



REPUBLIC OF KENYA  
ELEVENTH PARLIAMENT – (THIRD SESSION)  
THE SENATE  
**ORDER PAPER**  
THURSDAY, APRIL 30, 2015 AT 2.30 P.M

**PRAYERS**

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2. Communication from the Chair
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8. \*\*\* **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILL NO. 5 OF 2015)**  
(Chairperson, Standing Committee on Finance, Commerce and Budget)  
(*First Reading*)
9. **COMMITTEE OF THE WHOLE**
  - \* **THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2014)**  
(Sen. (Prof.) Kithure Kindiki)
10. **COMMITTEE OF THE WHOLE**
  - \* **THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)**  
(Sen. (Eng.) Karue Muriuki)
11. **COMMITTEE OF THE WHOLE**
  - \*\*\* **THE PUBLIC FUNDRAISING BILL (SENATE BILL NO. 28 OF 2014)**  
(Chairperson of the *Ad hoc* committee on Legislation on Harambee)

...../Motion

12. **MOTION** - (Sen. (Dr.) Wilfred Machage)  
(Department of Health)

**THAT**, aware that currently there are approximately 44 million persons living with dementia worldwide, a figure that is expected to triple by 2050; acknowledging that caring for dementia patients can be a difficult experience; appreciating the contribution of family members and other care givers of people suffering from dementia across Kenya; noting with concern that mental healthcare does not seem to be a priority in the public health sector in Kenya since the allocation for mental healthcare is less than 1% of the total public health budget; acknowledging the importance of raising awareness of dementia and ensuring that people with dementia are treated with dignity and respect; appreciating the contribution of non-governmental organizations such as the Africa Mental Health Foundation and the International Institute for Legislative Affairs who provide a platform for sharing of views and experiences on care of people with dementia; noting the need to enhance awareness on and provide better care for patients of dementia; the Senate directs the Standing Committee on Health to immediately initiate review of the existing legislation on health care in order to mainstream and enhance care for patients of dementia and further that the Committee submits a report to the House on the matter within ninety (90) days.

13. **MOTION** – (Sen. Beatrice Elachi)  
(Department of Interior and Coordination of National Government)

**THAT**, cognizant that Article 12 of the Constitution guarantees a right to citizenship; noting that it is the right of every Kenyan attaining 18 years to register and be issued with a National Identity Card ; further noting that the National Identity Card is at the core in determining the extent to which an individual enjoys his or her fundamental rights and freedoms; concerned that Orphans and Vulnerable Children attaining the age of 18 years in children's homes have difficulties obtaining the National Identity Cards, the Senate urges the National Government to take remedial, policy, administrative and legislative measures to improve and expedite the process of registration for National Identity Cards especially for the Orphans and Vulnerable Children who live in children's homes and have attained 18 years of age.

14. **MOTION** – (Sen. Sammy Leshore)  
(Department of Health)

**THAT**, cognizant that the core mandate of the National AIDS Control Council (NACC) is to develop strategies, policies and guidelines relevant to the prevention and control of HIV and AIDS in Kenya; noting that the operational structure of NACC has not been aligned to the Constitution of Kenya 2010; acknowledging the objects of devolution as set out under Article 174 of the Constitution; recognizing that under the Fourth Schedule, the health function has been devolved except for the health policy and referral hospitals; concerned that an estimated 1.2 million Kenyans are infected with HIV/AIDS and a 100,000 are infected annually; recognizing the need to achieve an “AIDS free society” by stepping up the fight against the pandemic at the County level, the Senate urges the National Government to set up the National AIDS Control Council (NACC) County offices in all County Headquarters with the National Headquarters providing overall co-ordination and that the resources allocated for the fight against HIV/AIDS be disbursed and managed at the County level.

...../Notice

NOTICE

The Senate resolved on 11<sup>th</sup> February, 2015 as follows:-

**THAT**, pursuant to Standing Order 100 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

- \* \* \* \* \*     ■ Denotes a Majority /Minority Party Bill
- \* \* \*         ■ Denotes a Committee Bill
- \* \*           ■ Denotes a National Assembly Bill
- \*             ■ Denotes any other Bill

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**NOTICES OF AMENDMENTS****i) \* THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL, (SENATE BILL NO. 5 OF 2014)**

(Sen. (Prof.) Kithure Kindiki)

**a) NOTICE** is given that Sen. (Prof.) Peter Anyang' Nyong'o, intends to move the following amendments to the foregoing Bill, at the Committee Stage-

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended by -

(a) deleting sub-section 4(b) of the proposed new section 6A and inserting therefor the following new sub-section-

(b) research and promotion of the use of local raw materials for the manufacture of alcohol.

(b) deleting sub-section 4(c) of the proposed new section 6A .

**b) NOTICE** is given that the Chairperson of the Standing Committee on National Security and Foreign Relations, intends to move the following amendments to the foregoing Bill, at the Committee Stage-

**CLAUSE 1**

**THAT** clause 1 of the Bill be amended by inserting the words "except for sections 33 and 42, which shall come into operation upon the expiry of nine months from the date of publication" immediately after the words "date of publication".

