



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 07, 2020 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. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE PASSAGE BY THE NATIONAL ASSEMBLY OF THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 7 OF 2020)**

The Speaker conveyed the following Message from the National Assembly, on the passage by the National Assembly, of the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020).

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 41 (3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020). Pursuant to the said Standing Order, I now report the Message-

‘PURSUANT to the provisions of Standing Order 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the County Allocation of Revenue Bill (Senate Bill No. 7 of 2020) was published vide Kenya Gazette Supplement No. 45 of 17th April 2020 as a special Bill concerning county governments to provide, inter alia, for the equitable allocation of revenue raised nationally among county governments for the 2020/2021 financial year;

WHEREAS, the said Bill was passed by the Senate on 29th September 2020 and referred to the National Assembly for consideration in accordance with the provisions of Article 110(4) of the Constitution;

AND WHEREAS, the National Assembly also passed the said Bill on Tuesday, October 06, 2020 without amendments (in the form passed by the Senate);

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate’.

Honourable Senators,

Article 110 (5) of the Constitution states as follows-

If both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent.

Further, Standing Order 163 (1) states as follows –

When a Bill originating in the Senate is passed by the National Assembly, without amendments, the Speaker shall certify and refer the Bill to the President for assent within seven days of its passage by the National Assembly.

In the circumstances, I wish to inform the House that I am in the process of transmitting the Bill to His Excellency the President for Assent.

I thank you”.

4. PAPER

The following Paper was laid on the Table of the Senate

Report of the Standing Committee on Information and Technology on the consideration of the National Assembly amendments to the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018).

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

5. STATEMENTS

a) Pursuant to Standing Order 47 (1)

The Senator for Nandi (Sen. Samson Cherarkey, MP) made a Statement on the scheduled reopening of schools.

The Senator drew the attention of the Senate to the statement by His Excellency the President during the 12th Nation address on the COVID-19 situation in the country made on 28th September 2020, and argued that school re-opening was not considered. The Senator cautioned against the incessant calls for reopening of schools and stated that the safety of children was of utmost importance.

The Senator made reference to the communication made by the Ministry of Education on re-opening of schools that had caught parents by surprise, particularly considering the depressed state of economy that the country was in due to the pandemic. He further drew the attention of the Senate to the fact that many people had lost their jobs and others relocated to different places as a means for coping through the tough economic times.

The Senator stated that this meant that it would be impossible for parents to settle and prepare their children to return to school within three days since they were expected to pay school fees, and to provide shopping and transport for the pupils. In addition to this, most if not all of children were not prepared psychologically and were in fear of returning to school.

The Senator urged the Ministry of Education to provide psychosocial support to school children and give a notice of ninety days for school reopening in order to enable parents and children to prepare well.

Following concerns raised by Senators, the Speaker, pursuant to Standing Order 47(3), referred the Statement to the Standing Committee on Education for consideration.

b) Pursuant to Standing Order 48 (1)

- (i) The Senator for Bomet County (Sen. (Dr.) Christopher Langat, MP) sought a statement from the Standing Committee on Roads and Transportation regarding the stalled construction works on two major bridges in Bomet County.
- (ii) The Senator for Kericho County (Sen. Aaron Cheruiyot, MP) sought a statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding human rights violations in Kenya.
- (iii) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Education on the state of affairs at Technical and Vocational Education and Training (TVET) centers across the country and issues affecting trainers employed by respective Boards of Governors in the institutions.
- (iv) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Education regarding the nonpayment of teachers serving under the School Boards of Management in Nandi County.

6. THE GEOLOGISTS BILL (SENATE BILLS NO. 17 OF 2020)

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

Order for First Reading Read;

Bill read a First time and Committed to the Standing Committee on Land, Environment and Natural Resources.

7. THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 5 OF 2020)

Order for Second Reading Read;

Motion made and Question proposed;

THAT, the Community Health Services Bill (Senate Bills No.5 of 2020) be now read a Second time.

