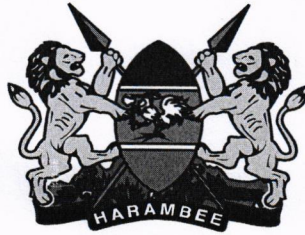


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TWELFTH PARLIAMENT

REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET

ON

THE COUNTY ALLOCATION OF REVENUE (SENATE BILLS NO. 30 OF 2021)

PAPERS LAID	
DATE	Jun 2, 2021
TABLED BY	Sen Kiburu
COMMITTEE	Finance & Budget.
CLERK AT THE TABLE	M. Agwanda

CLERK CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

MAY 2021

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PREFACE

Mandate and Functions of the Committee

Article 124 of the Constitution of Kenya, provides for the establishment of committees by either House of Parliament. Committees are central to the workings, roles and functions of Parliament as set out in Article 94 and more specifically in Article 96 of the Constitution as regards the Senate.

Parliamentary committees consider policy issues, scrutinize the workings and expenditure of the national and county governments and examine proposals for legislation. The roles of committees are twofold, investigative process and deliberative process. The end results of these processes are reports to the House in plenary on inquiry of certain issues under the mandate of a particular committee.

The Standing Committee on Finance and Budget is established pursuant to standing order 212(3) of the Senate Standing Order and is mandated –

- a) *To investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine –*
 - i) *the Budget Policy Statement presented to the Senate;*
 - ii) *report on the Budget allocated to Constitutional Commissions and independent offices;*
 - iii) *the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments.*
 - iv) *to consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance and monetary policies and public debt, planning and development policy and*
- b) *To pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.*

Further, the Public Finance Management Act, 2012 section 8 (1)(b) on the responsibility of the Senate Budget Committee in public finance matters provides that- *The Committee of the Senate established to deal with budgetary and financial matters has responsibilities to review the County Allocation of Revenue Bill and the Division of Revenue Bill in accordance with Article 218(1)(b) of the Constitution at least two months before the end of the financial year.*

Membership of the Committee

The Standing Committee on Finance and Budget was constituted by the House on Thursday, 14th December, 2017 during the First Session of the Twelfth Parliament. The Committee was later reconstituted on Wednesday, 24th June, 2020, during the Fourth Session of the Twelfth (12th) Parliament. The Committee as currently constituted, comprises the following Members-

1. Sen. Charles Kibiru, MP - Chairperson
2. Sen. (Dr.) Ochillo Ayacko, MP, - Vice Chairperson
3. Sen. Wetang'ula Moses Masika, EGH, MP - Member
4. Sen. Kimani Wamatangi, MP - Member
5. Sen. Mutula Kilonzo Junior, CBS, MP - Member
6. Sen. Aaron Cheruiyot, MP - Member
7. Sen. Rose Nyamunga, MP - Member
8. Sen. CPA Farhiya Haji, MP - Member
9. Sen. Milicent Omanga, MP - Member

BACKGROUND AND EXECUTIVE SUMMARY

The County Allocation of Revenue Bill was introduced by Sen. Charles Kibiru, MP the Chairperson the Standing Committee on Finance and Budget Committee pursuant to the provisions of standing order 182 (1) of the Senate Standing Orders. The Bill was published on 30th April, 2021 and subsequently tabled in the House for First Reading on 4th May, 2021. Thereafter committed to the Standing Committee on Finance and Budget for consideration pursuant to standing order 140(1) of the Senate Standing Orders.

The Committee invited members of public and stakeholders *inter alia* such as the National Treasury, Commission on Revenue Allocation, Council of County Governors, County Assembly Forum and Society of the Clerks At-The-Table (SOCATT) to submit their comments on the Bill.

The principle object of the Bill is to allocate among counties the share of national revenue that is annually allocated to the county level of government for the financial year 2021/22.

Pursuant to Article 217 of the Constitution, the Senate in 2020 approved the Third basis for allocating among the counties the share of national revenue annually allocated to the county level of government. Further, Article 96 (3) of the Constitution provides that the Senate determines the allocation of national revenue among counties. The Bill provides for the equitable allocation of revenue based on this basis.

The bill proposes an allocation of Kshs. 370.0 billion which is the equitable share for financial year 2021/22. The allocation among counties is as set out in the First Schedule to the Bill.

Further, the bill proposes budget ceilings on recurrent expenditure in financial year 2021/2022 for county executives and county assemblies as Kshs. 26,708,080,067 and Kshs. 33,247,585,464 respectively.

The Committee extensively considered the recommendations of Commission on Revenue Allocation (CRA), requests by CAF, SOCATT and various county assemblies on the county government budget ceilings on recurrent expenditure for the financial year 2021/22 pursuant to the provisions of Section 107 (2) (a) of the PFM Act, 2012 and made several observations, among them-

- a) The County governments recurrent expenditure ceilings had remained constant for the financial years 2019/2020 and 2020/2021. The Bill also proposes the same ceilings for FY 2021/2022. This poses a challenge due to growing budget needs of the county governments. Particularly, county assemblies raised the concern that it was difficult to cater for mandatory payments such as annual salary increments, gratuities, pensions and other fringe benefits.
- b) The county assembly recurrent expenditure provided in the CARA is usually not fully disbursed by the end of the financial year this is due to delay of disbursement of funds to counties by the National Treasury. However, the balance is not available in the subsequent financial year for the assemblies to budget and clear any financial commitments that they may have incurred. This has resulted in accumulation of pending bills by the assemblies.
- c) A number of county assemblies requested for an adjustment of their recurrent expenditure ceilings to facilitate purchase of vehicles, installation of Hansard equipment, purchase of furniture and equipping of residential houses. The Committee observes that these are development expenditures, not recurrent.

The Committee recommends that the House approves the Bill with amendments.

ACKNOWLEDGEMENTS

The Committee acknowledges all the stakeholders and members of the public who made insightful contributions and recommendations to the Bill.

In addition, the Committee thanks the Offices of the Speaker and Clerk of the Senate for the support extended to the Committee in execution of its mandate. Appreciations to all Members of the Committee for their patience, sacrifice and commitment to public service, which enabled the Committee complete the assigned task within the stipulated time.

This report is hereby submitted to the Senate for consideration and adoption pursuant to Standing Order 213 of the Senate Standing Orders.

It is now my pleasant duty and privilege, on behalf of the Standing Committee on Finance and Budget, to present to the Senate, this Report of the Committee on the County Allocation of Revenue Bill (Senate Bills No. 30 of 2021).

SIGNATURE:



SEN. CHARLES KIBIRU, MP.

(CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND BUDGET)

DATE: 28th May, 2021

CHAPTER ONE

INTRODUCTION

The County Allocation of Revenue (Senate Bills No. 30 of 2021) was read for the First Time on 4th May, 2021. The main object of the Bill is to provide for the allocation of revenue raised nationally among county governments for the financial year 2021/22 as well as the transfer of the county allocations from the Consolidated Fund to the respective County Revenue Funds.

HORIZONTAL ALLOCATION OF REVENUE FOR FINANCIAL YEAR 2021/22

1. Overview of the County Allocation of Revenue Bill, 2021

1. The County Allocation of Revenue Bill (CARB) is prepared in accordance to Article 217 of the constitution. Article 218 of the Constitution provides for the allocation of equitable share of revenue raised nationally among county governments. The CARB horizontally shares equitable share of nationally raised revenue as reflected in the annual Division of Revenue Act.
2. The CARB guarantees county governments their respective share of revenue raised nationally as well as conditional allocations for better service delivery and ensure seamless operations at county level. This is done through the enactment of the County Allocation of Revenue Act based on the overall provisions in the Division of Revenue Act (DORA). The DORA 2021 gives a total allocation of Kshs. 370 billion as equitable share to county governments. The county Allocation of Revenue Bill has therefore been prepared based on the approved DORA

2. Content of the County Allocation of Revenue Bill 2021

3. The County Allocation of Revenue Bill 2021 proposes to share the allocation of Kshs. 370 billion amongst the county governments for FY 2021/22 and it contains two schedules relating to the following: -
 - i) First Schedule on equitable share- **Kshs. 370 billion** allocations of each County Government equitable share of revenue raised nationally, financial year 2021/22.
 - ii) Second Schedule on County Government budget ceilings of recurrent expenditure in financial year 2021/22

4. The first schedule of CARB 2021 (Annex I) provides for the horizontal distribution of the equitable share among the 47 County governments using the formula approved by Parliament in September, 2020 which is arrived at by using one half of the equitable share allocated to counties in the financial year 2019/ 20 amounting to Kshs. 158. 25 billion and netting out from the equitable share of Kshs. 370 billion, while the resulting balance of Kshs. 211.75 billion is allocated among county governments using the Formula $0.18 * \text{Population Index} + 0.17 * \text{Health Index} + 0.10 * \text{Agriculture Index} + 0.05 * \text{Urban Index} + 0.14 * \text{Poverty Index} + 0.08 * \text{Land Area Index} + 0.08 * \text{Roads Index} + 0.20 * \text{Basic Share Index}$.
5. The proposed 2nd schedule (Annex II) is in relation to county governments' budget ceilings on recurrent expenditure for the county executive and the county assemblies for the financial year 2021/22. The recommendations are in fulfillment of the requirement of Articles 216 (2) and (3) of the Constitution of Kenya 2010 and Section 107 (2) (a) of the Public Finance Management Act (PFMA) 2012.

County Assembly & Executive Ceilings

6. Budget Ceilings are important in ensuring prudent allocation and expenditure of public resources and conform to Article 201 of the Constitution. The ceilings are provided to promote harmony between the County Executive and County Assemblies in sharing of resources. The ceilings also ensure that adequate resources are allocated to development projects in line with the law and they further provide for hard budget constraints within the executive and the County Assembly.

Analysis of county assembly ceilings

7. County Assembly ceilings cover expenses on personnel emoluments, Legislative Process Support, Training and Insurance and other Operations & Maintenance. The County Assembly ceilings recommended by the CRA for the FY 2021/22 is Kshs. 33.25 billion which is the same amount in the Financial Year 2020/21 as well as the FY 2019/20. Table 1 shows a trend of the County Assembly ceilings from the FY 2014/15- to 2021/22.

Table 1: County Assembly Ceilings FY 2014/15-2021/22

No.	YEAR	County Assembly	Percentage change
1	2014/15	16,879,992,217	-
2	2015/16	27,493,395,927	62.88%
3	2016/17	29,060,469,640	5.70%
4	2017/18	28,897,399,203	-0.56%
5	2018/19	32,783,118,606	13.45%
6	2019/20	33,247,585,464	1.42%
7	2020/21	33,247,585,464	0.00%
8	2021/22	33,247,585,464	0.00%

Source: CARA (Various)

8. As shown in table 1 the county assembly ceilings increased from Kshs. 16.88 billion in the FY 2014/15 to Kshs. 33.25 billion in the FY 2021/22. The major increase was in the FY 2015/2016 while the ceilings have remained the same from the FY 2018/19 to date. The ceilings increased from Kshs. 28.89 billion in the FY 2017/18 to Kshs. 32.78 billion in the FY 2018/2019 representing a 13 per cent increase.
9. A breakdown of the County Assembly expenditure components indicates that salaries, allowances, gratuity and pensions are amounting to Kshs. 24.24 billion or 73 per cent of their recurrent expenditure while Operations and Maintenance (O&M) will total Kshs. 8.36 billion representing 25 per cent of the total allocation. Table 2 shows the breakdown of the county Assembly Budget.

Table 2: Breakdown of the County Assembly Budget	
Item	Allocation (Kshs)
MCA (Salaries, Allowances & Gratuity)	14,472,510,170
County Assembly Staff (Salaries, Pension & Allowances)	9,640,649,112
CASB Secretariat (Salaries, Gratuity & Allowances)	125,630,154
Audit committee	11,731,200

Operations & Maintenance	8,361,652,757
Training	635,412,070
Total Allocation	33,247,585,463

Source: CRA 2021

Challenges/Concerns

10. County assemblies raised some concerns on the non-disbursement of all budgetary allocation. The slow or delayed exchequer releases have contributed to loss of unspent resources at the end of each financial year as well as pending bills from one financial year to the other.
11. Counties have pending bills which include Kshs. 26.02 billion for County Pension Fund as at 31st December, 2020 and Kshs. 14.57 billion for Local Authorities Pension Trust as at 30th November, 2020 as per the COB reports. With the ceiling of recurrent budget remaining the same as in FY 2020/21, the county government might have a challenge in settling the pending bills and having sufficient resources to meet statutory requirements and offer other services.
12. Other concerns regarding the recurrent expenditure ceilings for county Assemblies include;
 - a) Mileage allowance to members of the county Assembly whereby the circular SRC/TS/CGOVT/3/61 from the salaries and Remuneration Commission provided for the provision of mileage allowance to the nominated members of the county Assemblies. According to some counties for example Mandera the ceilings provided do not cater for these allowances.
 - b) Calculation of P/E by the CRA is based on actuals and not the optimal staffing levels to avoid litigation through non-payments of dues. While considering the County Allocation of Revenue Bill for Financial Year 2018/2019, the Senate gave a Moratorium of 3 years for County Assemblies with staff beyond CRA recommended capping to rationalize their staff. Senate Moratorium is lapsing on 30th June, 2021. However, this has not been achieved in the County Assemblies.
 - c) Provision for ward offices cost- The CRA gave guidance through circulars CRA/CSO/CMG/9/VOL 43 and 59 and advised the ward office staff for both

nominated and elected representatives be paid at office assistants rates of Kshs. 35,330. In the last approved ceilings, the salaries of the ward staff had been capped at Kshs. 30k each, meaning that there is additional Kshs. 5,330 for each staff in the ward office that needs to be covered in the ceilings. The difference therefore creates an underfunding in the County Assemblies.

d) The County Assembly salaries and wages rise over the last three years due to annual salary increments have not been captured within the ceilings. The increments further have an effect on gratuity costs as well and need to be covered within the ceilings.

13. Some County Assemblies provided requests for increased ceilings to cater for some of the challenges stated above.

14. It is important to note that despite the above challenges highlighted by the County Assemblies, analysis shows that despite the exchequer releases being lower than the recurrent estimates, the recurrent expenditure is lower than the exchequer releases. For example, the FY 2018/19, 2019/20 and the 1st half of 2020/21, percentage of expenditure vs exchequer releases was 97 percent, 71 percent and 76 percent respectively.

CHAPTER TWO

SUBMISSION BY STAKEHOLDERS

2.1 Submission by the National Treasury

The National Treasury submitted the following views on the Bill-

15. The County Allocation of Revenue Bill contained a schedule on allocation and transfer of equitable share to county governments in the FY 2021/22.
16. The Bill did not contain schedules on allocation and transfer of additional conditional allocations to county governments as earlier proposed by the National Treasury and Planning. The published Bill was informed by the High Court Ruling on Petition No.252 of 2016. In that regard, Treasury was in agreement with the contents of the bill save for the following issues-

Funding of transferred functions

17. Although clause 6 of the Bill provides for funding of transferred functions, it did not provide for reporting on the transferred function. In that regards, the National Treasury proposed the addition of the following paragraphs immediately after paragraph 3 of clause 6-

“(4) the cabinet secretary shall prepare a report for each quarter of the financial year in respect to the expenditure of funds transferred to the National Government pursuant to subsection (3)

(5) in preparing a report under subsection (4), the Cabinet Secretary shall ensure the report-

(a) contains information on financial and non-financial performance of the entity assigned to carry out the transferred functions on behalf of the National Government

(b) is in form prescribed by the Accounting Standards Board; and

(c) contains such further information as the Senate or the National Assembly may, pursuant to Section 34 of the Public Finance Management Act, require.

Administration of Additional Conditional Allocations

18. The High Court on 3rd December, 2020 ruled on Petition No.252 of 2016 that monies christened as conditional grants should not be legislated in the Division of Revenue Act. Subsequently, the conditional grants cannot be legislated in the County Allocation of Revenue Act. That presented a legal gap on the administration of conditional grants, including the legal basis for their transfer to respective beneficiary county governments.

2.2 Submission by Commission on Revenue Allocation (CRA)

The CRA made a presentation as follows-

19. The pending bills owed by county assemblies were due to non-disbursement of funds before the end of the financial year. The balances not disbursed are not available in the succeeding financial year to enable county assemblies clear any commitment that had been made. The assemblies had submitted a list of non-disbursement of funds with a total of Kshs. 1.976 billion.
20. The cost of ward offices for nominated and elected MCAs has always been provided in the ceiling. The Commission in 2020 issued a circular on this matter.
21. Car grant- this is not provided for in the ceilings since it should be considered as development expenditure. Assemblies with fund should utilise the fund to meet the need as well as negotiate with the executive to have this allocation since its of development nature.
22. The Commission had not proposed an increase since it was not very clear on whether the increase from Kshs 316 to 370 billion was actual increase. This is because, it was a result of conversion of conditional grants into equitable share and the other part Kshs 36 billion was supposed to have been funds deducted from national government institutions performing devolved functions. Thus equitable share had not actually grown to necessitate adjusting the ceiling upwards.
23. Further, expenditure on some items had been suspended due to prevailing Covid 19 restrictions. This include- travels and attendance to conferences.
24. During consultations between the Commission and SOCATT, there was a request to adjust the ceiling upwards to provide for salary annual increment and related costs. This

would result into an increase of both recurrent expenditure budget ceilings for county executives and assemblies by Ksh. 1.884 billion and Kshs. 1.428 billion respectively.

