

By the Committees on Health Regulation; and Environmental Preservation and Conservation; and Senators Constantine, Dockery, Jones, and Sobel

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1 A bill to be entitled
2 An act relating to water resources; creating part IV
3 of ch. 369, F.S.; providing a short title; providing
4 legislative findings and intent with respect to the
5 need to protect and restore springs and groundwater;
6 providing definitions; requiring the Department of
7 Environmental Protection to delineate the springsheds
8 of specified springs; requiring the department to
9 adopt spring protection zones by secretarial order;
10 requiring the department to adopt total maximum daily
11 loads and basin management action plans for spring
12 systems; providing effluent requirements for domestic
13 wastewater treatment facilities; providing
14 requirements for onsite sewage treatment and disposal
15 systems; providing requirements for agricultural
16 operations; authorizing the Department of
17 Environmental Protection, the Department of Health,
18 and the Department of Agriculture and Consumer
19 Services to adopt rules; amending s. 163.3177, F.S.;
20 requiring certain local governments to adopt a springs
21 protection element as one of the required elements of
22 the comprehensive plan by a specified date; providing
23 that certain design principles be included in the
24 element; requiring the Department of Environmental
25 Protection and the state land planning agency to make
26 information available concerning best-management
27 practices; prohibiting a local government that fails
28 to adopt a springs protection element from amending
29 its comprehensive plan; amending s. 403.1835, F.S.;

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30 including certain areas of critical state concern and
31 the spring protection zones established by the act
32 among projects that are eligible for certain financial
33 assistance; requiring the Department of Environmental
34 Protection, the Department of Agriculture and Consumer
35 Services, and water management districts to assess
36 nitrogen loading and begin implementing management
37 plans within the spring protection zones by a
38 specified date; amending s. 381.0065, F.S.; requiring
39 the Department of Health to implement a statewide
40 onsite sewage treatment and disposal system inspection
41 program; providing a 10-year phase-in cycle; requiring
42 inspection; providing specific exemptions; providing
43 fee requirements; providing disposition of fees;
44 amending s. 259.105, F.S.; providing priority under
45 the Florida Forever Act for projects within a springs
46 protection zone; creating s. 403.9335, F.S.; providing
47 legislative findings; providing for model ordinances
48 for the protection of urban and residential
49 environments and water; requiring the Department of
50 Environmental Protection to adopt a model ordinance by
51 a specified date; requiring municipalities and
52 counties having impaired water bodies or segments to
53 adopt the ordinance; creating s. 403.9337, F.S.;
54 providing definitions; prohibiting use of certain
55 fertilizers after a specified date; providing for
56 exemptions; transferring by a type II transfer the
57 Bureau of Onsite Sewage from the Department of Health
58 to the Department of Environmental Protection;

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59 amending s. 369.317, F.S.; clarifying mitigation
60 offsets in the Wekiva Study Area; amending s. 373.185,
61 F.S.; revising the definition of Florida-friendly
62 landscaping; deleting references to "xeriscape";
63 requiring water management districts to provide model
64 Florida-friendly landscaping ordinances to local
65 governments; revising eligibility criteria for certain
66 incentive programs of the water management districts;
67 requiring certain local government ordinances and
68 amendments to include certain design standards and
69 identify specified invasive exotic plant species;
70 requiring water management districts to consult with
71 additional entities for activities relating to
72 Florida-friendly landscaping practices; specifying
73 programs for the delivery of educational programs
74 relating to such practices; providing legislative
75 findings; providing that certain regulations
76 prohibiting the implementation of Florida-friendly
77 landscaping or conflicting with provisions governing
78 the permitting of consumptive uses of water are
79 prohibited; providing that the act does not limit the
80 authority of the department or the water management
81 districts to require Florida-friendly landscaping
82 ordinances or practices as a condition of certain
83 permit; creating s. 373.187, F.S.; requiring water
84 management districts to implement Florida-friendly
85 landscaping practices on specified properties;
86 requiring districts to develop specified programs for
87 implementing such practices on other specified

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88 properties; amending s. 373.228, F.S.; requiring water
89 management districts to work with specified entities
90 to develop certain standards; requiring water
91 management districts to consider certain information
92 in evaluating water use applications from public water
93 suppliers; conforming provisions to changes made by
94 the act; amending s. 373.323, F.S.; revising
95 application requirements for water well contractor
96 licensure; requiring applicants to provide specified
97 documentation; amending s. 373.333, F.S.; authorizing
98 an administrative fine to be imposed for each
99 occurrence of unlicensed well water contracting;
100 amending ss. 125.568, 166.048, 255.259, 335.167,
101 380.061, 388.291, 481.303, and 720.3075, F.S.;

102 conforming provisions to changes made by the act;
103 revising provisions requiring the use of Florida-
104 friendly landscaping for specified public properties
105 and highway construction and maintenance projects;
106 establishing a task force to develop recommendations
107 relating to stormwater management system design;
108 specifying study criteria; providing for task force
109 membership, meetings, and expiration; requiring the
110 task force to submit findings and legislative
111 recommendations to the Legislature by a specified
112 date; providing effective dates.

113
114 Be It Enacted by the Legislature of the State of Florida:

115

116 Section 1. Part IV of chapter 369, Florida Statutes,

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117 consisting of sections 369.401, 369.402, 369.403, 369.404,
118 369.405, 369.406, 369.407, and 369.408, is created to read:

119 369.401 Short title.—This part may be cited as the “Florida
120 Springs Protection Act.”

121 369.402 Legislative findings and intent.—

122 (1) Florida’s springs are a precious and fragile natural
123 resource that must be protected. Springs provide recreational
124 opportunities for swimmers, canoeists, wildlife watchers, cave
125 divers, and others. Because of the recreational opportunities
126 and accompanying tourism, many of the state’s springs greatly
127 benefit state and local economies. In addition, springs provide
128 critical habitat for plants and animals, including many
129 endangered or threatened species, and serve as indicators of
130 groundwater and surface water quality.

131 (2) In general, Florida’s springs, whether found in urban
132 or rural settings, or on public or private lands, are threatened
133 by actual, or potential, flow reductions and declining water
134 quality. Many of Florida’s springs show signs of ecological
135 imbalance, increased nutrient loading, and lowered water flow.
136 Groundwater sources of spring discharges are recharged by
137 seepage from the surface and through direct conduits such as
138 sinkholes and can be adversely affected by polluted runoff from
139 urban and agricultural lands and discharges resulting from poor
140 wastewater management practices.

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

145 369.403 Definitions.—As used in this part, the term:

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146 (1) "Cooperating entities" means the Department of
147 Environmental Protection, the Department of Health, the
148 Department of Agriculture and Consumer Services, the Department
149 of Community Affairs, the Department of Transportation, and each
150 water management district and those county and municipal
151 governments having jurisdiction in the areas of the springs
152 identified in s. 369.404.

153 (2) "Department" means the Department of Environmental
154 Protection.

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

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

163 (5) "Karst" means landforms, generally formed by the
164 dissolution of soluble rocks such as limestone or dolostone,
165 forming direct connections to the groundwater such as springs,
166 sinkholes, sinking streams, closed depressions, subterranean
167 drainage, and caves.

168 (6) "Onsite sewage treatment and disposal system" or
169 "septic system" means a system that contains a standard
170 subsurface, filled, or mound drainfield system; an aerobic
171 treatment unit; a graywater system tank; a laundry wastewater
172 system tank; a septic tank; a grease interceptor; a pump tank; a
173 solids or effluent pump; a waterless, incinerating, or organic
174 waste-composting toilet; or a sanitary pit privy that is

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175 installed or proposed to be installed beyond the building sewer
176 on land of the owner or on other land to which the owner has the
177 legal right to install a system. The term includes any item
178 placed within, or intended to be used as a part of or in
179 conjunction with, the system. This term does not include package
180 sewage treatment facilities and other treatment works regulated
181 under chapter 403.

