



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

THURSDAY, JUNE 13, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
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6. Notices of Motion
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8. **COMMITTEE OF THE WHOLE**
***THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL**
(SENATE BILLS NO. 18 OF 2018)
(Sen. Ledama Olekina, MP)
9. **COMMITTEE OF THE WHOLE**
***THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO.**
19 OF 2018)
(Sen. Samuel Poghio, MP)
10. **COMMITTEE OF THE WHOLE**
***THE COUNTY LAW COMPLIANCE AND ENFORCEMENT BILL (SEN. BILLS NO.**
26 OF 2018)
(Sen. George Khaniri, MP)
11. **MOTION- SITTINGS OF THE SENATE OUTSIDE PARLIAMENT BUILDINGS,**
NAIROBI
(The Senate Majority Leader)

AWARE that the Senate of Kenya as established in the Constitution plays a critical role in the linkage of the devolved governments and the national government by representing and serving the interests of the counties and their governments;

...../Motion

FURTHER AWARE that on 21st June 2018, the Senate resolved to hold plenary and Committee sittings in Uasin Gishu County from 24th to 28th September, 2018, and further resolved that similar sittings be held in all regions of the country during the term of the current Parliament;

NOTING that the Senate held its first plenary and Committee sittings away from Nairobi in Uasin Gishu county from 24th – 28th September, 2018 providing an opportunity for several sectors of society to directly engage with the legislative arm of government through public participation on various issues, as well as participate in oversight through inspection of various projects and programs of national and county governments;

COGNIZANT that holding the plenary and Committee sittings of the Senate away from the traditional premises at the Parliament Buildings in Nairobi has great potential to, among others –

- (i) enhance the interaction between the Senate and county governments;
- (ii) bring the Senate closer to the counties and the general public;
- (iii) provide an opportunity to members and staff of county assemblies to learn and borrow best practices from the Senate;
- (iv) promote the role and work of the Senate;
- (v) highlight existing opportunities for people to get involved in the work of the Senate;
- (vi) develop and strengthen capacity and partnerships at the county level; and
- (vii) enhance public awareness regarding the Business of the Senate.

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution and Standing Order 31 (1) of the Senate, the Senate resolves that its plenary and committee sittings be held in Kitui County from 16th to 20th September, 2019.

12. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**
(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President’s “Big Four” Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

...../Motion

NOTING THAT, whereas the National Government’s Budget is based on Vision 2030 and “Big Four” Agenda, the County Governments’ Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP’s) and Annual Development Plans (ADP’s) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

13. **MOTION - RENAMING OF MURANG’A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**

(Sen. Isaac Mwaura, MP)

THAT AWARE THAT, Murang’a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang’a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary

...../Motion

for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba’s contribution to our Nation, to rename Murang’a University of Technology to Kenneth Matiba University of Technology.

14. **MOTION - CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED FORCES AND THEIR FAMILIES**

(Sen. George Khaniri, MP)

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

...../Motion

15. **MOTION - WAIVER OF INTEREST ON HELB LOANS FOR GRADUATES**

(Sen. (Dr.) Abdullahi Ali, MP)

THAT, AWARE THAT Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institution;

COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are therefore burdened with loans that have accumulated interest and penalties that they have no means to repay;

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly instalments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

16. **MOTION - IMPROVING ALLOCATION OF RESEARCH FUNDS TOWARDS HIGHER LEARNING**

(Sen. (Arch.) Sylvia Kasanga, MP)

AWARE THAT, early childhood education and village polytechnics are a function of the County Governments. Secondary schools, Universities, Tertiary institutions and other institutions of research are a function of the National Government under the Fourth Schedule of the Constitution;

FURTHER AWARE THAT, institutions of higher learning have two basic functions, teaching and conducting research;

...../Motion

CONCERNED THAT, such institutions largely concentrate on “teaching” rather than “research”, as a method of enhancing and imparting the practical application of skills, attitude and knowledge by learners;

NOTING THAT, funds allocated towards community and development oriented academic research are neither sustainable nor adequate;

ACKNOWLEDGING THAT, various national policies on research and innovation are available, but fragmentation in the sector has short-changed the vision of a progressive national research agenda, thereby emboldening low science culture among the population, low global competitiveness ranking, inadequate funding, and poor linkages between academic research and commercial industry;

NOW THEREFORE, the Senate urgently calls upon the Ministry of Education, Science and Technology:

- i To provide a comprehensive report from all institutions of higher learning on the status and performance of Research & Innovation Programs in the Country;
- ii Re-assess Sector Policies, and Develop new work-plans towards:
 - a. Improving allocation of funds for Academic as well as Sustainable Community Based Research to public institutions of higher learning.
 - b. Providing subsidies, and frameworks for partnerships between public & private institutions of higher learning to enable collaboration and better organization in research and innovations for community/county development Projects.