25. The Commission submitted-

- a) A list of County Assembly pending bills as submitted to CRA by the Society of Clerks at the Table (SOCATT). Thirty-five (35) county assemblies had pending bills between FY 2017/18 and 2019/20 which totaled to Kshs. 980,327,527. SOCATT(K) thus requested that 2021/22 County Assemblies ceilings be increased by Kshs. 980,327,527 to cater for pending bills from FY 2017/18 to 2019/20.
- b) A list of requested County Assembly Recurrent Expenditure ceilings adjusted for counties staff salary increment as per Salaries and Remuneration Commission (SRC) Circulars dated 1st July 2020 on Phase IV – Salary Review for county Assembly Employees. This would increase the ceilings by Kshs. 1,428,254,698.

2.3 Submission by Uasin Gishu County Assembly

26. In FY 2020/21 CRA recommended recurrent expenditure ceiling of **Ksh 686,014,946** to the County Assembly to cater for salaries, public participation and operation and maintenance.

Staffing Level/ Ceiling

27. The staffing level of the Assembly was at 90 in-posts with majority being low -level cadre officers at salary scale N and below. The Assembly had thirty (30) wards representatives and seventeen (17) Nominated members thus totaling forty-eight (48) Members in the Assembly including the Speaker.

28. Further, there were 141 ward staff and 6 partisan staff attached to the office of the speaker. CRA capped the county Assembly staff at a maximum limit of 100 staff based on the current number of MCAs.

29. The Assembly thus faced the following challenges;

- i. unable to promote staff since the inception of the county governments due to budgetary constraints;
- ii. unable to carry out job realignments among the staff who were seconded from the defunct Local Authority to the current County Government; and
- iii. Lack of enough funding by the CRA to cater for the above stated challenges.

- iii. Lack of enough funding by the CRA to cater for the above stated challenges.
30. Based on the above challenges, the calculated accrued amounts (budgetary deficit) for the ninety staff are as follows;

Basic Salaries	5,585,280
House Allowance	8,271,600
Commuter Allowance	1,768,000
Pension	2,343,732
Totals	17,968,62

31. Ward Office Staff- office operation expenditures

No	Description	No. of MCAS	Partisan Staff per MCA	Partisan Staff in County Assembly	Partisan Staff Salaries (Basic Salary, House Commuter Leave all) as per 2019/20 ceiling	Partisan Staff Salaries Per Year (Per Partisan staff)	Ward Operation Cost Per Year (per Partisan staff)	Cost Per Ward per year (per partisan staff)	Cost per ward per year (per MCA=ward (including nominated))	Cost Per Ward Per Month (per MCA=Ward (including nominated))
1	CRA Circular	47	3	141	4,278,202	364,102	109,231	473,333	1,419,999	118,333
2	Current Actual Payment	47	3	141	3,243,000	276,000	80,000	356,000	1,068,000	89,000.00
	Deficit	-	-	-	1,035,202	88,102	29,231	117,333	351,999	29,333

32. County Assembly Pending Bills- Below is a tabulation of assembly pending bills

Financial Year	Amount(Kshs)
2017/2018	1,054,201.60
2018/ 2019	20,151,331.00
2019/ 2020	15,211 ,447.00
Total	36,416,979.60

33. The county Assembly was allocated Ksh 686,014,946 for 2019/2020, 2020/2021 and a similar amount was proposed for 2021/2022 financial year. The annual increment in

salaries and Personnel Emoluments coupled with inflation had greatly depressed the assembly's budget.

34. They therefore requested the Senate Finance and Budget committee to reconsider their ceiling in view of the above.

2.4 Submission by Nyamira County Assembly

In a letter dated 7th May 2021 to the Committee, Nyamira County Assembly submitted as follows-

35. Over the last three financial years (FY2019/2020; FY2020/2021 and FY 2021/2022), the ceilings for Nyamira County Assembly remained constant at Kshs. 596,107,510 despite the increases in inflation rates.

36. The County Assembly therefore sought the committee's consideration to adjust upwards the CRA proposed Ceiling from Kshs. 596,107,510 to at least Kshs. 627,837,880. The upwards adjustment of Kshs. 31,730,370 would cater for-;

37. **Compensation of Employees** – Since FY2013/2014, there had been increases in the number of permanent employees, partisan staff, external members of County Assembly Service Board (CASB) and the Members of County Assembly (MCAs as analysed;

Financial year	Elected MCAS	Nominated MCAS	Total	Partisan staff	Permanent Employees	External Board Members	Total
2013/14 to 2016/17	20	13	33	66	80	1	180
2017/18 to 2020/21	20	16	36	108	125	2	271
Increase	-	3	3	42	45	1	94
% Increase	-	23%	8%	64%	63%	50%	53%

38. The upward trend caused the County Assembly to strain financially in discharging its mandates of oversight, legislation and representation. The County Assembly therefore required Kshs. 21,724,559 as analyzed below;

- i. Kshs. 15,120,000 for the partisan staff (Kshs. 30,000*42*12)
- ii. Kshs. 5,568,768 for the additional Nominated MCAs (154,688*3*12)
- iii. Kshs. 1,035,791 for service gratuity for the three additional Nominated MCAs (154,688*60%)*31%*3*12)

39. Introduction of two External Members to the County Assembly Service Board

(CASB)- from 1st October, 2017, the County Assembly Service Board membership increased from five to six members. The additional external member of the CASB was entitled to salaries and remunerations as per SRC Circular Ref No. SRC/TS/CGOVT/3/61 Vol. iv (49). The additional requirement was Kshs. 3,119,640 as computed.

- i. Kshs. 1,740,000 for Monthly Retainer at the rate of Kshs. 145,000 per month.
- ii. Kshs. 768,000 for sitting allowances for CASB meetings
- iii. Kshs. 323,640 for service gratuity
- iv. Kshs. 240,000 transport allowance
- v. Kshs. 48,000 for airtime allowance

40. Implementation of Job Evaluation Results, Salary review for the County

Government Employees and Annual Salary Increments-Harmonization of the salaries of County Assembly employees' based on the Job Evaluation Results conducted by SRC and the annual salary increments had continually affected the budget estimates for other items and hence affected the Assembly in discharging its mandates. To ease that, the County Assembly required an additional of Kshs. 6,886,171 analyzed below;

- Basic Salaries Kshs. 4,213,540.
- House Allowance Kshs. 2,040,600
- Pension Kshs. 632,031

2.5 Submission by Nyeri County Assembly

41. In the FY 2020/21, CRA recommended a recurrent expenditure ceiling of **Kshs. 676,085,232** to the County Assembly. That expenditure was geared towards personnel emoluments and the cost of operations & maintenance.

Key Challenges

42. The assembly faced numerous challenges that hindered it from achieving its Mission and Vision such as inadequate funding by the CRA and untimely disbursement of exchequers.

43. **Pending Bills-** as at 31st December 2020, the County Assembly had an accumulated amount of pending bills to a tune of Ksh. 30,605,758 as tabulated below:

PAYEE	PRINCIPAL	PENALTY	INTEREST	TOTAL
Car Benefit	3,705,000	606,450	1,027,650	5,339,100
Speakers Housing Benefit	956,250	152,438	1,352,250	2,460,938
Speakers Partisan Servants	850,226	139,169	235,826	1,225,221
Fringe Benefit Tax	8,899,211	1,779,842	1,275,615	11,954,668
Gratuity	4,063,888	812,778	1,625,555	6,502,221
Withholding Tax on Rent	2,241,500	224,150	657,960	3,123,610
Total	20,716,075	3,714,827	6,174,856	30,605,758

44. **Staffing Level/ Capping-** as at the time of submitting to the committee, the County Assembly had a staff establishment of 67 staffs. That was against the recommended CRA capping of 100 staffs based on the current number of MCAs. The assembly had made efforts to rationalize to the actual capping in vain due to budgetary constraints. To rationalize the number, the assembly intended to recruit an additional 25 staffs of various cadres with the following remunerations;

Basic Salaries	10,559,640
House Allowance	3,914,160
Commuter Allowance	1,584,000
Pension	<u>2,171,070</u>
Total	<u>18,228,870</u>

45. **Promotions**-Due to constant budgetary constraints in the previous FYs, the assembly had faced a great challenge in carrying out staff promotions. That led to job stagnation hence lack of motivation among the staffs and thus a low output.

46. Summary of Additional Funding.

a) Pending bills	30,605,758
b) Staff Recruitment	18,228,870
c) Annual Increments & Promotions	1,500,000
d) Provision for Inflation	<u>5,000,000</u>
TOTAL	<u>55,334,628</u>

47. A similar amount of expenditure ceiling had been proposed for FY 2021/2022. Thus Annual increments in salaries with **inflation** would adversely affect the assembly's budget execution.

48. The assembly therefore requested for additional resources and once considered, it would indeed enhance the assembly to discharge its mandate effectively through efficient service delivery.

2.6 Submission by County Assembly of Busia

The county assembly clerk submitted as follows:

49. The County Assembly Service Board undertook a recruitment exercise in February, 2014 which resulted in 158 staff being employed on permanent and pensionable terms. However, after the staff recruitment exercise, the Commission on Revenue Allocation (CRA) while setting ceilings for the County Assemblies in Financial Year 2014/2015 recommended staff capping of 88 which was later reviewed upward to 100 staff in Financial Year 2017/2018.

50. The staff capping by the CRA meant that Busia County Assembly Service Board had more staff than was recommended. Consequently, the Busia County Assembly Service Board engaged the Commission on that matter and it recommended that the County Government of Busia do undertake staff rationalization exercise.

51. In order to comply with the advisory from Commission, H.E the Governor Hon. Sospeter Ojaamong appointed a task force comprising of officials from County

Executive, County Public Service Board, Trade union representatives and the Board. The task force recommended the development of a staff rationalization policy. The County Executive Committee in December, 2015 adopted the staff rationalization policy which was subsequently approved by the County Assembly

52. While considering the County Allocation of Revenue (CARA) Bill for Financial Year 2018/2019, the Senate gave a Moratorium of 3 years for County Assemblies with staff beyond CRA recommended capping to rationalize their staff. Senate Moratorium lapses on 30th June, 2021.
53. The County Assembly Service Board through a deliberate effort of freezing filling of vacant position arising out of natural attrition, retirement, disciplinary action, and resignation of staffs had managed to rationalize the number of staff from the initial **158** to **135** against CRA staff capping of **100** as at 1st January 2021.

Justification for extension of Moratorium to rationalize Staff by three years

54. The County Assembly inherited 39 staff from the defunct Local Authorities. A majority of whom lacked the requisite technical skills to work in a legislative body.
55. The Board initiated a staff rationalization exercise in 2016. However, a number of staff aggrieved by the exercise went to the Employment and Labour Relations Court through *Kisumu ELRC petition NO. 35 of 2016 Joachim Opanda Atenya & another versus County Assembly Service Board Busia County & another AND Nairobi ELRC petition NO. 42 of 2017 Daniel Namunya Naburi & others versus County Assembly Service Board Busia County & another* and managed to obtain Court Orders that restrained the Board from successfully concluding the staff rationalization exercise it had initiated.
56. Most of the staffs have mortgage facility by the Board that they were still servicing through Assembly Payroll. Thus effecting a staff redundancy or retrenchment exercise exposed the County Assembly to risk of possible loss of public resources
57. Some staffs had other financial commitments with financial institutions where they were still serviced their loans through check off which was likely to cause distress to the staff in case they were declared redundant or retrenched at a very short notice. The Board therefore required adequate time to address the issue.

58. Lack of budgetary support to undertake staff rationalization exercise since the Assembly would require additional funds for redundancy/retrenchment package and voluntary early retirement compensation.

Measures undertaken by the Assembly Service Board to rationalize staff

59. The Board initiated Organizational review exercise through Kenya School of Government- Baringo Campus. The exercise aimed at scientifically determining the optimal staff levels for the County Assembly Service.

60. The County Assembly froze filling of any vacancy arising from retirement, resignation, disciplinary action and natural attrition.

61. The assembly therefore sought the following interventions by the Committee

- i. An extension of moratorium period by a further three financial years to enable the Assembly undertake and finalize staff rationalization or
- ii. Staff capping for the County Assembly of Busia to remain at 135 staff and recommend freezing of any further employment and replacement of staff who retire or leave the Service.

2.7 Submission by the County Assembly of Kakamega

Summary of the comparative analysis of CRA ceilings and proposed amendments to the 2020/21 ceilings			
	CRA Ceiling 2021/22 CARB	Assembly proposed ceiling 2021/22	Variance
Budget Estimate	1,066,936,774	1,809,978,584	(743,041,810)
	Budget	Proposed	Total
Additional Funding needed by the Assembly			
Items			
Increase in Insurance Costs (WIBA and Group cover)	14,400,000	18,000,000	32,400,000
Increase in Training and Capacity Building	6,450,000	7,145,600	
Annual salary increment MCAs and staff	167,189,016	8,396,210	
Staff promotions and pension		15,500,000	15,500,000
Pending Bills		75,000,000	75,000,000
Car Loans and Mortgages for staff		100,000,000	100,000,000

Security for the Members During sessions	2,000,000	5,000,000	3,000,000
Hansard Equipments for the Chamber and Committee Rooms		20,000,000	20,000,000
Publishing of Bills	5,000,000	10,000,000	15,000,000
Acquisition of Vehicles especially for Oversight and Public Participation.	3,500,000	20,000,000	23,500,000
Renovation and Equiping of Clerks official residence		8,000,000	8,000,000
Audit Committee establishment		1,000,000	1,000,000
Employment of 24 additional staff as proposed by CRA (118 Staff currently 94)		10,000,000	10,000,000
Additional allocation as compared to other County Assemblies with few MCAs		445,000,000	445,000,000
Total			
TOTAL PROPOSED BUDGETARY ALLOCATION AFTER THE ADDITION OF THE ABOVE			
COMPARISON OF KAKAMEGA COUNTY ASSEMBLY WITH THE NEIGHBOURING ASSEMBLIES			
County			
Kakamega County Assembly	1,066,936,774	11,988,054	
Bungoma County Assembly	852,696,315	14,211,605	
Busia County Assembly	738,972,659	13,942,880	
Trans Nzoia County Assembly	628,139,110	16,106,131	
Vihiga County Assembly	621,955,167	16,367,241	

62. Comparison of ceilings as shown above indicates that Assemblies with less than 40 MCAs get way more by up to Kshs. 5million per MCA yet the ceilings were computed based on the same factors across all county assemblies. As such, Kakamega County Assembly was highly disadvantaged and in order to bridge the gap, Kakamega would require an additional Kshs.445Million.

2.8 Submission by Homa Bay County Assembly

Budget Ceiling 2021/2022

63. In the FY 2022/22 CRA recommended recurrent expenditure ceiling of Kshs 852,232,576 to the County Assembly. That recurrent expenditure was to cater for salaries, public participation and operations and maintenance.

64. **Staffing Level/Ceiling** –the staffing level of the Assembly was at 112 in-posts (including 29 temporary staff) with majority being low level cadre officers at salary scale M and below. The County has forty wards thus forty (40) elected ward representatives and twenty nominated members totaling to sixty (60) members, including the speaker, totals to sixty-one (61) representatives in the Assembly.

65. Further there were a total of 183 ward staff and 6 partisan staff attached to the Office of the Speaker. CRA had capped the County Assembly staff at a maximum limit of 100 staff based on the number of MCAs.

66. Due to budgetary constraints, the assembly faced the following challenges

- i. unable to promote staff since the inception of the county governments due to budgetary constraints
- ii. unable to carry out job realignments among the staff who were seconded from defunct Local Authority to the current County Government
- iii. operations and maintenance (O&M) stagnated at Kshs 242,717,312 while training at Kshs 14,901,196 for the last three years
- iv. balances brought forward from previous years were not re-allocated in supplementary budgets to the County Assembly which resulted in increased pending bills over the years
- v. CRA had totally refused to engage the Assembly for the last three years on their ceilings magnifying their challenges.

67. Deficit in salaries- based on the above challenges, the calculated accrued amounts (budgetary deficit) for the 112 staff were as follows-

Basic Salaries	6,585,280
House Allowance	2,271,600
Commuter Allowance	1,268,000
Pension	2,722,400
Totals	12,847,280

68. MCAs deficit in gross salary was Kshs 6,729,520 to cater for Annual Increments. Gross deficit for Assembly salaries (both MCAs & staff) was Kshs. 19,576,800

69. Ward Office Staff-office operation expenditures was as tabulated below-

Description	No of MCAs	Partisan staff per MCA	Partisan staff in county Assembly	Partisan staff salaries per month(Basic salary,Gratuity,commuter all. Leave all.) as per 2019/20 ceiling	Salaries per year(per partisan staff)	Ward operation cost per year(per partisan staff)	Cost per ward per year(per partisan staff)	Cost per ward per year(per partisan staff)	Cost per ward per month(per MCA-including nominated)
CRA Circular	60	3	183	77,099,999.20	364,102.32	109,230.96	1,419,999.84	1,419,999.84	118,333.32
Current Actual Payment	60	3	183	3,257,400	213,600	50,000	1,090,800	1,090,800	90,900
Deficit				3,842,599.20	150,502.32	59,230.96	329,199.84	351,999	27,433.32

70. County Assembly Pending Bills-Below is a tabulation of the Assembly's pending bills

Cumulative from FY 2018/2019-2020/2021	AMOUNT (Kshs)
Total Recurrent Pending Bills	113,815,828

71. Based on the above, the summary of the budgetary shortfall for the County Assembly were;

Total annual salaries for (112 No) staff	Kshs	12,817,280.00
Total annual salaries for 60 MCAs	Kshs	6,729,520
Total annual salaries for (183 no) partisan	Kshs	46,111,190.40
Total annual operation cost	Kshs	19,751,990.40
Total outstanding Bills	Kshs	113,815,828.60

Total additional Budgetary requirement Kshs 199,255,808.80

72. The County Assembly was allocated Kshs **852,232,576** for 2019/2020, 2020/21 and a similar amount was proposed for 2021/22 financial year. The annual increment in salaries and Personal Emoluments coupled with inflation had greatly depressed the budget. They therefore requested the Senate Finance and Budget committee to reconsider the ceiling in view of the above.

