



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

THURSDAY, APRIL 25, 2024 AT 2.30 PM

PRAYER

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. Questions and Statements (as listed in the Appendix)
8. **COMMITTEE OF THE WHOLE**
***THE COUNTY BOUNDARIES BILL (SENATE BILLS NO. 6 OF 2023)**
(Sen. Moses Kajwang', MP)

*(Resumption of debate interrupted on Wednesday, 24th April,
2024 - Afternoon Sitting)
(Division)*

9. **COMMITTEE OF THE WHOLE**
*****THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2022)**
(Sen. David W. Wafula, MP – Co-sponsor)

*(Resumption of debate interrupted on Wednesday, 24th April, 2024 -
Afternoon Sitting)*

10. **MOTION – STATUS OF PENDING BILLS IN COUNTIES**
(Sen. Ledama Olekina, MP)

AWARE THAT, as at 31st December, 2023, according to the County Governments Budget Implementation Review report for the first half of the financial year 2023/2024, County Governments had accumulated a total of Ksh.156.34 Billion shillings in pending bills with Nairobi City County

...../Motion

accumulating the largest share of Ksh.107, 037,053,000 followed by Kiambu and Mombasa Counties at Kshs. 5,711,614,412 and Kshs. 3,922,131,877 respectively;

CONCERNED THAT, the accumulated pending bills in Counties have significantly affected service providers in the counties leading to closure of businesses, stalling of county projects, adversely affecting economic growth in counties, service delivery and ultimately slowing down the country’s economic growth;

FURTHER CONCERNED that most of the service providers in the counties are battling court cases lodged against them by their financiers and suppliers while others are languishing in poverty exacerbated by the increased cost of living, with increased mental health disease incidences and others dying as a result of the effects of colossal amounts of debt owed to them by county governments;

NOW THEREFORE, the Senate-

1. recommends that all County Governments pay verified pending bills amounting to less than Ksh. 1 Billion by the end of this financial year and those above Ksh.1 Billion by the end of the financial year 2024/2025; and
2. Resolves that-
 - i. pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prioritize payment of pending bills as a first charge on the County Revenue Fund failure to which the subsequent quotas budget releases will not be done;
 - ii. County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;
 - iii. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; and
 - iv. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.

(Resumption of debate interrupted on Wednesday, 24th April, 2024 Morning Sitting – Balance of time 1 hour 8 minutes)

11. ***THE MATERNAL, NEWBORN AND CHILD HEALTH BILL (SENATE BILLS NO. 17 OF 2023)**

(Sen. Beatrice Ogolla, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday 16th April, 2024)

12. *****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 14 OF 2024)**

(The Senate Majority Leader)

(Second Reading)

13. ***THE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL (SENATE BILLS NO. 53 OF 2023)**

(Sen. Omar Mariam Sheikh, MP)

(Second Reading)

14. ***THE EARLY CHILDHOOD EDUCATION (AMENDMENT) BILL (SENATE BILLS NO. 54 OF 2023)**

(Sen. Eddy Oketch, MP)

(Second Reading)

15. ***THE FIRE AND RESCUE SERVICES PROFESSIONALS BILL (SENATE BILLS NO. 55 OF 2023)**

(Sen. Mohamed Abass Sheikh, MP)

(Second Reading)

16. ***THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (CONTROL) (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2024)**

Sen. Kathuri Murungi, MP

(Second Reading)

17. ***THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 49 OF 2023)**

(Sen. Lenku Ole Kanar Seki, MP)

(Second Reading)

18. *****THE LOCAL CONTENT BILL (SENATE BILLS NO. 50 OF 2023)**

(The Chairperson, Standing Committee on Energy)

(Second Reading)

...../Motion

19. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE STATUS OF IMPLEMENTATION OF PROJECTS FUNDED BY THE CONDITIONAL GRANT FOR THE CONSTRUCTION OF COUNTY HEADQUARTERS**

(The Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the status of implementation of projects funded by the Conditional Grant for the construction of County Headquarters laid on the Table of the Senate on Thursday, 28th March, 2024.

20. **MOTION – ESTABLISHMENT OF NATIONAL TEACHING AND REFERRAL HOSPITALS IN KENYA**

(Sen. Johnes Mwaruma, MP)

AWARE THAT Article 43 (1) (a) of the Constitution of Kenya provides that every person has the right to the highest attainable standard of health, including reproductive health care;

NOTING THAT in Kenya, we have five National Teaching and Referral hospitals with Kenyatta University Research and Teaching Hospital in Kiambu County and Moi Teaching and Referral Hospital in Eldoret, Uasin Gishu County being the only ones outside Nairobi County;

CONCERNED THAT the bed capacity, medical equipment and human capital in these National Teaching and Referral hospitals are not sufficient to absorb all the patients seeking specialized treatment;

