

House Engrossed
annexation; notice; approval

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2125

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31 means an annexation attempt that was withdrawn or that was not completed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~~ WRITTEN PETITION THAT MEETS THE MINIMUM
21 SIGNATURE REQUIREMENTS OF THIS SUBSECTION MUST BE FILED IN THE OFFICE OF
22 THE COUNTY RECORDER. IF THE PETITION SEEKS TO EXTEND AND INCREASE THE
23 CORPORATE LIMITS OF A CITY OR TOWN THAT IS LOCATED ENTIRELY WITHIN A
24 COUNTY WITH A POPULATION OF MORE THAN FOUR MILLION PERSONS AND IS NOT
25 LOCATED IN MORE THAN ONE COUNTY, THE PETITION SHALL BE signed by the
26 owners of ~~one-half~~ SIXTY PERCENT or more in value of the real and personal
27 property and more than ~~one-half~~ SIXTY PERCENT of the persons owning real
28 and personal property that would be subject to taxation by the city or
29 town in the event of annexation, as shown by the last assessment of the
30 property, ~~may be circulated and filed in the office of the county~~
31 ~~recorder~~. IF THE PETITION SEEKS TO EXTEND AND INCREASE THE CORPORATE
32 LIMITS OF A CITY OR TOWN THAT IS NOT LOCATED ENTIRELY WITHIN A COUNTY WITH
33 A POPULATION OF MORE THAN FOUR MILLION PERSONS, THE PETITION SHALL BE
34 SIGNED BY THE OWNERS OF FIFTY PERCENT OR MORE IN VALUE OF THE REAL AND
35 PERSONAL PROPERTY AND MORE THAN FIFTY PERCENT OF THE PERSONS OWNING REAL
36 AND PERSONAL PROPERTY THAT WOULD BE SUBJECT TO TAXATION BY THE CITY OR
37 TOWN IN THE EVENT OF ANNEXATION, AS SHOWN BY THE LAST ASSESSMENT OF THE
38 PROPERTY. For the purposes of this paragraph, "real and personal
39 property" includes mobile, modular and manufactured homes and trailers
40 only if the owner also owns the underlying real property.

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

44 6. The petitioner shall determine and submit a sworn affidavit
45 verifying that no part of the territory for which the filing is made is

1 already subject to an earlier filing for annexation. The county recorder
2 shall not accept a filing for annexation without the sworn affidavit.

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

7 C. Any city or town, the attorney general, the county attorney or
8 any other interested party within the territory to be annexed may on
9 verified petition move to question the validity of the annexation for
10 failure to comply with this section. The petition shall set forth the
11 manner in which it is alleged the annexation procedure was not in
12 compliance with this section and shall be filed within thirty days after
13 adoption of the ordinance annexing the territory by the governing body of
14 the city or town and not otherwise. The burden of proof shall be on the
15 petitioner to prove the material allegations of the verified petition. An
16 action shall not be brought to question the validity of an annexation
17 ordinance unless brought within the time and for the reasons provided in
18 this subsection. All hearings provided by this section and all appeals
19 therefrom shall be preferred and heard and determined in preference to all
20 other civil matters, except election actions. If more than one petition
21 questioning the validity of an annexation ordinance is filed, all such
22 petitions shall be consolidated for hearing. If two or more cities or
23 towns show the court that they have demonstrated an active interest in
24 annexing any or all of the area proposed for annexation, the court shall
25 consider any oral or written agreements or understandings between or among
26 the cities and towns in making its determination pursuant to this
27 subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 O. As an alternative to the procedures established in this section,
15 a county right-of-way or roadway may be transferred to an adjacent city or
16 town by mutual consent of the governing bodies of the county and city or
17 town if the property transferred is adjacent to the receiving city or town
18 and if the city or town and county each approve the proposed transfer as a
19 published agenda item at a regular public meeting of their governing
20 bodies. A transfer of property made pursuant to this subsection shall be
21 treated by the receiving city or town as if the transferred property was
22 newly annexed territory.

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

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

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

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

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

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

8 T. A city, town or developer may enter into a pre-annexation
9 agreement with a property owner in which the property owner agrees to
10 future annexation of an area that includes the property owner's property.
11 A property owner who has entered into a pre-annexation agreement is not
12 required to sign the petition pursuant to subsection A, paragraph 4 of
13 this section. Whether or not the property owner signs the petition, the
14 property and property owner are included for purposes of calculating the
15 ~~one-half or more~~ PERCENTAGE in value of the real and personal property and
16 ~~more than one-half~~ THE PERCENTAGE of the persons owning real and personal
17 property that would be subject to taxation by the city or town in the
18 event of the annexation, as required pursuant to subsection A, paragraph 4
19 of this section.