STATE OF NEW YORK

7087

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to administration of certain funds for zero-emission school buses and supporting infrastructure

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

Section 1. The education law is amended by adding a new section 3639 to read as follows:

§ 3639. Administration of funds for zero-emission school buses and supporting infrastructure. 1. As used in this section, the following terms shall have the following meanings:

(a) "Contractor" shall mean the entity that sells an approved eligible vehicle to the vehicle purchaser and meets the following criteria:

(i) Be any of the following types of entities:

(1) A truck or bus dealership that has a written agreement with a medium and/or heavy-duty vehicle original equipment manufacturer, and sells or leases complete eligible vehicles to fleets or vehicle owner-operators.

(2) An original equipment manufacturer that builds and sells or leases complete eligible vehicles directly to fleets or vehicle owner-operators.

(3) A bus upfit/retrofit manufacturer that has a written agreement with a medium or heavy-duty original equipment manufacturer, and upfits, retrofits, or performs final equipment installations on those new replacement or repowered vehicles and sells or leases the completed eligible vehicle to a leasing company, fleet or vehicle owner-operator.

(4) A retrofit kit company that produces and installs the kits on existing vehicles, such as a battery electric vehicle kit on an existing diesel-powered vehicle.

(ii) Have a valid business license for the past two years; and

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

LBD11373-01-3

(iii) Be the entity that sells or leases the fully assembled and completed new eligible vehicle or repowered vehicle.

(b) "Eligible vehicle" shall mean an electric vehicle that meets all NYSERDA's rules and requirements.

(c) "Original equipment manufacturer" or "OEM" shall mean the manufacturer that builds or assembles, at a minimum, the completed drivetrain and chassis for an eligible vehicle.

(d) "Upfit/retrofit manufacturer" shall mean a manufacturer that installs equipment on a truck or bus rolling chassis purchased from an OEM. The upfit/retrofit manufacturer shall bear full responsibility under federal law for any vehicle defects and is responsible for certifying the vehicle meets all applicable federal safety standards.

(e) "Supplier" shall mean a company that sells vehicles or component parts of vehicles to an original equipment manufacturer or an upfit/retrofit manufacturer.

(f) "New York jobs plan" shall mean a component of the documentation submitted during the eligibility application process and shall be used to determine certain plus-ups and deductions from the base incentive amount. The New York jobs plan refers to the information submitted by the contractor, its supplier, and its major supplier which states the minimum number of jobs; proposed wages, benefits, investment in training; targeted hiring plans for displaced workers and individuals facing barriers to employment for jobs created or retained in New York; lifecycle emissions analysis; use of recycled content; plans to maximize reuse and recycling of battery; and use of recycled or responsibly mined minerals.

(g) "Disadvantaged communities" shall have the same meaning as defined by section 75-0101 of the environmental conservation law.

(h) "Displaced workers" shall mean workers who have lost their jobs in the previous five years due to lack of business, a reduction in force, or other economic, nondisciplinary reason related to a pandemic or to the transition from the fossil fuel industry to renewable energy or electric transportation, and who has not been able to secure a comparably compensated position.

(i) "Responsible mineral sourcing" shall mean original equipment manufacturer procurement practices for components and raw materials that enable the original equipment manufacturer to accurately assess and report the social and environmental impact of mined minerals used in the production of the vehicle, and in which the original equipment manufacturer takes active steps to improve the social and environmental impact of the mined minerals used in the production of the vehicle by ensuring that any mined minerals used in the vehicle conform to the highest possible standards of social responsibility, including free, prior, and informed consent, human rights, labor rights, worker and community health and safety, conflict involvement, community engagement and consultation, and cultural heritage, and environmental responsibility, including water management, air quality, greenhouse gas emissions, noise management, protection of ecosystems and biodiversity, and management of toxins including mercury and cyanide. Whenever available, standards and evaluations shall conform to those of the initiative for responsible mining assurance.

(j) "NYSERDA" means the New York state energy research and development authority.

2. (a) NYSERDA, in consultation with the office of general services and the department, shall be authorized to develop and administer an incentive program for the distribution of the five hundred million

dollars allocated for the costs associated with the purchase or conversion to zero-emission school buses and supporting infrastructure as set forth in paragraph h of subdivision one of section 58-0703 of the environmental conservation law.

