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**SUBSTITUTE HOUSE BILL 2485**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Orwall, Dent, Blake, Buys, and Wylie)

READ FIRST TIME 01/26/18.

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; and

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 water  
18 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.

3 (2) Therefore, it is the intent of the legislature to empower  
4 private property owners and remove an obstacle to water use  
5 efficiency by prohibiting unreasonable homeowner association and  
6 condominium association restrictions that limit private property  
7 owners' ability to deploy low-water landscaping techniques. It is  
8 also the intent of the legislature to ensure that state-funded  
9 buildings achieve the highest landscaping water efficient benchmarks.

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

12 (1) The governing documents may not prohibit the installation of  
13 drought resistant landscaping or wildfire ignition resistant  
14 landscaping. However, the governing documents may include reasonable  
15 rules regarding the placement and aesthetic appearance of drought  
16 resistant landscaping or wildfire ignition resistant landscaping, as  
17 long as the rules do not render the use of drought resistant  
18 landscaping or wildfire ignition resistant landscaping arbitrarily  
19 costly or otherwise effectively infeasible.

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

26 (3) Nothing in this section may be construed to prohibit or  
27 restrict the establishment and maintenance of a fire buffer within  
28 the building ignition zone.

29 (4) The definitions in this subsection apply throughout this  
30 section unless the context clearly requires otherwise.

31 (a) "Building ignition zone" means a building and surrounding  
32 area up to two hundred feet from the foundation.

33 (b) "Drought resistant landscaping" means the use of any  
34 noninvasive vegetation adapted to arid or dry conditions, or stone or  
35 gravel.

36 (c) "Firewise" means the firewise communities program developed  
37 by the national fire protection association, which encourages local  
38 solutions for wildfire safety by involving homeowners, community

1 leaders, planners, developers, firefighters, and others in the effort  
2 to protect people and property from wildfire risks.

3 (d) "Wildfire ignition resistant landscaping" includes:

4 (i) Any landscaping tools or techniques, or noninvasive  
5 vegetation, that do not readily ignite from a flame or other ignition  
6 source; or

7 (ii) The use of firewise methods to reduce ignition risk in a  
8 building ignition zone.

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

11 (1) The declaration of a condominium and any bylaws, rules, and  
12 regulations adopted by the association may not prohibit the  
13 installation of drought resistant landscaping or wildfire ignition  
14 resistant landscaping. However, the declaration or bylaws, rules, and  
15 regulations may include reasonable rules regarding the placement and  
16 aesthetic appearance of drought resistant landscaping or wildfire  
17 ignition resistant landscaping, as long as the rules do not render  
18 the use of drought resistant landscaping or wildfire ignition  
19 resistant landscaping arbitrarily costly or otherwise effectively  
20 infeasible.

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

27 (3) Nothing in this section may be construed to prohibit or  
28 restrict the establishment and maintenance of a fire buffer within  
29 the building ignition zone.

30 (4) The definitions in this subsection apply throughout this  
31 section unless the context clearly requires otherwise.

32 (a) "Building ignition zone" means a building and surrounding  
33 area up to two hundred feet from the foundation.

34 (b) "Drought resistant landscaping" means the use of any  
35 noninvasive vegetation adapted to arid or dry conditions, or stone or  
36 gravel.

37 (c) "Firewise" means the firewise communities program developed  
38 by the national fire protection association, which encourages local  
39 solutions for wildfire safety by involving homeowners, community

1 leaders, planners, developers, firefighters, and others in the effort  
2 to protect people and property from wildfire risks.

3 (d) "Wildfire ignition resistant landscaping" includes:

4 (i) Any landscaping tools or techniques, or noninvasive  
5 vegetation, that do not readily ignite from a flame or other ignition  
6 source; or

7 (ii) The use of firewise methods to reduce ignition risk in a  
8 building ignition zone.

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

11 (1) Except as provided in subsection (2) of this section, all  
12 major facility projects subject to the requirements of RCW 39.35D.030  
13 or 39.35D.040 must, to the extent practicable and economically  
14 feasible, be designed and constructed to receive all possible credits  
15 made available for water efficient landscaping under the United  
16 States green building council rating system, international green  
17 construction code, other nationally recognized consensus standard, or  
18 the Washington sustainable school design protocol as each standard  
19 existed on the effective date of this section.

20 (2) This section does not apply to athletic fields or other  
21 project elements that are eligible for exclusion from water efficient  
22 landscaping standards under either the United States green building  
23 council rating system, other nationally recognized consensus  
24 standards, or the Washington sustainable school design protocol as  
25 each standard existed on the effective date of this section.

26 (3)(a) Nothing in this section may prohibit or restrict the use  
27 of wildfire ignition resistant landscaping, including the  
28 establishment and maintenance of a fire buffer in the building  
29 ignition zone, in the design and construction of major facility  
30 projects subject to the requirements of RCW 39.35D.030 or 39.35D.040.

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

33 (i) "Building ignition zone" means a building and surrounding  
34 area up to two hundred feet from the foundation.

35 (ii) "Firewise" means the firewise communities program developed  
36 by the national fire protection association, which encourages local  
37 solutions for wildfire safety by involving homeowners, community  
38 leaders, planners, developers, firefighters, and others in the effort  
39 to protect people and property from wildfire risks.

1           (iii) "Wildfire ignition resistant landscaping" includes:  
2           (A) Any landscaping tools or techniques, or noninvasive  
3 vegetation, that do not readily ignite from a flame or other ignition  
4 source; or  
5           (B) The use of firewise methods to reduce ignition risk in a  
6 building ignition zone.

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