

NINTH GUAM LEGISLATURE
1968 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This certifies that Bill No. 351, "An Act to add a new Title XLV, Government Code of Guam, to authorize Improvement Districts for the municipality of Dededo", was on the 25th day of June, 1968, duly and regularly passed.

W. D. L. Flores

W. D. L. FLORES
Vice-Speaker

ATTESTED:

F. T. Ramirez
F. T. RAMIREZ
Legislative Secretary

This Act was received by the Governor this 26th day
of July, 1968 at 4:05 o'clock P.M.

/s/ David D. L. Flores

Secretary of Guam
Acting

APPROVED:

/s/ MANUEL F. L. GUERRERO

Governor of Guam

DATED: Aug. 7, 1968
6:05 P.M.

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NINTH GUAM LEGISLATURE
1968 (SECOND) Regular Session

Bill No. 351

Introduced by R. F. Taitano

AN ACT TO ADD A NEW TITLE XLV, GOVERNMENT
CODE OF GUAM, TO AUTHORIZE IMPROVEMENT
DISTRICTS FOR THE MUNICIPALITY OF DEDEDO.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Title XLV is hereby added to the Government Code
3 of Guam to read as follows:

4 "TITLE XLV

5 IMPROVEMENT DISTRICT LAW

6 Section 48000. Title. This Title may be cited as the 'Improve-
7 ment District Law.'

8 Section 48001. Purpose. The purpose of this Title is to
9 provide a method of cooperation among landowners in obtaining construction
10 or reconstruction of public facilities as defined herein within the
11 Municipality of Dededo by creation of improvement districts, and to provide
12 a method of financing such construction or reconstruction.

13 Section 48002. Eligibility. Areas eligible for consideration
14 under this Title are limited to those that:

15 (a) have more than three lot owners;

16 (b) have no two lot owners controlling 80% of the total
17 area.

18 Section 48003. Definitions. As used in this Title, unless the
19 context requires otherwise:

20 (a) 'Commission' means Territorial Planning Commission.

21 (b) 'Department' means Department of Land Management.

22 (c) 'Landowner' or 'owner of land' means any owner of legal
24 title of record to land in the Municipality of Dededo, including
25 the government of Guam. Land does not include improvements.

1 (d) 'Executive Secretary' means Executive Secretary of
2 the Territorial Planning Commission.

3 (e) 'Director' means the Director of Land Management.

4 (f) 'Public facility' means any street, alley, or other
5 public way, sidewalks, sewer, water main, power line, public
6 lighting park, playground and comparable projects primarily for
7 the benefit of landowners within an improvement district.

8 (g) 'Construction or reconstruction' includes acquisition
9 of property, easements, or rights-of-way.

10 Section 48004. Administration. The administration of this
11 law shall be under the supervision of the Commission with the active
12 participation of the Department of Public Works and Department of Land
13 Management as hereinafter provided, and to make such rules and regulations,
14 subject to the approval of the Governor by Executive Order, and receive
15 such aids from other departments or agencies of the government of Guam,
16 as are necessary to carry out the provisions and spirit of this Title.

17 Section 48005. Initiation of Improvement Districts. If the
18 owners of twenty-five percent (25%) of the land lying within an area in the
19 Municipality of Dededo desire to have an improvement district created for
20 the purpose of constructing or reconstructing and financing one or more
21 public facilities, they may file a petition with the Director asking that
22 such a district be created.

23 The petition shall set forth:

24 (a) The proposed name of the district;

25 (b) A statement that there is a need for the creation of
26 the district to provide for the construction or reconstruction of
27 one or more public facilities as enumerated;

28 (c) A description of the boundaries of the proposed district,
29 with a drawing on a base map selected by the Department.

30 (d) A request that the Commission issue an order for the
31 Department of Public Works, the Public Utility Agency, or both,
32 to survey, study and evaluate the proposed facility, including
33 plans and specifications, and to furnish estimates of the cost

1 of construction.

2 (e) The signatures of the landowners proposing the district.

3 Section 48006. Review by Director. When a petition is filed,
4 the Director will review the same. The Director will determine the
5 identity of owners whose land is within the proposed district, a prelimi-
6 nary estimate of the cost of the projects, and the economic benefits to the
7 land involved. In making his determination he will consider the need for
8 any additional property to connect the proposed public facility with
9 existing facilities, and its compatibility with the master plan of the
10 commission.

11 Section 48007. Cost Scale. The Director may request unit cost
12 scales to be prepared by the Department of Public Works from time to time
13 for use in reviewing petitions and in preparing estimates of costs.

14 Section 48008. Report to Commission and Initial Notice to Land-
15 owners. After review of the petition, the Director will submit a report,
16 with his recommendations, to the Commission. If the Commission approves
17 the project, it will notify by mail the owners of all lands within the
18 proposed district. The notice will contain a description of the proposed
19 public facility, the estimated cost to each landowner, and a statement of
20 the time, not to exceed thirty (30) days, within which written consent
21 of landowners may be filed with the Commission. If the Commission does
22 not approve the project, the Director shall notify the petitioners of the
23 disapproval.

