

# STATE OF NEW YORK

3535--C

2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

Introduced by Sens. KENNEDY, BAILEY, BIAGGI, BOYLE, BRESLIN, BRISPORT, BROOKS, BROUK, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HELMING, HINCHEY, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KRUEGER, LANZA, LIU, MANNION, MARTUCCI, MATTERA, MAY, MAYER, MYRIE, OBERACKER, ORTT, PALUMBO, PARKER, RATH, REICHLIN-MELNICK, RIVERA, RYAN, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERINO, SERRANO, SKOUFIS, STAVISKY, STEC, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the transportation law, in relation to the purchase of zero-emission buses; and to amend the public authorities law and the general municipal law, in relation to the procurement of electric-powered buses, vehicles or other related equipment

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 17-c to read as follows:  
3 § 17-c. Zero-emission buses. 1. No later than January first, two thou-  
4 sand twenty-nine, every public transportation system eligible to receive  
5 operating assistance under the provisions of section eighteen-b of this  
6 article shall be required to purchase only zero-emission buses and  
7 related equipment and facilities as part of the normal replacement of  
8 its fleet. No later than January first, two thousand thirty-five, any  
9 hydrogen fuel cell zero-emission bus shall be powered by hydrogen  
10 derived from zero-emission electricity.

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

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1 2. For purposes of this section "zero-emission bus" shall mean a motor  
2 vehicle that has a seating capacity of fifteen or more passengers in  
3 addition to the driver and used for the transportation of persons; is  
4 propelled by an electric motor and associated power electronics which  
5 provide acceleration torque to the drive wheels during normal vehicle  
6 operation and draws electricity from a hydrogen fuel cell or from a  
7 battery which is capable of being recharged from an external source of  
8 electricity; or otherwise operates without direct emission of atmospher-  
9 ic pollutants. Provided, however, that for purposes of this section,  
10 zero-emission buses shall include paratransit vehicles specifically  
11 designated by public transportation systems to serve the needs of  
12 persons who cannot use fixed route transit buses, subways or rapid tran-  
13 sit.

14 3. (a) Notwithstanding any provision of law to the contrary, all  
15 rights or benefits, including terms and conditions of employment, and  
16 protection of civil service and collective bargaining status of all  
17 existing employees of authorized entities shall be preserved and  
18 protected. Nothing in this section shall result in the: (i) displacement  
19 of any currently employed worker or loss of position (including  
20 partial displacement such as a reduction in the hours of non-overtime  
21 work, wages, or employment benefits) or result in the impairment of  
22 existing collective bargaining agreements; (ii) transfer of existing  
23 duties and functions related to maintenance and operations currently  
24 performed by existing employees of authorized entities to a contracting  
25 entity; or (iii) transfer of future duties and functions ordinarily  
26 performed by employees of authorized entities to a contracting entity.

27 (b) At least one year prior to the beginning of the procurement proc-  
28 ess for new zero-emission buses, the transit authority, agency or muni-  
29 cipality shall create and implement a workforce development report that  
30 (i) forecasts the number of jobs provided by existing omnibuses, rolling  
31 stock, vehicles or equipment that would be eliminated or substantially  
32 changed after the purchase, as well as the number of jobs expected to be  
33 created at the transit provider by the proposed purchase over a six-year  
34 period from the date of the publication of the workforce development  
35 report, (ii) identifies gaps in skills needed to operate and maintain  
36 the new zero-emission buses, rolling stock, vehicles or related equip-  
37 ment, (iii) includes a comprehensive plan to transition, train, or  
38 retrain employees that are impacted by the proposed purchase, and (iv)  
39 contains an estimated budget to transition, train, or retrain employees  
40 that are impacted by the proposed purchase.

