



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, DECEMBER 04, 2018

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

4. **MESSAGES**

The Speaker conveyed the following Messages –

- (i) **Passage of the County Allocation of Revenue (Amendment) Bill (Senate Bill No.29 of 2017)**

“Honourable Members,

Pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received a Message from the Senate regarding *its passage of the County Allocation of Revenue (Amendment) Bill (Senate Bill No. 29 of 2018)*. The Message reads in part, and I quote, *on Wednesday 21st November, 2018, the Senate considered and passed the said Bill without amendments.*” The Senate now seeks the concurrence of the National Assembly on the said Bill in accordance with the provisions of Article 111 of the Constitution.

Honourable Members, the County Allocation of Revenue Bill is an annual Legislation introduced in accordance with the provisions of Article 218 of the Constitution with the objective of equitably allocating the share of national revenue amongst the forty seven (47) Counties. The said Bill therefore *“seeks to amend the County Allocation of Revenue Act, No. 8 of 2018 to replace the Third Schedule of the Act on Conditional allocations to County Governments from Loans and Grants from Development Partners in the Financial Year 2018/2019.*

Honourable Members, the Bill stands committed to the Budget and Appropriations Committee for consideration. Standing Order 234 requires this House to consider the County Allocation of Revenue Bill within ten (10) days. However, given that the House is scheduled to proceed on a long recess later this week, I encourage the Committee to endeavor to table its Report on the said Bill to enable the House to consider and conclude the Bill at all stages.

I thank you”.

(ii) **Nomination of a person for appointment as Secretary/Chief Executive Officer of the Ethics & Anti-Corruption Commission**

“Honourable Members,

Pursuant to the provisions of Section 16(1) of the Ethics and Anti-Corruption Commission Act, 2011, and Section 5(1) of the Public Appointments (Parliamentary Approval) Act, 2011, I wish to convey to the House that I have received a request from the Chairman of the Ethics and Anti-Corruption Commission asking the House to approve the appointment of Mr. Twalib Abdallah Mbarak as the Secretary/Chief Executive Officer of the Ethics and Anti-Corruption Commission.

Honourable Members, the Principal Act requires the Ethics and Anti-Corruption Commission to forward a name of a selected candidate recruited competitively to the National Assembly for approval. The Public Appointments (Parliamentary Approval) Act, 2011 requires the nominee for appointment as the Secretary/Chief Executive Officer to be vetted and approved by the National Assembly before appointment.

In this regard, I hereby refer the name of the nominee, Mr. Twalib Abdallah Mbarak, to the Departmental Committee on Justice and Legal Affairs to undertake the necessary approval hearings. Thereafter, the House shall consider the nominee in accordance with the Public Appointments (Parliamentary Approval) Act, 2011.

Honourable Members, Section 8(1) of the said Act requires the National Assembly to either approve or reject the nominee within fourteen days from the date on which the notification of nomination was given. However, given that the House is expected to adjourn for a long recess on Thursday, December 6, 2018, I wish to guide the Committee and the House as follows-

- (i) That the Committee should notify the nominee and the general public of the time and place for holding the approval hearings, in good time. The notification should therefore be made immediately; and,
- (ii) That the Committee thereafter commences the approval hearings and subsequently submits its report to the House within the set timelines.

Thank you”.

5. **PETITION**

The Member for Chuka/Igamba Ng’ombe (Hon. Patrick Ntwiga) presented a Petition regarding inadequate medical cover offered to teachers by M/s Minet Group Limited;

Petition referred to the Departmental Committee on Education and Research pursuant to Standing Order 227(1)

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (a) The Reports of the Auditor-General on the Financial Statements in respect of the following constituencies for the year ended 30th June, 2017 and the certificates therein –

- (i) Borabu
- (ii) Gem
- (iii) Kasipul
- (iv) Luanda
- (v) Lugari
- (vi) Malava
- (vii) Navakholo
- (viii) Ugunja, and
- (ix) Webuye West

(The Leader of the Majority Party)

- (b) The Fourth Report of the Special Funds Committee on the Audited Financial Statements for Kenya Roads Board Fund for the year ended 30th June, 2017

(Hon. Erastus Kivasu – Member, Special Funds Accounts Committee)

- (c) The Report of the Departmental Committee on Administration and National Security on its vetting of Nominees for appointment as Vice Chairperson and Members of the Public Service Commission.

