



409270

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on General Government Appropriations (Dean)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 373.62, Florida Statutes, is amended to
read:

373.62 Water conservation; automatic sprinkler systems.—

(1) Any person who purchases and installs an automatic
landscape irrigation system must properly ~~lawn sprinkler system~~
~~after May 1, 1991, shall install, and must maintain,~~ and operate
technology, a rain sensor device or switch that inhibits or



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12 interrupts operation of ~~will override~~ the irrigation cycle of
13 ~~the sprinkler system~~ during periods of sufficient moisture ~~when~~
14 ~~adequate rainfall has occurred.~~

15 (2) A licensed contractor who installs or performs work on
16 an automatic landscape irrigation system must test for the
17 correct operation of each inhibiting or interrupting device or
18 switch on that system. If such devices or switches are not
19 installed in the system or are not in proper operating
20 condition, the contractor must install new ones or repair the
21 existing ones and confirm that each device or switch is in
22 proper operating condition before completing other work on the
23 system.

24 (3) The department shall create a model ordinance by
25 January 15, 2010, that may be adopted and enforced by local
26 governments. The ordinance must, at a minimum:

27 (a) Require licensed contractors to report automatic
28 landscape irrigation systems that are not in compliance with
29 this section to the appropriate authority.

30 (b) Provide penalties for licensed contractors who do not
31 comply with this section. The minimum penalty must be \$50 for a
32 first offense, \$100 for a second offense, and \$250 for a third
33 or subsequent offense.

34
35 Regular maintenance and replacement of worn or broken technology
36 which interrupts or inhibits the operation of an automatic
37 landscape irrigation system is not a violation of this section
38 if such repairs are conducted within a reasonable time.

39 (4) Local governments may adopt the model ordinance by
40 October 1, 2010. Local governments that impose requirements that



41 are more stringent than the model ordinance are exempt from
42 adopting the ordinance.

43 (5) Funds generated by penalties imposed under the
44 ordinance shall be used by the local government for the
45 administration and enforcement of this section and to further
46 water-conservation activities.

47 (6) For purposes of this section, a licensed contractor
48 includes an individual who holds a specific irrigation
49 contractor's license issued by a county.

50 (7) (a) The Legislature recognizes that lawn and landscape
51 irrigation systems use a substantial amount of the state's
52 potable water. The Legislature finds that smart irrigation
53 systems that use soil moisture sensors with remote monitoring
54 and adjustment capabilities, if properly installed and
55 monitored, provide more efficient irrigation and save
56 substantially more water than conventional time-controlled
57 irrigation systems. This is because smart irrigation systems
58 apply water to lawns and plants only as necessary to maintain
59 required soil moisture, thus minimizing the overwatering or
60 unnecessary watering that occurs with conventional irrigation
61 systems. However, in order for this technology to optimize the
62 efficient application of water it cannot be subject to day or
63 days-of-the-week watering restrictions. The Legislature,
64 therefore, recognizes that enacting a statewide process to
65 provide an exemption from local water restriction ordinances
66 will accelerate the adoption of this water saving technology.
67 Further, a uniform exemption process will streamline variance
68 procedures and minimize delay in implementing such technology.
69 The longer it takes to approve soil moisture sensor control



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70 systems, the more potable water is wasted. A uniform variance
71 process will allow state residents to maintain their property
72 and protect water resources while enjoying their landscapes.

73 (b) For purposes of this subsection, the term:

74 1. "Monitoring entity" means a local government, community
75 development district created pursuant to chapter 190, a
76 homeowners' association created pursuant to chapter 720, a
77 condominium association created pursuant to chapter 718, a
78 cooperative created pursuant to chapter 719, or a public or
79 private utility.

80 2. "Soil moisture sensor" means a soil-based device that
81 assesses the available plant soil moisture in order to minimize
82 the unnecessary use of water and optimize the effectiveness of
83 an irrigation system.

84 3. "Soil moisture sensor control system" is the collective
85 term for an entire soil moisture sensor system that has remote
86 monitoring and adjustment capability.

