

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eighty-First Session  
May 6, 2021**

The Committee on Growth and Infrastructure was called to order by Chair Daniele Monroe-Moreno at 2:08 p.m. on Thursday, May 6, 2021, Online and in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/81st2021](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Daniele Monroe-Moreno, Chair  
Assemblyman Howard Watts, Vice Chair  
Assemblywoman Tracy Brown-May  
Assemblyman John Ellison  
Assemblyman Glen Leavitt  
Assemblyman C.H. Miller  
Assemblywoman Sarah Peters  
Assemblyman Tom Roberts  
Assemblywoman Shondra Summers-Armstrong  
Assemblyman Jim Wheeler  
Assemblyman Steve Yeager

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Moises Denis, Senate District No. 2

**STAFF MEMBERS PRESENT:**

Katie Siemon, Committee Policy Analyst  
Jessica Dummer, Committee Counsel  
Devon Kajatt, Committee Manager  
Joan Waldock, Committee Secretary  
Trinity Thom, Committee Assistant



**OTHERS PRESENT:**

Dawn Gibbons, Chair, Nevada Transportation Authority  
Tessa Laxalt, Manager, Government Affairs, Nevada Trucking Association  
Stephanie Mullen, Executive Director, Public Utilities Commission of Nevada  
Garrett Weir, General Counsel, Public Utilities Commission of Nevada  
Kyle Davis, representing Nevada Conservation League  
Ernest Figueroa, Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General  
Debra Gallo, representing Southwest Gas  
Christina Bailey, representing NV Energy

**Chair Monroe-Moreno:**

[Roll was taken. Committee rules and protocol were reviewed.] Thank you for your patience with the delayed start of this meeting. We have three bill presentations today. We are at that time of the legislative session when members of this Committee will be presenting bills or attending work sessions in other committees. If you see us coming or going, that is why. We will start with Senate Bill 259 (1st Reprint).

**Senate Bill 259 (1st Reprint): Revises provisions relating to tow cars. (BDR 58-179)**

**Dawn Gibbons, Chair, Nevada Transportation Authority:**

The Nevada Transportation Authority (NTA) is excited about Senate Bill 259 (1st Reprint) [[Exhibit C](#)]. This bill will be helpful because we will be teaching our enforcement officers along with our tow operators. It will build rapport for the NTA and tow car operators. When you are with the Nevada Transportation Authority, you are thinking about safety and how you can help these people. This is perfect for us. We were doing training before the COVID-19 pandemic and are starting again. This fits right into everything we are doing.

The compliance enforcement supervisors and the compliance audit chief will meet with the Deputy Attorney General to note provisions added or revised or regulations that were adopted in the immediately preceding year. The supervisors and the compliance chief will create a training course outlining these new regulations and/or provisions added or revised and will be able to assist the carriers with the NTA's interpretation of these changes. We will also have a PowerPoint to assist with this training. It will be made available to all carriers on the NTA website. The supervisors and the compliance chief will schedule four training sessions throughout the year. Possibly, two will be held virtually, and two will be held in person. We will document which CPCN [Certificate of Public Convenience and Necessity] holders attended the trainings.

This is an easy bill to read, but I thought you would want to know the nuts and bolts of how we will do the training. We are prepared for it.

**Chair Monroe-Moreno:**

Senator Denis, we are hearing your bill. Ms. Gibbons gave a great start to your presentation.

**Senator Moises Denis, Senate District No. 2:**

I am here today to present Senate Bill 259 (1st Reprint), which addresses tow car operators. The idea for this bill came from the owner of a tow car company who was concerned about the level of training for operators in the industry. Under existing law, tow car operators are regulated by the Nevada Transportation Authority and are required to comply with statutes or regulations affecting motor carriers. But, trying to keep up with the new regulations and bills passed during a legislative session is not an easy task. Senate Bill 259 (1st Reprint) is designed to fix that and make sure tow car operators do not run afoul of a law or regulation of which they were unaware.

During the Senate hearing on the bill, an amendment was proposed to include the NTA's compliance enforcement officers in the annual training. That change was made with the wholehearted concurrence of the NTA. Clearly, compliance enforcement officers would also benefit from annual training on new laws and regulations.

