



REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY

SECOND ASSEMBLY-THIRD SESSION

THE COMMITTEE ON LABOUR AND PUBLIC SERVICE

REPORT

ON THE ANNUAL REPORT OF THE COUNTY PUBLIC SERVICE
BOARD FOR THE PERIOD ENDED 31ST DECEMBER, 2018

DECEMBER, 2019

*Tabled on 3/12/2019
at 2.30pm
W. J. M. M.*



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ANNEXURE

County Public Service Board Report for the period ended 31st December, 2018

1.0 PREFACE

Mr. Speaker Sir,

The committee on Labour and Public Services is one of the sectoral committees established under the Standing Orders 193(1) and the Second Schedule to the Standing Orders.

1.1 Committee Membership

Mr. Speaker Sir,

The Committee on Labour and Public Service, as currently constituted, comprises of the following members: -

- | | |
|---------------------------|---------------|
| 1. Hon. Charles Langat | - Chairperson |
| 2. Hon. Cecilia Mutai | - Vice Chair |
| 3. Hon. Leonard Kirui | - Member |
| 4. Hon. Andrew Maritim | - Member |
| 5. Hon. Alfred Langat | - Member |
| 6. Hon. Evaline Chepkemai | - Member |
| 7. Hon. Leonard Ngeny | - Member |

1.2 Committee's Mandate

Mr. Speaker,

The Sectoral Committee on Labour and Public Service derives its mandate from provisions of Standing order 193(5) which defines functions of the Committee as being:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) To study the programmes and policy objectives of departments and the Effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, assess and analyze the relative success of the departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned departments as may be deemed necessary, and as may be referred to it by the County

Assembly;

- f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 188(Committee on appointments); and
- g) To make reports and recommendations to the Assembly as often as possible, including recommendations of proposed legislation.

1.3 County Public Service Board Annual Report

Mr. Speaker,

Pursuant to the Standing Orders 193(3) and the second schedule of the Standing Orders, all matters relating to Labour, County Public Service, Trade Union Relations, Manpower or Human Resource Planning fall within the mandate of the Committee on Labour and Public Service.

Section 59(1) (d) of the County Governments Act provides that the functions of the County Public Service Board shall be, on behalf of the County Government, to – prepare regular reports for submission to the county assembly on execution of functions of the Board.

Upon deliberating and interrogating the report submitted to it, the committee came up with a report.

It is therefore my pleasant duty and privilege, on behalf of the Committee on Labour and Public Service to table this report on the annual report of the County Public Service Board for the period ending 31st December, 2018 for debate, further consideration and adoption by the Assembly.

2.0 Acknowledgment

Mr. Speaker,

The Committee wishes to thank the Office of the Speaker and the Secretariat for the support accorded to it during the exercise and execution of the committee's mandate.

As the Chairperson, I also take this opportunity to thank all Members of the Committee for their Commitment to serve the public.

Mr. Speaker, Sir,

The Committee made several findings on the report of the County Public Service for the period ended 31st December, 2018. These findings guided the Committee in making its final recommendation. This recommendation was agreed upon by the Committee Members during the adoption of the Report on Monday 2nd December, 2019.

Mr. Speaker Sir

Finally, on behalf of the Committee, and pursuant to Standing Order No.193(5)(g), on behalf of the committee on Labour and Public Service, I have the honor and pleasure to present the committee's report on County Public Service Report for the Period Ending 31st December, 2018.

SIGNED:.....

For

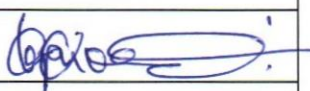
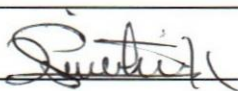

DATE:.....

21/12/2019

HON.CHARLES LANGAT
CHAIRPERSON

3.0 Adoption of the Report

We, the members of Labour and Public Service Committee, do append our signatures against our names to this report to affirm the correctness of the contents and support for the report: -

No.	Name	Designation	Sign
1	Hon. Charles Langat	Chairperson	
2.	Hon. Cecilia Mutai	V/Chairperson	
3.	Hon. Leonard Ngeny	Member	
4.	Hon. Andrew Maritim	Member	
5.	Hon. Alfred Langat	Member	
6.	Hon. Evaline Chepkemai	Member	
7.	Hon. Leonard Kirui	Member	

Dated this 2nd December, 2019

4.0 Background and Legal Framework

4.1 Background

Through a letter dated 2nd January, 2019 the County Public Service Board (CPSB) Secretary submitted to the County Assembly the CPSB annual report for the period ending 31st December, 2018. During the afternoon sitting of the 26th February, 2019 at 2.30 pm the said report was laid on the Table of the County Assembly and subsequently committed to the committee on Labour and Public service to deliberate on it and report to the County Assembly. The Committee takes due exception to the fact there was an inordinate delay in the submission of the document to the committee from the time it was tabled at the floor of the County assembly.

