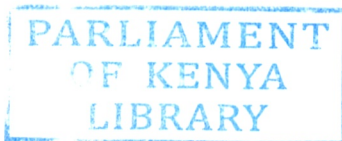


REPUBLIC OF KENYA



PARLIAMENT



THE SENATE

TWELFTH PARLIAMENT

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REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET

ON

THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT)

BILL, 2018

CLERK CHAMBERS

THE SENATE

PARLIAMENT OF KENYA

NAIROBI

JULY 2018

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## PREFACE

### *Mandate and Functions of the Committee*

Article 124 of the Constitution of Kenya, provides for the establishment of Committees by either House of Parliament. Committees are central to the workings, roles and functions of Parliament as set out in Article 94 and more specifically in Article 96 of the Constitution as regards the Senate.

Parliamentary committees consider policy issues, scrutinize the workings and expenditure of the national and county governments and examine proposals for legislation. The roles of committees are twofold, investigative process and deliberative process. The end results of these processes are reports to the House in plenary on inquiry of certain issues under the mandate of a particular committee.

The Standing Committee on Finance and Budget is established pursuant to section 8 of the Public Finance Management Act, 2012 and standing order 212(3) of the Senate Standing Order and is mandated –

- a) *To investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine –*
  - i) *the Budget Policy Statement presented to the Senate;*
  - ii) *report on the Budget allocated to Constitutional Commissions and independent offices;*
  - iii) *the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments.*
- b) *To consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance and monetary policies and public debt, planning and development policy and*
- c) *To pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.*

### *Membership of the Committee*

The Committee was constituted by the House on Thursday 14<sup>th</sup> December, 2017, during the First Session of the Twelfth (12<sup>th</sup>) Parliament. The Committee as currently constituted, comprises the following Members-

1. Sen. (Eng) Mohamed M. Mahamud, CBS,MP - Chairperson
2. Sen. (Dr) Isaac Mwaura, CBS, MP - Vice Chairperson
3. Sen. Wetang'ula Moses Masika, EGH, MP - Member
4. Sen. Mutula Kilonzo Junior, MP - Member
5. Sen. Aaron Cheruiyot, MP - Member
6. Sen. (Dr.) Ali Abdullahi Ibrahim, CBS, MP - Member
7. Sen. (Dr) Rose Nyamunga, MP - Member
8. Sen. Boniface Mutinda Kabaka, MP - Member
9. Sen. CPA Farhiya Haji, MP - Member

## **EXECUTIVE SUMMARY**

The Salaries and Remuneration Commission (Amendment) Bill (Senate Bill No. 12 of 2018) was sponsored by Sen. (Eng.) Mohamed M. Mahamud, Chairperson, Senate Standing Committee on Finance and Budget. The bill was published on 23<sup>rd</sup> April, 2018. The bill was read a First Time on 12<sup>th</sup> June, 2018. Following the First Reading, the Bill, stood committed to the Standing Committee on Finance and Budget pursuant to standing order 134 (1) of the Senate Standing Orders.

Subsequently, the Committee considered the Bill and resolved to subject it to public hearings pursuant to Article 118 of the Constitution and Standing Order 134 (5). The Committee invited submissions from members of the public on the Bills via advertisements on the newspapers. The Committee also invited the Council of Governors, Ministry of Labour and Social Protection, the Salaries and Remuneration Commission and the National Treasury.

The Committee received written submissions on the Bills and held a public hearing on Thursday, 28<sup>th</sup> June, 2018.

The Committee thereafter, considered all the views raised by the stakeholders and proposed changes. Consequently, the Committee proposed amendments to the Bill as attached.

**ACKNOWLEDGEMENT**

The Committee is grateful to the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of its meetings and the public hearing. The Committee also thanks the National Treasury and the Salaries and Remuneration Commission who made submissions, both orally and in writing.

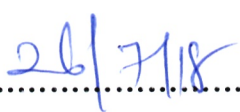
On behalf of the Committee and pursuant to standing order 227 (2) it is now my pleasant and honourable duty to present and lay on the table of the house the report of the Finance, Commerce and Budget Committee on, 2016.

It is now my pleasant duty and privilege, on behalf of the Standing Committee on Finance and Budget, to present to the Senate, this Report of the Committee on the County Statistics Bill, 2018.

