



REPUBLIC OF KENYA  
ELEVENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

**ORDER PAPER**  
**SPECIAL SITTING**

WEDNESDAY, DECEMBER 16, 2015 AT 3.00 P.M

PRAYERS

1. Communication from the Chair
2. \*\*\*CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2014)  
(The Senate Majority Leader)  
*(Resumption of Debate interrupted on Tuesday, 17<sup>th</sup> November, 2015)*
3. COMMITTEE OF THE WHOLE  
\*\*\*CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)  
(The Senate Majority Leader)  
*(Resumption of Debate interrupted on Thursday, 29<sup>th</sup> October, 2015)*  
*(Division)*
4. COMMITTEE OF THE WHOLE  
\*\*\*THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)  
(The Senate Majority Leader)  
*(Resumption of Debate interrupted on Thursday, 3<sup>rd</sup> December, 2015,*  
*Afternoon Sitting)*

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KEY

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■ Denotes a Majority /Minority Party Bill

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■ Denotes a National Assembly Bill

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■ Denotes a Committee Bill

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■ Denotes any other Bill

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..... /Notices of Amendments

**NOTICES OF AMENDMENTS****A. \*\*\*THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2014)**

(The Senate Majority Leader)

**PRESIDENT'S RECOMMENDATIONS:**

Amendments recommended by H.E. the President to the Public Procurement and Asset Disposal Bill

**Clause 51 (3):**

**THAT** the Bill be amended by inserting the words **"and licensed"** immediately after the word **"registered"**

**Clause 124:**

**THAT** the Bill be amended by deleting subclause (4) and substituting therefor the following new subclause:

Selection  
methods for  
requests for  
proposals

(4). Subject to the foregoing provisions of this section, in the evaluation of tenders by public entities, the criteria for assessing the technical and financial capability of the tenderers shall as may be prescribed by the accounting officer in the tender documents.

**B. \*\*\*THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)**

(The Senate Majority Leader)

**PRESIDENT'S RECOMMENDATIONS:**

Amendments recommended by H.E. the President to the Public Audit Bill

**Clause 4**

**THAT** Clause 4 (2) of the Bill be amended by deleting the existing sub-clause and substituting therefor the following new sub-clause-

**(2) The Office shall comprise the Auditor –General as its statutory head and all other staff appointed by the Auditor-General as may be delegated in accordance with Article 234 (5) of the Constitution.**

**Clause 8**

**THAT** clause 8 of the Bill be amended by deleting paragraphs (a), (b), (c), (d), (h) and (j) and substituting therefor the following:

Administrative  
powers of the  
office of the  
Auditor-  
General

- (a) develop an organization structure and staffing establishment for the office of the Auditor – General, subject to Article 234 (5) of the Constitution;**
- (b) subject to Article 234 (5) of the Constitution, recruit and promote qualified and competent staff to perform the office's functions;**

...../Amendments

- (c) subject to Article 234 (5) of the Constitution, exercise disciplinary control over staff;
- (d) subject to Article 234 (5) of the Constitution, develop human resource of the office;
- (h) subject to Articles 230 (4) (b) and 234 of the Constitution, determine the remuneration and benefits of each member of staff;
- (j) in addition to what is provided for under any other relevant law, develop and maintain a code of conduct and ethics for the office, specific to auditing, guided by the international code of practice, and code of ethics issued by the International Organization of Supreme Audit Institutions and in consultation with the Public Service Commission and the National Treasury;

### New Clause 11 A

**THAT**, a new Clause be inserted immediately after Clause 11 of the Bill as follows:

11 A. (1) **Where:**

Acting Auditor-  
General

- (a) the office of the Auditor- General becomes vacant;
- (b) the Auditor-General has been suspended in accordance with the Constitution
- (c) the appointment of a person as Auditor-General is pending; or
- (d) the Auditor – General is, for any reason unable to perform the function of his or her office,

then, until a person is appointed to and has assumed the functions of that office in accordance with Section 11 above, or until the Auditor-General has resumed the performance of those functions, the Public Service Commission shall recommend the most senior officer in the office of the Auditor-General to the President to designate such a person as the acting Auditor –General

(2) A person designated under subsection (1) shall meet the minimum qualifications for appointment to the office of the Auditor-General and shall serve for a period not exceeding ninety days.

(3) When acting in terms of subsection (1), the acting Auditor-General shall have all the powers of the Auditor-General.

