

GOVERNMENT OF NAIROBI CITY COUNTY



Papers Laid on
11th June, 2024
by Hon. Fluniflu
Nkasi.

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(THIRD SESSION)

NCCA
APPROVED
11 JUN 2024
[Signature]

NCCA/TJ/PL/2024(29)

11TH JUNE 2024

PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant to Standing Order 135(4), I beg to lay the following Paper on the Table of this Assembly, today Tuesday 11th June 2024:

— THE REPORT OF SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON CONSIDERATION OF NAIROBI CITY COUNTY PERSONS WITH DISABILITIES (AMENDMENT) BILL, 2023.

(Chairperson, Sectoral Committee on Labour and Social Welfare)

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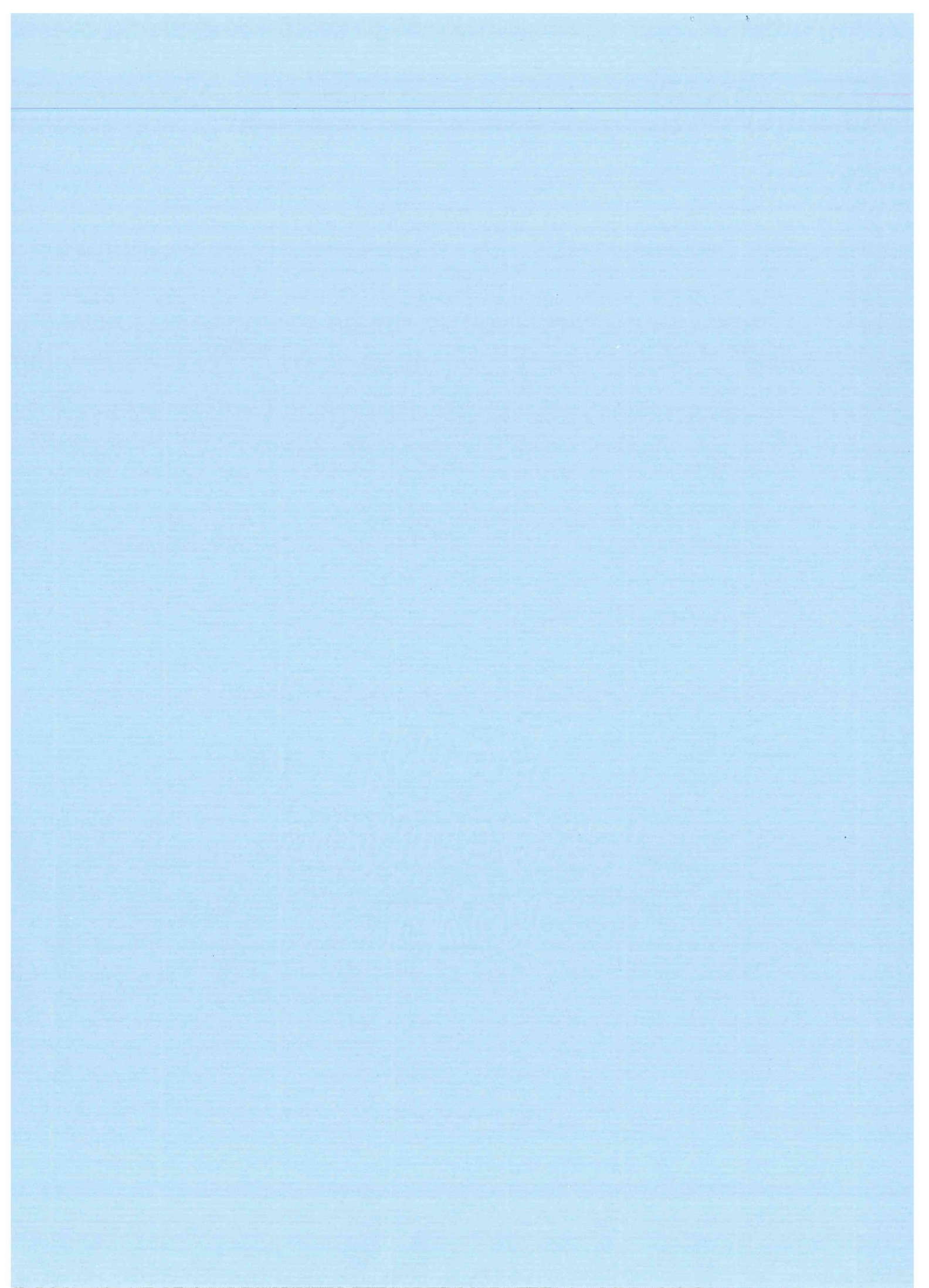
The Speaker

