Rt. Hon. Speaker.
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 26/05/25

REPUBLIC OF KENYA

13TH PARLIAMENT | 4TH SENATE | 4TH SESSION

STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

REPORT ON THE INQUIRY INTO THE STATE OF GOVERNANCE IN THE COUNTY GOVERNMENT OF GARISSA ARISING FROM A STATEMENT SOUGHT BY SEN. HAJI ABDUL MOHAMMED, CBS, MP

PAPERS LAID	
DATE	28.5.2025
TABLED BY	Chairperson
COMMITTEE	—
CLERK AT THE TABLE	Belindah

27/05/25

APPROVED
RT. HON. SEN
AMASON J. KINGI

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

Clerk
Forwarded and recommended for approval for tabling
26/05/2025

MAY, 2025

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LIST OF ABBREVIATIONS/ACRONYMS

CECM	-	County Executive Committee Member
COB	-	Controller of Budget
CPSB	-	County Public Service Board (The Board)
IPPD	-	Integrated Payroll and Personnel Data System
PSC	-	Public Service Commission

PRELIMINARIES

Mandate of the Committee

The Senate Standing Committee on Devolution and Intergovernmental Relations is established under the Standing Order 228 (3) and the Fourth Schedule of the Senate Standing Orders. The Committee is mandated to "*consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments, cities, towns and urban areas.*"

Membership of the Committee

1. Sen. Sheikh Mohamed Abbas, CBS, MP - **Chairperson**
2. Sen. Catherine Muyeka Mumma, MP - **Vice Chairperson**
3. Sen. (Prof.) Margaret Kamar, EGH, MP - Member
4. Sen. (Dr) Oburu Oginga, MGH, MP - Member
5. Sen. Peris Pesi Tobiko, CBS, MP - Member
6. Sen. Paul Karungo Thangwa, CBS, MP - Member
7. Sen. Richard Momoima Onyonka, EBS, MP - Member
8. Sen. Mohamed Said Chute, MP - Member
9. Sen. Hezena M. Lemaletian, MP - Member

CHAIRPERSON'S FOREWORD

Mr. Speaker,

On Thursday 25th April, 2024, the Senator for Garissa County, Sen. Haji Abdul Mohammed, CBS, MP, rose pursuant to standing order 53(1) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the state of Governance in the County Government of Garissa.

Mr. Speaker,

In the statement, the Senator requested that the Committee provides clarity on the reasons why Garissa County had not appointed County Chief officers since August 2022, and provide an explanation for the delay in the appointments. In the absence of County Chief officers, the Senator wanted to understand how funds disbursed from the National Treasury are being accounted for.

The Senator sought the list of individuals liaising with the County Executive Committee members in the administration of county departments, undertaking the duties and responsibilities of the Chief Officers in Garissa County from August 2022. Additionally, he wanted to be informed about how the County Government of Garissa was functioning without an appointed Accounting Officer.

Mr. Speaker,

In considering the Statement, the Committee wrote to the County Government of Garissa requesting them to submit a response regarding the issues raised in the Statement and further invited the Governor to appear in person before the Committee. On Thursday 16th May, 2024, the Governor for Garissa appeared before the Committee to respond to the issues raised in the Statement. The governor made his submissions and provided documents in support of his response.

Upon consideration of the Governor's submissions and the documents provided in support, the Committee resolved to invite other stakeholders including, the Chairperson for the

Public Service Commission, the Controller of Budget, the Garissa County Public Service Board and the Principal Secretary for the State Department for Public Service.

The Chairperson Public Service Commission appeared before the Committee on Tuesday, 28th May 2024, to discuss issues arising from the findings of a court-directed verification and audit exercise, of the aggrieved employees of the County Government of Garissa in Petition No. E205 of 2022, and any other human resource management concerns they may have found during the exercise. The Controller of Budget (COB) also appeared before the Committee to apprise the Committee on her assessment of the adherence by the County Government of Garissa, to regulations on budget implementation.

The Garissa County Public Service Board (CPSB) appeared before the Committee on Thursday 18th July, 2024 to deliberate on the issues raised concerning the Human Resource composition and management in the County Government of Garissa. Both the current Chairperson of the Board and the former Chairperson made their submissions before the Committee regarding the issues raised during the engagement.

Upon deliberation and due to inconclusive submissions made by the Board, the Committee directed the Board to provide a comprehensive report on all matters relating to Human Resource Management in Garissa County within a three months period lapsing 30th September, 2024. The Board failed to honour this request within the given timelines. Subsequently, the Committee sent a follow up letter dated 6th March, 2025 requesting for a report of the human resource establishment of the Garissa County Executive as at September, 2024. The Committee did not receive any response with regards to the subsequent request by the Committee.

The Principal Secretary for the State Department for Public Service was invited to deliberate on the findings and recommendations in their audit report for the County Government of Garissa but failed to appear before the Committee.

Mr. Speaker;

The Committee did an in-depth analysis of the stakeholders' submissions and made various observations including;

(i) Section 45(1) of the County Governments Act, 2012 provides that whenever a vacancy arises in the office of a county chief officer, the respective Governor shall within fourteen days nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board and with the approval of the County Assembly. The County Service Board issued an advisory to the Governor, in September 2023, advising him to initiate the process of the recruitment of county chief officers. However, the Governor disregarded the advice contrary to Section 45(1).

