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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION

.....

DEPARTMENTAL COMMITTEE ON TRANSPORT PUBLIC WORKS AND HOUSING

.....

REPORT OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING ON THE ENGINEERS BILL, 2011

.....

Clerk's Chambers
National Assembly
NAIROBI

NOVEMBER 2011

TABLE OF CONTENTS

CONTENT	PAGE
PREFACE.....	1
CONSIDERATION OF THE ENGINEERS BILL, 2011	3
PROPOSED AMENDMENTS BY ASSOCIATION OF CONSULTING ENGINEERS OF KENYA	3
PROPOSES AMENDMENDMENTS BY MINISTER FOR ROADS.....	4
SUMMARY OF PROPOSED AMENDMENTS.....	5
MINUTES ANNEXED	

PREFACE

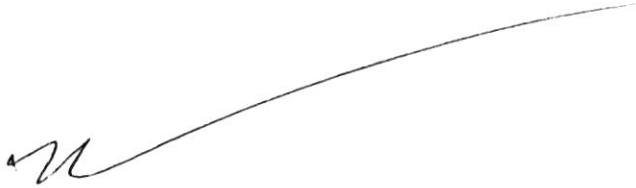
The Departmental Committee on Transport, Public Works and Housing was constituted pursuant to provisions of Standing Order No. 198 and mandated to among other things, investigate , inquire into and report on all matters relating to the mandate, management , activities, administration , operations and estimates of the assigned Ministries and departments. The Committee is also mandated **to study and review all legislation referred to it and make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.**

The Members of the Committee are:-

- i. Hon. David Were, M.P.- **Chairperson**
- ii. Hon. Isaac Muoki, M.P. – **Vice - Chairperson**
- iii. Hon. Edwin Yinda, M.P.
- iv. Hon. Yusuf K. Chanzu, M.P.
- v. Hon. (Dr.) Wilbur Otichilo, M.P.
- vi. Hon. Clement Wambugu, M.P.
- vii. Hon. Benjamin Langat. M.P
- viii. Hon. Joseph Kiuna, M.P.
- ix. Hon. Boaz Kaino, M.P.
- x. Hon. Ali Hassan Joho, M.P.

The Engineers Bill, 2011 was moved by the Minister for Roads. It was read a first time on 2nd August 2011 and committed to the Committee. Debate on the Second reading commenced and was concluded on 12th October 2011.

This Report contains the amendments proposed by Committee members and stakeholders. It is my pleasure to present the report to the House.

A handwritten signature in black ink, appearing to be 'Yusuf Chanzu', written in a cursive style. The signature starts with a small flourish and ends with a long, sweeping underline that extends to the right.

HON. YUSUF CHANZU, MP

**FOR: CHAIRPERSON, DEPARTMENTAL COMMITTEE ON
TRANSPORT, PUBLIC WORKS & HOUSING**

CONSIDERATION OF THE ENGINEERS BILL, 2011

On 6th September 2011, the Committee with the assistance of Parliamentary Legal Counsel, considered the Bill by itself, before meeting with the stakeholders.

Members proposed several amendments which the Committee considered during its sitting held on 13th October 2011. On the same date, the Committee considered proposals for amendments from The Association of Consulting Engineers of Kenya.

On 8th November 2011, the Committee considered amendments to the Bill together with the Minister for Roads.

PROPOSED AMENDMENTS BY THE ASSOCIATION OF CONSULTING ENGINEERS OF KENYA

Clause 4 -The Association propose that the Engineers Registration Board should not be domiciled within the offices of the Ministry responsible for matters relating to engineering.

Clause 5(1) V -It should be expressly stated that one of the representatives from the private sector should be a representative of a body representing firms of consulting engineers or engineers working in Architectural firms.

Clause 13(1) -The Minister should not be involved in appointment of the Registrar.

Clause 16(a) (iii) -Membership to the Institution of Engineers of Kenya should not be mandatory if one meets the requirements for registration in the category.

Clause 47(2) -There is need to limit the period a firm or body to continue practising engineering without meeting the requirements of the Act.

PROPOSED AMENDMENTS BY THE MINISTER FOR ROADS

- i. **Clause 2** - replace the Engineers Registration Board, with the Engineers Board of Kenya
- ii. **PART II** – Replace THE ENGINEERS REGISTRATION BOARD with THE ENGINEERS BOARD OF KENYA
- iii. **Clause 3(1)** – Replace the Engineers Registration Board with the Engineers Board of Kenya
- iv. **Clause 5(g)(i)** –Replace the word three with Four
- v. **Clause 5(g)(v)** –Replace the word two with One
- vi. **Clause 7(k)** – Replace the word recommend with the word Order
- vii. **New Clause 7(w)**-to establish the Kenya Academy of Engineering and Technology, which will serve to advise the National and County Governments on policy matters relating to engineering and technology.
- viii. **New Clause 13(4)** – A person to be appointed as Registrar shall be a professional engineer who holds a valid practicing licence. He shall be competitively recruited by the Board before being appointed by the Minister.
- ix. **Clause 20(i)(b)**- it has all partners or all shareholders who are registered professional engineers and at least one of them shall be a registered consulting engineer.
- x. **Clause 20 (i) (c)**-Replace the words “a Kenyan citizen” with the words “Kenyan citizens”
- xi. **Clause 24(2)(a)**-Replace the word professional with the word consulting.

