



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

WEDNESDAY, SEPTEMBER 25, 2019 AT 2.30 P.M.

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
8. *****THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 63 OF 2019)**
(The Senate Majority Leader)
(First Reading)
9. ***THE COUNTY TOURISM BILL (SENATE BILLS NO. 5 OF 2019)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)
(Resumption of debate interrupted on Thursday, 19th September, 2019)
(Division)
10. ******THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**
(The Senate Majority Leader)
(Second Reading)
(Resumption of debate interrupted on Wednesday, 24th September, 2019)
(Division)
11. **COMMITTEE OF THE WHOLE**
***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Resumption of debate interrupted on Wednesday, 31st July, 2019)
(Division)

...../Motion

12. **COMMITTEE OF THE WHOLE*****THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2019)**

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

*(Resumption of debate interrupted on Wednesday, 31st July, 2019)
(Division)*13. **COMMITTEE OF THE WHOLE*****THE COMMISSION ON ADMINISTRATIVE JUSTICE BILL (SENATE BILLS NO. 6 OF 2019)**

(Sen. Petronilla Were Lokorio, MP)

*(Resumption of debate interrupted on Wednesday, 18th September, 2019)
(Division)*14. **COMMITTEE OF THE WHOLE*****THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**

(Sen. Mary Seneta, MP)

15. **COMMITTEE OF THE WHOLE*****THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILLS NO. 9 OF 2019)**

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

16. ****THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL (SENATE BILLS NO. 10 OF 2019)***(Chairperson, Standing Committee on Tourism, Trade and Industrialization)
(Second Reading)*17. *****THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)**

(The Senate Majority Leader)

*(Second Reading)*18. ***THE ESTABLISHMENT OF CHILDREN'S HOMES BILL (SENATE BILLS NO. 12 OF 2019)**

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

*(Second Reading)*19. **MOTION -LEGAL AND POLICY INTERVENTIONS FOR CAREGIVERS OF PERSONS WITH PERMANENT MOTOR AND NEUROLOGICAL DISORDERS**

(Sen. Millicent Omanga, MP)

THAT, AWARE that Cerebral palsy, Down syndrome, Autism and other permanent motor and neurological disorders are birth defects characterised by, among others, disturbances of sensation, perception, cognition, hearing loss, congenital heart defects, lower than average IQ, impairment in social interaction, and rigid, repetitive behaviors;

...../Motion

COGNIZANT that persons born with these and other permanent motor and neurological disorders face considerable difficulties in the social and behavioral aspects of their lives, including discrimination, physical challenges, mental and emotional health issues, and problems with inclusion and social isolation;

ACKNOWLEDGING the critical role that parents and caregivers of persons with permanent motor and neurological disorders play in ensuring that they realize their potential to the fullest extent possible and that they have long, healthy, and satisfying lives;

RECOGNIZING that, in taking care of these persons, caregivers make considerable sacrifices in the pursuit of education, employment, investment, and other opportunities for their own advancement and, in some cases, spend the most productive years of their lives taking care of persons with these disorders;

NOTING that most caregivers lack the training, tools and psychosocial support required in taking care of persons with these permanent disorders, are often subjected to the same stigma as the persons they take care of, and are exposed to stresses and pressure that have an adverse impact on their mental and physical wellbeing;

CONCERNED that, while a lot of progress has been made in taking care of other vulnerable and disadvantaged members of the society, equivalent efforts have not been made to recognize the important role that caregivers play, to create, through policy and legislation, a conducive environment for the provision of adequate, safe and informed care to persons with these disorders;

NOW THEREFORE, the Senate resolves that the Ministry of Labour, Social Security and Services, together with the County Governments, formulate a policy framework for the recognition, training, empowerment and protection for caregivers of persons with permanent motor and neurological disorders, including: -

- a. provision of financial assistance and incentives to caregivers, including inclusion in the list of beneficiaries under the *InuaJamii* Cash Transfer Programmes;
- b. provision of appropriate tax reliefs and exemptions to caregivers, equivalent to those advanced to other Persons with Disabilities (PWDs);
- c. exemption from taxes on goods and services required for the care and protection of persons with the disorders; and
- d. provision of the specialized training, psychosocial and other support necessary to engage in income-generating activities for caregivers of persons with permanent motor and neurological disorders, including accessing the quota set aside in law for vulnerable groups for the supply of goods and services to government entities.

