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13/11/24

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON EDUCATION

REPORT ON:

THE BASIC EDUCATION (AMENDMENT) BILL, 2023
(National Assembly Bill No. 59 of 2023)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 NOV 2024	DAY: WED
TABLED BY:	DEPUTY MAJORITY PARTY WHIP HON. NAOMI WAQO, MP
CLERK-AT THE-TABLE:	MS. MERCI CHUMO

NAIROBI

NOVEMBER 2024



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LIST OF ABBREVIATIONS AND ACRONYMS

ANC	-	Amani National Congress
DAP-K	-	Democratic Action Party Kenya
IND	-	Independent
JP	-	Jubilee Party
KNCHR	-	Kenya National Commission on Human Rights
NACONEK	-	National Council for Nomadic Education in Kenya
ODM	-	Orange Democratic Movement

ANNEXURES

1. Report adoption Schedule
2. Minutes
3. Copy of the newspaper advertisement on public participation
4. Letter inviting stakeholders for meetings with the Committee
5. Stakeholder submissions

CHAIRPERSON'S FOREWORD

The Basic Education (Amendment) Bill 2024 sponsored by Hon. Mary Wamaua, MP was read a First Time on 6th December, 2023 and committed to the Departmental Committee on Education for consideration and reporting to the House, pursuant to Standing Order 127(1).

The object of the Bill is to amend the Basic Education act (Cap 211) to provide for the establishment of Sub-County Education Boards in every Sub-county.

Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), advertisements for request for submission were placed in the "Daily Nation" and the "Standard" newspapers on 9th December, 2023 inviting interested members of the public to submit any representations they may have on the Bill. The Committee did not receive representations and further sought views from stakeholders via letter dated 19th December, 2024.

The Committee further wrote letters to the Principal Secretary State Department for Basic Education, the Director General, Kenya Institute of Special Education, the Chief Executive Officer, Kenya Institute of Curriculum Development, the Chief Executive Officer, Kenya National Examinations Council, the Chief Executive Officer, National Council for Nomadic Education in Kenya (NACONEK) and the Chief Executive Officer, Katiba Institute which did not elicit responses.

Further, in considering the Bill the Committee held a total of three (3) meetings to receive and consider submissions.

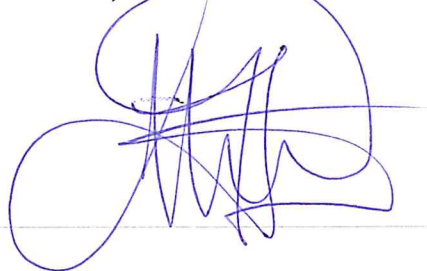
The Committee having considered the Bill clause by clause and having met with the Sponsor of the Bill made observations and recommendations contained in section 4.0 and 5.0 of this Report.

Acknowledgement

The Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

On behalf of the Committee, and pursuant to Standing Order 127(4), it is my pleasant duty to table the Report of the Departmental Committee on Education on its consideration of the Basic Education (Amendment) Bill 2024 sponsored by Hon. Mary Wamaua, MP

HON. JULIUS MELLY, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION



PART I

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Education was constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly Standing Orders. Pursuant to the Standing Order 216 (5) read together with the Second Schedule to the Standing Orders, the functions of the Committee are to: -
 - (i) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the Ministry of Education;*
 - (ii) *study the programme and policy objectives of Ministry and the Departments of the Ministry, and the effectiveness of the implementation;*
 - (iii) *study and review all legislation referred to it;*
 - (iv) *study, assess and analyze the relative success of the relevant Ministry as measured by the results obtained as compared with their stated objectives and,*
 - (v) *investigate and inquire into all matters relating to the as may be necessary, and as may be referred to the Committee by the House;*
 - (vi) *to vet and report on all appointments where the Constitution or any law requires the National Assembly and by extension, the Committee to approve;*
 - (vii) *make reports and recommendations relating to the functions of the relevant Ministry to the House as often as possible, including recommendation of proposed legislation;*
 - (viii) *make recommendations to the House as often as possible, including recommendation of proposes legislation;*
 - (ix) *consider reports of the relevant commissions and independent offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - (x) *examine any questions raised by Members on a matter within the mandate of the Committee.*

1.2 Subjects

2. The Committee, according to the Second Schedule of the Standing Orders, examines the following subjects:
 - i) Education;
 - ii) Training; and
 - iii) Research.
3. The Committee oversees the following government entities: -
 - (a) Ministry of Education comprising the following State Departments:
 - (i) State Department for Basic Education
 - (ii) State Department for Higher Education and Research
 - (iii) State Department for Technical, Vocational Education and Training
 - (b) The Teachers Service Commission.