(Sen. (Dr.) Agnes Zani, MP – 04.08.2020)

Debate interrupted on Tuesday, 6th October, 2020 resumed on a Division;

The Senate proceeded to a Division;

The Speaker directed that roll call voting be taken pursuant to Standing Order 83(1) and in line with the further Guidelines issued by the Speaker for Senate Plenary and Committee sittings during the COVID -19 pandemic situation dated 17th April, 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 be drawn;

The names of the Tellers were announced as follows-

1. Sen. Cherarkey, Samson Kiprotich, MP – AYES
2. Sen. Kang’ata Irungu, MP – NOES

Whereupon, 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 – 27

NOES - 0

ABSTENTION – 0

AYES

1. Sen. Adan, Dullo Fatuma
2. Sen. Ali, Abdullahi Ibrahim
3. Sen. Zani, Agnes Philomena- voted on behalf of Kwale County Delegation
4. Sen. Cherarkey, Samson Kiprotich
5. Sen. Cheruiyot, Aaron Kipkirui
6. Sen. Iman, Falhada Dekow – voted on behalf of Garissa County Delegation
7. Sen. Hargura, Godana
8. Sen. Imana Malachy Charles Ekal
9. Sen. Kang’ata, Irungu
10. Sen. Khaniri George
11. Sen. Prengei Victor – voted on behalf of Nakuru County Delegation
12. Sen. Langat, Christopher Andrew

13. Sen. Lelegwe, Ltumbesi
14. Sen. Linturi, Franklin Mithika
15. Sen. Mahamud, Mohamed Maalim
16. Sen. Mbito, Michael Maling'a
17. Sen. Mbogo, George Ochilo Ayacko
18. Sen. Seneta, Mary Yiane – voted on behalf of Kajiado County Delegation
19. Sen. Mutula, Kilonzo Junior
20. Sen. Mwangi, Paul Githiomi
21. Sen. Nderitu, John Kinyua
22. Sen. Olekina, Ledama
23. Sen. Nyamunga, Rose Ogendo – voted on behalf of Kisumu County Delegation
24. Sen. Poghisio, Samuel Losuron
25. Sen. Sakaja, Johnson Arthur
26. Sen. Wambua, Enoch Kiio
27. Sen. Wetang'ula, Moses Masika

Question - agreed to.

Bill read a Second Time and Committed to the Committee of the Whole tomorrow.

8. COMMITTEE OF THE WHOLE

Order for Committee read;

IN THE COMMITTEE

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

The Sectional Properties Bill (National Assembly Bills No. 23 of 2019)

Clauses 4- 11

Motion Made and Question proposed;

THAT, Clauses 4-11 be part of the Bill.

Clauses 4-11 - vote deferred

Clause 12 - amendment proposed

THAT Clause 12 of the Bill be amended by deleting subclause (5) and substituting therefor the following new subclause –

(5) Before registering a proposed sectional plan of sub-division or consolidation, the Registrar shall amend, in the manner prescribed by the regulations, the original sectional plan as endorsed by a surveyor.

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

There being no Senator wishing to contribute;

Clause 12 - vote deferred.
Clauses 14 - 60

Motion Made and Question proposed;

THAT, Clauses 14 - 60 be part of the Bill.

Clauses 14 - 60 - vote deferred

Clauses 3 and 2, the Title and Clause 1

Motion made and Question proposed;

THAT, Clauses 3 and 2, the Title and Clause 1 be part of the Bill.

Clauses 3 and 2, the Title and Clause 1 - vote deferred

Progress report

Motion made:

THAT, pursuant to Standing Order 148, the Committee do report to the House its consideration of the Sectional Properties Bill (National Assembly Bills No. 23 of 2019) and seek leave to sit again tomorrow.

(The Senate Majority Leader)

Before the Question was put and pursuant to Standing Order 79(1), the Acting Chairperson (Sen. Rose Nyamunga, MP) ruled that the Question did not affect counties;

Question put and agreed to.

9. THE HOUSE RESUMED – (The Deputy Speaker – in the Chair)

10. THE SECTIONAL PROPERTIES BILL (NATIONAL ASSEMBLY BILLS NO. 23 OF 2019)

Progress reported;

Motion made and Question Proposed;

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

(The Senate Majority Leader)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79(1), 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

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

Consideration of the National Assembly Amendments The County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018)

National Assembly amendment to Clause 2

THAT Clause 2 of the Bill be amended by inserting the following definition in its proper alphabetical sequence—

“rate card” means a document containing prices and descriptions for various advertisement placement options available from a service sector, which sets out the minimum and maximum price of a service.

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 2 of the Bill be approved.