The Clerk

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NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY
THIRD ASSEMBLY - THIRD SESSION

THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL
SERVICES
ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY PERSONS WITH
DISABILITIES (AMENDMENT) BILL, 2023

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
Nairobi

JUNE, 2024

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- ii) Memoranda
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1.0. PREFACE

1.1. Committee Mandates

Mr. Speaker Sir,

The Sectoral Committee on Labour and Social Welfare is established under Standing Order No. 209. Its mandate pursuant to Standing Order 209(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.*

Mr. Speaker Sir,

In accordance with the Third Schedule of the Standing Orders, the Sectoral Committee is mandated to consider all matters relating to: - *labour, trade union relations, manpower or human resource planning; County Public Service; gender, youth and social welfare*".

1.2. Committee Membership

The Committee comprises the following Members: -

1. **Hon. Allan Maina Githuku, MCA** **Chairperson**
2. **Hon. Patrick Karani, MCA** **Vice Chairperson**
3. **Hon. Catherine Okoth, MCA**

4. Hon. Anthony Kimemia, MCA
5. Hon. Jane Muasya, MCA

6. Hon. Joyce Muthoni, MCA
7. Hon. Nancy Mwaura, MCA
8. Hon. Oscar Lore, MCA
9. Hon. Kennedy Oyugi, MCA
10. Hon. Abbas Khalif, MCA
11. Hon. Absalom Onyango, MCA
12. Hon. Peter Mwangi, MCA
13. Hon. Benter Juma, MCA
14. Hon. Simon Maina, MCA
15. Hon. Paul Wachira, MCA
16. Hon. Paul Mathu, MCA
17. Hon. Joyce Lugonzo, MCA
18. Hon. Cicilia Wairimu, MCA
19. Hon. Jane Musangi, MCA
20. Hon. Farhiya Daudi, MCA
21. Hon. Evans Nyangicha, MCA
22. Hon. Agnes Njeri, MCA
23. Hon. Wanjiru Kariuki, MCA
24. Hon. Thuo Fiunifiu, MCA

Mr. Speaker Sir,

The Committee is further mandated to make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.3. Committal of the Nairobi City County Persons with Disabilities (Amendment) Bill, 2023

1.3.1. Background

Mr. Speaker Sir,

The Nairobi City County Persons with Disabilities (Amendment) Bill, 2023, was read a First Time on **Wednesday, 8th November, 2023**, and thereafter committed to the Sectoral Committee on Labour and Social Services for consideration pursuant to Standing Order 135. The bill was sponsored by Hon. Chege Mwaura, MCA. The bill seeks to provide for a legal framework to amend the principal act, the Nairobi City County Persons with Disabilities Act, 2015, by establishing a fund to be used to support various programs, activities, and needs of persons with disabilities.

Mr. Speaker Sir,

Pursuant to Article 196(b) of the Constitution of Kenya and Standing Order 135(3), which require public participation in the legislative and other business of the Assembly and its Committees, the Committee placed a notice in the local dailies on **Wednesday, 15th November, 2023**, calling for any representations and amendments from the public on the bill.

Hon. Speaker,

Article 185 of Kenya's Constitution states that:

- 1) The legislative authority of a County is vested in and exercised by its County Assembly.
- 2) A County Assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of the powers of the County government under the Fourth Schedule; and
- 3) A County Assembly, while respecting the principle of separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

Hon. Speaker,

Further, the County Governments Act, 2012, Sections 21(1) and (2) provide that:

- 1) A County Assembly shall exercise its legislative power through bills passed by the County Assembly and assented to by the Governor.

- 2) A bill may be introduced by any Member or Committee of the County Assembly, but a money bill may be introduced only in accordance with subsection (4).

Further, the Committee also identified key stakeholders in the subject matter of the bill and invited them to either submit their comments or attend a public participation meeting at Charter Hall or City Hall Buildings where they could give their views on the bill. Following the notice and the invitations, the Committee received written memoranda from the below-listed stakeholders.

