



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 19, 2019 AT 2.30 P.M.

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 conveyed the following Communication from the Chair:-

a) **Visiting Clerk of the County Assembly of West Pokot**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of visiting Clerk from the County Assembly of West Pokot.

I request Mr. David Karugutiang – Clerk of West Pokot County Assembly to stand so that he may be acknowledged in the Senate tradition.

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

I thank you.”

b) **Visiting Pupils and Teachers from Diamond Academy, Athi River, Machakos County.**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Pupils and Teachers from Diamond Academy, Athi River, Machakos 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.”

c) **On Visiting Delegation from the Parliament of the Republic of Serbia**

Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of a visiting delegation from the Parliament of the Republic of Serbia led by Her Excellency Ms. Maja Gojkovic, Speaker of the National Assembly. Ms. Maja, who is my colleague, is a Member of the Preparatory Committee of the 5th World Conference of Speakers of Parliaments of the Inter- Parliamentary Union (IPU). It is important to note that she will also be the host of the 141st Assembly of IPU, that will be held in Belgrade, Serbia in October, 2019.

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

They are:

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| 1) Hon. Professor (Dr.) Zarko Obradovic | - President of the Foreign Policy Committee |
| 2) Hon. Dragomir Karic | - President of the Parliamentary Friendship Group with Uganda |
| 3) H.E Dragan Zupanjevac | - Ambassador the Embassy of Serbia |
| 4) Mr. Milan Varadinovic | - Deputy Head of Mission, Embassy of the Republic of Serbia |
| 5) Mrs. Dragana Djurasinovic Radojevic | - Advisor in the Cabinet of the Speaker |
| 6) Ms. Marjana Jeremic | - Advisor for Media in the Cabinet of the Speaker |
| 7) Ms. Dragana Pokrajac | - Translator |
| 8) Ms. Jasminka Urosevic | - Senior Protocol Officer |
| 9) Mr. Darko Milanovic | - Security Officer to the Speaker |
| 10) Ms. Danica Kostic | - Journalist, Serbia Television Station, RTS |
| 11) Mr. Dejan Popovic | - Journalist, Serbia Television Station, RTS |

The delegation is here to sign a Memorandum of Understanding with our counterparts, the National Assembly, geared towards enhancing Parliamentary Diplomacy between the two chambers. After their meetings in Parliament, they are scheduled to meet Ambassador Monica Juma, Cabinet Secretary, Ministry of Foreign Affairs.

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

I thank you.”

4. **PAPERS LAID**

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

- i. 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.
- ii. 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 Whip)

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

- i. Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) sought a Statement from the Standing Committee on Education on the delay by the Ministry of Education in disbursement of money to public schools.
- ii. Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) sought 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.

6. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

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

The Irrigation Bill (National Assembly Bills No. 46 of 2017)

Clause 3 – amendment proposed.

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”.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 3 – vote deferred.

Clauses 4 and 5

Motion made and Question proposed;

THAT, Clauses 4 and 5 be part of the Bill.

Clauses 4 and 5 – vote deferred.

Clause 6 – amendment proposed.

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

(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).

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 6 – vote deferred.

Clause 7

Motion made and Question proposed;

THAT, Clause 7 be part of the Bill.

Clause 7 – vote deferred.

Clause 8 – amendment proposed.

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).

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 8 - vote deferred.

Clause 9 - amendment proposed.

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).

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 9 - vote deferred.

Clauses 10 - 13

Motion made and Question proposed;

THAT, Clauses 10 - 13 be part of the Bill.

Clauses 10 – 13 - vote deferred.

Clause 14 - amendment proposed.

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”.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 14 - vote deferred.

Clause 15

Motion made and Question proposed;

THAT, Clause 15 be part of the Bill.

Clause 15 - vote deferred.

Clause 16 - amendment proposed.

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”.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 16 - vote deferred.

Clause 17 - amendment proposed.

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.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 17 - vote deferred.

Clauses 18 and 19

Motion made and Question proposed;

THAT, Clauses 18 and 19 be part of the Bill.

Clauses 18 and 19 - vote deferred.

Clause 20 - amendment proposed.

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.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 20 – vote deferred.

Clauses 21 - 24

Motion made and Question proposed;

THAT, Clauses 21 - 24 be part of the Bill.

Clauses 21 – 24 – vote deferred.

Clause 25 – amendment proposed.

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

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 25 – vote deferred.

Clauses 26 - 33

Motion made and Question proposed;

THAT, Clauses 26 - 33 be part of the Bill.

Clauses 26 – 33 – vote deferred.

Clause 34 – amendment proposed.

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;

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 34 – vote deferred.

Clause 35

Motion made and Question proposed;

THAT, Clauses 35 be part of the Bill.

