



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

ORDER PAPER

WEDNESDAY, SEPTEMBER 16, 2015 AT 2.30 P.M

PRAYERS

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*THE COMMUNITY LAND BILL (SENATE BILL NO 38 OF 2014)
(Sen. (Prof.) Kindiki Kithure)
(Resumption of Debate interrupted on Thursday, 30th July, 2015)
(Division)
9. COMMITTEE OF THE WHOLE
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(The Senate Majority Leader)
(Resumption of Debate interrupted on Wednesday, 29th July, 2015)
(Division)
10. COMMITTEE OF THE WHOLE
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(Sen. Beatrice Elachi)
(Resumption of Debate interrupted on Wednesday, 29th July, 2015)
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(Sen. (Eng.) Muriuki Karue)

(Second Reading)

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13. ****THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILL NO. 35 OF 2014)**

(Chairperson, Standing Committee on Legal Affairs and Human Rights)

(Second Reading)

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(Chairperson, Committee on Legal Affairs and Human Rights)

(Second Reading)

15. ***THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)**

(Sen. Stephen Sang)

(Second Reading)

16. ***THE EMPLOYMENT (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2015)**

(Sen. Martha Wangari)

(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 COMMUNITY LAND BILL (SENATE BILL NO. 38 OF 2014)**

(Sen. (Prof.) Kindiki Kithure)

NOTICE is given that Sen. Lenny Kivuti intends to move the following amendments to the Community Land Bill, 2014, at the Committee Stage-

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause –

(3) No right on community land may be expropriated or confiscated except by law in the public interest and upon prompt payment in full of just compensation to the person or persons.

CLAUSE 8

THAT clause 8 of the Bill be amended—

- (a) by inserting the following new sub-clause immediately after sub-clause (1)—

(1A) The Commission shall prepare guidelines on the procedure to be applied in the formation of a committee under sub-section (1)(b)(ii).

- (b) in sub-clause (2) by deleting the word “before” appearing immediately after the words “the community” and substituting therefor the words “upon formal”; and

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

(2A) The Registrar may issue a provisional certificate of title pending formal adjudication of the community land.

CLAUSE 14

THAT clause 14 of the Bill be amended by deleting sub-clause 5.

CLAUSE 20

THAT clause 20 of the Bill be amended in sub clause (1) by inserting the following new paragraph immediately after paragraph (a) —

(aa) develop land use plans;

CLAUSE 28

THAT clause 28 of the Bill be amended in sub-clause (1) by deleting paragraph (b).

...../ *Amendments*

CLAUSE 55

THAT clause 55 of the Bill be amended by deleting paragraph (d).

CLAUSE 56

THAT the Bill be amended by deleting clause 56.

CLAUSE 68

THAT clause 68 of the Bill be amended in sub-clause (1) by deleting the words "the Commission or" appearing at the beginning of the sub-clause.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition in its alphabetical order;

"natural resources" has the meaning assigned to it under Article 260 of the Constitution."

B.* THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2014)**

(The Senate Majority Leader)

NOTICE is given that the Chairperson of the Standing Committee on Land and Natural Resources, intends to move the following amendments to the Mining Bill, 2014, at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the words "and the principles of leadership and integrity set out under Chapter Six of the Constitution" immediately after the words "of the Constitution".

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by inserting the words "in consultation with the Mineral Rights Board" immediately after the words "in the Gazette".

CLAUSE 9

THAT clause 9 of the Bill be amended by inserting the following new subclause immediately after subclause (1) –

(1A) The Cabinet Secretary shall, immediately upon receipt of a report under subsection (1) issue to the person an acknowledgement in writing of the receipt of the report.

CLAUSE 16

THAT clause 16 of the Bill be amended in subclause (3) by inserting the words "in consultation with the Mineral Rights Board" immediately after the words "Cabinet Secretary shall".

CLAUSE 20

THAT clause 20 of the Bill be amended by inserting the following new subclause immediately after subclause (4) –

...../Amendments

(5) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Mines under subsection (1) is entitled to fair, prompt and full compensation for such damage in accordance with this Act.

