

# STATE OF NEW YORK

5096

2019-2020 Regular Sessions

## IN SENATE

April 9, 2019

Introduced by Sens. JACKSON, LIU -- 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. (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~~] the opinion of the  
11 commissioner, the best interests of the district will be promoted there-  
12 by. Except as provided in paragraph e of this subdivision, all such  
13 contracts involving an annual expenditure in excess of the amount speci-  
14 fied for purchase contracts in the bidding requirements of the general  
15 municipal law shall be awarded to the lowest responsible bidder, which  
16 responsibility shall be determined by the board of education or the  
17 trustee of a district, with power hereby vested in the commissioner to  
18 reject any or all bids if, in [~~his~~] the opinion of the commissioner, the  
19 best interests of the district will be promoted thereby and, upon such  
20 rejection of all bids, the commissioner shall order the board of educa-  
21 tion or trustee of the district to seek, obtain and consider new  
22 proposals. All proposals for such transportation, maintenance, mobile  
23 instructional units, or cafeteria and restaurant service shall be in  
24 such form as the commissioner may prescribe. Advertisement for bids  
25 shall be published in a newspaper or newspapers designated by the board

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

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

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

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

24 § 2. This act shall take effect immediately.