Fourth Session

(322)

REPUBLIC OF KENYA

TWELFTH PARLIAMENT - FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, APRIL 29, 2020

- 1. The House assembled at thirty minutes past Two O'clock
- **2.** The Proceedings were opened with Prayer
- **3. Presiding –** the Hon. Speaker

4. MESSAGES

The Speaker conveyed the following Message from the Senate -

Approval by the Senate of the Mediated Versions of the County Governments (Amendment) (No. 2) Bill (Senate Bill No. 7 of 2017) and the County Governments (Amendment) Bill (Senate Bill No. 11 of 2017)

"Honourable Members, as you are aware, Standing Order 41(4) of the National Assembly Standing Orders requires the Speaker to report to the House any Message received from the Senate. In this regard, I wish to report that I have received a Message from the Senate regarding its approval of the following two Bills-

- (a) Mediated Version of the County Governments (Amendment) (No. 2) Bill (Senate Bill No. 7 of 2017; and,
- (b) Mediated Version County Governments (Amendment) Bill (Senate Bill No. 11 of 2017).

Honourable Members, in summary, the Message conveyed that the Senate, by a resolution made on April 21st, 2020, approved the Mediated Versions of two Bills. You will also recall that, the two Bills were referred to a Mediation Committee after the Senate initially disagreed with the Amendments made by the National Assembly.

The Mediation Committee was led by the Member for Kipipiri (The Hon. Amos Kimunya, EGH, MP) on the side of the National Assembly. The Reports of the Mediation Committees containing the Mediated Versions of said Bills were laid on the Table of the House, and notice of Motion on the same given on Wednesday, 22nd April 2020 in accordance with the provisions of Standing Order 150 (1). As you may have noticed from the Order Paper of today afternoon, the House Business Committee has since scheduled the two Bills to be considered by the House on Wednesday, May 6, 2020, thereby concluding the bicameral processes on the two Bills. The House is thus accordingly informed.

I thank you!"

5. PAPER LAID

The following Paper was laid on the Table of the House -

- 1) Submission of Judicial Service Commission's Budget Estimates for Financial Year 2020/21 and related documents
 - a) The Sub- Sector Report;
 - b) The Programme Based Budget (PBB) for the MTEF period 2010/21 0 2022/23; and
 - c) The Recurrent Budget Estimates for MTEF period 2020/21 2022/23.
- 2) Submission of Judiciary's Budget Estimates for Financial Year 2020/21 and related documents
 - a) The Sub- Sector Report;
 - b) The Programme Based Budget (PBB) for the MTEF period 2010/21 2022/23;
 - c) Recurrent Budget Estimates and Projects under the Development Vote for MTEF period 2020/21 2022/23; and
 - d) Reports from Public Hearing.
- 3) The Programme Based Budget of the National Government for the year ending 30th June, 2021;
- 4) Estimates of Development Expenditure for the National Government for the Financial year ending 30th June, 2021;
- 5) Estimates of Recurrent Expenditure for the National Government for the year ending 30th June, 2021; and
- 6) List of Projects of the National Government for the ending 30th June, 2021.

(The Leader of the Majority Party)

6. STATEMENTS

The following Statements were made pursuant to Standing Order 44 (2)(c)-

a) General Statements

- (i) The Member for Kinangop Constituency (Hon. Thuku Kwenya) made a Statement regarding the demise of the veteran politician and former Member for Nyandarua South Constituency (current Kinangop & Kipipiri Constituencies), the late Hon. Kimani Wanyoike, who passed on today, Wednesday, April 29, 2020 while undergoing treatment in Nairobi. On behalf of the Members of the National Assembly, the people of Kinangop Constituency and indeed on his own behalf, he conveyed sincere condolences to the family of the late Hon. Kimani Wanyoike, friends and the people of the larger Nyandarua County for this great loss; and
- (ii) The Chairperson, Departmental Committee on Health made a Statement to apprise the House on various issues relating to COVID-19 pandemic in the country, including the number of cases so far; mitigation measures; funds allocated for multi-agency fight against COVID-19 and the breakdown of utilization of the allocated funds by various Government institutions; funding for recruitment of additional medical staff; and testing, quarantine an isolation facilities, among other COVID-related issues.

