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## CONSERVATION AND NATURAL RESOURCES Interstate Compacts: Allocate Surface Water Resources from the Alabama-Coosa-Tallapoosa River Basin Between Georgia and Alabama; Allocate Surface Water Resources from the Apalachicola-Chattahoochee-Flint River Basin Among Alabama, Florida, and Georgia

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## CONSERVATION AND NATURAL RESOURCES

*Interstate Compacts: Allocate Surface Water Resources from the Alabama-Coosa-Tallapoosa River Basin Between Georgia and Alabama; Allocate Surface Water Resources from the Apalachicola-Chattahoochee-Flint River Basin Among Alabama, Florida, and Georgia*

**CODE SECTIONS:** O.C.G.A. § 12-10-100, -110 (new)  
**BILL NUMBERS:** HB 148, HB 149  
**ACT NUMBERS:** 6, 7  
**GEORGIA LAWS:** 1997 Ga. Laws 15, 1997 Ga. Laws 29  
**SUMMARY:** Act 6 enacts the Alabama-Coosa-Tallapoosa River Basin Compact to provide for allocation between Georgia and Alabama of surface waters from the basin. Act 7 enacts the Apalachicola-Chattahoochee-Flint River Basin Compact for allocation among Alabama, Florida, and Georgia of surface waters from the basin. The Acts do not provide specific percentages or formulas under which the surface waters will be allocated among the states. Instead, the Acts provide for the formation of a Commission for each Compact. Each Commission will consist of the Governors of each state and a federal Commissioner appointed by the President. Each Commission, by unanimous vote, will approve an allocation formula for dividing surface waters in the two basins among the three states. However, the federal Commissioner's nonconcurrence in the allocation formulas can be overridden by the remaining Commission members. The Acts provide that the allocation formulas will protect water quality, ecology, and biodiversity within the meaning of federal environmental protection legislation. The Acts have the force of federal law and can override state laws. The Acts also provide for termination of the Compacts upon agreement by the legislatures of the three states.

**EFFECTIVE DATE:** February 25, 1997<sup>1</sup>

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1. The Acts will become effective upon approval by the Governors of Alabama, Florida, and Georgia, and upon approval by Congress and the President pursuant to O.C.G.A. §§ 12-10-100(1), art. 20; -110(1), art. 20 (1997). As of this writing, the

*History*

In 1988, Georgia experienced a drought of mammoth proportions.<sup>2</sup> Water rationing went into effect<sup>3</sup> and low water levels threatened barge traffic in the Southeast on the Chattahoochee and Apalachicola rivers.<sup>4</sup> The water level in Lake Lanier, a lake in northern Georgia, was so low that its dam was unable to produce electricity at normal levels.<sup>5</sup> Streams throughout the Southeast hit record low water levels.<sup>6</sup>

The following year, in an effort to combat the effects of the drought on Atlanta's water needs, and to prepare for the estimated 800,000 new residents expected to move to Atlanta in the next twenty years,<sup>7</sup> the U.S. Army Corps of Engineers announced plans to withdraw fifty percent more water from Lake Lanier than it was currently withdrawing.<sup>8</sup> Plans were also being made to withdraw more water from the Chattahoochee River<sup>9</sup> and the Flint River,<sup>10</sup> and to store water from Georgia's Coosa River for use by north Atlanta suburbs.<sup>11</sup> These plans touched off what has since been called the "water wars" between Georgia and its downstream neighbors—Alabama and Florida.<sup>12</sup> Alabama and Florida officials said the Corps' plans threatened their states' water supply—water they needed for their own

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governors of each state approved the Compacts. Governor Zell Miller of Georgia signed the Acts on February 25, 1997. *See* Final Composite Status Sheet, Mar. 28, 1997. The Governor of the State of Alabama signed the Acts on February 25, 1997. *See* Final Composite Sheet for AL, HB 35 and 36, Feb. 27, 1997 (available in LEXIS, States Library, ALTRCK file). The Governor of the State of Florida signed the Apalachicola-Chattahoochee-Flint Act on April 24, 1997. *See* Final Composite Sheet for FL SB 788, May 1, 1997 (available in LEXIS, States Library, FLTRCK file). As of this writing, the United States Congress had introduced the ACF Compact and the ACT Compact as 105 S.J. Res. 32 and 33 respectively, and had sent the resolutions on to Committee. *See* Bill Tracking Report for S.J. Res. 32 and 33, July 3, 1997 (available in LEXIS, Legis Library, BILLS file). Presidential approval will be the final step for the Compacts to become effective.

