

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

# HOUSE BILL 2148

AN ACT

AMENDING SECTION 9-471, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-961.01; RELATING TO COUNTY PROPERTY TRANSFERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-471, Arizona Revised Statutes, is amended to  
3 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26 was withdrawn or that was not completed pursuant to this section.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 statement furnished pursuant to subsection G of this section  
4 that would be subject to taxation by the city or town in the event of  
5 annexation 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, the tax and property rolls and other matters regarding a proposed  
26 or 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 on verified petition move to question the validity  
30 of the annexation for failure to comply with this section. The petition  
31 shall set forth the manner in which it is alleged the annexation procedure  
32 was not in compliance with this section and shall be filed within thirty days  
33 after adoption of the ordinance annexing the territory by the governing body  
34 of the city or town and not otherwise. The burden of proof shall be on the  
35 petitioner to prove the material allegations of the verified petition. No  
36 action shall be brought to question the validity of an annexation ordinance  
37 unless brought within the time and for the reasons provided in this  
38 subsection. All hearings provided by this section and all appeals therefrom  
39 shall be preferred and heard and determined in preference to all other civil  
40 matters, except election actions. In the event more than one petition  
41 questioning the validity of an annexation ordinance is filed, all such  
42 petitions shall be consolidated for hearing. If two or more cities or towns  
43 show the court that they have demonstrated an active interest in annexing any  
44 or all of the area proposed for annexation, the court shall consider any oral

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

3 D. The annexation shall become final after the expiration of thirty  
4 days after the adoption of the ordinance annexing the territory by the city  
5 or 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 of the annexation ordinance if  
9 petitions in objection have been filed. After adoption of the annexation  
10 ordinance, the clerk of the city or town shall provide a copy of the adopted  
11 annexation ordinance to the clerk of the board of supervisors of each county  
12 that has jurisdiction over the annexed area within sixty days of the  
13 annexation becoming final.

14 E. For the purpose of determining the sufficiency of the percentage of  
15 the value of property under this section, the 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 those owners shall be deemed as one owner for the purposes of this section.

33 4. If a person owns multiple parcels of property, that 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, a statement in writing showing the owner, the address of  
38 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 that 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 that  
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 before 1950 that had a population of less than two thousand  
10 persons by the 1970 census and that is bordered on at least three sides by  
11 Indian lands may annex by ordinance territory owned by the state within the  
12 same county for a new townsite that is not contiguous to the existing  
13 boundaries of the town.

14           K. Subsections H and I of this section do not apply to territory that  
15 is surrounded by the same city or town or that 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 D shall not cause an urbanized area to exist  
25 pursuant to section 9-101.01 that did not exist before the annexation.

26           N. As an alternative to the procedures established in this section, a  
27 county right-of-way or roadway may be transferred to an adjacent city or town  
28 by mutual consent of the governing bodies of the county and city or town if  
29 the property transferred is adjacent to the annexing RECEIVING city or town  
30 and if the city or town and county each approve the proposed transfer as a  
31 published agenda item at a regular public meeting of their governing bodies.  
32 A TRANSFER OF PROPERTY MADE PURSUANT TO THIS SUBSECTION SHALL BE TREATED BY  
33 THE RECEIVING CITY OR TOWN AS IF THE TRANSFERRED PROPERTY WAS NEWLY ANNEXED  
34 TERRITORY.

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

41           P. If a property owner prevails in any action to challenge the  
42 annexation of the property owner's property, the court shall allow the  
43 property owner reasonable attorney fees and costs relating to the action from  
44 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. 2. Title 48, chapter 6, article 1, Arizona Revised Statutes, is  
15 amended by adding section 48-961.01, to read:

16 48-961.01. Transfer of county improvement district to purchase  
17 energy for lighting public streets and parks to  
18 municipal jurisdiction

19 A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, A COUNTY  
20 IMPROVEMENT DISTRICT THAT IS FORMED PURSUANT TO SECTION 48-960 OR 48-961 FOR  
21 PURCHASING ENERGY FOR THE LIGHTING OF PUBLIC STREETS AND PARKS AND THAT IS  
22 ENTIRELY ANNEXED INTO A CITY OR TOWN PURSUANT TO SECTION 9-471 SHALL BE  
23 CONVERTED FROM A COUNTY IMPROVEMENT DISTRICT TO A MUNICIPAL IMPROVEMENT  
24 DISTRICT ON COMPLETION OF ALL OF THE FOLLOWING:

25 1. THE CITY OR TOWN SHALL ADOPT A RESOLUTION DECLARING THE CITY'S OR  
26 TOWN'S INTENT TO ASSUME JURISDICTION OVER THE IMPROVEMENT DISTRICT AND TO  
27 CONVERT THE IMPROVEMENT DISTRICT TO A MUNICIPAL IMPROVEMENT DISTRICT. THE  
28 RESOLUTION MUST INCLUDE OR REFERENCE AS AN ATTACHMENT THE LEGAL DESCRIPTION  
29 OF THE PROPERTY TO BE CONVERTED TO A MUNICIPAL IMPROVEMENT DISTRICT AND MUST  
30 SPECIFY THE FUTURE DATE ON WHICH THE CITY OR TOWN GOVERNING BODY IS TO  
31 COMMENCE AS THE GOVERNING BODY OF THE COUNTY IMPROVEMENT DISTRICT. THE  
32 CONVERSION OF ANY COUNTY IMPROVEMENT DISTRICT TO A MUNICIPAL IMPROVEMENT  
33 DISTRICT MUST INCLUDE THE ENTIRETY OF THE DISTRICT.

