

Local 1181-1061

Amalgamated Transit Union A.F.L.-C.I.O.

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ATU LOCAL 1181-1061 UPDATE TO MEMBERSHIP ON EPP (Employee Protection Provision) MAY 14TH, 2015

This is a follow-up to our last update dated, March 20th, 2015.

We are proud and excited to share the following information with the membership.

We would like to let you know that the EPP bill has been introduced in the Senate by Senator Golden. The bill number is S5327. Annexed is the language of what was introduced.

I will keep you posted on the status in the Assembly.

We appreciate your continued patience.

As always, when new information becomes available be assured that we will keep you informed. If we stay united during this important time, I am confident we will succeed in meeting our goal.

Fraternally yours,

Michael Cordiello

President / Business Agent

ATU Local 1181-1061 and the Executive Board

2015-2016 Regular Sessions

IN SENATE

May 13, 2015

when Introduced by Sen. GOLDEN -- read twice and ordered printed, and
 printed to be committed to the Committee on Education
 the AN ACT to amend the education law, in relation to contracts for
 transportation of school children

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

1 Section 1. Statement of legislative findings and necessity. The
 legis-
 2 lature hereby finds that for three decades beginning in 1979,
 following
 3 a strike by school bus workers, the school bus contracts of the board
 of
 4 education of the city of New York included employee
 protection
 5 provisions requiring transportation contractors, among other things,
 to
 6 give priority in hiring to employees who became unemployed because
 of
 7 their employers' loss of bus contract work for such board and to
 pay
 8 such employees the same wages and benefits they had received prior
 to
 9 becoming unemployed.
 10 Following the 2011 decision by the New York State Court of Appeals
 in
 11 **L&M Bus Corp., et al., v. the New York City Department of Education,**
et
 12 **al.**, the board of education of the city of New York did not include
 the
 13 employee protection provisions that had been part of the board's
 school
 14 bus contracts for over 30 years or any similar provisions in its
 solici-
 15 tations for its school bus contracts. After the issuance of the
 first
 16 such Post-**L&M** solicitation; there was a school bus strike in January
 and
 17 February of 2013. During this strike, many children were either
 unable
 18 to attend school or were burdened, along with their families, with
 find-

19 ing alternative modes of transportation in the heart of winter.
20 The legislature further finds that the board of education of the
city
21 of New York contracts with 62 companies to provide vital school
bus
22 transportation to 149,000 school-age children. Pursuant to the
education
23 law, the state reimburses the board of education of the city of New
York
24 for a substantial percentage of its school bus contract expenditures.

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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S. 5327

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1 Accordingly, the legislature finds that the education law should
be
2 amended to require the board of education of the city of New York
to
3 include important employee protections in its procurements for
school
4 bus transportation contracts and to authorize the board of education
to
5 amend existing contracts to include these protections. Including
these
6 protections in such board's contracts will aid in avoiding
service
7 disruptions and pension withdrawal liability claims, while
protecting
8 the experienced school bus contract workforce from significant wage
and
9 benefit reductions and facilitating the retention of an
experienced
10 workforce. Inclusion of such protections will secure more cost-
effec-
11 tive, higher quality and efficient procurement and performance of
school
12 bus transportation services.

13 § 2. Paragraph a of subdivision 14 of section 305 of the
education
14 law, as amended by chapter 273 of the laws of 1999, is amended to
read
15 as follows:
16 a. (1) All contracts for the transportation of school children,
all
17 contracts to maintain school buses owned or leased by a school
district
18 that are used for the transportation of school children, all
contracts
19 for mobile instructional units, and all contracts to provide,
maintain
20 and operate cafeteria or restaurant service by a private food
service

20 commissioner may order the board of education or trustee of the
district
21 to seek, obtain and consider bids pursuant to the provisions of
this
22 section. The board of education or the trustee of a school
district
23 electing to extend a contract as provided herein, may, in
its
24 discretion, increase the amount to be paid in each year of the
contract
25 extension by an amount not to exceed the regional consumer price
index
26 increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon
the
27 index for all urban consumers (CPI-U), during the preceding twelve
month
28 period, provided it has been satisfactorily established by the
contrac-
29 tor that there has been at least an equivalent increase in the amount
of
30 his cost of operation, during the period of the contract.

