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1                   A bill to be entitled  
2     An act relating to water conservation; amending s.  
3     373.62, F.S.; revising the requirements for automatic  
4     landscape irrigation systems; requiring irrigation  
5     contractors to test for the correct operation of  
6     system devices or switches and ensure their proper  
7     operation before completing other work on the system;  
8     requiring the Department of Environmental Protection  
9     to create a model ordinance that may be adopted by  
10    local governments; providing penalties; providing for  
11    the disposition of funds raised through penalties  
12    imposed; authorizing local governments to approve  
13    smart irrigation controllers; providing legislative  
14    findings relating to the adoption of soil moisture  
15    sensor control irrigation systems; defining terms;  
16    providing a statewide process and conditions for  
17    obtaining a variance from water management district  
18    restrictions on water use; creating s. 403.9335, F.S.;  
19    providing a short title; creating s. 403.9336, F.S.;  
20    providing legislative findings; creating s. 403.9337,  
21    F.S.; encouraging county and municipal governments to  
22    adopt and enforce the Model Ordinance for Florida-  
23    Friendly Fertilizer Use on Urban Landscapes or an  
24    equivalent requirement as a mechanism for protecting  
25    local surface water and groundwater quality; requiring  
26    a county government or municipal government located  
27    within the watershed of a water body or water segment  
28    that is listed by the Department of Environmental  
29    Protection as impaired to adopt the model ordinance;

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30 providing that additional or more stringent provisions  
31 may be adopted under certain circumstances; providing  
32 a timeframe for adopting the model ordinance;  
33 providing exceptions; creating s. 403.9338, F.S.;  
34 requiring the department to establish and approve  
35 training and testing programs providing urban  
36 landscape best-management practices; providing that  
37 such training authorizes a person to apply for a  
38 limited certification for urban landscape commercial  
39 fertilizer application issued by the Department of  
40 Agriculture and Consumer Services; providing that a  
41 person having such certification is not subject to  
42 additional local testing; amending s. 482.021, F.S.;  
43 defining the terms "commercial fertilizer application"  
44 and "urban landscape"; creating s. 482.1562, F.S.;  
45 providing for limited certification for urban  
46 landscape commercial fertilizer application provided  
47 by the Department of Agriculture and Consumer  
48 Services; requiring such certification in order to  
49 commercially apply fertilizer, beginning on a certain  
50 date; providing requirements and fees; providing for  
51 expiration and renewal; authorizing the department to  
52 provide information concerning persons who are  
53 certified; providing for exceptions to the  
54 requirements of certification; authorizing the  
55 department to adopt rules; providing an effective  
56 date.

57  
58 Be It Enacted by the Legislature of the State of Florida:

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59  
60 Section 1. Section 373.62, Florida Statutes, is amended to  
61 read:

62 373.62 Water conservation; automatic sprinkler systems.—

63 (1) Any person who purchases and installs an automatic  
64 landscape irrigation system must properly ~~lawn sprinkler system~~  
65 after May 1, 1991, shall install, and must maintain, and operate  
66 technology, a rain sensor device or switch that inhibits or  
67 interrupts operation of will override the irrigation cycle of  
68 the sprinkler system during periods of sufficient moisture when  
69 adequate rainfall has occurred.

70 (2) A licensed contractor who installs or performs work on  
71 an automatic landscape irrigation system must test for the  
72 correct operation of each inhibiting or interrupting device or  
73 switch on that system. If such devices or switches are not  
74 installed in the system or are not in proper operating  
75 condition, the contractor must install new ones or repair the  
76 existing ones and confirm that each device or switch is in  
77 proper operating condition before completing other work on the  
78 system.

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

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

85 (b) Provide penalties for licensed contractors who do not  
86 comply with this section. The minimum penalty must be \$50 for a  
87 first offense, \$100 for a second offense, and \$250 for a third

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88 or subsequent offense.

89

90 Regular maintenance and replacement of worn or broken technology  
91 which interrupts or inhibits the operation of an automatic  
92 landscape irrigation system is not a violation of this section  
93 if such repairs are conducted within a reasonable time.

