

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 2<sup>nd</sup> July 2015

The House met at 2.30 p.m.

*[The Speaker (Hon. Muturi) in the Chair]*

### PRAYERS

### PETITION

#### ALLEGED INTIMIDATION OF CIVIL SERVANTS BY PS MONICA JUMA

**Hon. Mwaita:** Hon. Speaker, I wish to present a public petition by Mr. R.O. Abednego Etyang'a on alleged intimidation and victimization through irregular transfer and posting by the Principal Secretary of Interior and Co-ordination of National Government, Ms. Monica K. Juma.

I, the undersigned, on behalf of Mr. Abednego Etyang'a, a citizen of Kenya, draw the attention of the House to the following:-

THAT, Mr. Abednego Etyang'a is a Senior Deputy Secretary in the Directorate of Immigration and Registrar of Persons, Ministry of Interior and Co-ordination of National Government.

THAT, Article 236 of the Constitution provides for protection of public officers from victimization, discrimination and removal from office or subjection to disciplinary action without due process of the law.

THAT, the Principal Secretary for Interior and Coordination of National Government victimized the petitioner by transferring him from the Ministry of Interior and Coordination of National Government to the Ministry of Agriculture, Livestock and Fisheries without following the due process.

THAT, the Public Service Commission delegates the human resource function to the Cabinet Secretaries of the respective Ministries in line with the Constitution and policy on decentralization of human resource management in the Civil Service.

THAT, the Public Service has in place a caveat to inter-ministerial transfers unless in situations where a vacant position has been advertised.

THAT, due process was not followed in the transfer of the petitioner and that the transfer was not recommended by the Central Human Resource Committee.

THAT, the transfer of the petitioner was a result of a proposal on virtual border management made by the officer to the Principal Secretary on how security can be improved along the porous Kenya/Somali border.

THAT, the posting and subsequent transfer by the Principal Secretary to proceed on compulsory leave pending re-deployment amounts to intimidation and harassment of a public officer and is in contravention of the Constitution, Labour laws and the public service regulations.

THAT, the petitioner has lodged several appeals with the Ministry officials regarding the matter but to no avail.

THAT, the matter presented in this petition is not pending before any tribunal or court of law.

Therefore, your humble petitioner prays that the National Assembly, through the Committee on Administration and National Security:-

1. Ensures that the petitioner's plight is addressed.
2. Establishes whether due process was followed in the transfer.
3. Intervenes and ensures that this irregular transfer is revoked.
4. Makes any other order or direction that it deems fit.

This is a grave matter because I thought the new Constitution was to put an end to such wanton and inhuman harassment of public officers.

Your petitioner shall ever pray.

*(Applause)*

**Hon. Speaker:** I suppose the applauding is to suggest that very soon we will become the Industrial and Labour Relations Court, because this is where everybody seems to be running to.

*(Laughter)*

It could be out of realization of the pivotal role that this House plays. I suppose it is either of those two.

Hon. Members, before we proceed allow me to recognize students from various institutions, seated in the galleries. In the Speaker's Gallery, we have students from Nyambaria High School from Kitutu Masaba Constituency, Nyamira County, Maragi Secondary School in Kiharu Constituency, Murang'a County and Kalungu Secondary School in Kibwezi West Constituency, Makueni County. In the Public Gallery, we have students from St. Anne's Kisoko Girls Secondary School, Nambale Constituency, Busia County, Kiranda Girls Primary School, Nyatike Constituency, Migori County and Holy Spirit Academy, Yatta Constituency, Machakos County.

You are all welcome to the National Assembly.

Next Order!

## PAPERS LAID

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The National Treasury Annual Public Debt Report for the year ended 30<sup>th</sup> June 2014.

The First Quarterly Report of the Ethics and Anti-Corruption Commission covering the period 1<sup>st</sup> January 2015 to 31<sup>st</sup> March 2015

The Report of the Auditor-General on the Financial Statements of Agricultural Development Corporation for the year ended 31<sup>st</sup> March 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Sugar Research Foundation for the year ended 30<sup>th</sup> June 2014, and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Sunset Hotel Limited for the year ended 30<sup>th</sup> June 2014, and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Lake Victoria South Water Services Board for the year ended 30<sup>th</sup> June 2014, and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Kisii University for the year ended 30<sup>th</sup> June 2014, and the Certificate of the Auditor-General therein

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Chepkong'a.

**Hon. Chepkong'a:** Thank you, Hon. Speaker. I totally agree with you that Hon. Mwaita's petition may convert us into an Industrial Court. Possibly, I can advise him to go and see my classmate there. Or, maybe he is also pursuing Article 95 (b) of the Constitution, which states that the National Assembly shall deliberate and resolve issues concerning the people. I think this is one of the issues referred.

Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

The Report of the Departmental Committee on Justice and Legal Affairs on the Companies Bill, 2015

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

## NOTICES OF MOTIONS

**Hon. A.B. Duale:** Hon. Speaker, I beg to give notices of the following Motions:-

### ADOPTION OF SESSIONAL PAPER ON NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

THAT, this House adopts Sessional Paper No.8 of 2013 on the National Values and Principles of Governance, laid on the Table of the House on 22<sup>nd</sup> April 2014.

### ADOPTION OF SESSIONAL PAPER ON NATIONAL ENVIRONMENT POLICY

THAT, this House adopts Session Paper No.10 of 2014 on the National Environment Policy, laid on the Table of the House on 2<sup>nd</sup> December 2014.

### ADOPTION OF SESSIONAL PAPER ON NATIONAL IRRIGATION

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## FOR SUSTAINABLE DEVELOPMENT POLICY

THAT, this House adopts Sessional Paper No.11 of 2014 on the National Irrigation for Sustainable Development Policy, laid on the Table of the House on 2<sup>nd</sup> December 2014.

ADOPTION OF SESSIONAL PAPER ON NATIONAL WETLANDS AND  
CONSERVATION MANAGEMENT POLICY

THAT, this House adopts Sessional Paper No.12 of 2014 on the National Wetlands and Conservation Management Policy, laid on the Table of the House on 2<sup>nd</sup> December 2014.

ADOPTION OF SESSIONAL PAPER ON INTEGRATED  
COASTAL ZONE MANAGEMENT POLICY

THAT, this House adopts Sessional Paper No.13 of 2014 on the Integrated Coastal Zone Management Policy, laid on the Table of the House on 3<sup>rd</sup> June 2014.

ADOPTION OF SESSIONAL PAPER ON NATIONAL POLICY ON  
ACTION PLAN ON HUMAN RIGHTS

THAT, this House adopts Sessional Paper No.3 of 2014 on the National Policy on Action Plan on Human Rights, laid on the Table of the House on 3<sup>rd</sup> June 2015.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, it is only fair that you check for the copies of the sessional papers at the usual place. Those are just notices of motions for their adoption. When debate on them commences, you should be able to contribute from a point of knowledge and information, among other things. Also, because some of the sessional papers claim to be outlining certain policy direction, they may very well inform your desires in the making of your various legislative proposals. It is fair that each one of you gets copies of the sessional papers and familiarizes themselves with the same before debate commences.

Hon. Nicholas Gumbo.

## ADOPTION OF PAC REPORT ON HIRE OF AIRCRAFT

**Hon. (Eng.) Gumbo:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Public Accounts Committee (PAC) on the hire of an aircraft for the Deputy President for a tour of four African nations in May, 2013 laid on the Table of the House on Wednesday 23<sup>rd</sup> April 2014.

This is a Report which is famously called “The Hustler’s Jet Report.” I wish to clarify that the notice of this Motion was given but the time has already elapsed, hence the need for me to re-introduce this Motion.

I thank you, Hon. Speaker.

**Hon. Speaker:** Just for your information, remember that the words “hustler’s jet” were expunged. So, even when debate on it begins, any Member making any such references will be

in violation of the decision of the House to expunge those words. Having expunged them, you cannot then re-introduce them because you are giving notice of Motion.

There is nothing to be informed about. I have heard Hon. Gumbo say that it is famous. It may be famous outside there but I have the responsibility to administer the rules of the House here. It may be famous in a different place but that is not the title here.

*(Hon. Wandayi and Hon. Ng'ongo stood on points of order)*

**Hon. Speaker:** Hon. John Mbadi and Hon. Opiyo Wandayi, there is nothing out of order. So, I rule you out of order on this. I am not going to clarify things which you know; just merely recast your mind to the days when this matter was brought here, so that you remember what the House resolved.

Let us proceed but certainly not on this matter. Get the Report. We have said in House Business Committee (HBC) that we want to get all these reports dealt with as soon as possible.

### STATEMENTS

**Hon. Speaker:** We will skip that temporarily. Can we proceed, Leader of the Majority Party?

#### BUSINESS FOR THE WEEK COMMENCING 7<sup>TH</sup> TO 9<sup>TH</sup> JULY 2015

**Hon. A.B. Duale:** Hon. Speaker, pursuant to Standing Order No. 44(2)(a), on behalf of the House Business Committee, I rise to give the following Statement regarding business that will appear before the House the week beginning Tuesday, 7 July 2015. The HBC met on Tuesday 28<sup>th</sup> June 2015 to prioritise the business of the House. Next week on Tuesday, the first item to be considered for Second Reading will be the Special Economic Zones Bill, 2015, should we not conclude it today. The House will also consider Motions of various sessional papers scheduled on today's Order Paper.

In the same week, priority will be accorded to the Report of the Departmental Committee on Defence and Foreign Relations on Ratification of the East African Community Protocol on Co-operation in Defence Affairs, the Mutual Defence Pact between the Republics of Kenya, Uganda and Rwanda, and the agreement on the establishment of the East Africa Standby Force. Also scheduled for debate is the Motion on the removal of Cabinet Secretary for Education, Science and Technology by Hon. Geoffrey Odanga.

Regarding the Cabinet Secretaries appearing before the Committees on Tuesday, 7th July 2015, the schedule is as follows:-

The Cabinet Secretary for Interior and Coordination of National Government at 10.00 a.m. will appear before the Departmental Committee on Administration and National Security to answer questions from Hon. Suleiman Dori, Hon. Nasra Ibren, Hon. Joseph Gitari, and Hon. Annah Gathecha.

Then Cabinet Secretary for the National Treasury, at 10.00 will appear before the Departmental Committee on Finance, Planning and Trade to answer questions from Hon. Chachu Ganya, Hon. Rachel Ameso and Hon. Benson Mutura.

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The Cabinet Secretary for Industrialisation and Enterprise Development and the Cabinet Secretary for Devolution and Planning at 11.30 a.m. will appear before the Departmental Committee on Finance, Planning and Trade to answer questions from Hon. (Dr.) Wilber Ottichilo, Hon. John Waluke, Hon. Francis Mwangangi, Hon. Ronald Tonui, Hon. Abdullswamad Shariff Nassir and Hon. Manson Nyamweya respectively.

Finally, Hon. Speaker, the HBC will reconvene on Tuesday, 7th July 2015, at the rise of the House, to consider business for the rest of the week. I now wish to lay this Statement on the Table of the House. Thank you.

*(Hon. A. B. Duale laid the document on the Table)*

**Hon. Speaker:** Yes, Hon. Nyamweya.

**Hon. Nyamweya:** Thank you, Hon. Speaker. I had put in a question to be answered; unfortunately, I will not be in next week. Can I ask that this question be postponed, so that it can be answered when I am available?

**Hon. Speaker:** Which Cabinet Secretary was responding to your question?

**Hon. Nyamweya:** The Cabinet Secretary for Devolution and Planning.

**Hon. Speaker:** Leader of the Majority Party, Hon. Nyamweya has written to me and I have already approved his request to be out of the country.

**Hon. A.B. Duale:** Thank you, Hon. Speaker. We will indulge Hon. Nyamweya and remove his question from the questions that will be presented to the Cabinet Secretary on Tuesday. However, he will have to join the queue next time when he will be back; when this Cabinet Secretary will have sufficient questions, then we will bring back his question. For Tuesday next week, we will agree with him and the moment he comes back then he will notify us and then we will bring back the question.

**Hon. Nyamweya:** *(Inaudible)*

**Hon. Speaker:** That is perfect. Hon. Nyamweya, I thought there was no debate on this. I thought that you made a good request.

**Hon. Nyamweya:** My worry is the condition that I will have to join the queue and I have given a reason why I will not be in.

**Hon. Speaker:** Hon. Nyamweya, it is just normal that once a question is taken out, it joins the queue. Where else would it go unless you want us to take it to the coolers? If we take it to the coolers, that will be worse. It will not be in the queue. It is good and if I got the Leader of the Majority Party correctly, it is like that particular Cabinet Secretary may not have enough questions, which means yours could still find its way to him quite early.

*(Laughter)*

Hon. Gumbo, what is your point of order?

**Hon. (Eng.) Gumbo:** Thank you, Hon. Speaker. I just wanted to request, through the Leader of the Majority Party, that pursuant to the notice of Motion that I have just given---You realise that this matter was first brought to the House---

**Hon. Speaker:** I cannot hear you. Raise your voice.

**Hon. (Eng.) Gumbo:** Hon. Speaker, pursuant to the notice of Motion that I have just given, you realise that this Paper was laid before the House more than a year ago. So, I would request that as the HBC convenes that they prioritise this Report, so that we debate it and get it out of the way. Thank you.

**Hon. Speaker:** That will be considered by the HBC. We cannot discuss it here.  
Next Order.

## BILLS

### *Second Reading*

#### THE COUNTY ALLOCATION OF REVENUE BILL

*(Hon. Musyimi on 1.7.2015)*

*(Resumption of Debate interrupted on 1.7.2015- Afternoon)*

**Hon. Speaker:** That Member who is standing as if he is not in the Chamber, take a seat. Hon. Opiyo Wandayi and the short Member over there--- Is it Hon. Osele? Take your seats.

Hon. Members, debate on this Motion was completed yesterday. What remains is the putting of the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed  
to a Committee of the whole House today  
by leave of the House)*

## MOTION

#### ESTABLISHMENT OF ICU/BLOOD TRANSFUSION CENTRES IN CONSTITUENCIES

THAT, aware that the country has been experiencing a series of fatal emergency situations that necessitate the need for urgent medical care and blood transfusion; deeply concerned that currently the country lacks sufficient blood reserves; noting that health services and blood donations in critical emergency situations are crucial to saving lives, this House urges the Government to consider setting up an Intensive Care Unit (ICU) and a blood transfusion unit in every constituency to provide medical care and blood in emergency situations.

*(Hon. Dawood on 24.6.2015)*

*(Resumption of Debate interrupted)*

*on 1.7.2015 - Morning Sitting)*

**Hon. Speaker:** Again, Hon. Members, what remained was for the Question to be put. Debate on this Private Member's Motion by Hon. Abdul Rahim Dawood was concluded. I proceed to put the Question.

*(Question put and agreed to)*

Hon. Members, please, take your seats. Hon. David Eseli and Hon. Manson Nyamweya, who is travelling out of the country, your attention, please.

## COMMUNICATION FROM THE CHAIR

### COUNTY ALLOCATION OF REVENUE BILL

This Communication relates to the business appearing as Order No.10, but before we go there, I need to draw the House's attention to what has been done by the Clerk's Department in the interest of expediency.

As you all know, our own Standing Order No.124 provides that not more than one stage of a Bill may be proceeded with, on the same day except with the leave of the House. Yesterday, we concluded debate on the County Allocation of Revenue Bill, Senate Bill No.05 of 2015, whose Question has just been put and has been carried. So, the second stage has technically been concluded today. Therefore, in keeping with our rules, the assumption is that the next stage, which is going into the Committee of the whole House, is on the same day.

However, there are exceptional circumstances when the House can grant leave, or when the House can resolve that a matter is one that does not require leave. I am saying this, Hon. Members, because we are in the habit, sometimes, that even when the entire House is agreed on something and a Question is put, one or two Members raise their voices in opposition in jest. In this particular situation, if that were to happen, it technically would mean that you have refused to proceed to the next stage. This is a Bill which affects the Budget of county governments. They are not able to do their budgets until they receive this Bill. It is only fair that having dispensed with the technical stage a while ago we, as a House, proceed to the Committee of the whole House today. Of course, that is just my plea in the interest of devolution, but should the House feel that it does not want to proceed with the two stages, then it can express itself as it wishes.

I was drawing your attention to this fact because the assumption by the Office of the Clerk is that the County Allocation of Revenue Bill, Senate Bill No.05 of 2015, has been considered to be treated like an Appropriation Bill or the Division of Revenue Bill. It has been put on the Order Paper for the simple reason that the Second Stage, which we have just finalised, technically, also ended yesterday when you concluded debate on it.

Therefore, Hon. Members, I feel that even as we apply this procedure, I need to put the Question, so that I can know whether the House wishes to proceed to grant leave to proceed to the next stage, which is Committee of the whole House, to consider this very crucial Bill for the counties. Am I understood clearly now?

