

HOUSE BILL No. 4690

May 1, 2001, Introduced by Reps. LaSata, Julian, Patterson, Sheltroun, Pumford, Faunce, DeRossett, Van Woerkom and Raczkowski and referred to the Committee on Criminal Justice.

A bill to enter into the interstate compact for the supervision of adult offenders; and for related purposes.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "interstate compact for adult offender supervision".

3 Sec. 2. The interstate compact for the supervision of adult
4 offenders is enacted into law and entered into with all jurisdic-
5 tions legally joining in the compact, in the form substantially
6 as follows:

7 ARTICLE I

8 PURPOSE

9 The compacting states to this interstate compact recognize
10 that each state is responsible for the supervision of adult
11 offenders in the community who are authorized pursuant to the
12 bylaws and rules of this compact to travel across state lines

HB4690, As Passed House, October 17, 2001

2

1 both to and from each compacting state in such a manner as to
2 track the location of offenders, transfer supervision authority
3 in an orderly and efficient manner, and when necessary, return
4 offenders to the originating jurisdictions. The compacting
5 states also recognize that congress, by enacting the crime con-
6 trol act, 4 U.S.C. section 112 (1965), has authorized and encour-
7 aged compacts for cooperative efforts and mutual assistance in
8 the prevention of crime. It is the purpose of this compact and
9 the interstate commission created hereunder, through means of
10 joint and cooperative action among the compacting states, to pro-
11 vide the framework for the promotion of public safety and protect
12 the rights of victims through the control and regulation of the
13 interstate movement of offenders in the community; to provide for
14 the effective tracking, supervision, and rehabilitation of these
15 offenders by the sending and receiving states; and to equitably
16 distribute the costs, benefits, and obligations of the compact
17 among the compacting states. In addition, this compact will
18 create an interstate commission which will establish uniform pro-
19 cedures to manage the movement between states of adults placed
20 under community supervision and released to the community under
21 the jurisdiction of courts, paroling authorities, corrections, or
22 other criminal justice agencies which will promulgate rules to
23 achieve the purpose of this compact; ensure an opportunity for
24 input and timely notice to victims and to jurisdictions where
25 defined offenders are authorized to travel or to relocate across
26 state lines; establish a system of uniform data collection,
27 access to information on active cases by authorized criminal

HB4690, As Passed House, October 17, 2001

3

1 justice officials, and regular reporting of compact activities to
2 heads of state councils, state executive, judicial, and legisla-
3 tive branches, and criminal justice administrators; monitor com-
4 pliance with rules governing interstate movement of offenders and
5 initiate interventions to address and correct noncompliance; and
6 coordinate training and education regarding regulations of inter-
7 state movement of offenders for officials involved in such
8 activity. The compacting states recognize that there is no
9 "right" of any offender to live in another state and that duly
10 accredited officers of a sending state may at all times enter a
11 receiving state and there apprehend and retake any offender under
12 supervision subject to the provisions of this compact and bylaws
13 and rules promulgated hereunder. It is the policy of the com-
14 pacting states that the activities conducted by the interstate
15 commission created herein are the formation of public policies
16 and are therefore public business.

17 ARTICLE II

18 DEFINITIONS

19 As used in this compact, unless the context clearly requires
20 a different construction:

21 (a) "Adult" means both individuals legally classified as
22 adults and juveniles treated as adults by court order, statute,
23 or operation of law.

24 (b) "Bylaws" means those bylaws established by the inter-
25 state commission for its governance, or for directing or control-
26 ling the interstate commission's actions or conduct.

HB4690, As Passed House, October 17, 2001

4

1 (c) "Compact administrator" means the individual in each
2 compacting state appointed pursuant to the terms of this compact
3 responsible for the administration and management of the state's
4 supervision and transfer of offenders subject to the terms of
5 this compact, the rules adopted by the interstate commission, and
6 policies adopted by the state council under this compact.

7 (d) "Compacting state" means any state which has enacted the
8 enabling legislation for this compact.

9 (e) "Commissioner" means the voting representative of each
10 compacting state appointed pursuant to article III of this
11 compact.

12 (f) "Interstate commission" means the interstate commission
13 for adult offender supervision established by this compact.

14 (g) "Member" means the commissioner of a compacting state or
15 designee, who shall be a person officially connected with the
16 commissioner.

17 (h) "Noncompacting state" means any state which has not
18 enacted the enabling legislation for this compact.

