

By Representative Westbrook

1                                   A bill to be entitled  
2           An act relating to water resources; creating  
3           the Apalachicola-Chattahoochee-Flint River  
4           Basin Compact; providing for enactment by  
5           certain state legislatures and the United  
6           States Congress; providing purposes; providing  
7           scope; providing parties; providing  
8           definitions; providing conditions precedent to  
9           legal viability of the compact; creating the  
10          Apalachicola-Chattahoochee-Flint River Basin  
11          Commission; providing for appointments,  
12          organization, powers, and duties; providing for  
13          development of an allocation formula for the  
14          equitable apportionment of surface waters;  
15          providing conditions relating to termination of  
16          the compact; providing for completion of  
17          certain water resource studies; providing for  
18          relationship of the compact to other laws;  
19          providing for public participation; providing  
20          for funding of the commission's operations;  
21          providing procedures for resolution of  
22          disputes; providing for enforcement actions;  
23          providing for inapplicability to other stream  
24          systems; preserving certain water-use rights  
25          within a member state; providing agreements  
26          regarding water quality; providing for effect  
27          of underuse of a state's water allocation;  
28          providing severability; providing for notice of  
29          ratifications; requiring signatures to and  
30          recording of compact; providing an effective  
31          date.

1 Be It Enacted by the Legislature of the State of Florida:

2  
3 Section 1. Short title.--This act may be cited as the  
4 "Apalachicola-Chattahoochee-Flint River Basin Compact."

5 Section 2. Apalachicola-Chattahoochee-Flint River  
6 Basin Compact.--The Apalachicola-Chattahoochee-Flint River  
7 Basin Compact is hereby enacted into law and entered into by  
8 this state and shall take effect upon enactment of concurrent  
9 legislation in substantially the following form by the  
10 legislatures of the States of Alabama and Georgia and by the  
11 Congress of the United States.

12 APALACHICOLA-CHATTAHOOCHEE-FLINT

13 RIVER BASIN COMPACT

14 ARTICLE I

15 COMPACT PURPOSES.--This compact among the States of  
16 Alabama, Florida, and Georgia and the United States has been  
17 entered into for the purposes of promoting interstate comity,  
18 removing causes of present and future controversies, equitably  
19 apportioning the surface waters of the ACF, engaging in water  
20 planning, and developing and sharing common databases.

21 ARTICLE II

22 SCOPE OF THE COMPACT.--This compact shall extend to all  
23 of the waters arising within the drainage basin of the ACF in  
24 the States of Alabama, Florida, and Georgia.

25 ARTICLE III

26 PARTIES.--The parties to this compact are the States of  
27 Alabama, Florida, and Georgia and the United States.

28 ARTICLE IV

29 DEFINITIONS.--For the purposes of this compact, the  
30 following words, phrases, and terms shall have the following  
31 meanings:

1       (a) "ACF Basin" or "ACF" means the area of natural  
2 drainage into the Apalachicola River and its tributaries, the  
3 Chattahoochee River and its tributaries, and the Flint River  
4 and its tributaries. Any reference to the rivers within this  
5 compact shall be designated using the letters "ACF" and when  
6 so referenced shall mean each of these three rivers and each  
7 of the tributaries to each such river.

8       (b) "Allocation formula" means the methodology, in  
9 whatever form, by which the ACF Basin Commission determines an  
10 equitable apportionment of surface waters within the ACF Basin  
11 among the three states. Such formula may be represented by a  
12 table, chart, mathematical calculation, or any other  
13 expression of the commission's apportionment of waters  
14 pursuant to this compact.

15       (c) "Commission" or "ACF Basin Commission" means the  
16 Apalachicola-Chattahoochee-Flint River Basin Commission  
17 created and established pursuant to this compact.

18       (d) "Groundwaters" means waters within a saturated  
19 zone or stratum beneath the surface of land, whether or not  
20 flowing through known and definite channels.

21       (e) "Person" means any individual, firm, association,  
22 organization, partnership, business, trust, corporation,  
23 public corporation, company, the United States of America, and  
24 any state, and all political subdivisions, regions, districts,  
25 municipalities, and public agencies thereof.

