

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/19
 LAST UPDATED 2/11/19

SPONSOR Sanchez HB 329/aHCPAC

SHORT TITLE Service Contract Cancellation & Auto-Renewal SB _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 350

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment to House Bill 329 clarifies the definition of “automatic renewal provision” contained in Section 1 of the bill, consistent with the recommended amendment by NMAG.

Synopsis of Original Bill

House Bill 329 amends the Service Contract Regulation Act to allow the holder of a service contract (defined in the Act to be a contract in which a provider is obligated for a specific period to repair, replace or perform maintenance on property described in the contract, or to reimburse or indemnify the holder for costs to repair, replace or perform maintenance on that property) to terminate the contract at any time upon notice of the holder’s intent to terminate.

Upon termination, the holder is entitled to 100 percent of the unearned pro rata provider fee, less any claims paid. The service provider may charge a reasonable administrative fee of not more than 10 percent of the purchase price of the service contract. Providers who cancel may not charge an administrative fee. Providers do not have to deduct claims paid under contract from refund amount due to holder.

Additionally, HB 329 also adds new language that requires a service provider to give notice to a holder of a contract's automatic renewal provisions and the procedures by which a holder may terminate the contract in a clear and conspicuous manner.

FISCAL IMPLICATIONS

The provisions of this bill impact private parties, and no fiscal impact on the State is anticipated beyond a minimal impact on the court system should a dispute arise over a holder's attempt to terminate or the provider's failure to give adequate notice.

SIGNIFICANT ISSUES

Section 3 requires a provider to give a holder notice of automatic renewal, and the procedure by which the contract may be cancelled. The new language in Section 2(C), however, appears to provide procedures for termination at any time, whether or not the contract has automatically renewed, so requiring different procedures upon such renewal may be inconsistent. Additionally, the reference in Section 3(B) to the last day on which a holder may give notice of intent to terminate is similarly inconsistent, since under Section 2(C), a holder may give such notice at any time.

Further, NMAG points out:

The definition of "automatic renewal provision" is somewhat confusing when it says the [...] contract is renewed for a specified period of more than one month if renewal causes the service contract to continue in effect more than two months [...]. It might be easier to understand if it read:

B. "automatic renewal provision" means a provision within a service contract that acts to automatically renew the service contract after the end of the original term for a renewal term greater than two months and such renewal is effective unless the holder gives notice to the provider or administrator of the holder's intention to terminate the service contract.

DUPLICATION

HB 329 duplicates SB 350.

MD/gb/al