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I N A S S E M B L Y

May 21, 2010

Introduced by M. of A. TOWNS, REILLY, RAIA, KOON -- Multi-Sponsored by
-- M. of A. CALHOUN, CORWIN, CROUCH, TOWNSEND -- read once and
referred to the Committee on Education

AN ACT to amend the education law, in relation to transportation
contract pricing benchmarks

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

1 Section 1. Paragraph a of subdivision 14 of section 305 of the educa-
2 tion law, as amended by section 1 of chapter 273 of the laws of 1999, is
3 amended to read as follows:
4 a. All contracts for the transportation of school children, all
5 contracts to maintain school buses owned or leased by a school district
6 that are used for the transportation of school children, all contracts
7 for mobile instructional units, and all contracts to provide, maintain
8 and operate cafeteria or restaurant service by a private food service
9 management company shall be subject to the approval of the commissioner,
10 who may disapprove a proposed contract if, in his opinion, the best
11 interests of the district will be promoted thereby. Except as provided
12 in paragraph e of this subdivision, all such contracts involving an
13 annual expenditure in excess of the amount specified for purchase
14 contracts in the bidding requirements of the general municipal law shall
15 be awarded to the lowest responsible bidder, which responsibility shall
16 be determined by the board of education or the trustee of a district,
17 with power hereby vested in the commissioner to reject any or all bids
18 if, in his opinion, the best interests of the district will be promoted
19 thereby and, upon such rejection of all bids, the commissioner shall
20 order the board of education or trustee of the district to seek, obtain
21 and consider new proposals. All proposals for such transportation, main-
22 tenance, mobile instructional units, or cafeteria and restaurant service
23 shall be in such form as the commissioner may prescribe. Advertisement
24 for bids shall be published in a newspaper or newspapers designated by
25 the board of education or trustee of the district having general circu-
26 lation within the district for such purpose. Such advertisement shall
27 contain a statement of the time when and place where all bids received

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

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1 pursuant to such advertisement will be publicly opened and read either
2 by the school authorities or by a person or persons designated by them.
3 All bids received shall be publicly opened and read at the time and
4 place so specified. At least five days shall elapse between the first
5 publication of such advertisement and the date so specified for the
6 opening and reading of bids. The requirement for competitive bidding
7 shall not apply to an award of a contract for the transportation of
8 pupils or a contract for mobile instructional units, if such award is
9 based on an evaluation of proposals in response to a request for
10 proposals pursuant to paragraph e of this subdivision. The requirement
11 for competitive bidding shall not apply to annual, biennial, or trienni-
12 al extensions of a contract nor shall the requirement for competitive
13 bidding apply to quadrennial or quinquennial year extensions of a
14 contract involving transportation of pupils, maintenance of school buses
15 or mobile instructional units secured either through competitive bidding
16 or through evaluation of proposals in response to a request for
17 proposals pursuant to paragraph e of this subdivision, when such exten-
18 sions (1) are made by the board of education or the trustee of a
19 district, under rules and regulations prescribed by the commissioner,
20 and, (2) do not extend the original contract period beyond five years
21 from the date cafeteria and restaurant service commenced thereunder and
22 in the case of contracts for the transportation of pupils, for the main-
23 tenance of school buses or for mobile instructional units, that such
24 contracts may be extended, except that power is hereby vested in the
25 commissioner, in addition to his existing statutory authority to approve
26 or disapprove transportation or maintenance contracts, (i) to reject any
27 extension of a contract beyond the initial term thereof if he finds that
28 amount to be paid by the district to the contractor in any year of such
29 proposed extension fails to reflect any decrease in the regional consum-
30 er price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon
31 the index for all urban consumers (CPI-U) during the preceding twelve
32 month period OR, IN THE CASE OF CONTRACTS FOR THE TRANSPORTATION OF
33 SCHOOL CHILDREN, THE AVERAGE OF THE PREVIOUS FIVE YEARS OF THE REGIONAL
34 CONSUMER PRICE INDEX INCREASES FOR THE N.Y., N.Y.-NORTHEASTERN, N.J.
35 AREA, BASED UPON THE INDEX FOR ALL URBAN CONSUMERS (CPI-U), WHICHEVER IS
36 GREATER; and (ii) to reject any extension of a contract after ten years
37 from the date transportation or maintenance service commenced there-
38 under, or mobile instructional units were first provided, if in his
39 opinion, the best interests of the district will be promoted thereby.
40 Upon such rejection of any proposed extension, the commissioner may
41 order the board of education or trustee of the district to seek, obtain
42 and consider bids pursuant to the provisions of this section. The board
43 of education or the trustee of a school district electing to extend a
44 contract as provided herein, may, in its discretion, increase the amount
45 to be paid in each year of the contract extension by an amount not to
46 exceed the regional consumer price index increase for the N.Y.,
47 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
48 ers (CPI-U), during the preceding twelve month period OR, IN THE CASE OF
49 CONTRACTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN, THE AVERAGE OF THE
50 PREVIOUS FIVE YEARS OF THE REGIONAL CONSUMER PRICE INDEX INCREASES FOR
51 THE N.Y., N.Y.-NORTHEASTERN, N.J. AREA, BASED UPON THE INDEX FOR ALL
52 URBAN CONSUMERS (CPI-U), WHICHEVER IS GREATER, provided it has been
53 satisfactorily established by the contractor that there has been at
54 least an equivalent increase in the amount of his cost of operation,
55 during the period of the contract.

