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NATIONAL ASSEMBLY OF KENYA

NINTH PARLIAMENT – (SIXTH SESSION)

**DEPARTMENTAL COMMITTEE ON ENERGY,
COMMUNICATIONS AND PUBLIC WORKS**

**REPORT ON THE KENYA ROADS
BILL, 2007**

**CLERKS CHAMBER,
PARLIAMENT BUILDINGS,
NAIROBI**

JUNE, 2007

1.0 PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Energy, Communications and Public Works was constituted at the commencement of the Ninth Parliament pursuant to the provisions of Standing Order No. 151. The said Standing Order No. 151 (1) (c) mandates the Committee, among other things:-

(c) to study and review all legislation after the First Reading subject to the exemptions under Standing Order No. 101 A (4)

2.0 SUBJECTS

The Committee's subjects are as follows:-

- (a) Energy production and Distribution;
- (b) Transport and Communications;
- (c) Air and Sea ports;
- (d) Construction and maintenance of roads, rails and public buildings; and
- (e) Information and broadcasting.

The Committee oversees the performance of the following Ministries:-

- (a) Energy;
- (b) Transport;
- (c) Information and Communications; and
- (d) Roads and Public Works.

3.0 MEMBERSHIP

The Committee comprises the following Members:-

The Hon. Gideon Moi, MP – **Chairman**
The Hon. Jimmy Angwenyi, MP
The Hon. Maoka Maore, MP
The Hon. Gonzi S. Rai, MP
The Hon. Wafula Wamunyinyi, MP
The Hon. Lucas Maitha, MP
The Hon. Julius Arungah, MP
The Hon. (Eng.) Philip Okundi, MP
The Hon. Elias Mbau, MP
The Hon. Mohammed Abdi Haji, MP

The Hon. Viscount Kimathi, MP

4.0 SUMMARY

Mr. Speaker, Sir,

On behalf of the Departmental Committee on Energy, Communications and Public Works, I am pleased to present to the House the Committee's recommendations on the Kenya Roads Bill, 2007, pursuant to the provisions of Standing Order 162. The Bill was referred to the Committee after it was read a First Time in the House on 17th May, 2007.

I take this opportunity to thank all Members of the Committee and the secretariat for their dedication and hard work and their desire to improve the Bill.

The Committee held three sittings to deliberate on the Bill with stakeholders some of whom sent in their memoranda. The stakeholders' views have been incorporated in the form of proposed amendments.

5.0 BACKGROUND

Mr. Speaker, Sir,

The Kenya Roads Bill, 2007 seeks to provide for the establishment of the Highway, Urban and Rural Roads Authorities to manage, develop, rehabilitate and maintain all roads under their jurisdiction.

The Bill gives powers to the authorities to construct roads, bridges tunnels and regulate their usage by motorists. It also provides for land acquisition under the Land Acquisition Act Cap. 295, for purposes of road construction and other functions under the Act. One major milestone that the Bill seeks to provide is the participation of the private sector in road construction.

The Bill further seeks to provide for the classification of roads for the purposes of their unique identifications and for the clear separation of the management by the various authorities.

Mr. Speaker, Sir,


6.0 OUTLINE OF THE AMENDMENTS

The following is summary of the proposed amendments: -

- Making the specific the various nominating bodies to the boards of the authorities;
- Proposed the participation of private sector in development, rehabilitation of roads in consultation with the relevant authorities; and
- Setting the per centum that each authority, constituency and district should receive from the road fund.

7.0 CONCLUSION

Upon enactment into law, the Bill will solve a number of problems associated with the department of Roads which include long procurement procedures, poor project implementation, lack of machinery and equipment, unbalanced resource allocation and substandard works.

Sign  Date *JUNE 18, 2007*

**HON. GIDEON KIPSIELE MOI, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON ENERGY,
COMMUNICATIONS AND PUBLIC WORKS**

PROPOSED AMENDMENTS TO THE KENYA ROADS BILL,
2007

CLAUSE 5: - That clause 5 be amended by deleting subsection (f) (iv) and substituting therefor the word "**surveying**" as follows:

(iv) Surveying;

CLAUSE 8: That clause 8 be amended as follows: -

- (i) That sub clause (1) (f) be deleted and subsequent sub clause be re-numbered accordingly;
- (ii) That sub clause (1) (g) be amended by deleting the word '**FOUR**' appearing on the first line and substituting therefor the word '**FIVE**';
- (iii) That sub clause (1) (g) be amended by inserting a new sub clause (v) as follows.