4.2 Legal Framework

The Constitution

The Constitution provides for the values and principles of public service. Article 232 (1) provides that— The Values and Principles of public service include-

- a) high standards of professional ethics;
- b) efficient, effective and economic use of resources;
- c) responsive, prompt, effective, impartial and equitable provision of services;
- d) involvement of the people in the process of policy making;
- e) accountability for administrative acts;
- f) transparency and provision to the public of timely, accurate information;
- g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
- h) representation of Kenya's diverse communities; and

i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—

- (i) men and women;
- (ii) the members of all ethnic groups; and
- (iii) Persons with disabilities.

(2) The values and principles of public service apply to public service in—

- a) all State organs in both levels of government; and
- b) all State corporations.

It is therefore expected that the County Public Service Board should comply with the above stated values and principles of public service in exercising its mandate.

Article 235(1) of the Constitution provides that a county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- a) establishing and abolishing offices in its public service;
- b) appointing persons to hold or act in those offices, and confirming appointments; and
- c) Exercising disciplinary control over and removing persons holding or acting in those offices.

The County Governments Act, 2012

Section 56(1) of the County Governments Act, 2012 pursuant to Article 235(1) of the Constitution establishes the County Public Service. Section 58 of the Act establishes the County Public Service Board. Section 59(1) of the Act makes provisions for the functions and powers of the County Public Service Board and it provides *inter alia* that;

(1) The functions of the County Public Service Board shall be, on behalf of the County Government, to-

- (a) establish and abolish offices in the county Public service;

- (b) appoint persons to hold or act in offices of the county public service including Boards of cities and urban areas within the county and to confirm the appointments;
- (c) exercise disciplinary control over, and remove, persons holding or acting in those offices as provided for under this Part;
- (d) Prepare regular reports for submission to the county assembly on execution of functions of the Board”
- (e) promote in the county public service the values and principles referred to in Articles 10 and 232;
- (f) evaluate and report to the county assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the county public service;

Section 59(5) of the County Government’s Act 2012 further provides that the report by the County Public Service Board under subsection (1)(f) shall—

- (a) be delivered each December to the county assembly;
- (b) include all the steps taken and decisions made by the board;
- (c) include specific recommendations that require to be implemented in the promotion and protection of the values and principles;
- (d) include specific decisions on particulars of persons or public body who have violated the values and principles, including action taken or recommended against them;
- (e) include any impediment in the promotion of the values and principles; and
- (f) include the programmes the board is undertaking or has planned to undertake in the medium term towards the promotion of the values and principles.

Section 59(c) of the Act further requires the Board shall publish a report required under this section in the county *Gazette* not later than seven days after the report has been delivered to the county assembly.

5.0 COMMITTEE OBSERVATIONS AND FINDINGS

Upon scrutiny of the report of the Board for the period ending 31st December, 2018, the committee made the following observations;

i. Submission of the Annual Report

The County Public Service Report for the period ending 31st December, 2018 was submitted on 2nd January, 2019 contrary to section 59 (5) (a) of the County Governments Act which require the report to be submitted to the Assembly on December of the year under review. It was further observed that the report as submitted was not comprehensive as details on issues were scanty. The report lacked in many aspects as stated in section 59(5) of the County Governments Act 2012 specifically on the recommendations that require to be implemented in the promotion and protection of the values and principles, specific decisions on particulars of persons or public body who have violated the values and principles including action taken or recommended against them and any impediment in the promotion of the values and principles and the programmes the board is undertaking or has planned to undertake in the medium term towards the promotion of the values and principles.

ii. Appointments and promotions

That the following is a summary of all the appointments that were made by the board during the 2018 Calendar year:

N0	Department	Number of staff appointed
1	Medical Services and Public Health	324
2	Administration	160
3	Education and Vocational training	57
4	Finance	26
5	Lands and Urban Planning	10
	TOTAL	577

The Committee also observed that Board advertised for 21 positions in the departments of Administration, ICT and Finance and the shortlisted candidates were alerted through the Standard newspaper of the 28th November 2018 on the dates of the interview. The committee further observed that the Board indicated that the notification was clandestinely and illegally cancelled by persons who were yet to be identified.

The committee also observed that the Board ran an online advertisement for various positions covering 10 departments on 9th November 2018 but the online advertisement ran into challenges because of a system's failure which led to the extension of the

deadline up to 27th November 2018 instead of 21st November 2018. The process was however stopped by a court injunction.

