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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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Senate Bill 866 (as reported without amendment)

Sponsor: Senator John J. H. Schwarz, M.D.

Committee: Education and Mental Health

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RATIONALE

The Midwest region is renowned for being the home of a number of quality higher education institutions. State officials in the region have been striving to maintain the outstanding quality of higher education, despite funding restrictions, economic problems in such areas as manufacturing and agriculture, and cutbacks in Federal aid. Few, if any, of the states by themselves can offer their residents all of the educational opportunities and resources needed to prepare students for a fast-changing and increasingly technological society. In response to situations similar to what the Midwest states are facing, state officials in New England, the South, and the West have turned to regional voluntary cooperation--in the form of interstate compacts--as one way to ensure that these states provide quality, cost-effective higher educational programs that meet the states' needs and the needs of their citizens. It has been suggested that a similar compact should be formed among Midwestern states, including Michigan, in an effort to provide greater higher educational opportunities and services within the region with regard to access to academic programs and shared research opportunities, technology, and information on higher education issues.

CONTENT

The bill would enact the Midwest Compact on Higher Education; establish the Midwest Higher Education Commission, made up of states in the compact; and prescribe the Commission's

membership, powers and duties, and activities, which would include studying higher education issues of concern to the Midwest region. In addition, the bill would require that funds needed to finance the Commission be appropriated by the states in the compact, when authorized by the respective legislatures.

Purpose of the Compact

The bill specifies that the purpose of the Midwest Higher Education Compact would be to provide greater higher education opportunities and services in the Midwest region, in order to further regional access to, research in, and choice of higher education for the citizens of states that were parties to the compact.

Commission

The states in the compact would create the Midwestern Higher Education Commission, which would be a body corporate in each state. The Commission would have the powers and duties outlined in the bill, including the power to sue and be sued, and additional powers that could be conferred by action of the respective legislatures of states in the compact, in accordance with terms of the compact.

The Commission would consist of five members from each state as follows: the governor or the governor's designee, who would serve during the tenure of the office of the governor; a

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legislator from each legislative house, who would serve a two-year term and be appointed by the appropriate appointing authority in each house of the legislature; and, two at-large members, one of whom would have to be from the higher education field. One of the at-large members initially appointed would serve a two-year term and the other, and each successor for either at-large member, would serve a four-year term. All vacancies would have to be filled in accordance with laws of the appointing states.

The bill specifies that Michigan's members of the Commission would be: the Governor or his or her designee; one member each from the Senate and House of Representatives, each appointed by the Legislative Council; one at-large member appointed by the President's Council of State Universities to represent public four-year institutions of higher education; and one at-large member appointed by the Michigan Community College Association to represent public two-year institutions of higher education. In addition, the State Board of Education could appoint a person to serve as an ex officio member of the State's delegation. This person would not be a member of the Commission and would not have a vote in decisions made by the State's members.

The Commission would be required annually to select a chairperson, vice chairperson, and treasurer. The Commission also would be required to appoint an executive director, who would act as secretary to the Commission. The treasurer, executive director, and other personnel as determined by the Commission would have to be bonded in amounts required by the Commission.

The Commission would have to meet at least once each year, and would have to call additional meetings upon the request of at least three states. Public notice would have to be given of all meetings, which would have to be open to the public. Each state at a Commission meeting would have one vote.

Commission Powers and Duties

The Commission would be required to:

- Adopt a seal and bylaws governing the Commission's management and operations.

- Provide, in its bylaws, for the personnel policies and programs of the Compact, irrespective of civil service, personnel or merit system laws of any of the states in the compact.
- Submit to each state's governor and legislature a budget, which would have to contain specific recommendations of the amount to be appropriated by each of the states in the compact.
- Report annually to the states' legislatures and governors, the Midwestern Governors' Conference, and the Midwestern Legislative Conference of the Council of State Governments concerning the Commission's activities during the preceding year. The reports would have to include any recommendations adopted by the Commission.

