

REPUBLIC OF KENYA

MANDERA COUNTY ASSEMBLY

THE HANSARD

Monday 4th May, 2020

Special Sitting

*(Convened vide Kenya Gazette Notice
No. 3290 of 27th April, 2020)*

*The House met at the Assembly Chambers
County Assembly Buildings, at 9.04 am*

[The Speaker (Hon. M. A. Khalif) in the Chair]

PRAYER

NOTICES OF MOTION

ADOPTION OF THE REPORT OF BUDGET AND APPROPRIATION COMMITTEE ON
MANDERA COUNTY GOVERNMENT THIRD SUPPLEMENTARY BUDGET 2019/2020 FY

Hon. Abdullahi Siyad (Lafey): Thank you, Mr. Speaker. I beg to give Notice of the following Motion; -

THAT this House adopts the report of Budget and Appropriation Committee on Mandera County Government Third Supplementary Budget 2019/2020 FY

ADOPTION OF THE REPORT OF LANDS, HOUSING AND PHYSICAL PLANNING
COMMITTEE ON EL-WAK MUNICIPALITY CHARTER

Hon. Halima Billow (Nominated): Thank you, Mr. Speaker, Sir. I would like to give Notice of Motion; -

THAT this House adopts the report of Lands, Housing and Physically Planning Committee on El-wak Municipality Charter

Thank you.

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MOTION

ADOPTION OF THE REPORT OF THE COMMITTEE ON COUNTY DELEGATED LEGISLATION ON THE MANDERA COUNTY COVID-19 EMERGENCY RESPONSE FUND REGULATIONS, 2020

Hon. Nasra Hussein (Nominated): Mr. Speaker, I beg to move; -

THAT this House adopts the report of the Committee on County Delegated Legislation on the Mandera County Covid-19 Emergency Response Fund Regulations, 2020

The Speaker (Hon. M. A. Khalif): Just read the report. Just get the right place. You can exchange with Hon. Robow.

Hon. Nasra Hussein (Nominated): Honorable Speaker, the Mandera County Covid-19 Emergency response Fund Regulations, 2020 was Gazetted on 22nd April 2020, in accordance with section 22 of the Statutory Instrument Act 2013 and tabled in the County Assembly on 30th of April 2020, pursuant to the provision of Mandera County Assembly Standing Order 192 (2) and referred to the Committee on Delegated County legislation. The Terms of reference in regards to any Statutory Instrument are set out under Statutory Instruments Act 2013 and Standing Orders 192 (3) (4) and (5) of the Madera County Assembly Standing Orders.

Standing Order 192 provides for the mandate of the Committee and it states;

1. There shall be a select committee to be known as the Committee on Delegated County Legislation.
2. Whenever a statutory instrument is submitted to the County Assembly pursuant to the constitution, any law or this Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee, or any other member and shall thereafter stand referred to the Committee on Delegated County Legislation.
3. The Committee shall consider in respect of any statutory instrument whether it-
 - a) Is in accord with the provisions of the constitution, the Act pursuant to which it is made or other relevant written law;
 - b) Infringes on fundamental rights and freedoms of the public;
 - c) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of the County Assembly;
 - d) Contains imposition of taxation;
 - e) Directly or indirectly bars the jurisdiction of the Courts;
 - f) Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
 - g) Involves expenditure from the County Revenue Fund or other public revenues;
 - h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
 - i) Appear to make some unusual or unexpected use of the powers conferred by the constitution or the Act pursuant to which it is made;
 - j) Appears to have had unjustifiable delay in its publication or laying before County Assembly;
 - k) Make rights, liberties or obligations unduly dependent upon non-reviewable decisions;

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- l) Makes rights, liberties or obligations unduly dependent insufficiently define administrative powers;
- m) Inappropriately delegate legislative powers;
- n) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) Appears for any reason to infringe on the rule of law;
- p) Inadequately subjects the exercise of legislative power to County Assembly scrutiny; and
- q) Accords to any other reason that the Committee considers fit to examine.

The Committee constitutes of the following Members: -

- | | |
|----------------------------------|---------------|
| 1. Hon. Saad Sheikh Ahmed | - Chairperson |
| 2. Hon. Nasra Hussein Adawa | - Vice chair |
| 3. Hon. Fatuma Issack Osman | - Member |
| 4. Hon. Rahma Ibrahim Issack | - Member |
| 5. Hon. Shankaron Ibrahim Sheikh | - Member |
| 6. Hon. Abdirashid Maalim Osman | - Member |
| 7. Hon. Halima Billow Omar | - Member |
| 8. Hon. Alinoor Derow Abdullahi | - Member |
| 9. Hon. Abdi Hassan Ali | - Member |

I take this opportunity to thank all Members of the Committee for their input and valuable contributions during the deliberations on the Report. The Committee also takes this opportunity to thank the Offices of the Speaker and the Clerk for the support accorded to it during report writing.

On behalf of Delegated County Legislation Committee members and pursuant to Section 15 of the Statutory Instrument Act, 2013 and the Mandera County Assembly Standing Order 192, it is my pleasure and duty to present to the County Assembly the Committee's report on the Mandera County COVID-19 Emergency Response Fund Regulations, 2020.

We, the members of the Delegated County Legislation Committee unanimously adopt the report on the Mandera County Covid-19 Emergency Response Fund Regulations, 2020 and append our signatures to affirm accuracy, validity and authenticity of this report on 1st May, 2020.

The Speaker (Hon. M. A. Khalif): Why don't people put their phones on silent mode? There is a phone ringing.

Hon. Kulow Alio (Rhamu): Mr. Speaker, I am wondering what the Member for Lagsure is wearing in the House because I am not able to comprehend whether it is a blanket or headscarf. We need a clarification whether this thing is Covid-19 compliant. I am confused.

The Speaker (Hon. M. A. Khalif): Order! Proceed. There is no specific material. As far as what we have been hearing on the news is concerned, you can use any material as long as there are some specific conditions. So, we cannot be able to confirm whether it meets the conditions, not only for him but even for others. Let us proceed.

Hon. Nasra Hussein (Nominated): Mr. Speaker, Part I, Preliminary, deals with the Citation and Interpretation;

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Part II, provides for the establishment of the Covid-19 Emergency Response fund, Object and purpose of the Fund, sources of the fund and Expenditure of the Fund;

Part III, provides for the Management of the fund, Committee of the fund and administrator of the Fund;

Part IV, provides for the financial provisions of the Fund, bank account of the Fund, Overdrawn account, withdrawals from the fund, Financial and Procurement regulations, Quarterly Reports and Account of the Fund; and

Part V, provides for general provisions, presidential declaration and lapse of the fund, winding up of the Fund, meetings of the committee and administration cost.

The object and purpose of this regulation is to mobilize resources for emergency response towards containing the spread, effect and impact of COVID-19 Pandemic as provided for in regulation No. 4.

This Regulation is based on Section 110, 138 and 139 of the Public Finance Management Act of 2012 which authorizes the CEC Finance and Economic Planning to establish an Emergency Fund for the purpose of enabling payment in respect to urgent and unforeseen needs like in the case of COVID-19 pandemic.

Honorable Speaker, the Statutory Instruments Act 2013 provides for several procedural and substantive issues that are requirements of any Statutory Instruments. As a matter of procedure, the Instruments must first be published and serialized pursuant to Section 22 of the Statutory Instruments Act. It should then be forwarded to the Assembly within seven (7) days after publication pursuant to Section 11(1) of the Act. Under Section 11(2), the Instrument is supposed to be forwarded with an explanatory memoranda attached to it as set out in the Schedule. The Explanatory Memoranda should contain Regulatory Impact Statements.

