

**5 GCA GOVERNMENT OPERATIONS
CH. 54 HIGHWAY PROJECTS**

**CHAPTER 54
HIGHWAY PROJECTS**

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**ARTICLE 1
HIGHWAY DEVELOPMENT & MAINTENANCE**

- § 54101. Highway Commission.
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- § 54109. Consideration of Night Time Work on Major Road Construction Projects.

§ 54101. Highway Commission.

(a) There is created a Highway Commission.

(b) Membership. The Commission shall consist of the Director of Public Works, ex officio, who shall be chairman, and four members appointed by the Governor by and with the advice and consent of the Legislature. The appointed members shall serve for terms of three years, except that of the first appointed Commission, one member shall be appointed for a term of one year and two members shall be appointed for terms of two years. The Chief Engineer for Highways, Department of Public Works, shall act as the Executive Secretary to the Commission.

(c) Duties and Responsibilities. The Highway Commission shall review proposed short and long range public highway programs, specifications and standards, and refer same to the Territorial Land Use Commission.

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(d) Compensation. Members of the Commission shall be paid at the rate of \$50 per day for each day on which the Commission meets, such compensation shall not exceed \$100 per month.

SOURCE: GC § 10351 added by P.L. 11-82, eff. July 1, 1971. Subsection (d) added by P.L. 15-148:4.

§ 54102. Territorial Highway Fund.

(a) For the purpose of securing the for the entire Territory proper maintenance and construction of existing highways, including roads and city and village streets and for implementing all highway-safety related plans, programs and projects, there is hereby established a fund to be known as the Territorial Highway Fund, which fund to be maintained separate and apart from any other funds of the government of Guam, and independent records shall be kept in connection therewith.

(b) For the period beginning July 1, 1971, all monies received under 11 GCA Finance & Taxation, Chapter 26, Article 4 and 16 GCA § 7160 and monies and revenue made available from the Federal Government for public highway purposes and highway safety related plans, programs and projects shall be deposited with the Territorial Highway Fund, provided further that any increase of tax revenue pursuant to 11 GCA Chapter 26, Article 4 shall revert to the General Fund to the extent that the increase of tax imposed. Accounting procedures for the funds shall be prescribed by the Director of Administration and suitable reserves shall be maintained for tax drawbacks under this Article which shall be paid from the Fund.

NOTE: This item has been updated by the Compiler to comply with GCA numbering.

(c) Monies deposited in the Territorial Highway Fund shall be expended only after appropriation thereof is made by the Legislature and upon vouchers properly certified by the Director of Public Works for the purposes of acquisition of right-of-ways, planning, designing, constructing, reconstructing, improving, repairing, and maintaining of public highways, including roads and city and village streets. The Director of Public Works shall quarterly render an accounting of transactions of the Fund to the Governor and the Legislature. Accounting procedures for the Fund shall be prescribed by the Director of Administration.

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(d) Monies deposited in the Territorial Highway Fund shall also be used to implement Title 23, United States Code, as it applies to Guam and the provisions of P.L. 10-109, Tenth Guam Legislature.

(e) No part or portion of the monies in the Territorial Highway Fund or from whatever source derived shall be used for the maintenance or operation of a public transit system.

(f) Notwithstanding any other provisions of law, One Million Five Hundred Thousand Dollars (\$1,500,000) is hereby appropriated from the Territorial Highway Fund to the Department of Public Works for the following:

(1) the repair, including, but not limited to, widening, paving and side walks, of Clara Street in Toto, leading to J.Q. San Miguel Elementary School;

(2) the widening of Toto-Canada Road to three (3) lanes and establish a middle lane from Route 4 intersection to the Toto Community Center;

(3) subsequently at the written request of the Mayor or the Director of the Department of Education, any road leading to any school that is unsafe or does not meet the highway standards established by the Department of Public Works shall also be repaired under this Act; and

(4) monetary compensation or land exchange on a value-per-value basis to private landowners whose properties are condemned as a result of the provisions of Subsection (f).