41 (c) Nothing contained herein shall be construed to affect (i) the  
42 existing rights of employees pursuant to an existing collective bargain-  
43 ing agreement, or (ii) the existing representational relationships among  
44 employee organizations or the bargaining relationships between the  
45 employer and an employee organization. Prior to beginning the procure-  
46 ment process for new zero-emission buses, rolling stock, vehicles or  
47 related equipment, the transit authority, agency or municipality shall  
48 inform the respective collective bargaining agent of any potential jobs  
49 that may be affected, altered, or eliminated as a result of the  
50 purchase, and it shall be a mandatory subject for collective bargaining.

51 4. (a) Beginning in two thousand twenty-eight and every five years  
52 thereafter until a public transportation system has transitioned entire-  
53 ly to using zero-emission buses, every public transportation system  
54 covered pursuant to this section shall submit to the department a tran-  
55 sition plan for complying with the two thousand twenty-nine procurement

1 requirement and for transitioning to zero-emission buses. Such plan  
2 shall include without limitation:

3 (i) A list or report of the policies and practices to comply with the  
4 two thousand twenty-nine requirement to procure only zero-emission buses  
5 and a goal to fully transition to zero-emission fleets by two thousand  
6 forty, including other relevant procurement targets and performance  
7 metrics, including without limitation an interim goal of converting to  
8 fifty percent zero-emission buses by two thousand thirty-five.

9 (ii) Identification of barriers, constraints, and risks to one hundred  
10 percent transition based on a public transportation system's specific  
11 routes and unique circumstances, and strategies to address those issues.

12 (iii) Identification of the types of buses a public transportation  
13 system plans to deploy, and a schedule of zero-emission and combustion  
14 bus purchase and lease options, and zero-emission bus retrofits if  
15 applicable.

16 (iv) A schedule for the construction of facilities and infrastructure  
17 modifications or upgrades, including but not limited to charging, fuel-  
18 ing, and maintenance facilities, needed to support the deployment of  
19 zero-emission buses.

20 (v) An outreach plan to coordinate with other relevant stakeholders,  
21 including utilities, local governments, and bus riders.

22 (vi) A plan to prioritize zero-emission bus deployments in or near  
23 disadvantaged communities, defined in article seventy-five of the envi-  
24 ronmental conservation law.

25 (vii) A training plan and schedule for bus operators, maintenance and  
26 repair staff, which may be incorporated into a workforce development  
27 report required pursuant to this section, section twenty-eight hundred  
28 seventy-eight-a of the public authorities law, and section one hundred  
29 four of the general municipal law.

30 (viii) Cost estimates to implement the zero-emission bus transition,  
31 and identification of existing funding sources available that could be  
32 used to transition to one hundred percent zero-emission buses.

33 (ix) An analysis of specific strategies, constraints, and needs  
34 related to the procurement of zero-emission buses for paratransit oper-  
35 ations and, if relevant, intercity bus service or bus service that is  
36 intended to satisfy longer distance travel demand between cities,  
37 villages and unincorporated urban places.

38 (x) Identification of fuel sources used to fuel hydrogen fuel cell  
39 buses, and a plan to ensure all hydrogen fuel cell zero-emission buses  
40 will use hydrogen derived from zero-emission electricity by two thousand  
41 thirty-five.

42 (b) (i) To effectuate the purposes of this section, public transporta-  
43 tion systems may request and shall receive from any department, divi-  
44 sion, board, bureau, commission or other agency of the state or any  
45 public authority such technical assistance, information and data as will  
46 enable them to properly carry out its powers and duties pursuant to this  
47 section.

48 (ii) Provided additionally that public transportation systems shall  
49 consult with the department and with the New York state energy research  
50 and development authority in developing their transition plans.

51 (iii) The department, in consultation with the New York state energy  
52 research and development authority pursuant to sections eighteen hundred  
53 fifty-four and eighteen hundred eighty-four of the public authorities  
54 law and any other relevant sections, shall provide technical assistance  
55 to public transportation systems upon request, and shall provide assist-  
56 ance to public transportation systems upon request for assistance in

1 pursuing state and federal grant and other funding opportunities. The  
2 department shall also facilitate the coordination of purchasing, instal-  
3 lation and sharing services between public transportation systems serv-  
4 ing primarily outside of cities with a population of one million or  
5 more.

