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10/9/19

REPUBLIC OF KENYA





THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (THIRD SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILL NO. 10 OF

2018)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 10 SEP 2019	Day: TUESDAY
TABLED BY:	HON. JOSEPH LIMU CHAIRPERSON FINANCE COMMITTEE
CLERK-AT THE-TABLE:	

CLERKS CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

SEPTEMBER, 2019

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CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings of the consideration of the Senate amendments to the County Government Retirement Scheme Bill, 2018. The County Government Retirement Scheme Bill, 2018 was passed by the National Assembly on **Wednesday, 17th October, 2018** and thereafter conveyed to the Senate in accordance with the provisions of Article 110(4) of the Constitution. Subsequently, the Senate considered the Bill and passed it with amendments on **Wednesday, 31st July, 2019**. The amendments were thereafter conveyed to the Departmental Committee on Finance and National Planning on **Tuesday, 7th August, 2019**. The Committee subsequently considered the amendments on Tuesday, 9th September, 2019 as contained in this report.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Senate amendments to the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the Senate amendments to the County Government Retirement Scheme Bill (N.A. Bill No. 10 of 2018).

Hon. Joseph Limo, M.P.

EXECUTIVE SUMMARY

The County Government Retirement Scheme Bill, 2018 was considered and passed with amendments by the Senate on **Wednesday, 31st July, 2019**. The amendments were then sent to the National Assembly for consideration vide a message from the Speaker of the Senate to the Speaker of the National Assembly. The amendments were then committed to the Departmental Committee on Finance and National Planning for consideration on **Wednesday 7th August, 2019**.

The Bill seeks to establish the County Governments' Retirement Scheme as a mandatory Scheme for all County Government Officers; provide for the establishment of the Scheme's Board of Trustees and provide for the Scheme's management and administration. The Bill proposes to have the scheme offer lump sum payments as provident, periodic payments as pensions and income draw-downs. The proposed Scheme will provide one universal scheme for all the forty-seven county governments besides being open to other persons approved by the Board.

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:
 - i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - iii. **To study and review all the legislation referred to it;**
 - iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - v. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);
 - vii. To examine treaties, agreements and conventions;
 - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - x. To examine any questions raised by Members on a matter within its mandate.

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following government Ministries and departments;
 - a. The National Treasury and Ministry of Planning
 - b. Ministry of Devolution and ASAL
 - c. The Commission on Revenue Allocation
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission

1.3 Committee Membership

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members:-

Hon. Joseph K. Limo, MP (**Chairperson**)
MP for Kipkelion East Constituency
Jubilee Party

Hon. Isaac W. Ndirangu (**Vice-Chairperson**)
M.P for Roysambu Constituency
Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache North Constituency
Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency
ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency
FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East
Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imenti Constituency
Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency
Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency
ODM Party

Hon. David M. Mboni, MP
MP for Kitui Rural Constituency
CCU Party

Hon. Francis K. Kimani, MP
M.P. Molo Constituency

Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency
ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency
MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County
Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency
Independent Member

Hon. Purity W. Ngirici, MP
MP for Kirinyaga County
Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency
ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency
MCC Party

The Hon. Edith Nyenze, MP
MP for Kitui West Constituency
WDM-K

1.4 Committee Secretariat

Ms. Leah W. Mwaura
Senior Clerk Assistant/Lead Clerk

Ms. Jennifer Ndeto
Principal Legal Counsel 1

Ms. Laureen Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Fiscal Analyst I

Mr. Chelang'a Maiyo
Research Officer II

2 COMMITTEE CONSIDERATION OF THE SENATE AMENDMENTS TO THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL, 2017

2.1 BACKGROUND INFORMATION

5. The County Government Retirement Scheme Bill, 2018 was considered and passed with amendments by the Senate on **Wednesday, 31st July, 2019**. The amendments were then sent to the National Assembly for consideration vide a message from the Speaker of the Senate to the Speaker of the National Assembly. The amendments were then committed to the Departmental Committee on Finance and National Planning for consideration on **Wednesday 7th August, 2019**.
6. The Committee proceeded to consider the amendments as proposed by the Senate.