Section 1 of the bill is the primary substantive provision. It requires the NTA to provide annual training to tow car operators and compliance enforcement officers on any new or revised law or regulation affecting tow cars or motor carriers under the authority of the NTA. The annual training is mandatory, but if no laws or regulations were enacted or revised in the preceding year, the training need not be held that year. Section 1 includes most of *Nevada Revised Statutes* Chapter 706 within the scope of the training curriculum, with the exception of the Taxicab Authority provisions, and requires the training curriculum to be uniformly provided. Section 1, subsections 3 and 5, are conforming provisions. Sections 2 through 6 were deleted because they were unnecessary or redundant. Section 7 requires the first new training to be held by October 1, 2022, and authorizes the NTA to adopt any regulations necessary to implement the training program.

That is the bill. It is a fairly simple concept. Over the years, we have passed various bills. We are trying to ensure they are implemented accurately. With the amendment, having both those who enforce it and the ones who have to do it on the same page is a good opportunity for everybody to understand what the changes are in legislation and regulations promulgated because of the legislation that came forth. That concludes my remarks.

**Chair Monroe-Moreno:**

Members, are there any questions?

**Assemblyman Ellison:**

The bill mentions training and training by an officer. What does the training consist of? How long a training do they have to have?

**Senator Denis:**

The training will be on any new laws or regulations that came about either because of the legislative session or the regulations that are updated afterward. They would be trained on those so they would understand what the new laws are—as they enforce them on the enforcement side and as they follow them on the tow car side. Chair Gibbons could share her thoughts on how she will do that if you want more detail.

**Assemblyman Ellison:**

The training is not on operating a truck; it is a training on the law.

**Senator Denis:**

Correct. They do other training, but this is specific to any new laws or regulations they need to follow.

**Assemblyman Leavitt:**

Along the same lines, is there currently a training in place? Is there some level of training they are currently getting? Does this add to current training, or is this something you are starting from scratch?

**Senator Denis:**

I think Chair Gibbons could talk about the history. I am sure there is something they have done in the past. In the past, I have found that when we pass legislation, the information does not always get down to the tow car operators. We have passed bills, and tow car operators are not following the changes a year or two later. If we pass a bill, I want to make sure they all understand how that works and how they are supposed to do that. I approached Chair Gibbons about it, and she said they had been wanting to do some training, so this would help them to organize that. This came to me from one of the tow car operators who had done some work in a different state and was talking about how they had to do some training periodically. He wondered if Nevada could do that.

**Chair Monroe-Moreno:**

Are there any other questions? [There were none.] We will take testimony in support of Senate Bill 259 (1st Reprint).

**Tessa Laxalt, Manager, Government Affairs, Nevada Trucking Association:**

The Nevada Trucking Association includes members who are tow operators. We are here in full support of S.B. 259 (R1) and thank Senator Denis for his work on this bill. We believe that having the Nevada Transportation Authority provide annual training is needed for both our regulated operators and their enforcement staff. This measure will keep our tow operators apprised of the new laws and regulations as well as the regulators and the regulated industry. Senator Denis added an important component in the Senate, and we fully support that amendment. Having the industry and its regulators in common and understanding helps ensure the safety of the public when towing services are necessary.

**Chair Monroe-Moreno:**

May we have the next caller? [There was no one.] Do we have any callers who wish to provide testimony in opposition? [There were none.] Do we have anyone wishing to provide remarks in the neutral position? [There was no one.] Senator Denis, do you have any final remarks?

**Senator Denis:**

Thank you for hearing the bill. I hope we can do this to make the tow car industry even better.

**Chair Monroe-Moreno:**

We will close the hearing on Senate Bill 259 (1st Reprint) and open the hearing on Senate Bill 18 (1st Reprint). It will be presented by the staff of the Public Utilities Commission.

