

# STATE OF NEW YORK

8917

## IN SENATE

April 28, 2022

Introduced by Sen. HARCKHAM -- 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 the purchase of zero-emission capable hybrid and 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; and providing for the repeal of such provisions upon the expiration thereof

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 capable hybrid buses and zero-emission buses.  
4 1. For the five-year period commencing January first, two thousand twenty-four and ending December thirty-first, two thousand twenty-eight,  
5 every public transportation system eligible to receive operating assist-  
6 ance under the provisions of section eighteen-b of this article shall be  
7 required to purchase only zero-emission capable hybrid buses or zero-em-  
8 ission buses and related equipment and facilities as part of the normal  
9 replacement of its fleet.

10  
11 2. (a) For purposes of this section "zero-emission capable hybrid bus"  
12 shall mean a motor vehicle that has a seating capacity of fifteen or  
13 more passengers in addition to the driver and used for transportation of  
14 persons; is capable of being propelled by an electric motor and associ-  
15 ated power electronics which provide acceleration torque to the drive  
16 wheels during normal vehicle operation and draws electricity from an  
17 onboard battery or electric generator; has an internal combustion engine  
18 for extended driving range where recharging infrastructure is not readi-  
19 ly accessible, and otherwise as needed for safe and effective travel;  
20 and is capable of operating on demand without direct emission of atmo-  
21 spheric pollutants, and being paired with geofencing technology to auto-  
22 matically shut down the engine in specified locations.

23 (b) For purposes of this section "zero-emission bus" shall mean a  
24 motor vehicle that has a seating capacity of fifteen or more passengers

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

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1 in addition to the driver and used for the transportation of persons; is  
2 propelled by an electric motor and associated power electronics which  
3 provide acceleration torque to the drive wheels during normal vehicle  
4 operation and draws electricity from a hydrogen fuel cell or from a  
5 battery which is capable of being recharged from an external source of  
6 electricity; or otherwise operates without direct emission of atmospher-  
7 ic pollutants.

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

21 (b) Prior to the beginning of the procurement process for new zero-em-  
22 ission capable hybrid buses and zero-emission buses, the transit author-  
23 ity, agency or municipality shall create and implement a workforce  
24 development report that (i) forecasts the number of jobs provided by  
25 existing omnibuses, rolling stock, vehicles or equipment that would be  
26 eliminated or substantially changed after the purchase, as well as the  
27 number of jobs expected to be created at the transit provider by the  
28 proposed purchase over a five-year period from the date of the publica-  
29 tion of the workforce development report, (ii) identifies gaps in skills  
30 needed to operate and maintain the new zero-emission capable hybrid  
31 buses and zero-emission buses, rolling stock, vehicles or related equip-  
32 ment, (iii) includes a comprehensive plan to transition, train, or  
33 retrain employees that are impacted by the proposed purchase, and (iv)  
34 contains an estimated budget to transition, train, or retrain employees  
35 that are impacted by the proposed purchase.

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

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

49 § 18-c. Capital plan requirements. In formulating the five-year  
50 department of transportation capital plans, the department shall: (a)  
51 consider the requirement of section seventeen-c of this article in its  
52 disbursement of payment for the costs of mass transportation capital  
53 projects and facilities and give preference in the form of payments to  
54 public transportation systems eligible to receive operating assistance  
55 under the provisions of section eighteen-b of this article that are able  
56 to demonstrate commitments made towards purchasing zero-emission capable

1 hybrid buses and zero-emission buses and related equipment and facili-  
2 ties; and (b) facilitate for purposes of meeting the requirement of  
3 section seventeen-c of this article the coordination of purchasing,  
4 installation and sharing services between public transportation systems  
5 serving primarily outside the city of New York.

