



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 416*

130th General Assembly
(As Reported by S. Education)

Reps. Burkley and Hill, Blessing, Brenner, Brown, Derickson, Dovilla, Hall, Hood, Landis, Kunze, Retherford, Roegner, Rosenberger, Stautberg, Thompson, Milkovich, Smith, Bishoff, Boyd, Patmon, Scherer, Sheehy, Stebelton, Batchelder

BILL SUMMARY

- Requires the Department of Education to waive up to four additional days a school is closed due to a public calamity (such as hazardous weather conditions) for the 2013-2014 school year for a school district, STEM school, or chartered nonpublic school, as long as the district or school has invoked its contingency plan to make up five unwaived calamity days and affirmed its intention to request the additional waived days in a resolution (waives closed days 11 through 14).
- For the 2013-2014 school year, authorizes schools to make up unwaived calamity days by lengthening one or more other school days in half-hour increments.
- Permits school districts, STEM schools, and chartered nonpublic schools to update their contingency plans at any time during the 2013-2014 school year and to include in their plans online lessons or paper lesson "blizzard bags" as a means to make up time that the school was closed due to a public calamity.
- Requires the Department of Education to accept and consider applications for the make-up of unwaived calamity days using online lessons and paper lesson "blizzard bags," for the 2013-2014 school year, at any time after August 1, 2013.
- For the 2013-2014 school year, permits a school district to excuse graduating twelfth-grade students from attendance in school for any time that the students' schools are open for instruction after the scheduled graduation ceremony or culminating event, as a result of adding time to the school calendar to make up for missed time when

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

the schools were closed due to a public calamity, in order to meet the required minimum days of instruction.

- Permits a school district to excuse twelfth-grade students from attendance in school for any school day *prior* to the district's scheduled graduation ceremony or culminating event, only in accordance with administrative rules on excused attendance, if the schools are closed to all students, or due to a public calamity.
- Extends the deadlines for return of the elementary achievement assessment scores for the 2013-2014 school year to June 16 for third-grade assessments and June 30 for all other assessments.
- Declares an emergency.

CONTENT AND OPERATION

Additional calamity days for school districts and STEM schools

The bill provides for the payment of state operating funds to a school district and STEM school that was closed for instruction during the 2013-2014 school year up to four days more than the number permitted for that school year, provided that the following conditions are met:

(1) The district or school was closed due to public calamity;

(2) The district or school has first invoked the make-up of days or hours specified in its 2013-2014 contingency plan or through other adjustments to the calendar, as approved by the district or governing board; and

(3) The district board or STEM governing body has affirmed its intention to request the waiver of additional excused days in a resolution adopted in a regular or special meeting of the board or governing body.

A calamity day is a day a school is scheduled to be open for instruction but due to a "public calamity" the school is closed. Permitted public calamities are disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use.¹ Generally, under law in effect until July 1, 2014, unless a school is scheduled to be open for instruction more days than the minimum number

¹ The version of R.C. 3317.01(B) in effect until July 1, 2014, not in the bill.

required by law, if it has used more calamity days than the five permitted, the school will have to make up those days. A school district must meet the minimum number of instruction days (182) in order to qualify for state operating funds for the next fiscal year.² A STEM school also must meet the minimum number of days to qualify for state funding during the current school year.³ The bill, in effect, waives four calamity days in addition to the five already authorized for the 2013-2014 school year toward meeting that requirement.⁴ But, in order to qualify for the bill's extra waived days, a district or school must have invoked its contingency plan, which accounts for five more days a school is closed (see "**Contingency plans**" below). That means that a district or school must be closed due to a public calamity for more than ten days before it could qualify to use any of the bill's extra waived days (the first five waived under current law, and the second five made up in accordance with its contingency plan). In other words, only closed days 11 through 14 could qualify as additional waived calamity days under the bill.

Additional calamity days for chartered nonpublic schools

The bill also grants additional calamity days to a chartered nonpublic school. Under the bill, the Department of Education must consider a chartered nonpublic school to be in compliance with the minimum school year requirement if the school is closed for up to four additional calamity days, provided that it was closed due to a public calamity, the school has first invoked the make-up of days or hours specified in its 2013-2014 contingency plan or through other adjustments to the calendar, and the school's governing authority has affirmed its intention to request the waiver of additional excused days in a resolution adopted in a regular or special meeting of the governing authority.⁵ Thus, like a school district or STEM school (as described above), a chartered nonpublic school must be closed due to a public calamity for more than ten days before it could qualify to use any of the bill's extra waived days. Under a rule of the State Board of Education, chartered nonpublic schools are subject to the same minimum school year requirement and are required to be open for instruction for the same number of days as a school operated by a school district or STEM school.⁶ Accordingly, it appears that chartered nonpublic schools also submitted contingency

² The version of R.C. 3317.01(B) in effect until July 1, 2014.

³ See generally R.C. Chapter 3326., not in the bill.

⁴ Section 733.10 of Am. Sub. H.B. 59 of the 130th General Assembly, amended in Sections 1 and 2 of the bill.