24 Section 48009. Preliminary Consent. If, within the time pre-
25 scribed by the notice, the owners of eighty percent (80%) of the land and
26 80% of the landowners within the proposed district give their approval in
27 writing to the proposed district, the Commission will establish the district.
28 If such approval is not given, the Commission shall not establish the
29 district; provided, however, that if such approval is subsequently given,
30 the Commission shall reconsider the petition.

1 Section 48010. Order for Specific Plans and Specifications.

2 If the project is approved, the Commission shall enter its order. The
3 order will be referred to the Department of Public Works or the Public
4 Utility Agency, or both, for preparation of final construction plans and
5 specifications and an estimate of the cost of the project as approved. The
6 Director will determine the allocations of cost among the landowners
7 within the proposed district.

8 Section 48011. Classification of Lands for Assessment. The
9 Director shall classify all land in the proposed district that may be
10 benefited by the project into classes, not to exceed five (5) in number.
11 The land receiving the most benefit shall be designated 'Class A,' and
12 other classes shall be marked 'Class B,' and 'Class C,' 'Class D,' and
13 'Class E,' respectively, on a descending scale. The classification will
14 be based on the extent to which each parcel or lot will be benefited by the
15 proposed facility. The classification of lands and the allocation of
16 costs to be assessed to each lot or parcel will be determined by the Director
17 subject to approval by the Commission. Classification will be based on
18 the following:

- 19 (a) area as determined by multiples of 1250 square feet;
20 (b) potential use as determined by zoning or existing non-
21 conforming use;
22 (c) assessment differentials; and
23 (d) subtraction of public benefit costs where additional
24 capacities are required for extension beyond district boundaries
25 with the exception of right-of-way.

26 Section 48012. Allocation of Cost. After all land has been
27 classified on the basis of benefits received, the Director shall:

- 28 (a) Pro-rate the total costs among the classes of land,
29 determined according to the percentage of benefit of the public
30 facility to each class.

1 (b) Pro-rate the total costs assigned to each class among
2 the parcels of land contained in that class.

3 (c) Allocate to each parcel its costs and prepare an
4 itemized statement of the costs for the owner of each separate
5 parcel, which will show the total amount in full at completion
6 of the project, and the annual installments if the costs are paid
7 over a period of five (5) years or a period of ten (10) years
8 with interest at six percent (6%) per annum.

9 (d) Submit a final report to the Commission, setting out
10 in detail the completed plans and specifications, the total cost
11 of the project, and the proposed assessment against each parcel
12 of land within the district including the five and ten-year plans
13 of amortization.

14 Section 48013. Final Notice. Upon the filing of the report, the
15 Executive Secretary will mail to each landowner notice of the proposed
16 assessment. Such final notice shall show the amount of the proposed assess-
17 ment if paid upon completion of the project, the annual installments if
18 amortized over five (5) years, and the annual installments if amortized
19 over ten (10) years.

20 The Executive Secretary shall also cause to be published a notice
21 once per week for two successive weeks in a newspaper of general circula-
22 tion in Guam which will state the place and a date not less than two weeks
23 from the date of the last publication, at which a public hearing in the
24 Municipality of Dededo will be held by the Commission. The notice will
25 state the place, time, and date of the hearing and include a brief descrip-
26 tion of the district, the proposed public facility, the total cost, and the
27 place at which the report may be inspected by interested person.

28 Section 48014. Final Protest. Any interested person may object
29 to the proposed public facility, the extent of the proposed district, or
30 the proposed assessment against his land by filing a written protest with

1 the Executive Secretary before the time set for the hearing or voice a
2 protest during the hearing. The Executive Secretary shall endorse on
3 each protest the date of its receipt, and at the time appointed for the
4 hearing shall present to the Commission all protests filed with him.

5 Section 48015. Hearing. At the time and place set for the hearing,
6 the Commission will consider the final report of the Director in the
7 light of protests filed against the proposed assessments, and may adopt
8 the report as submitted, or with modifications or corrections, or abandon
9 the project. The Commission may adjourn from day to day, if necessary,
10 until sufficient information can be obtained to permit proper decision.

11 Section 48016. Submission to Governor. If the final report is
12 adopted by the Commission, it shall cause the Executive Secretary to
13 prepare a complete summary of its action to be submitted to the Governor
14 with the final report of the Director and the Commission's recommendation
15 for review and final decision.

16 Section 48017. Review by Governor. The final report when received
17 by the Governor shall be retained in his office for not less than fifteen
18 (15) days for study and review, after which time he may approve or reject
19 the same in whole or in part.

