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ELEVENTH PARLIAMENT –THIRD SESSION  
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REPORT OF THE MEDIATION COMMITTEE ON THE CONSIDERATION OF THE  
COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2014)

CLERKS' CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI-KENYA

NOVEMBER, 2015

V. 29

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# REPORT OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) BILL, (SENATE BILL NO. 1 OF 2014)

## 1.1 Introduction

The Mediation Committee on County Governments (Amendment) Bill, (Senate Bill No. 1 of 2014) was appointed by Speakers of the two Houses of Parliament pursuant to Article 112(2)(b) of the Constitution following the rejection of the Bill on 6<sup>th</sup> August, 2015 by the National Assembly at Second Reading.

Subsequently, four Members were appointed to the Committee from each House with a view to attempt to develop a version of the Bill that both Houses would pass.

## 1.2 Composition of the Mediation Committee

Through a letter Ref. No. KNA/2/4/2015(310) dated 19<sup>th</sup> August, 2015, the Clerk of the National Assembly informed the Clerk of the Senate that, the Speaker of the National Assembly, in consultation with the Leaders of Majority and Minority Parties of the National Assembly had appointed the following Members to represent the National Assembly in the Mediation Committee on County Governments (Amendment) Bill, (Senate Bill No. 1 of 2014) to consider the Bill:-

1. Hon. Wanjiku Muhia, MP
2. Hon. Daniel Maanzo, MP
3. Hon. Timothy Bosire, MP
4. Hon. Joseph Limo, MP

In acknowledging the above letter from the Clerk of the National Assembly, the Clerk of the Senate vide letter Ref. No. SEN/BILLS/2015 dated 23<sup>rd</sup> September, 2015, informed the Clerk of the National Assembly that, pursuant to Article 113 of the Constitution, the Speaker of the Senate had appointed the following Senators to represent the Senate in the Mediation Committee on County Governments (Amendment) Bill, (Senate Bill No. 1 of 2014) to consider the Bill:-

1. Sen. (Dr.) Boni Khalwale
2. Sen. Billow Kerrow
3. Sen. Janet Ong'era
4. Sen. Kipchumba Murkomen

Following the appointment of the Mediation Committee, the two teams representing the two Houses held separate debriefing meetings to acquaint themselves with their mandate.

### 1.3 Election of the Chairperson and Vice-Chairperson of the Committee

The Committee held its first meeting on Thursday, 15<sup>th</sup> October, 2015 and Senator (Dr.) Boni Khalwale and Hon. Wanjiku Muhia were elected as the Chairperson and Vice-Chairperson respectively.

### 1.4 Objectives of the Mediation

The objective of the mediation is to attempt to develop a version of the Bill that both Houses will pass in accordance with Article 113(1).

### 1.5 The County Governments (Amendment) Bill, Senate Bills No. 1 of 2014

The County Governments (Amendment) Bill, Senate Bills No. 1 of 2014 sponsored by Sen. (Dr.) Boni Khalwale seeks to amend the County Governments Act, No. 17 of 2012 by designating, in law, the respective headquarters of the forty-seven counties. The Bill also provides that in cases of transfer of county headquarters, the transfer should be done by a resolution by a County Assembly supported by at least two-thirds of the members of the County Assembly and with the approval of the Parliament.

#### 1.5.1 Consideration of the Bill by the Senate

The Bill was published on 28<sup>th</sup> February, 2014 and read a First Time in the Senate on 12<sup>th</sup> March, 2014 and committed to the Senate Standing Committee on Legal Affairs and Human Rights. The Standing Committee conducted public hearings on the Bill on 9<sup>th</sup> and 10<sup>th</sup> April, 2014. The following is a summary of the views submitted by the stakeholders during the public hearings-

##### (a) The Independent Electoral and Boundaries Commission (IEBC)

The IEBC supported the Bill and submitted that the ~~setting out~~ of the physical location of the seat of each county government would minimize ~~dispute~~ among out of the physical locations of headquarters of county governments ~~as witnessed~~ in Kirinyaga and Meru counties, among other counties.

## **(b) The Commission for the Implementation of the Constitution (CIC)**

The Commission was opposed to the Bill and gave the following reasons. That-

- (a) the Memorandum and Objects of Reasons of the Bill did not sufficiently justify the need for the proposed amendment;
- (b) the term 'physical location' as used in the Bill should be amended;
- (c) the proposed amendment would curtail the freedom of the respective 47 county assemblies; and
- (d) the Urban Areas and Cities Act, 2011 already provides for a process to determine urban areas.

The Commission proposed that the Bill should just set out principles for the determination of locations of county governments.

### **(c) Ms. Nyambura Njaramba, The Devolution Forum**

Ms. Njaramba supported the proposed amendment and stated that there should be a mechanism for concurrence between the county residents and the respective county governments to avoid conflicts.

### **(d) Mr. Ricky Kyallo, Machakos County**

Mr. Kyallo supported the proposed amendment.

## **1.5.1.1 Recommendations of the Standing Committee on Legal Affairs and Human Rights**

The Committee recommended that the Senate should establish a general framework for the determination of the physical location of county governments and leave the specific details to the respective county assemblies. On 6<sup>th</sup> August, 2014, the Bill was passed with amendments, and was then referred to the National Assembly for consideration by the Assembly.

