



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MAY 14, 2024 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. **QUORUM OF THE SENATE**

The Speaker, having counted the Hon. Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum before the expiry of the ten minutes;

The Speaker invited the Clerk to call the Orders of the Day.

4. **COMMUNICATION FROM THE CHAIR – VISITING STUDENTS FROM KISII UNIVERSITY STUDENTS' ASSOCIATION**

The Speaker conveyed the following Communication from the Chair –

“Honorable Senators,

In the Speaker's gallery, we have six (6) students from Kisii University Students' Association in Kisii County who are undertaking a one-day education visit in the Senate.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you!”

5. **MESSAGE FROM THE NATIONAL ASSEMBLY - DECISION OF THE NATIONAL ASSEMBLY ON SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 14 OF 2024)**

The Speaker conveyed the following Message from the National Assembly –

“Honourable Senators,

I wish to report to the Senate that I have, pursuant to Standing Order 46(3), received the following Message from the Speaker of the National Assembly regarding the decision of the National Assembly on the Senate Amendments to the Division of Revenue Bill (National Assembly Bills No. 14 of 2024).

The Message, dated Tuesday, 14th May 2024, was received in the Office of the Clerk of the Senate on the same date.

Pursuant to Standing Order 46(4), I now report the Message –

“PURSUANT to the provisions of Standing Order 41(1) and 148(b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly—

WHEREAS, on Wednesday, 20th March 2024, the National Assembly passed the Division of Revenue Bill (National Assembly Bill No. 14 of 2024) and thereafter referred the Bill to the Senate for consideration in accordance with Article 110(4) of the Constitution;

AND WHEREAS, on Thursday, 2nd May 2024, the Senate considered and passed the said Bill with amendments and referred it back to the National Assembly for concurrence;

FURTHER WHEREAS, on Monday, 13th May 2024, the National Assembly considered and rejected the Senate amendments to the Bill, thereby committing it to a mediation Committee in accordance with the provisions of Article 112(2)(b) of the Constitution;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Orders 41(1) and 148(b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of nine (9) Senators to a Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution.”

Honourable Senators,

Consequent to the said Decision, the Speaker of the National Assembly appointed the following Members of the National Assembly to the Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution –

- 1) The Hon. Ndindi Nyoro, CBS, MP;
- 2) The Hon. Mary Emaase, MP;
- 3) The Hon. David Ochieng, CBS, MP;
- 4) The Hon. Nyakundi Mokaya, MP;
- 5) The Hon. Samuel Moroto, CBS, MP;
- 6) The Hon. Samuel Atandi, MP;
- 7) The Hon. Naisula Leisuuda, MP;

- 8) The Hon. (Dr.) Makali Mulu, MP; and
- 9) The Hon. Ali Wario Guyo, MP.

Honourable Senators,

Pursuant to the provisions of Standing Order 166(2) of the Senate, and in consultation with the Majority and Minority Leaders, I will, at an appropriate time, appoint Senators to the Mediation Committee.

I thank you.”

6. **PETITION**

Pursuant to Standing Order 236(2)(b), the Speaker reported a Petition to the Senate by Mr. Japheth J. Makokha on behalf of Triple the Impact Community Based Organization regarding the amendment of Section 32(3) of the County Governments Act.

Pursuant to Standing Order 237, the Speaker invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Justice, Legal Affairs and Human Rights, pursuant to Standing Order 238 (1).

7. **PAPER LAID**

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

- i.) Report of the Auditor General on Financial Statements of the Nairobi City County Government - Revenue Fund for the year ended 30th June, 2023.
- ii.) Report of the Auditor General on Financial Statements of the Nairobi City County Government – Receiver of Revenue for the year ended 30th June, 2023.
- iii.) Report of the Auditor General on Financial Statements of Gatundu Water and Sanitation Company Limited for the year ended 30th June, 2023.
- iv.) Report of the Auditor General on Financial Statement of Limuru Water and Sewerage Company Limited for the year ended 30th June, 2023.
- v.) Report of the Auditor General on Financial Statements of Embe Water and Sanitation Company Limited for the year ended 30th June, 2023.
- vi.) Report of the Auditor General on Financial Statements of the County Government of West Pokot - Revenue Fund for the year ended 30th June, 2023.