FURTHER CONCERNED THAT many Kenyans with critical health conditions travel long distances in order to access specialized services in Moi Teaching and Referral Hospital in Eldoret or Nairobi where the other four National Teaching and Referral hospitals are located, leading to high cost of travel, augmented disease and in some cases deaths along the way;

NOW THEREFORE the Senate urges-

1. The Ministry of Health to:
 - i. Establish National Teaching and Referral hospitals in the Coast, Eastern, North Eastern, Nyanza and Western regions; and
 - ii. Fully equip the National Teaching and Referral Hospitals with modern medical equipment, medical supplies and personnel; and

...../Motion

- 2. The County Governments to allocate more funds to their respective health dockets to adequately facilitate their County Level 5 and Level 6 hospitals in order to enhance provision of critical health services to reduce the demand for such services from the National Teaching and Referral Hospitals.

NOTICE

The Senate resolved on 14th February, 2024 as follows:-

THAT, pursuant to Standing Order 111 (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**

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NOTICE OF AMENDMENTS

A. *THE COUNTY BOUNDARIES BILL (SENATE BILLS NO. 6 OF 2023)
(Sen. Moses Kajwang’, MP)

NOTICE is given that the, Chairperson, Standing Committee on Devolution and Intergovernmental Relations intends to move the following amendments to the County Boundaries Bill (Senate Bills No. 6 of 2023), at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “electronic” appearing immediately after the words “an up- to- date” and substituting therefor the words “digital and manual”;
- (b) in sub-clause (2) by deleting the words “utilise the appropriate technology to ensure” appearing immediately after the words “Cabinet Secretary shall” and substituting therefor the words “ensure appropriate technology is utilized for”.

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (2)(a) by inserting the word “committee” immediately after the words “County Executive”

CLAUSE 7

THAT clause 7 of the Bill be amended in sub-clause (1) by —

- (a) deleting the words “experience in alternative dispute resolution” appearing at the end of paragraph (a) and substituting therefor the words “post-admission experience and an accredited mediator” ;
- (b) inserting the following new paragraph immediately after paragraph (d)—
 - (da) a commissioner of the National Cohesion and Integration Commission nominated from amongst its membership;

CLAUSE 10

THAT clause 10 of the Bill be amended in the proviso to sub-clause (1) by deleting the words “Physical planning or” appearing immediately after the words “experience in” and substituting therefor the words “ mapping or ”.

CLAUSE 23

THAT clause 23 of the Bill be amended by deleting the word “nominate” appearing immediately after the words “receipt of the petition,” and substituting therefor the word “appoint”.

CLAUSE 24

THAT clause 24 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “and physical planning” appearing immediately after the words “related to land” and substituting therefor the words “ survey and mapping” in paragraph (d);
- (b) deleting the words “nominated by the Council of County Governors” appearing immediately after the words “the affected counties,” and substituting therefor the words “ each of whom shall be nominated by the Council of Governors and the entity responsible for coordinating the County Assemblies” in paragraph (e).

CLAUSE 25

THAT clause 25 of the Bill be amended in sub-clause (2)(c) by inserting the following new sub- paragraph immediately after sub-paragraph (ii)—
(iii) land survey and physical planning;

CLAUSE 41

THAT clause 41 of the Bill be amended in sub-clause (4)(b)(ii) by deleting the word “commission’s” and substituting therefor the word “ministry’s”.

CLAUSE 42

THAT clause 42 of the Bill be amended—

- (a) by re -numbering the existing sub- clause (6) as sub-clause (2);
- (b) in the re-numbered sub-clause (2) by deleting the words “the specific geographical” appearing immediately after the words “under subsection (1),” and substituting therefor the words “a comprehensive description of boundaries with adequately enlarged scaled map”.

CLAUSE 45

THAT clause 45 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “may” appearing immediately after the word “Cabinet Secretary” and substituting therefor the words “shall within two years of coming into force of this Act”;

- (b) by re- numbering the existing sub- clause (14) as sub- clause (2); and
- (c) by inserting the words “and the Council of County Governors.” immediately after the words “Boundaries Commission” in the re- numbered sub- clause (2).

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) by deleting the words “and physical planning” appearing immediately after the words “related to land” and substituting therefor the words “surveying and mapping” in the definition of the word “Cabinet Secretary”;
- (b) by deleting the words “and physical planning” appearing immediately after the words “related to land” and substituting therefor the words “surveying and mapping” in the definition of the term “County executive committee member”;

B. *THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2022)**

(Sen. David W. Wafula, MP – Co-sponsor)

- i) **NOTICE** is given that the, Chairperson, Standing Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Sugar Bill (National Assembly Bills No. 34 of 2022) at the Committee Stage—

CLAUSE 6

THAT Clause 6 of the Bill be amended in–

- (a)subclause (1) by inserting the following new paragraph immediately after paragraph (e) –
 - (ea) one person of the gender that is least represented in the composition of the Board who has knowledge and experience in matters relating to the sugar industry appointed by Cabinet Secretary; and
 - (eb) one person representing persons living with the disabilities or youth appointed by the council of county governors;
- (b)subclause (2) by deleting the expression “and (e)” and substituting therefor the expression “(e), (ea) and (eb)”.

