

**Assembly Bill No. 1770**

**CHAPTER 295**

An act to amend Sections 1250.410 and 1255.060 of the Code of Civil Procedure, relating to eminent domain.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1770, Papan. Eminent domain proceedings.

Existing law provides that in determining the litigation expenses to be awarded to the defendant as costs in an eminent domain proceeding, the court shall consider the amount of an offer made by the plaintiff to acquire the property, as specified.

This bill would also require the court to consider any deposit made by the plaintiff with the State Treasury to cover the probable compensation to be awarded to the defendant.

Existing law provides that in the trial of the issue of compensation in an eminent domain proceeding, a witness may not be impeached by reference to any appraisal report, written statement and summary of an appraisal, or other statements made in connection with a deposit or withdrawal of a deposit of probable compensation, nor may the report or statement and summary be considered an admission of any party.

This bill would instead provide that in the trial of the issue of compensation, an appraisal report, written statement and summary of an appraisal, or other statement made in connection with a deposit or withdrawal of a deposit may not be considered to be an admission of any party. However, the bill would also provide that if the person who prepared the report, statement and summary, or other statement is called at trial to give an opinion as to compensation, the report, statement and summary, or other statement may be used for impeachment of the witness.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1250.410 of the Code of Civil Procedure is amended to read:

1250.410. (a) At least 20 days prior to the date of the trial on issues relating to compensation, the plaintiff shall file with the court and serve on the defendant its final offer of compensation in the proceeding and the defendant shall file and serve on the plaintiff its final demand for



compensation in the proceeding. The offer and the demand shall include all compensation required pursuant to this title, including compensation for loss of goodwill, if any, and shall state whether interest and costs are included. These offers and demands shall be the only offers and demands considered by the court in determining the entitlement, if any, to litigation expenses. Service shall be in the manner prescribed by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(b) If the court, on motion of the defendant made within 30 days after entry of judgment, finds that the offer of the plaintiff was unreasonable and that the demand of the defendant was reasonable viewed in the light of the evidence admitted and the compensation awarded in the proceeding, the costs allowed pursuant to Section 1268.710 shall include the defendant's litigation expenses.

(c) In determining the amount of litigation expenses allowed under this section, the court shall consider the offer required to be made by the plaintiff pursuant to Section 7267.2 of the Government Code, any deposit made by the plaintiff pursuant to Chapter 6 (commencing with Section 1255.010), and any other written offers and demands filed and served before or during the trial.

(d) If timely made, the offers and demands as provided in subdivision (a) shall be considered by the court on the issue of determining an entitlement to litigation expenses.

SEC. 2. Section 1255.060 of the Code of Civil Procedure is amended to read:

1255.060. (a) The amount deposited or withdrawn pursuant to this chapter may not be given in evidence or referred to in the trial of the issue of compensation.

(b) In the trial of the issue of compensation, an appraisal report, written statement and summary of an appraisal, or other statement made in connection with a deposit or withdrawal pursuant to this chapter may not be considered to be an admission of any party.

(c) Upon objection of the party at whose request an appraisal report, written statement and summary of the appraisal, or other statement was made in connection with a deposit or withdrawal pursuant to this chapter, the person who made the report or statement and summary or other statement may not be called at the trial on the issue of compensation by any other party to give an opinion as to compensation. If the person who prepared the report, statement and summary, or other statement is called at trial to give an opinion as to compensation, the report, statement and summary, or other statement may be used for impeachment of the witness.

