



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FOURTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, SEPTEMBER 17, 2020**

1. The House assembled at Ten O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Deputy Speaker
4. **PAPERS LAID**

The following Papers were laid on the Table –

- (a) The Report of the Departmental Committee on Environment and Natural Resources on its consideration of a Petition on Completion of *Mzee Wanyama Dam Project* in Nakuru East Constituency.

*(Chairperson, Departmental Committee on Environment and Natural Resources)*

- (b) The Reports of the Auditor-general on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2019 and the Certificates thereof:-
  - (i) Kenya Towns and Sustainable Water Supply and Sanitation Programme (ADB Loan No. 20002000000501);
  - (ii) Unclaimed Financial Assets Trust Fund;
  - (iii) Unclaimed Financial Assets Authority; and
  - (iv) Local Authorities Providence Fund.

*(The Leader of the Majority Party)*

5. **QUESTIONS**

(a) The following Question were asked –

- (i) Question No. 156 of 2020 by the Member for Isiolo South (Hon. Abdi Koropu Tepo) to the Cabinet Secretary for Environment and Forestry regarding the steps being undertaken by the Ministry to address the diminishing water levels in rivers, in particular *River Bisanathi* in Isiolo South Constituency and actions that the Ministry taken against upstream water consumers who are using water extensively without any regard to those downstream and by when.

*(To be replied to by the Cabinet Secretary, Environment and Forestry before the Departmental Committee on Environment and Natural Resources)*

- (ii) Question No. 186 of 2020 by the Member for Malindi (Hon. Aisha Juma) to the Cabinet Secretary for Agriculture, Livestock and Fisheries regarding the conceptualization and development of the Galana-Kulalu Irrigation Project which cuts across Kilifi and Tana River Counties, the reasons why the Government proceeded to lease land from residents without undertaking public participation and stakeholder engagements as provided for in Articles 118 and 232 of the Constitution; the aspects upon which the National Government engaged the Kilifi and Tana River Counties in the Project especially with regard to employment opportunities, research and infrastructural development; consideration by the National Government to hand over the implementation of the Project to the two County Governments considering that agriculture is a devolved function and provision of a report on the status of the Project, with regard to its viability, funds spent from inception to date, trials and actual production of crops, any feasibility and related studies conducted so far, including the involvement of Green Araya Limited Company from Israel.

*(To be replied to by the Cabinet Secretary, Agriculture, Livestock and Fisheries before the Departmental Committee on Agriculture and Livestock)*

- (iii) Question No. 188 of 2020 by the Member for Laisamis (Hon. Arbellé Marselino Malimo) to the Teachers Service Commission regarding the criteria being used by the Teachers Service Commission during delocalization of teachers in the country; the measures are in place to ensure that the process is carried out in a fair and transparent manner and the reasons why the Commission was not delocalizing officers of the TSC secretariat who have overstayed in one station, in particular the staffing officer at Laisamis Sub-County Headquarters who has served for more than 9 years in the same station.

*(To be replied to by the by the Teachers Service Commission through a Written Reply)*

- (iv) Question No. 200 of 2020 by the Member for Alego Usonga (Hon. Samuel Atandi) to the Cabinet Secretary for National Treasury and Planning regarding the status of the emergency liquidity facility created following the collapse of Imperial Bank and Chase Bank to bail out banks facing liquidity challenges and confirm whether the facility still in existence and how many banks have so far benefited from this facility; a report on the status of the forensic audit conducted following the collapse of Imperial Bank; the firm(s) engaged in the forensic audit identified and procured and the specific terms of engagement of the firm(s) conducting the forensic audit and are they being paid by the public through the Central Bank of Kenya.