SUMMARY OF PROPOSED AMENDMENTS

THE ENGINEERS BILL, 2011

COMMITTEE STAGE AMENDMENTS

NOTICE is given that the Member for Matungu and Chairman of the Departmental Committee on Transport, Public Works and Housing (Hon. David Were, MP) intends to move the following amendments to the Engineers Bill, 2011 at the Committee Stage-

LONG TITLE

THAT, the long title be amended by deleting the words “review and update the law relating to the” appearing immediately after the word “to” and substituting therefor the words “provide for “

CLAUSE 3

THAT, clause 3 be amended in subclause (2) by deleting the words “and the minister for the time being responsible for matters relating to finance” appearing in paragraph (c).

CLAUSE 4

THAT, clause 4 be deleted and substituted with the following new clause-

4 “The headquarters of the Board shall be in Nairobi and the Board may establish branches at the **Counties.**”

CLAUSE 5

THAT, clause 5 be amended in subclause (1)-

(a) by deleting the word “chairman” wherever it appears and substituting therefor the word “chairperson”

CLAUSE 7

THAT, clause 7 be amended -

- (a) by deleting the words “for the purpose of registration of graduate engineers” appearing in paragraph (l)
- (b) by deleting the word ‘issue’ appearing in paragraph (t) and substituting therefor the word “ develop”

CLAUSE 8

THAT, clause 8 be amended by deleting the word “a” appearing in subclause (3).

CLAUSE 11

THAT, clause 11 be amended in subclause (2)-

- (a) by deleting the words “ Boards permission” appearing in sub paragraph (i) and substituting therefor the words “ the permission of the chairperson”
- (b) by deleting subparagraph (ii) and substituting therefor the following subparagraph-
 - “(ii) is convicted of a criminal offence and sentenced to imprisonment for a term of six months or more without an option of a fine”;
- (c) by deleting sub paragraph (iii) and substituting therefor the following new paragraph-

“(iii) becomes for any reason including infirmity, incompetent or incapable of performing the functions of the office”;

CLAUSE 12

THAT, clause 12 be amended by deleting the words “ with the approval of the Minister for the time being responsible for matters relating to finance and substituting therefor the words “ determine upon the advice of the Salaries and Remuneration Commission occurrence book

CLAUSE 13

THAT, clause 13 be deleted and replaced with the following new clause—

Appointment of the Registrar **13.** (1) There shall be a registrar of the Board who shall be competitively recruited by the Board and appointed by the Minister.

(2) The Registrar shall hold office for such period and on such terms and conditions of employment as the Board may determine.

(3) The Registrar shall be an ex-official member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Registrar shall be the chief executive officer of the Board and shall, subject to the direction of the Board, be responsible for the day to day management of the Board.

(5) A person shall not be appointed as a Registrar unless such person-

is registered as a professional engineer under this Act;

- (a) has at least an undergraduate degree in engineering from a recognized institution;
- (b) has at least 10 years proven experience in the engineering field;
- (c) has knowledge and experience in policy formulation, management and procedures of the Government;
- (d) is knowledgeable in, or has actively contributed to the promotion of engineering development agenda.
- (e) meets the requirements of Chapter Six of the Constitution

CLAUSE 14

THAT, clause 14 be amended by inserting the following new paragraphs immediately after paragraph (g)-

- (a)“(ga) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties”
- (b)“(gb) ensure the maintenance of efficiency and discipline by all staff of the Board”
- (c)“(gc) manage the budget of the Board to ensure that its funds are properly expended and accounted for”

CLAUSE 18

THAT, clause 18 be amended by deleting paragraph (a) and substituting therefor the following new paragraph

“(a) holds a degree in engineering from a recognised university or such other qualifications as the Board may determine.”;

CLAUSE 19

THAT, clause 19 be amended-

- (a)by deleting subclause (1) and substituting therefor the following new subclause-

“(1) A person eligible to be registered as a graduate engineer under this Act shall apply to the Registrar.”

- (b)by deleting subclause (2) and substituting therefor the following new subclause-

“(2) An application under this section shall be made in the prescribed manner and form and shall be accompanied by the prescribed fee”.

