



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIRST SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, SEPTEMBER 28, 2017

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication from the Chair –

Whether the Election Laws (Amendment) Bill (National Assembly Bills No. 39 of 2017) is a Bill concerning county governments

“Honourable Members, a question has been raised this afternoon with the Hon. Speaker in his chambers, with regard to whether the Election Laws (Amendment) Bill, 2017 (National Assembly Bills No. 39) is a Bill concerning county governments and whether the Bill will be transmitted to the Senate for concurrence if passed by the House.

Honourable Members, Article 110 of the Constitution defines a Bill concerning county government and outlines the procedure applicable whenever a question arises as to whether a Bill concerns County governments. Under Article 110(1) a Bill concerning county governments is defined as follows, and I quote—

“(1) In this Constitution, “a Bill concerning county government” means—

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of members of a county assembly or a county executive; and
- (c) a Bill referred to in Chapter Twelve affecting the finances of county governments.”

Further, Hon. Members, Article 110(3) provides as follows, with regard to any questions on the issue, and I quote—

“(3) Before either House considers a Bill, the Speakers of the National Assembly and the Senate shall jointly resolve any question as to whether it is a Bill concerning counties, and, if it is, whether it is a special or an ordinary Bill.”

Honourable Members, consideration of a Bill in the House takes place from Second Reading onwards, and the Question as to whether it concerns county governments or not may arise at any stage. Further, Standing Order 121(3) of the National Assembly Standing Orders also empowers the Speaker of the National Assembly and the Speaker of the Senate to agree on an appropriate mechanism to resolve any question as to whether a Bill concerns county governments or not. In this regard, I wish to inform the House that, the Speaker of the National Assembly has this afternoon consulted with the Speaker of the Senate on the question raised with regard to the Election Laws (Amendment) Bill, 2017.

Accordingly, Hon. Members, pursuant to the provisions of Article 110(5) of the Constitution and in answer to the question raised, I wish to confirm that, converse to what is indicated in the Memorandum of Objects and Reasons, the Speaker of the Senate and the Speaker of the National Assembly have jointly determined that the Election Laws (Amendment) Bill, 2017 (National Assembly Bill No. 39) is a Bill concerning county governments. Members will note that the Bill seeks to amend several statutes, among them the Elections Act, 2011 which makes the Bill fall squarely within the definition set out at Article 110(1)(b) to the extent that it relates to “*the election of members of a county assembly*”. Consequently, if passed by this House, the Bill shall be forwarded to the Senate for consideration.

The House is guided accordingly.”

5. PAPERS LAID

The following Papers were laid on the Table –

- (i) Annual Report and Financial Statements of the Unclaimed Financial Assets Authority (UFAA) for the period ended 30th June, 2016;
- (ii) Annual Report and Financial Statements of the Insurance Regulatory Authority for the year ended 31st December, 2016;
- (iii) The Second Quarterly Report of the Ethics and Anti-Corruption Commission for the period covering 1st April to 30th June, 2017;
- (iv) Reports of the Auditor-General on the Financial Statements in respect of the following Institutions for the year ended 30th June, 2016 and the certificates therein: -
 - a) Rift Valley Water Services Board;
 - b) Agro-Chemical and Food Company Limited;
 - c) National Council for Persons with Disability;
 - d) Agriculture and Food Authority;
 - e) The National Alliance;
 - f) Ministry of Sports, Culture and the Arts;
 - g) Kenya Leather Development Council;
 - h) Ministry of Planning;
 - i) National Cereals and Produce Board; and
 - j) Tana and Athi Rivers Development Authority.

(The Leader of the Majority Party)

6. STATEMENT PURSUANT TO STANDING ORDER 43

Pursuant to the provision of Standing Order 43, the Member for Lamu County (Hon. Ruweida Mohamed Obo, MP) issued a Statement regarding the demise of the Principal Secretary for Public Works, Ms. Maryam El Maawy.

7. STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)

Pursuant to the provision of Standing Order 44(2)(a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, October 10, 2017.

