



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**THE SENATE**

**ORDER PAPER**

**TUESDAY, APRIL 02, 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. **\*\*\*THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 11 OF 2019)**  
(The Senate Majority Leader)  
*(First Reading)*
9. **\*THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)**  
(Sen. (Dr.) Agnes Zani, MP)  
*(Second Reading)*  
***(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)***  
***(Division)***
10. **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, 29<sup>th</sup> November, 2018.

***(Resumption of debate interrupted on Thursday, 28<sup>th</sup> March, 2019)***  
***(Division)***

...../Bill

11. COMMITTEE OF THE WHOLE

**\*\*THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

*(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)  
(Division)*

12. COMMITTEE OF THE WHOLE

**\*THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

*(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)  
(Division)*

13. COMMITTEE OF THE WHOLE

**\*THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)**

(Sen. Judith Pareno, MP)

*(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)  
(Division)*

14. COMMITTEE OF THE WHOLE

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

(Sen. Fatuma Dullo, MP)

*(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)  
(Division)*

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

(Sen. Ledama Olekina, MP)

*(Second Reading)*

*(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)*

16. **\*THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**

(Sen. Judith Pareno, MP)

*(Second Reading)*

17. **\*THE ELECTION LAWS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 37 OF 2018)**

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

*(Second Reading)*

18. **\*THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**

(Sen. Mary Seneta, MP)

*(Second Reading)*

19. **\*\*\*\*THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**

(The Senate Majority Leader)

*(Second Reading)*

20. **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;

**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 13<sup>th</sup> 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 Bill

-----

**A. \*\*THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

**(i) NOTICE** is given that Sen. (Dr.) Christopher Langat, MP Chairperson, Standing Committee on Education, intends to move the following amendments to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in paragraph (d) by deleting the words “that are secular in nature and that promote culture” appearing immediately after the words “curriculum programs” and substituting therefor the words “that promote positive culture”.

**CLAUSE 19**

**THAT** clause 19 be amended by-

(a) deleting sub-clause (3) and substituting therefore the following new sub-clause-

(3) The compound in which an education centre is situated shall not be less than one acre in measurement.

(b) deleting sub-clause (4).

**CLAUSE 30**

**THAT** clause 30 of the Bill be amended-

(a) in sub-clause 1 by inserting the words “living with disability” immediately after the words “one person” appearing in paragraph (e);

(b) in sub-clause (3) by deleting the words “and shall report to the County Education Board in the performance of his or her functions under this Act” appearing immediately after the words “board of management”; and

(c) by inserting the following new sub-clause immediately after sub-clause (3)-  
(3A) The board of management shall report to the County Education Board on the performance of its functions under this Act.

**CLAUSE 38**

**THAT** clause 38 of the Bill be amended in sub-clause (1) by deleting the word “training” appearing immediately after the words “Recruitment and” in paragraph (a) and substituting therefor the words “professional development”.

**CLAUSE 41**

**THAT** clause 41 be amended in sub-clause (1) by deleting the word “three” appearing immediately after the words “the age of” and substituting therefor the word “four”.

**CLAUSE 49**

**THAT** clause 49 be amended by inserting the words “and the County Education Boards” at the end of the clause.

**CLAUSE 63**

**THAT** clause 63 be amended-

(a) in sub-clause (1) by –

(i) inserting the words “of either gender” immediately after the words “two persons” in paragraph (a);

(ii) deleting paragraph (b) and inserting therefore the following new paragraph-  
(b)the county executive committee member responsible for education or a representative nominated by the county executive member in writing;

(iii) by inserting the following new paragraph immediately after paragraph (b)-

(ba) one public officer in the department responsible for health, nominated by the respective county executive committee member responsible for matters relating to health;

(b) by inserting the following sub-clauses immediately after sub-clause (1)-

(1A) The appointments under subsections (1)(a) and (1)(d) shall be for a term of three years renewable for one further term.

(1B) The Committee shall, at its first meeting elect a Chairperson.

(1C)The County executive committee member responsible for education shall establish a secretariat to support the Committee.

**NEW CLAUSE 66A**

**That** the following new clause be inserted immediately after clause 66-

Qualified persons.

**66A.** A person employed as an early childhood teacher at the commencement of this Act and does not possess the minimum requirements as stated under section 36(1) shall continue to qualify for employment as an early childhood teacher if that person obtains the necessary qualifications within four years of the commencement of this Act.

**CLAUSE 1**

**THAT** clause 1 of the Bill be amended by deleting the word “County” appearing immediately after the words “cited as the”.

**(ii) NOTICE** is given that Sen. (Dr.) Agnes Zani, intends to move the following amendment to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

**CLAUSE 67**

**THAT** clause 67 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)-

(1A) The Cabinet Secretary shall in consultation with the Teachers Service Commission and the Council of County Governors prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

**B. \*THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

(i) **NOTICE** is given that Sen. Samson Cherarkey, MP Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended-

(a) in the introductory clause by inserting the words “and developmental programmes” immediately after the words “in governance processes”;

(b) by inserting the following new paragraph immediately after paragraph (f)-

(g) promote participation by non-state actors in decision-making processes.

