



298344

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on Health Regulation (Sobel) recommended the following:

1           **Senate Substitute for Amendment (877116) (with title**  
2 **amendment)**

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

6           Section 23. 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 groundwater 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 groundwater. 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 groundwater 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 groundwater 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 groundwater 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 of the following conditions is  
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 groundwater. 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 groundwater and to prevent the formation of  
307 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 s. 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 24. 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 25. 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 groundwater ~~ground water~~  
437 quality and public health. The relative costs of achieving  
438 environmental and public health benefits must be taken into  
439 consideration during the department's assignment of project  
440 priorities. The department shall adopt a priority system by  
441 rule. In developing the priority system, the department shall  
442 give priority to 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 waters and groundwaters  
467 ~~ground waters~~.

468 Section 26. All state agencies and water management  
469 districts shall asses nitrogen loading from all publically owned  
470 buildings and facilities owned or managed by each respective  
471 agency or district located within a spring protection zone using  
472 a consistent methodology, evaluate existing management  
473 activities, and develop and begin implementing management plans  
474 to reduce adverse impacts to the springs no later than December  
475 31, 2011.



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476 Section 27. Present paragraphs (d) through (n) of  
477 subsection (3) of section 381.0065, Florida Statutes, are  
478 redesignated as paragraphs (e) through (o), respectively, and a  
479 new paragraph (d) is added to that subsection, to read:

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

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

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

486 1. The program shall:

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

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

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

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

504 3. Revenues from the fee must be deposited in the



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505 appropriate department trust fund, and a minimum of 50 percent  
506 of the revenues shall be dedicated to the grant program created  
507 pursuant to s. 369.407.

508 4. This paragraph shall not be construed to limit local  
509 governments from adopting additional or more stringent  
510 provisions than contained in this paragraph.

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

513 259.105 The Florida Forever Act.—

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

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

524 Section 29. Section 403.9335, Florida Statutes, is created  
525 to read:

526 403.9335 Protection of urban and residential environments  
527 and water.—

528 (1) The Legislature finds that the implementation of the  
529 department's Model Ordinance for Florida-Friendly Fertilizer Use  
530 on Urban Landscapes located in the Florida-Friendly Landscape  
531 Guidance Models for Ordinances, Covenants, and Restrictions  
532 (2009) manual, which was developed consistent with the  
533 recommendations of the Florida Consumer Fertilizer Task Force,



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534 in concert with the provisions of the Labeling Requirements for  
535 Urban Turf Fertilizers found in chapter 5E-1 Florida  
536 Administrative Code, will assist in protecting the quality of  
537 Florida's surface water and groundwater resources. The  
538 Legislature further finds that local circumstances, including  
539 the varying types and conditions of water bodies, site-specific  
540 soils and geology, and urban or rural densities and  
541 characteristics, necessitates that additional or more stringent  
542 fertilizer-management practices may be needed at the local  
543 government level.

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

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

558 (a) The county or municipal government has demonstrated, as  
559 part of a comprehensive program to address nonpoint sources of  
560 nutrient pollution which is science-based, economically and  
561 technically feasible, that additional or more stringent  
562 provisions to the model ordinance are necessary to adequately



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563 address urban fertilizer contributions to nonpoint source  
564 nutrient loading to a water body.

565 (b) The county or municipal government documents  
566 consideration of all relevant scientific information including  
567 input from the department, the Department of Agriculture and  
568 Consumer Services and the University of Florida Institute of  
569 Food and Agricultural Sciences, if provided, on the need for  
570 additional or more stringent provisions to address fertilizer  
571 use as a contributor to water quality degradation. All  
572 documentation shall be made part of the public record prior to  
573 adoption of the additional or more stringent criteria.

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

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

584 Section 30. Section 403.9337, Florida Statutes, is created  
585 to read:

586 403.9337 Urban turf fertilizers.-

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

588 (a) "No-phosphate fertilizer" or "no-phosphorus fertilizer"  
589 means fertilizer that contains less than 0.5 percent phosphate  
590 by weight.

