

REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

TWELFTH PARLIAMENT- 3RD SESSION

**STANDING COMMITTEE ON
LABOUR & SOCIAL WELFARE**

**REPORT ON THE PETITION MADE TO THE SENATE BY
RESIDENTS OF KAJIADO COUNTY CONCERNING
DELAYED SALARIES AND NON-REMITTANCE OF
STATUTORY DEDUCTIONS FOR EMPLOYEES AT THE
NOL TURESH LOITOKTOK WATER AND SANITATION
COMPANY LIMITED.**

CLERK'S CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

October, 2019

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1. Copy of the Petition
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PREFACE

1. The Standing Committee on Labour and Social Welfare was constituted in December, 2017 during the First Session of the Twelfth (12th) Parliament pursuant to the provisions of Senate standing order 218.

The Committee is mandated to consider all matters related to: *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

2. In executing its mandate, the Committee oversees -

- a) Ministry of Labour and Social Protection;
- b) Ministry of Public Service, Youth and Gender Affairs; and,
- c) Ministry of Sports and Heritage.

3. The Committee comprises the following Members:

- | | |
|--|--------------------------|
| 1. Sen. Sakaja Johnson Arthur | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru | -Member |
| 4. Sen. Poghio Samuel Losuron, EGS | -Member |
| 5. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 6. Sen. Cherarkey Samson Kiprotich | -Member |
| 7. Sen. Makori Beatrice Kwamboka | -Member |
| 8. Sen. (Dr.) Gertrude Musuruve Inimah | -Member |
| 9. Sen. Lokorio Petronilla Were | -Member |

ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter. Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the technical and logistical actions that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the staff of the committee that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to Standing Order 232 to table the report of the Standing Committee on Labour and Social Welfare, in relation to the Petition by Residents of Kajiado County concerning Delayed salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and Sanitation Company Limited.

SIGNED.....

DATE..... 11th September 2019

SEN. JOHNSON SAKAJA.

CHAIRPERSON,

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE.

CHAPTER 1: INTRODUCTION

1.1 Background

Pursuant to Article 119 of the Constitution of Kenya and the Senate Standing Orders No. 220 (1) (b), Senator Mary Yiane Seneta, M.P., Nominated Senator from Kajiado County, presented a Petition on behalf of the residents of Kajiado County concerning the operations of the Nol Turesh Loitokitok Water and Sanitation Company Limited on 11th August, 2018.

The Speaker of the Senate directed that the Petition be considered by the Standing Committee on Labour and Social Welfare.

The Committee held five (5) sittings on the matter and met with the Ministry of Water and Sanitation, Water Services Regulatory Board, Tanathi Water Company, Nol Turesh Water and Sanitation Company and the petitioners.

The Committee held a meeting on 4th September, 2019 to consider the submissions presented and made recommendations in chapter three.

The Minutes of these sessions are annexed to this Report.

1.2 The Petition

The Petition drew the attention of the Senate to the following issues:

1. That, the Nol Turesh Loitokitok Water and Sanitation Company Limited is registered as a Company Limited by Guarantee and is wholly owned by the County Governments of Kajiado, Makueni and Machakos Counties;
2. That, earlier this year, the Water Services Regulatory Board (WASREB) carried out an inspection into the operations of the Nol Turesh Loitokitok Water and Sanitation Company Limited which revealed, among others:-

- a) that, the Company had not remitted statutory deductions, including Pay As You Earn (PAYE) for the sum of Kshs.23 million as at June, 2018; and
 - b) that, staff at the firm were owed salary arrears of more than 8 months.
3. That, the issues raised in the WASREB report are yet to be addressed comprehensively, including payment of salary arrears and remittance of employee pension and statutory deductions, which remain outstanding.
 4. That, they have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.
 5. That, none of the issues raised in this Petition is pending in any court of Law, Constitutional or other legal body.

The Petitioners therefore prayed **that the Senate** urgently investigates the matter with a view to ensuring:-

- a) that the employees of the firm receive their salary arrears;
- b) that the outstanding pension and statutory deductions are remitted; and
- c) that steps are taken to ensure that the residents of Kajiado continue to receive consistent supply of clean drinking water.

CHAPTER 2: COMMITTEE DELIBERATIONS AND UNDERTAKINGS

This section contains the deliberations by the Committee and the presentations by the Cabinet Secretary for Water and Sanitation, Nol Turesh Water and Sanitation Company and the petitioners.

2.1 Committee Undertakings

On 1st November, 2018, the Committee considered the Petition and resolved to meet the petitioners at a suitable date. On Thursday, 14th March, 2019, the Committee resolved to meet the Ministry of Water and Sanitation and the Water Services Regulatory Board on 20th March, 2019.

The Committee observed that the Petition was touching on three counties of Makueni, Machakos and Kajiado since the Nol Turesh Water and Sanitation Company served the three counties. It was resolved that the Senators from the three counties should be invited to the meetings.

2.2 Meeting with the Cabinet Secretary in charge of Water and Sanitation and the Water Services and Regulatory Board (WASREB) on Wednesday, 20th March, 2019

The Committee met the Ministry of Water and Sanitation and WASREB on Wednesday, 20th March, 2019.

2.2.1 Presentation by the Cabinet Secretary for Water and Sanitation, Mr. Simon Chelagui

The Cabinet Secretary presented a brief of the Company and said that NOI Turesh Water and Sanitation Company was a dream water project designed to provide water

to the counties of Kajiado, Makueni and Machakos and was also meant to demonstrate how transboundary water would take place by moving water from Tanzania to Kenya.

He stated that though the Nol Turesh Water and Sanitation Company was a very economically viable project due to intake being in the forest, it faced serious financial challenges including mismanagement of money.

The Cabinet Secretary also mentioned that the management made the company technically insolvent necessitating the Ministry to conduct an audit. The National Treasury also conducted its own audit. The ministry's audit recommended for prosecution of the culprits, reorganizing and restructuring the company in terms of procurement. The problem was compounded when the Kajiado County Government fired the whole management team and appointed a new management board that had no knowledge of how water systems work.

In responding to the issues raised in the Petition, he outlined the following -

1. That the Ministry gives priority to provision of water for domestic use before provision of water for commercial purposes;
2. That Nol Turesh Water and Sanitation Company is registered under the Companies Act (Cap 486) and was incorporated on 3rd August, 2011 as a cluster of Nolturesh Pipeline Bulk Water Supply Co. Ltd after the approval of Water Services Regulatory Board (WASREB). The Company is wholly owned by the county governments of Kajiado, Machakos and Makueni;
3. That Water Services Regulatory Board (WASREB) on 27th June, 2018, carried out an inspection into the operations of Nol Turesh Water and Sanitation Company which revealed that the company had not remitted statutory deductions including PAYE for the sum of Kshs. 23 Million as at June, 2018 and that staff were owed arrears of more than 8 months.

The CS attributed these challenges to governance issues and stated that in an effort to resolve the matter, the Company convened a meeting with the County Executive Committee Members in Charge of Water in the three counties on 18th July, 2018.

The following were the resolutions of the meeting -

- a) Tanathi Water Services Board to start with immediate effect the formal handover of Nol Turesh Water and Sanitation Company to the three counties of Kajiado, Makueni and Machakos;
 - b) Nol Turesh shall remain as a distinct cross-county entity owned by the three county governments;
 - c) Tanathi Water Services Board with immediate effect write a letter (copying the three counties) to the directors of Nol Turesh Company informing them that their term expired in 2016 and also directing the Counties to take over and appoint new directors as they deem fit through the existing governance standards;
 - d) The 3 Counties to convene an Annual General Meeting and pass a resolution to terminate the contracts of the current Board of Directors and constitute an interim governance structure;
 - e) The three County Executive Committee Members (CECMs) and a neutral representative from Tanathi Water Services Board to constitute an interim board and management to stabilize the Company;
 - f) The interim board and management to start addressing issues raised in the WASREB inspection;
 - g) A water allocation agreement among the three county governments guided by the National Water Policy and Legal Framework, to be put in place;
 - h) Tanathi Water Services Board shall not use their golden share in Nol Turesh to defeat the resolutions agreed in the meeting including upcoming Board resolutions.
4. That on the issue of staff arrears of more than eight months, the CECMs of the three counties agreed to contribute towards the payment of salary arrears as

follows – Kajiado 2.5 Million, Makueni 2.5 Million, Machakos 5 Million as a short term measure to address the salary arrears.

5. The interim management of the Company is in discussion with Kenya Revenue Authority on how to settle the tax liabilities. The Interim Committee has carried out assessment of the existing infrastructure, held stakeholder consultations in Kimana - Machakos County and Emali – Makueni County, assessed human resources issues at Water Service Provider and was to produce a technical committee report in one month;
6. That the company is owed a total of Kshs. 26 million by water supply providers in the three counties and a further Ksh. 10,000,000 by the Kenya Railways Corporation, among others. This amount when paid up will enable the company clear outstanding liabilities; and
7. That the issue of Staff Arrears is before the Employment and Labour Relations Court at Nairobi cause no 1528 of 2018 between Kenya union of Commercial, Food and Allied Workers (applicant) versus Nolturesh Loitoktok Water and Sanitation Co. Ltd (1st Respondent), National Water Conservation and Pipeline Corporation (2nd Respondent). The application was made on 5th December, 2018.

