

## 2013 DRAFTING REQUEST

### Bill

Received: 4/29/2013 Received By: mkunkel  
Wanted: As time permits Same as LRB: -2232  
For: Mark Honadel (608) 266-0610 By/Representing: Jason Vick  
May Contact: Drafter: mkunkel  
Subject: Public Util. - misc. Addl. Drafters:  
Extra Copies: EVM

Submit via email: YES  
Requester's email: Rep.Honadel@legis.wisconsin.gov  
Carbon copy (CC) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Public Service Commission ex parte communications

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mkunkel 4/29/2013	jdyer 4/30/2013	jfrantze 4/30/2013	_____	sbasford 4/30/2013	sbasford 5/13/2013	

FE Sent For:

→ Not  
Needed

<END>

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/1	mkunkel	1 4/30 jld	26	4/30			

FE Sent For:

<END>

## Kunkel, Mark

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**From:** Vick, Jason  
**Sent:** Monday, April 29, 2013 1:46 PM  
**To:** Kunkel, Mark  
**Cc:** Gustafson, Andrew  
**Subject:** RE: Draft review: LRB -2232/P1 Topic: Public Service Commission ex parte communications

Yes and an Assembly companion for Rep. Honadel too please.

Thanks,

### Jason Vick

Office of Rep. Mark Honadel  
21st Assembly District  
**608-266-0611**

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**From:** Kunkel, Mark  
**Sent:** Monday, April 29, 2013 1:25 PM  
**To:** Gustafson, Andrew  
**Cc:** Vick, Jason  
**Subject:** RE: Draft review: LRB -2232/P1 Topic: Public Service Commission ex parte communications

Will do.

---

**From:** Gustafson, Andrew  
**Sent:** Monday, April 29, 2013 1:02 PM  
**To:** Kunkel, Mark  
**Cc:** Vick, Jason  
**Subject:** RE: Draft review: LRB -2232/P1 Topic: Public Service Commission ex parte communications

Mark:

Could you do this for Sen. Farrow? Thank you.

---

**From:** Smith, Ryan  
**Sent:** Friday, April 26, 2013 10:44 AM  
**To:** Kunkel, Mark  
**Cc:** Vick, Jason; Gustafson, Andrew  
**Subject:** FW: Draft review: LRB -2232/P1 Topic: Public Service Commission ex parte communications

Thanks for the quick turnaround on this, Mark. I think Sen. Farrow and Rep. Honadel are going to run with this one, so we're sharing the draft with them and Sen. Cowles authorizes you to communicate with them on this draft.

Thanks again for the help!

Ryan Smith  
Chief of Staff  
Office of Sen. Robert Cowles  
800-334-1465

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**From:** LRB.Legal

**Sent:** Thursday, April 25, 2013 10:05 AM

**To:** Sen.Cowles

**Subject:** Draft review: LRB -2232/P1 Topic: Public Service Commission ex parte communications

**Following is the PDF version of draft LRB -2232/P1 and drafter's note.**



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2232/P1  
MDK:jlh

NOTE

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

5100

IN  
4-29

-2271/1

PM NOT  
PM

X

Reger

NOTE:  
LRB-2232/P1 is identical to  
LRB-2232/1

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

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.

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***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:





**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2271/1dn

MDK:.....

date

↑  
jld

Rep. Honadel: ✓

This is a companion to LRB-2232/1. ✓

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2271/1dn  
MDK:jld:jf

April 30, 2013

Rep. Honadel:

This is a companion to LRB-2232/1.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

**Rose, Stefanie**

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**From:** Vick, Jason  
**Sent:** Monday, May 13, 2013 2:25 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2271/1 Topic: Public Service Commission ex parte communications

Please Jacket LRB -2271/1 for the ASSEMBLY.