SOURCE: GC § 10352 added by P.L. 11-82. Subsection (a) amended by P.L. 13-29:1; Subsection (b) amended by P.L. 12-109, P.L. 15-66:VI:27, P.L. 17-4:3; Subsection (f) added by P.L. 12-109. Subsection (f) added by P.L. 24-143:10. (Subsection (f) added by P.L. 24-147:2.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 54103. Highway Safety Representative.

Consistent with the Governor's Highway Safety Representative and Office of Highway Safety policies and procedures of the U.S. Department of Transportation, there is hereby assigned the Director of

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Public Works to be the Governor's designate as the Highway Safety Representative for the Territory.

SOURCE: Added by P.L. 13-29:3 as a uncodified section.

§ 54104. Office of Highway Safety.

There is hereby established within the Department of Public Works the Office of Highway Safety to be staffed by officers and employees of the Department assigned by the Director of Public Works. The Office of Highway Safety shall assist the Director of Public Works in all functions relating to all highway safety standards established by the National Highway Traffic Safety Administration and the Federal Highway Administration agencies of the U.S. Department of Transportation. The Governor's Highway Safety Representative shall have the authority and responsibility to:

(a) Prepare, develop and revise comprehensive plans based on an evaluation of highway safety problems within the Territory;

(b) Define, develop and correlate annual work programs under such comprehensive plans;

(c) Establish priorities for highway safety improvement in the Territory;

(d) Provide information to prospective aid recipients on the benefits of the program and procedures for participation;

(e) Encourage other units of government within the Territory to improve their highway safety planning and administration efforts;

(f) Evaluate the implementation of territorial highway safety plans and programs;

(g) Monitor progress and audit expenditures of Federal Highway Safety Funds;

(h) Coordinate the Territory's highway safety program plan with other federally and non-federally supported programs relating to or having impact on highway safety;

(i) Collect statistics and other data relevant to highway safety in the Territory as required by the National Highway Traffic Safety Administration and/or the Federal Highway Administration;

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(j) Make final decisions for the Territory and enter into contracts and agreements in accordance with the laws of Guam on behalf of the Territory for federally funded highway safety projects; and

(k) Represent the Territory in all other matters coming under the purview of the Highway Safety Act.

SOURCE: Added by P.L. 13-29:4 as an uncodified section.

§ 54105. Bicycle Lanes and Pedestrian Ways.

(a) Inclusion of bicycle lanes and pedestrian ways *shall* be part and parcel of the planning, development, construction, reconstruction *or* other change of transportation facilities, plans, programs of primary and secondary roads on Guam.

(b) Notwithstanding the provisions of paragraph (a), bicycle lanes and pedestrian ways are *not* required to be established when their establishment would be contrary to public safety.

The Department of Public Works *shall* establish construction standards and a uniform system of signage for bicycle lanes and pedestrian ways.

SOURCE: Added by P.L. 29-098:1(July 22, 2008).

§ 54106. Federally Funded Highway Projects - Mitigation Expenses.

To the extent that business/residential/traffic mitigation costs are authorized or allowed by the grantor of federal funds for highway/road projects, the Department of Public Works *shall* allocate a sufficient portion of such federal funds for mitigation expenses related to such highway/road projects.

SOURCE: Added by P.L. 31-085:1 (Sept. 30, 2011).

§ 54107. Federally Funded Highway Projects – Utilities Relocation Expenses.

To the extent that utilities relocation costs are authorized or allowed by the grantor of federal funds for highway/road projects, the Department of Public Works *shall* allocate a sufficient portion of such federal funds for utilities relocation expenses related to such highway/road projects.

SOURCE: Added by P.L. 31-085:2 (Sept. 30, 2011).

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§ 54108. [Untitled Section].

