



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

THURSDAY, SEPTEMBER 09, 2021 AT 2.30 P.M.

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022 AND APPROVAL OF THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022**
(Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial year 2021/2022, laid on the Table of the Senate on Tuesday, 7th September, 2021, and that pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2021/2022.

(Resumption of debate interrupted on Wednesday, 8th September, 2021)
(Division)

9. ****THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILLS NO. 35 OF 2021)**
(The Chairperson, Standing Committee on Finance and Budget)

(Second Reading)
(Resumption of debate interrupted on Wednesday, 8th September, 2021)
(Division)

...../Bills

10. ***THE KENYAN SIGN LANGUAGE BILL (SENATE BILLS NO. 5 OF 2021)**
(Sen. (Dr.) Getrude Musuruve, MP and Sen. (Prof.) Margaret Kamar, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 8th September, 2021)

(Division)

11. **MOTION - ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION, ON THE PUBLIC FINANCE MANAGEMENT (SINKING FUND) GUIDELINES, 2021**
(Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Consideration of the Public Finance Management (Sinking Fund) Guidelines, 2021 laid on the Table of the Senate on Wednesday, 8th September, 2021, and that pursuant to Section 18 of the Statutory Instruments Act, Section 205 of the Public Finance Management Act, and Standing Order 221(4)(b), **annuls** in its entirety, the Public Finance Management (Sinking Fund) Guidelines, 2021.

12. *****THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY BILLS NO. 6 OF 2021)**
(The Senate Majority Leader)

(Second Reading)

13. ***THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 9 OF 2021)**
(Sen. Kipchumba Murkomen, MP)

(Second Reading)

14. ***THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 14 OF 2021)**
(Sen. Mutula Kilonzo Jr, MP and Sen. Sakaja Johnson, MP)

(Second Reading)

15. ***THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)**
(Sen. (Dr.) Abdullahi Ali, MP)

(Second Reading)

16. **COMMITTEE OF THE WHOLE**
***THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)**
(Sen. (Arch.) Sylvia Kasanga, MP)

17. **COMMITTEE OF THE WHOLE**
***THE BASIC EDUCATION BILL (SENATE BILLS NO. 4 OF 2021)**
(Sen. Beatrice Kwamboka, MP)

- 18. **COMMITTEE OF THE WHOLE**
***THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILLS NO. 32 OF 2020)**
(Sen. Mercy Chebeni, MP)
- 19. **COMMITTEE OF THE WHOLE**
****THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2020)**
(The Chairperson, Standing Committee on Finance and Budget)
- 20. **MOTION – PROVISION OF COLOSTOMY BAGS TO COLON CANCER PATIENTS AND SURVIVORS IN COUNTY HOSPITALS**
(Sen. (Dr.) Gertrude Musuruve, MP)

THAT, AWARE THAT the colon is part of the digestive system with a major role in the absorption of water, minerals and elimination of waste;

FURTHER AWARE THAT colon cancer can cause serious blockage of the colon that may necessitate removal of parts of the colon, the entire colon or the entire colon and the rectum;

COGNIZANT THAT persons who have gone through ileostomy, colostomy and urostomy need to use a bag to empty their wastes for the rest of their lives post-surgery;

CONCERNED THAT urine bags, adult diapers, artificial breasts, colostomy or ileostomy bags are not listed as goods exempt from tax or zero rated in the First and Second Schedules of the VAT Act 2013, and therefore attract 16 per cent value added tax and customs duty;

ACKNOWLEDGING THAT Article 43(1a) of Constitution of Kenya states that everyone has a right to the highest attainable standards of health, and health is a devolved function and therefore under the mandate of the county governments;

NOW THEREFORE, the Senate calls upon the Ministry of Health and) in partnership with the Council of Governors to:

- 1. create and maintain a register of all the colon cancer patients and survivors in county hospitals, including the biodata of the histology of the patients;
- 2. provision of colostomy bags for those who are permanent users;
- 3. include the purchase of palliative care products in the health budgets of all county governments;
- 4. ensure all county hospitals stock these palliative care products to enable increased access and lower commercial prices; and

...../Motions

- 5. engage the Treasury and Kenya Revenue Authority (KRA) to waive taxes on long-term health consumables such as colostomy bags, prosthesis and others in the upcoming budgetary cycle to ease the burden on Kenyans.

(Resumption of debate interrupted on Wednesday, 8th September, 2021)

21. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS, CONCERNING THE IMPASSE ON THE BUDGETARY ESTIMATES FOR FINANCIAL YEAR 2020/2021 FOR KIRINYAGA COUNTY BETWEEN THE COUNTY EXECUTIVE AND THE COUNTY ASSEMBLY**

(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations, on the impasse on the budgetary estimates for financial year 2020/2021 for Kirinyaga County, between the County Executive and the County Assembly, laid on the Table of the Senate on Tuesday, 25th May, 2021.

22. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON INQUIRY INTO THE OPERATIONALIZATION OF THE NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY) REGULATIONS**

(The Chairperson, Standing Committee on Roads and Transportation)

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of the National Construction Authority (Defects Liability) Regulations, laid on the Table of the Senate on Thursday, 24th September, 2020.

23. **MOTION - FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES**

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

THAT, WHEREAS Kenya is a multi-ethnic and multi-racial country with rich and diverse cultural resources such as traditional medicine and foods, arts, craft, music, dances, dress among others;

AWARE THAT, the Constitution, in its preamble acknowledges the cultural diversity of the Kenyan people who are determined to live in peace and unity as one indivisible sovereign nation whilst, Article 11 of the Kenyan Constitution recognizes culture as the foundation of the nation;

NOTING that, while the Department of Culture under the Ministry of Sports, Culture and Heritage has been playing some of the key roles in promotion of

cultural integration, formulation of policies and standards that will guide the development of culture, little information has been available to the Kenyan public;

ACKNOWLEDGING, that culture performs a significant role in the life of a child, the cultural background in which a child is brought up affects the totality of his or her life’s activities;

CONCERNED, that our children are losing their sense of identity due to the negative influences due to inadequate cultural identity catalyzed by globalization which has led to catastrophic consequences to the next generation as experienced in our country where a majority of young people are showing symptoms of feeling suicidal, anxious, feeling of hopelessness, anger, violence, feeling isolated, and paranoia;

NOW THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Sports, Culture and Heritage to –

a) Formulate cultural development policies and initiatives to inculcate stronger community values, safeguard Kenya’s heritage, recognize local heroes and promote socio-cultural opportunities in the counties; and

b) Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties.

24. **MOTION – PARKING CHARGES IN PUBLIC INSTITUTIONS OFFERING ESSENTIAL SERVICES**

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

AWARE THAT, many urban areas and towns in Kenya lack designated car parking areas as a result of imbalance between parking supply and demand mainly due to ineffective land use planning and miscalculations of space requirements, thereby leading to exorbitant parking fees;

NOTING that, most essential services offered in hospitals, educational institutions and other public utilities are offered in urban centers, shopping malls and other designated areas that charge parking fees to access;

ACKNOWLEDGING, that whether they are delivered by public or private providers, essential services such as health, banking, education and other utilities are considered to be public services because they are public goods that sustain the well-being of every citizen and help in the development of the society as a whole;

CONCERNED, that access to hospitals, educational institutions and other places offering essential services might be hindered due to exorbitant parking fees levied on motorists accessing these services;

FURTHER CONCERNED, that charging entry fees amount to double taxation as the motorists who would have paid the parking fees will still pay for the services they seek;

NOW THEREFORE, the Senate urges the Cabinet Secretary for Lands, Housing and Physical Planning together with the Council of Governors to come up with a policy framework to create an enabling environment for protection of motorists accessing essential services from paying exorbitant fees for parking.

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NOTICE

1. **THAT**, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A(4).
2. The Senate resolved on 10th February, 2021, 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. –

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KEY

******- Denotes a Majority /Minority Party Bill**

*****- Denotes a National Assembly Bill**

****- Denotes a Committee Bill**

***- Denotes any other Bill**

A. THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)

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

NOTICE is given that the Chairperson, Standing Committee on Health, intends to move the following amendments to the Mental Health (Amendment) Bill (Senate Bills No. 28 of 2020) at the Committee Stage —

CLAUSE 5

THAT clause 5 of the Bill be amended in the proposed new section 2E (5) by—

(a) deleting paragraph (e) and substituting therefore the following new paragraph—

(e) is removed by the county executive committee member for being unable to perform the functions of the office by reason of mental or physical infirmity.

(b) inserting the following new subclause immediately after subclause (5) (5A) Before the removal of a member under subsection (5)(e), the county executive committee member shall request the Council to—

(a) investigate the circumstances giving rise to the proposed removal; and

(b) make recommendations on whether or not the member should be removed from office.

CLAUSE 8

THAT clause 8 of the Bill be amended by deleting the proposed new section 4B and substituting therefor the following new section—

Removal of member of Board from office. **4B.**(1) A member of the Board may be removed from member of office for —

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) incompetence or negligence of duty; or
- (d) any other ground that would justify removal from office under any written law.

(2) Before the removal of a member of the Board under subsection (1)(a), the Cabinet Secretary shall request the Board to—

- (a) investigate the circumstances giving rise to the proposed removal; and
- (b) make recommendations on whether or not the member should be removed from office.

CLAUSE 15

THAT clause 15 of the Bill be amended -

- (a) in the proposed new section 9D by inserting the following new paragraph immediately after paragraph (e)—
 - (ea) the number of mental health patients admitted on an emergency basis that the mental health facility or unit has discharged, are still under its care or have died in the course of treatment;
- (b) in the proposed new section 9F(2) by inserting the words “side effects” immediately after the words “likely duration” in paragraph (b).

