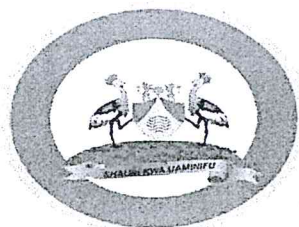


THE NAIROBI CITY COUNTY GOVERNMENT



THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – FOURTH SESSION

THE REPORT OF THE SECTORAL COMMITTEE ON CHILDREN, EARLY CHILDHOOD EDUCATION & VOCATIONAL TRAINING

ON

THE WORKSHOP HELD FROM 23RD TO 26TH OCTOBER, 2020 AT SAI ROCK
HOTEL, MOMBASA COUNTY TO CONSIDER THE PROPOSED NAIROBI CITY
COUNTY POLYTECHNICS AND HOME-CRAFT CENTRES BILL AND NAIROBI CITY
COUNTY EARLY CHILDHOOD DEVELOPMENT AND EDUCATION BILL

Clerk's Chambers,
CITY HALL,
NAIROBI.

Edition: November, 2020

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1.0. PREFACE

Establishment and Mandate

Hon. Speaker,

The Sectoral Committee on Children, Early Childhood Education and Vocational Training was established pursuant to the Standing Order 203, the Committee's mandate amongst others, as outlined under Standing Orders 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 analyze the relative success of the departments as measured by the results obtained as compared with their 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. to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 196 (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 to the Standing Orders, the Sectoral Committee on Children, Early Childhood Education and Vocational Training is mandated to consider all matters relating to: - **“to investigate, inquire into, and report on all matters relating to pre-primary education, village polytechnics, home craft centres and childcare facilities; children welfare”.**

Committee Membership

The Committee Membership comprises of:

1. **Hon. Silvia Museiya Kihoro, MCA – Chairperson**
2. **Hon. Mwaura Samora, MCA – Vice-Chair**

3. Hon. Samuel Ng'ang'a Mwangi, MCA
4. Hon. Kabiru Mbugua, MCA
5. Hon. Esther Waithera Chege, MCA
6. Hon. Patrick Karani, MCA
7. Hon. Abdikadir Mohammed, MCA
8. Hon. Fredrick Njoroge Njogu, MCA
9. Hon. Elijah Mputhia, MCA
10. Hon. Robert Mbatia, MCA
11. Hon. Stephen Gikonyo Kanyi, MCA
12. Hon. Jayendra Malde, MCA
13. Hon. Mark Mugambi, MCA
14. Hon. Ann Catherine Akinyi, MCA
15. Hon. Esther Nyangweso, MCA
16. Hon. Paul Shilaho, MCA
17. Hon. Fredrick Otieno Omondi, MCA
18. Hon. Jane Muasya, MCA
19. Hon. Husin Mohammed Lawi, MCA
20. Hon. Rosemary Masitsa Shitote, MCA
21. Hon. Mary Ariviza Mwami, MCA
22. Hon. Kennedy Oyugi, MCA
23. Hon. Redson Otieno Onyango, MCA
24. Hon. Caroline Andisi Mayunzu, MCA
25. Hon. Eunice Wanjiku Marimbi, MCA

Hon. Speaker,

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

The Sectoral Committee on Children, Early Childhood Education and Vocational Training exercises its oversight role on the operations and administration of the Education, Sports Culture, Youth, Gender & Social Services Sector.

Pursuant to the provisions of Standing Order 203 (6) (b), (d) and (e), the Sectoral Committee on Trade, Tourism and Cooperatives is supposed to study the programme of the Education, Sports Culture, Youth, Gender & Social Services Sector and the effectiveness of the implementation; study, assess, and analyze the success of the Sector as measured by the results obtained; and inquire into all matters relating to the Sector.

Hon. Speaker,

Pursuant to Article 185 of the Constitution of Kenya, 2010, the legislative authority of a County is vested and exercised and the County Assembly. The County Assembly is to make laws that are necessary for effective performance of the functions of the County Government as provided for in Part Two of the Fourth Schedule to the Constitution.

