



877116

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/15/2009	.	
	.	
	.	
	.	

---

The Committee on Health Regulation (Sobel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

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

369.402 Legislative findings and intent.—

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



877116

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

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

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

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

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



877116

41 identified in s. 369.404.

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

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

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

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

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



877116

70 under chapter 403.

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

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

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

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

84 369.404 Designation of spring protection zones.-

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

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

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

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



877116

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

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

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

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

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

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

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

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

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



877116

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

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

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

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

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

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

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



877116

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

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

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

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

185       (c) Local governments in cooperation with the water



877116

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

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

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

204 369.406 Additional requirements for all spring protection  
205 zones.

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

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





877116

215 within a square mile.

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

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

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

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

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



877116

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

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

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

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

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

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

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



877116

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

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

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

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

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



877116

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

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

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

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

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



877116

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

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

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

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

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

358 369.408 Rules.—

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



877116

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

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

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



877116

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

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

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

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

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



877116

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

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

432 403.1835 Water pollution control financial assistance.—

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

442 (a) Eliminate public health hazards;

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





877116

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

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

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

457 (f) Promote reclaimed water reuse;

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

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

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

474 Section 5. Present paragraphs (d) through (n) of subsection  
475 (3) of section 381.0065, Florida Statutes, are redesignated as



877116

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

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

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

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

484 1. The program shall:

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

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

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

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

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



877116

505 pursuant to s. 369.407.

506 4. This subsection shall not be construed to limit local  
507 governments from adopting additional or more stringent  
508 provisions than contained in this subsection.

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

511 259.105 The Florida Forever Act.—

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

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

522 Section 7. Section 403.9335, Florida Statutes, is created  
523 to read:

524 403.9335 Protection of urban and residential environments  
525 and water.—

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



877116

534 Administrative Code, will assist in protecting the quality of  
535 Florida's surface water and ground water resources. The  
536 Legislature further finds that local circumstances, including  
537 the varying types and conditions of water bodies, site-specific  
538 soils and geology, and urban or rural densities and  
539 characteristics, necessitates that additional or more stringent  
540 fertilizer-management practices may be needed at the local  
541 government level.

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

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

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



877116

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

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

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

582           Section 8. Section 403.9337, Florida Statutes, is created  
583 to read:

584           403.9337 Urban turf fertilizers.-

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

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

589           (b) "Urban turf" means noncropland planted, mowed, and  
590 managed grasses, including, but not limited to, residential  
591 lawns; turf on commercial property; filter strips; and turf on



877116

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

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

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

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

617 (a) For turf that is being initially established by seed or  
618 sod, the level of available phosphorus is insufficient to  
619 establish new turf growth and a root system. However, during the  
620 first year, a one-time application only of up to 1 pound of



877116

621 phosphate per 1,000 square feet of area may be applied.

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

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

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

645 369.317 Wekiva Parkway.—

646 (6) The Orlando-Orange County Expressway Authority is  
647 hereby granted the authority to act as a third-party acquisition  
648 agent, pursuant to s. 259.041 on behalf of the Board of Trustees  
649 or chapter 373 on behalf of the governing board of the St. Johns



877116

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





877116

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

690 Section 11. Section 373.185, Florida Statutes, is amended  
691 to read:

692 373.185 Local Florida-friendly landscaping ~~Xeriscape~~  
693 ordinances.—

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

695 (a) "Local government" means any county or municipality of  
696 the state.

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



877116

708 solid waste compost, minimizing the use of efficient irrigation,  
709 ~~practical use of turf, appropriate use of mulches,~~ and proper  
710 maintenance.

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

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

736 (b) Identification of prohibited invasive exotic plant



877116

737 species consistent with s. 581.091.

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

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

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

746 (f) A monitoring program for ordinance implementation and  
747 compliance.

