



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, MAY 15, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. **MOTION** - (The Senate Majority Leader)

THAT pursuant to Standing Order 159, the amendments of the National Assembly to the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) be now considered.

9. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE WAREHOUSE RECEIPT SYSTEM BILL (SENATE BILLS NO. 10 OF 2017)**
(Chairperson, Mediation Committee)

THAT, the Senate adopts the Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017) laid on the Table of the Senate on Tuesday, 14th May, 2019 and pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders approves the mediated version of the Bill.

10. ***THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**
(Sen. Ledama Olekina, MP)

*(Resumption of debate interrupted on Tuesday, 14th May, 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, 27th 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, 27th 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, 27th 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, 27th March, 2019)

(Division)

15. **COMMITTEE OF THE WHOLE**

*****THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(Consideration of National Assembly Amendments)

16. **COMMITTEE OF THE WHOLE**

***THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

17. **COMMITTEE OF THE WHOLE**

***THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

...../Bill

18. ***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)
(Resumption of debate interrupted on Wednesday, 3rd April, 2019)
19. ***THE ELECTION LAWS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 37 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)
(Resumption of debate interrupted on Tuesday, 14th May, 2019)
20. **THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**
(Sen. Judith Pareno, MP)
(Second Reading)
21. ***THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**
(Sen. Mary Seneta, MP)
(Second Reading)
22. ******THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**
(The Senate Majority Leader)
(Second Reading)
23. ***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**
(Sen. Aaron Cheruiyot and Sen. Isaac Mwaura)
(Second Reading)
24. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**
(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

...../Motion

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President’s “Big Four” Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government’s Budget is based on Vision 2030 and “Big Four” Agenda, the County Governments’ Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP’s) and Annual Development Plans (ADP’s) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

25. **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;

...../Motion

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.

26. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE ANNUAL REPORT OF THE COUNTY GOVERNMENTS BUDGET IMPLEMENTATION REVIEW FOR FINANCIAL YEAR 2017/2018**

(Chairperson, Standing Committee on Finance and Budget)

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the Annual Report of the County Governments Budget Implementation Review for Financial Year 2017/2018, laid on the Table of the Senate on Wednesday, 27th March, 2019.

27. **MOTION - RENAMING OF MURANG’A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**

(Sen. Isaac Mwaura, MP)

THAT AWARE THAT, Murang’a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

...../Motion

FURTHER AWARE that the University is located in Murang’a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba’s contribution to our Nation, to rename Murang’a University of Technology to Kenneth Matiba University of Technology.

28. **MOTION - ESTABLISHMENT OF THE INFRASTRUCTURE NEEDS OF SELECTED COUNTY GOVERNMENTS**

(Sen. Okong’o Mogeni, MP)

AWARE that the Senate, on 16th July 2015, resolved to establish an *ad hoc* Committee to inquire into the status of County Headquarters and identify the needs of each of the forty-seven counties, which would form the basis for possible assistance to the identified counties;

RECALLING THAT the *ad hoc* Committee on County Headquarters tabled its Report in the Senate on 3rd December 2015 in which it recommended that 11 Counties be supported, as follows:

1. Those in dire need and requiring immediate assistance (‘AA category’): Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; and
2. Those requiring assistance to help them develop their Headquarter infrastructure (‘A category’): Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties.

FURTHER RECALLING THAT with regard to the five counties classified under the ‘AA category’, the Committee recommended that each be allocated a sum of Kshs.800 million as conditional grants, while the six counties classified under the ‘A category’ be each allocated a sum of Kshs.300 million as conditional grants;

...../Motion

AWARE THAT the Senate, on 1st March 2016 adopted, without amendments, the Report of the *ad hoc* Committee on County Headquarters;

COGNIZANT THAT following the said resolution of the Senate, conditional grants have been advanced to the five counties classified under the ‘AA category’, during the financial years 2017/2018, 2018/2019 and further allocations have been budgeted for the financial year 2019/2020;

CONCERNED THAT to date, no allocations have been made by way of conditional grants to the six counties identified as requiring assistance under category A, and that these counties continue to experience grave challenges in terms of infrastructure that have hampered their operations;

AWARE THAT the said counties are at various stages of putting up the infrastructure required to make them fully operational, and that some may have already been completed;

ACKNOWLEDGING THAT the Senate is mandated to protect the interests of counties and their governments, which includes ensuring that the county governments are fully operational;

NOW, THEREFORE, the Senate resolves that the Standing Committee on Devolution and Intergovernmental Relations undertakes an assessment of the current status of county government facilities in the following counties, and to report to the Senate within three months: -

1. **Under ‘category AA’:**

Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; with a view to ascertaining uptake of the funds allocated so far, progress made in construction of County Headquarter facilities, and whether any additional budgetary support is still required; and

2. **Under ‘category A’:**

Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties; with a view to ascertaining the current status of County Headquarter facilities, which would form the basis for possible budgetary assistance to the said Counties.