## **1.5.2 Consideration of the Bill by the National Assembly**

The Bill was read a First Time in the National Assembly on 20<sup>th</sup> August, 2015 and committed to the Departmental Committee on Finance, Planning and Trade pursuant to

Standing Order 127. The Departmental Committee met with the following stakeholders notably the Office of the Attorney General, the Transition Authority who made the following submissions:

**(a) The Office of the Attorney-General**

The Office of the Attorney-General opposed the proposed amendments contained in the Bill for the following reasons-

- (i) except for Nairobi, Mombasa and Kisumu which are a capital city and cities respectively (sections 6 and 60 of the Urban Areas and Cities Act, 2011), the rest of physical locations specified in the Schedule are currently not urban areas since they are not yet classified as such under the Act;
- (ii) for an area to be classified as an Urban Area, it must have been conferred with the status of a municipality or town upon satisfying the criteria set out in the Urban Areas and Cities Act, 2011;
- (iii) although the Transition Authority has the responsibility under section 54 of the Urban Areas and Cities Act, 2011 to classify Urban Areas and Cities during the transition period, no such conferment has been done;
- (iv) the government has initiated the process of amending sections 9 and 20 of the Urban Areas and Cities Act to enable many areas to satisfy the criteria of classification;
- (v) the determination of the physical location of the headquarters of county governments should be left to the respective county government. Where any dispute arises, the Senate which represents the counties and serves to protect the interests of the counties and their governments as provided under Article 96, should then be the one to decide on the dispute; and
- (vi) the Attorney General recommended that the amendments that would have been useful are the ones providing for the criteria which county governments should consider while determining the physical locations of their respective county government.

**(b) The Transition Authority**

The Transition Authority expressed their reservations on the Bill, adding that the determination of the physical location of County Governments headquarters is the

mandate of the County Governments as envisaged in Article 174 (dealing with the objects of devolution) of the Constitution.

The Committee made the following observations:-

- (a) Although the spirit of the Senate Bill is to give certainty to residents of counties and other stakeholders on the physical location of the County Governments and on where they may seek services offered by County Governments, it contravenes the Constitution and the spirit of devolution;
- (b) Most of the proposed county headquarters are classified as urban areas whereas some do not meet the threshold of an urban area according to standards set in the Urban areas and Cities Act, 2011;
- (c) The term “urban area” means a municipality or a town and should have infrastructural facilities including but not limited to roads, street lighting, markets and fire stations, and an adequate capacity for disaster management which the areas proposed as headquarters in the Bill, do not have.

#### 1.5.2.1 Recommendations of the Departmental Committee on Finance, Planning and Trade

In view of the above observations, the Departmental Committee recommended that the Bill should not be read a Second Time.

#### 1.5.3 Issues for Mediation by the Committee

At its Fourth sitting held on 12<sup>th</sup> November, 2015, the Committee deliberated on the issues for mediation as follows:-

- a) Whether the legislation is against the spirit of devolution as provided for under Article 174 of the Constitution.

The Members observed that the County Governments (Amendment) Bill, Senate Bill No. 1 of 2014 has not violated Article 174 of the Constitution. In any event, they observed that by providing for the physical location of County Headquarters through legislation, the Bill seeks to foster self-governance to the people and their participation. The Members observed that under Article 1(2) of the Constitution,

the elected representatives of the people are exercising the sovereign power of the people on their behalf and as such the legislation does not contravene the spirit of devolution.

**b) Definition of Urban Areas**

Members concurred that the definition of “urban area” should have the meaning assigned to it under the Urban Areas and Cities Act, 2011. This is because the term “urban area” is already provided for in an existing legislation (the Urban Areas and Cities Act, 2011).

**c) Clause 3 of the Bill**

- i) The Members agreed to the proposed new section 6A.(1).
- ii) The Committee amended the proposed new section 6A. (2) by deleting the word “**Senate**” appearing immediately before the words “and with the approval of the” and substituting therefor the word “**Parliament**”. The Committee noted that the approval of the resolution by a County Assembly should be done by both the Senate and the National Assembly so as to foster the participation of the people’s representative.
- iii) Insertion of a new subsection (4) to the proposed new section 6A in clause 3 of the Bill:

The Committee noted that the Bill has named the proposed physical locations of county governments, save for Mombasa City, Kisumu City and Nairobi City, as “urban areas”. It also noted that under section 9 of the Urban Areas and Cities Act, 2011, a county governor is required to confer the status of an urban area to the seat of the physical location of the county government in accordance with the provisions set out in the Urban Areas and Cities Act. The Members agreed to provide for a new subsection (4) to compel a county governor to confer the status of an urban area to the seat of the physical location of county government. This, they observed, would enable the operationalization of the conferment so as to implement the provisions of the Bill.

The Committee Secretariat was instructed to draft the Bill taking into account the above agreements arrived at by the Committee.



## 1.6 Findings of the Mediation Committee

From the foregoing, the Mediation Committee finds that an agreed version of the Bill should be developed taking into account the agreed issues for mediation.

## 1.7 Recommendations of the Committee

Based on the resolved and agreed upon issues for mediation, the Committee agreed on the enclosed version of the Bill and recommends that:-

The Report of the Mediation Committee on County Governments (Amendment) Bill, (Senate Bill No. 1 of 2014) be approved in terms of Article 113(2) of the Constitution.

## 1.8 Adoption of the Report by Members of the Committee

At its 6<sup>th</sup> sitting held on Friday, 13<sup>th</sup> November, 2015, the following members of the Committee appended their signatures against their names as an indication of their concurrence with the Report and the mediated Version of the Bill for consideration by the two Houses of Parliament in accordance with Article 113(2) of the Constitution.

Sen. (Dr.) Boni Khalwale, Chairperson

.....

Sen. Billow Kerrow, Member

.....

Sen. Janet Ong'era, Member

.....

Sen. Kipchumba Murkomen, Member

.....

Hon. Wanjiku Muhia, MP, Vice-Chair

.....

Hon. Joseph Limo, MP, Member

.....

Hon. Timothy Bosire, MP, Member

.....

Hon. Daniel Maanzo, MP, Member

.....