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

185 (8) "Spring" means a point where groundwater is discharged
186 onto the earth's surface, including under any surface water of
187 the state, including seeps. The term includes a spring run.

188 (9) "Springshed" means those areas within the groundwater
189 and surface water basins which contribute to the discharge of a
190 spring.

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

195 369.404 Designation of spring protection zones.-

196 (1) All counties or municipalities in which there are
197 located first or second magnitude springs are hereby designated
198 as spring protection zones.

199 (2) By July 1, 2010, the department is directed to propose
200 for adoption rules to implement the requirements of this
201 section.

202 (a) Such rules at a minimum shall create a priority list of
203 first and second magnitude springs designating them as high,

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204 medium, or low priority based on the following measurements of
205 nitrate concentration in the water column at the point that
206 the spring discharges onto the earth's surface as an average
207 annual concentration:

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

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

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

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

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

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

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

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

230 (4) A county or municipal government, upon application to
231 the department, may seek to have specific geographic areas
232 exempted from the requirements of sections 369.405, 369.406, and

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233 369.407 by demonstrating that activities within such areas will
234 not impact the springshed in a manner that leads to new or
235 continued degradation.

236 (5) Pursuant to subsection (4), the department may approve
237 or deny an application for an exemption, or may modify the
238 boundaries of the specific geographic areas for which an
239 exemption is sought. The ruling of the department on the
240 applicant's request shall constitute a final agency action
241 subject to review pursuant to ss. 120.569 and 120.57.

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

245 369.405 Requirements for spring protection zones.—The
246 requirements of this section are subject to the timelines
247 established in s. 369.404.

248 (1) Domestic wastewater discharge and wastewater residual
249 application must comply with the requirements of this
250 subsection.

251 (a) All existing wastewater discharges from facilities
252 having permitted capacities greater than or equal to 100,000
253 gallons per day must achieve annual average total nitrogen
254 concentrations less than or equal to 3 milligrams per liter, as
255 nitrogen.

256 (b) All existing wastewater discharges from facilities
257 having permitted capacities less than 100,000 gallons per day
258 but greater than 10,000 gallons per day must achieve annual
259 average concentrations less than or equal to 10 milligrams per
260 liter, as nitrogen.

261 (2) Onsite sewage treatment and disposal systems in areas

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262 permitted to or that contain septic systems in densities greater
263 than or equal to 640 systems per square mile must connect to a
264 central wastewater treatment facility or other centralized
265 collection and treatment system. For the purposes of this
266 subsection, density must be calculated using the largest number
267 of systems possible within a square mile.

268 (3) Agricultural operations must implement applicable best-
269 management practices, including nutrient management, adopted by
270 the Department of Agriculture and Consumer Services to reduce
271 nitrogen impacts to groundwater. By December 31, 2009, the
272 Department of Agriculture and Consumer Services, in cooperation
273 with the other cooperating entities and stakeholders, must
274 develop and propose for adoption by rule equine, and cow and
275 calf best-management practices pursuant to this paragraph.
276 Implementation must be in accordance with paragraph
277 403.067(7)(b).

278 (4) Stormwater systems must comply with the requirements of
279 this section. The department is directed to propose for adoption
280 rules to implement the requirements of this subsection by July
281 1, 2010.

282 (a) Local governments in cooperation with the water
283 management districts must develop and implement a remediation
284 plan for all existing drainage wells containing strategies to
285 reduce nitrogen loading to groundwater to the maximum extent
286 practicable. The department shall review and approve the
287 remediation plan prior to implementation. All new drainage wells
288 must comply with the department's underground injection control
289 rules.

290 (b) Local governments must develop and implement a

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291 remediation plan for all stormwater management systems
292 constructed prior to 1982 which have not been modified to
293 provide stormwater treatment containing strategies to reduce
294 nitrogen loading to groundwater to the maximum extent
295 practicable.

296 (c) Local governments in cooperation with the water
297 management districts must develop and implement a remediation
298 plan to reduce nitrogen loading to groundwater including
299 reducing existing direct discharges of stormwater into
300 groundwater through karst features to the maximum extent
301 practicable. The department shall review and approve the
302 remediation plan prior to implementation.

303 (d) The Department of Transportation must identify any
304 untreated stormwater discharges into groundwater through natural
305 subterranean drainages such as sinkholes and develop and
306 implement a remediation plan to reduce nitrogen loading to
307 groundwater, including reducing existing such groundwater
308 discharges to the maximum extent practicable. The department
309 shall review and approve the remediation plan prior to
310 implementation.

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

315 369.406 Additional requirements for all spring protection
316 zones.-

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

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320 (2) For all development not permitted as of July 1, 2009,
321 which has septic system densities greater than or equal to 640
322 systems per square mile, connection to a central wastewater
323 treatment facility or other centralized collection and treatment
324 system is required. For the purposes of this subsection, density
325 must be calculated using the largest number of systems possible
326 within a square mile.

327 (3) New septic systems required as a result of the
328 mandatory inspection program provided for in s. 381.0065(3) and
329 installed after July 1, 2009, must be designed to meet a target
330 annual average groundwater concentration of no more than 3
331 milligrams per liter total nitrogen at the owner's property
332 line. Compliance with these requirements does not require
333 groundwater monitoring. The Department of Health shall develop
334 and adopt by rule design standards for achieving this target
335 annual average groundwater concentration. At a minimum, this
336 standard must take into consideration the relationship between
337 the treatment level achieved by the septic system and the area
338 of usable property available for rainwater dilution.

339 (4) Prior to adoption of the design standards by the
340 Department of Health, compliance with the requirements in
341 subsection (3) is presumed if one of the following conditions is
342 met:

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

348 (b) The lot associated with the establishment or single-

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349 family home is served by a septic system meeting at least the
350 advanced secondary treatment standards for nitrogen as set forth
351 in rules of the Department of Health, combined with a drip
352 irrigation system, a shallow low pressure dosed or a time-dosed
353 drainfield system.

354 (c) The lot associated with the establishment or single-
355 family home is scheduled to connect to a central wastewater
356 treatment facility within 6 months after the application for the
357 permit.

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

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

364 (7) Any septic system, when requiring repair, modification,
365 or reapproval, must meet a 24-inch separation from the wet
366 season water table and the surface water setback requirements in
367 s. 381.0065(4). All treatment receptacles must be within one
368 size of the requirements in rules of the Department of Health
369 and must be tested for watertightness by a state-licensed septic
370 tank contractor or plumber.

371 (8) Each owner of a publicly owned or investor-owned
372 sewerage system must notify all owners of septic systems,
373 excluding approved graywater systems, of the availability of
374 central sewerage facilities for purposes of connection pursuant
375 to s. 381.0065(1) within 60 days after receipt of notification
376 from the Department of Health that collection facilities for the
377 central sewerage system have been cleared for use.

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378 (a) Notwithstanding s. 381.00655(2)(b), a publicly owned or
379 investor-owned sewerage system may not waive the requirement for
380 mandatory onsite sewage disposal connection to an available
381 publicly owned or investor-owned sewerage system, except as
382 provided in paragraph (b).

383 (b) With the approval of the Department of Health, a
384 publicly owned or investor-owned sewerage system may waive the
385 requirement for mandatory onsite sewage disposal connection for
386 a sewage treatment system that meets or exceeds standards
387 established for septic systems if it determines that such
388 connection is not required in the public interest due to water
389 quality or public health considerations.

