

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

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

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

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

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

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

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

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

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

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

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

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

(b) (i) To effectuate the purposes of this section, public transportation systems may request and shall receive from any department, division, board, bureau, commission or other agency of the state or any public authority such technical assistance, information and data as will enable them to properly carry out its powers and duties pursuant to this section.

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

(iii) The department, in consultation with the New York state energy research and development authority pursuant to sections eighteen hundred fifty-four and eighteen hundred eighty-four of the public authorities 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 subdi-
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.