2.2.2 Members' interventions

1. Members noted that though Nol Turesh had the largest water tank reservoirs in the country, the residents of Kajiado, Makueni and Machakos were not getting water for their domestic use. This was due to the diversion of the water for irrigation and farming;
2. Members also raised concern on the pilferage of funds in Nol Turesh Water and Sanitation Company stating that Konza had paid them Kshs. 250 million but the amount was not reflected anywhere in the books;

3. Members were also concerned that when the problems of the Company came to light, the Cabinet Secretary had called for a stakeholder meeting which excluded the Senators;
4. Members observed that company should not have challenges of paying employees or delivering water to residents of the three counties because Nol Turesh Company uses water whose source originates naturally from Mount Kilimanjaro thereby reducing operating costs;
5. Members also noted that it was criminal for the Company to hold salaries and not remit statutory deductions.

2.2.3 Resolutions

1. The Cabinet Secretary to submit to the Committee the two audit reports; that is the audit report by the Ministry of Water and Sanitation and the audit report by the National Treasury;
2. The Ministry of Water and Sanitation to hasten the process of recommending prosecution so that they may be able to recover the assets bought using misappropriated funds;
3. The Ministry of Water and Sanitation and WASREB to alert the Kenya Revenue Authority, the National Hospital Insurance Fund and the National Social Security Fund of failure by the Nol Turesh Loitiktok Water and Sanitation Company to meet its statutory obligations, so that these institutions may recover the amounts due from the Company through their internal systems;
4. The Cabinet Secretary & WASREB to ascertain whether the revenue collections the Company is currently making are sufficient to pay workers and, if not, what measures the Interim Board has put in place;
5. The Cabinet Secretary & WASREB to provide a list of the Company's employees who are owed money by the Company, including the amounts owed;

6. The Ministry of Water and Sanitation and WASREB to provide the Committee with all communication between WASREB and the Ministry, the County Governments and the Company on the matter including -
 - a) letter advising the Kajiado County Government that they cannot unilaterally merge or restructure the water companies;
 - b) letter to Nol Turesh advising them they cannot remove from office the managing director without following the due process;
 - c) an advisory to the counties informing them that national laws override the county laws; and
 - d) the amount of monies that Makueni County Government paid and whether the funds have been used to pay the workers.
7. The Cabinet Secretary to submit the documents establishing the company together with a list of the guarantors and the audit reports of the Company for the last three financial years.

2.3 Meeting with the Cabinet Secretary in charge of Water and Sanitation and the Water Services and Regulatory Board (WASREB), The Nol Turesh Loitoktok Water and Sanitation Company and the Petitioners on Wednesday, 10th July, 2019

2.3.1 Presentation by the Cabinet Secretary made presentation as follows-

1. The water project by Nol Turesh Water and Sanitation Company supplies water through the force of gravity system, thus its operational cost is quite low while the water quality is good;
2. The Company had not paid its workers for 10 months;
3. Negotiations began on how to deal with the matter after the workers started picketing. The workers' demands were to dissolve the board including the management team and all salary arrears to be paid;
4. Following the above negotiations, an interim board was installed which is headed by the 3 County Executive Committee Members (CECM) in charge of

environment and water from the 3 counties. The board is chaired by the CECM from Makueni county. A new management team was appointed with Mr. Gedion Ketenik as the Acting Managing Director;

5. Also, the Company paid the workers two months' salary arrears and promised to pay the rest once the company was back to normal operations;
6. The 3 counties committed to contribute some funds in order to rescue the company. Kajiado committed Ksh 2.5 million; Makueni committed Ksh 2.5 million while Machakos Committed to Ksh 5 million. Makueni and Kajiado counties honoured their part. However, Machakos County did not honour and cited a previous incidence of which it had offered other support such as subsidizing the electricity bills;
7. Though some of the demands by the striking workers were met, some did not report back to work regardless of several letters that were sent to them; and
8. This led to the defiant workers being dismissed in September 2018. Some workers petitioned the Senate while others sought intervention of the courts.

2.3.2 Presentation by the Management of Nol Turesh Water and Sanitation Company

- 1) The company met some of the workers' demands including change of management board and the payment of two months' salary arrears;
- 2) The Company requested the workers to return to work though letters on emails and messages but workers did not comply leading to their dismissal;
- 3) The company had a debt of Kshs. 183,000 and had since then made great improvements in its operations, including restoration of the line, clearance of the statutory deductions National Hospital Insurance Fund and National Social Security Fund. The company had also got into an agreement with Kenya Revenue Authority to clear the tax charges.

2.3.3 Presentation by the Petitioners

- 1) The petitioners stated that the Company owed them eight months' salary arrears and claimed that their dismissal was unprocedural.
- 2) They also said that they had received threats by the company not to be seen in the vicinity of the company.

2.3.4 Resolutions

1. The company to provide the list of workers of the Company including the list of the employees who have been paid by the company;
2. The Company also to provide a list of pending bills for the company;
3. The Management to provide a schedule of payments (staggered) of the salary arrears to the committee by 24th July, 2019 and to also readmit the dismissed staff; and
4. The Cabinet secretary to arbitrate in the above issues between the workers and the management and come up with a return to work formula and the schedule; and that all sides should maintain formality.

CHAPTER 3: COMMITTEE OBSERVATIONS & RECOMMENDATIONS

3.1 Observations

The Committee made the following observations –

1. The dismissal of staff was not procedural;
2. There was no documentation to support the communication between the workers and the management;
3. The Company had made strides in addressing the debt for statutory deductions like NHIF, NSSF and PAYE, but had not addressed the issue of salaries; and
4. Despite the challenges, there seems to be an opportunity for shared resources between counties in terms of liaison and cooperation.

3.2 Recommendations and Resolutions

The Committee made its resolutions based on the prayers of the petitioner that;

1. *That the employees of the firm receive their salary arrears that the outstanding pension and statutory deductions are remitted;*

The Committee has directed the Cabinet Secretary in Charge of Water and Sanitation to arbitrate on the above matter in its letter to the parties concerned Ref. SEN/SCLSW/2019/38 dated 15th August, 2019.

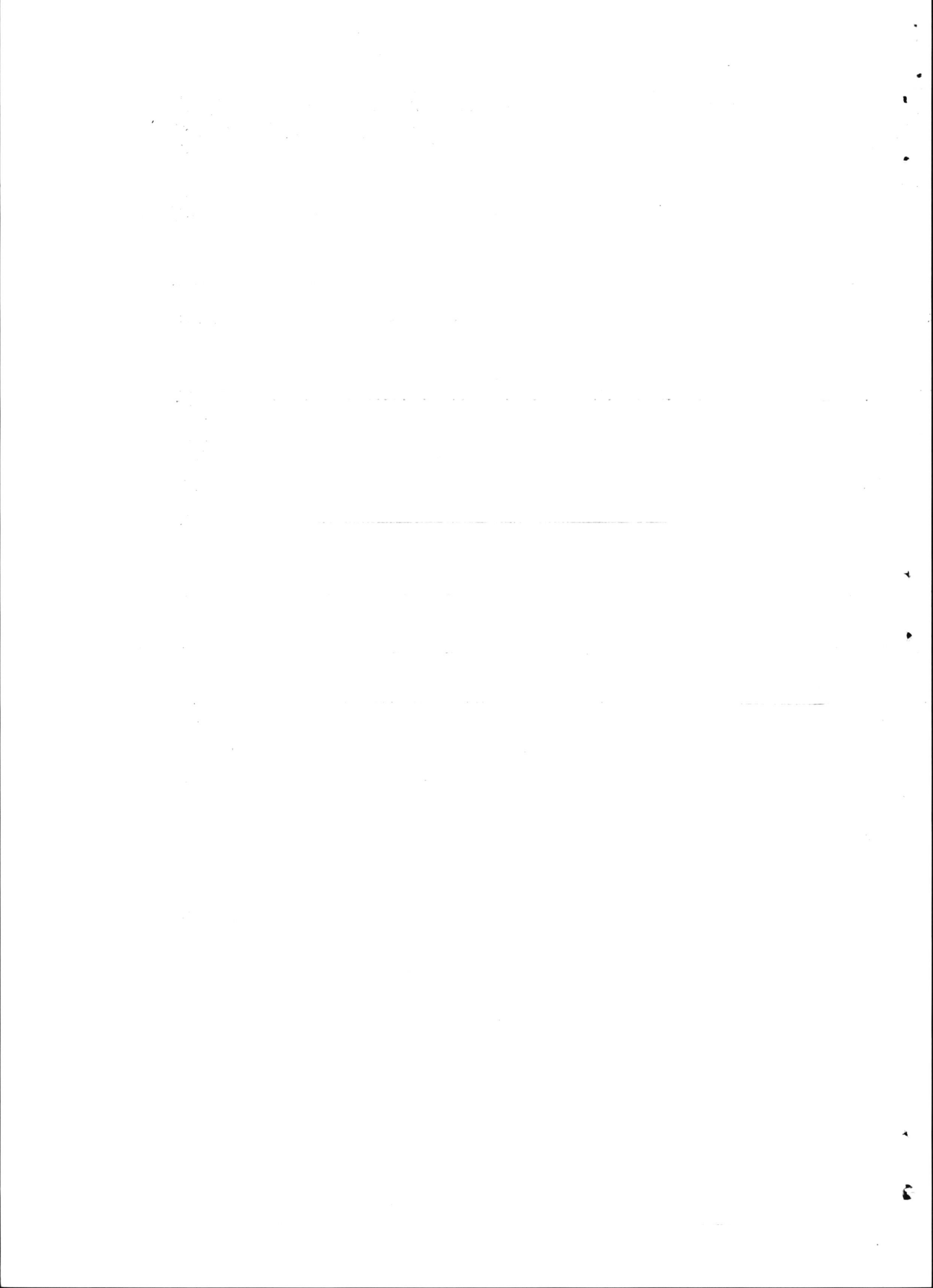
The Committee received a letter from the CEO of WASREB, Eng. Robert Gakubia Ref. WASREB/TAWSB/600 VOL. VII (82) dated 27th August, 2019 requesting for more time up to 20th September, 2019 to file a report on a return to work formula and provide conclusive response on the Senate's recommendations.

