A BILL FOR AN ACT

CONCERNING THE PROMOTION OF WATER-EFFICIENT LANDSCAPING ON PROPERTY SUBJECT TO MANAGEMENT BY LOCAL SUPERVISORY ENTITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Section 1 of the bill augments an existing law that establishes the right of unit owners in common interest communities to use water-efficient landscaping, subject to reasonable aesthetic standards, by specifically extending the same policy to common areas under the control of the community's governing board.
Sections 2 and 3 extend existing water conservation requirements, currently applicable only to certain public entities that supply water at retail and their customers, to property management districts and other special districts that manage areas of parkland and open space.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 38-33.3-106.5, amend (1)(i)(I) as follows:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic and political expression - emergency vehicles - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures - definitions.

(1) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not prohibit any of the following:

(i) (I) The use of xeriscape or drought-tolerant vegetative landscapes to provide ground covering to PROPERTY FOR WHICH A UNIT OWNER IS RESPONSIBLE, INCLUDING A LIMITED COMMON ELEMENT OR property owned by the unit owner. Associations may adopt and enforce design or aesthetic guidelines or rules that require drought-tolerant vegetative landscapes or regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on the A unit owner’s property or ON A LIMITED COMMON ELEMENT OR OTHER property for which the unit owner is responsible.

SECTION 2. In Colorado Revised Statutes, amend 32-1-110 as follows:

32-1-110. Construction with other laws. If any provisions of this article are inconsistent with the provisions of any other law, the
provisions of this article shall be controlling ARTICLE 1 CONTROL; EXCEPT THAT THE WATER CONSERVATION POLICY SET FORTH IN SECTION 37-60-126 (11) APPLIES TO ALL LAND WITHIN A SPECIAL DISTRICT THAT IS NOT USED AS A PLAYING SURFACE FOR ORGANIZED SPORTS ACTIVITIES.

SECTION 3.

In Colorado Revised Statutes, 37-60-126, amend (11)(a) and (11)(d) as follows:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - definitions - repeal. (11) (a) Any section of a restrictive covenant or of the declaration, bylaws, or rules and regulations of a common interest community, all as defined in section 38-33.3-103, C.R.S., AND ANY RULE OR POLICY OF A SPECIAL DISTRICT, AS DEFINED IN SECTION 32-1-103 (20), that prohibits or limits xeriscape, prohibits or limits the installation or use of drought-tolerant vegetative landscapes, or requires cultivated vegetation to consist wholly or partially of turf grass is hereby declared contrary to public policy and, on that basis, is unenforceable. This paragraph (a) SUBSECTION (11)(a) does not prohibit common interest communities OR SPECIAL DISTRICTS from adopting and enforcing design or aesthetic guidelines or rules that require drought-tolerant vegetative landscapes or regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on the unit owner's property or property for which the unit owner is responsible THAT IS SUBJECT TO THE GUIDELINES OR RULES.

(d)(I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11)(d)(II) OF THIS SECTION, this subsection (11) does not supersede any subdivision regulation of a county, city and county, or other municipality.
(II) THIS SUBSECTION (11) SUPERSEDES A RULE OR POLICY OF A SPECIAL DISTRICT, AS DEFINED IN SECTION 32-1-103 (20), ONLY IN THE CASE OF A DIRECT CONFLICT.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.