

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 28, 2023

1:05 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative David Eastman
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 29

"An Act relating to insurance discrimination."

- HEARD & HELD

HOUSE BILL NO. 181

"An Act renaming the State Commission for Human Rights the Alaska State Commission for Civil Rights; relating to removal of commissioners of the Alaska State Commission for Civil Rights; relating to reports from the Alaska State Commission for Civil Rights; relating to the definition of 'employer' for the purposes of the Alaska State Commission for Civil Rights; and relating to local civil rights commissions."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 29

SHORT TITLE: INSURANCE DISCRIMINATION

SPONSOR(S): REPRESENTATIVE(S) MCCABE

01/19/23	(H)	PREFILE RELEASED 1/9/23
01/19/23	(H)	READ THE FIRST TIME - REFERRALS
01/19/23	(H)	L&C, JUD
02/10/23	(H)	L&C AT 3:15 PM BARNES 124

02/10/23 (H) Heard & Held
02/10/23 (H) MINUTE(L&C)
02/17/23 (H) L&C AT 3:15 PM BARNES 124
02/17/23 (H) Heard & Held
02/17/23 (H) MINUTE(L&C)
03/03/23 (H) L&C AT 3:15 PM BARNES 124
03/03/23 (H) <Bill Hearing Canceled>
03/06/23 (H) L&C AT 3:15 PM BARNES 124
03/06/23 (H) Moved CSHB 29(L&C) Out of Committee
03/06/23 (H) MINUTE(L&C)
03/08/23 (H) L&C RPT CS(L&C) 1DP 1DNP 5NR
03/08/23 (H) DP: CARRICK
03/08/23 (H) DNP: FIELDS
03/08/23 (H) NR: PRAX, WRIGHT, SADDLER, RUFFRIDGE,
SUMNER
04/28/23 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 181

SHORT TITLE: STATE COMMISSION FOR CIVIL RIGHTS

SPONSOR(s): JUDICIARY

04/26/23 (H) READ THE FIRST TIME - REFERRALS
04/26/23 (H) JUD, STA
04/26/23 (H) JUD AT 1:00 PM GRUENBERG 120
04/26/23 (H) Heard & Held
04/26/23 (H) MINUTE(JUD)
04/28/23 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE KEVIN MCCABE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented CSHB 29(L&C).

BUDDY WHITT, Staff

Representative Kevin McCabe

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for CSHB 29(L&C), on behalf of Representative McCabe, prime sponsor.

LORI WING-HEIER, Director

Division of Insurance

Department of Commerce, Community & Economic Development

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSHB 29 (L&C).

CHERYL BOWIE
Representing Self
Colorado

POSITION STATEMENT: Testified in support of HB 181.

KAREN BARNARD
Representing Self
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 181.

ZACKARY GOTTSHALL, Chair
Alaska State Commission for Human Rights
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 181.

JESSIE RUFFRIDGE, Commissioner
Alaska State Commission for Human Rights
Soldotna, Alaska

POSITION STATEMENT: Testified in support of HB 181.

MAE MARSH, Vice Chair
Alaska State Commission for Human Rights
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 181.

ACTION NARRATIVE

[1:05:34 PM](#)

CHAIR SARAH VANCE called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Eastman, Gray, Groh, Allard, and Vance were present at the call to order. Representative C. Johnson and Carpenter arrived as the meeting was in progress.

HB 29-INSURANCE DISCRIMINATION

[1:06:16 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE BILL NO. 29, "An Act relating to insurance discrimination." [Before the committee was CSHB 29 (L&C).]

