

ATTORNEY GENERAL REVIEW OF INTERSTATE COMPACTS AND AGREEMENTS

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House Bill 4116

Sponsor: Rep. Paul Opsommer

Committee: Oversight, Reform, and Ethics

Complete to 10-3-11

A SUMMARY OF HOUSE BILL 4116 AS INTRODUCED 1-20-11

House Bill 4116 would require that interstate compacts and agreements be reviewed by the attorney general in order to assure their constitutionality and legality. It amends Chapter 12 of the Revised Statutes of 1846 (RS 12), which deals with the responsibilities of state officers. A more detailed description of the bill follows.

The bill would require that the attorney general review all memoranda of agreement, understanding, and record, as well as every compact, or similar binding agreement between Michigan and the federal government or another unit of government located outside of Michigan before the state executed the agreement.

Under the bill, the proposed agreement would be forwarded to the attorney general for review to determine (1) whether it was in conformity with state and federal constitutional requirements and limitations, and (2) whether the agreement was authorized by law and did not exceed the statutory authority granted to the department, agency, or officer that intended to execute the agreement.

Notices of, and the reasons for, those determinations would have to be sent by the attorney general to (1) the officer submitting the agreement, (2) the Secretary of the Senate, and (3) the Clerk of the House.

An agreement that required review could not take effect unless either of the following occurred:

- the attorney general had issued a written opinion to the referring department, agency, or officer to say that the agreement met legal and constitutional requirements, or
- 90 days had passed after the agreement was received by the attorney general for review, and the attorney general had not provided the referring department or officer with a written opinion saying the agreement was not in conformity with constitutional requirements or limitations; was not authorized by law; or that the proposed agreement exceeded the statutory authority granted to the department, agency, or officer.

The bill specifies that a department could revise and resubmit an agreement after notification that it did not meet requirements, and all resubmitted agreements would be subject to the same review process.

Finally, the bill would require the attorney general to establish and update a website, available to the public, that included each reviewed agreement (including each memorandum of agreement, memorandum of understanding, memorandum of record, compact, and similar binding agreement) between the State of Michigan and the federal government or other units of government located outside of Michigan, as well as associated information that was forwarded for review. Under the bill, that website would also be required to list each determination made by the attorney general, and the reasons for that determination.

Proposed MCL 14.32a

FISCAL IMPACT:

The bill will have a fiscal impact on the Department of Attorney General by adding to its responsibilities. The amount of the increased costs has yet to be determined.

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