STATE OF NEW YORK

6893--B

2025-2026 Regular Sessions

IN SENATE

March 26, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to transition feasibility analysis for zero-emission school buses; and to amend part A of chapter 56 of the laws of 2023 amending the education law relating to contracts for excellence, in relation to the effectiveness thereof

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

Section 1. Legislative findings. The legislature finds that feasibility issues related to the pace of technological advances, the capacity of the state's power grid, and the impacts of weather and other route conditions on zero-emission school buses (ZEBs) operated throughout the state present significant challenges to school districts working to transition their fleets in accordance with the department of education's (SED) first transition deadline of July 1, 2027. For that reason, this legislation addresses two separate concerns with current law. First, it examines the feasibility of each district's transition process. Second, for those districts deemed to have the most feasible paths to transition, the legislation directs SED, in conjunction with the New York state energy research and development authority (NYSERDA) and the department of health (DOH), to assess a defined group of district characteristics to determine which districts shall receive prioritized transportation and building aid for the purchase of additional transmission capacity and/or ZEBs and the design and construction of related infrastructure.

With respect to an individual district's ability to comply with the existing mandate, the legislation directs SED to require all school districts to complete a baseline transition feasibility analysis and to

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

LBD09808-09-5

repeat that process every five years. If a district's analysis determines that more than 50% of the district's regular bus routes are not deemed feasible for service by zero-emission school buses, then the district may maintain its existing fleet status quo until its next transition feasibility analysis. On the other hand, if a district's analysis determines that more than 50% of the district's regular bus routes are serviceable by zero-emission buses, then the district must comply with the existing transition timeline for the percentage of regular routes deemed feasible and may maintain the status quo for the district's remaining non-feasible regular routes until the district completes its next transition feasibility analysis. The outer deadline for districts with substantial feasibility challenges to transition their fleets will be 2040.

Despite the multi-faceted transition challenges faced by some districts, e.g., average low temperatures, topography and route distance vary widely across the state and substantially impact manufacturer's specifications and ZEB reliability, voters tend to focus exclusively on the variable of cost. Unfortunately, while there have been steady price declines in consumer electric vehicles since the transition deadlines were set in 2022, ZEBs still cost two to four times more than traditional internal combustion engine (ICE) buses, and the average cost of a ZEB has increased by 8.7%. In addition, three years ago experts forecast parity between the total cost of ownership for ZEBs and ICEs to occur by 2027, but now the forecast has extended to 2030 or beyond. Because the high cost for adding transmission and charging infrastructure to accommodate ZEBs falls predominantly on individual school districts, public support for the transition frequently wanes when voters must choose between spending limited budget dollars on educational expenses or for reducing local tailpipe emissions. There is no real debate for many voters in such a scenario, particularly for rural school districts that have low pupil populations and lots of fresh air, but few resources and high educational needs.

To promote a more effective transition with a greater impact sooner, the legislature finds that the state must initially concentrate the funding allocated to the transition on school districts with more than two thousand pupils. Within such group of school districts, the state shall then assess which districts, based on their county's childhood asthma ER visit rate, their transition feasibility analysis, SED's need/resource capacity index rating and per pupil spending, shall be prioritized to receive transportation and building aid relief for the purchase of additional transmission capacity and/or ZEBs and the design and construction of related infrastructure. Data indicates that, to date, only thirty-one of New York state's seven hundred thirty-one school districts have sought voter approval to purchase ZEBs. Voters in eight of the thirty-one districts voted "no".

Upon review of all thirty-one school districts which voted, certain patterns have emerged:

1. Districts with fewer than 2000 pupils voted "no" to ZEBs more frequently. Of the eight school districts which voted "no" to ZEBs, six have fewer than 2000 pupils and five of those six districts are rural districts.

2. Rural districts with a "high" need/resource capacity index voted "no" more frequently. Of the five rural school districts that voted "no", SED categorizes four of those districts as "high" on its need/resource capacity index, with the fifth district categorized as "average".

