

7331

2011-2012 Regular Sessions

I N   A S S E M B L Y

April 29, 2011

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Introduced by M. of A. BARRON -- 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-

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

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lation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts, (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period OR, IN THE CASE OF CONTRACTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN, THE AVERAGE OF THE PREVIOUS FIVE YEARS OF THE REGIONAL CONSUMER PRICE INDEX INCREASES FOR THE N.Y., N.Y.-NORTHEASTERN, N.J. AREA, BASED UPON THE INDEX FOR ALL URBAN CONSUMERS (CPI-U), WHICHEVER IS GREATER; and (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period OR, IN THE CASE OF CONTRACTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN, THE AVERAGE OF THE PREVIOUS FIVE YEARS OF THE REGIONAL CONSUMER PRICE INDEX INCREASES FOR THE N.Y., N.Y.-NORTHEASTERN, N.J. AREA, BASED UPON THE INDEX FOR ALL URBAN CONSUMERS (CPI-U), WHICHEVER IS GREATER, provided it has been satisfactorily established by the contractor that there has been at

1 least an equivalent increase in the amount of his cost of operation,  
2 during the period of the contract.

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

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

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

22 S 3. This act shall take effect immediately provided that the amend-  
23 ments to paragraph a of subdivision 14 of section 305 of the education  
24 law made by section one of this act shall be subject to the expiration  
25 and reversion of such paragraph pursuant to chapter 698 of the laws of  
26 1996, as amended, when upon such date the provisions of section two of  
27 this act shall take effect.