

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.

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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 the Public Utilities Commission of Nevada; prohibiting the filing of certain memoranda in a proceeding for judicial review of a final decision of the Commission; 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. Under existing law, after a petitioner
9 seeking judicial review of a final decision of the Commission serves and files a
10 memorandum of points and authorities, the Commission and any other respondents
11 are required to serve and file a reply memorandum of points and authorities within
12 30 days. (NRS 703.373) This bill prohibits the filing of additional memoranda after
13 the Commission and any other respondents have served and filed a reply
14 memorandum.



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 before the
3 Commission is entitled to judicial review of the final decision upon
4 the exhaustion of all administrative remedies by the party of record
5 seeking judicial review.

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

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

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

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

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

34 7. The Commission and any other respondents shall serve and
35 file a reply memorandum of points and authorities within 30 days
36 after service of the memorandum of points and authorities . ~~¶~~
37 ~~whereupon the action is at issue and the~~ *Upon service and filing of*
38 *the reply memorandum by the Commission and any other*
39 *respondents:*

40 (a) *No further memoranda may be filed; and*

41 (b) *The parties must be ready for a hearing upon 20 days'*
42 *notice.*



1 8. Judicial review of a final decision of the Commission must
2 be:

- 3 (a) Conducted by the court without a jury; and
- 4 (b) Confined to the record.

5 ↪ In cases concerning alleged irregularities in procedure before the
6 Commission that are not shown in the record, the court may receive
7 evidence concerning the irregularities.

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

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

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

- 19 (a) In violation of constitutional or statutory provisions;
- 20 (b) In excess of the statutory authority of the Commission;
- 21 (c) Made upon unlawful procedure;
- 22 (d) Affected by other error of law;
- 23 (e) Clearly erroneous in view of the reliable, probative and
24 substantial evidence on the whole record; or
- 25 (f) Arbitrary or capricious or characterized by abuse of
26 discretion.

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