CLAUSE 21

THAT clause 21 of the Bill be amended by inserting the following new subsections immediately after subsection (2) –

(3) In exercising the powers under subsection (2), the Director or a duly authorised officer shall ensure that as little damage or inconvenience as possible is caused to the legitimate owner or lawful occupier of the land in respect of which the powers are exercised.

(4) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Geology under subsection (1) shall be entitled to fair, prompt and full compensation for such damage in accordance with this Act.

CLAUSE 30

THAT clause 30 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause (2) –

(2) The Mineral Rights Board shall comprise of –

- (a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;
- (b) the Principal Secretary responsible for matters relating to mining;
- (c) the Principal Secretary responsible for the National Treasury;
- (d) one person who shall be nominated by the Council of County Governors from amongst the Governors;
- (e) the Chairperson of the National Land Commission;
- (f) the Director of Mines who shall be the secretary to the Mineral Rights Board;
- (g) the Director of Geological Surveys; and
- (h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary.

CLAUSE 33

THAT clause 33 of the Bill be amended by deleting subclauses (7) and (8).

CLAUSE 34

THAT clause 34 of the Bill be amended in subclause (4) by deleting paragraph (a).

CLAUSE 37

THAT clause 37 of the Bill be amended in subclause (1) by deleting the words "A prospecting and" appearing at the beginning of the subclause.

CLAUSE 38

THAT clause 38 be amended in subclause (1) by deleting the word "un-alienated" appearing at the end of paragraph (b) and substituting therefor the word "unregistered".

CLAUSE 40

THAT clause 40 the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) The Cabinet Secretary may submit a request under section 107 of the Land Act for the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is—

(a) unreasonably withheld; or

(b) the Cabinet Secretary considers that withholding of consent is contrary to the national interest.

CLAUSE 41

THAT clause 41 be amended in subclause (2) by deleting the words "which recognise the uniqueness of procurement and tendering process of minerals" appearing at the end of the subclause.

CLAUSE 46

THAT clause 46 of the Bill be amended in subclause (3) by deleting the words "number of expatriates per capital investment" appearing immediately after the words "shall serve".

CLAUSE 47

THAT clause 47 of the Bill be amended in subclause (1) by inserting the words "members of the community and" immediately after the words "in employment to".

CLAUSE 49

THAT clause 49 of the Bill be amended in subclause (2) by deleting the word "four" appearing immediately after the words "exchange within" and substituting therefor the word "three".

CLAUSE 50

THAT clause 50 of the Bill be amended in paragraph (b) by inserting the words "members of the community and" immediately after the words "offered by".

CLAUSE 51

THAT clause 51 of the Bill be amended –

- (a) by deleting subclause (2) and substituting therefor with the following new subclause –

(2) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.

- (b) By inserting the following new subsection immediately after subsection (8)–

(8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.

CLAUSE 53

THAT clause 53 of the Bill be amended –

- (a) in subclause (1) by inserting the words “and the Kenya Revenue Authority” immediately after the words “the Cabinet Secretary”; and

- (b) inserting the following new subclause immediately after subclause (1) –

(1A) The Cabinet Secretary shall submit to the National Assembly and the Senate, an analysis of the audited annual financial statement submitted under subsection (1).

CLAUSE 67

THAT clause 67 of the Bill be amended in subclause (1) by deleting paragraph (e) and substituting therefor the following new paragraph –

- (e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;

CLAUSE 77

THAT clause 77 of the Bill be amended in subclause (2) by deleting the words “by the Cabinet Secretary” appearing at the end of the subclause and substituting therefor the words “Regulations made under this Act”.

CLAUSE 106

THAT clause 106 of the Bill be amended by inserting the following new paragraph immediately after paragraph (i) –

- (j) such other information as the Cabinet Secretary may consider necessary.

CLAUSE 117

THAT clause 117 of the Bill be amended in subclause (5) by deleting the word "Parliament" appearing immediately after the words "submitted to" and substituting therefor the words "the National Assembly and the Senate".

CLAUSE 120

THAT clause 120 of the Bill be amended in subclause (2) by deleting the word "Parliament" appearing immediately after the words "submitted to" and substituting therefor the words "the National Assembly and the Senate".

CLAUSE 149

THAT clause 149 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclauses –

(3) All immovable assets of the holder under the mining licence shall vest in the County Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the County Government.

