

# COUNTY ASSEMBLY OF NAKURU

## THE HANSARD

Wednesday 18<sup>th</sup> November, 2015

*Assembly Building*

*The House met at 2.45pm*

*[The Speaker (Hon. Susan Kihika) in the Chair]*

### PRAYERS

#### COMMUNICATION FROM THE CHAIR

-CLARIFICATION ON THE FORMATION OF WARD COMMITTEES FOR PERSONS

WITH DISABILITY FUND

-WEDDING INVITATION

**The Speaker** (Hon. Susan Kihika): The office of the Chief Officer Education, Youth Affairs, Culture, Sports and Social services wishes to make a clarification regarding the formation of Ward Committees for Persons with Disability Fund following claims that have reached their office.

They wish to clarify that;

The Director has not constituted or appointed any Committee to that effect. And that, what happened was part of the Director's routine duties to mobilise and sensitise beneficiaries on the procedures entailed in the regulations for the beneficiaries to be able to identify their representatives when that time comes.

The office will communicate to the Assembly on when and how the exercise of appointing the said committees will be done.

In addition to that, usually I won't sit here and communicate a wedding invitation to the Assembly but there is a wedding invitation for Keziah who weds Steve. Steve is that media person who is always in the Assembly and they really wanted me to communicate to the Members. So this is an invitation for all the MCAs of the Nakuru County Assembly to their wedding ceremony which will be held on the 20<sup>th</sup> of November, 2015 at St. Christopher Gardens in Nakuru opposite Vienna hotel starting from 10.00 am. Thank you.

### MOTION

NAKURU COUNTY PERSONS WITH DISABILITY BILL 2014

*(SECOND READING)*

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**Hon. Irene Chebichii:** Thank you Madam Speaker, with me is the Nakuru Persons with Disability Bill, 2014 which as a Committee we happened to have proposed to be 2015.

Madam Speaker, this the Nakuru County Persons with Disability Act 2014 which we have proposed as a Committee to be 2015.

Madam Speaker you remember sometime back, this year after the First Reading, you mandated our Committee to scrutinize the Bill which we did. We went through the Bill with honourable Members...

**The Chief Whip** (Hon. Leonard Korir): (On a point of order). Thank you Madam Speaker, I have realised that one of our colleagues is trying to hide himself because he is not in decorum. That is honourable Ngware.

**The Speaker** (Hon Susan Kihika): Honourable Ngware please step out. Proceed honourable Irene.

*(Honourable Joseph Ng'ang'a withdrew from the House)*

**Hon. Irene Chebichii:** Thank you Madam Speaker, we were facilitated by your office and we met the stakeholders from this County. I will summarise the Bill so that honourable Members can grasp something. Some of the objectives of the Bill are to ensure the realisation of the rights of Persons With Disability in Nakuru County, through the establishment of a County Board for Persons With Disability, as you are aware Madam Speaker we do not have one at the moment and Persons With Disability have problems when it comes to airing their grievances. In the Board's membership, Persons with Disability will be included with a number not exceeding 7 and they shall be well represented.

Madam Speaker, some of the functions of the Board will be to issue adjustments orders under the provision of this Act and also to formulate development measures and policies that are designed to advise the County Executive Member on the provisions of any National Legislation relating to the Welfare or rehabilitation of Persons With Disability and its benefits to the County.

Also they will recommend some measures to prevent discrimination against Persons With Disability and many more other functions that the Board will be performing in our County.

Madam Speaker, there are several rights and privileges of Persons With Disability that have been cited and would also like to bring to your attention that there was an Act in the National Government and as we were going through it, we wanted to make sure that it goes together with our Constitution, the Bill of Rights and the Act of the National Government. We did not want to have a different thing.

So some of the rights are; not to be discriminated against employment, no person shall deny a person with disability an access to opportunities for suitable employment if they actually qualify for employment. As a Committee of Labour we have been receiving a lot of complains from person living with disability that they are not being considered for employment in this County

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but it is so unfortunate that when we met with the County Public Service Board we realized that those who have been complaining did not even apply.

According to this Act, it will actually assist them, if somebody does not qualify for a certain position, of course that person will not be able to get that opportunity.

Right not to be discriminated in any education institution, the people living with disability will be able to access education everywhere within our County including polytechnics and colleges.

Right to good health, accessibility and mobility right, person with disability are entitled to barrier free and disability friendly environment to enable them have access to buildings. As you understand within our County that most of the buildings are not favorable to people living with disability but after this Bill has been enacted I believe the owners of such buildings will conform to the provision of this Bill.

