

By the Committees on Judiciary; and Governmental Oversight and Accountability; and Senators Simpson, Margolis, Gibson, Hays, Latvala, and Lee

590-02149-15

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.0701, F.S.; requiring that a public agency
4 contract for services include a statement providing
5 the contact information of the public agency's
6 custodian of records; prescribing the form of the
7 statement; revising required provisions in a public
8 agency contract for services regarding a contractor's
9 compliance with public records laws; requiring that a
10 public records request relating to records for a
11 public agency's contract for services be made directly
12 to the public agency; requiring a contractor to
13 provide requested records to the public agency or
14 allow inspection or copying of requested records under
15 specified circumstances; specifying applicable
16 penalties for a contractor who fails to provide
17 requested records; specifying circumstances under
18 which a court may assess and award reasonable costs of
19 enforcement against a public agency or contractor;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 119.0701, Florida Statutes, is amended
25 to read:

26 119.0701 Contracts; public records.—

27 (1) DEFINITIONS.—For purposes of this section, the term:

28 (a) "Contractor" means an individual, partnership,
29 corporation, or business entity that enters into a contract for

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30 services with a public agency and is acting on behalf of the
31 public agency as provided under s. 119.011(2).

32 (b) "Public agency" means a state, county, district,
33 authority, or municipal officer, or department, division, board,
34 bureau, commission, or other separate unit of government created
35 or established by law.

36 (2) CONTRACT REQUIREMENTS.—In addition to other contract
37 requirements provided by law, each public agency contract for
38 services must include:

39 (a) The following statement, in substantially the following
40 form, identifying the contact information of the public agency's
41 custodian of public records in at least 14-point boldfaced type:

42
43 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF
44 SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO
45 PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT
46 ...(custodian of public records)... AT ...(telephone number, e-
47 mail address, and mailing address)....

48
49 (b) A provision that requires the contractor to comply with
50 public records laws, specifically to:

51 1.~~(a)~~ Keep and maintain public records ~~that ordinarily and~~
52 ~~necessarily would be~~ required by the public agency ~~in order~~ to
53 perform the service.

54 2.~~(b)~~ Upon request from the public agency's custodian of
55 public records, provide the public agency with a copy of the
56 requested records or allow the access to public records to be
57 inspected or copied within a reasonable time ~~on the same terms~~
58 ~~and conditions that the public agency would provide the records~~

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59 and at a cost that does not exceed the cost provided in this
60 chapter or as otherwise provided by law.

61 3.(e) Ensure that public records that are exempt or
62 confidential and exempt from public records disclosure
63 requirements are not disclosed except as authorized by law for
64 the duration of the contract term and following completion of
65 the contract if the contractor does not transfer the records to
66 the public agency.

67 4.(d) Upon completion of the contract, ~~Meet all~~
68 ~~requirements for retaining public records and~~ transfer, at no
69 cost, to the public agency all public records in possession of
70 the contractor or keep and maintain public records required by
71 the public agency to perform the service. If the contractor
72 transfers all public records to the public agency upon
73 completion of the contract, the contractor shall ~~upon~~
74 ~~termination of the contract and~~ destroy any duplicate public
75 records that are exempt or confidential and exempt from public
76 records disclosure requirements. If the contractor keeps and
77 maintains public records upon completion of the contract, the
78 contractor shall meet all applicable requirements for retaining
79 public records and provide requested records to a public agency
80 pursuant to the requirements of this section. All records stored
81 electronically must be provided to the public agency, upon
82 request from the public agency's custodian of public records, in
83 a format that is compatible with the information technology
84 systems of the public agency.

85 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.-

86 (a) A request to inspect or copy public records relating to
87 a public agency's contract for services must be made directly to

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88 the public agency. If the public agency does not possess the
89 requested records, the public agency shall immediately notify
90 the contractor of the request, and the contractor must provide
91 the records to the public agency or allow the records to be
92 inspected or copied within a reasonable time.

93 (b) If a contractor does not comply with the public
94 agency's a ~~public records~~ request for records, the public agency
95 shall enforce the contract provisions in accordance with the
96 contract.

97 (c) A contractor who fails to provide the public records to
98 the public agency within a reasonable time may be subject to
99 penalties under s. 119.10.

100 (4) CIVIL ACTION.—If a civil action is filed to compel
101 production of public records relating to the public agency's
102 contract for services, the court may assess and award against
103 the responsible public agency or contractor the reasonable costs
104 of enforcement, including reasonable attorney fees, if the party
105 filing the action provides written notice of the public records
106 request, including a statement that the public agency has not
107 complied with the request. This notice must be sent by certified
108 mail to the public agency's custodian of public records at least
109 5 business days before filing the action, and must be provided
110 to the contractor if the contractor is a named party in the
111 action.

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