2. *See* Charles Seabrook, *Atlanta to Get More Water From Lanier*, ATLANTA J. & CONST., June 10, 1988, at A1 [hereinafter Seabrook I].

3. *See* Charles Seabrook, *Water Wars Take Shape Between Ga., Neighbors*, ATLANTA J. & CONST., Nov. 27, 1989, at A1 [hereinafter Seabrook II].

4. *See* Seabrook I, *supra* note 2.

5. *See id.*

6. *See* Seabrook II, *supra* note 3.

7. *See* Greg Jaffe, *Water Deal May Settle Old Dispute*, WALL ST. J., Sept. 11, 1996; Seabrook II, *supra* note 3.

8. *See* Seabrook II, *supra* note 3; Charles Seabrook, *Campbell Suspicious of Three-State Pact to Divide Chattahoochee's Waters*, ATLANTA J. & CONST., Sept. 24, 1996, at C1 [hereinafter Seabrook III].

9. *See* Seabrook II, *supra* note 3. The Chattahoochee River originates in the North Georgia mountains and is the feeder river for Lake Lanier. *See id.*

10. *See* Jaffe, *supra* note 7.

11. *See* Seabrook II, *supra* note 3.

12. *See id.*; *see also* Seabrook III, *supra* note 8.

expected growth.<sup>13</sup> Alabama and Florida officials also said Georgia's water siphoning plans threatened the quality of the water that flows from Georgia into the two states via the Chattahoochee, Flint, and Coosa Rivers.<sup>14</sup> They said Georgia's already polluted water runs downstream to their states, and Georgia's plan to decrease the water flow would mean pollutants would not get diluted.<sup>15</sup>

Additionally, Florida officials said Georgia's plans to withdraw more water from the Chattahoochee and Flint rivers would deplete water flowing into Florida's Apalachicola Bay—and would cripple the state's \$70 million oyster industry.<sup>16</sup> Before the drought of 1988, Apalachicola Bay supplied one of every seven oysters consumed in the United States.<sup>17</sup> The 1988 drought caused the bay to be declared a federal disaster area.<sup>18</sup> Florida officials said Georgia's proposed siphoning and stockpiling of water would further injure the bay.<sup>19</sup> It would deplete the bay of the necessary river water nutrients that must mix with the Gulf of Mexico's salt water in order for the oysters to flourish.<sup>20</sup>

In all three states, concerned residents jammed public meetings about the Corps' plans to withdraw more water for Georgia.<sup>21</sup> Some residents expressed concern over possible stoppage of barge traffic downstream from Lake Lanier.<sup>22</sup> Others expressed concern over increased costs for electricity and industries not locating in the downstream states due to lack of water.<sup>23</sup>

Unable to convince Georgia to halt its water siphoning plans, Alabama filed a lawsuit in federal court in Birmingham, Alabama, on June 28, 1990.<sup>24</sup> The purpose of the lawsuit was to stop the U.S. Army Corps of Engineers from implementing its plans.<sup>25</sup> Florida later joined

13. See Seabrook III, *supra* note 8.

14. See *id.*; Seabrook II, *supra* note 3.

15. See Jaffe, *supra* note 7.

16. See *id.*

17. See Charles Seabrook, *Apalachicola's Industry Threatened, Part of the Blame Is Seeping Upriver to Metro Atlanta*, ATLANTA J. & CONST. Nov. 26, 1988, at A1.

18. See *id.*

19. See Carrie Teergardin, *River Sustains Millions Through Three States From the Mountains to the Gulf*, ATLANTA J. & CONST., Aug. 19, 1990, at E8.