There is the issue of right to sports and recreation, the person living with disabilities most of the time are not considered in sporting activities within this County, and for a good example there is a group of youths who are going to Kwale in the course of this month but if you look at the list of those who are going it is very unfortunate that people who are living with disabilities are not considered that much in this tournament.

As you all understand that we are heading to 2017 where we shall be voting and in this Bill we have right to vote and person with disabilities shall be entitled at their request to be assisted by the person of their choice in voting during Presidential, Parliamentary and County elections which mean that there are not going to left out when we will be electing our leaders in the next government.

Registration of organization, this is their right to registration of organization, the County Board shall register all organizations of or for person with disability. I would like to bring to your attention that there are several organization of person living with disabilities in the County but it is so unfortunate that our County do not have a data base of organizations of people living with disabilities, and I believe that when this board will be formed it is going to make sure it has registered all the organizations working with people living with disabilities, that is the summary of the Bill and I would like to move that the Bill be now read for a Second Time .

**The Speaker** (Hon. Susan Kihika): Who is going to second? Honorable Florence.

**Hon. Florence Njoroge:** I arise to second that the Nakuru County Persons with Disability Bill 2014 be read for a Second Time, thank you.

*(Question proposed)*

**Hon. Joseph Muigai:** Thank you Madam Speaker, this is a good cause worthy support by everyone because people with disability are part of our community, they are our sons and daughters, they are our relatives, they are everything and they are our friends and when such a Bill is suggested it calls for support from everyone so that they may not feel that they are separated from the rest of the community.

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As I support, I want to raise a concern in the rights of person with disability, if your look at number ten, the right not to be discriminated in employment under Article 11, discrimination by employers is prohibited, that is one and the same point and probably I would suggest that we amend to include one of the Articles because it is talking of non-discrimination in employment and non-discrimination in employment is basically by employers who we accord one of the statements to be one right ,we combine the two to have one right and to read –right not to discriminated in employment and we delete Article 11 because it is repeating what Article 10 says, I support the Motion with that amendment.

**The Speaker** (Hon. Susan Kihika): Honorable Kihara.

**Hon. Stephen Kihara:** Thank you Madam Speaker for giving me this opportunity to be able to make contributions pertaining the Bill that is at hand, we must all appreciate that this is one of the best Bills that this County is going to enact. This a Bill that is going to take care of the most underprivileged in the society and I remember sometime in the course of last week we were presented with regulations also pertaining people living with disability. And much of it also I find it in this Bill which is a commendable thing because what is contained in this Bill as well as the regulations that we are tabling in this House is concerned about the welfare of this people who have for a long time been neglected by the society and the Government as well. It is very interesting to find that for the first time the County also takes some of the Laws that are there in the National setup and domesticates them, like chapter 4 which also deals with the Bills of Rights and which now becomes mandatory for the County to make sure that they are adhered to.

I also find something very interesting in terms of taxation that this Bill proposes that people living with disabilities are supposed to be exempted in terms of taxation but at the same time I know this has also been provided for in other National Acts. It is also prudent for the Bill to envision a situation where a sorted devices used by people with disability which are brought in by organizations assisting this group be exempted from taxation. The Board as set up has not been given any mandate in regard to negotiations that can be entered into with the National Treasury seeking for waivers to devices such as wheelchairs, walking sticks and clutches which are brought in the country as donations. As a House we need to empower this Board to get into negotiations with the National Treasury in partnership with the County Government so that any donations that are supposed to benefit this group of people are considered by the National Treasury for tax waiver.

The other thing which I also find very interesting is the issue of the adjustment Orders, you realize that most public premises and public buildings do not conform with what has been laid out in the building codes and this brings the issue of accessibility of this buildings in terms of walking ramps. This Bill as it is has provided measures whereby the Board is mandated to issue sanctions and orders in terms of how these buildings are supposed to be adjusted to be able to conform to what is internationally accepted. I find is very interesting and very commendable to have such a setup because it will also go a long way in helping people living with disabilities to access most of these public facilities.

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The Bill talks about persons with disabilities and it talks about physical disability, mental disability and of late because it is in the public domain I also wanted to request whether there is anything like sexual disability because there is one of our Members here who sometimes back claimed he belonged to the group of people with disability just because in one way or another he was blessed to have a single item which are supposed to be two and I cannot find that in this Bill, probably the sponsor of the Bill should also tell us whether that also qualifies to be included in this Bill because those people are there in the community and we need also to take care of them, but in a nutshell this is a very good Bill because it touches people in the grassroots who for a long time have been neglected.

