



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

THURSDAY, MAY 07, 2015 AT 2.30 P.M

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (As Listed in the Appendix)
6. Notices of Motion (As Listed in the Appendix)
7. Statements (As Listed in the Appendix)
8. * THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)
(Sen. (Eng.) Karue Muriuki)

(Third Reading)

(Division)

9. COMMITTEE OF THE WHOLE

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

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

(Resumption of Debate interrupted on Tuesday, 5th May, 2015)

(Division)

10. * THE PARLIAMENTARY SERVICE (AMENDMENT) BILL (SENATE BILL NO. 21 OF 2014)

(Sen. Kiraitu Murungi)

(Second Reading)

(Resumption of Debate interrupted on Wednesday, 6th May, 2015)

11. **** THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)**
(The Senate Majority Leader)
(Second Reading)
(Subject to Constitutional deadline of 27th May, 2015)
12. ***** THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL (SENATE BILL NO. 20 OF 2014)**
(Chairperson of the Standing Committee on Labour and Social Welfare)
(Second Reading)
13. ***** THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE BILL NO. 32 OF 2014)**
(Chairperson, Standing Committee on Education)
(Second Reading)
14. ***** THE COUNTY ASSEMBLY SERVICES BILL, (SENATE BILL NO. 27 OF 2014)**
(Chairperson, Standing Committee on Legal Affairs and Human Rights)
(Second Reading)
15. *** THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)**
(Sen. Halima Abdille)
(Second Reading)
16. ***** THE COUNTY HALL OF FAME BILL (SENATE BILL NO. 33 OF 2014)**
(Chairperson of the Standing Committee on Legal Affairs and Human Rights)
(Second Reading)
17. ***** THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILL NO. OF 36 OF 2014)**
(Chairperson, *Ad hoc* Committee on Establishment of Public Compensation Bureaus)
(Second Reading)
18. **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.

19. **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.

NOTICE

The Senate resolved on 11th 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

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■ Denotes a Majority /Minority Party Bill

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■ Denotes a Committee Bill

■ Denotes a National Assembly Bill

■ Denotes any other Bill

...../Notice of Amendments

NOTICES OF AMENDMENTS

- i) *** **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 -

...../Amendments

- (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

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) –

...../Amendments

- (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;

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) –

...../Amendments

- (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.	51A. 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 the heading to Part III and substituting therefor the following new heading -

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

Clause 13

THAT, Clause 13 of the Bill deleted and substituted therefor with the following-

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| Role of County Executive Committee member. | <p>13. (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> <ul style="list-style-type: none"> (a) receive, vet and process applications for the issuance of a licence to conduct a public fundraising appeal within the county; (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; |
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...../Amendments

- (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.

Clause 14

THAT, Clause 14 of the Bill be deleted and substituted therefor with the following-

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 within 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) –

...../Amendments

- (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".

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.

...../Amendments

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. PAPERS**

- a) Report of the Standing committee on Roads and Transportation on the inspection visit to the ongoing southern bypass road construction in Kikuyu town;
(Chairperson, Standing Committee on Roads and Transportation)
- b) Report of the study tour to Qatar and Singapore by the Standing Committee on Roads and Transportation from 24th October to 3rd November, 2014.
(Chairperson, Standing Committee on Roads and Transportation)
- c) Report of the Fifth Ordinary Session of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Nairobi, Kenya from 20th – 22nd January, 2015.
(Sen. Peter Mositet)

2. NOTICE OF MOTION

- a) THAT, this House adopts the Report of the Standing Committee on Roads and Transportation on the inspection visit to the ongoing southern bypass road construction in Kikuyu town laid on the Table of the House, today, Thursday, 7th May, 2015.
- b) THAT, this House adopts the Report of the Standing Committee on Roads and Transportation on the study tour to Qatar and Singapore from 24th October to 3rd November, 2014 laid on the Table of the House, today, Thursday, 7th May, 2015.
- d) THAT, this House adopts the Report of the Fifth Ordinary Session of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Nairobi, Kenya from 20th – 22nd January, 2015 laid on the Table of the House, today, Thursday, 7th May, 2015.

3. STATEMENTS

- a) The Chairperson of the Standing Committee on Lands and Natural Resources to issue a Statement on status of ongoing development on land parcel LR NBI/90/5 reserved for a water reservoir (Sen. Kembi-Gitura);
 - b) The Chairperson of the Standing Committee on Finance, Commerce and Budget to issue a statement on revenue collection from Samburu National Game Reserve (Sen. Sammy Leshore).
 - c) The Vice Chairperson of the Joint Committee on Cohesion and Equal opportunity to issue a statement on the criterion for appointment and the regional distribution of the recent appointments to parastatals (Sen. Muriuki Karue).
 - d) The Chairperson of the Standing Committee on Health to issue a statement on the opening of a battery assembly plant in Naivasha and its potential impact on the health of local community (Sen. Ben Njoroge).
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