



John Rau

## *Bill Analysis*

*Legislative Service Commission*

### **Sub. H.B. 66\***

127th General Assembly  
(As Reported by H. Education)

**Reps. Collier, Setzer, Peterson, J. McGregor, Daniels, Evans, Seitz,  
R. McGregor, Flowers, Hottinger, Stebelton, Aslanides, Webster**

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### **BILL SUMMARY**

- Changes the minimum school year for school districts and chartered nonpublic schools from 182 days to 455 hours for half-day kindergarten, 910 hours for full-day kindergarten and grades 1 through 6, and 1,001 hours for grades 7 through 12, beginning in the 2007-2008 school year.
- Establishes minimum parameters for school districts by (1) requiring at least the same number of hours of instruction as provided in the 2006-2007 school year, (2) requiring schools to be open for instruction at least 36 weeks each school year, and (3) prohibiting closing schools for more than 100 consecutive calendar days.
- Defines a school week generally as five days for school districts, and specifies that the school week may exceed five days only to make up hours that a school was closed due to hazardous weather or another emergency.
- Requires a school district board of education to consider the impact of proposed changes in the schedule of a high school on any joint vocational school district in which any of the high school's students are enrolled, and requires both districts' boards to enter into a written agreement prescribing reasonable accommodations to the joint vocational district's scheduling needs.

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\* This analysis was prepared before the report of the House Education Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires a school district board to consult with the chartered nonpublic schools and community schools to which the district is required to transport students and to consider the effect of proposed school schedule changes on the transportation of those students.
- Eliminates excused "calamity" days for schools.

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## CONTENT AND OPERATION

### Minimum school year requirements: current law

Current law regulates the length of the school year and school day for both public and nonpublic schools.<sup>1</sup> Public schools are, by statute, explicitly subject to a minimum school year and school day requirement.<sup>2</sup> Nonpublic schools, however, are not explicitly subject to these requirements. Rather, the State Board of Education has, by rule, made adherence to minimum school year and school day requirements applicable to both chartered and nonchartered nonpublic schools.<sup>3</sup>

Unless a public or nonpublic school obtains approval to operate on an alternative schedule, as discussed below, a school must be open for instruction with students in attendance at least 182 school days in a school year.<sup>4</sup> By statute, a school day for students in grades 1 to 6 must include *at least* five hours, with two 15-minute recesses permitted, and a school day for students in grades 7 to 12 must be *at least* five hours, with no provisions for recesses.

The State Board of Education has rulemaking authority to further define what constitutes a school day. Those rules provide that a school day for public and nonpublic school students in grades 1 to 6 must be at least five hours, excluding a lunch period, and five and one-half hours, excluding a lunch period, for public school students in grades 7 to 12. Nonpublic school students in grades 7

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<sup>1</sup> Community schools ("charter" schools) are not subject to the same requirements as school districts and nonpublic schools, discussed below. Instead, under continuing law, community schools must provide learning opportunities for a minimum of 920 hours per year (see R.C. 3314.03(A)(11)(a), not in the bill).

<sup>2</sup> See R.C. 3313.48 and 3313.62 and repealed R.C. 3313.481.

<sup>3</sup> See Ohio Administrative Code (O.A.C.) 3301-35-08 and 3301-35-12.

<sup>4</sup> R.C. 3313.48. A school year begins on July 1 and ends the following June 30 (R.C. 3313.62).

to 12 need only have a school day of five hours, excluding a lunch period, which is the minimum prescribed in the statute.<sup>5</sup>

Nevertheless, a school day that is shortened by up to two hours because of hazardous weather conditions still counts as a school day towards satisfying the minimum 182-school-day requirement.<sup>6</sup> In complying with the 182-day requirement, a school also may count up to four days when classes are dismissed a half-day early for individual parent-teacher conferences or reporting periods, two days for teacher professional meetings, and up to five days for a public calamity, such as inclement weather.<sup>7</sup> Taking into account these permitted closings for parent-teacher conferences, reporting, professional development, and calamity days, a school must be open for instruction at least 173 days each year.

Current law also requires a public school to have a school week of five days.<sup>8</sup> This requirement does not appear to be extended to nonpublic schools by either statute or administrative rule.

**Currently Mandated Minimum School Year, School Week, and School Day**

	School Year	School Week	School Day	
			Grades 1-6	Grades 7-12
School Districts	182 days	5 days	5 hours	5½ hours
Chartered Nonpublic Schools	182 days	Not Specified	5 hours	5 hours
Nonchartered Nonpublic Schools	182 days	Not Specified	5 hours	5 hours

NOTES: The 182-day school year may include up to five "calamity" days, up to four days a school was closed a half-day early for parent-teacher conferences or reporting periods, and up to two days for teacher professional meetings. The five-hour school day may include two 15-minute recesses for grades 1 to 6. Community schools ("charter" schools) are subject to an alternative requirement that they provide learning opportunities for 920 hours per year.