94 (4) Local governments may adopt the model ordinance by  
95 October 1, 2010. Local governments that impose requirements that  
96 are more stringent than the model ordinance are exempt from  
97 adopting the ordinance.

98 (5) Funds generated by penalties imposed under the  
99 ordinance shall be used by the local government for the  
100 administration and enforcement of this section and to further  
101 water-conservation activities.

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

105 (7) (a) The Legislature recognizes that lawn and landscape  
106 irrigation systems use a substantial amount of the state's  
107 potable water. The Legislature finds that smart irrigation  
108 systems that use soil moisture sensors with remote monitoring  
109 and adjustment capabilities, if properly installed and  
110 monitored, provide more efficient irrigation and save  
111 substantially more water than conventional time-controlled  
112 irrigation systems. This is because smart irrigation systems  
113 apply water to lawns and plants only as necessary to maintain  
114 required soil moisture, thus minimizing the overwatering or  
115 unnecessary watering that occurs with conventional irrigation  
116 systems. However, in order for this technology to optimize the

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117 efficient application of water it cannot be subject to day or  
118 days-of-the-week watering restrictions. The Legislature,  
119 therefore, recognizes that enacting a statewide process to  
120 provide an exemption from local water restriction ordinances  
121 will accelerate the adoption of this water saving technology.  
122 Further, a uniform exemption process will streamline variance  
123 procedures and minimize delay in implementing such technology.  
124 The longer it takes to approve soil moisture sensor control  
125 systems, the more potable water is wasted. A uniform variance  
126 process will allow state residents to maintain their property  
127 and protect water resources while enjoying their landscapes.

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

129 1. "Monitoring entity" means a local government, community  
130 development district created pursuant to chapter 190, a  
131 homeowners' association created pursuant to chapter 720, a  
132 condominium association created pursuant to chapter 718, a  
133 cooperative created pursuant to chapter 719, or a public or  
134 private utility.

135 2. "Soil moisture sensor" means a soil-based device that  
136 assesses the available plant soil moisture in order to minimize  
137 the unnecessary use of water and optimize the effectiveness of  
138 an irrigation system.

139 3. "Soil moisture sensor control system" is the collective  
140 term for an entire soil moisture sensor system that has remote  
141 monitoring and adjustment capability.

142 (c) A variance from day or days-of-the-week watering  
143 restrictions, which shall include the maximum soil set point for  
144 different soil types within the monitoring entity's  
145 jurisdiction, shall be granted by the applicable water

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146 management district for any residential, commercial, or  
147 recreational user within a monitoring entity's jurisdiction  
148 having a soil moisture sensor control system if the monitoring  
149 entity certifies that:

150 1. Each soil moisture sensor control system installed  
151 within its jurisdiction will have multiple soil sensors that  
152 conform to different soil types and slopes in order to optimize  
153 water use for each user, adjust irrigation schedules based on  
154 soil moisture requirements, and be installed by a licensed  
155 contractor in a manner that is consistent with the Field Guide  
156 to Soil Moisture Sensor Use in Florida by the University of  
157 Florida IFAS Extension Program for Resource Efficient  
158 Communities.

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

162 3. It will electronically post and update a list of active  
163 users of soil moisture sensor control systems within its  
164 jurisdiction on a monthly basis and provide Internet access to  
165 such listing and the monitoring database to the water management  
166 district and the local government.

167 4. It shall provide notice to a user of noncompliant  
168 activity within 48 hours after such activity and, if the user  
169 does not take corrective action within 48 hours after such  
170 notice, it will remove the posted notice required in  
171 subparagraph 5. and remove the user from the active users list  
172 required by subparagraph 3.

173 5. It shall post a notice at each parcel that has installed  
174 a compliant soil moisture sensor control system in plain view

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175 from the nearest roadway stating: "Irrigating with Smart  
176 Irrigation Controller," with the address of the parcel, and  
177 shall remove the notice if the user is no longer being monitored  
178 by the monitoring entity.

