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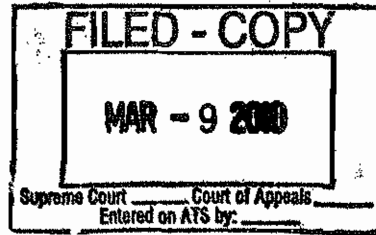
IN THE SUPREME COURT OF THE STATE OF IDAHO

GILTNER DAIRY, LLC, an Idaho limited liability company, Petitioner-Appellant, v. JEROME COUNTY, a political subdivision of the State of Idaho, Respondent, and 93 GOLF RANCH, L.L.C., an Idaho limited liability company, Intervenor-Respondent.	)	**Supreme Court Docket No. 36528-2009** Jerome Co. Case No. CV-08-1269



INTERVENOR-RESPONDENT'S BRIEF

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, in and for Jerome County

---

Honorable John K. Butler, District Judge, Presiding

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I. STATEMENT OF THE CASE

A. **Nature of the Case**

Appellant, Giltner Dairy, LLC ("Giltner"), has presented the Court with an abbreviated statement of the case and its history. Intervenor, 93 Golf Ranch, LLC ("Golf Ranch"), believes that the district court's **FACTUAL AND PROCEDURAL BACKGROUND** contained in its Memorandum Decision more completely sets forth the entire proceedings that took place with regard to this matter. R., pp. 83-85.

II. ADDITIONAL ISSUES ON APPEAL

1. Has the Idaho Supreme Court already ruled that . . . "there is no statute authorizing judicial review of a county's action regarding a rezone application" in *Burns Holdings, LLC v. Madison County Board of Comm'rs*, 147 Idaho 660, 214 P.3d 646 (2009)?

2. If Giltner's Petition is not well grounded in fact, and warranted by existing law, should Golf Ranch be awarded its reasonable expenses and attorney's fees pursuant to Idaho Appellate Rule 11.2?

III. ARGUMENT

A. **Idaho Code § 31-1506 is Not Applicable to a Rezone Under LLUPA.**

After originally seeking judicial review pursuant to I.C. § 67-6521, Giltner amended its Petition for Judicial Review ("Petition") on the basis of Idaho Code § 31-1506(1). Although Idaho Code § 67-6511 expressly provides governing bodies with discretion and authority to amend their zoning districts, Giltner apparently recognized that such an amendment does not constitute a "permit" that allows a property owner to take immediate steps to permanently alter the land. Idaho Code § 31-1506, as codified in Chapter 15 entitled *"County Finances and Claims Against Counties,"* provides:

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> Unless otherwise provided by law, judicial review of any act, order or proceeding of the board shall be initiated by any person aggrieved thereby within the same time and in the same manner as provided in chapter 52, title 67, Idaho Code, for judicial review of actions.

Giltner argued at the hearing of this matter that the predecessor of this statute, Idaho Code § 31-1509, had been part of Idaho's law for decades, and that it should serve as the basis for a judicial review of a rezone decision. A copy of the statute as it existed in 1983 is attached hereto as Exhibit "A" showing that it was first adopted in the late 1800's as R.S. § 1776, and first amended in 1895. The statute was amended and redesignated as I.C. § 31-1506 in 1994.

Golf Ranch can find no instance where the Idaho Supreme Court has ever sanctioned or acknowledged the use of this code section as the basis for an appeal of a rezone or any other quasi-judicial decision of a governing board. Giltner has directed this court to *Fox v. Board of County Comm'rs of Boundary Co.*, 114 Idaho 940, 763 P.2d 313 (Ct. App. 1988) (overruled in part on other grounds in 121 Idaho 686, 827 P.2d 699 (Ct. App. 1991)) in support of its argument. *Fox* involved an appeal of the Boundary County Board of Commissioners' renewal of two beer licenses. In construing Idaho Code § 31-1509, the predecessor to Idaho Code § 31-1506, the Idaho Court of Appeals stated:

> . . . [W]e are constrained to view I.C. § 31-1509 as providing a county taxpayer with the right to appeal any act, order or proceeding of the commissioners **when any such act, order or proceeding is illegal or prejudicial to the public interest**.

(Emphasis added). 114 Idaho at 943. Giltner has not asserted in its Petition that the rezone decision of Jerome County was illegal or prejudicial to the public interest as was required by the predecessor statute. Golf Ranch suggests that the instant rezone decision does not meet the Court of Appeals' standard of an "act, order or proceeding [that] is illegal or prejudicial to the public interest," which was the standard previously articulated in I.C. § 31-1509.

