

COUNTY ASSEMBLY OF SAMBURU



THE HANSARD

Thursday, 17th May, 2016

The Assembly met at the County Assembly chambers at 2:30 p.m.

Temporary Speaker (hon. Lawrence Lorunyei) in the chair

PRAYER

PAPERS

MCA Ang'ata Nanyokie Ward, (Hon. John Lemulugo): Thank you hon. Speaker, I beg to table the report of the Committee on Delegated County Legislation on a policy paper of the establishment of the County Liaison Office in Nairobi.

NOTICES OF MOTION

MCA Ang'ata Nanyokie Ward, (Hon. John Lemulugo): Thank you hon. Speaker, I beg to give a notice of motion **THAT**, pursuant to standing Order No. 44 (1), the House debates and approves the report of the Committee on Delegated County Legislation on a policy paper on the establishment of the Samburu County Liaison Office in Nairobi 2015.

The Samburu County Alcoholic Drinks Control Bill, 2015. Samburu County Gazette Supplement No. 14 Bill No. 12

COMMITTEE OF THE WHOLE HOUSE

Chair, (Hon. Jerias Leshoomo): Hon. Members, welcome to the Committee of the Whole House as we deliberate on the amendments on the Samburu County Alcoholic Drinks Control Bill, 2015.

The Samburu County Alcoholic Drinks Control Bill, 2015. Purpose of the Act. Clause 3 “the object and purpose of this bill is to provide for licensing of the alcoholic drinks by the county government pursuant to part 2 of the 4th schedule of the constitution so as to control the production, sale, distribution, promotion and use of the alcoholic drinks and the promotion of research; treatment and rehabilitation of the persons dependent on the alcoholic drinks in order to:

- a) Protect the life of an individual in light of the dangers of excessive consumption of alcoholic drinks.
- b) Protect persons under the age of 18 years from negative impact on health and social development from exposure to the advertisement of the alcoholic drinks.

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- c) Protect consumers of alcoholic drinks from misleading or deceptive information and inform them of the risks of excessive consumption of alcoholic drinks.
- d) Protect the health of the persons under the age of 18 years by preventing their access to the alcoholic drinks.
- e) Inform and educate the residents of the county on the harmful health, economic and social consequences of the consumption of alcoholic drinks.
- f) Adopt and implement effective measures to eliminate illicit drinks including smuggling, illicit manufacturing and counterfeit.
- g) Ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks.
- h) Reduce and mitigate the negative health social and economic impact on communities resulting from production, sale and consumption of alcoholic drinks.

MCA Elbarta Ward, (Hon. Romano Leakono): Point of information hon. Chair. I have a different opinion we postpone the work of this bill to tomorrow so as to give members time to peruse the bill. We have just been given the bill and it is quite voluminous and it is good to have time to interrogate it before it is brought to the floor of the whole House. I am requesting if it is in order for us to suspend it until tomorrow. Thank you hon. Chair.

Chair, (Hon. Jerias Leshoomo): Hon. Leakono, please note that we passed the bill on the floor of the House and the Governor returned the bill with a memorandum to this House and we are only passing the amendments which came with the memorandum from the Governor.

MCA Elbarta Ward, (Hon. Romano Leakono): We have not been served with the memorandum and we need to interrogate the memorandum as it is. It is not a must that we agree with the memorandum and the members need time to interrogate the memorandum. I also do not know if it is within the procedure of the House that the memorandum should have been interrogated by the concerned committee before it is tabled with the bill in this House.

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Chair, (Hon. Jerias Leshoomo): Hon. Leakono, the memorandum was deliberated by the members and the amendments are attached to the order paper. I think you did not read the order paper because the amendments are attached.

Hon. Members, we have got only two amendments; clause 2 and 5. Not even parts but clauses in the bill. Hon. Leakono, are you satisfied?

MCA Elbarta Ward, (Hon. Romano Leakono): Thank you hon. chair, I reserve my comments.