[1:06:30 PM](#)

REPRESENTATIVE KEVIN MCCABE, Alaska State Legislature, prime sponsor, presented CSHB 29(L&C). He said insurance companies were in the business of discrimination. These companies segregate the insured into separate risk pools based on their differences and risk profiles for two main reasons: to charge different premiums to different groups based on their risk; and to incentivize risk production by the insured. There are, however, limits to the type of discrimination that insurers can engage in, which was decided upon at the national and local levels of government. He reported that insurance companies had been denying coverage to Alaskans based solely on their political affiliation, expression, or elected status. The bill sought to prohibit discrimination based solely on those factors. Specifically, CSSB 29(L&C) would amend the insurance code in Alaska from using political expression, affiliation, or elected status as the sole reason for refusing to ensure or renew insurance coverage; limiting the scope of insurance coverage; canceling an existing policy; denying a claim covered by an existing insurance policy; or increasing the premium policy fees or rates charged on an insurance policy. He emphasized that the bill would not prohibit refusals, limitations, or fees based on sound underwriting or actuarial principles. Given that insurance products are necessary to protect the health of property and in some instances, required by law, he believed that it was in the public interest to ensure that consumers were protected by discriminatory practices. He opined that the proposed legislation would assist in that effort.

[1:09:08 PM](#)

BUDDY WHITT, Staff, Representative Kevin McCabe, Alaska State Legislature, on behalf of Representative McCabe, prime sponsor, presented the sectional analysis for CSHB 29(L&C), [included in the committee packet], which read as follows [original punctuation provided]:

Section 1 amends Sec. 21.36 to add a new section that prohibits a person transacting insurance in this state from discriminating against a person based solely on a person's political affiliation or expression or a person's status as an elected state official as defined in AS 44.99.205.

Section 2 amends uncodified law of the State of Alaska by adding a new section regarding applicability and

effective dates to insurance policies and/or contracts.

CHAIR VANCE sought questions from members of the committee for Ms. Wing-Heier.

[1:13:11 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community & Economic Development (DCCED), introduced herself for the record and welcomed questions from committee members.

[1:13:26 PM](#)

REPRESENTATIVE GROH questioned the inspiration for the bill.

MS. WING-HEIER informed the committee that she had not heard of elected officials being denied insurance because of their elected status before being approached by the bill sponsor. However, she said that independent agents and brokers confirmed that it was, in fact, happening, highlighting instances of state officials, including school board members and borough members, not being able to obtain insurance. She noted that she could not find any instances [of discrimination] in reference to political party.

REPRESENTATIVE GROH said he had never heard of this issue and characterized it as "illogical." He expressed a desire to understand the nature of the problem and the apparent cause.

MS. WING-HEIER reiterated that after being presented with the bill she conducted some research with insurance companies who confirmed that their guidelines did not permit underwriting excess liability of public officials.

[1:15:09 PM](#)

REPRESENTATIVE MCCABE noted that that the term "excess liability" was commonly known as an umbrella policy. He shared a personal anecdote about being denied an umbrella policy based on his status as an elected official.

[1:16:07 PM](#)

REPRESENTATIVE GROH asked why this was happening.

MS. WING-HEIER stated that insurance companies considered overall risk. She shared her belief that elected officials were viewed as targets for being sued, which was the reason for the policy denial.

REPRESENTATIVE ALLARD shared that she had also been denied an umbrella policy. She expressed her belief that the refusal was discriminatory, based on either her status as an elected official or her political affiliation.

[1:18:01 PM](#)

REPRESENTATIVE GRAY asked whether [excess liability] insurance was required of all elected officials.

MS. WING-HEIER said she could not tell Representative Gray what to purchase. She indicated that it was more common for people to buy higher policy limits in today's litigious society.

REPRESENTATIVE GRAY shared his understanding that Article 2, Section 6, of the Alaska Constitution, offered legislative immunity. He stated his belief that he could not be sued for his words or actions in the legislature.

[1:20:14 PM](#)

MS. WING-HEIER acknowledged that some legislative immunity was provided; however, in a personal capacity, legislators were not protected by immunity outside of their role as a senator or representative. She shared, for example, that a legislator could be held liable for a "horrific" car accident.

REPRESENTATIVE GRAY pointed out that any reckless driver could be held liable. He acknowledged that he was not understanding the purpose of the bill.

[1:20:57 PM](#)

REPRESENTATIVE MCCABE shared a personal anecdote to contextualize the purpose of the bill.

REPRESENTATIVE GRAY asked whether Representative McCabe was denied [excess liability] because he was an elected official.

