

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

**BILL:** CS/CS/SB 494

**INTRODUCER:** Committee on Community Affairs; Committee on Environmental Preservation & Conservation and Senator Bennett

**SUBJECT:** Water Conservation/Automatic Landscape Irrigation Systems

**DATE:** March 3, 2009      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Kiger	EP	<b>Fav/CS</b>
2.	Wolfgang	Yeatman	CA	<b>Fav/CS</b>
3.			GA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This Committee Substitute (CS) amends s. 373.62, F.S., revising the requirements for automatic landscape irrigation systems to include technology that will interrupt or inhibit the system during periods of sufficient moisture. It requires that licensed contractors inspect these systems to ensure that they are in compliance before completing additional work on the systems. Additionally, the CS expands the requirements of this section to apply to any person who operates an automatic landscape irrigation system.

This CS also directs the Department of Environmental Preservation (DEP) to create a model ordinance by January 15, 2010 for adoption by local governments no later than October 1, 2010. The ordinance shall assess penalties for violations of this section to both operators of non-conforming automatic landscape irrigation systems and licensed contractors who do not comply with this section. It provides for regular maintenance of broken systems without assessing penalties to either operators or licensed contractors when fixed within a reasonable time. It provides that funds raised through penalties be dispersed for water-conservation activities and for administration and enforcement.

This CS provides for an effective date of July 1, 2009.

This CS substantially amends s. 373.62, F.S.

## II. Present Situation:

Current law provides for specific requirements for automatic lawn sprinkler systems installed after May 1, 1991 to include rain sensing devices or switches but lacks any specific enforcement provisions. The law specifies that any person who purchases and installs an automatic sprinkler system must install, maintain and operate a rain sensor device or switch that will override the irrigation cycle of the system when adequate rainfall has occurred. There are no provisions for alternative technologies of moisture sensing devices or switches. Additionally, there is no requirement for licensed contractors to check or ensure that a rain sensor is installed or is operating properly before they commence work on lawn sprinkler systems. Lastly, there are currently no provisions to assess penalties for violations of this section, and no agency or local government has authority to determine if violations have occurred and to assess penalties for such violations.

According to a 2008 United States Geological Survey report, Florida withdrew 2,541 million gallons per day (Mgal/d) for public use, with 2,201 Mgal/d supplied from ground water sources and 340 Mgal/d from surface water sources.<sup>1</sup> In addition, the DEP reports that the public supply from ground water sources represents 52 percent of all daily water withdrawn from ground water sources, while only 13 percent of surface water withdrawn on a daily basis went to public supply. Of the publicly supplied water resources, approximately 50 percent is used for landscape irrigation.<sup>2</sup>

## III. Effect of Proposed Changes:

**Section 1** amends s. 373.62, F.S. to create penalties for any person who operates an automatic landscape irrigation system and licensed contractors who do not comply with the requirements of this section. Systems must have technology that will inhibit or interrupt the automatic landscape irrigation system when adequate moisture is present.

Licensed contractors must ensure that such devices or switches are installed and working properly on every automatic landscape irrigation system upon which they work. If such devices or switches are not installed or are not operating properly, the licensed contractor must repair or install new devices or switches and confirm they are operating properly before completing any other service on the system.

To administer the requirements of s. 373.62, F.S., the DEP is directed to create a model ordinance by January 15, 2010 for adoption by local governments no later than October 1, 2010, which at a minimum must provide:

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<sup>1</sup>U.S. Geological Survey. Richard L. Marella. "Fact Sheet 2008-3080: Water Use in Florida, 2005 and Trends 1950-2005." Retrieved 13 Feb. 2009 <<http://pubs.usgs.gov/fs/2008/3080/>>.

<sup>2</sup>Florida Department of Environmental Protection. "Learning from the Drought: Annual Status Report on Regional Water Supply Planning." Retrieved 13 Feb. 2009 <<http://www.dep.state.fl.us/water/waterpolicy/docs/learning-from-drought-final-report.pdf>>.

