Construction licensing and grandfather provisions

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Subject:
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PINELLAS COUNTY CONSTRUCTION INDUSTRY-- LICENSING BOARD AUTHORITY TO EXTEND GRANDFATHER PROVISIONS; AUTONOMY FROM COUNTY COMMISSION; CONTROL OVER FUNDS RECEIVED

To: Edwin Blanton, Chairman, Pinellas County Construction Licensing Board, St. Petersburg

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QUESTIONS:

1. Did the Pinellas County Construction Licensing Board have the authority under Part II, s. 8(8), Ch. 73-595, Laws of Florida, to extend the "grandfather" provisions concerning certification beyond the 180-day period after the act took effect?

2. Is the Pinellas County Construction Licensing Board an autonomous regulatory agency independent from the Board of County Commissioners of Pinellas County?

3. May funds received and expended by the Pinellas County Construction Licensing Board be handled separately from funds received and expended by the Board of County Commissioners of Pinellas County?

SUMMARY:

The Pinellas County Construction Licensing Board does not have authority to extend the "grandfather" provisions concerning certification beyond the 180-day period provided in Part II, Ch. 73-595, Laws of Florida.

The board is an independent and autonomous board in areas of examining, certifying, and otherwise regulating countywide contractors within Pinellas County.

Funds received by the board which are neither committed nor expended at the end of a biennium must be deposited in the county general revenue fund, but prior to such deposit they may be managed by the board pursuant to Ch. 219, F. S.

AS TO QUESTION 1:

Section 8(8) of Part II, Ch. 73-595, Laws of Florida, provides:

"Within one hundred eighty (180) days after the effective date of this act, all persons contracting in the county, holding a valid current certificate issued by the City of Clearwater, City of St. Petersburg, County of Pinellas, or holding a countywide (municipal) occupational license, upon application to this board shall be certified."

The Legislature specifically provided for a limited 180-day period during which time persons holding a current certificate or countywide municipal occupational license could apply to the board and obtain certification. This period is measured from the date that Ch. 73-595, *supra*, took effect, which was 60 days after adjournment *sine die* of the 1973 Legislative Session. Article III, s. 9, State Const.

I find no authority in Ch. 73-595, supra, which would allow the board to extend this so-called "grandfather" provision and must therefore answer question 1 in the negative.

AS TO QUESTION 2:

Section 5 of Part II, Ch. 73-595, Laws of Florida, provides for the jurisdiction of the board and specifies that the board has concurrent jurisdiction within Pinellas County with municipal examining boards. In addition, the act gives the board the power and duty to adopt rules governing the registration and certification of those persons engaging in countywide contracting in Pinellas County, and the board administers examinations for the purpose of such certification. In fact, the board has jurisdiction of all examination and regulation of those engaged in contracting in Pinellas County. Section 6(2), Part II, Ch. 73-595.

The act is clear that in order to obtain countywide certification a person has to submit an application to the board and submit to the board's regulatory authority. Section 8, Part II, Ch. 73-595, *supra*. Therefore, regarding the regulatory authority and jurisdiction of the board over those persons contracting on a countywide basis in Pinellas County, the board is independent from the Board of County Commissioners of Pinellas County.

AS TO QUESTION 3:

Section 11 of Part II, Ch. 73-595, Laws of Florida, gives the board the authority to impose fees and specifically states that:

"Any funds received by the board from certification or registration fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the general revenue fund."

Therefore, excess funds that remain at the end of a biennium which are neither committed nor expended will have to be deposited into the general revenue fund of Pinellas County and will not be able to be expended or in any way committed by the board thereafter.

However, prior to the end of the biennium, the board, being a unit of county government, and its members, being county officers, may manage and handle public moneys collected as provided in Ch. 219, F. S. That is, the board may make deposits and disbursements for a valid public purpose from funds collected as fees.