**Senate Bill 18 (1st Reprint): Revises provisions governing penalties for certain violations relating to public utilities. (BDR 58-277)**

**Stephanie Mullen, Executive Director, Public Utilities Commission of Nevada:**

I am here to present Senate Bill 18 (1st Reprint), which is intended to provide the Public Utilities Commission of Nevada (PUCN) with the fining authority adequate to motivate diligent adherence to the regulatory requirements the Commission is tasked with enforcing. Senate Bill 18 (1st Reprint) proposes to amend *Nevada Revised Statutes* (NRS) 703.154, 703.380, and 704.640 to enhance the Commission's authority to impose administrative fines for the purpose of deterring noncompliance with statutes, regulations, or Commission or court orders that govern the conduct of certain persons subject to the Commission's jurisdiction. Senate Bill 18 (1st Reprint) would adjust the fine amounts under NRS 703.154 from \$1,000 to \$200,000 per day for each day of the violation and from \$200,000 to \$2 million maximum for any related series of violations. These amounts reflect the fining authority the PUCN already has pursuant to NRS 704.595. The requested fine amount under NRS 703.380 is proposed to increase from \$1,000 to \$200,000 per day for each day of the violation, not to exceed \$2 million for any related series of violations unless the violation is willful and knowing or detrimental to public health or safety, in which case the maximum fine amount would be \$5 million. The current fine amount under NRS 704.640 is set at \$500. This bill increases that amount to \$50,000.

The Commission proposes to increase the administrative fine amounts for several reasons. First, the fine amounts are very dated. The Legislature established the current maximum fine amount under NRS 703.154 and NRS 703.380 in 1981 and for NRS 704.640 in 1979. While perhaps appropriate 40 years ago, those amounts are no longer sufficient to create the necessary disincentive for violating important statutes, regulations, and orders that ensure the safety, reliability, and affordability of utility service throughout the state.

Not only have utility revenues increased dramatically since 1981, but the potential impact of the actions or inaction of PUCN-regulated entities has also grown. Take, for example, the potential consequences of failing to implement Commission-ordered fire mitigation measures. Increased property values and proximity of development to fire roads has created a far greater risk of costly property damage and loss of life. Notably, the California Public Utilities Commission fined Pacific Gas and Electric \$1.9 billion in response to the Paradise wildfire [Camp Fire]. That is an amount 380 times larger than the maximum fining authority we are requesting in S.B. 18 (R1).

Additionally, the nature of the Commission's regulation of utilities has evolved over the past 40 years to include the implementation and oversight of numerous programs and activities designed to achieve the policy objectives. Increasingly, the Commission is doing tasks with enforcing a transition to innovative approaches that differ from how things have been done for a very long time. Change is often met with resistance, and the regulator responsible for enforcing a change needs to be equipped with adequate authority to ensure compliance. There is a proven track record of increased fining authority resulting in a decrease in the number and seriousness of violations. In 2019, Nevada experienced its lowest gas excavation damage record in reported history. Nevada has seen a steady decline in the number of gas damages since the 2015 legislation when the Commission's fining authority was increased for pipeline safety violations.

Since 2008, the Commission has levied over \$3.6 million in fines and collected and deposited over \$3.2 million to the Nevada State General Fund. Over the last biennium alone, the Commission collected over \$1.1 million. It is important to note that the PUCN, unlike public utilities commissions in other states, receives no financial benefit from imposing administrative fines, as fines are deposited in the State General Fund and do not affect the agency's budget. The Commission's only interest in imposing a fine is maintaining compliance with its governing statutes, orders, and regulations.

It is also important to note that the Commission already has authority to put regulated entities out of business by revoking or suspending certificates and licenses. Senate Bill 18 (1st Reprint) provides for a less severe, but still serious, financial penalty. We have a long history of measured application of fining authority. When maximum penalties increased for violations related to pipeline safety, there was not an abuse of that enhanced authority. In fact, nearly every penalty had been stipulated to by the penalized party. Anyone against whom a fine is assessed is entitled to a hearing and due process which will involve consideration of the factors outlined in NRS 703.380, subsection 2. If the PUCN fails to consider the specific facts of the case, its decision will be overturned through the judicial review process. Utilities are further protected against excessive penalties by the PUCN's overarching statutory duty in NRS 704.001 to balance the interests of customers and shareholders of public utilities.

