (1) The appointment and nomination of the chairperson and members of the Office shall be—

(a) carried out in a competitive and transparent manner;

(b) based on merit; and

(c) in line with the constitutional requirements for public service.

(2)A person is qualified for appointment as chairperson or member of the Office if that person—

(a) is a citizen of Kenya;

(b) holds a degree from a recognized university;

(c) has knowledge and relevant experience in community service or social work; and

(d) Meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(3) A person shall not be qualified for appointment as the Chairperson or as a member under section (1) if such person—

(a) is declared to be of unsound mind;
(b) is an un-discharged bankrupt; or
(c) has been removed from office for contravening the provisions of the Constitution or any other written law.

Functions of the Office.

8. (1) The Office of Public Participation shall facilitate and co-ordinate public participation in the governance of the county as provided under paragraph 14 of part 2 of the Fourth Schedule to the Constitution including the participation of communities, organizations and citizens forming the public in the decentralized units within the county.

(2) In the performance of its function and obligations under subsection (1), the Office will facilitate and oversee the effective coordination of the operations of the Office and shall —

(a) establish structures for public participation as is required under section 91 of the County Governments Act.

(b) ensure that public participation activities are inclusive of the broad spectrum of the public and not limited to the traditional sector stakeholders;

(c) formulate policy relating to public participation;

(d) advise county government on the operations of the Office;

(e) formulate training, development and capacity building for its employees;

(f) collaborate with relevant institutions in the county to promote access to information and civic education programmes;

(g) Provide the public with a clear context for which public participation is to be undertaken and how decisions will be made.

(h) inform the public of existing or potential linkages with other policy initiatives, issues or public participation activities;

(i) inform the public on whether financial resources correspond to the nature and scope of the public participation planned;

(j) provide information on whether there is sufficient and adequately trained staff to carry out the planned public participation;

(k) ensure that clear and reasonable timelines are established for public input and comment and that these timelines are communicated to the participants;

(l) ensure that the public participation device used is appropriate to the nature of the policy initiatives, issues involved, the target groups affected and the staff and resources available;

(m) establish a feedback process to the public including opportunities for the public to forward additional comments or input to the decision taken;

(n) develop an evaluation framework to the public participation plan;

(o) ensure that the public, affected groups, and stakeholders are informed of the results of the public participation process and how their input was used in the decision taken;

(p) ensure that public participation processes adhere to the relevant legislation, regulations, policies or guidelines affecting the rights and responsibilities of the public, officers and the different participants involved;

(q) establish whether there is support for the development of new public participation techniques and technologies;

(r) provide logistical support and strategies to the County Assembly, including the development of consultation plans and information facilitating public participation in any matter before the Assembly;

(s) maintain an up to date database or inventory of all its activities;

(t) for the purpose of creating the culture of, and respect for the principles of public participation, facilitate public education and training programmes in relating to public participation;

(u) carry on research on matters relating to public participation generally;

(v) prepare and submit reports to the County Assembly on the status of the implementation of its functions and obligations under this Act;

(w) prepare and submit an annual report to the Governor for submission to the county assembly on the status of public participation in the affairs of county governance;

(x) monitor and evaluate the performance of the Office mandate; and

(y) Perform any other function as may be assigned by legislation.

(3) In the performance of its functions and obligations under this section and Part III, the Office shall be guided by the guidelines provided in the First Schedule.

(4) Despite subsection (1), the County government organ or entity desiring to be facilitated to convene a public participation activity as required by any relevant law, to show to the Office that it can mobilize the relevant public for that public participation activity.

(5) It shall be the responsibility of every County government organ or entity to relevant public for any public participation activity.

(6) Two months before the end of the financial year, every County government organ or entity required to undertake public participation must submit a timetable of public participation activities envisioned for the next financial year to the Office.

Powers of the Office.

9. (1) The Office may do or perform all such other things or acts as may be necessary for the proper discharge of its functions under this Act or as may lawfully be done by a public office.

(2) Without prejudice to the generality of subsection (1) the Office shall have power to—

(a) advice the county executive committee on matters of policy relating to public participation;
(b) enter into agreements or arrangements with any institution, association or professional organizations as the Office may consider appropriate in furtherance of the purpose for which the Office is established;
(c) enforce set standards regarding public participation;
(d) manage, supervise, secure and administer the assets of the Office in such manner as best promotes the purpose for which the Office is established;

(e) delegate any of its powers to any officer, employee, agent, section or committee of the Office;

(f) undertake any activity necessary for the fulfillment of any of its functions under this Act.

Committees of Office.

10. (1) The Office may establish functional based committees for the better carrying out of its functions.

