

LEGISLATIVE BRIEF

Long Title: A Bill for an Act to Affirm the Rights of the Citizens of Nigeria to Full and Fair Consideration for Public Appointments

Short Title: Affirmation of Eligibility for Public Appointments Bill, 2017

Sponsor: Prof *the Rt Hon* Mojeed Alabi (Ede North/Ede South/Egbedore/Ejigbo Federal Constituency)

Background:

This Bill is not intended as an amendment to the provisions of the Constitution of the Federal Republic of Nigeria. Rather, it is intended to give effect to some of the key provisions of the Constitution targetted at promoting the virtues of democracy, good governance, non-discrimination, public service ethics and professionalism in the public sector.

Secondly, the Bill does not apply to all classes of public appointments but to some high level public appointments only

The Constitution guarantees every citizen of Nigeria some fundamental rights, including but not limited to, the right to life, to dignity of the human person, and to freedom from discrimination. Freedom from discrimination imports that every citizens, within the limits of his/her qualifications and capacity, is given access to public office in a fair and equitable manner that guarantees equal and fair treatment. This does not mean every applicant must be appointed. Rather, it means every applicant not appointment be assured that his/her her non-appointment is based on fair consideration and not on any primordial or sectional factors that are at variance with the principles enunciated in the Constitution, other enabling laws, public service regulations and other guidelines developed for and widely publicised in respect of any specific appointment processes.

Nigeria is the most highly populated black nation in the world. But this natural endowment *has not translated into prompt and cost-effective delivery of public services or into improved quality of the citizen's life*, due to a combination of factors, notably defective recruitment processes in the public sector. Indeed, popular peception exists in Nigeria today that important public

appointments are not based on merit or fair consideration but rather rather go to the highest bidder or given on the basis of “man know man”. Such popular perception kills initiatives, discourages productive endeavour, promotes corruption and nepotism, threatens national unity and development, which consequently fuel undue popular discontent and agitations.

Passing this Bill into Law is expected to change all that. When open competition replaces selection by an oligarchy meeting in conclaves, merit will displace patronage, integrity will isolate corruption, excellence will banish mediocrity, and quality service will replace shoddy delivery of public services. The Bill envisages a country in which things work. It, however, does not equate wishes with horses. It acknowledges that *the way we recruit top-level personnel for government and top public service positions must change before our condition changes for the better.*

This and related issue was the focus of “Good Morning Nigeria”, a popular NTA early morning discussion programme, early this week.

Objectives of the Bill:

This Bill seeks to tackle the undying tension between the requirement of merit and inclusiveness in the making of public appointments in a pluralistic society like Nigeria by introducing the idea of “full and fair consideration”. It recognises that the federal character provisions were inserted in the Constitution for good reasons, notably *to promote unity and command national loyalty*. It equally emphasises the need for merit and transparency in the appointment processes. Neither objective would be achievable where the “identity value” of the average Nigerian is constantly and systematically degraded by favouritism and exceptionalism. This citizenship degradation is likely to be the outcome when a Nigerian is treated, at best as a second class citizen, or worst a virtual non-Nigerian, that is, as a complete foreigner who is not entitled to the full range of rights enshrined in the Constitution. Hand-picking a few for public offices while shutting out the vast majority, constitutes the most glaring example of discrimination and, by implication, the most flagrant violation of the sacred principles enshrined in the Constitution. Imposing restrictions on *any* Nigerian’s eligibility for full and fair consideration for public appointments further serves the cause of mediocrity.

fear of discrimination based on circumstances of birth, gender, ethnicity or any other primordial considerations or discriminatory practices that are at variance with sound principles of public service ethics and national development.

Highlight of the Provisions of the Bill:

The Bill has a Preamble, which helps to clarify the import and essence of the Bill. It is arranged in nine parts with one Schedule, each containing a number of clauses, viz:

Part 1 Clause 1 {Coverage and Applicability} lists the classes of positions to which the Bill relates; these are high public offices that are “critical to the effective harmonization of the federal character provisions of the Constitution with the principles of citizen participation and open competition”.

Part 1 Clauses 2 & 3 indicates the circumstances under which the Bill would *not* apply. For instance, it leaves intact the “federal character” provisions of the Constitution and the broad appointive powers of the President. It also does *not* confer eligibility for full and fair consideration for appointments on foreigners or on certain categories of Nigerians debarred by law. The only stipulation is that in filling top-level vacancies, “good faith efforts” must be made to look *for the best and most qualified candidate from each geopolitical zone, State or local government area concerned*.

Part 2 sets out the principles underlying public appointments generally (e.g., the principles of collective ownership of vacancies; open and competitive selection; federal character; merit and inclusiveness, and equality of citizenship status/value).

Part 3 sets out the procedure for the declaration and announcement of vacancies

Part 4 spells out the obligations of individual applicants (especially, obligations to sight and apply for vacancies, support the applications with the required credentials and complete the Screening Form).

Part 5 identifies those eligible to serve as Referees or Sponsors, and specifies the steps each must take to signify his/her support for an application. There are new guidelines on what referees and their proteges could or could *not* do. Transparency is the name of the game.

Integrity in the selection of candidates for public offices is the overriding objective.

Part 6 focuses on the screening and selection process itself

Parts 7, 8 and 9 respectively clarify the usage of the key terms contained in the Bill, when the Act comes into force if passed, and the transitional measures to be taken before the Act would take effect.

Prayer:

This is one Bill that, if passed into law, could endear this Honourable House to the heart of advocates of good governance in particular and our constituents in general. As patriotic and public-spirited individuals, Honourable colleagues are enjoined to back our noble vision for a great country with actions that would make things work, one of which is to allow the passage of this important Bill to affirming the rights of the citizens of Nigeria to full and fair consideration for public appointments. With this, the House would be assuring Nigerians that we, the Members of the 8th House of Representatives of the Federal Republic of Nigeria, are not only ahead when it comes to anticipating public demands but are also determined to meet the demands and earn the trust of the voting public.

Honourable colleagues, the Bill before us draws on international good practices in high-level recruitment. It was drafted after intensive research. I urge the Honourable Members to support the passage of this trail-blazing Bill into law.

This Bill does not necessarily take anything away from us. We may be in position today to benefit from the spoils of the current system but won't be so privileged for ever. The golden opportunity to shape the future of our unborn generations for good is here presented before us.

Let us not throw that chance away!

Thank you, my dear and Honourable colleagues.

Prof the Rt Hon Mojeed Alabi

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