

1 A bill to be entitled
2 An act relating to water resources; amending s. 373.185,
3 F.S.; revising the definition of Florida-friendly
4 landscaping; deleting references to "xeriscape"; requiring
5 water management districts to provide model Florida-
6 friendly landscaping ordinances to local governments;
7 revising eligibility criteria for certain water management
8 district incentive programs; requiring certain local
9 government ordinances and amendments to include certain
10 design standards and identify specified invasive exotic
11 plant species; requiring water management districts to
12 consult with additional entities for activities relating
13 to Florida-friendly landscaping practices; specifying
14 programs for the delivery of educational programs relating
15 to such practices; providing legislative findings;
16 providing that certain regulations prohibiting the
17 implementation of Florida-friendly landscaping or
18 conflicting with provisions governing the permitting of
19 consumptive uses of water are prohibited; providing
20 construction; creating s. 373.187, F.S.; requiring water
21 management districts to implement Florida-friendly
22 landscaping practices on specified properties; requiring
23 districts to develop specified programs for implementing
24 such practices; amending s. 373.228, F.S.; requiring water
25 management districts to consider certain information in
26 evaluating water use applications from public water
27 suppliers; conforming provisions to changes made by the
28 act; amending s. 373.323, F.S.; revising application

29 requirements for water well contractor licensure;
 30 requiring applicants to provide specified documentation;
 31 amending s. 373.333, F.S.; authorizing an administrative
 32 fine to be imposed for each occurrence of unlicensed well
 33 water contracting; amending ss. 125.568, 166.048, 255.259,
 34 335.167, 380.061, 388.291, 481.303, and 720.3075, F.S.;
 35 conforming provisions to changes made by the act; revising
 36 provisions requiring the use of Florida-friendly
 37 landscaping for specified public properties and highway
 38 construction and maintenance projects; providing an
 39 effective date.

40

41 Be It Enacted by the Legislature of the State of Florida:

42

43 Section 1. Section 373.185, Florida Statutes, is amended
 44 to read:

45 373.185 Local Florida-friendly landscaping ~~Xeriscape~~
 46 ordinances.--

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

48 (a) "Local government" means any county or municipality of
 49 the state.

50 (b) ~~"Xeriscape"~~ or "Florida-friendly landscaping
 51 ~~landscape~~" means quality landscapes that conserve water, and
 52 protect the environment, and are adaptable to local conditions, and
 53 and ~~which~~ are drought tolerant. The principles of Florida-
 54 friendly landscaping ~~Xeriscape~~ include planting the right plant
 55 in the right place, efficient watering, appropriate
 56 fertilization, mulching, attraction of wildlife, responsible

57 management of yard pests, recycling yard waste, reduction of
58 stormwater runoff, and waterfront protection. The principles of
59 Florida-friendly landscaping include practices such as landscape
60 planning and design, ~~appropriate choice of plants,~~ soil
61 analysis, ~~which may include the appropriate~~ use of solid waste
62 compost, minimizing the use of efficient irrigation, ~~practical~~
63 use of turf, ~~appropriate use of mulches,~~ and proper maintenance.

64 (2) Each water management district shall design and
65 implement an incentive program to encourage all local
66 governments within its district to adopt new ordinances or amend
67 existing ordinances to require Florida-friendly Xeriscape
68 landscaping for development permitted after the effective date
69 of the new ordinance or amendment. ~~Each district shall adopt~~
70 ~~rules governing the implementation of its incentive program and~~
71 ~~governing the review and approval of local government Xeriscape~~
72 ~~ordinances or amendments which are intended to qualify a local~~
73 ~~government for the incentive program.~~ Each district shall assist
74 the local governments within its jurisdiction by providing a
75 model Florida-friendly landscaping ordinance Xeriscape code and
76 other technical assistance. Each district may develop its own
77 model or use a model contained in the "Florida-Friendly
78 Landscape Guidance Models for Ordinances, Covenants, and
79 Restrictions" manual developed by the Department of
80 Environmental Protection. A local government Florida-friendly
81 landscaping Xeriscape ordinance or amendment, in order to
82 qualify the local government for a district's incentive program,
83 must include, at a minimum:

84 (a) Landscape design, installation, and maintenance
 85 standards that result in water conservation and water quality
 86 protection or restoration. Such standards shall address the use
 87 of plant groupings, soil analysis including the promotion of the
 88 use of solid waste compost, efficient irrigation systems, and
 89 other water-conserving practices.

