



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, JUNE 18, 2019 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

i) Visiting Delegation from Kakamega County Assembly

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery, this afternoon, of a visiting delegation from the Kakamega County Assembly House Business Committee and Speaker's Panel who are undertaking a two-day study visit and benchmarking in the Senate.

I request the Honourable Members and staff from the said county assembly to stand when called out so that they may be acknowledged in the usual Senate tradition.

They are: -

A. THE HOUSE BUSINESS COMMITTEE

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|--------------------------|---|--------|
| 1. Hon. Leylah Muhandale | - | Member |
| 2. Hon. Dickson Ombayo | - | Member |
| 3. Hon. Evelyn Mwanzo | - | Member |
| 4. Hon. Willis Opuka | - | Member |
| 5. Hon. Geoffrey Ondiro | - | Member |
| 6. Hon. Sarah Watsula | - | Member |

B. THE SPEAKER'S PANEL

Hon. Evelyn Mwanzo

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Member

C. SECRETARIAT

1. CPA Laban Atemba	Ag. Clerk
2. John Simwa	Deputy Clerk
3. Felix Juma	Clerk Assistant
4. Nicholas Anywa	Principal Clerk
5. Anne Muleshe	Clerk Assistant
6. Everlyn Juma	Clerk Assistant
7. Grace Wekesa	Hansard Editor
8. Phylis Ongale	Hansard Editor
9. Patrick Litaba	Serjeant -at- Arms

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

I thank you.”

ii) Visiting Students and Teachers from Missionary Cornerstone Primary School, Uasin Gishu County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Missionary Cornerstone Primary School in Uasin Gishu County.

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

I thank you.”

iii) Visiting students and teachers from Empuit Academy, Kajiado County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Empuit Academy in Kajiado County.

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

I thank you.”

iv) Visiting students and teachers from Riomego SDA Mixed Primary School, Nyamira County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery, this afternoon, of visiting students and teachers from Riomego SDA Mixed Primary Boarding School, Nyamira County

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

I thank you.”

4. **PETITION**

Pursuant to Standing Order 226(1)(a) and 230(2)(b), the Speaker reported to the Senate a Petition by one Mr. Isaack Mwangi Mugo concerning challenges facing small-scale tea farmers under the Kenya Tea Development Agency (KTDA).

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition, pursuant to Standing Order 232 (1), to the Standing Committee on Agriculture, Livestock and Fisheries for consideration.

5. **PAPERS LAID**

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

- i) Report of the Standing Committee on Labour and Social Welfare on the County Hall of Fame Bill (Senate Bills No. 39 of 2018).

(Chairperson, Standing Committee on Labour and Social Welfare)

- ii) Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No. 34 of 2017).

(Chairperson, Mediation Committee on the Physical Planning Bill)

6. **NOTICE OF MOTION** – (The Chairperson, Mediation Committee on the Physical Planning Bill National Assembly Bills No. 34 Of 2017)

THAT, the Senate adopts the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bills No. 34 of 2017) laid on the Table of the Senate on Tuesday, 18th June, 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.

7. **STATEMENT PURSUANT TO STANDING ORDER 48 (1)**

The Senator for Narok County (Sen. Ledama Olekina, MP) sought a statement from the Standing Committee on Labour and Social Welfare on the welfare and safety of Kenyan citizens working in the Kingdom of Saudi Arabia.

8. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

Consideration of National Assembly Amendments to the County Government (Amendment) Bill (Senate Bills No. 11 of 2017)

Debate interrupted on Wednesday 12th June, 2019 resumed;

Motion made:

THAT, the Committee of the Whole do report to the Senate its consideration of the National Assembly amendments to the County Government (Amendment) Bill (Senate Bills No. 11 of 2017) and its rejection thereof.

(Sen. Susan Kihika on behalf of the Senate Majority Leader)

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

Question put and agreed to.