REPRESENTATIVE MCCABE said, "That's correct."

[1:22:40 PM](#)

REPRESENTATIVE EASTMAN shared a personal anecdote. He pointed out that a member of the legislature's home had been recently burglarized, indicating that the insurance company may ask questions and wonder whether the theft was related to her status as an elected official. He explained that insurance companies may not want to incur additional risk by providing coverage to legislators who are more likely to be victims of theft or a slashed tire, for example.

[1:25:28 PM](#)

REPRESENTATIVE GROH pointed out that there was often a difference between someone's legal rights and the reason they were asserting them.

CHAIR VANCE asked whether the bill would cover all insurance types.

MS. WING-HEIER answered yes.

[1:26:20 PM](#)

CHAIR VANCE questioned the need for the bill's inclusion of political party.

REPRESENTATIVE MCCABE explained that "political affiliation" was changed to "political party" in the House Labor and Commerce Standing Committee. He acknowledged that the language may not be necessary; nonetheless, he argued that an individual could be denied umbrella insurance due to his/her party affiliation.

REPRESENTATIVE ALLARD shared a personal anecdote, claiming that she watched her premiums "skyrocket," in part, due to her political party.

[1:29:58 PM](#)

REPRESENTATIVE GRAY asked whether an umbrella policy would pay for the damages if a legislator was sued for making defamatory statements to a constituent.

REPRESENTATIVE MCCABE did not know the answer.

MR. WHITT offered to follow up with the requested information. He expounded on the change made in the previous committee of

referral, indicating that the purpose of the amendments was to tighten up ambiguous language.

[1:34:11 PM](#)

REPRESENTATIVE EASTMAN asked whether the reference to political party was included based on specific incidents that had already happened or specific incidents that may happen in the future.

REPRESENTATIVE MCCABE answered "future incidents," in reference to divisiveness and polarization in the country.

[1:35:22 PM](#)

REPRESENTATIVE EASTMAN directed attention to page 1, line 11 and asked whether the scope of the bill related to new policies, increases to new policies, or increases to current policies.

REPRESENTATIVE MCCABE said he envisioned all of the above.

REPRESENTATIVE EASTMAN considered a scenario in which a legislator was a victim of theft. He asked whether the bill would allow the insurance company to "jack up their rates accordingly based on the fact that it's now more likely that they'll be a victim of future theft."

MR. WHITT said if an insurance company decided to increase the premium or refused to renew a policy based on something other than the individual's status as an elected official, there must be a level of proof. Alternatively, per the bill language, a refusal based only on the elected official's status would be against the law.

REPRESENTATIVE MCCABE added that there was no retroactive clause in the bill.

[1:40:30 PM](#)

REPRESENTATIVE GRAY said he could envision a scenario in which a hypothetical legislator was sued often for "[pushing] the envelope." He asked whether that legislator would get dropped from the policy for multiple lawsuits.

REPRESENTATIVE MCCABE responded that the insurance policy would have every right to raise that person's rates to "cover [its] bases." He reiterated that the bill only contemplated

situations in which rates were raised, or policies were denied based solely on an elected official's status.

[1:42:11 PM](#)

MR. WHITT read page 1, line 13, which read as follows [original punctuation provided]:

(b) The provisions of (a) of this section do not apply if the refusal, limitation, cancellation, denial, or increase is

(1) based on sound underwriting or actuarial principles reasonably related to actual or anticipated loss experience; or

MR. WHITT added that if an elected official continued to create liability for himself/herself, the insurance company, through sound actuarial principles, could point to that liability as a reason to increase a current policy or deny a new policy, which would be covered under the law.

[1:43:19 PM](#)

REPRESENTATIVE GRAY asked whether insurance companies had weighed in on the bill.

MR. WHITT reported that the bill sponsor's office had not received any letters in support of or opposition to the bill.

