

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 126

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee; Natural Resources Committee and Senator Brown-Waite and others.

SUBJECT: Xeriscape

DATE: March 13, 2001 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The definition of “Xeriscape” is redefined to include “Florida friendly landscape.” Deed restrictions or covenants entered after October 1, 2001, or local government ordinances may not prohibit any property owner from implementing Xeriscape on his or her land. Rain sensor devices or switches installed on automatic law sprinkler system must be maintained and operated.

This bill amends ss. 125.568, 166.048, 255.259, 335.167, 373.62, 373.185, and 720.3075, F.S.

II. Present Situation:

The prolonged drought conditions in Florida have greatly stressed Florida’s water resources. Landscapers and homeowners striving to maintain landscapes and lawns while conserving water are increasingly turning to the concept of Xeriscaping. The word “Xeriscape” comes from the Greek word “xeros” meaning “dry” and the word “landscaping.” The concept of Xeriscaping originated in the early 1980s in the southwestern U.S. Xeriscaping is essentially water conservation through creative landscaping and incorporates seven principles:

1. Appropriate planting and design;
2. Use of soil amendments;
3. Efficient irrigation;
4. Practical turf areas;
5. Use of drought-tolerant plants;
6. Mulches; and
7. Appropriate maintenance.

As defined in ss. 125.568, 166.048, and 373.185, F.S., “Xeriscape” means a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

Section 125.568, F.S., provided that by October 1, 1992, the board of county commissioners of each county shall consider enacting ordinances requiring the use of Xeriscape as a water conservation measure. Similarly, s. 166.048, F.S., required the governing body of each municipality to consider enacting such ordinances. In addition, the board of county commissioners of each county and the governing body of each municipality was to consider promoting Xeriscape by using Xeriscape in and around parks and facilities that are landscaped.

Section 335.167, F.S., requires the Department of Transportation to use Xeriscape practices in the construction and maintenance of all new state highways, wayside parks, access roads, welcome stations, and other state highway rights-of-way constructed upon or acquired after June 30, 1992.

Section 373.185, F.S., requires each water management district to design and implement an incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require Xeriscape landscaping for development permitted after the effective date of the new ordinance or amendment. In order to qualify for the district’s incentive program, any new ordinance or amendment must include certain specified provisions.

In some subdivisions, developers, homeowner associations and other such entities have developed deed restrictions and covenants that impose strict requirements on property owners relating to the manner and style of landscaping and other aesthetic features for the subdivision. In these situations, the use of water conserving landscaping measures (Xeriscaping) may not meet the strict requirements of some subdivisions and opportunities for conserving water supplies is not maximized.

Section 720.3075, F.S., describes provisions or clauses that a homeowners’ association is prohibited from including in declaration of covenants, articles of incorporation and by laws. For example, s. 720.3075(3), F.S., prohibits declarations of covenants, articles of incorporation, or bylaws that preclude the display of the United States Flag.

III. Effect of Proposed Changes:

This bill amends the definition of “Xeriscape” as it is defined in ss. 125.568, 166.048, and 373.185, F.S., to provide that “Xeriscape” or “Florida friendly landscape” means quality landscapes that conserve water, protect the environment, are adaptable to local conditions and are drought tolerant.

Sections 125.568, 166.048, 255.259, 335.167, and 373.185, F.S., are amended to provide that a deed restriction or covenant enacted after October 1, 2001, or local government ordinance may not prohibit any property owner from implementing Xeriscape on his or her land.

Section 373.62, F.S., currently requires any person who purchases and installs an automatic lawn sprinkler system after May 1, 1991, to install a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred. This bill further requires that the rain sensor device must be maintained and operated.

Section 720.3075, F.S., is amended to prohibit homeowners' association documents, declarations of covenants, articles of incorporation or bylaws, that are entered after October 1, 2001, from prohibiting the use of Xeriscape or Florida friendly landscape on a property owners land.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Since Xeriscaping employs the concept of natural or ecological landscaping, which is a change from the traditional concept of what a landscape should look like, some communities may be reluctant to accept its use. This may be true particularly for some planned or gated communities that have a preconceived idea of what the development should look like. This bill would prohibit such communities from having a deed restriction or covenant entered after October 1, 2001, or local ordinance, which would prevent the property owner from implementing Xericaping on his or her property.

C. Government Sector Impact:

Local governments may not enact any ordinance that would prevent any property owner from using Xeriscape on his or her property.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