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



877116

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

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

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

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

792 Section 12. Section 373.187, Florida Statutes, is created  
793 to read:

794 373.187 Water management district implementation of



877116

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

803 Section 13. Section 373.228, Florida Statutes, is amended  
804 to read:

805 373.228 Landscape irrigation design.—

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

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

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

821 (4) The water management districts shall work with the  
822 Florida Nursery, Nurserymen and Growers and Landscape  
823 Association, the Florida Native Plant Society, the Florida



877116

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

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

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

852 373.323 Licensure of water well contractors; application,



877116

853 qualifications, and examinations; equipment identification.-

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

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

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

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

865 a. A water well contractor.

866 b. A water well driller.

867 c. A water well parts and equipment vendor.

868 d. A water well inspector employed by a governmental  
869 agency.

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

875 a. The name and address of the owner or owners of each  
876 well.

877 b. The location, primary use, and approximate depth and  
878 diameter of each well.

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

881 (c) Has completed the application form and remitted a



877116

882 nonrefundable application fee.

883 Section 15. Subsection (8) of section 373.333, Florida  
884 Statutes, is amended to read:

885 373.333 Disciplinary guidelines; adoption and enforcement;  
886 license suspension or revocation.—

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

892 Section 16. Section 125.568, Florida Statutes, is amended  
893 to read:

894 125.568 Conservation of water; Florida-friendly landscaping  
895 ~~Xeriscape~~.—

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

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





877116

911 ~~practical use of turf, efficient irrigation, appropriate use of~~  
912 ~~mulches, and proper maintenance.~~

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

935 (3) (a) The Legislature finds that the use of Florida-  
936 friendly landscaping and other water use and pollution  
937 prevention measures to conserve or protect the state's water  
938 resources serves a compelling public interest and that the  
939 participation of homeowners' associations and local governments



877116

940 is essential to the state's efforts in water conservation and  
941 water quality protection and restoration.

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

950 Section 17. Section 166.048, Florida Statutes, is amended  
951 to read:

952 166.048 Conservation of water; Florida-friendly landscaping  
953 ~~Xeriscape~~.

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

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



877116

969 ~~practical use of turf, efficient irrigation, appropriate use of~~  
970 ~~mulches, and proper maintenance.~~

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

993 (3) (a) The Legislature finds that the use of Florida-  
994 friendly landscaping and other water use and pollution  
995 prevention measures to conserve or protect the state's water  
996 resources serves a compelling public interest and that the  
997 participation of homeowners' associations and local governments



877116

998 is essential to the state's efforts in water conservation and  
999 water quality protection and restoration.

1000 (b) A deed restriction, or covenant entered after October  
1001 1, 2001, or local government ordinance may not prohibit or be  
1002 enforced so as to prohibit any property owner from implementing  
1003 Xeriscape or Florida-friendly landscaping landscape on his or  
1004 her land or create any requirement or limitation in conflict  
1005 with any provision of part II of chapter 373 or a water shortage  
1006 order, other order, consumptive use permit, or rule adopted or  
1007 issued pursuant to part II of chapter 373.

1008 Section 18. Section 255.259, Florida Statutes, is amended  
1009 to read:

1010 255.259 Florida-friendly Xeriscape landscaping on public  
1011 property.—

1012 (1) The Legislature finds that water conservation and water  
1013 quality protection and restoration are ~~is~~ increasingly critical  
1014 to the continuance of an adequate water supply and healthy  
1015 surface and ground waters ~~for the citizens of this state.~~ The  
1016 Legislature further finds that "Florida-friendly landscaping  
1017 Xeriscape," as defined in s. 373.185, can contribute  
1018 significantly to water ~~the~~ conservation and ~~of~~ water quality  
1019 protection and restoration. Finally, the Legislature finds that  
1020 state government has the responsibility to promote Florida-  
1021 friendly landscaping Xeriscape as a water conservation and water  
1022 quality protection and restoration measure by using such  
1023 landscaping Xeriscape on public property associated with  
1024 publicly owned buildings or facilities.

