

Conference Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1333

AN ACT

AMENDING SECTIONS 9-101.01 AND 9-471, ARIZONA REVISED STATUTES; RELATING TO
CITIES AND TOWNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-101.01, Arizona Revised Statutes, is amended to
3 read:

4 9-101.01. Incorporation; urbanized area

5 A. Notwithstanding any other provisions of law ~~to the contrary~~, all
6 territory within six miles of an incorporated city or town, as the same now
7 exists or may hereafter be established, having a population of five thousand
8 or more ~~as shown by the most recent federal census~~ PERSONS, and all territory
9 within three miles of any incorporated city or town, as the same now exists
10 or may hereafter be established, having a population of less than five
11 thousand ~~as shown by the most recent federal census~~ PERSONS is declared to be
12 an urbanized area.

13 B. THROUGH DECEMBER 31, 2020, IF THE CITY OR TOWN CAUSING THE
14 URBANIZED AREA TO EXIST IS IN A COUNTY IN WHICH MORE THAN SIXTY PER CENT OF
15 THE POPULATION BUT LESS THAN SIXTY-FIVE PER CENT OF THE POPULATION LIVES IN
16 AN INCORPORATED CITY OR TOWN AND DOES NOT APPROVE A LEGAL AND PROPER PETITION
17 REQUESTING ANNEXATION OF THE AREA PROPOSED FOR INCORPORATION BY A VALID
18 ORDINANCE OF ANNEXATION WITHIN ONE HUNDRED TWENTY DAYS OF ITS PRESENTATION:

19 1. WITHIN ONE YEAR AFTER THE DATE OF THE INITIAL ANNEXATION CAUSING
20 THE URBANIZED AREA TO EXIST, ALL TERRITORY WITHIN FIVE MILES OF AN
21 INCORPORATED CITY OR TOWN, AS THE SAME NOW EXISTS OR MAY HEREAFTER BE
22 ESTABLISHED, HAVING A POPULATION OF FIVE THOUSAND OR MORE PERSONS IS DECLARED
23 TO BE AN URBANIZED AREA.

24 2. WITHIN TWO YEARS AFTER THE DATE OF THE INITIAL ANNEXATION CAUSING
25 THE URBANIZED AREA TO EXIST, ALL TERRITORY WITHIN FOUR MILES OF AN
26 INCORPORATED CITY OR TOWN, AS THE SAME NOW EXISTS OR MAY HEREAFTER BE
27 ESTABLISHED, HAVING A POPULATION OF FIVE THOUSAND OR MORE PERSONS IS DECLARED
28 TO BE AN URBANIZED AREA.

29 3. WITHIN THREE YEARS AFTER THE DATE OF THE INITIAL ANNEXATION CAUSING
30 THE URBANIZED AREA TO EXIST, ALL TERRITORY WITHIN THREE MILES OF AN
31 INCORPORATED CITY OR TOWN, AS THE SAME NOW EXISTS OR MAY HEREAFTER BE
32 ESTABLISHED, HAVING A POPULATION OF FIVE THOUSAND OR MORE PERSONS IS DECLARED
33 TO BE AN URBANIZED AREA.

34 4. WITHIN FOUR YEARS AFTER THE DATE OF THE INITIAL ANNEXATION CAUSING
35 THE URBANIZED AREA TO EXIST, ALL TERRITORY WITHIN TWO MILES OF AN
36 INCORPORATED CITY OR TOWN, AS THE SAME NOW EXISTS OR MAY HEREAFTER BE
37 ESTABLISHED, HAVING A POPULATION OF FIVE THOUSAND OR MORE PERSONS IS DECLARED
38 TO BE AN URBANIZED AREA.