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 Bill

A. *THE COUNTY GOVERNMENT (AMENDMENT) BILL (NO. 2) (SENATE BILLS NO. 7 OF 2017)

(Sen. Mutula Kilonzo Junior, MP)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Tuesday, 26th March, 2019

CLAUSE 2

THAT, clause 2 be amended in the proposed amendments to section 123 —

(a) by deleting the proposed subsection (8) and substituting therefore following new subsection—

“(8) Where the Commission does not recommend the suspension of a county government, the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body the recommendation of the Commission.”

(b) in the proposed sub-section (9) by deleting the words “whether or not” appearing in paragraph (a) and substituting therefor the word “that”.

(c) by inserting a new subsection immediately after the proposed subsection (9)—

“(9a) Where the President is not satisfied that justifiable grounds exist for suspension of a county government the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body of his dissatisfaction.”

(d) in the proposed subsection (13) by—

- i) deleting the word “authorization” immediately after the word “upon” and substituting therefor the word “approval”; and
- ii) inserting the words “within fourteen days or receipt of the Senate resolution” immediately after the words “the President shall”.

(e) by deleting the in the proposed subsection (14).

CLAUSE 3

THAT, clause 3 of the Bill to be amended by renumbering the last provision under the proposed New Section 129 as subsection (8).

...../Amendments

B. **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.

C. *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;

...../ **Amendments**

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-

...../ **Amendments**

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—

...../ **Amendments**

- 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.

D. *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-

E. *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.	1A. 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.
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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.	4A. 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.
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F. *THE COUNTY GOVERNMENT (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Wednesday, 6th March, 2019

CLAUSE 8 -

THAT, Clause 8 of the Bill be amended in the proposed amendment to section 25 in the new subsection (2) by deleting the words “and the county Gazette” appearing immediately after the words Kenya Gazette.

CLAUSE 11 -

THAT, Clause 11 of the Bill be amended in the proposed amendments to section 31 by deleting the proposed new paragraph (a) and substituting therefor— “(a) may dismiss a county executive member, if the governor considers appropriate and shall give reasons for dismissal”

CLAUSE 15 -

THAT, the Bill be amended by deleting clause 15 and substituting therefor—

...../Amendments

Amendment to section 44 of No. 17 of 2012.

15. Section 44 the principal Act is amended by-
(a) deleting subsection (2) and substituting therefor—

“(2) A person shall be qualified for appointment as a county secretary under subsection (1), if that person —

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years relevant professional experience;
- (d) has at least five years’ experience in a leadership position at senior management level in a public service or private sector organization; and
- (e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

(b) inserting the following new subsections immediately after subsection (2)–

(2A) The Governor shall, for the purpose of competitive recruitment of a county secretary under subsection (2), constitute a selection panel.

(2B) The selection panel shall consist of the following persons–

- (a) a chairperson, not being a public officer;
- (b) one person from the private sector;
- (c) an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;
- (d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and
- (e) one person from an association representing workers.

(2C) The provisions of section 58A shall, with such modification as shall be necessary apply to the recruitment of a county secretary.

(2D) Upon interviewing the applicants for the position of county secretary–

- (i) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as county secretary; and

...../Amendments

(ii) the governor shall submit the name of one applicant to the county assembly for approval for appointment as county secretary by the governor.

(2E) The county secretary shall hold office for a term of five years and shall be eligible for re-appointment once.

(2F) The county secretary shall be an *ex officio* member of the County Executive Committee with no voting rights.

(c) inserting the following new subsection immediately after subsection (3) –

(3A) The county secretary may be removed from office on the following grounds—

- (a) inability to perform functions of the office arising out of physical or mental infirmity;
- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy; or
- (e) violation of the Constitution.

(3B) Before removal under subsection (3A), the county secretary shall be informed, in writing, of the reasons for the intended removal, and shall be given an opportunity to put a defence against any such allegations, either in person or through a representative.

(3C) Subject to subsection (3A), (3B) and conditions of appointment, a county secretary may be dismissed by the governor.

G. *THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)
(Sen. Ledama Olekina, MP)

(i) **NOTICE** is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

CLAUSE 2

Amend **THAT** the Bill be amended by deleting clause 2 and substituting
ment of the following new clause—
section Section 2 of the Retirement Benefits (Deputy President and
2 of Act Designated State Officers) Act, 2015, hereinafter referred to as the
No. 8 of “principal Act”, is amended by—
2015

(a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

(b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

CLAUSE 7

THAT clause 7 of the Bill be amended by—

(a) renumbering the proposed new section 10 as subsection (1); and

(b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

CLAUSE 8

THAT the Bill be amended by deleting clause 8.

