

## CHAPTER 3

### SOIL AND WATER CONSERVATION

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26 PC 3-101. Short title.

This chapter is known and may be cited as the “Soil and Water Conservation Act of 1992.”

Source: S.L. No. 3L-27-92 §1, 11/19/92

26 PC 3-102. Legislative findings and intent.

(1) The Pohnpei Legislature hereby finds that there is a need within the state of Pohnpei to establish plans and policies which will promote soil and water conservation by preventing erosion and thus conserving and improving the use of the state’s land and water resources.

(2) The Legislature further finds that there is a need to establish a soil and water conservation district and to create a soil and water conservation board with respect thereto to assist the state in the development of relevant, comprehensive, and integrated soil and water conservation

plans and policies for private and public lands, inclusive of those lands affected by 26 PC 4, Subchapter 1, and to enable the state when it so desires to participate in United States of America federal conservation programs.

(3) It is the intent of the Legislature that the Soil and Water Conservation Board created by this chapter shall serve as an advisory body to Pohnpei in the formulation of such plans and policies and will provide support in these matters to the Department of Land and Natural Resources, which shall maintain its role as the primary soil and water conservation agency of Pohnpei.

Source: S.L. No. 3L-27-92 §2, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

#### 26 PC 3-103. Definitions.

As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meanings:

- (1) “Board” means the Soil and Water Conservation Board created by 26 PC 3-108.
- (2) “Cooperator” means any landowner or occupier of land who enters into a special contract regarding cooperative soil and water conservation projects with the Soil Conservation Service of the United States of America Department of Agriculture, through the Board.
- (3) “Department” means the Department of Land and Natural Resources.
- (4) “Director” means the Director of the Department of Land and Natural Resources.
- (5) “District” means the Soil and Water Conservation District established by 26 PC 3-104.
- (6) “Farm land owner and occupier” means a person who is an owner or operator of land used for the purpose of raising livestock and producing field crops, fruits or other agricultural products.
- (7) “Land owner or occupier of land” means a person who has title to, or in the case of leased land, the person who holds possession of leaseholds on land.

Source: S.L. No. 3L-27-92 §3, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

#### 26 PC 3-104. Soil and Water Conservation District.

There is hereby established, of and for the state of Pohnpei, a Pohnpei Soil and Water Conservation District, the boundaries and area of which shall be co-extensive with the boundaries and area of the state. The District herein established shall be administered and managed by the Department of Land and Natural Resources in accordance with the requirements of this chapter and policies adopted by the advisory body created by 26 PC 3-108.

Source: S.L. No. 3L-27-92 §4, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

26 PC 3-105. Cooperation and coordination.

(1) In its management of the District, the Department and the Board shall cooperate with the Land Use Planning and Zoning Commission, the Pohnpei Public Lands Trust Board of Trustees, the Land Grant Program of the College of Micronesia, the Office of Transportation and Infrastructure, the Pohnpei Transportation Authority, the environmental protection agencies of Pohnpei and the Federated States of Micronesia, and other public entities and public interest groups whose activities impact on the conservation of soil and water within the District.

(2) Any project proposed within the District by the Department or the Board which involves the responsibilities of another state agency shall have that agency's review and approval prior to implementation.

(3) The activities and operations of other state agencies that impact on the conservation of soil or water within the District shall be reviewed by the Department and the Board to assure compatibility with conservation plans and programs.

Source: S.L. No. 3L-27-92 §5, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

26 PC 3-106. District plans. The Soil and Water Conservation Board shall, taking into account the requirements and restrictions of 26 PC 4, Subchapter 1, and acting in conjunction with the Department of Land and Natural Resources and other affected state agencies, develop and recommend long-range plans, annual work plans, and other plans relative to land utilization and the conservation of soil and water resources within the District, which plans shall be submitted to the Department for approval. The Department shall promptly review and provide its determination in writing on plans submitted to it by the Board as well as the plans of other entities for which the Department's approval is required by Pohnpei law or the terms of the assistance or financial arrangement through which the plan or any activity or program thereunder that impacts on the conservation of soil and water resources within the District is funded.

