

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	8 - 0 - 2
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Smith J., Whisnant, Barker
Nays:	0
Exc.:	Shields, Stiegler
Prepared By:	Shannon Sivell, Counsel
Meeting Dates:	5/19, 5/22

WHAT THE MEASURE DOES: Changes method of awarding attorney fees in condemnation proceedings. Requires government to pay attorney fees and costs if judgment exceeds highest offer rather than initial offer. Ensures property owner will receive attorney fees and costs incurred on or before offer of compromise if owner accepts offer of compromise, or owner rejects offer and does not achieve a better result. Clarifies that defendant may accept portion of offer of compromise that addresses value of property while rejecting portion addressing attorney fees. Provides court guidance on determining whether court's final award would be more favorable than offer of compromise.

ISSUES DISCUSSED:

- Provisions of the measure

EFFECT OF COMMITTEE AMENDMENT: Clarifies that defendant may accept portion of offer of compromise that addresses value of property while rejecting portion addressing attorney fees. Provides court guidance on determining whether court's final award would be more favorable than offer of compromise.

BACKGROUND: Ballot Measure 39 passed in 2006. Part of that measure changed the way attorney fees and costs were awarded in condemnation proceedings. The measure required the government to pay the attorney fees and costs of a property owner if the owner received more than the initial offer of the government. Proponents of the bill argue that using the initial offer has increased costs.

Under SB 794B, if the owner achieves a judgment higher than the offer, the owner will get costs and attorney fees incurred before and after the date of the offer. If the owner does not achieve a higher award than the highest pre-suit offer, the owner will not receive any costs or attorney fees incurred after the offer of compromise was rejected.