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended in paragraph (e) by-

(a) deleting the words 'licence importers of alcoholic drinks and' appearing in the proposed new paragraph (eb); and

(b) inserting the following new paragraph immediately after the proposed new paragraph (ef) -

(eg) publish annually in at least one newspaper of national circulation and on the authority's website an up to date list of all approved alcoholic drinks and the active ingredients used in the manufacture of such drinks.

**CLAUSE 16**

**THAT** clause 16 of the Bill be amended -

(a) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) in subsection (1) by deleting paragraph (c) and substituting therefor the following new paragraph –

(c) that where the premises in respect of which the application is made are located at least three hundred metres from any nursery, primary, secondary or other learning institution for persons under the age of eighteen years the persons in those premises do not-

(i) interfere with learning in the institution; or

(ii) encourage, expose or promote the consumption of alcohol to persons enrolled in the institution.

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

(c) by inserting the following new subsection immediately after subsection (2) –

(3) The County Committee shall not grant a licence for the sale of an alcoholic drink to be consumed on the premises unless the applicant has taken measures to sound-proof the premises.

## **CLAUSE 20**

**THAT** clause 20 of the Bill be deleted and substituted with the following new clause -

20. Section 17 of the principal Act is amended –

(a) in subsection (3) by deleting the words “the District Committee” appearing at the beginning of the subsection and substituting therefore the words “the County Committee”;

(b) by inserting the following new subsections immediately after subsection (3)-

(3A) A licence for the sale of an alcoholic drink to be consumed in the premises in which it is sold shall specify the maximum number of people to be admitted into the premises at any given time.

(3B) A person licensed to sell an alcoholic drink to be consumed in the premises in which it is sold shall not at any time admit more persons than those prescribed in the licence.

(3C) A person who contravenes subsection (3B) commits an offence.

(c) by deleting subsection (4).

## **CLAUSE 24**

**THAT** clause 24 of the Bill be deleted and substituted with the following new clause-

24. Section 24 of the principal Act is deleted.

**CLAUSE 28**

**THAT** clause 28 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) by deleting paragraph (b) of subsection (2) and inserting therefor the following new paragraph-

(b) the alcoholic drink previously known as chang'aa, or a fortified wine or any other distilled alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a).

**CLAUSE 29**

**THAT** clause 29 of the Bill be amended –

(a) by deleting paragraph (b) and substituting therefore the following new paragraph-

(b) by inserting the following new subsections immediately after subsection 3-

(3A) Despite subsection (3), where an alcoholic drink is packed in a can, the statement and health warning referred to in subsection (2) shall comprise not less than 30% of the total surface area of the package.

(3B) The statement and health warning referred to in subsection (2) shall consist of not less than the character and font size stipulated under paragraph (2) of the Second Schedule which shall appear on the area of the principle display panel.

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

(ba) in subsection (4) by deleting the words "on every successive fifty packages of each brand of the alcoholic drink" appearing immediately after the words "as is possible".

**CLAUSE 30**

**THAT** clause 30 of the Bill be deleted.

**CLAUSE 31**

**THAT** clause 31 of the Bill be amended in the proposed new subsection (2) by deleting paragraphs (a) and (b).

**CLAUSE 32**

**THAT** clause 32 of the Bill be amended in subparagraph (ii) of paragraph (a) by deleting the words "in the Fourth Schedule or" appearing immediately after the words "therefor the words".

**CLAUSE 33**

**THAT** clause 33 of the Bill be amended in the proposed new subsection (1A) –

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by deleting the words “ the hours of 6:00 a.m. and 10:00 p.m.” appearing immediately after the words “any electronic media” and substituting therefor the words “the hours of 6:00 a.m. and 8:30 p.m.”

**CLAUSE 35**

**THAT** clause 35 of the Bill be deleted.

**CLAUSE 36**

**THAT** clause 36 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)-

- (c) inserting the following new subsections immediately after subsection (2) –

(3)The Cabinet Secretary shall not appoint a person as an authorized officer under this Act if the person -

- (a) has, within the last five years, been convicted of an offence under this Act or any other law dealing with alcohol or drug abuse regulation and has been sentenced to a term of imprisonment exceeding six months; or
- (b) is a shareholder or assignee of an outlet that sells or manufactures alcoholic drinks.

(4) A person proposed for appointment as an authorized officer under subsection (1) shall, before accepting the appointment, make a full disclosure to the Cabinet Secretary of any information under subsection (3).

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 40-

Prior Regulations to be brought into conformity with Act	40A. (1) The Cabinet Secretary shall review any Regulations made pursuant to section 68 prior to the coming into force of this Act so as to bring such Regulations into conformity with this Act. (2) The Cabinet Secretary shall, within sixty days after the coming into force of this Act, submit the Regulations referred to in subsection (1) to Parliament for approval.
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**THAT** the third schedule of the Bill be amended-

- (a) in the second column of paragraph (1), by deleting subparagraphs (a) and (b) and substituting therefor the words "at any hour";
- (b) in the second column of paragraph (2), by deleting the words "during the hours of 5:00 p.m. to 8:30 p.m." appearing immediately after the words "day of the week" and substituting therefor the words "at any hour";
- (c) in the second column of paragraph (3), by deleting the words "during the hours of 10:00 a.m. to 8:30 p.m." appearing immediately after the words "day of the week" and substituting therefor the words "at any hour"; and
- (d) in the second column of subparagraph (a) of paragraph (5), by deleting subparagraphs (a) and (b) and substituting therefor the words "on any day of the week at any hour".