Giltner has cited *Sandpoint Independent Highway District v. Board of County Comm'rs of Bonner County*, 138 Idaho 887, 71 P.3d 1034 (2003) as support for the proposition that Idaho

Code § 31-1506 may be used to review a quasi-judicial zoning decision. That case involved the board's administrative determination to hold an election relative to the dissolution of the Sandpoint Independent Highway District pursuant to Idaho Code § 40-1805. Once the petition to dissolve the district had been submitted to the board, its role was administrative in nature to submit the matter to the qualified electors of the district. As will be discussed, *infra*, Idaho Code § 31-1506 was intended for review of administrative decisions, and there is no evidence that the statute was ever intended to be utilized to review quasi-judicial decisions.

Giltner has referred the Court to *Allen v. Blaine County*, 131 Idaho 138, 953 P.2d 578 (1998) as further support for its position. The *Allen* case was styled as both a declaratory judgment action and a judicial review of Blaine County's denial of the Allens' application to build a rental home on a lot that had been platted as a "non-buildable lot." In keeping with the legislative intent as described in the legislative history, the county was acting in a purely administrative role in applying the plat restrictions to the Allens' property. It cannot seriously be argued that the county's application of that language in this instance constituted a quasi-judicial zoning action. As stated by the Court:

> When interpreting the meaning of statutory language, the Court is to give effect to the legislative intent and purpose of the statute. (Citations omitted). . . . "The legislature's intent in enacting the statute may be implied from the language used or inferred on grounds of policy or reasonableness" (Citations omitted).

Allen, supra, 131 Idaho at 141.

Although Giltner makes reference to *Gibson v. Ada County*, 139 Idaho 5, 72 P.3d 845 (2003), the later case of *Gibson v. Ada County*, 142 Idaho 746, 133 P.3d 1211 (2006) (reh. den. 2006) more fully addresses Idaho Code § 31-1506. That case involved an administrative personnel decision involving the Ada County Sheriff's Office in which the board refused to review the sheriff's decision to terminate Gibson's employment. The Court discussed the interplay of I.R.C.P. Rule 84 and Idaho Code § 31-1506 and reiterated the content of I.R.C.P. Rule 84:

> Actions of state agencies or officers or actions of a local government, its officers or its units are not subject to judicial review unless expressly authorized by statute.

133 P.3d at 1221. As stated in *Burns, supra*:

> There is no specific grant of authority to review the Board's action with respect to the request for rezone, and we may not assume the role of the legislature and grant that authority to ourselves.

214 P.3d at 649. Giltner's reliance on *Gibson* does not overcome this Court's holding in *Burns, supra*. Although Giltner argues that Idaho Code § 31-1506 expressly authorizes judicial review of a county's rezoning decision, Giltner completely ignores the Court's holding in *Burns, supra*. If Giltner's position were to be sustained, the aforementioned holding in *Burns, supra*, would necessarily have to be overruled. Of course, that would present an untenable situation leaving rezoning decisions of only a county's governing board amenable to judicial review, while a municipality's rezoning decisions would not be subject to judicial review. Giltner was never able to adequately address this anomaly at the district court, although the issue was certainly raised by Golf Ranch in its Memorandum. R., p. 71-2.

Giltner originally suggested to the district court that the case of *Eastern Idaho Health Services, Inc. v. Burtenshaw*, 122 Idaho 904, 841 P.2d 434 (1992), somehow supported its position that an appeal of a rezone or land use decision could be challenged under Idaho Code § 31-1506. That decision dealt with a taxpayer's appeal of a board of county commissioners' refusal to grant a refund of penalty and interest on delinquent *ad valorem* taxes. Golf Ranch does not believe that *Eastern Idaho* lends any support to Giltner's arguments. Had the Idaho Legislature intended that an amendment of a zoning district under LLUPA could be appealed pursuant to a code section in the county finance portion of the Idaho Code, the legislature presumably would have so stated. Had the Idaho Supreme Court ever interpreted Idaho Code § 31-1506 as being the appropriate mechanism for review of a zoning decision, there certainly would have been prior reported case law setting forth that proposition. However, if that had been the interpretation accorded to that statute by the Idaho Supreme Court, it would have

presented the Court with an untenable inconsistency, since the Local Land Use Planning Act ("LLUPA") provides that each "governing board" is entitled to adopt, amend or repeal its zoning ordinance and districts. *See* Idaho Code § 67-6511. Idaho Code § 67-6504 expressly states:

> A city council or board of county commissioners, **hereafter referred to as a governing board,** may exercise all of the powers required and authorized by this chapter in accordance with this chapter.

