



MEMORANDUM

Date: January 29, 2014

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "C.H. Huckelberry", is written over the typed name and title.

Re: **Senate Bill 1210 Regarding Municipal Annexation of County Parks**

The attached Senate Bill 1210 has been introduced in the Arizona Legislature. This bill would remove the requirement that a municipality obtain the permission of a County when annexing a County park.

Previously, the County has granted permission to cities and towns to annex County parks for all of the annexation of County parks along a major river system, including Dan Felix Memorial, Rillito Park, George Mehl Family Park, and others.

On two occasions, the County has objected to annexation. These objections were for the City of Tucson's proposed annexation of the County Fairgrounds and for the Town of Marana's proposed annexation of the property and park adjacent to the Marana Wastewater Reclamation Facility (MWRF). The primary reason the County objected to these annexations was to protect assets of County taxpayers or to prevent additional sales taxes for County Fair operations, including 4H activities and horse or gun shows. In the case of the Marana annexation, it was for the purpose of preventing Marana from annexing the MWRF and then claiming they owned it due to an obsolete intergovernmental agreement. These points have been litigated in both the Maricopa Superior Court and the Arizona Court of Appeals. Both courts ruled in favor of Pima County.

Regarding the Fairgrounds, objections to annexation were raised by the Southwestern Fair Commission, which operates the County Fairgrounds through the Pima County Fair Commission. Their objections were over economic competitiveness of Fair operations based on an added two percent City sales tax on all activities occurring on the Fairgrounds, with little, if any, service return from the City of Tucson. At the request of the Fair Commission, the County declined the City's request to annex the Fairgrounds.

In a recent annexation by the City of Tucson for property at Interstate 10 and Valencia Road that annexed Julian Wash river park improvements, the County did not use our veto power, even though the City rejected our request to translate zoning for County property equivalent to that provided an adjacent private owner.

The Honorable Chair and Members, Pima County Board of Supervisors
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The City of Tucson does have annexation plans for the Catalina Foothills, but none of the County parks provide any significant barrier to their annexation. Hence, I am not sure of the purpose of this legislation other than to annex the Fairgrounds and the lands beyond, which are primarily State Trust Lands. Such would promote significant eastward expansion of City boundaries and encourage urban sprawl.

I have asked our staff and lobbyist, though Chief Deputy County Administrator Martin Willett, to oppose this legislation. I will also be informing the Pima County Fair Commission and the Pima County Parks and Recreation Commission of this legislation for their review and action.

CHH/anc

Attachment

- c: Martin Willett, Chief Deputy County Administrator
- John Bernal, Deputy County Administrator for Public Works
- Chris Cawein, Director, Natural Resources, Parks, and Recreation
- Michael Racy, Racy Associates, Inc.
- Jon Baker, Executive Director, Pima County Fair Commission

REFERENCE TITLE: municipalities; county park annexation

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1210

Introduced by
Senator Griffin

AN ACT

AMENDING SECTION 9-471, ARIZONA REVISED STATUTES; RELATING TO MUNICIPALITY
CORPORATE LIMIT EXTENSIONS.

(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~~-THE
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~~-THE 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 city or town and if the
30 city or town and county each approve the proposed transfer as a published
31 agenda item at a regular public meeting of their governing bodies.

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

38 P. If a property owner prevails in any action to challenge the
39 annexation of the property owner's property, the court shall allow the
40 property owner reasonable attorney fees and costs relating to the action from
41 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.~~