***FOURTH SCHEDULE***

**THAT** the fourth schedule of the Bill be deleted.

- ii) \* **THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)**  
(Sen. (Eng.) Karue Muriuki)

**NOTICE** is given that Sen. Kiraitu Murungi intends to move the following amendments to the foregoing Bill, at the Committee Stage-

**Clause 3**

**THAT** clause 3 of the Bill be amended by deleting paragraph (f).

**Clause 4**

**THAT** clause 4 of the Bill be amended-

- (a) in subclause(1) by deleting the words "National Potato Council" appearing immediately after the words "known as the" and substituting therefor the words "Potato Board of Kenya"; and
- (b) in subclause (2) by deleting the word "Council" appearing in the introductory clause and substituting therefor the word "Board".

**Clause 5**

**THAT** clause 5 of the Bill be amended by-

- (a) deleting subclause (1) and substituting therefor the following new subclause-



(1) The Board shall comprise of-

- (a) a chairperson who shall be appointed by the President from among stakeholders in the potato industry with the relevant experience;
- (b) the Principal Secretary in the ministry responsible for matters relating to Agriculture or an alternate designated in writing by the Principal Secretary;
- (c) three representatives of farmers appointed by the Cabinet Secretary from organizations representing potato farmers;
- (d) two persons appointed by the Cabinet Secretary to represent trading organizations;
- (e) one person representing research institutions;
- (f) one person representing seed producers; and
- (g) the executive officer who shall be an *ex-officio* member and the secretary to the Board.

(b) deleting subclause (2) and substituting therefor the following new subclause-

(2) The Cabinet Secretary shall ensure that not more than two-thirds of the persons appointed under subsection (1) are of the same gender.

(c) deleting subclause (3);

(d) in subclause (4) by deleting the word "council" appearing immediately after the words "members of the" and substituting therefor the word "Board";

(e) in subclause (5) by deleting the word "council" appearing immediately after the words "constituting the first" and substituting therefor the word "Board";

(f) in subclause (6) by deleting the word "council" appearing immediately after the words "the members of the" and substituting therefor the word "Board";

(g) by deleting subclause (7) and substituting therefor the following new subclause-

(7) The members of the Board shall, at the first meeting of the Board and whenever need arises, elect a vice-chairperson from amongst the members appointed under paragraphs (c), (d), (e) and (f) of subsection (1).

(h) in subclause (8) by deleting the word "council" appearing immediately after the words "as a member of the" and substituting therefor the word "Board";

(i) in subclause (9) by deleting the word "council" appearing immediately after the words "a member of the" and substituting therefor the word "Board";

(j) in subclause (10) by deleting the word "council" appearing immediately after the words "a member of the" and substituting therefor the word "Board";

(k) by deleting subclause (11) and substituting therefor the following new subclause-

(11) The Board may co-opt not more than two members, with no voting rights, who bring in special knowledge to further its mandate and who may serve for a specified time at the discretion of the Board.

- (l) in subclause (12) by deleting the word "council" appearing immediately after the words " a member of the" and substituting therefor the word "Board".

**Clause 6**

**THAT** clause 6 of the Bill be amended in subclause (1) by deleting the word "council" appearing immediately after the words "function of the" and substituting therefor the word "Board".

**Clause 7**

**THAT** clause 7 of the Bill be amended-

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

(1) There shall be an Executive Officer of the Board who shall be competitively recruited and appointed by the Board, in consultation with the Cabinet Secretary.

- (b) in subclause (2) by deleting the word "council" appearing immediately after the words "Executive Officer of the" and substituting therefor the word "Board".

- (c) in subclause (3) by-

(i) deleting the word "council" appearing immediately after the words "*ex officio* member of the" in paragraph (a) and substituting therefor the word "Board";

(ii) deleting the word "council" appearing immediately after the words "employment as the" in paragraph (b) and substituting therefor the word "Board" ;

(iii) deleting paragraph (c) and substituting therefor the following new subclause-

(c) subject to the direction of the Board, be responsible for the day to day management of the Board; and

(iv) deleting paragraph (d) and substituting therefor the following new paragraph-

(d) in consultation with the Board, be responsible for the performance of the functions of the Board and duties, and the general administration of the Board and its secretariat.

**Clause 8**

**THAT** clause 8 of the Bill be amended in the introductory clause by deleting the word "Council" and substituting therefor the word "Board".

**Clause 9**

**THAT** the Bill be amended by deleting clause 9 and substituting therefor the following new clause-

9. The procedure of the conduct of affairs of the Board shall be as provided in the Third Schedule but subject thereto, the Board may regulate its own procedures.

**Clause 10**

**THAT** clause 10 of the Bill be amended-

- (a) in subclause (1) by deleting the word "Council" appearing immediately before the words "shall gather" and substituting therefor the word "Board".
- (b) In subclause (2) by deleting the word "Council" appearing immediately before the words "shall disseminate" and substituting therefor the word "Board".

