



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MAY 07, 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 Temporary Speaker (Sen. Veronica Maina, MP).

3. **QUORUM OF THE SENATE**

The Temporary Speaker (Sen. Veronica Maina, MP), having counted the Honourable 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 Temporary Speaker (Sen. Veronica Maina, MP) invited the Clerk to call out the Orders of the Day.

4. **PAPER LAID**

The following Paper was laid on the Table of the Senate:

Report of the Auditor General on Financial Statements of the Yatta Water Services Company Limited for the year ended 30th June, 2023.

(The Senate Majority Whip)

5. **NOTICE OF MOTION – EXTENSION OF TIME FOR CONSIDERATION OF THE REFUGEES (GENERAL) REGULATIONS, 2024**

(The Chairperson, Committee on Delegated on Legislation)

AWARE that the Committee on Delegated Legislation is established under Standing Order 195 of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that, pursuant to standing order 195(2) and (3) of the Senate Standing Orders, on 20th February, 2024, the Refugees (General) Regulations, 2024 were laid in the Senate and thereafter stood committed to the Committee on Delegated Legislation for its consideration;

NOTING that the Refugees (General) Regulations, 2024 seek to give effect to the Refugees Act, Cap 173 of the Laws of Kenya and that the Regulations touch on core functions of the county governments as set out at Part II of the Fourth Schedule to the Constitution, including health, control of pollution, county planning and development, public works and services as well as governance at the local level;

NOTING that in considering the Regulations, due to the gravity of the impact of the Regulations the Committee on Delegated Legislation met with officials from the Ministry of Interior and National Administration, on Thursday, 2nd May, 2024 and directed the Cabinet Secretary and the Principal Secretary, Ministry of Interior and National Administration to provide evidence of the conduct of public participation on the Regulations and to table a regulatory impact statement pursuant to Part III of the Statutory Instruments Act, 2013, Cap 2A of the Laws of Kenya;

APPRECIATING that under section 15 of the Statutory Instruments Act, 2013, the Committee on Delegated Legislation is required, within twenty-eight (28) sitting days after the date of referral of a statutory instrument to the Committee, or such other period as the House may, by resolution approve, to either accede to the Regulations or, where it does not accede to the Regulations, to recommend to the Senate that the Senate resolves that the statutory instrument be annulled;

NOTING that the twenty-eight days' timeline provided to the Committee under section 15 of the Statutory Instruments Act, 2013 is due to lapse on Tuesday, 7th May, 2024;

NOW THEREFORE, pursuant to section 15(3) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timeline for the consideration of the Refugees (General) Regulations, 2024 by a further twenty-one days in order to enable the Committee on Delegated Legislation to conclude consideration of the Regulations.

6. **NOTICE OF MOTION – ADOPTION OF THE PROGRESS REPORT OF THE AD HOC COMMITTEE ON THE COMPENSATION TO THE KENYAN VICTIMS OF THE 1998 BOMBING OF THE UNITED STATES OF AMERICA EMBASSY IN NAIROBI**

(The Chairperson, Ad Hoc Committee)

THAT, the Senate adopts the progress report of the Ad-Hoc Committee on the compensation to the Kenyan victims of the 1998 bombing of the United

States of America Embassy in Nairobi, laid on the Table of the Senate on Thursday, 2nd May, 2024.

7. **QUESTIONS AND STATEMENTS**

a) Statement pursuant to Standing Order 52(1)

The Senator for Kitui County (Sen. Enoch Wambua, CBS, MP) made a Statement regarding the terror attack of Monday, 29th April, 2024 in Mandera County, which caused distress to numerous families and victims.

In the Statement, the Senator asked the National Government to give an unqualified commitment to step in and help the victims and their families. He asked the government to pay all pending hospital and mortuary bills for the victims, take care of the burial expenses of those killed in the terror attack and to fast-track investigations into the attack to facilitate closure on the part of surviving victims and families.

In conclusion, the Senator implored residents from both Kitui and Mandera Counties not to allow themselves to be divided by the terrorists, whose mission was to destroy the foundations of cordial relations and lay evil foundations of hatred, death and destruction.