*(To be replied to by the Cabinet Secretary for the National Treasury before the Departmental Committee on Finance and National Planning)*

- (v) Question No. 192 of 2020 by the Member for Lamu West (Hon. Stanley Muthama) to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development regarding the status of the renovation of Manda Airport in Lamu West Constituency considering its current deplorable state particularly the taxiway, apron facilities and general airport infrastructure; whether the poor

state of the Airport that led to the recent withdrawal of *Jambo Jet* and other regional airlines from flying to Lamu; the specific plans in place to expand the Airport including connecting it to the national electricity grid in a bid to cater for larger capacity airplanes and the expected air traffic as a result of the full development of the Lamu Port–South Sudan–Ethiopia Transport Corridor (LAPSSET) Project and whether the Ministry could consider extending operation hours of the Airport from the current 6am to 6pm schedule in order to accommodate the anticipated heightened demand for air travel following completion of the LAPSSET Project as well as for handling emergency evacuations that may arise from time to time.

*(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works and Housing)*

(b) The following Question was deferred –

Question No. 171 of 2020 by the Member for Lamu East (Hon. Sharif Athman Ali) to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works regarding the reasons why there have been inordinate delays in the construction and upgrading to bitumen standards of Mtangawanda-Kizingitini, Basuba-Kiunga and Mkokoni-Kiunga roads in Lamu East Constituency and the measures that have been put in place by the Ministry to ensure that the road projects are implemented.

(c) The following Question was dropped –

Question No. 170 of 2020 by the Member for Nakuru Town East (Hon. David Gikaria) to the Cabinet Secretary for Industry, Trade and Cooperatives regarding provision of details of the registration status of Prevailing SACCO as at September 2019; the steps the Ministry is taking to comply with the ruling made by the High Court in Nakuru following an application for Judicial Review (Judicial Review No. 2 of 2015) by the SACCO officials due to deregistration of the SACCO by the Commissioner of Cooperatives Development and the actions that the Ministry taking to ensure that the innocent members of the public are protected from manipulation by SACCOS in light of the recent outcry by members of the public over being hoodwinked by Prevailing SACCO.

## **6. STATEMENTS**

The Chairperson, Departmental Committee on Environment and Natural Resources made a Statement in response to a Request for a Statement by the Member for Taita Taveta County (Hon. Lydia Haiki Mzighi) regarding incessant fires in Tsavo National Park.

*(Statement laid on the Table of the House)*

## **7. COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson in the Chair

(i) **The Employment (Amendment) Bill (National Assembly Bill No.15 of 2019)**

Clause 3 - amendment proposed -

**THAT** Clause 3 of the Bill be amended in the proposed section 29A —

(a) by deleting subsection (1) and substituting therefor the following new subsection —

(1) Where pursuant to section 157 of the Children Act, a child is to be placed in the continuous care and control of an applicant who is an employee under this Act, the employee shall be entitled to one month's pre-adoption leave with full pay from the date of the placement of the child.

(b) by inserting the following new subsections immediately after subsection (3) —

“(3a) Where a child is born as a result of a surrogate motherhood agreement, an employee who is a commissioning parent, shall be entitled to —

(a) two consecutive months parental leave with full pay from the date the child is born in the case of a female employee; and

(b) two weeks paternal leave with full pay, in the case of a male employee who is married.

(3b) An employee who is eligible for leave under subsection (3a) shall give the employer not less than seven days written notice in advance or a shorter period as may be reasonable in the circumstances of the intention to proceed on parental or paternal leave, as the case may be, on a specified date and to return to work thereafter.

(3c) A notice under subsection (3b) shall be accompanied by documentation evidencing the surrogate motherhood agreement between the employee and the surrogate mother, and if required by the employer, a certificate as to the medical condition of the surrogate mother from a qualified medical practitioner or midwife.

(c) in subsection (4) by deleting the words “subsection (1)” and substituting therefor the words “this section”.

*(Chairperson, Departmental Committee on Labour & Social Welfare)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to.

Clause 2 - agreed to.

Title - agreed to.

Clause 1 - agreed to.

