

## Title 10

### PUBLIC PLANNING, BUDGET AND DEVELOPMENT

#### Chapters:

- 01 Planning and Economic Development**
- 02 (Reserved)**
- 03 (Reserved)**
- 04 Program Planning and Budget Development**
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#### Chapter 01

### PLANNING AND ECONOMIC DEVELOPMENT

#### Sections:

- 10.0101 Definitions.**
- 10.0102 Territorial Planning Commission-Composition-General guidelines.**
- 10.0103 General plan objectives—Scope and adoption.**
- 10.0104 Office of Development Planning.**
- 10.0105 District planning areas and boards.**

#### **10.0101 Definitions.**

- (a) “Boards” means district planning boards.
- (b) “Commission” means the Territorial Planning Commission of American Samoa.
- (c) “Director” means the Director of Development Planning.
- (d) “General plan” means the general plan for overall development in American Samoa provided for in this chapter.
- “Treasurer” means the Treasurer of the Government of American Samoa.

#### **10.0102 Territorial Planning Commission— Composition—General guidelines.**

- (a) There is created the Territorial Planning Commission of American Samoa.
- (b) The Governor shall appoint 9 commissioners to the Commission subject to legislative confirmation. There shall be 6 commissioners which are representatives of each of the planning district areas designated by the Commission; 3 commissioners shall be representatives of industry and private business interests in American Samoa.
- (c) There is an advisory board to the Commission which shall consist of 7 department and office heads of the government of American Samoa.
- (d) The chairman of the Commission shall be designated by the Governor from among the commissioners, to serve at the Governor’s pleasure as chairman.
- (e) Subject to this chapter, the Commission may adopt rules of procedure for itself and for the advisory board.

The Commission authorizes a general plan program for American Samoa, and participates in its implementation as directed by the Governor or the Legislature from time to time. The Office of Development Planning prepares the general plan. The Commission reviews and approves

the general plan prior to recommending it to the Governor and Legislature.

**History:** 1978, PL 15-64 § 1; amd 1981, PL 17-22 § 1.

**10.0103 General plan objectives—Scope and adoption.**

(a) Objectives for the general plan program shall consist at least of the following:

(1) the establishment of processes and procedures whereby the government, private industry, on a concerted basis, to the extent practicable;

(2) preparation or revision annually, generally coinciding with the fiscal year; transmittal to the Governor and to the Legislature of a document summarizing the highlights and the budget implications of the general plan.

(b) The general plan may be concerned particularly with industrial, commercial, or agricultural development; with education, social services, housing, essential sewer, water and electric utilities services, and with transportation, communications, recreation, conservation, cultural services; and with other relevant aspects of life in American Samoa.

(c) In order that a comprehensive plan may be developed for the Territory, it is desirable that any of its foregoing subjects be considered in terms of:

(1) defining existing problems, policies, and plans;

(2) establishing objectives;

(3) developing and evaluating the impact of alternative strategies;

(4) determining any necessary revisions to local decision-making processes; and

(5) developing an implementation plan, having broad-based community support, which defines priorities and assigns responsibilities for action.

(d) The commission shall present any general plan for American Samoa which it develops to the Governor and the Legislature, for action the Governor and the Legislature considers appropriate.

**History:** 1978, PL 15.64 § 1.

**10.0104 Office of Development Planning.**

(a) There is created an Office of Development Planning.

(b) The Director of the Office of Development Planning is nominated by the Governor and confirmed by Legislature. The Director shall have professional experience in regional, community, and site planning or other planning experience, which is relevant to planning activities, assigned to the commission.

(c) The Development Planning Office is responsible for the development of plans, processes, and analyses required to accomplish objectives of the Commission.

(d) Funding for the Development Planning Office may be obtained through legislative appropriation and federal grant programs.

**History:** 1978, PL 15-64 § 1; amd 1981, PL 17-22 § 2.

**10.0105 District planning areas and boards.**

(a) There are created 6 planning districts in order to provide a basis for regional citizen participation:

(1) Planning District 1 includes Manu'a Islands representing all the villages in House of Representatives Districts 1 and 2, and is designated for planning purposes as the Manu'a planning district;

(2) Planning District 2 includes the northeastern part of Tutuila Island representing all the villages in House of Representatives Districts 3 and 6, and is designated for planning purposes as the Northeastern shore planning district;

(3) Planning District 3 includes the southeastern part of Tutuila Island representing all the villages in House of Representatives Districts 4 and 5, and is designated for planning purposes as the Southeast shore planning district;

(4) Planning District 4 includes the Pago Pago Bay area representing all the villages in House of Representatives Districts 7, 8, 9, 10 and 11, and is designated for planning purposes as the Pago Pago Bay area planning district;

(5) Planning District 5 includes all the villages in House of Representatives Districts 12 and 15 and is designated for planning purposes as the South Central Planning district;

(6) Planning District 6 includes the western part of Tutuila Island representing all the villages in House of Representatives Districts 13, 14, 16, 17, and is designated for planning purposes as the West Tutuila planning district.

