

STATE OF NEW YORK

5366

2023-2024 Regular Sessions

IN SENATE

March 3, 2023

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-five and ending December thirty-first, two thousand twenty-nine,
5 every public transportation system eligible to receive operating assistance under the provisions of section eighteen-b of this article shall be
6 required to purchase only zero-emission capable hybrid buses or zero-emission buses and related equipment and facilities as part of the normal
7 replacement of its fleet.

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

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

LBD09967-01-3

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, 2029; 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.