



REPUBLIC OF KENYA  
TWELFTH PARLIAMENT - (SECOND SESSION)  
THE SENATE  
**ORDER PAPER**  
WEDNESDAY, DECEMBER 05, 2018 AT 2.30 PM

**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 MENTAL HEALTH (AMENDMENT) BILL (SENATE BILL NO. 32 OF 2018)**  
(Sen. (Arch.) Sylvia Kasanga, MP)  
*(First Reading)*
9. **\*THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**  
(Sen. Ledama Olekina, MP)  
*(First Reading)*
10. **\*\*THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILLS NO. 34 OF 2018)**  
(Chairperson, Standing Committee on Finance and Budget)  
*(First Reading)*
11. **\*THE TEA BILL (SENATE BILLS NO. 36 OF 2018)**  
(Sen. Aaron Cheruiyot, MP)  
*(First Reading)*
12. **\*THE ELECTION LAWS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 37 OF 2018)**  
(Sen. (Dr.) Agnes Zani, MP)  
*(First Reading)*

13. **\*THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILLS NO. 23 OF 2018)**  
(Sen. Fatuma Dullo, MP)  
*(Second Reading)*  
*(Resumption of debate interrupted on Tuesday, 27<sup>th</sup> November, 2018)*  
*(Division)*
14. **\*THE LOCAL CONTENT BILL (SENATE BILLS NO. 10 OF 2018)**  
(Sen. Gideon Moi, MP)  
*(Second Reading)*  
*(Resumption of debate interrupted on Wednesday, 28<sup>th</sup> November, 2018)*  
*(Division)*
15. **\*\*THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2018)**  
(Chairperson, Sessional Committee on Delegated Legislation)  
*(Second Reading)*  
*(Resumption of debate interrupted on Wednesday, 28<sup>th</sup> November, 2018)*  
*(Division)*
16. **\*THE COUNTY LAW COMPLIANCE AND ENFORCEMENT BILL (SENATE BILLS NO. 25 OF 2018)**  
(Sen. George Khaniri, MP)  
*(Second Reading)*  
*(Resumption of debate interrupted on Wednesday, 28<sup>th</sup> November, 2018)*  
*(Division)*
17. **\*\*THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**  
(Chairperson, Standing Committee on Education)  
*(Second Reading)*  
*(Resumption of debate interrupted on Thursday, 29<sup>th</sup> November, 2018)*  
*(Division)*
18. **COMMITTEE OF THE WHOLE**  
**\*THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**  
(Sen. Aaron Cheruiyot, MP)  
*(Resumption of debate interrupted on Wednesday, 21<sup>st</sup> November, 2018)*  
*(Division)*
19. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2017)**  
(The Senate Majority Leader)  
*(Consideration of the National Assembly Amendments)*

20. COMMITTEE OF THE WHOLE  
\*THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL  
(SENATE BILLS NO. 17 OF 2018)  
(Sen. Aaron Cheruiyot, MP)
21. COMMITTEE OF THE WHOLE  
\*THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)  
(Sen. Ledama Olekina, MP)
22. **\*\***THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)  
(The Senate Majority Leader)  
*(Second Reading)*  
*(Resumption of debate interrupted on Tuesday, 4<sup>th</sup> December, 2018)*
23. \*THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)  
(Sen. Ledama Olekina, MP)  
*(Second Reading)*
24. **\*\***THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILLS NO. 21 OF 2018)  
(Chairperson, Sessional Committee on Delegated Legislation)  
*(Second Reading)*
25. \*THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 21 OF 2018)  
(Sen. Abshiro Halake, MP)  
*(Second Reading)*
26. MOTION -THE FIDUCIARY RISK REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS  
(Chairperson, Sessional Committee on County Public Accounts and Investments)  
**THAT**, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on Fiduciary Risk regarding issues raised by the Auditor General on public financial management by County Governments for Financial Years 2013/14 – 2015/16, laid on the Table of the House on Wednesday, 14<sup>th</sup> November, 2018.
27. MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS' INFRASTRUCTURE PROJECTS  
(Chairperson, Standing Committee on Finance and Budget)  
**THAT**, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments' infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers' residences, laid on the Table of the Senate on Thursday, 29<sup>th</sup> November, 2018.

