

HOUSE BILL REPORT

SSB 6426

As Passed House - Amended:

March 7, 2008

Title: An act relating to an interstate compact on educational opportunity for military children.

Brief Description: Enacting the Interstate Compact on Educational Opportunity for Military Children.

Sponsors: By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, Shin, Swecker, Rasmussen, Fairley, Berkey, Rockefeller, Eide, Schoesler, Fraser, Kauffman, Kohl-Welles and McAuliffe).

Brief History:

Committee Activity:

Education: 2/26/08, 2/28/08 [DPA].

Floor Activity:

Passed House - Amended: 3/7/08, 93-1.

Brief Summary of Substitute Bill (As Amended by House)

- Establishes a task force to review the Interstate Compact on Educational Opportunity for Military Children and report recommendations to the Legislature by December 1, 2008.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 7 members: Representatives Quall, Chair; Barlow, Vice Chair; Anderson, Assistant Ranking Minority Member; Haigh, Lias, Santos and Sullivan.

Minority Report: Do not pass. Signed by 2 members: Representatives Priest, Ranking Minority Member; Roach.

Staff: Cece Clynch (786-7195).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Compacts in General. Interstate compacts are contracts between two or more states creating agreements on how to address particular policy issues, setting standards, or establishing cooperation on regional or national matters. Washington is a party to several interstate compacts. Most of these address corrections issues, such as offender supervision and treatment of juveniles, and natural resource issues, such as the Columbia Gorge, Pacific Fisheries, and radioactive waste disposal.

Washington has been a party to at least one education compact. Adopted in 1969, the Interstate Agreement on Qualifications of Educational Personnel is codified in RCW 28A.690. Unlike some other compacts, however, the agreement found in RCW 28A.690 is framed in discretionary rather than mandatory terms and anticipates contract negotiation between the states. The agreement provides that the Superintendent of Public Instruction "may" make one or more contracts with other states providing for the acceptance of educational personnel and then only with the approval of the specific text of the contract by the Professional Educator Standards Board (PESB).

How compacts come to be varies. In some cases, interested states send delegates to a work group to develop the compact terms. This might be done at the agency level or at the legislative level. For example, HB 1038 (2007) established a task force with legislators and Governor-appointed members to negotiate a compact on electrical transmission corridors.

The Interstate Compact on Educational Opportunity for Military Children. The Military Children Compact (the Compact) was developed by a group that included representatives from the U.S. Department of Defense, the U.S. Department of Education, national education associations, and some states. Washington was not a participant in developing or drafting the Compact.

Washington is one of 16 states in which a measure has been introduced to adopt the Compact. No states have adopted it as of this date.

The purpose of the Compact is to remove barriers to educational success faced by children of military families because of frequent moves and deployment of their parents. It includes specific provisions with respect to four broad areas:

- *Educational Records and Enrollment.* A time line of 10 days is established for the sending state to furnish official records to the receiving state. With respect to immunizations, the receiving state must allow 30 days from the date of enrollment for students to obtain any required immunizations or, for a series of immunizations, to obtain the initial vaccination. Students shall be allowed to continue enrollment at the grade level they were in before the move.
- *Placement and Attendance.* Students, at least initially, are to be placed in courses and programs, such as gifted and special education programs commensurate with where they were placed before the move. Schools must conduct immediate and follow-up evaluations to ensure appropriate placement in the best interest of the child's educational advancement. The Compact also calls for excused absences related to deployment situations.

- *Eligibility and Residency.* Standards are specified for addressing custody situations experienced by military children.
- *Graduation.* The Compact requires schools to waive specified course requirements if students have completed similar course work. If the move occurs during the senior year of high school, and the student is ineligible for graduation in the receiving state, then the sending state is to be looked to for the diploma. If the sending state is not a member of the Compact, then the receiving state shall use best efforts to facilitate an on-time graduation.

By its terms, the Compact becomes effective and binding upon legislative enactment by no less than 10 states. The effective date may be no earlier than December 1, 2008. The Interstate Commission created by the Compact may propose amendments to the compact. No amendment is effective until enacted into law by the unanimous consent of all member states.

Once it becomes effective, an Interstate Commission (Commission) is created and the Governor of each member state appoints a single person to sit on the Commission. The powers of this Commission include adoption of rules, establishment of an administrative office, receipt and expenditure of funds, compliance enforcement, and dissemination of information. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Commission, which shall adopt a rule binding upon all members.

