House Engrossed Senate Bill

~~vehicle impoundment; exceptions; storage charges.~~
(now: annexation; unincorporated territory; applicability)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 216

SENATE BILL 1336

AN ACT

AMENDING SECTION 9-471, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL ANNEXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-471, Arizona Revised Statutes, is amended to read:

9-471. Annexation of territory; procedures; notice; petitions; access to information; restrictions

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

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 For the purposes of this paragraph, "unsuccessful annexation" means an annexation attempt that was withdrawn or that was not completed pursuant to this section.

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

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

(a) Publication at least once in a newspaper of general circulation, which is published or circulated in the city or town and the

territory proposed to be annexed, at least fifteen days before the end of the waiting period.

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

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

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

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

5. Alterations increasing or reducing the territory sought to be annexed shall not be made after a petition has been signed by a property owner.

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

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

C. Any city or town, the attorney general, the county attorney or any other interested party within the territory to be annexed may on verified petition move to question the validity of the annexation for failure to comply with this section. The petition shall set forth the manner in which it is alleged the annexation procedure was not in compliance with this section and shall be filed within thirty days after adoption of the ordinance annexing the territory by the governing body of the city or town and not otherwise. The burden of proof shall be on the petitioner to prove the material allegations of the verified petition. An action shall not be brought to question the validity of an annexation

ordinance unless brought within the time and for the reasons provided in this subsection. All hearings provided by this section and all appeals therefrom shall be preferred and heard and determined in preference to all other civil matters, except election actions. If more than one petition questioning the validity of an annexation ordinance is filed, all such petitions shall be consolidated for hearing. If two or more cities or towns show the court that they have demonstrated an active interest in annexing any or all of the area proposed for annexation, the court shall consider any oral or written agreements or understandings between or among the cities and towns in making its determination pursuant to this subsection.

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

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

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

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

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

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

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

3. If an undivided parcel of property is owned by multiple owners, those owners are deemed as one owner for the purposes of this section.

4. If a person owns multiple parcels of property, that owner is deemed as one owner for the purposes of this section.

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

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

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

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

3. The distance from the existing boundary of the annexing city or town where it adjoins the annexed territory to the furthest point of the annexed territory from that boundary is not more than twice the maximum width of the annexed territory.

I. A city or town shall not annex territory if as a result of that annexation unincorporated territory is completely surrounded by the annexing city or town or a combination of the annexing city or town and other cities or towns.

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

K. Subsections H and I of this section do not apply to territory that at the time of the annexation was already completely surrounded by the same city or town or a combination of cities and towns.

L. SUBSECTION I OF THIS SECTION DOES NOT APPLY TO ANNEXATIONS WHICH WERE APPROVED BY THE SELECTION BOARD ESTABLISHED IN SECTION 37-202 PRIOR TO AUGUST 25, 2020.

~~L.~~ M. A city or town annexing an area shall adopt zoning classifications that permit densities and uses not greater than those permitted by the county immediately before annexation. Subsequent changes in zoning of the annexed territory shall be made according to existing procedures established by the city or town for the rezoning of land.

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

~~N.~~ O. As an alternative to the procedures established in this section, a county right-of-way or roadway may be transferred to an adjacent city or town by mutual consent of the governing bodies of the county and city or town if the property transferred is adjacent to the

receiving city or town and if the city or town and county each approve the proposed transfer as a published agenda item at a regular public meeting of their governing bodies. A transfer of property made pursuant to this subsection shall be treated by the receiving city or town as if the transferred property was newly annexed territory.

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

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

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

1. Has the same meaning prescribed in section 37-901.
2. Does not include lands owned by a flood control district.

~~R.~~ S. Notwithstanding subsection H of this section, territory is considered contiguous for the purposes of subsection A, paragraph 1 of this section if all of the real property in the territory is owned by one person, the city or town and the owner of the real property agree to the annexation and the territory adjoins the exterior boundary of the annexing city or town for at least three hundred feet.

Sec. 2. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR APRIL 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2021.