



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – FIFTH SESSION**

**NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, FEBRUARY 16, 2017**

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Speaker
4. **PETITION**

The Speaker conveyed the following Petition –

**Removal of Mr. Edward Ouko from the office of Auditor-General**

**“Honourable Members,**

Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition regarding removal of the Auditor-General of the Republic of Kenya.

**Honourable Members,**

The Petition is signed by one Mr. Emmanuel Mwagambo Mwagonah of P.O. Box 35263-00100, Nairobi, stating that Mr. Edward Ouko, the Auditor-General, is in “*serious violation of the Constitution*” and several other laws of the republic. The petitioner contends that the Auditor-General has, *inter alia*, violated the following provisions of the Constitution:-

- (i) Article 254(1) by failing to submit reports to the President and to Parliament;
- (ii) Article 201(d) regarding prudent and responsible use of public funds by allegedly failing to prevent wastage of public funds; and
- (iii) Article 73(2)(b) by ignoring merit and the approved scheme of service in the recruitment and promotion of employees in the office of the Auditor-General.

**Honourable Members,**

The petitioner further asserts that the Auditor-General has severally acted contrary to:- (i) the Public Procurement and Asset Disposal Act with regard to procurement activities in the office, (ii) the Public Audit Act with regard to the appointment of members

to and operations of the Audit Advisory Board, **and** (iii) the Leadership and Integrity Act with regard to alleged conflict of interest and the recruitment of some employee in 2015.

In this regard **Honourable Members**, the Petitioner prays that:-

- (i) The National Assembly resolves that this Petition discloses grounds for removal of the Auditor-General as provided for under Article 251(1) of the Constitution of Kenya; and
- (ii) The National Assembly recommends to H.E. the President the appointment of a tribunal to investigate the Auditor-General in accordance with the provisions of Article 251 of the Constitution.

**Honourable Members,**

A Petition of this nature is not new to the House. Allow me therefore to guide the House that, pursuant to paragraph (3) of Standing Order 230, this Petition stands committed to the Departmental Committee on Finance, Planning & Trade for consideration. The Committee should guide the House, by way of a report, on whether the Petition satisfies the requirements of Article 251 of the Constitution and any other relevant law relating to the grounds for removal of a holder of an independent office. The Committee has fourteen (14) days within which to submit a report to the House as required under paragraph (4) of Standing Order 230. I implore upon the Committee to exhaustively examine each of the grounds and the particulars claimed by the Petitioner as the process of removal of persons from office is *quasi-judicial*, requiring judicious attention and sobriety.

For avoidance of doubt, once the Committee tables its report, the House will have ten (10) days within which to consider the report and decide whether or not the Petition discloses ground for removal of the Auditor-General.

**I thank you!"**

5. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2)(a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, February 21, 2017.

6. **MOTION – THE REPORT OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE ON THE VETTING OF NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF COMMISSION FOR REVENUE AUTHORITY**

Motion made and Question proposed -

**THAT**, this House adopts the Report of the Departmental Committee Finance, Planning and Trade on the Vetting of Nominee for Appointment as the Chairperson of the Commission on Revenue Allocation, laid on the Table of the House on Wednesday, February 15, 2017, and pursuant to the provisions of Article 215 of the Constitution and Section 9 of the Commission on Revenue Allocation Act, **approves** the appointment of Dr. Jane Wangui Kiringai as Chairperson of the Commission on Revenue Allocation.

*(Chairperson, Finance, Planning & Trade Committee)*

Debate arising;

Question put and agreed to.

7. **THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 25 OF 2016)**

Order read;

Motion made and Question proposed –

**THAT**, the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 25 of 2016) be now read a Third Time.

*(The Leader of the Majority Party)*

Question put and agreed to.

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

8. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

**IN THE COMMITTEE**

The Speaker in the Chair

**The Public Finance Management (Amendment) Bill (National Assembly Bill No. 4 of 2015)**

Clause 67 - amendment proposed –

**THAT** clause 67 be amended by inserting the following new paragraph immediately after paragraph (a) –

(aa) deleting subsection (4) and substituting therefor with the following new subsection –

“(4) Members of the Board except *ex officio* members shall be appointed by the Cabinet Secretary and serve for a term of three years, renewable once for a further term of three years”.

*(Chairperson, Departmental Committee on Finance, Planning and Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 67 - as amended agreed to.

*(Change of Chair from Speaker to First Chairperson)*

Clauses 68 & 69 - agreed to.

### **New Clauses**

New Clause 9A proposed -

**THAT** the Bill be amended by inserting the following new clauses immediately after clause 9—

Amendment  
of section  
25 of No.  
18 of 2012.

**9A.** Section 25 of the principal Act is amended —

- (a) in subsection (2) by deleting the word “February” and substituting therefor the word “January”;
- (b) in subsection (7) by deleting the word “fourteen” and substituting therefor the word “thirty”; and
- (c) by deleting subsection (8) and substituting therefor the following new subsection —

(8) The resolution passed under subsection (7) shall form the basis of the budget for the relevant financial year.

*(Vice Chairperson, Budget and Appropriations Committee)*

Motion made and Question proposed —

THAT, the New Clause 9A be read a Second Time

*(Vice Chairperson, Budget and Appropriations Committee)*

Debate arising;

Question put and negatived;

New Clause 9B proposed -

Amendment  
of section  
33 of No.  
18 of 2012

**9B.** Section 33 of the principal Act is amended in subsection (1) by deleting the word “February” and substituting therefor with the word “January”.

