



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – (FOURTH SESSION)
THE SENATE

ORDER PAPER

TUESDAY, MARCH 08, 2016 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
7. Statements (As Listed in the Appendix)
8. *** **THE ORDER OF PRECEDENCE AND TITLES BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2014)**
(The Senate Majority Leader)
(First Reading)
9. **COMMITTEE OF THE WHOLE**
* **THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL (SENATE BILL NO. 7 OF 2015)**
(Sen. David Musila)
(Resumption of Debate interrupted on Thursday, 18th February, 2016)
(Division)
10. **COMMITTEE OF THE WHOLE**
* **THE OFFICE OF THE COUNTY ATTORNEY BILL, (SENATE BILL NO. 37 OF 2014)**
(Chairperson, Standing Committee on Legal Affairs and Human Rights)
(Resumption of Debate interrupted on Thursday, 18th February, 2016)
(Division)
11. **COMMITTEE OF THE WHOLE**
* **THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)**
(Sen. Stephen Sang)
(Resumption of Debate interrupted on Thursday, 18th February, 2016)
(Division)

...../Bill

12. COMMITTEE OF THE WHOLE***THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Thursday, 3rd December, 2015)*13. COMMITTEE OF THE WHOLE*THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)

(Sen. Halima Abdille)

14. *THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)

(Sen. (Dr.) Zipporah Kittony)

*(Second Reading)**(Resumption of Debate interrupted on Thursday, 25th February, 2016)*15. *THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)

(Sen. Joy Gwendo)

*(Second Reading)**(Resumption of Debate interrupted on Tuesday, 1st March, 2016)*16. MOTION – (Chairperson Ad Hoc Committee on Prisons and Borstal Institutions)

AWARE THAT the Senate on 22nd October, 2015, resolved to establish a Select Committee (Ad hoc Committee on Prisons and Borstal Institutions) consisting of eleven (11) Senators to enquire into the rights of detained persons, persons held in custody and other imprisoned persons under the law, requiring Parliament to enact legislation to provide for the human treatment of such persons with due regard to the relevant international human rights instruments and report back to the House within three months of its establishment.

REALIZING THAT the three month period lapsed today 25th February, 2016 and owing to the magnitude of the work involved, the Committee was not able to complete its work within the stipulated period;

NOTING THE NEED for more time to carry out a thorough inquiry into this matter;

NOW THEREFORE, the Senate resolves to renew the mandate of the Committee for a further period of forty-five (45) days to enable the Committee complete its work and report to the House.

17. *THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL (SENATE BILL NO. 12 OF 2015)

(Sen. Kimani Wamatangi)

*(Second Reading)*18. **THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)

(Chairperson, Sessional Committee on Delegated Legislation)

(Second Reading)

...../Bill

19. ***THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL (SENATE BILL NO. 9 OF 2015)**
(Sen. Martha Wangari)

(Second Reading)

20. *****THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.43 OF 2013)**
(The Senate Majority Leader)

Second Reading)

21. *****THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2014)**
(The Senate Majority Leader)

Second Reading)

NOTICE

The Senate resolved on 10th February, 2016 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 National Assembly Bill

■ Denotes a Committee Bill

■ Denotes any other Bill

NOTICE OF AMENDMENTS

A. *THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL,
(SENATE BILL NO. 7 OF 2015)
 (Sen. David Musila)

NOTICE is hereby given that Sen. David Musila, Senator for Kitui County, intends to move the following amendments to the Kenya National Examinations Council (Amendment) Bill, (Senate Bill No. 7 of 2015) at the Committee Stage-

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the words "Section 2 of" immediately before the words "The Kenya National".

CLAUSE 3

THAT clause 3 of the Bill be amended by deleting the proposed new section 45A and substituting therefor the following new sections –

Issuance of result slip. **45A.** (1) The Council shall, upon releasing the Kenya Certificate of Primary Education or the Kenya Certificate of Secondary Education examination results, transmit the result slips of all candidates to the respective examination centres within a period of one month from the date of release of the results.

(2) A head-teacher or principal of an examination centre shall release to the respective candidates, the result slip received under subsection (1).

