

# STATE OF NEW YORK

7731

2023-2024 Regular Sessions

## IN ASSEMBLY

June 6, 2023

Introduced by M. of A. LUPARDO -- read once and referred 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:

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

§ 17-c. Zero-emission capable hybrid buses and zero-emission buses.  
1. For the four-year period commencing January first, two thousand twenty-five and ending December thirty-first, two thousand twenty-eight, 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 capable hybrid buses or zero-emission buses and related equipment and facilities as part of the normal replacement of its fleet.

2. (a) For purposes of this section "zero-emission capable hybrid bus" shall mean a motor vehicle that has a seating capacity of fifteen or more passengers in addition to the driver and used for transportation of persons; is capable of being 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 an onboard battery or electric generator; has an internal combustion engine for extended driving range where recharging infrastructure is not readily accessible, and otherwise as needed for safe and effective travel; and is capable of operating on demand without direct emission of atmo-

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

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1 spheric pollutants, and being paired with geofencing technology to auto-  
2 matically shut down the engine in specified locations.

3 (b) For purposes of this section "zero-emission bus" shall mean a  
4 motor vehicle that has a seating capacity of fifteen or more passengers  
5 in addition to the driver and used for the transportation of persons; is  
6 propelled by an electric motor and associated power electronics which  
7 provide acceleration torque to the drive wheels during normal vehicle  
8 operation and draws electricity from a hydrogen fuel cell or from a  
9 battery which is capable of being recharged from an external source of  
10 electricity; or otherwise operates without direct emission of atmospher-  
11 ic pollutants.

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

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

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

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

53 § 18-c. Capital plan requirements. In formulating the five-year  
54 department of transportation capital plans, the department shall: (a)  
55 consider the requirement of section seventeen-c of this article in its  
56 disbursement of payment for the costs of mass transportation capital

1 projects and facilities and give preference in the form of payments to  
2 public transportation systems eligible to receive operating assistance  
3 under the provisions of section eighteen-b of this article that are able  
4 to demonstrate commitments made towards purchasing zero-emission capable  
5 hybrid buses and zero-emission buses and related equipment and facili-  
6 ties; and (b) facilitate for purposes of meeting the requirement of  
7 section seventeen-c of this article the coordination of purchasing,  
8 installation and sharing services between public transportation systems  
9 serving primarily outside the city of New York.

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

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

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

1 performed by existing employees of authorized entities to a contracting  
2 entity; or (3) transfer of future duties and functions ordinarily  
3 performed by employees of authorized entities to a contracting entity.

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

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

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

30 3. (a) Notwithstanding the provisions of section one hundred three of  
31 this article or of any other general, special or local law, any chief  
32 executive officer of a political subdivision or agency which operates a  
33 public transportation system is authorized to make purchases of elec-  
34 tric-powered omnibuses or other related equipment upon a resolution  
35 approved by a two-thirds vote of its board then in office because the  
36 item is available through an existing contract between a vendor and (i)  
37 a public authority of the state provided that such other authority  
38 utilized a process of competitive bidding or a process of competitive  
39 requests for proposals to award such contracts, or (ii) the state of New  
40 York, or (iii) a political subdivision of the state of New York,  
41 provided that in any case when under this subdivision the political  
42 subdivision determines that obtaining such item thereby would be in the  
43 public interest and sets forth the reasons for such determination. The  
44 political subdivision shall not award any contract pursuant to this  
45 subdivision earlier than thirty days from the date on which the poli-  
46 tical subdivision declares that competitive bidding is impractical or  
47 inappropriate. All purchases shall be subject to audit and inspection by  
48 the political subdivision for which made, in addition to the department  
49 of audit and control of New York state. For purposes of this subdivi-  
50 sion, "political subdivision or agency which operates a public transpor-  
51 tation system" shall not include transportation authorities governed  
52 under titles nine, nine-A and eleven of article five of the public  
53 authorities law or title three of article three of the public authori-  
54 ties law. For the purposes of this subdivision, "electric-powered omni-  
55 buses" shall include any bus owned, leased, rented or otherwise  
56 controlled by the political subdivision that otherwise meets the defi-

1 nition of bus provided in section five hundred nine-a of the vehicle and  
2 traffic law that is propelled by an electric motor and associated power  
3 electronics which provide acceleration torque to the drive wheels during  
4 normal vehicle operation and draws electricity from a hydrogen fuel cell  
5 or from a battery which is capable of being recharged from an external  
6 source of electricity; or otherwise operates without direct emission of  
7 atmospheric pollutants.

8 (b) (i) 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: (1) 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; (2) 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 (3) transfer of future duties and functions ordinarily  
20 performed by employees of authorized entities to a contracting entity.

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

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

45 § 5. Section 104 of the general municipal law, as amended by section  
46 27 of part L of chapter 55 of the laws of 2012, is amended to read as  
47 follows:

48 § 104. Purchase through office of general services. 1. Notwithstanding  
49 the provisions of section one hundred three of this article or of any  
50 other general, special or local law, any officer, board or agency of a  
51 political subdivision, of a district therein, of a fire company or of a  
52 voluntary ambulance service is authorized to make purchases of commod-  
53 ities and services available pursuant to section one hundred sixty-three  
54 of the state finance law, may make such purchases through the office of  
55 general services subject to such rules as may be established from time  
56 to time pursuant to section one hundred sixty-three of the state finance



1 law or through the general services administration pursuant to section  
2 1555 of the federal acquisition streamlining act of 1994, P.L. 103-355;  
3 provided that any such purchase shall exceed five hundred dollars and  
4 that the political subdivision, district, fire company or voluntary  
5 ambulance service for which such officer, board or agency acts shall  
6 accept sole responsibility for any payment due the vendor. All purchases  
7 shall be subject to audit and inspection by the political subdivision,  
8 district, fire company or voluntary ambulance service for which made. No  
9 officer, board or agency of a political subdivision, or a district ther-  
10 ein, of a fire company or of a voluntary ambulance service shall make  
11 any purchase through such office when bids have been received for such  
12 purchase by such officer, board or agency, unless such purchase may be  
13 made upon the same terms, conditions and specifications at a lower price  
14 through such office. Two or more fire companies or voluntary ambulance  
15 services may join in making purchases pursuant to this section, and for  
16 the purposes of this section such groups shall be deemed "fire companies  
17 or voluntary ambulance services."

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

52 (b) (i) Notwithstanding any provision of law to the contrary, all  
53 rights or benefits, including terms and conditions of employment, and  
54 protection of civil service and collective bargaining status of all  
55 existing employees of authorized entities shall be preserved and  
56 protected. Nothing in this section shall result in the: (1) displace-

1 ment of any currently employed worker or loss of position, including  
2 partial displacement such as a reduction in the hours of non-overtime  
3 work, wages, or employment benefits, or result in the impairment of  
4 existing collective bargaining agreements; (2) transfer of existing  
5 duties and functions related to maintenance and operations currently  
6 performed by existing employees of authorized entities to a contracting  
7 entity; or (3) transfer of future duties and functions ordinarily  
8 performed by employees of authorized entities to a contracting entity.

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

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

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