

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Smith offered the following:

Amendment (with title amendment)

Remove lines 292-694 and insert:

(b) This compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.

(2)(a) Each member state shall have and be limited to one delegate to the commission, who shall be given the title of commissioner.

(b) The commissioner shall be the primary administrative officer of the state licensing authority or their designee.

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12 (c) Any commissioner may be removed or suspended from
13 office as provided by the law of the state from which the
14 commissioner is appointed.

15 (d) The member state shall fill any vacancy occurring in
16 the commission within 90 days.

17 (e) Each commissioner shall be entitled to one vote about
18 the adoption of rules and creation of bylaws and shall otherwise
19 have an opportunity to participate in the business and affairs
20 of the commission. A commissioner shall vote in person or by
21 such other means as provided in the bylaws. The bylaws may
22 provide for commissioners' participation in meetings by
23 telephone or other means of communication.

24 (f) The commission shall meet at least once during each
25 calendar year. Additional meetings shall be held as set forth in
26 the bylaws.

27 (g) The commission shall establish by rule a term of
28 office for commissioners.

29 (3) The commission shall have the following powers and
30 duties:

31 (a) Establish a code of ethics for the commission.

32 (b) Establish a fiscal year of the commission.

33 (c) Establish bylaws for the commission.

34 (d) Maintain its financial records in accordance with the
35 bylaws of the commission.

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36 (e) Meet and take such actions as are consistent with the
37 provisions of this compact, the bylaws, and rules of the
38 commission.

39 (f) Adopt uniform rules to implement and administer this
40 compact. The rules shall have the force and effect of law and
41 shall be binding in all member states. In the event the
42 commission exercises its rulemaking authority in a manner that
43 is beyond the scope of the purposes of this compact, or the
44 powers granted hereunder, then such an action by the commission
45 shall be invalid and have no force and effect of law.

46 (g) Bring and prosecute legal proceedings or actions in
47 the name of the commission, provided that the standing of any
48 member state licensing authority to sue or be sued under
49 applicable law shall not be affected.

50 (h) Purchase and maintain insurance and bonds.

51 (i) Borrow, accept, or contract for services of personnel,
52 including, but not limited to, employees of a member state or an
53 associated nongovernmental organization that is open to
54 membership by all states.

55 (j) Hire employees, elect or appoint officers, fix
56 compensation, define duties, grant such individuals appropriate
57 authority to carry out the purposes of this compact, and
58 establish the commission's personnel policies and programs
59 relating to conflicts of interest, qualifications of personnel,
60 and other related personnel matters.

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61 (k) Lease, purchase, accept appropriate gifts or donations
62 of, or otherwise own, hold, improve, or use, any property, real,
63 personal or mixed, provided that at all times the commission
64 shall avoid any appearance of impropriety.

65 (l) Sell, convey, mortgage, pledge, lease, exchange,
66 abandon, or otherwise dispose of any property real, personal or
67 mixed.

68 (m) Establish a budget and make expenditures.

69 (n) Borrow money.

70 (o) Appoint committees, including standing committees
71 composed of members and such other interested persons as may be
72 designated in this interstate compact, rules, or bylaws.

73 (p) Provide and receive information from, and cooperate
74 with law enforcement agencies.

75 (q) Establish and elect an executive committee.

76 (r) Establish and develop a charter for an executive
77 information governance committee to advise on facilitating the
78 exchange of information, the use of information, data privacy,
79 and technical support needs and provide reports as needed.

80 (s) Perform such other functions as may be necessary or
81 appropriate to achieve the purposes of this compact consistent
82 with the state regulation of teacher licensure.

83 (t) Determine whether a state's adopted language is
84 materially different from the model compact language such that
85 the state would not qualify for participation in the compact.

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86 (4) (a) The executive committee shall have the power to act
87 on behalf of the commission according to the terms of this
88 compact.

89 (b) The executive committee shall be composed of eight
90 voting members as follows:

91 1. The chair of the commission.

92 2. The vicechair of the commission.

93 3. The treasurer of the commission.

94 4. Five members who are elected by the commission from the
95 current membership as follows:

96 a. Four voting members representing geographic regions in
97 accordance with commission rules.

98 b. One at large voting member in accordance with
99 commission rules.

100 (c) The commission may add or remove members of the
101 executive committee as provided in commission rules.

102 (d) The executive committee shall meet at least once
103 annually.

104 (e) The executive committee shall have the following
105 duties and responsibilities:

106 1. Recommend to the entire commission changes to the rules
107 or bylaws, changes to the compact legislation, fees paid by
108 interstate compact member states such as annual dues and any
109 compact fee charged by the member states on behalf of the
110 commission.

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111 2. Ensure commission administration services are
112 appropriately provided, contractual or otherwise.

113 3. Prepare and recommend the budget.

114 4. Maintain financial records on behalf of the commission.

