



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, JUNE 13, 2018 AT 2.30 PM

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with prayer said by the Speaker.

3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker issued the following Communications from the Chair:-

a) **Visiting Students from St. Mary's Sosio Girls High School, Bungoma County**

"Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from St. Mary's Sosio Girls High School, Bungoma County.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you."

b) **Visiting Students from Munyu High School, Nakuru County**

"Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Munyu High School, Nakuru County.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you."

4. **PETITION**

- a) Pursuant to Standing Order 220(1) (a) and 224(2) (b), Nominated Senator (Sen. Halake Abshiro) presented a Petition to the Senate by Representatives of the Wildlife Conservancies concerning financial/budgetary support to Wildlife Conservancies for sustainable conservation and community development.

Pursuant to Standing Order 225, the Speaker invited Senators to comment on the Petition and subsequently, committed the Petition to the Standing Committee on Land, Environment and Natural Resources pursuant to Standing Order 226.

- b) The Vice Chairperson of the Standing Committee on Labour and Social Welfare (Sen. (Dr.) Alice Milgo) presented the Report of the Standing Committee on a petition by residents of Murang'a County regarding alleged impropriety in procurement of medical cover for staff working in the County Governments.

5. **PAPERS LAID**

The following Papers were laid on the Table of the Senate-

- a) Report of the Office of the Auditor General on the Provision of Mental Healthcare Services in Kenya (December, 2017).

(The Senate Deputy Majority Leader)

- b) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the County Attorney Bill (Senate Bills No. 3 of 2018).

(The Vice Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

6. **NOTICE OF MOTION - SITTINGS OF THE SENATE OUTSIDE PARLIAMENT BUILDINGS, NAIROBI**

(Senate Deputy Majority Leader)

AWARE that the Senate of Kenya is established by Article 93 of the Constitution and its main role, as set out in Article 96 of the Constitution, is to represent and serve the interests of the counties and their governments;

FURTHER AWARE that the Senate plays a critical role in the linkage of the devolved governments and the national government;

NOTING that since its inception the Senate has held its sittings in Nairobi with its committees occasionally visiting the devolved governments on fact finding missions;

COGNIZANT of the need to enhance the interaction between the Senate

APPRECIATING the recommendation of the Senate Business Committee that a Sitting of the Senate be held away from the traditional premises in Parliament Buildings, Nairobi, in order to-

- i) provide an opportunity to members and staff of county assemblies to learn and borrow best practices from the Senate;
- ii) promote the role and work of the Senate;
- iii) highlight existing opportunities for people to get involved in the work of the Senate; and
- iv) develop and strengthen partnerships at the county level and enhance public awareness regarding the Business of the Senate.

NOW, THEREFORE, pursuant to Article 126 (1) of the Constitution and standing order 31 (1) of the Senate Standing Orders, the Senate resolves that its plenary and committees' sittings be held in Uasin Gishu County from 24th to 28th September, 2018.

7. **STATEMENT PURSUANT TO STANDING ORDER 46(2)(a)**

The Senator for Siaya County (Sen. James Orengo) made a Statement regarding the arrest of three Kenyan Administration Police Officers (APs) and four local fishermen by Ugandan Police over fishing in Lake Victoria.

The Senator informed the Senate that the three APs from Usenge in Bondo, Siaya County, were arrested while on duty on Monday, 11th June, 2018 and that they were disarmed and their mobile phones and those of other four Kenyans and their fishing boats confiscated.

The Senator highlighted to the House that the squabbles between Kenyan fishermen and Ugandan authorities over fishing in Lake Victoria, especially around Migingo Island, date back to 2013 and that Ugandan authorities had been arbitrarily arresting and detaining Kenyan fishermen at will, oftentimes without provocation.

The Senator stated that he wished to draw the attention of the House to the matter and to appeal to the National Government to intervene with a view to having the police officers and local fishermen released immediately and to put relevant measures in place that would ensure the safety of Kenyans fishing in Lake Victoria as well as to resolve, amicably and diplomatically, the issue of Migingo Island and other islands in Lake Victoria.

Pursuant to standing order No. 1, the Deputy Speaker directed the Standing Committee on National Security, Defence and Foreign Relations to investigate the matter and report to the House in two weeks' time, owing to the gravity of the concerns expressed by Senators.

