

By Representative Rayson

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 purpose; providing  
7           scope; providing parties; providing  
8           definitions; providing for legal viability;  
9           providing for termination; 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  
14          equitable apportionment of surface waters;  
15          providing for participation in certain water  
16          resource studies; providing for relationship of  
17          the compact to other laws, rules, and  
18          regulations; providing for funding of the  
19          commission's operations; providing procedures  
20          for enforcement and resolution of disputes;  
21          providing for inapplicability to other stream  
22          systems; preserving certain water-use rights  
23          within a member state; providing agreements  
24          regarding water quality; providing for effect  
25          of underuse of a state's water allocation;  
26          providing severability; providing for notice of  
27          ratifications; requiring signatures to and  
28          recording of compact; providing an effective  
29          date.

30  
31 Be It Enacted by the Legislature of the State of Florida:

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

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

10                           APALACHICOLA-CHATTAHOOCHEE-FLINT

11                                   RIVER BASIN COMPACT

12   ARTICLE I

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

19   ARTICLE II

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

23   ARTICLE III

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

26   ARTICLE IV

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

30           (a) "ACF Basin" or "ACF" means the area of natural  
31 drainage into the Apalachicola River and its tributaries, the

1 Chattahoochee River and its tributaries, and the Flint River  
2 and its tributaries. Any reference to the rivers within this  
3 compact shall be designated using the letters "ACF" and when  
4 so referenced shall mean each of these three rivers and each  
5 of the tributaries to each such river.

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

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

16 (d) "Federally licensed" means the operation of a  
17 facility is subject to federal regulation on a continuous  
18 basis under the terms of a federal license issued by the  
19 Federal Energy Regulatory Commission or its successors.

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

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

28 (g) "Surface waters" means waters upon the surface of  
29 the earth, whether contained in bounds created naturally or  
30 artificially or diffused. Water from natural springs shall be  
31

1 considered "surface waters" when it exits from the spring onto  
2 the surface of the earth.

3 (h) "United States" means the executive branch of the  
4 Government of the United States of America, and any  
5 department, agency, bureau, or division thereof.

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

10 (j) "Water resources" or "waters" means all surface  
11 waters and groundwaters contained or otherwise originating  
12 within the ACF Basin.

13 ARTICLE V

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

18 ARTICLE VI

19 TERMINATION OF THE COMPACT.--

20 (a) This compact shall be terminated and thereby be  
21 void and of no further force and effect if any of the  
22 following events occur:

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

27 (2) The United States enacts a law terminating this  
28 compact.

29 (3) The States of Alabama, Florida, and Georgia fail  
30 to agree on an equitable apportionment of the surface waters  
31 of the ACF as provided in Article VIII(a) by December 31,

1 1998, unless the voting members of the ACF Basin Commission  
2 unanimously agree to extended this deadline.

3 (4) The federal commissioner, as defined in Article  
4 VII, submits to the commission a letter of nonconurrence in  
5 the initial allocation formula in accordance with Article  
6 VIII(a).

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 VII

15 ACF BASIN COMMISSION CREATED.--

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

27 (b) The Governor of each of the states shall serve as  
28 the state commissioner for his or her state. Each state  
29 commissioner shall appoint one or more alternate members to  
30 serve in the state commissioner's place and carry out the  
31 functions of the state commissioner, including voting on

1 commission matters, in the event the state commissioner is  
2 unable to attend a meeting of the commission. Unless  
3 otherwise provided by law of the state for which an alternate  
4 state commissioner is appointed, each alternate state  
5 commissioner shall serve at the pleasure of the state  
6 commissioner. In the event of a vacancy in the office of an  
7 alternate, it shall be filled in the same manner as an  
8 original appointment.

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

20 (d) Each state shall have one vote on the ACF Basin  
21 Commission and the commission shall make all decisions and  
22 exercise all powers by unanimous vote of the three state  
23 commissioners. Except as expressly provided in Article VIII,  
24 the federal commissioner shall not have a vote, but shall  
25 attend and participate in all meetings of the ACF Basin  
26 Commission to the same extent as the state commissioners.

