

P.L. 2021, CHAPTER 307, *approved November 8, 2021*  
Assembly, No. 5818 (*Second Reprint*)

1 **AN ACT** concerning bidding on pupil transportation contracts,  
2 amending N.J.S.18A:39-3 and P.L.2005, c.84, and  
3 supplementing chapter 39 of Title 18A of the New Jersey  
4 Statutes.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. N.J.S.18A:39-3 is amended to read as follows:

10 18A:39-3. a. No contract for the transportation of pupils to and  
11 from school shall be made, when the amount to be paid during the  
12 school year for such transportation shall exceed \$7,500.00 or the  
13 amount determined pursuant to subsection b. of this section, and  
14 have the approval of the executive county superintendent of  
15 schools, unless the board of education making such contract shall  
16 have first publicly advertised for bids therefor in a newspaper  
17 published in the district or, if no newspaper is published therein, in  
18 a newspaper circulating in the district, once, at least 10 days prior to  
19 the date fixed for receiving proposals for such transportation, and  
20 shall have awarded the contract to the lowest responsible bidder.

21 Nothing in this chapter shall require the advertisement and  
22 letting on proposals or bids of annual extensions, approved by the  
23 executive county superintendent, of any contract for transportation  
24 entered into through competitive bidding when--

25 (1) Such annual extensions impose no additional cost upon the  
26 board of education, regardless of the fact that the route description  
27 has changed; or

28 (2) The increase in the contractual amount as a result of such  
29 extensions does not exceed the rise in the Consumer Price Index as  
30 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that  
31 school year, regardless of the fact that the route description has  
32 changed or an aide has been added or removed; or

33 (3) (Deleted by amendment, P.L.1982, c.74.)

34 (4) The increase in the contractual amount as a result of an  
35 extension exceeds the rise in the Consumer Price Index as defined  
36 in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year,  
37 but the following apply to the extensions:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ATR committee amendments adopted June 14, 2021.

<sup>2</sup>Assembly floor amendments adopted June 21, 2021.

1 (a) The increase is directly attributable to a route change to  
2 accommodate new student riders or safety concerns as provided for  
3 in the original bid, or the increase is directly attributable to the  
4 addition of an aide as provided for in the original bid; and

5 (b) The school destination remains unchanged from the original  
6 contract.

7 Any such extension as described in this paragraph shall require  
8 the approval of the executive county superintendent of schools.

9 Nothing in this chapter shall require the immediate bid of any  
10 contract renewal for the remainder of a school year in which the  
11 only change, in addition to route description, is the bus type.  
12 However, any such extension shall be approved by the executive  
13 county superintendent of schools and shall be bid for the next  
14 school year.

15 No annual extension shall be granted pursuant to this subsection  
16 to a person who has been debarred from bidding on a pupil  
17 transportation contract pursuant to the provisions of section 3 of  
18 P.L. , c. (C. ) (pending before the Legislature as this bill).

19 b. The Governor, in consultation with the Department of the  
20 Treasury, shall, no later than March 1 of each odd-numbered year,  
21 adjust the threshold amount set forth in subsection a. of this section,  
22 or subsequent to 1985 the threshold amount resulting from any  
23 adjustment under this subsection or section 17 of P.L.1985, c.469,  
24 in direct proportion to the rise or fall of the Consumer Price Index  
25 for all urban consumers in the New York City and the Philadelphia  
26 areas as reported by the United States Department of Labor. The  
27 Governor shall, no later than June 1 of each odd-numbered year,  
28 notify all local school districts of the adjustment. The adjustment  
29 shall become effective on July 1 of each odd-numbered year.

30 c. A bid for a pupil transportation contract shall identify each  
31 person who has any ownership interest in the company submitting a  
32 bid for the pupil transportation contract.

33 d. Prior to awarding any pupil transportation contract, a board  
34 of education shall review the debarment list maintained pursuant to  
35 section 3 of P.L. , c. (C. ) (pending before the Legislature  
36 as this bill). No pupil transportation contract shall be awarded to  
37 any person who is debarred from bidding pursuant to the provisions  
38 of section 3 of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill).

40 e. As used in this section, "person" means an individual and any  
41 business, including any corporation, partnership, association, or  
42 proprietorship in which such individual is a principal, or with  
43 respect to which the individual owns, directly or indirectly, or  
44 controls any of the stock or other equity interest of such business.

45 (cf: P.L.2007, c.260, s.66)

46  
47 2. Section 2 of P.L.2005, c.84 (C.18A:39-11.3) is amended to  
48 read as follows:

1        2. a. A board of education may, by resolution approved by a  
2 majority of the board of education and subject to the provisions of  
3 subsection b. of this section, disqualify a bidder who would  
4 otherwise be determined to be the lowest responsible bidder for a  
5 pupil transportation contract, if the board of education finds that it  
6 has had prior negative experience with the bidder. The  
7 disqualification shall be for a reasonable, defined period of time  
8 which shall not exceed three years.

9        b. As used in this section, "prior negative experience" means  
10 any of the following:

11        (1) the bidder has been determined to be "nonperforming" under  
12 a pupil transportation contract after a hearing which shall include  
13 the bidder, the superintendent of schools, and the county  
14 superintendent of schools. The county superintendent of schools  
15 shall make the determination as to nonperformance and this  
16 determination may be appealed to the Commissioner of Education  
17 and the State Board of Education, as provided by law;

18        (2) the bidder defaulted on a transportation contract thereby  
19 requiring the board of education to utilize the services of another  
20 contractor to complete the contract;

21        (3) the bidder defaulted on a transportation contract thereby  
22 requiring the board of education to look to the bidder's surety for  
23 completion of the contract or tender of the costs of completion; or

24        (4) the bidder has **[at least a 10%]** any ownership interest in any  
25 contractor that had prior negative experience with the board of  
26 education as described in paragraphs (1) through (3) of this  
27 subsection or in any contractor that is debarred from bidding on a  
28 pupil transportation contract pursuant to the provisions of section 3  
29 of P.L. , c. (C. ) (pending before the Legislature as this  
30 bill).