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

- i) Nominated Senator (Sen. Esther Okenyuri, MP) on behalf of Nominated Senator (Sen. Catherine Mumma, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the disaster responses undertaken by the Ministry of Interior and National Administration and the Nairobi City County Government to mitigate the effects of floods in Nairobi.
- ii) The Senator for Marsabit County (Sen. Mohamed Chute, MP) sought a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the distribution and use of harmful pesticides and herbicides in Kenya.
- iii) The Senator for Marsabit County (Sen. Mohamed Chute, MP) sought a Statement from the Standing Committee on Health concerning the unregulated sale of harmful hair relaxers and bleaching substances by L'Oreal International Cosmetics and Beauty Company.
- iv) Request for a Statement by the Senator for Bungoma County (Sen. David Wakoli, MP) from the Standing Committee on Education regarding claims of irregular appointments of Vice-Chancellors in the public universities and colleges and irregularities in the recent promotion of teachers was **dropped** in the absence of the Senator.

c) Statement pursuant to Standing Order 56(1)(a)

The Chairperson, Standing Committee on Energy made a Statement relating to the overflowing of dams used by the Kenya Electricity Generating Company PLC (KenGen) to generate electricity due to the ongoing heavy rains.

He observed that the heavy rains experienced in the country had tragically resulted in deaths, injuries and widespread destruction to property. He further reported that the situation was dire, particularly near dams, where water had overflowed, causing flooding downstream.

The Chairperson explained that the Committee had undertaken consultations with the Cabinet Secretary for Energy and Petroleum and the Managing Director of KenGen to establish temporary and permanent measures to mitigate against flooding from dams, which included the construction of dykes and high grand falls multipurpose reservoirs.

The Senator, in conclusion, offered condolences to the families of all those who had lost their lives as a result of the floods and urged every Kenyan to take utmost care during the ongoing heavy rains.

8. MOTION - EXTENSION OF TIME FOR CONSIDERATION OF THE REFUGEES (GENERAL) REGULATIONS, 2024

Order read;

Motion made and Question proposed;

THAT, AWARE that the Committee on Delegated Legislation is established under Standing Order 195 of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that, pursuant to Standing Order 195(2) and (3) of the Senate Standing Orders, on 20th February, 2024, the Refugees (General) Regulations, 2024 were laid in the Senate and thereafter stood committed to the Committee on Delegated Legislation for its consideration;

NOTING that the Refugees (General) Regulations, 2024 seek to give effect to the Refugees Act, Cap 173 of the Laws of Kenya and that the Regulations touch on core functions of the county governments as set out at Part II of the Fourth Schedule to the Constitution, including health, control of pollution, county planning and development, public works and services as well as governance at the local level;

NOTING that in considering the Regulations, due to the gravity of the impact of the Regulations the Committee on Delegated Legislation met with officials from the Ministry of Interior and National Administration, on Thursday, 2nd

May, 2024 and directed the Cabinet Secretary and the Principal Secretary, Ministry of Interior and National Administration, to provide evidence of the conduct of public participation on the Regulations and to table a regulatory impact statement pursuant to Part III of the Statutory Instruments Act, 2013, Cap 2A of the Laws of Kenya;

APPRECIATING that under Section 15 of the Statutory Instruments Act, 2013, the Committee on Delegated Legislation is required, within twenty-eight (28) sitting days after the date of referral of a statutory instrument to the Committee, or such other period as the House may, by resolution approve, to either accede to the Regulations or, where it does not accede to the Regulations, to recommend to the Senate that the Senate resolves that the statutory instrument be annulled;

NOTING that the twenty-eight days' timeline provided to the Committee under Section 15 of the Statutory Instruments Act, 2013 is due to lapse on Tuesday, 7th May, 2024;

NOW THEREFORE, pursuant to Section 15(3) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timeline for the consideration of the Refugees (General) Regulations, 2024 by a further twenty-one days in order to enable the Committee on Delegated Legislation to conclude consideration of the Regulations.

