STATE OF NEW YORK

3090--A

2021-2022 Regular Sessions

IN ASSEMBLY

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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:

Section 1. The transportation law is amended by adding a new section 17-c to read as follows:

§ 17-c. Zero-emission buses. 1. No later than January first, two thousand twenty-nine, every public transportation system eligible to receive operating assistance under the provisions of section eighteen-b of this article shall be required to purchase only zero-emission buses and 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.

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

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

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

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

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

4. (a) Beginning in two thousand twenty-eight and every five years thereafter until a public transportation system has transitioned entirely 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

to public transportation systems upon request, and shall provide assistance to public transportation systems upon request for assistance in pursuing state and federal grant and other funding opportunities. The department shall also facilitate the coordination of purchasing, installation and sharing services between public transportation systems serving primarily outside of cities with a population of one million or more.

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

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

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

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

(ii) demonstrate that the transition plan required pursuant to subdivision four of this section contains all of the required components of a transition plan and includes a request for extension of the attainment date.

(b) The department shall determine if the transportation system qualifies for an attainment date extension based on:

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

(ii) whether the transportation system:

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

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

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

(c) In order to obtain an exemption from the attainment date requirement pursuant to subdivision one of this section, the transition plan shall include:

(i) a timeline for attainment demonstration;

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

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

(iv) contingency measure provisions; and

(v) a detailed justification for nonattainment of zero-emission equipment review plan provisions.

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

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

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

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

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

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

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

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

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

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

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

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

public transportation system is authorized to make purchases of electric-powered omnibuses or other related equipment upon a resolution approved by a two-thirds vote of its board then in office because the item is available through an existing contract between a vendor and (i) a public authority of the state provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contracts, or (ii) the state of New York, or (iii) a political subdivision of the state of New York, provided that in any case when under this subdivision the political subdivision determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. The political subdivision shall not award any contract pursuant to this subdivision earlier than thirty days from the date on which the political subdivision declares that competitive bidding is impractical or inappropriate. All purchases shall be subject to audit and inspection by the political subdivision for which made, in addition to the department of audit and control of New York state. For purposes of this subdivision, "political subdivision or agency which operates a public transportation system" shall not include transportation authorities governed under titles nine, nine-A and eleven of article five of the public authorities law or title three of article three of the public authorities law. For the purposes of this subdivision, "electric-powered omnibuses" shall include any bus owned, leased, rented or otherwise controlled by the political subdivision that otherwise meets the definition of bus provided in section five hundred nine-a of the vehicle and traffic law that is propelled by an electric motor and associated power electronics which provide acceleration torque to the drive wheels during normal vehicle operation and draws electricity from a hydrogen fuel cell or from a battery which is capable of being recharged from an external source of electricity; or otherwise operates without direct emission of atmospheric pollutants.

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

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

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

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

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

§ 104. Purchase through office of general services. 1. Notwithstanding the provisions of section one hundred three of this article or of any other general, special or local law, any officer, board or agency of a political subdivision, of a district therein, of a fire company or of a voluntary ambulance service is authorized to make purchases of commodities and services available pursuant to section one hundred sixty-three of the state finance law, may make such purchases through the office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law or through the general services administration pursuant to section 1555 of the federal acquisition streamlining act of 1994, P.L. 103-355; provided that any such purchase shall exceed five hundred dollars and that the political subdivision, district, fire company or voluntary ambulance service for which such officer, board or agency acts shall accept sole responsibility for any payment due the vendor. All purchases shall be subject to audit and inspection by the political subdivision, district, fire company or voluntary ambulance service for which made. No officer, board or agency of a political subdivision, or a district therein, of a fire company or of a voluntary ambulance service shall make any purchase through such office when bids have been received for such purchase by such officer, board or agency, unless such purchase may be made upon the same terms, conditions and specifications at a lower price through such office. Two or more fire companies or voluntary ambulance services may join in making purchases pursuant to this section, and for the purposes of this section such groups shall be deemed "fire companies or voluntary ambulance services."

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

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

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

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

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

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

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

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

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

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

(ii) worker benefits;

(iii) worker safety;

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

(v) a commitment to create high quality jobs within the state to the maximum extent practicable for disadvantaged or underrepresented individuals;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ix) The wage levels by job classification.

(x) Proposed amounts to be paid for fringe benefits by job classification.

(xi) Proposed amounts to be paid for worker training by job classification.

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

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

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

(i) "Displaced worker" means:

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

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

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

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

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

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

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

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

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

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

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

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

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