**Clause 11:**

**THAT** clause 11 of the Bill be amended-

- (a) by deleting subclause (1) and substituting therefor the following new subclause-
  - (1) The Board may, with the approval of the Cabinet Secretary, impose such levies as it considers necessary in order to raise funds necessary for the performance of its functions.
- (b) in subclause (2) by deleting the word "Council" appearing immediately after the words "authority of the" and substituting therefor the word "Board".

**Clause 12:**

**THAT** Clause 12 be amended

- (a) in subclause (1) by deleting the word "Council" appearing immediately before the words "shall within twelve" and substituting therefor the word "Board";
- (b) in subclause 2-
  - (i) in the introductory clause by deleting the word "Council" appearing immediately after the words "the goals of the" and substituting therefor the word "Board";
  - (ii) by deleting the words "at least fifty percent" appearing immediately before the words "usage of certified" in paragraph (a) and substituting therefor the word "optimum"; and
  - (iii) by deleting the word "double" appearing immediately before the words "the quantities of potatoes" and substituting therefore the words "increase in quality and quantity" in paragraph (b).

**Clause 16**

**THAT** the Bill be amended by deleting clause 16 and substituting therefor the following new clause-

**16.** The Board shall, in the performance of its functions under section 10, obtain data on licensed seed producers and seed merchants from the Kenya Plant Health Inspectorate Service and disseminate the information for general reference by potato farmers.

#### **Clause 17**

**THAT** clause 17 of the Bill be amended-

- (a) in subclause (1) by deleting the word "Council" appearing immediately before the words "shall promote the use of" and substituting therefor the word "Board";
- (b) in subclause (2) by deleting the word "Council" appearing immediately before the words "shall take steps" and substituting therefor the word "Board".

#### **Clause 19**

**THAT** clause 19 be amended -

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

(1) The Board may, in consultation with the council of governors, recommend to a Governor the establishment of a County Potato Committee.

- (b) by deleting subclause 2 and substituting therefor with the following new subclause-

(2) A county committee established under subsection (1) shall comprise of-

- (a) the county executive committee member responsible for matters relating to trade;
- (b) three persons representing potato farmers in the county appointed by the county executive committee from amongst potato farmers organizations in the county;
- (c) two persons representing the potato trading fraternity including brokers and agents;
- (d) one person representing consumer organizations in the county appointed by the County Executive Committee members; and
- (e) one person with scientific knowledge of the potato industry who serves in the county government, who shall be the secretary and an *ex-officio* member of the committee and shall have no right to vote at the meetings of the committee.

- (c) by deleting subclause (3) and substituting therefor the following new subclause -

(3) In the case of the Capital City or an urban county in which there are no potato farmers, the membership to the county committee specified under subclause (2)(b) shall instead consist of three persons representing association of processors of potato products and nominated by the Council of Governors.

- (d) in subclause (5) by deleting the word "Council" –
  - (i) appearing immediately after the words "issued by the" in paragraph (a) and substituting therefor the word "Board";
  - (ii) appearing immediately after the words "help the" in paragraph (e) and substituting therefor the word "Board";
- (e) in subclause (6) by deleting the words "or (3)(b)(c) and (d)," appearing immediately after the words "sections (2)(b) and (c)";
- (f) in subclause (8) by deleting the words "National Potato Council" appearing immediately after the words "be a member of the" and substituting therefor the words "Board"; and
- (g) in subclause (9) by deleting the word "Council" appearing immediately after the words "subsection (3), the" and substituting therefor the word "Board".

**Clause 20**

**THAT** clause 20 of the Bill be amended-

- (a) in subclause (3) by deleting the word "Council" appearing immediately before the words " shall issue guidelines" and substituting therefor the word "Board"; and
- (b) in subclause (5) by deleting the word "Council" appearing immediately after the words "committee members or" and substituting therefor the word "Board".

**Clause 21**

**THAT** clause 21 of the Bill be amended-

- (a) in subclause (1) by deleting the words "National Potato Council" appearing immediately before the words "shall issue" and substituting therefor the word "Board"; and
- (b) in subclause (2) by deleting the word "Council" appearing immediately before the words "shall institute a mechanism" and substituting therefor the word "Board"

**Clause 22**

**THAT** clause 22 of the Bill be amended-

- (a) in subclause (1) by –
  - (i) deleting the word "Council" appearing in the introductory clause and substituting therefor the word "Board";

(ii) deleting the word "Council" appearing immediately after the words "potato produce as the" in paragraph (b) and substituting therefor the word "Board" ;

(iii) deleting paragraph (c) and substituting therefor the following new paragraph-

(c) acquire such quantities of potato seeds for sale, storage or for such other purposes as the Board may from time to time decide and sell or otherwise dispose of such stocks in such manner as it considers appropriate;

(iv) inserting the following new paragraph immediately after paragraph (c)-

(d) promote value addition in potato farming.

(b) in subclause (2) by deleting the word "Council" appearing immediately before the words "may engage" and substituting therefor the word "Board".

#### **Clause 23**

**THAT** clause 23 of the Bill be amended in subclause (1) by deleting the words "one hundred and ten" appearing immediately after the words "potatoes shall be" and substituting therefor the word "fifty".

