



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 36*

129th General Assembly
(As Reported by S. Education)

Reps. Kozlowski and Carey, Boose, Burke, Dovilla, Grossman, Hayes, Johnson, McKenney, Roegner, Rosenberger, Ruhl, Slaby, Stautberg, Stebelton, Thompson, Young, Combs, Balderson, Gonzales, Martin, Baker, Hottinger, Derickson, Anielski, Ashford, Barnes, Beck, Blessing, Bupp, Buchy, Coley, Duffey, Fedor, C. Hagan, Landis, Milkovich, Newbold, O'Brien, Schuring, Uecker, Yuko

BILL SUMMARY

- Restores the two excused calamity days that were cut from the 2010-2011 school year, raising the total number of excused days for that year from three to five.
- Eliminates the requirement that school districts, STEM schools, and chartered nonpublic schools make up the first five excess (that is, unexcused) calamity days as whole school days, thereby allowing them the option to make up all unexcused calamity days by adding time to other school days.
- Requires the Department of Education to waive the number of hours a community ("charter") school is closed for a public calamity as long as the school provides the required minimum number of hours of learning opportunities to students in the school year (920 hours).
- Permits school districts, STEM schools, community schools, and chartered nonpublic schools to make up five excess calamity days by requiring their students to complete lessons posted online, instead of adding days or hours to the school calendar.
- Prohibits school districts from declaring it impractical to transport community school, STEM school, or nonpublic school students solely on days scheduled by the students' schools to make up calamity days.

* 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.

- Declares an emergency.

CONTENT AND OPERATION

Calamity days for school districts, STEM schools, and nonpublic schools

The bill restores the two excused calamity days that were cut from the 2010-2011 school year, thereby reinstating the total to five excused calamity days for that year. Current law excuses only three days for 2010-2011, but five days for years preceding and following 2010-2011. This one-time reduction was enacted in the budget act for the current fiscal biennium, H.B. 1 of the 128th General Assembly. That act also directed the Superintendent of Public Instruction to submit to the General Assembly recommendations for extending the school year permanently.¹ (The report was released in January 2011.)

The bill also broadens the authority of school districts, public STEM schools, and chartered nonpublic schools to make up unexcused calamity days by lengthening remaining days in the school year by half-hour increments. It does so by eliminating the stipulation of current law that they must make up the first five unexcused calamity days as whole school days. As a result, they may use the option of lengthening remaining days to make up all unexcused calamity days, not just those in excess of the first five unexcused days.²

The following table summarizes current law and the bill's changes.

Making Up Missed School Days

	Current law for 2010-2011 school year	Current law for school years preceding and following 2010-2011	Proposed changes by the bill affecting both 2010-2011 and subsequent school years
1st through 5th calamity days	Only 1st through 3rd days excused.	Excused.	Excused.
6th through 10th calamity days	4th through 8th calamity days must be made up as whole days.	Must be made up as whole days. School districts, STEM schools, and probably chartered nonpublic	Must be made up, and school districts, STEM schools, and probably chartered nonpublic schools must continue

¹ R.C. 3317.01; Section 265.70.23 of Am. Sub. H.B. 1 of the 128th General Assembly (not in the bill).

² R.C. 3313.482. The option is available to STEM schools pursuant to R.C. 3326.11 and to chartered nonpublic schools pursuant to Ohio Administrative Code (O.A.C.) 3301-35-06 and 3301-35-12.

	Current law for 2010-2011 school year	Current law for school years preceding and following 2010-2011	Proposed changes by the bill affecting both 2010-2011 and subsequent school years
		schools must adopt contingency plans for making up at least these days.	to address these five days in their contingency plans. But they may make up these days by lengthening remaining days in the school year by half-hour increments.
11th and any subsequent calamity days	9th and subsequent calamity days must be made up, and school districts, STEM schools, and chartered nonpublic schools may do so by lengthening regularly scheduled school days by half-hour increments.	Must be made up, and school districts, STEM schools, and chartered nonpublic schools may do so by lengthening regularly scheduled school days by half-hour increments.	Same as current law for school years preceding and following 2010-2011.

Under current law and the bill, districts and schools whose school day already exceeds the state minimum number of hours probably must further lengthen the school day in half-hour increments to use the optional method of making up time. For school districts, 10 half-hour increments (5 hours) make up one day for grades 1 to 6, and 11 increments (5½ hours) make up one day for grades 7 to 12.

Background – school year for districts, STEM schools, and nonpublic schools

Current law requires a minimum school year of 182 days, including a total of four days for teacher preparation and reporting and parent conferences. In addition, a school may be closed for up to three days in the 2010-2011 school year, and up to five days in subsequent school years, for various specified public calamities, which include: (1) disease epidemic, (2) hazardous weather conditions, (3) inoperability of school buses or other necessary equipment, (4) damage to a school building, or (5) other temporary circumstances because of a utility failure that renders a building unfit for use. A school day that is reduced by not more than two hours due to hazardous weather conditions does not count as a missed day.³ In all, at least 173 days (and 175 days in the 2010-2011 school year) must be spent in classroom instruction. A school might also, with the

³ R.C. 3313.48 (not in the bill) and 3317.01.

approval of the Department of Education, operate on an alternative schedule with a minimum of 910 hours of classroom instruction in a school year.⁴

School districts, STEM schools, and nonpublic schools are subject to these requirements. School districts and STEM schools are explicitly required to comply by statute, and nonpublic schools are required to do so by rule of the State Board of Education.⁵

Each school district and STEM school (and probably each chartered nonpublic school) also is required to adopt an annual contingency plan that specifies how it will make up at least five unexcused calamity days.⁶