591 (b) "Urban turf" means noncropland planted, mowed, and



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592 managed grasses, including, but not limited to, residential  
593 lawns; turf on commercial property; filter strips; and turf on  
594 property owned by federal, state, or local governments and other  
595 public lands, including roadways, roadsides, parks, campsites,  
596 recreation areas, school grounds, and other public grounds. The  
597 term does not include pastures, hay production and grazing land,  
598 turf grown on sod farms, or any other form of agricultural  
599 production; golf courses or sports turf fields; or garden  
600 fruits, flowers, or vegetables.

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

607 (d) "Tissue test" means a test performed on plant tissue  
608 growing in the soil planted or sodded, or that will be planted  
609 or sodded, by a laboratory approved by the Department of  
610 Agriculture and Consumer Services and performed within the last  
611 2 years to indicate if the level of available phosphorus in the  
612 soil is sufficient to support healthy turf.

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

619 (a) For turf that is being initially established by seed or  
620 sod, the level of available phosphorus is insufficient to



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621 establish new turf growth and a root system. However, during the  
622 first year, a one-time application only of up to 1 pound of  
623 phosphate per 1,000 square feet of area may be applied.

624 (b) For established turf, the level of available phosphorus  
625 is insufficient to support healthy turf growth. However, no more  
626 than 0.25 pound of phosphate per 1,000 square feet of area per  
627 each application may be applied, not to exceed 0.5 pound of  
628 phosphate per 1,000 square feet of area per year.

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

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

647 369.317 Wekiva Parkway.—

648 (6) The Orlando-Orange County Expressway Authority is  
649 hereby granted the authority to act as a third-party acquisition



650 agent, pursuant to s. 259.041 on behalf of the Board of Trustees  
651 or chapter 373 on behalf of the governing board of the St. Johns  
652 River Water Management District, for the acquisition of all  
653 necessary lands, property and all interests in property  
654 identified herein, including fee simple or less-than-fee simple  
655 interests. The lands subject to this authority are identified in  
656 paragraph 10.a., State of Florida, Office of the Governor,  
657 Executive Order 03-112 of July 1, 2003, and in Recommendation 16  
658 of the Wekiva Basin Area Task Force created by Executive Order  
659 2002-259, such lands otherwise known as Neighborhood Lakes, a  
660 1,587+/- acre parcel located in Orange and Lake Counties within  
661 Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East,  
662 and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East;  
663 Seminole Woods/Swamp, a 5,353+/- acre parcel located in Lake  
664 County within Section 37, Township 19 South, Range 28 East; New  
665 Garden Coal; a 1,605+/- acre parcel in Lake County within  
666 Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28  
667 East; Pine Plantation, a 617+/- acre tract consisting of eight  
668 individual parcels within the Apopka City limits. The Department  
669 of Transportation, the Department of Environmental Protection,  
670 the St. Johns River Water Management District, and other land  
671 acquisition entities shall participate and cooperate in  
672 providing information and support to the third-party acquisition  
673 agent. The land acquisition process authorized by this paragraph  
674 shall begin no later than December 31, 2004. Acquisition of the  
675 properties identified as Neighborhood Lakes, Pine Plantation,  
676 and New Garden Coal, or approval as a mitigation bank shall be  
677 concluded no later than December 31, 2010. Department of  
678 Transportation and Orlando-Orange County Expressway Authority





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679 funds expended to purchase an interest in those lands identified  
680 in this subsection shall be eligible as environmental mitigation  
681 for road construction related impacts in the Wekiva Study Area.  
682 If any of the lands identified in this subsection are used as  
683 environmental mitigation for road construction related impacts  
684 incurred by the Department of Transportation or Orlando-Orange  
685 County Expressway Authority, or for other impacts incurred by  
686 other entities, within the Wekiva Study Area or within the  
687 Wekiva parkway alignment corridor, and if the mitigation offsets  
688 these impacts, then the St. Johns River Water Management  
689 District and the Department of Environmental Protection shall  
690 consider the activity regulated under Part IV of Chapter 373 to  
691 meet the cumulative impact requirements of s. 373.414(8) (a).