(g). (v). Farming;

CLAUSE 11: That Clause 11 be amended as follows: -

- (i) That sub clause (1) (f) be deleted and insert therefor the following words '***A member of an association for the time being recognized by the government as representing the interests of local government authorities***';

CLAUSE 13: That clause 13 be amended by deleting the words '**upon such terms and conditions as may be specified in his instrument of appointment**' and substituting therefor the following words '**for a term of three years and is eligible for reappointment for one more term**'

CLAUSE 20: That a new sub clause (3) be inserted to read as follows:-

20. (3) each authority, in consultation with the Minister, may delegate powers and functions relating to roads under its jurisdiction to any corporate body.

CLAUSE 30: That Clause 30 be amended as follows:-

- (i) That sub clause (c) be amended by deleting the words '**such proportion**' appearing after the word '**authority,**' on the third

line and substituting therefor the words **'taken together, at least thirty percent'**

CLAUSE 50: That clause 50 be amended by deleting it entirely and subsequent clause be re-numbered accordingly;

CLAUSE 53: - That clause 53 be amended as follows:

- (i) That clause 53 be re-numbered 53 (1) and the subsequent clause be re-numbered as 53 (2);
- (ii) That the new sub clause (2) be amended by inserting the words **"notwithstanding section 53(1), each road authority shall encourage and facilitate community and private sector participation in road maintenance, management and construction with the guidance and supervision of the authority"**;

FIRST SCHEDULE: - That the FIRST SCHEDULE be amended as follows:

- (i). That a new sub clause (6) on Part A be inserted as: -
6. Kenya Farmers Association;
7. Institute of Surveyors of Kenya;

SECOND SCHEDULE: - That the SECOND SCHEDULE be amended as follows:

- (i). That sub clause (4) on Part A be deleted and substituted therefor with: -
4. Institute of Surveyors of Kenya;
- (ii) That sub clause (3) on Part B be amended by deleting the words **"Institute of Certified Public Accountants of Kenya"** and substituting therefor the words **"Institute of Surveyors of Kenya"**.
3. Institute of Surveyors of Kenya

FOURTH SCHEDULE: - That the fourth schedule be amended as follows:

- (i) That sub clause 1 (1) be amended by deleting the words **'comprising serving officers from the Ministry responsible for roads'** appearing after the word authority on

the third line and substituting therefor the words 'respectively and, in consultation with the Minister responsible for Local Government' to reads as follows; -

1. (1). *The Minister shall establish an interim management committee for the Highways Authority, Urban Roads Authority and the Rural Roads Authority respectively, in consultation with the Minister responsible for Local Government.*

(ii) That sub clause 1 (2) be deleted entirely;

FIFTH SCHEDULE: CONSEQUENTIAL AMENDMENTS

A. That the Traffic Act (Cap. 403) be amended as follows: -

- (i) That section 58 (1) be amended by deleting the words "**twenty thousand**" and substituting therefor the words "**four hundred thousand**"; and

That section 58 (1) be amended by deleting the words "**nine months**" and substituting therefor the words "**two years**".

- (ii) That section 58 (3) be amended by deleting the words "**six months**" and substituting therefor the words "**two years**".

- (iii) That section 119(q)(i) be amended by deleting the words "**ten thousand**" and substituting therefor the words "**two hundred thousand**"; and,

That section 119 (q) (1) be amended by deleting the words "**six months**" and substituting therefor the words "**two years**".

- (iv) That section 119 (q) (ii) be amended by deleting the words "**twenty thousand**" and substituting therefor the words "**four hundred thousand**"; and,

That section 119 (q) (ii) be amended by deleting the words "**one year**" and substituting therefor the words "**four years**".

B. That the Kenya Roads Board Act, (No. 7 of 1999) be amended as follows: -

- (i) That sub section 6 (2) (d)(i) be amended by deleting it and substituting therefor the words ***'Twenty percent of the monies from the fund is allocated equally to all constituencies in the country to be administered by the Rural Roads Authority''***;
- (ii) That sub section 6(2) (d)(ii) be amended by deleting it and substituting therefor the words ***'Twelve percent of the monies from the fund is allocated equitably to the districts in respect of rural roads administered by the Rural Roads Authority''***;
- (iii) That sub section 6 (2)(d)(iii) be amended by deleting it and substituting therefor the words ***'Forty percent of monies from the fund is allocated in respect of the national roads to be administered by the National Highways Authority''***;
- (iv) That a new clause 6 (2) (1) (i) and (1)(ii) be inserted to read as follows: -
 - (i) ***The Highways Authority, the Rural Roads Authority and the Urban Roads Authority may utilize such portion of monies received from the Road Fund for operational and administrative expenses as shall be approved by the Minister upon the advice of the Board;***
 - (ii) ***Provided that the annual approved expenditure on operational and administrative costs under (i) shall not exceed as a proportion of the projected annual expenditure of the Fund, in the case of the Highways Authority four percent, in the case of the Rural Roads Authority five and a half percent and in the case of the Urban Roads Authority five and a half percent***

MINUTES OF THE FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATIONS AND PUBLIC WORKS HELD ON TUESDAY, MAY 22, 2007 IN THE COMMITTEE ROOM, ON SECOND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT:

The Hon. Julius Arunga, MP. - **Ag. Chairman**
The Hon. Jimmy Angwenyi, MP.
The Hon. Viscount Kimathi, MP.
The Hon. Elias Mbau, MP.
The Hon. Mohammed Abdi Haji, MP.
The Hon. Lucas Maitha, MP.
The Hon. Wafula Wamunyinyi, MP.