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

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

398 (11) Animal feeding operations must implement the
399 requirements of rules adopted by the department to reduce
400 nitrogen impacts to groundwater. By December 31, 2009, the
401 department, in cooperation with the other cooperating entities
402 and stakeholders, must develop and propose for adoption, revised
403 rules for animal feeding operations which address requirements
404 for lined wastewater storage ponds and the development and
405 implementation of nutrient management plans, including the land
406 spreading of animal waste not treated and packaged as

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407 fertilizer.

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

413 (13) The department and the water management districts
414 shall adopt design criteria for stormwater treatment systems
415 located within spring protection zones to minimize the movement
416 of nitrogen into the groundwater and to prevent the formation of
417 sinkholes within stormwater systems.

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

422 369.407 Florida Springs Onsite Sewage Treatment and
423 Disposal System Compliance Grant Program.-

424 (1) The Florida Springs Onsite Sewage Treatment and
425 Disposal System Compliance Grant Program is established in the
426 department and shall be administered by it. The purpose of the
427 program is to provide grants to low-income property owners in
428 spring protection zones using septic systems to assist the
429 property owners in complying with rules for these systems
430 developed by the department, or the water management districts,
431 or to connect to a central wastewater treatment facility or
432 other centralized collection and treatment system pursuant to s.
433 369.405(2) or s. 381.00655(1). The grant program is effective
434 upon final adoption of the department rules and may be applied
435 to costs incurred on or after such date.

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436 (2) Any property owner in a spring protection zone having
437 an income less than or equal to 200 percent of the federal
438 poverty level who is required by rule of the department or the
439 water management districts to alter, repair, or modify any
440 existing septic system to a nitrate-reducing system pursuant to
441 s. 369.406(3), or to assist property owners with connecting to
442 available publicly owned or investor-owned sewerage system
443 pursuant to s. 381.00655(1), may apply to the department for a
444 grant to assist the owner with the costs of compliance or
445 connection.

446 (3) The amount of the grant is limited to the cost
447 differential between the replacement of a comparable existing
448 septic system and that of an upgraded nitrate-reducing treatment
449 system pursuant to s. 369.406(3), or the actual costs incurred
450 from connection to a central wastewater treatment facility or
451 other centralized collection and treatment system pursuant to s.
452 385.00655(1), but may not exceed \$5,000 per property.

453 (4) The grant must be in the form of a rebate to the
454 property owner for costs incurred in complying with the
455 requirements for septic systems pursuant to s. 369.406(3), or
456 incurred from connection to a central wastewater treatment
457 facility or other centralized collection and treatment system
458 pursuant to s. 381.00655(1). The property owner must provide
459 documentation of those costs in the grant application to the
460 department.

461 (5) The department shall adopt rules providing forms,
462 procedures, and requirements for applying for and disbursing
463 grants, including bid requirements, and for documenting
464 compliance or connection costs incurred.

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

469 369.408 Rules.-

470 (1) The department, the Department of Health, and the
471 Department of Agriculture and Consumer Services may adopt rules
472 pursuant to ss. 120.536(1) and 120.54 to administer the
473 provisions of this part, as applicable.

474 (2) (a) The Department of Agriculture and Consumer Services
475 shall be the lead agency coordinating the reduction of
476 agricultural nonpoint sources of pollution for springs
477 protection. The Department of Agriculture and Consumer Services
478 and the department, pursuant to s. 403.067(7)(c)4., shall study
479 and if necessary, in cooperation with the other cooperating
480 entities, applicable county and municipal governments, and
481 stakeholders, initiate rulemaking to implement new or revised
482 best-management practices for improving and protecting springs.
483 As needed to implement the new or revised practices, the
484 Department of Agriculture and Consumer Services, shall revise
485 its best-management practices rules to require implementation of
486 the modified practice within a reasonable time period as
487 specified in the rule.

488 (b) The Department of Agriculture and Consumer Services,
489 the department, and the University of Florida's Institute of
490 Food and Agricultural Sciences shall cooperate in the conduct of
491 necessary research and demonstration projects to develop
492 improved or additional nutrient management tools, including the
493 use of controlled release fertilizer, which can be used by

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494 agricultural producers as part of an agricultural best-
495 management practices program. The development of such tools
496 shall reflect a balance between water quality improvements and
497 agricultural productivity and, where applicable, shall be
498 incorporated into revised best-management practices adopted by
499 rule of the Department of Agriculture and Consumer Services.

500 (3) The department shall as a part of the rules developed
501 for this part include provisions that allow for the variance of
502 the compliance deadlines provided for in paragraph (b) of s.
503 369.404(2). Such variance shall, at a minimum, be based on the
504 financial ability of the responsible county or municipality to
505 meet the requirements of this part.

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

508 163.3177 Required and optional elements of comprehensive
509 plan; studies and surveys.—

510 (6) In addition to the requirements of subsections (1)-(5)
511 and (12), the comprehensive plan shall include the following
512 elements:

513 (1) In counties or municipalities, or portions thereof,
514 designated as spring protection zones pursuant to s. 369.404,
515 during the first comprehensive plan evaluation and appraisal
516 report conducted after July 1, 2009, a spring protection measure
517 that ensures the protection of and, where necessary, restoration
518 of water quality in springs shall be added to the appropriate
519 comprehensive plan element. The measure must address minimizing
520 human impacts on springs from development through protecting
521 karst features, as defined in s. 369.403, during and after the
522 development process, ensuring that future development follows

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523 low-impact design principles, ensuring that landscaping and
524 fertilizer use are consistent with the Florida Friendly
525 Landscaping program, ensuring adequate open space, and providing
526 for proper management of stormwater and wastewater to minimize
527 their effects on the water quality of springs. The spring
528 protection measure must be based on low-impact design,
529 landscaping, and fertilizer best-management and use practices
530 and principles developed by the Department of Environmental
531 Protection and contained in the Florida Friendly Landscape
532 Guidance Models for Ordinances, Covenants, and Restrictions. The
533 Department of Environmental Protection and the state land
534 planning agency shall make information concerning such best-
535 management and use practices and principles prominently
536 available on their websites. In addition, all landscape design
537 and irrigation systems must meet the standards established
538 pursuant to s. 373.228(4). Failure to adopt a spring protection
539 measure shall result in a prohibition on any plan amendments
540 until the measure is adopted.

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

543 403.1835 Water pollution control financial assistance.—

544 (7) Eligible projects must be given priority according to
545 the extent each project is intended to remove, mitigate, or
546 prevent adverse effects on surface or groundwater ~~ground-water~~
547 quality and public health. The relative costs of achieving
548 environmental and public health benefits must be taken into
549 consideration during the department's assignment of project
550 priorities. The department shall adopt a priority system by
551 rule. In developing the priority system, the department shall

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552 give priority to projects that:

553 (a) Eliminate public health hazards;

554 (b) Enable compliance with laws requiring the elimination
555 of discharges to specific water bodies, including the
556 requirements of s. 403.086(9) regarding domestic wastewater
557 ocean outfalls;

558 (c) Assist in the implementation of total maximum daily
559 loads and basin management action plans adopted under s.
560 403.067;

561 (d) Enable compliance with other pollution control
562 requirements, including, but not limited to, toxics control,
563 wastewater residuals management, and reduction of nutrients and
564 bacteria;

565 (e) Assist in the implementation of surface water
566 improvement and management plans and pollutant load reduction
567 goals developed under state water policy;

568 (f) Promote reclaimed water reuse;

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

575 (h) Reduce pollutants to and otherwise promote the
576 restoration of state Florida's surface waters and groundwaters
577 ~~ground waters~~.

578 Section 4. All state agencies and water management
579 districts shall asses nitrogen loading from all publically owned
580 buildings and facilities owned or managed by each respective

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581 agency or district located within a spring protection zone using
582 a consistent methodology, evaluate existing management
583 activities, and develop and begin implementing management plans
584 to reduce adverse impacts to the springs no later than December
585 31, 2011.

