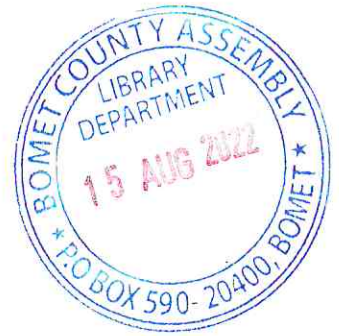
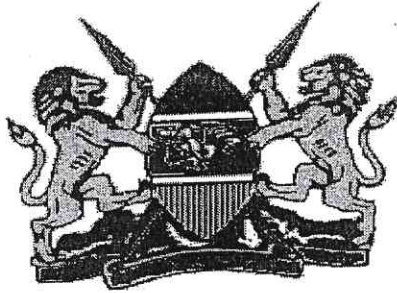


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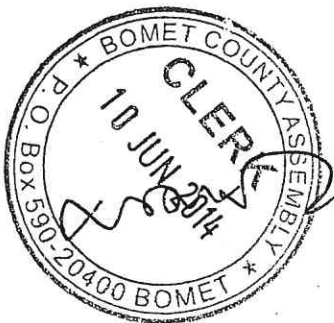
COUNTY GOVERNMENT OF BOMET



THE COUNTY ASSEMBLY

**REPORT OF THE COMMITTEE ON
APPOINTMENTS**

**A report on the Public Appointments (Bomet
County Assembly Approval) Bill, 2014**



JUNE, 2014



PREFACE

On behalf of the Committee on Appointments and pursuant to Standing order No.181 (1), the Committee is pleased to report on its findings on the Public Appointments (Bomet County Assembly Approval) Bill, 2014. This Committee on appointments is one of the standing Committees established under Standing Order 186(1) and Second Schedule to the Standing Orders which provides for the Committee to deal with matters related to appointments that require Assembly approval.

Committee Membership

Mr. Speaker Sir, the Committee on Appointments as currently constituted comprise the following Honorable Members:

- | | |
|------------------------------|-------------|
| 1. Hon. G.K Kipngetich - | Chairperson |
| 2. Hon. Josphat Kirui - | Member |
| 3. Hon. Joyce Korir - | Member |
| 4. Hon. John Chepkwony - | Member |
| 5. Hon. David Rotich - | Member |
| 6. Hon. Christopher Ng'eno - | Member |

Terms of Reference for the Committee on Appointment

During the Committee retreat held at the Tea Research Foundation on the 23rd of May 2014 the Committee set out to review the Public Appointments (Bomet County Assembly Approval) Bill, 2014 that was tabled on the 6th of May 2014. The Committee in scrutinizing the Bill sought to take into account the sentiments expressed by the public during the public participation session on the contents of the Bill. To achieve its mandate the Committee outlined its Terms of Reference which were to:

1. Comprehensively review the Bill;
2. Consider and review all the sentiments of the public regarding the Bill;
3. Make recommendations to the Assembly on amendments if any to the Bill taking into account public sentiments;

To enable the committee get the views of the public on the bill, the Committee held one public participation forum at Bomet Green Stadium on the 22nd of May 2014.

PUBLIC REACTIONS, RECOMMENDATIONS AND COMMITTEE RESPONSE

On the whole the public generally appreciated the Bill acknowledging that it was well prepared. The Committee, however received a few oral submission from members of the public as to what could be incorporated in to the Bill. These comprised of the following;

- There was a suggestion to include a Clause that provides for the Assembly to withdraw its approval. It was observed by some members of the public that a nominee may secure the approval of the Assembly only for the Assembly to discover

place for the holding of the approval hearing and shall inform the clerk" made it possible for the approval hearings to be held somewhere outside the precincts of Bomet County. Some members of the public had argued that the provision could have a possible effect of locking out the county's locals in the vetting process.

The Committee noted, however, that upon close scrutiny it was evident that the Clause was intended to cover the circumstances where a nominee may not be able to be at the County during the prescribed period of consideration. Moreover, the Committee observed that some candidates may more adequately be vetted in certain places where a committee could easily access information on a candidate and that such places may be outside Bomet County. The Honourable members of the Committee therefore resolved that the Clause 6(3) remain in its current form.