1.3 Committee Membership

4. The Committee comprises of the following Members: -

1. Hon. Julius Kibiwott Melly, CBS, MP
Chairperson
Tinderet Constituency
UDA

2. Hon. Moses Malulu Injendi, MP
Vice Chairperson
Malava Constituency
ANC

3.Hon. Dr. Christine Ombaka, MP
Siaya County
ODM

10.Hon Julius Taitumu M'Anaiba, MP
Igembe North Constituency
UDA

4.Hon. Eve Akinyi Obara, MP
Kabondo Kasipul Constituency
ODM

11.Hon. Nabii Nabwera Daraja, MP
Lugari Constituency
ODM

5.Hon. Jerusha Mongina Momanyi, MP
Nyamira County
JP

12.Hon. Peter Ochieng Orero, MP
Kibra Constituency
ODM

6.Hon. Abdul Ebrahim Haro, MP
Mandera South Constituency
UDA

13.Hon. (Prof.) Phylis Jepkemoi Bartoo
Moiben Constituency
UDA

7.Hon. Anne Muratha, MP
Kiambu County
UDA

14.Hon. Rebecca Noonaiishi Tonkei, MP
Narok County
UDA

8.Hon. Clive Gisairo, MP
Kitutu Masaba, Constituency
ODM

15. Hon. Timothy Toroitich, MP
Marakwet West Constituency,
IND

9.Hon. Dick Oyugi Maungu, MP
Luanda Constituency
DAP-K

1.4 Committee Secretariat

5. The Committee secretariat comprise of: -

Mr. Mohamed Boru
First Clerk Assistant

Mr. Clive Onyancha
Clerk Assistant II

Mr. Eric Kanyi
Fiscal Analyst II

Ms. Fiona Wanjiru
Legal Counsel

Dr. Mburu Maina
Research Officer III

Mr. Jared Onyancha
Public Relations Officer III

Mr. Richard Sang
Serjeant-At-Arms

Mr. Nimrod Ochieng'
Audio Recording Officer

Ms Pauline Njuguna
Hansard Officer II

PART II

2.0 BACKGROUND

2.1 Introduction

6. The Bill proposes changes to the Basic Education Act, 2013 with the primary objective of establishing Sub-county Education Boards in each sub-county across Kenya. This amendment aims to decentralize educational oversight by creating localized boards that operate under the guidance of the County Education Boards. These Sub-county Education Boards will manage several essential functions, such as maintaining a data bank of all educational and training institutions in their respective sub-counties, assessing budgetary needs for local institutions, and recommending schools eligible for infrastructural development funding.
7. The creation of these boards is intended to enhance the responsiveness and efficiency of educational governance at a more localized level, aligning with broader national efforts to promote inclusivity and quality in education.
8. The Bill introduces a more structured approach to resource allocation and educational planning, with provisions for budget assessment and program development at the sub-county level. This localized focus is expected to support school infrastructure, institutional lunch programs, and other critical needs based on specific community requirements.
9. The Bill also emphasizes stakeholder collaboration, with provisions for input from various community representatives, including members of Parliament, the Teachers Service Commission, and Parents Teachers' Associations, to ensure diverse perspectives in decision-making. These changes mark a significant shift towards inclusive, community-driven educational governance, allowing each sub-county to address its unique challenges more effectively within the national framework.

2.2 Memorandum of Objects and Reasons for the Bill

10. The object of the Bill is to amend the Basic Education Act (Cap 211) to provide for the establishment of Sub-County Education Boards in every Sub-county.
11. The functions of the Sub-County Education Board shall include, the establishment of a data bank of all education and training institutions in the sub-county and assessment of the budgetary requirements of all education and training institutions in the sub-county and developing allocation programmes including programmes for allocation to institutional lunch programmes.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

9. The Bill delegates legislative powers to the Cabinet Secretary. It does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

10. The Bill concerns county governments in terms of Article 110(1) of the Constitution as it affects the functions of county governments as set out in the fourth schedule to the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

11. The enactment of the Bill shall occasion additional expenditure of public funds.

PART III

3.0 CONSIDERATION OF THE BILL BY THE COMMITTEE

3.1 Committal of the Bill

12. The Basic Education (Amendment) Bill 2024 sponsored by Hon. Mary Wamaua, MP, was read a First Time on 6th December, 2023 and committed to the Departmental Committee on Education for consideration and reporting to the House, pursuant to Standing Order 127(1).

3.2 Public Participation on the Bill

13. Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts for request for submission were placed in the “Daily Nation” and the “Standard” newspapers on 9th December, 2023 inviting interested members of the public to submit any representations they may have on the Bill. The Committee did not receive representations and further sought views from stakeholders via letter dated 19th December, 2024 letter REF. NA/DDC/EDUC/2023/ (181).

