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LEGISLATIVE ACTION

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

1 **Senate Substitute for Amendment (867422) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Part IV of chapter 369, Florida Statutes,
7 consisting of sections 369.401, 369.402, 369.403, 369.404,
8 369.405, 369.406, 369.407, and 369.408, is created to read:

9 369.401 Short title.—This part may be cited as the "Florida
10 Springs Protection Act."

11 369.402 Legislative findings and intent.—



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

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

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

35 369.403 Definitions.—As used in this part, the term:

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



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41 governments having jurisdiction in the areas of the springs
42 identified in s. 369.404.

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

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

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

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

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



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70 sewage treatment facilities and other treatment works regulated
71 under chapter 403.

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

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

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

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

85 369.404 Designation of spring protection zones.-

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

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

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

98 1. High - nitrate greater than or equal to 1.0 milligrams



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99 per liter as determined using existing water quality data;

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

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

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

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

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

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

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

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

126 (5) Pursuant to subsection (4), the department may approve
127 or deny an application for an exemption, or may modify the



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128 boundaries of the specific geographic areas for which an
129 exemption is sought. The ruling of the department on the
130 applicant's request shall constitute a final agency action
131 subject to review pursuant to ss. 120.569 and 120.57.

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

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

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

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

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

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



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157 of systems possible within a square mile.

158 (3) Agricultural operations must implement applicable best-
159 management practices, including nutrient management, adopted by
160 the Department of Agriculture and Consumer Services to reduce
161 nitrogen impacts to ground water. By December 31, 2009, the
162 Department of Agriculture and Consumer Services, in cooperation
163 with the other cooperating entities and stakeholders, must
164 develop and propose for adoption by rule equine, and cow and
165 calf best-management practices pursuant to this paragraph.
166 Implementation must be in accordance with paragraph
167 403.067(7)(b).

168 (4) Stormwater systems must comply with the requirements of
169 this section. The department is directed to propose for adoption
170 rules to implement the requirements of this subsection by July
171 1, 2010.

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

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



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

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

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

205 369.406 Additional requirements for all spring protection
206 zones.

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

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



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215 must be calculated using the largest number of systems possible
216 within a square mile.

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

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

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

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



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244 (c) The lot associated with the establishment or single-
245 family home is scheduled to connect to a central wastewater
246 treatment facility within six months of the application for
247 permit.

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

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

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

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

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



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

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

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

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

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



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302 Covenants and Restrictions (2009) by December 31, 2010.

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

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

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

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

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



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331 s. 369.406(3), or to assist property owners with connecting to
332 available publicly owned or investor-owned sewerage system
333 pursuant to s. 381.00655(1), may apply to the department for a
334 grant to assist the owner with the costs of compliance or
335 connection.

336 (3) The amount of the grant is limited to the cost
337 differential between the replacement of a comparable existing
338 septic system and that of an upgraded nitrate-reducing treatment
339 system pursuant to s. 369.406(3), or the actual costs incurred
340 from connection to a central wastewater treatment facility or
341 other centralized collection and treatment system pursuant to s.
342 385.00655(1), but may not exceed \$5,000 per property.

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

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

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

359 369.408 Rules.-



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

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

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



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389 rule of the Department of Agriculture and Consumer Services.

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

396 Section 2. Paragraph (1) is added to subsection (6) of
397 section 163.3177, Florida Statutes, to read:

398 163.3177 Required and optional elements of comprehensive
399 plan; studies and surveys.-

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

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



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

431 Section 3. Subsection (7) of section 403.1835, Florida
432 Statutes, is amended to read:

433 403.1835 Water pollution control financial assistance.—

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

443 (a) Eliminate public health hazards;

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



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447 ocean outfalls;

448 (c) Assist in the implementation of total maximum daily
449 loads and basin management action plans adopted under s.
450 403.067;

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

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

458 (f) Promote reclaimed water reuse;

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

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

467 Section 4. All state agencies and water management
468 districts shall asses nitrogen loading from all publically owned
469 buildings and facilities owned or managed by each respective
470 agency or district located within a spring protection zone using
471 a consistent methodology, evaluate existing management
472 activities, and develop and begin implementing management plans
473 to reduce adverse impacts to the springs no later than December
474 31, 2011.