Clause 6(7) which states; ***"Despite subsection (5), a Committee may, on its own motion or on the application of a candidate or any other concerned person, determine that the whole or part of its sittings shall be held in camera"*** had elicited observations from the public. There was public concern that holding sessions in camera as stated in the Clause may lock out the public from participating in the vetting process and thus undermine the transparency of the process

The Committee however noted that there were circumstances such as where a committee may want to inquire from a candidate on issues touching on national security that would necessitate such sessions be held *in camera*. The Committee was of the considered opinion that the Clause provided for such a scenario which was indeed foreseeable and thus resolved that the Clause remain in its current form.

Issues were also raised by some members of the public regarding the statement on oath provided for under **Clause 6(10)** which states

decision on the approval. The Committee in this regard noted that there were avenues such as censure motions and court action which could be used to remedy such situations. As a result, the Committee resolved to leave **Clause 10** as it is.

The Committee also considered the fine of 200,000 Kenya shillings prescribed in **Clause 12(3)b** against any for refusing to be examined before or refusing to answer any lawful and relevant question put by a Committee. The fine was found adequate by the Committee.

The Committee also considered an argument by a member of the public that the use of **must** with regard to the provision that a nominee must answer all questions was not proper. It was noted that the use of "must" was to ensure that a nominee answers all questions in order to aid the relevant Committee in evaluating that nominee's suitability for office. It was further noted that in the absence of the word "must," a nominee could evade answering critical questions. Consequently, the Committee resolved the use of the word must was proper in the circumstances

The Committee also deliberated on the public sentiment that the Bill be published in Swahili. The Committee acknowledged that it was indeed a constitutional requirement that public documents be availed in English, Kiswahili and Braille. However, the Committee observed that the Assembly being an emerging legislative house was still in the process of building its capacity on translation and braille services and as such these services could not be realized in the immediate period.

The Chairperson noted, though, that while the Assembly was trying to build its capacity on provision of Kiswahili translation and braille, it will endeavor to use the people within its staff complement to translate subsequent Bills in Kiswahili in the interim.

Appendix 1

MINUTES FOR THE COMMITTEE ON APPOINTMENT HELD IN TEA RESEARCH FOUNDATION IN KERICHO ON 24TH MAY 2014

MEMBERS PRESENT

1. Hon. G.K. Kipngetich
2. Hon. Josphat Kirui
3. Hon. Joyce Korir
4. Hon. David Rotich
5. Hon. Christopher Ngeno

MIN 1/24/2014: PRELIMINARIES

The chair called the meeting on order at exactly 9:30am and requested Hon. Joyce Korir to open the meeting with a word of prayer

MIN 2/24/2014 AGENDA

The chair briefed the members on the purpose and importance of the meeting and highlighted to the members the main reasons why the meeting/retreat was called on. The chair highlighted the following to the members;

1. That the main purpose for convening the meeting was to discuss and deliberate more on The Public Appointments (Bomet County Assembly Approval) Bill, 2014 before being tabled in Bomet County Assembly
2. That the Committee had received an oral submission from the members of the public through public participation held on 22nd May 2014
3. That the Committee had noted all the suggestions made by the Public during the public participation held on 22nd May 2014 at Bomet stadium

However Hon. Joyce Korir also had a concern with on oath **Clause 6(10)** which states that, ***“Any person may, prior to the approval hearing, and by written statement on oath provide the Clerk with evidence contesting the suitability of a candidate to hold office to which the candidate has been nominated”***. The Committee discussed about the Clause and the chair resolved that it was necessary so that a person giving information may be held for any consequences of giving false information.

MIN 3/24/2014 A.O.B

The Committee resolved that the Legal Department and the staff involved comes up with a draft of the report for preview before the final copy is prepared.

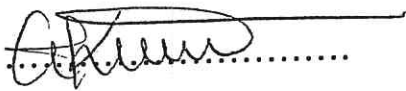
And there be no other business the meeting was adjourned at exactly 2.30pm with a closing prayer from Hon. David Rotich.

Approval

That the meeting took place and this represent the discussion of the Committee on 24th May 2014

Chairperson

Signature



Secretary

Signature.....

For Secretary
David Rotich Timothy Korir