1025 (2) As used in this section, "publicly owned buildings or  
1026 facilities" means ~~these~~ construction projects under the purview



877116

1027 of the Department of Management Services. The term ~~It~~ does not  
1028 include environmentally endangered land or roads and highway  
1029 construction under the purview of the Department of  
1030 Transportation.

1031 (3) The Department of Management Services, in consultation  
1032 with the Department of Environmental Protection, shall adopt  
1033 rules and guidelines for the required use of Florida-friendly  
1034 landscaping ~~Xeriscape~~ on public property associated with  
1035 publicly owned buildings or facilities constructed after June  
1036 30, 2009 ~~1992~~. The Department of Management Services ~~also~~ shall  
1037 also develop a 5-year program for phasing in the use of Florida-  
1038 friendly landscaping ~~Xeriscape~~ on public property associated  
1039 with publicly owned buildings or facilities constructed before  
1040 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department  
1041 of Management Services shall take into account the standards  
1042 provided in ~~guidelines set out in~~ s. 373.185(2)(a) ~~(f)~~. The  
1043 Department of Transportation shall implement Florida-friendly  
1044 ~~Xeriscape~~ landscaping pursuant to s. 335.167.

1045 (4) (a) The Legislature finds that the use of Florida-  
1046 friendly landscaping and other water use and pollution  
1047 prevention measures to conserve or protect the state's water  
1048 resources serves a compelling public interest and that the  
1049 participation of homeowners' associations and local governments  
1050 is essential to the state's efforts in water conservation and  
1051 water quality protection and restoration.

1052 (b) A deed restriction, ~~or~~ covenant entered after October  
1053 1, 2001, or local government ordinance may not prohibit or be  
1054 enforced so as to prohibit any property owner from implementing  
1055 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or



877116

1056 her land or create any requirement or limitation in conflict  
1057 with any provision of part II of chapter 373 or a water shortage  
1058 order, other order, consumptive use permit, or rule adopted or  
1059 issued pursuant to part II of chapter 373.

1060 Section 19. Section 335.167, Florida Statutes, is amended  
1061 to read:

1062 335.167 State highway construction and maintenance;  
1063 ~~Xeriscape or~~ Florida-friendly landscaping.-

1064 (1) The department shall use and require the use of  
1065 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in  
1066 s. 373.185(1), in the construction and maintenance of all new  
1067 state highways, wayside parks, access roads, welcome stations,  
1068 and other state highway rights-of-way constructed upon or  
1069 acquired after June 30, 2009 ~~1992~~. The department shall develop  
1070 a 5-year program for phasing in the use of Florida-friendly  
1071 landscaping ~~Xeriscape~~, including the use of solid waste compost,  
1072 in state highway rights-of-way constructed upon or acquired  
1073 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the  
1074 department shall employ the standards ~~guidelines~~ set out in s.  
1075 373.185(2)(a)-(f).

1076 (2)(a) The Legislature finds that the use of Florida-  
1077 friendly landscaping and other water use and pollution  
1078 prevention measures to conserve or protect the state's water  
1079 resources serves a compelling public interest and that the  
1080 participation of homeowners' associations and local governments  
1081 is essential to the state's efforts in water conservation and  
1082 water quality protection and restoration.

1083 (b) A deed restriction, ~~or covenant entered after October~~  
1084 ~~1, 2001~~, or local government ordinance may not prohibit or be



877116

1085 enforced so as to prohibit any property owner from implementing  
1086 ~~Xeriscape or~~ Florida-friendly landscaping landscape on his or  
1087 her land or create any requirement or limitation in conflict  
1088 with any provision of part II of chapter 373 or a water shortage  
1089 order, other order, consumptive use permit, or rule adopted or  
1090 issued pursuant to part II of chapter 373.