20. See *id.*

21. See Seabrook II, *supra* note 3.

22. See *id.*

23. See *id.*

24. See Carrie Teergardin, *The Shot Heard Round the Hooch, Suit Takes Aim at Metro Atlanta Efforts to Slake a Growing Thirst, Drip Dry: Year-Round Restrictions, Sharp Slowdown in Growth Could Be on Metro Atlanta's Horizon if it Loses in Showdown*, ATLANTA J. & CONST., June 29, 1990, at A1.

25. See Jaffe, *supra* note 7.

the lawsuit.<sup>26</sup> Georgia officials maintained that Georgia had sovereignty over how it could use the rivers within its borders.<sup>27</sup>

On January 3, 1992, the Governors of Alabama, Florida, and Georgia signed a "treaty" stating that Alabama and Florida would suspend the lawsuit until the U.S. Army Corps of Engineers completed a \$15 million comprehensive study on existing and future water needs in the three states.<sup>28</sup> The study would be funded by all three states.<sup>29</sup>

The study is expected to be completed in December 1997.<sup>30</sup> In anticipation thereof, officials of all three states introduced to their respective legislatures during the 1996-97 legislative sessions interstate water Compacts that would allow the governors of the three states, plus one federal appointee, to analyze the study's findings and divide the water supplies accordingly.<sup>31</sup> The Compacts were officially titled the Alabama-Coosa-Tallapoosa River Basin (ACT) Compact, and the Apalachicola-Chattahoochee-Flint River Basin (ACF) Compact.<sup>32</sup> The Compacts were approved by all three states and must be approved by the United States Congress and the President.<sup>33</sup> In Georgia, the ACT and ACF Compacts are codified at Code sections 12-10-100 and -110, respectively.

### *The Compacts*

The ACT and ACF Compacts govern river basins that cover thirty-eight percent of Georgia's land mass, and provide sixty percent of Georgia's drinking water.<sup>34</sup> The Compacts do not contain the actual water allocation numbers. One Georgia official said the reason for this was a matter of timing.<sup>35</sup> The Compacts needed to be pushed through the legislatures in all three states by the time the \$15 million water

26. *See id.*

27. *See id.*

28. *See* Donald Yacoe, *The Great Southeastern Water War: Can Bonds End the Ongoing Skirmish?* BOND BUYER, Apr. 16, 1992, at 1A; Seabrook III, *supra* note 8; Telephone Interview with Nolton Johnson, Chief of Water Resources Branch, Georgia Environmental Protection Division (Apr. 22, 1997) [hereinafter Johnson Interview].

29. *See* Nancy Badertscher, *Water Supply Compact Clears House Panel*, MACON TEL., Jan. 24, 1997, at A5; Johnson Interview, *supra* note 28.

30. *See* Seabrook III, *supra* note 8.

31. *See* Badertscher, *supra* note 29; *Legislature in Brief, House Oks River Plan*, ATLANTA J. & CONST., Jan. 29, 1997, at C2; Johnson Interview, *supra* note 28. The Compacts were introduced in Georgia as HB 148 and 149, in Alabama as HB 35 and 36, and in Florida as SB 788. *See* Johnson Interview, *supra* note 28.

32. *See* O.C.G.A. §§ 12-10-100, -110 (1997).

33. *See supra* note 1.

34. *See* *Lawmakers '97* (GPTV broadcast, Jan. 28, 1997) (remarks by Georgia Sen. Nathan Dean, Senate District No. 31) (videotape available in Georgia State University College of Law Library).

