

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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

CHAPTER 134

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26 was withdrawn or that was not completed pursuant to this section.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.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House February 24, 2014

Passed the Senate April 15, 2014

by the following vote: 59 Ayes,

by the following vote: ~~29~~ 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]

Speaker of the House

[Signature]

President of the Senate

[Signature]

Chief Clerk of the House

[Signature]

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

H.B. 2148

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 16, 2014,

by the following vote: 56 Ayes,

1 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17th day of April, 2014,

at 10:45 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 22nd day of

April, 2014,

at 4:18 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2148

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23rd day of April, 2014,

at 9:40 o'clock a M.

[Signature]
Secretary of State