

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Grimsley offered the following:

2

3 **Amendment (with title amendment)**

4 Between lines 38 and 39, insert:

5 Section 2. Section 373.185, Florida Statutes, is amended
6 to read:

7 373.185 Local Florida-friendly landscape ~~Xeriscape~~
8 ordinances.--

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

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

12 (b) ~~"Xeriscape"~~ or "Florida-friendly landscape" means
13 quality landscapes that conserve water, ~~and~~ protect the
14 environment, ~~and~~ are adaptable to local conditions, ~~and~~ ~~which~~
15 are drought tolerant. The principles of Florida-friendly
16 landscape ~~Xeriscape~~ include planting the right plant in the

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17 right place, efficient watering, appropriate fertilization,
18 mulching, attraction of wildlife, responsible management of yard
19 pests, recycling yard waste, reduction of stormwater runoff, and
20 waterfront protection. Additional components of Florida-friendly
21 landscape include planning and design, ~~appropriate choice of~~
22 plants, soil analysis which may include the use of solid waste
23 compost, ~~efficient irrigation,~~ practical use of turf,
24 ~~appropriate use of mulches,~~ and proper maintenance.

25 (2) Each water management district shall design and
26 implement an incentive program to encourage all local
27 governments within its district to adopt new ordinances or amend
28 existing ordinances to require Florida-friendly Xeriscape
29 landscaping for development permitted after the effective date
30 of the new ordinance or amendment. Each district shall establish
31 criteria ~~adopt rules governing the implementation of its~~
32 ~~incentive program and~~ governing the review and approval of local
33 government Florida-friendly landscape Xeriscape ordinances or
34 amendments which are intended to qualify a local government for
35 the incentive program. Each district shall assist the local
36 governments within its jurisdiction by providing a model
37 Florida-friendly landscape Xeriscape code and other technical
38 assistance. A local government Florida-friendly landscape
39 ~~Xeriscape~~ ordinance or amendment, in order to qualify the local
40 government for a district's incentive program, must include, at
41 a minimum:

42 (a) Landscape design, installation, and maintenance
43 standards that result in water conservation. Such standards
44 shall address the use of plant groupings, soil analysis

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45 including the promotion of the use of solid waste compost,
46 efficient irrigation systems, and other water-conserving
47 practices.

48 (b) Identification of prohibited invasive exotic plant
49 species consistent with the provisions of s. 581.091.

50 (c) Identification of controlled plant species,
51 accompanied by the conditions under which such plants may be
52 used.

53 (d) A provision specifying the maximum percentage of turf
54 and the maximum percentage of impervious surfaces allowed in a
55 Florida-friendly landscaped ~~xeriscaped~~ area and addressing the
56 practical selection and installation of turf.

57 (e) Specific standards for land clearing and requirements
58 for the preservation of existing native vegetation.

59 (f) A monitoring program for ordinance implementation and
60 compliance.

61 (g) Incorporation of the landscape irrigation and Florida-
62 friendly landscape design standards developed pursuant to s.
63 373.228 (4) .

64
65 The districts also shall work with local governments, county
66 extension agents or offices, nursery and landscape industry
67 groups, and other interested stakeholders to promote, through
68 educational programs and publications, the use of Florida-
69 friendly landscape ~~xeriscape~~ practices, including the use of
70 solid waste compost, in existing residential and commercial
71 development. The districts shall use the University of Florida's
72 Yards and Neighborhoods extension program or a similar program

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73 as a primary resource for the delivery of educational programs
74 to individual homeowners and homeowners' associations. This
75 subsection is not subject to the rulemaking requirements of
76 chapter 120 section may not be construed to limit the authority
77 of the districts to require Xeriscape ordinances or practices as
78 a condition of any consumptive use permit.

79 (3) This section may not be construed to limit the
80 authority of the districts to require Florida-Friendly landscape
81 ordinances or practices as a condition of any permit under part
82 II or part IV of this chapter.

83 (4) ~~(3)~~ A deed restriction, ~~or~~ covenant entered after
84 October 1, 2001, or local government ordinance may not prohibit
85 any property owner from implementing ~~Xeriscape~~ or Florida-
86 friendly landscaping landscape on his or her land or create any
87 requirement or limitation in conflict with any provision of part
88 II or a water shortage order, other order, consumptive use
89 permit, or rule adopted or issued pursuant to part II. A deed
90 restriction, covenant, or local government ordinance may not be
91 enforced to prohibit a property owner from implementing Florida-
92 friendly landscaping, nor shall such restriction, covenant, or
93 ordinance create any such conflicting requirement or limitation.
94 The Legislature finds that the use of Florida-Friendly
95 landscaping and other measures that conserve Florida's water
96 resources serves a compelling public interest and that the
97 participation of homeowners' associations and local governments
98 is essential to state water conservation efforts.