2.2 SENATE AMENDMENTS TO THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL, 2018

7. The Senate considered the County Governments Retirement Scheme Bill, 2018 and passed the following amendments:-

Clause 3

8. THAT clause 3 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)-
(f) protect the benefits of the members of the Scheme.

Clause 4

9. THAT clause 4 of the Bill be amended in subclause (3) by inserting the following new paragraph immediately after paragraph (c)-
(ca) gratuity; and

Clause 6

10. THAT the Bill be amended by deleting clause 6 and substituting therefor the following new clause-

Board of Trustees of 6(1) The management of the Scheme shall vest in a Board of Trustees of the

the Scheme.

Scheme.

(2) The Board shall consist of-

- (a) the chairperson elected by the Trustees from among the members under paragraph (c), (d), (e) and (f);
- (b) the Principal Secretary responsible for matters relating to finance or a representative;
- (c) a person nominated by Council of County Governors;
- (d) a person nominated by County Public Service Boards;
- (e) a person nominated by County Assembly Service Boards;
- (f) five persons nominated by most representative trade unions representing employees of county governments of whom at least two shall not be of the same gender as follows-
 - i. four persons from trade unions representing the employees within the county executive; and
 - ii. a person from trade unions representing the employees within the county assemblies' service; and
- (g) the chief executive officer who shall be an ex officio member and the secretary to the Board with no voting rights.

(3) The vice-chairperson of the Board shall be elected by the Trustees from among their number.

(4) The chairperson and vice-chairperson shall be of the opposite gender.

(5) The Cabinet Secretary shall ensure that not more than two thirds of the members of the Board are of the same gender.

(6) The Cabinet Secretary shall appoint the persons nominated under subsection (2) by notice in the gazette.

(7) The procedure for nomination and appointment of Trustees under subsection (2) shall be prescribed in the regulations.

Clause 10

11. THAT clause 10 of the Bill be amended in subclause (1) by deleting the word "three" appearing immediately after the words "absence from" appearing in paragraph (e) and substituting therefor the word "two".

Clause 16

12. THAT the Bill be amended by deleting clause 16 and substituting therefor the following new clause-

Remuneration of Trustees (16) The Trustees shall be paid such remuneration as the Authority may determine in accordance with the Retirement Benefits Act.

Clause 18

13. THAT clause 18 of the Bill be amended by inserting the following new subclause immediately after subclause (4)-

(4a) The chief executive officer shall hold office for a term of three years and may be eligible for re-appointment for a further final term of three years.

Clause 21

14. THAT clause 21 of the Bill be amended in paragraph (d) by deleting the words “provide regular information” appearing immediately before the words “on investment strategy” and substituting the words “submit reports on a quarterly basis”.

Clause 22

15. THAT clause 22 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (f)-

(fa) submit to the Board a report on a quarterly basis, of the reconciliations with respect to the funds held by the Custodian;

Clause 23

16. THAT clause 23 of the Bill be amended in sub-clause (2) by-

(a) inserting the word “at least on a quarterly basis” immediately after the words “including access” in paragraph (d);

(b) inserting the following new paragraph immediately after paragraph (d)-

(da) keep and maintain proper books of accounts of the scheme;

Clause 24

17. THAT clause 24 of the Bill be amended

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

(1) A member shall, so long as the member remains in the employment of a sponsor, contribute not less than twelve percent of that member’s pensionable emoluments to the Scheme.

- (b) in sub-clause (2) by inserting the words “not less than” immediately after the words “contribute to the scheme”.
- (c) In sub-clause (5) by deleting the words “on each occasion” appearing immediately after the words “salary of the contributor” and substituting therefor the words “in each month”.

Clause 44

18. THAT clause 44 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause-

- (1) The Scheme shall be reviewed by an actuary appointed by the Board as provided for in the Retirement Benefits Act.

Clause 46

19. THAT clause 46 of the Bill be amended in the introductory phrase in sub-clause (2) by inserting the word “actuary” immediately after the words “fund manager”.

