

otherwise meeting the timber resource management requirements of s. 253.036, the land managing agency shall provide a written explanation to the management review team.

(5) Each water management district shall, by October 1 of each year, provide its governing board with a report indicating which properties have been reviewed and the review team's findings.

History.—s. 15, ch. 97-164; s. 3, ch. 98-332; s. 173, ch. 99-13; s. 192, ch. 99-245; s. 18, ch. 2012-7.

PART VI

MISCELLANEOUS PROVISIONS

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373.69 Apalachicola-Chattahoochee-Flint River Basin Compact.

373.603 Power to enforce.—The Department of Environmental Protection or the governing board of any water management district and any officer or agent thereof may enforce any provision of this law or any rule or regulation adopted and promulgated or order issued thereunder to the same extent as any peace officer is authorized to enforce the law. Any officer or agent of any such board may appear before any trial court judge empowered to issue warrants in criminal cases and make an affidavit and apply for the issuance of a warrant in the manner provided by law. If such affidavit alleges the commission of an offense, the trial court judge shall issue a warrant directed to any sheriff or deputy for the arrest of any offender. The provisions of this section shall apply to the Florida Water Resources Act of 1972 in its entirety.

History.—s. 14, ch. 57-380; s. 14, ch. 63-336; ss. 25, 35, ch. 69-106; s. 2, part VI, ch. 72-299; s. 25, ch. 73-190; s. 117, ch. 77-104; s. 51, ch. 79-65; s. 278, ch. 94-356; s. 8, ch. 2004-11.

Note.—Former s. 373.201.

373.604 Awards to employees for meritorious service.—The governing board of any water management district may adopt and implement a program of meritorious service awards for district employees who make proposals which are implemented and result in reducing district expenditures or improving district operations, who make exceptional contributions to the efficiency of the district, or who make other improvements in the operations of the district. No award granted under the provisions of this section shall exceed \$2,000 or 10 percent of the first year's savings, whichever is less, unless a larger award is made by the Legislature. Awards shall be paid by the district from any available funds.

History.—s. 1, ch. 74-287.

373.605 Group insurance for water management districts.— The governing board of a water management district may provide group insurance for its employees, and the employees of another water management district, in the same manner and with the same provisions and limitations authorized for other public employees under ss. 112.08, 112.09, 112.10, 112.11, and 112.14.

History.— ss. 1, 2, ch. 74-218; s. 21, ch. 97-100; s. 5, ch. 2012-126.

373.6055 Criminal history checks for certain water management district employees and others.—

(1) A water management district that has structures or facilities identified as critical infrastructure by the Regional Domestic Security Task Force created pursuant to s. 943.0312 shall conduct a fingerprint-based criminal history check for any current or prospective employee and other persons designated pursuant to the water management district's security plan for buildings, facilities, and structures if those persons are allowed regular access to those buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.

(2) A water management district that has structures or facilities that are not identified as critical infrastructure by the Regional Domestic Security Task Force may conduct a fingerprint-based criminal history check for any current or prospective employee and others designated pursuant to the water management district's security plan for buildings, facilities, and structures if those persons are allowed regular access to critical buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.

(3)(a) The fingerprint-based criminal history check shall be performed on any person described in subsection (1) pursuant to the applicable water management district's security plan for buildings, facilities, and structures. With respect to employees or others with regular access, such checks shall be performed at least once every 5 years or at other more frequent intervals as provided by the water management district's security plan for buildings, facilities, and structures. Each individual subject to the criminal history check shall file a complete set of fingerprints which are taken in a manner required by the Department of Law Enforcement and the water management district security plan. Fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The results of each fingerprint-based check shall be reported to the requesting water management district. The costs of the checks, consistent with s. 943.053(3), shall be paid by the water management district or other employing entity or by the individual checked.

(b) Each water management district's security plan for buildings, facilities, and structures shall identify criminal convictions or other criminal history factors consistent with paragraph (c) which shall disqualify a person from initial employment or authorization for regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas. Such factors shall be used to disqualify all applicants for employment or others seeking regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas on or after the effective date of the water management district's security plan for buildings, facilities, and structures, and may be used to disqualify all those employed or authorized for regular access as of that date. Each water management district may establish a procedure to appeal a denial of employment or access based upon procedural inaccuracies or discrepancies regarding criminal history factors established pursuant to this paragraph. A water management district may allow waivers on a temporary basis to meet special or emergency needs of the water management district or its users. Policies, procedures, and criteria for implementation of this subsection shall be included in the water management district's security plan for buildings, facilities, and structures.

