



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly

102ND SITTING - SECOND ASSEMBLY: THIRD MEETING – FOURTH SESSION –

Thursday, 27 January 2011

The East African Legislative Assembly met at 2.30 p.m. in the Chamber of the Parliament of Kenya, Nairobi.

PRAYER

(The Speaker, Mr. Abdirahin Abdi, in the Chair)

(The Assembly was called to order.)

PAPERS

The following Papers were laid on the Table:-

By the Chairperson of the Committee on Agriculture, Tourism and Natural Resources (Ms. Safina Kwekwe (Kenya):

The report of the committee on Agriculture, Tourism and Natural Resources on developing legal frameworks on the East African Region.

The report on the Committee on Agriculture, Tourism and Natural Resources on the Regional Parliamentary Symposium on Strategic Planning to address climate change.

The report on the regional dialogue on the politics of food security in East Africa region

BILLS

SECOND READING

The East African Community Service Commission Bill, 2010

Mr. Frederick Ngenzebuhoro (Burundi): Mr. Speaker, I beg to move that the *East Africa Service Community Service Commission Bill 2010* be read for the Second Time.

I beg to move.

Mr. Speaker, before I proceed, I would like to take this opportunity to sincerely thank the people of Kenya and its President for the warm welcome we have enjoyed since we came here.

Mr. Speaker, I will be very brief in describing the reason of this East African Community Service Commission Bill 2010. Taking note of the rate at which the East African Community is growing and the services required, the Committee on Legal Rules and Privileges responded appropriately by initiating the East African Community Service Commission Bill 2010.

In the consideration of the treaty, the establishment of the East African Community and the rules of the Assembly and the provision to Article 49 Clause 1, and 59 of the treaty establishing the East African Community and Rule 64 Clause 8 and 9 of the Rules of Procedure of the Assembly, the Committee on Legal Rules and Privileges, undertook to initiate a Bill entitled the East African Community Service Commission Bill 2010.

Mr. Speaker, I would like to recall that a similar commission existed during the defunct East African Community between 1967 and 1977. A Service Commission would refine the terms of reference or improve on the current method of staff recruitment and their terms of service.

Mr. Speaker, the object of this bill is to establish the East African Community Service Commission for purpose of efficiency in the community.

The Commission shall be responsible for making recommendations to the Council of Ministers on appointments of all staff of the August House and their terms and conditions of service except when it is otherwise provided for in the treaty or in the Act of the Community.

Mr. Speaker, now I would like to go to the summary of the bill. The bill consists of six parts and two schedules. Part one is on the community and has a few clauses of short titled Commencement and Interpretation.

Part two, is on the constitution of the Commission with nine clauses on the establishment of the Commission, membership of the Commission, qualifications for members of the Commission, tenure of office of members of the commission, appointments, enumeration of members of the Commission, security of the commission and other staff of the commission.

Part three is on immunities and privileges of the Commission with one clause only and I mean protection from legal proceedings.

Part four is on national provisions with three clauses of funds of the Commission, accounts recalls and audits and annual report.

Part five is on forces and penalties with two clauses; disclosure and information and publication.

Part six is on miscellaneous with three clauses of forms of the regulations.

The last part is the two schedules, the first schedule being the oath of the members in the East African nations and the other is an oath of an officer of the commission and his or her affirmation.

Mr. Speaker, I beg to move.

(Question proposed)

The Speaker: Hon. Members, Debate is open and I would like to call the chairperson of the committee.

REPORT OF THE COMMITTEE ON LEGAL RULES AND PRIVILEGES ON THE SERVICE COMMISSION BILL 2010.

Mr. Augustine Lotodo (Kenya): The report of the committee on legal rules and privileges on the Service Commission Bill 2010.

1.0 Introduction

Mr. Speaker Sir, pursuant to Rule 66 (4) of the Rules of Procedure, the East African Community Service Commission Bill, 2010 was committed to the Committee on Legal Rules and Privileges which was reviewed on 12th May 2010 in Arusha, Tanzania.

Mr. Speaker Sir, the object of this Bill is to establish the East African Community Service Commission for the organs and institutions of the Community. The Commission shall be responsible for making recommendations to the Council of Ministers on appointments of all staff of the organs and institutions of the Community, and on their terms and conditions of service; except where it is otherwise provided for in the Treaty or in an Act of the Community.

Mr. Speaker Sir, the Committee received a brief from the initiator of this Bill, Hon. Dr. Lwanyantika Masha who assisted by identifying substantial changes in the refined Bill by the Principal Legislative Draftsperson and original Bill, both utilized by the Committee for comparison and recommendation.

