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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
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 ~~lawn sprinkler~~ system after May 1, 1991,
shall properly 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 shall 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 any other work on
23 the 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, provide:

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

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



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41 are more stringent than the minimum requirements of the model
42 ordinance are exempt from 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 also includes an individual who holds a specific irrigation
49 contractor's license issued by a county.

50 (7) (a) A development or subdivision with at least 25
51 residential parcels that have an installed and operating smart
52 irrigation controller and the commercial irrigation users that
53 installed and maintain the smart irrigation controller are
54 exempt from any day-of-the-week watering restrictions imposed by
55 local government or a water management district if the smart
56 irrigation controller is approved by the local government after
57 consultation with the applicable water management district in
58 which the smart irrigation controller is located. Restrictions
59 relating to the time-of-day watering standards remain
60 applicable.

61 (b) The user of a smart irrigation controller shall post a
62 sign at their residence or commercial facility in plain view
63 from the nearest roadway stating: "Irrigating with Smart
64 Irrigation Controller".

65 (c) A "smart irrigation controller" is a device that
66 assesses the available plant soil moisture in order to optimize
67 an irrigation system to minimize the use of water and must be
68 weather or soil sensor based. In order to qualify for the
69 exemption, the smart irrigation controller must:



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70 1. Be properly installed;

71 2. Allow for irrigation schedule adjustments including run
72 times and required cycles based on the a soil moisture
73 requirements; and

74 3. Be remotely monitored and capable of remotely modifying
75 the settings for irrigation cycles and run times.

76 Section 2. Section 403.9335, Florida Statutes, is created
77 to read:

78 403.9335 Short title.—Sections 403.9335-403.9339 may be
79 cited as the "Protection of Urban and Residential Environments
80 and Water Act."

81 Section 3. Section 403.9336, Florida Statutes, is created
82 to read:

83 403.9336 Legislative findings.—The Legislature finds that
84 the implementation of the Department of Environmental
85 Protection's model ordinance for Florida-Friendly Fertilizer Use
86 on Urban Landscapes, published in the "Florida-Friendly
87 Landscape Guidance Models for Ordinances, Covenants, and
88 Restrictions (2009)" manual, which was developed from the
89 recommendations of the Florida Consumer Fertilizer Task Force,
90 in concert with the Labeling Requirements for Urban Turf
91 Fertilizers adopted in chapter 5E-1, Florida Administrative
92 Code, will assist in protecting the quality of the surface and
93 ground water resources of this state. The Legislature further
94 finds that local circumstances, including the varying types and
95 conditions of water bodies, site-specific soils and geology, and
96 urban or rural densities and characteristics, may require local
97 governments to use additional or more stringent fertilizer-
98 management practices.



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99 Section 4. Section 403.9337, Florida Statutes, is created
100 to read:

101 403.9337 Definitions. -As used in sections 403.9335-
102 403.9339, the term:

103 (1) "Department" means the Department of Environmental
104 Protection."

105 (2) "Institute" means the Institute of Food and
106 Agricultural Sciences of the University of Florida.

107 (3) "Local government" means a county or municipality.

108 (4) "Urban landscape" means pervious areas on residential,
109 commercial, industrial, institutional, highway rights-of-way or
110 other non-agriculture lands that are planted with turf or
111 horticultural plants. For the purposes of this subsection,
112 "agriculture" has the meaning assigned in s. 570.02.

113 (5) "Urban landscape commercial fertilizer applicator"
114 means a person who applies fertilizer for payment or other
115 consideration to property with an urban landscape that is not
116 owned by the applicator.

117 Section 5. Section 403.9338, Florida Statutes, is created
118 to read:

119 403.9338 Model Ordinance for Florida-Friendly Fertilizer
120 Use on Urban Landscapes; adoption.-

121 (1) All local governments are encouraged to adopt and
122 enforce the department's Model Ordinance for Florida-Friendly
123 Fertilizer Use on Urban Landscapes as a mechanism for better
124 protecting local surface and ground water quality.

125 (2) Each local government located within the watershed of a
126 water body or water segment that is listed by the department as
127 impaired by nutrients pursuant to s. 403.067, may adopt the



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128 department's Model Ordinance for Florida-Friendly Fertilizer Use
129 on Urban Landscapes. A local government may adopt additional or
130 more stringent standards than the model ordinance if the
131 following criteria are met:

132 a. The local government has demonstrated, as part of a
133 comprehensive program to address nonpoint sources of nutrient
134 pollution which is science-based, and economically and
135 technically feasible, that additional or more stringent
136 standards to the model ordinance are necessary to adequately
137 address urban fertilizer contributions to nonpoint source
138 nutrient loading to a water body.