Issuance of certificates. **45AA.** (1) The Council shall, within a period of two months from the date of release of the Kenya Certificate of Primary Education or the Kenya Certificate of Secondary Education examination results, transmit to the examination centres, the certificates of the respective candidates who sat for the examinations.

(2) The head-teacher or principal of an examination centre shall not withhold the certificate awarded to a candidate under this Act.

(3) A candidate shall, in collecting his or her certificate, verify the accuracy of the particulars as set out in the certificate including –

- (a) the candidate's name and index number;
- (b) the name and code of the examination centre; and
- (c) the grades of the respective subjects and the mean score.

(4) A candidate who identifies a discrepancy in the certificate issued shall notify the Council of such discrepancy within thirty days of the receipt of the certificate.

...../Amendments

(5) The Council shall rectify any discrepancy notified by a candidate under subsection (4) within a period of thirty days from the date of such notification.

(6) The Council shall meet the costs of rectifying any discrepancy notified by a candidate under subsection (4).

(7) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

NEW CLAUSE

THAT the following new clause be inserted immediately after clause 2-

2A. The principal Act is amended in section 10 by inserting the following new subsection immediately after subsection (2)-

(3) A person who contravenes the provisions of subsection (1)(b) commits an offence and shall be liable, upon conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

B. **THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILL NO. 37 OF 2014)

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

NOTICE is given that Sen. Amos Wako, the Chairperson of the Committee on Legal Affairs and Human Rights, intends to move the following amendments to the Office of the County Attorney Bill, 2014 at the Committee Stage-

CLAUSE 3

THAT clause 3 of the Bill be amended by deleting the words "Deputy County Attorney" appearing immediately after the words 'County Attorney, the' and substituting therefor the words "County Solicitor".

CLAUSE 4

THAT clause 4 of the Bill be amended in sub-clause (2)-

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

(b)the County Solicitor; and

(b) by inserting the word "Board" immediately after the words 'County Public Service' appearing in paragraph (c).

CLAUSE 5

THAT clause 5 of the Bill be deleted and substituted therefor with the following new clause-

5. The County Attorney shall be appointed from among persons-
- (a) with at least ten years experience as an Advocate of the High Court of Kenya; and
 - (b) who meet the requirements of Chapter Six of the Constitution.

CLAUSE 7

THAT clause 7 of the Bill be amended-

- (a) in paragraph (b) by deleting the words "shall have no right to vote on any matter before such committee" appearing immediately after the words "committee meeting but" and substituting therefor the words "as an *ex officio* member of the executive committee";
- (b) by deleting paragraphs (g) and (h); and
- (c) in paragraph (i) by deleting the word "shall" appearing at the beginning of the paragraph and substituting therefor the word "may".

CLAUSE 9

THAT clause 9 of the Bill be amended-

- (d) in paragraph (a) of sub-clause (1) by inserting the words "within the county" immediately after the words 'involve public property'; and
- (e) in sub-clause (4) by deleting the word "shall" appearing immediately after the words 'administrative body' and substituting therefor the word "may".

CLAUSE 10

THAT clause 10 of the Bill be amended by deleting the words "the Deputy County Attorney" appearing immediately after the words 'County Attorney' and substituting therefor the words "the County Solicitor".

CLAUSE 11

THAT clause 11 of the Bill be amended by deleting the words "the Deputy County Attorney" appearing immediately after the words 'The County Attorney' and substituting therefor the words "the County Solicitor".

CLAUSE 14

THAT clause 14 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words "Deputy County Attorney" appearing immediately after the words 'delegate to the' and substituting therefor the words "County Solicitor"; and
- (b) in sub-clause (2) by deleting the words "Deputy County Attorney" appearing immediately after the words 'performed by the' and substituting therefor the words "County Solicitor".

CLAUSE 16

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

16. (1) A department or public entity established within a county government shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Attorney.

(2) A request by a department or public entity to the County Attorney to engage the services of a consultant under subsection (1) shall be made in writing.

(3) An approval by the County Attorney of a request by a department or public entity to engage the services of a consultant under subsection (1) shall be made in writing.