There was no indication as to whether there were any promotions that were done by the Board.

iii. Training and Capacity Building

The committee observed that the County Public Service Board indicated the trainings which the board attended and not the trainings and capacity building of the staff in the county public service.

iv. Payroll

The committee observed that the Board analyzed the County staff payroll which included the IPDD and HRSS payrolls and discovered the following anomalies:

- (a) Staff placed on wrong/varied and unauthorized job groups;
- (b) Staff placed on authorized and correct job groups but wrong salary
- (c) Null and void staff appearing on both the IPPD and HRSS payrolls
- (d) Unauthorized designations
- (e) Staff earning salaries without designations/job groups
- (f) Staff appointed by the board but not issued with letters of appointments

The committee however observed that the Board did not indicate any action taken to correct the anomalies or any investigation done to ascertain the perpetrators of the stated anomalies.

v. Values and Principles

Section 59(5) of the County Governments Act requires that the Annual Report of the Board should include specific recommendations that require to be implemented in the promotion and protection of the values and principles, specific decisions on particulars of persons or public body who have violated the values and principles, action taken or recommended against them and any impediment in the promotion of the values and principles. However, the report of the Board for the period under review did not indicate the actions it took to promote and protect the values and principles as enumerated under Articles 10 and 232 of the Constitution.

vi. Achievements of the Board

The committee observed that the board has since May 2018 carried on an online application of jobs in the county in conformity with e-government. It also noted that the board analyzed and approved the second staff establishment.

vii. Challenges faced by the Board.

During the period under review the Board faced the following challenges;

- (1) Several ligations that wasted time and resources of the County government;
- (2) Chief officers who are authorized officers did not formally accept that position in writing;
- (3) The board did not access its approved budget despite being allocated to it by the county assembly;
- (4) Inadequate professional staff and equipment;
- (5) Interference with the board's legitimate mandate;
- (6) Ineffective communication between the board and the office of the County Secretary and this has made it difficult to know the persons who have reported after recruitment by the board, those who may have declined and even those who have exited employment.

6.0RECOMMENDATIONS OF THE COMMITTEE

Upon scrutiny and deliberation on the report of the Board for the period ending 31st December, 2018, the committee made the following recommendations;

1. Submission of the Annual Report

The County Public Service Board must comply with the provisions of section 59 (5) (a) of the County Governments Act which require the report to be submitted to the Assembly on December of the year under review. Further, the subsequent Annual reports by the Board must be comprehensive and in line with the relevant legal framework.

2. Appointments and promotions

All the appointments which are made by the Board must be done to conclusion including a communication from the office of the County Secretary as to the letters of appointment issued and those who may have declined the appointments. To achieve this, there must exist an effective communication channel between the office of the

County Secretary and the County Public Service Board. In addition to that the process of recruitment should never be interfered with. The committee further recommends that whoever illegally cancelled the interview of the shortlisted candidates through the Standard newspaper of 8th December 2018 must be investigated and be dealt with in accordance with the law.

The board should indicate the number of employees whose contracts had been terminated on grounds of irregular engagement by the County Government without the involvement of the County Public Service Board and those who have retired.

3. Training and Capacity Building

The committee recommends that the board should in its subsequent report provide an inventory on the trainings and capacity buildings which have been undertaken by the various departments on the employees serving in those departments so as to upgrade their skills and keep them apprised of the contemporary issues.

4. Payroll

The committee recommends that the Board should investigate into the anomalies that were discovered in the payroll and should take the necessary action on the irregularities discovered in accordance with Section 75 of the County Governments Act. The section provides, “If it comes to the attention of the County Public Service Board that there is reason to believe that any process or decision under this Part may have occurred in an irregular or fraudulent manner, the County Public Service Board shall investigate the matter and, if satisfied that the irregularity or fraud has occurred, the County Public Service Board may—

- (a) revoke the decision;
- (b) direct the concerned head of department or lawful authority to commence the process afresh; or
- (c) take any corrective action including disciplinary action.

5. Values and Principles

The Board should endeavor to take actions that promote and protect the values and principles as enumerated under Articles 10 and 232 of the Constitution. The board in its report should include specific recommendations that require to be implemented in the promotion and protection of the values and principles, specific decisions on particulars of persons or public body who have violated the values and principles,

action taken or recommended against them and any impediment in the promotion of the values and principles.

6. Challenges faced by the Board.

On the challenges faced by the board, the committee recommends that;

- (i) The Board and the County Government, must adhere to the legal framework on employment so as to reduce litigations which are costly and time consuming. The County Government should also encourage alternative dispute resolutions so as to reduce litigation related costs which can divert public funds which could have been utilized in service delivery to the County residents.
- (ii) All the appointed Chief Officers must formally accept in writing to be so appointed as authorized officers as per section 45(4) of the County Governments Act.
- (iii) The County Executive Committee Member for finance must allow the County Public Service Board to access its budget as approved by the County Assembly and designate the Secretary to the Board as an accounting officer.
- (iv) The Board must be equipped with adequate professional staff and equipment.
- (v) There should be no interference with the board's legal mandate as stated in section 58 of the County Governments Act.
- (vi) The Office of the County Secretary and the County Public Service Board must maintain effective communication and any decision made by the board must be acted upon by the Office of the County Secretary.