

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 811 (Jones)
Version: February 17, 2023
Hearing Date: April 25, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Teacher credentialing: Interstate Teacher Mobility Compact

DIGEST

This bill enacts the Interstate Teacher Mobility Compact (ITMC), for the purpose of facilitating the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. The compact would, among other things, require member states, in their sole discretion, to make certain determinations about teacher licensure for teachers from other member states, as provided, and create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission. This compact would only become effective if the compact statute is enacted into law in ten member states, as provided.

EXECUTIVE SUMMARY

California is facing a teacher shortage, which was only exacerbated by the COVID-19 pandemic. According to the author, two-thirds of California schools have reported challenges filling vacant teaching positions, the state's eight largest school districts reported an average vacancy rate of 10% entering the 2022-23 school year, and that research from the 2020-21 school year found that 17% of K-12 classes were currently being taught by teachers who were not yet credentialed to teach that course. This bill is intended to address this issue and also ensure spouses of military personnel who are credentialed teachers in another state can easily become licensed in California when their families are required to move here. The bill, if enacted, would make California a member state of the IMTC—essentially create full reciprocity among participating member states for teacher credentialing. The provisions of the IMTC, and rules adopted pursuant to it, would have the same legal authority as statutory law.

The bill is author sponsored and supported by the San Diego Military Advisory Council and the U.S. Department of Defense. It is opposed by the California Teachers Association. The bill passed the Senate Education Committee on a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires the Commission on Teacher Credentialing (CTC) to issue a five-year preliminary teaching credential to an out-of-state prepared teacher who meets all of the following requirements:
 - a) Possesses a baccalaureate degree from a regionally accredited institution of higher education.
 - b) Has completed a teacher preparation program at a regionally accredited institution of higher education, or a state-approved teacher preparation program offered by a local educational agency.
 - c) Meets the subject matter knowledge requirements for the credential. If the subject area listed on the out-of-state credential does not correspond to a California subject area, the CTC may require the applicant to meet California subject matter requirements before issuing a clear credential.
 - d) Has earned a valid corresponding elementary, secondary, or special education teaching credential based upon the out-of-state teacher preparation program.
 - e) Has successfully completed a criminal background check for credentialing purposes. (Educ. Code § 44274.2.)

- 2) Requires the holder of a preliminary credential who is prepared out-of-state (does not get credential in California) to meet the state basic skills proficiency requirement within one year of the date the credential is issued or the credential becomes invalid. (Educ. Code § 44274.2.)

- 3) Requires the CTC to issue a clear multiple subject, single subject, or education specialist teaching credential to an applicant who satisfies the requirements above, provides verification of two or more years of teaching experience, including, but not limited to, two satisfactory performance evaluations, and documents, in a manner prescribed by the CTC, that they have met the state requirements for teaching English learners. (Educ. Code § 44274.2.)

- 4) Requires, for applicants who do not meet the experience requirement, the CTC to issue a clear multiple subject, single subject, or education specialist teaching credential upon verification of the following requirements:
 - a) The CTC has issued to the applicant a preliminary five-year teaching credential.
 - b) The applicant has completed a beginning teacher induction program.
 - c) The applicant has met the requirements for teaching English learners.
 - d) Before issuing an education specialist credential, the CTC shall verify completion of a program for the Professional Level II credential accredited by the CTC. (Educ. Code § 44274.2.)

This bill:

- 1) Enters California into the ITMC, requiring member states to grant licenses to teachers with licenses from other member states without having to meet additional requirements, except for a criminal background check.
- 2) Allows member states to require relocating teachers to meet additional requirements upon renewal of their license.
- 3) Establishes provisions for active-duty members of the military and for military spouses who have teaching licenses.
- 4) Requires member states to provide information regarding investigation and discipline of teachers to other member states, upon request.
- 5) Establishes the ITMC Commission, including membership, duties, and rulemaking authority.
- 6) Establishes oversight, dispute resolution, and enforcement responsibilities of state governments in member states.
- 7) Allows states to withdraw from the ITMC by enacting a statute repealing their participation. However, any withdrawal will not take effect until six months after enactment of the repealing statute, and withdrawal would not relieve a member state of its continuing requirement to comply with the investigative and adverse action reporting requirements of the ITMC prior to the effective date of the withdrawal.
- 8) Takes effect when enacted into law in the tenth member state.