#### **Clause 24**

**THAT** clause 24 of the Bill be amended in subclause (1) by deleting the word "Council" appearing at the end of the subclause and substituting therefor the word "Board"

#### **Clause 26**

**THAT** clause 26 of the Bill be amended-

(a) in subclause (1) by deleting the word "Council" appearing immediately after the words "shall be administered by the" and substituting therefor the word "Board";

(b) in subclause (2) by -

(i) deleting the word "Council" appearing immediately after the words "accrue to the" in paragraph (c) and substituting therefor the word "Board";

(ii) deleting the word "Council" appearing immediately after the words "may grant to the" in paragraph (d) and substituting therefor the word "Board";

#### **Clause 27**

**THAT** clause 27 of the Bill be amended in subclause (1) by-

(a) deleting the word "Council" appearing immediately after the words "expenses of the" in paragraph (a) and substituting therefor the word "Board"; and

(b) deleting the word "Council's" appearing immediately after the words "necessary to fulfill the" in paragraph (b) and substituting therefor the word "Board's".

...../Amendments

**Clause 29**

**THAT** clause 29 of the Bill be amended-

- (a) in the introductory clause by deleting the word "Council" appearing immediately after the words "finances of the" and substituting therefor the word "Board";
- (b) by deleting paragraph (b) and substituting therefor the following new paragraph-
  - (b) monies accruing to the Board out of levies that may be set by the Board as provided for under section 11;

**Clause 30**

**THAT** clause 30 of the Bill be amended by deleting the word "Council" appearing immediately after the words "year of the" and substituting therefor the word "Board".

**Clause 31**

**THAT** clause 31 of the Bill be amended-

- (a) by deleting subclause (1) and substituting therefor the following new subclause-
  - (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that financial year.
- (b) in clause (2) by deleting the word "Council" appearing immediately before the words "shall approve" and substituting therefor the word "Board".

**Clause 32**

**THAT** clause 32 of the Bill be amended-

- (a) by deleting subclause (1) and substituting therefor the following new subclause-
  - (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.
- (b) in subclause (2) by deleting the word "Council" appearing immediately after the words "appointed by the" and substituting therefor the word "Board".
- (c) by deleting subclause (3) and substituting therefor the following new subclause-
  - (3) Within a period of three months from the end of the financial year, the Board shall submit to the Auditor-General, or to an auditor appointed under subsection (2), the accounts of the Board.
- (d) in subclause (4) by deleting the word "Council" appearing immediately after the words "audited accounts of the" and substituting therefor the word "Board".

**Clause 33**

**THAT** clause 33 of the Bill be amended-

- (a) by deleting subclause (1) and substituting therefor the following new subclause-
  - (1) The Board shall, within three months after the end of a financial year, prepare and submit to Parliament an annual report on the operations of the Board for the preceding year.
- (b) in subclause (2) by-
  - (i) deleting the word "council" appearing immediately after the words "statements of the" in paragraph (a) and substituting therefor the word "Board"; and
  - (ii) deleting the word "council" appearing immediately after the words "activities of the" in paragraph (b) and substituting therefor the word "Board".

**Clause 34**

**THAT** clause 34 of the Bill be amended in subclause (1)-

- (a) by deleting the word "council" appearing immediately after the words "consultation with the" in the introductory phrase and substituting therefor the word "Board";
- (b) by deleting the word "council" appearing immediately after the words "this Act by the" in paragraph (d) and substituting therefor the word "Board" .

**Clause 35**

**THAT** clause 35 of the Bill be amended-

- (a) in subclause (1) by deleting the word "council" appearing at the end of the subclause and substituting therefor the word "Board";
- (b) in subclause (2) by-
  - (i) deleting the word "council" appearing immediately after the words "criminal nature, the" and substituting therefor the word "Board" in paragraph (a);
  - (ii) deleting the word "council" appearing immediately after the words "civil nature, the" and substituting therefor the word "Board" in paragraph (b);
  - (iii) deleting the word "council" appearing immediately after the words "civil nature the" and substituting therefor the word "Board" in paragraph (b);
- (c) by deleting subclause (4) and substituting therefor the following new subclause-
  - (4) Where the complaint is against the Board, the matter shall be referred to the Cabinet Secretary who shall act in accordance with subsection (2) instead of the Board.



- (d) in subclause (5) by deleting the word "council" appearing at the end of the subclause and substituting therefor the word "Board".

**First Schedule**

**THAT** the Bill be amended by deleting the First Schedule.

**Second Schedule**

**THAT** the Bill be amended by deleting the Second Schedule.

**Third Schedule**

**THAT** the third schedule be amended-

(a) in paragraph 1 by-

- (i) by deleting subparagraph (1) and substituting therefor the following new subparagraph-

(1) The Board shall hold such number of meetings at such places and at such times as the Board shall consider necessary for the proper discharge of its functions, provided that a decision to hold a Board meeting other than at its designated headquarters shall only be made by a resolution of the Board.

