

IN THE SENATE

SENATE BILL NO. 1133

BY STATE AFFAIRS 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,
3 TO REVISE A PROVISION REGARDING AGRICULTURAL PROTECTION AREAS; RE-
4 PEALING SECTION 67-9706, IDAHO CODE, RELATING TO REVIEW AND ACTION ON
5 AGRICULTURAL PROTECTION AREA APPLICATIONS; AMENDING CHAPTER 97, TITLE
6 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9706, IDAHO CODE,
7 TO ESTABLISH PROVISIONS REGARDING REVIEW AND ACTION ON AGRICULTURAL
8 PROTECTION AREA APPLICATIONS; AMENDING SECTION 67-9709, IDAHO CODE, TO
9 REVISE A PROVISION REGARDING ADDING LAND TO AND REMOVING LAND FROM AN
10 AGRICULTURAL PROTECTION AREA; AMENDING SECTION 67-9710, IDAHO CODE, TO
11 REVISE PROVISIONS REGARDING LIMITATIONS ON LOCAL REGULATIONS; AMEND-
12 ING CHAPTER 97, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
13 67-9713, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING AN AGRICULTURAL
14 PROTECTION AREA FUND; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
15 FECTIVE DATE.
16

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

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

20 67-9703. DEFINITIONS. As used in this chapter:

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

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

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

29 (4) "Agricultural protection area fund" means a fund that provides mon-
30 etary payments to the owners of the agricultural land within approved agri-
31 cultural protection areas.

32 ~~(4)~~ (5) "Applicant" means anyone who owns five (5) acres or more of land
33 that has been in active agricultural or forest production for the previous
34 three (3) consecutive years, consistent with the provisions of sections
35 63-604 and 63-1701, Idaho Code, and who voluntarily applies for that land to
36 be part of an agricultural protection area.

37 ~~(5)~~ (6) "Hardship" means a situation or circumstance over which a
38 landowner in an agricultural protection area has no control and can then pe-
39 tition for removal for reasons that include but are not limited to an adverse
40 result in litigation against the farm or landowner, death of a close family
41 member that would lead to unanticipated financial hardships, significant

1 tax liabilities, bankruptcy due to another person's fraud, or any other il-
2 legal activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 3 (a) The agricultural protection area expires and the landowner chooses
 4 not to renew the agricultural protection area's designation; or
 5 (b) The landowner chooses to remove land from an agricultural protec-
 6 tion area pursuant to section 67-9709, Idaho Code.

7 SECTION 3. That Section [67-9706](#), Idaho Code, be, and the same is hereby
 8 repealed.

9 SECTION 4. That Chapter 97, Title 67, Idaho Code, be, and the same is
 10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 11 ignated as Section 67-9706, Idaho Code, and to read as follows:

12 67-9706. REVIEW AND ACTION ON AGRICULTURAL PROTECTION AREA APPLICA-
 13 TION. (1) Within sixty (60) days of receiving a recommendation from the agri-
 14 cultural protection area commission to support or reject an application, the
 15 planning and zoning administrator or other administrative officer appointed
 16 by the board of county commissioners shall approve or deny the application to
 17 include land in an agricultural protection area in a written decision.

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

- 19 (a) The ordinance and standards used in evaluating the application;
 20 (b) The agricultural protection area commission's recommendation;
 21 (c) A reasoned explanation for the decision reached by the administra-
 22 tor or other administrative officer, if appointed; and
 23 (d) If applicable, the actions, if any, that the applicant could take to
 24 obtain approval.

25 (3) If the administrator or other administrative officer, if ap-
 26 pointed, fails to issue a written decision within sixty (60) days of receiv-
 27 ing a recommendation from the agricultural protection area commission, the
 28 recommendation of the agricultural protection area commission shall become
 29 the decision of the administrator or other administrative officer, if ap-
 30 pointed.

31 (4) (a) An aggrieved applicant may appeal the decision to the board of
 32 county commissioners within thirty (30) days of receiving the written
 33 decision pursuant to subsection (1) of this section or recommendation
 34 that has become final pursuant to subsection (3) of this section.

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

39 (c) In reviewing an appeal, the board of county commissioners shall
 40 consider the recommendation of the agricultural protection area com-
 41 mission, the written decision of the administrator or other admin-
 42 istrative officer, if appointed, all written and oral public comment
 43 received at the public hearing, and any other information the board of
 44 county commissioners determines to be relevant.