26       (f) "Surface waters" means waters upon the surface of  
27 the earth, whether contained in bounds created naturally or  
28 artificially or diffused. Water from natural springs shall be  
29 considered "surface waters" when it exits from the spring onto  
30 the surface of the earth.

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1           (g) "United States" means the executive branch of the  
 2 Government of the United States of America, and any  
 3 department, agency, bureau, or division thereof.

4           (h) "Water resource facility" means any facility or  
 5 project constructed for the impoundment, diversion, retention,  
 6 control, or regulation of waters within the ACF Basin for any  
 7 purpose.

8           (i) "Water resources" or "waters" means all surface  
 9 waters and groundwaters contained or otherwise originating  
 10 within the ACF Basin.

#### 11   ARTICLE V

12           CONDITIONS PRECEDENT TO LEGAL VIABILITY OF THE  
 13 COMPACT.--This compact shall not be binding on any party until  
 14 it has been enacted into law by the legislatures of the States  
 15 of Alabama, Florida, and Georgia and by the Congress of the  
 16 United States.

#### 17   ARTICLE VI

##### 18                           ACF BASIN COMMISSION CREATED.--

19           (a) There is hereby created an interstate  
 20 administrative agency to be known as the "ACF Basin  
 21 Commission." The commission shall be composed of one member  
 22 representing the State of Alabama, one member representing the  
 23 State of Florida, one member representing the State of  
 24 Georgia, and one nonvoting member representing the United  
 25 States. The state members shall be known as "state  
 26 commissioners" and the federal member shall be known as the  
 27 "federal commissioner." The ACF Basin Commission is a body  
 28 politic and corporate, with succession for the duration of  
 29 this compact.

30           (b) The Governor of each of the states shall serve as  
 31 the state commissioner for his or her state. Each state

1 commissioner shall appoint one or more alternate members, and  
2 one of such alternate members shall serve in the state  
3 commissioner's place and carry out the functions of the state  
4 commissioner, including voting on commission matters, in the  
5 event the state commissioner is unable to attend a meeting of  
6 the commission. The alternate members from each state shall be  
7 knowledgeable in the field of water resources management.  
8 Unless otherwise provided by law of the state for which an  
9 alternate state commissioner is appointed, each alternate  
10 state commissioner shall serve at the pleasure of the state  
11 commissioner. In the event of a vacancy in the office of an  
12 alternate, it shall be filled in the same manner as an  
13 original appointment.

14 (c) The President of the United States shall appoint  
15 the federal commissioner who shall serve as the representative  
16 of all federal agencies with an interest in the ACF. The  
17 President shall also appoint an alternate federal commissioner  
18 to attend and participate in the meetings of the commission in  
19 the event the federal commissioner is unable to attend  
20 meetings. When at meetings, the alternate federal  
21 commissioner shall possess all of the powers of the federal  
22 commissioner. The federal commissioner and alternate  
23 appointed by the President shall serve until they resign or  
24 their replacements are appointed.

25 (d) Each state shall have one vote on the ACF Basin  
26 Commission and the commission shall make all decisions and  
27 exercise all powers by unanimous vote of the three state  
28 commissioners. The federal commissioner shall not have a  
29 vote, but shall attend and participate in all meetings of the  
30 ACF Basin Commission to the same extent as the state  
31 commissioners.

1       (e) The ACF Basin Commission shall meet at least once  
2 a year at a date set at its initial meeting. Such initial  
3 meeting shall take place within 90 days after the ratification  
4 of the compact by the Congress of the United States and shall  
5 be called by the chair of the commission. Special meetings of  
6 the commission may be called at the discretion of the chair of  
7 the commission and shall be called by the chair of the  
8 commission upon written request of any member of the  
9 commission. All members shall be notified of the time and  
10 place designated for any regular or special meeting at least 5  
11 days prior to such meeting in one of the following ways: by  
12 written notice mailed to the last mailing address given to the  
13 commission by each member, by facsimile, by telegram, or by  
14 telephone. The chair of the commission shall rotate annually  
15 among the voting members of the commission on an alphabetical  
16 basis, with the first chair to be the state commissioner  
17 representing the State of Alabama.

18       (f) All meetings of the commission shall be open to  
19 the public.

20       (g) The ACF Basin Commission, so long as the exercise  
21 of power is consistent with this compact, shall have the  
22 following general powers:

23       (1) To adopt bylaws and procedures governing its  
24 conduct.