17. **MOTION –REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE 50TH SESSION OF AFRICAN CARIBBEAN PARLIAMENTARY (ACP) ASSEMBLY AND THE 35TH SESSION OF THE ACP – EU JOINT PARLIAMENTARY ASSEMBLY**
 (Sen. (Prof.) Margaret Kamar, MP)

THAT, this House notes the Report of the Parliament of Kenya delegation to the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium, from 13th to 20th June, 2018, laid on the table of the House on Wednesday, 20th February, 2019.

18. **MOTION –REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE GLOBAL SUMMIT ON OPEN GOVERNANCE PARTNERSHIP**
 (Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

THAT, this House notes the Report on the Global Summit on Open Governance Partnership held in Tbilisi, Georgia, from 17th to 19th July, 2018, laid on the Table of the House on Wednesday, 20th February, 2019.

...../Motion

19. **MOTION-REPORTS OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN-
AFRICAN PARLIAMENT AND THE FIRST ORDINARY SESSION OF THE FIFTH
PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT**

(Sen. (Dr.) Abdullahi Ali, MP)

THAT, this House notes the Reports of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7th to 18th May, 2018, laid on the Table of the House on Tuesday, 24th July, 2018; and, the First Ordinary Session of the Fifth Parliament of the Pan African Parliament held in Kigali, Rwanda, from 18th October to 3rd November, 2018, laid on the Table of the House on Tuesday, 12th March, 2019.

20. **MOTION - REPORT ON THE THIRD STATUTORY MEETING OF THE COMMITTEE
ON ECONOMIC DEVELOPMENT, REGIONAL INTEGRATION AND NATURAL
RESOURCES OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL
CONFERENCE OF THE GREAT LAKES REGION (FP-CGLR)**

(Sen. Samuel Poghisio, MP)

THAT, this House notes the Report on the 3rd Statutory Meeting of the Committee on Economic Development, Regional Integration and Natural Resources of the Forum of Parliaments of the International Conference of the Great Lakes Region (FP-ICGLR) held in Bujumbura, Burundi, from 13th to 14th March, 2019, laid on the Table of the House on Tuesday, 21st May, 2019.

NOTICE

The Senate resolved on 13th February, 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 COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL
(SENATE BILLS NO. 18 OF 2018)
(Sen. Ledama Olekina, MP)

NOTICE is given that Sen. Wamatangi Kimani Paul, MP Chairperson to the Standing Committee on Roads and Transportation, intends to move the following amendments to the County Planning (Roads, Pavements and Parking Bays) Bill, 2018, (Senate Bill No. 18 of 2018) at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

No. 6 of 1996 (b) provide a framework for planning of commercial structures along county roads in accordance with the Physical Planning Act;

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting the words “and all commercial buildings constructed along major roads” appearing immediately after the words “county roads”.

CLAUSE 5

THAT clause 5 of the Bill be amended—

- (a) in sub-clause (1) by—
 - (i) deleting the words “all roads” and appearing immediately after the words “drainage systems along” in paragraph (b) and substituting therefor the words “county roads”;
 - (ii) deleting the words “national and” appearing immediately after the words “constructed along” in paragraph (c);
 - (iii) deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) construct, maintain and facilitate the construction and maintenance of adequate parking bays in the respective county.
 - (iv) deleting paragraph (e);

...../ **Amendments**

(v) deleting paragraph (f) and substituting therefor the following new paragraph—

No 6 of (f) facilitate regular inspection of all buildings, roads, streets, lanes, alleys, parking bays and walkways under the jurisdiction of the county government to ensure that they adhere to prescribed building codes and standards as set out in the Physical Planning Act, the Urban Areas and Cites Act and any other written law;

(b) by inserting the following new sub-clause immediately after sub-clause (2)—

(3) The CEC shall, for purposes of subsection (2) consult with the National Council for Persons with Disabilities established under section 3 of the Persons with Disabilities Act.