The Committee is following up on the matter to ensure that all arrears are paid.

2. *That steps are taken to ensure that the residents of Kajiado continue to receive consistent supply of clean drinking water.*

The Committee recommends that the Office of the Auditor General conducts a special audit of the eight Water Services Boards in the country and all the Water Services and Sanitation Management Companies operating under them and report to the Senate within six months.

3. **Beyond salary arrears, there is need for improved labour relations between workers and management in terms of recognition of trade unions and collective bargaining agreements.**



4th October, 2018

The Clerk of the Senate
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI
Email: cSenate@parliament.go.ke

**RE: PETITION TO THE SENATE CONCERNING THE OPERATIONS OF THE
NOL TURESH LOITOKITOK WATER AND SANITATION COMPANY
LIMITED**

We, the undersigned, citizens of the Republic of Kenya, and residents of Kajiado County;

DRAW the attention of the Senate to the following:

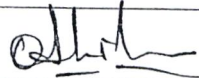
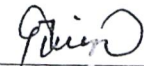

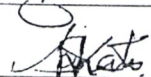
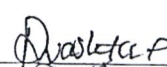

1. That, the Nol Turesh Loitokitok Water and Sanitation Company Limited is registered as a Company Limited by Guarantee and is wholly owned by the County Governments of Kajiado, Makueni and Machakos Counties;
2. That, earlier this year, the Water Services Regulatory Board (WASREB) carried out an inspection into the operations of the Nol Turesh Loitokitok Water and Sanitation Company Limited which revealed, among others:-
 - a) that, the Company had not remitted statutory deductions, including PAYE, for the sum of Kshs.23 million as at June, 2018; and
 - b) that, staff at the firm were owed salary arrears of more than 8 months.
3. That, the issues raised in the WASREB report are yet to be addressed comprehensively, including payment of salary arrears and remittance of employee pension and statutory deductions, which remain outstanding.
4. That, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.
5. That, none of the issues raised in this Petition is pending in any court of Law, Constitutional or other legal body.

Petition to the Senate by residents of Kajiado County concerning the operations of the Nol Turesh Loitokitok Water and Sanitation Company Limited

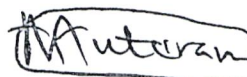
WHEREFORE, your humble petitioners pray that the Senate urgently investigates this matter with a view to ensuring:-

- a) that the employees of the firm receive their salary arrears;
- b) that the outstanding pension and statutory deductions are remitted; and
- c) that steps are taken to ensure that the residents of Kajiado continue to receive consistent supply of clean drinking water.

Dated this...^{19th}...day of...^{October}...2018.

No	NAME	TEL NO.	I.D. No.	SIGNATURE
1	BRESSON ODHAMBO RAKIRO	0724954353	23313722	
2	JOSHUA O. KOONYO	0721640868	6115766	
3	REGINA NZEKI	0721 290256	4867506	
4	GEORGE MUSYOKA	0723104643	21746459	
5	PAUL W URANOU	07115 87682	22171807	
6	MATTHEW MULI	0727284335	24470615	

Counter signed by Senator Mary Yiane Seneta, Nominated Senator.



Sen. Mary Yiane Seneta,
Nominated Senator

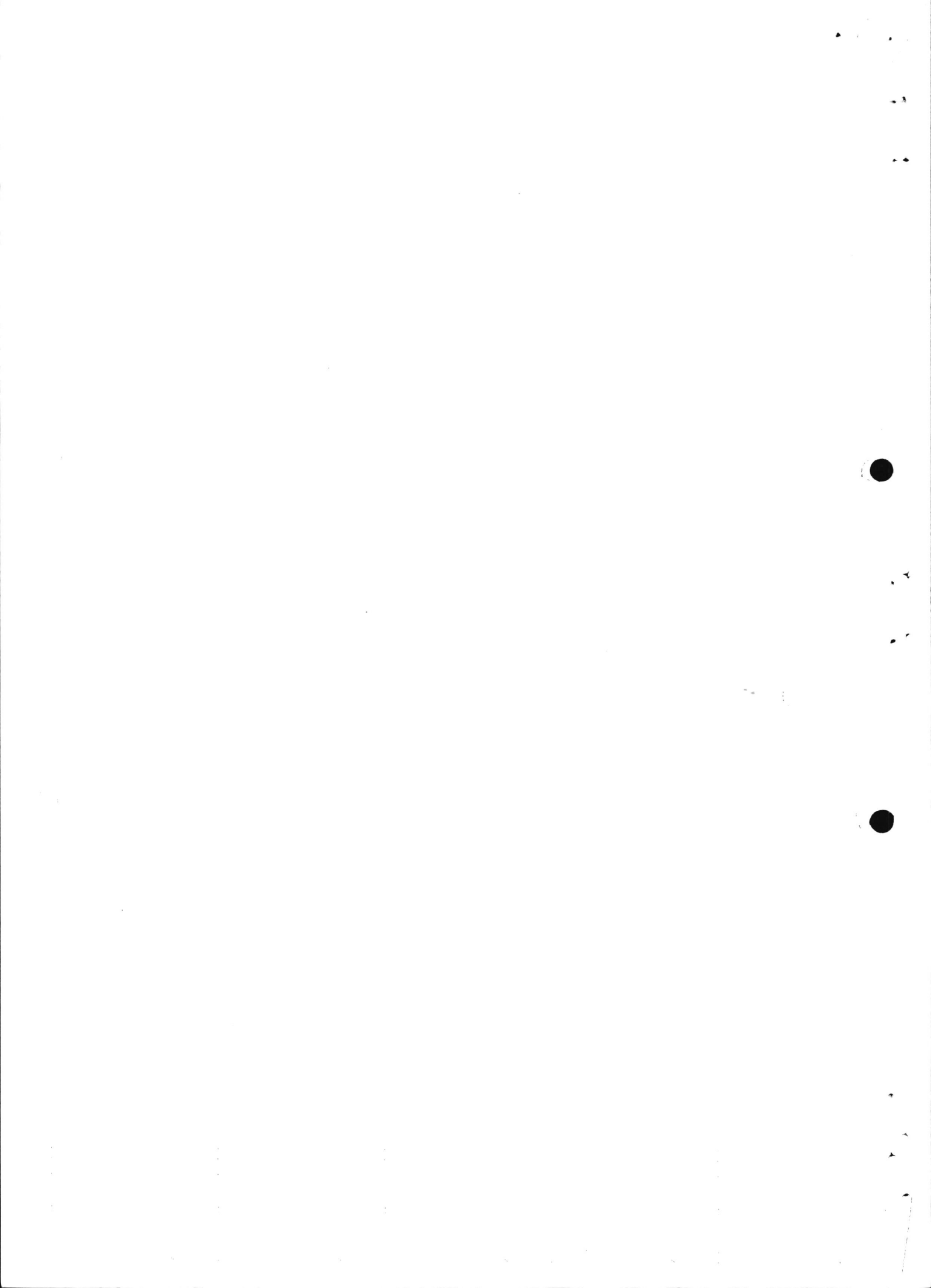
PETITION CONCERNING DELAYED SALARIES AND NON-REMITTANCE OF STATUTORY DEDUCTIONS FOR EMPLOYEES AT THE NOL TURESH LOITOKTOK WATER AND SANITATION COMPANY IN KAJIADO COUNTY

[After the Order for Petitions is read, Sen. Mary Seneta, MP, will rise and present the petition before the House, pursuant to Standing Order 226(1)(b) and 230(2)(a)]

1. Honourable Senators, pursuant to standing order 231, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

[after comments by Senators]

2. Honourable Senators, pursuant to standing order 232(1), the Petition stands committed to the Standing Committee on Labour and Social Welfare.
3. In terms of standing order 232(2), the Committee is required, in not more than sixty days from the time of reading the Prayer, to respond to the Petitioners by way of a Report addressed to the Petitioners, and laid on the Table of the Senate.
4. I thank you.



MINUTES OF THE 38TH MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 4TH SEPTEMBER, 2019 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM 11.00 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Poghio Samuel Losuron, EGH | -Member |
| 4. Sen. Makori Beatrice Kwamboka | -Member |
| 5. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |
| 6. Sen. Lokorio Petronila Were | -Member |

ABSENT WITH APOLOGIES

- | | |
|------------------------------------|---------|
| 1. Sen. Madzayo Stewart Mwachiru | -Member |
| 2. Sen. Cherarkey Samson Kiprotich | -Member |
| 3. Sen. (Dr.) Mwaura Isaac, CBS | -Member |

SENATE SECRETARIAT

- | | |
|-----------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Ms. Julia Gichohi | - SAA |

MINUTE SEN/SCLSW/178/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11.05 am followed by a word of prayer.

