

CHAPTER 71
SOIL AND WATER CONSERVATION DISTRICTS
AND DISTRICT BOARDS

SOURCE: Entire chapter added by P.L. 31-125:2 (Sept. 30, 2011).

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§ 71101. Definitions.

Whenever used in this Chapter, the following terms *shall* have the meanings indicated, *unless* otherwise specified:

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

(b) *Director*, or *district director*, means a member of either the Northern or Southern District Board.

(c) *District* means the Northern Soil and Water Conservation District and the Southern Soil and Water Conservation District.

(1) *Northern Soil and Water Conservation District*, or *Northern District*, means the area organized pursuant to this Act as that area covering the northern area of Guam—the “entire” area designated as Northern Guam by the Water and Environmental Research Institute of the Western Pacific (WERI), University of Guam, as published in the 2007 Geologic Map and Sections of Guam, Mariana Islands, as amended, with the Adelup-Pago fault extending across the narrow waist of the island and forms the structural boundary between the northern and southern parts of the island (map attached).

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(2) *Southern Soil and Water Conservation District, or Southern District*, means the area organized pursuant to this Act as that area covering the southern area of Guam—the “entire” area designated as Southern Guam by the Water and Environmental Research Institute of the Western Pacific (WERI), University of Guam, as published in the 2007 Geologic Map and Sections of Guam, Mariana Islands, as amended, with the Adelup-Pago fault extending across the narrow waist of the island and forms the structural boundary between the northern and southern parts of the island (map attached).

(d) *District Board* means the government of Guam board comprised of individuals elected by local farmers, farm land owners or land occupiers to fulfill the duties set forth in this Act.

(1) *Northern Soil and Water Conservation District Board, or Northern District Board*, means the District Board which shall govern the Northern District, organized pursuant to this Act.

(2) *Southern Soil and Water Conservation District Board, or Southern District Board*, means the District Board which shall govern the Southern District, organized pursuant to this Act.

(e) *Farmer* means a resident registered as a farmer by the Department of Agriculture.

(f) *Farm land owner* means a person, firm, or corporation who is an owner or operator of land used for the purpose of producing aquaculture products, bushes, crops, fruit or nut-bearing trees, herbs, livestock, ornamentals, timber or vines.

(g) *Land occupier* 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 Chapter.

(h) *University* means the University of Guam.

SOURCE: Added by P.L. 31-125:2 (Sept. 30, 2011). Subsection (c) amended by P.L. 34-064:2 (Nov. 9, 2017).

§ 71102. Conservation Districts Established.

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A Northern Soil and Water Conservation District and a Southern Soil and Water Conservation District are hereby established to work in partnership with the University of Guam (University), and in cooperation with all government of Guam entities overseeing local and federal programs established to promote the conservation, development and the use of soil and water resources of Guam in order to control and prevent soil erosion and flooding, and to improve agriculture water management.

§ 71103. Selection of Directors; Composition of District Boards; Tenure of Directors; Board Vacancies; and Compensation of Directors.

(a) Selection of Directors. Farmers or farm land owners or land occupiers from within each district *shall* nominate individuals, from among their number, to serve as non-partisan district directors; and *shall* elect five (5) directors from among those nominated.

(b) Composition of District Boards. The Soil and Water Conservation District Boards *shall* each:

(1) be composed of five (5) directors, each of whom is largely engaged in farming and is a land occupier of the district to which they are elected to serve;

(2) select a chairperson and a vice chairperson from among the five (5) directors, who *shall* be elected by *at least* three (3) affirmative votes; and

(3) have assigned to it an advisor from the University of Guam College of Natural and Applied Sciences.

(c) Tenure of Directors. Each district director *shall* be elected to serve for a term of three (3) years. Individuals serving as district directors upon the enactment of this Chapter *shall* be permitted to serve out the remainder of their term.

(d) Board Vacancies. Vacancies *shall* be filled for an unexpired term. The selection of a successor to fill a vacancy for an unexpired term *shall* be made by *I Maga'lahen Guåhan* within thirty (30) days of the notification of such vacancy; such selection to be subject to the advice and consent of *I Liheslaturan Guåhan*.

(e) Compensation of Directors. District directors *shall* be compensated in the amount of Fifty Dollars (\$50.00) per meeting

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attended, such compensation *not to exceed* One Hundred Dollars (\$100.00) per month.

(f) Per Diem Allowance. District directors *shall* receive one hundred twenty-five percent (125%) of the basic per diem rates, just as other government boards and commissions, as stipulated in 5 GCA § 23104 (a)(2).

SOURCE: Added by P.L. 31-125:2 (Sept. 30, 2011).

2017 NOTE: Subitem (e)(1) altered as subsection (f) by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 71104. Organization of Districts; District Membership.

(a) Organization of Districts.

