

HB 7151

2008

1                                   A bill to be entitled  
2       An act relating to water conservation; amending s.  
3       373.236, F.S.; providing incentives for certain  
4       alternative water supply development projects; authorizing  
5       water management districts and the Department of  
6       Environmental Protection to grant permits for such  
7       projects; specifying conditions for such permits; amending  
8       s. 163.3177, F.S.; authorizing transferable rural land use  
9       credits and specified incentives for certain alternative  
10      water supply projects; amending s. 373.1961, F.S.;  
11      revising funding determination criteria for alternative  
12      water supply projects; amending s. 373.185, F.S.; revising  
13      the principles of Florida-friendly landscape; deleting  
14      references to "xeriscape"; revising eligibility criteria  
15      for certain water management district incentive programs;  
16      requiring certain local government ordinances and  
17      amendments to incorporate specified landscape irrigation  
18      and design standards and identify specified invasive  
19      exotic plant species; requiring water management districts  
20      to consult with additional entities for activities  
21      relating to Florida-friendly landscaping practices;  
22      specifying the University of Florida's Yards and  
23      Neighborhoods extension program or a similar program as a  
24      primary resource for the delivery of educational programs  
25      relating to such practices; providing an exemption from  
26      certain rulemaking requirements; providing construction;  
27      prohibiting the creation of conflicting requirements or  
28      limitations; providing legislative findings; amending ss.

Page 1 of 27

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7151-00

HB 7151

2008

29 | 125.568, 166.048, 255.259, 335.167, 373.228, 380.061,  
 30 | 388.291, 481.303, and 720.3075, F.S.; conforming  
 31 | provisions to changes made by the act; providing an  
 32 | effective date.

33 |  
 34 | Be It Enacted by the Legislature of the State of Florida:

35 |  
 36 | Section 1. Subsection (6) is added to section 373.236,  
 37 | Florida Statutes, to read:

38 | 373.236 Duration of permits; compliance reports.--

39 | (6) (a) The need for alternative water supply development  
 40 | projects to meet anticipated public water supply demands of the  
 41 | state is such that it is essential to encourage participation in  
 42 | and contribution to such projects by private rural landowners  
 43 | who characteristically have relatively modest near-term water  
 44 | demands but substantially increasing demands after the 20-year  
 45 | planning horizon provided in s. 373.0361. Where such landowners  
 46 | make extraordinary contributions of lands or construction  
 47 | funding to enable the expeditious implementation of such  
 48 | projects, water management districts and the department are  
 49 | authorized to grant permits for such projects for a period of up  
 50 | to 50 years to municipalities, counties, special districts,  
 51 | regional water supply authorities, multijurisdictional water  
 52 | supply entities, and publicly owned or privately owned utilities  
 53 | created for or by the private landowners on or before April 1,  
 54 | 2008, which entities have entered into an agreement with the  
 55 | private landowner, for the purposes of more efficiently pursuing  
 56 | alternative public water supply development projects identified

HB 7151

2008

57 in a district's regional water supply plan and meeting water  
58 demands of both the applicant and the landowner.

59 (b) Any permit pursuant to paragraph (a) shall be granted  
60 only for that period of time for which there is sufficient data  
61 to provide reasonable assurance that the conditions for permit  
62 issuance will be met. Such a permit shall require a compliance  
63 report by the permittee every 5 years during the term of the  
64 permit. The report shall contain sufficient data to maintain  
65 reasonable assurance that the conditions for permit issuance,  
66 applicable at the time of district review of the compliance  
67 report, are met. Following review of the report, the governing  
68 board or the department may modify the permit to ensure that the  
69 use meets the conditions for issuance. This paragraph shall not  
70 be construed to limit the existing authority of the department  
71 or the governing board to modify or revoke a consumptive use  
72 permit.

73 Section 2. Paragraph (d) of subsection (11) of section  
74 163.3177, Florida Statutes, is amended to read:

75 163.3177 Required and optional elements of comprehensive  
76 plan; studies and surveys.--

77 (11)

78 (d)1. The department, in cooperation with the Department  
79 of Agriculture and Consumer Services, the Department of  
80 Environmental Protection, water management districts, and  
81 regional planning councils, shall provide assistance to local  
82 governments in the implementation of this paragraph and rule 9J-  
83 5.006(5)(1), Florida Administrative Code. Implementation of  
84 those provisions shall include a process by which the department

HB 7151

2008

85 may authorize local governments to designate all or portions of  
86 lands classified in the future land use element as predominantly  
87 agricultural, rural, open, open-rural, or a substantively  
88 equivalent land use, as a rural land stewardship area within  
89 which planning and economic incentives are applied to encourage  
90 the implementation of innovative and flexible planning and  
91 development strategies and creative land use planning  
92 techniques, including those contained herein and in rule 9J-  
93 5.006(5)(1), Florida Administrative Code. Assistance may  
94 include, but is not limited to:

95 a. Assistance from the Department of Environmental  
96 Protection and water management districts in creating the  
97 geographic information systems land cover database and aerial  
98 photogrammetry needed to prepare for a rural land stewardship  
99 area;

100 b. Support for local government implementation of rural  
101 land stewardship concepts by providing information and  
102 assistance to local governments regarding land acquisition  
103 programs that may be used by the local government or landowners  
104 to leverage the protection of greater acreage and maximize the  
105 effectiveness of rural land stewardship areas; and

106 c. Expansion of the role of the Department of Community  
107 Affairs as a resource agency to facilitate establishment of  
108 rural land stewardship areas in smaller rural counties that do  
109 not have the staff or planning budgets to create a rural land  
110 stewardship area.