CLAUSE 32

THAT clause 32 of the Bill be amended in the proposed new section 20A(2) by inserting the following new paragraph immediately after paragraph (b) —

- (ba) a supporter of the person with mental illness;

CLAUSE 33

THAT clause 33 of the Bill be amended in the proposed new section 21 by inserting the words “A person” immediately before the word “with mental illness” in subsection (2).

CLAUSE 38

THAT clause 38 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) subsection (1) and substituting therefor the following new subsection—
 - (1) The person in charge or a mental health practitioner in charge of any patient shall enable communication by the patient through letters, telephone calls and emails to the recipients where practicable.

CLAUSE 50

THAT the Bill be amended by deleting clause 50 and substituting therefor the following new clause—

Amendment of section 54 of Cap. 248. **50.** The Principal Act is amended by deleting section 54 and substituting therefor the following section—
Regulations. **54.** The Cabinet Secretary shall, in consultation with the Board and the Council of County Governors, make regulations—

- (a) prescribing the form of the supportive decision making agreement;
- (b) generally regulating the equipping, administration, control and management of mental health units;
- (c) for the care, treatment and rehabilitation of person with mental illness;
- (d) prescribing the procedure of admission of out-patient patients; and
- (e) for the better carrying out of the provisions of this Act.

B. THE BASIC EDUCATION (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2021)

(Sen. Beatrice Kwamboka, MP)

NOTICE is given that the Chairperson, Standing Committee on Education, intends to move the following amendment to the Basic Education (Amendment) Bill Senate Bills No. 4 of 2021, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended in the new clause 38A by inserting the following new sub-clause immediately after sub-clause (3)—

- (4) The Cabinet Secretary shall put in place measures to ensure that alternatives to milk are available for learners who are lactose intolerant.

C. *THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILLS NO. 32 OF 2020)

(Sen. Mercy Chebeni, MP)

NOTICE is given that the Chairperson, Standing Committee on Tourism, Trade and Industrialization, intends to move the following amendments to the County Licensing (Uniform Procedures) Bill (Senate Bills No. 32 of 2020) at the Committee Stage-

CLAUSE 3

THAT clause 3 of the Bill be amended-

- (a) deleting paragraph (a) and substituting therefor the following new paragraph-
 - (a)the need to protect consumers of goods and services, ensure public safety and promote environmental protection;
- (b) in paragraph (b) by inserting the word “not” immediately after the words “manner that does”; and
- (c) in paragraph (c) by inserting the words “and in accordance with the provisions of the Access to Information Act” immediately after the words “and licensing procedures”.

CLAUSE 7

THAT clause 7 of the Bill be amended-

- (a) by deleting subclause (2) and substituting therefor the following new subclause-
 - (2) A licensing authority shall, within three years of the commencement of this Act, put in place mechanisms to enable the electronic application for, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence.

CLAUSE 15

THAT clause 15 of the Bill be amended in subclause (1) by inserting the words “in writing” immediately after the words “shall inform”.

CLAUSE 19

THAT clause 19 of the Bill be amended in subclause (2) by inserting the words “and through such other media as the authority shall consider appropriate” immediately after the words “nationwide circulation”.

CLAUSE 22

THAT clause 22 of the Bill be amended by deleting paragraph (b).

CLAUSE 1

THAT the Bill be amended by deleting clause 1 and substituting therefor the following new clause-

Short title and commencement. **1.** This Act may be cited as the County Licensing (Uniform Procedures) Act, 2021 and shall come into operation upon the expiry of six months from the date of assent of this Act.

D. **THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2020)

(The Chairperson, Standing Committee on Finance and Budget)

NOTICE is given that Sen. Charles Kibiru, Chairperson, Standing Committee on Finance and Budget intends to move the following amendment to the Salaries and Remuneration (Amendment) Bill, Senate Bills No. 31 of 2020, at the Committee Stage-

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the word “twenty-eight” appearing immediately after the word “within” and substituting therefor the word “fourteen”.

APPENDIXSTATEMENTS**a) Pursuant to Standing Order 48 (1)**

- i) Nominated Senator (Sen. Millicent Omanga, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged increased rate of kidnapping of children.
- ii) Nominated Senator (Sen. Millicent Omanga, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding alleged evictions of residents living in Nairobi City County staff housing units in Eastleigh and Pumwani areas.
- iii) Nominated Senator (Sen. Judith Pareno, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the incessant human-elephant conflict in Najile area of Ewuaso Kidong, Olokiringi'a and Sairashie in Kajiado County.
- iv) The Senator for Murangá County (Sen. Irungu Kang'ata, MP) to seek a statement from the Standing Committee on Tourism, Trade and Industrialization concerning operations of the Murangá County Creameries.
- v) Nominated Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged discriminative enforcement of the nationwide curfew for containment of the COVID-19 pandemic.
- vi) The Senator for Kitui County (Sen. Enoch Wambua, MP) to seek a statement from the Standing Committee on Health regarding the state of healthcare in public hospitals in Kitui County.

b) 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 14th September, 2021.

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