(Chairperson, Departmental Committee on Administration & National Security)

7. NOTICES OF MOTION

The following Notices of Motion were given –

- (a) **THAT**, this House adopts the Fourth Report of the Special Funds Accounts Committee on the Audited Financial Statements for Kenya Roads Board Fund for the year ended 30th June, 2017, laid on the Table of the House today, Tuesday, December 4, 2018

(Hon. Erastus Kivasu – Member, Special Funds Accounts Committee)

- (b) **THAT**, taking into consideration the findings of the Departmental Committee on Administration and National Security in their Report on the *Vetting of the Nominees for appointment as Vice-Chairperson and Members of the Public Service Commission*, laid on the Table of the House today, Tuesday, December 4, 2018, and pursuant to the provisions of Article 233(2) of the Constitution and Sections 3 and 5 of Public Appointments (Parliamentary Approval) Act, 2011 this House **approves** the appointment of the following to the Public Service Commission –

- | | | | |
|--------|----------------------------|---|-------------------|
| (i) | Ms. Charity Seleina Kisotu | - | Vice-Chairperson; |
| (ii) | Dr. Joyce K. Nyambuti | - | Member |
| (iii) | Dr. Mary C. Mwiandi | - | Member |
| (iv) | Dr. Reuben K. Chirchir | - | Member |
| (v) | Amb. Patrick Simiyu Wamoto | - | Member |
| (vi) | Amb. Salma A. Ahmed | - | Member |
| (vii) | Mr. Andrew N. Muriuki | - | Member, and |
| (viii) | Ms. Joan Odhiambo Otieno | - | Member |

(Chairperson, Departmental Committee on Administration & National Security)

8. QUESTIONS

The following Questions were made to various Ministries–

- (i) Question 106/2018 by the Member for Lafey (Hon. Abdi Mude Ibrahim) regarding water projects in Lafey constituency; Question referred to the Departmental Committee on Environment and Natural Resources.
- (ii) Question 108/2018 by the Member for Alego-Usonga (Hon. Samuel Atandi) regarding donor-funded projects in Alego Uonga constituency; Question referred to the Departmental Committee on Finance and National Planning.
- (iii) Question 191/2018 by the Member for Keiyo North (Hon. (Dr) James Murgor) regarding payment of retirement benefits to Mrs. Philomena Chebiwot Chemitei; Question referred to the Departmental Committee on Agriculture and Livestock.

The following Questions were deferred–

- (i) Question 186/2018 by the Member for Mwatate (Hon. Andrew Mwadime) regarding water projects in Mwatate constituency was deferred on the request of the Member.
- (ii) Question 212/2018 by the Member for Homa Bay Town (Hon. Peter Kaluma) regarding integrity of national examinations was deferred on the request of the Member.
- (iii) Question 236/2018 by the Member for Konoin (Hon. Brighton Yegon) regarding number of SIM cards in the country was deferred on the request of the Member.

9. STATEMENTS

The following Statements were made:-

- a) The Member for Kitui Central Constituency (Hon. (Dr.) Makali Mulu) issued a Statement seeking clarification on the role and mandate of Budget and Appropriations Committee vis a vis the Departmental Committee on Finance and National Planning particularly as pertains aspects of taxation and revenue, and in determination of amendments to Finance Bills that have Money-Bill effects. The Speaker undertook to issue a Communication to guide the House on the matter.
- b) The Member for Suna East Constituency (Hon. Junet Sheikh Nuh) issued a Statement clarifying that the Parliamentary Service Bill, 2018 (National Assembly Bill No. 6 of 2018) does not contain any provision regarding increment of Members' salaries or allowances as claimed by sections of the Media. Members who contributed on the matter took a similar stand, which was thereafter confirmed by the Speaker.

10. THE CAPITAL MARKETS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.19 OF 2018)

Order for Second Reading having been read;

Motion having been made and Question having been proposed –

THAT, the Capital Markets (Amendment) Bill (National Assembly Bill No.19 of 2018) be now read a Second Time

*(Chairperson, Departmental Committee on Finance and National Planning –
29.11.2018)*

Debate on the Motion having been concluded on Thursday, November 29, 2018;

Question put and agreed to;

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

11. **THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.18 OF 2018)**

Order for Second Reading having been read;

Motion having been made and Question having been proposed –

THAT, the Sacco Societies (Amendment) Bill (National Assembly Bill No.18 of 2018) be now read a Second Time

*(Chairperson, Departmental Committee on Finance and National Planning –
29.11.2018)*

Debate on the Motion having been concluded on Thursday, November 29, 2018;

Question put and agreed to;

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

12. **THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILL NO.1 OF 2018)**

Order for Second Reading having been read;

Motion having been made and Question having been proposed –

THAT, the Assumption of Office of the County Governor Bill (Senate Bill No.1 of 2018) be now read a Second Time

*(Chairperson, Departmental Committee on Finance and National Planning –
29.11.2018)*

Debate on the Motion having been concluded on Thursday, November 29, 2018;

Question put and agreed to;

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

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

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

14. **THE DISASTER RISK MANAGEMENT BILL (SENATE BILL NO.8 OF 2018)**

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

15. **THE NUCLEAR REGULATORY BILL (NATIONAL ASSEMBLY BILL NO.27 OF 2018)**

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

16. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Fourth Chairperson in the Chair

