



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, FEBRUARY 16, 2017 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with prayer said by the Deputy Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following communications from the Chair-

a) On the disposal of the Constitution of Kenya (Amendment) Bill (Senate Bill No. 16 of 2015)

“Hon. Senators, you will recall that, on 28th December, 2016, during the Special Sitting of the Senate, this House voted on the Constitution of Kenya (Amendment) Bill (Senate Bill No. 16 of 2015) by Sen. Judith Sijeny (popularly known as the 'two-thirds gender Bill').

Hon. Senators, Article 256 (1) (d) provides that a Bill to amend the Constitution shall have been passed by Parliament when each House of Parliament has passed the Bill, in both its second and third readings, by not less than two-thirds of all the members of that House. This then means that for the Bill by Sen. Sijeny to pass at Second Reading, it must be supported by at least 45 Senators.

As you may recall, the result of the Division held on 28th December, 2016 was as follows-

AYES	= 37
NOES	= 6
ABSTENTION	= 3

From the result of the Division, it was clear that the Bill did not attain the required threshold for it to pass Second Reading.

Hon. Senators, Standing Order 63 provides as follows-

‘(1) In every instance where the Constitution lays down that a fixed number of Senators is necessary to support the moving of, or to decide any question on a Motion, any amendment motion to such motion shall not be passed unless supported by the fixed number of Senators required to pass the original motion.

(2) Notwithstanding paragraph (1), whenever a Bill or a Special Motion that requires a special majority in the Senate fails to obtain the required majority when the question on the Bill or the Motion is put and the vote results in a majority of the “Ayes” but the “Noes” have not numbered at least one third of all the Senators, the Speaker may direct that a further vote be taken on the particular question and the further vote shall be taken within five sitting days from the day the first vote was taken.

(3) If the Speaker does not direct a further vote under paragraph (2) or if on such further vote the fixed majority is not obtained, the Speaker shall declare that the motion is negated.’

Hon. Senators, you further recall that the Speaker, while communicating the results of the Division on this Bill, directed that pursuant to standing order 63, a second opportunity would be afforded to this House to vote again on the Bill. As indicated in the timelines, we have five sitting days to vote again on this matter. For avoidance of doubt, today is the third day and the fifth day shall be Wednesday, 22nd February, 2017. If the Bill will not have been voted on by then, I will declare the Motion on Second Reading of the Bill negated.

I hope that this House is now guided accordingly.

I thank you.”

b) On visiting students from Nginda Girls’ Secondary School

“Honorable Senators, I would like to acknowledge the presence, in the Public Gallery, this afternoon, of visiting students from Nginda Girls Secondary School, Murang’a County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

c) On visiting students from Baitigitu Primary School

“Honorable Senators, I would like to acknowledge the presence, in the Public Gallery, this afternoon, of visiting students from Baitigitu Primary School, Meru County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

4. **PAPERS LAID**

The following papers were laid on the Table of the Senate:-

- (i) The Second Edition of the Handbook for Parliamentarians on International Humanitarian Law co-published by the Inter – Parliamentary Union (IPU) and the International Committee of the Red Cross (ICRC).

(Sen. Catherine Mukiite)

- (ii) Statement of the Business of the Senate for the week commencing 21st February, 2017.

(The Senate Majority Leader)

5. **NOTICE OF MOTION** – (Sen. Godliver Omondi)
(Department of Health)

AWARE that about 15% of the Kenyan population are persons living with disabilities;

APPRECIATING that the Government has taken several measures to avail certain privileges through the National Council for Persons with Disabilities to registered persons living with disabilities;

NOTING that the National Hospital Insurance Fund (NHIF) is a contributory health insurance cover and the remittance of contributions for persons living with disabilities by government for the cover, is not among the privileges extended to persons living with disabilities;

CONCERNED that most persons living with disabilities have difficulties engaging in gainful income generating activities that would enable them pay the contributions to NHIF, hence are without any medical cover;

FURTHER CONCERNED that many persons with disabilities are unable to access medical services leading to high mortality rate;

NOW THEREFORE, the Senate recommends to the National Government to put in place the following measures through the Ministries of Health and East African Community, Labour and Social Protection-

1. Undertake vetting of all persons living with disabilities in Kenya to ascertain those who are unable to afford payment of contributions to the NHIF; and

2. Set aside a special fund for remittance of contributions to NHIF for those persons who are living with disabilities and cannot afford to pay the contributions.

6. **STATEMENTS**

(a) Statement Pursuant to Standing Order 45 (2) (b)

A Nominated Senator (Sen. (Dr.) Agnes Zani) sought a Statement from the Chairperson of the Standing Committee on Education regarding the ongoing strike by lecturers of Public Universities.

(b) Statement Pursuant to Standing Order 45 (2) (c)

The Senate Majority Leader issued a Statement of the business of the Senate for the week commencing 21st February, 2017.

7. **THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2017)**

(The Senate Majority Leader)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Finance, Commerce and Budget pursuant to the Standing Orders.

8. **THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**

(The Senate Majority Leader)

Order for Second Reading read;

(Resumption of Debate Interrupted on Wednesday, 15th February, 2017)
(Division)

Order deferred.

9. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILL NO. 16 OF 2015)**

(Sen. Judith Sijeny)

Order for Second Reading read;

(Resumption of Debate Interrupted on Wednesday, 28th December, 2016)
(Division)

Order deferred.