692 Section 33. Section 373.185, Florida Statutes, is amended  
693 to read:

694 373.185 Local Florida-friendly landscaping ~~Xeriscape~~  
695 ordinances.-

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

697 (a) "Local government" means any county or municipality of  
698 the state.

699 (b) ~~"Xeriscape"~~ or "Florida-friendly landscaping landscape"  
700 means quality landscapes that conserve water, and protect the  
701 environment, and are adaptable to local conditions, and ~~which~~  
702 are drought tolerant. The principles of such landscaping  
703 ~~Xeriscape~~ include planting the right plant in the right place,  
704 efficient watering, appropriate fertilization, mulching,  
705 attraction of wildlife, responsible management of yard pests,  
706 recycling yard waste, reduction of stormwater runoff, and  
707 waterfront protection. Additional components include practices



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708 such as landscape planning and design, appropriate choice of  
709 ~~plants,~~ soil analysis, which may include the appropriate use of  
710 solid waste compost, minimizing the use of efficient irrigation,  
711 ~~practical use of turf, appropriate use of mulches,~~ and proper  
712 maintenance.

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

732 (a) Landscape design, installation, and maintenance  
733 standards that result in water conservation and water quality  
734 protection or restoration. Such standards must shall address the  
735 use of plant groupings, soil analysis including the promotion of  
736 the use of solid waste compost, efficient irrigation systems,



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737 and other water-conserving practices.

738 (b) Identification of prohibited invasive exotic plant  
739 species consistent with s. 581.091.

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

742 (d) A provision specifying the maximum percentage of  
743 irrigated turf and the maximum percentage of impervious surfaces  
744 allowed in a Florida-friendly landscaped ~~xeriscape~~ area and  
745 addressing the practical selection and installation of turf.

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

748 (f) A monitoring program for ordinance implementation and  
749 compliance.

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



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766 Program for landscaping professionals. Each district may develop  
767 supplemental materials as appropriate to address the physical  
768 and natural characteristics of the district. The districts shall  
769 coordinate with the department and the Institute of Food and  
770 Agricultural Sciences at the University of Florida if revisions  
771 to the educational materials are needed. ~~This section may not be~~  
772 ~~construed to limit the authority of the districts to require~~  
773 ~~Xeriscape ordinances or practices as a condition of any~~  
774 ~~consumptive use permit.~~

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

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

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

794 Section 34. Section 373.187, Florida Statutes, is created



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795 to read:

796 373.187 Water management district implementation of  
797 Florida-friendly landscaping.—Each water management district  
798 shall use Florida-friendly landscaping, as defined in s.  
799 373.185, on public property associated with buildings and  
800 facilities owned by the district and constructed after June 30,  
801 2009. Each district shall also develop a 5-year program for  
802 phasing in the use of Florida-friendly landscaping on public  
803 property associated with buildings or facilities owned by the  
804 district and constructed before July 1, 2009.

805 Section 35. Section 373.228, Florida Statutes, is amended  
806 to read:

807 373.228 Landscape irrigation design.—

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

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

819 (3) It is the intent of the Legislature to improve  
820 landscape irrigation water use efficiency by ensuring that  
821 landscape irrigation systems meet or exceed minimum design  
822 criteria.

823 (4) The water management districts shall work with the



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

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

852 Section 36. Subsection (3) of section 373.323, Florida



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853 Statutes, is amended to read:

854 373.323 Licensure of water well contractors; application,  
855 qualifications, and examinations; equipment identification.—

856 (3) An applicant who meets the following requirements is  
857 ~~shall be~~ entitled to take the water well contractor licensure  
858 examination ~~to practice water well contracting~~:

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

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

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

867 a. A water well contractor.