(2) A committee established under subsection (1) may comprise members of the Office and such other co-opted persons who may not be more than two as the Office may determine.

(3) No decision of any committee shall be effective unless it has been confirmed by the Office.

Term of Office.

11. (1) The chairperson shall be appointed for a term of three years and is eligible for re-appointment upon exemplary performance.

(2)The chairperson and members of the Office shall serve on a part time basis.

Remuneration.

12. (1) The chairperson and members of the Office, other than the ex-officio members, shall be paid such salary, allowances and benefits as the County Executive Committee shall, with the approval of the County

Assembly and on the advice of the Salaries and Remuneration Commission determine.

(2) The ex-officio members of the Office shall be paid such allowances and benefits as the County Executive Committee shall, with the approval of the County Assembly and on the advice of the Salaries and Remuneration Commission determine.

Removal from Office.

13. (1) The chairperson or a member may be removed from office for—

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct;

(c) incompetence or negligence of duty;

(d) bankruptcy;

(e) is found guilty of professional misconduct by the relevant professional body;

(f) in any particular case, failure to declare his or her interest in any matter being considered or to be considered by the board or committee; or

(g) Absence from three consecutive meetings of the Office without a reasonable explanation.

(2) A member may be removed from office of chairperson or member of the Office on any of the grounds in subsection (1) by-

(a) the Governor;

(b) the Office, supported by the vote of at least two-thirds of the members of Office; or

(c) Upon petition by the residents of a county.

(3) Before a member is removed from office under subsection (2), the member shall be given an opportunity to provide a defence against any of the allegations against him or her.

Vacation of office.

14. A person shall cease to be a member of the Office if that person—

(a) resigns in writing, to the Governor;
(b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
(c) is declared bankrupt;
(d) is unable to perform the functions of his or her office by reason of mental or physical infirmity;
(e) ceases to be a member of the nominating body section 6 (2); or
(f) dies.

Filling of Vacancy.

15. Where a vacancy occurs in the membership of the Office under section 13 or 14, the Governor shall, appoint a new member in accordance with the provisions of this Act.

Secretary.

16. (1) There shall be a secretary to the Office who shall be competitively recruited by the County Public Service Board and appointed by the Governor.

(2) A person shall be qualified for appointment as a secretary to the Office if the person –

(a) Is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya;

(c) has at least ten years proven experience at management level;

(d) has extensive experience in public administration; and

(e) meets the requirements of Chapter Six of the Constitution.

(3) The secretary shall be the chief executive officer of the Office and head of the secretariat and shall be responsible to the Office.

(4) The secretary shall hold office for a term of five years and shall be eligible for re-appointment for a further term of five years.

Removal of Secretary.

17. (1) The secretary may be removed from office by the Governor in accordance with the terms and conditions of service if—

(a) is unable to perform the functions of the office by reason of mental or physical infirmity;

(b) is declared or becomes bankrupt or insolvent;

(c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;

(d) resigns in writing to the County Governor;

(e) without reasonable cause, is absent from three consecutive meetings of the board or committee within one financial year;

(f) (f)found guilty of professional misconduct by the relevant professional body;

(g) disqualified from holding a public office under the Constitution;

(h) convicted of an offence and is sentenced to imprisonment for a term of six months or more;

(i) where required, fails to declare his or her interest in any matter being considered or to be considered by the Office;

(j) engages in any gross misbehavior or gross misconduct.

(2) Before the Secretary is removed from office under subsection (1), the Secretary shall be given—

(a) sufficient notice of the allegations made against him or her; and

(b) an opportunity to present his or her defense against the allegations.

Meetings.

18. (1) The business and affairs of the Office shall be conducted in accordance with the Second Schedule.

(2) Except as provided in the third Schedule, the Office may regulate its own procedure subject to the law governing meetings and proceedings of Boards of State Corporations.

(3) The Office may invite any person to attend any of its meetings and to participate in its deliberations, but that person shall not vote on any matter requiring decision of the Office.

Employees of the Office.

19. The Chief Officer shall make available to the Office on full time basis, the services of adequate county public officers as are necessary for the proper and efficient exercise of the functions of this Act.

Protection from personal liability.

20. No matter or thing done by a member of the Office or any officer, employee or agent of the Office shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the Office,

render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever.

PART III— COMMUNITY PARTICIPATION AND INVOLVEMENT

Culture of democratic governance

21. (1) A county must develop a culture of democratic governance that complements a system of participatory governance, and the Office must for this purpose-

(a) encourage, and create conditions for, the local community to participate in the
affairs of the county, including in—

i. the preparation. implementation and review of its integrated development plan;
ii. the establishment, implementation and review of its performance management system in the County:
iii. the monitoring and review of its performance, including the outcomes and impact of such performance:
iv. the preparation of its budget; and
v. strategic decisions relating to the provision of county services and functions.