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REPUBLIC OF KENYA

PARLIAMENT

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SENATE BILLS

*(Bill No. 1 of 2014)*

**THE COUNTY GOVERNMENT  
(AMENDMENT) BILL, 2014**

(A version of the County Government (Amendment) Bill, 2014 (Senate Bills No. 1 of 2014) as agreed on 12<sup>th</sup> November, 2015, by a mediation committee appointed pursuant to Article 113 of the Constitution.)

Sen /B/No. 1/2014

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**THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2014**

**A Bill for**

**AN ACT of Parliament to amend the County Governments Act.**

**ENACTED** by the Parliament of Kenya, as follows—

Short title.                    1. This Act may be cited as the County Governments (Amendment) Act, 2014.

Amendment of section 2 of No. 17 of 2012.                    2. The County Governments Act, in this Act referred to as the “principal Act”, is amended in section 2 by inserting the following new definitions in their proper alphabetical sequence—

No. 13 of 2011.                    “city” has the meaning assigned to it under the Urban Areas and Cities Act, 2011;

“urban area” has the meaning assigned to it under the Urban Areas and Cities Act, 2011;

Insertion of new section 6A.                    3. The principal Act is amended by inserting the following new section immediately after section 6 —

Location of county governments.                    **6A.** (1) Each of the county governments shall be located in the respective physical location set out in the Third Schedule.

(2) A County Assembly may, by a resolution supported by at least two thirds of the members of the County Assembly and with the approval of Parliament, transfer the headquarters of the county government from the physical location specified in the Third Schedule to such other physical location as it may consider appropriate.

(3) A County Assembly shall, before passing a resolution under subsection (2), facilitate public participation.

(4) The county governor shall confer the status of an urban area to the seat of the physical location of the county government in accordance with the provisions set out in the Urban Areas and Cities Act.

No. 13 of  
2011.

Insertion of new  
Schedule.

4. The principal Act is amended by inserting the following new Schedule immediately after the Second Schedule-

THIRD SCHEDULE (s. 6A(1))

PHYSICAL LOCATION OF COUNTY GOVERNMENTS

COUNTY	PHYSICAL LOCATION
1. Mombasa	Mombasa City
2. Kwale	Kwale Urban Area
3. Kilifi	Kilifi Urban Area
4. Tana River	Hola Urban Area
5. Lamu	Lamu Urban Area
6. Taita/Taveta	Wundanyi Urban Area
7. Garissa	Garissa Urban Area
8. Wajir	Wajir Urban Area
9. Mandera	Mandera Urban Area
10. Marsabit	Marsabit Urban Area
11. Isiolo	Isiolo Urban Area
12. Meru	Meru Urban Area
13. Tharaka-Nithi	Kathwana Urban Area
14. Embu	Embu Urban Area
15. Kitui	Kitui Urban Area
16. Machakos	Machakos Urban Area

17. Makueni	Makueni Urban Area
18. Nyandarua	Ol Kalou Urban Area
19. Nyeri	Nyeri Urban Area
20. Kirinyaga	Kerugoya Urban Area
21. Murang'a	Murang'a Urban Area
22. Kiambu	Kiambu Urban Area
23. Turkana	Lodwar Urban Area
24. West Pokot	Kapenguria Urban Area
25. Samburu	Maralal Urban Area
26. Trans Nzoia	Kitale Urban Area
27. Uasin Gishu	Eldoret Urban Area
28. Elgeyo/Marakwet	Iten Urban Area
29. Nandi	Kapsabet Urban Area
30. Baringo	Kabarnet Urban Area
31. Laikipia	Rumuruti Urban Area
32. Nakuru	Nakuru Urban Area
33. Narok	Narok Urban Area
34. Kajiado	Kajiado Urban Area
35. Kericho	Kericho Urban Area
36. Bomet	Bomet Urban Area
37. Kakamega	Kakamega Urban Area
38. Vihiga	Vihiga Urban Area
39. Bungoma	Bungoma Urban Area
40. Busia	Busia Urban Area
41. Siaya	Siaya Urban Area
42. Kisumu	Kisumu City
43. Homa Bay	Homa Bay Urban Area
44. Migori	Migori Urban Area
45. Kisii	Kisii Urban Area
46. Nyamira	Nyamira Urban Area
47. Nairobi	Nairobi City

MINUTES OF THE FIRST SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO 1 OF 2014), HELD ON THURSDAY, 15<sup>TH</sup> OCTOBER 2015, AT PROTECTION HOUSE, 2<sup>ND</sup> FLOOR BOARDROOM, AT 9:00A.M.

**MEMBERS**

**PRESENT**

- |                            |                    |
|----------------------------|--------------------|
| 1. Sen. (Dr.)Boni Khalwale | - Chairperson      |
| 2. Hon. Wanjiku Muhia      | - Vice-Chairperson |
| 3. Sen Billow Kerrow       | - Member           |
| 4. Hon. Joseph Limo        | - Member           |

**APOLOGY**

- |                            |          |
|----------------------------|----------|
| 1. Sen. Janet Ongera       | - Member |
| 2. Hon. Daniel Maanzo      | - Member |
| 3. Sen. Kipchumba Murkomen | - Member |
| 4. Hon. Timothy Bosire, MP | - Member |

**IN ATTENDANCE**

1. Mr. Njenga Njuguna
2. Mr. JN Mutega
3. Mr. Joseph Mwangi
4. Ms. Hellen Lokwang
5. Ms. Christine Sagini
6. Mr. Salem Lorot
7. Ms. Carol Cheruiyot
8. Ms. Sylvia Chitechi

**STAFF**

- |   |
|---|
| - Director, Committee Services (Senate) |
| - Principal Clerk Assistant II (N/A)    |
| - Clerk Assistant                       |
| - Clerk Assistant                       |
| - Researcher                            |
| - Legal Counsel                         |
| - Legal Counsel                         |
| - Intern                                |

MIN/MCCGA/01/15/10/2015: PRELIMINARIES

The meeting was called to order at 9.30a.m. and opened with a word of prayer by the Director, Committees Services (Senate). Members present were informed that the meeting had been convened for them to elect a Chairperson and Vice-Chairperson of the Committee.

