

Bill No. SB 1132

Amendment No. Barcode 232842

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senator Brown-Waite moved the following amendment:

Senate Amendment (with title amendment)

On page 3, lines 30 and 31, delete those lines

and insert:

Section 2. Section 125.568, Florida Statutes, is amended to read:

125.568 Conservation of water; Xeriscape.--

(1)(a) The Legislature finds that Xeriscape contributes to the conservation of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that Xeriscape be an essential part of water conservation planning.

(b) "Xeriscape" or "Florida friendly landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant ~~a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system.~~ The principles of Xeriscape

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1 include planning and design, appropriate choice of plants,
2 soil analysis which may include the use of solid waste
3 compost, practical use of turf, efficient irrigation,
4 appropriate use of mulches, and proper maintenance.

5 (2) ~~By October 1, 1992,~~The board of county
6 commissioners of each county shall consider enacting
7 ordinances requiring the use of Xeriscape as a water
8 conservation measure. If the board determines that Xeriscape
9 would be of significant benefit as a water conservation
10 measure relative to the cost to implement Xeriscape
11 landscaping in its area of jurisdiction, the board shall enact
12 a Xeriscape ordinance. Further, the board of county
13 commissioners shall consider promoting Xeriscape as a water
14 conservation measure by: using Xeriscape in, around, or near
15 facilities, parks, and other common areas under its
16 jurisdiction which are landscaped after the effective date of
17 this act; providing public education on Xeriscape, its uses as
18 a water conservation tool, and its long-term
19 cost-effectiveness; and offering incentives to local residents
20 and businesses to implement Xeriscape landscaping.

21 (3) A deed restriction or covenant entered after
22 October 1, 2001, or local government ordinance may not
23 prohibit any property owner from implementing Xeriscape or
24 Florida friendly landscape on his or her land.

25 Section 3. Section 166.048, Florida Statutes, is
26 amended to read:

27 166.048 Conservation of water; Xeriscape.--

28 (1)(a) The Legislature finds that Xeriscape
29 contributes to the conservation of water. In an effort to
30 meet the water needs of this state in a manner that will
31 supply adequate and dependable supplies of water where needed,

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1 it is the intent of the Legislature that Xeriscape be an
2 essential part of water conservation planning.

3 (b) "Xeriscape" or "Florida friendly landscape" means
4 quality landscapes that conserve water and protect the
5 environment and are adaptable to local conditions and which
6 are drought tolerant ~~a landscaping method that maximizes the~~
7 ~~conservation of water by the use of site-appropriate plants~~
8 ~~and an efficient watering system.~~ The principles of Xeriscape
9 include planning and design, appropriate choice of plants,
10 soil analysis which may include the use of solid waste
11 compost, practical use of turf, efficient irrigation,
12 appropriate use of mulches, and proper maintenance.

13 (2) ~~By October 1, 1992,~~The governing body of each
14 municipality shall consider enacting ordinances requiring the
15 use of Xeriscape as a water conservation measure. If the
16 governing body determines that Xeriscape would be of
17 significant benefit as a water conservation measure relative
18 to the cost to implement Xeriscape landscaping in its area of
19 jurisdiction in the municipality, the board shall enact a
20 Xeriscape ordinance. Further, the governing body shall
21 consider promoting Xeriscape as a water conservation measure
22 by: using Xeriscape in, around, or near facilities, parks,
23 and other common areas under its jurisdiction which are
24 landscaped after the effective date of this act; providing
25 public education on Xeriscape, its uses as a water
26 conservation tool, and its long-term cost-effectiveness; and
27 offering incentives to local residents and businesses to
28 implement Xeriscape landscaping.

29 (3) A deed restriction or covenant entered after
30 October 1, 2001, or local government ordinance may not
31 prohibit any property owner from implementing Xeriscape or

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1 Florida friendly landscape on his or her land.

2 Section 4. Subsection (4) is added to section 255.259,
3 Florida Statutes, to read:

4 255.259 Xeriscape landscaping on public property.--

5 (4) A deed restriction or covenant entered after
6 October 1, 2001, or local government ordinance may not
7 prohibit any property owner from implementing Xeriscape or
8 Florida friendly landscape on his or her land.

9 Section 5. Section 335.167, Florida Statutes, is
10 amended to read:

11 335.167 State highway construction and maintenance;
12 Xeriscape landscaping in rights-of-way.--

13 (1) The department shall use and require the use of
14 Xeriscape practices, as defined in s. 373.185(1), in the
15 construction and maintenance of all new state highways,
16 wayside parks, access roads, welcome stations, and other state
17 highway rights-of-way constructed upon or acquired after June
18 30, 1992. The department shall develop a 5-year program for
19 phasing in the use of Xeriscape, including the use of solid
20 waste compost, in state highway rights-of-way constructed upon
21 or acquired before July 1, 1992. In accomplishing these
22 tasks, the department shall employ the guidelines set out in
23 s. 373.185(2)(a)-(f).

24 (2) A deed restriction or covenant entered after
25 October 1, 2001, or local government ordinance may not
26 prohibit any property owner from implementing Xeriscape or
27 Florida friendly landscape on his or her land.

28 Section 6. Section 373.62, Florida Statutes, is
29 amended to read:

30 373.62 Water conservation; automatic sprinkler
31 systems.--Any person who purchases and installs an automatic

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1 lawn sprinkler system after May 1, 1991, shall install, and
2 must maintain and operate, a rain sensor device or switch that
3 ~~which~~ will override the irrigation cycle of the sprinkler
4 system when adequate rainfall has occurred.