475 Section 5. Present paragraphs (d) through (n) of subsection



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476 (3) of section 381.0065, Florida Statutes, are redesignated as
477 paragraphs (e) through (o), respectively, and a new paragraph
478 (d) is added to that subsection, to read:

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

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

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

485 1. The program shall:

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

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

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

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

503 3. Revenues from the fee must be deposited in the
504 appropriate department trust fund, and a minimum of 50 percent



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505 of the revenues shall be dedicated to the grant program created
506 pursuant to s. 369.407.

507 Section 6. Paragraph (m) is added to subsection (9) of
508 section 259.105, Florida Statutes, to read:

509 259.105 The Florida Forever Act.—

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

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

520 Section 7. Section 403.9335, Florida Statutes, is created
521 to read:

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

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



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

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

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

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

561 (b) The county or municipal government documents
562 consideration of all relevant scientific information including



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

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

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

580 Section 8. Section 403.9337, Florida Statutes, is created
581 to read:

582 403.9337 Urban turf fertilizers.—

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

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

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



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

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

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

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

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

620 (b) For established turf, the level of available phosphorus



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621 is insufficient to support healthy turf growth. However, no more
622 than 0.25 pound of phosphate per 1,000 square feet of area per
623 each application may be applied, not to exceed 0.5 pound of
624 phosphate per 1,000 square feet of area per year.

625 Section 9. Effective July 1, 2010, all of the powers,
626 duties, functions, records, personnel, and property; unexpended
627 balances of appropriations, allocations, and other funds;
628 administrative authority; administrative rules; pending issues;
629 and existing contracts of the Bureau of Onsite Sewage Programs
630 in the Department of Health, as authorized and governed by ss.
631 20.43, 20.435, 153.73, 153.54, 163.3180, 180.03, 381.006,
632 381.0061, 381.0064-381.0068, and 489.551-558, are transferred by
633 a type II transfer, pursuant to s. 20.06(2), to the Florida
634 Department of Environmental Protection. In addition all existing
635 powers, duties, functions, records, personnel, and property;
636 unexpended balances of appropriations, allocations, and other
637 funds; administrative authority; administrative rules; pending
638 issues; and existing contracts associated with county health
639 departments' onsite sewage programs are transferred to the
640 Department of Environmental Protection.

641 Section 10. Subsection (6) of section 369.317, Florida
642 Statutes, is amended to read:

643 369.317 Wekiva Parkway.—

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



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



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

688 Section 11. Section 373.185, Florida Statutes, is amended
689 to read:

690 373.185 Local Florida-friendly landscaping ~~Xeriscape~~
691 ordinances.-

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

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

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



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708 maintenance.

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

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

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

736 (c) Identification of controlled plant species, accompanied



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737 by the conditions under which such plants may be used.

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

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

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

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



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

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

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

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

790 Section 12. Section 373.187, Florida Statutes, is created
791 to read:

792 373.187 Water management district implementation of
793 Florida-friendly landscaping.—Each water management district
794 shall use Florida-friendly landscaping, as defined in s.



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795 373.185, on public property associated with buildings and
796 facilities owned by the district and constructed after June 30,
797 2009. Each district shall also develop a 5-year program for
798 phasing in the use of Florida-friendly landscaping on public
799 property associated with buildings or facilities owned by the
800 district and constructed before July 1, 2009.

801 Section 13. Section 373.228, Florida Statutes, is amended
802 to read:

803 373.228 Landscape irrigation design.—

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

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

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

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



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

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

848 Section 14. Subsection (3) of section 373.323, Florida
849 Statutes, is amended to read:

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

852 (3) An applicant who meets the following requirements is



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853 ~~shall be~~ entitled to take the water well contractor licensure
854 examination ~~to practice water well contracting~~:

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

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

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

863 a. A water well contractor.

864 b. A water well driller.

865 c. A water well parts and equipment vendor.

