

IN THE SENATE

SENATE BILL NO. 1309

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO EMINENT DOMAIN PROCEEDINGS; AMENDING SECTION 58-1104, IDAHO
CODE, TO ESTABLISH PROVISIONS RELATING TO THE AWARD OF CERTAIN COSTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 58-1104, Idaho Code, be, and the same is hereby
amended to read as follows:

58-1104. UNSUCCESSFUL OR ABANDONED EMINENT DOMAIN PROCEEDING -- AWARD
OF LITIGATION EXPENSE. (a) Should the court having jurisdiction of an emi-
nent domain proceeding brought by the department, a political subdivision,
or an agency seeking condemnation of an owner's property render judgment
that the department, political subdivision, or agency may not acquire the
property by condemnation or should the proceeding be abandoned by the de-
partment, political subdivision, or agency, the court may award or the
department, political subdivision, or agency may pay the owner of the real
property such sum as will in the opinion of the court or the department,
political subdivision, or agency reimburse such owner for his reason-
able costs, disbursements, and expenses, including reasonable attorney,
appraisal, and engineering fees, actually incurred because of the condemna-
tion proceeding.

(b) Should the department, political subdivision or agency bringing
the condemnation action amend the project after commencing litigation and
the owner of the real property has actually incurred costs, disbursements,
expenses and/or attorney's fees relating to issues that are rendered moot
by such amendment, the court shall upon motion by the property owner award
such sum as will in the opinion of the court reimburse such owner for his rea-
sonable costs, disbursement and expenses, including reasonable attorney,
appraisal and expert fees, actually incurred for generating the evidence
rendered moot by reason of the amendment. Any costs, fees or expenses
awarded by the court on such motion shall be paid by the condemnor within a
reasonable time after the court rules on the motion and prior to the conclu-
sion of the case in order to enable the property owner to use those funds to
obtain new evidence and expert opinions to analyze just compensation with
the condemnor's amendment.