586 Section 5. Present paragraphs (d) through (n) of subsection
587 (3) of section 381.0065, Florida Statutes, are redesignated as
588 paragraphs (e) through (o), respectively, and a new paragraph
589 (d) is added to that subsection, to read:

590 381.0065 Onsite sewage treatment and disposal systems;
591 regulation.—

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

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

596 1. The program shall:

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

599 b. Initially target those systems inspected under other
600 departmental criteria.

601 c. Provide for the exemption of those systems in areas
602 where the density of systems is fewer than one per 3 acres
603 unless the property abuts a water body or water segment that is
604 listed as impaired pursuant to s. 403.067, or is within a county
605 designated as a spring protection zone pursuant to s. 369.404.

606 2. The department, local government, or state-licensed
607 septic tank contractor or plumber shall charge an additional fee
608 of up to \$20 for each system inspected. Upon completion of the
609 inspection, the entity conducting the inspection must submit an

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610 application for approval to the department and provide a copy to
611 the owner. The department must approve the system for continued
612 use or notify the owner of the requirement for a repair or
613 modification permit.

614 3. Revenues from the fee must be deposited in the
615 appropriate department trust fund, and a minimum of 50 percent
616 of the revenues shall be dedicated to the grant program created
617 pursuant to s. 369.407.

618 4. This paragraph shall not be construed to limit local
619 governments from adopting additional or more stringent
620 provisions than contained in this paragraph.

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

623 259.105 The Florida Forever Act.—

624 (9) The Acquisition and Restoration Council shall recommend
625 rules for adoption by the board of trustees to competitively
626 evaluate, select, and rank projects eligible for Florida Forever
627 funds pursuant to paragraph (3)(b) and for additions to the
628 Conservation and Recreation Lands list pursuant to ss. 259.032
629 and 259.101(4). In developing these proposed rules, the
630 Acquisition and Restoration Council shall give weight to the
631 following criteria:

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

634 Section 7. Section 403.9335, Florida Statutes, is created
635 to read:

636 403.9335 Protection of urban and residential environments
637 and water.—

638 (1) The Legislature finds that the implementation of the

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639 department's Model Ordinance for Florida-Friendly Fertilizer Use
640 on Urban Landscapes located in the Florida-Friendly Landscape
641 Guidance Models for Ordinances, Covenants, and Restrictions
642 (2009) manual, which was developed consistent with the
643 recommendations of the Florida Consumer Fertilizer Task Force,
644 in concert with the provisions of the Labeling Requirements for
645 Urban Turf Fertilizers found in chapter 5E-1 Florida
646 Administrative Code, will assist in protecting the quality of
647 Florida's surface water and groundwater resources. The
648 Legislature further finds that local circumstances, including
649 the varying types and conditions of water bodies, site-specific
650 soils and geology, and urban or rural densities and
651 characteristics, necessitates that additional or more stringent
652 fertilizer-management practices may be needed at the local
653 government level.

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

659 (3) Each county and municipal government located within the
660 watershed of a water body or water segment that is listed by the
661 department as impaired by nutrients pursuant to s. 403.067, or
662 designated as a spring protection zone pursuant to 369.404,
663 shall adopt, at a minimum, the provisions of the department's
664 Model Ordinance for Florida-Friendly Fertilizer Use on Urban
665 Landscapes. A county or municipal government may adopt
666 additional or more stringent provisions than the model ordinance
667 if the following criteria are met:

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668 (a) The county or municipal government has demonstrated, as
669 part of a comprehensive program to address nonpoint sources of
670 nutrient pollution which is science-based, economically and
671 technically feasible, that additional or more stringent
672 provisions to the model ordinance are necessary to adequately
673 address urban fertilizer contributions to nonpoint source
674 nutrient loading to a water body.

675 (b) The county or municipal government documents
676 consideration of all relevant scientific information including
677 input from the department, the Department of Agriculture and
678 Consumer Services and the University of Florida Institute of
679 Food and Agricultural Sciences, if provided, on the need for
680 additional or more stringent provisions to address fertilizer
681 use as a contributor to water quality degradation. All
682 documentation shall be made part of the public record prior to
683 adoption of the additional or more stringent criteria.

684 (4) Any county or municipal government that has adopted its
685 own fertilizer use ordinance before January 1, 2009 is exempt
686 from the provisions of this section. Ordinances adopted or
687 amended after January 1, 2009 shall adopt the provisions in the
688 most recent version of the model fertilizer ordinance and shall
689 be subject to the criteria described in subsections (1) and (2)
690 above.

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

694 Section 8. Section 403.9337, Florida Statutes, is created
695 to read:

696 403.9337 Urban turf fertilizers.-

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

698 (a) "No-phosphate fertilizer" or "no-phosphorus fertilizer"
699 means fertilizer that contains less than 0.5 percent phosphate
700 by weight.

701 (b) "Urban turf" means noncropland planted, mowed, and
702 managed grasses, including, but not limited to, residential
703 lawns; turf on commercial property; filter strips; and turf on
704 property owned by federal, state, or local governments and other
705 public lands, including roadways, roadsides, parks, campsites,
706 recreation areas, school grounds, and other public grounds. The
707 term does not include pastures, hay production and grazing land,
708 turf grown on sod farms, or any other form of agricultural
709 production; golf courses or sports turf fields; or garden
710 fruits, flowers, or vegetables.

711 (c) "Soil test" means a test performed on soil planted or
712 sodded, or that will be planted or sodded, by a laboratory
713 approved by the Department of Agriculture and Consumer Services
714 and performed within the last 2 years to indicate if the level
715 of available phosphorus in the soil is sufficient to support
716 healthy turf growth.

717 (d) "Tissue test" means a test performed on plant tissue
718 growing in the soil planted or sodded, or that will be planted
719 or sodded, by a laboratory approved by the Department of
720 Agriculture and Consumer Services and performed within the last
721 2 years to indicate if the level of available phosphorus in the
722 soil is sufficient to support healthy turf.

723 (2) Other than no-phosphate and no-phosphorus fertilizers,
724 fertilizer containing phosphorus may not be applied to urban
725 turf anywhere in this state on or after July 1, 2011, unless a

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726 soil or tissue test that is conducted pursuant to a method
727 approved by the Department of Agriculture and Consumer Services
728 indicates:

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

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

739 Section 9. Effective July 1, 2010, all of the powers,
740 duties, functions, records, personnel, and property; unexpended
741 balances of appropriations, allocations, and other funds;
742 administrative authority; administrative rules; pending issues;
743 and existing contracts of the Bureau of Onsite Sewage Programs
744 in the Department of Health, as authorized and governed by ss.
745 20.43, 20.435, 153.73, 153.54, 163.3180, 180.03, 381.006,
746 381.0061, 381.0064-381.0068, and 489.551-558, are transferred by
747 a type II transfer, pursuant to s. 20.06(2), to the Florida
748 Department of Environmental Protection. In addition all existing
749 powers, duties, functions, records, personnel, and property;
750 unexpended balances of appropriations, allocations, and other
751 funds; administrative authority; administrative rules; pending
752 issues; and existing contracts associated with county health
753 departments' onsite sewage programs are transferred to the
754 Department of Environmental Protection.