39 5. WITHIN FIVE YEARS AFTER THE DATE OF THE INITIAL ANNEXATION CAUSING
40 THE URBANIZED AREA TO EXIST, ALL TERRITORY WITHIN ONE MILE OF AN INCORPORATED
41 CITY OR TOWN, AS THE SAME NOW EXISTS OR MAY HEREAFTER BE ESTABLISHED, HAVING
42 A POPULATION OF FIVE THOUSAND OR MORE PERSONS IS DECLARED TO BE AN URBANIZED
43 AREA.

1 6. WITHIN SIX YEARS AFTER THE DATE OF THE INITIAL ANNEXATION CAUSING
2 THE URBANIZED AREA TO EXIST, NO TERRITORY BORDERING THE INCORPORATED CITY OR
3 TOWN HAVING A POPULATION OF FIVE THOUSAND OR MORE PERSONS MAY BE DECLARED TO
4 BE AN URBANIZED AREA.

5 ~~B.~~ C. EXCEPT AS PROVIDED IN SUBSECTION E, no territory within an
6 urbanized area shall hereafter be incorporated as a city or town, and the
7 board of supervisors shall have no jurisdiction to take any action ~~upon~~ ON a
8 petition to incorporate a city or town within such area, unless EITHER:

9 1. There is submitted with the petition for incorporation a resolution
10 adopted by the city or town causing the urbanized area to exist approving the
11 proposed incorporation. ~~;-or~~

12 2. There is filed with the board of supervisors an affidavit stating
13 that a proper and legal petition has been presented to the city or town
14 causing the urbanized area to exist requesting annexation of the area
15 proposed for incorporation and such petition has not been approved by a valid
16 ordinance of annexation within one hundred twenty days of its presentation.

17 ~~C.~~ D. If such resolution or affidavit is filed with the board of
18 supervisors, the board shall proceed with incorporation of the area.

19 E. THROUGH DECEMBER 31, 2020, IF THE AREA PROPOSED FOR INCORPORATION
20 HAS A POPULATION OF FIFTEEN THOUSAND OR MORE PERSONS, IS IN A COUNTY IN WHICH
21 MORE THAN SIXTY PER CENT OF THE POPULATION BUT LESS THAN SIXTY-FIVE PER CENT
22 OF THE POPULATION LIVES IN AN INCORPORATED CITY OR TOWN AND ALL OF THE AREA
23 PROPOSED FOR INCORPORATION HAS A GOVERNING BOARD, INCLUDING A PLANNED
24 COMMUNITY BOARD OF DIRECTORS OR A SPECIAL DISTRICT BOARD, THE BOARD OF
25 SUPERVISORS SHALL PROCEED WITH INCORPORATION OR ANNEXATION OF THE AREA
26 WITHOUT A RESOLUTION ADOPTED BY THE CITY OR TOWN CAUSING THE URBANIZED AREA
27 TO EXIST APPROVING THE PROPOSED INCORPORATION OR AN AFFIDAVIT FILED WITH THE
28 BOARD OF SUPERVISORS STATING THAT A PROPER AND LEGAL PETITION HAS BEEN
29 PRESENTED TO THE CITY OR TOWN CAUSING THE URBANIZED AREA TO EXIST REQUESTING
30 ANNEXATION OF THE AREA PROPOSED FOR INCORPORATION.

31 ~~D.~~ F. Notwithstanding any other provisions of this section ~~to the~~
32 ~~contrary~~, no portion of the territory of any city or town incorporated ~~prior~~
33 ~~to the effective date of this section~~ BEFORE JUNE 20, 1968 shall be declared
34 to be an urbanized area. ~~In the event~~ IF any such city or town ~~shall be~~ IS
35 declared to have been unlawfully incorporated by the final judgment of a
36 court of competent jurisdiction after ~~the effective date of this section~~ JUNE
37 20, 1968, all or any portion of the territory ~~thereof~~ OF THE CITY OR TOWN may
38 be incorporated without regard to any of the provisions of this section, ~~—~~
39 ~~provided~~ IF petitions praying for the incorporation thereof or petitions
40 praying for the calling of an election for such purpose ~~shall be~~ ARE filed
41 with the board of supervisors within one year from the date ~~upon~~ ON which
42 such judgment ~~shall become~~ BECOMES final.