Source: S.L. No. 3L-27-92 §6, 11/19/92

26 PC 3-107. General powers of the Department of Land and Natural Resources. The Department shall, consistent with this chapter, coordinate the District projects and programs through advice and consultations and shall disseminate information throughout Pohnpei concerning District activities, projects, and programs. The Department shall keep records of its official actions, and may perform such acts as may be necessary to carry out its responsibilities under this chapter, that shall include but not be limited to:

(1) Delegation of powers or responsibilities provided to the Department under this chapter to any member, agent or employee of the Department or to a member of the Soil and Water Conservation Board created by 26 PC 3-108, as the Director may determine necessary;

(2) Assignment of the staff members and personnel of other state agencies to the Department upon request of the Director, insofar as appropriations and resources permit, to assist the Department in carrying out its responsibilities under this chapter;

(3) Delegation to other state agencies and cooperative bodies and contracting to advisors and consultants, where permissible under law, the authority to make surveys, reports, and studies on the conservation of soil and water within the District;

(4) Utilization of the services of the Department of Public Safety to carry out and enforce policies, laws, regulations, and directives established with respect to the management of the District;

(5) Rendering of technical, administrative, clerical, and other forms of assistance to the Soil and Water Conservation Board in carrying out its projects, programs, and responsibilities;

(6) Obtaining of assistance from the Federated States of Micronesia, the United States of America, and other public entities and international organizations for the promotion and enhancement of conservation projects and programs within the District; and

(7) Applying for and accepting grants, loans when authorized by law, contributions and appropriations from any source, and soliciting, acquiring, and using funds, services or materials granted, appropriated or donated for projects or programs within the District.

Source: S.L. No. 3L-27-92 §7, 11/19/92

#### 26 PC 3-108. The Soil and Water Conservation Board.

(1) There is hereby established for Pohnpei, a Pohnpei Soil and Water Conservation Board that shall be composed of seven members. The Governor shall appoint seven persons to the Board who have experience or an educational background in agriculture, forestry, land or environmental conservation. All appointees approved by the Governor shall serve on the Board with the advice and consent of the Pohnpei Legislature.

(2) Members of the Board shall be appointed to serve for terms of three years. No member may be appointed for more than two consecutive three-year terms.

(3) Members of the Board shall serve at the pleasure of the Governor. Vacancies shall be filled for the remainder of the unexpired terms in the same manner as the original appointment.

Source: S.L. No. 3L-27-92 §8, 11/19/92

#### 26 PC 3-109. Board meetings and procedures.

(1) Within 15 days following the appointment and approval by the Legislature of the initial Board, the Director of the Department of Land and Natural Resources shall call an organizational meeting. Annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year.

(2) The Board shall hold regular meetings every other month and may hold special meetings upon the request of any member of the Board. The Board shall hold at least one public meeting each calendar quarter.

(3) The Board shall adopt its own bylaws for the conduct of its business, subject to this chapter.

(4) The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board.

(5) Any four members of the Board shall constitute a quorum, and unless a greater majority is required by this chapter or the bylaws, a concurrence of a majority of members present shall be necessary for any official action taken by the Board.

(6) Membership on the Board shall be deemed a public service for which no additional compensation shall issue, but members may be paid for expenses incurred in the performance of Board business following rates and procedures for Pohnpei officers and employees as established by law and applicable regulations.