⁵ Section 733.10 of Am. Sub. H.B. 59 of the 130th General Assembly, amended in Sections 1 and 2.

⁶ Ohio Administrative Code (O.A.C.) 3301-35-12.



plans for the 2013-2014 school year and, under the bill, would have to invoke those plans before qualifying for the bill's extra waived days.

Make-up of calamity days in half-hour increments

The bill temporarily allows a school district, STEM school, or chartered nonpublic school to increase the length of one or more other school days in increments of one-half hour to make up the unwaived number of hours or days that the school was closed due to a calamity.⁷ Law in existence prior to September 29, 2013, permanently allowed schools to make up time in this manner.⁸ The bill restores that option for the remainder of the 2013-2014 school year. Otherwise, if a school district or school must make up days in order to comply with the minimum school year requirement, after applying the waived days, generally it would have to do so by adding whole days to its schedule.

Contingency plans

Law in existence prior to September 29, 2013, also required school districts and STEM schools, and probably chartered nonpublic schools, to submit by September 1 of each year a contingency plan to make up five school days for which the school was closed due to a public calamity. Under that law, a district or school could plan to make up those five days as whole days or in added half-hour increments (as temporarily reinstated by the bill).⁹ Presumably, school districts and schools filed their contingency plans in accordance with that provision of law prior to the provision's repeal later that month.

The bill explicitly permits a school district, STEM school, or chartered nonpublic school that filed a contingency plan on or prior to September 1, 2013, as required under former law, to update that contingency plan at any time during the 2013-2014 school year.¹⁰ It also permits a school to include in its contingency plan online lessons or paper lesson "blizzard bags" as a means to make up time that the school was not open for instruction due to a public calamity (see below).¹¹

⁷ Section 3.

⁸ R.C. 3313.482 as it existed prior to September 29, 2013, not in the bill. That section was repealed effective on that date by Am. Sub. H.B. 59 of the 130th General Assembly.

⁹ R.C. 3313.482 as it existed prior to September 29, 2013.

¹⁰ Section 7.

¹¹ Division (A) of Section 4.



Online and paper "blizzard bag" make-up lessons

Continuing law allows a district or school to make up no more than three whole days through the use of online lessons or paper lesson "blizzard bag" (see "**Background**" below). In order to use this option, a district or school is required to submit a separate plan to the Department of Education by August 1 of the school year for which the plan is in force. The bill requires the Department of Education to accept and consider applications for online lessons and paper lesson "blizzard bags" for the 2013-2014 school year at any time after August 1, 2013.¹²

Excusal from attendance for twelfth-grade students

After graduation

For the 2013-2014 year only, the bill permits a school district board of education to excuse graduating twelfth-grade students from attendance in school for any days or hours that the students' schools are open for instruction after the district's scheduled graduation ceremony, as a result of adding days or hours to the school calendar to make up days or hours that the schools were closed during the school year for a public calamity, in order to meet the required number of days of instruction. In other words, if a school requires attendance after the district's scheduled graduation ceremony – as a result of making up time for which the school was closed due to a public calamity, such as hazardous weather – the bill authorizes the district to excuse graduating twelfth-grade students from attendance for that time.¹³ The bill adds a statement that a scheduled graduation ceremony includes any ceremony designated as a culminating event for twelfth-grade students by a joint vocational school district's board of education.

The bill also states that a school district that excuses graduating twelfth-grade students from attendance after the district's scheduled graduation ceremony in accordance with the bill's provisions cannot be considered to have failed to comply with the minimum school year requirement.¹⁴

As noted under "**Background**" below, current law, not affected by the bill, permits school districts to excuse twelfth-grade students for up to three days. It appears that the bill's permitted excusal days are in addition to these three days.

¹² Division (B) of Section 4.

¹³ Section 5(A).

¹⁴ Section 5(A), second paragraph.



Prior to graduation

The bill states that, for the 2013-2014 year, a school district board may excuse twelfth-grade students from attendance in school for any school day *prior* to the district's scheduled graduation ceremony only (1) in accordance with the State Board of Education's rules on excused absences for individual students (such as illness or college visitation), (2) if the students' schools are closed to all students for days or during hours they are scheduled to be open for instruction, or (3) due to a public calamity.¹⁵ That is, except for those specific reasons for nonattendance, if a district adds days prior to the scheduled graduation ceremony, twelfth-grade students must attend school those days.

Extension for return of achievement assessment scores

For the 2013-2014 school year only, the bill extends the deadline by which the Department of Education, or a contractor of the Department, must return the student scores for the state elementary achievement assessments to school districts and schools, as follows:

(1) For assessments administered to students in the third grade, not later than June 16, 2014.

(2) For assessments administered to students in the fourth, fifth, sixth, seventh, or eighth grades, not later than June 30, 2014.¹⁶

Under current law, the Department or its contractor must report student assessment scores to districts and schools not later than June 15 of each school year.¹⁷ Also under current law, the Superintendent of Public Instruction must designate the dates and times for administration of the achievement assessments.¹⁸ Because of the numerous additional days schools have been closed due to hazardous weather conditions during the current school year, the state Superintendent recently expanded the "testing window" for the spring elementary achievement assessments by one week, setting the administration dates for April 21 through May 16, 2014.¹⁹

¹⁵ Section 5(B).

