

# STATE OF NEW YORK

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4199

2017-2018 Regular Sessions

## IN SENATE

February 6, 2017

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Introduced by Sen. DILAN -- 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 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

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

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1 proposals in response to a request for proposals pursuant to paragraph e  
2 of this subdivision, provisions for the retention or preference in  
3 hiring of employees previously or currently performing work for employ-  
4 ers that have been or are parties to such contracts, in connection with  
5 such contracts, and provisions for the preservation of levels of wages,  
6 health and retirement benefits and seniority for employees of such  
7 employers, in connection with such contracts; or (ii) the chancellor of  
8 the city school district of the city of New York shall promulgate regu-  
9 lations requiring the retention or preference in hiring of employees  
10 previously or currently performing work for employers that have been or  
11 are parties to such contracts, in connection with such contracts, and  
12 provisions for the preservation of levels of wages, health and retire-  
13 ment benefits and seniority for employees of such employers, in  
14 connection with such contracts.

15 All proposals for such transportation,  
16 maintenance, mobile instructional units, or cafeteria and restaurant  
17 service shall be in such form as the commissioner may prescribe. Adver-  
18 tisement for bids shall be published in a newspaper or newspapers desig-  
19 nated by the board of education or trustee of the district having gener-  
20 al circulation within the district for such purpose. Such advertisement  
21 shall contain a statement of the time when and place where all bids  
22 received pursuant to such advertisement will be publicly opened and read  
23 either by the school authorities or by a person or persons designated by  
24 them. All bids received shall be publicly opened and read at the time  
25 and place so specified. At least five days shall elapse between the  
26 first publication of such advertisement and the date so specified for  
27 the opening and reading of bids. The requirement for competitive bidding  
28 shall not apply to an award of a contract for the transportation of  
29 pupils or a contract for mobile instructional units, if such award is  
30 based on an evaluation of proposals in response to a request for  
31 proposals pursuant to paragraph e of this subdivision. The requirement  
32 for competitive bidding shall not apply to annual, biennial, or trienni-  
33 al extensions of a contract nor shall the requirement for competitive  
34 bidding apply to quadrennial or quinquennial year extensions of a  
35 contract involving transportation of pupils, maintenance of school buses  
36 or mobile instructional units secured either through competitive bidding  
37 or through evaluation of proposals in response to a request for  
38 proposals pursuant to paragraph e of this subdivision, when such exten-  
39 sions (1) are made by the board of education or the trustee of a  
40 district, under rules and regulations prescribed by the commissioner,  
41 and, (2) do not extend the original contract period beyond five years  
42 from the date cafeteria and restaurant service commenced thereunder and  
43 in the case of contracts for the transportation of pupils, for the main-  
44 tenance of school buses or for mobile instructional units, that such  
45 contracts may be extended, except that power is hereby vested in the  
46 commissioner, in addition to his existing statutory authority to approve  
47 or disapprove transportation or maintenance contracts, (i) to reject any  
48 extension of a contract beyond the initial term thereof if he finds that  
49 amount to be paid by the district to the contractor in any year of such  
50 proposed extension fails to reflect any decrease in the regional consum-  
51 er price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon  
52 the index for all urban consumers (CPI-U) during the preceding twelve  
53 month period; and (ii) to reject any extension of a contract after ten  
54 years from the date transportation or maintenance service commenced  
55 thereunder, or mobile instructional units were first provided, if in his  
56 opinion, the best interests of the district will be promoted thereby.  
Upon such rejection of any proposed extension, the commissioner may

1 order the board of education or trustee of the district to seek, obtain  
2 and consider bids pursuant to the provisions of this section. The board  
3 of education or the trustee of a school district electing to extend a  
4 contract as provided herein, may, in its discretion, increase the amount  
5 to be paid in each year of the contract extension by an amount not to  
6 exceed the regional consumer price index increase for the N.Y.,  
7 N.Y.-Northeastern, N.J. area, based upon the index for all urban  
8 consumers (CPI-U), during the preceding twelve month period, provided it  
9 has been satisfactorily established by the contractor that there has  
10 been at least an equivalent increase in the amount of his cost of opera-  
11 tion, during the period of the contract.

12 § 2. This act shall take effect immediately.