8. **THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (SENATE BILLS NO. 6 OF 2018)**

Motion made and Question proposed-

THAT, the County Retirement Scheme Bill (Senate Bills No. 6 of 2018) be now read a Second Time.

(Chairperson, Standing Committee on Labour and Social Welfare – 12.06.18)

Debate interrupted on Tuesday, 12th June, 2018 resumed on a Division;

Before the Question was put and pursuant to Standing Order No. 73, the Speaker informed the Senate that the Motion affected counties and voting would be by Delegations;

The Speaker directed that electronic voting be taken pursuant to Standing Order 75 (2) and that the Division Bell be rung for five minutes;

Upon the expiry of five minutes, the Speaker directed that the doors be locked and bars drawn and asked Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to standing order 75 (5), the Speaker allowed one (1) Senator to record his vote verbally.

Thereupon, the following Senator recorded his vote as **“Yes”**-

Sen. Issa Boy Juma

Following the Division, Question agreed to.

The results of the Division were as follows:

AYES – 25

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma – voted verbally
3. Sen. Waqo Naomi Jilo – voted on behalf of Marsabit County Delegation
4. Sen. Kajwang’ Moses Otieno
5. Sen. Kibiru Charles Reubenson
6. Sen. Kihika Susan Wakarura
7. Sen. Kilonzo Mutula Junior
8. Sen. Langat Christopher Andrew
9. Sen. Lelegwe Steve Ltumbesi
10. Sen. Loiptip Anwar
11. Sen. Malalah Cleophas Wakhungu
12. Sen. Mbita Michael Malinga’a

14. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
15. Sen. Mwaruma Johnes Mwashushe
16. Sen. Mwinyihaji Mohamed Faki
17. Sen. Nderitu John Kinyua
18. Sen. Ndwiga Peter Njeru
19. Sen. Olekina Ledama
20. Sen. Ongeru Samson Kegengo
21. Sen. Orengo James
22. Sen. Nyamunga Rose – voted on behalf of Kisumu County Delegation
23. Sen. Poghio Samuel Losuron
24. Sen. Haji Farhiya Ali – voted on behalf of Nairobi City County Delegation
25. Sen. Wako Amos Sitswila

Bill read a Second Time and committed to the Committee of the Whole tomorrow.

9. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(An Acting Chairperson of Committees (Sen. Steve Ltumbesi) – in the Chair)

THE DIVISION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 14 OF 2018)

Motion made and question proposed-

THAT Clause 2, the Title and Clause 1 be part of the Bill.

(Sen. Mutula Kilonzo Jnr., on behalf of the Chairperson, Standing Committee on Finance and Budget – 12.06.2018)

Debate interrupted on Tuesday, 12th June, 2018 resumed on a Division;

Before the Question was put and pursuant to Standing Order No. 73, the Acting Chairperson informed the Senate that the Motion affected counties and that voting would be by Delegations;

The Acting Chairperson directed that electronic voting be taken pursuant to Standing Order 75 (2) and that the Division Bell be rung for three minutes;

Upon the expiry of three minutes, the Acting Chairperson directed that the doors be locked and bars drawn and asked Senators to log-in for electronic voting;

The Acting Chairperson put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and, pursuant to standing order 75 (5), the Acting Chairperson allowed four (4) Senators to record their vote verbally.

Thereupon, the following Senators recorded their votes as **“Yes”**-

1. Sen. Boy Issa Juma
2. Sen. Halake Abshiro – on behalf of Isiolo County Delegation
3. Sen. Madzayo Stewart
4. Sen. Outa Fred

Following the Division, Question agreed to.

The results of the Division were as follows:

AYES – 26

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Halake Abshiro – voted verbally on behalf of Isiolo County Delegation
2. Sen. Boy Issa Juma – voted verbally
3. Sen. Waqo Naomi Jilo – voted on behalf of Marsabit County Delegation
4. Sen. Kajwang’ Moses Otieno
5. Sen. Kiburu Charles Reubenson
6. Sen. Kihika Susan Wakarura
7. Sen. Kilonzo Mutula Junior
8. Sen. Langat Christopher Andrew
9. Sen. Lelegwe Steve Ltumbesi
10. Sen. Loiptip Anwar
11. Sen. Madzayo Stewart – voted verbally
12. Sen. Malalah Cleophas Wakhungu
13. Sen. Mbito Michael Maling’a
14. Sen. Mogeni Erick Okong’o
15. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
16. Sen. Mwaruma Johnes Mwashushe
17. Sen. Mwinyihaji Mohamed Faki
18. Sen. Nderitu John Kinyua
19. Sen. Ndwiga Peter Njeru
20. Sen. Olekina Ledama
21. Sen. Ongeru Samson Kegengo
22. Sen. Orengo James
23. Sen. Outa Fred – voted verbally
24. Sen. Poghio Samuel Losuron
25. Sen. Haji Farhiya Ali – voted on behalf of Nairobi City County Delegation
26. Sen. Wako Amos Sitswila

Clause 2, the Title and Clause 1 - Agreed to.

