

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Natural Resources & Environmental Protection offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. 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~~

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1 ~~and an efficient watering system.~~ The principles of Xeriscape
2 include planning and design, appropriate choice of plants,
3 soil analysis which may include the use of solid waste
4 compost, practical use of turf, efficient irrigation,
5 appropriate use of mulches, and proper maintenance.

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

22 (3) A deed restriction or covenant entered after
23 October 1, 2001, or local government ordinance may not
24 prohibit any property owner from implementing Xeriscape or
25 Florida friendly landscape on his or her land or from
26 constructing on such land an irrigation well permitted or
27 exempted by the water management district.

28 Section 2. Section 166.048, Florida Statutes, is
29 amended to read:

30 166.048 Conservation of water; Xeriscape.--

31 (1)(a) The Legislature finds that Xeriscape

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

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

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

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1 (3) A deed restriction or covenant entered after
2 October 1, 2001, or local government ordinance may not
3 prohibit any property owner from implementing Xeriscape or
4 Florida friendly landscape on his or her land or from
5 constructing on such land an irrigation well permitted or
6 exempted by the water management district.

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

9 255.259 Xeriscape landscaping on public property.--

10 (4) A deed restriction or covenant entered after
11 October 1, 2001, or local government ordinance may not
12 prohibit any property owner from implementing Xeriscape or
13 Florida friendly landscape on his or her land or from
14 constructing on such land an irrigation well permitted or
15 exempted by the water management district.

16 Section 4. Section 335.167, Florida Statutes, is
17 amended to read:

18 335.167 State highway construction and maintenance;
19 Xeriscape landscaping in rights-of-way.--

20 (1) The department shall use and require the use of
21 Xeriscape practices, as defined in s. 373.185(1), in the
22 construction and maintenance of all new state highways,
23 wayside parks, access roads, welcome stations, and other state
24 highway rights-of-way constructed upon or acquired after June
25 30, 1992. The department shall develop a 5-year program for
26 phasing in the use of Xeriscape, including the use of solid
27 waste compost, in state highway rights-of-way constructed upon
28 or acquired before July 1, 1992. In accomplishing these
29 tasks, the department shall employ the guidelines set out in
30 s. 373.185(2)(a)-(f).

31 (2) A deed restriction or covenant entered after

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1 October 1, 2001, or local government ordinance may not
2 prohibit any property owner from implementing Xeriscape or
3 Florida friendly landscape on his or her land or from
4 constructing on such land an irrigation well permitted or
5 exempted by the water management district.

6 Section 5. Section 373.62, Florida Statutes, is
7 amended to read:

8 373.62 Water conservation; automatic sprinkler
9 systems.--Any person who purchases and installs an automatic
10 lawn sprinkler system after May 1, 1991, shall install, and
11 must maintain and operate, a rain sensor device or switch that
12 which will override the irrigation cycle of the sprinkler
13 system when adequate rainfall has occurred.

14 Section 6. Section 373.185, Florida Statutes, is
15 amended to read:

16 373.185 Local Xeriscape ordinances.--

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

18 (a) "Local government" means any county or
19 municipality of the state.

20 (b) "Xeriscape" or "Florida friendly landscape" means
21 quality landscapes that conserve water and protect the
22 environment and are adaptable to local conditions and which
23 are drought tolerant ~~a landscaping method that maximizes the~~
24 ~~conservation of water by the use of site-appropriate plants~~
25 ~~and an efficient watering system.~~ The principles of Xeriscape
26 include planning and design, appropriate choice of plants,
27 soil analysis which may include the use of solid waste
28 compost, efficient irrigation, practical use of turf,
29 appropriate use of mulches, and proper maintenance.