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

NEW CLAUSE

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

Amendment **7A.** The First Schedule of the principal Act is amended in of First paragraph (h) by deleting the word “two” appearing at the Schedule of beginning of the paragraph.
Act No. 8 of
2015

(ii) **NOTICE** is given that Sen. Farhiya Ali Haji, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, Senate Bills No. 2 of 2018, at the Committee Stage—

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)-

(aa) in subsection (1) by deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(ab) in subsection (1) by deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

THAT the Bill be amended by introducing the following new clauses after clause 5

CLAUSE 5A

THAT section 5A of the Act be amended by-

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5B

THAT section 5B of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5C

THAT section 6 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5D

THAT section 7 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

H. *THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL
(SENATE BILLS NO. 17 OF 2018)

(Sen. Aaron Cheruiyot, MP)

NOTICE is given that Sen. Johnson Sakaja, MP the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Care and Protection of Older Members of Society Bill, 2018, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended in paragraph (b) by inserting the word “dignity” immediately after the words “protect the status”.

CLAUSE 4

THAT clause 4 of the Bill be amended in paragraph (b) by deleting the words “human being” appearing immediately after the words “of every” and substituting therefor the words “older member of society”.

PART II

THAT the Bill be amended by deleting the heading to Part II and substituting the following new title—

“RIGHTS AND ENTITLEMENTS OF OLDER MEMBERS OF SOCIETY”

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following clause—

- | | |
|-------------------------------------|--|
| Rights of Older Members of Society. | <p>5. An older member of society has the right to enjoy the rights conferred under the Constitution and in particular shall not be unfairly denied the right to—</p> <ul style="list-style-type: none"> (a) participate in community life in a position appropriate to their interests and capabilities; (b) participate in intergenerational programmes; (c) establish and participate in associations of older members of society; (d) participate in activities that enhance their income generating capacity; |
|-------------------------------------|--|

...../ **Amendments**

- (e) access opportunities that promote their optimal level of social, physical, mental and emotional wellbeing;
- (f) fully participate in the affairs of the society;
- (g) pursue their personal development;
- (h) manage their own property;
- (i) live in dignity and respect and be free from abuse; and
- (j) receive reasonable care and assistance from their family and the State.

NEW CLAUSES

THAT the Bill be amended by inserting the following New Clauses immediately after Clause 5-

Right to Legal Capacity. **5A.** (1) An older member of society has a right to legal capacity and the right to access support necessary to exercise that legal capacity.

(2) An express or implied disqualification on the grounds of age prescribed in a law, custom or practice shall not deprive an older member of society the right to legal capacity.

Right to Equality and Non-Discrimination. **5B.** (1) An older member of society shall be entitled to equal protection and equal benefit of the law.

(2) An affirmative action measure aimed to achieve equality of older members of society shall not constitute discrimination.

(3) An older member of society shall live in dignity and security, free from exploitation and physical or mental abuse and be treated fairly.

Right to Documents of Registration. **5C.** (1) An older member of society has a right to be issued with a passport, national identity card, certificate of birth and any other document of registration or identification irrespective of their age.

(2) Where a birth certificate is not issued, the older member of society shall use alternative document including a national identity card to serve the purpose.

Right to
Protection
and Safety
in Situations
of Risk and
Humanitaria
n
Emergencies

5D. (1) An older member of society has a right to suitable and specialised protection and safety in a situation of risk, including a situation of armed conflict, humanitarian emergency and the occurrence of a natural disaster.

(2) An institution whether public or private shall maintain an inventory of all older members of society and shall submit the inventory quarterly to the national government, county government and other agencies responsible for disaster management.

(3) The national government and each county government shall be responsible for emergency management and shall take appropriate measures to ensure the inclusion of older members of society in every scheme, program, mission as well as its disaster management system during the occurrence of any disaster emergency, for the safety and protection of such persons.

Right to
Education.

5E. (1) The national government and each county government shall ensure that older members of society have access to educational, cultural, spiritual and recreational resources.

(2) The Ministry responsible for education shall develop programmes and structures for the education and training of older members of society.

Right to
Health

5F. (1) The national government and each county government shall take appropriate measures to ensure that an older member of society who is not covered in an existing medical scheme gets affordable, accessible, adequate and quality free medical care.

(2) Medical assessment reports for older members of society shall be free of charge in public health institutions.

