

2021 -- S 0635 SUBSTITUTE A

=====
LC002439/SUB A/2
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO EDUCATION - STUDENT TRANSPORTATION

Introduced By: Senators Lawson, Archambault, Coyne, Seveney, Quezada, Miller,
Sosnowski, Cano, Euer, and Burke

Date Introduced: March 18, 2021

Referred To: Senate Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-21-1 of the General Laws in Chapter 16-21 entitled "Health and
2 Safety of Pupils" is hereby amended to read as follows:

3 **16-21-1. Transportation of public and private school pupils.**

4 (a) The school committee of any town or city shall provide suitable transportation, that may
5 include, but is not limited to, pupil transportation vehicles as defined in § 31-22.1-1, to and from
6 school for pupils attending public and private schools of elementary and high school grades, except
7 private schools that are operated for profit, who reside so far from the public or private school that
8 the pupil attends as to make the pupil's regular attendance at school impractical and for any pupil
9 whose regular attendance would otherwise be impracticable on account of physical disability or
10 infirmity.

11 (1) The school committee of any town or city using a pupil transportation vehicle as defined
12 in § 31-22.1-1 shall comply with the requirements of subsection (b) of this section, notwithstanding
13 the provisions of § 31-22.1-3(6).

14 (b) For transportation provided to children enrolled in grades kindergarten through five (5),
15 school bus monitors, other than the school bus driver, shall be required on all school-bound and
16 home-bound routes. Variances to the requirement for a school bus monitor may be granted by the
17 commissioner of elementary and secondary education if he or she finds that an alternative plan
18 provides substantially equivalent safety for children. For the purposes of this section a "school bus
19 monitor" means any person sixteen (16) years of age or older.

1 (c) No school committee shall negotiate, extend, or renew any transportation contract
2 unless such contract enables the district to participate in the statewide transportation system,
3 without penalty to the district, upon implementation of the statewide transportation system
4 described in §§ 16-21.1-7 [repealed] and 16-21.1-8. Notice of the implementation of the statewide
5 transportation system for in-district transportation shall be provided in writing by the department
6 of elementary and secondary education to the superintendent of each district upon implementation.
7 Upon implementation of the statewide system of transportation for all students, each school
8 committee shall purchase transportation services for its own resident students by accessing the
9 statewide system on a fee-for-service basis for each student; provided, however, that any school
10 committee that fulfills its transportation obligations primarily through the use of district-owned
11 buses or district employees may continue to do so. Variances to the requirement for the purchase
12 of transportation services through the statewide transportation system for non-public and non-
13 shared routes may be granted by the commissioner of elementary and secondary education if the
14 commissioner finds that an alternative system is more cost effective. All fees paid for transportation
15 services provided to students under the statewide system shall be paid into a statewide student
16 transportation services restricted receipt account within the department of elementary and
17 secondary education. Payments from the account shall be limited to payments to the transportation
18 service provider and transportation system consultants. This restricted receipt account shall not be
19 subject to the indirect cost recoveries provisions set forth in § 35-4-27.

20 (d) No school committee shall negotiate, extend, or renew any school transportation service
21 contract unless the contract provides for payments to school bus drivers, attendants, monitors and
22 aids for one hundred and eighty (180) days or the length of the contracted-for school year,
23 whichever is longer.

24 (e) With respect to any contract entered into under this section, a school committee or local
25 education agency shall give a preference in contract and/or subcontract awards to the public
26 transportation provider that uses electric buses to the greatest extent. This preference shall be given
27 equal weight to any other preferences available to vendors.

28 (f) With respect to any contract entered into under this section, no school committee or
29 local education agency ("LEA") shall take any adverse disciplinary action against any school bus
30 driver, attendant, monitor or aid covered by a collective bargaining agreement prior to any
31 investigation or action taken by the contracting entity as provided for in the collective bargaining
32 agreement. Nor shall the school committee or LEA impose discipline in excess of what is provided
33 for in the governing collective bargaining agreement.