The Committee received two legislative proposals i.e the Nairobi City County Polytechnics and Home-craft Centres Bill, 2020 sponsored by Hon. Samuel Ng'ang'a Mwangi, MCA and the Nairobi City County Early Childhood Development and Education Bill, 2020 sponsored by Hon. Jayendra Malde, MCA. The Committee was to undertake prepublication scrutiny of the two proposed laws pursuant to the provisions of Standing Order 121 (3) (a) (i), 6 and 7. For the Committee to consider the proposed laws conclusively, a workshop was organized for the Members to be taken through the documents by the County Assembly Legal Office and the Budget office. The Members were to have ample time to conclusively have prepublication scrutiny the Nairobi City County Early Childhood Development and Education Bill and the Nairobi City County Polytechnics and Home-craft Bill pursuant to provisions of Standing Order 121 (7).

Hon. Speaker,

Sectoral Committee on Children, Early Childhood Education and Vocational Training held its workshop from 23rd to 26th October, 2020 at Sai Rock Beach Hotel, Mombasa County.

The objectives of the training workshop included the following;

The main purpose for undertaking this workshop is to enable the Members of the Sectoral Committee on Children, Early Childhood Education and Vocational Training to have ample time to conclusively have prepublication scrutiny the Nairobi City County Early Childhood Development and Education Bill and the Nairobi City County Polytechnics and Home-craft Bill pursuant to provisions of Standing Order 121 (7).

Acknowledgement


Hon. Speaker,

I wish to acknowledge with gratitude the offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee to facilitate its training workshop.

Finally, much thanks to the Members of the Committee and the Secretariat for their dedication, untiring commitment and valuable contributions during the training workshop.

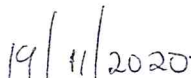
Hon. Speaker,

It is therefore my pleasant duty and privilege, on behalf of the Members of the Sectoral Committee on Children, Early Childhood Education and Vocational Training to table the report of the Committee on the workshop to scrutinize the proposed laws held from 23rd to 26th October, 2020 at Sai Rock Beach Hotel, Mombasa County.

Signed

Hon. Silvia Museiya Kihoro, MCA

Chairperson

Date

2.0. PROCEEDINGS OF THE WORKSHOP

Introduction

1. The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary. Good quality legislation is one of the most fundamental tenets of any modern and civilized democratic society. The process of developing such legislation is as critical as the product. However, County Assembly being entirely new entity, the effective exercise of this legislative function by Assembly has to a large extent been hindered by inter alia a lack of sufficient legislative capacity, the absence of proper systems and structures at the County level and the lack of a clear guide on the process of formulating legislation.
2. The Committee received two legislative proposals i.e the Nairobi City County Polytechnics and Home-craft Centres Bill, 2020 sponsored by Hon. Samuel Ng'ang'a Mwangi, MCA and the Nairobi City County Early Childhood Development and Education Bill, 2020 sponsored by Hon. Jayendra Malde, MCA. The Committee was to undertake prepublication scrutiny of the two proposed laws pursuant to the provisions of Standing Order 121 (3) (a) (i), 6 and 7.
3. For the Committee to consider the proposed laws conclusively, a workshop was organized for the Members to be taken through the documents by the County Assembly Legal Office and the Budget office. The Members were to have ample time to conclusively have prepublication scrutiny the Nairobi City County Early Childhood Development and Education Bill and the Nairobi City County Polytechnics and Home-craft Bill pursuant to provisions of Standing Order 121 (7).
4. The workshop entailed clause by clause consideration of the proposed Nairobi City County Polytechnics and Home-craft Centres Bill, 2020 and the proposed Nairobi City County Early Childhood Development and Education Bill, 2020 and the financial implications of the proposed laws.

Proceedings of the Training Workshop

5. During the workshop several presentations were made by the officers from the County Assembly Legal and Budget offices with the regard to the aforementioned proposed laws.

SESSION 1: OFFICIAL OPENING

6. The workshop was officially opened by a word of prayer by the Chairperson before welcoming Members to the meeting. The Chair then invited Members, the facilitators and the Secretariat to introduce themselves and subsequently urged Members to actively participate in the proceedings to enable them have concrete input on the proposed legislations.
7. The Legal Counsel took the Members through the legal underpinnings on the role of the County Assembly and the Committee in legislation as provided for in Articles 176 and 185 of the Constitution of Kenya, 2010 which provides for the establishment of the County Government and the role of the County Assembly in making laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the power of the County Government under Part Two of the Fourth Schedule to the Constitution respectively.