**Hon. Members:** Yes.



**Hon. Speaker:** Can I proceed to put the Question?

**Hon. Members:** Yes.

**Hon. Speaker:** That everybody will be serious and nobody will be in jest?

*(Laughter)*

I do not intend to scuttle the process, but I was going to put the Question that the House moves into Committee of the whole House to consider the County Allocation of Revenue Bill, Senate Bill No.05 of 2015 today. Is that okay?

**Hon. Members:** Yes.

*(Question put and agreed to)*

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Muturi) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Cheboi) in the Chair]*

### THE COUNTY ALLOCATION OF REVENUE BILL

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Members! We will quickly consider the County Allocation of Revenue Bill, Senate Bill No.05 of 2015.

*(Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12  
and 13 agreed to)*

*(First Schedule, Second Schedule, Third Schedule  
and Fourth Schedule agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Can we have the Chairperson of the Committee to move the reporting?

**Hon. Musyimi:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the County Allocation of Revenue Bill (Senate Bill No.05 of 2015) and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. Cheboi) in the Chair]*

## REPORT AND THIRD READING

### THE COUNTY ALLOCATION OF REVENUE BILL

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have the Chairperson of the Committee reporting to the House.

**Hon. Musyimi:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the County Allocation of Revenue Bill (Senate Bill No.05 of 2015) and approved the same without amendment.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have the Mover of the Bill, who is Hon. Mutava Musyimi, the Chairperson of the Committee.

**Hon. Musyimi:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. David Were to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Were:** Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Can I put the Question? I see we have the numbers.

*(Question put and agreed to)*

Can we have the Mover of the Bill move for the Third Reading?

**Hon. Musyimi:** Hon. Temporary Deputy Speaker, I beg to move that the County Allocation of Revenue Bill (Senate Bill No.05 of 2015) be now read the Third Time.

I also request Hon. David Were to second.

**Hon. Were:** Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Can I proceed to put the Question?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Cheboi): I will put the Question having confirmed the numbers.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Deputy Speaker  
(Hon. Cheboi) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Kajwang') took the Chair]*

### THE SECURITIES AND INVESTMENT ANALYSTS BILL

**The Temporary Deputy Chairman** (Hon. Kajwang'): Members, this is the Committee of the whole House convened today to consider the Securities and Investment Analysts Bill (National Assembly Bill No.21 of 2015). We will resume from Clause 25.

*(Clause 25 agreed to)*

### Clause 26

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 26 be amended in sub-clause (1)—

(a) by deleting the words “securities, financial and investment” and substituting therefor the words “investment and financial”;

(b) by deleting paragraph (p) and substituting therefor the following paragraph—

“(p) is an employee of an institution whose license is granted under the Capital Markets Act or any applicable law in Kenya and fails to keep the funds of a client in a separate account or fails to use such funds for purposes for which they are intended.”

For those of us who were here yesterday, the first amendment relates to a consequential amendment related to change of name. The second one is meant to further clarify the offence under paragraph (p), that if you are working for an institution which is licensed by the Capital

Markets Authority (CMA) and you do not keep the funds in a separate account, then you are guilty of an offence. It is just to clarify that offence.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Leader of the Majority Party, do you understand that should this amendment be carried by the Chairman then yours may fail as a consequence? However, you may wish to improve on his but you can see that it is competing in various substantive respects. We are on Clause 26. Are we on the same page?

**Hon. A. B. Duale:** Hon. Temporary Deputy Chairman, is the amendment to Clause 26 (p)? My amendment is only to Clause 26 (p).

**The Temporary Deputy Chairman** (Hon. Kajwang'): Yes. If you look at the Order Paper on page 593 you will see that down the page in paragraph (b) he is amending something in (p). He is deleting and substituting therefor.

**Hon. A. B. Duale:** Hon. Temporary Deputy Chairman, I am comfortable. I drop my amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Are you sure you do?

**Hon. A. B. Duale:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Can you pronounce yourself on the HANSARD?

**Hon. A. B. Duale:** Yes, that is what I am doing. I drop my amendment to Clause 26.

*(Proposed amendment on Clause 26 (p)  
by Hon. A.B. Duale dropped)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Member for Kitui Central, are you looking at paragraph (a) or (b)?

**Hon. Mulu:** Hon. Temporary Deputy Chairman, I am looking at paragraph (b).

**The Temporary Deputy Chairman** (Hon. Kajwang'): The substitution?

**Hon. Mulu:** Hon. Temporary Deputy Chairman, since Hon. Duale has dropped his amendment, I will focus on the Departmental Committee's Chairman. I would like to thank Hon. Duale for dropping his amendment, because looking at the two amendments, you realise that the difference is just a matter of semantics. The essence of this amendment is to make sure clients' funds are properly taken care of. This is a very good move, which I want to support.

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 26 as amended agreed to)*

Clause 27

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**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 27 be amended—

(a) in Subclause (1) by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”;

(b) in SubClause (2) by deleting the word “Board” and substituting therefor the word “Committee”;

(c) in SubClause (3)—

(i) in paragraph (a) by—

a. deleting the word “four” and substituting therefor the word “three”;

b. inserting the words “who meets the minimum qualifications of a full member of the Institute in good standing with at least ten years’ experience in the profession, “immediately after the word “ chairperson”;

(ii) by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) one nominated by the Institute of Certified Public Secretaries of Kenya;”

(iii) by inserting the following new paragraphs immediately after paragraph (d)—

“(e) one nominated by the Capital Markets Authority;

(f) one nominated by the Cabinet Secretary in charge of the National Treasury.”

(d) in Subclause (5) by deleting the word “Board” and substituting therefor the word “Committee”;

(e) in Subclause (6) by deleting the word “Board” and substituting therefor the word “Committee”;

(f) in Subclause (7) by deleting the word “Board” and substituting therefor the word “Committee”;

(g) in Subclause (8) by deleting the word “Board” and substituting therefor the word “Committee”;

(h) in Subclause (9) by deleting the word “Board” and substituting therefor the word “Committee”;

Hon. Temporary Deputy Chairman, in the Bill, the proposed body is called ‘disciplinary Board’ but as a Committee, we thought that a sub-committee of the Board is normally called a ‘committee’. So, we are amending this clause to conform to the normal practice of sub-committees.

*(Question of the amendment proposed)*

**Hon. Mulu:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Just a minute before you raise the point of order.

Leader of the Majority Party, are you speaking to this one? But yours is unrelated to this one, is it not?

**Hon. A.B. Duale:** Yes, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Let us discuss this one first before we move to the other one.

Hon. Mulu, what is your point of order?

**Hon. Mulu:** Hon. Temporary Deputy Chairman, the Chairman of the Departmental Committee is being mean with information because when you look at (c), you appreciate that those are substantial amendments. We need to get the import of these amendments.

**Hon. Langat:** Hon. Temporary Deputy Chairman, I have already said that Clause 27 deals with the disciplinary committee. Clause 27(3) deals with the membership of the disciplinary committee. When we sat as a Committee, we decided to include one nominee by the Institute of Certified Public Secretaries of Kenya because they are experts in corporate governance. We also decided to include one nominee by the Capital Markets Authority (CMA) and one nominee by the Cabinet Secretary in charge of the National Treasury.

If my amendment passes, Hon. Duale should drop his amendment because I will have captured the import of his amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can you say that again?

**Hon. Langat:** Hon. Temporary Deputy Chairman, I am saying that if this amendment passes, the Leader of the Majority Party will have to drop his amendment because I will have taken care of his amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): No. We will come to his amendment and he will speak for himself.

**Hon. Langat:** Hon. Temporary Deputy Chairman, I am only helping you and the House.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Please, do not help me. I can still help myself.

Member for Nambale, are you on intervention? Is something not correct?

**Hon. Bunyasi:** Hon. Temporary Deputy Chairman, if you indulge me, I just want to acknowledge the presence of students from a school that is in my constituency; they are in the Speaker’s Gallery.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Bunyasi, we have developed a working manual on how to acknowledge the presence of school parties in the galleries. You may not know and, therefore, I do not blame you. If you could kindly liaise with the Serjeant-at-Arms, you will properly be informed.

**Hon. Bunyasi:** Hon. Temporary Deputy Chairman, that has already been done by the Speaker. I just thought that I should formally welcome the students from Kisoko Girls’ Secondary School.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Bunyasi, this House is represented by the Speaker. Therefore, it is for him to welcome people visiting this House. You should know the Speaker’s rules. Anyway, you have just done it.

**Hon. Bunyasi:** Hon. Temporary Deputy Chairman, you have absolute discretion, but I knew that you would indulge me in that instance.

Thank you.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Very well. It has gone home.

Hon. Members, I will put the Question for the entire clause because I can see that the amendments that you are looking at are generic.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Leader of the Majority Party, what is it? You can now speak for yourself. You will find that the Departmental Committee Chair was really helping you.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, you were not here yesterday when I said that the Departmental Committee Chair is so good that he could be headed to a bigger office.

Hon. Temporary Deputy Chairman, if you allow me, I want to welcome students from Alliance High School, who are seated on the Speaker’s Gallery. My son is one of them. So, welcome Alliance High School.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Leader of the Majority Party, can you then pronounce yourself on the HANSARD on what you want to do with your amendment?

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I have dropped my amendment because the Departmental Committee Chair has taken care of its propositions.

*(Proposed amendment by Hon. A.B. Duale dropped)*

*(Clause 27 as amended agreed to)*

*(Clause 28 agreed to)*

#### Clause 29

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 29 be amended—

(a) in Subclause (1), by—

(i) deleting the word “Board” and substituting therefor the word “Committee.

(ii) deleting the words “one hundred” in paragraph (f) and substituting therefor the words “five hundred”.

(b) in Subclause (2) by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”;

(c) in Subclause (3) by deleting the word “Board” and substituting therefor the word “Committee”;

(d) in Subclause (4) by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”;

(e) in Subclause (5) by deleting the word “Board” and substituting therefor the word “Committee”;

(f) in Subclause (6) by deleting the word “Board” and substituting therefor the word “Committee”;

Hon. Temporary Deputy Chairman, this is, again, subsequent to the amendment from “disciplinary board” to “disciplinary committee.”

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Leader of the Majority Party, does this affect your amendment?

**Hon. A.B. Duale:** No, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, yours is a stand alone amendment?

**Hon. A.B. Duale:** Yes, it is a different amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Emurua Dikirr, you are always first on my queue. What is it? Is he in the Chamber?

**An hon. Member:** He is not in.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Okay. He is doing disappearing acts from the Chamber.

Member for Nakuru Town East.

**An hon. Member:** He is not in!

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Nyaribari Chache.

**Hon. Tong’i:** Hon. Temporary Deputy Chairman, I would like to get more information other than what the Departmental Committee Chair has said. The Order Paper that I have says that Clause 29 be amended in Subclause (1) paragraph (f) by deleting the words “one hundred thousand shillings” and substituting therefore the words “one million shillings.”

So, unless the amendment is different, the Departmental Committee Chair is being economical with information.

**Hon. Langat:** Hon. Temporary Deputy Chairman, Hon. Tong’i should be following what is happening in the House.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Departmental Committee Chair, the hon. Member has a point. The Leader of the Majority Party needs to check on this one. At the bottom of page 594 of the Order Paper, under (ii), the Chairman is amending paragraph (f) and substituting the words “five hundred”.

If I consider yours, which is on page 598, I think you are bringing in one million shillings. So, is it possible that you harmonise this position, so that we can vote on it together? I think it is something you can trade with each other without going to the HANSARD. Okay, Hon. Leader of the Majority Party?

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, what are we dealing with? We are dealing with investments, securities and money of the people of Kenya. If professional misconduct takes place, one million shillings is too little when the amount that will be involved will be in terms of billions. We want to tell the Chairman of the Departmental Committee on Finance, Planning and Trade that we maintain it at one million shillings. It is because we are



dealing with billions of shillings of Kenyans' savings and investments. If we allow people who are custodians of these resources to be fined Kshs100,000 or Kshs500,000 for professional misconduct, then the offence will become the order of the day.

We have many banks and pyramid schemes which have collapsed. I want to tell the Chairman of the Departmental Committee on Finance, Planning and Trade that we leave it at one million shillings, so that we set the bar very high. I have ceded many grounds including the sea and the air. Please cede this one to me.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. Hon. Chairman of the Departmental Committee on Finance, Planning and Trade, the Leader of the Majority is saying that he would wish to see a severe punishment that is deterrent enough. Are you persuaded?

**Hon. Langat:** Hon. Temporary Deputy Chairman, my good friend, Hon. Duale, has made a good case. I think we are actually talking about the same thing.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Okay. This is how we will go if you are persuaded---

**Hon. Langat:** Okay.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Let me guide you on how we will go, so that we do it in a systematic manner. First of all, pronounce yourself on (ii) if you desire to withdraw, so that the Leader of the Majority Party will be prosecuting his differently.

**Hon. Langat:** Hon. Temporary Deputy Chairman, I have no problem. I can turn down my proposed amendment to subclause (1)(a)(ii) on the issue of penalty of Kshs500,000. I can stand it down although I wish the Leader of the Majority Party could move a further amendment to my amendment, so that we move very fast.

**The Temporary Deputy Chairman** (Hon. Kajwang'): No. Did you hear me? I said that if you want to withdraw it---

**Hon. Langat:** Let me step down my amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Then I want to hear the word "withdraw" on the HANSARD.

**Hon. Langat:** Having listened to the Leader of the Majority Party, let me withdraw my amendment to sub-clause 1 relating to the fine of Kshs500,000.

**The Temporary Deputy Chairman** (Hon. Kajwang'): That is paragraph (f)?

**Hon. Langat:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. The amendment relating to paragraph (f) by the Chairman of the Departmental Committee on Finance, Planning and Trade is, hereby then, dropped.

*(Proposed amendment to Clause 29 (1)(a)(ii)  
by hon. Langat dropped)*

Hon. Member for Nyaribari Chache, are you satisfied?

**Hon. Tong'i:** Yes, Hon. Temporary Deputy Chairman, though I would have desired to have a bigger penalty in view of the fact that people deal with billions of shillings.

**The Temporary Deputy Chairman** (Hon. Kajwang'): No. No. It is all right. The Leader of the Majority Party is bringing a stiffer one. If you prefer a much more stiffer one, just trade

with him, so that you will even agree to amend what he is amending when we come to you. So, just trade, so that we take a very short time on this, if you do not mind.

**Hon. Tong’i:** Thank you, Hon. Temporary Deputy Chairman. I am guided.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Leader of the Majority Party?

**Hon. A.B. Duale:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, clause 29 be amended in subclause (1) paragraph (f) by deleting the words “one hundred thousand” and substituting therefor the words “one million”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right; Hon. Member for Kathiani Constituency.

**Hon. Mbui:** Hon. Temporary Deputy Chairman, I just want to say I support that. Since it is supposed to be punitive, the figure that had been given earlier was quite low. The figure of Kshs1,000,000 is adequate.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Member for Mbooni Constituency. You must be sharing in this idea because you are sitting side by side.

**Hon. Kiso:** Yes, Hon. Temporary Deputy Chairman, I have the same idea. So I support the proposed amendment to increase the fine.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Member for Kitui Central Constituency, do you have a different opinion about this?

**Hon. Mulu:** No.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Clause 29 as amended agreed to)*

Clause 30

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 30 be amended by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”.

Again, this is a very simple amendment. It is a consequential amendment so that we harmonise to “subcommittees” and not call them “boards.”

*(Question of the amendment proposed)*

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Question, that the word to be inserted in  
place thereof be inserted, put and agreed to)*

*(Clause 30 as amended agreed to)*

#### Clause 31

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 31 be amended by deleting the words “securities and investment” and substituting therefor the words “investment and financial”.  
Again, this is just a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Clause 31 as amended agreed to)*

#### Clause 32

**The Temporary Deputy Chairman** (Hon. Kajwang’): Mover.

**Hon. Langat:** I do not have any amendments. It is the Leader of the Majority Party.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman. I beg to move:-

THAT, clause 32 be amended by deleting the words “Examinations Board” wherever they occur and substituting therefor the words “Registration Board”.

*(Question of the amendment proposed)*

**Hon. Langat:** I support that amendment, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Okay, you support.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Clause 32 as amended agreed to)*

*(Clause 33 agreed to)*

*Clause 34*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, clause 34 of the Bill be deleted.

The reason we are deleting that section is because I will be introducing a New Clause 31A, which will be capturing the whole issue of financial provisions. That section was felt not to be substantial enough to cover the chapter on financial aspects of the Institute. We are proposing to delete this, so that the New Clause 31A will capture what was supposed to have been captured in this section.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Leader of the Majority Party, you see that there will be a natural consequence of that action. You will have to give way.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, the Chairman of the Departmental Committee on Finance, Planning and Trade wants to kill me before I am born. This is the guy who believes in abortion and I will not accept it.