(3A) Where the County Government is unable to pay for the assets under subsection (3), the assets shall vest in the National Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the National Government.

CLAUSE 4

THAT clause 4 of the Bill be amended –

- (a) by deleting the definition of the word "community" and substituting therefor the following new definition –

"community" means a people living in a ward or wards within which minerals are situated and who are affected by the exploration of the minerals or mining operations with respect to the minerals;

- (b) by inserting the following new definition immediately after the definition of the word "corporation" –

"Council of County Governors" means the Council of County Governors established under section 19 of the Intergovernmental Relations Act;

- (c) by deleting the definition of the word "strategic minerals" and substituting therefor the following new definition –

"strategic minerals" means minerals declared as such by the Cabinet Secretary with the approval of the Cabinet and by notice in the *Gazette*;

C. * THE FOOD SECURITY BILL, (SENATE BILL NO. 23 OF 2014)

(Sen. Beatrice Elachi)

NOTICE is given that the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Food Security Bill, 2014 at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (2) by deleting paragraph (j).

CLAUSE 6

THAT clause 6 of the Bill be amended in –

(a) in sub-clause (2) by –

(i) deleting paragraphs (c), (d) and (e) and substituting therefor the following new paragraph –

(d) advise and collaborate with the relevant agencies and public entities on matters relating to, -

(i) domestic production of diverse foods including the cultivation of traditional crops and the accessibility of food to persons in areas affected by food insecurity;

(ii) production of diverse foods including the cultivation of traditional crops and that such food is accessible to person in areas affected by food security; and

(iii) establishment of programmes that ensure that famers have adequate farm inputs and implements to carry out food production;

(ii) inserting the following new paragraphs immediately after paragraph (j) -

(ja) implement, in collaboration with the relevant agencies and public entities, programmes for the support and protection of small scale farmers including the provision of subsidies;

(jb) adopt sustainable food security measures so as to graduate food poor persons to persons who are able to participate in food production and distribution;

CLAUSE 8

THAT clause 8 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "their" appearing immediately after the words "governments shall to" and substituting therefor the word "the".

(b) in sub-clause (2) by inserting the words "including school feeding programmes," immediately after the words "implement programmes".

...../Amendments

CLAUSE 12

THAT clause 12 of the Bill be amended in sub-clause (1) by –

- (a) deleting paragraph (b);
- (b) inserting the following new paragraph immediately after paragraph (g)-
 - (ga) identify food insecure counties and develop affirmative action measures for ensuring that food security is realized in the identified counties; and
- (c) inserting the words “county food security committees” immediately after the words “feedback to all” in paragraph (h).

CLAUSE 14

THAT the Bill be amended by deleting clause 14 and substituting therefor the following new clause-

Board of **14.**(1) The management of the Authority shall vest in a Board the which shall consist of –
Authority.

- (a) a chairperson appointed by the President with the approval of Parliament;
- (b) the Principal Secretary responsible for matters relating to agriculture or the designated representative;
- (c) the Principal Secretary responsible for matters relating to livestock or the designated representative;
- (d) the Principal Secretary responsible for matters relating to finance or the designated representative;
- (e) the Principal Secretary responsible for matters relating to the co-ordination of national government or the designated representative;
- (f) the chairperson of the National Social Assistance Authority appointed under section 5(1) of the Social Assistance Act or the designated representative;
- (g) one person nominated by the National Drought Management Authority established under paragraph 3 of the National Drought Management Authority Order, 2011;
- (h) two persons nominated by the Non-Governmental Organizations Co-ordination Board established under section 3 of the Non-Governmental Organizations Co-ordination Act from amongst non-governmental organizations which support efforts towards the achievement of food security;
- (i) two persons nominated by the Council of County Governors; and
- (j) the Director General who shall be an *ex-officio* member, the secretary to the Board and the chief executive officer of the Authority

No. 24 of
2013.

L.N. No.
171 of
2011.

(2) The persons nominated under subsection (1)(g), (h) and (i) shall be appointed by the Cabinet Secretary by notice in the Gazette.

(3) A person shall be qualified for nomination and appointment under subsection (1) (g), (h) and (i) if such person has knowledge and experience in matters relating to food security and nutrition.