The Regulatory Making Authority is also supposed to subject the Instrument to consultation with the persons likely to be affected by the Instrument. The Committee found out that the regulation was published in the Kenya gazette on 22nd April 2020 with supplement number 6 and in the Mandera County as legislative supplement No. 1. Therefore, serving as legal notice No. 1 but an Explanatory Memoranda was not provided for. However, the enabling Act which is the Public Finance Management Act provides for the reasons of the establishment of this Fund. In addition, Section 9 provides for exception of all circumstances where regulatory impact statements would be unnecessary. Thus, the committee found the requirement unnecessary for this particular regulation.

Honorable Speaker, under Section 13 of Statutory Instruments Act 2013, the Committee is required, while carrying out its scrutiny of any statutory instrument, to be guided by the principles of good governance, rule of law and shall in particular consider whether the statutory instrument: -

- a) Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other written law;
- b) Infringes on fundamental rights and freedoms of the public;
- c) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- d) Contains imposition of taxation;
- e) Directly or indirectly bars the jurisdiction of the Courts;

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- f) Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- g) Involves expenditure from the Consolidated Fund or other public revenues;
- h) Is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- i) Appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j) Appears to have had unjustifiable delay in its publication or laying before Parliament;
- k) Makes rights, liberties or obligations unduly dependent upon non reviewable decisions;
- l) Makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m) Inappropriately delegates legislative powers;
- n) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) Appears for any reason to infringe on the rule of law;
- p) Inadequately subjects the exercise of legislative power to parliamentary scrutiny; and
- q) Accords to any other reason that the Committee considers fit to examine.

Honorable Speaker, in ascertaining the compliance of the regulation with The Statutory Instruments Act 2013, the committee found out that the Regulation is:

- a) In accordance with the provisions of the Constitution and sections 110, 138 and 139 of the Public Finance Management Act 2012,
- b) Does not inappropriately delegate legislative powers;
- c) Does not impose a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- d) Does not appear for any reason to infringe on the rule of law;
- e) Does not inadequately subject the exercise of legislative power to the County Assembly scrutiny; and
- f) Does not for any reason in its content or form provide ground for disapproval.
- g) The regulation is in compliant with requirement of the Statutory Instruments Act 2013 section 13.

Honorable Speaker, finally, Sections 15, 16, 17, 18 and 19 of the Statutory Instruments Act provides for the procedures of laying before this House any Instrument that is to be partly or wholly annulled. The committee found this regulation appropriate as it seeks to regulate fund that will be mobilized and sourced for emergency response towards containing the spread, effect and impact of COVID-19 Pandemic, based on the provision of section 110 of the Public Finance Management Act 2012.

Upon deliberation, the Committee confirmed that the regulation is in compliance with the Statutory Instruments Act 2013 and Mandera County Assembly Standing Order 192 thus, approved the regulation and recommends; -

THAT this County Assembly approves the Mandera County COVID-19 Emergency Response Fund Regulations, 2020

Honorable Members, it is our collective responsibility to confirm this fund and given the urgency it deserves, pass it so that it can reach where it is required purposely.

I request Hon. Halima to second.

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Hon. Halima Billow: Seconded

The Speaker (Hon. M. A. Khalif): Hon. Halima, you have seconded? I have not seen you standing.

Hon. Halima Billow (Nominated): I have seconded.

(Question proposed)

The Speaker (Hon. M. A. Khalif): Hon. Abass.

Hon. Abass Abdille (Nominated): Thank you, Mr. Speaker. The regulation is a normal idea from the CEC Finance but I have some reservations. If you go to page 3 of the regulation, committee of the fund, No. 7, it says there is established a committee to be known as Mandera County Covid-19 Emergency Response Fund Committee which shall comprises of:-

- a) A chairperson appointed by the Governor.
- b) County Executive Committee Member for the time being responsible for matters of public service.

We know that Covid-19 is a medical issue. I am surprised to find the CEC for Public Services instead of the CEC for Health. Mr. Speaker, I need your indulgence.

Thank you.

The Speaker (Hon. M. A. Khalif): If you look at the standard of Covid-19 emergencies across all the counties and even the one of national government, if you read the one of national government, it reads, 'Minister for Interior and not Minister for Health.' Covid-19 is not about health only. It is a cross cutting issue and that is why we have the Chairman being appointed by the governor. I have seen several regulations passed through the Assemblies including the National Parliament. The one of national parliament talks of the Minister for Interior and not the Minister for Health. Maybe they were just adopting the same standard. I do not know what more I can say more on that.

Hon. Mohamed!

Hon. Mohamed Ibrahim (Guticha): Thank you, Mr. Speaker. I rise to support the Motion as it is before the House. Covid-19 is an international pandemic and it requires the effort of every individual in this county. This regulation has come the right time when our county has faced over seven (7) cases of this pandemic. I would like to thank the CEC for bringing it before the House. This will help the county to commit resources in the fight against Covid-19 and it will give legality to any transaction the county will do as far as the fighting of this pandemic is concerned. I just consulted before coming to the House on the issue raised by Hon. Abass to one of the health personnel. His advice was that the CEC is in the regulation because that is the person in-charge of health personnel or that is the person in-charge of county personnel. The baseline or the bases of this fight is how the staff will address the problem at hand and how their welfare will be taken-off. I think it is for the information to Hon. Abass, it is right to have CEC for Public Service as a Member of the Fund Committee.

I support.

Thank you.

The Speaker (Hon. M. A. Khalif): Maybe the CEC is going to do implementation. You cannot implement and at the same time oversight yourself. I think it is a matter of separation of powers because this is management and this committee will be actually auditing how the funds

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will be used. That is why we have members who are not even in the County Government. I think it is about good practice. You cannot be implementing and at the same time supervising your work.

Hon. Yakub!

Hon. Yakub Hassan (Derkhale): Thank you. I stand to support the regulation. This regulation is not about Hon. Abass; it is not about medical issues but it is a pandemic that is affecting the whole world. Actually it is more like a security threat to the whole world than a medical threat because this is a pandemic that is killing everyone, young and the vulnerable.

Secondly, those who are supposed to be in-charge of the medical facilities are supposed to be working and helping the actual patients who are affected. That is why we have a multi-sectorial approach; other departments brought in to help the situation like Police and National Intelligence so that they track and follow up those who do not wear necessary protective measures. This regulation is actually in conformity with all the statutory requirements as passed by the Parliament in 2013; it does not go against any Constitution or Act of Parliament. Unless we have this regulation in place and as we have seen it in the National Government, unless we pass this regulation, we as Members of the County Assembly, the Public, the Donor Nation and even the National Government cannot donate any money to this Covid-19 fund. This regulation will become a base---

The Speaker (Hon. M. A. Khalif): Hon. Issack, you are out of order! My guideline on conducting the business was very clear. There will be no consultation either at the table or at the Speaker's. So, please, let us go by the guideline.

Hon. Yakub Hassan (Derkhale): Unless we pass this regulation then we cannot be able to fund this Covid-19. Donors cannot give us money to control this pandemic. The moment we pass this regulation because it is in conformity with the Public Finance Management Act, and most likely we will be passing it, honorable members should be the first individuals who will donate what they have into this fund because if you look at Section 5 of this regulation, it talks of who will donate what, and how you will donate it. The moment we pass this regulation, money will start flowing in. We cannot depend on the national government for funding when we can do our necessary controls at county and village level.