5 Section 7. Section 373.185, Florida Statutes, is
6 amended to read:

7 373.185 Local Xeriscape ordinances.--

8 (1) As used in this section, the term:

9 (a) "Local government" means any county or
10 municipality of the state.

11 (b) "Xeriscape" or "Florida friendly landscape" means
12 quality landscapes that conserve water and protect the
13 environment and are adaptable to local conditions and which
14 are drought tolerant ~~a landscaping method that maximizes the~~
15 ~~conservation of water by the use of site-appropriate plants~~
16 ~~and an efficient watering system.~~ The principles of Xeriscape
17 include planning and design, appropriate choice of plants,
18 soil analysis which may include the use of solid waste
19 compost, efficient irrigation, practical use of turf,
20 appropriate use of mulches, and proper maintenance.

21 (2) Each water management district shall design and
22 implement an incentive program to encourage all local
23 governments within its district to adopt new ordinances or
24 amend existing ordinances to require Xeriscape landscaping for
25 development permitted after the effective date of the new
26 ordinance or amendment. Each district shall adopt rules
27 governing the implementation of its incentive program and
28 governing the review and approval of local government
29 Xeriscape ordinances or amendments which are intended to
30 qualify a local government for the incentive program. Each
31 district shall assist the local governments within its

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1 jurisdiction by providing a model Xeriscape code and other
2 technical assistance. A local government Xeriscape ordinance
3 or amendment, in order to qualify the local government for a
4 district's incentive program, must include, at a minimum:

5 (a) Landscape design, installation, and maintenance
6 standards that result in water conservation. Such standards
7 shall address the use of plant groupings, soil analysis
8 including the promotion of the use of solid waste compost,
9 efficient irrigation systems, and other water-conserving
10 practices.

11 (b) Identification of prohibited invasive exotic plant
12 species.

13 (c) Identification of controlled plant species,
14 accompanied by the conditions under which such plants may be
15 used.

16 (d) A provision specifying the maximum percentage of
17 turf and the maximum percentage of impervious surfaces allowed
18 in a xeriscaped area and addressing the practical selection
19 and installation of turf.

20 (e) Specific standards for land clearing and
21 requirements for the preservation of existing native
22 vegetation.

23 (f) A monitoring program for ordinance implementation
24 and compliance.

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26 The districts also shall work with local governments to
27 promote, through educational programs and publications, the
28 use of Xeriscape practices, including the use of solid waste
29 compost, in existing residential and commercial development.
30 This section may not be construed to limit the authority of
31 the districts to require Xeriscape ordinances or practices as

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1 a condition of any consumptive use permit.

2 (3) A deed restriction or covenant entered after
3 October 1, 2001, or local government ordinance may not
4 prohibit any property owner from implementing Xeriscape or
5 Florida friendly landscape on his or her land.

6 Section 8. Section 720.3075, Florida Statutes, is
7 amended to read:

8 720.3075 Prohibited clauses in association
9 documents.--

10 (1) It is declared that the public policy of this
11 state prohibits the inclusion or enforcement of certain types
12 of clauses in homeowners' association documents, including
13 declaration of covenants, articles of incorporation, bylaws,
14 or any other document of the association which binds members
15 of the association, which either have the effect of or provide
16 that:

17 (a) A developer has the unilateral ability and right
18 to make changes to the homeowners' association documents after
19 the transition of homeowners' association control in a
20 community from the developer to the nondeveloper members, as
21 set forth in s. 720.307, has occurred.

22 (b) A homeowners' association is prohibited or
23 restricted from filing a lawsuit against the developer, or the
24 homeowners' association is otherwise effectively prohibited or
25 restricted from bringing a lawsuit against the developer.

26 (c) After the transition of homeowners' association
27 control in a community from the developer to the nondeveloper
28 members, as set forth in s. 720.307, has occurred, a developer
29 is entitled to cast votes in an amount that exceeds one vote
30 per residential lot.

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1 Such clauses are declared null and void as against the public
2 policy of this state.

3 (2) The public policy described in subsection (1)
4 prohibits the inclusion or enforcement of such clauses created
5 on or after the effective date of s. 3, chapter 98-261, Laws
6 of Florida.

7 (3) Homeowners' association documents, including
8 declarations of covenants, articles of incorporation, or
9 bylaws, may not preclude the display of one United States flag
10 by property owners. However, the flag must be displayed in a
11 respectful way and may be subject to reasonable standards for
12 size, placement, and safety, as adopted by the homeowners'
13 association, consistent with Title 36 U.S.C. chapter 10 and
14 any local ordinances.

15 (4) Homeowners' association documents, including
16 declarations of covenants, articles of incorporation or
17 bylaws, entered after October 1, 2001, may not prohibit any
18 property owner from implementing Xeriscape or Florida friendly
19 landscape, as defined in s. 373.185(1), on his or her land.

20 Section 9. This act shall take effect October 1, 2001,
21 except that this section and section 1 of this act shall take
22 effect upon becoming a law.

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 On page 1, lines 2-6, delete those lines

28

29 and insert:

30

A bill to be entitled

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An act relating to the use and disposition of

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1 real and personal property; amending s. 125.35,
2 F.S.; providing an alternative procedure for
3 the sale or disposition of certain property by
4 boards of county commissioners; amending ss.
5 125.568, 166.048, 255.259, 335.167, 373.185,
6 F.S.; redefining the term "Xeriscape";
7 prohibiting certain restrictions on the
8 practice of Xeriscape; amending s. 373.62,
9 F.S.; providing for the operation and
10 maintenance of rain sensor devices; amending s.
11 720.3075, F.S.; prohibiting homeowners'
12 associations from restricting the practice of
13 Xeriscape; providing effective dates.

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