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph-

(a) that the public, communities and organisations to be affected by a decision shall have a right to be notified, heard and involved in the decision-making process;

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended in sub-clause (2)-

(a) by deleting paragraph (c) and substituting therefor the following new paragraph-

(c) independent commissions or offices, boards, authorities or any other public body, the respective chief executive officer or secretary to the public body;

(b) in paragraph (f) by deleting the words “County Secretaries” appearing immediately after the words “County Executive” and substituting therefor the words “respective county executive committee member”.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in sub-clause (2) by deleting the word “specific” appearing immediately after the word “include” in paragraph (a) and substituting therefor the words “any further”;

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended by inserting the words “publicize and” immediately after the words “authority shall”.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in sub-clause (4) by inserting the words “including information on the purpose, dates and participants” immediately after the words “of public participation” in paragraph (a).

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended by inserting the words “within six months of the coming into operation of this Act” immediately after the words “the Cabinet Secretary may”.

**SCHEDULE**

**THAT** the schedule to the Bill be amended-

(a) in paragraph 2 by deleting the word “continuing” appearing immediately after the words “shall facilitate” and substituting therefor the word “continuous”;

(b) in paragraph 5 by inserting the words “youth, minorities and marginalized communities” immediately after the words “persons with disabilities” in sub-paragraph (2);

(c) by deleting paragraph 8 and substituting therefor the following new paragraph-



8. Every public participation forum shall be undertaken within a reasonable timeframe from the earliest possible time for consultation, allowing a reasonable period for each stage of the process.

(d) in paragraph 11 by deleting sub-paragraph (b) and substituting therefor the following new sub-paragraphs-

(b) the final decision, including the reasons for the decision, is made widely available in a timely manner to the public;

(ba) the final decision is publicized in the same manner required for giving notice for public participation under these guidelines;

(e) in paragraph 13 by inserting the words “and may be subject to penal consequences under any relevant law” immediately after the words “from a meeting” in sub-paragraph (2).

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines”-

“public participation” means the process through which the public are broadly engaged in understanding and contributing to decision-making processes of the policy making, law making and implementation level.

**TITLE**

**THAT** the Bill be amended in the long title by inserting the words “at the national and county level of government” immediately after the words “effective public participation”;

**(ii) NOTICE** is given that Sen. Petronilla Were Lokorio, MP intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage—

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended—

(a) by numbering the existing clause as sub-clause (1);

(b) in the new sub-clause (1) by deleting the words “taken into consideration in” appearing immediately after the words “views shall be” in paragraph (d) and substituting therefor the words “the basis of”;

(c) by inserting the following new sub-clauses immediately after sub-clause (1)—

(2) In conducting public participation, the responsible authority shall—

- a) allocate sufficient time before the public participation event to create public awareness on the subject matter;
- b) avail the relevant information to the members of the public with respect to the issue under consideration;
- c) engage the relevant stakeholders in such manner as the responsible authority shall consider appropriate;
- d) where the issue under consideration is of a technical nature, avail an independent technical expert to take members of the public through the matter under consideration in detail; and
- e) put in place a feedback mechanism to enable stakeholders submit their views and to receive feedback on the decisions made by the responsible authority.

(3) Where the issue for public participation relates to a matter that affects the nation generally, the responsible authority shall conduct public participation forums with respect to that matter in at least twenty-four counties.

(4) The responsible authority shall, in determining the counties in which public participation is to be conducted under sub-section (3), ensure that the forums are held in the counties alternately and that the residents in the counties in which the forums are not conducted are carried out through an alternative appropriate method.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

(4) The responsible authority shall publicize and publish, by notice in the *Gazette*, the guidelines.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in sub-clause (5) by deleting the words “in such other manner” appearing immediately after the words “and publicized in” and substituting therefor the words “through such other appropriate platform”.

**SCHEDULE**

**THAT** paragraph 10 of the schedule be amended by inserting the following new sub-paragraph immediately after sub-paragraph (4) to read—

(4A) The confidentiality requirement imposed by the responsible authority shall be reasonable and not unduly fetter the rights of the applicant.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 7—

Provision of resources for public participation.

**7A.** The responsible authority shall provide the necessary resources for the conduct of public participation under this Act.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines” —

“public participation” means an effective and reasonable process in which the public is properly engaged in a given matter of public interest for the purpose of obtaining their views with the aim of facilitating a favourable outcome.

(iii) **NOTICE** is given that Sen. (Dr.) Agnes Zani, MP intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended by inserting the following new subclause immediately after subclause (2)-

(2A) The responsible authority shall, in developing the guidelines specified under subsection (1), consult with the departments in the respective entity.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in subclause (1) by inserting the words “in accordance with this Act” immediately after the words “shall develop guidelines”.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in subclause (4) by inserting the following new paragraph immediately after paragraph (b)-

(ba) particulars of persons or organizations that have taken part in any public participation exercise conducted by the relevant entity.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 8-

General penalty. **8A.** A person contravenes a provision of this Act commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.