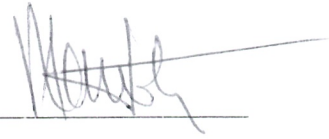
  
**SIGNED:** .....

**SEN. (ENG) MOHAMED M. MAHAMUD, CBS, M.P.**

**(CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND BUDGET)**

  
**Date:** .....

Pursuant to standing order 207 (2) of the Senate Standing Orders, the Senate Standing Committee on Finance and Budget Committee adopted the report on County Statistics Bill, 2018. The Members of the Committee hereby affix their signatures to this Report to affirm the support for the Report –

Sen. (Eng) Mohamed M. Mahamud, CBS, MP -Chairperson 

Sen. (Dr) Isaac Mwaura, CBS, MP -Vice Chairperson \_\_\_\_\_

Sen. Wetang'ula Moses Masika, EGH, MP - Member 

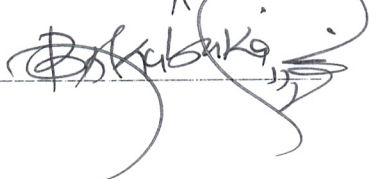
Sen. MutulaKilonzo Junior, MP - Member 

Sen. Aaron Cheruiyot, MP - Member \_\_\_\_\_

Sen. (Dr.) Ali Abdullahi Ibrahim, CBS, MP - Member \_\_\_\_\_

Sen. (Dr) Rose Nyamunga, MP - Member 

Sen. CPA Farhiya Haji, MP - Member \_\_\_\_\_

Sen. Boniface Mutinda Kabaka, MP - Member 

## I. CHAPTER ONE: INTRODUCTION

The Salaries and Remuneration Commission (Amendment) Bill, 2018 was sponsored by Sen. (Eng.) Mohamed M. Mahamud, Chairperson, Senate Standing Committee on Finance and Budget. On behalf of the Committee. The bill was published on 23<sup>rd</sup> April, 2018. It was read a First Time on 12<sup>th</sup> June, 2018.

The principal object of this Bill is to amend sections 7 and 9 of the Salaries and Remuneration Act, No. 10 of 2011. The purpose of the amendment is to provide for notification of the expiry of term for Commissioners in the *Gazette* and to provide for timelines for the filling of vacancies in the Commission upon the expiry of term for Commissioners.

The Salaries and Remuneration Act does not provide for timelines for the process of selection of the Commissioners by the various nominating bodies set out under Article 230(2)(b) and (c) of the Constitution. There was need for the law to be amended to clearly specify the timelines for the nomination process to ensure that the vacancies are filled as soon as possible, upon the expiry of term for the existing Commissioners.

Further, section 9 of the Salaries and Remuneration Commission Act, the "*expiry of term for commissioners*" is not listed as one of the grounds for vacancy in the office of commissioner or chairperson. Consequently, there was no express requirement for notification of a vacancy, resulting from expiry of term, in the *Gazette*. A notification of vacancy in the *Gazette* would be necessary to prompt the simultaneous nomination processes by all bodies required to nominate Commissioners to the Salaries and Remuneration Commission.

The Bill principally seeks to ensure timely appointment of Commissioners following the expiry of term of the preceding Commission. This is to ensure that matters relating to salaries and remuneration of State and public officers are not unduly delayed due to the absence of commissioners.



## **II. CHAPTER TWO: STAKEHOLDERS' SUBMISSION**

The Committee received written submissions on the Salaries and Remuneration Commission (Amendment) Bill, 2018 as follows-

### ***Submissions from the National Treasury***

The written submission from National Treasury indicated that:

- a) They supported the amendments;
- b) The bill should be reviewed such that clause 2 to increase the number of days from twenty-one to thirty. The rationale was to allow the interested candidates to apply for clearance from relevant bodies. Further to allow the nominating bodies adequate time for shortlisting, interviewing and identification of qualified candidates.

### ***Submissions from the Salaries and Remuneration Commission (SRC)***

The submissions from SRC indicated that:

- a) Clause 2: the amendment was timely as it sought to provide the timelines for filling of the vacancies in the commission upon expiry of the term of commissioners. Further, it would ensure seamless transition when the commission term ends.
- b) Clause 3: should be deleted as it implied that the term of the commission was tied to that of a commissioner.

### ***Submissions from the Ministry of Labour and Social Protection***

The submission from the ministry indicated that they supported the proposed amendments.

### III. CHAPTER THREE: OBSERVATIONS AND RECOMMENDATIONS

#### *Observations*

The Committee made the following observations:

- a) The bill was very essential as it would allow timely transition when the term of a commissioner or chairperson expires.
- b) The duration for consideration of applications, interviews and identification of nominee may be tedious and may require a duration of 4 weeks.

#### *Recommendations*

In the view of the above observations and matters raised by the stakeholders, the Committee proposed the following amendments to the Bill;

**THAT** clause 2 of the Bill be amended by deleting the word “twenty-one” appearing immediately after the words “the words within” and substituting therefor the word “twenty-eight”.