99 Section 3. Section 125.568, Florida Statutes, is amended
100 to read:

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101 125.568 Conservation of water; Florida-friendly landscape
102 ~~Xeriscape~~.--

103 (1) (a) The Legislature finds that Florida-friendly
104 landscape, as implemented in s. 373.185, ~~Xeriscape~~ contributes
105 to the conservation of water. In an effort to meet the water
106 needs of this state in a manner that will supply adequate and
107 dependable supplies of water where needed, it is the intent of
108 the Legislature that Florida-friendly landscape ~~Xeriscape~~ be an
109 essential part of water conservation planning.

110 (b) ~~"Xeriscape" or~~ "Florida-friendly landscape" means
111 quality landscapes that conserve water, and protect the
112 environment, and are adaptable to local conditions, and ~~which~~
113 are drought tolerant. The principles of Florida-friendly
114 landscape ~~Xeriscape~~ include planting the right plant in the
115 right place, efficient watering, appropriate fertilization,
116 mulching, attraction of wildlife, responsible management of yard
117 pests, recycling yard waste, reduction of stormwater runoff, and
118 waterfront protection. Additional components of Florida-friendly
119 landscape include planning and design, ~~appropriate choice of~~
120 ~~plants,~~ soil analysis which may include the use of solid waste
121 compost, practical use of turf, ~~efficient irrigation,~~
122 ~~appropriate use of mulches,~~ and proper maintenance.

123 (2) The board of county commissioners of each county shall
124 consider enacting ordinances requiring the use of Florida-
125 friendly landscape ~~Xeriscape~~ as a water conservation measure. If
126 the board determines that Florida-friendly landscape ~~Xeriscape~~
127 would be of significant benefit as a water conservation measure
128 relative to the cost to implement Florida-friendly ~~Xeriscape~~

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129 landscaping in its area of jurisdiction, the board shall enact a
130 Florida-friendly landscape ~~Xeriscape~~ ordinance. Further, the
131 board of county commissioners shall consider promoting Florida-
132 friendly landscape ~~Xeriscape~~ as a water conservation measure by:
133 using Florida-friendly landscape ~~Xeriscape~~ in, around, or near
134 facilities, parks, and other common areas under its jurisdiction
135 that ~~which~~ are landscaped after the effective date of this act;
136 providing public education on Florida-friendly landscape
137 ~~Xeriscape~~, its uses as a water conservation tool, and its long-
138 term cost-effectiveness; and offering incentives to local
139 residents and businesses to implement Florida-friendly ~~Xeriscape~~
140 landscaping.

141 (3) A deed restriction, ~~or~~ covenant ~~entered after October~~
142 ~~1, 2001~~, or local government ordinance may not prohibit any
143 property owner from implementing ~~Xeriscape~~ ~~or~~ Florida-friendly
144 landscape on his or her land.

145 Section 4. Section 166.048, Florida Statutes, is amended
146 to read:

147 166.048 Conservation of water; Florida-friendly landscape
148 ~~Xeriscape~~.--

149 (1) (a) The Legislature finds that Florida-friendly
150 landscape, as implemented in s. 373.185, Xeriscape contributes
151 to the conservation of water. In an effort to meet the water
152 needs of this state in a manner that will supply adequate and
153 dependable supplies of water where needed, it is the intent of
154 the Legislature that Florida-friendly landscape ~~Xeriscape~~ be an
155 essential part of water conservation planning.

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156 (b) ~~"Xeriscape" or~~ "Florida-friendly landscape" means
157 quality landscapes that conserve water, ~~and~~ protect the
158 environment, ~~and~~ are adaptable to local conditions, ~~and which~~
159 are drought tolerant. The principles of Florida-friendly
160 landscape Xeriscape include planting the right plant in the
161 right place, efficient watering, appropriate fertilization,
162 mulching, attraction of wildlife, responsible management of yard
163 pests, recycling yard waste, reduction of stormwater runoff, and
164 waterfront protection. Additional components of Florida-friendly
165 landscape include planning and design, ~~appropriate choice of~~
166 plants, soil analysis which may include the use of solid waste
167 compost, practical use of turf, ~~efficient irrigation,~~
168 ~~appropriate use of mulches,~~ and proper maintenance.