NEW CLAUSE 30A

THAT, the following new clause be inserted immediately after clause 30-

Imposition of levy. **30A** (1) Every registered engineer whose name appears on the register shall pay annually or at such longer intervals as the Board may deem appropriate a levy to be known as the engineers training levy, at a rate to be determined by the Board from time to time.

(2) All moneys received in respect of a training levy shall be paid into an Engineers Training Levy Fund managed by the Board.

(3) A registered engineer who fails to comply with the provisions of subclause (1) shall not be eligible to be issued with a licence.

CLAUSE 35

(a) **THAT**, clause 35 be amended by inserting the following new paragraph immediately after paragraph(a)-

“(aa) fails to pay the Engineers Training Levy as required under this Act”;

CLAUSE 38

(b) **THAT**, clause 38 be amended by inserting the following new paragraph immediately after paragraph(a)-

“(aa) the Engineers Training Levy Fund”;

CLAUSE 43

THAT, clause 43 be amended-

(a) in subclause (1)-

(i) by deleting the words “ five hundred thousand shillings and substituting therefor the words “ not more than one million shillings”

(ii) by deleting the words “two years” and substituting therefor the words “ five years, or both.

(b) in subclause (2) by inserting the words “ not less than” before the word one

CLAUSE 55

THAT, clause 55 be amended –

(a) by deleting the words” two hundred thousand shillings” and substituting therefor the words “ not less than five hundred thousand shillings”

(b) by deleting the words “one year” and substituting therefor the words “ two years”,

FIRST SCHEDULE

THAT, the First Schedule to the Bill be amended –

(a) by inserting the following new paragraph immediately after paragraph 1-

“1A The Board shall, at its first meeting, elect a vice chairperson from amongst the persons appointed under section 5(1) (g) of this Act.

(b) by inserting the following new paragraph immediately after paragraph (8)-

Disclosure
of interest

“8A (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.”

“(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.”

....

MINUTES

MINUTES OF THE 111TH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING HELD ON THURSDAY 13TH OCTOBER 2011, IN THE COMMITTEE ROOM FOURTH FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11.00 AM.

PRESENT

The Hon. David Were, M.P – **Chairperson**
The Hon. Isaac Muoki, M.P. – **Vice-Chairperson**
The Hon. Yusuf K. Chanzu, M.P.
The Hon. Clement Wambugu, M.P.
The Hon. Edwin O. Yinda, M.P.
The Hon. (Dr) Wilbur Ottichilo, M.P.
The Hon. Joseph Kiuna, M.P.

ABSENT WITH APOLOGY

The Hon. Benjamin Langat, M.P.
The Hon. Boaz Kaino, M.P.

IN ATTENDANCE

Hon. (Eng.) Nicholas Gumbo, M.P.

NATIONAL ASSEMBLY

- Friend of the Committee

IN ATTENDANCE

Ms. Jospine Kusinyi
Mrs. Vane Akama
Ms. Caroline Kinyua

NATIONAL ASSEMBLY

- Clerk Assistant
- Legal Counsel
- Clerk Assistant

MIN. NO. 583/2011 – 2012

PRELIMINARY

The sitting commenced with a word of prayer from the Chair.

MIN. NO. 584/2011 – 20112

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted.

MIN. NO. 585/2011 – 2012

THE ENGINEERS BILL, 2011

The Committee deliberated on the Engineers Bill together with the memoranda from stakeholders and resolved as follows:-

Clause 2: Agreed to.

Clause 3:

THAT Clause 3 be amended in sub clause (2) by deleting the words 'and the minister for the time being responsible for matters relating to finance' appearing in paragraph (c).

Clause 4:

THAT Clause 4 be amended by deleting and substituting with the following new clause-
"The headquarters of the Board shall be in Nairobi but the Board may establish branches at the counties".

This amendment was to be researched further.

Clause 5:

THAT Clause 5 be amended in sub clause (1)-

- (a) By deleting the word "**chairman**" wherever it appears and substituting therefor the word "**chairperson**".
- (b) In paragraph 'g' by deleting subparagraph (v) and substituting therefor the following paragraph-
(v) "**two shall be persons representing the private sector nominated by the Association of the Consulting Engineers in Kenya.**"

Clause 6: Agreed to.

Clause 7:

THAT Clause 7 be amended-

- (a) By deleting the words "**for the purpose of registration of graduate engineers**" appearing in paragraph (1)
- (b) By deleting the word "**issue**" appearing in paragraph (t) and substituting therefor the word "**develop**"
- (c) By inserting the following new paragraph immediately after paragraph (d)-
Manage and administer the engineering training levy fund
- (d) By inserting the following new paragraph immediately after paragraph (u)
Provide continuous education for capacity building of members

Clause 8:

THAT Clause 8 be amended by deleting the word "**a**" appearing in sub clause (3)

Clause 9: Agreed to.