(b) contribute to building the capacity of—

i the local community to enable it to participate in the affairs of the county; and
ii ward representatives and staff to foster community participation; appropriate for the purpose

(2) Despite subsection (1) must not be interpreted as permitting interference with a county government right to govern and to exercise the executive and legislative authority of the
County.

Participation by local community

22. (1) Participation by the local community in the affairs of the county must take place through—

(a) political structures for participation in terms of the County Government Act, Urban Areas and Cities Act, Public Finance Management Act and other relevant Act;
(b) the mechanisms, processes and procedures for participation in participatory
governance established in terms of this Act and any other relevant Act;
(c) other appropriate mechanisms, processes and procedures established by the
office or county assembly; and
(e) generally applying the provisions for participation as provided for in this Act.

(2) The Office must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the county, and must for this purpose provide for—

(a) the receipt, processing and consideration of petitions and complaints lodged by members of the local community;
(b) notification and public comment procedures, when appropriate:
(c) public meetings and hearings by the county government organs and other political structures and political office bearers of the county when appropriate;
(d) consultative sessions with locally recognized community organizations and, where appropriate, minorities; and
(e) report-back to the local community.

(3) When establishing mechanisms, processes and procedures in terms of subsection (2) the Office must take into account the special needs of–-

(a) people who cannot read or write;
(b) people with disabilities:
(c) women: and
(d) other disadvantaged groups.

(4) The County Executive Committee Member may establish one or more advisory committees consisting of persons who are not ward representatives to advise the county executive committee member and the Office on any matter within the County Government competence. When appointing the members of such a committee, gender representation must be taken into account.

Communication by Office

23. (1) The Office must communicate to its community information concerning—

(a) the available mechanisms, processes and procedures to encourage and facilitate community participation;

(b) the matters with regard to which community participation is encouraged;

(c) the rights and duties of members of the local community; and

(d) county governance, management and development.

(2) When communicating the information mentioned in subsection (1), a county government
must take into account—

(a) language preferences and usage in the county; and

(b) the special needs of people who cannot read or write.

Notification by Office

24. (1) When anything must be notified by the Office through the media to the local community in terms of this Act or any other applicable legislation, it must be done–-

(a) in the local newspaper or newspapers of its area;

(b) the Office website; or

(c) by means of radio broadcasts covering the area of the county.

(2) Any such notification must be in the official languages, having regard to language preferences and usage within its area.

(3) A copy of every notice that must be published in the *county Gazette* or the media in terms of this Act or any other applicable legislation must be displayed at the Office and County Government main offices.

(4) When the Office invites the local community to submit written comments or representations on any matter before the County Government, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the Office named in the invitation will assist that person to transcribe that person's comments or representations.

(5) When the Office requires a form to be completed by a member of the local community, a staff member of the Office must give reasonable assistance to persons who cannot read or write, to enable such persons to understand and complete the form.

(6) If the form referred to in subsection (5) relates to the payment of money to the County Government or to the provision of any service, the assistance must include an explanation of its terms and conditions.

County Citizens' Participation Forum.

25. (1) On the request of the county executive committee, a county government organ, member of the Senate concerning a county citizen participation forum, the Office shall facilitate resource the convening of a citizens' participation forum and shall convene a citizens' participation forum once in three months to discuss any matter of public importance affecting the public or any community in the county or the delivery of services by the County Government.

(2) The Office shall, when a forum is convened, ensure that the forum is fully publicized to enable the attendance and participation of a wide section of the population, including gender and marginalized groups and communities.

(3) The Office shall appoint a secretary for every forum to take the minutes of the proceedings of the forum and shall publicize the minutes throughout the county-

(a) taking note of the issues arising from the forum for action or response by the relevant organ or organs of the county government or other entity; and

(b) Giving feedback on the action taken on the issues raised.

(4) The Office shall facilitate meaningful participation of the citizens in the forum including—

(a) ensuring accessibility to the forums; and

(b) The use of language that is understandable by the citizens including person with disabilities.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of that County Assembly or as a Member of Parliament.

(6) Nothing in this section shall be construed as derogating from the provisions of any other written law relating to the holding of public meetings.

Sub-county, City and Urban area citizen participation forum.