ABSENT WITH APOLOGY:

The Hon. Gideon Moi, MP. - **Chairman**
The Hon. (Eng). Philip Okundi, MP.
The Hon. Gonzi Rai, MP.
The Hon. Maoka Maore, MP.

IN ATTENDANCE

NATIONAL ASSEMBLY:

Mr. Rana Tiampati - Clerk Assistant.
Mr. Joseph Odera - Parliamentary Intern

MIN NO.1/2007: INTRODUCTION

The Acting Chairman called the meeting to order at 10.30 a.m. and welcomed the Members and other persons present in the meeting.

MIN NO.2/2007: CONSIDERATION OF THE COMMITTED BILLS

The Committee considered the three Bills committed by the House as follows:

(1) The Media Bill, 2007

The Committee agreed to invite the stake holders in the sector to give their written submissions and views on the Bill.

The Committee deliberated on stakeholders list and directed the secretariat to contact the following stakeholders;

- i. Media Council and Media Owners Association;
- ii. Kenya Union of Journalists and Kenya Parliamentary Journalists Association;
- iii. EcoNews Africa;
- iv. Association of Media Women of Kenya;
- v. Law Society of Kenya;
- vi. Editors Guild; and
- vii. Ministry of Information and Communications.

(2) The Freedom of Information Bill, 2007

The Committee agreed to invite the stakeholders in the sector to give their written submissions and views on the Bill and further directed the secretariat to contact the following stake holders: -

- i. Freedom of Information;
- ii. International Commission of Jurists – Kenya Chapter;
- iii. Law Society of Kenya;
- iv. Media Owners Association; and
- v. Ministry of Information and Communications.

(3) The Kenya Roads Bill, 2007

The acting chairman informed the Committee that the Kenya Roads Bill has also been committed and the stakeholders need to be identified.

The Committee went through the Bill and resolved that the following stakeholders be invited to give their views:

- i. Ministry of Roads and Public Works;
- ii. Kenya Roads Board;
- iii. Ministry of Local Government - Urban Development Department;
- iv. Kenya Association of Manufacturers;
- v. Association of Local Authorities of Kenya (ALGAK) ;and
- vi. Kenya Private Sector Alliance.

The Committee finally resolved to conduct a consultative workshop in Mombasa from 3rd to 8th, 2007 to discuss the three Bills.

MINUTES OF THE SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATIONS AND PUBLIC WORKS HELD ON THURSDAY, MAY 24, 2007 IN THE COMMITTEE ROOM, FIFTH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT:

The Hon. Gideon Moi, MP. - **Chairman**
The Hon. Julius Arunga, MP.
The Hon. Jimmy Angwenyi, MP.
The Hon. Viscount Kimathi, MP.
The Hon. Elias Mbau, MP.
The Hon. Mohammed Abdi Haji, MP.
The Hon. Lucas Maitha, MP.
The Hon. Wafula Wamunyinyi, MP.
The Hon. (Eng). Philip Okundi, MP.
The Hon. Gonzi Rai, MP.
The Hon. Maoka Maore, MP.

IN ATTENDANCE

NATIONAL ASSEMBLY:

Mr. Rana Tiampati - Clerk Assistant.
Mr. Joseph Odera - Parliamentary Intern

MIN NO.4/2007: INTRODUCTION

The Acting Chairman called the meeting to order at 10.30 a.m. and welcomed the Members and other persons present in the meeting.

MIN NO. 5/2007: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Minutes of the previous meetings were confirmed as true deliberation of the Committee sitting;
Proposer-Hon. Angwenyi, MP
Secunder-Hon. Mohammed, MP

MIN NO.6/2007: MATTERS ARISING

The Committee noted the public outcry made by the Media Owners Association and the Media Council and resolved to invite them to

MIN NO. 3/2007: ADJOURNMENT

And there being no other business, the Acting Chairman adjourned the Sitting at Twelve O'clock until Thursday, May 24, 2007 in Committee room on 5th floor, Continental House, Parliament buildings at 10.00 a.m.

