

PARLIAMENT
OF KENYA
SPL.SN. 027/2015



Clerk's Chambers

The Senate
NAIROBI

11th November, 2015

PAPER LAID

Mr. Speaker Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday 11th November, 2015;

Report of the Standing Committee on Land and Natural Resources on the Water Bill, 2014

(Chairperson, Standing Committee on Land and Natural Resources)

Copies to:-

**The Speaker
The Deputy Speaker
The Clerk
The Hansard**

INTERNAL MEMO



TO:

The Speaker

[Handwritten signature]
11/11/15

THR':

The Clerk

FROM:

Director, Committee Services

DATE:

10th November, 2015

SUBJECT:

**REPORT OF THE STANDING COMMITTEE ON LAND AND
NATURAL RESOURCES ON THE WATER BILL, 2014.**

Attached herein, please find for your consideration a report on the Water Bill, 2014 for your consideration and onward transmission to the Speaker for approval. The Committee intends to table the report on Wednesday 11th November, 2015.

[Handwritten signature]

Njenga Njuguna

Hon. Speaker
You may approve
for tabling.
[Handwritten signature]
11/11/15

REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

*Paper laid by the
Vice-Chairman of the
Standing Committee on
Land and Natural Resources
(Hon. Khaniri) on 11/11/2015*
[Signature]

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES

ELEVENTH PARLIAMENT-THIRD SESSION

REPORT ON THE WATER BILL, 2014

CLERK'S CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

*Hon. Speaker
You may approve
for tabling.
[Signature]
11/11/15*

NOVEMBER 2015

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ACRONYMS

CAF	-County Assemblies Forum
NLC	-National Land Commission
WARMA	-Water Resources Management Authority
WASREB	-Water Services Regulatory Authority

PREFACE

1. The Standing Committee on Land and Natural Resources was constituted on Thursday 27th February 2014 during the Second Session of the Eleventh (11th) Parliament pursuant to the provisions of Senate Standing Order No.208.
2. The Committee is mandated, under the Second Schedule of the Senate Standing Orders, *to consider all matters related to lands and settlement, environment, forestry, water resource management and mining,*
3. In executing its mandate, the Committee oversees the Ministries of:
 - a) Land, Housing and Urban Development;
 - b) Environment, Natural Resources and Regional Development Authorities;
 - c) Ministry of Water & Irrigation; and
 - d) Mining.
4. The Committee comprises the following Members:

Sen. Lenny Kivuti	- Chairman
Sen. George Khaniri	- Vice-Chairman
Sen. Christopher Obure	- Member
Sen. DawsonMwazo	- Member
Sen. Henry Ndiema	- Member
Sen. Boy Juma Boy	- Member
Sen. Isaac Melly	- Member
Sen. Liza Chelule	- Member
Sen. Martha Wangari	- Member

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of the public hearing on the Water Bill, 2014. The Committee also thanks in particular the Ministry of Water & Irrigation, Council of Governors, Water Resources Management Authority and members of the public who made submissions, both orally and in writing.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 203, to present a report of the Committee on Land and Natural Resources on the Water Bill 2014, for consideration by the House.

SIGNED.....

DATE.....10/11/2015

SEN. LENNY KIVUTI, M.P.
CHAIRPERSON,
SENATE STANDING COMMITTEE
ON LAND & NATURAL RESOURCES.

1.0 INTRODUCTION

Mr. Speaker Sir,

The Water Bill, 2014 originated in the National Assembly and was passed with amendments on 7th July, 2015 and subsequently referred to the Senate. The Bill was sponsored by Hon. Aden Duale, the Leader of Majority in the National Assembly.

The Bill was read a first time in the Senate on 17th September, 2015 and committed to the Standing Committee on Land and Natural Resources pursuant to Standing Order 130(1).

Pursuant to Article 118 of the Constitution and Standing Order No. 130 (4), of the Senate Standing Order, the Standing Committee of the Senate on Land and Natural Resources facilitated a public hearing forum that was held on 30th September, 2015 at County Hall, Old Senate Chamber to take into account the views and recommendations of the public while preparing this report.

According to its objects and memoranda, the Bill seeks to provide for the regulation, management, conservation, use and development of water and sewerage services so to conform to the Constitution and international instruments that Kenya has ratified and for connected purposes.

The Committee at its meetings held on Tuesday 3rd November, 2015 and on Thursday 5th November, 2015, considered the submissions from the public hearing and stakeholders and recommended that the Water Bill, 2014 be adopted subject to the amendments contained in *Annex I* to be moved at the Committee Stage.

The Bill has been processed by the Committee and is now ready for presentation to the House for consideration.

2.0 OVERVIEW OF THE WATER BILL, 2014

PART I of the Bill provides for the preliminary provisions. **Clause 4** provides for the principles and values that should guide any person administering the Bill which include Articles 10, 43, 60 and 232 of the Constitution.

PART II of the Bill provides for the ownership, use and management of water resources. **Clause 5** vests every water resource in the national government to be held in trust for the people of Kenya. **Clause 8** provides for national public works which include water works for bulk distribution, and the provision of water services, inter-basin water transfer facilities and water storage; and empowers the Cabinet secretary to compulsorily acquire land for the purposes of such public works.

PART III of the Bill deals with the regulation of the management and use of water resources. **Clause 9** establishes the Water Resources Authority (Authority) as a body corporate. **Clause 10** provides for the functions of the Authority which include the formulation and enforcement of standards, procedures and regulations for the management and use of water resources and flood mitigation as well as the determination and collection of permit and water use fees and charges. **Clause 12** provides for the composition of a Board to exercise the functions of the Authority. **Clause 18** provides for the classification of water resources for the purpose of determining water resources quality objectives. Under **clause 19** the Authority is required to put in place a national monitoring and information system on waters resources. **Clauses 20 and 21** provide for the conservation of catchment areas and groundwater respectively. **Clause 22** empowers the Authority to designate certain areas as basin areas and **clause 23** provides for the establishment and composition of basin water resources committees for each basin area. **Clause 26** provides for the formulation of a basin area water resources management strategy by a basin water resources committee in consultation with the Authority and the relevant county governments. **Clause 27** provides for the establishment and functions of water resources users associations as associations of water resource users at the sub-basin level for purposes of collaborative management of water resources and the resolution of conflicts. **Clauses 28 and 29** establish the National Water Harvesting and Storage Authority and the Water Harvesting and Storage Board respectively. Under **clause 34** a permit is required for the use, drainage or discharge of a pollutant into any water resource. **Clause 37** allows a permit holder to acquire an easement on any land for the construction of water works. Under **clause 47** the Authority may cancel or vary a permit issued to a permit holder. **Clause 58** permits an authorized person to enter any land for purposes of enforcing the Act.

