



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)
THE SENATE
VOTES AND PROCEEDINGS
WEDNESDAY, NOVEMBER 06, 2019 AT 2:30 PM

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 Communication from the Chair-

Visiting Delegation from the Vihiga County Assembly

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of a visiting Delegation from Vihiga County Assembly Public Accounts and Investments Committee. I request each member of the Delegation to stand when called out so that they may be acknowledged in the Senate tradition.

They are:

- | | | | |
|-----|-----------------------|---|------------------|
| 1. | Hon. Vincent Atsiaya | - | Chairperson |
| 2. | Hon. Wycliffe Masini | - | Vice Chairperson |
| 3. | Hon. Clementine Osodo | - | Member |
| 4. | Hon. Manoah Mboku | - | Member |
| 5. | Hon. Patrick Akhwale | - | Member |
| 6. | Hon. Paul Tiira | - | Member |
| 7. | Hon. Jackie Mwenesi | - | Member |
| 8. | Emile Aston | - | Researcher |
| 9. | Mike Oloo | - | Payroll Manager |
| 10. | Brenda Ajema | - | Internal Auditor |

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

I thank you.”

4. MESSAGES FROM THE NATIONAL ASSEMBLY

The Speaker conveyed the following Messages from the National Assembly on the passage of the Sacco Societies (Amendment) Bill (National Assembly Bill No. 1 of 2018) and the Sectional Properties Bill (National Assembly Bill No. 23 of 2019)

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 41 (3) and (4), I have received the following messages from the Speaker of the National Assembly regarding the passage by the Assembly of the Sacco Societies (Amendment) Bill (National Assembly Bill No. 1 of 2018) and the Sectional Properties Bill (National Assembly Bill No. 23 of 2019)-

1. Passage of the Sacco Societies (Amendment) Bill (National Assembly Bill No. 1 of 2018)

“PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Sacco Societies (Amendment) Bill (National Assembly Bill No. 1 of 2018) was published *vide* Kenya Gazette Supplement No. 2 of 19th January, 2018 to provide for the registration and licensing of Sacco societies as deposit-taking savings and credit co-operatives;

AND WHEREAS, the National Assembly considered and passed the said Bill with amendments on Wednesday, 9th October, 2019 in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order 41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

2. Passage of the Sectional Properties Bill (National Assembly Bill No. 23 of 2019)

“PURSUANT to the provisions of Standing Orders 41 (1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Sectional Properties Bill (National Assembly Bill No. 23 of 2019) was published *vide* Kenya Gazette Supplement No. 35 of 29th March 2019 to provide for the division of buildings into units to be owned by individual proprietors and common property to be owned by proprietors of the units as tenants in common, and to provide for the use and management of the units and common property and also address the contemporary challenges associated with ownership of property;

AND WHEREAS, the National Assembly considered and passed the said Bill with amendments on Wednesday, 9th October, 2019 in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order 41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Honourable Senators,

Standing Order No. 157 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 139.

I therefore direct that the Sacco Societies (Amendment) Bill (National Assembly Bill No. 1 of 2018) and the Sectional Properties Bill (National Assembly Bill No. 23 of 2019) be read a First time, tomorrow, Thursday, 7th November 2019.

I thank you!”

5. **PAPERS**

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

- (i) Report of the Standing Committee on Land, Environment and Natural Resources on the 8th World Water Conference held in Brasilia, Brazil from 18th to 23rd March, 2018.
- (ii) Report of the Standing Committee on Land, Environment and Natural Resources on the 14th Annual General Meeting (AGM) of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development on Modern Mining Law and Policy held in Geneva, Switzerland from 16th to 18th October, 2018.
- (iii) Report of the Standing Committee on Land, Environment and Natural Resources on the 18th Meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of Parties (CoP 18) held in Geneva, Switzerland from 17th to 28th August, 2019.

(Vice Chairperson, Standing Committee on Land, Environment and Natural Resources)

- (iv) Report of the Auditor-General on the Financial Statements of Siaya County Education Bursary Fund for the Year ended 30th June 2018.
- (v) Report of the Auditor-General on the Financial Statements of Siaya County Education Bursary Fund for the Fifteen Months period ended 30th June 2017.

(The Senate Majority Leader)

- (vi) Report of the Parliament of Kenya Delegation to the 64th Commonwealth Parliamentary Conference (CPC) held in Kampala, Uganda from 22nd to 29th September, 2019.