SESSION 2: SCRUTINIZATION OF THE NAIROBI CITY COUNTY POLYTECHNICS AND HOME-CRAFT BILL, 2020

Session Chair: - *Hon. Silvia Museiya, MCA – Chairperson*

Topic 1: Scrutinization of the Nairobi City County Polytechnics and Home-Craft Bill, 2020

Facilitator: - *Mr. Klinsman Munase – legal officer*

The Facilitator began by giving the synopsis of the proposed Nairobi City County Polytechnics and Home-craft Bill, 2020. The legislative proposal was sponsored by the Member for Kayole North Ward (Hon. Samuel Ng'ang'a MWangi, MCA). The Bill was divided into six (6) parts as follows: -

PART ONE – Preliminary

This part comprises of the Short title and commencement and the interpretation. From the interpretations, the Committee recommended for the expansion of the definition of the word “home-craft centre” to include painting, designs, music amongst other arts activities.

PART TWO – establishment of the County Polytechnics, Home-craft Centres and Promotion of Vocational Training.

This part comprises of clauses 3 to 8. Clause 3 provides for the establishment of County Polytechnics and Home-craft Centres. Clause 4 provides for the powers and functions of County polytechnics and home-craft centres. Clause 5 provides for the guidelines on courses of study. Clause 6 provides for the responsibilities of the Governor in promotion of the establishment of County polytechnics and home-craft centres.

The Committee recommended that the word “Governor” should be deleted in the title of the clause and replaced by the word “Government”

Clause 7 provides for the role of the County Executive Committee Members responsible for Education in promoting vocational training in the County. Clause 8 highlights the delegation of functions by the County Executive Committee Member with respect to the vocational training to a sub-County on such terms, conditions, or restrictions as he/she may think fit.

PART THREE – registration of the County Polytechnics and Home-craft Centres

Part Three of the proposed law provides for the registration of County polytechnics and home-craft centres. Clause 9 provides that a person has to register a county polytechnic or home-craft centre for it to function. In addition, it will be an offense for a person to operate a county polytechnic or home-craft centre that is not registered.

The Committee noted that the word “home craft-centre” was left out in most of the clauses such as clauses 9, 10, 11 amongst others. the same to be considered when making the final draft.

Clause 10 provides for the process of application for registration of a polytechnic or home-craft centre. the Clause provides for the County Executive Committee Member to prescribe form in which application for registration of polytechnics and home-craft centres is to be done.

Clause 11 provides for fees for application for registration to be prescribed by the Directorate.

Clause 12 provides for guidelines in registration of county polytechnics and home-craft centres. Clause 13 provides for the publication of the registration of county polytechnics and home-craft centres in the County Gazette and the National daily newspaper for circulation.

Clause 14 provides for a permit to operate prior to registration. The Directorate may issue an interim permit to a county polytechnic or home-craft centre to operate pending the fulfillment of conditions required by the Directorate.

Clause 15 provides for the Directorate to provide for a certificate of registration to a county polytechnic or home-craft centre. the certificate of registration is to be valid for five years and may be renewed on application by the operator.

Clause 16 provides for the display of the certificate of registration by the operator in a conspicuous place in the office of the Principal of the county polytechnic or home-craft centre.

Clause 17 provides for the Directorate to keep a register of all county polytechnics and home-craft centres operating in the County. The County Executive Committee Member to prescribe the particulars to be included in the register.

Clauses 18 highlights circumstances that may lead to closure of a county polytechnic or home-craft centre.

PART FOUR – Administration of County Polytechnics and Home-craft Centres

This part provides for the administration of public county polytechnic and home-craft centres. Clause 19 provides for establishment of County Polytechnic Council in a county polytechnic established by the County Government or sponsored by a religious body and aided by the County Government. In addition, the clause highlights the responsibilities of the County Polytechnic Council.

Clause 20 provides for the composition of the Council. The Committee recommended that the composition of the County Polytechnic Council be limited to seven members.

Clauses 21 to 24 provides for the vacation of office of a member of the Council, filling of a vacancy and the minimum qualifications of a member of the Council.

Clause 25 provides for the County Public Service Board to appoint a suitable qualified person to be a principal, deputy principal and teaching staff of a county polytechnic through an open, transparent and competitive recruitment procedure. The clause further provides for the qualifications for appointment as a principal of a county polytechnic.

Clause 26 give provisions to recruitment of other teaching and non-teaching staff of a county polytechnic. The clause further provides for secondment of officers to a county polytechnic upon request by the Council.