6 (c) Public transportation systems shall solicit public comment in  
7 developing transition plans, and are authorized to hold public hearings  
8 and meetings in accordance with article seven of the public officers  
9 law, and consult with any organization, educational institution, or  
10 other government entity or person, to enable them to accomplish their  
11 duties.

12 (d) The department shall publish transition plans on their publicly  
13 accessible website within thirty days of the plans being finalized with  
14 the department.

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

17 § 18-c. Capital plan requirements. In formulating the five-year  
18 department of transportation capital plans, the department shall: (a)  
19 consider the requirement of section seventeen-c of this article in its  
20 disbursement of payment for the costs of mass transportation capital  
21 projects and facilities and give preference in the form of payments to  
22 public transportation systems eligible to receive operating assistance  
23 under the provisions of section eighteen-b of this article that are able  
24 to demonstrate commitments made towards purchasing and retrofitting  
25 zero-emission buses and related equipment and facilities; and (b) facil-  
26 itate for purposes of meeting the requirement of section seventeen-c of  
27 this article the coordination of purchasing, installation and sharing  
28 services between public transportation systems serving primarily outside  
29 the city of New York.

30 § 3. Section 2878-a of the public authorities law is amended by adding  
31 a new subdivision 3 to read as follows:

32 3. (a) A transportation authority established under this chapter may,  
33 by resolution approved by a two-thirds vote of its members then in  
34 office, or by a declaration that competitive bidding is impractical or  
35 inappropriate with respect to electric-powered omnibuses, rolling stock,  
36 vehicles or other related equipment because the item is available  
37 through an existing contract between a vendor and (i) another public  
38 authority provided that such other authority utilized a process of  
39 competitive bidding or a process of competitive requests for proposals  
40 to award such contracts, or (ii) the state of New York, or (iii) a poli-  
41 tical subdivision of the state of New York, provided that in any case  
42 when under this subdivision the authority determines that obtaining such  
43 item thereby would be in the public interest and sets forth the reasons  
44 for such determination. The authority shall accept sole responsibility  
45 for any payment due the vendor as a result of the authority's order. In  
46 each case where the authority declares competitive bidding impractical  
47 or inappropriate, it shall state the reason therefor in writing and  
48 summarize any negotiations that have been conducted. The authority shall  
49 not award any contract pursuant to this subdivision earlier than thirty  
50 days from the date on which the authority declares that competitive  
51 bidding is impractical or inappropriate. All procurements approved  
52 pursuant to this subdivision shall be subject to audit and inspection by  
53 the department of audit and control or any successor agencies. For  
54 purposes of this subdivision, "transportation authority" shall not  
55 include transportation authorities governed under titles nine, nine-A  
56 and eleven of article five of this chapter or title three of article

1 three of this chapter. For the purposes of this subdivision, "electric-  
2 powered omnibuses" shall include any bus owned, leased, rented or other-  
3 wise controlled by the authority that otherwise meets the definition of  
4 bus provided in section five hundred nine-a of the vehicle and traffic  
5 law that is propelled by an electric motor and associated power elec-  
6 tronics which provide acceleration torque to the drive wheels during  
7 normal vehicle operation and draws electricity from a hydrogen fuel cell  
8 or from a battery which is capable of being recharged from an external  
9 source of electricity; or otherwise operates without direct emission of  
10 atmospheric pollutants.

11 (b) (i) Notwithstanding any provision of law to the contrary, all  
12 rights or benefits, including terms and conditions of employment, and  
13 protection of civil service and collective bargaining status of all  
14 existing employees of authorized entities shall be preserved and  
15 protected. Nothing in this section shall result in the: (1) displacement  
16 of any currently employed worker or loss of position, including partial  
17 displacement such as a reduction in the hours of non-overtime work,  
18 wages, or employment benefits, or result in the impairment of existing  
19 collective bargaining agreements; (2) transfer of existing duties and  
20 functions related to maintenance and operations currently performed by  
21 existing employees of authorized entities to a contracting entity; or  
22 (3) transfer of future duties and functions ordinarily performed by  
23 employees of authorized entities to a contracting entity.