90 (b) Identification of prohibited invasive exotic plant
 91 species consistent with the provisions of s. 581.091.

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

95 (d) A provision specifying the maximum percentage of
 96 irrigated turf and the maximum percentage of impervious surfaces
 97 allowed in a Florida-friendly landscaped ~~xeriscaped~~ area and
 98 addressing the practical selection and installation of turf.

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

101 (f) A monitoring program for ordinance implementation and
 102 compliance.

103

104 In addition to developing and implementing an incentive program,
 105 each district ~~The districts also~~ shall work with local
 106 governments, the Department of Environmental Protection, county
 107 extension agents or offices, nursery and landscape industry
 108 groups, and other interested stakeholders to promote, through
 109 educational programs, ~~and~~ publications, and other activities of
 110 the district authorized under this chapter, the use of Florida-
 111 friendly landscaping ~~xeriscape~~ practices, including the use of

112 solid waste compost, in existing residential and commercial
 113 development. In these activities, each district shall use the
 114 materials developed by the department, the Institute of Food and
 115 Agricultural Sciences at the University of Florida, and the
 116 Center for Landscape Conservation and Ecology Florida-friendly
 117 landscaping program, including, but not limited to, the Florida
 118 Yards and Neighborhoods Program for homeowners, the Florida
 119 Yards and Neighborhoods Builder Developer Program for
 120 developers, and the Green Industries Best Management Practices
 121 Program for landscaping professionals. Each district may develop
 122 supplemental materials as appropriate to address the physical
 123 and natural characteristics of the district. The districts shall
 124 coordinate with the department and the Institute of Food and
 125 Agricultural Sciences at the University of Florida if revisions
 126 to the educational materials of the department or university are
 127 needed. This section may not be construed to limit the authority
 128 of the districts to require Xeriscape ordinances or practices as
 129 a condition of any consumptive use permit.

130 (3) (a) The Legislature finds that the use of Florida-
 131 friendly landscaping and other water use and pollution
 132 prevention measures that conserve or protect the state's water
 133 resources serves a compelling public interest and that the
 134 participation of homeowners' associations and local governments
 135 is essential to state water conservation and water quality
 136 protection and restoration efforts.

137 (b) A deed restriction, or covenant entered after October
 138 1, 2001, or local government ordinance may not prohibit or be
 139 enforced to prohibit any property owner from implementing

140 ~~Xeriscape or Florida-friendly landscaping landscape~~ on his or
 141 her land or create any requirement or limitation in conflict
 142 with any provision of part II of this chapter or a water
 143 shortage order, other order, consumptive use permit, or rule
 144 adopted or issued pursuant to part II of this chapter.

145 (4) This section may not be construed to limit the
 146 authority of the department or the districts to require Florida-
 147 friendly landscaping ordinances or practices as a condition of
 148 any permit under this chapter.

149 Section 2. Section 373.187, Florida Statutes, is created
 150 to read:

151 373.187 Water management district implementation of
 152 Florida-friendly landscaping.--Each water management district
 153 shall use Florida-friendly landscaping, as defined in s.
 154 373.185, on public property associated with buildings and
 155 facilities owned by the water management district and
 156 constructed after June 30, 2009. Each water management district
 157 shall also develop a 5-year program for phasing in the use of
 158 Florida-friendly landscaping on public property associated with
 159 buildings or facilities owned by the water management district
 160 and constructed before July 1, 2009.

161 Section 3. Section 373.228, Florida Statutes, is amended
 162 to read:

163 373.228 Landscape irrigation design.--

164 (1) The Legislature finds that multiple areas throughout
 165 the state have been identified by water management districts as
 166 water resource caution areas, which indicates that in the near
 167 future water demand in those areas will exceed the current

CS/HB 593

2009

168 available water supply and that conservation is one of the
169 mechanisms by which future water demand will be met.

170 (2) The Legislature finds that landscape irrigation
171 comprises a significant portion of water use and that the
172 current typical landscape irrigation system and Florida-friendly
173 landscaping ~~xeriscape~~ designs offer significant potential water
174 conservation benefits.

175 (3) It is the intent of the Legislature to improve
176 landscape irrigation water use efficiency by ensuring that
177 landscape irrigation systems meet or exceed minimum design
178 criteria.