(Resumption of debate interrupted on Tuesday, 24th September, 2019)
(Balance of Time – 1 hour 40 minutes)

...../Motion

20. **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 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 –

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

21. **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;

...../Motion

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

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 NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)

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

NOTICE is given that Sen. Paul Mwangi Githiomi, the Chairperson to the Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Natural Resources (Benefit Sharing) Bill, 2018, at the Committee Stage—

CLAUSE 6

THAT clause 6 of the Bill be amended—

- (a) in subclause (1) by inserting the words “in consultation with the Council of County Governors and relevant national government entities” immediately after the words “The Commission shall”; and
- (b) in subclause (2) by deleting the word “overall” appearing immediately after the word “the” in paragraph (a) and substituting therefor the word “total”.

CLAUSE 9

THAT clause 9 of the Bill be amended in subclause (1) by inserting the words “with the relevant county government” immediately after the words “benefit sharing agreement”.

CLAUSE 10

THAT clause 10 of the Bill be amended —

- (a) in subclause (2) by —
 - (i) by inserting the following new paragraph immediately after paragraph (b) —
 - (ba) two technical officers of the relevant county departments, appointed by the county executive committee member in consultation with the county executive committee member responsible for the respective natural resources; and
 - (ii) deleting paragraph (c) and substituting therefor the following new paragraph —
 - (c) five persons, two of whom shall be of the opposite gender, elected by the local communities where the natural resource is found and representing the areas with the main natural resources within the county”;
- (b) in subclause (5) by inserting the words “in consultation with Council of County Governors” immediately after the words “Cabinet Secretary shall”.

CLAUSE 13

THAT clause 13 of the Bill be amended by inserting the following new subclause immediately after subclause (4) —

- (4A) A local community benefit sharing forum shall not hold more than eight meetings in one year.

CLAUSE 14

THAT clause 14 of the Bill be amended by deleting subclause (4).

CLAUSE 16

THAT clause 16 of the Bill be amended in subclause (3) by deleting the word “principal” appearing immediately after the words “this Act every”.

CLAUSE 17

THAT clause 17 of the Bill be amended—

- (a) in subclause (1) by deleting the word “one” appearing immediately after the words “Commission shall within” and substituting therefor the word “two”;

- (b) by inserting the following new subclauses immediately after subclause (3) —

- (4) An affected entity that, immediately before the commencement of this Act, was lawfully authorised to exploit a natural resource under this Act shall be considered to be authorised to conduct such exploitation under this Act.

- (5) Despite subsection (4), an affected entity shall comply with the provisions this Act within two years of its commencement.

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) in the definition of the term “Cabinet Secretary” by deleting the word “mining” appearing immediately after the words “matters related to” and substituting therefor the words “finance”;

(b) by deleting the definition of the term “local community” and substituting therefor the following new definition—

“local community” means

- (a) people living in a ward within which a natural resource is situated; and
- (b) people displaced to make way for the exploitation of a natural resource;

(c) by deleting the definition of the term “natural fund” and substituting therefor the following new definition—

“natural resources” means the natural resources provided under section 3 of this Act;

(d) by inserting the following new definitions in their proper alphabetical sequence—

“county executive committee member” means the county executive committee member responsible for matters relating to finance in the respective county;

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“officer” has the meaning assigned to it under section 3 of the Companies Act;

LONG TITLE

THAT the Long Title to the Bill be amended by inserting the word “natural” immediately after the words “benefit sharing in”.

B. *THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2019)

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

NOTICE is given that Sen. Mohamed M. Mahamud, Chairperson, Committee on Finance and Budget, intends to move the following amendments to the Public Finance Management (Amendment) Bill, Senate Bills No. 3 of 2019, at the Committee Stage-

CLAUSE 2

THAT clause 2 of the Bill be amended-

(a) in the proposed new section 160A by deleting subsection (1) and substituting therefor the following new subsections-

(1) The Cabinet Secretary shall, in consultation with the Council of County Governors, the Commission on Revenue Allocation, the Kenya Revenue Authority, develop a uniform county revenue collection system.