24 (ii) At least one year prior to the beginning of the procurement proc-  
25 ess for new electric-powered omnibuses, rolling stock, vehicles or  
26 related equipment, the authority shall create and implement a workforce  
27 development report that (1) forecasts the number of jobs provided by  
28 existing omnibuses, rolling stock, vehicles or equipment that would be  
29 eliminated or substantially changed after the purchase, as well as the  
30 number of jobs expected to be created at the authority by the proposed  
31 purchase over a six-year period from the date of the publication of the  
32 workforce development report, (2) identifies gaps in skills needed to  
33 operate and maintain the new electric-powered omnibuses, rolling stock,  
34 vehicles or related equipment, (3) includes a comprehensive plan to  
35 transition, train, or retrain employees that are impacted by the  
36 proposed purchase, and (4) contains an estimated budget to transition,  
37 train, or retrain employees that are impacted by the proposed purchase.

38 (c) Nothing contained herein shall be construed to affect (i) the  
39 existing rights of employees pursuant to an existing collective bargain-  
40 ing agreement, or (ii) the existing representational relationships among  
41 employee organizations or the bargaining relationships between the  
42 employer and an employee organization. Prior to beginning the procure-  
43 ment process for new electric-powered omnibuses, rolling stock, vehicles  
44 or related equipment, the transit agency or municipality shall inform  
45 the respective collective bargaining agent of any potential jobs that  
46 may be affected, altered, or eliminated as a result of the purchase, and  
47 it shall be a mandatory subject for collective bargaining.

48 § 4. Section 104 of the general municipal law is amended by adding a  
49 new subdivision 3 to read as follows:

50 3. (a) Notwithstanding the provisions of section one hundred three of  
51 this article or of any other general, special or local law, any chief  
52 executive officer of a political subdivision or agency which operates a  
53 public transportation system is authorized to make purchases of elec-  
54 tric-powered omnibuses or other related equipment upon a resolution  
55 approved by a two-thirds vote of its board then in office because the  
56 item is available through an existing contract between a vendor and (i)

1 a public authority of the state provided that such other authority  
2 utilized a process of competitive bidding or a process of competitive  
3 requests for proposals to award such contracts, or (ii) the state of New  
4 York, or (iii) a political subdivision of the state of New York,  
5 provided that in any case when under this subdivision the political  
6 subdivision determines that obtaining such item thereby would be in the  
7 public interest and sets forth the reasons for such determination. The  
8 political subdivision shall not award any contract pursuant to this  
9 subdivision earlier than thirty days from the date on which the poli-  
10 tical subdivision declares that competitive bidding is impractical or  
11 inappropriate. All purchases shall be subject to audit and inspection by  
12 the political subdivision for which made, in addition to the department  
13 of audit and control of New York state. For purposes of this subdivi-  
14 sion, "political subdivision or agency which operates a public transpor-  
15 tation system" shall not include transportation authorities governed  
16 under titles nine, nine-A and eleven of article five of the public  
17 authorities law or title three of article three of the public authori-  
18 ties law. For the purposes of this subdivision, "electric-powered omni-  
19 buses" shall include any bus owned, leased, rented or otherwise  
20 controlled by the political subdivision that otherwise meets the defi-  
21 nition of bus provided in section five hundred nine-a of the vehicle and  
22 traffic law that is propelled by an electric motor and associated power  
23 electronics which provide acceleration torque to the drive wheels during  
24 normal vehicle operation and draws electricity from a hydrogen fuel cell  
25 or from a battery which is capable of being recharged from an external  
26 source of electricity; or otherwise operates without direct emission of  
27 atmospheric pollutants.