Clauses 35 - vote deferred.

Schedule - amendment proposed.

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.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Schedule - vote deferred.

Clause 2 - amendment proposed.

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;

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

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:

THAT, the Committee of the Whole do report progress on its consideration of the Irrigation Bill (National Assembly Bill No. 46 of 2017) and seek leave to sit again tomorrow.

(The Senate Majority Leader)

Before the question was put and pursuant to Standing Order 79, the Acting Chairperson of Committees (Sen. (Dr.) Steve Lelegwe) ruled that the Question did not affect counties;

Question put and agreed to.

7. **HOUSE RESUMED** – The Temporary Speaker (Sen. Judith Pareno) in the Chair

8. **THE IRRIGATION BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2017)**

Progress reported;

Motion made and Question Proposed;

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

(The Senate Majority Leader)

There being no Senator wishing to contribute;

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

Question put and agreed to.

9. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

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

Consideration of National Assembly Amendment to the Urban Areas and Cities (Amendment) Bill (Senate Bills No.4 of 2017)

National Assembly amendment to 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”

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 19 of the Bill be approved.

(The Senate Majority Leader)

National Assembly amendment to Clause 19 - vote deferred

Progress report

Motion made:

THAT, the Committee of the Whole do report progress on its consideration of the National Assembly amendment to the Urban Areas and Cities (Amendment) Bill (Senate Bills No. 4 of 2017) and seek leave to sit again tomorrow.

(The Senate Majority Leader)

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

Question put and agreed to.

10. **HOUSE RESUMED** – The Temporary Speaker (Sen. Judith Pareno) in the Chair

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

Progress reported;

Motion made and Question Proposed;

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

(The Senate Majority Leader)

There being no Senator wishing to contribute;

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

Question put and agreed to.

12. **MOTION – THE REPORT OF THE AD-HOC COMMITTEE ON MAIZE CRISIS IN KENYA**

Motion made in an amended form pursuant to standing order 57-

THAT, this House adopts the Report of the of the Ad-hoc Committee on the Maize crisis in Kenya laid on the Table of the House on Tuesday, 27th November, 2018 subject to the following amendments-

- (a) by deleting the words "*The Cabinet Secretary, the National Treasury & Planning and the Cabinet Secretary, MOALF&I*" appearing in paragraph 3 on page 11 of the report and substituting therefor the word "*The Inter-Ministerial Committee on Food Security*" ; and
- (b) by deleting the words "*The CS National Treasury and CS, MOALF&I*" appearing in column 1 of recommendation 7 on page 111 of the report and substituting therefor the words "*The Inter-Ministerial Committee on Food Security*".

by deleting the words "*CS, National Treasury, CS, Agriculture*" appearing in column 3 of recommendation 7 on page 111 of the report and substituting therefor the words "*The Inter-Ministerial Committee on Food Security*".

(Chairperson Ad-Hoc Committee on Maize)

Raising a point of Order, the Senate Minority Leader (Sen. James Orengo) requested for deferment of Moving of the Motion as amended claiming the amendments were not procedural.

And the Temporary Speaker (Sen. Judith Pareno) acceding to the request, directed the Mover to withdraw the amended motion and move the motion in its original tomorrow.

13. **THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed-

THAT, the County Governments Retirement Bill (National Assembly Bills No. 10 of 2018) be now read a Second Time.

(Senate Majority Leader 05.12.2018)

Debate interrupted on 5.12.2018 resumed;

14. **MOTION – ADJOURNMENT OF DEBATE**

Motion made and Question proposed;

THAT, pursuant to Standing Order 105, the House do now adjourn debate of the County Government Retirement Scheme Bill (National Assembly Bills No. 10 of 2018) to refer the Bill to the Senate Business Committee.

(Sen. Mutula Kilonzo Jnr, MP)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, the Temporary Speaker (Sen. Judith Pareno) ruled, pursuant to Standing Order 79 (1), that the Motion did not affect counties.

Question put and negatived.

Debate interrupted resumed;

There being no other Senator wishing to contribute;

And in the absence of mover. The Temporary Speaker (Sen. Judith Pareno) deferred the order.

15. **THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILLS NO. 21 OF 2018)**

(Chairperson, Sessional Committee on Delegated Legislation)

(Second Reading)

Order read and deferred.

16. **THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**

(Sen. Ledama Olekina, MP)

(Second Reading)

Order read and deferred.

17. **THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO 27 OF 2018)**

Order for Second Reading read;

Motion made;

THAT, the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No 27 of 2018) be now read a Second Time.

(Sen. Abshiro Halake, MP)

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

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
Wednesday, February 20, 2019 at 2.30 p.m.*

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