

A motion by Michigan to amend the Agreement by inserting certain voting obligations on member states, and by requiring the governing board to adopt a rule defining substantial compliance and describing the rule's application:

Section 804: REQUIREMENTS FOR MEMBERSHIP APPROVAL

The governing board shall determine if a petitioning state is in compliance with the Agreement. A three-fourths vote of the entire governing board is required to approve a state's petition for membership. Each member state shall cast either an affirmative or negative vote on the question of approving a state's petition for membership. The governing board shall provide public notice and opportunity for comment prior to voting on a state's petition for membership. A state's membership is effective on the proposed date of entry in its petition for membership or the first day of the calendar quarter after its petition is approved by the governing board, whichever is later, and is at least sixty days after its petition is approved.

Section 805: COMPLIANCE

- A.** A state is in compliance with the Agreement if the effect of the state's laws, rules regulations, and policies is substantially compliant with each of the requirements set forth in the Agreement. The governing board shall adopt a rule defining "substantially compliant". The rule shall also express the compliance requirement imposed on member states for each provision of the Agreement.
- B.** A member state that fails to cast either an affirmative or negative vote in at least 80% of the votes called for during a meeting of the governing board under the provisions of Sections 804, 806, 809, 901 and 902 shall be deemed not in substantial compliance with the Agreement and subject to sanctions as deemed appropriate by the governing board. Being out of compliance due to failure to satisfy the voting requirement of this section shall not be cured by satisfactory participation at a subsequent meeting(s).

Section 806: AGREEMENT ADMINISTRATION

Authority to administer the Agreement shall rest with the governing board comprised of representatives of each member state. Each member state may appoint up to four representatives to the governing board. The representatives shall be members of the executive or legislative branches of the state or of a local government of that state. Each member state shall be entitled to one vote on the governing board. Except as otherwise provided in the Agreement, all actions taken by the governing board shall require an affirmative vote of a majority of the governing board present and voting. The governing board shall determine its meeting schedule, but shall meet at least once annually. The governing board shall provide a public comment period at each meeting to provide members of the public an opportunity to address the board on matters relevant to the administration or operation of the Agreement. The governing board shall provide public notice of its meetings at least thirty days in advance of such meetings. The governing board shall promulgate rules establishing the public notice requirements for holding emergency meetings on less than thirty day's notice. The governing board may meet electronically.

The governing board is responsible for the administration and operation of the Agreement, including the appointment of all manner of committees. The governing board may employ staff, advisors, consultants or agents. The governing board may issue interpretive opinions and promulgate such rules it deems necessary to carry out its responsibilities. Rules may take one of two forms: procedural rules, which shall require an affirmative vote of a majority of the governing board present and voting to adopt; and interpretive rules which shall require an affirmative vote of three-fourths of the entire governing board to adopt. Each member state shall cast either an affirmative or negative vote on a motion to adopt or approve an interpretive rule. The governing board may take any action that is necessary and proper to fulfill the purposes of the Agreement. The governing board may allocate the cost of administration of the Agreement among the member states.

The governing board may assign committees certain duties, including, but not limited to:

- A. Responding to questions regarding the administration of the Agreement;
- B. Preparing certification requirements and coordinating the certification process for CSPs;
- C. Coordinating joint audits;
- D. Issuing requests for proposals;
- E. Coordinating contracts with member states and providers; and
- F. Maintaining records for the governing board.

Section 809: SANCTION OF MEMBER STATES

A. If a member state is found to ~~not be in~~ out of substantial compliance with the Agreement, the governing board may consider sanctions against the state. The sanctions that the governing board may impose include expulsion from the Agreement, or other penalties as determined by the governing board. The adoption of a resolution to sanction a member state for ~~not being in substantial noncompliance~~ compliance with the Agreement shall require the affirmative vote of three-fourths of the entire governing board, excluding the state that is the subject of the resolution. The member state that is the subject of the resolution shall not vote on such resolution. Each member state, excluding the member state that is the subject of the resolution, shall cast either an affirmative or negative vote on a resolution to sanction a member state for not being in substantial compliance with the Agreement. Resolutions seeking sanctions shall be acted upon by the governing board within a reasonable period of time as set forth in the governing board's rules. The governing board shall provide an opportunity for public comment prior to action on a proposed sanction.

B. No member state shall be sanctioned for failing to comply with any amendment to the Agreement adopted under section 901 of the Agreement or an interpretation or interpretative rule adopted under section 902 of the Agreement, if compliance with the amendment, interpretation or interpretive rule requires the state to make a statutory change, until the later of the first day of January at least two years after the adoption of the amendment or interpretive rule or the first day of a calendar quarter following the end of one full session of the state's legislature.

C. No member state shall be sanctioned for failing to be in compliance with any term of the Agreement that the state has adopted, in substantially identical form, in its statutes if its noncompliance is a result of a judicial ruling in that state that interprets that term of

the Agreement in a manner inconsistent with an interpretation by, or interpretative rule of, the governing board adopted under section 902 of the Agreement and the member state comes into compliance with the interpretation of the governing board by amending its statutes before the later of the first day of January at least two years after the issuance of the judicial decision or the first day of a calendar quarter following one full session of the state's legislature.

Section 901: AMENDMENTS TO AGREEMENT

Amendments to the Agreement may be brought before the governing board by any member state. The Agreement may be amended by a three-fourths vote of the entire governing board. Each member state shall cast either an affirmative or negative vote on a proposal to amend the Agreement. The governing board shall give the Governor and presiding officer of each house of each member state notice of proposed amendments to the Agreement at least thirty days prior to consideration. The governing board shall give public notice of proposed amendments to the Agreement at least thirty days prior to consideration. The governing board shall provide an opportunity for public comment prior to action on an amendment to the Agreement.

Section 902: INTERPRETATIONS OF AGREEMENT

Matters involving interpretation of the Agreement, including all definitions in the Library of Definitions, may be brought before the governing board by any member state or by any other person. Interpretations may take the form of interpretive opinions, or interpretive rules. An interpretive opinion is issued when the requester submits specific facts and asks how certain provisions of the Agreement would apply to those facts, similar to a private letter ruling. An interpretive rule is issued to clarify language in the Agreement and applies more generally, similar to rules and regulations issued to clarify statutory language. Both forms of interpretations shall require a three-fourths vote of the entire governing board. Each member state shall cast either an affirmative or negative vote on a proposal to issue or adopt an interpretive opinion or an interpretive rule. The governing board shall publish all interpretations issued under this section. Interpretations shall be considered part of the Agreement and shall have the same effect as the Agreement. The governing board shall act on requests for interpretation of the Agreement within a reasonable period of time and under guidelines and procedures as set forth in the governing board's rules. The governing board may determine that it will not issue an interpretation. The governing board shall provide an opportunity for public comment prior to issuing an interpretation of the Agreement. The governing board shall give notice of a proposed interpretive rule to the member states and the public as provided in ~~Section~~ section 901 of the Agreement, except that the notice must be given at least thirty days prior to consideration.