PART IV provides for water services generally. Under **clause 61** every person in Kenya has the right to clean and safe water in adequate quantities in accordance with

Article 43 of the Constitution. **Clause 62** requires the Cabinet Secretary to formulate a National Water Services Strategy after public consultation. **Clause 63** establishes water works development boards as agencies of the national government for purposes of developing national public water works and the provision of technical assistance to the county government water services providers. **Clause 68** establishes the Water Services Regulatory Board (Regulatory Board) whose principal object is to protect the interests and rights of consumers in the provision of water services. **Clause 69** provides for a Regulatory Board to manage the affairs of the Regulatory Board while **clause 70** provides for the functions and powers of the Regulatory Board.

Clause 72 provides for the accreditation of water services providers by the Regulatory Authority. Under **clause 73**, the Regulatory Board is required to maintain a register of all accredited water services providers in the prescribed format. **Clause 75** empowers county governments to establish water service providers in accordance with the standards of commercial viability set out by the Regulatory Board. Under **clause 83**, a water services provider shall not provide water services unless issued by a licence by the Regulatory Board after a process of public consultation. Under **clause 91**, a water services provider may enter into a public private partnership for the exercise of any of its functions as a licensee. Under **clause 92** every county government is required to put in place measures for the provision of water services to rural areas that are not commercially viable for the provision of water services.

In **clause 100**, the regulatory authority in consultation with the respective county governments may impose a special regulatory regime on a licensee who persistently contravenes the requirements of the Bill. **Clause 106** imposes a duty on a licensee receiving trade effluent into its sewerage system to ensure that it puts in place appropriate measures for the receipt and handling of such effluent. Under **clause 107** the Regulatory Board may impose a sewerage services levy on all water services to cover a part of the cost of disposing water.

PART V of the Bill provides for the Water Sector Trust Fund. **Clause 112** sets out the objects of the Fund which include the provision of conditional and unconditional grants to counties to assist in the development and management of water services in marginalized or unserved urban areas.

PART VI provides for dispute resolution. **Clause 117** establishes a Water Tribunal (Tribunal) while **clause 119** sets out the jurisdiction of the Tribunal. **Clause 122** provides for the right of appeal to the Environment and Land Court.

PART VII sets out the financial provisions in relation to the body corporates established in the Bill. **Clause 124** outlines the monies that shall constitute the funds of such body corporates and **Clause 125** provides for the financial year of the body

corporates. **Clause 126** provides for the preparation of annual estimates of the body corporates before the end of each financial year.

PART VIII of the Bill contains the general provisions. **Clause 131** provides for the service of notices to applicable persons and **clause 137** provides for public consultation. **Clause 143** contains miscellaneous offences.

PART VI of the Bill provides transitional provisions.

The **First Schedule** provides for the membership procedure of boards and committees.

The **Second Schedule** provides for the conditions relating to the construction of works.

The **Third Schedule** contains provisions relating to the easements.

The **Fourth Schedule** contains provisions relating to the abstraction of groundwater.

3.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

Guided by Article 118 of the Constitution of Kenya (2010) and in compliance with Standing Order No. 130 (4), the Committee held a one day public hearing at **County Hall, Old Senate Chamber** on 30th September, 2015 and received the following representations concerning the Water Bill under consideration:-

Submission from Water Resources Management Authority (WARMA)

She proposed that;

- a) clause 2 of the Bill be amended by introducing a new interpretation of the following words:
“Wetland”
— means an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh
“Riparian Land”
—means land in respect of which management obligations are imposed on the owner by the Authority due to its proximity to a water body and includes land between the high and low water marks as provided under Article 62(1)(l) of the Constitution.
- b) clause 6 of the Bill be amended by adding the words “in coordination with the National Land Commission in order to give effect to Article 67(2) of the Constitution”
- c) clause 10 of the Bill be amended by inserting the following additional paragraphs to provide as follows:
 - (j) “in accordance with guidelines in the National Water Resources Management Strategy formulated under Section 62, determine, locations and sites for construction and development of National Public Water Works as such term in defined under Section 8(2) in order to ensure optimal use of such sites and locations.”
 - (k) “regulate and manage the use of international waters and water resources.”
 - “(l) “Protection and management of water resources with a view to establishing a durable and sustainable means of securing sufficient residual water”
- d) Clause 20 of the Bill be amended by introducing the following sub-sections after 20(2)—
 - (3) Any portion of land in excess of one hectare which is naturally subject to seasonal or permanent flooding and has the ecological characteristics of a swamp or marsh shall be considered to be a wetland.
 - (4) The Authority may with good cause and by public notification, in coordination with the National Land Commission declare any portion of land less than one hectare to be a wetland for purposes of water resources management under this Act.
 - (5) Notwithstanding the provisions of this Act or any other Legislation, no person shall undertake the activities proscribed to be undertaken on riparian land unless authorized by the Authority in consultation with other relevant stakeholders.

(6) The Authority shall develop Regulations and guidelines on activities proscribed to be undertaken on riparian land and for protection of wetlands and catchment areas.

e) clause 38(4) of the Bill be amended by deleting the word “consultation” and replacing the word therefore with “notification”.

f) clause 140(3) be amended by deleting the word “one” and replacing it therefore with the word “five”.

g) clause 144 of the Bill be amended by inserting the following sub-sections-

(2) The Authority may, with the consent of the Director of Public Prosecutions as contemplated under Article 157(6) of the Constitution of Kenya 2010, undertake the prosecution of any offences arising under this Act or in connection with the performance of its functions.

h) clause 154(5) of the Bill be amended by deleting the word “Board” and replacing it with the word “Authority”.-

Submission from Mr. Boniface Muthee- Water Action Group–WASREB

He Proposed that;

- a) Every housing development should have a water harvesting and storage infrastructure;
- b) Specifications be given on the number of consumers per infrastructure;
- c) Right of access to water should be enhanced so that consumers are not denied because they are incapable of paying for it;
- d) Clause 69 (1) (b): The appointment of four other member to the regulatory board should emphasize that one should be from water consumer groups;

Submission from Mr. George Okonji - OWEAC Africa

He Proposed that;

- a) Clause 28: On the Composition of National Water Harvesting and Storage Authority "NWHSA" further to clause 29(e) on water harvesting and storage board. On five other members for appointment by the cabinet secretary should be widely picked from the broader Civil Society and the NGO's fully committed and with vast experience in matters affecting WATER.

