

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs and Space

BILL: SB 212

INTRODUCER: Senator Wright

SUBJECT: Interstate Compact on Educational Opportunity for Military Children

DATE: January 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 212 reenacts provisions of law establishing and implementing the Interstate Compact on Educational Opportunity for Military Children (Compact) and provides for future legislative review and repeal of the Compact on July 1, 2022.

The bill takes effect upon becoming law.

II. Present Situation:

Interstate Compact on Educational Opportunity for Military Children

Children in active-duty military families face unique educational challenges. A military child changes schools on average three times more often than a non-military child.¹ When a parent is reassigned, a military child may be impacted by:

- Record transfer issues;
- Varied course sequencing and academic placement policies;
- Varied graduation requirements;
- Exclusion from extracurricular activities;
- Redundant or missed entrance or exit testing;
- Varied kindergarten and first grade entrance ages; and
- Having a temporary guardian appointed while the child's parent is deployed.²

The Interstate Compact on Educational Opportunity for Military Children (Compact) assists member states in uniformly addressing educational transition issues faced by active-duty military families. The compact governs member states in several areas, including school placement,

¹ U.S. Department of Defense Education Activity (DoDEA). *All About DoDEA Educational Partnerships*, available at: <https://www.dodea.edu/Partnership/about.cfm> (last visited Jan. 16, 2019).

² Military Interstate Children's Compact Commission, *Guide for Parents, School Officials and Public Administrators*, p. 2, available at: http://www.mic3.net/assets/2018_parents_guide.pdf (last visited Jan. 16, 2019).

enrollment, records transfer, participation in academic programs and extracurricular activities, and graduation. The Compact was developed by the Council of State Governments, in cooperation with the U.S. Department of Defense.

States join the Compact by enacting it into law, which Florida did in 2008.³ Ten states must enact the Compact before it can take effect and be binding on member states. This occurred on July 9, 2008, when Delaware became the tenth state to adopt the Compact. Currently, all 50 states and the District of Columbia are members of the Compact.⁴

Students eligible for assistance under the Compact must receive public funding through the local education agency and be the children of:

- Active duty members of the uniformed services⁵, including members of the National Guard and Reserve on active-duty orders;
- Members or veterans of the uniformed services who are severely injured and medically discharged or retired, for a period of one year following separation; and
- Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after death.⁶

Florida State Council

The Compact requires member states to establish a State Council to coordinate implementation of the Compact.⁷ While each state may determine the membership of its own State Council, membership must include, at a minimum, the following:

- State superintendent of education;
- Superintendent of a school district with a high concentration of military children;
- One representative from a military installation;
- One representative from the legislative branch of government; and
- One representative from the executive branch of government.⁸

Additionally, the state must appoint or designate a military family education liaison and a compact commissioner. Each of these appointees, unless already a full voting member of the council, shall serve as an ex officio member of the state council.⁹ Florida's State Council conducts meetings on a quarterly basis, typically via teleconference.¹⁰

³ Ch. 2008-225, L.O.F.

⁴ Military Interstate Children's Compact Commission, *Interactive Map*, available at: <http://www.mic3.net/interactive-map.html> (last visited Jan. 16, 2019).

⁵ "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services. See Article II, s. R of the Compact, s. 1000.36, F.S.

⁶ Article III, s. A of the Compact, s. 1000.36, F.S.

⁷ Article VIII of the Compact, s. 1000.36, F.S.

⁸ Article VIII, s. A of the Compact, s. 1000.36, F.S.

⁹ Article VIII of the Compact and s. 1000.39(2)(e), F.S.

¹⁰ See Military Interstate Children's Compact Commission, Florida State Council Profile, available at: <http://www.mic3.net/florida.html> (last visited Jan. 16, 2019).

Military Interstate Children's Compact Commission

The Compact establishes the Military Interstate Children's Compact Commission (Commission) to provide national-level oversight of the Compact. The Commission may adopt and enforce rules and bylaws and perform various administrative functions necessary for day-to-day operations.¹¹ The Commission is comprised of one voting representative, or Compact Commissioner, from each member state.¹² Each state is entitled to one vote on Compact rule adoption or other business matters.¹³ The Commission must meet at least once a year.¹⁴

The Commission is authorized to promulgate Compact rules which govern member states in the areas addressed by the Compact.¹⁵ Compact rules have the force and effect of statutory law in member states and supersede conflicting member state laws to the extent of the conflict.¹⁶ Compact rules must not exceed the scope of authority granted by the Compact. A majority of member state legislatures may invalidate a Compact rule by legislative action.¹⁷

Review of Compact Rule Adoption

Since its enactment in 2008, Florida's Compact legislation has included a repeal provision which requires automatic repeal of the Compact after a period of time, unless reauthorized by the Legislature. The repeal provision addresses concerns regarding unconstitutional delegation of legislative authority under Article II, s. 3 of the State Constitution. Because membership in the Compact entails an agreement to be bound by rules promulgated by a non-legislative entity, i.e., the Commission, the repeal provision allows the Legislature to periodically review Compact rules and determine whether it agrees with any new rules or rule amendments adopted during the intervening period.

The Legislature last reauthorized the Compact during the 2016 Regular Session,¹⁸ and provided for repeal of the Compact on July 1, 2019, unless reviewed and saved from repeal by the Legislature.

