

Committee: Senate Commerce and Energy

Thursday, March 05, 2020 10:00 AM

Roll Call

Present: Sen. Curd, Sen. Monroe, Sen. Novstrup, Sen. Steinhauer, Sen. Kennedy,  
Sen. Schoenbeck, and Sen. Stalzer

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Senator Stalzer**

**MOTION: TO APPROVE THE MINUTES OF TUESDAY, MARCH 03<sup>RD</sup>**

Moved by: Steinhauer  
Second by: Monroe  
Action: Prevailed by voice vote

**HB 1216 : revise certain provisions regarding sexual harassment.**

Presented by: Senator Reynold Nesiba

**MOTION: DO PASS HB 1216**

Moved by: Kennedy  
Second by: Schoenbeck  
Action: Was not acted on.

**MOTION: SUBSTITUTE MOTION: AMEND HB 1216**

1216B

On page 3, line 21, of the House Judiciary bill, after "employment." delete "Section 3. That § 20-13-31  
be AMENDED:

"

On page 3, line 22, of the House Judiciary bill, after "AMENDED:" delete "20-13-31. "

On page 3, line 22, of the House Judiciary bill, after "20-13-31. " delete "Time for filing charge. "

On page 3, line 22, of the House Judiciary bill, after "charge. " delete "

Any charge filed under this chapter shall be filed within one hundred and eighty three hundred days  
after the alleged discriminatory or unfair practice occurred."

Moved by: Novstrup  
Second by: Schoenbeck  
Action: Prevailed by voice vote

**MOTION: DO PASS HB 1216 AS AMENDED**

Moved by: Schoenbeck  
Second by: Kennedy  
Action: Prevailed by roll call vote (7-0-0-0)

Voting Yes: Curd, Monroe, Novstrup, Steinhauer, Kennedy, Schoenbeck, and Stalzer

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1216 AS  
UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT  
CALENDAR.**

**HB 1119 : include certain offenses committed in another state for purposes of an enhanced penalty.**

Presented by: Representative Doug Barthel  
 Proponents: Paul Bachand, States Attorney Association  
 Charlie McGuigan, Office of the Attorney General

**MOTION: DO PASS HB 1119**

Moved by: Schoenbeck  
 Second by: Steinhauer  
 Action: Prevailed by roll call vote (7-0-0-0)

Voting Yes: Curd, Monroe, Novstrup, Steinhauer, Kennedy, Schoenbeck, and Stalzer

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1119 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.****MOTION: AMEND HB 1199**

1199A

On page 1, line 1, of the Introduced bill, delete "require certain annexation information be provided to electric utilities" and insert "revise civil liability for riot and incitement to riot"

On the Introduced bill, delete everything after the enacting clause and insert:

**Section 1.** That § 20-9-53 be AMENDED:

20-9-53. Definitions.

Terms used in §§ 20-9-53 to 20-9-57, inclusive, mean:

- (1) "Civil recoveries," funds received by the state from any third party as damages resulting from ~~violations of chapter 22-10 riot or incitement to riot~~ that cause the state or a political subdivision to incur costs ~~arising from riot boosting under § 20-9-54;~~
- (2) "Incitement to riot," any person who, with the intent to cause a riot, commits an act or engages in conduct that urges three or more people, acting together and without authority of law, to use force or violence to cause any injury to any person or any damage to property, under circumstances in which the force or violence is imminent and the urging is likely to incite or produce the use of force or violence, incites riot. Urging includes instigating, inciting, or directing, but does not include the oral or written advocacy of ideas or expression of belief that does not urge the commission of an act or conduct of imminent force or violence;
- (3) "Person," any individual, joint venture, association, partnership, cooperative, limited liability company, corporation, nonprofit, other entity, or any group acting as a unit;
- (3)(4) "Political subdivision," a county or municipality;
- (4)(5) "Riot," the same as the term is defined under § 22-10-1 any intentional use of force or violence by three or more persons, acting together and without authority of law, to cause any injury to any person or any damage to property; and
- (5)(6) "Secretary," the secretary of the Department of Public Safety.

**Section 2.** That § 20-9-54 be AMENDED:

20-9-54. Liability for riot and incitement to riot.

