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Impact assessment

# KNCCI Vihiga: enabling county revenue raising legislation

# Contents

1. BACKGROUND ........................................ 3
2. THE ISSUE ........................................ 3
3. ADVOCACY SUPPORT ........................................ 5
4. IMPACT ........................................ 10
5. VIHIGA COUNTRY REVENUE ANALYSIS ........................................ 13
6. LESSONS ........................................ 16

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# Impact assessment

# KNCCI Vihiga: Enabling county revenue raising legislation

## 1. Background

The Kenya National Chamber of Commerce and Industry (KNCCI) is a membership-based trade support institution working to protect commercial and industrial interests of the Kenyan business community. KNCCI advocates the creation of a favourable commercial, trade and investment environment that supports enterprise expansion. The membership of KNCCI constitutes micro and small enterprises (MSEs), medium and large enterprises.

KNCCI Vihiga County Chamber (Vihiga Chamber) is a Chapter of KNCCI and a business platform in Vihiga, whose mission is to represent, support and protect the interests of the business community in Vihiga. It does so by lobbying for a favourable environment for businesses in the county and works to promote Vihiga as a preferred national and international business and investment hub.

## 2. The Issue

### 2.1 The Constitution

Article 210 of the Constitution of Kenya, 2010[1] provides that "no tax or licensing fee may be imposed, waived or varied except as provided by legislation". Whilst there may be some argument about the nature of the required legislation, this has been interpreted as a requirement for counties to put in place enabling legislation before enacting annual County Finance Bills, which are generally perceived only to be able to vary rates of tax that are brought into being through other legislation.

### 2.2 The Commission on Revenue Allocation (CRA)

The Commission on Revenue Allocation (CRA) is mandated under Article 216 of the Constitution of Kenya, 2010 to make recommendations concerning the financing, and financial management, of county governments. Additionally, the Commission is required together with the National Treasury to make recommendations on the imposition of any new taxes, fees or charges by county governments under section 161 of the Public Finance Management Act, 2012[2]. Under the above constitutional and legal requirements, the Commission had been supporting county governments in the drafting of their annual Finance Bills under the provisions of the Public Finance Management Act.

The Commission had therefore worked closely with the Kenya Association of Manufacturers (KAM), the Kenya Law Reform Commission (KLRC) and the Council

[1] The Constitution of Kenya, 27 August 2010. Accessed from www.kenyalaw.org

[2] The Public Finance Management Act, 2012. (Special Issue of Kenya Gazette Supplement No 94 (Act No 18 of 2012, 27 August 2012). Accessed from www.kenyalaw.org

of Governors (CoG) since financial year 2014/15 to assist all 47 county governments in drafting the following laws:

- County Revenue Administration Bill;
- County Rating Bill (for property rates);
- County Trade Licensing Bill;
- County Agricultural Produce Cess Bill (for some county governments);
- County Public Participation Bill
- County Tariff Policy; and
- County Finance Bill.

## 2.3 Challenges posed

In July 2015, the CRA published a circular to county governments informing them that before the enactment of County Finance Bills which impose taxes, levies and fees, they were required to have enacted other revenue-raising laws to support the Finance Bill. All the laws drafted for the 47 counties were also posted on the CRA website[3] for counties to enact accordingly. Counties had ignored the circular issued by CRA and had chosen to continue enacting Finance Bills, albeit technically illegally, without the required supporting legislation. This was the case as Vihiga County enacted the Vihiga County Finance Act (VCFA), 2015[4]. Vihiga Chamber had raised concerns that the implementation of the VCFA, 2015 and any subsequent Finance Acts were illegal since the required supporting and enabling legislation has not been developed.

In addition, Vihiga County had failed to meet its revenue targets in the last four financial years, making it rely nearly entirely on national budgetary allocations[5]. Vihiga Chamber stated that the failure by the county to meet revenue targets was primarily due to loopholes in the collection systems, which allow potential payers to skip or collectors to divert the funds without being tracked. In addition, the challenge of inadequate funds to undertake inspection and monitoring of premises lead to a decrease in revenue.

The mandate to impose taxes and charges by the Vihiga county government was drawn from Article 209 of the Constitution of Kenya, 2010. They sought to raise revenue through:

- Property and Land Rates: Property rate is a tax based on the value of property (including land) and is usually assessed by a rating authority with help from a valuer. Land rent is charged on an annual basis and is collected on land owned by County Government in various markets and trading centres;
- Entertainment Taxes: This was to regulate public entertainment, including betting casinos and other forms of gambling, as well as cinemas and video shows, among other activities;
- Liquor licensing fees: The County Government sought to achieve revenue proceeds that come with the mandate to provide for the licensing and control

[3] https://www.crakenya.org/information/recommended-county-revenue-laws/

[4] The Vihiga County Finance Act, 2015. Special Issue of the Vihiga County Gazette Supplement No. 5 (Act No. 2, 28 November 2015.