Clause 31-2(b) APPOINTMENT OF THE C.E.O

- b) We recommend the holder of this office be properly educated with a degree in a highly recognized water institution (University).

Clause 33 ON STAFF RECRUITMENT

We recommend that persons to work with this authority should be well versed in the water system in terms of experience and relevant training and that calls for secondment of staff from other water working authorities.

- c) Further to the theory of water harvesting and storage, we recommend a proper construction of dams & reservoirs for sustainable groundwater storage. Rainwater harvesting and storage is an old concept which should now be improved with factoring in modern technologies borrowed from the developed world. In some cases we should make it mandatory in the building Acts that every construction work in term of building should contain an in-build water reservoir tank of not less than 5,000 liters for the purposes of rainwater storage to supplement family usage.

Submission from Mr. Chekai Musa- Bunge La Mwananchi

He proposed that;

- a) the grassroots social movement should be involved in the management of natural resources; and
- b) the Cabinet Secretary should make provisions for access to free water to the citizenry.

Submission from Mr. Hannington K. Kangethe

He raised concern on the development of construction works in water catchment areas and pollution of rivers by bitumen used in road construction.

Submission from the Council of Governors

1. There is no clarity of what amounts to "national public water works" and "county public water works" in the Water Bill 2014. It is therefore important that national public works are identified in consultation with county governments. Accordingly, it is recommended that:

Clause 8 (1) b of the Bill be amended by inserting the words "after consultation with county governments/" immediately after the words "Gazette," in consultation with county governments"

2. After review of the Fourth Schedule to the Constitution, the consultative forum between the national and county government came to a conclusion that both levels of government have a role to play in water resource management. It was recommended that this should be recognised in the Bill as follows:

- **Clause 10 (e)** of the Bill should be amended to read "collect water and permit fees and water use charges that will be shared with respective county governments through a criteria to developed by the Cabinet Secretary in consultation of the council of governors"
 - A new paragraph should be inserted immediately after **clause 10 (e)** which will be a new **clause 10 (f)** that will read "water use fees shall be used in water resources management and soil and water conservation."
 - **Clause 23 (3)** of the Bill should be amended by adding the words "including soil and water conservation" immediately before the words "within a respective basin".
 - **Clause 24 (1) (a)** of the Bill should be amended by adding a new **Clause 24 (1) (a)** which reads "a chairperson appointed by the Cabinet Secretary"
 - The current **Clause 24 (1) (a)** should be amended to read **Clause 24 (1) (b)** and the provisions should be further amended to read "three members appointed by the Authority in consultation with the Cabinet Secretary; and"
 - **Clause 24 (1)** should be amended by inserting a new **Clause 24 (1) (c)** which reads "County government executive of the respective counties within the basin"
 - **Clause 24 (1) (2)** of the Bill should be deleted
 - **Clause 25 (f)** of the Bill should be amended to read "facilitate the formation of cross-county water resource users association provided for under section 27 and their activities"
 - **Clause 27 (1)** of the Bill should be amended to read "Water resource users associations may be established as associations of water resource users at the county level by county governments in accordance with national regulations prescribed by the Authority"
 - **Clause 27 (4)** of the Bill should be amended to read "County governments and basin water resources committees may contract county water resources users associations and cross-county water resources users associations, respectively, to perform certain duties in water resource management"
3. National and county governments both have national and county public works respectively. In order to recognise and respect the respective mandates of the two spheres of government, it is recommended that the Bill be amended as follows:

- **Clause 63** of the Bill be amended by introducing a new **Clause 63 (2)** immediately after **Clause 63 (1)** which reads "The water works boards shall be established as and when need arises by the Cabinet Secretary in consultation with the respective county governments"
- **Clause 64 (1) (b)** is amended to read "a representative of the Ministry in charge of Water Services and a representative from the National Treasury"
- **A new Clause 64 (1) (c)** which reads "four other members appointed by the Cabinet Secretary from the respective county governments"
- **Clause 66 (b)** of the Bill is amended by deleting the phrase "and established by the county water services providers and through the county government water services institutional structure for the designated areas"
- **Clause 66 (d)** of the Bill is amended to read "provision of technical assistance to county governments"
- **Clause 66 (e)** of the Bill is amended to read "Hand over of the completed national public works to county water departments or joint county government institutions in accordance with regulations made by the cabinet secretary"
- **Clause 66 (f)** of the Bill is amended to read "Facilitation of the establishment of cross-county water services providers in consultation with the respective county governments"
- **Clause 67** of the Bill is amended to read "The Water Works Development Boards shall only hand over the use of completed national public works to county governments or joint county institutions but shall retain ownership of the works and assets on behalf of the Public"

4. Regulation of water services is a power or function that concurrently lies with county governments and the national government [through the national regulator]. The following amendments are proposed to recognize this in the Bill:

- **Clause 70(1) (a)** of the Bill is amended by deleting the phrase "for water service providers"

- **Clause 70(1) (b)** of the Bill is amended to read "Set standards and guidelines for setting of water services tariffs by county governments in line with consumer protection standards"
- **Clause 70 (1) (c)** of the Bill is amended to read "Set licence conditions for water service providers"
- **Clause 70 (1) (d)** is deleted
- **Clause 70 (1) (e)** of the Bill is amended by deleting the phrase "to be accredited by the Regulatory Authority" and replaced with "to be licensed by the licensing Authority"
- **Clause 70 (1) (f)** of the Bill is amended by inserting the word "all" before the word "standards". The Clause is further amended by deleting the words "by the water works development boards and the water service providers"
- **Clause 70 (1) (g)** of the Bill is amended by deleting the words "water service providers" and replacing it with the words "county governments"
- **Clause 70 (1) (n)** of the Bill is amended by inserting the words "in consultation with county governments" immediately after the phrase "make regulations"
- **Clause 70 (1) (p)** of the Bill is amended by inserting the words "to the Cabinet Secretary and County governments" immediately after the word "recommendations"
- **Clause 71 (4)** the funds of the Regulatory Authority shall include government grants and a water services regulatory levy which shall be a percentage of all water service sales which shall be set by the Cabinet Secretary

Currently this provision has been lost from the old Act; and the regulator has no separate funding mechanism contrary to international practice. There are is only one cross county water service provider, so the license fee cannot fund the regulator.