(1) To complete the organization of a district, the University of Guam, in accordance with the Administrative Adjudication Act, *shall* present to *I Maga'lahren Guåhan* a statement setting out the name of the district and its boundaries, and certifying that the procedures prescribed in this Chapter for the organization of a district have been fully complied with.

(A) The statement *shall* request *I Maga'lahren Guåhan* to issue a certificate of organization to the district.

(B) *I Maga'lahren Guåhan shall* record the statement in his office and *shall* issue to each district, under the seal of Guam, a certificate of the due organization of the district.

(2) The organization of the Northern District and Southern District in effect at the time of enactment of this Chapter *shall* remain in effect, until and unless the University presents to *I Maga'lahren Guåhan* new information concerning district names and boundaries; such determination having been made in full compliance with the Administrative Adjudication Act, all procedures prescribed in this Chapter, and all other pertinent requirements, rules or regulations.

(b) District Membership. Each district board *shall* cause all farmers, farm land owners or land occupiers, as appropriately registered with the Department of Agriculture or the Department of Land Management, to register as active members of each district.

(1) Such membership roll *shall* be updated quarterly; and *shall* be submitted to the advisor assigned to the board by the University.

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(2) Such membership roll *shall* serve as the official roster of those eligible to vote in subsequent district elections.

SOURCE: Added by P.L. 31-125:2 (Sept. 30, 2011).

2017 NOTE: Subsection/subitem designations added/alterd by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 71105. Duties of District Boards.

(a) Quorum, Meeting, and Budget Requirements.

(1) Each board *shall* require a quorum of its members in order to conduct business.

(A) Three (3) directors *shall* constitute a quorum; and

(B) the concurrence of a majority vote, *at least* three (3) votes, *shall* be necessary to take action on any official matter.

(2) (A) Each board *shall* hold *at least* one (1) meeting per month, which *shall* be subject to the Open Government Law.

(B) Attendance.

(i) Each director *shall* attend meetings of the district board.

(ii) Unexcused absences of a director from three (3) consecutive board meetings *shall* constitute a cause for removal of the director from the board, pursuant to 5 GCA § 43106 (Removal from Office for Absences).

(3) (A) Both district boards *shall* have a joint meeting *at least* once per year, during which time the district directors *shall* prepare an operating budget to support their mission and mandates.

(B) Budget. Such budget *shall* be submitted to the University, for subsequent submission to *I Liheslaturan Guåhan*.

(b) Development of Plans.

(1) Each board *shall* prepare a long-range plan and an annual work-plan with assistance from advisory members and agencies.

(2) Each board *shall* develop conservation plans for cooperators of the district, at their request.

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(c) Record Keeping and Reporting Requirements.

(1) Each board *shall* keep a record of proceedings, resolutions, regulations, and orders issued or adopted.

(2) Each board *shall* keep a statement of activity documenting all actions taken with respect to the receipt and disbursement of any and all funds. Such report *shall* be forwarded to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* on an annual basis.

(3) Each *board shall* furnish to their assigned advisor from the University of Guam, copies of such documents, instruments or information concerning their activities, as the University requests.

(d) District Projects and Activities.

(1) Projects and activities *shall* be limited to the following types of land within the district:

(A) 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 has jurisdiction over the land;

(B) public and private lands which are designated for agricultural use *or* conservation preserves; and

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

(2) Government Agency Input Required for District Projects and Activities.

(A) For any project or activity proposed by a district board, which involves the responsibilities of another government of Guam entity, the district board *shall* request the input of each of the affected entities on the scope of work of the project.

(B) Projects proposed by a district board *shall* be planned and executed in compliance with provisions of Guam law, and *shall not* duplicate the efforts of, or conflict with, other local and federal programs already in place on Guam.

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(C) Each entity consulted *shall* provide a response to the district within thirty (30) calendar days from the date of receipt of the request for input. The district *shall* keep on record, copies of all submitted requests for input and all responses to such requests, and *shall* further act on such responses, including providing any justification for any rejected recommendations.

(3) District Coordination. Each district board *shall* inform the other district board of their approved projects and activities.

2017 NOTE: Subsection/subitem designations added/altered by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 71106. Powers of District Boards.

A district board, and the directors thereof, elected to serve a district organized under this Chapter *shall* have 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 to carry out preventive control measures on publicly owned land within the district with the consent of the land occupier;

(c) to cooperate, or enter into agreements with, and to furnish aid to any agency or land occupier within a 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 University of Guam 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 land occupiers, which are a precondition for a contract between the farm land owners and land 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 land 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;

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(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 in full compliance with all requirements set forth in Guam law, and in consultation with *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan*, as needed for the implementation of watershed projects for purposes such as flood control, irrigation, or soil conservation.

