



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (SECOND SESSION)

THE SENATE

ORDER PAPER

THURSDAY, JUNE 14, 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
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. * **THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 7 OF 2018)**
(Sen. Petronila Were Lokorio, MP)
(Second Reading)
(Resumption of Debate interrupted on Wednesday, 13th June, 2018)
(Division)
9. **COMMITTEE OF THE WHOLE**
* **THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)**
(Sen. Paul Kimani Wamatangi, MP)
10. ** **THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)
(Second Reading)
(Resumption of Debate interrupted on Wednesday, 13th June, 2018)
11. **MOTION - REGISTRATION OF PERSONS WITH DISABILITIES (PWDS)**
(Sen. George Khaniri, MP)

THAT, AWARE that the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

...../Motion

FURTHER AWARE that registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE that persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT that for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

CONCERNED that of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

AWARE that medical services are now a devolved function;

FURTHER CONCERNED that without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED that owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

(Resumption of Debate interrupted on Thursday, 7th June, 2018)

(Balance of time: 1hr 48 minutes)

12. **MOTION - SITTINGS OF THE SENATE OUTSIDE PARLIAMENT BUILDINGS, NAIROBI**

(The Senate Majority)

THAT AWARE that the Senate of Kenya is established by Article 93 of the Constitution and its main role, as set out in Article 96 of the Constitution, is to represent and serve the interests of the counties and their governments;

FURTHER AWARE that the Senate plays a critical role in the linkage of the devolved governments and the national government;

NOTING that since its inception the Senate has held its sittings in Nairobi with its committees occasionally visiting the devolved governments on fact finding missions;

COGNIZANT of the need to enhance the interaction between the Senate and county governments as a means of bringing the Senate closer to the counties and the general public;

APPRECIATING the recommendation of the Senate Business Committee that a Sitting of the Senate be held away from the traditional premises in Parliament Buildings, Nairobi, in order to-

...../Motion

- i) provide an opportunity to members and staff of county assemblies to learn and borrow best practices from the Senate;
- ii) promote the role and work of the Senate;
- iii) highlight existing opportunities for people to get involved in the work of the Senate; and
- iv) develop and strengthen partnerships at the county level and enhance public awareness regarding the Business of the Senate.

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution and standing order 31 (1) of the Senate Standing Orders, the Senate resolves that its plenary and committees sittings be held in Uasin Gishu County from 24th to 28th September, 2018.

13. **MOTION – FLOOD SITUATION IN THE COUNTRY**

(Sen. Fatuma Dullo, MP)

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-

- i) developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
- ii) 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 three months of the adoption of this Motion.

...../Motion

14. MOTION – MANAGEMENT OF CONSTRUCTION CONTRACTORS

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

THAT, AWARE that Section 15 of the National Construction Authority (NCA) Act prescribes the requirements for registration as a contractor;

ALSO AWARE that Section 18 of the Act mandates the NCA Board to accredit firms incorporated outside Kenya to carry out construction works in Kenya for a prescribed period;

CONCERNED that a large number of registered local contractors cannot perform up to the expected standard leading to collapsed buildings, poor county roads and infrastructure and incomplete contracts;

APPRECIATING that there is still a good number of local contractors that has demonstrated capacity to perform and deliver projects as required;

DEEPLY CONCERNED that foreign contractors are now engaging in projects that local contractors have equal capacity and skill to perform, especially in the counties;

RECOGNIZING THAT there is need to grow our local industries by giving job opportunities to Kenyan citizens and building their technical capacities;

NOW THEREFORE, the Senate calls upon the Government through the NCA to-

1. conduct a fresh registration drive of all building and infrastructure contractors in order to weed out all non-performing ones and to identify those who demonstrate compliance;
2. enforce strict oversight on foreign contractors and institute a mechanism to handle complaints raised against contractors;
3. ensure that foreign contractors are only awarded contracts that local contractors cannot handle and require them to include technology transfer to locals; and
4. require both local and foreign contractors to undertake corporate social responsibility activities in the counties where they operate.

15. MOTION – NEED TO REVIEW AND EVALUATE THE STATE OF EDUCATION IN NORTHERN KENYA

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

THAT, AWARE that Article 43 (f) of the Constitution of Kenya stipulates that every person has the right to education, and Article 53(1)(b) provides that every child has the right to free and compulsory basic education;

ALSO AWARE that education is a basic need and a tool for intellectual empowerment and social-political development;

FURTHER AWARE that education is a shared function between the National and the County levels of Government with the National Government being responsible for Primary, secondary and Higher education while the County Government is responsible for preprimary education, village polytechnics and home craft centers;

...../Motion

COGNISANT that both levels of Government complement each other in promoting sustainable education;

CONCERNED that the intake, uptake and quality of education in the Northern Kenya have adversely been affected owing to discrepancies in public resources allocation, insecurity, skewed staffing and teacher training in the region;

