

# STATE OF NEW YORK

2083

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. DINOWITZ, SIMON, L. ROSENTHAL, EPSTEIN, SEAWRIGHT, COLTON, THIELE, FRONTUS, CARROLL, McMAHON, DICKENS, CYMBROWITZ, REYES, BARRON, OTIS, GOTTFRIED, STECK, JACOBSON, FAHY, RICHARDSON, ENGLEBRIGHT -- read once and referred to the Committee on Transportation

AN ACT to amend the transportation law, in relation to procurement of contract proposals for zero-emission buses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The transportation law is amended by adding a new section 18-c to read as follows:

§ 18-c. Zero-emission bus procurement contract proposals. 1. Every public transportation system eligible to receive operating assistance pursuant to section eighteen-b of this article shall use a system that incorporates a best-value contracting framework to consider the quality, cost and efficiency of offerors when evaluating procurement contract proposals for the purchase of zero-emission buses and charging equipment. Such framework shall reflect, whenever possible, objective and quantifiable analysis. Such framework shall identify a quantitative factor for offerors that prioritize and include the following in such procurement contract proposal:

a. an employment plan which shall include but not be limited to:

(i) worker wages;

(ii) worker benefits;

(iii) worker safety;

(iv) training, retraining, and registered apprenticeship programs; and

(v) a commitment to create high quality jobs within the state to the maximum extent practicable for disadvantaged or underrepresented individuals;

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

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1 b. a commitment to consider the interests of members of the community  
2 that surround such offeror's facility and the interests of members of  
3 the community from which workers are recruited; and

4 c. a description of efforts by the offeror to lower greenhouse gas  
5 emissions and such offeror's impact on climate change.

6 2. The framework established by subdivision one of this section shall  
7 include notice to offerors stating that:

8 a. the terms and conditions of employment, content of employment plans  
9 and reports required by this section shall be subject to disclosure  
10 under the Freedom of Information Law; and

11 b. the final contract and compliance documents shall be made available  
12 to the public on the department's website.

13 3. For purposes of this section "zero-emission bus" shall mean a motor  
14 vehicle that has a seating capacity of fifteen or more passengers in  
15 addition to the driver and used for the transportation of persons and:

16 a. is propelled by an electric motor and associated power electronics  
17 which provide acceleration torque to the drive wheels during normal  
18 vehicle operation and draws electricity from a hydrogen fuel cell or  
19 from a battery which is capable of being recharged from an external  
20 source of electricity; or

21 b. otherwise operates without direct emission of atmospheric pollu-  
22 tants.

23 4. This section shall be subject to the provisions of section one  
24 hundred thirty-nine-i of the state finance law. Public transportation  
25 systems shall coordinate with the department to ensure compliance.

26 5. The department shall promulgate regulations to establish the forms,  
27 manner and process by which offerors shall submit contract proposals  
28 pursuant to this section. Such regulations shall include requirements  
29 to demonstrate details of such offerors' employment plan and compliance  
30 with this section.

31 6. In the first full year in which a public transportation system  
32 enters into a contract for the procurement of zero emission buses, such  
33 public transportation system shall issue a report on or before the  
34 beginning of each fiscal quarter to the commissioner. On or before  
35 December thirty-first of each year thereafter, such public transporta-  
36 tion system shall issue a report to the commissioner, the governor, the  
37 temporary president of the senate, the minority leader of the senate,  
38 the speaker of the assembly, the minority leader of the assembly. Such  
39 reports shall detail compliance with the provisions of this section by  
40 such public transportation system, detail compliance with the provisions  
41 of this section by relevant contracting entities and shall include  
42 descriptions of factors considered in evaluating procurement contract  
43 proposals.

44 § 2. Severability. The provisions of this act shall be severable, and  
45 if the application of any clause, sentence, paragraph, subdivision,  
46 section or part of this act to any person or circumstance shall be  
47 adjudged by any court of competent jurisdiction to be invalid, such  
48 judgment shall not necessarily affect, impair or invalidate the applica-  
49 tion of any such clause, sentence, paragraph, subdivision, section, part  
50 of this act or remainder thereof, as the case may be, to any other  
51 person or circumstance, but shall be confined in its operation to the  
52 clause, sentence, paragraph, subdivision, section or part thereof  
53 directly involved in the controversy in which such judgment shall have  
54 been rendered.

55 § 3. This act shall take effect immediately.