With that, I stand to support the regulation.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Teno!

Hon. Abdinoor Diisow (El-wak South): Thank you, Mr. Speaker. I also stand to support the Motion before the House. It is true that the Pandemic is not new. It has been with us for almost a month and I do not know how the county was mitigating this pandemic before this regulation was in place. It is therefore extremely necessary for this regulation to be in place as soon as possible to enable them fight it effectively.

Mr. Speaker, I only have one reservation, the regulation reads Mandera County Covid-19 Emergency Response. God forbid what if another pandemic arises and the regulation has been named Covid-19? The regulation is trying to confine to only Covid-19. My suggestion is that it could have read Mandera County Covid-19 Emergency and other Emergencies because emergencies are with us nowadays; drought and floods. Whenever such things arise this House is in short of regulations. I was thinking of whether we can give it a broader perspective in terms of calling it other emergencies.

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Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Member for Wargadud.

Hon. Alinoor Derow (Wargadud): Thank you, Mr. Speaker. I stand to support the regulation. Being a Member of the Delegated County Legislation, we happen to compile the reports as it is. Mr. Speaker, I thank you for giving direction to Honorable Abass when he inquired about who is to act as in charge of this Covid-19, especially the department of Public service. Mr. Speaker, His Excellency is constitutionally mandated to appoint any CEC to lead any department regarding any issue in this county. On the Covid-19, issue the regulation is a situation-demanded. It is a pandemic which is global, national and currently here with us in Mandera County. Henceforth, to operationalize and give a legal basis of undertaking response to Covid-19, these regulations will allow the departments and various stakeholders to undertake any interventions. Regarding any other Pandemic, then we will come up with a regulation on the same but currently this one is confined to Covid-19 issue which is with us. If tomorrow may be we have issues of locust, we will have a regulation regarding the same; if we will have any other emergencies like floods we will come up with regulation. This is necessary and timely and I stand to support the report as it is.

Thank you.

The Speaker (Hon. M. A. Khalif): To add on what the Member for Wargadud said, Hon. Teno, if you look at part 5 of the general provision and 16, it says the Governor may appoint the declaration by the President that Covid-19 Pandemic is no longer a threat to the social and economic stability of the country and can now dissolve this. So, it is a special purpose vehicle for this particular project. It is meant for Covid-19 only. Upon declaration that it is no longer a threat, the whole thing will wind up including the committee and even the accounts. I think we are in order.

Hon. Shaban Hassan (Ashabito): Thank you, Mr. Speaker. I rise to support the regulation and the Motion before the House. As we are aware the world is undergoing tremendous challenge owing to the outbreak of Covid-19. Virtually all activities are at standstill. Learning institutions and places of worship have been closed. Adversely we are also affected. This being the month of Ramadhan, we are not enjoying our congregational prayers.

Combating Covid-19 requires multi-sectoral approach. I think the Governor appointing the CEC public service, it is a prerogative of the Governor to appoint anyone to head these funds. When I said it requires multi sectoral approach, securities are also involved in combating Covid-19, municipalities are also involved, water departments are also involved and Health being the backbone of combating this disease.

Mr. Speaker, passing these regulations is going to unlock funds from donors. It will be attracting funds from donors. Without these regulations we could not be getting any support. Covid-19 Emergency Response Team can solicit funds even from private entities locally and even internationally.

Mr. Speaker, on part 7 (c) where it says that County Executive Member and three other Members who are not public officers shall be appointed by Governor, these three Members should be persons of integrity. You are aware of what is happening in the National government. In the Ministry of Health, close to forty accounting officers have been moved from the Ministry of Health to other departments. Funds have been embezzled. That is what is happening at the

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headquarters. So, these three Members should be persons of integrity so that at least these funds should be utilized for intended purposes.

There is also a statement made by the Senator for Narok, He said “very soon some bellies will be pregnant of Covid-19 funds”. Actually this is how we should put it so that at least these funds should be used for intended purposes. Ministry of Health being an implementing agency, I know there are some challenges here and there in terms of PPE. From the assessments we did on the ground, personal protective gears are very inadequate and the county health department is doing a good job. I congratulate them. They are working tirelessly around the clock especially the surveillance team which is very active. The only challenge they have is in terms of remunerations and stipends. These guys need to be motivated and compensated for the work done. Actually the Treasury released around six million to the department three weeks ago but these funds have not reached frontline health providers; it went to middle men.

Governor formed task force especially at Sub County levels. The six million which was dispersed from the Treasury has not reached the health personnel. It went to the pocket of the task force which was appointed. I think we need to remunerate our health personnel with these funds because some are overworking while some are exposed to Covid-19. They need a better working environment with better PPE.

Thank you, very much.

The Speaker (Hon. M. A. Khalif): Honorable Abdi!

Hon. Abdi Hassan Ali (Malkamari): Thank you, Mr. Speaker. We thank Allah that today we are here to safeguard our role as Honorable Members of our beloved county. The regulation on Covid-19, as Honorable Members, is there Covid-19 in our county? The answer is yes because we are among the most affected counties in the Republic of Kenya.

The second question is, is the regulation contravening the Constitution or the Act? The answer is no because it is anchored in the Public Finance Management Act. With those few remarks, what is our role as Honorable Members? Our role is oversight. In over sighting this, I urge your office to appoint an Ad Hoc Committee to play the oversight role so that we represent the mass in ensuring that these funds are used for intended purpose.

With that, I support the Motion as it is.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Kula!

Hon. Kulow Alio (Rhamu): Thank you, Mr. Speaker. I rise also to follow suit with other Honorable Members in supporting the Motion before the House. First of all, I want to congratulate the county government, despite having no funds they have tried to at least control the menace in our county. We must start with a positive note by saying there was a regular briefing from the Governor at least enlightening people on what is happening in the county and that is actually moving in the right direction and we request the Governor to continue with the same because information is power.

Secondly, despite having no fund, they were able to do the testing because as I understand they are no planes and they have been having a lot of challenges as a county government but despite that they were able to test more than two hundred people and they managed to get eight positives. As I understand the eight positives are doing very well as per the briefing and we hope they will recover. I am also told that there were twenty-eight samples that

were sent yesterday or a day before and they are all negative. It is my hope and belief that we shall follow suit and like Kilifi be declared Covid-19 free.

One of the key challenges that we have seen as Health Committee, is the staffs' allowances. This is going to be a bad way of handling things if the staffs are not going to be paid their allowances. I know they were not paid because there were no regulations in place and if today we are going to pass this, we hope the staffs are going to be motivated and be paid their allowances. As Member representing Rhamu, our wards are suffering because of lack of this fund. The county government is not able to buy masks and the few they were able to buy is concentrated in only Mandera East. They are supposed to buy it and distribute it to the people of Rhamu. Isolation ward has been set up but there are no quarantine facilities for the people of Rhamu. One of the things that I noted is that they tried to mix the isolated and quarantined cases and it is a pathetic situation. We have a positive case in Rhamu already and we have risked the lives of those contacts. So, it is high time, once we release these funds, some of these challenges are going to be addressed once and for all.

As Honorable Member for Malkamari said, what is important as Honorable Members of this House is the oversight because we have given the department thirty million shillings in the supplementary budget and there might be some changes coming in this supplementary budget again and there might be some funds coming from the national government. If we do not do our role of oversight, this money might not go the right way. It is high time as Honorable Members in our individual capacity to make sure that this money is actually spent for the purpose it is meant for.

With that, I support the regulation.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Member for Kiliwehiri.

Hon. Bashir Ibrahim Alio (Kiliwehiri): Thank you, Mr. Speaker. I rise to support the regulation and since this pandemic has affected the whole world, it is high time as Members representing Mandera County that we pass this thing as quickly as possible.

Secondly, I want to take this opportunity to congratulate the department of health, they have done a good job, and Mandera County government for forming a task force. However, I would like to inform the Members that the task force is only concentrated in the six sub county headquarters. We would like them to take up isolation centers and quarantine areas in all the thirty wards. We should have facilities in all the thirty wards where we will have isolation and quarantine centers instead of only the six sub county headquarters. We are bordering three countries; Kenya, Ethiopia and Somalia. Nairobi County has closed its borders. Nobody is coming from Ethiopian Border to Mandera and Rhamu and Banisa. People from Somali are flocking into Mandera Town and there is high risk of Covid-19 coming from Somalia. I would like the security department through this House to initiate the mission of closing the Somali border except for goods; no person should be allowed into Kenya. Those bringing in goods to be tested because what is happening in Somalia is going to affect the people of Mandera. This House should pass a resolution that this porous border should be closed except for goods.

Thank you, Mr. Speaker.

The Speaker (Hon. M. A. Khalif): Honorable Issack!

Hon. Issack Dahir Abdi (Nominated): Thank you, Mr. Speaker. I also support the approval of subsidiary legislation on Covid-19. I want to thank Allah from saving us from this

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pandemic. When the first case was read, some of us were shocked but Alhamdulillah spiritual Quran reciters have done a good job and we need to thank them. To me there is nothing that the Ministry of Health has done to protect us from this disease. The spiritual Quran reciters have done a good job and since we know them those guys need to be supported by the government because they are doing a lot of work in terms of praying to Allah for us to be protected from this disease.

I am a member of budget Committee and we have invited the CEC for Finance before we brought the report to be read here today on Covid-19 supplementary budget. And one among the important things we discussed with him was about the aspect of Public Finance System. The requirement of Public Finance System in the Constitution of Kenya is to promote equitable society and when Honorable for Rhamu stood and said there is need for us to have an Ad Hoc Committee to do an oversight, beside approving this legislation, Mr. Speaker it matters because when you look at the object and purpose of this fund, this fund is meant to purchase essential supplies for public hospitals and other related institutions and front line workers like us. When I said equitable society, a mother in Derkhale has a right to get the share of the three hundred million which the county is ready to approve to fight this disease. If it is not possible to buy masks for them every time, it is important to provide one mask out of this budget to show that there is value for money approved to fight this disease in this county. We cannot only approve money to protect officers who are in the course of their duty,

Secondly, on food distribution, the issue of fund to support and provisioning of emergency relief is not enough. I think relief and masks should be issues that are supposed to be considered for the locals. Not everything is required by the locals but just masks, even if it is cheap ones. The mass distribution of relief and masks be done fairly in every ward. Because of that, I support and ask question to be put because reading the mood of the House, everyone is supporting.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Yusuf of Alungu.

Hon. Yussuf Maalim Dakane (Alungu Gof): Mr. Speaker, I rise to support this regulation. The regulation has come at the right time and unless we have this regulation as Honorable Members who have spoken before me said, we may not get funds from the donors and so many other places.

The Speaker (Hon. M. A. Khalif): Yes, Hon. Kula.

Hon. Kulow Alio (Rhamu): I request the Honorable Member for Alungu to remove the mask when he is speaking because looking at his body size and what is coming from his mouth, we are not getting any information. We cannot hear him properly.

The Speaker (Hon. M. A. Khalif): Order! I think it is a requirement that we put on masks. There is no way I can order him to remove. I will be contradicting my own guideline. I am hearing him very well. I do not know why you are not hearing him.

Hon. Yussuf Maalim Dakane (Alungu Gof): Mr. Speaker, Honorable Member for Rhamu normally says he is a doctor and he does not know what is required in terms of prevention. Therefore, he has to know the norms and the regulation of why we wear the masks. The regulation is based on Section 110, 138, 139 of the Public Finance Management Act of 2012 and we need to pass it. There is one thing, the money that is used is not the money of the county.

It is taxpayer's money and must be utilized very well and they must take masks and sanitizers to all wards. In terms of food distribution, they must take it equitably to all wards and sub counties.

With those remarks, I support.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Rafat of Khalalio.

Hon. Abdinoor Dakane Rafat (Khalalio): Thank you, Mr. Speaker, Sir. I stand to support the regulation. The issue of people normally saying, it is the assembly which is holding us back has now come to an end. On this issue, we are all together so that we can get this fund. As Honorable Shaban said, people will be pregnant with this fund. This is why we need an Ad Hoc Committee to make sure that these funds are used properly.

The Speaker (Hon. M. A. Khalif): Order! Order Honorable Yakub! No you are out of order. I have never made any ruling on the issue of--- Just proceed.

Hon. Abdinoor Dakane Rafat (Khalalio): Honorable Yakub does not want the Ad Hoc Committee to be formed. Mr. Speaker, Sir, when we go to the wards, some of the mothers are asking us why we are having masks and they do not have. We told them that the masks are coming soon and they said they really need it. For this committee to be there is an issue which is very important to make sure that these funds go to the right place.

With that, I support.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Adan.

Hon. Adan Maalim Abdullahi (Township): Thank you, Mr. Speaker. I rise in support of the Motion. As foresaid by many Members before me, it is very prudent and it is the responsibility of every Member of this House to see to it that this Motion sails through. However, I have got only two concerns that made me rise.

Mr. Speaker, the first is that this House is a House of Representatives and in this particular Motion before the House our main concern is supposed to be not only to pass the bill but the isolation and quarantine centers. One of the three main responsibilities that are conferred on us as Members is oversight. I request your chair to form an Ad Hoc Committee because as we stand right now Kenyans are on the neck of the Minister for Health, Treasury and his counterpart on the pilferage of the COVID-19 related funds. Mr. Speaker checking and over sighting the little fund that has been generated by the Manderians, government at both levels and other donors who will come in later on is the responsibility of this House, every penny of the fund incurred should be put in the use of the public.

Mr. Speaker, in my opinion, this fund is little and we cannot afford to create an isolation and quarantine centers in every ward. Alhamdulillah our cases are very few, like the member for Rhamu said we are calling to Allah to make this county COVID-19 free. That is the direction we are eyeing and therefore we should not relax because the pandemic can still recur because of the social behavior of the people of this region. We should not overspend and we should be very prudent in spending the little money that is raised. Therefore I urge the members not to demand so much out of this little fund raised. Let our quarantine be at the County Referral hospital because the member who were sighted in Wargadud and Rhamu were brought here; isolation centers are important. The issue of an Ad Hoc Committee is also an important concern from the various constituencies.

Secondly, the issue of the governor constituting a committee, the three persons should be persons of integrity who are known to Mandera people since it involves money.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Wariyo!

Hon. Ibrahim Ali Wariyo (Shimpir Fatuma): Thank you, Mr. Speaker. I rose to support the regulation before the House today. I support it because we know very well the problems that are there and the need of this fund. Actually this regulation is long overdue to address the situation. I also want to suggest one thing on the need for an Ad Hoc Committee. I heard very well the statement made by the Chair for Health that six million allocated for this programme went to people's pocket. That is not a statement to be taken lightly by this House.