26. (1) On the request of a sub-county or town administrator, city or municipal manager or member of the county assembly in the areas for a sub-county, city or urban area citizen participation forum, the Office shall facilitate the convening of a citizens' participation forum to discuss and give views on -

(a) issues of interests in the sub-county, city or urban area;

(b) the implementation of county policies and plans in the sub-county, city or urban area; or

(c) the administration and functioning of the sub-county, city or urban area; or

(d) the delivery of services by the county public service in the sub-county, city or urban area.

(2) The provisions of subsections (2) to (6) of section 25 shall apply to a forum convened under this section.

Ward or village citizen participation forum.

27.(1) A ward or village administrator or a member of the county assembly may convene a ward or village citizen participation forum and the Office shall facilitate the organization of the forum to discuss and give views on – with respect to the following—

(a) issues of interests in the ward or village, as the case may be;
(b) implementation of county or sub county policies and plans in the ward or village;
(c) the administration and functioning of the ward or village; or
(d) the delivery of services by the county public service in the ward or village.

(2)The forum shall be open to all citizens of the ward or village who desire to attend and citizens shall be allowed to speak through representatives or directly.

(3) The convener of the forum shall appoint a secretary to take the minutes of the proceedings of the forum and shall, with the assistance of the Office publicize the minutes throughout the ward or village and shall—

(a)taking note of the issues arising from the forum for action or response by the relevant organs of the county government; and

(b) giving a feedback on the action taken on the issues raised.

(4) The convener of the forum must ensure that the forum is fully publicized to enable attendance and participation of a wide section of the population, including marginalized groups and communities.

Citizen initiative forum.

28. (1) A person from this county may request facilitation for purposes of convening a citizen initiative forum from the Office.

(2)Where the Office declines to issue a request under subsection (1), the Office shall issue written reasons for such decline.

(3)A person dissatisfied with the decision of the Office under subsection (2) may appeal to the county executive committee member for review of that decision.

Mr. Chairman (Hon. Moses Ochele): Hon. Members that is the 2nd reading of part 3 of Kisumu County Public Participation 2014.May I propose that we discuss it. Hon. Salome.

Hon. Salome Lunghafa: In section 27(1) we delete the ward "May" and insert "Shall"

28.So that it reads "(1) A ward or village administrator or a member of the county assembly shall convene a ward or village citizen participation forum and the Office shall facilitate the organization of the forum to discuss and give views on – with respect to the following—"

Mr. Chairman (Hon. Moses Ochele): The amendment has been proposed by Hon. Salome, that in Part 3 27(1) so that the word "May" be replaced by the word "Shall"

Hon.Nereah Okombo: I stand to second.

Mr. Chairman (Hon. Moses Ochele): May I put a question to it.

(Question put and agreed.)

PART IV— PETITIONS

Form of Petition.

29. A petition to County Executive Committee shall be in the form set out in the fourth Schedule and shall—

(a) be handwritten, printed or typed;

(b) be in English or Kiswahili and be written in temperate language;

(c) be free of alterations and interlineations in its text;

(d) be addressed to the county secretary;

(e) have its subject-matter indicated on every sheet if it consists of more than one sheet;

(f) confirm that efforts have been made to have the matter addressed by the relevant body and that there has been no response on the matter from the relevant body or that the response has not been satisfactory;

(g) confirm that the issues in respect of which the petition is made are not pending before any court or other constitutional or legal body;

(h) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;

(i) subject to paragraph (m), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;

(j) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;

(k) not have any letters, affidavits or other documents annexed to it;

(l) in the case of a petition presented by a Member of County Assembly on behalf of a petitioner, be countersigned by the Member presenting it; and

if the petitioner is unable to sign, be signed by a witness in whose presence the petitioner shall make his or her mark or thumb impression on the petition.

Procedure for presenting petition.

30. (1) A petition to the County Executive Committee shall be submitted to the Secretary by the petitioner.

(2)The Secretary shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements of this Act.

(3) Where the county secretary considers that a petition does not comply with section 26, the secretary may give such directions as are necessary to ensure that the petition is amended to comply with that section.

Consideration of petition.

31. (1) The Secretary shall, if satisfied that the petition meets the requirements of this Act, forward the petition to the county executive committee or the relevant body for consideration.

(2) The county executive committee or the relevant body relating to the petition may appoint a committee to investigate the subject matter of the petition.

Procedure in the investigation

32. (1) The county executive committee, the relevant body or a committee appointed in relation to a petition may hold public hearing and may –

(a) invite individuals to submit memoranda or appear before the committee to give evidence on a petition;
(b) invite any Executive Secretary or any person holding public office to appear before them to give evidence relating a petition;

(c) employ qualified persons to assist it in the discharge of their functions;
(d) with the support from the Office, hold public hearing in relation to the petition.

(2) The Office shall be involved in any public hearing referred to in subsection (1).