SIGNATURE 
Chairman

DATE JUNE 12, 2007

**MINUTES OF THE FIFTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON ENERGY, COMMUNICATIONS AND PUBLIC
WORKS HELD ON WEDNESDAY, JUNE 6, 2007 IN THE
WHITESANDS HOTEL, MOMBASA AT 8.00 A.M.**

PRESENT:

The Hon. Gideon Moi, MP. - **Chairman**
The Hon. Jimmy Angwenyi, MP.
The Hon. Viscount Kimathi, MP.
The Hon. Mohammed Abdi Haji, MP.
The Hon. Lucas Maitha, MP.
The Hon. Wafula Wamunyinyi, MP.
The Hon. Gonzi Rai, MP.

ABSAENT WITH APOLOGY

The Hon. Julius Arunga, MP.
The Hon. Elias Mbau, MP.
The Hon. (Eng). Philip Okundi, MP.
The Hon. Maoka Maore, MP.

IN ATTENDANCE

NATIONAL ASSEMBLY:

Mr. Rana Tiampati - Clerk Assistant.
Mr. Joseph Odera - Parliamentary Intern

MINISTRY OF ROADS AND PUBLIC WORKS

Amb. Eng. Mohamed M. Mahamud – Permanent Secretary
Dr. Eng. Frank Nyangaga – Executive Director, KRB
Eng. Orege – Ministry of Roads;
Eng. Mwangi Maingi – Ministry of Roads;
Eng. S. K. Kamau – Kenya Roads Board;
Eric Goss – Kenya Roads Board;
Betty Maina – KAM;
Representative, ALGAK;

MIN NO.12/2007: INTRODUCTION

The Chairman called the meeting to order at Eight O'clock and welcomed the Members and other persons present in the meeting.

give their views and submissions. The Committee was informed that the Media Council and Media Owners Association had proposed that the Bill be withdrawn.

The Committee learned that even though there is a perceived public outcry against the Bill, there is absolute need to consult instead of being part of the outcry. The Committee resolved to provide a forum for all Kenyans and aggrieved parties, if any, to point out the shortcomings they see in the Bill for purposes of improving it.

The Committee was further informed that the Freedom of Information Bill, 2007 provides for the establishment of a Commission which is not suitable noting the kind of freedom needed. The Committee resolved to provide a Commission.

MIN NO. 7/2007: WORKSHOP

After deliberations, the Committee resolved to attend a three day workshop in Mombasa to discuss the three committed Bills and equally listen to various stakeholders invited as follows;

June 4 th , 2007	The Media Bill
June 5 th , 2007	The Freedom of Information Bill
June 6 th , 2007	The Kenya Roads bill

The Committee further resolved to invite the Hon.Prof.Anyang Nyong'o, MP to attend the workshop

MIN NO. 8/2007: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at Twelve O'clock until Monday, June 4, 2007 in White Sands Hotel, Mombasa at 8.00 a.m.

SIGNATURE 
Chairman

DATE JUNE 12, 2007

He further welcomed the Permanent Secretary, to introduce officers accompanying him.

MIN NO. 9/2007: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Confirmation of minutes of the 2nd , 3rd and 4th sittings was postponed to a later date.

MIN NO.10/2007: KENYA ROADS BILL

a). CHAIRMAN – remarks;

The Chairman noted that the Bill is long overdue and thanked the Ministry of Roads for the work as the Bill is good for Kenya. The Chairman further noted that the sub sector requires introduction of new reforms as other countries in the region have already done.

The Chairman requested all participants to look at the Bill critically and come up with tangible amendments;

The Chairman proposed the following on behalf of the Committee: -

- The nominating authorities to the board members should be those that add value to the various authorities;
- The participation of the private sector in the development of roads;
- Acquisition of land by the authority;

b). Presentation by Kenya Roads Board and Ministry of Roads

The Committee was informed that currently roads are classified into three major categories as follows;

Class A	Roads of international importance
Class B	Roads of national importance
Class C	Roads of provincial importance

The Kenya Association of Manufacturers welcomed the re-organization of the Bill and informed the Committee that the road network in Kenya needs prioritization if development is to be realized.

The Committee was informed that Rural Roads Authority should manage the rural roads which are under class D and E, i.e. County Council roads and small town roads.

The Committee was further informed that centralization of decision making about roads tends to be sensitive to larger voter interest and this has led to poor distribution of funds for the development of roads.

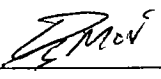
The Committee was also informed that more road funds should be allocated to rural areas since 80% of the population lives there. The Committee was told that the membership of the Kenya Rural Roads Authority needs to be expanded to include other stakeholders like Kenya Farmers Associations.

MIN. NO. 11/2007: KENYA ROADS BILL

The Committee went through the Bill clause by clause;

MIN. NO. 12/2007: ADJOURNMENT

And there being no other business, the Chairman adjourned the Sitting at Thirty minutes past Five O'clock until Wednesday, June 6, 2007 in White Sands Hotel, Mombasa at 8.00 a.m.

SIGNATURE 
Chairman

DATE JUNE 12, 2007