



REPUBLIC OF KENYA

THE SENATE

TWELFTH PARLIAMENT – FIFTH SESSION

VOTES AND PROCEEDINGS

THURSDAY, JULY 15, 2021 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. **MESSAGES FROM THE NATIONAL ASSEMBLY**

The Speaker conveyed the following Messages from the National Assembly-

- (i) **On the passage of the Public Collections Bill (National Assembly Bills No. 66 of 2019).**

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 41 (3), I have received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Public Collections Bill (National Assembly Bill No. 66 of 2019).

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Order 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Public Collections Bill (National Assembly Bill No. 66 of 2019) was published vide Kenya Gazette Supplement No. 157 of 17th September 2019 as a Bill that seeks to regulate public collections or harambees or public fundraising appeals except public collections for charitable and religious purposes, repeals the Public Collections Act, CAP 106, Laws of Kenya, so as to establish a regulatory mechanism at the national and county levels for the collection of money and property from the public;

align the pre-independence Public Collections Act, CAP 106 with the Constitution of Kenya 2010 including addressing the inadequacies, limitations and inconsistencies of the said law and in its place have a more robust legal architecture in addressing pertinent issues in public collections;

AND WHEREAS, the National Assembly considered the Bill and passed it on Tuesday, 11th May 2021 with amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Honourable Senators,

You will recall that following the High Court ruling on 29th October, 2020, on Constitutional Petition No. 284 of 2019, implementation of the judgment by the Senate commenced. Notably, the High Court ordered that all Bills for which the concurrence process contemplated under Article 110(3) of the Constitution could not be demonstrated be ceased and that the said concurrence process be adhered to before introduction of such Bills in either House of Parliament.

Honourable Senators,

The Public Collections Bill (National Assembly Bill No. 66 of 2019) is one such Bill, for which the concurrence process pursuant to Article 110(3) of the Constitution had not be demonstrated by the time the High Court gave its judgment. As such, the Bill ought to be aligned to Article 110(3) of the Constitution, following which the Bill will be read a First Time in the Senate.

In view of the foregoing, the Public Collections Bill (National Assembly Bill No. 66 of 2019), as received from the National Assembly vide the Message dated Thursday, 8th July, 2021, will not be proceeded with in the Senate.

I thank you!”

(ii) **On the approval of the Public Finance Management (Equalization Fund Administration) Regulations, 2021, (Legal Notice No. 54 of 2021).**

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 41 (3), I have received the following Message from the Speaker of the National Assembly regarding the approval by the National Assembly of the Public Finance Management (Equalization Fund Administration) Regulations, 2021.

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Cabinet Secretary for the National Treasury & Planning submitted the Public Finance Management (Equalization Fund Administration) Regulations, 2021, as published vide Kenya Gazette Supplement No. 69 of 29th April 2021 (Legal Notice No. 54 of 2021 whose objective is to provide guidance on the administration and management of the Equalisation Fund whose operations were halted by a Court Order on 5th November 2019 following Petition No.292 of 2016.

AND WHEREAS, the provisions of section 205(5) of the Public Finance Management Act, 2012 require such regulations to be approved by both Houses of Parliament;

FURTHER WHEREAS, the National Assembly considered and by a resolution passed on Wednesday, July 7, 2021 approved the Regulations in the form published by the Cabinet Secretary;

NOW THEREFORE, in furtherance to the provisions of Standing Order 210 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Honourable Senators,

Pursuant to Standing Order 222 of the Senate, I now refer the said regulations to the Committee on Delegated Legislation for consideration.

I thank you”.

4. STATEMENTS**a) Pursuant to Standing Order 47 (1)**

- (i) The Senator for Vihiga County (Sen. George Khaniri, MP) made a statement regarding the suspension of implementation of Vihiga County Budget for the Financial Year 2021/2022.

Whereupon he informed the Senate that in spite of the fact that the matter is actively in court, he is compelled to make the statement on the understanding that the residents of Vihiga County expect a voice on this matter from their Senator and the Senate as the guardian of devolution in Kenya. Additionally, he made the statement in full realization that the Judiciary is robust and fully independent and that its final judgment will not be influenced in any way by these proceedings.

He stated that the County Government of Vihiga finds itself in an unfortunate situation whereby the county cannot implement the current approved budget at the onset of the financial year. In particular, the county executive that has been in office for the last four budget cycle can blatantly fail to follow the laid down legal procedures in the budget making process, stipulated in Section 129 of the Public Finance Management Act, 2012. The alleged illegalities were noted and communicated to the concerned office bearers as early as 3rd May 2021. He noted that the issue of suspension of the county budget is only a tip of the iceberg in governance problems in Vihiga County. The other issues include; nonpayment of recruited staff in the health department that has been pending for more than two years now, a bloated payroll, the numerous impeachment motions in the county assembly in the recent months which are subject in court and the plans to suspend the county government as stipulated in Article 192 of the constitution and Section 123 of the County Governments Act 2012.

