



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**THURSDAY, NOVEMBER 21, 2019 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATION FROM THE CHAIR ON AN APPLICATION FOR CONFERMENT OF CITY STATUS TO NAKURU MUNICIPALITY**

The Speaker conveyed the following Communication from the Chair on a paper tabled by the Senate Majority Leader on the application by Nakuru County Executive for conferment of city status to Nakuru Municipality: -

**“Honourable Senators,**

On 11<sup>th</sup> November, 2019, the Office of the Clerk of the Senate received a letter from the Clerk of the County Assembly of Nakuru conveying the resolution of the Assembly that adopted the Report of the Ad Hoc Committee of the Nakuru County Executive on the application for conferment of city status to Nakuru Municipality.

**Honourable Senators,**

I will briefly explain the requirement and process for such application.

Section 5 of the Urban Areas and Cities Act provides that for an area to be classified as a city, it must: -

- (1) have a population of at least five hundred thousand residents;
- (2) be an integrated urban area or city development plan in accordance with the Urban Areas and Cities Act;
- (3) have demonstrated capacity to generate sufficient revenue to sustain its operation;
- (4) have demonstrated good system and records of prudent management;
- (5) have the capacity to effectively and efficiently deliver essential services to its residents as provided in the Act;
- (6) have institutionalised active participation by its residents in the management of its affairs;

- (7) have infrastructural facilities, including but not limited to roads, street lighting, markets and fire stations, and an adequate capacity for disaster management; and,
- (8) have a capacity for functional and effective waste disposal.

Section 8 of the Urban Areas and Cities Act provides for the procedure for application of city status which includes the formation of an Ad Hoc Committee to consider the matter and evaluate whether the criteria set out under section 5, as I read out, is met. If the Ad Hoc Committee is satisfied that that is the case, the County Governor transmits the recommendation to the County Assembly for approval.

**Honourable Senators,**

Where the County Assembly approves the recommendation for conferment of city status to a municipality under this section, the Clerk of the County Assembly shall transmit the resolution to the Senate for consideration. This is where we currently stand in the process.

Section 8(6) of the Act states that: -

*“Where the Senate approves the recommendation, the Clerk of the Senate shall forward the resolution to the President for conferment of city status on the municipality.”*

Section 7 of the Urban Areas and Cities Act further states that: -

*“The President may, on the resolution of the Senate, confer the status of a city on a municipality that meets the criteria set out in section 5, by grant of a charter.”*

To enable the Senate process this matter efficiently and effectively, I direct that this report be committed to the Standing Committee on Devolution and Intergovernmental Relations to scrutinize the process and ensure that the provisions of the Urban Areas and Cities Act that provides the procedure for application for conferment of city status was complied with.

**Honourable Senators,**

This is the first time we have received such an application. The Committee is therefore expected to undertake this task meticulously and report back to the Senate by way of a report to be tabled and debated in the House. Owing to the fact that the current session is almost coming to an end, I direct the Committee to table its report on or before 25<sup>th</sup> February, 2020.

I thank you.”

4. **PAPERS**

The following Papers were laid on the Table of the Senate-

- (i) Report of the Sessional Committee on County Public Accounts and Investments on the Financial Operations of Kiambu, Busia, Kwale, Tana River, Trans Nzoia, Nyandarua, Migori, Kisumu, Samburu, Kericho, Bomet, Bungoma, Garissa, Isiolo, Kitui, Lamu, Makueni, Mandera, Marsabit, Meru, Mombasa, Nyamira, Taita Taveta, Uasin Gishu, Vihiga and Wajir County Executives for the Financial Year 2013/2014.

*(Sen. Kimani Wamatangi, MP, on behalf of the Chairperson, Sessional Committee on County Public Accounts and Investments)*

- (ii) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Constitution of Kenya (Amendment) Bill (Senate Bills No. 40 of 2018).
- (iii) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Constitution of Kenya (Amendment) Bill (Senate Bills No. 2 of 2019).
- (iv) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Constitution of Kenya (Amendment) Bill (Senate Bills No. 16 of 2019).
- (v) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Independent Electoral and Boundaries Commission (Amendment) (No. 3) Bill (National Assembly Bills No. 35 of 2019).
- (vi) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Statute Law (Miscellaneous Amendment) (No. 2) Bill (National Assembly Bills No. 13 of 2018)

*(Vice-Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)*

- (vii) Report of the Standing Committee on Labour and Social Welfare on its consideration of the Care and Protection of Child Parents Bill (Senate Bills No. 11 of 2019)

*(Chairperson, Standing Committee on Labour and Social Welfare)*

- (viii) Report of the Standing Committee on Roads and Transportation on its initiated inquiries on projects undertaken by Kenya Maritime Authority, Kenya Ferry Services and National Social Security Fund.