FURTHER CONCERNED that both the school completion rate and the national examination outcomes in region are poor and that the number of students from Northern Kenya who qualify for core courses in universities, colleges, technical schools and village polytechnics is minimal compared to other parts of the country;

NOTING WITH CONCERN that due to insecurity and other related concerns, the Teachers Service Commission (TSC) which is the body responsible for the employment and deployment of teachers, has in the recent past, taken steps to transfer non-local teachers from the northern region of Kenya to other parts of the country;

CONCERNED THAT, the transfers have led to shortage of skilled teachers which has been a major cause of the dismal performance in examinations in schools in the region;

NOW THEREFORE, the Senate resolves to task the Standing Committee on Education to conduct an inquiry into the challenges facing the education sector in Northern Kenya with a view to-

1. evaluating the effect of the teacher transfers from the region and recommending to the Ministry of Education, policy measures to address the challenge;
2. evaluating the status of the education infrastructure in the region and proposing solutions to mitigate the current and looming challenges;
3. proposing mechanisms for enhanced resource allocation at both levels of government to facilitate improved education facilities; and
4. assessing school intake compared completion levels in the region in order to ascertain the impact of the challenges facing the schools and how these disadvantages the region compared to other parts of Kenya and proposing ways of addressing the challenges.

And that the Committee submits a report to the Senate within three months of adoption of this Motion by the Senate.

16. **MOTION - REPORT OF THE SENATE DELEGATION TO THE FIRST EXTRAORDINARY SESSION OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE ON THE GREAT LAKES REGION (FP-ICGLR) HELD IN KINSHASA, THE DEMOCRATIC REPUBLIC OF CONGO (DRC)**

(Sen. Samuel Poghisiso, MP)

THAT, this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th – 20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

...../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 ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)

(Sen. Paul Kimani Wamatangi, MP)

a) **NOTICE** is hereby given that the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations intends to move the following amendments to the Assumption of the Office of County Governor Bill, 2018, at the Committee Stage –

CLAUSE 5

THAT clause 5 of the Bill be amended –

(a) by deleting sub clause (2) and substituting therefor the following new sub clause–

(2) The Committee shall be an *ad hoc* committee and shall comprise –

- (a) the County Secretary who shall be the chairperson;
- (b) the officer in charge of legal matters in the county;
- (c) the chief officer in the department responsible for matters relating to county public service;
- (d) the chief officer in the department responsible for matters relating to information and communication;
- (e) the chief officer in the department responsible for matters relating to finance;
- (f) the chief officer in the department responsible for matters relating to culture and social services;
- (g) the County Commissioner;
- (h) a representative of the National Intelligence Service at the county level;
- (i) a representative of the National Police Service at the county level;
- (j) the Clerk of the county assembly;
- (k) a representative of the Judiciary at the county level; and
- (l) two persons, one man and one woman nominated by the Governor-elect.

(b) by deleting sub clause (4) and substituting therefor the following new sub clause—

(4) The members referred to in subsection 2(h) and (i) shall be the members serving as members of the County Policing Authority established under the National Police Service Act.

(c) by inserting the following new sub clauses immediately after sub clause (4) -

(4A) The members referred to in subsection 2(l) shall be nominated upon the declaration of the final results of the election of the Governor.

(4B) The chairperson of the Committee shall convene the first meeting of the Committee thirty days before the date of the general elections.

(4C) In the absence of the chairperson, the members of the Committee shall elect a chairperson from among the members appointed under subsections (2)(b) to (f) to preside over the meeting

(d) in the proposed new sub clause (7) by deleting the words "section 16" appearing at the end of the subsection and substituting therefor the words "section 21";

CLAUSE 6

THAT clause 6 of the Bill be amended -

(a) in sub clause (1) by -

(i) deleting paragraph (b) and substituting therefor the following new paragraph -

(b) ensure and coordinate the provision of security services to the Governor-elect;

(ii) deleting paragraph (d) and substituting therefor the following new paragraph -

(d) co-ordinate the briefings of the Governor-elect by the relevant county public officers including submission of the following information —

- (i) an up to date assets register;
- (ii) an up to date register of liabilities;
- (iii) a complete list of all bank accounts and reconciled balances;
- (iv) a report of staff establishment per department;
- (v) a comprehensive report on county entities or corporations and agencies containing information outlined in (i) to (iv);
- (vi) a report of all ongoing projects including donor funded projects;
- (vii) an up to date report on all pending legal cases; and
- (viii) county source of funding.

(iii) inserting the following new paragraph immediately after paragraph (f) —

(fa) prepare the oath and the certificate of inauguration; and

(b) by inserting the following new sub clause immediately after sub clause (2) —

(3) The information to be provided during the briefings referred to under section 6(1)(d) shall be submitted in the form set out in the Second Schedule and shall be information for a period of up to thirty days before the date of the general elections.

