



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)
THE SENATE
ORDER PAPER

WEDNESDAY, OCTOBER 09, 2019 AT 2.30 P.M.

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages (as listed in the Appendix)
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. *****THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (NO. 3) BILL (NATIONAL ASSEMBLY BILLS NO. 35 OF 2019)**
(The Senate Majority Leader)
(First Reading)
9. **COMMITTEE OF THE WHOLE**
***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Resumption of debate interrupted on Wednesday, 31st July, 2019)
(Division)
10. **COMMITTEE OF THE WHOLE**
***THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2019)**
(Sen. (Dr.) Agnes Zani, MP)
(Resumption of debate interrupted on Wednesday, 31st July, 2019)
(Division)

11. **COMMITTEE OF THE WHOLE**

***THE COMMISSION ON ADMINISTRATIVE JUSTICE BILL (SENATE BILLS NO. 6 OF 2019)**

(Sen. Petronilla Were Lokorio, MP)

***(Resumption of debate interrupted on Wednesday, 18th September, 2019)
(Division)***

12. *****THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018**

(The Senate Majority Leader)

(Second Reading)

13. **MOTION - FORMATION OF COMMUNITY FOREST ASSOCIATIONS TO AID IN MANAGEMENT OF FOREST RESOURCES WITHIN COUNTIES**

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

AWARE THAT, natural and forest resources prevent floods, droughts, erosion and sedimentation, and increase water supply needed to generate more power, expand farm productivity, and meet the ever-increasing demand for domestic consumption of our exploding population;

NOTING THAT, Article 69 of the Constitution and Section (5), (6) and (21) of the Forests Conservation and Management Act (FCMA) 2016 mandates National & County Governments with the responsibility of protecting, collaborating, maintaining, utilizing and attaining a tree cover of at least 10% of the land area in Kenya;

APPRECIATING THAT, there is need to achieve a holistic ecosystem approach to forest resource management, so as to prevent irreversible consequences of human activities on the environment, it is time to make an urgent call upon our citizenry to actively participate in the protection of forests and plant trees;

NOW, THEREFORE, the Senate urges:

1. THAT, all Citizens as per Article 69(2) of the Constitution, and Sections 48 – 52 of the Forest Conservations Management Act be encouraged through the relevant National Government ministries and County departments to contribute in formation of Community Forest Associations to expedite Community Participation in Forest Resources Management;
2. THAT, the National Government and all the 47 County Governments operationalize Tax & Fiscal Incentives (as per FCMA Section 53 – 55) to promote forest conservation and management, and prevent degradation of tree cover in Public, Private and Community Lands (as measures of ensuring sustainability);
3. THAT the National Government communicates progress towards establishment of a National Tree Planting Week, so that State Agencies, Corporations and Kenyans can adequately prepare for the event; and

...../Motion

4. THAT all County Assemblies initiate processes of enacting legislation on Forestry Functions for County Governments (As per FCMA Section 21).

(Resumption of debate interrupted on Tuesday, 8th October, 2019)

(Balance of time: 2 hrs 4 minutes)

14. **MOTION - ENGAGEMENT OF COMMUNITY HEALTH WORKERS BY COUNTY GOVERNMENTS**

(Sen. Rose Nyamunga, MP)

THAT, AWARE THAT county health facilities, and the promotion of primary health care are devolved functions, and each county government is striving to offer the best healthcare to the people of Kenya;

COGNIZANT THAT, the provision of healthcare services is continuously riddled with numerous challenges ranging from understaffing of personnel to inadequate facilities and equipment resulting in congestion in hospitals further restricting effective service delivery;

NOTING THAT every Kenyan has a right to affordable and accessible healthcare, and the President has launched a pilot universal health care program called “Afya Care” that will see many Kenyans access improved healthcare;

CONCERNED THAT, the diverse nature of counties and wanting infrastructural development is compromising the quality and accessibility of health centres especially during emergency situations, resulting in the loss of many lives occasioned by the failure by patients to reach health facilities in time;

FURTHER CONCERNED THAT, in each county there are numerous unemployed community health workers who are adept at working with communities in emergency situations, and have the requisite experience to support the medical practitioners in our country where, according to the World Health Organization 2014 report, there are two (2) doctors for every ten thousand (10,000) people;

NOW THEREFORE, the Senate resolves that the Council of Governors in partnership with the Ministry of Health –

1. Develop a policy for the training, certification and employment of community health workers to enhance the emergency health service delivery in the Counties, and
2. Facilitate the said community health workers with the necessary basic equipment for use during emergency cases.