25       (2) To sue and be sued in any court of competent  
26 jurisdiction.

27       (3) To retain and discharge professional, technical,  
28 clerical, and other staff and such consultants as are  
29 necessary to accomplish the purposes of this compact.

30       (4) To receive funds from any lawful source and expend  
31 funds for any lawful purpose.

- 1           (5) To enter into agreements or contracts, where  
2 appropriate, in order to accomplish the purposes of this  
3 compact.
- 4           (6) To create committees and delegate  
5 responsibilities.
- 6           (7) To plan, coordinate, monitor, and make  
7 recommendations for the water resources of the ACF Basin for  
8 the purposes of, but not limited to, minimizing adverse  
9 impacts of floods and droughts and improving water quality,  
10 water supply, and conservation, as may be deemed necessary by  
11 the commission.
- 12           (8) To participate with other governmental and  
13 nongovernmental entities in carrying out the purposes of this  
14 compact.
- 15           (9) To conduct studies, to generate information  
16 regarding the water resources of the ACF Basin, and to share  
17 this information among the commission members and with others.
- 18           (10) To cooperate with appropriate state, federal, and  
19 local agencies or any other person in the development,  
20 ownership, sponsorship, and operation of water resource  
21 facilities in the ACF Basin. However, the commission shall not  
22 own or operate a federally owned water resource facility  
23 unless authorized by the United States Congress.
- 24           (11) To acquire, receive, hold, and convey such  
25 personal and real property as may be necessary for the  
26 performance of its duties under the compact. However, nothing  
27 in this compact shall be construed as granting the ACF Basin  
28 Commission authority to issue bonds or to exercise any right  
29 of eminent domain or power of condemnation.
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1       (12) To establish and modify an allocation formula for  
2 apportioning the surface waters of the ACF Basin among the  
3 States of Alabama, Florida, and Georgia.

4       (13) To perform all functions required of it by this  
5 compact and to do all things necessary, proper, or convenient  
6 in the performance of its duties under this compact, either  
7 independently or in cooperation with any state or the United  
8 States.

9                                   ARTICLE VII

10                   EQUITABLE APPORTIONMENT OF SURFACE WATERS.--

11       (a) It is the intent of the parties to this compact to  
12 develop an allocation formula for equitably apportioning the  
13 surface waters of the ACF Basin among the states while  
14 protecting the water quality, ecology, and biodiversity of the  
15 ACF, as provided in the Clean Water Act, 33 U.S.C., ss. 1251  
16 et seq., the Endangered Species Act, 16 U.S.C., ss. 1532 et  
17 seq., the National Environmental Policy Act, 42 U.S.C., ss.  
18 4321 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C.,  
19 ss. 401 et seq., and other applicable federal laws. For this  
20 purpose, all members of the ACF Basin Commission, including  
21 the federal commissioner, shall have full rights to notice of  
22 and participation in all meetings of the ACF Basin Commission  
23 and technical committees in which the basis and terms and  
24 conditions of the allocation formula are to be discussed or  
25 negotiated. When an allocation formula is unanimously  
26 approved by the state commissioners, there shall be an  
27 agreement among the states regarding an allocation formula.  
28 The allocation formula thus agreed upon shall become effective  
29 and binding upon the parties to this compact upon receipt by  
30 the commission of a letter of concurrence with the formula by  
31 the federal commissioner. If, however, the federal



1 commissioner fails to submit a letter of concurrence to the  
2 commission within 210 days after the allocation formula is  
3 agreed upon by the state commissioners, the federal  
4 commissioner shall within 45 days thereafter submit to the ACF  
5 Basin Commission a letter of nonconcurrence with the  
6 allocation formula, setting forth specifically and in detail  
7 the reasons for nonconcurrence. However, the reasons for  
8 nonconcurrence as contained in the letter of nonconcurrence  
9 shall be based solely upon federal law. The allocation  
10 formula shall also become effective and binding upon the  
11 parties to this compact if the federal commissioner fails to  
12 submit to the ACF Basin Commission a letter of nonconcurrence  
13 in accordance with this article. Once adopted pursuant to  
14 this article, the allocation formula may only be modified by  
15 unanimous decision of the state commissioners and the  
16 concurrence by the federal commissioner in accordance with the  
17 procedures set forth in this article.

