

SENATE, No. 3849

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

Senator Corrado

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2021)

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:

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

42 (b) The school destination remains unchanged from the original
43 contract.

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

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.

1 Nothing in this chapter shall require the immediate bid of any
2 contract renewal for the remainder of a school year in which the
3 only change, in addition to route description, is the bus type.
4 However, any such extension shall be approved by the executive
5 county superintendent of schools and shall be bid for the next
6 school year.

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

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

22 c. A bid for a pupil transportation contract shall identify each
23 person who has any ownership interest in the company submitting a
24 bid for the pupil transportation contract.

25 d. Prior to awarding any pupil transportation contract, a board
26 of education shall review the debarment list maintained pursuant to
27 section 3 of P.L. , c. (C.) (pending before the Legislature
28 as this bill). No pupil transportation contract shall be awarded to
29 any person who is debarred from bidding pursuant to the provisions
30 of section 3 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32 e. As used in this section, "person" means an individual and any
33 business, including any corporation, partnership, association, or
34 proprietorship in which such individual is a principal, or with
35 respect to which the individual owns, directly or indirectly, or
36 controls any of the stock or other equity interest of such business.
37 (cf: P.L.2007, c.260, s.66)

38
39 2. Section 2 of P.L.2005, c.84 (C.18A:39-11.3) is amended to
40 read as follows:

41 2. a. A board of education may, by resolution approved by a
42 majority of the board of education and subject to the provisions of
43 subsection b. of this section, disqualify a bidder who would
44 otherwise be determined to be the lowest responsible bidder for a
45 pupil transportation contract, if the board of education finds that it
46 has had prior negative experience with the bidder. The
47 disqualification shall be for a reasonable, defined period of time
48 which shall not exceed three years.

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

3 (1) the bidder has been determined to be "nonperforming" under
4 a pupil transportation contract after a hearing which shall include
5 the bidder, the superintendent of schools, and the county
6 superintendent of schools. The county superintendent of schools
7 shall make the determination as to nonperformance and this
8 determination may be appealed to the Commissioner of Education
9 and the State Board of Education, as provided by law;

10 (2) the bidder defaulted on a transportation contract thereby
11 requiring the board of education to utilize the services of another
12 contractor to complete the contract;

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

16 (4) the bidder has **【at least a 10%】** any ownership interest in any
17 contractor that had prior negative experience with the board of
18 education as described in paragraphs (1) through (3) of this
19 subsection or in any contractor that is debarred from bidding on a
20 pupil transportation contract pursuant to the provisions of section 3
21 of P.L. , c. (C.) (pending before the Legislature as this
22 bill).

23 (cf: P.L.2005, c.84, s.2)
24

25 3. (New section) a. The State Board of Education shall
26 provide for the debarment from bidding on any pupil transportation
27 contract of a person for causes that include, but are not limited to:

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

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

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

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

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

42 (6) a record of failure to perform or of unsatisfactory
43 performance in accordance with the terms of one or more pupil
44 transportation contracts, provided that such failure or unsatisfactory
45 performance has occurred within a reasonable time preceding the
46 determination to debar and was caused by acts within the control of
47 the person debarred;

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

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

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

10 c. The existence of any of the causes set forth in subsection a.
11 of this section shall not necessarily require that a person be
12 debarred from bidding on a pupil transportation contract. In each
13 instance, the decision to debar shall be made within the discretion
14 of the Commissioner of Education or the Bus Safety Ombudsman,
15 unless otherwise required by law, and shall be rendered in the best
16 interest of the State.

17 d. A list of persons debarred from bidding on a pupil
18 transportation contract shall be maintained on the Department of
19 Education's Internet website and shall be distributed to each school
20 district and board of education in the State by March 1 of each year.
21 The Commissioner of Education or Bus Safety Ombudsman may
22 determine to keep the names of such persons debarred pursuant to
23 the provisions of this section on the list beyond completion of any
24 debarment period instituted pursuant to the provisions of this
25 section.

26 e. As used in this section:

27 "Child abuse" means any conduct that falls under the purview
28 and reporting requirements of P.L.1971, c.437 (C.9:6-8.8 et seq.)
29 and is directed toward or against a child or student, regardless of the
30 age of the child or student.