19 (i) "Offender" means an adult placed under, or subject to,
20 supervision as the result of the commission of a criminal offense
21 and released to the community under the jurisdiction of courts,
22 paroling authorities, corrections, or other criminal justice
23 agencies.

24 (j) "Person" means any individual, corporation, business
25 enterprise, or other legal entity, either public or private.

26 (k) "Rules" means acts of the interstate commission, duly
27 promulgated pursuant to article VIII of this compact,

1 substantially affecting interested parties in addition to the
2 interstate commission, which shall have the force and effect of
3 law in the compacting states.

4 (l) "State" means a state of the United States, the District
5 of Columbia, and any other territorial possessions of the United
6 States.

7 (m) "State council" means the resident members of the state
8 council for interstate adult offender supervision created by each
9 state under article III of this compact.

10 ARTICLE III

11 THE COMPACT COMMISSION

12 The compacting states hereby create the "interstate commis-
13 sion for adult offender supervision". The interstate commission
14 shall be a body corporate and joint agency of the compacting
15 states. The interstate commission shall have all the responsi-
16 bilities, powers, and duties set forth herein, including the
17 power to sue and be sued, and such additional powers as may be
18 conferred upon it by subsequent action of the respective legisla-
19 tures of the compacting states in accordance with the terms of
20 this compact.

21 The interstate commission shall consist of commissioners
22 selected and appointed by resident members of a state council for
23 interstate adult offender supervision for each state. In addi-
24 tion to the commissioners who are the voting representatives of
25 each state, the interstate commission shall include individuals
26 who are not commissioners but who are members of interested
27 organizations; such noncommissioner members must include a member

HB4690, As Passed House, October 17, 2001

6

1 of the national organizations of governors, legislators, state
2 chief justices, attorneys general, and crime victims. All non-
3 commissioner members of the interstate commission shall be ex
4 officio (nonvoting) members. The interstate commission may pro-
5 vide in its bylaws for such additional, ex officio, nonvoting
6 members as it deems necessary.

7 Each compacting state represented at any meeting of the
8 interstate commission is entitled to 1 vote. A majority of the
9 compacting states shall constitute a quorum for the transaction
10 of business, unless a larger quorum is required by the bylaws of
11 the interstate commission. The interstate commission shall meet
12 at least once each calendar year. The chairperson may call addi-
13 tional meetings and, upon the request of 27 or more compacting
14 states, shall call additional meetings. Public notice shall be
15 given of all meetings and meetings shall be open to the public.

16 The interstate commission shall establish an executive com-
17 mittee which shall include commission officers, members, and
18 others as shall be determined by the bylaws. The executive com-
19 mittee shall have the power to act on behalf of the interstate
20 commission during periods when the interstate commission is not
21 in session, with the exception of rule-making and/or amendment to
22 the compact. The executive committee oversees the day-to-day
23 activities managed by the executive director and interstate com-
24 mission staff; administers enforcement and compliance with the
25 provisions of the compact, its bylaws and as directed by the
26 interstate commission; and performs other duties as directed by
27 the commission or set forth in the bylaws.

ARTICLE IV

THE STATE COUNCIL

1 Each member state shall create a state council for inter-
2 state adult offender supervision which shall be responsible for
3 the appointment of the commissioner who shall serve on the inter-
4 state commission from that state. Each state council shall
5 appoint as its commissioner the compact administrator from that
6 state to serve on the interstate commission in such capacity
7 under or pursuant to applicable law of the member state. While
8 each member state may determine the membership of its own state
9 council, its membership must include at least 1 representative
10 from the legislative, judicial, and executive branches of govern-
11 ment, victims groups, and compact administrators. Each compact-
12 ing state retains the right to determine the qualifications of
13 the compact administrator who shall be appointed by the state
14 council or by the governor in consultation with the legislature
15 and the judiciary. In addition to appointment of its commis-
16 sioner to the national interstate commission, each state council
17 shall exercise oversight and advocacy concerning its participa-
18 tion in interstate commission activities and other duties as may
19 be determined by each member state, including, but not limited
20 to, development of policy concerning operations and procedures of
21 the compact within that state.

ARTICLE V

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

HB4690, As Passed House, October 17, 2001

8

1 (a) To adopt a seal and suitable bylaws governing the
2 management and operation of the interstate commission.