MINUTE SEN/SCLSW/179/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Petronila Were and seconded by Sen. Gertrude Musuruve as follows –

AGENDA

1. Preliminaries (Prayers and introductions)
2. Adoption of the Agenda;
3. **Consideration and Adoption of the petition report concerning non-recruitment of locals in flower farms and institutions in Kaputei North Ward, Kajiado County;**
4. **Consideration and Adoption of the petition report concerning Delayed Salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and Sanitation Company Limited;**
5. **Deliberations on the ICPD25;**
6. ~~Committee work schedule August – December, 2019; and~~
7. Any Other Business & Adjournment

MINUTE SEN/SCLSW/180/2019: CONSIDERATION AND ADOPTION OF THE PETITION REPORT CONCERNING NON-RECRUITMENT OF LOCALS IN FLOWER FARMS AND INSTITUTIONS IN KAPUTEI NORTH WARD, KAJIADO COUNTY;

Members deliberated on the report of the petition report concerning non-recruitment of locals in flower farms and institutions in Kaputei north ward, Kajiado county and made the following observations–

1. There is a lot of pressure for employment within the ward;
2. There are no incentives to private institutions to hire locally from within the locality of the institution since these institutions operate on profit and merit;
3. There seems to be laxity or complicity by both levels of government over monitoring of factories and institutions

The Committee therefore recommended the following –

1. County governments when attracting investments, should aim to get the best deals for its residents in terms of employment, putting up social amenities like schools and hospitals, capacity building in technical areas, rehabilitation of the environment and infrastructural projects; and
2. The Ministry of Labour and Social protection should conduct regular inspection to ensure that the Companies adhere to the laws, standards and regulations which protect the Kenyan workers from exploitation.

The report was adopted after being proposed by Sen. Petronila Were Lokorio and seconded by Sen. Gertrude Musuruve.

MINUTE SEN/SCLSW/180/2019: CONSIDERATION AND ADOPTION OF THE PETITION REPORT CONCERNING DELAYED SALARIES AND NON-REMITTANCE OF STATUTORY DEDUCTIONS FOR EMPLOYEES AT THE NOL TURESH LOITOKTOK WATER AND SANITATION COMPANY LIMITED

Members deliberated on the report of the petition report concerning Delayed Salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and Sanitation Company Limited and made the following observations–

1. The dismissal of staff was not procedural;
2. There was no documentation to support the communication between the workers and the management;
3. The Company had made strides in addressing the debt for statutory deductions like NHIF, NSSF and PAYE, but had not addressed the issue of salaries; and
4. Despite the challenges, there seems to be an opportunity for shared resources between Counties in terms of Liaison and cooperation.

1.2 Committee undertakings and Recommendations

The Committee had directed the Cabinet Secretary in Charge of Water and Sanitation to arbitrate on the issues raised in the petition in its letter to the parties concerned dated 15th August, 2019 dated SEN/SCLSW/2019/38.

The Committee made the following recommendations -

1. The Committee recommends that the Office of the Auditor General conducts a special audit of the eight Water Services Boards in the country and all the Water Services and Sanitation Management Companies operating under them; and Report to the Senate within 6 months.
2. Beyond salary arrears, there is need for improved labour relations between workers and management in terms of recognition of trade unions and collective bargaining agreements.

The report was adopted after being proposed by Sen. Alice Milgo and seconded by Sen. Samuel Poghiso.

MINUTE SEN/SCLSW/181/2019: DELIBERATIONS ON THE ICPD25

Members deliberated on the ICPD25 and noted the letter sent by the National Council for Population and Development inviting Senate Committees on Health, Finance and Labour and Social Welfare to a breakfast meeting to be apprised of the same. The Committee resolved to put on hold their arrangements on ICPD25 and attend the breakfast meeting hosted by the Population Council on Thursday 12th September, 2019.

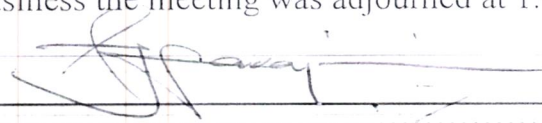
MINUTE SEN/SCLSW/182/2019: COMMITTEE WORK SCHEDULE AUGUST - DECEMBER, 2019

Members went over the Committee work schedule for August to September 2019 and resolved on the following -

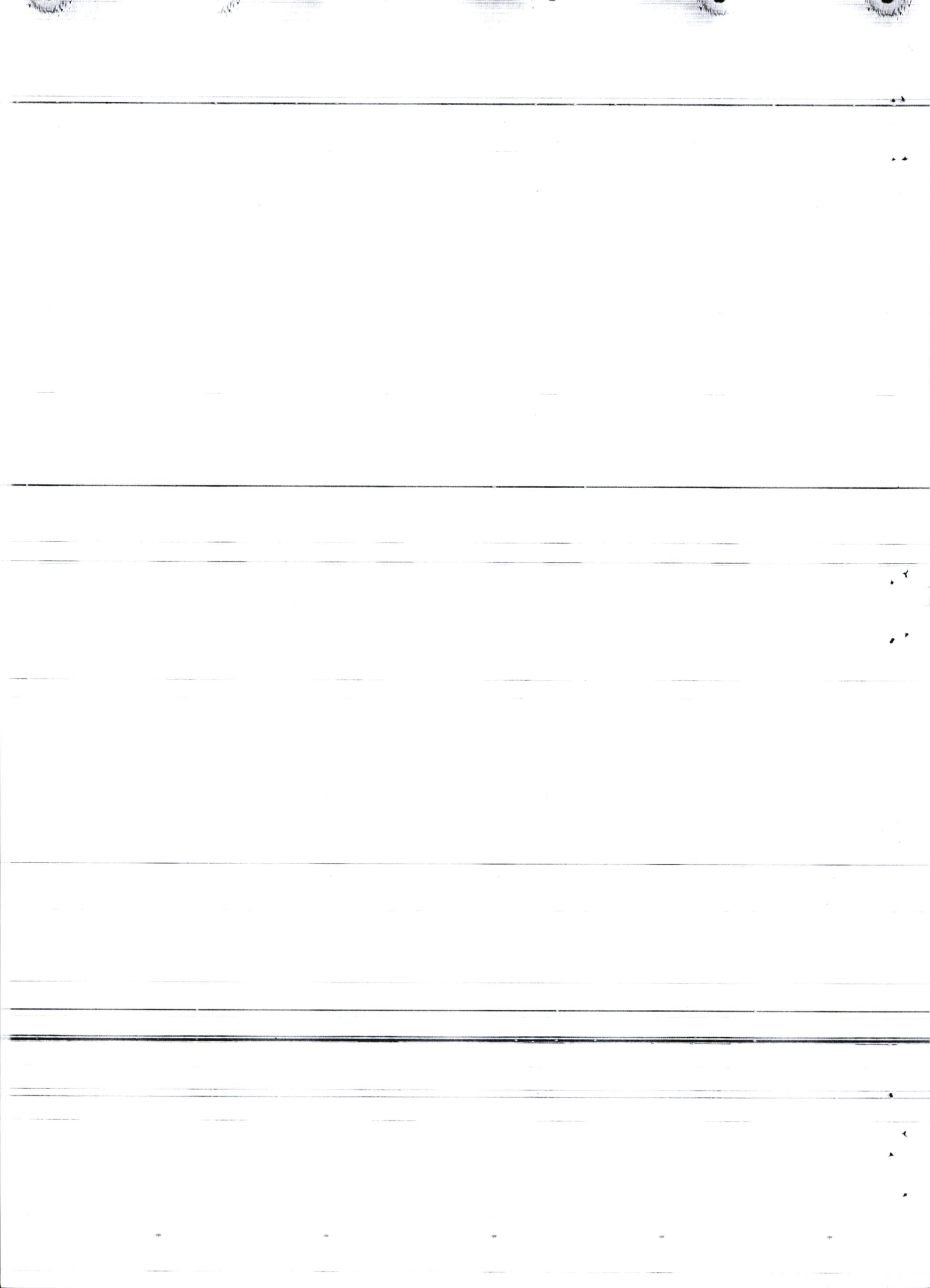
1. To redirect the petition on the enactment of a military veteran law to address the needs of military veterans and their dependents to the Standing Committee on National Security and Foreign Relations due to the sensitivity of issues touching with the Military;
2. Reschedule the in-house meeting of Thursday, 5th September to Wednesday 10th September, 2019;
3. Meet digital hailing cab applications stakeholders on Thursday, 12th September, 2019 at 10 am;
4. Hold a retreat with the SC Sports and Heritage on the National Museum and Heritage Bill and other sporting and heritage issues in Mombasa in October, 2019.
5. Set up a meeting of KECOBO, KFC, KFCB, artists and Ministry on Wednesday, 2nd October, 2019;
6. Set up a meeting on Sporting federations and Players Associations on Wednesday, 23rd October, 2019

MINUTE SEN/SCLSW/183/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 1.00 pm.


