

9499--A

I N   A S S E M B L Y

May 5, 2014

---

Introduced by M. of A. O'DONNELL -- Multi-Sponsored by -- M. of A. SOLAGES -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the education law, in relation to contracts for the transportation of children

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

1     Section 1. Paragraph (b) of subdivision 3 of section 236 of the family  
2     court act, as amended by chapter 424 of the laws of 2012, is amended to  
3     read as follows:  
4     (b) Such order shall further require that such transportation shall be  
5     provided within thirty days of the issuance of such order, and, shall be  
6     provided as part of a municipal cooperation agreement, as part of a  
7     contract awarded to the lowest responsible bidder in accordance with the  
8     provisions of section one hundred three of the general municipal law, or  
9     as part of a contract awarded pursuant to an evaluation of proposals to  
10    the extent authorized by paragraphs e and f of subdivision fourteen of  
11    section three hundred five of the education law and otherwise consistent  
12    with the provisions of this subdivision, and that buses and vehicles  
13    utilized in the performance of such contract shall meet the minimum  
14    requirements for school age children as established by the commissioner  
15    of transportation. WHEN, IN THE CITY OF NEW YORK, THE BOARD OF EDUCATION  
16    OR THE CITY SCHOOL DISTRICT AWARDS A CONTRACT OR CONTRACTS FOR TRANSPOR-  
17    TATION, THE BOARD OR CITY SCHOOL DISTRICT SHALL INCLUDE EMPLOYEE  
18    PROTECTION PROVISIONS RATIONALLY RELATING TO THE PROMOTION OF A POOL OF  
19    QUALIFIED WORKERS AND THE AVOIDANCE OF LABOR DISPUTES, INCLUDING BUT NOT  
20    LIMITED TO PROVISIONS FOR THE PREFERENCE IN HIRING OF EMPLOYEES PERFORM-  
21    ING WORK FOR EMPLOYERS UNDER CONTRACTS WITH THE BOARD OF EDUCATION OR  
22    THE CITY SCHOOL DISTRICT, THE PRESERVATION OF WAGES, BENEFITS AND  
23    SENIORITY FOR SUCH EMPLOYEES, AND OTHER PROVISIONS RELATING TO THE  
24    HIRING, COMPENSATION, AND RETENTION OF EMPLOYEES.

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

LBD14970-02-4

1 S 2. Paragraph a of subdivision 14 of section 305 of the education  
2 law, as amended by chapter 273 of the laws of 1999, is amended to read  
3 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, FURTHER, THAT ALL TRANSPORTATION  
22 CONTRACTS FOR CITIES WITH A POPULATION OF ONE MILLION OR MORE SHALL  
23 INCLUDE EMPLOYEE PROTECTION PROVISIONS RATIONALLY RELATING TO THE  
24 PROMOTION OF A POOL OF QUALIFIED WORKERS AND THE AVOIDANCE OF LABOR  
25 DISPUTES, INCLUDING BUT NOT LIMITED TO PROVISIONS FOR THE PREFERENCE IN  
26 HIRING OF EMPLOYEES PERFORMING WORK FOR EMPLOYERS UNDER CONTRACTS WITH  
27 THE BOARD OF EDUCATION OR THE CITY SCHOOL DISTRICT, THE PRESERVATION OF  
28 WAGES, BENEFITS AND SENIORITY FOR SUCH EMPLOYEES, AND OTHER PROVISIONS  
29 RELATING TO THE HIRING, COMPENSATION, AND RETENTION OF EMPLOYEES. All  
30 proposals for such transportation, maintenance, mobile instructional  
31 units, or cafeteria and restaurant service shall be in such form as the  
32 commissioner may prescribe. Advertisement for bids shall be published  
33 in a newspaper or newspapers designated by the board of education or  
34 trustee of the district having general circulation within the district  
35 for such purpose. Such advertisement shall contain a statement of the  
36 time when and place where all bids received pursuant to such advertise-  
37 ment will be publicly opened and read either by the school authorities  
38 or by a person or persons designated by them. All bids received shall be  
39 publicly opened and read at the time and place so specified. At least  
40 five days shall elapse between the first publication of such advertise-  
41 ment and the date so specified for the opening and reading of bids. The  
42 requirement for competitive bidding shall not apply to an award of a  
43 contract for the transportation of pupils or a contract for mobile  
44 instructional units, if such award is based on an evaluation of  
45 proposals in response to a request for proposals pursuant to paragraph e  
46 of this subdivision. The requirement for competitive bidding shall not  
47 apply to annual, biennial, or triennial extensions of a contract nor  
48 shall the requirement for competitive bidding apply to quadrennial or  
49 quinquennial year extensions of a contract involving transportation of  
50 pupils, maintenance of school buses or mobile instructional units  
51 secured either through competitive bidding or through evaluation of  
52 proposals in response to a request for proposals pursuant to paragraph e  
53 of this subdivision, when such extensions (1) are made by the board of  
54 education or the trustee of a district, under rules and regulations  
55 prescribed by the commissioner, and, (2) do not extend the original  
56 contract period beyond five years from the date cafeteria and restaurant

1 service commenced thereunder and in the case of contracts for the trans-  
2 portation of pupils, for the maintenance of school buses or for mobile  
3 instructional units, that such contracts may be extended, except that  
4 power is hereby vested in the commissioner, in addition to his existing  
5 statutory authority to approve or disapprove transportation or mainte-  
6 nance contracts, (i) to reject any extension of a contract beyond the  
7 initial term thereof if he finds that amount to be paid by the district  
8 to the contractor in any year of such proposed extension fails to  
9 reflect any decrease in the regional consumer price index for the N.Y.,  
10 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-  
11 ers (CPI-U) during the preceding twelve month period; and (ii) to reject  
12 any extension of a contract after ten years from the date transportation  
13 or maintenance service commenced thereunder, or mobile instructional  
14 units were first provided, if in his opinion, the best interests of the  
15 district will be promoted thereby. Upon such rejection of any proposed  
16 extension, the commissioner may order the board of education or trustee  
17 of the district to seek, obtain and consider bids pursuant to the  
18 provisions of this section. The board of education or the trustee of a  
19 school district electing to extend a contract as provided herein, may,  
20 in its discretion, increase the amount to be paid in each year of the  
21 contract extension by an amount not to exceed the regional consumer  
22 price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based  
23 upon the index for all urban consumers (CPI-U), during the preceding  
24 twelve month period, provided it has been satisfactorily established by  
25 the contractor that there has been at least an equivalent increase in  
26 the amount of his cost of operation, during the period of the contract.  
27 S 3. This act shall take effect immediately.