27 (e) The ACF Basin Commission shall meet at least once  
28 a year at a date set at its initial meeting. Such initial  
29 meeting shall take place within 90 days after the ratification  
30 of the compact by the Congress of the United States and shall  
31 be called by the chair of the commission. Special meetings of

1 the commission may be called at the discretion of the chair of  
2 the commission and shall be called by the chair of the  
3 commission upon written request of any member of the  
4 commission. All members shall be notified of the time and  
5 place designated for any regular or special meeting at least 5  
6 days prior to such meeting in one of the following ways: by  
7 written notice mailed to the last mailing address given to the  
8 commission by each member, by facsimile, by telegram, or by  
9 telephone. The chair of the commission shall rotate annually  
10 among the voting members of the commission on an alphabetical  
11 basis, with the first chair to be the state commissioner  
12 representing the State of Alabama.

13 (f) All meetings of the commission shall be open to  
14 the public.

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

18 (1) To adopt bylaws and procedures governing its  
19 conduct.

20 (2) To sue and be sued in any court of competent  
21 jurisdiction.

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

25 (4) To receive funds from any lawful source and expend  
26 funds for any lawful purpose.

27 (5) To enter into agreements or contracts, where  
28 appropriate, in order to accomplish the purposes of this  
29 compact.

30 (6) To create committees and delegate  
31 responsibilities.

1           (7) To plan, coordinate, monitor, and make  
2 recommendations for the water resources of the ACF Basin for  
3 the purposes of, but not limited to, minimizing adverse  
4 impacts of floods and droughts and improving water quality,  
5 water supply, and conservation, as may be deemed necessary by  
6 the commission.

7           (8) To participate with other governmental and  
8 nongovernmental entities in carrying out the purposes of this  
9 compact.

10           (9) To conduct studies, to generate information  
11 regarding the water resources of the ACF Basin, and to share  
12 this information among the commission members and with others.

13           (10) To develop, own, sponsor, and operate water  
14 resource facilities. However, the commission shall not own or  
15 operate a federally owned water resource facility unless  
16 authorized by the United States Congress.

17           (11) To acquire, receive, hold, and convey such  
18 personal and real property as may be necessary for the  
19 performance of its duties under the compact.

20           (12) To establish and modify an allocation formula for  
21 apportioning the surface waters of the ACF Basin among the  
22 States of Alabama, Florida, and Georgia.

23           (13) To request the retention and release of waters at  
24 federally owned or federally licensed water resource  
25 facilities throughout the ACF Basin in accordance with the  
26 allocation formula adopted pursuant to Article VIII.

27           (14) To perform all functions required of it by this  
28 compact and to do all things necessary, proper, or convenient  
29 in the performance of its duties under this compact, either  
30 independently or in cooperation with any state or the United  
31 States.



1    ARTICLE VIII  
2                    APPORTIONMENT OF SURFACE WATERS.--  
3            (a) It is the intent of the parties to this compact to  
4 develop an allocation formula for equitably apportioning the  
5 surface waters of the ACF Basin among the states. For this  
6 purpose, all members of the ACF Basin Commission, including  
7 the federal commissioner, shall have full rights to notice of  
8 and participation in all meetings of the ACF Basin Commission  
9 in which the basis and terms and conditions of the allocation  
10 formula are to be discussed or negotiated. When an allocation  
11 formula is unanimously approved by the state commissioners,  
12 there shall be an agreement among the states regarding an  
13 allocation formula. The allocation formula thus agreed upon  
14 shall become effective and binding upon the parties to this  
15 compact upon receipt by the commission of a letter of  
16 concurrence with the formula by the federal commissioner. If,  
17 however, the federal commissioner fails to submit a letter of  
18 concurrence to the commission within 90 days after the  
19 allocation formula is agreed upon by the state commissioners,  
20 the federal commissioner shall within 30 days thereafter  
21 submit to the ACF Basin Commission a letter of nonconcurrence  
22 with the allocation formula, setting forth specifically and in  
23 detail the reasons for nonconcurrence. However, the reasons  
24 for nonconcurrence as contained in the letter of  
25 nonconcurrence shall be based solely upon federal law. The  
26 allocation formula shall also become effective and binding  
27 upon the parties to this compact if the federal commissioner  
28 fails to submit to the ACF Basin Commission a letter of  
29 nonconcurrence in accordance with this article. Once adopted  
30 pursuant to this article, the allocation formula may only be  
31 modified by unanimous decision of the state commissioners and