35. *See* Johnson Interview, *supra* note 28.

study was complete in December 1997. One legislator also surmised that the Compacts should be passed in the 1996-97 legislative sessions because the Governors of all three states—who will ultimately decide water allocation under the Compacts—were cooperating with each other.<sup>36</sup> The Compacts call for the formation of an interstate Commission for each Compact.<sup>37</sup> The Commissions are comprised of the Governors of each state plus one federal Commissioner to be appointed by the President.<sup>38</sup> The Compacts specify that the Commissions will meet and decide equitable water allocation among the states by December 31, 1998.<sup>39</sup> If apportionment is not agreed upon by that date, the Compacts will be terminated unless the Commissioners “unanimously agree to extend th[e] deadline.”<sup>40</sup>

The Compacts were written in sessions that were not open to the public.<sup>41</sup> Federal and state officials from all three states, along with their legal support teams, attended the closed sessions.<sup>42</sup> The director of the Georgia Department of Natural Resources also attended the sessions.<sup>43</sup> In writing the ACT and ACF Compacts, the group interviewed key managers of some of the twenty-six other interstate water compacts in effect throughout the United States.<sup>44</sup> Portions of those existing compacts were used to formulate the ACT and ACF Compacts, although the ACT and ACF Compacts were not modeled after any one such existing interstate compact.<sup>45</sup>

During the closed-door sessions when the ACT and ACF Compacts were written, the Compacts went through at least ten revisions.<sup>46</sup> The final revision took place in a fifteen-hour marathon meeting<sup>47</sup> attended by U.S. House Speaker Newt Gingrich.<sup>48</sup> Speaker Gingrich broke a

36. See Record of Proceedings in the Senate (Feb. 11, 1997) (remarks by Sen. Mark Taylor, Senate District No. 12) (available in Georgia State University College of Law Library).

37. See O.C.G.A. §§ 12-10-100(1), art. 6, -110(1), art. 6 (1997).

38. See *id.* § 12-10-110, art. 6. The Compacts provide that the Governors shall also appoint at least one alternate Commissioner to act in their stead if the Governor is unable to attend a Commission meeting. See *id.* § 12-10-100, art. 6(b).

39. See *id.* § 12-10-110, art. 8(a)(3).

40. *Id.*

41. See Charles Seabrook, *State Releases Details of Plans on Waterways: Formulas to be Worked Out with Florida, Alabama*, ATLANTA J. & CONST., Dec. 12, 1996, at E1.

42. See Johnson Interview, *supra* note 28.

43. See Charles Seabrook, *Gingrich Gets Feds, State to Agree on Water Rights*, ATLANTA J. & CONST., Jan. 14, 1997, at C1 [hereinafter Seabrook IV]; *Compact Agreement Strikes Fair Balance*, ATLANTA J. & CONST., Jan. 15, 1997, at A8 [hereinafter *Fair Balance*].

44. See Johnson Interview, *supra* note 28.

45. See *id.*

46. See Badertscher, *supra* note 29.

47. See Johnson Interview, *supra* note 28.

48. See *id.*; Badertscher, *supra* note 29; Seabrook IV, *supra* note 43; *Fair Balance*,

political impasse between federal and state officials regarding the two following issues: (1) whether the interstate Compacts would preempt existing federal laws; and (2) whether federal agencies would be given sufficient time to approve the water allocation formula.<sup>49</sup>

### *Federal Law Preemption*

Working drafts<sup>50</sup> of the ACT and ACF Compacts included provisions that the Compacts could override federal environmental conservation laws.<sup>51</sup> In the fifteen-hour meeting with state and federal officials, Speaker Gingrich assured opposers to the federal preemption language, such as Upper Chattahoochee Riverkeeper Sally Bethea, that federal laws and water quality would be protected under the Compacts.<sup>52</sup> Gingrich oversaw the addition of language in the Compacts that protects water quality and assures that federal environmental laws would not be preempted by the Compacts.<sup>53</sup>

### *Sufficient Time for Federal Agency Approval*

Federal agencies also had concerns with the initial drafts<sup>54</sup> of the Compacts.<sup>55</sup> The Compacts state that the water allocation numbers must be approved by the federal Commissioner appointed by the President.<sup>56</sup> Under previous drafts of the Compacts, federal officials

*supra* note 43.

49. See Johnson Interview, *supra* note 28; Seabrook IV, *supra* note 43.

50. Because the Compacts were not written by legislators, and were written in closed-door sessions, working drafts of the Compacts are not available to the public. No changes were made to the Compacts subsequent to being introduced in the Georgia General Assembly.

