

Amendment No. 228

Senate Amendment to Senate Bill No. 59	(BDR 58-331)
<b>Proposed by:</b> Senate Committee on Growth and Infrastructure	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





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; ~~limiting the scope of the judicial review of decisions of the Commission to final decisions in contested cases;~~ prohibiting the filing of certain ~~briefs~~ 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:**

Under the Nevada Administrative Procedure Act, any party who is identified in an administrative proceeding as a party of record by an agency to which the Act applies and who is aggrieved by a final decision in a contested case is entitled to judicial review of the decision. (NRS 233B.130) The provisions of the Nevada Administrative Procedure Act do not apply to the judicial review of decisions of the Public Utilities Commission of Nevada. (NRS 233B.039) However, existing law entitles any party of record to a proceeding before the Commission to judicial review of a final decision of the Commission. ~~[(NRS 703.373) This bill limits the judicial review of decisions of the Commission in a manner similar to the Nevada Administrative Procedure Act. Under this bill, a person is entitled to the judicial review of a final decision of the Commission if: (1) the decision was a final decision in a contested case; and (2) the person seeking judicial review was a party of record in the contested case.]~~ Under existing law, after a petitioner seeking judicial review of a final decision of the Commission serves and files a memorandum of points and authorities, the Commission and any other respondents are required to serve and file a reply memorandum of points and authorities within 30 days. (NRS 703.373) This bill prohibits the filing of additional ~~briefs~~ memoranda after the Commission and any other respondents have served and filed a reply memorandum.

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

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

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

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

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

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

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

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

7. The Commission and any other respondents shall serve and file a reply memorandum of points and authorities within 30 days after service of the memorandum of points and authorities. ~~[-, whereupon the]~~ Upon [such] service and filing [-] of the reply memorandum by the Commission and any other respondents:

(a) No further [briefs] memoranda may be filed; and

(b) [The action is at issue - and the

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

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

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

(b) Confined to the record.

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

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

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

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

- 5           (a) In violation of constitutional or statutory provisions;  
6           (b) In excess of the statutory authority of the Commission;  
7           (c) Made upon unlawful procedure;  
8           (d) Affected by other error of law;  
9           (e) Clearly erroneous in view of the reliable, probative and substantial evidence  
10 on the whole record; or  
11           (f) Arbitrary or capricious or characterized by abuse of discretion.

12 ~~12. As used in this section, "contested case" has the meaning ascribed to it~~  
13 ~~in NRS 232B.022.~~

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