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## Attorney in tobacco deal reduces fee to \$10 million

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Harris County will pay attorney Richard Mithoff \$10 million for his work in securing a \$2.2 billion settlement of Harris' and other counties' claims against the tobacco industry.

Under Mithoff's contract, he could have been paid as much as \$27 million — a figure that sparked some criticism as being excessive for three months' work. But Mithoff agreed to negotiate a lower payment with County Attorney Mike Fleming, and the two agreed Friday on a figure of \$20 million.

And, although members of Commissioners Court lauded the fairness

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of the \$20 million figure during a special session Friday afternoon, at least some did so knowing that Mithoff planned to accept far less.

Before the court actually voted to award him \$20 million, Mithoff went to the podium and told the court he preferred to accept only \$10 million, and he suggested the county use the other \$10 million to fund children's health programs.

The court immediately accepted Mithoff's offer, unanimously approving both the overall tobacco settlement and Mithoff's fee.

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## Tobacco

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Mithoff has said he joined the county in working to increase its share of the tobacco settlement not for the money, but because "it was the right thing to do."

He said he decided to ask the court to divert the \$10 million to children's health programs late Thursday night.

"I called my wife and asked her today (Friday) if it would be all right, and she said 'Sure,'" Mithoff quipped.

In accepting only \$10 million of a possible \$27 million fee, Mithoff was able to avert some of the scattered criticism of the deal, although he said that had nothing to do with his decision.

Ken Hoagland, a spokesman for Texans for Reasonable Legal Fees, said Thursday that his group believed the fees initially proposed for Mithoff seemed "excessive."

But Hoagland congratulated Mithoff on his decision Friday.

"Even Mr. Mithoff must have recognized the richness of the fee," he said. "It has inspired him to fund charitable works, and we salute him for that."

Nearly lost in the discussion of Mithoff's fee was the fact that the county approved the final tobacco agreement itself — a deal that has

enjoyed widespread praise.

The county's agreement — which must still be approved Monday by the Harris County Hospital District — was essentially an outgrowth of the state's settlement with the tobacco industry regarding tobacco-related health-care costs.

The state agreed to accept \$15.3 billion, but included no written promises in the agreement that any of that money would go to counties and hospital districts, which have paid out millions for tobacco-related health care.

Legislators offered only to make their best efforts to get the Legislature to approve \$400 million, to be shared among all 254 counties and associated hospital districts. Harris County Attorney Mike Fleming and Mithoff considered that figure far too low and announced that they would consider a separate lawsuit — potentially jeopardizing the state's agreement.

As a result, Mithoff and state officials began negotiations to break the impasse. One key to resolving the issue was a clause in the state's agreement with the industry that allowed

it to match any better deals negotiated by another state. After Minnesota won a better deal than Texas, the tobacco industry agreed to increase its award to the state by \$2.2 billion.

Mithoff and state negotiators then agreed that the \$2.2 billion would go to the counties and hospital districts — the settlement finally approved by both the state and the county Friday.

Under the counties' portion of the agreement, \$450 million of the \$2.2 billion will be paid out in lump sums during the next three years — \$300 million in January 1999, \$100 million in January 2000 and \$50 million in January 2001. Harris County's share of the lump-sum payments would be a total of \$80 million spread out over those three years.

In addition, the agreement calls for the remaining \$1.8 billion to be used to set up a permanent endowment fund to finance health care for the poor. The interest and investment returns from that endowment would be paid out to the counties annually, beginning in 2000.

Fleming and Mithoff said Friday that, assuming a 10 percent annual return, the endowment and lump-sum payments could net Harris County as much as \$800 million over 25 years.

"I don't think that anybody can argue that the results in this case are anything other than excellent," Fleming told Commissioners Court.



Mithoff