NOTICE

The Senate resolved on 14<sup>th</sup> February, 2018 as follows:-

**THAT**, pursuant to Standing Order 106 (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

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**NOTICES OF AMENDMENTS**

**A. \*THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

**NOTICE** is hereby given that Sen. Kinyua Nderitu, Chairperson of the Senate Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Governments (Amendment) Bill, 2018, at the Committee Stage -

**CLAUSE 2**

**THAT** the Bill be amended by deleting clause 2 and substituting therefor the following new clause -

Amendment of section 58 of No. 17 of 2012.

**2.** Section 58 of the County Governments Act is amended in—

(a) subsection (1) by -  
(i) deleting paragraph (c) and substituting therefor the following new paragraph -

(c) the secretary to the board who shall be nominated and appointed by the governor with the approval of the county assembly.

(ii) inserting the following new subsections immediately after subsection (1) -

(1A) The secretary to the board shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

(1B) In nominating or appointing a person as a member of the Board, the Governor shall—

(a) observe the principles of gender equity, ethnic and other diversities of the people of Kenya, and shall provide an equal opportunity for persons with disabilities; and

(b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.

(b) subsection (3) by deleting paragraph (c) and substituting therefor the following new paragraph -

(c) in the case of the chairperson -

(i) possesses a minimum of a bachelors degree from a university recognised in Kenya;

(ii) is registered as a human resource management professional of good standing under the Human Resource Management Professionals Act; and

No. 52 of 2012.

(iii) has at least ten years working experience in a managerial position either in the public or private sector.

**B. \*\*\*TH**

**E URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO.4 OF 2017)**

(The Senate Majority Leader)

***(Consideration of the National Assembly Amendments)***

**CLAUSE 19**

**THAT**, Clause 19 of the Bill be amended in the proposed new FIRST SCHEDULE under the heading marked "City" by inserting the following new services immediately after

"Organised Public Transport"-

"Information, Communication and Technology services"

"Telecommunication services"

**C. \*THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

**NOTICE** is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Care and Protection of Older Members of Society Bill, 2018, at the Committee Stage—

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended in paragraph (b) by inserting the word "dignity" immediately after the words "protect the status".

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended in paragraph (b) by deleting the words "human being" appearing immediately after the words "of every" and substituting therefor the words "older member of society".

**PART II**

**THAT** the Bill be amended by deleting the heading to Part II and substituting the following new title—

"RIGHTS AND ENTITLEMENTS OF OLDER MEMBERS OF SOCIETY"

**CLAUSE 5**

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

Rights of Older Members of Society.

**5.** An older member of society has the right to enjoy the rights conferred under the Constitution and in particular shall not be unfairly denied the right to—

- (a) participate in community life in a position appropriate to their interests and capabilities;
- (b) participate in intergenerational programmes;
- (c) establish and participate in associations of older members of society;
- (d) participate in activities that enhance their income generating capacity;
- (e) access opportunities that promote their optimal level of social, physical, mental and emotional wellbeing;
- (f) fully participate in the affairs of the society;
- (g) pursue their personal development;
- (h) manage their own property;
- (i) live in dignity and respect and be free from abuse; and
- (j) receive reasonable care and assistance from their family and the State.

Right to Legal Capacity.

**5A.** (1) An older member of society has a right to legal capacity and the right to access support necessary to exercise that legal capacity.

(2) An express or implied disqualification on the grounds of age prescribed in a law, custom or practice shall not deprive an older member of society the right to legal capacity.