- **Clause 72** of the Bill is deleted.
- **Clause 73 (1)** of the Bill is amended by replacing the word "accredited" with "licensed"
- **Clause 73 (2)** of the Bill is amended by replacing the word "accredited" with "licensed"

- **Clause 73 (4)** of the Bill is deleted . Replace the current deletion with a new 73(4)

"Upon licensing by the county government, the county government shall ensure that a copy of the license is deposited with the regulatory authority within 14 days after approval"

- **Clause 74** of the Bill is deleted entirely
- **Clause 75 (3)** is amended by deleting the words "as may be approved by the Regulatory Authority"
- **Clause 76 (1)(b)** of the Bill is amended by inserting the words "as per the conditions of the licence" immediately after the words "service provision"
- **Clause 78 (b)** of the Bill is deleted
- **Clause 78** of the Bill is amended by inserting a new Clause 78 (d) which reads "as may be further prescribed by county legislation"
- **Clause 80 (1)** of the Bill is amended to read "A party aggrieved by the decision of a water services provider may appeal against the decision to the respective county government within fourteen days from the date the decision is made"
- **Clause 80(2)** of the Bill is amended to read "A party dissatisfied with the decision of a county government may further appeal to the Regulatory Authority and the Regulatory Authority shall make a decision and communicate to the parties within fourteen days from the time the decision is made"
- **Clause 81** of the Bill is amended by introducing a new Clause 81 (1) to read "a county government providing water services through agents shall hold the assets used by the water service providers on behalf of the public"
- **Clause 81** of the Bill is amended by introducing a new Clause 81 (2) which reads "The national government shall hold national public assets on behalf of the national government"
- **Clause 82 (1)** of the Bill is amended by replacing the words "water service providers" with "county governments"
- **Clause 83 (1)** is amended by inserting the words "Licensing Authority" immediately after the words "by the" Clause 83 (3) (c) is deleted
- **Clause 84** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 85** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority as the case may be" with "the licensing Authority"
- **Clause 86** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority as the case may be" with "the licensing Authority"

- **Clause 2** of the Bill (interpretation) is amended by inserting a new phrase "Licensing Authority" which means "a county government or the Regulatory Authority established under section 9 of this Act"
- **Clause 91** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 92** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 93** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 94** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 95** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 96** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 97** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 98** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 99** of the Bill is amended by replacing the words "county government executive or the Regulatory Authority" with "the licensing Authority" throughout the Clause
- **Clause 104 (1)** of the Bill is amended to read "Every county executive has a duty to monitor and enforce applicable regulations and where a county executive fails to

do so, the Regulatory Authority will recommend to the Cabinet Secretary measures that will be taken to ensure compliance"

- **Clause 104 (2)** of the Bill is amended to read "In the event of persistent non-compliance, the Cabinet Secretary shall take measures, in consultation with the concerned county government, to ensure that applicable guidelines are complied with.
- **Clause 115 (b)** of the Bill is deleted
- **Clause 115 (c)** of the Bill is deleted

6. It is important that the transition provisions in the Bill guide the water sector transition plan effectively. The following amendments to the Bill are proposed:

- **Clause 150 (1)** of the Bill is amended to read "Subject to the Transition to Devolved Government Act 2012 all completed water works, assets, property for the exclusive use of water service providers within a county shall, upon the commencement of this Act, be deemed to have vested in the respective county governments"
- **Clause 150** of the Bill is amended by creating a new **Clause 150 (2)** that reads "Subject to the Transition to Devolved Government Act 2012 all completed water works, assets, property that are cross county in nature shall, upon the commencement of this Act, be deemed to have vested in the water works boards until such a time that county governments form joint inter-county institutional structures where the works, assets and property will be vested".
- **Clause 151 (1)** of the Bill is amended by replacing the words "county water services providers" to "the respective county governments"
- **Clause 152** of the Bill is amended to read "The existing water services providers shall continue to operate for a period of six months from the commencement of this Act and shall thereafter only operate for a further period or periods as determined by the Cabinet Secretary in concurrent with the respective county governments"

Submission from the County Assemblies Forum

1. **THAT** clause 11 of the Bill be amended to introduce a new clause (f) to provide —
Determine inter-county benefit sharing mechanisms from the development of shared water resources.
2. **THAT** clause 12 of the Bill be amended to introduce a new clause (g) to provide —
(a) Four other members appointed by the Council of Governors to represent the county governments.
3. **THAT** clause 29 (1)(f) of the Bill be amended to provide -

- (a) Three other members appointed by the Council of Governors to represent the county governments.
- (b) Amend clause 29 (1) to introduce a new sub clause (g) Chief Executive Officer.
4. **THAT** clause 64 (1),(c] of the Bill be amended to provide -
- (a) Four other members appointed by the Council of Governors to represent the county governments.
- (b) Amend clause 64 (1J to introduce a new sub clause (d) to provide Chief Executive Officer
5. **THAT** clause 69 (1) (c) of the Bill be amended to provide -
- (a) Four other members appointed by the Council of Governors to represent the county governments.
- (b) Amend clause 69 (1") to introduce a new sub clause (d) to provide Chief Executive Officer.
6. **THAT** clause 72(2) of the Bill be amended to provide—
- (a) Prior to the determination by the regulatory board, the applicant shall seek approval from the County Government within whose are of jurisdiction it intends to provide water service
- (b) Amend 72(3) to provide -
- (a) "Prior to the determination of the application, the regulatory board shall publicise the application and shall take into consideration the views of stakeholders within whose are the applicant intends to provide water services"
- (c) Amend clause 72 by introducing a new sub clause 4 to provide -
"The regulatory board shall issue a licence if the applicant meets the accreditation requirements."
7. **THAT** clause 74(1) of the Bill be amended by inserting the terms " in consultation with the county government " after the term "may"
8. **THAT** clause 74(2) of the Bill be amended to provide -"The County Government may revoke the accreditation of a Water Service Provider on the grounds provided under section 74(1) in consultation with the Regulatory Board."
9. **THAT** clause 74 (3) of the bill be amended to provide -
"The Regulatory Board shall give written notice of revocation of accreditation under subsection (1) to the water services provider within seven days of the revocation."
10. **THAT** clause 74 (4) of the bill be amended to provide -
"A person whose accreditation is suspended or revoked shall cease to provide the relevant service."
11. **THAT** clause 74 of the bill be amended by introducing a new sub clause (5) to provide -
12. "A water services provider whose accreditation is suspended or revoked may apply to the Regulatory Board to review its decision within fourteen days of receipt of the notice of revocation."