*(Vice Chairperson, Budget and Appropriations Committee)*

Proposed New Clause 9B withdrawn.

New Clause 14A proposed -

**THAT** the Bill be amended by inserting the following new clause immediately after clause 14 —

Amendment  
of section  
46 of No.  
18 of 2012

**14A.** Section 46 of the principal Act is amended in subsection (2) by deleting the words “the National Treasury” and substituting therefor the words “programmes and projects”.

*(Vice Chairperson, Budget and Appropriations Committee)*

Motion made and Question proposed –

THAT, the New Clause 14A be read a Second Time

*(Vice Chairperson, Budget and Appropriations Committee)*

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 14A be part of the Bill

Question put and agreed to;

New Clause 35A proposed -

**THAT** the Bill be amended by inserting the following new clause immediately after clause 35—

Amendment of  
section 117 of  
No. 18 of 2012.

**35A.** Section 117 of the principal Act is amended —

- (a) in subsection (1) by deleting the expression “28<sup>th</sup>” and substituting therefor the expression “15<sup>th</sup>”; and
- (b) in subsection (6) by deleting the word “fourteen” and substituting therefor the word “thirty”.

*(Vice Chairperson, Budget and Appropriations Committee)*

Motion made and Question proposed –

THAT, the New Clause 35A be read a Second Time

*(Vice Chairperson, Budget and Appropriations Committee)*

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 35A be part of the Bill

Question put and agreed to;

New Clause 36A proposed –

**THAT**, the following new clause be inserted immediately after clause 36—

**“36A.** The principal Act is amended by inserting the following new section immediately after Section 119 -

Criteria for approval to open bank account. **119A.** (1) Subject to the provisions of section 119, the following criteria shall be considered by the County Treasury in granting approval to a county government entity to open and operate a county government bank account—

- (a) all county exchequer accounts shall be opened at the Central Bank of Kenya;
- (b) for avoidance of doubt, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash which shall be opened at a **government-controlled or a co-operative-owned** bank designated by the County Treasury.

*(motion moved in an amended form – addition in bold)*

(2) Except with the prior authority of the County Treasury, no accounting officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or for the transaction of official banking business.

(3) The authority of County Treasury shall be conveyed in writing to the responsible accounting officer with a copy to the Controller of Budget and the Auditor-General.

(4) The County Treasury may prescribe the banking rules and the maximum balance which may be held in any official County Treasury Single Account sub-account or other bank accounts, and if at any time this balance seems likely to be exceeded, the officer operating the accounts shall consult the County Treasury on the action to be taken.

(5) No official county government bank account shall be overdrawn, nor shall any advance or loan be obtained from a bank account for official purposes beyond the limit authorized by the County Treasury in line with section 119(4) of this Act, and the authority shall be conveyed in writing.

*(Leader of the Majority Party)*

Motion made and Question proposed –

THAT, the New Clause 36A be read a Second Time

*(Leader of the Majority Party)*

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 36A be part of the Bill.

Question put and agreed to;

New Clause 40A proposed –

**THAT** the following new clause be inserted immediately after clause 40—

Amendment of section 128 of No.16 of 2012 **40A.** Section 128 of the principal Act is amended in subsection (2) by deleting the expression “30<sup>th</sup> August” and substituting therefor the expression “15<sup>th</sup> September”.

*(Vice Chairperson, Departmental Committee on Finance, Planning and Trade)*

Motion made and Question proposed –

THAT, the New Clause 40A be read a Second Time.

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 40A be part of the Bill.

Question put and agreed to;

Clause 2 - amendment proposed –

**THAT** clause 2 of the Bill be amended by deleting paragraph (c).

*(Vice Chairperson, Budget and Appropriations Committee)*

Question of the amendment proposed –

Debate arising;

Further amendment proposed –

**THAT**, clause 2 be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) in the definition of “short term borrowing” by—

- (i) deleting the phrase “bank-overdraft” appearing immediately after the phrase “Treasury Bills” and substituting therefor the phrase “Central Bank of Kenya-overdraft”;

- (ii) inserting the phrase “Central Bank of Kenya” before the word “instrument”

*(Leader of the Majority Party)*

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to.

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments

9. **HOUSE RESUMED** - the Speaker in the Chair

**The Public Finance Management (Amendment) Bill (National Assembly Bill No. 4 of 2015)**

Bill reported with amendments;

Motion made and Question proposed-

THAT, the House doth agree with the Committee in the said report

*(Leader of the Majority Party)*

Debate arising;

Question for agreement deferred to another day.

10. **THE BETTING, LOTTERIES AND GAMING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2016)**

Order for Second Reading read;

Rising in his place on a point of order, the Member for Matungu Constituency (Hon. David Were) sought to have the Speaker defer the Second Reading of the Bill for two weeks to allow the Departmental Committee on Labour and Social Welfare to conclude public participation hearings on it.

The Speaker ruled that pursuant to the provisions of Standing Order 127(4), debate at Second Reading proceeds.

Motion made and Question proposed –

**THAT**, the Betting, Lotteries and Gaming (Amendment) Bill (National Assembly Bill No. 49 of 2016) be now read a Second Time.

*(Hon. Jakoyo Midiwo)*



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.

11. **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  
Tuesday, February 21, 2017 at 2.30 p.m.

--x--