45 (d) Within sixty (60) days of the close of the public hearing, the
 46 board of county commissioners shall issue a final decision approving
 47 or denying the agricultural protection area application. If the board
 48 of county commissioners fails to act within the sixty (60) day period,

1 the decision of the administrator or other administrative officer, if
2 appointed, shall become the final decision of the board of county com-
3 missioners.

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

6 (6) If the agricultural protection area application is approved:

7 (a) The agricultural protection area shall be created; and

8 (b) A copy of the application shall be transmitted electronically to
9 the administrator of the soil and water conservation district where
10 that agricultural protection area exists.

11 SECTION 5. That Section 67-9709, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 67-9709. ADDING LAND TO AND REMOVING LAND FROM AN AGRICULTURAL PRO-
14 TECTION AREA. (1) A landowner may add land to an existing agricultural pro-
15 tection area by filing an application with the board of county commission-
16 ers. The board of county commissioners shall review an application to add
17 land to an existing agricultural protection area in accordance with section
18 67-9706, Idaho Code.

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

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

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

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

31 (4) The board of county commissioners may charge an administrative fee
32 ~~to cover not to exceed the cost of covering administrative costs expenses~~
33 associated with processing changes to an agricultural protection area, in-
34 cluding but not limited to updating ~~land use maps~~ the agricultural protec-
35 tion area map, recording documents, and reasonable staff time for process-
36 ing the request, provided that such administrative fee shall not exceed the
37 actual cost of processing changes to an agricultural protection area. The
38 clerk of the board of county commissioners shall record the renewal of an
39 agricultural protection area pursuant to section 67-9708, Idaho Code.

40 SECTION 6. That Section 67-9710, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 67-9710. LIMITATIONS ON LOCAL REGULATIONS. (1) A board of county com-
43 missioners having created an agricultural protection area shall encourage
44 the continuity, development, and viability of agricultural use within the
45 specific boundaries designated in the agricultural protection area by not
46 enacting a local law, ordinance, or regulation that would restrict a farm
47 structure or farming practice within the boundaries of the agricultural pro-

1 tection area, unless such farm structure or farming practice does not comply
 2 with generally recognized farming practices or the farm structure or land
 3 use is in conflict with the current agricultural land use classification or
 4 agricultural zoning designation of the area.

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

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

14 ~~(4) (3) Nothing in this section shall prevent a board of county com-
 15 missioners from regulating the siting of large confined animal feeding op-
 16 erations and facilities pursuant to section 67-6529, Idaho Code; the sit-
 17 ing of residential, commercial, manufacturing, industrial, solar energy, or
 18 wind energy structures; or other nonagricultural land uses on lands included
 19 within an agricultural protection area.~~

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

26 SECTION 7. That Chapter 97, Title 67, Idaho Code, be, and the same is
 27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 28 ignated as Section 67-9713, Idaho Code, and to read as follows:

29 67-9713. AGRICULTURAL PROTECTION AREA FUND. (1) Upon receipt of an
 30 initial voluntary contribution, the respective soil and water conservation
 31 district shall establish an agricultural protection area fund.

32 (2) Soil and water conservation districts shall have the authority to
 33 accept voluntary contributions from public and private entities. Such con-
 34 tributions shall promptly be deposited into the fund.

35 (3) Within thirty (30) days of the state's fiscal year end, the admin-
 36 istrator for each soil and water conservation district that has established
 37 an agricultural protection area fund shall calculate the total annual volun-
 38 tary contributions paid into the fund and shall distribute at least ninety-
 39 five percent (95%) of the funds on a per-acre basis to landowners with ap-
 40 proved agricultural protection areas established by the end of the state's
 41 fiscal year. All agricultural protection areas in the county shall be eli-
 42 gible for annual fund distribution, regardless of when the agricultural pro-
 43 tection area was established. The remaining funds shall be used by the soil
 44 and water conservation district to pay for administrative costs of the fund
 45 and to promote agriculture and soil and water conservation within the state.

46 SECTION 8. An emergency existing therefor, which emergency is hereby
 47 declared to exist, this act shall be in full force and effect on and after
 48 July 1, 2025.