43 G. THROUGH DECEMBER 31, 2020, SUBSECTIONS B AND E OF THIS SECTION DO
44 NOT APPLY TO AN AREA OR A PORTION OF AN AREA COVERED BY A PLANNED COMMUNITY
45 ASSOCIATION AS DEFINED IN SECTION 33-1802 DURING THE PERIOD OF DECLARANT

1 CONTROL UNLESS THE DECLARANT GRANTS PERMISSION TO THE PARTY SEEKING TO SUBMIT
2 A PETITION TO INCORPORATE PURSUANT TO SUBSECTION C OF THIS SECTION.

3 Sec. 2. Section 9-471, Arizona Revised Statutes, is amended to read:

4 9-471. Annexation of territory: procedures: notice: petitions:
5 access to information: restrictions

6 A. The following procedures are required to extend and increase the
7 corporate limits of a city or town by annexation:

8 1. A city or town shall file in the office of the county recorder of
9 the county in which the annexation is proposed a blank petition required by
10 paragraph 4 of this subsection setting forth a description and an accurate
11 map of all the exterior boundaries of the territory contiguous to the city or
12 town proposed to be annexed, except that a city or town shall not file an
13 annexation petition that includes any territory for which an unsuccessful
14 annexation was attempted by the same city or town until at least forty-five
15 days after completion of the unsuccessful attempt. A property owner may
16 waive the forty-five day waiting period for the owner's property that was
17 part of the original unsuccessful annexation. Notice and a copy of the
18 filing shall be given to the clerk of the board of supervisors and to the
19 county assessor. The accurate map shall include all county rights-of-way and
20 roadways that are within or contiguous to the exterior boundaries of the area
21 of the proposed annexation. If state land, other than state land utilized as
22 state rights-of-way or land held by the state by tax deed, is included in the
23 territory, written approval of the state land commissioner and the selection
24 board established by section 37-202 shall also be filed. For the purposes of
25 this paragraph, "unsuccessful annexation" means an annexation attempt that
26 was withdrawn or that was not completed pursuant to this section.

27 2. Signatures on petitions filed for annexation shall not be obtained
28 for a waiting period of thirty days after filing the blank petition.

29 3. After filing the blank petition pursuant to paragraph 1 of this
30 subsection, the governing body of the city or town shall hold a public
31 hearing within the last ten days of the thirty day waiting period to discuss
32 the annexation proposal. The public hearing shall be held in accordance with
33 title 38, chapter 3, article 3.1, except that, notwithstanding section
34 38-431.02, subsections C and D, the following notices of the public hearing
35 to discuss the annexation proposal shall be given at least six days before
36 the hearing:

37 (a) Publication at least once in a newspaper of general circulation,
38 which is published or circulated in the city or town and the territory
39 proposed to be annexed, at least fifteen days before the end of the waiting
40 period.

41 (b) Posting in at least three conspicuous public places in the
42 territory proposed to be annexed.

43 (c) Notice by first class mail sent to the chairman of the board of
44 supervisors of the county in which the territory proposed to be annexed is
45 located.

1 (d) Notice by first class mail with an accurate map of the territory
2 proposed to be annexed sent to each owner of the real and personal property
3 as shown on the list furnished pursuant to subsection G of this section that
4 would be subject to taxation by the city or town in the event of annexation
5 in the territory proposed to be annexed. For the purposes of this
6 subdivision, "real and personal property" includes mobile, modular and
7 manufactured homes and trailers only if the owner also owns the underlying
8 real property.

9 4. Within one year after the last day of the thirty day waiting period
10 a petition in writing signed by the owners of one-half or more in value of
11 the real and personal property and more than one-half of the persons owning
12 real and personal property that would be subject to taxation by the city or
13 town in the event of annexation, as shown by the last assessment of the
14 property, may be circulated and filed in the office of the county recorder.
15 For the purposes of this paragraph, "real and personal property" includes
16 mobile, modular and manufactured homes and trailers only if the owner also
17 owns the underlying real property.