The only way I will accept it is by consulting him, so that he considers my amendment in his new clause because mine is very simple. It says that Clause 34 be amended by deleting the words “Examinations Board” wherever they occur and substituting therefor the words “Registration Board”. If he can take care of my interests in the womb he wants to create, and if my baby will survive in his new amendment and clause, then I have no problem. But, if he wants to kill my baby before it is born, then Hon. Temporary Deputy Chairman and the House have to save me.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, the House will have to save you because it is already proposed. We will have to deal with it one way or the other. The Departmental Committee on Finance, Planning and Trade is proposing to do away with Clause 34 as I understand it. You need to tell Members whether you can delete it or not.

Can I hear Members first before I come to you, Chairperson? The Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity. First of all, I want to draw your attention to Clause 33. The copy of the Bill that I

have, unless I am holding the wrong Bill, has no Clause 33. I can only see Clause 32 and then Clause 34.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, that is editorial. We will do something in drafting we call corrigenda at some point to renumber all those clauses, but I see your point. These things sometimes escape us however keen we are.

**Hon. Gikaria:** I am still learning some new words. Now I have learnt that one.

**The Temporary Deputy Chairman** (Hon. Kajwang’): No, do not keep it in your head because it only belongs to the Latinos.

Proceed.

**Hon. Gikaria:** Secondly, I do not support the deletion of Clause 34. The Chairperson is saying that he is going to introduce a new Clause 31C but, without anticipating debate, the new Clause 31C does not have the same provisions as Clause 34.

**The Temporary Deputy Chairman** (Hon. Kajwang’): We are on Clause 34.

**Hon. Gikaria:** Yes, we are on Clause 34, which he is proposing to delete. I want it to be retained, but he is saying he is bringing a new Clause 31C that will talk about the same thing. I do not want to anticipate debate, but it is not going to address all the issues that are covered in Clause 34.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Have you seen the new clause that he intends to bring?

**Hon. Gikaria:** Yes, I have it with me. It does not talk about the audited accounts being sent to the Cabinet Secretary (CS) four months after the financial year ends. There is a fundamental provision that will be left out.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Member for Kitui Central.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairman. Without anticipating debate, even the proposed new clause does not have the words which Hon. Duale is mentioning. The Chairperson of the Departmental Committee on Finance, Planning and Trade needs to convince this House that after deleting Clause 34, the same provisions will be taken care of by the new clause. I do not think that is coming out clearly. So, he needs to convince us before we delete the clause, otherwise we will delete and lose the whole thing.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Narok West.

**Hon. ole Ntutu:** Thank you, Hon. Temporary Deputy Chairman. I propose that we give the Chairperson an opportunity to tell us what is in the new Clause 31C before we go to Clause 34. That is the only way we can understand what is exactly contained in the new Clause 31C.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Chairperson, can you come forth on this, so that we know where we are? The issue is whether it has been fully accommodated in your amendments.

**Hon. Langat:** Hon. Temporary Deputy Chairman, Clause 34 does not include the sources of income of the Institute, which we are proposing to have in the new Clause 31A.

Number two, the way the clause is drafted, the Institute looks like a Government body. However, this is a private members’ Institute. The new Clause 31C says that:

“(1) At least three months before the commencement of each financial year, the Institute shall cause to be prepared estimates of revenue and expenditure for that year.

(2) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate.

(3) The Council shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Institute.

(4) Within a period of four months from the end of each financial year, the Council shall submit to its auditors the accounts of the Institute for audit.

(5) Within six months before the end of the financial year, the Council shall lay the audited accounts before the annual general meeting of its members together with any reports made by the auditors.”

So, everything has been captured from audit to budgeting to sources of revenue.

**The Temporary Deputy Chairman** (Hon. Kajwang’): In your considered opinion, do you still maintain the deletion?

**Hon. Langat:** Yes, because the new Clause 31C is even more comprehensive than Clause 34.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Busia, is it on the same subject?

**Hon. (Ms.) F.M Mutua:** No.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Okay. Shall I put it to vote?

**Hon. Members:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Do Members feel sufficiently informed so that I can put it to vote?

**Hon. Members:** Yes.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 34 deleted)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Leader of the Majority Party, you fall by the side. It is a consequence of the axe.

*(Proposed amendment by hon. A.B. Duale dropped)*

*(Laughter)*

Order! Hon. Members, allow me to recognise some of the young people who are keenly watching and following these proceedings from the Speaker’s Gallery: Alliance High School in Kikuyu Constituency and Yumbisie Secondary School in Kitui County. In the Public Gallery, there are students of Shirikisho Academy in Mwea Constituency, Kirinyaga County and Green Park Academy in Uasin Gishu County.

*(Applause)*

Thank you very much. Young people, feel most welcome.

Next Clause!

*Clause 35*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Mover.

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 35 be amended—

(a) in subclause (1) by deleting the words “Securities and Investment” wherever they occur and substituting therefor the words “Investment and Financial”;

(b) in subclause (4) by deleting the word “five” and substituting therefor the word “one”.

The first one is a consequential amendment. The other one is about the penalties which we are seeking to reduce from Kshs500,000 to Kshs100,000. My Committee felt that Kshs500,000 is too high for a first offender. So, we agreed to reduce it from Kshs500,000 to Kshs100,000 for a first offender and Kshs1,000,000 for each day on which the offence continues.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Member for Westlands.

**Hon. Wetangula:** Hon. Temporary Deputy Chairman, I wanted to contribute to the earlier clause.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right, you will get another chance.

Member for Nyaribari Chache.

**Hon. Tong'i:** Hon. Temporary Deputy Chairman, this will discourage the new people who are going to come on board and mess up with the stock market, because that becomes the gist of any economy in the world. It is a measure of how the economy is doing. Therefore, we should only allow people who understand and who are disciplined enough to do the right thing in the stock market.

**Hon. Mulu:** Hon. Temporary Deputy Chairman, I want to oppose this amendment. As we said earlier, these are agents handling money on behalf of the Kenyan public. We have had experience in this country where people have lost a lot of money because of people not taking these matters seriously.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Which one are you referring to?

**Hon. Mulu:** The (b) where we are reducing the penalty from Kshs500,000 to Kshs100,000. We are making it easier for somebody to mess around with investment funds. I oppose this.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Chair, your last word on this.

**Hon. Langat:** Hon. Temporary Deputy Chairman, I had wanted to convince Members that if you look at that clause it has two fines. In the first instance we thought we should impose a smaller penalty but if you repeat the offence, it becomes Kshs1,000,000. There are two sets of fines there. It is not one.

**Hon. Mulu:** Hon. Temporary Deputy Chairman, what I was saying is this---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Who has given you the microphone? The Chairman is still thinking. Just give him a minute. Well, the clause is that on the first conviction, Kshs500,000 will be paid, and on a continuing offense Kshs,1000,000 will be paid. So, the amendment is reducing from Kshs500,000 to Kshs100,000. It will be that upon the first conviction--- Is that not so? Give the Chair one last chance on this. We want to vote.

**Hon. Langat:** Hon. Temporary Deputy Chairman, because I have listened to Members and I think they are making very good points, I wish to drop the amendment relating to the fine. That is Clause 35 be amended in sub-clause---

**The Temporary Deputy Chairman** (Hon. Kajwang'): This is how we will do it. Let us vote on part (a) first of all.

*(Question, the that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Now express yourself on part (b).

**Hon. Langat:** Hon. Temporary Deputy Chairman, I wish to withdraw my amendment relating to sub-clause (4).

*(Proposed amendment to Clause 35(b)  
by hon. Langat withdrawn)*

*(Clause 35 as amended agreed to)*

*Clauses 36, 37and 38 agreed to)*

#### *Clause 39*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 39 be amended by deleting the words "Securities and Investment" and substituting therefor the words "Investment and Financial".

This is a consequential amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Member for Nakuru Town East. I am learning you Members. Many of you always keep your buttons switched on.

Member for Mbooni.

**Hon. Kisoi:** Hon. Temporary Deputy Chairman, I have no objection to that amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Member for Kathiani. Why are your request buttons switched on?

Member for Nyaribari Chache.



**Hon. Tong'i:** Thank you, Hon. Temporary Chairman. Once again, in the interests of the opportunity, the clause we are amending, in my opinion, should not be amended. These are the reasons why I think so. Securities and investment---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Which clause are you considering?

**Hon. Tongi:** Clause 39.

The Chairman is proposing that the Clause be amended by deleting the “words securities and investment” and substituting therefor the words “investment and financial”. My understanding of “securities and investment” is that they cover a wide area. The scope of securities and investments is much wider than when we limit ourselves to investment and financial, because securities include even future investments that we are talking about and future market. The commodity market, as well, is addressed under securities and investment; but when we talk of investment and financial, we limit ourselves to the financial market and financial institutions, which in many ways limits what the financial market is able to do. I would persuade the Chairman to retain the words “securities and investment” because that way, we will be able to address a bigger scope than when we talk of “investment and financial”.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Member, you could be right, but if you were paying attention, and I am sure you were, we have been cleaning up the Bill from almost Clause 1, by changing definitions in the manner that he is proposing. Therefore, you should have started a long time ago, and then we would have been very consistent. That is for information.

Member for Westlands, is this the point at which you want to make a contribution?

**Hon. Wetangula:** Yes, Hon. Temporary Deputy Chairman. For consistency purposes, the amendment should just stand the way the Chair has proposed it.

*(Question, the that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Clause 39 as amended agreed to)*

*New Part*

*Clause 31A*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by introducing a new PART IVA-FINANCIAL PROVISIONS immediately after Part IV.

PART IVA— FINANCIAL PROVISIONS

Funds of  
the  
Institute

**31A.**The funds of the Institute shall consist of —

- (a) such fees, monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the

performance of its functions under this Act or under any other written law;

- (b) such gifts as may be given to the Institute; and
- (c) all monies from any other source provided for or donated to the Institute.

That is the section that deals with financial provisions. As we were discussing Clause 34, which we deleted, it was not substantial enough in the sense that it did not even include the sources of the funds for the Institute. In New Clause 31A, we have proposed where the Institute shall get funds from. In 31B, we are providing for the financial year of the Institute, which was not captured in Clause 34. We are saying that “unless otherwise provided, the financial year of the institute shall be a period of 12 months ending on the thirty-first day of December in each year”. We are also introducing 31C, which provides for the Institute to make a budget in form of annual estimates.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Chair, you only need to confine yourself to the new Clause 31A because that is where we are.

**Hon. Langat:** I am sorry, Hon. Temporary deputy Chairman. In New Clause 31A, we are proposing the sources of funds for the Institute.

*(Question of the new clause proposed)*  
*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

*(Question, that the new Clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Next clause. Go to 31B now, Chair.

*New Part*  
*New Clause 31B*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by introducing a new Part IVA - FINANCIAL PROVISIONS immediately after Part IV.

#### PART IVA – FINANCIAL PROVISIONS

Financial  
year

**31B.** Unless otherwise provided, the financial year of the Institute

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shall be the period for twelve months ending on the thirty-first day of December in each year.

The New Clause 31B simply provides for the financial year of the institute to be 31<sup>st</sup> December each year.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**Hon. Tong'i:** Hon. Temporary Deputy Chairman, I want to persuade the Chairman to kindly substitute "December" with "end of June". This is because that conforms with the financial year for most institution. Most of the traders in the market that we are talking about close their books any time between May and June. That will give us some consistence.

While at it, I want to persuade the Chairman, through the Chair, to also address the issue of taxation. As it is, we are chasing away investors from our country because of the taxation mode that we have come up with. We are taxing money in the stock market. I need to engage the Chairman a little bit on this, so that we can get some concurrence on how best this can be addressed.

**Hon. Langat:** Hon. Temporary Deputy Chairman, first of all, this was a proposal from the stakeholders and this is not a Government body. It is a professional body and they have their own financial year. Two, the Hon. Member has raised the issue of taxation. I want to tell him that he should be ready because the Finance Bill is almost being read for the Second Time and that is when we will discuss about taxation and the capital gains, which I think he has raised. I encourage him to read the Finance Bill and prepare, so that he can raise those issues when the Bill goes for the Second Reading stage.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*New Part*

*New Clause 31C*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by introducing a new Part IVA - FINANCIAL PROVISIONS immediately after Part IV.

## PART IVA – FINANCIAL PROVISIONS

Annual estimates

**31C.** (1) At least three months before the commencement of each financial year, the Institute shall cause to be prepared estimates of revenue and expenditure for that year.

(2) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate.

(3) The Council shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Institute.

(4) Within a period of four months from the end of each financial year, the Council shall submit to its auditors the accounts of the Institute for audit.

(5) Within six months before the end of the financial year, the Council shall lay the audited accounts before the annual general meeting of its members together with any reports made by the auditors.

Hon. Temporary Deputy Chairman, the New Clause 31(C) provides for the budget of the Institute. It also provides that the Council shall approve the Annual Estimates and that the Institute or the Council shall ensure that they keep proper books and records of accounts of the income, expenditure and assets of the Institute.

It also provides that within a period of four months from the end of each financial year, the Council shall submit to its Auditors the accounts of the Institute for audit. So, it provides for the audit of the expenditure and revenue.

**The Temporary Deputy Chairman** (Hon. Kajwang<sup>3</sup>): I suppose that is according to the Order Paper, is it not?

**Hon. Langat:** Yes, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang<sup>3</sup>): All right, let me propose the Question.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a  
Second Time, proposed)*

**Hon. Mulu:** Hon. Temporary Deputy Chairman, I want to support the New Clause 31(C). It is very good for corporate governance and it is also in line with the best international practices. It is a good clause and it is going to help the Institute to be accountable through the Council.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us proceed. Where are we?

*First Schedule*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the First Schedule be amended in paragraph 1 by deleting subparagraph (3) and substituting therefor the following new subparagraph—

“(3) A person who holds the office of chairperson is not eligible for re-election until after the expiry of a period of at least two years since he or she vacated the office.”

If you look at subparagraph 3, you will find that it provides that if you have ever held a position as a Chair, then you are no longer allowed to vie again. We felt that, that was too punitive for chairs. We wish to provide that if you have been elected and you have gone on a break, then you are given two years and can seek re-election. This is just an election process. It is like telling Members of Parliament that once you have served and you have gone out, you will no longer be allowed to seek re-election.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I am sure that Members of the National Assembly would not want to leave the National Assembly.

*(Question of the amendment proposed)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I want to oppose that amendment. We must promote a culture where Kenyans accept to retire once they have given service. Just as we have term limits for presidents, we should also have term limits for chairpersons. In the case of Members of Parliament, they have no term limits. This is the only job that you can keep seeking until you feel like retiring. On a very serious note, Kenyans have problems retiring from senior positions. We need to put limits to that.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, the Member for Kaloleni.

**Hon. Chea:** Hon. Temporary Deputy Chairman, I wish to oppose this amendment. You will realise that if this amendment is carried, there will be no consistence. I do not see why one should serve for two years, probably get a rest and come back. If we had a vision to implement, how is it possible? I would probably have admired a situation where one is even eligible for re-election after the first and thereafter, he is not eligible to contest. As the amendment is, I oppose.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, the Member for Nakuru Town East.

**Hon. Gikaria:** Hon. Temporary Deputy Chairman, I also rise to oppose the amendment for the reasons that have been given by Hon. Amina Abdalla. We need to have a culture where people are encouraged to pave way for new thinking. If we allow people to come back then

impunity will be all over the place. Sometimes other people might have even brought down these institutions.

I oppose the amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So many people have put in their requests. You want to throw your hearts on this? Member for Nyeri County, but do it in a way that helps us move forward.

**Hon. (Ms.) Kanyua:** Hon. Temporary Deputy Chairman, I also follow Amina Abdalla’s line that people have to retire from office. That should be a new culture in this country.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Rangwe.

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, this amendment would make somebody who is manipulative to personalise this institution. If you are replaced with a junior person, then you can come back after two years and continue being chairman. This amendment should be dropped.

I oppose.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Now I understand. It took me time to process it through because the sentence was phrased on the negative. In the original text, it means once a chairperson has served once, he or she cannot be re-elected ever. But in this amendment, a chairperson can go out there for two years, cool yourself down for two years and then you can be re-elected. That is what they mean. Chair, is that what you mean?

**Hon. Langat:** Hon. Temporary Deputy Chairman, that is what I mean. The chairperson is elected. If people want to elect you to serve them as a chair, and you have given them a two years break, it is fair that we allow anybody to seek re-election later on, unless we also pass in this House that the term for Members of Parliament should be fixed to two terms.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Whatever it means, I can now feel that the Members have information enough to vote on it.

