

77-619. Additional evidence. (a) The court may receive evidence, in addition to that contained in the agency record for judicial review, only if it relates to the validity of the agency action at the time it was taken and is needed to decide disputed issues regarding:

(1) Improper constitution as a decision-making body; or improper motive or grounds for disqualification, of those taking the agency action; or

(2) unlawfulness of procedure or of decision-making process.

(b) The court may remand a matter to the agency, before final disposition of a petition for judicial review, with directions that the agency conduct fact-finding and other proceedings the court considers necessary and that the agency take such further action on the basis thereof as the court directs, if:

(1) The agency was required to base its action exclusively on a record of a type reasonably suitable for judicial review, but the agency failed to prepare or preserve an adequate record;

(2) the court finds that (A) new evidence has become available that relates to the validity of the agency action at the time it was taken, that one or more of the parties did not know and was under no duty to discover, or did not know and was under a duty to discover but could not reasonably have discovered until after the agency action, and (B) the interests of justice would be served by remand to the agency;

(3) the agency improperly excluded or omitted evidence from the record; or

(4) a relevant provision of law changed after the agency action and the court determines that the new provision may control the outcome.

History: L. 1984, ch. 338, § 19; July 1.