30 (2) Each water management district shall design and
31 implement an incentive program to encourage all local

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1 governments within its district to adopt new ordinances or
2 amend existing ordinances to require Xeriscape landscaping for
3 development permitted after the effective date of the new
4 ordinance or amendment. Each district shall adopt rules
5 governing the implementation of its incentive program and
6 governing the review and approval of local government
7 Xeriscape ordinances or amendments which are intended to
8 qualify a local government for the incentive program. Each
9 district shall assist the local governments within its
10 jurisdiction by providing a model Xeriscape code and other
11 technical assistance. A local government Xeriscape ordinance
12 or amendment, in order to qualify the local government for a
13 district's incentive program, must include, at a minimum:

14 (a) Landscape design, installation, and maintenance
15 standards that result in water conservation. Such standards
16 shall address the use of plant groupings, soil analysis
17 including the promotion of the use of solid waste compost,
18 efficient irrigation systems, and other water-conserving
19 practices.

20 (b) Identification of prohibited invasive exotic plant
21 species.

22 (c) Identification of controlled plant species,
23 accompanied by the conditions under which such plants may be
24 used.

25 (d) A provision specifying the maximum percentage of
26 turf and the maximum percentage of impervious surfaces allowed
27 in a xeriscaped area and addressing the practical selection
28 and installation of turf.

29 (e) Specific standards for land clearing and
30 requirements for the preservation of existing native
31 vegetation.

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1 (f) A monitoring program for ordinance implementation
2 and compliance.

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4 The districts also shall work with local governments to
5 promote, through educational programs and publications, the
6 use of Xeriscape practices, including the use of solid waste
7 compost, in existing residential and commercial development.
8 This section may not be construed to limit the authority of
9 the districts to require Xeriscape ordinances or practices as
10 a condition of any consumptive use permit.

11 (3) A deed restriction or covenant entered after
12 October 1, 2001, or local government ordinance may not
13 prohibit any property owner from implementing Xeriscape or
14 Florida friendly landscape on his or her land or from
15 constructing on such land an irrigation well permitted or
16 exempted by the water management district.

17 Section 7. Section 720.3075, Florida Statutes, is
18 amended to read:

19 720.3075 Prohibited clauses in association
20 documents.--

21 (1) It is declared that the public policy of this
22 state prohibits the inclusion or enforcement of certain types
23 of clauses in homeowners' association documents, including
24 declaration of covenants, articles of incorporation, bylaws,
25 or any other document of the association which binds members
26 of the association, which either have the effect of or provide
27 that:

28 (a) A developer has the unilateral ability and right
29 to make changes to the homeowners' association documents after
30 the transition of homeowners' association control in a
31 community from the developer to the nondeveloper members, as

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1 set forth in s. 720.307, has occurred.

2 (b) A homeowners' association is prohibited or
3 restricted from filing a lawsuit against the developer, or the
4 homeowners' association is otherwise effectively prohibited or
5 restricted from bringing a lawsuit against the developer.

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

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

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

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

26 (4) Homeowners' association documents, including
27 declarations of covenants, articles of incorporation or
28 bylaws, entered after October 1, 2001, may not prohibit any
29 property owner from implementing Xeriscape or Florida friendly
30 landscape, as defined in s. 373.185(1), on his or her land or
31 from constructing on such land an irrigation well permitted or

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1 exempted by the water management district.

2 Section 8. This act shall take effect October 1, 2001.

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

6 And the title is amended as follows:

7 On page 1, lines 2 through 9

8 remove from the title of the bill: all of said lines

9

10 and insert in lieu thereof:

11 An act relating to use of water resources;
12 amending ss. 125.568, 166.048, 255.259,
13 335.167, 373.185, F.S.; redefining the term
14 "Xeriscape"; prohibiting certain restrictions
15 on the practice of Xeriscape or the
16 construction of irrigation wells; amending s.
17 373.62, F.S.; providing for the operation and
18 maintenance of rain sensor devices; amending s.
19 720.3075, F.S.; prohibiting homeowners'
20 associations from restricting the practice of
21 Xeriscape or the construction of irrigation
22 wells; providing an effective date.

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