1 the concurrence by the federal commissioner in accordance with  
2 the procedures set forth in this article.

3 (b) The parties to this compact acknowledge that the  
4 United States does not have any permanent, vested, or  
5 perpetual rights to any of the water resources of the ACF  
6 Basin, but recognize that the United States Army Corps of  
7 Engineers operates certain projects within the ACF Basin that  
8 may influence the water resources within the ACF Basin. The  
9 parties to this compact further acknowledge and recognize that  
10 various agencies of the United States have responsibilities  
11 for administering certain federal laws and exercising certain  
12 federal powers that may influence the water resources within  
13 the ACF Basin. It is the intent of the parties to this  
14 compact, including the United States, to achieve compliance  
15 with the allocation formula adopted in accordance with this  
16 article. Accordingly, once an allocation formula is adopted,  
17 each and every officer, agency, and instrumentality of the  
18 United States shall have an obligation and duty to exercise  
19 their powers in a manner consistent with the allocation  
20 formula, so long as the exercise of such powers is not in  
21 direct conflict with other federal law.

22 (c) Between the effective date of this interstate  
23 compact and the date of approval of the allocation formula  
24 under this article, the signatories to this compact agree that  
25 any person who is withdrawing, diverting, or consuming water  
26 resources of the ACF Basin as of the effective date of this  
27 compact may continue to withdraw, divert, or consume such  
28 water resources in accordance with the laws of the state where  
29 such person resides or does business and in accordance with  
30 applicable federal laws. The parties to this compact further  
31 agree that any such person may increase the amount of water

1 resources withdrawn, diverted, or consumed to satisfy  
2 reasonable increases in the demand of such person for water  
3 between the effective date of this compact and the date on  
4 which an allocation formula is approved by the ACF Basin  
5 Commission, as permitted by applicable law. Each of the state  
6 parties to this compact further agree to provide written  
7 notice to each of the other parties to this compact in the  
8 event any person increases the withdrawal, diversion, or  
9 consumption of such water resources by more than 10 million  
10 gallons per day on an average annual daily basis, or in the  
11 event any person who was not withdrawing, diverting, or  
12 consuming any water resources from the ACF Basin as of the  
13 effective date of this compact seeks to withdraw, divert, or  
14 consume more than 1 million gallons per day on an average  
15 annual daily basis from such resources. This article shall  
16 not be construed as granting any permanent, vested, or  
17 perpetual rights to the amounts of water used between January  
18 3, 1992, and the date on which the commission adopts an  
19 allocation formula, nor shall it be construed as changing the  
20 status quo as to the United States Army Corps of Engineers'  
21 authorization of water withdrawals.

22 (d) As the owner, operator, licensor, permitting  
23 authority, or regulator of a water resource facility under its  
24 jurisdiction, each state shall be responsible for using its  
25 best efforts to achieve compliance with the allocation formula  
26 adopted pursuant to this article. Each such state agrees to  
27 take such actions as may be necessary to achieve compliance  
28 with the allocation formula.

29 (e) This compact shall not commit any state to agree  
30 to any data generated by any study or commit any state to any  
31 allocation formula not acceptable to such state.

