

## Article 5 Soil & Water Conservation Programs

**NOTE:** See NOTE to Article 3. The entire Article, as enacted by P.L. 16-62:4, was repealed and reenacted by P.L. 17-51:1. With this clear and major revision of the entire Soil and Water Conservation Program of Guam, the Compiler presumes that both previous articles, the original enacted by P.L. 6-64 and, obviously, that enacted by P.L. 16-62, are repealed in favor of the law as found in P.L. 17-51. All **SOURCE** references in this Article will be to P.L. 17-51:1 unless stated otherwise.

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**§63501. Legislative Findings and Intent.** (a) As there continues to exist within the Territory of Guam a need for a policy which promotes soil and water conservation and which prevents erosion-related and water management-related problems to conserve and improve the use of the Territory's land and water resources, the Legislature finds the need to establish Soil and Water Conservation Districts while continuing the Department of Agriculture's role as the Territory's lead soil conservation agency, and the existing programs of conservation under the Public Utility Agency of Guam and the Environmental Protection Agency.

**SOURCE:** GC §12392.

**§63502. Definitions.** Whenever used in this Article:

(a) *District or Soil and Water Conservation District*

means a governmental subdivision within the Department of Agriculture of this Territory organized in accordance with this Chapter;

(b) *Director* means a member of the government body of a district.

(c) *Land occupier or occupier of land* includes any person, firm, or corporation who holds title to or, in the case of leased land, the person, firm, or corporation who holds possession of any lands lying within a district organized under this Article;

(d) *Farm land owner or occupier* means a person, firm, or corporation who is an owner or operation of land used for the purpose of commercially producing livestock, crops, fruit or nut-bearing trees, vines, bushes, or aquaculture products;

(e) *Cooperator* means a farm land owner or occupier who has entered into an agreement with a district requesting the district to provide aid under this Article.

**SOURCE:** GC §12392.1.

**§63503. Conservation Districts Established.** A Northern Soil and Water Conservation District and a Southern Soil and Water Conservation District shall be created under the Department of Agriculture and shall work in conjunction with the Bureau of Planning, College of Agriculture and Life Sciences (UOG), Department of Land Management, Guam Environmental Protection Agency and the Public Utility Agency of Guam to conserve, develop and the use the soil and water resources of Guam in order to control and prevent soil erosion, flooding and to improve agriculture water management. Any project which is proposed by a District which involves the responsibilities of another government of Guam agency shall require that agency's review and approval before implementation. Project of one district may be jointly sponsored by both districts where feasible. The activities and operations shall

be by the District Board and Department of Agriculture to assure compatibility with related programs. These activities shall comply with provisions of the Government Code including comprehensive plans, water management plans, and other pertinent planning documents.

**SOURCE:** GC §12392.2.

**§63504. General Powers & Duties of Department.**

(a) The Department of Agriculture shall keep a record of its official actions, and may perform such acts and promulgate such rules and regulations as may be necessary for the execution of its functions under this Article;

(b) The Department of Agriculture may delegate to any member, agent, or employee such powers and duties as it may deem proper;

(c) Upon request of the Department of Agriculture, other agencies of the territorial government shall, insofar as available appropriations and resources permit, assign staff members of personnel to the Department, and make such reports, surveys, and studies as the Department may request; and

(d) The Department of Agriculture shall conduct the election of all District Directors and in conjunction therewith: (1) promulgate the necessary rules and regulations by which farm land owners and operators shall nominate and elect from among their number District Directors, and (2) the Director of the Department of Agriculture shall certify the election results and provide a copy to the Governor and the Legislature.

**SOURCE:** GC §12392.3.

**§63505. Additional Powers & Duties of Department.** (a) The Department of Agriculture shall:

(1) provide appropriate assistance to the directors of districts in carrying out their powers and programs;

(2) keep districts informed of the activities of the

other district and facilitate cooperation between them;

(3) coordinate district programs insofar as that may be done by advice and consultation;

(4) obtain the assistance of the United States government and of local agencies in the work of the districts; and

(5) disseminate information throughout the Territory concerning district activities and programs; and

(b) The Department of Agriculture shall, in coordination with the Bureau of Planning, Guam Environmental Protection Agency, Department of Land Management, Public Utility Agency of Guam and the Soil and Water Conservation Districts, prepare and implement territorial soil and resource conservation and utilization plans which will conserve and improve the Territory's resources; and it shall review and provide determinations on plans submitted to it by districts and other entities eligible to receive federal assistance. In the execution of this responsibility, the Department is authorized to apply for and accept grants, loans, contributions, appropriations, and assistance from the federal government and from any other sources, public and private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the federal government such provisions as it may deem reasonable and appropriate and which are not inconsistent with the purposes of this Article and the laws of the Territory.

**SOURCE:** GC §12392.4

**§63506. Organization of Districts.** To complete the organization of a district, the Department of Agriculture, in accordance with the Administrative Adjudication Act, shall present to the Governor a statement setting out the name of the district and its boundaries and certifying that the procedures prescribed in this article for the organization of

a district have been fully complied with. The statement shall request the Governor to issue a certificate of organization to the district. The Governor shall record the statement in his office and shall issue to the Directors of the district a certificate, under the seal of the Territory, of the due organization of the district.

