



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

TUESDAY, MARCH 26, 2019 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 COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILLS NO. 34 OF 2018)**
(Chairperson, Standing Committee on Finance and Budget)
(*Second Reading*)
(*Resumption of debate interrupted on Thursday, 21st March, 2019*)
(*Division*)
9. **COMMITTEE OF THE WHOLE**
***THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)**
(Sen. Kimani Wamatangi, MP)
(*Consideration of the National Assembly Amendments*)
(*Resumption of debate interrupted on Tuesday, 12th March, 2019*)
(*Division*)
10. **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, 21st November, 2018*)
(*Division*)

...../Bill

- 11. ***THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**
(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)
(Second Reading)

- 12. ***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)

- 13. ***THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**
(Sen. Ledama Olekina, MP)
(Second Reading)

- 14. ******THE GOVERNMENT CONTRACTS BILL (NATIONAL ASSEMBLY BILLS NO. 9 OF 2018)**
(The Senate Majority Leader)
(Second Reading)

- 15. ***THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**
(Sen. Judith Pareno, MP)
(Second Reading)

- 16. ***THE ELECTION LAWS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 37 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)

- 17. **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, 29th November, 2018.

(Resumption of debate interrupted on Thursday, 21st March, 2019)

...../Motion

18. **MOTION - THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

(Sen. (Canon) Naomi Waqo Jilo, MP)

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People’s Rights of the Right of Women which are international instruments that are key to promoting women’s rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

- 1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- 2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

...../Notice

NOTICE

The Senate resolved on 13thFebruary, 2019 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

A. *THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL
(SENATE BILLS NO. 1 OF 2018)

(Sen. Paul Kimani Wamatangi, MP)

(Schedule of amendments as passed by the National Assembly on Thursday, 6th December, 2018)

CLAUSE 2

Clause 2 amended by inserting the definition of the word “county public officer” in its proper sequence—

“county public officer” has the meaning assigned to it under the County Governments Act.

CLAUSE 5

Clause 5 of the Bill amended in sub clause 2 by inserting the following new paragraph immediately after paragraph (f)–

“(fa) a representative of the Ministry responsible for matters related to devolution;

CLAUSE 6

Clause 6 of the Bill amended in sub clause (1) by deleting the words “to be at the service of the Governor elect” appearing in paragraph (c) and substituting therefor the words “for the Governor-elect”.

CLAUSE 16

Clause 16 of the Bill amended by-

- a)** renumbering the proposed clause as subclause (1);
- b)** inserting the following new paragraph immediately after paragraph (b)
—

“(c) to swearing of a speaker of a county assembly who assumes office under Article 182(5) of the Constitution”;

- c)** inserting the following new subclause after the proposed clause—
 “(2) Upon nullification of an election of a county governor and a receipt of the notification by a relevant speaker, the speaker of a county assembly shall assume office as a governor within seven days and an election shall be held pursuant to Article 182(5) of the Constitution.”

CLAUSE 21

Clause 21 of the Bill amended by inserting the word “committee” immediately after the word “governor”.

CLAUSE 23

Clause 23 of the Bill amended by inserting the following new subsection immediately after the proposed new subsection (1B)—

“(1C) Where a vacancy arises as contemplated under section (1A), the speaker of a county assembly shall act as a governor and an election shall be held pursuant to Article 182(5) of the Constitution”.

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

(Sen. Aaron Cheruiyot, MP)

NOTICE is hereby given that Sen. Kinyua Nderitu, MP 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.

...../ **Amendments**

No. 52 of
2012.

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

APPENDIX**1. PAPERS**

- a) Report of the Controller of Budget on Half Year County Governments Budget Implementation Review Report for the year 2018/2019;
- b) Report of the Auditor-General on the Financial Statement of County Assembly of Nairobi city Mortgage Scheme fund for the year ended 30th June 2018;
- c) Report of the Auditor-General on the Financial Statements of Nairobi Sanitation Output Based Aid project IDA CR NO.TF14251-KE for the year ended 30th June 2018 – Nairobi Water and Sewerage Company Limited; and
- d) Report of the Auditor-General on the Financial Statements of Kiambu Members' Car Loan and Mortgage Scheme Fund for the Year ended 30th June 2018;

(The Senate Majority Leader)

2. STATEMENTS PURSUANT TO STANDING ORDER NO. 48(1)

- (a) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on the Policy on the transfer of functions to counties;
- (b) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Education on the status of implementation of the 100% transition policy to secondary schools and to Technical and Vocational Education Training (TVET);
- (c) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the impact of devolution on livestock farming.
- (d) The Senator for Migori County (Sen. (Dr.) Ochilo Ayacko, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources concerning the mining activities in Migori County;
- (e) The Senator for Migori County (Sen. (Dr.) Ochilo Ayacko, MP) to seek a statement from the Standing Committee on National Security and Foreign Relations on the criminal activities of the "Sangwenya" gang in Migori County;and
- (f) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the current status of Emali holding ground in Kajiado County.