(Taking into account concerns raised by Members on issues raised in the Statement, the Speaker directed the Chairperson to invite the Cabinet Secretary,

Ministry of Health for a meeting with Members, on a date to be determined by the Committee, to address the concerns).

b) Requests for Statements

- (i) The Member for Murang'a County (Hon. Sabina Chege) requested for a Statement from the Chairperson, Departmental Committee on Education and Research regarding digital e-learning and status of end of term and semester examinations for learners in schools, colleges, universities and other institutions in the country;
- (ii) The Member for Ndhiwa Constituency (Hon. Martin Peters Owino) requested for a Statement from the Chairperson, Departmental Committee on Education and Research regarding preparations and precautionary measures taken by the Ministry of Educating with regard to the end year examinations for Class Eight and Form Four students (KCPE and KSCE) in the country during pandemic period of the Corona Virus Disease of 2019 (COVID 19);
- (iii) The Member for Thika Town (Hon. (Eng.) Jungle Patrick Wainaina) requested for a Statement from the Chairperson, Departmental Committee on Lands regarding the status of the application for renewal of land lease for Del Monte Kenya Limited;
- (iv) The Majority Party Whip (Hon. Benjamin Washiali) requested for a Statement from the Chairperson, Departmental Committee on Education and Research regarding introduction of virtual learning in schools by the Government, measures put in place to ensure equal access by all learners to digital learning and whether the national examinations scheduled to be done in October/November 2020 could be rescheduled due to inadequate preparation of learners as a result of interruption of learning by COVID-19; and
- (v) The Member for Soy (Hon. Caleb Kositany) requested for a Statement from the Chairperson, Departmental Committee on Finance and National Planning regarding the alleged utilization of Kshs. Forty (40) Billion during prevention and management of the spread of the Corona Virus Disease (COVID 19) in the country.

(Statements to be responded to on Wednesday, May 6, 2020)

c) Responses to Statements

- (i) The Chairperson, Departmental Committee on Health made responses to the Request for a Statements by the Member for Nairobi County (Hon. Esther Muthoni) regarding modalities for distribution of Sanitary towels to school girls during current closure of schools due COVID-19 pandemic; and
- (ii) The Chairperson, Departmental Committee on Labour and Social Welfare made responses to the Request for a Statements by the Member for Wundanyi Constituency (Hon. Danson Mwashako) regarding cash transfers to older persons and other vulnerable groups in the society under the *Iua Jamii* Programme, particularly during the period of COVID-19 pandemic.

Following various concerns raised by various Members relating to facilitation of older Members of the society, the Speaker directed that the Chairperson of the Committee convenes a meeting with the Cabinet Secretary for Labour and Social Services to address the concerns raised by Members regarding challenges facing the monthly cash transfer Programme for the elderly.

Thereupon, the Chairperson undertook to invite the Cabinet Secretary for Labour and EAC Affairs to address the concern of Members. He further undertook to report to the House the outcome of the meeting and the Kshs. 10B one-off payout to elderly to mitigate the impact of COVID-19.

7. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2020)

(The Leader of the Majority Party)

Order for Second Reading read;

The Mover sought leave of the Speaker to defer Second Reading of the Bill to another day;

Thereupon, the Speaker deferred Second Reading.

8. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Chairperson of Committees in the Chair

(i) The Supplementary Appropriation Bill (National Assembly Bill No. 9 of 2020)

Clauses 3, 4 & 5 - agreed to

First Schedule - amendment proposed -

THAT, the First Schedule be amended—

- (a) **in Vote 1011 (the Presidency),** by deleting the expression "Ksh. 356,244,134" appearing under Programme0734000 (Deputy President Services) in respect of recurrent estimates and substituting therefor the expression "Ksh. 216,244,134"
- (b) **in Vote 1092 (State Department for Transport**), by deleting the expression "KSh. 1,600,000,000" appearing under Programme 0203000 (Rail Transport) in respect of recurrent estimates;
- (c) in respect of Vote 1122 (State Department for Information, Communication and Technology), by—
 - (i) deleting the expression "KSh. 34,474,281" appearing under Programme 0217000 (E-Government Services) in respect of recurrent estimates and substituting therefor the expression "Ksh. 4,474,281";
 - (ii) deleting the expression "KSh. (34,474,281)" appearing under Programme 0217000 (E-Government Services) in respect of recurrent estimates and substituting therefor the expression "Ksh. (4,474,281)";
- (d) in respect of **Vote 1123 (State Department for Broadcasting and Telecommunications)**, by deleting the expression "KSh. (785,672,328)" appearing under Programme 0208000 (Information and Communication Services) in respect of recurrent estimates and substituting therefor the expression "Ksh. (649,672,328)";
- (e) in respect of **Vote 1281 (National Security Intelligence**), by deleting the expression "Ksh. 3,500,000,000" appearing under Programme 0804000 (National Security

- Intelligence) in respect of recurrent estimates and substituting therefor the expression "Ksh. 4,000,000,000";
- (f) in respect of **Vote 1168 (State Department for Agriculture Research**), by inserting the expression "Ksh. 2,499,600" under Programme 0120000 (Agriculture Research & Development) in respect of development estimates;
- (g) in respect of **Vote 1281 (National Security Intelligence**), by deleting the expression "Ksh. 3,500,000,000" appearing under Programme 0804000 (National Security Intelligence) in respect of recurrent estimates and substituting therefor the expression "Ksh. 4,000,000,000"

(Chairperson, Budget & Appropriations Committee)

Question of the amendment proposed;

Debate arising;

Question put and agreed to:

<u>First Schedule</u> - as amended <u>agreed to.</u>

Second Schedule - amendment proposed -

THAT, the Second Schedule be amended—

- (a) in respect of **Vote 1021 (State Department for Interior**), by deleting the expression "KSh. 1,357,359,200" appearing under Programme 0601000 (Policing Services) in respect of recurrent estimates and substituting therefor the expression "Kshs. 1,557,359,200";
- (b) in respect of **Vote 1065 (State Department for University Education**), by deleting the expression "KSh. 2,452,677,737" appearing under Programme 0504000 (University Education) in respect of development estimates, and substituting therefor the expression "Kshs. 2,265,443,892";
- (c) in respect of **Vote 1081 (Ministry of Health)**, under Programme 0405000 (Health Policy, Standards and Regulations) in respect of Development Estimates, by—
 - (i) deleting the expression "KSh. 9,289,016,268" and substituting therefor the expression "Kshs. 8,949,016,268";
 - (ii) deleting the expression "KSh. 1,546,000,000" and substituting therefor the expression "Kshs. 3,546,000,000".
- (d) in respect of Vote 1092 (State Department for Transport), by-
 - (i) deleting the expression "KSh. 1,809,000,000" appearing under Programme 0203000 (Rail Transport) in respect of Development Estimates, and substituting therefor the expression "Ksh. 1,533,200,000";
 - (ii) deleting the expression "KSh. 275,800,000" appearing under Programme 0204000 (Marine Transport) in respect of Development Estimates, and substituting therefor the expression "Kshs 1,600,000,000";
- (e) in respect of Vote 1152 (State Department for Energy), by—
 - (i) deleting the expression "KSh. (141,000,000)" appearing under Programme 0212000 (Power Generation) in respect of Recurrent Estimates, and substituting therefor the expression Kshs. 145,000,000; and
 - (ii) deleting the expression "KSh. (186,602,227)" appearing under Programme 0212000 (Power Generation) in respect of Development Estimates, and substituting therefor the expression "Kshs. 90,397,773";
- (f) in respect of Vote 1166 (State Department for Fisheries, Aquaculture & the Blue Economy), by deleting the expression "KSh. 1,815,696,000" appearing under