139 b. The local government has documented its consideration of
140 all relevant scientific information including input from the
141 department and the Department of Agriculture and Consumer
142 Services, if provided, on the need for additional or more
143 stringent standards to address fertilizer use as a contributor
144 to water quality degradation. All documentation must become part
145 of the public record before adopting the additional or more
146 stringent standards.

147 (3) Any local government that has adopted its own
148 fertilizer use ordinance before January 1, 2009, is exempt from
149 this section. Ordinances adopted or amended after January 1,
150 2009, must include the provisions in the most recent version of
151 the model fertilizer ordinance and must be subject to the
152 standards described in sections (1) and (2).

153 (4) This section does not regulate the use of fertilizer on
154 farm operations as defined in s. 823.14 or on lands classified
155 as agricultural lands under s. 193.461.

156 Section 6. Section 403.9339, Florida Statutes, is created



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157 to read:

158 403.9339 Urban landscape commercial fertilizer applicator;
159 training certificate; limited certification. -

160 (1) The department, working in cooperation with the
161 institute, shall provide urban landscape best management
162 practices training and testing throughout the state. The
163 department may issue a certificate of training demonstrating
164 that the person has satisfactory completed the training course.

165 (2) The department, in consultation with the institute and
166 the Department of Agricultural and Consumer Services, shall
167 approve training and testing programs that are equivalent to or
168 more comprehensive than the training provided by the department
169 in subsection (1). Local governments or private entities which
170 have approved-training programs are eligible to provide training
171 and testing programs. Such programs are subject to review and
172 approval by the department, if significant changes are proposed
173 to be made to either program. Existing approved programs must be
174 re-approved no later than July 1, 2010.

175 (3) (a) After receiving a certificate of training
176 demonstrating successful completion of the department's urban
177 landscape best management practices training program, or an
178 equivalent program pursuant to subsection(2), an urban landscape
179 commercial fertilizer applicator may apply to the Department of
180 Agriculture and Consumer Services to receive a limited
181 certification for urban landscape commercial fertilizer
182 application pursuant to s. 482.1562.

183 (b) The limited certification issued by the Department of
184 Agriculture and Consumer Services qualifies the urban landscape
185 commercial fertilizer applicator to apply fertilizer to urban



186 landscapes throughout the state. Urban landscape commercial
187 fertilizer applicators possessing a limited certification for
188 urban commercial fertilizer application from the Department of
189 Agricultural and Consumer Services are not subject to additional
190 local testing.

191 Section 7. Present subsection (28) of section 482.021,
192 Florida Statutes, is renumbered as subsection (29), and a new
193 subsection (28) is added to that section, to read:

194 482.021 Definitions.—For the purposes of this chapter, and
195 unless otherwise required by the context, the term:

196 (28) "Urban landscape commercial fertilizer application"
197 means an application of fertilizer by an urban landscape
198 fertilizer applicator to an urban landscape as defined in ss.
199 403.9337.

200 Section 8. Section 482.1562 Florida Statutes is created as
201 follows:

202 482.1562 Limited certification for urban landscape
203 commercial fertilizer application.—

204 (1) To provide a means of documenting and assuring
205 compliance with acceptable best management practices for
206 fertilizer application to urban landscapes, the department shall
207 establish a limited certification category for urban landscape
208 commercial fertilizer application as defined in s. 482.021. The
209 department may adopt rules to implement the procedures and
210 requirements of this section.

211 (2) A person seeking limited certification under this
212 section shall first provide the department with a copy of the
213 Urban Landscape Commercial Fertilizer Applicator Certificate of
214 Training issued by the Department of Environmental Protection



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215 pursuant to s. 403.9339.

216 (3) An application for certification under this section
217 must be accompanied by a fee set by the department, in an amount
218 not to exceed \$75 but not less than \$25; however, until a rule
219 setting this fee is adopted by the department, the fee for the
220 certification is \$25.

