

4873

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 8, 2011

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Introduced by M. of A. SIMOTAS -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law and 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:

1     Section 1. The public service law is amended by adding a new section  
2     20-a to read as follows:

3     S 20-A. EX PARTE COMMUNICATIONS. WITH REGARD TO ALL HEARINGS BEFORE  
4     THE COMMISSIONER OR AN OFFICER OR EMPLOYEE SPECIALLY AUTHORIZED TO  
5     CONDUCT AN INVESTIGATION OR HEARING, ALL PARTIES SHALL RECEIVE WRITTEN  
6     NOTICE OF ALL EX PARTE COMMUNICATIONS AND VISITS AND SHALL HAVE AN  
7     OPPORTUNITY TO RESPOND.

8     S 2. Subdivision 2 of section 307 of the state administrative procedure  
9     act is amended to read as follows:

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

21    [This subdivision does not apply (a) in determining applications for  
22    initial licenses for public utilities or carriers; or (b) to proceedings  
23    involving the validity or application of rates, facilities, or practices  
24    of public utilities or carriers.]

25    S 3. This act shall take effect on the thirtieth day after it shall  
26    have become a law.

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

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