Since the 2016 legislative review, the Commission approved two substantive changes to the Compact rules. The amendments were adopted during the Commission's Annual Business Meeting in October 2018,¹⁹ and are discussed below.

Compact Rule 2.104 – Dues Formula

¹¹ Articles IX and X of the Compact, s. 1000.36, F.S.

¹² Article IX of the Compact, s. 1000.36, F.S. The voting representative from each state is the compact commissioner.

¹³ Article IX, s. B of the Compact, s. 1000.36, F.S.

¹⁴ Article IX, s. D of the Compact, s. 1000.36, F.S.

¹⁵ See Interstate Compact on Educational Opportunity for Military Children, Compact Rules, Adopted 2009, amended October 17, 2018, available at: <http://www.mic3.net/assets/rules-2018-revised-9-nov--2018.pdf> (last visited Jan. 16, 2019).

¹⁶ Article X, s. B and Article XVIII, s. B of the Compact, s. 1000.36, F.S. The Compact also provides that if any part of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state. See Article XVIII, s. E of the Compact, s. 1000.36, F.S.

¹⁷ Article XII, s. D. of the Compact, s. 1000.36, F.S.

¹⁸ Chapter 2016-34, L.O.F.

¹⁹ 2018 Annual Business meeting materials, available at: <http://mic3.net/2018-annual-meeting.html> (last visited Jan. 16, 2019).

Member states pay annual dues to the Commission to fund its operations. Compact Rule 2.104 establishes the formula for assessing membership dues. The formula is based upon the number of military children eligible for transfer under the Compact. The Commission approved an amendment to Compact Rule 2.104 to adjust the state dues assessment formula. Effective Fiscal Year 2019-2020, annual dues increase from \$1.00 to \$1.15 per military child. Additionally, the amendment increased the minimum and maximum dues assessments, providing that no state dues assessment may exceed \$2,300 per year or be less than \$69,000. The prior minimum and maximum thresholds were \$2,000 and \$60,000, respectively.

As of September 7, 2018, 39,293 students from active-duty military families resided in Florida.²⁰

Under the revised rule, Florida's estimated Compact membership dues assessment for Fiscal Year 2019-20 is \$45,187.²¹ Florida's membership dues for Fiscal Year 2018-19 were \$42,813.²²

Compact Rule 2.106 – State Councils

The Commission adopted Compact Rule 2.106 to require each state council to meet at least once per fiscal year and submit state council meeting dates, agendas, and minutes to the Interstate Commission office within 60 days following each state council meeting. Additionally, Compact Rule 1.101 was amended to define the term “state council” to correspond to the newly created Rule 2.106.²³ Florida's state council is an active council, meeting consistently on a quarterly basis.

III. Effect of Proposed Changes:

The bill amends s. 1000.40, F.S., to reauthorize Florida's Compact legislation and provides for the repeal of the Compact statutes, ss. 1000.36, 1000.361, 1000.38, and 1000.39, F.S., on July 1, 2022, unless reviewed and reenacted by the Legislature.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁰ Military Interstate Compact Commission, *MIC3 FY20 Dues and Active Duty Military Dependents (Ages 5-18)*, available at: http://www.mic3.net/assets/copy-of-fy2020-dues_final.pdf (last visited Jan. 16, 2019).

²¹ Military Interstate Compact Commission, *MIC3 FY20 Dues and Active Duty Military Dependents (Ages 5-18)*. Available at: http://www.mic3.net/assets/copy-of-fy2020-dues_final.pdf (last visited Nov. 27, 2018). This amount shows an increase of \$2,373.99.

²² The General Appropriations Act for Fiscal Year 2018-2019 appropriated \$42,813 in recurring funds from General Revenue to the Department of Education to pay the dues. See line item 130, proviso, ch. 2018-9, L.O.F.

²³ Military Interstate Children's Compact Commission, *2018 Compact Rule Changes* (Nov. 26, 2018)(on file with the Senate Committee on Military and Veterans Affairs and Space.) A “state council” is the council in each member state established under the Compact or the existing body or board designated by the member state to provide for multi-agency coordination of Compact activities (R. 1.101 of the Compact).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

To address concerns regarding the delegation of legislative authority, the bill provides for automatic repeal of Florida's Compact legislation after a period of time, unless reauthorized by the Legislature.²⁴ Because membership in the Compact requires the state to agree to be bound by rules promulgated by a non-legislative entity, i.e., the Interstate Commission, the repeal provision allows the Legislature to periodically review the Compact rules and determine whether it agrees with any new rules or rule amendments adopted during the period. Reauthorization of the Compact after these reviews diminishes a claim that the Legislature has delegated its authority.²⁵

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Member states pay an annual fee to the Commission that must be between \$2,300 and \$69,000. The formula is based upon the number of military children eligible for transfer under the Compact at the rate of \$1.15 per child.

The General Appropriations Act for Fiscal Year 2015-16 appropriated \$42,813 in recurring funds from General Revenue to the Department of Education to pay the dues. Florida's estimated Compact membership dues assessment for Fiscal Year 2019-20 is \$45,187, an increase of \$2,373.99.

²⁴ See s. 5, ch. 2008-225, s. 3, ch. 2010-52, s. 2, ch. 2013-20, s. 2, and s. 2, ch. 2016-34, L.O.F.

²⁵ See Florida Senate, *Legislative Bill Analysis for SB 1060* (2010).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends s. 1000.40, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.