



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT – (FIRST SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, NOVEMBER 15, 2022 AT 2.30 PM

1. The Senate assembled at thirty minutes past two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.

3. **QUORUM IN THE HOUSE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for five minutes pursuant to Standing Order 40;

And there being a Quorum after expiry of five minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **PAPERS**

The following papers were laid on the table of the Senate: -

- i.) Report of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly

(Sen. Joyce Korir, MP on behalf of Co-Chairperson, Joint Select Committee on the Election of Members to the East African Legislative Assembly)

- ii.) Report of the Auditor General on the Financial Statements of Lamu Water & Sewerage Company Ltd for the year ended 30th June, 2021.
- iii.) Report of the Auditor General on the Financial Statements of Lodwar Water & Sanitation Company Ltd for the year ended 30th June, 2021.
- iv.) Report of the Auditor General on the Financial Statements of Bungoma County Disaster Management and Emergency Fund for the year ended 30th June, 2021.

- v.) Report of the Auditor General on the Financial Statements of Tharaka Nithi County Assembly Mortgage and Car Loan Fund for the year ended 30th June, 2021.
- vi.) Report of the Auditor General on the Financial Statements of Vihiga County Education Fund for the year ended 30th June, 2021.
- vii.) Report of the Auditor General on the Financial Statements of West Pokot County Cooperative Development Fund for the year ended 30th June, 2021.
- viii.) Report of the Auditor General on the Financial Statements of Nandi County Emergency Fund for the year ended 30th June, 2021.
- ix.) Report of the Auditor General on the Financial Statements of Yatta Water Services Company Ltd for the year ended 30th June, 2021.
- x.) Report of the Auditor General on the Financial Statements of Kericho County Assembly Members Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.
- xi.) Report of the Auditor General on the Financial Statements of Kericho County Enterprise Fund for the year ended 30th June, 2021.
- xii.) Report of the Auditor General on the Financial Statements of Trans Nzoia County (Executive) Car Loan and Mortgage Fund for the year ended 30th June, 2021.
- xiii.) Report of the Auditor General on the Financial Statements of Trans Nzoia Water & Sewerage Company for the year ended 30th June, 2021.
- xiv.) Report of the Auditor General on the Financial Statements of Trans Nzoia County Elimu Bursary Fund for the year ended 30th June, 2021.
- xv.) Report of the Auditor General on the Financial Statements of Municipality of Kitale for the year ended 30th June, 2021.
- xvi.) Report of the Auditor General on the Financial Statements of Busia County Assembly Revolving Fund for the year ended 30th June, 2021.
- xvii.) Report of the Auditor General on the Financial Statements of Busia County Co-operative Enterprise Development Fund for the year ended 30th June, 2021.
- xviii.) Report of the Auditor General on the Financial Statements of Busia Water & Sewerage Services Company Ltd for the year ended 30th June, 2021.

- xix.) Report of the Auditor General on the Financial Statements of Kakamega County Assembly Loans & Mortgages Fund for the year ended 30th June, 2021.

(The Senate Majority Whip)

5. **NOTICE OF MOTION - APPROVAL OF SENATORS TO SERVE IN SELECT COMMITTEES**

(The Senate Majority Leader)

THAT, the Senate resolves that: -

- i. Pursuant to Standing Order Nos. 199 and 228, and the Fourth Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows: -
 - a) Devolution and Intergovernmental Relations:
Sen. Esther Anyieni Okenyuri, MP
 - b) Health:
Sen. Esther Anyieni Okenyuri, MP
 - c) Trade, Industrialization and Tourism:
Sen. Danson Mungatana, MP
- ii. Pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order No. 199, the Senate approves the nomination, by the Senate Business Committee, of Senator Esther Anyieni Okenyuri, MP, to serve in the Committee on Powers and Privileges.
- iii. Pursuant to Standing Order Nos. 194 and 199, the Senate approves the nomination, by the Senate Business Committee, of Senator James Kamau Murango, MP, to serve in County Public Investments and Special Funds Committee.

6. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE JOINT SELECT COMMITTEE ON THE ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

(Sen. Joyce Korir, MP on behalf of Co-Chairperson, Joint Select Committee on the Election of Members to the East African Legislative Assembly)

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, the Senate adopts the Report of the Joint Select Committee on the Election of Members to the East African Legislative

Assembly on its consideration of the nomination papers of the duly nominated candidates for election as Members of the East African Legislative Assembly, laid on the Table of the Senate on Tuesday, 15th November, 2022.

