

Senate Engrossed  
annexation; notice; approval

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

# **SENATE BILL 1268**

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 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31 means an annexation attempt that was withdrawn or that was not completed  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:

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

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

7 (c) Notice by ~~first class~~ CERTIFIED mail sent to the chairperson of  
8 the board of supervisors of the county in which the territory proposed to  
9 be annexed is located. THE GOVERNING BODY OF THE CITY OR TOWN SHALL BEAR  
10 THE COST OF THE CERTIFIED MAIL.

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

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

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

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

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

40 C. Any city or town, the attorney general, the county attorney or  
41 any other interested party within the territory to be annexed may on  
42 verified petition move to question the validity of the annexation for  
43 failure to comply with this section. The petition shall set forth the  
44 manner in which it is alleged the annexation procedure was not in  
45 compliance with this section and shall be filed within thirty days after

1 adoption of the ordinance annexing the territory by the governing body of  
2 the city or town and not otherwise. The burden of proof shall be on the  
3 petitioner to prove the material allegations of the verified petition. An  
4 action shall not be brought to question the validity of an annexation  
5 ordinance unless brought within the time and for the reasons provided in  
6 this subsection. All hearings provided by this section and all appeals  
7 therefrom shall be preferred and heard and determined in preference to all  
8 other civil matters, except election actions. If more than one petition  
9 questioning the validity of an annexation ordinance is filed, all such  
10 petitions shall be consolidated for hearing. If two or more cities or  
11 towns show the court that they have demonstrated an active interest in  
12 annexing any or all of the area proposed for annexation, the court shall  
13 consider any oral or written agreements or understandings between or among  
14 the cities and towns in making its determination pursuant to this  
15 subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33          L. Subsection I of this section does not apply to annexations that  
34 were approved by the selection board established in section 37-202 before  
35 August 25, 2020.

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

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

1           O. As an alternative to the procedures established in this section,  
2 a county right-of-way or roadway may be transferred to an adjacent city or  
3 town by mutual consent of the governing bodies of the county and city or  
4 town if the property transferred is adjacent to the receiving city or town  
5 and if the city or town and county each approve the proposed transfer as a  
6 published agenda item at a regular public meeting of their governing  
7 bodies. A transfer of property made pursuant to this subsection shall be  
8 treated by the receiving city or town as if the transferred property was  
9 newly annexed territory.

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

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

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

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

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

40           T. A city, town or developer may enter into a pre-annexation  
41 agreement with a property owner in which the property owner agrees to  
42 future annexation of an area that includes the property owner's property.  
43 A property owner who has entered into a pre-annexation agreement is not  
44 required to sign the petition pursuant to subsection A, paragraph 4 of  
45 this section. Whether or not the property owner signs the petition, the

1 property and property owner are included for purposes of calculating the  
2 ~~one-half~~ SIXTY PERCENT or more in value of the real and personal property  
3 and more than ~~one-half~~ SIXTY PERCENT of the persons owning real and  
4 personal property that would be subject to taxation by the city or town in  
5 the event of the annexation, as required pursuant to subsection A,  
6 paragraph 4 of this section.