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

757 369.317 Wekiva Parkway.—

758 (6) The Orlando-Orange County Expressway Authority is
759 hereby granted the authority to act as a third-party acquisition
760 agent, pursuant to s. 259.041 on behalf of the Board of Trustees
761 or chapter 373 on behalf of the governing board of the St. Johns
762 River Water Management District, for the acquisition of all
763 necessary lands, property and all interests in property
764 identified herein, including fee simple or less-than-fee simple
765 interests. The lands subject to this authority are identified in
766 paragraph 10.a., State of Florida, Office of the Governor,
767 Executive Order 03-112 of July 1, 2003, and in Recommendation 16
768 of the Wekiva Basin Area Task Force created by Executive Order
769 2002-259, such lands otherwise known as Neighborhood Lakes, a
770 1,587+/- acre parcel located in Orange and Lake Counties within
771 Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East,
772 and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East;
773 Seminole Woods/Swamp, a 5,353+/- acre parcel located in Lake
774 County within Section 37, Township 19 South, Range 28 East; New
775 Garden Coal; a 1,605+/- acre parcel in Lake County within
776 Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28
777 East; Pine Plantation, a 617+/- acre tract consisting of eight
778 individual parcels within the Apopka City limits. The Department
779 of Transportation, the Department of Environmental Protection,
780 the St. Johns River Water Management District, and other land
781 acquisition entities shall participate and cooperate in
782 providing information and support to the third-party acquisition
783 agent. The land acquisition process authorized by this paragraph

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784 shall begin no later than December 31, 2004. Acquisition of the
785 properties identified as Neighborhood Lakes, Pine Plantation,
786 and New Garden Coal, or approval as a mitigation bank shall be
787 concluded no later than December 31, 2010. Department of
788 Transportation and Orlando-Orange County Expressway Authority
789 funds expended to purchase an interest in those lands identified
790 in this subsection shall be eligible as environmental mitigation
791 for road construction related impacts in the Wekiva Study Area.
792 If any of the lands identified in this subsection are used as
793 environmental mitigation for road construction related impacts
794 incurred by the Department of Transportation or Orlando-Orange
795 County Expressway Authority, or for other impacts incurred by
796 other entities, within the Wekiva Study Area or within the
797 Wekiva parkway alignment corridor, and if the mitigation offsets
798 these impacts, then the St. Johns River Water Management
799 District and the Department of Environmental Protection shall
800 consider the activity regulated under part IV of chapter 373 to
801 meet the cumulative impact requirements of s. 373.414(8)(a).

802 Section 11. Section 373.185, Florida Statutes, is amended
803 to read:

804 373.185 Local Florida-friendly landscaping ~~Xeriscape~~
805 ordinances.-

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

807 (a) "Local government" means any county or municipality of
808 the state.

809 (b) ~~"Xeriscape"~~ or "Florida-friendly landscaping landscape"
810 means quality landscapes that conserve water, ~~and~~ protect the
811 environment, ~~and~~ are adaptable to local conditions, ~~and which~~
812 are drought tolerant. The principles of such landscaping

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813 ~~Xeriscape~~ include planting the right plant in the right place,
814 efficient watering, appropriate fertilization, mulching,
815 attraction of wildlife, responsible management of yard pests,
816 recycling yard waste, reduction of stormwater runoff, and
817 waterfront protection. Additional components include practices
818 such as landscape planning and design, ~~appropriate choice of~~
819 plants, soil analysis, ~~which may include the appropriate~~ use of
820 solid waste compost, ~~minimizing the use of efficient~~ irrigation,
821 ~~practical use of turf, appropriate use of mulches,~~ and proper
822 maintenance.

823 (2) Each water management district shall design and
824 implement an incentive program to encourage all local
825 governments within its district to adopt new ordinances or amend
826 existing ordinances to require Florida-friendly Xeriscape
827 landscaping for development permitted after the effective date
828 of the new ordinance or amendment. ~~Each district shall adopt~~
829 ~~rules governing the implementation of its incentive program and~~
830 ~~governing the review and approval of local government Xeriscape~~
831 ~~ordinances or amendments which are intended to qualify a local~~
832 ~~government for the incentive program.~~ Each district shall assist
833 the local governments within its jurisdiction by providing a
834 model Florida-friendly landscaping ordinance Xeriscape code and
835 other technical assistance. Each district may develop its own
836 model or use a model contained in the "Florida-Friendly
837 Landscape Guidance Models for Ordinances, Covenants, and
838 Restrictions" manual developed by the department. To qualify for
839 a district's incentive program, a local government Xeriscape
840 ordinance or amendment, ~~in order to qualify the local government~~
841 ~~for a district's incentive program,~~ must include, at a minimum:

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842 (a) Landscape design, installation, and maintenance
843 standards that result in water conservation and water quality
844 protection or restoration. Such standards must ~~shall~~ address the
845 use of plant groupings, soil analysis including the promotion of
846 the use of solid waste compost, efficient irrigation systems,
847 and other water-conserving practices.

848 (b) Identification of prohibited invasive exotic plant
849 species consistent with s. 581.091.

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

852 (d) A provision specifying the maximum percentage of
853 irrigated turf and ~~the maximum percentage of~~ impervious surfaces
854 allowed in a Florida-friendly landscaped ~~xeriscaped~~ area and
855 addressing the practical selection and installation of turf.

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

858 (f) A monitoring program for ordinance implementation and
859 compliance.

860 (3) Each water management district shall also ~~The districts~~
861 ~~also shall~~ work with the department, local governments, county
862 extension agents or offices, nursery and landscape industry
863 groups, and other interested stakeholders to promote, through
864 educational programs, ~~and~~ publications, and other district
865 activities authorized under this chapter, the use of Florida-
866 friendly landscaping ~~xeriscape~~ practices, including the use of
867 solid waste compost, in ~~existing~~ residential and commercial
868 development. In conducting these activities, each district shall
869 use the materials developed by the department, the Institute of
870 Food and Agricultural Sciences at the University of Florida, and

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871 the Center for Landscape Conservation and Ecology Florida-
872 Friendly Landscaping program, including, but not limited to, the
873 Florida Yards and Neighborhoods Program for homeowners, the
874 Florida Yards and Neighborhoods Builder Developer Program for
875 developers, and the Green Industries Best Management Practices
876 Program for landscaping professionals. Each district may develop
877 supplemental materials as appropriate to address the physical
878 and natural characteristics of the district. The districts shall
879 coordinate with the department and the Institute of Food and
880 Agricultural Sciences at the University of Florida if revisions
881 to the educational materials are needed. This section may not be
882 construed to limit the authority of the districts to require
883 Xeriscape ordinances or practices as a condition of any
884 consumptive use permit.

885 (a) The Legislature finds that the use of Florida-friendly
886 landscaping and other water use and pollution prevention
887 measures to conserve or protect the state's water resources
888 serves a compelling public interest and that the participation
889 of homeowners' associations and local governments is essential
890 to state's efforts in water conservation and water quality
891 protection and restoration.

892 (b)-(3) A deed restriction, or covenant entered after
893 October 1, 2001, or local government ordinance may not prohibit
894 or be enforced so as to prohibit any property owner from
895 implementing Xeriscape or Florida-friendly landscaping landscape
896 on his or her land or create any requirement or limitation in
897 conflict with any provision of part II of this chapter or a
898 water shortage order, other order, consumptive use permit, or
899 rule adopted or issued pursuant to part II of this chapter.

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

904 Section 12. Section 373.187, Florida Statutes, is created
905 to read:

906 373.187 Water management district implementation of
907 Florida-friendly landscaping.—Each water management district
908 shall use Florida-friendly landscaping, as defined in s.
909 373.185, on public property associated with buildings and
910 facilities owned by the district and constructed after June 30,
911 2009. Each district shall also develop a 5-year program for
912 phasing in the use of Florida-friendly landscaping on public
913 property associated with buildings or facilities owned by the
914 district and constructed before July 1, 2009.

915 Section 13. Section 373.228, Florida Statutes, is amended
916 to read:

917 373.228 Landscape irrigation design.—

918 (1) The Legislature finds that multiple areas throughout
919 the state have been identified by water management districts as
920 water resource caution areas, which indicates that in the near
921 future water demand in those areas will exceed the current
922 available water supply and that conservation is one of the
923 mechanisms by which future water demand will be met.