(4) The designated representatives of the members referred to under subsection (1)(b), (c), (d) and (e) shall have authority to exercise the powers and functions of the designating authority in relation to matters before the Board.

CLAUSE 15

THAT clause 15 of the Bill be amended-

- (a) in paragraph (a) by deleting the word "masters" appearing immediately after the words "holds a"; and
- (b) by deleting paragraph (c) and substituting therefor the following new paragraph –
- (c) has knowledge and experience in matters relating to –
 - (i) agriculture or livestock;
 - (ii) land and agrarian reforms;
 - (iii) public health;
 - (iv) public administration; or
 - (v) economics, sociology, disaster management or such other relevant knowledge and experience as may be considered necessary; and

CLAUSE 17

THAT the Bill be amended by deleting clause 17 and substituting therefor the following new clause-

Remuneration of the Board. **17.** There shall be paid to the members of the Board such remuneration, fees or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, shall determine.

CLAUSE 23

THAT clause 23 of the Bill be amended in sub-clause (2) by –

- (a) deleting the word "doctorate" appearing immediately after the words "holds a" in paragraph (a) and substituting therefor the word "masters"; and
- (b) deleting the word "security" appearing immediately after the words "the food" paragraph (b).

CLAUSE 32

THAT clause 32 of the Bill be amended-

- (a) in sub-clause (1) by deleting paragraphs (b) and (c) and substituting therefor the following new paragraphs –
- (b) the county executive committee member responsible for matters relating to agriculture who shall be the secretary to the committee;

...../Amendments

- (c) the county executive committee member responsible for matters relating to livestock;
- (ca) the county executive committee member responsible for matters relating to social services;
- (cb) the county commissioner or a designated representative of the commissioner;

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

- (a) holds a certificate of secondary education;

CLAUSE 33

THAT clause 33 of the Bill be amended–

- (a) in sub-clause (1) by deleting paragraph (i) and substituting therefor the following new paragraph -

- (i) spearhead the formation and operationalization of food and nutrition committees at the sub-county and ward levels and in schools and health centres within the county;

- (b) by inserting the following new sub-clause immediately after sub-clause (1)

–

- (1A) The county food security committee shall, in the performance of its functions under subsection (1), decentralize its services to the lowest administrative unit within the county as it shall consider appropriate for the purpose of ensuring food security within the county.

CLAUSE 35

THAT clause 35 of the Bill be amended –

- (a) in sub-clause (1) by inserting the words “ agriculture, livestock, meteorology” immediately after the words “disaster management”;
- (b) in sub-clause (3) by deleting the words “matters related to special programmes” appearing immediately after the words “responsible for” and substituting therefor the words “the implementation of programmes relating to persons with special needs”.

CLAUSE 37

THAT the Bill be amended by deleting clause 37.

CLAUSE 45

THAT clause 45 of the Bill be amended by deleting the words “five million” appearing immediately after the words “not exceeding” and substituting therefor the words “ten million”.

CLAUSE 46

THAT clause 46 of the Bill be amended by deleting the words “two million shillings or to imprisonment for a term of three years” appearing immediately after the words “not exceeding” and substituting therefor the words “ten million shillings or to imprisonment for a term not exceeding eight years”.

CLAUSE 50

THAT clause 50 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g)-

(h) promote public awareness on the advancement of food security.

CLAUSE 2

THAT clause 2 of the Bill be amended in the definition of the term –

- (a) “Cabinet Secretary” by deleting the words “devolution and planning” appearing immediately after the words “related to” and substituting therefor the words “food security”;
- (b) “essential foodstuffs and commodities” by inserting the word “meat” immediately after the words “beans, wheat, rice”;
- (c) “emergency foods assistance” by deleting the word “humanitarian” appearing immediately after the words “occasioned by”.

D. *THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2014)**

NOTICE is given that Senator Lenny Kivuti, Chairperson to the Committee on Land and Natural Resources, intends to move the following amendments to the Climate Change Bill, 2014, at the Committee Stage-

CLAUSE 3

THAT clause 3 of the Bill be amended in subclause (2) by inserting the word “and” immediately after the word “intergenerational” appearing in paragraph (e).