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

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

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

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

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

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

881 Section 15. Subsection (8) of section 373.333, Florida



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882 Statutes, is amended to read:

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

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

890 Section 16. Section 125.568, Florida Statutes, is amended
891 to read:

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

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

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



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

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



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

948 Section 17. Section 166.048, Florida Statutes, is amended
949 to read:

950 166.048 Conservation of water; Florida-friendly landscaping
951 Xeriscape.—

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

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



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

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



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998 **(b)** A deed restriction, ~~or~~ covenant ~~entered after October~~
999 ~~1, 2001,~~ or local government ordinance may not prohibit or be
1000 enforced so as to prohibit any property owner from implementing
1001 ~~Xeriscape or Florida-friendly landscaping~~ landscape on his or
1002 her land or create any requirement or limitation in conflict
1003 with any provision of part II of chapter 373 or a water shortage
1004 order, other order, consumptive use permit, or rule adopted or
1005 issued pursuant to part II of chapter 373.

1006 Section 18. Section 255.259, Florida Statutes, is amended
1007 to read:

1008 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public
1009 property.—

1010 (1) The Legislature finds that water conservation and water
1011 quality protection and restoration are ~~is~~ increasingly critical
1012 to the continuance of an adequate water supply and healthy
1013 surface and ground waters ~~for the citizens of this state.~~ The
1014 Legislature further finds that "Florida-friendly landscaping
1015 ~~Xeriscape,~~" as defined in s. 373.185, can contribute
1016 significantly to water ~~the~~ conservation and ~~of~~ water quality
1017 protection and restoration. Finally, the Legislature finds that
1018 state government has the responsibility to promote Florida-
1019 friendly landscaping ~~Xeriscape~~ as a water conservation and water
1020 quality protection and restoration measure by using such
1021 landscaping ~~Xeriscape~~ on public property associated with
1022 publicly owned buildings or facilities.

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



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1027 construction under the purview of the Department of
1028 Transportation.

1029 (3) The Department of Management Services, in consultation
1030 with the Department of Environmental Protection, shall adopt
1031 rules and guidelines for the required use of Florida-friendly
1032 landscaping ~~Xeriscape~~ on public property associated with
1033 publicly owned buildings or facilities constructed after June
1034 30, 2009 ~~1992~~. The Department of Management Services ~~also~~ shall
1035 also develop a 5-year program for phasing in the use of Florida-
1036 friendly landscaping ~~Xeriscape~~ on public property associated
1037 with publicly owned buildings or facilities constructed before
1038 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department
1039 of Management Services shall take into account the standards
1040 provided in ~~guidelines set out in~~ s. 373.185(2)(a)-(f). The
1041 Department of Transportation shall implement Florida-friendly
1042 ~~Xeriscape~~ landscaping pursuant to s. 335.167.

1043 (4) (a) The Legislature finds that the use of Florida-
1044 friendly landscaping and other water use and pollution
1045 prevention measures to conserve or protect the state's water
1046 resources serves a compelling public interest and that the
1047 participation of homeowners' associations and local governments
1048 is essential to the state's efforts in water conservation and
1049 water quality protection and restoration.

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



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1056 order, other order, consumptive use permit, or rule adopted or
1057 issued pursuant to part II of chapter 373.

1058 Section 19. Section 335.167, Florida Statutes, is amended
1059 to read:

1060 335.167 State highway construction and maintenance;
1061 ~~Xeriscape or~~ Florida-friendly landscaping.-

1062 (1) The department shall use and require the use of
1063 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in
1064 s. 373.185(1), in the construction and maintenance of all new
1065 state highways, wayside parks, access roads, welcome stations,
1066 and other state highway rights-of-way constructed upon or
1067 acquired after June 30, 2009 ~~1992~~. The department shall develop
1068 a 5-year program for phasing in the use of Florida-friendly
1069 landscaping ~~Xeriscape~~, including the use of solid waste compost,
1070 in state highway rights-of-way constructed upon or acquired
1071 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the
1072 department shall employ the standards ~~guidelines~~ set out in s.
1073 373.185(2) (a) ~~-(f)~~.

1074 (2) (a) The Legislature finds that the use of Florida-
1075 friendly landscaping and other water use and pollution
1076 prevention measures to conserve or protect the state's water
1077 resources serves a compelling public interest and that the
1078 participation of homeowners' associations and local governments
1079 is essential to the state's efforts in water conservation and
1080 water quality protection and restoration.

