



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

WEDNESDAY, JUNE 17, 2015 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **PETITION ON A BOUNDARY DISPUTE BETWEEN KAJIADO AND MAKUENI COUNTIES**

Pursuant to Standing Order 220 (1) (b), the Senator for Makueni County (Sen. Mutula Kilonzo Jr.) presented a petition on behalf of residents of Emali/Mulala Ward in Makueni County, on a boundary dispute between Kajiado and Makueni Counties at Emali Township.

Pursuant to Standing Order 226, the Speaker invited Senators to comment on the petition and directed that the Petition be committed to the Standing Committee on Legal Affairs and Human Rights, pursuant to Standing Order 227.

4. **NOTICE OF MOTION** – (Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Speaker do leave the Chair to facilitate consideration of the Tobacco Control Regulations, 2014.

5. **THE SELF HELP ASSOCIATIONS BILL (SENATE BILL NO. 2 OF 2015)**
(Sen. Martha Wangari)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 130 (1).

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

(Chairperson, Standing Committee on Health)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Health, pursuant to Standing Order 130 (1).

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

(Sen. (Dr.) Wilfred Machage)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Health, pursuant to Standing Order 130 (1).

8. **MOTION – THE SPEAKER TO LEAVE THE CHAIR TO FACILITATE CONSIDERATION OF THE TOBACCO CONTROL REGULATIONS, 2014**

Motion made and question proposed;

THAT, the Speaker do leave the Chair to facilitate consideration of the Tobacco Control Regulations, 2014.

(Chairperson, Sessional Committee on Delegated Legislation)

Debate arising;

And there being no Senator willing to contribute;

The Mover replied;

Before the Question was put, and pursuant to Standing Order No. 72, the Temporary Speaker (Sen. Murkomen) informed the House that the Motion did not affect Counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY-

THAT, the Speaker do leave the Chair to facilitate consideration of the Tobacco Control Regulations, 2014.

9. **COMMITTEE OF THE WHOLE:**

Order for Committee read;

IN THE COMMITTEE

The Acting Chairperson of Committees (Sen. Murkomen)- in the Chair.

The Tobacco Control Regulations, 2014.

Regulation 3

Motion made and question proposed;

THAT, Regulation 3 be part of the Bill.

Amendment Proposed

Motion made and question proposed;

THAT, Regulation 3 be annulled.

(Chairperson, Sessional Committee on Delegated Legislation)

Debate arising;

Progress Report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the Tobacco Control Regulations, 2014 and seek leave to sit again tomorrow.

(The Chairperson, Sessional Committee on Delegated Legislation)

Before the Question was put, and pursuant to Standing Order No. 72, the Acting Chairperson (Sen. Murkomen) informed the House that the Motion did not affect Counties.

Question put and agreed to.

10. **HOUSE RESUMED** - A Temporary Speaker (Sen. Mositet)- in the Chair.

11. **THE TOBACCO CONTROL REGULATIONS, 2014 – PROGRESS REPORT**

Progress Reported.

Motion made and Question proposed-

THAT, the Senate do agree with the Committee of the Whole in the said Report.

(Chairperson, Sessional Committee on Delegated Legislation)

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the question did not affect counties.

Question put and agreed to.

12. **COMMITTEE OF THE WHOLE:**

Order for Committee read;

IN THE COMMITTEE

The Acting Chairperson of Committees (Sen. Mositet) – in the Chair

The Natural Resources (Benefit Sharing) Bill (Senate Bill No. 34 of 2014)

Clause 3

Motion made and Question proposed-

That, Clause 3 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 3 of the Bill be amended in sub-clause (1) by inserting the phrase “natural resources as defined in Article 260 of the Constitution including” immediately after the words of “the exploitation of”.

(Sen. (Dr.) Agnes Zani)

Further Amendment proposed-

Motion made and Question proposed-

THAT clause 3 of the Bill be amended in sub-clause (1)-

(a) by inserting the words “the following natural resources’ immediately after the words “exploitation of” appearing in the opening paragraph to sub-clause(1);

(b) by inserting the following new paragraphs immediately after paragraph (g)-

(h) geothermal energy;

(i) wind.