(c) In addition to other requirements for employment or access established by any water management district pursuant to its water management district's security plan for buildings, facilities, and structures, each water management district's security plan shall provide that:

1. Any person who has within the past 7 years been convicted, regardless of whether adjudication was withheld, for a forcible felony as defined in s. 776.08; an act of terrorism as defined in s. 775.30; planting of a hoax bomb as provided in s. 790.165; any violation involving the manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction as provided in s. 790.166; dealing in stolen property; any violation of s. 893.135; any violation involving the sale, manufacturing, delivery, or possession with intent to sell, manufacture, or deliver a controlled substance; burglary; robbery; any felony violation of s. 812.014; any violation of s. 790.07; any crime an element of which includes use or possession of a firearm; any

conviction for any similar offenses under the laws of another jurisdiction; or conviction for conspiracy to commit any of the listed offenses may not be qualified for initial employment within or authorized regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.

2. Any person who has at any time been convicted of any of the offenses listed in subparagraph 1. may not be qualified for initial employment within or authorized regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas unless, after release from incarceration and any supervision imposed as a sentence, the person remained free from a subsequent conviction, regardless of whether adjudication was withheld, for any of the listed offenses for a period of at least 7 years prior to the employment or access date under consideration.

History.—s. 1, ch. 2005-121; s. 6, ch. 2016-78; s. 8, ch. 2017-37.

373.607 Minority business enterprise procurement goals; implementation of recommendations.— Each water management district, as created in this chapter, may implement the recommendations from any study conducted pursuant to chapter 91-162, Laws of Florida, to achieve minority business enterprise procurement goals.

History.—s. 1, ch. 96-412.

373.608 Patents, copyrights, and trademarks.— Each district may, in its own name:

(1) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products of the district and enforce its rights therein. Each district shall consider contributions by district personnel in the development of trademarks, copyrights, and patents and shall enter into written contracts with such personnel in each trademark, copyright, or patent.

(2) License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use of such district work products, on a royalty basis or for such other consideration as the applicable governing board shall deem proper.

(3) Take any action necessary, including legal action, to protect such district work products against improper or unlawful use or infringement.

(4) Enforce the collection of any sums due to the district for the manufacture or use of such district work products by another party.

(5) Sell any of such district work products and execute all instruments necessary to consummate any such sale.

(6) Do all other acts necessary and proper for the execution of powers and duties conferred upon the districts by this section, including adopting rules, as necessary, in order to administer this section.

History.—s. 4, ch. 2001-256; s. 53, ch. 2002-1.

373.609 Enforcement; city and county officers to assist.— It shall be the duty of every state and county attorney, sheriff, police officer, and other appropriate city and county official, upon request, to assist the department, the governing board of any water management district, or any local board, or any of their agents in the enforcement of the provisions of this law and the rules and regulations adopted thereunder.

History.—s. 15, ch. 57-380; s. 15, ch. 63-336; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 117, ch. 77-104; s. 232, ch. 81-259.

Note.— Former s. 373.211.

373.610 Defaulting contractors.— The district may suspend a contractor on a temporary or permanent basis from doing work with the district if such contractor has materially breached its contract with the district. The district shall adopt rules to administer the provisions of this section to specify the circumstances and conditions that constitute a materially breached contract and conditions that constitute the period for temporary or permanent suspension and for reinstatement.

History.—s. 5, ch. 2001-256; s. 32, ch. 2002-207.

373.611 Modification or limitation of remedy.— In order to promote the cost-effective procurement of commodities and contractual services by the water management districts, a district may enter into contracts to limit or

alter the measure of damages recoverable from a vendor or contractor by a district when procuring commodities or contractual services, consistent with the provisions contained in s. 672.719.

History.—s. 6, ch. 2001-256; s. 33, ch. 2002-207.

373.613 Penalties.— Any person who violates any provision of this law or any rule, regulation or order adopted or issued pursuant thereto is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 18, ch. 57-380; s. 325, ch. 71-136; s. 25, ch. 73-190.

Note.— Former s. 373.241.

373.614 Unlawful damage to district property or works; penalty.— The governing board of the district shall have the power, and is authorized, to offer and pay rewards of up to \$1,000 to any person furnishing information leading to the arrest and conviction of any person who has committed an unlawful act or acts upon the rights-of-way, land, or land interests of the district or has destroyed or damaged district properties or works.

History.—s. 25, ch. 73-190; s. 1, ch. 73-212.

Note.— Former s. 378.163.

373.616 Liberal construction.— The provisions of this chapter shall be liberally construed in order to effectively carry out its purposes.

History.—s. 4, part VI, ch. 72-299.

373.6161 Chapter to be liberally construed.— This chapter shall be construed liberally for effectuating the purposes described herein, and the procedure herein prescribed shall be followed and applied with such latitude consistent with the intent thereof as shall best meet the requirements or necessities therefor.

History.—s. 46, ch. 25209; s. 6, ch. 25213, 1949; s. 25, ch. 73-190.

Note.— Former s. 378.47.