3 (b) To promulgate rules which shall have the force and
4 effect of statutory law and shall be binding in the compacting
5 states to the extent and in the manner provided in this compact.

6 (c) To oversee, supervise, and coordinate the interstate
7 movement of offenders subject to the terms of this compact and
8 any bylaws adopted and rules promulgated by the compact
9 commission.

10 (d) To enforce compliance with compact provisions, inter-
11 state commission rules, and bylaws, using all necessary and
12 proper means, including, but not limited to, the use of judicial
13 process.

14 (e) To establish and maintain offices.

15 (f) To purchase and maintain insurance and bonds.

16 (g) To borrow, accept, or contract for services of person-
17 nel, including, but not limited to, members and their staffs.

18 (h) To establish and appoint committees and hire staff which
19 it deems necessary for the carrying out of its functions, includ-
20 ing, but not limited to, an executive committee as required by
21 article III which shall have the power to act on behalf of the
22 interstate commission in carrying out its powers and duties
23 hereunder.

24 (i) To elect or appoint such officers, attorneys, employees,
25 agents, or consultants, and to fix their compensation, define
26 their duties, and determine their qualifications; and to
27 establish the interstate commission's personnel policies and

HB4690, As Passed House, October 17, 2001

9

1 programs relating to, among other things, conflicts of interest,
2 rates of compensation, and qualifications of personnel.

3 (j) To accept any and all donations and grants of money,
4 equipment, supplies, materials, and services and to receive, uti-
5 lize, and dispose of same.

6 (k) To lease, purchase, accept contributions or donations
7 of, or otherwise to own, hold, improve, or use any property,
8 real, personal, or mixed.

9 (l) To sell, convey, mortgage, pledge, lease, exchange,
10 abandon, or otherwise dispose of any property, real, personal, or
11 mixed.

12 (m) To establish a budget and make expenditures and levy
13 duties as provided in article X of this compact.

14 (n) To sue and be sued.

15 (o) To provide for dispute resolution among compacting
16 states.

17 (p) To perform such functions as may be necessary or appro-
18 priate to achieve the purposes of this compact.

19 (q) To report annually to the legislatures, governors, judi-
20 ciary, and state councils of the compacting states concerning the
21 activities of the interstate commission during the preceding
22 year. Such reports shall also include any recommendations that
23 may have been adopted by the interstate commission.

24 (r) To coordinate education, training, and public awareness
25 regarding the interstate movement of offenders for officials
26 involved in such activity.

1 (s) To establish uniform standards for the reporting,
2 collecting, and exchanging of data.

3 ARTICLE VI

4 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

5 Section A. Bylaws

6 The interstate commission shall, by a majority of the mem-
7 bers, within 12 months of the first interstate commission meet-
8 ing, adopt bylaws to govern its conduct as may be necessary or
9 appropriate to carry out the purposes of the compact, including,
10 but not limited to:

11 (a) Establishing the fiscal year of the interstate
12 commission.

13 (b) Establishing an executive committee and such other com-
14 mittees as may be necessary.

15 (c) Providing reasonable standards and procedures:

16 (i) For the establishment of committees.

17 (ii) Governing any general or specific delegation of any
18 authority or function of the interstate commission.

19 (d) Providing reasonable procedures for calling and conduct-
20 ing meetings of the interstate commission and ensuring reasonable
21 notice of each such meeting.

22 (e) Establishing the titles and responsibilities of the
23 officers of the interstate commission.

24 (f) Providing reasonable standards and procedures for the
25 establishment of the personnel policies and programs of the
26 interstate commission. Notwithstanding any civil service or
27 other similar laws of any compacting state, the bylaws shall

HB4690, As Passed House, October 17, 2001

11

1 exclusively govern the personnel policies and programs of the
2 interstate commission.

3 (g) Providing a mechanism for winding up the operations of
4 the interstate commission and the equitable return of any surplus
5 funds that may exist upon the termination of the compact after
6 the payment and/or reserving of all of its debts and
7 obligations.

8 (h) Providing transition rules for "start-up" administration
9 of the compact.

10 (i) Establishing standards and procedures for compliance and
11 technical assistance in carrying out the compact.