MIN/MCCGA/02/15/10/2015: ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

1. Chairperson

Sen. (Dr.) Boni Khalwale was unanimously elected as the Chairperson of the Committee after being proposed by Hon. Wanjiku Muhia and seconded by Sen. Billow Kerrow.

2. Vice-Chairperson Position

Hon. Wanjiku Muhia was unanimously elected as the Vice-Chairperson of the Committee after being proposed by Hon. Joseph Limo and seconded by Sen. Billow Kerrow.

MIN/MCCGA/03/15/10/2015:

CONSIDERATION OF THE COUNTY  
GOVERNMENTS (AMENDMENT) BILL SENATE  
BILL NO.1 OF 2014)

The meeting was informed that a brief had been prepared by the Committee Secretariat on the status of the County Governments (Amendment) Bill (Senate Bill No.1 of 2014) and what was required of the Committee. It was agreed that Secretariat prepares a work-plan for consideration by the Committee at its next meeting.

MIN/MCCGA/04/15/10/2015:

ADJOURNMENT

The being no other business, the meeting adjourned at 9:50 a.m.

MIN/MCCGA/05/15/10/2015: DATE OF THE NEXT MEETING

The next shall be on Wednesday 21<sup>st</sup> October 2015 at 8.30am.

SIGNED:.....  
SEN. (DR) BONI KHALWALE  
CHAIRPERSON

DATE:.....13/11/2015.....

MINUTES OF THE SECOND SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) BILL NO. 1 OF 2014) HELD ON WEDNESDAY, 21ST OCTOBER 2015, AT PROTECTION HOUSE, 2<sup>ND</sup> FLOOR BOARDROOM AT 1.30 P.M.

MEMBERS

PRESENT

- |                              |   |             |
|------------------------------|---|-------------|
| 1. Sen. (Dr.) Bonii Khakwale | - | Chairperson |
| 2. Hon. Timothy Bosire, MP   | - | Member      |
| 3. Sen. Kipchumba Murkomen   | - | Member      |
| 4. Hon. Daniel Maanzo, MP    | - | Member      |

APOLOGY

- |                           |   |        |
|---------------------------|---|--------|
| 1. Sen. Janet Ongera      | - | Member |
| 2. Hon. Wanjiku Muhia, MP | - | Member |
| 3. Sen. Billow Kerrow     | - | Member |
| 4. Hon. Joseph Limo, MP   | - | Member |

IN ATTENDANCE

- |                         |   |                                     |
|-------------------------|---|-------------------------------------|
| 1. Mr. Joseph Mwangi    | - | Clerk Assistant II (Senate)         |
| 2. Ms. Hellen Lokwang   | - | Clerk Assistant (National Assembly) |
| 3. Ms. Christine Sagini | - | Researcher                          |

MIN/MCCGA/06/21/10/2015

PRELIMINARIES

The Chairperson called the meeting to order at 1.30 p.m. A prayer was said by Mr. Joseph Mwangi. The Chairperson informed the members that the main objective of this meeting was to adopt the work-plan of the Committee, which will determine the consideration of the County Governments (Amendment) Bill, (Senate No. 1 of 2014).

MIN/MCCGA/07/21/10/2015

ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed and seconded by Sen. Murkomen and Hon. Timothy Bosire respectively.

MIN/MCCGA/08/21/10/2015

MATTERS ARISING

There were no matters arising.

MIN/MCCGA/09/21/10/2015

ADOPTION OF THE WORK-PLAN

The members agreed to hold a one day retreat at Windsor Hotel on Monday, 9<sup>th</sup> November 2015 being an ideal location that will be easily accessible. The Committee took note of the thirty days since the time of the bill's referral and agreed to seek for an extension of more time so as to give the members ample time to deliberate on the matter without haste.



MIN/MCCGA/10/21/10/2015

ADJOURNMENT

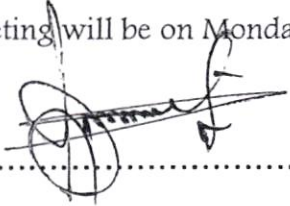
There being no other business, the meeting was adjourned at 1.50 p.m.

MIN/MCCGA/11/21/10/2015

DATE OF THE NEXT MEETING

The next meeting will be on Monday, 9<sup>th</sup> November 2015 at Windsor Hotel at 8.30 a.m.

SIGNED.....



DATE.....

13/11/2015

SEN. (DR.) BONI KHALWALE  
CHAIRPERSON

MINUTES OF THE THIRD SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) SENATE BILL NO. 1 OF 2014) HELD IN THE AFRICANA ROOM, WINDSOR HOTEL AND COUNTRY CLUB THURSDAY, 12<sup>TH</sup> NOVEMBER 2015 AT 4.30 P.M.

