

**STORAGE NAME:** h1165.lgva.doc

**DATE:** April 11, 2001

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
ANALYSIS**

**BILL #:** HB 1165

**RELATING TO:** Xeriscape/Rain Sensor Devices

**SPONSOR(S):** Representative Romeo and others

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION (RIC) YEAS 10 NAYS 0
  - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
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**I. SUMMARY:**

This bill updates and expands the definition of the term, Xeriscape.

The bill prohibits deed restrictions, covenants, and local government ordinances that interfere with the implementation of Xeriscape on an owner's property.

This bill requires rain sensor devices or switches installed on automatic lawn sprinkler systems to be additionally maintained and operated, to interrupt the irrigation cycle, when appropriate.

This bill contains an insignificant fiscal impact.

**On April 4, 2001, the House Committee on Natural Resources & Environmental Protection unanimously adopted a strike-everything amendment to HB 1165. The amendment, which is traveling with the bill, is explained in this bill analysis. (See section V. "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:")**

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Xeriscape is a landscaping method that maximizes the conservation of water by the use of certain and an efficient watering system. Xeriscaping incorporates planning and design, appropriate choice of plants, soil improvement, efficient irrigation, appropriate use of mulches, and property maintenance. The Florida Legislature enacted Xeriscape provisions in 1991.

The 1991 Legislature directed municipalities and counties to consider enacting ordinances requiring the use of xeriscape as a water conservation measure, by October 1, 1992. (s. 125.568 and s. 166.048, F.S.)

The 1991 Legislature additionally directed water management districts to develop incentive programs, to encourage local governments to adopt Xeriscape ordinances, and to work with local governments to promote Xeriscape practices, through the use of educational programs and publications. To qualify for a district's incentive program, specific statutory guidelines for Xeriscape ordinances, require, at a minimum:

- Landscape design, installation, and maintenance standards that incorporate water conservation;
- Identification of invasive plant and controlled plant species;
- Maximum percentage of turf and impervious surfaces allowed in a Xeriscaped area; and,
- Land clearing provisions that address the protection of existing native vegetation. (s. 373.185, F.S.)

State agencies, such as the Department of Management Services and the Department of Transportation, are required to employ Xeriscape practices in the construction and maintenance of publicly owned buildings or facilities, (s. 255.529, F.S.), and for new highways, wayside parks, access roads, welcome stations, and other state highway rights-of-way, constructed or acquired after June 30, 1992. (s. 335.167, F.S.)

After May 1, 1991, anyone who installs an automatic lawn sprinkler system is required to install a rain sensor device or switch, that interrupts the cycle of the sprinkler system when sufficient rainfall occurs.

Developers, homeowner associations, and other such entities have developed deed restrictions and covenants for some subdivisions that impose strict requirements on property owners relating to the

manner and style of landscaping. The use of Xeriscape in these areas may not comply with the deed restrictions and covenants.

**C. EFFECT OF PROPOSED CHANGES:**

This bill updates the definition of Xeriscape.

This bill additionally requires that rain sensors be maintained and operated. It is unclear what enforcement, if any, exists for violations of this provision.

This bill invalidates deed restrictions, covenants, or local government ordinances that preclude a property owner from initiating Xeriscape on the owner's property.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends s. 125.68, F.S., relating to county government, to provide that "Florida friendly landscape" and "Xeriscape" means quality landscapes that conserve water, protect the environment, and are adaptable to local conditions and drought. Provides that deed restrictions, covenants, or local government ordinances, may not prohibit a property owner from implementing Xeriscape on his or her property.

**Section 2.** Amends s. 166.048, F.S., relating to municipalities, to provide that "Florida friendly landscape" and "Xeriscape" mean quality landscapes that conserve water, protect the environment, and are adaptable to local conditions and drought. Provides that deed restrictions, covenants, or local government ordinances, may not prohibit a property owner from implementing Xeriscape on his or her property.

**Section 3.** Amends s. 255.259, F.S., relating to public property and publicly owned buildings, to provide that "Florida friendly landscape" and "Xeriscape" mean quality landscapes that conserve water, protect the environment, and are adaptable to local conditions and drought. Provides that deed restrictions, covenants, or local government ordinances may not prohibit a property owner from implementing Xeriscape on his or her property.

**Section 4.** Amends s. 335.167, F.S., relating to state highway construction and maintenance, to provide that the Department of Transportation will use Xeriscape or "Florida friendly landscape" in the construction and maintenance of all new state highways, and other facilities, constructed or acquired after June 30, 1992.

**Section 5.** Amends s. 373.62, F.S., to provide that rain sensor devices on automatic sprinkler systems purchased and installed after May 1, 1991, must be maintained and operated to override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.

**Section 6.** Amends s. 373.185, F.S., relating to local Xeriscape ordinances, to provide that "Florida friendly landscape" and Xeriscape mean quality landscapes that conserve water, protect the environment and are adaptable to local conditions and drought. Provides that deed restrictions, covenants, or local government ordinances may not prohibit a property owner from implementing Xeriscape on his or her property.

**Section 7.** Provides that this act takes effect October 1, 2001.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no fiscal impact on state revenues.

2. Expenditures:

This bill should have a minimal fiscal impact on state government due to the cost of maintaining and operating rain sensor devices on automatic sprinkler systems. Also, landscaping that conserves water and is drought tolerant may be more expensive, in the short-term.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no fiscal impact on local government revenues.

2. Expenditures:

This bill should have a minimal fiscal impact on local governments due to the cost of maintaining and operating rain sensor devices on automatic sprinkler systems. Also, landscaping that conserves water and is drought tolerant may be more expensive, in the short-term.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector may experience a slight economic impact, due to provisions requiring the maintenance and operation of rain sensor devices on automatic sprinkler systems, and the use of landscaping that conserves water and is drought tolerant.

D. FISCAL COMMENTS:

None.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax revenues shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 4, 2001, the House Committee on Natural Resources & Environmental Protection unanimously adopted a strike-everything amendment offered by the bill sponsor. The amendment provides that deed restrictions and covenants, including homeowners' association documents, entered into after October 1, 2001, may not prohibit property owners from implementing Xeriscape or Florida friendly landscaping on their property, or from constructing on the same property an irrigation well permitted or exempted by the water management district. The amendment is silent regarding deed restrictions, and covenants, including homeowners' association documents, entered into pre-October 1, 2001.

The amendment is traveling with the bill and conforms the House bill to CS/CS/SB 126, 1<sup>st</sup> Engrossed.

VI. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

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Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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