[5] Vihiga County Budget Review and Outlook Paper (CBROP), September 2018. Accessed from www.vihiga.go.ke

of production, distribution, sale and consumption of alcoholics' drinks, as well as control of outdoor advertisements of alcoholic drinks.

- The Vihiga County regulators still referred to the *Mututho* regulations under the Alcoholic Drinks Control Act 2010[6] national regulations despite the presence of county laws. The Vihiga County Alcoholic Drinks Control Act[7] Liquor licensing was passed in 2014 but did not have supporting regulations;
- Fees from revised weights and measures as, the Weights and Measures Act, 2012[8] charges were outdated;
- Fees from the privately owned and operated transport sector operators;
- Agricultural produce cess: Cess is a levy on tradable agricultural produce imposed on the basis of the Agriculture Act, 2012[9]. The Act enabled Counties to enact laws requiring any person who buys or markets on behalf of a producer on which cess is payable and to remit the amount to the authority to whom the cess is payable.
- Charges for other county services provided e.g. through county health services; and
- Any other tax or charge that is authorised by an updated and revised Vihiga County Finance Bill.

## 3. Advocacy support

Vihiga Chamber received a BAF grant of KES 1.9 million to support them to advocate the enactment of suitable revenue-raising laws including a Rating Bill, a Trade Licensing Bill, a Public Participation Bill, a Tariff policy and the Finance Bill. This would ensure that Vihiga County's future Finance Acts comply with the Constitution.

In September 2016, Vihiga Chamber developed a policy position representing the business community with proposed amendments to the Vihiga County Finance Amendment Bill, 2016. They had the following views:

- The private sector coalition in Vihiga County should bring stakeholders who add value to economic vibrancy and including the players in the development agenda of the county can only impact the county positively;
- The county should speed up the process of drafting other revenue bills to be passed by the legislative arm of the county. Some of the revenue bills suggested to be fast-tracked were the County Trade Licensing Bill, County Rating Bill, County Public Participation Bill and County Tariff Policy; and
- The county should engage in dialogue with both arms of government that is Executive and Assembly, to ensure that the bills meet the minimum legislative requirement and proper input from most of the professional stakeholders in our County.

In November 2016, Vihiga Chamber, with financial support from BAF, contracted Dr Charles Oyaya of the International Development Institute – Africa (IDIA) to

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6 Alcoholic Drinks Control Act (No. 4 of 2010, commenced 22 November 2010, Last amended 2012). Accessed from www.kenyalaw.org

7 The Vihiga County Alcoholic Drinks Control Act, 2014 (County Gazette Supplement No. 7) Bill No. 4 of 2014, commenced October 2014). Accessed from www.kenyalaw.org

8 The Weights and Measures Act (Cap 513, 1987; Last amended 2012). Accessed from www.kenyalaw.org

9 Agriculture Act (Cap 318, 1963; Last amended 2012). Accessed from www.kenyalaw.org

facilitate the development of '*enabling revenue-raising legislation for Vihiga County*'. The purpose was to support Vihiga Chamber to engage the Vihiga County Assembly (VCA) and the County Executive Committee Members (CECM) to enact the revenue-raising related Bills to build an enabling business and revenue-raising environment for the county.

Vihiga Chamber incorporated their policy proposals for the next county budget cycle. This included a proposal to compel Vihiga County to undertake sufficient public participation in the development of the bills as well as for the development of an appropriate fees schedule for all businesses in the county. After that, there was a meeting with the Vihiga Chamber Board and the Clerk to the VCA in which the Board agreed on the roadmap and schedule of activities subject to the processes at both the Vihiga County Executive (VCE) and County Legislative Assembly (VCA). Vihiga Chamber developed three policy positions to inform and influence the County Government in enacting the proposed County revenue-raising Bills namely:

- The Vihiga County Trade Licence (Licensing) Bill 2016;
- The Vihiga County Revenue Administration Bill 2016; and
- The Vihiga County Rating (and Valuation) Bill 2016

With the concurrence of the Vihiga Chamber and the VCA, three other Bills, namely the County Finance Bill, the County Tariff policy and the County Public Participation Bill were dropped from those to be considered as two of these bills had already been passed by the Assembly in 2015. The County Tariff Policy was not available for consideration because a guidance policy document from the national government was not yet available. Due to lack of comprehension of the purpose of the revenue-raising legislation and the lack of interest by the VCE at the time, the VCA agreed on the need expeditiously to publish the draft Bills with the support of Vihiga Chamber as private members motions as the Executive had delayed bringing the Bills to the Assembly.

