

Department of Planning and Budget

2014 Fiscal Impact Statement

1. Bill Number: SB 666

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Petersen

3. Committee: Finance

4. Title: Eminent Domain, reimburse costs; attorney fees

5. Summary: Allows the court, in certain condemnation proceedings, to award costs, including reasonable attorney fees, to the owner of property taken by condemnation. Under current law, awarding costs is discretionary and such costs exclude attorney fees.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary. See item 8.

8. Fiscal Implications: This amended bill would allow a court to authorize reimbursement of attorney fees for condemnation cases that go to trial, where the award is 30 percent higher than the offer. This could result in an increase of transportation projects costs involving condemnation. It could also increase the number of cases going to trial given the prospect of reimbursement.

According to the Virginia Department of Transportation (VDOT), it initiated 200 eminent domain cases last year. Historically, roughly 7.5 percent of these types of cases go to trial, with the remainder being settled. Therefore, approximately 15 cases a year may be subject to the 30 percent law and, for purposes of an estimated fiscal impact, it is assumed that three of the 15 cases would have an award over 30 percent. Assuming an estimated \$75,000 for attorney fees per case, the potential additional cost to VDOT is \$225,000 per year. These possible additional costs would have to be incorporated into each project's budget, reducing the availability of funding for additional transportation projects.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Transportation; Cities, Counties and others with power of eminent domain

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 02/04/2014

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