PART FIVE – Financial Provisions

This part highlights the financial provisions of a county polytechnic or home-craft centre.

Clause 27 provides for what consists of funds of the public county polytechnic. The clause further provides for the accountability of any funds donated, granted or lent to the county polytechnic or home-craft centre.

The Committee recommended for appropriations of the funds by county polytechnics and home-craft centres to be approved by the County Assembly in the annual budget estimates for accountability.

In addition, the Committee proposed for a clause that provide that any donor fund to a polytechnic or home-craft centre and the management of such funds to be reported to the County Executive Committee Member and the County Assembly for accountability.

Clause 28 provides of preparation of estimates of the revenue and expenditure of a county polytechnic in each financial year. The clause further provides for particular items to be included in the estimates.

Clause 29 provided for accounts and auditing of a county polytechnic where the County Polytechnic Council is to cause to be kept all proper books and records of account for income, expenditure, assets and liabilities of the polytechnic.

Clause 30 provides for annual reporting on the operations of the polytechnic. The Council is to submit an annual report to the County Executive Committee Member. The Clause further provides what to be contained in the annual report.

PART FIVE – Miscellaneous Provisions

This part highlights miscellaneous provisions that include inspection of polytechnics, regulations, rules, offences and penalties.

Clause 31 provides for the Directorate to inspect and monitor the standards of county polytechnics and home-craft centres in the County and regularly submit the inspection report to the county Executive Committee Members.

Clause 32 tasks the County Executive Committee Member to develop regulations for better carrying out of the purposes and provisions of the proposed law.

Clause 33 provides for a county polytechnic council to make rules not inconsistent with the provisions of the proposed law for the better functioning of the polytechnic.

Clauses 34 provides for fines and penalties of any person who contravenes the provisions of the proposed law.

Topic 2: financial implications by The Nairobi City County Polytechnics and Home-craft Centres Bill

Facilitator: - Mr. Erick Otieno – Principal Fiscal Analyst

While briefing the Committee on the financial implications of the proposal law, the Principal Fiscal Analyst informed that the proposed law was before the Select Committee on County Finance, Budget & Appropriations. He stated that County polytechnics were to receive grants from the National Government but they needed an addition of Kshs. 40 million from the County Government. Kshs.30 million had been allocated in the current financial year. Kshs. 15 million was required for sensitization and training. The total cost for the implementation of the proposed law was Kshs. 234 million where Kshs. 174 million may be accommodated in the current financial year but there was a short fall of Kshs. 60 million.

The Committee having been taken through the proposed legislation, made the recommendations: -

- a) that the proposed law should be applied to private polytechnics and home-craft centres in the County;
- b) that the title of the proposed be amended to read “the Nairobi City County Vocational Training Bill” to include creative arts and talents;
- c) that the definition of home-craft centres to include creative arts and talents;
- d) that the proposed establishment of a County Polytechnic Council composition should consist of one person from each category: -
 - i) Women
 - ii) Youth
 - iii) Religious groups
 - iv) An expert in technical, vocational education and training
 - v) A member representing the industry or commerce
 - vi) A person representing persons with special needs
 - vii) A representative of the County Directorate of Youth training as ex-official member

- e) that Clause 6 be amended as by deleting the word ‘Governor’ and substituted with the word “County Executive Committee Member”;
- f) that a Clause be provided for the County Executive Committee to be accountable for any grants and any other funds donated to the polytechnics pursuant to Regulation 78 of the Public Finance Regulations. Every polytechnic should keep its own financial records. It is the mandate of the CEC Education to submit audited financial statements to the relevant accounting officer regularly as provided for by the PFM Act 2012; and
- g) that the sub-clause for renewal of registration be deleted – the registration certificate should not be renewable i.e. should be issued only once. The registration certificate to remain valid subject to inspection and meeting the basic requirements as provided in clause 18.

SESSION 3: SCRUTINIZATION OF THE NAIROBI CITY COUNTY EARLY CHILDHOOD DEVELOPMENT AND EDUCATION BILL

Session Chair: - Hon. Mwaura Samora, MCA – Vice-Chairperson

Topic 3: Scrutinization of The Nairobi City County Early Childhood Development and Education Bill

Facilitator: - Mr. Klinsman Munase – Legal Officer

The Facilitator began by giving the synopsis of the proposed Nairobi City County Early Childhood Development and Education Bill, 2020. The legislative proposal was sponsored by the Member for Parklands/Highridge Ward (Hon. Jayendra Malde, MCA). The Bill was divided into twelve (12) parts as follows: -

PART ONE – Preliminary

This part includes the short title clause, the interpretation clause and the clause that provide for guiding principles and values for pre-primary school education.