9. **HOUSE RESUMED** – The Deputy Speaker in the Chair10. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)****Bill reported;**

Motion made and Question proposed;

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

(Sen. Susan Kihika on behalf of the Senate Majority Leader)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

11. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

The County Planning (Roads, Pavements and Parking Bays) Bill (Senate Bills No. 18 of 2018)

Clause 3 - amendment proposed

THAT, clause 3 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

No. 6 of 1996 (b) provide a framework for planning of commercial structures along county roads in accordance with the Physical Planning Act;

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of Chairperson, Standing Committee on Roads and Transportation)

Clause 3 - vote deferred.

Clause 4 - amendment proposed

THAT, clause 4 of the Bill be amended by deleting the words “and all commercial buildings constructed along major roads” appearing immediately after the words “county roads”.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 4 - vote deferred.

Clause 5 - amendment proposed

THAT, clause 5 of the Bill be amended—

(a) in sub-clause (1) by—

(i) deleting the words “all roads” and appearing immediately after the words “drainage systems along” in paragraph (b) and substituting therefor the words “county roads”;

- (ii) deleting the words “national and” appearing immediately after the words “constructed along” in paragraph (c);
- (iii) deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) construct, maintain and facilitate the construction and maintenance of adequate parking bays in the respective county.
- (iv) deleting paragraph (e);
- (v) deleting paragraph (f) and substituting therefor the following new paragraph—

No 6 of 1996. (f) facilitate regular inspection of all buildings, roads, streets, lanes, alleys, parking bays and walkways under the jurisdiction of the county government to ensure that they adhere to prescribed building codes and standards as set out in the Physical Planning Act, the Urban Areas and Cites Act and any other written law;

(b) by inserting the following new sub-clause immediately after sub-clause (2)—

(3) The CEC shall, for purposes of subsection (2) consult with the National Council for Persons with Disabilities established under section 3 of the Persons with Disabilities Act.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 5 - vote deferred.

Clause 6 - amendment proposed

THAT, clause 6 of the Bill be amended by inserting the words “in accordance with the Physical Planning Act” immediately after the words “in the county”.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 6 - vote deferred.

Clause 7 - amendment proposed

THAT, clause 7 of the Bill be amended —

- (a) by deleting sub-clause (1); and
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(1) The county executive committee member shall, in consultation with the National Lands Commission, designate public land for the construction of parking bays within the county.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 7 - vote deferred.

Clause 8 - amendment proposed

THAT, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Construction and maintenance of walkways by the county government	8. Each county government shall construct and maintain walkways along all county roads in the respective county.
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(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 8 - vote deferred.

Clause 9 - amendment proposed

THAT, the Bill be amended by deleting clause 9 and substituting therefor the following new clause—

Designation of Pedestrian Crossing	<p>9. (1) The county executive member shall designate areas for use by pedestrians for the purpose of crossing a county road in a manner that does not interfere with the flow of traffic and that complies with national and county legislation.</p> <p>(2) The county executive member shall, for the purpose of subsection (1) and where necessary, designate a pedestrian crossing and</p>
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	maintain a footbridge or any other convenience for use by pedestrians to cross a county road.
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(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 9 - vote deferred.

Clauses 10 - amendment proposed

THAT, the Bill be amended by deleting clause 10 and substituting therefor the following new clause —

<p>Access ways to commercial buildings</p> <p>No. 6 of 1996</p>	<p>10. (1) Subject to subsection (2), an owner of a commercial building which is situated along a county road—</p> <p>(a) may, with the approval of the county government, construct an access-way to the property in which the commercial building is situated in such a manner that the access-way does not obstruct a county road or extend directly from a county road.</p> <p>(b) shall allocate adequate space for access to the building in accordance with the Physical Planning Act and any other written law.</p> <p>(2) The county government shall ensure that there is an alternative means of access to commercial buildings in the area where the building is situated.</p> <p>(3) Every person who, immediately before the commencement of this Act, owns a commercial building situated along a county road shall comply with provisions of this section—</p> <p style="padding-left: 40px;">(a) within a period of twelve months from the date of the commencement of this Act; or</p> <p style="padding-left: 40px;">(b) within a period of twelve months from the date of completion of the construction of an alternative means</p>
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	<p>of access to the building as provided under subsection (2).</p> <p>(4) A person who contravenes subsection(1)(b) commits an offence and is liable, on conviction, in accordance with section 30 of the Physical Planning Act.</p>
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(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 10 - vote deferred.