1 ARTICLE IX

2 PARTICIPATION IN STUDIES PENDING ADOPTION OF ALLOCATION  
3 FORMULA.--The ACF Basin Commission, in conjunction with one or  
4 more interstate, federal, state, or local agencies, is hereby  
5 authorized to participate in any study in process as of the  
6 effective date of this compact, including, without limitation,  
7 all or any part of the  
8 Alabama-Coosa-Tallapoosa/Apalachicola-Chattahoochee-Flint  
9 River Basin Comprehensive Water Resource Study, as may be  
10 determined by the commission in its sole discretion.

11 ARTICLE X

12 RELATIONSHIP TO OTHER LAWS, RULES, AND REGULATIONS.--

13 (a) It is the intent of the party states and of the  
14 United States Congress by ratifying this compact that all  
15 state and federal officials enforcing, implementing, or  
16 administering other state and federal laws, rules, and  
17 regulations affecting the ACF Basin shall enforce, implement,  
18 or administer those laws, rules, and regulations in  
19 furtherance of the purposes of this compact and the allocation  
20 formula adopted by the commission insofar as such actions are  
21 not in direct conflict with other applicable federal laws.

22 (b) Nothing contained in this compact shall be deemed  
23 to restrict the executive powers of the President in the event  
24 of a national emergency.

25 (c) Nothing contained in this compact shall impair or  
26 affect the constitutional authority of the United States or  
27 any of its powers, rights, functions, or jurisdiction under  
28 other existing or future legislation in and over the area or  
29 waters which are the subject of the compact, including  
30 projects of the commission, nor shall any act of the  
31 commission have the effect of repealing, modifying, or

1 amending any federal law. All officers, agencies, and  
2 instrumentalities of the United States shall exercise their  
3 powers and authority over water resources in the ACF Basin and  
4 water resource facilities in a manner consistent with the  
5 allocation formula, so long as the actions are not in direct  
6 conflict with any other applicable federal law. All officers,  
7 agencies, and instrumentalities of the United States shall  
8 exercise their discretion in carrying out their  
9 responsibilities to the maximum extent practicable in a manner  
10 that effectuates the allocation formula developed pursuant to  
11 this compact or any modification of the allocation formula.  
12 The United States Army Corps of Engineers, or its successors,  
13 and all other federal agencies and instrumentalities shall  
14 cooperate with the ACF Basin Commission in accomplishing the  
15 purposes of the compact and fulfilling the obligations of each  
16 of the parties to the compact regarding the allocation  
17 formula.

18 (d) Once adopted by the three states and ratified by  
19 the United States Congress, this compact shall have the full  
20 force and effect of federal law, and shall supersede state and  
21 local laws operating contrary to the provisions or the  
22 purposes of this compact.

23 ARTICLE XI

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

1 obligation shall terminate and any state which has made  
2 payment may have such payment returned. Costs of attendance  
3 and participation at meetings of the commission by the federal  
4 commissioner shall be paid by the United States.

5 ARTICLE XII

6 ENFORCEMENT.--

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

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

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

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

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

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

30       (1) The commission shall refer the dispute to an  
31 independent hearing officer or mediator, to conduct a hearing

1 or mediation of the dispute. If the parties are unable to  
2 settle their dispute through mediation, a hearing shall be  
3 held by the commission or its designated hearing officer.  
4 Following a hearing conducted by a hearing officer, the  
5 hearing officer shall submit a report to the commission  
6 setting forth findings of fact and conclusions of law and  
7 making recommendations to the commission for the resolution of  
8 the dispute.

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

20       (d) All enforcement actions under this article shall  
21 be subject to the following provisions:

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

28       (2) All hearings or mediations conducted under this  
29 article may be conducted utilizing the Federal Administrative  
30 Procedures Act, the Federal Rules of Civil Procedure, and the  
31 Federal Rules of Evidence. The commission may also choose to

1 adopt some or all of its own procedural and evidentiary rules  
2 for the conduct of hearings or mediations under this compact.

