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ELEVENTH PARLIAMENT - FOURTH SESSION

THE NATIONAL ASSEMBLY

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Agriculture Committee on
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10/8/2016

DEPARTMENTAL COMMITTEE OF AGRICULTURE LIVESTOCK AND
COOPERATIVES

REPORT ON THE CONSIDERATION OF SENATE AMENDMENTS TO THE
FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2015

Directorate of Committee Services,
Clerk's Chambers
Parliament Buildings,
NAIROBI

August, 2016

ABBREVIATIONS

AFFA - Agriculture Fisheries and Food Authority

AFFA Act - Agriculture Fisheries and Food Authority Act

2.0 EXECUTIVE SUMMARY

In 2013 the National Assembly enacted the Agriculture ,Fisheries and Food Authority Act ,2013 was undertaken. This Act of Parliament whose purpose was to create an Authority (AFFA) to, in consultation with county government ; administer the Crops Act , 2013 and Fisheries Act in accordance with the provisions of this Acts, promote best practice in , and regulate , the production , processing ,marketing ,grading ,storage , collection ,transportation and warehousing of agricultural and aquatic products excluding livestock and livestock products , as may be provided for under the Crops Act and Fisheries Act, collect and collate data ,maintain a data base on agricultural and aquatic products excluding livestock products , documents and monitor agriculture through registration of players as provided for in the Crops Act and Fisheries Act and advise the national government and the county government on agricultural and aquatic levies for purpose f planning ,enhancing harmony and equity in the sector.

In 2014 the Fisheries Management and Development Bill ,2014 published with objectives The objective of this Bill is to provide a comprehensive legislative framework for development, governance and investment of the oceans and fisheries resources. The Bill anchors the interventions provided in the National Oceans and Fisheries Policy ,2008. This policy outlines key intervention that should be made in order to sustainably increase production from the underutilized waters which includes the Exclusive Economic Zones , Lake Turkana, Lake Naivasha, Lake Victoria and the near shore marine waters.

Further, the Bill provides for development of Sanitary and Phytosanitary (SPS) fish quality standards which will make Kenya competitively participate in international trade and enables Kenya meet its international obligations in fish trade and sustainable fisheries especially the fight against Illegal, Unreported and unregulated (IUU) fishing so that Kenya benefit from fisheries resources within their Exclusive Economic Zones.

The Senate having considered the Bill has proposed amendments whose effect is to mainly stress the need for structured relationship between the relevant structures at the counties and the national level. Secondly is to correct topographical mistakes in the Bill and correct sequencing matters in the Bill.

The Committee has considered the amendments and as concurred with the objects of the amendments except with a few amended clauses to which the Committee had varied views but

3.0 MANDATE OF THE COMMITTEE

The Committee on Agriculture, Livestock and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to:-

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
- iii. To study and review all legislation referred to it;
- iv. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;
- vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and
- vii. Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee is mandated to consider the following subjects:-

- i. Agricultural services
- ii. Livestock services
- iii. Fisheries
- iv. Irrigation Services
- v. Cooperatives

5.0 MEMBERS OF THE COMMITTEE

Chairperson

The Hon. Adan M. Nooru, MBS, CBS, MP

Vice Chairperson

The Hon. Kareke Mbiuki, M.P

Members

The Hon. John B. Serut, M.P

The Hon. Benjamin Washiali, M.P

The Hon. Raphael Letimalo, M.P

The Hon. Millie Odhiambo - Mabona, M.P

The Hon. Fredrick Outa, M.P

The Hon. Kabando Wa Kabando, M.P

The Hon. (Dr.) Victor Munyaka, M.P

The Hon. Daniel Maanzo, MBS,

The Hon. Silas Tiren, M.P

The Hon. Maison Leshoomo, M.P

The Hon. Mary Wambui, M.P

The Hon. Korei Ole Lemein, M.P

The Hon. Peter N. Gitau, M.P

The Hon. Florence Mutua, M.P

The Hon. John Kobado, M.P

The Hon. Patrick Wangamati, M.P

The Hon. Awiti Bollo , M.P

The Hon. Ayub Savula Angatia, M.P.

