

TESTIMONY OF JAMES HEDGE, VICE PRESIDENT AND
POLITICAL DIRECTOR, AMALGAMATED TRANSIT UNION LOCAL 1181-1061 AND
VICE CHAIR AMALGAMATED TRANSIT UNION (ATU) NEW YORK STATE
LEGISLATIVE CONFERENCE BOARD

JOINT ASSEMBLY AND SENATE EDUCATION BUDGET HEARING

JANUARY 27, 2016

Assembly Ways & Means Chair Farrell, Senate Finance Chair Young, Assembly Education Chairwoman Nolan, and Senate Education Chairman Marcellino and members of the Joint Education Budget Committee:

I thank you for this opportunity to submit testimony for your consideration as you begin to review proposals with respect to the proposed 2016 – 2017 New York State Budget. My name is James Hedge, and I am the Vice President and Political Director of Local 1181 of the Amalgamated Transit Union and Vice Chair of the Amalgamated Transit Union New York State Legislative Conference Board. Local 1181 represents some 12,000 school bus drivers, matrons, and mechanics who everyday provide safe, efficient transportation to about 160,000 New York City school children. We have been doing so for over 60 years. We have collective bargaining agreements with most of the private bus companies that, in turn, have contracts with the Department of Education for transportation of pupils in New York City.

I am here today to ask you to include several proposals important to the school bus transportation industry in the Assembly and Senate budgets. First, I would like to ask you to include language that will achieve stability in the school bus transportation industry in the City of New York. More importantly, this language will ensure safe and reliable transportation for millions of schoolchildren.

As a bit of background, during the 2012-2013 school year, the Bloomberg administration made the decision to eliminate the decades-old employee protection provision (“EPP”) in its contracts with school bus contractors. The EPP had been included in all transportation contracts issued by the City of New York since 1979. Under the EPP, private bus company employees (whether they are members of Local 1181, another union or no union at all), who are laid off due to a termination of a contract between their employer and the Department of Education, are, on the basis of their seniority in the industry, not with a particular company, given priority in hiring by the new contractors who are retained by Department of Education. It is important to note the need for this seniority list is to retain a steady, professional and trained workforce regardless of which company has the bus contracts, since companies come and go.

When a worker is displaced from a job, because the company they were employed by no longer has the transportation contract with the City of New York, the worker goes on the master seniority list and is selected for any job opening at another company based purely on their industry seniority. It does not matter if the employee was union or non-union, high on the pay scale or lower on the pay scale. The only consideration is the workers’ seniority. The worker brings with them the wages and benefits they earned with the prior employer, which can vary depending upon the employer, whether or not there was a collective bargaining agreement with that employer, and so forth. With this job security in place, the Department of Education is able to retain the most experienced, skilled drivers to best serve our children. These drivers know the routes and the children and are adept at maneuvering buses while navigating the congested streets of New York, and these matrons are the most experienced in assisting students, especially those with special needs or physical disabilities.

As a result of the ill-advised decision of the Bloomberg Administration to remove the EPP, the entire school bus transportation industry in the City of New York has been destabilized. By striking the EPP, the Bloomberg Administration invited low-ball bids that could not sustain a workforce making a living wage. The responsible companies that had trained and experienced workers whom they paid a living wage lost the bids to these low-ball company bids. It is hard to reach any other conclusion than the havoc wreaked on New York City schoolchildren; their families; and school bus drivers, matrons, and mechanics all stem from the former administration's belief that working men and women do not deserve fair wages and benefits or job security. The membership of Local 1181 - which numbered approximately 15,000 just some two years ago - has been devastated. In June of 2013, some 2,000 of those members lost their jobs. In advancing this myopic policy initiative, despite the mandate of competitive bidding laws that an agency achieve the best possible service for the lowest possible cost, the former Administration focused solely on the cost of school bus transportation services, while ignoring completely the quality of such service and the costs associated with removing the EPP. Of course, the drivers, matrons, and mechanics in the industry have suffered because of that misplaced focus, but so too have their most precious cargo, who deserve a dependable, reliable, caring, and safe transportation workforce.

What we have learned though is that the "low bids" heralded by the previous administration were only low because labor costs consist of wages barely above the minimum wage, minimum healthcare coverage, and no pensions. To call the payment of subsistence level wages to the workforce that cares for some of our most vulnerable children "cost savings" deliberately ignores the external costs associated with such low-level wage workforces.