(ii) The exercise of recruitment of the county chief officers began only after the committee commenced inquiry into the matter. The Board received a request on 2nd January 2024 from the County Secretary to commence recruitment of the county chief officers. The Board approved the request on 11th January, 2024 and subsequently the chief officers assumed office in July 2024. This indicated a close to 21-month inordinate delay from the time of the assumption of office by the governor, in August 2022.

(iii) There were discrepancies in the list of designated accounting officers provided by the governor in his submission and the one received by the Controller of Budget, raising concerns on whether there were departments with no designated accounting officers. There was also no clarity on who was managing the finances of the county government in the period between August 2022 and May 2024, in the absence of county chief officers and with no officially designated officers.

(iv) The County government has since appointed a total number of thirty (30) chief officers, while the county executive committee members are ten (10) in number. The huge number of county chief officers places an unsustainable burden on the county's wage bill.

Based on its findings and observations the Committee made various recommendations including:-

(i) In line with the Constitutional role of capacity building and technical assistance to counties, assigned to the National Government under schedule 4, the State Department for Public Service and Human Capital Development should provide capacity building, training and sensitization programmes to Garissa County Government. This should include training of both senior and junior staff as well as members of the County Public Service Board on the legal framework governing human resource management, within three (3) moths upon adoption of the report.

(ii) The Garissa County Public Service Board should submit to the Senate, the report of the human resource audit exercise requested by the Committee, within fourteen (14) days upon adoption of this report. Additionally, the Board should submit a list of all the current employees, their qualifications and terms of employment, interview reports by the county public service board for all the recruitments done by the county executive, and the total number and category of advisers in the county payroll, their specific functions and qualifications.

(iii) The Auditor-General should conduct a special audit within six (6) months upon the adoption of this report, of all financial transactions made by Garissa County Executive from the assumption of office in August 2022 to July 2024, being the period which the county had no county chief officers in place to address any irregularities or unauthorized expenditures incurred by the county executive.

(iv) The amendment of the County Governments Act, 2012 to clearly stipulate timelines for the nomination and appointment of county executive committee members and county chief officers whenever a vacancy arises in the office of county executive committee member and that of a county chief officer.

Mr. Speaker,

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Statement successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment. Lastly, I wish to thank the stakeholders who presented their submissions on the Statement to the Committee.

Mr. Speaker,

It is now my pleasant duty, pursuant to Standing Orders 56(1)(aa) and 228 4(i) of the Senate Standing Orders, to present the report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the Statement sought by Sen. Haji Abdul Mohammed, MP - regarding the state of operations in the office of the County Chief Officers in Garissa County Government.

Signed .... Date 21.05.25

SEN. SHEIKH MOHAMED ABASS, CBS, MP

CHAIRPERSON,

STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON THE INQUIRY INTO THE STATE OF GOVERNANCE IN THE COUNTY GOVERNMENT OF GARISSA ARISING FROM A STATEMENT SOUGHT BY SEN. HAJI ABDUL MOHAMMED, CBS, MP

We, the undersigned Members of the Standing Committee on Devolution and Intergovernmental Relations, do hereby append our signatures to adopt this Report-

Sen. Sheikh Mohamed Abass, CBS, MP	- Chairperson	
Sen. Catherine Muyeka Mumma, MP	-Vice-Chairperson	
Sen. (Prof.) Margaret Kamar, EGH, MP	-Member	
Sen. (Dr.) Oburu Oginga, MGH, MP	-Member	
Sen. Peris Pesi Tobiko, CBS, MP	-Member	
Sen. Paul Karungo Thangwa, CBS, MP	-Member	
Sen. Richard Momoima Onyonka, EBS, MP	-Member	
Sen. Mohamed Said Chute, MP	-Member	
Sen. Hezena M. Lemaletian, MP	-Member	

CHAPTER ONE

INTRODUCTION

1.0 Background

1. On Thursday 25th April, 2024, the Senator for Garissa County, Sen. Haji Abdul Mohammed, CBS, MP, rose pursuant to standing order 53(1) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the state of operations in the office of the County Chief Officers in Garissa County Government. ***(Annex 2)***
2. In the statement, the Senator requested that the Committee;
   (i) Elucidates on the reasons why Garissa County had not appointed any County Chief officers since August 2022, giving reasons for the delay in the appointment of these officers;
   (ii) States how funds disbursed from the National Treasury are being accounted for in the absence of County Chief officers;
   (iii) Discloses individuals liaising with the County Executive Committee members in the administration of county departments, undertaking the duties and responsibilities of the Chief Officers in Garissa County from August 2022 to date; and
   (iv) Apprise the Senate on how the County Government of Garissa was functioning without an appointed Accounting Officer.

