

#36(L)

10/1/65

First Supplement to Memorandum 65-46

Subject: Study No. 36(L) - Condemnation Law and Procedure (Moving Expenses)

The 1965 session of the California legislature enacted Chapter 1650 which provides for the payment of moving expenses when:

(1) The Department of Water Resources acquires property with funds from the California Water Resources Development Bond Fund. (GOVT. CODE §§ 15950-15956).

(2) The Department of Parks and Recreation acquires property with funds from the State Beach, Park, Recreational, and Historical Facilities Fund. (GOVT. CODE §§ 15950-15956).

(3) Property is acquired for a project on the state highway system (Sections 135.1 and 135.2--added to the Streets and Highways Code--which are exactly the same in substance as Sections 103.8 and 103.9 which were added to the same code by an earlier chapter of the 1965 statutes and were attached to the basic memorandum).

Chapter 1650 is attached to this memorandum (pink sheets).

Also attached to this memorandum are the regulations adopted by the State Board of Control to implement Government Code Sections 15950-15956 (green sheets). The regulations are generally the same as those adopted by the Department of Public Works, but there are a number of differences in language.

We believe that there is now even more justification for providing moving expenses in every case where property is acquired for public use, whether by the state, a local public entity, or a private person or corporation.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

Section 1. Part 13 (commencing with Section 15950) is added to Division 2 of Title 2 of the Government Code, to read:

PART 13. RELOCATION ASSISTANCE

CHAPTER 1. REIMBURSEMENT FOR MOVING EXPENSES

15950.

As used in this chapter:

(a) "State agency" means the Department of Water Resources when acquiring real property or any interest therein for public use with funds from the California Water Resources Development Bond Fund and the Department of Parks and Recreation when making such an acquisition with funds from the State Beach, Park, Recreational, and Historical Facilities Fund.

(b) "Eligible person" means any individual, family, business concern, farm or nonprofit organization to be displaced by a state construction project.

(c) "Construction project" means the acquisition of real property or any interest therein for public use by a state agency designated in subdivision (a) from the applicable fund designated in subdivision (a).

(d) "Public use" means a use for which property may be acquired by eminent domain.

(e) "Moving expenses" means the packing, loading, transportation, unloading and unpacking of personal property.

15951.

As a part of the cost of a construction project, a state agency may compensate eligible persons for their reasonable and necessary moving expenses caused by their displacement from real property acquired for such project.

15952.

The payment of moving expenses shall be made to eligible persons in accordance with the provisions of this chapter and such rules and regulations as shall be adopted by the Department of Public Works for property acquired by that department and by the Board of Control for property acquired by all other state agencies.

15953.

Payment of moving expenses shall not exceed two hundred dollars (\$200) in the case of an individual or family.

15954.

Payment for moving expenses shall not exceed three thousand dollars (\$3,000) in the case of a business concern, farm or nonprofit organization.

15955.

In the case of a business concern, farm or nonprofit organization the allowable expenses for transportation shall not exceed the cost of moving fifty (50) miles from the point from which such business concern, farm or nonprofit organization is being displaced.

15956.

The Department of Public Works and the Board of Control are authorized to adopt rules and regulations to implement the payment of moving expenses as authorized by this chapter. Such rules and regulations may include provisions authorizing payments made to individuals and families of fixed amounts not to exceed two hundred dollars (\$200) in lieu of their respective reasonable and necessary moving expenses.

Sec. 2. Section 135.1 is added to the Streets and Highways Code, to read:

135.1.

The department is authorized to give relocation advisory assistance to any family displaced because of acquisition or clearance of rights-of-way for any project on the state highway system.

Sec. 3. Section 135.2 is added to said code, to read:

135.2.

(a) As used in this section, the term "eligible person" means any individual, family, business concern, farm or nonprofit organization to be displaced by the construction of a highway project.

(b) As a part of the cost of construction of a project on the state highway system, the department may compensate eligible persons for their reasonable and necessary moving expenses caused by their displacement from real property acquired for such project. The relocation payments shall be made to eligible persons in accordance with the provisions of this section and such rules and regulations as shall be adopted by the department.

(c) Relocation payments shall not exceed two hundred dollars (\$200) in the case of an individual or family, nor three thousand dollars (\$3,000) in the case of a business concern, farm or nonprofit organization.

(d) In the case of a business concern, farm or nonprofit organization the allowable expenses for transportation shall not exceed the cost of moving fifty (50) miles from the point from which such business concern, farm or nonprofit organization is being displaced.

(e) The department is authorized to adopt rules and regulations to implement this section. Such rules and regulations may include provisions authorizing payments made to individuals and families of fixed amounts not to exceed two hundred dollars (\$200) in lieu of their respective reasonable and necessary moving expenses.

Sec. 4. This act shall be known and may be cited as the Collier-Foran Act.

Sec. 5. [Emergency measure]

Approved July 17, 1963.

Filed July 20, 1963.

