



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT - (THIRD SESSION)
THE SENATE

ORDER PAPER

WEDNESDAY, DECEMBER 02, 2015 AT 2.30 P.M

PRAYERS

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. COMMITTEE OF THE WHOLE
****THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)**
BILL (SENATE BILL NO. 20 OF 2014)
(Chairperson of the Standing Committee on Labour and Social Welfare)
(Resumption of Debate interrupted on Wednesday, 7th October, 2015)
9. COMMITTEE OF THE WHOLE
***THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT) BILL**
(SENATE BILL NO. 4 OF 2015)
(Sen. (Dr.) Wilfred Machage)
10. COMMITTEE OF THE WHOLE
*** THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7**
OF 2014)
(Sen. (Eng.) Muriuki Karue)
11. COMMITTEE OF THE WHOLE
***THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)**
(Sen. Halima Abdille)
12. MOTION - (The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on the circumstances that led to the disappearance of twin babies who were delivered at Pumwani Maternity Hospital on 6th January, 2015 laid on the Table of the Senate on Tuesday, 15th September, 2015.

...../Bill

13. **MOTION**- (The Senate Majority Leader)

AWARE that Regulations for the County Monitoring, Evaluation and Impact Assessment Fund are in the process of being gazetted;

FURTHER AWARE that the Regulations provide for a Senate Select Committee to administer the Fund;

NOW, THEREFORE, the Senate resolves to appoint the following Senators to the Senate Sessional Committee on County Monitoring, Evaluation and Impact Assessment Fund:-

1. Sen. Kiraitu Murungi
2. Sen. (Prof.) John Lonyangapuo
3. Sen. Stephen Sang
4. Sen. (Eng.) Muriuki Karue
5. Sen. Fatuma Dullo
6. Sen. George Khaniri
7. Sen. Mutula Kilonzo Junior
8. Sen. Boy Juma Boy
9. Sen. (Dr.) Agnes Zani

14. *****THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of Debate interrupted on Tuesday, 1st December, 2015)

15. ****THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILL NO. 3 OF 2015)**

(Chairperson, Committee on Health)

(Second Reading)

16. ***THE COUNTY OUTDOOR ADVERTISING CONTROL BILL, (SENATE BILL NO. 11 OF 2015)**

(Sen. Mutula Kilonzo Jnr.)

(Second Reading)

17. *****THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2013)**

(The Senate Majority Leader)

(Second Reading)

18. *** THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)**

(Sen. Joy Gwendu)

(Second Reading)

...../Motion

19. **MOTION** – (The Senate Majority Leader)

AWARE that pursuant to Article 124(1) of the Constitution and the Standing Orders of the Senate, at a Special Sitting of the Senate held on Monday, 15th June, 2015, the Senate resolved, to establish a Select Committee on Constitutional and Legal Review to inquire into legal issues arising following the re-allocation by the National Assembly of monies intended for key constitutional organs and institutions, including, the Judiciary, the Salaries and Remuneration Commission and the Senate.

FURTHER AWARE that on 23rd June, 2015, the Senate approved the names of Senators to serve in the said Select Committee whose terms of reference were as follows-

- (a) inquire into the design of the Legislature and in particular, the institutions set out in the Constitution with a view to protecting the interests of the counties and their governments and securing and safeguarding the system of devolved government established in the Constitution;*
- (b) inquire into the role of the Senate as set out under the Constitution and make recommendations on the appropriate role to be played by the Senate in-*
 - (i) the budget making process and revenue allocation;*
 - (ii) the legislative process;*
 - (iii) oversight over the National Government; and*
 - (iv) oversight over the County Governments;*
- (c) examine and make recommendations on the appropriate role to be played by the Senate in the approval of nominees for appointment to State office;*
- (d) examine and make recommendations on the appropriate inter linkage and interplay between-*
 - (i) the Senate and the National Government;*
 - (ii) the Senate and the National Assembly;*
 - (iii) the Senate and the County Governments; and*
 - (iv) the Senate and other constitutional offices and Commissions.*
- (e) recommend to the Senate such constitutional and legislative interventions as may be necessary to secure and safeguard the system of devolved government in the Constitution, including measures necessary to ensure the effective discharge by the Senate, of its legislative and oversight role under the Constitution; and*
- (f) examine and make recommendations on any other matter connected with or incidental to the foregoing.*