3. DOH does not quantify childhood asthma ER visit rates as "high" concern in the counties of most rural districts. Four of the five rural school districts which voted "no" to ZEBs (with the exception of Edwards-Knox Central School District in St. Lawrence County) are located in counties of "low" concern for childhood asthma ER visit rates. (Per DOH, St. Lawrence County is of "moderate" concern.) Of the six school districts with less than 2000 pupils that voted "no", Mexico Central School - located east of SUNY Oswego along Lake Ontario - was the only suburban school district, however, it is located in a county with "low" concern for childhood asthma ER visit rates.

Further patterns emerge when one contrasts the "no" votes with the "yes" votes.

4. Districts with 2000 or more pupils voted "yes" to ZEBs more frequently. Fourteen of the sixteen school districts with 2000 or more pupils voted "yes" to ZEBs. In contrast, only nine of the fifteen school districts with less than 2000 pupils voted "yes". When examining the two districts with 2000 or more pupils which voted "no" - Churchville-Chili Central School District, a suburban district southwest of the City of Rochester, and Baldwinsville Central School District, a suburban district northwest of the city of Syracuse - the votes initially appear to be outliers, as each district has large pupil populations (of 3,688 and 5,444, respectively) and is located in a county with "moderate" to "high" concern for childhood asthma ER visit rates. However, as noted below, another characteristic of each of those two districts undoubtedly plays a pivotal role in their voting results.

5. Districts with an "average" need/resource capacity index rating and per pupil spending below $19,500 voted "no" to ZEBs. Each of the fourteen districts with more than 2000 pupils which voted "yes" to ZEBs have "low" or "average" need/resource capacity index ratings and spend more than $19,500 per pupil. In contrast, the two large districts which voted "no" - Churchville-Chili and Baldwinsville - each with "average" need/resource capacity index ratings and high childhood asthma ER visit rates, both spend less than $19,500 per pupil. Moreover, unlike small districts which voted "yes" but which have "average" need/resource capacity index ratings with per pupil spending exceeding $19,500, Bemus Point central school district, a small district with an "average" need/resource capacity index rating and less than $19,500 per pupil spending, voted "no" to ZEBs.

While most school district administrators support the transition to ZEBs, the practical mechanics of the transition are challenging and costly. Administrators and voters alike feel the limitations of their local school district budgets, and as demonstrated by ZEB votes across the state, when put "between a rock and a hard place", voters will consistently prioritize educational spending over transportation spending, even when the community's asthma health risks are high. Large districts with low per pupil spending need financial assistance to help them accomplish the transition. The state can achieve the largest advances in public health in the shortest amount of time if it initially prioritizes allocated funds to districts with 2000 or more pupils, no more than an "average" need/resource capacity index rating, and per pupil spending of less than $19,500. As a result of such policy priorities, large districts with demonstrated feasibility challenges and small districts with less than 2000 pupils will be given additional time to complete their transitions in accordance with their current transition feasibility analysis.

§ 2. Subdivision 1 of section 3638 of the education law, as added by section 1 of subpart A of part B of chapter 56 of the laws of 2022, is amended to read as follows:

1. For the purposes of this section "zero-emission school bus" shall mean a school bus that: is propelled by an electric motor and associated power electronics which provide acceleration torque to the drive wheels during normal vehicle operations and draws electricity from a hydrogen fuel cell or battery; or otherwise operates without direct emission of atmospheric pollutants**, provided however that, notwithstanding the foregoing, for the purposes of this section such term shall include a hybrid battery electric bus with a second source of energy for propulsion**.

§ 3. Section 3638 of the education law is amended by adding two new subdivisions 1-a and 1-b to read as follows:

1-a. The department shall require every school district to complete a transition feasibility analysis before the end of the next succeeding full school year, or within fifteen months, as of the effective date of this subdivision, whichever is sooner, and every five years thereafter, to determine which if any regular routes can feasibly be serviced by zero-emission school buses, provided that existing feasibility studies completed within the two years preceding the adoption of this subdivision shall meet the requirements of this subdivision. The analysis shall assess each district's transportation needs, current bus routes and alternative routes based on distance, topography, bridge and road infrastructure, average low temperatures, and a minimum end-of-route charge requirement of no less than twenty percent, consider the sufficiency of the school district's electric transmission capacity and infrastructure and assess the availability of and accessibility to state and/or federal funding for the purchase of zero-emission school buses and construction of associated infrastructure. For purposes of categorizing schools pursuant to this section, the pupil population of a school district shall be the number most recently reported to the department or the number used in the district's current transition feasibility analysis, whichever is lower, and such number shall be deemed to remain unchanged until updated in the school district's next succeeding transition feasibility analysis.

