



Ohio Legislative Service Commission

Bill Analysis

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H.B. 191

129th General Assembly
(As Introduced)

Reps. Hayes and Patmon, Ruhl, Thompson, J. Adams, Kozlowski, Derickson, Roegner, Beck, Barnes

BILL SUMMARY

- Changes the minimum school year for school districts and chartered nonpublic schools from 182 days to: 480 hours for half-day kindergarten, 960 hours for full-day kindergarten and grades 1 through 6, and 1,050 hours for grades 7 through 12, beginning in the 2012-2013 school year.
- Defines a school week generally as five days for school districts.
- 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, and requires both districts' boards to enter into a written agreement prescribing reasonable accommodations to the joint vocational district's scheduling needs.
- 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 generally, but retains a recently enacted allowance of calamity days for community schools.
- Prohibits school districts, community schools, and STEM schools from opening for instruction prior to Labor Day or after Memorial Day, except for the operation of summer school or year-round schools, to accommodate or construction projects, and to make up hours missed due to a calamity day.
- Prohibits extracurricular activities on Friday through Monday of Labor Day weekend for school districts, community schools, and STEM schools.

CONTENT AND OPERATION

Days to hours

Beginning in the 2012-2013 school year, the bill changes the minimum school year for school districts, STEM schools, and chartered nonpublic schools from 182 days to 480 hours for students in half-day kindergarten, 960 hours for students in grades 1 through 6 or in all-day kindergarten, and 1,050 hours for students in grades 7 through 12.¹ The bill does not revise the minimum school year for community (charter) schools, which is 920 hours. For a description of the current law prescribing the school year, see "**Background – current minimum school year requirements**" below.

In addition, the bill specifies that the school week generally be five days. The bill eliminates any requirement for a minimum school month, which is four school weeks under current law,² and it eliminates the requirement that a school day be at least five hours long.³ 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.⁴ So, for example, if a student is suspended for three days from school for a violation of the district's code of conduct, 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.

The effect of these changes is that a school may fulfill the state minimum hourly requirements by developing an attendance schedule of its own choosing, within a five-day school week. However, the bill specifies that a school district may not reduce the number of hours per school year the school is scheduled to be open for instruction from the number of hours the school was open during the previous school year, unless the reduction is approved by a resolution adopted by the district board of education.⁵

Exceptions

In order to satisfy the minimum hourly requirements:

¹ R.C. 3313.48(A); Section 3.

² R.C. 3313.62.

³ R.C. 3313.48.

⁴ R.C. 3313.481 as reenacted by the bill.

⁵ R.C. 3313.48(B).

(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.

(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.⁶

However, unlike under current law, a school is not permitted to count any "calamity" days or hours (including two-hour delays or early dismissals) toward its minimum hourly requirement (see "**Calamity days eliminated**" below).

Consideration of scheduling needs of joint vocational school districts

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.⁷

City, exempted village, and local school districts are required under continuing law to transport high school students who attend career-technical classes at another

⁶ R.C. 3313.48(A)(1) to (3), 3306.01(A)(2), and 3317.01(B).

⁷ R.C. 3313.48(C).

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.⁸

Consultation with chartered nonpublic schools and community schools regarding student transportation

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.⁹

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. Districts are eligible for state subsidies for transporting nonpublic and community school students.¹⁰

Calamity days eliminated

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 generally eliminates excused "calamity" days, and eliminates another provision in current law that permits a school to count up to two hours a day if a school opens late or closes early 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, and the closure would cause the school to fall below the state minimum hours for the year, it is the responsibility of the school to make up those hours as it chooses.¹¹

⁸ R.C. 3327.01, not in the bill.

⁹ R.C. 3313.48(D).

¹⁰ R.C. 3306.12 and 3327.01, neither in the bill.

¹¹ R.C. 3306.01(A)(2) and 3317.01(B).

Community school calamity hours retained

However, the bill does not affect the recently enacted legislation excusing calamity days for community schools. Among its provisions, H.B. 36 of the 129th General Assembly requires the Department of Education to waive the number of hours a community school is closed for a public calamity, as long as the school provides the required minimum of 920 hours of learning opportunities to students during the school year.¹² Prior to H.B. 36, the Department had determined that community schools were not allowed any excused calamity days, and advised that a community school must be open for all of the days or hours that the school reported that it would be open. If a community school closed for a time due to a calamity, it had to make up that time, or would not receive payment for those days or hours.

H.B. 36 passed the General Assembly on April 6, 2011, and was signed by the Governor and took effect April 13, 2011. H.B. 191 was introduced on April 7, 2011.

Other changes

The bill makes other changes as a result of shifting the minimum school year requirement from days to hours. 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. 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.¹³

Collective bargaining agreements

The bill specifically provides that its restructuring of the minimum school year does 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.¹⁴

Opening and closing days for public schools

Beginning with the 2012-2013 school year, the bill prohibits schools operated by school districts, community (charter) schools, and STEM schools from opening for instruction earlier than Labor Day and closing later than Memorial Day.¹⁵ It makes

¹² R.C. 3314.08(L)(4), not in the bill.