373.617 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) “Agency” means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) “Permit” means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state’s police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state’s police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action

that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

373.618 Public service warnings, alerts, and announcements.— The Legislature believes it is in the public interest that all water management districts created pursuant to s. 373.069 own, acquire, develop, construct, operate, and manage public information systems. Public information systems may be located on property owned by the water management district, upon terms and conditions approved by the water management district, and must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. Local government review or approval is not required for a public information system owned or hereafter acquired, developed, or constructed by the water management district on its own property. A public information system is subject to the requirements of the Highway Beautification Act of 1965 and all federal laws and agreements, when applicable. Water management district funds may not be used to pay the cost to acquire, develop, construct, operate, or manage a public information system. Any necessary funds for a public information system shall be paid for and collected from private sponsors who may display commercial messages.

History.—s. 6, ch. 2012-126; s. 2, ch. 2014-215; s. 23, ch. 2014-223.

373.619 Recognition of water and sewer-saving devices.— The Legislature urges all public-owned or investor-owned water and sewerage systems to reduce connection fees and regular service charges for customers who utilize water or sewer-saving devices, including, but not limited to, individual graywater disposal systems.

History.—s. 2, ch. 82-10.

373.62 Water conservation; automatic sprinkler systems.—

(1) Any person who purchases and installs an automatic landscape irrigation system must properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture.

(2) A licensed contractor who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on that system. If such devices or switches are not installed in the system or are not in proper operating condition, the contractor must install new ones or repair the existing ones and confirm that each device or switch is in proper operating condition before completing other work on the system.

(3) The department shall create a model ordinance by January 15, 2010, that may be adopted and enforced by local governments. The ordinance must, at a minimum:

(a) Require licensed contractors to report automatic landscape irrigation systems that are not in compliance with this section to the appropriate authority.

(b) Provide penalties for licensed contractors who do not comply with this section. The minimum penalty must be \$50 for a first offense, \$100 for a second offense, and \$250 for a third or subsequent offense.

Regular maintenance and replacement of worn or broken technology which interrupts or inhibits the operation of an automatic landscape irrigation system is not a violation of this section if such repairs are conducted within a reasonable time.

(4) Local governments may adopt the model ordinance by October 1, 2010. Local governments that impose requirements that are more stringent than the model ordinance are exempt from adopting the ordinance.

(5) Funds generated by penalties imposed under the ordinance shall be used by the local government for the administration and enforcement of this section and to further water conservation activities.

(6) For purposes of this section, a licensed contractor includes an individual who holds a specific irrigation contractor's license issued by a county.

(7)(a) The Legislature recognizes that lawn and landscape irrigation systems use a substantial amount of the state's potable water. The Legislature finds that smart irrigation systems that use soil moisture sensors with remote monitoring and adjustment capabilities, if properly installed and monitored, provide more efficient irrigation and save substantially more water than conventional time-controlled irrigation systems. This is because smart irrigation systems apply water to lawns and plants only as necessary to maintain required soil moisture, thus minimizing the overwatering or unnecessary watering that occurs with conventional irrigation systems. However, in order for this technology to optimize the efficient application of water it cannot be subject to day or days-of-the-week watering restrictions. The Legislature, therefore, recognizes that enacting a statewide process to provide an exemption from local water restriction ordinances will accelerate the adoption of this water saving technology. Further, a uniform exemption process will streamline variance procedures and minimize delay in implementing such technology. The longer it takes to approve soil moisture sensor control systems, the more potable water is wasted. A uniform variance process will allow state residents to maintain their property and protect water resources while enjoying their landscapes.

(b) For purposes of this subsection, the term:

1. "Monitoring entity" means a local government, community development district created pursuant to chapter 190, a homeowners' association created pursuant to chapter 720, a condominium association created pursuant to chapter 718, a cooperative created pursuant to chapter 719, or a public or private utility.

2. "Soil moisture sensor" means a soil-based device that assesses the available plant soil moisture in order to minimize the unnecessary use of water and optimize the effectiveness of an irrigation system.

3. "Soil moisture sensor control system" is the collective term for an entire soil moisture sensor system that has remote monitoring and adjustment capability.

(c) A variance from day or days-of-the-week watering restrictions, which shall include the maximum soil set point for different soil types within the monitoring entity's jurisdiction, shall be granted by the applicable water management district for any residential, commercial, or recreational user within a monitoring entity's jurisdiction having a soil moisture sensor control system if the monitoring entity certifies that:

1. Each soil moisture sensor control system installed within its jurisdiction will have multiple soil sensors that conform to different soil types and slopes in order to optimize water use for each user, adjust irrigation schedules based on soil moisture requirements, and be installed by a licensed contractor in a manner that is consistent with the Field Guide to Soil Moisture Sensor Use in Florida by the University of Florida IFAS Extension Program for Resource Efficient Communities.

2. It has the ability to monitor the status of each individual user's system and to remotely modify the system settings for irrigation cycles and run times.

3. It will electronically post and update a list of active users of soil moisture sensor control systems within its jurisdiction on a monthly basis and provide Internet access to such listing and the monitoring database to the water management district and the local government.

4. It shall provide notice to a user of noncompliant activity within 48 hours after such activity and, if the user does not take corrective action within 48 hours after such notice, it will remove the posted notice required in subparagraph 5. and remove the user from the active users list required by subparagraph 3.

5. It shall post a notice at each parcel that has installed a compliant soil moisture sensor control system in plain view from the nearest roadway stating: "Irrigating with Smart Irrigation Controller," with the address of the parcel, and shall remove the notice if the user is no longer being monitored by the monitoring entity.

(d) Upon installation of a soil moisture sensor control system, the licensed contractor shall certify to the monitoring entity that subparagraphs (c)1. and (c)2. have been met.

1. The monitoring entity shall post the notice required by subparagraph (c)5. on the user's property and update the Internet listing of users of active soil moisture sensor control systems to include the new user.

2. On an annual basis a professional engineer licensed under chapter 471 or a professional landscape architect licensed under chapter 481 shall perform an annual maintenance review of all soil moisture sensor control systems within the monitoring entity's jurisdiction and certify to the monitoring entity which systems are properly operating and in compliance with paragraph (c). The monitoring entity shall update its Internet listing of users of active soil moisture sensor control systems based on the certification.

(e) Failure by the monitoring entity to ensure continual compliance with the condition of this variance shall be cause for the appropriate water management district to revoke the variance upon proper notice to the monitoring entity.

(f) The variance provided in this subsection applies to day or days-of-the-week watering restrictions of the water management district as preempted by s. 373.217. All other applicable local government and water management district restrictions related to irrigation, including, but not limited to, a prohibition on irrigation and time-of-day watering requirements and water shortage or emergency orders issued pursuant to s. 373.246(2) and (7), remain applicable to the soil moisture sensor control system users within a monitoring entity's jurisdiction.

(g) This subsection does not require a property owner to install a soil moisture sensor control system. This subsection also does not prohibit a property owner from installing soil moisture sensors and seeking an individual variance from the applicable water management district even if such property is located within the jurisdiction of a monitoring entity that has been granted a variance pursuant to paragraph (c).

History.—s. 7, ch. 91-41; s. 7, ch. 91-68; s. 6, ch. 2001-252; s. 1, ch. 2009-199.

373.621 Water conservation.— The Legislature recognizes the significant value of water conservation in the protection and efficient use of water resources. Accordingly, consideration in the administration of ss. 373.223, 373.233, and 373.236 shall be given to applicants who implement water conservation practices pursuant to s. 570.93 or other applicable water conservation measures as determined by the department or a water management district.

History.—s. 51, ch. 2001-279; s. 8, ch. 2014-150.

373.63 Preference to State University System in award of projects or studies.— Notwithstanding any provision of law to the contrary, the governing boards of the water management districts, in considering the awarding of projects or studies relating to research, restoration, or similar projects or studies, shall give preferential consideration to universities in the State University System.

History.—s. 14, ch. 92-288.

373.69 Apalachicola-Chattahoochee-Flint River Basin Compact.—

The states of Alabama, Florida and Georgia and the United States of America hereby agree to the following compact which shall become effective upon enactment of concurrent legislation by each respective state legislature and the Congress of the United States.

SHORT TITLE

This Act shall be known and may be cited as the "Apalachicola-Chattahoochee-Flint River Basin Compact" and shall be referred to hereafter in this document as the "ACF Compact" or "Compact."

ARTICLE I

COMPACT PURPOSES

This Compact among the states of Alabama, Florida and Georgia and the United States of America has been entered into for the purposes of promoting interstate comity, removing causes of present and future controversies, equitably apportioning the surface waters of the ACF, engaging in water planning, and developing and sharing common data bases.

ARTICLE II

SCOPE OF THE COMPACT

This Compact shall extend to all of the waters arising within the drainage basin of the ACF in the states of Alabama, Florida and Georgia.

ARTICLE III

PARTIES

The parties to this Compact are the states of Alabama, Florida and Georgia and the United States of America.

ARTICLE IV

DEFINITIONS

For the purposes of this Compact, the following words, phrases and terms shall have the following meanings:

(a) "ACF Basin" or "ACF" means the area of natural drainage into the Apalachicola River and its tributaries, the Chattahoochee River and its tributaries, and the Flint River and its tributaries. Any reference to the rivers within this Compact will be designated using the letters "ACF" and when so referenced will mean each of these three rivers and each of the tributaries to each such river.

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

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

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

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

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

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

(h) "Water Resource Facility" means any facility or project constructed for the impoundment, diversion, retention, control or regulation of waters within the ACF Basin for any purpose.

(i) "Water resources," or "waters" means all surface waters and ground waters contained or otherwise originating within the ACF Basin.

ARTICLE V

CONDITIONS PRECEDENT TO LEGAL VIABILITY OF THE COMPACT

This Compact shall not be binding on any party until it has been enacted into law by the legislatures of the states of Alabama, Florida and Georgia and by the Congress of the United States of America.

