

STATE OF NEW YORK

9650--A

IN ASSEMBLY

March 27, 2024

Introduced by M. of A. O'DONNELL, SIMONE -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Paragraph a of subdivision 14 of section 305 of the educa-
2 tion law, as amended by chapter 273 of the laws of 1999, is amended to
3 read as follows:
4 a. (1) All contracts for the transportation of school children, all
5 contracts to maintain school buses owned or leased by a school district
6 that are used for the transportation of school children, all contracts
7 for mobile instructional units, and all contracts to provide, maintain
8 and operate cafeteria or restaurant service by a private food service
9 management company shall be subject to the approval of the commissioner,
10 who may disapprove a proposed contract if, in [~~his~~] such commissioner's
11 opinion, the best interests of the district will be promoted thereby.
12 Except as provided in paragraph e of this subdivision, all such
13 contracts involving an annual expenditure in excess of the amount speci-
14 fied for purchase contracts in the bidding requirements of the general
15 municipal law shall be awarded to the lowest responsible bidder, which
16 responsibility shall be determined by the board of education or the
17 trustee of a district, with power hereby vested in the commissioner to
18 reject any or all bids if, in [~~his~~] such commissioner's opinion, the
19 best interests of the district will be promoted thereby and, upon such
20 rejection of all bids, the commissioner shall order the board of educa-
21 tion or trustee of the district to seek, obtain and consider new
22 proposals. All proposals for such transportation, maintenance, mobile
23 instructional units, or cafeteria and restaurant service shall be in
24 such form as the commissioner may prescribe. Advertisement for bids
25 shall be published in a newspaper or newspapers designated by the board
26 of education or trustee of the district having general circulation with-
27 in the district for such purpose. Such advertisement shall contain a

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

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1 statement of the time when and place where all bids received pursuant to
2 such advertisement will be publicly opened and read either by the school
3 authorities or by a person or persons designated by them. All bids
4 received shall be publicly opened and read at the time and place so
5 specified. At least five days shall elapse between the first publication
6 of such advertisement and the date so specified for the opening and
7 reading of bids. The requirement for competitive bidding shall not apply
8 to an award of a contract for the transportation of pupils or a contract
9 for mobile instructional units, if such award is based on an evaluation
10 of proposals in response to a request for proposals pursuant to para-
11 graph e of this subdivision. The requirement for competitive bidding
12 shall not apply to annual, biennial, or triennial extensions of a
13 contract nor shall the requirement for competitive bidding apply to
14 quadrennial or quinquennial year extensions of a contract involving
15 transportation of pupils, maintenance of school buses or mobile instruc-
16 tional units secured either through competitive bidding or through eval-
17 uation of proposals in response to a request for proposals pursuant to
18 paragraph e of this subdivision, when such extensions [~~(1)~~] (i) are made
19 by the board of education or the trustee of a district, under rules and
20 regulations prescribed by the commissioner, and, [~~(2)~~] (ii) do not
21 extend the original contract period beyond five years from the date
22 cafeteria and restaurant service commenced thereunder and in the case of
23 contracts for the transportation of pupils, for the maintenance of
24 school buses or for mobile instructional units, that such contracts may
25 be extended, except that power is hereby vested in the commissioner, in
26 addition to [~~his~~] such commissioner's existing statutory authority to
27 approve or disapprove transportation or maintenance contracts, [~~(i)~~] (A)
28 to reject any extension of a contract beyond the initial term thereof if
29 [~~he~~] such commissioner finds that amount to be paid by the district to
30 the contractor in any year of such proposed extension fails to reflect
31 any decrease in the regional consumer price index for the N.Y.,
32 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
33 ers (CPI-U) during the preceding twelve month period; and [~~(ii)~~] (B) to
34 reject any extension of a contract after ten years from the date trans-
35 portation or maintenance service commenced thereunder, or mobile
36 instructional units were first provided, if in [~~his~~] such commissioner's
37 opinion, the best interests of the district will be promoted thereby.
38 Upon such rejection of any proposed extension, the commissioner may
39 order the board of education or trustee of the district to seek, obtain
40 and consider bids pursuant to the provisions of this section. The board
41 of education or the trustee of a school district electing to extend a
42 contract as provided herein, may, in its discretion, increase the amount
43 to be paid in each year of the contract extension by an amount not to
44 exceed the regional consumer price index increase for the N.Y.,
45 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
46 ers (CPI-U), during the preceding twelve month period, provided it has
47 been satisfactorily established by the contractor that there has been at
48 least an equivalent increase in the amount of [~~his~~] such contractor's
49 cost of operation, during the period of the contract.

50 (2) (i) Notwithstanding the provisions of this subdivision, section
51 one hundred three of the general municipal law, or any other provision
52 of law to the contrary, the board of education of a school district
53 located in a city with at least one million inhabitants shall include in
54 contracts for the transportation of school children in kindergarten
55 through grade twelve, whether awarded through competitive bidding or
56 through evaluation of proposals in response to a request for proposals

1 pursuant to paragraph e of this subdivision, provisions for the
2 retention or preference in hiring of school bus workers and for the
3 preservation of wages, health, welfare, and retirement benefits and
4 seniority for school bus workers who are hired pursuant to such
5 provisions for retention or preference in hiring, in connection with
6 such contracts.

7 (ii) For the purposes of this subparagraph:

8 (A) "contracts for the transportation of school children" shall mean
9 contracts for the transportation of pupils awarded by such city school
10 district under which transportation services are performed by school bus
11 workers; and

12 (B) "school bus worker" shall mean an operator, mechanic, dispatcher
13 or attendant who:

14 i. was employed as of June thirtieth, two thousand twenty-three, or at
15 any time thereafter, by:

16 (I) a contractor that was a party to a contract with the board of
17 education of a school district located in a city with at least one
18 million inhabitants for the transportation of school children in kinder-
19 garten through grade twelve, in connection with such contract; or

20 (II) a subcontractor of a contractor that was a party to a contract
21 with the board of education of a school district located in a city with
22 at least one million inhabitants for the transportation of school chil-
23 dren in kindergarten through grade twelve, in connection with such
24 contract; and

25 ii. has been furloughed or become unemployed as a result of a loss of
26 such contract, or a part of such contract, by such contractor or such
27 subcontractor, or as the result of a reduction in service directed by
28 such board of education during the term of such contract.

29 § 2. This act shall take effect immediately.