

# 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 Assem-  
bly, 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 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. All proposals for such transportation, main-  
22 tenance, mobile instructional units, or cafeteria and restaurant service  
23 shall be in such form as the commissioner may prescribe. Advertisement  
24 for bids shall be published in a newspaper or newspapers designated by  
25 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.

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1 lation within the district for such purpose. Such advertisement shall  
2 contain a statement of the time when and place where all bids received  
3 pursuant to such advertisement will be publicly opened and read either  
4 by the school authorities or by a person or persons designated by them.  
5 All bids received shall be publicly opened and read at the time and  
6 place so specified. At least five days shall elapse between the first  
7 publication of such advertisement and the date so specified for the  
8 opening and reading of bids. The requirement for competitive bidding  
9 shall not apply to an award of a contract for the transportation of  
10 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 [~~(i)~~] (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, [~~(ii)~~] (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 existing statutory authority to  
28 approve or disapprove transportation or maintenance contracts, [~~(i)~~] (A)  
29 to reject any extension of a contract beyond the initial term thereof if  
30 he finds that amount to be paid by the district to the contractor in any  
31 year of such proposed extension fails to reflect any decrease in the  
32 regional consumer price index for the N.Y., N.Y.-Northeastern, N.J.  
33 area, based upon the index for all urban consumers (CPI-U) during the  
34 preceding twelve month period; and [~~(ii)~~] (B) to reject any extension of  
35 a contract after ten years from the date transportation or maintenance  
36 service commenced thereunder, or mobile instructional units were first  
37 provided, if in his opinion, the best interests of the district will be  
38 promoted thereby. Upon such rejection of any proposed extension, the  
39 commissioner may order the board of education or trustee of the district  
40 to seek, obtain and consider bids pursuant to the provisions of this  
41 section. The board of education or the trustee of a school district  
42 electing to extend a contract as provided herein, may, in its  
43 discretion, increase the amount to be paid in each year of the contract  
44 extension by an amount not to exceed the regional consumer price index  
45 increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the  
46 index for all urban consumers (CPI-U), during the preceding twelve month  
47 period, provided it has been satisfactorily established by the contrac-  
48 tor that there has been at least an equivalent increase in the amount of  
49 his cost of operation, during the period of the contract.

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

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

24 (3) By July thirtieth, two thousand twenty and annually thereafter,  
25 the board of education located in a city with at least one million  
26 inhabitants shall report to the director of the division of the budget,  
27 the secretary to the senate finance committee, and the secretary to the  
28 assembly ways and means committee on any competitive solicitation,  
29 issued after April first, two thousand nineteen, undertaken for the two  
30 thousand nineteen--two thousand twenty school year and thereafter relat-  
31 ing to contracts for the transportation of school children in kindergar-  
32 ten through grade twelve pursuant to subparagraph two of this paragraph  
33 that contain provisions for the retention or preference in hiring of  
34 school bus workers and for the preservation of wages, health, welfare  
35 and retirement benefits and seniority for school bus workers who are  
36 hired pursuant to such provisions for retention or preference in hiring,  
37 in connection with such contracts. Such report shall address the results  
38 of retention or preference in hiring of school bus workers and for the  
39 preservation of wages, health, welfare and retirement benefits and  
40 seniority for school bus workers associated with the contracts contain-  
41 ing such provisions, a listing of other provisions contained in such  
42 contracts, and the average increase in cost of such contracts, if any,  
43 and a detailed explanation for such increases.

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

46 g. Notwithstanding any provision in this subdivision to the contrary,  
47 for a board of education of a city school district located in a city  
48 with at least one million inhabitants, expenditures solely for substi-  
49 tute contracts eligible for aid pursuant to subdivision seven of section  
50 thirty-six hundred two of this article shall be reduced, for the  
51 original term of such substitute contracts, by the costs attributable to  
52 provisions for the retention or preference in hiring of school bus work-  
53 ers and for the preservation of wages, health, welfare and retirement  
54 benefits and seniority for school bus workers who are hired pursuant to  
55 such provisions for retention or preference in hiring in connection with  
56 such substitute contracts, as such costs are identified pursuant to

1 subparagraph two of paragraph a of subdivision fourteen of section three  
2 hundred five of this chapter, as such identified costs may be adjusted  
3 pursuant to such substitute contracts. Such identified costs shall not  
4 include any costs attributable to wages or benefits, or to any increase  
5 in wages or benefits, other than such incremental costs attributable to  
6 provisions for the retention or preference in hiring of school bus work-  
7 ers and for the preservation of wages, health, welfare and retirement  
8 benefits and seniority for school bus workers who are hired pursuant to  
9 such provisions for retention or preference in hiring in connection with  
10 such substitute contracts. For the purposes of this paragraph: "substi-  
11 tute contracts" shall mean contracts for transportation services for  
12 students with disabilities and their non-disabled peers, procured,  
13 pursuant to a competitive solicitation issued after April first, two  
14 thousand nineteen, for the purpose of replacing expired or terminated  
15 contracts which had been awarded pursuant to request for bids number  
16 B2192 or B2321; "contracts for transportation services" shall mean  
17 contracts for the transportation of pupils attending school in such city  
18 school district under which transportation services are performed by  
19 school bus workers; and "original term" shall mean the initial term of  
20 the substitute contract, or the initial term of the substitute contract  
21 plus the initial term of any additional subsequent substitute contracts,  
22 provided that the initial term of any substitute contract and the  
23 initial term of any subsequent substitute contracts, if any, shall  
24 equal, for purposes of this paragraph, a cumulative total of five years.

25 § 3. This act shall take effect immediately.