In response to concerns that were raised by some of the companies that would be subject to the proposed enhanced fining authority, we worked with stakeholders to amend the bill and to provide further protection against disproportionate penalties. The amendment also reduces

the maximum fining authority to 50 percent of the amount originally proposed. And, to the extent that some regulated entities still have concerns about the increased fining authority, ultimately the purpose of this bill is to empower the PUCN to impose fines that concern those companies. We do not want the maximum fine amount to be something they are comfortable paying, nor do we want the fining framework to be so prescriptive that it allows for companies to engage in a cost/benefit analysis as to whether it makes business sense to comply with the law. We believe that the amended bill before you is a reasonable compromise and ensures that punishments fit crimes, and it increases potential penalties to amounts sufficient to motivate regulatory compliance.

In conclusion, the Commission requests your support of S.B. 18 (R1) to provide an important tool to ensure the safety, reliability, and affordability of utility service and to also ensure the effective implementation of public policies adopted by the Nevada Legislature. Garrett Weir, the PUCN's general counsel, and I are happy to answer any questions you may have.

**Chair Monroe-Moreno:**

Members, do you have any questions?

**Assemblywoman Peters:**

I appreciate the purpose of this bill and the time you took to answer some of my questions. I want to get some of the intent related to the use of these fining mechanisms and the variety of sizes of utilities that regulate that area under the PUCN on the record. Would you talk about how you will use some of the discretionary language to affect how to fine certain entities depending on size so we do not put a small water treatment utility in a regional area out of business versus one of our larger energy utilities that is not comparable?

**Stephanie Mullen:**

I will ask our general counsel, Garrett Weir, to answer that question and walk through the safety mechanisms we have put in place in this amendment.

**Garrett Weir, General Counsel, Public Utilities Commission of Nevada:**

As you mentioned, there is a variety of regulated entities subject to the Commission's jurisdiction that range in sizes of customers and revenue. Section 2, subsection 2, of the bill is where the language begins listing the criteria the Commission shall consider when assessing a fine. Section 2, subsection 2, paragraph (a), addresses the size of the business of the person charged. The revenues and the number of customers are important considerations the Commission has when balancing those interests that Ms. Mullen mentioned. The Commission is tasked with not just protecting the interests of utility customers, but also the utility itself, ensuring it maintains financial health. In considering the size of the business, the Commission would not levy a fine that would be ruinous to the financial health of the utility. As you continue to go down through those considerations, there are various other criteria that require examination of the specific circumstances of the offense and ensure that the Commission is not going to levy a disproportionate or excessive fine to a smaller utility or a fine that does not fit the violation. I can provide additional details if that did not answer your question. Hopefully, that provides some of the intent you asked for.

**Assemblywoman Peters:**

If you have additional information, it would be good to be able to maintain the record of intent. When you assess these fines, where do the dollars go? Did I miss if they go to the State General Fund, or do you retain them? Can they be used for certain activities by the PUCN?

**Stephanie Mullen:**

All administrative fines levied and collected by our agency are deposited in the State General Fund. We do not have access to any of these fines.

**Assemblyman Leavitt:**

My question is about the appeal process. If a fine is levied, who handles the appeal process?

**Garrett Weir:**

Taking a step back, there is quite a bit of due process involved in any assessment of a penalty pursuant to these statutes. If you look at the statutes, there is a requirement for a hearing and the opportunity for the hearing. In recent years, the Commission has held few hearings that were being contested. Most of the time the parties subject to penalty stipulate to an amount and the Commission has been flexible in placing conditions on recovery of the amounts. They have even held amounts in abeyance pending no further violations over a number of years.

There are hearings where the Commission goes through the criteria I mentioned previously. At the conclusion of the hearing, the Commission would vote on whether and to what extent to assess a penalty. A party would have an opportunity to request reconsideration of that determination. Ultimately, there would be an appeal that would go beyond the Commission and an opportunity for an appeal through the judicial review process, which would be initiated in state district court and presided over by a district court judge.

**Assemblyman Leavitt:**

Thank you. My second question was already answered.

**Chair Monroe-Moreno:**

Members, are there any other questions?

**Assemblyman Ellison:**

The amount of the increases is quite large. We did not take little steps; we took large ones. What effect would this have on a company's bonding and insurance rates? Would that cost be passed on to the consumer?