Programme 0118000 (Development and Coordination of the Blue Economy) in respect of Development Estimates, and substituting therefor the expression "Ksh. 1,195,696,000;

- (g) in respect of Vote 1193 (State Department for Petroleum), by deleting the expression "KSh. (1,310,200,000)" appearing under Programme 0215000 (Exploration and Distribution of Oil and Gas) in respect of Development Estimates, and substituting therefor the expression Ksh. (1,596,200,000);
- (h) in respect of Vote 1122 (State Department for Information, Communication and Technology) in respect of Programme 0217000 (E-Government Services), by deleting the expression "KSh. (2,332,852,895)" in respect of Development Estimates, and substituting therefor the expression Kshs.(2,582,852,895).

(Chairperson, Budget & Appropriations Committee)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

First Schedule - as amended agreed to.

New Clause 6 -

THAT, the following new clause be inserted immediately after clause 5—

Ring-fencing

- **6.** The monies appropriated in the Second Schedule in appropriations. respect of Vote R1081 (Ministry of Health), under Programme 0405000 (Health Policy, Standards and Regulations), shall be earmarked for Covid-19 pandemic interventions, and shall be ring-fenced as follows-
 - (a) Kenyatta National Hospital and Mbagathi Hospital -Kshs. 600,000,000;
 - (b) Kenyatta University Teaching and Referral Hospital -Kshs.500,000,000;
 - (c) Jaramogi Oginga Odinga Teaching and Referral Hospital - Kshs. 400,000,000;
 - Teaching and Referral Hospital Kshs. 400,000,000;
 - (e) Kitui Hospital Kshs. 300,000,000;
 - (f) Mandera Hospital Kshs. 300,000,000; and
 - (g) Coast General Hospital Kshs. 500,000,000.

(Chairperson, Budget & Appropriations Committee)

Motion made and Question proposed -

THAT, the proposed New Clause 6 be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the proposed New Clause 6 be part of the Bill;

(328)

Debate arising;

Question put and agreed to;

New Clause 6 - agreed to.

Clause 2 - agreed to.

And the Committee of the whole House having made several amendments to the First Schedule and the Second Schedule of the Supplementary Appropriations Bill (National Assembly Bill No. 9 of 2020);

And these amendments having the effect on the sub-total and the total figures under the two schedules and Clause 2 of the Bill;

Pursuant to Standing Order 152(3), the Chairperson ordered that the consequential adjustments be made on the sub-total and the total figures to reflect the changes made in the Committee of the whole House under the respective Votes.

<u>Title</u> - <u>agreed to.</u> <u>Clause 1</u> - <u>agreed to.</u>

Bill to be reported with amendments.

(ii) The Small Claims Court (Amendment) Bill (National Assembly Bill No. 4 of 2018)

Clause 2 - amendment proposed -

THAT Clause 2 of the Bill be amended by deleting the words "one million shillings" appearing at the end of the Clause and substituting therefor the words "five hundred thousand shillings".

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to:

<u>Clause 2</u> – as amended <u>agreed to.</u> <u>Clause 3</u> - <u>amendment proposed –</u>

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

- (c) by inserting the following new sub-section immediately after sub-section (3)-
 - (4) The remuneration of an advocate who appears before the Court shall not be more than three quarters or less than half the amount prescribed under the Advocates Remuneration Order, 2014.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

<u>Clause 3</u> – as amended <u>agreed to.</u>

<u>Clause 4</u> - <u>amendment proposed -</u>

THAT Clause 4 of the Bill be amended by inserting the following new proposed subsection immediately after the proposed new sub-section (3)-

(4) All proceedings before the court shall be heard and determined within sixty days from the date of filing the claim before the Court.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Proposed amendment – withdrawn;

