



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

AFTERNOON SITTING

WEDNESDAY, JUNE 14, 2023 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 SENATE**

The Speaker having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was a Quorum, invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

a) Visiting students and Teachers from Ontulili Boys High School in Meru County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, visiting teachers and students from Ontulili Boys High School – Meru County. The group comprises two (2) teachers and fifty (50) students who are in the Senate for a one- day academic exposition.

Honourable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

b) Visiting students and teachers from Glory Learning Centre in Embakasi East

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, visiting teachers and students from Glory Learning Centre in Embakasi East. The group comprises four (4) teachers and forty- eight (48) students who are in the Senate for a one- day academic exposition.

Honourable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

c) Visiting teachers and students from St. Thomas Kavingoni Secondary School in Makueni County

“Honorable Senators,

In the public gallery, we have one hundred and forty-five (145) students, accompanied by nine (9) teachers from St. Thomas Kavingoni Secondary School in Makueni County who are in the Senate on an education tour.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you!”

5. **PETITIONS**

Order read;

Petition to the Senate by the Nyandarua Integrated Internally Displaced Persons (IDPs) concerning delayed compensation and occupation of parcels of land bought for resettlement between 2010 and 2013.

(Sen. John Methu, MP)

Order deferred.

6. **PAPERS**

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

- i.) Report of the Auditor-General on the financial statements of the Rumuruti Municipality – County Government of Laikipia for the year ended 30th June, 2020.
- ii.) Report of the Auditor-General on the financial statements of the Rumuruti Municipality – County Government of Laikipia for the year ended 30th June, 2021.
- iii.) Report of the Auditor-General on the financial statements of the Kakamega Municipality for the twenty-two (22) months period for the year ended 30th June, 2022.
- iv.) Report of the Auditor-General on the financial statements of the Kakamega County Dairy Development Corporation for the year ended 30th June, 2022.
- v.) Report of the Auditor-General on the financial statements of the City of Kisumu for the year ended 30th June, 2022.
- vi.) Report of the Auditor-General on the financial statements of the Siboi Water and Sanitation Company Ltd for the year ended 30th June, 2022.
- vii.) Report of the Auditor-General on the financial statements on the Receiver of Revenue for the County Government of Kericho for the year ended 30th June, 2022.
- viii.) Report of the Auditor-General on the financial statements on the Receiver of Revenue for the County Government of Vihiga for the year ended 30th June, 2022.

(The Senate Majority Whip)

7. **QUESTIONS AND STATEMENTS**

a) Statements Pursuant to Standing Order 53(1)

- (i) The Senator for Kiambu County (Sen. Karungo Thangwa, MP) sought a statement from the Standing Committee on Lands, Environment and Natural Resources regarding the delay in compensation to residents of Ndeiya, following compulsory acquisition of private land for expansion of the Standard Gauge Railways.

- (ii) Nominated Senator (Sen. Beatrice Ogola, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding the state of rehabilitation works and water supply restoration from Ndhiwa borehole.
- (iii) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) sought a statement from the Standing Committee on Health regarding the state of healthcare and medical services offered at Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH).
- (iv) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) sought a statement from the Standing Committee on Trade, Industrialization and Tourism concerning measures to enhance tourism resources and tourist potential in Kisumu County.
- (v) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding the water and sanitation in Katito town in Kisumu County.
- (vi) Statement by the Senator for Lamu County (Sen. Joseph Kamau, MP) to the Standing Committee on Land, Environment and Natural Resources regarding the alleged encroachment of land in Lamu County was **dropped** in the absence of the Senator.

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

The Chairperson, Standing Committee on Devolution and Intergovernmental Relations, (Sen. Sheikh Mohamed Abass, MP), issued a Statement concerning the closure of sixteen County Assemblies.

Thereupon, the Chairperson informed the Senate that the Committee received correspondence from a group of Members of the County Assemblies named the Association of Members of County Assemblies (AMCA) which represents over 2000 Members across the country, which indicated that within fourteen (14) days, all forty seven (47) county assemblies would adjourn indefinitely owing to a number of grievances. The Chairperson informed the Senate that the fourteen (14) days had since lapsed, following the issuance of the notice on 3rd May 2023. Consequently, sixteen (16) County Assembly had adjourned sine die.

In light of the emerging situation in the county assemblies, the Committee undertook an investigation, including holding a meeting with the County Assemblies Forum (CAF) and the Executive Members of the Association of Members of County Assemblies (AMCA) to listen to their concerns. Following these meetings, the following issues arose –

- i.) That county assemblies require financial autonomy to effectively execute their mandates;
- ii.) That remuneration and benefits of members of county assemblies need to be reviewed by the Salaries and Remuneration Commission (SRC);
- iii.) That SRC be advised to reinstate the plenary allowances for MCAs being the best practice at the national level and all legislative assemblies in the World;
- iv.) That Kenya Revenue Authority (KRA) be required to revoke, revert and refund the 30% tax levied on Members Car Reimbursement; and
- v.) That there was need for the Pension and Gratuity terms of Members of County Assemblies to be provided for.

