



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 21, 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**

The Speaker conveyed the following Communications from the Chair:-

(a) On visiting delegation from the County Assembly of Kisumu

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of visiting Members and staff from the County Assembly of Kisumu.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

They are:

- | | | | |
|-----|--------------------------|---|---|
| 1. | Hon. Inviollete Adhiambo | - | Chairperson, Committee on Delegated Legislation |
| 2. | Hon. Aslam Khan | - | Member |
| 3. | Hon. Augustine V. Otura | - | Member |
| 4. | Hon. Beatrice P. Ochieng | - | Member |
| 5. | Hon. Carren J. Oguok | - | Member |
| 6. | Hon. Johnson Guya | - | Member |
| 7. | Hon. Nancy A. Awiti | - | Member |
| 8. | Hon. Olga A. Otieno | - | Member |
| 9. | Hon. Samson O. Ameso | - | Member |
| 10. | Hon. Seth O. Okumu | - | Member |
| 11. | Hon. George Ogutu | - | Member |
| 12. | Hon. Joseph Olale | - | Member |
| 13. | Hon. Abil Nyasuna | - | Member |

14. Hon. Kennedy Agengo - Member
15. Hon. Jane Manuche - Member
16. Mr. David Ochieng - Committee Clerk
17. Mr. Silas Kapesa - Sergeant-At-Arms
18. Mrs. Josephine Amondi - Welfare Officer
19. Mr. Fanuel Okode - Hansard

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

(b) Regarding a Senate *Kamukunji* to be held on Thursday, 22nd November, 2018 at 10:00 a.m.

“Honourable Senators,

This is to inform you that I have convened a Senate *Kamukunji* scheduled for tomorrow, Thursday, 22nd November, 2018 at 10:00 a.m. in the Senate Chamber.

The agenda for the meeting will be as listed in the circular conveyed to all Senators earlier today.

I urge all Honourable Senators to plan to attend the crucial meeting

I thank you.”

4. PETITIONS

Pursuant to Standing Order 230 (2) (b), the Speaker reported to the Senate a petition by residents of Mwatate Constituency concerning Mgeno Reserve Land.

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed it to the Standing Committee on Agriculture, Livestock and Fisheries, pursuant to Standing Order 232(1).

5. PAPERS LAID

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

- a) Report of the Auditor General on the Financial Statements of the County Executive of Kilifi for the year ended 30th June 2017.
- b) Report of the Auditor General on the Financial Statements of the County Executive of Kisii for the year ended 30th June 2017.

(The Senate Majority Leader)

6. STATEMENT PURSUANT TO STANDING ORDER NO. 48 (1)

The Senator for Isiolo County (Sen. Fatuma Dullo, MP) sought a statement from the Standing Committee on Health on the policy and the implementation of the Universal Health Care in Counties.

Following comments by Senators pursuant to Standing Order 48 (3)(a), the Deputy Speaker directed that the Senate Majority Leader invites the Cabinet Secretary, Ministry of Health to the Senate, to address the matter on Tuesday, 27th November, 2018 at 10 a.m. and that the Cabinet Secretary be required to submit documents regarding contracts for lease of medical equipment by the county governments.

7. SUSPENSION OF THE SENATE DUE TO A TECHNICAL HITCH

Arising from a technical hitch in the Multimedia Digital Congress Network System, the Deputy Speaker suspended proceedings for ten (10) minutes to enable the ICT Department to re-set the system.

8. **HOUSE RESUMED** – at ten minutes past four O'clock. (*Deputy Speaker in the Chair*)

9. THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 3 OF 2018)

Order for Second Reading read;

Motion made and Question proposed;

That, the Copyright (Amendment) Bill (National Assembly Bills No. 33 of 2017) be now read a Second Time.

(The Senate Majority Leader – 14.11.2018)

Debate interrupted on Wednesday, 14th November, 2018 resumed on a Division;

The House proceeded to a Division;

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81(2) and that the Division Bell be rung for two (2) minutes;

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

The Deputy 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 81 (5), the Deputy Speaker allowed six (6) Senators to record their vote verbally.