111 2. The department shall encourage participation by local  
112 governments of different sizes and rural characteristics in

HB 7151

2008

113 establishing and implementing rural land stewardship areas. It  
114 is the intent of the Legislature that rural land stewardship  
115 areas be used to further the following broad principles of rural  
116 sustainability: restoration and maintenance of the economic  
117 value of rural land; control of urban sprawl; identification and  
118 protection of ecosystems, habitats, and natural resources;  
119 promotion of rural economic activity; maintenance of the  
120 viability of Florida's agricultural economy; and protection of  
121 the character of rural areas of Florida. Rural land stewardship  
122 areas may be multicounty in order to encourage coordinated  
123 regional stewardship planning.

124 3. A local government, in conjunction with a regional  
125 planning council, a stakeholder organization of private land  
126 owners, or another local government, shall notify the department  
127 in writing of its intent to designate a rural land stewardship  
128 area. The written notification shall describe the basis for the  
129 designation, including the extent to which the rural land  
130 stewardship area enhances rural land values, controls urban  
131 sprawl, provides necessary open space for agriculture and  
132 protection of the natural environment, promotes rural economic  
133 activity, and maintains rural character and the economic  
134 viability of agriculture.

135 4. A rural land stewardship area shall be not less than  
136 10,000 acres and shall be located outside of municipalities and  
137 established urban growth boundaries, and shall be designated by  
138 plan amendment. The plan amendment designating a rural land  
139 stewardship area shall be subject to review by the Department of

HB 7151

2008

140 Community Affairs pursuant to s. 163.3184 and shall provide for  
141 the following:

142 a. Criteria for the designation of receiving areas within  
143 rural land stewardship areas in which innovative planning and  
144 development strategies may be applied. Criteria shall at a  
145 minimum provide for the following: adequacy of suitable land to  
146 accommodate development so as to avoid conflict with  
147 environmentally sensitive areas, resources, and habitats;  
148 compatibility between and transition from higher density uses to  
149 lower intensity rural uses; the establishment of receiving area  
150 service boundaries which provide for a separation between  
151 receiving areas and other land uses within the rural land  
152 stewardship area through limitations on the extension of  
153 services; and connection of receiving areas with the rest of the  
154 rural land stewardship area using rural design and rural road  
155 corridors.

156 b. Goals, objectives, and policies setting forth the  
157 innovative planning and development strategies to be applied  
158 within rural land stewardship areas pursuant to the provisions  
159 of this section.

160 c. A process for the implementation of innovative planning  
161 and development strategies within the rural land stewardship  
162 area, including those described in this subsection and rule 9J-  
163 5.006(5)(1), Florida Administrative Code, which provide for a  
164 functional mix of land uses, including adequate available  
165 workforce housing, including low, very-low and moderate income  
166 housing for the development anticipated in the receiving area  
167 and which are applied through the adoption by the local

HB 7151

2008

168 government of zoning and land development regulations applicable  
169 to the rural land stewardship area.

170 d. A process which encourages visioning pursuant to s.  
171 163.3167(11) to ensure that innovative planning and development  
172 strategies comply with the provisions of this section.

173 e. The control of sprawl through the use of innovative  
174 strategies and creative land use techniques consistent with the  
175 provisions of this subsection and rule 9J-5.006(5)(1), Florida  
176 Administrative Code.

177 5. A receiving area shall be designated by the adoption of  
178 a land development regulation. Prior to the designation of a  
179 receiving area, the local government shall provide the  
180 Department of Community Affairs a period of 30 days in which to  
181 review a proposed receiving area for consistency with the rural  
182 land stewardship area plan amendment and to provide comments to  
183 the local government. At the time of designation of a  
184 stewardship receiving area, a listed species survey will be  
185 performed. If listed species occur on the receiving area site,  
186 the developer shall coordinate with each appropriate local,  
187 state, or federal agency to determine if adequate provisions  
188 have been made to protect those species in accordance with  
189 applicable regulations. In determining the adequacy of  
190 provisions for the protection of listed species and their  
191 habitats, the rural land stewardship area shall be considered as  
192 a whole, and the impacts to areas to be developed as receiving  
193 areas shall be considered together with the environmental  
194 benefits of areas protected as sending areas in fulfilling this  
195 criteria.