(Sen. Mohamed Faki, MP)

- (vii) Report of the Standing Committee on Labour and Social Welfare on the consideration of the Establishment of Children's Homes Bill (Senate Bills No. 12 of 2019).
- (viii) Report of the Standing Committee on Labour and Social Welfare on the 12th Session of the Conference of Parties to the Convention on the Rights of Persons with Disabilities held at the United Nations Headquarters in New York, USA from 11th to 13th June, 2019.

(Chairperson, Standing Committee on Labour and Social Welfare)

6. **NOTICE OF MOTION** - (Vice-Chairperson, Standing Committee on Land, Environment and Natural Resources)

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 8th World Water Conference held in Brasilia, Brazil from 18th to 23rd March, 2018.

7. **NOTICE OF MOTION** - (Vice-Chairperson, Standing Committee on Land, Environment and Natural Resources)

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 14th Annual General Meeting (AGM) of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development on Modern Mining Law and Policy held in Geneva, Switzerland from 16th to 18th October, 2018.

8. **NOTICE OF MOTION** - (Vice-Chairperson, Standing Committee on Land, Environment and Natural Resources)

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 18th Meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of Parties (CoP 18) held in Geneva, Switzerland from 17th to 28th August, 2019.

9. **NOTICE OF MOTION** - (Sen. Mohamed Faki, MP)

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 64th Commonwealth Parliamentary Conference (CPC) held in Kampala, Uganda from 22nd to 29th September, 2019.

10. **NOTICE OF MOTION** - (Sen. Ledama Olekina, MP)

THAT, COGNIZANT THAT Article 179(4) of the Constitution designates the County Governor and the Deputy County Governor as the chief executive and deputy chief executive of the County, respectively;

FURTHER COGNIZANT THAT, pursuant to Article 180(6) of the Constitution, a County Governor and Deputy County Governor are elected on a joint ticket, with Article 179(5) providing that, whenever the County Governor is absent, the Deputy County Governor shall act as the County Governor;

AWARE THAT, in several Counties, Deputy County Governors have had to serve as County Governors due to the absence of the substantive County Governors, arising from ill health, incapacity or orders emanating from the Courts barring the substantive Governor from accessing office;

ACKNOWLEDGING THAT, Section 32(4) of the County Governments Act places limitations on the exercise, by the County Deputy Governor while acting as Governor, of the powers to nominate, appoint or dismiss that are assigned to the Governor under the Constitution or other written law;

NOTING THAT, other than the said limitations under Section 32(4) of the County Governments Act, no other restraints are placed in law on the exercise, by the County Deputy Governor, of the powers and functions of the Governor whenever the Governor is absent;

AWARE THAT, in exercising the powers and functions of County Governor pursuant to Article 179(5) of the Constitution, County Deputy Governors face a myriad of legal, operational and administrative challenges, which hinder the effective functioning of county governments and the efficient delivery of services to the public;

NOW, THEREFORE, the Senate recommends that the National Treasury, the Controller of Budget, the Auditor General, and the respective County Assemblies and County Executive Committee Members, to work directly with the County Deputy Governor while exercising the functions of County Governor, in order to facilitate the effective functioning of county governments and the efficient delivery of services to the public.

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

The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) sought a Statement from the Standing Committee on Education regarding the excessive deployment of police officers during the ongoing national examinations.

Following concerns by Senators on the issues raised in the Statement, the Speaker directed that a response be made on Wednesday, 13th November, 2019.

12. **SPECIAL MOTION – APPROVAL OF REVISED DEBT CEILING FOR THE NATIONAL GOVERNMENT**

Order read;

Motion made and Question proposed;

THAT, this House adopts the Joint Report of the Sessional Committee on Delegated Legislation and the Standing Committee on Finance and Budget on the consideration of the Public Finance Management (National Government)(Amendment) Regulations, 2019, laid on the Table of the Senate on Wednesday, October 16, 2019, and pursuant to the provisions of Article 211(1)(a) of the Constitution of Kenya, Section 205(4) of the Public Finance Management Act and Section 18 of the Statutory Instruments Act, approves the amendments to the Public Finance Management

(National Government) Regulations, 2015 (Principal Regulations) as effected through Legal Notice No. 155 of 26th September, 2019.