CLAUSE 18

THAT clause 18 of the Bill be deleted and substituted therefor with the following new clause-

Count **18.** (1) There shall be a County Solicitor who shall be competitively recruited and appointed by the County Public Solicitor Service Board.

or

(2) A person is qualified for appointment to the office of County Solicitor if the person-

(a) has at least ten years experience as an advocate of the High Court of Kenya; and

(b) meets the requirements of Chapter Six of the Constitution.

(3) The County Solicitor shall be the principal assistant of the County Attorney in the execution of the County Attorney's functions under this Act and any other written law.

CLAUSE 19

THAT Clause 19 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) meets the requirements of Chapter Six of the Constitution.

CLAUSE 21

THAT clause 21 of the Bill be amended in sub-clause (2) by-

(a) by deleting the word "shall" appearing immediately before the words 'enjoy the same benefits' in paragraph (b); and

(b) by deleting the word "shall" appearing immediately before the words 'be required to comply' in paragraph (c).

CLAUSE 25

THAT clause 25 of the Bill be amended by deleting the word "local" appearing immediately after the words "County laws and" and substituting therefor the word "legal".

CLAUSE 26

THAT Clause 26 of the Bill be amended by deleting the word "public seal" appearing immediately after the words 'custody of the' and substituting therefor the words "county seal".

CLAUSE 30

THAT Clause 30 of the Bill be amended in paragraph (b) of sub-clause (3) by deleting the words "National Assembly" appearing immediately after the words 'provided by the' and substituting therefor the words "County Assembly".

...../Amendments

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 10-

Status of the **10A.** For the avoidance of doubt, the County Attorney shall office of County have the status and rank of a member of the County Attorney. Executive Committee.

CLAUSE 2

THAT clause 2 of the Bill be amended by-

- (a) inserting the following new definition immediately after the definition of the word "County Legal Counsel"-

"County Solicitor" means a person appointed as such under section 18. ; and

- (b) deleting the definition of the word "Deputy County Attorney".

C. *THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)

(Sen. Stephen Sang)

NOTICE is given that Senator Mutula Kilonzo Junior, the vice-chairperson of the Committee on Information, Communication and Technology, intends to move the following amendments to the Office of the County Printer Bill, 2014, at the Committee Stage-

Clause 4

That clause 4 of the Bill be amended in subclause (2) by deleting the words "county Secretary" appearing immediately after the words "office of the" and substituting therefor the words "county executive committee member".

Clause 5

That clause 5 of the Bill be amended-

- (a) in paragraph (a) by inserting the words "within seven days of such authorization" immediately after the words "an authorized officer"; and
- (b) in paragraph (b) by deleting the word "government" appearing immediately after the words "the county" and substituting therefor the words "executive and the county assembly".

Clause 8

That clause 8 of the Bill be amended-

- (a) in subclause (2) by deleting the word "may" appearing immediately after the words "county printer" and substituting therefor the word "shall"; and

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

(3) For purposes of subsection (1), the county printer may publish an electronic version of the gazette and such version shall have the same effect as a physical version of the gazette.

(4) The county printer shall make available issues of the gazette to the National Council for Law Reporting.

Clause 9

That clause 9 of the Bill be amended in subclause (4) by deleting the words "the county executive committee member" appearing immediately after the words "may be assigned" and substituting therefor the words "any other written law" appearing in paragraph (f).

Clause 12

That clause 12 of the Bill be amended by deleting the words "county secretary" appearing immediately after the words "subject to the provisions of this Act" and substituting therefor the words "county executive committee member".

Clause 2

That clause 2 of the Bill be amended by-

(a) deleting paragraph (c) appearing in the definition of the term "authorized officer";

(b) inserting the following new definition immediately after the definition of the term "authorized officer" -

"county executive committee member" means the county executive committee member responsible for matters relating to information;

(c) deleting the definition of the term "county secretary".

Clause 1

That clause 1 of the Bill be amended by deleting the words "and shall come into operation on such day as the cabinet secretary may, by notice in the Gazette appoint, which date shall not exceed ninety days from the date of publication of the Act" appearing immediately after the words " County Printer Act, 2014".

D. * THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)**

(The Senate Majority Leader)

(i) **NOTICE** is given that Senator Lenny Kivuti, Chairperson to the Committee on Land and Natural Resources, intends to move the following amendments to the Water Bill, 2014, at the Committee Stage-

Clause 8

THAT clause 8 be amended in sub clause (3) by inserting the words 'for domestic use' before the word "shall" appearing on the first line.

...../Amendments

Clause 8B

THAT clause 8B be amended in sub clause (5) by deleting the word "three" immediately after the word "every" and substituting therewith the word "five".

Clause 19

THAT clause 19 of the Bill be amended in sub clause (1) by inserting the words "geo referenced information" immediately after the words "monitoring and".

Clause 24

THAT clause 24 of the Bill be amended in sub clause (1)(b) by inserting the words "appointed by the appointing authority after approval by the county assembly" immediately after the words "the basin".

Clause 25

THAT clause 25 of the Bill be amended by inserting the words "and county governments" immediately after the word "Authority" appearing on the second line.

Clause 30

THAT clause 30 of the Bill be amended in sub clause (1)(d) by inserting the words "rules and regulations" immediately after the words "harvesting policy".

Clause 63

THAT the headnote appearing immediately before clause 63 be amended by deleting the word "Board" and substituting therefor the word "Agency".

Clause 72

THAT clause 72 of the Bill be amended by deleting the word "accreditation" wherever it appears and substituting therefor the word "licensing".

Clause 73

THAT clause 73 of the Bill be amended—

- (1) In sub clause (1) by deleting the word "accredited" and substituting therefor the word "licensed";
- (2) In the marginal note by deleting the word "accredited" and substituting therefor the word "licensed";
- (3) In sub clause (1) (c) by deleting the word "accredited" and substituting therefor the word "licensed";

- (4) In sub clause (1)(d) by deleting the word "accreditation" and substituting therefor the word "licence";
- (5) In sub clause (2) by deleting the word "accredited" and substituting therefor the word "licensed";
- (6) In sub clause (4) by deleting the word "accredited" and substituting therefore the word "licensed".

Clause 74

THAT clause 74 of the Bill be amended—

- (1) In the marginal note by deleting the word "accreditation" and substituting therefor the words " a license";
- (2) In sub clause (1) by deleting the word "accreditation" and substituting therefor the word "license";
- (3) In sub clause (1) (a) by deleting the word "accredited" and substituting therefor the word "licensed";
- (4) In sub clause (1)(b) by deleting the word "accreditation" and substituting therefor the word "licence";
- (5) In sub clause (1) (c) by deleting the word "accredited" and substituting therefor the word "licensed";
- (6) In sub clause (1) (e) by deleting the word "accreditation" and substituting therefore the word "license".;
- (7) In sub clause (2) by deleting the word "accreditation" and substituting therefor the word "license";
- (8) In sub clause (3) by deleting the word "accreditation" and substituting therefor the word "license".

Clause 102

THAT clause 102 of the Bill be amended by deleting the word "licensee" and substituting therefor the words "water user".

Clause 107

THAT clause 107 of the Bill be deleted.

...../Amendments

Clause 109

THAT clause 109 of the Bill be amended in sub clause (1) by inserting the words "georeferenced" immediately after the words "monitoring and".

Clause 114

THAT clause 114 of the Bill be amended in sub clause (1) (g)—

(a) by deleting the word "grants" appearing at the beginning of the sub clause; and

(b) Inserting the deleting the word "communities" and substituting therefor the words "community schemes".

Clause 115

THAT clause 115 be amended in sub clause (1) by deleting paragraphs (b) and (c).

Clause 117

THAT clause 117 of the Bill be amended by deleting the words "which shall be a Subordinate court as provided under Article 169(1)(d) of the Constitution".

Clause 130

THAT clause 130 of the Bill be amended by inserting the words "conservation and" immediately after the words "for the".

Clause 139

THAT clause 139 of the Bill be amended by inserting the words "a county government" immediately after the word "or" appearing on the third line.