28 (b) (i) Notwithstanding any provision of law to the contrary, all  
29 rights or benefits, including terms and conditions of employment, and  
30 protection of civil service and collective bargaining status of all  
31 existing employees of authorized entities shall be preserved and  
32 protected. Nothing in this section shall result in the: (1) displacement  
33 of any currently employed worker or loss of position, including  
34 partial displacement such as a reduction in the hours of non-overtime  
35 work, wages, or employment benefits, or result in the impairment of  
36 existing collective bargaining agreements; (2) transfer of existing  
37 duties and functions related to maintenance and operations currently  
38 performed by existing employees of authorized entities to a contracting  
39 entity; or (3) transfer of future duties and functions ordinarily  
40 performed by employees of authorized entities to a contracting entity.

41 (ii) At least one year prior to the beginning of the procurement proc-  
42 ess for new electric-powered omnibuses, rolling stock, vehicles or  
43 related equipment, the transit agency or municipality shall create and  
44 implement a workforce development report that (1) forecasts the number  
45 of jobs provided by existing omnibuses, rolling stock, vehicles or  
46 equipment that would be eliminated or substantially changed after the  
47 purchase, as well as the number of jobs expected to be created at the  
48 transit provider by the proposed purchase over a six-year period from  
49 the date of the publication of the workforce development report, (2)  
50 identifies gaps in skills needed to operate and maintain the new elec-  
51 tric-powered omnibuses, rolling stock, vehicles or related equipment,  
52 (3) includes a comprehensive plan to transition, train, or retrain  
53 employees that are impacted by the proposed purchase, and (4) contains  
54 an estimated budget to transition, train, or retrain employees that are  
55 impacted by the proposed purchase.

1 (c) Nothing contained herein shall be construed to affect (i) the  
2 existing rights of employees pursuant to an existing collective bargain-  
3 ing agreement, or (ii) the existing representational relationships among  
4 employee organizations or the bargaining relationships between the  
5 employer and an employee organization. Prior to beginning the procure-  
6 ment process for new electric-powered omnibuses, rolling stock, vehicles  
7 or related equipment, the transit agency or municipality shall inform  
8 the respective collective bargaining agent of any potential jobs that  
9 may be affected, altered, or eliminated as a result of the purchase, and  
10 it shall be a mandatory subject for collective bargaining.

11 § 5. Section 104 of the general municipal law, as amended by section  
12 27 of part L of chapter 55 of the laws of 2012, is amended to read as  
13 follows:

14 § 104. Purchase through office of general services. 1. Notwithstanding  
15 the provisions of section one hundred three of this article or of any  
16 other general, special or local law, any officer, board or agency of a  
17 political subdivision, of a district therein, of a fire company or of a  
18 voluntary ambulance service is authorized to make purchases of commod-  
19 ities and services available pursuant to section one hundred sixty-three  
20 of the state finance law, may make such purchases through the office of  
21 general services subject to such rules as may be established from time  
22 to time pursuant to section one hundred sixty-three of the state finance  
23 law or through the general services administration pursuant to section  
24 1555 of the federal acquisition streamlining act of 1994, P.L. 103-355;  
25 provided that any such purchase shall exceed five hundred dollars and  
26 that the political subdivision, district, fire company or voluntary  
27 ambulance service for which such officer, board or agency acts shall  
28 accept sole responsibility for any payment due the vendor. All purchases  
29 shall be subject to audit and inspection by the political subdivision,  
30 district, fire company or voluntary ambulance service for which made. No  
31 officer, board or agency of a political subdivision, or a district ther-  
32 ein, of a fire company or of a voluntary ambulance service shall make  
33 any purchase through such office when bids have been received for such  
34 purchase by such officer, board or agency, unless such purchase may be  
35 made upon the same terms, conditions and specifications at a lower price  
36 through such office. Two or more fire companies or voluntary ambulance  
37 services may join in making purchases pursuant to this section, and for  
38 the purposes of this section such groups shall be deemed "fire companies  
39 or voluntary ambulance services."