CHAPTER TWO

SUBMISSIONS RECEIVED BY THE COMMITTEE

3. During the consideration of the Statement a number of submissions were received from stakeholders as follows-

2.1 Submissions received from the Governor of Garissa County

4. At its sitting held on Thursday 16th May, 2024, the Governor of Garissa County appeared before the Committee to respond to the issues raised in the Statement. The governor made oral submissions and also provided written documents to support his response. He submitted as follows-

   (1) That upon taking over as the Governor, his first task was to investigate the exorbitant amounts paid as salaries and tame the ballooning wage bill that exceeded the legal limit. Hence, the first action he took was to seek information from the County Public Service Board regarding the state of human resource in the county. The County Public Service Board intentionally failed to respond to this request for information.

   (2) That he formally engaged the State Department for Public Service, who sent a team of experts to conduct a human resource audit. The team from the State Department for Public Service produced a report that uncovered gross violations in the management of the County Human Resource. Thereafter, the county government implemented the recommendations given by the State Department for Public Service in their aforementioned report, including but not limited to stoppage of salaries and benefits for all officers who were found to have been irregularly appointed. The county executive implemented the key recommendations in the report of the State Department for Public Service.

   (3) This action of implementation of the key recommendations in the report of the State Department by the county government compelled the aggrieved employees to file Constitutional Petition No. E205 of 2022 against the County Public Service Board

of Garissa, the County Government, the County Secretary and the Controller of Budget, seeking to be reinstated. The Court directed that the petitioners and the other aggrieved employees be subjected to an independent verification or audit process undertaken by the Public Service Commission in exercise of its Constitutional and Statutory powers and functions. Further, the Court ruled that the respondents were prohibited from recruiting, appointing, or promoting any other persons to positions or **cadres held by petitioners as employees**, until the verification exercise was completed. The ruling of the court is attached herein as **annex 3.**

(4) In compliance with the orders of the Court, the Public Service Commission undertook an independent verification and audit exercise of the aggrieved employees/ petitioners and compiled a report highlighting their findings and observations. The findings indicated poor management of Human Resource in the County and inefficiencies in the County Public Service Board and there was strained working relationship between the County Executive and the County Public Service Board which adversely affected the management of human resource.

(5) That there was an appeal pending in court regarding the matter of the aggrieved employees.

(6) The County Public Service Board then undertook a staff verification exercise which, however, was later struck out by the Employment and Labour Relations Court for want of integrity. That he could not task the County Public Service Board to advertise and recruit County Chief officers since the Board was cited for want of integrity and disunity by the courts, the State Department for Public Service and the Public Service Commission.

(7) That the funds from the National Treasury were managed by designated accounting officers appointed by the Chief Executive Committee Member (CECM) Finance & Economic Planning to ensure proper management and accounting for public resources. These officers followed established financial procedures and reporting requirements provided for in the Constitution and the Public Finance Management Act, 2012.

(8) That the County Executive passed a resolution allowing the CECM Finance and Economic Planning to appoint existing officials as accounting officers. These officials were critical in ensuring that public resources were properly utilized and accounted for in line with the Public Finance Management Act and that the County Government always ensured there was no vacuum arising, hence the lack of chief officers had not impeded the county operations.

(9) That the list of officers designated by the County Executive Committee member for finance as accounting officers were as follows-

Table 1: Names of officers designated as accounting officers in Garissa County

	Name	Department
1.	Aden Harun	Chief Officer, Finance
2.	Eng. Nathir M Gabow	Director – Roads & Public Works
3.	Osman Bilal Mohamed	Director – Culture, Gender, Youth & Sports
4.	Abdihakim Sheikh Mohamed	Director – Water, Environment & Natural Resources
5.	Bashir Abdullahi Muhumed	Director – Agriculture, Livestock & Pastoral Economy
6.	Abdullahi Diis	Director – County Affairs, Public Service & Intergovernmental Relations
7.	Ahmed Bashir Abdullahi	Director – Education Information & ICT
8.	Aden Hussein Ibrahim	Director – Health
9.	Mohamed Hussein Nur	Director – Trade, Enterprise Development & Investment
10.	Abdinassir S Yussuf	Director – Lands, Housing, Physical Planning & Urban Development
11.	Mohamed Hassan Osman	Garissa Municipality

2.1.1 Report on the Human Resource Audit by the State Department for Public Service

5. In addition to his oral submissions, the Governor provided a report prepared in 2022, by the State Department for Public Service on the human resource audit of the County Government of Garissa which was requested by the County Government herein attached as **annex 3.**
6. In the said report the State Department enumerated several issues and anomalies related to the management of the County Human Resource, which included-
   (i) Lack of proper Record keeping: The county Human Resource Department did not have records nor information pertaining to the staff of the County. One thousand two hundred and thirty-nine (1239) members of staff did not have personal files in the registry, pointing to a serious anomaly in the organization's record keeping. Additionally, there were eighty (80) officers in the staff register who had been detached and awaiting deletion and exit but are not earning any salary.
   (ii) Lack of requisite qualifications: Officers appointed to high job groups and others appointed to act on higher positions did not have the required qualifications for the posts. Additionally, out of six thousand seven hundred and seventeen (6717) staff, only one hundred and eighty-nine (189) had degrees although it was not clear whether those degrees were relevant to the area of deployment. Further, one hundred and thirty-six (136) staff who were in Job Groups P, Q and R did not have degrees nor personal files contrary to the provisions of career progression guidelines.
   (iii) Irregular and unlawful appointments: In the period between 2017- 2022, the County Government of Garissa appointed one thousand three hundred and fifteen (1315) staff without compliance to the procedures under the County Governments Act, 2012. In addition, the appointment of officers was done by officers not authorized by the law nor delegated to by the County Public Service Board.
   (iv) Irregular and unlawful promotions: The County Government of Garissa promoted ninety-three (93) officers that had not met the minimum requirements as per the prevailing schemes of service. Also, a number of the promoted staff

skipped various job groups in a period of 1-2 years against the requisite period of 3 years.

