

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WITHDRAWN	_____	(Y/N)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; request for contractor  
 10 records; civil action.-

11 (1) DEFINITIONS.-For purposes of this section, the term:

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

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

Amendment No.

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

20 (2) CONTRACT REQUIREMENTS.—In addition to other contract  
21 requirements provided by law, each public agency contract for  
22 services entered into or amended on or after July 1, 2016, must  
23 include:

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

28  
29 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF  
30 CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO  
31 PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE  
32 CUSTODIAN OF PUBLIC RECORDS AT ... (telephone number, e-mail  
33 address, and mailing address)....

34  
35 (b) A provision that requires the contractor to comply  
36 with public records laws, specifically to:

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

40 2.(b) Upon request from the public agency's custodian of  
41 public records, provide the public agency with a copy of the  
42 requested records or allow the ~~access to public records to be~~  
43 inspected or copied within a reasonable time ~~on the same terms~~

Amendment No.

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

47 3.(e) Ensure that public records that are exempt or  
48 confidential and exempt from public records disclosure  
49 requirements are not disclosed except as authorized by law for  
50 the duration of the contract term and following completion of  
51 the contract if the contractor does not transfer the records to  
52 the public agency.

53 4.(d) Upon completion of the contract, Meet all  
54 ~~requirements for retaining public records and~~ transfer, at no  
55 cost, to the public agency all public records in possession of  
56 the contractor or keep and maintain public records required by  
57 the public agency to perform the service. If the contractor  
58 transfers all public records to the public agency upon  
59 completion of the contract, the contractor shall upon  
60 ~~termination of the contract and~~ destroy any duplicate public  
61 records that are exempt or confidential and exempt from public  
62 records disclosure requirements. If the contractor keeps and  
63 maintains public records upon completion of the contract, the  
64 contractor shall meet all applicable requirements for retaining  
65 public records. All records stored electronically must be  
66 provided to the public agency, upon request from the public  
67 agency's custodian of public records, in a format that is  
68 compatible with the information technology systems of the public  
69 agency.

039991 - HB 273 strike-all amendment.docx

Published On: 12/1/2015 4:16:09 PM

Amendment No.

70 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

71 (a) A request to inspect or copy public records relating  
72 to a public agency's contract for services must be made directly  
73 to the public agency. If the public agency does not possess the  
74 requested records, the public agency shall immediately notify  
75 the contractor of the request, and the contractor must provide  
76 the records to the public agency or allow the records to be  
77 inspected or copied within a reasonable time.

78 (b) If a contractor does not comply with the public  
79 agency's a ~~public records~~ request for records, the public agency  
80 shall enforce the contract provisions in accordance with the  
81 contract.

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

85 (4) CIVIL ACTION.—

86 (a) If a civil action is filed against a contractor to  
87 compel production of public records relating to a public  
88 agency's contract for services, the court shall assess and award  
89 against the contractor the reasonable costs of enforcement,  
90 including reasonable attorney fees, if:

91 1. The court determines that the contractor unlawfully  
92 refused to comply with the public records request within a  
93 reasonable time; and

94 2. At least 8 business days before filing the action, the  
95 plaintiff provided written notice of the public records request,

Amendment No.

96 including a statement that the contractor has not complied with  
97 the request, to the public agency and to the contractor.

98 (b) A notice complies with subparagraph (a)2. if it is  
99 sent to the public agency's custodian of public records and to  
100 the contractor at the contractor's address listed on its  
101 contract with the public agency or to the contractor's  
102 registered agent. Such notices must be sent by common carrier  
103 delivery service or by registered, Global Express Guaranteed, or  
104 certified mail, with postage or shipping paid by the sender and  
105 with evidence of delivery, which may be in an electronic format.

106 (c) A contractor who complies with a public records  
107 request within 8 business days after the notice is sent is not  
108 liable for the reasonable costs of enforcement.

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

111 -----  
112 **T I T L E A M E N D M E N T**

113 Remove everything before the enacting clause and insert:  
114 An act relating to public records; amending s. 119.0701,  
115 F.S.; requiring that a public agency contract for services  
116 include a statement providing the contact information of  
117 the public agency's custodian of public records;  
118 prescribing the form of the statement; revising required  
119 provisions in a public agency contract for services  
120 regarding a contractor's compliance with public records  
121 laws; requiring that a public records request relating to

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 273 (2016)

Amendment No.

122 records for a public agency's contract for services be made  
123 directly to the public agency; requiring a contractor to  
124 provide requested records to the public agency or allow  
125 inspection or copying of requested records under specified  
126 circumstances; providing penalties; specifying  
127 circumstances under which a court must assess the  
128 reasonable costs of enforcement against a contractor;  
129 specifying what constitutes sufficient notice; providing  
130 that a contractor who takes certain actions is not liable  
131 for the reasonable costs of enforcement; providing an  
132 effective date.