Clause 10: Agreed to.

Clause 11:

THAT Clause 11 be amended in subclause (2)-

- (a) By deleting subparagraph (i) and substituting therefor the following subparagraph-
(ii) "**is convicted of an offence and sentenced to imprisonment for a term of six months or more without an option of a fine**"
- (b) By deleting sub paragraph (iii) and substituting therefor the following new paragraph-

(iii) " becomes for any reason including infirmity of body or mind, incompetent or incapable of performing the functions of the office"

Rationale:

For purpose of elegance and style

Clause 12:

THAT Clause 12 be amended by deleting the words "it may, with the approval of the Minister for the time being responsible for matters relating to finance determine" and substituting therefor the word " may be determined by the Board in consultation with the Salaries and Remuneration Commission".

Rationale:

This provides for Article 230 of the Constitution

Clause 13:

THAT Clause 13 be amended by deleting and therefor be substituted with the following new clause-

13. (1) There shall be a registrar of the Board who shall be competitively appointed by the Board.

(2) The Registrar shall hold office for such period and on such terms and conditions of employment as the Board may determine.

(3) The Registrar shall be an ex-officio member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Secretary shall be the Chief Executive Officer of the Board and shall, subject to the direction of the Board, be responsible for the day to day management of the Board.

(5) A person shall not be appointed as a Registrar unless such person-

- a) Has at least an undergraduate degree in engineering from a recognized institution;
- b) Meets the requirements of Chapter Six of the Constitution;
- c) Is a registered engineer;
- d) Has at least ten years proven experience in the engineering field;

In addition must have experience and or knowledge in any of the following fields

- (e) Has knowledge in policy formulation and procedures of Government;
- (f) Has management experience in areas of both personnel and budget control;
- (g) Is knowledgeable in, or has actively contributed to the promotion of, engineering development agenda.

Clause 14:

THAT Clause 14 be amended by inserting the following new paragraphs immediately after paragraph (g)-

(g) i in consultation with Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties”

(g) ii ensure the maintenance of efficiency and discipline by all staff of the Board

(g) iii manage the budget of the Board to ensure that its funds are properly expended and accounted for

Clause 15: Agreed to.

Clause 16:

THAT Clause 16 be amended-

a) In paragraph (a) iii by deleting the paragraph

b) In paragraph (b) by deleting the words “**determined by the Board**” appearing immediately after the word “**period**” in subparagraph (i) and substituting thereof the word “**of at least five years**”

Clause 17: Agreed to.

Clause 18:

THAT Clause 18 be amended by deleting paragraph (a) and substituting thereof the following-

(a) Holds a degree in engineering from recognized university or such other qualifications as the Board may determine; and

Clause 19:

THAT Clause 19 be amended-

By deleting sub clause (1) and substituting thereof the following-

(1) A person wishing to be registered as a graduate engineer under this Act shall apply to the Registrar.

(2) By deleting sub clause (2) and substituting thereof the following-

(2) An application under this section shall be made in the prescribed manner and form and shall be accompanied by the prescribed fee

Rationale: For elegance

Clause 20:

THAT Clause 20 be amended in paragraph (c) by substituting the word “**citizen**” with the word “**citizens**”

Clause 21: Agreed to.

Clause 22:

THAT Clause 22 be amended in paragraph (b) by substituting the word "citizen" with the word "citizens"

Clause 23: Agreed to.

Clause 24: Agreed to.

Clause 25: Agreed to.

Clause 26: Agreed to.

Clause 27: Agreed to.

Clause 28: Agreed to.

Clause 29: Agreed to.

Clause 30:

THAT Clause 30 be amended by inserting a new clause immediately after clause 30-

30A. (1) Every registered engineer whose name appears on the register shall pay annually or at such longer intervals as the Board may deem appropriate a levy to be known as the engineering training levy for capacity building of engineers.

(3) All moneys received in respect of a training levy shall be paid into a Engineers Training Levy Fund managed by the Board

(4) A registered engineer who fails to comply with the provisions of the sub clause (1) shall not be eligible to be issued with a license.

(5) The engineers will be required to pay 2.5 percentage of their total earnings as fee.

Clause 31: Agreed to.

Clause 32: Agreed to.

Clause 33: Agreed to.

Clause 34: Agreed to.

Clause 35: Agreed to.

Clause 36: Agreed to.

Clause 37: Agreed to.

Clause 38: Agreed to.

Clause 39: Agreed to.

Clause 40: Agreed to.

Clause 41: Agreed to.

Clause 42: Agreed to.