34 SECTION 2. Section 16-21.1-8 of the General Laws in Chapter 16-21.1 entitled

1 "Transportation of School Pupils Beyond City and Town Limits [See Title 16 Chapter 97 - The
2 Rhode Island Board of Education Act]" is hereby amended to read as follows:

3 **16-21.1-8. Statewide transportation system for all students.**

4 (a) Notwithstanding the regional structure created in this chapter, and upon implementation
5 of a statewide school transportation system for all students, each school committee shall purchase
6 the transportation services for their own resident students by accessing this integrated statewide
7 system of transportation on a fee-for-service basis for each child; provided, however, that any
8 school committee that fulfills its transportation obligations predominantly through the use of
9 district-owned buses or district employees may apply for a variance from the commissioner of
10 education, or the commissioner's designee, thereby requesting that its transportation obligations
11 continue to be achieved through the use of the buses owned by the district and staffed by district
12 employees. All fees paid for transportation services provided to students under the statewide system
13 shall be paid into a statewide student transportation services restricted receipt account within the
14 department of elementary and secondary education. Payments from the account shall be limited to
15 payments to the transportation service provider and transportation system consultants. This
16 restricted receipt account shall not be subject to the indirect cost recoveries provisions set forth in
17 § 35-4-27. The goals of the statewide system of transportation for all students shall be the reduction
18 of duplication of cost and routes in transporting children from the various cities and towns using
19 different buses within and between each city and town, the improvement of services to children
20 through the development of shorter ride times and more efficient routes of travel, and the reduction
21 of cost to local school committees through achieving efficiency in eliminating the need for each
22 school district to contract for and provide these transportation services separately.

23 (b) There shall be deducted from the final aid payment to each school district any amounts
24 owed to the state at the end of the fiscal year for transportation of the district's students under the
25 statewide transportation system established pursuant to this section. Districts shall receive monthly
26 invoices summarizing the basis of the transportation fees charged. Any such deductions in aid shall
27 be transferred to the statewide student transportation services restricted receipt account, as set forth
28 in R.I.G.L. § 35-4-27.

29 (c) No school committee shall negotiate, extend, or renew any public transportation service
30 contract unless the contract provides for payments to school bus drivers, attendants, monitors and
31 aids for one hundred and eighty (180) days or the length of the contracted-for school year,
32 whichever is longer.

33 (d) With respect to any contract entered into under this section, a school committee or local
34 education agency shall give a preference in contract and/or subcontract awards to the public

1 [transportation provider that uses electric buses to the greatest extent. This preference shall be given](#)
2 [equal weight to any other preferences available to vendors.](#)

3 [\(e\) With respect to any contract entered into under this section, no school committee or](#)
4 [local education agency \("LEA"\) shall take any adverse disciplinary action against any school bus](#)
5 [driver, attendant, monitor or aid covered by a collective bargaining agreement prior to any](#)
6 [investigation or action taken by the contracting entity as provided for in the collective bargaining](#)
7 [agreement. Nor shall the school committee or LEA impose discipline in excess of what is provided](#)
8 [for in the governing collective bargaining agreement.](#)

9 SECTION 3. Sections 37-13-1, 37-13-3.1, 37-13-6, 37-13-7, 37-13-8, 37-13-9, 37-13-11,
10 37-13-12, 37-13-13, 37-13-13.1 and 37-13-16 of the General Laws in Chapter 37-13 entitled "Labor
11 and Payment of Debts by Contractors" are hereby amended to read as follows:

12 **37-13-1. "Public works" defined. Definitions.**

13 [As used in this chapter:](#)

14 [\(1\) "Public works" ~~as used in this chapter shall mean~~ means](#) any public work consisting of
15 grading, clearing, demolition, improvement, completion, repair, alteration, or construction of any
16 public road or any bridge, or portion thereof, or any public building, or portion thereof, or any
17 heavy construction, or any public works projects of any nature or kind whatsoever.

