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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2009	.	
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The Committee on Environmental Preservation and Conservation  
(Constantine) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1168 and 1169  
insert:

Section 23. Part IV of chapter 369, Florida Statutes,  
consisting of sections 369.401, 369.402, 369.403, 369.404,  
369.405, 369.406, 369.407, and 369.408, is created to read:

369.401 Short title.—This part may be cited as the “Florida  
Springs Protection Act.”

369.402 Legislative findings and intent.—

(1) Florida’s springs are a precious and fragile natural



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12 resource that must be protected. Springs provide recreational  
13 opportunities for swimmers, canoeists, wildlife watchers, cave  
14 divers, and others. Because of the recreational opportunities  
15 and accompanying tourism, many of the state's springs greatly  
16 benefit state and local economies. In addition, springs provide  
17 critical habitat for plants and animals, including many  
18 endangered or threatened species, and serve as indicators of  
19 groundwater and surface water quality.

20 (2) In general, Florida's springs, whether found in urban  
21 or rural settings, or on public or private lands, are threatened  
22 by actual, or potential, flow reductions and declining water  
23 quality. Many of Florida's springs show signs of ecological  
24 imbalance, increased nutrient loading, and lowered water flow.  
25 Groundwater sources of spring discharges are recharged by  
26 seepage from the surface and through direct conduits such as  
27 sinkholes and can be adversely affected by polluted runoff from  
28 urban and agricultural lands and discharges resulting from poor  
29 wastewater management practices.

30 (3) Springs and groundwater can be restored through good  
31 stewardship, including effective planning strategies, best-  
32 management practices, and appropriate regulatory programs that  
33 preserve and protect the springs and their springsheds.

34 369.403 Definitions.—As used in this part, the term:

35 (1) "Cooperating entities" means the Department of  
36 Environmental Protection, the Department of Health, the  
37 Department of Agriculture and Consumer Services, the Department  
38 of Community Affairs, the Department of Transportation, and each  
39 water management district and those county and municipal  
40 governments having jurisdiction in the areas of the springs



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41 identified in s. 369.404.

42 (2) "Department" means the Department of Environmental  
43 Protection.

44 (3) "Estimated sewage flow" means the quantity of domestic  
45 and commercial wastewater in gallons per day which is expected  
46 to be produced by an establishment or single-family residence as  
47 determined by rule of the Department of Health.

48 (4) "First magnitude spring" means a spring that has a  
49 median discharge of greater than or equal to 100 cubic feet per  
50 second for the period of record, as determined by the  
51 department.

52 (5) "Karst" means landforms, generally formed by the  
53 dissolution of soluble rocks such as limestone or dolostone,  
54 forming direct connections to the groundwater such as springs,  
55 sinkholes, sinking streams, closed depressions, subterranean  
56 drainage, and caves.

57 (6) "Onsite sewage treatment and disposal system" or  
58 "septic system" means a system that contains a standard  
59 subsurface, filled, or mound drainfield system; an aerobic  
60 treatment unit; a graywater system tank; a laundry wastewater  
61 system tank; a septic tank; a grease interceptor; a pump tank; a  
62 solids or effluent pump; a waterless, incinerating, or organic  
63 waste-composting toilet; or a sanitary pit privy that is  
64 installed or proposed to be installed beyond the building sewer  
65 on land of the owner or on other land to which the owner has the  
66 legal right to install a system. The term includes any item  
67 placed within, or intended to be used as a part of or in  
68 conjunction with, the system. This term does not include package  
69 sewage treatment facilities and other treatment works regulated



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70 under chapter 403.

71 (7) "Second magnitude spring" means a spring that has a  
72 median discharge of 10 to 100 cubic feet per second for the  
73 period of record, as determined by the department.

74 (8) "Spring" means a point where ground water is discharged  
75 onto the earth's surface, including under any surface water of  
76 the state, including seeps. The term includes a spring run.

77 (9) "Springshed" means those areas within the groundwater  
78 and surface water basins which contribute to the discharge of a  
79 spring.

80 (10) "Usable property" means the area of the property  
81 expressed in acres exclusive of all paved areas and prepared  
82 road beds within public or private rights-of-way or easements  
83 and exclusive of surface water bodies.

84 369.404 Designation of spring protection zones.-

85 (1) All counties or municipalities in which there are  
86 located first or second magnitude springs are hereby designated  
87 as spring protection zones.

88 (2) By July 1, 2010, the department is directed to propose  
89 for adoption rules to implement the requirements of this  
90 section.

91 (a) Such rules at a minimum shall create a priority list of  
92 first and second magnitude springs designating them as high,  
93 medium, or low priority based on the following measurements of  
94 nitrate concentration in the water column at the point that  
95 the spring discharges onto the earth's surface as an average  
96 annual concentration:

97 1. High - nitrate greater than or equal to 1.0 milligrams  
98 per liter as determined using existing water quality data;



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99           2. Medium - nitrate greater than or equal to 0.5 milligrams  
100 per liter and less than 1.0 milligrams per liter as determined  
101 using existing water quality data; and

102           3. Low - all first or second magnitude springs not  
103 categorized as either High or Medium.

104           (b) Based on the priority determination of the department  
105 for first and second magnitude springs, the corresponding  
106 deadlines apply to the requirements of s. 369.405 to spring  
107 protection zones as designated in this section.

108           1. For high-priority springs, the deadline for compliance  
109 shall be no later than July 1, 2016;

110           2. For medium-priority springs, the deadline for compliance  
111 shall be no later than July 1, 2019; and

112           3. For low-priority springs, the deadline for compliance  
113 shall be no later than July 1, 2024.

114           (3) By July 1, 2010, the department is directed to propose  
115 for adoption rules that provide the minimum scientific  
116 methodologies, data, or tools that shall be used by a county or  
117 municipal government to support the request for an exemption as  
118 provided for in subsection (4).

119           (4) A county or municipal government, upon application to  
120 the department, may seek to have specific geographic areas  
121 exempted from the requirements of sections 369.405, 369.406, and  
122 369.407 by demonstrating that activities within such areas will  
123 not impact the springshed in a manner that leads to new or  
124 continued degradation.

125           (5) Pursuant to subsection (4), the department may approve  
126 or deny an application for an exemption, or may modify the  
127 boundaries of the specific geographic areas for which an



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128 exemption is sought. The ruling of the department on the  
129 applicant's request shall constitute a final agency action  
130 subject to review pursuant to ss. 120.569 and 120.57.

131 (6) By July 1, 2010, the department must conduct a study  
132 and report its findings of nitrate concentrations within spring  
133 protection zones designated pursuant to s. 369.404.

134 369.405 Requirements for spring protection zones.—The  
135 requirements of this section are subject to the timelines  
136 established in s. 369.404.

137 (1) Domestic wastewater discharge and wastewater residual  
138 application must comply with the requirements of this  
139 subsection.

140 (a) All existing wastewater discharges from facilities  
141 having permitted capacities greater than or equal to 100,000  
142 gallons per day must achieve annual average total nitrogen  
143 concentrations less than or equal to 3 milligrams per liter, as  
144 nitrogen.

145 (b) All existing wastewater discharges from facilities  
146 having permitted capacities less than 100,000 gallons per day  
147 but greater than 10,000 gallons per day must achieve annual  
148 average concentrations less than or equal to 10 milligrams per  
149 liter, as nitrogen.

150 (2) Onsite sewage treatment and disposal systems in areas  
151 permitted to or that contain septic systems in densities greater  
152 than or equal to 640 systems per square mile, must connect to a  
153 central wastewater treatment facility or other centralized  
154 collection and treatment system. For the purposes of this  
155 subsection, density must be calculated using the largest number  
156 of systems possible within a square mile.



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157       (3) Agricultural operations must implement applicable best-  
158 management practices, including nutrient management, adopted by  
159 the Department of Agriculture and Consumer Services to reduce  
160 nitrogen impacts to ground water. By December 31, 2009, the  
161 Department of Agriculture and Consumer Services, in cooperation  
162 with the other cooperating entities and stakeholders, must  
163 develop and propose for adoption by rule equine, and cow and  
164 calf best-management practices pursuant to this paragraph.  
165 Implementation must be in accordance with paragraph  
166 403.067(7) (b).

167       (4) Stormwater systems must comply with the requirements of  
168 this section. The department is directed to propose for adoption  
169 rules to implement the requirements of this subsection by July  
170 1, 2010.

171       (a) Local governments in cooperation with the water  
172 management districts must develop and implement a remediation  
173 plan for all existing drainage wells containing strategies to  
174 reduce nitrogen loading to groundwater to the maximum extent  
175 practicable. The department shall review and approve the  
176 remediation plan prior to implementation. All new drainage wells  
177 must comply with the department's underground injection control  
178 rules.

179       (b) Local governments must develop and implement a  
180 remediation plan for all stormwater management systems  
181 constructed prior to 1982 which have not been modified to  
182 provide stormwater treatment containing strategies to reduce  
183 nitrogen loading to ground water to the maximum extent  
184 practicable.