7. **COMMUNICATION FROM THE CHAIR: CONSIDERATION OF THE REPORT OF THE JOINT SELECT COMMITTEE ON ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

The Speaker conveyed the following communication from the Chair-

“Honorable Senators,

As you have noted, Senator Joyce Korir, MP on behalf of Daniel Maanzo, MP, the Co-chairperson of the Joint Select Committee on Election of Members to the East African Legislative Assembly has tabled the Report of the Joint Select Committee on its consideration of the nomination papers of the duly nominated candidates for election as Members to the East African Legislative Assembly.

The Co-chairperson subsequently gave Notice of Motion for consideration of the Report by the Senate.

At the time of moving the Motion, debate will proceed in the usual manner and at the conclusion of the debate, the Question will be put.

Honourable Senators,

In the event that the Motion is carried, the Clerks of the Houses of Parliament, who under Rule 2 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, are the Presiding Officers, will, pursuant to Rule 15 (1) of the Rules, by notice in the *Gazette* and in at least two newspapers of national circulation, appoint a date, time and venue for the election of the duly nominated candidates to be undertaken.

I will guide the Senate on the procedure for the election on the Election Day.

In the event that the Motion of the Joint Select Committee is not carried, the Presiding Officers will *Gazette* a fresh nomination process.

I thank you!”

8. **NOTICE OF MOTION-ADJOURNMENT OF THE SENATE PURSUANT TO STANDING ORDER 37 TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE, NAMELY THE SECURITY SITUATION IN KITUI COUNTY AS A RESULT OF CONFLICT BETWEEN CAMEL HERDERS AND RESIDENTS OF THE COUNTY.**

Rising in his place on a point of order, the Senator for Kitui County (Sen. Enoch Wambua, MP) claimed to move that the House do adjourn under

Standing Order 37 to discuss a definite matter of urgent national importance, namely, the security situation in Kitui county as a result of conflict between camel herders and residents of the county.

And there being a sufficient number of Senators rising in their places in support of the claim;

And the Speaker having acceded to the claim;

Thereupon, the Speaker directed that the Motion be moved at Thirty Minutes past five O'clock today.

9. STATEMENTS

a) Pursuant to Standing Order 52 (1)

- i) The Senator for Nandi County (Sen. Samson Cherarkey, MP) made a statement regarding the death of the first Kenyan Olympic Medalist, Mr. Wilson Kirugut Arap Chuma.

Thereupon, the Senator informed the Senate that Mr. Wilson Kiprugut Arap Chuma died on 1st November 2022 at the age of 84 after a long illness in Kericho. He informed the Senate that Mr. Kiprugut became Kenya's first Olympic medalist when he took a bronze medal in the 800 metres race in the Tokyo Olympics in 1964.

Sen. Cherarkey further informed the Senate that Mr. Wilson Kiprugut made a breakthrough on the international stage after clinching the silver medal at the 1968 Mexico Olympics. The following year, he clinched a bronze medal in the 880 yards at the Commonwealth Games held in Kingston, Jamaica. Later he helped the Kenyan team seal the fifth position in the 4400 yards race at the 1962 Commonwealth Games in Perth, Australia.

The Senate was informed that Mr. Kiprugut's bronze medal at the 1964 Olympics was extremely valuable since it was the first ever for Kenya, thus inspiring other athletes to shine on the Olympic stage. The Senator regretted that it was so unfortunate that Kenya has lost a legend who died as a poor farmer in Kericho despite the glory he brought to the country.

In conclusion, Sen. Cherarkey called upon the Ministry of Youth Affairs, Sports, and the Arts and National Olympic Committee of Kenya to introduce a scheme and welfare fund to cushion retired athletes and legends who brought glory to this nation.

b) Pursuant to Standing Order 53 (1)

- i.) The Senator for Lamu County (Sen. Joseph Kamau, MP) sought a statement from the Standing Committee on Land, Environment and

Natural Resources concerning the incessant human-wildlife conflict in Lamu County.

