

7231

I N S E N A T E

March 24, 2010

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed 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 ASSEMBLY, 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
28 pursuant to such advertisement will be publicly opened and read either

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

LBD16508-01-0

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

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

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

1 education or trustee of the district to seek, obtain and consider bids
2 pursuant to the provisions of this section. The board of education or
3 the trustee of a school district electing to extend a contract as
4 provided herein, may, in its discretion, increase the amount to be paid
5 in each year of the contract extension by an amount not to exceed the
6 regional consumer price index increase for the N.Y., N.Y.-Northeastern,
7 N.J. area, based upon the index for all urban consumers (CPI-U), during
8 the preceding twelve month period OR THE AVERAGE OF THE PREVIOUS FIVE
9 YEARS OF THE REGIONAL CONSUMER PRICE INDEX INCREASES FOR THE N.Y.,
10 N.Y.-NORTHEASTERN, N.J. AREA, BASED UPON THE INDEX FOR ALL URBAN CONSUM-
11 ERS (CPI-U), WHICHEVER IS GREATER, provided it has been satisfactorily
12 established by the contractor that there has been at least an equivalent
13 increase in the amount of his cost of operation, during the period of
14 the contract.

15 S 3. This act shall take effect immediately provided that the amend-
16 ments to paragraph a of subdivision 14 of section 305 of the education
17 law made by section one of this act shall be subject to the expiration
18 and reversion of such paragraph pursuant to chapter 698 of the laws of
19 1996, as amended, when upon such date the provisions of section two of
20 this act shall take effect.