Interstate Compacts: Governance and Structure

Interstate compacts are not new. While the use of interstate compacts dates back to the founding of the country, the instrument has evolved considerably over the past century. Early American compacts were relatively simple agreements with little to no governance structure or administrative oversight. Modern compacts, which are frequently large-scale regional or even national agreements, often have sophisticated governing structures that have the authority to pass rules, draft bylaws, form committees and hire staff to carry out the daily operations of the compact.

Governance History

The use of interstate compacts has evolved considerably throughout the course of American history. Most of the earliest compacts were bistate agreements intended to resolve border disputes. Border compacts represent the simplest form of the mechanism, with no oversight authority or governing structure required for enforcement. In fact, all but one of the approximately 25 border compacts in existence are agreements between two states, with many of the agreements remaining unchanged since they were drafted.

As the use of compacts became more common, they grew in sophistication. In the early part of the 20th century, states began entering into what eventually would become known as advisory compacts. Border compacts represent the simplest form of the mechanism, with no oversight authority or governing structure required for enforcement. In fact, all but one of the approximately 25 border compacts in existence are agreements between two states, with many of the agreements remaining unchanged since they were drafted.

As the use of compacts became more common, they grew in sophistication. In the early part of the 20th century, states began entering into what eventually would become known as advisory compacts. These agreements between two or more states often were used to create study commissions to examine a problem and report its findings to member states. While advisory compacts represented an evolution in the use of interstate compacts, they still lacked any kind of formal governance structure or enforcement procedures.

The creation of the Port Authority of New York and New Jersey in 1922 through an interstate compact signaled a significant shift in the use and application of interstate compacts. For the first time, states began using compacts to establish regulatory agencies with the authority to act on the state’s behalf. While the formation of the Port Authority ushered in a new era, states really began using compacts as a means to resolve challenging policy questions beginning around 1955 with the creation of administrative agencies.

Administrative Compacts

Administrative compacts are the most intricate type of compact and have the most extensive governance structure. Administrative compacts typically require the creation of an interstate agency to oversee an ongoing area of interstate policy. These agencies, frequently known as commissions, often serve as quasi-governmental agencies and have the authority to pass rules, form committees, establish organizational policy, seek grants and ensure compliance with the compact. Additionally, many modern administrative compacts create a national office and hire staff to carry out the day-to-day operations of the compact.

While opponents of interstate compacts would argue these functions simply result in another level of bureaucratic red tape, administrative compacts have
the unique ability to create economies of scale, in turn saving states valuable resources during challenging fiscal times. For example, the Interstate Compact for Adult Offender Supervision, which was revised in 2004 by The Council of State Governments and the Department of Justice, is tasked with tracking the movement of adult criminal offenders and parolees across state lines. In order to streamline this process, the commission developed an online tracking system to create a more efficient monitoring process. The online monitoring system reduced what used to be a multiweek process down to a matter of minutes. With all 50 states and Washington, D.C. and Puerto Rico as members, the compact and the work of its commission have saved dollars and reduced staff time, saving states valuable resources.

Modern administrative compacts also provide states a number of additional advantages. Administrative compacts frequently have a clearly defined governance structure. This structure typically calls for the creation of a commission, which is comprised of a voting representative from each member state. In addition to forming a commission, these types of compacts traditionally allow for the creation of an executive committee, which has the authority to act on behalf of the entire commission in most instances. Administrative compacts also call for the creation of standing committees, which have the authority to address specific topics such as financing, education and outreach. This type of governance structure allows a compact to remain flexible and address specific challenges in a more efficient manner.

Administrative compacts also allow for flexibility and necessary adjustments through the promulgation of rules. While each member state of an interstate compact adopts nearly identical statutory language, the rule-making authority frequently granted to commissions in administrative compacts ensures the compact can evolve in a changing world. In the instance of the Interstate Compact for Adult Offender Supervision, the compact language called for an online tracking system, but deferred the specifics of such a system to the rule-making process. This decision ensured the state officials who would be using the system on a daily basis were directly involved with its development. It also ensures that as technology evolves, the data tracking system can evolve with it.

Additionally, administrative compacts often allow the commission to form a national office and hire staff necessary to carry achieve the compact’s mission. The Interstate Compact on Educational Opportunity for Military Children has a staff of three professionals devoted solely to the compact. Staff members plan meetings, arrange committee calls, routinely answer compact-related questions, conduct training and outreach, and generally carry out the wishes of the commission and executive committee. This arrangement provides a level of professionalism that does not exist in more basic types of interstate compacts.

This type of administrative structure represents perhaps the greatest change in the 200-plus year history of interstate compacts. The administrative compact’s governance structure has allowed compacts to evolve from relatively simple bistate agreements to sophisticated regional and national agreements capable of resolving highly complex interstate challenges.

REFERENCES
1 The Port Authority of New York and New Jersey; accessed on 4/16/14 at http://www.panynj.gov/
2 Interstate Compact for Adult Offender Supervision; accessed on 4/16/14 at http://www.interstatecompact.org/
3 The Interstate Compact on Educational Opportunity for Military Children; accessed on 4/16/14 at www.mic3.net

ADDITIONAL RESOURCES
» The National Center for Interstate Compacts – www.csg.org/ncic
» NCIC’s Compacts Database -- http://apps.csg.org/ncic/

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