(3) The evidence given by a person invited under sub section (1) shall be taken down in writing and a copy of it sent to the person who gave the evidence.

(4) The presentations and comments given during a public hearing shall be recorded and a copy of it shall be publicized by posting the copy in a conspicuous place at the offices of the county government and on the website as the case may be.

(5) A person giving evidence may, within seven days from the date of receipt of the copy under sub section (2), suggest corrections to his or her evidence due to inaccurate reporting and the evidence shall be printed with such corrections as may be appropriate.

(6) The county executive committee, the relevant body or the committee may at its discretion refuse to hear any irrelevant evidence or to listen to any unruly or unmanageable person giving evidence.

(7) Any document received at the investigation of a petition shall not be withdrawn or altered without the knowledge and approval of the executive committee.

(8) A document submitted to the investigation of a petition may be released to the person who submitted it at the conclusion of the deliberations.

(9) The committee appointed under section 28 shall, as soon as practicable after the conclusion of the investigation, submit its findings and recommendation to the county executive committee or the relevant body for a final decision to be made on the petition.

(10) The county secretary shall, within fifteen days of the decision of the County executive or the relevant bodies, in writing, notify the petitioner of the decision.

Publication of decision on petition

33. The County Secretary shall, within fourteen days after the decision is communicated to the petitioner or petitioners, with support from the Office —

(a) give notice of the decision to the public by posting a copy in a conspicuous place at the offices of the county government;
(b) inform the public that a copy or extract of the decision is available on its website;
(c) publish the decision in the county Gazette, print or electronic media; or
(d) publish the decision in such other manner as may be appropriate for the dissemination of information.

Register of petitions.

34. (1) The county secretary shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the county executive committee or the relevant body.

(3) The register of petitions under subsection (1) shall be accessible to the public during working hours.

Appeal against decision on a petition

35. Any petitioner who is dissatisfied by the decision of the county government or the relevant body may appeal to the Commission on Administrative Justice pursuant to the Commission on Administrative Act, 2011.

Petitions to Assembly

36. A petition may be presented or submitted to the Assembly by the petitioner or a Member of the Assembly on behalf of the petitioner in accordance with the Standing Orders of the Assembly.

Mr.Chairman (Hon. Moses Ochele) Hon. Members that is the 2nd reading of the part 4 of the Kisumu County Public Participation 2014. I propose a question that any Hon. Member that may contribute inform of amendments.

Hon. Nereah Okombo: Thank you Mr. Chairman, there were proposed amendments by the committee and I think those amendments should be considered in this 2nd reading, like in 29(b) was amend mended to read, be in English or Kiswahili and In brails be written in temperate language; so the ward " brail" was added.

Mr.Chairman (Hon. Moses Ochele) : The proposals from the Committee report were taken care of when that report was adopted by this House, so if there is any amendments other than the amendments proposed in the Committee report you can do so.

(No amendments proposed by Hon. Members)

Mr.Chairman (Hon. Moses Ochele): Hon. Members it seems you do not have any amendments in part 4 of the Kisumu County Public Participation 2014, therefore may I put a question, that Part 4 of this Bill be adopted by this House with amendments therein.

(Question put and agreed)

PART V – FINANCIAL PROVISIONS

Funds of the Office.

37. The funds of the Office shall consist of—

(a) monies allocated by the County Assembly for the purposes of the Office;

(b) such monies or assets as may accrue to the Office in the course of the exercise of its powers or in the performance of its functions under this Act; and

(c) all monies from any other source provided, donated or advanced to the Office.

Financial year.

38. The financial year of the Office shall be the period of twelve months ending on the thirtieth day of June in each year.

Annual estimates.

39. (1) Before the commencement of each financial year, the Office shall cause to be prepared estimates of the revenue and expenditure of the Office for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Office for the financial year concerned and, in particular, shall provide for —

(a) maintenance of buildings and grounds of the Office;

(b) funding of training, research and development of activities of the Office;

(c) the funding of the schedules and organization of public participation meetings;

(3) The annual estimates shall be approved by the Office before the commencement of the financial year to which they relate and shall be submitted to the county secretary for tabling in County Assembly.

(4) No expenditure shall be incurred for the purposes of the Office except in accordance with the annual estimates approved under subsection (3).

Accounts and audit.

40. (1) The Office shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Office.

(2) Within a period of three months after the end of each financial year, the Office shall submit to the county Auditor-General the accounts of the Office in respect of that year together with a —

(a) statement of the income and expenditure of the Office during that year; and

(b) Statement of the assets and liabilities of the Office on the last day of that financial year.

(3) The annual accounts of the Office shall be prepared, audited and reported upon in accordance with the provisions relating to public audit.

