

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 districts requiring additional buses to accommodate growth in the school district or to meet other special needs may petition the department for additional buses. Under exceptional circumstances, school districts may also petition the department for permission to replace buses prior to the completion of a twelve-year cycle or to use buses in excess of twelve years contingent upon satisfactory annual safety inspections.

C. In establishing a system for the use of

contractor-owned buses by school districts or state-chartered charter schools, the department shall establish a schedule for the payment of rental fees for the use of contractor-owned buses. The department shall establish procedures to ensure the systematic replacement of buses on a twelve-year replacement cycle. School districts requiring additional buses to accommodate growth in the school district or to meet other special needs may petition the department for additional buses. Under exceptional circumstances, school districts may also petition the department for permission to replace buses prior to the completion of a twelve-year cycle or to use buses in excess of twelve years contingent upon satisfactory annual safety inspections.

D. The school district shall file a lien on every contractor-owned school bus under the contract on which the contractor owes money, which lien shall have priority second only to a lien securing the purchase-money obligation. The school district shall perfect its lien on each contractor-owned school bus by filing the lien with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. A school bus contractor shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the department. A school bus lien shall be collected and enforced as provided in

Chapter 55, Article 9 NMSA 1978. The school district shall release its lien on a school bus:

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

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

E. No school district shall pay rental fees for any one bus for a period in excess of five years. In the event a school bus service contract is terminated or not renewed by either party, the department shall calculate the remaining number of years that a bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The school district shall deduct an amount equal to that value from any remaining amount due on the contract, or if no balance remains on the contract, the contractor shall reimburse the school district an amount equal to the value calculated.

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

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

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

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

B. All contracts entered into by a school district to provide school bus service to students attending public school within the school district shall be approved by the local school board. The contracts shall be in writing on forms approved by the department and the department shall require documentation that the school district has filed a lien on each school bus as provided in Section 22-8-27 NMSA 1978.

C. In addition to approving the form of the contract, the department shall, by rule, establish the parameters of school bus service contracts to include recognition of fuel costs, operation and maintenance costs and employee salary and benefits costs. In entering into school bus service contracts, school districts shall give preference

to in-state service providers and the use of multiple providers. Upon request, the department shall provide assistance to local school districts in the negotiation and award of school bus service contracts.

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

E. In the event a contract with a school bus operator is terminated or not renewed by either party, the buses owned by the operator that are used pursuant to the operator's school bus service contract shall be appraised by three qualified appraisers appointed by the local school board and approved by the state transportation director. The operator succeeding to the contract shall purchase, with the approval of the operator whose contract was terminated, all of the buses owned by the former operator at their appraised value."

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

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