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SENATE BILL 5145

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State of Washington

56th Legislature

1999 Regular Session

By Senators Patterson and Winsley

Read first time 01/14/1999. Referred to Committee on State & Local Government.

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 attorney's  
10 fees and reasonable expert witness fees in the event of any of the  
11 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)~~) shall  
3 allow to the condemnee reasonable attorney's fees.

4 (3) Reasonable attorney's 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)~~) within ninety days after the deposit in court  
12 of a warrant sufficient to pay the amount offered as provided by law.  
13 In the event, however, the condemnor does not request the condemnee to  
14 stipulate to an order of immediate possession and use prior to trial,  
15 the condemnee shall be entitled to an award of reasonable attorney's  
16 fees and reasonable expert witness fees as authorized by subsections  
17 (1) and (2) of this section.

18 (4) Reasonable attorney's 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 fees incurred  
22 prior to the condemnor's filing of the petition. Reasonable expert  
23 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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