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Part (a) of the proposed amendment **withdrawn** by the mover.

Putting of question deferred.

Clauses 4

Motion made and Question proposed-

That, Clause 4 be part of the Bill.

Amendment proposed-

Motion made and Question proposed-

THAT clause 4 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)-

(f) sustainable natural resources management.

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 5

Motion made and Question proposed-

That, Clause 5 be part of the Bill.

Putting of question deferred.

Clauses 6

Motion made and Question proposed-

That, Clause 6 be part of the Bill.

Amendment proposed

Motion made and Question proposed-

THAT clause 6 of the Bill be amended in sub clause (1) by inserting the following new paragraphs immediately after paragraph (i) –

“(j) ensure and promote value addition of natural resources;

(k) promote local content initiatives; and

- (l) facilitate environmental rehabilitation activities after the exploitation of a natural resource."

(Sen. (Dr.) Agnes Zani)

Further Amendment proposed

Motion made and Question proposed-

THAT clause 6 of the Bill be amended in sub-clause (1) by inserting the following new paragraphs immediately after paragraph (i)-

- (j) build the capacity of local communities in negotiations for benefit sharing and implementation of projects;
- (k) prepare national guidelines on benefit sharing in consultation with other sectoral leaders; and
- (l) identify, in consultation with sector specific organizations, incentives and benefits to promote the conservation of natural resource.

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 7

Motion made and Question proposed-

That, Clause 7 be part of the Bill.

Amendment proposed

Motion made and Question proposed-

THAT clause 7 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words "environment" appearing in paragraph (b) and substituting therefor the words "natural resources";
- (b) in sub-clause (1) by deleting the words "the Kenya Association of Manufacturers" appearing in paragraph (g) and substituting therefor the words "a recognized umbrella body representing the interests of the private sector in Kenya"; and
- (c) in sub-clause (5) by inserting the words "and the requirements of Chapter Six of the Constitution" at the end of the sub-clause.

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Part (c) of the proposed amendment **withdrawn** by the Mover.

Further Amendment proposed-

THAT clause 7 of the Bill be amended—

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

(g) one person nominated by the Kenya Private Sector Alliance (KEPSA);

(b) deleting sub clause (5) and substituting therefor the following new sub clause -

(5) In nominating and appointing persons as members of the Board, the nominating authorities and the Cabinet Secretary shall have regard to the principles of non-discrimination on the basis of gender, disability, youth and marginalized persons under the Constitution, and including the requirements of chapter six of the Constitution of Kenya.

(Sen. (Dr.)Agnes Zani)

Debate arising;

Part (a) of the proposed amendment **withdrawn** by the Mover.

Putting of question deferred.

Clause 8

Motion made and Question proposed.

That, Clause 8 be part of the Bill.

Putting of question deferred.

Clause 9

Motion made and Question proposed.

That, Clause 9 be part of the Bill.

Amendment proposed

Motion made and Question proposed-

THAT clause 9 of the Bill be amended in paragraph (b) by deleting the word "ten" appearing immediately after the words "and at least" in the opening paragraph and substituting therefor the word "seven".

(Sen. (Dr.)Agnes Zani)

Debate arising;

Putting of question deferred.

Clauses 10 - 23

Motion made and Question proposed.

That, Clauses 10 - 23 be part of the Bill.

Putting of question deferred.

Clause 24

Motion made and Question proposed.

That, Clause 24 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 24 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words "in each year" appearing immediately after the words "affected organizations"; and
- (b) in sub-clause (2) by inserting the following new paragraph immediately after paragraph (c)-
- (d) the impact of the exploitation on the people and the environment

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 25

Motion made and Question proposed-

That, Clause 25 be part of the Bill.

Putting of question deferred.

Clause 26

Motion made and Question proposed.

That, Clause 26 be part of the Bill.