924 (2) The Legislature finds that landscape irrigation
925 comprises a significant portion of water use and that ~~the~~
926 current typical landscape irrigation systems ~~system~~ and Florida-
927 friendly landscaping ~~landscape~~ designs offer significant
928 potential water conservation benefits.

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929 (3) It is the intent of the Legislature to improve
930 landscape irrigation water use efficiency by ensuring that
931 landscape irrigation systems meet or exceed minimum design
932 criteria.

933 (4) The water management districts shall work with the
934 Florida Nursery, ~~Nurserymen and Growers~~ and Landscape
935 Association, the Florida Native Plant Society, the Florida
936 Chapter of the American Society of Landscape Architects, the
937 Florida Irrigation Society, the Department of Agriculture and
938 Consumer Services, the Institute of Food and Agricultural
939 Sciences, the Department of Environmental Protection, the
940 Department of Transportation, the Florida League of Cities, the
941 Florida Association of Counties, and the Florida Association of
942 Community Developers to develop landscape irrigation and
943 Florida-friendly landscaping ~~xeriscape~~ design standards for new
944 construction which incorporate a landscape irrigation system and
945 develop scientifically based model guidelines for urban,
946 commercial, and residential landscape irrigation, including drip
947 irrigation, for plants, trees, sod, and other landscaping. The
948 ~~landscape and irrigation design~~ standards shall be based on the
949 irrigation code defined in the Florida Building Code, Plumbing
950 Volume, Appendix F. Local governments shall use the standards
951 and guidelines when developing landscape irrigation and Florida-
952 friendly landscaping ~~xeriscape~~ ordinances. By January 1, 2011,
953 the agencies and entities specified in this subsection shall
954 review the standards and guidelines to determine whether new
955 research findings require a change or modification of the
956 standards and guidelines.

957 (5) In evaluating water use applications from public water

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958 suppliers, water management districts shall consider whether the
959 applicable local government has adopted ordinances for
960 landscaping and irrigation systems consistent with the Florida-
961 friendly landscaping provisions of s. 373.185.

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

964 373.323 Licensure of water well contractors; application,
965 qualifications, and examinations; equipment identification.—

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

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

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

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

977 a. A water well contractor.

978 b. A water well driller.

979 c. A water well parts and equipment vendor.

980 d. A water well inspector employed by a governmental
981 agency.

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

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987 a. The name and address of the owner or owners of each
988 well.

989 b. The location, primary use, and approximate depth and
990 diameter of each well.

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

993 (c) Has completed the application form and remitted a
994 nonrefundable application fee.

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

997 373.333 Disciplinary guidelines; adoption and enforcement;
998 license suspension or revocation.—

999 (8) The water management district may impose through an
1000 order an administrative fine not to exceed \$5,000 per occurrence
1001 against an unlicensed person if ~~when~~ it determines that the
1002 unlicensed person has engaged in the practice of water well
1003 contracting, for which a license is required.

1004 Section 16. Section 125.568, Florida Statutes, is amended
1005 to read:

1006 125.568 Conservation of water; Florida-friendly landscaping
1007 ~~Xeriscape~~.—

1008 (1) (a) The Legislature finds that Florida-friendly
1009 landscaping ~~Xeriscape~~ contributes to the conservation,
1010 protection, and restoration of water. In an effort to meet the
1011 water needs of this state in a manner that will supply adequate
1012 and dependable supplies of water where needed, it is the intent
1013 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~
1014 be an essential part of water conservation and water quality
1015 protection and restoration planning.

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1016 (b) As used in this section, "Xeriscape" or "Florida-
1017 friendly landscaping" has the same meaning as in s. 373.185
1018 landscape" means quality landscapes that conserve water and
1019 protect the environment and are adaptable to local conditions
1020 and which are drought tolerant. The principles of Xeriscape
1021 include planning and design, appropriate choice of plants, soil
1022 analysis which may include the use of solid waste compost,
1023 practical use of turf, efficient irrigation, appropriate use of
1024 mulches, and proper maintenance.

1025 (2) The board of county commissioners of each county shall
1026 consider enacting ordinances, consistent with s. 373.185,
1027 requiring the use of Florida-friendly landscaping ~~Xeriscape~~ as a
1028 water conservation or water quality protection or restoration
1029 measure. If the board determines that such landscaping ~~Xeriscape~~
1030 would be of significant benefit as a water conservation or water
1031 quality protection or restoration measure, especially for waters
1032 designated as impaired pursuant to s. 403.067, relative to the
1033 cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its
1034 area of jurisdiction, the board shall enact a Florida-friendly
1035 landscaping ~~Xeriscape~~ ordinance. Further, the board of county
1036 commissioners shall consider promoting Florida-friendly
1037 landscaping ~~Xeriscape~~ as a water conservation or water quality
1038 protection or restoration measure by: using such landscaping
1039 ~~Xeriscape~~ in any, ~~around, or near~~ facilities, parks, and other
1040 ~~common~~ areas under its jurisdiction which are landscaped after
1041 the effective date of this act; providing public education on
1042 Florida-friendly landscaping ~~Xeriscape~~, its uses in increasing
1043 ~~as a~~ water conservation and water quality protection or
1044 restoration ~~tool~~, and its long-term cost-effectiveness; and

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1045 offering incentives to local residents and businesses to
1046 implement Florida-friendly ~~Xeriscape~~ landscaping.

1047 (3) (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
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 17. Section 166.048, Florida Statutes, is amended
1063 to read:

1064 166.048 Conservation of water; Florida-friendly landscaping
1065 ~~Xeriscape~~.—

1066 (1) (a) The Legislature finds that Florida-friendly
1067 landscaping ~~Xeriscape~~ contributes to the conservation,
1068 protection, and restoration of water. In an effort to meet the
1069 water needs of this state in a manner that will supply adequate
1070 and dependable supplies of water where needed, it is the intent
1071 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~
1072 be an essential part of water conservation and water quality
1073 protection and restoration planning.

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1074 (b) As used in this section, "Xeriscape" or "Florida-
1075 friendly landscaping" has the same meaning as in s. 373.185
1076 landscape" means quality landscapes that conserve water and
1077 protect the environment and are adaptable to local conditions
1078 and which are drought tolerant. The principles of Xeriscape
1079 include planning and design, appropriate choice of plants, soil
1080 analysis which may include the use of solid waste compost,
1081 practical use of turf, efficient irrigation, appropriate use of
1082 mulches, and proper maintenance.

1083 (2) The governing body of each municipality shall consider
1084 enacting ordinances, consistent with s. 373.185, requiring the
1085 use of Florida-friendly landscaping Xeriscape as a water
1086 conservation or water quality protection or restoration measure.
1087 If the governing body determines that such landscaping Xeriscape
1088 would be of significant benefit as a water conservation or water
1089 quality protection or restoration measure, especially for waters
1090 designated as impaired pursuant to s. 403.067, relative to the
1091 cost to implement Florida-friendly Xeriscape landscaping in its
1092 area of jurisdiction in the municipality, the governing body
1093 ~~board~~ shall enact a Florida-friendly landscaping Xeriscape
1094 ordinance. Further, the governing body shall consider promoting
1095 Florida-friendly landscaping Xeriscape as a water conservation
1096 or water quality protection or restoration measure by: using
1097 such landscaping Xeriscape in any, around, or near facilities,
1098 parks, and other common areas under its jurisdiction which are
1099 landscaped after the effective date of this act; providing
1100 public education on Florida-friendly landscaping Xeriscape, its
1101 uses in increasing as a water conservation and water quality
1102 protection or restoration tool, and its long-term cost-

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1103 effectiveness; and offering incentives to local residents and
1104 businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

1105 (3) (a) The Legislature finds that the use of Florida-
1106 friendly landscaping and other water use and pollution
1107 prevention measures to conserve or protect the state's water
1108 resources serves a compelling public interest and that the
1109 participation of homeowners' associations and local governments
1110 is essential to the state's efforts in water conservation and
1111 water quality protection and restoration.

