



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, JUNE 18, 2015

1. The House assembled at thirty minutes past two O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the First Chairperson of Committees
4. **PETITIONS**
 - (i) The First Chairperson conveyed the following Petition on behalf of Bukhoyo Council of Elders regarding construction of a dam along Suo River –

Honourable Members,

Standing Order 225(2)(b) requires the Speaker reports to the House, any Petition other than those presented through a Member.

I therefore wish to convey to the House that my office has received a Petition signed by one Geoffrey Elphas Kokonya on behalf of Bukhoyo Council of Elders regarding construction of a dam along Suo River. Among other prayers, the Petitioner is praying that the National Assembly recommends that the Ministry of Environment, Water and Natural Resources halts the construction of the water dam along the Suo River wetland as this will lead to water shortage in Busia Town and its environs.

Honourable Members, this Petition stands committed to the Departmental Committee on Environment and Natural Resources for consideration. The Committee is required to consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order 227(2)

Thank you".

- (ii) The Member for Kimilili (Hon. Chris Wamalwa) presented a Petition on behalf of residents of Mabonde Location, Kiminini Constituency, on deployment of the Chief.

Petition referred to the relevant Departmental Committee pursuant to Standing Order 227(2)

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Budget Implementation Review Report for the Third Quarter for the Financial Year 2014/2015 from the Office of the Controller of Budget;
- (ii) The Transition Authority's Progress Report for the Month of January 2015;
- (iii) The Report of the Auditor-General on the Financial Statements of the Judiciary for the year ended 30th June, 2014 and the certificate therein;
- (iv) The Report of the Auditor-General on the Examination and Audit of the Revenue Statement of the Judiciary for the year ended 30th June, 2014 and the certificate therein;
- (v) The Report of the Auditor-General on the Financial Statements of the Ministry of Sports, Culture and the Arts for the year ended 30th June, 2014;
- (vi) The Report of the Auditor-General on the Examination and Audit of the Township Roads and Drains Account under the Ministry of Lands, Housing and Urban Development for the year ended 30th June, 2014 and the certificate therein; and
- (vii) The Report of the Auditor-General on the Financial Statements of the National Humanitarian Fund for the year ended 30th June, 2014 and the certificate therein.

(The Leader of the Majority Party)

- (viii) Report on the consideration of Convention of the suppression of unlawful acts relating to International Civil Aviation and the Protocol supplementary to the Convention for the suppression of unlawful seizure of aircraft;
- (ix) Report on the consideration of Bilateral Air Services agreements between the Government of the Republic of Kenya and the Governments of the Republics of Ghana and Niger; and
- (x) Report on the Petition regarding the erection of bumps and footbridge at Kangoro bus stop on Embu- Meru Highway.

*(The Vice Chairperson, Departmental Committee on Transport,
Public Works & Housing)*

6. **NOTICE OF MOTION – THE REPORT ON THE RATIFICATION OF CONVENTION
FOR SUPPRESSION OF UNLAWFUL ACTS RELATING TO
INTERNATIONAL CIVIL AVIATION**

*(The Vice Chairperson, Departmental Committee on
Transport, Public Works & Housing)*

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of Convention of the Suppression of Unlawful Acts relating to International Civil Aviation and the Protocol

Supplementary to the Convention for Suppression of Unlawful Seizure of Aircraft, laid on the Table of the House on Thursday, June 18, 2015

7. **NOTICE OF MOTION – THE REPORT ON THE BILATERAL AIR SERVICES AGREEMENT**

(The Vice Chairperson, Departmental Committee on Transport, Public Works & Housing)

THAT, this House adopts the report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Bilateral Air Services agreements between the Government of the Republic of Kenya and the Governments of the Republics of Ghana and Niger, laid on the Table of the House on Thursday, June 18, 2015

8. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2) (a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, June 23, 2015.

9. **STATEMENT**

The Chairperson, Budget and Appropriations Committee issued a Statement on status of the Appropriations Bill, 2015. He informed the House that the Committee had concluded on the Bill and forwarded it to the Government Printer for publication. He assured Members that the Bill would be published showing the various allocations made by the House to the respective Votes and programmes.

He however stated that the Committee had received a letter from the National Treasury requesting for amendments to the Bill. The amendments would affect the Ministries and Departments under the purview of the following Departmental Committees:-

Agriculture, Livestock and Cooperatives; Finance, Planning and Trade; Transport, public Works and Housing; Education, Research and Technology; and Environment and Natural Resources.