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



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1085 her land or create any requirement or limitation in conflict
1086 with any provision of part II of chapter 373 or a water shortage
1087 order, other order, consumptive use permit, or rule adopted or
1088 issued pursuant to part II of chapter 373.

1089 Section 20. Paragraph (a) of subsection (3) of section
1090 380.061, Florida Statutes, is amended to read:

1091 380.061 The Florida Quality Developments program.—

1092 (3) (a) To be eligible for designation under this program,
1093 the developer shall comply with each of the following
1094 requirements if ~~which is~~ applicable to the site of a qualified
1095 development:

1096 1. Donate or enter ~~Have donated or entered~~ into a binding
1097 commitment to donate the fee or a lesser interest sufficient to
1098 protect, in perpetuity, the natural attributes of the types of
1099 land listed below. In lieu of this ~~the above~~ requirement, the
1100 developer may enter into a binding commitment that ~~which~~ runs
1101 with the land to set aside such areas on the property, in
1102 perpetuity, as open space to be retained in a natural condition
1103 or as otherwise permitted under this subparagraph. Under the
1104 requirements of this subparagraph, the developer may reserve the
1105 right to use such areas for ~~the purpose of~~ passive recreation
1106 that is consistent with the purposes for which the land was
1107 preserved.

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



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1114 necessary utilities if ~~to the extent that~~ such uses are
1115 permitted pursuant to chapter 403; or may redesign or alter
1116 wetlands and water bodies within the jurisdiction of the
1117 Department of Environmental Protection which have been
1118 artificially created, if the redesign or alteration is done so
1119 as to produce a more naturally functioning system.

1120 b. Active beach or primary and, where appropriate,
1121 secondary dunes, to maintain the integrity of the dune system
1122 and adequate public accessways to the beach. However, the
1123 developer may retain the right to construct and maintain
1124 elevated walkways over the dunes to provide access to the beach.

1125 c. Known archaeological sites determined to be of
1126 significance by the Division of Historical Resources of the
1127 Department of State.

1128 d. Areas known to be important to animal species designated
1129 as endangered or threatened ~~animal species~~ by the United States
1130 Fish and Wildlife Service or by the Fish and Wildlife
1131 Conservation Commission, for reproduction, feeding, or nesting;
1132 for traveling between such areas used for reproduction, feeding,
1133 or nesting; or for escape from predation.

1134 e. Areas known to contain plant species designated as
1135 endangered ~~plant species~~ by the Department of Agriculture and
1136 Consumer Services.

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



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1143 would occur through household use or incidental use by
1144 businesses.

1145 3. Participate in a downtown reuse or redevelopment program
1146 to improve and rehabilitate a declining downtown area.

1147 4. Incorporate no dredge and fill activities in, and no
1148 stormwater discharge into, waters designated as Class II,
1149 aquatic preserves, or Outstanding Florida Waters, except as
1150 ~~activities in those waters are~~ permitted pursuant to s.
1151 403.813(2), and the developer demonstrates that those activities
1152 meet the standards under Class II waters, Outstanding Florida
1153 Waters, or aquatic preserves, as applicable.

1154 5. Include open space, recreation areas, Florida-friendly
1155 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy
1156 conservation and minimize impermeable surfaces as appropriate to
1157 the location and type of project.

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



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1172 council transportation rule, and the approved local government
1173 comprehensive plan and land development regulations adopted
1174 pursuant to part II of chapter 163.

1175 7. Design and construct the development in a manner that is
1176 consistent with the adopted state plan, the applicable strategic
1177 regional policy plan, and the applicable adopted local
1178 government comprehensive plan.