 SIGNATURE.....
 (CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 11th September 2019



MINUTES OF THE 30TH MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 10TH JULY, 2019 IN COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru | -Member |
| 4. Sen. Poghisio Samuel Losuron, EGH | -Member |
| 5. Sen. Cherarkey Samson Kiprotich | -Member |
| 6. Sen. Lokorio Petronila Were | -Member |
| 7. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|---------|
| 1. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 2. Sen. Makori Beatrice Kwamboka | -Member |

IN ATTENDANCE

- | | |
|--|---|
| 3. Mr. Simon K. Chelugui | - Cabinet Secretary, Water & Sanitation |
| 4. Mr. Robert Kisyula | - CEC Water, Makeni |
| 5. Mr. Michael Semera | - CEC Water, Kajiado |
| 6. Ms. Naomi Mutie | - CEC Water, Machakos |
| 7. Mr. Gedion Ketenik | - Ag. Managing Director, Nol Turesh Water Co. |
| 8. Eng. Robert Gakuria | - CEO, WASREB |
| 9. Mr. Bresson Odhiambo | - Petitioner |
| 10. Staff from the Ministry of Water and Sanitation | |
| 11. Staff from Water Services Regulatory Board | |
| 12. Staff from Nol Turesh Water and Sanitation Company | |

SENATE SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Christopher Gitonga | - Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Paul Vitus Okech | - Research Officer |
| 5. Mr. Phillip Okinda | - SAA |
| 6. Ms. Julia Gachoki | - SAA |

MINUTE SEN/SCLSW/141/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am with a word of prayer followed by introductions by all present.

MINUTE SEN/SCLSW/142/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Petronila and seconded by Sen. Milgo as follows –

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. **Meeting with the Cabinet Secretary in Charge of Water and Sanitation, Water Services Regulatory Board (WASREB) & Kajiado, Machakos and Makueni Counties on the Nol Turesh Petition; &**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/143/2019: MEETING WITH THE CABINET SECRETARY IN CHARGE OF WATER AND SANITATION, WATER SERVICES REGULATORY BOARD (WASREB) & KAJIADO, MACHAKOS AND MAKUENI COUNTIES ON THE NOL TURESH PETITION;

The Chairperson welcomed everyone to the meeting and noted the petition had taken long before the Committee and thus the matter had to be concluded.

The Committee noted that there were some documents which it had requested the CS to submit. The documents were confirmed to have been submitted.

However, at the point of presentation, it was noted that reference was being made to documents which had not been availed to the Committee. The Committee resolved to take 10 minutes break in order to produce copies of the said documents.

a) Presentation by the Cabinet Secretary made presentation as follows-

1. The water project by Nol Turesh Water and Sanitation Company is a trans- county project- covering 3 counties namely Makueni, Machakos and Kajiado. The project is meant to promote harmony and integration in the country.
2. The project supplies water through the force of gravity system, thus its operational cost is quite low while the water quality of water is good.
3. There was outcry of the staff working with the Company of non-payment of the salary and remittance of statutory deductions.
4. ~~The CS administratively constituted taskforce audit team to determine the status of project. WASREB also submitted a report on the status of the company.~~
5. The company is co-owned by the 3 counties.
6. The Company had not paid its workers for 10 months.

7. Negotiations began on how to deal with the matter after the workers started picketing. The workers' demands were to dissolve the board including the management team and all salary arrears to be paid.
8. Following the above negotiations, an interim board was installed which is headed by the 3 County Executive Committee Members (CECM) in charge of environment and water from the 3 counties. The board is chaired by the CECM from Makueni county. A new management team was appointed with Mr. Gedion Ketenik as the Acting Managing Director.
9. Also, the Company paid the workers two months' salary arrears and promised to pay the rest once the company was back to normal operations.
10. The 3 counties committed to contribute some funds in order to rescue the company. Kajiado committed Ksh 2.5 million; Makueni committed Ksh 2.5 million while Machakos Committed to Ksh 5 million. Makueni and Kajiado counties honoured their part. However, Machakos County did not honour and cited a previous incidence of which it had offered other support such as subsidizing the electricity bills.
11. Though some of the demands by the striking workers were met, some did not report back to work regardless of several letters that were sent to them.
12. This led to the defiant workers being dismissed in September 2018. Some workers petitioned the Senate while others sought intervention of the courts.

b) Presentation by the Management of Nol Turesh Water and Sanitation Company

- 1) The company met some of the workers' demands including change of management board and the payment of two months' salary arrears;
- 2) The Company requested the workers to return to work though letters on emails and messages but workers did not comply leading to their dismissal;
- 3) The company had a debt of Kshs. 183,000 and had since then made great improvements in its operations, including restoration of the line, clearance of the statutory deductions NHIF and NSSF. The company had also got into an agreement with KRA to clear the tax charges.

c) Presentation by the Petitioners

- 1) The petitioners claim 8 months' salary arrears and claim that their dismissal was not procedural.
- 2) Claimed that they faced threats by the company not to be seen around the vicinity of the company.

d) Intervention by the Members

1. The dismissal of staff was not procedural; and
2. There was no documentation to support the communication between the workers and the management.

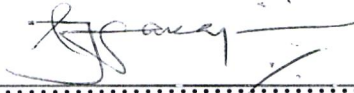
e) Way Forward

1. The company to provide the list of workers of the Company including the list of the employees who have been paid by the company;
2. The Company also to provide a list of pending bills for the company;
3. The Management to provide a schedule of payments (staggered) of the salary arrears to the committee in 2 weeks' time and to also readmit the dismissed staff; and
4. The Cabinet secretary to arbitrate in the above issues between the workers and the management and come up with a return to work formula and the schedule; and that all sides should maintain formality.

MINUTE SEN/SCLSW/144/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 13.40 pm in readiness for the next meeting.

SIGNATURE.....



(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....

23-7-19

**MINUTES OF THE 26TH MEETING OF THE STANDING COMMITTEE ON
LABOUR & SOCIAL WELFARE HELD ON TUESDAY, 2ND JULY, 2019 IN
GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM 10.00 AM.**

MEMBERS PRESENT

- | | |
|--|--------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. Poghiso Samuel Losuron, EGH | -Member |
| 3. Sen. Cherarkey Samson Kiprotich | -Member |
| 4. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |
| 5. Sen. Lokorio Petronila Were | -Member |

ABSENT WITH APOLOGIES

- | | |
|-------------------------------------|-------------------|
| 1. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 2. Sen. Madzayo Stewart Mwachiru | -Member |
| 3. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 4. Sen. Makori Beatrice Kwamboka | -Member |

SENATE SECRETARIAT

- | | |
|-----------------------|--------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chabari | -Legal Counsel |
| 3. Paul Vitus Okech | - Research Officer |
| 4. Ms. Julia Gachoki | - SAA |

MINUTE SEN/SCLSW/122/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.25 am followed by a word of prayer.

MINUTE SEN/SCLSW/123/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Petronila and seconded by Sen. Musuruve as follows –

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. **Confirmation of Previous Minutes (Minutes 22, 23, 24 & 25);**
4. **Correspondence before the Committee;**
5. **Legislative Business before the Committee; &**
6. **Any Other Business & Adjournment.**

**MINUTE SEN/SCLSW/124/2019: CONFIRMATION OF PREVIOUS MINUTES
(MINUTES 22, 23, 24 & 25);**

1. The Minutes of the 25th Sitting held on Wednesday, 19th June, 2019 in Committee Room 12, Main Parliament Buildings from 12.05 pm were confirmed as a true reflection of the meeting after having being proposed by Sen. Poghio and seconded by Sen. Musuruve. This was the meeting where the Committee was being taken through the legislative proposal on the Kenya Sign Language Bill. The Committee resolved to support the Bill regardless of the Committee that it will be committed to.
2. The Minutes of the 24th Sitting held on Wednesday, 19th June, 2019 in Committee Room 12, Main Parliament Buildings from 10.30 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Musuruve and seconded by Sen. Poghio. This was on the public hearing on the National Museums and Heritage (Amendment) Bill, 2019 and the Committee noted that the Ministry of Sports and Heritage had mentioned, in their submissions, a presence of a similar bill at Cabinet level. The Committee resolved that the Ministry can go on with their process as the legislative process in the Senate continues.
The Committee also resolved to retreat with the Ministry in late August to look into the issues under their mandate.
3. The Minutes of the 23rd Sitting held on Wednesday, 19th June, 2019 in Committee Room 12, Main Parliament Buildings from 9.00 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Poghio and seconded by Sen. Musuruve.
4. The Minutes of the 22nd Sitting held on Tuesday, 28th May, 2019 in the Ground Floor Boardroom, Red Cross Building from 10.00 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Musuruve and seconded by Sen. Sakaja.

MINUTE SEN/SCLSW/125/2019: CORRESPONDENCE BEFORE THE COMMITTEE;

1. The Committee noted the letter from Ministry of Labour and Social Protection – State Department of Labour on Payment of Inua Jamii Cash Transfer Beneficiaries for March/April and May/ June 2019 payment cycles. The Chair informed the Committee that he will issue a status report on the program under standing order 51 (1) (a).
2. The Committee was reminded of the letter on the Nairobi Summit on ICPD25: Accelerating the Promise from the United Nations Population Fund and were informed that the UNEPA officials will be meeting the Committee on Tuesday, 9th July, 2019 for a briefing session.

MINUTE SEN/SCLSW/126/2019: LEGISLATIVE BUSINESS BEFORE THE COMMITTEE;

1. Members were informed that several petitions and statements had been committed to the Committee namely –
 - a) Statement on Uber and all other digital hailing cabs operating in Kenya by Sen. Mutula Kilonzo;
 - b) Statement by Sen. Ledama Olekina on Protection of Kenyan Citizens who work in Saudi Arabia.
 - c) Statement by Sen. Musuruve on non-compliance with Article 54 (2) of the Constitution on representation of PWDs in elective and appointive positions.