MEMBERS

PRESENT

- |                                 |   |                  |
|---------------------------------|---|------------------|
| 1. Sen. (Dr.) Boni Khakwale, MP | - | Chairperson      |
| 2. Hon. Wanjiku Muhia, MP       | - | Vice-Chairperson |
| 3. Sen. Janet Ong'era, MP       | - | Member           |
| 4. Hon. Joseph Limo, MP         | - | Member           |
| 5. Hon. Timothy Bosire, MP      | - | Member           |

APOLOGY

- |                                |   |        |
|--------------------------------|---|--------|
| 1. Sen. Billow Kerrow, MP      | - | Member |
| 2. Sen. Kipchumba Murkomen, MP | - | Member |
| 3. Hon. Daniel Maanzo, MP      | - | Member |

IN ATTENDANCE

- |                        |   |                              |
|------------------------|---|------------------------------|
| 1. Mr. Njenga Njuguna  | - | Director Committee Services  |
| 2. Mr. John Mutega     | - | Principal Clerk Assistant II |
| 3. Mr. Joseph Mwangi   | - | Clerk Assistant II           |
| 4. Ms. Hellen Lokwang  | - | Clerk Assistant III          |
| 5. Mr. Jimmy Muguna    | - | Research Officer III         |
| 6. Ms. Carol Cheruiyot | - | Legal Counsel II             |
| 7. Mr. Salem Lorot     | - | Legal Counsel II             |
| 8. Ms. Rehema Koech    | - | Intern                       |

MIN/MCCGA/12/12/11/2015

PRAYERS

The meeting was called to order at 4.30 p.m. and prayers were said by the Chairperson.

MIN/MCCGA/13/12/11/2015

ADOPTION OF AGENDA

The agenda of the meeting was adopted by the Committee after being proposed by Hon. Wanjiku Muhia, MP and seconded by Hon. Joseph Limo, MP.

MIN/MCCGA/14/12/11/2015

REMARKS BY THE CHAIRPERSON

The Chairperson informed the members that the main objective of the retreat meeting was to review the draft Report of the Committee on the County Governments (Amendment) Bill, (Senate No. 1 of 2014).

The attention of the Members was drawn to the fact that the thirty days period required under Article 113 (4) of the Constitution would be expiring on 15<sup>th</sup> November, 2015. He implored on Members to put time so as to conclude the Mandate of the Committee before the said deadline.

MIN/MCCGA/15/12/11/2015

**BACKGROUND OF THE COUNTY GOVERNMENTS  
(AMENDMENT) BILL, (SENATE NO.1 OF 2014.)**

The Chairman took the meeting through the memorandum of objects and reasons of the County Governments (Amendment) Bill, (Senate No. 1 of 2014).

He informed the meeting that the County Governments (Amendment) Bill, Senate Bills No. 1 of 2014 seeks to amend the County Governments Act, No. 17 of 2012 by designating, in law, the respective headquarters of the forty-seven counties. The Bill also provides that in cases of transfer of county headquarters, the transfer should be done by a resolution by a County Assembly supported by at least two-thirds of the members of the County Assembly and with the approval of the Senate. The Chair informed the meeting that the Bill was occasioned by the arbitrary transfer of county government headquarters by the county governors as was experienced in Kiambu County, Tharaka Nithi County among others.

MIN/MCCGA/16/12/11/2015

**STATUS OF THE BILL**

The meeting taken through the status of the Bill by the Committee Secretariat. The meeting observed that the Bill was published on 28<sup>th</sup> February, 2014, read a First Time in the Senate on 12<sup>th</sup> March, 2014 and committed to the Senate Standing Committee on Legal Affairs and Human Rights which conducted public hearings on the Bill on 9<sup>th</sup> and 10<sup>th</sup> April, 2014. The Standing Committees considered the views the Independent Electoral and Boundaries Commission (IEBC) and the Commission for the Implementation of the Constitution (CIC) among others.

The Committee heard that the IEBC supported the Bill and submitted that the setting out of the physical location of the seat of each county government would minimize disputes arising out of the physical locations of headquarters of county governments. The Committee further heard that CIC on the other hand opposed to the Bill on the grounds that the Memorandum and Objects of Reasons of the Bill did not sufficiently justify the need for the proposed amendment would curtail the freedom of the respective 47 county assemblies; and also that the Urban Areas and Cities Act, 2011 already provides for a process to determine urban areas. The meeting was also informed that, on 6<sup>th</sup> August, 2014, the Bill was passed by the Senate and referred to the National Assembly for concurrence.

At the National Assembly, the Bill was read a First Time in the National Assembly on 20<sup>th</sup> August, 2015, committed to the Departmental Committee on Finance, Planning and Trade which considered views from the Office of the Attorney General and the Transition Authority among others.

The meeting heard that, the Office of the Attorney-General opposed the proposed amendments contained in the Bill on the grounds that the physical locations specified in the Schedule of the Bill are currently not urban areas since they are not yet classified as such under the Urban Areas and Cities Act, 2011 and the determination of the physical location of the headquarters of county governments should be left to the respective county government. The Attorney General recommended that the amendments that would have been useful are the ones providing for the criteria which county governments should consider while determining the physical locations of their respective county government.

The Committee also noted that the Transition Authority expressed their reservations on the Bill, on the basis that the determination of the physical location of County Governments headquarters is the mandate of the County Governments.

MIN/MCCGA/17/12/11/2015

ADJOURNMENT

The meeting was adjourned at 5:30p.m

MIN/MCCGA/18/12/11/2015

DATE OF THE NEXT MEETING

The next meeting shall be at 6.00pm the same day.

SIGNED..........DATE.....13/11/2015

SEN. (DR.) BONI KHALWALE  
CHAIRPERSON

MINUTES OF THE FOURTH SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) SENATE BILL NO. 1 OF 2014) HELD IN THE AFRICANA ROOM, WINDSOR HOTEL AND COUNTRY CLUB THURSDAY, ON 12<sup>TH</sup> NOVEMBER 2015 AT 6.00 P.M.

