

MURANG'A COUNTY ASSEMBLY THE HANSARD

Thursday, 15th September 2016

The House met at 2:46 p.m.

(Temporary Speaker Hon. Catherine Mugo in the Chair)

PRAYERS

PAPERS

FOURTH QUARTER FINANCIAL REPORT

Hon. Joseph Kimani: Thank you Madam Speaker, I request to withdraw the paper because when we went through the Fourth Quarter report, we discovered that it was on each quarter. The budget for the county is prepared annually.

Therefore, as a committee, we have agreed to have an annual report to compare the whole budget for the year and the quarterly report. We will combine all of them so that we can give the Assembly the whole report for the year instead of limiting to specific quarters. Thank you Madam Speaker.

Temporary Speaker (Hon. Catherine Mugo): Thank you. Leave is granted for you to do the necessary. Undertake the necessary action. Next order.

BILL

MURANG'A COUNTY PERSONS LIVING WITH DISABILITIES BILL NUMBER 4 OF 2016- SECOND
READING

Hon. Esther Ngugi: Thank you Madam Speaker, I am a nominated Member of County Assembly (MCA) and I advocate for the rights and empowerment of persons with disabilities. Before I deliberate on this Bill, allow me to welcome members of the fourth estate, persons with disabilities and pupils present. I will start by giving the overview of the Bill because it is not possible to go through it word for word. Members present will understand the objectives and purpose of the Bill.

Madam Speaker, the principle objective of this Bill is to provide for the rights and rehabilitation of persons with disabilities to achieve equalization of opportunities for them as well as, in that regard, establish the Murang'a County Board.

The Bill is structured as follows: part one, provides for preliminary matters, the short title, commencement date, interpretation, and objects of the Act. Part two of the Bill establishes the Murang'a County Board of Persons with disabilities and provides for its administrative framework and prescribes its functions and powers. The board shall comprise of key county officials and other appointees to ensure gender issues are mainstreamed. Functions of the board include formulation of policies, registration of persons with disabilities, issuance of adjustment orders, provision of assistive devices, appliances and equipment.

Madam Speaker, part three provides for the rights of persons with disabilities that require the county government to take progressive measures to the maximum of its ability to avail resources for the full realization of their rights. Rights set out include, rights not to be discriminated in any employment opportunities, not to be discriminated in an educational institution, special health treatment, accessibility and mobility, sports and recreation, and the right to voting. This part also makes provision for certain privileges to be enjoined by persons with disabilities that include tax exemption among others.

Let us proceed to the elaboration of this Bill; the part one on preliminary has a short title which is Murang'a County Persons with Disabilities Bill, 2016. Under interpretation, I will interpret the meaning of the word disability which includes any physical, sensual, mental, psychological or other impairment condition or illness that has or is perceived by significant sectors of the community to have substantial or long term effects on an individual's ability to carry out ordinary day to day activities. I have interpreted this because we have some people who claim to have disabilities and go for registration, yet their disability is not perceived by significant sectors of the community to have a substantial or long term effect on an individual's ability to carry out ordinary day to day activities.

The word discriminate means to accord different treatment to different persons solely or mainly as a result of their disabilities and includes using words like gestures or caricatures that demean, scandalize or embarrass a person with disability. This is like the case we had in this House recently whereby one member addressed another one in a way that embarrassed a person with disability. I have interpreted assistive devices and services which means implements, tools and specialized services including the services of qualified interpreters for the deaf and qualified teachers for the blind provided to persons with disabilities.

I have also interpreted usual day to day activities which means activities of daily living which an ordinary person would reasonably be exempted to carry out. The objectives and purpose of this Bill are, mainly, to establish a county board for persons with living with disabilities, setting out their rights and privileges, protecting them from any form of discrimination and promoting their welfare.

Madam Speaker, there will be a board called Murang'a county board for persons living with disabilities which will be a board corporate that can sue or be sued. The board shall have members who will be appointed by the County Executive Committee Member (CEC) and will comprise of people with disabilities and other officers from the County Government. Some of these members will be from the culture and social services, which will represent the CEO from this department and also Education and Health. Those are the main departments that deal with issues to do with disability. The Director of the department responsible for social services shall be the secretariat to the board. In a nutshell, therefore, this is a board under the County Government.

Madam Speaker, one of the functions of the board will be to formulate policies designed to achieve equal opportunities for Persons With Disabilities (PWDs) in education, employment, sports, cultural activities and other social activities. These days, persons with disabilities are not accorded equal opportunities when it comes to education, employment and sports. There is a gross violation of the Constitution, especially the provision in Chapter 54 (2), which stipulates that 5% of the public elective and appointive positions should be to persons with disabilities. It will be the responsibility of the board to ensure that this provision is implemented.