COMMENTS

1. Stated need for the bill

The author writes:

The state of California is currently experiencing an unparalleled shortage of qualified educators, which has been further exacerbated by the ongoing Covid-19 pandemic. Presently, all out-of-state teachers seeking employment in California are required to obtain a new license, causing significant delays in the credentialing process and preventing many highly qualified individuals with equivalent out-of-state credentials from joining the state's workforce. Furthermore, some talented teachers are deterred from relocating to California due to the financial strain caused by prolonged waiting periods for licensure, which disproportionately affects

military families who frequently relocate on short notice. This issue has a detrimental impact on California's ability to attract and retain exceptional educators, ultimately harming the quality of education received by our students. Fortunately, the implementation of the ITMC is poised to expedite the credentialing process, allowing us to welcome highly qualified teachers into our classrooms more quickly than ever before.

2. Background

a. Process for credentialing teachers who were prepared out-of-state

The Senate Education Committee provides background on the current credentialing process for teachers who were prepared out-of-state:

California has a two-tier credential structure. A preliminary credential is the first document issued after an individual meets basic credential requirements. The preliminary credential is issued for a maximum of five years. A clear credential is issued when all credential requirements have been completed. If the requirements for the clear credential are not completed before the expiration of the preliminary, the holder is deemed ineligible to teach in California's public schools.

Further, current law requires that every teacher who provides instructional services to an English-learner be authorized to provide specialized instruction for those learners. This instruction would either (1) help the learners understand instruction that is taught only in English, (2) help the learners develop their ability to listen, speak, read, and write in English, (3) be provided in the learners' primary language as English is acquired, or (4) be taught in a language other than English for those learners in a dual immersion program.

For out-of-state prepared teachers, current law requires the applicant to attain a master's degree or demonstrate 150 hours of professional development to earn a Clear teaching credential, in addition to demonstrating subject matter knowledge and complete the Crosscultural, Language, and Academic Development certificate.¹

b. Interstate Compacts

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. By their nature, compacts deal with public policy matters that extend beyond the boundaries of one state. Frequently, these agreements create a new governmental agency which is responsible for administering the provisions of the compact. California is currently a member to several interstate

¹ Sen. Educ. Comm. analysis of SB 811 (2023-24 reg. session) as introduced Feb. 17, 2023 at p. 3.

compacts, such as the interstate Compact on Educational Opportunity for Military Children. (Educ. Code § 49700 et. seq.)

Interstate compacts are authorized under Article I, Section 10 of the United States Constitution, which states:

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Since compacts are considered contracts, their construction is governed by the legal principles applicable to contracts. For example, under the rule of offer and acceptance, a state must adopt the compact in precisely the terms it is being offered, subject only to nonmaterial changes or alterations. In addition, compact provisions take precedence over conflicting state laws and inconsistent provisions of existing laws of a compact state. Under the contract clause in either the federal or state constitutions, a state may not pass laws impairing existing contractual obligations. Thus, the Legislature cannot unilaterally amend or modify a compact once it is enacted into law in California. The IMTC specifically provides in Article XIII that “[a]ny laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.” Although individual states are free to adopt or decline to adopt any compact, states ratifying compacts are bound to observe the terms of the agreement until the compact is formally renounced by the state. Thus, the state would be responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

c. Recent federal legislation - Military Spouse Licensing Relief Act of 2021

In January 2023, the federal Military Spouse Licensing Relief Act of 2021 was signed into law by President Joe Biden and provides that any military spouse or service member with a professional license (except for a law license) and an ordered Permanent Change of Station can transfer their license to their gaining state. The most common licenses affected by the federal law would be health care professionals, teachers, real estate agents, social workers, massage therapists, and cosmetologists. For states that already participate in an existing licensure compact, such as the ITMC, the compact would likely supersede the new federal law.

The California Teachers Association, who is in opposition to the bill, notes that the federal law impacts all professional licensures in the state and requires California recognize such professional licenses from other jurisdictions if a spouse or service member provides the new licensing authority with a copy of their permanent change of

station orders. They further note that currently nine active occupational licensure compacts exist in the United States and California does not participate in any of them.

2) Provisions of the IMTC

a. Genesis of the IMTC

The efforts to create the IMTC were largely funded and initiated by the U.S. Department of Defense, which partners with the Council of State Governments and the National Association of State Directors of Teacher Education and Certification to develop the IMTC. Input from about a dozen education and state legislative groups was sought, including the National Education Association. In a nutshell, the IMTC would create full reciprocity among participating member states for teacher credentialing, meaning if a teacher has a bachelor’s degree, completed a state-approved program for teacher licensure, and has a full teaching license, they can receive an equivalent license from another member state without having to complete any additional requirements.

