



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 191

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(As Passed by the House)

Reps. Hayes and Patmon, Ruhl, Thompson, J. Adams, Kozlowski, Derickson, Roegner, Beck, Barnes, Amstutz, Blair, Huffman, Sprague, Batchelder

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 2013-2014 school year.
- Retains the law defining a school week as five days for school districts, but specifies that a chartered nonpublic school may be open for instruction any day of the week.
- Exempts school districts from transporting students to and from chartered nonpublic and community schools on Saturday or Sunday, unless an agreement to do so is in place prior to July 1, 2013.
- Requires school district boards to hold a public hearing on the school calendar 30 days prior to adopting the school calendar.
- Requires a school district board to consider the impact of proposed changes in the schedule of a school on any joint vocational school district and any community school, and requires a written agreement prescribing reasonable accommodations to the joint vocational district's or community school's scheduling needs.
- Requires a school district board to consult with the chartered nonpublic 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.
- Requires community schools and chartered nonpublic schools to consult with each school district that transports students to those schools prior to making changes in the school schedule.

- Prohibits the State Board of Education from adopting any rule or standard that would require chartered nonpublic schools to take certain actions required of school districts with respect to changes in the school schedule.
- Eliminates excused calamity days for schools generally, but retains both a recently enacted allowance of calamity days for community schools and the ability of schools to make up the equivalent of three school days via online lessons or "Blizzard Bags."

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CONTENT AND OPERATION

Days to hours

Beginning in the 2013-2014 school year, the bill changes the minimum school year for school districts, STEM schools, 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 12.¹ 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 retains the current law that the school week generally be five days, but adds an explicit statement that chartered nonpublic schools may be open for instruction with pupils in attendance on any day of the week, including Saturday and

¹ R.C. 3313.48(A); Section 3.

Sunday. 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) A school may count up to the equivalent of two school days per year when classes are dismissed for individualized parent-teacher conferences and reporting periods.

(2) A school may count up to the equivalent of two school days per year 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) Kindergarten students may be further excused for up to the equivalent of three school days, in order to acclimate to school.

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(C).

(5) Seniors in high school may be excused for up to the equivalent of three school days.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).

Public hearing on school calendar

The bill requires that, 30 days prior to adopting a school calendar, a district board of education must hold a public hearing on the school calendar. The hearing must address topics that include, but are not limited to, the total number of hours in a school year, length of school day, and beginning and end dates of instruction. The district board must publish notice of the meeting in a newspaper of general circulation in the district not later than 30 days prior to the hearing.⁷

Consideration of scheduling needs of other schools

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.⁸

City, exempted village, and local school districts are required under continuing law to transport high school students 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.⁹

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

⁷ R.C. 3313.48(B).

⁸ R.C. 3313.48(D).

⁹ R.C. 3327.01.

Community schools

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 school is open for instruction, to consider the compatibility of the proposed change with the scheduling needs of any community school to which the district is required to transport students. The board must consider the impact of the proposed change on student access to the instructional programs offered by the community school, transportation provisions, and the timing of graduation. The board also must provide the sponsor, governing authority, and operator of an affected community school with advanced notice of the proposed change, and the district board and the governing authority, or operator if so authorized, must enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the community school prior to implementing the change.¹⁰

Conversely, the bill also requires the governing authority of a community school to consult with each district that transports students to the community school prior to making any change in the community school schedule.¹¹

Chartered nonpublic schools

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 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. Conversely, the governing authority of a chartered nonpublic school must also consult with each school district board that transports students to the chartered nonpublic school prior to making any change in its schedule.¹²

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

¹⁰ R.C. 3313.48(E).

¹¹ R.C. 3314.092.

¹² R.C. 3313.48(F).

more than 30 minutes. Districts are eligible for state subsidies for transporting nonpublic and community school students.¹³

State Board application of district mandates to chartered nonpublic schools

The bill prohibits the State Board of Education from adopting or enforcing any rule or standard that would require chartered nonpublic schools to comply with the bill's provisions that require school districts to do the following:

- (1) Hold a public hearing prior to adopting the school calendar;
- (2) Adopt a resolution before reducing the number of hours the school is scheduled to be open; and
- (3) Consult with any joint vocational school district or community school when amending its school schedule.¹⁴

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.¹⁵

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

¹³ R.C. 3327.01.

¹⁴ R.C. 3313.48(G).

¹⁵ R.C. 3317.01(B).

year.¹⁶ 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.

Online lessons and Blizzard Bags

The bill also retains the recently enacted provision that allows school districts, chartered nonpublic schools, and community schools to make up no more than three calamity days via online lesson plans or paper "Blizzard Bags." However, the bill clarifies that districts and schools may make up the *equivalent* of three days using these methods.¹⁷

Transportation to nonpublic and community schools

As discussed above in "**Days to hours**," the bill makes explicit that chartered nonpublic schools may be open for instruction with pupils in attendance on any day of the week, including Saturday or Sunday. However, unless an agreement to do so is in place prior to July 1, 2013, the bill exempts school districts from transporting students to and from nonpublic and community schools on Saturday and Sunday.¹⁸

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.¹⁹

¹⁶ R.C. 3314.08(L)(4), not in the bill.

¹⁷ R.C. 3313.482, as renumbered in the bill.

¹⁸ R.C. 3327.01.

¹⁹ R.C. 3313.481 and 3313.482, repealed by the bill.

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.²⁰

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

²⁰ Section 4.

²¹ R.C. 3314.03(A)(11)(a), not in the bill.

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).

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 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.

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

²⁶ R.C. 3317.01(B).

²⁷ R.C. 3313.48 and 3317.01(B).

²⁸ 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 ("split sessions"). The approval of the Department of Education is required to implement any of these alternative schedules.²⁹

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.

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

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.

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 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
Reported, H. Education	05-01-12
Passed House (53-38)	11-28-12

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

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).