169 (2) The governing body of each municipality shall consider
170 enacting ordinances requiring the use of Florida-friendly
171 landscape Xeriscape as a water conservation measure. If the
172 governing body determines that Florida-friendly landscape
173 Xeriscape would be of significant benefit as a water
174 conservation measure relative to the cost to implement Florida-
175 friendly Xeriscape landscaping in its area of jurisdiction in
176 the municipality, the board shall enact a Florida-friendly
177 landscape Xeriscape ordinance. Further, the governing body shall
178 consider promoting Florida-friendly landscape Xeriscape as a
179 water conservation measure by: using Florida-friendly landscape
180 Xeriscape in, around, or near facilities, parks, and other
181 common areas under its jurisdiction ~~that which~~ are landscaped
182 after the effective date of this act; providing public education
183 on Florida-friendly landscape Xeriscape, its uses as a water

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184 conservation tool, and its long-term cost-effectiveness; and
185 offering incentives to local residents and businesses to
186 implement Florida-friendly ~~Xeriscape~~ landscaping.

187 (3) A deed restriction, ~~or covenant entered after October~~
188 ~~1, 2001~~, or local government ordinance may not prohibit any
189 property owner from implementing ~~Xeriscape~~ or Florida-friendly
190 landscape on his or her land.

191 Section 5. Section 255.259, Florida Statutes, is amended
192 to read:

193 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public
194 property.--

195 (1) The Legislature finds that water conservation is
196 increasingly critical to the continuance of an adequate water
197 supply for the citizens of this state. The Legislature further
198 finds that "Florida-friendly landscape ~~Xeriscape~~," as
199 implemented ~~defined~~ in s. 373.185, can contribute significantly
200 to the conservation of water. Finally, the Legislature finds
201 that state government has the responsibility to promote Florida-
202 friendly landscape ~~Xeriscape~~ as a water conservation measure by
203 using Florida-friendly landscape ~~Xeriscape~~ on public property
204 associated with publicly owned buildings or facilities.

205 (2) As used in this section, "publicly owned buildings or
206 facilities" means those construction projects under the purview
207 of the Department of Management Services. It does not include
208 environmentally endangered land or roads and highway
209 construction under the purview of the Department of
210 Transportation.

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211 (3) The Department of Management Services, in consultation
212 with the Department of Environmental Protection, shall adopt
213 rules and guidelines for the required use of Florida-friendly
214 landscape ~~Xeriscape~~ on public property associated with publicly
215 owned buildings or facilities constructed after June 30, 1992.
216 The Department of Management Services also shall develop a 5-
217 year program for phasing in the use of Florida-friendly
218 landscape ~~Xeriscape~~ on public property associated with publicly
219 owned buildings or facilities constructed before July 1, 1992.
220 In accomplishing these tasks, the Department of Management
221 Services shall take into account the guidelines set out in s.
222 373.185(2) (a) - (g) ~~(a) - (f)~~. The Department of Transportation shall
223 implement Florida-friendly ~~Xeriscape~~ landscaping pursuant to s.
224 335.167.

225 (4) A deed restriction, ~~or~~ covenant ~~entered after October~~
226 ~~1, 2001~~, or local government ordinance may not prohibit any
227 property owner from implementing ~~Xeriscape~~ ~~or~~ Florida-friendly
228 landscape on his or her land.

229 Section 6. Section 335.167, Florida Statutes, is amended
230 to read:

231 335.167 State highway construction and maintenance;
232 ~~Xeriscape~~ ~~or~~ Florida-friendly landscaping.--

233 (1) The department shall use and require the use of
234 Florida-friendly landscape ~~Xeriscape~~ practices, as implemented
235 ~~defined~~ in s. 373.185(1), in the construction and maintenance of
236 all new state highways, wayside parks, access roads, welcome
237 stations, and other state highway rights-of-way constructed upon
238 or acquired after June 30, 1992. The department shall develop a
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239 5-year program for phasing in the use of Florida-friendly
240 landscape ~~Xeriscape~~, including the use of solid waste compost,
241 in state highway rights-of-way constructed upon or acquired
242 before July 1, 1992. In accomplishing these tasks, the
243 department shall employ the guidelines set out in s.
244 373.185(2) (a) - (g) ~~(a) - (f)~~.

245 (2) A deed restriction, ~~or~~ covenant entered ~~after October~~
246 ~~1, 2001~~, or local government ordinance may not prohibit any
247 property owner from implementing ~~Xeriscape~~ or Florida-friendly
248 landscape on his or her land.

249 Section 7. Subsections (2) and (4) of section 373.228,
250 Florida Statutes, are amended to read:

251 373.228 Landscape irrigation design.--

252 (2) The Legislature finds that landscape irrigation
253 comprises a significant portion of water use and that the
254 current typical landscape irrigation system and Florida-friendly
255 landscape ~~xeriscape~~ designs offer significant potential water
256 conservation benefits.