(v) Retired staff still in the payroll: One hundred and one (101) staff were over 60 years of age yet they were still in the payroll, contrary to the provisions of the law and other regulations.

(vi) Lack of a standardized payroll system: Four thousand one hundred and forty-eight (4148) officers were being paid through the computerized payroll system, while the rest were paid manually. More than two thousand employees were in the manual payroll and this largely contributed to the rising wage bill of the county. The payment of manual salaries continued despite several reminders from the Controller of Budget that this is contrary to the financial management regulations.

(vii) High Wage Bill: The County had a workforce of 6,717 staff with an average wage bill of Kshs. 441,828,537 for the month of August 2022. This was approximately Kshs. 5,301,942,454.20 per annum. This wage bill exceeded the recommended ceiling of 35% of the total County allocation and crowds the necessary resources for development.

(viii) **Inefficiencies and unprofessionalism in the CPSB:** The Board did not have a secretary and in addition, there appeared to be a lack of unity and poor communication amongst the members of the CPSB. The State Department recommended that the CPSB be held accountable and responsible for the anomalies in Human Resource Management from Sep 2017 – Sep 2022.

7. In the report the State Department for Public Service made a number of recommendations which included-

    (i) The County Government should follow the provisions of Government employment laws, regulations, policies, procedures and guidelines in carrying out all recruitments, promotions and separation of staff.

    (ii) The law provided that the County Public Service Board (CPSB) is the body responsible for HR management and appointments for the County Public Service. The Executive having sought information regarding irregularities from CPSB on recruitment, selection, promotions and exit of staff, and having noted oversight on the part of the CPSB, it was recommended that the CPSB be held accountable and responsible for the anomalies in HR management during the period September 2017/2022.

(iii) Salaries and benefits for all officers who were found to have been irregularly appointed be stopped pending deliberations on their cases by the County Human Resource Advisory Committee (CHRAC) and determination by the CPSB according to the County Governments Act, 2012.

(iv) All officers who were irregularly promoted from September 2017 to September 2022, be demoted to the deserved grade based on merit after deliberation of individual cases by the CHRAC and determination by the CPSB pursuant to the County Governments Act.

(v) All officers upon attainment of the mandatory retirement age of sixty years (60) or sixty-five (65) years for persons living with disability should be retired from the service and removed from the payroll with immediate effect as per Government regulations.

(vi) All appointments including promotions should be in line with the provisions of career progression guidelines, which stipulates the requisite minimum academic and professional qualifications and experience required for advancement to a higher grade, in addition to availability of vacancies in the approved establishment and budgetary provision for the same.

(vii) The functions and processes of the Board be streamlined and aligned to the provisions of the law.

(viii) The County to put in place a distinct department to coordinate matters of Human Resource management of the County Public Service.

(ix) As provided for in the County Governments Act, 2012, Garissa County should urgently establish a County Human Resource Advisory Committee (CHRAC) to process matters HR including all appointments and promotions.

(x) The County establishes and maintains a records and information management system to mitigate risks of loss of records and information and for institutional memory.

(xi) The county to undertake a physical head count and physical verification of employment documents, academic and professional certificates and transcripts of all employees for authentication. Additionally, all staff should be subjected to suitability tests and interviews to determine their skills, qualifications and competencies for their current appointments for proper placement and decision making, in line with Government policies and regulations.

(xii) All County staff should be paid through computerized payroll as communicated by the office of the Controller of Budget. Further, the County should adopt the Unified Human Resource (UHR) System as directed by the Head of Public Service, vide Circular No OP.CAB 1/31A, dated 4th August, 2022.

(xiii) The County to urgently review:

(a) The organizational structure for appropriate grouping of functions and to maintain order and chain of command;

(b) Staff establishment to determine appropriate levels and grading to guide recruitment and promotions; and

(c) Career progression guidelines to guide in the recruitment, selection, placement/deployment and staff development.

(xiv) In compliance with the orders of the Honourable Court issued on 22nd June, 2023, the Public Service Commission undertook an independent verification and audit exercise of the aggrieved employees/ petitioners and compiled a report highlighting their findings and observations. *(attached herein as **Annex 3**).*

2.2 Submissions received from the Chairperson for the Public Service Commission

8. The Public Service Commission appeared before the committee on Tuesday 28th May, 2024 to deliberate on issues arising from the court-ordered report on the verification and audit of the aggrieved employees of the County Government of Garissa. The Commission appeared before the Committee on Tuesday 28th May, 2024. The Chairperson of the Commission submitted as follows-

(1) That the Employment and Labour Relations Court directed the Commission to conduct an independent verification or audit process of the petitioners and other aggrieved employees in Nairobi ELRC, Petition No. E205 of 2022. The Commission subsequently undertook the verification exercise and submitted its report on 25th September, 2023 to the court.