CLAUSE 17

THAT the Bill be amended by inserting the following new heading immediately after clause 17.

PART III –LICENSING AND REGISTRATION

CLAUSE 19

THAT Clause 19 of the Bill be amended by –

- (a) deleting subclause (1) and substituting therefor the following new subclause —
 - (1) A miller shall not purchase sugar crop from, or accept, sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller, unless the —
 - (a) grower is registered with, and has in force a valid supply agreement with the miller;
 - (b) factory of the miller is situated within the grower’s sugarcane zone; or
 - (c) grower is exempted from the requirement by the Board under section 19A.
- (b) deleting the heading appearing immediately after the subclause (3).

CLAUSE 29

THAT clause 29 of the Bill be amended —

- (a) in subclause (1) by —
 - (i) deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) one person with knowledge of and experience in the operation of sugar industry nominated by the Council of County Governors;
 - (ii) deleting the words “nominated by universities” appearing immediately after the words “one person” in paragraph (e) and substituting therefor the words “representing the universities nominated by the Commission on University Education”;
- (b) by inserting the following new subclause immediately after subclause (1) —
 - (1A) The Cabinet Secretary shall appoint the members under subsection (1), (a), (b)(c) (d) and (e) by notice in the *Gazette*.

CLAUSE 38

THAT clause 38(6) be amended in—

- (a) paragraph (b) by inserting the words “allocated to the Kenya Sugar Research and Training Institute ” immediately after the words “ research and training”; and

(b)paragraph (d) by deleting the words “and shall be managed by Kenya Rural Road Authority of the catchment area” appearing immediately after the words “development and mantainance” and substituting therefor the words “of county roads and shall be allocated to county governments as a conditional grant on a pro rata basis”.

CLAUSE 43

THAT clause 43 be amended in subclause (2) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

CLAUSE 59

THAT the Bill be amended by deleting clause 59.

CLAUSE 60

THAT clause 60 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (k) —

(ka) the procedure for election of farmers and millers representatives to the Board and the pricing committee.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 19—

19A. (1) The Board may exempt a commercial cane grower from the restriction on supply of cane within a sugarcane zone, provided that— Exemption from cane supply restriction.

- (a) the grower demonstrates that there is pre-existing agreement with the miller outside the sugarcane zone;
- (b) the grower is not indebted to any miller or outgrower institution within the sugarcane zone; and
- (c) no supply agreement exists between the grower and any miller within the sugarcane zone.

(2) A commercial cane grower who intends to supply cane outside their sugarcane zone shall submit to the Board, an application for exemption in the prescribed form.

(3) The Cabinet Secretary shall prescribe regulations for the consideration of an application for exemption under this section.

- 19B.** A miller may enter into a contract of cane supply with another miller if — Intermiller agreements.
- (a) the millers factory is temporally broken down; or
 - (b) there is an over supply of cane to the miller; and
 - (c) the mill is located within the same sugarcane Zone.

NEW SCHEDULE

THAT the Bill be amended by inserting the following new schedule immediately after the First Schedule-

**NEW SCHEDULE
S.2, 19(1)(b), 19A.
SUGARCANE ZONES.**

SUGARCANE ZONES	COUNTIES
Central	Kisumu, Southern Nandi, and Kericho Counties.
Upper Western	Bungoma, Kakamega - excluding Mumias area, Trans- Nzoia, Uasin-Gishu, and Northern Nandi Counties.
Lower Western	Mumias, Busia and Siaya Counties.
Southern	Migori, Homa Bay, Kisii, Narok Counties.
Coastal	Kwale, Tana River, and Lamu Counties.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of “ sugarcane manufactures apex body”.“Sugarcane zone” means a geographical area as set out in the Second Schedule where growers and millers are restricted to deliver and receive cane respectively.

...../Notice of Amendments

- ii) **NOTICE** is given that (Sen. Edwin Sifuna, MP) intends to move the following amendment to the Sugar Bill (National Assembly Bills No. 34 of 2022) at the Committee Stage—

CLAUSE 38

THAT Clause 38 of the Bill be amended by inserting the following new subclause immediately after subclause (1) –

(1A) The provisions of sub-section (1) shall not apply to imported industrial sugar.

