



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, APRIL 21, 2020 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. **COMMUNICATION FROM THE CHAIR ON ROUNDING UP OF PARLIAMENT STAFF**

“Honourable Senators,

You may recall that on 31st March, 2020, the Senator for Kericho County, Sen. Aaron Cheruiyot, MP rose on a Point of Order on the rounding up of Parliamentary staff who had returned back to the country from official engagement abroad and had completed 14 days of self-quarantine. The Senator informed the House that persons, allegedly, from the Multi-Agency Team from the Office of the President had picked some staff of Parliament for a mandatory quarantine at a Government facility.

The Senator sought the intervention of the House to have the Cabinet Secretary for Interior and Coordination of National Government and the Cabinet Secretary for Health clarify on the number of teams coordinating the COVID-19 in the country and on the harassment of staff of Parliament who had completed 14 days of self-quarantine.

Several Senators spoke in support of the Point of Order. Thereafter, I directed the two Cabinet Secretaries to present a report to my office on the teams that are mandated to fight Coronavirus.

Honourable Senators,

During the sitting of the Senate on Tuesday, 14th April, 2020, the Senator for Vihiga County, Sen. George Khaniri, rose on a Point of Order, wanting to know the outcome of my directive to the said Cabinet Secretaries.

Honourable Senators,

The two Cabinet Secretaries indeed filed a report to my office within the directed timelines. The Cabinet Secretary for Health indicated that the Ministry has been responding to the COVID-19 pandemic in line with the Public Health Act and the Health Act as well as following guidelines by the World Health Organization. Further, the Cabinet Secretary indicated that upon evaluation of the initial directive by the Ministry of Health on self-quarantine of those who arrived in the country, it was established that there were individuals who did not adhere to the self-quarantine guidelines. As such, the Multi-Agency Taskforce Team found it necessary to identify and enforce mandatory quarantine for persons who did not strictly follow the quarantine guidelines. He further stated that this action was appropriate and in line with the provisions of the Public Health Act, Health Act as well as the set guidelines to safeguard the lives of Kenyans.

Honourable Senators,

The two letters have been forwarded to the Ad Hoc Committee on COVID -19 Situation in Kenya for consideration. The committee will be updating the House on these issues and other related concerns in its progress report, as appropriate.

The House is now informed accordingly.”

4. **PAPERS**

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

- i) The First Half County Governments Budget Implementation Review Report for Financial Year 2019/2020;
- ii) The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Rules, 2020;
- iii) The Public Health (Declaration of Formidable Epidemic Disease) Order 2020; and
- iv) The Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020.

(The Deputy Senate Majority Leader)

5. **COMMUNICATION FROM THE CHAIR ON COMMITMENT OF STATUTORY INSTRUMENTS**

“Honourable Senators,

The Cabinet Secretary for Health published the following Statutory Instruments to address the COVID – 19 pandemic -

1. The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Rules, 2020;

2. the Public Health (Declaration of Formidable Epidemic Disease) Order 2020; and
3. the Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020.

These Rules have now been tabled before the Senate pursuant to Section 11 of the Statutory Instruments Act.

In this regard, I direct that the Rules be committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration pursuant to Section 12 of the Statutory Instruments Act. The Committee, in this particular instance, shall perform the functions of the Sessional Committee on Delegated Legislation as provided under Standing Order 221.”

6. STATEMENTS

a) **Statements pursuant to Standing Order 47 (1)**

- i) The Senator for Kitui County (Sen. Enoch Wambua, MP) made a Statement on an issue of national concern regarding the restriction of movement of persons and related measures in and out of the Nairobi Metropolitan Area.

In the Statement, the Senator commended the government for its effort to contain the COVID-19 disease menace that has afflicted the country. He reiterated his support for the order for the restriction of movement of persons and related measures in and out of Nairobi Metropolitan Area, indicating that the order would go a long way in addressing the current COVID-19 crisis facing the country.

The Senator averred that, in effecting the order, the Cabinet Secretary for Health, set boundaries, and various roads blocks were put up on Thika road at Kilimambogo area, Nairobi-Naivasha Road at Uplands, Mombasa Road at Small World in Athi-River and Kangundo Road at Kamulu area.

