

SENATE BILL NO. 232—SENATORS ROBERSON, PARKS,
GOICOECHEA, MANENDO, HAMMOND; CEGAVSKE, HARDY,
HUTCHISON, SETTELMAYER AND WOODHOUSE

MARCH 11, 2013

Referred to Committee on Government Affairs

SUMMARY—Revises certain provisions relating to the regulation
of certain municipal utilities. (BDR 58-481)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 utilities; requiring certain political subdivisions
of this State which provide water and wastewater services
in certain larger counties to obtain approval from the
Public Utilities Commission of Nevada and the governing
bodies of certain local governments for any increases in
certain rates charged by the political subdivision;
requiring the Commission to appoint a hearing officer to
investigate the propriety of any proposed changes in rates
and to issue proposed orders approving or disapproving
such changes; providing that proposed orders issued by a
hearing officer are deemed approved by the Commission
under certain circumstances; revising the authority of the
Legislative Committee on Public Lands; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the Public Utilities Commission of Nevada regulates the
2 operation of public utilities in this State. (Chapter 704 of NRS) However,
3 municipalities that construct, lease, operate or maintain a public utility are exempt
4 from regulation by the Commission. (NRS 704.340) For the purposes of this
5 exemption, the term "municipality" has been interpreted to include a political
6 subdivision of the State formed pursuant to the Interlocal Cooperation Act (NRS
7 277.080-277.180), such as the Truckee Meadows Water Authority. (See, e.g., Att'y
8 Gen. Op. 2000-34 (Dec. 5, 2000)) **Sections 2-16** of this bill create a limited
9 exception from this general exemption of municipalities from regulation by the
10 Commission by requiring a municipal utility: (1) which is a political subdivision of
11 the State formed pursuant to the Interlocal Cooperation Act; (2) which provides



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12 water and wastewater services in a county whose population is 700,000 or more
13 (currently Clark County); and (3) which constructs, leases, operates or maintains
14 any public utility, to submit an application to and obtain approval from the
15 Commission for any increase in rates imposed by the municipal utility on business
16 or commercial customers of the utility.

17 **Section 9** prohibits such a municipal utility from increasing rates imposed on
18 any customers without first obtaining the approval of the Commission. **Section 10**
19 requires the governing body of each local government within the service territory of
20 a municipal utility to approve any proposed increased rates before the Commission
21 may accept an application to increase rates submitted by a municipal utility.
22 **Section 11** requires the Commission, upon receipt of an application to make
23 changes in any schedule of such rates submitted by the municipal utility, to appoint
24 a hearing officer to investigate the propriety of the proposed changes to determine
25 whether to approve or disapprove the proposed changes. **Section 12** provides for
26 participation in any hearing or investigation concerning an application by: (1) the
27 municipal utility; (2) any customer of the municipal utility or any representative of
28 a customer; (3) the Regulatory Operations Staff of the Commission; and (4) any
29 other interested parties. **Section 13** sets forth certain requirements concerning
30 information that must be submitted with an application and any hearing on the
31 application. **Section 13** additionally requires the hearing officer to issue and submit
32 to the Commission a written proposed order approving or disapproving the
33 proposed changes. **Section 15** provides that a proposed order issued by a hearing
34 officer is deemed approved by the Commission unless the Commission issues a
35 final order modifying or disapproving the proposed order within 90 days after the
36 proposed order is issued. **Section 15** also provides that any party aggrieved by a
37 decision or order of the hearing officer may submit a written appeal of the decision
38 or order to the Commission.

39 **Section 17** of this bill removes the authority of the Legislative Committee on
40 Public Lands to review the programs and activities of the Southern Nevada Water
41 Authority.

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

1 **Section 1.** Chapter 704 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 16, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 16, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 6, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3.** *“Application to make changes in any schedule” and*
9 *“application” mean a rate adjustment application.*

10 **Sec. 4.** *“Municipal utility” means a political subdivision of*
11 *this State which is formed pursuant to the provisions of NRS*
12 *277.080 to 277.180, inclusive, and which provides water and*
13 *wastewater services in a county whose population is 700,000 or*
14 *more.*



1 **Sec. 5. "Rate" means any individual or joint rate, toll or**
2 **charge imposed on a customer by a municipal utility for a service**
3 **performed or product furnished by the municipal utility.**

4 **Sec. 6. "Schedule" means any schedule that establishes or**
5 **otherwise sets the rates for a municipal utility and any individual**
6 **or joint rule, regulation, practice, classification or measurement**
7 **which in any manner affects those rates.**