Idaho Code § 31-1506(1), by its own terms, is limited solely in its application to a county board of commissioners to the exclusion of a city council. Under Giltner's interpretation of Idaho Code § 31-1506, a rezone decision of a county board of commissioners made pursuant to LLUPA would be subject to judicial review, but a rezone decision by a city council would not be similarly reviewable.

B. Statutory Construction.

In *City of Sandpoint v. Sandpoint Independent Highway District*, 139 Idaho 65, 72 P.3d 905 (2003), the Idaho Supreme Court discussed statutory construction relative to a determination of what the legislature intended a statute to mean. The Court stated:

> To determine that [statutory] intent, we examine not only the literal words of the statute, but also the reasonableness of proposed constructions, the public policy behind the statute, and its legislative history. (Citations omitted). Statues [sic-statutes] that are in *pari materia* must be construed together to effect legislative intent. *Gooding County v. Wybenga*, 137 Idaho 201, 46 P.3d 18 (2002). Statutes are in *pari materia* if they relate to the same subject.

Id. 139 Idaho at 69. Continuing, the *Sandpoint* Court stated:

> Where a statute with respect to one subject contains a certain provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different intention existed. *Kopp v. State*, 100 Idaho 160, 595 P.2d 309 (1979).

Id. Idaho Code § 31-1509, the predecessor statute to Idaho Code § 31-1506, was amended in

1993 and 1994. The legislative "STATEMENT OF PURPOSE/FISCAL IMPACT" statements for each year are attached hereto as Exhibits "B" and "C", respectively. In the STATEMENT OF PURPOSE for the 1993 amendment, the following may be noted:

> The current process for appeals is archaic and inconsistent with other sections of county law. The planning and zoning and medical indigency appeals are conducted as appeals under the APA.
>
> . . .
>
> The types of decisions that are appealed are **administrative or executive** in nature, and the more appropriate method would be to use the APA.

(Emphasis added).

In 1994, the language in the STATEMENT OF PURPOSE mirrored portions of the 1993 amendment:

> The types of decisions that are appealed are administrative or executive in nature.

There can be no doubt that a rezoning decision by a governing board is quasi-judicial in character, and neither "administrative or executive." The legislative history of this statute does not tend to support the arguments of Giltner in this proceeding.

The concept of the LLUPA, i.e., the regulation of land use, was never in the contemplation of the Idaho Legislature at the time of the original adoption of Idaho Code § 31-1509 in the late 1800's. The fact that this Court has expressly determined that LLUPA did not include a specific statute authorizing judicial review of a zoning district amendment should be regarded as purposeful, and evidences a different legislative interpretation than that which is advocated by Giltner relative to the applicability of Idaho Code § 31-1506. As late as last year, the Idaho Supreme Court stated as much in *Burns, supra*, 147 Idaho 660, 214 P.3d 646 (2009).

The Court stated:

> Even so, there was no right of judicial review of the Board's action with respect to the rezone application because, as with the application for an amendment to the comprehensive plan, **there is no statute authorizing judicial review of a county's action regarding a rezone application.**

(Emphasis added). 214 P.3d at 649. The Court vacated the district court's decision in *Burns Holding, supra*, and dismissed the judicial review.

In discussing statutes that are *in pari materia*, the Idaho Supreme Court discussed two different statutory provisions relating to "conflict of interest" in *Gooding County v. Wybenga*, 137 Idaho 201, 46 P.3d 18 (2002). In that case, the Court stated:

> Statutes are *in pari materia* if they relate to the same subject. *Grand Canyon Dories v. Idaho State Tax Commission*, 124 Idaho 1, 855 P.2d 462 (1993). Such statutes are construed together to effect legislative intent. *Id.* Where two statutes appear to apply to the same case or subject matter, the specific statute will control over the more general statute. *State v. Barnes*, 133 Idaho 378, 987 P.2d 290 (1999).