PART TWO – Establishment, powers and functions of the Nairobi County Education Authority.

This part provides for the establishment of the County Education Authority and its functions. Clause 5 provides for the conduct of business by the Authority.

Clause 6 highlights the composition of the Authority which is to be appointed by the County Executive Committee Member responsible for the Education Sector. The clause further provides for the minimum qualifications of a member of the Authority.

Clause 7 provides for the tenure of the Chairperson of the County Education Authority which is three years and is eligible for reappointment.

Clause 8 provides for remuneration of the Members of the County Education Authority to be determined by the County Executive Committee Member in consultation with the County Treasury and the Salaries and Remuneration Commission.

Clause 10 provides for the Authority to make annual reports to the County Executive Committee Member detailing the activities and new registrations undertaken by the Authority during the year.

PART THREE – Free and Compulsory pre-primary education

This provides includes provisions for free and compulsory pre-primary school education in the County. Clause 11 provides for the role of the County Executive Committee to implement the right of every child to access free and compulsory pre-primary school education. In addition, the clause provides the County Executive Committee Member the responsibility in consultation with the Authority to provide for the establishment of pre-primary education centres and special integrated and inclusive schools for learners with disability.

Clause 12 provides for free tuition to all public pre-primary schools in the County. The Clause further provides that a fee maybe be charged to persons who are not Kenyan citizens.

Clause 13 provides for the duty and responsibility of parents and guardians to cause to be presented for admission or cause to be admitted his or her child to a pre-primary school. The clause further provides for penalty for a parent or guardian who default the duty.

Clause 14 provides for free admission and a person is not to charge or collect any fee while admitting a child to a public pre-primary school

Clause 15 provides for proof of age for admissions of a child to a pre-primary school. The age of a child to be determined on the basis of birth certificate issued in accordance with the provisions of Births and Deaths Registration Act, Chapter 149, Laws of Kenya or upon attainment of the school going age of three years on the basis of such other documents to be prescribed in the regulations.

Clause 16 provides for the period of admission and prohibition of discrimination against any child seeking admission on any ground.

Clauses 17 provides for the pupils to be given appropriate incentives to learn and complete pre-primary education. the clause further prohibit repeating of class or expelling of pupils.

Clause 18 prohibits against physical punishment and mental harassment to a child. It is an offence for a child to be subjected to torture and cruel, inhuman or degrading treatment or punishment in any manner. The clause provides for a penalty for such offences.

Clause 19 prohibit holiday tuition and any person who conduct holiday tuition commits an offence. The clause prescribes the penalty for such offence.

Clause 20 provides for the responsibility of the County Executive Committee Member in ensuring there is free and compulsory pre-primary education to every child in the County.

Clause 21 provides for the duty of head teacher where a pupil fails to attend school.

PART FOUR – System and Structure of pre-primary school education

This part provides for the system and structure of pre-primary school education in the County. The part provides for administrative requirements, structure, curriculum framework and categories of schools.

Clause 22 provides for the responsibility of the County Executive Committee Member to promote pre-primary education and training of early childhood education teachers in the County through establishment of pre-primary education schools and early childhood education teacher training colleges.

Clause 23 provides for administrative requirements for every licensed early childhood education service provider to have and produce on request by the County Executive Committee Member.

Clause 24 highlights for the structure of education where the system to be structured to enable learners to access education and training at any level in a sequence and at a pace that may be commensurate with the individual learner's physical, mental and intellectual abilities and resources available.

Clause 25 provides for the County Executive Committee Member to prescribe a curriculum framework for licensed early childhood services in consultation and in alignment with the current national curriculum framework developed by the Ministry of Education and Kenya Institute of Curriculum Development.

Clause 26 provides for the categories of pre-primary school educational institutions as private schools or public school. The clause further provides that public basic education institutions cannot be converted to a private basic education institution or any other private status without consultation with the County Education Board and approval by the County Executive Committee Member.