It is important to note that the ITMC as proposed by this bill is not limited to a military spouse or service member with a professional license but would apply to anyone with a teacher’s license from another member state. As of the date this analysis was written only three states – Colorado, Kentucky, and Utah – had enacted the compact. However, 15 other states have legislation currently pending to enact the IMTC: Hawaii, Washington, Oregon, Nevada, Nebraska, Kansas, Oklahoma, Louisiana, Mississippi, Alabama, Georgia, Florida, Indiana, Ohio, and New Jersey.²

b. Comparison of IMTC pathway for licensure versus existing state law pathway

The Senate Education Committee notes that the current pathway for initial licensure of teachers prepared out-of-state is very similar to the ITMC and created a chart comparing the two with areas where California has stronger requirements for initial licensure in bold.³

Initial Licensure in California		
Requirement	Current Pathway	Compact Pathway
Out-of-State Credential	<ul style="list-style-type: none"> • Professional level teaching credential comparable to a California five-year preliminary teaching credential. • Based on a teacher 	<ul style="list-style-type: none"> • Unencumbered license (a current authorization, allowing an individual to serve as a teacher, and not a restricted, probationary, provisional, substitute, or temporary

² Interstate Teacher Mobility Compact: Compact Map (2023) available at <https://teachercompact.org/compact-map/?location=KS>.

³ *Id.* at 4.

	preparation program from a regionally-accredited college or a state-approved teacher preparation program offered by an LEA.	credential). <ul style="list-style-type: none"> Based on state approved program of teacher licensure.
College Degree	<ul style="list-style-type: none"> Required; verified by submission of official transcripts to CTC. Must be a degree earned from a regionally-accredited college or university. 	<ul style="list-style-type: none"> Eligible license under compact must have required a Bachelor's degree. No verification required to be submitted to CTC.
Basic Skills Assessment	<ul style="list-style-type: none"> Not required for initial licensure; must be met after one year of issuance of initial license. 	<ul style="list-style-type: none"> No Basic Skills Requirement for initial Issuance; may be required for renewal of license.

c. Immunities from liability – Article VII(D)(8)

The compact provides that the IMTC Commission’s executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for civil claims arising out of or relating to acts, errors, or omissions that occurred within the scope of Commission employment, duties, or responsibilities; however, individuals would not be immune from liability for damages, loss, or injuries caused by intentional or willful and wanton misconduct. In other words, IMTC Commission employees would be immune from civil liability for negligent acts occurring within the scope of the Commission’s employment, they would not be immune from liability for damages, loss, or injuries caused by intentional or willful and wanton misconduct. Essentially, IMTC Commission employees would be immune from civil liability for negligent acts occurring within the scope of the Commission’s employment.

This article also provides that the Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person. The Commission would be required to defend any member, officer, executive director, employee, or representative of the Commission any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within

the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, unless those acts were the result of intentional or willful or wanton misconduct. The IMTC explicitly provides that nothing in it is to be construed to be a waiver of sovereign immunity.

d. Enforcement – Article X

Under the IMTC, the executive and judicial branches of state government in each Member State are required to enforce the Compact and take all actions necessary and appropriate to effectuate its purposes and intent. The provisions of the IMTC are to have standing as statutory law. Judicial proceedings brought against the IMTC Commission can only be brought where its principal office is located and deems venue proper in that location; however, the IMTC Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Courts and administrative agencies are required to take judicial notice of the IMTC, rules of the IMTC Commission, and any information provided to a member state in any judicial or quasi-judicial proceeding in a member state that pertains to the subject matter of the IMTC, or which may affect the powers, responsibilities, or actions of the IMTC Commission. The IMTC is entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and has standing to intervene in any such proceeding. Failure to provide the service of process renders a judgment or order void as it applies to the IMTC Commission, IMTC, or any rules promulgated thereunder.

Under the compact, the Commission is required to promulgate rules providing for both binding and non-binding alternative dispute resolution for disputes among member states and between member states and non-member states. If a member state is in default of its obligations under the IMTC, the Commission, by a majority vote, is granted the right to pursue legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against the defaulting member state to enforce compliance with the IMTC. The Commission is authorized to seek both injunctive relief and damages, including being awarded attorney's fees and all costs of the litigation.

e. Open meetings and rulemaking of IMTC Commission

Under Article VII(D)(6), meetings of the IMTC Commission are to be open to the public, and public notice of meetings is to be given in accordance with Commission bylaws. Closed meetings are authorized for specific situations, including, but not limited, to matters specifically exempted from disclosure by federal or member state statutes, current, threatened, or reasonably anticipated litigation, and disclosure of trade secrets or commercial or financial information that is privileged or confidential. A Commissioner is required to vote in person or by other means provided for in the

Commission bylaws, and allows the bylaws to provide that Commissioners' participation in meetings can be by telephone or other means of communication. Though the meetings are required to be open to the public, they do not explicitly provide for public comment.

