



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT - (FOURTH SESSION)
THE SENATE
ORDER PAPER
WEDNESDAY, FEBRUARY 17, 2016 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. ******** THE LEGAL AID BILL (SENATE BILL NO. 18 OF 2015)
(The Senate Majority Leader)
(First Reading)
9. ******* THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)
(The Senate Majority Leader)
(First Reading)
10. **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.
11. ****** THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILL NO. 3 OF 2015)
(Chairperson, Standing Committee on Health)
(Second Reading)
(Resumption of Debate interrupted on Tuesday, 16th February, 2016)
(Division)

- 12. COMMITTEE OF THE WHOLE
**** THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL**
(SENATE BILL NO. 20 OF 2014)
 (Chairperson, Standing Committee on Labour and Social Welfare)
(Resumption of Debate interrupted on Tuesday, 16th February, 2016)
(Division)
- 13. COMMITTEE OF THE WHOLE
***THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT) BILL**
(SENATE BILL NO. 4 OF 2015)
 (Sen. (Dr.) Wilfred Machage)
(Resumption of Debate interrupted on Tuesday, 16th February, 2016)
(Division)
- 14. COMMITTEE OF THE WHOLE
***THE REPRODUCTIVE HEALTH CARE BILL (SENATE BILL NO. 17 OF 2014)**
 (Sen. Judith Sijeny)
- 15. COMMITTEE OF THE WHOLE
***THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7 OF 2014)**
 (Sen. (Eng.) Muriuki Karue)
- 16. ***THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILL NO. 11 OF 2015)**
 (Sen. Mutula Kilonzo Jr.)
(Second Reading)
(Resumption of Debate interrupted on Tuesday, 16th February, 2016)
- 17. ***THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)**
 (Sen. Joy Gwendo)
(Second Reading)
- 18. ***THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) (NO.2) BILL (SENATE BILL NO. 14 OF 2015)**
 (Sen. Christopher Obure)
(Second Reading)

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 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 BILL NO. 4 OF 2015)

NOTICE is given that Sen. (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 REPRODUCTIVE HEALTH CARE BILL (SENATE BILL NO. 17 OF 2014)

NOTICE is given that Senator (Dr.) Wilfred Machage intends to move the following amendments to the Reproductive Health Care Bill, 2014, at the Committee Stage-
Clause 19

THAT clause 19 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “a trained health professional” appearing after the words “be terminated if” and substituting therefor the words “a medical practitioner”;

(b) in sub-clause (2) by deleting the words “Trained health professionals” appearing at the beginning of the sub-section and substituting therefor the words “Medical practitioners”;

Clause 21

THAT clause 21 of the Bill be deleted and substituted with the following new clause-

- (21) A person who violates the provisions of section (20) commits an offence and is liable, on conviction, to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than three years or to both.

D. *THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7 OF 2014)

NOTICE is given that Senator Muriuki Karue intends to move the following amendments to the County Industrial Development Bill, 2014, at the Committee Stage –

Clause 4

THAT clause 4 of the Bill be amended –

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

(2) The Board shall be administered by a board of directors which shall consist of–

- (a) a chairperson who shall be appointed by the Cabinet Secretary with the approval of the Senate;
- (b) the principal secretary responsible for matters relating to industrialization or a person designated by the principal secretary in writing;
- (c) the principal secretary responsible for matters relating to finance or a person designated by the principal secretary in writing;
- (d) four persons appointed by the Cabinet Secretary with the approval of the Senate;
- (e) four persons, being two men and two women, not being a governor or deputy governor nominated by the Council of Governors and appointed by the Cabinet Secretary; and
- (f) the chief executive officer appointed by the Board in accordance with section 7, who shall be an ex-officio member and the secretary to the board and who shall not be entitled to vote.

- (b) by inserting the following new sub-clauses immediately after sub-clause (5) –

(5A) The Cabinet Secretary shall appoint the members of the board under subsection (2)(d) and (e) in a staggered manner so that the respective expiry dates of their terms shall fall at different times and, for this purpose, shall not renew the appointment of the two persons first appointed under subsection (1)(d) and (e) upon the commencement of this Act.