179 (4) The water management districts shall work with the
180 Florida Nursery Nurserymen and Growers and Landscape
181 Association, the Florida Native Plant Society, the Florida
182 Chapter of the American Society of Landscape Architects, the
183 Florida Irrigation Society, the Department of Agriculture and
184 Consumer Services, the Institute of Food and Agricultural
185 Sciences, the Department of Environmental Protection, the
186 Department of Transportation, the Florida League of Cities, the
187 Florida Association of Counties, and the Florida Association of
188 Community Developers to develop landscape irrigation and
189 Florida-friendly landscaping ~~xeriscape~~ design standards for new
190 construction which incorporate a landscape irrigation system and
191 develop scientifically based model guidelines for urban,
192 commercial, and residential landscape irrigation, including drip
193 irrigation, for plants, trees, sod, and other landscaping. The
194 landscape and irrigation design standards shall be based on the
195 irrigation code defined in the Florida Building Code, Plumbing

196 Volume, Appendix F. Local governments shall use the standards
 197 and guidelines when developing landscape irrigation and Florida-
 198 friendly landscaping ~~eriscape~~ ordinances. By January 1, 2011,
 199 the agencies and entities specified in this subsection shall
 200 review the standards and guidelines to determine whether new
 201 research findings require a change or modification of the
 202 standards and guidelines.

203 (5) In evaluating water use applications from public water
 204 suppliers, water management districts shall consider whether the
 205 applicable local government has adopted ordinances for
 206 landscaping and irrigation systems consistent with the Florida-
 207 friendly landscaping provisions of s. 373.185.

208 Section 4. Subsection (3) of section 373.323, Florida
 209 Statutes, is amended to read:

210 373.323 Licensure of water well contractors; application,
 211 qualifications, and examinations; equipment identification.--

212 (3) An applicant who meets the following requirements
 213 shall be entitled to take the water well contractor licensure
 214 examination ~~to practice water well contracting~~:

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

216 (b) Has at least 2 years of experience in constructing,
 217 repairing, or abandoning water wells. Satisfactory proof of such
 218 experience shall be demonstrated by providing:

219 1. Evidence of the length of time the applicant has been
 220 engaged in the business of the construction, repair, or
 221 abandonment of water wells as a major activity, as attested to
 222 by a letter from each of three of the following persons:

223 a. A water well contractor.

224 b. A water well driller.
 225 c. A water well parts and equipment vendor.
 226 d. A water well inspector employed by a governmental
 227 agency.
 228 2. A list of at least 10 water wells that the applicant
 229 has constructed, repaired, or abandoned within the preceding 5
 230 years. Of these wells, at least seven must have been
 231 constructed, as defined in s. 373.303(2), by the applicant. The
 232 list shall also include:
 233 a. The name and address of the owner or owners of each
 234 well.
 235 b. The location, primary use, and approximate depth and
 236 diameter of each well the applicant has constructed, repaired,
 237 or abandoned.
 238 c. The approximate date the construction, repair, or
 239 abandonment of each well was completed.
 240 (c) Has completed the application form and remitted a
 241 nonrefundable application fee.
 242 Section 5. Subsection (8) of section 373.333, Florida
 243 Statutes, is amended to read:
 244 373.333 Disciplinary guidelines; adoption and enforcement;
 245 license suspension or revocation.--
 246 (8) The water management district may impose through an
 247 order an administrative fine not to exceed \$5,000 per occurrence
 248 against an unlicensed person if ~~when~~ it determines that the
 249 unlicensed person has engaged in the practice of water well
 250 contracting~~r~~, for which a license is required.

251 Section 6. Section 125.568, Florida Statutes, is amended
 252 to read:

253 125.568 Conservation of water; Florida-friendly
 254 landscaping ~~Xeriscape~~.--

255 (1) (a) The Legislature finds that Florida-friendly
 256 landscaping ~~Xeriscape~~ contributes to the conservation,
 257 protection, and restoration of water. In an effort to meet the
 258 water needs of this state in a manner that will supply adequate
 259 and dependable supplies of water where needed, it is the intent
 260 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~
 261 be an essential part of water conservation and water quality
 262 protection and restoration planning.