- (ii) deleting the word "council" appearing immediately after the words "notwithstanding subsection (1)" in subparagraph (2) and substituting therefor the word "Board";

- (iii) deleting the word "council" appearing at the end of subparagraph (3) and substituting therefor the word "Board";

- (b) in paragraph 2 by deleting the word "council" appearing immediately after the words "business of the" and substituting therefor the word "Board";

- (c) by deleting paragraph 3 and substituting therefor the following new paragraph-

Quorum at 3. The quorum for the conduct of business at a meeting of the Board shall be half of the members of the Board, excluding ex- officio and co-opted members

- (d) in paragraph 4 by deleting the word "council" appearing immediately after the words "matter before the" in subparagraph (1) and substituting therefor the word "Board";

...../Amendments

(e) in paragraph 5 by deleting the word "council" appearing immediately after the words "provisions of this Act the" and substituting therefor the word "Board";

(f) by deleting paragraph 6 and substituting therefor the following new paragraph-

Vacancies and improper appointments 6. Proceedings of the Board shall not be invalid by reason only of a vacancy in the membership of the Board or by reason of a defect in the process of appointment of a member.

(g) by deleting paragraph 7 and substituting therefor the following new paragraph-

Disclosure of interest 7. (1) If a member of the Board has a direct or indirect interest in a contract, proposed contract or other matter before the Board, such member shall as soon as is practicable after the commencement of that meeting, disclose that fact.

(2) A member to whom subparagraph (1) applies shall not be present at a meeting of the Board, or a committee of the Board at which the matter in which the member has disclosed an interest is considered by the Board.

(h) in paragraph 8 by deleting the word "council" appearing immediately after the words "meeting of the" and substituting therefor the word "Board"

## **Clause 2**

**THAT** clause 2 of the Bill be amended by-

(a) inserting the following new definitions in the correct alphabetical sequence-

"Board" means the Potato Board of Kenya established under section 4;

"county executive member" means the county executive member responsible for matters relating to Agriculture: and

(b) deleting the definition of the word "Council"

## **Long Title:**

**THAT** the Bill be amended by deleting the long title and substituting therefor the following new title –

AN ACT of Parliament to establish the Potato Board of Kenya, to enhance productivity and income of potato farmers; to set standards to regulate the industry; and for connected purposes.

**Clause 1**

**THAT** clause 1 of the Bill be amended by deleting the words "sixty" appearing immediately after the words "on the expiry of" and substituting therefor the word "ninety".

iii) \*\*\* **THE PUBLIC FUNDRAISING BILL (SENATE BILL NO. 28 OF 2014)**

(Chairperson of the *Ad hoc* committee on Legislation on Harambee)

a) **NOTICE** is given that Sen. Beth Mugo intends to move the following amendments to the foregoing Bill, at the Committee Stage-

**Clause 23**

**THAT** clause 23 of the Bill be amended by deleting paragraph (b) and substituting therefore the following new paragraph –

- (b) money or property collected by or under the authority of a recognized representative of a religious association registered under the Societies Act for normal collections such as tithes and offerings or for the purpose of carrying out developments or projects for the benefit of the association.

**Clause 24**

**THAT** the Bill be amended by deleting clause 24 and substituting therefor the following new clause –

Non-  
application of  
Part to private  
fundraising  
appeals.

**24.** The provisions of this Part shall not apply to –

- (a) a public fundraising appeal conducted by a fundraising manager to members of the public or a section of the public for the purpose of raising funds to raise education fees or to settle funeral or medical expenses; or
- (b) a private fundraising appeal where the solicitation is made from members of the beneficiary's nuclear family or relatives and does not extend to members of the public.

- b) **NOTICE** is given that the Chairperson to the Committee on Labour and Social Welfare, intends to move the following amendments to the foregoing Bill at the Committee Stage-

**Clause 2**

**THAT** clause 2 of the Bill be amended -

- (a) in paragraph (b) of the definition of the word "beneficiary" by inserting the words "referred to under paragraph (a)" immediately after the words "class of persons"; and
- (b) in the definition of the word "fundraising appeal" by deleting the number "20" appearing immediately after the words "under section" and substituting therefor the number "21".

**Clause 4(1)**

**THAT** clause 4(1) of the Bill be amended in paragraph (e) by deleting the number "10" appearing immediately after the words "under section" and substituting therefor the number "11".

**Clause 5**

**THAT** clause 5 of the Bill be amended by inserting the following new paragraph immediately after paragraph (h) -

- (ha) determine appeals from the county committee submitted to it under section 39;

**Clause 7**

**THAT** clause 7 of the Bill be amended -

- (a) in subclause (1) by inserting the following new paragraph immediately after paragraph (e) -
  - (ea) is found to have violated Chapter Six of the Constitution;
- (b) by inserting the following new subclause immediately after subclause (2) therefor-
  - (2A) The ad hoc committee appointed under subsection (2) shall consist of -
    - (a) a public officer serving in the ministry responsible for matters relating to planning and social development nominated by the Cabinet Secretary;

No. 22 of 2011 (b) one person nominated by the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act, 2011 from amongst its members; and

- (c) one person nominated by the Law Society of Kenya from amongst its members.

**Clause 10**

**THAT** clause 10 of the Bill be amended in subclause (2) by inserting the phrase “and such other matter related to the conduct of fundraising appeals that the National Committee shall consider necessary” immediately after the words “fundraising activities”.