1091 Section 20. Paragraph (a) of subsection (3) of section  
1092 380.061, Florida Statutes, is amended to read:

1093 380.061 The Florida Quality Developments program.—

1094 (3) (a) To be eligible for designation under this program,  
1095 the developer shall comply with each of the following  
1096 requirements if ~~which is~~ applicable to the site of a qualified  
1097 development:

1098 1. Donate or enter ~~Have donated or entered~~ into a binding  
1099 commitment to donate the fee or a lesser interest sufficient to  
1100 protect, in perpetuity, the natural attributes of the types of  
1101 land listed below. In lieu of this ~~the above~~ requirement, the  
1102 developer may enter into a binding commitment that ~~which~~ runs  
1103 with the land to set aside such areas on the property, in  
1104 perpetuity, as open space to be retained in a natural condition  
1105 or as otherwise permitted under this subparagraph. Under the  
1106 requirements of this subparagraph, the developer may reserve the  
1107 right to use such areas for ~~the purpose of~~ passive recreation  
1108 that is consistent with the purposes for which the land was  
1109 preserved.

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



877116

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

1122 b. Active beach or primary and, where appropriate,  
1123 secondary dunes, to maintain the integrity of the dune system  
1124 and adequate public accessways to the beach. However, the  
1125 developer may retain the right to construct and maintain  
1126 elevated walkways over the dunes to provide access to the beach.

1127 c. Known archaeological sites determined to be of  
1128 significance by the Division of Historical Resources of the  
1129 Department of State.

1130 d. Areas known to be important to animal species designated  
1131 as endangered or threatened ~~animal species~~ by the United States  
1132 Fish and Wildlife Service or by the Fish and Wildlife  
1133 Conservation Commission, for reproduction, feeding, or nesting;  
1134 for traveling between such areas used for reproduction, feeding,  
1135 or nesting; or for escape from predation.

1136 e. Areas known to contain plant species designated as  
1137 endangered ~~plant species~~ by the Department of Agriculture and  
1138 Consumer Services.

1139 2. Produce, or dispose of, no substances designated as  
1140 hazardous or toxic substances by the United States Environmental  
1141 Protection Agency, or ~~by~~ the Department of Environmental  
1142 Protection, or the Department of Agriculture and Consumer





877116

1143 Services. This subparagraph does ~~is not intended to~~ apply to the  
1144 production of these substances in nonsignificant amounts as  
1145 would occur through household use or incidental use by  
1146 businesses.

1147 3. Participate in a downtown reuse or redevelopment program  
1148 to improve and rehabilitate a declining downtown area.

1149 4. Incorporate no dredge and fill activities in, and no  
1150 stormwater discharge into, waters designated as Class II,  
1151 aquatic preserves, or Outstanding Florida Waters, except as  
1152 ~~activities in those waters are~~ permitted pursuant to s.  
1153 403.813(2), and the developer demonstrates that those activities  
1154 meet the standards under Class II waters, Outstanding Florida  
1155 Waters, or aquatic preserves, as applicable.

1156 5. Include open space, recreation areas, Florida-friendly  
1157 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy  
1158 conservation and minimize impermeable surfaces as appropriate to  
1159 the location and type of project.

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



877116

1172 development-of-regional-impact transportation rule, the approved  
1173 strategic regional policy plan, any applicable regional planning  
1174 council transportation rule, and the approved local government  
1175 comprehensive plan and land development regulations adopted  
1176 pursuant to part II of chapter 163.

1177 7. Design and construct the development in a manner that is  
1178 consistent with the adopted state plan, the applicable strategic  
1179 regional policy plan, and the applicable adopted local  
1180 government comprehensive plan.

1181 Section 21. Subsection (3) of section 388.291, Florida  
1182 Statutes, is amended to read:

1183 388.291 Source reduction measures; supervision by  
1184 department.-

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



877116

1201 s. 60.05 to enjoin the nuisance and may recover costs and  
1202 attorney's fees if they prevail in the action.