263 (b) As used in this section, "Xeriscape" or "Florida-
 264 friendly landscaping" has the same meaning as in s. 373.185
 265 ~~landscape" means quality landscapes that conserve water and~~
 266 ~~protect the environment and are adaptable to local conditions~~
 267 ~~and which are drought tolerant. The principles of Xeriscape~~
 268 ~~include planning and design, appropriate choice of plants, soil~~
 269 ~~analysis which may include the use of solid waste compost,~~
 270 ~~practical use of turf, efficient irrigation, appropriate use of~~
 271 ~~mulches, and proper maintenance.~~

272 (2) The board of county commissioners of each county shall
 273 consider enacting ordinances, consistent with the provisions of
 274 s. 373.185, requiring the use of Florida-friendly landscaping
 275 ~~Xeriscape~~ as a water conservation or water quality protection or
 276 restoration measure. If the board determines that Florida-
 277 friendly landscaping ~~Xeriscape~~ would be of significant benefit
 278 as a water conservation or water quality protection or

279 restoration measure, especially for waters designated as
 280 impaired pursuant to s. 403.067, relative to the cost to
 281 implement Florida-friendly ~~Xeriscape~~ landscaping in its area of
 282 jurisdiction, the board shall enact a Florida-friendly
 283 landscaping ~~Xeriscape~~ ordinance. Further, the board of county
 284 commissioners shall consider promoting Florida-friendly
 285 landscaping ~~Xeriscape~~ as a water conservation or water quality
 286 protection or restoration measure by: using Florida-friendly
 287 landscaping ~~Xeriscape~~ in ~~any, around, or near facilities, parks,~~
 288 ~~and other common~~ areas under its jurisdiction that ~~which~~ are
 289 landscaped after the effective date of this act; providing
 290 public education on Florida-friendly landscaping ~~Xeriscape~~, its
 291 uses in increasing ~~as a~~ water conservation and water quality
 292 protection or restoration ~~tool~~, and its long-term cost-
 293 effectiveness; and offering incentives to local residents and
 294 businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

295 (3) (a) The Legislature finds that the use of Florida-
 296 friendly landscaping and other water use and pollution
 297 prevention measures that conserve or protect the state's water
 298 resources serves a compelling public interest and that the
 299 participation of homeowners' associations and local governments
 300 is essential to state water conservation and water quality
 301 protection and restoration efforts.

302 (b) A deed restriction, ~~or~~ covenant ~~entered after October~~
 303 ~~1, 2001~~, or local government ordinance may not prohibit or be
 304 enforced to prohibit any property owner from implementing
 305 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or
 306 her land or create any requirement or limitation in conflict

307 with any provision of part II of chapter 373 or a water shortage
 308 order, other order, consumptive use permit, or rule adopted or
 309 issued pursuant to part II of chapter 373.

310 Section 7. Section 166.048, Florida Statutes, is amended
 311 to read:

312 166.048 Conservation of water; Florida-friendly
 313 landscaping ~~Xeriscape~~.--

314 (1) (a) The Legislature finds that Florida-friendly
 315 landscaping ~~Xeriscape~~ contributes to the conservation,
 316 protection, and restoration of water. In an effort to meet the
 317 water needs of this state in a manner that will supply adequate
 318 and dependable supplies of water where needed, it is the intent
 319 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~
 320 be an essential part of water conservation and water quality
 321 protection and restoration planning.

322 (b) As used in this section, "Xeriscape" or "Florida-
 323 friendly landscaping" has the same meaning as in s. 373.185
 324 ~~landscape" means quality landscapes that conserve water and~~
 325 ~~protect the environment and are adaptable to local conditions~~
 326 ~~and which are drought tolerant. The principles of Xeriscape~~
 327 ~~include planning and design, appropriate choice of plants, soil~~
 328 ~~analysis which may include the use of solid waste compost,~~
 329 ~~practical use of turf, efficient irrigation, appropriate use of~~
 330 ~~mulches, and proper maintenance.~~

331 (2) The governing body of each municipality shall consider
 332 enacting ordinances, consistent with the provisions of s.
 333 373.185, requiring the use of Florida-friendly landscaping
 334 ~~Xeriscape~~ as a water conservation or water quality protection or