Bill to be reported with amendments;

(ii) **The National Youth Council (Amendment) Bill (National Assembly Bill No.8 of 2019)**

Clause 2 - amendment proposed –

**THAT**, the Bill be amended by deleting clause 2 and substituting therefor the following new clause 2—

“2. Section 2 of the National Youth Council Act (in this Act referred to as “the principal Act”) is amended by deleting the definition of the term “Minister” and substituting therefor the following new definition in proper alphabetical sequence—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to youth affairs.”

*(Chairperson, Departmental Committee on Labour & Social Welfare)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to.

Clause 3 - amendment proposed –

**THAT**, the Bill be amended by deleting Clause 3 substituting therefor the following new clause 3—

“3. The principal Act is amended by deleting Section 5 and substituting therefor the following new subsection—

- (1) The Council shall consist of—
  - (a) a non-executive chairperson, who shall be a youth, appointed by the President;
  - (b) the Principal Secretary responsible for matters relating to youth or his or her representative nominated in writing;
  - (c) the Principal Secretary responsible for matters relating to youth or his or her representative nominated in writing;
  - (d) the Principal Secretary responsible for matters relating to finance or his or her representative nominated in writing;
  - (e) the Attorney General or a representative nominated in writing;
  - (f) ten persons, being youth, appointed by the Cabinet Secretary;

- and
- (g) the Secretary to the Board, who shall be the Chief Executive Officer and an ex-officio member of the Council and shall not have a vote.
- (2) The members under subsection (1) (f) shall be appointed through an open, transparent and competitive process through the procedure prescribed in the Third Schedule.
- (3) In appointing members to the Council under subsection (1)(f), the Cabinet Secretary shall ensure that—
- (a) there are equal opportunities for persons with disabilities, persons from marginalised communities and persons from professional bodies;
  - (b) not more than two thirds of the members of the council are of the same gender; and
  - (c) the membership of the Council reflects the regional and ethnic diversity of the people of Kenya.
- (4) A person is qualified for appointment as the chairperson, if the person—
- (a) possesses at least a Bachelor's degree from a university recognized in Kenya;
  - (b) has at least five years' post qualification experience;
  - (c) is not a holder of any other public office;
  - (d) is a member of an active registered youth group;
  - (e) meets the requirements of chapter six of the Constitution and any written law relating to integrity; and
  - (f) is a youth.
- (5) A person is qualified for appointment as a member of the council under subsection (1)(f), if the person—
- (a) possesses at least a post-secondary education certificate from an institution recognised in Kenya;
  - (b) has at least three years' post qualification experience;
  - (c) is not a holder of any other public office;
  - (d) is a member of an active registered youth group;
  - (e) meets the requirements of chapter six of the Constitution and any written law relating to integrity; and
  - (f) is a youth.
- (6) An appointment under subsection 1(a) and (f) shall be by name and notice in the *Gazette*.

*(Chairperson, Departmental Committee on Labour & Social Welfare)*

Question of the amendment proposed;

Debate arising;

And the attention of the Third Chairperson having been drawn to the repetition of the similar provisions of paragraph (b) in paragraph (c) in sub-clause (1);

Thereupon, the Third Chairperson ordered pursuant to Standing Order 152(3) that, if carried, the amendment to Clause 3 sub-clause (1) be incorporated in the Bill subject to deletion of paragraph (c) and re-numbering the subsequent paragraphs in their logical sequence.

Question put and agreed to;

Clause 3 - as amended agreed to.

Clause 4 - agreed to.

New Clause 4A- amendment proposed –

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 4—

“5. The principal Act is amended by inserting the following new schedule immediately after the Second Schedule—

**Third Schedule**

**(s. 5)**

**PROCEDURE FOR APPOINTMENT OF MEMBERS OF THE COUNCIL**

1. Manner of selection of candidates

The candidates eligible for appointment as members of the Council shall be selected in an open, transparent and competitive process at the County level.

