BCA/BSA/ 28/2015 /10

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF BOMET

FIRST ASSEMBLY- THIRD SESSION

BUDGET AND APPROPRIATION COMMITTEE

REPORT

ON THE GOVERNOR'S MEMORANDUM ON THE APPROPRIATION BILL, 2015

9TH JULY 2015

BOMET COUNTY ASSEMBLY
JOURNALS & TABLE OFFICE
TABLED: 9/7/2015
P. O. BOX 590-20400
BOMET.

Tabled on 9/7/2015

BOMET COUNTY ASSEMBLY
CLERK
09 JUL 2015
P. O. BOX 590-20400 BOMET

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1 PREFACE

1.1 Background

On behalf of the Members of the Budget Committee and as required under standing order No. 190, I take this opportunity to present to the House, the Committee's Report on The Governor's Memorandum on The Bomet County Appropriation Bill, 2015 as submitted to the County Assembly on 6th July, 2015.

Mr. Speaker Sir,

The constitution and the PFM Act placed significant responsibilities on the County Assembly over the management of public resources particularly with regard to resource mobilization, allocation, monitoring and control.

Mr. Speaker sir,

The Budget and Appropriation committee as currently constituted comprises of the following Honorable members:

1. Hon. BenardNgeno - Chairperson
2. Hon. Aurelia Rono – V. Chairpeson
3. Hon. John Molel
4. Hon. Cecilia Towett
5. Hon. TapleleiRotich
6. Hon. SamwelBor
7. Hon. JosphatKirui
8. Hon. Sammy Kirui
9. Hon. Wilson Keter
10. Hon. Leah Kirui
11. Hon. Samson Towett
12. Hon. Julius Korir
13. Hon. Robert Serbai

1.2 Mandate of the Committee

The standing order No. 190 establishes the Budget and Appropriation Committee with specific mandate to:

a) *Investigate, inquire into and report on all matters related to coordination, control and monitoring of the County Budget.*
b) *Discuss and review the estimates and make recommendations to the County Assembly.*
c) *Examine the County Budget Policy Statement presented to the County Assembly;*

d) *Examine Bills related to the county budget, including Appropriations Bills; and*

e) *Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.*

1.3 EXAMINATION OF THE GOVERNOR'S MEMORANDUM ON THE BOMET COUNTY APPROPRIATION BILL, 2015

Mr. Speaker Sir,

Mr. Speaker sir,

In reviewing The Memorandum,the committee held two sittings on 8thand 9th July, 2015.

1.4 ACKNOWLEDGEMENT

Mr. Speaker sir,

I wish to thank the members of Budget and Appropriation Committee for their dedicated commitment. The Committee is also grateful to the Offices of the Speaker and the Clerk of County Assembly for their continued support.

1.5 Affirmation and approval

Mr. Speaker sir,

It is therefore my pleasant duty and privilege, on behalf of the committee on Budget & appropriation to table this Report and recommend it to the House for adoption.

Signed--

THE HON. BENARD NGENO

CHAIRPERSON, BUDGET & APPROPRIATION COMMITTEE

Date 9/7/15 --

We, honourable members of the committee on Budget & Appropriation, do hereby affix our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity:-

No.	Name	Position	Signature
1.	Hon. BenardNgeno	Chairperson	
2.	Hon. Aurelia Rono	Vice Chairperson	
3.	Hon. Cecilia Towett	Member	
4.	Hon. TapleleiRotich	Member	
5.	Hon. SamwelBor	Member	
6.	Hon. JosphatKirui	Member	
7.	Hon. Sammy Kirui	Member	
8.	Hon. Wilson Keter	Member	W.K
9.	Hon. John Molel	Member	
10.	Hon. Leah Kirui	Member	
11.	Hon. Samson Towett	Member	
12.	Hon. Julius Korir	Member	
13.	Hon. Robert Serbai	Member	

1.6 LEGAL FRAMEWORK

Mr. Speaker sir,

Section 8(1)(c) of the county government act 2012 states that;

"The County Assembly shall approve the budget and expenditure of the county government in accordance with Article 207 of the Constitution, and the legislation contemplated in Article 220(2) of the Constitution, guided by Articles201 and 203 of the Constitution"

Further Section 129(2 a,b) of the PFM Act 2012 states that;

"Following approval by the County Executive Committee, the County Executive Committee member for finance shall—

(a) Submit to the county assembly the budget estimates, supporting documents, and any other Bills required to implement the budget, except the Finance Bill, by the 30th April in that year; and

(b) Ensure that the estimates submitted in subsection (a) are in accordance with the resolutions adopted by county assembly on the County Fiscal Strategy Paper.