12 Section B. Officers and Staff

13 The interstate commission shall, by a majority of the mem-
14 bers, elect from among its members a chairperson and a vice
15 chairperson, each of whom shall have such authorities and duties
16 as may be specified in the bylaws. The chairperson or, in his or
17 her absence or disability, the vice chairperson shall preside at
18 all meetings of the interstate commission. The officers so
19 elected shall serve without compensation or remuneration from the
20 interstate commission; provided that, subject to the availability
21 of budgeted funds, the officers shall be reimbursed for any
22 actual and necessary costs and expenses incurred by them in the
23 performance of their duties and responsibilities as officers of
24 the interstate commission.

25 The interstate commission shall, through its executive com-
26 mittee, appoint or retain an executive director for such period,
27 upon such terms and conditions, and for such compensation as the

HB4690, As Passed House, October 17, 2001

12

1 interstate commission may deem appropriate. The executive
2 director shall serve as secretary to the interstate commission
3 and hire and supervise such other staff as may be authorized by
4 the interstate commission, but shall not be a member.

5 Section C. Corporate Records of the Interstate Commission

6 The interstate commission shall maintain its corporate books
7 and records in accordance with the bylaws.

8 Section D. Qualified Immunity, Defense, and Indemnification

9 The members, officers, executive director, and employees of
10 the interstate commission shall be immune from suit and liability-
11 ty, either personally or in their official capacity, for any
12 claim for damage to or loss of property or personal injury or
13 other civil liability caused or arising out of any actual or
14 alleged act, error, or omission that occurred within the scope of
15 interstate commission employment, duties, or responsibilities;
16 provided, that nothing in this paragraph shall be construed to
17 protect any such person from suit and/or liability for any
18 damage, loss, injury, or liability caused by the intentional or
19 willful and wanton misconduct of any such person. The interstate
20 commission shall defend the commissioner of a compacting state,
21 or his or her representatives or employees, or the interstate
22 commission's representatives or employees, in any civil action
23 seeking to impose liability, arising out of any actual or alleged
24 act, error, or omission that occurred within the scope of inter-
25 state commission employment, duties, or responsibilities, or that
26 the defendant had a reasonable basis for believing occurred
27 within the scope of interstate commission employment, duties, or

1 responsibilities; provided, that the actual or alleged act,
2 error, or omission did not result from intentional wrongdoing on
3 the part of such person.

4 The interstate commission shall indemnify and hold the com-
5 missioner of a compacting state, the appointed designee or
6 employees, or the interstate commission's representatives or
7 employees, harmless in the amount of any settlement or judgment
8 obtained against such persons arising out of any actual or
9 alleged act, error, or omission that occurred within the scope of
10 interstate commission employment, duties, or responsibilities, or
11 that such persons had a reasonable basis for believing occurred
12 within the scope of interstate commission employment, duties, or
13 responsibilities, provided, that the actual or alleged act,
14 error, or omission did not result from gross negligence or inten-
15 tional wrongdoing on the part of such person.

16 ARTICLE VII

17 ACTIVITIES OF THE INTERSTATE COMMISSION

18 The interstate commission shall meet and take such actions
19 as are consistent with the provisions of this compact.

20 Except as otherwise provided in this compact and unless a
21 greater percentage is required by the bylaws, in order to consti-
22 tute an act of the interstate commission, such act shall have
23 been taken at a meeting of the interstate commission and shall
24 have received an affirmative vote of a majority of the members
25 present.

26 Each member of the interstate commission shall have the
27 right and power to cast a vote to which that compacting state is

HB4690, As Passed House, October 17, 2001

14

1 entitled and to participate in the business and affairs of the
2 interstate commission. A member shall vote in person on behalf
3 of the state and shall not delegate a vote to another member
4 state. However, a state council shall appoint another authorized
5 representative, in the absence of the commissioner from that
6 state, to cast a vote on behalf of the member state at a speci-
7 fied meeting. The bylaws may provide for members' participation
8 in meetings by telephone or other means of telecommunication or
9 electronic communication. Any voting conducted by telephone, or
10 other means of telecommunication or electronic communication,
11 shall be subject to the same quorum requirements of meetings
12 where members are present in person.

13 The interstate commission shall meet at least once during
14 each calendar year. The chairperson of the interstate commission
15 may call additional meetings at any time and, upon the request of
16 a majority of the members, shall call additional meetings.

17 The interstate commission's bylaws shall establish condi-
18 tions and procedures under which the interstate commission shall
19 make its information and official records available to the public
20 for inspection or copying. The interstate commission may exempt
21 from disclosure any information or official records to the extent
22 they would adversely affect personal privacy rights or propri-
23 etary interests. In promulgating such rules, the interstate com-
24 mission may make available to law enforcement agencies records
25 and information otherwise exempt from disclosure, and may enter
26 into agreements with law enforcement agencies to receive or

HB4690, As Passed House, October 17, 2001

15

1 exchange information or records subject to nondisclosure and
2 confidentiality provisions.

3 Public notice shall be given of all meetings and all meet-
4 ings shall be open to the public, except as set forth in the
5 rules or as otherwise provided in the compact. The interstate
6 commission shall promulgate rules consistent with the principles
7 contained in the "government in sunshine act", 5 U.S.C. section
8 552(b), as may be amended. The interstate commission and any of
9 its committees may close a meeting to the public where it deter-
10 mines by 2/3 vote that an open meeting would be likely to:

11 (a) Relate solely to the interstate commission's internal
12 personnel practices and procedures.

13 (b) Disclose matters specifically exempted from disclosure
14 by statute.

15 (c) Disclose trade secrets or commercial or financial infor-
16 mation which is privileged or confidential.

17 (d) Involve accusing any person of a crime or formally cen-
18 suring any person.

19 (e) Disclose information of a personal nature where disclo-
20 sure would constitute a clearly unwarranted invasion of personal
21 privacy.

22 (f) Disclose investigatory records compiled for law enforce-
23 ment purposes.

24 (g) Disclose information contained in or related to examina-
25 tion, operating or condition reports prepared by, or on behalf of
26 or for the use of, the interstate commission with respect to a

HB4690, As Passed House, October 17, 2001

16

1 regulated entity for the purpose of regulation or supervision of
2 such entity.

3 (h) Disclose information, the premature disclosure of which
4 would significantly endanger the life of a person or the stabil-
5 ity of a regulated entity.

6 (i) Specifically relate to the interstate commission's issu-
7 ance of a subpoena or its participation in a civil action or
8 proceeding.

9 For every meeting closed pursuant to this provision, the
10 interstate commission's chief legal officer shall publicly cer-
11 tify that, in his or her opinion, the meeting may be closed to
12 the public, and shall reference each relevant exemptive
13 provision. The interstate commission shall keep minutes which
14 shall fully and clearly describe all matters discussed in any
15 meeting and shall provide a full and accurate summary of any
16 actions taken, and the reasons therefor, including a description
17 of each of the views expressed on any item and the record of any
18 roll call vote (reflected in the vote of each member on the
19 question). All documents considered in connection with any
20 action shall be identified in such minutes.

21 The interstate commission shall collect standardized data
22 concerning the interstate movement of offenders as directed
23 through its bylaws and rules which shall specify the data to be
24 collected, the means of collection, and data exchange and report-
25 ing requirements.

ARTICLE VIII

RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1 The interstate commission shall promulgate rules in order to
2 effectively and efficiently achieve the purposes of the compact
3 including transition rules governing administration of the com-
4 pact during the period in which it is being considered and
5 enacted by the states.

6 Rule-making shall occur pursuant to the criteria set forth
7 in this article and the bylaws and rules adopted pursuant
8 thereto. Such rule-making shall substantially conform to the
9 principles of the federal administrative procedure act, 5
10 U.S.C.S. section 551 et seq., and the federal advisory committee
11 act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended
12 (hereinafter "APA"). All rules and amendments shall become bind-
13 ing as of the date specified in each rule or amendment.

14 If a majority of the legislatures of the compacting states
15 reject a rule, by enactment of a statute or resolution in the
16 same manner used to adopt the compact, then such rule shall have
17 no further force and effect in any compacting state.

18 When promulgating a rule, the interstate commission shall:

19 (a) Publish the proposed rule stating with particularity the
20 text of the rule which is proposed and the reason for the pro-
21 posed rule.

22 (b) Allow persons to submit written data, facts, opinions,
23 and arguments, which information shall be publicly available.

24 (c) Provide an opportunity for an informal hearing.

HB4690, As Passed House, October 17, 2001

18

1 (d) Promulgate a final rule and its effective date, if
2 appropriate, based on the rule-making period.

3 Not later than 60 days after a rule is promulgated, any
4 interested person may file a petition in the United States dis-
5 trict court for the District of Columbia or in the federal dis-
6 trict court where the interstate commission's principal office is
7 located for judicial review of such rule. If the court finds
8 that the interstate commission's action is not supported by sub-
9 stantial evidence (as defined in the APA), in the rule-making
10 record, the court shall hold the rule unlawful and set it aside.
11 Subjects to be addressed within 12 months after the first meeting
12 must, at a minimum, include:

13 (a) Notice to victims and opportunity to be heard.

14 (b) Offender registration and compliance.

15 (c) Violations/returns.

16 (d) Transfer procedures and forms.

17 (e) Eligibility for transfer.

18 (f) Collection of restitution and fees from offenders.

19 (g) Data collection and reporting.

20 (h) The level of supervision to be provided by the receiving
21 state.

22 (i) Transition rules governing the operation of the compact
23 and the interstate commission during all or part of the period
24 between the effective date of the compact and the date on which
25 the last eligible state adopts the compact.

26 (j) Mediation, arbitration, and dispute resolution.

1 Section B. Dispute Resolution

2 The compacting states shall report to the interstate commis-
3 sion on issues or activities of concern to them and cooperate
4 with and support the interstate commission in the discharge of
5 its duties and responsibilities.

6 The interstate commission shall attempt to resolve any dis-
7 putes or other issues which are subject to the compact and which
8 may arise among compacting states and noncompacting states.

9 The interstate commission shall enact a bylaw or promulgate
10 a rule providing for both mediation and binding dispute resolu-
11 tion for disputes among the compacting states.

12 Section C. Enforcement

13 The interstate commission, in the reasonable exercise of its
14 discretion, shall enforce the provisions of this compact using
15 any or all means set forth in article XII, section b, of this
16 compact.

17 ARTICLE X

18 FINANCE

19 The interstate commission shall pay or provide for the pay-
20 ment of the reasonable expenses of its establishment, organiza-
21 tion, and ongoing activities.

22 The interstate commission shall levy on and collect an
23 annual assessment from each compacting state to cover the cost of
24 the internal operations and activities of the interstate commis-
25 sion and its staff which must be in a total amount sufficient to
26 cover the interstate commission's annual budget as approved each
27 year. The aggregate annual assessment amount shall be allocated

1 become effective and binding, as to any other compacting state,
2 upon enactment of the compact into law by that state. The gover-
3 nors of nonmember states or their designees will be invited to
4 participate in interstate commission activities on a nonvoting
5 basis prior to adoption of the compact by all states and territo-
6 ries of the United States.

7 Amendments to the compact may be proposed by the interstate
8 commission for enactment by the compacting states. No amendment
9 shall become effective and binding upon the interstate commission
10 and the compacting states unless and until it is enacted into law
11 by unanimous consent of the compacting states.

12 ARTICLE XII

13 WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

14 Section A. Withdrawal

15 Once effective, the compact shall continue in force and
16 remain binding upon each and every compacting state; provided,
17 that a compacting state may withdraw from the compact
18 ("withdrawing state") by enacting a statute specifically repeal-
19 ing the statute which enacted the compact into law.

20 The effective date of withdrawal is the effective date of
21 the repeal.

22 The withdrawing state shall immediately notify the chair-
23 person of the interstate commission in writing upon the introduc-
24 tion of legislation repealing this compact in the withdrawing
25 state. The interstate commission shall notify the other compact-
26 ing states of the withdrawing state's intent to withdraw within
27 60 days of its receipt thereof.

HB4690, As Passed House, October 17, 2001

23

1 The withdrawing state is responsible for all assessments,
2 obligations, and liabilities incurred through the effective date
3 of withdrawal, including any obligations, the performance of
4 which extends beyond the effective date of withdrawal.

5 Reinstatement following withdrawal of any compacting state
6 shall occur upon the withdrawing state reenacting the compact or
7 upon such later date as determined by the interstate commission.

8 Section B. Default

9 If the interstate commission determines that any compacting
10 state has at any time defaulted ("defaulting state") in the per-
11 formance of any of its obligations or responsibilities under this
12 compact, the bylaws, or any duly promulgated rules, the inter-
13 state commission may impose any or all of the following
14 penalties:

15 (a) Fines, fees, and costs in such amounts as are deemed to
16 be reasonable as fixed by the interstate commission.

17 (b) Remedial training and technical assistance as directed
18 by the interstate commission.

19 (c) Suspension and termination of membership in the
20 compact. Suspension shall be imposed only after all other rea-
21 sonable means of securing compliance under the bylaws and rules
22 have been exhausted. Immediate notice of suspension shall be
23 given by the interstate commission to the governor, the chief
24 justice or chief judicial officer of the state, the majority and
25 minority leaders of the defaulting state's legislature, and the
26 state council.