That, the Bill be reported without amendments.

(Sen. Mutula Kilonzo Jnr., on behalf of the Chairperson, Standing Committee on Finance and Budget)

Before the question was put and pursuant to Standing Order 73, the Acting Chairperson ruled that the question did not affect counties;

Question put and agreed to.

10. **HOUSE RESUMED** – (Temporary Speaker (Sen. Rose Nyamunga) in the Chair)

11. **THE DIVISION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 14 OF 2018)**

Bill reported **without** amendments;

Motion made and Question proposed:-

THAT, the Senate do agree with the Committee of the Whole in the said report.

(Sen. Mutula Kilonzo Jnr., on behalf of the Chairperson, Standing Committee on Finance and Budget)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 73, the Temporary Speaker (Sen. Rose Nyamunga) ruled that the question did not affect counties;

Question put and **agreed to**.

Motion made and question proposed-

THAT the Division of Revenue (Amendment) Bill (Senate Bills No. 14 of 2018) be now Read a Third Time.

(Sen. Mutula Kilonzo Jnr., on behalf of the Chairperson, Standing Committee on Finance and Budget)

Debate arising;

There being no other Senator wishing to contribute;

The House proceeded to a Division;

The Temporary Speaker (Sen. Rose Nyamunga) directed that electronic voting be taken pursuant to Standing Order 75 (1) and that the Division Bell be rung for three minutes;

Upon the expiry of three minutes, the Temporary Speaker (Sen. Rose Nyamunga) directed that the doors be locked and asked Senators to log-in for electronic voting;

The Temporary Speaker (Sen. Rose Nyamunga) put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to provisions of Standing Order 75 (5), the Temporary Speaker allowed six (6) Senators to record their vote verbally.

Thereupon, the following Senators recorded their vote as **“Yes”**-

1. Sen. Boy Issa Juma
2. Sen. Kindiki Kithure
3. Sen. Kirinyaga Ephraim Maina
4. Sen. Murkomen Onesimus Kipchumba
5. Sen. Outa Fred
6. Sen. Wetang’ula Moses Masika

Following the Division, Question agreed to.

The results of the Division were as follows:

AYES – 29

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma – voted verbally
3. Sen. Waqo Naomi Jilo – voted on behalf of Marsabit County Delegation
4. Sen. Kajwang’ Moses Otieno
5. Sen. Kibiru Charles Reubenson
6. Sen. Kihika Susan Wakarura
7. Sen. Kilonzo Mutula Junior
8. Sen. Kindiki Kithure – voted verbally
9. Sen. Kirinyaga Ephraim Maina – voted verbally
10. Sen. Langat Christopher Andrew
11. Sen. Lelegwe Steve Ltumbesi
12. Sen. Loiptip Anwar
13. Sen. Malalah Cleophas Wakhungu
14. Sen. Mbito Michael Maling’a
15. Sen. Mogeni Erick Okong’o
16. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
17. Sen. Murkomen Onesimus Kipchumba – voted verbally

- 20. Sen. Nderitu John Kinyua
- 21. Sen. Ndwiga Peter Njeru
- 22. Sen. Olekina Ledama
- 23. Sen. Ongeru Samson Kegengo
- 24. Sen. Orengo James
- 25. Sen. Outa Fred – voted verbally
- 26. Sen. Poghio Samuel Losuron
- 27. Sen. Haji Farhiya Ali – voted on behalf of Nairobi City County Delegation
- 28. Sen. Wako Amos Sitswila
- 29. Sen. Wetang'ula Moses Masika – voted verbally

Bill read a Third Time and passed.

- 12. **COMMITTEE OF THE WHOLE**
THE ASSUMPTION OF OFFICE OF COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)
(Sen. Paul Kimani Wamatangi, MP)

Order deferred.