185       (c) Local governments in cooperation with the water



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186 management districts must develop and implement a remediation  
187 plan to reduce nitrogen loading to ground water including  
188 reducing existing direct discharges of stormwater into  
189 groundwater through karst features to the maximum extent  
190 practicable. The department shall review and approve the  
191 remediation plan prior to implementation.

192 (d) The Florida Department of Transportation must identify  
193 any untreated stormwater discharges into groundwater through  
194 natural subterranean drainages like sinkholes and develop and  
195 implement a remediation plan to reduce nitrogen loading to  
196 ground water including reducing existing such groundwater  
197 discharges to the maximum extent practicable. The department  
198 shall review and approve the remediation plan prior to  
199 implementation.

200 (5) This subsection does not limit the department's  
201 authority to require additional treatment or other actions  
202 pursuant to chapter 403, as necessary, to meet surface and  
203 groundwater quality standards.

204 369.406 Additional requirements for all spring protection  
205 zones.

206 (1) All newly constructed or expanded domestic wastewater  
207 facilities operational after July 1, 2012, must meet the  
208 advanced wastewater treatment requirements of s. 403.086(4).

209 (2) For all development not permitted as of July 1, 2009,  
210 which has septic system densities greater than or equal to 640  
211 systems per square mile, connection to a central wastewater  
212 treatment facility or other centralized collection and treatment  
213 system is required. For the purposes of this subsection, density  
214 must be calculated using the largest number of systems possible





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215 within a square mile.

216 (3) New septic systems required as a result of the  
217 mandatory inspection program provided for in subsection (3) of  
218 s. 381.0065 and installed after July 1, 2009, must be designed  
219 to meet a target annual average groundwater concentration of no  
220 more than 3 milligrams per liter total nitrogen at the owner's  
221 property line. Compliance with these requirements does not  
222 require groundwater monitoring. The Department of Health shall  
223 develop and adopt by rule design standards for achieving this  
224 target annual average groundwater concentration. At a minimum,  
225 this standard must take into consideration the relationship  
226 between the treatment level achieved by the septic system and  
227 the area of usable property available for rainwater dilution.

228 (4) Prior to adoption of the design standards by the  
229 Department of Health, compliance with the requirements in  
230 subsection (3) is presumed if one the following conditions are  
231 met:

232 (a) The lot associated with the establishment or single-  
233 family home is served by a septic system meeting the baseline  
234 system standards set forth in rules of the Department of Health,  
235 and the ratio of estimated sewage flow in gallons per day to  
236 acres of usable property is 100 to 1 or less.

237 (b) The lot associated with the establishment or single-  
238 family home is served by a septic system meeting at least the  
239 advanced secondary treatment standards for nitrogen as set forth  
240 in rules of the Department of Health, combined with a drip  
241 irrigation system, a shallow low pressure dosed or a time-dosed  
242 drainfield system.

243 (c) The lot associated with the establishment or single-



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244 family home is scheduled to connect to a central wastewater  
245 treatment facility within six months of the application for  
246 permit.

247 (5) Subsection (4) does not supersede the jurisdictional  
248 flow limits established in s. 381.0065(3) (b).

249 (6) Land application of septage is prohibited and subject  
250 to a \$250 fine for a first offense and \$500 fine for a second or  
251 subsequent offense pursuant to the authority granted to the  
252 Department of Health in s. 381.0065(3) (h).

253 (7) Any septic system, when requiring repair, modification,  
254 or reapproval, must meet a 24-inch separation from the wet  
255 season water table and the surface water setback requirements in  
256 s. 381.0065(4). All treatment receptacles must be within one  
257 size of the requirements in rules of the Department of Health  
258 and must be tested for watertightness by a state-licensed septic  
259 tank contractor or plumber.

260 (8) Each owner of a publicly owned or investor-owned  
261 sewerage system must notify all owners of septic systems,  
262 excluding approved graywater systems, of the availability of  
263 central sewerage facilities for purposes of connection pursuant  
264 to s. 381.00655(1) within 60 days after receipt of notification  
265 from the Department of Health that collection facilities for the  
266 central sewerage system have been cleared for use.

267 (a) Notwithstanding s. 381.00655(2) (b), a publicly owned or  
268 investor-owned sewerage system may not waive the requirement for  
269 mandatory onsite sewage disposal connection to an available  
270 publicly owned or investor-owned sewerage system, except as  
271 provided in paragraph (b).

272 (b) With the approval of the Department of Health, a



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273 publicly owned or investor-owned sewerage system may waive the  
274 requirement for mandatory onsite sewage disposal connection for  
275 a sewage treatment system that meets or exceeds standards  
276 established for septic systems if it determines that such  
277 connection is not required in the public interest due to water  
278 quality or public health considerations.

279 (9) In hardship cases the Department of Health may grant  
280 variances to the provisions of this section and any rules  
281 adopted under this section in accordance with s. 381.0065(4)(h).

282 (10) After July 1, 2010, land application of Class A, Class  
283 B, or Class AA wastewater residuals, as defined by department  
284 rule, is prohibited. This prohibition does not apply to Class AA  
285 residuals that are marketed and distributed as fertilizer  
286 products in accordance with department rule.

287 (11) Animal feeding operations must implement the  
288 requirements of rules adopted by the department to reduce  
289 nitrogen impacts to ground water. By December 31, 2009, the  
290 department, in cooperation with the other cooperating entities  
291 and stakeholders, must develop and propose for adoption, revised  
292 rules for animal feeding operations which address requirements  
293 for lined wastewater storage ponds and the development and  
294 implementation of nutrient management plans, including the land  
295 spreading of animal waste not treated and packaged as  
296 fertilizer.

297 (12) All county and municipal governments must, at a  
298 minimum, adopt the department's model ordinance for Florida-  
299 Friendly Fertilizer Use on Urban Landscapes located in the  
300 Florida-Friendly Landscape Guidance Models for Ordinances,  
301 Covenants and Restrictions (2009) by December 31, 2010.



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302           (13) The department and the water management districts  
303 shall adopt design criteria for stormwater treatment systems  
304 located within spring protection zones to minimize the movement  
305 of nitrogen into the ground water and to prevent the formation  
306 of sinkholes within stormwater systems.

307           (14) This subsection does not limit the department's  
308 authority to require additional treatment or other actions  
309 pursuant to chapter 403, as necessary, to meet surface and  
310 groundwater quality standards.

311           369.407 Florida Springs Onsite Sewage Treatment and  
312 Disposal System Compliance Grant Program.-

313           (1) The Florida Springs Onsite Sewage Treatment and  
314 Disposal System Compliance Grant Program is established in the  
315 department and shall be administered by it. The purpose of the  
316 program is to provide grants to low-income property owners in  
317 spring protection zones using septic systems to assist the  
318 property owners in complying with rules for these systems  
319 developed by the department, or the water management districts,  
320 or to connect to a central wastewater treatment facility or  
321 other centralized collection and treatment system pursuant to  
322 ss. 369.405(2) or 381.00655(1). The grant program is effective  
323 upon final adoption of the department rules and may be applied  
324 to costs incurred on or after such date.

325           (2) Any property owner in a spring protection zone having  
326 an income less than or equal to 200 percent of the federal  
327 poverty level who is required by rule of the department or the  
328 water management districts to alter, repair, or modify any  
329 existing septic system to a nitrate-reducing system pursuant to  
330 s. 369.406(3), or to assist property owners with connecting to



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331 available publicly owned or investor-owned sewerage system  
332 pursuant to s. 381.00655(1), may apply to the department for a  
333 grant to assist the owner with the costs of compliance or  
334 connection.

335 (3) The amount of the grant is limited to the cost  
336 differential between the replacement of a comparable existing  
337 septic system and that of an upgraded nitrate-reducing treatment  
338 system pursuant to s. 369.406(3), or the actual costs incurred  
339 from connection to a central wastewater treatment facility or  
340 other centralized collection and treatment system pursuant to s.  
341 385.00655(1), but may not exceed \$5,000 per property.

342 (4) The grant must be in the form of a rebate to the  
343 property owner for costs incurred in complying with the  
344 requirements for septic systems pursuant to s. 369.406(3), or  
345 incurred from connection to a central wastewater treatment  
346 facility or other centralized collection and treatment system  
347 pursuant to s. 381.00655(1). The property owner must provide  
348 documentation of those costs in the grant application to the  
349 department.

350 (5) The department shall adopt rules providing forms,  
351 procedures, and requirements for applying for and disbursing  
352 grants, including bid requirements, and for documenting  
353 compliance or connection costs incurred.

354 (6) The department, in coordination with the water  
355 management districts, shall continue to evaluate, by any means  
356 it deems appropriate, the level of nitrate deposited in Florida  
357 springs by septic systems.

358 369.408 Rules.—

359 (1) The department, the Department of Health, and the



360 Department of Agriculture and Consumer Services may adopt rules  
361 pursuant to ss. 120.536(1) and 120.54 to administer the  
362 provisions of this part, as applicable.