PART FIVE – Promotion of Special Needs Pre-primary School Education

This part provides for the establishment and promotion of special needs pre-primary schools. Clause 27 provides for the County Executive Committee Member to establish and maintain public special needs pre-primary schools in the County. The clause further highlights what constitutes special needs. The clause tasks the County Executive Committee to ensure that such schools are well equipped with appropriate trained teachers, non-teaching staff, infrastructure, learning materials and equipment suitable for such learners.

Clause 28 provides for the development of regulations for the establishment and management of special schools and institutions offering special needs education to pupils with special needs.

Clause 29 provides for the County Education Authority to provide education assessment and research centres including a special need service in identified clinics in the County.

Clause 30 provides for the director to report to the County Education Authority in relation to each child with special needs belonging to schools in their respective areas.

Clause 31 highlights further provisions for children with special needs which include making arrangement of pupils with special needs to attend an establishment if such establishment makes provisions wholly or partly for gifted or talented learners or advantage of the pupil.

PART SIX – Private Education Institutions

This part provides for the establishment and maintenance of private pre-primary education schools by any person subject to the Constitution, national law and the proposed law.

Clauses 32 and 33 provides for establishment, maintenance and registration of private pre-primary schools in the County.

Clause 34 gives right to attend a private pre-primary school as an alternative to a public school.

Clause 35 provides for the duties of a private pre-primary school.

PART SEVEN – Recruitment of Early Childhood Education Teachers

This part provides for the recruitment of early childhood education teachers in the County.

Clause 36 provides for the eligibility of teachers recruited by the private pre-primary school.

Clause 37 provides for the terms and conditions of service for any person recruited under clause 36 to be determined by the County Public Service Board.

PART EIGHT – Assessment

This part provides of the assessment of early childhood education teacher trainee. Clause 38 provide that such trainees to be assessed during normal class sessions at least twice a term but at different dates and lessons.

PART NINE – Licensing, Registration and Accreditation, Procedures of Pre-primary Schools

This part provides for licensing, registration and accreditation procedures of pre-primary schools in the County. Clause 39 provides for the procedure for licensing, registration and accreditation of a pre-primary school in the County.

Clause 40 provides for circumstances that may lead to rejection of application by the County Education Authority.

Clause 41 provides for penalty where a person engages in the promotion, management or teaching of pre-primary education without being accredited and registered.

Clause 42 provides for the County Education Authority to establish and maintain a databank of all registered, accredited, licensed and incorporated institutions of pre-primary education, training and or research in the County.

Clause 43 provides for the County Executive Committee Member to establish guidelines and prescribe rules and regulations for the establishment, licensing, accreditation and registration of a basic education and training institutions in the County.

Clause 44 provides for the process of application for licensing of institution of basic education and training in the County.

Clause 45 highlights the procedures for appealing against decisions of the County Education Authority.

Clause 46 provides for the establishment of County Education Appeals Tribunal and its composition. The County Executive Committee Member to establish regulations on the operations and structure of the Education Appeals Tribunal.

Clause 47 provides for the establishment of County Standards Assurance Board and its responsibilities.

PART TEN Financial Provisions

This part provides for financing of the pre-primary education in the County, where the funds of the Department of Early Childhood Education will be used to promote pre-primary education.

Clause 48 provides for what consists of the funds to be used in promotion of pre-primary education in the County.

Clauses 49 to 51 provides for annual financial estimates for the pre-primary education in the County.

Clause 51 provides for the funding of certain early childhood education services.

Clauses 52 and 53 provides for the accounting and auditing of departments or schools. The County Executive Committee Member to establish mechanisms for school-based auditing.

Clause 54 provides for the County Executive Committee Member to invest any funds of the department in securities in which for the time being trustees may by law invest funds or in any securities which the County Treasury may from time to time approve.

PART ELEVEN – Powers of entry and inspection

This provides for powers of entry and inspection of a pre-primary school in the County.

Clause 55 provides for a parent or guardian a right of entry to a licensed early childhood education service provider whenever the child is there.

Clause 56 provides for the power of entry and inspection by a person holding authorization without warrant for the purpose of ensuring that the provisions of the law are being complied.

Clause 57 provides for the power of entry and inspection by a person holding authorization with warrant for the purpose of ensuring that the provisions of the law are being complied.

PART TWELVE – General Provisions

This part highlights the general provisions of the proposed law. Clause 58 provides for general penalties on committing an offence under the proposed legislation.