*(Chairperson, Standing Committee on Roads and Transportation)*

- (ix) Report of the Ad Hoc Committee of the Nakuru County Executive on the Application for Conferment of City Status to Nakuru Municipality.

*(The Deputy Senate Majority Leader)*

- (x) The Statement on the business of the Senate for the week commencing Tuesday, 26<sup>th</sup> November, 2019.

*(Sen. Paul Githiomi, MP on behalf of the Senate Majority Leader)*

5. **NOTICE OF MOTION** – (Vice-Chairperson, Sessional Committee on County Public Accounts and Investments)

**THAT**, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial Operations of Kiambu, Busia, Kwale, Tana River, Trans Nzoia, Nyandarua, Migori, Kisumu, Samburu, Kericho, Bomet, Bungoma, Garissa, Isiolo, Kitui, Lamu, Makueni, Mandera, Marsabit, Meru, Mombasa, Nyamira, Taita Taveta, Uasin Gishu, Vihiga and Wajir County Executives for the Financial Year 2013/2014 (1<sup>st</sup> July, 2013-30<sup>th</sup> June, 2014), laid on the Table of the Senate on Thursday, 21<sup>st</sup> November, 2019.

6. **STATEMENTS**

a) **Pursuant to Standing Order 47(1)**

- (i) The Senator for Nairobi City County (Sen. Johnson Sakaja, MP) made a Statement regarding the state of the Nairobi City County Government.

In the Statement, the Senator raised concern regarding the mismanagement, corruption and impunity that had led to lack of services to the citizen of Nairobi. He lamented the triple calamity faced by residents of Nairobi in the form of having a governor with no substantive deputy, a non-functional executive and an Assembly in shambles.

The Senator highlighted that arising from the foregoing, the county was grappling with a myriad of inconveniences, frustrations and general lack of basic services and amenities, this, despite having received in excess of KShs. 52.54 billion over the last two (2) years. He informed the Senate that if the said monies were to be divided among the 17 constituencies in Nairobi, each should be able to feel the impact worth KShs. 3 billion in the same period.

The Senator urged the relevant Senate Committees as well as the office of the Auditor-General to undertake an inquiry into the situation, including allegations that the County had engaged the services of over 6000 youth who were not under any contract but were drawing allowances through the County Suspense Account; the single-sourcing of a private company (Noveta) to perform the critical duty of revenue collection among other allegations and make a report to the Senate.

The Speaker directed that the matter be referred to the Standing Committee on Devolution and Intergovernmental Relations for consideration pursuant to Standing Order 47(3) and further directed the Standing Committee to make a report to the Senate.

Raising on a point of order, the Senator for Makueni (Sen. Mutula Kilonzo Junior, MP) further drew the attention of the Senate to the fact that a Senator had, in their contribution to the Statement by Sen. Sakaja, informed the Senate that the Nairobi City County had a Pending Bill of over 26 billion and that the Cabinet Secretary, Treasury, had unprocedurally released a circular stopping the release of funds to Counties that had pending bills. The Senator

pointed out that this was in contravention of Section 97(2) of the PFM Act, which outlined the due process be followed.

Following deliberations by Senators on the matter, the Speaker ruled that, due to the urgent nature and the fact that the Cabinet Secretary's circular had a deadline of Tuesday, 26<sup>th</sup> November, 2019, the Standing Committee on Finance and Budget hold a meeting with the Cabinet Secretary on Tuesday 26<sup>th</sup> November, with a view to resolving the matter and that the Chairperson report to the Senate the resolution of the meeting.

- (ii) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) made a Statement on the election of Ms. Ashura Michael as the Speaker of the 2<sup>nd</sup> Sitting of the East African Youth Parliament that took place from 14<sup>th</sup> to 15<sup>th</sup> November, 2019 in Arusha, Tanzania.

The Senator congratulated Ms. Ashura Michael for being elected as Speaker, especially due to the fact that she is a young deaf Kenyan who is passionate about her own course and that her election to the position would serve as an inspiration to many deaf persons in this country and the East African region at large.