*(Question, that the words to be left out be left out, put and negatived)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

### *Third Schedule*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Third Schedule of the Bill be amended-

- (a) in the heading by deleting the words “REGISTRATION AND QUALITY ASSURANCE BOARD” and substituting therefor the words “REGISTRATION COMMITTEE”;
- (b) by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”.

This is to harmonise the Schedule with the amendments that we have been passing all through from Clause 3 to where we have now reached. It is basically to harmonise the Schedule with the body of the Bill. So, it is a very critical proposal.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Westlands.

**Hon. Wetangula:** Hon. Temporary Deputy Chairman, I support the amendment. I wanted to contribute to the earlier amendment, but I support this one.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Baringo South.

**Hon. (Ms.) Kipchoim:** Hon. Temporary Deputy Chairman, I support the proposal.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Third Schedule as amended agreed to)*

#### *Fourth Schedule*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Fourth Schedule of the Bill be amended-

- (a) in the heading by deleting the words “DISCIPLINARY BOARD” and substituting therefor the words “DISCIPLINARY COMMITTEE”;
- (b) by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Fourth Schedule as amended agreed to)*

#### *Fifth Schedule*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Fifth Schedule of the Bill be amended by deleting the words “securities and investment” and substituting therefor the words “Investment and Financial” in paragraph 1.

*Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Fifth Schedule as amended agreed to)*

*Clause 2*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 2 be amended-

(a) in subclause (1),—

(i) by deleting the definition of “Disciplinary Board”;

(ii) in the definition of “Institute”, by deleting the words “Securities and Investments” and substituting therefor the words “Investment and Financial”;

(iii) by deleting the definition “Registration Board”;

(iv) by inserting the following new definitions in their proper alphabetical sequence—

“Disciplinary Committee” means the Committee established under section 27;

“Registration Committee” means the registration and quality assurance committee established under section 13 of this Act;”

(b) in subclause (2), by inserting the words “if he does not seek registration or” immediately after the words “not registered” in paragraph (a).

This is just to tie up the definitions under Clause 2 with what we have amended in the main Bill.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Members, you see, these are definitions in several others as you have cleaned the Bill. So, the Chair is trying to be consistent with those definitions that you provided.

*Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*



Leader of the Majority Party, I can see you have an amendment on Clause 2. Are you in the Chamber? Therefore, that amendment is hereby dropped.

*(Proposed amendment by Hon. A.B. Duale dropped)*

*(Clause 2 as amended agreed to)*

*Clause 1*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 1 be amended by deleting the words “Securities and Investment” and substituting therefor the words “Investment and Financial”.

Again, this is to tie up Clause 1 to the amendments that we have been passing in order to harmonise the Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 1 as amended agreed to)*

*Long Title*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the long title of the Bill be amended by deleting the words “Securities and Investment” wherever they occur and substituting therefor the words “Investment and Financial”.

Again, this is to tie up the title with the amendments that we have already passed in the main Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Long Title as amended agreed to)*

*Short Title*

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the title of the Bill be amended by deleting the words “SECURITIES AND INVESTMENTS” and substituting therefor the words “INVESTMENT AND FINANCIAL”.

Hon Temporary Deputy Chairman, this is again to tie up the title to the various clean ups we have done to the Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Short Title as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Mover, I can see you are on intervention.

**Hon. Langat:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Securities and Investment Analysts Bill (National Assembly Bill No. 21 of 2014) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

#### THE WATER BILL

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Members, let us step onto something else. Let us now convene to consider The Water Bill (National Assembly Bill No. 8 of 2014).

Let us now begin the consideration of The Water Bill.

*(Clause 3 agreed to)*

*Clause 4*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 4 be amended by deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”.

Hon. Temporary Deputy Chairman, the essence of that is that we are amending the title of the current Water Resources Regulatory Authority to “Water Resources Regulatory Board.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 4 as amended agreed to)*

*(Clauses 5, 6 and 7 agreed to)*

#### Clause 8

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 8 be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A national public water works means a water works which has been designated by the Cabinet Secretary, by notice published in the Gazette, as a national public water works based on the fact that—

(a) the water resource on which it depends is of a cross county in nature;

(b) it is financed out of the national government’s share of national revenue pursuant to the provisions of the Public Finance Management Act, 2012;

(c) it is intended to serve a function of the national Government; or

(d) it is intended to serve a function which by agreement between the national and county government has been transferred to the national government”; and

(b) in sub-clause (3) by deleting the words “from a basin water resources committee provided for under section 23 or”.

Hon Temporary Deputy Chairman, this is important in that the national Government is responsible for national public works. We want clarity as to what national public works are. In Clause 8(1)(b), we are appreciating that Basin Water Resources Committees do not have executive functions, and so they should not be allowed to issue permits for water abstraction.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 8 as amended agreed to)*

*Clause 9*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 9 be amended by deleting the word “Regulatory” appearing in sub clause (1).

This is a consequential amendment. We want the Water Resource Regulatory Authority to have the name “Water Resource Authority”. There will be many more consequential amendments relating to this.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Clause 9 as amended agreed to)*

*Clause 10*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 10 be amended by—

- (a) deleting the words “in consultation with the National Land Commission” appearing in paragraph (b);
- (b) inserting the words “made under this Act” immediately after the word “regulations” appearing in paragraph “(c)”; and
- (c) deleting the words “for issuance by basin water resources committees” appearing in paragraph (f).

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 10 as amended agreed to)*

*(Clause 11 agreed to)*

*Clause 12*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 12 be amended—

- (a) in sub-clause (1) by deleting the word “Management” appearing before the word “Board”;
- (b) in sub-clause (3) by deleting the word “Management” appearing before the word “Board”; and
- (c) in sub-clause (4) by deleting the word “Management” appearing before the word “Board”; and

Hon. Temporary Deputy Chairman, with your indulgence, the amendments on Clauses 12, 13, 14, 15 and 16 are talking about the deletion of the word “Management”.

**The Temporary Deputy Chairman** (Hon. Kajwang'): What you will do is you will initial them and then you will just rise to say that you wish to propose amendments according to the Order Paper so that we can move very fast.

**Hon. (Ms.) Abdalla:** Thank you, hon. Temporary Deputy Chairman

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Clause 12 as amended agreed to)*

*Clause 13*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 13 be amended by—

- (a) deleting the word “Management” appearing in the marginal note; and
- (b) deleting the word “Management” appearing before the word “Board”

*(Question of the amendment proposed)*

*Question, that the word to be left out be left out,  
put and agreed to)*

*(Clause 13 as amended agreed to)*

*Clause 14*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 14 be amended—

- (a) by deleting the word “Management” appearing in the marginal note;

- (b) in sub-clause (1) by deleting the word “Management” appearing before the word “Board”; and  
(c) in sub-clause (2) by deleting the word “Management” appearing before the word “Board”.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Clause 14 as amended agreed to)*

*Clause 15*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 15 be amended—

- (a) in sub-clause (1) by deleting the word “Management” appearing before the word “Board”; and  
(b) by deleting the word “Management” wherever it appears in sub-clause (4).

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Clause 15 as amended agreed to)*

*Clause 16*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 16 be amended by deleting the word “Management” appearing before the word “Board”;

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Clause 16 as amended agreed to)*

*(Clauses 17, 18, 19, 20, 21, 22 and 23 agreed to)*

*Clause 24*

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT Clause 24 be amended

(a) in sub-clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph -

(b) a representative of each county government whose area falls within the basin; and

(b) by deleting sub clause (2) and substituting therefor the following new sub clause—

(2) The Cabinet Secretary shall, by notice in the Gazette appoint the chairperson from amongst the members appointed under subsection (1) (a), who shall hold office for a period of three years.

This is an important amendment because it is pursuant to an agreement with the Council of Governors that every county be represented in the water body and that we also put in place situations as to who will be appointing the chair. We have given that power to the Cabinet Secretary.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 24 as amended agreed to)*

#### Clause 25

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, the Bill be amended by deleting Clause 25 and inserting the following New Clause 25—

Functions of  
the basin  
water  
resources  
committees.

25. The powers and functions of the basin water resources committee shall be to advise the Authority, at the respective regional office, concerning—

- (a) conservation, use and apportionment of water resources;
- (b) the grant, adjustment, cancellation or variation of any permit;
- (c) protection of water resources and increasing the availability of water;
- (d) annual reporting to the users of its services and the public on water issues and their performance within the basin area;
- (e) collection of data, analyzing and managing the information system on water resources;
- (f) review of the basin area water resources management

strategy;  
 (g) facilitation of the establishment and operations of water resource user associations;  
 (h) flood mitigation activities;  
 (i) information sharing between the basin area and the Authority  
 (j) the equitable water sharing within the basin area through water allocation plans; and  
 (k) any other matter related to the proper management of water resources.

Hon. Temporary Deputy Chairman, this is an important amendment in that the current Clause 25 gives executive powers and implementation powers to a committee that is not financed or structured in a way that it will be able to achieve the said objectives or functions. So, we have given them functions according to their real mandate.

*(Question of the amendment proposed)*

**Hon. Ogalo:** Thank you, Hon. Temporary Deputy Chairman. This is a very important amendment by the Committee. If you look at the Bill as it was before, you will find that the Basin Resources Committee was going to be given powers that they have no capacity to exercise. In the amendment, the Committee has decided to give them an advisory role. This is the only role they can effectively carry out. This will also be devoid of activism.

There are instances where we have committees of this nature becoming unnecessary impediments to water provision and services development in an area. Their role and functions will be merely to advise the authorities who are then supposed to execute those issues.

Thank you.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 25 as amended agreed to)*

*(Clauses 26, 27 and 28 agreed to)*

Clause 29

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-  
 THAT, Clause 29 be amended in sub clause (1) by deleting the word “four” appearing in paragraph (e) and substituting therefor the word “five”.



The essence of this amendment is that, currently the Bill speaks to the Board of National Water and Pipeline Corporation that has been changed to National Water Harvesting and Storage Authority. It had nine members, but the ninth member is ex-officio, meaning the Chief Executive Officer. We have amended it so that the membership is odd, which has become nine by increasing to five the members who are appointed by the Cabinet Secretary.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, the Member for Tharaka Nithi.

**Hon. (Ms.) B.N. Nyaga:** I support the amendment, Hon. Temporary Deputy Chairman.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 29 as amended agreed to)*

*Clause 30*

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 30 be amended in sub clause (1) by—

- (a) inserting the words “and flood control” immediately after the word “storage” appearing in paragraph (a);
- (b) renumbering paragraph (e) as paragraph (f);
- (c) inserting the following new paragraph immediately after paragraph (d)—
  - (e) undertake on behalf of the national government strategic water emergency interventions during drought; and
- (d) inserting the words “and flood control” immediately after the word “storage” appearing in paragraph (f).

We wanted to ensure that the role of National Water Harvesting and Storage Authority is clarified by including flood control as that is a function that is not allocated to any group.

Secondly, we felt that there should be a body that the national Government can rely on if there is emergency intervention of strategic nature that the national Government wants to undertake. We have given this new body that role.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Rangwe, are you in support?

**Hon. Ogalo:** Yes, I am in support.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 30 as amended agreed to)*

*(Clauses 31, 32, 33, 34, 35, 36, 37, 38 and 39 agreed to)*

*Clause 40*

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 40 be amended by inserting the following new sub clause immediately after clause (2)—

“(3) Where there is an agreement between the Authority and a water resources users’ association, the Authority may make available a portion of the water use charges to be used for financing such regulatory activities as the water resources users association has agreed to undertake on behalf of the Authority.”

The Water Resource Authority works with water resource users association. So we needed to give them the power to spend a portion of the water user charges for helping the users association to do conservation works.

*(Question of the amendment proposed)*

**Hon. (Ms.) Emanikor:** Hon. Temporary Deputy Chairman, I want to support the amendment. Funding the water users association is very critical.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 40 as amended agreed to)*

*(Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51,  
52, 53, 54, 55, 56, 57, 58, 59, 60 and 61 agreed to)*

*Clause 62*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 62 be amended by-

(a) deleting sub clause (1) and substituting therefor the following new sub clause—

(1) The Cabinet Secretary shall, within one year of the commencement of this Act and every five years thereafter, following public participation, formulate a Water Services Strategy.

(b) inserting the following new sub clause immediately after sub clause (5)

(6) The Cabinet Secretary shall review the Water Services Strategy every three years.

The essence of this amendment is to give a timeline on when the Cabinet Secretary develops a water strategy, when they report back and what time they review.

*(The Temporary Deputy Chairman  
(Hon. Kajwang') left the Chair)*

*(The Temporary Deputy Chairlady  
(Hon. (Ms.) Shebesh) took the Chair)*

We thought that it was important that they do not assume that there would be a water strategy without timelines.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, the Member for Rangwe.

**Hon. Ogalo:** Thank you, Hon. Temporary Deputy Chairlady. You know, there are very many instances we give Cabinet Secretaries authority to formulate regulations or other functions within Acts and they take forever to do that. The language in this amendment would have given the Cabinet Secretary his or her own timeline to formulate this strategy. In this amendment we have a timeline.

There is also the issue that in every three years there will be a revised strategy. That has now been indicated in this Bill.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay. Yes, Hon. Neto.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairlady. I would like to request the Chairperson of the Committee to relook at this amendment for two reasons. The first thing is that they are proposing to have public participation before the review. In my understanding, first, if you look at the words they were substituting earlier on they were “public consultation.” So, they have not attempted to define what public participation is.

Secondly the words “public participation” are fairly very contentious. We do not know what public participation means because there is no single law that has defined what public participation is. Therefore, to just leave the words “public participation” without defining this in this Bill and couching it this way might give us more problems. We have just had a similar problem with public participation with regard to the Education Act where various stakeholders wanted to be consulted. We do not know how definite that public participation could go. I do not know whether she could think through it.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Joyce.

**Hon. (Ms.) Emanikor:** Thank you, Hon. Temporary Deputy Chairlady. I want to support the amendment. I find it enhancing efficiency and also measuring performance targets. The

Constitution has a broad definition of public participation although it differs in different sectors and institutions. To me, I do not think public participation needs more than a year.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chair, do you want to respond?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I guess Hon. Neto is informed by his experience but our experience in the water and environment sector is that they speak to the public and they consult among themselves. So, we are looking for a mechanism that would push them to go beyond consulting themselves. If you look at our budget in the environment sector, you will find that we have put a huge budget on consultation. When we go and review what exactly happens, it is just workshops. So, I was looking for something that is beyond workshops. That is why we used these words. It is not used without us having thought through it.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 62 as amended agreed to)*

### Clause 63

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 63 be amended—

(a) by deleting the word “boards” appearing in the marginal note and substituting therefor the word “agencies”;

(b) by deleting subclause (1) and substituting therefor the following new sub clause—

“(1) The Cabinet Secretary may, by notice in the Gazette, establish one or more water works development agencies and define the geographical area of jurisdiction of each such agency”; and

(c) in sub clause (2) by deleting the words “water works development boards” and substituting therefor the words “water works development agencies”.

I would like to seek your indulgence because in my view, this has been the clause that has delayed this Third Reading. This is the clause that gives the Cabinet Secretary for Water and Irrigation Services, the powers to establish water works agencies.

Currently, we have the water works bodies. We are changing them to water works agency in appreciation that a lot of the work they are doing is a devolved function. So, we are changing them into agencies of the national Government to undertake works that should be done and are of national strategic importance. So, this is a very fundamental amendment.

*(Question of the amendment proposed)*

**Hon. Abdinoor:** Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. This will make sure that there is a difference between national and county government functions. Under the Fourth Schedule, water is basically devolved. These amendments will make sure that the Water Works Board will only do functions of the national Government and not functions of county governments. They will handle inter-counties functions only and not functions within counties.

Thank you.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 63 as amended agreed to)*

#### Clause 64

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 64 be amended—

(a) by deleting the word “boards” appearing in the marginal note and substituting therefor the word “agencies”;

(b) in sub clause (1) by deleting the words “water works development board” and substituting therefor the words “water works development agency”; and

(c) in sub clause (2) by deleting the words “water works development boards” and substituting therefor the words “water works development agencies”.

This is a consequential amendment of changing the names from “board” to “agency”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Ronald Tonui. Is he not in?

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Chairlady. I am on this other side. I support this amendment. I believe it is only being put in line with the previous clause.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 64 as amended agreed to)*

#### Clause 65

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**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 65 be amended—

- (a) by deleting the word “boards” appearing in the marginal note and substituting therefor the word “agencies”; and
- (b) by deleting the words “water works development boards” and substituting therefor the words “water works development agencies”.