18 (b) The parties to this compact recognize that the  
19 United States operates certain projects within the ACF Basin  
20 that may influence the water resources within the ACF Basin.  
21 The parties to this compact further acknowledge and recognize  
22 that various agencies of the United States have  
23 responsibilities for administering certain federal laws and  
24 exercising certain federal powers that may influence the water  
25 resources within the ACF Basin. It is the intent of the  
26 parties to this compact, including the United States, to  
27 achieve compliance with the allocation formula adopted in  
28 accordance with this article. Accordingly, once an allocation  
29 formula is adopted, each and every officer, agency, and  
30 instrumentality of the United States shall have an obligation  
31 and duty, to the maximum extent practicable, to exercise their

1 powers, authority, and discretion in a manner consistent with  
2 the allocation formula, so long as the exercise of such  
3 powers, authority, and discretion is not in direct conflict  
4 with federal law.

5 (c) Between the effective date of this compact and the  
6 date of approval of the allocation formula under this article,  
7 the signatories to this compact agree that any person who is  
8 withdrawing, diverting, or consuming water resources of the  
9 ACF Basin as of the effective date of this compact may  
10 continue to withdraw, divert, or consume such water resources  
11 in accordance with the laws of the state where such person  
12 resides or does business and in accordance with applicable  
13 federal laws. The parties to this compact further agree that  
14 any such person may increase the amount of water resources  
15 withdrawn, diverted, or consumed to satisfy reasonable  
16 increases in the demand of such person for water between the  
17 effective date of this compact and the date on which an  
18 allocation formula is approved by the ACF Basin Commission, as  
19 permitted by applicable law. Each of the state parties to  
20 this compact further agree to provide written notice to each  
21 of the other parties to this compact in the event any person  
22 increases the withdrawal, diversion, or consumption of such  
23 water resources by more than 10 million gallons per day on an  
24 average annual daily basis, or in the event any person who was  
25 not withdrawing, diverting, or consuming any water resources  
26 from the ACF Basin as of the effective date of this compact  
27 seeks to withdraw, divert, or consume more than 1 million  
28 gallons per day on an average annual daily basis from such  
29 resources. This article shall not be construed as granting  
30 any permanent, vested, or perpetual rights to the amounts of

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1 water used between January 3, 1992, and the date on which the  
2 commission adopts an allocation formula.

3 (d) As the owner, operator, licensor, permitting  
4 authority, or regulator of a water resource facility under its  
5 jurisdiction, each state shall be responsible for using its  
6 best efforts to achieve compliance with the allocation formula  
7 adopted pursuant to this article. Each such state agrees to  
8 take such actions as may be necessary to achieve compliance  
9 with the allocation formula.

10 (e) This compact shall not commit any state to agree  
11 to any data generated by any study or commit any state to any  
12 allocation formula not acceptable to such state.

13 ARTICLE VIII

14 CONDITIONS RELATING TO TERMINATION OF THE COMPACT.--

15 (a) This compact shall be terminated and thereby be  
16 void and of no further force and effect if any of the  
17 following events occur:

18 (1) The legislatures of the States of Alabama,  
19 Florida, and Georgia each agree by general laws enacted by  
20 each state within any 3 consecutive years that this compact  
21 should be terminated.

22 (2) The United States Congress enacts a law expressly  
23 repealing this compact.

24 (3) The States of Alabama, Florida, and Georgia fail  
25 to agree on an equitable apportionment of the surface waters  
26 of the ACF as provided in Article VII(a) by December 31, 1998,  
27 unless the voting members of the ACF Basin Commission  
28 unanimously agree to extended this deadline.

29 (4) The federal commissioner submits to the commission  
30 a letter of nonconcurrence in the initial allocation formula  
31 in accordance with Article VII(a), unless the voting members

1 of the ACF Basin Commission unanimously agree to allow a  
2 single 45-day period in which the nonvoting federal  
3 commissioner and the voting state commissioners may  
4 renegotiate an allocation formula and the federal commissioner  
5 withdraws the letter of nonconcurrency upon completion of this  
6 renegotiation.