868 b. A water well driller.

869 c. A water well parts and equipment vendor.

870 d. A water well inspector employed by a governmental  
871 agency.

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

877 a. The name and address of the owner or owners of each  
878 well.

879 b. The location, primary use, and approximate depth and  
880 diameter of each well.

881 c. The approximate date the construction, repair, or



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882 abandonment of each well was completed.

883 (c) Has completed the application form and remitted a  
884 nonrefundable application fee.

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

887 373.333 Disciplinary guidelines; adoption and enforcement;  
888 license suspension or revocation.—

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

894 Section 38. Section 125.568, Florida Statutes, is amended  
895 to read:

896 125.568 Conservation of water; Florida-friendly landscaping  
897 ~~Xeriscape~~.—

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

906 (b) As used in this section, "Xeriscape" or "Florida-  
907 friendly landscaping" has the same meaning as in s. 373.185  
908 landscape" means quality landscapes that conserve water and  
909 protect the environment and are adaptable to local conditions  
910 and which are drought tolerant. The principles of Xeriscape





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911 ~~include planning and design, appropriate choice of plants, soil~~  
912 ~~analysis which may include the use of solid waste compost,~~  
913 ~~practical use of turf, efficient irrigation, appropriate use of~~  
914 ~~mulches, and proper maintenance.~~

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

937 (3) (a) The Legislature finds that the use of Florida-  
938 friendly landscaping and other water use and pollution  
939 prevention measures to conserve or protect the state's water



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940 resources serves a compelling public interest and that the  
941 participation of homeowners' associations and local governments  
942 is essential to the state's efforts in water conservation and  
943 water quality protection and restoration.

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

952 Section 39. Section 166.048, Florida Statutes, is amended  
953 to read:

954 166.048 Conservation of water; Florida-friendly landscaping  
955 Xeriscape.—

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

964 (b) As used in this section, "Xeriscape" or "Florida-  
965 friendly landscaping" has the same meaning as in s. 373.185  
966 landscape" means quality landscapes that conserve water and  
967 protect the environment and are adaptable to local conditions  
968 and which are drought tolerant. The principles of Xeriscape



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969 ~~include planning and design, appropriate choice of plants, soil~~  
970 ~~analysis which may include the use of solid waste compost,~~  
971 ~~practical use of turf, efficient irrigation, appropriate use of~~  
972 ~~mulches, and proper maintenance.~~

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



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998 resources serves a compelling public interest and that the  
999 participation of homeowners' associations and local governments  
1000 is essential to the state's efforts in water conservation and  
1001 water quality protection and restoration.

1002 (b) A deed restriction, ~~or~~ covenant entered after October  
1003 1, 2001, or local government ordinance may not prohibit or be  
1004 enforced so as to prohibit any property owner from implementing  
1005 ~~Xeriscape or~~ Florida-friendly landscaping landscape on his or  
1006 her land or create any requirement or limitation in conflict  
1007 with any provision of part II of chapter 373 or a water shortage  
1008 order, other order, consumptive use permit, or rule adopted or  
1009 issued pursuant to part II of chapter 373.

1010 Section 40. Section 255.259, Florida Statutes, is amended  
1011 to read:

1012 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public  
1013 property.—

1014 (1) The Legislature finds that water conservation and water  
1015 quality protection and restoration are ~~is~~ increasingly critical  
1016 to the continuance of an adequate water supply and healthy  
1017 surface waters and groundwaters ~~for the citizens of this state.~~  
1018 The Legislature further finds that "Florida-friendly landscaping  
1019 ~~Xeriscape,~~" as defined in s. 373.185, can contribute  
1020 significantly to water ~~the~~ conservation and ~~of~~ water quality  
1021 protection and restoration. Finally, the Legislature finds that  
1022 state government has the responsibility to promote Florida-  
1023 friendly landscaping ~~Xeriscape~~ as a water conservation and water  
1024 quality protection and restoration measure by using such  
1025 landscaping ~~Xeriscape~~ on public property associated with  
1026 publicly owned buildings or facilities.