(1) Disposition of Unused Land. Any land or land rights acquired by a district board and *not* used for the purposes justifying the acquisition, within the term of the district directors who requested the acquisition, *shall* be returned to the original owners for the price paid by the government when such property was originally acquired;

(g) to construct, improve, and maintain structures, such as sediment ponds or earthen dams, following all requirements set forth in Guam law and any pertinent rules and regulations and proper engineering standards and specifications, when these structures are found necessary for carrying out the purposes of soil and water conservation;

(h) to have a seal which can be affixed to certificates issued to cooperators of the district, and to any contract or other instruments requiring certification;

(i) as a condition to the extending of benefits, or the performance of work upon land, the district board 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 board for the benefit of its cooperators. All such contributions would necessarily be determined by the district as a whole, and *must not* be in violation of the laws of Guam or common practice;

(j) to hire personnel, under a restricted employment status, to support their mandates as the district board deems appropriate.

(1) Restricted Employment Status. Restricted employees hired pursuant to this Chapter *shall not* be in the classified service of the government of Guam. Restricted employees are ineligible for medical, dental or life insurance benefits, but *shall* be entitled to

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government of Guam Workmen's Compensation. They may *not* join the Government of Guam Retirement Plan, but FICA must be paid on such employees, with the district board responsible for the employer's share of FICA. Annuitants of the Government of Guam Retirement Fund may serve as Restricted Employees for the district board without losing their annuities. Restricted employees are *not* eligible to accrue annual or sick leave. Working hours *shall* be determined by the district board.

(2) Selection of Employees. Restricted employees *shall* be selected by majority vote of the district board, which selection *shall* be evidenced by a memorandum from the district chairperson to the President of the University of Guam.

(3) Dismissal of Employees. *Unless* otherwise specified by law, the dismissal of a restricted employee of a district *shall* be with a majority vote of the district board.

(4) Working Hours. Restricted employees who work at irregular hours at the direction of the district board, *shall* be deemed to work the complete assigned and designated hours per week, and their work records *shall* so indicate, but such employees *shall* receive *neither* overtime *nor* night-time differential, but *shall* receive compensatory time off for hours worked in excess of forty (40) hours per week.

(k) Soil and Water Conservation District Funds, Created. There is hereby created, separate and apart from other funds of the government of Guam, two (2) funds to be known as the "*Northern Soil and Water Conservation District Fund*" and the "*Southern Soil and Water Conservation District Fund*" (Funds) which *shall not* be commingled with the General Fund. All payments *shall* be made payable to the appropriate Fund and monies *shall* be kept in separate bank accounts established by the Chairperson of each District Board. Notwithstanding any other provision of law, any funds appropriated to the University of Guam for the Districts *shall* be administered by the Chairperson of each District Board. The Chairperson of the District Board *shall* be the certifying officer of such Fund. Neither Fund *shall* be used as a pledge of security or as collateral for government loans. The Chairperson of the District Board *shall* make an annual report to *I Maga'lahaen Guåhan* and *I Liheslaturan Guahan* of the condition of, and activity within, the Fund.

§ 71107. Duties of the University of Guam.

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(a) The University *shall* work in partnership with the Soil and Water Conservation District Boards to promote and support the conservation of Guam's soil and water resources.

(b) The University *shall* further:

(1) assign to the district boards an advisor from the College of Natural and Applied Sciences;

(2) assist district boards with the coordination of programs, projects and activities, insofar as that may be done by advice and consultation;

(3) assist district boards with the dissemination of information throughout the University and the island, concerning district programs, projects and activities;

(4) assist the district boards with the preparation and implementation of soil and water resource conservation and utilization, to ensure the promotion of the conservation, improvement and protection of Guam's soil and water resources, in coordination with the pertinent government of Guam entities;

(5) assist the district boards in fulfilling their mandates, to include obtaining the assistance of the federal government and government of Guam agencies in the work of the districts;

(6) provide technical support at the request of a district, as may be approved by the President of the University;

(7) keep a record of all official actions taken with respect to working with, or providing support or assistance to the districts and district boards; and

(8) conduct the election of all district directors, and in conjunction therewith:

(A) promulgate the necessary rules and regulations by which farmers, farm land owners, and land occupiers *shall* nominate and elect, from among their number, district directors; and

(B) the President of the University of Guam *shall* certify the election results and provide a copy to *I Maga'lahañ Guåhan* and *I Liheslaturan Guåhan*.

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2017 NOTE: Subsection/subitem designations added/altered by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 71108. Powers of the University of Guam.

The University *shall* have the power to:

(a) delegate to any member, agent, or employee such powers and duties as it may deem proper to fulfill the duties set forth in this Chapter;

(b) promulgate rules and regulations as may be necessary for the execution of its duties set forth in this Chapter; and

(c) insofar as available appropriations and resources permit, request for staff support and assistance from other agencies of the government of Guam, to include the preparation or conduct of reports, surveys and studies to fulfill the duties set forth in this Chapter.
