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07/03/2024

REPUBLIC OF KENYA



THE SENATE

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 07/03/24

THIRTEENTH PARLIAMENT | SECOND SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL
WELFARE

APPROVED
RT. HON. SEN
AMASON J. KINGI

07/03/24

REPORT ON THE PUBLIC SERVICE (VALUES AND
PRINCIPLES) (AMENDMENT) BILL, 2022
(NATIONAL ASSEMBLY BILLS NO. 46 OF 2022)

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MARCH, 2024

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PRELIMINARIES

Establishment and Mandate of the Committee

The Senate Standing Committee on Labour & Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. 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.*

Membership of the Committee

The Committee is comprised of –

- | | |
|---|--------------------|
| 1)Sen. Julius Murgor Recha, CBS, MP, | - Chairperson |
| 2)Sen. George Mungai Mbugua, MP, | - Vice Chairperson |
| 3)Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP, | - Member |
| 4)Sen. Mohamed Faki Mwinyihaji, CBS, MP, | - Member |
| 5)Sen. Erick Okong'o Mogeni, SC, MP, | - Member |
| 6)Sen. Alexander Munyi Mundigi, MP, | - Member |
| 7)Sen. Crystal Kegehi Asige, MP, | - Member |
| 8)Sen. Miraj Abdullahi Abdulrahman, MP, | - Member |
| 9)Sen. Gloria Magoma Orwoba MP, | - Member |

FOREWORD BY THE CHAIRPERSON

Hon. Speaker,

The Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022), sponsored Sen. Samson Cherargey, MP was published *vide* Kenya Gazette on 28th October, 2022. The Bill was read a First Time in the Senate on Thursday, 7th December, 2023 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration.

The Bill proposes amend the Public Service (Values and Principles) (Amendment) Act, Cap. 185A to provide for submission of annual reports by national and county governments entities outlining the number of employees highlighting-

- (a) Gender;
- (b) Age;
- (c) County of birth;
- (d) County of residence; and
- (e) Whether they are persons living with disabilities.

Hon. Speaker,

Pursuant to Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation and Standard Newspapers on Saturday, 9th December, 2023, inviting members of the public to submit written memoranda to the Committee on the Bill. The advertisement was also posted on the Parliament website and social media platforms. Following the call for submissions, the Committee received written memoranda from stakeholders.

The Committee proceeded to consider the Bill extensively, scheduled and held meetings with various stakeholders including the Ministry of Public Service, Performance and Delivery Management, the Public Service Commission, the Council of Governors and the County Assemblies Forum. The minutes of the Committee in considering the Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022) are annexed to this Report as *Appendix 2*.

The Committee received amendments to the Bill from some of the above mentioned stakeholders, and this Report by the Committee is therefore an account of the deliberations, including its resolutions and Committee Stage Amendments attached to the Report as *Appendix 1*.

Hon. Speaker,

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Bill successful. I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this assignment.

Hon. Speaker,

It is now my pleasant duty, pursuant to standing order 148(1) of the Senate Standing Orders, to present the Report of the Standing Committee on Labour and Social Welfare on the Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022).

Signed



Date

07.03.2024

**SEN. JULIUS MURGOR RECHA, CBS, MP
CHAIRPERSON, STANDING COMMITTEE ON LABOUR AND SOCIAL
WELFARE**

CHAPTER ONE: INTRODUCTION

1.0 Background

1. The Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022) sponsored by Senator, Samson Cherargey, MP, was published *vide* Kenya Gazette dated 28th October, 2022. The Bill was introduced in the Senate by way of First Reading on 7th December, 2023 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. A copy of the Bill is annexed to this Report as *Appendix 3*.
2. Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation and Standard Newspapers on 8th December, 2023, inviting members of the public to submit written memoranda to the Committee on the Bill. A copy of the advertisement is attached as *Appendix 4*. The advertisement was also posted on the Parliament website and social media platforms.
3. Following the call for submissions, the Committee received written memoranda from various stakeholders including the Ministry of Public Service, Performance Management and Delivery Management and the Public Service Commission.
4. The Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022) seeks to amend the Public Service (Values and Principles) Act, Cap. 185A to provide for submission of annual reports by national and county governments entities outlining the number of employees highlighting-
 - (a) Gender;
 - (b) Age;
 - (c) County of birth;
 - (d) County of residence; and
 - (e) Whether they are persons living with disabilities.

1.1. Overview of the Bill

5. The Bill proposes to amend section 16(3) by inserting new paragraph (da) to mandate the national and county governments provide annual reports to Parliament and County Assemblies on human resource establishment including —
 - (a) Gender;
 - (b) Age;

- (c) County of birth;
- (d) County of residence; and
- (e) Whether they are persons living with disabilities;
- (f) The definition of “out of work hours”.

1.2. Consequences of the Bill

6. The Bill will facilitate the National and County governments to implement Article 10 of the Constitution on national values and principles of governance and Article 232 of the Constitution on values and principles of public service respectively. The Bill will also enable Parliament and County governments to oversight National and County government entities to ensure that their human resource establishment takes into consideration ethnic composition of the country, minorities and marginalized groups, persons with disabilities and the youth.

CHAPTER TWO: PUBLIC PARTICIPATION ON THE BILL

2.0 Committee Undertakings

7. The Committee published an advertisement in the Daily Nation and Standard newspapers on Friday, 8th December, 2023, inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is annexed to this Report as *Appendix 4*.
8. Subsequently, during consideration of the Bill, the Committee also resolved to invite submissions from the key stakeholders, including –
 - a) The Ministry of Public Service, Performance and Delivery Management;
 - b) The Public Service Commission;
 - c) The Council of Governors; and
 - d) The County Assemblies Forum.
9. In response to the said invitations, the Committee received submissions from the Ministry of Public Service, Performance and Delivery Management, Council of Governors and the Public Service Commission.
10. Copies of the written submissions are attached to this Report as *Appendix 6(a) – (d)*. Additionally, a matrix analysing the stakeholder submissions clause-by-clause is annexed as *Appendix 5*.
11. The Committee proceeded to consider the Bill extensively, together with the stakeholder submissions received thereon.

2.1 Overview of Stakeholder Submissions on the Bill

12. Below is an overview of the stakeholder submissions on the Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022).
13. The Ministry of Public Service, Performance and Delivery Management submitted as follows –
 - a) Include human resource management function in the definition of “authorized officer”, with the justification being that this will bring clarity on the role of authorized officer in the public service or Commission service.
14. The Public Service Commission submitted as follows –
 - a) Exclude “public offices” from reporting. This is to stop duplication of reports as all public officers are under service Commissions.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 Committee Observations on the Bill

15. Having considered the Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bill No. 46 of 2022) and the submissions received thereon, the Standing Committee on Labour and Social Welfare therefore noted that the Union of Civil Servants had not made any submissions on the Bill.

3.1 Committee Recommendations

16. Arising from the above observations, the Committee **recommends** that the Senate passes the Public Service (Values and Principles) (Amendment) Bill, 2022 (National Assembly Bills No. 46 of 2022) with the following amendments –

- a) That Clause 3 of the Bill be amended by deleting paragraph (a); and
- b) That clause 2 of the Bill be amended by deleting the definition of the term “authorized officer” and substituting therefor the following definition –
“Authorised officer” means an officer appointed within public service or service Commission to perform a human resource management function with public service or service Commission.