

NEW Florida Legislation

Matthew King
Chair, FLEPPC
Legislative Committee
3323 Belvedere Road, Bldg. 502
West Palm Beach, FL 33406
Mking@co.palm-beach.fl.us

On March 13, 2002, Florida State Representative Richard A. Machek (D-District 78), and the Florida Nurserymen & Growers Association (FNGA), introduced an amendment to a House Bill (HB 1681) concerning general administrative issues with the Florida Department of Agriculture and Consumer Services (FDACS). The purpose of the amendment is to limit the authority of local governments when regulating invasive non-native plant species. The proposed amendment read as follows:

A water management district when identifying by rule pursuant to s. 373.185, or a local government when identifying by ordinance a list of noxious weeds, invasive plants, or plants deemed to be a public nuisance or threat shall utilize the list developed under this chapter or rules adopted thereunder.

When the existence of the amendment became known, several Florida counties diligently worked with Representative Machek to clarify the amendment and to add some exemptions. The final version of the amendment, approved May 30, 2002 is as follows:

"The department [FDACS], in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida, shall biennially review the official state lists of noxious weeds and invasive plants as provided for under this chapter and department rules. The plants listed in section 369.251 shall be incorporated into the department lists as provided for under this chapter. A water management district when identifying by

rule pursuant to section 373.185, or a local government when identifying by ordinance or regulation adopted on or after March 1, 2002, a list of noxious weeds, invasive plants, or plants deemed to be a public nuisance or threat, shall only adopt the lists developed under this chapter or rules adopted thereunder. All local government ordinances or regulations adopted prior to March 1, 2002, that list noxious weeds or invasive plants shall remain in effect. All local ordinances or regulations requiring the removal of invasive plants or noxious weeds from publicly or privately owned conservation areas or preserves shall be exempt from the limitations in this subsection."

So, what does it all mean? Simply, it means that when a water management district is developing xeriscape standards, or when a local government attempts to regulate invasive plants, they are limited to the plant species listed on the FDACS and Florida Department of Environmental Protection (FDEP) lists. The only exception is that the districts and local governments are allowed to develop lists and require removal of invasive plant species in designated public and private conservation areas.

However, there's more to it than that.

First, the amendment requires that a process be established that would conduct periodic, scientific reviews of the FDACS Noxious Weeds List to ensure that new invasive plant species are evaluated and added when necessary. The University of Florida Institute of Food and Agricultural Sciences (IFAS) is identified to assist FDACS with this review.

Second, local ordinances in effect prior to March 1, 2002 that regulate invasive plant species are "grandfathered in" and still apply, even if they list species not on the FDACS and FDEP lists. Numerous local governments have invasive plant regulations that have

been in existence for years, and contain plant species that are problematic in their respective region, but are not on any state list. This "grandfathering" of existing local ordinances continues the more regional approach to invasive species regulations that is absent at the state level. An often used and effective approach for the management of invasive plant species at the local level is the requirement of the removal of certain invasive species at the time of property development. This addition to the amendment ensures that local governments will continue to have that ability, where regulations were already in place prior to March, 2002.

Note from FNGA/FLEPPC Liaison Doria Gordon:

"While FLEPPC is opposed to this degradation of local authority on a problem that is often regionally defined, we will work to provide current information and locational data to FDACS so that the Noxious Weeds list reflects the best data on non-native species in natural areas."

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