Clause 43:

THAT Clause 43 be amended in sub clause (1)-

- (a) By deleting the word “**five hundred thousand shillings**” and substituting therefor the words “ **not less than one million shillings**”.
- (b) By deleting the words “**two years**” and substituting therefor the words “**five years**”.
- (c) In sub clause (2) by adding the words “ **not less than**” before the words “ **one million**”.

Clause 44: Agreed to.

Clause 45: Agreed to.

Clause 46: Agreed to.

Clause 47: Agreed to.

Clause 48: Agreed to.

Clause 49: Agreed to.

Clause 50: Agreed to.

Clause 51: Agreed to.

Clause 52: Agreed to.

Clause 53: Agreed to.

Clause 54: Agreed to.

Clause 55:

THAT Clause 55 be amended-

- (a) By deleting the words **"two hundred thousand shillings"** and substituting therefor the words **"not less than five hundred thousand shillings"**.
- (b) By deleting the words **"one year"** and substituting therefor the words **"two years"**.

Clause 56: Agreed to.

Clause 57: Agreed to.

Clause 58: Agreed to.

FIRST SCHEDULE:

THAT the First Schedule be amended-

- (a) By inserting the following new paragraph immediately after paragraph 1
1A The Board shall, at its first meeting, elect a vice chairperson from amongst the persons appointed under section 5 (1) (g) of this Act.
- (b) By inserting the following new paragraph immediately after paragraph (8)-
8A (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or the matter, or be counted in the quorum of the meeting during the consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question".

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

Clause 1: Agreed to.

Title:

THAT the Title be amended

- (a) by deleting the words **"review and update the new law relating to the"** appearing immediately after the word **"to"** and substituting therefor the words **"provide for"**
- (b) by adding the words **"the development"** after the word **"training"**

MIN. NO. 586/2011 – 2012

ANY OTHER BUSINESS

i. **Inspection tour to Kenya Ports Authority**

The Committee was informed that the logistics on the inspection tour to Kenya Ports Authority which was scheduled for Monday 17 October, 2011 were ongoing and would be ready by Friday 14 October 2011. Members confirmed that they would attend.

MIN. NO. 587/2011 – 2012

ADJOURNMENT

There being no ~~Any Other Business~~, the Chairperson adjourned the meeting at thirty minutes past One O'clock.

SIGN:.....


(CHAIRPERSON)

DATE:.....
18/10/2011

**MINUTES OF THE 106TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
TRANSPORT, PUBLIC WORKS AND HOUSING HELD ON TUESDAY 6TH
SEPTEMBER 2011, AT THE MEDIA CENTRE, MAIN PARLIAMENT BUILDINGS,
AT 10:30AM**

PRESENT

Hon. David Were, M.P.- **Chairperson**
Hon. Isaac Muoki, M.P. – **Vice - Chairperson**
Hon. (Dr.) Wilbur Otichilo, M.P.
Hon. Edwin Yinda, M.P.
Hon. Clement Wambugu, M.P.
Hon. Yusuf K. Chanzu, M.P.
Hon. Boaz Kaino, M.P.
Hon. Benjamin Langat. M.P

ABSENT WITH APOLOGY

Hon. Joseph Kiuna, M.P.

IN ATTENDANCE

Hon. (Eng) Fredrick Gumbo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Ms. Lucy Wanjohi	- Clerk Assistant
Ms. Josephine Kusinyi	- Clerk Assistant
Ms. Vane Akama	- Legal Counsel

MIN. NO. 550/2009-2012

PRELIMINARY

The Sitting commenced with a word of prayer from the Vice- Chair.

MIN. NO. 551/2009-2012

ADOPTION OF AGENDA

Agenda of the meeting was adopted.

MIN. NO. 552/2009-2012

**CONSIDERATION OF THE ENGINEERS
BILL, 2011**

The Legal Counsel took Members through the Bill and the following clauses were

flagged as proposed amendments;

- i. **Clause 4 of the Bill, Headquarters;** provides that the Board shall have its Headquarters in Nairobi. This does not provide for the operations of the Board or any of its constituents at devolved levels. Part 2 of the 4th Schedule of the Constitution provides that the County governments will be in charge of their own infrastructure.
- ii. **Clause 5 of the Bill, Membership of the Board;** the Bill does not provide for mechanisms to ensure that the appointments are transparent and competitive as envisaged under Articles 10 and 232 of the Constitution .
 - a) Under the same Clause, the word Chairman should be replaced with the word Chairperson.
 - b) Provision should also be made to include a slot for women and persons with disabilities as per Article 54(2) of the Constitution.
 - c) The Bill appears to be silent on the position of Vice- Chairperson. This would be in line with the provisions of the State Corporations Act.
 - d) The Bill should also exclude certain persons such as Members of Parliament and County Assemblies from holding membership to the Board, to forestall conflict of interest and avoid corruption.
- iii. **Clause 7 of the Bill, Functions and Powers of the Board;** the Board may be given additional functions such as advising the national and County governments on policy matters, providing continuous professional engineering education and setting eligibility requirements for persons applying for registration.
- iv. **Clause 12 of the Bill, Remuneration of Board Members;** setting of remuneration of the Board members should be a responsibility of the Salaries and Remuneration Commission, as per Article 230 of the Constitution.
- v. **Clause 13 of the Bill, Appointment of the Registrar;** the Bill does not propose the qualifications for persons to be appointed to the post, neither does it provide for a transparent and competitive process of appointment.