Clause 48

20. THAT clause 48 of the Bill be amended-

- (a) In sub-clause (1) by deleting the words “two years” appearing immediately after the words “imprisonment for a term not exceeding” at the end of the sub-clause and substituting therefor the words “five years”.
- (b) By inserting the following new sub-clause immediately after sub-clause (2)-

(3) A person who is convicted of an offence under subsection (1)(c) shall, in addition to any fine that may be imposed, refund to the Scheme three times the value of any loss that may be incurred by the scheme by reason of the commission of the offence.

Clause 55

21. THAT clause 55 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (6)-

(7) The Auditor General shall cause an actuarial audit and valuation to be carried out with respect to the closed schemes within six months upon the commencement of this Act to ascertain the following for the purpose of transitional management-

- (a) assets acquired by the schemes;
- (b) liabilities accrued by the schemes; and
- (c) employees of the schemes.

(8) The Auditor General shall submit a report on the findings of the audit and valuation to the Board, the Senate and the National Assembly within three months of carrying out of the audit under sub-section (7).

Clause 56

22. THAT clause 56 of the Bill be amended by deleting sub-clause (6) and substituting the following new sub-clause-
- (6) The Retirement Benefits Authority shall, within five years from the commencement of this Act, ensure the implementation of this section.

Clause 59

23. THAT the Bill be amended by inserting the following new clause immediately after clause 58- Amendment of 59. The County Governments Act is amended by deleting section 132. section 132 of Act no. 17 of 2012

First Schedule

24. The First Schedule is amended in paragraph 2 by deleting subparagraphs (1) and (2) and substituting therefor the following new sub-paragraphs-
- (1) The quorum of a meeting of the Board shall be five Trustees present and voting and shall include at least two Trustees appointed under section 6(2)(b), (c), (d) or (e) and at least three Trustees appointed under section 6(2)(f).
- (2) For special meetings, the quorum shall be six Trustees present and voting shall include at least three Trustees appointed under section 6(2)(b), (c), (d) or (e) and at least four Trustees appointed under section 6(2)(f).

3 COMMITTEE OBSERVATION AND RECOMMENDATION

- 25. The Committee considered the proposed Senate amendments to the County Government Retirement Scheme Bill, 2018 and agreed with the amendments as proposed by the Senate as they are aligning the Bill with corporate governance measures established under the Retirement Benefits Act, 1997.
- 26. The Committee therefore **recommends** to the House that the Senate amendments to the County Government Retirement Scheme Bill, 2018 be passed by the House without amendments.

SIGNED.......... DATE..........

HON. JOSEPH LIMO, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE SENATE
AMENDMENTS TO THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL, 2018

DATE: 10TH SEPTEMBER, 2019

NAME	SIGNATURE
1. HON. JOSEPH K. LIMO, MP – CHAIRMAN	
2. HON. ISAAC W. NDIRANGU – VICE-CHAIRMAN	
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, MP	
5. HON. ENOCH KIBUNGUCHY, MP	
6. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
7. HON. ABDUL RAHIM DAWOOD, MP	
8. HON. DANIEL E. NANOK, MP	
9. HON. ANDREW A. OKUOME, MP	
10. HON. DAVID M. MBONI, MP	
11. HON. KURIA KIMANI, MP	
12. HON. JOSEPH M. OYULA, MP	
13. HON. JOSHUA KANDIE, MP	
14. HON. LYDIA H. MIZIGHI, MP	
15. HON. MOHAMED ALI, MP	
16. HON. PURITY NGIRICI, MP	
17. HON. SAMUEL ATANDI, MP	
18. HON. STANLEY M. MUTHAMA, MP	
19. HON. EDITH NYENZE, MP	



MINUTES OF THE 51ST SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 10TH SEPTEMBER, 2019 IN 2ND FLOOR, CONTINENTAL HOUSE AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Omulele, MP
5. Hon. Abdul Rahim Dawood, MP
6. Hon. Daniel E. Nanok, MP
7. Hon. David M. Mboni, MP
8. Hon. Francis K. Kimani, MP
9. Hon. Joseph M. Oyula, MP
10. Hon. Joshua C. Kandie, MP
11. Hon. Purity Ngirici, MP
12. Hon. Samuel Atandi, MP
13. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Mohamed A. Mohamed, MP