Amendment proposed

Motion made and Question proposed-

THAT clause 26 of the Bill be amended-

- (a) in sub-clause (1) by inserting the words "under this Act" immediately after the words "revenue collected"; and
- (b) in sub-clause (6) by inserting the words "in consultation with the lead agencies for each natural resource" immediately after the words "Authority shall".

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 27 - 29

Motion made and Question proposed-

That, Clauses 27 - 29 be part of the Bill.

Putting of question deferred.

Clause 30

Motion made and Question proposed.

That, Clause 30 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 30 of the Bill be amended in sub-clause (2) by inserting the words "within thirty days of its execution" immediately after the word "Authority".

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 31

Motion made and Question proposed.

That, Clause 31 be part of the Bill.

Putting of question deferred.

Clause 32

Motion made and Question proposed.

That, Clause 32 be part of the Bill.

Amendment proposed.

Motion made and Question proposed.

THAT the Bill be amended by deleting clause 32.

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Clauses 33 - 36

Motion made and Question proposed.

That, Clauses 33 - 36 be part of the Bill.

Putting of question deferred.

Clause 37

Motion made and Question proposed.

That, Clause 37 be part of the Bill.

Amendment proposed

Motion made and Question proposed-

THAT clause 37 of the Bill be amended in sub clause (1)(b) by deleting subparagraph (i) and substituting therefor the following new subparagraph-

(i) the financial statements of the Authority including—

A)a statement of the income and expenditure of the Authority during that year; and

B)a statement of the assets and liabilities of the Authority as at the last day of that year;"

(Sen. (Dr.)Agnes Zani)

Debate arising;

Putting of question deferred.

Clauses 38 - 41

Motion made and Question proposed.

That, Clauses38 - 41 be part of the Bill.

Putting of question deferred.

The Schedule

Motion made and Question proposed.

That, the Schedule be part of the Bill.

Putting of question deferred.

Clause 2

Motion made and Question proposed.

That, Clause 2 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

That, clause 2 of the Bill of be amended by inserting the following new definitions in proper alphabetical sequence –

“futures fund” means monies set aside from the sovereign wealth fund for future generations;

“natural resources fund” means monies set aside from the sovereign wealth fund for social and economic development and rehabilitation of depleted natural resources.

(Sen. (Dr.) Agnes Zani)

Further Amendment proposed-

THAT clause 2 of the Bill be amended by inserting the following new definitions in their proper alphabetical sequence-

“Authority” means the Benefit Sharing Authority established under section 5;

“Cabinet Secretary” means the cabinet secretary for the time being responsible for matters relating to natural resources.

(Sen. (Dr.) Agnes Zani on behalf of the Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

The Title

Motion made and Question proposed-

That, the Title be part of the Bill.

Putting of question deferred.

Clause 1

Motion made and Question proposed.

That, Clause 1 be part of the Bill.

Putting of question deferred.

Progress Report

Motion made;

THAT, the Committee of the whole House do report progress and seek leave to sit again tomorrow.

Before the question was put and pursuant to Standing Order 72, the Acting Chair of the Committee of the whole (Sen. Mositet) ruled that the question did not affect counties;

Question put and agreed to.

12. **HOUSE RESUMED** - Temporary Speaker (Sen. Mositet) in the Chair.

13. **THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILL NO. 34 OF 2014) – PROGRESS REPORT**

Progress Reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said Report.

(Sen. (Dr) Agnes Zani)

There being no other Senator willing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the question did not affect counties;

Question put and agreed to.

14. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BIL NO. 5 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed:-

THAT, the County Allocation of Revenue Bill (Senate Bill No. 5 of 2015) be now read the second time.

(Chairperson, Standing Committee on Finance, Commerce and Budget –16-06.2015)

Debate Interrupted on Tuesday 16th June 2015, resumed;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Mositet) adjourned the business of the Senate without Question put, pursuant to the Standing Orders.

15. SENATE ROSE - at thirty minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Thursday, June 18, 2015 at 2.30 p.m.*

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