- i) Gender and Inclusivity Sub-Sector;
- ii) Amka Africa Justice Initiative
- iii) University of Nairobi African Women Studies Centre;
- iv) Shining Hope for Communities Urban Network;
- v) Kenya National Association of the Deaf (KNAD)
- vi) Down Syndrome Society of Kenya;
- vii) Free a Girls World Network; and
- viii) AHADI Governance and Research Consultancy.

Hon. Speaker,

The Committee held three (3) meetings and a retreat to consider the bill and all representations received. The stakeholders who presented memoranda were in agreement with the bill, although they proposed amendments to various clauses.

Mr. Speaker Sir,

The Committee proposed amendments to the bill in Clauses 4 and 5. The amendments are aimed at ensuring that the enactment of the bill will occasion additional expenditures of public funds, which shall be provided for in the County Government estimates.

1.4. Acknowledgement

Mr. Speaker Sir;


The Committee thanks the offices of the Speaker and the Clerk of the County Assembly for the support and services extended to Members of the Committee while considering the bill. I am grateful to the Members of the Committee whose support and commitment enabled them

This cannot be the aim of the amendment.

to accomplish this task. The Committee also extends its appreciation to all stakeholders who submitted their views on the bill.

On behalf of the Committee, I now have the honor and pleasure to present this report of the Committee on the consideration of the Nairobi City County Persons with Disabilities (Amendment) Bill, 2023, for adoption.

Thank You.

Signed  Date 4/06/24

Hon. Allan Gathuku Maina, MCA

Chairperson, Sectoral Committee on Labour and Social Welfare

2.0. CONSIDERATION OF THE NCC PERSONS WITH DISABILITIES (AMENDMENT) BILL, 2023

2.1. Introduction and Scrutiny of the Bill

Hon. Speaker

The Nairobi City County Persons with Disabilities (Amendment) Bill, 2023, was read a First Time on **Wednesday, 8th November, 2023**, and thereafter committed to the Sectoral Committee on Labour and Social Welfare for consideration pursuant to Standing Order 135.

The proposed law seeks to provide for a legal framework to amend the principal Act, The Nairobi City County Persons with Disabilities Act, 2015, by establishing a fund to be used to support various programs, activities, and needs of persons with disabilities.

The proposed law was referred to the Sectoral Committee on Labor and Social Welfare for consideration pursuant to Standing Order 135. The bill was sponsored by Hon. Chege Mwaura, MCA. The Committee held three (3) meetings and a workshop to consider the bill and all memoranda from the public.

Hon. Speaker,

The Committee was briefed on the bill, where Part I, preliminaries, provides for the short title, Part II provides for a new definition, provides for the objectives of the Fund, and provides for the sources of the Fund. Part V sets out the miscellaneous provisions. Whereas Part VI provides for amendment of the Principal Act and the Regulations that will guide the operation of the Fund.

Hon. Speaker

While examining the Bill, the Committee noted the following:

- i) The principle objective of the bill is to amend the Nairobi City County Persons with Disabilities Act, 2015, to establish and administer the Nairobi City County Persons with Disabilities Fund. The enactment of the bill shall occasion additional expenditure of the public funds, which shall be provided for in the county government estimates.

- ii) Part I of the bill sets out the preliminary matters with respect to the bill. Preliminaries provide for the short title and commencement. This Act may be cited as the Nairobi City County Persons with Disabilities (Amendment) Act, 2023.
- iii) Part II: Contains amendments to Section 2 of the Persons with Disabilities Act, 2015. The Nairobi City County Persons with Disabilities Act 2015, referred to as the “principal act,” is amended in Section 2 by inserting the following new definitions in their proper alphabetical sequence:
“Fund” means the Nairobi City County Persons with Disabilities Fund.
- iv) Part III of the Bill provides that Part VI of the Principal Act be amended in the heading by deleting the entire title and substituting with
“Establishment of the Fund” tenure, functions, remuneration, and meetings of the Zonal Climate Changed Sub-Committee
- v) Part IV: Provides for the establishment of the Nairobi City County Persons with Disabilities Fund. It has proposed a law that contains the establishment of the Nairobi City County Persons with Disabilities Fund.

The Committee interrogated and made its resolutions to the submissions from the respective stakeholders as contained in the attached matrix.

