



REPUBLIC OF KENYA  
TWELFTH PARLIAMENT - (THIRD SESSION)

THE SENATE

**SUPPLEMENTARY ORDER PAPER**  
**TUESDAY, FEBRUARY 19, 2019 AT 2.30 PM**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**  
(The Senate Majority Leader)
9. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2017)**  
(The Senate Majority Leader)  
*(Consideration of the National Assembly Amendments)*
10. **MOTION - THE REPORT OF THE AD-HOC COMMITTEE ON THE MAIZE CRISIS IN KENYA.**  
(Chairperson Ad-Hoc Committee on Maize)  

**THAT**, this House adopts The Report of the Ad-hoc Committee on the Maize crisis in Kenya laid on the Table of the House on Tuesday, 27<sup>th</sup> November, 2018.
11. **\*\*\*THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)**  
(The Senate Majority Leader)  
*(Second Reading)*  
*(Resumption of debate interrupted on Wednesday, 5<sup>th</sup> December, 2018)*

...../Bill

- 12. **\*\*THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILLS NO. 21 OF 2018)**  
(Chairperson, Sessional Committee on Delegated Legislation)  
*(Second Reading)*
- 13. **\*THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**  
(Sen. Ledama Olekina, MP)  
*(Second Reading)*
- 14. **\*THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO 27 OF 2018)**  
(Sen. Abshiro Halake, MP)  
*(Second Reading)*
- 15. **\*THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**  
(Sen. Mutula Kilonzo Jnr, MP and Sen. Sakaja Johnson, MP)  
*(Second Reading)*

**KEY**

- \*\*\*\*** - Denotes a Majority /Minority Party Bill
- \*\*\*** - Denotes a National Assembly Bill
- \*\*** - Denotes a Committee Bill
- \*** - Denotes any other Bill

**A. \*\*\*THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**  
(The Senate Majority Leader)

**NOTICE** is given that Sen. Ndwiga Peter Njeru, the Chairperson to the Standing Committee on Agriculture, Livestock and Fisheries, intends to move the following amendments to the Irrigation Bill (National Assembly Bills No. 46 of 2017) at the Committee Stage—

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended in subclause (1) by deleting the words “as more specifically provided in the Act for” appearing immediately after the words “Act shall apply” and substituting therefor the words “to matters relating to the”.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) The Cabinet Secretary shall, in consultation with the Council of County Governors, regulate and promote the development and proper management of irrigation throughout Kenya and to this extent shall ensure the effective exercise and performance by any authority or person under the authority of the Cabinet Secretary of their powers and duties in relation to irrigation and drainage, including water harvesting and storage for irrigation.

(b) in subclause (2) by—

- (i) inserting the words “in consultation with the Council of County Governors” immediately after the words “Cabinet Secretary shall” in the introductory clause;
- (ii) deleting the word “facilitate” appearing at the beginning of paragraph (d) and substituting therefor the word “promote”; and
- (iii) deleting the word “Parliament” appearing immediately after the words “report to” in paragraph (h) and substituting therefor the words “the National Assembly and the Senate”; and

...../ *Amendments*

(c) by inserting the following new subclause immediately after subclause (3)—

(3A) The Cabinet Secretary shall consult the county governments of all counties affected by an irrigation scheme before issuing a licence under subsection (2)(f).

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in subclause (2) by inserting the words “safe storage” immediately after the words “promote the marketing” in paragraph (k).

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended—

(a) in subclause (1) by—

- (i) deleting the words “State Department of” appearing immediately after the words “the Principal Secretary” in paragraph (b) and substituting therefor the words “responsible for”;
- (ii) deleting the words “five other” appearing at the beginning of paragraph (f) and substituting therefor the word “two”;
- (iii) inserting the following new paragraph immediately after paragraph (f)—
  - (g) four persons nominated by the Council of County Governors and appointed by the Cabinet Secretary, taking into account the various stakeholder interests in irrigation development and management as defined in subsection (2).

(b) in subclause (2) by deleting the words “include two representatives of county governments nominated by the Council of Governors and shall” appearing at the beginning of paragraph (b);

(c) by inserting the following new subclause immediately after subclause (2)—

(2A) The Council of County Governors shall, for purposes of subsection (2)(b), nominate and submit to the Cabinet Secretary, the names of eight persons out of whom the Cabinet Secretary shall appoint four.

(d) by deleting subclause (4).

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended—

(a) in subclause (1) by deleting the words “an irrigation function delegated by the Cabinet Secretary as may be prescribed in the Regulations” appearing immediately after the words “carrying out of” and substituting therefor the words “its functions with respect to irrigation pursuant to Part 2 of the Fourth Schedule to the Constitution”; and

(b) in subclause (2) by deleting the word “Parliament” appearing immediately after the words “and approved by” and substituting therefor the words “the National Assembly and the Senate”.

**CLAUSE 16**

**THAT** clause 16 of the Bill be amended in subclause (6) by inserting the words “and the impact the irrigation scheme is likely to have on the environment” immediately after the words “and fish producers”.