By the end of November 2016 at the Governor's round table, KAM Western Chapter together with Vihiga Chamber engaged Vihiga County Gubernatorial Candidates, Wilber Otichillo, Yusuf Chanzu and Josephat Amadi on key issues affecting the economic agenda of Vihiga County. The Vihiga Chamber CEO and KAM Western Chapter Officer noted that the basis of the engagements was to steer the political direction on the economic agenda of the county and also offer a platform for the business community to provide counsel on the economy, job creation, environment, security and food security among the key issues. Chamber Vihiga used the platform to lobby for the enactment of the enabling revenue-raising legislation.

Thereafter, Vihiga Chamber engaged the media to raise awareness and promote participation in the legislative process regarding the enactment of the three revenue bills. In January 2017, Vihiga Chamber held a press conference where they read out press statements to Citizen TV and radio stations (Vihiga FM, West FM and the Royal Media Group)[10]. In their media statement, they advertised their

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[10] Three media scripts that were read to the TV and radio stations and one video recording of the press conference held by Vihiga Chamber. Provided by Vihiga Chamber.

public participation fora that would elaborate on the process that had led to the development of the three bills.

Thereafter there was a general public participation forum held in January 2017, followed by a Vihiga Chamber team discussion that converged to compile inputs and views shared by the VCE and the general public into documents that were then shared on the floor of the House.

In February 2017, Vihiga Chamber submitted three critique documents, one for each bill. They met with leaders of the Trade and Finance Committees of the VCA and held a workshop with the Office of the Governor's advisers. Due to initial tension between the VCE and VCA on how to proceed with the bills, Vihiga Chamber met with the VCE for Trade and Finance five times and with the VCA Clerk eight times as they critiqued the bills and discussed the best way forward.

However, in the long run, the Vihiga Chamber Board Chairman, Board members and the CEO effectively provided input on ways to influence the County members when required.  After their intense lobbying the meeting between them and the Trade and Finance Committees of the VCA achieved the following:

- The Trade Licensing Bill was passed by the House on 8 February 2017 and assented by the Governor in February 2017 as the Vihiga Trade Licensing Act, 2017[11].
- The Rating and Valuation Bill was passed on 28 March 2017 and assented by the Governor in April 2017 as the Vihiga Rating Act, 2017[12].
- The Revenue Administration Regulations, 2018[13] are currently being reviewed to be anchored in the Vihiga County Revenue Administration Act, 2015[14].
- Additionally, the Public Participation bill is being developed.

### 3.1 Addressing the shortcomings of the Vihiga County Finance Bill, 2017

Since the Vihiga County Finance Act (VCFA), 2015 proposed the revenue tax collection areas of the County, Vihiga Chamber conducted a meeting with selected representatives of key business membership organisations (BMOs) in Vihiga County to critique the Vihiga County Finance Bill (VCFB), 2017[15]. They held a workshop with key representatives to develop a policy position paper. The issues addressed included:

- Lack of relevant information to justify the proposed tax and fee changes on the Single Business Permit (SBP) charges Schedule of the VCFB, 2017 e.g.
  - The 12 per cent penalty fee of outstanding arrears proposed on late payment of Land Rates and Plot rental charges mentioned within the Bill;
  - The Weights and Measures Act reference was to be specific to Vihiga County business community traders and to allow the County Government to perform its functions under the constitution to inspect, license and regulate the use of weights and measures;

[11] Vihiga County Trade Licensing Act, 15 March 2017. Accessed from www.vihiga.go.ke
[12] Vihiga County Rating Act, 24 May 2017. Accessed from www.vihiga.go.ke
[13] Vihiga County Revenue Administration Act, Regulations, 2018, Accessed from www.vihiga.go.ke
[14] Vihiga County Revenue Administration Act, 2015. Vihiga County Act No 3 in the Vihiga County Gazette Supplement No. 7. Accessed from www. www.vihiga.go.ke
[15] Vihiga County Finance Bill, 2017, Accessed from www.vihiga.go.ke on 10 April 2019