Clause 11 - amendment proposed

THAT, the Bill be amended by deleting clause 11 and substituting therefor the following new clause—

<p>Construction and maintenance of walkways by owners of commercial buildings.</p>	<p>11. (1) The owner of a commercial building may construct and maintain a walkway next to the commercial building where the county government—</p> <p>(a) has designated an area next to the building for the construction of a walkway; and</p> <p>(b) has not constructed or has failed to maintain the walkway.</p> <p>(2)A person shall not construct or maintain a walkway under subsection (1)—</p> <p>(a) unless such person has applied for and obtained approval of the county executive committee member; and</p> <p>(b) otherwise in accordance with the prescribed standards.</p>
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(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 11 - vote deferred.

Clause 12 - amendment proposed

THAT, clause 12 of the Bill be amended in sub-clause (2) by deleting the words “in accordance with the standards prescribed under this Act” and substituting therefor with the words “in accordance with the Physical Planning Act and any other written law”.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 12 - vote deferred.

Clause 13 - amendment proposed

THAT, clause 13 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pavement” appearing immediately after the word “A” and substituting therefor the word “walkway”;
- (b) in sub-clause (2) by deleting the word “pavement” appearing immediately after the words “commercial activity on a” and substituting therefor the word “walkway”; and
- (c) by deleting sub-clause (3).

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 13 - vote deferred.

Clause 14 - amendment proposed

THAT, clause 14 of the Bill be amended —

- (a) by deleting sub-clause (3); and
- (b) in sub-clause (4) by deleting the word “seize” appearing immediately after the words “committee member may” and substituting therefor the word “walkways”.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 14 - vote deferred.

Clause 15 - amendment proposed

THAT, the Bill be amended—

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

(4) A person who contravenes this section commits an offence and is liable, on conviction in accordance with section 52A of the Traffic Act.
Cap 39 of 1953

(b) by deleting sub-clause 5.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 15 - vote deferred.

Clause 16 - amendment proposed

THAT, the Bill be amended -

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) The county executive committee member may, in consultation with the Cabinet Secretary and all relevant stakeholders, make regulations for the better carrying out of the provisions of this Act;

(b) in sub-clause (2)

(i) by deleting paragraph (a); and

(ii) in sub-clause (2)(b) by deleting the word “pavement” appearing immediately after the words “parking bays and” in paragraph (b) and substituting therefor the word “walkways”.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 16 - vote deferred.

Clause 2 - amendment proposed

THAT clause 2 of the Bill be amended—

(a) by deleting the definition of the word “commercial building” and substituting therefor the following new definition:

“commercial building” shall have the same meaning assigned to it under the Physical Planning Act;

(b) by inserting the following new definition immediately after the definition of the word “national road”—

“walkway” means any egress, footpath, pathway or route for use by non-motorized traffic and shall not include cycle lanes;

(c) by deleting the definition of the word “heavy commercial vehicle” and substituting therefor the following new definition—

“heavy commercial vehicle” has the meaning assigned to it under section 2 of the Traffic Act;

(d) by deleting the definition of the word “county road” and substituting therefore the following new definition—

“county road” means all roads falling within the mandate of the county governments under Part 2 of the Fourth Schedule to the Constitution and specified under any other written law;

(e) by deleting the definition of the word “major road”;

(f) by deleting the definition of the word “minor road”; and

(g) by deleting the definition of the word “national road”.

(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 2 - vote deferred.

The Title (Long Title)

Motion made and Question proposed;

THAT, the Title be the title of the Bill.

The Title - vote deferred.