- ii.) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding the impact of the current drought on wildlife in Kenya.
- iii.) The Senator for Marsabit County (Sen. Mohamed Chute, MP) sought a statement from the Standing Committee on Energy regarding the cost of electricity in the country.
- iv.) Nominated Senator (Sen. Beatrice Ogolla, MP) sought a statement from the Standing Committee on Roads, Transportation and Housing concerning the deaths of boda boda riders and their passengers caused by sugarcane trailers in Ndhiwa Constituency.
- v.) Nominated Senator (Sen. Mariam Omar, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding registration of births in Mandera County.

10. **MOTION - APPROVAL OF SENATORS TO SERVE IN SELECT COMMITTEES**

Order read;

Motion made and Question proposed;

THAT, the Senate resolves that: -

- i. Pursuant to Standing Order Nos. 199 and 228, and the Fourth Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows: -

- a) Devolution and Intergovernmental Relations:

- Sen. Esther Anyieni Okenyuri, MP

- b) Health:

- Sen. Esther Anyieni Okenyuri, MP

- c) Trade, Industrialization and Tourism:

- Sen. Danson Mungatana, MP

- ii. Pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order No. 199, the Senate approves the nomination, by the Senate Business Committee, of Senator Esther Anyieni Okenyuri, MP, to serve in the Committee on Powers and Privileges.
- iii. Pursuant to Standing Order Nos. 194 and 199, the Senate approves the nomination, by the Senate Business Committee,

of Senator James Kamau Murango, MP, to serve in County Public Investments and Special Funds Committee.

(The Senate Majority Leader)

There being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order 84 (1), the Speaker ruled that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, the Senate resolves that: -

- i. Pursuant to Standing Order Nos. 199 and 228, and the Fourth Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows: -
 - a) Devolution and Intergovernmental Relations:
Sen. Esther Anyieni Okenyuri, MP
 - b) Health:
Sen. Esther Anyieni Okenyuri, MP
 - c) Trade, Industrialization and Tourism:
Sen. Danson Mungatana, MP
- ii. Pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order No. 199, the Senate approves the nomination, by the Senate Business Committee, of Senator Esther Anyieni Okenyuri, MP, to serve in the Committee on Powers and Privileges.
- iii. Pursuant to Standing Order Nos. 194 and 199, the Senate approves the nomination, by the Senate Business Committee, of Senator James Kamau Murango, MP, to serve in County Public Investments and Special Funds Committee.

11. **SUSPENSION OF THE SENATE PURSUANT TO TANDING ORDER 38 TO ENABLE SENATORS PERUSE THE REPORT OF THE JOINT SELECT COMMITTEE ON THE ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

Rising in his place on a point of order, the Senator for Kakamega County (Sen. (Dr.) Bonny Khalwale, MP) claimed to move that the Senate, pursuant to Standing Order 38, suspend its proceedings for fifteen (15) minutes in order for Senators to peruse the Report of the Joint Select

Committee on the Election of Members to the East African Legislative Assembly.

And the Speaker having acceded to the claim;

Thereupon, the Speaker directed that the Senate do suspend its proceedings for fifteen (15) minutes in order for Senators to peruse the Report of the Joint Select Committee on the Election of Members to the East African Legislative Assembly.

12. **SENATE RESUMED** - at five minutes past Four O'clock.
13. **MOTION - ADOPTION OF THE REPORT OF THE JOINT SELECT COMMITTEE ON THE ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

Motion made and question proposed:

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, the Senate adopts the Report of the Joint Select Committee on the Election of Members to the East African Legislative Assembly on its consideration of the nomination papers of the duly nominated candidates for election as Members of the East African Legislative Assembly, laid on the Table of the Senate on Tuesday, 15th November, 2022.

(Sen. Beatrice Ogolla on behalf of Co-Chairperson, Joint Select Committee on the Election of Members to the East African Legislative Assembly)

LIMITATION OF DEBATE ON THE MOTION

Motion made and question proposed:

THAT, pursuant to Standing order 111 of the Senate Standing Orders, the debate on the Motion be limited to a maximum of 2 minutes for all Senators.

(The Senate Majority Leader)

There being no Senator wishing to contribute;

Question put and agreed to.