<sup>5</sup> O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

<sup>6</sup> R.C. 3317.01(B).

<sup>7</sup> R.C. 3313.48 and 3317.01(B).

<sup>8</sup> R.C. 3313.62.



### **Alternative schedules permitted by current law**

As an alternative to operating on a traditional five-hour-a-day, 182-day calendar, current law permits a school district to operate a school on a different schedule in order to (1) provide a flexible school day for parent-teacher conferences and reporting days that require more than the four half-days otherwise permitted, (2) operate on a calendar of quarters, trimesters, or pentamesters, or (3) establish a staggered attendance schedule. The approval of the Department of Education is required to implement any of these alternative schedules.<sup>9</sup>

If a school district obtains approval to operate an alternative schedule, the school must be open for instruction at least 910 hours a year. Included within this 910-hour requirement, a school may count two 15-minute daily recess periods for students in grades 1 to 6; ten hours for individualized parent-teacher conferences and reporting periods; ten hours for teacher professional meetings; and the number of hours students are not required to attend because of public calamity days. Current law does not appear to limit the number of calamity days for schools operating an alternative schedule.

### **The bill changes the minimum standard from days to hours**

(R.C. 3313.48, new 3313.481, 3313.62, and 3317.01(B); Section 3; conforming changes in R.C. 2151.011, 3313.533, and 3317.029)

Beginning in the 2007-2008 school year, the bill changes the minimum school year for school districts and chartered nonpublic schools from 182 days to 455 hours for students in half-day kindergarten, 910 hours for students in grades 1 through 6 or in all-day kindergarten, and 1,001 hours for students in grades 7 through 12 (R.C. 3313.48(A)). This is equivalent to the number of hours specified under the current 182-day minimum school year for public schools and for grades 1 through 6 in nonpublic schools. It is an increase in the current *minimum* prescribed for grades 7 through 12 in chartered nonpublic schools.

In addition, the bill specifies that the school week generally be five days for school districts, and *up to* five days for chartered nonpublic schools. It specifies that the school week may exceed five days "on occasion," but only to make up hours that a school was closed due to hazardous weather or other emergency conditions. The bill eliminates any requirement for a minimum school month,

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<sup>9</sup> Current R.C. 3313.481 (not in the bill).

which is four school weeks under current law (R.C. 3313.62), and it eliminates the requirement that a school day be at least five hours long (R.C. 3313.48).<sup>10</sup>

### **Parameters for school districts**

The effect of these changes is that a school may fulfill the hourly requirements by developing an attendance schedule of its own choosing. However, the bill specifies the following minimum parameters for school districts:

(1) Each school must be open for instruction for a minimum of 36 weeks each school year.

(2) No school may close for more than 100 consecutive calendar days.

(3) Each school must be open for instruction at least the number of hours it was open during the 2006-2007 school year.

(4) A school otherwise may not reduce the number of hours per school year the school is scheduled to be open for instruction from the number of hours per year the school was open during the previous school year, unless the reduction is approved by a resolution adopted by the district board of education. (R.C. 3313.48(B) and (C).)

### **Exceptions**

In order to satisfy the minimum hourly requirements:

(1) A school may count up to ten hours per year for grades K through 6, and up to 11 hours per year for grades 7 through 12, when classes are dismissed for individualized parent-teacher conferences and reporting periods.

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<sup>10</sup> The bill specifies that when the term "school day" is used throughout the Education Code (R.C. Title 33), unless otherwise specified, it is construed to mean the time during a calendar day that a school is open for instruction under the schedule adopted by each particular school district board (R.C. 3313.481 as reenacted by the bill). So, for example, if a student is suspended for three days from school for a violation of the district's code of conduct under R.C. 3313.661 (not in the bill), that suspension will run for three days and the number of hours of each of those days as specified by the board of the district that suspended the student. On the other hand, if a student is suspended for three days by a different district, the suspension again will run for three days but for the number of hours in each of those days as specified by that district's board, which may be different than that specified by the first district board.

(2) A school may count up to ten hours per year in grades K through 6, and 11 hours in grades 7 through 12, when the schools are closed for teacher professional meetings.

(3) For students in grades K through 6, a school may count morning and afternoon recess periods of not more than 15 minutes each.

(4) All-day kindergarten students may be further excused for up to 15 hours, and half-day kindergarten students may be excused for up to 7½ hours, in order to acclimate to school.

(5) Seniors in high school may be excused for up to 16½ hours. (R.C. 3313.48(A)(1) to (3) and 3317.01(B).)

However, unlike under current law, a school is not permitted to count any "calamity" days or hours toward its minimum hourly requirement (see "Calamity days eliminated" below).