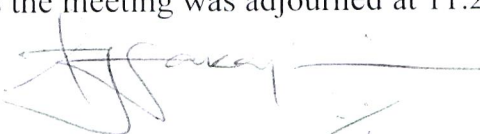
2. The Committee was notified of the following meetings scheduled to deal with the legislative business before the Committee -
 - a) The Committee will be meeting with the Cabinet Secretary in charge of Water and Sanitation, the Water Services Regulatory Board and the County Executive Committee Members in charge of Water in Kajiado, Makueni and Machakos counties on **3rd July, 2019** on the Petition by Sen. Mary Seneta on behalf of residents of Kajiado County on delayed salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and Sanitation Company.
 - b) The Committee will be meeting the stakeholders including CS Health, CS Labour, COG and NCPWD on the Statement by Sen. George Khaniri on registration of Persons with Disabilities on **Thursday, 11th July, 2019**.
 - c) the Committee shall be meeting the Cabinet Secretary in Charge of Labour and Social Protection on **Wednesday, 17th July, 2019** on four statements and two petitions namely:-
 - i. Implementation Status of the Government Set Minimum Wage Guidelines, by Sen. George Khaniri;
 - ii. Delayed Disbursements of Older Persons Cash Transfer money to the elderly, by Sen. Christopher Langat;
 - iii. Protection of Kenyan Citizens who work in Saudi Arabia, by Sen. Ledama Olekina;
 - iv. Statement on Uber and all other digital hailing cabs operating in Kenya, by Sen. Mutula Kilonzo.
 - v. Petition presented by Sen. Susan Kihika on behalf of residents of Nakuru County on the unlawful rounding up, detention, transfer and dumping of street children by the County Government of Nakuru
 - vi. Petition presented by Sen. Mary Seneta on behalf of Kajiado residents on the non-recruitment of locals by flower firms, institutions and other companies operating in the Ward

d) The Committee will be meeting the CS Public Service, Youth and Gender Affairs, and the Public Service Commission on contracting the Civil service on **Thursday, 18th July, 2019.**

MINUTE SEN/SCLSW/127/2019: ANY OTHER BUSINESS AND ADJOURNMENT

1. Members resolved that there was no need to conduct a site visit and that they will consider the report on the Petition by Sen. Mary Seneta on behalf of Kajiado residents on the non-recruitment of locals by flower firms, institutions and other companies operating in the ward in the next meeting.
2. The Secretariat was asked to update the Committee on bills that concern the Committee that had lapsed in the previous Parliament so that Members can take them up.
3. The Committee was informed the Members of the County Public Service Board met the Chairpersons of the Labour and Social Welfare Committee and the justice, Legal Affairs and Human Rights Committee and presented a copy of the County Public Service Bill to them.
4. Members discussed the Labour issues in the Health sector of Kirinyaga and Laikipia counties and the Chairperson promised to give direction on the matter.
5. Members were informed that the Gaming bill had been initiated in the National Assembly and was going through the process;
6. Members resolved to hold a retreat in Kitale with the CS Sports and Heritage in mid-August to discuss the sporting and culture issues.
7. Members also resolved to hold another retreat in Mombasa towards the end of August with the sporting associations and federations.

There being no other business the meeting was adjourned at 11.27 am.

SIGNATURE.....

(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....

MINUTES OF THE 6TH MEETING OF THE STANDING COMMITTEE ON
LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 20TH MARCH, 2019
IN THE FIRST FLOOR BOARDROOM, RED CROSS BUILDING FROM 10.00
AM.

MEMBERS PRESENT

- | | |
|--|-------------------------------|
| 1. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson (Ag. Chair) |
| 2. Sen. Poghisio Samuel Losuron, EGH, MP | -Member |
| 3. Sen. Samson Cheragey, MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|--|---------------|
| 4. Sen. Sakaja Johnson Arthur, CBS, MP | - Chairperson |
| 5. Sen. Stewart Madzayo, MP | -Member |
| 6. Sen. (Dr.) Gertrude Musuruve, MP | -Member |
| 7. Sen. Beatrice Kwamboka, MP | -Member |
| 8. Sen. (Dr.) Mwaura Isaac, CBS, MP | -Member |
| 9. Sen. Petronila Were Lokorio, MP | -Member |

IN ATTENDANCE

- | | |
|-------------------------------|--|
| 1. Sen. Mutula Kilonzo Junior | - Senator of Makueni County |
| 2. Sen. Mary Seneta Yiane | - Senator from Kajiado County |
| 3. Mr. Simon K. Chelugui | - Cabinet Secretary Water and Sanitation |
| 4. Mr. Rutto K. Jeremiah | - Ministry of Water and Sanitation |
| 5. Eng. Sao Alima | - Ministry of Water and Sanitation |
| 6. Eng. Robert Gakuria | - CEO, WASREB |
| 7. Mr. Fredrick Mwamati | - Ag. CEO Tanathi Water Services Board |
| 8. Dr. Julius Itunga | - WASREB |
| 9. Eng. Peter Njaggah | - WASREB |
| 10. Mr. Japhet Tipis | -Ministry of Water & Sanitation |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chabari | -Legal Counsel |
| 3. Mr. Philemon Okinda | -Serjeant At Arms |
| 4. Ms. Farida Ngasura | -Audio Officer |

MINUTE SEN/SCLSW/033/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer. This was followed by introductions from all present.

MINUTE SEN/SCLSW/034/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments having been proposed by Sen. Poghisi and seconded by Sen. Cheragey as follows –

AGENDA

1. Preliminaries (Prayers and Introductions)
2. Adoption of the Agenda:
3. **Meeting Principal Secretary, Water and CEO of the Water Services Regulatory Board on the Petition on the Delayed salaries and non-remittance of statutory deductions for employees of the Nol Turesh Loitoktok Water and Sanitation Company; and**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/035/2019: MEETING PRINCIPAL SECRETARY, WATER AND CEO OF THE WATER SERVICES REGULATORY BOARD ON THE PETITION ON THE DELAYED SALARIES AND NON-REMITTANCE OF STATUTORY DEDUCTIONS FOR EMPLOYEES OF THE NOL TURESH LOITOKTOK WATER AND SANITATION COMPANY; AND

The Chairperson welcomed all to the meeting and briefed them on the Committees mandate. She stated that the Committee had received a petition on delayed salaries and non-remittance of statutory deductions for employees of the Nol Turesh Water and Sanitation Company. The Committee had invited the Cabinet Secretary, Water and Sanitation and the Water Services Regulatory Board to shed more light into the matter and explain to the Committee the steps they had taken to rectify the situation.

She then invited the Members to give their views so as to enable the CS to respond to them as he is giving his presentation.

a) Members' interventions

1. Members noted that though Nol Turesh has the largest water tank reservoirs in the country, the residents of Kajiado, Makueni and Machakos were not getting water for their domestic use. This was due to the water being diverted and used for irrigation and farming;
2. Members also raised concern on the pilferage of funds in the Nol Turesh Water and Sanitation CO, stating that Konza had paid them Kshs. 250 million but the amount was not showing anywhere in the books;
3. Members were also concerned that when the problems of the Company came to light, the Cabinet Secretary had called for a stakeholder meeting which excluded the Senators;
4. Members agreed that since the water from Nol Turesh Water company comes very freely with minimal operating costs, the company should not have challenges of paying employees or delivering water to residents of the three counties;

5. Members agreed that it was criminal for the Company to hold salaries and not to remit statutory deductions.

b) Presentation by the Cabinet Secretary

The Cabinet Secretary began by giving a brief of the Company and said that the Nol Turesh was a dream water project designed to give water to the counties of Kajiado, Makueni and Machakos. It was also a classical case of how transboundary water was going to take place by moving water from Tanzania to Kenya.

The CS acknowledged that he received visitation from Sen. Seneta and phone calls from Sen. Mutula on the issue. He apologized for the oversight of not inviting the Senators to the stakeholder meeting and added that the meeting did not yield any resolutions since all the governors invited kept to their turf.

He stated that though the Nol Turesh Water and Sanitation Company was a very economically viable project due to intake being in the forest, it faced serious financial challenges including mismanagement of money.

The Cabinet Secretary also mentioned that the management made the company technically insolvent necessitating the Ministry to conduct an audit. The National Treasury also conducted its own audit. The ministry's audit recommended for prosecution of the culprits, reorganizing and restructuring the company in terms of procurement. The problem was compounded when the Kajiado County Government fired the whole team and appointed a new management board that had no knowledge of how water systems work.

In responding to the issues raised in the petition, he outlined the following:-

1. That the Ministry gives priority to provision of water for domestic use before provision of water for commercial purposes;
2. That the Nol Turesh Water and sanitation Company is registered under the Companies Act (Cap 486) and was incorporated on 3rd August, 2011 as a cluster of Nolturesh Pipeline Bulk Water Supply Co. Ltd after the approval of the Water Services Regulatory Board (WASREB). The Company is wholly owned by the county governments of Kajiado, Machakos and Makueni;
3. That the Water Services Regulatory Board (WASREB) on 27th June, 2018 carried out an inspection into the operations of the Nol Turesh Co. which revealed that the company had not remitted statutory deductions including PAYE for the sum of Kshs. 23 Million as at June, 2018 and staff were owed arrears of more than 8 months.