It has been demonstrated in numerous studies of low-wage workforces, that when workers cannot earn a living wage to support their families, they are reliant on social services. The utilization of such social services is not cost-neutral to the City, even if they are off the Department of Education's balance sheet. Food stamps, government-subsidized healthcare, government-subsidized housing all cost the City money. Such low-level wages will not offer career opportunities for people in the industry, leading to high turnover. As new workers constantly join the industry to replace departing workers, the Department of Education or its school bus contractors will have to constantly retrain workers—a costly endeavor. Further, even when trained, there is nothing that can replace experience, which many of the drivers, matrons and mechanics have.

Then of course there are considerations of labor peace. With the inclusion of the EPP in school bus contracts for so many years, there was a stabilizing effect on the workforce. Turnover was low; job actions and strikes were non-existent. That labor peace, though, lasted only as long as the EPP was included in school bus contracts. Now, however, with the anticipated influx of new workers, it is very likely that the industry will be much more turbulent. As these new workers consider if they want to be represented by our union or other unions or no union at all, there will be organizing drives. Labor unrest may increase. Resulting strikes may very well occur. Service disruptions are certainly not without cost to the Department of Education. We know from the strike, which my members were forced into several years ago, that it cost the City at least \$21 million,¹ not to mention the cost of police overtime; the cost of additional reimbursements to parents for alternative transportation during the strike; and legal fees related to ensuing litigation.

¹ In response to an initial freedom of information law request submitted by Local 1181 soon after its strike inquiring as to the cost of the strike incurred by the City, the City responded that the cost at that point was \$21.27 million.

Another cost that will be absorbed by the Department of Education, due to companies going out of business, is the cost for substitute contractors. As we recently saw when Atlantic Express declared bankruptcy at the end of 2012, and the Department of Education awarded contracts to substitute school bus contractors to continue transportation services for the latter half of the 2013-2014 school year, those substitute contractors charged the Department of Education a 10% premium to do the very same work that was performed by Atlantic Express before being forced into bankruptcy. The Department of Education has also agreed to indemnify these substitute contractors for potential back pay liability that will likely cost additional millions of dollars.

Despite all of the challenges we faced with the previous administration, I am happy to be able to announce that the mayoral administration of Mayor Bill De Blasio is supportive of restoring the EPP to RFB/RFP's issued by the City of New York. However, there is a belief among some that the Mayor does not have the ability to add the EPP's back into the RFB/RFP process unless the State Legislature acts to amend current law. This is incorrect. This belief exists because the former administration failed to adequately defend a lawsuit that was filed by the school bus companies challenging the inclusion of the EPP in the RFB/RFP's for school bus contracts. The former administration's failure to adequately defend the lawsuit led to a Court of Appeals decision that said the EPP language in the specific bid in question, on the facts before the Court, made the EPP in that specific bid incompatible with the competitive bidding rules. The Court of Appeals did NOT say that any and all EPP's violate the competitive bidding statutes.

Therefore, Local 1181 does not believe that State legislation is required to once again use the EPP. However, Local 1181 does believe that amending State law to allow the inclusion of

the EPP is necessary to ensure that this issue is clarified once and for all allowing the school bus transportation industry to be stabilized and ensuring that the schoolchildren in the City of New York have well trained and qualified drivers, matrons and mechanics. I am also happy to report that in addition to support from the Mayor of New York, we also have the support of many of the bus companies that bid on these RFB/RFP's, the AFL-CIO and the parent advocacy groups.

In addition to supporting legislation to require that inclusion of the EPP in RFB/RFP's issued by the City of New York for the transportation of schoolchildren, Local 1181 also supports a proposal being put forward by the New York State School Bus Contractors Association that would change how extensions of existing transportation contracts are priced. Current law requires that any extension be governed by the Consumer Price Index. However, years of experience have shown that as to the school bus transportation industry, this metric does not work. Instead, we support using the Employment Cost Index (EIC), which more accurately reflects cost pricing in the industry. Further, we also support the proposal to exempt the purchase of new school buses from sales tax. It seems counterintuitive that the State would impose sales tax on the purchase of new school buses and thus increase costs to the school districts, which in turn contributes to the taxes paid by the taxpayers in the school district.

In conclusion, Local 1181 strongly encourages you to include language to require the inclusion of the EPP in any RFB/RFP issued by the City of New York for the transportation of schoolchildren in your proposed budgets. We truly believe that in the end, this will help to stabilize the school bus transportation industry in the City of New York and return to a time when there was a stable and reliable workforce available to transport our most vulnerable schoolchildren. Thank you.