CLAUSE 6

THAT clause 6 of the Bill be amended by inserting the words “in accordance with the Physical Planning Act” immediately after the words “in the county”.

CLAUSE 7

THAT clause 7 of the Bill be amended —

- (a) by deleting sub-clause (1); and
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(1) The county executive committee member shall, in consultation with the National Lands Commission, designate public land for the construction of parking bays within the county.

CLAUSE 8

THAT the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Construction and maintenance of walkways by the county government	8. Each county government shall construct and maintain walkways along all county roads in the respective county.
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CLAUSE 9

THAT the Bill be amended by deleting clause 9 and substituting therefor the following new clause—

<p>Designation of Pedestrian Crossing</p>	<p>9. (1) The county executive member shall designate areas for use by pedestrians for the purpose of crossing a county road in a manner that does not interfere with the flow of traffic and that complies with national and county legislation.</p> <p>(2) The county executive member shall, for the purpose of subsection (1) and where necessary, designate a pedestrian crossing and maintain a footbridge or any other convenience for use by pedestrians to cross a county road.</p>
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CLAUSE 10

THAT the Bill be amended by deleting clause 10 and substituting therefor the following new clause —

<p>Access ways to commercial buildings</p> <p>No. 6 of 1996</p>	<p>10. (1) Subject to subsection (2), an owner of a commercial building which is situated along a county road—</p> <p>(a) may, with the approval of the county government, construct an access-way to the property in which the commercial building is situated in such a manner that the access-way does not obstruct a county road or extend directly from a county road.</p> <p>(b) shall allocate adequate space for access to the building in accordance with the Physical Planning Act and any other written law.</p> <p>(2) The county government shall ensure that there is an alternative means of access to commercial buildings in the area where the building is situated.</p> <p style="text-align: right;"><i>...../ Amendments</i></p>
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	<p>(3) Every person who, immediately before the commencement of this Act, owns a commercial building situated along a county road shall comply with provisions of this section—</p> <p>(a) within a period of twelve months from the date of the commencement of this Act; or</p> <p>(b) within a period of twelve months from the date of completion of the construction of an alternative means of access to the building as provided under subsection (2).</p> <p>(4) A person who contravenes subsection(1)(b) commits an offence and is liable, on conviction, in accordance with section 30 of the Physical Planning Act.</p>
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CLAUSE 11

THAT the Bill be amended by deleting clause 11 and substituting therefor the following new clause—

<p>Construction and maintenance of walkways by owners of commercial buildings.</p>	<p>11. (1) The owner of a commercial building may construct and maintain a walkway next to the commercial building where the county government—</p> <p>(a) has designated an area next to the building for the construction of a walkway; and</p> <p>(b) has not constructed or has failed to maintain the walkway.</p> <p>(2)A person shall not construct or maintain a walkway under subsection (1)—</p> <p>(a) unless such person has applied for and obtained approval of the county executive committee member; and</p> <p>(b) otherwise in accordance with the prescribed standards.</p>
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CLAUSE 12

THAT clause 12 of the Bill be amended in sub-clause (2) by deleting the words “in accordance with the standards prescribed under this Act” and substituting therefor with the words “in accordance with the Physical Planning Act and any other written law”.

CLAUSE 13

THAT clause 13 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pavement” appearing immediately after the word “A” and substituting therefor the word “walkway”;
- (b) in sub-clause (2) by deleting the word “pavement” appearing immediately after the words “commercial activity on a” and substituting therefor the word “walkway”; and
- (c) by deleting sub-clause (3).

CLAUSE 14

THAT clause 14 of the Bill be amended —

- (a) by deleting sub-clause (3); and
- (b) in sub-clause (4) by deleting the word “seize” appearing immediately after the words “committee member may” and substituting therefor the word “walkways”.

CLAUSE 15

THAT the Bill be amended—

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

(4) A person who contravenes this section commits an offence and is liable, on conviction in accordance with section 52A of the Traffic Act.

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- (b) by deleting sub-clause 5.