1-b. Within six months of the effective date of this subdivision and annually thereafter, the department, in consultation with the New York state energy research and development authority and department of health, shall develop a list of school districts with two thousand or more pupils and rank their need for transportation and building aid for the purchase of zero-emission buses and transmission capacity and the design and construction of related infrastructure based on an assessment of each such district's current transition feasibility analysis, average per pupil spending, the most recent department of health data regarding the rate of emergency room visits for asthma per ten thousand persons aged zero to seventeen in the county in which such school district is located, and the needs/resource capacity group to which the commissioner has assigned such school district. To maximize the effectiveness of the state's limited pool of aid funding for the transition to zero-emission school buses, the commissioner shall prioritize the award of such allocated transportation and building aid to the high need school districts whose transition will likely have the highest positive health impact on the highest number of students.

§ 4. Subdivision 2 of section 3638 of the education law, as added by section 1 of subpart A of part B of chapter 56 of the laws of 2022, is amended to read as follows:

2. (a) [~~No later than July first, two thousand twenty-seven, every~~] Every school district with two thousand or more pupils shall, by no later than July first, two thousand thirty, abide by the findings of the district's current transition feasibility analysis, completed in accordance with subdivision one-a of this section, as set forth in this subdivision. If the findings of a school district's transition feasibility analysis indicate that:

(i) [~~only purchase or lease zero-emission school buses when purchasing or leasing new buses;~~

~~(ii) include requirements in any procurement for school transportation services that any contractors providing transportation services for the school district must only purchase or lease zero-emission school buses when purchasing or leasing new school buses; and~~

~~(iii)~~] fifty percent or more of all regular routes are not deemed feasible for service by zero-emission school buses, then the school district may continue to operate, maintain or contract for non-zero-emission school buses and receive transportation aid for non-zero-emission school buses purchased or leased to make required transportation runs; or

(ii) less than fifty percent of all regular routes are not deemed feasible for service by zero-emission school buses, then the school district (A) shall operate, maintain or contract for zero-emission school buses and receive transportation aid for zero-emission school buses purchased or leased for such regular routes as are deemed feasibly serviceable by a zero-emission school bus or for an equivalent percentage of regular routes deemed feasible for service by such buses and (B) may operate, maintain or contract for non-zero-emission school buses for the remaining regular routes and receive transportation aid for non-zero-emission school buses purchased or leased to make required transportation runs for such remaining regular routes.

(a-1) With respect to any zero-emission school buses operated or maintained by a school district in accordance with the findings of the district's current transition feasibility analysis as set forth in paragraph (a) of this subdivision, such school district shall include requirements in any procurement for the manufacturing or retrofitting of a zero-emission school bus and charging or fueling infrastructure that the components and parts used or supplied in the performance of the contract or any subcontract thereto shall be produced or made in whole or substantial part in the United States, its territories or possessions and that final assembly of the zero-emission school bus and charging or fueling infrastructure shall occur in the United States, its territories or possessions.

(a-2) Every school district with less than two thousand pupils shall, by no later than July first, two thousand thirty-seven:

(i) only purchase or lease zero-emission school buses when purchasing or leasing new buses;

(ii) include requirements in any procurement for school transportation services that any contractors providing transportation services for the school district must only purchase or lease zero-emission school buses when purchasing or leasing new school buses; and

(iii) include requirements in any procurement for the manufacturing or retrofitting of a zero-emission school bus and charging or fueling infrastructure that the components and parts used or supplied in the performance of the contract or any subcontract thereto shall be produced or made in whole or substantial part in the United States, its territories or possessions and that final assembly of the zero-emission school

bus and charging or fueling infrastructure shall occur in the United States, its territories or possessions.