HB 7151

2008

196           6. Upon the adoption of a plan amendment creating a rural  
197 land stewardship area, the local government shall, by ordinance,  
198 establish the methodology for the creation, conveyance, and use  
199 of transferable rural land use credits, otherwise referred to as  
200 stewardship credits, the application of which shall not  
201 constitute a right to develop land, nor increase density of  
202 land, except as provided by this section. The total amount of  
203 transferable rural land use credits within the rural land  
204 stewardship area must enable the realization of the long-term  
205 vision and goals for the 25-year or greater projected population  
206 of the rural land stewardship area, which may take into  
207 consideration the anticipated effect of the proposed receiving  
208 areas. Transferable rural land use credits are subject to the  
209 following limitations:

210           a. Transferable rural land use credits may only exist  
211 within a rural land stewardship area.

212           b. Transferable rural land use credits may only be used on  
213 lands designated as receiving areas and then solely for the  
214 purpose of implementing innovative planning and development  
215 strategies and creative land use planning techniques adopted by  
216 the local government pursuant to this section.

217           c. Transferable rural land use credits assigned to a  
218 parcel of land within a rural land stewardship area shall cease  
219 to exist if the parcel of land is removed from the rural land  
220 stewardship area by plan amendment.

221           d. Neither the creation of the rural land stewardship area  
222 by plan amendment nor the assignment of transferable rural land  
223 use credits by the local government shall operate to displace



HB 7151

2008

224 the underlying density of land uses assigned to a parcel of land  
225 within the rural land stewardship area; however, if transferable  
226 rural land use credits are transferred from a parcel for use  
227 within a designated receiving area, the underlying density  
228 assigned to the parcel of land shall cease to exist.

229 e. The underlying density on each parcel of land located  
230 within a rural land stewardship area shall not be increased or  
231 decreased by the local government, except as a result of the  
232 conveyance or use of transferable rural land use credits, as  
233 long as the parcel remains within the rural land stewardship  
234 area.

235 f. Transferable rural land use credits shall cease to  
236 exist on a parcel of land where the underlying density assigned  
237 to the parcel of land is utilized.

238 g. An increase in the density of use on a parcel of land  
239 located within a designated receiving area may occur only  
240 through the assignment or use of transferable rural land use  
241 credits and shall not require a plan amendment.

242 h. A change in the density of land use on parcels located  
243 within receiving areas shall be specified in a development order  
244 which reflects the total number of transferable rural land use  
245 credits assigned to the parcel of land and the infrastructure  
246 and support services necessary to provide for a functional mix  
247 of land uses corresponding to the plan of development.

248 i. Land within a rural land stewardship area may be  
249 removed from the rural land stewardship area through a plan  
250 amendment.

HB 7151

2008

251           j. Transferable rural land use credits may be assigned at  
252 different ratios of credits per acre according to the natural  
253 resource or other beneficial use characteristics of the land and  
254 according to the land use remaining following the transfer of  
255 credits, with the highest number of credits per acre assigned to  
256 the most environmentally valuable land, alternative water supply  
257 development projects identified in the regional water supply  
258 plan, or water quality enhancement as part of the plan approved  
259 by the Legislature or water management district for the  
260 restoration of Lake Okeechobee, estuaries that receive waters  
261 from Lake Okeechobee, and the Northern Everglades or, in  
262 locations where the retention of open space and agricultural  
263 land is a priority, to such lands.

264           k. The use or conveyance of transferable rural land use  
265 credits must be recorded in the public records of the county in  
266 which the property is located as a covenant or restrictive  
267 easement running with the land in favor of the county and either  
268 the Department of Environmental Protection, Department of  
269 Agriculture and Consumer Services, a water management district,  
270 or a recognized statewide land trust.

271           7. Owners of land within rural land stewardship areas  
272 should be provided incentives to enter into rural land  
273 stewardship agreements, pursuant to existing law and rules  
274 adopted thereto, with state agencies, water management  
275 districts, and local governments to achieve mutually agreed upon  
276 conservation objectives. Such incentives may include, but not be  
277 limited to, the following:

HB 7151

2008

- 278 a. Opportunity to accumulate transferable mitigation  
279 credits.
- 280 b. Extended permit agreements.
- 281 c. Opportunities for recreational leases and ecotourism.
- 282 d. Payment for specified land management services on  
283 publicly owned land, or property under covenant or restricted  
284 easement in favor of a public entity.
- 285 e. Option agreements for sale to public entities or  
286 private land conservation entities, in either fee or easement,  
287 upon achievement of conservation objectives.
- 288 f. In the case of an alternative water supply project,  
289 such as a surface reservoir or an aquifer storage and recovery  
290 well, that is incorporated into the rural land stewardship area  
291 and is identified in the regional water supply plan,  
292 consideration for funding under the Water Protection and  
293 Sustainability Program pursuant to s. 373.1961(3)(g) and  
294 consideration as a preferred water supply source under s.  
295 373.2234.
- 296 8. The department shall report to the Legislature on an  
297 annual basis on the results of implementation of rural land  
298 stewardship areas authorized by the department, including  
299 successes and failures in achieving the intent of the  
300 Legislature as expressed in this paragraph.
- 301 Section 3. Paragraph (g) of subsection (3) of section  
302 373.1961, Florida Statutes, is amended to read:
- 303 373.1961 Water production; general powers and duties;  
304 identification of needs; funding criteria; economic incentives;  
305 reuse funding.--