MEMBERS

PRESENT

- |                                 |   |                  |
|---------------------------------|---|------------------|
| 1. Sen. (Dr.) Boni Khakwale, MP | - | Chairperson      |
| 2. Hon. Wanjiku Muhia, MP       | - | Vice-Chairperson |
| 3. Sen. Janet Ong'era, MP       | - | Member           |
| 4. Hon. Joseph Limo, MP         | - | Member           |
| 5. Hon. Timothy Bosire, MP      | - | Member           |

APOLOGY

- |                                |   |        |
|--------------------------------|---|--------|
| 1. Sen. Billow Kerrow, MP      | - | Member |
| 2. Sen. Kipchumba Murkomen, MP | - | Member |
| 3. Hon. Daniel Maanzo, MP      | - | Member |

IN ATTENDANCE

- |                        |   |                              |
|------------------------|---|------------------------------|
| 1. Mr. Njenga Njuguna  | - | Director Committee Services  |
| 2. Mr. John Mutega     | - | Principal Clerk Assistant II |
| 3. Mr. Joseph Mwangi   | - | Clerk Assistant II           |
| 4. Ms. Hellen Lokwang  | - | Clerk Assistant III          |
| 5. Mr. Jimmy Muguna    | - | Research Officer III         |
| 6. Ms. Carol Cheruiyot | - | Legal Counsel II             |
| 7. Mr. Salem Lorot     | - | Legal Counsel II             |
| 8. Ms. Rehema Koech    | - | Intern                       |

MIN/MCCGA/19/12/11/2015

PRELIMINARIES

The Chairperson called the meeting to order at 6.00 p.m.

MIN/MCCGA/20/12/11/2015

REVIEW OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL,(SENATE NO.1 OF 2014.)

The meeting mediated on the followings issues:

1. On whether the legislation is against the spirit of devolution as provided for under Article 174 of the Constitution: The Members observed that the County Governments (Amendment) Bill, Senate Bill No. 1 of 2014 has not violated Article 174 of the Constitution. In any event, they observed that by providing for the physical location of County Headquarters through legislation, the Bill seeks to foster self-governance to the

people and their participation. The Members observed that under Article 1(2) of the Constitution, the elected representatives of the people are exercising the sovereign power of the people on their behalf and as such the legislation does not contravene the spirit of devolution.

2. The Members concurred with the short title of the Bill.
3. On Clause 2 of the Bill, the Members concurred with it and amended the clause to insert another new definition in the proper sequence of the term “urban area” as follows:

“urban area” has the meaning assigned to it under the Urban Areas and Cities Act, 2011

The Members noted that this was important since the term “urban area” is already provided for under the Urban Areas and Cities Act, 2011 and the term has been used in all the proposed physical locations of county governments, except for Mombasa City, Kisumu City and Nairobi City, as listed in Clause 4 of the Bill.

4. On Clause 3 of the Bill, the Members made the following observations:

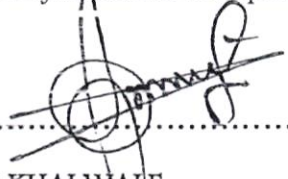
- i) On the proposed new section 6A. (1), the Members agreed to it;
- ii) On the proposed new section 6A. (2), the Members amended it by deleting the word “Senate” appearing immediately before the words “and with the approval of the” and substituting therefor the word “Parliament”. They noted that the approval of the resolution by a County Assembly should be done by both the Senate and the National Assembly so as to foster the participation of the people’s representative.
- iii) Insertion of a new subsection (4) to the proposed new section 6A in clause 3 of the Bill:

The Members noted that the Bill has named the proposed physical locations of county governments, save for Mombasa City, Kisumu City and Nairobi City, as “urban areas”. They noted that under section 9 of the Urban Areas and Cities Act, 2011, a county governor is required to confer the status of an urban area to the seat of the physical location of the county government in accordance with the provisions set out in the Urban Areas and Cities Act. The Members agreed to provide for a new subsection (4) to compel a county governor to confer the status of an urban area to the seat of the physical location of county government. This, they observed, would enable the operationalization of the conferment so as to implement the provisions of the Bill.

The Committee Secretariat was instructed to draft the Bill taking into account the above agreements arrived at by the Committee.

The meeting was adjourned at 7:00p.m. The next meeting shall be at 8.00pm the same day.

SIGNED.....



.....DATE.....

13/11/2015

SEN. (DR.) BONI KHALWALE  
CHAIRPERSON

MINUTES OF THE FIFTH SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) SENATE BILL NO. 1 OF 2014) HELD IN THE AFRICANA ROOM, WINDSOR HOTEL AND COUNTRY CLUB THURSDAY, ON 12<sup>TH</sup> NOVEMBER 2015 AT 8.00 P.M.

MEMBERS

PRESENT

- |                                 |   |                  |
|---------------------------------|---|------------------|
| 1. Sen. (Dr.) Boni Khakwale, MP | - | Chairperson      |
| 2. Hon. Wanjiku Muhia, MP       | - | Vice-Chairperson |
| 3. Sen. Janet Ong'era, MP       | - | Member           |
| 4. Hon. Joseph Limo, MP         | - | Member           |
| 5. Hon. Timothy Bosire, MP      | - | Member           |

APOLOGY

- |                                |   |        |
|--------------------------------|---|--------|
| 1. Sen. Billow Kerrow, MP      | - | Member |
| 2. Sen. Kipchumba Murkomen, MP | - | Member |
| 3. Hon. Daniel Maanzo, MP      | - | Member |

IN ATTENDANCE

- |                        |   |                                      |
|------------------------|---|--------------------------------------|
| 1. Mr. Njenga Njuguna  | - | Director Committee Services (Senate) |
| 2. Mr. John Mutega     | - | Principal Clerk Assistant II         |
| 3. Mr. Joseph Mwangi   | - | Clerk Assistant II                   |
| 4. Ms. Hellen Lokwang  | - | Clerk Assistant III                  |
| 5. Mr. Jimmy Muguna    | - | Research Officer III                 |
| 6. Ms. Carol Cheruiyot | - | Legal Counsel II                     |
| 7. Mr. Salem Lorot     | - | Legal Counsel II                     |
| 8. Ms. Rehema Koech    | - | Intern                               |

MIN/MCCGA/22/12/11/2015

PRAYERS

The meeting was called to order at 8.00 p.m. by the Chairperson.