137 Idaho at 204. *See also V-1 Oil Company v. Idaho Transportation Department*, 131 Idaho 482, 959 P.2d 463 (1998).

In the instant case, the specific statute, i.e., LLUPA, describes all the land use actions which "governing boards, whether a county board of commissioners or a city council" are entitled to take, and further describes which of those actions constitutes a "permit" that is subject to a judicial review. There can be no doubt but that the LLUPA is the more specific statute when it comes to land use issues, and the judicial review of a local governing body's decision in that regard. Since a zoning district amendment does not constitute a "permit", as defined in LLUPA, the Court must necessarily conclude that the legislature intended to omit that action by a governing board from the scope of judicial review. Clearly, a neighbor such as Giltner would have the opportunity to perfect an appeal at the time a subdivision approval permit has been approved consistent with the zoning amendment.

Because Idaho's adoption of the LLUPA came after Idaho Code § 31-1509, the predecessor statute to Idaho Code § 31-1506, and because the LLUPA articulated those land use decisions which were reviewable pursuant to a petition for judicial review, Golf Ranch asserts that a zoning district amendment is *ejusdem generis*. That term relates to statutory construction where general words follow an enumeration of persons or things specifically mentioned. In addition, the maxim of statutory interpretation of *expressio unius est exclusio alterius* denotes that the expression of one thing is the exclusion of another. The LLUPA specifically identifies those land use actions of a governing board which are amenable to a judicial review, but does not include a zoning district amendment, an action which does not result in the issuance of a "permit". To the extent that courts of this state may have previously extended a judicial review under LLUPA to a zoning district amendment, the courts may have to acknowledge that such review was statutorily inappropriate. For example, Chief Justice Donaldson wrote in *Love v. Board of County Comm'rs of Bingham Co.*, 105 Idaho 558, 671 P.2d 471 (1983):

> Under I.C. § 67-6521, the district court was empowered to review on appeal the rezoning decision of the County Commissioners. *Hill v. Board of County Comm'rs*, 101 Idaho 850, 623 P.2d 462 (1981); *Walker-Schmidt Ranch v. Blaine Co.*, 101 Idaho 420, 614 P.2d 960 (1980); *Cooper v. Board of County Comm'rs*, 101 Idaho 407, 614 P.2d 947 (1980).

105 Idaho at 559. That same issue was discussed in Justice Jim Jones' dissenting opinion in *Burns, supra*, in which Justice Burdick concurred:

> Indeed, following the enactment of LLUPA in 1975, this Court consistently held for over a quarter of a century that LLUPA authorized judicial review of county zoning decisions under either Idaho Code § 67-6519 or Idaho Code § 67-6521. . . . Zoning actions that were legislative in nature, i.e., those affecting "a large area consisting of many parcels of property and disparate ownership," were not reviewable under either pre- or post-LLUPA.
>
> These cases were good law for 25 years. The Court has routinely held quasi-judicial zoning decisions, such as that involved in this case to be reviewable under LLUPA until the Court's 2008 decision in *Highlands Development Corp. v. City of*

> *Boise*, 145 Idaho 958, 188 P.3d 900 (2008). There, the Court decided that LLUPA contained "no provision granting judicial review of the initial zoning classification applied to annexed property." *Id.* at 961, 188 P.3d at 903. Today, the Court expands the *Highlands* decision to preclude judicial review of any zoning decision under LLUPA.

214 P.3d at 650-51. The majority in *Burns, supra*, stated:

> There is no specific grant of authority to review the Board's action with respect to the request for rezone, and we may not assume the role of the legislature and grant that authority to ourselves.

214 P.3d at 649.

If anything seems clear, it appears that the district court's logic in dismissing Giltner's Second Amended Petition for Judicial Review due to a lack of subject matter jurisdiction was entirely appropriate. R., pp. 92-94. The district court's decision predated this Court's decision in *Burns, supra*, but squares clearly with the Court's language that ". . . there is no statute authorizing judicial review of a county's action regarding a rezone application." 214 P.3d at 649.

IV. ATTORNEY'S FEES

In *Giltner Dairy, LLC v. Jerome County*, 145 Idaho 630, 181 P.3d 1238 (2008) ("*Giltner I*"), the Court had before it the very same party as the petitioner in this proceeding. Giltner was represented by the very same law firm then as it is in the instant case. Although *Giltner I* involved an amendment to the comprehensive plan relating to the very same property at issue in the instant case, Giltner and its counsel were advised:

> A request to change the comprehensive plan map is not an application for a permit, and Giltner Dairy admits there was no application for a permit in this case. Therefore, Idaho Code § 67-6519 does not provide any right to obtain judicial review in this case.