Consequently, the Committee undertook to make amendments to relevant statute for anchoring CAF in to law and to schedule a meeting with the SRC and the KRA to discuss the issues concerning remuneration and benefits of the MCAs. In the meanwhile, the Chairperson urged all parties to resort to consultation and dialogue as the outstanding issues are being resolved.

8. **THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO. 4 OF 2023)**
(Sen. (Prof.) Margaret Kamar, MP and Sen. Crystal Asige, MP)

Order for Second Reading read;

(Resumption of debate interrupted on Tuesday, 13th June, 2023)
(Division)

Order deferred.

9. **COMMITTEE OF THE WHOLE**

Order for the Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Catherine Mumma, MP) – In the Chair)

The County Allocation of Revenue Bill (Senate Bills No. 16 of 2023)

Clauses 3, 4, 5, 6, 7, 8, 9 and 10

Motion Made and Question proposed;

THAT, Clauses 3, 4, 5, 6, 7, 8, 9 and 10 be part of the Bill.

(The Chairperson, Standing Committee on Finance and Budget)

Clauses 3, 4, 5, 6, 7, 8, 9 and 10 - vote deferred

The First Schedule -amendment proposed

Motion Made and Question proposed;

THAT, The First Schedule be part of the Bill

(The Chairperson, Standing Committee on Finance and Budget)

The First Schedule - vote deferred

The Second Schedule -amendment proposed

THAT, the Second Schedule be amended by deleting the Schedule and substituting therefore the following new Schedule-

SECOND SCHEDULE (s.5)

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2023/2024 (Figures in Kenya Shillings)					
No.	County	County Assembly Ceilings		County Executive Ceilings	
		2022/2023	2023/2024	2022/2023	2023/2024
1	Baringo	712,229,059	828,250,102	607,049,529	628,507,168
2	Bomet	621,143,848	826,903,256	588,023,141	525,981,274
3	Bungoma	873,284,854	1,030,966,304	664,128,690	593,145,551
4	Busia	765,019,229	890,557,352	626,075,916	565,353,297
5	Elgeyo/Marakwet	592,408,337	688,567,522	568,996,754	540,143,817
6	Embu	594,786,279	655,164,072	568,996,754	470,665,205
7	Garissa	815,801,264	928,822,377	607,049,529	517,163,240
8	Homa Bay	872,842,726	951,617,005	645,102,303	612,652,603
9	Isiolo	451,013,358	539,314,722	492,255,576	384,717,582
10	Kajiado	699,076,887	836,365,718	562,230,871	543,625,285
11	Kakamega	1,097,653,117	1,400,821,103	721,207,850	702,976,417
12	Kericho	708,995,621	828,466,755	607,049,529	574,171,331
13	Kiambu	1,114,698,533	1,352,347,776	721,207,850	689,615,145
14	Kilifi	779,167,171	942,241,093	626,075,916	552,882,777
15	Kirinyaga	582,922,761	673,319,674	556,100,619	463,453,685
16	Kisii	940,958,856	1,112,890,743	664,128,690	635,010,868
17	Kisumu	718,886,210	827,121,358	626,075,916	548,429,020
18	Kitui	862,047,458	1,042,409,957	645,102,303	787,239,883
19	Kwale	617,790,583	667,712,409	568,996,754	436,816,651