The Commission also could:

- Enter into agreements with other interstate education organizations or agencies and with higher education institutions located in nonmember states and with any other state to provide adequate programs and services in higher education for the citizens of the states in the compact. After negotiations with interested institutions and interstate organizations or agencies, the Commission would be required to determine the cost of providing the higher education programs and services for use of these agreements.
- Borrow, accept, or contract for personnel services from any state or the United States or any state or Federal subdivision or agency, any interstate agency, or any institution, foundation, person, firm, or corporation.
- Accept donations and grants of money, equipment, supplies, materials and services from those entities, and receive, use, and dispose of donations and grants.
- Establish and maintain offices, which would have to be located in one or more of the states in the compact.
- Establish committees and hire staff as needed to carry out its functions.
- Provide for actual and necessary expenses for members' attending Commission or committee meetings.

Commission Activities

The Commission would be required to:

- Collect data on the long-range effects of the compact on higher education. Four years after the compact's effective date and every two years thereafter, the Commission would be required to review its accomplishments and make recommendations on the compact's continuance to the governors and legislatures of the states in the compact.
- Study higher education issues of concern to the Midwestern region as well as the needs for higher education programs and services in the states involved in the compact and the resources for meeting these needs. The Commission would be required to prepare reports on this research for presentation to the states' governors and legislatures and other interested parties. In conducting such studies, the Commission could confer with any national or regional planning body, and could draft and recommend to the states' governors and legislatures suggested legislation dealing with higher education problems.
- Study the need for providing adequate programs and services in higher education, such as undergraduate, graduate or professional student exchanges in the region. If the need for such an exchange were apparent, the Commission could enter into agreements with any higher education institution and with any of the states in the compact to provide higher education programs and services. After negotiating with interested institutions and the states in the compact, the Commission would be required to determine the costs of providing for the programs and services for use in its agreements. The contracting states would be required to contribute funds as determined by the Commission for carrying out the agreements. The Commission also could serve as the administrative and fiscal agent in carrying out these agreements.
- Serve as the clearinghouse on information regarding higher education activities among institutions and agencies.

In addition, the Commission could provide services and research in other areas of regional concern.

Finance

The money needed to finance the general operations of the Commission not otherwise provided for in carrying out its duties, responsibilities, and powers would have to be appropriated to the Commission by states in the compact, when authorized by the respective legislatures by equal apportionment among the states.

The Commission could not incur any obligations before adequate appropriations were made, and could not pledge the credit of any of the states in the compact, except by and with the authority of those states. The Commission would be required to keep accurate accounts of all receipts and disbursements, which would be subject to audit and accounting procedures established under the bylaws. All receipts and disbursements of funds by the Commission would have to be audited yearly by a certified or licensed public accountant and the audit report would have to be included in the Commission's annual report. The Commission's accounts would have to be open for inspection by authorized representatives of the states in the compact and persons authorized by the Commission.

Eligible Parties

The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin would be eligible to be part of the compact. As to any eligible state, the compact would take effect when each state's legislature enacted it into law, provided that it would not take effect until enacted into law by five states prior to December 31, 1995.

Withdrawal, Default, Termination

Any state could withdraw from the compact by enacting a statute repealing the compact, but the withdrawal would not take effect until two years after that enactment. A withdrawing state would be liable for any obligations it incurred up to the date of withdrawal. If any

state committed itself to an obligation that extended beyond the withdrawal date, the state would remain liable for that obligation.

If any state in the compact at any time defaulted in its obligations that were assumed or imposed in accordance with the compact, all rights, privileges, and benefits conferred by the compact or agreements would be suspended from the effective date of the default as set by the Commission. The Commission would be required to stipulate the conditions and maximum time for compliance under which the defaulting state could resume its regular status. Unless the default were remedied, the compact could be terminated with respect to the defaulting state by affirmative vote of a majority of the other member states. Any defaulting state could be reinstated by performing the acts and obligations stipulated by the Commission.

Severability and Construction

The provisions of the compact would be severable and if any provision of the compact were declared contrary to the constitution of any state in the compact or of the United States, or the applicability to any government, agency, person, or circumstance were held invalid, the validity of the remainder of the compact would not be affected. If the compact were held contrary to the constitution of any state in the compact, the compact would remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The bill specifies that the provisions of the compact would have to be liberally construed to effectuate the purposes of the compact.