2.9 Submission by Bomet County Assembly

73. County allocation for the financial year 2021-2022 - The CARB for 2021/22 had recommended Kshs 606,321,526 to the County Assembly of Bomet. That ceiling did not take into consideration to the following;

74. **Annual Salary Increment-** The Gross salary increment for the County Assembly service was Kshs. 4,200,000. That amount needed to be considered in the ceiling since every year the salaries increased by approximately ten percent.

75. **Pending Bills-** Bomet County Assembly had a pending bill that dated back to the financial year 2016/17 as shown in the table below.

YEAR	ANNUAL ALLOCATION	TOTAL AMOUNT DISBURSED	VARIANCE
2016/17	533,252,696	483,817,000	49,435,696
2017/18	553,855,510	505,882,000	47,973,510

76. **Promotion-**The County Assembly Service Board intended to promote its staff in the next financial year 2021/22. The total cost was estimated at Kshs 3,000,000 per year.

77. **Gratuity Payment-**The term of ward staff would expire in the financial year 2021/22 hence the need to factor in their gratuities in the budget. The estimated cost was Kshs 10,425,000

78. **Recruitment of staff-** The Commission of Revenue Allocation had approved a staff ceiling of 88 staff for the County Assembly of Bomet compared to the 70 staff who were in-service

79. The County Assembly therefore in the process of recruiting 18 staff who were supposed to perform critical roles in the Assembly Service as shown in the table below

STAFF DETAILS					
STAFF DETAILS	STAFF ESTABLISHMENT				
Position title	Scale	Authorized	In post	Variance	2021/22

Principal Clerk Assistant	10	2	1	1	2,521,883.00
Procurement Officer	8	1	0	1	1,280,795.00
Human Resource	8	1	0	1	1,280,795

80. In that regard therefore the County Assembly proposed its Ceiling to be increased by Kshs **88,739,333** taking into consideration the above.

2.10 Submission by Machakos County Assembly

Revision of Recurrent Expenditure Ceiling for FY 2021/2022

81. The Assembly's recurrent expenditure ceiling was last reviewed in 2018. That did not take into consideration annual salary increments for both MCAs and members of staff, salary reviews, recruitments, career progression of members of staff, inflation and pending bills.
82. The PFM Act 2012 provides that debt should only be incurred for the purpose of development and for that matter debt on recurrent expenditure is highly discouraged. Over the last few years, the County Assembly had accumulated some debts mainly because of Budget constraints. The volume of expenditure continued to grow yet the CRA Recurrent Expenditure Ceiling remained constant at Kshs 841,145,156.00 which resulted in pending bills that totaled to Kshs. 48,132,353.00
83. The Assembly further anticipated an increase of personal emoluments of both MCAs and staff amounting to kshs **66,132,519.59** due to
84. Annual increment as per the Salary and Remuneration Commission (SRC's) guidelines vide circulars and gazette notices released in 2013 and further increments following a job evaluation exercise carried out by SRC in 2017. The total increment was estimated at Kshs 18,874,901.59
85. Promotions- Since inception, the Assembly had not embarked on promotions of staff that led to career stagnation. The County Assembly Service Board (CASB) approved career Progression Guidelines that provides for growth of staff members after three years of service. Under the guideline, members of staff were identified for career progression. The estimated impact of the proposed promotions was Kshs 6,654,618.00

86. Recruitment of new staff -Upon inception, the Assembly recruited eighty-eight (88) members of staff. As a result, some functions of the County Assembly were operating on skeleton members of staff, which adversely affected the functions of the institution. Over the years the number reduced to 84 due to separation. Upon revision of the ceiling to one hundred and fifteen members of staff by your commission, the service board approved recruitment of staff to meet that ceiling and improve operations. The exercise would impact the budget by Kshs 40,603,000.00
87. Further, given the prevailing inflation rate at an average of 5.3%, the Assembly was consistently losing its purchasing power on account of inflation. That had a negative impact on its ability to settle its obligations as and when they fell due. In the two year period between FY 2020/21 and FY 2021/22 the projected impact of inflammation was estimated to be $(2 * 23,338,300) = \text{Kshs } 46,676,600.00$
88. In view of the above, the County Assembly of Machakos appealed to the committee to consider reviewing the Assembly's budget ceiling for FY2021/22 by Kshs 160,941,472.59 to enable the Assembly to compensate the Members of County Assembly and staff effectively.

2.11 Submission by County Assembly of Makueni

89. The County Assembly of Makueni submitted its views with regard to facilitation of ward offices from the FY 2018/19 as advised by CRA vide Circulars Ref: CRA/FA/01 VOL11(22) dated June 28th 2018 and CRA/CSO/CMG/9/VOL.V (43) dated August 3rd 2020.
90. They submitted that the CRA gave an advisory vide circular dated 30th September, 2019 that Members of the County Assembly ward office operations and staff be facilitated for both elected and nominated members. However, in Makueni, only elected members of the assembly had their offices and personnel facilitated. The eighteen nominated members of the assembly therefore requested that the matter be considered and their offices facilitated and staff paid.

2.12 Submission by Mandera County Assembly

91. The Clerk, Mandera County Assembly submitted that the Assembly's ceiling for FY 2020/2021 was capped at Kshs.726, 834,897 in County Allocation of Revenue Act 2020. However, it was later revised to Kshs. 795,512,894 after numerous engagements with the CRA regarding understatement of claimable mileage vide their letter dated 13th August 2020 with reference CRA/CSO/CMG/9/Vol.V(44).
92. They observed that inadequate financing of County Assemblies would hamper Assembly's independence and oversight role. They further raised the following concerns for Mandera County Assembly for consideration by the committee in their deliberations on the County Assemblies recurrent expenditure ceilings:
- i. Mileage - Mandera Town, which was the county headquarter was on the extreme end of the County, which made the distance of the wards extreme and expensive. Claimable Mileage by 27 MCAs whose wards were located more than 45 KM from the Assembly was Kshs. 54,909,223 whereas the CRA recommended Kshs. 18,109,680.
 - ii. Salaries and Remuneration Commission vide Circular dated 21st August, 2019, (SRC/TS/CGOVT/3/61) reinstated claimable mileage for nominated members and directed it be paid at the rate of elected representative. The Mandera County Assembly's estimate for the same was Kshs. 42,822,000.
 - iii. The Assembly, in 2016, engaged and agreed with CRA (The Utalii declaration) that the Assembly would be allocated a budget line for Public Participation and civic education of Kshs. 20,000,000 and about six Counties with insecurity issues would be supported by a further Kshs. 20 Million, totaling to Kshs, 40 Million. However, this was eliminated from the ceiling in 2019/2020 and 2020/2021 FYs.
 - iv. The insurance cost of Mandera County Assembly for staff, MCAs and properties was in excess of Kshs. 44 Million. To renew the contract, the insurance company had indicated a premium amount of Kshs. 67,046,353 for medical cover while CRA had capped at Kshs. 36 Million, thus a deficit of more than Kshs. 31 Million.

- v. In CRA ceiling, a provision of Kshs. 249,000 was allocated to Audit Committee which was insufficient. The SRC circular indicated that there should be a maximum of eight sittings in a year at an average cost per sitting of Kshs. 200,000 totaling to Kshs. 1.6 Million. The allowance included travel cost refund and accommodation.
- vi. CARB 2021 did not provide for annual increment in office operation and maintenance costs, salaries and wages as ceilings remained the same. Mandera County Assembly incurred costs related to inflation, annual salary growth and due promotions, thus requested for an additional Kshs. 60 Million to cover the same as it had accumulated over the last three fiscal years.
- vii. Mandera County Assembly committed to procure goods, services and works in the financial year 2019/2020 but due to late disbursement of funds, pending bills of Kshs. 40,272,428 were accrued and not brought forward to FY 2020/2021, thus still pending payment.
- viii. With the new SRC Circular on Car Grant for MCAs and the Speaker, Mandera County Assembly required Kshs. 98 Million to cater for the same.
- ix. Mandera County Assembly would move to the new County Assembly HQs in the next financial year and there was need to have new sets of furniture and Hansard equipment/infrastructure with heavy investments that could not be provided within the set ceiling. The amount was estimated to be Kshs. 60 Million as a one off purchase.

2.13 Submission by Nairobi City County Assembly

93. the Clerk of Nairobi City County Assembly submitted that the recurrent expenditure ceilings for assembly for the FY 2021/22 were not reviewed despite their appeal to the Commission on Revenue Allocation.

94. They therefore requested the Senate to consider enhancing the recurrent ceilings for the Nairobi City County Assembly by Ksh.657.55 due to the following reasons:

- i. The Nairobi City County Assembly was an independent arm of the Nairobi City

County Government mandated to provide oversight over the Nairobi City County Government, represent about five million Nairobi residents and Legislate on important matters that affected the Capital City of Nairobi.

- ii. the County Assembly was composed of one hundred and twenty-three Members (eighty-five elected from the wards and thirty-eight nominated to represent special interest groups) and oversight about an annual budget of about Kshs.40 billion spread across the Nairobi City County Government, the Nairobi Metropolitan Services and the Nairobi Water and Sewerage Company. That expansive mandate was supported by staff who were on different terms of employment, that is permanent and pensionable employees, contract staff and partisan officers.
- iii. To finance the recurrent operations of the County Assembly the County Allocation of Revenue Act 2019 set the ceilings of the County Assembly at Ksh.1.409 billion, a figure that had not changed in the subsequent financial year 2020/21. The recurrent ceilings had made the Assembly work within financial strain in an attempt to meet its increasing administrative, statutory and procedural responsibilities within a web of shrinking real resources.

95. The need for review of the recurrent ceilings of the County Assembly was informed by a myriad of factors that had come to bare since the last ceilings were considered and approved at the beginning of the year 2019. The specific areas of concern were as follows:

- I. **Additional allocation for Salaries of Ward Office Staff for both nominated and elected representatives-** in the last approved ceiling, the salaries for ward staff was capped at Kshs. 30,000 each for three employees. However, the SRC through circular dated 24th October 2019 and CRA/CSO/CMG/9/VOL.IV (24) dated 30th September 2019 advised that they be paid at office assistant rates of Kshs. 35,330, thus raising individual salaries by Kshs.5330 per employee. The computation by CRA on placement of office assistants placed their salaries at a figure lower than the amounts contained in SRC circular on job groups. The difference therefore created an underfunding by Kshs.23.7 million per annum for the 369 staff attached to the 123 Members of the county assembly.
- II. **Additional allocation for medical cover for both elected and nominated**

MCA's ward staff- following the implementation of both the SRC circular Ref.SRC/TS/CG/KAK/3/61/11(36) dated 24th October 2019 and CRA/CSO/CMG/9/VOL.IV (24) dated 30th that advised on employment of ward officers at office assistant rates, the same necessitated inclusion of staff into medical insurance scheme. The PSC HR Policy and procedure Manual –May 2016 Section D on medical benefits stipulates that the Government shall establish a medical insurance cover to provide medical benefits for civil servants, their spouses and dependent children. The PSC Policy 2020 on contract employment under medical benefits stipulates that medical benefits applicable to permanent employees shall apply to contract employees during the duration of the contract. The employees are categorized under office assistant grade (G-J) as per circular (SRC/TS/CGOVT/3/61 dated 19th Dec 2014) at job group J the cost of the medical insurance for the ward staff is estimated at ksh.100Million.

- III. **Additional allocation for gratuity for Ward staff in line with the proposed SRC salary scale-**projected rise in the basic salaries for each ward staff by Kshs.5,330 per month is expected to lead to an increase in the expected gratuity benefits (calculated at 31% of additional basic salary) by Kshs.4.4 million per annum for all the 369 ward employees.
- IV. **Annual Salary increment for staff-** in line with the PSC guidelines on Human Resource Policy and procedure Manual and County Assembly HR Manual, 2016 staff of the county assembly are entitled to annual salary increment as per their respective job groups. However, due to stagnation of the recurrent ceilings for the county assembly over the last two financial years the same amounting to Kshs.1.2 million per annum was not accommodated in the budget.
- V. **Promotions/Acting allowance and recruitment of core staff in the Assembly-**since employment of staff in 2013, 2014 and 2015 none of them has been promoted despite the requirement that the same should be undertaken in every three years. The Assembly contracted Deloitte Consultancy to carry out job evaluation and organizational restructuring. Deloitte came up with a new organizational structure, staff establishment and career progressions for job descriptions which were adopted by the Board. To fully implement the structure,

the Assembly would require additional allocation of Kshs.120 Million to be utilized for common cadre promotions, filling of vacant positions from internal pool of staff and external recruitments where necessary.

- VI. **Additional to up on Medical Insurances after staff promotion base**-with the intended promotion after an organizational restructuring staff shall upward in various job groups and this would likely impact on medical insurance. In line with SRC/TS/CGOVT/3/61 dated 19th Dec 2014 the employees are expected to increase by 21 million consisting of Kshs.10 million for medical insurance cover, Kshs.3million fir GPA, Kshs.3million for GLA and Kshs.5 for WIBA.
- VII. **Additional Employer Pension Contribution to Social Security Fund (Laptrust)**-the internal restructuring annual salary increments shall lead to additional amount of Kshs.12 million as employer contribution to the social security fund calculated at the rate of 15% of basic salary and house allowance.
- VIII. **MCAs annual Salary increments**-the annual salary increment for all MCAs is at Kshs. 10,500 per MCA as per the circular issued by the SRC thereby an additional amount of Kshs.15.5 million is required for the 123 MCAs as part of annual increment in the coming financial year.
- IX. **MCAS additional gratuity**-increase in the annual salary for the MCAs by Kshs. 15.5 million would lead to an additional Kshs.2.79 Million gratuity contribution for the MCAs calculated at the rate of 31% for 60 % of the basic salary.
- X. **Salaries for partisan staff serving in Leadership offices**-in line with the resolutions of the County Assembly Service Board, the County Assembly leadership were granted PAs who joined the service at job group L with individual gross salary of Kshs.76,000 per month as guided by the PSC HR manual on contract employees. That resolution meant that the total salary cost for the partisan staff increased by Kshs.35.4 million for the thirty-nine attached to the leadership offices.
- XI. **Responsibility allowances for MCA Board Members**-previous ceilings were computed on the strength of the County Governments Act, 2012 where the two MCA Board Members were also the Leaders of Majority and Minority Parties respectively. The positions of Board Members and those of leadership in the

County Assembly were separated through the enactment of the County Assembly Services 2017 (Sec 46). That meant that there were two additional MCAs entitled to responsibility allowance for representing the Majority and Minority parties on the Board at the rate of Kshs. 32,000 per MCA per month which brought the total additional cost of Kshs.760,000.

- XII. **Office rent for nominated MCAS and Board Members**-due to financial stress, the County Assembly Service Board had not been able to provide offices for nominated members of the County Assembly and the two Board Members representing the Members of the public. To guarantee the nominated MCAs and the two board members offices at the Central Business district at a cost of Kshs.40,000 per month per MCA the county assembly would require an additional Kshs.19.2 million.
- XIII. **Litigation**-to take care of additional legal costs associated with the working of the County Assembly. The Assembly had faced many legal matters that made it incur high legal costs. In the past year, the assembly had to handle legal challenges revolving around impeachment of the governor, public participation on the Deed of Transfer of Functions and position of the Deputy Governor all of which made previous allocations towards litigation greatly inadequate. Whereas most of those litigations were yet to be concluded and fee notes raised, conservative figures indicated that the County Assembly would require a minimum of Kshs.250 million to clear her litigation costs in the coming financial year.
- XIV. **Standing imprest for leadership offices**- to facilitate smooth running of the leadership offices, the Board resolved that the offices be provided with standing imprests to be utilized and accounted for in line with the PFM Act 2012. The offices include those of chair of chairs, Deputy Speaker, Majority whip, minority whip, Deputy Majority leader, deputy minority leader, deputy majority whip and deputy minority whip. The additional cost required for the eight offices per annum stood at Kshs.8 million.
- XV. **Unutilized requisitioned amount in the FY2019/20 budget**-during the FY 2019/20, the County Assembly did not spend Kshs.23.6 million that was not

issued by the COB on the basis of insufficient cash balance in the CRF. Those payments were uploaded in the IB and had since become pending bills.

- XVI. **Acquisition of new vehicles to supplement assembly pool**-the County Assembly Service Board resolved that for smooth running of assembly operations within leadership offices, additional vehicles to be procured in order to supplement transportation needs. The approximate additional cost for two additional vehicles at the cost of Kshs. 10 million per vehicle brought the total to Kshs.20 million.