The rationale is the same as Clause 64.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 65 as amended agreed to)*

#### Clause 66

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 66 and inserting the following new clause 66—

- |   |  |
|---|--|
| Powers and<br>functions of the<br>water works<br>development<br>agency. | <p><b>66.</b> The powers and functions of the waterworks development agency shall be to—</p> <ul style="list-style-type: none"> <li>(a) undertake the development, maintenance and management of the national public water works within its area of jurisdiction;</li> <li>(b) until such a time as responsibility for the operation and management of the waterworks are handed over to a county government, joint committee, authority of county governments or water services provider within whose area of jurisdiction or supply the waterworks is located, operate the waterworks and provide water services as a water service provider;</li> <li>(c) provide reserve capacity for purposes of providing water services where pursuant to section 101, the Regulatory Board orders the transfer of water services functions from a defaulting water services provider to another licensee;</li> <li>(d) provide technical services and capacity building to such county governments and water services providers</li> </ul> |
|---|--|

- within its area as may be requested; and
- (e) provide to the Cabinet Secretary technical support in the discharge of his or her functions under the Constitution and this Act.

This amendment is to now align the mandate of the water works agency to the allocation of functions under the Fourth Schedule of our Constitution.

*(Question of the amendment proposed)*

**Hon. Sang:** Thank you, Hon. Temporary Deputy Chairlady. I also support the amendment. The powers of the agency should be clear to avoid conflict.

**Hon. Ogalo:** Thank you, Hon. Temporary Deputy Chairlady. The functions as defined earlier before these amendments would have caused a lot conflict. It would have, actually, bordered on unconstitutionality. So, these amendments are to ensure that this agency is only carrying out functions that have remained with the national Government.

Thank you.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 66 as amended agreed to)*

#### Clause 67

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 67 and inserting the following New Clause 67—

Handover of completed works. **67.** (1) As soon as possible, following the commissioning of the waterworks, the waterworks development agency shall enter into an agreement with the county government, the joint committee or authority of the county governments within whose area of jurisdiction the water works is located, jointly with the water service provider within whose area of supply the water works are located for the use by the joint committee, authority or water services provider, as the case may be, of the water works to provide water services.

(2) The agreement shall make provision for the assumption by the county government, the joint committee, authority or water services provider of the responsibility for the repayment of any loans or liabilities of the waterworks and until full repayment of the loans and discharge of any outstanding liabilities, ownership of the waterworks shall remain in the waterworks development

agency.

(3) In the event that the county government, the joint committee, the authority or water services provider defaults in the repayment of any outstanding loans arising from the development, rehabilitation or maintenance of the works, the waterworks development agency may petition the Regulatory Board to declare a default and order the transfer of the water services provider's functions to the waterworks development agency, to exercise such functions until full repayment of the loan.

This deals with the handover of completed works by this water agency either to a joint county agency when one or two counties form a joint authority, or to a specific county so that we ensure that the liabilities are transferred to whoever takes over the asset.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 67 as amended agreed to)*

Clause 68

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 68 be amended by—

- (a) deleting the heading and substituting therefor the following new heading—  
“The Water Services Regulatory Board”;
- (b) deleting the words “Regulatory Authority” appearing in the marginal note and substituting therefor the words “Regulatory Board”;
- (c) deleting the words “Water Services Regulatory Authority” appearing in sub clause (1) and substituting therefor the words “Water Services Regulatory Board”; and
- (d) deleting the words “Regulatory Authority” appearing in sub clause (2) and substituting therefor the words “Regulatory Board”.

The Committee is changing the name of the current Water Services Regulatory Authority to “Water Service Regulatory Board”. This decision would be a consequence from Clause 68 to Clause 71.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh):** Hon. Abdinoor.

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**Hon. Abdinoor:** I support the amendment. This is just changing from “Authority” to “Board”. Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Ronald Tonui.

**Hon. Tonui:** I support. I wanted to contribute to Clause 67 but it is over.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 68 as amended agreed to)*

#### Clause 69

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 69 be amended in sub clause (1) by deleting the words “Regulatory Authority” and substituting therefor with the words “Regulatory Board”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Fatuma.

**Hon. (Ms.) F.I. Ali:** Hon. Temporary Deputy Chairlady, I am a bit disturbed because they are making the House a bit tired. This issue of changing “Board” to “Authority” and “Authority” to “Board” are not helping. I do not know the secret of using “Board” instead of “Authority.”

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chairperson.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, water services is a devolved function in the water sector. The only role of the national Government is to establish whether Nairobi Water and Sewerage Company is giving you clean water or not. This is the issue of regulation. We thought it was wise that the body that is going to regulate water tariffs and protect consumers, since it is a devolved function and our role is only regulatory, becomes a Board while the Water Resources Authority remains an Authority because it is undertaking a function that is purely a national Government function. So, that was the differentiation that in this role, we form a Board that then regulates the tariffs that the companies are charging the consumer and the quality of water that the consumer is receiving. So, that is why we are changing one to be a Board and the other one to be an Authority.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 69 as amended agreed to)*

*Clause 70*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 70 be amended by—

- (a) deleting the words “Regulatory Authority” appearing in the marginal note and substituting therefor the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” appearing in sub clause (1) and substituting therefor the words “Regulatory Board”; and
- (c) deleting the words “Regulatory Authority” appearing in sub clause (2) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 70 as amended agreed to)*

*Clause 71*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 71 be amended by—

- (a) deleting the words “Regulatory Authority” appearing in the marginal note and substituting therefor the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” wherever it appears in sub clause (1) and substituting therefor the words “Regulatory Board”;
- (c) deleting the words “Regulatory Authority” wherever it appears in sub clause (2) and substituting therefor the words “Regulatory Board”; and
- (d) deleting the words “Regulatory Authority” appearing in sub clause (3) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 71 as amended agreed to)*

*Clause 72*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 72 and inserting the following New Clause 72:

Accreditation. **72.** (1) A person shall not be licensed as a water service provider unless such person makes an application under this section to the Regulatory Board and submits a copy of the application to the county government, within whose area of jurisdiction it intends to provide water services.

(2) Prior to determination of the application, the Regulatory Board shall publicise the application and shall take into consideration the views of stakeholders including the county government, within whose area of jurisdiction the applicant intends to provide water services.

(3) The Regulatory Board shall issue a licence if the applicant meets the accreditation requirements.

Under the Fourth Schedule of our Constitution, regulation and licensing is a national Government function and not a county government function. However, we have it in Section 33 of this Water Bill.

Consequently, in the County Authority Bill, that function had erroneously been given to the counties and yet the national Government is responsible for consumer protection. So, this amendment deals with that confusion that the accreditation is done by the Water Regulatory Board which is for the services. The only involvement of counties is for consultation, that a water provider is not licensed unless it is approved by the county but the actual Executive function of giving that accreditation is done by the Services Board.

*(Question of the amendment proposed)*

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Temporary Deputy Chairlady. I sincerely support this amendment because in a way, this accreditation system does away with certain cowboy people that we have out there. It will help the system a long way.

Thank you very much. I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Waititu.

**Hon. Francis Waititu:** Thank you, Hon. Temporary Deputy Chairlady. I also support and cite a case in Juja Constituency where there is water that belongs to the Constituencies Development Fund (CDF).

Yesterday, the residents had a meeting with the county government. It is trying to take over a well-managed water resource by residents of Murera Ward. So, I support what the Chair is doing because the conflict is too big between the county government and the national Government over water that belongs to the CDF.

I support.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 72 as amended agreed to)*

*Clause 73*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 73 be amended by—

- (a) deleting the words “Regulatory Authority” appearing in sub clause (1) and substituting therefor the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” appearing in sub clause (2) and substituting therefor the words “Regulatory Board”; and
- (c) deleting the words “Regulatory Authority” appearing in sub clause (4) and substituting therefor the words “Regulatory Board”.

This is only to change the name from “Water Services Regulatory Authority” to “Water Services Regulatory Board”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): *Mheshimiwa Winnie.*

**Hon. (Ms.) W.K. Njuguna:** Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment because it is always very important to have a proper board dealing with the regulation of water.

I support.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 73 as amended agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, indulge me if you are opposing what the Chairperson has said. Put your card on intervention. Otherwise, if we are all supporting, for the sake of time, we can hold back our remarks unless we are opposing.

*Clause 74*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 74 be amended—

(a) in sub clause (1) by—

(i) deleting the words “Regulatory Authority may, after notification to the relevant county government executive,” and substituting therefor the words “Regulatory Board may,”;

(ii) deleting the words “Regulatory Authority” appearing in paragraph (a) and substituting therefor the words “Regulatory Board”;

(iii) deleting the “Regulatory Authority” appearing in paragraph (c) and substituting therefor the words “Regulatory Board”;

(b) by deleting the words “Regulatory Authority” appearing in sub clause (2) and substituting therefor the words “Regulatory Board”; and

(c) by deleting the words “Regulatory Authority” appearing in sub clause(4) and substituting therefor the words “Regulatory Board” .

This is just in line with the change of name and aligning the regulation aspects of the board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 74 as amended agreed to)*

*Clause 75*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 75 be amended by—

(a) deleting the words “Regulatory Authority” appearing in sub clause (2) and substituting therefor the words “Regulatory Board”;

(b) deleting the words “Regulatory Authority” appearing in sub clause (3) and substituting therefor the words “Regulatory Board”;

(c) deleting subclause (4) and inserting the following new sub clause—

“(4) A company intending to be licensed as a water service provider shall submit to the Regulatory Board its memorandum and articles of association that conform to the guidelines developed and approved by the Regulatory Board.”; and

(d) inserting the following new sub clause immediately after sub clause (4) –

“(5) The Regulatory Board shall make regulations on the standard of water to be supplied by water service providers licensed under this section.”

One of the rationale is to change the name from the “Service Regulatory” to “Service Board” but the second one is that we are removing any mention of the county government as a regulator and one that licenses water providers. So, that is the essence of this amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Fatuma.

**Hon. (Ms.) F.I. Ali:** Most Members who are here belong to the Departmental Committee on Environment and Natural Resources but I am not a member. I am wondering why the county government has the mandate and the function to provide water to the public. I do not know why they are being removed and yet this provision is directly at the county level. I wanted to understand that because some of the amendments might prevent the county governments from adhering to the strict provision of quality water.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let us have Hon. Robert Mbui.

**Hon. Mbui:** Hon. Temporary Deputy Chairlady, I also support this amendment. I was just curious because I notice that Clauses 4 and 5 talk about a service provider submitting a memorandum of association. The fifth one talks about water service providers being licensed under this section. There is something I am wondering where it disappeared to, which was earlier in Clause 72 which we changed. This is the gazette of the regulations providing for accreditation. Did we lose it somewhere or is it still there?

**Hon. (Ms.) Abdalla:** Let me begin with Hon. Fatuma’s concern. As a House, we have to be clear on what we are trying to do. The national Government’s responsibility is to ensure that consumers are provided with the right quality of water and they are given the regulatory function. For example, the County Government of Nairobi is currently doing public consultations on increasing the price of water in the County of Nairobi. For them, it is going to generate revenue. You cannot be the trader and yet you are the one who is regulating yourself.

That is why we are removing the county government. They have to be regulated by somebody else who has the responsibility of consumer protection. The national Government is responsible for ensuring that the Nairobi Water Company gives you the best quality water. If you leave that to the County of Nairobi, when it is near elections, I would reduce the price of water, so that you can re-elect me. When I am re-elected, I can increase the price, so that I can have more resources to develop the county. That is what we are trying to cure.

On the issue of accreditation that was mentioned by the Member, accreditation is different from licensing. So, we have put in place mechanisms to ensure that they have to produce a regulation to cover both licensing and accreditation. So, the regulator will design that

regulation and as it is usual for all regulations, the Minister will bring it to the House and it will be reviewed by the Committee on Delegated Legislation in this House.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let us have Hon. ole Kenta.

**Hon. ole Kenta:** Hon. Temporary Deputy Chairlady, I am a Member of the Committee and I would like to support my Chair. If you have different standards for different counties, definitely, you are going to compromise on the standards and the safety of the water that the Kenyan people will drink. So, it is important that it is standardised and there is an upper authority that ensures that this is adhered to.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 75 as amended agreed to)*

*(Clause 76 agreed to)*

*Clause 77*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let us have Hon. Kang'ata. We have two amendments here. One is from the Chair and the other one is from Hon. Kang'ata. If Hon. Kang'ata is not here, we will drop his amendment.

*(Proposed amendment by Hon. Kang'ata's dropped)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, it had already fallen in the morning. He was not here even in the morning.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay. Go ahead Chair.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 77 be amended in sub clause (2) by deleting the words "Regulatory Authority" and substituting therefor the words "Regulatory Board". This is a consequential amendment to the name of the Water Services Regulatory Board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be  
left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 77 as amended agreed to)*

*Clause 78*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 78 be amended by deleting paragraph (b) and renumbering the existing paragraphs.

This is confusing. We are saying that an employee of the national Government or the county government can serve in these Water Boards. At first, we had received some input that we should not do that, but then we thought about it further. What if the County of Nairobi wishes their equivalent of their Attorney-General to serve in that Board to make sure that they do not get into unnecessary litigation? So, we reinstated that they can be allowed to serve in that Board.

*(Question of the amendment proposed)*

**Hon. Ogalo:** Hon. Temporary Deputy Chairlady, I wanted to clarify something over what the Chairlady of our Committee has said. By dint of the Fourth Schedule, the county government is the one to provide water services. These other water service providers are going to fill the gap that the county governments cannot meet immediately. By that dint, under this Bill, the county governments are expected to create a water service provider company; a public company owned by the county government.

In that case, you cannot have a clause stopping members of that county government from being directors of that water service company. That is what I wanted to clarify.

**Hon. Francis Waititu:** Hon. Temporary Deputy Chairlady, I support. Water is life. For example, Juja Constituency does not have any water Board. We depend on Ruiru and Thika districts. You can imagine institutions like the Jomo Kenyatta University of Agriculture and Technology (JKUAT), Kenyatta University (KU) and the Nairobi Institute of Business Studies which are in my constituency, and yet I do not sit anywhere to talk about the problems that are facing my constituency.

I support this amendment. County governments are now telling us, as Members of Parliament, that they have taken over the provision of water. They do not involve us in what they are doing and our people are suffering. That is why I support the amendment. As the national Government, we need to be on the Board.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Your point is made.

**Hon. (Ms.) F.I. Ali:** On a point of order, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes Hon. Fatuma. What is out of order?

**Hon. (Ms.) F.I. Ali:** Hon. Temporary Deputy Chairlady, the Committee is creating the impression that they want to take away all the functions of the county governments and give them to the national Government. This could be to frustrate county governments and prevent them from having a substantive support in this work.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Amina, do you want to reply to that before I put the Question?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, on a light note, my friend, Hon. Fatuma and I are fasting and I have a feeling that her sugar level must be very low.



*(Laughter)*

She did not hear what I said. These water companies belong to counties. The Water Bill said that an employee of the county cannot be a member of the water company that belongs to that county. So, we are deleting that provision and allowing the Board to have an employee of that county government. So, you see, it is the sugar level issue.

*(Laughter)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 78 as amended agreed to)*

*(Clause 79 agreed to)*

*Clause 80*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 80 be amended by—

- (a) deleting the words “Regulatory Authority” appearing in the marginal note and substituting therefor the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” appearing in sub clause (1) and substituting therefor the words “Regulatory Board”; and
- (c) deleting the words “Regulatory Authority” wherever it appears in sub clause (2) and substituting therefor the words “Regulatory Board”.

This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 80 as amended agreed to)*

*(Clauses 81 and 82 agreed to)*

*Clause 83*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

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THAT, Clause 83 be amended by—

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A person shall not provide water services except under a license issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require”; and

(b) deleting the words “Regulatory Authority” appearing in sub-clause (3)(c) and substituting therefor the words “Regulatory Board.

This is where Hon. Fatuma should be complaining because county governments do not have the role of licensing and regulating the sector as per the requirements of Section 186 (3) of the Constitution.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Neto, are you on a point of order or you want to contribute? Do you want to oppose?

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairlady. I thought you said that if we have a contrary opinion to what the Chairperson is saying then we should press the intervention button. I was just trying to be a good student.

I would like to request the Chairlady to consider the amendment she is proposing in Clause 83 (a). The amendment says many things. The Committee is proposing that you can only have a licence issued by the Regulatory Board upon submission of an application and such supporting documents to the Board. However, Clause 84 stipulates how that particular licence is granted so that it definitely takes away the conditions. If you want to subject the giving of a licence to conditions that are not stipulated, it will be subject to abuse. You need to stipulate the conditions for which you can get a licence. It is very well done under Clause 84 such that you stopped at saying “the Board” as opposed to saying “upon submission of an application and such supporting documents.”

Clause 88 also states the conditions of obtaining the licence. To give a discretionary role to the Board without necessary stipulating what those conditions are would make the Board act in *ultra vires* manner.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I want to tell my colleague, Hon. Neto that I have no excuse for his sugar levels but I want him to look closely at what we are trying to do in Clause 83.

