

48-262. District boundary changes; procedures; notice; hearing; determinations; petitions

A. Except as prescribed by subsection I of this section, a fire district, community park maintenance district or sanitary district shall change its boundaries by the following procedures:

1. Any adult person desiring to propose any change to the boundaries of a district shall provide a legal description of the area proposed for inclusion in the district to the county assessor of the county in which the district is to be located. The county assessor shall provide to the person proposing any change to the boundaries of the district a detailed list of all taxable properties in the area proposed for inclusion in the district. The person proposing any change to the boundaries of the district shall prepare and submit a boundary change impact statement to the governing body of the district. The boundary change impact statement shall contain at least the following information:

(a) A legal description of the boundaries of the area to be included within the proposed change and a map and general description of the area sufficiently detailed to permit a property owner to determine whether a particular property is within the proposed district. The boundaries of the proposed change shall not overlap with the boundaries of any other proposed new district of the same type or any annexation by a district of the same type for which petitions are being circulated on the date that the boundary change impact statement is filed with the governing body.

(b) The detailed list of taxable properties provided by the assessor pursuant to this paragraph.

(c) An estimate of the assessed valuation within the boundaries of the proposed change.

(d) An estimate of the change in the tax rate of the district if the proposed change is made.

(e) An estimate of the change in the property tax liability, as a result of the proposed change, of a typical resident of a portion of the district, not in the area of the proposed change, before and after the proposed change and of a typical resident of the area of the proposed change.

(f) A list and explanation of benefits that will result from the proposed change to the residents of the area and of the remainder of the district.

(g) A list and explanation of the injuries that may result from the proposed change to residents of the area and of the remainder of the district.

2. On receipt of the boundary change impact statement, the governing body shall set a day, at least twenty but not more than thirty days from that date, for a hearing on the boundary change impact statement. The board of supervisors may at any time prior to making a determination pursuant to paragraph 5 of this subsection require that the impact statement be amended to include any information that the board of supervisors deems to be relevant and necessary.

3. On receipt of the boundary change impact statement, the clerk of the governing body shall mail, by first class mail, written notice of the statement, its purpose and notice of the day, hour and place of the hearing on the proposed change to each owner of taxable property within the boundaries of the proposed change. The clerk of the governing body shall post the notice in at least three conspicuous public places in the area of the proposed change and also publish twice in a daily newspaper of general circulation in the area of the proposed change, at least ten days before the hearing, or if no daily newspaper of general circulation exists in the area of the proposed change, at least twice at any time before the date of the hearing, a notice setting forth the purpose of the impact statement, the description of the boundaries of the proposed change and the day, hour and place of the hearing.

4. On receipt of the boundary change impact statement the clerk shall also mail notice, as provided in paragraph 3 of this subsection, to the chairman of the board of supervisors of the county in which the district is located. The chairman of the board of supervisors shall order a review of the proposed change and may submit written comments to the governing body of the district within ten days of receipt of the notice.

5. At the hearing called pursuant to paragraph 2 of this subsection, the governing body shall consider the comments of the board of supervisors, hear those who appear for and against the proposed change and determine whether the proposed change will promote the public health, comfort, convenience, necessity or welfare. If the governing body determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall approve the impact statement and authorize the persons proposing the change to circulate petitions as provided in this subsection. The order of the governing body shall be final, but if the request to circulate petitions is denied, a subsequent request for a similar change may be refiled with the governing body after six months from the date of the denial. The county board of supervisors shall authorize the circulation of petitions for only one boundary change of a district of the same type in which any property owner's land is proposed for inclusion. A new petition circulation shall not be authorized until the one-year period to submit signatures set by subsection B, paragraph 3 of this section of the original petition circulation has expired or has otherwise been extinguished.

6. Except as provided by section 48-851, the governing body shall not approve a proposed annexation if the property to be annexed is not contiguous with the district's existing boundary. For the purposes of determining whether or not the proposed addition is contiguous, the addition is deemed contiguous if land that is owned by or under the jurisdiction of the United States government, this state or any political subdivision of this state, other than an incorporated city or town, intervenes between the proposed addition and the current district boundary.

7. The governing body shall not approve a proposed annexation if the area proposed to be annexed surrounds any unincorporated territory and that unincorporated territory is not also included in the district.

8. After receiving the approval of the governing body as provided in paragraph 5 of this subsection and if no appeal filed pursuant to paragraph 14 of this subsection remains unresolved, any adult person may circulate and present petitions to the governing body of the district.

9. Within fifteen days after receiving the approval of the governing body as prescribed by paragraph 5 of this subsection, the clerk of the board shall determine the minimum number of signatures and the assessed valuation required to comply with paragraph 10, subdivision (b) of this subsection. After making that determination, the number of signatures shall remain fixed and the assessed valuation of the taxable properties within the boundaries of the proposed change shall remain fixed for purposes of determining compliance, notwithstanding any subsequent changes in ownership of the property within the boundaries of the proposed change.