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub clause (2) and substituting therefor the following new sub clause —

(2) The Committee may co-opt into a sub-committee established under subsection (1), not more than two persons whose knowledge and skills are necessary for the effective functioning of the Committee.

CLAUSE 9

THAT clause 9 of the Bill be amended by inserting the word “of” immediately after the words “results of the election”;

CLAUSE 11

THAT the Bill be amended by deleting clause 11;

CLAUSE 12

THAT the Bill be amended by deleting clause 12;

CLAUSE 13

THAT the Bill be amended by deleting clause 13;

CLAUSE 14

THAT the Bill be amended by deleting clause 14;

CLAUSE 15

THAT the Bill be amended by deleting clause 15 and substituting therefor the following new clause –

Swearing in ceremony. **15.** (1) The Committee shall publish, by notice in the Kenya *Gazette* and the county *Gazette*, the date, time and place for the conduct of the swearing-in ceremony.

...../Amendments

(2) The County Governor-elect shall be sworn-in on the first Thursday after the tenth day following the declaration of the final results of the election of the County Governor by the Commission.

(3) The swearing-in of the County Governor-elect shall be conducted in a public ceremony before a High Court Judge.

CLAUSE 16

THAT clause 16 of the Bill be amended –

(a) in sub clause (1) by deleting the words “or affirmation” appearing immediately after the words “subscribe to the oath” and substituting therefor the words “or affirmation”;

(b) by deleting sub clause (3) and substituting therefor the following new sub clause

–

(3) Upon taking or subscribing to the oath or affirmation under subsection (1), the County Governor shall sign a certificate of inauguration in the presence of the High Court Judge who conducts the swearing in ceremony under section 15.

CLAUSE 17

THAT clause 17 of the Bill be amended in sub clause (1) by inserting the following new paragraph immediately after paragraph (a) —

(aa) the county coat of arms;

CLAUSE 23

THAT clause 23 of the Bill be amended -

(a) in sub clause (2) by inserting the following new paragraphs immediately after paragraph (a) —

(aa) the applicant has failed to satisfy the confidentiality requirements to the Committee; or

(ab) payment of the prescribed fee has not been made.

(b) in sub clause (3) by deleting the words “subsection (2).” appearing immediately after the words “specified under” and substituting therefor the words “this section.”.

NEW CLAUSE 19A

THAT the Bill be amended by inserting the following new clause immediately after clause 19 —

Swearing in of Deputy Governor who assumes office of County Governor.

19A. The provisions of this Act relating to the swearing in ceremony of a County Governor-elect shall apply, with the necessary modifications –

- (a) to the swearing in ceremony of a Deputy Governor who assumes the office of the County Governor; or
- (b) to the swearing in ceremony of a Deputy Governor who is nominated to fill in a vacancy in the office of the Deputy Governor upon assumption by the Deputy Governor of the office of the County Governor.

NEW CLAUSE 23A

THAT the Bill be amended by inserting the following new clause immediately after clause 23 —

Funding. **23A.** The funding for the assumption of office of a governor shall be borne by the respective county government.

NEW SCHEDULE

THAT the Bill be amended by-

- (a) renaming the existing schedule as the First Schedule; and
- (b) inserting the following new schedule immediately after the First Schedule —

SECOND SCHEDULE (s. 6(2A))

FORMAT FOR COUNTY INFORMATION

1. County Assets - Paragraph 1(d)(i)

A summary of assets currently held by the county government derived from an up-to-date assets registers in conformity with the provisions of the Public Finance Management Act, 2012, the Public Finance Management (County Government) Regulations 2015 and Guidelines issued by the Public Sector Accounting Standards Board; the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement Regulations 2006.

Assets should include those inherited from the defunct local authorities, those transferred from the National Government and those acquired by the county government since 2013 including all assets that have disputes or outstanding unresolved matters.

No.	Category of Assets	Quantity	Status	Ownership Documents	Remarks
1.	Land				
	Categories				
	(i) Residential estates (rental)				
	(ii) Staff housing				
	(iii) Office Blocks				
	(iv) Learning institutions				
	(v) Farm land				
	(vi) Rented premises				
	(vii) Undeveloped				
	(viii) Others				
2.	Motor Vehicles				
3.	Plant and Equipment				
4.	Furniture and Fittings				
5.	ICT equipment, computers and computer accessories				
6.	Intangible assets (software)				
7.	Heritage and cultural assets				
8.	Biological assets				
9.	Investments				
10.	Debtors including outstanding imprests, salary advances, car loan, mortgages and any other recoverable and advances, unpaid rent (detailed listings to be attached)				

Note:

- (a) Land and buildings - indicate whether titles are available or not;
- (b) Motor vehicles - indicate whether the log books are available or not;
- (c) Plant and equipment – indicate whether the log books or certificates are available or not; and
- (d) Intangible assets (software) - indicate whether contracts or licenses are available or not.

