

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:

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

3 § 3639. Administration of funds for zero-emission school buses and
4 supporting infrastructure. 1. As used in this section, the following
5 terms shall have the following meanings:

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

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

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

13 (2) An original equipment manufacturer that builds and sells or leases
14 complete eligible vehicles directly to fleets or vehicle owner-ope-
15 rators.

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

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

24 (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.

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

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

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

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

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

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

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

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

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

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

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

1 dollars allocated for the costs associated with the purchase or conver-
2 sion to zero-emission school buses and supporting infrastructure as set
3 forth in paragraph h of subdivision one of section 58-0703 of the envi-
4 ronmental conservation law.

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

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

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

21 (ii) The minimum wage levels by job classification;

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

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

26 (v) Information on recruitment and training programs targeted specif-
27 ically towards individuals facing barriers to employment, displaced
28 workers and workers in disadvantaged communities;

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

34 (vii) Lifecycle emissions analysis of vehicle;

35 (viii) The minimum percent total values of recycled content in chas-
36 sis, body, battery, and motor along with the total value of each of
37 these components;

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

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

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

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

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

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

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

7 (d) Environmental sustainability: twenty-five percent. An integrated
8 evaluation of sustainable manufacturing practices, including the follow-
9 ing factors:

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

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

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

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

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

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

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

34 § 2. This act shall take effect immediately.