3.0. SUMMARY OF THE CONSIDERATION OF THE NAIROBI CITY COUNTY PERSONS WITH DISABILITIES (AMENDMENT) BILL, 2023

The Committee deliberated on the Bill as follows;

- Clause 4 - proposed amendments
- Clause 5 - proposed amendments

4.0. COMMITTEE STAGE AMENDMENTS

COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY PERSONS WITH DISABILITIES (AMENDMENT) BILL 2023.

NOTICE is given that the Chairperson of the Sectorial Committee on Labour and Social Welfare intends to move the following amendments to the Nairobi City County Persons with Disabilities (Amendment) Bill 2023, at the Committee Stage.

CLAUSE 4

THAT Clause 4 of the Bill be amended as follows; -

- (i) By amending the new Clause 22A Sub- clause (2) paragraph (a) by inserting the words **'People with disabilities'** to appear immediately before the word 'board' and deleting the words **'with the approval of the Executive Committee Member for the time being responsible for matters relating to persons with disabilities'**
- (ii) By amending the new Clause 22A Sub- clause (2) paragraph (b) by deleting the words **'Chief Officer in charge of'** and replacing therefor with the words **'Chief Executive Officer of the board'**

CLAUSE 5

THAT Clause 5 of the Bill be amended as follows; -

- (i) By amending the new Clause 22B Sub- clause (1) paragraph (a) subparagraph (iii) by deleting it and replacing it therefor with a new subparagraph (iii) as follows:
 - (iii) Provide vocational and therapy services for persons with disabilities.**
- (ii) By amending the new Clause 22B Sub- clause (1) paragraph (a) by inserting a new subparagraph immediately after subparagraph (iv) as follows; -
 - (iv) Improve the existing county owned therapy centers for persons with disabilities.**
- (iii) By amending the new Clause 22B Sub-clause (1) paragraph (c) by inserting new paragraphs immediately after paragraph (c) as follows; -
 - (ca) Provide infrastructure and equipment support to government learning institutions of persons with disabilities.**

(cb) Facilitate economic empowerment through grants that enable persons with disabilities to engage in self-employment.

MATRIX OF STAKEHOLDER COMMENTS AND FINAL COMMITTEE PROPOSED AMENDMENTS TO THE NAIROBI CITY COUNTY PERSONS WITH DISABILITIES (AMENDMENT) BILL, 2023

STAKEHOLDER	CLAUSE	PROPOSED AMENDMENT	RATIONALE	LEGAL COUNSEL'S COMMENTS	COMMITTEE CONCLUSION
1. University of Nairobi African Women Studies Center	Clause 5	<ul style="list-style-type: none"> ▪ Include provision of sanitary towels for PWDs 	Lack of sanitary towels has been a hindrance to girls/women attending school.	Valid, however may not be sustained by the county government in the long run	Disagreed
	Clause 5 22B (a) (iii)	<ul style="list-style-type: none"> ▪ Add guardians of PWDs to the list of those to receive allowances. 	Most guardians lack any form of support	This may lead to double allowances- (PWDs and guardians as well).	Disagreed
	Clause 5 22B	<ul style="list-style-type: none"> ▪ Add another objective of the fund to read ' Ensure access to loans for business investment for PWDs 	PWDs are mostly at the bottom of the socio economic pyramid. They are also unable to access	Unless the fund is a revolving fund with clear regulations on refund , this may	Disagreed

			loans as banks consider them credit unworthy.	not implementable	be
<p>2. Shining Hope for Communities Urban Network(SUN</p>	<p>Clause 5 22 B (a)</p>	<ul style="list-style-type: none"> ▪ Add ' To provide infrastructure and equipment support to government learning institutions of PWDs ▪ Include People with Albinism in the provision of assistive devices. ▪ Add another objective to read "To facilitate economic empowerment through grants that 	<p>PWA require assistive devices such as sunscreen and glasses</p>	<p>Agreed</p> <p>This has to begin with amendment of the parent Act to include albinism as a disability which is even so disputed by some PWDs</p> <p>Not sustainable</p>	<p>Agreed</p> <p>Disagreed. Parent Act be amended first.</p> <p>Disagreed</p>

