

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER

---

1 Committee/Subcommittee hearing bill: Government Operations  
2 Subcommittee

3 Representative Beshears offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 119.0701, Florida Statutes, is amended  
8 to read:

9 119.0701 Contracts; public records.—

10 (1) For purposes of this section, the term:

11 (a) "Contractor" means an individual, partnership,  
12 corporation, or business entity that enters into a contract for  
13 services with a public agency and is acting on behalf of the  
14 public agency as provided under s. 119.011(2).

15 (b) "Public agency" means a state, county, district,  
16 authority, or municipal officer, or department, division, board,

Amendment No.

17 bureau, commission, or other separate unit of government created  
18 or established by law.

19 (2) In addition to other contract requirements provided by  
20 law, each public agency contract for services must include:

21 (a) The following statement, in substantially the  
22 following form, identifying the name and contact information of  
23 the public agency's custodian of public records in at least 14-  
24 point, boldface type:

25  
26 THE REQUIREMENTS OF SECTION 119.0701, FLORIDA STATUTES, APPLY TO  
27 THIS CONTRACT UNLESS ...(name of public agency)... HAS  
28 DETERMINED AND EXPRESSLY STATED IN THIS CONTRACT THAT ...(name  
29 of individual, partnership, corporation, or business entity)...  
30 IS NOT A CONTRACTOR. IF YOU HAVE QUESTIONS REGARDING THE  
31 APPLICATION OF SECTION 119.0701, FLORIDA STATUTES, TO YOUR DUTY  
32 TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT  
33 ...(name of custodian of public records)... AT ...(telephone  
34 number, e-mail address, and mailing address)....

35  
36 (b) A provision that requires the contractor to comply  
37 with public records laws, specifically to:

38 1.(a) Keep and maintain public records that ordinarily and  
39 necessarily would be required by the public agency in order to  
40 perform the service.

41 2.(b) Upon request from the public agency's custodian of  
42 public records, provide the public with access to public records

Amendment No.

43 on the same terms and conditions that the public agency would  
44 provide the records and at a cost that does not exceed the cost  
45 provided in this chapter or as otherwise provided by law.

46 3.(e) Ensure that public records that are exempt or  
47 confidential and exempt from public records disclosure  
48 requirements are not disclosed except as authorized by law.

49 4.(d) Keep and maintain public records, upon completion of  
50 the contract, which ordinarily would be required by the public  
51 agency in order to perform the service, or ~~Meet all requirements~~  
52 ~~for retaining public records and~~ transfer, at no cost, to the  
53 public agency all public records in possession of the contractor  
54 ~~upon termination of the contract~~ and destroy any duplicate  
55 public records that are exempt or confidential and exempt from  
56 public records disclosure requirements. Upon request from the  
57 public agency's custodian of public records, all records stored  
58 electronically must be provided to the public agency in a format  
59 that is compatible with the information technology systems of  
60 the public agency.

61 (3) A records request for public records relating to a  
62 public agency's contract for services must be made directly to  
63 the public agency. If the public agency does not possess the  
64 requested records, the public agency shall immediately notify  
65 the contractor of the request, and the contractor must produce  
66 the records within a reasonable time. A contractor who fails to  
67 produce the records within a reasonable time is subject to  
68 penalties under s. 119.10.

Amendment No.

69 (4)~~(3)~~ If a contractor does not comply with a public  
70 records request, the public agency shall enforce the contract  
71 provisions in accordance with the contract.

72 (5) If a civil action is filed against a public agency or  
73 a contractor who continues to possess public records to compel  
74 production of such records relating to the public agency's  
75 contract for services, the court shall assess and award against  
76 the responsible public agency or contractor the reasonable costs  
77 of enforcement, including reasonable attorney fees, if the party  
78 filing the action provided written notice of the public records  
79 request, including a statement that the contractor has not  
80 complied with the request. This notice must be sent by certified  
81 mail to the public agency's custodian of public records at least  
82 3 business days before filing the action, and must be provided  
83 to the contractor if the contractor is a named party in the  
84 action.

85 Section 2. This act shall take effect upon becoming a law.

87 -----

88 **T I T L E A M E N D M E N T**

89 Remove everything before the enacting clause and insert:  
90 An act relating to public records; amending s.  
91 119.0701, F.S.; requiring that a public agency  
92 contract for services include a statement providing  
93 the name and contact information of the public  
94 agency's custodian of records; prescribing the form of

Amendment No.

95 | the statement; revising required provisions in a  
96 | public agency contract for services regarding a  
97 | contractor's compliance with public records laws;  
98 | requiring that a public records request relating to  
99 | records for a public agency's contract for services be  
100 | made directly to the agency; requiring a contractor to  
101 | produce requested records under specified  
102 | circumstances; specifying applicable penalties for a  
103 | contractor who fails to produce requested records;  
104 | specifying circumstances under which a court may  
105 | assess and award reasonable costs of enforcement  
106 | against a public agency or contractor; providing an  
107 | effective date.