In Clause 83, there are two persons who were given powers to allow anyone to provide water namely, the county government executive for water service providers and the Regulatory Authority in the case of cross-county water service providers. The first one is not allowed in Section 186 (3) of the Constitution. Once you remove that first one then Clause 83 (1) says it is just the Regulatory Authority.

Clause 84 lists the different requirements that you need to have to meet the licensing requirement. Since a county government water executive does not have that authority under the Constitution, let us not give them that authority under this law. That is what we are trying to do.

In Clause 84, all the consequential amendments that we are doing are that the conditions remain but we are just removing the county executive and whoever was involved in giving out the license.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Remember this is not debating time.

**Hon. Oyugi:** I do not want to debate. Thank you very much, Hon. Temporary Deputy Chairlady.

I agree with you in terms of all those things you have said. I would like you to listen to the import of what I am saying. I am not looking at any powers or conditions. What you are trying to do in Clause 83 (1), if you look at it properly, is that you are giving the Regulatory Board the authority, on its own volition, to decide what documents are required. Therefore, you are giving it discretionary power. What you have said is true.

Clause 84 of this Bill enumerates the conditions for giving out a license, which is proper and good. The only thing I request you to do is to remove the second line which reads “an application and such supporting documents as the Board may require.” This is because the phrase “the documents the board may require” is already under Clause 84. I do not know if I am making sense. It has nothing to do with who has what power. The documents that are required are shown in Clause 84 so that no one can make up an extra document, whatever it may be, because that is already enumerated. I will only look at the law under Clause 84, which says that I need to have certain documents, which I have already submitted. I do not know if I am making sense.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. (Ms.) Abdalla, do I give you an opportunity to reply or I just put the Question?

**Hon. (Ms.) Abdalla:** Maybe it is my sugar levels that are at fault in this case but I do not see what the Hon. Member is trying to say. If he is saying that he thinks the phrase “such supporting documents as the Board may require” is superfluous and so we should delete it, then I would hear that. However, I am not hearing what you are saying.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay then I will put the Question.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I suggest you put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 83 as amended agreed to)*

Clause 84

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 84 be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) An application for the licence, under section 83 (1) shall be made in the prescribed form to the Regulatory Board;

(b) in sub-clause (2) by—

(i) deleting the words “county government executive or the Regulatory Authority as the case may be” substituting therefor the words “Regulatory Board”;

(ii) deleting the words “Regulatory Authority” appearing in paragraph (a) and substituting therefor the words “Regulatory Board”;

(iii) deleting paragraph (g) and substituting therefor the following new paragraph—

“(g) any other information required by the Regulatory Board.”;

(c) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) The Regulatory Board shall have discretion to grant or refuse to grant an application for a licence submitted under subsection (1).”;

(d) in sub-clause (5)—

(i) by deleting the words “a county government executive or Regulatory Authority” and substituting therefor the words “Regulatory Board”; and

(ii) by deleting paragraph (g) and substituting therefor the following new paragraph—

“(g) the applicant has met any other requirements which the Regulatory Board may consider necessary for the efficient provision of the services to be provided under the licence.”;

As we have been told, Clause 84 is listing the conditions under which you can be given a licence. We are just cleaning up the Clause to remove the functions of the county government executive.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 84 as amended agreed to)*

Clause 85

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 85 and inserting the following new Clause 85—

- Application for a licence subject to public consultation.
- 85.** (1) An application for a licence shall be subject to public participation.
- (2) Any person opposed to the grant of a licence may object in writing to the Regulatory Board.
- (3) The Regulatory Board shall make a determination on an application for a licence within six months after the applicant lodges the application.
- (4) The Regulatory Board shall notify the applicant and the objector of its decision and, in the event of the rejection of an application or objection, of the reasons for the decision.
- (5) An applicant or objector may, if aggrieved by the decision of the Regulatory Board, appeal to the Tribunal within thirty days of the date of the notification of the decision.
- (6) Where the Regulatory Board does not determine the application within six months of receipt of the application, any fee charged by the Regulatory Board under section 84(3) shall be refunded to the applicant.

This is in line with the constitutional requirement for regulation to be a national Government function.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 85 as amended agreed to)*

#### Clause 86

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 86 be amended—

(a) in sub-clause (2) by deleting the words “A county government or the Regulatory Authority” and substituting therefor the words “The Regulatory Board”; and

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) As a condition of the licence, a licensee shall, within twelve months of receipt of the licence, or such other longer period as the Regulatory Board may determine, formulate and present to the Regulatory Board, a development plan for extending services to persons not receiving water

services within such licensee's area of operation, a time frame for the implementation of the plan and a resource mobilization strategy."

This is a consequential amendment on the name of the service regulator and to put it in line with Schedule Four.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 86 as amended agreed to)*

#### Clause 87

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 87 be amended by—

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A licensee shall pay to the Regulatory Board, as the case may be, on issue of the licence and at prescribed intervals thereafter, such licence fees as the Regulatory Board may determine”; and

(b) deleting the words “Regulatory Authority” appearing in sub clause (2) and substituting therefor the words “Regulatory Board”.

This is a consequential amendment on the name of the service regulator from “authority” to “board.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 87 as amended agreed to)*

#### Clause 88

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 88 be amended in sub-clause (1) by—

(a) deleting the words “or any county legislation” appearing in paragraph (a); and

(b) deleting the words “county government or the Regulatory Authority” appearing in paragraph (b) and substituting therefor the words “the Regulatory Board”.

This is a consequential amendment on the name of the service regulator to “board” and the removal of county governments as a licence provider.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Member for Rangwe, are you opposing?

**Hon. Ogalo:** No, Hon. Temporary Deputy Chairlady.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 88 as amended agreed to)*

*(Clause 89 agreed to)*

*Clause 90*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 90 of the Bill be amended by deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 90 as amended agreed to)*

*Clause 91*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 91 of the Bill be amended-

(a) in Subclause (1) by inserting the words “or public partnerships” immediately after the words “public private partnerships”; and,

(b) in Subclause (2) by deleting the words “the respective county government or the Regulatory Authority” and substituting therefor the words “the Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 91 as amended agreed to)*

*Clause 92*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 92 of the Bill be amended by-

- (a) deleting the words “Regulatory Authority” appearing in Subclause (3) and substituting therefor the words “Regulatory Board”; and,
- (b) deleting the words “Regulatory Authority” appearing in Subclause (4) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 92 as amended agreed to)*

*Clause 93*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 93 of the Bill be amended in Subclause (1) by deleting the words “A county government executive or the Regulatory Authority” and substituting therefor the words “The Regulatory Board”.

Hon. Temporary Deputy Chairlady, this is another consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left*



*out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 93 as amended agreed to)*

*(Clause 94 agreed to)*

*Clause 95*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 95 and inserting the following new Clause 95-

- Clustering of areas of water service provision —
- 95.** (1) The Regulatory Board may, on the application of the licensees —
- (a) permit the joint provision, by two or more licensees, of water services on such terms as it may approve; or
  - (b) permit the transfer of a water service, or a part thereof, from one licensee to another licensee.
- (2) Where it appears necessary to the Regulatory Board, for the purpose of securing a commercially viable water service, it may, by notice in the Gazette, order a joint provision of water services or a transfer of water service and vary the relevant licenses accordingly.
- (3) An order made under this section may make such incidental, consequential and supplementary provision as the Regulatory Board considers necessary for the purpose of carrying out the order.
- (4) The Cabinet Secretary in consultation with the Regulatory Board shall make rules setting out circumstances under which the provision of joint water services may be ordered.
- (5) A licensee aggrieved by the provisions of the order may appeal to the Tribunal

Hon. Temporary Deputy Chairlady, this is a clean-up exercise to put into line the regulatory function, as a national Government function, on how licensed providers could cluster their licence areas or somebody could expand to another licence area.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 95 as amended agreed to)*

*Clause 96*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 96 be amended by-

- (a) deleting the words “A county government executive or the Regulatory Authority, as the case may be,” wherever it appears in Subclause (1) and substituting therefor the words “The Regulatory Board” ;
- (b) deleting the words “a county government executive or the Regulatory Authority, as the case may be,” appearing in Subclause (2) and substituting therefor the words “the Regulatory Board” ; and,
- (c) deleting the words “a county government executive or the Regulatory Authority” appearing in Subclause (3) and substituting therefor the words “Regulatory Board”.

Hon. Temporary Deputy Chairlady, through this amendment, we are cleaning up this Clause to be in line with the Fourth Scheduler. The county government cannot have a regulatory function. That is why we are deleting the words “the county government executive” wherever they appear.

The other part of the amendment seeks to replace the name “Regulatory Authority” with the name “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 96 as amended agreed to)*

*Clause 97*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 97 be amended by-

- (a) deleting Subclause (1) and substituting therefor the following new Subclause—

“(1) Subject to any regulations made under this Act, the Regulatory Board may direct a licensee to provide water services, outside its area of water services jurisdiction.”; and,

(b) deleting the words “Regulatory Authority” appearing in paragraph (b) of Subclause (6) and substituting therefor the words “Regulatory Board”.

Hon. Temporary Deputy Chairlady, this is in line with giving the Regulatory Board the powers to expand the areas covered by a company.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Robert Mbui.

**Hon. Mbui:** Hon. Temporary Deputy Chairlady, I want to confirm something from the Hon. Chairlady. She has mentioned many times that we are getting rid of the county government from the regulation function. I am wondering. Is it really possible? If a county government makes a law within their county assembly to regulate water services within their county, will that law still apply in that particular county or will the county government have superseded it? I am just curious.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, let me explain what we are trying to do.

Water that flows out of your taps is a role of the county governments because it is a devolved function. However, you cannot wake up one morning and go to Machakos County - which is where you come from, I believe - and ask them to give you a licence to be a water provider to your neighbours. The licensing function has not been devolved. It remains a national Government function. Therefore, a county government cannot make a law on how to issue licences to water service providers because the Constitution does not allow them. That is why we are cleaning up the Bill.

Hon. Temporary Deputy Chairman, there are some things which are nice to do and other things that are constitutional. It has been viewed that if you say anything that removes powers from the county governments, then you are anti-devolution. If we give a county government the power to license water service providers, what happens if somebody from an area that does not support a particular county government leader applies for a licence to expand his licence area? If you are a minority, the county assembly can rule that such an area should not be serviced. Therefore, the regulatory function must remain with somebody above the county level so that he or she can maintain the standards.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Member for Rangwe!

**Hon. Ogalo:** Thank you, Hon. Temporary Deputy Chairlady. The hon. Member has raised an important point that requires a response. What happens if the county assembly decides to legislate on water resources in their counties?

Article 186 (3) of the Constitution is very clear that a function or power not assigned by the Constitution or national legislation to a county is a function or power of the national Government. Article 186(4) of the Constitution states that, for greater certainty, Parliament may legislate for the Republic on any matter. Therefore, with that constitutional provision in place, any other legislation going contrary to the one by Parliament will be null and void.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place)*

*thereof be inserted, put and agreed to)*

*(Clause 97 as amended agreed to)*

*Clause 98*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting clause 98 and inserting the following new clause 98—

Supply of bulk water. **98.** (1) A person shall not supply water in bulk to a water services provider without a licence issued by the Regulatory Board.

(2) A water service provider may enter into an agreement with any other licensee or water services provider on terms and conditions to be approved by the Regulatory Board—

(a) for the supply of water in bulk for a specific period; or

(b) where the supply is to be given by a water services provider, either within or outside the area of service of that water services provider.

(3) Where it appears to the Regulatory Board that—

(a) it is expedient for—

(i) any licensee or water services provider to give the supply of water in bulk to another licensee or water service provider;

(ii) the other licensee or water services provider to take such supply; and

(b) giving and taking of such a supply cannot be secured by agreement, the Regulatory Board may, by order served on the parties, require the licensees concerned to give and take the supply of water in bulk for such a period and on such terms as the Regulatory Board may specify.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 98 as amended agreed to)*

*Clause 99*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 99 be amended by—

- (a) deleting the words “a county government executive or the Regulatory Authority” wherever it appears in Subclause (1) and substituting therefor the words “the Regulatory Board”;
- (b) deleting Subclause (2) and substituting therefor the following new Subclause

—  
“(2) If, after inquiry, the Regulatory Board is satisfied that there has been failure on the part of the licensee, the Regulatory Board may impose a special regulatory regime on the water services provider for the purpose of remedying the default”; and,

- (c) deleting the words “Regulatory Authority” appearing in Subclause (3) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 99 as amended agreed to)*

*Clause 100*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 100 (1) of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” appearing in Subclause (2) and substituting therefor the words “Regulatory Board”;
- (c) deleting the words “Regulatory Authority” appearing in Subclause (3) and substituting therefor the words “Regulatory Board”; and,
- (d) deleting the words “Regulatory Authority” appearing in Subclause (4) and substituting therefor the words “Regulatory Board”.

It is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 100 as amended agreed to)*

*Clause 101*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 101 of the Bill be amended by—

- (a) deleting the words “If the Regulatory Authority is satisfied that, notwithstanding the imposition of measures under a special regulatory regime, the default has not been remedied and is not likely to be remedied by the licensee, it shall, subject to the Public Finance Management Act with the consent of the” appearing in Subclause (1) and substituting therefor the words “If the Regulatory Board is satisfied that, notwithstanding the imposition of measures under a special regulatory regime, the default has not been remedied and is not likely to be remedied by the licensee, it shall, subject to the Public Finance Management Act in consultation with”; and,
- (b) deleting the words “Regulatory Authority” appearing in Subclause (2) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 101 as amended agreed to)*

*(Clause 102 agreed to)*

*Clause 103*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 103 of the Bill be amended by—

- (a) deleting the words “of a County Government Executive or the Regulatory Authority, as the case may be,” appearing in Subclause (1) and substituting therefor the words “the Regulatory Board”; and,
- (b) deleting the words “a county government executive or the Regulatory Authority” and substituting therefor the words “the Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 103 as amended agreed to)*

*Clause 104*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 104 of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “Regulatory Board”; and
- (b) deleting the words “Regulatory Authority” appearing in Subclause (2) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 104 as amended agreed to)*

*Clause 105*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 105 be amended in Subclause (2) by deleting the words “Regulatory Authority” and substituting thereof the words “Regulatory Board”. It is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 105 as amended agreed to)*

*Clause 106*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 106 of the Bill be amended —

- (a) in Subclause (1) by deleting the words “Regulatory Authority” appearing in (d) and substituting therefor the words “Regulatory Board”; and,
- (b) by deleting the words “Regulatory Authority” appearing in Subclause (5) and substituting therefor the words “Regulatory Board”.

It is another consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 106 as amended agreed to)*

*Clause 107*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 107 of the Bill be amended by —

- (a) deleting the words “A county government executive or the Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “The Regulatory Board”; and,
- (b) deleting the words “a county government executive or the Regulatory Authority” appearing in Subclause (2) and substituting therefor the words “the Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 107 as amended agreed to)*

*(Clause 108 agreed to)*



*Clause 109*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 109 of the Bill be amended by —

- (a) deleting the words “Regulatory Authority” appearing in the marginal note and substituting thereof the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “Regulatory Board”;
- (c) deleting the words “Regulatory Authority” appearing in Subclause (2) and substituting therefor the words “Regulatory Board”; and,
- (d) deleting the words “Regulatory Authority” appearing in Subclause (4) and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 109 as amended agreed to)*

*Clause 110*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 110 of the Bill be amended by —

- (a) renumbering Clause 110 (1) as Clause 110; and,
- (b) deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”.

It is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 110 as amended agreed to)*

*Clause 111*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 111 be amended in Subclause (1) by deleting the word “mechanism” and substituting thereof the word “institution”.

It is changing the Water Trust Fund from a mechanism to a financial institution.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 111 as amended agreed to)*

#### *Clause 112*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 112 of the Bill be amended by inserting the following new paragraph immediately after paragraph (c) —

“(d) research activities in the area of water resources management and water services, sewerage and sanitation.”

It is giving the Water Trust Fund the function to fund research.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Gikaria.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Chairlady. I want to support that. I come from an urban area where research has never been funded. I appreciate the inclusion of this and, more so, about the sewerage and sanitation which has basically been forgotten all the other time. I support that it is a very good inclusion that is going to address the forgotten areas of water and that is sewerage and sanitation, and I support the Hon. Chairlady of the Departmental Committee on Environment and Natural Resources.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 112 as amended agreed to)*

*(Clause 113 agreed to)*

#### *Clause 114*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 114 of the Bill be amended —

(a) by renumbering Clause 114 as Clause 114 (1);

(b) in Subclause (1) —

(i) by inserting the words “the national government and” immediately after the words “in consultation with” appearing in paragraph (c); and,

(ii) inserting the following new paragraphs immediately after paragraph (f)

—

(g) receive grants for onward lending to water services providers, counties and communities towards water services and water resources management projects for the under-served areas and urban poor,

(h) establish and manage subsidiary funds as may be necessary for sustainable financing towards water services and water resource management; and,

(i) in collaboration with relevant institutions, develop incentive programmes for water resources management, including disaster management, climate change adaptation and mitigation.