2.14 Submission by Society of Clerks at The Table in Kenya (SOCATT-K) and County Assemblies Forum (CAF)

The Society of Clerks at the Table (SOCATT-K) submitted the following views for consideration:

96. Pending bills- Pending bills have largely been associated with the county executive; nonetheless, Assemblies too have pending bills that are rolled up and spilled over to successive years, though on a limited scale. The Assembly Pending bills could be categorized as;

- a. Bills as a result of the staff pensions and gratuity inherited from first Assemblies, fringe tax benefits due to car loans and mortgages in the Assemblies.
- b. Some assemblies have faced in the past challenges of non-disbursement of all budgetary allocation thereby forcing assemblies not to remit all pay roll recoveries thereby creating pending bills for Lapfund, Laptrust and car and mortgage fund. The slow or delayed exchequer releases contribute to unspent resources at the end of each financial year.
- c. Exchequer issues that have adopted a model of releasing funds to the assemblies by dividing the assembly budget to twelve months rather than following the envisaged cash plan in the PFM act, made payment of pending bills in the assemblies a tall order. The carried forward pending bills from one financial year to the other put pressure on the inheriting FY budget that led to continued non- payment of pending bills.

Other concerns on the recurrent expenditure ceilings for the county assemblies

97. **Mileage**- the court ruling on Nakuru High court Petition No 1 of 2019 in response to MCA's prayers to the equity and fairness in regards to mileage allowance to members of the county assembly; directed that all MCAs whether nominated or otherwise are entitled to mileage. This was followed by an advisory/ circular from the Salaries and Remuneration Commission (SRC) No:SRC/TS/CGOVT/3/61 on the same. Some assemblies had not honored this due to lack of resources in the recurrent ceilings.
98. **Ward office cost** -In line with its mandate CRA issued a circular No CRA/CSO/CMG/9/VOL V (43) that provided guidance on the ward operation costs. The CASB deliberated on the circular and the consequent guidance on the circular No CRA/CSO/CMG/9/VOL V/59 from the CRA on the provision of the remuneration for the partisan staff. It was noted that many assemblies had the remuneration of the partisan at an amount lower than the proposals from the CRA hence the need for additional resources to implement the circular within the recurrent budgets.
99. **Staff establishment**- Assemblies were grouped according to sizes and staff capping determined by CRA according to the circular no CRA/FA/01/VOL 11 (22). The senate finance and budget committee in its recommendations on how to curb the personnel at 30% gave the directive in 2018 that county assemblies rationalize their personnel within the period of three years that lapses in June 2021. Several assemblies have over the years employed different strategies to this end including the freezing of hiring among others. The challenges of the how is still a white elephant for some assemblies noting the political nature of those institutions. On the flip side some assemblies had challenges in service delivery due to the staff needs occasioned by the adherence to the CRA staff capping. There was therefore need to review the staff establishment in line with the needs of individual assemblies.
100. **Car Grant**-The SRC in circular No. SRC/TS/COG/3/61/48/VOL 11 (113) directed county assemblies to convert the exiting car loan facility to a car grant facility and facilitate the payment of all MCAs with a car grant to the tune of Kshs. 2 million. This direction posed two scenarios; assemblies with a revolving fund would make necessary policy amendments to access the resources in the fund for the car grant; but

also the fund would be a “revolving fund” how then would it be salvaged for the next session of the Assembly? Some assemblies notably Mandera, Wajir and Garissa among others had not set up the said revolving funds hence were faced with the challenge of resources to actualize the said directive.

101. Cross Cutting budget deficits across the Assemblies

- a. The County Assembly Salaries; the county assembly salaries and wages continued to rise over the last three years due to yearly salary increments. That had an effect on gratuity costs as well. Further the speaker’s partisan staff; as stipulated by the SRC circular No. SRC/TS/CAF/3/61/49(46) provides for a personal assistant, personal secretary, a driver, messenger, cook and gardener. These partisan staff have over the years not be provided for adequately in the recurrent budget.
- b. Cost of operation and maintenance. The cost of acquisition of goods, services and assets had gone up over the past years due to effects of inflation and decelerating economy due to COVID-19 epidemic.
- c. Inflation; year after year inflation affected the cost of goods and services yet the county assembly ceilings were maintained at the same level for two financial years. That affected the cost of operations of assemblies as the budgets of O&M remained the same despite inflation.
- d. The cost of medical insurance was growing annually and the cost of work injury benefits was not provided for within the ceilings. Further most insurance providers had pronounced themselves on the non-provision of medical cover for COVID-19. There was therefore need to boost the available resources for medical insurance for the county assemblies.
- e. There was need to provide for cost of public participation and oversight as an independent budget line to operations and maintenance. As it was, expenses related to public participation took up to 15% of the budget; special consideration should also be made for frontier counties that public participation cost included security costs.
- f. Provisions for all components of the Audit committees were not factored in the cost of accommodation and travel as envisioned by SRC circular No

SRC/CG/MAK/3/61/23 (63). The CRA allocation of Kshs 249,000 left assemblies with a deficit of close to Kshs 1.5 M

102. SOCATT and CAF thus recommended that-
- a) the Senate factors in the ceilings for each assembly that had pending bills as a result of the delayed disbursement of funds, an amount equivalent to that that was not disbursed in the last financial year.
 - b) the Senate Finance and Budget committee factors in the ceilings of assemblies' allocations for mandatory statutory payments such as annual increments, pensions and gratuities as well as allocations that would allow the assemblies comply with requirements of the SRC and CRA circulars.
 - c) the Senate provides a waiver on the timeline for assemblies that have attempted to rationalize the staff but may not realize it within by June 2021 which is the deadline as approved by Senate.

2.15 Submission by International Budget Partnership Kenya

The Country Manager International Budget Partnership Kenya (IBP Kenya) Dr. Abraham Muriu submitted the following to the Committee-

103. Despite the conversion of conditional grants to Equitable Share, there is no clear direction on how they will be distributed. The Division of Revenue Bill, 2021, recommended converting four conditional grants to equitable share. Those grants amounted to Ksh. 17.4 billion and included Level 5 hospital grant, User fee foregone, Road Maintenance Levy Fund, and Rehabilitation of Village polytechnics. The justifications that distribute equitable share parameters are more aligned to the devolved functions and do not satisfactorily capture equity in distributing these grants. For instance, only 11 counties with level 5 hospitals received the level 5 hospital grant allocated based on bed occupancy rate and the number of referrals which was still not equitable. The third basis approved by the Senate, the health parameter's variables of health facility gap, the number of primary health care visits at levels 2 and 3 hospitals, and the average inpatient days in levels 4 and 5 hospitals, do not directly address the

fact that the level 5 hospitals still provide services to regional blocs. Further, it should be noted that only eleven counties with level 5 hospitals received the grant, yet it would now be shared among the 47 counties. Therefore, converting those grants into equitable share would disadvantage the services supported by those grants and overall counties' share given the shift in allocation criteria. Further, that would risk the funds being diverted to other departments since there were no mechanisms put in place to ring-fence the unconditional grants by the counties.

104. Donor conditional funds were not highlighted in the CARB 2021, and it was unclear why that is the case. The County Allocation of Revenue Bill did not highlight other donor funds and the mode with which they would be channeled to the counties. It was not clear whether those grant funds were withdrawn altogether or would not be subjected to the Senate's approval but be spent by line ministries at the national level in the counties. IBP Kenya therefore called upon the Senate to ensure that there was clarity on the state of conditional grants from donors that have historically been spent at the county level.

105. Allocation, spending and reporting of the Equalization Fund remained unclear. In every financial year, the government set aside funds towards the Equalization Fund. However, the spending and reporting of the fund remained unclear. With Ksh. 6.8 billion allocated to the fund in 2021/22 FY, IBP Kenya called upon Parliament to take up their oversight role by ensuring that reports were provided on allocation and utilization of the equalization fund to reduce the regional disparities among the beneficiary counties.

CHAPTER THREE

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Observations

106. The Committee made the following observations on the Bill-
- a) The County governments recurrent expenditure ceilings had remained constant for the financial years 2019/2020 and 2020/2021. The Bill also proposes the same ceilings for FY 2021/2022. This poses a challenge due to growing budget needs of the county governments. Particularly, county assemblies raised the concern that it was difficult to cater for mandatory payments such as annual salary increments, gratuities, pensions and other fringe benefits.
 - b) The county assembly recurrent expenditure provided in the CARA is usually not fully disbursed by the end of the financial year this is due to delay of disbursement of funds to counties by the National Treasury. However, the balance is not available in the subsequent financial year for the assemblies to budget and clear any financial commitments that they may have incurred. This has resulted in accumulation of pending bills by the assemblies.
 - c) That in 2018, there was a resolution by the Senate that county governments should before June 2021 make arrangements to rationalize their staff establishments to the capping recommended by CRA. A number of county assemblies were yet to comply with the resolutions.
 - d) A number of county assemblies requested for an adjustment of their recurrent expenditure ceilings to facilitate purchase of vehicles, installation of Hansard equipment, purchase of furniture and equipping of residential houses. The Committee observes that these are development expenditures, not recurrent.
 - e) Clause 6 on the funding of transferred functions does not provide for reporting of expenditure on such functions.

Recommendations

107. The Committee recommends as follows-

- a) That the House approves the Bill with the following amendments-
 - i. Amendment to clause 6 to provide for reporting by the Cabinet Secretary for National Treasury and Planning on the expenditure of funds where functions have been transferred from county government to national government.
 - ii. To prevent accumulation of pending bills by county assemblies, the Committee recommends introduction of a new clause after clause 11 to amend the Public Finance Management Act 2012 to ensure all monies appropriated for county assemblies are transferred in full by the end of financial year and in the event of unspent balance, it should be availed in the subsequent financial year for budgeting and settlement of any financial commitment made in the previous year.
 - iii. Adjustments of county assemblies' recurrent expenditure ceilings by-
 - Additional Kshs. 1,428,254,698 to enable counties adhere to various SRC Circulars pertaining to annual salary increments and promotions of staffs. and;
 - Provision of Kshs. 980, 327,527 for thirty-five county assemblies to clear their pending bills. This should only be released after verification by the Controller of Budget.
- b) Regarding the Senate resolution that county governments should rationalize the staff establishment before June 2021, the Committee recommends that the same be extended to June 2023.

Annexes

1. Proposed Committee stage amendments
2. Minutes of the Committee
3. Submissions from Stakeholders

MINUTES OF THE 216TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON FRIDAY, 28TH MAY, 2021 AT 9:00 AM VIA ZOOM ONLINE PLATFORM.

PRESENT

- | | |
|--|---------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 4. Sen. CPA Farhiya Haji, MP | - Member |
| 5. Sen. Aaron Cheruiyot, MP | - Member |
| 6. Sen. Kimani Wamatangi, MP | - Member |
| 7. Sen. Millicent Omanga, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 8. Sen. Rose Nyamunga, MP | - Member |
| 9. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Phyllis Makau | - Director, PBO |
| 3. Ms. Lucy Radoli | - Legal Counsel |
| 4. Ms. Amran Yunis | - Fiscal Analyst |
| 5. Ms. Sharon Rotino | - Research Officer |
| 6. Ms. Hellen Irungu | Legal pupil |

MIN. NO. 1127/05/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9.14 am and thereafter followed a word of prayer.

MIN. NO. 1128/05/2021: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Millicent Omanga, MP and seconded by Sen. (Dr.) Ochillo Ayacko, MP.

MIN. NO. 1129/05/2021: CONFIRMATION OF MINUTES OF MINUTES

The minutes of the 215th meeting held on Thursday, 27th May, 2021 at 9:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. Charles Kibiru, MP.

MIN. NO. 1130/05/2021: ADOPTION OF THE REPORT ON THE COUNTY ALLOCATION OF REVENUE BILL, 2021

The Committee proposed to recommend the following-

- a) That the House approves the Bill with the following amendments-


- i. Amendment to clause 6 to provide for reporting on expenditure of transferred functions from one level of government to another.
 - ii. To prevent accumulation of pending bills by county assemblies, the Committee recommends introduction of a new clause after clause 11 to amend the Public Finance Management Act 2012 to ensure all monies appropriated for county assemblies are transferred in full by the end of financial year and in the event of unspent balance, it should be availed in the subsequent financial year for budgeting and settlement of any financial commitment made in the previous year.
 - iii. Adjustments of county assemblies' recurrent expenditure ceilings by-
 - Additional Kshs. 1,428,254,698 to enable counties adhere to various SRC Circulars pertaining to annual salary increments and promotions of staffs. and;
 - Provision of Kshs. 980, 327,527 for thirty-five county assemblies to clear their pending bills. This should only be released after verification by the Controller of Budget.
- b) Regarding the Senate resolution that county governments should rationalize the staff establishment before June 2021, the Committee recommends that the same be extended to June 2023.

The Committee unanimously adopted the report having been proposed by Sen. Aaron Cheruiyot, MP and seconded by Sen. CPA Farhiya Haji, MP.

MIN. NO. 1131/05/2021: ADJOURNMENT

There been no other business the Chairperson adjourned the meeting at 9.46 am.

SIGNATURE:



(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 28th May, 2021

MINUTES OF THE 215TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON THURSDAY, 27TH MAY, 2021 AT 9:00 AM VIA ZOOM ONLINE PLATFORM.

PRESENT

- | | |
|--|---------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 4. Sen. CPA Farhiya Haji, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 5. Sen. Rose Nyamunga, MP | - Member |
| 6. Sen. Millicent Omanga, MP | - Member |
| 7. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 8. Sen. Aaron Cheruiyot, MP | - Member |
| 9. Sen. Kimani Wamatangi, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|------------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Lucy Makara | - Deputy Director, PBO |
| 3. Ms. Lucy Radoli | - Legal Counsel |
| 4. Ms. Amran Yunis | - Fiscal Analyst |
| 5. Ms. Sharon Rotino | - Research Officer |
| 6. Mr. Ian Otieno | - Audio Officer |
| 7. Ms. Hellen Irungu | Legal pupil |

MIN. NO. 1121/05/2021:

PRELIMINARIES

The Chairperson called the meeting to order at 9.13 am and thereafter followed a word of prayer.

MIN. NO. 1122/05/2021:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. (Dr.) Ochillo Ayacko, MP.

MIN. NO. 1123/05/2021: CONFIRMATION OF MINUTES OF MINUTES

- The minutes of the 211th meeting held on Wednesday, 21st April, 2021 at 9:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. (Dr.) Ochillo Ayacko, MP and seconded by Sen. Charles Kibiru, MP.
- The minutes of the 212th meeting held on Wednesday, 28th April, 2021 at 9:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Charles Kibiru, MP and seconded by Sen. CPA Farhiya Haji, MP.

- c) The minutes of the 213th meeting held on Monday, 10th May, 2021 at 9:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. Charles Kibiru, MP.
- d) The minutes of the 214th meeting held on Wednesday, 12th May, 2021 at 9:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. Charles Kibiru, MP.

MIN. NO. 1124/05/2021: MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING

212th Sitting

Ex. Min. No 1110/ 04/2021

The Committee noted that the follow-up meeting with the Spire Bank Management was rescheduled but later not held due to other pressing matters.

The Committee resolved to hold the meeting on Wednesday, 9th June, 2021.

213th Sitting

Ex. Min. No 1114/ 05/2021

The Committee noted that since the resolution to publish the county government bill was made, it had taken quite a number of days before it was done.

However, the Committee was informed that the Bill would be published and circulated to the Committee before the end of the day.

214th Sitting

Ex. Min. No 1119/ 05/2021

The Committee noted that the Cabinet Secretary, National Treasury and Planning failed to honour an invitation to a meeting to deliberate on the most effective mechanism to put in place to ensure funds are disbursed to counties in a timely manner and in accordance with the approved Cash Disbursement schedule.

The Committee noted his failure to honour invitation has been persistent. The Committee resolved to invite him for another meeting on Wednesday, 2nd June, 2021.

The Committee also resolved to write to the office of the Speaker informing the persistent failure of the CS to honour invitation to meetings.

**MIN. NO. 1125/05/2021: CONSIDERATION AND ADOPTION OF THE REPORT
ON THE COUNTY ALLOCATION OF REVENUE BILL, 2021**

The Committee consider the draft report including all the submissions by county assembly requesting adjustment of recurrent expenditure ceilings and made the following observations-

- a) The County governments recurrent expenditure ceilings had remained constant for the financial years 2019/2020 and 2020/2021. The Bill also proposes the same ceilings for FY 2021/2022. This poses a challenge due to growing budget needs of the county governments. Particularly, county assemblies raised the concern that it was difficult to cater for mandatory payments such as annual salary increments, gratuities, pensions and other fringe benefits.
- b) The county assembly recurrent expenditure provided in the CARA is usually not fully disbursed by the end of the financial year this is due to delay of disbursement of funds to counties by the National Treasury. However, the balance is not available in the subsequent financial year for the assemblies to budget and clear any financial commitments that they may have incurred. This has resulted in accumulation of pending bills by the assemblies.
- c) That in 2018, there was a resolution by the Senate that county governments should before June 2021 make arrangements to rationalize their staff establishments to the capping recommended by CRA. A number of county assemblies were yet to comply with the resolutions.
- d) A number of county assemblies requested for an adjustment of their recurrent expenditure ceilings to facilitate purchase of vehicles, installation of Hansard equipment, purchase of furniture and equipping of residential houses. The Committee observes that these are development expenditures, not recurrent.
- e) Clause 6 on the funding of transferred functions does not provide for reporting of expenditure on such functions.