MCA Maralal Ward, (hon. Elly Loldepe): Thank you hon. Chair. Just like hon. Leakono, I am also dissatisfied because it is like we are only rubber stamping as we do not interact and take time to know what the amendments are. It is good to have time to look at the proposed amendments in relation to the bill; not just amendments as they are. Being given now and saying *aye* or *nay* will be a problem for us. So, we need your guidance. Thank you.

Chair, (Hon. Jerias Leshoomo): Hon. Loldepe, the amendments were brought to this House last week and, probably, you were not in the House. We could not table as we were very few in the House and, probably, that is why you did not see the amendments.

Hon. Members, the amendment was that we form the directorate to facilitate and manage the process but we have the Director for Social Services so we are not going to have another director because it will be more costly. The one we have in the department of culture is enough. We are only amending the directorate.

MCA Elbarta ward, (hon. Romano Leakono): Hon. Member, as much as we might tend to agree with that, this Bill has a lot of responsibilities and work that would be assigned to the new directorate. It will be having another institution to run. For example on rehabilitation centres, it is almost a department which does not exist at the moment and the Director for Social Services is already overwhelmed by the work that he is doing.

In this case, the directorate might need a specialist who might have some qualifications to be able to advise the work of rehabilitation on issues like drugs and others. The Director might just require having a degree in social sciences but if you have to deal with the content of alcohol,

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hygiene or opening institutions for rehabilitation, it requires different qualifications. It is better to employ one director with an assistant than to lump everything under one director while the fields are diverse. Thank you.

Chair, (hon. Jerias Leshoomo): Hon. Members, I think, other than making some amendments, such things as the hon. Leakono was saying, will come as regulations if you want to formalize the Bill. But it is important for us to pass the amendments to enable the Bill to take effect. As we all know, regulations will follow the Bill.

MCA Elbarta ward, (hon. Romano Leakono): Hon. Chair, with all due respect and for record purposes of this house, I don't think it is true that the regulation can establish another directorate if we are to have two directors in the department of social services. I think that remark might not be true. Regulations are rules to govern or to make the act operational. But it cannot establish an institution. Thinking that way, you are misleading the hon. House. Thank you.

Chair, (hon. Jerias Leshoomo): Hon. Leakono, you are talking of creating a directorate. But when the Bill was returned by the Governor, he was sighting the issue of creating a new directorate in the Social Services but we already have a Director there. Creating a new director will have financial implications on the county because we would be duplicating.

MCA Maralal ward, (hon. Elly Loldepe): Hon. Chair, in relations to the amendments and the same clause 4 sub-section 1, where it says, "*it is established in the county the Alcoholic Drinks Director which is an office in the County Public Service*". This looks like an independent office even the way it reads in the first clause. If we were to do amendments as recommended, it will be a contradiction. That is why some of us are requesting for more time to consult and have time to look at the bill. The way it is in sub-section 1 and the way it will be in sub-section 3; will be completely different. In part 1 it will be an independent office but in sub-section 3, it will be headed by the same director. Instead of us passing the Bill as it is, we need to look into it. Thank you.

MCA Nyiro ward, (hon. Jonathan Lemoosa): Thank you Chair. If we take our time to read the Bill, in 4.3, the amendment is trying to bring the directorate to the Ministry rather than be an

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appointee of the Service Board. Clause 4.3 says, the directorate shall be headed by a director who shall be appointed by the County Public Service Board. We need to amend the clause such that it reads; the directorate shall be headed by a Director on Culture, Gender and Social Services.

The amendment tends to correct the vice such that, because of administrative issues and financial implications, this is why the executive finds it difficult to have an independent director while we are trying to establish a board without knowing how much revenue can be collected from the alcoholic licensing.

