

# STATE OF NEW YORK

3090--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 22, 2021

Introduced by M. of A. DINOWITZ, SAYEGH, THIELE, GALEF, GLICK, CRUZ, LAVINE, CARROLL, NIOU, COLTON, HYNDMAN, DICKENS, SIMON, EPSTEIN, L. ROSENTHAL, McMAHON, GOTTFRIED, FRONTUS, PAULIN, CYMBROWITZ, FAHY, REYES, SEAWRIGHT, OTIS, STECK, JACOBSON, WALLACE, GALLAGHER, GONZALEZ-ROJAS, LUPARDO, GRIFFIN, BARNWELL, JONES, ZEBROWSKI, LUNSFORD, ANDERSON, ROZIC, QUART, NOLAN, ABINANTI, SANTABARBARA, STERN, BYRNE, SOLAGES, DAVILA, McDONALD, D. ROSENTHAL, BARRETT, FERNANDEZ, O'DONNELL, CUSICK, BURDICK, WOERNER, WALKER, PEOPLES-STOKES, CLARK, STIRPE, HUNTER, GANDOLFO, DURSO, KELLES, WEPRIN, JEAN-PIERRE, BRAUNSTEIN, RAJKUMAR, ASHBY, SIMPSON, WALCZYK, BURGOS, RA, RAMOS, FALL, MAMDANI, K. BROWN, SILLITTI, MONTESANO, SCHMITT, JOYNER, FORREST, LAWLER, DILAN, KIM, SEPTIMO, BICHOTTE HERMELYN, JACKSON, MEEKS, PHEFFER AMATO, MITAYNES, WILLIAMS -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT, McDONOUGH -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- 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

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

LBD05744-10-2

1 its fleet. No later than January first, two thousand thirty-five, any  
2 hydrogen fuel cell zero-emission bus shall be powered by hydrogen  
3 derived from zero-emission electricity.

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

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

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

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

54 4. (a) Beginning in two thousand twenty-eight and every five years  
55 thereafter until a public transportation system has transitioned entire-  
56 ly to using zero-emission buses, every public transportation system

1 covered pursuant to this section shall submit to the department a tran-  
2 sition plan for complying with the two thousand twenty-nine procurement  
3 requirement and for transitioning to zero-emission buses. Such plan  
4 shall include without limitation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 5. (a) In order to obtain an extension of the attainment date beyond  
18 the statutory attainment date of January first, two thousand twenty-nine  
19 pursuant to subdivision one of this section, the transportation system  
20 shall:

21 (i) apply for an extension and submit a complete application for such  
22 extension attainment date by December thirty-first, two thousand twen-  
23 ty-eight.

24 (ii) demonstrate that the transition plan required pursuant to subdivi-  
25 vision four of this section contains all of the required components of a  
26 transition plan and includes a request for extension of the attainment  
27 date.

28 (b) The department shall determine if the transportation system quali-  
29 fies for an attainment date extension based on:

30 (i) whether the transportation system conducted at least a request for  
31 information, request for proposal, or combination of both for paratran-  
32 sit vehicles within three years of two thousand twenty-nine, proven that  
33 such zero-emission paratransit technology is not attainable by two thou-  
34 sand twenty-nine, and the department has determined that a good faith  
35 effort has been made by the transportation system; and

36 (ii) whether the transportation system:

37 (1) purchased or installed equipment within the last ten years for the  
38 purpose of reducing emissions and where buses reliant on such infras-  
39 tructure constitute a majority of the in-use fleet; or

40 (2) has already received funds for such equipment and such equipment  
41 has not yet reached the end of its useful life or through the lifetime  
42 of any existing federal funding obligations for such infrastructure,  
43 whichever comes first; and where buses reliant on such infrastructure  
44 constitute a majority of the in-use fleet; or

45 (3) is an intercity bus service or bus service intended to satisfy  
46 longer distance travel demand between cities, villages and unincorporat-  
47 ed urban places and proven that such zero-emission transition is not  
48 attainable by two thousand twenty-nine due to technology or infrastruc-  
49 ture and the department has determined that a good faith effort has been  
50 made.