(5B) A person shall be qualified for appointment –

- (a) in the case of a chairperson, if the person holds a degree from a university recognised in Kenya; and
- (b) in the case of a member appointed under subsection (2)(d), if the person holds a degree from a university recognised in Kenya and has knowledge and experience in any of the following fields and are members of their respective professional bodies -
 - (i) industrialization;
 - (ii) finance;
 - (iii) accounting;
 - (iv) economics;
 - (v) law; or
 - (vi) human resource; or such other qualifications as the Cabinet Secretary shall consider necessary for the conduct of the affairs of the Board.

Clause 5

THAT clause 5 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2) –

(3) The board shall, in the performance of its functions under subsection (1) and (2), collect and maintain data on matters relating to industrial development in the counties.

(4) Each county government shall co-operate with, and submit to the Board, such data and information with regard to matters relating to industrialization in accordance with guidelines that may be prescribed by the Board.

Clause 7

THAT clause 7 of the Bill be amended in sub-clause (7) by –

- (a) inserting the words “the intended removal and” immediately after the words “writing of” appearing in paragraph (a);
- (b) inserting the words “before the board” immediately after the words “put in a defence” appearing in paragraph (b).

Clause 10

THAT the Bill be amended –

- (a) by deleting the heading appearing immediately before clause 10 and substituting therefor the following new heading –

PART III – PUBLIC PARTICIPATION

(b) by deleting clause 10 and substituting therefor the following new clauses –

Public participation. **10.** (1) The Ward Administrator in each ward shall, not later than twelve months from the date of the preceding general election, give an opportunity to the residents of a ward to submit their ideas and views regarding matters relating to industrialisation within the county and shall, for this purpose, convene a meeting of the residents of the county to receive such ideas and views.

(2) Despite subsection (1), the first meeting of the residents of a ward shall be convened within a period of eight months from the date of the commencement of this Act.

(3) A meeting convened under subsection (1) shall be chaired by the respective elected member of the county assembly.

(4) The residents of the respective ward may submit their views on issues relating to industrialisation under subsection (1) to the Ward Administrator orally or in writing.

(5) A Ward Administrator may receive ideas and views regarding matters relating to industrialisation within the respective county from persons who are not resident in the county.

(6) Each Ward Administrator shall compile and submit to the county industrial co-ordinator the ideas and views received under subsections (4) and (5) for consideration.

County industrial forum.

10B (1) Each county government shall convene a county industrial forum biennially consisting of –

(a) the Senators elected and nominated from the respective county under Article 98 of the Constitution;

(b) members of the National Assembly elected to represent the constituencies within the respective county and nominated from, or to represent the respective county under Article 97 of the Constitution;

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- (c) members of county executive committees in the respective county;
- (d) members of the county assembly; and
- (e) such other persons, including investors, with such knowledge and experience as the county government may consider relevant.

(2) The forum convened under subsection (1) shall undertake an appraisal of the industrial undertakings within the county and shall, for this purpose –

- (a) review the status of industrial development in the county;
- (b) deliberate on the progress made on public industrial initiatives within the county and for this purpose, the Governor shall submit a report on the implementation of initiatives and projects within the county;
- (c) deliberate and make recommendations to the respective county government regarding the industrial development projects that are to be prioritised within the counties; and
- (d) receive a report by the county government on ideas and views submitted by the residents of the wards within the respective county under section 10.

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.

Clause 16

THAT the Bill be amended by deleting clause 16.

Clause 17

THAT clause 17 of the Bill be amended –

- (a) in sub-clause (2) by deleting the word “produce” appearing immediately after the words “improvement of existing” and substituting therefor the word “facilities”;
- (b) by deleting sub-clause (3);
- (c) in sub-clause (5) by deleting all the words appearing immediately after the words “established in the industrial park”.

Clause 18

THAT clause 18 of the Bill be amended –

- (a) in sub-clause (2) by deleting the words “industrial development committee” appearing immediately after the words “by the County” and substituting therefor the word “Assembly”;
- (b) in sub-clause (3) by deleting all the words appearing immediately after the words “value to a project”.

Clause 20

THAT clause 20 of the Bill be amended by –

- (a) deleting sub-clause (2);
- (b) in sub-clause (3) by deleting the words “industrial development committee” appearing immediately after the words “of the County” and substituting therefor the word “Assembly”.