1112 (b) A deed restriction, ~~or~~ covenant ~~entered after October~~
1113 ~~1, 2001,~~ or local government ordinance may not prohibit or be
1114 enforced so as to prohibit any property owner from implementing
1115 ~~Xeriscape~~ or Florida-friendly landscaping ~~landscape~~ on his or
1116 her land or create any requirement or limitation in conflict
1117 with any provision of part II of chapter 373 or a water shortage
1118 order, other order, consumptive use permit, or rule adopted or
1119 issued pursuant to part II of chapter 373.

1120 Section 18. Section 255.259, Florida Statutes, is amended
1121 to read:

1122 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public
1123 property.—

1124 (1) The Legislature finds that water conservation and water
1125 quality protection and restoration are ~~is~~ increasingly critical
1126 to the continuance of an adequate water supply and healthy
1127 surface waters and groundwaters ~~for the citizens of this state.~~
1128 The Legislature further finds that "Florida-friendly landscaping
1129 ~~Xeriscape,~~" as defined in s. 373.185, can contribute
1130 significantly to water ~~the~~ conservation and ~~of~~ water quality
1131 protection and restoration. Finally, the Legislature finds that

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1132 state government has the responsibility to promote Florida-
 1133 friendly landscaping ~~Xeriscape~~ as a water conservation and water
 1134 quality protection and restoration measure by using such
 1135 landscaping ~~Xeriscape~~ on public property associated with
 1136 publicly owned buildings or facilities.

1137 (2) As used in this section, "publicly owned buildings or
 1138 facilities" means ~~those~~ construction projects under the purview
 1139 of the Department of Management Services. The term ~~It~~ does not
 1140 include environmentally endangered land or roads and highway
 1141 construction under the purview of the Department of
 1142 Transportation.

1143 (3) The Department of Management Services, in consultation
 1144 with the Department of Environmental Protection, shall adopt
 1145 rules and guidelines for the required use of Florida-friendly
 1146 landscaping ~~Xeriscape~~ on public property associated with
 1147 publicly owned buildings or facilities constructed after June
 1148 30, 2009 ~~1992~~. The Department of Management Services ~~also~~
 1149 also develop a 5-year program for phasing in the use of Florida-
 1150 friendly landscaping ~~Xeriscape~~ on public property associated
 1151 with publicly owned buildings or facilities constructed before
 1152 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department
 1153 of Management Services shall take into account the standards
 1154 provided in ~~guidelines set out in~~ s. 373.185(2)(a)-(f). The
 1155 Department of Transportation shall implement Florida-friendly
 1156 ~~Xeriscape~~ landscaping pursuant to s. 335.167.

1157 (4) (a) The Legislature finds that the use of Florida-
 1158 friendly landscaping and other water use and pollution
 1159 prevention measures to conserve or protect the state's water
 1160 resources serves a compelling public interest and that the

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1161 participation of homeowners' associations and local governments
1162 is essential to the state's efforts in water conservation and
1163 water quality protection and restoration.

1164 (b) A deed restriction, ~~or~~ covenant entered after October
1165 1, 2001, or local government ordinance may not prohibit or be
1166 enforced so as to prohibit any property owner from implementing
1167 ~~Xeriscape~~ or Florida-friendly landscaping ~~landscape~~ on his or
1168 her land or create any requirement or limitation in conflict
1169 with any provision of part II of chapter 373 or a water shortage
1170 order, other order, consumptive use permit, or rule adopted or
1171 issued pursuant to part II of chapter 373.

1172 Section 19. Section 335.167, Florida Statutes, is amended
1173 to read:

1174 335.167 State highway construction and maintenance;
1175 ~~Xeriscape~~ or Florida-friendly landscaping.-

1176 (1) The department shall use and require the use of
1177 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in
1178 s. 373.185(1), in the construction and maintenance of all new
1179 state highways, wayside parks, access roads, welcome stations,
1180 and other state highway rights-of-way constructed upon or
1181 acquired after June 30, 2009 ~~1992~~. The department shall develop
1182 a 5-year program for phasing in the use of Florida-friendly
1183 landscaping ~~Xeriscape~~, including the use of solid waste compost,
1184 in state highway rights-of-way constructed upon or acquired
1185 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the
1186 department shall employ the standards ~~guidelines~~ set out in s.
1187 373.185(2) (a) ~~-(f)~~.

1188 (2) (a) The Legislature finds that the use of Florida-
1189 friendly landscaping and other water use and pollution

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1190 prevention measures to conserve or protect the state's water
1191 resources serves a compelling public interest and that the
1192 participation of homeowners' associations and local governments
1193 is essential to the state's efforts in water conservation and
1194 water quality protection and restoration.

1195 (b) A deed restriction, ~~or~~ covenant entered after October
1196 1, 2001, or local government ordinance may not prohibit or be
1197 enforced so as to prohibit any property owner from implementing
1198 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or
1199 her land or create any requirement or limitation in conflict
1200 with any provision of part II of chapter 373 or a water shortage
1201 order, other order, consumptive use permit, or rule adopted or
1202 issued pursuant to part II of chapter 373.

1203 Section 20. Paragraph (a) of subsection (3) of section
1204 380.061, Florida Statutes, is amended to read:

1205 380.061 The Florida Quality Developments program.—

1206 (3) (a) To be eligible for designation under this program,
1207 the developer shall comply with each of the following
1208 requirements if ~~which is~~ applicable to the site of a qualified
1209 development:

1210 1. Donate or enter ~~Have donated or entered~~ into a binding
1211 commitment to donate the fee or a lesser interest sufficient to
1212 protect, in perpetuity, the natural attributes of the types of
1213 land listed below. In lieu of this ~~the above~~ requirement, the
1214 developer may enter into a binding commitment that ~~which~~ runs
1215 with the land to set aside such areas on the property, in
1216 perpetuity, as open space to be retained in a natural condition
1217 or as otherwise permitted under this subparagraph. Under the
1218 requirements of this subparagraph, the developer may reserve the

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1219 right to use such areas for ~~the purpose of~~ passive recreation
1220 that is consistent with the purposes for which the land was
1221 preserved.

1222 a. Those wetlands and water bodies throughout the state
1223 which ~~as~~ would be delineated if the provisions of s.
1224 373.4145(1)(b) were applied. The developer may use such areas
1225 for the purpose of site access, provided other routes of access
1226 are unavailable or impracticable; may use such areas for the
1227 purpose of stormwater or domestic sewage management and other
1228 necessary utilities if ~~to the extent that~~ such uses are
1229 permitted pursuant to chapter 403; or may redesign or alter
1230 wetlands and water bodies within the jurisdiction of the
1231 Department of Environmental Protection which have been
1232 artificially created, if the redesign or alteration is done so
1233 as to produce a more naturally functioning system.

1234 b. Active beach or primary and, where appropriate,
1235 secondary dunes, to maintain the integrity of the dune system
1236 and adequate public accessways to the beach. However, the
1237 developer may retain the right to construct and maintain
1238 elevated walkways over the dunes to provide access to the beach.

1239 c. Known archaeological sites determined to be of
1240 significance by the Division of Historical Resources of the
1241 Department of State.

1242 d. Areas known to be important to animal species designated
1243 as endangered or threatened ~~animal species~~ by the United States
1244 Fish and Wildlife Service or by the Fish and Wildlife
1245 Conservation Commission, for reproduction, feeding, or nesting;
1246 for traveling between such areas used for reproduction, feeding,
1247 or nesting; or for escape from predation.