7 (b) If the compact is terminated in accordance with  
8 this article it shall be of no further force and effect and  
9 shall not be the subject of any proceeding for the enforcement  
10 thereof in any federal or state court. Further, if so  
11 terminated, no party shall be deemed to have acquired a  
12 specific right to any quantity of water because it has become  
13 a signatory to this compact.

14 ARTICLE IX

15 COMPLETION OF STUDIES PENDING ADOPTION OF ALLOCATION  
16 FORMULA.--The ACF Basin Commission, in conjunction with one or  
17 more interstate, federal, state, or local agencies, is hereby  
18 authorized to participate in any study in process as of the  
19 effective date of this compact, including, without limitation,  
20 all or any part of the  
21 Alabama-Coosa-Tallapoosa/Apalachicola-Chattahoochee-Flint  
22 River Basin Comprehensive Water Resource Study, as may be  
23 determined by the commission in its sole discretion.

24 ARTICLE X

25 RELATIONSHIP TO OTHER LAWS.--

26 (a) It is the intent of the party states and of the  
27 United States Congress by ratifying this compact that all  
28 state and federal officials enforcing, implementing, or  
29 administering other state and federal laws affecting the ACF  
30 Basin shall, to the maximum extent practicable, enforce,  
31 implement, or administer those laws in furtherance of the

1 purposes of this compact and the allocation formula adopted by  
2 the commission, insofar as such actions are not in conflict  
3 with other applicable federal laws.

4 (b) Nothing contained in this compact shall be deemed  
5 to restrict the executive powers of the President in the event  
6 of a national emergency.

7 (c) Nothing contained in this compact shall impair or  
8 affect the constitutional authority of the United States or  
9 any of its powers, rights, functions, or jurisdiction under  
10 other existing or future laws in and over the area or waters  
11 which are the subject of the compact, including projects of  
12 the commission, nor shall any act of the commission have the  
13 effect of repealing, modifying, or amending any federal law.

14 All officers, agencies, and instrumentalities of the United  
15 States shall exercise their powers and authority over water  
16 resources in the ACF Basin and water resource facilities, and,  
17 to the maximum extent practicable, shall exercise their  
18 discretion in carrying out their responsibilities, powers, and  
19 authority over water resources in the ACF Basin and water  
20 resource facilities in the ACF Basin in a manner consistent  
21 with and that effectuates the allocation formula developed  
22 pursuant to this compact or any modification of the allocation  
23 formula, so long as the actions are not in conflict with any  
24 applicable federal law. The United States Army Corps of  
25 Engineers, or its successors, and all other federal agencies  
26 and instrumentalities shall cooperate with the ACF Basin  
27 Commission in accomplishing the purposes of the compact and  
28 fulfilling the obligations of each of the parties to the  
29 compact regarding the allocation formula.

30 (d) Once adopted by the three states and ratified by  
31 the United States Congress, this compact shall have the full

1 force and effect of federal law, and shall supersede state and  
2 local laws operating contrary to the provisions or the  
3 purposes of this compact. However, nothing contained in this  
4 compact shall be construed as affecting or intending to  
5 affect, or in any way to interfere with, the laws of the  
6 respective signatory states relating to water quality, and  
7 riparian rights as among persons exclusively within each  
8 state.

9 ARTICLE XI

10 PUBLIC PARTICIPATION.--All meetings of the commission  
11 shall be open to the public. The signatory parties recognize  
12 the importance and necessity of public participation in  
13 activities of the commission, including the development and  
14 adoption of the initial allocation formula and any  
15 modification thereto. Prior to the adoption of the initial  
16 allocation formula, the commission shall adopt procedures  
17 ensuring public participation in the development, review, and  
18 approval of the initial allocation formula and any subsequent  
19 modification thereto. At a minimum, public notice to  
20 interested parties and a comment period shall be provided.  
21 The commission shall respond in writing to relevant comments.

22 ARTICLE XII

23 FUNDING AND EXPENSES OF THE COMMISSION.--Commissioners  
24 shall serve without compensation from the ACF Basin  
25 Commission. All general operational funding required by the  
26 commission and agreed to by the voting members shall obligate  
27 each state to pay an equal share of such agreed-upon funding.  
28 Funds remitted to the commission by a state in payment of such  
29 obligation shall not lapse. However, if any state fails to  
30 remit payment within 90 days after payment is due, such  
31 obligation shall terminate and any state which has made

1 payment may have such payment returned. Costs of attendance  
2 and participation at meetings of the commission by the federal  
3 commissioner shall be paid by the United States.