13. Amend Clause 104 (1) by deleting the term "Act" to read-
"It shall be the duty of every county executive and enforce the applicable regulations under this Act".
14. Amend Clause 105 (3) by inserting the term "County Government" between the terms "the" and "authority" to provide -"The licensee shall before constructing any works, if the proposed works will affect or are likely to affect any water resource, obtain the consent of the County Government. Authority and the Regulatory Board."
15. THAT clause 113 (2) of the Bill be amended by inserting the words
"three representatives from the county governments nominated by the Council of Governors and three others from the national government" after the term "chairperson" to provide -
"The Board of Trustees shall consist of a chairperson, three representatives from the county governments nominated by the Council of Governors and three others from the national government"

Submissions from Hon. Irungu Kang'ata

- i. **Insert a new clause 61A.**
 - (1) A water service provider shall supply clean and safe water in adequate quantities to every public primary school located in the area where it is licensed.
 - (2) Subject to subsection (1), a water service provider shall not require a public primary school to pay a charge for water supplied to the school.
 - (3) It shall be an offence for a water service provider to discontinue the supply of water to a public primary school.
 - (4) Where an employee or agent of the water service provider, or a person acting or purporting to act on behalf of the water services provider commits an offence under subsection (3), the water service provider and every director or officer of the water service provider who had knowledge of the commission of the offence shall be liable.
 - (5) A person who commits an offence under subsection (3) shall, upon conviction, be liable to imprisonment for a term of not exceeding twelve months, or a fine not exceeding five hundred thousand shillings or both.
- ii. **Amendment to clause 77 by inserting new sub-clause (2A) and (2B)**
 - 2A) Subject to subsection (1), at least one member of the board of a water services provider shall be nominated by the member of Parliament of the constituency in which the water services provider is located and appointed by the board in accordance with the Company's Act.
 - 2B) A person nominated under subsection (2A) shall serve in the Board for a period of two years, renewable for one further term.
- iii. **Amendment to the Fourth Schedule by inserting new sub-clauses (3) and (4).**
 - (3) An applicant under sub-section 2 shall pay such fees for abstraction as may be prescribed by the Authority.

- (4) The abstraction fees collected shall be distributed as follows—
- (a) fifty percent to the National Government; and
 - (b) fifty percent to the County Government.

iv. Further proposals

That the variation of water tariffs chargeable by a public water service provider will only take effect once adopted by a resolution of a respective county assembly.

4.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee made the following general recommendations on the Water Bill, 2014;

- 1) Clause 2: Definition of the word “Wetland” be adopted;
 - a. The definition on “Wetland” subject to compliance with the definitions in the Agriculture Act and other international instruments;
- 2) Clause 2: Definition of the term “ water resource management be deleted;
- 3) Insert a new provision on “Riparian reserve” instead of “Riparian land”.
 - a. Proceed and define the word “Riparian reserve”
- 4) Clause 6 be amended by inserting the words: “whose regulation is the function of the national Government under Article 66 and the Fourth Schedule of the Constitution.” after the words “water resources” appearing thereof;
- 5) Insert Sub-clause 8 immediately after sub-clause 7 to provide as follows: “Appointments to the Basin Water Resources Committees under this Section shall be made after consultations with the County Government and the Parliament”;
- 6) Delete Clause 8A and insert in its place the following new clause 8A: “Every person using water resources pursuant to section 35 of this Act has a right of access to the water resource.”;
- 7) Amend Clause 8B (5) by deleting the word “three” and replacing it therefore with the word “five”;
- 8) Clause 8(3) be amended by adding the words “for domestic use” before the word “shall”;
- 9) That Clauses 12 (1), 29 (1), 64, and 69 had been taken care of elsewhere in the Bill; and
- 10) Adopted the recommendation to Clause 74 (1): to insert the words “ in consultation with the county government” after the word “may”;
- 11) That Clauses 12 (1), 29 (1), 64, and 69 had been taken care of elsewhere in the Bill; and
- 12) Amend Clause 19 (1) by inserting “geo-referenced” to be more specific;
- 13) Clause 20 of the Bill be amended by introducing the following sub-sections after 20(2)—

- a. (3) Any portion of land in excess of one hectare which is naturally subject to seasonal or permanent flooding and has the ecological characteristics of a swamp or marsh shall be considered to be a wetland.
 - b. (4) The Authority may with good cause and by public notification, in coordination with the National Land Commission declare any portion of land less than one hectare to be a wetland for purposes of water resources management under this Act.
 - c. (5) Notwithstanding the provisions of this Act or any other Legislation, no person shall undertake the activities proscribed to be undertaken on *riparian land/reserve* unless authorized by the Authority in consultation with other relevant stakeholders.
 - d. (6) The Authority shall develop Regulations and guidelines on activities proscribed to be undertaken on riparian land and for protection of wetlands and catchment areas;
- 14) Amendment to Clause 21 (1) to state that the Authority should inform county governments;
 - 15) Clause 24 (1): proposed amendment is taken care of elsewhere in the Bill;
 - 16) Clause 25 be amended to read “The powers and functions of the basin water resources committee shall be to advise the Authority and County governments, at the respective regional office, concerning”;
 - 17) Clause 30(1)(d) of the Bill be amended by Inserting the words “ rules and regulations” at the end of clause 30(1)(d);
 - 18) The head note appearing before Clause 63 of the Bill be amended by deleting the word “ Boards” and replacing it with the word “Agencies”;
 - 19) Delete the word “accreditation” and “accredited” wherever they appear between Clauses 72-75 (including in the side notes) and replace them with the word “license”, and “licensed” respectively;
 - 20) Adopted the recommendation to Clause 74 (1): to insert the words “ in consultation with the county government” after the word “may”;
 - 21) Clause 102: Replace “licensee” with “authorized water user”;
 - 22) Clause 104 (1) is about semantics and therefore the wording in the bill is adequate;
 - 23) Clause 107 (1) be deleted because it is a county government function;
 - 24) Clause 109: Insert the word “geo-referenced”;
 - 25) Clause 113: Clarify that the Chairperson will be appointed by the President, while Cabinet Secretary appoints members of the Trust Fund;
 - 26) Clause 114 (g): Insert the word “schemes” to read “ communities schemes”;
 - 27) Clause 115 (1) (b) be deleted;
 - 28) Clause 115 (1) (c) be deleted;