40 2. (a) Notwithstanding the provisions of section one hundred three of  
41 this article or of any other general, special or local law, any chief  
42 executive officer of a political subdivision or agency which operates a  
43 public transportation system is authorized to make purchases of elec-  
44 tric-powered omnibuses or other related equipment upon a resolution  
45 approved by a two-thirds vote of its board then in office because the  
46 item is available through an existing contract between a vendor and (a)  
47 a public authority of the state provided that such other authority  
48 utilized a process of competitive bidding or a process of competitive  
49 requests for proposals to award such contracts, or (b) the state of New  
50 York, or (c) a political subdivision of the state of New York, provided  
51 that in any case when under this subdivision the political subdivision  
52 determines that obtaining such item thereby would be in the public  
53 interest and sets forth the reasons for such determination. The poli-  
54 tical subdivision shall not award any contract pursuant to this subdivi-  
55 sion earlier than thirty days from the date on which the political  
56 subdivision declares that competitive bidding is impractical or inappro-

1 priate. All purchases shall be subject to audit and inspection by the  
2 political subdivision for which made, in addition to the department of  
3 audit and control of New York state. For purposes of this subdivision,  
4 "political subdivision or agency which operates a public transportation  
5 system" shall not include transportation authorities governed under  
6 titles nine, nine-A and eleven of article five of the public authorities  
7 law or title three of article three of the public authorities law. For  
8 the purposes of this subdivision, "electric-powered omnibuses" shall  
9 include any bus owned, leased, rented or otherwise controlled by the  
10 political subdivision that otherwise meets the definition of bus  
11 provided in section five hundred nine-a of the vehicle and traffic law  
12 that is propelled by an electric motor and associated power electronics  
13 which provide acceleration torque to the drive wheels during normal  
14 vehicle operation and draws electricity from a hydrogen fuel cell or  
15 from a battery which is capable of being recharged from an external  
16 source of electricity; or otherwise operates without direct emission of  
17 atmospheric pollutants.

18 (b) (i) Notwithstanding any provision of law to the contrary, all  
19 rights or benefits, including terms and conditions of employment, and  
20 protection of civil service and collective bargaining status of all  
21 existing employees of authorized entities shall be preserved and  
22 protected. Nothing in this section shall result in the: (1) displacement  
23 of any currently employed worker or loss of position, including  
24 partial displacement such as a reduction in the hours of non-overtime  
25 work, wages, or employment benefits, or result in the impairment of  
26 existing collective bargaining agreements; (2) transfer of existing  
27 duties and functions related to maintenance and operations currently  
28 performed by existing employees of authorized entities to a contracting  
29 entity; or (3) transfer of future duties and functions ordinarily  
30 performed by employees of authorized entities to a contracting entity.

31 (ii) At least one year prior to the beginning of the procurement proc-  
32 ess for new electric-powered omnibuses, rolling stock, vehicles or  
33 related equipment, the transit agency or municipality shall create and  
34 implement a workforce development report that (1) forecasts the number  
35 of jobs provided by existing omnibuses, rolling stock, vehicles or  
36 equipment that would be eliminated or substantially changed after the  
37 purchase, as well as the number of jobs expected to be created at the  
38 transit provider by the proposed purchase over a six-year period from  
39 the date of the publication of the workforce development report, (2)  
40 identifies gaps in skills needed to operate and maintain the new elec-  
41 tric-powered omnibuses, rolling stock, vehicles or related equipment,  
42 (3) includes a comprehensive plan to transition, train, or retrain  
43 employees that are impacted by the proposed purchase, and (4) contains  
44 an estimated budget to transition, train, or retrain employees that are  
45 impacted by the proposed purchase.