**Garrett Weir:**

To answer your question about the amount and its effect on bond rating or the financial health of utilities, that is one of the considerations the Commission would make in determining an appropriate fine amount. We would be required to go through all those criteria. A significant penalty that is excessive for a smaller utility could affect its financial



health. That is something the Commission will be mindful of and, pursuant to law, must balance and avoid. The Commission has an overarching duty to both protect the shareholder and the customers of the utility, to not damage the utility's bond rating in a way that makes it more costly to access capital and provide service to its customers. It would be considered. We do not believe there would be any effect on bond rating from the passage of this authority given there are safeguards in place to ensure that a utility will not be excessively fined or financially harmed.

**Assemblyman Ellison:**

You answered most of my question. It is just like any other business. If you have to increase insurance, the rate will go up. It is not that you are a liability, it is just the unseen circumstances. Anytime you make that kind of increase, the business has to pay for it one way or another because it is a big insurance policy. Whatever the rate they are paying now would still have to go up. That money has to come from somewhere. The only thing I can think of is it would come back to the consumer. If there were a large fine like with the fire in California, I am sure they would have to raise rates for a while to recoup what they lost. When fines are in millions of dollars, that would be like doubling [the cost of] insurance for your house. The rate will go way up. You do not see that as being a problem?

**Garrett Weir:**

It would depend on the size and scale of the utility operation. The types of offenses or violations that would warrant the assessment of a penalty on the high end of the requested enhanced authority would likely be connected to violations that would involve civil liability and tort or other arenas that would exceed those amounts. I am not an insurance expert, but it is conceivable those costs would be captured by the insurance a utility had. But also, the sizes of these utilities we regulate—the vast majority of customers or the regulations that would warrant penalties are pretty large entities. Even in relatively smaller companies, the dollar amounts they could be assessed are likely not enough to be harmful to the sustainability of the company as far as the insurance premiums they have to pay given a couple of million dollars are relative to the revenues of these utilities. We have not heard that concern expressed by any utilities, so I have not recently explored that issue. That is my initial response to your question. We can look into that and get back to you.

**Chair Monroe-Moreno:**

For clarification, the administrative fines would only be assessed when certain violations occur that are related to a public utility. These could be inaccurate or misleading information to the PUCN, or for increasing criminal penalties for certain violations related to public utilities. These fines would not have to be paid if no violations occurred, correct?

**Stephanie Mullen:**

That is correct.

**Chair Monroe-Moreno:**

I have one more question. In conversations with some of the stakeholders, there was an amendment presented from some of the commercial mobile radio service companies. Were you able to have a conversation with those companies? Have you seen their amendment? Is it a friendly amendment? If not, why?

**Garrett Weir:**

We have seen the amendment. We were not approached by the folks who proposed the amendment, so we have not spoken with them directly. We would characterize it as an unfriendly amendment. It is not something we support. The reason is we have not heard a description of why those carriers believe it is justified for them to be, essentially, carved out of this fining authority. Under existing law, those entities are subject to the same penalties that other utilities are. Despite the relatively light touch regulation that the Commission imposes upon competitive suppliers of telecommunications services, there are instances when we would have regulatory jurisdiction such as, for example, oversight of programs to provide assistance for low-income customers through the Universal Service Fund at the federal level. We administer that here at the state level. We designate carriers to be eligible for those funds. Fraud, abuse, or misconduct related to those programs are the kinds of things we would levy a penalty for. It is my understanding the folks seeking this amendment are T-Mobile and Verizon. Those are large entities. A \$2 million fine or, if there were egregious misconduct that could warrant up to a \$5 million fine, is unlikely to bankrupt entities as large as those companies. There are many different types of entities that are regulated by the PUCN, all of whom could probably argue they are distinguishable from the types of companies that you initially think are regulated utilities. If we carve out one group of service providers, inevitably, others are going to want to be part of that as well. It is much simpler and more equitable to apply these new enhanced fining authorities across the board.

**Chair Monroe-Moreno:**

Thank you for your answer.

**Assemblywoman Brown-May:**

I want to offer my appreciation for the time you spent meeting with me prior to this meeting. I would like clarification. As I read section 1 of the bill, it says this is specific to intrastate pipelines in the state that are used to store and transport natural gas or provide petroleum gas in its liquid or vapor form. We are specifically talking about gas pipelines. I think I heard you say that you apply fines across the board. I would like clarification on if we are talking about fining for pipelines and violations specific to that issue area, or could the PUCN apply this to any other entity?