(c) inserting the following new subclauses immediately after Subclause (1) — “

(2) The provisions of sub-section (1)(g) shall only apply to water service providers, counties and communities, who can afford the repayment of the funds advanced, and profits thereof used to finance water services and water resources management projects for the under-served areas and urban poor.

(3) The Board of Trustees of the fund shall, following public consultation, Gazette the criteria for qualification for funding from the Fund taking account of considerations of equity and may, from time to time following public consultation, review the criteria.”

The first one is so that the criterion for qualifying to get money from the Water Trust Fund is gazetted after public consultation. The second one is to appreciate further functions that allow that body to do onward lending of some of the funds that they will receive. Just to note, Members were very clear that they cannot be allowed to lend communities that do not have the powers to repay.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Joyce. Remember we said that you do intervention if you are opposing.

*(Loud consultations)*

Hon. Richard Tong’i, are you opposing?

**Hon. Tong’i:** Hon. Temporary Deputy Chairlady, I am opposing on the grounds that they are talking of mobilizing additional resources for the Fund and they have not defined what that “Fund” is in terms of how far it can go in helping the communities which are in need. We know

that some regions like Kisii which were initially endowed with water are running dry. If you look at the historical information, Kisii is one place that should have all the water that we need. But because of the change of climate and environment all over the world, there is water scarcity in places such as Kisii, which has had plenty of water historically.

I would be comfortable if the Chairlady of the Departmental Committee on Environment and Natural Resources would include places such as that. That is so that we can also become beneficiaries because this law is being made for posterity and not for just now. It is something to serve Kenyans going forward.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 114 as amended agreed to)*

#### *Clause 115*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 115 of the Bill be amended by—

- (a) renumbering Clause 115 as Clause 115(1);
- (b) renumbering paragraph (e) as paragraph (f);
- (c) inserting the following new paragraph immediately after paragraph (d) —  
“(e) the proceeds of the levy imposed under sub-section (2)”;
- (d) inserting a new subclause immediately after Subclause (1)—  
“(2) The Cabinet Secretary may, by regulations following public consultation, prescribe a levy to be paid by consumers of piped water supplied by licensed water service providers, the proceeds of which shall be paid into the Fund established under Section 111.”

This is just to enhance the sources of funding, including from levies if the Cabinet Secretary (CS) decides to do that.

*(Question of the amendment proposed)*

*(Question, that the words to be  
inserted be inserted, put and agreed to)*

*(Clause 115 as amended agreed to)*

*(Clauses 116, 117 and 118 agreed to)*

#### *Clause 119*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 119 of the Bill be amended by deleting the words “Regulatory Authority” wherever they appear in Subclause (1) and substituting therefor the words “Regulatory Board”.

This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 119 as amended agreed to)*

*(Clauses 120, 121 and 122 agreed to)*

#### *Clause 123*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 123 be amended by deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 123 as amended agreed to)*

#### *Clause 124*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 124 be amended by—

(a) deleting the marginal note and substituting thereof the following new marginal note—

“Funds of the Authority, Regulatory Board, Water Harvesting and Storage Authority and Water Works Development Agencies”; and,

(b) deleting the words “Regulatory Authority, Water Storage Authority, Water Fund and water works development boards” and substituting therefor the words

“Regulatory Board, Water Storage Authority, Water Sector Trust Fund, and water works development agencies”.

This is a consequential amendment as a result of the change of the names of the Water Board and the Regulatory Authority.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 124 as amended agreed to)*

*(Clauses 125, 126 and 127 agreed to)*

#### Clause 128

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 128 of the Bill be amended by deleting the words “the Regulatory Authority” and substituting therefor the words “the Regulatory Board”.

This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 128 as amended agreed to)*

#### Clause 129

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 129 of the Bill be amended by deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “Regulatory Board”.

This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 129 as amended agreed to)*

*(Clauses 130 and 131 agreed to)*

*Clause 132*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 132 of the Bill be amended by deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”. This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 132 as amended agreed to)*

*Clause 133*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 133 of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “the Regulatory Board”; and,
- (b) deleting the words “Regulatory Authority” appearing in the proviso to Subclause (2) and substituting thereof the words “the Regulatory Board”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 133 as amended agreed to)*

*Clause 134*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 134 of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in paragraph (b) and substituting thereof the words “Regulatory Board”; and,
- (b) deleting the words “Regulatory Authority” appearing in paragraph (c) and substituting therefor the words “Regulatory Board”.

This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 134 as amended agreed to)*

*Clause 135*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 135 of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in paragraph (a) and substituting thereof the words “Regulatory Board”; and,
- (b) deleting the words “Regulatory Authority” appearing in paragraph (c) and substituting thereof the words “Regulatory Board”.

This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 135 as amended agreed to)*

*(Clauses 136, 137 and 138 agreed to)*



*Clause 139*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 139 of the Bill be amended by deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”. This is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 139 as amended agreed to)*

*Clause 140*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 140 be amended in Subclause (2) by—

- (a) renumbering paragraph (j) as paragraph (k); and,
- (b) inserting the following new paragraph immediately after paragraph (i)—  
“(j) rain water harvesting and household water storage.”

It is adding a responsibility to the Cabinet Secretary to do a regulation on water harvesting and household water storage.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 140 as amended agreed to)*

*(Clause 141 agreed to)*

*Clause 142*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 142 of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “Regulatory Board”; and,
- (b) deleting the words “Regulatory Authority” wherever they appear in Subclause (2) and substituting therefor the words “Regulatory Board.

This is a consequential amendment on the names.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 142 as amended agreed to)*

#### *Clause 143*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 143 of the Bill be amended by —

- (a) deleting the words “Regulatory Authority” appearing in paragraph (a) and substituting therefor the words “Regulatory Board”; and,
- (b) deleting the words “Regulatory Authority” wherever they appear in paragraph (b) and substituting therefor the words “Regulatory Board

This is a consequential amendment on the name.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 143 as amended agreed to)*

#### *Clause 144*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 144 of the Bill be amended by deleting the words “Regulatory Authority” and substituting therefor the words “Regulatory Board”.

It is a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 144 as amended agreed to)*

*(Clause 145 agreed to)*

#### *Clause 146*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 146 of the Bill be amended by —

- (a) deleting the words “Water Act, 2001” appearing in Subclause (1) and substituting therefor the words “Water Act, 2002”;
- (b) deleting the words “Water Act, 2001” appearing in Subclause (2) and substituting therefor the words “Water Act, 2002”; and,
- (c) deleting the words “Water Act, 2001” appearing in Subclause (3) and substituting therefor the words “Water Act, 2002”.

Essentially, the Bill refers to the Water Act 2001 which is actually the Water Act 2002. We are just correcting that anomaly.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 146 as amended agreed to)*

*(Clause 147 agreed to)*

#### *Clause 148*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 148 of the Bill be amended by—

- (a) deleting the words “Regulatory Authority” appearing in the marginal note and substituting therefor the words “Regulatory Board”;

- (b) deleting the words “Regulatory Authority” appearing in Subclause (1) and substituting therefor the words “Regulatory Board”;
- (c) deleting the words “Regulatory Authority” appearing in Subclause (2) and substituting therefor the words “Regulatory Board”; and,
- (d) deleting the words “Regulatory Authority” appearing in Subclause (3) and substituting therefor the words “Regulatory Board”;
- It is a consequential amendment on the name of the regulatory authority.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 148 as amended agreed to)*

*(Clause 149 agreed to)*

#### *Clause 150*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 150 of the Bill be amended by—

- (a) deleting the words “water works development boards” appearing in Subclause (1) and substituting therefor the words “water works development agencies”; and,
- (b) deleting the words “water works development boards” appearing in Subclause (2) and substituting therefor the words “water works development agencies”.

This is in line with the change of the name of “Water Works Development Board” to “Water Works Development Agencies.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 150 as amended agreed to)*

*(Clauses 151, 152 and 153 agreed to)*

#### *Clause 154*

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**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 154 of the Bill be amended by inserting the following new subclause immediately after Subclause (4) —

“(5) The provisions of the Environmental Management and Coordination Act, 1999 relating to water resources conservation and protection and water pollution control shall be exercised subject to the relevant provision of this Act and only in the event that the Board has failed or neglected to take appropriate action to exercise its powers and functions under this Act.”

This is to eliminate contradiction and clashes between National Environment Management Authority (NEMA) and Water Resource Management Authority (WARMA) with regard to water pollution.

*Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 154 as amended agreed to)*

*(Clause 155 agreed to)*

#### *New Clauses 8A and 8B*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 8 —

Administration of National Water Resources. **8A.** Every person has the right to access water resources, whose administration is the function of the national government as stipulated in the Fourth Schedule to the Constitution.

National Water Resource Strategy. **8B.** (1) The Cabinet Secretary shall, within one year of the commencement of this Act and every five years thereafter, following public participation, formulate a national water resource strategy.

(2) The object of the Water Resource Strategy shall be to provide the Government’s plans and programs for the protection, conservation, control and management of water resources.

(3) The Water Resources Strategy shall contain, among other things, details of —

(a) existing water resources and their defined riparian areas;

- (b) measures for the protection, conservation, control and management of water resources and approved land use for the riparian area;
  - (c) minimum water reserve levels at national and county levels;
  - (d) institutional capacity for water research and technological development;
  - (e) functional responsibility for national and county governments in relation to water resources management and
  - (f) any other matters the Cabinet Secretary considers necessary.
- (4) The Cabinet Secretary shall—
- (a) prepare and issue an annual report on the state of national water resource strategies in Kenya; and
  - (b) may direct any lead agency to prepare and submit to it a report on the state of national water resources under the administration of that lead agency.
- (5) The Cabinet Secretary shall review the Water Resource Strategy every three years.

This is just restating the constitutional provision that the national Government is responsible for water resources.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): And 8B.

**Hon. (Ms.) Abdalla:** In the case of 8B, we are giving the Cabinet Secretary a timeline of one year to do a strategy on water resources, how to report back and what should exist in that Bill. What we are trying to do is already in Clause 63 for water services. This is for water resources which is a national Government function. We want the Cabinet Secretary to have a blue-print on which to manage the water resource sector.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Neto.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairlady. I would like to request the Chair of the Committee to help me understand the difference between the new Clause 8B and Clause 62 that we have already passed. In my understanding, it is almost “cut and paste” phraseology from the Clause 62 that we have passed.

Thank you.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I am really convinced that Hon. Neto is fasting! I have just said right now that there are two separate functions and that is the basis of the Water Act 2002 - the reforms to separate water service provision and the management of water resources. In the new Constitution, water services is devolved whilst water resources is a national Government function. So, when they are doing their strategies, there should be two different strategies. There is one that has the implementation bit that involves counties and the rest and one that is merely a national Government function. The reason we have a different one is that water resources are being neglected. There is no strategy on how to conserve the natural springs and wetlands that the gentleman from Kisii was talking about. The strategy of managing and conserving wetlands and other water resources will be here. The strategy on Clause 63 is on water services. However, I will understand if you are fasting.

*(Laughter)*

*(Question, that the new clauses be read a Second Time, put and agreed to)*

*(The new clauses were read a Second Time)*

*(Question, that the new clauses be added to the Bill, put and agreed to)*

*New Clause 61A*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let us start with Hon. Irungu Kang'ata, if he is here. We have an amendment from him. If he is not here, we will drop it. The amendment is dropped.

*(Proposed amendment to New Clause 61A(1) by Hon. Kang'ata dropped)*

*New Clause 156*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Abdalla, you can move the Second Reading for New Clause 156.

**Hon. (Ms. Abdalla):** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 155—

Responsibility of a county government. **156.** A county government shall subject to sections 70(1) (a) and (b), 117 and 120 of the County Governments Act, 2012—

(a) give effect to national water services standards and conditions set by the Regulatory Board for purposes of ensuring consumer protection; and

(b) take into consideration the requirement relating to

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tariffs gazetted by the Regulatory Board while imposing tariff.

Hon. Temporary Deputy Chairlady, this is a consequential amendment that deals with an already passed law, the County Government Act. It erroneously gives the county governments the powers to set standards. So, we are doing this amendment to correct that anomaly.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Samuel Gichigi.

**Hon. Gichigi:** Hon. Temporary Deputy Chairlady, I would just like to seek a clarification from the able Chair. When they propose that the county governments take into consideration the tariffs gazetted by the Regulatory Board while imposing tariffs, I do not seem to get it. Is it that some money is going to be taken to the Regulatory Board? Can she clarify?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Amina, take one more so that you clarify both together. I can see the Member for Rangwe.

**Hon. Ogalo:** Thank you, hon. Temporary Deputy Chairlady. Under the Fourth Schedule of the Constitution, consumer protection is a national Government function. If we allow county governments to set tariffs whimsically, then the element of costing water way above the reach of ordinary citizens might occur. So, for the national Government to retain the function of consumer protection, the tariffs must be set by a national body, which is the Regulatory Board. That is why this clause is here. We are simply aligning the County Government Act to that function of the national Government to do consumer protection.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Neto, it seems like you are on the same page with hon. Ogalo.

**Hon. Neto:** Hon. Temporary Deputy Chairlady, first, I want to assure Hon. Benjamin Langat, the Chair of the Departmental Committee on Finance, Planning and Trade, that my sugar levels are really on top.

*(Laughter)*

At some point, I thought on the same page with Hon. George Oner. However, when he spoke, I got a little bit worried. The use of the words “consumer protection”, for those of us who have engaged in this sort of thing--- Unless they want to mean something totally different, I really think the words “consumer protection” in this particular section are misplaced. You are saying for purposes of ensuring consumer protection and all these other things they are saying. I do not understand what you want to mean by “consumer protection” in terms of regulatory standards. Please clarify for me.

**Hon. (Ms.) Abdalla:** Thank you. I was convinced that hon. Oner had done a good job because he even used a word that I had not used before. The word is “whimsically”.



*(Laughter)*

I thought being a fellow man from the lake, he should have been embraced and just sit up and say everything is fine.

I assure the Member for Ndhiwa that because of the next amendment which is New Clause 157, there is a damage that had been done in a different Act that gave the issue of standards and tariff settings to the counties. We are trying to restate that the issue of standards remains with the Regulatory Board. The role of setting tariffs remains with the Regulatory Board. Therefore, the standards will be the same nationally and the tariffs will not be set according to the whims of the particular county. It will not be whimsically as my friend Hon. Oner has just said. That is what we are trying to deal with.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

*New Clause 157*

**Hon. (Ms. Abdalla):** Hon. Temporary Deputy Chairlady, I beg to move:-

Consequential  
amendments.

**157.** The County Governments Act, 2012—

(a) be amended in section 117 (1) by inserting the following new paragraph immediately after paragraph (a) —

“(aa) comply with the respective policy and standards provided by the National Government”;

(b) be amended in section 120 by inserting the following new sub clause immediately after sub clause (1) —

“(1A) Notwithstanding subsection (1), a county government or any agency delivering services in the county shall adopt and implement tariffs and pricing policy subject to the existing National Government laws and policies.”

Hon. Temporary Deputy Chairlady, this is what I was saying. We are trying to remedy the problem that was done in the County Government Act, 2012, when we were doing everything to please the counties even when it was unconstitutional. So, we are now adding the fact that the

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counties must comply with the respective policy and standards provided by the national Government and inserting a new clause that a county government or agency delivering services in the county shall adopt and implement tariffs and pricing policies subject to the existing national Government laws and policies. Basically, there was an amendment that has excited the County Government of Nairobi tremendously. They are moving ahead to set new tariffs and increase the prices of water without being regulated by anyone.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Savula, do you want to speak on this new clause?

**Hon. Angatia:** Hon. Temporary Deputy Chairlady, standards are set nationally. I have never seen anywhere in the country or internationally where standards are set by counties or regions. Standards are set either nationally or internally. They are not set by Kiambu County.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Robert Mbui.

**Hon. Mbui:** I support this. I just wonder how the implementation will be. This is because we have so many water projects all over. The Constituencies Development Fund (CDF) has constructed boreholes all over. I support it but I do not know whether the implementation will be possible.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Gikaria.

**Hon. Gikaria:** Thank you, hon. Temporary Deputy Chairlady. Maybe, the Chair of the Departmental Committee on Environment and Natural Resources can clarify. If I heard her right, she said there will be a standard tariff throughout the country. In some areas like Nakuru, we might be getting water from boreholes and we pay electricity. Other places get water by gravity. If you subject the tariffs to be the same, Nakuru would be disadvantaged unlike those other areas. I just need a clarification.

