



COUNTY GOVERNMENT OF NAIROBI CITY

SECOND ASSEMBLY – (THIRD SESSION)

NAIROBI CITY COUNTY ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, JUNE 12, 2019 AT 2.30 P.M.

1. The Assembly assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer

QUORUM OF THE ASSEMBLY

The Deputy Speaker having confirmed that there was no Quorum caused the Bell to be rung for Ten minutes.

There being a Quorum at the expiry of the ten minutes, the Deputy Speaker called the Assembly to order.

3. PAPERS LAID: -

The following paper was laid on the Table of Assembly:

- a) **THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE VETTING OF NOMINEES TO THE NAIROBI CITY COUNTY PUBLIC SERVICE BOARD**

(Chairperson, Sectoral Committee on Labour and Social Welfare)

4. NOTICE OF MOTION – (CHAIRPERSON, SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE)

THAT, this Assembly adopts the **REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE VETTING OF NOMINEES TO THE NAIROBI CITY COUNTY PUBLIC SERVICE BOARD**, laid on the Table of the Assembly today, Wednesday, 12th June, 2019.

5. STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (C):-

The following Statements were requested:

- a) Hon. Redson Otieno, MCA requested for a Statement from the Chairperson of the Sectoral Committee on Health Services regarding delayed completion of important projects in the County.

- b) Hon. Redson Otieno, MCA requested for a Statement from the Chairperson of the Sectoral Committee on Health Services regarding provision of important supplies to Health Facilities in the County.
- c) Hon. Mwangi Njihia, MCA requested for a Statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding non-functioning street lights in the County.

6. MOTION – A POLICY OF CONFERMENT OF CIVIC HONOURS

Motion made and Question proposed;

THAT, aware that Chapter Four of the Constitution 2010 provides for the Bill of Rights which is an integral part of Kenya’s Democratic state and is the framework for social, economic and cultural policies; further aware that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potentials of all human beings; recognizing that several individuals and organizations have served the County at various levels with dedication and splendid work towards the betterment of Nairobi City County and its residents; concerned that such individuals and organizations have not been recognized for their outstanding performance in the public service in the County; noting that individuals and organizations have upheld the rights of others, serving the community above themselves and contributing to nation building through outstanding service and achievements, this Assembly urges the County Executive to develop a policy on conferment of civic honours to provide for recognition and appreciation of the extraordinary acts of service made by individuals and organizations who performed tremendously in their works to the County and its residents.

(Hon. Kabiro Mbugua)

Debate ensued;

Mover replied;

Question put and **agreed to**

7. COMMITTEE OF THE WHOLE ASSEMBLY

Order for Committee of the Whole Assembly read;

IN THE COMMITTEE

(Hon. Silas Matara, MCA - in the chair)

The Nairobi City County Tobacco Control Bill, 2018 (Assembly Bill no. 9 of 2018)

Clause 3

amendments proposed –

THAT, clause 3 be amended-

In paragraph (b) by deleting the expression “persons under the age of eighteen years” appearing immediately after the words “health of” and substituting therefor the word “minors”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 3 as amended be part of the Bill proposed, put and agreed to;

Clause 4 amendments proposed –

THAT, clause 4 be amended-

- (i) In sub clause (2) by deleting the word “subsection (1)” and substituting therefor the words “this Act”
- (ii) In sub clause (2) (c) by deleting paragraph (c) in its entirety and substituting therefor the following; -
- (iii) In sub clause (2) (g) by deleting the expression “of the Act” and substituting therefor the expression “on the implementation of this Act”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 4 as amended be part of the Bill proposed, put and agreed to;

Clause 5 amendments proposed –

THAT, clause 5 be amended-

- (i) In sub clause (2) (g) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (ii) In sub clause (2) (h) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (iii) In sub clause (2) (i) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (iv) In sub clause (4) by deleting the words “and final” and substituting therefor the word “further”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 5 as amended be part of the Bill proposed, put and agreed to;

Clause 6

Question that Clause 6 be part of the Bill proposed, put and agreed to;

Clause 7 amendments proposed –

THAT, Clause 7 of the Bill be amended by deleting Clause 7 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 7 as amended be part of the Bill proposed, put and agreed to;

Clause 8 amendments proposed –

THAT, Clause 8 of the Bill be amended by deleting Clause 8 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 8 as amended be part of the Bill proposed, put and agreed to;

Clause 9 amendments proposed –

THAT, Clause 9 of the Bill be amended by deleting Clause 9 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 9 as amended be part of the Bill proposed, put and agreed to;

Clause 10 amendments proposed –

THAT, Clause 10 of the Bill be amended by deleting Clause 10 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 10 as amended be part of the Bill proposed, put and agreed to;