**Clause 18**

**THAT** clause 18 of the Bill be amended –

- (a) in subclause (1) by inserting the following new paragraph immediately after paragraph (e) –

- (ea) is found to have violated Chapter Six of the Constitution;

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

- (2A) The ad hoc committee appointed by the Governor under subsection (2) shall consist of –

- (a) a public officer serving in the department responsible for matters relating to planning and social development nominated by the Governor;

No. 22 of 2011 (b) one person nominated by the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act, 2011 from amongst its members; and

- (c) one person nominated by the Law Society of Kenya from amongst its members.

**Clause 25**

**THAT** clause 25 of the Bill be amended –

- (a) by inserting the following new subclause immediately after clause (2) –

- (2A) The provisions of section 33 shall apply to the consideration of an application submitted to the county committee under subsection (2).

- (b) in subsection (6) by inserting the following new paragraph immediately after paragraph (f) –

- (fa) the promotion of education.

**Clause 26**

**THAT** clause 26 of the Bill be amended –

- (a) in subsection (2) by deleting the word “thirty” appearing immediately after the words “at least” and substituting therefor the word “twenty one”;
- (b) in subsection (3) by inserting the following new paragraph immediately after paragraph (g) –
  - (ga) a statement regarding whether any monies have been received with respect to the matter pertaining to the fundraising appeal from any person prior to the date of the proposed fundraising appeal;

**Clause 27**

**THAT** clause 27 of the Bill be amended in subclause (3) by inserting the word “conditions” immediately after the words “impose such”.

**Clause 29**

**THAT** clause 29 of the Bill be amended –

- (a) by numbering the subclause appearing before subclause (2) as subclause (1);
- (b) in subclause (1) by inserting the words “solicit or” immediately after the words “shall not”.

**Clause 33**

**THAT** clause 33 of the Bill be amended by inserting the following new subclause immediately after subclause (3) –

- (4) The county committee shall, where it refuses to license a person, specify the reasons for such refusal in the notification issued to the applicant under subsection (3).

**Clause 35**

**THAT** clause 35 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d) –

- (e) the committee determines that the licence was obtained fraudulently or through a misrepresentation of facts.

**Clause 45**

**THAT** clause 45(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (a) –

- (aa) the name, number and address of the bank into which the monies raised in relation to the fundraising appeal were deposited;

...../Amendments

**Clause 48**

**THAT** clause 48 of the Bill be amended in subclause (1) by deleting the words "three months" appearing immediately after the words "section 46 within" and substituting therefor the words "thirty days";

**Clause 49**

**THAT** clause 49 of the Bill be amended by inserting the following new subclause immediately after subclause (2) –

- (3) The Kenya National Audit Office may carry out an inspection of the books and accounts in relation to a fundraising appeal carried out under this Act.

**NEW CLAUSE 51A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 51—

Misappropriation of funds.	<b>51A.</b> A person who applies the funds received pursuant to a fundraising appeal for a purpose other than which for which the appeal was held commits an offence.
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- c) **NOTICE** is given that Sen. Mutahi Kagwe intends to move the following amendments to the foregoing Bill, at the Committee Stage-

**Clause 5**

**THAT** clause 5 of the Bill be amended by deleting the words "and oversee the county committees" appearing immediately after the words "collaborate with" and substituting therefor the words "county executive committee members".

**Part III**

**THAT** the Bill be amended by deleting Part III and substituting therefor the following new Part -

**PART III – REGULATION OF FUNDRAISING APPEALS AT THE COUNTY LEVEL  
OF GOVERNMENT**

- |  |   |
|--|---|
| Role of County Executive Committee member. | <p><b>13.</b> (1) The County Executive Committee Member in each county shall be responsible for the administration of this Act at the county level of government.</p> <p>(2) Notwithstanding the generality of subsection (1), the County Executive Committee Member shall –</p> <p>(a) receive, vet and process applications for the issuance of a licence to conduct a public fundraising appeal within the county;</p> |
|--|---|

...../Amendments

- (b) regulate the conduct of fundraising appeals within the county;
- (c) investigate any complaints, misuse of funds raised through a fundraising appeal or any issue relating to the conduct of a fundraising appeal under this Act within the county;
- (d) carry out inspections of records and audits relating to a fundraising appeal conducted under this Act;
- (e) maintain a register of all licenses issued to a person conducting a fundraising appeal under this Act;
- (f) monitor and evaluate the conduct of fundraising appeals within the county; and
- (g) perform such other functions as may be necessary for the implementation of this Act.

(3) The county executive committee member may nominate such public officers as he considers necessary for the performance of the function under subsection (2).

(4) The county executive committee member shall have all the powers necessary for the proper discharge of the functions under this Act and without prejudice to the generality of the foregoing, shall have the power to —

- (a) oversee the conduct of fundraising appeals carried out under this Act within the county;
- (b) require any information from any person conducting or intending to conduct a fundraising appeal under this Act;
- (c) require at any time, before the issuance of a licence and at any time after being issued with a licence such information as it may consider necessary; and
- (d) monitor the compliance, by persons licensed under this Act, of the provisions of this Act.

Submission  
of report to  
County  
Assembly.

**14.** The county executive committee member shall prepare an annual report on the activities relating to fundraising appeals conducted with in the county and submit the report to the County Assembly.



