

5069--A

2015-2016 Regular Sessions

I N S E N A T E

April 29, 2015

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 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. 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

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

LBD10726-02-5

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

1 the contractor that there has been at least an equivalent increase in
2 the amount of his cost of operation, during the period of the contract.
3 S 2. This act shall take effect immediately.