¹⁶ Section 6.

¹⁷ R.C. 3301.0711(G)(2), not in the bill.

¹⁸ R.C. 3301.0710(C), not in the bill.

¹⁹ <http://education.ohio.gov/Media/Media-Releases/Superintendent-Ross-Expands-Ohio-Achievement-Asses#.UwZFfIVpm70>, last visited 02/24/14.



The state achievement assessments must be administered annually to students enrolled in public schools and to students in nonpublic schools enrolled with a state scholarship in grades three through eight in English language arts and math. Students in grades five and eight must take an assessment in science, and students in grades four and six must take an assessment in social studies.

Neither the bill nor the state Superintendent's directive applies to the administration of the Ohio Graduation Tests (OGT) for high school students, which will be administered in March 2014.

Background

Law in effect until July 1, 2014, prescribes a minimum school year based on days for school districts, public STEM schools, and nonpublic schools. While school districts and STEM schools are, by statute, explicitly subject to the minimum school year requirement, nonpublic schools are not explicitly subject to it. Rather, the State Board has, by rule, made adherence to minimum school year and school day requirements applicable to both chartered and nonchartered nonpublic schools.²⁰ The new minimum school year based on hours rather than days, in effect beginning with the 2014-2015 school year, expressly applies to chartered nonpublic schools, as well as school districts and STEM schools.²¹ For a discussion of the new minimum school year based on hours in effect on July 1, 2014 (not affected by the bill), see pp. 222-227 of the LSC Final Analysis for H.B. 59 of the 130th General Assembly.²²

Until July 1, 2014, 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. In complying with the 182-day requirement, a school also may count up to four days when classes are dismissed a half-day early (that is, two days) for individual parent-teacher conferences or reporting periods, two days for teacher professional meetings, and up to five days due to a public calamity, such as inclement weather. 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.²³

²⁰ See R.C. 3314.03(A)(11)(a), 3313.48, 3313.62, and 3326.11, none in the bill; O.A.C. 3301-35-08 and 3301-35-12.

²¹ The version of R.C. 3313.48 in effect on July 1, 2014.

²² At the Generally Assembly's website (<http://www.legislature.state.oh.us/>), under "Current Legislation," search H.B. 59, click on "Bill Analyses" and then on "Final Analysis."

²³ The versions of R.C. 3313.48 and 3317.01(B) in effect until July 1, 2014.



In addition, the statute expressly permits school districts to excuse twelfth-grade students for up to three days. It does not state any reasons for such excusal but, presumably, it could be for days at the end of the instruction year similar to the excusal days permitted by the bill.

Alternative schedules

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 is required to implement any of these alternative schedules.²⁴

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. And, a school operating on an alternative schedule also may excuse twelfth-grade students for up to three days, just as authorized for other districts.

Community schools

Community schools are not subject to the same requirements as school districts and nonpublic schools. Instead, under continuing law, community schools must provide learning opportunities for a minimum of 920 hours per year.²⁵ They are also subject to their own calamity day provision. Under that law, the Department of Education must waive the number of hours or days of learning opportunities not offered to a student by a community school due to a public calamity so long as the school provides the required minimum of 920 hours of learning opportunities to students during the school year.²⁶ The bill does not affect any of the provisions regarding the minimum school year or calamity day waiver for community schools.

²⁴ The version of R.C. 3313.481 in effect until July 1, 2014.

²⁵ R.C. 3314.03(A)(11)(a) and 3314.08(H)(3), neither in the bill.

²⁶ R.C. 3314.08(H)(4).

Online and paper make-up lessons

A school district, community school, STEM school, or chartered nonpublic school that needs to make up days (or hours in the case of a community school), in order to comply with the minimum school year requirement, may make up no more than three days (or the equivalent in hours) through online lessons or paper-lesson "blizzard bags."²⁷

To make up days via online lessons, a district or school must submit a plan to the Department of Education by August 1 each year. The plan may specify up to three days (or in the case of a community school a number of hours up to the equivalent of three days) that may be made up using lessons posted to the district's or school's web portal or website. In the case of a school district or STEM school, the plan must include the written consent of the union that represents the district's or STEM school's teachers. Students have two weeks to complete an online lesson. If a student does not have computer access at home, and the school does not opt to use paper lessons, the student must make up the lesson using the school's computers after the school reopens.

A district or school may also opt to distribute "blizzard bags," which are paper copies of the lessons posted online. Students must turn in blizzard bag assignments within the same two-week period granted for online lessons.

HISTORY

ACTION	DATE
Introduced	01-28-14
Reported, H. Education	01-30-14
Passed House (82-16)	02-19-14
Reported, S. Education	---

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²⁷ See R.C. 3313.88 effective until July 1, 2014, and new R.C. 3313.482, effective on July 1, 2014, neither in the bill.