He reminded Members of Vihiga County Assembly and members of all county assemblies in the country that they are the first line of defense for counties and their government. In Vihiga County, the members should rise to the occasion and apply section 134(1) of the Public Finance Management Act 2012 to authorize the withdrawal of money from the county revenue fund to cushion the public and ensure continuity in the provision of services.

- (ii) Nominated Senator (Sen. Mercy Chebeni, MP) made a statement concerning the on increase of violence against children.

Whereupon she informed the Senate that globally, violence against children has increasingly become a public health, human rights and development priority due to its significant negative impacts on children themselves and society as a whole. Global estimates indicate that by the

end of 2016, 1 billion children under 18 years had experienced at least one form of physical, emotional or sexual violence.

She recalled that Kenya is a signatory to the international treaties and protocols on the rights of children and has also put in place the requisite pieces of legislation to protect children and entrenched this in the national development blue print. The Constitution of Kenya also has elaborate provisions providing and safeguarding the rights of children. As a member of the African Union Kenya subscribes to agenda 2040 whose main objective is to restore the dignity of the African child by assessing the achievements and challenges faced in the implementation of the African Charter on the Rights and Welfare of the Child. Further it subscribes to African Union Agenda 2063, The Africa We Want, which includes Aspiration 6: *“An Africa, whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children.”*

She informed the Senate that according to a survey carried out on violence against children (VAC) in 2019 found that nearly half of females (45.9%) and more than half of males (56.1%) experienced childhood violence in Kenya, among the 15.6% of females who experienced childhood sexual violence, nearly two-thirds (62.6%) experienced multiple incidents before age 18; Physical violence is the most common type of violence experienced in childhood in Kenya. Nearly two out of five females (38.8 percent) and half of males (51.9%) experienced Childhood physical violence by parents, caregivers, and adult relatives affecting nearly three in ten females (28.9%) and two in five males (37.9%). About one in seven females (15.2%) and one in five males (21.5%) experienced physical violence in childhood by an adult from the community. The consequences of violence on its survivors are often devastating, causing negative outcomes associated with physical health, social mobility and success, and mental health. Notably, Cases of child abuse have almost tripled in the recent past, and made worse during the Covid-19 pandemic period.

She reiterated that there is need to work together, to ensure justice is served and culprits are punished. Violence against children should no longer be tolerated. Violence against children can only be stopped by the collective efforts of ordinary citizens, policymakers, governments and international stakeholders.

b) Pursuant to Standing Order 48 (1)

Nominated Senator (Sen. Rose Nyamunga, MP), sought a statement from the Standing Committee on Labour and Social Welfare concerning the status of the Kenya Youth Employment and Opportunities Project.

c) Pursuant to Standing Order 52 (1)

The Deputy Senate Majority Leader issued a statement on the Business of the Senate for the week commencing Tuesday, 20th July, 2021.

5. THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 34 OF 2020)

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

(Second Reading)

(Resumption of debate interrupted on Tuesday, 6th July, 2021)

(Division)

Order deferred.

6. THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2021)

(Sen. (Dr.) Alice Milgo, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 13th July, 2021)

(Division)

Order deferred.

7. THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2020)

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

(Second Reading)

(Resumption of debate interrupted on Tuesday, 13th July, 2021)

(Division)

Order deferred.

8. THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL (SENATE BILLS NO. 6 OF 2021)

Order for Second Reading read;

Motion made and Question proposed-

THAT, the County Vocational Education and Training Bill (Senate Bills No. 6 of 2021) be now read a Second Time.

(Chairperson, Standing Committee on Education- 14.7.2021)

Debate adjourned on Wednesday, 14th July, 2021 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover (Chairperson, Standing Committee on Education) requested that pursuant to Standing Order 61 (3), putting of the Question be deferred to a later date.

And the Temporary Speaker (Sen. Rose Nyamunga) acceding to her request deferred putting of the Question to a later date.

And the time being twenty- nine minutes past six O'clock the Temporary Speaker (Sen. Rose Nyamunga, MP) adjourned the Senate without Question put, pursuant to Standing Order 31 (2).

9. **SENATE ROSE** - at twenty-nine Minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, July 20, 2021 at 2:30 p.m.*

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