# STATE OF NEW YORK

3405

2021-2022 Regular Sessions

# IN SENATE

January 29, 2021

Introduced by Sens. KENNEDY, BAILEY, GOUNARDES, HOYLMAN, KAMINSKY, KAPLAN, KRUEGER, MAY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the transportation law, in relation to procurement of contract proposals for zero-emission buses

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 18-c to read as follows:

§ 18-c. 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. 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;

(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

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

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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 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 and:

a. 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

b. otherwise operates without direct emission of atmospheric pollutants.

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

5. 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.

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.

§ 2. 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, 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.

§ 3. This act shall take effect immediately.