306 (3) FUNDING.--

307 (g) Additional factors to be considered in determining  
 308 project funding shall include:

309 1. Whether the project is part of a plan to implement two  
 310 or more alternative water supply projects, all of which will be  
 311 operated to produce water at a uniform rate for the participants  
 312 in a multijurisdictional water supply entity or regional water  
 313 supply authority.

314 2. The percentage of project costs to be funded by the  
 315 water supplier or water user.

316 3. Whether the project proposal includes sufficient  
 317 preliminary planning and engineering to demonstrate that the  
 318 project can reasonably be implemented within the timeframes  
 319 provided in the regional water supply plan.

320 4. Whether the project is a subsequent phase of an  
 321 alternative water supply project that is underway.

322 5. Whether and in what percentage a local government or  
 323 local government utility is transferring water supply system  
 324 revenues to the local government general fund in excess of  
 325 reimbursements for services received from the general fund,  
 326 including direct and indirect costs and legitimate payments in  
 327 lieu of taxes.

328 6. Whether the project is included in a rural land  
 329 stewardship area under s. 163.3177(11).

330 Section 4. Section 373.185, Florida Statutes, is amended  
 331 to read:

332 373.185 Local Florida-friendly landscape ~~Xeriscape~~  
 333 ordinances.--

HB 7151

2008

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

335 (a) "Local government" means any county or municipality of  
336 the state.

337 (b) ~~"Xeriscape" or~~ "Florida-friendly landscape" means  
338 quality landscapes that conserve water, and protect the  
339 environment, and are adaptable to local conditions, and ~~which~~  
340 are drought tolerant. The principles of Florida-friendly  
341 landscape Xeriscape include planting the right plant in the  
342 right place, efficient watering, appropriate fertilization,  
343 mulching, attraction of wildlife, responsible management of yard  
344 pests, recycling yard waste, reduction of stormwater runoff, and  
345 waterfront protection. Additional components of Florida-friendly  
346 landscape include planning and design, ~~appropriate choice of~~  
347 ~~plants,~~ soil analysis which may include the use of solid waste  
348 compost, ~~efficient irrigation,~~ practical use of turf,  
349 ~~appropriate use of mulches,~~ and proper maintenance.

350 (2) Each water management district shall design and  
351 implement an incentive program to encourage all local  
352 governments within its district to adopt new ordinances or amend  
353 existing ordinances to require Florida-friendly Xeriscape  
354 landscaping for development permitted after the effective date  
355 of the new ordinance or amendment. Each district shall establish  
356 criteria ~~adopt rules governing the implementation of its~~  
357 ~~incentive program and~~ governing the review and approval of local  
358 government Florida-friendly landscape Xeriscape ordinances or  
359 amendments which are intended to qualify a local government for  
360 the incentive program. Each district shall assist the local  
361 governments within its jurisdiction by providing a model

362 Florida-friendly landscape ~~Xeriscape~~ code and other technical  
 363 assistance. A local government Florida-friendly landscape  
 364 ~~Xeriscape~~ ordinance or amendment, in order to qualify the local  
 365 government for a district's incentive program, must include, at  
 366 a minimum:

367 (a) Landscape design, installation, and maintenance  
 368 standards that result in water conservation. Such standards  
 369 shall address the use of plant groupings, soil analysis  
 370 including the promotion of the use of solid waste compost,  
 371 efficient irrigation systems, and other water-conserving  
 372 practices.

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

375 (c) Identification of controlled plant species,  
 376 accompanied by the conditions under which such plants may be  
 377 used.

378 (d) A provision specifying the maximum percentage of turf  
 379 and the maximum percentage of impervious surfaces allowed in a  
 380 Florida-friendly landscaped ~~xeriscaped~~ area and addressing the  
 381 practical selection and installation of turf.

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

384 (f) A monitoring program for ordinance implementation and  
 385 compliance.

386 (g) Incorporation of the landscape irrigation and Florida-  
 387 friendly landscape design standards developed pursuant to s.  
 388 373.228 (4) .