4 ARTICLE XIII

5 DISPUTE RESOLUTION.--

6 (a) In the event of a dispute between two or more  
7 voting members of this compact involving a claim relating to  
8 compliance with the allocation formula adopted by the  
9 commission under this compact, the following procedures shall  
10 govern:

11 (1) Notice of claim shall be filed with the commission  
12 by a voting member of this compact and served upon each member  
13 of the commission. The notice shall provide a written  
14 statement of the claim, including a brief narrative of the  
15 relevant matters supporting the claimant's position.

16 (2) Within 20 days after the commission's receipt of a  
17 written statement of a claim, the party or parties to the  
18 compact against whom the complaint is made may prepare a brief  
19 narrative of the relevant matters and file it with the  
20 commission and serve it upon each member of the commission.

21 (3) Upon receipt of a claim and any response or  
22 responses thereto, the commission shall convene as soon as  
23 reasonably practicable, but in no event later than 20 days  
24 after receipt of any response to the claim, and shall  
25 determine if a resolution of the dispute is possible.

26 (4) A resolution of a dispute under this article  
27 through unanimous vote of the state commissioners shall be  
28 binding upon the state parties, and any state party determined  
29 to be in violation of the allocation formula shall correct  
30 such violation without delay.

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1       (5) If the commission is unable to resolve the dispute  
2 within 10 days after the date of the meeting convened pursuant  
3 to subparagraph (a)(3), the commission shall select, by  
4 unanimous decision of the voting members of the commission, an  
5 independent mediator to conduct a nonbinding mediation of the  
6 dispute. The mediator shall not be a resident or domiciliary  
7 of any member state, shall not be an employee or agent of any  
8 member of the commission, shall be a person knowledgeable in  
9 water resource management issues, and shall disclose any and  
10 all current or prior contractual or other relations to any  
11 member of the commission. The expenses of the mediator shall  
12 be paid by the commission. If the mediator becomes unwilling  
13 or unable to serve, the commission, by unanimous decision of  
14 the voting members of the commission, shall appoint another  
15 independent mediator.

16       (6) If the commission fails to appoint an independent  
17 mediator to conduct a nonbinding mediation of the dispute  
18 within 75 days after the filing of the original claim or  
19 within 30 days after the date on which the commission learns  
20 that a mediator is unwilling or unable to serve, the party  
21 submitting the claim shall have no further obligation to bring  
22 the claim before the commission and may proceed by pursuing  
23 any appropriate remedies, including any and all judicial  
24 remedies.

25       (7) If an independent mediator is selected, the  
26 mediator shall establish the time and location for the  
27 mediation session or sessions and may request that each party  
28 to the compact submit, in writing, to the mediator a statement  
29 of its position regarding the issue or issues in dispute.  
30 Such statements shall not be exchanged by the parties except  
31 upon the unanimous agreement of the parties to the mediation.



1           (8) The mediator shall not divulge confidential  
2 information disclosed to the mediator by the parties or by  
3 witnesses, if any, in the course of the mediation. All  
4 records, reports, or other documents received by a mediator  
5 while serving as a mediator shall be considered confidential.  
6 The mediator shall not be compelled in any adversary  
7 proceeding or judicial forum to divulge the contents of such  
8 documents or the fact that such documents exist or to testify  
9 in regard to the mediation.

10           (9) Each party to the mediation shall maintain the  
11 confidentiality of the information received during the  
12 mediation and shall not rely on or introduce in any judicial  
13 proceeding as evidence:

14           a. Views expressed or suggestions made by another  
15 party regarding a settlement of the dispute;

16           b. Proposals made or views expressed by the mediator;  
17 or

18           c. The fact that another party to the hearing had or  
19 had not indicated a willingness to accept a proposal for  
20 settlement of the dispute.