(1A) Every County Treasury shall adopt and implement the county revenue collection system developed under subsection (1) having regard to the particular needs of the respective county.

(b) in the proposed new section 160B by inserting the words “the Controller of Budget, the Auditor-General” immediately after the words “National Treasury” appearing in subsection (2).

(c) in the proposed new section 160C by-

(i) deleting the words “two years” appearing after the words “within a period of” and substituting therefor the words “one year” appearing in subsection (1); and

(ii) inserting the words “on the recommendation of the Senate and” immediately after the words “National Treasury may” appearing in the introductory phrase of subsection (2).

C.*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”.

D.*THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)

(Sen. Mary Seneta, MP)

NOTICE is given that the Chairperson of the Standing Committee on Health, Senator Michael Mbiti intends to move the following amendments to the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No. 38 of 2018) at the Committee Stage –

CLAUSE 4

THAT the Bill be amended by deleting clause 4 of the Bill and substituting therefor the following new clause—

Amendment **4.** Section 4 of the Principal Act is amended by deleting of section 4 subsection (2) and substituting therefor the following new of No. 20 of subsection—
2013.

(2) The Cabinet Secretary may assist the Authority to determine the requirement of drugs and medical supplies in National Referral hospitals.

(2A) The County Government may assist the Authority to determine the requirement of drugs and medical supplies in the respective county health facilities.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clauses immediately after clause 5 –

Insertion of section 6A in No. 20 of 2013 **5A.** The principal Act is amended by inserting the following new section immediately after section 6—

Headquarters **6A.** The headquarters of the Authority shall be in the capital city, but the Authority may establish such branches as it may consider necessary.

Amendment of section 8 of No. 20 of 2013 **5B.** Section 8 of the principal Act is amended—
(a) in subsection (2) by deleting the words “or medicine” appearing at the end of paragraph (a) and substituting therefor the words “medicine, business management, finance, supply chain management, or any other related field from a recognized university”;

- (b) in subsection (3) by deleting paragraph (b);
- (c) in subsection (4) by inserting the words “upon satisfactory performance” immediately after the words “four years and”

Insertion of section 9A in No. 20 of 2013

5C. The principal Act is amended by inserting the following new section immediately after section 9—

Corporation Secretary

9A. (1) There shall be a corporation secretary of the Authority who shall be competitively recruited and appointed by the Board.

(2) The terms and conditions of service of the corporation secretary shall be determined in the instrument of appointment by the Board upon the advice of the Salaries and Remuneration Commission.

(3) A person is qualified for appointment under subsection (1) if the person—

- (a) holds a degree from a recognised university;
- (b) is registered as a Certified Public Secretary under the Certified Public Secretaries of Kenya Act;
- (c) is a member of good standing of the Institute of Certified Public Secretaries of Kenya;
- (d) has at least seven years’ experience in a senior management administration; and
- (e) satisfies the requirements of chapter six of the Constitution.

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(4) The Corporation Secretary shall be the secretary to the Board and shall —

- (a) provide guidance to the Board on their duties and responsibilities and on matters of governance;
- (b) be the custodian of the seal of the organisation and account to the Board for its use;
- (c) ensure timely preparation and circulation of Board and Committee papers and minutes;
- (d) maintain and update the register of conflicts of interest;
- (e) facilitate effective communication between the organisation and the shareholders; and
- (f) ensure that the annual returns and statutory documents required to be filed under any other law are promptly filed with the relevant authorities.

Amendment of section 13 of No. 20 of 2013 **5D.** Section 13 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

(2) The affixing of the common seal of the Authority shall be authenticated by the signature of the Chairperson and the chief executive officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the chief executive officer and the corporation secretary.

E. *THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILLS NO. 9 OF 2019)

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

NOTICE is given that the Chairperson of the Standing Committee on Health, Senator Michael Mbiti intends to move the following amendments to the Cancer Prevention and Control (Amendment) Bill (Senate Bills No. 9 of 2019) at the Committee Stage –

CLAUSE 3

THAT the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

Amendment of section 5 of No. 20 of 2013.