18 [\(2\) "School transportation services" means those transportation and related services](#)
19 [provided for the transportation of public and private students pursuant to §§ 16-21-1 and 16-21-8.](#)

20 **37-13-3.1. State public works contract apprenticeship requirements.**

21 Notwithstanding any laws to the contrary, all general contractors and subcontractors who
22 perform work on any public works contract awarded by the state after passage of this act and valued
23 at one million dollars (\$1,000,000) or more shall employ apprentices required for the performance
24 of the awarded contract. The number of apprentices shall comply with the apprentice-to-
25 journeyman ratio for each trade approved by the apprenticeship council of the department of labor
26 and training. To the extent that any of the provisions contained in this section conflict with the
27 requirements for federal aid contracts, federal law and regulations shall control.

28 [The provisions of this section shall not apply to contracts for school transportation services.](#)

29 **37-13-6. Ascertainment of prevailing rate of wages and other payments --**
30 **Specification of rate in call for bids and in contract.**

31 Before awarding any contract for public works [or school transportation services](#) to be done,
32 the proper authority shall ascertain from the director of labor and training the general prevailing
33 rate of the regular, holiday, and overtime wages paid and the general prevailing payments on behalf
34 of employees only, to lawful welfare, pension, vacation, apprentice training, and educational funds

1 (payments to the funds must constitute an ordinary business expense deduction for federal income
2 tax purposes by contractors) in the city, town, village, or other appropriate political subdivision of
3 the state in which the work is to be performed, for each craft, mechanic, teamster, laborer, or type
4 of worker needed to execute the contract for the public works [or school transportation services](#). The
5 proper authority shall, also, specify in the call for bids for the contract and in the contract itself the
6 general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf
7 of employees only, to the welfare, pension, vacation, apprentice training, and education funds
8 existing in the locality for each craft, mechanic, teamster, laborer, or type of worker needed to
9 execute the contract or work.

10 **37-13-7. Specification in contract of amount and frequency of payment of wages.**

11 (a) Every call for bids for every contract in excess of one thousand dollars (\$1,000), to
12 which the state of Rhode Island or any political subdivision thereof or any public agency or quasi-
13 public agency is a party, [for the transportation of public and private school pupils pursuant to §§](#)
14 [16-21-1 and 16-21-8, or](#) for construction, alteration, and/or repair, including painting and
15 decorating, of public buildings or public works of the state of Rhode Island or any political
16 subdivision thereof, or any public agency or quasi-public agency and which requires or involves
17 the employment of employees, shall contain a provision stating the minimum wages to be paid
18 various types of employees which shall be based upon the wages that will be determined by the
19 director of labor and training to be prevailing for the corresponding types of employees employed
20 on projects of a character similar to the contract work in the city, town, village, or other appropriate
21 political subdivision of the state of Rhode Island in which the work is to be performed. Every
22 contract shall contain a stipulation that the contractor or his or her subcontractor shall pay all the
23 employees employed directly upon the site of the work, unconditionally and not less often than
24 once a week, and without subsequent deduction or rebate on any account, the full amounts accrued
25 at time of payment computed at wage rates not less than those stated in the call for bids, regardless
26 of any contractual relationships which may be alleged to exist between the contractor or
27 subcontractor and the employees, and that the scale of wages to be paid shall be posted by the
28 contractor in a prominent and easily accessible place at the site of the work; and the further
29 stipulation that there may be withheld from the contractor so much of the accrued payments as may
30 be considered necessary to pay to the employees employed by the contractor, or any subcontractor
31 on the work, the difference between the rates of wages required by the contract to be paid the
32 employees on the work and the rates of wages received by the employees and not refunded to the
33 contractor, subcontractors, or their agents.

