



REPUBLIC OF KENYA
TWELFTH PARLIAMENT - (SECOND SESSION)
THE SENATE
ORDER PAPER
WEDNESDAY, MARCH 28, 2018 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. ******** THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 7 OF 2018)
(The Senate Majority Leader)
(Second Reading)
(Resumption of Debate interrupted on Tuesday, 27th March, 2018)
9. ******** THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)
(The Senate Majority Leader)
(Second Reading)
(Resumption of Debate interrupted on Wednesday, 21st March, 2018)
(Division)
10. ***** THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)
(Sen. Paul Kimani Wamatangi)
(Second Reading)
(Resumption of Debate interrupted on Tuesday, 20th March, 2018)
(Division)

11. *** THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL**
(SENATE BILLS NO. 8 OF 2017)

(Sen. Mutula Kilonzo Jnr.)

(Second Reading)

(Resumption of Debate interrupted on Wednesday, 21st March, 2018)
(Division)

12. **COMMITTEE OF THE WHOLE**

****** THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS**
NO. 11 OF 2017)

(The Senate Majority Leader)

(By leave of the Senate)

13. **COMMITTEE OF THE WHOLE**

****** THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE**
BILLS NO. 4 OF 2017)

(The Senate Majority Leader)

14. ****** THE FOOD SECURITY BILL (SENATE BILLS NO. 12 OF 2017)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 22nd March, 2018)

15. **MOTION - REPORT OF THE SENATE DELEGATION TO THE WOMEN**
POLITICAL LEADERS ANNUAL GLOBAL SUMMIT

(Sen. (Dr.) Alice Milgo)

THAT, this House adopts the Report of the Senate Delegation to the Women Political Leaders Annual Global Summit held in Reyjavik, Iceland from 28th - 30th November, 2017, laid on the Table of the House on Wednesday, 14th February, 2018

(Resumption of Debate interrupted on Thursday, 22nd February, 2018)
(Balance of Time - 2hrs 57 mins)

16. **MOTION- REPORTS OF THE 47TH AND 48TH SESSIONS OF THE AFRICAN**
CARIBBEAN AND PACIFIC (ACP) PARLIAMENTARY ASSEMBLY

(Sen. (Prof.) Margaret Kamar)

THAT, this House notes the Reports of the 47th and 48th Sessions of the African, Caribbean and Pacific (ACP) Parliamentary Assembly and the Inter-Sessional meeting and the 34th Session of the African, Caribbean and Pacific – European Union (ACP-EU) Joint Parliamentary Assembly held in Brussels on 9th to 12th October, 2017 and Haiti on 13th to 20th December, 2017, respectively, laid on the Table of the House on Wednesday, 28th February, 2018.

17. MOTION-ESTABLISHMENT OF OFFICES OF THE COMMISSION ON ADMINISTRATIVE JUSTICE AT THE COUNTY LEVEL

(Sen. Petronilla Were Lokorio)

THAT WHEREAS Article 59 of the Constitution establishes the Kenya National Human Rights and Equality Commission to among other functions investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct;

AND WHEREAS Parliament enacted the Commission on Administrative Justice Act (No.23 of 2011) to restructure the Kenya National Human Rights and Equality Commission and to establish the Commission on Administrative Justice pursuant to Article 59(4) of the Constitution to provide for the membership, powers and functions of the Commission on Administrative Justice and for connected purposes;

AWARE that the function of the Commission on Administrative Justice among others is to investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice; including investigating complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;

FURTHER AWARE that the Commission is expected to carry out its mandate in accordance with the values and principles set out in the Constitution and other laws of Kenya;

COGNIZANT that the right to access public service and fair administrative actions is critical to delivery of services to the people both at the National and the county levels of government and in other related public institutions;

CONCERNED that the Commission has its headquarters in Nairobi with satellite offices in the counties of Mombasa, Kisumu, Isiolo and Uasin Gishu;

FURTHER CONCERNED that the absence of the Commission offices in the rest of the Counties has made it difficult for members of the public to report allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service;

NOW THEREFORE, the Senate calls upon the Commission on Administrative Justice to urgently establish satellite offices in all other remaining counties to decentralize its services to facilitate members of the public to interact with the Commission and report allegations of maladministration in the public service with ease.

..... / Motion

18. MOTION- TEACHING OF KISWAHILI LANGUAGE TO LEARNERS WITH HEARING DISABILITY

(Sen. (Dr.) Getrude Musuruve)

THAT AWARE that Article 27 of the Constitution of Kenya guarantees equality of every person in enjoyment of all rights and fundamental freedoms and prohibits discrimination against any person on any ground including disability and language;

FURTHER AWARE that Article 24 (2) (a) of the United Nations Convention on the Rights of Persons With Disabilities prohibits persons with disabilities from exclusion from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

ACKNOWLEDGING that Article 7 of the Constitution of Kenya provides for the national language of the Republic as Kiswahili and the official languages of the republic as Kiswahili and English;