He added that in keeping with the requirements of the Public Finance Management Act, 2012 and Standing Orders, the Budget and Appropriations Committee had proposed that the various amendments be referred to the relevant Departmental Committees. He requested the said Committees to forward their recommendations on or before Tuesday, 23rd June, 2015.

10. **PERSONAL STATEMENT PURSUANT TO STANDING ORDER 84**

Pursuant to Standing Order 84, the Member for Kigumo (Hon. Jamleck Kamau) made a Personal Statement regarding media reports that he had voted against the motion on the nomination of Dr. Monica Juma to the position of Cabinet Secretary to the Cabinet yet he had seconded the Motion, despite having seconded the same.

The Member sought to clarify to the House that he was out of the Chamber during the voting exercise and that another Member must have voted using his card. He asked the House leadership to establish the Member who may have voted for him but was assured by the First Chairperson that indeed, from the clips, he was actually out of the Chamber during the vote.

11. MOTION - THE REPORT ON STATUS OF IMPLEMENTATION OF HOUSE RESOLUTIONS

Debate on the Motion having been concluded on Wednesday, June 17, 2015;

Question put and agreed to.

12. MOTION - THE REPORT ON THE DISPUTED KAREN LAND (LR 3586/3)

Debate on the Motion having been concluded on Wednesday, June 17, 2015;

Question put and agreed to.

Change of the Chair from the First to the Third Chairperson of Committees.

13. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

Third Chairperson of Committees in the Chair

(i) Amendments recommended by H. E. the President to the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014)

Clause 51 - amendment proposed -

THAT, Clause 51(3) of the Bill be amended by inserting the words "**and licensed**" immediately after the word "**registered**".

(Leader of the Majority)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 51 - as amended agreed to

Clause 51 - amendment proposed -

THAT, Clause 124 of 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.

(The Leader of the Majority)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 51 - as amended agreed to

Amendments to be reported without amendments

(ii) **Amendments recommended by H. E. the President to the Public Audit Bill (National Assembly Bill No. 38 of 2014)**

Clause 4 - amendment proposed -

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.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 8 - amendment proposed -

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 | <ul style="list-style-type: none"> (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; (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; (e) subject to Articles 230 (4) (b) and 234 of the Constitution, determine the remuneration and benefits of each member of staff; |
|--|--|

- (f) 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;

T
he Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 8 - amendment proposed -

New Clause 11(A) proposed -

THAT, the following new Clause be inserted immediately after Clause 11 of the Bill

Acting Auditor General 11A. (1) Where:-

- (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.

(The Leader of the Majority Party)

Motion made and Question proposed;

THAT, the New Clause 11(A) be read a Second Time

Debate arising;

Motion made and Question proposed;

THAT, the New Clause 11(A) be part of the Bill

Question put and agreed to;

Clause 8 - amendment proposed -

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

(Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 51 - as amended agreed to

Clause 19 - amendment proposed -

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**"

(Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 51 - as amended agreed to

New Clause 40(A) proposed -

THAT, the following new Clause be inserted immediately after Clause 40

Auditor-
General not
to question

40A. Notwithstanding the provisions of this Act, in an examination under this Act, the Auditor-General shall not

Government
policy
objective.

question the merits of a policy objective of the national government or county government or any other public entity.

(The Leader of the Majority Party)

Motion made and Question proposed;

THAT, the New Clause 40(A) be read a Second Time

Debate arising;

Motion made and Question proposed;

THAT, the New Clause 40(A) be part of the Bill

Question put and agreed to;

Clause 66 - amendment proposed -

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**".

(Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 66 - as amended agreed to

Amendments to be reported without amendments

- (ii) **Amendments recommended by H.E. the President to the Central Bank (Amendment) Bill (National Assembly Bill No.32 of 2014)**

Clause 2 - amendment proposed -

THAT, Clause 2 be amended by deleting subsection (2)

(Leader of the Majority)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 51 - as amended agreed to

Amendments to be reported without amendments

- (iv) Amendments recommended by H.E. the President to the Retirement Benefits (Deputy President and Designated State Officers) Bill (National Assembly Bill No. 38 of 2013)

Clause 2 - amendment proposed -

THAT, Clause 2 of the Bill be amended by-

- (a) deleting the expression "**the 15th January, 2008**" and substituting therefor the expression "**the 1st January, 1993**"; and
- (b) deleting the definition of "**retired Deputy Prime Minister**"

(The Leader of the Majority)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Clause 3 - amendment proposed -

THAT, Clause 3 of the Bill be amended by deleting the expression "**the 15th January, 2008**" and substituting therefor the expression "**the 1st January, 1993**".