Clause 11 amendments proposed –

THAT, Clause 11 of the Bill be amended by deleting Clause 11 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 11 as amended be part of the Bill proposed, put and agreed to;

Clause 12 amendments proposed –

THAT, Clause 12 of the Bill be amended by deleting Clause 12 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 12 as amended be part of the Bill proposed, put and agreed to;

Clause 13 amendments proposed –

THAT, Clause 13 of the Bill be amended by deleting Clause 13 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 13 as amended be part of the Bill proposed, put and agreed to;

Clause 14 amendments proposed –

THAT, Clause 14 of the Bill be amended by deleting Clause 14 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 14 as amended be part of the Bill proposed, put and agreed to;

Clause 15 amendments proposed –

THAT, Clause 15 of the Bill be amended by deleting Clause 15 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 15 as amended be part of the Bill proposed, put and agreed to;

Clause 16 amendments proposed –

THAT, Clause 16 of the Bill be amended by deleting Clause 16 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 16 as amended be part of the Bill proposed, put and agreed to;

Clause 17 amendments proposed –

THAT, Clause 17 of the Bill be amended by deleting Clause 17 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 17 as amended be part of the Bill proposed, put and agreed to;

Clause 18 amendments proposed –

THAT, Clause 18 of the Bill be amended by deleting Clause 18 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 18 as amended be part of the Bill proposed, put and agreed to;

Clause 19 amendments proposed –

THAT, clause 19 be amended-

- (i) In sub clause (1) by deleting the expression “person under the age of eighteen years” appearing immediately after the expression “to a” and substituting therefor the word “minor”
- (ii) In sub clause (2) by inserting the word “exceeding” immediately before the word “fifty”
- (iii) In sub clause (4) (c) by deleting the word “Minister” and substituting therefor the word “county executive member”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 19 as amended be part of the Bill proposed, put and agreed to;

Clause 20 amendments proposed –

THAT, clause 20 be amended-

- (i) In sub clause (1) by deleting the expression “person under the age of eighteen years” appearing immediately after the expression “to a” and substituting therefor the word “minor”
- (ii) In sub clause (2) by inserting the word “exceeding” immediately before the word “fifty”
- (iii) In sub clause (4) (c) by deleting the word “Minister” and substituting therefor the word “county executive member”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 20 as amended be part of the Bill proposed, put and agreed to;

Clause 21 amendments proposed –

THAT, clause 21 be amended-

- (i) In sub clause (2) by inserting the expression “or to both such fine and imprisonment” immediately after the word “month”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 21 as amended be part of the Bill proposed, put and agreed to;

Clause 22 amendments proposed –

THAT, clause 22 be amended-

- i) In sub clause (2) by deleting the expression “three months” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 22 as amended be part of the Bill proposed, put and agreed to;

Clause 23 amendments proposed –

THAT, clause 23 be amended-

- (i) In sub clause (1) paragraph (a) by deleting paragraph (a) in its entirety.
- (ii) In sub clause (2) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 23 as amended be part of the Bill proposed, put and agreed to;

Clause 24 amendments proposed –

THAT, clause 24 be amended-

- i. In sub clause (4) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”
- ii. In sub clause (1) (b) by deleting the word “Second” and substituting therefor the word “First”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 24 as amended be part of the Bill proposed, put and agreed to;

Clause 25 amendments proposed –

THAT, Clause 25 of the Bill be amended by deleting Clause 25 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 25 as amended be part of the Bill proposed, put and agreed to;

Clause 26 amendments proposed –

THAT, clause 26 be amended-

- (a) In sub clause (1) by deleting the expression “colour or a combination of colours,” appearing immediately after the word “premises”
- (b) In sub clause (3) be deleting the words “colours or” appearing immediately after the word “promotion”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 26 as amended be part of the Bill proposed, put and agreed to;

Clause 27 amendments proposed –

THAT, clause 27 be amended-

- (a) In sub clause (3) by deleting the expression “person under the age of eighteen years” appearing immediately after the word “guardianship” and substituting therefor the word “minor”
- (b) In sub clause (4) by deleting the word “children” appearing after the word “where and substituting therefor the word “minors”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 27 as amended be part of the Bill proposed, put and agreed to;

Clause 28 amendments proposed –

THAT, clause 28 be amended-

- (a) In sub clause (2) by inserting the expression “, except in designated smoking areas” immediately before the word “smoke”
- (b) In sub clause (3) by deleting sub clause (3) in its entirety.
- (c) In sub clause (4) by deleting sub section (4) in its entirety.
- (d) In sub clause (7) by deleting the expression “subsection (6)” and substituting therefor the expression “this Section” and inserting the expression “, or to both such fine and imprisonment” immediately after the word “months”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 28 as amended be part of the Bill proposed, put and agreed to;

Clause 29 amendments proposed –

THAT, clause 29 be amended-

- (a) By deleting the expression “subsection 2” and substituting therefor the expression “the foregoing provisions of this Part,” and by deleting the expression “sub section (2) (d), (f), (g) (p) and

(q)” and substituting therefor the expression “Section 28 (2) (a), (d), (f),(g), (o), (p) (q) and (r).