335 restoration measure. If the governing body determines that
336 Florida-friendly landscaping ~~Xeriscape~~ would be of significant
337 benefit as a water conservation or water quality protection or
338 restoration measure, especially for waters designated as
339 impaired pursuant to s. 403.067, relative to the cost to
340 implement Florida-friendly ~~Xeriscape~~ landscaping in its area of
341 jurisdiction in the municipality, the governing body ~~board~~ shall
342 enact a Florida-friendly landscaping ~~Xeriscape~~ ordinance.
343 Further, the governing body shall consider promoting Florida-
344 friendly landscaping ~~Xeriscape~~ as a water conservation or water
345 quality protection or restoration measure by: using Florida-
346 friendly landscaping ~~Xeriscape~~ in any, ~~around, or near~~
347 ~~facilities, parks, and other common~~ areas under its jurisdiction
348 that ~~which~~ are landscaped after the effective date of this act;
349 providing public education on Florida-friendly landscaping
350 ~~Xeriscape~~, its uses in increasing ~~as a~~ water conservation and
351 water quality protection or restoration ~~tool~~, and its long-term
352 cost-effectiveness; and offering incentives to local residents
353 and businesses to implement Florida-friendly ~~Xeriscape~~
354 landscaping.

355 (3) (a) The Legislature finds that the use of Florida-
356 friendly landscaping and other water use and pollution
357 prevention measures that conserve or protect the state's water
358 resources serves a compelling public interest and that the
359 participation of homeowners' associations and local governments
360 is essential to state water conservation and water quality
361 protection and restoration efforts.

362 **(b)** A deed restriction, ~~or~~ covenant ~~entered after October~~
 363 ~~1, 2001~~, or local government ordinance may not prohibit or be
 364 enforced to prohibit any property owner from implementing
 365 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or
 366 her land or create any requirement or limitation in conflict
 367 with any provision of part II of chapter 373 or a water shortage
 368 order, other order, consumptive use permit, or rule adopted or
 369 issued pursuant to part II of chapter 373.

370 Section 8. Section 255.259, Florida Statutes, is amended
 371 to read:

372 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public
 373 property.--

374 (1) The Legislature finds that water conservation and
 375 water quality protection and restoration are ~~is~~ increasingly
 376 critical to the continuance of an adequate water supply and
 377 healthy surface and ground waters ~~for the citizens of this~~
 378 ~~state~~. The Legislature further finds that "Florida-friendly
 379 landscaping ~~Xeriscape~~," as defined in s. 373.185, can contribute
 380 significantly to water ~~the~~ conservation and ~~of~~ water quality
 381 protection and restoration. Finally, the Legislature finds that
 382 state government has the responsibility to promote Florida-
 383 friendly landscaping ~~Xeriscape~~ as a water conservation and water
 384 quality protection and restoration measure by using Florida-
 385 friendly landscaping ~~Xeriscape~~ on public property associated
 386 with publicly owned buildings or facilities.

387 (2) As used in this section, "publicly owned buildings or
 388 facilities" means those construction projects under the purview
 389 of the Department of Management Services. It does not include

390 environmentally endangered land or roads and highway
 391 construction under the purview of the Department of
 392 Transportation.

393 (3) The Department of Management Services, in consultation
 394 with the Department of Environmental Protection, shall adopt
 395 rules and guidelines for the required use of Florida-friendly
 396 landscaping ~~Xeriscape~~ on public property associated with
 397 publicly owned buildings or facilities constructed after June
 398 30, 2009 ~~1992~~. The Department of Management Services also shall
 399 develop a 5-year program for phasing in the use of Florida-
 400 friendly landscaping ~~Xeriscape~~ on public property associated
 401 with publicly owned buildings or facilities constructed before
 402 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department
 403 of Management Services shall take into account the provisions of
 404 guidelines set out in s. 373.185(2)(a)-(f). The Department of
 405 Transportation shall implement Florida-friendly ~~Xeriscape~~
 406 landscaping pursuant to s. 335.167.

407 (4) (a) The Legislature finds that the use of Florida-
 408 friendly landscaping and other water use and pollution
 409 prevention measures that conserve or protect the state's water
 410 resources serves a compelling public interest and that the
 411 participation of homeowners' associations and local governments
 412 is essential to state water conservation and water quality
 413 protection and restoration efforts.

414 (b) A deed restriction, ~~or~~ covenant entered after October
 415 1, 2001, or local government ordinance may not prohibit or be
 416 enforced to prohibit any property owner from implementing
 417 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or

CS/HB 593

2009

418 her land or create any requirement or limitation in conflict
419 with any provision of part II of chapter 373 or a water shortage
420 order, other order, consumptive use permit, or rule adopted or
421 issued pursuant to part II of chapter 373.