(2) In its report the Commission observed that-

(i) There was general poor management of human resource in the County Government;

(ii) There was need for the County Government to recruit professional officers to manage human resource and maintain proper personnel records;

(iii) There was need for the CPSB to recruit its own adequate professional staff at appropriate levels to assist the Board to efficiently execute its statutory mandate;

(iv) There was a strained working relationship between the County Executive and the CPSB which adversely affects the management of human resource;

(v) The aggrieved employees were unfortunate victims of an apparent systemic problem in the management of human resource in the county;

(vi) There was very poor record keeping by both the County Executive and the CPSB;

(vii) There appeared to be lack of unity and poor communication amongst the members of the CPSB;

(viii) There was apparent misinterpretation by the CPSB, of Order No. 3(c) issued by the Court on 22/6/2023. The CPSB concluded from the said order, that there was a general freeze on employment of any new staff in the county. The correct position was that the court only prohibited the recruitment, appointment or promotion of any other person to the positions or cadres held by the Petitioners as employees;

(ix) The absence of the Secretary of the Board was adversely affecting operations of the CPSB. Therefore, there was an urgent need to recruit a Secretary to the Board;

(x) There was need to train and sensitize the Members of the County Executive Committee, Chief Officers, Directors and Senior staff of the County Government, together with members of the CPSB on human resource management and the legal framework thereof;

(xi) There was need to consider, *inter alia*, statutory amendments to the County Governments Act to clearly segregate the roles of the CPSB, the County secretary and the CECM in charge of matters relating to the county public service; and

(xii) There was heavy clan influence in the management of human resources in the county. This situation required urgent intervention.

(3) That based on the material reviewed by the Commission and having interviewed all the parties concerned, it was the Commission's considered opinion that the petitioners and other aggrieved persons whose files were reviewed were not lawfully employed into the County Government. This was because there were no documents to support their alleged appointments as required by the County Governments Act, 2012 and the Garissa County Human Resource Manual.

(4) Out of the list of **1053** petitioners, 133 files were not availed for audit. Only **920** petitioners' files were reviewed during the audit exercise. The Commission found that the nine hundred and nineteen (919) persons were not lawfully employed by the County Government of Garissa.

(5) This excluded only one person named Mohamud Hussein Gabbow of ID. No. 9847918 and Personal No. 2007133309. The Commission stated that he may have

been seconded from the national government to the county on 6/5/2014 and subsequently transferred to the county government with effect from 1/7/2016.

(6) Further, the Chairperson stated that after the Employment and Labour Relations Court adopted the Commission's report which was protested by the Petitioners and other aggrieved employees, the aggrieved parties filed an application for stay in the Court of Appeal at Nairobi, in which the Commission had been named as an Interested Party. He added that the case was last in court on 7th May, 2024 when it came up for hearing but was adjourned to a date to be issued on notice to the parties.

(7) The Chairperson concluded by stating that the Commission's role in regard to County Public Service is only to hear and determine appeals in respect of county governments' public service as provided for under **Article 234(2)(i)** of the Constitution of Kenya, 2010.

2.3 <u>Submissions received from the Controller of Budget (COB)</u>

9. The Controller of Budget (COB) appeared before the Committee on Tuesday 28th May, 2024, to apprise the Committee on her assessment of the adherence by the County Government of Garissa, to regulations on budget implementation. She submitted as follows-

   (1) That there were twelve (12) Accounting Officers of Garissa County Executive and whose sample signatures were shared with COB.

   (2) That the budget Performance of the County Government of Garissa from FY 2019/20 to FY 2023/24, faced several challenges which hampered effective budget implementation in Garissa County which included-

      (i) late submission of financial reports by the County Treasury to the Controller of Budget affecting the timely preparation of the budget implementation report.

(ii) failure by fund administrators to submit quarterly financial and non-financial reports to the COB within the timelines provided in law, which was against the requirement of Section 168 of the PFM Act, 2012.

(iii) The Disaster Management Fund/Emergency Fund and Micro and Small Enterprises Development Revolving Fund reports were not submitted to the Controller of Budget.

(iv) Use of manual payroll- Personnel emoluments amounting to Kshs. 203.40 million were processed through the manual payroll, accounting for 7.5% of the total payroll cost. The manual payroll was prone to abuse and could lead to the loss of public funds with lack of proper controls.

(v) High outstanding pending bills amounting to Kshs. 425.48 million as of 31st March 2024 and failure by the county government to adhere to a payment plan.

(vi) High wage bills- In the first nine months of FY 2023/24, the expenditure on employee compensation was Kshs. 2,699,782,558, or 47.1% of the available revenue, which amounted to Kshs. 5.73 billion. This was above the limit of 35% set in Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

(3) She recommended that for the county to improve county budget execution,

(i) The County Treasury should ensure timely preparation and submission of financial reports to the Office of the Controller of Budget in line with the timelines prescribed in Section 166 of the PFM Act 2012.