...../Motion

15. **MOTION - REPORT ON THE THIRD STATUTORY MEETING OF THE COMMITTEE ON ECONOMIC DEVELOPMENT, REGIONAL INTEGRATION AND NATURAL RESOURCES OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE OF THE GREAT LAKES REGION (FP-ICGLR)**

(Sen. Samuel Poghiso, MP)

THAT, this House notes the Report on the 3rd Statutory Meeting of the Committee on Economic Development, Regional Integration and Natural Resources of the Forum of Parliaments of the International Conference of the Great Lakes Region (FP-ICGLR) held in Bujumbura, Burundi, from 13th to 14th March, 2019, laid on the Table of the House on Tuesday, 21st May, 2019.

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

NOTICE OF AMENDMENTS

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

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

NOTICE is given that Sen. Paul Mwangi Githiomi, the Chairperson to the Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Natural Resources (Benefit Sharing) Bill, 2018, at the Committee Stage—

CLAUSE 6

THAT clause 6 of the Bill be amended—

- (a) in subclause (1) by inserting the words “in consultation with the Council of County Governors and relevant national government entities” immediately after the words “The Commission shall”; and
- (b) in subclause (2) by deleting the word “overall” appearing immediately after the word “the” in paragraph (a) and substituting therefor the word “total”.

CLAUSE 9

THAT clause 9 of the Bill be amended in subclause (1) by inserting the words “with the relevant county government” immediately after the words “benefit sharing agreement”.

CLAUSE 10

THAT clause 10 of the Bill be amended —

- (a) in subclause (2) by —
 - (i) by inserting the following new paragraph immediately after paragraph (b) —
 - (ba) two technical officers of the relevant county departments, appointed by the county executive committee member in consultation with the county executive committee member responsible for the respective natural resources; and
 - (ii) deleting paragraph (c) and substituting therefor the following new paragraph —
 - (c) five persons, two of whom shall be of the opposite gender, elected by the local communities where the natural resource is found and representing the areas with the main natural resources within the county”;
- (b) in subclause (5) by inserting the words “in consultation with Council of County Governors” immediately after the words “Cabinet Secretary shall”.

CLAUSE 13

THAT clause 13 of the Bill be amended by inserting the following new subclause immediately after subclause (4) —

(4A) A local community benefit sharing forum shall not hold more than eight meetings in one year.

CLAUSE 14

THAT clause 14 of the Bill be amended by deleting subclause (4).

CLAUSE 16

THAT clause 16 of the Bill be amended in subclause (3) by deleting the word “principal” appearing immediately after the words “this Act every”.

CLAUSE 17

THAT clause 17 of the Bill be amended—

(a) in subclause (1) by deleting the word “one” appearing immediately after the words “Commission shall within” and substituting therefor the word “two”;

(b) by inserting the following new subclauses immediately after subclause (3) —

(4) An affected entity that, immediately before the commencement of this Act, was lawfully authorised to exploit a natural resource under this Act shall be considered to be authorised to conduct such exploitation under this Act.

(5) Despite subsection (4), an affected entity shall comply with the provisions this Act within two years of its commencement.

CLAUSE 2

THAT clause 2 of the Bill be amended—

(a) in the definition of the term “Cabinet Secretary” by deleting the word “mining” appearing immediately after the words “matters related to” and substituting therefor the words “finance”;

(b) by deleting the definition of the term “local community” and substituting therefor the following new definition—

“local community” means

- (a) people living in a ward within which a natural resource is situated; and
- (b) people displaced to make way for the exploitation of a natural resource;

(c) by deleting the definition of the term “natural fund” and substituting therefor the following new definition—

“natural resources” means the natural resources provided under section 3 of this Act;

(d) by inserting the following new definitions in their proper alphabetical sequence—

“county executive committee member” means the county executive committee member responsible for matters relating to finance in the respective county;

No. 17 of
2015

“officer” has the meaning assigned to it under section 3 of the Companies Act;

LONG TITLE

THAT the Long Title to the Bill be amended by inserting the word “natural” immediately after the words “benefit sharing in”.

B. *THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2019)

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

NOTICE is given that Sen. Mohamed M. Mahamud, Chairperson, Committee on Finance and Budget, intends to move the following amendments to the Public Finance Management (Amendment) Bill, Senate Bills No. 3 of 2019, at the Committee Stage-

CLAUSE 2

THAT clause 2 of the Bill be amended-

(a) in the proposed new section 160A by deleting subsection (1) and substituting therefor the following new subsections-

(1) The Cabinet Secretary shall, in consultation with the Council of County Governors, the Commission on Revenue Allocation, the Kenya Revenue Authority, develop a uniform county revenue collection system.

(1A) Every County Treasury shall adopt and implement the county revenue collection system developed under subsection (1) having regard to the particular needs of the respective county.

(b) in the proposed new section 160B by inserting the words “the Controller of Budget, the Auditor-General” immediately after the words “National Treasury” appearing in subsection (2).