87 (c) A variance from day or days-of-the-week watering
88 restrictions shall be granted by the applicable water management
89 district for any residential, commercial, or recreational user
90 within a monitoring entity's jurisdiction having a soil moisture
91 sensor control system if the monitoring entity certifies that:

92 1. Each soil moisture sensor control system installed
93 within its jurisdiction will have multiple soil sensors that
94 conform to different soil types and slopes in order to optimize
95 water use for each user, adjust irrigation schedules based on
96 soil moisture requirements, and be installed by a licensed
97 contractor in a manner that is consistent with the Field Guide
98 to Soil Moisture Sensor Use in Florida by the University of



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99 Florida IFAS Extension Program for Resource Efficient
100 Communities.

101 2. It has the ability to monitor the status of each
102 individual user's system and to remotely modify the system
103 settings for irrigation cycles and run times.

104 3. It will electronically post and update a list of active
105 users of soil moisture sensor control systems within its
106 jurisdiction on a monthly basis and provide Internet access to
107 such listing and the monitoring database to the water management
108 district and the local government.

109 4. It shall provide notice to a user of noncompliant
110 activity within 48 hours after such activity and, if the user
111 does not take corrective action within 48 hours after such
112 notice, it will remove the posted notice required in
113 subparagraph 5. and remove the user from the active users list
114 required by subparagraph 3.

115 5. It shall post a notice at each parcel that has installed
116 a compliant soil moisture sensor control system in plain view
117 from the nearest roadway stating: "Irrigating with Smart
118 Irrigation Controller," with the address of the parcel, and
119 shall remove the notice if the user is no longer being monitored
120 by the monitoring entity.

121 (d) Upon installation of a soil moisture sensor control
122 system, the licensed contractor shall certify to the monitoring
123 entity that subparagraphs (c)1. and 2. have been met.

124 1. The monitoring entity shall post the notice required by
125 subparagraph (c)5. on the user's property and update the
126 Internet listing of users of active soil moisture sensor control
127 systems to include the new user.



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128 2. On an annual basis a professional engineer licensed
129 under chapter 471 or a professional landscape architect licensed
130 under chapter 481 shall perform an annual maintenance review of
131 all soil moisture sensor control systems within the monitoring
132 entity's jurisdiction and certify to the monitoring entity which
133 systems are properly operating and in compliance with paragraph
134 (c). The monitoring entity shall update its Internet listing of
135 users of active soil moisture sensor control systems based on
136 the certification.

137 (e) Failure by the monitoring entity to ensure continual
138 compliance with the condition of this variance shall be cause
139 for the appropriate water management district to revoke the
140 variance upon proper notice to the monitoring entity.

141 (f) The variance provided in this subsection applies to day
142 or days-of-the-week watering restrictions of the water
143 management district as preempted by s. 373.217. All other
144 applicable local government and water management district
145 restrictions related to irrigation, including, but not limited
146 to, a prohibition on irrigation and time-of-day watering
147 requirements and water shortage or emergency orders issued
148 pursuant to s. 373.246(2) and (7), remain applicable to the soil
149 moisture sensor control system users within a monitoring
150 entity's jurisdiction.

151 (g) This subsection does not require a property owner to
152 install a soil moisture sensor control system.

153 Section 2. Section 403.9335, Florida Statutes, is created
154 to read:

155 403.9335 Short title.—Sections 403.9335-403.9338 may be
156 cited as the "Protection of Urban and Residential Environments



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157 and Water Act.”

158 Section 3. Section 403.9336, Florida Statutes, is created
159 to read:

160 403.9336 Legislative findings.—The Legislature finds that
161 the implementation of the Model Ordinance for Florida-Friendly
162 Fertilizer Use on Urban Landscapes (2008), which was developed
163 by the department in conjunction with the Florida Consumer
164 Fertilizer Task Force, the Department of Agriculture and
165 Consumer Services, and the University of Florida Institute of
166 Food and Agricultural Sciences, will assist in protecting the
167 quality of Florida’s surface water and groundwater resources.
168 The Legislature further finds that local conditions, including
169 variations in the types and quality of water bodies, site-
170 specific soils and geology, and urban or rural densities and
171 characteristics, necessitate the implementation of additional or
172 more stringent fertilizer-management practices at the local
173 government level.

174 Section 4. Section 403.9337, Florida Statutes, is created
175 to read:

176 403.9337 Model Ordinance for Florida-Friendly Fertilizer
177 Use on Urban Landscapes.—

178 (1) All county and municipal governments are encouraged to
179 adopt and enforce the Model Ordinance for Florida-Friendly
180 Fertilizer Use on Urban Landscapes or an equivalent requirement
181 as a mechanism for protecting local surface and groundwater
182 quality.

