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LEGISLATIVE ACTION

Senate

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House

Floor: 1/RS/2R

04/01/2015 03:02 PM

Senator Bradley moved the following:

Senate Amendment (with title amendment)

Delete lines 100 - 111

and insert:

(4) CIVIL ACTION.-

(a) If a civil action is filed to compel production of public records relating to the public agency's contract for services, the court may assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if the party filing the action provides written notice of the public records request, including a statement that



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12 the contractor has not complied with the request. The notice
13 must be sent by common carrier delivery service or by
14 registered, Global Express Guaranteed, or certified mail, with
15 postage or shipping paid by the sender and with evidence of
16 delivery, which may be in an electronic format. The notice must
17 be received by the contractor at least 5 business days before
18 the plaintiff files the civil action.

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

21 Section 2. A public agency has until October 1, 2015, to
22 amend a public agency contract for services, if needed, in order
23 to comply with the amendment made by this act to section
24 119.0701, Florida Statutes.

25 Section 3. Section 119.0702, Florida Statutes is created to
26 read:

27 119.0702 Agency requirements for staff training and public
28 postings.-

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

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



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

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

48 Section 4. Section 119.12, Florida Statutes, is amended to
49 read:

50 119.12 Attorney ~~Attorney's~~ fees.-

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

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

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

68 And the title is amended as follows:

69 Between lines 19 and 20



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