    - Re-categorise the *Mama Mboga* (small trader of fruits and vegetables) to the informal trader (brim code 220 or 295) to reduce the high taxes being imposed on agricultural products that they sell; and
    - The Vihiga County health department had set out charges for items that, nationally, are free of charge.
- Unconstitutionality of the Bill: Article 196 (1) of the Constitution of Kenya (b) states "A county assembly shall facilitate public participation and involvement in the legislative…." Article 210 (1) states "No tax or licensing fee may be imposed, waived or varied as provided by legislation". The Public Finance Management Act 2012 Section 125 (2) states "The County Executive Committee member for finance shall ensure that there is public participation in the budget process". There was a need for all stakeholders to deliberate on regulatory requirements for the sustainability of the sector under the devolved government system. The time given by both the County Executive and County Assembly for stakeholder input was insufficient given that the documents were not readily available in the Executive or Assembly websites.
- Impracticability and expense of collection: The method, collection sites or officers to administer the taxes were not clear within the VCFB, 2017. That was why Vihiga Chamber continued to stress the point that specific revenue bills be developed to give more guidance. A conducive business environment needed to be predictable for planning. This meant that in the event the bill was passed it was essential to have all the schedules of a revenue collection areas spelt out. For example, it was imperative to explain to a Vihiga resident what the charges were under the Weights and Measures Act that were specific to Vihiga County.
- Corruption and bribery: The general penalty suggested in the Bill opened up loopholes that could be manipulated for even more bribes and corruption. The different revenue bills would specify the different penalties that are commensurate to the fees and charges prescribed in that sector or department. In addition, there was a need to specify time frames of paying the different county taxes and the penalties which could only be clearly spelt out in the different revenue bills.
- Unintended consequences: The proposed new fees under the single business permit would increase some charges. This would lead either to the county losing revenue or to investors closing businesses. Ultimately, consumers would incur an increased price for goods and services and thereby an increased cost of living. This would encourage most residents to go to neighbouring counties for products and services.

## 3.2 Steps that were taken

The business community was taken through the Vihiga County Finance Act 2015 through workshops by the Chamber Vihiga which enabled them to understand the areas they fall under, that is the different act codes that define their businesses and the amounts to be charged. This went a long way to ensuring that the proposed amendments in the Vihiga County Finance Bill, 2017 captured the views of the Business Community as well.

Vihiga Chamber also took the VCA members through the steps of understanding:

- What a Finance Bill is; and

- The need for the specific legislation.

Chamber wanted to introduce the bills through the County Executive. They had meetings with the Governor and the Cabinet. However, they did not understand why they needed to pass the bill through them. Vihiga Chamber used their influence by reaching out to their friendly members at the assembly and introduce them as private members bills.

However, the County Executive was supposed to lead the effort in the amendments to the Vihiga County Finance Bill, 2017. If that were left to the legislature, it would have been prone to have more amendments as it does not have the best interests of the County Executive. This was evidenced by the fact that there was no Finance Bill tabled in 2016. Additionally, if the finance bill was too technical, it would have been long and difficult to explain to members of the public, especially during the public participation phase. Chamber had raised the same objection and had presented a memorandum on it[16].

In the public participation process, about 3,000 residents of Vihiga County signed memos asking for changes in the Vihiga County Finance Bill, 2018 because of those increases in levies. However, the current Vihiga County Governor, Wilbur Ottichilo, urged the citizens of Vihiga County to comply with the set taxes since revenue collection helps in the implementation of development programmes. The current County Speaker, Huzna Mudeizi, assured the people of Vihiga County that both wings, the Executive and the Assembly, are working together for the sake of bringing up development in the county.

Chamber was also keen to ensure that they were not letting members of the County Assembly politically influence what needed to be increased or reduced within the bills. The County Executive took about two months to table it at Cabinet level. However, through the County Assembly, they managed to have it completed in a couple of weeks. It was tabled, taken for public participation and assented to in less than a month. The Vihiga County Finance Act, 2018[17] was passed and assented to by the Governor in October 2018 and is currently being implemented by the County Executive.

A significant policy win was the inclusion of well-defined tax waiver variations for persons living with disabilities and in possession of a certificate of disability. They shall pay 60 per cent of the respective taxes, fees and charges in all the schedules in the 2018 County Finance Act. Although the waiver was highlighted in the Vihiga County Finance Act, 2017, there was no definition of the amount nor the proportion to be waived.

There were either no changes or minor changes to some taxes, fees and charges in some schedules compared to the Vihiga County Finance Act, 2017.

[16] Submission of views from Vihiga Chamber over the budget documents. 18 April 2017. Accessed from www.vihigachamber.com

[17] Vihiga County Act No 4 in the Special Issue of the Kenya Gazette Supplement No. 10. Accessed from www.vihiga.go.ke

# 4. Impact

## 4.1 Impact on the Business Community

Several changes and benefits have been seen from the policy wins that arose from Vihiga Chamber's advocacy. The Chamber, based on their internal structure, assisted various members with their issues that either directly or indirectly affected their businesses by the revenue-raising legislation above.

Some of the benefits that the Vihiga Chamber has seen in the business community are:

### 4.1.1 Updated single business permit

There is an updated single business permit (SBP) fees schedule as agreed by key stakeholders of the Vihiga businesses community. As a result, more Vihiga business community members are paying less.