- vii.) Report of the Auditor General on Financial Statements of West Pokot County Assembly Staff Car Loan and Mortgage Fund for the year ended 30th June, 2023.
- viii.) Report of the Auditor General on Financial Statements of West Pokot County Car Loan and Mortgage Fund for the year ended 30th June, 2023.
- ix.) Report of the Auditor General on Financial Statements of Kapenguria Water and Sewerage Services Company Limited for the year ended 30th June, 2023.
- x.) Report of the Auditor General on Financial Statements of Lodwar Water and Sanitation Company Limited for the year ended 30th June, 2023.

(Sen. Gloria Orwoba, MP on behalf of the Senate Majority Leader)

- xi.) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bill No. 44 of 2023).

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

8. QUESTIONS AND STATEMENTS

a) Requests for Statements pursuant to Standing Order 53(1)

- i) The Senator for Kakamega County (Sen. (Dr.) Boni Khalwale, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding police harassment of Tuk-tuk and boda boda operators in Kakamega town.
- ii) The Senator for Machakos County (Sen. Agnes Kavindu, MP) sought a Statement from the Standing Committee on Education regarding safety and hygiene measures put in place ahead of the re-opening of schools and other learning institutions in the country.
- iii) The Senator for Embu County (Sen. Alexander Mundigi, MP) sought a Statement from the Standing Committee on Energy regarding the conversion of the seven-forks hydro-electric power dams in Embu County from single-use to multi-purpose dams.
- iv) Request for a Statement by the Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) from the Standing Committee on Devolution and Intergovernmental Relations regarding the status of development projects in Taita Taveta County was **dropped** in the absence of the Senator.

9. COMMITTEE OF THE WHOLE

Order for the Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Wakili Hillary Sigei, MP – in the Chair)

The Gambling Control Bill (National Assembly Bills No. 70 of 2023)

Clauses 3 - 4

Motion made and Question proposed;

THAT, Clauses 3 and 4 be part of the Bill

(The Senate Majority Leader)

Clauses 3 and 4 - vote deferred

Clause 5 - amendment proposed;

THAT, clause 5 of the Bill is amended by inserting the following new paragraphs immediately after paragraph (e) –

(ea) develop and implement county legislation on betting and other forms of gambling;

(eb) license prize competitions within a county;

(ec) license amusement machines;

(ed) issue trade permits for betting premises;

(ee) license and issue pool table permits within the county;

(ef) license and supervise county lotteries;

(eg) issue trade permits for premises for totalisators;

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 5 - vote deferred

Clause 6

Motion made and Question proposed;

THAT, Clause 6 be part of the Bill

(The Senate Majority Leader)

Clause 6 - vote deferred

Clause 7 - amendment proposed;

THAT, clause 7 (1) of the Bill be amended by-

(a) deleting paragraph (d) and substituting therefor the following new paragraph—;

(d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that—

- (i). one shall represent persons with disabilities;
- (ii). one shall represent the youth; and
- (iii). one shall represent faith-based organisations;

(b) deleting paragraph (e) and substituting therefor the following new paragraph—;

(e) three persons nominated by the Council of Governors and appointed by the Cabinet Secretary; and

(c) deleting paragraph (f)

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 7 - vote deferred

Clauses 8 - 9

Motion made and Question proposed;

THAT, Clauses 8 and 9 be part of the Bill

(The Senate Majority Leader)

Clauses 8 and 9 - vote deferred

Clause 10 - amendment proposed;

THAT, clause 10 of the Bill be amended—

- (a) by deleting paragraph (c);
- (b) in paragraph (f) by inserting the words “in consultation with county governments” immediately after the word “maintain” and
- (c) in paragraph (g) by inserting the words “beneficial owners” immediately after the word “directors”

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 10 - vote deferred

Clauses 11 - 20

Motion made and Question proposed;

THAT, Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 be part of the Bill

(The Senate Majority Leader)

Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 - vote deferred

Clauses 21 - 27

Motion made and Question proposed;

THAT, Clauses 21, 22, 23, 24, 25, 26 and 27 be part of the Bill

(The Senate Majority Leader)

Clauses 21, 22, 23, 24, 25, 26 and 27 - vote deferred

Clause 28 - amendment proposed;

THAT, clause 28 of the Bill be amended—

- (a) in subclause (2) by deleting paragraphs (o), (p) and (q); and
- (b) by deleting subclause (4).

(Sen. Samson Cherarkey, MP)

Clause 28 - vote deferred

Clauses 29 - 30

Motion made and Question proposed;

THAT, Clauses 29 and 30 be part of the Bill

(The Senate Majority Leader)

Clauses 29 and 30 - vote deferred

Clause 31 - amendment proposed;

THAT clause 31 of the Bill be amended in subclause (3) by deleting the word “twelve” appearing immediately after the words “a period of” and substituting therefor the word “thirty six”.