<u>Further amendment proposed –</u>

THAT Clause 4 of the Bill be amended by deleting the proposed new sub-section (3) and substituting therefor the following proposed new sub-sections-

- (3) The Court may only adjourn the hearing of any matter under exceptional and unforeseen circumstances which shall be recorded and be limited to a maximum of three adjournments.
- (4) When considering whether to allow an adjournment on the grounds of exceptional and unforeseen circumstances referred to in sub-section (3), the court may in particular take into consideration where appropriate any of the following exceptional and unforeseen circumstances
 - (a) the absence of the parties concerned or their advocate or other participants to the proceedings required to appear in court for justified personal reasons which may include sickness, death, accident or other calamities; or
 - (b) an application by a party for the Adjudicator to withdraw from hearing the matter;
 - (c) a request by parties to settle the matter out of court;
 - (d) an appeal filed in the matter where orders of stay of proceedings have been granted;
 - (e) an application by a party to summon new witnesses to court, collect new evidence, new inspection or evaluation or supplementary investigation on the subject matter of the case; and
 - (f) any other exceptional and unforeseen circumstances which in the opinion of the court justifies or warrants an adjournment."

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 as amended agreed to.

New Clause 1A -

THAT the Bill be amended by inserting the following new Clause immediately before Clause 2-

2 of No.2 of 2016

Amendment of section 1A. Section 2 of the Small Claims Court Act, 2016, hereinafter referred to as the "Principal Act", is amended-

> (a) by inserting the following new definition in proper alphabetical sequence-

> > "duly authorized representative" means the next of kin or a close relative of a party to the proceedings appointed in writing and approved by the Adjudicator to represent that party in court proceedings;

(b) in the definition of the expression "prescribed limit" by deleting the words "one hundred thousand shillings" and substituting therefor the words "five hundred thousand shillings".

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed -

THAT, the proposed New Clause 1A be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the proposed New Clause 1A be part of the Bill;

Debate arising;

Question put and agreed to;

New Clause 1A agreed to.

New Clause 3A -

THAT the Bill be amended by inserting the following new Clause immediately after Clause 3-

3A.The principal Act is amended by inserting the following new section immediately after section 20-

advocates No. 21 of 2014

Remuneration of **20A**. The Chief Justice shall, in consultation with the Council of the Law Society of Kenya established under the Law Society of Kenya Act, make orders prescribing and regulating the remuneration of advocates who appear before the Court.

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed -

THAT, the proposed New Clause 3A be read a Second Time;

Debate arising;

New Clause 3A - withdrawn.

New Clause 3B -

THAT the Bill be amended by inserting the following new Clause immediately after Clause 3-

3B. Section 33 of the Principal Act is amended in sub-section (1) by deleting the words "where it is satisfied that the claim to which such costs relate is vexatious, frivolous or an abuse of the due process of the Court" appearing after the word "proceedings".

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed -

THAT, the proposed New Clause 3B be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the proposed New Clause 3B be part of the Bill;

Debate arising;

Question put and agreed to:

New Clause 3B - agreed to.

Title - agreed to.

Clause 1 - agreed to.

Bill to be reported with amendments.

- **9. HOUSE RESUMED** the Fourth Chairperson in the Chair.
 - (i) The Supplementary Appropriation Bill (National Assembly Bill No. 9 of 2020)

Bill reported with amendments;

Motion made and Question proposed -

THAT, the House do agree with the Committee in the said report.

(The Chairperson, Budget & Appropriations Committee)

There being no debate arising;

Question put and agreed to:

Motion made and Question proposed -

THAT, the Supplementary Appropriation Bill (National Assembly Bill No. 9 of 2020) be now read a Third Time;

(The Chairperson, Budget & Appropriations Committee)

There being no debate arising;

Question put and agreed to;

Bill read a Third Time and passed.

(ii) The Small Claims Court (Amendment) Bill (National Assembly Bill No. 4 of 2018)

Bill reported with amendments;

Motion made and Question proposed -

THAT, the House do agree with the Committee in the said report.