Hon. Dr. Masha informed Members that the arrangement of the improved Bill had no problem. The Committee only reviewed clauses in response to substance.

2.0 Observations and Findings

Mr. Speaker, Sir, the Bill shall be very useful to the Community and shall among other things:

- Recommend appointment of persons to hold or act in offices in the service of the Community, its organs and institutions;
- Recommend promotions, transfers and confirm appointments;
- Recommend disciplinary control and punishment over persons holding or acting in such offices;
- Recommend equitable representation by gender and by nationals from all Partner States;
- Recommend staffing levels or any changes on staffing levels for all organizational structures in the organs and institutions of the Community;
- Recommend job descriptions for all posts based on proposals by authorized officers;
- Recommend salary scales and other terms and conditions of service in the Community and periodically recommend changes;
- Recommend on schemes of admission to any Community office, the award of bursaries or scholarships for special training for service in the community, courses of instruction that may affect promotion prospects, and other methods of recruitment; and perform such other functions as may be delegated to it by the Council.

Mr. Speaker, Sir, the Committee unanimously agreed that this Bill has been long overdue. It should have been in place yesterday yet still it has come at the right time, when the Community is in need of it.

The Committee made recommendations on the original Bill which were incorporated in the Bill before the Assembly and the Committee supports the Bill as is.

Mr. Speaker, Sir, the Committee recommends as follows:

3.0 Recommendations

1. The Committee commends the mover of the Bill and encourages the Members to initiate such Bills to the Assembly for regulation of the Community.
2. The Committee urges the Assembly to support the Bill.

4.0 Acknowledgements

The Committee acknowledges the facilitation provided by the Assembly. The Committee appreciates the work executed by the initiator of the Bill Hon. Dr. Fortunatus

Lwanyantika Masha. The Committee further commends the Legislative Draftsman for incorporating all the amendments and recommendations by the Committee. The Bill before you Hon. Members will not attract substantial amendments. The Committee also appreciates the role played by former Chairperson of the Committee Hon. Abdullah Mwinyi during the initial stages of the Bill. In conclusion, the Committee hereby submits this report to the Assembly; and humbly urges the Assembly to support it.

The Speaker: Honourable Members, Debate is open.

The Minister for EAC Affairs, Rwanda (Ms. Monique Mukaruliza)(Ex-Officio): Mr. Speaker Sir, I beg to move under Rule 31 of the Rules of Procedure of this Assembly that debate on this Bill be adjourned.

The Secretary-General (Ambassador Juma Mwapachu): Seconded.

Ms. Mukaruliza: Mr. Speaker Sir, the reasons why I moving this motion are the following;

The council of Ministers in its sittings in November 2010 obliged the Partner States to consult the stakeholders in their respective territories on this bid and submit their comments to the secretariat. Up to now, all Partner States have not yet submitted their input on this bill, we were expecting this Bill next week, and as the program has changed, we are seeking your indulgence adjourn debate on the Bill.

(Question proposed)

Mr. Bernard Mulengani (Uganda): Thank you very much Mr. Speaker. I do not want to differ from what the Council is requesting, but possibly to seek her opinion in terms of the time lines. We are adjourning the debate till when? Could she come up and give an indication on time as when they will be ready for this Bill to come to the house?

The Speaker: Is there anybody else wishing to debate on this motion before I call the Chairperson?

Ms. Janet Mmari (Tanzania): Thank you Mr. Speaker. I think this is a very important Bill, the Council of Ministers has declared that they are still waiting for input from the partner states. Of course, the Community works in the interest of the people of the community who are the people from the Partner States. It is against this background that I would wish to support what the minister has said but at the same time ask the minister to give us the timelines within which they are going to submit or allow this bill to go forward because it is something that is required not today but yesterday.

Ms. Dora Byamukama (Uganda): Mr. Speaker, I would like to make some few comments. The first comment is that this Bill is not new in the East African Community, it has been on, Honourable Dr. Masha took it up and now it has come to this stage. Therefore, much as it may have come in a slightly different form, the essence is the same and it is supposed to help the Council of Ministers in appointment of staff of the organs and institutions of the Community and on their terms and conditions of service.

Having said this, I would also like to say that we are very well aware that this function is already being carried out and therefore what we are trying to do is to find a mechanism of streamlining it and putting in place a commission which will enable us to get the best staff in a most transparent manner. I would like to get some concrete reasons on why we should defer because what input will come from the Partner States that will change what has already been operative?

