Planning commission and research studies

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Subject:
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HILLSBOROUGH COUNTY PLANNING COMMISSION--AUTHORITY TO CONDUCT SPECIAL RESEARCH STUDIES FOR CITY OF TAMPA

To: Bob Lester, Chairman, Hillsborough County Commission, Tampa

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QUESTION:

Does the Hillsborough County Planning Commission have the authority to conduct special research studies at the request of the City of Tampa for the purpose of generating proposals for annexation of territories to the City of Tampa utilizing funds appropriated by the Board of County Commissioners of Hillsborough County for the purpose of carrying out the planning commission's duties as prescribed by law?

SUMMARY:

Absent an appropriation of funds by the Hillsborough County Board of County Commissioners for such purposes, the Hillsborough County Planning Commission is without authority to expend funds appropriated to it by the board of county commissioners to conduct special research studies at the request of the City of Tampa for the purpose of generating proposals for annexation of territories to the City of Tampa.

The Hillsborough County Planning Commission was created by Ch. 59-1363, Laws of Florida,

". . . for the purpose of conducting a study and preparing recommendations to said board of county commissioners and to the city of Tampa and to other municipalities participating therein, of a master land-use plan of lands within the city of Tampa and lands in Hillsborough county outside the corporate limits of municipalities, and lands within the corporate limits of such municipalities as shall participate therein." [Section 1, Ch. 59-1363, *supra*.]

And, under Ch. 65-1670, Laws of Florida, the Hillsborough County Planning Commission is given certain review and recommendation functions with respect to public facilities and capital improvements within Hillsborough County or any of its municipalities, as well as the power and duty to conduct certain feasibility and research studies with respect to same. However, s. 3 of Ch. 65-1670 provides:

"Whenever a special feasibility or research study is conducted by the planning commission or whenever a professional consultant firm or specialist is employed by the commission to undertake all or a portion of said study, the planning commission shall be reimbursed for the cost of the study by the governing body or agency involved in an amount jointly agreed upon prior to the initiation of the study."

As I have previously noted in AGO 074-302, the Hillsborough County Planning Commission, like all creatures of statute,

". . . has only those powers which have been given to it by the Legislature, or which are necessarily implied to carry out its express powers. The planning commission is authorized to make certain expenditures, but such expenditures are specifically limited by s. 3 of Ch. 69-1363, *supra*, which provides, *inter alia*: 'The expenditures of the planning commission . . . *shall be within the amounts appropriated for the purpose* by the board of commissioners of Hillsborough County who are hereby empowered to determine, agree upon and appropriate funds for the payment of the expenses of the planning commission.' (Emphasis supplied.) Under the express terms of the statute, the board of county commissioners is required not only to appropriate funds for the payment of the expenses of the planning commission but also to 'determine' and 'agree upon' such expenses; and, consistent with this legislative directive, it can be concluded only that the language italicized above was intended to apply to an item of expenditure for a particular purpose, as approved by the board of county commissioners, rather than in a general sense to the total amount budgeted for the expenditures of the planning commission."

And, in summary I concluded in AGO 074-302:

"The Hillsborough County Planning Commission does not have the authority to make expenditures from funds appropriated by the Board of County Commissioners of Hillsborough County in excess of the amount which has been appropriated for a particular purpose, even though the expenditure will not exceed the total amount appropriated for payment of the expenses of the planning commission."

It is clear from the foregoing that the Hillsborough County Planning Commission is without authority to expend funds appropriated by the board of county commissioners in amounts greater than or for purposes other than those provided for in such appropriations. Accordingly, unless the board of county commissioners has appropriated funds to the Hillsborough County Planning Commission for the purpose of conducting special research studies at the request of the City of Tampa for the purpose of generating proposals for annexation of territories to the City of Tampa, funds appropriated by said board of county commissioners may not be used for such purposes by the planning commission. Further, if the special research studies about which you inquire come within the scope of Ch. 65-1670, *supra*, the governing body involved -- in this case the City of Tampa -- must reimburse the planning commission for the cost of the study "in an amount jointly agreed upon prior to the initiation of the study."