1 S 2. Paragraph a of subdivision 14 of section 305 of the education
2 law, as amended by section 2 of chapter 273 of the laws of 1999, is
3 amended to read as follows:

4 a. All contracts for the transportation of school children, all
5 contracts to maintain school buses owned or leased by a school district
6 that are used for the transportation of school children, all contracts
7 for mobile instructional units, and all contracts to provide, maintain
8 and operate cafeteria or restaurant service by a private food service
9 management company shall be subject to the approval of the commissioner,
10 who may disapprove a proposed contract if, in his opinion, the best
11 interests of the district will be promoted thereby. All such contracts
12 involving an annual expenditure in excess of the amount specified for
13 purchase contracts in the bidding requirements of the general municipal
14 law shall be awarded to the lowest responsible bidder, which responsi-
15 bility shall be determined by the board of education or the trustee of a
16 district, with power hereby vested in the commissioner to reject any or
17 all bids if, in his opinion, the best interests of the district will be
18 promoted thereby and, upon such rejection of all bids, the commissioner
19 shall order the board of education or trustee of the district to seek,
20 obtain and consider new proposals. All proposals for such transporta-
21 tion, maintenance, mobile instructional units, or cafeteria and restau-
22 rant service shall be in such form as the commissioner may prescribe.
23 Advertisement for bids shall be published in a newspaper or newspapers
24 designated by the board of education or trustee of the district having
25 general circulation within the district for such purpose. Such adver-
26 tisement shall contain a statement of the time when and place where all
27 bids received pursuant to such advertisement will be publicly opened and
28 read either by the school authorities or by a person or persons desig-
29 nated by them. All bids received shall be publicly opened and read at
30 the time and place so specified. At least five days shall elapse between
31 the first publication of such advertisement and the date so specified
32 for the opening and reading of bids. The requirement for competitive
33 bidding shall not apply to annual, biennial, or triennial extensions of
34 a contract nor shall the requirement for competitive bidding apply to
35 quadrennial or quinquennial year extensions of a contract involving
36 transportation of pupils, maintenance of school buses or mobile instruc-
37 tional units secured through competitive bidding when such extensions
38 (1) are made by the board of education or the trustee of a district,
39 under rules and regulations prescribed by the commissioner, and, (2) do
40 not extend the original contract period beyond five years from the date
41 cafeteria and restaurant service commenced thereunder and in the case of
42 contracts for the transportation of pupils, for the maintenance of
43 school buses or for mobile instructional units, that such contracts may
44 be extended, except that power is hereby vested in the commissioner, in
45 addition to his existing statutory authority to approve or disapprove
46 transportation or maintenance contracts, (i) to reject any extension of
47 a contract beyond the initial term thereof if he finds that amount to be
48 paid by the district to the contractor in any year of such proposed
49 extension fails to reflect any decrease in the regional consumer price
50 index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index
51 for all urban consumers (CPI-U) during the preceding twelve month period
52 OR, IN THE CASE OF CONTRACTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN,
53 THE AVERAGE OF THE PREVIOUS FIVE YEARS OF THE REGIONAL CONSUMER PRICE
54 INDEX INCREASES FOR THE N.Y., N.Y.-NORTHEASTERN, N.J. AREA, BASED UPON
55 THE INDEX FOR ALL URBAN CONSUMERS (CPI-U), WHICHEVER IS GREATER; and
56 (ii) to reject any extension of a contract after ten years from the date

1 transportation or maintenance service commenced thereunder, or mobile
2 instructional units were first provided, if in his opinion, the best
3 interests of the district will be promoted thereby. Upon such rejection
4 of any proposed extension, the commissioner may order the board of
5 education or trustee of the district to seek, obtain and consider bids
6 pursuant to the provisions of this section. The board of education or
7 the trustee of a school district electing to extend a contract as
8 provided herein, may, in its discretion, increase the amount to be paid
9 in each year of the contract extension by an amount not to exceed the
10 regional consumer price index increase for the N.Y., N.Y.-Northeastern,
11 N.J. area, based upon the index for all urban consumers (CPI-U), during
12 the preceding twelve month period OR, IN THE CASE OF CONTRACTS FOR THE
13 TRANSPORTATION OF SCHOOL CHILDREN, THE AVERAGE OF THE PREVIOUS FIVE
14 YEARS OF THE REGIONAL CONSUMER PRICE INDEX INCREASES FOR THE N.Y.,
15 N.Y.-NORTHEASTERN, N.J. AREA, BASED UPON THE INDEX FOR ALL URBAN CONSUM-
16 ERS (CPI-U), WHICHEVER IS GREATER, provided it has been satisfactorily
17 established by the contractor that there has been at least an equivalent
18 increase in the amount of his cost of operation, during the period of
19 the contract.

20 S 3. This act shall take effect immediately provided that the amend-
21 ments to paragraph a of subdivision 14 of section 305 of the education
22 law made by section one of this act shall be subject to the expiration
23 and reversion of such paragraph pursuant to chapter 698 of the laws of
24 1996, as amended, when upon such date the provisions of section two of
25 this act shall take effect.