389

390 The districts also shall work with local governments, county  
 391 extension agents or offices, nursery and landscape industry  
 392 groups, and other interested stakeholders to promote, through  
 393 educational programs and publications, the use of Florida-  
 394 friendly landscape ~~Xeriscape~~ practices, including the use of  
 395 solid waste compost, in existing residential and commercial  
 396 development. The districts shall use the University of Florida's  
 397 Yards and Neighborhoods extension program or a similar program  
 398 as a primary resource for the delivery of educational programs  
 399 to individual homeowners and homeowners' associations. This  
 400 subsection is not subject to the rulemaking requirements of  
 401 chapter 120 ~~section may not be construed to limit the authority~~  
 402 ~~of the districts to require Xeriscape ordinances or practices as~~  
 403 ~~a condition of any consumptive use permit.~~

404 (3) This section may not be construed to limit the  
 405 authority of the districts to require Florida-friendly landscape  
 406 ordinances or practices as a condition of any permit under part  
 407 II or part IV of this chapter.

408 (4) ~~(3)~~ A deed restriction, ~~or~~ covenant entered after  
 409 October 1, 2001, or local government ordinance may not prohibit  
 410 any property owner from implementing ~~Xeriscape~~ or Florida-  
 411 friendly landscape on his or her land or create any requirement  
 412 or limitation in conflict with any provision of part II or a  
 413 water shortage order, other order, consumptive use permit, or  
 414 rule adopted or issued pursuant to part II. A deed restriction,  
 415 covenant, or local government ordinance may not be enforced to  
 416 prohibit a property owner from implementing Florida-friendly  
 417 landscaping, nor shall such restriction, covenant, or ordinance

418 create any such conflicting requirement or limitation. The  
 419 Legislature finds that the use of Florida-friendly landscaping  
 420 and other measures that conserve Florida's water resources  
 421 serves a compelling public interest and that the participation  
 422 of homeowners' associations and local governments is essential  
 423 to state water conservation efforts.

424 Section 5. Section 125.568, Florida Statutes, is amended  
 425 to read:

426 125.568 Conservation of water; Florida-friendly landscape  
 427 ~~Xeriscape~~.--

428 (1) (a) The Legislature finds that Florida-friendly  
 429 landscape, as implemented in s. 373.185, Xeriscape contributes  
 430 to the conservation of water. In an effort to meet the water  
 431 needs of this state in a manner that will supply adequate and  
 432 dependable supplies of water where needed, it is the intent of  
 433 the Legislature that Florida-friendly landscape Xeriscape be an  
 434 essential part of water conservation planning.

435 (b) ~~"Xeriscape"~~ or "Florida-friendly landscape" means  
 436 quality landscapes that conserve water, and protect the  
 437 environment, and are adaptable to local conditions, and ~~which~~  
 438 are drought tolerant. The principles of Florida-friendly  
 439 landscape Xeriscape include planting the right plant in the  
 440 right place, efficient watering, appropriate fertilization,  
 441 mulching, attraction of wildlife, responsible management of yard  
 442 pests, recycling yard waste, reduction of stormwater runoff, and  
 443 waterfront protection. Additional components of Florida-friendly  
 444 landscape include planning and design, ~~appropriate choice of~~  
 445 ~~plants,~~ soil analysis which may include the use of solid waste



HB 7151

2008

446 compost, practical use of turf, ~~efficient irrigation,~~  
 447 ~~appropriate use of mulches,~~ and proper maintenance.

448 (2) The board of county commissioners of each county shall  
 449 consider enacting ordinances requiring the use of Florida-  
 450 friendly landscape ~~Xeriscape~~ as a water conservation measure. If  
 451 the board determines that Florida-friendly landscape ~~Xeriscape~~  
 452 would be of significant benefit as a water conservation measure  
 453 relative to the cost to implement Florida-friendly ~~Xeriscape~~  
 454 landscaping in its area of jurisdiction, the board shall enact a  
 455 Florida-friendly landscape ~~Xeriscape~~ ordinance. Further, the  
 456 board of county commissioners shall consider promoting Florida-  
 457 friendly landscape ~~Xeriscape~~ as a water conservation measure by:  
 458 using Florida-friendly landscape ~~Xeriscape~~ in, around, or near  
 459 facilities, parks, and other common areas under its jurisdiction  
 460 that ~~which~~ are landscaped after the effective date of this act;  
 461 providing public education on Florida-friendly landscape  
 462 ~~Xeriscape~~, its uses as a water conservation tool, and its long-  
 463 term cost-effectiveness; and offering incentives to local  
 464 residents and businesses to implement Florida-friendly ~~Xeriscape~~  
 465 landscaping.

466 (3) A deed restriction, ~~or~~ covenant ~~entered after October~~  
 467 ~~1, 2001,~~ or local government ordinance may not prohibit any  
 468 property owner from implementing ~~Xeriscape~~ or Florida-friendly  
 469 landscape on his or her land.