51. See Telephone Interview with Mark Woodall, Chairman of the Legislative Committee, Sierra Club, Georgia Chapter (Apr. 9, 1997) [hereinafter Woodall Interview]; Charles Seabrook, *1991 Georgia Legislature Water Wars: Thirsting for a Solution Consequences Run Deep in Three-State River Compacts*, ATLANTA J. & CONST., Jan. 12, 1997, at C3 [hereinafter Seabrook V]; Badertscher, *supra* note 29.

52. See Johnson Interview, *supra* note 28; Seabrook IV, *supra* note 43; see also Woodall Interview, *supra* note 51 ("Gingrich . . . came in and told them—and rightfully so—that the Compact wouldn't get through Congress the way it was written. The Riverkeeper also helped and got rid of [the language] preempting federal law.").

53. See Seabrook IV, *supra* note 43; *Fair Balance*, *supra* note 43. "It is the intent of the parties to th[ese] Compact[s] to develop an allocation formula for equitably apportioning the surface waters of the ACT [and ACF] Basin[s] among the states while protecting the water quality, ecology and biodiversity of the ACT [and ACF], as provided in [federal laws]." O.C.G.A. §§ 12-10-100(1), art. 7(a); -110(1), art. 7(a) (1997).

54. Initial drafts of the Compacts are unavailable. See *supra* note 50 and accompanying text.

55. See Johnson Interview, *supra* note 28.

56. See O.C.G.A. §§ 12-10-100(1), art. 6(c); -110(1), art. 6(c) (1997); see also *supra*

were worried that they would not be given sufficient time to review the allocation numbers and recommend to the federal Commissioner whether the allocation numbers were acceptable.<sup>57</sup> Speaker Gingrich appeased federal agency concerns by overseeing the addition of language in the Compacts that would give the federal Commissioner 210 days<sup>58</sup> to concur with the allocation numbers.<sup>59</sup> Further, if the federal Commissioner does not concur with the allocation numbers, he or she shall have forty-five days thereafter to submit a letter of nonconurrence setting forth the specific reasons for nonconurrence.<sup>60</sup> This gives the federal Commissioner 255 days in which to gather information from federal agencies and concur or nonconcur.<sup>61</sup> If the federal Commissioner does not approve of the allocation, the allocation numbers can still be approved by the state Commissioners if the federal Commissioner fails to submit the nonconurrence letter.<sup>62</sup>

### *Introduction of the Compacts to the Legislatures*

In the fall of 1996, the Compacts were made public.<sup>63</sup> Atlanta Mayor Bill Campbell, commenting on the Compacts, said he was concerned that they would lead to water allocations that would limit Georgia's water withdrawals too severely and stunt Atlanta's growth.<sup>64</sup>

The Compacts were presented to selected members of the Georgia General Assembly at a briefing in North Georgia in the fall of 1996 prior to commencement of the 1996-97 Georgia legislative session.<sup>65</sup> Some members of the Georgia House of Representatives Natural Resources Committee were present at the briefing.<sup>66</sup>

The Compacts were introduced in the legislatures of all three states during the 1996-97 legislative sessions.<sup>67</sup> The ACT and ACF Compacts

note 37 and accompanying text.

57. See Johnson Interview, *supra* note 28.

58. See O.C.G.A. §§ 12-10-100(1), art. 7; -110(1), art. 7 (1997).

59. See Johnson Interview, *supra* note 28.

60. See O.C.G.A. §§ 12-10-100(1) art. 7; -110(1) art. 7 (1997); Johnson Interview, *supra* note 28.

61. See O.C.G.A. §§ 12-10-100(1), art. 7; -110(1), art. 7 (1997).

62. See *id.*

63. See Seabrook III, *supra* note 8.

64. See *id.*

65. See Telephone Interview with Rep. Bob Hanner, House District No. 159, Chairman of the Georgia House of Representatives Natural Resources Committee (Apr. 9, 1997) [hereinafter Hanner Interview].