34 (b) The terms "wages," "scale of wages," "wage rates," "minimum wages," and "prevailing

1 wages" shall include:

2 (1) The basic hourly rate of pay; and

3 (2) The amount of:

4 (i) The rate of contribution made by a contractor or subcontractor to a trustee or to a third
5 person pursuant to a fund, plan, or program; and

6 (ii) The rate of costs to the contractor, ~~or~~ subcontractor, vendor or provider which may be
7 reasonably anticipated in providing benefits to employees pursuant to an enforceable commitment
8 to carry out a financially responsible plan or program which was communicated in writing to the
9 employees affected, for medical or hospital care, pensions on retirement or death, compensation
10 for injuries or illness resulting from occupational activity, or insurance to provide any of the
11 foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident
12 insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar
13 programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is
14 not required by other federal, state, or local law to provide any of the benefits; provided, that the
15 obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage
16 determinations of the director of labor and training insofar as this chapter of this title and other acts
17 incorporating this chapter of this title by reference are concerned may be discharged by the making
18 of payments in cash, by the making of contributions of a type referred to in subsection (b)(2), or by
19 the assumption of an enforceable commitment to bear the costs of a plan or program of a type
20 referred to in this subdivision, or any combination thereof, where the aggregate of any payments,
21 contributions, and costs is not less than the rate of pay described in subsection (b)(1) plus the
22 amount referred to in subsection (b)(2).

23 (c) The term "employees," as used in this section, shall include:

24 (1) ~~employees~~ Employees of contractors or subcontractors performing jobs on various
25 types of public works including mechanics, apprentices, teamsters, chauffeurs, and laborers
26 engaged in the transportation of gravel or fill to the site of public works, the removal and/or delivery
27 of gravel or fill or ready-mix concrete, sand, bituminous stone, or asphalt flowable fill from the site
28 of public works, or the transportation or removal of gravel or fill from one location to another on
29 the site of public works, and the employment of the employees shall be subject to the provisions of
30 subsections (a) and (b); and

31 (2) Persons employed by a provider contracted for the purpose of transporting public and
32 private school pupils pursuant to §§ 16-21-1 and 16-21-8 shall be subject to the provisions of
33 subsections (a) and (b) of this section. For the purposes of this subsection the term employee
34 includes school bus drivers, aides and monitors who are directly providing transportation services.

1 [the term employee does not include mechanics, dispatchers or other personnel employed by the](#)
2 [vendor whose duties are normally performed at a fixed location.](#)

3 (d) The terms "public agency" and "quasi-public agency" shall include, but not be limited
4 to, the Rhode Island industrial recreational building authority, the Rhode Island commerce
5 corporation, the Rhode Island airport corporation, the Rhode Island industrial facilities corporation,
6 the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance
7 corporation, the Rhode Island resource recovery corporation, the Rhode Island public transit
8 authority, the Rhode Island student loan authority, the water resources board corporate, the Rhode
9 Island health and education building corporation, the Rhode Island turnpike and bridge authority,
10 the Narragansett Bay water quality management district commission, Rhode Island
11 telecommunications authority, the convention center authority, the council on postsecondary
12 education, the council on elementary and secondary education, the capital center commission, the
13 housing resources commission, the Quonset Point-Davisville management corporation, the Rhode
14 Island children's crusade for higher education, the Rhode Island depositors economic protection
15 corporation, the Rhode Island lottery commission, the Rhode Island partnership for science and
16 technology, the Rhode Island public building authority, and the Rhode Island underground storage
17 tank board.

18 **37-13-8. Investigation and determination of prevailing wages -- Filing of schedule.**

19 The director of labor and training shall investigate and determine the prevailing wages and
20 payments made to or on behalf of employees, as set forth in § 37-13-7, paid in the trade or
21 occupation in the city, town, village, or other appropriate political subdivision of the state and keep
22 a schedule on file in his or her office of the customary prevailing rate of wages and payments made
23 to or on behalf of the employees which shall be open to public inspection. In making a
24 determination, the director of labor may adopt and use such appropriate and applicable prevailing
25 wage rate determinations as have been made by the secretary of labor of the United States of
26 America in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. § 276a; provided,
27 however, that each contractor awarded a public works [or school transportation services](#) contract
28 after July 1, 2007 shall contact the department of labor and training on or before July first of each
29 year, for the duration of such contract to ascertain the prevailing wage rate of wages on a hourly
30 basis and the amount of payment or contributions paid or payable on behalf of each mechanic,
31 laborer or worker employed upon the work contracted to be done each year and shall make any
32 necessary adjustments to such prevailing rate of wages and such payment or contributions paid or
33 payable on behalf of each such employee every July first.