31 (cf: P.L.2005, c.84, s.2)  
32

33        3. (New section) a. The <sup>2</sup>**[State Board]** Department<sup>2</sup> of  
34 Education shall provide for the debarment from bidding on any pupil  
35 transportation contract of a person for causes that include, but are not  
36 limited to:

37        (1) the employment or assignment of an individual as a school bus  
38 driver who has been disqualified to serve as a school bus driver or  
39 determined ineligible to operate a school bus pursuant to the  
40 provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1);

41        (2) failure to comply with the provisions of section 1 of P.L.2018,  
42 c.152 (C.18A:39-19.6);

43        (3) failure to comply with the provisions of the "School Bus  
44 Enhanced Safety Inspection Act," P.L.1999, c.5 (C.39:3B-18 et seq.),  
45 or any rules or regulations promulgated thereunder;

46        (4) commission of a criminal offense as an incident to obtaining or  
47 attempting to obtain a public or private contract, or subcontract  
48 thereunder, or in the performance of such contract or subcontract;

1 (5) commission of a criminal offense that includes child abuse or  
2 sexual misconduct involving a child;

3 (6) a record of failure to perform or of unsatisfactory performance  
4 in accordance with the terms of one or more pupil transportation  
5 contracts, provided that such failure or unsatisfactory performance has  
6 occurred within a reasonable time preceding the determination to  
7 debar and was caused by acts within the control of the person  
8 debarred;

9 (7) knowingly submitting a bid for a pupil transportation contract  
10 that fails to contain the information required pursuant to subsection c.  
11 of N.J.S.18A:39-3 that would have included a person debarred from  
12 bidding on a pupil transportation contract pursuant to the provisions of  
13 this section; or

14 (8) debarment by some other department or agency in the  
15 Executive Branch of the New Jersey State government.

16 b. The debarment shall be for a reasonable, defined period of time  
17 not less than one year and not to exceed five years.

18 c. The existence of any of the causes set forth in subsection a. of  
19 this section shall not necessarily require that a person be debarred from  
20 bidding on a pupil transportation contract. In each instance, the  
21 decision to debar shall be made within the discretion of the  
22 Commissioner of Education or the <sup>1</sup>School<sup>1</sup> Bus Safety Ombudsman,  
23 unless otherwise required by law, and shall be rendered in the best  
24 interest of the State.

25 d. <sup>2</sup>The Department of Education shall provide written notice to  
26 any person subject to debarment pursuant to the provisions of this  
27 section. A person subject to debarment may, within 30 days beginning  
28 from the date upon which the person receives written notice of the  
29 debarment, file a challenge of the cause for debarment to the  
30 Commissioner of Education. If no challenge is filed or if the  
31 determination of debarment is upheld, notification of the debarment  
32 shall be forwarded to the New Jersey Motor Vehicle Commission,  
33 each executive county superintendent in the State, and each board of  
34 education in the State. Notification of the debarment shall be posted  
35 on the Department of Education's Internet website pursuant to the  
36 provisions of subsection e. of this section.

37 e.<sup>2</sup> A list of persons debarred from bidding on a pupil  
38 transportation contract shall be maintained on the Department of  
39 Education's Internet website and shall be distributed to each school  
40 district and board of education in the State by March 1 of each year.  
41 The Commissioner of Education or <sup>1</sup>School<sup>1</sup> Bus Safety Ombudsman  
42 may determine to keep the names of such persons debarred pursuant to  
43 the provisions of this section on the list beyond completion of any  
44 debarment period instituted pursuant to the provisions of this section.

45 <sup>2</sup>[e.] f.<sup>2</sup> As used in this section:

46 "Child abuse" means any conduct that falls under the purview and  
47 reporting requirements of P.L.1971, c.437 (C.9:6-8.8 et seq.) and is

1 directed toward or against a child or student, regardless of the age of  
2 the child or student.

3 “Person” means an individual and any business, including any  
4 corporation, partnership, association, or proprietorship in which such  
5 individual is a principal, or with respect to which the individual owns,  
6 directly or indirectly, or controls any of the stock or other equity  
7 interest of such business.

8 “Sexual misconduct” means any verbal, nonverbal, written, or  
9 electronic communication, or any other act directed toward or with a  
10 child or student that is designed to establish a sexual relationship with  
11 the child or student, including a sexual invitation, dating or soliciting a  
12 date, engaging in sexual dialogue, making sexually suggestive  
13 comments, self-disclosure or physical exposure of a sexual or erotic  
14 nature, and any other sexual, indecent, or erotic contact with a child or  
15 student.

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17 4. The State Board of Education shall adopt in accordance with  
18 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1  
19 et seq.), rules and regulations as may be necessary to implement the  
20 provisions of this act.

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22 5. This act shall take effect upon the enactment of P.L. ,  
23 c. (C. ) (pending before the Legislature as Senate Bill No.  
24 <sup>1</sup>[XXXX] 3851<sup>1</sup> and Assembly Bill No. <sup>1</sup>[XXXX] 5814<sup>1</sup>) and shall  
25 apply to any pupil transportation contract entered into or renewed  
26 on or after the effective date of this act.

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31 Provides for debarment of school bus contractors for certain  
32 violations; requires certain information in pupil transportation  
33 contract bid.