**SOURCE:** GC §12392.5

**§63507. Composition and Responsibilities of Districts, and Appointments, Tenure, and Compensation of Directors.** (a) The Soil and Water Conservation Districts shall each:

(1) Be composed of five (5) Directors, each of whom is largely engaged in commercial farming and is land occupier of the district;

(2) Have an advisor assigned to it by the Department of Agriculture and by the College of Agriculture and Life Sciences, and shall request as required technical advisors from other agencies of the territorial government;

(3) Have a Chairperson and a Vice Chairperson, who shall be designated by the directors;

(4) Have a quorum in order to conduct business. Three directors shall constitute a quorum; and the concurrence of a majority upon any official matter shall be necessary; [and]

(5) Have monthly meetings; and semi-annually both districts shall have a joint meeting.

(b) The selection of Directors for each district and their tenure shall be as follows:

(1) Farm land owners or occupiers of the district shall nominate and elect five nonpartisan directors from among their number. The first election shall be held within two months after enactment of this act; and commencing in 1985, elections shall thereafter be held on the second Tuesday in August. At the first election,

one director shall be elected for one year, two directors shall be elected for two years, and two directors shall be elected for three years. Thereafter, commencing 1985, each director shall be elected for a term of three years. No elected director shall serve more than three (3) consecutive terms.

(2) Vacancies shall be filled for an unexpired term. The selection of successors to fill an unexpired term of elected directors shall be made by the Governor with the consent of the Legislature.

**(c) [Repealed]**

(d) Each Soil and Water Conservation District shall prepare a long-range plan and an annual workplan with assistance from advisory members and agencies. Each District shall keep a record of proceedings, resolution, regulations, and orders issued or adopted and accounts of receipts and disbursement; and disbursements; and shall furnish to the Department of Agriculture copies of such documents, instruments or information concerning their activities as the department request. District activities shall be limited to the following types of land within the district:

(1) all public land leased for agricultural activities, including leased federal land. Any and all projects which are proposed for leased federal land shall require the review and approval of the federal agency which as jurisdiction over the land;

(2) public and private land which is designated for agricultural use of conservation; and

(3) land which is used for the purpose of commercially producing an agricultural commodity which is located in an area designated as urban or rural.

**SOURCE:** GC §12392.6. Subsection (c) repealed by the effect of §63512, enacted by P.L. 18-29:8.

**§63508. Powers of Districts and Directors.** A district

organized under this Article, and the directors thereof, shall have, in addition to other powers granted in other sections of this Article, the following powers:

(a) To provide for and encourage surveys, investigations, and research relating to soil and water conservation and to publish and disseminate information concerning such subjects;

(b) To provide for and encourage demonstrations relative to the control and prevention of erosion and the conservation of soil and water resources and carry out preventive control measures on publicly owned land within the district with the consent of the occupier of the land;

(c) To cooperate, or enter into agreements with, and to furnish aid to any agency or occupier of land within the district insofar as it is feasible to do so, for specific soil and water conservation activities not in conflict with or duplicating other activities of the Department of Agriculture or cooperating agencies. Such agreements shall be subject to such conditions as the district board may deem necessary;

(d) To review conservation plans prepared by farm land owners and occupiers, which are a precondition for a contract between the farm land owners and occupiers and the U.S. Secretary of Agriculture; to provide to the U.S. Secretary of Agriculture or his designee a recommendation concerning the acceptability of farm land owners' and occupiers' plans, such recommendation to be based upon the district's conservation plan; and to provide, when requested by the Secretary or his designee, recommendations on the contract;

(e) To acquire property such as equipment or machinery to introduce soil conservation practices to the agricultural community and to dispose of such property when appropriate;

(f) To acquire private land or land rights through [the] Department of Land Management as needed for implementation of watershed projects for purposes such as flood control, irrigation, or soil conservation;

(g) To construct, improve, and maintain structures such as sediment ponds or earthen dams, following the requirements of the Guam Codes and proper engineering standards and specifications, when these structures are found necessary for carrying out the purposes of soil and water conservation;

(h) To develop conservation plans for cooperators of the district at their request;

(i) To have a seal which can be affixed to certificates issued to cooperators of the district and to any contract or other instruments;

(j) As a condition to the extending of benefits, or the performance of work upon land, the District may require contributions of services, materials or otherwise, to any operation conferring such benefits, and may impose any other reasonable condition, such as contributions of labor for the planting of trees and payment for specific erosion control materials secured by the district for the benefit of its cooperators. All such contributions would necessarily be determined by the District as a whole and would not be in violation of the laws of Guam or common practice.

**SOURCE:** GC §12392.7.

**§63509. Budget.** The Department of Agriculture shall include in its annual budget request to the Bureau of Budget and Management Research a budgetary plan which shall include estimates of the financial requirements of the soil and water conservation districts.

**SOURCE:** GC §12392.8.

**§63510. Disposition of Unused Land.** Any land acquired by the Department of Land Management under



§63508(f) of this Article and not used for the purpose enumerated in §63508(f) within five years of the acquisition, shall be returned to the original owners for the price paid by the Government when such property was originally acquired.

**SOURCE:** GC §12392.9.

**§63511. Initial Reports Required.** Within six months from the date of passage of this Act, the Water and Soil Conservation Districts shall submit a progress report to the Legislature.

**SOURCE:** Section 2 of P.L. 17-51.

**§63512. Board Compensation.** Members of the Soil and Water Conservation District shall be compensated in the amount of \$50.00 for attending a meeting, such compensation not to exceed \$100 per month.

**SOURCE:** GC §12392.10 added by P.L. 18-29:8.

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