51 (c) In order to obtain an exemption from the attainment date require-  
52 ment pursuant to subdivision one of this section, the transition plan  
53 shall include:

54 (i) a timeline for attainment demonstration;

55 (ii) efforts to maximize zero-emission bus purchases and purchase only  
56 zero-emission buses prior to two thousand thirty-five;

1 (iii) year-by-year targets for zero-emission bus procurements and  
2 infrastructure installation;

3 (iv) contingency measure provisions; and

4 (v) a detailed justification for nonattainment of zero-emission equip-  
5 ment review plan provisions.

6 (d) Based on the department's assessment of the transportation  
7 system's transition plan and extension request, the department may deny  
8 the extension if it determines that an adequate attempt was not made or  
9 that technology and infrastructure is available for the transportation  
10 system to transition to zero-emission buses. Any determination by the  
11 department to deny or grant an extension request shall be subject to  
12 public notification and comment. Any applications for attainment date  
13 extensions shall be subject to the freedom of information law and  
14 published on the department's public website.

15 (e) Transportation systems that qualify for an extension pursuant to  
16 this subdivision shall procure only zero-emission buses starting January  
17 first, two thousand thirty-five or sooner once the exemption no longer  
18 applies.

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

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

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

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

1 the department of audit and control or any successor agencies. For  
2 purposes of this subdivision, "transportation authority" shall not  
3 include transportation authorities governed under titles nine, nine-A  
4 and eleven of article five of this chapter or title three of article  
5 three of this chapter. For the purposes of this subdivision, "electric-  
6 powered omnibuses" shall include any bus owned, leased, rented or other-  
7 wise controlled by the authority that otherwise meets the definition of  
8 bus provided in section five hundred nine-a of the vehicle and traffic  
9 law that is propelled by an electric motor and associated power elec-  
10 tronics which provide acceleration torque to the drive wheels during  
11 normal vehicle operation and draws electricity from a hydrogen fuel cell  
12 or from a battery which is capable of being recharged from an external  
13 source of electricity; or otherwise operates without direct emission of  
14 atmospheric pollutants.

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

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

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

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

54 3. (a) Notwithstanding the provisions of section one hundred three of  
55 this article or of any other general, special or local law, any chief  
56 executive officer of a political subdivision or agency which operates a

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

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

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

1 employees that are impacted by the proposed purchase, and (4) contains  
2 an estimated budget to transition, train, or retrain employees that are  
3 impacted by the proposed purchase.

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

14 § 5. Section 104 of the general municipal law, as amended by section  
15 27 of part L of chapter 55 of the laws of 2012, is amended to read as  
16 follows:

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

43 2. (a) Notwithstanding the provisions of section one hundred three of  
44 this article or of any other general, special or local law, any chief  
45 executive officer of a political subdivision or agency which operates a  
46 public transportation system is authorized to make purchases of elec-  
47 tric-powered omnibuses or other related equipment upon a resolution  
48 approved by a two-thirds vote of its board then in office because the  
49 item is available through an existing contract between a vendor and (a)  
50 a public authority of the state provided that such other authority  
51 utilized a process of competitive bidding or a process of competitive  
52 requests for proposals to award such contracts, or (b) the state of New  
53 York, or (c) a political subdivision of the state of New York, provided  
54 that in any case when under this subdivision the political subdivision  
55 determines that obtaining such item thereby would be in the public  
56 interest and sets forth the reasons for such determination. The poli-



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

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

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

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

1 may be affected, altered, or eliminated as a result of the purchase, and  
2 it shall be a mandatory subject for collective bargaining.

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

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

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

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

20 (ii) worker benefits;

21 (iii) worker safety;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ix) The wage levels by job classification.

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

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

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

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

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

31 (i) "Displaced worker" means:

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

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

43 (ii) "Individual facing barriers to employment" means either of the  
44 following:

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

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

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

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

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

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

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

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

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

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