183 (2) Each county and municipal government located within the
184 watershed of a water body or water segment that is listed as
185 impaired by nutrients pursuant to s. 403.067, shall, at a



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186 minimum, adopt the department's Model Ordinance for Florida-
187 Friendly Fertilizer Use on Urban Landscapes. A local government
188 may adopt additional or more stringent standards than the model
189 ordinance if the following criteria are met:

190 (a) The local government has demonstrated, as part of a
191 comprehensive program to address nonpoint sources of nutrient
192 pollution which is science-based, and economically and
193 technically feasible, that additional or more stringent
194 standards than the model ordinance are necessary in order to
195 adequately address urban fertilizer contributions to nonpoint
196 source nutrient loading to a water body.

197 (b) The local government documents that it has considered
198 all relevant scientific information, including input from the
199 department, the institute, the Department of Agriculture and
200 Consumer Services, and the University of Florida Institute of
201 Food and Agricultural Sciences, if provided, on the need for
202 additional or more stringent provisions to address fertilizer
203 use as a contributor to water quality degradation. All
204 documentation must become part of the public record before
205 adoption of the additional or more stringent criteria.

206 (3) Any county or municipal government that adopted its own
207 fertilizer-use ordinance before January 1, 2009, is exempt from
208 this section. Ordinances adopted or amended on or after January
209 1, 2009, must substantively conform to the most recent version
210 of the model fertilizer ordinance and are subject to subsections
211 (1) and (2), as applicable.

212 (4) This section does not apply to the use of fertilizer on
213 farm operations as defined in s. 823.14 or on lands classified
214 as agricultural lands pursuant to s. 193.461.



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215 Section 5. Section 403.9338, Florida Statutes, is created
216 to read:

217 403.9338 Training.—

218 (1) The department, in cooperation with the Institute of
219 Food and Agricultural Sciences, shall:

220 (a) Provide training and testing programs in urban
221 landscape best-management practices and may issue certificates
222 demonstrating satisfactory completion of the training.

223 (b) Approve training and testing programs that are
224 equivalent to or more comprehensive than the training provided
225 by the department under paragraph (a). Such programs must be
226 reviewed and reapproved by the department if significant changes
227 are made. Currently approved programs must be reapproved by July
228 1, 2010.

229 (2) After receiving a certificate demonstrating successful
230 completion of a department or department-approved training
231 program under this section, a person may apply to the Department
232 of Agriculture and Consumer Services to receive a limited
233 certification for urban landscape commercial fertilizer
234 application under s. 482.1562. A person possessing such
235 certification is not subject to additional local testing.

236 Section 6. Present subsections (6) through (27) of section
237 482.021, Florida Statutes, are renumbered as subsections (7)
238 through (28), respectively, present subsection (28) is
239 renumbered as subsection (30), and new subsections (6) and (29)
240 are added to that section, to read:

241 482.021 Definitions.—For the purposes of this chapter, and
242 unless otherwise required by the context, the term:

243 (6) "Commercial fertilizer application" means the



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244 application of fertilizer for payment or other consideration to
245 property not owned by the person or firm applying the fertilizer
246 or the employer of the applicator.

247 (29) "Urban landscape" means pervious areas on residential,
248 commercial, industrial, institutional, highway rights-of-way, or
249 other nonagricultural lands that are planted with turf or
250 horticultural plants. For the purposes of this section
251 agriculture has the same meaning as in s. 570.02.

252 Section 7. Section 482.1562, Florida Statutes, is created
253 to read:

254 482.1562 Limited certification for urban landscape
255 commercial fertilizer application.-

256 (1) To provide a means of documenting and ensuring
257 compliance with best-management practices for commercial
258 fertilizer application to urban landscapes, the department shall
259 establish a limited certification for urban landscape commercial
260 fertilizer application.

261 (2) Beginning January 1, 2014, any person applying
262 commercial fertilizer to an urban landscape must be certified
263 under this section.

264 (3) To obtain a limited certification for urban landscape
265 commercial fertilizer application, an applicant must submit to
266 the department:

267 (a) A copy of the training certificate issued pursuant to
268 s. 403.9338.

269 (b) A certification fee set by the department in an amount
270 of at least \$25 but not more than \$75. Until the fee is set by
271 rule, the fee for certification is \$25.