Clause 59 provides for offence of insulting, abusing or intimidating staff of the pre-primary school in the County.

Clause 60 provides for offences of physical abuse of children in an early childhood education centre.

Clause 61 provides for offence of obstructing, hindering, resisting or deceiving any person exercising or attempting to exercise a power of entry for inspection of a pre-primary school.

Clause 62 provides for the County Executive Committee Member to make regulations for the better carrying into effect of the provisions of the proposed law.

Clause 63 provide for repeal of the Nairobi City County Early Childhood Education Act of 2017.

Topic 4: Financial implications by The Nairobi City County Early Childhood Development and Education Bill

Facilitator: - Mr. Erick Otieno – Principal Fiscal Analyst

While briefing the Committee on the financial implications the proposed law, the Principal Fiscal Analyst stated as follows: -

That the Bill proposes the Executive Committee Member to prepare estimates of revenue and expenditure before commencement of each financial year and to keep proper books and records of accounts of income, expenditure, assets and liabilities which shall be submitted within a period of 3 months after the end of each financial year to the Auditor General and the Controller of Budget and the same shall be audited and reported upon by the Auditor General in accordance with the provisions of the Public Audit Act, 2003.

Salient Matters:

- This would contravene the provisions of section 81 (b) of the PFM Act, 2012 that requires the accounting Officers to prepare financial statements in respect of the entity. It should be clearly defined whether the CECM is the accounting officer for the funds to be disbursed or whether the same should be vested on the Chief Officer who are by law the designated accounting officers.
- Article 201 (a) of the Constitution stipulates that there shall be openness and Accountability in public financial matters (including public participation). It is therefore imperative for public views to be taken into account in this Bill.
- Since the bill proposes establishment of Education Authority and recruitment of ECD teachers it does not provide any particulars on the fate of ECD teachers and any officers if any currently employed by the County.
- Clause 11 cast doubt on how CECM shall implement the right of every child to free and compulsory pre-primary education. There is need to provide a brief on how to achieve the same.
- The terms and conditions for recruitment for ECD teachers under section 36 has been referred to under clause 37 as section 34 and the same should be corrected as section 36.

According to the Principal Fiscal Analyst proposed law was very expensive to implement as required a total budget of Kshs.300 million.

The Principal Fiscal Analyst highlighted some of the policy options as follows: -

I. That bill be published;

The County Education Authority as well as the County Education Appeals Tribunal and the respective Management Committees will be established.

The County Government will be required to appropriate an additional budget.

II. That the Bill NOT be published;

There will no County Education Authority and the County Education Appeals Tribunal hence the County Government will not be required to appropriate any additional fund.

The public will not receive the benefits that would otherwise been brought by the free funding.

III. That the Bill be published with amendment;

The Committee may wish to build on the positive aspects of the Bill by proposing the following amendments:

- a. By amending the Bill such that there is minimum tuition fee charged for services offered; and
- b. By amending the Bill to reflect the proposals raised in the salient matters given above

3.0. CONCLUSION AND COMMITTEE'S RECOMMENDATIONS

The Committee having been taken through the two proposed legislations and after further deliberations made the following recommendations THAT: -

- 1) The Legal Counsel to redraft the proposed Nairobi City County Polytechnics and Home-craft Centres Bill taking into consideration the Committee's recommendations as contained under topic two (pg 11-12) of this report;
- 2) The Legal Counsel to research further on the Nairobi City County Early Childhood Development and Education Bill together with the Basic Education Act of 2013 and redraft the proposed law.;
- 3) The Committee recommends the adoption of the Basic Education Act of 2013 with necessary modifications; and
- 4) The Committee recommends the establishment of the County Education Board instead of County Education Authority as highlighted in the proposed legislation.

MINUTES OF THE 49TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON CHILDREN, EARLY CHILDHOOD EDUCATION AND VOCATIONAL TRAINING (FOURTH SESSION) HELD ON WEDNESDAY, 11TH NOVEMBER, 2020 AT 3.00 P.M. THROUGH ZOOM TELECONFERENCING.

