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THE COUNCIL



REPORT OF THE HUMAN SERVICES DIVISION

Matthew Gewolb, Legislative Director

COMMITTEE ON EDUCATION

Hon. Daniel Dromm, Chairperson

August 19, 2014

PRECONSIDERED RES. NO. By Council Members Miller and Eugene

SUBJECT: Resolution calling on the New York State Legislature to pass, and for the Governor to sign, legislation that would mandate employee safeguards for experienced bus drivers, attendants, dispatchers and mechanics as part of all current and future bus contracts.

On Tuesday, August 19, 2014, the City Council's Committee on Education, chaired by Council Member Daniel Dromm, will consider Preconsidered Res. No.____, which calls on the New York State Legislature to pass, and for the Governor to sign, legislation that would mandate employee safeguards for experienced bus drivers, attendants, dispatchers, and mechanics as part of all current and future bus contracts. Representatives from the New York City Office of Small

Business Services, New York City Office of Labor Relations, Amalgamated Transport Workers Union, parent groups and other interested parties are expected to testify.

Preconsidered Res. No. ____

Preconsidered Res. No. ____ would state that prior to 1979, the now former New York City Board of Education ("Board") included employee protections in the competitive bidding process with school transportation companies. The Preconsidered Resolution would further state that the employee protections were designed to protect employees of private bus companies who were displaced as a result of contracts being awarded to new transportation companies. Preconsidered Res. No. ____ would note that in 1979, the Board decided to remove the employee protections from its bidding process, resulting in a strike by members of the Amalgamated Transit Union.

The Preconsidered Resolution would indicate that when the strike was resolved, the Board agreed to include new provisions that protected employees' wages, benefits, and seniority, known as Employee Protection Provisions ("EPPs"), in its bidding process for contracts for school transportation services for students in kindergarten through grade twelve. The Preconsidered Resolution would point out that since 1979, the Board, now known as the Department of Education (DOE), included EPPs in its contracts with private providers of school transportation services for students in kindergarten through grade twelve. Preconsidered Res. No. ____ would note that in 2011, the New York Court of Appeals decided *L&M Bus Corporation v. New York City Board of Education* ("L&M Bus case").

Preconsidered Res. No. ____ would state that the L&M Bus case involved private bus transportation companies that brought an Article 78 proceeding challenging the inclusion of EPPs in a bid solicitation for pre-kindergarten busing as contrary to public bidding law. The Preconsidered Resolution would note that the DOE argued, among other things, that EPPs were

necessary to maintain a skilled workforce and promote safety. The Preconsidered Resolution would state that the Court of Appeals struck down the EPP in question in L&M, reasoning that DOE had not justified inclusion of the EPPs in the solicitation in accordance with the public bidding law.

Preconsidered Res. No. ___ would note that since the Court decision the DOE has entered into new contracts for school bus transportation services for students in kindergarten through grade twelve without the EPPs. The Preconsidered Resolution would further argue that the thousands of school children and their parents deserve to have bus drivers, attendants, mechanics and dispatchers who are skilled, professional, and safe, and the bus drivers, attendants, mechanics and dispatchers deserve to have labor protections that they have worked hard to achieve. The Preconsidered Resolution would state that in order to achieve these goals, contracts for school transportation services for children in kindergarten through grade twelve should include safeguards that protect employees' wages, health and retirements benefits, and seniority.

Finally Preconsidered Resolution No. ___ would state that the Council of the City of New York calls upon the upon the New York State Legislature to pass, and for the Governor to sign, legislation that would mandate employee safeguards for experienced bus drivers, attendants, dispatchers, and mechanics as part of all current and future bus contracts.

Preconsidered Res. No.

Resolution calling on the New York State Legislature to pass, and for the Governor to sign, legislation that would mandate employee safeguards for experienced bus drivers, attendants, dispatchers and mechanics as part of all current and future bus contracts.

By Council Members Miller and Eugene

Whereas, Prior to 1979, the now former New York City Board of Education ("Board") included employee protections in the competitive bidding process with school transportation companies; and

Whereas, The employee protections were designed to protect employees of private bus companies who were displaced as a result of contracts being awarded to new transportation companies; and

Whereas, In 1979, the Board decided to remove the employee protections from its bidding process, resulting in a strike by members of the Amalgamated Transit Union; and

Whereas, When the strike was resolved, the Board agreed to include new provisions that protected employees' wages, benefits, and seniority, known as Employee Protection Provisions ("EPPs"), in its bidding process for contracts for school transportation services for students in kindergarten through grade twelve; and

Whereas, Since 1979, the Board, now known as the Department of Education (DOE), included EPPs in its contracts with private providers of school transportation services for students in kindergarten through grade twelve; and

Whereas, In 2011, the New York Court of Appeals decided *L&M Bus Corporation v. New York City Board of Education* ("L&M Bus case"); and

Whereas, The L&M Bus case involved private bus transportation companies that brought an Article 78 proceeding challenging the inclusion of EPPs in a bid solicitation for pre-kindergarten busing as contrary to public bidding law; and

Whereas, The DOE argued, among other things, that EPPs were necessary to maintain a skilled workforce and promote safety; and

Whereas, The Court of Appeals struck down the EPP in question in L&M, reasoning that DOE had not justified inclusion of the EPPs in the solicitation in accordance with the public bidding law; and

Whereas, Since the Court decision the DOE has entered into new contracts for school bus transportation services for students in kindergarten through grade twelve without the EPPs; and

Whereas, The thousands of school children and their parents deserve to have bus drivers, attendants, mechanics and dispatchers who are skilled, professional, and safe, and the bus drivers, attendants, mechanics and dispatchers deserve to have labor protections that they have worked hard to achieve;

Whereas, In order to achieve these goals, contracts for school transportation services for children in kindergarten through grade twelve should include safeguards that protect employees' wages, health and retirements benefits, and seniority; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and for the Governor to sign, legislation that would mandate employee safeguards for experienced bus drivers, attendants, dispatchers, and mechanics as part of all current and future bus contracts.

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