- vi. **Clause 14 of the Bill, Functions of the Registrar;** it would be prudent for the Registrar to be an employee of the Board.
- vii. **Clause 16 of the Bill, Qualifications for registration;** Members resolved to consult the Minister on the need for an Indemnity Cover for Engineers and specifications for the period and competence under Clause 16(b)i and 16(b)ii
- viii. Clause 18 (a) of the Bill, **Graduate Engineer;** Members resolved to consult the Minister on the definition of graduate engineer.
- ix. Clause 29 of the Bill, **Removal of persons from the Register;** needs to be redrafted to be clearly understood.
- x. Clause 36(2) of the Bill, **Suspension or cancellation of licence;** needs to be amended to give the person a fair hearing.
- xi. Clause 38 of the Bill, **Funds of the Board;** a nominal fee from within the organization needs to be introduced to cater for continuous training and make it compulsory.
- xii. Clause 43 of the Bill, **False registration or licensing;** the penalty is too lenient and the fine is definite. This does not give the judge any discretion and as such the words "not more than" or "less than" should be inserted.
- xiii. Clauses 46 – 49 of the Bill, **Prohibition for the use of the term engineer and other restrictions;** Members resolved that the Engineers would give their thinking behind these proposals, when they meet the Committee.
- xiv. **Paragraph 5 of the Schedule** should provide for a Vice Chairperson

MIN. NO.553 /2009-2012

ANY OTHER BUSINESS

Members resolved that other Engineers within Parliament should be invited for meetings whenever the Committee deliberates on the Bill.

MIN. NO. 554/2009-2012

ADJOURNMENT OF THE MEETING

There being no other business for consideration, the meeting was adjourned at 12:10pm

SIGNED _____



CHAIRPERSON

DATE 06/10/2011.

MINUTES OF THE 116TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
TRANSPORT, PUBLIC WORKS AND HOUSING HELD ON TUESDAY 8TH
NOVEMBER 2011, IN THE COMMISSION ROOM, COUNTY HALL AT 10:30AM

PRESENT

Hon. Isaac Muoki, M.P. – Vice – Chairperson
Hon. Joseph Kiuna, M.P.
Hon. Edwin Yinda, M.P.
Hon. Yusuf K. Chanzu, M.P.
Hon. (Dr.) Wilbur Otichilo, M.P.
Hon. Boaz Kaino, M.P.

ABSENT WITH APOLOGY

Hon. David Were, M.P.- Chairperson
Hon. Clement Wambugu, M.P.
Hon. Benjamin Langat. M.P

IN ATTENDANCE

Hon. Lenny Kivuti, M.P

IN ATTENDANCE

Hon. Franklin Bett, MP.
Hon. Lee Kinyanjui, M.P.
Eng. M.S.M Kamau
Eng. P.M. Mwinzi
Eng. Joackim Mutua
Eng. G.M.Arasa
Eng. Shem Oduor –Noah
Eng. D.Wanjau
Eng. Prof. A V Otieno
Eng. Julius Riungu

MINISTRY OF ROADS

- Minister
-Assistant Minister
-Permanent Secretary
-Chief Engineer
-Member, Engineers Registration Board
- Registrar, Engineers Registration Board
-ERB, Member
-ERB, Member
-ERB, Vice Chairman
-ERB, Member

IN ATTENDANCE

Ms. Lucy Wanjohi
Ms. Josephine Kusinyi

NATIONAL ASSEMBLY

-Clerk Assistant
- Clerk Assistant

MIN. NO. 619/2009-2012

PRELIMINARY

The Sitting commenced with a word of prayer from the Chair.