ABSENT

1. Hon. Dr. Enoch Kibunguchy, MP
2. Hon. Andrew A. Okuome, MP
3. Hon. Lydiah Mizighi, MP
4. Hon. Stanley M. Muthama, MP

INATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|-----------------------------------|
| 1. Ms. Leah Mwaura | - | Senior Clerk Assistant/Lead Clerk |
| 2. Ms. Jennifer Ndeto | - | Principal Legal Counsel |
| 3. Ms. Lauren Wesonga | - | Clerk Assistant II |
| 4. Mr. Chelang'a Maiyo | - | Research Assistant |
| 5. Ms. Christine Maeri | - | Audio Officer |
| 6. Mr. John Njoro | - | Serjeant-At-Arms |
| 7. Mr. Vitalis Augo | - | Office Assistant |

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting to consider:-**

- i. **The Public Finance Management (Amendment) Bill (N.A. Bill No. 63 of 2019)**
- ii. **The Senate amendments to the County Government Retirement Scheme Bill, 2018**

6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2019/281: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 10.15 am and a prayer was said. The agenda was then adopted with some amendments having been proposed and seconded by Hon. Samuel Atandi, MP and Jimmy Angwenyi, MP respectively. The Chairperson then welcomed the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2019/282: CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2019/283: MEETING WITH HON. MOSES KURIA, MP TO CONSIDER THE FINANCE BILL, 2019

The Chairperson invited Hon. Moses Kuria, MP to make his submission on the Finance Bill, 2019. He submitted as follows:-

1. That his proposal was seeking to amend the current provision section 33B of the Banking Act so as to require that banks maintain a credit score rating for its customers to ensure that loans issued are based on an individual's credit score. He proposed that a window of negotiation be placed at six points above the Central Bank Rate and the banks would then use the credit score to price the credit facilities and determine the actual interest rate payable.
2. That the country is not ready for the repeal of interest caps because there are not enough checks and balances to ensure that banks do not revert to very unaffordable credit facility.

Members Deliberations

- i. The meeting was of the opinion that continued government borrowing has continued to crowd out the private sector as the government borrowing is considered less risky. The Committee proposed that there was need for control of government domestic borrowing to ensure that banks are compelled to lend to the SMEs.
- ii. The meeting noted that it is important for banks to be obligated to give their clients credit score which will make it possible for them to access credit according to their scores.

MIN.NO.NA/F&NP/2019/284: MEETING TO ADOPT THE REPORT ON THE CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (N.A. BILL NO. 63 OF 2019)

The Committee considered and adopted the report on the consideration of the Public Finance Management (Amendment) Bill (N.A. Bill No. 63 of 2019) having been proposed and seconded by Hon. David Mboni, MP and Hon. Francis Kimani, MP respectively.

The Committee agreed to all the proposed amendments in the Bill as follows:-

Clause 1: Agreed to

Clause 2: Agreed to

MIN.NO.NA/F&NP/2019/285: MEETING TO ADOPT THE SENATE AMENDMENTS TO THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL, 2018

The Committee considered and adopted the report on the consideration of the Senate amendments to the County Government Retirement Scheme Bill, 2018 having been proposed and seconded by Hon. Edith Nyenze, MP and Hon. Joshua Kandie, MP respectively.

The Committee agreed to all the amendments that were proposed by the Senate as follows:-

1. Clause 3: Agreed to
2. Clause 4: Agreed to
3. Clause 6: Agreed to
4. Clause 10: Agreed to
5. Clause 16: Agreed to
6. Clause 18: Agreed to
7. Clause 21: Agreed to
8. Clause 22: Agreed to
9. Clause 23: Agreed to
10. Clause 24: Agreed to
11. Clause 44: Agreed to
12. Clause 46: Agreed to
13. Clause 48: Agreed to
14. Clause 55: Agreed to
15. Clause 56: Agreed to
16. New Clause 59: Agreed to

17. First Schedule: Agreed to

MIN.NO.NA/F&NP/2019/286: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 12.23 p.m. The next meeting will be held on Thursday, 10th September, 2019 at 10.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED  DATE..... 10/9/19