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2023/2024 (Figures in Kenya Shillings)					
		County Assembly Ceilings		County Executive Ceilings	
No.	County	2022/2023	2023/2024	2022/2023	2023/2024
20	Laikipia	467,754,457	545,809,049	524,178,098	429,430,142
21	Lamu	419,261,939	493,148,394	492,255,576	349,978,277
22	Machakos	865,126,181	1,021,331,660	645,102,303	618,887,863
23	Makueni	729,754,316	882,052,960	607,049,529	597,330,868
24	Mandera	864,090,152	983,911,204	616,986,522	537,192,934
25	Marsabit	678,317,733	714,092,325	568,996,754	477,791,217
26	Meru	938,478,295	1,105,946,626	664,128,690	802,472,137
27	Migori	857,185,385	1,003,508,709	645,102,303	609,089,597
28	Mombasa	674,783,021	837,169,783	607,049,529	414,726,825
29	Murang'a	753,378,653	830,709,033	626,075,916	633,050,405
30	Nairobi City	1,446,962,393	1,924,120,608	816,339,786	640,180,465
31	Nakuru	1,006,312,104	1,160,413,432	702,181,463	703,777,688
32	Nandi	666,771,490	796,999,461	607,049,529	647,212,948
33	Narok	734,655,062	911,202,495	607,049,529	545,667,285
34	Nyamira	610,515,511	746,578,493	568,996,754	458,194,685
35	Nyandarua	651,697,338	770,438,804	588,023,141	533,107,285
36	Nyeri	692,693,761	776,126,610	607,049,529	605,347,631
37	Samburu	517,964,444	593,254,286	533,708,983	482,789,720
38	Siaya	683,152,880	775,678,151	607,049,529	540,322,777
39	Taita/Taveta	620,545,692	681,840,554	568,996,754	439,488,905
40	Tana River	582,990,790	677,653,973	537,074,233	436,641,663
41	Tharaka -Nithi	434,745,770	517,563,626	524,178,098	445,463,668
42	Trans Nzoia	643,357,859	685,259,476	588,023,141	427,107,865
43	Turkana	818,680,328	966,834,859	607,049,529	526,961,505
44	Uasin Gishu	703,027,730	796,524,510	607,049,529	474,407,171
45	Vihiga	637,128,800	714,071,318	588,023,141	487,678,963
46	Wajir	853,371,986	992,922,326	597,112,535	599,569,960
47	West Pokot	603,044,748	683,634,469	568,996,754	589,135,145
	Total	34,576,474,969	40,612,656,492	28,486,731,667	25,825,556,396

(The Chairperson, Standing Committee on Finance and Budget)

The Second Schedule

–vote deferred.

Clause 2, the Title and Clause 1

Motion Made and Question proposed;

THAT, Clause 2, the Title and Clause 1 be part of the Bill.

(The Chairperson, Standing Committee on Finance and Budget)

Clause 2, The Title and Clause 1 -vote deferred

Progress Report

Motion made: -

THAT, the Committee of the Whole House do report to the Senate, its consideration of the County Allocation of Revenue Bill (Senate Bills No. 16 of 2023) and seek leave to sit again tomorrow;

(The Chairperson, Standing Committee on Finance and Budget)

Before the Question was put and pursuant to Standing Order 84 (1), the Acting Chairperson (Sen. Catherine Mumma, MP) ruled that the Question does not affect counties;

Question put and agreed to.

10. **THE HOUSE RESUMED** – (The Temporary Speaker Sen. Veronica Maina, MP - in the Chair)

11. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)**

Progress reported;

Motion made and Question proposed: -

THAT, the Senate do agree with the Committee of the Whole in the said report.

(The Chairperson, Standing Committee on Finance and Budget)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84 (1) Temporary Speaker (Sen. Veronica Maina, MP) ruled that the Motion does not affect counties.

Question put and agreed to.

12. **COMMITTEE OF THE WHOLE**
THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 6 OF 2022)

(Sen. Danson Mungatana, MP)

Order deferred;

13. **COMMITTEE OF THE WHOLE**

Order for the Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Catherine Mumma, MP) – In the Chair)

The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 7 of 2022)

Clause 3 -amendment proposed

THAT, clause 3 of the Bill be amended by –

(a) deleting paragraph (e); and

(b) deleting paragraph (f).

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 3 -vote deferred

Clause 4 -amendment proposed

THAT, Clause 4 of the Bill be amended in paragraph (e) by inserting the words “effective” immediately after the word “coordinated”.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 4 -vote deferred

Clause 5 -amendment proposed

THAT, Clause 5 of the Bill be amended in sub clause (1) by —

(a) deleting the expression “53(1)(c)” appearing immediately after the words “out under Articles 43(1)” in the introductory phrase and substituting therefor the words “53(1)(c) and 57(d);

(b) deleting paragraph (c) and substituting therefor the following new paragraph (c) –

(b) in subclause (2) by deleting paragraph (d) and substituting therefor the following new paragraph –

(d) objectives that would facilitate the availability, affordability, accessibility, adaptability and acceptability of quality goods and services relevant to the realization of economic and social rights; and

(c) in subclause (3) by deleting paragraph (c) and substituting therefor the following new paragraph –

(c) adopt strategies and plans that enhance the availability, affordability, accessibility, adaptability and acceptability of quality goods and services aimed at facilitating the realization of economic and social rights.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 9 -vote deferred

Clauses 10 and 11

Motion Made and Question proposed;

THAT, Clauses 10 and 11 be part of the Bill

(Sen. Danson Mungatana, MP)

Clauses 10 and 11 - vote deferred

Clause 12 -amendment proposed

THAT, clause 12 of the Bill be amended –

(a) in subclause (1) by deleting the words “for the implementation of a county strategic plan” appearing immediately after the words “receipt of grant or donation” in the marginal note; and