Sen. (Dr.) Musuruve informed the Senate that among the main categories of disability, the deaf were the most excluded, marginalized and hardly understood and that many of them lived in cocoons because of the language barrier. She stated that this made the election of Ms. Ashura a big step towards dealing with this exclusion and marginalization that is normally meted on the deaf and a confirmation that the deaf, too, are equal to the task of leadership.

**b) Pursuant to Standing Order 48(1)**

- (i) Nominated Senator (Sen. Victor Prengei, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the delay in payment to officers who conducted the National Identity and Integrated Management System (NIIMS) registration exercise.
- (ii) The Senator for Makueni (Sen. Mutula Kilonzo Junior, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding failure by the government to offer assistance to beneficiaries of deceased persons in the Solai Dam Tragedy.
- (iii) Seneta wa Kaunti ya Mombasa (Sen. Mwinyihaji Faki, MP) alisimama kuomba taarifa kutoka kwa Kamati ya Kudumu ya Usalama wa Taifa, Ulinzi na Maswala ya Nchi za Nje kuhusu kupigwa risasi na kuuawa kwa mwendesha pikipiki (*bodaboda*) na mwanajeshi wa Jeshi la Wanamaji katika Kambi ya Jeshi la Wanamaji ya Mtongwe, Kaunti ya Mombasa.

**c) Pursuant to Standing Order 51(1)(b)**

- (i) On behalf of the Chairperson, Standing Committee on National Cohesion, Equal Opportunity and Regional Integration, Sen. Mercy Chebeni, MP,

issued a Statement relating to the activities of the Committee for the period 1<sup>st</sup> July, 2019 to 30<sup>th</sup> September, 2019;

- (ii) The Chairperson, Standing Committee on Tourism, Trade and Industrialization issued a Statement relating to the activities of the Committee for the period 1<sup>st</sup> July, 2019 to 30<sup>th</sup> September, 2019; and
- (iii) The Vice-Chairperson, Sessional Committee on Delegated Legislation issued a Statement relating to the activities of the Committee for the period 1<sup>st</sup> July, 2019 to 30<sup>th</sup> September, 2019.

d) **Pursuant to Standing Order 52(1)**

On behalf of the Senate Majority Leader, Sen. Mwangi Githiomi issued a Statement on the business of the Senate for the week commencing Tuesday, 26<sup>th</sup> November, 2019.

7. **MOTION- REPORT ON THE 64<sup>TH</sup> COMMONWEALTH PARLIAMENTARY CONFERENCE**

Order read;

Motion made and Question proposed;

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 64<sup>th</sup> Commonwealth Parliamentary Conference (CPC) held in Kampala, Uganda from 22<sup>nd</sup> to 29<sup>th</sup> September, 2019.

*(Sen. Mohamed Faki, MP)*

Debate arising;

And there being no other Senator wishing to contribute and in the absence of the Mover to reply;

Before the Question was put and pursuant to Standing Order 79(1), the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

**RESOLVED ACCORDINGLY**

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 64<sup>th</sup> Commonwealth Parliamentary Conference (CPC) held in Kampala, Uganda from 22<sup>nd</sup> to 29<sup>th</sup> September, 2019.

8. **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-ICGLR)**

Order read;

Motion made and Question proposed;

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 13<sup>th</sup> to 14<sup>th</sup> March, 2019, laid on the Table of the House on Tuesday, 21<sup>st</sup> May, 2019.

*(Sen. Samuel Poghio, MP)*

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied

Before the Question was put and pursuant to Standing Order 79(1), the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

**RESOLVED ACCORDINGLY**

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 13<sup>th</sup> to 14<sup>th</sup> March, 2019, laid on the Table of the House on Tuesday, 21<sup>st</sup> May, 2019.

9. **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**

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

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

Order deferred.

10. **MOTION – REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE UNITED NATIONS CONFERENCE ON CLIMATE CHANGE (COP 24).**

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the United Nations Conference on Climate Change (COP 24) held in Katowice, Poland, from 3<sup>rd</sup> to 14<sup>th</sup> December, 2018, laid on the Table of the Senate on Thursday, 25<sup>th</sup> July, 2019.

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

Order deferred.

11. **MOTION - REPORT ON THE 8<sup>TH</sup> WORLD WATER CONFERENCE**

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 8<sup>th</sup> World Water Conference held in Brasilia, Brazil from 18<sup>th</sup> to 23<sup>rd</sup> March, 2018.