CLAUSE 7

THAT clause 7 of the Bill be amended –

(a) in subclause (2) by –

- (i) deleting paragraph (g);
- (ii) inserting the words “nominated by the body representing the largest number of institutions in the private sector” immediately after the words “private sector” appearing in paragraph (f);
- (iii) inserting the words “who has knowledge and experience in matters relating to indigenous knowledge” immediately after the words “of the Constitution” appearing in paragraph (h);

...../Amendments

(b) in subclause (3) by deleting the words "(2)(f), (g) and (h)" appearing immediately after the words "under subsection" and substituting therefor the words "(2)(f), (g), (h) and (i)"; and

(c) in subclause (4) by inserting the words "and the Senate" immediately after the words "the National Assembly".

CLAUSE 13

THAT clause 13 of the Bill be amended in subclause (4) by inserting the words "of the Action Plan" immediately after the words "for mainstreaming".

CLAUSE 14

THAT clause 14 of the Bill be amended in subclause (1) by inserting the words "and mitigation against" immediately after the words "adaptation to" appearing in paragraph (a).

CLAUSE 17

THAT clause 17 of the Bill be amended in subclause (1) by deleting the word "give" appearing immediately after the words "with instructions" in paragraph (b) and substituting therefor the word "prescribed".

CLAUSE 32

THAT clause 32 of the Bill be amended in subclause (1) by deleting the word "one" appearing immediately after the words "fine not exceeding" at the end of the subclause and substituting therefor the word "ten".

CLAUSE 35

THAT clause 35 of the Bill be amended in subclause (1) by deleting the word "may" appearing immediately after the words "Cabinet Secretary" and substituting therefor the word "shall".

NEW CLAUSE 25A

THAT the Bill be amended by inserting the following new clause immediately after clause 25 –

Incentives
for the
promotion
of climate
change
initiatives.

25A. (1) The Cabinet Secretary shall, in accordance with the appropriate law, and in consultation with the Cabinet Secretary responsible for finance, grant to persons who –

(a) encourage and put in place measures for the elimination of climate change including reduction of green house emissions and use of renewable energy;

(b) put in place measures to mitigate against the adverse effects of climate change;

(c) are involved in the conduct of accredited training in programmes that are aimed at eliminating climate change;

such incentives as may be necessary for the advancement of the elimination of and mitigation against climate change and the effects of climate change.

(2) The Cabinet Secretary shall, for the purpose of subsection (1), in regulations set out the nature of the incentives, the conditions for the grant or withdrawal of such incentives and such other matter as may be necessary for the exercise of the power conferred under subsection (1).

(3) In granting incentives under subsection (1), the Cabinet Secretary shall take into account international standards and best practice.

(4) The Cabinet Secretary shall make the regulations specified under subsection (2) within a period of twelve months from the commencement of this Act.

CLAUSE 2

THAT clause 2 of the Bill be amended in the definition of the word "Cabinet Secretary" by deleting the words "Cabinet affairs" appearing immediately after the words "responsible for" and substituting therefor the words "matters relating to climate change".

APPENDIX**1. MESSAGES**

- a) Message from the National Assembly on the Water Bill (National Assembly Bill No. 07 of 2014);
- b) Message from the National Assembly on the County Governments (Amendment) Bill (Senate Bill No. 01 of 2014);
- c) Message from the National Assembly on the Fertilizer and Animal Food Stuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013).

2. PETITIONS

- a) The Senator for West Pokot County (Sen. (Prof.) John Lonyangapuo) to present a petition on the plight and welfare of former councilors;
- b) The Speaker to present a petition on the heavy blasting and dust from a quarry near Taru Trading Centre.

3. NOTICE OF MOTION- (Vice-chairperson, Standing Committee on Health)

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

4. STATEMENTS

- a) The Chairperson of the Standing Committee on Education to issue a Statement on the management of Moi University and the University of Eldoret both of which were closed indefinitely (Sen. (Prof.) John Lonyangapuo);
- b) The Chairperson of the Standing Committee on Health to issue a Statement on the selection and placement of students to Medical Training Centres. (Sen. Wilfred Lesan); and
- c) The Chairperson of the Standing Committee on Education to issue a statement on the current crisis in the education sector occasioned by the on-going industrial action by teachers (Sen. Abdirahman Hassan)