(b) NYSERDA shall establish guidelines governing the qualifications of eligible vehicles and shall consider prospective vehicle contractor's experience, financial capability and responsibility, and past performance, including performance on meeting New York jobs plan commitments.

3. (a) NYSERDA shall develop procedures for determining the incentive amounts for eligible vehicles. As part of the eligibility qualification process, NYSERDA shall require prospective contractors to submit New York jobs plan information for itself as well as their suppliers. If a contractor is a truck or bus dealership that has a written agreement with a medium and/or heavy-duty vehicle original equipment manufacturer, then the contractor shall submit New York jobs plan information from the original equipment manufacturer. At a minimum, the New York jobs plan shall require prospective contractors and their suppliers to provide the following information:

(i) The minimum number of full-time equivalent permanent jobs in production occupations to be retained and created per ten vehicle sales;

(ii) The minimum wage levels by job classification;

(iii) The minimum amounts that will be paid for fringe benefits by job classification;

(iv) The minimum amounts that will be paid for worker training by job classification;

(v) Information on recruitment and training programs targeted specifically towards individuals facing barriers to employment, displaced workers and workers in disadvantaged communities;

(vi) Information on what steps have been taken and will be taken to implement the workforce development report required by paragraph (c) of subdivision five of section thirty six hundred thirty-eight of this part, with respect to training and retraining of existing vehicle purchaser employees;

(vii) Lifecycle emissions analysis of vehicle;

(viii) The minimum percent total values of recycled content in chassis, body, battery, and motor along with the total value of each of these components;

(ix) A plan to maximize reuse and recycling of traction battery at end of use in vehicles; and

(x) A plan to purchase motors manufactured using recycled (first priority) or responsibly-mined (second priority) copper and batteries using recycled or responsibly-mined lithium, nickel, and cobalt, according to the standards and assessments established by the initiative for responsible mining assurance.

(b) Upon certification of an eligible vehicle, such New York jobs plan information shall be incorporated as a material term of the contract.

4. To determine the incentive amount for each eligible vehicle, NYSERDA shall score the contractor's and its suppliers' New York jobs plan commitments from zero to one hundred according to a formula which includes comparative assessments of:

(a) Economic benefits: fifty percent. The product of full-time equivalent positions created or retained at each classification and the square of each classification's total compensation, wages plus monetary fringe benefits.

(b) Workforce development: ten percent. The total amount of investment in worker training for employees of the OEM over the twelve month period prior to final delivery of the vehicle.

(c) Inclusion: fifteen percent. A qualitative evaluation of the OEM's recruiting and training programs targeted specifically towards individuals facing barriers to employment and displaced workers.

(d) Environmental sustainability: twenty-five percent. An integrated evaluation of sustainable manufacturing practices, including the following factors:

(i) Lifecycle emissions analysis: twenty-five percent,

(ii) Commitments for percent of total value of recycled content in chassis, body, battery, and motor: twenty-five percent,

(iii) Qualitative evaluation of plan to maximize reuse and recycling of traction battery: twenty-five percent, and

(iv) Qualitative evaluation of plan for responsible sourcing of motor and battery minerals and/or reducing mineral use in the vehicle: twenty-five percent.

(e) New York's regional employment benefits: up to ten percent bonus points.

5. (a) Contractors shall be required to provide quarterly reports to NYSERDA for the first year after contract award and then annually after that. Reports shall detail progress and compliance with their New York jobs plan commitments and the commitments of their suppliers on forms provided by NYSERDA. If any such report indicates a failure to comply with their New York jobs plan commitments, NYSERDA shall notify the contractors of their noncompliance and the time frame within which compliance must be met. Failure to comply with their commitments within the given time frame shall result in forfeiture of the entire value of the voucher.

(b) NYSERDA shall publish New York jobs plan commitments and reports to the NYSERDA public website. New York jobs plans shall be published within two weeks of vehicle certification. Quarterly reports shall be published within two weeks of receipt by NYSERDA.

§ 2. This act shall take effect immediately.