Noting that Thika and Mombasa roads share a lot of economic and social features, industrial and residential boom, and recognizing that Kenyans live in Thika and Machakos while working in Nairobi and vice-versa, the Senator stated that the said counties are greatly interdependent and had been largely affected by the effects of the pandemic.

Additionally, the Senator stated that the placement of the roadblocks especially on Mombasa and Kangundo roads were discriminatory to Kenyans residing in Machakos County, compared to residents residing in Kiambu County who had a lot of latitude in accessing the Nairobi Metropolitan Area.

The Senator urged the Ad-Hoc Committee on COVID-19 among others, to take up this matter with the National Government and-

- 1) explain the criteria used to determine the location of the roadblocks in effecting the order; and,

- 2) state whether the government can consider adjusting the location of the roadblocks on Mombasa and Kangundo Roads in view of the residents of Machakos County and factories situated along these roads.
- ii) The Senator for Trans Nzoia County (Sen. Michael Mbiti, MP) made a statement on an issue of general topical concern, regarding alleged detention of deceased persons by hospitals over non-payment of outstanding Bills.

Thereupon, the Senator informed the House that hospitals in Kenya had gotten into the habit of detaining patients for inability to pay their hospital bills. He stated that there were many distraught families, dealing with hospitals that refuse to release the bodies of their deceased relatives for burial because of huge outstanding medical bills. These families have had to seek intervention from the court in order to bury their dead.

Further, the Senator informed the House that such detention of patients has gained social acceptance with most Kenyans being forced to mobilize funds from families, friends and well-wishers to secure the release of their kin instead of challenging the illegal detention by the hospitals.

He stated that this detention is unconstitutional and it is imperative for these detentions to stop. He added that it would be worthwhile to engage in a national conversation around financing and regulation of the health sector to eliminate arbitrary pricing, thereby addressing one of the root causes of the detentions. He noted that the government is currently pushing the Universal Health Coverage (UHC) which will ensure that the most vulnerable citizens can access quality healthcare without being crippled by financial hardships.

The Senator undertook to follow up on a case relating to young Brian Kimani and any other Kenyan who might be undergoing a similar situation and would report back to the House in due course.

- iii) The Senator for Elgeyo Marakwet County (Sen. Kipchumba Murkomen, MP) made a Statement on an issue of national concern regarding the landslide that occurred in Kerio Valley affecting residents of West-Pokot and Elgeyo Marakwet counties.

In his statement, the Senator informed the House that following the heavy rains being experienced in the country, a land-slide occurred in Kerio Valley affecting West-Pokot and Elgeyo Marakwet counties, which experienced massive destruction of property and loss of lives.

The Senator commended the government for the quick efforts undertaken to manage the current situation, but noted that little or no effort had been made to account for the over fifteen (15) persons still missing, and that search and recovery had been left largely to the locals who were ill equipped to undertake such an exercise.

The Senator averred that much more should be done to manage the situation, including putting in place measures to relocate the population to safer grounds and to upgrade the environment to prevent further incidences of this nature from happening.

He appealed to the Standing Committee on Land, Environment and Natural Resources to take up this matter with the National Government and, among others-

1. explain the measures being undertaken to ensure that all persons who reside in the affected areas are fully accounted for;
2. state the measures being undertaken to find alternative land to resettle the families that are displaced annually; and,
3. state whether there is any form of compensation that will be granted to the families and victims who are counting huge losses as result of the destruction of property and loss of lives.

b) Statements pursuant to Standing Order 48 (1)

- i) The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) sought a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the World Bank fund to improve the production of specialty coffee in the country;
- ii) Nominated Senator, (Sen. Isaac Mwaura, MP), sought a Statement from the Standing Committee on Education regarding the Pay As You Earn (P.A.Y.E) deductions for teachers with disabilities.

c) Statement pursuant to Standing Order 51 (1) (b)

The Chairperson of the Ad-Hoc Committee on COVID-19 Situation in Kenya issued a statement concerning the burial of Mr. James Oyugi Onyango, a resident of Simur village in Ugenya Constituency of Siaya County, who died after reportedly contracting COVID-19.

In the statement, the Chairperson informed the House that the Committee, had raised this matter with the Cabinet Secretary for Health during their meeting held on Saturday, 18th April, 2020. The CS expressed his regret and conveyed his apologies on how the burial was undertaken.