Clause 1 (Short Title)

THAT, the Bill be amended by deleting clause (1) and substituting therefor the following new clause—

Short Title	1. This Act may be cited as the County Roads, Walkways and Parking Bays Act, 2018.
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(Sen. (Dr.) Lelegwe Ltumbesi on behalf of the Chairperson, Standing Committee on Roads and Transportation)

Clause 1 - vote deferred.

Progress Report

Motion made:

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the County Planning (Roads, Pavements

and Parking Bays) Bill (Senate Bills No. 18 of 2018) and seek leave to sit again tomorrow.

(Sen. Ledama Olekina, MP)

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

Question put and agreed to.

12. **HOUSE RESUMED** – The Deputy Speaker – in the Chair

13. **THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL (SENATE BILLS NO. 18 OF 2018)**

Progress reported;

Motion made and Question proposed-

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

(Sen. Ledama Olekina, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

14. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

The County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018)

Clause 3

Motion made and Question proposed;

THAT, Clause 3 be part of the Bill

Clause 3 - vote deferred

Clause 4 - amendment proposed

THAT, clause 4 of the Bill be amended –

(a) in subclause (2)(b) by deleting subparagraph (ii) and substituting therefor the following new paragraph –

(ii) the Kenya National Highway Authority or any other entity responsible for the management of road reserves, where the advertisement is to be displayed on a road reserve;

(b) by inserting the following new subclause immediately after subclause (2) –

(2A) The county executive committee member shall keep and maintain a register in which shall be recorded all applications made and licenses issued under this Act.

(Sen. Samuel Poghiso, MP on behalf of the Chairperson, Standing Committee on Information and Technology)

Clause 4 - vote deferred

Clauses 5 - 14

Motion made and Question proposed;

THAT, Clauses 5 - 14 be part of the Bill

Clauses 5 - 14 - vote deferred

Clause 15 - amendment proposed

THAT, clause 15 of the Bill be amended –

(a) by deleting the marginal note and substituting therefor the following new marginal note –

Publication of application for a licence.

(b) in subclause (2) by inserting the words “within seven days from the date of the notice” immediately after the words “on the application”.

(Sen. Samuel Poghiso, MP on behalf of the Chairperson, Standing Committee on Information and Technology)

Clause 15 - vote deferred.

Clauses 16 - 21

Motion made and Question proposed;

THAT, Clauses 16 - 21 be part of the Bill

Clauses 16 – 21 - vote deferred

New Clause 14A - insertion of new clause proposed

No other government entity to levy fees. **14A.** Subject to this Act or any other written law, no other government entity shall levy fees on outdoor advertising.

(Sen. Samuel Poghio, MP on behalf of the Chairperson, Standing Committee on Information and Technology)

Motion made and Question proposed;

THAT, the New Clause 14A be now read a Second Time.

(Sen. Samuel Poghio, MP on behalf of the Chairperson, Standing Committee on Information and Technology)

New Clause 14A - vote deferred.

New Clause 18A - insertion of new clause proposed

18A. (1) The National government, a county government or any other person who is a party to a dispute arising under this Act shall take reasonable measures to resolve the dispute by alternative dispute resolution before resorting to judicial proceedings.

(2) A party is considered to have taken reasonable measures to resolve a dispute by alternative dispute resolution if such a party–

- (a) notifies the other party of the issues that are in dispute and offering to settle them;
- (b) responds appropriately to a notification under paragraph (a);
- (c) provides relevant information and documents to the other party to enable that party understand the issues and determine the best approach to take in responding to the issues; or
- (d) where an alternative dispute resolution mechanism is agreed to –
 - (i) collaborating with the other party in determining the person to facilitate resolution of the dispute; and
 - (ii) attending the alternative dispute resolution process.

(Sen. Samuel Poghio, MP on behalf of the Chairperson, Standing Committee on Information and Technology)

Motion made and Question proposed;

THAT, the new clause 18A be now read a Second Time.

(Sen. Samuel Poghiso, MP on behalf of the Chairperson, Standing Committee on Information and Technology)

New Clause 18A - vote deferred

Clause 2

Motion made and Question proposed;

THAT, Clause 2 be part of the Bill.

