
NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY
(SECOND ASSEMBLY- SECOND SESSION)

SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
WORKSHOP REPORT ON LAW MAKING PROCESS

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI

DECEMBER, 2018

Annex

Summary: From an idea to an Act of the Assembly.

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1.0 PREFACE

1.1 Committee Mandate

Hon. Speaker,

The Sectoral Committee on Environment and Natural Resources is established under Standing Order 203, and its mandate amongst others, as outlined under Standing Order 203 (6) is to:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) study and review all county legislation referred to it;*
- d) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments): and*
- g) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

In accordance with the third Schedule of the Standing Orders, the Committee is also mandated to implement specific government policies on natural resources and environmental conservation, including soil and water conservation, control of noise pollution and other public nuisances. The Committee is further mandated to deal with all matters related to refuse removal, refuse dumps and solid waste disposal.

1.2 Committee Membership

Hon. Speaker,

The Committee on Environment and Natural Resources was constituted by the Assembly on 5th October, 2017 comprising of the following Members: -

1. Hon. John Kamau, MCA – Chairperson
 2. Hon. Frendrick Onyango, MCA – Vice-Chairperson
 3. Hon. Jeremiah Themendu, MCA
 4. Hon. James Mwangi Wambui, MCA
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5. Hon. Peter Wahinya Njau, MCA
 6. Hon. Laura Mwendu, MCA
 7. Hon. John Kamangu, MCA
 8. Hon. Joyce Muthoni, MCA
 9. Hon. Peter Imawtok, MCA
 10. Hon. Muchene Kabiru, MCA
 11. Hon. Susan Makungu, MCA
 12. Hon. Silas Ongwae, MCA
 13. Hon. Fred Ngesa, MCA
 14. Hon. Jared Akama, MCA
 15. Hon. Clarence Munga, MCA
 16. Hon. Jairus Amukhoye, MCA
 17. Hon. Mwaura Samora, MCA
 18. Hon. Emily Wanjiku Waithaka, MCA
 19. Hon. Rose Masitsa, MCA

1.3 Secretariat

The Committee Secretariat comprised of the following officers:-

- i) Ms. Rose Edna Kanana (Clerk Assistant)
- ii) Ms. Hellen Mutie (Clerk Assistant)
- iii) Ms. Edith Wanyama (Office Assistant)

The Committee held a four-day workshop from 18th to 21st October, 2018 in Mombasa to allow adequate time for the Committee to be taken through Law making process.

1.4 Participants

The retreat was presided over by the Chairperson, Sectoral Committee on Environment and Natural Resources and attended by Members of the Sectoral Committee on Environment and Natural Resources, two Clerk Assistants, Office Assistant and sergeant at Arms.

1.5 Objectives

It was expected that during the retreat, the participants will:

- a) Gain skills of reviewing Bills committed to the Committee;
- b) Equip members with the knowledge of the law making process and
- c) Enable the Committee develop and consider legislative proposals touching on Environment and Natural Resources


1.6 Acknowledgements

Hon. Speaker,

The Committee takes this opportunity to thank the Offices of the Speaker and of the Clerk of the County Assembly for the logistical support accorded to it in the execution of its mandate. Further, the Committee extends its gratitude to the Secretariat for their contributions during and after the workshop and compilation of this report.

Finally, on behalf of the Sectoral Committee on Environment and Natural Resources, it is my pleasure and duty to present to the Assembly, the Committee's Law Making Process workshop report pursuant to the Standing Orders of the County Assembly.

Thank you.

Signed 

Hon. John Kamau, MCA

(Chairperson)

Sectoral Committee on Environment and Natural Resources

Dated this 30th day of Nov 2018

2.0INTRODUCTORY REMARKS

The Workshop was officially opened by a word of prayer by Hon. John Kamau, the chairperson of the Committee. He welcomed and thanked the participants for availing themselves for the workshop and introductions were made. He urged Members to actively participate in the proceedings to enable them grasp the basics so that they would be able to undertake the legislative and oversight roles

3.0PRESENTATIONS BY THE FACILITATOR- MR. BENSON INZOFU.

The facilitator submitted that: -

3.1Legislative Authority of County Governments

The legislative Authority of the county is vested in the County Assembly(Art.185). County Assemblies are expected to make laws and policies to facilitate the implementation of the functions of the county government listed in the Fourth Schedule County Assemblies will be guided by the Standing Orders of the CAs, various national laws e.g. the County Governments Act, the PFM Act etc. in developing and enacting laws. The logistical support in developing these laws will come from the County Assembly leadership which may be as shown below.

3.2Organs of CA with key role in Legislation

The facilitator highlighted that the following organs plays a critical role in legislative process in county assemblies. These are:

- The County Assembly Service Board chaired by the Speaker, Clerk is secretary (section 12, County Governments Act)
- The Speaker of the County Assembly-(Section 10 County Governments Act)
- The Leader of the Majority party
- The Leader of the Minority Party
- Committees and Committee Chairpersons

3.3What is a Bill?