18 5. No alterations increasing or reducing the territory sought to be
19 annexed shall be made after a petition has been signed by a property owner.

20 6. The petitioner shall determine and submit a sworn affidavit
21 verifying that no part of the territory for which the filing is made is
22 already subject to an earlier filing for annexation. The county recorder
23 shall not accept a filing for annexation without the sworn affidavit.

24 B. All information contained in the filings, the notices, the
25 petition, tax and property rolls and other matters regarding a proposed or
26 final annexation shall be made available by the appropriate official for
27 public inspection during regular office hours.

28 C. Any city or town, the attorney general, the county attorney, or any
29 other interested party may upon verified petition move to question the
30 validity of the annexation for failure to comply with this section. The
31 petition shall set forth the manner in which it is alleged the annexation
32 procedure was not in compliance with this section and shall be filed within
33 thirty days after adoption of the ordinance annexing the territory by the
34 governing body of the city or town and not otherwise. The burden of proof
35 shall be upon the petitioner to prove the material allegations of the
36 verified petition. No action shall be brought to question the validity of an
37 annexation ordinance unless brought within the time and for the reasons
38 provided in this subsection. All hearings provided by this section and all
39 appeals therefrom shall be preferred and heard and determined in preference
40 to all other civil matters, except election actions. In the event more than
41 one petition questioning the validity of an annexation ordinance is filed,
42 all such petitions shall be consolidated for hearing. If two or more cities
43 or towns show the court that they have demonstrated an active interest in
44 annexing any or all of the area proposed for annexation, the court shall

1 consider any oral or written agreements or understandings between or among
2 the cities and towns in making its determination pursuant to this subsection.

3 D. The annexation shall become final after the expiration of thirty
4 days from the adoption of the ordinance annexing the territory by the city or
5 town governing body, provided the annexation ordinance has been finally
6 adopted in accordance with procedures established by statute, charter
7 provisions or local ordinances, whichever is applicable, subject to the
8 review of the court to determine the validity thereof if petitions in
9 objection have been filed. After adoption of the annexation ordinance, the
10 clerk of the city or town shall provide a copy of the adopted annexation
11 ordinance to the clerk of the board of supervisors of each county that has
12 jurisdiction over the annexed area within sixty days of the annexation
13 becoming final.

14 E. For the purpose of determining the sufficiency of the percentage of
15 the value of property under this section, such values of property shall be
16 determined as follows:

17 1. In the case of property assessed by the county assessor, values
18 shall be the same as shown by the last assessment of the property.

19 2. In the case of property valued by the department of revenue, values
20 shall be appraised by the department in the manner provided by law for
21 municipal assessment purposes.

22 F. For the purpose of determining the sufficiency of the percentage of
23 persons owning property under this section, the number of persons owning
24 property shall be determined as follows:

25 1. In the case of property assessed by the county assessor, the number
26 of persons owning property shall be as shown on the last assessment of the
27 property.

28 2. In the case of property valued by the department of revenue, the
29 number of persons owning property shall be as shown on the last valuation of
30 the property.

31 3. If an undivided parcel of property is owned by multiple owners,
32 such owners shall be deemed as one owner for the purposes of this section.

33 4. If a person owns multiple parcels of property, such owner shall be
34 deemed as one owner for the purposes of this section.

35 G. The county assessor and the department of revenue, respectively,
36 shall furnish to the city or town proposing an annexation within thirty days
37 after a request therefor a statement in writing showing the owner, the
38 address of each owner and the appraisal and assessment of all such property.

39 H. Territory is not contiguous for the purposes of subsection A,
40 paragraph 1 of this section unless:

41 1. It adjoins the exterior boundary of the annexing city or town for
42 at least three hundred feet.