The Hon. Waititu Munyua, M.P

The Hon. Kimani Ichung'wah, M.P

The Hon. Ferdinand Wanyonyi, M.P

The Hon. Justice Kemei, M.P

The Hon. Benjamin Andayi, M.P

The Hon. Jude Njomo, M.P

The Hon. Aisha Jumwa, M.P

The Hon. Alfred Kiptoo Keter, M.P

The Hon. Paul Simba Arati, M.

7.0 LIST OF RECOMMENDATION

The Committee after considering and deliberating on the Senate Amendments to Fisheries Management and Development Bill ,2015 National Assembly Bill No. 18 of 2014 recommends that:

Senate Amendment to Clause 10

THAT clause 10 of the Bill be amended in subclause (1) by deleting the words “and the Director of the Service” appearing immediately after the words “the Director-General” in paragraph (g).

Justification

This is amendment is to correct topographical errors by deleting the word Director of Service a non-existent title

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments to Clause 10

Senate Amendment to Clause 33

THAT clause 33 of the Bill be amended in subclause (2) by inserting the words “collaborate with the Director-General in the management of fisheries and shall, for this purpose” immediately after the words “each county shall”.

Justification

This is amendment is to enrich the clause better by providing clear linkage between the national government represented by Director General and counties represented by County executive committee member on matters related to the fisheries

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 33

Senate Amendment to Clause 37

THAT clause 37 of the Bill be amended –

- (a) in subclause (1) by deleting the words “governing the administration of beach management units” appearing immediately after the words “make regulations” and substituting therefor the words “setting out standards for the management of beach management units established by the county governments”.

- (b) in subclause (2) by –
 - (i) deleting paragraph (b) and substituting therefor the following new paragraph
 - (b) minimum standards in the general administration of the beach management units;
 - (ii) deleting paragraph (c);
 - (iii) deleting paragraph (d) and substituting therefor the following new paragraph
 - (d) standards to be adhered to by beach management units in imposing levies and charges and the management and utilization of such funds;
 - (iv) deleting paragraph (e) and substituting therefor the following new paragraph
 - (1) such other standards which the Cabinet Secretary may consider necessary for the effective administration and management of the beach management unit;

Justification

The general administration and management of Beach units is a function of the County not National government hence the amendments corrects anomaly created earlier which granted the administration of Beach units to National government

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 37

- (a) using any vessel for recreational fishing in the Kenya fishery waters; and
 - (b) operating a fish processing establishment within the respective county.
- (1B) The Cabinet Secretary shall prescribe the standards for the registration of vessels and grant, renewal and revocation of licences by a county government under subclause (1A).
- (1C) Each County Government may enact county specific legislation setting out the –
- (a) criteria for the registration of a vessel and issuance of a licence to an applicant for a licence under subsection (1A);
 - (b) information required to be submitted by an applicant for registration or issuance of a licence;
 - (c) process of determination of an application;
 - (d) conditions for the issuance or renewal of a licence under this Act;
 - (e) grounds for the rejection of an application or cancellation of a licence issued under this Act;
 - (f) process of application for the renewal of licences, de-registration of a vessel and revocation of a licence issued to an applicant by the county government; and
 - (g) appointment of inspectors or such other authorised officers to carry out such inspections as the county executive committee member responsible for fisheries may consider necessary for the implementation of this Act.

Senate Amendment to Clause 104

THAT clause 104 of the Bill be amended in subclause (2) by deleting the words “Cabinet Secretary” appearing immediately after the word “The” and substituting therefor the words “county executive committee member”.

Justification

This is amendment is to correct the anomaly created in the bill that empowered the Cabinet Secretary to license the local fishing vessels in the country which as a matter of fact is a function of County Executive Member at the respective county.