272 (4) A limited certification for urban landscape commercial



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273 fertilizer application issued under this section expires 4 years
274 after the date of issuance. Before applying for recertification
275 under subsection (5), the applicant must complete 4 classroom
276 hours of acceptable continuing education, of which at least 2
277 hours address fertilizer best-management practices.

278 (5) An application for recertification must be made at
279 least 90 days before the expiration of the current certificate
280 and be accompanied by:

281 (a) Proof of having completed the 4 classroom hours of
282 acceptable continuing education required under subsection (4).

283 (b) A recertification fee set by the department in an
284 amount of at least \$25 but not more than \$75. Until the fee is
285 set by rule, the fee for certification is \$25.

286 (6) A late renewal charge of \$50 per month shall be
287 assessed 30 days after the date the application for
288 recertification is due and must be paid in addition to the
289 renewal fee. Unless timely recertified, a certificate
290 automatically expires 90 days after the recertification date.
291 Upon expiration, a certificate may be issued only upon
292 reapplying in accordance with section (3).

293 (7) Certification under this section does not authorize:

294 (a) The application of pesticides to turf or ornamentals,
295 including pesticide fertilizer mixtures;

296 (b) The operation of a pest control business; or

297 (c) The application of pesticides or fertilizers by
298 unlicensed or uncertified personnel under the supervision of the
299 certified person.

300 (8) The department may provide information concerning the
301 certification status of persons certified under this section to



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302 other local and state governmental agencies. The department is
303 encouraged to create an online data base that lists all persons
304 certified under this section.

305 (9) Yard workers who apply fertilizer only to individual
306 residential properties using fertilizer and equipment provided
307 by the residential property owner or resident are exempt from
308 the requirements of this section.

309 (10) The department may adopt rules to administer this
310 section.

311 Section 8. This act shall take effect July 1, 2009.

312
313
314 ===== T I T L E A M E N D M E N T =====

315 And the title is amended as follows:

316 Delete everything before the enacting clause
317 and insert:

318 A bill to be entitled

319 An act relating to water conservation; amending s. 373.62,
320 F.S.; revising the requirements for automatic landscape
321 irrigation systems; requiring irrigation contractors to test for
322 the correct operation of system devices or switches and ensure
323 their proper operation before completing other work on the
324 system; requiring the Department of Environmental Protection to
325 create a model ordinance that may be adopted by local
326 governments; providing penalties; providing for the disposition
327 of funds raised through penalties imposed; authorizing local
328 governments to approve smart irrigation controllers; providing
329 legislative findings relating to the adoption of soil moisture
330 sensor control irrigation systems; defining terms; providing a



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331 statewide process and conditions for obtaining a variance from
332 water management district restrictions on water use; creating s.
333 403.9335, F.S.; providing a short title; creating s. 403.9336,
334 F.S.; providing legislative findings; creating s. 403.9337,
335 F.S.; encouraging county and municipal governments to adopt and
336 enforce the Model Ordinance for Florida-Friendly Fertilizer Use
337 on Urban Landscapes or an equivalent requirement as a mechanism
338 for protecting local surface water and groundwater quality;
339 requiring a county government or municipal government located
340 within the watershed of a water body or water segment that is
341 listed by the Department of Environmental Protection as impaired
342 to adopt the model ordinance; providing that additional or more
343 stringent provisions may be adopted under certain circumstances;
344 providing a timeframe for adopting the model ordinance;
345 providing exceptions; creating s. 403.9338, F.S.; requiring the
346 department to establish and approve training and testing
347 programs providing urban landscape best-management practices;
348 providing that such training authorizes a person to apply for a
349 limited certification for urban landscape commercial fertilizer
350 application issued by the Department of Agriculture and Consumer
351 Services; providing that a person having such certification is
352 not subject to additional local testing; amending s. 482.021,
353 F.S.; defining the terms "commercial fertilizer application" and
354 "urban landscape"; creating s. 482.1562, F.S.; providing for
355 limited certification for urban landscape commercial fertilizer
356 application provided by the Department of Agriculture and
357 Consumer Services; requiring such certification in order to
358 commercially apply fertilizer, beginning on a certain date;
359 providing requirements and fees; providing for expiration and



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360 renewal; authorizing the department to provide information
361 concerning persons who are certified; providing for exceptions
362 to the requirements of certification; authorizing the department
363 to adopt rules; providing an effective date.
364