46 (c) Nothing contained herein shall be construed to affect (i) the  
47 existing rights of employees pursuant to an existing collective bargain-  
48 ing agreement, or (ii) the existing representational relationships among  
49 employee organizations or the bargaining relationships between the  
50 employer and an employee organization. Prior to beginning the procure-  
51 ment process for new electric-powered omnibuses, rolling stock, vehicles  
52 or related equipment, the transit agency or municipality shall inform  
53 the respective collective bargaining agent of any potential jobs that  
54 may be affected, altered, or eliminated as a result of the purchase, and  
55 it shall be a mandatory subject for collective bargaining.

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

3 § 18-d. 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 equipment  
9 in the event it adopts a best-value contracting framework. Such frame-  
10 work shall reflect, whenever possible, objective and quantifiable analy-  
11 sis. Such framework shall identify a quantitative factor for offerors  
12 that prioritize and include the following in such procurement contract  
13 proposal:

14 (a) an employment plan which shall include but not be limited to:

15 (i) worker wages, including the contractor's record of compliance with  
16 prevailing wage requirements enforced by the United States or New York  
17 state department of labor;

18 (ii) worker benefits;

19 (iii) worker safety;

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

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

24 (b) a commitment to consider the interests of members of the community  
25 that surround such offeror's facility and the interests of members of  
26 the community from which workers are recruited; and

27 (c) a description of efforts by the offeror to lower greenhouse gas  
28 emissions and such offeror's impact on climate change.

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

31 (a) the terms and conditions of employment, content of employment  
32 plans and reports required by this section shall be subject to disclo-  
33 sure under the Freedom of Information Law; and

34 (b) the final contract and compliance documents shall be made avail-  
35 able to the public on the department's website.

36 3. For purposes of this section "zero-emission bus" shall have the  
37 same meaning as set forth in subdivision two of section seventeen-c of  
38 this article.

39 4. Public transportation systems shall coordinate with the department  
40 to ensure compliance with section one hundred thirty-nine-i of the state  
41 finance law.

42 5. (a) The department shall promulgate regulations to establish the  
43 forms, manner and process by which offerors shall submit contract  
44 proposals pursuant to this section. Such regulations shall include  
45 requirements to demonstrate details of such offerors' employment plan  
46 and compliance with this section, including without limitation requiring  
47 applicants for contracts using federal funds to complete a United States  
48 Jobs Plan form in compliance with Sections 200.319(c) and 200.322 of  
49 Title 2 of the Code of Federal Regulations. Such regulations shall not  
50 require any minimum commitments other than those already required by  
51 relevant federal, state, and local laws.

52 (b) The United States Jobs Plan shall include without limitation the  
53 following information on the offeror's proposed job creation and  
54 retention projections with respect to the contract proposal:

55 (i) The number of full-time non-temporary jobs proposed to be retained  
56 and created.

1 (ii) The number of full-time temporary jobs proposed to be retained  
2 and created.

3 (iii) The number of part-time temporary jobs proposed to be retained  
4 and created.

5 (iv) The number of part-time non-temporary jobs proposed to be  
6 retained and created.

7 (v) The number of jobs classified as employee, as defined in section  
8 seven hundred forty of the labor law.

9 (vi) The number of positions classified as independent contractor,  
10 which may not include any jobs classified as employees.

11 (vii) The number of all jobs proposed to be retained or created for  
12 individuals facing barriers to employment.

13 (viii) The number of all jobs proposed to be retained or created for  
14 displaced workers.

15 (ix) The wage levels by job classification.

16 (x) Proposed amounts to be paid for fringe benefits by job classifica-  
17 tion.

18 (xi) Proposed amounts to be paid for worker training by job classi-  
19 fication.

20 (xii) Information on training programs targeted specifically toward  
21 individuals facing barriers to employment and displaced workers.

22 (xiii) In the event that a federal authority specifically authorizes  
23 use of a geographic preference or when state or local funds are used to  
24 fund a contract, proposed local jobs created in the state or within an  
25 existing facility in the state that are related to the manufacturing of  
26 zero-emission buses and charging infrastructure.