When it comes to sports for PWDs, it has not so far picked up in the county; PWDs do not participate fully in cultural activities in the county. The board will ensure that there is provision of sports gear, special assistive devices for PWDs and ensure that sports fields are accessible and disability friendly. The Board shall co-operate with the national government during the national census to ensure that accurate figures for PDWs are obtained in the county.

As we meet here today we don't have proper statistical records for persons with disability in the county. The board will also put into operation schemes and projects for self-employment or generation of incomes for PWDs.

If members can remember well, I had brought a motion here on trade license waiver and allocation of 5% of market stalls in open air markets for PWDs; this was to cushion them against the harassment and hardship when they engage in business activities and to encourage others to engage in economic empowerment activities.

The board is also supposed to ensure that there is a workshop for the manufacture of kits and devices for PWDs and to provide training for the manufacture and repair of the implements. This will provide employment for PWDs as they will be able to access new devices and repair the old ones as well as generate income for the county.

The board will also register PWDs; non-registered PWDs do not benefit from the benefits availed to them by the government because one has to produce the PWDs identity card. The board will also register institution associations and organizations that provide services and welfare for PWDs.

The board will ensure that all PWDs have access to medical assessment and related medical procedures in all sub-counties.

There are some sub-counties which do not have disability departments in their health centers and thus they are not able to access these services for instance Kandara, Gatanga, Mathioya and Kigumo; this means that medical assessments are not well carried out.

The board is supposed to ensure provision of assistive devices, equipment and other appliances to PWDs and make provisions to students with disability in form of bursaries, scholarships and loans. When it comes to this issue mostly the money supposed to go to students with disability are usually mixed up with orphans and needy children.

It is good for members to understand that PWDs are poor, orphaned and disabled where it is different in a case of an orphaned person who is neither poor nor disabled. The bursary, scholarship and loan program for PWDs should be separated because their cost is lost.

The board will also consult with the county government in provision of suitable and affordable housing for PWDs. You find that people of families living in disability live in dilapidated houses. For instance there is a case of Kariuki in Maragua who was requesting to be assisted to build a house. We visited his home and realized that he sleeps in a worn out house and thus it will be the responsibility of the board to identify such cases so that this people can be assisted.

No person shall deny a PWD access to opportunities for suitable employment; a qualified employee with disability shall be subject to the same terms, conditions and compensation, privileges, benefits, incentives or allowances just like the other qualified able-bodied persons.

Discrimination by employers is prohibited, no employer shall discriminate a PWD in relation to advertisement of employment, recruitment, creation or abolition of posts, allocation of wages or salaries, pensions, accommodations, leave or other such benefits. It will be the responsibility of the employer that they shall provide such facilities and effect such modifications whether physical, administrative or otherwise in the workplace as maybe reasonably acquired to accommodate PWDs. This means that for example in an office there should be a toilet that has rails and it is wide enough to accommodate PWDs and ensure that they have aids to enable them discharge his duties effectively.

A PWD should not be discriminated in education institutions; no person or learning institution shall deny admission to PWDs to any course of study or reason only of such disability if the person has the ability to acquire substantial learning in that course.

A PWD has a right to education and non-formal education. The special schools are a function of the national government and thus the board will work in consultation with the

agencies of the national government and county government to make provisions for an integrated system of special and non- formal education for persons with all forms of disability and establishment where possible of recorded braille libraries for PWDs.

PWDs have a right to health; the board will ensure that there is prevention of disability through advocating for optimal optic vaccination services in all sub-counties so as to prevent children developing disabilities example blindness, lameness and paralysis for preventable diseases like polio and measles.

Reports from World Health Organization (WHO) and national government through the Ministry of Health is that as at now Kenya is a polio free country, but last year Nigeria was declared a polio free country-----

Temporary Speaker (Hon. Catherine Mugo): Ordinarily Hon. Esther, you are supposed to make comments on the Bill and it should not be very comprehensive then you call your seconder.

Hon. Esther Ngugi: Thank you Madam Speaker, I am about to finish. It is important for members and members of public to know that Nigeria which was declared polio free last year for the last two months, three polio cases have been identified in Bono State where Boko Haram has been active, meaning that the kids being born there have not been receiving vaccination. This means that it could also happen in Kenya if we do not continue with routine immunization because of the children being born.