34 **37-13-9. Statutory provisions included in contracts.**

1 A copy of §§ 37-13-5, 37-13-6, and 37-13-7 shall be inserted in all contracts for public
2 works [or school transportation services](#) awarded by the state, any city, town, committee, an
3 authorized agency, or awarding authority thereof, or any person or persons in their behalf in which
4 state or municipal funds are used if the contract price is in excess of one thousand dollars (\$1,000).

5 **37-13-11. Posting of prevailing wage rates.**

6 Each contractor [or provider](#) awarded a contract for public works [or school transportation](#)
7 [services](#) with a contract price in excess of one thousand dollars (\$1,000), and each subcontractor
8 who performs work on those public works, shall post in conspicuous places on the project, where
9 covered workers are employed, posters which contain the current, prevailing rate of wages and the
10 current, prevailing rate of payments to the funds required to be paid for each craft or type of worker
11 employed to execute the contract as set forth in §§ 37-13-6 and 37-13-7, and the rights and remedies
12 of any employee described in § 37-13-17 for nonpayment of any wages earned pursuant to this
13 chapter. Posters shall be furnished to contractors and subcontractors by the director of labor and
14 training, who shall determine the size and context thereof from time to time, at the time a contract
15 is awarded. A contractor or subcontractor who fails to comply with the provisions of this section
16 shall be deemed guilty of a misdemeanor and shall pay to the director of labor and training one
17 hundred dollars (\$100) for each calendar day of noncompliance as determined by him or her.
18 Contracts set forth in this section shall not be awarded by the state, any city, town, or any agency
19 thereof until the director of labor and training has prepared and delivered the posters to the division
20 of purchases, if the state or any agency thereof is the proper authority, or to the city, town, or an
21 agency thereof, if it is the proper authority, and the contractor to whom the contract is to be
22 awarded.

23 **37-13-12. ~~Wage records of contractors.~~ Wage records of contractors and vendors.**

24 Each contractor, [vendor or provider](#) awarded a contract with a contract price in excess of
25 one thousand dollars (\$1,000) for public works [or school transportation services](#), and each
26 subcontractor who performs work on those public works, shall keep an accurate record showing
27 the name, occupation, and actual wages paid to each worker employed by him or her and the
28 payments to all the employee funds specified in §§ 37-13-6 and 37-13-7 by him or her in connection
29 with the contract or work. The director and his or her authorized representatives shall have the right
30 to enter any place of employment at all reasonable hours for the purpose of inspecting the wage
31 records and seeing that all provisions of this chapter are complied with.

32 **37-13-13. Furnishing payroll record to the awarding authority.**

33 (a) Every contractor ~~and~~, subcontractor, [vendor or provider](#) awarded a contract for public
34 works [or school transportation services](#) as defined by this chapter shall furnish a certified copy of

1 his or her payroll records of his or her employees employed on the project to the awarding authority
2 on a monthly basis for all work completed in the preceding month on a uniform form prescribed by
3 the director of labor and training. Notwithstanding the foregoing, certified payrolls for department
4 of transportation public works may be submitted on the federal payroll form, provided that, when
5 a complaint is being investigated, the director or his or her designee may require that a contractor
6 resubmit the certified payroll on the uniform department form.

7 (b) Awarding authorities, contractors ~~and~~ subcontractors, vendors and providers shall
8 provide any and all payroll records to the director of labor and training within ten (10) days of their
9 request by the director or his or her designee.

10 (c) In addition, every contractor and subcontractor shall maintain on the site where public
11 works are being constructed and the general or primary contract is one million dollars (\$1,000,000)
12 or more, a daily log of employees employed each day on the public works project. The log shall
13 include, at a minimum, for each employee his or her name, primary job title, and employer and
14 shall be kept on a uniform form prescribed by the director of labor and training. Such log shall be
15 available for inspection on the site at all times by the awarding authority and/or the director of the
16 department of labor and training and his or her designee. This subsection shall not apply to road,
17 highway, or bridge public works projects.

