



2013 SENATE BILL 194

May 23, 2013 – Introduced by Senator FARROW, cosponsored by Representative HONADEL. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT to renumber and amend** 227.50 (1) (c), 227.50 (1) (d) and 227.50 (1) (e);
2 **to consolidate, renumber and amend** 227.50 (1) (a) 1. and (b); **to amend**
3 227.50 (1) (a) (intro.); and **to create** 227.50 (1) (am) 4. of the statutes; **relating**
4 **to:** ex parte communications in contested cases before the Public Service
5 Commission.

Analysis by the Legislative Reference Bureau

Current law prohibits certain ex parte communications in contested cases, which are state agency proceedings that affect the substantial interest of a party. An ex parte communication is one that is made without the knowledge of all of the parties. An ex parte communication in a contested case is subject to the prohibition if it is made before a decision is rendered and it is either: 1) relative to the merits; or 2) a threat or offer of reward. If the prohibition applies, the following are prohibited from making an ex parte communication to either the hearing examiner or any other official or employee of the state agency who is involved in the decision-making process: 1) a state agency official or any other public employee or official engaged in prosecution or advocacy regarding the matter or a related matter; 2) a party to the proceeding; 3) any person with a substantial interest in the proposed agency action; and 4) an authorized representative or counsel. Current law specifies several exceptions to the prohibition.

This bill creates an additional exception to the prohibition that applies only in contested cases before the Public Service Commission (PSC). In such contested

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cases, the bill provides that the prohibition does not apply to an ex parte communication by or to any PSC official or employee other than the hearing examiner or the PSC commissioners.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 227.50 (1) (a) (intro.) of the statutes is amended to read:

2 227.50 (1) (a) (intro.) ~~In~~ Except as provided in par. (am), in a contested case,
3 no ex parte communication relative to the merits or a threat or offer of reward shall
4 be made, before a decision is rendered, to the hearing examiner or any other official
5 or employee of the agency who is involved in the decision-making process, by any of
6 the following:

7 **SECTION 2.** 227.50 (1) (a) 1. and (b) of the statutes are consolidated, renumbered
8 227.50 (1) (a) 1m. and amended to read:

9 227.50 (1) (a) 1m. An official of the agency or any other public employee or
10 official engaged in prosecution or advocacy in connection with the matter under
11 consideration or a factually related matter; ~~or (b) Paragraph (a) 1.~~ This subdivision
12 does not apply to an advisory staff which does not participate in the proceeding.

13 **SECTION 3.** 227.50 (1) (am) 4. of the statutes is created to read:

14 227.50 (1) (am) 4. In a contested case before the public service commission, an
15 ex parte communication by or to any official or employee of the commission other
16 than the hearing examiner or a commissioner.

17 **SECTION 4.** 227.50 (1) (c) of the statutes is renumbered 227.50 (1) (am) (intro.)
18 and amended to read:

19 227.50 (1) (am) (intro.) ~~This subsection Paragraph (a)~~ does not apply to an any
20 of the following:

