



**House  
Legislative  
Analysis  
Section**

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**MIDWEST COMPACT ON HIGHER EDUCATION**

MAY 16 1990

Mich. State Law Library

House Bill 5618  
Sponsor: Rep. James A. Kosteva  
Committee: Colleges & Universities

Complete to 4-9-90

**A SUMMARY OF HOUSE BILL 5618 AS INTRODUCED 3-15-90**

The bill would provide for Michigan to enter into a proposed Midwestern Higher Education Compact with other Midwestern states. The compact's purpose would be to provide greater higher education opportunities and services for citizens of the states that were parties to the compact.

Midwestern Higher Education Commission. The compact would create the Midwestern Higher Education Commission, which would be a body corporate of each participating state. The commission would have all responsibilities, powers, and duties prescribed under the compact, including the power to sue and be sued, and other powers that could be conferred on it by subsequent action of the respective legislatures of the participating states according to the compact's terms.

The commission would consist of five resident members of each state as follows:

- \* the governor or his or her designee who would serve during the governor's tenure in office;
- \* two legislators, one from each house (except Nebraska, which could appoint two legislators from its unicameral legislature), who would serve two-year terms and be appointed by the appropriate appointing authority in each house of the legislature; and
- \* two other at-large members, at least one of whom would have to be chosen from the field of higher education.

One of the two at-large members initially appointed in each state would serve a 2-year term, while the other -- and any regularly-appointed successor to either member -- would serve a 4-year term. The at-large members would be appointed, and all vacancies would be filled, in a manner specified by the appointing state's laws. Any commissioner who was appointed to fill a vacancy would serve until the end of the incomplete term.

The commission would select annually from among its members a chairperson, vice chairperson, and a treasurer; also, it would appoint an executive director who would act as the commission's secretary and serve at its pleasure. As the commission determined, these officers and similar personnel would be bonded in amounts as the commission could require. The commission would have to meet at least once per calendar year, though the chairperson could call additional meetings. However, if a majority of the commission's members of three or more participating states requested more meetings, the chairperson would have to call additional ones. Public notice of all meetings would have to be given, and all meetings would be open to the public.

Each state represented at a commission meeting would be entitled to one vote, and a majority of member states would constitute a quorum for transacting business unless a larger quorum was required by the commission's

House Bill 5618 (4-9-90)

bylaws.

Makeup of Michigan's Delegation. The state's five voting commission members would include all of the following:

- \* the governor or his or her designee;
- \* one member of the state Senate, appointed by the Legislative Council;
- \* one member of the state House of Representatives, appointed by the Legislative Council;
- \* one at-large member appointed by the President's Council of State Universities to represent public 4-year postsecondary schools; and
- \* one at-large member appointed by the Michigan Community College Association representing public 2-year postsecondary schools.

In addition to these, the State Board of Education could appoint an individual to serve as an ex officio member of the state's delegation. This person, however, would not be a member of the commission nor would he or she have a vote in decisions made by the state's members.

The Commission's Powers, Duties. The commission would adopt a seal and suitable bylaws governing its management and operations and in its bylaws would provide for the personnel policies and programs of the commission, irrespective of a particular member state's civil service, personnel, or other merit system laws. The commission would have to submit a budget to the governor and legislature of each member state, at a time and for a specific period as could be required, which recommended a specific amount or amounts to be appropriated by each participating state.

The commission would have to report annually to the legislatures and governors of participating states, to the Midwestern Governor's Conference, and to the Midwestern Legislative Conference of the Council of State Governments concerning its activities during the preceding year. The reports would also have to include any recommendations that were made by the commission.

The commission could:

- \* borrow, accept, or contract for the services of personnel from any state or the U.S., or any of its subdivisions or agencies, from any interstate agency, or from any institution, foundation, person, firm, or corporation;

- \* accept for any of its purposes or functions under the compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the U.S. (or its agencies, subdivisions), from any interstate agency, or from any institution, foundation, person, firm, or corporation, and could receive, utilize, or dispose of these;

- \* enter into agreements with any other interstate education organizations or agencies, with higher education institutions located in non-member states, and with any U.S. states to provide adequate programs and services in higher education for citizens of the member states (although the commission would have to determine, after negotiations with such groups, the cost of providing higher education programs and services for the use of these agreements);

- \* establish and maintain offices which would have to be located within one or more of the participating states;

- \* establish committees and hire staff as it deemed necessary for carrying out its functions; and

- \* provide for actual and necessary expenses for its members' attendance at official commission meetings or its designated committees.

