
SUBSTITUTE SENATE BILL 5145

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on State & Local Government (originally sponsored by Senators Patterson and Winsley)

Read first time 03/03/1999.

1 AN ACT Relating to award of fees in condemnation actions; and
2 amending RCW 8.25.070.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 8.25.070 and 1984 c 129 s 1 are each amended to read
5 as follows:

6 (1) Except as otherwise provided in subsection (3) of this section,
7 if a trial is held for the fixing of the amount of compensation to be
8 awarded to the owner or party having an interest in the property being
9 condemned, the court shall award the condemnee reasonable
10 attorney(~~s~~)s' fees and reasonable expert witness fees in the event
11 of any of the following:

12 (a) If condemnor fails to make any written offer in settlement to
13 condemnee at least thirty days prior to commencement of said trial; or

14 (b) If the judgment awarded as a result of the trial exceeds by ten
15 percent or more the highest written offer in settlement submitted to
16 those condemnees appearing in the action by condemnor in effect thirty
17 days before the trial.

1 (2) The attorney general or other attorney representing a condemnor
2 in effecting a settlement of an eminent domain proceeding may allow to
3 the condemnee reasonable attorneys' fees.

4 (3) Reasonable attorneys' fees and reasonable expert witness fees
5 authorized by this section shall be awarded only if the condemnee
6 stipulates, if requested to do so in writing by the condemnor, to an
7 order of immediate possession and use of the property being condemned
8 within thirty days after receipt of the written request, or within
9 fifteen days after the entry of an order adjudicating public use
10 whichever is later and thereafter delivers possession of the property
11 to the condemnor upon the deposit in court of a warrant sufficient to
12 pay the amount offered as provided by law. In the event, however, the
13 condemnor does not request the condemnee to stipulate to an order of
14 immediate possession and use prior to trial, the condemnee shall be
15 entitled to an award of reasonable attorneys' fees and reasonable
16 expert witness fees as authorized by subsections (1) and (2) of this
17 section.

18 (4) Reasonable attorneys' fees as authorized in this section shall
19 not exceed the general trial rate, per day customarily charged for
20 general trial work by the condemnee's attorney for actual trial time
21 and his or her hourly rate for preparation including attorneys' fees
22 incurred prior to the condemnor's filing of the petition. Reasonable
23 expert witness fees as authorized in this section shall not exceed the
24 customary rates obtaining in the county by the hour for investigation
25 and research and by the day or half day for trial attendance.

26 (5) In no event may any offer in settlement be referred to or used
27 during the trial for any purpose in determining the amount of
28 compensation to be paid for the property.

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