257 (4) The water management districts shall work with the
258 Florida Nurserymen and Growers Association, the Florida Chapter
259 of the American Society of Landscape Architects, the Florida
260 Irrigation Society, the Department of Agriculture and Consumer
261 Services, the Institute of Food and Agricultural Sciences, the
262 Department of Environmental Protection, the Department of
263 Transportation, the Florida League of Cities, the Florida
264 Association of Counties, and the Florida Association of
265 Community Developers to develop landscape irrigation and
266 Florida-friendly landscape ~~xeriscape~~ design standards for new

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267 construction which incorporate a landscape irrigation system and
268 develop scientifically based model guidelines for urban,
269 commercial, and residential landscape irrigation, including drip
270 irrigation, for plants, trees, sod, and other landscaping. The
271 landscape and irrigation design standards shall be based on the
272 irrigation code defined in the Florida Building Code, Plumbing
273 Volume, Appendix F. Local governments shall use the standards
274 and guidelines when developing landscape irrigation and Florida-
275 friendly landscape ~~xeriscape~~ ordinances. Every 5 years, the
276 agencies and entities specified in this subsection shall review
277 the standards and guidelines to determine whether new research
278 findings require a change or modification of the standards and
279 guidelines.

280 Section 8. Paragraph (a) of subsection (3) of section
281 380.061, Florida Statutes, is amended to read:

282 380.061 The Florida Quality Developments program.--

283 (3)(a) To be eligible for designation under this program,
284 the developer shall comply with each of the following
285 requirements which is applicable to the site of a qualified
286 development:

287 1. Have donated or entered into a binding commitment to
288 donate the fee or a lesser interest sufficient to protect, in
289 perpetuity, the natural attributes of the types of land listed
290 below. In lieu of the above requirement, the developer may enter
291 into a binding commitment which runs with the land to set aside
292 such areas on the property, in perpetuity, as open space to be
293 retained in a natural condition or as otherwise permitted under
294 this subparagraph. Under the requirements of this subparagraph,

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295 the developer may reserve the right to use such areas for the
296 purpose of passive recreation that is consistent with the
297 purposes for which the land was preserved.

298 a. Those wetlands and water bodies throughout the state as
299 would be delineated if the provisions of s. 373.4145(1)(b) were
300 applied. The developer may use such areas for the purpose of
301 site access, provided other routes of access are unavailable or
302 impracticable; may use such areas for the purpose of stormwater
303 or domestic sewage management and other necessary utilities to
304 the extent that such uses are permitted pursuant to chapter 403;
305 or may redesign or alter wetlands and water bodies within the
306 jurisdiction of the Department of Environmental Protection which
307 have been artificially created, if the redesign or alteration is
308 done so as to produce a more naturally functioning system.

309 b. Active beach or primary and, where appropriate,
310 secondary dunes, to maintain the integrity of the dune system
311 and adequate public accessways to the beach. However, the
312 developer may retain the right to construct and maintain
313 elevated walkways over the dunes to provide access to the beach.

314 c. Known archaeological sites determined to be of
315 significance by the Division of Historical Resources of the
316 Department of State.

317 d. Areas known to be important to animal species
318 designated as endangered or threatened animal species by the
319 United States Fish and Wildlife Service or by the Fish and
320 Wildlife Conservation Commission, for reproduction, feeding, or
321 nesting; for traveling between such areas used for reproduction,
322 feeding, or nesting; or for escape from predation.

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323 e. Areas known to contain plant species designated as
324 endangered plant species by the Department of Agriculture and
325 Consumer Services.

326 2. Produce, or dispose of, no substances designated as
327 hazardous or toxic substances by the United States Environmental
328 Protection Agency or by the Department of Environmental
329 Protection or the Department of Agriculture and Consumer
330 Services. This subparagraph is not intended to apply to the
331 production of these substances in nonsignificant amounts as
332 would occur through household use or incidental use by
333 businesses.

334 3. Participate in a downtown reuse or redevelopment
335 program to improve and rehabilitate a declining downtown area.

336 4. Incorporate no dredge and fill activities in, and no
337 stormwater discharge into, waters designated as Class II,
338 aquatic preserves, or Outstanding Florida Waters, except as
339 activities in those waters are permitted pursuant to s.
340 403.813(2) and the developer demonstrates that those activities
341 meet the standards under Class II waters, Outstanding Florida
342 Waters, or aquatic preserves, as applicable.

343 5. Include open space, recreation areas, Florida-friendly
344 landscape Xeriscape as defined in s. 373.185, and energy
345 conservation and minimize impermeable surfaces as appropriate to
346 the location and type of project.