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1027 (2) As used in this section, "publicly owned buildings or  
1028 facilities" means ~~these~~ construction projects under the purview  
1029 of the Department of Management Services. The term ~~It~~ does not  
1030 include environmentally endangered land or roads and highway  
1031 construction under the purview of the Department of  
1032 Transportation.

1033 (3) The Department of Management Services, in consultation  
1034 with the Department of Environmental Protection, shall adopt  
1035 rules and guidelines for the required use of Florida-friendly  
1036 landscaping ~~Xeriscape~~ on public property associated with  
1037 publicly owned buildings or facilities constructed after June  
1038 30, 2009 ~~1992~~. The Department of Management Services ~~also~~ shall  
1039 also develop a 5-year program for phasing in the use of Florida-  
1040 friendly landscaping ~~Xeriscape~~ on public property associated  
1041 with publicly owned buildings or facilities constructed before  
1042 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department  
1043 of Management Services shall take into account the standards  
1044 provided in ~~guidelines set out in~~ s. 373.185(2)(a)-(f). The  
1045 Department of Transportation shall implement Florida-friendly  
1046 ~~Xeriscape~~ landscaping pursuant to s. 335.167.

1047 (4) (a) The Legislature finds that the use of Florida-  
1048 friendly landscaping and other water use and pollution  
1049 prevention measures to conserve or protect the state's water  
1050 resources serves a compelling public interest and that the  
1051 participation of homeowners' associations and local governments  
1052 is essential to the state's efforts in water conservation and  
1053 water quality protection and restoration.

1054 (b) A deed restriction, ~~or~~ covenant ~~entered after October~~  
1055 ~~1, 2001~~, or local government ordinance may not prohibit or be



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1056 enforced so as to prohibit any property owner from implementing  
1057 ~~Xeriscape or~~ Florida-friendly landscaping landscape on his or  
1058 her land or create any requirement or limitation in conflict  
1059 with any provision of part II of chapter 373 or a water shortage  
1060 order, other order, consumptive use permit, or rule adopted or  
1061 issued pursuant to part II of chapter 373.

1062 Section 41. Section 335.167, Florida Statutes, is amended  
1063 to read:

1064 335.167 State highway construction and maintenance;  
1065 ~~Xeriscape or~~ Florida-friendly landscaping.-

1066 (1) The department shall use and require the use of  
1067 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in  
1068 s. 373.185(1), in the construction and maintenance of all new  
1069 state highways, wayside parks, access roads, welcome stations,  
1070 and other state highway rights-of-way constructed upon or  
1071 acquired after June 30, 2009 ~~1992~~. The department shall develop  
1072 a 5-year program for phasing in the use of Florida-friendly  
1073 landscaping ~~Xeriscape~~, including the use of solid waste compost,  
1074 in state highway rights-of-way constructed upon or acquired  
1075 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the  
1076 department shall employ the standards ~~guidelines~~ set out in s.  
1077 373.185(2) (a) ~~(f)~~.

1078 (2) (a) The Legislature finds that the use of Florida-  
1079 friendly landscaping and other water use and pollution  
1080 prevention measures to conserve or protect the state's water  
1081 resources serves a compelling public interest and that the  
1082 participation of homeowners' associations and local governments  
1083 is essential to the state's efforts in water conservation and  
1084 water quality protection and restoration.



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1085           (b) A deed restriction, or covenant entered after October  
1086 1, 2001, or local government ordinance may not prohibit or be  
1087 enforced so as to prohibit any property owner from implementing  
1088 Xeriscape or Florida-friendly landscaping landscape on his or  
1089 her land or create any requirement or limitation in conflict  
1090 with any provision of part II of chapter 373 or a water shortage  
1091 order, other order, consumptive use permit, or rule adopted or  
1092 issued pursuant to part II of chapter 373.

