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:

Section 1. Paragraph a of subdivision 14 of section 305 of the education law, as amended by chapter 273 of the laws of 1999, is amended to read as follows:

a. **(1)** All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his **or her** opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his **or her** opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers 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.

LBD13244-01-7

general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions [~~(1)~~] **(i)** are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, [~~(2)~~] **(ii)** do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his **or her** existing statutory authority to approve or disapprove transportation or maintenance contracts, [~~(i)~~] **(A)** to reject any extension of a contract beyond the initial term thereof if he **or she** finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and [~~(ii)~~] **(B)** to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his **or her** opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his **or her** cost of operation, during the period of the contract.

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

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

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

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

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

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

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

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

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

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