66. See *id.*

67. Georgia HB 148 and HB 149 were introduced in the Georgia House of Representatives on Jan. 15, 1997. See Final Composite Status Sheet, Mar. 28, 1997. Alabama HB 35 and HB 36 were introduced in the Alabama House of Representatives Feb. 4, 1997. See Final Composite Sheet for AL, HB 35 and 36, Feb. 27, 1997 (available in LEXIS, States Library, ALTRCK file). Florida SB 788 was



were introduced in the Georgia General Assembly during the 1997 legislative session as HB 148 and HB 149, respectively.<sup>68</sup>

### *Avoiding a Lengthy Court Battle*

When the Compacts were introduced on the floor of the Georgia House and Senate, legislators stressed to their colleagues that Georgia needed to enter into the Compacts in order to keep water allocation out of a lengthy and expensive court battle.<sup>69</sup> Some legislators predicted Georgia would not fare well in such a court battle.<sup>70</sup> If the lawsuit against Georgia had reached the U.S. Supreme Court, Georgia's water allocation would likely have been decided by the Court under the doctrine of equitable apportionment.<sup>71</sup> Under that doctrine, the Court considers how the upstream state's "wasteful"<sup>72</sup> uses of water affect downstream areas, and whether the upstream state has taken reasonable water conservation steps.<sup>73</sup>

Some legislators were skeptical of passing the Compacts because there were no allocation numbers written into the Compacts.<sup>74</sup> In fact, no such interstate water compact lacking an allocation formula had ever been enacted in the United States.<sup>75</sup> However, the Georgia legislators recognized that their only option other than passing the Compacts was continuation of the Alabama lawsuit and a lengthy court battle over Georgia's water supply.<sup>76</sup>

### *The Need to Pass HB 148 and HB 149 Without Amendment*

Georgia legislators also stressed to their colleagues that HB 148 and HB 149 must pass as introduced, with no amendments, because, in

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introduced in the Florida Senate March 3, 1997. See Final Composite Sheet for FL SB 788, May 1, 1997 (available in LEXIS, States Library, FLTRCK file).

68. See Final Composite Status Sheet, Mar. 28, 1997.

69. See Charles Seabrook, '97 Georgia Legislature Murphy, Panel Support Tri-State Water Agreement, ATLANTA J. & CONST., Jan. 24, 1997, at B3; *Lawmakers '97* (GPTV broadcast, Feb. 23, 1997) (remarks by Gov. Zell Miller) (videotape available in Georgia State University College of Law Library); Hanner Interview, *supra* note 65.

70. See Seabrook V, *supra* note 51; Hanner Interview, *supra* note 65 ("We were behind the eight ball—we probably would not have done as well in court."); Telephone Interview with Georgia Rep. Doug Teper, House District No. 61 (Apr. 91, 1997) [hereinafter Teper Interview] ("If it goes to court we are in a tough position.").

71. See *Legislative Review*, 12 GA. ST. U. L. REV. 51, 61 (1995).

72. See *id.*

73. See *id.*

74. See Teper Interview, *supra* note 70 (remarking that without the allocation formula written into the Compacts, "we don't know what we're getting").

75. See Jaffe, *supra* note 7.

76. See Hanner Interview, *supra* note 65; Teper Interview, *supra* note 70.

order for the Compacts to be valid, all three states needed to introduce and pass identical bills.<sup>77</sup>

In Georgia, the Compacts easily passed the House Committee on Natural Resources, partly due to the 1996 fall pre-briefing given to Committee members.<sup>78</sup> Both Compacts were passed by the House and Senate as introduced, with no amendments.<sup>79</sup> The Acts did not replace or amend any existing Georgia Code sections.<sup>80</sup>