**Hon. (Ms.) Abdalla:** On the issue of tariffs, what excites counties is that they just call for a public hearing and say that they have consulted the public and they can increase or reduce tariffs. If you leave that to the hands of a politician, it can be very subjective. We are, therefore, saying that the ability to change tariffs without justification – “that I am using borehole water or I need to keep in mind the cost of fuel and that” - you have to go to another body which consults with you and agrees that, that tariff is fairly increased. We do not want to have what was given in the County Governments Act, that Nakuru County could sit down, talk to a few people in a public *baraza* and agree to change tariffs for that county. That is what we are trying to do, but the standard is throughout the country. The Government can decide: “We should have this level of chlorine”, and whatever other kind of consideration.

*(Question, that the new clause be read)*

*a Second time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

### *First Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the First Schedule be amended -

(a) in Clause 1 by deleting the words “Regulatory Authority” appearing in paragraph (b) of Subclause (1) and substituting therefor the words “Regulatory Board”; and,

(b) by deleting the words “Regulatory Authority” appearing in Clause 14 and substituting therefor the words “Regulatory Board”.

It is a consequential amendment on the name of the board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(First Schedule as amended agreed to)*

### *Second Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Second Schedule be amended by-

(a) deleting the words “Regulatory Authority” appearing in Clause 2 and substituting therefor the words “Regulatory Board”;

(b) deleting the words “Regulatory Authority” wherever it appears in Clause 3 and substituting therefor the words “Regulatory Board”;

(c) deleting the words “Regulatory Authority” wherever it appears in Clause 5 and substituting therefor the words “Regulatory Board”;

(d) deleting the words “Regulatory Authority” appearing in Clause 6 and substituting therefor the words “Regulatory Board”; and,

(e) deleting the words “Regulatory Authority” appearing in Clause 7(1) and substituting therefor the words “Regulatory Board”.

This is also a consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Second Schedule as amended agreed to)*

### *Third Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Third Schedule be amended by-

- (a) deleting the words “Regulatory Authority” appearing in Clause 2(1) and substituting therefor the words “Regulatory Board”;
- (b) deleting the words “Regulatory Authority” wherever it appears in Clause 5 and substituting therefor the words “Regulatory Board”; and,
- (c) deleting the words “Regulatory Authority” appearing in Clause 6(2) and substituting therefor the words “Regulatory Board”.

It is another consequential amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Third Schedule as amended agreed to)*

### *Fourth Schedule*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Member for Kiharu?

**Hon. Members:** Absent.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): That amendment is dropped.

*(Proposed amendment to Fourth  
Schedule by Hon. Kang’ata dropped)*

*(Fourth Schedule agreed to)*

*Clause 2*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be amended by –

- (a) deleting the word “Regulatory” appearing in the definition of the word “Authority”;
- (b) deleting the definition of “county water servicers providers”;
- (c) deleting the words “Regulatory Authority or a county government executive” appearing in the definition of the word “inspector” and substituting therefor the words “or the Regulatory Board”;
- (d) deleting the definition of the word “licensee” and substituting therefor with the following new definition –  
“licensee” means a water service provider licensed by the Regulatory Board under this Act;
- (e) deleting the definition of the phrase “national importance”;
- (f) deleting the definition of the phrase “National Land Commission”;
- (g) deleting the definition of the phrase “National public water works”;
- (h) deleting the word “Regulatory Authority” appearing in the definition of the word “peri-urban water services” and substituting therefor with the words “Regulatory Board”;
- (i) by deleting the definition of the word “Regulatory Board”;
- (j) deleting the definition of the word “Regulatory Authority” and substituting therefor the following new definition –  
“Regulatory Board” means the Water Services Regulatory Board established under Section 68;
- (k) deleting the word “Authority” appearing in the definition of “rural water services” and substituting therefor with the word “Board”;
- (l) deleting the definition of the word “strategic importance”;
- (m) deleting the definition of the word “transboundary waters” and substituting therefor with the following new definition—  
“transboundary waters” means water resources shared between Kenya and another State”;
- (n) deleting the word “Regulatory Authority” appearing in the definition of the word “urban water services” and substituting therefor with the words “Regulatory Board”;
- (o) deleting the words “and includes transboundary water resources within the territorial jurisdiction of Kenya” appearing in the definition of “water resource” and substituting therefor with the words “and includes sea water and transboundary waters within the territorial jurisdiction of Kenya”;
- (p) inserting the words “or storage” immediately after the words “the supply” appearing in the definition of “water services”;
- (q) deleting the words “the county government executive or the Regulatory Authority” appearing in the definition of the word “water services provider” and substituting therefor with the words “the Regulatory Board”;

- (r) deleting the word “board” appearing in the definition of the words “water works development boards” and substituting therefor the word “agencies”; and,  
(s) inserting the following new definition in the proper alphabetical sequence—  
“water resource management” means the conservation, including soil and water conservation, protection, development and utilization of water resources.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Clause 1 agreed to)*

*(Title agreed to)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Water Bill (National Assembly Bill No. 8 of 2014) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Mbalu) in the Chair]*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, hon. Members! As you are aware, we were doing the Committee of the Whole House. We are going to start with the Securities and Investment Analysts Bill (National Assembly Bill, No.21 of 2014) I call upon the Chairperson to Report to the House.

## REPORTS AND THIRD READINGS

### THE SECURITIES AND INVESTMENT ANALYSTS BILL

**Hon. (Ms.) Shebesh:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Securities and Investment Analysts Bill, National Assembly Bill No.21 of 2014, and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Mover to move the agreement with the Report.

**Hon. Langat:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Naomi Shaban, to second.

**Hon. (Dr.) Shaban:** I second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Langat:** Hon. Temporary Deputy Speaker, I beg to move that the Securities and Investment Analysts Bill, National Assembly Bill, No.21 of 2014, be now read the Third Time. I will request Hon. Naomi Shaban to second me.

**Hon. (Dr.) Shaban:** I second

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): A comment or two. Hon. Member for Rangwe.

**Hon. Ogalo:** Hon. Temporary Deputy Speaker, I want to congratulate the Chairperson of the Committee on Finance, Planning and Trade. In rushing to get the amendments done, we made irrelevant amendments to Section 16 and 17 of this Bill. I think the Chairman should consider, at the earliest opportunity, to clean up so that we do not expose those who will be practising as investment and financial analysts to constitutional conditions that they cannot meet.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Let me hear Hon. Naomi Shaban, Member for Taveta Constituency.

**Hon. (Dr.) Shaban:** Hon. Temporary Deputy Speaker, I also want to add my voice to the good job that the Chair of the Committee on Finance, Planning and Trade has done. Even from the number of the amendments that were there, it is because of the good work that the whole Committee did.

I beg to support.

**Hon. Gikaria:** Hon. Temporary Deputy Speaker, I want to speak on the water issue. This one is very complex.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. You have spoken. Order, hon. Members! I confirm that we do not have quorum for purposes of making a decision on this. So, I direct that the Question be put in the next appropriate time.

Hon. Members, we now go to the second one, that is, the Water Bill (National Assembly Bill No. 8 of 2014). I, therefore, call upon the Chairperson to report to the House.

#### THE WATER BILL

**Hon. (Ms.) Shebesh:** Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Water Bill, National Assembly Bill No. 8 of 2014), and has approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Mover to move the agreement with the report.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Mathenge, Member for Gilgil, to second.

**Hon. Ndiritu:** I second

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I call upon the Mover to move the Third Reading.

**Hon. (Ms.) Abdalla:** I beg to move that the Water Bill, National Assembly Bill No. 8 of 2014), be now read the Third Time. I request Hon. Ronald Tonui to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Tonui, Member for Bomet Central.

**Hon. Tonui:** I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I can see some good requests and interest that we have in water. Let me start with Hon. Francis Waititu, Member for Juja. Just make a comment.

**Hon. Francis Waititu:** Thank you, Hon. Temporary Deputy Speaker. I really commend the Committee for doing a very good job. Water is life. I thank the Committee for sitting down and looking at various issues, especially in Juja Constituency. Between Ruiru and Thika, we have been having problems. When I look at it, you have covered everything. Madam Chairperson, I thank you. God bless you.

*(Applause)*



**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You thank me. Thank you too. Hon. Member for Kipipiri, Samuel Gichigi.

**Hon. Gichigi:** Thank you, Hon. Temporary Deputy Speaker. Unfortunately, today, I arrived late for this Bill. However, the confidence I have in the Chair of this Committee made me think that everything is right. The challenge is going to be in implementation. When we have these shared functions, the tendency is for each level of Government to try and pull to its side. I am hoping that since this is a very critical service to the citizenry of Kenya, there is going to be sobriety as the Senate considers this law as well as when we go to implementation. I hope we will not have a situation where both levels of Government are treading on each other's toes all the time. I hope we have given the country a good law. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you

*(Hon. (Ms.) Shebesh withdrew from the Chamber)*

We must also thank the Chair who has done very well. She has sat for a long time even as she walks out of the Chamber. She has done an exemplary job. Thank you.

*(Applause)*

Hon. Benjamin Langat, Member for Ainamoi.

**Hon. Langat:** Thank you very much, Hon. Temporary Deputy Speaker. I want to thank the Committee on Environment and Natural resources through the Chairperson who is seated next to me for a job well done to process the Bill in a record two-and-a-half hours. I thought this Bill would go for three days. I want to congratulate her because she has really done it efficiently.

Secondly, I want you to encourage the minority side to take the work of this house seriously. We do not want members who transact bills in funerals and fundraisings. You will hear some of them saying: "we were not in the house! We were not told!" yet, we have the opportunity. I want to congratulate the member for Rangwe for being both the minority leader, member for Rangwe and representing everybody else from that side.

*(Laughter)*

I am requesting that you do some bit of capacity building especially on the Minority side, so that they can take the job of this House quite seriously like - our good friend, Hon. Oner.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. I know that today you are on the right side. But I can assure you that he is not the only Member who is in the House. There are many. The Chairperson, Hon. Amina Abdalla, who has also done a very good job.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Speaker, I just want to take this opportunity to thank my Members for what they have achieved. You can see they are here in big numbers. As this Bill goes to the Senate, we want to plead with the Senate that it is not always good to just focus on doing what is popular; we need to do what is constitutional and what is

right. What is right is that water services are devolved, but the fact is that regulation must remain with the national Government. I want to plead with you to allow my most active Member, Hon. Dukicha, Member for Galole, to say something.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I will allow him, but after the procedure. Let me go first with the leadership. Let me give Hon. Naomi Shaban, Member for Taita Taveta, a chance.

**Hon. (Dr.) Shaban:** Ahsante sana Mhe. Naibu Spika wa Muda. Nataka pia kuongeza sauti yangu kwa kumpongeza Mwenyekiti aliyesimamia suala hili la maji na mazingira kwa kufanya kazi nzuri, pamoja na Kamati yake. Wamekuwa na uwezo wa kutufanya kazi hii yote. Ningependa kumkumbusha Mhe. Langat kuwa kuna Wabunge wengine kama Mhe. Mbui ambaye amekaa tangu mwanzo mpaka sasa hivi. Vile vile Mwenyekiti, Madam Spika, leo amekuwa hapo akifanya kazi hii ambayo ni muhimu.

*(Applause)*

Tunaambiwa siyo desturi sana ya kuwa watulivu maanake muda ulikuwa umeyoyoma. Pia, ningependa kumshukuru sana dadangu Mhe. Amina Abdalla ambaye ni Mwenyekiti kwa sababu wakati huu wa kufunga Ramadhan, siyo rahisi kwa mtu kukaa hapa mpaka mwisho. Maji ni uhai. Kama maji ni uhai, tunaomba kuwa serikali za kaunti ziweze kuhakikisha kwamba wakati wananchi wanapopata maji, wasinyanyaswe. Pia mimi naunga mkono mambo yote ambayo yamefanywa hivi leo.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): *Ahsante sana.* Let me give the opportunity to the Hon. Member for Galole, Hassan Dukicha. He has been very well proposed by the Chair.

**Hon. Dukicha:** Ahsante Mhe. Naibu Spika wa Muda, kwa kunipa nafasi hii. Yangu ni kupongeza Kamati ya Mazingira na Mali ya Asili na hasa zaidi Mwenyekiti wake.

Swala la maji ni muhimu sana. Kulikuwa na mvutano mwingi sana kati ya serikali za kaunti na Serikali ya Kitaifa kuhusu ni nani atabaki na mambo ya maji. Kama ingekuwa ni kaunti inasimamia kila kitu, watu wengi wetu wangepata shida sana kwa sababu ya kuongezewa ada. Pengine unaambiwa: “Mara hii utapewa pesa hii.” Na kesho unarudishwa.

Lazima kuwe na bodi ya kusimamia masuala ya maji. Sio rahisi kufikia hapa. Ni kwa sababu ya bidii ya Kamati ya Mazingira na Mali Asili ambayo inaongozwa na Mheshimiwa Amina---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): We are just giving a comment.

**Hon. Dukicha:** Tunawapongeza. Waendeleo na kazi nzuri. Hata mimi nimefunga saumu na nimekaa mpaka dakika hii kwa sababu hii ni kazi nzuri. Tunahimiza Kamati zingine pia katika hili Bunge ziwe na bidii kama Kamati ya Mazingira na Mali Asili. Ahsante sana.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Ahsante sana. The one who was not seen by the Chairman of the Departmental Committee on Finance, Planning and Trade, Member for Kathiani, Hon. Robert Mbui, announce your presence. Just make a comment.

**Hon. Mbui:** Thank you, Hon. Temporary Deputy Speaker. I was thinking that I am also invisible there, but I thank God I am not. I am happy to get this opportunity coming from the water starved area of Ukambani. I am also surprised that my friends are not here. We would have been here all of us because this is a Bill that is going to change our region. I am happy with the

Committee for coming up with this kind of Bill where we are going to have standards from now to improve water management in this country. The cost of water will also be regulated. So, I am very thankful. The sky is the limit for us in getting water in our region now. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I also come from Ukambani and so, you are not alone. I know ladies and water--- Member for Embu County, Hon. Rose Mitaru, give a comment.

**Hon. (Ms.) Mitaru:** Thank you very much, Hon. Temporary Deputy Speaker for giving me this chance to contribute. I come from the county where we have the source of water - which is Mt. Kenya. We get all the water that supplies electricity in this place. But it is so dry that we need a lot of water. Our people cannot go hungry. I want to thank God for the Committee that has discussed about water for our people. I hope that they will continue working hard so that other committees can emulate them. When we get enough water for domestic use and agriculture, it will improve the economy of every household. It will be through this Committee and we should thank all of them.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Member for Narok North.

**Hon. ole Kenta:** Thank you, Hon. Temporary Deputy Speaker. I would like to also congratulate the Committee for their good work. I will plead - like the Chair has done - with the "mutilators" on the other side not to interfere with this Bill. I believe we have done a good job. At the end of the day, Kenyans belong to the national Government. So, it is not necessary for anybody else to always think that the national Government has no role in the lives of our people and, especially, with regard to standards and tariffs that must stand. Our people must be protected. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The other side is represented very well. Member for Rangwe, give a comment.

**Hon. Ogallo:** Thank you, Hon. Temporary Deputy Speaker. Everybody has said very good things about the Committee. This is the third major Bill we are transacting in this House as a Committee. I am very happy with our Committee. However, I want to appeal to the Members of this House. We have legislated on the water services strategy today. Those things are going to require money. We would like this House to appropriate money to provide water as has been legislated today. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Before we close, let me give the opportunity to Hon. Sunjeev Birdi, who is a nominated Member.

**Hon. (Ms.) Sunjeev:** Thank you very much, Hon. Temporary Deputy Speaker. I will make it very simple. Congratulations and hats off to our very able Chair, Hon. Amina Abdalla. Today, we are in a country where water is scarce even though it is in abundance. We have situations where we have rogue borehole drillers who drill boreholes hither and thither and end up spoiling the environment. This Bill brings an opportunity where we are able to streamline the process and bring water to everybody in a good way.

Thank you, Hon. Temporary Deputy Speaker. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate and thank all of you for your patience and time taken. I am sure that Kenyans know what Members of Parliament do in this House. I thank the two Chairpersons, Hon. Amina and

the Chairperson for the Departmental Committee on Finance, Planning and Trade. I also thank the Chairperson who has taken us through, Hon. Shebesh.

Hon. Members, we were discussing the Water Bill and I have confirmed that the quorum is not enough for me to put the Question for making a decision in this House. I order that the putting of the Question be deferred to the next Sitting.

### ADJOURNMENT

This is a House of rules and procedures. Therefore, the time being 6.30 p.m., the House stands adjourned until Tuesday, 7<sup>th</sup> July 2015 at 2.30 p.m.

I thank you all.

The House rose at 6.30 p.m.