



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

TUESDAY, MARCH 19, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages (as listed in the Appendix)
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. ***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)
(Resumption of debate interrupted on Thursday, 28th February, 2019)
(Division)
9. ****THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILLS NO. 21 OF 2018)**
(Chairperson, Sessional Committee on Delegated Legislation)
(Second Reading)
(Resumption of debate interrupted on Wednesday, 13th March, 2019)
(Division)
10. ***THE TEA BILL (SENATE BILLS NO. 36 OF 2018)**
(Sen. Aaron Cheruiyot, MP)
(Second Reading)
(Resumption of debate interrupted on Thursday, 14th March, 2019)
(Division)
11. **COMMITTEE OF THE WHOLE**
***THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)**
(Sen. Kimani Wamatangi, MP)

...../Bill

*(Consideration of the National Assembly Amendments)
(Resumption of debate interrupted on Tuesday, 12th March, 2019)
(Division)*

12. **COMMITTEE OF THE WHOLE**

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

(Sen. Aaron Cheruiyot, MP)

*(Resumption of debate interrupted on Wednesday, 21st November, 2018)
(Division)*

13. ****THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILLS NO. 34 OF 2018)**

(Chairperson, Standing Committee on Finance and Budget)

(Second Reading)

14. ***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)

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

(Sen. Ledama Olekina, MP)

(Second Reading)

16. ***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO 31 OF 2018)**

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

17. ***THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 32 OF 2018)**

(Sen. (Arch.) Sylvia Kasanga, MP)

(Second Reading)

18. ***THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**

(Sen. Ledama Olekina, MP)

(Second Reading)

19. **MOTION – APPROVAL OF SENATORS TO SERVE IN SELECT COMMITTEES**

(The Senate Majority Leader)

THAT, pursuant to Standing Orders 187 and 189, the House approves the nomination of Senators to serve in Select Committees of the Senate as follows –

a) Standing Committee on Energy

Sen. George Ochilo Ayacko Mbogo, EGH, MP to replace Sen. Mercy Chebeni, MP

...../Motion

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

Sen. Mercy Chebeni, MP to replace Sen. George Ochilo Ayacko Mbogo, EGH, MP.

20. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS' INFRASTRUCTURE PROJECTS**
(Chairperson, Standing Committee on Finance and Budget)

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments' infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers' residences, laid on the Table of the Senate on Thursday, 29th November, 2018.

21. **MOTION - 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;

...../Notice

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.

NOTICE

The Senate resolved on 13th February, 2019 as follows:-

THAT, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

******** - Denotes a Majority /Minority Party Bill

******* - Denotes a National Assembly Bill

****** - Denotes a Committee Bill

***** - Denotes any other Bil

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

(Sen. Paul Kimani Wamatangi, MP)

Schedule of amendments as passed by the National Assembly on Thursday, 6th December, 2018

CLAUSE 2

Clause 2 amended by inserting the definition of the word “county public officer” in its proper sequence—

“county public officer” has the meaning assigned to it under the County Governments Act.

CLAUSE 5

Clause 5 of the Bill amended in sub clause 2 by inserting the following new paragraph immediately after paragraph (f)–

“(fa) a representative of the Ministry responsible for matters related to devolution;

CLAUSE 6

Clause 6 of the Bill amended in sub clause (1) by deleting the words “to be at the service of the Governor elect” appearing in paragraph (c) and substituting therefor the words “for the Governor-elect”.

CLAUSE 16

Clause 16 of the Bill amended by–

- a) renumbering the proposed clause as subclause (1);
- b) inserting the following new paragraph immediately after paragraph (b) — “(c) to swearing of a speaker of a county assembly who assumes office under Article 182(5) of the Constitution”;
- c) inserting the following new subclause after the proposed clause—
 “(2) Upon nullification of an election of a county governor and a receipt of the notification by a relevant speaker, the speaker of a county assembly shall assume office as a governor within seven days and an election shall be held pursuant to Article 182(5) of the Constitution.”

CLAUSE 21

Clause 21 of the Bill amended by inserting the word “committee” immediately after the word “governor”.