¹³ R.C. 3313.481 and 3313.482, repealed by the bill.

¹⁴ Section 4.

¹⁵ R.C. 3313.621, 3314.03(A)(11)(d), and 3326.11; Section 3.

compliance with this requirement a condition of state funding for school districts.¹⁶ Labor Day is the first Monday in September, and Memorial Day is the last Monday in May. Both are legal holidays in Ohio.¹⁷

The bill specifically permits workshops, orientation, or other activities in preparation for the opening of school for teachers or administrators to be held prior to Labor Day. In addition, with the approval of the Superintendent of Public Instruction, a school may be open for instruction prior to Labor Day or after Memorial Day if (1) the scheduling needs of the school will be affected by a construction or renovation project at the school or another facility operated by the district, (2) the school is making up hours missed due to a calamity day, or (3) the school operates on a year-round basis. Moreover, the bill specifically does not affect a district's or school's authority to operate summer school programs, which presumably are in supplement to the instructional programs offered during the regular school year.¹⁸

Extracurricular events on Labor Day weekend

The bill prohibits school districts, community schools, and STEM schools from holding or permitting extracurricular events on Friday through Monday of Labor Day weekend. However, the prohibition does not apply to any district or school that, prior to July 1, 2012, entered into an agreement with another district or school, or with an athletic association or conference, that requires participation in extracurricular events on that weekend. But the bill prohibits district boards, community schools, and STEM schools, after July 1, 2012, from entering into new agreements or renewing expiring agreements that require participation in extracurricular events on Labor Day weekend.¹⁹

Collective bargaining agreements

The bill makes a temporary exception for school districts that entered into collective bargaining agreements prior to July 1, 2012, if those agreements specify different starting and ending dates. In that case, the district may open earlier than Labor Day and hold classes after Memorial Day until the agreement expires. But collective bargaining agreements entered into or renewed on or after July 1, 2012, must comply with the bill's regulation of the start and end of the school year.²⁰

¹⁶ R.C. 3306.01(A)(2) and 3317.01(B).

¹⁷ R.C. 1.14 and 5.21, neither in the bill.

¹⁸ R.C. 3313.621(A) to (C).

¹⁹ R.C. 3313.621(D).

²⁰ R.C. 3313.621(E).

Background – current minimum school year requirements

Current law regulates the length of the school year and school day for both public and nonpublic schools. 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.²¹ Traditional public schools and public STEM schools are, by statute, explicitly subject to a minimum school year and school day requirement.²² 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.²³

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.²⁴ 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 to 12 need only have a school day of five hours, excluding a lunch period, which is the minimum prescribed in the statute.²⁵

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.²⁶ 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

²¹ R.C. 3314.03(A)(11)(a).

²² See R.C. 3313.48, 3313.62, 3326.11, and current R.C. 3313.481.

²³ See Ohio Administrative Code (O.A.C.) 3301-35-08 and 3301-35-12.

²⁴ R.C. 3313.48. A school year begins on July 1 and ends the following June 30 (R.C. 3313.62).

²⁵ O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

²⁶ R.C. 3317.01(B).

professional meetings, and up to five days for a public calamity, such as inclement weather.²⁷ 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.²⁸ 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 and STEM Schools	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.

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 ("split sessions"). The approval of the Department of Education is required to implement any of these alternative schedules.²⁹

²⁷ R.C. 3313.48 and 3317.01(B).

²⁸ R.C. 3313.62.

²⁹ Current R.C. 3313.481, repealed by the bill.

If a school district obtains approval to operate an alternative schedule, the school must be open for instruction for 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.

While current law defines the school year as beginning on July 1 and ending on June 30, it does not specify when schools are to open for instruction.³⁰ That decision currently is left to the board of education of each school district or the governing authority of each community school. In the case of a nonpublic school, it is left to the governing body overseeing the school. Generally, schools begin regular instruction in August or September and end sometime between late May and mid-June. Some schools operate on a year-round basis, likely beginning their instruction year sometime in July and ending it in the following May or June, with scheduled breaks between sessions throughout the year.

In addition to its regular instructional year, a school might offer summer programs in order to provide advanced academic, extracurricular, or academic intervention services.³¹ Moreover, certain students who have not attained proficient scores on the required state achievement tests must be offered summer intervention services.³² These summer services specifically are not restricted under the bill.

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.³³ 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. The State Board is

³⁰ R.C. 3313.62.

³¹ R.C. 3313.641(A), not in the bill.

³² R.C. 3301.0711(D) and 3313.608, neither section in the bill.

³³ O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

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.³⁴ 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.³⁵

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.

HISTORY

ACTION	DATE
Introduced	04-07-11

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³⁴ R.C. 3301.07(D), not in the bill.

³⁵ See *State v. Whisner* (1976), 47 Ohio St.2d 181 and *Wisconsin v. Yoder*, 406 U.S. 205 (1972).