363 (2)(a) The Department of Agriculture and Consumer Services  
364 shall be the lead agency coordinating the reduction of  
365 agricultural nonpoint sources of pollution for springs  
366 protection. The Department of Agriculture and Consumer Services  
367 and the department pursuant to sp. 403.067(7)(c)4, shall study  
368 and if necessary, in cooperation with the other cooperating  
369 entities, applicable county and municipal governments and  
370 stakeholders, initiate rulemaking to implement new or revised  
371 best management practices for improving and protecting springs.  
372 As needed to implement the new or revised practices, the  
373 Department of Agriculture and Consumer Services, shall revise  
374 its best management practices rules to require implementation of  
375 the modified practice within a reasonable time period as  
376 specified in the rule.

377 (b) The Department of Agriculture and Consumer Services,  
378 the department, and the University of Florida, Institute of Food  
379 an Agricultural Sciences shall cooperate in the conduct of  
380 necessary research and demonstration projects to develop  
381 improved or additional nutrient management tools, including the  
382 use of controlled release fertilizer, which can be used by  
383 agricultural producers as part of an agricultural best  
384 management practices program. The development of such tools  
385 shall reflect a balance between water quality improvements and  
386 agricultural productivity and, where applicable, shall be  
387 incorporated into revised best management practices adopted by  
388 rule of the Department of Agriculture and Consumer Services.



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389           (3) The department shall as a part of the rules developed  
390 for this part include provisions that allow for the variance of  
391 the compliance deadlines provided for in paragraph (b) of s.  
392 369.404(2). Such variance shall, at a minimum, be based on the  
393 financial ability of the responsible county or municipality to  
394 meet the requirements of this part.

395           Section 24. Paragraph (1) is added to subsection (6) of  
396 section 163.3177, Florida Statutes, to read:

397           163.3177 Required and optional elements of comprehensive  
398 plan; studies and surveys.—

399           (6) In addition to the requirements of subsections (1)-(5)  
400 and (12), the comprehensive plan shall include the following  
401 elements:

402           (1) In counties or municipalities, or portions thereof,  
403 designated as spring protection zones pursuant to s. 369.404,  
404 during the first comprehensive plan evaluation and appraisal  
405 report conducted after July 1, 2009, a spring protection measure  
406 that ensures the protection of and, where necessary, restoration  
407 of water quality in springs shall be added to the appropriate  
408 comprehensive plan element. The measure must address minimizing  
409 human impacts on springs from development through protecting  
410 karst features, as defined in s. 369.403, during and after the  
411 development process, ensuring that future development follows  
412 low-impact design principles, ensuring that landscaping and  
413 fertilizer use are consistent with the Florida Friendly  
414 Landscaping program, ensuring adequate open space, and providing  
415 for proper management of stormwater and wastewater to minimize  
416 their effects on the water quality of springs. The spring  
417 protection measure must be based on low-impact design,



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418 landscaping, and fertilizer best-management and use practices  
419 and principles developed by the Department of Environmental  
420 Protection and contained in the Florida Friendly Landscape  
421 Guidance Models for Ordinances, Covenants, and Restrictions. The  
422 Department of Environmental Protection and the state land  
423 planning agency shall make information concerning such best-  
424 management and use practices and principles prominently  
425 available on their websites. In addition, all landscape design  
426 and irrigation systems must meet the standards established  
427 pursuant to s. 373.228(4). Failure to adopt a spring protection  
428 measure shall result in a prohibition on any plan amendments  
429 until the measure is adopted.

430 Section 25. Subsection (7) of section 403.1835, Florida  
431 Statutes, is amended to read:

432 403.1835 Water pollution control financial assistance.—

433 (7) Eligible projects must be given priority according to  
434 the extent each project is intended to remove, mitigate, or  
435 prevent adverse effects on surface or ground water quality and  
436 public health. The relative costs of achieving environmental and  
437 public health benefits must be taken into consideration during  
438 the department's assignment of project priorities. The  
439 department shall adopt a priority system by rule. In developing  
440 the priority system, the department shall give priority to  
441 projects that:

442 (a) Eliminate public health hazards;

443 (b) Enable compliance with laws requiring the elimination  
444 of discharges to specific water bodies, including the  
445 requirements of s. 403.086(9) regarding domestic wastewater  
446 ocean outfalls;





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447 (c) Assist in the implementation of total maximum daily  
448 loads and basin management action plans adopted under s.  
449 403.067;

450 (d) Enable compliance with other pollution control  
451 requirements, including, but not limited to, toxics control,  
452 wastewater residuals management, and reduction of nutrients and  
453 bacteria;

454 (e) Assist in the implementation of surface water  
455 improvement and management plans and pollutant load reduction  
456 goals developed under state water policy;

457 (f) Promote reclaimed water reuse;

458 (g) Eliminate environmental damage caused by failing onsite  
459 sewage treatment and disposal systems, with priority given to  
460 systems located within an area designated as an area of critical  
461 state concern under s. 380.05 or located in a spring protection  
462 zone designated pursuant to s. 369.404 ~~or those that are causing~~  
463 ~~environmental damage;~~ or

464 (h) Reduce pollutants to and otherwise promote the  
465 restoration of state Florida's surface and ground waters.

466 Section 26. All state agencies and water management  
467 districts shall asses nitrogen loading from all publically owned  
468 buildings and facilities owned or managed by each respective  
469 agency or district located within a spring protection zone using  
470 a consistent methodology, evaluate existing management  
471 activities, and develop and begin implementing management plans  
472 to reduce adverse impacts to the springs no later than December  
473 31, 2011.

474 Section 27. Present paragraphs (d) through (n) of  
475 subsection (3) of section 381.0065, Florida Statutes, are



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476 redesignated as paragraphs (e) through (o), respectively, and a  
477 new paragraph (d) is added to that subsection, to read:

478       381.0065 Onsite sewage treatment and disposal systems;  
479 regulation.—

480       (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The  
481 department shall:

482       (d) Develop and implement a mandatory statewide onsite  
483 sewage treatment and disposal system inspection program.

484       1. The program shall:

485       a. Be phased in over a 10-year cycle and provide that every  
486 system is inspected on a 5-year recurring cycle.

487       b. Initially target those systems inspected under other  
488 departmental criteria.

489       c. Provide for the exemption of those systems in areas  
490 where the density of systems is fewer than 1 per 3 acres unless  
491 the property abuts a water body or water segment that is listed  
492 as impaired pursuant to s. 403.067, or is within a county  
493 designated as a spring protection zone pursuant to s. 369.404.

494       2. The department, local government, or state-licensed  
495 septic tank contractor or plumber shall charge an additional fee  
496 of up to \$20 for each system inspected. Upon completion of the  
497 inspection, the entity conducting the inspection must submit an  
498 application for approval to the department and provide a copy to  
499 the owner. The department must approve the system for continued  
500 use or notify the owner of the requirement for a repair or  
501 modification permit.

502       3. Revenues from the fee must be deposited in the  
503 appropriate department trust fund, and a minimum of 50 percent  
504 of the revenues shall be dedicated to the grant program created



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505 pursuant to s. 369.407.

506 Section 28. Paragraph (m) is added to subsection (9) of  
507 section 259.105, Florida Statutes, to read:

508 259.105 The Florida Forever Act.—

509 (9) The Acquisition and Restoration Council shall recommend  
510 rules for adoption by the board of trustees to competitively  
511 evaluate, select, and rank projects eligible for Florida Forever  
512 funds pursuant to paragraph (3)(b) and for additions to the  
513 Conservation and Recreation Lands list pursuant to ss. 259.032  
514 and 259.101(4). In developing these proposed rules, the  
515 Acquisition and Restoration Council shall give weight to the  
516 following criteria:

517 (m) Any part of the project area falls within a springs  
518 protection zone as defined by ss. 369.401-369.407.

519 Section 29. Section 403.9335, Florida Statutes, is created  
520 to read:

521 403.9335 Protection of urban and residential environments  
522 and water.—

523 (1) The Legislature finds that the implementation of the  
524 department's Model Ordinance for Florida-Friendly Fertilizer Use  
525 on Urban Landscapes located in the Florida-Friendly Landscape  
526 Guidance Models for Ordinances, Covenants, and Restrictions  
527 (2009) manual, which was developed consistent with the  
528 recommendations of the Florida Consumer Fertilizer Task Force,  
529 in concert with the provisions of the Labeling Requirements for  
530 Urban Turf Fertilizers found in chapter 5E-1 Florida  
531 Administrative Code, will assist in protecting the quality of  
532 Florida's surface water and ground water resources. The  
533 Legislature further finds that local circumstances, including



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534 the varying types and conditions of water bodies, site-specific  
535 soils and geology, and urban or rural densities and  
536 characteristics, necessitates that additional or more stringent  
537 fertilizer-management practices may be needed at the local  
538 government level.