APPRECIATING that the Report of the Commission of Inquiry into Education in Kenya (the Ominde Commission of 1965) proposed that Kiswahili language be taught as a compulsory subject both in primary and secondary schools in Kenya with the aim of making the language a vehicle for literacy works relevant to community work of various kinds;

COGNIZANT that Kiswahili language has been recognized as a unifying language in the East African Community, hence making it a *lingua franca* in the region;

CONCERNED that under the new curriculum of education in Kenya that is being piloted, learners with hearing disability are not offered Kiswahili language in primary schools, secondary schools and primary teachers training colleges;

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology and other relevant state agencies to:

1. offer Kiswahili language as a core subject to learners with hearing disability in primary schools, secondary schools and primary teacher colleges;
2. come up with an elaborate syllabus for teaching Kiswahili as a core subject to deaf learners in primary, secondary and teacher training colleges; and
3. come up with an elaborate syllabus for teaching Kenya Sign Language (KSL) as an optional subject for learners who have no hearing disability and for deaf learners.

..... / *Motion*

19. **MOTION – NEED FOR FRAMEWORK TO ADDRESS THE EFFECTS OF FLOODING**

(Sen. Fatuma Dullo)

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

1. developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
2. preventing and regulating the construction of informal settlements, and ensuring prevention of construction on low lying areas and flood plains.

And further that the relevant government agency to execute this task submits a report to the Senate within the three months of the adoption of this motion.

..... / *Notice*

NOTICE

The Senate resolved on 14th February, 2018 as follows:-

THAT, pursuant to Standing Order 100 (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.

KEY

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

******* ■ Denotes a National Assembly Bill

****** ■ Denotes a Committee Bill

***** ■ Denotes any other Bill

NOTICES OF AMENDMENTS

A. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(i) **NOTICE** is hereby given that Sen. Golich Juma Wario, Vice Chairperson of the Senate Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Governments (Amendment) Bill, 2017, at the Committee Stage-

CLAUSE 7

THAT clause 7 of the Bill be amended in subsection (2) of the proposed new section 11 by deleting paragraph (e) and substituting therefor the following new paragraph -

(e) inability to perform the functions of the office of speaker arising from mental or physical incapacity;

CLAUSE 11

THAT clause 11 of the Bill be amended—

(a) in the proposed new section 32B by deleting paragraph (b) and substituting therefor the following new paragraph -

(b) take and subscribe to the oath or affirmation, in public, before a High Court Judge.

(b) in subsection (1) of the proposed new section 32D by-

(a) deleting the introductory phrase and substituting therefor the following new introductory phrase—

Where a vacancy arises in the office of a deputy governor as provided for under section 32C, the governor shall -

(b) deleting the marginal note and substituting therefor the following new marginal note —

Filling of a vacancy in the office of deputy governor.

NEW CLAUSE 7A

THAT the Bill be amended by inserting the following new clause immediately after clause 7 —

7A.The Principal Act is amended in section 25 by deleting subsection (2) and substituting therefor the following new subsection-

(2) Subject to subsection (3), the county assembly legislation shall come into force on the fourteenth day after its publication in the Kenya Gazette and the county Gazette, unless the legislation stipulates a different date on, or time at which, it shall come into force.

(ii) NOTICE is given that Sen. Eng. Ephraim Maina intends to move the following amendments to the County Governments (Amendment) Bill, 2017 at the Committee Stage—

CLAUSE 11

THAT clause 11 be amended in the proposed new section 32D —

(a) in the marginal note by deleting the words “where a deputy governor assumes office of governor” appearing immediately after the words “of a deputy governor”.

(b) by deleting sub-clause (1) and substituting therefor the following new sub-clause —

32D. (1) Whenever the office of a deputy governor becomes vacant, the governor shall—

(a) within fourteen days, nominate a person recommended by the county Senator in consultation with area Members of Parliament for the position of deputy governor; and

(b) with the approval of the county assembly, appoint the nominee as deputy governor.

(1A) The County Assembly shall in considering the nominee for appointment as deputy governor, undertake public participation.

(c) in sub-clause (4) by inserting the words “who are present” immediately after the words “ county assembly”

B. *THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2017)**
(The Senate Majority Leader)

NOTICE is hereby given that Sen. Golich Juma Wario, Vice Chairperson of the Senate Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the Urban Areas and Cities (Amendment) Bill, 2017, at the Committee Stage-

...../Amendments

CLAUSE 4

THAT clause 4 of the Bill be amended in the proposed new section 4A by inserting the following new subsection immediately after subsection (4) —

(4a) The representative from the national government drawn from the Ministry for the time being responsible for urban development appointed under subsection (3)(b)(i) shall serve as the secretary to the *ad hoc* committee.

CLAUSE 5

THAT clause 5 of the Bill be amended by –

- (a) deleting paragraph (a); and
- (b) deleting paragraph (e).

CLAUSE 6

THAT the Bill be amended by deleting clause 6.

CLAUSE 8

THAT clause 8 of the Bill be amended by inserting the following new section immediately after the proposed new section 10A—

Delineation
of
boundaries
of a
market.