Right to Equality and Non-Discrimination.

**5B.** (1) An older member of society shall be entitled to equal protection and equal benefit of the law.

(2) An affirmative action measure aimed to achieve equality of older members of society shall not constitute discrimination.

...../Amendments

(3) An older member of society shall live in dignity and security, free from exploitation and physical or mental abuse and be treated fairly.

Right to Document s of Registrati on. **5C.** (1) An older member of society has a right to be issued with a passport, national identity card, certificate of birth and any other document of registration or identification irrespective of their age.

(2) Where a birth certificate is not issued, the older member of society shall use alternative document including a national identity card to serve the purpose.

Right to Protection and Safety in Situations of Risk and Humanita rian Emergenc ies. **5D.** (1) An older member of society has a right to suitable and specialized protection and safety in a situation of risk, including a situation of armed conflict, humanitarian emergency and the occurrence of a natural disaster.

(2) An institution whether public or private shall maintain an inventory of all older members of society and shall submit the inventory quarterly to the national government, county government and other agencies responsible for disaster management.

(3) The national government and each county government shall be responsible for emergency management and shall take appropriate measures to ensure the inclusion of older members of society in every scheme, program, mission as well as its disaster management system during the occurrence of any disaster emergency, for the safety and protection of such persons.

Right to Education . **5E.** (1) The national government and each county government shall ensure that older members of society have access to educational, cultural, spiritual and recreational resources.

(2) The Ministry responsible for education shall develop programmes and structures for the education and training of older members of society.

Right to Health **5F.** (1) The national government and each county government shall take appropriate measures to ensure that an older member of society who is not covered in an existing medical scheme gets affordable, accessible, adequate and quality free medical care.



...../Amendments

(2) Medical assessment reports for older members of society shall be free of charge in public health institutions.

(3) An older member of society shall not be compelled to undergo any test as a precondition to or for continued enjoyment of provision of health cover.

Right to  
Admission  
into  
Public  
and  
Private  
Premises,  
and  
Public  
Transport

**5G.** (1)A person shall not, on the ground of old age be denied-  
(a) admission into a premise to which members of the public are ordinarily admitted; or  
(b) the provision of a service or amenity to which members of the public are entitled.  
(2) The proprietor of a premise referred to in subsection (1) (a) shall not have the right, on the ground of a person's age, to reserve the right of admission to the premises against an older member of society.

Right to  
Sports,  
Recreation,  
Leisure  
and  
Culture.

**5H.** (1) An older member of society has a right to participate in sports, recreation, leisure and cultural activities including national and international sports events.  
(2) Public and private institution with sporting, recreation, leisure and cultural activities shall ensure that the activities are sensitive to the needs of older members of society.  
(3) An older member of society shall be entitled to the use, free of charge, of recreational or sports facilities owned or operated by the government during social, sporting or recreational activities.  
(4) The national and county governments shall provide older members of society with a suitable environment for sports, recreation and leisure, including training support and medical personnel.  
(5) Section (4) shall not apply in cases where there is exclusive private hire of such facilities.

Right of  
Access  
to  
Justice

**5I.** (1) Law enforcement agencies shall take into consideration the age of an older member of society on arrest, detention, trial or confinement.  
(2) A suit involving an older member of society shall be disposed off expeditiously having due regard to their age and suffering.

...../Amendments

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in subclause (2) by inserting the word “periodic” immediately after the word “promote” appearing at the beginning of paragraph (c).

**CLAUSE 26**

**THAT** clause 26 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (e) —

(f) the number of older members of society who have died in the home within the year and the cause of death; and

(g) the number of accidents in the home and complaints reported in relation to older members of society.

**CLAUSE 27**

**THAT** clause 27 of the Bill be amended-

(a) in paragraph (d) by inserting the words “county executive committee member and” immediately after the words “reports to the”;

(b) by inserting the following new paragraph immediately after paragraph (e)—

(f) facilitate the enjoyment of all the rights of older members of society as conferred under the Constitution.