He stated that the Committee was yet to receive the signed response to the other questions as contained in the request for the statement by Sen. Orengo.

He assured the House that the Committee was following up on the matter and undertook to table a comprehensive response thereon during the sitting of the Senate to be held on Tuesday, 28th April, 2020.

6. MOTION – REDUCTION OF PUBLICATION PERIOD FOR THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)

Motion made and Question proposed-

THAT, Pursuant to Standing Order 134, the Senate resolves to reduce the publication period of the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020), from Fourteen (14) days to Four (4) days.

(The Senate Majority Leader)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Speaker informed the Senate that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, Pursuant to Standing Order 134, the Senate resolves to reduce the publication period of the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020), from Fourteen (14) days to Four (4) days.

7. **MOTION - REDUCTION OF PUBLICATION PERIOD FOR THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 7 OF 2020)**

Motion made and Question proposed-

THAT, Pursuant to Standing Order 134, the Senate resolves to reduce the publication period of the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020), from Seven (7) days to Four (4) days.

(The Senate Majority Leader)

And there being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Speaker informed the Senate that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, Pursuant to Standing Order 134, the Senate resolves to reduce the publication period of the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020), from Seven (7) days to Four (4) days.

7. **THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 5 OF 2020)**
(Sen. (Dr.) Agnes Zani, MP)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Health.

8. **THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)**

(Chairperson, Ad-Hoc Committee on the COVID-19 Situation in Kenya)

Order for First Reading read;

Bill read a First time and committed to the Ad-Hoc Committee on the COVID-19 Situation in Kenya pursuant to Standing Order 140(2).

9. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 7 OF 2020)**
(Chairperson, Standing Committee on Finance and Budget)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Finance and Budget.

10. **COMMUNICATION FROM THE CHAIR ON COMMITMENT OF BILLS READ A FIRST TIME**

“Honourable Senators,

As indicated in today’s Order Paper, three Bills have been read a First Time. Standing Order 140 (1) requires that having been read a First time, a Bill be committed to the relevant Standing Committee. Accordingly, the following Bills are hereby committed to Committees as follows -

- a) The Community Health Services Bill (Senate Bills No. 5 of 2020) is committed to the Standing Committee on Health; and
- b) The County Allocation of Revenue Bill (Senate Bills No. 7 of 2020) is committed to the Standing Committee on Finance and Budget.

Honourable Senators,

Standing Order 140(2) provides that “*Despite paragraph (1), the Speaker may direct that a particular Bill be Committed to such Committee as the Speaker may determine.*” Consequently, I hereby direct that the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020) be committed to the Ad-Hoc Committee on the COVID-19 Situation in Kenya.

Pursuant to Standing Order 140(5), the three Committees are required to facilitate public participation on their respective Bills and take into account the views of the public when the Committees make their reports to the Senate.”

11. **MOTION - REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

Motion made and Question proposed-

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017) laid on the Table of the Senate on Tuesday, 31st March, 2020 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.

(Chairperson, Mediation Committee)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79, the Speaker informed the Senate that the Motion affects counties.

The House proceeded to a Division;

The Speaker directed that roll call vote be taken pursuant to Standing Order 83 (1), and in line with the Further Guidelines by the Speaker for Senate plenary and committees sittings during the Covid-19 pandemic situation dated April 17th 2020, and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Speaker directed that the doors be locked and the bars drawn;

The Speaker put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows:-

AYES – 24

NOES – 0

ABSTENTIONS – 0

AYES

1. Sen. Adan Dullo Fatuma
2. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation.
3. Sen. Cherarkey Samson Kiprotich
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Iman Falhada Dekow - voted on behalf of Garissa County Delegation
6. Sen. Hargura Godana
7. Sen. Kabaka Boniface Mutinda
8. Sen. Kajwang' Moses Otieno
9. Sen. Kihika Susan Wakarura
10. Sen. Mwaura, Isaac – voted on behalf of Kiambu County Delegation
11. Sen. Mbito, Michael Maling'a
12. Sen. Lang'at Christopher Andrew
13. Sen. Linturi Franklin Mithika
14. Sen. Malalah Cleophas Wakhungu
15. Sen. Mogeni Erick Okong'o
16. Sen. Murkomen Onesimus Kipchumba
17. Sen. Mwaruma Johnes Mwashushe
18. Sen. Nderitu John Kinyua
19. Sen. Olekina Ledama
20. Sen. Ongeru Samson Kegengo

21. Sen. Nyamunga Rose Ogendo - voted on behalf of Kisumu County Delegation
22. Sen. Sakaja Johnson Arthur
23. Sen. Wambua Enoch Kiio
24. Sen. Wetang'ula Moses Masika

Question agreed to

RESOLVED ACCORDINGLY

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017) laid on the Table of the Senate on Tuesday, 31st March, 2020 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.