(The Leader of the Majority)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to

Clause 4 - amendment proposed -

THAT, Clause 4 of the Bill be amended by adding the following new paragraph immediately after paragraph (c):-

- (d) has, since ceasing to hold office, held office in, or actively engaged in the activities of any political party:

Provided that this provision shall come into operation on the date of commencement of this Act

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Rising in their places on Points of Order, several Members claimed for a Division;

And there being requisite number of Members required rising in support of the claim;

And the Third Chairperson acceding to the claim directed the Division Bell to be rung;

And after expiry of ten minutes, the Bar having been drawn and the doors closed;

And Third Chairperson having confirmed that the Members present were 84, which is far less than the threshold set by Article 115 of the Constitution.

Question put agreed to;

Clause 4 - as amended agreed to

Clause 5 - amendment proposed -

THAT, Clause 5(1) (b) of the Bill be amended by deleting the words "**one and a half years' salary**" and substituting therefor the words "**one year's salary**".

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to

Clause 6 - amendment proposed -

THAT, Clause 6 (b) of the Bill be amended by deleting the words "**one and half years' salary**" and substituting therefor the words "**one year's salary**".

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to

Clause 7 - amendment proposed -

THAT, Clause 7(b) of the Bill be amended by deleting the words **“one and half years’ salary”** and substituting therefor the words **“one year’s salary”**.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to

Long Title - amendment proposed -

THAT, the long title of the Bill be amended by deleting expression **“the 15th January, 2008”** and substituting therefor the expression **“the 1st January, 1993”**

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Long Title - as amended agreed to

Amendments to be reported without amendments

(iv) **Amendments recommended by H.E. the President to the Public Audit Bill (National Assembly Bill No.38 of 2014)**

Order deferred to another day

14. **HOUSE RESUMED** - The First Chairperson in the Chair

(i) **Amendments recommended by H.E. the President to the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014)**

Bill reported without amendments;

Motion made and Question proposed –

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

Question put and agreed to.

(ii) **Amendments recommended by H.E. the President to the Central Bank (Amendment) Bill (National Assembly Bill No. 32 of 2014)**

Bill reported without amendments;

Motion made and Question proposed –

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

Question put and agreed to.

(iii) **Amendments recommended by H.E. the President to the Retirement Benefits (Deputy President and Designated State Officers) (National Assembly Bill No. 38 of 2013)**

Bill reported without amendments;

Motion made and Question proposed –

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

Amendment proposed:

THAT, the Motion of agreement with the Report of the Committee of the whole House be amended by inserting the words “*subject to re-committal of Presidential recommendation on Clause 4*”.

(Hon. Opiyo Wandayi)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and negatived;

Debate on the original Motion resumed;

Question put and agreed to.

15. **MOTION - REPORT ON THE VETTING OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON OF THE BOARD OF DIRECTORS, GOVERNOR & DEPUTY GOVERNOR OF THE CENTRAL BANK OF KENYA**

Motion made and Question proposed –

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of Nominees for appointment as Chairperson of the Board of Directors, Governor and Deputy Governor of the Central Bank of Kenya, respectively, laid on the Table of the House on Wednesday, June 17, 2015 and pursuant to the provisions of Sections 11, 13 and 13B of the Central Bank of Kenya Act, **approves** the appointment of Mr. Jairus Mohammed Nyaoga as the Chairperson of the Board of Directors, Dr. Patrick Ngugi Njoroge as the Governor, and Mrs. Sheila M’mbijiwe as the Deputy Governor of the Central Bank of Kenya.

(The Chairperson, Committee on Finance, Planning & Trade)

Debate arising;

Mover replied;

Question put and agreed to;

16. **PROCEDURAL MOTION - EXTENSION OF SITTING TIME**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House resolves to extend its sitting until the conclusion of Business appearing under Order No.11

(The Majority Party Whip)

Debate arising;

Question put and agreed to;

17. **PROCEDURAL MOTION – LIMITATION OF DEBATE ON MOTION**

Motion made and Question proposed –

THAT, debate on the Motion be limited to 5 minutes for each Member to contribute

(Majority Party Whip)

Debate arising;

Question put and agreed to;

Debate interrupted resumed;

Mover replied;

Question put and agreed to;

And the time being fifteen minutes to Seven O'clock, the First Chairperson of Committees interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

18. **HOUSE ROSE** - at fifteen minutes to Seven O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, June 23, 2015 at 2.30 p.m.

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