REPRESENTATIVE MCCABE suspected that insurance companies would not be in favor of the bill, as they were in the business of limiting their risk. He asserted that there were enough insurance companies providing umbrella policies in Alaska that if one decided to stop insuring in the state as a result of the proposed legislation, it would not materially affect Alaskans. He opined that the risk to the average Alaskan was minimal.

[1:45:08 PM](#)

REPRESENTATIVE EASTMAN asked whether insurance companies should be allowed to discriminate based on age.

REPRESENTATIVE MCCABE indicated that a certain level of discrimination was inherent to the industry. He explained that because a twenty-year-old person lives a more active lifestyle than a fifty-year-old, the life insurance policy for the fifty-

year-old individual would cost more based on sound actuarial principles.

[1:46:51 PM](#)

REPRESENTATIVE EASTMAN posited that, based on Representative McCabe's previous statement, it wasn't considered discrimination if there was proof to support the insurance company's argument [that fifty-year-olds were less active than twenty-year-olds]. He asserted that it should be easy to demonstrate that elected officials were more likely to end up in court or make an insurance claim due to injury, for example.

REPRESENTATIVE MCCABE expected insurance coverage for a legislator to be more expensive; however, he reiterated his belief that complete denial based on someone's status as an elected official was wrong.

[1:48:41 PM](#)

REPRESENTATIVE CARPENTER asked how discrimination based solely on politics would be proven.

REPRESENTATIVE MCCABE deferred to Ms. Wing-Heier. He shared his belief that the director [of the Division of Insurance] had enforcement capabilities.

[1:50:23 PM](#)

REPRESENTATIVE GRAY asked for the definition of "umbrella policy."

CHAIR VANCE clarified that [the bill] covered all types of insurance.

REPRESENTATIVE GRAY asked whether it was his duty to disclose that he was an elected official when purchasing insurance.

REPRESENTATIVE ALLARD nodded in the affirmative.

REPRESENTATIVE GRAY shared that he was not asked to disclose his status as an elected official when purchasing his auto policy.

REPRESENTATIVE MCCABE explained that an umbrella policy was excess liability, which covered "over and above" [the general liability].

MR. WHITT stated that when issuing policies, every insurance company asked different questions regarding their actuarial and risk models. He reiterated that the bill covered all types of insurance policies, including umbrella policies. He offered to follow up with the Division of Insurance.

[1:54:09 PM](#)

REPRESENTATIVE CARPENTER explained that Errors and Omissions (E&O) Insurance was often sought out by elected officials and Chief Executive Officers (CEOs) to protect from liability.

REPRESENTATIVE EASTMAN asked why insurance companies were being asked to bear the additional risk, as opposed to the state.

REPRESENTATIVE MCCABE agreed that the state should be indemnifying the governor, for example. He indicated that the decision would be a policy call.

[1:58:26 PM](#)

CHAIR VANCE announced that HB 29 was held over.

HB 181-STATE COMMISSION FOR CIVIL RIGHTS

[1:58:53 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 181, "An Act renaming the State Commission for Human Rights the Alaska State Commission for Civil Rights; relating to removal of commissioners of the Alaska State Commission for Civil Rights; relating to reports from the Alaska State Commission for Civil Rights; relating to the definition of 'employer' for the purposes of the Alaska State Commission for Civil Rights; and relating to local civil rights commissions."

CHAIR VANCE opened public testimony on HB 181.

[1:59:40 PM](#)

CHERYL BOWIE, Representing Self, testified in support of HB 181. She requested that tribal organizations be included in the proposed legislation to start recognizing cultural diversity and respecting people's civil rights. She referenced an offensive blog article. She alluded to the use of Native corporations' political savvy and "ability to bend the law to gain access to our medical records without individual consent."

2:01:46 PM

REPRESENTATIVE CARPENTER asked for clarification on the article she had referenced.

MS. BOWIE cited a Must Read Alaska article, titled "Valerie Davidson says Native hospitals don't have to honor religious exemptions because aren't covered by the Civil Rights Act of 1964" published on October 12, 2021. She argued that there was an obligation [for Native organizations] to act in tandem with state laws to protect Alaskans and Alaska Native peoples.