Mr. Speaker, the health committee is an able committee but maybe they are overwhelmed and that is why you are seeing the Chairman saying it on the floor of the House when we are addressing this critical thing. As much as we are ready to address this situation what is also addressed by members is that this crisis is not there today but the fear is there. If we are going to push the government to go to the centers that have not been affected, which requires prevention and awareness, places like Mandera town, where we know that we have been overwhelmed and all severe cases have been brought here, we need to give them hand and we should not say we divide the resources between the 30 wards. I know the biggest problem today is in Mandera town. I am hearing our people are going to Belled Hawo to pray Taraweeh. This is very serious when we know that mosques have been closed in Mandera town. They are trying to pray there and come back here. That is disaster! We need to tell the government to create awareness and stop the public from crossing the border. As much as I support, I also request for the formation of an Ad Hoc Committee. Six million going to people's pocket, as the chair alleged, is a serious thing.

Thank you.

The Speaker (Hon. M. A. Khalif): Honorable Robow, I can see you are standing up before he finishes. Order Honorable Yakub!

Hon. Robow Mohamed (Lagsure): Thank you, Mr. Speaker for giving me the opportunity. I stand to support the regulation. However, what will remove this disease is not the funds but prayers as the former member for Rhamu said. This disaster is affecting the whole world. We pray to God that the creator of this disease should remove it from the world; our country and county.

Secondly, provision of resources will just be a supplement to what is going on because the problem that our community is facing today is lack of civic education. Yesterday, we drove from Nairobi to Mandera. If you pass the boundary of any county there are these gadgets that are being used to check your temperature, the names, Identity cards and everything. To my dissatisfaction, together with the member for Guba, we saw the CEC for education and his team who are in charge of Mandera west and Banisa somewhere in Qofole. From the Qofole boundary to Mandera we have not seen any person from the department of health trying to do what other counties are doing and the minority leader is my witness. The staffs are at the Sub counties but because the people are just moving; to be precise. The restriction that has been put is rare. However, I want the county government or department who are in charge to look at that issue very seriously.

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Thirdly, the national government wants to charge every penny of the Covid-19 response to the county government and I think the members have already seen. What we are seeing in the national government is just a PR. The little resources that we contribute from among the county or ourselves must be used prudently and accountability must be in place. In that regard, the issue of health committee should not arise but an Ad Hoc Committee must be formed to oversee this fund. We may not know the criteria the national government may use. Uhuru has directed 5 billion shillings to be channeled to the counties for Covid-19. We do not know whether we are beneficiaries or not. We must be accountable of the small money that we are responsible for.

Fourthly, you have seen the cries of the people who have been quarantined. People are arrested and put in quarantine and there is no food. People are paying from their pocket. We do not want the same to happen in Mandera because at one time we do not know how this crisis will go on and infections are increasing day by day around the world and our country. In that regard, we may not be free of the Covid-19 even if the people who tested negative are being moved or released from the quarantine. We must think beyond the 8 people or the people who have been quarantined.

Finally, yesterday the minister for health, Kagwe, released how the money was used. People are telling us they have used 70 million on communication, catering and other things. We do not know about the small money that we have because if all the staffs that we have stationed in different sub counties require logistics, fuel, and allowances and somebody was saying that six million shillings was released, even if you put one million shilling in each sub county, that is a very little amount of money.

Therefore, accountability is paramount, Ad Hoc Committee is paramount and must be formed. Above all, when we were in Takaba we prayed in small village called Billow in Qoqaye, the mosques were full and we prayed morning there and people were praying normally. People are not aware of what is going on. What we want is mass civic education on the issue of Covid-19.

I support.

The Speaker (Hon. M. A. Khalif): Honorable Jimale, the Leader of Minority.

Hon. Jimale Abdi (Guba): Thank you, Mr. Speaker. I rise to support the regulation. It is actually long overdue and it is something that was supposed to be passed long time ago. I take this opportunity to thank the committee on delegated legislation for taking their time very seriously for bringing the report in a very short time. This regulation will definitely help the people of this county. It is the world crisis and not confined to our county. As said by Honorable Robow there is a serious concern in our county. We have traveled through the counties. The measures that were put in place by other counties are no longer in existence in our county. People are gathering normally; praying in mosques normally and they are wondering at people wearing masks. We arrive at Qofole Mandera, we saw an AP officer with temperature machine, he is no health personnel, none of them have mask and they are just there pointing the temperature gun at you. We asked them why they are not wearing masks and they told us we have just heard mask but nobody has supplied us. We asked where the health personnel are and he said “sisi tumepewa tu hii”. So, there is a serious concern. Our people need sensitization. The Governor is doing his best at Mandera East compared to other counties but deep in our wards and sub counties nothing is going on. This is history to them and not diseases. It is the right time for us to wake up and make sure that people get complete awareness.

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Mr. Speaker, forming an Ad Hoc Committee is very essential and it must be done. I know the health committee is doing a good job but they are overwhelmed. They cannot go beyond Mandera East because cases are more in Mandera East. We must form an Ad Hoc Committee that will go round and create awareness. This is a serious disease. This morning when I was coming in some honorable members were telling me that I am from Nairobi and I should get out. I told them that the people of Mandera are at more risk than the people of Nairobi because of our border. We heard some people are crossing to Somalia praying Khutbah and Taraweeh. Someone was telling me this morning that they have detected some signs in Bulla Hawa. People have started coughing, fever, sneezing and that thing is now with us. So, instead of looking at Nairobi, this side is more risky. Let us not wait for goods from this side. Let us make sure that the border is closed completely.

I support.

Thank you.

The Speaker (Hon. M. A. Khalif): Thank you. Chairlady!

Hon. Nasra Hussein (Nominated): I request you to put the question.

The Speaker (Hon. M. A. Khalif): There is the issue of the Ad Hoc Committee and the procedure is very clear. It is the role of the leadership of this House to propose. I have no problem. So, you meet and agree on whether you require the committee. Propose the names so that we can debate in the afternoon. It is not the Speaker to initiate it. It has to come from the leaders of the parties.

On quarantine and isolation, these are two different things. Quarantine is for the people suspected or come from an area that are prone to this disease. Isolation is for the people who have actually been tested. It is good to have quarantine in sub counties because you cannot bring all the people to Mandera for quarantine. This might not be logistically possible. I have seen that there are centers established in all the sub counties. The only thing is now making it operational and we need to be careful. I agree with most members that resources are limited. If you go and rent commercial places all over, this money will just be finished on renting. It is good to use the existing government facilities. We have two national schools in Mandera East Sub County, Moi girls and Mandera secondary, we have Sheikh Ali and Rhamu Girls in Mandera North, we have El-wak boys secondary and El-wak girls in Mandera South and all over. So, the issue of renting buildings across will not enable us buy masks but will finish the money on rent. We need to look at that. Why should we have to rent when we have other facilities, how many people can we quarantine or isolate in Moi girls and Mandera Secondary. As the representatives of the people, you need to look at that. Do we really require hiring everything? First line staffs like health is fine, what about the people who have been isolated? They should be put in government facility like the national government is doing.

On the issue of the border, it is very critical issue and our people are not listening. We need to put them in quarantine. If somebody is put in quarantine they will to stop crossing.

I have no problem with the Ad Hoc Committee. I know the health committee is doing a good job and we have even allowed them to sit once every week and we are willing to facilitate them. But if you meet and agree on the Ad Hoc, I have no objection to that.

(Question put and agreed to)

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BILL

THE MANDERA COUNTY EMERGENCY FUND AND
DISASTER MANAGEMENT BILL, 2019

Second Reading

The Speaker (Hon. M. A. Khalif): Chairperson!