18 (d) The director of labor and training may promulgate reasonable rules and regulations to
19 enforce the provisions of this section.

20 (e) The awarding authority of any public works project shall withhold the next scheduled
21 payment to any contractor ~~or~~, subcontractor, vendor or provider who fails to comply with the
22 provisions of subsections (a) or (b) above and shall also notify the director of labor and training.
23 The awarding authority shall withhold any further payments until such time as the contractor ~~or~~,
24 subcontractor or provider has fully complied. If it is a subcontractor who has failed to comply, the
25 amount withheld shall be proportionate to the amount attributed or due to the offending
26 subcontractor as determined by the awarding authority. The department may also impose a penalty
27 of up to five hundred dollars (\$500) for each calendar day of noncompliance with this section, as
28 determined by the director of labor and training. Mere errors and/or omissions in the daily logs
29 maintained under subsection (c) shall not be grounds for imposing a penalty under this subsection.

30 ~~**37-13-13.1. Audits of wage records of out of state contractors and subcontractors.**~~
31 **Audits of wage records of out of state contractors, subcontractors and providers.**

32 Out of state contractors ~~or~~, subcontractors, vendors or providers who perform work on
33 public works or provide school transportation services, in this state authorize the director of labor
34 and training to conduct wage and hour audits of their payroll records pursuant to the provisions of

1 chapter 14 of title 28.

2 **37-13-16. Termination of work on failure to pay agreed wages -- Completion of work.**

3 (a) Every public works contract within the scope of this chapter shall contain the further
4 provision that in the event it is found by the director of labor and training that any employee
5 employed by the contractor or any subcontractor directly on the site of the work covered by the
6 contract has been or is being paid a rate of wages less than the rate of wages required by the contract
7 to be paid as aforesaid, the awarding party may, by written notice to the contractor or subcontractor,
8 terminate his or her right as the case may be, to proceed with the work, or the part of the work as
9 to which there has been a failure to pay the required wages, and shall prosecute the work to
10 completion by contract or otherwise, and the contractor and his or her sureties shall be liable to the
11 awarding party for any excess costs occasioned the awarding authority thereby.

12 (b) Every school transportation service contract within the scope of this chapter shall
13 contain the further provision that in the event it is found by the director of labor and training that
14 any employee employed by the provider to provide services within the area covered by the contract
15 has been or is being paid a rate of wages less than the rate of wages required by the contract to be
16 paid as aforesaid, the awarding party may, by written notice to the vendor, terminate the vendor's
17 right as the case may be, to proceed with the contract.

18 SECTION 4. Chapter 37-13 of the General Laws entitled "Labor and Payment of Debts by
19 Contractors" is hereby amended by adding thereto the following section:

20 **37-13-3.2. Entities subject to provisions - Weekly payment of employees.**

21 All persons, firms, corporations, or other entities who have been awarded school
22 transportation service contracts by an awarding agency or authority of the state or of any city, town,
23 committee, or by any person or persons therein, in which state or municipal funds are used and of
24 which the contract price shall be in excess of one thousand dollars (\$1,000), whether payable at the
25 time of the signing of the contract or at a later date, and their subcontractors, engaged as part of the
26 service contract, shall pay their employees at weekly intervals and shall comply with the provisions
27 set forth in §§ 37-13-6 through 37-13-13.1, 37-13-14.1 and 37-13-16.

28 SECTION 5. This act shall take effect upon passage.

=====
LC002439/SUB A/2
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION - STUDENT TRANSPORTATION

1 This act would prohibit school committees from negotiating, extending, or renewing any
2 public transportation service contract unless the contract provides for payments to school bus
3 drivers, attendants, monitors and aids for one hundred and eighty (180) days or the length of the
4 contracted-for school year, whichever is longer and requires that preference be given to the public
5 transportation service provider utilizing electric buses.

6 This act would take effect upon passage.

=====
LC002439/SUB A/2
=====