539 (2) All county and municipal governments are encouraged to  
540 adopt and enforce the provisions in the department's Model  
541 Ordinance for Florida-Friendly Fertilizer Use on Urban  
542 Landscapes as a mechanism for better protecting local surface  
543 water and ground water quality.

544 (3) Each county and municipal government located within the  
545 watershed of a water body or water segment that is listed by the  
546 department as impaired by nutrients pursuant to s. 403.067, or  
547 designated as a spring protection zone pursuant to 369.404,  
548 shall adopt, at a minimum, the provisions of the department's  
549 Model Ordinance for Florida-Friendly Fertilizer Use on Urban  
550 Landscapes. A county or municipal government may adopt  
551 additional or more stringent provisions than the model ordinance  
552 if the following criteria are met:

553 (a) The county or municipal government has demonstrated, as  
554 part of a comprehensive program to address nonpoint sources of  
555 nutrient pollution which is science-based, economically and  
556 technically feasible, that additional or more stringent  
557 provisions to the model ordinance are necessary to adequately  
558 address urban fertilizer contributions to nonpoint source  
559 nutrient loading to a water body.

560 (b) The county or municipal government documents  
561 consideration of all relevant scientific information including  
562 input from the department, the Department of Agriculture and



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563 Consumer Services and the University of Florida Institute of  
564 Food and Agricultural Sciences, if provided, on the need for  
565 additional or more stringent provisions to address fertilizer  
566 use as a contributor to water quality degradation. All  
567 documentation shall be made part of the public record prior to  
568 adoption of the additional or more stringent criteria.

569 (4) Any county or municipal government that has adopted its  
570 own fertilizer use ordinance before January 1, 2009 is exempt  
571 from the provisions of this section. Ordinances adopted or  
572 amended after January 1, 2009 shall adopt the provisions in the  
573 most recent version of the model fertilizer ordinance and shall  
574 be subject to the criteria described in subsections (1) and (2)  
575 above.

576 (5) Nothing herein shall be construed to regulate the use  
577 of fertilizer on farm operations as defined in s. 823.14 or on  
578 lands classified as agricultural lands pursuant to s. 193.461.

579 Section 30. Section 403.9337, Florida Statutes, is created  
580 to read:

581 403.9337 Urban turf fertilizers.-

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

583 (a) "No-phosphate fertilizer" or "no-phosphorus fertilizer"  
584 means fertilizer that contains less than 0.5 percent phosphate  
585 by weight.

586 (b) "Urban turf" means noncropland planted, mowed, and  
587 managed grasses, including, but not limited to, residential  
588 lawns; turf on commercial property; filter strips; and turf on  
589 property owned by federal, state, or local governments and other  
590 public lands, including roadways, roadsides, parks, campsites,  
591 recreation areas, school grounds, and other public grounds. The



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592 term does not include pastures, hay production and grazing land,  
593 turf grown on sod farms, or any other form of agricultural  
594 production; golf courses or sports turf fields; or garden  
595 fruits, flowers, or vegetables.

596 (c) "Soil test" means a test performed on soil planted or  
597 sodded, or that will be planted or sodded, by a laboratory  
598 approved by the Department of Agriculture and Consumer Services  
599 and performed within the last 2 years to indicate if the level  
600 of available phosphorus in the soil is sufficient to support  
601 healthy turf growth.

602 (d) "Tissue test" means a test performed on plant tissue  
603 growing in the soil planted or sodded, or that will be planted  
604 or sodded, by a laboratory approved by the Department of  
605 Agriculture and Consumer Services and performed within the last  
606 2 years to indicate if the level of available phosphorus in the  
607 soil is sufficient to support healthy turf.

608 (2) Other than no-phosphate and no-phosphorus fertilizers,  
609 fertilizer containing phosphorus may not be applied to urban  
610 turf anywhere in this state on or after July 1, 2011, unless a  
611 soil or tissue test that is conducted pursuant to a method  
612 approved by the Department of Agriculture and Consumer Services  
613 indicates:

614 (a) For turf that is being initially established by seed or  
615 sod, the level of available phosphorus is insufficient to  
616 establish new turf growth and a root system. However, during the  
617 first year, a one-time application only of up to 1 pound of  
618 phosphate per 1,000 square feet of area may be applied.

619 (b) For established turf, the level of available phosphorus  
620 is insufficient to support healthy turf growth. However, no more



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621 than 0.25 pound of phosphate per 1,000 square feet of area per  
622 each application may be applied, not to exceed 0.5 pound of  
623 phosphate per 1,000 square feet of area per year.

624 Section 31. Effective July 1, 2010, all of the powers,  
625 duties, functions, records, personnel, and property; unexpended  
626 balances of appropriations, allocations, and other funds;  
627 administrative authority; administrative rules; pending issues;  
628 and existing contracts of the Bureau of Onsite Sewage Programs  
629 in the Department of Health, as authorized and governed by ss.  
630 20.43, 20.435, 153.73, 153.54, 163.3180, 180.03, 381.006,  
631 381.0061, 381.0064-381.0068, and 489.551-558, are transferred by  
632 a type II transfer, pursuant to s. 20.06(2), to the Florida  
633 Department of Environmental Protection. In addition all existing  
634 powers, duties, functions, records, personnel, and property;  
635 unexpended balances of appropriations, allocations, and other  
636 funds; administrative authority; administrative rules; pending  
637 issues; and existing contracts associated with county health  
638 departments' onsite sewage programs are transferred to the  
639 Department of Environmental Protection.

640 Section 32. Subsection (6) of section 369.317, Florida  
641 Statutes, is amended to read:

642 369.317 Wekiva Parkway.—

643 (6) The Orlando-Orange County Expressway Authority is  
644 hereby granted the authority to act as a third-party acquisition  
645 agent, pursuant to s. 259.041 on behalf of the Board of Trustees  
646 or chapter 373 on behalf of the governing board of the St. Johns  
647 River Water Management District, for the acquisition of all  
648 necessary lands, property and all interests in property  
649 identified herein, including fee simple or less-than-fee simple



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650 interests. The lands subject to this authority are identified in  
651 paragraph 10.a., State of Florida, Office of the Governor,  
652 Executive Order 03-112 of July 1, 2003, and in Recommendation 16  
653 of the Wekiva Basin Area Task Force created by Executive Order  
654 2002-259, such lands otherwise known as Neighborhood Lakes, a  
655 1,587+/- acre parcel located in Orange and Lake Counties within  
656 Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East,  
657 and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East;  
658 Seminole Woods/Swamp, a 5,353+/- acre parcel located in Lake  
659 County within Section 37, Township 19 South, Range 28 East; New  
660 Garden Coal; a 1,605+/- acre parcel in Lake County within  
661 Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28  
662 East; Pine Plantation, a 617+/- acre tract consisting of eight  
663 individual parcels within the Apopka City limits. The Department  
664 of Transportation, the Department of Environmental Protection,  
665 the St. Johns River Water Management District, and other land  
666 acquisition entities shall participate and cooperate in  
667 providing information and support to the third-party acquisition  
668 agent. The land acquisition process authorized by this paragraph  
669 shall begin no later than December 31, 2004. Acquisition of the  
670 properties identified as Neighborhood Lakes, Pine Plantation,  
671 and New Garden Coal, or approval as a mitigation bank shall be  
672 concluded no later than December 31, 2010. Department of  
673 Transportation and Orlando-Orange County Expressway Authority  
674 funds expended to purchase an interest in those lands identified  
675 in this subsection shall be eligible as environmental mitigation  
676 for road construction related impacts in the Wekiva Study Area.  
677 If any of the lands identified in this subsection are used as  
678 environmental mitigation for road construction related impacts





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679 incurred by the Department of Transportation or Orlando-Orange  
680 County Expressway Authority, or for other impacts incurred by  
681 other entities, within the Wekiva Study Area or within the  
682 Wekiva parkway alignment corridor, and if the mitigation offsets  
683 these impacts, then the St. Johns River Water Management  
684 District and the Department of Environmental Protection shall  
685 consider the activity regulated under Part IV of Chapter 373 to  
686 meet the cumulative impact requirements of s. 373.414(8) (a).

687 Section 33. Section 373.185, Florida Statutes, is amended  
688 to read:

689 373.185 Local Florida-friendly landscaping Xeriscape  
690 ordinances.-

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

692 (a) "Local government" means any county or municipality of  
693 the state.

694 (b) ~~"Xeriscape" or "Florida-friendly landscaping landscape"~~  
695 means quality landscapes that conserve water, and protect the  
696 environment, and are adaptable to local conditions, and ~~which~~  
697 are drought tolerant. The principles of such landscaping  
698 ~~Xeriscape~~ include planting the right plant in the right place,  
699 efficient watering, appropriate fertilization, mulching,  
700 attraction of wildlife, responsible management of yard pests,  
701 recycling yard waste, reduction of stormwater runoff, and  
702 waterfront protection. Additional components include practices  
703 such as landscape planning and design, ~~appropriate choice of~~  
704 plants, soil analysis, ~~which may include the appropriate use of~~  
705 solid waste compost, minimizing the use of ~~efficient~~ irrigation,  
706 ~~practical use of turf, appropriate use of mulches,~~ and proper  
707 maintenance.