181 P.3d at 1241. In pursuit of its appeal, Giltner has now advanced the logic that Idaho Code

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2 § 31-1506 should serve as the jurisdictional basis to provide judicial review for a land use
3 rezoning decision, even though it would apply only to the governing board of a county, and not a
4 city. Shortly after Giltner's appeal was filed, but prior to the issuance of the Clerk's Certificate (R.,
5 p. 105), this Court issued its decision in *Burns, supra*, which clearly stated:

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7 > . . . [T]here is no statute authorizing judicial review of a county's action regarding a rezone application.

8 214 P.3d at 649. The continued pursuit of the instant appeal is not well grounded in fact, and is
9 not warranted by existing law. Although Giltner has cursorily cited *Burns, supra*, in its
10 Appellant's Brief at p. 7 and p. 9, Giltner never acknowledged the Court's statement set forth
11 above. Giltner has done nothing in the way of asserting a good faith argument for the "extension,
12 modification, or reversal of existing law." Golf Ranch is only too aware of Giltner's thinly veiled
13 plan to cause Golf Ranch unnecessary delay in the development of its property. The application
14 which gave rise to *Giltner I* was filed on November 4, 2005. R., p. 83. The rezone process that is
15 the subject of this Petition for Judicial Review began on July 24, 2008. *Id.* Golf Ranch contends
16 that the provisions of I.A.R. Rule 11.2 are applicable to the facts of this case, and that Golf Ranch
17 should be awarded its reasonable expenses and attorneys fees in accordance with that rule.
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20 ## V. CONCLUSION

21 Jurisdiction to review the Board of Commissioners' decision to rezone the subject
22 property does not exist pursuant to either Idaho Code § 67-6521 or Idaho Code § 31-1506.
23 Subject matter jurisdiction is lacking under either statute. Golf Ranch requests that the decision
24 of the district court dismissing Giltner's Petition for Judicial Review in this matter be affirmed.
25 Furthermore, Golf Ranch requests that this Court make the requisite determinations pursuant to
26

I.A.R. Rule 11.2 in order to allow for an award of costs and attorney fees to Golf Ranch.

RESPECTFULLY SUBMITTED this 8 day of March, 2010.

ROBERTSON &, SLETTE, PLLC

BY:

GARY D. SLETTE

CERTIFICATE OF SERVICE

The undersigned certifies that on the 8 day of March, 2010, he caused two (2) true and correct copies of the foregoing instrument, to be served upon the following persons in the following manner:

Michael J. Seib Jerome Co. Prosecutor 233 W. Main Jerome, ID 83338	[ ] [x] [ ] [ ]	Hand Deliver U.S. Mail Overnight Courier Facsimile Transmission (208) 644-2639
Terrence R. White Davis F. VanderVelde White Peterson Gigray Rossman 5700 East Franklin Rd., Ste. 200 Nampa, ID 83687	 [ ] [x] [ ] [ ]	 Hand Deliver U.S. Mail Overnight Courier Facsimile Transmission

Gary D. Slette

FROM: 1983 IDAHO CODE

Collateral References. Power of county or its officials to compromise claim. 15 A.L.R.2d 1359.

Amount of damages stated in notice of claim against municipality or county as limiting amount of recovery, 24 A.L.R.3d 965.

Incapacity caused by accident in suit as affecting notice of claim required as condition of holding local governmental unit liable for personal injury, 44 A.L.R.3d 1108.

Governmental tort liability for injuries caused by negligently released individual, 6 A.L.R.4th 1155.

31-1509. Appeal from order of board. — Any time within twenty (20) days after the first publication or posting of the statement, as required by section 31-819, an appeal may be taken from any act, order or proceeding of the board, by any person aggrieved thereby, or by any taxpayer of the county when any demand is allowed against the county or when he deems any such act, order or proceeding illegal or prejudicial to the public interests; and no such act, order or proceeding whatever, which directly or indirectly renders the county liable for the payment of the sum of $300.00 or over, or its equivalent, shall be valid until after the expiration of the time allowed for appeal or until such appeal, if taken, shall be finally determined; but there is expected from the operation hereof all orders for the payment of those sums specially directed by law to be paid, or payments in fulfillment of acts or proceedings made and confirmed according to the provisions hereof. [R.S., § 1776; am. 1895, p. 50, § 1; reen. 1889, p. 248, § 1; am. R.C., § 1950; am. 1913, ch. 143, § 3, p. 506; reen. C.L., § 1950; C.S., § 3509; I.C.A., § 30-1108.]

