

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 153 Interstate Compact on Educational Opportunity for Military Children  
**SPONSOR(S):** Early Learning & Elementary Education Subcommittee, Altman  
**TIED BILLS:** HB 465 **IDEN./SIM. BILLS:** SB 430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	17 Y, 0 N, As CS	Cohen	Brink
2) Local Administration & Veterans Affairs Subcommittee	13 Y, 0 N	Mwakyanjala	Miller
3) Education & Employment Committee			

### SUMMARY ANALYSIS

The bill extends Florida's participation in the Interstate Compact on Educational Opportunity for Military Children (Compact). The Compact enables member states to uniformly address educational transition issues faced by military families. The Compact governs member states in several areas, including school placement, enrollment, records transfer and graduation for children of active-duty military families. All 50 states and the District of Columbia are Compact members.

The Compact establishes an Interstate Commission on Educational Opportunity for Military Children (Commission) to provide national-level oversight of the Compact. The Commission comprises one voting representative, or Compact Commissioner, from each member state. Among other things, the Commission may adopt and enforce compact rules which govern member states in the areas addressed by the Compact. Compact rules supersede conflicting member state laws to the extent necessary to accomplish the purposes of the Compact.

Florida's Compact legislation includes a repeal provision which requires automatic repeal of the Compact after a period of time, unless reauthorized by the Legislature. Because Compact membership 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 period. The Legislature last reauthorized the Compact in 2019 and provided for repeal of the Compact on July 1, 2022.

The bill extends the repeal of the authority to July 1, 2025, unless reviewed and reenacted by the legislature.

As required by the Compact, Florida has a State Council on Interstate Educational Opportunity for Military Children, which acts as an advisory body regarding Compact participation and compliance. The bill increases the number of members on the council from seven to eight by requiring the Speaker of the House of Representatives and the President of the Senate to appoint one member each, rather than jointly appointing one member.

The General Appropriations Act provides \$45,187 in recurring funds to the Florida Department of Education to pay the state's annual dues to the Commission.

The bill takes effect upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### *Background*

Children in active-duty military families face unique educational challenges. The average military child transfers to a different state or school district six to nine times during kindergarten through grade 12.<sup>1</sup> When a parent is reassigned, military children 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.
- The need to appoint temporary guardians while the child's parent is deployed.<sup>2</sup>

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, 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.<sup>3</sup>

Children of active duty military, National Guard members on active duty orders, Reservists on active duty orders, National Oceanic and Atmospheric Administration (NOAA) commissioned officers, United States Public Health Service (USPHS) commissioned officers, and veterans who are medically discharged or retired for one year are eligible for assistance under the Compact. The Compact also covers children of those who perish on active duty for a period of one year following their death.<sup>4</sup>

States join the Compact by enacting it into law, which Florida did in 2008.<sup>5</sup> Ten states must enact the Compact before it can take effect and be binding on member states. This occurred when Delaware became the tenth state to adopt the Compact on July 9, 2008.<sup>6</sup> Currently, all 50 states and the District of Columbia are Compact members.<sup>7</sup>

The Compact establishes an Interstate Commission on Educational Opportunity for Military Children (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 operation.<sup>8</sup> The Commission comprises one voting representative, or Compact Commissioner, from each member state. Each state is entitled to one vote on Compact rule adoption or other business

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<sup>1</sup> National Military Family Association, Frequent Moves Take Their Toll on Military Kids, <https://www.militaryfamily.org/frequent-moves-milkids/> (last visited November 17, 2021).

<sup>2</sup> Council of State Governments, Interstate Compact on Educational Opportunity for Military Children (2010), available at <https://www.ncsl.org/documents/environ/NARlack72510.pdf>.

<sup>3</sup> Department of Defense Education Activity, *The Interstate Compact on Educational Opportunity for Military Children Fact Sheet for Service Providers* (2015), available at <https://www.dodea.edu/Partnership/upload/InterstateCompactToolKit-OOreview-15June2015.pdf>.

<sup>4</sup> Council of State Governments, Background, <http://www.mic3.net/background.html> (last visited November 17, 2021).

<sup>5</sup> Ch. 2008-225, Laws of Fla.; codified at ss. 1000.36, 1000.37, 1000.38, and 1000.39, F.S.

<sup>6</sup> Article XV, s. B. of the Compact, s. 1000.36, F.S.; 76 Del. Laws 327 (2008).

<sup>7</sup> Military Interstate Children's Compact Commission, Interactive Map, <http://www.mic3.net/interactive-map.html> (last visited Nov. 22, 2021).