~~In addition to any other liability or criminal penalty under law, a person is liable for riot boosting, jointly and severally with any other person, to the state or a political subdivision in an action for damages if the person:~~

- ~~(1) Participates in any riot and directs, advises, encourages, or solicits any other person participating in the riot to acts of force or violence;~~
- ~~(2) Does not personally participate in any riot but directs, advises, encourages, or solicits other persons participating in the riot to acts of force or violence; or~~
- ~~(3) Upon the direction, advice, encouragement, or solicitation of any other person, uses force or violence, or makes any threat to use force or violence, if accompanied by immediate power of execution, by three or more persons, acting together and without authority of law.~~

In addition to any other liability or criminal penalty under law, a person is personally liable for riot, and jointly and severally liable for riot with any other person engaged in the same riot, to the state or a political subdivision in an action for damages if the person commits riot as defined under § 20-9-53.

In addition to any other liability or criminal penalty under law, a person is personally liable for incitement to riot, and jointly and severally liable for incitement to riot with any other person engaged in the same riot, to the state or a political subdivision in an action for damages if the person commits incitement to riot as defined under § 20-9-53.

Nothing in this section may be construed to include the oral or written advocacy of ideas or expression of belief that does not urge the commission of an act or conduct of imminent force or violence. This section may not be construed to prevent the peaceable assembly of persons for lawful purposes of protest or petition.

**Section 3.** That § 20-9-55 be AMENDED:

20-9-55. Jurisdiction--Evidence--Procedure.

A person is subject to the jurisdiction of the courts of this state for ~~riot boosting incitement to riot~~ that results in a riot in this state, regardless of whether the person engages in ~~riot boosting incitement to riot~~ personally, or through any employee, agent, or subsidiary.

Evidence is not admissible in an action for riot ~~boosting action or incitement to riot~~ that shows that any damages, in whole or in part, were paid by a third party. Notwithstanding any other law, any action arising under § 20-9-54 is governed by the procedural and substantive law of this state.

Any action for riot ~~boosting or incitement to riot~~ shall be for the exclusive benefit of the state, or political subdivision, ~~or an otherwise damaged third party,~~ and shall be brought in the name of the state or political subdivision. The state, a political subdivision, or any third party having an interest in preventing a riot or ~~riot boosting incitement to riot~~ may enter into an agreement to establish joint representation of a cause of action under § 20-9-54.

**Section 4.** That § 20-9-56 be AMENDED:

20-9-56. Damages for riot or incitement to riot.

The plaintiff in an action for riot ~~boosting or incitement to riot~~ may recover both special and general damages, reasonable attorney's fees, disbursements, other reasonable expenses incurred from prosecuting the action, and punitive damages. A defendant who solicits or compensates any other person to commit an unlawful act or to be arrested is subject to three times a sum that would compensate for the detriment caused. A fine paid by a defendant for any violation of chapter 22-10 may not be applied toward payment of ~~liability damages under § 20-9-54~~ this section.

"

Moved by: Schoenbeck  
Second by: Curd  
Action: Prevailed by voice vote

**HB 1262 : revise provisions regarding electric service in annexed areas.**

Presented by: Senator Jack Kolbeck

**MOTION: TO TABLE HB 1262**

Moved by: Kennedy  
Second by: Schoenbeck  
Action: Prevailed by roll call vote (6-0-1-0)

Voting Yes: Curd, Monroe, Steinhauer, Kennedy, Schoenbeck, and Stalzer

Excused: Novstrup

**HB 1199 : require certain annexation information be provided to electric utilities.**

Presented by: Senator Lee Schoenbeck

**MOTION: DO PASS HB 1199 AS AMENDED**

Moved by: Curd  
Second by: Schoenbeck  
Action: Prevailed by roll call vote (5-1-1-0)

Voting Yes: Curd, Monroe, Steinhauer, Schoenbeck, and Stalzer

Voting No: Kennedy

Excused: Novstrup

**MOTION: ADJOURN**

Moved by: Schoenbeck  
Second by: Curd  
Action: Prevailed by voice vote

Mary Beth Fravel, Committee Secretary

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/s/ JIM STALZER  
Jim Stalzer, Chair