MIN. NO. 620/2009-2012 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted

MIN. NO. 621/2009-2012 PROPOSED AMENDMENTS TO THE ENGINEERS BILL, 2011 BY THE MINISTER FOR ROADS

The Minister presented the following proposed amendments to the Engineers Bill, 2011;

- i. Clause 2 - replace the Engineers Registration Board, with the Engineers Board of Kenya
- ii. PART II – Replace THE ENGINEERS REGISTRATION BOARD with THE ENGINEERS BOARD OF KENYA
- iii. Clause 3(1) – Replace the Engineers Registration Board with the Engineers Board of Kenya
- iv. Clause 5(g)(i) –Replace the word three with Four
- v. Clause 5(g)(v) –Replace the word two with One
- vi. Clause 7(k) – Replace the word recommend with the word Order
- vii. New Clause 7(w)-to establish the Kenya Academy of Engineering and Technology, which will serve to advise the National and County Governments on policy matters relating to engineering and technology.
- viii. New Clause 13(4) – A person to be appointed as Registrar shall be a professional engineer who holds a valid practicing licence. He shall be competitively recruited by the Board before being appointed by the Minister.
- ix. Clause 20(i)(b)- it has all partners or all shareholders who are registered professional engineers and at least one of them shall be a registered consulting engineer.
- x. Clause 20 (i) (c)-Replace the words “a Kenyan citizen” with the words “Kenyan citizens”
- xi. Clause 24(2)(a)-Replace the word professional with the word consulting.

The Chair presented the following proposed amendments by the Committee:

Long Title be amended by deleting the words “review and update the law relating to the” appearing immediately after the word “to” and substituting therefor the words “provide for “

Clause 3 be amended in subclause (2) by deleting the words “and the minister for the time being responsible for matters relating to finance” appearing in paragraph (c).

Clause 4 be deleted and substituted with the following new clause- “The headquarters of the Board shall be in Nairobi and the Board may establish branches at the Counties.”

Clause 5 be amended in subclause (1)-

(a) by deleting the word “chairman” wherever it appears and substituting therefor the word “chairperson”

(b) in paragraph ‘g’ by deleting subparagraph (v) and substituting i therefor the following paragraph-

(v) “two shall be persons nominated by the Association of Consulting Engineers”.

Clause 7 be amended -

(a) by deleting the words “for the purpose of registration of graduate engineers” appearing in paragraph (l)

(b) by deleting the word “issue” appearing in paragraph (t) and substituting therefor the word “develop”

(c) by inserting the following new paragraph immediately after paragraph(u)-

ua “ provide continuous education for capacity building of “engineers”

Clause 8 be amended by deleting the word “a” appearing in subclause (3).

Clause 11 be amended in subclause (2)-

(a) by deleting the words “ Boards permission” appearing in sub paragraph (i) and substituting therefor the words “ the permission of the chairperson”

(b) by deleting subparagraph (ii) and substituting therefor the following subparagraph-

“(ii) is convicted of an offence and sentenced to imprisonment for a term of six months or more without an option of a fine”;

(c) by deleting sub paragraph (iii) and substituting therefor the following new paragraph-

“(iii) becomes for any reason including infirmity , incompetent or incapable of performing the functions of the office”;

Clause 12 be amended by deleting the words “ with the approval of the Minister for the time being responsible for matters relating to finance and substituting therefor the words “ determine upon the advice of the Salaries and Remuneration Commission

Clause 13 be deleted and replaced with the following new clause—

Appointment of the Registrar. **13.** (1) There shall be a register of the Board who shall be competitively appointed by the Board.

(2) The Registrar shall hold office for such period and on such terms and conditions of employment as the Board may determine.

(3) The Registrar shall be an ex-official member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Registrar shall be the chief executive officer of the Board and shall, subject to the direction of the Board, be responsible for the day to day management of the Board.

(5) A person shall not be appointed as a Registrar unless such person-

Is registered as an engineer under this Act;

- (a) has at least an undergraduate degree in engineering from a recognized institution;
- (b) is registered as an engineer under this Act;
- (c) has at least 10 years proven experience in the engineering field;
- (d) has knowledge and experience in policy formulation and procedures of the Government;
- (e) has management experience in the areas of both personnel and budget control.
- (f) is knowledgeable in, or has actively contributed to the promotion of, engineering development agenda.
- (g) meets the requirements of Chapter Six of the Constitution

Clause 14 be amended by inserting the following new paragraphs immediately after paragraph (g)-

- (a) “(ga) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties”
- (b) “(gb) ensure the maintenance of efficiency and discipline by all staff of the Board”
- (c) “(gc) manage the budget of the Board to ensure that its funds are properly expended and accounted for”

Clause 16 be amended in paragraph (b)-

(a) by deleting the words “determined by the Board” appearing immediately after the word “ period” in subparagraph (i) and substituting therefor the word “ of at least five years”

(b) by deleting subparagraph (iii).

Clause 18 be amended by deleting paragraph (a) and substituting therefor the following new paragraph

“(a) holds a degree in engineering from a recognised university or such other qualifications as the Board may determine.”;

Clause 19 be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

“(1) A person eligible to be registered as a graduate engineer under this Act shall apply to the Registrar.”