I want to agree with the Chair that, if need be, it might come through an amendment. Ever since the inception of the county government, there is no revenue collected through alcohol. I think this is one of the questions giving the county a lot of questions to be answered by the Senate. Our revenue has fallen drastically. Why don't we allow this Bill to see the light of the day so that we can earn some revenue, then afterwards, we can amend if need be. Thank you.

MCA Maralal Ward, (Hon. Elly Lodepe): Thank you hon. Chair. I do agree with hon. Lemoosa. My worry is that I am trying to read clause 2 in relation to clause 4 sub section 3. Whether it will contradict because this is like an office in the County Public Service? That is what I want all of us to agree to have more time instead of passing it the way it is. I do not know if it is grammar or what but we really need to agree so that we do not pass an amendment and we still think that this is an independent office.

Clause 1 states that there is established in the County the Alcoholic Drinks Control directorate which shall be an office in the County Public Service. To this extent, this looks like an independent office. If you come to sub-section 3, it says that the directorate shall be headed by a director. When amended, it will look like it is not an office. That is what I have a problem with. Thank you.

MCA Nyiro Ward, (Hon. Jonathan Lemoosa): I agree with Hon. Lodepe. Section 4 (1) needs some grammatical amendments. It needs to be put such that clause 4 (3) takes the day. That is in order. Thank you.

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MCA Elbarta Ward, (Hon. Romano Leakono): Thank you hon. Chair. These are some of the things that we need to discuss how we do them. Because our ultimate goal is to ensure that the people of Samburu get services in the best way possible. This is why I say that this was created as an independent office all through because of the work that it is supposed to do. If you look at the work that this office is going to do, the director here has some challenges. This is like a whole department. It will also go up to the ward level. It is a parallel office within the department of Social Services.

It may be wrong if we put two directors there. I am sure that the hon. Governor will be very happy to have the chance to employ one more senior officer instead of dumping all this work to the existing Director of Social Services as it is. If we read as the Hon. Lemoosa has said and Hon. Loldepe, that there is need for this office to be run as independent, because of the workload, we can put it as a new directorate in the Social Services department. So that we will have one director doing what he has been doing. And a new one who will be dealing with the issues of alcohol, the licensing, the rehabilitation, establishment of ward level offices, people rehabilitating others and the running institutions. That department is going to handle a lot. My suggestion is that we put it as it is but to make sure that it is an independent directorate within the Social Services. Thank you.

Chair, (hon. Jerias Leshoomo): Thank you Hon. Members. Here, the bill is trying to avoid the recruitment of a new Director. If you see the amendment of clause 6 the revenue is being collected by the revenue department and posted on the County Revenue Fund. We are only saying that we amend the issue of recruiting a new Director because we already have a Director in the Social Services and Culture. Other personnel on the department like the Sub-County Committees are the same people in the County Government.

So when we say that we create a new department in the Ministry of Culture and yet we know that there will be financial implications in the County, then we should amend the Directorate so that the Director of Social services will carry out the duties.

Majority Leader, (Hon. Fabian Lolosoli): Thank you Chair. I also want to contribute on this amendment and I concur with most of my colleagues who have said that we only have one

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director. I do not know how many directors we have in the Ministry of Social Services. If it is only one then it is going to be a very heavy load for one Director.

My suggestion is that instead of having sections within the department immediately under the director, we need to introduce another level down so that we will have a section dealing with alcoholic drinks and still be answerable to the same director. That is my suggestion. Thank you.

MCA Nyiro Ward, (Hon. Jonathan Lemoosa): I think that all Members have concerns that all lead to one. For instance bursary fund; the bursary fund is aligned to the Ministry of Education whereas it has a board headed by one of the employees of the ministry but he has a whole board that does the work and reports back to the ministry. The work of the executive here is to avoid the workload of creating a whole office in that matter.