CLAUSE 23

Clause 23 of the Bill amended by inserting the following new subsection immediately after the proposed new subsection (1B)—

“(1C) Where a vacancy arises as contemplated under section (1A), the speaker of a county assembly shall act as a governor and an election shall be held pursuant to Article 182(5) of the Constitution”.

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

(Sen. Aaron Cheruiyot, MP)

NOTICE is hereby given that Sen. Kinyua Nderitu, Chairperson of the Senate Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Governments (Amendment) Bill, 2018, at the Committee Stage –

CLAUSE 2

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.

No. 52 of 2012.

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

...../ **Amendments**

- (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.

APPENDIX

1. MESSAGE

Message from the National Assembly on the passage, with amendments, of the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017)

(The Speaker of the Senate)

2. PAPERS

- a) Report of the Auditor-General on the Financial Statements of West Pokot County Executive for the Year ended 30th June 2018;
- b) Report of the Auditor-General on the Financial Statements of the County Assembly of Busia for the Year ended 30th June 2018;
- c) Report of the Auditor-General on the Financial Statements of the County Assembly of Tana River for the Year ended 30th June 2018;
- d) Report of the Auditor-General on the Financial Statements of the County Assembly of Bungoma for the Year ended 30th June 2018;
- e) Report of the Auditor-General on the Financial Statements of the County Assembly of Bomet for the Year ended 30th June 2018;
- f) Report of the Auditor-General on the Financial Statements of the County Assembly of Kisumu for the Year ended 30th June 2018;
- g) Report of the Auditor-General on the Financial Statements of the County Assembly of Mombasa for the Year ended 30th June 2018;
- h) Report of the Auditor-General on the Financial Statements of the County Assembly of Meru for the Year ended 30th June 2018;
- i) Report of the Auditor-General on the Financial Statements of the County Assembly of Embu for the Year ended 30th June 2018;
- j) Report of the Auditor-General on the Financial Statements of the County Assembly of Thara Nithi for the Year ended 30th June 2018;
- k) Report of the Auditor-General on the Financial Statements of the County Assembly of Kwale for the Year ended 30th June 2018;
- l) Report of the Auditor-General on the Financial Statements of the County Assembly of Marsabit for the Year ended 30th June 2018;
- m) Report of the Auditor-General on the Financial Statements of the County Assembly of Kirinyaga for the Year ended 30th June 2018;
- n) Report of the Auditor-General on the Financial Statements of County Assembly of Kakamega for the Year ended 30th June 2018;
- o) Report of the Auditor-General on the Financial Statements of County Assembly of Taita Taveta for the Year ended 30th June 2018;
- p) Report of the Auditor-General on the Financial Statements County Assembly of Kilifi for the Year ended 30th June 2018;

...../Appendix

- q) Report of the Auditor-General on the Financial Statements of County Assembly of Kericho for the Year ended 30th June 2018;
- r) Report of the Auditor-General on the Financial Statements of County Assembly of Nyandarua for the Year ended 30th June 2018;
- s) Report of the Auditor-General on the Financial Statements of the County Assembly of Baringo for the Year ended 30th June 2018;
- t) Report of the Auditor-General on the Financial Statements of the County Assembly of Nyeri for the Year ended 30th June 2018;
- u) Report of the Auditor-General on the Financial Statements of the County Assembly of Nakuru for the Year ended 30th June 2018; and
- v) Report of the Auditor-General on the Financial Statements of the County Assembly of Isiolo for the Year ended 30th June 2018;

(The Senate Majority Leader)

3. **NOTICE OF MOTION - CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED FORCES & THEIR FAMILIES**

(Sen. George Khaniri, MP)

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

...../Appendix

4. **STATEMENTS**

i. Statement Pursuant to Standing Order No. 47 (1)

The Senator for Vihiga County (Sen. George Khaniri, MP) to make a statement on an issue of National concern on the issuance of Birth Certificates in the country and most specifically in Vihiga County;

ii. Statements Pursuant to Standing Order No. 48 (1)

- a) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on the Policy on the transfer of functions to counties;
- b) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Education on the status of implementation of the 100% transition policy to secondary schools and to Technical and Vocational Education Training (TVET);
- c) The Senator for Nandi County (Sen. Cherarkey Samson Kiprotich, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on the re-opening of the immigration center in Eldoret;
- d) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the impact of devolution on livestock farming.