Commission Activities. The commission would have to collect data on the long-range effects of the compact and, by the end of the fourth year from the compact's effective date and biennially thereafter, would review its accomplishments and make recommendations to the governors and legislatures of the participating states on the compact's continuance.

The commission would study issues in higher education of particular concern to the Midwestern region, including what needs existed for higher education programs and services in the member states and what resources were available to meet those needs. Occasionally, the commission would have to prepare research reports on these issues to present to each participating state's governor and legislature, and to other interested parties. In conducting these studies, the commission could confer with any national or regional planning body and could draft and recommend suggested legislation for the various compacting states dealing with higher education problems.

The commission would have to study the need to provide adequate programs and services in higher education, such as undergraduate, graduate, or professional student exchanges in the region. If a need for "exchange in a field" was apparent, the commission could enter into agreements with any higher education institution and with any of the member states to provide programs and services in higher education for the member states' citizens. After the cost to provide these under an agreement was determined, contracting states would have to contribute the funds not otherwise provided to carry out an agreement. The commission could also serve as the administrative and fiscal agent in carrying out any of these agreements and could provide services and research in other areas of regional concern. Finally, the commission would have to serve as a clearinghouse on information regarding higher education activities among agencies and institutions.

Finance. Funds needed to finance the commission's general operations would have to be appropriated to the commission by the compacting states when authorized by the respective legislatures in equal apportionment among the states. The commission could not incur any debts prior to appropriations having been secured to pay these, nor could it pledge credit of any of the participating states except by and with a state's authority.

An accurate account of all receipts and disbursements would have to be kept by the commission, and these would be subject to the commission's audit and accounting procedures established under its bylaws. However, all receipts and fund disbursements which the commission handled would have to be audited yearly by a certified or licensed public accountant; this accounting report would be included in and become part of the commission's annual report. The commission's accounts would have to be open at any reasonable time for inspection by duly authorized representatives of the participating states and persons authorized by the commission.

Eligible Compacting States. Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin would be eligible to join the compact, while other states could only join if approved by a majority of the member states. The compact would take effect when five state's legislatures enacted the compact into law, but not sooner than December 31, 1995. Amendments to the compact would become effective when enacted by all of the participating states' legislatures.

Withdrawal, Default, and Termination. A state could withdraw from the compact by repealing its own state's compact law, but withdrawal would not

take effect until two year after the effective date of the repeal. A withdrawing state would be liable for any debts it incurred on account of its party status up to the effective date of withdrawal. However, if a state had specifically committed itself to perform an obligation extending beyond the effective withdrawal date, it would remain liable to the extent of the obligation.

If a state defaulted in the performance of any of its obligations, assumed or imposed, according to the compact's provisions, all rights, privileges, and benefits conferred by the compact -- or agreements made under it -- would be suspended from the default's effective date (as fixed by the commission). The commission would stipulate the conditions and maximum time for compliance under which the defaulting state could resume its regular status. If a default was not remedied as set forth by the commission, the compact with the defaulting state could be terminated by a majority vote of the other member states. A defaulting state, likewise, could be reinstated if it performed all acts and obligations stipulated by the commission.

Validity of Compact. Provisions entered into under the compact would be severable: If any phrase, clause, sentence, or provision in the compact was declared unconstitutional by any state or the U.S., or the compact's applicability to any government, agency, person, or circumstance was held invalid, the validity of the remainder of the compact and its applicability to any of these would not be affected. If the compact was considered unconstitutional by a participating state, it would remain in full force and affect for the remaining states, as well as for the affected state relative to all severable matters. The compact's provisions entered into as specified would be liberally construed to effectuate the compact's purposes.