MIN/MCCGA/23/12/11/20155

REVIEW OF THE REVIEWED COUNTY GOVERNMENTS (AMENDMENT) BILL,(SENATE NO.1 OF 2014.)

The Committee agreed on the following version of the Bill:-

**THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2014**

A Bill for



AN ACT of Parliament to ~~amend the~~ County Governments Act.

ENACTED by the Parliament of Kenya, as follows—

- Short title.                    1. This Act may be cited as the County Governments (Amendment) Act, 2014.
- Amendment of section 2 of No. 17 of 2012.                    2. The County Governments Act, in this Act referred to as the “principal Act”, is amended in section 2 by inserting the following new definitions in their proper alphabetical sequence—
- “city” has the meaning assigned to it under the Urban Areas and Cities Act, 2011;
- “urban area” has the meaning assigned to it under the Urban Areas and Cities Act, 2011;
- No. 13 of 2011.
- Insertion of new section 6A.                    3. The principal Act is amended by inserting the following new section immediately after section 6 —
- Location of county governments.                    6A. (1) Each of the county governments shall be located in the respective physical location set out in the Third Schedule.
- (2) A County Assembly may, by a resolution supported by at least two thirds of the members of the County Assembly and with the approval of Parliament, transfer the headquarters of the county government from the physical location specified in the Third Schedule to such other physical location as it may consider appropriate.
- (3) A County Assembly shall, before passing a resolution under subsection (2), facilitate public participation.
- (4) The county governor shall confer the status of an urban area to the seat of the physical location of the county government in

Insertion of new Schedule. 4. The principal Act is amended by inserting the following new Schedule immediately after the Second Schedule-

**THIRD SCHEDULE (s. 6A(1))**

**PHYSICAL LOCATION OF COUNTY GOVERNMENTS**

<b>COUNTY</b>	<b>PHYSICAL LOCATION</b>
1. Mombasa	Mombasa City
2. Kwale	Kwale Urban Area
3. Kilifi	Kilifi Urban Area
4. Tana River	Hola Urban Area
5. Lamu	Lamu Urban Area
6. Taita/Taveta	Wundanyi Urban Area
7. Garissa	Garissa Urban Area
8. Wajir	Wajir Urban Area
9. Mandera	Mandera Urban Area
10. Marsabit	Marsabit Urban Area
11. Isiolo	Isiolo Urban Area
12. Meru	Meru Urban Area
13. Tharaka-Nithi	Kathwana Urban Area
14. Embu	Embu Urban Area
15. Kitui	Kitui Urban Area
16. Machakos	Machakos Urban Area
17. Makueni	Makueni Urban Area
18. Nyandarua	Ol Kalou Urban Area
19. Nyeri	Nyeri Urban Area
20. Kirinyaga	Kerugoya Urban Area
21. Murang'a	Murang'a Urban Area
22. Kiambu	Kiambu Urban Area
23. Turkana	Lodwar Urban Area
24. West Pokot	Kapenguria Urban Area
25. Samburu	Maralal Urban Area
26. Trans Nzoia	Kitale Urban Area

27. Uasin Gishu	Eldoret Urban Area
28. Elgeyo/Marakwet	Iten Urban Area
29. Nandi	Kapsabet Urban Area
30. Baringo	Kabarnet Urban Area
31. Laikipia	Rumuruti Urban Area
32. Nakuru	Nakuru Urban Area
33. Narok	Narok Urban Area
34. Kajiado	Kajiado Urban Area
35. Kericho	Kericho Urban Area
36. Bomet	Bomet Urban Area
37. Kakamega	Kakamega Urban Area
38. Vihiga	Vihiga Urban Area
39. Bungoma	Bungoma Urban Area
40. Busia	Busia Urban Area
41. Siaya	Siaya Urban Area
42. Kisumu	Kisumu City
43. Homa Bay	Homa Bay Urban Area
44. Migori	Migori Urban Area
45. Kisii	Kisii Urban Area
46. Nyamira	Nyamira Urban Area
47. Nairobi	Nairobi City

MIN/MCCGA/24/12/11/2015

ANY OTHER BUSINESS

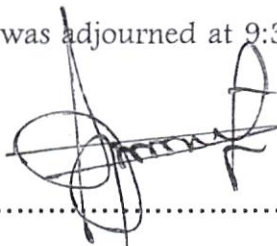
The members appreciated the team work the Mediation Committee displayed in the process of coming up with a mediated version of the County Governments (Amendment) Bill, (Senate No. 1 of 2014). The Chairman thanked the members and the secretariat for their cooperation.

MIN/MCCGA/25/12/11/2015

ADJOURNMENT

The meeting was adjourned at 9:30p.m. The next meeting would be held on 13<sup>th</sup> November, 2015.

SIGNED.....



DATE.....

13/11/2015

SEN. (DR.) BONI KHALWALE  
CHAIRPERSON

MINUTES OF THE SIXTH SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) SENATE BILL NO. 1 OF 2014) HELD IN THE AFRICANA ROOM, WINDSOR HOTEL AND COUNTRY CLUB FRIDAY, 13<sup>TH</sup> NOVEMBER 2015 AT 10.00 A.M.