Cross ref. Appeals from commissioners' orders relating to change of highways across private lands, § 40-710.

Appeals from order revoking toll road, bridge, or ferry license, § 40-1406.

Cited in: Corker v. Board of County Comm'rs, 10 Idaho 255, 77 P. 633 (1904); Rhea v. Board of County Comm'rs, 12 Idaho 455, 13 Idaho 59, 88 P. 89 (1907); Gilbert v. Canyon County, 14 Idaho 429, 94 P. 1027 (1908); Drainage Dist. No. 2 v. Ada County, 38 Idaho 778, 226 P. 290 (1924); Stark v. McLaughlin, 45 Idaho 112, 261 P. 244 (1927); Johnson v. Young, 53 Idaho 271, 23 P.2d 723 (1933); Breding v. Board of County Comm'rs, 55 Idaho 480, 44 P.2d 290 (1935); In re Felton's Petition, 79 Idaho 325, 316 P.2d 1064; Mosman v. Mathison, 90 Idaho 76, 408 P.2d 450 (1965); Nicolaus v. Bodine, 92 Idaho 639, 448 P.2d 645 (1968); Coddington v. City of Lewiston, 96 Idaho 135, 525 P.2d 330 (1974); Clark v. Ada County Bd. of Comm'rs, 98 Idaho 749, 572 P.2d 501 (1977).

Analysis

Alternative remedy.
Appealable orders.
Appeal denied.
Appeal from entire order.
Bond.
Burden of proof on appeal.
Collateral actions allowed.
Collateral actions prohibited.
Effect of appeal.
Failure to appeal.
Improper claims.
Notice of appeal.
Procedure on appeal.
Publication of commissioner's actions.
Remedy by appeal.
Right of appeal.
Statutory remedy.
Time for appeal.
Who may appeal.
Witnesses' fees.

Alternative Remedy.

Owners through whose lands private road is opened need not appeal, but may refuse to accept award and compel condemnation proceedings by county. Latah County v. Hasfurther, 12 Idaho 797, 88 P. 433 (1907).

Appealable Orders.

The following orders are appealable:

Discretionary orders. Meller v. Board of County Comm'rs, 4 Idaho 44, 35 P. 712 (1894).

An order for the issuance and sale of funding bonds. Mason v. Lieuallen, 4 Idaho 415, 39 P. 1117 (1895).

An order allowing a claim for printing the delinquent tax list. Jolly v. Woodward, 4 Idaho 496, 42 P. 512 (1895).

EXHIBIT A

(1993 HOUSE) STATEMENT OF PURPOSE

RS 02035

The purpose of this bill is to provide for the appeal of county commissioner decisions in the same manner as judicial review of actions under the Administrative Procedure Act (APA), chapter 52, title 67, Idaho Code.

The current process for appeals is archaic and inconsistent with other sections of county law. The planning and zoning and medical indigency appeals are conducted as appeals under the APA.

The current process of appellate procedure makes the district judge the fourth or "super" commissioner with the ability to overrule the factual determinations and judgments of three individuals.

The types of decisions that are appealed are administrative or executive in nature and the more appropriate method would be to use the APA. This method of appeal will protect the rights of those affected by county commission decisions while giving consideration to county commission judgments.

FISCAL NOTE

NONE.

STATEMENT OF PURPOSE/FISCAL IMPACT H 120

EXHIBIT B

STATEMENT OF PURPOSE

RS 03272

The purpose of this bill is to clarify that time limits for appeals from decisions of the board of county commissioners be mandatory rather than permissive. The types of decisions that are appealed are administrative or executive in nature. Certainty as to the time for appealing board decisions is necessary for the proper administration of county government.

Clarification of the appeals process began with the passage of House Bill 120 from the 1993 legislative session. Two additional code sections require repeal in order to provide a single method of appeal through the judicial review process of the Idaho Administrative Procedure Act.

An emergency clause is used because of the confusion existing in current statutes. Immediate implementation will avoid costly court action.

FISCAL NOTE

There is no financial impact on the state general fund or on county operating budgets other than savings from court costs.

CONTACT:
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Idaho Association of Counties
(208) 345-9126

EXHIBIT C