

IN THE SENATE

SENATE BILL NO. 1133, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE AGRICULTURAL PROTECTION AREA ACT; AMENDING SECTION 67-9704, IDAHO CODE, TO REVISE A PROVISION REGARDING AGRICULTURAL PROTECTION AREAS; REPEALING SECTION 67-9706, IDAHO CODE, RELATING TO REVIEW AND ACTION ON AGRICULTURAL PROTECTION AREA APPLICATIONS; AMENDING CHAPTER 97, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9706, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING REVIEW AND ACTION ON AGRICULTURAL PROTECTION AREA APPLICATIONS; AMENDING SECTION 67-9709, IDAHO CODE, TO REVISE A PROVISION REGARDING ADDING LAND TO AND REMOVING LAND FROM AN AGRICULTURAL PROTECTION AREA; AMENDING SECTION 67-9710, IDAHO CODE, TO REVISE PROVISIONS REGARDING LIMITATIONS ON LOCAL REGULATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-9704, Idaho Code, be, and the same is hereby amended to read as follows:

67-9704. AGRICULTURAL PROTECTION AREAS. (1) ~~No later than January 1, 2025, each~~ Each board of county commissioners shall establish an agricultural protection area ordinance in accordance with the notice and hearing procedures in section 67-6509, Idaho Code. At a minimum, the ordinance shall:

(a) Establish a process through which agricultural lands may be placed in agricultural protection areas for a minimum of twenty (20) years;

(b) Establish the application requirements, including but not limited to information about the landowner; a description of the parcels, structures, and facilities proposed to be included in an agricultural protection area; and the current uses of lands proposed to be included in an agricultural protection area;

(c) Establish clear and objective standards for evaluating applications for inclusion in an agricultural protection area;

(d) Establish the timeline for reviewing and making decisions on agricultural protection area applications; and

(e) Establish an application fee ~~to cover the~~ not to exceed the cost of covering administrative costs of expenses for processing applications, including but not limited to reviewing application materials, holding public meetings and hearings, providing public notice, recording applicable documents, and creating or updating county land use maps, provided that such fee shall not exceed the actual costs of processing the application a map of agricultural protection areas. Additional fees may be required if an appeal is filed pursuant to section 67-9706, Idaho Code, provided that such additional fees shall not exceed the actual cost of holding a public hearing.

1 (2) ~~No later than January 1, 2025, each~~ Each board of county commission-
 2 ers shall establish by resolution or ordinance an agricultural protection
 3 area commission pursuant to section 67-9705, Idaho Code.

4 (3) Agricultural protection areas shall be designated on ~~future land~~
 5 ~~use planning maps~~ a planning map to serve as a voluntary and expeditious tool
 6 ~~for working landowners while also informing~~ to inform planners, commis-
 7 sions, county officials, and citizens at large on how to proactively plan for
 8 agriculture. Such map designation shall not require a rezone, comprehensive
 9 plan amendment, or amendments to other comprehensive planning maps.

10 (4) The designations of specific parcels of land as agricultural pro-
 11 tection areas shall not impact other parcels of land not designated as agri-
 12 cultural protection areas.

13 (5) Nothing shall restrict an applicant, as defined in section 67-9703,
 14 Idaho Code, from being able to apply for agricultural protection areas in-
 15 side or outside of an area of impact established pursuant to section 67-6526,
 16 Idaho Code.

17 (6) Agricultural protection areas shall not be changed to another land
 18 use designation unless:

19 (a) The agricultural protection area expires and the landowner chooses
 20 not to renew the agricultural protection area's designation; or

21 (b) The landowner chooses to remove land from an agricultural protec-
 22 tion area pursuant to section 67-9709, Idaho Code.

23 SECTION 2. That Section 67-9706, Idaho Code, be, and the same is hereby
 24 repealed.

25 SECTION 3. That Chapter 97, Title 67, Idaho Code, be, and the same is
 26 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 27 ignated as Section 67-9706, Idaho Code, and to read as follows:

28 67-9706. REVIEW AND ACTION ON AGRICULTURAL PROTECTION AREA APPLICA-
 29 TION. (1) Within sixty (60) days of receiving a recommendation from the agri-
 30 cultural protection area commission to support or reject an application, the
 31 planning and zoning administrator or other administrative officer appointed
 32 by the board of county commissioners shall approve or deny the application to
 33 include land in an agricultural protection area in a written decision.

34 (2) The decision shall specify, at minimum:

35 (a) The ordinance and standards used in evaluating the application;

36 (b) The agricultural protection area commission's recommendation;

37 (c) A reasoned explanation for the decision reached by the administra-
 38 tor or other administrative officer, if appointed; and

39 (d) If applicable, the actions, if any, that the applicant could take to
 40 obtain approval.

41 (3) If the administrator or other administrative officer, if ap-
 42 pointed, fails to issue a written decision within sixty (60) days of receiv-
 43 ing a recommendation from the agricultural protection area commission, the
 44 recommendation of the agricultural protection area commission shall become
 45 the decision of the administrator or other administrative officer, if ap-
 46 pointed.

