

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to automatic renewal of contracts.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Paragraph; Consumer Protection; Acts Unlawful; Automatic Contract Renewal. Amend RSA 358-A:2 by inserting after paragraph XIV the following new paragraph:

XV. Including in a contract for services an automatic renewal provision that does not require the consumer to accept, in writing, an additional term of service prior to the expiration of the current term. Under no circumstances may a contract for services be renewed more than 90 days before the contract's expiration date.

2 Effective Date. This act shall take effect January 1, 2011.

LBAO

10-2755

12/28/09

**SB 345-FN - FISCAL NOTE**

AN ACT relative to automatic renewal of contracts.

**FISCAL IMPACT:**

The Judicial Branch, Department of Justice, Judicial Council, and New Hampshire Association of Counties state this bill may increase state and county expenditures by an indeterminable amount in FY 2011 and each year thereafter. There will be no fiscal impact on local expenditures or state, county and local revenue.

**METHODOLOGY:**

The Judicial Branch states this bill will add RSA 358-A:2, XV to add as an unlawful act under the Consumer Protection Act to include in a contract for services an automatic renewal provision that does not require written acceptance by the consumer of the additional term of service. The Branch has no information to estimate the potential volume of cases that might arise as a result of this bill. The Branch states consumer protection cases carry the potential for enforcement actions by the attorney general, criminal prosecution, and private actions with the potential of up to treble damages. A single case has the potential for the Branch to incur a fiscal impact of over \$10,000.

The Department of Justice states the authority for the Attorney General to enforce the criminal and civil penalties contained in the Consumer Protection Act will increase expenditures. Additionally, if an appeal is filed, the Department would have increased expenditures. The Department has no information to estimate how many cases would be prosecuted by the Department or appealed to the Supreme Court to estimate the fiscal impact.

The Judicial Council states to the extent an unspecified misdemeanor results in a misdemeanor offense where the right to counsel exists this bill may result in an indeterminable increase in general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor charge. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal.

The New Hampshire Association of Counties states to the extent an individual is prosecuted, convicted, and sentenced to incarceration, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be detained or incarcerated as a result of this bill. The average cost to incarcerate an individual in a county facility is \$35,342 a year.