



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – SECOND SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, AUGUST 19, 2014

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the Speaker
4. **COMMUNICATION FROM THE CHAIR ON CONSIDERATION OF MATTERS UNDER CONSIDERATION WHERE PASSAGE REQUIRES TWO-THIRD MAJORITY AS PER THE CONSTITUTION**

The Speaker conveyed the following Communication –

“Honourable Members,

“This Communication relates to business appearing under Order Nos. 8, 9, 10 and 11. As you are aware, the National Assembly received the County Allocation of Revenue Bill, 2014 from the Senate and read it a First Time in the Assembly on 7th August 2014. The Bill is now scheduled for completion of Second Reading and later Committee stage today. When the House embarked on considering this Bill last week, several Members expressed reservations to some of the provisions contained in it, and wished to propose amendments. Indeed, my office has received two proposals seeking to amend the County Allocation of Revenue Bill, 2014, which have since been circulated.

Honourable Members, the Constitution of Kenya under Article 111 (2) confers to the National Assembly two options of considering a Special Bill that concerns County Governments which has originated in the Senate. Firstly, the House may amend the Bill. This is the most familiar and preferred avenue used in considering and concluding with proposed legislation. Secondly, Article 111 (2) empowers the National Assembly to **veto** a Special Bill. The Oxford Dictionary defines **veto** as “**a constitutional right to reject a decision or proposal made by a lawmaking body**” Article 111 (2) of Constitution read in conjunction with Standing Order 151 require any amendment or veto to be supported by at least two-thirds of all Members, which translates to 233 Members. Therefore, this number has to be present and even before the question to amend the Bill is put by the Chair in the Committee of the Whole House, there ought to be at least **233 Members**, being two-thirds of all the members of the National Assembly, present in the House. I wish to emphasize that this Bill is uniquely considered. Whereas failure by this House to concur with the Senate on ordinary Bills, either in part or entirety, leaves such Bills referred to the Mediation Committee, this particular Bill has **no such option**. Therefore, in the unlikely event that the House fails to meet the above-mentioned threshold, Article 111 (3) of the Constitution

contemplates that the Bill shall be deemed to have been passed in the form adopted by the Senate and the Speaker shall refer it to the President for assent. Therefore, the passage of each of the two amendments requires the support of at least 233 Members.

Honourable Members, the second matter relates to business appearing under Order Number 10. This is the Special Motion seeking extension, by a period not exceeding **nine months** from August 27, 2014, the prescribed periods for passage of Bills listed in the Motion. Ample time is definitely required for quality disposal of these Bills. The time now available to this House, being barely nine calendar days, would not suffice for Parliament to competently consider and pass such crucial Bills. I therefore find that there are indeed "*exceptional circumstances*" as contemplated in Article 261(3) (b) of the Constitution to justify the extension. In this regard, may I draw the attention of Members to Article 261 (2) of the Constitution which provides that for this Motion to be passed, it must receive the support of at least two-thirds of all the members of the National Assembly.

The third and final issue is in respect of business appearing under Order Number 11, the Constitution of Kenya (Amendment) (No. 2) Bill, 2013 which was sponsored by the Hon. Lelelit Lati, MP. This Bill is seeking to amend some Constitutional provisions touching on the Equalization Fund established under Article 204 of the Constitution. The Second Reading of this Bill was concluded, and is only awaiting putting of the question so as to move it to the next stage. The procedure of amending the Constitution through parliamentary initiative as provided for under Article 256 (1) (d) envisages that an amendment Bill shall be passed in both Second and Third Readings if it is supported by **not less than two-thirds** of all the Members of that House.

Honourable Members,

It is on the premise of the commonality of prosecuting business appearing under Orders 8, 9, 10 and 11 that the House Business Committee scheduled these three matters to be dealt with on the same day, being today, Tuesday 19th August, 2014. I therefore urge you Honourable Members to ensure that you have your cards in readiness for the electronic voting at the opportune time. Having said that and in order to expedite the consideration of this business, I now direct that Order No. 9, 10 and 11 be rearranged as follows- Order No. 9 will become No. 11; Order No. 10 becomes order 9; while order no. 11 becomes Order no 10.

Thank you".