(Chairperson, Sessional Committee on Delegated Legislation – 05.11.2019)

Debate interrupted on Tuesday, 5th November, 2019 resumed on a Division;

The House proceeded to a Division;

The Speaker directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for two (2) minutes;

Upon the expiry of two minutes, the Speaker directed that the doors be locked and the bars be drawn and asked Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to provisions of Standing Order 81 (5), the Speaker allowed three (3) Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as **“Yes”**-

1. Sen. Irungu Kang’ata
2. Sen. Kindiki Kithure
3. Sen. Kipchumba Murkomen

The results of the Division were as follows:-

AYES – 30

NOES – 7

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy Issa Juma
4. Sen. Waqo Naomi Jillo – voted on behalf of Marsabit County Delegation
5. Sen. Iman Falhada Dekow – voted on behalf of Garissa County Delegation
6. Sen. Kajwang’ Moses Otieno
7. Sen. Kang’ata Irungu – voted verbally
8. Sen. Kibiru Charles Reubenson
9. Sen. Kihika Susan Wakarura
10. Sen. Kimani Wamatangi Paul
11. Sen. Kindiki Kithure – voted verbally
12. Sen. Lang’at Christopher Andrew
13. Sen. Loitiptip Anuar
14. Sen. Madzayo Stewart Mwachiru
15. Sen. Mahamud Mohamed Maalim
16. Sen. Malalah Cleophas Wakhungu
17. Sen. Mbogo George Ochillo Ayacko
18. Sen. Moi Gideon Kipsielei

19. Sen. Mpaayei Phillip Salau
20. Sen. Murkomen Onesimus Kipchumba – voted verbally
21. Sen. Mwaruma Johnes Mwashushe
22. Sen. Mwinyihaji Mohamed Faki
23. Sen. Nderitu John Kinyua
24. Sen. Olekina Ledama
25. Sen. Ongeru Samson Kegengo
26. Sen. Orengo James
27. Sen. Outa Fredeick Otieno
28. Sen. Poghio Samuel Losuron
29. Sen. Sakaja Johnson Arthur
30. Sen. Wario Golich Juma

NOES

1. Sen. Cherarkey Samson Kiprotich
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Kabaka Boniface Mutinda
4. Sen. Kilonzo Mutula Junior
5. Sen. Linturi Franklin Mithika
6. Sen. Wambua Enoch Kiio
7. Sen. Wetang'ula Moses Masika

Question agreed to.

RESOLVED ACCORDINGLY:

THAT, this House adopts the Joint Report of the Sessional Committee on Delegated Legislation and the Standing Committee on Finance and Budget on the consideration of the Public Finance Management (National Government)(Amendment) Regulations, 2019, laid on the Table of the Senate on Wednesday, October 16, 2019, and pursuant to the provisions of Article 211(1)(a) of the Constitution of Kenya, Section 205(4) of the Public Finance Management Act and Section 18 of the Statutory Instruments Act, approves the amendments to the Public Finance Management (National Government) Regulations, 2015 (Principal Regulations) as effected through Legal Notice No. 155 of 26th September, 2019.

13. **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)

Order deferred.

14. **COMMITTEE OF THE WHOLE**
THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)
(Sen. Mary Seneta, MP)

Order deferred.

15. **COMMITTEE OF THE WHOLE**
THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILLS NO. 9 OF 2019)

(Sen. (Dr.) Abdullahi Ali, MP)

Order deferred.

16. **COMMITTEE OF THE WHOLE**
THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)

(The Senate Majority Leader)

Order deferred.

17. **MOTION – ADOPTION OF REPORT OF SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON ACCOUNTS OF COUNTY GOVERNMENTS FOR FINANCIAL YEAR 2014/2015**

Order read;

Motion made and Question proposed;

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 –
22.10.2019)*

Debate interrupted on Thursday, 24th October, 2019 resumed;

There being no Senator wishing to contribute;

And in the absence of the Mover;

Pursuant to Standing Order (79)(1), the Speaker determined that the Motion affected counties and that voting would be by Delegations, and thereafter deferred the putting of the Question to another day, pursuant to Standing Order 61(3).

18. **THE CARE AND PROTECTION OF CHILD PARENTS BILL (SENATE BILLS NO. 11 OF 2019)**

Order for Second Reading read;

Motion made and Question proposed;

THAT the Care and Protection of Child Parents Bill (Senate Bills No. 11 of 2019) be now read a Second Time.

(Sen. Beatrice Kwamboka, MP)

Debate arising;

And the time being thirty minutes past six o'clock, the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) adjourned the Senate without Question put, pursuant to the Standing Orders.

19. **SENATE ROSE** – at thirty minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, November 07, 2019 at 2.30 p.m.*

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