**Consideration of scheduling needs of joint vocational school districts**

(R.C. 3313.48(D))

The bill requires the board of each city, exempted village, and local school district, prior to making any change in the hours or days in which a high school is open for instruction, to consider the compatibility of the proposed change with the scheduling needs of any joint vocational school district (JVSD) in which any of the high school's students are also enrolled. The board must consider the impact of the proposed change on student access to the instructional programs offered by the JVSD, incentives for students to participate in vocational education, transportation provisions, and the timing of graduation. The board also must provide the JVSD board with advance notice of the proposed change, and both boards must enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the JVSD prior to implementing the change.

City, exempted village, and local school districts are required under continuing law to transport high school pupils who attend career-technical classes at another district, including a joint vocational school district, from the public high school operated by the district to which the student is assigned to the career-technical program.<sup>11</sup>

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<sup>11</sup> R.C. 3327.01, not in the bill.

**Consultation with chartered nonpublic schools and community schools regarding student transportation**

(R.C. 3313.48(E))

The bill requires the board of education of each city, exempted village, and local school district, before making a change in the hours or days in which its schools are open for instruction, to consult with the chartered nonpublic schools and community schools to which the district is required to transport students and to consider the effect of the proposed change on the schedule for transportation of those students.

Continuing law requires school districts to provide transportation to nonpublic school and community school students in grades K to 8 who reside in the district and who live more than two miles from their school. Districts also may transport high school students to and from their nonpublic and community schools. A district, however, is not required to transport students of any age to and from a nonpublic school or community school if the direct travel time by school bus from the district school the student would otherwise attend to the nonpublic or community school is more than 30 minutes.<sup>12</sup> Districts are eligible for state subsidies for transporting nonpublic and community school students.<sup>13</sup>

**Calamity days eliminated**

(R.C. 3317.01(B))

As discussed above, a school is permitted under current law to excuse students for up to five days a year for "calamity" days, which are regularly scheduled hours a school is closed due to hazardous weather or comparable circumstances. The bill eliminates excused "calamity" days and eliminates a provision in current law that permits a school to count up to two hours a day if a school closes early or opens late because of hazardous weather conditions. Thus, under the bill, if a school is required to cancel classes, open late, or close early because of inclement weather, it is the responsibility of the school to make up those hours as it chooses.

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<sup>12</sup> R.C. 3327.01, not in the bill.

<sup>13</sup> R.C. 3317.022(D), not in the bill.

### **Other changes**

(repealed R.C. 3313.481 and 3313.482)

The bill makes other changes as a result of shifting the minimum school year requirement from days to hours that can be fulfilled within local discretion. First, it eliminates the provisions of law that permit a school to operate on an alternative schedule upon the approval of the Department of Education (repealed R.C. 3313.481). Also, since calamity days are eliminated, the bill also eliminates the requirement that schools adopt contingency plans to make up calamity days beyond the five they are permitted now (repealed R.C. 3313.482).

### **Effect on collective bargaining agreements**

(Section 4)

The bill specifically provides that its changes do not apply to any collective bargaining agreement executed prior to the bill's effective date. But it stipulates that any collective bargaining agreement or renewal executed after that date must comply with those changes.

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## **COMMENT**

The minimum education standards adopted by the State Board of Education require all school districts and all nonpublic schools, chartered and nonchartered, to comply with the 182-day minimum school year prescribed in current law, even though the current statute imposing the minimum 182-day school year does not explicitly apply to any nonpublic schools.<sup>14</sup> The State Board likely has the authority to make the school year applicable to nonpublic schools in the interest of establishing a standard school year for all schools that satisfy those minimum education standards and are, therefore, legal for attendance by children of compulsory school age.<sup>15</sup> It has been held that minimum education standards may be applied to even parochial or other religious-oriented nonpublic schools as long as they do not infringe upon the right to the free exercise of religion.<sup>16</sup>

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<sup>14</sup> O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

<sup>15</sup> The State Board of Education is authorized to adopt these minimum education standards for all schools, except community schools, in which a student of compulsory school age must be enrolled unless excused from attendance for statutorily prescribed reasons. (R.C. 3301.07(D), not in the bill.)

<sup>16</sup> See *State v. Whisner* (1976), 47 Ohio St.2d 181 and *Wisconsin v. Yoder*, 406 U.S. 205 (1972).



In reconstituting the minimum school year in terms of hours instead of days, the bill specifies that school districts and *chartered* nonpublic schools are subject to the new minimum school year standards, but it does not indicate whether *nonchartered* nonpublic schools are also subject to them. Therefore, it may be unclear whether the State Board can require nonchartered nonpublic schools to comply with the new minimum school year prescribed in the bill. It is possible, but not clear, that the State Board may do so under its continuing authority to prescribe minimum education standards for schools that students of compulsory school age must attend.

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## HISTORY

ACTION	DATE
Introduced	02-22-07
Reported, H. Education	---

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