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

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

186 2. On an annual basis a professional engineer licensed  
187 under chapter 471 or a professional landscape architect licensed  
188 under chapter 481 shall perform an annual maintenance review of  
189 all soil moisture sensor control systems within the monitoring  
190 entity's jurisdiction and certify to the monitoring entity which  
191 systems are properly operating and in compliance with paragraph  
192 (c). The monitoring entity shall update its Internet listing of  
193 users of active soil moisture sensor control systems based on  
194 the certification.

195 (e) Failure by the monitoring entity to ensure continual  
196 compliance with the condition of this variance shall be cause  
197 for the appropriate water management district to revoke the  
198 variance upon proper notice to the monitoring entity.

199 (f) The variance provided in this subsection applies to day  
200 or days-of-the-week watering restrictions of the water  
201 management district as preempted by s. 373.217. All other  
202 applicable local government and water management district  
203 restrictions related to irrigation, including, but not limited

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204 to, a prohibition on irrigation and time-of-day watering  
205 requirements and water shortage or emergency orders issued  
206 pursuant to s. 373.246(2) and (7), remain applicable to the soil  
207 moisture sensor control system users within a monitoring  
208 entity's jurisdiction.

209 (g) This subsection does not require a property owner to  
210 install a soil moisture sensor control system. This subsection  
211 also does not prohibit a property owner from installing soil  
212 moisture sensors and seeking an individual variance from the  
213 applicable water management district even if such property is  
214 located within the jurisdiction of a monitoring entity that has  
215 been granted a variance pursuant to paragraph (c).

216 Section 2. Section 403.9335, Florida Statutes, is created  
217 to read:

218 403.9335 Short title.—Sections 403.9335-403.9338 may be  
219 cited as the "Protection of Urban and Residential Environments  
220 and Water Act."

221 Section 3. Section 403.9336, Florida Statutes, is created  
222 to read:

223 403.9336 Legislative findings.—The Legislature finds that  
224 the implementation of the Model Ordinance for Florida-Friendly  
225 Fertilizer Use on Urban Landscapes (2008), which was developed  
226 by the department in conjunction with the Florida Consumer  
227 Fertilizer Task Force, the Department of Agriculture and  
228 Consumer Services, and the University of Florida Institute of  
229 Food and Agricultural Sciences, will assist in protecting the  
230 quality of Florida's surface water and groundwater resources.  
231 The Legislature further finds that local conditions, including  
232 variations in the types and quality of water bodies, site-



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233 specific soils and geology, and urban or rural densities and  
234 characteristics, may necessitate the implementation of  
235 additional or more stringent fertilizer-management practices at  
236 the local government level.

237 Section 4. Section 403.9337, Florida Statutes, is created  
238 to read:

239 403.9337 Model Ordinance for Florida-Friendly Fertilizer  
240 Use on Urban Landscapes.—

241 (1) All county and municipal governments are encouraged to  
242 adopt and enforce the Model Ordinance for Florida-Friendly  
243 Fertilizer Use on Urban Landscapes or an equivalent requirement  
244 as a mechanism for protecting local surface and groundwater  
245 quality.

246 (2) Each county and municipal government located within the  
247 watershed of a water body or water segment that is listed as  
248 impaired by nutrients pursuant to s. 403.067, shall, at a  
249 minimum, adopt the department's Model Ordinance for Florida-  
250 Friendly Fertilizer Use on Urban Landscapes. A local government  
251 may adopt additional or more stringent standards than the model  
252 ordinance if the following criteria are met:

253 (a) The local government has demonstrated, as part of a  
254 comprehensive program to address nonpoint sources of nutrient  
255 pollution which is science-based, and economically and  
256 technically feasible, that additional or more stringent  
257 standards than the model ordinance are necessary in order to  
258 adequately address urban fertilizer contributions to nonpoint  
259 source nutrient loading to a water body.