Clause 140

THAT clause 140 of the Bill be amended in—

(a) sub clause (2) (a) by deleting the word "commission" and substituting therefor the word "Board"; and

(b) Sub clause (2)(h) by inserting the words "or the Board" immediately after the word "Authority".

Clause 154

THAT clause 154 of the Bill be amended in sub clause 5 by deleting the word "Board" and substituting therefor the word "Authority".

Clause 2

THAT clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical order –

"wetland" means an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh water".

- (ii) **NOTICE** is given that Senator Mutula Kilonzo Junior intends to move the following amendment to the Water Bill, National Assembly Bill No. 7 of 2014, at the Committee Stage-

Clause 75

THAT the clause 75 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause-

- (1) Each county government shall establish a water services provider.

E. *THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)

(Sen. Halima Abdille)

NOTICE is given that Senator Daniel Karaba, Chairperson to the Senate Standing Committee on Education, intends to move the following amendments to the Universities (Amendment) Bill, 2014, at the Committee Stage-

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 3-

Amendment
of section 14
of No. 42 of
2012.

3A. Section 14 of the principal Act is amended by inserting the following new sub-section immediately after subsection (3)-

- (4) The Commission shall not issue to an applicant a letter of interim authority where that applicant is a public mid-level learning institution.

Amendment
of section 19
of No. 42 of
2012.

3B. Section 19 of the principal Act is amended-

- (a) in subsection (1) by deleting paragraph (c) and substituting therefore the following new paragraph-

(c)reject the application if satisfied that the applicant-

- (i) is a public mid-level learning institution; or
(ii) does not meet the requirements for the establishment of a university.

- (b) by inserting the following new sub-section immediately after sub-section (3)-

(4) The President shall not grant a Charter where such a grant would result in the conversion of a public mid-level institution to a university.

Repeal of
section 25
of No. 42
of 2012.

3C. The principal Act is amended by deleting section 25.

...../Amendments

NEW CLAUSE 1A

THAT the Bill be amended by inserting the following new clause immediately after clause 1-

1A. The Universities Act, in this Act referred to as "the principal Act" is amended in section 2 by inserting the following new definition immediately after the definition of the word "institution"-

"mid-level institution" means a post-secondary school learning institution that offers a certification below that of a degree;

APPENDIX**1. PAPER**

Annual Report of National Police Service Commission 2014/2015.

(Chairperson, Standing Committee on National Security and Foreign Relations)

2. STATEMENTS TO BE ISSUED

- a) The Chairperson, Standing Committee on Roads and Transportation to issue a statement on the upgrading of the Kenol-Makutano-Marua road (Sen. Daniel Karaba);
- b) The Chairperson, Standing Committee on Labour and Social Welfare to issue a statement on the doping menace amongst Kenyan athletes (Sen. Kennedy Mong'are);
- c) The Chairperson, Standing Committee on Labour and Social Welfare to issue a statement on the Youth Enterprise Development Fund and its accessibility to youth with pre-existing businesses (Sen. Catherine Mukiite);
- d) The Chairperson, Standing Committee on Education to issue a Statement regarding Higher Education Loans Board loans advanced to University students (Sen. Martha Wangari);
- e) The Chairperson, Standing Committee on National Security and Foreign Relations regarding security situation in Kitui – Tana River border. (Sen. David Musila);
- f) The Chairperson, Standing Committee on Labour and Social Welfare to issue a statement regarding Government cash transfers to the elderly. (Sen. David Musila);
- g) The Chairperson, Standing Committee on Lands and Natural Resources to issue a Statement on weather forecasts made by the meteorological department (Sen. Kennedy Mong'are);
- h) The Chairperson, Standing Committee on Education to issue a Statement on shortage of teachers in West Pokot County (Sen. (Prof.) John Lonyangapuo);
- i) The Chairperson, Standing Committee on Education to issue a Statement on remittance of teachers' deductions by TSC to teachers' SACCOs (Sen. (Prof.) John Lonyangapuo);
- j) The Chairperson, Standing Committee on National Security and Foreign Relations to issue a Statement on harassment of residents of Machakos County by police (Sen. Johnson Muthama).