5. PAPERS LAID

The following Papers were laid on the Table –

- (i) Quarterly Economic and Budgetary Review fourth Quarter 2013/2014;
- (ii) Third Bi-annual Report on the Status of Alcohol and Drug Control in Kenya;
- (iii) Report of the Auditor-General on the Financial Statements of School Equipment Production Unit for the year ended 30th June 2013, and the certificate of the Auditor-General therein;
- (iv) The Report of the Auditor-General on the Financial Statements of Mombasa Water Supply and Sanitation Company Limited for the year ended 30th June 2013, and the certificate of the Auditor-General therein;

- (v) The Report of the Auditor-General on the Financial Statements of Ford Kenya for the year ended 30th June 2011, and the certificate of the Auditor-General therein;
- (vi) The Report of the Auditor-General on the Financial Statements of the Agano Party for the year ended 30th June 2012, and the certificate of the Auditor-General therein; and,
- (vii) The Report of the Auditor-General on the Financial Statements of the Sunset Hotel Limited for the year ended 30th June 2013, and the certificate of the Auditor-General therein.

(The Leader of the Majority Party)

- (viii) Report of the Departmental Committee on Administration & National Security on the consideration of the Private Security Regulation, Bill, 2014

(Chairperson, Departmental Committee on Administration & National Security)

- (ix) Report of the Departmental Committee on Justice and Legal Affairs on the Petition for removal from office of the Attorney-General of the Republic of Kenya

(Chairperson, Departmental Committee on Justice & Legal Affairs)

- (x) Joint Report of the Departmental Committee on Finance, Planning & Trade and Committee on Regional Integration on a Petition by former employees of the defunct East African Community on delayed payment and other benefits due to them

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

6. **STATEMENTS PURSUANT TO STANDING 44(2)(c)**

Pursuant to Standing Order 44(2)(c), the following Members requested to Statements –

- (i) by the Member for Garissa County (Hon. Shukran Gure) from the Chairperson Departmental on Administration and National Security regarding the alleged capture and whereabouts of six Kenyans by Kenya Defence Forces (KDF) in Dadaab Constituency;
- (ii) by the Member for Ugenya (Hon. David Ochieng) from to the Chairperson of the Departmental Committee on Education, Research and Technology regarding alleged causes of cheating and irregularities in examinations managed by the Kenya National Examinations Council (KNEC);
- (iii) by the Member for Ikolomani (Hon. Bernard Shinali) from to the Chairperson of the Departmental Committee on Administration and National Security concerning increased cases of insecurity in parts of Kakamega and Vihiga Counties;
- (iv) by the Member for Kibra (Hon. Ken Okoth, MP) to the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the status of roads in Upperhill, Kibra Constituency;

- (v) by the Member for Kathiani (Hon. Robert Mbui) from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the status of road section between Mumbuni and Kathiani Road in Machakos County;
- (vi) by the Member for Laikipia North (Hon. Matthew Lempurkel) from the Chairperson of the Departmental Committee Administration and National Security regarding police barriers in Mkogodo area of Laikipia North Constituency;
- (vii) by the Member for Molo (Hon. Jacob Macharia) from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the status of Kibunja-Molo-Olenguruone and Njoro-Molo-Mau Summit roads in Molo Constituency;
- (viii) by the Member for Bomet Central (Hon. Ronald Tonui) from the Chairperson of the Departmental Committee Land regarding non-issuance of title deeds to Laldaet land owners in Bomet Central Constituency; and,
- (ix) by the Member for Marakwet East (Hon. Kangogo Bowen) from the Leader of the Majority Party regarding admission of Diploma and Certificate students to Kenya Medical Training Colleges.

7. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILL NO.13 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the County Allocation of Revenue Bill (Senate Bill No.13 of 2014) be now read a Second Time

(Chairperson, Budget and Appropriations Committee – 14.08.2014)

Debate interrupted on Thursday, August 14, 2014 resumed;

Rising in his place on a Point of Order, the Member for Garissa Town (Hon. Aden Duale) claimed to move that “the Mover be now called upon to reply;

And the Speaker acceding to the claim;

Question put and agreed to;

Thereupon Mover replied;

Question put and agreed to;

Bill read a Second Time and committed to the Committee of the Whole House today.