Clause 2 - vote deferred

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

The Title and Clause 1 - vote deferred

Progress report

Motion made;

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018) and seek leave to sit again tomorrow.

(Sen. Samuel Poghiso, MP)

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

Question put and agreed to.

15. **HOUSE RESUMED** – The Deputy Speaker in the Chair
16. **THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)**

Progress reported;

Motion made and Question proposed-

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

(Sen. Samuel Poghiso, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

17. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

The County Law Compliance and Enforcement Bill (Senate Bills No. 26 of 2018)

Clause 3

Motion made and Question proposed;

THAT, Clause 3 be part of the Bill.

Clause 3 - vote deferred

Clause 4 - amendment proposed

THAT clause 4 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “deployment, secondment” immediately after the words “the ranks” in paragraph (a); and
- (b) inserting the following new paragraph immediately after paragraph (c);
- (d) ensure that recruitment and appointment of officers to the unit reflect the ethnic and geographical diversity of the people within the county.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 4 - vote deferred

Clause 5

Motion made and Question proposed;

THAT, Clause 5 be part of the Bill.

Clause 5 - vote deferred

Clause 6 - amendment proposed

THAT, clause 6 of the Bill be amended in sub-clause (2) by deleting the words “on matters such as weights and measures and noise level” appearing immediately after the words “with county laws” in paragraph (b).

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 6 - vote deferred

Clause 7 - amendment proposed

THAT, clause 7 of the Bill be amended in sub-clause (1) by –

- (a) deleting the words “any other law” appearing immediately after the words “this Act or” in the introductory clause and substituting therefor the words “the respective county legislation”; and
- (b) deleting the words “contrary to the provisions of this Act or any other county law” appearing immediately after the words “to cause harm” in paragraph (d)(i).

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 7 - vote deferred

Clause 8 - amendment proposed

THAT, clause 8 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

- (1) An enforcement officer may make an *ex parte* application to the relevant court for an order to seize property and for any other relevant order where the enforcement officer has reasonable grounds to suspect that any property –
- (a) has been or is being used for the purpose of carrying out a regulated activity contrary to the respective county legislation; or
 - (b) is maintained, kept or controlled in any other manner contrary to the respective county legislation.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 8 - vote deferred

Clause 9 - amendment proposed

THAT, clause 9 of the Bill be amended –

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause –

(4) In the case of perishable or rapidly depreciating property, the court may make an order for the disposal or return, by the unit, of the property to the owner.

- (b) in sub-clause (5) by deleting the word “destruction” appearing immediately after the words “an order for” in the introductory clause and substituting therefor the word “disposal”; and

- (c) by inserting the following new sub-clause immediately after sub-clause (6) –

(7) Where, upon the conclusion of proceedings, the court finds the owner of the property not to have committed an offence, the court may make an order for compensation for any loss suffered by the owner of the property.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 9 - vote deferred

Clause 10 - amendment proposed

THAT, the Bill be amended by deleting clause 10.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 10 - vote deferred

Clause 11 - amendment proposed

THAT, the Bill be amended by deleting clause 11.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 11 - vote deferred

Clause 12 - amendment proposed

THAT, the Bill be amended by deleting clause 12.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 12 - vote deferred

Clause 13 - amendment proposed

THAT, clause 13 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) A notice required to be given shall be deemed to have been served if -

(a) it is served upon the owner or occupant of the property;

(b) it is served upon an employee, who occupies a position of management, of the owner or occupant of the property; or

(c) sent to the last known address of the owner or occupant of the property.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 13 - vote deferred

Clause 14

Motion made and Question proposed;

THAT, Clause 14 be part of the Bill.

Clause 14 - vote deferred

Clause 15 - amendment proposed

THAT, clause 15 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) –

(4) A county government shall not establish, maintain or operate a facility for the purpose of detaining a person arrested pursuant to this Act.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Clause 15 - vote deferred

Clauses 16 - 24

Motion made and Question proposed;

THAT, Clauses 16 - 24 be part of the Bill.