- 29) Clause 117: be amended to provide for: Composition of tribunal to consist of a chairperson and four other members; qualifications for chairperson and members.
- 30) Clause 130 be amended to include conservation and management of water resources;
- 31) Clause 138 to be amended to provide that the county government be informed by the Authority of such action;
- 32) Clause 139 be amended to include county governments;
 - a. The Chairman shall be an Advocate of the High Court with at least 15 years post qualification experience while members shall be persons with relevant professional experience in areas related to water resources management or water services provision and at least 15 years post qualification experience;
- 33) Clause 130: Amend Clause 130 of the Bill by deleting the word ‘management’ in line 3 and replacing it with “regulation”;
- 34) Clause 144 of the Bill be amended by inserting the following sub-sections-
 - a. (2) The Authority may, with the consent of the Director of Public Prosecutions as contemplated under Article 157(6) of the Constitution of Kenya 2010, undertake the prosecution of any offences arising under this Act or in connection with the performance of its functions;
- 35) Clause 145 be amended by deleting the word “one” and replacing it therefore with the word “five”;
- 36) Clause 154(5) of the Bill be amended by deleting the word “Board” and replacing it with the word “Authority”; and
- 37) Fourth Schedule be amended by inserting sub-clause 2(2)(a) to provide for securing of water installations after construction.

Annex 1: Proposed Committee Stage Amendments

10th November, 2015

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

**RE: COMMITTEE STAGE AMENDMENTS TO THE WATER BILL, 2014
(NATIONAL ASSEMBLY BILL NO. 7 OF 2014)**

NOTICE is given that Senator Lenny Kivuti, Chairperson to the Committee on Land and Natural Resources, intends to move the following amendments to the Water Bill, 2014, at the Committee Stage-

Clause 8

THAT clause 8 be amended in sub clause (3) by inserting the words ‘for domestic use’ before the word “shall” appearing on the first line.

Clause 8B

THAT clause 8B be amended in sub clause (5) by deleting the word “three” immediately after the word “every” and substituting therewith the word “five”.

Clause 19

THAT clause 19 of the Bill be amended in sub clause (1) by inserting the words “geo referenced information” immediately after the words “monitoring and”.

Clause 24

THAT clause 24 of the Bill be amended in sub clause (1)(b) by inserting the words “appointed by the appointing authority after approval by the county assembly” immediately after the words “the basin”.

Clause 25

THAT clause 25 of the Bill be amended by inserting the words “and county governments” immediately after the word “Authority” appearing on the second line.

Clause 30

THAT clause 30 of the Bill be amended in sub clause (1)(d) by inserting the words “rules and regulations” immediately after the words “harvesting policy”.

Head notes

THAT the headnote appearing immediately before clause 63 be amended by deleting the word “Board” and substituting therefor the word “agency”.

Clause 72

THAT clause 72 of the Bill be amended by deleting the word “accreditation” wherever it appears and substituting therefor the word “licensing”.

Clause 73

THAT clause 73 of the Bill be amended—

- (1) In sub clause (1) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (2) In the marginal note by deleting the word “accredited” and substituting therefor the word “ licensed”;
- (3) In sub clause (1) (c) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (4) In sub clause (1)(d) by deleting the word “accreditation” and substituting therefor the word “licence”;
- (5) In sub clause (2) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (6) In sub clause (4) by deleting the word “accredited” and substituting therefor the word “licensed”.

Clause 74

THAT clause 74 of the Bill be amended—

- (1) In the marginal note by deleting the word “accreditation” and substituting therefor the words “ a license”;
- (2) In sub clause (1) by deleting the word “accreditation” and substituting therefor the word “license”;
- (3) In sub clause (1) (a) by deleting the word “accredited” and substituting therefor the word “licensed”;

- (4) In sub clause (1)(b) by deleting the word “accreditation” and substituting therefor the word “licence”;
- (5) In sub clause (1) (c) by deleting the word “accredited” and substituting therefor the word “licensed”;
- (6) In sub clause (1) (e) by deleting the word “accreditation” and substituting therefor the word “license”.
- (7) In sub clause (2) by deleting the word “accreditation” and substituting therefor the word “license”;
- (8) In sub clause (3) by deleting the word “accreditation” and substituting therefor the word “license”.

Clause 102

THAT clause 102 of the Bill be amended by deleting the word “licensee” and substituting therefor the words “water user”.

Clause 107

THAT clause 107 of the Bill be deleted.

Clause 109

THAT clause 109 of the Bill be amended in sub clause (1) by inserting the words “geo referenced” immediately after the words “monitoring and”.

Clause 114

THAT clause 114 of the Bill be amended in sub clause (1) (g)—

- (a) by deleting the word “grants” appearing at the beginning of the sub clause; and
- (b) Inserting the deleting the word “communities” and substituting therefor the words “community schemes”.

Clause 115

THAT clause 115 be amended in sub clause (1) by deleting paragraphs (b) and (c).

Clause 117

THAT clause 117 of the Bill be amended by deleting the words “which shall be a Subordinate court as provided under Article 169(1)(d) of the Constitution”.

Clause 140

THAT clause 140 of the Bill be amended in—

- (a) sub clause (2) (a) by deleting the word “commission” and substituting therefor the word “Board”; and
- (b) Sub clause (2)(h) by inserting the words “or the Board” immediately after the word “Authority”.

Clause 130

THAT clause 130 of the Bill be amended by inserting the words “conservation and” immediately after the words “for the”.

Clause 139

THAT clause 139 of the Bill be amended by inserting the words “a county government” immediately after the word “or” appearing on the fourth line.

Clause 154

THAT clause 154 of the Bill be amended in sub clause 5 by deleting the word “Board” and substituting therefor the word “Authority”.

Clause 2

THAT clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical order –

“wetland” means an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh water”.

Dated the10/11/....., 2015.



SEN. LENNY KIVUTI,

Chairperson,

Committee on Land and Natural Resources.

Annex II: Minutes of the Committee dated 3rd November 2015 and 5th November 2015.

MINUTES OF THE 49TH MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, 3RD NOVEMBER, 2015 AT KICC, SECOND FLOOR BOARD ROOM AT 10.00 AM.

MEMBERS PRESENT

- | | |
|---------------------------|--------------------|
| 1. Sen. Lenny Kivuti | - Chairperson |
| 2. Sen. George Khaniri | - Vice Chairperson |
| 3. Sen. Liza Chelule | - Member |
| 4. Sen. Boy Juma Boy | - Member |
| 5. Sen. Martha Wangari | - Member |
| 6. Sen. Christopher Obure | - Member |
| 7. Sen. Henry Ole Ndiema | - Member |

MEMBERS ABSENT WITH APOLOGY

- | | |
|---------------------|----------|
| 1. Sen Dawson Mwazo | - Member |
| 2. Sen. Isaac Melly | - Member |

IN ATTENDANCE

SENATE SECRETARIAT

- | | |
|-----------------------|----------------------------------|
| 1. Mr. Charles Ngatia | -Clerk Assistant |
| 2. Dr. Johnson Okello | -Deputy Director, Legal Services |

MINUTE SEN/SCLNR/274/2015 : PRELIMINARIES

The meeting was called to order at 10.29 a.m. and there followed a word of prayer by the Chairman.

