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...../Bill

14. **COMMITTEE OF THE WHOLE****THE TOBACCO CONTROL REGULATIONS, 2014**

(Chairperson, Sessional Committee on Delegated Legislation)

(Resumption of Debate interrupted on Wednesday, 15th July, 2015)15. **** THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL****(SENATE BILL NO. 35 OF 2014)**

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

16. **MOTION** - (The Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, the Senate adopts the Interim report of the Senate Sessional Committee on County Public Accounts and Investments on the inquiry into County Government Accounts for the Financial Year 2012/2013- (1st January to 30th June, 2013).

KEY

******** - Denotes a Majority /Minority Party Bill

******* - Denotes a National Assembly Bill

****** - Denotes a Committee Bill

***** - Denotes any other Bill

a) **** THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)****BILL (SENATE BILL NO. 20 OF 2014)**

(Chairperson of the Standing Committee on Labour and Social Welfare)

- i) **NOTICE** is given that the Chairperson of the Committee on Labour and Social Welfare, intends to move the following amendments to the Public Appointments (County Assembly Approval) Bill, 2014, at the Committee Stage-

Clause 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause –

(1) An advertisement inviting applications for nomination for appointment to an office to which this Act applies shall specify that the candidate shall be required to appear before a committee of the relevant County Assembly.

(2) An applicant shall not be required to appear before the committee of a County Assembly pursuant to a notice issued under subsection (1) within a period of less than twenty-one days.

Clause 6

THAT clause 6 of the Bill be amended by inserting the following new subclause immediately after subclause (1) –

- (1A) An appointing authority shall, in issuing a notice under subsection (1), notify the members of the public on the proposed nomination through such media and platforms established under section 91 of the County Governments Act as it considers appropriate.

Clause 7

THAT clause 7 of the Bill be amended –

(a) in subclause (2) by –

- (i) deleting the word “seven” appearing immediately after the words “later than” and substituting therefor the words “fourteen days”;
- (ii) inserting the words “Subject to subsection (2A)” at the beginning of subclause (2).

(b) inserting the following new subclause immediately after subclause (2) –

- (2A) The approval hearings shall be held in a public place and shall be conducted during working hours.

(c) in subclause (4) by deleting the word “two newspapers” appearing immediately after the words “in at least” and substituting therefor the words “one newspaper”;

(d) by inserting the following new subclause immediately after clause 10 –

- (10A) A candidate shall have a right to be heard on any statement or evidence submitted to the Clerk contesting the suitability of the candidate to hold the office to which the candidate has been nominated.

Clause 9

THAT clause 9 of the Bill be amended in subclause (1) by deleting the word “fourteen” appearing immediately after the words “decision within” and substituting therefor the word “twenty-one”.

Clause 10

THAT clause 10 of the Bill be amended –

- (a) by renumbering the existing clause as subclause (1);
- (b) in subclause (1) by deleting the word “may” appearing after the words “appointing authority” and substituting therefor the word “shall”;
- (c) by inserting the following new subclause immediately after subclause (1) –
 - (2) A nominating authority shall not resubmit the name of a candidate whose nomination has been rejected by the County Assembly unless the circumstances relied on for the rejection of the appointment of the candidate did not exist or ceased to exist at the time of rejecting the nomination of the candidate.

First schedule

THAT the First Schedule be amended –

- (a) by deleting item 4. and substituting therefor the following new items –

4. (a) Date of birth:

(b) Place of Birth:

- (b) by deleting items 6 and 7 and substitute the following new items –

6. Mobile phone number:

- (c) by inserting the following new phrase immediately after item 21 (d)

(Attach clearance letter from the Ethics and Anti-Corruption Commission)

- (d) by deleting item 25 and substituting therefor with the following new item –

25. Tax status: (Attach your Kenya Revenue Authority Clearance Certificate)

- (e) in item 31 by inserting the following new phrase immediately after the words “your nomination?”

If yes, explain: _____

- ii) **NOTICE** is given that Sen. Henry Ndiema intends to move the following amendments to the Public Appointments (County Assemblies Approval) Bill, 2014, at the Committee Stage-

Clause 8

THAT clause 8 of the Bill be amended in paragraph (b) by inserting the words “including the values and principles of public service set out under Article 232(1) of the Constitution” immediately after the words “in question”.

- b) * **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;

...../Amendments

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”.

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 which
the 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;

No. 24 of
2013.

L.N. No.
171 of
2011.

- (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.
- (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;
 - (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;
- (b) 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”.

- c) *** **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) –

...../Amendments

- (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) –

- (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*;

d) **THE TOBACCO CONTROL REGULATIONS, 2014**

NOTICE is hereby given that the Chairperson of the Sessional Committee on Delegated Legislation intends to move the following amendments to the Tobacco Control Regulations, 2014 at the Committee Stage-

Regulation 12

THAT regulation 12 be annulled.

Regulation 20

THAT regulation 20 be annulled.

Regulation 21

THAT regulation 21 be annulled.

Regulation 22

THAT regulation 22 be annulled.

Regulation 23

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Regulation 24

THAT regulation 24 be annulled.

REGULATION 25

THAT regulation 25 be annulled.

Regulation 26

THAT regulation 26 be annulled.

Regulation 27

THAT regulation 27 be annulled.

Regulation 28

THAT regulation 28 be annulled.

Regulation 29

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Regulation 30

THAT regulation 30 be annulled.

Regulation 31

THAT regulation 31 be annulled.

Regulation 32

THAT regulation 32 be annulled.

Regulation 33

THAT regulation 33 be annulled.

Regulation 34

THAT regulation 34 be annulled.

Regulation 35

THAT regulation 35 be annulled.

Regulation 36

THAT regulation 36 be annulled.

Regulation 37

THAT regulation 37 be annulled.

Regulation 45

THAT regulation 45 sub-regulation (2) be annulled.

APPENDIX**1. PETITION**

A nominated Senator (Sen. Emma Mbura) to present a petition on unfair activities by Safaricom Limited.

2. PAPERS

- a) Report on the assessment of security situation in Mandera County, Laikipia County and Kapedo (Border town of Turkana and Baringo Counties) conducted between 19th January and 5th February, 2015;
(Chairperson, Standing Committee on National Security and Foreign Relations)
- b) Report of the Standing Committee on Roads and Transportation on a benchmarking visit to Turkey between 29th May – 4th June, 2015;
- c) Report of the Standing Committee on Roads and Transportation on visits to Lamu and Nakuru Counties between 14th – 17th May, 2015 and 8th to 10th June, 2015 respectively.
(Chairperson, Standing Committee on Roads and Transportation)

2. STATEMENTS

- a) The Chairperson of the Standing Committee on Education to issue a Statement regarding rising cases of sexual molestation in schools (Sen. Catherine Mukiite);
- b) The Chairperson of the Standing Committee on Health to issue a Statement regarding administration of wrong or expired drugs on children at a Busia Hospital (Sen. (Dr.) Wilfred Machage).
