



261572

LEGISLATIVE ACTION

Senate

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House

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Floor: 2/AD/2R

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04/01/2015 03:02 PM

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Senator Bradley moved the following:

1 **Senate Substitute for Amendment (454526) (with title**
2 **amendment)**

3
4 Delete lines 100 - 111

5 and insert:

6 (4) CIVIL ACTION.-

7 (a) If a civil action is filed to compel production of
8 public records relating to the public agency's contract for
9 services, the court shall assess and award against the
10 contractor the reasonable costs of enforcement, including
11 reasonable attorney fees, if the party filing the action



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12 provides written notice of the public records request, including
13 a statement that the contractor has not complied with the
14 request. The notice must be sent by common carrier delivery
15 service or by registered, Global Express Guaranteed, or
16 certified mail, with postage or shipping paid by the sender and
17 with evidence of delivery, which may be in an electronic format.
18 The notice must be sent by the plaintiff at least 8 business
19 days before the plaintiff files the civil action.

20 (b) An award of the reasonable costs of enforcement against
21 a public agency must be in accordance with s. 119.12.

22 Section 1. A public agency has until October 1, 2015, to
23 amend a public agency contract for services, if needed, in order
24 to comply with the amendment made by this act to section
25 119.0701, Florida Statutes.

26 Section 2. Section 119.0702, Florida Statutes is created to
27 read:

28 119.0702 Agency requirements for staff training and public
29 postings.—

30 (1) Each agency shall determine and provide the appropriate
31 amount of information or training on the requirements of this
32 chapter for each agency employee, taking into consideration
33 whether the employee's duties are performed in any office where
34 public records are routinely created, sent, received,
35 maintained, and requested.

36 (2) Each agency shall post the contact information for the
37 agency's custodian of public records in any office to which the
38 public has access in which public records are routinely created,
39 sent, received, maintained, and requested, and shall post the
40 contact information for the custodian of public records on the



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41 agency's website if the agency has a website.

42 (3) A violation of this section does not form the basis of
43 an independent cause of action and may not be used to recover
44 attorney fees under s. 119.12.

45 (4) If an agency provides information or training to agency
46 staff and publicly posts contact information in accordance with
47 the requirements of subsections (1) and (2), the agency is
48 deemed to be in compliance with this section.

49 Section 3. Section 119.12, Florida Statutes, is amended to
50 read:

51 119.12 Attorney ~~Attorney's~~ fees.-

52 (1) When ~~If~~ a civil action is filed against an agency to
53 enforce the provisions of this chapter, ~~and~~ if the court
54 determines that the agency was provided written notice of the
55 public records request to the agency's custodian of public
56 records, using contact information provided by the agency, at
57 least 2 business days before filing the action and that the
58 court determines that such agency unlawfully refused to permit a
59 public record to be inspected or copied, the court shall assess
60 and award, against the responsible agency ~~responsible~~, the
61 reasonable costs of enforcement. The complainant is not required
62 to provide written notice to the agency's custodian of public
63 records if the agency failed to post contact information for its
64 custodian of public records in accordance with s. 119.0702.

65 (2) The reasonable costs of enforcement include, but are
66 not limited to, ~~including~~ reasonable attorney ~~attorneys'~~ fees.

67
68 ===== T I T L E A M E N D M E N T =====

69 And the title is amended as follows:



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70 Delete lines 18 - 19
71 and insert:
72 which a court must assess reasonable costs of
73 enforcement against a contractor; specifying
74 applicable law for reasonable costs of enforcement
75 assessed against a public agency; providing for
76 applicability; creating s. 119.0702, F.S.; requiring
77 each agency to provide training and information on the
78 requirements of ch. 119, F.S., to agency employees;
79 requiring each agency to publicly post contact
80 information for the custodian of public records;
81 specifying that a violation may not be used as a basis
82 for an independent cause of action or recovering
83 attorney fees; specifying that an agency is in
84 compliance if certain conditions are met; amending s.
85 119.12, F.S.; requiring a court to determine if a
86 complainant provided certain written notice to an
87 agency's custodian of public records in order to
88 assess and award attorney fees in a civil action to
89 enforce ch. 119, F.S.; providing an exception;