2. County Selection Panel

There shall be a selection panel in every County which shall comprise of-

- (a) the County Commissioner who shall be the Chairperson;
- (b) the County Director of youth affairs;
- (c) the County Director of social development services;
- (d) the County Director of gender affairs;
- (e) two persons representing faith based organisations;
- (f) a representative from the Chamber of Commerce;
- (g) a representative from the Commissioner of Scouts; and
- (h) the county chairperson for the organisation responsible for persons living with disabilities.

3. Role of the Parent Ministry

Each selection panel shall, subject to this Act, determine its own procedure, and the Cabinet Secretary shall provide each selection panel with such facilities and such other support as it may require for the discharge of its functions.

4. Selection of Nominees at County Level

- (a) Each selection panel at the County level, shall within seven days of its convening, invite applications from qualified persons and publish the names and qualifications of all applicants in the Kenya Gazette and the Ministry’s website.
- (b) Each selection panel at the county level shall within seven days of receipt of applications under subparagraph (a) consider the applications, interview and shortlist two persons, being male and female, qualified for appointment as members of the Council and shall forward the names of the shortlisted persons to the Cabinet Secretary.

5. Appointment by the Cabinet Secretary

The Cabinet Secretary shall, within seven days of receipt of the names forwarded under paragraph 6, appoint ten members under section 5(1) (f) to the Council.

6. Dissolution of the Selection Panels

The selection panels shall stand dissolved upon the requisite appointments being made under paragraph 6.

*(Chairperson, Departmental Committee on Labour & Social Welfare)*

Motion made and Question proposed;

**THAT**, New Clause 4A be read a Second Time;

Debate arising;

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Question proposed;

**THAT**, New Clause 4A be part of the Bill;

Debate arising;

Question put and agreed to;

New Clause 4A - agreed to.

Title - agreed to.

Clause 1 - agreed to.

Bill to be reported with amendments.

**(iii) The National Youth Council (Amendment) Bill (National Assembly Bill No.8 of 2019)**

Deferred upon a request from the Leader of the Majority Party



8. **HOUSE RESUMED** - the Second Chairperson in the Chair

**(i) The Employment (Amendment) Bill (National Assembly Bill No.15 of 2019)**

Bill reported with amendments;

Motion made and Question proposed –

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

*(Hon. Martha Wangari)*

Question put and agreed to;

Motion made and Question proposed –

**THAT**, the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019) be now read a Third Time.

*(Hon. Martha Wangari)*

Question put and agreed to;

Bill read a Third Time and **passed**.

**(ii) The National Youth Council (Amendment) Bill (National Assembly Bill No.8 of 2019)**

Bill reported with amendments;

Motion made and Question proposed –

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

*(Hon. Gideon Keter)*

Question put and agreed to;

Motion made and Question proposed –

**THAT**, the National Youth Council (Amendment) Bill (National Assembly Bill No.8 of 2019) be now read a Third Time.

*(Hon. Gideon Keter)*

Question put and agreed to;

Bill read a Third Time and **passed**.

**9. THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 65 OF 2019)**

Order for Second Reading read;

Motion having been made and Question proposed –

**THAT**, the Cancer Prevention and Control (Amendment) Bill (National Assembly Bill No.65 of 2019) be now read a Second Time.

*(Hon. Gladys Wanga)*

Debate interrupted on Thursday, September 10, 2019 (Morning Sitting) resumed;

Mover replied;

Putting of the Question deferred.

**10. THE PUBLIC SERVICE COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 27 OF 2019)**

Order for Second Reading read;

Motion being made –

**THAT**, the Public Service Commission (Amendment) Bill (National Assembly Bill No.27 of 2019) be now read a Second Time.

*(Hon. Benjamin G. Mwangi)*

And the time being One O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

**11. HOUSE ROSE - at One O'clock.**

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**M E M O R A N D U M**

The Speaker will take the Chair today,  
Thursday, September 17, 2020 at 2.30 p.m.

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