Let us not forget that the Human Resource Department in the Public Service has put a halt to the employment of new staff. I think this is the whole idea that the executive are having so that they go in line with the policies of the mother department or government policies. Hon. Loldepe cited very well what we can do to avoid creation of an office and yet we do not have an employing body. These are some of the amendments that we need to crack on quickly on how we can inject in an amendment. There is this issue of hon. Leakono.....

MCA Nyiro Ward, (Hon. Jonathan Lemoosa): With all due respect, I think that the Director has a role of rehabilitation because it falls under the Ministry of Health. This is because they have the expertise. Let us look at the employment part of it. The idea is that we should have a Director who has a whole board doing the work and then report to the Ministry. Thank you.

MCA Elbarta Ward, (Hon. Romano Leakono): Through the Chair, I am a bit perturbed because we do not do things for the executive here. We do as per the interests of the people of this County. Our interests do not take what the executive wants unless they want what is good for these people. It is us who create employment and also stop it because we are the ones who decide on the budget. Unless we introduce a board to be working with one Director that is the only time this may go overhead. Let us not talk about the burden of employment because when we make legislations we are supposed to take so many things into consideration. That is why Hon. Loldepe said at one time that we also need to consult. We cannot rush and make amendments just because people brought them and for the sake of it as a rubber stamping House. We do not want that when we make decisions in this House they are going to be good decisions for our

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people, not for the executive and not for us as legislatures of in this day. Therefore I request the Hon. Chair that either employing a new Director or not as the Hon. Member was saying that the rehabilitation are under the Ministry of Health. This rehab will be run by the Ministry of Health but they are under the Ministry of Social Services meaning that they will still be managed by the same Director. We can adjourn a bit and discuss freely then come back to it. Thank you. Just before Hon. Loldepe takes up the space, as the Chair of this department, the Members seem to have had less time to ventilate over this particular bill. We need to ventilate over it with some legal minds in the County and come to an agreement. The House is not a rubber stamping tool mheshimiwa. This is an Honourable house and we need to do things properly for prosperity. It is prudent that a Member can find space to move a motion of maybe whatever. What is important to Members of this Hon. House is that if the Chair gives us time then can we avail ourselves so that we do not keep on saying that I was not there and I need this and that. Sorry for that. Sometimes we have time and then we do not. It is now four years down the line and the County Government is losing all the revenue and this has a repercussion to the County Government budget. The Kshs.350 million slashed from the budget is caused by this. We have a stake in impacting negative trend to the County. Let us be sincere to our work and if we are going to have another time to ventilate let us be together to give our ideas and go forward in saving a lot of time and revenue.

MCA Maralal Ward, (Hon. Elly Loldepe): Thank you Hon. Chair. I wish to move a motion that the Committee of the whole House do report progress and seek leave to sit again. I beg to move and call Hon. Lekupe to second.

(Hon. Lekupe bows in seconding)

MCA Lodokejek Ward, (Hon. Jarius Leshoomo): Hon. Members I propose a question that the whole House seeks leave to sit again. I now put a question that the Committee of the whole House reports progress and seek leave to sit again.

(The question was put and passed)

MCA Lodokejek Ward, (Hon. Jarius Leshoomo): Hon. Speaker Sir, the Committee of the whole House has considered the Samburu County Alcoholic Drinks Control Bill 2015 and seeks leave to sit again. I call upon Hon. Lemoosa to second.

(Hon. Lemoosa bows in seconding)

Temporary Speaker, (Hon. Lawrence Lorunyei): Hon. Members I now propose the question that the Committee of the whole House has considered the Samburu County Alcoholic Bill 2015 and seek leave to sit again. I now put a question that the Committee of the Whole House has

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considered the Samburu County Alcoholic Drinks and Control Bill 2016 and seek leave to sit again.

(The question was put and passed)

Temporary Speaker, (Hon. Lawrence Lorunyei): Hon. Members the time being 10 minutes to 4 o'clock and there being no any other business, this Assembly stands adjourned until Wednesday morning the 18th of May 2016 at 9:30 am, thank you.