(c) in the proposed new section 160C by-

(i) deleting the words “two years” appearing after the words “within a period of” and substituting therefor the words “one year” appearing in subsection (1); and

(ii) inserting the words “on the recommendation of the Senate and” immediately after the words “National Treasury may” appearing in the introductory phrase of subsection (2).

C.*THE COMMISSION ON ADMINISTRATIVE JUSTICE (AMENDMENT) BILL
(SENATE BILLS NO. 6 OF 2019)
(Sen. Petronilla Were Lokorio, MP)

NOTICE is given that Sen. Petronila. W. Lokorio intends to move the following amendments to the Commission on Administrative Justice (Amendment) Bill, 2019 at the Committee Stage –

CLAUSE 3

THAT clause 3 of the Bill be amended –

(i) by deleting paragraph (d) and substituting therefor the following new paragraph –

(d) by deleting subsection (11) and substituting therefor the following new subsection –

(11) Where a nominee is rejected by the National Assembly under subsection (10), the President shall, within seven days, forward to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under subsection (5).

(ii) by inserting the following new paragraph immediately after paragraph (d) –

(da) in subsection (12) by deleting the word “Parliament” appearing immediately after the word “If” and substituting therefor the words “the National Assembly”.

NEW CLAUSE 3A

THAT the Bill be amended by inserting the following new clause immediately after clause 3 –

3A. Section 54 of the principal Act is amended –

(a) by deleting the word “Parliament” appearing immediately after the word “reports to” in subsection (1) and substituting therefor the words “the National Assembly and the Senate”; and

(b) by deleting the word “Parliament” appearing immediately after the words “report to” in subsection (2) and substituting therefor the words “the National Assembly and the Senate”.

APPENDIX

1. MESSAGES

Message from the National Assembly on the decision of the National Assembly on Senate amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bills No. 52 of 2017).

(The Speaker of the Senate)

2. PETITIONS

(i) Petition to the Senate by Mr. Edward Mwangi on behalf of suppliers of the National Youth Service concerning unpaid pending bills.

(The Speaker of the Senate)

(ii) Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by Residents of Kajiado County concerning delayed salaries and non-remittance of statutory deductions for employees at the Nol-Turesh Loitoktok Water and Sanitation Company Limited.

(iii) Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County.

(Chairperson, Standing Committee on Labour and Social Welfare)

(iv) Report of the Standing Committee on Tourism, Trade and Industrialization on a Petition to the Senate by Mr. Vincent Ombaka, a resident of Nairobi City County, concerning the disruption of local trade by Government action and sanctions.

(v) Report of the Standing Committee on Tourism, Trade and Industrialization on a Petition to the Senate by Mr. Kevin Ndoho Macharia, a resident of Kajiado County, concerning the review of laws relating to business premises.

(Chairperson, Standing Committee on Tourism, Trade and Industrialization)

3. PAPERS

(i) The Public Finance Management (Parliamentary Catering Fund) Regulations, 2019.

(The Senate Majority Leader)

(ii) Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Baringo, Busia, Elgeyo Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot Counties for Financial year 2014/2015 (1st July, 2014 to 30th June, 2015).

(Chairperson, Sessional Committee on County Public Accounts and Investments)

- (iii) Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Nandi, Elgeyo Marakwet, Baringo, Laikipia, Machakos, West Pokot, Tharaka Nithi, Siaya, Embu and Nairobi City County Executives for Financial year 2013/2014 (1st July, 2013 to 30th June, 2014).

(Chairperson, Sessional Committee on County Public Accounts and Investments)

4. NOTICES OF MOTION

- (i) THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Baringo, Busia, Elgeyo Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot Counties for Financial year 2014/2015 (1st July, 2014 to 30th June, 2015), laid on the Table of the Senate on Wednesday, 9th October, 2019.

(Chairperson, Sessional Committee on County Public Accounts and Investments)

- (ii) THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Nandi, Elgeyo Marakwet, Baringo, Laikipia, Machakos, West Pokot, Tharaka Nithi, Siaya, Embu and Nairobi City County Executives for Financial year 2013/2014 (1st July, 2013 to 30th June, 2014), laid on the Table of the Senate on Wednesday, 9th October, 2019.

(Chairperson, Sessional Committee on County Public Accounts and Investments)

5. STATEMENTS

(i) Pursuant to Standing Order 52(1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 15th October, 2019.

(ii) Pursuant to Standing Order 47(1)

The Senator for Kakamega County (Sen. Cleophas Malalah, MP) to make a statement on the rampant closure of businesses and laying off of employees in the country.

(iii) Pursuant to Standing Order 48(1)

The Senator for Machakos County (Sen. Boniface Kabaka, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on the impending eviction of a section of residents of Mavoko, Machakos County, from their land by the East Africa Portland Cement Company.