- 13. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Judith Pareno) – in the Chair)

THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL (SENATE BILLS NO. 8 OF 2017)

Clauses 2 and 3

Motion made and Question proposed;

THAT, Clauses 2 and 3 be part of the Bill.

Clauses 2 and 3 - vote deferred.

Clause 4 - amendment proposed

That, Clause 4 of the Bill be amended in the proposed new section 4B(1) by inserting the words “or any other day designated by the Cabinet Secretary in the gazette” immediately after the words “during a public holiday”

(Sen. Mutula Kilonzo Jr)

Clause 4 - vote deferred.

Motion made and Question proposed;

That, Clauses 5 and 6 be part of the Bill.

Clauses 5 and 6 - vote deferred.

New Clause 3A - New Clause proposed

That, the Bill be amended by inserting the following new clause immediately after clause 3-

Amendment of **3A.** Section 4A of the principal Act is amended in section 4 of Cap. 99 subsection 2 by inserting the words “Deputy Speaker of the Senate, Deputy Speaker of the National Assembly, Deputy Chief Justice” immediately after the words “the Speaker of the Senate”.

(Sen. Amos Wako)

Motion made and Question proposed-

That, the New Clause 3A be read a Second Time.

(Sen. Amos Wako)

on the Second Reading of the New Clause

New Clause 3A - vote deferred

New Clause 4A - New Clause proposed

That, the Bill be amended by inserting the following new clause immediately after clause 4 –

Amendment of section **4A.** Section 5 of the principal Act is amended in 5 of Cap. 99 subsection (1) by deleting the words “local authority” appearing immediately after the words “the area of a” and substituting therefor the words “county government”

(Sen. Mutula Kilonzo Jr)

Motion made and Question proposed-

That the New clause 4A be read a Second Time.

(Sen. Mutula Kilonzo Jr)

On the Second Reading of the New Clause.

New Clause 4A - vote deferred

New Clause 4B

-New Clause proposed

That, the Bill be amended by inserting the following new clause immediately after the new clause 4A –

Repeal of section 6 of **4B**. The principal Act is amended by repealing section 6. Cap. 99

(Sen. Mutula Kilonzo Jr)

Motion made and Question proposed-

That, the new clause 4B be read a Second Time.

(Sen. Mutula Kilonzo Jr)

On the Second Reading of the New Clause.

New Clause 4B

- vote deferred

The Title and Clause 1

Motion made and Question proposed-

That, the Title and Clause 1 be part of the Bill.

The Title and Clause 1

- vote deferred.

Progress report:

Motion made;

That, the Committee of the Whole do report progress on its consideration of the National Flag, Emblems and Names (Amendment) Bill (Senate Bills No. 8 of 2017) and seek leave to sit again tomorrow.

(Sen. Mutula Kilonzo Jr)

Before the question was put and pursuant to Standing Order 73, the Acting Chairperson (Sen. Judith Pareno) ruled that the Question did not affect counties;

Question put and agreed to.

14. **HOUSE RESUMED** – The Deputy Speaker in the Chair

15. **THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL (SENATE BILLS NO. 8 OF 2017)**

Progress reported;

Motion made and Question Proposed;

That, the House do agree with the Committee in the said report.

(Sen. Mutula Kilonzo Jr)

There being no Senator wishing to contribute;

Question put and agreed to.

16. **THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 7 OF 2018)**

Motion made and Question proposed;

That, the Office of the County Printer Bill (Senate Bills No.7 of 2018) be now read a Second Time.

(Sen. Petronila Were Lokorio. – 12.06.2018)

Debate interrupted on Tuesday, 12th June, 2018 resumed;

There being no other Senator wishing to contribute;

Mover replied;

Raising a point of order pursuant to Standing Order 55 (3), the nominated Senator (Sen. Petronila Were) requested for the deferment of putting of the question to a later date;

And the Temporary Speaker (Sen. Judith Pareno) acceding to the request, nominated Thursday, 14th June, 2018 as the day when the Question shall be put.

17. **THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**

Motion made and Question proposed-

THAT, the Office of the County Attorney Bill (Senate Bills No.3 of 2018) be now read a Second Time.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Pareno Judith), interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

18. **SENATE ROSE** – at thirty minutes past Six O'clock.

M E M O R A N D U M

The Speaker will take the Chair on Thursday, June 14, 2018 at 2.30 p.m.