Derick Luvega, of the Business Daily, conducted a survey which indicated that Vihiga traders secured a KES 500 cut on annual permits. The Vihiga County government has scrapped additional renewal charges on business licences, giving traders operating on single permits some reprieve. This means that single business permit holders will no longer pay the KES 500 annual fee when renewing. The traders will instead pay the fees for single business permits, which vary according to place and type of trade.

The current Vihiga County Executive Committee Member (CECM) for Trade, Geoffrey Vukaya (previously CEO of Vihiga Chamber and at the chamber at the start of this advocacy project), said the decision to stop the annual renewal charges was made in line with the Vihiga County Trade Licensing Act, 2017 and the Vihiga County Finance Act, 2017. He mentioned that this decision was reached during a meeting with the Vihiga Chamber leaders and the County Government Revenue officials. This means that only new applicants will be required to pay an application fee.

Some of the other reduced charges are:

- Traders in the county are charged between KES 2,000 and KES 30,000 as an annual fee are to acquire a single business permit depending on the nature of their business.
- Bus/*Matatu* daily rates were changed to monthly and annual licenses (for accountability); The County had revenue discussions with the Bus/*Matatu* Savings and Credit Cooperative Organisation (SACCO) regarding the monthly levies. The introduction of periodic licences for transport operators, i.e. the Bus/*Matatu* Monthly Sticker for KES 5,000 which is a new inclusion in the VCFA, 2018 that was not there in the VCFA, 2015.
- Bus/*Matatu* fees went down from KES 50,000 to KES 15,000.

### 4.1.2 Predictable charges

The Vihiga County businesses benefited as the payable charges became predictable. This means that the small scale traders and other small to medium-sized businesses can now plan and budget for the fees and levies that have been reduced and thus more affordable.

#### 4.1.3 Improved public-private dialogue

The Chamber encouraged dialogue as opposed to activism among its members. This has ensured a healthy working relationship with the Vihiga County Government and its members, e.g. Vihiga Chamber helped avoid a planned strike by motorcycle/*boda-boda* operators due to the enforcement of the traffic rules.

They mobilised all the officials and took them to the commission to aid their concerns and got media coverage. They quelled the demo which would have brought chaos to the other business community members in the sub-counties due to the disruption of transport services as well as obstruction.

#### 4.1.4 Youth and women involvement and empowerment

Chamber Vihiga assisted the county government launch and deliver their County Youth Policy draft in September 2018[18].

Kelvin Keya, the Vihiga County Youth representative, showcased the difference KNCCI Vihiga Chapter made for the youth in the area. He stated said that the Chapter had been actively representing youth issues especially in reduced rates for youth-led initiatives since August 2017.

Kelvin estimated that approximately 140 youths have benefited directly by the revenue-raising changes above and close to another thousand indirectly. Chamber has ensured representation in policy development and Vihiga County board appointments. So far there are three youth representatives in the Vihiga Government boards including the County budget board.

#### 4.1.5 Improvement of the efficiency of county services

The Vihiga business community was calling for more automation of services. Vihiga Chamber was rooting for the automation of Vihiga County operations to plug the revenue leakage loopholes. Chamber lobbied for such a system as it would prevent usual losses associated with the manual collection methods. They suggested an approach whereby traders would directly bank the money and provide bank slips where they will be issued with electronic tax register (ETR) receipts to claim for their taxes which would mean that revenue collection staff would not handle hard cash.

The Governor mentioned that the County was working on modalities of having revenue collection automated to ease the whole exercise and also beef up collection. Vihiga Chamber influenced the Vihiga County Finance and Treasury departments to set up and enforce the use of electronic revenue collections services. Thereafter, in October 2018, the county advertised for the provision of consultancy services for the implementation of an integrated county E-services and automated revenue collection system. Vihiga Chamber applied to do the revenue collection via a competitive bidding process for the entire business community on behalf of the county with a proposed five per cent success fee provided for self-regulation. Through that process, they would be able to generate additional revenue via the fee which will aid to increase their membership within the business community and enable them to be more sustainable.

[18] Vihiga County draft Youth Policy, September 2018. Accessed from www.vihiga.go.ke

The initiation of the cashless automated system on revenue collection is as a result of the enabling legislation and their implementations. The Vihiga County set up PayBill numbers to make payments for fees and charges as opposed to cash payments where accountability can be enforced. After the policy wins, the Vihiga Chamber has had consultations with the county government of Vihiga. Vihiga Chamber then advised the business community to use the assigned county MPESA PayBill number and the county Kenya Commercial Bank account to pay for their licences. Members can now pay rates, tariffs and charges at their convenience. This was aimed at minimising cash handling by county employees. Collectors were advised not to continue handling cash where the two modes of payment can be used. This not only minimised corruption but also ensured that the Chamber gets revenue.