Bank accounts.

41. The Office shall open and maintain such bank accounts as shall be necessary for the performance of its functions.

Mr.Chairman (Hon. Moses Ochele): Hon. Members, that marks the end of reading of part 5 which deals with the Financial Provision of The Kisumu County Public Participation 2014, may I propose a question that it be discussed.

Hon. Nereah Okombo: Thank you Mr. Chairman, the bill provides funds that shall be allocated by the County Assembly but there is no percentage anchored on it, and I want to propose that it be 2% of the total budget of the County be allocated by the County Assembly for the purposes of public participation.

(Amendment dropped)

(NO AMENDMENTS MADE IN PART V)

(QUESTION AND AGREED)

PART VI— MISCELLANEOUS

Performance agreement.

42. (1) A performance agreement shall be made between the executive committee and the Office in relation to the mandate of the Office.

(2) The performance agreement shall describe the key outputs that the Office shall achieve in any financial year and such output shall be defined in terms of performance indicators and targets.

(3) The executive committee may request for an independent report on the implementation of the performance agreement.

(2) The County Executive Committee Member must establish mechanisms to monitor and review the Office performance management system.

Executive Committee's power of direction.

43. The County Executive Committee shall oversee the performance of the activities of the Office under this Act and may, in writing, give the Office directions on matters of policy not inconsistent with the provisions of this Act.

Annual report.

44. (1) The Office shall, at the end of each financial year cause an annual report to be prepared.

(2) The Office shall submit the annual report to the Governor and the County Assembly not later than three months after the end of the year to which it relates.

(3) The annual report shall contain, in respect of the year to which it relates—

(a) the financial statements of the Office;

(b) a description of the activities and outcomes of public participation; and

(c) any other information, that the Office may consider relevant.

(4) The Office shall cause the annual report to be published and publicized in the *County Gazette* and in at least one newspaper with national circulation and such other manner as the Office may determine.

Management of information.

45. (1) The Office shall publish and publicize all important information affecting the county within its mandate.

(2) A person may request for information within the mandate of the Office in public interest.

(3) A request for information under subsection (2)—

(a) shall be addressed to the Secretary or such other person as the Office may designate for that purpose;

(b) may, where the Office incurs expense in providing the information, be subject to payment of a reasonable fee; and

(c) may be subject to confidentiality requirements of the Office.

(4) Subject to the provisions of Article 35 of the Constitution and the law relating to freedom of information and data protection, the Office may decline to give information to an applicant where—

(a) the request is unreasonable in the circumstances; or

(b) the applicant fails to satisfy any confidentiality requirements imposed by the Office.

(5) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

(6) Every member and staff of the Office shall sign a confidentiality agreement.

Publicity.

46. Subject to section 91 of the County Governments Act, the Office shall, in such manner as it considers appropriate, publish a notice for public information specifying—

(a) the location of all its offices; and

(b) its address or addresses, telephone numbers and other means of communication or contact with the Office.

Offences and penalty.

47. A person or petitioner who—

(a) without justification or lawful excuse, obstructs hinders, threatens a member of the Office or a member of staff acting under this Act;

(b) submits false or misleading information;

(c) without reasonable excuse, fails to appear before a meeting of the Office when required to do so;

(d) misrepresents to or knowingly misleads a member of the Office or a member of staff of the Office acting under this Act,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Review

48. A person who is aggrieved by a decision of the Office under this Act may apply to the Office for review of that decision.

Regulations

49. (1) The executive committee member responsible for matters relating to information may, in consultation with the Office, make regulations for the better carrying into effect of the provisions of this Act.

(2) The executive committee member referred to in subsection (1) shall make regulations in the conduct and modalities of meetings in various fora.

FIRST SCHEDULE (s.8)

PUBLIC PARTICIPATION GUIDELINES

The following guidelines shall guide the county government and the Office when conducting public participation activities:

1. Build a realistic timeframe for the consultation, allowing reasonable period for each stage of the process.

2. Be clear as to the type of the public, community or profession to be consulted, the issues or matter for consultation and for what specific purpose.

3. Ensure that the consultation document is as simple and concise as possible, providing the summary of the issues or matter for consultation and clearly setting out the questions to be address.

4. Publish and distribute the documents as widely as possible, including but not limited to providing hard copies, television advertisements, websites, community radio announcements and traditional media.

5. Ensure that all responses are carefully and open-mindedly analysed and the results made widely available to the public, including an account of the views expressed and the reasons for the decisions taken.

6. Disclose all information relevant for the public to understand and evaluate the decision.

7. Ensure that stakeholders have fair and equal access to the public participation process and their opportunity to influence decisions.