(b) Every village council will select a representative to its respective district planning board.

(c) The Governor's appointed commissioners will regularly participate with their respective district planning boards.

(d) Through the assistance of the development planning office, district planning boards will assist the commission in obtaining village concerns toward village problems and proposed plans.

**History:** 1978, PL 15-64 § 1; amd 1978, PL 15-92 § 2.

**Amendments:** 1978 Subsection (a) (5): added and is designated for planning purposes as the South Central Planning district".

## **Chapter 02**

**(RESERVED)**

## **Chapter 03**

**(RESERVED)**

## **Chapter 04**

### **PROGRAM PLANNING AND BUDGET DEVELOPMENT**

#### **Sections:**

**10.0401 Division of program planning and budget development.**

**10.0402 Duties and responsibilities.**

**10.0401 Division of program planning and budget development.**

There is within the Office of the Governor of the government an office of program planning and budget development. The head of the office is appointed by the Governor and confirmed by the Legislature.

**History:** 1977, PL 15-58 § 4; amd 1977, PL 15-65 § 5.

**Amendments:** 1977 In first sentence, added of the government” in the words “Governor of the government”, substituted “office” for ‘division”, and deleted from end the words “which shall be headed by a director”.

In second sentence, substituted “The head of the office is appointed” for “The Director is a member of the career service appointed”.

Deleted third sentence providing that all other positions in the “division” were in the merit system career service.

#### **10.0402 Duties and responsibilities.**

In addition to any duties and responsibilities otherwise prescribed by law, the office of program planning and budget development also has the following duties and responsibilities:

(1) to conduct necessary operational planning and management methods as are utilized by departments and agencies of the government;

(2) subject to the approval of the Governor, to prescribe a budget calendar for the guidance of all executive agencies and a system of quarterly allotments to insure that appropriations and nonappropriated funds are not exhausted beyond the fiscal period for which the appropriations and funds are made available;

(3) to institute a system of form control:

(4) to perform other duties and responsibilities as may be prescribed by the Governor, by law, or by rule;

(5) adopt rules under the Administrative Procedure Act, section 4.1001 et. seq.:

(6) adopt rules under subsection (5) permitting budget managers to move line accounts amounts up to \$5,000 or 15% whichever is lesser, of a line account from one line account to another; permitting the budget Director to move amounts up to \$25,000 or 30% of line account, whichever is lesser, similarly from one line account to another; and requiring legislative appropriation on all line item account shifts over 30% or \$25,000. Transfers of federally funded amounts will be governed by guidelines issued, from time to time, by committees or appropriations of the U.S. Senate and House of Representatives.

**History:** 1977, PL 15-58 § 5; amd 1977, PL 15-65 § 6.

**Amendments:** 1977 Substituted “office” for “division” in opening clause. Paragraph (6): added “whichever is” prior to lesser” in both places in which “lesser” appears in first sentence, and added last sentence.

## **Chapter 05**

### **BUDGET PROCEDURE**

#### **Sections:**

- 10.0501 Purpose.**
- 10.0502 Responsibilities of the Governor.**
- 10.0503 Responsibilities of the Legislature.**
- 10.0504 Responsibilities of the office of program planning and budget development.**
- 10.0505 Agency program and financial plan.**
- 10.0506 Governor’s recommendation.**
- 10.0507 Legislative review of Governor’s proposals.**
- 10.0508 Authority for territorial agencies for administering program service**

**assignments.**

**10.0509 Quarterly performance reports required.**

**10.0501 Purpose.**

It is the purpose of this act to establish a comprehensive system for territorial program and financial management which furthers the capacity of the Governor and Legislature to plan and finance the services which they determine the territory will provide its people. The system includes procedures for:

(1) the orderly establishment, continuing review and periodic revision of the programs and financial goals and policies of the territory;

(2) the development, coordination and review of long-range program and financial plans that will implement established territorial goals and policies;

(3) the preparation, coordination and analysis, and enactment of a budget organized to focus on territorial services and their costs, that authorizes the implementation of policies and plans in the succeeding budget period;

(4) the evaluation of alternatives to existing policies, plans and procedures that offer potential for more efficient or effective territorial services;

(5) the regular appraisal and reporting of program performance; and

(6) the basic authority of the Secretary of the Interior for the administration of the territory of American Samoa shall in no way be derogated by this chapter.