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 104

Senate Amendment to Clause 112

THAT clause 112 of the Bill be amended –

(a) in subclause (1) by –

(i) inserting the words “respective county executive committee member responsible for fisheries may, in consultation with” immediately after the words “quantity as the” in paragraph (a);

(ii) deleting the words “Director-General” appearing immediately after the words “notified to the” in paragraph (c) and substituting therefor the words “respective county executive committee member responsible for fisheries”

(b) in subclause (2) by deleting the word “authorized officer or inspector” appearing immediately after the words “request of an” and substituting therefor the words “officer or inspector authorized to carry out an inspection by the county executive committee member responsible for fisheries”.

Justification

This is amendment is to enrich the clause by respecting the fact that fisheries is a devolved function and therefore there is need to involve the County Executive Member in inspection of fish processing plants in counties.

Senate Amendment to Clause 201

THAT clause 201 of the Bill be amended –

- (a) by inserting the following new paragraph immediately after paragraph (e) –
 - (ea) one person, who has knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;
- (b) in paragraph (h) by –
 - (i) deleting the word “five” appearing at the beginning of the introductory clause and substituting therefor the word “four”;
 - (ii) deleting the word “three” appearing at the beginning of subparagraph (ii) and substituting therefor the word “two”.

Justification

This amendment is to enhance the clause by recognizing the fact that fisheries is a devolved function and therefore county government has bigger role in the fisheries management in the country and therefore its representation through Council of Governors representative in the Fish Marketing Authority is valid. The amendment shall not cause an increment in the numbers of Board Directors

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 201

owing to its minimal effect to the legislation has unanimously agreed to pursue further amendments under the Statute Miscellaneous.

Kenya as a member of fisheries organizations or bodies such as Lake Victoria Fisheries Organization (LVFO), and FAO , it is also a signatory to most of the regional and international conventions, protocols and agreements that contain guidelines for management of fisheries resources.

This report analyses the objects and reasons of the Senate Amendments by providing its effects and impact on the original provision in the Bill as passed by National Assembly.

9.0 ANALYSIS OF THE SENATE AMENDMENTS TO FISHERIES MANAGEMENT AND DEVELOPMENT BILL , 2015 NATIONAL ASSEMBLY BILL NO. 18 OF 2014.

Senate Amendment to Clause 10

THAT clause 10 of the Bill be amended in subclause (1) by deleting the words “and the Director of the Service” appearing immediately after the words “the Director-General” in paragraph (g).

Justification

This is amendment is to correct topographical errors by deleting the word Director of Service a non-existent title

Senate Amendment to Clause 33

THAT clause 33 of the Bill be amended in subclause (2) by inserting the words “collaborate with the Director-General in the management of fisheries and shall, for this purpose” immediately after the words “each county shall”.

Justification

This is amendment is to enrich the clause better by efficient communication between the national government represented by Director General and counties

(d) in subclause (2) by –

(v) deleting paragraph (b) and substituting therefor the following new paragraph

–
(b) minimum standards in the general administration of the beach management units;

(vi) deleting paragraph (c);

(vii) deleting paragraph (d) and substituting therefor the following new paragraph

–
(d) standards to be adhered to by beach management units in imposing levies and charges and the management and utilization of such funds;

(viii) deleting paragraph (e) and substituting therefor the following new paragraph –

(e) such other standards which the Cabinet Secretary may consider necessary for the effective administration and management of the beach management unit;

Justification

The general administration and management of Beach units is a function of the County not National government hence the amendments corrects anomaly created earlier which granted the administration of Beach units to National government

Senate Amendment to Clause 39

THAT clause 39 of the Bill be amended –

(c) in the introductory clause of subclause (1) by inserting the words “in consultation with the Council of Governors and” immediately after the words “the Board may”; and

(d) in the introductory clause of subclause (2) by inserting the words “in consultation with the relevant county governments” immediately after the words “Director-General shall”.