C. AMENDMENTS TO THE MOTION – STATUS OF PENDING BILLS IN COUNTIES

(Sen. Ledama Olekina, MP)

NOTICE is given that the Senator for Homa Bay County (Sen. Moses Kajwang’, MP) intends to move the following amendment to the Motion on the status of pending bills in counties-

THAT, the Motion be amended in paragraph 2 as follows –

- i) in sub-paragraph (i), by deleting all the words immediately after the word “County Governments” and inserting the following words in place thereof **“prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quota budget releases will not be done.”**
- ii) by inserting a new sub -paragraph immediately after sub-paragraph (i) as follows –
 - (ii) **“the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases;**
- iii) by inserting a new sub-paragraph immediately after sub-paragraph (iv) as follows –
 - (v) **“County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects.”**

APPENDIX

1. PAPERS

- i) Sessional Paper No. 3 of 2023 on the Kenya Policy on Public Participation.
- ii) Report of the Auditor General on Financial Statements of Tana River County Climate Change Fund for the year ended 30th June, 2023.
- iii) Report of the Auditor General on Financial Statements of Lamu Water and Sewerage Company Limited for the year ended 30th June, 2023.
- iv) Report of the Auditor General on Financial Statements of Kwale Water and Sewerage Company Limited for the year ended 30th June, 2023.
- v) Report of the Auditor General on Financial Statements of Fort Beverage Industries Company Limited – County of Murangá for the year ended 30th June, 2023.

(The Senate Majority Leader)

2. QUESTIONS AND STATEMENTS

STATEMENTS

a) Pursuant to Standing Order 53(1)

- i) The Senator for Garissa County (Sen. Haji Abdul Mohammed, MP) to seek a Statement from the Standing Committee on Health regarding the state of healthcare services at the Garissa County Referral Hospital.
- ii) The Senator for Garissa County (Sen. Haji Abdul Mohammed, MP) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the state of operations in the office of the County Chief Officers in Garissa County.
- iii) The Senator for Nandi County (Sen. Samson Cherarkey, MP) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the state of Mombasa road and Nairobi Expressway.

b) Pursuant to Standing Order 56(1) (b)

- i.) The Chairperson, Standing Committee on Roads, Transportation and Housing to make a Statement relating to the activities of the Committee for the period, January to March, 2024.

...../Appendix

- ii.) The Chairperson, County Public Accounts Committee to make a Statement relating to the activities of the Committee for the period, January to March, 2024.
- iii.) The Chairperson, County Public Investments and Special Funds Committee to make a Statement relating to the activities of the Committee for the period, January to March, 2024.
- iv.) The Chairperson, Committee on Delegated Legislation to make a Statement relating to the activities of the Committee for the period, January to March, 2024.

c) Pursuant to Standing Order 57(1)

The Senate Majority Leader to issue a Statement on the business of the Senate for the week commencing Tuesday, 30th April, 2024.

NOTICE PAPER

Tentative Business for Tuesday, April 30, 2024

(Published pursuant to Standing Order 43 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Tuesday, April 30, 2024.

A. BILLS AT THE SECOND READING STAGE

- i) **THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 8 OF 2023)
(The Chairperson, Standing Committee on Labour and Social Welfare)
- ii) *THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2023)
(Sen. James Murango, MP)
- iii) *THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 18 OF 2023)
(Sen. Miraj Abdillahi Abdulrahman, MP)
- iv) *THE RICE BILL (SENATE BILLS NO. 19 OF 2023)
(Sen. James Murango, MP)
- v) *THE PUBLIC HOLIDAYS (AMENDMENT) BILL, (SENATE BILLS NO. 31 OF 2023)
(Sen. Karungo Thang’wa, MP)
- vi) *THE COUNTY ASSEMBLY SERVICES (AMENDMENT) BILL (SENATE BILLS NO. 34 OF 2023)
(Sen. Mohamed Chute, MP)
- vii) *THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL (SENATE BILLS NO. 38 OF 2023)
(Sen. (Dr.) Boni Khalwale, MP)
- viii) ***THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (SENATE BILLS NO. 22 OF 2023)
(The Senate Majority Leader)
- ix) *THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 40 OF 2023)
(Sen. Hamida Ali Kibwana, MP)

B. MOTIONS

- i) REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON ITS CONSIDERATION OF THE AUDIT REPORTS OF THE WATER SERVICE PROVIDERS FOR THE YEAR ENDED 30TH JUNE, 2019, 30TH JUNE, 2020 AND 30TH JUNE, 2021
(The Chairperson, Committee on County Public Investments and Special Funds)

- ii) REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS ON ITS CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THARAKA NITHI, HOMA BAY, KAKAMEGA, KIRINYAGA, MAKUENI, MERU, BOMET, MURANG'A, NANDI, NYAMIRA, NYERI, SIAYA, VIHIGA, WAJIR AND SAMBURU COUNTY EXECUTIVES FOR THE FINANCIAL YEAR 2019/2020
(The Chairperson, County Public Accounts Committee)