**History:** 1977, PL 15-58 § 2.

**10.0502 Responsibilities of the Governor.**

(a) The Governor shall direct the preparation and administration of the territorial budget. He shall evaluate the long-range program plans, requested budgets and alternatives to territorial agency policies and programs; and formulate, and recommend for consideration by the Legislature, a proposed comprehensive program and financial plan which shall cover all estimated receipts and expenditures of the government for the general fund and all special funds whether or not their resources are annually appropriated by the Legislature, including all grants, loans and moneys received from the federal government or other agencies both governmental and nongovernmental. Proposed expenditures shall not exceed estimated receipts and surpluses.

(b) In carrying out the intent of this chapter, the Governor shall have full authority and responsibility for preaudit and postaudit functions, as well as formal certification of payments from all appropriated funds, in accordance with policies and procedures of the Treasurer of American Samoa formulated in consideration of and in accordance with the General Accounting Office, the Department of the Treasury, the Department of the Interior, and the Office of Management and Budget rules and regulations, not inconsistent with section 10.0503.

**History:** 1977, PL 15-58 § 3.

**10.0503 Responsibilities of the Legislature.**

The Legislature shall:

(1) consider the program and financial plan recommended by the Governor, including proposed goals and policies, recommended budget, revenue proposals, and proposed long-range program plans;

(2) adopt programs and alternatives to the plan recommended by the Governor as it deems

appropriate;

(3) adopt legislation to authorize the implementation of a comprehensive program and financial plan; and

(4) provide for a review of program accomplishments and execution of legislative policy direction.

**History:** 1977, PL 15-58 § 3.

**10.0504 Responsibilities of the office of program planning and budget development.**

The office of program and budget development shall:

(1) assist the Governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of territorial agency program goals and objectives, program plans, and program budget requests;

(2) develop procedures to produce the information needed for effective policy decision-making;

(3) assist territorial agencies in their statement of goals and objectives, preparation of program plans, program budget requests, and reporting of program performance;

(4) administer its responsibilities under the program execution provisions of this chapter so that the policy decisions and budget determinations of the Governor and the Legislature are implemented to the fullest extent possible within the concepts of proper management; and

(5) provide the Legislature with any budget information it may request which is within the area of legislative authority or interest under this chapter. The preliminary budget plan (for fiscal year plus 2) and budget document for next succeeding fiscal year must be submitted 1 week in advance of the respective session.

**History:** 1977, PL 15-58 § 3; 1977, PL 15-65 § 1; amd 1980, PL 16-56 § 1.

**Amendments:** 1977 Substituted "office" for "division" in heading and opening clause. 1980 Paragraph (5): added last sentence.

**10.0505 Agency program and financial plan.**

(a) Each department or agency of the government on the date and in the form and content prescribed by the office shall prepare and forward to the office the following program and financial information;

(1) the goals and objectives of the agency programs, together with proposed supplements, deletions, and revisions;

(2) its proposed plans to implement the goals and objectives including estimates of future services needs, planned methods of administration, proposed modification of existing program services, and establishment of new program services, and the estimated resources needed to carry out the proposed plan;

(3) the budget requested to carry out its proposed plans in the succeeding fiscal year; the budget request information shall include the expenditures during the last fiscal year, those estimated for the current fiscal year, those proposed for the succeeding fiscal year, and explanation of the services to be provided, the need for the services, the costs of the services, and any other information requested by the division;

(4) a report of the receipts during the last fiscal year, an estimate of the receipts during the current fiscal year, and an estimate for the succeeding fiscal year;

(5) a statement of any new legislation required to implement the proposed programs and

financial plans; and

(6) An evaluation of the advantages and disadvantages of specific alternatives to existing or proposed programs, policies or administrative methods.

(b) The territorial agency proposals prepared under subsection (a) shall describe the relationships of their program services to those of other territorial agencies, of other governments, and of nongovernmental bodies.

(c) The office shall assist agencies in the preparation of their proposals under subsection (a). This assistance may include technical assistance, organization of materials, centrally collected accounting, budgeting and personnel information, standards and guidelines formulations, population and other required data, and any other assistance that will help the territorial agencies produce the information necessary for efficient agency management and effective decision-making by the Governor and the Legislature.