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1248 e. Areas known to contain plant species designated as
1249 endangered ~~plant species~~ by the Department of Agriculture and
1250 Consumer Services.

1251 2. Produce, or dispose of, no substances designated as
1252 hazardous or toxic substances by the United States Environmental
1253 Protection Agency, ~~or by~~ the Department of Environmental
1254 Protection, or the Department of Agriculture and Consumer
1255 Services. This subparagraph does ~~is~~ not ~~intended to~~ apply to the
1256 production of these substances in nonsignificant amounts as
1257 would occur through household use or incidental use by
1258 businesses.

1259 3. Participate in a downtown reuse or redevelopment program
1260 to improve and rehabilitate a declining downtown area.

1261 4. Incorporate no dredge and fill activities in, and no
1262 stormwater discharge into, waters designated as Class II,
1263 aquatic preserves, or Outstanding Florida Waters, except as
1264 ~~activities in those waters are~~ permitted pursuant to s.
1265 403.813(2), and the developer demonstrates that those activities
1266 meet the standards under Class II waters, Outstanding Florida
1267 Waters, or aquatic preserves, as applicable.

1268 5. Include open space, recreation areas, Florida-friendly
1269 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy
1270 conservation and minimize impermeable surfaces as appropriate to
1271 the location and type of project.

1272 6. Provide for construction and maintenance of all onsite
1273 infrastructure necessary to support the project and enter into a
1274 binding commitment with local government to provide an
1275 appropriate fair-share contribution toward the offsite impacts
1276 that ~~which~~ the development will impose on publicly funded

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1277 facilities and services, except offsite transportation, and
1278 condition or phase the commencement of development to ensure
1279 that public facilities and services, except offsite
1280 transportation, are ~~will be~~ available concurrent with the
1281 impacts of the development. For the purposes of offsite
1282 transportation impacts, the developer shall comply, at a
1283 minimum, with the standards of the state land planning agency's
1284 development-of-regional-impact transportation rule, the approved
1285 strategic regional policy plan, any applicable regional planning
1286 council transportation rule, and the approved local government
1287 comprehensive plan and land development regulations adopted
1288 pursuant to part II of chapter 163.

1289 7. Design and construct the development in a manner that is
1290 consistent with the adopted state plan, the applicable strategic
1291 regional policy plan, and the applicable adopted local
1292 government comprehensive plan.

1293 Section 21. Subsection (3) of section 388.291, Florida
1294 Statutes, is amended to read:

1295 388.291 Source reduction measures; supervision by
1296 department.—

1297 (3) Property owners in a developed residential area shall
1298 ~~are required to~~ maintain their property in ~~such~~ a manner that
1299 does ~~so as~~ not ~~to~~ create or maintain any standing freshwater
1300 condition capable of breeding mosquitoes or other arthropods in
1301 significant numbers so as to constitute a public health,
1302 welfare, or nuisance problem. ~~Nothing in~~ This subsection does
1303 not authorize ~~shall permit~~ the alteration of permitted
1304 stormwater management systems or prohibit maintained fish ponds,
1305 Florida-friendly landscaping ~~eriscaping~~, or other maintained

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1306 systems of landscaping or vegetation. If such a condition is
1307 found to exist, the local arthropod control agency shall serve
1308 notice on the property owner to treat, remove, or abate the
1309 condition. Such notice is ~~shall serve as~~ prima facie evidence of
1310 maintaining a nuisance, and upon failure of the property owner
1311 to treat, remove, or abate the condition, the local arthropod
1312 control agency or any affected citizen may proceed pursuant to
1313 s. 60.05 to enjoin the nuisance and may recover costs and
1314 attorney's fees if they prevail in the action.

1315 Section 22. Subsection (6) of section 481.303, Florida
1316 Statutes, is amended to read:

1317 481.303 Definitions.—As used in this chapter:

1318 (6) "Landscape architecture" means professional services,
1319 including, but not limited to, the following:

1320 (a) Consultation, investigation, research, planning,
1321 design, preparation of drawings, specifications, contract
1322 documents and reports, responsible construction supervision, or
1323 landscape management in connection with the planning and
1324 development of land and incidental water areas, including the
1325 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.
1326 373.185, where, and to the extent that, the dominant purpose of
1327 such services or creative works is the preservation,
1328 conservation, enhancement, or determination of proper land uses,
1329 natural land features, ground cover and plantings, or
1330 naturalistic and aesthetic values;

1331 (b) The determination of settings, grounds, and approaches
1332 for and the siting of buildings and structures, outdoor areas,
1333 or other improvements;

1334 (c) The setting of grades, shaping and contouring of land

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1335 and water forms, determination of drainage, and provision for
1336 storm drainage and irrigation systems where such systems are
1337 necessary to the purposes outlined herein; and

1338 (d) The design of such tangible objects and features as are
1339 necessary to the purpose outlined herein.

1340 Section 23. Subsection (4) of section 720.3075, Florida
1341 Statutes, is amended to read:

1342 720.3075 Prohibited clauses in association documents.-

1343 (4) (a) The Legislature finds that the use of Florida-
1344 friendly landscaping and other water use and pollution
1345 prevention measures to conserve or protect the state's water
1346 resources serves a compelling public interest and that the
1347 participation of homeowners' associations and local governments
1348 is essential to the state's efforts in water conservation and
1349 water quality protection and restoration.

1350 (b) Homeowners' association documents, including
1351 declarations of covenants, articles of incorporation, or bylaws,
1352 entered after October 1, 2001, may not prohibit or be enforced
1353 so as to prohibit any property owner from implementing Xeriscape
1354 or Florida-friendly landscaping landscape, as defined in s.
1355 373.185(1), on his or her land or create any requirement or
1356 limitation in conflict with any provision of part II of chapter
1357 373 or a water shortage order, other order, consumptive use
1358 permit, or rule adopted or issued pursuant to part II of chapter
1359 373.

1360 Section 24. (1) A task force is established to develop
1361 legislative recommendations relating to stormwater management
1362 system design in the state. The task force shall:

1363 (a) Review the Joint Professional Engineers and Landscape

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1364 Architecture Committee Report conducted pursuant to s. 17,
1365 chapter 88-347, Laws of Florida, and determine the current
1366 validity of the report and the need to revise any of the
1367 conclusions or recommendations.

1368 (b) Determine how a licensed and registered professional
1369 might demonstrate competency for stormwater management system
1370 design.

1371 (c) Determine how the Board of Professional Engineers and
1372 the Board of Landscape Architecture might administer
1373 certification tests or continuing education requirements for
1374 stormwater management system design.

1375 (d) Provide recommendations for grandfathering the rights
1376 of licensed professionals who currently practice stormwater
1377 management design in a manner that will allow them to continue
1378 to practice without meeting any new requirements the task force
1379 recommends be placed on licensed professionals in the future.

1380 (2) (a) The Board of Landscape Architecture, the Board of
1381 Professional Engineers, the Florida Engineering Society, the
1382 Florida Chapter of the American Society of Landscape Architects,
1383 the Secretary of Environmental Protection, and the Secretary of
1384 Transportation shall each appoint one member to the task force.

1385 (b) Members of the task force may not be reimbursed for
1386 travel, per diem, or any other costs associated with serving on
1387 the task force.

1388 (c) The task force shall meet a minimum of four times
1389 either in person or via teleconference; however, a minimum of
1390 two meetings shall be public hearings with testimony.

1391 (d) The task force shall expire on November 1, 2009.

1392 (3) The task force shall provide its findings and

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1393 legislative recommendations to the President of the Senate and
1394 the Speaker of the House of Representatives by November 1, 2009.

1395 Section 25. Except as otherwise expressly provided in this
1396 act, this act shall take effect July 1, 2009.