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FISCAL IMPACT REPORT

SPONSOR: Silva DATE TYPED: 03/12/01 HB 509/aHJC
 SHORT TITLE: Condemnation Proceedings SB _____
 ANALYST: Valdes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			Indeterminate	Recurring	State Road Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

State Highway and Transportation Department (SHTD)

SUMMARY

Synopsis of HJC Amendment

This amendment adds the following provision to the bill. “If the condemnor provides the condemnee a copy of his appraisal during the negotiation period, it shall be the obligation of the condemnee to provide to the condemnor within five days any and all appraisals of the property in the condemnee’s possession.”

Significant Issues Regarding HJC Amendment

If the condemnor provides an appraisal to the condemnee during the negotiation period, this amendment requires the condemnee to reciprocate by sharing all property appraisal evaluation information with the condemnor. This amendment will improve the negotiation process between the parties. Because the condemnor is not required to provide the appraisal, condemnees may initiate litigation to obtain a copy of the appraisal if it is not provided during the negotiation period by the condemnor. This would result in increased costs to the State Highway and Transportation Department due to increased litigation.

Synopsis of Original Bill

House Bill 509 amends current statutes governing property condemnation proceedings. Current law requires both parties to a condemnation proceeding who have had appraisals prepared to share them with the adverse party. This bill would make it optional to share these appraisals.

Significant Issues

According to the State Highway and Transportation Department, making it optional to share appraisals will most likely result in increased litigation, more trials and more court hearings. If it is not mandatory for both sides to exchange appraisals, the party who is denied an appraisal will clearly take the other side to court to obtain it.

FISCAL IMPLICATIONS

The department predicts that this bill would significantly impact the budget. The bill would result in increased costs due to increased litigation. Those costs would result from additional filing fees, attorney court appearances, motions and trial time. It may require increased attorney and support staff positions to handle the additional work.

An increase in litigation and trials would also increase the burden on the district courts.

ADMINISTRATIVE IMPLICATIONS

This bill would increase the litigation activity for the department.

OTHER SUBSTANTIVE ISSUES

According to department legal counsel, current law requires both sides in a condemnation proceeding to share any and all appraisals done by either party. The sharing of appraisals facilitates discovery and settlement negotiations. Without this information, there will be fewer settlements prior to the trial. Without pre-trial settlement, the number of cases going to trial will increase. Trials are expensive. Preparation time is required by both attorney and support staff. Most condemnation trials occur elsewhere in New Mexico, and involve travel, per diem and other costs. There is also expense for witnesses and exhibits. This increase in cost will only delay the process, without any offset of benefit to either the state or the property owner.

MV/ar