It's the right of persons with disability to identify disability early and also to rehabilitate PWDs. PWDs have a right to accessibility and mobility to ensure that there is disability friendly environment in all places : all planning and development programs within the county shall have provisions that facilitate for PWDs.

PWDs have rights to sports and recreation and they shall be entitled free access to recreation facilities owned and operated by the county government during social sporting or recreation activities. Thank you, I call Hon. Kariuki, member for Ng'araria to second.

Hon. James Kariuki: I rise to second this motion on Persons Living With Disability Bill 2016 in Murang'a county. They say that the maturity of any society is known by how it treats its most vulnerable/ disadvantaged members of the society that is women, children, PWDs, marginalized persons. If you go to the advanced economies of this world like Western Europe, America, Canada and some of you have been to Singapore, you find that they treat these three groups of people in a very special way. Since Kenya is now a middle income economy, I think this is the right time now that we have devolution to come up with such Bills.

This is the value for devolution, luckily our Constitution and under the bill of rights virtually everyone is protected but the persons with disability have been neglected for a very long time and have never had a say. Its only in the last election we have had PWDs in the National Assembly, in the Senate and County Assemblies representing their own. That is a milestone and we need to follow up on this milestone by coming up with legislation that is going to make sure that the gains we have made from last elections is not watered down; if anything they are enhanced.

PWDs have their rights and their privileges and we should not take these rights for granted. When it comes to privileges like the tax waivers that we are talking about or rates waiver ,where PWDs are given incentives or by waiving the rates they are going to pay, this is the step in the right direction.

If you look on the areas of health, education or even employment, the PWDs have been disadvantaged for a very long time and if you compare the rate of literacy between the PWDs

and the rest of the society- that is the able- bodied- you will find that the literacy levels for PWDs is very low and this is an area of great concern. I have had an opportunity to call the PWDs in my ward and sometimes you actually sympathize because some of them are very poor, some have never entered a class, they have not gone to any school, college and therefore these people just live there,

Madam Speaker, this is not good and this Bill wishes to change that, so that the PWDs have a voice and therefore they are not left out by the members of the society.

I would also like a situation and I know it is addressed in this Bill, where we have a record of PWDs in virtually in every ward, sub-county or even the whole county of Murang'a so that when you have resource allocation we know how much we are going to allocate to this particular group of people.

It is important that they are supported so that they feel part and parcel of the rest of the members of society, have an integrated curriculum or an education that is integrated, where the able -bodied and the PWDs live together. It's also necessary to prevent some of these cases of PWD through immunization and of course obedience to the law because some of the causes are as a result of bad behaviour on our roads.

So I am very supportive of this Bill because it addresses some of the concerns of PWDs; this is because of having devolution and this is also the advantage of having PWDs being represented in our Assemblies because they understand better what they go through, they understand better what happens and therefore our work is to support initiatives like this Bill, I second this Bill. Thank you.

(Question proposed)

Hon. Cecilia Gitu: I have stood to support this motion, and I think this Bill is the best thing that we have done as an august House since inception because it seeks to put order where there has not been order with PWDs. You find that the interventions have been haphazard coming from the private sector, coming from churches, the community and there has not been very good coordination of interventions towards helping the disabled.

You look at their rights; they have been abused left, right. Look at the way we build our houses, some of them do not even consider that amongst us we live people who cannot climb. Now you may say that I am temporary disabled with this sling on; I have tasted what those people taste. We need to be considerate, as the seconder Hon. Kariuki said, it is a mark of dignity if a society is taking care of its weak, the vulnerable and it is important we put order in this sector.

Look at education of disabled people; I know I have been a victim because my son is one; mentally handicapped. I have moved from one special school to another, looking for quality education for my son which has not been possible, because the curriculum has not yet been harmonized.

You find one school doing this and another doing that and even training of the tutors for these children and disabled has not been well done. So we say this Bill has come at the right time, you look at their health and you find some of these children are neglected. In fact even the awareness of how to take care of the disabled has not reached the parents.

You find that some of my counterpart parents who have disabled children lock them up because they are not aware that their potential can be maximized. They can be assessed and know what they can do in life to earn a living. Their mobility has also been a problem; you find

some of them begging while crawling because intervention to give them chairs and utilities for them to be mobile has not been well co-ordinated, and their general welfare has been neglected.

I think with the formation of a board to put this sector in order we will get somewhere, because the board will be able to co-ordinate all the activities, issues relating to the disabled and ensure we maximize the capabilities of each one of them, so that they be important members in the society. I support this motion.