The Committee noted with concern cases where County Assembly Service Boards discriminate against nominated MCAs especially in refunding mileage claim. The Committee resolve to take up this matter to ensure there was fairness.

The Committee proposed to recommend the following-

- a) That the House approves the Bill with the following amendments-
 - i. Amendment to clause 6 to provide for reporting on expenditure on transferred functions from one level of government to another.
 - ii. To prevent accumulation of pending bills by county assemblies, the Committee recommends introduction of a new clause after clause 11 to

amend the Public Finance Management Act 2012 to ensure all monies appropriated for county assemblies are transferred in full by the end of financial year and in the event of unspent balance, it should be availed in the subsequent financial year for budgeting and settlement of any financial commitment made in the previous year.

- iii. Adjustments of county assemblies' recurrent expenditure ceilings by-
- Additional Kshs. 1,428,254,698 to enable counties adhere to various SRC Circulars pertaining to annual salary increments and promotions of staffs. and;
 - Provision of Kshs. 980, 327,527 for thirty-five county assemblies to clear their pending bills. This should only be released after verification by the Controller of Budget.
- b) Regarding the Senate resolution that county governments should rationalize the staff establishment before June 2021, the Committee recommends that the same be extended to June 2023.

The Committee directed the secretariat to finalise the report and present it for adoption by the Committee in the next meeting to be held on Friday, 28th May, 2021 at 9 am.

MIN. NO. 1126/05/2021: ADJOURNMENT

There been no other business the Chairperson adjourned the meeting at 10.38 am.

SIGNATURE: 

(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 27th May, 2021

MINUTES OF THE 214TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON WEDNESDAY, 12TH MAY, 2021 AT 9:00 AM VIA ZOOM ONLINE PLATFORM.

PRESENT

1. Sen. Charles Kibiru, MP - Chairperson
2. Sen. Mutula Kilonzo Junior, CBS, MP - Member
3. Sen. CPA Farhiya Haji, MP - Member
4. Sen. Rose Nyamunga, MP - Member
5. Sen. Millicent Omanga, MP - Member

ABSENT WITH APOLOGY

6. Sen. (Dr.) Ochillo Ayacko, MP - Vice- Chairperson
7. Sen. Wetang'ula Moses Masika, EGH, MP - Member
8. Sen. Aaron Cheruiyot, MP - Member
9. Sen. Kimani Wamatangi, MP - Member

SECRETARIAT

1. Mr. Christopher Gitonga - Clerk Assistant
2. Ms. Sharon Rotino - Research Officer
3. Mr. Ian Otieno - Audio Officer

IN ATTENDANCE

A. Society of Clerks At-The Table (SOCATT)

1. Mr. Kamau Aidi – Chairperson
2. Mr. Leboo Saisa – Secretary General
3. Mr. Allan Mabuka
4. Ms. Lucy Akoritsa
5. Mr. Erick Ogengo

B. County Assembly Forum (CAF)

1. Hon. Florence Mwangangi – Speaker, Machakos County Assembly
2. Hon. Chepkwony – Nandi County Assembly
3. Ms. Judy Oduma - Chief Executive Officer

C. Commission on Revenue Allocation (CRA)

1. Dr. Jane Kiringai – Chairperson
2. Mr. Humphrey Wattanga – Vice Chairperson
3. Dr. Irene Asienga- Commissioner
4. Prof. Peter Kimuyu – Commissioner
5. Ms. Linet Oyugi - Director
6. Mr. James Katule - Director

MIN. NO. 1116/05/2021:

PRELIMINARIES

The Chairperson called the meeting to order at 9.10 am and thereafter followed a word of prayer.

MIN. NO. 1117/05/2021:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Millicent Omanga, MP and seconded by Sen. Rose Nyamunga, MP.

MIN. NO. 1118/05/2021: MEETING WITH SOCATT AND CAF TO DELIBERATE ON THE COUNTY ALLOCATION OF REVENUE BILL, 2021.

SOCATT made presentation as follows-

- a) The county assemblies' recurrent expenditure ceilings provided in the County Allocation of Revenue Bill, 2021 were similar to the same provisions in the last two financial years- 2020/21, 2019/20. No growth in allocation was provided yet there was demand for more allocation in county assemblies.
- b) Conventionally, salaries to employees are supposed to grow annually. This growth also results in other related statutory deductions. There was need to consider salary annual increments to avoid lowering the morale of the officers. Secondly, the MCAs salaries are also supposed to grow annually.
- c) A number of assemblies had incurred pending Bills due to non-disbursements of funds meant to be spent by 30th June (end of financial year). These unspent balances are never accessed by assemblies in the new financial year. The Senate should consider enabling the assemblies clear these pending bills which amounts to Kshs. 3.3 billion.
- d) The ceilings should be revised upwards to provide for statutory annual increments, increase public participation to about 15%, include millage for nominated members and ward office costs.
- e) There was need to consider the impacts of inflation, the car grants that Salaries and Remuneration Commission (SRC) has approved to be given to MCAs and need to expand staff establishment.

CAF made presentation as follows-

- a) The issues raised by the SOCATT were similar to the issues CAF was struggling with.
- b) Most county assembly boards found it difficult to promote staff due to constraints resource allocation.

- c) There was need to have a mechanism to ensure funds not disbursed to assemblies by the end of the financial year forms part of the opening balance in the subsequent financial year.
- d) The ceiling should be revised upwards since most of the expenditure had been affected by inflation. Its noteworthy that even operations and maintenance (OM) is affected by inflation.

MIN. NO. 1119/05/2021: MEETING WITH CRA TO DELIBERATE ON THE COUNTY ALLOCATION OF REVENUE BILL, 2021.

The CRA made a presentation as follows-

- a) The pending bills owed by county assemblies were due to non-disbursement of funds before the end of the financial year. The balances not disbursed are not available in the succeeding financial year to enable county assemblies clear any commitment that had been made. The assemblies had submitted a list of non-disbursement of funds with a total of Kshs. 1.976 billion.
- b) The cost of ward offices for nominated and elected MCAs has always been provided in the ceiling. The Commission in 2020 issued a circular on this matter.
- c) Car grant- this is not provided for in the ceilings since it should be considered as development expenditure. Assemblies with fund should utilise the fund to meet the need as well as negotiate with the executive to have this allocation since its of development nature.
- d) The Commission had not proposed an increase since it was not very clear on whether the increase from Kshs 316 to 370 billion was actual increase. This is because, it was a result of conversion of conditional grants into equitable share and the other part Kshs 36 billion was supposed to have been funds deducted from national government institutions performing devolved functions. Thus equitable share had not actually grown to necessitate adjusting the ceiling upwards.
- e) Further, expenditure on some items had been suspended due to prevailing Covid 19 restrictions. This include- travels and attendance to conferences.
- f) During consultations, there was a request to adjust the ceiling upwards to provide for salary annual increment and related costs. This would result into an increase of both recurrent expenditure budget ceilings for county executives and assemblies by Ksh. 1.884 billion and Kshs. 1.428 billion respectively.

- g) Emphasised on the need to strengthen county assemblies so that they may improve performance of their oversight role.

After deliberation it was resolved the Commission was requested to submit a tabulation of the requests that had been forwarded to them regarding request for adjusting the recurrent budget expenditure ceilings.

The Committee also note that there was a slow pace at which funds were been disbursed to the county governments, it was resolved that the Committee invite the National Treasury to deliberate on the possible mechanisms which would be put in place to ensure timely disbursement of funds to counties and adherence to approved cash disbursement schedule.

MIN. NO. 1120/05/2021: ADJOURNMENT

There been no other business the Chairperson adjourned the meeting at 10.44 am.

SIGNATURE:



(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 27th May, 2021

Tel: 254 (20) 4298000
Email: info@crakenya.org
Website: www.crakenya.org



14 Riverside Drive
Grosvenor block
2nd Floor
P.O. Box 1310 - 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/14/Vol. 6 (22)

DATE: 17th May 2021

Mr. Jeremiah M. Nyegenye, CBS
Clerk of the Senate
2nd Floor, County House
NAIROBI.

Dear Mr Nyegenye,

RE: Recommendation on the Recurrent Expenditure Budget Ceilings for County Governments for 2021/22 Financial Year

The Commission on Revenue Allocation (CRA) is established under Article 215 of the Constitution of Kenya 2010. One of its mandates under Article 216(2) is to make recommendations on the financing of, and financial management by, County Governments.

It is in this regard that we refer to our letter Ref: CRA/14/Vol.6(20) dated 30th March 2021 and a meeting between the Commission and the Senate Standing Committee on Finance and Budget held on 12th May 2021. At the meeting, it was agreed that the commission submits the following documents: -

1. A list of County Assembly pending bills as submitted to CRA by the Society of Clerks at the Table (SOCATT).
2. County Recurrent Expenditure Ceilings adjusted for counties staff salary increment as per Salaries and Remuneration Commission (SRC) circulars.

The purpose of this letter is, therefore, to submit the requested documents.

Yours

Sincerely,

Dr. Jane Kiringai, EBS
CHAIRPERSON
Encl

1. Schedule of pending bills for County Assemblies
2. Revised Ceilings reflecting salary adjustments

**DATA SUBMITTED BY SOCCATT (K) ON COUNTY
RECURRENT BUDGET EXPENDITURE CEILINGS 2021/22**

County Assemblies Pending Bills from 2017/18-2019/20

	County Assembly	Pending Bill FY 17/18 - FY 19/20	Variance Between Total Allocations and Total Disbursements from 2017/18 to 19/20
1	Baringo	30,140,783	66,140,783
2	Bomet	25,000,000	47,973,510
3	Bungoma	10,652,691	23,652,691
4	Busia	30,336,326	68,336,326
5	Garissa	10,962,762	13,771,695
6	Homabay	51,966,567	119,421,924
7	Kajiado	64,552,967	64,552,967
8	Kakamega	80,092,650	221,092,650
9	Kericho	15,000,000	30,000,000
10	Kiambu	80,459,218	164,459,218
11	Kilifi	11,786,930	21,786,930
12	Kirinyaga	50,000,000	64,554,678
13	Kisii	40,108,729	142,501,997
14	Kisumu	20,092,469	54,092,469
15	Kitui	20,346,768	32,346,768
16	Laikipia	2,122,809	7,122,809
17	Machakos	36,155,762	56,155,762
18	Makueni	22,398,569	3,213,795
19	Mandera	20,272,428	40,272,428
20	Marsabit	40,486,815	57,079,886
21	Meru	40,997,229	47,997,229
22	Muranga	1,550,775	1,550,774
23	Nairobi	80,908,980	208,000,000
24	Nakuru	31,529,748	51,529,748
25	Narok	30,784,272	66,784,272
26	Nyandarua	10,357,050	23,357,050
27	Nyeri	20,605,758	82,538,217
28	Taita Taveta	10,346,768	18,346,768
29	Tana River	10,110,213	25,110,213
30	Tharaka Nithi	20,838,788	39,838,788
31	Trans Nzoia	30,577,593	60,577,593
32	Turkana	2,343,924	2,343,924
34	Vihiga	20,013,059	33,422,556
35	West Pokot	6,428,126	16,428,126
	Totals	980,327,527	1,976,354,544

Request by SOCCATT (K)

The 2021/22 county assemblies' ceilings be increased by Kshs **980,327,527.00** to cater for Pending Bills from 2017/18 to 2019/20

2021/22 County Assembly Recurrent Expenditure Budget Ceilings

No.	County Title	Proposed 2021/22 Ceilings			
		Base Year CARA 2020	Scenario 1 : Retaining Ceilings as 2020 - 2021	Scenario 2 : Adjusting salaries as per SRC Circulars and retaining O&M of 2020-2021	Variance (Scenario 2- Scenario1)
1	Baringo	687,926,864	687,926,864	715,878,237	27,951,373
2	Bomet	606,321,526	606,321,526	623,066,449	16,744,923
3	Bungoma	852,697,315	852,697,315	880,330,806	27,633,491
4	Busia	738,972,659	738,972,659	771,073,353	32,100,694
5	Elgeyo/Marakwet	572,974,781	572,974,781	593,254,972	20,280,190
6	Embu	580,057,624	580,057,624	595,875,448	15,817,824
7	Garissa	758,771,695	758,771,695	818,139,206	59,367,510
8	Homa Bay	852,232,576	852,232,576	879,902,011	27,669,435
9	Isiolo	421,383,160	421,383,160	448,252,685	26,869,525
10	Kajiado	666,147,523	666,147,523	700,851,557	34,704,034
11	Kakamega	1,066,936,774	1,066,936,774	1,109,874,559	42,937,785
12	Kericho	692,058,978	692,058,978	713,813,928	21,754,950
13	Kiambu	1,085,527,936	1,085,527,936	1,125,721,689	40,193,753
14	Kilifi	756,635,440	756,635,440	785,275,611	28,640,171
15	Kirinyaga	569,393,333	569,393,333	584,065,925	14,672,592
16	Kisii	919,508,597	919,508,597	950,464,147	30,955,550
17	Kisumu	701,921,494	701,921,494	724,941,332	23,019,838
18	Kitui	836,025,472	836,025,472	866,269,461	30,243,988
19	Kwale	591,895,413	591,895,413	618,445,792	26,550,379
20	Laikipia	452,388,054	452,388,054	467,985,386	15,597,331
21	Lamu	405,697,936	405,697,936	418,152,304	12,454,368
22	Machakos	841,145,156	841,145,156	871,634,629	30,489,473

)

)

23	Makueni	703,984,829	703,984,829	734,242,970	30,258,141
24	Mandera	726,834,897	726,834,897	790,775,756	63,940,859
25	Marsabit	640,182,991	640,182,991	675,167,547	34,984,557
26	Meru	914,997,229	914,997,229	947,440,369	32,443,140
27	Migori	836,834,225	836,834,225	863,486,098	26,651,873
28	Mombasa	658,609,194	658,609,194	679,254,392	20,645,198
29	Murang'a	735,143,240	735,143,240	759,756,239	24,612,998
30	Nairobi City	1,409,977,879	1,409,977,879	1,464,963,107	54,985,228
31	Nakuru	983,219,236	983,219,236	1,017,617,238	34,398,002
32	Nandi	649,760,252	649,760,252	669,452,972	19,692,720
33	Narok	709,598,198	709,598,198	738,562,246	28,964,048
34	Nyamira	596,107,510	596,107,510	612,444,433	16,336,923
35	Nyandarua	633,970,935	633,970,935	654,286,647	20,315,712
36	Nyeri	676,085,232	676,085,232	696,699,527	20,614,295
37	Samburu	490,297,034	490,297,034	518,009,214	27,712,181
38	Siaya	666,308,584	666,308,584	686,651,724	20,343,139
39	Taita/Taveta	601,130,595	601,130,595	620,935,653	19,805,058
40	Tana River	486,497,243	486,497,243	578,286,539	91,789,296
41	Tharaka -Nithi	423,104,928	423,104,928	434,383,276	11,278,349
42	Trans Nzoia	628,139,110	628,139,110	646,073,000	17,933,890
43	Turkana	767,192,392	767,192,392	819,606,240	52,413,848
44	Uasin Gishu	686,014,946	686,014,946	707,791,808	21,776,862
45	Vihiga	621,955,167	621,955,167	639,596,705	17,641,538
46	Wajir	760,194,403	760,194,403	853,341,593	93,147,190
47	West Pokot	584,824,909	584,824,909	603,745,382	18,920,473
	Total	33,247,585,463	33,247,585,463	34,675,840,161	1,428,254,698



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND PLANNING

Telegraphic Address: 22921
Finance – Nairobi
Fax No. 315779
Telephone: 2252299

THE NATIONAL TREASURY
P O BOX 30007 – 00100
NAIROBI
KENYA

When Replying Please Quote

Ref. TNT/ZZ 81/014/C/(83)

17th May, 2021

19 MAY 2021

Mr. J. M. Nyegenye, CBS,
Clerk of the Senate,
P.O. Box 41842 – 00100,
Parliament Buildings,
NAIROBI.

D. Dcom

Dear *Nyegenye,*

kindly deal.

Eg 19/05/21

RE: INVITATION TO SUBMIT VIEWS ON THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 30 OF 2021)

This is in reference to your letter ref. SEN/DCS/SCF&B/2021/025 dated 5th May 2021 on the above subject.

The National Treasury and Planning has prepared comments taking cognizance of the High Court ruling on Petition No. 252 of 2016 on Division of Revenue, 2016. In addition, it brings out funding of transferred functions and administration of additional conditional allocations.

Yours *Sincerely,*

THE SENATE
RECEIVED
19 MAY 2021
DEPUTY CLERK

[Handwritten signature]

**HON. (AMB.) EKUR YATANI, EGH
CABINET SECRETARY NATIONAL TREASURY AND PLANNING**

Encl. RECEIVED
20 MAY 2021

② C-II - FX Budget
Kindly deal



REPUBLIC OF KENYA
THE NATIONAL TREASURY & PLANNING

**INVITATION TO SUBMIT VIEWS ON THE COUNTY ALLOCATION
OF REVENUE BILL (SENATE BILLS NO. 30 OF 2021)**

COMMENTS BY THE NATIONAL TREASURY AND PLANNING ON PROPOSED COUNTY ALLOCATION OF REVENUE BILL, 2021

INTRODUCTION

The brief is informed by the letter Ref No. SEN/DCS/SCF&B/2021/025 dated 5th May, 2021 from the Standing Committee on Finance and Budget calling for submission of comments from the National Treasury and Planning on the County Allocation of Revenue Bill (Senate Bills No. 30 of 2021) which was read a First Time in the Senate on Tuesday, 4 th May, 2021.

