



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FIFTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, FEBRUARY 15, 2017

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

The following Papers were laid on the Table –

- (i) The National Treasury 2017/2018 Programmed Based Budget;
- (ii) The National Treasury 2017/2018 Estimates of Revenue Grants and Loans;
- (iii) The National Treasury 2017/2018 Annex of Revenue and Expenditure for State Corporations; and
- (iv) The National Treasury 2017/2018 Budget Summary.

(The Leader of the Majority Party)

5. **NOTICE OF MOTION** – (Hon. Jessica Mbalu)

THAT, aware that education is an important tool for empowering Kenyan youth to actively participate in national development towards realization of Kenya's Vision 2030 and the Sustainable Development Goals; noting that conducive and enabling working environment for teachers is fundamental in enhancing efficiency and safety of learning materials; cognizant of the fact that teachers in a number of public schools and early childhood development (ECD) centres work from poor staffrooms or makeshift facilities at both levels of government, including ECD Centres, some of which have no staffroom facilities, or storage facilities for equipment or books; further concerned that teachers and students in most learning institutions have no internet infrastructure for accessing online learning resources; concerned that such poor working conditions constrain optimal service delivery by teachers and expose learning materials, including books purchased under the free Primary Education and subsidized secondary school capitation funds, to destruction

and theft; this House urges the National Government and the county governments to initiate a comprehensive programme to ensure that all public primary and secondary schools and ECD centres have standardized staffrooms for teachers and safe custody of learning resources and internet connectivity for accessing online learning resources.

6. **THE PRIVATIZATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 27 OF 2016)**

Motion made and Question proposed –

THAT, the Privatization (Amendment) Bill (National Assembly Bill No. 27 of 2016) be now read a Third Time.

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

Question put and agreed to;

Bill read a Third Time and passed.

7. **THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLIES APPROVAL) BILL (SENATE BILL NO. 20 OF 2014)**

Motion made and Question proposed –

THAT, the Public Appointments (County Assemblies Approval) Bill (Senate Bill No.20 of 2014) be now read a Third Time.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question put and agreed to;

Bill read a Third Time and passed.

8. **THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILL NO. 23 OF 2014)**

Motion made and Question proposed –

THAT, the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) be now read a Third Time.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question put and agreed to;

Bill read a Third Time and passed.

9. **MOTION – THE REPORT OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE ON THE VETTING OF NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF COMMISSION ON REVENUE ALLOCATION (CRA)**

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.

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

Debate arising;

Rising in his place on a Point of Order pursuant to Standing Order 95, the Member for Mavoko Constituency (Hon. Patrick Makau) claimed to move “that the mover be called upon to reply.”

And the Speaker acceding to the claim;

Thereupon Question put and agreed to;

Mover replied;

Question deferred to another day.

10. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson in the Chair

(i) **The Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 25 of 2016)**

Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 & 13 - agreed to

New Clauses

New Clause 8A proposed -

THAT, the Bill be amended by inserting the following new clause immediately after clause 8-

Amendment of section 36 of No. 15 of 2013. **8A.**Section 36 of the principal Act is amended by—

(a) by deleting subsection(1) and replacing it with the following subsection—

“(1) The unit shall assess the technical expertise of the contracting authority to procure the development, preparation, procurement, contract negotiation and management of a project under this Act.”

(b) by deleting subsection (2) and replacing it with the following subsection—

“(2) Where the unit finds that the contracting authority does not have the technical expertise to procure the project under this Act, the contracting authority shall, in consultation with the unit, appoint a transaction advisor to assist the authority in the preparation, procurement, contract negotiations, and financial close phase of a project.”

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

Motion made and Question proposed –

THAT, the New Clause 8A be now read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 8A be part of the Bill.

Question put and agreed to.

New Clause 12A proposed –

THAT, the Bill be amended by inserting the following new clause immediately after clause 12—

Amendment of Section 56 of No. 15 of 2013. **12A.**Section 56 of the principal Act is amended by—

(a) deleting subsection (1) and substituting therefor the following subsection—

“(1) The Committee shall, within a period of thirty days from the date of its decision approving the project and financial risk assessment report, inform the contracting authority of its decision.”

(b) deleting subsection (2) and substituting therefor the following subsection—

“(2) Where the Committee approves an undertaking of a project, the contracting authority shall finalise the project agreement for execution by the parties to the project.”

(a) deleting the words “Cabinet or Parliament as the case may be,” appearing in subsection (3) and substituting therefor the word “Committee”.

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

Motion made and Question proposed –

THAT, the New Clause 12A be now read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 12A be part of the Bill.

Question put and agreed to.

New Clause 12B proposed -

THAT, the Bill be amended by inserting the following new clause immediately after clause 12—

Amendment
of section 57
of No. 15 of
2013.

12B. The principal Act is amended by repealing section 57 and replacing it with the following new section—

Execution of
contract.

57. The contracting authority shall, following its finalization of the project agreement and after all parties to the agreement have complied with all conditions precedent to the execution of government contracts, execute the contract awarded to that bidder.

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

Motion made and Question proposed –

THAT, the New Clause 12B be now read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 12B be part of the Bill;

Question put and agreed to.

Clause 2 - amendment proposed –

THAT, the Bill be amended by deleting clause 2 and substituting therefor the following clause—

Amendment of
section 2 of No.
15 of 2013.