COGNIZANT OF THE FACT that the Committee tabled its report on 23rd September, 2015 which report was adopted by the Senate on 21st October, 2015;

...../Motion

NOTING that one of the recommendations in the report was that-
The Senate approves the appointment of a Select Committee to spearhead the processing of the General Suggestion for the Draft Constitution of Kenya (Amendment) Bill, 2015 through popular initiative in terms of Article 257 of the Constitution.

NOW THEREFORE, pursuant to the resolution of the Senate during the Sitting held on 21st October, 2015, the Senate approves the appointment of the following Senators to the Select Committee to spearhead the processing of the General Suggestion for the Draft Constitution of Kenya (Amendment) Bill, 2015 through popular initiative in terms of Article 257 of the Constitution-

1. Sen. Kipchumba Murkomen
2. Sen. Kiraitu Murungi
3. Sen. Naisula Lesuuda
4. Sen. (Eng.) Muriuki Karue
5. Sen. Billow Kerrow
6. Sen. James Orengo
7. Sen. (Dr.) Boni Khalwale
8. Sen. Mutula Kilonzo Junior, and
9. Sen. Halima Abdille

And that the committee reports back to the Senate within six months.

20. **MOTION** - (Chairperson of the Mediation Committee)

THAT, this House adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No. 1 of 2014) laid on the Table of the House on Wednesday, 18th November, 2015.

21. **MOTION** – (Sen. Zipporah Kittony)
(Ministry of Transport and Infrastructure)

THAT, AWARE that traffic congestion in Nairobi Metropolitan Region is increasingly becoming worse leading to increased costs, longer travel times, constrained economic productivity and adverse health and environmental externalities;

CONCERNED that the economic cost of the congestion is estimated to be Kshs.1 billion annually on account of wasted man-hours and wasted fuel due to vehicular queuing;

APPRECIATING the government's effort in mitigating the problem by expanding infrastructure and initiating other interventions such as installation of traffic lights in the Central Business District;

...../Motion

The Senate now calls upon the Government to consider formulating additional policy interventions to mitigate the problem by:-

1. Enacting legislation to allow only high capacity public transport to operate in the city; and
2. Creating regulations to:-
 - a) Require all deliveries to business premises to be done at night;
 - b) Require construction on roads that are in use to be done at night; and
 - c) Reroute heavy commercial vehicles to use the bypasses.

***(Resumption of Debate interrupted on Thursday, 29th October, 2015)
(Division)***

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KEY

- ****** - Denotes a Majority /Minority Party Bill
- ***** - Denotes a National Assembly Bill
- **** - Denotes a Committee Bill
- *** - Denotes any other Bill

NOTICE

The Senate resolved on 11th February, 2015 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.

NOTICES OF AMENDMENTS

A. ** THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL (SENATE BILL NO. 20 OF 2014)

(Chairperson of the Standing Committee on Labour and Social Welfare)

(i) **NOTICE** is given that the Chairperson of the Committee on Labour and Social Welfare, intends to move the following amendments to the Public Appointments (County Assembly Approval) Bill, 2014, at the Committee Stage-

Clause 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause –

(1) An advertisement inviting applications for nomination for appointment to an office to which this Act applies shall specify that the candidate shall be required to appear before a committee of the relevant County Assembly.

(2) An applicant shall not be required to appear before the committee of a County Assembly pursuant to a notice issued under subsection (1) within a period of less than twenty-one days.

Clause 6

THAT clause 6 of the Bill be amended by inserting the following new subclause immediately after subclause (1) –

(1A) An appointing authority shall, in issuing a notice under subsection (1), notify the members of the public on the proposed nomination through such media and platforms established under section 91 of the County Governments Act as it considers appropriate.