BACKGROUND

Previously, the Midwestern states attempted twice to establish a higher education compact. The first occurred in the mid-1960s. Then in 1976, the Education Committee of the Midwestern Conference, now known as the Midwestern Legislative Conference of the Council of State Governments, began working on a compact with advice from the Midwestern Governors' Conference. In 1977, the compact was endorsed by the Executive Committee of the Midwestern Conference, and the states began to take action on the compact. At that

time, the compact stipulated that six states join by the end of 1981 in order for the compact to become operational. By the 1981 deadline, however, only four states (Ohio, Minnesota, Nebraska, and South Dakota) had passed the enabling legislation that would have activated the compact.

Currently, bills recommending participation in the Midwest compact have been approved by one legislative house in Kansas, Minnesota, and Missouri. In addition to Michigan, the Nebraska legislature also is considering the proposal this year.

FISCAL IMPACT

The bill would result in a cost to the State of \$58,000 for annual membership dues, and would have no fiscal impact on local units of government. Membership fees would be payable as soon as five states had officially joined the compact, and the \$58,000 collected from each state would be used to finance the work of the Commission. There is the potential for savings to the State if collaborative efforts with other states decreased the need for new programs/services in Michigan. Appropriations to the Commission could increase in subsequent years but any appropriation would have to be approved by the Legislature on an annual basis.

ARGUMENTS

Supporting Argument

Budget restrictions and economic problems continue to limit the financial resources that states have to invest in higher education. Post-secondary education in the future will be shaped by the necessity of states to increase the effectiveness of their educational expenditures and to meet educational requirements of an increasingly complex economy and society. Cooperation among Midwestern states, as well as among the educational sectors of those states, could perpetuate high quality educational programs without placing greater burdens on the resources of each state in the region.

Supporting Argument

By enacting the Midwest Compact on Higher Education and joining the Midwest Higher Education Commission, Michigan would be able to optimize the strengths of its higher

educational institutions. Other regional educational commissions have been able to assist states in achieving their economic and social needs by identifying requirements for technically and professionally educated persons; promoting excellence in higher education through greater effectiveness and efficiency of programs while reducing duplication of programs among states; and, striving to ensure adequate opportunities for students through improved access to education. The ways these goals were accomplished in Michigan could be similar to the activities of other regional educational commissions that have promoted student exchange programs in order to provide students with access to programs on a reciprocal, reduced tuition basis; provided research on higher education issues; encouraged interstate and interinstitutional academic planning in order to use scarce resources better; identified programs for recruitment and retention of minorities in higher education; and, facilitated the sharing of telecommunications technology, programs, and resources among states. The Midwest Higher Education Commission could serve as a constructive force in fostering cooperation and collaboration among Midwestern states, their colleges and universities, and individuals concerned with the quality of higher education.

Opposing Argument

Many states that are part of the Midwest region and would be included in the compact have different demographic characteristics than Michigan. Because of this, there is some question as to what issues could be addressed on a regional basis that also could be addressed for the nation as a whole.

Response: The compact of 13 Western states includes member states whose size and character range from the arctic ruggedness of Alaska to the tropical islands of Hawaii. Despite these differences, there is one commonality that brought these states together: the desire to make quality higher education available to as many of their residents as possible at the lowest possible cost. Undoubtedly, the states of the Midwest share this same desire.

Opposing Argument

If the compact were enacted, member states would be assessed for annual membership dues, which have been estimated at \$58,000 and

would be used to finance the work of the Midwest Higher Education Commission. Furthermore, Michigan and other states in the Midwest compact could end up financing some of the costs associated with a professional student exchange program, if such a program were established in the Midwest as has been done in the West. Under that exchange program, students are provided access to professional programs, such as those in the health field. Students pay resident tuition and the states sending the students to the program in another state pay an additional "support fee" established by the education commission and appropriated by state legislatures.

Response: A compact, as proposed in Senate Bill 866, would not infringe on the powers of each state in the compact to control or in any way limit the flexibility of the state or its institutions. Collaboration and cooperation in programs would be voluntary. Thus, states in the compact would have to decide whether they would establish an exchange/reduced tuition program; it could not be imposed on them. It also should be noted that exchange programs, such as the kind set up among the Western states, have saved taxpayers millions of dollars because states have not had to establish and operate duplicate, competitive, and expensive programs.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.