*The "Teper" Floor Amendment: Preemption of State Laws*

The only proposed amendment to the Compacts in Georgia came on the floor of the Georgia House of Representatives when Representative Doug Teper asked to delete a provision in the bill that enables the Compacts to supersede state and local laws operating to the contrary of the Compacts.<sup>81</sup> Representative Teper offered the amendment because he did not like the ramifications of the Compacts' ability to supersede state laws regarding water quality.<sup>82</sup> Representative Teper proposed the amendment to further ensure that the Compacts emphasized water quality as opposed to only concentrating on water volume.<sup>83</sup> The amendment failed.<sup>84</sup>

77. See Record of Proceedings in the Senate (Feb. 11, 1997) (remarks by Sen. Mark Taylor, Senate District No. 12) (available in Georgia State University College of Law Library); *Lawmakers '97* (GPTV broadcast, Jan. 28, 1997) (remarks by Georgia Rep. Thomas B. Murphy, House District No. 18) (videotape available in Georgia State University College of Law Library).

78. See Hanner Interview, *supra* note 65; see also Final Composite Status Sheet, Mar. 28, 1997.

79. See Final Composite Status Sheet, Mar. 28, 1997. The ACT Compact (HB 148) passed by a vote of 164-7 in the Georgia House of Representatives; and 53-2 in the Georgia Senate. See GANET 148, Apr. 4, 1997 (available in LEXIS, States Library, GATRCK file). The ACF Compact (HB 149) passed by a vote of 162-8 in the Georgia House of Representatives; and 50-2 in the Georgia Senate. See GANET 149, Apr. 4, 1997 (available in LEXIS, States Library GATRCK file).

80. See O.C.G.A. §§ 12-10-100(1), -110(1) (1997).

81. See Teper Interview, *supra* note 70. Representative Teper wanted to delete the words "shall supersede state and local laws operating to the contrary to the provisions herein or the purposes of th[ese] Compact[s]." O.C.G.A. §§ 12-10-100(1), art. 10(d); -110(1), art. 10(d) (1997).

82. See Teper Interview, *supra* note 70. The Compacts, as passed, provide that the Compacts can supersede state laws that are contrary to the Compacts' purpose of allocating water among the three states, but the Compacts will not supersede state water quality laws that effect only persons within each state. See O.C.G.A. §§ 12-10-100(1), art. 10(d); -110(1), art. 10(d) (1997).

83. See Teper Interview, *supra* note 70.

84. The amendment failed by a vote of 13-157. Search of Vote Tabulations, Georgia House of Representatives Web Page, visited April 4, 1997, <[www.state.ga.us/Legis/](http://www.state.ga.us/Legis/)>.

*Other Opposition*

The Sierra Club, Georgia Chapter, was active in opposing the Compacts.<sup>85</sup> First, the Sierra Club opposed the closed-door sessions in which the Compacts were drafted, calling it a "most un-democratic process."<sup>86</sup> Second, the Club agreed with Representative Teper that the Compacts should not have the ability to supersede state water quality laws.<sup>87</sup> The Club expressed concern that the Compacts would supersede state water laws that are more stringent than federal laws.<sup>88</sup> Third, the Club opposed a provision in the Compacts that allows entities possessing withdrawal permits to increase water withdrawals until the allocation numbers are agreed upon by the three states.<sup>89</sup> The Club believed this language allowed water users to withdraw untold amounts of water until such time as the allocation numbers are agreed upon.<sup>90</sup>

*Mary R. Hawk*

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85. See Seabrook V, *supra* note 51; Woodall Interview, *supra* note 51.

86. See Woodall Interview, *supra* note 51.

87. See *id.*

88. See *id.*; Teper Interview, *supra* note 70; see also *supra* note 81 and accompanying text.

89. See O.C.G.A. §§ 12-10-110(1), art. 7(c); -110(1), art. 7(c) (1997). "Between the effective date of th[ese] Compact[s] and the approval of the allocation formula under this Article, the signatories to th[ese] Compact[s] agree that any person who is withdrawing, diverting, or consuming water resources of the . . . Basin[s] . . . may increase the amount of water resources withdrawn, diverted or consumed to satisfy reasonable increases in the demand of such person for water. . . ." *Id.*

90. See Woodall Interview, *supra* note 51.