

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 485

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO SCHOOL TRANSPORTATION; PROVIDING FOR LIENS ON
CONTRACTOR-OWNED SCHOOL BUSES; LIMITING A SCHOOL BUS
CONTRACTOR'S ABILITY TO ENCUMBER SCHOOL BUSES; CLARIFYING THAT
CONTRACT TERMINATION INCLUDES NONRENEWAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8-27 NMSA 1978 (being Laws 1967,
Chapter 16, Section 77, as amended) is amended to read:

"22-8-27. TRANSPORTATION EQUIPMENT.--

A. The department shall establish a systematic
program for the purchase of necessary school bus transportation
equipment.

B. In establishing a system for the replacement of
school-district-owned buses, the department shall provide for
the replacement of school buses on a twelve-year cycle. School

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underscoring material = new
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1 districts requiring additional buses to accommodate growth in
2 the school district or to meet other special needs may petition
3 the department for additional buses. Under exceptional
4 circumstances, school districts may also petition the
5 department for permission to replace buses prior to the
6 completion of a twelve-year cycle or to use buses in excess of
7 twelve years contingent upon satisfactory annual safety
8 inspections.

9 C. In establishing a system for the use of
10 contractor-owned buses by school districts or state-chartered
11 charter schools, the department shall establish a schedule for
12 the payment of rental fees for the use of contractor-owned
13 buses. The department shall establish procedures to ensure the
14 systematic replacement of buses on a twelve-year replacement
15 cycle. School districts requiring additional buses to
16 accommodate growth in the school district or to meet other
17 special needs may petition the department for additional buses.
18 Under exceptional circumstances, school districts may also
19 petition the department for permission to replace buses prior
20 to the completion of a twelve-year cycle or to use buses in
21 excess of twelve years contingent upon satisfactory annual
22 safety inspections.

23 D. The school district shall file a lien on every
24 contractor-owned school bus under the contract on which the
25 contractor owes money, which lien shall have priority second

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underscored material = new
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1 only to a lien securing the purchase-money obligation. The
2 school district shall perfect its lien on each contractor-owned
3 school bus by filing the lien with the motor vehicle division
4 of the taxation and revenue department. The lien shall be
5 recorded on the title of the school bus. A school bus
6 contractor shall not refinance or use a school bus on which a
7 school district has a lien as collateral for any other loan
8 without prior written permission of the department. A school
9 bus lien shall be collected and enforced as provided in Chapter
10 55, Article 9 NMSA 1978. The school district shall release its
11 lien on a school bus:

12 (1) when the department authorizes a
13 replacement of the school bus; or

14 (2) when the contractor has reimbursed the
15 school district the amount calculated pursuant to Subsection E
16 of this section if the school bus service contract is
17 terminated or not renewed and the contractor owes the school
18 district as provided in that subsection.

19 E. No school district shall pay rental fees for any
20 one bus for a period in excess of five years. In the event a
21 school bus service contract is terminated or not renewed by
22 either party, the department shall calculate the remaining
23 number of years that a bus could be used based on a twelve-year
24 replacement cycle and calculate a value reflecting that use.
25 The school district shall deduct an amount equal to that value

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1 from any remaining amount due on the contract, or if no balance
2 remains on the contract, the contractor shall reimburse the
3 school district an amount equal to the value calculated.

4 F. If the school district fails to take action to
5 collect money owed to it when a school bus contract is
6 terminated or not renewed, the department may deduct the amount
7 from the school district's transportation distribution."

8 Section 2. Section 22-16-3 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 221, as amended) is amended to read:

10 "22-16-3. SCHOOL BUS SERVICE CONTRACTS.--

11 A. A school district may provide transportation
12 services to students through the use of school bus service
13 contracts. School districts may enter into school bus service
14 contracts with individual school bus owner-operators or with
15 school bus fleet owners or with both. A school district shall
16 not enter into any school bus fleet service contract with any
17 person who is simultaneously employed by that school district
18 as an individual school bus owner-operator.

19 B. All contracts entered into by a school district
20 to provide school bus service to students attending public
21 school within the school district shall be approved by the
22 local school board. The contracts shall be in writing on forms
23 approved by the [~~state board~~] department and the department
24 shall require documentation that the school district has filed
25 a lien on each school bus as provided in Section 22-8-27 NMSA

1 1978.

2 C. In addition to approving the form of the
3 contract, the [~~state board~~] department shall, by [~~regulation~~]
4 rule, establish the parameters of school bus service contracts
5 to include recognition of fuel costs, operation and maintenance
6 costs and employee salary and benefits costs. In entering into
7 school bus service contracts, school districts shall give
8 preference to in-state service providers and the use of
9 multiple providers. Upon request, the department shall provide
10 assistance to local school districts in the negotiation and
11 award of school bus service contracts.

12 D. A school district may enter into a school bus
13 service contract for a term not to exceed five years. A school
14 bus service contract may provide, at the expiration of the term
15 of the contract, for annual renewal of the school bus service
16 contract on the same terms and conditions at the option of the
17 local school board.

18 E. In the event a contract with a school bus
19 operator is terminated or not renewed by either party, the
20 buses owned by the operator that are used pursuant to [~~his~~] the
21 operator's school bus service contract shall be appraised by
22 three qualified appraisers appointed by the local school board
23 and approved by the state transportation director. The
24 operator succeeding to the contract shall purchase, with the
25 approval of the operator whose contract was terminated, all of

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1 the buses owned by the former operator at their appraised
2 value."

3 Section 3. APPLICABILITY.--This act applies to contracts,
4 including contract renewals, entered into on or after June 19,
5 2009.