(Sen. Samson Cherarkey, MP)

Clause 31 - vote deferred

Clauses 32 - 40

Motion made and Question proposed;

THAT, Clauses 32, 33, 34, 35, 36, 37, 38, 39 and 40 be part of the Bill

(The Senate Majority Leader)

Clauses 32, 33, 34, 35, 36, 37, 38, 39 and 40 - vote deferred

Clauses 41 - 50

Motion made and Question proposed;

THAT, Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50 be part of the Bill

(The Senate Majority Leader)

Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50 - vote deferred

Clauses 51 - 60

Motion made and Question proposed;

THAT, Clauses 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 be part of the Bill

(The Senate Majority Leader)

Clauses 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 - vote deferred

Clauses 61 - 63

Motion made and Question proposed;

THAT, Clauses 61, 62 and 63 be part of the Bill

(The Senate Majority Leader)

Clauses 61, 62 and 63 - vote deferred

Clause 64 - amendment proposed;

THAT clause 64 of the Bill be amended in subclause (5) by deleting the word “twenty shillings” appearing at the end of the subclause and substituting therefor the words “one shilling”.

(Sen. Samson Cherarkey, MP)

Clause 64 - vote deferred

Clause 65

Motion made and Question proposed;

THAT, Clause 65 be part of the Bill

(The Senate Majority Leader)

Clause 65 - vote deferred

Clause 66 - amendment proposed;

THAT clause 66 of the Bill be amended by deleting the words “shall ensure that its” appearing immediately after the word “Authority” and substituting therefor the words “and county governments shall ensure that their”.

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 66 - vote deferred

Clauses 67 - 68

Motion made and Question proposed;

THAT, Clauses 67 and 68 be part of the Bill

(The Senate Majority Leader)

Clauses 67 and 68 - vote deferred

Clause 69 - amendment proposed;

THAT, Bill be amended by deleting clause 69 and substituting therefor the following new clause—

Online gambling transaction. 69. An online gambling transaction shall commence when a player deposits money into his or her gaming account and shall conclude when a player withdraws money from his or her gaming account.

(Sen. Edwin Sifuna, MP)

Clause 69 - vote deferred

Clause 70

Motion made and Question proposed;

THAT, Clause 70 be part of the Bill

(The Senate Majority Leader)

Clause 70 - vote deferred

Clause 71 - amendment proposed;

THAT, clause 71 of the Bill be amended in subclause (3) by deleting the words “five million” appearing immediately after the words “not less than” and substituting therefor the words “fifty thousand”.

(Sen. Samson Cherarkey, MP)

Clause 71 - vote deferred

Clauses 72 - 80

Motion made and Question proposed;

THAT, Clauses 72, 73, 74, 75, 76, 77, 78, 79 and 80 be part of the Bill

(The Senate Majority Leader)

Clauses 72, 73, 74, 75, 76, 77, 78, 79 and 80 - vote deferred

Clauses 81 - 86

Motion made and Question proposed;

THAT, Clauses 81, 82, 83, 84, 85 and 86 be part of the Bill

(The Senate Majority Leader)

Clauses 81, 82, 83, 84, 85 and 86 - vote deferred

Clause 87 - amendment proposed;

THAT, clause 87 (2) of the Bill be amended in paragraph (e) by deleting the word “six” appearing immediately after the words “radio between” and substituting therefor the word “five”.

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 87 - vote deferred

Clauses 88 - 100

Motion made and Question proposed;

THAT, Clauses 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 be part of the Bill

(The Senate Majority Leader)

Clauses 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 - vote deferred

Clauses 101 - 110

Motion made and Question proposed;

THAT, Clauses 101, 102, 103, 104, 105, 106, 107, 108, 109 and 110 be part of the Bill

(The Senate Majority Leader)

Clauses 101, 102, 103, 104, 105, 106, 107, 108, 109 and 110 - vote deferred

Clauses 111 - 118

Motion made and Question proposed;

THAT, Clauses 111, 112, 113, 114, 115, 116, 117 and 118 be part of the Bill

(The Senate Majority Leader)

Clauses 111, 112, 113, 114, 115, 116, 117 and 118 - vote deferred

Clause 119 - amendment proposed;

THAT, clause 119 (2) be amended by deleting-
(a) paragraph (d); and
(b) paragraph (g).