MEMBERS

PRESENT

- |                                 |   |                  |
|---------------------------------|---|------------------|
| 1. Sen. (Dr.) Boni Khakwale, MP | - | Chairperson      |
| 2. Hon. Wanjiku Muhia, MP       | - | Vice-Chairperson |
| 3. Sen. Janet Ong'era, MP       | - | Member           |
| 4. Hon. Joseph Limo, MP         | - | Member           |
| 5. Hon. Timothy Bosire, MP      | - | Member           |

APOLOGY

- |                                |   |        |
|--------------------------------|---|--------|
| 1. Sen. Billow Kerrow, MP      | - | Member |
| 2. Sen. Kipchumba Murkomen, MP | - | Member |
| 3. Hon. Daniel Maanzo, MP      | - | Member |

IN ATTENDANCE

- |                        |   |                                      |
|------------------------|---|--------------------------------------|
| 1. Mr. Njenga Njuguna  | - | Director Committee Services (Senate) |
| 2. Mr. John Mutega     | - | Principal Clerk Assistant II         |
| 3. Mr. Joseph Mwangi   | - | Clerk Assistant II                   |
| 4. Ms. Hellen Lokwang  | - | Clerk Assistant III                  |
| 5. Mr. Jimmy Muguna    | - | Research Officer III                 |
| 6. Ms. Carol Cheruiyot | - | Legal Counsel II                     |
| 7. Mr. Salem Lorot     | - | Legal Counsel II                     |
| 8. Ms. Rehema Koech    | - | Intern                               |

MIN/MCCGA/26/13/11/2015

PRAYERS

The meeting was called to order at 10.00 p.m. by the Chairperson.

MIN/MCCGA/27/13/11/2015

ADOPTION OF THE REPORT OF THE COMMITTEE AND AGREED VERSION OF THE BILL

The Committee deliberated on the contents of the Report and mediated version of the Bill and agreed on the same. The members of the Committee present at the meeting appended their signatures as an indication of their concurrence with the Report and the Mediated version of the Bill.

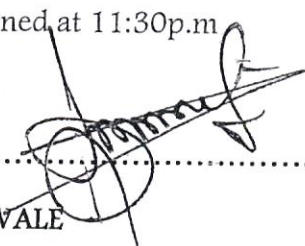
MIN/MCCGA/28/13/11/2015

ANY OTHER BUSINESS

The members agreed that the Chairman and Vice-Chairperson shall table the Report together with the mediated Version of the Bill before the Senate and the National Assembly respectively on Tuesday, 17<sup>th</sup> November, 2015.

The meeting was adjourned at 11:30p.m

SIGNED.....



DATE.....

13/11/2015

SEN. (DR.) BONI KHALWALE  
CHAIRPERSON

MINUTES OF THE SEVENTH SITTING OF THE MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) SENATE BILL NO. 1 OF 2014) HELD IN THE AFRICANA ROOM, WINDSOR HOTEL AND COUNTRY CLUB FRIDAY, 14<sup>TH</sup> NOVEMBER 2015 AT 12.00 P.M.

MEMBERS

PRESENT

- |                                 |   |                  |
|---------------------------------|---|------------------|
| 1. Sen. (Dr.) Boni Khakwale, MP | - | Chairperson      |
| 2. Hon. Wanjiku Muhia, MP       | - | Vice-Chairperson |
| 3. Sen. Janet Ong'era, MP       | - | Member           |
| 4. Hon. Joseph Limo, MP         | - | Member           |
| 5. Hon. Timothy Bosire, MP      | - | Member           |

APOLOGY

- |                                |   |        |
|--------------------------------|---|--------|
| 1. Sen. Billow Kerrow, MP      | - | Member |
| 2. Sen. Kipchumba Murkomen, MP | - | Member |
| 3. Hon. Daniel Maanzo, MP      | - | Member |

IN ATTENDANCE

- |                        |   |                                      |
|------------------------|---|--------------------------------------|
| 1. Mr. Njenga Njuguna  | - | Director Committee Services (Senate) |
| 2. Mr. John Mutege     | - | Principal Clerk Assistant II         |
| 3. Mr. Joseph Mwangi   | - | Clerk Assistant II                   |
| 4. Ms. Hellen Lokwang  | - | Clerk Assistant III                  |
| 5. Mr. Jimmy Muguna    | - | Research Officer III                 |
| 6. Ms. Carol Cheruiyot | - | Legal Counsel II                     |
| 7. Mr. Salem Lorot     | - | Legal Counsel II                     |
| 8. Ms. Rehema Koech    | - | Intern                               |

MIN/MCCGA/30/13/11/2015

PRAYERS

The meeting was called to order at 10.00 p.m. by the Chairperson.

MIN/MCCGA/31/13/11/2015

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The minutes of the 1<sup>st</sup> sitting held on 15<sup>th</sup> October, 2015 were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Wanjiku Muhia, MP and seconded by Hon. Joseph Limo, MP.

The minutes of the 2<sup>nd</sup> sitting held on 21<sup>st</sup> October, 2015 were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Timothy Bosire, MP and seconded by Sen (Dr.) Boni Khalwale, MP.

The minutes of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> sittings held on 13<sup>th</sup> November, 2015 were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Wanjiku Muhia, MP and seconded by Hon. Joseph Limo, MP.

The minutes of the 6<sup>th</sup> sitting held on 13<sup>th</sup> November, 2015 were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Joseph Limo, MP and seconded by Hon. Wanjiku Muhia, MP.

MIN/MCCGA/32/13/11/2015

ANY OTHER BUSINESS

The members agreed that the Chairman and Vice-Chairperson shall table the Report together with the mediated Version of the Bill before the Senate and the National Assembly respectively on Tuesday, 17<sup>th</sup> November, 2015.

MIN/MCCGA/33/13/11/2015

ADJOURNMENT

The meeting was adjourned at 12:30p.m

SIGNED..........DATE.....

SEN. (DR.) BONI KHALWALE  
CHAIRPERSON