115 5. Monitor compliance of member states and provide reports
116 to the commission.

117 6. Perform other duties as provided in the rules or
118 bylaws.

119 (5) (a) All meeting of the commission shall be open to the
120 public and public notice of meetings shall be given in
121 accordance with commission bylaws.

122 (b) The commission shall keep minutes of commission
123 meetings and shall provide a full and accurate summary of
124 actions take, and the reasons thereof, including a description
125 of the views expressed. All documents considered in connection
126 with an action shall be identified in such minutes.

127 (6) (a) The commission shall pay, or provide for the
128 payment of, the reasonable expenses of its establishment,
129 organization, and ongoing activities.

130 (b) The commission may accept all appropriate donations
131 and grants of money, equipment, supplies, materials, and
132 services, and receive, utilize, and dispose of the same,
133 provided that at all times the commission shall avoid any
134 appearance of impropriety or conflicts of interest.

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135 (c) The commission may levy on and collect an annual
136 assessment from each member state or impose fees on other
137 parties to cover the cost of the operations and activities of
138 the commission, in accordance with the rules of the commission.

139 (d) The commission shall not incur obligations of any kind
140 prior to securing the funds adequate to meet the same; nor shall
141 the commission pledge the credit of any of the member states,
142 except by and with the authority of the member state.

143 (e) The commission shall keep accurate accounts of all
144 receipts and disbursements. The receipts and disbursements of
145 the commission shall be subject to all accounting procedures
146 established under the commission bylaws. All receipts and
147 disbursements of funds of the commission shall be reviewed
148 annually in accordance with commission bylaws and a report of
149 the review shall be included in and become part of the annual
150 report of the commission.

151 (7)(a) The members, officers, executive director,
152 employees, and representatives of the commission shall be immune
153 from suit and liability, either personally or in their official
154 capacity, for any claim for damage to or loss of property or
155 personal injury or other civil liability caused by or arising
156 out of any actual or alleged act, error, or omission that
157 occurred or that the person against whom the claim is made had a
158 reasonable basis for believing occurred within the scope of
159 commission employment, duties, or responsibilities. Nothing in

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160 this paragraph shall be construed to protect any such person
161 from suit or liability for any damage, loss, injury, or
162 liability caused by the intentional, willful, or wanton
163 misconduct of that person.

164 (b) The commission shall defend any member, officer,
165 executive director, employee, or representative of the
166 commission in any civil action seeking to impose liability
167 arising out of any actual or alleged act, error, or omission
168 that occurred within the scope of commission employment, duties,
169 or responsibilities or that the person against whom the claim is
170 made had a reasonable basis for believing occurred within the
171 scope of commission employment, duties, or responsibilities.
172 Nothing in this paragraph shall be construed to prohibit that
173 person from retaining his or her own counsel and provide further
174 that the actual or alleged act, error, or omission did not
175 result from the person's intentional, willful, or wanton
176 misconduct.

177 (c) The commission shall indemnify and hold harmless any
178 member, officer, executive director, employee, or representative
179 of the commission for the amount of any settlement or judgement
180 obtained against that person arising out of any actual or
181 alleged act, error, or omission that occurred within the scope
182 of commission employment, duties, or responsibilities, or that
183 such person had a reasonable basis for believing occurred within
184 the scope of commission employment, duties, or responsibilities,

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185 provided the actual or alleged act, error, or omission did not
186 result from the intentional, willful, or wanton misconduct of
187 that person.

188
189 ARTICLE VIII

190 RULEMAKING

191
192 (1) The commission shall exercise its rulemaking powers
193 pursuant to the criteria set forth in this compact and the rules
194 adopted thereunder. Rules and amendments shall become binding as
195 of the date specified in each rule or amendment.

196 (2) The commission shall adopt reasonable rules to achieve
197 the intent and purpose of this compact. In the event the
198 commission exercises its rulemaking authority in a manner that
199 is beyond the purpose and intent of this compact, or the powers
200 granted hereunder, then such action by the commission shall be
201 invalid and have no force and effect of law in the member
202 states.

203 (3) If a majority of the legislatures of the member states
204 rejects a rule, by enactment of a statute or resolution in the
205 same manner used to adopt this compact within 4 years of the
206 date of the adoption of the rule, then such rule shall have no
207 further force and effect in any member state.

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208 (4) Rules or amendments to the rules shall be adopted or
209 ratified at a regular or special meeting of the commission in
210 accordance with the commission's rules and bylaws.

211 (5) Upon a determination that an emergency exists, the
212 commission may consider and adopt an emergency rule with 48
213 hours' notice, with opportunity for comment, provided the usual
214 rulemaking procedures shall be retroactively applied to the rule
215 as soon as reasonably possible, in no even later than 90 days
216 after the effective date of the rule. For the purposes of this
217 subsection, an emergency rule is one that must be adopted
218 immediately to:

219 (a) Meet an imminent threat to the public health, safety,
220 or welfare;

221 (b) Prevent a loss of commission or member state funds;

222 (c) Meet a deadline for the adoption of an administrative
223 rule that is established by federal law or rule; or

224 (d) Protect the public health or safety.

