



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, NOVEMBER 22, 2016

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Deputy Speaker
4. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following Communications –

- (i) **Withdrawal of the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.2 of 2015)**

“Honourable Members,

The Statute Law Miscellaneous Amendments (No. 2) Bill (National Assembly Bill No. 58 of 2015) was published on 18th September 2015 to effect minor amendments that do not warrant the publication of a separate Bill. The Bill, which is sponsored by the Leader of the Majority Party, contained amendments to the following Acts –

- (i) The Industrial Training (Cap 237);
- (ii) The National Hospital Insurance Fund Act No. 9 of 1998;
- (iii) The Copyright Act No. 12 of 2001;
- (iv) The Kenya Institute of Curriculum Development Act No. 4 of 2013; and
- (v) The Kenya Law Reform Commission Act No. 19 of 2013.

You may recall that while moving second reading of the Bill on 5th October 2016, the Leader of the Majority Party formally withdrew amendments to the Industrial Training Act (Cap. 237) and the National Hospital Insurance Fund (NHIF) Act No. 9 of 1998. The Bill was therefore considered and concluded at Second Reading without the two statutes.

Honourable Members, I wish to inform the House that I have received a letter from the Leader of the Majority Party, requesting to **withdraw** proposed amendments to the **Kenya Law Reform Commission Act No. 19 of 2013**. This implies that the Bill now contains amendments to only two statutes, which negates its original *omnibus* intention. In this regard, Honourable Members, I direct that the Statute Law Miscellaneous Amendments (No. 2) Bill (National Assembly Bill No. 58 of 2015) be withdrawn from the House forthwith. Nevertheless, the Leader of the Majority Party is at liberty to re-introduce the proposed amendments to the remaining two statutes, being the **Copyright Act No. 12 of 2001** and the **Kenya Institute of Curriculum Development Act No. of 2013**, by way of subsequent omnibus Bills or separate legislations. The House is accordingly informed.

Thank you".

(ii) **Appeal to male Members of Parliament to Support the 'Heforshe' Campaign on Prevention and Response to Gender-Based Violence**

"Honourable Members,

As you may have noticed, there is a team from the State Department of Gender Affairs in the Ministry of Public Service and Gender Affairs, at the main reception of Parliament. The team is raising awareness of Honourable Members about the ongoing **HeforShe** Campaign aimed at coordinating programmes for the prevention and response to Gender-Based Violence. In this regard, the State Department for Gender Affairs, in collaboration with the UN has developed a comprehensive programme on Gender Based Violence and is mounting a sustained campaign and call to action to end Gender-Based Violence.

Honourable Members, this Campaign seeks to engage men in the elimination of all forms of discrimination and violence against women and girls. To this end, I call upon all Male Members to visit the Desk and sign up for the *HeforShe* Campaign initiative in solidarity with women to bring an end to Gender Based Violence.

Thank you".

5. **PETITIONS**

The following Petitions were presented –

The Deputy Speaker conveyed the following Petition –

(i) **Violation of the Nutritionists and Dieticians Act and Amendment to the Nutritionists and Dieticians Act, 2007**

"Honourable Members,

Pursuant to the provisions of Standing Order 225(2)(b), I wish to convey to the House that I am in receipt of a petition, signed by forty two citizens regarding irregularities at the Kenya Nutrition and Dietetics Institute.

Honourable Members, the Petitioners are challenging the occupancy of the office of Chairperson of the Kenya Nutrition and Dietetics Institute Council beyond statutory term of three (3) years, noncompliance with the obligation to prepare of financial statements and administration of the national internship programme by the Council. The Petitioners request National Assembly through the Departmental Committee on Health, to urgently

consider proposing amendments to the Nutritionists and Dieticians Act of 2007 so as to align it with the new Constitution particularly provisions relating to incorporation of requirements of Chapter Six on Leadership and Integrity. In addition the Petitioners also request the National Assembly to scrutinize the budget and accounts of the Kenya Nutrition and Dietetics Institute with a view to enhancing accountability and efficiency.

Honourable Members, in this regard the Petition is referred to the Departmental Committee on Health for consideration. The Committee may thereafter introduce a Bill in accordance to the Standing Orders to propose amendments to the Nutritionists and Dieticians Act of 2007, as prayed.

