

- SUBJECT:** Prohibiting HOAs from restricting drought-resistant landscaping
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 9 ayes — Ritter, Johnson, Ashby, D. Bonnen, Keffer, T. King, Larson, Lucio, D. Miller
- 0 nays
- 2 absent — Callegari, Martinez Fischer
- SENATE VOTE:** On final passage, March 18 — 30-0
- WITNESSES:** *(On House companion bill, HB 449)*
For — David Foster, Clean Water Action; Myron Hess, National Wildlife Federation; Luke Metzger, Environment Texas; Jennifer Walker, Sierra Club, Lone Star Chapter; Susan Wright, Texas Association of Builders; Susan Wright, Texas Community Association Advocates; *(Registered, but did not testify:* Leonardo Coelho, Travis County; Heather Cooke and John Hrcir, City of Austin; Randy Erben, The Home Depot; Stephanie Gibson, Scotts Miracle Gro Co. and Texas Retailers Association; Karen Guz, San Antonio Water System; Billy Howe, Texas Farm Bureau; Shanna Igo, Texas Municipal League; Chloe Lieberknecht, The Nature Conservancy; Michael Myers, U.S. Green Building Council Texas Chapters; Stewart Snider, League of Women Voters of Texas; Kathy Trizna, Native Plant Society of Texas; David Weinberg, Texas League of Conservation Voters; C. E. Williams, Panhandle Groundwater Conservation District)
- Against — (Registered, but did not testify:* Jim Reaves, Texas Nursery & Landscape Association)
- (On House companion substitute bill, CSHB 449:)*
For — Myron Hess, National Wildlife Federation; Susan Wright, Texas Association of Builders and Texas Community Association Advocates
- DIGEST:** SB 198 would prohibit a property owners' association from restricting a property owner from using drought-resistant landscaping or water-conserving natural turf.

This would not prohibit a property owners' association from requiring an owner to submit a detailed description or plan for review and approval to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the subdivision.

A property owners' association could not unreasonably deny or withhold approval of a proposed landscape installation or unreasonably determine that the proposed installation was aesthetically incompatible with other landscaping in the subdivision.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

SB 198 would remove a barrier that prevents some property owners from reducing their water use by protecting a homeowner's right to install a drought-resistant landscape or water-conserving turf. According to the Texas Water Development Board (TWDB), municipal water demand is the fastest-growing sector among all water user categories in the state. Outdoor irrigation is one of the major drivers of municipal demand. Despite some progress, the covenants and restrictions imposed by many property owners' associations or homeowners' associations (HOAs) continue to present a barrier for homeowners who wish to transition to a drought-resistant and less water intensive landscape and lawn.

Under SB 198, HOAs would retain the ability to establish guidelines for revisions to landscapes and require that proposed revisions go before their architecture control committees for approval, as long as these guidelines did not ban or unreasonably restrict drought resistant landscaping.

**OPPONENTS
SAY:**

Although SB 198 would be a step in the right direction regarding the use of drought-resistant or water conserving landscaping, HOAs should not have the ability to reject plans designed by professional landscapers or homeowners. While the bill would provide some safeguards to prevent a property owners' association from unreasonably denying approval of a proposed landscape installation, the association still would make the final determination, allowing subjective opinion to remain a barrier.