

# STATE OF NEW YORK

3405

2021-2022 Regular Sessions

## IN SENATE

January 29, 2021

Introduced by Sens. KENNEDY, BAILEY, GOUNARDES, HOYLMAN, KAMINSKY, KAPLAN, KRUEGER, MAY, THOMAS -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. The transportation law is amended by adding a new section  
2 18-c to read as follows:

3 § 18-c. Zero-emission bus procurement contract proposals. 1. Every  
4 public transportation system eligible to receive operating assistance  
5 pursuant to section eighteen-b of this article shall use a system that  
6 incorporates a best-value contracting framework to consider the quality,  
7 cost and efficiency of offerors when evaluating procurement contract  
8 proposals for the purchase of zero-emission buses and charging equip-  
9 ment. Such framework shall reflect, whenever possible, objective and  
10 quantifiable analysis. Such framework shall identify a quantitative  
11 factor for offerors that prioritize and include the following in such  
12 procurement contract proposal:

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

14 (i) worker wages;

15 (ii) worker benefits;

16 (iii) worker safety;

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

18 (v) a commitment to create high quality jobs within the state to the  
19 maximum extent practicable for disadvantaged or underrepresented indi-  
20 viduals;

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

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

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

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

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

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

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

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

18 b. otherwise operates without direct emission of atmospheric pollu-  
19 tants.

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

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

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

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

52 § 3. This act shall take effect immediately.