The CS attributed these challenges to governance issues and stated that in an effort to resolve the matter, the Company convened a meeting with the County Executive Committee Members in Charge of Water in the three counties on 18th July, 2018. The following are the resolutions that came from the meeting:-

- a) Tanathi WSB to start with immediate effect the formal handover of the Nolturesh WSP to the 3 counties of Kajiado, Makueni and Machakos;
- b) The Nolturesh shall remain as a distinct cross county entity owned by the three county governments
- c) Tanathi WSB with immediate effect write a letter (copying the three counties) to the directors of the Nolturesh informing them that their term expired in 2016 and informing the counties to take over and appoint new directors as they deem fit through the existing governance standards;
- d) The 3 counties to convene an AGM and pass a resolution to send the Board of Directors home and constitute an interim governance structure;
- e) The three CECMs and a neutral representative from Tanathi WSB to constitute an interim board and management to stabilize the company;
- f) The interim board and management to start addressing issues raised in the WASREB inspection;
- g) A water allocation agreement among the 3 county governments guided by the National Water Policy and Legal Framework to be put in place;
- h) Tanathi WSB shall not use their golden share in Nolturesh to defeat the resolutions agreed in the meeting including upcoming Board resolutions.

4. That on the issue of staff arrears of more than 8 months, the CECMs of the 3 counties agreed to contribute towards the payment of salary arrears as follows – Kajiado 2.5 Million, Makueni 2.5 Million, Machakos 5 Million as a short term measure to address the salary arrears.

The interim management of the Company is in discussion with KRA on how to settle the tax liabilities.

The Interim Committee has carried out assessment of the existing infrastructure, held a stakeholder consultation in Kimana and Emali, assessed human resources issues at WSP and was to produce a technical committee report in one month;

5. That the company is owed a total of Kshs. 26 million by Water Supply providers in the three counties and a further Ksh. 10,000,000 by the Kenya Railways Corporation among others. This amount when paid up will enable the company clear outstanding liabilities; and
6. That the issue of Staff Arrears is before the Employment and Labour Relations Court at Nairobi cause no 1528 of 2018 between Kenya union of Commercial, Food and Allied Workers (applicant) versus Nolturesh Loitokitok Water and

Sanitation Co. Ltd (1st Respondent), National Water Conservation and Pipeline Corporation (2nd Respondent). The application was made on 5th December, 2018.

c) Members response

1. Members also wanted to know whether it is legal for the governor of Kajiado to arbitrarily fire a whole board and institute a new one in place; and what the Ministry and WASREB had done about it;
2. Members wanted to be informed of what happened after the 18th July meeting – what follow ups had been made on the action points;
3. The Law provides a process on the collection of debts; Members wondered whether the Ministry and WASREB had followed the process and what was the outcome;
4. On the letter dated 2nd November, 2018 that the Ministry had written to WASREB, Water Resource Authority and Tanathi Water Services Board, Members noted that the one month deadline was long gone and the report should have been tabled in today's meeting;

d) Responses by the Cabinet Secretary

The Cabinet secretary responded by saying that Water management in the new constitution is a shared function. While Water policy and development belongs to the National government, Water service is a county government function and the constitution only provides for consultation and cooperation between the two levels of government. No one level can compel the other. He acknowledged that the Water Ministry is not disjointed but the Water sector is disjointed; and relationships between the Ministry and the county government vary from county to county.

e) Way Forward

1. The Cabinet Secretary to table to the Committee the two audit reports; that is the audit report by the Ministry of Water and Sanitation and the audit report by the Ministry of National Treasury;
2. The Ministry of Water and Sanitation to hasten the process of recommending for prosecution so that they may be able to recover the assets bought by the stolen funds;
3. The Ministry to alert the Kenya Revenue Authority, the National Hospital Insurance Fund, the National Social Security Fund so that these institutions may go after the company and recover the amounts due through their own internal systems;
4. Members wanted to know why after a whole year, the names of the officials who had mismanaged the company had not been recommended for prosecution;
5. The Cabinet Secretary and WASREB to attach missing information and avail it to the Committee before the next of the next meeting;
6. The Ministry and WASREB to work with the Senate and provide information so that the Senate can legally and politically provide support;

7. The Cabinet Secretary & WASREB to ascertain whether the collections the company is currently making are enough to pay workers and what is the interim board doing;
8. The Cabinet Secretary & WASREB to provide a list of Noi Turesh Co. employees who are being owed money by the company including the amounts owed;
9. The Ministry to forward the issue of non-payment of statutory dues to the institutions concerned ie KRA, NHIF, and NSSF so that the collection process may start;
10. WASREB and the Ministry to provide to the Committee all the communication made between WASREB and the Ministry to the County governments and the Company on the matter ie
 - a) letter advising the Kajiado county government that they cannot collapse water companies;
 - b) letter to Noi Turesh advising them they cannot fire the MDs without following the due process;
 - c) an advisory to the counties informing them that National laws override the county laws;
 - d) the amount that Makueni paid if it has been used to pay the workers;
11. The Cabinet Secretary to table the documents forming the company together with a list of the guarantors; together with the audit reports of the company of the last three financial years; and
12. The Committee to schedule a follow up meeting on Wednesday 10th April, 2018 at 10.00 am and the CECs in-charge of Water of the three counties should be invited to the meeting.
13. The Ministry and WASREB to submit the information to the committee through the office of the Clerk, before close of business on Friday, 6th April, 2018.
14. The Ministry to identify legal issues and forward them to the Senate so that they may be addressed.

MINUTE SEN/SCLSW/036/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 12.30 p.m.

SIGNATURE.....

 (CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 21/4/19

MINUTES OF THE 3RD MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 27TH FEBRUARY, 2019 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM 11.00 AM.

MEMBERS PRESENT

- | | |
|---|-------------------------------|
| 1. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson (Ag. Chair) |
| 2. Sen. Poghio Samuel Losuron, EGH, MP | -Member |
| 3. Sen. Beatrice Kwamboka, MP | -Member |
| 4. Sen. (Dr.) Gertrude Musuruve, MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|--|---------------|
| 5. Sen. Sakaja Johnson Arthur, CBS, MP | - Chairperson |
| 6. Sen. Stewart Madzayo, MP | -Member |
| 7. Sen. (Dr.) Mwaura Isaac, CBS, MP | -Member |
| 8. Sen. Samson Cheragey, MP | -Member |
| 9. Sen. Petronila Were Lokorio, MP | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chabari | -Legal Counsel |
| 3. Mr. Paul Okech | -Research Officer |
| 4. Mr. Philemon Okinda | -SAA |

MINUTE SEN/SCLSW/011/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11.20 a.m, followed by a word of prayer.

MINUTE SEN/SCLSW/012/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments having been proposed by Sen. Poghio and seconded by Sen. Kwamboka as follows –

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. **Confirmation of Minutes**
-Minutes 41/ 2018, Minutes 1/ 2019, and Minutes 2/2019
4. **Correspondence before the Committee**
5. **Consideration of Amendments to the County Governments Retirement Scheme Bill;**
6. **Petitions before the Committee**
7. ~~Statements Before the Committee~~
8. **Motions before the Committee**
9. **Enquiries before the Committee**
10. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/013/2019: CONFIRMATION OF MINUTES

- i.* The Minutes of the 2nd Sitting held on Wednesday, 20th February, 2019 in the First Floor Boardroom, Red Cross Building from 11.00 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Poghiso and seconded by Sen. Kwamboka.
The Committee resolved that the Budget officer should still come and brief the officer on the areas under their mandate.
- ii.* The Minutes of the 1st Sitting held on Wednesday, 6th February, 2019 in the Ground Floor Boardroom, Red Cross Building from 10.00 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Kwamboka and seconded by Sen. Milgo.
- iii.* The Minutes of the 41st Sitting held on Thursday, 29th November, 2018 in the First Floor Boardroom, Red Cross Building from 11.00 am were postponed due to lack of quorum of Members present.

MINUTE SEN/SCLSW/014/2019: CORRESPONDENCE BEFORE THE COMMITTEE

- 1) The Committee noted the letters from the following stakeholders on the nurses strike and resolved to that the Secretariat should analyse them and produce a brief in the next meeting-

 - a) Letter from the Salaries and Remuneration Commission Referenced SRC/TS/HWI/3/23 dated 8th February, 2019
 - b) Letter from the Ministry of Labour and Social Protection referenced ML/LD/ADM/85 dated 8th February, 2019
 - c) Letter from the Ministry of Health referenced MOH/ADM/SN/01/95 dated 8th February, 2019.
 - d) Letter from the Council of Governors referenced COG/6/40/1BVol.6 (43) dated 7th February, 2019.
- 2) The Committee noted the letter from Kilifi County Assembly referenced CAK/ADM/3/Vol.23/68 dated 19th January, 2019 in the Committees of Administration, Labour and Social Services; and Culture, Public Entertainment and Amenities were requesting to benchmark with the Committee. Members resolved to invite them on 13th March from 9.00 am when the Committee will be sitting jointly with the Education Committee to consider the statement on teenage

pregnancies. The Committee also resolved to hold a meeting with them on 14th March, 2019 from 11.00 am.

- 3) The Committee considered the letter from the Kenya County Government Workers Union referenced KCGWU/NBI/CBA/2019 dated 13th February, 2019 on non - implementation of the Collective Bargaining Agreement between the Nairobi Branch Union and the Nairobi County Government. The Committee resolved to invite them and the Salaries and Remuneration Commission on 10th April, 2019.
- 4) The Committee noted the letter from the National Councilors' Forum (Kenya) dated 28th November, 2019 in which they were requesting for information on the implementation status on the senate Resolution by Sen. John Kinyua. The committee observed that it was already following up the matter with the Treasury, Ministry of Labour and Ministry of Devolution who were to report back to the Committee by 28th February, 2019.

