

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

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March 23, 2001

1. Section 304.16 (4) leaves open the manner by which Wisconsin's compact administrator is to be appointed. See 304.16 (4). How do you want him or her to be appointed? Also, the compact does not state who will be the members of Wisconsin's state board? How many members shall be on the board. What are their terms? Generally, this type of detail is created in ch. 15. I create a 7-member board, with 4-year terms, appointed by the governor, with staggered terms. OK?

2. Under s. 304.16 (6) (d) 3., the interstate commission is required to indemnify certain individuals for liability stemming from their interstate commission employment, duties, or responsibilities, unless the liability stems from the individual's gross negligence or intentional wrongdoing. Wisconsin does not use "gross negligence." Section 304.16 (6) (d) 2. requires the commission to defend such an individual in a civil action, but the exception does not refer to cases of gross negligence. In other words, the compact requires the interstate commission to defend an individual even if the civil action alleges that the individual intentionally injured someone. In addition, the compact provides immunity to the interstate commission members, director, and employees for acts or omissions which occurred as part of their duties, except for injuries caused by intentional or willful and wanton misconduct; a different standard.

I suspect that the Council of State Governments (CSG) intended for the exception in subd. 2. to be the same as the exception in subd. 3. But given that the bill creates a compact, Wisconsin cannot unilaterally correct these inconsistencies. Other states would also need to make the same change in their bills or statutes for the correction to be effective.

3. The bill does not make an appropriation for Wisconsin's share of the interstate commission's expenses. One will ultimately be required, however, under s. 304.16 (10) (b), after implementing legislation is enacted by 35 states (at which point the compact takes effect).

4. Subsections (3) and (7) of s. 304.16 have many duplicate provisions. See subs. (3) (d) and (7) (c).

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