3. Nairobi County	Clause 22A 2(b)	enable PWDs to engage in self-employment.’ ▪ The administrator of the Fund be appointed by the CEC Finance	As provided for under the PFM Act	Since the Board established under the Act has a CEO, who is the accounting officer, the CEO should be the fund administrator.	Agreed
4. Amka Africa Justice Initiative	Clause 22B (I) (a) (iii)	<ul style="list-style-type: none"> ▪ Include on the list of those receiving allowances; ‘care givers of PWDs who are therefore not able to seek employment’ ▪ Replace ‘single parents with children with disabilities’ with ‘Parents with children with disabilities who are therefore unable to seek employment’ 	Some parents children disabilities are vulnerable as well	If any allowances are to be given, the same should be in the name of the PWDs as opposed to their caregivers. Valid if allowances will in effect will be paid from the fund.	Agreed Agreed

	<p>Clause 22B (1) (a)</p>	<ul style="list-style-type: none"> ▪ Add as objectives of the fund: <ul style="list-style-type: none"> (a)'Improvement of the existing county owned therapy centers' (b) Pay National Health Insurance Fund premiums for PWDs 	<p>Existing therapy centers are neither physically accessible nor properly equipped.</p>	<p>Agreed</p>	<p>Agreed</p>
<p>5. Kenya National Association of the Deaf (KNAD)</p> <p>6. Down Syndrome Society of Kenya</p>	<p>Clause 8.</p> <p>Clause 5 22b (1)(a)</p>	<ul style="list-style-type: none"> ▪ Provide timelines for developing regulations for operationalization of the fund ▪ Develop a criteria for selection of beneficiaries 		<p>It is impossible to foresee timelines for the process of drafting/ratification of regulations.</p> <p>This will be covered under regulations</p>	<p>Disagreed</p> <p>To be provide for under regulations</p>

<p>7. Free a Girls World Network</p> <p>8. AHADI governance and Research Consultancy</p>	<p>Clause 5 22b (1)(b)</p>	<p>of assistive devices and school fees</p> <ul style="list-style-type: none"> ▪ Add provision of medication and diapers for PWDs with cerebral palsy, down syndrome and autism ▪ Specify the percentage of the fund that will be used to finance the operations of the Board. 	<p>To avoid allocation of unnecessary finances to operations of the board.</p>	<p>not be sustainable</p> <p>Specifying a percentage will limit the amounts available for PWD welfare where the fund is inevitably appropriated a lower budget in a financial year</p>	<p>Disagreed</p> <p>Disagreed</p>
<p>9. Labour Committee</p>	<p>Clause 4 22 (A)(2)</p>	<ul style="list-style-type: none"> ▪ After the word 'board' insert 'of persons with disabilities' ▪ Delete the phrase 'with the approval of the 	<p>The clause can be shorter without</p>	<p>Agreed. This was a publisher's typo</p> <p>Agreed</p>	<p>Agreed</p> <p>Agreed</p>

	Clause 5 22B (1)(a)(iii)	<ul style="list-style-type: none"> ▪ Delete the entire provision on paying of allowances 	changing the meaning and intent	This is upon the Committee to decide	<u>Agreed</u>
10. Public Participation	Clause 5 22B (1)(a)(iii)	<ul style="list-style-type: none"> ▪ Remove the word 'severe' ▪ The fund should only benefit residents of Nairobi who have been residents for atleast 2 years. ▪ Private organizations that support children with disabilities be funded as well. 	What is the parameter for determining severity To avoid influx of PWDs from other countries	Agreed. Impossible to implement-	Agreed Disagreed
				The county may only sustainably commit to	Disagreed

		<ul style="list-style-type: none"> ▪ The fund be used to provide medication to PWDs who require constant medication to survive ▪ The fund be utilized to facilitate assessment of children with disabilities ▪ The fund be used to provide vocational and therapy services for PWDs. 		<p>government owned organizations</p> <p>May not be sustainable but the committee can deliberate</p> <p>The Finance Act provides for these charges for these assessments as a source of revenue However this could be implemented for specific ages if possible</p> <p>Agreed</p>	<p>Disagreed</p> <p>Disagreed</p> <p>Agreed</p>
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MINUTES OF THE 021ST SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON TUESDAY 4TH JUNE, 2024 AT 11:30AM, IN COMMITTEE ROOM 9.

