AB 1752 (Lackey) - Eminent domain: appraisals

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Urgency: No
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Policy Vote: JUD. 11 - 2
Mandate: No
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Bill Summary: AB 1752 increases the maximum amount the Delta Conveyance Project and the High Speed Rail Authority (HSRA) project must offer to pay for the reasonable cost of an independent property appraisal when a property is under threat of eminent domain from $5,000 to $8,000.

Fiscal Impact: Major costs to the Department of Water Resources (DWR) to cover the increased cost of independent property appraisals. The Delta Conveyance Project will likely need to acquire either an easement or fee title on approximately 485 parcels. Based on experience seeking land access for studies related to the Delta Conveyance Project, DWR expects as many as 70 percent (approximately 339 parcels) of those easements or acquisitions to require eminent domain. For DWR, for example, nearly all of the 485 acquisitions could result in the added cost, or $1,460,000 (485 x $3,000) above that which DWR would incur under existing law. (revenue bonds, General Obligation bonds)

HSRA estimates approximately 600 parcels will be needed for the Merced and Bakersfield extensions. Based on its historical experience, HSRA assumes that owners of approximately 50 percent of these parcels, 300 property owners, will request reimbursement for an independent appraisal over the next two years, for 150 reimbursements annually.

Assuming each reimbursement reaches the $8,000 maximum, annual reimbursement costs would be approximately $1.2 million, compared with $750,000 under the existing $5,000 cap. This bill would therefore result in estimated additional costs of up to $450,000 annually, or approximately $900,000 over the two-year acquisition period. Actual costs would depend on the number of property owners requesting independent appraisals and the reasonable cost of each appraisal.

If owners of all 600 parcels requested reimbursement and every appraisal reached the $8,000 cap, total reimbursement costs would be approximately $4.8 million, compared with $3 million under current law. Accordingly, the maximum incremental cost associated with these extensions could reach $1.8 million. HSRA could incur additional costs during future property-acquisition phases beyond these extensions, depending on the number of affected parcels and appraisal requests.

For DWR, nearly all of the 485 acquisitions could result in the added cost, or $1,460,000 (485 x $3,000) above that which DWR would incur under existing law.

Background: Eminent domain is the legal authority of a government to take ownership of privately owned property for a public purpose. Whenever a government acquires a property via eminent domain, the government must provide just compensation to the property's owner. Under existing law, a property owner under threat of eminent domain may obtain an independent appraisal of their property. Existing law requires the acquiring public entity to offer up to $5,000 for an independent appraisal of such a property. This amount has not been adjusted since the law was enacted in 2006.

Staff Comments: Before making an offer to acquire property, HSRA obtains an appraisal from a qualified appraiser and an independent review of that appraisal, both at HSRA's expense. Existing law also allows the property owner to obtain a separate independent appraisal and receive reimbursement of up to $5,000. HSRA The Authority reports that property owners seeking independent appraisals have historically requested the maximum available reimbursement, which forms the basis for assuming the full $3,000 incremental cost per request.

Increasing the maximum appraisal reimbursement from $5,000 to $8,000 will incentivize more property owners to seek a third appraisal. This sudden surge would allow local appraisers to raise their rates, driving up average appraisal prices across the broader real estate market and significantly increasing overall project costs.

Costs could be higher and could include all parcels as the bill would cause the higher payment "under threat of eminent domain." This is defined by the bill to include "following the adoption of a resolution of necessity," and "following a statement that we could use eminent domain." Where eminent domain is not used, but the property/easement right is being acquired after one of those has occurred, DWR and HSR would be responsible for the $3,000 in higher cost of appraisals even if eminent domain isn't being used.

Related Legislation: AB 1033 (Lackey) 2025 proposed increasing the cap for all eminent domain actions to $8,000. AB 1033 was held on this committee's suspense file.