1203 Section 22. Paragraph (a) of subsection (6) of section  
1204 481.303, Florida Statutes, is amended to read:

1205 481.303 Definitions.—As used in this chapter:

1206 (6) "Landscape architecture" means professional services,  
1207 including, but not limited to, the following:

1208 (a) Consultation, investigation, research, planning,  
1209 design, preparation of drawings, specifications, contract  
1210 documents and reports, responsible construction supervision, or  
1211 landscape management in connection with the planning and  
1212 development of land and incidental water areas, including the  
1213 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.  
1214 373.185, where, and to the extent that, the dominant purpose of  
1215 such services or creative works is the preservation,  
1216 conservation, enhancement, or determination of proper land uses,  
1217 natural land features, ground cover and plantings, or  
1218 naturalistic and aesthetic values;

1219 Section 23. Subsection (4) of section 720.3075, Florida  
1220 Statutes, is amended to read:

1221 720.3075 Prohibited clauses in association documents.—

1222 (4) (a) The Legislature finds that the use of Florida-  
1223 friendly landscaping and other water use and pollution  
1224 prevention measures to conserve or protect the state's water  
1225 resources serves a compelling public interest and that the  
1226 participation of homeowners' associations and local governments  
1227 is essential to the state's efforts in water conservation and  
1228 water quality protection and restoration.

1229 (b) Homeowners' association documents, including



877116

1230 declarations of covenants, articles of incorporation, or bylaws,  
1231 entered after October 1, 2001, may not prohibit or be enforced  
1232 so as to prohibit any property owner from implementing ~~Xeriscape~~  
1233 ~~or~~ Florida-friendly landscaping landscape, as defined in s.  
1234 373.185(1), on his or her land or create any requirement or  
1235 limitation in conflict with any provision of part II of chapter  
1236 373 or a water shortage order, other order, consumptive use  
1237 permit, or rule adopted or issued pursuant to part II of chapter  
1238 373.

1239 Section 24. (1) A study commission is established to  
1240 develop legislative recommendations relating to stormwater  
1241 management system design in the state. The commission shall:

1242 (a) Review the Joint Professional Engineers and Landscape  
1243 Architecture Committee Report conducted pursuant to s. 17,  
1244 chapter 88-347, Laws of Florida, and determine the current  
1245 validity of the report and the need to revise any of the  
1246 conclusions or recommendations.

1247 (b) Determine how a licensed and registered professional  
1248 might demonstrate competency for stormwater management system  
1249 design.

1250 (c) Determine how the Board of Professional Engineers and  
1251 the Board of Landscape Architecture might administer  
1252 certification tests or continuing education requirements for  
1253 stormwater management system design.

1254 (d) Provide recommendations for grandfathering the rights  
1255 of licensed professionals who currently practice stormwater  
1256 management design in a manner that will allow them to continue  
1257 to practice without meeting any new requirements the commission  
1258 recommends be placed on licensed professionals in the future.



877116

1259           (2) (a) The Board of Landscape Architecture, the Board of  
1260 Professional Engineers, the Florida Engineering Society, the  
1261 Florida Chapter of the American Society of Landscape Architects,  
1262 and the Secretary of Environmental Protection shall each appoint  
1263 one member to the commission.

1264           (b) Members of the commission may not be reimbursed for  
1265 travel, per diem, or any other costs associated with serving on  
1266 the commission.

1267           (c) The commission shall meet a minimum of four times  
1268 either in person or via teleconference; however, a minimum of  
1269 two meetings shall be public hearings with testimony.

1270           (d) The commission shall expire on November 1, 2009.

1271           (3) The commission shall provide its findings and  
1272 legislative recommendations to the President of the Senate and  
1273 the Speaker of the House of Representatives by November 1, 2009.

1274           Section 25. Except as otherwise expressly provided in this  
1275 act, this act shall take effect July 1, 2009.

1276  
1277  
1278 ===== T I T L E   A M E N D M E N T =====

1279 And the title is amended as follows:

1280           Delete everything before the enacting clause  
1281 and insert:

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



877116

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



877116

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



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





877116

1375 providing an effective date.

1376