422 Section 9. Section 335.167, Florida Statutes, is amended
423 to read:

424 335.167 State highway construction and maintenance;
425 ~~Xeriscape or Florida-friendly landscaping.--~~

426 (1) The department shall use and require the use of
427 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in
428 s. 373.185(1), in the construction and maintenance of all new
429 state highways, wayside parks, access roads, welcome stations,
430 and other state highway rights-of-way constructed upon or
431 acquired after June 30, 2009 ~~1992~~. The department shall develop
432 a 5-year program for phasing in the use of Florida-friendly
433 landscaping ~~Xeriscape~~, including the use of solid waste compost,
434 in state highway rights-of-way constructed upon or acquired
435 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the
436 department shall employ the guidelines set out in s.
437 373.185(2) (a) ~~—(f)~~.

438 (2) (a) The Legislature finds that the use of Florida-
439 friendly landscaping and other water use and pollution
440 prevention measures that conserve or protect the state's water
441 resources serves a compelling public interest and that the
442 participation of homeowners' associations and local governments
443 is essential to state water conservation and water quality
444 protection and restoration efforts.

445 **(b)** A deed restriction, ~~or covenant entered after October~~
 446 ~~1, 2001,~~ or local government ordinance may not prohibit or be
 447 enforced to prohibit any property owner from implementing
 448 ~~Xeriscape or Florida-friendly landscaping landscape~~ on his or
 449 her land or create any requirement or limitation in conflict
 450 with any provision of part II of chapter 373 or a water shortage
 451 order, other order, consumptive use permit, or rule adopted or
 452 issued pursuant to part II of chapter 373.

453 Section 10. Paragraph (a) of subsection (3) of section
 454 380.061, Florida Statutes, is amended to read:

455 380.061 The Florida Quality Developments program.--

456 (3) (a) To be eligible for designation under this program,
 457 the developer shall comply with each of the following
 458 requirements which is applicable to the site of a qualified
 459 development:

460 1. Have donated or entered into a binding commitment to
 461 donate the fee or a lesser interest sufficient to protect, in
 462 perpetuity, the natural attributes of the types of land listed
 463 below. In lieu of the above requirement, the developer may enter
 464 into a binding commitment which runs with the land to set aside
 465 such areas on the property, in perpetuity, as open space to be
 466 retained in a natural condition or as otherwise permitted under
 467 this subparagraph. Under the requirements of this subparagraph,
 468 the developer may reserve the right to use such areas for the
 469 purpose of passive recreation that is consistent with the
 470 purposes for which the land was preserved.

471 a. Those wetlands and water bodies throughout the state as
 472 would be delineated if the provisions of s. 373.4145(1)(b) were

473 applied. The developer may use such areas for the purpose of
474 site access, provided other routes of access are unavailable or
475 impracticable; may use such areas for the purpose of stormwater
476 or domestic sewage management and other necessary utilities to
477 the extent that such uses are permitted pursuant to chapter 403;
478 or may redesign or alter wetlands and water bodies within the
479 jurisdiction of the Department of Environmental Protection which
480 have been artificially created, if the redesign or alteration is
481 done so as to produce a more naturally functioning system.

482 b. Active beach or primary and, where appropriate,
483 secondary dunes, to maintain the integrity of the dune system
484 and adequate public accessways to the beach. However, the
485 developer may retain the right to construct and maintain
486 elevated walkways over the dunes to provide access to the beach.

487 c. Known archaeological sites determined to be of
488 significance by the Division of Historical Resources of the
489 Department of State.

490 d. Areas known to be important to animal species
491 designated as endangered or threatened animal species by the
492 United States Fish and Wildlife Service or by the Fish and
493 Wildlife Conservation Commission, for reproduction, feeding, or
494 nesting; for traveling between such areas used for reproduction,
495 feeding, or nesting; or for escape from predation.

496 e. Areas known to contain plant species designated as
497 endangered plant species by the Department of Agriculture and
498 Consumer Services.

499 2. Produce, or dispose of, no substances designated as
500 hazardous or toxic substances by the United States Environmental

501 Protection Agency or by the Department of Environmental
502 Protection or the Department of Agriculture and Consumer
503 Services. This subparagraph is not intended to apply to the
504 production of these substances in nonsignificant amounts as
505 would occur through household use or incidental use by
506 businesses.