(ii) The CEC Member for Finance should follow up to ensure Fund Administrators prepare and submit statutory reports in line with the PFM Act, 2012.

(iii) The Government required that salaries be processed through the IPPD system, and fast track the acquisition of Unified Personal Numbers for their staff. The County Public Service Board should regulate staff engagement on contract and casual workers as provided under Section 74 of the County Governments Act, 2012. Further, strict compliance with the approved staff establishment should be maintained.

(iv) The County leadership should address the pending bills situation to ensure genuine bills are paid promptly in the remaining financial year. A payment plan should be provided at the beginning of the financial year.

(v) The County Public Service Board should establish an optimal staffing structure to ensure expenditure on personnel emoluments complies with Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

(4) Additionally, the COB provided documents outlining the requisitions made by Garissa County Executive from August 2022 to June 2024, among other supporting documents. *(Written submissions and documents received from COB are attached herein as **Annex 5**)*

2.4 Submissions received from the current County Public Service Board (CPSB)

10. The Garissa County Public Service Board (CPSB) appeared before the Committee on Thursday, 18th July, 2024 to deliberate on the issues concerning the human resource composition and management in the County Government of Garissa. The Chairperson of the Board submitted as follows-

(1) The County Public Service Board in 2014 domesticated the Public Service Commission Human Resource Policy and Procedures of 2006. The Board later developed Garissa County Human Resource Policy in 2018. Herein attached as ***Annex 6.***

(2) Due to lack of a formal staff establishment in the County, the Board tried to develop one during the FY 2021/2022 but could not achieve this due to non-co-operation by the departments and budgetary constraints. However, The Board, in its meeting on 20th May 2024, approved the need to a have an establishment for

the County in the FY 2024/2025. Communication in the form of a circular to the Departments was made on 17th June, 2024.

(3) The County used two payroll management systems; Integrated Payroll and Personnel Data System (IPPD) and manual payroll system for casual employees. The current wage bill of the workforce as at 30th June, 2024 was three hundred and seventeen million, nine hundred and sixty-four thousand, two hundred and thirty-five shillings **(317,964,235)** which translated to 46% of the annual allocation.

(4) The Financial architecture in the county places the Board in a situation where it largely relies on the County treasury to process payments which sometimes may not be fully realized. There was a persistent funding problem experienced by the Board and as a result, many plans had been shelved including the development of a strategic plan, staff establishments, office expansion, office equipment, furniture and fitting among other pressing demands. The Board could not carry out sensitization on the national values and principles owing to lack of financial resources. This indicated that the Board was unable to carry out its mandate due to budgetary constraints.

(5) The Board (CPSB) was conducting an audit and verification exercise for the staff of the County to streamline the Human Resource and improve service delivery.

(6) On the issue of the recruitment of county chief officers the Board received a request from the County Secretary and head of Public Service to recruit county chief officers on 2nd January 2024, which was subsequently approved by the Board on 11th January and the advert placed on the local newspaper on 12th January, 2024.

(7) The Secretary to the Board was appointed on 9th February, 2024 and immediately embarked on the recruitment of Chief Officers. The recommended candidates for the positions were submitted to the Governor on 28th April, 2024 for nomination and appointment with the approval of the County Assembly. Additionally, the newly appointed county chief officers were sworn into Office on 2nd July, 2024.

2.5 Submissions from the Former County Public Service Board (CPSB)

11. The Former Chairperson and the former Secretary to the County Public Service Board, appeared virtually before the Committee on Thursday 18th July, 2024. The former Chairperson submitted as follows-

    (1) The Board in September 2023, issued an advisory to the Governor advising him to initiate the process of the recruitment of county chief officers, however, the Governor disregarded the advice.

    (2) Further, the Board issued an advisory to the Governor on the need to regularize the staff in the office of the Governor including the Chief of Staff, three advisors to the Governor, Director of Governor's Press Service, Support staff including the Personal Assistant, Personal Secretary, Cook, Messenger, and gardener. In the advisory, the Governor was requested to send to the Board the details and qualifications of the appointees for regularization, but the governor disregarded the advice.

    (3) The Board did not have access to the payroll nor the staff records. On several occasions, the Board requested for information from the County payroll department but the department never complied.

    (4) The Board made every attempt to ensure it fulfilled its mandate which included collaboration with the County Executive to ensure smooth functioning of the county public service and maintained cordial relationship with the governor and the county executive.

CHAPTER FOUR
COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

4.1 Committee Observations

12. The Committee makes the following observations from the submissions received and other evidence collected during the cause of the inquiry-
    (1) Article 226 (2) of the constitution provides that an Act of parliament shall provide for the designation of an accounting officer in every public entity at the national and county level of government. It further provides that the Accounting Officer of a county public entity is accountable to the County Assembly for its financial management.
    (2) Section 45(1) of the County Governments Act, 2012 provides that whenever a vacancy arises in the office of a county chief officer, the respective Governor shall within fourteen days nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board and with the approval of the County Assembly. The County Service Board issued an advisory to the Governor, in September 2023, advising him to initiate the process of the recruitment of county chief officers. However, the Governor disregarded the advice contrary to Section 45(1).
    (3) The exercise of recruitment of the county chief officers began only after the committee commenced inquiry into the matter. The Board received a request on 2nd January 2024 from the County Secretary to commence recruitment of the county chief officers. The Board approved the request on 11th January, 2024 and subsequently the chief officers assumed office in July 2024. This indicated a close to 21-month inordinate delay from the time of the assumption of office by the governor, in August 2022.
    (4) The County government has since appointed a total number of thirty (30) chief officers, while the county executive committee members are ten (10) in number.