(The Chairperson, Committee on Delegated on Legislation)

And there being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84(1) the Speaker ruled that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, AWARE that the Committee on Delegated Legislation is established under Standing Order 195 of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that, pursuant to Standing Order 195(2) and (3) of the Senate Standing Orders, on 20th February, 2024, the Refugees (General) Regulations, 2024 were laid in the Senate and thereafter stood committed to the Committee on Delegated Legislation for its consideration;

NOTING that the Refugees (General) Regulations, 2024 seek to give effect to the Refugees Act, Cap 173 of the Laws of Kenya and that the Regulations touch on core functions of the county governments as set out at Part II of the Fourth Schedule to the Constitution, including health, control of pollution,

county planning and development, public works and services as well as governance at the local level;

NOTING that in considering the Regulations, due to the gravity of the impact of the Regulations the Committee on Delegated Legislation met with officials from the Ministry of Interior and National Administration, on Thursday, 2nd May, 2024 and directed the Cabinet Secretary and the Principal Secretary, Ministry of Interior and National Administration, to provide evidence of the conduct of public participation on the Regulations and to table a regulatory impact statement pursuant to Part III of the Statutory Instruments Act, 2013, Cap 2A of the Laws of Kenya;

APPRECIATING that under Section 15 of the Statutory Instruments Act, 2013, the Committee on Delegated Legislation is required, within twenty-eight (28) sitting days after the date of referral of a statutory instrument to the Committee, or such other period as the House may, by resolution approve, to either accede to the Regulations or, where it does not accede to the Regulations, to recommend to the Senate that the Senate resolves that the statutory instrument be annulled;

NOTING that the twenty-eight days' timeline provided to the Committee under Section 15 of the Statutory Instruments Act, 2013 is due to lapse on Tuesday, 7th May, 2024;

NOW THEREFORE, pursuant to Section 15(3) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timeline for the consideration of the Refugees (General) Regulations, 2024 by a further twenty-one days in order to enable the Committee on Delegated Legislation to conclude consideration of the Regulations.

9. **MOTION – STATUS OF PENDING BILLS IN COUNTIES**

Order read;

Motion made and Question proposed;

AWARE THAT, as at 31st December, 2023, according to the County Governments Budget Implementation Review report for the first half of the financial year 2023/2024, County Governments had accumulated a total of Ksh.156.34 Billion shillings in pending bills with Nairobi City County accumulating the largest share of Ksh.107, 037,053,000 followed by Kiambu and Mombasa Counties at Kshs. 5,711,614,412 and Kshs. 3,922,131,877 respectively;

CONCERNED THAT, the accumulated pending bills in Counties have significantly affected service providers in the counties leading to closure of businesses, stalling of county projects, adversely affecting economic growth

in counties, service delivery and ultimately slowing down the country's economic growth;

FURTHER CONCERNED that most of the service providers in the counties are battling court cases lodged against them by their financiers and suppliers while others are languishing in poverty exacerbated by the increased cost of living, with increased mental health disease incidences and others dying as a result of the effects of colossal amounts of debt owed to them by county governments;

NOW, THEREFORE, the Senate-

1. recommends that all County Governments pay verified pending bills amounting to less than Ksh. 1 Billion by the end of this financial year and those above Ksh.1 Billion by the end of the financial year 2024/2025; and
2. resolves that-
 - i) pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015,
 - ii) County Governments prioritize payment of pending bills as a first charge on the County Revenue Fund failure to which the subsequent quotas budget releases will not be done;
 - iii) County Governments shall only pay pending bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;
 - iv) Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; and
 - v) County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.

(Sen. Ledama Olekina, MP – 28.03.2024)

Debate interrupted on Thursday, 2nd May, 2024 resumed with the Mover being called upon to reply;

Pursuant to Standing Order 97(3), the Mover surrendered seven (7) minutes of his right to reply to Sen. Moses Kajwang', MP.

Amendment proposed;

THAT, the Motion be amended in Paragraph 2 as follows –

- i) in sub-paragraph (i), by deleting all the words immediately after the word “County Governments” and inserting the following words in place thereof “prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quota budget releases will not be done.”
- ii) by inserting a new sub -paragraph immediately after Sub-paragraph (i) as follows –
 - “(ii) the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases;”
- iii) by inserting a new sub-paragraph immediately after Sub-paragraph (iv) as follows –
 - “(v) County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects.”

(Sen. Moses Kajwang’, MP)

Debate arising on the amendment;

And there being no other Senator wishing to contribute;

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

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

10. **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 – 02.05.2024)

Debate interrupted on Thursday, 2nd May, 2024 resumed;

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

11. **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 08, 2024 at 9.30 a.m.*

--x--