470 Section 6. Section 166.048, Florida Statutes, is amended  
 471 to read:

472 166.048 Conservation of water; Florida-friendly landscape  
 473 ~~Xeriscape~~. --

HB 7151

2008

474 (1) (a) The Legislature finds that Florida-friendly  
475 landscape, as implemented in s. 373.185, Xeriscape contributes  
476 to the conservation of water. In an effort to meet the water  
477 needs of this state in a manner that will supply adequate and  
478 dependable supplies of water where needed, it is the intent of  
479 the Legislature that Florida-friendly landscape Xeriscape be an  
480 essential part of water conservation planning.

481 (b) ~~"Xeriscape" or~~ "Florida-friendly landscape" means  
482 quality landscapes that conserve water, and protect the  
483 environment, and are adaptable to local conditions, and ~~which~~  
484 are drought tolerant. The principles of Florida-friendly  
485 landscape Xeriscape include planting the right plant in the  
486 right place, efficient watering, appropriate fertilization,  
487 mulching, attraction of wildlife, responsible management of yard  
488 pests, recycling yard waste, reduction of stormwater runoff, and  
489 waterfront protection. Additional components of Florida-friendly  
490 landscape include planning and design, ~~appropriate choice of~~  
491 ~~plants,~~ soil analysis which may include the use of solid waste  
492 compost, practical use of turf, ~~efficient irrigation,~~  
493 ~~appropriate use of mulches,~~ and proper maintenance.

494 (2) The governing body of each municipality shall consider  
495 enacting ordinances requiring the use of Florida-friendly  
496 landscape Xeriscape as a water conservation measure. If the  
497 governing body determines that Florida-friendly landscape  
498 Xeriscape would be of significant benefit as a water  
499 conservation measure relative to the cost to implement Florida-  
500 friendly Xeriscape landscaping in its area of jurisdiction in  
501 the municipality, the board shall enact a Florida-friendly

HB 7151

2008

502 landscape ~~Xeriscape~~ ordinance. Further, the governing body shall  
 503 consider promoting Florida-friendly landscape ~~Xeriscape~~ as a  
 504 water conservation measure by: using Florida-friendly landscape  
 505 ~~Xeriscape~~ in, around, or near facilities, parks, and other  
 506 common areas under its jurisdiction that ~~which~~ are landscaped  
 507 after the effective date of this act; providing public education  
 508 on Florida-friendly landscape ~~Xeriscape~~, its uses as a water  
 509 conservation tool, and its long-term cost-effectiveness; and  
 510 offering incentives to local residents and businesses to  
 511 implement Florida-friendly ~~Xeriscape~~ landscaping.

512 (3) A deed restriction, ~~or covenant entered after October~~  
 513 ~~1, 2001~~, or local government ordinance may not prohibit any  
 514 property owner from implementing ~~Xeriscape~~ or Florida-friendly  
 515 landscape on his or her land.

516 Section 7. Section 255.259, Florida Statutes, is amended  
 517 to read:

518 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public  
 519 property.--

520 (1) The Legislature finds that water conservation is  
 521 increasingly critical to the continuance of an adequate water  
 522 supply for the citizens of this state. The Legislature further  
 523 finds that "Florida-friendly landscape ~~Xeriscape~~," as  
 524 implemented ~~defined~~ in s. 373.185, can contribute significantly  
 525 to the conservation of water. Finally, the Legislature finds  
 526 that state government has the responsibility to promote Florida-  
 527 friendly landscape ~~Xeriscape~~ as a water conservation measure by  
 528 using Florida-friendly landscape ~~Xeriscape~~ on public property  
 529 associated with publicly owned buildings or facilities.

530 (2) As used in this section, "publicly owned buildings or  
 531 facilities" means those construction projects under the purview  
 532 of the Department of Management Services. It does not include  
 533 environmentally endangered land or roads and highway  
 534 construction under the purview of the Department of  
 535 Transportation.

536 (3) The Department of Management Services, in consultation  
 537 with the Department of Environmental Protection, shall adopt  
 538 rules and guidelines for the required use of Florida-friendly  
 539 landscape ~~Xeriscape~~ on public property associated with publicly  
 540 owned buildings or facilities constructed after June 30, 1992.  
 541 The Department of Management Services also shall develop a 5-  
 542 year program for phasing in the use of Florida-friendly  
 543 landscape ~~Xeriscape~~ on public property associated with publicly  
 544 owned buildings or facilities constructed before July 1, 1992.  
 545 In accomplishing these tasks, the Department of Management  
 546 Services shall take into account the guidelines set out in s.  
 547 373.185(2) (a) - (g) ~~(a) - (f)~~. The Department of Transportation shall  
 548 implement Florida-friendly ~~Xeriscape~~ landscaping pursuant to s.  
 549 335.167.

550 (4) A deed restriction, ~~or~~ covenant ~~entered after October~~  
 551 ~~1, 2001~~, or local government ordinance may not prohibit any  
 552 property owner from implementing ~~Xeriscape~~ ~~or~~ Florida-friendly  
 553 landscape on his or her land.