27 (c) For the purposes of this section, the following terms shall have  
28 the following meanings:

29 (i) "Displaced worker" means:

30 (1) Any employee who was employed by the employer for six months or  
31 more in the twelve months preceding the January thirty-first, two thou-  
32 sand twenty, declaration of a national state of emergency by the Presi-  
33 dent, and whose most recent separation from active service was due to a  
34 public health directive, government shutdown order, lack of business, a  
35 reduction in force, or other economic, nondisciplinary reason related to  
36 the COVID-19 pandemic.

37 (2) Any employee whose most recent separation from active service was  
38 due to lack of business, a reduction in force, or other economic,  
39 nondisciplinary reason related to the transition from the fossil-fuel  
40 reliant buses to zero-emission buses.

41 (ii) "Individual facing barriers to employment" means either of the  
42 following:

43 (1) An individual facing barriers to employment as defined by the  
44 commissioner or, otherwise

45 (2) An individual from a demographic group that represents less than  
46 thirty percent of their relevant industry workforce according to the  
47 United States Bureau of Labor Statistics.

48 (iii) "New hire" means an employee whose first day of employment will  
49 be on or after the date the contract begins.

50 (iv) "Incumbent worker" means current employees, either non-temporary  
51 or temporary full-time employee, who will be retained and assigned to  
52 perform work in furtherance of the contract.

53 (v) "Temporary job" means a job for which the employee is supplied by  
54 an employment agency, as defined in article eleven of the general busi-  
55 ness law.

1 (d) (i) The department shall create a workbook that includes without  
2 limitation the items listed in paragraph (b) of this subdivision in  
3 order to ensure that all impacted transit agencies have a standard and  
4 consistent method to evaluate the bid proposals and quantitative commit-  
5 ments made in the United States Jobs Plans and relevant local hiring  
6 addenda. The department shall also utilize an internal accounting system  
7 allowing for segregating and auditing of workers' hours and costs such  
8 as those of new hires and incumbent workers pursuant to employment plan  
9 commitments.

10 (ii) The departmental workbook shall also account for proposed  
11 in-state facility commitments related to manufacturing of zero-emission  
12 buses and charging infrastructure. The workbook shall include a method  
13 to evaluate: (1) the activity performed at the facility; (2) if the  
14 facility is constructed or rehabilitated to manufacture zero-emission  
15 buses or charging infrastructure; (3) NAICS code associated with the  
16 facility's primary industrial activities; (4) if the site is located in  
17 a brownfield location; (5) if the facility is leased or purchased; and  
18 (6) any other fees or costs associated with the proposed facility.

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

32 § 7. Severability. The provisions of this act shall be severable, and  
33 if the application of any clause, sentence, paragraph, subdivision,  
34 section or part of this act to any person or circumstance shall be  
35 adjudged by any court of competent jurisdiction to be invalid, such  
36 judgment shall not necessarily affect, impair or invalidate the applica-  
37 tion of any such clause, sentence, paragraph, subdivision, section or  
38 part of this act or remainder thereof, as the case may be, to any other  
39 person or circumstance, but shall be confined in its operation to the  
40 clause, sentence, paragraph, subdivision, section or part thereof  
41 directly involved in the controversy in which such judgment shall have  
42 been rendered.

43 § 8. This act shall take effect immediately, provided, however, that  
44 sections six and seven of this act shall take effect on the ninetieth  
45 day after it shall have become a law; provided, further, that the amend-  
46 ments to section 104 of the general municipal law made by section four  
47 of this act shall be subject to the expiration and reversion of such  
48 section pursuant to section 9 of subpart A of part C of chapter 97 of  
49 the laws of 2011, as amended, when upon such date the provisions of  
50 section five of this act shall take effect. Effective immediately, the  
51 addition, amendment and/or repeal of any rule or regulation necessary  
52 for the implementation of this act on its effective date are authorized  
53 to be made and completed on or before such effective date.