8 **Sec. 7. For the purposes of sections 2 to 16, inclusive, of this**
9 **act, a municipal utility shall be deemed to make changes in a**
10 **schedule if the municipal utility implements a new schedule or**
11 **amends an existing schedule.**

12 **Sec. 8. 1. Each municipal utility shall file with the**
13 **Commission, within a time to be fixed by the Commission, a copy**
14 **of all schedules that are currently in force for the municipal**
15 **utility. Such schedules must be open to public inspection.**

16 **2. A copy of each schedule that is currently in force for the**
17 **municipal utility, or so much of the schedule as the Commission**
18 **deems necessary for inspection by the public, must be:**

19 **(a) Printed in plain type and posted in each office of the**
20 **municipal utility where payments are made to the municipal utility**
21 **by its customers; and**

22 **(b) Open to inspection by the public and in such form and**
23 **place as to be readily accessible to and conveniently inspected by**
24 **the public.**

25 **Sec. 9. 1. Except as otherwise provided in subsection 4, a**
26 **municipal utility shall not make changes in any schedule unless**
27 **the municipal utility files an application with the Commission to**
28 **make the proposed changes and the changes are approved.**

29 **2. A municipal utility shall:**

30 **(a) Post notice of any application to make changes in any**
31 **schedule for a period of at least 90 days immediately preceding**
32 **submission of the application to the Commission; and**

33 **(b) Post copies of all proposed schedules and all new or**
34 **amended schedules,**

35 **↪ in the same offices and in substantially the same form, manner**
36 **and places as required by section 8 of this act for the posting of**
37 **copies of schedules that are currently in force.**

38 **3. A municipal utility may not set forth as justification for a**
39 **rate increase any items of expense or rate base that previously**
40 **have been considered and disallowed by the Commission, unless**
41 **those items are clearly identified in the application and new facts**
42 **or considerations of policy for each item are advanced in the**
43 **application to justify a reversal of the prior decision of the**
44 **Commission.**



1 4. *If the proposed change in any schedule will result in an*
2 *increase in annual gross operating revenue, as certified by the*
3 *municipal utility, in an amount that does not exceed \$2,500:*

4 (a) *The municipal utility may file the proposed change with the*
5 *Commission using a letter of advice in lieu of filing an*
6 *application; and*

7 (b) *The Commission shall determine whether it should*
8 *dispense with a hearing regarding the proposed change. In*
9 *making the determination pursuant to this paragraph, the*
10 *Commission shall first consider all timely written protests, any*
11 *presentation that the Regulatory Operations Staff of the*
12 *Commission may desire to present, the application of the*
13 *municipal utility and any other matters deemed relevant by*
14 *the Commission.*

15 **Sec. 10.** 1. *A municipal utility that proposes to make*
16 *changes in any schedule shall, at least 90 days before the date on*
17 *which the municipal utility submits an application to the*
18 *Commission, provide notice and a copy of the application,*
19 *including the statements required by section 13 of this act, to the*
20 *governing body of each local government within the service*
21 *territory of the municipal utility.*

22 2. *The governing body of each such local government shall:*

23 (a) *Determine whether the proposed changes in any schedule*
24 *are fair, equitable and not unduly burdensome to the affected*
25 *customers of the municipal utility within the jurisdiction of the*
26 *local government; and*

27 (b) *By resolution approve or disapprove the proposed changes.*

28 3. *The Commission shall not accept any application to make*
29 *changes in any schedule submitted by a municipal utility unless*
30 *the municipal utility submits with the application proof*
31 *satisfactory to the Commission that the governing body of each*
32 *local government within the service territory of the municipal*
33 *utility has by resolution approved the proposed changes pursuant*
34 *to subsection 2.*

35 **Sec. 11.** 1. *If a municipal utility files with the Commission*
36 *an application to make changes in any schedule, the Commission*
37 *shall appoint a hearing officer to investigate the propriety of the*
38 *proposed changes to determine whether to approve or disapprove*
39 *the proposed changes.*

40 2. *The date of any hearing on an application to make*
41 *changes in any schedule must be at least 30 days after the date on*
42 *which the Commission determines that the application filed by the*
43 *municipal utility is complete. The municipal utility shall post*
44 *notice of any hearing for a period of at least 30 days immediately*



preceding the date of the hearing in the offices described in section 8 of this act.