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708           (2) Each water management district shall design and  
709 implement an incentive program to encourage all local  
710 governments within its district to adopt new ordinances or amend  
711 existing ordinances to require Florida-friendly Xeriscape  
712 landscaping for development permitted after the effective date  
713 of the new ordinance or amendment. ~~Each district shall adopt~~  
714 ~~rules governing the implementation of its incentive program and~~  
715 ~~governing the review and approval of local government Xeriscape~~  
716 ~~ordinances or amendments which are intended to qualify a local~~  
717 ~~government for the incentive program.~~ Each district shall assist  
718 the local governments within its jurisdiction by providing a  
719 model Florida-friendly landscaping ordinance Xeriscape code and  
720 other technical assistance. Each district may develop its own  
721 model or use a model contained in the "Florida-Friendly  
722 Landscape Guidance Models for Ordinances, Covenants, and  
723 Restrictions" manual developed by the department. To qualify for  
724 a district's incentive program, a local government ~~Xeriscape~~  
725 ordinance or amendment, ~~in order to qualify the local government~~  
726 ~~for a district's incentive program,~~ must include, at a minimum:

727           (a) Landscape design, installation, and maintenance  
728 standards that result in water conservation and water quality  
729 protection or restoration. Such standards must ~~shall~~ address the  
730 use of plant groupings, soil analysis including the promotion of  
731 the use of solid waste compost, efficient irrigation systems,  
732 and other water-conserving practices.

733           (b) Identification of prohibited invasive exotic plant  
734 species consistent with s. 581.091.

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



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737 (d) A provision specifying the maximum percentage of  
738 irrigated turf and ~~the maximum percentage of~~ impervious surfaces  
739 allowed in a Florida-friendly landscaped ~~xeriscaped~~ area and  
740 addressing the practical selection and installation of turf.

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

743 (f) A monitoring program for ordinance implementation and  
744 compliance.

745 (3) Each water management district shall also ~~The districts~~  
746 ~~also shall work with~~ the department, local governments, county  
747 extension agents or offices, nursery and landscape industry  
748 groups, and other interested stakeholders to promote, through  
749 educational programs, ~~and~~ publications, and other district  
750 activities authorized under this chapter, the use of Florida-  
751 friendly landscaping ~~xeriscape~~ practices, including the use of  
752 solid waste compost, in ~~existing~~ residential and commercial  
753 development. In conducting these activities, each district shall  
754 use the materials developed by the department, the Institute of  
755 Food and Agricultural Sciences at the University of Florida, and  
756 the Center for Landscape Conservation and Ecology Florida-  
757 Friendly Landscaping program, including, but not limited to, the  
758 Florida Yards and Neighborhoods Program for homeowners, the  
759 Florida Yards and Neighborhoods Builder Developer Program for  
760 developers, and the Green Industries Best Management Practices  
761 Program for landscaping professionals. Each district may develop  
762 supplemental materials as appropriate to address the physical  
763 and natural characteristics of the district. The districts shall  
764 coordinate with the department and the Institute of Food and  
765 Agricultural Sciences at the University of Florida if revisions



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766 to the educational materials are needed. This section may not be  
767 construed to limit the authority of the districts to require  
768 Xeriscape ordinances or practices as a condition of any  
769 consumptive use permit.

770 (a) The Legislature finds that the use of Florida-friendly  
771 landscaping and other water use and pollution prevention  
772 measures to conserve or protect the state's water resources  
773 serves a compelling public interest and that the participation  
774 of homeowners' associations and local governments is essential  
775 to state's efforts in water conservation and water quality  
776 protection and restoration.

777 (b) ~~(3)~~ A deed restriction, or covenant entered after  
778 October 1, 2001, or local government ordinance may not prohibit  
779 or be enforced so as to prohibit any property owner from  
780 implementing Xeriscape or Florida-friendly landscaping landscape  
781 on his or her land or create any requirement or limitation in  
782 conflict with any provision of part II of this chapter or a  
783 water shortage order, other order, consumptive use permit, or  
784 rule adopted or issued pursuant to part II of this chapter.

785 (4) This section does not limit the authority of the  
786 department or the water management districts to require Florida-  
787 friendly landscaping ordinances or practices as a condition of  
788 any permit issued under this chapter.

789 Section 34. Section 373.187, Florida Statutes, is created  
790 to read:

791 373.187 Water management district implementation of  
792 Florida-friendly landscaping.—Each water management district  
793 shall use Florida-friendly landscaping, as defined in s.  
794 373.185, on public property associated with buildings and



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795 facilities owned by the district and constructed after June 30,  
796 2009. Each district shall also develop a 5-year program for  
797 phasing in the use of Florida-friendly landscaping on public  
798 property associated with buildings or facilities owned by the  
799 district and constructed before July 1, 2009.

800 Section 35. Section 373.228, Florida Statutes, is amended  
801 to read:

802 373.228 Landscape irrigation design.—

803 (1) The Legislature finds that multiple areas throughout  
804 the state have been identified by water management districts as  
805 water resource caution areas, which indicates that in the near  
806 future water demand in those areas will exceed the current  
807 available water supply and that conservation is one of the  
808 mechanisms by which future water demand will be met.

809 (2) The Legislature finds that landscape irrigation  
810 comprises a significant portion of water use and that ~~the~~  
811 current typical landscape irrigation systems ~~system~~ and Florida-  
812 friendly landscaping ~~landscape~~ designs offer significant  
813 potential water conservation benefits.

814 (3) It is the intent of the Legislature to improve  
815 landscape irrigation water use efficiency by ensuring that  
816 landscape irrigation systems meet or exceed minimum design  
817 criteria.

818 (4) The water management districts shall work with the  
819 Florida Nursery, Nurserymen and Growers and Landscape  
820 Association, the Florida Native Plant Society, the Florida  
821 Chapter of the American Society of Landscape Architects, the  
822 Florida Irrigation Society, the Department of Agriculture and  
823 Consumer Services, the Institute of Food and Agricultural



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824 Sciences, the Department of Environmental Protection, the  
825 Department of Transportation, the Florida League of Cities, the  
826 Florida Association of Counties, and the Florida Association of  
827 Community Developers to develop landscape irrigation and  
828 Florida-friendly landscaping ~~xeriscape~~ design standards for new  
829 construction which incorporate a landscape irrigation system and  
830 develop scientifically based model guidelines for urban,  
831 commercial, and residential landscape irrigation, including drip  
832 irrigation, for plants, trees, sod, and other landscaping. The  
833 ~~landscape and irrigation design~~ standards shall be based on the  
834 irrigation code defined in the Florida Building Code, Plumbing  
835 Volume, Appendix F. Local governments shall use the standards  
836 and guidelines when developing landscape irrigation and Florida-  
837 friendly landscaping ~~xeriscape~~ ordinances. By January 1, 2011,  
838 the agencies and entities specified in this subsection shall  
839 review the standards and guidelines to determine whether new  
840 research findings require a change or modification of the  
841 standards and guidelines.

842 (5) In evaluating water use applications from public water  
843 suppliers, water management districts shall consider whether the  
844 applicable local government has adopted ordinances for  
845 landscaping and irrigation systems consistent with the Florida-  
846 friendly landscaping provisions of s. 373.185.

847 Section 36. Subsection (3) of section 373.323, Florida  
848 Statutes, is amended to read:

849 373.323 Licensure of water well contractors; application,  
850 qualifications, and examinations; equipment identification.—

851 (3) An applicant who meets the following requirements is  
852 ~~shall be~~ entitled to take the water well contractor licensure



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853 examination ~~to practice water well contracting:~~

854 (a) Is at least 18 years of age.

855 (b) Has at least 2 years of experience in constructing,  
856 repairing, or abandoning water wells. Satisfactory proof of such  
857 experience is demonstrated by providing:

858 1. Evidence of the length of time the applicant has been  
859 engaged in the business of the construction, repair, or  
860 abandonment of water wells as a major activity, as attested to  
861 by a letter from three of the following persons:

862 a. A water well contractor.

863 b. A water well driller.

864 c. A water well parts and equipment vendor.

865 d. A water well inspector employed by a governmental  
866 agency.

867 2. A list of at least 10 water wells that the applicant has  
868 constructed, repaired, or abandoned within the preceding 5  
869 years. Of these wells, at least seven must have been  
870 constructed, as defined in s. 373.303(2), by the applicant. The  
871 list must also include:

872 a. The name and address of the owner or owners of each  
873 well.

874 b. The location, primary use, and approximate depth and  
875 diameter of each well.

876 c. The approximate date the construction, repair, or  
877 abandonment of each well was completed.

878 (c) Has completed the application form and remitted a  
879 nonrefundable application fee.

