



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)
THE SENATE
ORDER PAPER

WEDNESDAY, SEPTEMBER 18, 2019 AT 2.30 P.M.

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. ***THE ELECTIONS (AMENDMENT) BILL (SENATE BILLS NO. 18 OF 2019)**
(Sen. Ephraim Maina, MP)
(First Reading)
9. ***THE ALTERNATIVE DISPUTE RESOLUTION BILL (SENATE BILLS NO. 19 OF 2019)**
(Sen. (Arch.) Sylvia Kasanga, MP)
(First Reading)
10. **COMMITTEE OF THE WHOLE**
***THE COMMISSION ON ADMINISTRATIVE JUSTICE BILL (SENATE BILLS NO. 6 OF 2019)**
(Sen. Petronilla Were Lokorio, MP)
11. **AD HOC COMMITTEE TO INVESTIGATE MANAGED EQUIPMENT SERVICES (MES).**
(The Senate Majority Leader and the Senate Minority Leader)

THAT, AWARE THAT while Health is a devolved function, Article 4(3) of the Constitution states that ‘the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation’;

...../Motion

FURTHER AWARE THAT, there is no existing comprehensive legal framework to guide the consultative and collaborative process between the Ministry of Health (MoH) and County Governments;

COGNIZANT THAT, when the Managed Equipment Services (MES) project was launched on 6th February, 2015, the Ministry of Health entered into arrangements with five foreign firms for the provision of specialized medical equipment worth Kshs. 38 Billion;

NOTING THAT, according to the Ministry of Health, the project is aimed at improving health infrastructure and enhancing the capacity of counties to provide specialized health care targeting non-communicable conditions such as cancer and renal conditions, as well as to promote diagnostic, radiological and critical care services;

CONCERNED THAT, the Council of Governors (COG) has voiced opposition to the project on the grounds that County governments were not involved in the tender-procurement process, the monies are debited annually from the accounts of the Counties directly by the Treasury, there was lack of proper consultation between the Ministry of Health and County governments, and, that leasing the medical equipment was ultimately more expensive than direct purchase;

CONCERNED FURTHER THAT, the extent to which county government structures or institutions were involved in the project has remained unclear, and the opposition raised by the COG reveals serious gaps in the consultative process between the MoH and county governments, including the terms of the contracts which end in 2022;

NOW THEREFORE in exercise of its oversight function, the Senate resolves to establish an adhoc committee to investigate and establish the facts surrounding the leasing of the Medical Equipment, in the now 119 beneficiary hospitals country wide, including-

- i. whether county governments were involved in prioritizing the medical equipment in accordance with their needs;
- ii. the details of the company from which the equipment was leased;
- iii. the viability and benefit of leasing versus outright purchase;
- iv. the availability of adequate numbers of health human resource to provide specialized health services as envisaged in this project;
- v. the operation, training and maintenance facilities in place for the equipment;
- vi. the terms and period of the lease of each piece of equipment, where the equipment was supplied, the lease amount, and who bears the cost of the residual value of the equipment at the end of the lease term;
- vii. the schedule of equipment supplied to each hospital, and the cost thereof, including proof that the monies disbursed were utilised for the intended purpose; and,
- viii. the results of the exercise, considering the terms of the contract end in 2022, when equipment has remained unused in some counties despite the county having paid annually for the installation, maintenance and utilisation of the same since 2015;

and submit a report to the House within 90 days;

AND FURTHER THAT, the following Senators be appointed to serve in the committee

–

- 1. Sen. (Dr.) Mbito Michael, MP – Member;
- 2. Sen. (Dr.) Abdullahi Ali, CBS, MP , – Member;
- 3. Sen. Seneta Mary, MP – Member;
- 4. Sen. Kinyua John Nderitu, MP – Member;
- 5. Sen. (CPA) Ali Farhiya, MP - Member;
- 6. Sen. Wetang’ula Moses Masika, EGH, MP - Member;
- 7. Sen. LokorioPetronilla Were, MP - Member;
- 8. Sen. Masitsa Naomi Shiyonga, MP - Member; and,
- 9. Sen. Outa Frederick Otieno, MP - Member

12. ***THE COUNTY TOURISM BILL (SENATE BILLS NO. 5 OF 2019)**

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

13. ****THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL (SENATE BILLS NO. 10 OF 2019)**

(Chairperson, Standing Committee on Tourism, Trade and Industrialization)

(Second Reading)

14. *****THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 6thAugust, 2019)

15. **MOTION - ENGAGEMENT OF COMMUNITY HEALTH WORKERS BY COUNTY GOVERNMENTS**

(Sen. Rose Nyamunga, MP)

THAT, AWARE THAT county health facilities, and the promotion of primary health care are devolved functions, and each county government is striving to offer the best healthcare to the people of Kenya;

COGNIZANT THAT, the provision of healthcare services is continuously riddled with numerous challenges ranging from understaffing of personnel to inadequate facilities and equipment resulting in congestion in hospitals further restricting effective service delivery;

NOTING THAT every Kenyan has a right to affordable and accessible healthcare, and the President has launched a pilot universal health care program called “Afya Care” that will see many Kenyans access improved healthcare;