10. **THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILL NO. 9 OF 2014)**

(Sen. Kipchumba Murkomen)

Order for Second Reading read;

Order deferred.

11. **MOTION – TO ADOPT THE REPORT OF THE JOINT SITTING OF THE SENATE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES AND THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE VETTING OF NOMINEES FOR APPOINTMENT TO THE NATIONAL CLIMATE CHANGE COUNCIL**

THAT, pursuant to Section 7 of the Climate Change Act, 2016, Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and Senate Standing Order 65, the Senate adopts the Report of the Joint Sitting of the Senate Standing Committee on Land and Natural Resources and the National Assembly Departmental Committee on Environment and Natural Resources on the vetting of nominees for appointment to the National Climate Change Council, laid on the Table of the Senate on Wednesday, December 28, 2016 and approves the recommendations of the Committees as follows:-

- i) Approves the nomination of Messrs. Suresh Patel and John Kioli for appointment to the National Climate Change Council;
- ii) Rejects the nomination of Ms. Cynthia Wechabe and Dr. Jane Mutheu for appointment to the National Climate Change Council; and
- iii) Recommends that the appointing authority submits nominees of the female gender to represent the marginalized communities and Commission for University Education as prescribed by the Public Appointments (Parliamentary Approval) Act.

(Chairperson, Standing Committee on Land and Natural Resources)

Order deferred.

12. **MOTION – ON THE CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY ASSEMBLY SERVICES BILL (SENATE BILL No. 27 OF 2014)**

Motion made and Question proposed;

THAT, the National Assembly Amendments to the County Assembly Services Bill (Senate Bill No. 27 of 2014) be now considered.

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

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 72, the Deputy Speaker informed the House that the Motion did not affect counties.

Question put and agreed to.

13. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees - (Sen. Mositet) – in the Chair)

**The National Assembly Amendment to the County Assembly Services Bill
(Senate Bill No. 27 of 2014)**

National Assembly amendment to Clause 48

Motion made and Question proposed;

THAT, Clause 48 is amended in sub – clause (2) by deleting the expression “12(3)(d)” wherever it appears and substituting therefor the expression “12(3)(b), (c) and (d).”

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

Debate arising;

National Assembly amendment to Clause 48- amendment deferred

Progress Report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the National Assembly amendment to Clause 48 of the County Assembly Services Bill (Senate Bill No. 27 of 2014) and seek leave to sit again tomorrow.

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

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

14. **HOUSE RESUMED** – Temporary Speaker (Sen. Mositet) – in the Chair

15. **THE COUNTY ASSEMBLY SERVICES BILL (SENATE BILL NO. 27 OF 2014)**

Progress reported;

Motion made and Question Proposed;

THAT, the House do agree with the Committee in the said report.

(Sen. Mutula Kilonzo Jr., on behalf of the Chairperson, Standing Committee on Legal Affairs and Human Rights)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

16. **COMMITTEE OF THE WHOLE**
THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

(The Senate Majority Leader)

(Resumption of Debate interrupted on Wednesday, 9th November, 2016)

Order deferred.

17. **COMMITTEE OF THE WHOLE**
THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2015)

(Sen. Godliver Omondi)

Order deferred.

18. **COMMITTEE OF THE WHOLE**
THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF THE ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)

(Sen. Omar Hassan)

Order deferred.

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

(Sen. Zipporah Kittony)

Order deferred.

20. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Mositet) – in the Chair)

THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)

Clauses 3 and 4 - vote deferred

Clause 5 - amendment proposed

THAT clause 5 of the Bill be amended in sub-clause (1) by inserting the words “and shall invite members of the public to give their views on the instrument within a prescribed period and in a manner to be determined by the Committee” immediately after the words “affected by the proposed instrument”.

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

Debate arising;

Question of the amendment that the words proposed to be inserted be inserted, put.

Clause 5 - vote deferred

Clauses 6-14 - vote deferred

Clause 15 - amendment proposed

THAT the Bill be amended by deleting clause 15 and substituting therefor the following new clause-

Notice to the regulation making authority **15.** In so far as is practically possible, the committee shall in considering a statutory instrument, and before tabling its report in the county assembly, confer with the regulation-making authority which has made the statutory instrument that is before the committee for scrutiny.

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

Debate arising;

Question of the amendment that the Clause proposed to be deleted be deleted and the Clause proposed to be substituted be substituted, put.

Clause 15 - vote deferred

Clauses 16-24 - vote deferred

Clause 2, the Title and Clause 1 - vote deferred

Progress Report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the County Statutory Instruments Bill (Senate Bill No. 10 of 2015) and seek leave to sit again tomorrow.

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

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

21. **HOUSE RESUMED** - Temporary Speaker (Sen. Mositet) - in the Chair

22. **THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)**

Progress reported;

Motion made and Question proposed-

THAT the House do agree with the Committee in the said report.

(Sen. Mutula Kilonzo Jr, on behalf of the Chairperson, Standing Committee on Legal Affairs and Human Rights)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Peter Mositet) ruled that the question did not affect counties;

Question put and **agreed to**.

And there being no other Business on the day's Order Paper, the Temporary Speaker (Sen. Sang) adjourned the Senate without question put, pursuant to the Standing Orders.

23. **SENATE ROSE** – at Thirty Minutes past Five 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.*

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