880 Section 37. Subsection (8) of section 373.333, Florida  
881 Statutes, is amended to read:



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882 373.333 Disciplinary guidelines; adoption and enforcement;  
883 license suspension or revocation.—

884 (8) The water management district may impose through an  
885 order an administrative fine not to exceed \$5,000 per occurrence  
886 against an unlicensed person if ~~when~~ it determines that the  
887 unlicensed person has engaged in the practice of water well  
888 contracting~~7~~ for which a license is required.

889 Section 38. Section 125.568, Florida Statutes, is amended  
890 to read:

891 125.568 Conservation of water; Florida-friendly landscaping  
892 ~~Xeriscape~~.—

893 (1) (a) The Legislature finds that Florida-friendly  
894 landscaping ~~Xeriscape~~ contributes to the conservation,  
895 protection, and restoration of water. In an effort to meet the  
896 water needs of this state in a manner that will supply adequate  
897 and dependable supplies of water where needed, it is the intent  
898 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~  
899 be an essential part of water conservation and water quality  
900 protection and restoration planning.

901 (b) As used in this section, ~~“Xeriscape” or “Florida-~~  
902 ~~friendly landscaping”~~ has the same meaning as in s. 373.185  
903 ~~landscape” means quality landscapes that conserve water and~~  
904 ~~protect the environment and are adaptable to local conditions~~  
905 ~~and which are drought tolerant. The principles of Xeriscape~~  
906 ~~include planning and design, appropriate choice of plants, soil~~  
907 ~~analysis which may include the use of solid waste compost,~~  
908 ~~practical use of turf, efficient irrigation, appropriate use of~~  
909 ~~mulches, and proper maintenance.~~

910 (2) The board of county commissioners of each county shall





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911 consider enacting ordinances, consistent with s. 373.185,  
912 requiring the use of Florida-friendly landscaping ~~Xeriscape~~ as a  
913 water conservation or water quality protection or restoration  
914 measure. If the board determines that such landscaping ~~Xeriscape~~  
915 would be of significant benefit as a water conservation or water  
916 quality protection or restoration measure, especially for waters  
917 designated as impaired pursuant to s. 403.067, relative to the  
918 cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its  
919 area of jurisdiction, the board shall enact a Florida-friendly  
920 landscaping ~~Xeriscape~~ ordinance. Further, the board of county  
921 commissioners shall consider promoting Florida-friendly  
922 landscaping ~~Xeriscape~~ as a water conservation or water quality  
923 protection or restoration measure by: using such landscaping  
924 ~~Xeriscape~~ in any, around, or near facilities, parks, and other  
925 ~~common~~ areas under its jurisdiction which are landscaped after  
926 the effective date of this act; providing public education on  
927 Florida-friendly landscaping ~~Xeriscape~~, its uses in increasing  
928 ~~as a~~ water conservation and water quality protection or  
929 restoration ~~tool~~, and its long-term cost-effectiveness; and  
930 offering incentives to local residents and businesses to  
931 implement Florida-friendly ~~Xeriscape~~ landscaping.

932 (3) (a) The Legislature finds that the use of Florida-  
933 friendly landscaping and other water use and pollution  
934 prevention measures to conserve or protect the state's water  
935 resources serves a compelling public interest and that the  
936 participation of homeowners' associations and local governments  
937 is essential to the state's efforts in water conservation and  
938 water quality protection and restoration.

939 (b) A deed restriction, ~~or covenant entered after October~~



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940 ~~1, 2001,~~ or local government ordinance may not prohibit or be  
941 enforced so as to prohibit any property owner from implementing  
942 ~~Xeriscape or Florida-friendly landscaping landscape~~ on his or  
943 her land or create any requirement or limitation in conflict  
944 with any provision of part II of chapter 373 or a water shortage  
945 order, other order, consumptive use permit, or rule adopted or  
946 issued pursuant to part II of chapter 373.

947 Section 39. Section 166.048, Florida Statutes, is amended  
948 to read:

949 166.048 Conservation of water; Florida-friendly landscaping  
950 ~~Xeriscape.~~-

951 (1) (a) The Legislature finds that Florida-friendly  
952 landscaping ~~Xeriscape~~ contributes to the conservation,  
953 protection, and restoration of water. In an effort to meet the  
954 water needs of this state in a manner that will supply adequate  
955 and dependable supplies of water where needed, it is the intent  
956 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~  
957 be an essential part of water conservation and water quality  
958 protection and restoration planning.

959 (b) As used in this section, ~~"Xeriscape" or "Florida-~~  
960 ~~friendly landscaping"~~ has the same meaning as in s. 373.185  
961 ~~landscape" means quality landscapes that conserve water and~~  
962 ~~protect the environment and are adaptable to local conditions~~  
963 ~~and which are drought tolerant. The principles of Xeriscape~~  
964 ~~include planning and design, appropriate choice of plants, soil~~  
965 ~~analysis which may include the use of solid waste compost,~~  
966 ~~practical use of turf, efficient irrigation, appropriate use of~~  
967 ~~mulches, and proper maintenance.~~

968 (2) The governing body of each municipality shall consider



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969 enacting ordinances, consistent with s. 373.185, requiring the  
970 use of Florida-friendly landscaping ~~Xeriscape~~ as a water  
971 conservation or water quality protection or restoration measure.  
972 If the governing body determines that such landscaping ~~Xeriscape~~  
973 would be of significant benefit as a water conservation or water  
974 quality protection or restoration measure, especially for waters  
975 designated as impaired pursuant to s. 403.067, relative to the  
976 cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its  
977 area of jurisdiction in the municipality, the governing body  
978 ~~board~~ shall enact a Florida-friendly landscaping ~~Xeriscape~~  
979 ordinance. Further, the governing body shall consider promoting  
980 Florida-friendly landscaping ~~Xeriscape~~ as a water conservation  
981 or water quality protection or restoration measure by: using  
982 such landscaping ~~Xeriscape~~ in any, around, or near facilities,  
983 ~~parks, and other common~~ areas under its jurisdiction which are  
984 landscaped after the effective date of this act; providing  
985 public education on Florida-friendly landscaping ~~Xeriscape~~, its  
986 uses in increasing ~~as a~~ water conservation and water quality  
987 protection or restoration ~~tool,~~ and its long-term cost-  
988 effectiveness; and offering incentives to local residents and  
989 businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

990 (3) (a) The Legislature finds that the use of Florida-  
991 friendly landscaping and other water use and pollution  
992 prevention measures to conserve or protect the state's water  
993 resources serves a compelling public interest and that the  
994 participation of homeowners' associations and local governments  
995 is essential to the state's efforts in water conservation and  
996 water quality protection and restoration.

997 (b) A deed restriction, ~~or covenant entered after October~~



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998 ~~1, 2001,~~ or local government ordinance may not prohibit or be  
999 enforced so as to prohibit any property owner from implementing  
1000 ~~Xeriscape or Florida-friendly landscaping landscape~~ on his or  
1001 her land or create any requirement or limitation in conflict  
1002 with any provision of part II of chapter 373 or a water shortage  
1003 order, other order, consumptive use permit, or rule adopted or  
1004 issued pursuant to part II of chapter 373.

1005 Section 40. Section 255.259, Florida Statutes, is amended  
1006 to read:

1007 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public  
1008 property.-

1009 (1) The Legislature finds that water conservation and water  
1010 quality protection and restoration are ~~is~~ increasingly critical  
1011 to the continuance of an adequate water supply and healthy  
1012 surface and ground waters ~~for the citizens of this state.~~ The  
1013 Legislature further finds that "Florida-friendly landscaping  
1014 ~~Xeriscape,~~" as defined in s. 373.185, can contribute  
1015 significantly to water ~~the~~ conservation and ~~of~~ water quality  
1016 protection and restoration. Finally, the Legislature finds that  
1017 state government has the responsibility to promote Florida-  
1018 friendly landscaping ~~Xeriscape~~ as a water conservation and water  
1019 quality protection and restoration measure by using such  
1020 landscaping ~~Xeriscape~~ on public property associated with  
1021 publicly owned buildings or facilities.

1022 (2) As used in this section, "publicly owned buildings or  
1023 facilities" means ~~those~~ construction projects under the purview  
1024 of the Department of Management Services. The term ~~It~~ does not  
1025 include environmentally endangered land or roads and highway  
1026 construction under the purview of the Department of



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1027 Transportation.

1028 (3) The Department of Management Services, in consultation  
1029 with the Department of Environmental Protection, shall adopt  
1030 rules and guidelines for the required use of Florida-friendly  
1031 landscaping ~~Xeriscape~~ on public property associated with  
1032 publicly owned buildings or facilities constructed after June  
1033 30, 2009 ~~1992~~. The Department of Management Services ~~also~~ shall  
1034 also develop a 5-year program for phasing in the use of Florida-  
1035 friendly landscaping ~~Xeriscape~~ on public property associated  
1036 with publicly owned buildings or facilities constructed before  
1037 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department  
1038 of Management Services shall take into account the standards  
1039 provided in ~~guidelines set out in~~ s. 373.185(2)(a)-(f). The  
1040 Department of Transportation shall implement Florida-friendly  
1041 ~~Xeriscape~~ landscaping pursuant to s. 335.167.

