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**SUBSTITUTE HOUSE BILL 1172**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Orwall, Blake, Fitzgibbon, Pollet, and Doglio)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to encouraging low-water landscaping practices as  
2 a drought alleviation tool; adding a new section to chapter 64.38  
3 RCW; adding a new section to chapter 64.34 RCW; adding a new section  
4 to chapter 39.35D RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Water is a finite resource whose importance is heightened  
8 during the periodic drought conditions that the state experiences;

9 (b) The maintenance of lawns of green grass during the summer  
10 months for aesthetic purposes can be responsible for a noteworthy  
11 portion of summer water use by households;

12 (c)(i) In the event of a drought, state law already grants  
13 extraordinary powers to the department of ecology to manage water  
14 resources and provides for other policy responses to encourage  
15 efficient use of the state's limited water supplies;

16 (ii) However, in certain instances, property association rules  
17 are at odds with the public goal of making efficient use of limited  
18 water supplies: These association rules can prohibit private property  
19 owners from deciding to use low-water plants or landscaping practices  
20 in place of grass lawns. Similar laws also sometimes prohibit private

1 property owners from allowing their grass to go dormant and brown  
2 during droughts; and

3 (d) The use of drought resistant landscaping is often accompanied  
4 by other environmental benefits, such as less frequent pesticide  
5 applications and less lawn fertilizer in storm water runoff.

6 (2) Therefore, it is the intent of the legislature to empower  
7 private property owners and remove an obstacle to water use  
8 efficiency by prohibiting unreasonable homeowner association and  
9 condominium association restrictions that limit private property  
10 owners' ability to deploy low-water landscaping techniques. It is  
11 also the intent of the legislature to ensure that state-funded  
12 buildings achieve the highest landscaping water efficient benchmarks  
13 that are consistent with nationally recognized consensus green  
14 building standards as reflected in the water efficiency provisions of  
15 the international green construction code.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.38  
17 RCW to read as follows:

18 (1) The governing documents may not prohibit the installation of  
19 drought resistant landscaping or wildfire ignition resistant  
20 landscaping. However, the governing documents may include reasonable  
21 rules regarding the placement and aesthetic appearance of drought  
22 resistant landscaping or wildfire ignition resistant landscaping, as  
23 long as the rules do not render the use of drought resistant  
24 landscaping or wildfire ignition resistant landscaping arbitrarily  
25 costly or otherwise effectively infeasible.

26 (2) If a property is located within the geographic designation of  
27 an order of a drought condition issued by the department of ecology  
28 under RCW 43.83B.405, an association may not sanction or impose a  
29 fine or assessment against an owner, or resident on the owner's  
30 property, for reducing or eliminating the watering of vegetation or  
31 lawns for the duration of the drought condition order.

32 (3) The definitions in this subsection apply throughout this  
33 section unless the context clearly requires otherwise.

34 (a) "Drought resistant landscaping" includes, but is not limited  
35 to, the use of any noninvasive vegetation adapted to arid or dry  
36 conditions, stone or gravel, or artificial turf or plants.

37 (b) "Wildfire ignition resistant landscaping" includes any  
38 landscaping tools or techniques, or noninvasive vegetation, that do  
39 not readily ignite from a flame or other ignition source.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 64.34  
2 RCW to read as follows:

3        (1) The declaration of a condominium and any bylaws, rules, and  
4 regulations adopted by the association may not prohibit the  
5 installation of drought resistant landscaping or wildfire ignition  
6 resistant landscaping. However, the declaration or bylaws, rules, and  
7 regulations may include reasonable rules regarding the placement and  
8 aesthetic appearance of drought resistant landscaping or wildfire  
9 ignition resistant landscaping, as long as the rules do not render  
10 the use of drought resistant landscaping or wildfire ignition  
11 resistant landscaping arbitrarily costly or otherwise effectively  
12 infeasible.

13        (2) If a property is located within the geographic designation of  
14 an order of a drought condition issued by the department of ecology  
15 under RCW 43.83B.405, an association may not impose a fine or  
16 assessment against an owner, or resident on the owner's property, for  
17 reducing or eliminating the watering of vegetation or lawns for the  
18 duration of the drought condition order.

19        (3) The definitions in this subsection apply throughout this  
20 section unless the context clearly requires otherwise.

21        (a) "Drought resistant landscaping" includes, but is not limited  
22 to, the use of any noninvasive vegetation adapted to arid or dry  
23 conditions, stone or gravel, or artificial turf or plants.

24        (b) "Wildfire ignition resistant landscaping" includes any  
25 landscaping tools or techniques, or noninvasive vegetation, that do  
26 not readily ignite from a flame or other ignition source.

27        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 39.35D  
28 RCW to read as follows:

29        (1) Except as provided in subsection (2) of this section, all  
30 major facility projects subject to the requirements of RCW 39.35D.030  
31 or 39.35D.040 must be designed and constructed to receive all  
32 possible credits made available for water efficient landscaping under  
33 the United States green building council rating system, international  
34 green construction code, other nationally recognized consensus  
35 standard, or the Washington sustainable school design protocol.

36        (2) This section does not apply to athletic fields or other  
37 project elements that are eligible for exclusion from water efficient  
38 landscaping standards under either the United States green building

1 council rating system, other nationally recognized consensus  
2 standards, or the Washington sustainable school design protocol.

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