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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.

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

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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 system must properly ~~lawn sprinkler system~~ after May 1, 1991, shall install, and must maintain, and operate technology, a rain sensor device or switch that inhibits or interrupts operation of will override the irrigation cycle of the sprinkler system during periods of sufficient moisture when adequate rainfall has occurred.

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

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

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

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

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88 or subsequent offense.

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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.