Hon. Alinoor Derow (Wargadud): Thank you, Mr. Speaker. I beg to move; -

THAT, The Mandera County Emergency Fund and Disaster Management Bill, 2019 be now read a Second Time

Finance and Economic Planning Committee being a Sectorial Committee draws its mandate from section 193(5) of the Mandera Standing Orders.

(a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;

(b) Study the program and policy objectives of departments and the effectiveness of the implementation;

(c) Study and review all county legislation referred to it;

(d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;

(e) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;

(f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointments); and

(g) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Members of the Committee include;-

- | | |
|---------------------------------|-------------|
| 1. Hon. Abdirahman Aliow Issack | Chairperson |
| 2. Hon. Mohamed Rashid Ali | V/Chair |
| 3. Hon. Hussein Adan Haji | Member |
| 4. Hon. Rahma Ibrahim Issack | Member |
| 5. Hon. Zamzam Abdullahi Ali | Member |
| 6. Hon. Alinoor Derow Abdullahi | Member |
| 7. Hon. Abdirashid Maalim | Member |
| 8. Hon. Saad Sheikh Ahmed | Member |
| 9. Hon. Jimale Abdi Hassan | Member |

On behalf of the Finance and Economic Planning Committee, I have the pleasure to present to the Assembly the Report on the Mandera County Emergency Fund and Disaster Management Bill, 2019.

I take this opportunity to sincerely thank the offices of the Speaker and the Clerk of Mandera County Assembly for the support given to the committee in carrying out its mandate.

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The committee also wishes to thank and appreciate the firm support of the Committee members for the successful completion and compilation of this report.

The committee also acknowledges the support of the members of staff of the County Assembly in compilation of the report.

Mr. Speaker, Sir, First Reading of the Mandera County Emergency Fund and Disaster Management Bill 2019 was done on 10th March 2020 and was committed to Finance and Economic Planning Committee on the same day in order to conduct public participation and take into account the views and recommendation of the public as per Standing Order 123(3).

Mr. Speaker, following the tabling of the Mandera County Emergency Fund and Disaster Management Bill, 2019 in the county Assembly and in accordance with the provisions of Article 196 (1) (b) of the Constitution of Kenya and Mandera County Assembly Standing Order 123 (3) which states; -

“The Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the county Assembly”.

Mr. Speaker, Section 110 of the Public Finance Management Act 2012 states that; -

(1) “A County Executive Committee may, with the approval of the county assembly, establish an emergency fund for the county government under the name “.....County Emergency Fund” and the fund shall consist of money from time to time appropriated by the county assembly to the Fund by an appropriation law”.

(2) The purpose of an emergency fund is to enable payment to be made in respect of a county when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises.

Mr. Speaker, Section 111 (1) of the PFM act 2012 further states that

“The County Executive Committee member for finance shall administer the county government Emergency Fund for the county government in accordance with a framework and criteria approved by the county assembly”.

The committee observed that disaster management requires legislative regulations on preparedness of disaster management, establishment of directorates, county disaster management plan and policy among many others. The committee in its wisdom noted that, it is important to separate legislation of emergency fund and disaster management to comply with the PFM act 2012 and other relevant laws.

Mr. Speaker, Sir, Mandera County experienced several disaster including continuous drought cycles, flooding, disease outbreak, locust invasion and the current threat of Covid-19 pandemic that has claimed many lives across the globe.

Mr. Speaker, Sir, on 30th April, 2020 the Clerk to the County Assembly placed an advertisement in the print media on standard newspaper requesting the members of the public and all other stakeholders to submit written memorandum on the bill to the office of the clerk through email address Clerk@ManderaAssembly.go.ke on or before noon 3rd May, 2020. No memorandum was received from the members of the public.

Public participation is necessary practice that is espoused in the law to receive and consider citizen input as per Article 196 and Section 87 of the County Government Act 2012. However, because of the threat of Covid-19 and in accordance with the presidential directive issued on 17th March, 2020 the committee was unable to undertake oral submission in regard to

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the public participation on the Mandera County Emergency Fund and Disaster Management Bill 2019.

Mr. Speaker, the committee resolved to seek views from the County Executive Committee Member (CECM) Finance and Economic Planning on the Mandera County Emergency Fund and Disaster Management Bill 2019. The County Executive Committee Member (CECM) responded on 30th April, 2020 and submitted his views as annexed to this report. Following the current threat of covid-19 and presidential directive of the 17th March, 2020 some of the committees were unable to attend the meeting as they were outside the county. Pursuant to the provision of Standing Order 175, the Majority Party Whip and the Minority Party Whip coopted the following members to the Finance and Economic Planning Committee on Thursday 30th April, 2020;

1. Hon. Mohamed Rashid Ali (Kutulo)
2. Hon. Ahmed Gabnan Ali (Waranqara)
3. Hon. Kulow Alio Guyo (Rhamu)
4. Hon. Shamsa Ibrahim (Nominated)

Committee Observation;

(1). The committee observed that there is need to separate Emergency Fund Bill and Disaster Management Bill into different legislations so as to comply with the provisions of section 110 to 117 of the Public Finance Management Act 2012.

(2). The committee observed that there is no legislation that exist currently to mitigate on occurrences of emergencies of disaster in the county despite the county experiencing numerous shocks and threat ranging from drought, floods, Livestock diseases, impacts of the climate, internal conflicts among many other unforeseen disasters.

(3). The committee observed that establishment of Emergency Fund Bill will enhance accountability of expenditure incurred towards cushioning threats to emergencies as the county treasury is obligated to submit financial statements to the auditor general in respect of payment of the fund for the year.

(4). The emergency fund will alleviate, help the suffering and hardship in the poor household to cope with the unforeseen calamities.

(5). The committee observed that the County Treasury has not provided any provision in the financial year 2019/2020 for emergency fund.

Committee recommendation;

(1). That this County Assembly approves the report of the Finance and Economic Planning Committee on the Mandera County Emergency Fund and Disaster Management Bill 2019 with amendments.

(2). The Committee recommends that there is need to fast track establishment of disaster management bill to cushion on prevention of disaster, reduction of risk and preparedness to deal with disaster.

(3). The committee recommended that the county shall allocate emergency fund every financial year in order to expedite on the mitigation of emergencies.

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With that, Mr. Speaker sir, I request honorable Kulow Alio of Rhamu ward to second me.
Thank you.

Hon. Kulow Alio (Rhamu): Thank you, Mr. Speaker. I stand to second the bill. Mr. Speaker, when we were thinking about the emergency fund seven-eight years down the line since devolution, this county government has never set money meant for emergencies because there was no emergency fund bill or law for that matter. So, this is one of the bills sponsored by honorable members of this House and they were two bills which were combined, the emergency fund and the disaster bill and we the committee felt in concurrence also with the County Executive Committee Member (CECM) of Finance and Economic Planning. What is of emergency at the moment is the establishment of this emergency fund and that disaster needs a more comprehensive research and tabling of the same bill at a later date. Because we already have an emergency with us that is covid-19, we have also been suffering of droughts, floods and many other diseases and the county has never set this emergency fund in its past financial years. So, we wanted this coming financial year as required by law that is Public Finance Management Act (PFM) that 2% of the budget should be set aside as an emergency fund and this has never been happening. We are hoping that it is going to happen this financial year.