(b) in subclause (2) by inserting the words “and the annual County Governments Additional Allocations Act applicable in the respective financial year” immediately after the words “Public Finance Management Act”

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 12 -vote deferred

Clause 13 amendment proposed

THAT, clause 13 of Bill be amended in subclause (2) by inserting the words “*Gazette* and in the” immediately after the words “publish the plan in the”.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 13 -vote deferred

Clause 14 -amendment proposed

THAT, clause 14 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (b) –

(ba) the Attorney General.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 14 -vote deferred

Clauses 15, 16, 17 and 18

Motion Made and Question proposed;

THAT, Clauses 15, 16, 17 and 18 be part of the Bill

(Sen. Danson Mungatana, MP)

Clauses 15, 16, 17 and 18 - vote deferred

Clause 19 -amendment proposed

THAT, the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) The Cabinet Secretary shall, within twelve months from the commencement of this Act and in consultation with the Commission, make regulations generally for the better carrying out of the provisions of this Act.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 19 -vote deferred

Clause 20 -deletion of Clause proposed

THAT, the Bill be amended by deleting Clause 20.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 20 -vote deferred.

Clause 21

Motion Made and Question proposed;

THAT, Clauses 21 be part of the Bill

(Sen. Danson Mungatana, MP)

Clauses 21 -vote deferred

Clause 22 -amendment proposed

THAT, Clause 22 of the Bill be amended in subclause (1) by deleting the words “six months” appearing immediately before the words “after commencement of” and substituting therefor the word “twelve months”.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 22 -vote deferred

Clauses 23 and 24

Motion Made and Question proposed;

THAT, Clauses 23 and 24 be part of the Bill

(Sen. Danson Mungatana, MP)

Clauses 23 and 24 - vote deferred

The Schedule -amendment proposed

THAT, Schedule to the Bill be amended by deleting the words “social and economic rights” appearing in the heading and substituting therefore the words “economic and social rights”.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

The Schedule -vote deferred

Clause 2 -amendment proposed

THAT, clause 2 of the Bill be amended –

(a) by deleting the definition of the word “Equalisation Fund”;

- (b) by deleting the definition of the word “subsidy programme”;
- (c) by deleting the definition of the word “person in need”;
- (d) by deleting the definition of the word “vulnerable persons” and substituting therefor the following new definition –

“vulnerable persons” means persons who are unable to meet their economic and social needs and include children, pregnant and nursing mothers, older members of society, internally displaced persons, persons with disabilities, the sick, persons with chronic illnesses, victims of conflict, persons living in marginalised areas, and members of marginalised communities or groups and such other groups as the Cabinet Secretary may, by notice in the *Gazette*, or the respective county governor may, by notice in the *Gazette* and county *Gazette* , designate ;

- (e) by inserting the following new definition immediately after the definition of the word county executive committee member –

“county integrated development plan” means the five-year plan developed by a county government in accordance with section 108 of the County Governments Act.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 2 -vote deferred

The Title -amendment proposed

THAT, the Bill be amended by deleting the Long Title and substituting therefore the following new Long Title –

AN ACT of Parliament to provide a framework for the promotion, monitoring and enforcement of economic and social rights; to establish mechanisms to monitor and promote adherence by the National and county governments to Article 43 of the Constitution; and for connected purposes.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

The Title -vote deferred

Clause 1 -amendment proposed

THAT, clause 1 of the Bill be amended by deleting the words “Preservation of Human Dignity and Enforcement of” appearing immediately after the words “be cited as the”.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 1 -vote deferred

Progress report;

Motion made;

THAT, the Committee of the Whole do report to the Senate its consideration of the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 7 of 2022) and seek leave to sit again tomorrow.

(Sen. Danson Mungatana, MP)

Before the Question was put and pursuant to Standing Order 84(1), the Acting Chairperson (Sen. Catherine Mumma, MP) ruled that the Question does not affect counties;

Question put and agreed to.

14. **THE HOUSE RESUMED** – (The Temporary Speaker (Sen. Veronica Maina, MP) - in the Chair)
15. **THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 7 OF 2022)**

Progress reported;

Motion made and Question proposed: -

THAT, the Senate do agree with the Committee of the Whole in the said report.

(Sen. Danson Mungatana, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84 (1) the Temporary Speaker (Sen. Veronica Maina, MP) ruled that the Motion does not affect counties.

Question put and agreed to.

16. **THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES BILL (SENATE BILLS NO. 12 OF 2022)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Agricultural and Livestock Extension Services Bill (Senate Bills No. 12 of 2022) be now read a second time.

(Sen. Maureen Tabitha Mutinda, MP)

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Veronica Maina, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

17. **SENATE ROSE** -at thirty minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Thursday, June 15, 2023 at 2:30 p.m.*