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Bill Analysis

Legislative Service Commission

H.B. 254

126th General Assembly
(As Introduced)

Reps. Collier, Allen, Aslanides, Coley, Daniels, DeWine, Dolan, C. Evans, Flowers, Hagan, Hartnett, Harwood, Hood, Hoops, Law, Martin, McGregor, Peterson, Reidelbach, Reinhard, Seaver, Setzer, G. Smith, Strahorn, Taylor, Ujvagi, Wagner, Webster, Willamowski, Yates

BILL SUMMARY

- Changes the minimum school year for school districts and chartered nonpublic schools from 182 days to 530 hours for kindergarten students, 1,060 hours for students in grades one through six, and 1,200 hours for students in grades seven through twelve, beginning in the 2006-2007 school year.
- Defines a school week as a maximum of five days.
- Specifies that the school week may not include Saturdays and Sundays.
- Requires a school district board of education to consider the impact of proposed changes in the schedule of a high school under its jurisdiction on any joint vocational school district in which any of the high school's students are enrolled.
- Eliminates excused "calamity" days for schools.

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.¹ Public schools are, by statute, explicitly subject to

¹ *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).*

a minimum school year and school day requirement.² 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.³

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.⁴ 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.⁵

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.⁶ In complying with 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.⁷ 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.

² See R.C. 3313.48 and 3313.62 and repealed R.C. 3313.481.

³ See Ohio Administrative Code 3301-35-08 and 3301-35-12.

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

⁵ O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

⁶ R.C. 3317.01(B).

⁷ R.C. 3313.48 and 3317.01(B).

Current law also requires a public school to have a school week of five days.⁸ 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.

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.⁹

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

⁸ R.C. 3313.62.

⁹ Current R.C. 3313.481 (not in the bill).

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)

Beginning in the 2006-2007 school year, the bill changes the minimum school year for school districts and chartered nonpublic schools from 182 days to 530 hours for students in kindergarten, 1,060 hours for students in grades 1 through 6 or in all-day kindergarten, and 1,200 hours for students in grades 7 through 12 (R.C. 3313.48). This is an increase from the minimum number of hours effectively required under current law. That is, under the current 182-day school year, at five hours per day, a minimum of 910 hours are specified for grades 1 through 6, and, at five and one-half hours per day, a minimum of 1,001 hours are required for grades 7 through 12 (under the State Board's rule).

In addition, the bill specifies that the school week be *a maximum* of five days, instead of the equivalent of five days under current law, and specifies that the school week may not include Saturdays and Sundays. It also eliminates any requirement for a minimum school month, 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).¹⁰

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 prohibits any school district or chartered nonpublic school from permitting any student to complete the requirements for promotion for more than one grade level during a school year (R.C. 3313.48).

¹⁰ *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 other than a Saturday or Sunday that a school is open for instruction under the schedule adopted by each particular school district board. 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. 3313.66 (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.*

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 each (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).

Finally, the bill requires the board of education of each city, exempted village, and local school district, prior to making any change in the hours or days in which a high school under its jurisdiction 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 with advance notice of the proposed change and must make reasonable accommodations to meet the scheduling needs of the JVSD prior to implementing the change.

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

(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). 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).¹¹

Effect on collective bargaining agreements

(Section 4)

The bill specifically provides that its changes to the required minimum school year 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.

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.¹² 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.¹³ It has been held that minimum education standards may

¹¹ *The bill also makes conforming changes to the law regarding attendance schedules for alternative schools (R.C. 3313.533), Disadvantaged Pupil Impact Aid for purposes of the "all-day kindergarten" payment (R.C. 3317.029), and children services (R.C. 2151.011).*

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

¹³ *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).)*

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.¹⁴

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 which students of compulsory school age must attend.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-11-05	p. 780

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¹⁴ See *State v. Whisner* (1976), 47 Ohio St.2d 181 and *Wisconsin v. Yoder*, 406 U.S. 205 (1972).