I support this Bill and I request Honorable Members to support this Bill so that it is enacted as a Law. Thank you.

**The Speaker** (Hon. Susan Kihika): Thank you Honorable Kihara. Honorable Muigai you have already spoken. Honorable Catherine.

**Hon. Catherine Waweru:** Thank you Madam Speaker, I want to commend the Committee on Labor on a job well done and while commenting on the importance of this Bill and the rights of persons living with disabilities I want to also inform Honorable Kihara that the definition for persons living with disabilities in Kenya has been defined in the Constitution. The other things I think they are neither here or there, and in the support of the establishment of the committee that will be taking care of the persons with disabilities is that they are in this County, according to the statistics of this County, there are over forty thousand of them and therefore as we look into their interest and as we establish a board for them that will give them an opportunity to come into the mainstream of issues in the county. It will help their voices to be heard. Some of them are men and women that are highly qualified in different professions. This will give them an opportunity to enjoy such privileges because as we know that as we established County Government, they have not gotten such opportunities and the highest level that their member has attained is that of director. Therefore as we continue to empower persons living with disability, it will encourage the parents of children with special needs to continue supporting them and it will help this county support institutions where such children go so that we have a strong better society because 40,000 citizens cannot be ignored in a given county. So we support the Bill as proposed.

**The Speaker** (Hon Susan Kihika): Thank you hon Catherine; honorable Muigai you have one minute because you had made contributions before.

**Hon Joseph Muigai:** I wanted to put something across; every right has a responsibility and when we pass this Bill and go out there to disseminate the contents of the regulations to the public, it is also good to tell the victims that every specific right goes with a responsibility, and it is good that when they make a claim on these rights, they express some responsibility in doing that ;for example when we speak about right to employment or even sports and other recreational activities, one must express his or her passion to participate, that shows the responsibility...

**The Speaker** (Hon Susan Kihika): Are you who is not disabled required to do that when seeking for employment opportunities? If you do not do, then that is discrimination against the victims; a situation that we are trying to move out of.

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**Hon Joseph Muigai:** When you need a job you must move forward and I identify what are the requirements; this calls for persons with disability to access facilities which they have a right to. Much as we have rights and privileges, there are responsibilities that goes with such rights.

**The Speaker** (Hon Susan Kihika): Hon Member can you please not try and place any undue burden on the disabled because they have already hard enough. So if it is not required of you who is not disabled, why should you put obstacles on them?

*(Applause)*

**Hon Joseph Muigai:** I appreciate what you have said hon Speaker

**The Speaker** (Hon Susan Kihika): Thank you for the appreciation; Hon Lang'at

**Hon Joseph Lang' at:** I stand to support the Motion on this disability Bill but I find that we need to define who is a disabled so that the privileges are not abused. Somebody like me who is diabetic is categorized as a disabled as well as persons living with HIV are in this bracket...

**The Speaker** (Hon Susan Kihika): Hon Member are you aware this is captured in Kenya Constitution 2010?

**Hon Joseph Lang'at:** One Member, Hon Kihara also hinted that a sexual disability so somebody with HIV/Aids is a disabled person; we really need to define ...

**The Speaker** (hon Susan Kihika): Hon Member, we do not define the constitution which is supreme law of the land and has already defined who is a disabled person.

**Hon Stephen Kihara:** Thank you Madam Speaker; we also appreciate that you are guiding us because we have other legal framework as well as the constitution that guides this matter. We need also to provide a legal policy that takes care of other emerging issues that probably were never envisaged in the Constitution. The issue of sexual disability and it is here with us. We are not talking about an alien thing and a honorable Member attested that he found himself at the House Business Committee categorized as a person living with disability due to his biological sexual deformity. So that is an issue that needs to be looked at as an emerging issue

**The Speaker** (Hon Susan Kihika): We appreciate your concerns; hon SK

**Hon Stephen Kiarie:** I would like to thank honorable Members for supporting this Bill and as we went through it with a tooth comb, it appears there are other emerging issues and I would like to appeal to Members that are biologically challenged, should not hide since we still have opportunity to come up with legislations that can be considered in future

**The Speaker** (Hon Susan Kihika): Thank you hon Kiarie I am glad to hear your input and contribution on sexual disability discrimination, we appreciate those emerging issues and passionately appeal for consideration for those in that category.

I will now put to question that the Nakuru County Persons Living with Disability Bill no. 31 of 2014 be now read a Second Time

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*(Question put and agreed to)*

*(The Bill was accordingly read for the Second Time)*

We stand adjourned until tomorrow at 2.30 pm

*(House rose at 3.15 pm)*