Statehouse sidelights

Chances about nil in 1983 for legislative elections

By BEN J. PLASTINO
Post-Register political editor

Because of possibility of delayed litigation and even a trial in the legislative reapportioment proposal, chances are virtually zero there will be special legislative elections this fall.

Furthermore, if the district and Supreme courts in Idaho continue to rule against the present plan -as expected - there is strong possibility that case will be bounced to the U.S. Supreme Court. There, it is highly likely it will be approved, based on past similar decisions.

The Idaho Supreme Court recently upheld on a 4-1 vote a district judge's decision the plan was invalid because it violates the state constitution for splitting county lines. It was sent back to lst District Judge Dar Cogswell, at Sandpoint to have a chance to hear more arguments.

Cogswell has said he would draft a new plan and scheduled new elections this year if the present plan is still found unacceptable after the pending litigation is completed.

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Ken McClure, deputy attorney general handling the case, stops short of saying legislative elections will not happen because of their speculative nature.

McClure points out that after the case is heard again in Cogswell's 1st District Court, regardless of the decision, it is probable the opposing attorneys, McClure for the state, or Ray Givens, for the plaintiffs, would file an appeal.

McClure commented:"All I can say at this time in this regards is that an appeal is procedural and one that may be desirable."

He then points out the time needed for appeal and a subsequent trial would not permit enough time for holding special legislative primary and general elections as Cogswell has threatened.

McClure said it would be probable that either he or Givens would ask the Idaho Supreme Court for a stay in holding an election on a pending case.

McClure and other interested attorneys point out the Idaho Constitution says county lines should not be split but this provision is lacking on the federal level.

The U.S. Supreme Court has ruled on the "one man-one vote" reapportionment and subsequent decisions that each district must be of about equal representation. It has held to the rule that a variance of not more than 10 percent is acceptable. In fact, in one case in Virginia because of peculiar state law giving special powers to counties and cities, it even accepted a variance of 16.4 percent, noted McClure.

The Idaho plan provides for only a 5.3 percent differential.

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Cogswell and the Idaho Supreme Court were required to rule the present proposal is unconstitutional but if the case is advanced to the U.S. Supreme Court, then the federal law would supersede that of state law.

McClure and other attorneys said the U.S.Supreme Court has not specifically mentioned division of county lines in reapportionment disputes.

He then points out that several states - he believes at least five - have similar constitutional provisions. In at least two of these, the states approved reapportionment by crossing county lines, setting a precedence for Idaho to follow. He remembers Michigan as one.

A legislative election could cost at least $700,000, noted McClure. Campaign financing reports showed the 343 candidates who vied for the 105 legislative position in 1982 spent $854,061.77. It obviously would be patently unfair to ask then to do this again, plus spending hundreds of hours more work by themselves and supporters in campaigning for the remaining year's term of what was supposedly a two-year term.