STATE BOARD OF CONTROL
SACRAMENTO

September 21, 1965

TO: ALL STATE AGENCIES

SUBJECT: RULES AND REGULATIONS, STATE BOARD OF CONTROL
(Article 18. Moving Expenses in Connection
with the Acquisition of Real Property by
State Agencies)

The State Board of Control on September 21, 1965, amended its regulations in Title 2, California Administrative Code, effective September 22, 1965, as follows:

Added Article 18, to read:

Article 18. Moving Expenses in Connection
with the Acquisition of Real
Property by State Agencies

880. Statute Authority. The rules and regulations contained in this article are based upon Sections 15950 through 15956, inclusive, of the Government Code.

881. Definitions. (a) "State agency" means the State Public Works Board when acquiring property for the Department of Parks and Recreation with funds from the State Beach, Park, Recreation, and Historical Facilities Fund.

(b) "Eligible person" means any individual, family, business concern, or farm to be displaced from real property to be acquired by the state agency.

(c) "Moving expenses" means the packing, loading, transportation, unloading and unpacking of personal property owned by the eligible person. Moving expenses shall not include:

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(1) Payment when the personal property has been purchased, or will be relocated, as part of the acquisition agreement.

(2) Any loss of, or damage to, personal property.

(3) The cost of insuring or storage of personal property.

(4) The cost of dismantling, disconnecting, or reinstalling personal property.

(5) Expenses incurred in moving trade fixtures.

(d) "Individual" means a person owning or tenant occupying a dwelling unit who is not a member of the family.

(e) "Family" means two or more persons related by blood or by marriage who own or are tenants occupying a dwelling unit.

(f) "Business concern" means a corporation, nonprofit corporation, unincorporated association, partnership, individual or other private entity, engaged in a business or professional activity requiring the use of fixtures, equipment, stock in trade, or other tangible personal property for the carrying on of the business or profession on the premises.

(g) "Farm" means real property which is used for the production of one or more agricultural, horticultural, livestock or poultry commodities for sale and which customarily produces such commodities in sufficient quantity to contribute materially to the operator's support.

(h) "Counted room" means that space in a dwelling unit containing the usual quantity of household furniture, equipment, and personal

property. It shall include such space as a recreation room, living room, library, study, dining room, kitchen, laundry room, finished basement, enclosed sun porch (when it contains household furniture, equipment and personal property), bedroom, and garage. Counted room does not include a bathroom, closet, pantry, hall, screened porch, shed, carport, and unfinished room.

882. General Provisions. Payment for moving expenses shall be made by the state agency to an eligible person under the circumstances and to the extent set forth in this section and in Sections 883 and 884. Application for payment shall be made upon forms prescribed by the state agency and shall be accompanied by such information as may be required.

(a) The date of eligibility for moving expenses is the date the acquisition agreement is signed by the property owner in a negotiated settlement, or the date of recordation of the Final Order of Condemnation in a condemnation action.

(b) After an eligible person has vacated the property, no moving expenses will be made to any party with respect to the subsequent occupancy of the same property.

(c) Applications for moving expenses will be accepted only after close of escrow with the fee owner and completion of the move. Further, applications will not be accepted if received more than three months after vacation of the property.

(d) An individual or family occupying a dwelling unit on the same premises as a business concern or a farm shall be considered as a separate eligible person in determining the amount of the moving expenses.

883. Provisions Applicable to an Individual or Family. (a) Moving expenses shall not exceed \$200 in the case of an individual or family and shall be made in accordance with the schedule of fixed payments as follows:

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| <u>Counted Rooms</u> | <u>Moving Payment</u> |
|----------------------|-----------------------|
| 1 or 2 | \$ 50 |
| 3 | 75 |
| 4 | 100 |
| 5 | 125 |
| 6 | 150 |
| 7 | 175 |
| 8 or more | 200 |

(b) When more than one individual or family owns or occupies the same dwelling, each individual or family may qualify for moving expenses; however, their total claim for moving expenses shall not exceed the fixed moving expenses for the total number of counted rooms in the dwelling.

(c) Tenants owning only a nominal amount of furniture, equipment, and personal property shall not be eligible for moving expenses.

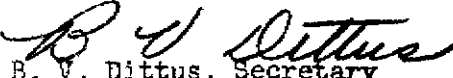
884. Provisions Applicable to a Business Concern or Farm. (a) Moving expenses for a business concern or a farm shall not exceed \$3,000.

(b) The allowable expense for transportation shall not exceed the cost of moving 50 miles. The distance will be measured by a straight line from the point of displacement to the point of relocation.

(c) Actual and necessary moving expenses will be paid upon receipt of a paid, receipted, and itemized bill from a moving contractor holding a permit from the Public Utilities Commission authorizing operations as a household goods carrier.

(d) A business concern or farm which desires to perform the move itself may submit its own itemized estimate of moving expenses; however, the state agency may require that two estimates be obtained from a moving contractor holding a permit from the Public Utilities Commission authorizing operations as a household goods carrier. In the latter event, the lowest estimate will be the amount paid for moving expenses.

(e) All books and records as to actual moving costs incurred kept by the business concern or farm shall be subject to review and audit by a representative of the state agency during reasonable business hours.


B. V. Dittus, Secretary
State Board of Control