The Department of Public Works *shall* submit a report to the Speaker of *I Liheslatura*, *I Maga'lahi*, the Office of Public Accountability, the Office of Finance and Budget, and the Public Utilities Commission of all utility relocation costs that are authorized or allowed by the grantor of federal funds and allocated by DPW for mitigation and relocation expenses related to highway/road projects.

SOURCE: Added by P.L. 31-085:3 (Sept. 30, 2011).

§ 54109. Consideration of Night Time Work on Major Road Construction Projects.

For every major road construction project initiated by the Department of Public Works (DPW) on and after October 1, 2011, DPW *shall* consider and, where feasible in its judgment, ensure that such road construction work is performed no earlier than eight o'clock *post meridiem* (8:00 p.m.) and no later than six o'clock *anti meridiem* (6:00 a.m.). For the purposes of determining whether to engage in night time road construction work, DPW *shall* review the following: existing traffic volumes, congestion, traffic control measures and motorist safety; project cost, project quality, inspection obligations, highway user costs, workforce availability and availability of materials; work area lighting and worker safety; and other factors that DPW may deem necessary in the consideration of night time road construction work.

When soliciting formal competition on public contracts for road construction projects, DPW *shall* require that any quotation or estimation for services be inclusive of the cost of night time road construction. DPW may also consider any recommendations and comments submitted by *I Liheslaturan Guåhan*, other government of Guam entities, and the general public regarding night time road construction work. DPW *shall* prepare a written report of its analysis of each project, setting forth such decisions and the reasons therefore, and such report *shall* be available to the public.

Beginning January 31, 2012, and every two (2) years thereafter, DPW *shall* submit a status report of the night time road construction projects to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan*. Such report *shall* include, but *not* be limited to, a description of each project in which night time road construction was authorized; the

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success or failure, as determined by DPW, of the efforts to reduce traffic congestion using night time road construction work; a general comparison of project quality and overall costs against similar daytime road construction projects; and the safety record for night time road construction projects.

SOURCE: Added as § 54106 by P.L. 31-147:2 (Nov. 21, 2011). Renumbered by Compiler since § 54106 already exists.

**ARTICLE 2
DISTRIBUTION OF CORAL FOR NON-COMMERCIAL USE**

NOTE: This Article was enacted by P.L. 18-37 as uncodified sections 1-5, and codified by the Compiler.

- § 54201. Scope of Permitted Distribution.
- § 54202. Financial Impact Report.
- § 54203. Budget Request.
- § 54204. Violations; Penalties.
- § 54205. Use of Territorial Highway Fund Prohibited.

§ 54201. Scope of Permitted Distribution.

The Department of Public Works shall distribute for non-commercial use government-owned coral mined from government-owned coral pits at the request and certification of need of the village commissioner or the assistant commissioner of the village where the coral is to be delivered. The distribution of coral shall include the delivery of coral to wake sites, delivery of coral for the purpose of building access roads, delivery of coral to areas experiencing flooding for the purpose of backfilling and delivery of coral for all other reasonable safety and health purposes. The Department shall not permit distribution of coral to any commercial entity.

§ 54202. Financial Impact Report.

Each year after the implementation of this program, the Department of Public Works shall report to the Guam Legislature on the financial

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impact of the program. The report shall contain a review of all costs incurred, including but not limited to, the cost of coral, the cost of manpower and the cost of equipment used in the distribution of coral.

§ 54203. Budget Request.

Each year, when the Department of Public Works submits its budget request to the Legislature, the Department shall include a request for an appropriation to cover the cost of this program or a request for an authorization to expend government resources to cover the program.

§ 54204. Violations; Penalties.

Any government employee distributing coral in violation of the provisions of this Act, as amended, shall be guilty of a petty misdemeanor.

§ 54205. Use of Territorial Highway Fund Prohibited.

No funds, personnel or equipment supported by the Territorial Highway Fund may be utilized for this program.