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 29 as amended be part of the Bill proposed, put and agreed to;

Clause 30 amendments proposed –

THAT, clause 30 be amended-

- (i) In sub clause (3) by inserting the expression “or to both such fine and imprisonment” immediately after the word “months”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 30 as amended be part of the Bill proposed, put and agreed to;

Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39 & 40

Question that Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39 & 40 be part of the Bill proposed, put and agreed to;

Clause 41 amendments proposed –

THAT, Clause 41 of the Bill be amended by deleting Clause 41 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 41 as amended be part of the Bill proposed, put and agreed to;

Clause 42 amendments proposed –

THAT, Clause 42 of the Bill be amended by deleting Clause 42 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;
Question put and agreed to;

Question that Clause 42 as amended be part of the Bill proposed, put and agreed to;

Clause 43 amendments proposed –

THAT, Clause 43 of the Bill be amended by deleting Clause 43 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;
Question put and agreed to;

Question that Clause 43 as amended be part of the Bill proposed, put and agreed to;

Clause 44 amendments proposed –

THAT, Clause 44 of the Bill be amended by deleting Clause 44 in its entirety.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;
Question put and agreed to;

Question that Clause 44 as amended be part of the Bill proposed, put and agreed to;

Clause 45

Question that Clause 45 be part of the Bill proposed, put and agreed to;

Clause 46 amendments proposed –

THAT, clause 46 be amended-

- (a) In sub clause (2) by deleting the numerical “26(2)” appearing immediately after the word “section” and substituting therefore the numerical “45(2)”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;
Question put and agreed to;

Question that Clause 46 as amended be part of the Bill proposed, put and agreed to;

Clause 47 amendments proposed –

THAT, clause 47 be amended-

- (a) In sub clause (1) by deleting the expression “pursuant to section 27” appearing immediately after the word “place”.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 47 as amended be part of the Bill proposed, put and agreed to;

Clauses 48, 49 & 50

Question that Clauses 48, 49 & 50 be part of the Bill proposed, put and agreed to;

Clause 51 amendments proposed –

THAT, clause 51 be amended-

- (a) By deleting the numerical “31” appearing after the word “section” and substituting therefor the numerical “50”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 51 as amended be part of the Bill proposed, put and agreed to;

Clauses 52, 53 & 54

Question that Clauses 52, 53 & 54 be part of the Bill proposed, put and agreed to;

Clause 55 amendments proposed –

THAT, clause 55 be amended-

- (i) In sub clause (4) by deleting the word “thirty” and substituting therefore the word “sixty”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 55 as amended be part of the Bill proposed, put and agreed to;

Clause 56

Question that Clause 56 be part of the Bill proposed, put and agreed to;

Clause 57 amendments proposed -

THAT, clause 57 be amended-

- (a) In sub clause 2 (a) by inserting the expression, “for a specially designated smoking zone” immediately after the word “licence”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 57 as amended be part of the Bill proposed, put and agreed to;

New Paragraph 4 (2) (c)A

THAT, Clause 4 of the Bill be amended:

- (i) In sub clause (2) (c) by deleting paragraph (c) in its entirety and substituting therefor the following; -

“Consider and approve applications for the establishment of specially designated smoking areas”

Motion made and question proposed;

That New Paragraph 4 (2) (c)A be read a Second Time

(Vice-Chairperson, Sectoral Committee on Trade, Tourism & Cooperatives)

Question put and agreed to

Question that New Paragraph 4 (2) (c)A be part of the Bill proposed, put and agreed to;

New Paragraph 5(2) (b)A

THAT, Clause 5 of the Bill be amended:

- (i) In sub clause (2) (b) by deleting sub clause (b) in its entirety and substituting therefor the following: -

“The Director of Health Services who shall be the secretary to the Committee”

- (ii) In sub clause (2) (e) by deleting sub clause (e) in its entirety and substituting therefor the following:

“a representative of the business community to be nominated by the Kenya National Chamber of Commerce & Industry”

Motion made and question proposed;

That New Paragraph 5(2) (b)A be read a Second Time

(Vice-Chairperson, Sectoral Committee on Trade, Tourism & Cooperatives)

Question put and agreed to

Question that New Paragraph 5(2) (b)A be part of the Bill proposed, put and agreed to;

New Paragraph 6 (d)A

THAT, Clause 6 of the Bill be amended:

- (i) In paragraph (d) by inserting a new paragraph immediately after paragraph (d) as follows: -