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

8 3. (a) A transportation authority established under this chapter may,  
9 by resolution approved by a two-thirds vote of its members then in  
10 office, or by a declaration that competitive bidding is impractical or  
11 inappropriate with respect to electric-powered omnibuses, rolling stock,  
12 vehicles or other related equipment because the item is available  
13 through an existing contract between a vendor and (i) another public  
14 authority provided that such other authority utilized a process of  
15 competitive bidding or a process of competitive requests for proposals  
16 to award such contracts, or (ii) the state of New York, or (iii) a poli-  
17 tical subdivision of the state of New York, provided that in any case  
18 when under this subdivision the authority determines that obtaining such  
19 item thereby would be in the public interest and sets forth the reasons  
20 for such determination. The authority shall accept sole responsibility  
21 for any payment due the vendor as a result of the authority's order. In  
22 each case where the authority declares competitive bidding impractical  
23 or inappropriate, it shall state the reason therefor in writing and  
24 summarize any negotiations that have been conducted. The authority shall  
25 not award any contract pursuant to this subdivision earlier than thirty  
26 days from the date on which the authority declares that competitive  
27 bidding is impractical or inappropriate. All procurements approved  
28 pursuant to this subdivision shall be subject to audit and inspection by  
29 the department of audit and control or any successor agencies. For  
30 purposes of this subdivision, "transportation authority" shall not  
31 include transportation authorities governed under titles nine, nine-A  
32 and eleven of article five of this chapter or title three of article  
33 three of this chapter. For the purposes of this subdivision, "electric-  
34 powered omnibuses" shall include any bus owned, leased, rented or other-  
35 wise controlled by the authority that otherwise meets the definition of  
36 bus provided in section five hundred nine-a of the vehicle and traffic  
37 law that is propelled by an electric motor and associated power elec-  
38 tronics which provide acceleration torque to the drive wheels during  
39 normal vehicle operation and draws electricity from a hydrogen fuel cell  
40 or from a battery which is capable of being recharged from an external  
41 source of electricity; or otherwise operates without direct emission of  
42 atmospheric pollutants.

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

(ii) 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 five-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

1 normal vehicle operation and draws electricity from a hydrogen fuel cell  
2 or from a battery which is capable of being recharged from an external  
3 source of electricity; or otherwise operates without direct emission of  
4 atmospheric pollutants.

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

18 (ii) Prior to the beginning of the procurement process for new elec-  
19 tric-powered omnibuses, rolling stock, vehicles or related equipment,  
20 the transit agency or municipality shall create and implement a work-  
21 force development report that (1) forecasts the number of jobs provided  
22 by existing omnibuses, rolling stock, vehicles or equipment that would  
23 be eliminated or substantially changed after the purchase, as well as  
24 the number of jobs expected to be created at the transit provider by the  
25 proposed purchase over a five-year period from the date of the publica-  
26 tion of the workforce development report, (2) identifies gaps in skills  
27 needed to operate and maintain the new electric-powered omnibuses, roll-  
28 ing stock, vehicles or related equipment, (3) includes a comprehensive  
29 plan to transition, train, or retrain employees that are impacted by the  
30 proposed purchase, and (4) contains an estimated budget to transition,  
31 train, or retrain employees that are impacted by the proposed purchase.

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

42 § 5. Section 104 of the general municipal law, as amended by section  
43 27 of part L of chapter 55 of the laws of 2012, is amended to read as  
44 follows:

45 § 104. Purchase through office of general services. 1. Notwithstanding  
46 the provisions of section one hundred three of this article or of any  
47 other general, special or local law, any officer, board or agency of a  
48 political subdivision, of a district therein, of a fire company or of a  
49 voluntary ambulance service is authorized to make purchases of commod-  
50 ities and services available pursuant to section one hundred sixty-three  
51 of the state finance law, may make such purchases through the office of  
52 general services subject to such rules as may be established from time  
53 to time pursuant to section one hundred sixty-three of the state finance  
54 law or through the general services administration pursuant to section  
55 1555 of the federal acquisition streamlining act of 1994, P.L. 103-355;  
56 provided that any such purchase shall exceed five hundred dollars and



1 that the political subdivision, district, fire company or voluntary  
2 ambulance service for which such officer, board or agency acts shall  
3 accept sole responsibility for any payment due the vendor. All purchases  
4 shall be subject to audit and inspection by the political subdivision,  
5 district, fire company or voluntary ambulance service for which made. No  
6 officer, board or agency of a political subdivision, or a district there-  
7 in, of a fire company or of a voluntary ambulance service shall make  
8 any purchase through such office when bids have been received for such  
9 purchase by such officer, board or agency, unless such purchase may be  
10 made upon the same terms, conditions and specifications at a lower price  
11 through such office. Two or more fire companies or voluntary ambulance  
12 services may join in making purchases pursuant to this section, and for  
13 the purposes of this section such groups shall be deemed "fire companies  
14 or voluntary ambulance services."