MINUTE SEN/SCLSW/015/2019: CONSIDERATIONS OF AMENDMENTS TO THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL

1. The Committee resolved to postpone considerations of the amendments on the County Governments Retirement Scheme Bill to the next meeting – the following day on Thursday, 28th February, 2019.

MINUTE SEN/SCLSW/016/2019: PETITIONS BEFORE THE COMMITTEE

1. The Committee resolved to travel to Kajiado County and meet the Petitioners on the Petition by Residents of Kajiado County on delayed salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and sanitation Company on Friday 22nd March, 2019. The Water Company should also be invited to the meeting.
2. The Committee resolved to meet the petitioners on the Petition by job applicants on clearance required by public bodies and the public service board on application for jobs in Kenya on Wednesday 20th March, 2019. The Committee will consider the responses from the relevant institutions before then.

MINUTE SEN/SCLSW/017/2019: STATEMENTS BEFORE THE COMMITTEE

1. The Committee was notified that it would be holding a joint sitting with the Standing Committee on Education on 13th March, 2019 to meet with relevant institutions on the Statement on the high rate of teenage pregnancies.
2. The Committee resolved to schedule a meeting with the Cabinet Secretary Labour on 27th March, 2019 to respond to the various issues under his mandate including the implementation status of the Government set wage guidelines and redundancy payments of workers laid off at the now defunct African Safari Club and Flamingo Hotel.

MINUTE SEN/SCLSW/018/2019: MOTIONS BEFORE THE COMMITTEE

The Committee was notified that follow up letter to three motions before the committee have been sent out to the relevant institutions and the reports are expected by 28th February, 2019. The motions are –

- 1) Payment to Former Councilors
- 2) Registration of Persons with Disabilities
- 3) Commendation of Eliud Kipchoge for breaking the world marathon record.

MINUTE SEN/SCLSW/019/2019: ENQUIRIES BEFORE THE COMMITTEE

The Committee resolved to hold a stakeholder meeting to get the update on the implementation status of the Committee resolutions on the SGR matter on 27th March, 2019.

MINUTE SEN/SCLSW/020/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 12.10 p.m.

SIGNATURE.....


(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE Thursday, 28th February, 2019.....

6
**MINUTES OF THE 39TH MEETING OF THE STANDING COMMITTEE ON
LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 14TH NOVEMBER,
2018 IN THE COUNTY HALL GROUND FLOOR BOARDROOM FROM 12 NOON.**

MEMBERS PRESENT

- | | |
|---|--------------------|
| 1. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir, MP | - Vice Chairperson |
| 3. Sen. Beatrice Kwamboka, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|----------|
| 4. Sen. Stewart Madzayo, MP | - Member |
| 5. Sen. Poghio Samuel Losuron, EGH, MP | - Member |
| 6. Sen. (Dr.) Mwaura Isaac, CBS, MP | - Member |
| 7. Sen. Samson Cherargey, MP | - Member |
| 8. Sen. (Dr.) Gertrude Musuruve, MP | - Member |
| 9. Sen. Petronila Were Lokorio, MP | - Member |

SENATE SECRETARIAT

- | | |
|-----------------------|--------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Vitus Oketch | - Research Officer |

MINUTE SEN/SCLSW/166/2018: PRELIMINARIES

The Chairperson called the meeting to order at 12.25 pm followed by a word of prayer.

MINUTE SEN/SCLSW/167/2018: ADOPTION OF THE AGENDA

The agenda of the meeting was unanimously adopted as follows:

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. **Confirmation of minutes;**
4. **Matters Arising from the Minutes;**
5. **Correspondence before the Committee;**
6. **Adoption of Global Disability Summit Report;**
7. **Adoption of 2018 FIFA World Cup report;**
8. **Consideration of the legislative proposal on the National Museums & Heritage
(Amendment) 2018 Bill;**
9. **Consideration of Statement on the Implementation status of the government set
minimum wage guideline in the country;**
10. **Consideration of Petition by job applicants on clearance required by public bodies
and the public service board on application for jobs in Kenya;**

11. Consideration of petition by Residents of Kajiado County on delayed salaries and non-remittance of statutory deductions for employees of the Nol Turesh Loitoktok Water and Sanitation Co.

12. The County Governments Retirement Scheme Bill (National Assembly Bills No. 10 of 2018);

13. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/168/2018: CONFIRMATION OF MINUTES

The confirmation of the minutes of the 37th Meeting held on 16th October, 2018 in the Ground Floor Boardroom, Red Cross Building was postponed due to lack of quorum of Members present.

MINUTE SEN/SCLSW/169/2018: CORRESPONDENCE BEFORE THE COMMITTEE

- 1) The Committee noted the letter from Sen. Ledama Olekina requesting the Committee to step down its amendments on the Retirement Benefits (Deputy President and Designated State Officer) (Amendment) Bill, 2018. The Committee resolved that the Senator should get a letter from the Director of Legal Services advising the Committee on the constitutionality of the contentious clauses.
- 2) The Committee noted the letter from the State department for Public Service and Gender inviting the Chairman and members to the National Youth Service Recruits passing out ceremony on Friday 16th November, 2018 in Gilgil.
- 3) The Committee noted Sen. Murkomen's letter to the Council of Governors and the State Department of Devolution on the County Governments Retirement Scheme Bill, Senate Bill no. 6 of 2018.

MINUTE SEN/SCLSW/170/2018: ADOPTION OF GLOBAL DISABILITY SUMMIT REPORT;

The adoption of the report of the Global Disability Summit that was held in London UK from July 23 – 24 was postponed due to lack of quorum of Members who participated.

MINUTE SEN/SCLSW/171/2018: ADOPTION OF 2018 FIFA WORLD CUP REPORT;

The adoption of the report of the 2018 FIFA World Cup that was held Russia from 6th – 17th July, 2018 was postponed due to lack of quorum of Members who participated.

MINUTE SEN/SCLSW/172/2018: CONSIDERATION OF THE LEGISLATIVE PROPOSAL ON THE NATIONAL MUSEUMS & HERITAGE (AMENDMENT) 2018 BILL;

The Legal Counsel took the Members through the legislative proposal on the amendments to the National Museums & Heritage Bill, 2018 and Members resolved that the Bill should proceed to publication.

MINUTE SEN/SCLSW/173/2018: CONSIDERATION OF STATEMENT ON THE IMPLEMENTATION STATUS OF THE GOVERNMENT SET MINIMUM WAGE GUIDELINE IN THE COUNTRY

The Committee resolved to write to the Ministry of Labour and Social Protection; and Ministry of Public Service, Youth and Gender Affairs requesting them to submit reports on the matter by 27th November, 2018.

MINUTE SEN/SCLSW/174/2018: CONSIDERATION OF PETITION BY JOB APPLICANTS ON CLEARANCE REQUIRED BY PUBLIC BODIES AND THE PUBLIC SERVICE BOARD ON APPLICATION FOR JOBS IN KENYA;

The Committee was informed that the National Assembly deliberated on the Matter in the floor of the House on March 29th 2018 but did not make a pronouncement. The Committee resolved to invite the stakeholders to a meeting on Wednesday 28th at 10 am to deliberate on the issue.

MINUTE SEN/SCLSW/175/2018: CONSIDERATION OF PETITION BY RESIDENTS OF KAJIADO COUNTY ON DELAYED SALARIES AND NON-REMITANCE OF STATUTORY DEDUCTIONS FOR EMPLOYEES OF THE NOL TURESH LOITOKTOK WATER AND SANITATION CO.

The Committee resolved to invite the petitioners to a meeting at a suitable date.

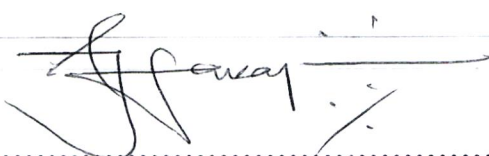
MINUTE SEN/SCLSW/176/2018: THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018);

The Committee was informed that the Bill was read a first time on Tuesday 13th October, 2018 and resolved to fast-track the process so that the Bill may be assented to before Parliament heads out for the long recess. The Committee noted that the Bill is quite similar to the Senate Bill that the Committee had earlier processed and therefore resolved to send out an advertisement calling for written submissions on variances on the Bill.

MINUTE SEN/SCLSW/177/2018: ANY OTHER BUSINESS AND ADJOURNMENT

1. The Committee was notified on the Blue Economy conference scheduled to take place from the 26th – 28th November at the KICC. The Chair proposed to participate and speak in the Forum and requested that notifications to be sent to other members informing them of the conference.
2. The Committee was also informed of the Seminar on advancing Gender equality in Kenya that was to take place from 15th – 17th November, 2018. The information had earlier been communicated on email. The Committee resolved not to attend due to the short notice of one week.
3. The Committee also noted that Eastern Region County visit may not take as earlier scheduled from 29th November – 4th December due to the EALA games that are scheduled to take place from 30th November in Bujumbura. The Committee resolved to move the visit to towards the end of January 2019.

There being no other business the meeting was adjourned at 1.30 pm.

SIGNATURE.....
(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 28th November 2018