The National Treasury has perused and noted the contents of the Bill and wishes to make the following observations: -

- (a) The Bill contains a Schedule on allocation and transfer of the equitable share to county governments in FY 2021/22;
- (b) The Bill doesn't contain Schedules on allocation and transfer of additional conditional allocations to county governments as proposed by the National Treasury and Planning. However, this we note is informed by the High Court Ruling on Petition No. 252 of 2016 on Division of Revenue Act, 2016.
- (c) In this regard we are in agreement with the contents of the Bill save for the few issues and proposals contained in this submission.

FUNDING TRANSFERRED FUNCTIONS

Although, Section 6 of the Bill provides for funding of transferred functions, it does not provide for reporting on the transferred functions. In this regard we propose addition of the following paragraphs immediately after paragraph 3 of Section 6:-

“(4) The Cabinet Secretary shall prepare a report for each quarter of the financial year in respect to the expenditure of funds transferred the National Government pursuant to subsection (3).

(5) In preparing a report under subsection (4), the Cabinet Secretary shall ensure the report—

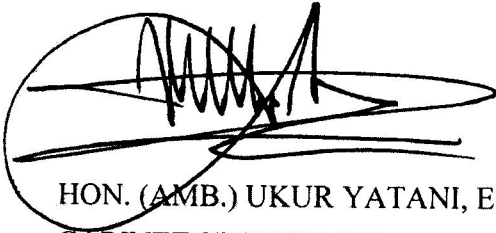
- (a) contains information on financial and non-financial performance of the entity assigned to carry out the transferred functions on behalf of the National Government;*
- (b) is in a form prescribed by the Accounting Standards Board; and*
- (c) contains such further information as the Senate or the National Assembly may, pursuant to Section 34 of the Public Finance Management Act, require.”*

ADMINISTRATION OF ADDITIONAL CONDITIONAL ALLOCATIONS

1. As you are aware, the High Court on 3rd December, 2020 ruled on petition No. 252 of 2016 on Division of Revenue Act, 2016 that monies christened as conditional grants should not be legislated in the Division of Revenue Act. Subsequently, the conditional grants cannot be legislated in the County Allocation of Revenue Act.

2. This presents a legal gap on the administration of conditional grants including the legal basis for their transfer to respective beneficiary county governments.
3. In this regard, we have sought the legal opinion of the Hon. Attorney General on this matter. We shall revert on this matter once we receive the Hon. Attorney General's legal opinion.

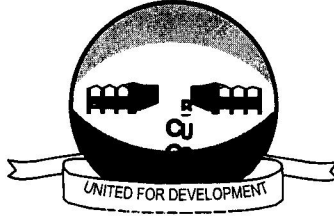
SIGNED



HON. (AMB.) UKUR YATANI, EGH
CABINET SECRETARY
NATIONAL TREASURY/ NATIONAL PLANNING

DATE: 18/5/2021

COUNTY GOVERNMENT OF BUSIA



COUNTY ASSEMBLY OF BUSIA
OFFICE OF THE CLERK OF THE COUNTY ASSEMBLY
P.O BOX 1018-50400, BUSIA-KENYA, TEL: +254 721675217
EMAIL: clerkbusiacountyassembly@yahoo.com

REF. NO.: CA/BSA/ADM/36/VOL.III (119)

12TH MAY, 2021

TO
THE CLERK OF THE SENATE
P.O. BOX 41842-00100
NAIROBI.

**RE: MEMORANDUM TO THE SENATE FINANCE COMMITTEE ON
THE COUNTY ALLOCATION OF REVENUE BILL, 2021**

The above subject refers

As a follow up to the Memorandum presented to the SENATE Finance Committee by the County Assemblies Forum (CAF) and SOKATT on 12th May 2021, the Busia County Assembly Service Board wishes to submit a further memorandum to the Committee on the matter of its staff establishment for consideration.

Background

The Board undertook a recruitment exercise in February, 2014 which resulted in 158 staff being employed on permanent and pensionable terms. However, after our staff recruitment exercise, the Commission on Revenue Allocation (CRA) while setting ceilings for the County Assemblies in Financial Year 2014/2015 recommended staff capping of 88 which was later reviewed upward to 100 staff in Financial Year 2017/2018.

The staff capping by the CRA meant that Busia County Assembly Service Board had more staff than had been recommended. Consequently, the Busia County Assembly Service Board engaged the Commission on this matter and it recommended that the County Government of Busia do undertake staff rationalization exercise.

In order to comply with the advisory from Commission, H.E the Governor Hon. Sospeter Ojaamong appointed a task force comprising of officials from County Executive, County Public Service Board, Trade union representatives and the Board. The task force recommended the development of a staff rationalization policy. The County Executive Committee in December, 2015 adopted the staff rationalization policy which was subsequently approved by the County Assembly.

While considering the County Allocation of Revenue (CARA) Bill for Financial Year 2018/2019, the Senate gave a Moratorium of 3 years for County Assemblies with staff beyond CRA recommended capping to rationalize their staff. Senate Moratorium is lapsing on 30th June, 2021.

Current Status

The Board through a deliberate effort of freezing filling of vacant position arising out of natural attrition, retirement, disciplinary action, and resignation of staffs has managed to rationalize the number of staff from the initial **158** to **135** against CRA staff capping of **100** as at 1st January 2021

Justification for extension of Moratorium to rationalize Staff by three years

1. The County Assembly inherited **39** staff from the defunct Local Authorities. A majority of whom lacked the requisite technical skills to work in a legislative body
2. The Board initiated a staff rationalization exercise in 2016. However, a number of staff aggrieved by the exercise went to the Employment and Labour Relations Court through *Kisumu ELRC petition NO. 35 of 2016 Joachim Opanda Atenya & another versus County Assembly Service Board Busia County & another AND Nairobi ELRC petition NO. 42 of 2017 Daniel Namenya Naburi & others versus County Assembly Service Board Busia County & another* and managed to obtain Court Orders restraining the Board from successfully concluding the staff rationalization exercise which it had initiated.
3. Most of the staffs have mortgage facility by the Board which they are still servicing through Assembly Payroll. Effecting a staff redundancy or retrenchment exercise exposes the County Assembly to risk of possible loss of public resources
4. Some staffs have other financial commitments with financial institutions where they are still servicing their loans through check off which is likely to cause distress to the staff in case they are declared redundant or retrenched at a very short notice. The Board requires adequate time to address this issue.

5. Lack of budgetary support to undertake staff rationalizing exercise since the Assembly will require additional funds for redundancy/retrenchment package and voluntary early retirement compensation

Measures undertaken by the Board to rationalize staff

1. The Board has initiated Organizational review exercise through Kenya School of Government- Baringo Campus. The exercise aims at scientifically determining the optimal staff levels for the County Assembly Service.
2. The County Assembly has **frozen** filling of any vacancy arising from retirement, resignation, disciplinary action and natural attrition.

Intervention by the SENATE Finance Committee

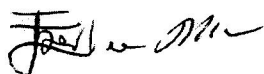
We seek the Senate to recommend either of the following options:

1. An extension of moratorium period by a further **THREE** financial Years to enable the Assembly undertake and finalize staff rationalization.

OR

2. Staff capping for the County Assembly of Busia to remain at **135** staff and recommend freezing of any further employment and replacement of staff who retire or leave the Service.

Yours faithfully



ALLAN W. MABUKA

CLERK TO THE COUNTY ASSEMBLY

NYERI CA.

RE: BUDGET CEILING FOR FY 2021/2022

In the current FY 2020/21, CRA recommended a recurrent expenditure ceiling of **Kshs. 676,085,232** to the County Assembly. This expenditure was geared towards personnel emoluments and the cost of operations & maintenance.

KEY CHALLENGES

The assembly has faced numerous challenges hindering it to achieve its Mission and Vision. These include;

1) Inadequate funding by the CRA and untimely disbursement of exchequers.

2). Pending Bills

As at 31st December 2020, the County Assembly had an accumulated amount of pending bills to a tune of **Ksh.30,605,758**. The data is tabulated below:

PAYEE	PRINCIPAL	PENALTY	INTEREST	TOTAL
Car Benefit	3,705,000	606,450	1,027,650	5,339,100
Speakers Housing Benefit	956,250	152,438	1,352,250	2,460,938
Speakers Partisan Servants	850,226	139,169	235,826	1,225,221
Fringe Benefit Tax	8,899,211	1,779,842	1,275,615	11,954,668
Gratuity	4,063,888	812,778	1,625,555	6,502,221
Withholding Tax on Rent	2,241,500	224,150	657,960	3,123,610
Total	20,716,075	3,714,827	6,174,856	30,605,758

3). Staffing Level/ Capping

Currently, the County Assembly has a staff establishment of 67 staffs. This is against the recommended CRA capping of 100 staffs based on the current number of MCAs. The assembly has made efforts to rationalize to the actual capping in vain due to budgetary constraints. To rationalize the number, the assembly intends to recruit an additional 25 staffs of various cadres with the following remunerations;

Basic Salaries	10,559,640
House Allowance	3,914,160
Commuter Allowance	1,584,000

HYERI.CA

Pension	<u>2,171,070</u>
Total	<u>18,228,870</u>

4). Promotions

Due to constant budgetary constraints in the previous FYs, the assembly has been faced with a great challenge to do carry out staff promotions. This has led to job stagnation hence lack of motivation among the staffs and thus a low output.

Summary of Additional Funding.

a) Pending bills	30,605,758
b) Staff Recruitment	18,228,870
c) Annual Increments & Promotions	1,500,000
d) Provision for Inflation	<u>5,000,000</u>
TOTAL	<u>55,334,628</u>

CONCLUSION

A similar amount of expenditure ceiling has been proposed for FY 2021/2022. Annual increments in salaries with **inflation** will adversely affect our budget execution. Therefore, we seek for additional resources and once considered, it will indeed enhance the assembly to discharge its mandate effectively through efficient service delivery.



Homa Bay County Assembly

Office of the Clerk



Email: homabayassembly.go.ke

REF: HBCA/CA/C8/SEN/VOL.1/

DATE: 6TH May, 2021

Your ref:

THE CLERK

THE SENATE OF KENYA,

P.O BOX 1310-00200,

NAIROBI.

CSenate@Parliament.go.ke

RE: BUDGET CEILING 2021/2022

Homa Bay County Assembly is one of the 47 County Assemblies in Kenya. The function of the County Assembly is stipulated by the Constitution of Kenya 2010, The County Governments Act and The Public Finance Management Act 2012 which require it to represent the electorate in decision making process, review and approval of county planning, budgeting, policies and oversight in the management of resources amongst others functions.

In the FY 2020/21 CRA recommended recurrent expenditure ceiling of Kshs 852,232,576 to the County Assembly. This recurrent expenditure was to cater for salaries, public participation and operations & maintenance.

P.O. Box 20-40300 Homa Bay
Email: info@homabayassembly.go.ke

Staffing Level/ Ceiling

Our current staffing level is at 112 in-posts (Includes 29 temporary staff) with majority being low level cadre officers at salary scale M and below. We have forty (40) wards giving us forty elected ward representatives and twenty (20) Nominated members giving us a total of Sixty (60) members. Including the speaker, we have Sixty-one (61) Representatives in the Assembly.

We have a total of 183 ward staff and 6 partisan staff attached to the office of the speaker. CRA has capped the county Assembly staff at a maximum limit of 100 staff based on the number of MCAs we currently have.

CHALLENGES

We currently face the following challenges as an assembly:

- 1) We have been unable to promote staff since the inception of the county governments due to budgetary constraints.
- 2) We have been unable to carry out Job realignments among the staff who were seconded from the defunct Local Authority to the current County Government.
- 3) Our Operations and Maintenance (O & M) has stagnated at Kshs. 242,717,312 while Training at Kshs. 14,901,196 for the last three years.
- 4) Our balances Brought forward from previous years has not been re-allocated in Supplementary budgets to the County Assembly resulting in ever increased Pending Bills over the years.
- 5) CRA has totally refused to engage our Assembly for the last three years on their ceilings magnifying our challenges.

DEFICIT IN SALARIES

A. Based on the above challenges, the calculated accrued amounts (budgetary deficit) for the one twelve staff are as follows:

Basic Salaries	6,585,280
House Allowance	2,271,600
Commuter Allowance	1,268,000

Pension	<u>2,722,400</u>
Totals	12,847,280

MCA's deficit in gross salary is Kshs. 6,729,520 to cater for Annual increments

Gross deficit for Assembly salaries (both MCAs & Staff) is Kshs. 19,576,800 in a year.

WARD OFFICE STAFF

OFFICE OPERATION EXPENDITURES

No	Description	No of MCAS	Partisan Staff per MCA	Partisan Staff in County Assembly	Partisan Staff Salaries Per Month(Basic Salary, Gratuity, House all, Commuter all, Leave all) as per 2019/20 ceiling	Salaries Per Year(Per Partisan staff)	Ward Operation Cost Per Year(per Partisan staff)	Cost Per Ward per year(per partisan staff)	cost per ward per year(per MCA=ward including nominated)	Cost Per Month(per MCA=Ward(including nominated)
1	CRA CIRCULAR	60	3	183	7,099,999.20	364,102.32	109,230.96	1,419,999.84	1,419,999.84	118,333.32
2	CURRENT ACTUAL PAYMENT	60	3	183	3,257,400	213,600	50,000	1,090,800	1,090,800	90,900
	DEFICIT	-	-	-	3,842,599.20	150,502.32	59,230.96	329,199.84	351,999	27,433.32

COUNTY ASSEMBLY PENDING BILLS

Below is a tabulation of our pending bills

CUMULATIVE FROM F/Y 2018/2019- 2020/2021	AMOUNT(Kshs)
TOTAL RECURRENT PENDING BILLS	113,815,828

Summary/Conclusion

Based on the above, the summary of the budgetary shortfall for our County Assembly are:

Total Annual salaries for (112No.) Staff	Kshs.	12,847,280.00
Total Annual Salaries for 60 MCAs	Kshs	6,729,520
Total Annual salaries for (183 No.) Partisan Staff	Kshs.	46,111,190.40
Total Annual Operation Cost	Kshs.	19,751,990.40
Total Outstanding Bills	Kshs.	<u>113,815,828.60</u>
TOTAL additional budgetary requirement		<u>199,255,808.80</u>

The County Assembly was allocated Kshs. ~~852,232,576~~ for 2019/2020, 2020/21 and a similar amount has been proposed for 2021/2022 financial year. The annual increment in salaries and Personnel Emoluments coupled with inflation has greatly depressed our budget.

The purpose of this letter is to request Senate Finance and Budget committee to reconsider our ceiling in view of the above.

Yours faithfully,



JS
CPA OWINO HANINGTON OCHIENG DAY
CLERK TO COUNTY ASSEMBLY
CC.

Hon. Speaker

REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS



County Hall
Along Mwatu wa Ngoma Rd
P.O Box 1168 - 90100
MACHAKOS

Email: assemblymks@gmail.com
Tel: +254 795 017 034

COUNTY ASSEMBLY OF MACHAKOS
OFFICE OF THE CLERK

Ref: **MKSCA/ADM/CRA/VOL.2/35**

Date: 7th May, 2021

County Assemblies Forum (CAF),
Flamingo Towers, 5th Floor,
P.O Box 73552-00200,
NAIROBI.

RE: REVISION OF RECURRENT EXPENDITURE CEILING FOR FY 2021/2022 FOR COUNTY ASSEMBLY OF MACHAKOS

The above matter refers.

This is to bring to your attention that the aforementioned ceiling was last reviewed in the year 2018. This does not put into consideration annual salary increments for both Members of County Assembly (MCAs) and members of staff, salary reviews, recruitments, career progression of members of staff, inflation and pending bills.

The PFM Act 2012 provides that debt should only be incurred for the purposes of development and for that matter debt on Recurrent Expenditure is highly discouraged. Over the last few years, the County Assembly has accumulated some debts mainly because of Budget Constraints. The volume of expenditure has continued to grow yet the CRA Recurrent Expenditure Ceiling has remained constant at **Kshs. 841,145,156.00**, resulting in pending bills totaling to **Kshs. 48,132,353.00**.

We anticipate an increase of personnel emoluments of both MCAs and staff amounting to **Kshs. 66,132,519.59** due to:

1. Annual increment

This is as per the Salary and Remuneration Commission's (SRC) guidelines vide circulars and gazette notices released in the year 2013 and further increments following a job evaluation exercise carried out by SRC in the year 2017. The total increment is estimated at **KShs. 18,874,901.59**.

