



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (SECOND SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, MAY 16, 2018 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **\*\*THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2017)**  
(Senate Majority Leader)  
*(First Reading)*
9. **\*\*THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**  
(Senate Majority Leader)  
*(First Reading)*
10. **\*\*THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILLS NO. 47 OF 2017)**  
(Senate Majority Leader)  
*(First Reading)*
11. **\*\*\*\*THE FOOD SECURITY BILL (SENATE BILLS NO. 12 OF 2017)**  
(The Senate Majority Leader)  
*(Second Reading)*  
*(Resumption of Debate interrupted on Wednesday, 18<sup>th</sup> April, 2018)*  
*(Division)*

...../Bill

12. COMMITTEE OF THE WHOLE**\*THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL**  
**(SENATE BILLS NO. 1 OF 2018)**

(Sen. Paul Kimani Wamatangi)

13. **\*\*THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 11 OF 2018)**

(Chairperson, Standing Committee on Finance and Budget)

*(Second Reading)*14. **\*\*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)*15. **\*\*THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (SENATE BILLS NO. 6 OF 2018)**

(Chairperson, Standing Committee on Labour and Social Welfare)

*(Second Reading)*16. **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 28<sup>th</sup> - 30<sup>th</sup> November, 2017, laid on the Table of the House on Wednesday, 14<sup>th</sup> February, 2018.

***(Resumption of Debate interrupted on Thursday, 22<sup>nd</sup> February, 2018)******(Balance of Time - 2hrs 57 mins)***17. **MOTION- APPROVAL OF SENATOR TO THE SPEAKER'S PANEL**

(Senate Majority Leader)

**THAT**, pursuant to Standing Order 17, the Senate approves the nomination of Senator Judith Pareno to replace Senator Cleophas Malala as a member of the Speaker's Panel and to further preside over the Senate in the absence of the Speaker and the Deputy Speaker, pursuant to Article 107(1)(c) of the Constitution and Standing Order 15 of the Senate.

18. **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;

*...../Motion*

**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 UasinGishu;

**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.

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> May, 2018)*

*(Balance of Time – 2hrs 13 mins)*

19. **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;

...../Motion

**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

NOTICE

The Senate resolved on 14<sup>th</sup> 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

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

(Sen. Paul Kimani Wamatangi)

**NOTICE** is hereby given that Sen. Kinyua Nderitu, Chairperson of the Senate 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.

...../Amendments

(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.

(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.	<p><b>19A.</b> The provisions of this Act relating to the swearing in ceremony of a County Governor-elect shall apply, with the necessary modifications –</p> <p>(a) to the swearing in ceremony of a Deputy Governor who assumes the office of the County Governor; or</p> <p>(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.</p>
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**NEW CLAUSE 23A**

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

Funding.	<p><b>23A.</b> The funding for the assumption of office of a governor shall be borne by the respective county government.</p>
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**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 —

<b>SECOND SCHEDULE</b>	<b>(s. 6(2A))</b>
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**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				
	<b>Categories</b>				
	(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)				

...../Amendments

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.

**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.

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

...../Amendments

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	Implementati on 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.

No.	Revenue Source	FY 20...../20..... (Actual)	FY 20...../20..... (Actual)	FY 20...../20..... (Actual)	FY 20...../20..... (Actual)	FY 20...../20..... (Actual)	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							

a) **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 -

**CLAUSE 24**

**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.

**1. PAPER**

Half Year Report of the Controller of Budget on County Government budget implementation for financial 2017/2018.

*(The Senate Majority Leader)*

**2. NOTICES OF MOTION****a) Notice of Motion-REPORT OF THE INTER-PARLIAMENTARY UNION (IPU) HEARINGS AT THE UNITED NATIONS**

(Sen. Naomi Shiyonga Masitsa)

**THAT**, this House notes the Report of the proceedings of the Inter-Parliamentary Union hearings at the United Nations, New York, USA from 22<sup>nd</sup> – 23<sup>rd</sup> February, 2018 laid on the Table of the House on Tuesday, 15<sup>th</sup> May, 2018.

**b) Notice of Motion-REPORT OF THE INAUGURAL COMMONWEALTH PARLIAMENTARIANS' FORUM**

(Sen. Moses Kajwang')

**THAT**, this House notes the Report of the inaugural Commonwealth Parliamentarians' Forum held at the Westminster, London, United Kingdom from 26<sup>th</sup> February to 1<sup>st</sup> March, 2018 laid on the Table of the House on Thursday, 10<sup>th</sup> May, 2018.

**3. STATEMENT TO BE ISSUED PURSUANT TO STANDING ORDER NO. 46 (2)(A)**

The Senator for Turkana County (Sen. Imana Malachy Ekal) to make a statement regarding the recent killings of civilians in Kapedo, Turkana County by armed militia.

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