The huge number of county chief officers places an unsustainable burden on the county's wage bill.

(5) The Garissa County Executive Committee member for finance did not provide in writing, the designated accounting officers to the Controller of budget until May 2024, contrary to the provisions of Section 148 (a) of the Public Finance Management Act, 2012 raising concerns about the timing and legitimacy of these appointments.

(6) There were discrepancies in the list of designated accounting officers provided by the governor in his submission and the one received by the Controller of Budget, raising concerns on whether there were departments with no designated accounting officers. There was also no clarity on who was managing the finances of the county government in the period between August 2022 and May 2024, in the absence of county chief officers and with no officially designated officers.

(7) Section 148 (a) of the Public Finance Management Act, 2012 provides that a County Executive Committee Member for Finance shall, except as otherwise provided by law, in writing designate accounting officers to be responsible for managing the finances of the county government entities as is specified in the designation. This designation was however not intended to replace the requirement by law for a county government to appoint County Chief Officers. The County government was therefore required to appoint chief officers to fulfill the statutory requirements and maintain clear governance structures within county administrations.

(8) Regulation 22 (1) Public Finance Management (County Governments) Regulations, 2015, provides that Accounting Officers shall in accordance with Article 226(2) of the Constitution and Section 149 (1) of the Act, be accountable to the County Assembly, therefore, the absence of County Chief Officers exposed the county government to accountability and oversight challenges.

(9) The assignment of the role of accounting officers to directors of departments by the county executive member for Finance may pose challenges as a result of the directors not having gone through the statutory vetting requirements hence creating

ambiguity in the specific roles and functions the county chief officers are expected to perform which undermines service delivery and financial controls posing legal and audit risks to the county government.

(10) Regulation 54 of the Public Finance Management (County Governments) Regulations, 2015 requires an accounting officer of a county government entity to not later than the 10^{th} day of each month, submit a financial and non-financial budgetary report relating to the activities of his or her county government entity for the preceding month to the County Treasury with copies to the Controller of Budget and the Auditor-General. There were delays in the submission of the financial statements by the county government of Garissa causing delays in the execution of its mandate and delivery of services.

(11) The committee observed that there was a strained working relationship between the County Executive and the CPSB leading to communication breakdown which negatively affected county operations and contributed to the delay in appointment of County Chief Officers.

(12) The county public service Board did not have access to the county payroll nor the staff records and could not ascertain the total human resource establishment of Garissa county government, the qualifications of the employees, their terms of employment and their employment records. This pointed to a board that could not execute its mandate or was being hindered to execute its lawful mandate by the county executive.

(13) The County Public Service Board faced persistent funding problems resulting in non-implementation of plans and programmes including the development of a strategic plan, staff establishments, office expansion, office equipment, furniture and fitting among other pressing demands. The Board could not carry out sensitization on the national values and principles owing to lack of financial resources.

(14) The County government operated with a County Public Service Board which was not fully constituted. This contributed to County government facing challenges in

human resource management including poor management of staff records unlawful staff appointments and promotions and non-compliance with laws guiding overall human resource administration.

(15) The governor disregarded an advisory issued by the Board on the need to regularize the staff in the office of the Governor by declining to provide the details and qualifications of the appointees to ascertain their qualifications. The appointees included the Chief of Staff, three advisors to the Governor, Director of Governor's Press Service, and Support staff including the Personal Assistant, Personal Secretary, Cook, Messenger, and gardener.

(16) The Committee made a request for the Board to conduct an audit and verification exercise for the staff of the County government to streamline the Human Resource management and submit a comprehensive report within a period of three months. Despite the Committee's request and a reminder to provide the said report to the committee at the lapse of the period, the CPSB failed to submit the required report pointing to either non-existence of the requested information, or blatant dereliction of duty to respond to oversight and accountability requirements of the law.

(17) Regulation 120 (3) of the Public Finance Management Act of the county governments, 2015, requires an accounting officer to be responsible for the certification of the correctness of the payroll. This implies that there was a gap on oversight which led to the County Government of Garissa lacking a standardized payroll system since the county government used both the Integrated Payroll and Personnel Data System (IPPD) and manual payroll system leading to inconsistencies and uncertainties.

(18) There was a lack of clarity regarding the correct payroll of the County Government, as neither the County Public Service Board nor the County Executive could confidently verify or confirm the correct payroll. Audit reports highlighted the lack of a standardized payroll system in Garissa County leading to inconsistencies, specifically the use of manual payroll which lacks proper control

and prone to abuse has been flagged as a challenge to the budget implementation of Garissa County.

