STATE OF NEW YORK

9650

IN ASSEMBLY

March 27, 2024

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to contracts for the transportation of school children

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph a of subdivision 14 of section 305 of the education law, as amended by chapter 273 of the laws of 1999, is amended to read as follows:

a. **(1)** All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in [~~his~~] **such commissioner's** opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in [~~his~~] **such commissioner's** opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so

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

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specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions [~~(1)~~] (i) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, [~~(2)~~] (ii) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to [~~his~~] such commissioner's existing statutory authority to approve or disapprove transportation or maintenance contracts, [~~(i)~~] (A) to reject any extension of a contract beyond the initial term thereof if [~~he~~] such commissioner finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and [~~(ii)~~] (B) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in [~~his~~] such commissioner's opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of [~~his~~] such contractor's cost of operation, during the period of the contract.

(2) (i) Notwithstanding any other provision of this subdivision, the board of education of a school district located in a city with at least one million inhabitants shall include in contracts for the transportation of school children in kindergarten through grade twelve, whether awarded through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, provisions for the retention or preference in hiring of school bus workers and provisions for the preservation of wages, health, welfare, and retirement benefits and industry tenure for school bus workers who are hired pursuant to such provisions for retention or preference in hiring, in connection with such contracts.

(ii) For the purposes of this subparagraph, "school bus worker" shall mean an operator, mechanic, dispatcher or attendant who is employed by:

(A) a contractor that was a party to a contract with the board of education of a school district located in a city with at least one million inhabitants for the transportation of school children in kindergarten through grade twelve, in connection with such contract; or

(B) a subcontractor of a contractor that was a party to a contract with the board of education of a school district located in a city with at least one million inhabitants for the transportation of school children in kindergarten through grade twelve, in connection with such contract.

(iii) When any school bus worker gets laid off from their current employment, the board of education of a school district located in a city with at least one million inhabitants shall create and maintain a master tenure list of such laid off operators, mechanics, and dispatchers that were employed as of the last day of the school year immediately preceding the layoff and a master tenure list of such laid off attendants that were employed as of the last day of the school year immediately preceding the layoff on which such workers shall be placed, as appropriate, in order of their tenure in the school bus industry. An employee on any such list shall remain on the list until the employee has an opportunity to select available work. The school district may allow employees who pass once when it is their turn to select available work to remain on the list. Tenure shall be calculated based on continuous employment by any companies in the school bus industry under contract with the board of education of a school district located in a city with at least one million inhabitants or its subcontractors. Such companies and their subcontractors shall give priority in hiring for new, additional, or replacement school bus workers to the individuals on the master tenure list until such list is exhausted. The master tenure list shall determine the order in which employees select available work in the industry. However, upon hire from the master tenure list, the employees shall go to the bottom of the seniority list of their new employer. Employees who move from employer to employer on their own, and have not followed the work, shall be deemed to have a break in service and shall not have the protection of preservation of wages, health, welfare, and retirement benefits and industry tenure. For an employee hired from the master tenure list, if the employee has a current wage rate that is higher than the wage rate for employees of the successor company with similar industry tenure, the employee shall maintain at least such wage rate and be eligible for future wage increases.

(iv) The retirement benefits protection for the school bus worker shall apply whether the school bus worker participated in a defined benefit pension plan or a defined contribution (401(k)) pension plan or any other plan, such as a 457 pension plan, when employed by the school bus worker's prior employer, and the successor company shall make payments as appropriate to the plan, but with the guarantee that there shall be no diminishment to the benefits to any school bus worker. Such successor company shall make such payments on behalf of school bus workers who participated in a defined benefit pension plan while employed by the school bus worker's prior employer, as are required by such plan, so the employee continues to earn credits toward a pension in such plan while employed by such successor company.

§ 2. This act shall take effect immediately.