**Clause 25**

**THAT** clause 25 of the Bill be amended in subclause (2) by deleting the words "county committee" and substituting therefor the words "relevant county executive committee member".

**Clause 26**

**THAT** clause 26 of the Bill be amended –

- (a) in subclause (3) by inserting paragraph (ba) immediately after paragraph (b) –

- (ba) the necessity of conducting the fundraising appeal;

- (b) in subclause (4) by inserting the words "the Elections Act" immediately after the words "Ethics Act" appearing in paragraph (e).

**Clause 29**

**THAT** clause 29 of the Bill be amended –

- (a) in subclause (1) by deleting the words "county committee" appearing immediately after the words "Committee or a" and substituting therefor the words "county executive committee member";
- (b) in subclause (2) by deleting the words "county committee" "Committee or a" and substituting therefor the words "county executive committee member"; and
- (c) in subclause (3) by deleting the words "county committee" "Committee or a" and substituting therefor the words "relevant county executive committee member".

**Clause 32**

**THAT** clause 32 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "the" and substituting therefor the words "county executive committee member".

**Clause 33**

**THAT** clause 33 of the Bill be amended –

- (a) in subclause (1) by deleting the words "county committee" appearing immediately after the word "the" and substituting therefor the words "county executive committee member";
- (b) in subclause (2) by deleting the words "county committee" appearing immediately after the words "opinion of the" and substituting therefor the words "county executive committee member"; and
- (c) in subclause (3) by deleting the words "county committee" appearing immediately after the words "refusal, the" and substituting therefor the words "county executive committee member".

...../Amendments

**Clause 37**

**THAT** clause 37 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "notice, the" and substituting therefor the words "county executive committee member".

**Clause 39**

**THAT** clause 39 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the words "decision of the" and substituting therefor the words "county executive committee member".

**Clause 48**

**THAT** clause 48 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "submit to the" and substituting therefor the words "county executive committee member".

**Clause 50**

**THAT** clause 50 of the Bill be amended –

- (a) in subclause (2) by deleting the words "county committee" appearing immediately after the words "approval of the" and substituting therefor the words "county executive committee member"; and
- (b) in subclause (4) by deleting the words "county committee" appearing immediately after the words "the Committee or" appearing in paragraph (b) and substituting therefor the words "county executive committee member".

**Clause 51**

**THAT** clause 51 of the Bill be amended in subclause (3) by deleting the words "county committee" appearing immediately after the words "surrender to the" and substituting therefor the words "county executive committee member".

**Clause 54**

**THAT** clause 54 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "the" and substituting therefor the words "county executive committee member".

**Clause 59**

**THAT** clause 59 the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

- (1) A member of the National Committee, an employee of the National Committee or a county executive committee member shall not receive any gift or favour from an Applicant or a person licenced under this Act if the licence is still in operation.

**New clause 25A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 25 –

Member of  
Parliament  
not to  
participate  
in or  
conduct a  
fundraising  
appeal.

**25.A** (1) An elected or nominated Member of Parliament or of a County Assembly shall not actively participate in a fundraising function or conduct a fundraising appeal, whether directly or indirectly, during his or her term as a Member of Parliament.

(2) Notwithstanding subsection (1), a Member of Parliament may make an anonymous contribution to a fundraising appeal conducted in accordance with this Act.

(3) A person who contravenes the provisions of this section shall be liable to a fine not exceeding eight hundred thousand shillings.

#### **New clause 48A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 48 –

Declaration of  
source of  
contribution.

**48.A** A person who makes a contribution to a fundraising appeal shall –

(a) specify the source of the contribution; and

(b) declare such contribution in the income tax returns submitted by such person pursuant to the Income Tax Act.

#### **SCHEDULE**

**THAT** the Bill be amended in the Schedule–

(a) by deleting the words “and the county committees” appearing in the title to the Schedule;

(b) by deleting subparagraph (2) of paragraph 1; and

(c) by deleting paragraph 6.

#### **Clause 2**

**THAT** clause 2 of the Bill be amended–

(a) In the definition of the word “county register” by deleting the word “county committee” appearing immediately after the words “which a” and substituting therefor the words “county executive committee member”;

(b) by deleting the definition of the word “county committee”; and

(c) by deleting the definition of the word “relevant committee”.

APPENDIX**1. PAPER**

Business of the Senate for the coming week.

**2. STATEMENTS**

- a) The Senate Majority Leader to issue a statement on Business of the Senate for the coming week;
- b) The Chairperson of the Standing Committee on Finance, Commerce and Budget to issue a Statement on implementation of Parastatals taskforce report and its implications to Kenya Tourism Board, Kenya Tourism Development Authority and investors in hotel and Tourism (Sen. Joy Gwendu);
- c) The Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries to issue a Statement on Malka Daka irrigation scheme in Isiolo County (Sen. Fatuma Dullo);
- d) The Chairperson of the Standing Committee on Health to issue a Statement on the state of radiotherapy treatment in the Country specifically, the suspension of radiotherapy treatment at the Kenyatta National Hospital (Sen. Fatuma Dullo);
- e) The Chairperson of the Standing Committee on Finance, Commerce and Budget to issue a Statement on increased cost of business permits and licences fees in Kiambu County (Sen. Kimani Wamatangi).

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