225
226 ARTICLE IX

227 FACILITATING THE EXCHANGE OF INFORMATION

228
229 (1) The commission shall provide for facilitating the
230 exchange of information to administer and implement the
231 provisions of this compact in accordance with the rules of the

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232 commission, consistent with generally accepted data protection
233 principles.

234 (2) Nothing in this compact shall be deemed or construed
235 to alter, limit, or inhibit the power of a member state to
236 control and maintain ownership of its licensee information or
237 alter, limit, or inhibit the laws or regulations governing
238 licensee information in member states.

239
240 ARTICLE X

241 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

242
243 (1)(a) The executive and judicial branches of state
244 government in each member state shall enforce this compact and
245 take all actions necessary and appropriate to effectuate this
246 compact's purpose and intent. The provisions of this compact
247 shall have standing as statutory law.

248 (b) Venue is proper and judicial proceedings by or against
249 the commission shall be brought solely and exclusively in a
250 court of competent jurisdiction where the principal office of
251 the commission is located. The commission may waive venue and
252 jurisdictional defenses to the extent it adopts or consents to
253 participate in alternative dispute resolution proceedings.
254 Nothing herein shall affect or limit the selection or propriety
255 of venue in any action against a licensee for professional
256 malpractice, misconduct, or any such similar matter.

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257 (c) All courts and all administrative agencies shall take
258 judicial notice of this compact, the rules of the commission,
259 and any information provided to a member state pursuant thereto
260 in any judicial or quasi-judicial proceeding in a member state
261 pertaining to the subject matter of this compact, or which may
262 affect the powers, responsibilities, or actions of the
263 commission.

264 (d) The commission shall be entitled to receive service of
265 process in any proceeding regarding the enforcement or
266 interpretation of this compact and shall have standing to
267 intervene in such a proceeding for all purposes. Failure to
268 provide the commission service of process shall render a
269 judgement or order void as to the commission, this compact, or
270 adopted rules.

271 (2) (a) If the commission determines that a member state
272 has defaulted in the performance of its obligations or
273 responsibilities under this compact or the adopted rules, the
274 commission shall:

275 1. Provide written notice to the defaulting state and
276 other member states of the nature of the default, the proposed
277 means of curing the default, and any other action to be taken by
278 the commission; and

279 2. Provide remedial training and specific technical
280 assistance regarding the default.

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281 (b) If a state in default fails to cure the default, the
282 defaulting state may be terminated from this compact upon an
283 affirmative vote of a majority of the commissioners of the
284 member states, and all rights, privileges, and benefits
285 conferred on that state by this compact may be terminated on the
286 effective date of termination. A cure of the default does not
287 relieve the offending state of obligations or liabilities
288 incurred during the period of default.

289 (c) Termination of membership in the compact shall be
290 imposed only after all other means of securing compliance have
291 been exhausted. Notice of intent to suspend or terminate shall
292 be given by the commission to the Governor, the Majority and
293 Minority Leaders of the State Legislature, and the state
294 licensing authority of the of the defaulting state and to each
295 of the member states.

296 (d) A state that has been terminated is responsible for
297 all assessments, obligations, and liabilities incurred through
298 the effective date of termination, including obligations that
299 extend beyond the effective date of termination.

300 (e) The commission shall not bear any costs related to a
301 state that is found to be in default or that has been terminated
302 from this compact unless agreed upon in writing between the
303 commission and the defaulting state.

304 (f) This compact does not waive sovereign immunity except
305 to the extent sovereign immunity is waived in the party states.

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306 (g) The defaulting state may appeal the action of the
307 commission by petitioning the United States District Court for
308 the District of Columbia or the federal district where the
309 commission has its principal offices. The prevailing party shall
310 be awarded all costs of such litigation, including reasonable
311 attorney fees.

312 (h)1. Upon the request of a member state, the commission
313 shall attempt to resolve disputes related to this compact that
314 arise among member states and between member and nonmember
315 states.

316 2. The commission shall adopt a rule providing for both
317 binding and nonbinding alternative dispute resolution for
318 disputes as appropriate.

319 (i)1. The commission, in the reasonable exercise of its
320 discretion, shall enforce the provisions and rules of this
321 compact.

322 2. By a majority vote, the commission may initiate legal
323 action in the United States District Court for the District of
324 Columbia or the federal district where the commission has its
325 principal offices against a member state in default to enforce
326 compliance with the provisions of this compact and its adopted
327 rules and bylaws. The relief sought may include both injunctive
328 relief and damages. In the event judicial enforcement is
329 necessary, the prevailing party shall be awarded all costs of
330 such litigation, including reasonable attorney fees. The

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331 remedies herein shall not be the exclusive remedies of the
332 commission. The commission may pursue any other remedies
333 available under federal or state law.