CLAUSE 16

THAT the Bill be amended

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

...../ **Amendments**

(1) The county executive committee member may, in consultation with the Cabinet Secretary and all relevant stakeholders, make regulations for the better carrying out of the provisions of this Act;

(b) in sub-clause (2)

(i) by deleting paragraph (a); and

(ii) in sub-clause (2)(b) by deleting the word “pavement” appearing immediately after the words “parking bays and” in paragraph (b) and substituting therefor the word “walkways”.

CLAUSE 2

THAT clause 2 of the Bill be amended—

(a) by deleting the definition of the word “commercial building” and substituting therefor the following new definition:

“commercial building” shall have the same meaning assigned to it under the Physical Planning Act;

(b) by inserting the following new definition immediately after the definition of the word “national road”—

“walkway” means any egress, footpath, pathway or route for use by non-motorized traffic and shall not include cycle lanes;

(c) by deleting the definition of the word “heavy commercial vehicle” and substituting therefor the following new definition—

“heavy commercial vehicle” has the meaning assigned to it under section 2 of the Traffic Act;

(d) by deleting the definition of the word “county road” and substituting therefore the following new definition—

“county road” means all roads falling within the mandate of the county governments under Part 2 of the Fourth Schedule to the Constitution and specified under any other written law;

(e) by deleting the definition of the word “major road”;

(f) by deleting the definition of the word “minor road”; and

(g) by deleting the definition of the word “national road”.

SHORT TITLE

THAT the Bill be amended by deleting clause (1) and substituting therefor the following new clause—

Short Title	1. This Act may be cited as the County Roads, Walkways and Parking Bays Act, 2018.
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B. *THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)

(Sen. Samuel Poghio, MP)

NOTICE is given that the Chairperson of the Standing Committee on Information and Technology, Sen. Gideon Moi, MP intends to move the following amendments to the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018) at the Committee Stage –

CLAUSE 4

THAT clause 4 of the Bill be amended –

(a) in subclause (2)(b) by deleting subparagraph (ii) and substituting therefor the following new paragraph –

(ii) the Kenya National Highway Authority or any other entity responsible for the management of road reserves, where the advertisement is to be displayed on a road reserve;

(b) by inserting the following new subclause immediately after subclause (2) –

(2A) The county executive committee member shall keep and maintain a register in which shall be recorded all applications made and licences issued under this Act.

CLAUSE 15

THAT clause 15 of the Bill be amended –

(a) by deleting the marginal note and substituting therefor the following new marginal note –

Publication of application for a licence.

(b) in subclause (2) by inserting the words “within seven days from the date of the notice” immediately after the words “on the application”.

NEW CLAUSE 14A

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

No other government entity to levy fees.

14A. Subject to this Act or any other written law, no other government entity shall levy fees on outdoor advertising.

NEW CLAUSE 18A

THAT the Bill be amended by inserting the following new clause immediately after clause 18 –

...../Amendments

Dispute
resolution.

18A. (1) The National government, a county government or any other person who is a party to a dispute arising under this Act shall take reasonable measures to resolve the dispute by alternative dispute resolution before resorting to judicial proceedings.

(2) A party is considered to have taken reasonable measures to resolve a dispute by alternative dispute resolution if such a party-

- (a) notifies the other party of the issues that are in dispute and offering to settle them;
- (b) responds appropriately to a notification under paragraph (a);
- (c) provides relevant information and documents to the other party to enable that party understand the issues and determine the best approach to take in responding to the issues; or
- (d) where an alternative dispute resolution mechanism is agreed to -
 - (i) collaborating with the other party in determining the person to facilitate resolution of the dispute; and
 - (ii) attending the alternative dispute resolution process.

C. *THE COUNTY LAW COMPLIANCE AND ENFORCEMENT BILL (SENATE BILLS NO. 26 OF 2018)

(Sen. George Khaniri, MP)

NOTICE is given that Sen. Mohamed Yusuf Haji, the Chairperson to the Standing Committee on National Security, Defence and Foreign Relations, intends to move the following amendments to the County Law Compliance and Enforcement Bill (Senate Bills No. 25 of 2018) at the Committee Stage –

CLAUSE 4

THAT clause 4 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “deployment, secondment” immediately after the words “the ranks” in paragraph (a); and
- (b) inserting the following new paragraph immediately after paragraph (c);
 - (d) ensure that recruitment and appointment of officers to the unit reflect the ethnic and geographical diversity of the people within the county.