554 Section 8. Section 335.167, Florida Statutes, is amended  
 555 to read:

556 335.167 State highway construction and maintenance;  
 557 ~~Xeriscape~~ ~~or~~ Florida-friendly landscaping.--

HB 7151

2008

558 (1) The department shall use and require the use of  
 559 Florida-friendly landscape ~~Xeriscape~~ practices, as implemented  
 560 ~~defined~~ in s. 373.185(1), in the construction and maintenance of  
 561 all new state highways, wayside parks, access roads, welcome  
 562 stations, and other state highway rights-of-way constructed upon  
 563 or acquired after June 30, 1992. The department shall develop a  
 564 5-year program for phasing in the use of Florida-friendly  
 565 landscape ~~Xeriscape~~, including the use of solid waste compost,  
 566 in state highway rights-of-way constructed upon or acquired  
 567 before July 1, 1992. In accomplishing these tasks, the  
 568 department shall employ the guidelines set out in s.  
 569 373.185(2) (a) - (g) ~~(a) - (f)~~.

570 (2) A deed restriction, ~~or~~ covenant ~~entered after October~~  
 571 ~~1, 2001~~, or local government ordinance may not prohibit any  
 572 property owner from implementing ~~Xeriscape~~ ~~or~~ Florida-friendly  
 573 landscape on his or her land.

574 Section 9. Subsections (2) and (4) of section 373.228,  
 575 Florida Statutes, are amended to read:

576 373.228 Landscape irrigation design.--

577 (2) The Legislature finds that landscape irrigation  
 578 comprises a significant portion of water use and that the  
 579 current typical landscape irrigation system and Florida-friendly  
 580 landscape ~~xeriscape~~ designs offer significant potential water  
 581 conservation benefits.

582 (4) The water management districts shall work with the  
 583 Florida Nurserymen and Growers Association, the Florida Chapter  
 584 of the American Society of Landscape Architects, the Florida  
 585 Irrigation Society, the Department of Agriculture and Consumer

HB 7151

2008

586 Services, the Institute of Food and Agricultural Sciences, the  
 587 Department of Environmental Protection, the Department of  
 588 Transportation, the Florida League of Cities, the Florida  
 589 Association of Counties, and the Florida Association of  
 590 Community Developers to develop landscape irrigation and  
 591 Florida-friendly landscape ~~xeriscape~~ design standards for new  
 592 construction which incorporate a landscape irrigation system and  
 593 develop scientifically based model guidelines for urban,  
 594 commercial, and residential landscape irrigation, including drip  
 595 irrigation, for plants, trees, sod, and other landscaping. The  
 596 landscape and irrigation design standards shall be based on the  
 597 irrigation code defined in the Florida Building Code, Plumbing  
 598 Volume, Appendix F. Local governments shall use the standards  
 599 and guidelines when developing landscape irrigation and Florida-  
 600 friendly landscape ~~xeriscape~~ ordinances. Every 5 years, the  
 601 agencies and entities specified in this subsection shall review  
 602 the standards and guidelines to determine whether new research  
 603 findings require a change or modification of the standards and  
 604 guidelines.

605 Section 10. Paragraph (a) of subsection (3) of section  
 606 380.061, Florida Statutes, is amended to read:

607 380.061 The Florida Quality Developments program.--

608 (3) (a) To be eligible for designation under this program,  
 609 the developer shall comply with each of the following  
 610 requirements which is applicable to the site of a qualified  
 611 development:

612 1. Have donated or entered into a binding commitment to  
 613 donate the fee or a lesser interest sufficient to protect, in

HB 7151

2008

614 perpetuity, the natural attributes of the types of land listed  
615 below. In lieu of the above requirement, the developer may enter  
616 into a binding commitment which runs with the land to set aside  
617 such areas on the property, in perpetuity, as open space to be  
618 retained in a natural condition or as otherwise permitted under  
619 this subparagraph. Under the requirements of this subparagraph,  
620 the developer may reserve the right to use such areas for the  
621 purpose of passive recreation that is consistent with the  
622 purposes for which the land was preserved.

623 a. Those wetlands and water bodies throughout the state as  
624 would be delineated if the provisions of s. 373.4145(1)(b) were  
625 applied. The developer may use such areas for the purpose of  
626 site access, provided other routes of access are unavailable or  
627 impracticable; may use such areas for the purpose of stormwater  
628 or domestic sewage management and other necessary utilities to  
629 the extent that such uses are permitted pursuant to chapter 403;  
630 or may redesign or alter wetlands and water bodies within the  
631 jurisdiction of the Department of Environmental Protection which  
632 have been artificially created, if the redesign or alteration is  
633 done so as to produce a more naturally functioning system.

634 b. Active beach or primary and, where appropriate,  
635 secondary dunes, to maintain the integrity of the dune system  
636 and adequate public accessways to the beach. However, the  
637 developer may retain the right to construct and maintain  
638 elevated walkways over the dunes to provide access to the beach.