*(Chairperson, Standing Committee on Land, Environment and Natural Resources)*

Order deferred.

12. **MOTION - REPORT ON THE 14<sup>TH</sup> ANNUAL GENERAL MEETING (AGM) OF THE INTERGOVERNMENTAL FORUM ON MINING, MINERALS, METALS AND SUSTAINABLE DEVELOPMENT ON MODERN MINING LAW AND POLICY**

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 14<sup>th</sup> Annual General Meeting (AGM) of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development on Modern Mining Law and Policy held in Geneva, Switzerland from 16<sup>th</sup> to 18<sup>th</sup> October, 2018.

*(Chairperson, Standing Committee on Land, Environment and Natural Resources)*

Order deferred.

13. **MOTION - REPORT ON THE 18<sup>TH</sup> MEETING OF THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES) CONFERENCE OF PARTIES (COP 18)**

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 18<sup>th</sup> Meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of Parties (CoP 18) held in Geneva, Switzerland from 17<sup>th</sup> to 28<sup>th</sup> August, 2019.

*(Chairperson, Standing Committee on Land, Environment and Natural Resources)*

Order deferred.

14. **MOTION - REPORT ON THE 12<sup>TH</sup> SESSION OF THE CONFERENCE OF PARTIES TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

THAT, the Senate notes the Report of the Standing Committee on Labour and Social Welfare on the 12<sup>th</sup> Session of the Conference of Parties to the Convention on the Rights of Persons with Disabilities held at the United Nations Headquarters in New York, USA from 11<sup>th</sup> to 13<sup>th</sup> June, 2019.

*(Chairperson, Standing Committee on Labour and Social Welfare)*



Order deferred.

15. **MOTION - FREE ADMINISTRATION OF THE SNAKE BITES ANTI-VENOM IN PUBLIC HEALTH FACILITIES**

THAT, AWARE THAT, there is an abundance of snakes in various parts of the country namely; Kitui, Baringo, Wajir, Kajiado, Embu and Tana River Counties among others, which poses a high mortality rate of snake bites across these counties;

FURTHER AWARE THAT, all patients bitten by snakes should be assessed by medically-trained staff to determine the species responsible, the amount of venom injected and the variable time course for development of signs, requiring that patients be kept under observation for at least 24 hours;

CONCERNED THAT, these incidences of snake bites are a neglected emergency in Kenya owing to the low awareness of snake bites as a public health problem in the country resulting to victims being maimed and even losing lives;

FURTHER CONCERNED THAT, poor infrastructure and poverty contribute to delays in seeking and receiving treatment for snake bites including the high cost of acquiring and storing the anti-venom;

RECOGNIZING THAT, it is essential for snakebite victims to get supportive care followed by the administration of the anti-venom as soon as possible following a snake bite;

NOTING THAT, Article 43 (1) (a) of the Constitution provides that every person has the right to the highest attainable standard of health;

NOW THEREFORE, the Senate urges the Ministry of Health in collaboration with the County governments to establish programs to sensitize people on the management of snake bites and to ensure timely supply and free administration of the anti-venom in public health facilities, concentrating on sub county health facilities in the affected counties, and further ensure that these facilities are equipped with the necessary infrastructure for the storage of the anti-venom.

*(Sen. Beatrice Kwamboka, MP)*

Order deferred.

16. **THE KENYAN SIGN LANGUAGE BILL (SENATE BILLS NO. 15 OF 2019)**  
(Sen. (Dr.) Getrude Musuruve, MP and Sen. (Prof.) Margaret Kamar, MP)

*(Second Reading)*

***(Resumption of debate interrupted on Wednesday, 20<sup>th</sup> November, 2019)***

Order deferred.

17. **THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL (SENATE BILLS NO. 17 OF 2019)**

Order read;

Motion made and Question proposed: -

THAT, the County Licensing (Uniform Procedure) Bill (Senate Bills No. 17 of 2019) be now read a Second Time.

(Sen. Mercy Chebeni, MP)

Debate arising;

Pursuant to the Standing Order 31(2), the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) interrupted the proceedings at thirty three minutes past Six O'clock, and adjourned the Senate without Question put.

18. **SENATE ROSE** - at thirty three minutes past Six O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Tuesday, November 26, 2019 at 2:30 p.m.*

--x--