10656

I N   A S S E M B L Y

June 12, 2012
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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Simotas) --
   read once and referred to the Committee on Governmental Operations

AN ACT to amend the state administrative procedure act, in relation to
   ex parte communications

   THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1   Section 1. Subdivision 2 of section 307 of the state administrative
2 procedure act is amended to read as follows:
3   2. Unless required for the disposition of ex parte matters authorized
4 by law, members or employees of an agency assigned to render a decision
5 or to make findings of fact and conclusions of law in an adjudicatory
6 proceeding shall not communicate, directly or indirectly, in connection
7 with any issue of fact, with any person or party, nor, in connection
8 with any issue of law, with any party or his representative, except upon
9 notice and opportunity for all parties to participate. Any such agency
10 member (a) may communicate with other members of the agency, and (b) may
11 have the aid and advice of agency staff other than staff which has been
12 or is engaged in the investigative or prosecuting functions   in
13 connection with the case under consideration or factually related case.
14   This subdivision does not apply (a) in determining applications for
15 initial licenses for public utilities or carriers; or (b) to proceedings
16 involving the validity or application of rates, facilities, or practices
17 of public utilities or carriers; PROVIDED, HOWEVER, THAT WHEN EX PARTE
18 COMMUNICATIONS IN SUCH PROCEEDINGS TAKE PLACE OUTSIDE OF A SETTLEMENT
19 PROCESS, COLLABORATIVE OR OTHER AGENCY-SANCTIONED EVENT, THE PARTY SHALL
20 FILE WITH THE AGENCY A NOTICE AND SUMMARY OF SUCH COMMUNICATION, WHICH
21 SHALL BE SERVED ON ALL PARTIES TO THAT PROCEEDING.
22   S 2. This act shall take effect on the thirtieth day after it shall
23 have become a law.

    EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
                      [ ] is old law to be omitted.
                                                         LBD03913-03-2