Overall as a result of these changes, there was less resistance from the business community than in previous years. This also enabled the county to reduce administrative costs by reducing the number of revenue collectors and enforcement officers. This mode of revenue collection is expected to expand the County revenue base, increase surveillance of revenue collection to minimise revenue loss, boost efficiency and ensure compliance.

#### 4.1.6 Other benefits:

- Coordination of Chamber members in the public participation of Vihiga County policy and bills.
- Sensitisation of Vihiga issues and how the current legislation affects them.

In addition, it will improve the ease of doing business within the county thus attracting more investments to Vihiga County. This interaction between the business community and the county government will ensure more revenue is generated and service delivery is upheld. This will, in turn, ensure that Vihiga County achieves some of the Vision 2030 goals towards making it a preferred destination for investments.

### 4.2 Impact on the Vihiga County Government

The government specifically benefited from:

- The former Vihiga Chamber CEO was appointed as the County Executive of Trade of Vihiga County.
- Having one source of feedback to represent the issues of the Vihiga business community. Vihiga Chamber presented a policy position paper for the County Integrated Development Plan whereby all their views and recommendations for the Vihiga County in developing the Second County Integrated Development Plan (CIDP) 2018 – 2022[19].
- Steady and relatively predictable revenue collection in the County. Additionally, the electronic revenue collection system provides an up-to-date database of traders.
- There is an up to date valuation of all county properties. Valuation and rating advertisements were done to get the qualified persons to undertake the

[19] Vihiga County Integrated Development Plan, 2018 – 2022 (First published 2018). Accessed from www.vihiga.go.ke

exercise. When the valuation exercise is complete, it will increase rates paid to the county government.

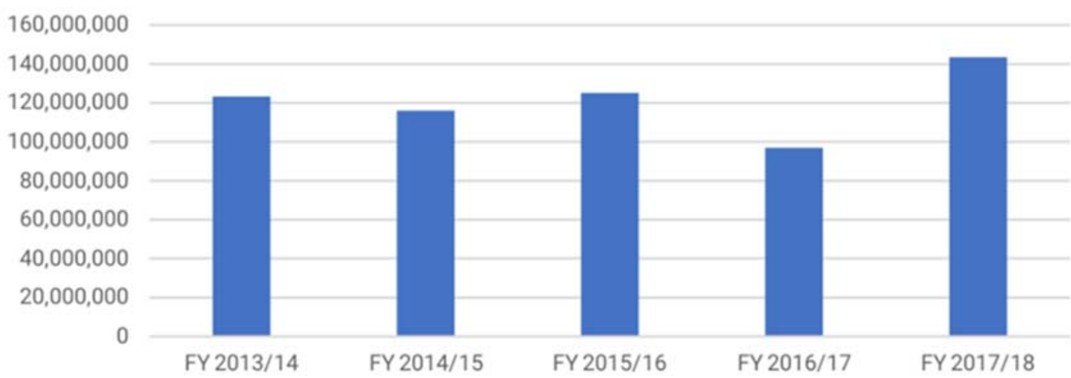
- There is reduced friction between the enforcement of the revenue collection and the business community. Compliance levels by the business community have gone up, e.g. the Matatu SACCOs are 100 per cent compliant as of the end of 2018. This has resulted in increased compliance by the business community which has ultimately led to increased revenue collection for the County Government while also reducing the administrative costs of revenue collection.

### 4.2.1 Vihiga revenue analysis

The county's own source revenue (OSR) has tended to be a little volatile but the trend is up and reached KES 144 million in 2017/18. The drop in 2016/17 was due to the lack of regulations to enforce properly the revenue collection. There was also an over-complicated regulation (VCFA, 2015) and high tax and thus more evasion and avoidance.

Vihiga Chamber links the rise in the OSR to the simplification brought about by their efforts. In addition, the actualization of the Revenue Administration Act, 2015 which created sub-county revenue offices. Revenue officers were deployed to all the five Vihiga sub-counties who supervised and monitored collection from all the revenue streams.

**Figure 1: Yearly trend in own-source revenue**




*Source:* Vihiga County Budget Reviews, *2013/14 to 2017/18*[20]

Chamber Vihiga is ensuring that a conducive business environment is leading to the county being perceived to be a preferred business destination.

The Vihiga County Governor continues to work with the Chamber to find ways of boosting their revenue. An increase in revenue would provide more allocation in the county budget to allow for increased services. Since the 2017 Finance bill has now been passed into an Act, the revenue collectors are going through an induction process to educate them on the changes.