**SCHEDULE**

**THAT** the schedule be amended-

(a) in paragraph 4(2) by deleting subparagraph (f) and substituting therefor the following new paragraph-

(a) radio stations and print media.

(b) in paragraph 5 by inserting the words “including ensuring non-discrimination and reasonable access to information by such persons” immediately after the words “public participation processes” appearing in subparagraph (2);

(c) in paragraph 10(3) by deleting subsubparagraph (c) and substituting therefor the following new sub-subparagraph –

(c) shall be subject to the limitations on the right to access to information as set out in section 6 of the Access to Information Act.

**C. \*THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)**

(Sen. Judith Pareno, MP)

**NOTICE** is hereby given that the Chairperson of the Senate Standing Committee on Justice Legal Affairs and Human Rights, intends to move the following amendments to the Petition to County Assemblies (Procedure) Bill, (Senate Bills No. 22 of 2018), at the Committee Stage-

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended by-

(a) deleting subclause (1);

(b) deleting the introductory phrase to paragraph (4) and substituting therefor the following new introductory phrase-

(4) The relevant county assembly committee shall in considering the petition-

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

(Sen. Fatuma Dullo, MP)

**NOTICE** is hereby given that the Chairperson of the Senate Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Treaty Making and Ratification (Amendment) Bill, (Senate Bills No. 23 of 2018), at the Committee Stage-

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended in the proposed new section 8 by inserting the following new subsection immediately after subsection (1)-

(1A) The memorandum submitted under subsection (1) shall include the same information specified under section 7.

**NEW CLAUSE 1A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 1-

Amendment of section 3 of No. 45 of 2012.	<b>1A.</b> Section 3 of the principal Act is amended in subsection (2) by inserting the following new subparagraph immediately after subparagraph (v)- (vi) any matter that may have an impact on national revenue and public finance management.
---	--

**NEW CLAUSE 4A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 4-

Amendment of section 10 of No. 45 of 2012.	<b>4A.</b> Section 10 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)- (2A) Where the Cabinet Secretary intends to withdraw a reservation to a treaty ratified under this Act, the Cabinet Secretary shall submit the proposed reservation to Parliament for approval in accordance with the procedure set out under this Part.
--	---

**APPENDIX**

**1. PAPERS**

- a) Annual Report of the Office of the Controller of Budget for the Year 2017/2018;
- b) Report of the Auditor General on the Financial Statement of Bungoma County Emergency Fund for the Year ended 30<sup>th</sup> June, 2016;
- c) State of the Judiciary and Administration of Justice Report (SOJAR) 2017/2018.

*(The Senate Majority Leader)*

- d) Report of the Standing Committee on Labour and Social Welfare on the Global Disability Summit held in London, United Kingdom, on 24<sup>th</sup> July, 2018.

*(Chairperson, Standing Committee on Labour and Social Welfare)*

**2. NOTICES OF MOTION**

- (i) **ESTABLISHMENT OF NATION-WIDE CENTRES AND SATELLITE CLINICS FOR SICKLE CELL DISEASE AT COUNTY, SUB-COUNTY AND WARD LEVELS.**

(Sen. Naomi Masitsa Shiyonga, MP)

**THAT, AWARE THAT** Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;

**NOTING THAT,** Parliament enacted the Health Act (2017) whose objects encompass the need to establish a national health system at the national and county levels, as well as to facilitate, in a progressive and equitable manner, the highest attainable standards of health services;

**ACKNOWLEDGING THAT** Sickle Cell Disease, a severe hereditary form of anaemia in which a mutated form of haemoglobin distorts the red blood cells into a crescent shape at low oxygen levels, and is prevalent amongst those of African descent, has been acknowledged by World Health Organization (WHO) as a major public health priority which has had devastating effects on populations in many parts of Kenya;

**FURTHER ACKNOWLEDGING** the lack of comprehensive information and care programs for Sickle Cell Disease is occasioned by the poor public awareness, unavailability of routine health data and nationally recognised treatment guidelines;

**CONCERNED** by the lack of national screening programmes for Sickle Cell Disease despite the serious health problems it causes, and its contribution to childhood deaths in Kenya;

**NOW, THEREFORE,** the Senate urges the National and County Governments to establish nation-wide screening at existing medical centres and satellite clinics, and the provision of counselling on the management of sickle cell disease, a lifelong medical condition that has no cure, at the county, sub-county and ward levels.

(ii) **REPORT ON THE GLOBAL DISABILITY SUMMIT**

(Chairperson, Standing Committee on Labour and Social Welfare)

**THAT**, this House notes the Report of the Standing Committee on Labour and Social Welfare on the Global Disability Summit held in London, United Kingdom, on 24<sup>th</sup> July, 2018.

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

The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on the status of the Bute mega dam project in Wajir County;

-----