- (i) information required to be submitted by an applicant for registration or issuance of a licence;
- (j) process of determination of an application;
- (k) conditions for the issuance or renewal of a licence under this Act;
- (l) grounds for the rejection of an application or cancellation of a licence issued under this Act;
- (m) process of application for the renewal of licences, de-registration of a vessel and revocation of a licence issued to an applicant by the county government; and
- (n) appointment of inspectors or such other authorised officers to carry out such inspections as the county executive committee member responsible for fisheries may consider necessary for the implementation of this Act.

Justification

This is amendment is to enrich the clause by respecting the fact that fisheries is a devolved function and therefore there is need to involve the County Executive Member Licensing and Marketing

Amendment to Clause 85

THAT clause 85 of the Bill be amended in subclause (1) by inserting the words “to the respective county government” immediately after the words “shall require to apply”.

Justification

This is amendment is to enrich the clause by respecting the fact that fisheries is a devolved function and therefore there is need to involve the County Executive Member Licensing.

- (d) in subclause (2) by deleting the word “authorized officer or inspector” appearing immediately after the words “request of an” and substituting therefor the words “officer or inspector authorized to carry out an inspection by the county executive committee member responsible for fisheries”.

Justification

This is amendment is to enrich the clause by respecting the fact that fisheries is a devolved function and therefore there is need to involve the County Executive Member in inspecting fish processing plants in counties.

Senate Amendment to Clause 114

THAT clause 114 of the Bill be amended in –

- (c) subclause (1) by inserting the words “or the county executive committee member responsible for fisheries, as the case may be” immediately after the words “the Director-General”;
- (d) subclause (4) by inserting the words “or the county executive committee member responsible for fisheries, as the case may be” immediately after the words “the Director-General”;

Justification

This is amendment is to enrich the clause by respecting the fact that fisheries is a devolved function and therefore there is need to involve the County Executive Member in inspection of fisheries and fish processing plants in the counties.

Senate Amendment to Clause 200

THAT clause 200 of the Bill be amended by deleting paragraph (f).

Justification

This amendment is to enrich the clause by recognizing the fact that fisheries is a devolved function and therefore county government are expected to develop and improve fish market infrastructure and marketing system.

11.0 RECOMMENDATIONS

The Committee after considering and deliberating on the Senate Amendments to Fisheries Management and Development Bill ,2015 National Assembly Bill No. 18 of 2014 recommends that:

Senate Amendment to Clause 10

THAT clause 10 of the Bill be amended in subclause (1) by deleting the words “and the Director of the Service” appearing immediately after the words “the Director-General” in paragraph (g).

Justification

This is amendment is to correct topographical errors by deleting the word Director of Service a non-existent title

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendment to Clause 10

Senate Amendment to Clause 33

THAT clause 33 of the Bill be amended in subclause (2) by inserting the words “collaborate with the Director-General in the management of fisheries and shall, for this purpose” immediately after the words “each county shall”.

Justification

This is amendment is to enrich the clause better by providing clear linkage between the national government represented by Director General and counties represented by County executive committee member on matters related to the fisheries

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 33

Senate Amendment to Clause 37

THAT clause 37 of the Bill be amended –

- (e) in subclause (1) by deleting the words “governing the administration of beach management units” appearing immediately after the words “make regulations” and substituting therefor the words “setting out standards for the management of beach management units established by the county governments”.
- (f) in subclause (2) by –
 - (ix) deleting paragraph (b) and substituting therefor the following new paragraph
 - (b) minimum standards in the general administration of the beach management units;
 - (x) deleting paragraph (c);
 - (xi) deleting paragraph (d) and substituting therefor the following new paragraph
 - (d) standards to be adhered to by beach management units in imposing levies and charges and the management and utilization of such funds;
 - (xii) deleting paragraph (e) and substituting therefor the following new paragraph –
 - (2) such other standards which the Cabinet Secretary may consider necessary for the effective administration and management of the beach management unit;

Justification

The general administration and management of Beach units is a function of the County not National government hence the amendments corrects anomaly created earlier which granted the administration of Beach units to National government