The rulemaking provisions of the IMTC are very permissive and do not specifically require any public notice or comment period, unlike how the Administrative Procedure Act does for state agencies. The compact merely requires that rules be adopted or ratified at a regular or special meeting of the Commission in accordance with Commission Rules and bylaws. The compact does provide a mechanism for member states to reject adopted rules and provides that if a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then that rule has no further force and effect in any member state. Authority for emergency rule making is granted to the Commission. If the Commission determines that an emergency exists, it may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures must be retroactively applied to the rule as soon as reasonably possible, but in no event later than 90 days after the effective date of the emergency rule. An emergency rule is defined as one that must be adopted immediately in order to: meet an imminent threat to public health, safety, or welfare; prevent a loss of Commission or member state funds; meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or protect public health and safety.

3. Statements in support

The U.S. Department of Defense writes in support stating:

California has made incremental improvements in the recent past to assist teachers who are members of the military community to quickly obtain state certification upon arrival, to include providing initial application fee waivers and expediting the adjudication of "completed" application processing for military spouses. However, we have heard that the required submission of substantiating documents and employment verifications, evaluations and recommendations prior to application processing continues to delay licensure and employment for military spouses. To validate the lived experiences that we have heard from military spouses, a 2021 study conducted by Pennsylvania State University found that that military spouse teachers coming into California cannot begin working within the Department's baseline of thirty days of arriving due to the amount of substantiating and verifying paperwork required to be submitted prior to application processing.

Given that California hosts the highest number of military spouses in the nation and teaching has been found to be one of the most prevalent of all professions for military spouses, this policy has the potential to have a substantial, positive impact

on this population. It is important to note, however, that licensure compacts such as the ITMC benefit not only military spouses, but also apply to all eligible professionals coming into the state, to include active-duty Service members, members of the reserve components, veterans, and civilians.

After over a decade working with states to modify licensure policy to assist military members and their spouses, we have identified occupational licensure compacts such as the ITMC as the optimal mechanism for creating true reciprocity for licensed professionals moving across state lines while also providing embedded guardrails aimed at protecting public safety. In adopting the ITMC, California can increase its pool of highly qualified teachers, many of whom are members of the military community, address the documented teacher shortages being experienced within the state, and support learning for all students.

4. Statements in opposition

The California Teachers Association writes in opposition stating:

The CTA asserts there is no need for this proposal. California offers individuals who have completed a teacher preparation program and have been issued a teaching certification in another state the opportunity to apply for a California teaching certification through reciprocity agreements. California also expedites applications and the notification timeline for military spouses. The exact process for certification will differ depending on the amount of professional experience candidates have gained and the type of certification requested. Forty-five (45) states currently have reciprocity agreements with California. Even if all those states become compact members, California's existing agreements would not change. [...]

CTA believes an independent credentialing board should be an autonomous organization, and not advisory to any other body. California, along with twelve other states, has an independent or semi-independent standards board. The CCTC regulates all the education policy related to licensure, educator preparation program standards and approval, and issues discipline against professional educators' licenses. Additionally, the CCTC provides a professional voice and perspective to the establishment and maintenance of high-quality professional educator standards. All these actions are independent of any other regulatory agency.

Teacher licensing is an important public policy which should be governed at the state level.

SUPPORT

Association of California School Administrators
Military Services in California
National Associate of State Directors of Teacher Education and Certification
San Bernardino County District Advocates for Better Schools
San Diego Military Advisory Council
Silver Valley Unified School District
U.S. Department of Defense

OPPOSITION

California Teachers Association

RELATED LEGISLATION

Pending Legislation: *See* comment 2)(a) above.

Prior Legislation: AB 343 (Saldana, Ch. 237, Stats. 2009) established the Interstate Compact on Educational Opportunity for Military Children to, among other things, facilitate the enrollment, placement, advancement, and transfer of the academic records of the children of military families for the purpose of removing barriers to their educational success due to the frequent moves and deployment of their parents.

PRIOR VOTES:

Senate Education Committee (Ayes 7, Noes 0)