A bill is proposed legislation under consideration by a legislature. A bill does not become law until it is passed by the legislature and assented to by the Governor. Once a bill has been enacted into law, it is called an ACT of the legislature, or a statute. A Bill can be defined as a proposal for a new law, which has been presented to the Assembly. A County Assembly exercises its legislative power through Bills passed by the Assembly and assented to by the Governor. A Bill shall have a title. A Bill shall contain a Memorandum of Objects and Reasons

(S.O. 114). If an amendment Bill, it shall contain the text of the relevant part of the law it seeks to amend as part of the Bill, A Bill shall contain an enacting formula-” Enacted by the County Assembly of... (e.g. Nairobi or Makueni)

3.4 Principles of legislative drafting

The following are principles of legislative drafting. These are:

- i. Policy precedes the law
- ii. Harmony with national and international laws
- iii. Legislative instruments should be practical and enforceable
- iv. Legislative instruments should be normative
- v. Legislative instruments should be technically sound /structurally correct
- vi. Legislative instruments should be drafted in plain/ basic English.
- vii. Clarity and conciseness
- viii. Technical expertise should be applied in development of legislative instruments
- ix. The legislative drafting process should be open and participatory

3.5 Salient features of a legislative proposal

The Members were taken through the features that a legislative proposal should have. This was done with examples in groups. These are divided in two categories as follows:

a. Preliminary Provisions

- i. Long titles
- ii. Short titles
- iii. Commencement provisions
- iv. Enacting Formulae
- v. Definitions
- vi. Objects and Purpose
- vii. Application provisions

b. Principal Provisions

- i. Substantive provisions
- ii. Administrative provisions

- iii. Financial Provisions
- iv. Miscellaneous provisions

4.0LAW MAKING PROCESS

The Committee learnt that the law making process is elaborated in the County Governments Act (section 21) and the Standing Orders (S.O. 111-S.O. 146)

A Bill may be introduced by any Member or Committee of the Assembly but a Money Bill may only be introduced in accordance with the recommendation of the relevant committee of the assembly after taking into account the views of the CEC member responsible for Finance (section 21 (3)).

A Bill after drafting shall be signed by the Member in charge of it/if a Committee Bill, by the Chairperson of the Committee

The Bill shall then be published in the County Gazette and the Kenya Gazette, after which the Clerk shall obtain sufficient copies of the Bill and avail a copy of the Bill to every Member.

4.1After publication

After Publication, 14 days (maturity period) are given before the Bill can be introduced in the Assembly for the 1st reading (S. O 117) except County Revenue Fund Bill, Appropriation Bill or Supplementary Appropriation Bill-which requires 7 days. The Assembly may however by resolution shorten the maturity period. The 14-day notice period is meant to allow the public and stakeholders to have notice of publication of the Bill-for them to prepare if they need to engage the Assembly. The facilitator also explained that after publication, the Bill shall be introduced by way of First Reading after which it shall be committed to the relevant sectoral committee for scrutiny or a select committee that the CA so resolves.

A County Revenue Fund Bill, an Appropriation Bill, A Supplementary Appropriations Bill or Finance Bill shall be committed to the Budget and Appropriations Committee (S. O 121(6)). The Committee is required by statute and the (S.O 121(3)) to facilitate public participation and make

a report to the County Assembly. The Committee has 20 days from date of committal within which to scrutinize the Bill and present a report to the County assembly. The Bill then goes through second reading on a date to be determined by the County Assembly Business Committee-at which the policy issues are espoused and reasons for its enactment given. Members contribute without introducing amendments.

4.2 Committee of the Whole House and 3rd Reading

- At the Committee of the Whole House stage, the Clerk-At-the Table will read the Bill Clause by clause in the House.
- Any Member including the mover who has an amendment can introduce it at this stage when the clause he wishes amended is read-The proposed amendment may be adopted or rejected by the House. It's up to the Member with an amendment to convince the others.
- At conclusion of Committee stage, the Chairperson of the Committee of the Whole House will report to the Assembly in Plenary of the consideration of the Bill
- If the Assembly approves the Bill with or without any amendment, the Bill proceeds to 3rd reading stage.
- The Third Reading Stage is just a formality-The short and long titles of the Bill are read and Question Put by the Speaker.
- After 3rd Reading, the Bill will proceed to assent by the Governor.

A Bill may lapse at the end of a session of the CA if the second reading had not been concluded and if it was rejected at the 2nd or 3rd reading stage, it may be re-introduced in the next session or after six months in the same session subject to fresh publication.

4.3 COMING INTO EFFECT OF LAWS

Within 14 days of passage of a Bill by the Assembly, the Speaker shall forward it to the Governor for assent. The Governor is required by law (section 24 of the County Governments Act) to either assent to the Bill, refuse to assent to a Bill and refer it back to the County Assembly with a memorandum outlining reasons for referral for reconsideration within 14 days. If the Governor fails to assent to a Bill or refer it back within 14 days, the Bill shall be taken to have been assented to on the expiry of that period.

After assent, the Bill becomes law and can be called an Act of Parliament. After assent, a legislation shall be published in the County Gazette and Kenya Gazette within seven days. The legislation then comes into force on the fourteenth day after its publication in the County Gazette and Kenya Gazette or on the date stipulated in the legislation itself. The County Governments Act further states that any legislation that confers a direct benefit whether pecuniary or in kind on Members shall come into force after the next General election.

5.0 POST LEGISLATION MONITORING AND EVALUATION

The facilitator sited that Monitoring, evaluation and Implementation of legislation is very important. The participants learnt that it is the role of the relevant Committee (SO 203) vis-à-vis Committee on Implementation (SO 201) to see that the bill is implemented. He also advised that Interventions by the Committee can be done to see the bill is put into practice.

6.0 LEGISLATIVE OVERSIGHT

Members learnt that there are various tools that can used to do legislative oversight. These are:

- Call for information,
- Engaging CECs/stakeholders/public,
- Review of implementation reports,
- Questions/statements/Petitions and
- Inquiries/visits

7.0 CLOSING REMARKS BY THE CHAIRPERSON

The Chairman, on behalf of the Committee also thanked the facilitator for enabling the Members to understand the Law Making Process. He maintained that generally the workshop was very educative, well-coordinated and there was cooperation by the Members, noting the well attendance by Members.

