

1                                   A bill to be entitled  
2           An act relating to use of water resources;  
3           amending ss. 125.568, 166.048, 255.259,  
4           335.167, 373.185, F.S.; redefining the term  
5           "Xeriscape"; prohibiting certain restrictions  
6           on the practice of Xeriscape or the  
7           construction of irrigation wells; amending s.  
8           373.62, F.S.; providing for the operation and  
9           maintenance of rain sensor devices; amending s.  
10          720.3075, F.S.; prohibiting homeowners'  
11          associations from restricting the practice of  
12          Xeriscape or the construction of irrigation  
13          wells; providing an effective date.

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15   Be It Enacted by the Legislature of the State of Florida:

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17           Section 1.   Section 125.568, Florida Statutes, is  
18   amended to read:

19           125.568   Conservation of water; Xeriscape.--

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

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

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 or from  
25 constructing on such land an irrigation well permitted or  
26 exempted by the water management district.

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

29 166.048 Conservation of water; Xeriscape.--

30 (1)(a) The Legislature finds that Xeriscape  
31 contributes to the conservation of water. In an effort to

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

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

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

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1           (2) 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 5. Section 373.62, Florida Statutes, is  
8 amended to read:

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

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

17           373.185 Local Xeriscape ordinances.--

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

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

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

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

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

22           (b) Identification of prohibited invasive exotic plant  
23 species.

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

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

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1 (e) Specific standards for land clearing and  
2 requirements for the preservation of existing native  
3 vegetation.

4 (f) A monitoring program for ordinance implementation  
5 and compliance.

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

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

20 Section 7. Section 720.3075, Florida Statutes, is  
21 amended to read:

22 720.3075 Prohibited clauses in association  
23 documents.--

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

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1 (a) A developer has the unilateral ability and right  
2 to make changes to the homeowners' association documents after  
3 the transition of homeowners' association control in a  
4 community from the developer to the nondeveloper members, as  
5 set forth in s. 720.307, has occurred.

6 (b) A homeowners' association is prohibited or  
7 restricted from filing a lawsuit against the developer, or the  
8 homeowners' association is otherwise effectively prohibited or  
9 restricted from bringing a lawsuit against the developer.

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

15  
16 Such clauses are declared null and void as against the public  
17 policy of this state.

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

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

30 (4) Homeowners' association documents, including  
31 declarations of covenants, articles of incorporation or



1 bylaws, entered after October 1, 2001, may not prohibit any  
2 property owner from implementing Xeriscape or Florida friendly  
3 landscape, as defined in s. 373.185(1), on his or her land or  
4 from constructing on such land an irrigation well permitted or  
5 exempted by the water management district.

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

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