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

1. Sen. Omanga Millicent – on behalf of Nairobi City County Delegation

2. Sen. Mwangi Githiomi
3. Sen. Wario Golich
4. Sen. Outa Frederick
5. Sen. Mbogo Ochilo Ayacko
6. Sen. Kithure Kindiki

Following a 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. Ali Abdullahi Ibrahim
3. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation
4. Sen. Cherarkey Samson Kiprotich
5. Sen. Cheruiyot Aaron Kipkirui
6. Sen. Kamar Margaret Jepkoech
7. Sen. Khaniri George
8. Sen. Kilonzo Mutula Junior
9. Sen. Kimani Wamatangi Paul
10. Sen. Kindiki Kithure – voted verbally
11. Sen. Langat Christopher Andrew
12. Sen. Lelegwe Steve Ltumbesi
13. Sen. Mahamud Mohamed Maalim
14. Sen. Masitsa Naomi Shiyonga– voted on behalf of Kakamega County Delegation
15. Sen. Mbito Michael Maling’ a
16. Sen. Mbogo George Ochilo Ayacko – voted verbally
17. Sen. Mogeni Erick Okong’ o
18. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Mwangi Paul Githiomi – voted verbally
21. Sen. Mwaruma Johnes Mwashushe
22. Sen. Orengo James
23. Sen. Outa Fredrick Otieno – voted verbally
24. Sen. Poghisio Samuel Losuron
25. Sen. Omanga Millicent – voted verbally on behalf of Nairobi City County Delegation
26. Sen. Wako Amos Sitswila
27. Sen. Wambua Enoch Kiio
28. Sen. Wario Golich – voted verbally
29. Sen. Wetang’ ula Moses Masika

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

10. **THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed;

That, the County Allocation of Revenue (Amendment) Bill (Senate Bills No. 29 of 2018) be now read a Second Time.

(Chairperson, Standing Committee on Finance and Budget – 15.11.2018)

Debate interrupted on Thursday, 15th November, 2018 resumed on a Division;

The House proceeded to a Division;

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for one (1) minute;

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

The Deputy 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 81 (5), the Deputy Speaker allowed one (1) Senator to record his vote verbally.

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

1. Sen. Kindiki Kithure

Following a 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. Ali Abdullahi Ibrahim
3. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation
4. Sen. Cherarkey Samson Kiprotich
5. Sen. Cheruiyot Aaron Kipkirui
6. Sen. Kamar Margaret Jepkoech
7. Sen. Khaniri George
8. Sen. Kilonzo Mutula Junior
9. Sen. Kimani Wamatangi Paul
10. Sen. Kindiki Kithure – voted verbally
11. Sen. Langat Christopher Andrew
12. Sen. Lelegwe Steve Ltumbesi
13. Sen. Mahamud Mohamed Maalim
14. Sen. Masitsa Naomi Shiyonga– voted on behalf of Kakamega County Delegation
15. Sen. Mbito Michael Maling’a

16. Sen. Mbogo George Ochilo Ayacko
17. Sen. Mogeni Erick Okong'o
18. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Mwangi Paul Githiomi
21. Sen. Mwaruma Johnes Mwashushe
22. Sen. Orenge James
23. Sen. Outa Fredrick Otieno
24. Sen. Poghisi Samuel Losuron
25. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
26. Sen. Wako Amos Sitswila
27. Sen. Wambua Enoch Kiio
28. Sen. Wario Golich
29. Sen. Wetang'ula Moses Masika

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

11. **THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 52 OF 2017)**

Order for Second Reading read;

Motion made and Question proposed;

That, the Public Private Partnership (Amendment) Bill (National Assembly Bills No. 52 of 2017) be now read a Second Time.

(The Senate Majority Leader – 20.11.2018)

Debate interrupted on Wednesday, 20th November, 2018 resumed on a Division;

The House proceeded to a Division;

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81(2) and that the Division Bell be rung for one (1) minute;

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

The Deputy 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 81 (5), the Deputy Speaker allowed two (2) Senators to record their vote verbally.