CONCERNED THAT, the diverse nature of counties and wanting infrastructural development is compromising the quality and accessibility of health centres especially during emergency situations, resulting in the loss of many lives occasioned by the failure by patients to reach health facilities in time;

FURTHER CONCERNED THAT, in each county there are numerous unemployed community health workers who are adept at working with communities in emergency situations, and have the requisite experience to support the medical practitioners in

...../Motion

our country where, according to the World Health Organization 2014 report, there are two (2) doctors for every ten thousand (10,000) people;

NOW THEREFORE, the Senate resolves that the Council of Governors in partnership with the Ministry of Health –

- (i) Develop a policy for the training, certification and employment of community health workers to enhance the emergency health service delivery in the Counties, and
- (ii) Facilitate the said community health workers with the necessary basic equipment for use during emergency cases.

16. **MOTION - FORMATION OF COMMUNITY FOREST ASSOCIATIONS TO AID IN MANAGEMENT OF FOREST RESOURCES WITHIN COUNTIES**

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

AWARE THAT, natural and forest resources prevent floods, droughts, erosion and sedimentation, and increase water supply needed to generate more power, expand farm productivity, and meet the ever-increasing demand for domestic consumption of our exploding population;

NOTING THAT, Article 69 of the Constitution and Section (5), (6) and (21) of the Forests Conservation and Management Act (FCMA) 2016 mandates National & County Governments with the responsibility of protecting, collaborating, maintaining, utilizing and attaining a tree cover of at least 10% of the land area in Kenya;

APPRECIATING THAT, there is need to achieve a holistic ecosystem approach to forest resource management, so as to prevent irreversible consequences of human activities on the environment, it is time to make an urgent call upon our citizenry to actively participate in the protection of forests and plant trees;

NOW, THEREFORE, the Senate urges:

1. THAT, all Citizens as per Article 69(2) of the Constitution, and Sections 48 – 52 of the Forest Conservations Management Act be encouraged through the relevant National Government ministries and County departments to contribute in formation of Community Forest Associations to expedite Community Participation in Forest Resources Management;
2. THAT, the National Government and all the 47 County Governments operationalize Tax & Fiscal Incentives (as per FCMA Section 53 – 55) to promote forest conservation and management, and prevent degradation of tree cover in Public, Private and Community Lands (as measures of ensuring sustainability);
3. THAT the National Government communicates progress towards establishment of a National Tree Planting Week, so that State Agencies, Corporations and Kenyans can adequately prepare for the event;
4. THAT all County Assemblies initiate processes of enacting legislation on Forestry Functions for County Governments (As per FCMA Section 21).

...../Notice

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

***THE COMMISSION ON ADMINISTRATIVE JUSTICE BILL (SENATE BILLS NO. 6 OF 2019)**

(Sen. Petronilla Were Lokorio, MP)

NOTICE is given that Sen. Petronila. W. Lokorio intends to move the following amendments to the Commission on Administrative Justice (Amendment) Bill, 2019 at the Committee Stage –

CLAUSE 3

THAT clause 3 of the Bill be amended –

(i) by deleting paragraph (d) and substituting therefor the following new paragraph –

(d) by deleting subsection (11) and substituting therefor the following new subsection –

(11) Where a nominee is rejected by the National Assembly under subsection (10), the President shall, within seven days, forward to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under subsection (5).

(ii) by inserting the following new paragraph immediately after paragraph (d) –

(da) in subsection (12) by deleting the word “Parliament” appearing immediately after the word “If” and substituting therefor the words “the National Assembly”.

NEW CLAUSE 3A

THAT the Bill be amended by inserting the following new clause immediately after clause 3 –

3A. Section 54 of the principal Act is amended –

(a) by deleting the word “Parliament” appearing immediately after the word “reports to” in subsection (1) and substituting therefor the words “the National Assembly and the Senate”; and

(b) by deleting the word “Parliament” appearing immediately after the words “report to” in subsection (2) and substituting therefor the words “the National Assembly and the Senate”.

APPENDIX

STATEMENTS

(i) Pursuant to Standing Order 47(1)

The Senator for Vihiga County (Sen. George Khaniri, MP) to make a statement on the continued failure by county governments to meet their Own Source Revenue (OSR) targets.

(ii) Pursuant to Standing Order 48(1)

- a) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Labour and Social Welfare on status of inclusion of persons with disabilities (PWDS) in the labour market.
- b) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Finance and Budget on issues and status of operationalization of IFMIS in the 47 counties.
- c) The Senator for Vihiga County (Sen. George Khaniri, MP) to seek a statement from the Standing Committee on Health on the rapid collapse of Kenya's healthcare system.
- d) The Senator for Kisumu County (Sen. Fred Outa, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on the unrest at Kisumu County Assembly.
- e) The Senator for Makueni County (Sen. Mutula Kilonzo Junior, MP) to seek a statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on the plight of Internally Displaced Persons (IDPs).
- f) The Senator for Vihiga County (Sen. George Khaniri, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on the status of asset registers in counties.