Secondly, recently as spearheaded by the His Excellency the Governor and many other staffs, there were salary cuts, even there were personal contributions and that money cannot be used if there is no law in place. Therefore, our work was just to set and come up with this bill so that this money that is going to be donated is going to be deducted or accrued from other sources to be put in a specific kitty so that it can be used during emergencies. Regulations will come after this. This is a mother bill and regulations are normally extracted from this mother bill so that if it is Covid-19 we have a regulation for it, if it is any other disaster we shall have a regulation for it. Therefore, for this purpose we decided to come up with this bill and we need the honorable members to support.

I second the bill.

Thank you.

(Question proposed)

Hon. Mohamed Ibrahim (Guticha): Thank you, Mr. Speaker. As alluded by honorable Kulow, Member for Rhamu, I just want to give a glimpse of why we separated the two bills. Mr. Speaker, emergency fund is governed by Public Finance Management Act 2012 section 110 to 117 and even we have looked at other counties in this country and the emergency fund is a separate act from the Disaster Management Act. It is also the opinion of the county executive committee for finance that it should be a separate entity because it is governed by a different law. Mr. Speaker, the disaster management is a different entity itself. In this country we have disaster management authority that handles anything to do with disaster preparedness, disaster reduction, mitigation, post and pre disaster actions and for that reason Mr. Speaker, even if you refer to the controller of budget they will not allow the two acts to be merged and that is the reason why we felt there are two acts; the Disaster Management Act and then Mandera County Emergency Fund Act. We felt that what we need now as we speak is the Mandera County Emergency Fund Act and we deferred through an amendment that will be seen in the principle bill that disaster management will come at a later stage Mr. Speaker.

With that, I support the report.

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The Speaker (Hon. M. A. Khalif): Honorable Abass!

Hon. Abass Abdille (Nominated): Thank you, Mr. Speaker. The need to have emergency bill is necessitated by the many catastrophes in this county. According to the Public Finance Management Act, counties with established acts of emergencies are required to use 2% of the allocated budget for emergency and that one is only applicable if we have a law in place which today the county assembly is debating on. Mr. Speaker, the county government of Mandera mostly what they emphasize on during emergencies are only relief food for specific days and they do not make impact control and those things.

With that, I plead with members to support this bill so that the county can fight emergencies.

Thank you.

The Speaker (Hon. M. A. Khalif): It is like people have no much to debate and therefore I will put the question.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

The Speaker (Hon. M. A. Khalif) left the Chair

IN THE COMMITTEE

Chairperson (Hon. Farah Abdi) took the Chair

THE MANDERA COUNTY EMERGENCY FUND AND
DISASTER MANAGEMENT BILL, 2019

Chairperson (Hon. Farah Abdi): Honorable Members, we are now in the Committee of the Whole House and now we go to the Bill.

Clause 1,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): So, what is the amendment?

Hon. Alinoor Derow (Wargadud): Delete the words ‘Disaster Management’ appearing after the words ‘Emergency Fund.’

*(Question, that the words to be left out be left out
proposed)*

*(Question, that the words to be left out be left out
put and agreed to)*

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(The words deleted)

(Clause 1 as amended agreed to)

Clause 2,

Hon. Alinoor Derow (Wargadud): There is an amendment. ‘Delete the whole Clause’ and replace with the following new definitions;

1. Appropriations means funds provided for to pay for supply of services
2. County means the County Government of Mandera.
3. Assembly means Mandera County Assembly
4. Funds means the County Emergency Funds established under Section 4 of this Act.
5. County Executive Committee Member means the County Executive Committee Member for the time being responsible for matters relating to finance, and
6. Financial Year means the period of 12 months, ending the 30th day of June.

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Question, that the words to be inserted in place thereof be inserted proposed)

(Question, that the words to be inserted in place thereof be inserted put and agreed to)

(The words inserted)

(Clause 2, as amended, agreed to)

Clause 3,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Objective of the Act. ‘Delete 3 (a) (b) (c) (d) and (e) and insert the following paragraphs after 3 (f); -

- a) To give effects to Section 110 to 115 of Public Finance Management Act, No. 18 of 2012.

- b) To enable payments to be made in respect of the County when an urgent and under-foreseen need of expenditures arises of which there is no specific legislative authority.

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Question, that the words to be inserted in place thereof be inserted proposed)

(Question, that the words to be inserted in place thereof be inserted put and agreed to)

(The words inserted)

(Clause 3, as amended, agreed to)

Clauses 4, 5, 6, 7, 8, 9, 10 and 11,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): ‘Delete Clauses 4, 5, 6, 7, 8, 9, 10 and 11.’

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Clauses 4, 5, 6, 7, 8, 9, 10 and 11 deleted)

Chairperson (Hon. Farah Abdi): Hon. Yakub, refer to the report and follow it from there. Just go back to the report.

Hon. Yakub Hassan (Derkhale): We want us to follow a little bit so that we can make a good debate later. So it is very fast.

Part III: Clauses 12, 13, 14, 15, 16 and 17,

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Hon. Alinoor Derow (Wargadud): There is an amendment. ‘Delete Clauses 12, 13, 14, 15, 16 and 17.’

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Clauses 12, 13, 14, 15, 16 and 17 deleted)

Part iv; financial provisions,

Hon. Alinoor Derow (Wargadud): There is an amendment. Replace the heading of the part;

- a) “Financial provision” with a new heading as ‘Emergency Fund.’
- b) Delete the word ‘Management’ appearing in the Sub-heading before the word ‘Fund’

(Question, that the words to be inserted in place thereof be inserted proposed)

(Question, that the words to be inserted in place thereof be inserted put and agreed to)

(The words inserted)

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Part iv, as amended, agreed to)

Clause 18 (1),

Hon. Alinoor Derow (Wargadud): There is an amendment. Delete the clause completely and replace it with the following new clause, “there is established a fund to be known as the Mandera County Emergency Fund”.

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(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(Clause deleted)

(Question of the New Clause 8(1) proposed)

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New clause 18 (1) inserted)

Clause 18 (2),

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Amend by deleting the word ‘Disaster Management’ appearing after the word County, and replace it with the word ‘Emergency.’

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Question, that the words to be inserted in place thereof be inserted proposed)

(Question, that the words to be inserted in place thereof

be inserted put and agreed to)

(The words inserted)

(Clause 18 (2), as amended, agreed to)

Clause 18, (2) (a),

Hon. Alinoor Derow (Wargadud): There is an amendment. Amend by deleting the words ‘provide that such appropriation shall not exceed 2% of the County Revenue Allocated appearing after the word ‘Assembly.’

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Clause 18 (2) (a), as amended, agreed to)

(Clause 18 (b) agreed to)

(Clause 18 (c) agreed to)

(Clause 18 (d) agreed to)

(Clause 18 (3) (a) (b) (c) agreed to)

Clause 18 (4),

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Clause 18 (4) be deleted completely.

Hon. Yakub Hassan (Derkhale): We do not have quorum. This is a House of rules.

Chairperson (Hon. Farah Abdi): Confirm if we have quorum? Hon. Members, it is true that the House lacks quorum. I, therefore, direct the sergeant-at-arm to ring the bell.

(Quorum bell rang)

(Quorum obtained)

Chairperson (Hon. Farah Abdi): Order Members! We have quorum now. Let us come back to our business. Order Hon. Shaban Hassan and Hon. Mohamed of Guticha! Let us proceed.

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Clause 19,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): (a) Amend the sub heading of clause 19 by deleting the word “for disaster management” completely.

(b) Clause 19 is amended by inserting the word “emergency” in line two before the word ‘fund’.

(c) Clause 19 is further amended by deleting the word “for the purpose of carrying out the activities and programs set out in the plan” appearing in line two after the word ‘provision’.