21           (10) The mediator may terminate the nonbinding  
22 mediation session or sessions whenever, in the judgment of the  
23 mediator, further efforts to resolve the dispute would not  
24 lead to a resolution of the dispute between or among the  
25 parties. Any party to the dispute may terminate the mediation  
26 process at any time by giving written notification to the  
27 mediator and the commission. If terminated prior to reaching  
28 a resolution, the party submitting the original claim to the  
29 commission shall have no further obligation to bring its claim  
30 before the commission and may proceed by pursuing any  
31 appropriate remedies, including any and all judicial remedies.

1       (11) The mediator shall have no authority to require  
2 the parties to enter into a settlement of any dispute  
3 regarding the compact. The mediator may simply attempt to  
4 assist the parties in reaching a mutually acceptable  
5 resolution of their dispute. The mediator is authorized to  
6 conduct joint and separate meetings with the parties to the  
7 mediation and to make oral or written recommendations for a  
8 settlement of the dispute.

9       (12) At any time during the mediation process, the  
10 commission is encouraged to take whatever steps it deems  
11 necessary to assist the mediator or the parties to resolve the  
12 dispute.

13       (13) In the event of a proceeding seeking enforcement  
14 of the allocation formula, this compact creates a cause of  
15 action solely for equitable relief. No action for money  
16 damages may be maintained. The party or parties alleging a  
17 violation of the compact shall have the burden of proof.

18       (b) In the event of a dispute between any voting  
19 member and the United States relating to a state's  
20 noncompliance with the allocation formula as a result of  
21 actions or a refusal to act by officers, agencies, or  
22 instrumentalities of the United States, the provisions set  
23 forth in paragraph (a), other than the provisions of  
24 subparagraph (a)(4), shall apply.

25       (c) The United States may initiate dispute resolution  
26 under paragraph (a) in the same manner as other parties to  
27 this compact.

28       (d) Any signatory party who is affected by any action  
29 of the commission, other than the adoption or enforcement of  
30 or compliance with the allocation formula, may file a  
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1 complaint before the ACF Basin Commission seeking to enforce  
2 any provision of this compact.

3 (1) The commission shall refer the dispute to an  
4 independent hearing officer or mediator, to conduct a hearing  
5 or mediation of the dispute. If the parties are unable to  
6 settle their dispute through mediation, a hearing shall be  
7 held by the commission or its designated hearing officer.  
8 Following a hearing conducted by a hearing officer, the  
9 hearing officer shall submit a report to the commission  
10 setting forth findings of fact and conclusions of law and  
11 making recommendations to the commission for the resolution of  
12 the dispute.

13 (2) The commission may adopt or modify the  
14 recommendations of the hearing officer within 60 days after  
15 submittal of the report. If the commission is unable to reach  
16 unanimous agreement on the resolution of the dispute within 60  
17 days after submittal of the report, with the concurrence of  
18 the federal commissioner in disputes involving or affecting  
19 federal interests, the affected party may file an action in  
20 any court of competent jurisdiction to enforce the provisions  
21 of this compact. The hearing officer's report shall be of no  
22 force and effect and shall not be admissible as evidence in  
23 any further proceedings.

24 (e) All actions under this article shall be subject to  
25 the following provisions:

26 (1) The commission shall adopt guidelines and  
27 procedures for the appointment of hearing officers or  
28 independent mediators to conduct all hearings and mediations  
29 required under this article. The hearing officer or mediator  
30 appointed under this article shall be compensated by the  
31 commission.

1       (2) All hearings or mediations conducted under this  
2 article may be conducted utilizing the Federal Administrative  
3 Procedures Act, the Federal Rules of Civil Procedure, and the  
4 Federal Rules of Evidence. The commission may also choose to  
5 adopt some or all of its own procedural and evidentiary rules  
6 for the conduct of hearings or mediations under this compact.

7       (3) Any action brought under this article shall be  
8 limited to equitable relief only. This compact shall not give  
9 rise to a cause of action for money damages.

10       (4) Any signatory party bringing an action before the  
11 commission under this article shall have the burdens of proof  
12 and persuasion.

13                                   ARTICLE XIV

14       ENFORCEMENT.--The commission may, upon unanimous  
15 decision, bring an action against any person to enforce any  
16 provision of this compact, other than the adoption or  
17 enforcement of, or compliance with, the allocation formula, in  
18 any court of competent jurisdiction.

