

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 233

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE AGRICULTURAL PROTECTION AREA ACT; AMENDING SECTION 67-9703,
2 IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 67-9704, IDAHO CODE, TO
3 REVISE A PROVISION REGARDING AGRICULTURAL PROTECTION AREAS; AMENDING
4 SECTION 67-9706, IDAHO CODE, TO REVISE A PROVISION REGARDING REVIEW AND
5 ACTION ON AGRICULTURAL PROTECTION AREA APPLICATIONS; AMENDING SECTION
6 67-9709, IDAHO CODE, TO REVISE A PROVISION REGARDING ADDING LAND TO AND
7 REMOVING LAND FROM AN AGRICULTURAL PROTECTION AREA; AMENDING SECTION
8 67-9710, IDAHO CODE, TO REVISE A PROVISION REGARDING LIMITATIONS ON
9 LOCAL REGULATIONS; AMENDING CHAPTER 97, TITLE 67, IDAHO CODE, BY THE
10 ADDITION OF A NEW SECTION 67-9713, IDAHO CODE, TO ESTABLISH PROVISIONS
11 REGARDING AN AGRICULTURAL PROTECTION AREA FUND; AND DECLARING AN EMER-
12 GENCY.
13

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

15 SECTION 1. That Section 67-9703, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 67-9703. DEFINITIONS. As used in this chapter:

18 (1) "Agricultural production" means activities or conditions con-
19 ducted on land actively devoted to agriculture as defined in section 63-604,
20 Idaho Code, or on forest land as defined in section 63-1701, Idaho Code.

21 (2) "Agricultural protection area" means specific parcels of land in a
22 designated geographic area voluntarily created under the authority of this
23 chapter for the purpose of protecting and preserving agricultural land.

24 (3) "Agricultural protection area commission" means the advisory board
25 to the governing body created pursuant to section 67-9705, Idaho Code.

26 (4) "Agricultural protection area fund" means a fund created by a
27 county that provides financial incentives to the owners of the agricultural
28 land within approved agricultural protection areas.

29 ~~(4)~~ (5) "Applicant" means anyone who owns five (5) acres or more of land
30 that has been in active agricultural or forest production for the previous
31 three (3) consecutive years, consistent with the provisions of sections
32 63-604 and 63-1701, Idaho Code, and who voluntarily applies for that land to
33 be part of an agricultural protection area.

34 ~~(5)~~ (6) "Hardship" means a situation or circumstance over which a
35 landowner in an agricultural protection area has no control and can then pe-
36 tition for removal for reasons that include but are not limited to an adverse
37 result in litigation against the farm or landowner, death of a close family
38 member that would lead to unanticipated financial hardships, significant
39 tax liabilities, bankruptcy due to another person's fraud, or any other il-
40 legal activity.

1 ~~(6)~~ (7) "Proposal" means written documents submitted to a governing
2 body or agricultural protection area commission from a landowner regarding
3 his property.

4 SECTION 2. That Section 67-9704, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 67-9704. AGRICULTURAL PROTECTION AREAS. (1) ~~No later than January 1,~~
7 ~~2025, each~~ Each board of county commissioners shall establish an agricul-
8 tural protection area ordinance in accordance with the notice and hearing
9 procedures in section 67-6509, Idaho Code. At a minimum, the ordinance
10 shall:

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

13 (b) Establish the application requirements, including but not lim-
14 ited to information about the landowner; a description of the parcels,
15 structures, and facilities proposed to be included in an agricultural
16 protection area; and the current uses of lands proposed to be included
17 in an agricultural protection area;

18 (c) Establish clear and objective standards for evaluating applica-
19 tions for inclusion in an agricultural protection area;

20 (d) Establish the timeline for reviewing and making decisions on agri-
21 cultural protection area applications; and

22 (e) Establish an application fee ~~to cover the~~ not to exceed the cost of
23 covering administrative costs of expenses for processing applications,
24 including but not limited to reviewing application materials, holding
25 public meetings and hearings, providing public notice, recording ap-
26 licable documents, and creating or updating county land use maps, pro-
27 vided that such fee shall not exceed the actual costs of processing the
28 application a map of agricultural protection areas.