31 (2) Notwithstanding any other provision of this subdivision, the
board
32 of education of a school district located in a city with at least
one
33 million inhabitants shall include in contracts for the transportation
of
34 school children in kindergarten through grade twelve, whether
awarded
35 through competitive bidding or through evaluation of proposals
in
36 response to a request for proposals pursuant to paragraph e of
this
37 subdivision, provisions for the retention or preference in hiring
of
38 school bus workers and for the preservation of wages, health,
welfare
39 and retirement benefits and seniority for school bus workers who
are
40 hired pursuant to such provisions for retention or preference in
hiring,
41 in connection with such contracts. For purposes of this
subparagraph,
42 "school bus worker" shall mean an operator, mechanic, dispatcher
or
43 attendant who: (i) was employed as of June thirtieth, two thousand
ten
44 or at any time thereafter by (A) a contractor that was a party
to a
45 contract with the board of education of a school district located
in a
46 city with at least one million inhabitants for the transportation
of
47 school children in kindergarten through grade twelve, in connection
with
48 such contract, or (B) a subcontractor of a contractor that was a
party

49 to a contract with the board of education of a school district
located
50 in a city with at least one million inhabitants for the
transportation
51 of school children in kindergarten through grade twelve, in
connection
52 with such contract, and (ii) has been furloughed or become unemployed
as
53 a result of a loss of such contract, or a part of such contract, by
such
54 contractor or such subcontractor, or as a result of a reduction
in
55 service directed by such board of education during the term of
such
56 contract.
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1 § 3. Subdivision 14 of section 305 of the education law is amended
by
2 adding a new paragraph g to read as follows:
3 g. Notwithstanding the provisions of paragraphs a through f of
this
4 subdivision and any regulation promulgated pursuant thereto, the
board
5 of education of a school district located in a city with at least
one
6 million inhabitants and a contractor providing transportation
services
7 to such district for school children in kindergarten through
grade
8 twelve may amend a contract for such transportation services, for
such
9 consideration as approved by such board of education, to include in
such
10 contract provisions for the retention or preference in hiring of
school
11 bus workers and for the preservation of wages, health, welfare
and
12 retirement benefits and seniority for school bus workers who are
hired
13 pursuant to such provisions for retention or preference in hiring,
in
14 connection with such contracts. For purposes of this paragraph,
"school
15 bus worker" shall mean an operator, mechanic, dispatcher or
attendant
16 who: (1) was employed as of June thirtieth, two thousand ten or at
any
17 time thereafter by (i) a contractor that was a party to a contract
with
18 the board of education of a school district located in a city with
at
19 least one million inhabitants for the transportation of school
children
20 in kindergarten through grade twelve, in connection with such
contract,

21 or (ii) a subcontractor of a contractor that was a party to a
contract
22 with the board of education of a school district located in a city
with
23 at least one million inhabitants for the transportation of school
chil-
24 dren in kindergarten through grade twelve, in connection with
such
25 contract, and (2) has been furloughed or become unemployed as a
result
26 of a loss of such contract, or a part of such contract, by such
contrac-
27 tor or such subcontractor, or as the result of a reduction in
service
28 directed by such board of education during the term of such contract.
29 § 4. Separability. If any item, clause, subparagraph,
paragraph,
30 subdivision or section of this act shall be adjudged by any court
of
31 competent jurisdiction to be invalid, such judgment shall not
affect,
32 impair or invalidate the remainder thereof, but shall be confined in
its
33 operation to this item, clause, subparagraph, paragraph, subdivision
or
34 section thereof that was adjudged to be invalid.
35 § 5. This act shall take effect immediately.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S5327

SPONSOR: GOLDEN

TITLE OF BILL: An act to amend the education law, in relation to
contracts for the transportation of school children

PURPOSE OR GENERAL IDEA OF BILL:

To restore employee protection provisions to school bus contracts in NYC

SUMMARY OF PROVISIONS:

Statement of legislative findings regarding employee protection
provisions, and pension liability. This bill amends section 305 of the
education law to restore employee protection provisions (EPPs) in school
bus contracts in NYC.

JUSTIFICATION:

EPPs create a master seniority list that school bus companies must use to fill job vacancies. The master seniority list is comprised of employees who become unemployed as a result of reassignment of busing contracts. EPPs require bus contractors to give priority, by seniority, to veteran drivers at the same pay and benefits, including pension rate, as their most recent jobs.

FISCAL IMPLICATIONS:

To be determined

EFFECTIVE DATE:

This act shall take effect immediately