For example, in the 2019 County Fiscal Strategy[21] Paper, the total own-source revenue generated in the first half of FY 2018/19 amounted to KES 63 Million which was an increase in the collection from KES 42 million representing 50 per

[20] Vihiga County Budget Review, September 2018. Accessed from www.vihiga.go.ke
[21] Vihiga County Fiscal Strategy Paper, February 2019. Accessed from www.vihiga.go.ke

cent bump. In the report, this is attributed to Vihiga change of policy especially in the collection of PSV parking fees from KES 50 per entry to KES 3,000 per month.

In a July 2019 newspaper article,[22] Vihiga Chamber takes credit for this boost in county revenues as the businesses partnered with them to draft and enact the revenue-raising legislation.

Some of the results and potential impact from the other sources of revenue-raising legislation due to the lobbying process spearheaded by Vihiga Chamber include:

#### 4.2.2 Property and land rates

Vihiga County Government has not been able to optimize land rent. There is a lack of clarity concerning the collection of land rent and management of County land rented to the people. The County Government has enacted the Property Rating and Valuation legislation but valuation rolls have not been prepared nor updated.

Additionally, Vihiga County Government has not received contribution in lieu of rates (CILOR) payments from the national government. This can be attributed to lack of up-to-date valuation rolls and legislation to support imposition of property rates. Secondly, administrative guidelines on post-devolution CILOR claims processes have not been clarified.

#### 4.2.3 Entertainment taxes

Administration of entertainment taxes by the county has not been actualized to date, hence the county is losing revenue on this source.

#### 4.2.4 Alcoholic drinks licensing

Chamber Vihiga ensured that the county developed the Vihiga County Alcoholic Drinks Control (Licensing) Regulations, 2018[23] so that the charges are county-owned and not national government-owned. The regulations are now conferred by the exercise of the powers of the Vihiga County Alcoholic Drinks Control Act, 2018.

The Vihiga County Executive incorporated these regulations into the Vihiga County Finance Act, 2018 which allowed them to standardize alcoholic drinks licencing fees which will add future additional revenue to the county government.

#### 4.2.5 Weights and Measures fees devolution

Through discussions and dialogue with the National Weights and Measures Director, Chamber Vihiga argued for the need to localise the National Act to a county level for several reasons:

- Accessibility: The local vendors, e.g. the Mama *Mboga* cannot access the national law; she needs it at the county level for ease of reference.
- Reduction of the county administration costs: Currently every year the local authority advertises and gazettes their weights and measures inspections. Chamber, however, argued that to collect any revenue, weight stamps,

[22] Luvega, D. (2019 Jul 23) Chamber takes credit for boost in revenues, Daily Nation. Retrieved from www.mobile.nation.co.ke.

[23] Vihiga County Alcoholic Drinks Control, Regulations, 2018, Accessed from www.vihiga.go.ke

through the regulations and the county can gazette it once and they will eliminate the costs of gazetting it yearly which is now the case since this is at the county level. This would lead to reduced expenditure each financial year.

- Asset request validation: The County would be able to have a budgetary for allocation to purchase a vehicle for that directorate which would allow for ease of operations by the County Executive Committee Member for Public Service and Administration.

In 2018, Chamber Vihiga introduced the fees and charges for weights and measures under the Vihiga County Weights and Measure Bill, 2018 to remove this ambiguity of referring to the national Weights and Measures Act, 2012. This established a legal framework and develops structures of operation to provide a mechanism for the imposition of specific fees and charges for weights and measures related activities. Also, it allowed for the incorporation of the weights and measures rates into the Vihiga County Finance Act, 2018 guided by the Weights and Measures Bill which will enable them to collect additional future revenue. Vihiga was the first county to domesticate a county Weights and Measures bill which was tabled in November 2018 with the first reading in January 2019.

#### 4.2.6 Changes in the Transport Sector

One of the business members of Vihiga Chamber is the transport operators which include the *Matatus* (buses, minibuses and vans), motorcycles (*boda-boda),* bicycles and the tricycle (*Tuk-tuk)* operators in the county. Chamber Vihiga spearheaded the drafting of the Vihiga County *Boda-Boda* policy[24] in early 2018 which was not only a first in Kenya but in many African countries.

Vihiga County has a draft *boda-boda* policy for the County Government of Vihiga, 2018 that has been approved by the riders since they are directly in touch with the county administration. Moreover, the *boda-boda* community has a good working relationship with the county including revenue collection. They collect the revenue amongst themselves (self-regulation) and bank it directly to their account using the County PayBill, and in return, the county provides them with 5per cent of the revenue collected. This also gives the county revenue administration department the ability to handle the implementation of the current traffic law enforcement with the help of the traffic police. *Boda-boda* operators reach out to county officials to assist them in obtaining their motorbikes back after being impounded. The unity between *boda-boda* operators and the county government provides them with an avenue to be heard as they were often harassed. It also gives them a sense of identity and being offered a chance to interact with the government.