8. Ensure that all commitments made to the public, including those by the decision-maker, are made in good faith.

9. Undertake and encourage actions that build trust and credibility for the process among all the participants.

10. Be personally responsible for the validity of all data collected, analyses performed, or plans developed by it or under its direction.

11. Ensure that there is no misrepresentation of work performed or that was performed under the relevant body's direction.
12. Examine all of its relationships or actions, which could be legitimately interpreted as a conflict of interest by clients, officials, the public or peers.

13. Should not engage in conduct involving dishonesty, fraud, deceit, misrepresentation or discrimination.

14. Should not accept fees wholly or partially contingent on the client's desired result where that desired result conflicts with its professional judgment.

Mr.Chairman (Hon. Moses Ochele): That is the second reading of the first schedule and may I propose we discuss it with amendments if there is any.

(NO AMENDMENT)

(QUESTION PUT AND AGREED)

SECOND SCHEDULE (s.18)

MEETINGS AND PROCEDURE FOR THE OFFICE

1. The county secretary shall convene the first meeting of the Office.

2. The Office shall decide when and where it meets and the meetings shall be convened by the chairperson.

3. The Office shall have at least six meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

4. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member.

5. A meeting shall be presided over by the chairperson or in his or her absence, by the vice-chairperson.

6. The members of the Office shall elect a vice-chairperson from among themselves-

(a) at the first sitting of the Office; and
(b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

7. The chairperson and vice-chairperson shall not be of the same gender.

8. If any person has a personal or fiduciary interest in any matter before the Office, and is present at a meeting of the Office or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and

shall not take part in any consideration or discussion of, or vote on any question touching such matter.

9. A disclosure of interest made under paragraph 8 shall be recorded in the minutes of the meeting at which it is made.

10. A person who contravenes paragraph 8 commits an offence and is liable, upon conviction, to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding seven years, or to both.

11. No member or staff of the Office shall transact any business or trade with the Office.

12. (1) Subject to paragraph 13, the quorum of the meeting shall not be less than half of the appointed members.

14. Where there is a vacancy in the Office, the quorum of the meeting shall not be less than three appointed members.

15. A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.

16. The Office shall keep minutes of proceedings of its meetings and decisions taken.

Mr.Chairman (Hon. Moses Ochele): Second schedule of Kisumu public participation bill 2014 has been read by the Clerk may I propose if we can debate on it.

Hon. Nereah Okombo: I am proposing a specific duration for the Board to convene the meeting within the first 90 days after enactment of the bill and I request Hon. Lunghafa to second.

Hon. Jane Omollo: I second the amendments.

Mr.Chairman (Hon. Moses Ochele): Hon. Members, there is a proposed amendment by Chair of justice and it was seconded by Hon. Jane Omollo, and that is we are introducing time line after the assent by H.E. Governor, that we introduce a time line of 90 days within which the Committee shall convene a meeting after the assent by H.E. Governor.

(Question put and agreed)

Mr.Chairman (Hon. Moses Ochele): The second schedule has been adopted with amendments therein, may I put a question for the adoption of the second schedule.

(Question put and agreed)

FOURTH SCHEDULE (s. 29)

FORM OF A PUBLIC PETITION

TO: The Kisumu County Government/Assembly/Office

WE/I, the undersigned and humble Petitioner(s) of…….. (H*ere insert the names or description of the petitioner or petitioners and address including their status: residents of a particular area, workers, particular part of the community, minority or marginalised group etc.)*

DRAW the attention of the County Government/Assembly to the following:

(*Here, briefly state the reasons underlying the petition and request for the intervention of the Government/Assembly by outlining the grievances or problems and summarizing the facts which the petitioners wish the Government/Assembly/Office to consider)*

THAT:

(Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.)

THAT:

(Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.)

THEREFORE your humble petitioners PRAY that the Government / Assembly/ Office:-

(Here, set out the prayer, by stating in summary what action the petitioners wish the Government/Assembly to take or refrain from)

and your PETITIONERS will ever Pray.

Name of petitioner	Full Address	National ID or Passport No.	Signature/Thumb print
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Subsequent Pages

PETITION concerning.....
(Here, repeat the summary in first page)

***This form may contain such variations as the circumstances of each case may require.**

Hon. Caroline Agwanda: Thank you Mr. Chairman I want to propose amendment that fourth schedule to be third schedule and I request Hon. Charles Aguko to second.

Hon. Charles Aguko: Mr. Chairman. I rise to second the amendment raised by Hon. Agwanda that we amend fourth schedule to read third schedule.