639 c. Known archaeological sites determined to be of  
640 significance by the Division of Historical Resources of the  
641 Department of State.

642 d. Areas known to be important to animal species  
 643 designated as endangered or threatened animal species by the  
 644 United States Fish and Wildlife Service or by the Fish and  
 645 Wildlife Conservation Commission, for reproduction, feeding, or  
 646 nesting; for traveling between such areas used for reproduction,  
 647 feeding, or nesting; or for escape from predation.

648 e. Areas known to contain plant species designated as  
 649 endangered plant species by the Department of Agriculture and  
 650 Consumer Services.

651 2. Produce, or dispose of, no substances designated as  
 652 hazardous or toxic substances by the United States Environmental  
 653 Protection Agency or by the Department of Environmental  
 654 Protection or the Department of Agriculture and Consumer  
 655 Services. This subparagraph is not intended to apply to the  
 656 production of these substances in nonsignificant amounts as  
 657 would occur through household use or incidental use by  
 658 businesses.

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

661 4. Incorporate no dredge and fill activities in, and no  
 662 stormwater discharge into, waters designated as Class II,  
 663 aquatic preserves, or Outstanding Florida Waters, except as  
 664 activities in those waters are permitted pursuant to s.  
 665 403.813(2) and the developer demonstrates that those activities  
 666 meet the standards under Class II waters, Outstanding Florida  
 667 Waters, or aquatic preserves, as applicable.

668 5. Include open space, recreation areas, Florida-friendly  
 669 landscape ~~Xeriscape~~ as defined in s. 373.185, and energy



HB 7151

2008

670 conservation and minimize impermeable surfaces as appropriate to  
671 the location and type of project.

672 6. Provide for construction and maintenance of all onsite  
673 infrastructure necessary to support the project and enter into a  
674 binding commitment with local government to provide an  
675 appropriate fair-share contribution toward the offsite impacts  
676 which the development will impose on publicly funded facilities  
677 and services, except offsite transportation, and condition or  
678 phase the commencement of development to ensure that public  
679 facilities and services, except offsite transportation, will be  
680 available concurrent with the impacts of the development. For  
681 the purposes of offsite transportation impacts, the developer  
682 shall comply, at a minimum, with the standards of the state land  
683 planning agency's development-of-regional-impact transportation  
684 rule, the approved strategic regional policy plan, any  
685 applicable regional planning council transportation rule, and  
686 the approved local government comprehensive plan and land  
687 development regulations adopted pursuant to part II of chapter  
688 163.

689 7. Design and construct the development in a manner that  
690 is consistent with the adopted state plan, the applicable  
691 strategic regional policy plan, and the applicable adopted local  
692 government comprehensive plan.

693 Section 11. Subsection (3) of section 388.291, Florida  
694 Statutes, is amended to read:

695 388.291 Source reduction measures; supervision by  
696 department.--

HB 7151

2008

697 (3) Property owners in a developed residential area are  
 698 required to maintain their property in such a manner so as not  
 699 to create or maintain any standing freshwater condition capable  
 700 of breeding mosquitoes or other arthropods in significant  
 701 numbers so as to constitute a public health, welfare, or  
 702 nuisance problem. Nothing in this subsection shall permit the  
 703 alteration of permitted stormwater management systems or  
 704 prohibit maintained fish ponds, Florida-friendly landscaping  
 705 ~~xeriscaping~~, or other maintained systems of landscaping or  
 706 vegetation. If such a condition is found to exist, the local  
 707 arthropod control agency shall serve notice on the property  
 708 owner to treat, remove, or abate the condition. Such notice  
 709 shall serve as prima facie evidence of maintaining a nuisance,  
 710 and upon failure of the property owner to treat, remove, or  
 711 abate the condition, the local arthropod control agency or any  
 712 affected citizen may proceed pursuant to s. 60.05 to enjoin the  
 713 nuisance and may recover costs and attorney's fees if they  
 714 prevail in the action.

715 Section 12. Paragraph (a) of subsection (6) of section  
 716 481.303, Florida Statutes, is amended to read:

717 481.303 Definitions.--As used in this chapter:

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

720 (a) Consultation, investigation, research, planning,  
 721 design, preparation of drawings, specifications, contract  
 722 documents and reports, responsible construction supervision, or  
 723 landscape management in connection with the planning and  
 724 development of land and incidental water areas, including the

HB 7151

2008

725 use of Florida-friendly landscape ~~Xeriscape~~ as implemented  
726 ~~defined~~ in s. 373.185, where, and to the extent that, the  
727 dominant purpose of such services or creative works is the  
728 preservation, conservation, enhancement, or determination of  
729 proper land uses, natural land features, ground cover and  
730 plantings, or naturalistic and aesthetic values;

731 Section 13. Subsection (4) of section 720.3075, Florida  
732 Statutes, is amended to read:

733 720.3075 Prohibited clauses in association documents.--

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

739 Section 14. This act shall take effect July 1, 2008.