347 6. Provide for construction and maintenance of all onsite
348 infrastructure necessary to support the project and enter into a
349 binding commitment with local government to provide an
350 appropriate fair-share contribution toward the offsite impacts

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351 which the development will impose on publicly funded facilities
352 and services, except offsite transportation, and condition or
353 phase the commencement of development to ensure that public
354 facilities and services, except offsite transportation, will be
355 available concurrent with the impacts of the development. For
356 the purposes of offsite transportation impacts, the developer
357 shall comply, at a minimum, with the standards of the state land
358 planning agency's development-of-regional-impact transportation
359 rule, the approved strategic regional policy plan, any
360 applicable regional planning council transportation rule, and
361 the approved local government comprehensive plan and land
362 development regulations adopted pursuant to part II of chapter
363 163.

364 7. Design and construct the development in a manner that
365 is consistent with the adopted state plan, the applicable
366 strategic regional policy plan, and the applicable adopted local
367 government comprehensive plan.

368 Section 9. Subsection (3) of section 388.291, Florida
369 Statutes, is amended to read:

370 388.291 Source reduction measures; supervision by
371 department.--

372 (3) Property owners in a developed residential area are
373 required to maintain their property in such a manner so as not
374 to create or maintain any standing freshwater condition capable
375 of breeding mosquitoes or other arthropods in significant
376 numbers so as to constitute a public health, welfare, or
377 nuisance problem. Nothing in this subsection shall permit the
378 alteration of permitted stormwater management systems or

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379 prohibit maintained fish ponds, Florida-friendly landscaping
380 ~~xeriscaping~~, or other maintained systems of landscaping or
381 vegetation. If such a condition is found to exist, the local
382 arthropod control agency shall serve notice on the property
383 owner to treat, remove, or abate the condition. Such notice
384 shall serve as prima facie evidence of maintaining a nuisance,
385 and upon failure of the property owner to treat, remove, or
386 abate the condition, the local arthropod control agency or any
387 affected citizen may proceed pursuant to s. 60.05 to enjoin the
388 nuisance and may recover costs and attorney's fees if they
389 prevail in the action.

390 Section 10. Paragraph (a) of subsection (6) of section
391 481.303, Florida Statutes, is amended to read:

392 481.303 Definitions.--As used in this chapter:

393 (6) "Landscape architecture" means professional services,
394 including, but not limited to, the following:

395 (a) Consultation, investigation, research, planning,
396 design, preparation of drawings, specifications, contract
397 documents and reports, responsible construction supervision, or
398 landscape management in connection with the planning and
399 development of land and incidental water areas, including the
400 use of Florida-friendly landscape ~~xeriscape~~ as implemented
401 ~~defined~~ in s. 373.185, where, and to the extent that, the
402 dominant purpose of such services or creative works is the
403 preservation, conservation, enhancement, or determination of
404 proper land uses, natural land features, ground cover and
405 plantings, or naturalistic and aesthetic values;

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406 Section 11. Subsection (4) of section 720.3075, Florida
407 Statutes, is amended to read:

408 720.3075 Prohibited clauses in association documents.--

409 (4) Homeowners' association documents, including
410 declarations of covenants, articles of incorporation, or bylaws,
411 ~~entered after October 1, 2001,~~ may not prohibit any property
412 owner from implementing ~~Xeriscape~~ or Florida-friendly landscape,
413 as implemented ~~defined~~ in s. 373.185(1), on his or her land.

414 -----
415 -----

416 T I T L E A M E N D M E N T

417 Remove line 8 and insert:

418 Legislature by a specified date; amending s. 373.185, F.S.;
419 revising the principles of Florida-friendly landscape; deleting
420 references to "xeriscape"; revising eligibility criteria for
421 certain water management district incentive programs; requiring
422 certain local government ordinances and amendments to
423 incorporate specified landscape irrigation and design standards
424 and identify specified invasive exotic plant species; requiring
425 water management districts to consult with additional entities
426 for activities relating to Florida-friendly landscaping
427 practices; specifying the University of Florida's Yards and
428 Neighborhoods extension program or a similar program as a
429 primary resource for the delivery of educational programs
430 relating to such practices; providing an exemption from certain
431 rulemaking requirements; providing construction; prohibiting the
432 creation of conflicting requirements or limitations; providing
433 legislative findings; amending ss. 125.568, 166.048, 255.259,
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HOUSE AMENDMENT

Bill No. HB 199

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434 335.167, 373.228, 380.061, 388.291, 481.303, and 720.3075, F.S.;

435 conforming provisions to changes made by the act; providing an

436 effective

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