### Clause 16:

**THAT** Clause 16 of the Bill be amended in sub-clause (1) by inserting the expression “and 234 (5)” immediately after expression “230”

**Clause 19:**

**THAT** Clause 19 (2) of the Bill be amended by:

- (a) inserting the words **"review and"** immediately after the words **"year for"**; and
- (b) deleting the words **"with the Cabinet Secretary's comments"**

**Clause 40A**

**THAT** a new Clause be inserted immediately after Clause 40 of the Bill to read as follows:

Auditor-General  
not to question  
Government policy  
objective

**40A. Notwithstanding the provisions of this Act, in an examination under this Act, the Auditor-General shall not question the merits of a policy objective of the national government or county government or any other public entity.**

**Clause 66**

**THAT** Clause 66 of the Bill be amended by deleting the words **"Auditor-General"** immediately after the word **"The"** and substitute therefor the words **"Cabinet Secretary responsible for matters relating to finance"**.

**C. \*\*\* THE WATER BILL, 2014 (NATIONAL ASSEMBLY BILL NO. 7 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 Water Bill, 2014, at the Committee Stage-

**Clause 8**

**THAT** clause 8 be amended in sub clause (3) by inserting the words 'for domestic use' before the word "shall" appearing on the first line.

**Clause 8B**

**THAT** clause 8B be amended in sub clause (5) by deleting the word "three" immediately after the word "every" and substituting therewith the word "five".

**Clause 19**

**THAT** clause 19 of the Bill be amended in sub clause (1) by inserting the words "geo referenced information" immediately after the words "monitoring and".

**Clause 24**

**THAT** clause 24 of the Bill be amended in sub clause (1)(b) by inserting the words "appointed by the appointing authority after approval by the county assembly" immediately after the words "the basin".

...../Amendments

**Clause 25**

**THAT** clause 25 of the Bill be amended by inserting the words “and county governments” immediately after the word “Authority” appearing on the second line.

**Clause 30**

**THAT** clause 30 of the Bill be amended in sub clause (1)(d) by inserting the words “rules and regulations” immediately after the words “harvesting policy”.

**Clause 63**

**THAT** the headnote appearing immediately before clause 63 be amended by deleting the word “Board” and substituting therefor the word “Agency”.

**Clause 72**

**THAT** clause 72 of the Bill be amended by deleting the word “accreditation” wherever it appears and substituting therefor the word “licensing”.

**Clause 73**

**THAT** clause 73 of the Bill be amended—

- (1) In sub clause (1) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (2) In the marginal note by deleting the word “accredited” and substituting therefor the word “licensed”;
- (3) In sub clause (1) (c) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (4) In sub clause (1)(d) by deleting the word “accreditation” and substituting therefor the word “licence”;
- (5) In sub clause (2) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (6) In sub clause (4) by deleting the word “accredited” and substituting therefor the word “licensed”.

**Clause 74**

**THAT** clause 74 of the Bill be amended—

- (1) In the marginal note by deleting the word “accreditation” and substituting therefor the words “a license”;
- (2) In sub clause (1) by deleting the word “accreditation” and substituting therefor the word “license”;

- (3) In sub clause (1) (a) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (4) In sub clause (1)(b) by deleting the word “accreditation” and substituting therefor the word “licence”;
- (5) In sub clause (1) (c) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (6) In sub clause (1) (e) by deleting the word “accreditation” and substituting therefore the word “license”;
- (7) In sub clause (2) by deleting the word “accreditation” and substituting therefor the word “license”;
- (8) In sub clause (3) by deleting the word “accreditation” and substituting therefor the word “license”.

**Clause 102**

**THAT** clause 102 of the Bill be amended by deleting the word “licensee” and substituting therefor the words “water user”.

**Clause 107**

**THAT** clause 107 of the Bill be deleted.

**Clause 109**

**THAT** clause 109 of the Bill be amended in sub clause (1) by inserting the words “georeferenced” immediately after the words “monitoring and”.

**Clause 114**

**THAT** clause 114 of the Bill be amended in sub clause (1) (g)—

- (a) by deleting the word “grants” appearing at the beginning of the sub clause; and
- (b) Inserting the deleting the word “communities” and substituting therefor the words “community schemes”.

**Clause 115**

**THAT** clause 115 be amended in sub clause (1) by deleting paragraphs (b) and (c).

**Clause 117**

**THAT** clause 117 of the Bill be amended by deleting the words “which shall be a Subordinate court as provided under Article 169(1)(d) of the Constitution”.

**Clause 130**

**THAT** clause 130 of the Bill be amended by inserting the words “conservation and” immediately after the words “for the”.

**Clause 139**

**THAT** clause 139 of the Bill be amended by inserting the words “a county government” immediately after the word “or” appearing on the third line.

**Clause 140**

**THAT** clause 140 of the Bill be amended in—

- (a) sub clause (2) (a) by deleting the word “commission” and substituting therefor the word “Board”; and
- (b) Sub clause (2)(h) by inserting the words “or the Board” immediately after the word “Authority”.

**Clause 154**

**THAT** clause 154 of the Bill be amended in sub clause 5 by deleting the word “Board” and substituting therefor the word “Authority”.

**Clause 2**

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

“wetland” means an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh water”.

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