ARTICLE VI

ACF BASIN COMMISSION CREATED

(a) There is hereby created an interstate administrative agency to be known as the "ACF Basin Commission." The Commission shall be comprised of one member representing the state of Alabama, one member representing the state of Florida, one member representing the state of Georgia, and one non-voting member representing the United States of America. The state members shall be known as "State Commissioners" and the federal member shall be known as the "Federal Commissioner." The ACF Basin Commission is a body politic and corporate, with succession for the duration of this Compact.

(b) The Governor of each of the states shall serve as the State Commissioner for his or her state. Each State Commissioner shall appoint one or more alternate members and one of such alternates as designated by the State Commissioner shall serve in the State Commissioner's place and carry out the functions of the State Commissioner, including voting on Commission matters, in the event the State Commissioner is unable to attend a meeting of the Commission. The alternate members from each state shall be knowledgeable in the field of water resources management. Unless otherwise provided by law of the state for which an alternate State Commissioner is appointed, each alternate State Commissioner shall serve at the pleasure of the State Commissioner. In the event of a vacancy in the office of an alternate, it shall be filled in the same manner as an original appointment.

(c) The President of the United States of America shall appoint the Federal Commissioner who shall serve as the representative of all federal agencies with an interest in the ACF. The President shall also appoint an alternate Federal Commissioner to attend and participate in the meetings of the Commission in the event the Federal Commissioner is unable to attend meetings. When at meetings, the alternate Federal Commissioner shall possess all of the powers of the Federal Commissioner. The Federal Commissioner and alternate appointed by the President shall serve until they resign or their replacements are appointed.

(d) Each state shall have one vote on the ACF Basin Commission and the Commission shall make all decisions and exercise all powers by unanimous vote of the three State Commissioners. The Federal Commissioner shall not have a vote, but shall attend and participate in all meetings of the ACF Basin Commission to the same extent as the State Commissioners.

(e) The ACF Basin Commission shall meet at least once a year at a date set at its initial meeting. Such initial meeting shall take place within ninety days of the ratification of the Compact by the Congress of the United States and shall be called by the chair of the Commission. Special meetings of the Commission may be called at the discretion of the chair of the Commission and shall be called by the chair of the Commission upon written request of any member of the Commission. All members shall be notified of the time and place designated for any regular or special meeting at least five days prior to such meeting in one of the following ways: by written notice mailed to the last mailing address given to the Commission by each member, by facsimile, telegram or by telephone. The Chairmanship of the Commission shall rotate annually among the voting members of the Commission on an alphabetical basis, with the first chair to be the State Commissioner representing the State of Alabama.

(f) All meetings of the Commission shall be open to the public.

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

(1) To adopt bylaws and procedures governing its conduct;

- (2) To sue and be sued in any court of competent jurisdiction;
- (3) To retain and discharge professional, technical, clerical and other staff and such consultants as are necessary to accomplish the purposes of this Compact;
- (4) To receive funds from any lawful source and expend funds for any lawful purpose;
- (5) To enter into agreements or contracts, where appropriate, in order to accomplish the purposes of this Compact;
- (6) To create committees and delegate responsibilities;
- (7) To plan, coordinate, monitor, and make recommendations for the water resources of the ACF Basin for the purposes of, but not limited to, minimizing adverse impacts of floods and droughts and improving water quality, water supply, and conservation as may be deemed necessary by the Commission;
- (8) To participate with other governmental and non-governmental entities in carrying out the purposes of this Compact;
- (9) To conduct studies, to generate information regarding the water resources of the ACF Basin, and to share this information among the Commission members and with others;
- (10) To cooperate with appropriate state, federal, and local agencies or any other person in the development, ownership, sponsorship, and operation of water resource facilities in the ACF Basin; provided, however, that the Commission shall not own or operate a federally-owned water resource facility unless authorized by the United States Congress;
- (11) To acquire, receive, hold and convey such personal and real property as may be necessary for the performance of its duties under the Compact; provided, however, that nothing in this Compact shall be construed as granting the ACF Basin Commission authority to issue bonds or to exercise any right of eminent domain or power of condemnation;
- (12) To establish and modify an allocation formula for apportioning the surface waters of the ACF Basin among the states of Alabama, Florida and Georgia; and
- (13) To perform all functions required of it by this Compact and to do all things necessary, proper or convenient in the performance of its duties hereunder, either independently or in cooperation with any state or the United States.

