

---

---

SENATE BILL NO. 59—COMMITTEE ON  
GROWTH AND INFRASTRUCTURE

(ON BEHALF OF THE PUBLIC UTILITIES  
COMMISSION OF NEVADA)

PREFILED NOVEMBER 18, 2020

---

Referred to Committee on Growth and Infrastructure

**SUMMARY**—Revises provisions concerning the judicial review of decisions of the Public Utilities Commission of Nevada. (BDR 58-331)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

---

AN ACT relating to the Public Utilities Commission of Nevada; limiting the scope of the judicial review of decisions of the Commission to final decisions in contested cases; prohibiting the filing of certain briefs in a proceeding for judicial review of a final decision of the Commission unless permitted by the court; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under the Nevada Administrative Procedure Act, any party who is identified in  
2 an administrative proceeding as a party of record by an agency to which the Act  
3 applies and who is aggrieved by a final decision in a contested case is entitled to  
4 judicial review of the decision. (NRS 233B.130) The provisions of the Nevada  
5 Administrative Procedure Act do not apply to the judicial review of decisions of the  
6 Public Utilities Commission of Nevada. (NRS 233B.039) However, existing law  
7 entitles any party of record to a proceeding before the Commission to judicial  
8 review of a final decision of the Commission. (NRS 703.373) This bill limits the  
9 judicial review of decisions of the Commission in a manner similar to the Nevada  
10 Administrative Procedure Act. Under this bill, a person is entitled to the judicial  
11 review of a final decision of the Commission if: (1) the decision was a final  
12 decision in a contested case; and (2) the person seeking judicial review was a party  
13 of record in the contested case.

14 Under existing law, after a petitioner seeking judicial review of a final decision  
15 of the Commission serves and files a memorandum of points and authorities, the  
16 Commission and any other respondents are required to serve and file a reply



17 memorandum of points and authorities within 30 days. (NRS 703.373) This bill  
18 prohibits the filing of additional briefs after the Commission and any other  
19 respondents have served and filed a reply memorandum, unless permitted by the  
20 court.

---

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 703.373 is hereby amended to read as follows:

2 703.373 1. Any party of record to a ~~proceeding~~ *contested*  
3 *case* before the Commission is entitled to judicial review of the final  
4 decision *in the contested case* upon the exhaustion of all  
5 administrative remedies by the party of record seeking judicial  
6 review.

7 2. Proceedings for review may be instituted by filing a petition  
8 for judicial review in the District Court in and for Carson City, in  
9 and for the county in which the party of record seeking judicial  
10 review resides, or in and for the county where the act on which the  
11 proceeding is based occurred.

12 3. A petition for judicial review must be filed within 30 days  
13 after final action by the Commission on reconsideration or  
14 rehearing, or if the Commission takes no action on reconsideration  
15 or rehearing, within 30 days after the date on which reconsideration  
16 or rehearing is deemed denied. Copies of the petition for judicial  
17 review must be served upon the Commission and all other parties of  
18 record.

19 4. The Commission shall participate in the judicial review. Any  
20 party of record desiring to participate in the judicial review must file  
21 a statement of intent to participate in the petition for judicial review  
22 and serve the statement upon the Commission and every party  
23 within 15 days after service of the petition for judicial review.

24 5. Within 30 days after the service of the petition for judicial  
25 review or such time as is allowed by the court, the Commission  
26 shall transmit to the reviewing court a certified copy of the entire  
27 record of the ~~proceeding~~ *contested case* under review, including a  
28 transcript of the evidence resulting in the final decision of the  
29 Commission. The record may be shortened by stipulation of the  
30 parties to the proceedings.

31 6. A petitioner who is seeking judicial review must serve and  
32 file a memorandum of points and authorities within 30 days after the  
33 Commission gives written notice to the parties that the record of  
34 the ~~proceeding~~ *contested case* under review has been filed with the  
35 court.

36 7. The Commission and any other respondents shall serve and  
37 file a reply memorandum of points and authorities within 30 days



1 after service of the memorandum of points and authorities . ~~¶~~  
2 ~~whereupon the~~ *Upon such service and filing:*

3 (a) *No further briefs may be filed;*

4 (b) *The action is at issue ; and ~~the~~*

5 (c) *The parties must be ready for a hearing upon 20 days' notice.*

6 8. Judicial review of a final decision of the Commission must  
7 be:

8 (a) Conducted by the court without a jury; and

9 (b) Confined to the record.

10 ↪ In cases concerning alleged irregularities in procedure before the  
11 Commission that are not shown in the record, the court may receive  
12 evidence concerning the irregularities.

13 9. The final decision of the Commission shall be deemed  
14 reasonable and lawful until reversed or set aside in whole or in part  
15 by the court. The burden of proof is on the petitioner to show that  
16 the final decision is invalid pursuant to subsection 11.

17 10. All actions brought under this section have precedence over  
18 any civil action of a different nature pending in the court.

19 11. The court shall not substitute its judgment for that of the  
20 Commission as to the weight of the evidence on questions of fact.  
21 The court may affirm the decision of the Commission or set it aside  
22 in whole or in part if substantial rights of the petitioner have been  
23 prejudiced because the final decision of the Commission is:

24 (a) In violation of constitutional or statutory provisions;

25 (b) In excess of the statutory authority of the Commission;

26 (c) Made upon unlawful procedure;

27 (d) Affected by other error of law;

28 (e) Clearly erroneous in view of the reliable, probative and  
29 substantial evidence on the whole record; or

30 (f) Arbitrary or capricious or characterized by abuse of  
31 discretion.

32 *12. As used in this section, "contested case" has the meaning*  
33 *ascribed to it in NRS 233B.032.*

34 **Sec. 2.** This act becomes effective on July 1, 2021.