2. Section 2 of the Public Private Partnerships Act, 2013, in this Act, referred to as “the principal Act,” is amended by—

(a) deleting the definition of the term “contracting authority” and substituting therefor the following new definition—

“contracting authority” means—

(a) at the national government level, a state department, agency or state corporation which intends to have its functions undertaken by a private party; or

- (b) at the county government level, the county government or county corporation which intends to have its functions undertaken by a private party;
- (b) deleting the definition of the term “transaction adviser” and substituting therefor the following new definition—

“transaction advisor” means a person who has the appropriate skill and experience to assist and advise the contracting authority or the unit on matters related to a public private partnership.

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

Question of the 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.

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

Clauses 3 & 4 - agreed to

Clause 5 - amendment proposed –

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause —

5. Section 10 of the principal Act is amended —

(a) in subsection (1)—

- (i) by inserting the words “Speaker and” immediately after the words “report to the relevant” and the words “Article 114 of the Constitution,” immediately after the words “making reference to ” in paragraph (g); and

(ii) by inserting the following new paragraphs immediately after paragraph (h) —

- (i) undertake monitoring and evaluation of movement programmes and projects with a view to informing the legislative budget and economic analysis;
- (j) produce the Budget Options Paper which shall be the basis of evaluating the Budget Policy Statement and annual estimates; and
- (k) review the County Fiscal Strategy Papers and the Controller of Budget Reports with a view to informing the relevant Committees of Parliament on revenue allocation.

(b) by inserting the following new subsection after subsection (2) —

(3) A public officer or national government entity shall upon request in writing by the Parliamentary Budget Office, provide information in such manner as may be specified by the Parliamentary Budget Office for the better carrying out of the functions specified under subsection (1).

(Chairperson, Budget and Appropriations Committee)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, subsection (3) of clause 5 be further amended by deleting and substituting therefor the following new paragraph—

(3) A public officer or national government entity shall upon request in writing by the Clerk of the National Assembly, provide information in such manner as may be specified by the Clerk of the National Assembly for the better carrying out of the functions specified under subsection (1).

(Chairperson, Budget and Appropriations Committee)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 5 be amended by deleting the proposed new paragraph (i) and substituting therefor the following new paragraph—

“(i) upon request by county assemblies, assist in the establishment of budget offices in the county assemblies”.

(Hon. George Omondi)

Proposed further amendment withdrawn;

Clause 5 - as amended agreed to

Clauses 6 & 7 - agreed to

Clause 8 - amendment proposed –

THAT, clause 8 be amended by inserting the following new paragraph immediately after paragraph (b)—

“(c) by inserting the following new subsection immediately after subsection (7)—

“(8) Three (3) months prior to a general election, no procurement shall be carried out by the national and county governments, or their respective entities, in respect of their respective development votes unless with the approval of the National Treasury.”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clauses 9, 10, 11 & 12 - agreed to

Clause 13 - amendment proposed –

THAT clause 13 of the Bill be deleted.

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

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 13 - deleted

Further amendment proposed –

THAT, clause 13 be amended by deleting paragraph (b) of the proposed new section 39A(1)

(Hon. George Omondi)

Proposed further amendment withdrawn.

Clause 14 - amendment proposed –

THAT clause 14 of the Bill be deleted

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

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 14 - deleted

Clause 15 - agreed to

Clause 16 - amendment proposed –

THAT clause 16 of the Bill be deleted.

(Chairperson, Budget and Appropriations Committee)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - deleted

Clause 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 & 35 - agreed to

Clause 36 - amendment proposed –

THAT, clause 36 be deleted and replaced with the following new clause—

Amendment of
section 119 of
No. 18 of 2012.

36. Section 119 of the principal Act is amended—

(a) in subsection (2), by—

(i) deleting the phrase “As soon as practicable” appearing at the beginning of the subsection;

(ii) deleting the phrase “or a bank approved by the County Treasury”;

(b) in subsection (4), by inserting the phrase “and by 5th of every month, the National Treasury shall publish and publicize a report on the website on levels of overdraft by county governments” immediately after the phrase “if any”.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 36 - as amended agreed to

Clause 37 - amendment proposed –

THAT clause 37 of the Bill be deleted.

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

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 37 - deleted

Clauses 38, 39, 40 & 41 - agreed to

Clause 42 - amendment proposed –

THAT clause 42 be amended by deleting sub-clause (b).

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

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 42 - agreed to

Clause 43 - amendment proposed –

THAT, clause 43 be deleted.

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

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 43 - deleted

Further amendment proposed –

THAT, clause 43 be amended by deleting paragraph (b) of the proposed new section 131A(1)

(Hon. George Omondi)

Proposed amendment withdrawn.

Clauses 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 & 66 - agreed to

Progress Report

Motion made and Question proposed –

THAT, the Committee of the whole House do report progress and seeks leave to sit again tomorrow

(The Leader of the Majority Party)

Question put and agreed to.

11. **HOUSE RESUMED** - the Second Chairperson in the Chair

(i) **The Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 25 of 2016)**

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

(The Leader of the Majority Party)

Question put and agreed to.

(ii) **Consideration of the Public Finance Management (Amendment) Bill (National Assembly Bill No. 4 of 2015)**

Progress reported -

THAT, the Committee of the whole House has considered the Public Finance Management (Amendment) Bill (National Assembly Bill No. 4 of 2015) and seeks leave to sit again tomorrow.

(The Leader of the Majority Party)

Question put and agreed to.

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

12. **HOUSE ROSE** - at twenty five minutes past Six O'clock

MEMORANDUM

The Speaker will take the Chair on
Thursday, February 16, 2017 at 2.30 p.m.

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