School funding law prohibits a school district from receiving state funds if it did not meet the minimum school year requirements for the preceding school year. The Department of Education could revoke the charter of a nonpublic school that does not comply with the minimum school year provisions. In addition, chartered nonpublic schools receive state auxiliary services money to provide specified instructional and remedial services to students enrolled in their schools, and receive state money to pay the cost of certain state-mandated administrative duties relating to student record keeping. Presumably, a chartered nonpublic school's noncompliance with the minimum school year would make it ineligible to receive either of these subsidies.⁷

Calamity days for community schools

The bill establishes a policy for excusing calamity days incurred by community schools. Under the bill, the Department of Education must waive the number of hours or days of learning opportunities not offered by a community school because it was closed during the school year due to a public calamity, so long as the school was actually open for instruction with students in attendance during that school year for at least the minimum number of hours required by law (that is, 920 hours). The Department is required to treat those waived hours as if the school were open for instruction with students in attendance during that time. The public calamities recognized by the provision are the same ones recognized under current law for

⁴ R.C. 3313.481 (not in the bill).

⁵ R.C. 3317.01 and 3326.11; R.C. 3313.48 (not in the bill); O.A.C. 3301-35-06, 3301-35-08, and 3301-35-12.

⁶ R.C. 3313.482(A).

⁷ R.C. 3317.01. See also R.C. 3306.01, 3317.06, and 3317.063 (none in the bill).

excused calamity days for school districts, STEM schools, and chartered nonpublic schools.⁸

Background

Community schools (often called "charter schools") are not subject to the 182-day minimum school year. Instead, they must offer learning opportunities to each student for at least 920 hours per year.⁹

The Department of Education has determined that community schools currently are not allowed any excused calamity days. It has based this policy on the statutory method for calculating per-pupil payments to community schools.¹⁰ Because payments to community schools are based on the number of hours of learning opportunities that will be offered to students, the Department has advised that a community school must be open for all of the days or hours that the school reports it will be open. If a community school closes for a time due to a calamity, it must make up any days or hours that the school was closed. Otherwise, the school will not receive payment for those days or hours.

Online make up of calamity days

For districts and schools that need to make up calamity days, the bill provides even another way for them to do so. It permits school districts, STEM schools, community schools, and chartered nonpublic schools to use online lessons to make up some calamity days their schools are closed. To make up days in this fashion, a district or school must submit a plan to the Department of Education by August 1 each year. The plan may specify up to five days, or in the case of a community school a number of hours up to the equivalent of five days, that may be made up using lessons posted to the district's or school's web portal or web site. 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.

A plan must require that each classroom teacher, by September 1, will develop a sufficient number of lessons for each course taught by the teacher that school year to cover the number of make-up days or hours specified in the plan. The teacher must designate the order in which the lessons are to be posted in the event of a school closure. As soon as practicable after a school closure, the designated lessons for each

⁸ R.C. 3314.08(L)(4).

⁹ R.C. 3314.03(A)(11)(a) (not in the bill) and 3314.08(L)(3).

¹⁰ R.C. 3314.08(L)(3).

course that was scheduled to meet on the day of the closure must be available to students on the district's or school's web portal or web site. If a student does not have access to a computer at the student's residence, the student must be permitted to work on the posted lessons at school after school reopens.

Each student must have two weeks to complete a lesson. The two-week period generally runs from the time the particular lesson is posted. But, in the case of a student who does not have computer access at home and who, therefore, is using the school's computers after the school reopens, the two-week period runs from the time the school reopens, if the lessons were actually posted prior to the school's reopening. Lessons must be graded in the same manner as other lessons. The bill specifies that a student "may" receive an incomplete or failing grade if the lesson is not completed on time.¹¹

Department permission

The bill states that the Department must permit a district or school to implement its plan for the applicable school year, as long as the plan meets the bill's specifications described above. That is, the bill does not appear to grant the Department much discretion in deciding whether to permit make up of calamity days using online lessons.¹²

Transportation on make-up days

The bill states that a school district may not declare that it is impractical to transport a student to a community school, STEM school, or nonpublic school, and thereby deny the student transportation, solely for the extra days the school is open in order to make up calamity days, regardless of whether those days were on the school's calendar at the beginning of the school year.¹³

Background – impracticality of transportation

Each city, exempted village, and local school district is generally required to transport to and from school any student in grades K to 8 who resides in the district and is enrolled in a school that is more than two miles from the student's home. This requirement applies to students attending the district's own schools and, with some exceptions, to those attending community schools, STEM schools, and chartered nonpublic schools. A district is specifically permitted to transport high school students, and if it does transport resident students to its own high schools, it must also transport

¹¹ R.C. 3313.88 and 3326.11.

¹² R.C. 3313.88(A), last sentence.

¹³ R.C. 3327.02(A)(2). See R.C. 3326.20 (not in the bill).

high school students enrolled in community schools, STEM schools, and chartered nonpublic schools (again, with some exceptions).¹⁴

Under current law, a district may offer a payment in lieu of transportation to the parent of any student it is otherwise required to transport if the district determines it is "impractical" to transport that student. That determination must be made according to specific statutory criteria, is subject to specific due process procedures, and must be made on a student-by-student basis.¹⁵

HISTORY

ACTION	DATE
Introduced	01-19-11
Reported, H. Education	03-01-11
Passed House (92-5)	03-09-11
Reported, S. Education	---

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¹⁴ R.C. 3314.09, 3326.20, and 3327.01 (none in the bill).

¹⁵ R.C. 3327.02.