1042 (4) (a) The Legislature finds that the use of Florida-  
1043 friendly landscaping and other water use and pollution  
1044 prevention measures to conserve or protect the state's water  
1045 resources serves a compelling public interest and that the  
1046 participation of homeowners' associations and local governments  
1047 is essential to the state's efforts in water conservation and  
1048 water quality protection and restoration.

1049 (b) A deed restriction, ~~or~~ covenant entered after October  
1050 1, 2001, or local government ordinance may not prohibit or be  
1051 enforced so as to prohibit any property owner from implementing  
1052 ~~Xeriscape or~~ Florida-friendly landscaping landscape on his or  
1053 her land or create any requirement or limitation in conflict  
1054 with any provision of part II of chapter 373 or a water shortage  
1055 order, other order, consumptive use permit, or rule adopted or



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1056 issued pursuant to part II of chapter 373.

1057 Section 41. Section 335.167, Florida Statutes, is amended  
1058 to read:

1059 335.167 State highway construction and maintenance;  
1060 ~~Xeriscape or~~ Florida-friendly landscaping.-

1061 (1) The department shall use and require the use of  
1062 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in  
1063 s. 373.185(1), in the construction and maintenance of all new  
1064 state highways, wayside parks, access roads, welcome stations,  
1065 and other state highway rights-of-way constructed upon or  
1066 acquired after June 30, 2009 ~~1992~~. The department shall develop  
1067 a 5-year program for phasing in the use of Florida-friendly  
1068 landscaping ~~Xeriscape~~, including the use of solid waste compost,  
1069 in state highway rights-of-way constructed upon or acquired  
1070 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the  
1071 department shall employ the standards ~~guidelines~~ set out in s.  
1072 373.185(2) (a) ~~-(f)~~.

1073 (2) (a) The Legislature finds that the use of Florida-  
1074 friendly landscaping and other water use and pollution  
1075 prevention measures to conserve or protect the state's water  
1076 resources serves a compelling public interest and that the  
1077 participation of homeowners' associations and local governments  
1078 is essential to the state's efforts in water conservation and  
1079 water quality protection and restoration.

1080 (b) A deed restriction, ~~or~~ covenant ~~entered after October~~  
1081 ~~1, 2001~~, or local government ordinance may not prohibit or be  
1082 enforced so as to prohibit any property owner from implementing  
1083 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or  
1084 her land or create any requirement or limitation in conflict



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1085 with any provision of part II of chapter 373 or a water shortage  
1086 order, other order, consumptive use permit, or rule adopted or  
1087 issued pursuant to part II of chapter 373.

1088 Section 42. Paragraph (a) of subsection (3) of section  
1089 380.061, Florida Statutes, is amended to read:

1090 380.061 The Florida Quality Developments program.—

1091 (3) (a) To be eligible for designation under this program,  
1092 the developer shall comply with each of the following  
1093 requirements if ~~which is~~ applicable to the site of a qualified  
1094 development:

1095 1. Donate or enter ~~Have donated or entered~~ into a binding  
1096 commitment to donate the fee or a lesser interest sufficient to  
1097 protect, in perpetuity, the natural attributes of the types of  
1098 land listed below. In lieu of this ~~the above~~ requirement, the  
1099 developer may enter into a binding commitment that ~~which~~ runs  
1100 with the land to set aside such areas on the property, in  
1101 perpetuity, as open space to be retained in a natural condition  
1102 or as otherwise permitted under this subparagraph. Under the  
1103 requirements of this subparagraph, the developer may reserve the  
1104 right to use such areas for ~~the purpose of~~ passive recreation  
1105 that is consistent with the purposes for which the land was  
1106 preserved.

1107 a. Those wetlands and water bodies throughout the state  
1108 which as would be delineated if the provisions of s.  
1109 373.4145(1) (b) were applied. The developer may use such areas  
1110 for the purpose of site access, provided other routes of access  
1111 are unavailable or impracticable; may use such areas for the  
1112 purpose of stormwater or domestic sewage management and other  
1113 necessary utilities if ~~to the extent that~~ such uses are



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1114 permitted pursuant to chapter 403; or may redesign or alter  
1115 wetlands and water bodies within the jurisdiction of the  
1116 Department of Environmental Protection which have been  
1117 artificially created, if the redesign or alteration is done so  
1118 as to produce a more naturally functioning system.

1119 b. Active beach or primary and, where appropriate,  
1120 secondary dunes, to maintain the integrity of the dune system  
1121 and adequate public accessways to the beach. However, the  
1122 developer may retain the right to construct and maintain  
1123 elevated walkways over the dunes to provide access to the beach.

1124 c. Known archaeological sites determined to be of  
1125 significance by the Division of Historical Resources of the  
1126 Department of State.

1127 d. Areas known to be important to animal species designated  
1128 as endangered or threatened ~~animal species~~ by the United States  
1129 Fish and Wildlife Service or by the Fish and Wildlife  
1130 Conservation Commission, for reproduction, feeding, or nesting;  
1131 for traveling between such areas used for reproduction, feeding,  
1132 or nesting; or for escape from predation.

1133 e. Areas known to contain plant species designated as  
1134 endangered ~~plant species~~ by the Department of Agriculture and  
1135 Consumer Services.

1136 2. Produce, or dispose of, no substances designated as  
1137 hazardous or toxic substances by the United States Environmental  
1138 Protection Agency, ~~or by~~ the Department of Environmental  
1139 Protection, ~~or~~ the Department of Agriculture and Consumer  
1140 Services. This subparagraph does ~~is not intended to~~ apply to the  
1141 production of these substances in nonsignificant amounts as  
1142 would occur through household use or incidental use by





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1143 businesses.

1144 3. Participate in a downtown reuse or redevelopment program  
1145 to improve and rehabilitate a declining downtown area.

1146 4. Incorporate no dredge and fill activities in, and no  
1147 stormwater discharge into, waters designated as Class II,  
1148 aquatic preserves, or Outstanding Florida Waters, except as  
1149 ~~activities in those waters are~~ permitted pursuant to s.  
1150 403.813(2), and the developer demonstrates that those activities  
1151 meet the standards under Class II waters, Outstanding Florida  
1152 Waters, or aquatic preserves, as applicable.

1153 5. Include open space, recreation areas, Florida-friendly  
1154 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy  
1155 conservation and minimize impermeable surfaces as appropriate to  
1156 the location and type of project.

1157 6. Provide for construction and maintenance of all onsite  
1158 infrastructure necessary to support the project and enter into a  
1159 binding commitment with local government to provide an  
1160 appropriate fair-share contribution toward the offsite impacts  
1161 that ~~which~~ the development will impose on publicly funded  
1162 facilities and services, except offsite transportation, and  
1163 condition or phase the commencement of development to ensure  
1164 that public facilities and services, except offsite  
1165 transportation, are ~~will be~~ available concurrent with the  
1166 impacts of the development. For the purposes of offsite  
1167 transportation impacts, the developer shall comply, at a  
1168 minimum, with the standards of the state land planning agency's  
1169 development-of-regional-impact transportation rule, the approved  
1170 strategic regional policy plan, any applicable regional planning  
1171 council transportation rule, and the approved local government



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1172 comprehensive plan and land development regulations adopted  
1173 pursuant to part II of chapter 163.

1174 7. Design and construct the development in a manner that is  
1175 consistent with the adopted state plan, the applicable strategic  
1176 regional policy plan, and the applicable adopted local  
1177 government comprehensive plan.

1178 Section 43. Subsection (3) of section 388.291, Florida  
1179 Statutes, is amended to read:

1180 388.291 Source reduction measures; supervision by  
1181 department.—

1182 (3) Property owners in a developed residential area shall  
1183 ~~are required to~~ maintain their property in ~~such~~ a manner that  
1184 does so as not to create or maintain any standing freshwater  
1185 condition capable of breeding mosquitoes or other arthropods in  
1186 significant numbers so as to constitute a public health,  
1187 welfare, or nuisance problem. ~~Nothing in~~ This subsection does  
1188 not authorize ~~shall permit~~ the alteration of permitted  
1189 stormwater management systems or prohibit maintained fish ponds,  
1190 Florida-friendly landscaping ~~xeriscaping~~, or other maintained  
1191 systems of landscaping or vegetation. If such a condition is  
1192 found to exist, the local arthropod control agency shall serve  
1193 notice on the property owner to treat, remove, or abate the  
1194 condition. Such notice is ~~shall serve as~~ prima facie evidence of  
1195 maintaining a nuisance, and upon failure of the property owner  
1196 to treat, remove, or abate the condition, the local arthropod  
1197 control agency or any affected citizen may proceed pursuant to  
1198 s. 60.05 to enjoin the nuisance and may recover costs and  
1199 attorney's fees if they prevail in the action.