...../Amendments

2. County Liabilities - Paragraph 1(d)(ii)

Summary of liabilities currently owed by the county government derived from an up-to date schedule of liabilities. Supporting documents should be prepared and availed for scrutiny.

No.	Category of liabilities	Amount	Status	Remarks
1.	Loans and overdrafts (including accrued interest)			
2.	Creditors			
3.	Unremitted statutory deductions (including penalties)			
4.	Unpaid personnel emoluments			
5.	Legal liabilities			
6.	Contingent liabilities			
7.	Any other			

3. County Bank Accounts and Reconciled Balances - Paragraph 1(d)(iii)

Summary of all bank accounts and reconciled balances currently owned by the county government. Bank statements and certificates must be availed. For Cash on hand a cash survey should be conducted.

No.	Account name	Account No.	Bank	Amount	Remarks
1.					
2.					
3.					
4.					
5.					

4. County Staff Establishment per Department - Paragraph 1(d)(iv)

Summary of human resource information of the county government derived from an up-to-date personnel records in conformity with the provisions of Constitution of Kenya (2010), County government Act 2012, Public Service (Values and Principles) Act 2015 and any other legislation and guidelines issued from time to time on human resource management in the public service.

...../Amendments

No.	Department	Authorized Establishment	In post		Variance	Pensionable	Contract	Casuals	No. of Persons with Disability	Management	Annual Wage Bill	Remarks
			Male	Female								
1.												
2.												
3.												
4.												
5.												

5. County Entities, Corporations and Agencies - Paragraph 1(d)(v)

Summary of Entities, Corporations and Agencies either partially or wholly owned by the County Government.

No.	Name of Entity	Function	Shareholding (%)	Directorship	Remarks
1.					
2.					
3.					
4.					
5.					

6. Ongoing/multiyear projects and donor funded projects in the County - Paragraph 1(d)(vi)

Summary of all on ongoing/multiyear projects and donor funded projects in the County indicating whether the projects are active, stalled, abandoned, terminated or rescaled on the remarks column.

No.	Project	Source of Funding	Contract Value	Expenditure to Date	Implementation Status (%)	Remarks
1.						
2.						
3.						
4.						
5.						

7. Pending litigations - Paragraph 1(d)(vii)

Summary of all cases where the county government is a party either as a plaintiff/applicant or defendant/respondent. It should also include proceedings under alternative dispute resolution mechanism (ADR) and cases instituted by or against the Council of Governors. Specific details on each case number, place of suing, parties, advocates on record, relief sought, status, legal fees (paid and outstanding) and any other relevant information to be prepared and availed for scrutiny.

No.	Nature of Case	Total No. of Cases	No. of cases where County is the Plaintiff /Applicant	No. of cases where County is the Defendant/ Respondent	Remarks
1.					
2.					
3.					
4.					
5.					

8. County Sources of Funding for Preceding Five Financial Years - Paragraph 1(d)(viii).

Summary of all sources of funds for the preceding five financial years and the projections for the upcoming financial year.

...../Amendments

No.	Revenue Source	FY 20...../20..... (Actual)	Remarks					
1.	Equitable share							
2.	Conditional grants							
3.	Own source revenue							
4.	Unconditional grants							
5.	Development partners							
6.	Borrowings							
7.	Other sources							

b) **NOTICE** is hereby given that Sen. Farhiya Ali intends to move the following amendments to the Assumption of the Office of County Governor Bill, 2018, at the Committee Stage -

NEW CLAUSE 24A

THAT the Bill be amended by inserting the following new clause immediately after clause 24 —

Consequential amendments. No. 24 of 2011. **24A.** The Elections Act is amended in section 86 by inserting the following new subsection immediately after subsection (1) -

(1A) Upon the nullification of an election of a county governor, the Commission shall upon receipt of certification under sub section (1), publish a notice in the Gazette within seven days -

(1B) The notice referred to in subsection (2) shall -

- (a) indicate that the election of the county governor has been invalidated; and
- (b) announce the date for election of a county governor pursuant to Article 182(5) of the Constitution.

APPENDIX

1. PETITION

Report of the Standing Committee on Labour and Social Welfare on the Petition by residents of Murang'a County regarding alleged impropriety in procurement of medical covers for staff working in County Governments.

(Chairperson, Standing Committee on Labour and Social Welfare)

2. STATEMENTS

(i) Statement Pursuant to Standing Order No. 46 (2)(a)

Nominated Senator (Sen. Halake Abshiro, MP) to make a statement on Moody's Credit Rating for Kenya.

(ii) Statement Pursuant to Standing Order No. 46 (2)(c)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 19th June, 2018.