20 Section 48018. Judicial Review. Any owner of land within a
21 proposed district who claims to be injured by the establishment of the
22 district may file a complaint in the Island Court of Guam within 60 days
23 of the approval of the final report pursuant to Section 48020 creating
24 the district for review of such claim, the procedures establishing the
25 district, and the legality thereof. The Court will take appropriate
26 action under this law and the rules of Court. Such review shall not
27 concern itself with the adequacy of proposed condemnation awards, the
28 issue of compensation if in dispute to be determined only after trial
29 thereon pursuant to the provisions of Title V, Part III, Code of Civil
30 Procedure (Eminent Domain).

1 Section 48019. Where Other Than Minor Changes. If the Judicial
2 or executive review results in other than minor changes, the final report
3 shall be returned to the Commission unapproved, where it shall be recon-
4 sidered and resubmitted; otherwise, the Governor shall issue his Executive
5 Order as provided in Section 48021.

6 Section 48020. Final Disposition of Returned Report. The
7 Commission may, after consideration of the changes required when a report
8 is returned pursuant to Section 48019, abandon the project or prepare and
9 submit a revised report in accordance with the procedures herein set out.

10 Section 48021. Executive Order Creating Improvement District.
11 If the Governor approves the final report, the report shall have the force
12 and effect of law, and the proposed assessments shall become liens upon
13 the lands against which assessed and shall be payable and collectible as
14 taxes under the provisions of Chapter 4, Title XX, of the Government Code
15 of Guam.

16 Section 48022. Addition to Assessment Roll. An itemized list-
17 ing of the assessments approved shall be forwarded to the assessor who
18 shall add the total amount of each assessment as a special assessment on the
19 tax list of the owner or owners of the land within the improvement district
20 on the next assessment roll prepared after creation of the district.
21 The special assessment shall be entered as a separate item. The amount
22 so entered shall not be subject to change by the Board of Equalization,
23 but said board may correct the roll for clerical errors or omissions.

24 Section 48023. Election to Amortize Special Assessment. The
25 taxpayer may, on or before the date when the first half of property taxes
26 is due, elect to pay in annual installments the amount of the special
27 assessment in either five (5) or ten (10) years, or pay the same in full
28 as other property tax within the year. If the taxpayer elects to pay in
29 installments, the tax collector shall collect the amount due in accordance
30 with such election and credit each payment to the special assessment pro-

1 tion of the tax bill and after each installment show the balance of the
2 assessment. Thereafter, the unpaid balance and the annual installment
3 shall not be construed as preventing the owner of land subject to the
4 assessment from paying the unpaid balance at any time. All special
5 assessment collections including interest and penalties, shall be credited
6 to the Improvement District Revolving Fund.

7 Section 48024. Construction Procedure. Upon notification by
8 the Governor that the improvement district has been created, the Department
9 of Public Works shall prepare invitations to bid, based upon the plans
10 and specifications as approved, and proceed to advertise for bids as in
11 other contracts for construction. When bids are received, the contract
12 shall be let to the lowest and best bidder; but the contract price may
13 not exceed the final estimate of costs of construction submitted by the
14 Department of Public Works as hereinbefore provided. If no such bids are
15 received, the Department of Public Works shall proceed with the authorized
16 construction. Such Department shall keep exact and detailed records of
17 all costs of construction.

18 Section 48025. Acceptance and Payment for Construction. Upon
19 completion of construction, the Director of Public Works shall certify
20 to the Commission that the project is completed according to the plans
21 and specifications. The Commission shall immediately inspect the cons-
22 truction and shall approve or reject the project. If the project is
23 approved as completed, the Commission shall order final payment made from
24 the Improvement District Revolving Fund. If not approved, the Commission
25 may require such additional work as is necessary to meet the plans and
26 specifications, before payment is ordered. If the construction is per-
27 formed by the Department of Public Works, the payment shall be in the
28 nature of reimbursement of its operating appropriation from the Improvement
29 District Revolving Fund to the extent of the cost of construction not to
30 exceed the total assessment. The Commission may authorize progress pay-

1 ments for construction upon an installment basis, but such payments may
2 not total more than eighty percent (80%) of the total cost until final
3 completion and acceptance.

4 Section 48026. Improvement District Revolving Fund. There is
5 hereby created the Improvement District Revolving Fund to be used to
6 finance costs of public facilities pursuant to this Title. The fund shall
7 be subject to the provision of Section 6112, Government Code of Guam.

8 Section 48027. Application to Subdivisions. This Title may not
9 be used to provided for the financing of improvements required for sub-
10 dividing land in the Municipality of Dededo under the Subdivision Law,
11 either as a separate improvement district or as a part of another proposed
12 improvement district. However, in the latter instance, with regard to any
13 required improvements within and limited to the Subdivision, the full cost
14 of such subdivision improvements shall be allocated exclusively to parcels
15 within the subdivision in addition to the pro-rata share of the cost of
16 public facilities for the entire district."