ARTICLE VII

EQUITABLE APPORTIONMENT

(a) It is the intent of the parties to this Compact to develop an allocation formula for equitably apportioning the surface waters of the ACF Basin among the states while protecting the water quality, ecology and biodiversity of the ACF, as provided in the Clean Water Act, 33 U.S.C. Sections 1251 et seq., the Endangered Species Act, 16 U.S.C. Sections 1532 et seq., the National Environmental Policy Act, 42 U.S.C. Sections 4321 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq., and other applicable federal laws. For this purpose, all members of the ACF Basin Commission, including the Federal Commissioner, shall have full rights to notice of and participation in all meetings of the ACF Basin Commission and technical committees in which the basis and terms and conditions of the allocation formula are to be discussed or negotiated. When an allocation formula is unanimously approved by the State Commissioners, there shall be an agreement among the states regarding an allocation formula. The allocation formula thus agreed upon shall become effective and binding upon the parties to this Compact upon receipt by the Commission of a letter of concurrence with said formula from the Federal Commissioner. If, however, the Federal Commissioner fails to submit a letter of concurrence to the Commission within two hundred ten (210) days after the

allocation formula is agreed upon by the State Commissioners, the Federal Commissioner shall within forty-five (45) days thereafter submit to the ACF Basin Commission a letter of nonconcurrency with the allocation formula setting forth therein specifically and in detail the reasons for nonconcurrency; provided, however, the reasons for nonconcurrency as contained in the letter of nonconcurrency shall be based solely upon federal law. The allocation formula shall also become effective and binding upon the parties to this Compact if the Federal Commissioner fails to submit to the ACF Basin Commission a letter of nonconcurrency in accordance with this Article. Once adopted pursuant to this Article, the allocation formula may only be modified by unanimous decision of the State Commissioners and the concurrence by the Federal Commissioner in accordance with the procedures set forth in this Article.

(b) The parties to this Compact recognize that the United States operates certain projects within the ACF Basin that may influence the water resources within the ACF Basin. The parties to this Compact further acknowledge and recognize that various agencies of the United States have responsibilities for administering certain federal laws and exercising certain federal powers that may influence the water resources within the ACF Basin. It is the intent of the parties to this Compact, including the United States, to achieve compliance with the allocation formula adopted in accordance with this Article. Accordingly, once an allocation formula is adopted, each and every officer, agency, and instrumentality of the United States shall have an obligation and duty, to the maximum extent practicable, to exercise their powers, authority, and discretion in a manner consistent with the allocation formula so long as the exercise of such powers, authority, and discretion is not in conflict with federal law.

(c) Between the effective date of this Compact and the approval of the allocation formula under this Article, the signatories to this Compact agree that any person who is withdrawing, diverting, or consuming water resources of the ACF Basin as of the effective date of this Compact, may continue to withdraw, divert or consume such water resources in accordance with the laws of the state where such person resides or does business and in accordance with applicable federal laws. The parties to this Compact further agree that any such person may increase the amount of water resources withdrawn, diverted or consumed to satisfy reasonable increases in the demand of such person for water between the effective date of this Compact and the date on which an allocation formula is approved by the ACF Basin Commission as permitted by applicable law. Each of the state parties to this Compact further agree to provide written notice to each of the other parties to this Compact in the event any person increases the withdrawal, diversion or consumption of such water resources by more than 10 million gallons per day on an average annual daily basis, or in the event any person, who was not withdrawing, diverting or consuming any water resources from the ACF Basin as of the effective date of this Compact, seeks to withdraw, divert or consume more than one million gallons per day on an average annual daily basis from such resources. This Article shall not be construed as granting any permanent, vested or perpetual rights to the amounts of water used between January 3, 1992 and the date on which the Commission adopts an allocation formula.

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

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

ARTICLE VIII

CONDITIONS RESULTING IN TERMINATION OF THE COMPACT

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

(1) The legislatures of the states of Alabama, Florida and Georgia each agree by general laws enacted by each state within any three consecutive years that this Compact should be terminated.

(2) The United States Congress enacts a law expressly repealing this Compact.

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

(4) The Federal Commissioner submits to the Commission a letter of nonconcurrence in the initial allocation formula in accordance with Article VII(a) of the Compact, unless the voting members of the ACF Basin Commission unanimously agree to allow a single 45 day period in which the non-voting Federal Commissioner and the voting State Commissioners may renegotiate an allocation formula and the Federal Commissioner withdraws the letter of nonconcurrence upon completion of this renegotiation.

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

ARTICLE IX

COMPLETION OF STUDIES PENDING ADOPTION OF ALLOCATION FORMULA

The ACF Basin Commission, in conjunction with one or more interstate, federal, state or local agencies, is hereby authorized to participate in any study in process as of the effective date of this Compact, including, without limitation, all or any part of the Alabama-Coosa-Tallapoosa/Apalachicola-Chattahoochee-Flint River Basin Comprehensive Water Resource Study, as may be determined by the Commission in its sole discretion.

ARTICLE X

RELATIONSHIP TO OTHER LAWS

(a) It is the intent of the party states and of the United States Congress by ratifying this Compact, that all state and federal officials enforcing, implementing or administering other state and federal laws affecting the ACF Basin shall, to the maximum extent practicable, enforce, implement or administer those laws in furtherance of the purposes of this Compact and the allocation formula adopted by the Commission insofar as such actions are not in conflict with applicable federal laws.