1200 Section 44. Paragraph (a) of subsection (6) of section



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1201 481.303, Florida Statutes, is amended to read:

1202 481.303 Definitions.—As used in this chapter:

1203 (6) "Landscape architecture" means professional services,  
1204 including, but not limited to, the following:

1205 (a) Consultation, investigation, research, planning,  
1206 design, preparation of drawings, specifications, contract  
1207 documents and reports, responsible construction supervision, or  
1208 landscape management in connection with the planning and  
1209 development of land and incidental water areas, including the  
1210 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.  
1211 373.185, where, and to the extent that, the dominant purpose of  
1212 such services or creative works is the preservation,  
1213 conservation, enhancement, or determination of proper land uses,  
1214 natural land features, ground cover and plantings, or  
1215 naturalistic and aesthetic values;

1216 Section 45. Subsection (4) of section 720.3075, Florida  
1217 Statutes, is amended to read:

1218 720.3075 Prohibited clauses in association documents.—

1219 (4) (a) The Legislature finds that the use of Florida-  
1220 friendly landscaping and other water use and pollution  
1221 prevention measures to conserve or protect the state's water  
1222 resources serves a compelling public interest and that the  
1223 participation of homeowners' associations and local governments  
1224 is essential to the state's efforts in water conservation and  
1225 water quality protection and restoration.

1226 (b) Homeowners' association documents, including  
1227 declarations of covenants, articles of incorporation, or bylaws,  
1228 ~~entered after October 1, 2001,~~ may not prohibit or be enforced  
1229 so as to prohibit any property owner from implementing ~~Xeriscape~~



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1230 ~~or~~ Florida-friendly landscaping landscape, as defined in s.  
1231 373.185(1), on his or her land or create any requirement or  
1232 limitation in conflict with any provision of part II of chapter  
1233 373 or a water shortage order, other order, consumptive use  
1234 permit, or rule adopted or issued pursuant to part II of chapter  
1235 373.

1236 Section 46. (1) A task force is established to develop  
1237 legislative recommendations relating to stormwater management  
1238 system design in the state. The task force shall:

1239 (a) Review the Joint Professional Engineers and Landscape  
1240 Architecture Committee Report conducted pursuant to s. 17,  
1241 chapter 88-347, Laws of Florida, and determine the current  
1242 validity of the report and the need to revise any of the  
1243 conclusions or recommendations.

1244 (b) Determine how a licensed and registered professional  
1245 might demonstrate competency for stormwater management system  
1246 design.

1247 (c) Determine how the Board of Professional Engineers and  
1248 the Board of Landscape Architecture might administer  
1249 certification tests or continuing education requirements for  
1250 stormwater management system design.

1251 (d) Provide recommendations for grandfathering the rights  
1252 of licensed professionals who currently practice stormwater  
1253 management design in a manner that will allow them to continue  
1254 to practice without meeting any new requirements the task force  
1255 recommends be placed on licensed professionals in the future.

1256 (2) (a) The Board of Landscape Architecture, the Board of  
1257 Professional Engineers, the Florida Engineering Society, the  
1258 Florida Chapter of the American Society of Landscape Architects,



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1259 the Secretary of Environmental Protection, and the Secretary of  
1260 Transportation shall each appoint one member to the task force.

1261 (b) Members of the task force may not be reimbursed for  
1262 travel, per diem, or any other costs associated with serving on  
1263 the task force.

1264 (c) The task force shall meet a minimum of four times  
1265 either in person or via teleconference; however, a minimum of  
1266 two meetings shall be public hearings with testimony.

1267 (d) The task force shall expire on November 1, 2009.

1268 (3) The task force shall provide its findings and  
1269 legislative recommendations to the President of the Senate and  
1270 the Speaker of the House of Representatives by November 1, 2009.

1271 Section 47. Except as otherwise expressly provided in this  
1272 act, this act shall take effect July 1, 2009.

1273  
1274  
1275 ===== T I T L E A M E N D M E N T =====

1276 And the title is amended as follows:

1277 Delete line 99

1278 and insert:

1279 provisions; creating part IV of ch. 369, F.S.; providing a  
1280 short title; providing legislative findings and intent with  
1281 respect to the need to protect and restore springs and ground  
1282 water; providing definitions; requiring the Department of  
1283 Environmental Protection to delineate the springsheds of  
1284 specified springs; requiring the department to adopt spring  
1285 protection zones by secretarial order; requiring the department  
1286 to adopt total maximum daily loads and basin management action  
1287 plans for spring systems; providing effluent requirements for



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1288 domestic wastewater treatment facilities; providing requirements  
1289 for onsite sewage treatment and disposal systems; providing  
1290 requirements for agricultural operations; authorizing the  
1291 Department of Environmental Protection, the Department of  
1292 Health, and the Department of Agriculture and Consumer Services  
1293 to adopt rules; amending s. 163.3177, F.S.; requiring certain  
1294 local governments to adopt a springs protection element as one  
1295 of the required elements of the comprehensive plan by a  
1296 specified date; providing that certain design principles be  
1297 included in the element; requiring the Department of  
1298 Environmental Protection and the state land planning agency to  
1299 make information available concerning best-management practices;  
1300 prohibiting a local government that fails to adopt a springs  
1301 protection element from amending its comprehensive plan;  
1302 amending s. 403.1835, F.S.; including certain areas of critical  
1303 state concern and the spring protection zones established by the  
1304 act among projects that are eligible for certain financial  
1305 assistance; requiring the Department of Environmental  
1306 Protection, the Department of Agriculture and Consumer Services,  
1307 and water management districts to assess nitrogen loading and  
1308 begin implementing management plans within the spring protection  
1309 zones by a specified date; amending s. 381.0065, F.S.; requiring  
1310 the Department of Health to implement a statewide onsite sewage  
1311 treatment and disposal system inspection program; providing a  
1312 10-year phase-in cycle; requiring inspection; providing specific  
1313 exemptions; providing fee requirements; providing disposition of  
1314 fees; amending s. 259.105, F.S.; providing priority under the  
1315 Florida Forever Act for projects within a springs protection  
1316 zone; creating s. 403.9335, F.S.; providing legislative



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1317 findings; providing for model ordinances for the protection of  
1318 urban and residential environments and water; requiring the  
1319 Department of Environmental Protection to adopt a model  
1320 ordinance by a specified date; requiring municipalities and  
1321 counties having impaired water bodies or segments to adopt the  
1322 ordinance; creating s. 403.9337, F.S.; providing definitions;  
1323 prohibiting use of certain fertilizers after a specified date;  
1324 providing for exemptions; transferring by a type II transfer the  
1325 Bureau of Onsite Sewage from the Department of Health to the  
1326 Department of Environmental Protection; amending s. 369.317,  
1327 F.S.; clarifying mitigation offsets in the Wekiva Study Area;  
1328 amending s. 373.185, F.S.; revising the definition of Florida-  
1329 friendly landscaping; deleting references to "xeriscape";  
1330 requiring water management districts to provide model Florida-  
1331 friendly landscaping ordinances to local governments; revising  
1332 eligibility criteria for certain incentive programs of the water  
1333 management districts; requiring certain local government  
1334 ordinances and amendments to include certain design standards  
1335 and identify specified invasive exotic plant species; requiring  
1336 water management districts to consult with additional entities  
1337 for activities relating to Florida-friendly landscaping  
1338 practices; specifying programs for the delivery of educational  
1339 programs relating to such practices; providing legislative  
1340 findings; providing that certain regulations prohibiting the  
1341 implementation of Florida-friendly landscaping or conflicting  
1342 with provisions governing the permitting of consumptive uses of  
1343 water are prohibited; providing that the act does not limit the  
1344 authority of the department or the water management districts to  
1345 require Florida-friendly landscaping ordinances or practices as



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1346 a condition of certain permit; creating s. 373.187, F.S.;

1347 requiring water management districts to implement Florida-

1348 friendly landscaping practices on specified properties;

1349 requiring districts to develop specified programs for

1350 implementing such practices on other specified properties;

1351 amending s. 373.228, F.S.; requiring water management districts

1352 to work with specified entities to develop certain standards;

1353 requiring water management districts to consider certain

1354 information in evaluating water use applications from public

1355 water suppliers; conforming provisions to changes made by the

1356 act; amending s. 373.323, F.S.; revising application

1357 requirements for water well contractor licensure; requiring

1358 applicants to provide specified documentation; amending s.

1359 373.333, F.S.; authorizing an administrative fine to be imposed

1360 for each occurrence of unlicensed well water contracting;

1361 amending ss. 125.568, 166.048, 255.259, 335.167, 380.061,

1362 388.291, 481.303, and 720.3075, F.S.; conforming provisions to

1363 changes made by the act; revising provisions requiring the use

1364 of Florida-friendly landscaping for specified public properties

1365 and highway construction and maintenance projects; establishing

1366 a task force to develop recommendations relating to stormwater

1367 management system design; specifying study criteria; providing

1368 for task force membership, meetings, and expiration; requiring

1369 the task force to submit findings and legislative

1370 recommendations to the Legislature by a specified date; providing

1371 an effective date.

1372