Clauses 16 - 24 - vote deferred

New Clause 25 - insertion of new clause proposed

25. This Act shall not be construed as providing for the establishment of a police service or an entity performing a mandate similar to that of the National Police Service established under Article 243 of the Constitution.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

Motion made and Question proposed;

THAT, the new clause 25 be now read a Second Time.

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

New Clause 25 - vote deferred

The Schedule, Clause 2, the Title and Clause 1

Motion made and Question proposed;

THAT, the Schedule, Clause 2, the Title and Clause 1 be part of the Bill.

The Title and Clause 1 - vote deferred

Progress Report

Motion made;

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the County Law Compliance and Enforcement Bill (Senate Bills No. 26 of 2018) and seek leave to sit again tomorrow.

(Sen. George Khaniri, MP)

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

Question put and agreed to.

18. **HOUSE RESUMED** - The Deputy Speaker - in the Chair

19. **THE COUNTY LAW COMPLIANCE AND ENFORCEMENT BILL (SENATE BILLS NO. 26 OF 2018)**

Progress reported;

Motion made and Question proposed-

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

(Sen. Ledama Olekina, MP on behalf of Sen. George Khaniri, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

20. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

The County Wards (Equitable Development) Bill (Senate Bills No. 34 of 2018)

Clause 3

Motion made and Question proposed;

THAT, Clause 3 be part of the Bill.

Clause 3 – vote deferred.

Clause 4 – amendment proposed.

THAT, clause 4 of the Bill be amended-

- (a) in paragraph (a) by inserting the word “equitable” immediately after the words “the promotion of the”;
- (b) by deleting paragraph (c);
- (c) by inserting the following new paragraph immediately after paragraph (d)-
(e) the use of public funds in a prudent and responsible manner in accordance with Article 201 of the Constitution.

(Chairperson, Standing Committee on Finance and Budget)

Clause 4 – vote deferred.

Clause 5 – amendment proposed.

THAT, clause 5 of the Bill be amended in subclause (3) by deleting the word “expenditure” appearing immediately after the words “allocation for development” in paragraph (a) and substituting therefor the word “budget”.

(Chairperson, Standing Committee on Finance and Budget)

Clause 5 - vote deferred.

Clause 6 - amendment proposed.

THAT, clause 6 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause-

(2) The county assembly shall consider and either approve or reject the criteria within twenty-one days of receipt of the criteria.

(Chairperson, Standing Committee on Finance and Budget)

Clause 6 - vote deferred.

Clause 7 - amendment proposed.

THAT, clause 7 of the Bill be amended-

(a) in subclause (1) by deleting the word “county” appearing immediately after the words “resident of each” and substituting therefor the word “ward”;

(b) in subclause (4) by deleting the words “the village councils” appearing immediately after the words “offer technical assistance” and substituting therefor the words “to the respective ward administrator”.

(Chairperson, Standing Committee on Finance and Budget)

Further amendment proposed.

THAT, clause 7 of the Bill be further amended -

(a) by deleting subclause (2) and substituting therefor the following new subclause -

(2) The ward administrator in each ward shall coordinate the process of identifying projects for implementation under this Act and shall, in collaboration with the village councils established under section 53 of the County Governments Act, conduct public participation for

No. 17 of purposes of subsection (1).
2012.

(b) by deleting subclause (3) and substituting therefor the following new subclause -

(3) Each ward administrator shall compile and submit a list of proposed projects identified pursuant to subsection (2) to the county executive committee member.

(c) in subclause (4) by deleting the words “the village councils” appearing immediately after the words “technical assistance” and substituting therefor the words “to the ward administrators”.

(Sen. (Dr.) Alice Milgo, MP)

Amendment withdrawn by the Mover;

Clause 7 - vote deferred.

Clause 8 - amendment proposed.

