County planning commission and budget

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Subject:
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COUNTIES--COUNTY PLANNING COMMISSION NOT AUTHORIZED TO ALTER BUDGET ESTABLISHED BY COUNTY COMMISSIONERS

To: Woodie A. Liles, Hillsborough County Attorney, and Cary R. Singletary, Attorney for Hillsborough County Planning Commission, Tampa

Prepared by: Michael M. Parrish, Assistant Attorney General

QUESTION:

Does the Hillsborough County Planning Commission 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 commission?

SUMMARY:

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.

Your question is answered in the negative.

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

I have the view, therefore, pending legislative or judicial clarification, that the planning commission should not, without the approval of the board of county commissioners, commit itself to expenditures for a particular purpose in excess of the amount approved for that purpose by the board of county commissioners.

It should be noted, however, that under s. 129.06(2)(a), F. S., the board of county commissioners would appear to have authority to amend the budget of the planning commission "provided that the total of the appropriations to the fund be not changed" if it should appear appropriate to do so.