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 119 - vote deferred

Clauses 120 - 122

Motion made and Question proposed;

THAT, Clauses 120, 121 and 122 be part of the Bill

(The Senate Majority Leader)

Clauses 120, 121 and 122 - vote deferred

Clause 123 - amendment proposed;

THAT, clause 123 of the Bill be amended by renumbering the current provision as sub clause (1) and inserting therefor the following new sub clauses immediately after the new sub- clause (1)—

Cap 269 (2) The Kenya Revenue Authority Act, is amended in Part II of the First Schedule, by deleting paragraph

7 and substituting therefor the following new paragraph—

7. The Gambling Control Act.

No. 20 of 2023 (3) The National Lottery Act, is amended by inserting the following new clause immediately after clause 52—

- Regulations 53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.
- (2) Without prejudice to the foregoing, regulations made under this section may provide for—
- (a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
 - (b) the conduct of a national lottery;
 - (c) apportionment of the proceeds of the national lottery;
 - (d) procedure for the sale of tickets, prizes of tickets and payment of prizes;
 - (e) announcement and protection of winners of the national lottery;
 - (f) the circumstances under which the national lottery may be advertised; and
 - (g) the places where, circumstances or manner in which signs relating to a national lottery may be displayed.

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

Clause 123

- vote deferred

New Clause 117A

- insertion of new clause proposed;

THAT, the Bill be amended by inserting the following new clause immediately after clause 117—

Operating 117A. A licensed betting, gambling, lottery or gaming hours premise shall operate between ten o' clock in the evening and five o' clock in the morning.

Motion made and Question proposed;

THAT, New Clause 117A be now read a Second Time

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

New Clause 117A - vote deferred

The First and Second Schedules

Motion made and Question proposed;

THAT, the First and Second Schedules be part of the Bill

(The Senate Majority Leader)

The First and Second Schedules - vote deferred

The Third Schedule - amendment proposed;

THAT, the Third Schedule of the Bill be amended in—

- (a) paragraph (b) by deleting the amount “200, 000, 000” and substituting therefor the amount “20,000, 000”; and
- (b) paragraph (c) by deleting the amount “200, 000, 000” and substituting therefor the amount “20,000, 000”.

(Sen. Samson Cherarkey, MP)

Further amendment proposed;

THAT, the Third Schedule of the Bill be amended in paragraph (b) by deleting the amount “200, 000, 000” and substituting therefor the amount “20,000, 000 or one twelfth of the gross gaming revenue of the operator from the previous year.”

(Sen. Edwin Sifuna, MP)

Proposed amendment withdrawn by the Mover.

The Third Schedule - vote deferred

Clause 2, the Title and Clause 1

Motion made and Question proposed;

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

(The Senate Majority Leader)

Clause 2, the Title and Clause 1

- vote deferred

Progress Report

Motion made –

THAT, the Committee of the Whole House do report to the Senate its consideration of the Gambling Control Bill (National Assembly Bills No. 70 of 2023) and seek leave to sit again tomorrow;

(The Senate Majority Leader)

Before the Question was put and pursuant to Standing Order 84(1), the Acting Chairperson (Sen. Wakili Hillary Sigei, MP) ruled that the Question did not affect counties;

Question put and agreed to.

10. **THE HOUSE RESUMED** – (Deputy Speaker – in the Chair)

11. **THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023)**

Progress reported;

Motion made and Question proposed;

THAT, the Senate do agree with the Committee of the Whole 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 84(1), the Deputy Speaker ruled that the Motion does not affect counties.

Question put and agreed to.

12. **THE MATERNAL, NEWBORN AND CHILD HEALTH BILL (SENATE BILLS NO. 17 OF 2023)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Maternal, Newborn and Child Health Bill (Senate Bills No. 17 of 2023) be now read a Second Time.

(Sen. Beatrice Ogola, MP – 16.04.2024)

Debate interrupted on Wednesday, 8th May, 2024 (Afternoon Sitting) resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Pursuant to Standing Order 66(3), the Mover requested that the putting of the Question be deferred to a later date;

And the Deputy Speaker acceding to the request, deferred the putting of the Question to a later date.

13. **THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL (SENATE BILLS NO. 38 OF 2023)**

Order for Second Reading read;

Motion made;

THAT, the Public Transport (Motorcycle Regulation) Bill (Senate Bills No. 38 of 2023) be now read a Second Time.

(Sen. (Dr.) Boni Khalwale, MP)

And the time being thirty Minutes past Six O'clock, the Deputy Speaker interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

14. **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
Wednesday, May 15, 2024 at 9:30 a.m.*