Section 131(1),(2)and (3) of the PFM Act further states that;

"(1)The county assembly shall consider the county government budget estimates with a view to approving them, <u>with or without amendments</u>, in time for the relevant appropriation law and any other laws required to implement the budget to be passed by the 30th June in each year.

(2) Before the county assembly considers the estimates of revenue and expenditure, the relevant committee of the county assembly shall discuss and review the estimates and make recommendations to the county assembly, and in finalizing the recommendations to county assembly, the committee shall take into account the views of the County Executive Committee member for finance and the public on the proposed recommendations."

(3) An amendment to the budget estimates may be made by the county assembly only if it is in accordance with the resolutions adopted regarding the County Fiscal Strategy Paper and if—

(a) Any increase in expenditure in a proposed appropriation, is balanced by a reduction in expenditure in another proposed appropriation; and

(b) Any proposed reduction in expenditure is used to reduce the deficit

2 COMMITTEE FINDINGS AND OBSERVATIONS

Mr. Speaker sir,

The committee made the following findings and observations;

Revenue allocated to the County Government,

The committee noted that the memorandum seeks to adjust the County's revenue as per the Division of Revenue Bill passed on **30th June 2015** by parliament from **Ksh.4, 920,566,039** to **Ksh. 5,026,573,518**broken-down as follows,

Comparison of Revenue in the Appropriation Bill, 2015 passed on 30th June, 2015 and Governor's memorandum

Item	Appropriation Bill, 2015 Ksh.	Memorandum Ksh.	Change Ksh.
National Equitable share	4,674,885,819	4,706,893,298	32,007,479
Local Revenue	230,330,220	260,330,220	30,000,000
HSSF –Danida	15,350,000		-15,350,000
Revenues from HSSF – Danida and refunds from National Treasury		59,350,000	59,350,000
Total Revenue	4,920,566,039	5,026,573,518	106,007,479

Table 1

From Table 1, it is evident that the memorandum seeks to increase National equitable share by **Ksh. 32,007,479**, local revenue by **Ksh. 30,000,000.** It also seeks to include refunds from National Treasury which had not been captured in the Estimates and has been combined with HSSF – Danida so that the total amounts to **Ksh. 59,350,000.**In this case, it is not clear how much is from HSSF – Danida or refunds from National Treasury. It is further evident that the Memorandum seeks to adjust the total County's revenue upwards by **Ksh. 106,007,479.**The committee noted that adjustment of Local revenue has been **haphazard.** The County Treasury initially indicated local revenue projections as Ksh. 312.2 million of which the committee had questioned the strategies for its achievement since the previous collection was Ksh. 200.9 million. The C.E.C for Finance instead revised the projections downwards to a more realistic figure of **Ksh. 230,330,220.**

The committee also noted that The Appropriation Bill 2015 was passed by the Assembly on 30th June 2015, the deadline required by the provisions of the section 131(1) of the PFM Act, 2012. The memorandum indicates that the Division of Revenue Bill was passed on 30th June 2015 by parliament. It is therefore clear that any adjustment on revenue thereof by Division of Revenue Bill could not have been incorporated in the Appropriation Bill 2015 passed on 30th June 2015.

The committee submits that adequate consultations were carried out during the Budget review process as per Article 201 (a) of the constitution and provisions of section 131(2) of the PFM Act. Members of the public, Sectoral committees in consultation with their respective C.E.Cs were adequately involved. Further, Budget and Appropriation committee consulted the C.E.C for Finance as it finalized its report on 20th June 2015.

Committee's opinion

The committee holds the opinion that the above adjustment in the revenue could be accommodated in the supplementary budget.