Hon Kago Njoroge: I wish to support the reading of this Bill for the second time but I feel there are some things that ought to be considered because this Bill looks like a money Bill and we would like to get from the sponsor whether he has contacted the CEC in charge of finance so that we may not come up with a bogus Bill which will not be implemented at all.

I also feel that in this board, we need to have a section or clause which states from where we shall fund this board because it is obvious a board cannot work without money.

So after going through this Bill and perusing it for a number of days, I think I have not seen where the board gets its funding and I think for this Bill to work and not kept in the shelves of the county government, we need to know where exactly we will be getting the funding.

But the spirit of the Bill is good and the Bill is good but we need to do those things and I also understand some of the functions we are talking about here, under the Constitution 2010 and they are under mandate of the national government and I feel what we should do is to customize from the national government, rather than coming up with just a very new Bill. I feel we should customize and also separate what the constitutional mandate of the county government should do and maybe where we can chip in as the county government.

When it comes to the formation of the board, if we really are saying that the PWDs should have their own right and say and the Bill is saying at least one third of people living with disability; though we are not in the third reading where we have a Committee of the Whole House doing amendments; that the composition of the board should be two thirds of the board will be PWDs. So when it comes to voting, they will be able to favour their opinion. But when we say that one third will be people living with disability, the other two third will have an upper hand when it comes to voting. So I feel those are some of the few things I would like to say and I hope the sponsor of the Bill will be able to get to my mind and also bring us what I have requested so that when it comes to the third reading I will not rise again to oppose.

I would like a Bill that will not stay in shelf for long because of lacking money to implement it and having not complied to constitution.

Thank you Madam Speaker.

Hon. Duncan Njuguna: Thank you Madam Speaker, as I rise to support this motion, I would like to recognize the pupils and teachers of Kambare primary school where I was born and brought up and also where I schooled.

I was invited by the youth committee when they were deliberating on the public participation report and the reports that were received from the eight sub-counties were very healthy. One, they deliberated on the formation of the board, how the board will operate and benefits to the people living with disabilities. They deliberated on the areas that affect them more seriously.

I concur especially on formation of the board; if you check on the proposed amendments to the clauses on section five of the Bill, you find that there are some changes according to the proposer of the Bill from the members of the public and also the committee because we felt that in the appointments, more powers were given to the CEC member who is concerned with people living with disability. Therefore, the membership although Hon. Kago has highlighted we found

that the number is very minimal and since people living with disabilities are educated nowadays, you can see the chair should be a holder of degree and vice- chair a diploma. Madam Speaker the number is very minimal, we need at least a third or half but maybe when we go to the Committee of the Whole is when we will have more input on the same.

When it comes to regulations; as it is stated there, you find that there are so many areas the committee deleted because some were being duplicated, they should wait for the CEC concerned to forward the regulations to this House.

Otherwise I will stop there and say the Bill is very good if enacted for the people living with disabilities because we have passed several motions in this House on people with disabilities but they are never implemented. With this kind of a Bill everything we had done I motions is catered for. Thank you very much.

Hon. Samuel Wandia: Thank you Madam Speaker, this Bill has come at the right time because all over the ages people have not been aware of how to treat the disadvantaged. Once this Bill goes through, the society will open up. People will no longer keep the disadvantaged in the houses locking them up. They will be caught up by this Bill once it is enacted. So it should be given wide publicity so that our people can come in the open and release these people to join the society.

Madam Speaker some of them have very good brains; I had a chance to go to their headquarters at Kabete and I got surprised, some of the disadvantaged are learned people.

The county government of Murang'a will release some funds to support these people; they will be forced by this Bill to make provision in the budget to cater for the disadvantaged people.

Education will be opened up for them, and I will propose that these people are given scholarships, even if it is in secondary schools so that they can enjoy the facilities of this land like any other person. The county government of Murang'a is rich and it can afford to give scholarship to these people so that they can feel to be part and parcel of this County.

Further, the county government should ensure that medical facilities are provided to them free of charge. Last time I went to Murang'a district hospital and I saw somebody demanding huge payment from these people, I really got worried. I had to give few shillings to that person to buy medicine from Murang'a district hospital. If the services were free such a person would not have sat on the grass waiting for someone to help him.

All the high rise buildings in Murang'a whether old or new, the owners should be forced to make facilities available for these people so that they can go upstairs without any hindrance.

I hope the members will support this Bill because it has come at the right time. I rest my case, thank you Madam Speaker.