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

(c) Nothing contained in this Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions or jurisdiction under other existing or future laws in and over the area or waters which are the subject of the Compact, including projects of the Commission, nor shall any act of the Commission have the effect of repealing, modifying or amending any federal law. All officers, agencies and instrumentalities of the United States shall exercise their powers and authority over water resources in the ACF Basin and water resource facilities, and to the maximum extent practicable, shall exercise their discretion in carrying out their responsibilities, powers, and authorities over water resources in the ACF Basin and water resource facilities in the ACF Basin in a manner consistent with and that effectuates the allocation formula developed pursuant to this Compact or any modification of the allocation formula so long as the actions are not in conflict with any applicable federal law. The United States Army Corps of Engineers, or its successors, and all other federal agencies and instrumentalities shall cooperate with

the ACF Basin Commission in accomplishing the purposes of the Compact and fulfilling the obligations of each of the parties to the Compact regarding the allocation formula.

(d) Once adopted by the three states and ratified by the United States Congress, this Compact shall have the full force and effect of federal law, and shall supersede state and local laws operating contrary to the provisions herein or the purposes of this Compact; provided, however, nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective signatory states relating to water quality, and riparian rights as among persons exclusively within each state.

ARTICLE XI

PUBLIC PARTICIPATION

All meetings of the Commission shall be open to the public. The signatory parties recognize the importance and necessity of public participation in activities of the Commission, including the development and adoption of the initial allocation formula and any modification thereto. Prior to the adoption of the initial allocation formula, the Commission shall adopt procedures ensuring public participation in the development, review, and approval of the initial allocation formula and any subsequent modification thereto. At a minimum, public notice to interested parties and a comment period shall be provided. The Commission shall respond in writing to relevant comments.

ARTICLE XII

FUNDING AND EXPENSES OF THE COMMISSION

Commissioners shall serve without compensation from the ACF Basin Commission. All general operational funding required by the Commission and agreed to by the voting members shall obligate each state to pay an equal share of such agreed upon funding. Funds remitted to the Commission by a state in payment of such obligation shall not lapse; provided, however, that if any state fails to remit payment within 90 days after payment is due, such obligation shall terminate and any state which has made payment may have such payment returned. Costs of attendance and participation at meetings of the Commission by the Federal Commissioner shall be paid by the United States.

ARTICLE XIII

DISPUTE RESOLUTION

(a) In the event of a dispute between two or more voting members of this Compact involving a claim relating to compliance with the allocation formula adopted by the Commission under this Compact, the following procedures shall govern:

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

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

(3) Upon receipt of a claim and any response or responses thereto, the Commission shall convene as soon as reasonably practicable, but in no event later than twenty (20) days from receipt of any response to the claim, and shall determine if a resolution of the dispute is possible.

(4) A resolution of a dispute under this Article through unanimous vote of the State Commissioners shall be binding upon the state parties and any state party determined to be in violation of the allocation formula shall correct

such violation without delay.

(5) If the Commission is unable to resolve the dispute within 10 days from the date of the meeting convened pursuant to subparagraph (a)(3) of this Article, the Commission shall select, by unanimous decision of the voting members of the Commission, an independent mediator to conduct a non-binding mediation of the dispute. The mediator shall not be a resident or domiciliary of any member state, shall not be an employee or agent of any member of the Commission, shall be a person knowledgeable in water resource management issues, and shall disclose any and all current or prior contractual or other relations to any member of the Commission. The expenses of the mediator shall be paid by the Commission. If the mediator becomes unwilling or unable to serve, the Commission by unanimous decision of the voting members of the Commission, shall appoint another independent mediator.

(6) If the Commission fails to appoint an independent mediator to conduct a non-binding mediation of the dispute within seventy-five (75) days of the filing of the original claim or within thirty (30) days of the date on which the Commission learns that a mediator is unwilling or unable to serve, the party submitting the claim shall have no further obligation to bring the claim before the Commission and may proceed by pursuing any appropriate remedies, including any and all judicial remedies.

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

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

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

- a. Views expressed or suggestions made by another party regarding a settlement of the dispute;
- b. Proposals made or views expressed by the mediator; or
- c. The fact that another party to the hearing had or had not indicated a willingness to accept a proposal for settlement of the dispute.

(10) The mediator may terminate the non-binding mediation session or sessions whenever, in the judgment of the mediator, further efforts to resolve the dispute would not lead to a resolution of the dispute between or among the parties. Any party to the dispute may terminate the mediation process at any time by giving written notification to the mediator and the Commission. If terminated prior to reaching a resolution, the party submitting the original claim to the Commission shall have no further obligation to bring its claim before the Commission and may proceed by pursuing any appropriate remedies, including any and all judicial remedies.

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

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

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

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

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

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

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

(2) The Commission may adopt or modify the recommendations of the hearing officer within 60 days of submittal of the report. If the Commission is unable to reach unanimous agreement on the resolution of the dispute within 60 days of submittal of the report with the concurrence of the Federal Commissioner in disputes involving or affecting federal interests, the affected party may file an action in any court of competent jurisdiction to enforce the provisions of this Compact. The hearing officer's report shall be of no force and effect and shall not be admissible as evidence in any further proceedings.