**Garrett Weir:**

The first section is codifying statutory fining authority that exists in NRS 704.595; it is a housekeeping measure. To the extent that fines are being levied for pipeline safety-related violations, those are the amounts that would be involved. Anyone who would not be

otherwise subject to the broader fining authority in section 2 of the bill—those are the entities to whom those pipeline-specific penalties would be assessed. I hope that answers your question.

**Chair Monroe-Moreno:**

Members, are there any other questions? [There were none.] Thank you for your presentation. We will move to testimony in support.

**Kyle Davis, representing Nevada Conservation League:**

The Public Utilities Commission plays a crucial role in the reduction of pollution in the path of our clean energy future. Enforcement of the decisions made in this body are implemented at the Commission. It is critical that the fines for noncompliance are strong enough to ensure that utilities follow the law, and these fines are not just considered the cost of doing business. We support the PUCN's having the tools necessary to do its job and urge support for this bill. Thank you.

[Christina Bailey experienced technical difficulties and was unable to testify at this time.]

**Ernest Figueroa, Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General:**

For the reasons the PUCN stated in support of their bill, I fully support S.B. 18 (R1) in its entirety.

**Debra Gallo, representing Southwest Gas:**

We support S.B. 18 (R1) in its amended version, which is before you today. We would like to thank the Public Utilities Commission, Mr. Weir, and Ms. Mullen, for working with us to address some concerns we had in section 2.

**Christina Bailey, representing NV Energy:**

As Nevada's largest regulated utility, NV Energy fully understands the importance of the PUCN's enforcement responsibility. We support S.B. 18 (R1) and recognize the need to update and modernize the administrative fines that can be imposed by the PUCN. The fee structure of NRS 703.154 has not been updated since 1993; the fee structure of NRS 702.380 has not been updated since 1981. We agree they need to be updated now. At NV Energy, we have been fortunate to not have often faced the process of response in the PUCN. The potential impact of fines and negative aspects on our reputation is a significant deterrent to prohibit misconduct. We would like to thank Ms. Mullen and Mr. Weir for working with us to ensure that these fines act as a strong deterrent but are not unnecessarily punitive.

**Chair Monroe-Moreno:**

Do we have any other callers in support? [There were none.] Do we have any callers in opposition? [There were none.] Do we have any callers who wish to provide testimony in the neutral position? [There were none.] Are there any final remarks from our presenters?

**Stephanie Mullen:**

I have no additional comments but to thank you for hearing S.B. 18 (R1).

**Chair Monroe-Moreno:**

We will close the hearing on Senate Bill 18 (1st Reprint) and will open the hearing on Senate Bill 59 (1st Reprint).

**Senate Bill 59 (1st Reprint): Revises provisions concerning the judicial review of decisions of the Public Utilities Commission of Nevada. (BDR 58-331)**

**Garrett Weir, General Counsel, Public Utilities Commission of Nevada:**

Senate Bill 59 (1st Reprint) is a bill that simply proposes to clarify the current effect of the law. To provide some context, the decisions of the Public Utilities Commission of Nevada (PUCN) are exempt from the judicial review framework that applies to nearly every other administrative agency in the state. Those requirements are outlined in the Nevada Administrative Procedure Act in *Nevada Revised Statutes* (NRS) Chapter 233B. The Commission's decisions are exempt from that process for one reason only, to expedite the resolution of appeals of PUCN decisions.

I will walk through the ways the PUCN's judicial review is expedited. First, the timelines for initiating the appeal are expedited from 45 days to 30 days. The timeline for transmittal of the record is expedited from 45 days to 30 days. The timeline for submitting an opening brief is expedited from 40 days to 30 days. As delineated in NRS 703.373, section 10, the appeals of PUCN decisions take precedence over all other civil actions before the court. The final way in which the judicial review of PUCN decisions is different in statute from the process applicable to other administrative agencies' decisions is that the briefing schedule is truncated, contemplating only an opening brief from the appellants and a reply from the respondents who are defending the PUCN's decision. The language under existing law provides for those two briefs to be filed, and then it states the action is, at that point, at issue and the parties have to be prepared to proceed to hearing where additional information can be gathered from the judge if necessary.