47 (4) (a) An aggrieved applicant may appeal the decision to the board of
 48 county commissioners within thirty (30) days of receiving the written

1 decision pursuant to subsection (1) of this section or recommendation
2 that has become final pursuant to subsection (3) of this section.

3 (b) Within sixty (60) days of receiving an appeal, the board of county
4 commissioners shall hold a public hearing in accordance with the notice
5 and hearing procedures described in section 67-6509, Idaho Code, re-
6 garding the appeal.

7 (c) In reviewing an appeal, the board of county commissioners shall
8 consider the recommendation of the agricultural protection area com-
9 mission, the written decision of the administrator or other admin-
10 istrative officer, if appointed, all written and oral public comment
11 received at the public hearing, and any other information the board of
12 county commissioners determines to be relevant.

13 (d) Within sixty (60) days of the close of the public hearing, the
14 board of county commissioners shall issue a final decision approving
15 or denying the agricultural protection area application. If the board
16 of county commissioners fails to act within the sixty (60) day period,
17 the decision of the administrator or other administrative officer, if
18 appointed, shall become the final decision of the board of county com-
19 missioners.

20 (5) The board of county commissioners' final decision shall be subject
21 to judicial review.

22 (6) If the agricultural protection area application is approved, the
23 agricultural protection area shall be created.

24 SECTION 4. That Section 67-9709, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 67-9709. ADDING LAND TO AND REMOVING LAND FROM AN AGRICULTURAL PRO-
27 TECTION AREA. (1) A landowner may add land to an existing agricultural pro-
28 tection area by filing an application with the board of county commission-
29 ers. The board of county commissioners shall review an application to add
30 land to an existing agricultural protection area in accordance with section
31 67-9706, Idaho Code.

32 (2) An owner of land within an agricultural protection area may remove
33 any or all of the land from the agricultural protection area by filing a peti-
34 tion for removal with the board of county commissioners.

35 (a) The board of county commissioners shall acknowledge receipt of the
36 petition for removal in writing; and

37 (b) Confirm the removal date as ten (10) years from the date of peti-
38 tion for removal, or upon expiration of the designation, whichever is
39 sooner.

40 (3) The board of county commissioners shall establish a process by
41 which an owner of land within an agricultural protection area may remove
42 any or all of the land from the agricultural protection area for reasons of
43 hardship, as defined in this chapter.

44 (4) The board of county commissioners may charge an administrative fee
45 ~~to cover not to exceed the cost of covering administrative costs~~ expenses
46 associated with processing changes to an agricultural protection area, in-
47 cluding but not limited to updating land use maps the agricultural protec-
48 tion area map, recording documents, and reasonable staff time for process-
49 ing the request, provided that such administrative fee shall not exceed the

1 ~~actual cost of processing changes to an agricultural protection area.~~ The
2 clerk of the board of county commissioners shall record the renewal of an
3 agricultural protection area pursuant to section 67-9708, Idaho Code.

4 SECTION 5. That Section 67-9710, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 67-9710. LIMITATIONS ON LOCAL REGULATIONS. (1) A board of county com-
7 missioners having created an agricultural protection area shall encourage
8 the continuity, development, and viability of agricultural use within the
9 specific boundaries designated in the agricultural protection area by not
10 enacting a local law, ordinance, or regulation that would restrict a farm
11 structure or farming practice within the boundaries of the agricultural pro-
12 tection area, unless such farm structure or farming practice does not comply
13 with generally recognized farming practices or the farm structure or land
14 use is in conflict with the current agricultural land use classification or
15 agricultural zoning designation of the area.

16 (2) The board of county commissioners shall not change the current
17 agricultural land use classification or agricultural zoning designation
18 for parcels of land within an agricultural protection area without written
19 permission from the landowner.

20 ~~(3) The board of county commissioners shall amend applicable land use~~
21 ~~planning maps to reflect the boundaries of designated agricultural protec-~~
22 ~~tion areas and their benefits as provided in sections 67-9711 and 67-9712,~~
23 ~~Idaho Code, and shall comply with the provisions of section 67-6508, Idaho~~
24 ~~Code.~~

25 ~~(4) (3)~~ Nothing in this section shall prevent a board of county com-
26 missioners from regulating the siting of large confined animal feeding op-
27 erations and facilities pursuant to section 67-6529, Idaho Code; ~~the sit-~~
28 ~~ing of residential, commercial, manufacturing, industrial, solar energy, or~~
29 ~~wind energy structures; or other nonagricultural land uses on lands included~~
30 ~~within an agricultural protection area.~~

31 (4) The siting of residential, commercial, manufacturing, industrial,
32 solar or wind energy structures, or any other non-agricultural land use on
33 lands included within an agricultural protection area shall be prohibited
34 unless such uses are also contributing to agricultural production. Such
35 non-agricultural uses are subject to applicable county planning and zoning
36 ordinances and building codes.

37 SECTION 6. An emergency existing therefor, which emergency is hereby
38 declared to exist, this act shall be in full force and effect on and after its
39 passage and approval.