(d) If any territorial agency fails to transmit the program and financial information provided under subsection (a) on the specified date, the office may prepare that information with the same effect as if it had been prepared by the agency itself.

**History:** 1977, PL 15-58 § 3; amd 1977, PL 15-65 § 2.

**Amendments:** 1977 Subsections (a), (c) and (d): substituted “office” for division.

#### **10.0506 Governor’s recommendation.**

(a) The Governor shall formulate the program and financial plan to be recommended to the Legislature after considering the territorial agency proposed program and financials plans, and other programs and alternatives that he considers appropriate. The plan shall include his recommended goals and policies, recommended plans to implement the goals and policies, recommended budget for the succeeding fiscal year, and recommended revenue measures to support the budget.

(b) The Governor shall present the proposed comprehensive program and financial plan in a message to the Legislature. The message must be preceded by 1 week by a budget document which shall contain the Governor’s recommended goals, plans, and appropriations. The budget document shall be furnished each member of the Legislature and each department or agency of the government. The budget document shall contain the following information:

(1) the coordinated program goals and objectives that the Governor recommends to guide the decisions on the proposed program plans and budget appropriations;

(2) the program and budget recommendations of the Governor for the succeeding fiscal year;

(3) a summary of the territory’s receipts in the last fiscal year, a revised estimate for the current fiscal year, and an estimate for the succeeding year;

(4) a summary of expenditures during the last fiscal year, those estimated for the current fiscal year, and those recommended by the Governor for the succeeding fiscal year;

(5) drafts of appropriation bills and revenue measures; and

(6) any additional information which will facilitate understanding of the Governor’s proposed program and financial plan by the Legislature and the public.

(c) After delivery of the Governor’s message, the bills incorporating his recommendations may be introduced in the Legislature in accordance with the provisions of its standing rules.

**History:** 1977, PL 15-58 § 3; amd 1980, PL 16-56 § 2.

**Amendment:** 1980 Subsection (1): added “preceded by 1 week”.

**10.0507 Legislative review of Governor's proposals.**

The Legislature shall consider the Governor's proposed comprehensive program and financial plan; evaluate alternatives to the Governor's proposed comprehensive program and financial plan; evaluate alternatives to the Governor's recommendations; and determine the comprehensive program and financial plan to support the services to be provided the people of the territory; provided, however, that in its determination authorized expenditures shall not exceed estimated receipts and surpluses.

**History:** 1977, PL 15-58 § 3.

**10.0508 Authority for territorial agencies for administering program service assignments.**

(a) Except as limited by policy decisions of the Governor, appropriations by the Legislature, and other provisions of law, the territorial agencies shall have full authority for administering their program service assignments, and shall be responsible for their proper management.

(b) Each territorial agency shall prepare an annual plan for the operation of each of its assigned programs. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the office.

(c) The office shall:

(1) review each operations plan to determine that it is consistent with the policy decisions of the Governor and appropriations by the Legislature, that it reflects proper planning and efficient management methods, and that appropriations have been made for the planned purpose and will not be exhausted before at the end of the fiscal year;

(2) approve the operations plan if satisfied that it meets the requirements under paragraph (1); otherwise the office shall require revision of the operations plan in whole or in part;

(3) modify or withhold the planned expenditures at any time during the appropriations period if the office finds that the expenditures are greater than those necessary to execute the programs at the level authorized by the Governor and the Legislature, or that the receipts and surpluses will be insufficient to meet the authorized expenditures levels.

(d) No territorial agency may increase the salaries of its employees, employ additional employees, or expend money or incur any obligations except in accordance with law and with a properly approved operations plan.

(e) The office shall report quarterly to the Governor and the Legislature on the operations of each territorial agency, relating actual accomplishments to those planned, and modifying, if necessary, the operations plan of any agency for the balance of the fiscal year.

**History:** 1977, PL 15-58 § 3; amd 1977, PL 15-65 § 3.

**Amendments:** 1977 Subsections (b), (c) and (e): substituted "office" for "division".

**10.0509 Quarterly performance reports required.**

(a) Each territorial agency shall submit a quarterly performance report to the budget office on or before the dates established by that office. These reports shall be in the form prescribed by the office and shall include statements concerning:

(1) the work accomplished and the services provided in the preceding fiscal year or other meaningful work period, relating actual accomplishments to those planned under subsection (b) of 10.0508;

(2) the relationship of accomplishments and services to the policy decisions and budget determination of the Governor and Legislature;

(3) the costs of accomplishing the work and providing the services and, to the extent feasible, citing meaningful measures of program effectiveness and cost;

(4) the administrative improvements made in the preceding quarter, potential improvements in future quarters and suggested changes in legislation or administrative procedures to make further improvements.