31 "Person" means an individual and any business, including any
32 corporation, partnership, association, or proprietorship in which
33 such individual is a principal, or with respect to which the
34 individual owns, directly or indirectly, or controls any of the stock
35 or other equity interest of such business.

36 "Sexual misconduct" means any verbal, nonverbal, written, or
37 electronic communication, or any other act directed toward or with
38 a child or student that is designed to establish a sexual relationship
39 with the child or student, including a sexual invitation, dating or
40 soliciting a date, engaging in sexual dialogue, making sexually
41 suggestive comments, self-disclosure or physical exposure of a
42 sexual or erotic nature, and any other sexual, indecent, or erotic
43 contact with a child or student.

44

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

1 5 This act shall take effect upon the enactment of P.L. , c.
2 (C.) (pending before the Legislature as Senate Bill No. XXXX
3 and Assembly Bill No. XXXX) and shall apply to any pupil
4 transportation contract entered into or renewed on or after the
5 effective date of this act.

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7
8 STATEMENT

9
10 This bill requires the State Board of Education to provide for
11 debarment of school bus contractors for certain violations. Under
12 current law, a board of education must, with limited exception,
13 accept the lowest responsible bid for a pupil transportation contract.
14 A board of education may only disqualify the lowest responsible
15 bidder if the board finds it has had certain prior negative
16 experiences with the bidder.

17 Under the bill, the State Board of Education is required to
18 provide for debarment from bidding on any pupil transportation
19 contract of a person for certain causes that include, but are not
20 limited to: failing to comply with certain provisions of law
21 pertaining to the qualification of school bus drivers and school bus
22 inspections; the commission of a criminal offense as an incident to
23 obtaining or attempting to obtain a public or private contract, or
24 subcontract thereunder, or in the performance of such contract or
25 subcontract; the commission of a criminal offense that includes
26 child abuse or sexual misconduct involving a child; a record of
27 failure to perform or of unsatisfactory performance in accordance
28 with the terms of one or more pupil transportation contracts;
29 knowingly submitting a bid for a pupil transportation contract that
30 fails to identify each person who has any ownership interest in the
31 company and that would have included a person debarred from
32 bidding on a pupil transportation contract under the bill; and
33 debarment by some other department or agency in the Executive
34 Branch of the New Jersey State government. Under the bill,
35 debarment, which must be for a reasonable, defined period of time
36 of not less than one year and not longer than five years, based on
37 one of the above causes need not be automatic. The decision to
38 debar will be at the discretion of the Commissioner of Education or
39 Bus Safety Ombudsman and rendered in the best interest of the
40 State.

41 The bill requires that a list of persons debarred from bidding on a
42 pupil transportation contract under the bill be maintained on the
43 Department of Education's Internet website and distributed to each
44 school district and board of education in the State by March 1 of
45 each year. The commissioner or ombudsman may keep the names
46 of debarred persons on this list beyond the completion of a period
47 of debarment. The bill defines "person" to mean an individual and
48 any business, including any corporation, partnership, association, or

1 proprietorship in which such individual is a principal, or with
2 respect to which the individual owns, directly or indirectly, or
3 controls any of the stock or other equity interest of such business.

4 The bill amends current law to require a bid for a pupil
5 transportation contract to identify each person who has any
6 ownership interest in the company submitting the bid and to require
7 a board of education to review the debarment list prior to awarding
8 a pupil transportation contract. The bill prohibits a board of
9 education from awarding a pupil transportation contract to any
10 person debarred from bidding on a pupil transportation contract
11 under the provisions of the bill.

12 The bill also expands what qualifies as a prior negative
13 experience for which a board of education may disqualify the
14 lowest responsible bidder for a pupil transportation contract. Under
15 the bill, a board of education may disqualify the lowest responsible
16 bidder when the bidder has any ownership interest in any contractor
17 that had prior negative experiences with the board or in any
18 contractor that is debarred from bidding on a pupil transportation
19 contract under the provisions of the bill. Current law provides that
20 a board of education may disqualify a bidder when the bidder has at
21 least 10 percent ownership in any contractor that had a prior
22 negative experience with the board.

23 This bill will take effect upon the enactment of Senate Bill. No.
24 XXXX and Assembly Bill No. XXXX, which are currently pending
25 before the Legislature.