Mr. Speaker, on another note, I would like to say that when there is delay on any of the East African Bills or protocols, reference is made to Partner States and this reference keeps on dragging us back. Here we are, trying to move forward and putting in place mechanisms that will enable us to move forward, we have been recruiting, appointing and considering terms and conditions of service, so how comes at this point in time, we have to go back to Partner States whereas the Treaty is very clear that terms and conditions of service of the staff of the East African Community would be determined by Council. I would like to hear more on this before I support the motion.

Dr. Odette Nyiramilimo (Rwanda): Mr. Speaker, I am not sure if I have well understood the rule that was mentioned by the Honourable minister, was it Rule 41 or 31? Rule 31 on motions which may be moved without notice, I was not sure of the rule the minister had mentioned, I thought it was 41 and that is why I was against.

Major-General Mugisha Muntu (Uganda): Thank you Mr. Speaker. There are issues we have been going through over time; the issue of delay is of concern to us. I believe it should be of concern also to the Council Ministers and everybody who is involved in this process but we may be willing to make compromises if the Council is specific on up to when the delays should be made and if we have an understanding between ourselves as an assembly and the Council of Ministers that this time round, if there is no response, then we are free to go ahead as parliament. I know in the past, we have had some of this Bill rescheduled over and over and some of them take two years and others three years. We do not want to be taken for a ride and as Honourable Byamukama has indicated, we do not know who causes the delays, it could be the bureaucracy in the partner states, and we do not even know why they are not responding to some of these issues as fast as they should.

For us to be able to change that culture, we have to take definite positions so that they know that by a particular time, if there is no response, we go ahead and then they react to us. If we get a commitment from the council of ministers, personally I would come on board but if we do not get that kind of commitment, I do not think we should be left hanging.

Dr. Lwanyantika Masha (Tanzania): Mr. Speaker, I am sympathetic to the request of the Honourable Minister but in her own comments, I think I got the impression that it is because it has been advanced from its original schedule of next week. Do I then understand in which case I would agree, that the deadline for resumption of discussion on this bill be as originally programmed in the program for next week that that bill's deadline, which we would request for the bill to move on. If that is the case, then I would be in agreement, otherwise, I would want more elaborate and convincing explanation

because this bill has been on for a long time; governments have had an opportunity for more than a year to discuss it and the council of ministers has had a lot of time.

If I may refer to corridor kind of information, it is not all the five members that have not responded, I understand one member has responded and if that is correct, all the other members then could have responded so I would wish that we stick to the deadline as originally scheduled if we have to postpone the debate.

Ms. Mukaruliza: Mr. Speaker, may I inform this August House that the council has more interest in this bill because we are aware that this bill will serve the council of ministers than any other organ of the community. That is why from the importance the council has put in this bid, we agreed that we should have input from all partner states.

Up to now, the United Republic of Tanzania has provided input and we will do our best so that in the next session of this assembly, the council shall be ready for debate on this bill.

(Question put and agreed to)

(Debate on Bill adjourned)

COMMUNICATION FROM THE CHAIR

The Speaker: We have now come to the end of business today and I think it is very unfortunate that we have come all the way to this Partner State and we are sitting for half an hour. I do not think the Council of Ministers has been fair to this House. They knew this Bill was coming to this Session. This Bill has been before the House for more than a year, the Committee sent out documentation to all the Partner States to come before the Committee so that they can give their input on this Bill. It went to the Council and on a number of times the Bill was brought as a Private Members' Bill, they knew they were supposed to input, the council told them to bring input in December and if they go by reports, the 10th of December was when they were supposed to bring input from the Partner States. To date, they say they do not have input from the Partner States.

Honourable Members, first and foremost I would like to say that we do not need permission from the Council of Ministers or even the Partner States to legislate for this house. Our job is to legislate for the Community. If we say every time that we are going to wait for the Council of Ministers or Partner States to bring their comments here, we will not work. We will be sitting here and saying, we have not brought input and the cycle will continue. Courtesy demands that even if they did not have information, they should have gone to the mover or they should have come to my office to say that they do not have sufficient information from the Partner States to continue. They did not, they brought 45 honourable members here and East Africans to come have a sit for half an hour and then say they want to adjourn debate.

I do not think it is fair to this house and I do not think it is fair to East Africans. Honourable ministers, chairperson and the Secretary General who is also here, I do not think you people have been fair to this assembly and to East Africans. I hope that next time when you feel that you are not ready, you should come and say you are not ready

and then we can see how to go about it. If you knew that it was next week, then maybe we could put on the Order Paper for next week and then we will see what happens again next week, whether you would be ready or not.

ADJOURNMENT

The Speaker: I guess there is nothing much we can say, we will have to adjourn the House. So I now adjourn the House until next week on Monday at 2.30pm.

(The House rose at 3.20 p.m.)