The Compact includes provisions for filing for judicial review of rules adopted by the Commission. A challenged rule remains in effect during the judicial review process unless the court finds that the petitioner has a substantial likelihood of success. A majority of the Legislatures of the compacting states may reject a rule by enactment of a statute or resolution, but this must be done in the same manner as was used by that state to adopt the Compact in the first place.

The Commission must adopt rules providing for both mediation and binding arbitration of disputes and must attempt to resolve disputes that may arise between member states. The Commission may initiate legal action in the U.S. District Court for the District of Columbia against a member state to enforce compliance. The relief may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded costs and reasonable attorneys' fees.

A member state may withdraw from the Compact by means of a statute repealing the Compact, however, withdrawal does not take effect until one year after the effective date of the statute and written notice by the Governor to each other member state. Dissolution of the entire Compact occurs upon the date of withdrawal of the member state that reduces the membership to just one state.

All member states' laws which conflict with the Compact are superseded to the extent of the Compact.

Summary of Amended Bill:

A task force is established to study the compact and report back to the Legislature by December 1, 2008, with recommendations. The Office of the Superintendent of Public Instruction (OSPI) shall convene the task force. Members of the task force include four legislators, the Attorney General or his designee, a representative from the U.S. Department of Defense, the Superintendent of Public Instruction or her designee, a superintendent from a school district with a high concentration of military children, a representative from each Educational Service District, and a representative from the State Board of Education. The OSPI must provide staff support for the task force, except for the legislative members who will receive staff support from education committee staff from Senate Committee Services and House Office of Program Research.

The task force is specifically charged with reviewing and reporting back regarding the following:

- which components of the Compact are currently being substantially implemented in Washington and which are not;
- the implications of, and the interplay between, the Compact and applicable federal education law;
- the implications of, and the interplay between, the Compact and applicable state education law; and
- the legal obligations that the Compact would impose on the state if it were to be adopted.

The task force shall also address any provisions within the Compact that raise concerns and make recommendations on how to address those issues of concern.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) For children of military personnel, the transition from one state's schools to another's can be very difficult. A student moving to Washington in his or her senior year, who has already taken another state's history course for purposes of graduation, should not have to take Washington's history requirement in order to graduate. Military personnel serving overseas should not have to worry about their children's school transitions, but should be able to concentrate on their jobs. Washington has adopted other compacts before, including the compact having to do with adult offender supervision. This Compact deals in a general manner with issues that repeatedly arise with transitions from one state's schools to another's, such as issues related to transcripts and on-time graduation. The Compact provides a floor rather than a ceiling. The majority of the nation's military personnel are based in 10 states.

At this point, the Compact has been introduced in 17 state Legislatures. It has not yet been enacted in any states but, to date, one chamber in five or six states have passed it. Even if 10 states enact the Compact soon, it will be two years before the Interstate Commission meets to write the rules. It would be in Washington's best interest to help write these rules. The rulemaking will be done in accord with the Administrative Procedure Act (APA) which allows opportunity to comment. If a state disagrees with rules which are adopted, a state could opt out according to the Compact terms for withdrawal, which takes one year. There are also provisions in the Compact which would allow a veto by a majority of the state members, as well as a court challenge by one or more states. While the Department of Defense is participating in this effort, there has not been a commitment of federal resources which would follow these children and assist states and schools with meeting the requirements of the Compact. With its large number of military families, Washington should be the first state to adopt this Compact. This would facilitate the transition issues currently faced, such as a four year-old kindergartner from another state who is too young for Kindergarten in Washington, or a 91 percent "A" grade from another state which translates to a "B" grade when the child moves to this state and consequently impacts the child's chances of being accepted to the college of choice. One in every 13 Fort Lewis families has a special needs child and it can sometimes take up to two weeks until these children can be evaluated and placed in school and, meanwhile, the child is at home just waiting. In Pierce, King, and Thurston counties, there are 16,000 military children and 20,000 National Guard children. This Compact should be adopted as soon as possible and not be subject to a prolonged study.

(Neutral) The Compact poses several big questions for this state with respect to current Washington law. Time should be taken to study the Compact, understand how its provisions differ from current Washington law, and know what is expected of the state and its schools. Since, by its terms, the earliest that the Compact could take effect is December of 2008, having a task force study the Compact and report back to the Legislature will not pose much, if any, delay.

(Opposed) None.

Persons Testifying: Senator Hobbs, prime sponsor; Mark San Souci, Defense State Liaison Office; Rick Masters, Council of State Governments; Todd Goldsmith, McChord Air Force Base; and Norma Melo.

(Neutral) Isabel Munoz-Colon, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.