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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/19
 LAST UPDATED 2/15/19

SPONSOR Sanchez HB _____

SHORT TITLE Automatic Renewal of Service Contracts SB 350/aSCORC

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)

Conflicts with HB 329, as amended

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of SCORC Amendments

The Senate Corporations and Transportation Committee amendments to SB 350 clarifies the definition of “automatic renewal provision” contained in Section 1 of the bill, consistent with the recommended amendment by NMAG. They also replace the phrase “terminate” with the phrase “not to renew” in the bill’s new Section 3(C) governing the duty of a provider to provide notice of a holder’s right to cancel the automatic renewal of a service contract.

Synopsis of Original Bill

Senate Bill 350 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

amount charge an administrative fee. Providers do not have to deduct claims paid under contract from any refund due to holder.

Additionally, SB 350 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.

This bill has an effective date of July 1, 2019.

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.

CONFLICT

SB 350 conflicts with HB 329, as amended, which uses different language to define "automatic renewal provision."

MD/al/gb