REPRESENTATIVE ALLARD agreed with Ms. Bowie. She summarized the article and asked whether she was referring to the correct one.

MS. BOWIE answered yes. She emphasized the need to review conflicting laws [of Native organizations] and the various interpretations of such laws. She stressed the need to research the impact of civil rights issues in Alaska and suggested that the bill was an avenue to do so.

2:05:35 PM

KAREN BARNARD, Representing Self, opined that the Alaska State Commission for Human Rights (ASCHR) should be changed to the Alaska State Commission for Human and Civil Rights. She opined that the removal of "human" would lead to abuse against various groups of people. She opined that two seats on the board should be reserved for Alaska Natives; further, that only the legislature should be able to remove [a commissioner]. She discussed the removal of the Alaska Permanent Fund Corporation's executive director, asserting that it was unfair. She argued that the bill language on page 1, line 11, allowing the governor to remove a commissioner "for cause" was too ambiguous.

2:08:42 PM

ZACKARY GOTTSALL, Chair, Alaska State Commission for Human Rights (ASCHR), testified in support for HB 181. He highlighted four major components of the bill. He shared his belief that changing the commission's name would ensure that Alaskans had a better understanding of the commission's role and discussed the need to close a loophole in statute as it related to nonprofit organizations. He reported that 2018 data alluded to over 5,700 nonprofits in Alaska that constituted 44,000 employees and generated approximately \$3.9 billion of annual income. He

explained that under current law, those 44,000 employees were unable to receive support from ASCHR due to jurisdictional limitations.

[2:11:27 PM](#)

REPRESENTATIVE EASTMAN asked Mr. Gottshall to describe his experience with the commission.

MR. GOTTSHALL said he was first elected as the commission's chairman in 2022, adding that he was recently reelected in January [2023].

[2:11:59 PM](#)

REPRESENTATIVE ALLARD asked whether Mr. Gottshall was supportive of the portion of the bill pertaining to the governor's removal of a commissioner for freedom of speech violations.

MR. GOTTSHALL indicated that forthcoming edits would address that portion of the legislation.

REPRESENTATIVE ALLARD asked whether Mr. Gottshall was speaking on behalf of the entire commission. Additionally, she asked Mr. Gottshall to clarify whether he, the commissioners, or the executive director was making decisions for the commission.

MR. GOTTSHALL stated that the commission had brought forth several resolutions, which were all unanimously voted upon. He said the executive director was often the voice of the commission. In regard to editing recommendations for the proposed legislation, he declined to speak on behalf of the commission until the topic was discussed in session.

REPRESENTATIVE ALLARD asked whether the executive director was providing legal advice to ensure that the bill was accurate.

MR. GOTTSHALL remarked:

I would say, carefully, yes, there is an advantage of our executive director having that legal background, but we also understand that the AG also does provide us with input as well as it relates to the legalities and the proper terminology. So, we have benefit of both offices, I think, when it comes to the verbiage utilized in our resolution that we push forward to the legislative branch.

REPRESENTATIVE ALLARD remarked, "I'd like for that to be put on record, that legal advice is being given when that is not allowed."

CHAIR VANCE responded, "Vice Chair Allard, I don't believe that that was the statement that Mr. Gottschall had made."

[2:14:54 PM](#)

JESSIE RUFFRIDGE, Commissioner, Alaska State Commission for Human Rights (ASCHR), testified in support of HB 181. She noted that often, the commission was called for services that fall outside its jurisdiction, which she believed was due to a lack of clarity regarding ASCHR's name. She summarized the components of the bill, adding that she supported the overall intent and purpose of the proposed legislation.

[2:16:37 PM](#)

MAE MARSH, Vice Chair, Alaska State Commission for Human Rights (ASCHR), testified in support of HB 181. She outlined the four major components of the bill, which had been voted on by the commission and unanimously passed.

[2:18:07 PM](#)

CHAIR VANCE, after ascertaining there was no one else who wished to testify, closed public testimony on HB 181.

CHAIR VANCE announced that HB 181 was held over.

[2:19:31 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:19 p.m.