Clause 21

THAT clause 21 be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause–
 - (1) In order to ensure harmony, proper co-ordination and to avoid undue duplication, all projects, whether public or private, however funded and irrespective of ownership, shall be included in the report of the county government submitted to the county industrial forum under section 10.
- (b) by deleting sub-clause (2); and
- (c) in sub-clause (3) by deleting the words “and approval” appearing immediately after the words “Board for information”.

Clause 22

THAT the Bill be amended by deleting clause 22.

Clause 23

THAT clause 23 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1);
- (b) inserting the following new sub-clause immediately after sub-clause (1) –
 - (2) The report submitted under subsection (1) shall contain information regarding industrial development within the county including a statistical abstract of the industrial activities in such format as shall be specified by the Board.

Clause 24

THAT clause 24 of the Bill be amended in sub-clause (2) by –

- (a) inserting the following new paragraphs immediately after paragraph (d) –
 - (da) details relating to the nature and financing of the project;
 - (db) details relating to the sponsor, implementing agency and any other financiers of the project;
- (b) deleting the words “County Industrial Development Committee” appearing immediately after the words “secretary to the” in paragraph (e) and substituting therefor the words “county industrial coordinator”;
- (c) deleting paragraph (h).

Clause 29

THAT clause 29 of the Bill be amended by –

- (a) deleting sub-clause (1);
- (b) deleting the words “schedule of projects received under sub-section (1)” appearing immediately after the words “into account the” and substitute therefor the words “industrial development initiatives in the respective counties”.

Clause 32

THAT clause 32 of the Bill be amended by deleting sub-clause (3).

Clause 33

THAT clause 33 of the Bill be amended in sub-clause (2) by inserting the word “county” immediately after the words “intended for”.

Clause 34

THAT clause 34 of the Bill be amended by deleting the words “set out in the approval by the County Industrial Development Committee” and substituting therefor the words “specified in guidelines prescribed by the Board”.

Clause 36

THAT clause 36 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Board” appearing immediately after the words “approved by the” in paragraph (d) and substituting therefor the words “County Assembly”;
- (b) in sub-clause (2) by deleting the words “but approval by the County Industrial Development Committee of the industrial undertaking shall be mandatory” appearing immediately after the words “from its own funds”;
- (c) in sub-clause (4) by inserting the words “or private entity” immediately after the words “county corporation”;
- (d) in sub-clause (6) by deleting the words “be divided equally by all the counties to be utilized in facilitating the industrialization process in the counties” and substituting therefor the words “be allocated to the County Industrial Development Fund”;
- (e) by deleting sub-clause (7); and
- (f) by deleting sub-clause (9).

Clause 38

THAT clause 38 of the Bill be amended in sub-clause (2) by deleting paragraph (a) and substituting therefor the following new paragraph –

- (a) a quarterly report; and

Clause 40

THAT the Bill be amended by deleting clause 40.

Clause 42

THAT clause 42 of the Bill be amended in sub-clause (2) by deleting paragraph (d) and substituting therefor the following new paragraph –

- (d) such monies as may accrue to the Fund pursuant to section 36(6);

Clause 49

THAT clause 49 of the Bill be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause–
 - (1) Each county government shall formulate such policies as may be necessary to promote industrialization in the respective county through public, private or public-private ventures.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause

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(2) Each county governor shall appoint one county public officer to serve as the industrial coordination officer who shall coordinate the industrial development activities in the respective County.

Clause 2

THAT clause 2 of the Bill be amended by deleting the definition of the word "County Industrial Development Committee".

APPENDIX

STATEMENTS

- a) The Senator for Kisii County (Sen. Christopher Obure) to seek a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget on the delay by the National Treasury in disbursement of funds to county governments;
- b) The Senator for Kisii County (Sen. Christopher Obure) to seek a statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the Mogonga – Kenyeny – Etago – Kamagambo Road;
- c) A nominated Senator (Sen. (Dr.) Agnes Zani) to seek a statement from the Chairperson of the Standing Committee on Education regarding the development and review of curricula and curriculum support materials for early childhood, pre-primary, primary and secondary education;
- d) A nominated Senator (Sen. (Dr.) Agnes Zani) to seek a statement from the Chairperson of the Standing Committee on Devolved Government regarding the role of the Senate and its engagement with the county governments.