3. Section 5 of the principal Act is amended —

(a) by deleting paragraph (a) and inserting therefor the following new paragraphs—

(a) advise the Cabinet Secretary and county governments on matters relating to the prevention of disease, promotion of healthy living, control, treatment, referral and care of persons with cancer and to advise on the relative priorities to be given to the implementation of specific measures including detection, diagnosis and referral of children suspected to have cancer, genetic and hormonal therapies for cancer;

(aa) advice the Cabinet Secretary and Parliament on the resources required to finance and conduct cancer research;

(b) in paragraph (c) by inserting the word “screening” immediately after the words “secure provision of”;

(c) in paragraph (d) by deleting the words “in Kenya” appearing immediately after the words “services provided” and substituting therefor the words “by the national government”;

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

(da) collaborate with counties for the purpose of establishing facilities, delivery of services, collection and analysis of data;

...../Amendments

- (db) collaborate with counties in all matters related to the promotion of healthy living, prevention, diagnostic, treatment and control of cancer.
- (e) in paragraph (e) by deleting the words “of cancer” and substituting therefor the words “referral of cancer patients and promotion of health”;
- (f) in paragraph (f) by inserting the words “other government agencies” immediately after the words “collaborate with”;
- (g) by inserting the following new paragraph immediately after paragraph (f)—
 - (fa) collaborate with other national government agencies, universities, research institutions and international research institutions for cancer research;
- (h) by inserting the following new paragraph immediately after paragraph (k)—
 - (ka) develop programmes for early detection, diagnosis and referral of children suspected to have cancer;
 - (kb) provide the policy framework necessary to ensure public private partnership in childhood cancer care;

CLAUSE 4

THAT clause 4 of the Bill be amended—

- (a) by deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) deleting paragraph (j); and
- (b) by deleting paragraph (c) and substituting therefor the following new paragraph—
- (c) inserting the following new paragraphs immediately after (i)—

- (ja) two County Directors of Health nominated by the Council of County Governors;
- (jb) one person representing the umbrella body of clinical pathologists in Kenya nominated by the Cabinet Secretary;

CLAUSE 7

THAT clause 7 of the Bill be amended—

- (a) in the proposed new section 22A subsection (1) —
 - (i) by inserting the word “diagnosis” immediately after the words “equipment for the prevention” appearing in paragraph (b);
 - (ii) by inserting the following new paragraph immediately after paragraph (d)—
 - (da) put in place measures to improve the training and skills of health workers working in the community health unit, to ensure prompt detection and referral of persons suspected to have cancer;
 - (iii) by deleting paragraph (g) (ii) and substituting therefor the following new sub-paragraph—
 - (ii) palliative care facilities and facilities for the accommodation for persons receiving cancer treatment;
 - (iv) by deleting paragraph (h) and substituting therefor the following new paragraph—
 - (h) ensure that issues concerning cancer prevention, diagnosis and treatment are incorporated into the county development programmes and strategies and allocate the resources required for treatment and control of cancer;
- (b) in the proposed new section 22C—
 - (i) by inserting the word “diagnosis” immediately after the words “responsible for the prevention” appearing in subsection (1);
 - (ii) by deleting subsection (2) (b) and substituting therefor the following new paragraph—
 - (b) provide cancer screening and diagnostic services supervised by a pathologist;

APPENDIX

PAPERS

- (i) Report of the Auditor-General on the Financial Statements of Machakos County Bursary Fund for the Year ended 30th June 2018;
- (ii) Report of the Auditor-General on the Financial Statements of Machakos County Bursary Fund for the Year ended 30th June 2017;
- (iii) Report of the Auditor-General on the Financial Statements of Trans Nzoia County Public Service Board for the Year ended 30th June 2018;
- (iv) Report of the Auditor-General on the Financial Statements of Makueni County Assembly Car and Mortgage Loan Fund for the Year ended 30th June 2018; and
- (v) Report of the Auditor-General on the Financial Statements of Makueni County Sand conservation and Utilization Authority for the Year ended 30th June 2018.