MINUTE SEN/SCLNR/275/2015 : ADOPTION OF AGENDA

The agenda of the meeting was unanimously adopted.

MINUTE SEN/SCLNR/276/2015: CONSIDERATION OF PROPOSED AMENDMENTS TO THE WATER BILL RECEIVED FROM THE PUBLIC

The Committee noted that the proposed amendments were many and resolved to consider amendments from three stakeholders.

a) Proposed amendments from Hon. Irungu Kangata

The Committee considered the proposed amendments from Hon. Irungu Kangata and adopted by resolutions that:

- i. Amendment to the Fourth Schedule- that water being a national resource, the sharing of benefit should be in accordance with the Benefit Sharing Law currently before Parliament;
- ii. The variation of water tariffs chargeable by a water service provider will only take effect once adopted by a resolution of a respective county assembly.

b) Proposed amendments from Water Resources Management Authority (WARMA)

The Committee considered the proposed amendments from WARMA and adopted by resolution:

- i. The definition on “Wetland” subject to compliance with the definitions in the Agriculture Act and other international instruments;
- ii. Insert a new provision on “Riparian reserve” instead of “Riparian land”.
- iii. Proceed and define the word “Riparian reserve”

c) Proposed amendments from County Assemblies Forum (CAF)

The Committee considered the proposed amendments from WARMA and adopted by resolution:

- i. That Clauses 12 (1), 29 (1), 64, and 69 had been taken care of elsewhere in the Bill; and
- ii. Adopted the recommendation to Clause 74 (1): to insert the words “ in consultation with the county government” after the word “may”;

Way Forward

The legal counsel was tasked to prepare a matrix of proposed recommendations so that the Committee could review the amendments in speedy manner.

MINUTE SEN/SCLNR/277/2015 : BRIEF ON THE CONSULTATIVE FORM WITH NATIONAL LAND COMMISSION HELD IN NAIVASHA ON 30TH OCTOBER, 2015

The Committee was informed that a consultative workshop with the National Land Commission to discuss progress made in land reforms and devolution of land management was held on 30th November, 2015.

Members were informed that the Committee was represented in the forum by Senators Christopher Obure, M.P., Henry Ndiema, M.P., Liza Chelule, M.P. and Boy Juma Boy, M.P.

The Committee was informed that the outcome of the meeting was as follows:

1. National Land Commission is okay with the Senate version of the Community Land Bill with only one proposed amendment in clause 6 (2);
2. Amendment to Clause 6 (2): replace the words “ Public Service Commission” with the words ‘the Commission”
3. Prioritization of the passage of the Community Land Bill from the Senate.
4. NLC requested the Committee to reject the Physical Planning Bill, 2015 and in place adopt the Land Use Planning Bill;
5. NLC requested the Committee to reject the Omnibus Bill clauses that reduce the mandate of the NLC.

The Committee resolved to seek for a summary of proposed amendments to all the Bills before parliament that the National Land Commission felt would hamper their operations.

MINUTE SEN/SCLNR/278/2015: VISIT TO KWALE

Members were requested to confirm their availability to undertake the visit to Kwale on 5th – 8th November, 2015.

MINUTE SEN/SCLNR/279/2015 : INVITATION OF THE COMMITTEE BY TULLOW KENYA B.V. TO A CONSULTATION MEETING

The Committee was informed of an invitation by Tullow Kenya B.V. to a scoping consultation for environmental and social impact assessment for South Lokichar Development Project Phase 1 schedule for Tuesday, 3rd November, 2015 at Inter-Continental Hotel at 7:00 p.m.

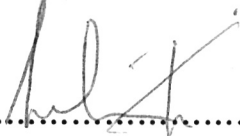
The Committee noted with appreciation the invitation and members were implored upon to attend.

MINUTE SEN/SCLNR/280/2015 : CONSULTATIVE FORUM WITH NATIONAL LAND COMMISSION

The Committee was informed of the upcoming consultative forum with the National Land Commission to be held on 29th -31st October 2015 in Naivasha to discuss progress made in land reforms and devolution of land management in the last two years.

**MINUTE SEN/SCLNR/281/2015 : ADJOURNMENT AND DATE OF
NEXT MEETING**

There being no other business, the meeting was adjourned at 12:00 noon until Thursday, 5th November, 2015.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....

MINUTES OF THE 50TH MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON THURSDAY, 5TH NOVEMBER, 2015 AT, MAIN PARLIAMENT BUILDING GROUND FLOOR CPA ROOM AT 10.00 AM.

MEMBERS PRESENT

- | | |
|---------------------------|---------------|
| 1. Sen. Lenny Kivuti | - Chairperson |
| 2. Sen. Liza Chelule | - Member |
| 3. Sen. Boy Juma Boy | - Member |
| 4. Sen. Martha Wangari | - Member |
| 5. Sen. Christopher Obure | - Member |
| 6. Sen. Henry Ole Ndiema | - Member |
| 7. Sen. Isaac Melly | - Member |

MEMBERS ABSENT WITH APOLOGY

- | | |
|------------------------|--------------------|
| 1. Sen. George Khaniri | - Vice Chairperson |
| 2. Sen Dawson Mwazo | - Member |

IN ATTENDANCE

SENATE SECRETARIAT

- | | |
|-----------------------|----------------------------------|
| 3. Mr. Charles Ngatia | -Clerk Assistant |
| 4. Dr. Johnson Okello | -Deputy Director, Legal Services |
| 5. Ms. Ann Kigoro | -Research Officer |

MINUTE SEN/SCLNR/282/2015

: PRELIMINARIES

The meeting was called to order at 10.25 a.m. and there followed a word of prayer by the Chairman.

MINUTE SEN/SCLNR/283/2015

: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Liza Chelule, M.P. and seconded by Sen. Boy Juma Boy, M.P.