(e) All actions under this Article shall be subject to the following provisions:

(1) The Commission shall adopt guidelines and procedures for the appointment of hearing officers or independent mediators to conduct all hearings and mediations required under this Article. The hearing officer or mediator appointed under this Article shall be compensated by the Commission.

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

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

(4) Any signatory party bringing an action before the Commission under this Article shall have the burdens of proof and persuasion.

ARTICLE XIV

ENFORCEMENT

The Commission may, upon unanimous decision, bring an action against any person to enforce any provision of this Compact, other than the adoption or enforcement of or compliance with the allocation formula, in any court of competent jurisdiction.

ARTICLE XV

IMPACTS ON OTHER STREAM SYSTEMS

This Compact shall not be construed as establishing any general principle or precedent applicable to any other interstate streams.

ARTICLE XVI

IMPACT OF COMPACT ON USE OF WATER
WITHIN THE BOUNDARIES
OF THE COMPACTING STATES

The provisions of this Compact shall not interfere with the right or power of any state to regulate the use and control of water within the boundaries of the state, providing such state action is not inconsistent with the allocation formula.

ARTICLE XVII

AGREEMENT REGARDING WATER QUALITY

(a) The States of Alabama, Florida, and Georgia mutually agree to the principle of individual State efforts to control man-made water pollution from sources located and operating within each State and to the continuing support of each State in active water pollution control programs.

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

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

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

ARTICLE XVIII

EFFECT OF OVER OR UNDER DELIVERIES
UNDER THE COMPACT

No state shall acquire any right or expectation to the use of water because of any other state's failure to use the full amount of water allocated to it under this Compact.

ARTICLE XIX

SEVERABILITY

If any portion of this Compact is held invalid for any reason, the remaining portions, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force, effect, and application.

ARTICLE XX

NOTICE AND FORMS OF SIGNATURE

Notice of ratification of this Compact by the legislature of each state shall promptly be given by the Governor of the ratifying state to the Governors of the other participating states. When all three state legislatures have ratified the Compact, notice of their mutual ratification shall be forwarded to the Congressional delegation of the signatory states for submission to the Congress of the United States for ratification. When the Compact is ratified by the Congress of the United States, the President, upon signing the federal ratification legislation, shall promptly notify the Governors of the participating states and appoint the Federal Commissioner. The Compact shall be signed by all four Commissioners as their first order of business at their first meeting and shall be filed of record in the party states.

History.—s. 1, ch. 97-25; s. 14, ch. 99-7; s. 27, ch. 2010-205.

Note.—Former s. 373.71.

PART VII
**WATER SUPPLY POLICY, PLANNING,
PRODUCTION, AND FUNDING**

- 373.701 Declaration of policy.
- 373.703 Water production; general powers and duties.
- 373.705 Water resource development; water supply development.
- 373.707 Alternative water supply development.
- 373.709 Regional water supply planning.
- 373.711 Technical assistance to local governments.
- 373.713 Regional water supply authorities.
- 373.715 Assistance to West Coast Regional Water Supply Authority.

373.701 Declaration of policy.— It is declared to be the policy of the Legislature:

(1) To promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.

(2)(a) Because water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis. Consistent with this directive, the Legislature recognizes the need to allocate water throughout the state so as to meet all reasonable-beneficial uses. However, the Legislature acknowledges that such allocations have in the past adversely affected the water resources of certain areas in this state. To protect such water resources and to meet the current and future needs of those areas with abundant water, the Legislature directs the department and the water management districts to encourage the use of water from sources nearest the area of use or application whenever practicable. Such sources shall include all naturally occurring water sources and all alternative water sources, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery. Reuse of potable reclaimed water and stormwater shall not be subject to the evaluation described in s. 373.223(3)(a)-(g). However, this directive to encourage the use of water, whenever practicable, from sources nearest the area of use or application shall not apply to the transport and direct and indirect use of water within the area encompassed by the Central and Southern Florida Flood Control Project, nor shall it apply anywhere in the state to the transport and use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), nor shall it apply to the transport and use of reclaimed water for electrical power production by an electric utility as defined in s. 366.02(2).

(b) In establishing the policy outlined in paragraph (a), the Legislature realizes that under certain circumstances the need to transport water from distant sources may be necessary for environmental, technical, or economic reasons.

(3) Cooperative efforts between municipalities, counties, utility companies, private landowners, water consumers, water management districts, the Department of Environmental Protection, and the Department of Agriculture and Consumer Services are necessary in order to meet water needs in a manner that will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from which water is withdrawn. Such efforts should employ all practical means of obtaining water, including, but not limited to, withdrawals of surface water and groundwater, reuse, and desalination, and will require cooperation and well-coordinated activities.