- Penalties to operators of automatic landscape irrigation systems who do not comply with the requirements of this section; \$50 for a first offense, \$100 for a second offense, and \$250 for a third or subsequent offense;
- Requirements for contractors to report noncompliant systems to the proper authority; and
- Penalties to licensed contractors who do not comply with the requirements of this section; \$50 for a first offense, \$100 for a second offense, and \$250 for a third or subsequent offense.

Local governments that have adopted more stringent ordinances than the DEP model ordinance will not be required to adopt the ordinance.

The CS provides that regular maintenance and replacement of worn or broken technology does not constitute a violation of this section if conducted within a reasonable time.

Finally, the CS provides that funds generated by penalties shall be retained by local governments for the administration and enforcement of the section and to further water conservation activities.

**Section 2** provides that the act shall take effect July 1, 2009.

**Other Potential Implications:**

This bill should have the environmental benefit of helping water conservation.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

The CS allows for an expansion against those whom may be assessed penalties for violations of s. 373.62, F.S. It provides for penalties to be assessed against any person who operates an automatic landscape irrigation system and fails to comply with this section. At a minimum, penalties for violations of this section will result in \$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 will not subject an operator of an automatic landscape irrigation system to penalties if the repair is conducted within a reasonable time. It is anticipated that the costs of maintaining properly operating automatic irrigation systems will be offset, partially or fully, by the savings from more efficient water use.

It is unknown whether licensed contractors will pass additional costs, if any, on to their customers for adherence to the new requirements of s. 373.62, F.S. It is also unknown how much the reporting requirement will cost contractors, and whether they will see increased revenues from sales and repairs of noncompliant landscape irrigation systems. Licensed contractors will be subject to new penalties for violations of this section.

**C. Government Sector Impact:**

The CS directs the DEP to create a model ordinance by January 15, 2010 for adoption by local governments. Local governments must begin enforcement no later than October 1, 2010. The DEP indicates that the costs associated with meeting the additional requirements of s. 373.62, F.S. will be absorbed by existing resources and programs.

The fiscal impact on local governments is unknown. They will be responsible for enforcement of the model ordinance developed by the DEP. Their staffs and code enforcement officials will be responsible for determining when violations have occurred, assessing penalties for the violations and collecting and disposing of funds generated from the penalties to further water conservation activities. These costs are likely to be offset by the penalty monies the local government can collect.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 3, 2009.**

The CS makes the following changes:

- changes “irrigation” to “landscape irrigation,”
- eliminates duplicative language stating that contractors can be penalized for not meeting the requirements of the section,
- exempts local governments from having to adopt the model ordinance if the local ordinance is more stringent than the model ordinance, and
- allows the local government to use penalty monies for the administration and enforcement of the section.

**CS by Environmental Preservation & Conservation on February 17, 2009.**

First, the CS expands the purview of s. 373.62, F.S., to include “automatic irrigation systems” instead of only “automatic lawn sprinkler systems.” Second, it allows operators some flexibility in what technology they want to purchase and install to inhibit or interrupt the automatic irrigation system, rather than limiting their choices to rain or soil-moisture sensor devices or switches. Third, the CS expands the list of professional installers covered in this section from “licensed irrigation contractor” to “licensed contractor” to ensure that all professionals who are licensed to work on irrigation systems are bound by the provision of s. 373.62, F.S. Fourth, the CS provides for penalties for licensed contractors who do not comply with this section. Fifth, the CS requires the DEP to create a model ordinance by January 15, 2010 to be adopted by local governments no later than October 1, 2010 in order to administer this section and removes the DEP’s requirement to delegate enforcement authority to either water management districts or local governments, which is no longer necessary. In addition, since the DEP will no longer be the enforcement agency, penalties will not be remitted to it and, subsequently, will not be deposited into the Water Protection and Sustainability Program Trust Fund. Lastly, the CS contains a provision to provide that regular maintenance of broken systems will not be considered a violation of s. 373.62, F.S., if the repairs are conducted within a reasonable time.

- B. **Amendments:**

None.