19                                   ARTICLE XV

20       IMPACTS ON OTHER STREAM SYSTEMS.--This compact shall  
21 not be construed as establishing any general principle or  
22 precedent applicable to any other interstate streams.

23                                   ARTICLE XVI

24       IMPACT OF COMPACT ON USE OF WATER WITHIN THE BOUNDARIES  
25 OF THE COMPACTING STATES.--The provisions of this compact  
26 shall not interfere with the right or power of any state to  
27 regulate the use and control of water within the boundaries of  
28 the state, provided such state action is not inconsistent with  
29 the allocation formula.

30                                   ARTICLE XVII

31       AGREEMENT REGARDING WATER QUALITY.--

1       (a) The States of Alabama, Florida, and Georgia  
2 mutually agree to the principle of individual state efforts to  
3 control manmade water pollution from sources located and  
4 operating within each state and to the continuing support of  
5 each state in active water pollution control programs.

6       (b) The States of Alabama, Florida, and Georgia agree  
7 to cooperate, through their appropriate state agencies, in the  
8 investigation, abatement, and control of sources of alleged  
9 interstate pollution within the ACF River Basin, whenever such  
10 sources are called to their attention by the commission.

11       (c) The States of Alabama, Florida, and Georgia agree  
12 to cooperate in maintaining the quality of the waters of the  
13 ACF River Basin.

14       (d) The States of Alabama, Florida, and Georgia agree  
15 that no state may require another state to provide water for  
16 the purpose of water quality control as a substitute for or in  
17 lieu of adequate waste treatment.

18                               ARTICLE XVIII

19       EFFECT OF OVER-DELIVERIES OR UNDER-DELIVERIES UNDER THE  
20 COMPACT.--No state shall acquire any right or expectation to  
21 the use of water because of any other state's failure to use  
22 the full amount of water allocated to it under this compact.

23                               ARTICLE XIX

24       SEVERABILITY.--If any portion of this compact is held  
25 invalid for any reason, the remaining portions, to the fullest  
26 extent possible, shall be severed from the void portion and  
27 given the fullest possible force, effect, and application.

28                               ARTICLE XX

29       NOTICE AND FORMS OF SIGNATURE.--Notice of ratification  
30 of this compact by the legislature of each state shall  
31 promptly be given by the Governor of the ratifying state to

1 the Governors of the other participating states. When all  
2 three state legislatures have ratified the compact, notice of  
3 their mutual ratification shall be forwarded to the  
4 Congressional Delegation of the signatory states for  
5 submission to the Congress of the United States for  
6 ratification. When the compact is ratified by the Congress of  
7 the United States, the President, upon signing the federal  
8 ratification legislation, shall promptly notify the Governors  
9 of the participating states and appoint the federal  
10 commissioner. The compact shall be signed by all four  
11 commissioners as their first order of business at their first  
12 meeting and shall be filed of record in the party states.

13 Section 3. This act shall take effect upon becoming a  
14 law.

15 \*\*\*\*\*

16 HOUSE SUMMARY

17  
18 Creates the Apalachicola-Chattahoochee-Flint River Basin  
19 Compact, to be entered into by Alabama, Florida, Georgia,  
20 and the United States for the purpose of equitably  
21 apportioning the waters of the basin and promoting  
22 interstate water resource cooperation and planning.  
23 Provides scope and definitions. Provides for legal  
24 viability of the compact, once enacted by each state  
25 legislature and the United States Congress. Creates a  
26 commission with the power to employ staff, plan,  
27 coordinate, monitor, and make recommendations regarding  
28 water resources, enter into agreements and contracts,  
29 conduct studies, cooperate in the development, operation,  
30 and ownership of facilities, and acquire and convey  
31 property for purposes of administering the compact.  
Provides for establishment of an allocation formula for  
equitable apportionment of the basin's surface waters.  
Specifies conditions resulting in termination of the  
compact. Provides for commission participation in  
pending studies. Specifies relationship of the compact  
with other laws. Provides for commission funding by the  
states in equal shares. Provides for public participation  
in commission proceedings. Provides procedures for  
resolution of disputes and provides for enforcement  
actions. Provides for agreement among the states to  
control manmade water pollution and to cooperate in  
controlling interstate pollution and maintaining basin  
water quality. See bill for details.