1093           Section 42. Paragraph (a) of subsection (3) of section  
1094 380.061, Florida Statutes, is amended to read:

1095           380.061 The Florida Quality Developments program.—

1096           (3) (a) To be eligible for designation under this program,  
1097 the developer shall comply with each of the following  
1098 requirements if which is applicable to the site of a qualified  
1099 development:

1100           1. Donate or enter ~~Have donated or entered~~ into a binding  
1101 commitment to donate the fee or a lesser interest sufficient to  
1102 protect, in perpetuity, the natural attributes of the types of  
1103 land listed below. In lieu of this ~~the above~~ requirement, the  
1104 developer may enter into a binding commitment that ~~which~~ runs  
1105 with the land to set aside such areas on the property, in  
1106 perpetuity, as open space to be retained in a natural condition  
1107 or as otherwise permitted under this subparagraph. Under the  
1108 requirements of this subparagraph, the developer may reserve the  
1109 right to use such areas for ~~the purpose of~~ passive recreation  
1110 that is consistent with the purposes for which the land was  
1111 preserved.

1112           a. Those wetlands and water bodies throughout the state  
1113 which ~~as~~ would be delineated if the provisions of s.



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1114 373.4145(1) (b) were applied. The developer may use such areas  
1115 for the purpose of site access, provided other routes of access  
1116 are unavailable or impracticable; may use such areas for the  
1117 purpose of stormwater or domestic sewage management and other  
1118 necessary utilities if ~~to the extent that~~ such uses are  
1119 permitted pursuant to chapter 403; or may redesign or alter  
1120 wetlands and water bodies within the jurisdiction of the  
1121 Department of Environmental Protection which have been  
1122 artificially created, if the redesign or alteration is done so  
1123 as to produce a more naturally functioning system.

1124 b. Active beach or primary and, where appropriate,  
1125 secondary dunes, to maintain the integrity of the dune system  
1126 and adequate public accessways to the beach. However, the  
1127 developer may retain the right to construct and maintain  
1128 elevated walkways over the dunes to provide access to the beach.

1129 c. Known archaeological sites determined to be of  
1130 significance by the Division of Historical Resources of the  
1131 Department of State.

1132 d. Areas known to be important to animal species designated  
1133 as endangered or threatened ~~animal species~~ by the United States  
1134 Fish and Wildlife Service or by the Fish and Wildlife  
1135 Conservation Commission, for reproduction, feeding, or nesting;  
1136 for traveling between such areas used for reproduction, feeding,  
1137 or nesting; or for escape from predation.

1138 e. Areas known to contain plant species designated as  
1139 endangered ~~plant species~~ by the Department of Agriculture and  
1140 Consumer Services.

1141 2. Produce, or dispose of, no substances designated as  
1142 hazardous or toxic substances by the United States Environmental





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1143 Protection Agency, ~~or by~~ the Department of Environmental  
1144 Protection, or the Department of Agriculture and Consumer  
1145 Services. This subparagraph does ~~is not intended to~~ apply to the  
1146 production of these substances in nonsignificant amounts as  
1147 would occur through household use or incidental use by  
1148 businesses.

1149 3. Participate in a downtown reuse or redevelopment program  
1150 to improve and rehabilitate a declining downtown area.

1151 4. Incorporate no dredge and fill activities in, and no  
1152 stormwater discharge into, waters designated as Class II,  
1153 aquatic preserves, or Outstanding Florida Waters, except as  
1154 ~~activities in those waters are~~ permitted pursuant to s.  
1155 403.813(2), and the developer demonstrates that those activities  
1156 meet the standards under Class II waters, Outstanding Florida  
1157 Waters, or aquatic preserves, as applicable.

