STATE OF NEW YORK

4653

2021-2022 Regular Sessions

IN SENATE

February 8, 2021

Introduced by Sens. JACKSON, KENNEDY -- 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 payment under contracts for transportation services during a declared state of emergency

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

Section 1. Subdivision 14 of section 305 of the education law is amended by adding a new paragraph h to read as follows:

h. Notwithstanding any law, rule, or regulation to the contrary, if a school district is closed due to a properly executed declaration of a state or local emergency pursuant to article two-B of the executive law, such district shall continue to make payments of benefits, compensation and emoluments pursuant to the terms of any contract for transportation of school children entered into pursuant to this subdivision that were in effect on the date of the closure as if the services for such benefits, compensation, and emoluments had been provided, and as if the school district had remained open. Payments received pursuant to this paragraph by a contractor providing pupil transportation services shall be used to meet payroll and fixed cost obligations of the contractor. A school district shall make all reasonable efforts to renegotiate a contract in good faith subject to this paragraph and may direct contractors providing pupil transportation services who are a party to a contract and receive payments from the school district under this paragraph, to provide services on behalf of the school district which may reasonably be provided and are within the general expertise or service provisions of the original contract. Negotiations shall not include indirect costs such as fuel or tolls. As a condition of negotiations, a contractor for pupil transportation services shall reveal to the school district whether the entity has insurance coverage for the payment of benefits, compensation, and emoluments pursuant to the terms of a

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

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contract with a contractor for pupil transportation services under this paragraph for services which otherwise would not have been provided had the school facilities remained open. A contractor shall divulge to its school district customers all government and private subsidies and programs which it is utilizing during the state of emergency to maintain financial solvency including, but not limited to government grants and loans, and unemployment insurance for its labor force. Nothing in this paragraph shall be construed to require a school district to make payments to a party in material breach of a contract with a contractor for pupil transportation services if the breach was not due to a closure resulting from a declared state of emergency, declared public health emergency, or a directive by an appropriate health agency or officer.

§ 2. Notwithstanding any other provision of this act, if a school district continues to pay a school bus transportation contractor or operates its own school bus transportation, such district shall be eligible for reimbursement from the department of education at a rate the school district would have received had the pandemic of 2020 not occurred, had the minimum instruction days requirement not been waived under executive order 202.4 or had the commissioner not taken action under subdivision 7 of section 3604 of the education law.

§ 3. This act shall take effect immediately and shall apply to any contracts or collective bargaining agreements in effect beginning with the 2019-2020 academic year.