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

1. Sen. Cherarkey Samson Kiprotich
2. Sen. Kindiki Kithure

Following a 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. Ali Abdullahi Ibrahim
3. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation
4. Sen. Cherarkey Samson Kiprotich – voted verbally
5. Sen. Cheruiyot Aaron Kipkirui
6. Sen. Kamar Margaret Jepkoech
7. Sen. Khaniri George
8. Sen. Kilonzo Mutula Junior
9. Sen. Kimani Wamatangi Paul
10. Sen. Kindiki Kithure – voted verbally
11. Sen. Langat Christopher Andrew
12. Sen. Lelegwe Steve Ltumbesi
13. Sen. Mahamud Mohamed Maalim
14. Sen. Masitsa Naomi Shiyonga– voted on behalf of Kakamega County Delegation
15. Sen. Mbito Michael Maling'a
16. Sen. Mbogo George Ochilo Ayacko
17. Sen. Mogeni Erick Okong'o
18. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Mwangi Paul Githiomi
21. Sen. Mwaruma Johnes Mwashushe
22. Sen. Orengo James
23. Sen. Outa Fredrick Otieno
24. Sen. Poghisio Samuel Losuron
25. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
26. Sen. Wako Amos Sitswila
27. Sen. Wambua Enoch Kiio
28. Sen. Wario Golich
29. Sen. Wetang'ula Moses Masika

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

12. **MOTION – APPROVAL OF SENATOR TO SERVE IN SELECT COMMITTEES**

Motion made and question proposed;

THAT, pursuant to Standing Orders 187 and 189, the House approves the nomination of Senator George Ochilo Ayacko Mbogo, EGH, MP to serve in the following Select Committees of the Senate –

(a) Committee on Agriculture, Livestock and Fisheries; and

(b) Committee on National Cohesion, Equal Opportunity and Regional Integration.

(The Senate Majority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 79, the Temporary Speaker (Sen. Rose Nyamunga) informed the House that the Motion did not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Orders 187 and 189, the House approves the nomination of Senator George Ochilo Ayacko Mbogo, EGH, MP to serve in the following Select Committees of the Senate –

(a) Committee on Agriculture, Livestock and Fisheries; and

(b) Committee on National Cohesion, Equal Opportunity and Regional Integration.

13. **COMMITTEE OF THE WHOLE**

THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2018)

Order for Committee read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. (Dr.) Steve Lelegwe) – in the Chair)

THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2018)

Clauses 2 and 3, the Title and Clause 1

Motion Made and Question proposed;

That Clauses 2, 3, the Title and Clause 1 be part of the Bill;

The Committee proceeded to a Division;

The Acting Chairperson directed that electronic voting be taken pursuant to Standing Order 81 and that the division bell be rung for one (1) minute;

After the expiry of one minute, the Acting Chairperson directed that the doors be locked 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;

The results of the Division were as follows: -

AYES – 26

NOES – 0

ABSTENTIONS – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation
3. Sen. Cherarkey Samson Kiprotich
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Imana Malachy Charles Ekal
6. Sen. Kamar Margaret Jepkoech
7. Sen. Kimani Wamatangi Paul
8. Sen. Kindiki Kithure
9. Sen. Langat Christopher Andrew
10. Sen. Lelegwe Steve Ltumbesi
11. Sen. Mahamud Mohamed Maalim
12. Sen. Masitsa Naomi Shiyonga– voted on behalf of Kakamega County Delegation
13. Sen. Mbito Michael Maling'a
14. Sen. Mbogo George Ochilo Ayacko
15. Sen. Mogeni Erick Okong'o
16. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
17. Sen. Murkomen Onesimus Kipchumba
18. Sen. Mwangi Paul Githiomi
19. Sen. Mwaruma Johnes Mwashushe
20. Sen. Orengo James
21. Sen. Outa Fredrick Otieno
22. Sen. Poghismo Samuel Losuron
23. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
24. Sen. Wako Amos Sitswila
25. Sen. Wario Golich
26. Sen. Wetang'ula Moses Masika

Clauses 2 and 3, the Title and Clause 1 - agreed to.

Motion made;

That, the Bill be reported without amendments.

(Chairperson, Standing Committee on Finance and Budget)

Before the Question was put, and pursuant to Standing Order No. 79, the Acting Chairperson (Sen. (Dr.) Steve Lelegwe) informed the House that the Motion did not affect counties.

Question put and **agreed to.**

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

15. **THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2018)**

Bill reported without amendments;

Motion made and Question proposed-

That the House do agree with the Committee of the Whole in the said Report.

(Chairperson, Standing Committee on Finance and Budget)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the question did not affect counties;

Question put and agreed to.

Motion made and question proposed-

That the County Allocation of Revenue (Amendment) Bill (Senate Bills No. 29 of 2018) be now read a Third time.

(Chairperson, Standing Committee on Finance and Budget)

There being no Senator wishing to contribute;

The House proceeded to a division.