8. **SPECIAL MOTION – EXTENSION OF PERIOD IN RESPECT OF LEGISLATION WITH CONSTITUTIONAL TIMELINES**

THAT, Pursuant to the provisions of Article 261(2) of the Constitution, this House **resolves** to extend the periods prescribed for the passage of The Public Service (Values and Principles) Bill, (National Assembly Bill No. 29 of 2014), The Persons Deprived of Liberty Bill, (National Assembly Bill No. 30 of 2014), The Environmental Management and Co-ordination (Amendment) Bill, (National Assembly Bill No. 31 of 2014) and the periods

prescribed for enactment of legislation necessary to give effect to Article 47 (*Fair Administrative Action*), Article 50 (*Fair Hearing*), Article 226 (*Accounts and Audit of Public Entities*) and Article 227 (*Procurement of Goods and Services*) of the Constitution, by a period of **nine months** from August 27, 2014.

(Chairperson, Constitutional Implementation Oversight Committee)

Debate arising;

Mover replied;

Question put and agreed to;

Thereupon, the House proceeded to an electronic vote in accordance with the provisions of Article 261(2) of the Constitution;

Question put, and upon an electronic vote agreed to.

AYES

NOES

ABSTENTIONS

266

Nil

Nil

Resolved accordingly –

THAT, Pursuant to the provisions of Article 261(2) of the Constitution, this House **resolves** to extend the periods prescribed for the passage of The Public Service (Values and Principles) Bill, (National Assembly Bill No. 29 of 2014), The Persons Deprived of Liberty Bill, (National Assembly Bill No. 30 of 2014), The Environmental Management and Co-ordination (Amendment) Bill, (National Assembly Bill No. 31 of 2014) and the periods prescribed for enactment of legislation necessary to give effect to Article 47 (*Fair Administrative Action*), Article 50 (*Fair Hearing*), Article 226 (*Accounts and Audit of Public Entities*) and Article 227 (*Procurement of Goods and Services*) of the Constitution, by a period of **nine months** from August 27, 2014.

9. **THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2013)**

Motion made and Question proposed;

THAT, the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No.26 of 2013) be now read a Second Time

Thereupon, the House proceeded to a Vote in accordance with the provisions of Standing Order 72(2);

Question put and upon a Division agreed to.

AYES

NOES

ABSTENTIONS

250

7

Nil

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

10. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

Chairperson of Committees in the Chair

The County Allocation of Revenue Bill (Senate Bill No.13 of 2014)

Clause 3 - agreed to

Clauses 4-11 - agreed to

Clause 12 - amendment proposed –

THAT, the Bill be amended by deleting Clause 12

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Proposed amendment withdrawn;

Clause 12 - agreed to

Clause 13 - agreed to

First Schedule - agreed to

Second Schedule - agreed to

Third Schedule - agreed to

Clause 2 - agreed to

Clause 1 - amendment proposed –

THAT, the Bill be amended in Clause 1 by inserting the words “and shall come into operation upon publication” immediately after the figure “2014”

(Chairperson, Budget and Appropriations Committee)

Question of the amendment proposed;

Debate arising;

Thereupon, the House proceeded to an electronic vote in accordance with the requirements of Article 111 of the Constitution;

And the Speaker having directed the Division Bell to be rung to confirm whether there was the prerequisite number of two-thirds majority to carry out a Roll Call Division;

Thereupon, the House proceeded to an electronic vote;

Question put and upon a Vote agreed to.

AYESNOESABSTENTIONS

248

Nil

Nil

Clause 1 - as amended agreed to.

Title - agreed to.

Bill to be reported with amendments;

11. HOUSE RESUMED - the Speaker in the Chair

The County Allocation of Revenue Bill (Senate Bill No.13 of 2014)

Bill reported with amendments;

Motion made and Question proposed:-

THAT, the House do agree with the Committee of the Whole House in the said report
(*Chairperson, Budget and Appropriations Committee*)

Question put and agreed to.

Motion made and Question proposed:-

THAT, the County Allocation of Revenue Bill (Senate Bill No.13 of 2014) be now read
a Third Time
(*Chairperson, Budget and Appropriations Committee*)

Question put and agreed to;

Bill read a Third Time and **passed**.

12. **THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL (NATIONAL ASSEMBLY BILL NO.28 OF 2013)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Protection Against Domestic Violence Bill (National Assembly Bill No.28 of 2013) be now read a Second Time

(*Chairperson, Departmental Committee on Justice & Legal Affairs*)

Debate arising;

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

13. HOUSE ROSE - at thirty minutes past Six O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, August 20, 2014 at 9.30 a.m.

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