Honourable Members, since the concerns and prayers relating to the audited Accounts of the Institute fall under the mandate of Public Investment Committee, I request the Committee to confirm the claims made by the Petitioners relating to audited accounts of the Institute with a view to examining their accounts if any, or causing a specialized audit of the same in accordance with the Public Audit Act, 2015.

Thank you".

- (ii) The Member for Eldama Ravine (Hon. Moses Lessonet) on behalf of residents of Eldama Ravine regarding the plight of Emngunguny/Morgisis squatters;

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(1)

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (a) The Annual Report of the Ethics and Anti-Corruption Commission for the year 2015/2016
- (b) The Reports of the Auditor-General on the Financial Statements in respect the following Constituencies for the year ended 30th June, 2015 and the certificates therein:-
 - (i) Chepalungu Constituency;
 - (ii) Belgut Constituency;
 - (iii) Mukurwe-ini Constituency;
 - (iv) Laikipia North Constituency;
 - (v) Ndia Constituency;
 - (vi) Gatanga Constituency;
 - (vii) Kipkelion East Constituency;
 - (viii) Gilgil Constituency;
 - (ix) Kabuchai Constituency;
 - (x) Gatundu South Constituency;
 - (xi) Mwea Constituency;
 - (xii) Samburu North Constituency;
 - (xiii) Baringo Central Constituency;

- (xiv) Subukia Constituency;
- (xv) Nakuru Town West Constituency;
- (xvi) Laikipia West Constituency;
- (xvii) Bomet East Constituency;
- (xviii) Samburu West Constituency; and
- (xix) Molo Constituency.

(The Leader of the Majority Party)

- (c) The Report of the Departmental Committee on Health on the Ratification of the agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Co-operation in Threat Reduction Biological Engagement Programs

(Chairperson, Departmental Committee on Health)

7. **NOTICES OF MOTION**

The following notice of motion was given-

THAT, this House adopts the Report of the Departmental Committee on Health on the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Co-operation in Threat Reduction Biological Engagement Programs, laid on the Table of the House on Tuesday, November 22, 2016, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, **approves** the ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Co-operation in Threat Reduction Biological Engagement Programs.

(Chairperson Departmental Committee on Health)

8. **THE CONTEMPT OF COURT BILL (NATIONAL ASSEMBLY BILL NO. 32 OF 2016)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Contempt of Court Bill (National Assembly Bill No.32 of 2016) be now read a Second Time;

(The Leader of the Majority Party - 17.11.2016)

Debate on the Second Reading having been concluded on Thursday, November 17, 2016;

Question put and agreed to;

Bill read a Second Time and committed to the Committee of the whole House tomorrow.

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

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

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

(Chairperson, Departmental Committee on Labour and Social Welfare)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

11. **THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)**

(Chairperson, Departmental Committee on Labour and Social Welfare)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

12. **THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILL NO.11 OF 2015)**

(Chairperson, Departmental Committee on Finance, Planning and Trade)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

13. **MOTION- THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO.14 OF 2015)**

Motion made and Question proposed –

THAT, the Senate Amendments to the Health Bill (National Assembly Bill No. 14 of 2015) be now considered.

(Chairperson, Departmental Committee on Health)

Debate arising;

Mover replied;

Question deferred to another day

14. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

- (i) **Consideration of the President's Reservations to the Energy Bill (National Assembly Bill No. 50 of 2015)**

Clause 55 -amendment proposed -

THAT, clause 55 (1)(b) of the Bill be amended by-

- (i) inserting the words "nuclear power and" immediately after the words "energy and";
- (ii) deleting the word "petroleum" appearing immediately after the word "energy and" so that paragraph (b) reads as follows -

"(b) carry out research, development and dissemination activities in the energy and nuclear power sector."

(Leader of Majority party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 55 - as amended agreed to

Clause 69-amendment proposed -

THAT, the Bill be amended in Clause 69 by deleting sub-clause (c).

(Leader of Majority party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 69 - as amended agreed to.

Clause 194 -amendment proposed -

THAT, clause 194 of the Bill be deleted and substituted therefor with the following -

Penalties and compensation for failure and defects in electricity

194. (1) Subject to any agreement which may be entered into between a licensee and a consumer as provided for under this Act, whenever the licensee defaults in supplying electrical energy to any consumer, the licensee shall be liable in respect of each default to a penalty as prescribed by regulations.