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81 and that the division bell be rung for one minute;

After the expiry of one minute, the Deputy Speaker directed that the doors be locked and asked Senators to log-in for electronic voting;

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

Following a division, question agreed to.

The results of the Division were as follows: -

AYES – 26

NOES – 0

ABSTENTIONS – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation
3. Sen. Cherarkey Samson Kiprotich
4. Sen. Cheruiyot Aaron Kipkirui

5. Sen. Imana Malachy Charles Ekal
6. Sen. Kamar Margaret Jepkoech
7. Sen. Kimani Wamatangi Paul
8. Sen. Kindiki Kithure
9. Sen. Langat Christopher Andrew
10. Sen. Lelegwe Steve Ltumbesi
11. Sen. Mahamud Mohamed Maalim
12. Sen. Masitsa Naomi Shiyonga– voted on behalf of Kakamega County Delegation
13. Sen. Mbito Michael Maling’a
14. Sen. Mbogo George Ochilo Ayacko
15. Sen. Mogeni Erick Okong’o
16. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
17. Sen. Murkomen Onesimus Kipchumba
18. Sen. Mwangi Paul Githiomi
19. Sen. Mwaruma Johnes Mwashushe
20. Sen. Orengo James
21. Sen. Outa Fredrick Otieno
22. Sen. Poghismo Samuel Losuron
23. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
24. Sen. Wako Amos Sitswila
25. Sen. Wario Golich
26. Sen. Wetang’ula Moses Masika

Bill read a Third Time and passed.

16. **COMMITTEE OF THE WHOLE**
THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2017)

(Senate Majority Leader)

Order deferred.

17. **COMMITTEE OF THE WHOLE**
THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)

(Sen. Ledama Olekina, MP)

Order deferred.

18. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

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

THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)

That the Bill be amended by deleting Clause 2 and substituting therefor the following new clause –

Amendment
of section 58
of No. 17 of
2012.

2. Section 58 of the County Governments Act is amended in—

(a) subsection (1) by –

(i) deleting paragraph (c) and substituting therefor the following new paragraph –

(c) the secretary to the board who shall be nominated and appointed by the governor with the approval of the county assembly.

(ii) inserting the following new subsections immediately after subsection (1) –

(1A) The secretary to the board shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

(1B) In nominating or appointing a person as a member of the Board, the Governor shall—

(a) observe the principles of gender equity, ethnic and other diversities of the people of Kenya, and shall provide an equal opportunity for persons with disabilities; and

(b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.

(b) subsection (3) by deleting paragraph (c) and substituting therefor the following new paragraph -

(c) in the case of the chairperson -

(i) possesses a minimum of a bachelors degree from a university recognised in Kenya;

(ii) is registered as a human resource management professional of good standing under the Human Resource Management Professionals Act; and

(iii) has at least ten years working experience in a managerial position either in the public or private sector.

No. 52 of
2012.

(Sen. Aaron Cheruiyot, on behalf of Sen. Aaron Cheruiyot on behalf of the Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

Clause 2 - 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 and Question proposed;

That, the Committee of the Whole do report progress on its consideration of the County Governments (Amendment) Bill (Senate Bills No. 13 of 2018) and seek leave to sit again tomorrow.

(Sen. Aaron Cheruiyot, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. Judith Pareno) ruled that the Question did not affect counties;

Question put and agreed to.

19. **HOUSE RESUMED** – (Temporary Speaker (Sen. Rose Nyamunga) - in the Chair)
20. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**

Progress Reported.

Motion made and Question proposed;

That the House do agree with the Committee in the said report;

(Sen. Aaron Cheruiyot, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. Rose Nyamunga) ruled that the Question did not affect counties;

Question put and agreed to.

21. **COMMITTEE OF THE WHOLE**
THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO.17 OF 2018)
(Sen. Aaron Cheruiyot, MP)

Order deferred.

22. **THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILLS NO. 23 OF 2018)**

Motion made and Question proposed-

That, the Treaty Making and Ratification (Amendment) Bill (Senate Bills No. 23 of 2018) be now read a Second Time.

(Sen. Fatuma Dullo, MP – 20.11.2018)

Debate interrupted on Tuesday, 20th November, 2018 resumed;

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

23. **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, November 21, 2018 at 2.30 p.m.*

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