2. Promotions

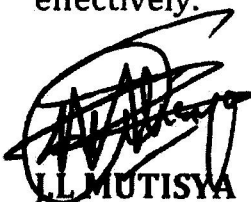
Since inception, the Assembly has not embarked on promotions of staff which has resulted in career stagnation. The County Assembly Service Board (CASB) approved a Career Progression Guideline that provides for growth of staff members after three (3) years of service. Under this guideline, members of staff have been identified for career progression. The estimated impact of the proposed promotions is **Kshs. 6,654,618.00.**

3. Recruitment of new staff

Upon inception, the Assembly recruited eighty eight (88) members of staff. As a result, some functions of the County Assembly have been operating on skeleton members of staff, adversely affecting the operations of the institution. Over the years the number has reduced to 84 due to separation. Upon revision of the ceiling to one hundred and fifteen (115) members of staff by your commission, the service board approved recruitment of more staff to meet this ceiling and improve operations. This exercise shall impact the budget by **Kshs. 40,603,000.00.**

Further, given the prevailing inflation rate at an average 5.3%, the Assembly has been consistently losing its purchasing power on account of inflation. This has had a negative impact on its ability to settle its obligations as and when they fall due. In the two year period between FY 2020/2021 and FY 2021/2022 the projected impact of inflation is estimated to be $(2 \times 23,338,300) = \text{Kshs. } 46,676,600.00.$

In view of the above, we hereby appeal to your office to consider reviewing the Assembly's budget ceiling for FY 2021/2022 by **Kshs. 160,941,472.59** to enable the Assembly compensate the Members of County Assembly and staff effectively.



J.L. MUTISYA

FOR: CLERK OF COUNTY ASSEMBLY

Encl.

Cc: Society of Clerks at the Table (SOCCAT)

INFLATION

Over the last two Financial years, the County Assembly Approved Recurrent Budgetary Ceiling has remained constant at Kshs. **841,145,156.00** and is projected to remain the same in the next financial year (2021/22).

Given the prevailing inflation rate at an average 5.3%, the County Assembly has been consistently losing its purchasing power on account of inflation. This has had a negative impact on its ability to settle its obligations as and when they fall due.

Inflation Impact Computation

In the FY 2019/20

Particulars	Amount(Kshs)
Total budget	841,145,156.00
Less personnel emoluments	(400,799,875.00)
Balance for critical expenditure	440,345,281.00
Lost purchase power	
(5.3% of 440,345,281)	23,338,300.00

In the two year period between FY 2020/21 and FY 2021/2022 the projected impact of inflation is estimated to be $(2 \times 23,338,300) =$ **Kshs. 46,676,600**

MACHAKOS COUNTY ASSEMBLY PENDING BILLS AS AT 29TH APRIL 2021				
A	RECURRENT			
	1	GENERAL SUPPLIES:		
	FY 2019/20			
	S/NO	SUPPLIERS	PARTICULARS	Amount
	1	STANDARD GROUP	COST OF ADVERTISEMENT	133,400.00
				336,400.00
			SUB-TOTAL	469,800.00
	2	NAMATA COMPANY LTD	TRAINING FEES-ON STRESS & FINANCIAL MANAGMNT FROM 7-8.11.2019	1,340,000.00
	3	EASTERN BROADCASTING	ANNOUNCEMENT COST	34,800.00
			ANNOUNCEMENT COST	34,200.00
	4	PRIDE INN HOTELS- WESTLANDS	CONFERENCE FEES	178,750.00
	5	CHAMWA MOTORS	GARAGE SERVICES	23,000.00
				44,750.00
			SUB-TOTAL	67,750.00
	6	CHERENA CONTRACTORS	SUPPLY OF WATER BOTTLES	175,000.00
7	SIMPLY TRAVEL & TOURS	COST OF AIRTICKETS	3,323,039.00	
	8	BUSPARK GARAGE	25,200.00	
			25,600.00	
			12,000.00	
		SUB-TOTAL	62,800.00	
	9	KENYA INSTITUTE OF SUPPLIES MANAGEMENT	170,520.00	
	10	ROSMA TOURS & TRAVEL	194,439.00	
		COST OF AIRTICKETS	16,090.00	
		COST OF AIRTICKETS	85,896.00	
		SUB-TOTAL	296,425.00	
	11	FRESCO DIGITAL LIVE	84,100.00	
	12	TRACKOM AUTO GARAGE	18,995.00	
	13	KCA	3,123,500.00	
		TOTAL	9,379,679.00	
B	LEGAL FEES:			
	2017/18;2018/19			

14	KILUKUMI AND CO. ADVOCATES	PETITIONS 5 OF2014; 294 OF2014; 113 OF2014;	16,910,000.00
15	KAMENDE D.C & COMPANY	LEGAL SERVICES	21,842,674.00
		TOTAL	38,752,674.00

SUMMARY

RECURRENT LEGAL FEES:		9,379,679.00
	GRAND TOTAL	38,752,674.00
		48,132,353.00

Clerk's Chambers
Off Narok-Sotik Road
P.O Box 590-20400
Bomet



Email: clerk@bometassembly.go.ke
Website: www.bometassembly.go.ke
Cell: 0727 887 146
Twitter @bometassembly
Facebook: County Assembly of Bomet

REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
OFFICE OF THE CLERK

REF/6/05/2021

06th MAY 2021

THE CLERK

THE SENATE OF KENYA,

P.O BOX 1310-00200,

NAIROBI.

csenate@Parliament.go.ke

RE: COUNTY ALLOCATION FOR THE FINANCIAL YEAR 2021-2022

The CARA of 2021 /22 has recommended **Ksh 606,321,526** to the County Assembly of Bomet. This ceiling did not take into consideration the following;

1. Annual Salary Increment.

The gross salary increment for the County Assembly Service is **Kshs 4,200,000**. This amount need to be considered in the ceiling since in every year the salary increased by approximately ten percent.

2. Pending Bills.

Bomet County Assembly has a pending bill which date back to the financial year 2016/2017 as shown in the table below;

YEAR	ANNUAL ALLOCATION	TOTAL AMOUNT DISBURSED	VARIANCE
2016/2017	533,252,696	483,817,000	49,435,696
2017/2018	553,855,510	505,882,000	47,973,510

3.Promotion

The County Assembly Service Board is intending to promote its staff in the next financial year 2021/2022.The total cost is estimated at **Kshs 3,000,000** per year.

4.Gratuity Payment

The term of the ward staff is expiring in the financial year 2021-2022 hence the need to factor in their gratuities in the budget. The estimated cost is **Kshs 10,425,000**.

5. Recruitment of staff.

The Commission of Revenue Allocation had approved a staff ceiling of 88 staff for the County Assembly of Bomet compared to the 70 staff who are in - service.

The County Assembly is in the process of recruiting 18 staff who are supposed to perform critical roles in the Assembly Service as shown in the table below.

STAFF DETAILS					
STAFF DETAILS	STAFF ESTABLISHMENT				2021/2022
	Scale	Authorized	In post	Variance	
Principal Clerk Assistant	10	2	1	1	2,521,883.00
Procurement Officer I	8	1	0	1	1,280,795.00
Human Resource	8	1	0	1	1,280,795.00

In this regard therefore the County Assembly is proposing its ceiling to be increased by Kshs **88,739,333** taking into consideration the above scenarios.

Yours *Sincerely*


ISAAC KITUR

CLERK OF THE ASSEMBLY

**MEMORANDUM TO THE SENATE ON THE COUNTY ALLOCATION OF
REVENUE BILL, 2021**

11 MAY 2021

This memorandum has been prepared by the International Budget Partnership Kenya (IBP Kenya). IBP Kenya is a non-profit organization working to advance transparency, accountability, participation, and equity in national and county budgeting processes. IBP Kenya's work is focused on strengthening the impact of citizens and civil society organizations (CSOs) advocacy on budget policies and outcomes at national and sub-national levels of governance. Citizen advocacy, generation of evidence, and technical assistance to both governments and CSOs, learning, and networking are integral components of IBP Kenya's work.

In response to the call for the public to submit their views on the County Allocation of Revenue Bill, 2021, this memorandum raises the following three issues:

1. The distribution of conditional grants that have been converted to equitable share needs to be clarified.
2. Donor funds are not highlighted, and there is no framework for their distribution, conditions, and reporting.
3. Equalization Fund is approved every year, yet no report is provided on how the funds are spent.

Detailed Submissions

1. **Despite the conversion of conditional grants to Equitable Share, there is no clear direction on how they will be distributed.** As highlighted in the snippet below, the Division of Revenue Bill, 2021, recommended converting four conditional grants to equitable share. These grants amount to Ksh. 17.4 billion and include Level 5 hospital grant, User fee foregone, Road Maintenance Levy Fund, and Rehabilitation of Village polytechnics.

9. In order to arrive at the recommendation of Ksh.370 billion allocations as equitable share to county governments in FY 2021/22, the Division of Revenue Bill and CRA applied the following:-

- Firstly, the Division of Revenue Bill 2021 proposed to adjust the base allocation of equitable share to County Governments' of Ksh.316.5 billion in FY 2020/21 by growing the equitable share by Ksh.36.1 billion or 3.2 %. This growth is derived from anticipated improvement in revenues raised nationally in FY 2021/22 when the effects of Covid-19 pandemic are expected to ease. Secondly, it recommended conversion of four conditional grants amounting to Ksh.17.4 billion into equitable share; and

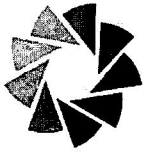
The justifications that distribute equitable share parameters are more aligned to the devolved functions and do not satisfactorily capture equity in distributing these grants. For instance, only 11 counties with level 5 hospitals receive the level 5 hospital grant allocated based on bed occupancy rate and the number of referrals which is still not equitable. The third basis approved by the Senate, the health parameter's variables of *health facility gap, the number of primary health care visits at levels 2 and 3 hospitals, and the average inpatient days in levels 4 and 5 hospitals*, does not directly address the fact that the level 5 hospitals still provide services to regional blocs. Further, it should be noted that only eleven counties (see Table 1, below) with level 5 hospitals received this grant, yet it will now be shared among the 47 counties. Therefore, converting these grants into equitable share will disadvantage the services supported by these grants and overall counties' share given the shift in allocation criteria. Further, this will risk the funds being diverted to other departments since there are no mechanisms put in place to ring-fence the unconditional grants by the counties.

Table 1: Allocation of level 5 hospital grant to counties from 2016/17 to 2020/21

Level 5 hospital Grant allocation to counties in million shillings						
	2016/17	2017/18	2018/19	2019/20	2020/21	Total
1 Embu	301.04	301.04	301.04	301.04	301.04	1505.2
2 Kakamega	427.28	427.28	427.28	427.28	427.28	2136.4
3 Kiambu	412.72	538.72	538.72	538.72	538.72	2567.6
4 Kisii	417.57	417.57	417.57	417.57	417.57	2087.85
5 Kisumu	369.02	369.02	369.02	369.02	369.02	1845.1
6 Machakos	383.58	383.58	383.58	383.58	383.58	1917.9
7 Mombasa	388.44	388.44	388.44	388.44	388.44	1942.2
8 Meru	373.87	373.87	373.87	373.87	373.87	1869.35
9 Nakuru	373.87	373.87	373.87	373.87	373.87	1869.35
10 Nyeri	407.86	407.86	407.86	407.86	407.86	2039.3
11 Garissa	344.74	344.74	344.74	344.74	344.74	1723.7
TOTAL	4,199.99	4,325.99	4,325.99	4,325.99	4,325.99	21,503.95

Source: CARA/DORA 2017-2020

- 2. Donor conditional funds are not highlighted in the CARB 2021, and it is unclear why that is the case.** The County Allocation of Revenue Bill does not highlight other donor funds and the mode with which they will be channeled to the counties. It is not clear whether these grant funds have been withdrawn altogether or will not be subjected to the Senate's approval but be spent by line ministries at the national level in the counties. This must be clarified before the CARB is approved. Therefore, we call upon the Senate to ensure that there is clarity on the state of conditional grants from donors that have historically been spent at the county level.



**International
Budget
Partnership**

Kenya

3. **Allocation, spending, and reporting of the Equalization Fund remains unclear.** In every financial year, the government sets aside funds towards the Equalization Fund. However, the spending and reporting of the fund remain unclear. The snippet below indicates that Ksh. 6.8 billion has been set aside for the fund.

6. Economic Disparities within and among counties and the need to remedy them: Allocation of the sharable revenue (i.e. equitable share of KSh. 370 billion) among counties is based on the Third-generation formula approved by Parliament in September, 2020 pursuant to provisions of Article 217 and Section 16 of the Sixth Schedule of the Constitution. The Third Basis formula which should be applicable from FY 2020/21 to FY 2024/25 has taken into account the following parameters; (i) Population (18%); (ii) Health Index (17%); (iii) Agriculture Index (10%); (iii) Urban Index (5%); (iv) Poverty Index (14%); (v) Land Area Index (8%); (vi) Roads Index (8%), and; (vii) Basic Share index (20%). The Third Basis Formula takes into account disparities among counties and aims at equitable distribution of resources across counties.

Further, it should be noted that KSh. 6.8 billion has also been set aside for the Equalization Fund in 2021/22 which translates to 0.5 per cent of the last audited revenue accounts of governments, as approved by the National Assembly. This Fund is used to finance development programmes that aim at reducing regional disparities among beneficiary counties.

With Ksh. 6.8 billion allocated to the fund, we call upon Parliament to take up their oversight role by ensuring that reports are provided on allocating and utilizing the equalization fund to reduce the regional disparities among the beneficiary counties.

Signed

Dr. Abraham Rugo Muriu

Country Manager

International Budget Partnership-Kenya

Email: arugo@internationalbudget.org

Phone: +254721431083

REPUBLIC OF KENYA



MANDERA COUNTY ASSEMBLY
P.O Box 408 – 70300
MANDERA

*Office of the Clerk
Mandera County Assembly
Assembly building*

When replying please quote;

Ref: MCA/SEN/GEN/VOL.1 (01-2021)

And date

10th May, 2021

The Clerk.

Senate of Kenya,

P.O. Box 41842-00100,

Nairobi.

Attn: Chair, Standing Committee on Finance, Budget and Economic Planning

Dear Sir,

RE: MANDERA COUNTY ASSEMBLY 2021/22 RECURRENT EXPENDITURE CEILING

The above matter refers.

We appreciate your effort as The Senate of Kenya for your endeavor to engage stakeholders and also enforce prudent financial management. Mandera County Assembly's ceiling for FY 2020/2021 was capped at **Kshs.726, 834,897** in County Allocation of Revenue Act 2020 but was later revised to **Kshs. 795,512,894** after numerous engagements with the CRA regarding understatement of claimable mileage vide their letter dated 13th of August 2020 with reference CRA/CSO/CMG/9/Vol. V(44). (Attached).

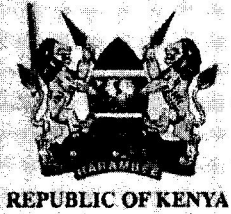
Inadequate financing of County Assemblies will likely hamper Assembly's independence and oversight role. The following are some of the areas of concern for Mandera County Assembly.

- i) On mileage issue, the location of the Headquarter (Mandera Town) is on extreme end of the County, which makes the distance of the wards extreme and expensive. Claimable Mileage by 27 MCAs whose wards are located more than 45 KM from the Assembly is **Kshs. 54,909,223**. The CRA recommended only **Kshs. 18,109,680**.

- ii) Salaries and Remuneration Commission vide Circular dated 21st of August, 2019, reference no. SRC/TS/CGOVT/3/61 reinstated claimable mileage for nominated members and directed to be paid at the rate of elected representative. To this effect, Mandera County Assembly's estimate for the same is **Kshs. 42,822,000**.
- iii) The Utalii declaration and ratification during our engagement with CRA in Safari Park, 2016 of bringing forth a budget line for Public Participation and civic education of **Kshs. 20,000,000** and also about six or so Counties with insecurity issues be supported by further **Kshs. 20 Million**, totaling to **Kshs, 40 Million** was also eliminated from the ceiling in 2019/2020 and 2020/2021 FYs.
- iv) The insurance cost of Mandera County Assembly for the staff, MCAs and properties is in excess of **Kshs. 44 Million** currently, with renewal request by the insurance company indicated a premium amount of **Kshs. 67,046,353** for medical cover only while CRA capped at only **Kshs. 36 Million**, thus a deficit of more than **Kshs. 31 Million**.
- v) In CRA ceiling, there is a provision of **Kshs. 249,000** was allocated to Audit Committee which is insufficient. The SRC circular indicates that there shall be a maximum of eight sittings in year and an average cost per sitting is **Kshs. 200,000** totaling to **Kshs. 1.6 Million**. The allowance includes travel cost refund and accommodation.
- vi) In recently published CARB 2021, there were no annual increment in office operation and maintenance, salaries and wages as well, due to stagnated revenue growth to the Counties and ceiling remained the same. Mandera County Assembly incurred cost related to inflation and annual salary growth, due promotions, thus request for an extra **Kshs. 60 Million** to cover the same as it was piling for the last three fiscal years.
- vii) Mandera County Assembly committed to procure goods, services and works in financial year 2019/2020 but due to late disbursement, a pending bills of **Kshs. 40,272,428** was accrued and not brought forward to FY 2020/2021, thus pending payment.
- viii) With the new SRC Circular on Car Grant for MCAs and the Speaker, Mandera County Assembly requires **Kshs. 98 Million** cater for the same.
- ix) Mandera County Assembly will move to the new County Assembly HQs in the next financial year and there is need to have new sets of furniture and Hansard equipment/infrastructure with heavy investments that cannot be provided within the provided ceiling. The amount is estimated to be **Kshs. 60 Million** as a one off purchase.

We kindly request your able office to consider above in preparation for the recurrent expenditure ceiling.