**CLAUSE 17**

**THAT** clause 17 of the Bill be amended in subclause (1) by—

(a) inserting the words “in consultation with the Council of County Governors,” immediately after the words “Cabinet Secretary shall” in the introductory clause; and

(b) inserting the following new paragraph immediately after paragraph (b)—

(c) in consultation with the Water Resources Authority, for the handling of irrigation water effluent.

**CLAUSE 20**

**THAT** clause 20 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause—

(3) An association may, with the approval by the Cabinet Secretary, enter into an agreement with the National Government, a county government, a private sector institution or another farmers’ association for the establishment, expansion, implementation, improvement, modernization, operation or maintenance of a scheme.

**CLAUSE 25**

**THAT** clause 25 of the Bill be amended in subclause (1) by inserting the word "intra-scheme" immediately after the words "scheme development, management,".

**CLAUSE 34**

**THAT** clause 34 of the Bill be amended—

- (a) in subclause (1) by inserting the words "and with the approval of the Senate and the National Assembly," immediately after the words "with county governments"; and
- (b) in subclause (2) by deleting paragraph (e) and substituting therefor the following new paragraph—
  - (e) the requirements, procedures and forms for licensing of irrigation schemes;

**SCHEDULE**

**THAT** the schedule to the Bill be amended in paragraph 3 by deleting subparagraph (5) and substituting the following new subparagraph—

- (5) The chairperson shall preside at every meeting of the Board of and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by —

- (a) deleting the definition of the word "irrigation" and substituting therefor the following new definition—

"irrigation" means any process, other than by natural precipitation, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees;

- (b) deleting the definition of the word "license" and substituting therefor the following new definition—

"licence" means a license issued by the Cabinet Secretary or such other person as the Cabinet Secretary may authorize;

...../ *Amendments*

B. \*\*\*THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO.4 OF 2017)

(The Senate Majority Leader)

**Clause 19**

**THAT**, Clause 19 of the Bill be amended in the proposed new FIRST SCHEDULE under the heading marked "City" by inserting the following new services immediately after

"Organised Public Transport"-

"Information, Communication and Technology services"

"Telecommunication services"

APPENDIX

1. PAPERS

- i. Report of the Parliament of Kenya delegation to the 49<sup>th</sup> Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Gaborone, Botswana, 13<sup>th</sup> – 22<sup>nd</sup> August, 2018.

*(Sen. Petronilla Were, MP)*

- ii. Report of the Auditor-General on the Financial Statements of the Vihiga County Assembly Car and Mortgage Loan Fund the Year ended 30 June, 2017.
- iii. Report of the Auditor-General on the Financial Statements of the Homa Bay County Executive Staff Car and Mortgage Loan Fund the Year ended 30 June, 2016.

*(The Senate Majority Leader)*

2. NOTICES OF MOTION

- (i) REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE 49<sup>TH</sup> COMMONWEALTH PARLIAMENTARY ASSOCIATION (CPA) AFRICA REGION CONFERENCE

(Sen. Petronilla Were, MP)

**THAT** this House notes the Report of the Parliament of Kenya delegation to the 49<sup>th</sup> Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Gaborone, Botswana, 13<sup>th</sup> – 22<sup>nd</sup> August, 2018 laid on the Table of the House on Tuesday, 19<sup>th</sup> February, 2019.

- (ii) THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA

(Sen. (Canon) Naomi Waqo Jilo, MP)

**AWARE THAT**, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

**FURTHER AWARE THAT**, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

**COGNIZANT** that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

**RECALLING** that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;



**NOTING THAT**, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

**CONCERNED** that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

**NOW THEREFORE THE SENATE RESOLVES**

- 1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- 2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

(iii) **CREATION OF DISABILITY INCLUSIVE SCHOOL CLUBS IN ALL PUBLIC SCHOOLS**

(Sen. (Dr.) Getrude Musuruve, MP)

**THAT, WHEREAS** Article 19 of the Convention on the Rights of Persons with Disabilities (CRPD) affirms the equal right of all persons with disabilities to live in a community, with choices equal to others, equal access to services and facilities that are responsive to their needs;

**AWARE THAT** societal perception of disability is negative, mainly due to lack of socialization and integration during the formative years,;

**COGNIZANT THAT** participation in school clubs provides important life skills that prepare children holistically for their future and plays a major role in transforming students' lives as they transit to various professions in adulthood;

**CONCERNED THAT** no policy exists addressing inclusivity in school clubs for persons with disability in the public school system;

**NOW THEREFORE** the Senate calls upon the coordinated effort of the National Government through the Ministry of Education, and the County Governments through the Council of Governors to develop policy that would ensure inclusiveness of special needs learners in school clubs in public schools beginning at the Early Childhood Development (ECD) level up to and including Secondary School level.

3. **STATEMENTS PURSUANT TO STANDING ORDER NO. 48(1)**

- a) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) to seek a statement from the Standing Committee on Education on the delay by the Ministry of Education in disbursement of money to public schools.
- b) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) to seek a statement from the Standing Committee on Education on the status of implementation of the sector policy for learners and trainees with disabilities launched in May, 2018.

...../Appendix

- c) Nominated Senator (Sen. Millicent Omanga, MP) to seek a statement from the Standing Committee on Justice, Legal Affairs and Human Rights on the compulsory management of copyright and other related rights.

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