1158 5. Include open space, recreation areas, Florida-friendly  
1159 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy  
1160 conservation and minimize impermeable surfaces as appropriate to  
1161 the location and type of project.

1162 6. Provide for construction and maintenance of all onsite  
1163 infrastructure necessary to support the project and enter into a  
1164 binding commitment with local government to provide an  
1165 appropriate fair-share contribution toward the offsite impacts  
1166 that ~~which~~ the development will impose on publicly funded  
1167 facilities and services, except offsite transportation, and  
1168 condition or phase the commencement of development to ensure  
1169 that public facilities and services, except offsite  
1170 transportation, are ~~will be~~ available concurrent with the  
1171 impacts of the development. For the purposes of offsite



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1172 transportation impacts, the developer shall comply, at a  
1173 minimum, with the standards of the state land planning agency's  
1174 development-of-regional-impact transportation rule, the approved  
1175 strategic regional policy plan, any applicable regional planning  
1176 council transportation rule, and the approved local government  
1177 comprehensive plan and land development regulations adopted  
1178 pursuant to part II of chapter 163.

1179 7. Design and construct the development in a manner that is  
1180 consistent with the adopted state plan, the applicable strategic  
1181 regional policy plan, and the applicable adopted local  
1182 government comprehensive plan.

1183 Section 43. Subsection (3) of section 388.291, Florida  
1184 Statutes, is amended to read:

1185 388.291 Source reduction measures; supervision by  
1186 department.—

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



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1201 to treat, remove, or abate the condition, the local arthropod  
1202 control agency or any affected citizen may proceed pursuant to  
1203 s. 60.05 to enjoin the nuisance and may recover costs and  
1204 attorney's fees if they prevail in the action.

1205 Section 44. Paragraph (a) of subsection (6) of section  
1206 481.303, Florida Statutes, is amended to read:

1207 481.303 Definitions.—As used in this chapter:

1208 (6) "Landscape architecture" means professional services,  
1209 including, but not limited to, the following:

1210 (a) Consultation, investigation, research, planning,  
1211 design, preparation of drawings, specifications, contract  
1212 documents and reports, responsible construction supervision, or  
1213 landscape management in connection with the planning and  
1214 development of land and incidental water areas, including the  
1215 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.  
1216 373.185, where, and to the extent that, the dominant purpose of  
1217 such services or creative works is the preservation,  
1218 conservation, enhancement, or determination of proper land uses,  
1219 natural land features, ground cover and plantings, or  
1220 naturalistic and aesthetic values;

1221 Section 45. Subsection (4) of section 720.3075, Florida  
1222 Statutes, is amended to read:

1223 720.3075 Prohibited clauses in association documents.—

1224 (4) (a) The Legislature finds that the use of Florida-  
1225 friendly landscaping and other water use and pollution  
1226 prevention measures to conserve or protect the state's water  
1227 resources serves a compelling public interest and that the  
1228 participation of homeowners' associations and local governments  
1229 is essential to the state's efforts in water conservation and



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1230 water quality protection and restoration.

1231 (b) Homeowners' association documents, including  
1232 declarations of covenants, articles of incorporation, or bylaws,  
1233 entered after October 1, 2001, may not prohibit or be enforced  
1234 so as to prohibit any property owner from implementing Xeriscape  
1235 or Florida-friendly landscaping landscape, as defined in s.  
1236 373.185(1), on his or her land or create any requirement or  
1237 limitation in conflict with any provision of part II of chapter  
1238 373 or a water shortage order, other order, consumptive use  
1239 permit, or rule adopted or issued pursuant to part II of chapter  
1240 373.

1241 Section 46. (1) A task force is established to develop  
1242 legislative recommendations relating to stormwater management  
1243 system design in the state. The task force shall:

1244 (a) Review the Joint Professional Engineers and Landscape  
1245 Architecture Committee Report conducted pursuant to s. 17,  
1246 chapter 88-347, Laws of Florida, and determine the current  
1247 validity of the report and the need to revise any of the  
1248 conclusions or recommendations.