The Government Contracts Bill (National Assembly Bill No.9 of 2018)

Clause 3 - agreed to

Clause 4 - amendment proposed –

THAT, clause 4 of the Bill be amended by deleting the word “interim” wherever it appears and substituting therefor the word “emergency”;

(Chairperson, Departmental Committee on Finance & National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 4 - as amended agreed to

Clause 5 - agreed to;

Clause 6 - amendment proposed –

THAT, clause 6 of the Bill be amended in sub-clause (1) by deleting the words “All contracts made for” and substituting therefor the words “Every contract made by”;

(Chairperson, Departmental Committee on Finance & National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to

Clause 7 - amendment proposed –

THAT, clause 7 of the Bill be amended–

- (a) in sub-clause (1), by deleting the words “All contracts made for” and substituting therefor the words “Every contract made by”;
- (b) in sub-clause (2), by inserting the word “that” immediately after the words “contracts made on behalf of”;

(Chairperson, Departmental Committee on Finance & National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 7 - as amended agreed to

Clause 8 - agreed to

Clause 9 - amendment proposed –

THAT, clause 9 of the Bill be amended in sub-clause (2) by deleting the word “authorities” and substituting therefor the word “authority”

(Chairperson, Departmental Committee on Finance & National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to

Clause 10 - amendment proposed –

THAT Clause 10 be amended by-

- (a) renumbering the existing provision as subsection (1);
- (b) by inserting the following new sub clause (2) immediately after the renumbered sub clause (1)—
 - “(2) An accounting officer shall, before any contract is commenced, confirm in writing to a supplier of goods, services or works that sufficient funds are available to meet the obligations of the contract whenever payment is due.”

(Hon. Ronald Tonui)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 10 - as amended agreed to

Clause 11 - agreed to

Clause 12 - amendment proposed –

THAT, clause 12 of the Bill be amended in sub-clause (2)–

- (a) by renumbering the current paragraph (c) as paragraph (d); and
- (b) by inserting the following new paragraph immediately after paragraph (b)–

“(c) the bidder consents to public disclosure of basic information other than information limited by the provisions of section 6(1)(e) of the Access to Information Act relating to the commercial interests;”

(Chairperson, Departmental Committee on Finance & National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 12 - as amended agreed to

Clauses 13, 14, 15 & 16 - agreed to

New Clause 11A proposed -

THAT the Bill be amended by inserting the following new clause immediately after Clause 11—

“11A. (1) Any payment that is due arising out of a contract under this Act shall be paid within the terms of the contract or shall be made within thirty days upon completion.

(2) All payments of contracts due shall be made according to the sequence of date of completion.”

(Hon. Ronald Tonui)

Motion made and Question proposed –

THAT, the New Clause 11A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 11A be part of the Bill

Amendment proposed –

THAT, the proposed New Clause 11A be amended in sub clause (1) by deleting all the words appearing after the phrase “terms of the contract”.

(Hon. William Tuitoek)

Debate arising;

Question put and agreed to;

New Clause 11(A) - as amended agreed to

New Clause 14A proposed -

THAT the Bill be amended by inserting the following new clause immediately after clause 14 –

Disclosure of contract information. No. 31 of 2016.	14A. Nothing in this Act shall limit the obligation of a public entity to disclose any contract-related information pursuant to the provisions of Access to Information Act, 2016 and such other guidelines as may be issued by the Government from time to time.
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The Leader of the Majority Party)

Motion made and Question proposed –

THAT, the New Clause14A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 14A be part of the Bill

Question put and agreed to;

Schedule - agreed to

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended in the definition of the term “contracting authority” by deleting the word “and” wherever it appears in paragraph (b) and substituting therefor the word “or”;

(Chairperson, Departmental Committee on Finance & National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments;

17. **HOUSE RESUMED** - the Third Chairperson in the Chair

The Government Contracts Bill (National Assembly Bill No.9 of 2018)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report

(The Leader of the Majority Party)

Question deferred to another day

18. **MOTION – RATIFICATION OF THE EAST AFRICAN COMMUNITY PROTOCOL ON INFORMATION AND COMMUNICATION TECHNOLOGY NETWORKS**

Order deferred to another day

19. **MOTION – REPORT ON KENYATTA UNIVERSITY TEACHING & REFERRAL HOSPITAL PROJECT**

Motion made and Question proposed –

THAT, this House **adopts** the Report of the Departmental Committee on Health on Kenyatta University Teaching & Referral Hospital Project, laid on the Table of the House on Wednesday, October 17, 2018.

(Chairperson, Departmental Committee on Health)

Debate arising;

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

20. **HOUSE ROSE** - at Seven O'clock

MEMORANDUM

The Speaker will take the Chair on
Wednesday, December 05,2018 at 9.30 a.m.