MINUTE SEN/SCLNR/284/2015: CONSIDERATION OF PROPOSED AMENDMENTS TO THE WATER BILL RECEIVED FROM THE PUBLIC

d) Proposed amendments from the Council of Governors

The Committee considered the proposed amendments from the Council of governors and adopted by resolution that:

- iii. Amendment to Clause 21 (1) to state that the Authority should inform county governments;
- iv. Clause 24 (1): proposed amendment is taken care of elsewhere in the Bill;
- v. Clause 25 be amended to read “The powers and functions of the basin water resources committee shall be to advise the Authority and County governments, at the respective regional office, concerning”;
- vi. Clause 104 (1) is about semantics and therefore the wording in the bill is adequate;
- vii. Clause 107 (1) be deleted because it is a county government function;
- viii. Clause 115 (1) (b) be deleted;
- ix. Clause 115 (1) (c) be deleted;
- x. Clause 130 be amended to include conservation and management of water resources;
- xi. Clause 138 to be amended to provide that the county government be informed by the Authority of such action;
- xii. Clause 139 be amended to include county governments;

e) Proposed amendments from the Ministry of Water & Irrigation

The Committee considered the proposed amendments from the Ministry of Water & Irrigation and resolved that:

- 1. Clause 2: Definition of the word “Wetland” be adopted;
- 2. Clause 2: Definition of the term “ water resource management be deleted;
- 3. Clause 8(3) be amended by adding the words “for domestic use” before the word “shall”;
- 4. Clause 6 be amended by inserting the words: “whose regulation is the function of the national Government under Article 66 and the Fourth Schedule of the Constitution.” after the words “water resources ” appearing thereof;
- 5. Delete Clause 8A and insert in its place the following new clause 8A: “Every person using water resources pursuant to section 35 of this Act has a right of access to the water resource.”;
- 6. Amend Clause 8B (5) by deleting the word “three” and replacing it therefore with the word “five”;
- 7. Amend Clause 19 (1) by inserting “geo-referenced” to be more specific;
- 8. Clause 20 of the Bill be amended by introducing the following sub-sections after 20(2)—
 - (3) Any portion of land in excess of one hectare which is naturally subject to seasonal or permanent flooding and has the ecological characteristics of a swamp or marsh shall be considered to be a wetland.

(4) The Authority may with good cause and by public notification, in coordination with the National Land Commission declare any portion of land less than one hectare to be a wetland for purposes of water resources management under this Act.

(5) Notwithstanding the provisions of this Act or any other Legislation, no person shall undertake the activities proscribed to be undertaken on *riparian land/*reserve unless authorized by the Authority in consultation with other relevant stakeholders.

(6) The Authority shall develop Regulations and guidelines on activities proscribed to be undertaken on riparian land and for protection of wetlands and catchment areas;

9. Insert Sub-clause 8 immediately after sub-clause 7 to provide as follows:
“Appointments to the Basin Water Resources Committees under this Section shall be made after consultations with the County Government and the Parliament”;
10. Clause 30(1)(d) of the Bill be amended by Inserting the words “ rules and regulations” at the end of clause 30(1)(d);
11. The head note appearing before Clause 63 of the Bill be amended by deleting the word “ Boards” and replacing it with the word “Agencies”;
12. Delete the word “accreditation” and “accredited” wherever they appear between Clauses 72-75 (including in the side notes) and replace them with the word “license”, and “licensed” respectively;
13. Clause 102: Replace “licensee” with “authorized water user”;
14. Clause 109: Insert the word “geo-referenced”;
15. Clause 113: Clarify that the Chairperson will be appointed by the President, while Cabinet Secretary appoints members of the Trust Fund;
16. Clause 114 (g): Insert the word “schemes” to read “ communities schemes”;
17. Clause 130: Amend Clause 130 of the Bill by deleting the word ‘management’ in line 3 and replacing it with “regulation”;
18. Clause 117: be amended to provide for : Composition of tribunal to consists of a chairperson and four other members; qualifications for chairperson and members.
The Chairman shall be an Advocate of the High Court with at least 15 years post qualification experience while members shall be persons with relevant professional experience in areas related to water resources management or water services provision and at least 15 years post qualification experience;
19. Clause 145 be amended by deleting the word “one” and replacing it therefore with the word “five”;
20. Clause 144 of the Bill be amended by inserting the following sub-sections-

- (2) The Authority may, with the consent of the Director of Public Prosecutions as contemplated under Article 157(6) of the Constitution of Kenya 2010, undertake the prosecution of any offences arising under this Act or in connection with the performance of its functions;
21. Clause 154(5) of the Bill be amended by deleting the word “Board” and replacing it with the word “Authority”; and
22. Fourth Schedule be amended by inserting sub-clause 2(2)(a) to provide for securing of water installations after construction.

MINUTE SEN/SCLNR/285/2015 : VISIT BY THE COMMITTEE TO ATTEND THE 2015 UNITED NATIONS FRAMEWORK ON CLIMATE CHANGE- CONFERENCE (UNFCC-COP 21)

The Committee was informed of a scheduled visit to Paris, France from 3rd -13th December, 2015 to attend the 2015 United Nations Conference on Climate Change- Conference of Parties (UNFCC-COP 21).

The Conference nominated the following members to attend;

- a) Sen. Lenny Kivuti, M.P.
- b) Sen. George Khaniri, M.P.
- c) Sen. Boy Juma Boy, M.P.
- d) Sen. Liza Chelule, M.P.

Members were informed that the Committee was represented in the forum by Senators Christopher Obure, M.P., Henry Ndiema, M.P., Liza Chelule, M.P. and Boy Juma Boy, M.P.

MINUTE SEN/SCLNR/286/2015: VISIT TO KWALE

The Committee noted that the visit to Kwale had been put on hold due to lack of quorum of members and rescheduled the visit to 12th – 13th November 2015.

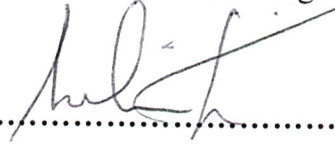
The following members confirmed their attendance to visit Kwale in order to prosecute the Petition on heavy blasting and dust from a quarry near Taru Trading Centre in Kinango Constituency;

- a) Sen. Lenny Kivuti, M.P.
- b) Sen. Christopher Obure, M.P.
- c) Sen. Boy Juma Boy, M.P.
- d) Sen. Liza Chelule, M.P.

**MINUTE SEN/SCLNR/287/2015 : ADJOURNMENT AND DATE OF
NEXT MEETING**

There being no other business, the meeting was adjourned at 12:06 p.m.

SIGNATURE.....



(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....

15/11/2015

Annex III: The Water Bill, 2014