(The Leader of the Majority Party)

Amendment proposed -

THAT, the Motion for agreement with the Report of the Committee of the Whole House be amended by inserting the words "subject to re-committal of Clauses 2 & 3 of the Bill."

(The Leader of the Majority Party)

Question of the amendment proposed;

There being no debate arising;

Question put and agreed to;

Thereupon, the House dissolved into Committee.

IN THE COMMITTEE

The Chairperson of Committees in the Chair

The Small Claims Court (Amendment) Bill (National Assembly Bill No. 4 of 2018)

Clause 2 - amendment proposed -

THAT Clause 2 of the Bill be amended by deleting the words "one million shillings" appearing at the end of the Clause and substituting therefor the words "five hundred thousand shillings".

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

<u>Proposed amendment</u> – <u>withdrawn.</u>

Clause 3 - amendment proposed -

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

- (c) by inserting the following new sub-section immediately after sub-section (3)-
 - (4) The remuneration of an advocate who appears before the Court shall not be more than three quarters or less than half the amount prescribed under the Advocates Remuneration Order, 2014.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Proposed amendment withdrawn.

New Clause 3A –

THAT the Bill be amended by inserting the following new Clause immediately after Clause 3-

3A. The principal Act is amended by inserting the following new section immediately after section 20-

advocates No. 21 of 2014

Remuneration of **20A**. The Chief Justice shall, in consultation with the Council of the Law Society of Kenya established under the Law Society of Kenya Act, make orders prescribing and regulating the remuneration of advocates who appear before the Court.

(The Chairperson of the Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed -

THAT, the proposed New Clause 3A be read a Second Time;

Debate arising;

Question put and agreed to;

New Clause 3A agreed to.

Bill to be reported with amendments.

10. HOUSE RESUMED the Fourth Chairperson in the Chair.

The Small Claims Court (Amendment) Bill (National Assembly Bill No. 4 of 2018)

Bill reported with amendments;

Motion made and Question proposed -

THAT, the House do agree with the Committee in the said report.

(The Leader of the Majority Party)

There being no debate arising;

Question put and agreed to;

Motion made and Question proposed -

(334)

THAT, the Small Claims Court (Amendment) Bill (National Assembly Bill No. 4 of 2018) be now read a Third Time;

(The Leader of the Majority Party)

There being no debate arising;

Question put and agreed to:

Bill read a Third Time and passed.

11. SPECIAL MOTION -CONSIDERATION OF A NOMINEE FOR APPOINTMENT AS CHIEF EXECUTIVE OFFICER OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

Motion having been made and question proposed;

THAT, taking into consideration the findings of the Select Committee on the National Government Constituencies Development Fund in its Report on the Vetting of a Nominee for Appointment as the Chief Executive Officer of the National Government Constituencies Development Fund Board, laid on the Table of the House on Wednesday, April 29, 2020, and pursuant to section 20(1) of the National Government Constituencies Development Fund Act, 2015 and sections 3 and 8 of the Public Appointments(Parliamentary Approval) Act, 2011, this House approves the appointment of Mr. Yusuf Mbuno as the Chief Executive Officer of the National Government Constituencies Development Fund Board.

(The Hon. Emmanuel Wangwe, Member, Select Committee on the National Government Constituencies Development Fund)

Debate arising;

The Majority Party Whip (Hon. Benjamin Washiali), rising on a Point of Order pursuant to Standing Order 95 claimed to move that the Mover be now called upon to reply;

And the Fourth Chairperson having determined that the claim was not an abuse of proceedings;

Thereupon Question put and agreed to;

Mover replied;

Question out and agreed to.

And the time being SevenOne O'clock, the Speaker interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. **HOUSE ROSE** at one minute past One O'clock.

MEMORANDUM

The Speaker will take the Chair on Wednesday, May 6, 2020 at 10.00 a.m.