

# SENATE BILL REPORT

## SB 5145

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As Reported By Senate Committee On:  
State & Local Government, March 3, 1999

**Title:** An act relating to award of fees in condemnation actions.

**Brief Description:** Revising conditions for award of fees in condemnation actions.

**Sponsors:** Senators Patterson and Winsley.

**Brief History:**

**Committee Activity:** State & Local Government: 2/22/99, 3/3/99 [DPS].

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### SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 5145 be substituted therefor, and the substitute bill do pass.

Signed by Senators Patterson, Chair; Gardner, Vice Chair; Hale, Haugen, Horn, Kline and McCaslin.

**Staff:** Diane Smith (786-7410)

**Background:** The Washington State Constitution, Article 1, Section 16 addresses the issue of eminent domain. In part, it states that no private property may be taken for public purposes without just compensation having first been made or paid into court for the owner.

The amount of money awarded as reasonable attorneys' fees does not include fees incurred prior to the time the condemnor files its petition in court. This is the case even though the usual practice is for the condemnor and condemnee to attempt to negotiate an agreed settlement before the matter goes to court.

**Summary of Substitute Bill:** Reasonable attorneys' fees include fees incurred prior to the condemnor's filing of the petition.

**Substitute Bill Compared to Original Bill:** The substitute bill does not change provisions in existing law concerning the award of attorneys' fees in a case where the condemnee stipulates to an order of immediate possession.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** It is unfair for condemnees to take 90 days to move away just because they go to court.

**Testimony Against:** Is this perhaps a gift of public funds? This upsets the balance of negotiation but attorneys' fees before filing are acceptable.

**Testified:** [Persons testifying pro– did not sign the attendance roster.] Joe Pestinger, WSDOT (con).