34 2. THE CITY OR TOWN SHALL DELIVER TO THE CLERK OF THE COUNTY BOARD OF  
35 SUPERVISORS A CERTIFIED COPY OF THE CITY'S OR TOWN'S RESOLUTION OF INTENT TO  
36 ASSUME JURISDICTION, INCLUDING THE LEGAL DESCRIPTION OF THE AFFECTED  
37 PROPERTY.

38 3. NOT LATER THAN JULY 1 IMMEDIATELY FOLLOWING ADOPTION OF THE  
39 RESOLUTION PRESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION, THE CITY OR TOWN  
40 SHALL RECORD IN THE OFFICE OF THE COUNTY RECORDER FOR THE COUNTY IN WHICH THE  
41 PROPERTY IS LOCATED A CERTIFIED COPY OF THE CITY'S OR TOWN'S RESOLUTION WITH  
42 THE LEGAL DESCRIPTION OF THE AFFECTED PROPERTY.

43 B. BEGINNING ON THE DATE SPECIFIED IN THE RESOLUTION ADOPTED BY THE  
44 CITY OR TOWN GOVERNING BODY, SECTIONS 48-960 AND 48-961, RELATING TO COUNTY  
45 IMPROVEMENT DISTRICTS, NO LONGER APPLY AND THE CITY OR TOWN GOVERNING BODY

1 SHALL BEGIN GOVERNANCE OF THE IMPROVEMENT DISTRICT PURSUANT TO SECTIONS  
2 48-616, 48-617 AND THIS SECTION.

3 C. THIS SECTION DOES NOT ESTABLISH A NEW DISTRICT OR A NEW POLITICAL  
4 SUBDIVISION OF THIS STATE AND THE PREVIOUS GOVERNING BODY OF THE COUNTY  
5 IMPROVEMENT DISTRICT AND THE GOVERNING BODY OF THE CITY OR TOWN THAT ASSUMES  
6 JURISDICTION OVER THE DISTRICT IS NOT REQUIRED TO COMPLY WITH SECTION  
7 42-17257. ON ASSUMPTION OF JURISDICTION, THE CITY OR TOWN SHALL COMPLY WITH  
8 ALL EXISTING POWER OR ENERGY PURCHASE AGREEMENTS OF THE COUNTY IMPROVEMENT  
9 DISTRICT FOR THE REMAINDER OF THE TERMS OF THE AGREEMENTS.

10 D. AFTER THE DATE ON WHICH THE CITY'S OR TOWN'S GOVERNING BODY  
11 COMMENCES GOVERNANCE AS PRESCRIBED BY SUBSECTION B OF THIS SECTION AND UNTIL  
12 JULY 1 IMMEDIATELY FOLLOWING ADOPTION OF THE RESOLUTION PRESCRIBED BY  
13 SUBSECTION A OF THIS SECTION, THE EXISTING COUNTY GOVERNING BODY OF THE  
14 COUNTY IMPROVEMENT DISTRICT SHALL CONTINUE TO OPERATE THE DISTRICT AND SHALL  
15 CONTINUE TO COMPLY WITH ANY EXISTING POWER OR ENERGY PURCHASE AGREEMENTS.  
16 THE GOVERNING BODY OF THE CITY OR TOWN THAT IS ASSUMING JURISDICTION SHALL  
17 HAVE CONCURRENT JURISDICTION WITH THE COUNTY GOVERNING BODY TO TAKE ALL  
18 ACTIONS THAT ARE REASONABLY NECESSARY PURSUANT TO SECTION 48-916 TO PROVIDE  
19 FOR THE ASSESSMENT AND LEVY OF A TAX FOR THE NEXT FISCAL YEAR FOR THE  
20 MAINTENANCE, REPAIR AND REPLACEMENT OF A DISTRICT'S STREET LIGHTING  
21 FACILITIES AND TO PURCHASE ENERGY FOR STREET AND PUBLIC PARK LIGHTING WITHIN  
22 THE DISTRICT. AS SOON AS IS PRACTICABLE AFTER JULY 1 AS PRESCRIBED IN  
23 SUBSECTION A OF THIS SECTION, THE COUNTY TREASURER SHALL PAY OVER TO THE CITY  
24 OR TOWN THAT IS ASSUMING JURISDICTION OVER THE DISTRICT ALL UNOBLIGATED  
25 MONIES THAT ARE COLLECTED ON BEHALF OF THE DISTRICT, WHETHER BEFORE OR AFTER  
26 JULY 1.

27 Sec. 3. Applicability: existing and future improvement  
28 districts formed for purchasing energy for the  
29 lighting of public streets and parks

30 This act applies to:

31 1. Any county improvement district that is formed for purchasing  
32 energy for the lighting of public streets and parks before or after the  
33 effective date of this act, and a city or town governing body may lawfully  
34 assume jurisdiction over an existing county improvement district pursuant to  
35 this act or a county improvement district that is formed after the effective  
36 date of this act.

37 2. Any municipal improvement districts that are formed by a city or  
38 town for purchasing energy for the lighting of public streets and parks  
39 before or after the effective date of this act.