Vote R101

Mr. Speaker sir,

Whereas the memorandum states that any reduction on the vote will hinder smooth operations, the committee submits that reductions made were careful and targeted non-core allocations for operations and maintenance including foreign travel and purchase of motor vehicles.

The committee noted that the memorandum seeks to introduce a new item "medical cover" to be allocated Kshs.5 million and was not captured in the budget estimates.

Committee's Opinion

The committee holds the opinion that the above adjustment in the revenue could be accommodated in the supplementary budget.

Vote R102

Mr. Speaker sir,

Whereas the memorandum states that Estimates in the vote were prepared based on previous year's expenditure, the Committee noted that the statement was not true i.e allocation for item 2210399 budget preparation process was way above previous year's allocations of Kshs.4 million. The Assembly reduced allocation for the vote from Kshs.8 million to Kshs.5 million citing adequate capacity in the department to prepare budget. The Committee further reduced allocation for one motor vehicle and the other motor vehicle allowed to be purchased will be used for monitoring and evaluation which can be shared in the meantime.

The committee noted that the memorandum seeks to introduce a new item "Car and mortgages loans for public servants" to be allocated Kshs.32 million and was not captured in the budget estimates.

Committee's Opinion

The committee holds the opinion that the above adjustment in the revenue could be considered in the supplementary budget.

Vote R103

Mr. Speaker sir,

Whereas the memorandum states that any reduction from the vote was not practically possible, the committee submits that reduction affected non-core allocations for O&M and could be considered during supplementary budget in case of deficit.

Vote R105

Mr. Speaker sir,

Whereas the memorandum states that the department requires a vehicle, the committee had noted that their vehicle had been borrowed by the department of Public Health and Environment basing on the information from CEC Public Health and Environment. The Committee therefore allowed for purchase of motor vehicle for the department of Public Health and Environment so as to release the borrowed vehicle to medical service department.

addressed via a memorandum. The committee further submits that such drafting issues can be addressed separately for as long as it does not affect the departmental allocations and purposes for which they were meant for.

Vote D105

Mr. Speaker sir,

The committee noted that whereas the memorandum states that any increase in the development voted for the department will affect the development programmes in other deparments, the committee submits that the increase of Ksh. 5 million for acquisition of a drugs dispensing and inventory control system was vital to monitor flow of drugs and check against pilferages. The committee further submits that the increment was compensated by a reduction of non-core allocations for O&M for within the same department hence the statement is not true that increment will affect other department's allocations.

Marching of vote R105 with D105

The committee noted that whereas the memorandum states vote R105 should match with vote D105, the committee submits that this was not a substantive issue to be addressed via a memorandum. The committee further submits that such drafting issues can be addressed separately for as long as the departmental allocations and purposes for which they were meant for are not affected.

Vote D106

Mr. Speaker sir,

Marching of vote R106 with D106

The committee noted that whereas the memorandum states vote R106 should match with vote D106, the committee submits that this was not a substantive issue to be addressed via a memorandum. The committee further submits that such drafting issues can be addressed separately for as long as the departmental allocations and purposes for which they were meant for are not affected.

Vote D107

Mr. Speaker sir,

The committee noted that whereas the memorandum states that reduction will hinder the provision of services within the vote, the committee submits that reductions affected purchase for computers, office furniture which had been adequately budgeted for in the finance department. The committee further clarifies that reduction on purchase of motor vehicle meant for purchasing of a truck for Embomos Tea farm was re-allocated as the committee had confirmed that the same had been allocated funds in the supplementary budget 2014/15financial year.

The Committee further noted that the memorandum seeks to reduce salaries for the County Assembly from Kshs.299, 674, 847 to Kshs.246, 371, 868, it does not indicate any reasons for the reduction. The Committee further established that the County Assembly was not consultedand shouldtherefore be disregarded.

Vote D112

Mr. Speaker sir,

Whereas the memorandum states that the County Executive has the mandate to implement development programmes within the County and therefore vote D112 should be deleted, the Committee submits that the County Assembly has the mandate to budget and implement its own development. The Committee established that there is no law barring County Assembly to budget its own capital expenditure. The committee further established that Government entities including Commissions and Authorities usually budget for their own capital expenditure as evident in the attached Appendix 1.