This bill addresses that particular component. There have been some recent attempts to file additional briefings. Looking at the legislative history from when this separate judicial review section was created in statute for PUCN decisions, the reason the Legislature took that into account was because an expedited review protects customers of the utility. When you look at a decision of the Commission and the potential risks to ratepayers of that decision being overturned, it is important to recognize that if the Commission disallows certain recovery of costs, they would ultimately be passed on to customers through utility rates. If that disallowance is reversed by a court, it is not limited to just the dollars that were disallowed; you would also have the potential time value of money if the utility could seek recovery over the pendency of the appeal. The longer that an appeal is pending, the more money the ratepayers would potentially have to be on the hook for if a court overturns the PUCN's decision. Recognizing that, the Legislature was prescriptive in limiting the court's discretion procedurally in reviewing and resolving appeals of PUCN decisions.

What we are increasingly seeing in appeals of PUCN decisions is that the folks who file petitions for judicial review are requesting additional opportunities for briefing. There is the initial brief the opponent files, followed by the response from the PUCN and any other parties supporting the PUCN's decision. Then, instead of the case proceeding to hearing, the appellant files motions to file an additional responsive brief to the respondent's brief. This results in protracted motion practice. There is not just the additional brief, there is the motion that has to be responded to, so you have a series of motions in response to motions being filed. The court then weighs those. There can be a hearing on those motions. Then, if the court grants the opportunity for an additional brief, there is the time for filing that brief. Often, if additional briefs are allowed for the appellants, the respondents seek the opportunity for a sur-reply brief, and we go through that whole exercise again. Ironically, a process that was intended to be different from the NRS Chapter 233B process to expedite resolution of PUCN cases is actually taking longer than it would have if the PUCN's decisions were subject to the same framework as other administrative agencies. We are seeking to clarify that the briefing schedule is truncated; there is not any discretion to take additional briefing; and if the court requires additional information, it can gather that information and there is appropriate due process through a hearing. With that, I am happy to answer any questions.

**Chair Monroe-Moreno:**

Members, do you have any questions?

**Assemblyman Watts:**

I do not have a question, but I have a comment. Whenever I see a bill that addresses judicial review, I take a close look at it, particularly for processes that are outside of the Administrative Procedure Act, to make sure there is good access to due process with the ability for any aggrieved party to seek judicial review. That is important to me. I looked at this bill intently, but I appreciate the fact that it does not limit who has standing or otherwise limit access to justice and is, instead, seeking to help move the process along so you can get to a resolution in a more timely manner. I just wanted to put that comment on the record.

**Chair Monroe-Moreno:**

I do not see questions from members, so we will go to testimony in support of Senate Bill 59 (1st Reprint).

**Ernest Figueroa, Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General:**

I am here to testify in support for the PUCN bill, S.B. 59 (R1). I fully support this bill.

**Chair Monroe-Moreno:**

Do we have any other callers who wish to provide testimony in support of Senate Bill 59 (1st Reprint)? [There were none.] Do we have any callers in opposition? [There were none.] Do we have anyone who would like to provide neutral comment? [There was no one.] Do you have any final remarks you would like to leave with the Committee before we close the hearing on Senate Bill 59 (1st Reprint)?

**Garrett Weir:**

Thank you for the opportunity to present S.B. 59 (R1). We urge your support to provide much needed clarity to protect utility customers from the costs of delayed resolution of appeals of PUCN decisions.

**Chair Monroe-Moreno:**

With that, we will close the hearing on Senate Bill 59 (1st Reprint).

That takes us to the last item on our agenda, public comment. Is there anyone who wishes to provide public comment? [There was no one.] That will conclude today's meeting. I would like to thank our presenters for joining us here today. Our next meeting will be on Tuesday, May 11, 2021. We will be starting at 1:30 p.m. We will be hearing one bill, and we will have a work session on a number of bills. This meeting is adjourned [at 3:08 p.m.].

RESPECTFULLY SUBMITTED:

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Joan Waldock  
Committee Secretary

APPROVED BY:

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Assemblywoman Daniele Monroe-Moreno, Chair

DATE: \_\_\_\_\_

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony presented by Dawn Gibbons, Chair, Nevada Transportation Authority, regarding Senate Bill 259 (1st Reprint).