(b) by deleting subclause (2) and substituting therefor the following new subclause-

“(2) An application under this section shall be made in the prescribed manner and form and shall be accompanied by the prescribed fee”.

Clause 35 be amended by inserting the following new paragraph immediately after paragraph(a)-

“(aa) fails to pay the Engineers Training Levy as required under this Act”;

Clause 38 be amended by inserting the following new paragraph immediately after paragraph(a)-

“(aa) the Engineers Training Levy Fund”;

Clause 43 be amended-

(a) in subclause (1)-

- (i) by deleting the words “ five hundred thousand shillings and substituting therefor the words “ not less than one million shillings”
- (ii) by deleting the words “two years” and substituting therefor the words “ five years, or both.

(b) in subclause (2) by inserting the words “ not less than” before one million shillings”

Clause 55 be amended –

- (a) by deleting the words” two hundred thousand shillings” and substituting therefor the words “ not less than five hundred thousand shillings”
- (b) by deleting the words “one year” and substituting therefor the words “ two years”,

New Clause 30A, the following new clause be inserted immediately after clause 30-

Imposition of levy. **30A** (1) Every registered engineer whose name appears on the register shall pay annually or at such longer intervals as the Board may deem appropriate a levy to be known as the engineers training levy, at the rate of two and half per centum for capacity building.

(2) All moneys received in respect of a training levy shall be paid into an Engineers Training Levy Fund managed by the Board.

(3) A registered engineer who fails to comply with the provisions of subclause (1) shall not be eligible to be issued with a licence.

First Schedule, be amended –

(a) by inserting the following new paragraph immediately after paragraph 1-

“1A The Board shall, at its first meeting, elect a vice chairperson from amongst the persons appointed under section 5(1) (g) of this Act.

(b) by inserting the following new paragraph immediately after paragraph (8)-

Disclosure
of interest

“8A (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.”

“(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.”

MIN. NO. 623/2009-2012

PROPOSED AMENDMENTS TO THE
ENGINEERS BILL, 2011 BY HON. LENNY
KIVUTI, M.P

The Hon. Lenny Kivuti, Member of Parliament for Siakago made the following proposals for consideration:

- i. Clause 2 – Be amended by deleting the word “survey” from the definition of the words “professional engineering services”

- ii. New Clause 44(d) – Knowingly submits land survey, valuation and environmental assessment documents prepared by a person who is not licensed to prepare those documents under any written law in force in Kenya.
- iii. Clause 49 be amended in sub clause (1) by deleting the words “engineering surveys” and in sub clause (2) by deleting the words “surveys”

MIN. NO. 624/2009-2012

**DELIBERATIONS ON THE ENGINEERS
BILL, 2011**

The meeting resolved that:

- i. The Minister’s proposals under clauses 5, 13 and 20 be dropped as they were already captured under the Committee’s amendments.
- ii. Clauses 5 and 16 under the Committee’s amendments be dropped and retained as contained in the Bill.
- iii. Clause 7(c) under the Committee’s amendments be dropped, as this is already captured under Clause 7(o) of the Bill.
- iv. Clause 11(b) under the Committee’s amendments be recast to incorporate appeals, and add the word criminal before the word offence.
- v. Clause 13(1) under the Committee’s amendments be amended to include appointment by the Minister.
- vi. Clause 13(5) under the Committee’s amendments be amended to include the word professional before the word engineer and 13(5b and e) be deleted.
- vii. Clause 43a(i) under the Committee’s amendments, the word “less” be replaced with “more”
- viii. Clause 43b(i) under the Committee’s amendments, the word “less” be replaced with “more”
- ix. New Clause 30A under the Committee’s amendments, immediately after the word Levy, insert the words “at a rate to be determined by the Board from time to time”
- x. Clauses 2 and 49 of Hon. Lenny Kivuti, M.P were not agreed to.

MIN. NO. 625/2009-2012 ANY OTHER BUSINESS

The Minister invited Members to:

- i. The commissioning of the Eldoret- Ziwa-Kachibora – Moi's bridge road on 14th November 2011 .
- ii. The Infrastructure Conference to be held at KICC on 15th November 2011.

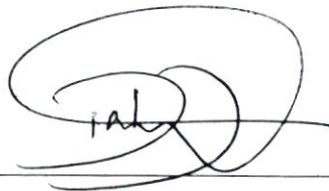
MIN. NO. 626/2009-2012 DATE OF NEXT SITTING

The next meeting would be held on Thursday 10th November, 2011 at 10:00am.

MIN. NO. 627/2009-2012 ADJOURNMENT OF THE MEETING

There being no other business for consideration, the meeting was adjourned at 12:45pm.

SIGNED _____



CHAIRPERSON

DATE

15/11/11