Sec. 12. *In any hearing or investigation conducted pursuant to the provisions of sections 2 to 16, inclusive, of this act, the following persons may participate:*

- 1. The municipal utility;*
- 2. Any customer of the municipal utility or any representative of any customer of the municipal utility;*
- 3. The Regulatory Operations Staff of the Commission; and*
- 4. Any other interested party.*

Sec. 13. *1. Except as otherwise provided in subsection 6, if a municipal utility files with the Commission an application to make changes in any schedule, the hearing officer shall, not later than 210 days after the date on which the application is filed, issue and submit to the Commission a written proposed order approving or disapproving, in whole or in part, the proposed changes. The Commission may approve, disapprove or modify, in whole or part, the proposed order issued by the hearing officer.*

2. The municipal utility shall submit with its application:

(a) A statement showing its recorded results of revenues, expenses, investments and costs of capital for the most recent 12 months for which data were available when the application was prepared.

(b) A statement which includes, for each class of customer, detailed information presented in a manner comprehensible to a typical member of the class showing projections, on a monthly basis for a period of not less than 12 months, of the highest, lowest, mean and median rates proposed for the class and the projected total revenues raised from the proposed changes in any schedule.

(c) A statement of the estimated economic effect of the proposed changes in any schedule on affected customers, including, without limitation:

(1) Both adverse and beneficial effects; and

(2) Both direct and indirect effects.

(d) A description of the methods that the municipal utility considered to reduce the impact of the proposed changes in any schedule on affected customers and a statement regarding whether the municipal utility actually used any of those methods.

3. In preparing the statement of the estimated economic effect of the proposed changes in any schedule pursuant to paragraph (c) of subsection 2, the municipal utility shall:

(a) Obtain, directly from affected customers and in a manner prescribed by the Commission, the information upon which the estimated economic effects are based from a representative sample



1 of customers of each class of customers affected by any proposed
2 changes in any schedule.

3 (b) Obtain the input of any publicly recognized organization or
4 association composed of and representing affected customers.

5 (c) For each class of affected customers, include in the
6 statement a clear explanation of the methodology and principles
7 employed in the compilation and calculation of any data included
8 in the statement, presented in a manner comprehensible to a
9 typical member of the affected class.

10 (d) Provide a list of the affected customers and any publicly
11 recognized organization or association composed of and
12 representing affected customers from whom information was
13 obtained pursuant to paragraphs (a) and (b).

14 (e) Ensure that any information submitted by any affected
15 customer or any publicly recognized organization or association
16 composed of and representing affected customers is compiled in a
17 manner which protects the identity of the source of the
18 information, unless the person expressly authorizes the municipal
19 utility to identify him or her as the source of the information.

20 4. Except as otherwise provided in subsection 7, in
21 determining whether to approve or disapprove any increased rates,
22 the hearing officer shall consider evidence in support of the
23 increased rates based upon actual recorded results of operations
24 for the same 12 months, adjusted for increased revenues, any
25 increased investment in facilities, increased expenses for
26 depreciation, certain other operating expenses as approved by the
27 Commission and changes in the costs of securities which are
28 known and are measurable with reasonable accuracy at the time
29 of filing and which will become effective within 6 months after the
30 last month of those 12 months, but the municipal utility shall not
31 place into effect any increased rates until the changes have been
32 experienced and certified by the municipal utility to the hearing
33 officer and the Commission has approved the increased rates. The
34 hearing officer shall also consider evidence supporting expenses
35 for depreciation, calculated on an annual basis, applicable to
36 major components of the municipal utility's facilities placed into
37 service during the recorded test period or the period for
38 certification as set forth in the application. Adjustments to
39 revenues, operating expenses and costs of securities must be
40 calculated on an annual basis.

41 5. The hearing officer shall not approve any increased rates
42 unless the hearing officer determines that:

43 (a) The proposed increase in rates is fair, equitable and not
44 unduly burdensome to the members of each class of customers for



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1 *which the municipal utility submitted information pursuant to*
2 *subsections 2 and 3.*

3 *(b) The proposed increase in rates treats each class of*
4 *customers fairly and equitably relative to all other classes of*
5 *customers and that the proposed increase in rates is not unduly*
6 *burdensome to and does not unfairly affect or discriminate against*
7 *any class of customers relative to all other classes of customers.*

8 *6. Within 90 days after the date on which the certification*
9 *required by subsection 4 is filed with the hearing officer, or within*
10 *the period set forth in subsection 1, whichever is longer, the*
11 *hearing officer shall make such proposed order in reference to the*
12 *increased rates as is required by the provisions of sections 2 to 16,*
13 *inclusive, of this act.*

14 *7. In regard to any rate or schedule approved or disapproved*
15 *pursuant to this section, the hearing officer may, after a hearing,*
16 *issue a proposed order approving a new rate but delaying the*
17 *implementation of that new rate:*