Mr.Chairman (Hon. Moses Ochele): A proposal has been made by Hon. Agwanda and seconded by Hon. Aguko, that we change fourth schedule to read third schedule.

(Question put and agreed)

Mr. Chairman (Hon. Moses Ochele): May I put a question that the third schedule of Kisumu Public Participation Bill be adopted with amendments therein.

(Question put and agreed)

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to promote participation of the public in matters of the county government and this includes the establishment of the office of public participation. Public participation may be through filing of petitions, policy formulations on all public affairs that promote good governance.

Dated the 20th May, 2014

Hon. Nereah Akoth Okombo
Chairperson, Justice and Legal Affairs Committee

Mr. Chairman (Hon. Moses Ochele): That is the second reading of the memorandum of object and reason; may I propose we put amendments if there is any? Since there is no amendment on memorandum of object and reason, may I now put a question that this House adopt this part of memorandum of object and reasons?

(Question put and agreed)

Mr. Chairman (Hon. Moses Ochele): Hon. Members we have come to the end of the second reading of the Kisumu County Public participation Bill 2014 with amendments in various parts therein and may I put a question that the Kisumu County Public Participation 2014 be adopted by this House with amendments therein.

(Question put and agreed).

Hon. Salome Lunghafa: I propose that we revert to the plenary so that we can adopt the Bill and I request my chair to second.

Hon. Nereah Okombo: I want to second the proposal by the Hon. Lunghafa that we revert to plenary.

(House reverting to plenary).

Madam Speaker (Hon. Pamela Omino): Yes, the chair of the Whole House Committee can you report to the plenary.

Hon. Moses Ochele (Chairperson Committee of the whole House): Thank you Madam Speaker, I had the Honour of being the chairman of the committee of the whole house, where we were deliberating on the public participation Bill 2014 and Hon. Members contributed so well till we reach the final end of the Bill, from the deliberation I came up with the following report:

1. We started with arrangement of clauses which was passed with one amendment on numbering where we had Number 13 was changed to read Number 12 , as was proposed in the Committee report of Justice and legal affairs.
2. Second was on part one which involves short titles and preliminaries, which was passed without amendments.
3. Part 3 was also passed without amendments.
4. Part 4 was passed with amendments which was proposed by Hon. Lunghafa and seconded by Hon. Okombo.
5. Part 4(5) was also passed with amendments as proposed in the Committee report of justice and legal Affairs.
6. Part five was also passed with no amendment.
7. Part 6 was passed with no amendment.
8. First schedule was also passed without any amendment.
9. We had an amendment in the second schedule, where Hon. Nereah proposed a time frame of 90 days for that office to be operational zed and it was seconded by Hon. Jane Omollo.
10. In the fourth schedule there was a proposal by Hon. Agwanda that we change fourth schedule to read third schedule.

11. In memorandum of object and reasons were also passed without amendments.

Those were the few amendments made as we were deliberating on the Kisumu County Public Participation Bill 2014.

Hon. Nereah Okombo: Thank you Madam Speaker, I stand to second the report as tabled by the chair of the Committee of the whole House on the Kisumu County Public Participation Bill 2014.

Madam Speaker (Hon. Pamela Omino): A committee report has been tabled by the chair of the Committee of the whole House on the Kisumu County Public Participation Bill 2014 for the second reading. The following were the amendment has read by the Chairman of the Committee of the Whole House.

- We started with arrangement of clauses which was passed with one amendment on numbering where we had Number 13 was changed to read Number 12 , as was proposed in the Committee report of Justice and legal affairs.
- Second was on part one which involves short titles and preliminaries, which was passed without amendments.
- Part 3 was also passed without amendments.
- Part 4 was passed with amendments which was proposed by Hon. Lunghafa and seconded by Hon. Okombo.
- Part 4(5) was also passed with amendments as proposed in the Committee report of justice and legal Affairs.
- Part five was also passed with no amendment.
- Part 6 was passed with no amendment.
- First schedule was also passed without any amendment.
- We had an amendment in the second schedule, where Hon. Nereah proposed a time frame of 90 days for that office to be operational zed after the assent by the H.E. Governor and it was seconded by Hon. Jane Omollo.
- In the fourth schedule there was a proposal by Hon. Agwanda that we change fourth schedule to read third schedule.
- In memorandum of object and reasons were also passed without amendments.

So I want to put a question for the adoption of this report tabled before this House by the chair of the Committee of the whole House.

(Question put and agreed)

(Adjournment)

Madam Speaker (Hon. Pamela Omino): There being no any other business this House stand adjourned until 29th July, 2015 Wednesday morning.

(All Arise)

(Speaker's Procession)

(House Adjourned at 6.00 P.M)