260 (b) The local government documents that it has considered  
261 all relevant scientific information, including input from the

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262 department, the institute, the Department of Agriculture and  
263 Consumer Services, and the University of Florida Institute of  
264 Food and Agricultural Sciences, if provided, on the need for  
265 additional or more stringent provisions to address fertilizer  
266 use as a contributor to water quality degradation. All  
267 documentation must become part of the public record before  
268 adoption of the additional or more stringent criteria.

269 (3) Any county or municipal government that adopted its own  
270 fertilizer-use ordinance before January 1, 2009, is exempt from  
271 this section. Ordinances adopted or amended on or after January  
272 1, 2009, must substantively conform to the most recent version  
273 of the model fertilizer ordinance and are subject to subsections  
274 (1) and (2), as applicable.

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

278 Section 5. Section 403.9338, Florida Statutes, is created  
279 to read:

280 403.9338 Training.—

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

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

286 (b) Approve training and testing programs that are  
287 equivalent to or more comprehensive than the training provided  
288 by the department under paragraph (a). Such programs must be  
289 reviewed and reapproved by the department if significant changes  
290 are made. Currently approved programs must be reapproved by July

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291 1, 2010.

292 (2) After receiving a certificate demonstrating successful  
293 completion of a department or department-approved training  
294 program under this section, a person may apply to the Department  
295 of Agriculture and Consumer Services to receive a limited  
296 certification for urban landscape commercial fertilizer  
297 application under s. 482.1562. A person possessing such  
298 certification is not subject to additional local testing.

299 Section 6. Present subsections (6) through (27) of section  
300 482.021, Florida Statutes, are renumbered as subsections (7)  
301 through (28), respectively, present subsection (28) is  
302 renumbered as subsection (30), and new subsections (6) and (29)  
303 are added to that section, to read:

304 482.021 Definitions.—For the purposes of this chapter, and  
305 unless otherwise required by the context, the term:

306 (6) "Commercial fertilizer application" means the  
307 application of fertilizer for payment or other consideration to  
308 property not owned by the person or firm applying the fertilizer  
309 or the employer of the applicator.

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

315 Section 7. Section 482.1562, Florida Statutes, is created  
316 to read:

317 482.1562 Limited certification for urban landscape  
318 commercial fertilizer application.—

319 (1) To provide a means of documenting and ensuring

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320 compliance with best-management practices for commercial  
321 fertilizer application to urban landscapes, the department shall  
322 establish a limited certification for urban landscape commercial  
323 fertilizer application.

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

327 (3) To obtain a limited certification for urban landscape  
328 commercial fertilizer application, an applicant must submit to  
329 the department:

330 (a) A copy of the training certificate issued pursuant to  
331 s. 403.9338.

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

335 (4) A limited certification for urban landscape commercial  
336 fertilizer application issued under this section expires 4 years  
337 after the date of issuance. Before applying for recertification  
338 under subsection (5), the applicant must complete 4 classroom  
339 hours of acceptable continuing education, of which at least 2  
340 hours address fertilizer best-management practices.

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

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

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

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349       (6) A late renewal charge of \$50 per month shall be  
350 assessed 30 days after the date the application for  
351 recertification is due and must be paid in addition to the  
352 renewal fee. Unless timely recertified, a certificate  
353 automatically expires 90 days after the recertification date.  
354 Upon expiration, a certificate may be issued only upon  
355 reapplying in accordance with section (3).

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

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

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

360       (c) The application of pesticides or fertilizers by  
361 unlicensed or uncertified personnel under the supervision of the  
362 certified person.

363       (8) The department may provide information concerning the  
364 certification status of persons certified under this section to  
365 other local and state governmental agencies. The department is  
366 encouraged to create an online data base that lists all persons  
367 certified under this section.

368       (9) Yard workers who apply fertilizer only to individual  
369 residential properties using fertilizer and equipment provided  
370 by the residential property owner or resident are exempt from  
371 the requirements of this section.

372       (10) The department may adopt rules to administer this  
373 section.

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