(b) The budget office shall summarize the performance reports and forward a copy to the Governor, copies to members of the Legislature no later than 45 days after the end of each fiscal quarter.

**History:** 1977, PL 15-58 § 3; 197, PL 15-65 § 4; amd 1988, PL 20-60.

**Amendments:** 1977 Subsection (a): substituted “office” for references to program planning and budget development division.

## Chapter 06

### EXPENDITURES

#### Sections:

**10.0601 Expenditures in excess of appropriations—Voluntary service forbidden.**

**10.0602 Return of unexpended funds not to affect lawsuit or right of action.**

**10.0603 Expenditure of Legislative funds.**

**10.0601 Expenditures in excess of appropriations—Voluntary service forbidden.**

(a) No officer or employee of the government may make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor may officers or employees involve the government in contracts or other obligations, for the payment of money for any purpose, in advance, of appropriations made for that purpose unless the contract or obligation is authorized by law.

(b) No officer or employee of the government may accept voluntary service for the government or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

(c) In addition to any penalty or liability under other law, any officer or employee of the government who violates subsection (a) or (b) is subjected to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office. Any officer or employee of the government who knowingly violates subsection (a) or (b) shall, upon conviction, be sentenced for a class D felony.

**History:** 1977, PL 15-34; amd 1980, PL 16-90 § 5.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46. Criminal Justice.

**10.0602 Return of unexpended funds not to affect lawsuit or right of action.**

Any provision of law which requires unexpended funds to return to the general fund at the end of the fiscal year shall not be held to affect the status of any lawsuit or right of action

involving the right to those funds.

**History:** 1977, PL 15-34.

**10.0603 Expenditure of Legislature funds.**

Except as otherwise limited by law the Legislature shall have full authority and control the request, approval, and disbursement of funds in its budget. The Legislature shall be fully responsible for maintaining proper record-keeping and management over the expenditure of funds.

**History:** 1985, PL 19-2 § 1.

## Chapter 07

### ADVISORY BUDGET COMMISSION

**Sections:**

**10.0701 Economic Stabilization and Emergency Fund—Creation— Purpose.**

**10.0702 Appropriation—Funding.**

**10.0703 Advisory budget commission— Creation.**

**10.0701 Economic Stabilization and Emergency Fund—Creation—Purpose.**

The American Samoa Economic Stabilization and Emergency Fund is established to anticipate a revenue shortfall due to adverse economic conditions such as the 1973 oil embargo or the 1974 drought in the Territory as well as providing temporary relief for major disasters, federal grant reductions, or other major events not foreseen during the regular budget process which would affect significantly the economic welfare of the Territory.

**History:** 1982, PL 17-45 § 1.

**10.0702 Appropriation—Funding.**

Authorization is granted to earmark \$200,000 of excess local revenues from the previous fiscal year 1982 to be deposited into the Economic Stabilization and Emergency Fund. These deposits continue each fiscal year until it reaches a ceiling of \$10,000,000 at which time the deposits will be required only for the balance necessary to reach the ceiling. Funds for deposit are requested through the regular appropriation process. This provision is effective at the beginning of fiscal year 1983.

**History:** 1982, PL, 17-45 § 1.

**10.0703 Advisory budget commission— Creation.**

An advisory budget commission consisting of the chairmen of the Senate and House appropriations committees, Director of Program Planning and Budget Development, Director of Development Planning and 2 members of the public at large to be appointed by the Governor, is created and responsible to the Governor and the Legislature for the administration of the Economic Stabilization and Emergency Fund. The Chairman of the commission is the Director of Program Planning and Budget Development. Rules for the administration of the

fund are established by the commission with the concurrence of the Governor and the Legislature and under the Administrative Procedure Act, 4.1001 A.S.C.A., et seq.

**History:** 1982, PL, 17-45 § 1.

**Reviser's comment:** Section 2 of PL 17-45 stated:

“This act supercedes Section 5 of PL 17-21 upon this act’s effective date 20 November 1982.

“If this act becomes effective prior to the self-executing termination of the appropriation act of 1982, PL 17-21, effective 30 September 1981, the rights, privileges, duties, funds and appropriations created under PL 17-21 are transferred to the classified and codified successor agency under this act. No rights, privileges, duties, funds or appropriations are diminished by way of the transfer of functions to the agency created by this act at the effective date of this act”.