15 2. (a) Notwithstanding the provisions of section one hundred three of  
16 this article or of any other general, special or local law, any chief  
17 executive officer of a political subdivision or agency which operates a  
18 public transportation system is authorized to make purchases of elec-  
19 tric-powered omnibuses or other related equipment upon a resolution  
20 approved by a two-thirds vote of its board then in office because the  
21 item is available through an existing contract between a vendor and (a)  
22 a public authority of the state provided that such other authority  
23 utilized a process of competitive bidding or a process of competitive  
24 requests for proposals to award such contracts, or (b) the state of New  
25 York, or (c) a political subdivision of the state of New York, provided  
26 that in any case when under this subdivision the political subdivision  
27 determines that obtaining such item thereby would be in the public  
28 interest and sets forth the reasons for such determination. The poli-  
29 tical subdivision shall not award any contract pursuant to this subdivi-  
30 sion earlier than thirty days from the date on which the political  
31 subdivision declares that competitive bidding is impractical or inappro-  
32 priate. All purchases shall be subject to audit and inspection by the  
33 political subdivision for which made, in addition to the department of  
34 audit and control of New York state. For purposes of this subdivision,  
35 "political subdivision or agency which operates a public transportation  
36 system" shall not include transportation authorities governed under  
37 titles nine, nine-A and eleven of article five of the public authorities  
38 law or title three of article three of the public authorities law. For  
39 purposes of this subdivision, "electric-powered omnibuses" shall include  
40 any bus owned, leased, rented or otherwise controlled by the political  
41 subdivision that otherwise meets the definition of bus provided in  
42 section five hundred nine-a of the vehicle and traffic law that is  
43 propelled by an electric motor and associated power electronics which  
44 provide acceleration torque to the drive wheels during normal vehicle  
45 operation and draws electricity from a hydrogen fuel cell or from a  
46 battery which is capable of being recharged from an external source of  
47 electricity; or otherwise operates without direct emission of atmospher-  
48 ic pollutants.

49 (b) (i) Notwithstanding any provision of law to the contrary, all  
50 rights or benefits, including terms and conditions of employment, and  
51 protection of civil service and collective bargaining status of all  
52 existing employees of authorized entities shall be preserved and  
53 protected. Nothing in this section shall result in the: (1) displace-  
54 ment of any currently employed worker or loss of position, including  
55 partial displacement such as a reduction in the hours of non-overtime  
56 work, wages, or employment benefits, or result in the impairment of

1 existing collective bargaining agreements; (2) transfer of existing  
2 duties and functions related to maintenance and operations currently  
3 performed by existing employees of authorized entities to a contracting  
4 entity; or (3) transfer of future duties and functions ordinarily  
5 performed by employees of authorized entities to a contracting entity.

6 (ii) Prior to the beginning of the procurement process for new elec-  
7 tric-powered omnibuses, rolling stock, vehicles or related equipment,  
8 the transit agency or municipality shall create and implement a work-  
9 force development report that (1) forecasts the number of jobs provided  
10 by existing omnibuses, rolling stock, vehicles or equipment that would  
11 be eliminated or substantially changed after the purchase, as well as  
12 the number of jobs expected to be created at the transit provider by the  
13 proposed purchase over a five-year period from the date of the publica-  
14 tion of the workforce development report, (2) identifies gaps in skills  
15 needed to operate and maintain the new electric-powered omnibuses, roll-  
16 ing stock, vehicles or related equipment, (3) includes a comprehensive  
17 plan to transition, train, or retrain employees that are impacted by the  
18 proposed purchase, and (4) contains an estimated budget to transition,  
19 train, or retrain employees that are impacted by the proposed purchase.

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

30 § 6. This act shall take effect immediately and shall expire and be  
31 deemed repealed on December 31, 2028, provided, however, that the amend-  
32 ments to section 104 of the general municipal law made by section four  
33 of this act shall be subject to the expiration and reversion of such  
34 section pursuant to section 9 of subpart A of part C of chapter 97 of  
35 the laws of 2011, as amended, when upon such date the provisions of  
36 section five of this act shall take effect.