THAT, clause 8 of the Bill be amended-

(a) in subclause (1) by deleting the words “section 7(4)” appearing immediately after the words “the proposals received under” and substituting therefor the words “section 7”;

(b) by deleting subclause (2) and substituting therefor the following new subclause-

(2) The projects identified under subsection (1) shall be submitted to the respective county assembly for approval.

(c) by deleting subclause (3) and substituting therefor the following new subclause-

(3) The county executive committee member shall publicize the projects approved by the county assembly for implementation in each ward by notice in the county Gazette and through such other means as the county executive committee member shall consider appropriate.

(Chairperson, Standing Committee on Finance and Budget)

Clause 8 - vote deferred.

Clauses 9 - 11

Motion made and Question proposed;

THAT, Clauses 9 - 11 be part of the Bill.

Clauses 9 – 11 - vote deferred.

Clause 12 - amendment proposed.

THAT, clause 12 of the Bill be amended in subclause (5) by deleting the words “subsection (2) or” appearing immediately after the words “of funds under” in the introductory clause and substituting therefor the word “subsection”.

(Chairperson, Standing Committee on Finance and Budget)

Clause 12 - vote deferred.

Clauses 13 - 19

Motion made and Question proposed;

THAT, Clauses 13 - 19 be part of the Bill.

Clauses 13 -19 - vote deferred.

Clause 2 - amendment proposed.

THAT, clause 2 of the Bill be amended in the definition of the term “community” by deleting the words “location, sub-location or village and having common interests” appearing immediately after the words “as a ward”.

(Chairperson, Standing Committee on Finance and Budget)

Further amendment proposed.

THAT, clause 2 of the Bill be amended by inserting the definition of the following new word immediately after the definition of the word “ward” –

“ward administrator” means the holder of the office of ward administrator established under section 51 of the
No. 17 of County Governments Act.
2012.

(Sen. (Dr.) Alice Milgo, MP)

Amendment dropped in the absence of the Mover;

Clause 2 - vote deferred.

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

The Title and Clause 1 - vote deferred.

Progress report

Motion made:

THAT, the Committee of the Whole do report to the House its consideration of the County Wards (Equitable Development) Bill (Senate Bills No. 34 of 2018) and seek leave to sit again tomorrow.

(Chairperson, Standing Committee on Finance and Budget)

Before the Question was put and pursuant to Standing Order 79, the Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) ruled that the Question did not affect counties;

Question put and agreed to.

21. **HOUSE RESUMED** – The Deputy Speaker - in the Chair

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

Progress reported;

Motion made and Question proposed;

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

(Chairperson, Standing Committee on Finance and Budget)

Debate arising;

There being no other Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

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

Order for Second Reading read;

Motion made and Question proposed-

THAT, the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2018) be now read a Second Time.

(Sen. (Arch.) Sylvia Kasanga, MP – 29.05.2019)

Debate interrupted on Tuesday, 11th June, 2019 resumed;

Mover replied;

Raising a Point of Order, the Mover requested, pursuant to Standing Order 61(3), for the deferment of the putting of the Question to a later date;

And the Deputy Speaker, acceding to the request, nominated Wednesday, 19th June, 2019, as the day when the Question shall be put.

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

Order for Second Reading read;

Motion made and Question proposed-

THAT, the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No. 38 of 2018) be now read a Second Time.

(Sen. Mary Seneta, MP)

Debate arising;

Adjournment of Debate Pursuant to Standing Order 105

Motion made and Question proposed;

THAT, debate be now adjourned.

(Sen. CPA Farhiya Ali Haji, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

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

(The Senate Majority Leader)

(Second Reading)

Order deferred.

26. **THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**

(Sen. Aaron Cheruiyot, MP and Sen. Isaac Mwaura, MP)

(Second Reading)

Order deferred.

27. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2019)**

(The Senate Majority Leader)

(Second Reading)

Order deferred.

28. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

Motion made and Question proposed -

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;

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.

(Sen. Charles Reubenson Kibiru, MP)

Debate arising;

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

29. **SENATE ROSE** – at thirty minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, June 19, 2019 at 2.30 p.m.*

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