1179 Section 21. Subsection (3) of section 388.291, Florida
1180 Statutes, is amended to read:

1181 388.291 Source reduction measures; supervision by
1182 department.-

1183 (3) Property owners in a developed residential area shall
1184 ~~are required to~~ maintain their property in ~~such~~ a manner that
1185 does so as not to create or maintain any standing freshwater
1186 condition capable of breeding mosquitoes or other arthropods in
1187 significant numbers so as to constitute a public health,
1188 welfare, or nuisance problem. ~~Nothing in~~ This subsection does
1189 not authorize ~~shall permit~~ the alteration of permitted
1190 stormwater management systems or prohibit maintained fish ponds,
1191 Florida-friendly landscaping ~~eriscaping~~, or other maintained
1192 systems of landscaping or vegetation. If such a condition is
1193 found to exist, the local arthropod control agency shall serve
1194 notice on the property owner to treat, remove, or abate the
1195 condition. Such notice is ~~shall serve as~~ prima facie evidence of
1196 maintaining a nuisance, and upon failure of the property owner
1197 to treat, remove, or abate the condition, the local arthropod
1198 control agency or any affected citizen may proceed pursuant to
1199 s. 60.05 to enjoin the nuisance and may recover costs and
1200 attorney's fees if they prevail in the action.



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1201 Section 22. Paragraph (a) of subsection (6) of section
1202 481.303, Florida Statutes, is amended to read:

1203 481.303 Definitions.—As used in this chapter:

1204 (6) "Landscape architecture" means professional services,
1205 including, but not limited to, the following:

1206 (a) Consultation, investigation, research, planning,
1207 design, preparation of drawings, specifications, contract
1208 documents and reports, responsible construction supervision, or
1209 landscape management in connection with the planning and
1210 development of land and incidental water areas, including the
1211 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.
1212 373.185, where, and to the extent that, the dominant purpose of
1213 such services or creative works is the preservation,
1214 conservation, enhancement, or determination of proper land uses,
1215 natural land features, ground cover and plantings, or
1216 naturalistic and aesthetic values;

1217 Section 23. Subsection (4) of section 720.3075, Florida
1218 Statutes, is amended to read:

1219 720.3075 Prohibited clauses in association documents.—

1220 (4) (a) The Legislature finds that the use of Florida-
1221 friendly landscaping and other water use and pollution
1222 prevention measures to conserve or protect the state's water
1223 resources serves a compelling public interest and that the
1224 participation of homeowners' associations and local governments
1225 is essential to the state's efforts in water conservation and
1226 water quality protection and restoration.

1227 (b) Homeowners' association documents, including
1228 declarations of covenants, articles of incorporation, or bylaws,
1229 entered after October 1, 2001, may not prohibit or be enforced



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1230 so as to prohibit any property owner from implementing ~~Xeriscape~~
1231 ~~or Florida-friendly landscaping landscape~~, as defined in s.
1232 373.185(1), on his or her land or create any requirement or
1233 limitation in conflict with any provision of part II of chapter
1234 373 or a water shortage order, other order, consumptive use
1235 permit, or rule adopted or issued pursuant to part II of chapter
1236 373.

1237 Section 24. (1) A task force is established to develop
1238 legislative recommendations relating to stormwater management
1239 system design in the state. The task force shall:

1240 (a) Review the Joint Professional Engineers and Landscape
1241 Architecture Committee Report conducted pursuant to s. 17,
1242 chapter 88-347, Laws of Florida, and determine the current
1243 validity of the report and the need to revise any of the
1244 conclusions or recommendations.

1245 (b) Determine how a licensed and registered professional
1246 might demonstrate competency for stormwater management system
1247 design.

1248 (c) Determine how the Board of Professional Engineers and
1249 the Board of Landscape Architecture might administer
1250 certification tests or continuing education requirements for
1251 stormwater management system design.

1252 (d) Provide recommendations for grandfathering the rights
1253 of licensed professionals who currently practice stormwater
1254 management design in a manner that will allow them to continue
1255 to practice without meeting any new requirements the task force
1256 recommends be placed on licensed professionals in the future.

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



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1259 Florida Chapter of the American Society of Landscape Architects,
1260 the Secretary of Environmental Protection, and the Secretary of
1261 Transportation shall each appoint one member to the task force.

1262 (b) Members of the task force may not be reimbursed for
1263 travel, per diem, or any other costs associated with serving on
1264 the task force.

1265 (c) The task force shall meet a minimum of four times
1266 either in person or via teleconference; however, a minimum of
1267 two meetings shall be public hearings with testimony.