(Vice - Chairperson, Standing Committee on Information and Technology)

There being no Senator wishing to contribute;

National Assembly amendment to Clause 2 - vote deferred

National Assembly amendment to Clause 3

THAT Clause 3 of the Bill be amended—

(a) by deleting the expression “(1)”;

(b) in paragraph (c) by inserting the words “that has a licence from another county” immediately after the words “a moving vehicle” appearing in subparagraph (vi).

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 3 of the Bill be approved.

(Vice - Chairperson, Standing Committee on Information and Technology)

There being no Senator wishing to contribute;

National Assembly amendment to Clause 3 - vote deferred.

National Assembly amendment to Clause 4

THAT Clause 4 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph--

“(b) the written consent of the owner of the site or any other person with an interest in the site entitled to give consent”.

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 4 of the Bill be approved.

(Vice - Chairperson, Standing Committee on Information and Technology)

There being no Senator wishing to contribute;

National Assembly amendment to Clause 4 - vote deferred

National Assembly amendment to Clause 10

THAT Clause 10 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the written consent of the owner of the site or any other person with an interest in the site entitled to give consent”.

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 10 of the Bill be approved.

(Vice - Chairperson, Standing Committee on Information and Technology)

There being no Senator wishing to contribute;

National Assembly amendment to Clause 10 - vote deferred.

National Assembly amendment to Clause 15

THAT Clause 15 of the Bill be amended by inserting the words “regulate and” immediately after the words “government entity shall”.

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 15 of the Bill be approved.

(Vice - Chairperson, Standing Committee on Information and Technology)

There being no Senator wishing to contribute;

National Assembly amendment to Clause 15 - vote deferred

National Assembly amendment to Clause 21

THAT Clause 21 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) a rate card that shall be reviewed every seven years stating the fees and charges to be paid in respect of any matter required for the purposes of this Act”.

Motion made and Question proposed;

THAT, the National Assembly amendment to Clause 21 of the Bill be approved.

(Vice - Chairperson, Standing Committee on Information and Technology)

There being no Senator wishing to contribute;

National Assembly amendment to Clause 21 - vote deferred.

Progress report

Motion made:

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

(The Senate Majority Leader)

Before the Question was put and pursuant to Standing Order 79(1), the Acting Chairperson (Sen. Rose Nyamunga, MP) ruled that the Question did not affect counties;

Question put and agreed to.

12. THE HOUSE RESUMED – (The Deputy Speaker – in the Chair)

13. 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.

(The Senate Majority Leader)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79(1), the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

14. MOTION – ALTERATION OF THE SENATE CALENDAR (REGULAR SESSIONS) FOR THE FOURTH SESSION, 2020

(The Senate Majority Leader)

THAT, notwithstanding the Resolutions of the Senate made on 27th February, 2020 (approval of the Senate Calendar) and on 15th September, 2020 (alteration of the Senate Calendar), and pursuant to Standing Order 29(4), the Senate resolves to further alter its Calendar (Regular Sessions) for the Fourth Session, 2020, in respect of Part IV, to proceed on Recess starting on Friday, 9th October, 2020, until Monday, 2nd November, 2020, and thereafter resume sittings on Tuesday, 3rd November, 2020, as set out under Part V of the Calendar, and that the Senate Calendar (Regular Sessions) for the Fourth Session, 2020, be altered accordingly.

Order deferred.

15. MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON ITS INQUIRY INTO THE DEATH OF A PATIENT AT THE M.P. SHAH HOSPITAL, NAIROBI DUE TO NEGLIGENCE

Order Read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Standing Committee on Health on its inquiry into the death of a patient at the M.P. Shah Hospital allegedly due to negligence, laid on the Table of the Senate, on Thursday, 24th September, 2020.

(Chairperson, Standing Committee on Health)

Debate arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put, and pursuant to Standing Order 79(1), the Deputy Speaker ruled that the Question did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, the Senate adopts the Report of the Standing Committee on Health on its inquiry into the death of a patient at the M.P. Shah Hospital allegedly due to negligence, laid on the Table of the Senate, on Thursday, 24th September, 2020.

16. THE EQUALIZATION FUND BILL (NATIONAL ASSEMBLY BILLS NO. 43 OF 2019)

Order read;

Motion made and Question proposed;

THAT, the Equalization Fund Bill (National Assembly Bills No. 43 of 2019) be now read a Second time.

(The Senate Majority Leader – 06/10/2020)

Debate interrupted on Tuesday, 6th October, 2020 resumed;

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

17. THE 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, October 08, 2020 at 2.30 p.m.*

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