PRESENT

1. **Hon. Silvia Museiya, MCA** – Chairperson
2. Hon. Fredrick Omondi Otieno, MCA
3. Hon. Jayendra Malde, MCA
4. Hon. Paul Shem Shilaho, MCA
5. Hon. Rosemary Masitsa, MCA
6. Hon. Esther Nyangweso, MCA
7. Hon. Ann Catherine Akinyi, MCA
8. Hon. Eunice Wanjiku Marimbi, MCA
9. Hon. Robert Mbatia, MCA
10. Hon. Samuel Mwangi Ng'ang'a, MCA
11. Hon. Jane Muasya, MCA
12. Hon. Mary Ariviza Mwami, MCA
13. Hon. Husin Mohamed Lawi, MCA
14. Hon. Kennedy Odhiambo Oyugi, MCA
15. Hon. Mark Mugambi, MCA
16. Hon. Fredrick Njoroge Njogu, MCA

ABSENT

1. **Hon. Mwaura Samora, MCA** – Vice-Chairperson
2. Hon. Hassan Abdikadir Mohammed, MCA
3. Hon. Elijah Mputhia, MCA
4. Hon. Redson Otieno Onyango, MCA
5. Hon. Caroline Andisi Mayunzu, MCA
6. Hon. Stephen Gikonyo Kanyi, MCA
7. Hon. Patrick Karani, MCA
8. Hon. Esther Waithera Chege, MCA
9. Hon. Kabiru Mbugua, MCA

SECRETARIAT

1. Mr. Kevin Wasike – Snr. Clerk Assistant
2. Ms. Rose Edna Kanana – Clerk Assistant

MIN.019/SC-ED/NOV/2020 – PRELIMINARIES

The Chairperson called the meeting to order at five minutes past Three O'clock and the opening prayers were said by Hon. Robert Mbatia, MCA. The Chairperson then welcomed the Members present to the meeting and took them through the agenda which was adopted for discussion as proposed by Hon. Robert Mbatia, MCA and seconded by Hon. Husni Mohammed Lawi, MCA as follows;

- a) *Preliminaries (prayers & adoption of the Agenda);*
- b) *Confirmation of Minutes – 48th Sitting*
- c) *Matters Arising*

d) *Consideration and adoption of the draft report of the workshop held from 23rd to 26th October, 2020 at Sai Rock Hotel, Mombasa County to Consider the Proposed Nairobi City County Polytechnics and Home-Craft Centres Bill; and Nairobi City County Early Childhood Development and Education Bill*

e) A.o.B; and

f) Adjournment

MIN.020/SC-ED/NOV/2020

– CONFIRMATION OF MINUTES

The Chairperson took the Committee through the Minutes of the 48th Sitting held on 9th November, 2020. The Minutes were confirmed to be true record of the proceedings as proposed by Hon. Husni Mohammed Lawi, MCA and seconded by Hon. Esther Nyangweso, MCA.

MIN.021/SC-ED/NOV/2020

– MATTERS ARISING

There were no matters arising from the Minutes

MIN.022/SC-ED/NOV/2020

– CONSIDERATION AND ADOPTION OF DRAFT REPORT OF THE WORKSHOP HELD FROM 23RD TO 26TH OCTOBER, 2020 AT SAI ROCK HOTEL, MOMBASA COUNTY TO CONSIDER THE PROPOSED NAIROBI CITY COUNTY POLYTECHNICS AND HOME-CRAFT CENTRES BILL; AND NAIROBI CITY COUNTY EARLY CHILDHOOD DEVELOPMENT AND EDUCATION BILL

The Secretariat tabled the draft report of the workshop held from 23rd to 26th October, 2020 at Sai Rock Hotel, Mombasa County to Consider the Proposed Nairobi City County Polytechnics and Home-Craft Centres Bill; and Nairobi City County Early Childhood Development and Education Bill. The Secretariat then took the Committee through the report which was adopted for tabling in the Assembly as proposed by Hon. Kennedy Oyugi, MCA and seconded by Hon. Esther Nyangweso, MCA.

MIN.023/SC-ED/NOV/2020

– A.o.B & ADJOURNMENT

There being no other business and the time being twenty-seven minutes to Four O'clock, the Chairperson adjourned the meeting. The next virtual meeting was to be held on Monday 16th November, 2020 at 3.00pm.

CONFIRMED AS TRUE RECORD OF THE PROCEEDINGS

SIGNATURE 

(Chairperson)

DATE..... 16/11/2020

SIGNATURE 

(Secretariat)

DATE..... 16/11/2020