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## **Appendices**

- a) **Minutes of the Committee**
- b) **Proposed Amendments**



**MINUTES OF THE 43<sup>RD</sup> MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE & BUDGET HELD ON WEDNESDAY, 19<sup>TH</sup> JULY, 2018 AT COUNTY HALL, GROUND FLOOR BOARDROOM, PARLIAMENT BUILDINGS AT 11.00 AM.**

**PRESENT**

1. Sen. (Eng) Mohamed M. Mahamud, CBS, MP - Chairperson
2. Sen. (Dr) Ali Abdullahi Ibrahim, CBS, MP - Member
3. Sen. CPA Farhiya Haji, MP - Member

**ABSENT WITH APOLOGY**

1. Sen. (Dr) Isaac Mwaura, CBS, MP - Vice Chairperson
2. Sen. Wetang'ula Moses Masika, EGH, MP - Member
3. Sen. Boniface Mutinda Kabaka, MP - Member
4. Sen. (Dr) Rose Nyamunga, MP - Member
5. Sen. Mutula Kilonzo Junior, MP - Member
6. Sen. Aaron Cheruiyot, MP - Member

**IN-ATTENDANCE**

1. Mr. Christopher Gitonga
2. Ms. Julie Mwithiga
3. Mr. Moses Kenyanchui
4. Ms. Winnie Atieno

**SENATE SECRETARIAT**

- Clerk Assistant
- PBO
- Legal Counsel
- Audio Officer

**MIN. NO. 202/7/2018:**

**PRAYERS**

The Chairperson called the meeting to order at 11.25 a.m and welcomed the members. This was followed with a word of prayer.

**MIN.NO. 203/7/2018:**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. (Dr) Ali Abdullahi Ibrahim and seconded by Sen. CPA Farhiya Haji

**MIN. NO. 204/7/2018: CONFIRMATION OF MINUTES**

- a) The minutes of the 38<sup>th</sup> meeting held on Wednesday, 4<sup>th</sup> July, 2018 at 11.00 am were confirmed as a true record of the proceedings of the Committee after they were proposed by Sen. (Dr.) Ali Abdullahi Ibrahim and seconded by Sen. CPA Farhiya Haji.
- b) The minutes of the 39<sup>th</sup> meeting held on Thursday, 5<sup>th</sup> July, 2018 at 11.00 am were confirmed as a true record of the proceedings of the Committee after they were proposed by Sen. CPA Farhiya Haji and seconded by Sen. (Dr.) Ali Abdullahi Ibrahim.

- c) The minutes of the 40<sup>th</sup> meeting held on Wednesday, 11<sup>th</sup> July, 2018 at 11.00 am were confirmed as a true record of the proceedings of the Committee after they were proposed by Sen. (Dr.) Ali Abdullahi Ibrahim and seconded by Sen. CPA Farhiya Haji.
- d) The minutes of the 41<sup>st</sup> meeting held on Thursday, 12<sup>th</sup> July, 2018 at 10.00 am were confirmed as a true record of the proceedings of the Committee after they were proposed by Sen. CPA Farhiya Haji and seconded by Sen. (Dr.) Ali Abdullahi Ibrahim.
- e) The minutes of the 42<sup>nd</sup> meeting held on Tuesday, 17<sup>th</sup> July, 2018 at 11.00 am were confirmed as a true record of the proceedings of the Committee after they were proposed by Sen. (Dr.) Ali Abdullahi Ibrahim and seconded by Sen. CPA Farhiya Haji.
- f) The confirmation of minutes of the 35<sup>th</sup> and 37<sup>th</sup> meetings were deferred.

**MIN. NO. 205/7/2018: CONSIDERATION OF THE STAKEHOLDERS' SUBMISSION ON THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL, 2018**

The Committee was informed that three stakeholders submitted their memorandum on the bill. The submissions were on clause 2 and 3.

The Committee considered the submissions and resolved that the Bill be amended as follows

Clause 2 by replacing the words 'twenty-one days' with twenty-eight days'


The Committee resolved to adopt the report on the bill in the next meeting.

**MIN. NO. 206/7/2018: ANY OTHER BUSINESS**

- a) The Committee was informed that the breakfast meeting with CRA to deliberate on the review of the second basis and preparation of the third basis for revenue sharing among county governments was rescheduled to Wednesday, 25<sup>th</sup> July, 2018.
- b) The meeting to deliberate on the county ward-based development projects with CRA and COB would be held on Thursday, 26<sup>th</sup> July, 2018 at 10am
- c) It was reported that several members had expressed unavailability for the meeting schedule for Tuesday, 24<sup>th</sup> July, 2018. The Committee resolved to reschedule the meeting to a later date.

**MIN. NO. 207/7/2018: ADJOURNMENT AND DATE OF NEXT SITTING**

The meeting was adjourned at 12:05 pm. The date of the next meeting was set for Thursday, 26<sup>th</sup> July, 2018 at 11.00 am.

  
**SIGNATURE.....**  
**(CHAIRPERSON: SEN. (ENG) MOHAMED MAALIM MAHAMUD)**

  
**DATE.....**