221 (4) (a) 1. A certification issued under this section shall
222 expire 4 years after the date of issuance. An application for
223 recertification under this section must be made at least 90 days
224 before the anniversary date of the current certification. The
225 recertification request must be accompanied by a recertification
226 fee set by the department in an amount not to exceed \$75 but not
227 less than \$25; however, until a rule setting this
228 recertification fee is adopted by the department, the fee for
229 recertification is \$25.

230 2. After a grace period not to exceed 30 calendar days
231 after the date that the recertification application is due as
232 set forth in subparagraph 1., a late renewal penalty of \$50
233 shall be assessed each month and must be paid in addition to the
234 recertification renewal fee.

235 (b) An application for recertification must be accompanied
236 by proof that the applicant has completed 4 classroom hours of
237 acceptable continuing education, at least 2 hours of which shall
238 include fertilizer best management practices.

239 (c) Unless timely recertified, a certificate automatically
240 expires 90 calendar days after the anniversary date of the
241 recertification. After a certificate expires, a certificate may
242 be renewed only if the person complies with all conditions of
243 recertification.



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244 (5) Certification from the department under this section
245 does not authorize the person to:

246 (a) Apply pesticides to turf or ornamentals, including
247 pesticide-fertilizer mixtures;

248 (b) Operate a pest control business; or

249 (c) Employ unlicensed or uncertified personnel to apply
250 pesticides or fertilizers under the supervision of the certified
251 person.

252 (6) The department may provide information on the
253 certification status of persons certified under this section to
254 other local and state government agencies. The department is
255 encouraged to create an on-line database that lists all
256 certified urban landscape fertilizer applicators.

257 (7) No later than January 1, 2014, and thereafter, an urban
258 landscape commercial fertilizer applicator must obtain a limited
259 certification under this section in order to apply fertilizer to
260 urban landscapes.

261 (8) (a) Yard workers who apply fertilizer to individual
262 residential properties using only fertilizer and equipment
263 supplied by the residential property owner or resident are
264 exempt from the requirements of this section.

265 (b) Persons who apply fertilizer to urban landscapes using
266 fertilizer or equipment other than that supplied by the
267 individual residential property owner or resident to which the
268 application is made are not exempt from the requirements of this
269 section.

270 Section 9. This act shall take effect July 1, 2009.



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

274 And the title is amended as follows:

275 Delete everything before the enacting clause
276 and insert:

277 A bill to be entitled
278 An act relating to water conservation; amending s.
279 373.62, F.S.; revising the requirements for automatic
280 landscape irrigation systems; requiring irrigation
281 contractors to test for the correct operation of
282 system devices or switches and ensure their proper
283 operation before completing other work on the system;
284 requiring the Department of Environmental Protection
285 to create a model ordinance that may be adopted by
286 local governments; providing penalties; exempting
287 counties having more stringent requirements from
288 adopting the model ordinance; providing for the
289 disposition of funds raised through penalties imposed;
290 authorizes local governments to approve smart
291 irrigation controllers; exempts users of smart
292 irrigation controllers from certain watering
293 restrictions if specified conditions are met; creating
294 s. 403.9335, F.S.; creating the "Protection of Urban
295 and Residential Environments and Water Act;" creating
296 s. 403.9336, F.S.; providing legislative findings;
297 creating s. 403.9337, F.S.; defining terms; creating
298 s. 403.9338, F.S.; encouraging local governments to
299 adopt and enforce the Department of Environmental
300 Protection's Model Ordinance for Florida-Friendly
301 Fertilizer Use on Urban Landscapes as a mechanism for



302 better protecting local surface and ground water
303 quality; authorizing local government to adopt
304 additional or more stringent standards to the model
305 ordinance under specified circumstances; providing
306 that the act does not apply to farming operations;
307 creating s. 403.9339, F.S.; authorizing the Department
308 of Environmental Protection to issue a certificate of
309 training demonstrating that a person has completed the
310 training course on best practices for fertilizer
311 applications; amending s. 482.021, F.S.; defining
312 terms; creating s. 482.1562; F.S.; requiring the
313 Department of Agriculture and Consumer Services to
314 establish a limited certification category for urban
315 landscape commercial fertilizer application; providing
316 for an application for the certificate; providing
317 application fees; providing procedures to renew the
318 certificate; providing that the certification does not
319 authorize the certificate holder to undertake certain
320 activities; requiring urban landscape commercial
321 fertilizer applicators to hold a limited certification
322 by a specified date; providing exemptions for certain
323 fertilizer applicators; providing an effective date.