

10147

I N A S S E M B L Y

June 17, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. O'Donnell)
-- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to contracts for the transportation of school children

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 chapter 273 of the laws of 1999, is amended to
3 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. PROVIDED THAT NOTWITHSTANDING ANY OTHER
22 PROVISION OF THIS SUBDIVISION: (I) THE BOARD OF EDUCATION OF A SCHOOL
23 DISTRICT LOCATED IN A CITY WITH A POPULATION OF ONE MILLION OR MORE
24 SHALL INCLUDE IN CONTRACTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN,
25 WHETHER AWARDED THROUGH COMPETITIVE BIDDING OR THROUGH EVALUATION OF
26 PROPOSALS IN RESPONSE TO A REQUEST FOR PROPOSALS PURSUANT TO PARAGRAPH E
27 OF THIS SUBDIVISION, PROVISIONS FOR THE RETENTION OR PREFERENCE IN
28 HIRING OF EMPLOYEES PREVIOUSLY OR CURRENTLY PERFORMING WORK FOR EMPLOY-

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

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1 ERS THAT HAVE BEEN OR ARE PARTIES TO SUCH CONTRACTS, IN CONNECTION WITH
2 SUCH CONTRACTS, AND PROVISIONS FOR THE PRESERVATION OF LEVELS OF WAGES,
3 HEALTH AND RETIREMENT BENEFITS AND SENIORITY FOR EMPLOYEES OF SUCH
4 EMPLOYERS, IN CONNECTION WITH SUCH CONTRACTS; OR (II) THE CHANCELLOR OF
5 THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK SHALL PROMULGATE REGU-
6 LATIONS REQUIRING THE RETENTION OR PREFERENCE IN HIRING OF EMPLOYEES
7 PREVIOUSLY OR CURRENTLY PERFORMING WORK FOR EMPLOYERS THAT HAVE BEEN OR
8 ARE PARTIES TO SUCH CONTRACTS, IN CONNECTION WITH SUCH CONTRACTS, AND
9 PROVISIONS FOR THE PRESERVATION OF LEVELS OF WAGES, HEALTH AND RETIRE-
10 MENT BENEFITS AND SENIORITY FOR EMPLOYEES OF SUCH EMPLOYERS, IN
11 CONNECTION WITH SUCH CONTRACTS. All proposals for such transportation,
12 maintenance, mobile instructional units, or cafeteria and restaurant
13 service shall be in such form as the commissioner may prescribe. Adver-
14 tisement for bids shall be published in a newspaper or newspapers desig-
15 nated by the board of education or trustee of the district having gener-
16 al circulation within the district for such purpose. Such advertisement
17 shall contain a statement of the time when and place where all bids
18 received pursuant to such advertisement will be publicly opened and read
19 either by the school authorities or by a person or persons designated by
20 them. All bids received shall be publicly opened and read at the time
21 and place so specified. At least five days shall elapse between the
22 first publication of such advertisement and the date so specified for
23 the opening and reading of bids. The requirement for competitive bidding
24 shall not apply to an award of a contract for the transportation of
25 pupils or a contract for mobile instructional units, if such award is
26 based on an evaluation of proposals in response to a request for
27 proposals pursuant to paragraph e of this subdivision. The requirement
28 for competitive bidding shall not apply to annual, biennial, or trienni-
29 al extensions of a contract nor shall the requirement for competitive
30 bidding apply to quadrennial or quinquennial year extensions of a
31 contract involving transportation of pupils, maintenance of school buses
32 or mobile instructional units secured either through competitive bidding
33 or through evaluation of proposals in response to a request for
34 proposals pursuant to paragraph e of this subdivision, when such exten-
35 sions (1) are made by the board of education or the trustee of a
36 district, under rules and regulations prescribed by the commissioner,
37 and, (2) do not extend the original contract period beyond five years
38 from the date cafeteria and restaurant service commenced thereunder and
39 in the case of contracts for the transportation of pupils, for the main-
40 tenance of school buses or for mobile instructional units, that such
41 contracts may be extended, except that power is hereby vested in the
42 commissioner, in addition to his existing statutory authority to approve
43 or disapprove transportation or maintenance contracts, (i) to reject any
44 extension of a contract beyond the initial term thereof if he finds that
45 amount to be paid by the district to the contractor in any year of such
46 proposed extension fails to reflect any decrease in the regional consum-
47 er price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon
48 the index for all urban consumers (CPI-U) during the preceding twelve
49 month period; and (ii) to reject any extension of a contract after ten
50 years from the date transportation or maintenance service commenced
51 thereunder, or mobile instructional units were first provided, if in his
52 opinion, the best interests of the district will be promoted thereby.
53 Upon such rejection of any proposed extension, the commissioner may
54 order the board of education or trustee of the district to seek, obtain
55 and consider bids pursuant to the provisions of this section. The board
56 of education or the trustee of a school district electing to extend a

1 contract as provided herein, may, in its discretion, increase the amount
2 to be paid in each year of the contract extension by an amount not to
3 exceed the regional consumer price index increase for the N.Y.,
4 N.Y.-Northeastern, N.J. area, based upon the index for all urban
5 consumers (CPI-U), during the preceding twelve month period, provided it
6 has been satisfactorily established by the contractor that there has
7 been at least an equivalent increase in the amount of his cost of opera-
8 tion, during the period of the contract.

9 S 2. This act shall take effect immediately.