

STATE OF NEW YORK

6766

2017-2018 Regular Sessions

IN SENATE

June 16, 2017

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law and the tax 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. (1) 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 or her opinion, the
11 best interests of the district will be promoted thereby. Except as
12 provided in paragraph e of this subdivision, all such contracts involv-
13 ing an 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 or her opinion, the best interests of the district will be
19 promoted thereby and, upon such rejection of all bids, the commissioner
20 shall order the board of education or trustee of the district to seek,
21 obtain and consider new proposals. All proposals for such transporta-
22 tion, maintenance, mobile instructional units, or cafeteria and restau-
23 rant service shall be in such form as the commissioner may prescribe.
24 Advertisement for bids shall be published in a newspaper or newspapers
25 designated by the board of education or trustee of the district having

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

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

51 (2) Notwithstanding any other provision of this subdivision, the board
52 of education of a school district located in a city with at least one
53 million inhabitants shall include in contracts for the transportation of
54 school children in kindergarten through grade twelve, whether awarded
55 through competitive bidding or through evaluation of proposals in
56 response to a request for proposals pursuant to paragraph e of this

1 subdivision, provisions for the retention or preference in hiring of
2 school bus workers and for the preservation of wages, health, welfare
3 and retirement benefits and seniority for school bus workers who are
4 hired pursuant to such provisions for retention or preference in hiring,
5 in connection with such contracts. For purposes of this subparagraph,
6 "school bus worker" shall mean an operator, mechanic, dispatcher or
7 attendant who: (i) was employed as of June thirtieth, two thousand ten
8 or at any time thereafter by (A) a contractor that was a party to a
9 contract with the board of education of a school district located in a
10 city with at least one million inhabitants for the transportation of
11 school children in kindergarten through grade twelve, in connection with
12 such contract, or (B) a subcontractor of a contractor that was a party
13 to a contract with the board of education of a school district located
14 in a city with at least one million inhabitants for the transportation
15 of school children in kindergarten through grade twelve, in connection
16 with such contract, and (ii) has been furloughed or become unemployed as
17 a result of a loss of such contract, or a part of such contract, by such
18 contractor or such subcontractor, or as a result of a reduction in
19 service directed by such board of education during the term of such
20 contract. Any costs directly attributed to the provisions of this
21 subparagraph shall be covered by the board of education of the school
22 district located in a city with at least one million inhabitants.

23 § 2. Subdivision (a) of section 1115 of the tax law is amended by
24 adding a new paragraph 45 to read as follows:

25 (45) School buses as such term is defined in section one hundred
26 forty-two of the vehicle and traffic law, and parts, equipment, lubri-
27 cants and fuel purchased and used in their operation.

28 § 3. Paragraph (b) of subdivision 1 of section 3627 of the education
29 law, as amended by section 7 of part A of chapter 56 of the laws of
30 2014, is amended to read as follows:

31 (b) reimbursing the cost incurred by licensed transportation carriers
32 pursuant to contracts, which may include fringe benefits including, but
33 not limited to, qualified tuition reductions allowable under federal
34 law, with such school district for providing transportation for those
35 children attending public and nonpublic schools in grades kindergarten
36 through six who remain at the same school for which they are enrolled
37 for regularly scheduled academic classes from half-past nine o'clock in
38 the morning or earlier until four o'clock in the afternoon or later, on
39 weekdays, and reside at least one mile from their school of attendance
40 for grades three through six, and at least one-half mile from their
41 school of attendance for grades kindergarten through two. Provided,
42 however, that qualified tuition reductions allowed by this paragraph and
43 subdivision one of section thirty-six hundred twenty-three-a of this
44 part shall not annually exceed four million dollars.

45 § 4. Subdivision 1 of section 3623-a of the education law is amended
46 by adding a new paragraph g to read as follows:

47 g. For transportation contracts provided pursuant to section thirty-
48 six hundred twenty-seven of this part, which may include fringe benefits
49 including, but not limited to, qualified tuition reductions allowable
50 under federal law. Provided however that qualified tuition reductions
51 allowed by this subdivision and paragraph b of subdivision one of
52 section thirty-six hundred twenty-seven of this part shall not annually
53 exceed four million dollars.

54 § 5. This act shall take effect immediately; provided, however, that
55 the provisions of section two of this act shall take effect on the first
56 day of a quarterly sales tax period, as set forth in subdivision (b) of

1 section 1136 of the tax law, next succeeding April 1, 2018 and sections
2 three and four of this act shall be deemed to have been in full force
3 and effect on and after section 23 of part A of chapter 57 of the laws
4 of 2013, took effect.