(2) The licensee shall be liable to pay appropriate compensation to that person if, due to failure, poor quality or irregularity of electricity supply, the person incurs damage to his or her property, financial loss, loss of life due to negligence or avoidable default by the licensee.

(3) For the avoidance of doubt, the licensee shall not be liable to pay compensation under subsection (2) if the failure, poor quality or irregularity of supply was caused by third party interference to the licensee's electricity supply lines or inevitable accident or the ***force majeure*** was so slight as not to materially affect the quality or value of the supply.

(4) The Cabinet Secretary shall make regulations to give effect to this section within six months of the coming into force of this Act.

(Leader of Majority party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 194 - as amended agreed to.

Considerations to be reported without amendments.

(ii) **Consideration of the President's Reservations to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015)**

Clause 51 - amendment proposed -

THAT, clause 51 of the Bill be amended in subclause (9) by deleting paragraph (a).

(Leader of Majority party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 51 - as amended agreed to.

Clause 58 - amendment proposed -

THAT, clause 58 of the Bill be amended -

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

- (1) The Cabinet Secretary shall, within thirty days of the approval of field development plan submitted in accordance with the terms of a production sharing contract entered into under this Act, submit the production sharing contract together with the field development plan to Parliament for ratification in accordance with Article 71 of the Constitution.
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause –
- (2) Parliament shall, within sixty days after receiving the production sharing contract and field development plan under subsection (1) –
- (a) ratify the production sharing contract and the field development plan;
or
- (b) refuse to ratify the production sharing contract and the field development plan and refer the documents back to the cabinet secretary for reconsideration stating the reasons for the refusal.
- (c) by deleting sub-clause (5) and substituting therefor the following new sub-clause –
- (5) If Parliament does not make a decision under sub-section (2) within ninety days, the production sharing contract and the field development plan shall be deemed to have been ratified.

(Leader of Majority party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 58 - as amended agreed to.

Clause 85 -amendment proposed –

THAT, clause 85 be amended –

- (a) in sub-clause (2) by inserting the following proviso –

Provided that the amount allocated in accordance with this sub-section shall not exceed twice the amount allocated to the county government by Parliament in the financial year under consideration;

- (b) by deleting sub-clause (3);

- (c) in sub-clause (4) by deleting the word “ten” and substituting therefor the word “five”;
and

(d) in sub-clause (4) by inserting the following proviso –

Provided that the amount allocated in accordance with this sub-section shall not exceed one-quarter of the amount allocated to the county government by Parliament in the financial year under consideration.

(Leader of Majority party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 55 - as amended agreed to.

Considerations to be reported without amendments.

Senate Amendments to the Health Bill (National Assembly Bill No.14 of 2015)

Order deferred to another day

14. **HOUSE RESUMED** - the Second Chairperson in the Chair

(i) **The President's Reservations to the Energy Bill (National Assembly Bill No. 50 of 2015)**

Considerations reported without amendments.

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the President's Reservations to the Energy Bill (National Assembly Bill No. 50 of 2015).

(Leader of Majority party)

Debate arising;

Question deferred to another day

(ii) **The President's Reservations to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015)**

Considerations reported without amendments.

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the President's Reservations to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015)

((Leader of Majority party))

Debate arising;

Question deferred to another day

15. **THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Election Laws (Amendment) (No.3) Bill (National Assembly Bill No. 63 of 2015) be now read a Second time.

(Chairperson, Departmental Committee on Justice and Legal Affairs – 30.06.2016)

Debate interrupted on Thursday, June 30, 2016 resumed;

There being no Member willing to contribute;

Mover to reply.

16. **THE NATIONAL HONOURS (AMENDMENT) BILL (SENATE BILL NO.16 OF 2014)**

Order deferred to another day.

17. **THE PENAL CODE (AMENDMENT) BILL NATIONAL ASSEMBLY BILL NO.13 OF 2016)**

Motion made and Question proposed -

THAT, the Penal Code (Amendment) Bill (National Assembly Bill No.13 of 2016) be now read a Second Time

(Chairperson, Joint Committee on National Cohesion & Equal Opportunity)

Debate arising;

And the time being thirty minutes to Six O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

18. **HOUSE ROSE** - at thirty minutes to Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, November 23, 2016 at 9.30 a.m.

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