Hon. Bernard Kariuki: Thank you Madam Speaker, I rise to support this very important Bill and congratulate the mover of the Bill for being able to champion the rights of the people living with disabilities and commend her for the good work that she has been able to do in coming up with this Bill.

As hon. member for Ng'araria said a civilized society is known by how it takes care of the disadvantaged people in the society. I accompanied you to Singapore in 2014 and we saw how they are able to take care of their people living with disabilities; we should be able to copy that to our county because devolution should be able to address the pertinent issue that is affecting people at the bottom level.

Therefore, this Bill comes at the right time and I am very overwhelmed by the objectives of this Bill which is among other things, to protect people living with disabilities from physical discrimination, stigma and all those issues because one of the greatest challenges for the people

living with disabilities in this country is that we have children who are born with disabilities and are taken as a taboo; therefore, they suffer in silence.

Hon. Esther has come out very loud to speak out for them and this is a very noble cause because the PWDs have their own abilities and I believe that the people living with disabilities are people abled differently; they have their talents; they have their unique abilities that normal people may not be able to possess.

This is a very important Bill for this county and it is going to set out precedence for other counties to copy. I would propose as we move forward with enactment process the hon. mover should be able to consider few amendments especially on clause two; the administration part where she is proposing a county board to run the affairs of the PWDs in the county. The mover has proposed to create a board which is a body corporate. In my view body corporate is and independent body which should be run independently like the public service board. It is an end in itself. I hope the mover would consider restructuring the board so that it will be under the responsible CEC that will call for direct accountability from the minister on matters regarding disability.

When you create a board in any given law, you must also provide for the removal from office of the board members and the chairman, I urge the mover to look into that.

Temporary Speaker (Hon. Catherine Mugo): On that one Hon. Bernard, I went through the Bill and it is there, on how a member can be removed.

Hon. Bernard Kariuki: The mover could also consider looking at the structure of administration; this would be very helpful in terms of implementation. The mover could consider making the board lean and consider putting county officers to reduce the wage bill.

The board can also co-opt experts in this field; we have NGOs doing PWDs issues, I feel the Bill is ok.

In section 9, the PWDs will be happy on the issue of economic empowerment. The section was supposed to be properly expressive in terms of what will be done to empower the PWDs since much of the Bill will focus on accessibility and those other issues, in terms of economic empowerment it is limited since PWDs will also be required to enjoy these rights. If there are any contentious issues from any member, they can be addressed at the Committee of the Whole stage.

Hon. Beth Ngugi: I rise to support this Bill. Before devolution, institutions were ran haphazardly, there were no boards to oversee the funds, the whole ministry was doing it but you could not pinpoint the person who could be held accountable.

When I was working in the ministry; over 20 years ago, we were forced to surrender our pay for a cause regarding disability. We never knew where the money went. If there was a board like this one, these things would not have happened. This board will be a trend setter in the county and other counties so that affairs of PWDs will be taken care of. Accountability will be there and this will be taken care of. The Bill will also fight for the other rights included in the Bill and outlined very clearly.

The Bill will reign on NGOs where most of them are cash cows not to help people with Disabilities but for individuals who masacaraed that they have an NGO, they create one and the funds do not end up doing what they were supposed to do in helping the people who are supposed to be helped by the funds. I support this Bill.

Hon. Florence Nyambura: In this House we have been passing many motions but the county government has not been implementing. When the law is there, it will tie everybody. I

thank the Hon. members who are supporting this. When this Bill will be in place, I know everybody will use it and we will follow up on those who are not implementing it.

I request that she accommodates the views in the board because we have deliberated on the matter in the committee.. When these ideas are in place, I know the Bill will not die silently or contravene the national law. The board will be under the CEC, since a corporate board cannot stand by itself, like the National Council for people with Disability which is answerable to the national government that funds them.

I request the mover to accommodate these amendments. Before Hon. Kariuki passed on, we had talked on the funds; I thank the hon. members of the budget committee because we have managed 40 million. If you question the county government what it has done, we do not see. When there is law, we will be able to challenge the county government since they have not used the money. I hope the amendments will be incorporated in the committee stage. I hope the Governor will assent it

Temporary Speaker (Hon. Catherine Mugo): The mover to respond.

Hon. Esther Ngugi: I thank the members for supporting the Bill and point out that some of the issues raised have been captured in the amended draft, but we will still do more amendments that will feature in the Committee of the Whole House stage.

(Question put and agreed to)

ADJOURNMENT

Temporary Speaker (Hon. Catherine Mugo): The House is adjourned to Tuesday next week

The House rose at 3:45p.m.