Clause 7

THAT clause 7 of the Bill be amended –

(a) in subclause (2) by –

- (i) deleting the word “seven” appearing immediately after the words “later than” and substituting therefor the words “fourteen days”;
- (ii) inserting the words “Subject to subsection (2A)” at the beginning of subclause (2).

(b) inserting the following new subclause immediately after subclause (2) –

(2A) The approval hearings shall be held in a public place and shall be conducted during working hours.

(c) in subclause (4) by deleting the word “two newspapers” appearing immediately after the words “in at least” and substituting therefor the words “one newspaper”;

(d) by inserting the following new subclause immediately after clause 10 –

(10A) A candidate shall have a right to be heard on any statement or evidence submitted to the Clerk contesting the suitability of the candidate to hold the office to which the candidate has been nominated.

Clause 9

THAT clause 9 of the Bill be amended in subclause (1) by deleting the word "fourteen" appearing immediately after the words "decision within" and substituting therefor the word "twenty-one".

Clause 10

THAT clause 10 of the Bill be amended –

- (a) by renumbering the existing clause as subclause (1);
- (b) in subclause (1) by deleting the word "may" appearing after the words "appointing authority" and substituting therefor the word "shall";
- (c) by inserting the following new subclause immediately after subclause (1) –
 - (2) A nominating authority shall not resubmit the name of a candidate whose nomination has been rejected by the County Assembly unless the circumstances relied on for the rejection of the appointment of the candidate did not exist or ceased to exist at the time of rejecting the nomination of the candidate.

First schedule

THAT the First Schedule be amended –

- (a) by deleting item 4. and substituting therefor the following new items –

4. **(a) Date of birth:**

(b) Place of Birth:

- (b) by deleting items 6 and 7 and substitute the following new items –

6. **Mobile phone number:**

- (c) by inserting the following new phrase immediately after item 21 (d)

(Attach clearance letter from the Ethics and Anti-Corruption Commission)

- (d) by deleting item 25 and substituting therefor with the following new item –

25. **Tax status:** (Attach your Kenya Revenue Authority Clearance Certificate)

- (e) in item 31 by inserting the following new phrase immediately after the words "your nomination?"

If yes, explain: _____

(ii) NOTICE is given that Senator Henry Ndiema intends to move the following amendments to the Public Appointments (County Assembly Approval) Bill, 2014, at the Committee Stage-

Clause 8

THAT clause 8 of the Bill be amended in paragraph (b) by inserting the words "including the values and principles of public service set out under Article 232 (1) of the Constitution" immediately after the words "in question".

B. * THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT) BILL, (SENATE BILLS NO. 4 OF 2015)

NOTICE is given that Senator (Dr.) Wilfred Machage intends to move the following amendments to the HIV and AIDS Prevention and Control (Amendment) Bill, 2015 at the Committee Stage—

Clause 5

THAT clause 5 of the Bill be amended—

(a) in the proposed new section 12A by deleting subsection (2) and substituting therefor the following new subsection—

(2) The county HIV and AIDS prevention and control committee shall consist of—

- (a) one person appointed by the county governor who shall be the chairperson to the committee;
- (b) the county executive committee member for health or a person designated by the county executive committee member in writing who shall be the secretary to the committee;
- (c) one man and one woman with knowledge and experience in matters relating to health within the county nominated by the Council;
- (d) one man and one woman appointed by the county governor to represent the youth and persons with disabilities within the county;
- (e) one person to represent people living with HIV and AIDS nominated by an association representing persons living with HIV and AIDS within the county; and
- (f) one person to represent faith based organizations nominated by an association of faith based organizations within the county.

(b) in the proposed new section 12B by-

(a) deleting subsection (1) and substituting therefor the following new subsection—

(1) The persons appointed under subsection 12A(2)(a) and 2(d) shall be competitively recruited by the county public service board and appointed by the county governor by notice in the county gazette.

