Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 18*

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

Sens. Grendell, Bacon, Cates, Manning, Beagle, Stewart, Schaffer

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 three excess (that is, unexcused) calamity days as whole school days, and gives them the option to make up those days by counting regularly scheduled time over the minimum school day toward those days or by adding time to remaining 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.
- Declares an emergency.

* 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.

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 before and after 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 eliminates the requirement that school districts, public STEM schools, and chartered nonpublic schools make up their first three unexcused calamity days as whole days. Instead, under the bill, a district or school may make up those days either (1) by counting toward those days the time in the regularly scheduled school day that is in excess of the minimum number of daily hours required by law or (2) if the regularly scheduled school day equals the minimum number of daily hours, by lengthening remaining days in the school year by half-hour increments. If a district or school is operating on an alternative schedule in which the school year is based on hours, rather than days, it may make up no more than 15 hours (the equivalent of three days) in one of these ways.

This change essentially grants districts and schools that have longer-than-required school days three extra excused calamity days (for a total of eight) each school year. This is because those districts and schools may apply all the excess time in the school day accumulated throughout the entire school year toward making up those three days. A district or school need only aggregate the minimum number of daily hours required by law to be considered to have made up a day.

Under the bill, any unexcused calamity days accrued after the eighth day must be made up as whole days. However, if five whole days are insufficient to make up all unexcused calamity days, a district or school may make up the remaining calamity days by adding time, in half-hour increments, to remaining school days. In that case, the length of the regularly scheduled school day probably must be increased, even if it is already over the required minimum number of hours.[2]

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

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[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. 3313.842. See also R.C. 3326.11 (not in the bill) and Ohio Administrative Code (O.A.C.) 3301-35-06 and 3301-35-12 for applicability to STEM schools and chartered nonpublic schools.

Making Up Missed School Days*

<table>
<tr><th>Day</th><th>Current law for 2010-2011 school year</th><th>Current law for school years before and after 2010-2011</th><th>Bill's changes affecting 2010-2011 and later school years</th></tr>
<tr><td>1</td><td rowspan="3">Excused.</td><td rowspan="6">Excused.</td><td rowspan="6">Excused.</td></tr>
<tr><td>2</td></tr>
<tr><td>3</td></tr>
<tr><td>4</td><td rowspan="5">Must be made up as whole days. School districts, STEM schools, and probably chartered nonpublic schools had to adopt contingency plans for making up these days.</td></tr>
<tr><td>5</td></tr>
<tr><td>6</td><td rowspan="5">Must be made up as whole days. School districts, STEM schools, and probably chartered nonpublic schools must adopt contingency plans for making up these days.</td><td rowspan="3">May be made up by (1) counting time that the regular school day exceeds the state minimum or (2) lengthening the regular school day.</td></tr>
<tr><td>7</td></tr>
<tr><td>8</td></tr>
<tr><td>9</td><td rowspan="7">May be made up by lengthening the regularly scheduled school day by half-hour increments.**</td><td rowspan="4">Must be made up as whole days. School districts, STEM schools, and probably chartered nonpublic schools must adopt contingency plans for making up these days.</td></tr>
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<tr><td>11</td><td rowspan="5">May be made up by lengthening the regularly scheduled school day by half-hour increments.**</td></tr>
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<tr><td>13</td></tr>
<tr><td>14</td><td rowspan="2">May be made up by lengthening the regularly scheduled school day by half-hour increments.**</td></tr>
<tr><td>15</td></tr>
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* This table does not account for the bill's new option to make up as many as five calamity days with online lessons (see "**Online make up of calamity days**" below).

** 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 this 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, 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 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]

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

[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; R.C. 3306.01, 3317.06, and 3317.063 (not in the bill).

Calamity days for community schools

The bill establishes a policy for excusing calamity days incurred by community schools. Under the bill, the Department 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 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 board or school governing body 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

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[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).

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 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]

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[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. 3306.20 (not in the bill).

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 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	02-01-11
Reported, S. Education	—-

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[14] R.C. 3326.20 and 3327.01, neither in the bill.

[15] R.C. 3327.02.