10. The petitions presented pursuant to paragraph 8 of this subsection shall comply with the provisions regarding petition form in section 48-266 and shall:

(a) At all times, contain a map and general description of the boundaries of the area to be included within the proposed change sufficiently detailed to permit a property owner to determine whether a particular property is included within the proposed change. An alteration of the described area shall not be made after receiving the approval of the governing body as provided in paragraph 5 of this subsection. The items required to be contained with the petition under this subdivision shall be

printed on the back of the petition form required pursuant to section 48-266 unless the size of the items precludes compliance with this requirement. An error in the legal description of the proposed change shall not invalidate the petitions if considered as a whole the information provided is sufficient to identify the property as illustrated in the map required pursuant to this subdivision.

(b) Be signed by owners of more than one-half of the taxable property units within the boundaries of the proposed change and be signed by persons owning collectively more than one-half of the assessed valuation of the property within the boundaries of the proposed change. Property exempt pursuant to title 42, chapter 11, article 3 shall not be considered in determining the total assessed valuation of the proposed change nor shall owners of property not subject to taxation be eligible to sign petitions.

11. On receipt of the petitions, including any supplemental signatures and the report of the county assessor, the governing body shall set a day, at least ten but not more than thirty days from that date, for a hearing on the request.

12. Prior to the hearing called pursuant to paragraph 11 of this subsection, the board of supervisors shall determine the validity of the petitions presented pursuant to subsection B of this section.

13. At the hearing called pursuant to paragraph 11 of this subsection, the governing body, if the petitions are valid, shall order the change to the boundaries. The governing body shall enter its order setting forth its determination in the minutes of the meeting, at least ten days from the day of the hearing, and a copy of the order shall be sent to the officer in charge of elections and a copy shall be recorded in the county recorder's office. The order of the governing body shall be final, and the proposed change shall be made to the district boundaries thirty days after the governing body votes.

14. On filing a verified complaint with the superior court, the attorney general, the county attorney or any other interested party may question the validity of the annexation for failure to comply with this section. The complaint shall include a description of the alleged noncompliance and shall be filed within thirty days after the governing body of the district adopts a resolution that annexes the territory of the district. The burden of proof is on the plaintiff to prove the material allegations of the verified complaint. An action shall not be brought to question the validity of an annexation resolution unless it is filed within the time and for the reasons prescribed in this subsection. All hearings that are held pursuant to this paragraph and all appeals of any orders shall be preferred and shall be heard and determined in preference to all other civil matters, except election actions. If more than one complaint questioning the validity of an annexation resolution is filed, all complaints shall be consolidated for the hearing.

B. For the purpose of determining the validity of the petitions presented pursuant to subsection A, paragraph 8 of this section:

1. Property held in multiple ownership shall be treated as if it had only one property owner, and the signature of only one of the owners of property held in multiple ownership is required on the boundary change petition. The number of persons owning property inside the boundaries of the proposed boundary change shall be determined as follows:

(a) In the case of property assessed by the county assessor, the number of persons owning property shall be as shown on the most recent assessment of property.

(b) In the case of property valued by the department of revenue, the number of persons owning property shall be as shown on the most recent valuation of property.

(c) If an undivided parcel of property is owned by multiple owners, those owners are deemed to be one owner for the purposes of this section.

(d) If a person owns multiple parcels of property, that owner is deemed to be a single owner for the purposes of this section.

2. The value of property shall be determined as follows:

(a) In the case of property assessed by the county assessor, values shall be the same as those shown on the last assessment roll of the county containing the property.

(b) In the case of property valued by the department of revenue, the values shall be those determined by the department in the manner provided by law, for municipal assessment purposes. The county assessor and the department of revenue, respectively, shall furnish to the governing body, within twenty days after the request, a statement in writing showing the owner, the address of each owner and the appraisal or assessment value of properties contained within the area of a proposed change as described in subsection A of this section.

3. All petitions circulated shall be returned to the governing body of the district within one year from the date of the approval given by the governing body pursuant to subsection A, paragraph 5 of this section. Any petition returned more than one year from that date is void. If an appeal is filed pursuant to subsection A, paragraph 14 of this section, this time period for gathering signatures is tolled beginning on the date an action is filed in superior court and continuing until the expiration of the time period for any further appeal.

C. For the purposes of determining whether or not the proposed addition is contiguous, the addition is deemed contiguous if land that is owned by or under the jurisdiction of the United States government, this state or any political subdivision of this state, other than an incorporated city or town, intervenes between the proposed addition and the current district boundary. Property shall not be approved for annexation if the area proposed to be annexed surrounds any unincorporated territory and that unincorporated territory is not also included in the district.

D. If the change in the boundaries proposed pursuant to subsection A of this section would result in a withdrawal of territory from an existing district, the petitions shall be approved by the governing body only if the proposed withdrawal would not result in a noncontiguous portion of the district that is less than one square mile in size.

E. If the impact statement described in subsection A of this section relates to the withdrawal of property from a district, in addition to the other requirements of subsection A of this section, the governing body shall also determine:

1. If the district has any existing outstanding bonds or other evidences of indebtedness.

2. If those bonds were authorized by an election and issued during the time the property to be withdrawn was lawfully included within the district.

F. If the conditions of subsection E of this section are met:

1. The property withdrawn from the district shall remain subject to taxes, special assessments or fees levied or collected to meet the contracts and covenants of the bonds. The board of supervisors shall provide for the levy and collection of taxes, special assessments or fees.

2. The governing body shall:

(a) Annually determine the amount of special property taxes, special assessments or fees that must be levied and collected from property withdrawn from the district and the mechanism by which that amount is to be collected.

(b) Notify the board of supervisors on or before the third Monday in July of the amount determined in subdivision (a) of this paragraph.

3. Property withdrawn from an existing district shall not be subject to any further taxes, special assessments or fees arising from the indebtedness of the district except as provided in this subsection.

G. If the statement described in subsection A, paragraph 1 of this section requests the annexation of property located within an incorporated city or town, in addition to the other requirements of subsection A of this section, the governing body shall approve the district boundary change impact statement and authorize the circulation of petitions only if the governing body of the city or town has by ordinance or resolution endorsed the annexation and the annexation is authorized pursuant to this title.

H. Except as provided in subsection D of this section and section 48-2002, a change in the boundaries of a district pursuant to this section shall not result in a district that contains area that is not contiguous.

I. Notwithstanding subsection A of this section, any property owner, including a county, this state or the United States government, whose land is within a county that contains a sanitary district or fire district and whose land is contiguous to the boundaries of the sanitary district or fire district may request in writing that the governing body of the district amend the district boundaries to include that property owner's land. If the property is located in an incorporated city or town, in addition to the other requirements prescribed in this subsection, the governing body of the fire district or sanitary district may approve the boundary change only if the governing body of the affected city or town by ordinance or resolution has approved the inclusion of the property in the district. If the governing body determines that the inclusion of that property will benefit the district and the property owner, the boundary change may be made by order of the governing body and is final on the recording of the governing body's order that includes a legal description of the property that is added to the district. A petition and impact statement are not required for an amendment to a sanitary district's or fire district's boundaries made pursuant to this subsection.

J. Until August 1, 2014, in a county with a population greater than two million persons, notwithstanding subsection I of this section, any property owner, including the United States, this state or a county, whose land is within two thousand six hundred forty feet of an adjacent sanitary district or fire district, not contiguous to the boundaries of the sanitary district or fire district and within an unincorporated area or county island may request in writing that the governing body of the district amend the district boundaries to include that property owner's land.

K. A fire district shall not annex or otherwise add territory that is already included in another existing fire district, unless deannexed pursuant to subsections D, E and F of this section.

L. A fire district, community park maintenance district or sanitary district may appropriate and spend monies as necessary or reasonably required to assist one or more individuals or entities to change the district's boundaries pursuant to this section.

M. Notwithstanding subsection A of this section, if an incorporated city or town has previously adopted a resolution designating a fire district as the fire service agency for the city or town, the jurisdictional boundaries of the fire district without further notice or election shall be changed to include any property annexed into the city or town. If the annexation occurs pursuant to a joint petition for annexation, any joint petition for annexation shall clearly indicate in its title and in the notice required in the petition that the property to be annexed will be subject to the jurisdiction of both the city or town and the fire district. A joint petition for annexation shall comply with both section 9-471 and this section. Any fire district boundary change that occurs through city or town annexation pursuant to this subsection is effective on the effective date of the annexation by the incorporated city or town. If an incorporated city or town that has designated a fire district as the fire service agency for that city

or town annexes property that is already part of another fire district, the annexed property shall remain part of the fire district in which it was located before the city or town's annexation.

N. Notwithstanding subsection I of this section, from August 2, 2012 until July 1, 2015, in counties with a population of more than two million five hundred thousand persons, any property owner, including the United States, this state or a county, whose land is within two thousand six hundred forty feet of an adjacent sanitary district or fire district and is not contiguous to the boundaries of the sanitary district or fire district may request in writing that the governing body of the district amend the district boundaries to include that property owner's land. If the property is located in an incorporated city or town, in addition to the other requirements prescribed in this subsection, the governing body of the sanitary district or fire district may approve the boundary change only if the governing body of the affected city or town, by ordinance or resolution, has approved the inclusion of the property in the district. If the governing body determines that the inclusion of that property will benefit the district and the property owner, the boundary change may be made by order of the governing body and is final on the recording of the governing body's order that includes a general description of the property, including the assessor's parcel number, that is added to the district. A petition and impact statement are not required for an amendment to a sanitary district's or fire district's boundaries made pursuant to this subsection.

O. For the purposes of this section, assessed valuation does not include property exempt pursuant to title 42, chapter 11, article 3.