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 37

- (f) operating a fish processing establishment within the respective county.
- (1B) The Cabinet Secretary shall prescribe the standards for the registration of vessels and grant, renewal and revocation of licences by a county government under subclause (1A).
- (1C) Each County Government may enact county specific legislation setting out the –
 - (o) criteria for the registration of a vessel and issuance of a licence to an applicant for a licence under subsection (1A);
 - (p) information required to be submitted by an applicant for registration or issuance of a licence;
 - (q) process of determination of an application;
 - (r) conditions for the issuance or renewal of a licence under this Act;
 - (s) grounds for the rejection of an application or cancellation of a licence issued under this Act;
 - (t) process of application for the renewal of licences, de-registration of a vessel and revocation of a licence issued to an applicant by the county government; and
 - (u) appointment of inspectors or such other authorised officers to carry out such inspections as the county executive committee member responsible for fisheries may consider necessary for the implementation of this Act.

Justification

This amendment is to enrich the clause by ensuring that this legislation comply with Schedule IV of the Constitution on the function of the two levels of the government. Therefore there is need to involve the County Executive Member Licensing and Marketing

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 84

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 104

Senate Amendment to Clause 112

THAT clause 112 of the Bill be amended –

(e) in subclause (1) by –

(i) inserting the words “respective county executive committee member responsible for fisheries may, in consultation with” immediately after the words “quantity as the” in paragraph (a);

(ii) deleting the words “Director-General” appearing immediately after the words “notified to the” in paragraph (c) and substituting therefor the words “respective county executive committee member responsible for fisheries”

(f) in subclause (2) by deleting the word “authorized officer or inspector” appearing immediately after the words “request of an” and substituting therefor the words “officer or inspector authorized to carry out an inspection by the county executive committee member responsible for fisheries”.

Justification

This is amendment is to enrich the clause by respecting the fact that fisheries is a devolved function and therefore there is need to involve the County Executive Member in inspection of fish processing plants in counties.

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 112

Senate Amendment to Clause 201

THAT clause 201 of the Bill be amended –

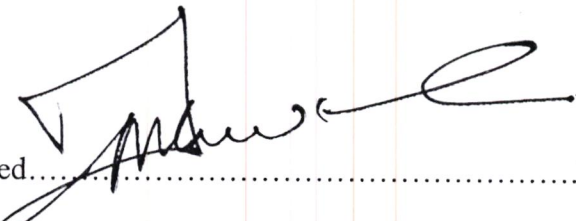

- (e) by inserting the following new paragraph immediately after paragraph (e) –
 - (ea) one person, who has knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;
- (f) in paragraph (h) by –
 - (i) deleting the word “five” appearing at the beginning of the introductory clause and substituting therefor the word “four”;
 - (ii) deleting the word “three” appearing at the beginning of subparagraph (ii) and substituting therefor the word “two”.

Justification

This amendment is to enhance the clause by recognizing the fact that fisheries is a devolved function and therefore county government has bigger role in the fisheries management in the country and therefore its representation through Council of Governors representative in the Fish Marketing Authority is valid. The amendment shall not cause an increment in the numbers of Board Directors

Committee Recommendation

The Committee recommends that the House do accept the Senate Amendments clause 201

Signed..........Date.....

The Hon. Adan M. Nooru, MBS, CBS, M.P

**CHAIRPERSON DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND COOPERATIVES**

20	The Hon. Korei Ole Lemein, M.P.	Korei
21	The Hon. Ferdinand K. Wanyonyi, M.P.	Ferdinand
22	The Hon. Alfred Kiptoo Keter, M.P.	
23	The Hon. Ayub Savula Angatia, M.P.	Ayub
24	The Hon. Silas Tiren, M.P.	
25	The Hon. Florence Mwikali Mutua, M.P.	
26	The Hon. Jude Njomo, M.P.	Jude
27	The Hon. John Kobado, MP	
28	The Hon. Paul Simba Arati, MP	Paul
29	The Hon. Hezron Awiti Bollo, M.P.	