HB4690, As Passed House, October 17, 2001

24

1 The grounds for default include, but are not limited to,
2 failure of a compacting state to perform such obligations or
3 responsibilities imposed upon it by this compact, interstate com-
4 mission bylaws, or duly promulgated rules. The interstate com-
5 mission shall immediately notify the defaulting state in writing
6 of the penalty imposed by the interstate commission on the
7 defaulting state pending a cure of the default. The interstate
8 commission shall stipulate the conditions and the time period
9 within which the defaulting state must cure its default. If the
10 defaulting state fails to cure the default within the time period
11 specified by the interstate commission, in addition to any other
12 penalties imposed herein, the defaulting state may be terminated
13 from the compact upon an affirmative vote of a majority of the
14 compacting states and all rights, privileges, and benefits con-
15 ferred by this compact shall be terminated from the effective
16 date of suspension. Within 60 days of the effective date of ter-
17 mination of a defaulting state, the interstate commission shall
18 notify the governor, the chief justice or chief judicial officer,
19 and the majority and minority leaders of the defaulting state's
20 legislature and the state council of such termination.

21 The defaulting state is responsible for all assessments,
22 obligations, and liabilities incurred through the effective date
23 of termination including any obligations, the performance of
24 which extends beyond the effective date of termination.

25 The interstate commission shall not bear any costs relating
26 to the defaulting state unless otherwise mutually agreed upon
27 between the interstate commission and the defaulting state.

1 Reinstatement following termination of any compacting state
2 requires both a reenactment of the compact by the defaulting
3 state and the approval of the interstate commission pursuant to
4 the rules.

5 Section C. Judicial Enforcement

6 The interstate commission may, by majority vote of the mem-
7 bers, initiate legal action in the United States district court
8 for the District of Columbia or, at the discretion of the inter-
9 state commission, in the federal district where the interstate
10 commission has its offices to enforce compliance with the provi-
11 sions of the compact, its duly promulgated rules and bylaws,
12 against any compacting state in default. In the event judicial
13 enforcement is necessary, the prevailing party shall be awarded
14 all costs of such litigation including reasonable attorney fees.

15 Section D. Dissolution of Compact

16 The compact dissolves effective upon the date of the with-
17 drawal or default of the compacting state which reduces member-
18 ship in the compact to 1 compacting state. Upon the dissolution
19 of this compact, the compact becomes null and void and shall be
20 of no further force or effect, and the business and affairs of
21 the interstate commission shall be wound up and any surplus funds
22 shall be distributed in accordance with the bylaws.

23 ARTICLE XIII

24 SEVERABILITY AND CONSTRUCTION

25 The provisions of this compact shall be severable, and if
26 any phrase, clause, sentence, or provision is deemed

1 unenforceable, the remaining provisions of the compact shall be
2 enforceable.

3 The provisions of this compact shall be liberally con-
4 structed to effectuate its purposes.

5 ARTICLE XIV

6 BINDING EFFECT OF COMPACT AND OTHER LAWS

7 Section A. Other Laws

8 Nothing herein prevents the enforcement of any other law of
9 a compacting state that is not inconsistent with this compact.
10 All compacting states' laws conflicting with this compact are
11 superseded to the extent of the conflict.

12 Section B. Binding Effect of the Compact

13 All lawful actions of the interstate commission, including
14 all rules and bylaws promulgated by the interstate commission,
15 are binding upon the compacting states. All agreements between
16 the interstate commission and the compacting states are binding
17 in accordance with their terms.

18 Upon the request of a party to a conflict over meaning or
19 interpretation of interstate commission actions, and upon a
20 majority vote of the compacting states, the interstate commission
21 may issue advisory opinions regarding such meaning or
22 interpretation. In the event any provision of this compact
23 exceeds the constitutional limits imposed on the legislature of
24 any compacting state, the obligations, duties, powers, or juris-
25 diction sought to be conferred by such provision upon the inter-
26 state commission shall be ineffective and such obligations,
27 duties, powers, or jurisdiction shall remain in the compacting

HB4690, As Passed House, October 17, 2001

27

1 state and shall be exercised by the agency thereof to which such
2 obligations, duties, powers, or jurisdiction are delegated by law
3 in effect at the time this compact becomes effective.