Source: S.L. No. 3L-27-92 §9, 11/19/92

#### 26 PC 3-110. Powers and duties of the Board.

The Board organized under this chapter shall have, in addition to other authority granted under this chapter, the following powers and duties:

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

(2) To provide for and encourage demonstrations relative to the control and prevention of erosion and conservation of soil and water resources and carry out preventive control measures on publicly owned lands within the District and with the consent of the occupiers of the lands;

(3) To cooperate with and enter into agreements with, and to furnish aid to, any agency or occupier of lands within the District as it is feasible to do, for specific soil and water conservation activities not conflicting with or duplicating other activities of the Department or other cooperating agencies. Such agreements shall be subject to such conditions as the state may deem necessary;

(4) To review conservation plans prepared by farm land owners and occupiers, which are a precondition for a contract between them and donor agencies, and to make recommendations on the acceptability of farm land owners' and occupiers' plans based upon their compatibility with District conservation plans. The Board may also, when requested, make recommendations on the proposed contracts to be entered into with respect thereto;

(5) To hire clerical help, employees, and to acquire and dispose of personal property such as equipment or machinery to introduce soil conservation practices to the agricultural community;

(6) To implement projects and programs such as flood control, irrigation, and/or soil conservation;

(7) To construct, improve, and maintain structures such as sediment ponds and earthen dams, following the requirements of Pohnpei law and proper engineering standards and specifications, necessary for carrying out the purposes of soil and water conservation;

(8) To develop conservation plans for cooperators within the District at their request;

(9) As a condition to the extending of benefits or the performance of work upon lands, the Board may require contributions or materials or other commitments of any cooperator for conferring such benefits, or may impose any other reasonable conditions. Such contributions might be labor for the planting of trees or payment for specific erosion control materials secured by the Board for the benefit of its cooperators; and

(10) To apply for and accept grants, loans, contributions, appropriations, property, and assistance from any source, private or public (foreign, federal or local), to enter into, and carry out contracts or agreements in connection therewith, and to use or expend these resources in carrying on its operations and for the purposes of this chapter. A separate account shall be established in the general fund of Pohnpei for the funds received by the Board, including the yearly appropriation from the Pohnpei Government. Funds of the District will be subject to audit according to law and regulations.

Source: S.L. No. 3L-27-92 §10, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

26 PC 3-111. Limitations on Board activities.

Board activities shall be limited to the following types of land within the Soil and Water Conservation District:

(1) Public and private lands which are designated as agricultural, watershed or conservation areas by law or on Master Land Use Plans adopted by the state; PROVIDED that if there be no such plan for the area under consideration, then such areas as are designated as such in writing by the Director of the Department of Land and Natural Resources.

(2) Public lands leased for agricultural activities.

(3) Public lands used for other purposes.

Source: S.L. No. 3L-27-92 §11, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

26 PC 3-112. Finances of Board.

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds of the Pohnpei Treasury as may be appropriated in the Comprehensive Budget Act such sums as may be annually determined therein for the purpose of financing the operations, activities, projects, and programs of the Soil and Water Conservation Board created by this chapter. Such sums so appropriated shall be in addition to monies otherwise made available to the Board under this chapter.

(2) The Board shall operate on the same fiscal year as the Pohnpei Government. Unless otherwise required by the providing agency, all monies received by the Board shall be administered and expended by the Board in accordance with the Financial Organization and Management Act, Title 11 Chapter 2, as amended, (11 PC 2-\*), and in accordance with such terms as may be required by the provider of such monies. The Chairman of the Board shall submit an annual report to the Governor and the Legislature on or before October 15 on the administration and expenditure of all monies received by the Board from every source for the previous fiscal year.

(3) All sums appropriated from the Pohnpei Treasury under Subsection (1) of this section for a fiscal year not expended or obligated for expenditure within that fiscal year shall revert to the respective fund from which appropriated.

(4) The Department and other state agencies shall annually forecast their expected expenditures for administrative responsibilities under this chapter and incorporate such forecasts in their annual budget. The Department shall assist the Board in the formulation of its budget and append the Board's submission to the Department's annual budgetary submission to the Governor and the Legislature.

Source: S.L. No. 3L-27-92 §12, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00