STATE OF NEW YORK

7749

2019-2020 Regular Sessions

IN ASSEMBLY

May 17, 2019

Introduced by M. of A. O'DONNELL -- read once and referred 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:

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 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 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 general circu-

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

LBD11915-03-9

lation 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 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 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 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 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 and the cost of such provisions shall be identified in contracts awarded pursuant to this subparagraph. For purposes of this subparagraph, "contracts for the transportation of school children" shall mean contracts for the transportation of pupils attending school in such city school district under which transportation services are performed by school bus workers; and "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.

(3) By July thirtieth, two thousand twenty and annually thereafter, the board of education located in a city with at least one million inhabitants shall report to the director of the division of the budget, the secretary to the senate finance committee, and the secretary to the assembly ways and means committee on any competitive solicitation, issued after April first, two thousand nineteen, undertaken for the two thousand nineteen--two thousand twenty school year and thereafter relating to contracts for the transportation of school children in kindergarten through grade twelve pursuant to subparagraph two of this paragraph that contain 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. Such report shall address the results of 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 associated with the contracts containing such provisions, a listing of other provisions contained in such contracts, and the average increase in cost of such contracts, if any, and a detailed explanation for such increases.

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

g. Notwithstanding any provision in this subdivision to the contrary, for a board of education of a city school district located in a city with at least one million inhabitants, expenditures solely for substitute contracts eligible for aid pursuant to subdivision seven of section thirty-six hundred two of this article shall be reduced, for the original term of such substitute contracts, by the costs attributable to 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 substitute contracts, as such costs are identified pursuant to

subparagraph two of paragraph a of subdivision fourteen of section three hundred five of this chapter, as such identified costs may be adjusted pursuant to such substitute contracts. Such identified costs shall not include any costs attributable to wages or benefits, or to any increase in wages or benefits, other than such incremental costs attributable to 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 substitute contracts. For the purposes of this paragraph: "substitute contracts" shall mean contracts for transportation services for students with disabilities and their non-disabled peers, procured, pursuant to a competitive solicitation issued after April first, two thousand nineteen, for the purpose of replacing expired or terminated contracts which had been awarded pursuant to request for bids number B2192 or B2321; "contracts for transportation services" shall mean contracts for the transportation of pupils attending school in such city school district under which transportation services are performed by school bus workers; and "original term" shall mean the initial term of the substitute contract, or the initial term of the substitute contract plus the initial term of any additional subsequent substitute contracts, provided that the initial term of any substitute contract and the initial term of any subsequent substitute contracts, if any, shall equal, for purposes of this paragraph, a cumulative total of five years.

§ 3. This act shall take effect immediately.