

House Engrossed Senate Bill

~~annexation; pre-annexation agreements~~
(now: state lands; annexation; delegation; minerals)

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1594

AN ACT

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

(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;
5 petitions; access to information; pre-annexation
6 agreements; restrictions

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

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31 means an annexation attempt that was withdrawn or that was not completed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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 G. The county assessor and the department of revenue, respectively,
45 shall furnish to the city or town proposing an annexation, within thirty

1 days after a request, a statement in writing showing the owner, the
2 address of each owner and the appraisal and assessment of all such
3 property.

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

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

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

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

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

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

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

27 L. Subsection I of this section does not apply to annexations ~~which~~
28 ~~THAT~~ were approved by the selection board established in section 37-202
29 ~~prior to~~ BEFORE August 25, 2020.

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

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

40 O. As an alternative to the procedures established in this section,
41 a county right-of-way or roadway may be transferred to an adjacent city or
42 town by mutual consent of the governing bodies of the county and city or
43 town if the property transferred is adjacent to the receiving city or town
44 and if the city or town and county each approve the proposed transfer as a
45 published agenda item at a regular public meeting of their governing

1 bodies. A transfer of property made pursuant to this subsection shall be
2 treated by the receiving city or town as if the transferred property was
3 newly annexed territory.

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

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

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

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

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

34 T. A CITY, TOWN OR DEVELOPER MAY ENTER INTO A PRE-ANNEXATION
35 AGREEMENT WITH A PROPERTY OWNER IN WHICH THE PROPERTY OWNER AGREES TO
36 FUTURE ANNEXATION OF AN AREA THAT INCLUDES THE PROPERTY OWNER'S PROPERTY.
37 A PROPERTY OWNER WHO HAS ENTERED INTO A PRE-ANNEXATION AGREEMENT IS NOT
38 REQUIRED TO SIGN THE PETITION PURSUANT TO SUBSECTION A, PARAGRAPH 4 OF
39 THIS SECTION. WHETHER OR NOT THE PROPERTY OWNER SIGNS THE PETITION, THE
40 PROPERTY AND PROPERTY OWNER ARE INCLUDED FOR PURPOSES OF CALCULATING THE
41 ONE-HALF OR MORE IN VALUE OF THE REAL AND PERSONAL PROPERTY AND MORE THAN
42 ONE-HALF OF THE PERSONS OWNING REAL AND PERSONAL PROPERTY THAT WOULD BE
43 SUBJECT TO TAXATION BY THE CITY OR TOWN IN THE EVENT OF THE ANNEXATION, AS
44 REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4 OF THIS SECTION.