The Vihiga Chamber has represented issues related to *boda-boda* operators to the County government. They usually hold monthly meetings with the County government where they raise issues affecting the industry. Additionally, the industry is now self-regulating courtesy of the Chairman for Vihiga chapter. Previously the operators did not pay their taxes to the former County government because of corruption but are now not only paying but always on time after

[24] Vihiga County draft *boda-boda* Policy, September 2018. Accessed from www.vihiga.go.ke

Chamber Vihiga assisted in resolving those issues as there is increased transparency.

Vihiga has not raised the *boda-boda* operator licence fees from the municipal council charges. In general, the county has recorded over 90 per cent compliance for revenue collection from the general business community. *Boda-boda* operators had not been paying their levies for the last five years however they are now fully compliant.

#### 4.2.7 Agricultural cess

The Department of Agriculture at the Vihiga County Government is yet to develop and enact legislation on how to collect tea cess (from Mudete Tea Factory). This was collected in 2016/17 but not from 2017/18.

#### 4.2.8 County health service fees

The seventh schedule of the VCFA, 2018 allows Vihiga County to collect revenue on all food and drugs permit and public health services, as well as livestock and veterinary services fees. There were no significant changes between the 2017 and 2018 Finance Acts.

There was an increase in revenue collection from health care services in 2017/18 as compared to 2016/17. The Trade CECM stated that this was because of fewer strikes experienced during this period of nurses and doctors as compared to 2016/17 FY.

#### 4.2.9 Advocacy

Chamber is now dividing its members into sectors that represent groups of members to advocate more effectively for their unique issues. For example:

- They are preparing to lobby for a reduction of fees for MPESA shops from KES 15,000 annual fee;
- On entertainment taxes: dealing with the issue of multiple licencing for entertainment venue owners i.e. the single business permit, liquor licence, and the Music Copyright Society of Kenya (MCSK) licence;
- Enhance liquor licensing and SBP issuance by undertaking thorough market checks;
- Put in place a *boda-boda* policy that will encourage *boda-boda* operators to pay the approved monthly fee; and
- Assist the county in the streamlining of the Livestock and Tea Cess legislation.

Chamber will also continue to assist Vihiga County as they develop their legislation to increase their Own Source Revenue targets.

## 5. Lessons

The value-added services to the Vihiga Chamber members over the years has aided their membership drive and led to an increase in the members at the Chamber, e.g. inclusion of micro and small-scale traders at Luanda market. The Vihiga Chamber Chairman stated that their membership has grown over the last five years from 80 members in 2016 to approximately 300 members in early 2018. Due to the smooth relationship that the Vihiga Chamber has with the County

Government of Vihiga, the Chairman expects its members to grow to over 1,000 by the end of 2020.

The key lessons for Vihiga Chamber are:

- It is vital to have a clear understanding of all business-related bills and present the members' views via a policy position paper to lobby effectively.
- The use of strategic techniques throughout their advocacy process is critical. During the election period, Chamber Vihiga presented their issues to aspiring political candidates at the time, who campaigned on how they would resolve such issues.
- Dialogue is always preferable to activism. The County Government, both Executive and Assembly, have embraced dialogue and focus group meetings to deliberate on the key bills affecting the County with the support of the Chamber. It is prudent to negotiate available options to achieve and retain the policy change.
- Working together with like-minded BMOs towards a similar goal helps with establishing new rapports with influential stakeholders in government, e.g. when Vihiga Chamber worked with KAM – Nyanza to present their issues to the gubernatorial candidates. Chamber Vihiga plans to use the Chamber HQ Memorandum of Understanding with the Council of Governors to follow up on their issues.
- The Vihiga County Executive and the Vihiga County Assembly need guidance in the devolution of national regulation to county regulation. They have little understanding of laws affecting members and, in most cases, 'copy and paste' national regulation without adaptation to the county which may be a detriment to the business community.
- Vihiga Chamber has made good use of the media[25] and believes that it may have been a factor in their success especially in the reaching out of their members for public participation of bills. They understood that if the business community are taken through the revenue-raising legislation such that they understand where the areas they fall under (i.e. the different act codes that define their businesses and the amounts to be charged), this will go a long way in ensuring that the proposed amendments in the future.

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[25] Vukaya, Geoffrey. (2017 Jun 1) County laws must always have input from the public. Business Daily. Retrieved from www.businessdailyafrica.com Accessed 20 Apr 2019.