(19) The county government is faced with unsustainable wage bill. For instance, in the first nine months of Financial Year 2023/24, the expenditure on employee compensation stood at Kshs. 2,699,782,558 (47.1%) of the available revenue of Kshs. 5.73 billion. This was above the limit of 35% set in Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

(20) There was general non-compliance with the laws relating to human resource management by Garissa County Government including lack proper human resources record, unlawful and irregular appointments and promotions of staff, failing to make required appointments, usurping of the mandate of the county service board by the executive, hindering of the mandate of the Board by the county executive among other breaches of the law.

4.2 Committee Recommendations

13. Based on its observations, the Committee recommends as follows-

(1) The Garissa County Public Service Board (CPSB) should review the schemes of service and organizational structures within the county public service to ensure an optimal staffing structure that aligns expenditure on personnel emoluments with Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015 within three months of adoption of this report by the Senate.

(2) The Auditor-General should conduct a special audit within six (6) months upon the adoption of this report, of all financial transactions made by Garissa County Executive from the assumption of office in August 2022 to July 2024, being the period which the county had no county chief officers in place to address any irregularities or unauthorized expenditures incurred by the county executive.

(3) The County Government of Garissa should expedite the transition to a fully digitized payroll system by fully integrating county employees into the Integrated Payroll and Personnel Data System (IPPD) within three months of adoption of this report by the Senate. Additionally, strict adherence to the approved staff establishment should be enforced to prevent duplication of payments and reduce the risk of mismanagement associated with manual payroll systems.

(4) In line with the Constitutional role of capacity building and technical assistance to counties, assigned to the National Government under schedule 4, the State Department for Public Service and Human Capital Development should provide capacity building, training and sensitization programmes to Garissa County Government. This should include training of both senior and junior staff as well as members of the County Public Service Board on the legal framework governing human resource management, within three (3) moths upon adoption of the report.

(5) The Garissa County Public Service Board should submit to the Senate, the report of the human resource audit exercise requested by the Committee, within fourteen (14) days upon adoption of this report. Additionally, the Board should submit a list of all the current employees, their qualifications and terms of employment, interview reports by the county public service board for all the recruitments done by the county executive, and the total number and category of advisers in the county payroll, their specific functions and qualifications.

(6) The Auditor-General should undertake a comprehensive audit of Garissa County human resource management and staff establishment within six (6) months upon the adoption of this report. The audit should include but limited to-

   (i) the roles of the County Public Service Board and whether all recruitments of employees carried out by the executive were conducted by the Board;

   (ii) the existing human resource policy in place and whether the policy and the law was adhered to in recruitment, promotion and separation of employees;

   (iii) the approved staff establishment and the current number of employees, their qualifications and terms of employment;

(iv) the category of employees who are advisors, their terms of employment and qualifications;

(v) the management of the county wage bill especially personnel emoluments and the county payroll system specifically the use of manual payroll system; and

(vi) The rationale behind appointment of 30 county chief officers against 10 County Executive Members.

(7) Garissa County Government should, within three (3) months upon the adoption of this report, submit to the Senate a report on the current status of the wage Bill and any measures taken since 2024 to ensure compliance with the limit of 35%, set in Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015. Additionally, the county government should provide data on all the employees in both the manual payroll system and the Integrated Payroll and Personnel Data (IPPD) System.

(8) Schedule 4 of the Constitution under paragraph 32, allocates the role of capacity building and technical assistance to counties to the National Government. In line with this provision, the Senate should, within three (3) months upon the adoption of this report, build the capacity of the County Assembly to enhance the ability of the County Assembly to oversight county executive management of human resources and ensure compliance with the law. This is done through structured and regular reporting from the county executives on the status of the management of human resources in the county government and where there are lapses take the necessary actions to remedy the situation.

(9) Amendment of the County Governments Act, 2012 to clearly stipulate timelines for the nomination and appointment of county executive committee members and county chief officers whenever a vacancy arises in the office of county executive committee member and that of a county chief officer.

(10) Amendment of the County Governments Act, 2012 to clearly provide for the maximum and the minimum number of county chief officers to be appointed in any county government. The Committee proposes the number of Chief Officers in a

county Government should be a minimum of fourteen and a maximum of twenty-two.

(11) Amendment of the Controller of Budget Act, 2016 by enhancing the role of the Controller of budget to include reviewing the requisitions by the County Departments to the County Treasuries before approval of withdrawal of funds.

(12) Amendment of the County Governments Act, 2012 to clearly segregate the roles of the county Public Service Board, the County secretary and the County Executive Committee Member in charge of matters relating to the county public service

(13) Amendment of the County Governments Act, 2012 to provide clarity on the situations and limits upon which the CECM finance can designate accounting officers to be responsible for managing the finances of the county government entities, in addition to further provide for clarity on the limitations on the powers and functions of officers designated as accounting officers in an acting capacity, as well as the duration for which a person may serve in such a role.

ANNEXURES

1. Minutes
2. Statement
3. Submissions by the County Government of Garissa
4. Submissions by the Public Service Commission
5. Submissions by the Controller of Budget
6. Submissions by the Garissa County Public Service Board

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