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

509 4. Incorporate no dredge and fill activities in, and no
510 stormwater discharge into, waters designated as Class II,
511 aquatic preserves, or Outstanding Florida Waters, except as
512 activities in those waters are permitted pursuant to s.
513 403.813(2) and the developer demonstrates that those activities
514 meet the standards under Class II waters, Outstanding Florida
515 Waters, or aquatic preserves, as applicable.

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

520 6. Provide for construction and maintenance of all onsite
521 infrastructure necessary to support the project and enter into a
522 binding commitment with local government to provide an
523 appropriate fair-share contribution toward the offsite impacts
524 which the development will impose on publicly funded facilities
525 and services, except offsite transportation, and condition or
526 phase the commencement of development to ensure that public
527 facilities and services, except offsite transportation, will be
528 available concurrent with the impacts of the development. For

529 | the purposes of offsite transportation impacts, the developer
 530 | shall comply, at a minimum, with the standards of the state land
 531 | planning agency's development-of-regional-impact transportation
 532 | rule, the approved strategic regional policy plan, any
 533 | applicable regional planning council transportation rule, and
 534 | the approved local government comprehensive plan and land
 535 | development regulations adopted pursuant to part II of chapter
 536 | 163.

537 | 7. Design and construct the development in a manner that
 538 | is consistent with the adopted state plan, the applicable
 539 | strategic regional policy plan, and the applicable adopted local
 540 | government comprehensive plan.

541 | Section 11. Subsection (3) of section 388.291, Florida
 542 | Statutes, is amended to read:

543 | 388.291 Source reduction measures; supervision by
 544 | department.--

545 | (3) Property owners in a developed residential area are
 546 | required to maintain their property in such a manner so as not
 547 | to create or maintain any standing freshwater condition capable
 548 | of breeding mosquitoes or other arthropods in significant
 549 | numbers so as to constitute a public health, welfare, or
 550 | nuisance problem. Nothing in this subsection shall permit the
 551 | alteration of permitted stormwater management systems or
 552 | prohibit maintained fish ponds, Florida-friendly landscaping
 553 | ~~xeriscaping~~, or other maintained systems of landscaping or
 554 | vegetation. If such a condition is found to exist, the local
 555 | arthropod control agency shall serve notice on the property
 556 | owner to treat, remove, or abate the condition. Such notice

CS/HB 593

2009

557 shall serve as prima facie evidence of maintaining a nuisance,
 558 and upon failure of the property owner to treat, remove, or
 559 abate the condition, the local arthropod control agency or any
 560 affected citizen may proceed pursuant to s. 60.05 to enjoin the
 561 nuisance and may recover costs and attorney's fees if they
 562 prevail in the action.

563 Section 12. Paragraph (a) of subsection (6) of section
 564 481.303, Florida Statutes, is amended to read:

565 481.303 Definitions.--As used in this chapter:

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

568 (a) Consultation, investigation, research, planning,
 569 design, preparation of drawings, specifications, contract
 570 documents and reports, responsible construction supervision, or
 571 landscape management in connection with the planning and
 572 development of land and incidental water areas, including the
 573 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.
 574 373.185, where, and to the extent that, the dominant purpose of
 575 such services or creative works is the preservation,
 576 conservation, enhancement, or determination of proper land uses,
 577 natural land features, ground cover and plantings, or
 578 naturalistic and aesthetic values;

579 Section 13. Subsection (4) of section 720.3075, Florida
 580 Statutes, is amended to read:

581 720.3075 Prohibited clauses in association documents.--

582 (4) (a) The Legislature finds that the use of Florida-
 583 friendly landscaping and other water use and pollution
 584 prevention measures that conserve or protect the state's water

CS/HB 593

2009

585 resources serves a compelling public interest and that the
586 participation of homeowners' associations and local governments
587 is essential to state water conservation and water quality
588 protection and restoration efforts.

589 (b) Homeowners' association documents, including
590 declarations of covenants, articles of incorporation, or bylaws,
591 entered after October 1, 2001, may not prohibit or be enforced
592 to prohibit any property owner from implementing ~~Xeriscape or~~
593 Florida-friendly landscaping landscape, as defined in s.
594 373.185(1), on his or her land or create any requirement or
595 limitation in conflict with any provision of part II of chapter
596 373 or a water shortage order, other order, consumptive use
597 permit, or rule adopted or issued pursuant to part II of chapter
598 373.

599 Section 14. This act shall take effect July 1, 2009.