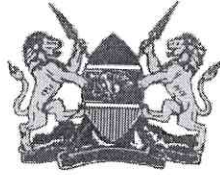


BOMET COUNTY



**REPUBLIC OF KENYA
THE COUNTY ASSEMBLY**

**REPORT OF THE COMMITTEE ON
ADMINISTRATION PEACE JUSTICE AND LEGAL
AFFAIRS ON PUBLIC PARTICIPATION ON THE
COUNTY COORDINATION OF GOVERNMENT
FUNCTIONS BILL, 2014**

APRIL, 2014





PREFACE

Mr. Speaker Sir,

On behalf of the committee on Administration Peace Justice and Legal Affairs and pursuant to the provisions of the Standing Orders 181 (3), it is my pleasant privilege and pleasure to present to this House the report of the Administration Peace Justice and Legal Affairs findings after public participation on the County Coordination of Government Functions Bill, 2014

MANDATE OF THE COMMITTEE

The committee derives its mandate from Standing Order in the Second Schedule which stipulates that

“Administration, Constitutional affairs, peace, the administration of law and justice including the elections, ethics, integrity and anti-corruption and human rights, ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level”

The main objective of the committee is to ensure administrative capacities have been developed to ensure effective delivery of legal, justice and administration services. The committee is also required to submit half yearly reports to the Liaison committee.

Mr, Speaker Sir,

Allow me to thank the entire membership of this committee for its hard work and commitment which made the public participation exercise a success.

The committee had a total of five sessions of public participation in five Sub Counties namely:-

1. Sotik Sub County
2. Konoin Sub County
3. Bomet East Sub County
4. Bomet Central Sub County
5. Chepalungu Sub County

In carrying out its mandate, the committee was guided by the existing procedures and modalities of operations of the County Assembly derived from the Constitution of Kenya 2010, Acts of Parliament, County Assembly Standing Orders, conventions, common practices and rulings and directives of the chair.

COMMITTEE MEMBERSHIP

The Administration Peace Justice and Legal Affairs committee as currently constituted comprises of the following Honorable Members:

- | | |
|----------------------------|--|
| 1. Hon. Robert Bett | Chairperson |
| 2. Hon. Nancy Chepkirui | Vice Chair |
| 3. Hon. Josphine Rotich | Member |
| 4. Hon. John Molel | Member |
| 5. Hon. Benard Ngeno | Member |
| 6. Hon. Reuben Langat | Member |
| 7. Hon. Stephen Changmorik | Member |
| 8. Hon. Bency Too | Member  |
| 9. Hon. Sammy Chelule | Member |

The main challenges faced by this committee in exercising its mandate is lack of proper prior communication to the members of the public for their required input in deliberations on the County Coordination of Government Functions Bill, 2014. Despite aforementioned, the committee was able to undertake its role and carried out a successful public participation.

It is the committee's recommendation that the above hiccup be addressed by the house as it is paramount that the members of the public be fully involved as provided for under Article 196 (1) (b) of the constitution which states that

"A County Assembly shall facilitate public participation and involvement in legislative and other business of the Assembly and its committees."

The County Governments Act under section 87 provides for the guidelines of public participation.

APPRECIATION

The Committee would like to thank the Office of the Chief Officer Administration, and the committee for their cooperation.

The Committee would also like to thank the members of the public for their valuable insights, critique and recommendations.

Finally Mr. Speaker Sir, the Committee wishes to record its appreciation for the exemplary services rendered by officers from Office of the Clerk of the County Assembly and The Legal Department Indeed, their commitment and devotion to duty have made the work of the Committee and production of this report timely and successful.

Mr. Speaker Sir,

On behalf of the Committee, I now wish to table the report and urge the House to adopt it and the recommendations therein.

HON. ROBERT BETT

SIGNED



CHAIR

DATE



We Members of the Administration peace Justice and Legal Affairs do hereby affix our signatures to this report to affirm the correctness of the contents and support for the report:-

- (i) The Hon. Robert Bett.....
- (ii) The Hon. Nancy Chepkirui
- (iii) The Hon. Josphine Rotich.....
- (iv) The Hon. John Molel.....
- (v) The Hon. Reuben Langat
- (vi) The Hon. Bency Too.....
- (vii) The Hon. Benard Ngeno
- (viii) The Hon. Stephen Changmorik
- (ix) The Hon. Sammy Chelule

EXECUTIVE SUMMARY

The coordination of government functions is an important principle in realizing synergy among different levels of government and within specific levels for stability of entire government. It applies irrespective of the system of government since there is always the state (county government)|and its related agencies, for county government to work effectively there has to be further decentralization with even lower levels of government taking central role in implementation of policies through various programs. The promulgation of the new constitution paved way for devolution and/ or decentralization aimed at ensuring efficient provision of services. This was informed by the fact that for many years Kenya had embraced the decentralization form of decentralization which did not give full powers to local governments. To these end the county governments were tasked to come up with policies and relevant laws for full operationalisation of devolution. It is in this process that the county government of Bomet produced a draft Bill seeking to coordinate the county government functions.

The Bill is a mechanism for ensuring smooth operations between the county government and the decentralized units of governance. Whereas there are many provisions in the constitution that inform the proposal of the Bill, Article 6(2) is particularly crucial. The Article provides for two levels of governments at the national and county levels. The provisions notes that “the governments are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation”. These are not unique caveats to Kenya. They prevail in other jurisdictions such as USA, South Africa and Nigeria. Article 48 of the County Government Act provides for creation of decentralized units. The Article in particular creates the following units:-

- a) The urban areas and cities
- b) The sub Counties
- c) The wards
- d) The village units
- e) Such others or further units.