10B. (1) Delineation of the boundaries of a market may be initiated by a county governor.

(2) The county governor shall, for the purpose of subsection (1), appoint by notice in the county *Gazette* an *ad hoc* committee to delineate the boundaries of a market.

(3) The *ad hoc* committee appointed by the county governor under subsection (2) shall comprise—

- (a) a representative of the Independent Electoral and Boundaries Commission based at the county office, who shall be the chairperson;
- (b) two representatives from the county government drawn from—
 - (i) the county department for the time being responsible for urban development who shall be the secretary;

- (ii) the county department for the time being responsible for environment;
- (c) a representative of the national government based at the county office;
- (d) two representatives from the following professional associations in the county —
 - (i) Institute of Surveyors of Kenya; and
 - (ii) Kenya Institute of Planners.

(4) Each professional association shall nominate its representative referred to under subsection (3)(d) for appointment by the county governor.

(5) Where the boundaries of a market extend in more than one county, the membership of the *ad hoc* committee shall include representatives of the relevant counties and the proposal for delineation of the boundaries shall be handled by the Council of Governors.

CLAUSE 12

THAT clause 12 of the Bill be amended in the proposed new section 14(2) by –

(a) deleting paragraph (b), and substituting therefor the following new paragraph

-

(b) three members shall be appointed by the county governor, with the approval of the county assembly;

(b) deleting paragraph (c), and substituting therefor the following new paragraph

-

(c) four members shall be nominated by an association and appointed by the county governor, with the approval of the county assembly;

APPENDIX**1. PETITION**

Reporting of Petition by non-local teachers working in Mandera County concerning their plight and welfare.

(The Speaker)

2. PAPERS

- a) Report of the Standing Committee on National Security, Defence and Foreign Relations on its consideration of the National Flag, Emblems and Names (Amendment) Bill (Senate Bills No.8 of 2017).

(Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

- b) Report of the Standing Committee on Agriculture, Livestock and Fisheries on its consideration of the Food Security Bill (Senate Bills No.12 of 2017).

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

3. STATEMENTS**(i) Statements due for issue pursuant to Standing Order No. 46 (2) (b)**

- a) The Chairperson of the Standing Committee on Health to issue a statement on the cancer situation in Marsabit County (Sen. Naomi Waqo).
- b) The Chairperson of the Standing Committee on Devolution and Intergovernmental Relations to issue a statement on delay in handing over of the Lake Basin Mall in Kisumu City County to the Lake Basin Development Authority (LBDA) (Sen. Fredrick Outa).
- c) The Chairperson of the Standing Committee on Land, Environment and Natural Resources to issue a statement on human wildlife conflict and livestock predation in Wajir County (Sen. (Dr.) Ali Abdullahi).
- d) The Chairperson of the Standing Committee on Tourism, Trade and Industrialization to issue a statement on the management and operations of the Tsavo National Park (Sen. Johnes Mwaruma).
- e) The Chairperson of the Standing Committee on Roads and Transportation to issue a statement on the benefits of the Standard Gauge Railway (SGR) (Sen. Naomi Waqo).
- f) The Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration to issue a statement on mainstreaming of learners with disabilities in the education curriculum (Sen. Getrude Musuruve).

- g) The Chairperson of the Standing Committee on National Security, Defence and Foreign Relations to issue a statement on the shooting of residents by the police in Luanda Market, Vihiga County (Sen. George Khaniri).
- h) The Chairperson of the Standing Committee on Land, Environment and Natural Resources to issue a statement on the construction of a 15 storey apartment blocks on the banks of Nairobi River along Riverside Drive (Sen. Yusuf Haji).
- i) The Chairperson of the Standing Committee on Information, Communication and Technology to issue a statement on the Government's decision to shut down three privately owned Television stations for seven days and attempted arrest of three journalist (Sen. Moses Wetang'ula).
- j) The Chairperson of Standing Committee on Finance and Budget to issue a statement on move by the State to merge six Government financial agencies to form a mega development bank (Sen. Mercy Chebeni).
- k) The Chairperson of the Standing Committee on Roads and Transportation to issue a statement on the status of the Nairobi-Mombasa Highway (Sen. Sylvia Kasanga).
- l) The Chairperson of the Standing Committee on Education to issue a statement on the circumstances surrounding violent clashes at Jamhuri High School, in Nairobi City County, on 23rd January, 2018 (Sen. Mercy Chebeni).
- m) The Chairperson of the Standing Committee on Education to issue a statement on publication and distribution of books and other educational materials to public primary and secondary schools (Sen. (Dr.) Alice Milgo).
- n) The Chairperson of the Standing Committee on Labour and Social Welfare to issue a statement on youth unemployment in Kenya (Sen. Victor Prengel).

(ii) Statement due for issue pursuant to Standing Order No. 46 (2) (b)
(Further Information)

The Chairperson of the Standing Committee on Roads and Transportation to issue a statement on the status of the National Housing Corporation (NHC) project in Wote, Makueni County (Sen. Sylvia Kasanga).