Further, in a response to a letter that the Assembly had written to the Controller of Budget seeking for their opinion on the Development Vote of the County assembly (see attached Appendix 2), the Controller of Budget confirmed that the County Assembly can implement the projects as they fall within their mandate (Appendix 3).

Committee's opinion

Mr. Speaker sir,

The committee holds the opinion that the County Assembly acted within the law and exercised its mandate to allocate funds for its own development expenditure in line with its strategic plan.

3 RECOMMENDATIONS BY THE COMMITTEE ON BUDGET AND APPROPRIATION ON THE GOVERNOR'S MEMORANDUM ON THE BOMET COUNTY APPROPRIATION BILL, 2015

Mr. Speaker Sir,

Based on the above findings, the Budget and Appropriation committee established that substantive adjustments raised in the Memorandum can be addressed through supplementary budget and therefore the committee recommends that the Memorandum on The Appropriation Bill, 2015 as submitted by H.E, the Governor be rejected by this house.

I therefore take this opportunity to urge this House to adopt this report.

Appendix 1

SCHEDULE—(*Contd.*) (ss. 2 and 3)

(1) *Vote No.*	(2) *Service or Purpose*	(3) *Supply*	(4) *Appropriations in aid*
	Recurrent Expenditure	*KSh.*	*KSh.*
R212	The amount required in the year ending 30th June, 2015 for salaries and expenses of the Office of Controller of Budget, including general administration, research and planning, national and county budget review and analysis..............................	429,962,741	—
R213	The amount required in the year ending 30th June, 2015 for salaries and expenses of the Commission on Administrative Justice including general administration and planning..	374,485,500	—
R214	The amount required in the year ending 30th June, 2015 for salaries and expenses of the National Gender and Equality Commission, including general administration, planning and field services..	290,250,930	—
R215	The amount required in the year ending 30th June, 2015 for salaries and expenses of the Independent Police Oversight Authority, including general administration and planning.....................	205,121,165	—
	Class Sub-Total ... ... KSh.	**195,951,216,769**	**250,328,593**
	Development Expenditure		
D202	The amount required in the year ending 30th June, 2015 for Capital expenditure for the National Land Commission..........	542,000,000	—
D203	The amount required in the year ending 30th June, 2015 for Capital expenditure of the Independent Electoral and Boundaries Commission including general administration and planning, by-elections and field services..	91,280,000	—
D204	The amount required in the year ending 30th June, 2015 for capital expenditure for the Parliamentary Service Commission including general administration and planning.................	3,129,000,000	—

Appendix 2

REPUBLIC OF KENYA

Clerk's Chambers
Off Narok – Sotik Road
P.O. Box 590 – 20400
BOMET.

email: info@bometassembly.or.ke
website: www.bometassembly.or.ke
Cell: 0727 887146

BOMET COUNTY ASSEMBLY

OFFICE OF THE CLERK

Ref: BCA/COB/65/1/15 (15)

7th July, 2015

Mrs. Agnes Odhiambo,
The Controller of Budget
Bima House
NAIROBI.

Dear Mrs. Odhiambo,

RE: OPINION ON DEVELOPMENT VOTE OF THE COUNTY ASSEMBLY

I hereby seek your opinion on whether there is any law which prohibits the county assembly to access funds to implement its own infrastructural development.

The County Assembly of Bomet in the MTEF Budget 2015/16-2017/18 and Annual Budget for the year ending 30th June, 2016 had set aside funds totaling to **Ksh. 113,253,599** for its development as follows;

- Construction of the County Assembly Chambers
- Construction of the County Assembly Committee rooms
- Construction of County Assembly residential buildings
- County Assembly perimeter wall.

The Bomet County executive holds that the Assembly are not allowed to undertake any of its development at all, hence are demanding that we transfer all development vote to their side. Advice accordingly. Attached is a letter dated 2nd July, 2014 which was sent to you by CRA for your reference.

Yours Sincerely

Hon. G. K. Kipngetich
SPEAKER/CHAIRMAN, COUNTY ASSEMBLY SERVICE BOARD
BOMET COUNTY ASSEMBLY

c.c H.E Isaac Ruto,
GOVERNOR, BOMET COUNTY ASSEMBLY

Chairperson, Budget and Appropriation Committee