

SENATE BILL NO. 23—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Government Affairs

SUMMARY—Clarifies requirements relating to a petition for judicial review of a final administrative decision in a contested case. (BDR 18-374)

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

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

AN ACT relating to administrative procedure; clarifying requirements for the naming of parties and the service of a petition for judicial review; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires an agency of this State to be named as a respondent in a
2 petition for judicial review of a final administrative decision in a contested case.
3 Existing law also requires service of such a petition to be made on the Attorney
4 General and the administrative head of the named agency. (NRS 233B.150)

5 This bill clarifies that the agency that rendered the final administrative decision
6 in a contested case must be named as a respondent in the petition for judicial
7 review. This bill also clarifies that respondents to the petition other than the
8 Attorney General and the administrative head of the agency must be served in the
9 manner provided by Rule 4 of the Nevada Rules of Civil Procedure.

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

1 **Section 1.** NRS 233B.130 is hereby amended to read as
2 follows:

3 233B.130 1. Any party who is:

4 (a) Identified as a party of record by an agency in an
5 administrative proceeding; and



1 (b) Aggrieved by a final decision in a contested case,
2 ➔ is entitled to judicial review of the decision. Where appeal is
3 provided within an agency, only the decision at the highest level is
4 reviewable unless a decision made at a lower level in the agency
5 is made final by statute. Any preliminary, procedural or intermediate
6 act or ruling by an agency in a contested case is reviewable if review
7 of the final decision of the agency would not provide an adequate
8 remedy.

9 2. Petitions for judicial review must:

10 (a) Name ~~has respondents~~ the agency *that rendered the final*
11 *decision* and all parties of record to the administrative proceeding ~~†~~
12 *as respondents*;

13 (b) Be instituted by filing a petition in the district court in and
14 for Carson City, in and for the county in which the aggrieved party
15 resides or in and for the county where the agency proceeding
16 occurred;

17 (c) ~~†Be†~~ *Except as otherwise provided in subsection 7, for an*
18 *agency named as a respondent, be served upon:*

19 ~~— (1) The Attorney General, or a person designated by the~~
20 ~~Attorney General, at the Office of the Attorney General in Carson~~
21 ~~City; and~~

22 ~~— (2) The person serving in the office of administrative head of~~
23 ~~the named agency; and†~~ *in the manner prescribed by subsection 2*
24 *of NRS 41.031;*

25 (d) *For all other respondents, be served in the manner*
26 *provided by Rule 4 of the Nevada Rules of Civil Procedure; and*

27 (e) Be filed within 30 days after service of the final decision of
28 the agency.

29 ➔ Cross-petitions for judicial review must be filed within 10 days
30 after service of a petition for judicial review.

31 3. The agency and any party desiring to participate in the
32 judicial review must file a statement of intent to participate in the
33 petition for judicial review and serve the statement upon the agency
34 and every party within 20 days after service of the petition.

35 4. A petition for rehearing or reconsideration must be filed
36 within 15 days after the date of service of the final decision. An
37 order granting or denying the petition must be served on all parties
38 at least 5 days before the expiration of the time for filing the petition
39 for judicial review. If the petition is granted, the subsequent order
40 shall be deemed the final order for the purpose of judicial review.

41 5. The petition for judicial review and any cross-petitions for
42 judicial review must be served ~~upon the agency and every party†~~
43 within 45 days after the filing of the petition, unless, upon a
44 showing of good cause, the district court extends the time for such
45 service. If the proceeding involves a petition for judicial review or



1 cross-petition for judicial review of a final decision of the State
2 Contractors' Board, the district court may, on its own motion or the
3 motion of a party, dismiss from the proceeding any agency or
4 person who:

5 (a) Is named as a party in the petition for judicial review or
6 cross-petition for judicial review; and

7 (b) Was not a party to the administrative proceeding for which
8 the petition for judicial review or cross-petition for judicial review
9 was filed.

10 6. The provisions of this chapter are the exclusive means of
11 judicial review of, or judicial action concerning, a final decision in a
12 contested case involving an agency to which this chapter applies.

13 *7. A petition for judicial review filed pursuant to NRS*
14 *616C.370 is not required to be served in the manner prescribed by*
15 *subsection 2 of NRS 41.031, but must be served upon the appeals*
16 *officer.*

17 **Sec. 2.** This act becomes effective on July 1, 2017.