(3) An older member of society shall not be compelled to undergo any test as a precondition to or for continued enjoyment of provision of health cover.

Right to
Admission
into Public
and Private
Premises,
and Public
Transport

5G. (1) A person shall not, on the ground of old age be denied-
(a) admission into a premise to which members of the public are ordinarily admitted; or
(b) the provision of a service or amenity to which members of the public are entitled.

(2) The proprietor of a premise referred to in subsection (1) (a) shall not have the right, on the ground of a person's age, to reserve the right of admission to the premises against an older member of society.

Right to Sports, Recreation, Leisure and Culture.

5H. (1) An older member of society has a right to participate in sports, recreation, leisure and cultural activities including national and international sports events.

(2) Public and private institution with sporting, recreation, leisure and cultural activities shall ensure that the activities are sensitive to the needs of older members of society.

(3) An older member of society shall be entitled to the use, free of charge, of recreational or sports facilities owned or operated by the government during social, sporting or recreational activities.

(4) The national and county governments shall provide older members of society with a suitable environment for sports, recreation and leisure, including training support and medical personnel.

(5) Section (4) shall not apply in cases where there is exclusive private hire of such facilities.

Right of Access to Justice

5I. (1) Law enforcement agencies shall take into consideration the age of an older member of society on arrest, detention, trial or confinement.

(2) A suit involving an older member of society shall be disposed off expeditiously having due regard to their age and suffering.

CLAUSE 6

THAT clause 6 of the Bill be amended in subclause (2) by inserting the word “periodic” immediately after the word “promote” appearing at the beginning of paragraph (c).

CLAUSE 26

THAT clause 26 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (e) —

(f) the number of older members of society who have died in the home within the year and the cause of death; and

(g) the number of accidents in the home and complaints reported in relation to older members of society.

CLAUSE 27

THAT clause 27 of the Bill be amended-

(a) in paragraph (d) by inserting the words “county executive committee member and” immediately after the words “reports to the”;

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

(f) facilitate the enjoyment of all the rights of older members of society as conferred under the Constitution.

CLAUSE 30

THAT clause 30 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

(a) the right of expression on matters regarding their welfare.

APPENDIX

1. **PETITION**

Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the petition concerning tea, coffee and macadamia farmers.

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

2. **PAPERS**

- a) Annual Report of the Salaries and Remuneration Commission for Financial Year 2017/2018;
- b) Annual Report of the Commission on Administrative Justice for Financial Year 2017/2018;
- c) Report of the Auditor-General on the Nairobi City County Assembly Car Loan Fund for the Year ended 30th June 2018;
- d) Report of the Auditor-General on the Kiambu County Assembly Staff Mortgage Scheme Fund for the Year ended 30th June 2018;
- e) Report of the Auditor-General on the Kwale County Assembly Members and Staff Loan Scheme Fund for the Year ended 30th June 2017;
- f) Report of the Auditor-General on the Financial Statements of Municipal Council of Machakos Water and Sewerage Company Limited for the Year ended 30th June 2017;
- g) Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Facility Improvement Fund for the Year ended 30th June 2018;
- h) Report of the Auditor-General on the Financial Statements of the Nairobi City Water and Sewerage Company Limited for the Year ended 30th June 2018;
- i) Report of the Auditor-General on the Financial Statements of Mathira Water and Sanitation Company Limited for the Year ended 30th June 2018;
- j) Report of the Auditor-General on the Financial Statements of Tetu Aberdare Water and Sanitation Company Limited for the Year ended 30th June 2018;
- k) Report of the Auditor-General on the Financial Statements of Othaya Mukurweini Water Services Company Limited for the Year ended 30th June 2018;
- l) Report of the Auditor-General on the Financial Statements of Nyahururu Water and Sanitation Company Limited for the Year ended 30th June 2018;
- m) Report of the Auditor-General on the Financial Statements of Gatundu Water and Sanitation Company Limited for the Year ended 30th June 2018; and

- n) Report of the Auditor-General on the Financial Statements of Githunguri Water and Sanitation Company Limited for the Year ended 30th June 2018;

(The Senate Majority Leader)

3. **STATEMENTS**

(i) Pursuant to Standing Order No. 48(1)

The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Education on the appointment of the Vice Chancellor of Taita Taveta University.

(ii) Pursuant to Standing Order No. 51 (1) (b)

- (a) The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries to issue a statement relating to the activities of the Committee;
- (b) The Chairperson, Standing Committee on Devolution and Intergovernmental Affairs to issue a statement relating to the activities of the Committee; and
- (c) The Chairperson, Standing Committee on Education to issue a statement relating to the activities of the Committee.