14. The Committee further wrote reminder letters to the Principal Secretary State Department for Basic Education, the Director General, Kenya Institute of Special Education, the Chief Executive Officer, Kenya Institute of Curriculum Development, the Chief Executive Officer, Kenya National Examinations Council, the Chief Executive Officer, National Council for Nomadic Education in Kenya (NACONEK) and the Chief Executive Officer, Katiba Institute which did not elicit responses. (letters dated 8th April, 2024 ref no. NA/DDC/EDUC/2024/ (24) and letter ref. no. NA/DDC/EDUC/2024/ (25).

15. In considering the Bill the Committee held a total of three (3) meetings to receive and consider submissions from the stakeholders.

3.3 Meeting with the Sponsor of the Bill

16. Hon. Mary Wamaua, M.P, the sponsor of the Basic Education (Amendment) Bill, 2023 appeared before the Committee on 17th October 2024 and submitted as follows:

17. The effect of this amendment is to provide for the establishment of Sub- County Education Boards in every sub-county.

18. The amendment provides for the functions of the Sub- County Education Board to include, the establishment of a data bank of all education and training institutions in the sub-county and assessment of the budgetary requirements of all education and training institutions in the sub-county. The Board will also be mandated to develop allocation programmes including programmes for allocation to institutional lunch programmes.

19. The Sub-County Education Board shall consult with the County Education Board in the performance its functions.

20. The amendment further provides for the composition of the Sub-county Education Board which shall consist of a Chairperson and six other members appointed by the Cabinet Secretary

PART V

5.0 COMMITTEE RECOMMENDATION

The Committee, having considered the Basic Education (Amendment) Bill, 2023 and the submissions from the sponsor of the Bill, recommends that the House approves the Bill with amendments contained in the Schedule of Amendments forming Part Six.

PART VI

6.0 SCHEDULE OF AMENDMENTS

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) by deleting the proposed new section 18A and substituting therefore the following paragraph—

There is established a Sub-County Education Board.

Justification

To safeguard the independence of the Sub-County Education Board.

- (b) by deleting the words “through an open and competitive process” immediately after the words “the Cabinet Secretary” in the proposed new section 18C (1).

Justification

The members constituting the board have standing offices and therefore appointment through an open and competitive process does not apply.

- (c) by deleting in the proposed new section 18C (2)(a).

Justification

A Member of Parliament provides oversight to the Board and can therefore not form part of its membership.

- (d) by deleting in the proposed new 18C (2)(f) and inserting the following new subclause—
two professionals with at least five years of experience based in the sub-county nominated by the Parents Teachers Association in the Sub-county.

Justification

This is to ensure the Sub-County Education Board benefits from knowledge and experience of professionals from various professional backgrounds.

- (e) in the proposed new 18C (2) by inserting the following new paragraph immediately after paragraph (f)—

(fa) two persons nominated by the dominant religious affiliations form the following bodies—

- (i) a joint forum of the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;
- (ii) the Kenya Episcopal Conference; or
- (iii) the Muslim Education Council.

Justification

This is to ensure representation of faith-based organizations in the membership of Sub-County Education Board.

(f) by deleting the proposed new section 18 E (1) and substituting therefore the following new sub-clause—

(1)A Sub-county Education Board shall hold such number of meetings at such places and at such times as the Sub-county Education Board shall consider necessary for the prosper discharge of its functions.

(2) Notwithstanding subsection (1) of the Sub-county Education Board shall meet not less than four times in each financial year.

(3) At least a seven-day notice shall be given prior to any meeting of the Sub-county Education Board.

Justification

To ensure provide for the independence of the Sub-county Education Board in the conduct of its business and provide for procedure on the same.

(g) Amend clause 18 F by deletion and inserting the following new sub-clause
The Sub-county Education Board shall pay its members such remuneration or allowances as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Justification

This is to facilitate a realistic system of remuneration for members serving in the Sub-County Education Board as the system of payment by the organizations they represent may encounter implementation challenges.

(h) by deleting in the proposed new section 18G.

Justification

The Sub-County Education Board has in its proposed membership, professionals with at least five years of experience nominated by the Parents Teachers Association in the Sub-county, who would therefore fulfil the need of any specializations required by Sub-County Education Board curing the need for co-opting further members.

SIGNED

DATE 12/11/2024

HON. JULIUS MELLY, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION

PAPERS LAID	
DATE: 13 NOV 2024	DAY:
TABLED BY:	MAJORITY PARTY WHIP HON. NIKOMI NAOO, MP
CLERK-AT THE TABLE:	Mrs. MERCY CHUMO.

ANNEX 1:

REPORT ADOPTION SCHEDULE