8. MOTION – ESTABLISHMENT OF A SELECT COMMITTEE ON ELECTION-RELATED LAWS

Motion made and Question proposed –

THAT, aware that the country is still in an election cycle, arising out of the requirement for a fresh Presidential Election in October, 2017; further aware that there is need to legislate on and address certain legal lacunas and in compliance with judicial decisions asking Parliament to legislate on certain matters to ensure that the elections conform with the provisions of Article 81 of the Constitution on general principles for the electoral system; noting that such election-related matters would ordinarily require consideration by the relevant Committee of the House which is yet to be established; further noting the limited period of time before the date of the said fresh election; cognizant of the urgent need to consider and conclude with all matters relating to the elections to allow the Independent Electoral and Boundaries Commission ample time to implement any changes related to the review of the election-related laws; **NOW THEREFORE**, pursuant to the provisions of Standing Order 127(2), this House **resolves**

- a) to establish a Select Committee to be known as the **Select Committee on the Election Laws, 2017** comprising of not more than fifteen Members, to examine and undertake public participation on the Election Laws (Amendment) Bill, (National Assembly Bill No.39 of 2017) and **any other** related Bills;
- b) that, the Committee comprise of the following Members-
 - (i) The Hon. William Kipkiror Cheptumo, MP- Chairperson
 - (ii) The Hon. Gladys Jepkosgei Boss-Shollei, MP
 - (iii) The Hon. Isaac Waihenya Ndirangu, MP
 - (iv) The Hon. Ali Wario, MP
 - (v) The Hon. Jennifer Shamalla, MP
 - (vi) The Hon. Adan Haji Yusuf, MP
 - (vii) The Hon. George Gitonga Murugara, MP
 - (viii) The Hon. Stanley Muthama, MP
 - (ix) The Hon. Alice Muthoni Wahome, MP
- c) that, the quorum of the Committee be the Chairperson and four other Members; and,
- d) that, the Committee considers the matters under its mandate and reports to the House on or before **Tuesday, October 10, 2017**.

(The House is awaiting the appointment of six additional Members from the NASA Coalition)

Question put and agreed to.

9. MOTION – APPROVAL OF RATIFICATION OF THE PROTOCOL TO OPERATIONALIZE THE EXTENDED JURISDICTION OF THE EAST AFRICAN COURT OF JUSTICE

Motion made and Question proposed –

THAT, cognizant of the Report of the Select Committee on Regional Integration of the 11th Parliament on the Ratification of the Protocol to operationalize the Extended Jurisdiction of the East African Court of Justice, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, this House **approves** the Ratification of the Protocol to operationalize the Extended Jurisdiction of the East African Court of Justice.

(The Leader of the Majority Party)

Debate arising;

(Change of Chair from the Speaker to the Deputy Speaker)

(Change of Chair from the Deputy Speaker to the First Chairperson)

Rising in her place on a Point of Order pursuant to the provisions of Standing Order 95, the Member for Taita Taveta (Hon. Naomi Shaban Namsi, M.P.) claimed to move that the mover be now called upon to reply.

And the Speaker having acceded to the claim, thereupon question put and agreed to;

Mover replied;

Question deferred to another day.

10. MOTION – APPROVAL OF RATIFICATION OF THE EAST AFRICAN COMMUNITY PROTOCOL ON PRIVILEGES AND IMMUNITIES

Order for the Motion read –

THAT, cognizant of the Report of the Select Committee on Regional Integration of the 11th Parliament on the Ratification of the East African Community Protocol on Privileges and Immunities, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, this House **approves** the Ratification of the Protocol to operationalize the East African Community Protocol on Privileges and Immunities.

(The Leader of the Majority Party)

Order deferred to another day.

11. MOTION – ADJOURNMENT OF THE HOUSE IN ACCORDANCE WITH THE CALENDAR OF THE ASSEMBLY (REGULAR SESSIONS)

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 28 on the Calendar of the Assembly (Regular Sessions), this House adjourns until Tuesday, October 10, 2017 at 2.30 p.m.

(The Leader of the Majority Party)

Debate arising;

And the time being Five Thirty O'clock, the First Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. HOUSE ROSE - at Five Thirty O'clock

MEMORANDUM

The Speaker will take the Chair on
Tuesday, October 10, 2017 at 2.30 p.m.

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