43 2. It is, at all points, at least two hundred feet in width, excluding
44 rights-of-way and roadways.

1 3. The distance from the existing boundary of the annexing city or
2 town where it adjoins the annexed territory to the furthest point of the
3 annexed territory from such boundary is no more than twice the maximum width
4 of the annexed territory.

5 I. A city or town shall not annex territory if as a result of such
6 annexation unincorporated territory is completely surrounded by the annexing
7 city or town.

8 J. Notwithstanding any provisions of this article to the contrary, any
9 town incorporated prior to 1950 which had a population of less than two
10 thousand persons by the 1970 census and which is bordered on at least three
11 sides by Indian lands may annex by ordinance territory owned by the state
12 within the same county for a new townsite which is not contiguous to the
13 existing boundaries of the town.

14 K. Subsections H and I of this section do not apply to territory which
15 is surrounded by the same city or town or which is bordered by the same city
16 or town on at least three sides.

17 L. A city or town annexing an area shall adopt zoning classifications
18 that permit densities and uses no greater than those permitted by the county
19 immediately before annexation. Subsequent changes in zoning of the annexed
20 territory shall be made according to existing procedures established by the
21 city or town for the rezoning of land.

22 M. The annexation of territory within six miles of territory included
23 in a pending incorporation petition filed with the county recorder pursuant
24 to section 9-101.01, subsection ~~C~~ D shall not cause an urbanized area to
25 exist pursuant to section 9-101.01 that did not exist prior to the
26 annexation.

27 N. As an alternative to the procedures established in this section, a
28 county right-of-way or roadway may be annexed to an adjacent city or town by
29 mutual consent of the governing bodies of the county and city or town if the
30 property annexed is adjacent to the annexing city or town for the entire
31 length of the annexation and if the city or town and county each approve the
32 proposed annexation as a published agenda item at a regular public meeting of
33 their governing bodies.

34 O. On or before the date the governing body adopts the ordinance
35 annexing territory, the governing body shall have approved a plan, policy or
36 procedure to provide the annexed territory with appropriate levels of
37 infrastructure and services to serve anticipated new development within ten
38 years after the date when the annexation becomes final pursuant to subsection
39 D of this section.

40 P. If a property owner prevails in any action to challenge the
41 annexation of the property owner's property, the court shall allow the
42 property owner reasonable attorney fees and costs relating to the action from
43 the annexing municipality.

1 Q. A city or town may annex territory that is a county owned park or a
2 park operated on public lands by a county as part of a management agreement
3 if otherwise agreed to by the board of supervisors. If the board of
4 supervisors does not agree to the annexation, the county owned park or park
5 operated on public lands by a county as part of a management agreement shall
6 be excluded from the annexation area, notwithstanding subsections H and I of
7 this section. A county owned park or park operated on public lands by a
8 county as part of a management agreement that is excluded from the annexation
9 area pursuant to this subsection may subsequently be annexed with the
10 permission of the board of supervisors notwithstanding any other provision of
11 this section. For the purposes of this subsection, "public lands":

12 1. Has the same meaning prescribed in section 37-901.

13 2. Does not include lands owned by a flood control district.

14 Sec. 3. Incorporation; urbanized area; revenue sharing; delayed
15 repeal

16 A. An area incorporated pursuant to section 9-101.01, subsection E,
17 Arizona Revised Statutes, as amended by this act, shall be subject to the
18 following:

19 1. From the date of the incorporation until June 30 next following the
20 incorporation, the amounts distributed by sections 28-6540 and 42-5029,
21 Arizona Revised Statutes, shall be reduced by fifty per cent.

22 2. From July 1 next following the incorporation until the following
23 June 30, the amounts distributed by sections 28-5808, 28-6540, 42-5029 and
24 43-206, Arizona Revised Statutes, shall be reduced by fifty per cent.

25 B. This section is repealed from and after December 31, 2020.