(b) inserting the following new subsections immediately after the proposed new subsection (1)—

(1A) A person qualifies for appointment under subsection 12A(2)(a), if that person is a trained health professional with knowledge and at least five years experience in matters relating to HIV and AIDS prevention and control.

(1B) A person qualifies for appointment under subsection 12A(2)(c) and 2(d), if such a person possesses a certificate of secondary education and has knowledge and at least one year experience in matters relating to HIV and AIDS prevention and control.

(1C) The persons appointed under section 12A(2) shall serve office for a term of three years, renewable for one further term of three years.

(c) in the proposed new section 12E(1) by inserting the following new paragraph immediately after paragraph (c)—

(ca) is convicted of an offence under this Act;

C. *THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)

NOTICE is given that the Chairperson of the Standing Committee on Education, intends to move the following amendments to the Universities (Amendment) Bill, 2014, at the Committee Stage-

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 3-

Amendment of section 14 of No. 42 of 2012.

3A. Section 14 of the principal Act is amended by inserting the following new sub-section immediately after subsection (3)-

(4) The Commission shall not issue to an applicant a letter of interim authority where that applicant is a public mid-level learning institution.

Amendment of section 19 of No. 42 of 2012.

3B. Section 19 of the principal Act is amended-

(a) in subsection (1) by deleting paragraph (c) and substituting therefore the following new paragraph-

(c)reject the application if satisfied that the applicant-
(i) is a public mid-level learning institution; or
(ii) does not meet the requirements for the establishment of a university.

(b) by inserting the following new sub-section immediately after sub-section (3)-

(4) The President shall not grant a Charter where such a grant would result in the conversion of a public mid-level institution to a university.

Repeal of section 25 of No. 42 of 2012.

3C. The principal Act is amended by deleting section 25.

NEW CLAUSE

That the Bill be amended by inserting the following new clause immediately after clause 1-

1A. The Universities Act, in this Act referred to as "the principal Act" is amended in section 2 by inserting the following new definition immediately after the definition of the word "institution"-

"mid-level institution" means a post-secondary school learning institution that offers a certification below that of a degree;

APPENDIXSTATEMENTS

- a) The Senator for Bungoma County (Sen. Moses Wetang'ula) to seek a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget on the decision by the Central Bank Governor to suspend the licensing of new commercial banks in Kenya;
- b) The Chairperson of the Standing Committee on Education to issue a statement on non-payment of September salaries to teachers (Sen. George Khaniri);
- c) The Deputy Senate Majority Leader to issue a statement on circumstances surrounding the death of Mr. Alex Madaga, an accident victim who was allegedly forced to wait in an ambulance for 18 hours (Sen. George Khaniri);
- d) The Chairperson of the Standing Committee on Finance, Commerce and Budget to issue a statement on allocation of Uwezo and Youth funds in Marsabit County (Sen. Hargura Godana);
- e) The Chairperson of the Standing Committee on Labour and Social Welfare to issue a statement on the travel of Harambee Stars to Cape Verde for World Cup football qualifier match (Sen. Hassan Omar);
- f) The Chairperson of the Standing Committee on Labour and Social Welfare to issue a statement on cases of doping amongst Kenyan athletes (Sen. Kennedy Mong'are);
- g) The Chairperson of the Standing Committee on Health to issue a statement on use of counterfeit and stale drugs and pharmaceutical products in the country (Sen. Lesuuda Naisula);
- h) The Chairperson of the Standing Committee on Health to issue a statement on death of an expectant woman (Elizabeth Akala) at Kakamega Provincial General Hospital (Sen. (Dr.) Boni Khalwale);
- i) The Chairperson of the Standing Committee on National Security and Foreign Relations to issue a statement on security of persons living with albinism in the country (Sen. Godliver Omondi); and
- j) The Chairperson of the Standing Committee on National Security and Foreign Relations to issue a statement on banditry attack in Meru County (Sen. Kiraitu Murungi);