Debate on the Motion resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 84(1) the Speaker informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, the Senate adopts the Report of the Joint Select Committee on the Election of Members to the East African Legislative Assembly on its consideration of the nomination papers of the duly nominated candidates for election as Members of the East African Legislative Assembly, laid on the Table of the Senate on Tuesday, 15th November, 2022.

14. **MOTION – APPROVAL FOR THE SENATE TO HOLD A MORNING SITTING ON THURSDAY, 17TH NOVEMBER, 2022**

Order Read;

Motion made and Question proposed;

THAT, pursuant to the provisions of Standing Order 34(4)(b), the Senate resolves to hold a Sitting on Thursday, 17th November, 2022, commencing at 9.30 am and terminating not later than 2.15 pm, for purposes of the election of Members to the East African Legislative Assembly and any other business as maybe approved by the Senate Business Committee.

(The Senate Majority Leader)

And there being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84(1) the Speaker informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, pursuant to the provisions of Standing Order 34(4)(b), the Senate resolves to hold a Sitting on Thursday, 17th November, 2022, commencing at 9.30 am and terminating not later than 2.15 pm, for purposes of the election of Members to the East African Legislative Assembly and any other business as maybe approved by the Senate Business Committee.

15. **MOTION – EFFECTS OF UPSTREAM ACTIVITIES ON THE RIVER TANA TO THE RESIDENTS OF TANA DELTA**

Order Read;

Motion made and Question proposed;

THAT, AWARE THAT water is a fundamental resource to life, livelihood, food security and sustainable development and an economic good, which is critical for the sustainable development of the country;

FURTHER AWARE THAT the River Tana plays an important role in the lives of the communities living along its banks including Garissa and Tana River Counties whose main economic activities are livestock keeping, farming and fishing;

RECOGNIZING THAT Article 43 (1) (d) of the Constitution of Kenya, provides that every Kenyan has the right to clean and safe water in adequate quantities;

NOTING THAT the residents of Tana River County have perennially suffered from acute effects of flooding and inadequate supply of water to its residents and their livestock;

COGNIZANT THAT the challenge of flooding has predominantly been caused by KenGen's release of huge amounts of water from the seven forks dams which combine with rain water from the highlands;

FURTHER COGNIZANT THAT the hoarding of water at the seven forks dams and other significant upstream activities such as irrigation and small scale dams limits the amount of water that flows downstream through River Tana significantly affecting agricultural activities in irrigation schemes such as Bura, Galole and other small scale irrigation schemes in the Tana Delta as a result of inadequate water supply to the canals that channel the water to the irrigation schemes;

CONCERNED THAT limited water supply to the hinterland and irrigation schemes cause severe hunger to the residents of Tana River, death of livestock and conflicts between farmers and herders, and that floods cause deaths, displacements and other challenges like waterborne diseases such as cholera downstream at Tana Delta;

NOW THEREFORE, the Senate urges the Ministry of Water, Sanitation and Irrigation in conjunction with the Water Resources Authority (WRA) to;

- i.) conduct stakeholder participation before undertaking any major upstream activity including construction of dams, before the release of water during rainy season and limiting flow of water to River Tana during the dry season;
- ii.) develop a policy in line with the Nile Treaty of 1959 to guarantee average annual flow of the River Tana; and
- iii.) come up with mitigation measures to the perennial floods and water scarcity to the residents of Tana Delta.

(Sen. Danson Mungatana, MP)

16. **MOTION - ADJOURNMENT OF THE SENATE PURSUANT TO STANDING ORDER 37 TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE, NAMELY THE SECURITY SITUATION IN KITUI COUNTY AS A RESULT OF CONFLICT BETWEEN CAMEL HERDERS AND RESIDENTS OF THE COUNTY.**

Motion made and Question proposed;

THAT, pursuant to the provisions of Standing Order 37, the Senate do adjourn to discuss a definite matter of urgent national importance, namely the security situation in Kitui County as a result of conflict between camel herders and residents of the County.

(Sen. Enock Wambua, MP)

Debate arising;

Pursuant to Standing Order 34 (2) and for the convenience of the House, the Temporary Speaker (Sen. Abdul Haji, MP) adjourned the business of the Senate at forty-four minutes past Six O'clock without Question put.

17. **SENATE ROSE** – at forty-four minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, November 16, 2022 at 2.30 p.m.*

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