**CLAUSE 30**

**THAT** clause 30 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

(f) the right of expression on matters regarding their welfare.

**D. \*THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**  
(Sen. Ledama Olekina, MP)

(i) **NOTICE** is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

...../Amendments

**CLAUSE 2**

Amend  
ment of  
section  
2 of Act  
No. 8 of  
2015

**THAT** the Bill be amended by deleting clause 2 and substituting the following new clause—

Section 2 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015, hereinafter referred to as the “principal Act”, is amended by—

(a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

(b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended by—

(a) renumbering the proposed new section 10 as subsection (1); and

(b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

**CLAUSE 8**

**THAT** the Bill be amended by deleting clause 8.

**CLAUSE 9**

**THAT** the Bill be amended by deleting clause 9.

**CLAUSE 10**

**THAT** the Bill be amended by deleting clause 10.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause

immediately after clause 7—

Amend **NEW CLAUSE 7A.** The First Schedule of the principal Act is  
ment of amended in paragraph (h) by deleting the word “two” appearing at  
First the beginning of the paragraph.  
Schedul  
e of Act  
No. 8 of  
2015

**(ii) NOTICE** is given that Sen. (CPA) Farhiya Ali Haji, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill, Senate Bills No. 2 of 2018, at the Committee Stage—

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)

(aa) in subsection (1) by deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(ab) in subsection (1) by deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

**THAT** the Bill be amended by introducing the following new clauses after clause 5

**NEW CLAUSE 5A**

**THAT** section 5A of the Act be amended by-

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

**NEW CLAUSE 5B**

**THAT** section 5B of the Act be amended by-

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

...../Amendments

**NEW CLAUSE 5C**

**THAT** section 6 of the Act be amended by-

- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".
- (b) deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

**NEW CLAUSE 5D**

**THAT** section 7 of the Act be amended by-

- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".
- (b) deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

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**APPENDIX****1. PAPER**

The Report of the Meeting of the Speakers of National Legislatures of the East African Community Partner States and the East African Legislative Assembly held on Friday 21<sup>st</sup> September, 2018 at the Pyramid Continental Hotel in Juba, South Sudan.

*(The Senate Majority Leader)*

**2. STATEMENTS****(i) Statements Pursuant to Standing Order No. 48(1)**

- a) The Senator for Nakuru County (Sen. Susan Kihika, MP) to seek a statement from the Standing Committee on Education on the status of implementation of the new school curriculum in the country.
- b) The Senator for Nakuru County (Sen. Susan Kihika, MP) to seek a statement from the Standing Committee on Roads and Transportation on the use of asbestos in construction of buildings.
- c) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) to seek a statement from the Standing Committee on Education on the use of Kenya Sign Language in schools.
- d) The Nominated Senator (Sen. Mary Yiane Seneta, MP) to seek a statement from the Standing Committee on Energy on vandalism of electricity transformers serving schools and community projects in Kajiado County.
- e) The Senator for Turkana County (Sen. Imana Malachy Ekal, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on the invasion and take – over of a Constituency Development Fund, National Government Project, namely the Kapetadiye dam, by pastoralists from a neighbouring country.
- f) Nominated Senator (Sen. Mary Yiane Seneta, MP) to seek a statement from the Standing Committee on Roads and Transportation on the status of Kajiado-Mashuuru-Isara Road in Kajiado County.

**(ii) Statements Pursuant to Standing Order No. 51(1)(b)**

- a) The Chairperson, Standing Committee on Health to issue a statement on the Universal Healthcare (UHC) Programme.
- b) The Chairperson, Committee of Powers and Privileges to issue a statement relating to the activities of the Committee.
- c) The Chairperson, Procedure and Rules Committee to issue a statement relating to the activities of the Committee.

- d) The Chairperson, Liaison Committee to issue a statement relating to the activities of the Committee.