12. MOTION - REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 7 OF 2017)

Motion made and Question proposed-

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) (No. 2) Bill (Senate Bills No. 7 of 2017), laid on the Table of the Senate on Tuesday, 31st March, 2020 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.

(Chairperson, Mediation Committee)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79, the Speaker informed the Senate that the Motion affects counties.

The House proceeded to a Division;

The Speaker directed that roll call vote be taken pursuant to Standing Order 83 (1) and in line with the Further Guidelines by the Speaker for Senate plenary and committees sittings during the Covid-19 pandemic situation dated April 17th 2020, and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Speaker directed that the doors be locked and the bars drawn;

The Speaker put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows:-

AYES – 33

NOES – 0

ABSTENTIONS – 0

AYES

1. Sen. Adan Dullo Fatuma
2. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation.
3. Sen. Cherarkey Samson Kiprotich
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Iman Falhada Dekow - voted on behalf of Garissa County Delegation
6. Sen. Hargura Godana
7. Sen. Imana Malachy Charles Ekal
8. Sen. Kabaka Boniface Mutinda
9. Sen. Kang’ata Irungu
10. Sen. Kajwang’ Moses Otieno
11. Sen. Khaniri George
12. Sen. Kihika Susan Wakarura
13. Sen. Mwaura Isaac – voted on behalf of Kiambu County Delegation
14. Sen. Lang’at Christopher Andrew
15. Sen. Linturi Franklin Mithika
16. Sen. Madzayo Stewart Mwachiru
17. Sen. Mahamud Mohamed Maalim
18. Sen. Malalah Cleophas Wakhungu
19. Sen. Mbito Michael Maling’a
20. Sen. Mbogo George Ochilo Ayacko
21. Sen. Mogeni Erick Okong’o
22. Sen. Murkomen Onesimus Kipchumba
23. Sen. Mutula Kilonzo Junior
24. Sen. Mwangi Paul Githiomi
25. Sen. Mwaruma Johnes Mwashushe
26. Sen. Mwinyihaji Mohamed Faki
27. Sen. Nderitu John Kinyua
28. Sen. Olekina Ledama
29. Sen. Ongeru Samson Kegengo
30. Sen. Nyamunga Rose Ogendo - voted on behalf of Kisumu County Delegation
31. Sen. Sakaja Johnson Arthur
32. Sen. Wambua Enoch Kiio
33. Sen. Wetang’ula Moses Masika

Question agreed to

RESOLVED ACCORDINGLY

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) (No. 2) Bill (Senate Bills No. 7 of 2017), laid on the Table of the Senate on Tuesday, 31st March, 2020 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.

13. MOTION – THE FIRST AND SECOND PROGRESS REPORTS OF THE AD-HOC COMMITTEE ON COVID – 19 SITUATION IN KENYA

Order read-

Motion made and Question proposed-

THAT, the Senate notes the First and Second Progress Reports of the Ad-Hoc Committee on COVID –19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 14th April, 2020.

(Chairperson, Ad Hoc Committee – 14th April, 2020)

Debate interrupted on Tuesday, 14th April, 2020 resumed;

And there being no other Senator wishing to contribute;

Sen. Erick Mogeni replied on behalf of the Mover

Before the Question was put and pursuant to Standing Order 79, the Speaker informed the Senate that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, the Senate notes the First and Second Progress Reports of the Ad-Hoc Committee on COVID –19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 14th April, 2020.

And the time being thirty minutes past five O'clock, the Speaker adjourned the Senate, without Question put, pursuant to the Standing Orders, and in line with the Further Guidelines by the Speaker for Senate plenary and committees sittings during the Covid-19 pandemic.

14. **SENATE ROSE** – at thirty Minutes past Five O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, April 28, 2020 at 2.30 p.m.*