The Article further advocates for the creation of further and /or adjustment of existing units for purposes of further decentralization of the county functions and provision of its services in accordance with Article 176(2) of the constitution.

The Bill encompasses all the complex and interdependent relations among the various spheres of government as well as the coordination of public policies among different decentralized units.

VIEWS, CRITIQUES AND RECOMMENDATIONS BY THE MEMBERS OF THE PUBLIC DURING PUBLIC PARTICIPATION

1. That the level of education for Village Administrators should not be set so high
2. That the office of the Deputy Sub County Administrator be created.
3. That section 23 be amended to include members of the public in the Mediation team.
4. That the already existing village elders be absorbed in the system rather than employing new office holders.
5. That the statement at the end of the Bill reading “The enactment of this Bill will not occasion additional expenditure of public funds “ is ambiguous and misleading.
6. That a different system of appointment and qualification criteria should be established and that the roles of administrators be harmonized with those of the National Government officers.
7. That all the administrators below the rank of the Chief Officer should be answerable Chief Officer not the Governor.
8. That section 16(3) of the Bill be amended to include the role of Sub County Administrator to safe guard the assets of the Sub County.
9. That under section 16, the Sub County Administrator in performing his/her dutieshe/she should consult the people.
10. That the position of a community secretary as provided for in section 19 be removed.
11. That the officers in charge of administration in the national government be seconded to the County Government instead of employing new officers.
12. That the community rather than the Governor be consulted in appointment of administrators as provided for under section 14 of the Bill.
13. That the appointment of the administrators be solely done by the County Public Service Board.

**PROPOSED AMENDEMENTS ON THE COUNTY COORDINATION OF
GOVERNMENT FUNCTIONS BILL, 2014**

Mr. Speaker Sir,

Allow me to present the proposed amendments by the committee

THAT an “elder” means “an individual who has attained the age of 18 years and includes the youth” be added in section 2 of the Bill

THAT A “village” means a sub location as provided for under the National Coordination of Government Act be added in section 2 of the Bill

THAT section 9 (3) of the Bill be amended to read as follows “ The county Public Service Board shall recruit and appoint such number of public officers as the county secretary may require for the effective and efficient discharge of the functions of the office subject to approval by the county assembly.”

THAT section 11 (1) of the Bill be amended to read “The Governor shall establish such committees of chief officers as may be necessary for the effective management and coordination of the government functions under the constitution, this Act or any other written law

(2) The Governor may establish such other adhoc committees or put in place such mechanisms as may be necessary in addition to the committees established under sub section (1)

THAT Section 11 sub section (3), (4) and (6) be deleted

THAT Section 12(1) (c) of the Bill be deleted

THAT Section 12 (1) (d) be amended to read as follows “ The sub location established under this Act headed by a village administrator as established under section 52 of the County Governments Act.

THAT section 13(1) be amended to read as follows” There is established the villages to be service delivery units for the government in accordance with the criteria provided for under this section.

THAT section 13 (2) be amended to read that “The county assembly shall determine the demarcation and delimitation of village boundaries through enactment of a legislation under the County Government Act.

THAT section 13 (3) be amended to read that “The Sub county administrator shall preside over the formation of villages.

Section 13(5) be amended to read that “In determining the villages, the county assembly shall consider-

Population size

Geographical features

Community of interest, historical, economic and cultural ties; and

Means of communication

THAT Section 14 (1) be amended to read that “In accordance with the county government functions under the constitution, the County Governments Act under section 62, this Act or any other written law, the Public Service Board shall, in consultation with the Governor, appoint government administrative officers to coordinate government functions and to perform such other functions as may be assigned to them under this Act or any other law.

THAT Section 14 sub section 2 clause (e), (f), (g) and (h) be deleted

THAT section 15 (1) of the Bill be amended to read that “There is established the office of Chief officer Administration which shall be an office at the office in the county public service.

THAT section 16 (2) of the bill be amended to read that “The sub county administration shall have qualifications and knowledge in administration or management and shall be competitively appointed by the County Public Service Board in the accordance with the County Governments Act.

THAT Section 16(3) f) be amended to read exercise any functions and powers delegated by the County Public Service Board under section 86 of the County Government Act

THAT Sub section 3 (f) be amended to read exercise any functions and powers delegated by the County Public Service Board.

THAT Section 18 be amended to read that “18 (1) There is established the office of village administrator for each village unit established in a county.

(2) A village administrator shall have professional qualifications and technical knowledge in administration and shall be appointed by the County Public Service Board in accordance with the provisions of this Act or any other written law

(3) A village administrator shall coordinate, manage and supervise the general administrative functions in the village including –

Ensuring and coordinating the participation of the village unit in governance; and

Assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; and

Exercise any functions and powers delegated by the County Public Service Board

(4) In carrying out the functions and obligations in subsection (3). A village administrator shall be responsible to the relevant Ward administrator.

THAT section 22 (1) (a) be amended to read “the village administrator who shall be the chairperson of the village council; and

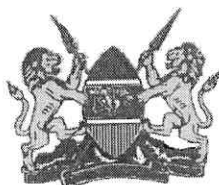
(b) not less than three and not more than five village elders competitively appointed by the village administrator with the approval of the county assembly, taking into account gender balance.

THAT subsection (4) be added to read “A village elder shall be paid such allowances as shall be determined by the county assembly.

THAT subsection (5) be amended to read that “In appointing the panel, the village administrator shall consider gender, youth, and persons with disability.

THAT section 28 be amended to read that “The executive member responsible for administration shall, in consultation with the Governor and with the approval of the County Assembly, make regulations for the better carrying into effect of the purpose of this Act”

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