334
335 ARTICLE XI

336 EFFECTUATION, WITHDRAWAL, AND AMENDMENT

337
338 (1) This compact shall come into effect on the date on
339 which the compact statute is enacted into law in the tenth
340 member state.

341 (a) On or after the effective date of this compact, the
342 commission shall convene and review the enactment of each of the
343 charter member states to determine if the statute enacted by
344 such charter member state is materially different from the model
345 compact statute.

346 (b) A charter member state whose enactment is found to be
347 materially different from the model compact statute shall be
348 entitled to the default process set forth in Article X.

349 (c) Member states enacting the compact subsequent to the
350 charter member states shall be subject to the process set forth
351 in Article VII(X) (a) to determine if their enactments are
352 materially different from the model compact statute and whether
353 they qualify for participation in the compact.

354 (2) If any member state is later found to be in default,
355 or is terminated or withdraws from the compact, the commissioner

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356 shall remain in existence and the compact shall remain in effect
357 even if the number of member states should be less than 10.

358 (3) Any state that joins this compact after the
359 commission's initial adoption of the rules and bylaws shall be
360 subject to the rules and bylaws as they exist on the date on
361 which this compact becomes law in that state. Any rule that has
362 been previously adopted by the commission shall have the full
363 force and effect of law on the day this compact becomes law in
364 that state, as the rules and bylaws may be amended as provided
365 in this compact.

366 (4) Any member state may withdraw from this compact by
367 enacting a statute repealing the same.

368 (a) A member state's withdrawal shall not take effect
369 until 6 months after the enactment of the repealing statute.

370 (b) Withdrawal shall not affect the continuing requirement
371 of the withdrawing state's licensing authority to comply with
372 the investigative and adverse action reporting requirements of
373 this act prior to the effective date of the withdrawal.

374 (5) This compact may be amended by member states. No
375 amendments to this compact shall become effective and binding
376 upon any member state until it is enacted into the laws of all
377 member states.

378
379 ARTICLE XII

380 CONSTRUCTION AND SEVERABILITY

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381
382 This compact shall be liberally construed to effectuate the
383 purpose thereof. The provisions of this compact shall be
384 severable and if any phrase, clause, sentence, or provision of
385 this compact is declared to be contrary to the Constitution of
386 any member state or a state seeking membership in this compact
387 or the United States Constitution or the applicability thereof
388 to any other government, agency, person, or circumstance is held
389 invalid, the validity of the remainder of this compact and the
390 applicability thereof to any government, agency, person, or
391 circumstance shall not be effected. If this compact shall be
392 held contrary to the Constitution of any member state, this
393 compact shall remain in full force and effect as to the
394 remaining member states and in full force and effect as to the
395 member state affected as to all severable matters.

396
397 ARTICLE XIII

398 CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

399
400 (1) Nothing herein shall prevent or inhibit the
401 enforcement of any other law of a member state that is not
402 inconsistent with this compact.

403 (2) Any laws, statutes, regulations, or other legal
404 requirements in a member state in conflict with this compact are
405 superseded to the extent of the conflict.

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406 (3) All permissible agreements between the commission and
407 the member states are binding in accordance with their terms.

408 Section 2. Paragraph (i) is added to subsection (10) of
409 section 768.28, Florida Statutes, to read:

410 768.28 Waiver of sovereign immunity in tort actions;
411 recovery limits; civil liability for damages caused during a
412 riot; limitation on attorney fees; statute of limitations;
413 exclusions; indemnification; risk management programs.—

414 (10)

415 (i) For purposes of this section, the individual appointed
416 as the state's commissioner on the Interstate Teacher Mobility
417 Compact Commission under s. 1012.993, when serving in that
418 capacity pursuant to s. 1012.993, and any administrator,
419 officer, executive director, employee, or representative of the
420 Interstate Teacher Mobility Compact Commission, when acting
421 within the scope of his or her employment, duties, or
422 responsibilities in this state, is considered an agent of the
423 state. The commission shall pay any claims or judgments pursuant
424 to this section and may maintain insurance coverage to pay any
425 such claims or judgments.

426

427 -----

428 **T I T L E A M E N D M E N T**

429 Remove line 71 and insert:

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430 | that certain agreements are binding; amending s.
431 | 768.28, F.S.; providing that certain individuals
432 | relating to the Interstate Teacher Mobility Compact
433 | Commission are considered agents of the state under
434 | certain circumstances; requiring the commission to pay
435 | specified claims and judgments; authorizing the
436 | commission to maintain certain insurance coverage;
437 | amending s.

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