(b) The commissioner, in consultation with the New York state energy research and development authority and office of general services, may waive the contracting requirements set forth in [~~subparagraph (iii) of~~] paragraph [~~(a)~~] **(a-1)** of this subdivision if the commissioner determines that the requirements would not be in the public interest, would result in unreasonable costs, or that obtaining such zero-emission school buses and charging or fueling infrastructure components and parts in the United States would increase the cost of a school district's contract for zero-emission school buses and charging or fueling infrastructure by an unreasonable amount, or such zero-emission school busses and charging or fueling infrastructure components and parts cannot be produced, made, or assembled in the United States in sufficient and reasonably available quantities or of satisfactory quality. Such determination must be made on an annual basis no later than December thirty-first, after providing notice and an opportunity for public comment, and be made publicly available, in writing, on the department's website with a detailed explanation of the findings leading to such determination. If the commissioner has issued determinations for three consecutive years that no such waiver is warranted pursuant to this paragraph, then the commissioner shall no longer be required to provide the annual determinations required by this paragraph**.**

(c) Any school district which encumbers funds and places an order for a zero-emission school bus prior to July first, two thousand thirty, but which does not receive delivery of such bus before such date, shall be deemed in compliance with the provisions of this subdivision.

(d) For the purpose of this subdivision, "regular routes" are defined as daily runs to and from a student's home, child care or bus stop to the district school. Routes to transport students off the primary school campus for boards of cooperative educational services (BOCES) programs, special education placements at a distance greater than thirty miles from the district school and to transport homeless students and students to and from extracurricular activities shall be deemed "non regular" routes and exempted from any zero-emission school bus requirement pursuant to this chapter.

§ 5. Subdivision 3 of section 3638 of the education law, as added by section 1 of subpart A of part B of chapter 56 of the laws of 2022, is amended to read as follows:

3. [~~No later than July first, two thousand thirty-five, every~~] **(a) Every** school district **with two thousand or more pupils** shall**, by no later than July first, two thousand thirty-seven**:

[~~(a)~~] **(i)** only operate and maintain zero-emission school buses; and

[~~(b)~~] **(ii)** include requirements in any procurement for school transportation services that any contractors providing transportation services for the school district must only operate zero-emission school buses when providing such transportation services to the school district.

(b) Every school district with less than two thousand pupils shall, by no later than July first, two thousand forty:

(i) only operate and maintain zero-emission school buses; and

(ii) include requirements in any procurement for school transportation services that any contractors providing transportation services for the school district must only operate zero-emission school buses when providing such transportation services to the school district.

§ 6. Subdivision 4 of section 3638 of the education law, as added by section 1 of subpart A of part B of chapter 56 of the laws of 2022, is amended to read as follows:

4. A school district may apply to the commissioner, and the department may grant a one-time extension of up to twenty-four months to comply with the requirements of subdivision [~~two~~] **three** of this section. The commissioner shall consider a school district's effort to meet the requirements of subdivision [~~two~~] **three** of this section when granting an extension, including but not limited to, procurement efforts made by the school district, applications for state or federal funds, changes needed to school district operations to meet the requirements of this section, employee training, and receipt of technical assistance, if any. Upon a school district receiving an extension, the New York state energy research and development authority, in consultation with the department, shall provide any additional technical assistance necessary to the district to meet the requirements of subdivision [~~two~~] **three** of this section.

§ 7. Subdivision 1 of section 3623-a of the education law is amended by adding a new paragraph a-1 to read as follows:

a-1. Zero-emission bus transition feasibility analysis, conducted pursuant to subdivision one-a of section thirty-six hundred thirty-eight of this article;

§ 8. Paragraph e of subdivision 1 of section 3623-a of the education law is amended by adding two new subparagraphs 1-a and 7-a to read as follows:

(1-a) salary for a zero-emission transportation transition planner;

(7-a) costs incurred to transport an out-of-service zero-emission bus for storage and repairs;

§ 9. Subdivision 3 of section 35 of part A of chapter 56 of the laws of 2023 amending the education law relating to contracts for excellence, is amended to read as follows:

3. Section nineteen of this act shall expire and be deemed repealed June 30, [~~2036~~] **2041**; and

§ 10. This act shall take effect immediately.