Chairperson (Hon. Farah Abdi): Order honorable Members! Majority Leader, please get back to your seat. I think it is not allowed to do consultation as the Speaker directed earlier. Chair, proceed please.

(Questions for the amendments proposed)

(Questions for the amendments put and agreed to)

(Clause 19, as amended, agreed to)

Clause 20,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Clause 20 be deleted completely.

(Question, that clause 20 be deleted proposed)

(Question, that clause 20 be deleted put and agreed to)

(Clause 20 deleted)

Clause 21,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): (a) Clause 21 (1) is amended by deleting the word “committee” appearing in line two before the word ‘financial year’ and replace it with the word “County Executive Committee Member”.

(b) Clause 21 (1) is further amended by deleting completely the words ‘and expenditure of the directorate’ appearing in line two after the word revenue.

(c) Clause 21 (2) is deleted completely.

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(d) Clause 21 (3) is amended by deleting the word “committee” appearing in line one replacing with the word “county executive committee”.

(e) Clause 21 (4) is deleted completely.

(Question, that the words to be left out be left out proposed)

(Question, that the words to be left out be left out put and agreed to)

(The words deleted)

(Question, that the words to be inserted in place thereof be inserted proposed)

(Question, that the words to be inserted in place thereof be inserted put and agreed to)

(The words inserted)

(Clause 21, as amended, agreed to)

(Clause 22 agreed to)

Clause 23 (1) (2 a, b, c, d, e),

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Clause 23 (a) is amended by deleting the word---

Chairperson (Hon. Farah Abdi): Order! We are in Clause 23 (1) (2 a, b, c, d, e)

Hon. Alinoor Derow (Wargadud): No amendment.

(Clause 23 (1) (2 a, b, c, d and e) agreed to)

Clause 23 (f),

Hon. Alinoor Derow (Wargadud): There is an amendment.

Clause 23 (f) is amended by deleting the word “the legislation or the policy of the county relating to disaster Management” appearing in line one and two.

(Question, that the words to be left out be left out proposed)

*(Question, that the words to be left out be left out
put and agreed to)*

(The words deleted)

(Clause 23 (f), as amended, agreed to)

Clauses 24, 25 and 26,

Hon. Alinoor Derow (Wargadud): There is an amendment. Delete clauses 24, 25 and 26 completely.

*(Question, that the words to be left out be left out
proposed)*

*(Question, that the words to be left out be left out
put and agreed to)*

(Clauses 24, 25 and 26 deleted)

Clause 27,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Clause 27 is amended by deleting the word “directorate” appearing in line one after the word “the” and replacing it with the word “fund”.

*(Question, that the word to be left out be left out
proposed)*

*(Question, that the word to be left out be left out
put and agreed to)*

(The words deleted)

*(Question, that the word to be inserted in place thereof
be inserted proposed)*

*(Question, that the word to be inserted in place thereof
be inserted put and agreed to)*

(The words inserted)

(Clause 27, as amended, agreed to)

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Clauses 28, 29, 30, 31 and 32,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Delete clauses 28, 29, 30, 31 and 32 completely.

(Question, that the word to be left out be left out proposed)

(Question, that the word to be left out be left out put and agreed to)

(Clauses 28, 29, 30, 31 and 32 deleted)

Clauses 33, 34, 35, 36 and 37,

Hon. Alinoor Derow (Wargadud): There is an amendment.

Chairperson (Hon. Farah Abdi): Proceed.

Hon. Alinoor Derow (Wargadud): Delete clauses 33, 34, 35, 36 and 37 completely.

(Question, that the word to be left out be left out proposed)

(Question, that the word to be left out be left out put and agreed to)

(Clauses 33, 34, 35, 36 and 37 deleted)

New Clause A,

Hon. Alinoor Derow (Wargadud): I request the clerk to arrange the new clauses flow and harmony in the final document. The following new clauses were introduced; -

A) Office responsible for administering funds;

- (1) The County Executive Committee Member shall be responsible for administering the fund in accordance with this Act.
- (2) The County Executive Committee Member shall open and maintain a separate account into which all the money that was appropriated to that fund and received as grants or donation shall be paid.

(Question of the New Clause (A) proposed)

(New Clause read the First Time)

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(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New clause (A) inserted)

New Clause B,

Hon. Alinoor Derow (Wargadud): New Clause B: Power of the County Executive Committee Member.

- (1) The County Executive Member may make payment from the fund only if satisfied;
 - (a) If there is an urgent and unforeseen need for the expenditure for which there is no legislative authority.
 - (b) The event cannot be delayed until a later financial year without harming the general public interest.
 - (c) An event has caused a damage, loss, hardship or suffering to residents of the County or threatens to damage the environment and the event is limited to the County.
- (2) For the purpose of sub-section 1.
 - (a) There is an urgent and unforeseen need for expenditure if in the opinion of the County Executive Committee Member;
 - i) Payment cannot be delayed until the next financial year without harming the general public interest of the County.
 - ii) The payment is necessary to alleviate the damage, loss, hardship or suffering which maybe directly caused by the event; and
 - (b) Need for the expenditure is unforeseen and has not been provided for in an appropriation law made by the County Assembly for the current financial year.

(Question of the New Clause (B) proposed)

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read

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a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New clause (B) inserted)

New Clause C,

Hon. Alinoor Derow (Wargadud): New Clause C: Limitation of the powers of the County Executive Committee Member:

- (a) The County Executive Committee Member shall not, during a financial year, make a payment under section 6 if the payment exceeds 2% of the total revenue as shown in the County audited financial statement for the previous financial year.

(Question of the New Clause (C) proposed)

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New clause (C) inserted)

New Clause D,

Hon. Alinoor Derow (Wargadud): New Clause D: Accruals.

- a) All receipts, earnings, and accruals of the fund and the balance of the fund at the close of the financial year shall be retained by the fund for the purpose for which it is established subject to the fund balance not exceeding 2% of the revenues as shown in the County audited financial statement for the previous financial year.

(Question of the New Clause (D) proposed)

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(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New clause (D) inserted)

Chairperson (Hon. Farah Abdi): I think that is the end of the Bill.

Hon. Alinoor Derow (Wargadud): Mr. Chairman Sir, I beg to move; -

THAT the committee do report to the County Assembly its consideration of the Mandera County Emergency Fund and Disaster Management Bill, 2019 and its approval thereof with amendments.

(Question put and agreed to)

The House resumed

Chairperson (Hon. Farah Abdi) left the Chair

The Speaker (Hon. M. A. Khalif) took the Chair

REPORT AND THIRD READING

Hon. Farah Abdi (Libehia): Honorable Speaker, I beg to report that the committee of the whole County Assembly has considered the Mandera County Emergency Fund and Disaster Management Bill, 2019 and approved the same with amendments.

(Question Proposed)

(Question put and agreed to)

The Speaker (Hon. M. A. Khalif): Chair!

Hon. Alinoor Derow (Wargadud): Mr. Speaker, Sir, I beg to move: -

THAT the County Assembly doth agree with the committee in the said report.

Thank you.

(Question Proposed)

(Question put and agreed to)

Hon. Alinoor Derow (Wargadud): Mr. Speaker, I beg to move; -
THAT, the Mandera County Emergency Fund and Disaster Management Bill, 2019 be
now read a Third Time

(Question Proposed)

(Question put and agreed to)

*(The Bill was accordingly read
a Third Time and passed)*

ADJOURNMENT

The Speaker (Hon. M. A. Khalif): The House stands adjourn to the afternoon at 2:30
p.m.