18 *(a) Until a date determined by the hearing officer; and*

19 *(b) Under conditions as determined by the hearing officer,*
20 *including, without limitation, a requirement that interest charges*
21 *be included in the collection of the new rate.*

22 **Sec. 14.** *1. If, upon any hearing and after due*
23 *investigation, the hearing officer finds that the rates, tolls,*
24 *charges, schedules or joint rates are unjust, unreasonable or*
25 *unjustly discriminatory, or are preferential or otherwise in*
26 *violation of any of the provisions of sections 2 to 16, inclusive, of*
27 *this act, the hearing officer may issue a proposed order fixing and*
28 *ordering such rate or rates, tolls, charges or schedules as the*
29 *hearing officer determines are just and reasonable.*

30 *2. If, upon any hearing and after due investigation, the*
31 *hearing officer finds that any regulation, measurement, practice,*
32 *act or service complained of is unjust, unreasonable, insufficient,*
33 *preferential, unjustly discriminatory or otherwise in violation of*
34 *the provisions of sections 2 to 16, inclusive, of this act, or if the*
35 *hearing officer finds that the service is inadequate, or that any*
36 *reasonable service cannot be obtained, the hearing officer may*
37 *issue a proposed order substituting therefor such other*
38 *regulations, measurements, practices, acts or service as the*
39 *hearing officer determines are just and reasonable.*

40 *3. When complaint is made of more than one rate, charge or*
41 *practice, the hearing officer may, in his or her discretion, order*
42 *separate hearings upon the several matters complained of and at*
43 *such times and places as the hearing officer prescribes.*

44 *4. The hearing officer shall not dismiss a complaint because*
45 *of the absence of direct damage to the complainant.*



1 **Sec. 15. 1. Any proposed order issued by a hearing officer**
2 *pursuant to the provisions of sections 2 to 16, inclusive, of this act*
3 *shall be deemed to be approved by the Commission unless the*
4 *Commission issues a final written order modifying or disapproving*
5 *the proposed order within 90 days after the date on which the*
6 *proposed order is issued by the hearing officer.*

7 **2. Any party to a hearing or investigation conducted pursuant**
8 *to the provisions of sections 2 to 16, inclusive, of this act who is*
9 *aggrieved by a decision or order of the hearing officer may appeal*
10 *the decision or order in writing to the Commission not later than*
11 *15 days after issuance of the decision or order.*

12 **Sec. 16. 1. All rates, charges, classifications and joint rates**
13 *fixed by the proposed order of the hearing officer are in force, and*
14 *are prima facie lawful, from the date of the order until changed or*
15 *modified by the Commission.*

16 **2. All regulations, practices and service prescribed by the**
17 *proposed order of the hearing officer must be enforced and are*
18 *prima facie reasonable unless suspended or until changed or*
19 *modified by the Commission.*

20 **Sec. 17.** NRS 218E.525 is hereby amended to read as follows:

21 218E.525 1. The Committee shall:

22 (a) Actively support the efforts of state and local governments in
23 the western states regarding public lands and state sovereignty as
24 impaired by federal ownership of land.

25 (b) Advance knowledge and understanding in local, regional and
26 national forums of Nevada's unique situation with respect to public
27 lands.

28 (c) Support legislation that will enhance state and local roles in
29 the management of public lands and will increase the disposal of
30 public lands.

31 2. The Committee:

32 (a) Shall review the programs and activities of:

33 (1) The Colorado River Commission of Nevada;

34 (2) All public water authorities, districts and systems in the
35 State of Nevada, including, without limitation, ~~the Southern~~
36 ~~Nevada Water Authority,~~ the Truckee Meadows Water Authority,
37 the Virgin Valley Water District, the Carson Water Subconservancy
38 District, the Humboldt River Basin Water Authority and the
39 Truckee-Carson Irrigation District ~~and~~, *but excluding the Southern*
40 *Nevada Water Authority;* and

41 (3) All other public or private entities with which any county
42 in the State has an agreement regarding the planning, development
43 or distribution of water resources, or any combination thereof;



1 (b) Shall, on or before January 15 of each odd-numbered year,
2 submit to the Director for transmittal to the Legislature a report
3 concerning the review conducted pursuant to paragraph (a); and

4 (c) May review and comment on other issues relating to water
5 resources in this State, including, without limitation:

6 (1) The laws, regulations and policies regulating the use,
7 allocation and management of water in this State; and

8 (2) The status of existing information and studies relating to
9 water use, surface water resources and groundwater resources in this
10 State.

11 **Sec. 18.** This act becomes effective on January 1, 2014.