<sup>8</sup> Article X, of the Compact, s. 1000.36, F.S.

matters.<sup>9</sup> The Commission must meet at least once per year.<sup>10</sup>

### *Compact Rule Adoption*

The Commission is authorized to promulgate Compact rules which govern member states in areas addressed by the Compact. These rules have the force and effect of statutory law in member states and supersede conflicting member state laws to the extent of the conflict.<sup>11</sup> The rules may not exceed the scope of authority granted by the Compact. A majority of member state legislatures may invalidate a Compact rule by legislative action.<sup>12</sup>

Florida's Compact legislation requires automatic repeal of the Compact after a period of time unless reauthorized by the Legislature.<sup>13</sup> The repeal provision addresses concerns regarding the delegation of legislative authority in possible conflict with article II, s. 3, of the Florida Constitution.<sup>14</sup> Because membership in the Compact entails an agreement to be bound by rules promulgated by the Commission, a non-legislative entity, the repeal provision allows the Legislature to periodically review Compact rules and determine whether any new rules or rule amendments adopted during the intervening period are acceptable. The Compact rules were last amended in 2018.<sup>15</sup>

The Legislature last reauthorized the Compact in 2019, and provided for repeal of the Compact three years after enactment, on July 1, 2022.<sup>16</sup>

### *State-Level Management of the Interstate Educational Opportunity for Military Children*

Each member state in the Compact must coordinate all relevant governmental entities to advise the state's compliance with and participation in the Compact through a state council or similar body.<sup>17</sup> Membership of the state council must include the state superintendent of education, a superintendent of a school district with a high concentration of military children, a representative from a military installation, and one representative each from the legislative and executive branches of government.<sup>18</sup>

In Florida, the State Council on Interstate Educational Opportunity for Military Children, provides advice and recommendations regarding Florida's participation in and compliance with the Compact.<sup>19</sup> The council comprises seven members, including the Compact Commissioner and Military Family Liaison, who are ex officio nonvoting members appointed by the Governor.<sup>20</sup> The five voting members include:

- The Commissioner of Education or his or her designee;
- Two members appointed by the Commissioner of Education, including a representative of a military installation located in Florida and a representative from the executive branch who possess experience in assisting military families in obtaining educational services for their children;

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<sup>9</sup> Article IX, s. B. of the Compact, s. 1000.36, F.S.

<sup>10</sup> Article IX, s. D. of the Compact, s. 1000.36, F.S.

<sup>11</sup> Article X, s. B. and XVIII, s. B. of the Compact, s. 1000.36, F.S.

<sup>12</sup> Article XII of the Compact, s. 1000.36, F.S.

<sup>13</sup> See, e.g., ch. 2019-7, s. 1, Laws of Fla.; *codified at* s. 1000.40, F.S.

<sup>14</sup> Art. II, s. 3, Fla. Const., requires a strict separation of powers between the executive, legislative, and judicial branches of state government. Courts construing this provision have held that the Legislature, when delegating the administration of legislative programs to executive agencies or other entities, must establish minimal standards and guidelines ascertainable by reference to the legislation creating the program. See *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).

<sup>15</sup> See Military Interstate Children's Compact Commission, *Interstate Compact on Educational Opportunity for Military Children: Compact Rules* (2021), at 2, available at [https://mic3.net/wp-content/uploads/2021/05/Rules-Book-Edits-20190905\\_HYPERLINK.pdf](https://mic3.net/wp-content/uploads/2021/05/Rules-Book-Edits-20190905_HYPERLINK.pdf).

<sup>16</sup> Section 1000.40, F.S.

<sup>17</sup> 32 CFR s. 89.3

<sup>18</sup> *Id.*

<sup>19</sup> Section 1000.39, F.S.

<sup>20</sup> See ss. 1000.38 and 1000.39(3)(e), F.S.

- The superintendent for the school district with the highest percentage per capita of military children during the previous school year or his or her designee; and
- One member jointly appointed by the Speaker of the House of Representatives and the President of the Senate.<sup>21</sup>

Each member state under the Interstate Compact on Educational Opportunity for Military Children owes the Commission an annual fee. Dues are calculated using the number of children, ages 5-18, of active service members multiplied by the rate of \$1.15. The total number of children of active duty personnel in Florida for fiscal year 2019-20 was 39,293, resulting in dues owed of \$45,187. The number of children of active service members may fluctuate each year, changing the amount of dues owed to the Commission.<sup>22</sup>

### **Effect of Proposed Changes**

The bill extends the Compact's automatic repeal date from July 1, 2022, to July 1, 2025.

The bill increases the number of members on the council from seven to eight by requiring the Speaker of the House of Representatives and the President of the Senate to appoint one member each to the council, rather than jointly appointing one member.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 1000.39, F.S., requiring the President of the Senate and the Speaker of the House of Representatives to each appoint one member to the State Council on Interstate Educational Opportunity for Military Children, rather than appoint one member jointly;

Section 2. Amends s. 1000.40, F.S.; extending the repeal of the compact and related provision.

Section 3. Provides the bill takes effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

The 2021 General Appropriations Act provided \$45,187 in recurring funds to the Florida Department of Education to pay the state's annual dues to the Commission.<sup>23</sup>

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

<sup>21</sup> *Id.*

<sup>22</sup> Department of Education, *2022 Agency Legislative Analysis, House Bill 153*, available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=32974> (last visited on December 15, 2021) and on file with the Local Administration and Veterans Affairs Subcommittee.

<sup>23</sup> Specific Appropriation 133, ch. 2021-36, s. 2, Laws of Fla.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 1, 2021, the Early Learning & Elementary Education Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment increases the total membership of the State Council on Interstate Educational Opportunity for Military Children from seven to eight by requiring the Speaker of the House of Representatives and the President of Senate to appoint one member each, rather than jointly appointing one member.

This analysis is drafted to the bill as amended by the Early Learning & Elementary Education Subcommittee.