1268 (d) The task force shall expire on November 1, 2009.

1269 (3) The task force shall provide its findings and
1270 legislative recommendations to the President of the Senate and
1271 the Speaker of the House of Representatives by November 1, 2009.

1272 Section 25. Except as otherwise expressly provided in this
1273 act, this act shall take effect July 1, 2009.

1274

1275

1276 ===== T I T L E A M E N D M E N T =====

1277 And the title is amended as follows:

1278 Delete everything before the enacting clause
1279 and insert:

1280 A bill to be entitled

1281 An act relating to water resources; creating part IV of ch.
1282 369, F.S.; providing a short title; providing legislative
1283 findings and intent with respect to the need to protect and
1284 restore springs and ground water; providing definitions;
1285 requiring the Department of Environmental Protection to
1286 delineate the springsheds of specified springs; requiring the
1287 department to adopt spring protection zones by secretarial



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



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1317 fees; amending s. 259.105, F.S.; providing priority under the
1318 Florida Forever Act for projects within a springs protection
1319 zone; creating s. 403.9335, F.S.; providing legislative
1320 findings; providing for model ordinances for the protection of
1321 urban and residential environments and water; requiring the
1322 Department of Environmental Protection to adopt a model
1323 ordinance by a specified date; requiring municipalities and
1324 counties having impaired water bodies or segments to adopt the
1325 ordinance; creating s. 403.9337, F.S.; providing definitions;
1326 prohibiting use of certain fertilizers after a specified date;
1327 providing for exemptions; transferring by a type II transfer the
1328 Bureau of Onsite Sewage from the Department of Health to the
1329 Department of Environmental Protection; amending s. 369.317,
1330 F.S.; clarifying mitigation offsets in the Wekiva Study Area;
1331 amending s. 373.185, F.S.; revising the definition of Florida-
1332 friendly landscaping; deleting references to "xeriscape";
1333 requiring water management districts to provide model Florida-
1334 friendly landscaping ordinances to local governments; revising
1335 eligibility criteria for certain incentive programs of the water
1336 management districts; requiring certain local government
1337 ordinances and amendments to include certain design standards
1338 and identify specified invasive exotic plant species; requiring
1339 water management districts to consult with additional entities
1340 for activities relating to Florida-friendly landscaping
1341 practices; specifying programs for the delivery of educational
1342 programs relating to such practices; providing legislative
1343 findings; providing that certain regulations prohibiting the
1344 implementation of Florida-friendly landscaping or conflicting
1345 with provisions governing the permitting of consumptive uses of



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1346 water are prohibited; providing that the act does not limit the
1347 authority of the department or the water management districts to
1348 require Florida-friendly landscaping ordinances or practices as
1349 a condition of certain permit; creating s. 373.187, F.S.;
1350 requiring water management districts to implement Florida-
1351 friendly landscaping practices on specified properties;
1352 requiring districts to develop specified programs for
1353 implementing such practices on other specified properties;
1354 amending s. 373.228, F.S.; requiring water management districts
1355 to work with specified entities to develop certain standards;
1356 requiring water management districts to consider certain
1357 information in evaluating water use applications from public
1358 water suppliers; conforming provisions to changes made by the
1359 act; amending s. 373.323, F.S.; revising application
1360 requirements for water well contractor licensure; requiring
1361 applicants to provide specified documentation; amending s.
1362 373.333, F.S.; authorizing an administrative fine to be imposed
1363 for each occurrence of unlicensed well water contracting;
1364 amending ss. 125.568, 166.048, 255.259, 335.167, 380.061,
1365 388.291, 481.303, and 720.3075, F.S.; conforming provisions to
1366 changes made by the act; revising provisions requiring the use
1367 of Florida-friendly landscaping for specified public properties
1368 and highway construction and maintenance projects; establishing
1369 a task force to develop recommendations relating to stormwater
1370 management system design; specifying study criteria; providing
1371 for task force membership, meetings, and expiration; requiring
1372 the task force to submit findings and legislative
1373 recommendations to the Legislature by a specified date;
1374 providing an effective date.