CLAUSE 6

THAT clause 6 of the Bill be amended in sub-clause (2) by deleting the words “on matters such as weights and measures and noise level” appearing immediately after the words “with county laws” in paragraph (b).

CLAUSE 7

THAT clause 7 of the Bill be amended in sub-clause (1) by –

- (a) deleting the words “any other law” appearing immediately after the words “this Act or” in the introductory clause and substituting therefor the words “the respective county legislation”; and
- (b) deleting the words “contrary to the provisions of this Act or any other county law” appearing immediately after the words “to cause harm” in paragraph (d)(i).

CLAUSE 8

THAT clause 8 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

- (1) An enforcement officer may make an *ex parte* application to the relevant court for an order to seize property and for any other relevant order where the enforcement officer has reasonable grounds to suspect that any property –
 - (a) has been or is being used for the purpose of carrying out a regulated activity contrary to the respective county legislation; or
 - (b) is maintained, kept or controlled in any other manner contrary to the respective county legislation.

CLAUSE 9

THAT clause 9 of the Bill be amended –

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause –

- (4) In the case of perishable or rapidly depreciating property, the court may make an order for the disposal or return, by the unit, of the property to the owner.

- (b) in sub-clause (5) by deleting the word “destruction” appearing immediately after the words “an order for” in the introductory clause and substituting therefor the word “disposal”; and

- (c) by inserting the following new sub-clause immediately after sub-clause (6) –

- (7) Where, upon the conclusion of proceedings, the court finds the owner of the property not to have committed an offence, the court may make an order for compensation for any loss suffered by the owner of the property.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

CLAUSE 11

THAT the Bill be amended by deleting clause 11.

CLAUSE 12

THAT the Bill be amended by deleting clause 12.

CLAUSE 13

THAT clause 13 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

- (1) A notice required to be given shall be deemed to have been served if -

- (a) it is served upon the owner or occupant of the property;
- (b) it is served upon an employee, who occupies a position of management, of the owner or occupant of the property; or
- (c) sent to the last known address of the owner or occupant of the property.

CLAUSE 15

THAT clause 15 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) –

- (4) A county government shall not establish, maintain or operate a facility for the purpose of detaining a person arrested pursuant to this Act.

NEW CLAUSE 25

THAT the Bill be amended by inserting the following new clause immediately after clause 24 –

25. This Act shall not be construed as providing for the establishment of a police service or an entity performing a mandate similar to that of the National Police Service established under Article 243 of the Constitution.

APPENDIX

1. PETITION

Petition to the Senate concerning the state of corruption, procurement, recruitment, abuse of office, public participation and marginalization in Nyamira County.

(The Speaker of the Senate)

2. PAPERS

- (i) Report of the Auditor-General on the Financial Statements of Kikuyu Water Company Limited for the Year ended 30th June 2018;
- (ii) Report of the Auditor-General on the Financial Statements of Nyeri County Elimu Fund for the Year ended 30th June 2018;
- (iii) Report of the Auditor-General on the Financial Statements of Laikipia County Assembly Members Car and Mortgage Fund for the Year ended 30th June 2018;
- (iv) Report of the Auditor-General on the Financial Statements of Kisii Demonstration Farms Fund for the Year ended 30th June 2018;
- (v) Report of the Auditor-General on the Financial Statements of Laikipia County Assembly Staff Car and Mortgage Fund for the Year ended 30th June 2018;
- (vi) Report of the Auditor-General on the Financial Statements of Bomet Water Company Limited for the Year ended 30th June 2018;
- (vii) Report of the Auditor-General on the Financial Statements of Migori Water and Sanitation Company Limited for the Year ended 30th June 2018; and
- (viii) Report of the Auditor-General on the Financial Statements of Naromoru Water and Sanitation Company Limited for the Year ended 30th June 2018.

(The Senate Majority Leader)

3. STATEMENTS

(i) Pursuant to Standing Order 48(1)

- a) The Senator for Kericho County (Sen. Aaron Cheruiyot, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on the challenges faced by Kenyans seeking to acquire new passports; and
- b) The Senator for Nandi County (Sen. Samson Cherarkey, MP) to seek a statement from the Standing Committee on Education on the re-appointment of Prof. Teresia Akeng'a as the Vice Chancellor of the University of Eldoret.

...../Appendix

(ii) Pursuant to Standing Order 52(1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 18th June, 2019.