“recommending to the county executive member and participating in the formulation of the regulations to be made under section 58;

Motion made and question proposed;

That New Paragraph 6 (d)A be read a Second Time

(Vice-Chairperson, Sectoral Committee on Trade, Tourism & Cooperatives)

Question put and agreed to

Question that New Paragraph 6 (d)A be part of the Bill proposed, put and agreed to;

New Sub-Clause 29(1) A

THAT, Clause 29 of the Bill be amended

- (a) By inserting a new sub clause immediately after sub clause (1) as follows: -

“29 (1) A a premise owner who wishes to provide a specially designated smoking area within the premises shall make an application in the prescribed form to the Committee and pay the requisite application fees

Motion made and question proposed;

That New Sub-Clause 29(1) A be read a Second Time

(Vice-Chairperson, Sectoral Committee on Trade, Tourism & Cooperatives)

Question put and agreed to

Question that New Sub-Clause 29(1) A be part of the Bill proposed, put and agreed to;

New Clause 58A

THAT, Clause 58 of the Bill be amended: -

By inserting a new clause immediately after Clause 58 as follows: -

Transitional

“58 A” Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act, was—

(a) a wholesaler, distributor or retailer of any tobacco product; or

(b) the owner or manager of any premises contemplated under Part V of this Act, shall, within sixty (60) days of such commencement, comply with the requirements of this Act.

Motion made and question proposed;

That New Clause 58A be read a Second Time

(Vice-Chairperson, Sectoral Committee on Trade, Tourism & Cooperatives)

Question put and agreed to

Question that New Clause 58A be part of the Bill proposed, put and agreed to;

First Schedule amendments proposed -

THAT, the First Schedule be amended by deleting the First Schedule in its entirety

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that First Schedule as amended be part of the Bill proposed, put and agreed to;

Second Schedule

Question that Second Schedule be part of the Bill proposed, put and agreed to;

Clause 2 amendments proposed -

THAT, Clause 2 of the Bill be amended:

- (i) By inserting the following new definitions in their proper alphabetical sequence: -
- (ii)
- (a) “brand element” includes a brand name, manufacturer’s name, trade mark, trade name, logo, graphic arrangement, design, colour, motto or slogan that is reasonably associated with, or that evokes a product, a service or a brand of product or service;
 - (b) “manufacture” means the processing of a tobacco product and includes the packaging, labelling, distribution or importation of tobacco products.
 - (c) ‘manufacturer’ includes any entity that is involved in the manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer.
 - (d) “minor” a person under the age of eighteen (18) years
 - (e) “promotion” means a representation, including an advertisement, whether direct or indirect, including any communication of information about a product or service and its price and distribution, that is likely to influence and shape attitudes, beliefs and behavior about the product or service, or that is intended to or has the effect of inducing consumers to use tobacco products, underestimate the dangers of tobacco consumption, or create recognition of or goodwill for the tobacco manufacturer;

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 2 as amended be part of the Bill proposed, put and agreed to;

Title amendments proposed –

THAT, the Long Title of the Bill be amended by deleting the Long Title in its entirety and substituting therefor the following: -

“AN ACT of Nairobi City County Assembly to provide measures additional to those in the national legislation for the control of the sale, labelling, advertising and promotion of tobacco products; to provide for the control of pollution and the conservation of the environment within the precincts of Nairobi City County pursuant to the Part 2 of the Fourth Schedule to the Constitution and for connected purposes.”

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that the Title as amended be part of the Bill proposed, put and agreed to;

Clause 1 amendments proposed –

THAT, the Clause 1 of the Bill be amended by deleting the numerical 2018 and substituting therefor the numerical 2019.

(Chairman, Sectoral Committee on Health Services)

Question of the amendment proposed;

Question put and agreed to;

Question that Clause 1 as amended be part of the Bill proposed, put and agreed to;

Bill to be reported *with amendments*

ASSEMBLY RESUMED: -

The Nairobi City County Tobacco Control Bill,2018 (Assembly Bill no. 9 of 2018)

Bill reported *with amendments*

Motion made and Question proposed: -

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

(Chairperson, Sectoral Committee on Health Services)

Question put and **agreed to**

Motion made and question proposed;

THAT, the Nairobi City County Tobacco Control Bill,2018 (assembly bill no. 9 of 2018) be now read a Third Time.

(Chairperson, Sectoral Committee on Health Services)

Question put and **agreed to**

Bill read a Third Time and **passed**;

And the time being twenty minutes past Four O'clock, the Speaker adjourned the Assembly without Question put pursuant to the Standing Orders

8. ASSEMBLY ROSE - _____ at Twenty Minutes Past Four O'clock.

MEMORANDUM

The Speaker will take the Chair on
Thursday, June 13th, 2019

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