

LFC Requester:	Renee Montoya
-----------------------	----------------------

**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Date <u>02-16-2019</u>
Correction <input type="checkbox"/>	Substitute <input type="checkbox"/>	Bill No: <u>HB 329a</u>

Sponsor: <u>Sen. Joseph L. Sanchez</u>	Agency Code: <u>305–Office of the Attorney General</u>
Short Title: <u>Service Contract Cancellation & Auto-Renewals</u>	Person Writing: <u>Marylou Poli, AAG</u>
	Phone: <u>505-493-4783</u> Email: <u>MPoli@nmag.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General Opinion nor an Attorney General Advisory Letter. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the Office of the Attorney General.

BILL SUMMARY

Synopsis:

House Bill 329 seeks to amend the Service Contract Regulation Act by allowing the holder of a service contract that contains an automatic renewal provision to terminate contract at any time by providing notice to the service provider the holder’s intent to terminate the contract.

Section 1 of HB 329 adds a definition for automatic renewal provision.

Section 2 amends Section 59A-58-9, relating to the rights of a holder of a service contract to return the service contract for a refund, to extend the time period within which a holder may return a service contract for one hundred percent of the unearned pro rata provider fee, less any claims paid. It also would allow the service provider to charge an administrative fee of not more than 10% of the service price. Providers who cancel may not charge an administrative fee. Providers do not need to deduct claims paid under contract from refund amount due to holder.

Section 3 would add new language to the Service Contract Regulation Act that would require a service provider to provide notice of a contract’s automatic renewal provisions, including procedures for cancelling contract, in clear and conspicuous manner.

Committee Amendment

The Consumer and Public Affairs Committee amendment to HB 329 rewords the definition of “automatic renewal provision.” The rewording does not substantively change the definition; it simply makes it easier to understand and clarifies the meaning of the phrase.

FISCAL IMPLICATIONS

None to this office

SIGNIFICANT ISSUES

None noted

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 350 appears to be a duplicate and seeks to do the same.

TECHNICAL ISSUES

Original Analysis: 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.

Committee Amendment:

Addresses the issue noted above.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

See Technical Issues.