AHMED H. SUROW
CLERK TO THE ASSEMBLY



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MAKUENI
COUNTY ASSEMBLY OF MAKUENI

P.O. Box 572-90300 WOTE, MAKUENI

Tel: 020-2393005, 0714392799, 0731633505, 0731663505

Email: info@makueniassembly.go.ke Website: www.makueniassembly.go.ke



Office of the Clerk

County Assembly of Makueni

When replying please quote

OUR REF: Ref: MKN/CA/ADM/2021 VOL.1 (16)

Date: 7th May, 2021

The Clerk of the Senate
Parliament of Kenya,
Parliament Building,
P.O BOX 41842 - 00100,
NAIROBI.

clerk@parliament.go.ke

Dear Sir,

RE: BUDGET CEILING FOR FY 2021/2022

Makueni County Assembly is one of the 47 County Assemblies in Kenya. The function of the County Assembly is stipulated by the Constitution of Kenya 2010, The County Government Act and The Public Finance Management Act 2012 which require it to represent the electorate in decision making process, review and approval of county planning, budgeting, policies and oversight in the management of resources amongst others functions.

The CRA has proposed in the FY 2021/2022 that the Assembly is to be allocated Kshs. 703,984,829.00 for recurrent budget to cater for Compensation of employees and use of goods and services. The institution in the current FY 2020/21 was allocated Kshs.703,984,829.00 for recurrent budget with Compensation of employees allocated kshs.373,513.903.63 while use of goods and services getting Kshs.330,470,925.37 which constitutes among other operational expenses, oversight activities as well as public participation in a whole FY. The Assemblies' core mandate being oversight of the Executive has struggled for the previous years due to limited funding on its recurrent budget ceilings.

Analysis of Compensation of Employees

The institution has an approved staff establishment of 150 staff while current in post there are 93 members of staff out of which 46 staff are due for promotions.

The institution has thirty (30) wards with (30) elected ward representatives and eighteen (18) Nominated members giving us a total of Forty-eight (48) members. Including the speaker, we have Forty-Eight (49) Representatives in the Assembly.

We have a total of 149 ward staff and 6 partisan staff attached to the office of the speaker. CRA has capped the County Assembly staff at a maximum limit of 100 staff based on the number of MCAs we currently have.

Staff harmonization challenges

The institution is currently facing the following challenges;

- 1) The CASB has been facing a major challenge in promoting staff who have served for more than 3 years some having stagnated in the same job group for more than 6 years now due to budgetary constraints.
- 2) The capping of the Assembly number of staff to 100 against the approved staff establishment of 150 has really hindered the performance of the institution due to under staffing.
- 3) An annual increment for the staff which is mandatory for each year yet the CRA ceiling has remained unchanged for the current and previous years.

A summary of the total staff salary deficit is analysed

Vote	Budgeted amount FY 2020/2021	Expected amount FY 2021/2022	Deficit
Basic salary	66,477,460.00	75,123,567.98	8,646,107.98
House allowances	17,963,100.00	23,567,897.13	5,604,797.13
Commuter allowances	7,762,000.00	10,678,901.00	2,916,901.00
Pension	10,500,000.00	13,500,000.00	3,000,000.00
Hardship allowances	16,514,200.00	18,514,200.00	2,000,000.00
Ward staff gratuity	2,000,000.00	9,207,000.00	7,207,000.00
Total deficit			29,374,806.11

PREVIOUS YEARS PENDING BILLS

Due to budgetary constraints for the previous financial years the institution incurred the following pending bills which were honoured with the next financial year's budgets which still remained unchanged.

FINANCIAL YEAR	AMOUNT(Kshs)
2017/2018	11,054,201.60
2018/ 2019	23,874,331.00
2019/ 2020	9,066,082.00
Total	43,994,614.60

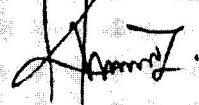
Conclusion

From the above analysis Makueni County Assembly has a total budget deficit of Kshs.73,369,420.71 on its recurrent budget. This has made the institutions major role on oversight to be in adequate due to lack of funds to run its operations.

The purpose of this letter is to request Senate Finance and Budget committee to reconsider increasing our FY 2021/2022 ceiling by Kshs.73,369,420.71 to cater for the above challenges being experienced by the institution.

We look forward to your positive response.

Yours sincerely,



Kevin Mutuku
CLERK OF THE COUNTY ASSEMBLY

CC. Senator. Makueni County.
Speaker, Makueni County Assembly.

NAIROBI CITY COUNTY ASSEMBLY

Telegraphic Address
Tel: +254 20 221 6151/0700330846
Email: speaker@nairobiassembly.go.ke
Web: www.nairobiassembly.go.ke



Nº 001666

County Assembly
City Hall Buildings
P.O. Box 45844-00100
Nairobi, Kenya

OFFICE OF THE CLERK

Ref. NCCA/CCA/2021/63

12th May, 2021

J. M. Nyegenye

Clerk of the Senate

Parliament Buildings

P. O. Box 41842 - 00100

NAIROBI

Dear Clerk,

RE: SUBMISSION OF MEMORANDA ON THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS No. 30 of 2021)

Reference is made to an advert in the local dailies inviting submission of Memoranda on the County Allocation of Revenue Bill (Senate Bills No. 30 of 2021) that is before the Senate.

Having reviewed the said Bill, we note that the recurrent expenditure ceilings for Nairobi City County Assembly for the FY 2021/22 have not been reviewed despite our appeal to the Commission on Revenue Allocation.

Accordingly, in order to accommodate pressing needs of the County Assembly and other emerging areas, we request the Senate to consider enhancing the recurrent ceilings for the Nairobi City County Assembly by **Kshs 657.55 million** due to the following reasons :-

01. The Nairobi City County Assembly is an independent arm of the Nairobi City County Government mandated to provide oversight over the Nairobi City County Government, represent about five million Nairobians and legislate on important matters that affect the Capital City of Nairobi.
02. The County Assembly is composed of one hundred and twenty-three Members (eighty-five elected from the wards and thirty-eight nominated to represent special interest groups) and oversights about an annual budget of about Kshs. 40billion spread across the Nairobi City County Government, the Nairobi Metropolitan Services and the Nairobi Water and Sewerage Company. This expansive mandate is supported by a team of diligent and committed staff which range from permanent and pensionable employees, contract staff and partisan officers.

03. To finance the recurrent operations of the County Assembly the County Allocation of Revenue Act 2019 set the recurrent ceilings of the County Assembly at Kshs. 1.409billion, a figure that was not changed in the subsequent financial year 2020-21. The recurrent ceilings have made the Assembly work within financial strain in an attempt to meet its increasing administrative, statutory and procedural responsibilities within a web of shrinking real resources.
04. The need for review of the recurrent ceilings of the County Assembly has been informed by a myriad of factors that have come to bare since the last ceilings were considered and approved at the beginning of the year 2019. The specific areas of concern are as follows:-

I. Additional allocation for salaries of Ward Office Staff for both nominated and elected representatives.

In the last approved ceiling, the salaries for Ward Staff had been capped at Kshs. 30,000 each for three employees. However, the SRC has through a circular Ref. SRC/TS/CG/KAK/3/61/11(36) dated 24th October 2019 and CRA/CSO/CMG/9/VOL. IV (24) dated 30th September 2019 advised that they be paid at Office Assistant rates of Kshs. 35, 330. This would raise their individual salaries by Kshs. 5330 per employee. The computation by CRA on placement of Office Assistants places their salaries at a figure lower than the amounts contained in SRC circular on job groups. The difference therefore creates an underfunding by **Kshs. 23.7million** per annum for the 369 staff attached to the 123 Members of the County Assembly.

II. Additional allocation for medical cover for both elected and nominated MCA's ward staff.

Following the implementation of both the SRC circular Ref. SRC/TS/CG/KAK/3/61/11(36) dated 24th October 2019 and CRA/CSO/CMG/9/VOL. IV (24) dated 30th September 2019 which advised that the employment of ward officers at Office Assistant rates, the same has necessitated inclusion of the staff into the medical insurance scheme. The PSC-HR Policy and Procedure Manual –May- 2016, Section –D - on Medical Benefits stipulates that the Government shall establish a Medical Insurance Cover to provide medical benefits for Civil Servants, their spouses and dependent children. The PSC-Policy 2020 on contract employment under medical benefits (3.30) (Annex 5) stipulates that medical benefits applicable to permanent employees shall apply to contract employees during the duration of the contract. The employees are categorized under office assistant grade (G-J) as per SRC circular (SRC/TS/CGOVT/3/61 dated 19th December,2014. At job group J the cost of the medical insurance for the ward staff is estimated at **Kshs. 100million**.

III. Additional allocation for gratuity for Ward Staff in line with the proposed SRC salary scale.

The projected rise in the basic salaries for each ward staff by Kshs. 5,330 per month is expected to lead to an increase in the expected gratuity benefits (calculated at 31% of additional basic salary) by **Kshs. 4.4million** per annum for all the 369 ward employees.

IV. Annual Salary increment for staff.

In line with the PSC guidelines on Human Resource Policy and Procedure Manual- and County Assembly HR Manual, 2016 Section C-3 (An officer's annual incremental date shall be the first date of the month one is appointed) on annual increment and the staff of the County Assembly are entitled to annual salary increment as per their respective job groups. However, due to stagnation of the recurrent ceilings for the County Assembly over the last two financial years the same amounting to **Kshs. 1.2million** per annum hasn't been accommodated in the budget.

V. Promotions/ Acting Allowances and Recruitment of core staff in the Assembly.

Since employment of staff in 2013, 2014 and 2015 none of them had been promoted despite the requirement that the same should be undertaken in every three years. The County Assembly Service Board in a bid to improve service delivery which is in line with the County Assembly's 2016-2020 strategic plan and to ensure the terms and conditions of staff in the County Assembly are competitive to attract, motivate and retain a skilled and productive workforce that ensures quality service delivery contracted Deloitte Consultancy as stipulated in the County Assembly Service Act 2017 Section 24 (4) on offices of the service and carried out a Job Evaluation and Organizational Restructuring. The Deloitte Consultancy came up with a new organizational structure, staff establishment and career progression for job descriptions were adopted and approved by the County Assembly Service Board on staff appraisal and promotion that had an additional budget effect indicated. To fully implement the structure (*Annex 9*), the County Assembly would require additional allocation of **Kshs. 120 million** to be utilized for common career promotions, filling of vacant senior positions from internal pool of staff and external recruitments where the talent is not available within the local talents. The implementation of this structure would have the net effect of increasing the professionalism and competitiveness of Nairobi City County Assembly as a leading capital legislature in the region.

- VI. Additional top up on Medical Insurances after staff promotion base.**
With the intended promotion after an organizational restructuring staff shall move upward mobility in the various job groups and this will likely impact on the Medical Insurance. In line with the SRC circular (SRC/TS/CGOVT/3/61 dated 19th December, 2014) the employees is expected to increase by **Kshs. 21 million** consisting of Kshs. 10million for medical cover, Kshs. 3million for GPA, Kshs. 3million for GLA and Kshs. 5million for WIBA.
- VII. Additional Employer Pension Contribution to Social Security Fund (Laptrust):** The internal restructuring annual salary increments shall lead to additional amount of **Kshs. 12million** as employer contribution to the social security fund calculated at the rate of 15% of basic salary and house allowance.
- VIII. MCAs annual salary increments:**
The annual salary increment for all MCAs is at Kshs. 10,500 per MCA as per the circular issued by the SRC thereby an additional amount of **Kshs. 15.5million** is required for the 123 MCAs as part of annual increment in the coming financial year.
- IX. MCAs additional gratuity:** Increase in the annual salary for the MCAs by Kshs. 15.5million as in item 8 shall lead to an additional **Ksh 2.79million** gratuity contribution for the MCAs calculated at the rate of 31% for 60% of the basic salary.
- X. Salaries for partisan staff serving in Leadership offices:** In line with the resolutions of the County Assembly Service Board the County Assembly leadership were granted PAs who join the service at Job Group L with individual gross salary of Kshs. 76,000 per month as guided by the PSC HR manual on contract employees. This resolution meant that the total salary cost for the partisan staff increased by **Kshs. 35.4million** for the thirty-nine partisan staff attached to the leadership offices.
- XI. Responsibility allowances for MCA Board Members:**
Previous ceilings were computed on the strength of the County Governments Act, 2012 where the two MCA Board Members were also the Leaders of Majority and Minority parties respectively. The positions of Board Members and those of party leadership in the County Assembly were separated through the enactment of the County Assembly Services 2017 (Section. 46). This meant that there are two additional MCAs entitled to responsibility allowance for e representing the Majority and Minority parties on the County Assembly Service Board at the rate of Kshs. 32,000 per MCA per month bringing a total additional cost of **Kshs. 760,000**.

XII. Office rent for nominated MCAs and Board Members.

Due to financial stress the County Assembly Service Board has not been able to provide offices for the nominated Members of the County Assembly and the two Board Members representing the members of the public. To guarantee the nominated MCAs and the two Board Members offices at the Central Business District at a cost of Kshs. 40,000 per month per MCA the County Assembly would require an **additional Kshs. 19.2million.**

XIII. Litigation.

To take care of additional legal costs associated with the working of the County Assembly. The County Assembly has been faced with many legal matters that made it incur high legal costs. In the past one year the County Assembly has faced a number of legal challenges revolving around the impeachment of the Governor, public participation on the Deed of Transfer of Functions and position of Deputy Governor all of which have made previous allocations towards litigation greatly inadequate. Whereas most of these litigations are yet to be concluded and fee notes raised, conservative figures indicate that the County Assembly would require a minimum of **Kshs.250 million** to clear her litigation costs in the coming financial year.

XIV. Standing Imprest for leadership offices.

To facilitate the smooth running of the leadership offices the Board resolved that the offices be provided with standing imprests to be utilized and accounted for in line with the PFM Act 2012. The offices that require to be facilitated with standing Imprest in line with the Board approval include those of the Chair of Chairs, Deputy Speaker, Majority Whip, Minority Whip, Deputy Majority Leader, Deputy Minority Leader, Deputy Majority Whip and Deputy Minority Whip. The additional cost required for the eight offices per annum would stand at **Kshs. 8 million.**

XV. Unutilized Requisitioned Amount in the FY 2019-20 budget.

During the Financial Year 2019/2020, the County Assembly did not spend **Kshs.23.6million** that was not issued by the COB on the basis of insufficient cash balance in the CRF. These payments were uploaded in the IB and have since become pending bills.

XVI. Acquisition of new vehicles to supplement the Assembly pool.

The County Assembly Service Board resolved that for smooth running of Assembly operations within the leadership offices, additional vehicles to be procured in order to supplement the current need of transportation within the Assembly. It is approximated that the County Assembly shall purchase two additional vehicles at the cost of Kshs. 10million per vehicle bringing it to a total cost of **Kshs. 20 million.**

This is therefore to submit our memorandum for consideration by the Senate.

We look forward to a positive response.

Yours faithfully,



for

EDWARD O. GICHANA

CLERK, NAIROBI CITY COUNTY ASSEMBLY

	CRA CEILING 2021/2022 in CARB KSH	COUNTY ASSEMBLY PROPOSED CEILING 2021/22	VARIANCE
Budget Estimate			(743,041,810)
TOTAL			
ADDITIONAL FUNDING NEEDED BY THE ASSEMBLY ITEMS	BUDGET	PROPOSED	
Increase in Insurance Costs (WIBA and Group cover)	14,400,000	18,000,000	32,400,000
Increase in Training and Capacity Building	6,450,000	7,145,600	13,595,600
Annual Salary Increment for the MCAs and Staff	167,189,016	8,396,210	175,585,226
Staff promotions and Pensions		15,500,000	15,500,000
Rate of Inflation			-
Pending Bills		75,000,000	75,000,000
Car Loans and Mortgages for staff		100,000,000	100,000,000
Security for the Members During sessions	2,000,000	5,000,000	7,000,000
Hansard Equipments for the Chamber and Committee Rooms		20,000,000	20,000,000
Publishing of Bills	5,000,000	10,000,000	15,000,000
Acquisition of Vehicles especially for Oversight and Public Participation.	3,500,000	20,000,000	23,500,000
Renovation and Equipping of Clerks official residence		8,000,000	8,000,000
Audit Committee establishment		1,000,000	1,000,000
Employment of 24 additional staff as proposed by CRA (118 Staff currently 94)		10,000,000	10,000,000
Additional allocation as compared to other County Assemblies with fewMCAs		445,000,000	445,000,000
Total		743,041,810	
TOTAL PROPOSED BUDGETARY ALLOCATION AFTER THE ADDITION OF THE ABOVE	-	743,041,810	

FOOT NOTES

COMPARISON OF KAKAMEGA COUNTY ASSEMBLY WITH THE NEIGHBOURING ASSEMBLIES

COUNTY	CEILING FOR FY 2021/22	AMOUNT PER MCA.
Kakamega County Assembly	1,066,936,774	11,988,054
Bungoma County Assembly	852,696,315	14,211,605
Busia County Assembly	738,972,659	13,942,880
Trans Nzoia County Assembly	628,139,110	16,106,131
Vihiga County Assembly	621,955,167	16,367,241

Comparison of ceilings as shown above indicates that Assemblies with less than 40 MCAs get way more by up to Kshs. 5million per MCA yet the ceilings are computed based on the same factors across all county assemblies. As such, Kakamega County Assembly is highly disadvantaged and in order to bridge the gap, Kakamega will require an additional Kshs.445Million