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

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

38 ~~(4) The designations of specific parcels of land as agricultural pro-~~
39 ~~tection areas shall not impact other parcels of land not designated as agri-~~
40 ~~cultural protection areas.~~

41 (4) Nothing shall restrict an applicant, as defined in section 67-9703,
42 Idaho Code, from being able to apply for agricultural protection areas in-
43 side or outside of a city impact area.

44 (5) Agricultural protection areas shall not be changed to another land
45 use designation unless:

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

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

1 (6) The siting of residential, commercial, manufacturing, industrial,
 2 solar or wind energy structures, or any other non-agricultural land use on
 3 lands included within an agricultural protection area shall be prohibited
 4 unless such uses are also contributing to agriculture production.

5 SECTION 3. That Section 67-9706, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 67-9706. REVIEW AND ACTION ON AGRICULTURAL PROTECTION AREA APPLICA-
 8 TION. (1) Within sixty (60) days of receiving a recommendation from the agri-
 9 cultural protection area commission to support or reject an application, the
 10 board of county commissioners shall ~~hold a public hearing regarding the ap-~~
 11 ~~plication in accordance with the notice and hearing procedures pursuant to~~
 12 ~~section 67-6509, Idaho Code~~ review the application and recommendations from
 13 the agricultural protection area commission at a regular meeting where pub-
 14 lic comments, written or oral, shall be accepted. Review of the application
 15 and recommendations shall not require a formal public hearing. The board of
 16 county commissioners may approve or deny an application to include land in an
 17 agricultural protection area. If approved, the creation of an agricultural
 18 protection area shall be effective upon final action of the board of county
 19 commissioners.

20 (2) If the board of county commissioners fails to take action on the
 21 recommendation of the agricultural protection commission within sixty (60)
 22 days of receiving such recommendation, the recommendation of the agricul-
 23 tural protection area becomes final. A decision to approve or deny an agri-
 24 cultural protection area shall be subject to judicial review.

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

27 67-9709. ADDING LAND TO AND REMOVING LAND FROM AN AGRICULTURAL PRO-
 28 TECTION AREA. (1) A landowner may add land to an existing agricultural pro-
 29 tection area by filing an application with the board of county commission-
 30 ers. The board of county commissioners shall review an application to add
 31 land to an existing agricultural protection area in accordance with section
 32 67-9706, Idaho Code.

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

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

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

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

45 (4) The board of county commissioners may charge an administrative fee
 46 ~~to cover~~ not to exceed the cost of covering administrative ~~costs~~ expenses
 47 associated with processing changes to an agricultural protection area, in-

1 cluding but not limited to updating ~~land use maps~~ the agricultural protec-
 2 tion area map, recording documents, and reasonable staff time for process-
 3 ing the request, ~~provided that such administrative fee shall not exceed the~~
 4 ~~actual cost of processing changes to an agricultural protection area.~~ The
 5 clerk of the board of county commissioners shall record the renewal of an
 6 agricultural protection area pursuant to section 67-9708, Idaho Code.

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

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

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

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

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

34 SECTION 6. That Chapter 97, Title 67, Idaho Code, be, and the same is
 35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 36 ignated as Section 67-9713, Idaho Code, and to read as follows:

37 67-9713. AGRICULTURAL PROTECTION AREA FUND. (1) No later than January
 38 1, 2026, each board of county commissioners of counties that have agricul-
 39 tural protection areas within their boundaries shall establish an agricul-
 40 tural protection area fund in accordance with the notice and hearing proce-
 41 dures in section 67-6509, Idaho Code.

42 (2) Counties that establish an agricultural protection area fund shall
 43 have the authority to accept voluntary contributions from public and private
 44 entities. Such contributions shall promptly be deposited into the fund.

45 (3) Within thirty (30) days of the county's fiscal year end, the county
 46 shall calculate the total annual voluntary contributions paid into the fund
 47 and shall distribute at least ninety-five percent (95%) of the funds on a

1 per-acre basis to landowners with approved agricultural protection areas
2 established by the end of the county's fiscal year. All agricultural pro-
3 tection areas in the county shall be eligible for annual fund distribution,
4 regardless of when the agricultural protection area was established. Up to
5 five percent (5%) of the remaining funds shall be used by the county to pay
6 for administrative costs of the fund and to promote agriculture within the
7 county's boundaries.

8 SECTION 7. An emergency existing therefor, which emergency is hereby
9 declared to exist, this act shall be in full force and effect on and after its
10 passage and approval.