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*Bill Analysis*  
Legislative Service Commission

**Sub. H.B. 102**  
125th General Assembly  
(As Reported by H. Education)

**Reps. Collier, Aslanides, Seitz, Husted, Widener, McGregor, Allen, Koziura, Gilb, Setzer, C. Evans**

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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 kindergarten students, 910 hours for students in grades one through six, and 1,001 hours for students in grades seven through twelve.
- 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>

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<sup>1</sup> Community schools ("charter" schools) are not subject to the 182-day requirement, 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 See R.C. 3313.48 and 3313.62 and repealed R.C. 3313.481.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 3301-35-08 and 3301-35-12.

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. Private 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.<sup>5</sup>

However, 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 order to satisfy the 182-day requirement, a school may also 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>

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.<sup>9</sup>

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

<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.

<sup>9</sup> *Even though it does not appear that nonpublic schools are prohibited by current law from operating on a four-day schedule, a nonpublic school that adopted such a schedule would still be subject to the minimum five-hour day, 182-day school year requirement. Thus, adoption of a four-day school week calendar would result in more weeks of school.*

## 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.

### 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 time in excess of 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>10</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.

<sup>10</sup> Current R.C. 3313.481 (not in the bill).

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

(R.C. 3313.48, new 3313.481, 3313.62, and 3317.01(B))

The bill changes the minimum school year for school districts and chartered nonpublic schools from 182 days to 455 hours for students in kindergarten, 910 hours for students in grades 1 through 6 or who are enrolled in all-day kindergarten, and 1,001 hours for students in grades 7 through 12 (R.C. 3313.48). In addition, the bill eliminates the requirements in current law that a school week be comprised of five days and a school month of four weeks (R.C. 3313.62) and that a school day be at least five hours in length (R.C. 3313.48). The effect of these changes is that a school may fulfill the hourly requirements by developing an attendance schedule of its own choosing. Thus, an elementary school could operate a four-day school week comprised of days that are longer than the currently mandated five hours, or a school could choose to have students in attendance for more weeks with days that are shorter than five hours. The bill prohibits, however, any school district or chartered nonpublic school from permitting any student to complete the requirements for promotion for more than one grade level during any school year.

In order to satisfy these hourly requirements, a school may count up to ten hours per year for grades K through 6 and up to eleven hours per year for grades 7 through 12 when classes are dismissed for individualized parent-teacher conferences and reporting periods. In addition, schools may count ten hours per year in grades K through 6 and eleven hours in grades 7 through 12 when the schools are closed for teacher professional meetings. Additionally, for students in grades K through 6, a school may count morning and afternoon recess periods of not more than 15 minutes (R.C. 3313.48). 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. Seniors in high school may be excused for up to 16½ hours. (R.C. 3317.01(B).) However, unlike under current law, a school is not permitted to count any "calamity" days toward its minimum hourly requirement (see below).

**Calamity days**

(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.

### **Other changes**

(R.C. 2151.011, 3313.533, 3317.029; and repealed R.C. 3313.481 and 3313.482)

The bill makes several 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). Second, 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). Third, school district boards of education must determine the school schedules of alternative schools (R.C. 3313.533(B)).<sup>11</sup> Fourth, the bill modifies the definition of "all-day kindergarten" for purposes of Disadvantaged Pupil Impact Aid to reflect that all-day kindergarten means a kindergarten class that is in session for the same number of hours each week as for pupils in grades 1 through 6 (R.C. 3317.029(A)(10)).<sup>12</sup> Finally, the bill modifies the definitions of a school day and school year for children in the custody of the Department of Youth Services to mirror the definitions of these terms for students in the regular public school system (R.C. 2151.011).

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

(Section 3)

The bill specifically provides that its changes to the required minimum school year do not apply to any collective bargaining agreement executed prior to

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<sup>11</sup> *Boards of education of school districts are permitted to establish alternative schools to serve students on suspension, who have truancy problems, or who have other academic or behavioral problems (R.C. 3313.533(A)(1)). Currently, the "school day" for an alternative school must be the same as that for a regular school operated by a school district, as prescribed by the State Board of Education. The bill eliminates the current requirement that the State Board define "school day" making it necessary to change the reference to school day in R.C. 3313.533.*

<sup>12</sup> *Disadvantaged Pupil Impact Aid (DPIA) is state funding provided to school districts because the proportion of low-income students who receive public assistance in the district is a certain percentage of the statewide proportion. Generally, this money is used for statutory purposes such as safety and remediation as well as all-day kindergarten.*

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>13</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>14</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>15</sup>

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 arguable that the State Board may do so under its continuing authority to prescribe minimum education standards for schools of which students of compulsory school age must attend. However, it also may appear that the General Assembly intended to exclude nonchartered nonpublic schools from the new requirement when it deliberately inserted the word "chartered" into the new provision.<sup>16</sup>

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<sup>13</sup> *Rules 3301-35-06, 3301-35-08, and 3301-35-12 of the Ohio Administrative Code.*

<sup>14</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 under statutorily prescribed reasons. (R.C. 3301.07(D), not in the bill. By separate statute, community schools, rather than comply with the minimum school year, must offer each enrolled student 920 hours of learning opportunities per school year. R.C. 3314.03(A)(11)(a).)*

<sup>15</sup> *See State v. Whisner (1976), 47 Ohio St.2d 181 and Wisconsin v. Yoder, 406 U.S. 205 (1972).*

<sup>16</sup> *The word "chartered" was added by amendment adopted by the House Education Committee on October 14, 2003.*

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## HISTORY

| ACTION                 | DATE     | JOURNAL ENTRY |
|------------------------|----------|---------------|
| Introduced             | 05-06-03 | p. 314        |
| Reported, H. Education | 10-15-03 | p. 1115       |

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