MEMBERS PRESENT

1. Hon. Allan Maina, MCA Chairperson
2. Hon. Patrick Karani, MCA Vice Chairperson
3. Hon. Joyce Kamau, MCA
4. Hon. Catherine Apiyo, MCA
5. Hon. Oscar Lore, MCA
6. Hon. Anthony Kimemia, MCA
7. Hon. Joyce Lugonzo, MCA
8. Hon. Abass Khalif, MCA
9. Hon. Benter Obiero, MCA
10. Hon. Paul Mathu, MCA
11. Hon. Evans Nyangicha, MCA
12. Hon. Peter Maina, MCA
13. Hon. Simon Maina, MCA
14. Hon. Cicilia Njathi, MCA
15. Hon. Farhiya Aden, MCA
16. Hon. Wanjiru Kariuki, MCA

MEMBERS ABSENT

1. Hon. Jane Muasya, MCA
2. Hon. Nancy Mwaura, MCA
3. Hon. Kennedy Odhiambo, MCA
4. Hon. Absalom Odhiambo, MCA
5. Hon. Jane Musangi, MCA
6. Hon. Paul Wachira, MCA
7. Hon. Agnes Njeri, MCA
8. Hon. Thuo Fiunifu, MCA

SECRETARIATE

1. Mr. Abdi Mohamed – First Clerk Assistant

MIN. 021/SC – L&SW/JUNE/2024: PRELIMINARIES

The Chairperson called the meeting to order at 11.40 a.m. and begun with a word of prayer. He took Members through the agenda, which was read and adopted as proposed by Hon. Oscar Lore, MCA, and seconded by Hon. Peter Maina, MCA, as follows;

AGENDA

1. *Preliminaries (prayers & adoption of the agenda).*
2. *Adoption of the Committee report on the consideration of the Nairobi City County Persons with Disabilities (Amendment) Bill, 2023.*
3. *Any other business.*
4. *Adjournment.*

MIN.022/SC – L&SW/JUNE/2024: ADOPTION OF THE COMMITTEE REPORT ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY PERSONS WITH DISABILITIES (AMENDMENT) BILL, 2023.

The Chairperson took Members through the Committee report on the consideration of the Nairobi City County Persons with Disabilities (Amendment) Bill, 2023. While considering the Bill, the Committee proposed amendments as follows;

CLAUSE 4

THAT Clause 4 of the Bill be amended as follows; -

- (i) By amending the new Clause 22A Sub- clause (2) paragraph (a) by inserting the words 'People with disabilities' to appear immediately before the word 'board' and deleting the words 'with the approval of the Executive Committee Member for the time being responsible for matters relating to persons with disabilities'
- (ii) By amending the new Clause 22A Sub- clause (2) paragraph (b) by deleting the words 'Chief Officer in charge of' and replacing therefor with the words 'Chief Executive Officer of the board'

CLAUSE 5

THAT Clause 5 of the Bill be amended as follows; -

- (i) By amending the new Clause 22B Sub- clause (1) paragraph (a) subparagraph (iii) by deleting it and replacing it therefor with a new subparagraph (iii) as follows:

(iii) Provide vocational and therapy services for persons with disabilities.

(ii) By amending the new Clause 22B Sub- clause (1) paragraph (a) by inserting a new subparagraph immediately after subparagraph (iv) as follows; -

(iv) Improve the existing county owned therapy centers for persons with disabilities.

(iii) By amending the new Clause 22B Sub-clause (1) paragraph (c) by inserting new paragraphs immediately after paragraph (c) as follows; -

(ca) Provide infrastructure and equipment support to government learning institutions of persons with disabilities.

(cb) Facilitate economic empowerment through grants that enable persons with disabilities to engage in self-employment.

However, the Committee adopted the report on the consideration of the Nairobi City County Persons with Disabilities (Amendment) Bill, 2023 for tabling as proposed by Hon. Joyce Kamau, MCA, and seconded by Hon. Evans Nyangicha, MCA.

MIN. 023/SC – L&SW/JUNE/2024: ANY OTHER BUSINESS.

There were no any business.

MIN. 024/SC – L&SW/JUNE/2024: ADJOURNMENT

There being no other business to consider, the Chairperson adjourned the meeting at 12.05pm. The next was scheduled to be held on Wednesday, 5th June, 2024 at 11:30 a.m. at Committee room 9.

CONFIRMED AS TRUE RECORDS OF PROCEEDING

CHAIRPERSON.....

DATE.....