1249 (b) Determine how a licensed and registered professional  
1250 might demonstrate competency for stormwater management system  
1251 design.

1252 (c) Determine how the Board of Professional Engineers and  
1253 the Board of Landscape Architecture might administer  
1254 certification tests or continuing education requirements for  
1255 stormwater management system design.

1256 (d) Provide recommendations for grandfathering the rights  
1257 of licensed professionals who currently practice stormwater  
1258 management design in a manner that will allow them to continue



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1259 to practice without meeting any new requirements the task force  
1260 recommends be placed on licensed professionals in the future.

1261 (2) (a) The Board of Landscape Architecture, the Board of  
1262 Professional Engineers, the Florida Engineering Society, the  
1263 Florida Chapter of the American Society of Landscape Architects,  
1264 the Secretary of Environmental Protection, and the Secretary of  
1265 Transportation shall each appoint one member to the task force.

1266 (b) Members of the task force may not be reimbursed for  
1267 travel, per diem, or any other costs associated with serving on  
1268 the task force.

1269 (c) The task force shall meet a minimum of four times  
1270 either in person or via teleconference; however, a minimum of  
1271 two meetings shall be public hearings with testimony.

1272 (d) The task force shall expire on November 1, 2009.

1273 (3) The task force shall provide its findings and  
1274 legislative recommendations to the President of the Senate and  
1275 the Speaker of the House of Representatives by November 1, 2009.

1276 Section 47. Except as otherwise expressly provided in this  
1277 act, this act shall take effect July 1, 2009.

1278

1279

1280 ===== T I T L E A M E N D M E N T =====

1281 And the title is amended as follows:

1282 Delete everything before the enacting clause  
1283 and insert:

1284 An act relating to water resources; creating part IV of ch.  
1285 369, F.S.; providing a short title; providing legislative  
1286 findings and intent with respect to the need to protect and  
1287 restore springs and groundwater ~~ground-water~~; providing



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



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1317 treatment and disposal system inspection program; providing a  
1318 10-year phase-in cycle; requiring inspection; providing specific  
1319 exemptions; providing fee requirements; providing disposition of  
1320 fees; amending s. 259.105, F.S.; providing priority under the  
1321 Florida Forever Act for projects within a springs protection  
1322 zone; creating s. 403.9335, F.S.; providing legislative  
1323 findings; providing for model ordinances for the protection of  
1324 urban and residential environments and water; requiring the  
1325 Department of Environmental Protection to adopt a model  
1326 ordinance by a specified date; requiring municipalities and  
1327 counties having impaired water bodies or segments to adopt the  
1328 ordinance; creating s. 403.9337, F.S.; providing definitions;  
1329 prohibiting use of certain fertilizers after a specified date;  
1330 providing for exemptions; transferring by a type II transfer the  
1331 Bureau of Onsite Sewage from the Department of Health to the  
1332 Department of Environmental Protection; amending s. 369.317,  
1333 F.S.; clarifying mitigation offsets in the Wekiva Study Area;  
1334 amending s. 373.185, F.S.; revising the definition of Florida-  
1335 friendly landscaping; deleting references to "xeriscape";  
1336 requiring water management districts to provide model Florida-  
1337 friendly landscaping ordinances to local governments; revising  
1338 eligibility criteria for certain incentive programs of the water  
1339 management districts; requiring certain local government  
1340 ordinances and amendments to include certain design standards  
1341 and identify specified invasive exotic plant species; requiring  
1342 water management districts to consult with additional entities  
1343 for activities relating to Florida-friendly landscaping  
1344 practices; specifying programs for the delivery of educational  
1345 programs relating to such practices; providing legislative



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





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1375 the task force to submit findings and legislative  
1376 recommendations to the Legislature by a specified date;  
1377 providing effective dates.  
1378