S T A T E O F N E W Y O R K

1598--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. KELLNER -- Multi-Sponsored by -- M. of A. BENEDETTO, BRENNAN, CLARK, MILLMAN, PAULIN, SWEENEY -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 307 of the state administrative procedure act is amended to read as follows:

2. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in an adjudicatory proceeding shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. Any such agency member (a) may communicate with other members of the agency, and (b) may have the aid and advice of agency staff other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or factually related case.

This subdivision does not apply (a) in determining applications for initial licenses for public utilities or carriers; or (b) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; PROVIDED, HOWEVER, THAT WHEN EX PARTE COMMUNICATIONS IN SUCH PROCEEDINGS TAKE PLACE OUTSIDE OF A SETTLEMENT PROCESS, COLLABORATIVE OR OTHER AGENCY-SANCTIONED EVENT, THE PARTY SHALL FILE WITH THE AGENCY A NOTICE AND SUMMARY OF SUCH COMMUNICATION, WHICH SHALL BE SERVED ON ALL PARTIES TO THAT PROCEEDING.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.

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

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