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

6 (4) Any person bringing an action before the  
7 commission under this article shall have the burdens of proof  
8 and persuasion.

9 (e) The commission may, upon unanimous decision, bring  
10 an action against any person to enforce any provision of this  
11 compact, other than the adoption or enforcement of, or  
12 compliance with, the allocation formula, in any court of  
13 competent jurisdiction.

14 ARTICLE XIII

15 IMPACT ON OTHER STREAM SYSTEMS.--This compact shall not  
16 be construed as establishing any general principle or  
17 precedent applicable to any other interstate streams.

18 ARTICLE XIV

19 IMPACT ON USE OF WATER WITHIN THE BOUNDARIES OF THE  
20 COMPACTING STATES.--The provisions of this compact shall not  
21 interfere with the right or power of any state to regulate the  
22 use and control of water within the boundaries of the state,  
23 provided such state action is consistent with this compact.

24 ARTICLE XV

25 AGREEMENT REGARDING WATER QUALITY.--

26 (a) The States of Alabama, Florida, and Georgia  
27 mutually agree to the principle of individual state efforts to  
28 control manmade water pollution from sources located and  
29 operating within each state and to the continuing support of  
30 each state in active water pollution control programs.

31

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

6 (c) The States of Alabama, Florida, and Georgia agree  
 7 to cooperate in maintaining the quality of the waters of the  
 8 ACF River Basin.

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

13 ARTICLE XVI

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

18 ARTICLE XVII

19 SEVERABILITY.--If any portion of this compact is held  
 20 invalid for any reason, the remaining portions, to the fullest  
 21 extent possible, shall be severed from the void portion and  
 22 give an the fullest possible force, effect, and application.

23 ARTICLE XVIII

24 NOTICE AND FORMS OF SIGNATURE.--Notice of ratification  
 25 of this compact by the legislature of each state shall  
 26 promptly be given by the Governor of the ratifying state to  
 27 the Governors of the other participating states. When all  
 28 three state legislatures have ratified the compact, notice of  
 29 their mutual ratification shall be forwarded to the  
 30 Congressional Delegation of the signatory states for  
 31 submission to the Congress of the United States for

1 ratification. When the compact is ratified by the Congress of  
2 the United States, the President, upon signing the federal  
3 ratification legislation, shall promptly notify the Governors  
4 of the participating states and appoint the federal  
5 commissioner. The compact shall be signed by all four  
6 commissioners as their first order of business at their first  
7 meeting and shall be filed of record in the party states.

8 Section 3. This act shall take effect upon becoming a  
9 law.

10 \*\*\*\*\*

11 HOUSE SUMMARY

12  
13 Creates the Apalachicola-Chattahoochee-Flint River Basin  
14 Compact, to be entered into by Alabama, Florida, Georgia,  
15 and the United States for the purpose of equitably  
16 apportioning the waters of the basin and promoting  
17 interstate water resource cooperation and planning.  
18 Provides scope and definitions. Provides for legal  
19 viability of the compact, once enacted by each state  
20 legislature and the United States Congress. Specifies  
21 conditions resulting in termination of the compact.  
22 Creates a commission with the power to employ staff,  
23 plan, coordinate, monitor, and make recommendations  
24 regarding water resources, enter into agreements and  
25 contracts, participate with governmental and  
26 nongovernmental entities, conduct studies, develop, own,  
27 and operate facilities, and acquire and convey property  
28 for purposes of administering the compact. Provides for  
29 establishment of an allocation formula for equitable  
30 apportionment among the states of the basin's surface  
31 waters. Provides for commission participation in pending  
studies. Specifies relationship of the compact with other  
laws, rules, and regulations. Provides for funding of  
commission operations by the states in equal shares.  
Provides procedures for enforcement and for resolution of  
disputes by hearing officers or independent mediators.  
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.