

CHAPTER 39

[Engrossed Senate Bill No. 363]

ACQUISITION OF PROPERTY BY PUBLIC AGENCIES--  
AIRSPACE CORRIDORS--  
EMINENT DOMAIN, FEES

AN ACT Relating to the acquisition of property by public agencies; amending section 47.52.050, chapter 13, Laws of 1961 and RCW 47.52.050; and amending section 3, chapter 137, Laws of 1967 ex. sess. and RCW 8.25.070; and adding a new section to chapter 8.25 RCW.

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

Section 1. Section 47.52.050, chapter 13, Laws of 1961 and RCW 47.52.050 are each amended to read as follows:

(1) For the purpose of this chapter the highway authorities of the state, counties and incorporated cities and towns, respectively, or in cooperation one with the other, may acquire private or public property and property rights for limited access facilities and service roads, including rights of access, air, view and light, by gift, devise, purchase, or condemnation, in the same manner as such authorities are now or hereafter may be authorized by law to acquire property or property rights in connection with highways and streets within their respective jurisdictions. Except as otherwise provided in subsection (2) of this section all property rights acquired under the provisions of this chapter shall be in fee simple. In the acquisition of property or property rights for any limited access facility or portion thereof, or for any service road in connection therewith, the state, county, incorporated city and town authority may, in its discretion, acquire an entire lot, block or tract of land, if by so doing the interest of the public will be best served, even though said entire lot, block or tract is not immediately needed for the limited access facility.

(2) The highway authorities of the state, counties, and incorporated cities and towns may acquire by gift, devise, purchase, or condemnation a three dimensional air space corridor in fee simple over or below the surface of the ground, together with such other property in fee simple and other property rights as are needed for the construction and operation of a limited access highway facility, but only if the acquiring authority finds that the proposal will not:

(a) impair traffic safety on the highway or interfere with the free flow of traffic; or

(b) permit occupancy or use of the air space above or below the highway which is hazardous to the operation of the highway.

NEW SECTION. Sec. 2. There is added to chapter 8.25 RCW a new section to read as follows:

A superior court having jurisdiction of a proceeding instituted by a condemnor to acquire an air space corridor together with other property rights shall award the condemnee costs including reasonable attorney fees and reasonable expert witness fees, subject to the provisions of subsection (4) of section 3 of this 1971 amendatory act, if--

(1) there is a final adjudication that the condemnor cannot acquire the air space corridor or other property rights by condemnation; or

(2) the proceeding is abandoned by the condemnor.

Sec. 3. Section 3, chapter 137, Laws of 1967 ex. sess. and RCW 8.25.070 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, if a trial is held for the fixing of the amount of compensation to be awarded to the owner or party having an interest in the property being condemned ((and if the condemnee has offered to stipulate to an order of immediate possession of the property being condemned)), the court ((may)) shall award the condemnee reasonable attorney's fees and reasonable expert witness fees ((actually incurred)) in the event of any of the following:

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

((2)) [b] If the judgment awarded as a result of the trial exceeds by ten percent or more the highest written offer in settlement submitted to those condemnees appearing in the action by condemnor at least thirty days prior to commencement of said trial ((; or

3) If, in the opinion of the trial court, condemnor has shown bad faith in its dealings with condemnee relative to the property condemned).

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

(3) Reasonable attorney fees and reasonable expert witness fees authorized by this section shall be awarded only if the condemnee stipulates, if requested to do so in writing by the condemnor, to an order of immediate possession and use of the property being condemned within thirty days after receipt of the written request, or within fifteen days after the entry of an order adjudicating public use whichever is later and thereafter delivers possession of the property to the condemnor upon the deposit in court of a warrant sufficient to pay the amount offered as provided by law. In the event, however, the condemnor does not request the condemnee to stipulate to an order of immediate possession and use prior to

trial, the condemnee shall be entitled to an award of reasonable attorney fees and reasonable expert witness fees as authorized by subsections (1) and (2) of this section.

(4) Reasonable attorney fees as authorized in this section shall not exceed the general trial rate, per day for actual trial time and the general hourly rate for preparation as provided in the minimum bar fee schedule of the county or judicial district in which the proceeding was instituted, or if no minimum bar fee schedule has been adopted in the county, then the trial and hourly rates as provided in the minimum bar fee schedule customarily used in such county. Not later than July 1, 1971 the administrator for the courts shall adopt a rule establishing standards for verifying fees authorized by this section. Reasonable expert witness fees as authorized in this section shall not exceed the customary rates obtaining in the county by the hour for investigation and research and by the day or half day for trial attendance.

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

Passed the Senate March 12, 1971.

Passed the House April 19, 1971.

Approved by the Governor April 29, 1971.

Filed in Office of Secretary of State April 29, 1971.

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CHAPTER 40

[Senate Bill No. 208]

STATE COLLEGES AND UNIVERSITIES--  
FINANCIAL PLANS

AN ACT Relating to certain institutions of higher education; and adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.10 RCW.

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

NEW SECTION. Section 1. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.10 RCW a new section to read as follows:

Notwithstanding the provisions of RCW 43.88.110, the four state colleges and state universities shall submit to the governor a complete financial plan for the ensuing fiscal period in such form and at such time as he may require. The financial plan shall reflect all anticipated expenditures and all resources available to each college or university, whether appropriated or not, and whether restricted or not: PROVIDED, That restricted funds shall be shown