



**HB 273 Public Records
(CH. 2016-20, Laws of Florida)**

Bill Sponsor: Representative Beshears

Effective Date: Effective on becoming a law

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Executive Summary:

This bill requires a public agency contract for services with a contractor entered into or amended after July 1, 2016, to include a statement informing the contractor of the contact information of the public agency's custodian of records and instructing the contractor to contact the agency records custodian concerning any questions regarding the contractor's duty to provide public records relating to the contract.

The bill repeals the requirement that each contract for services requires the contractor to transfer its public records to the public agency upon termination of the contract. Instead, the contract must require the contractor to either retain the public records or transfer the public records to the public agency upon completion of the contract.

The bill requires a request for public records relating to a contract for services to be made directly to the contracting agency. If the agency does not possess the records, it must immediately notify the contractor, and the contractor must provide the records or allow access to the records within a reasonable time. A contractor who fails to provide the records to the agency within a reasonable time may be subject to the penalties under s. 119.10, F.S., (which include possible fines or misdemeanor charges).

If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney's fees if the contractor unlawfully refused to comply with the public records request within a reasonable time; and the plaintiff provided written notice to the agency and contractor that the contractor has not complied with the request. If the contractor complies with the request within eight business days of receiving the notice, the contractor is not responsible for the reasonable costs of enforcement

Section 1.

Amends s. 119.0701, F.S, Contracts; public records, to:

- Require a public agency contract for services with a contractor entered into or amended after July 1, 2016, to include:



- A statement informing the contractor of the contact information of the public agency's custodian of records and instructing the contractor to contact the agency records custodian concerning any questions regarding the contractor's duty to provide public records relating to the contract. The statement must be in at least 14-point boldfaced type, and must include the telephone number, e-mail address, and mailing address of the records custodian.
- A provision that requires the contractor to, upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time, at a cost allowed under law.
- A provision that requires the contractor to either retain the public records or transfer the public records to the public agency upon completion of the contract. (The former requirement that the contractor transfer its public records to the public agency upon termination of the contract is repealed.) If the contractor keeps the records, the contractor must meet all applicable requirements for maintenance of records.
- Establish that a request for public records relating to a contract for services to be made directly to the contracting agency. If the agency does not possess the records, it must immediately notify the contractor, and the contractor must provide the records or allow access to the records within a reasonable time. A contractor who fails to provide the records to the agency within a reasonable time may be subject to the penalties under s. 119.10, F.S., (which include possible fines or misdemeanor charges).
- Establish that if a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney's fees if the contractor unlawfully refused to comply with the public records request within a reasonable time and the plaintiff provided written notice to the agency and contractor that the contractor has not complied with the request. If the contractor complies with the request within eight business days of receiving the notice, the contractor is not responsible for the reasonable costs of enforcement.

Section 2. Provides that the act shall take effect upon becoming a law.

General Implementation Timeline:

The bill takes effect upon becoming law.

February, 2016 – June 30, 2016 Review boilerplate contract provisions to include the required notice and a provision requiring contractors to keep and maintain public records and to otherwise comply with public records laws.



Verify that the agency clerk will be designated as the custodian of records, and ensure that the agency has established procedures for responding to public records relating to contracts.

July 1, 2016

All contracts or amendments to contracts shall include the provisions required in this law.