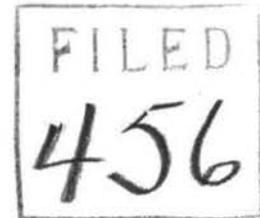


STATE DIVISION OF COMMERCE
AND INDUSTRIAL DEVELOPMENT:
RESOURCES AND DEVELOPMENT:

Division of Commerce and Industrial
Development has authority to provide
planning assistance and to contract for
and receive federal grants or financial
assistance for counties, municipalities
and metropolitan areas for planning pur-
poses.

November 27, 1963



Opinion No. 456

Mr. Lawrence A. Schneider
Director, Division of Commerce
and Industrial Development
Jefferson Building
Jefferson City, Missouri

Dear Mr. Schneider:

This will acknowledge receipt of your opinion request of
November 8, 1963, which reads as follows:

"In order to comply with the Federal
requirements for an application for
an Urban Planning Grant, your opinion
is hereby requested as to the authority
of this Division to perform such work
as provided by Chapter 255.130 to
255.140 and 255.150 of the Revised
Statutes. We ask for your opinion as
it presently applies under the existing
law."

The above mentioned sections were enacted by the Legis-
lature in 1959, Laws of Missouri, 1959, Senate Bill 52, para-
graph 1. It is the fundamental principle of statutory construc-
tion that an act of the Legislature, since it represents the
will of the people, carries a presumption of constitutionality
and should be recognized and enforced unless it is plainly and
palpably a violation of the fundamental plan of the constitution.
Bowman v. Kansas City, 233 SW2d 26.

The General Assembly of the State of Missouri in 1961
amended Chapter 255, which applied to the Division of Resources
and Development, to provide that effective October 13, 1961,

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the duties and functions of the Division of Resources and Development are to be transferred to the new Division of Commerce and Industrial Development. Laws of Missouri 1961, page 240, Section 16, provides in part:

"2. All duties and functions otherwise provided by law to be performed by the division of resources and development shall hereafter be performed by the division of commerce and industrial development. The division of commerce and industrial development shall succeed to all other property, documents, records, assets and obligations of the division of resources and development.

"3. Insofar as practicable and desirable, all pending matters before the division of resources and development begun but not completed by that agency shall be completed by the division of commerce and industrial development."

1. Section 255.150 of the Revised Statutes of Missouri, 1959, provides as follows:

"The state division of resources and development is hereby designated as the official state planning agency for the purpose of providing planning assistance to counties, municipalities and metropolitan planning areas, and for such purposes is hereby authorized and empowered to:

"(1) Contract with public agencies or private persons or organizations for any of the purposes of sections 255.130 to 255.150;

"(2) Delegate any of its functions to any other state agency authorized to perform such functions, except that responsibility for such functions shall remain solely with the division;"

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2. It is the opinion of this office that the Division of Commerce and Industrial Development is authorized under the existing state law to perform planning work in the area referred to in the application for the 701 Planning Grant for any county, municipality or metropolitan area when requested by it. The authority for this is contained in Section 255.130 of the Revised Statutes of Missouri, 1959, as follows:

"The state division of resources and development is hereby authorized, upon the request of the governing body of any county, municipality or metropolitan area in this state to:

"(1) Provide planning assistance (including planning surveys, land use studies, urban renewal plans, technical services, and other planning work, but excluding plans for specific public works) to and for any county or municipality, or metropolitan area.

"(2) Contract for, receive, and utilize any grants or other financial assistance made available by the federal government or from any other source public or private, for the purpose of sections 255.130 to 255.150."

3. Sections 255.130 and 255.140 of the Revised Statutes of Missouri, 1959, authorize the Division of Commerce and Industrial Development to contract with the Federal Government, and also with such county, municipality or metropolitan area, to provide the planning work. Section 255.130 of the Revised Statutes of Missouri, 1959, provides as follows:

"(2) Contract for, receive, and utilize any grants or other financial assistance made available by the federal government or from any other source public or private, for the purpose of sections 255.130 to 255.150."

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4. Section 255.150 of the Revised Statutes of Missouri, 1959, provides as follows:

"All matching nonfederal funds required for any planning assistance undertaken by the state division of resources and development pursuant to sections 255.130 to 255.150 shall be provided by the county, municipality or metropolitan area requesting such planning assistance."

This section requires that all matching nonfederal funds required for this project be provided by the municipality or metropolitan area requesting such planning assistance.

CONCLUSION

It is, therefore, the opinion of this office:

The Division of Commerce and Industrial Development of the State of Missouri is the official State Planning Agency for the purpose of providing planning assistance to counties, municipalities and metropolitan planning areas.

The Division of Commerce and Industrial Development is empowered, in Chapter 255 of the Revised Statutes of Missouri, 1959, to fulfill the obligations imposed under the grant contract with the Federal government prescribing the terms and conditions thereof.

Section 255.150 provides, "All matching nonfederal funds required for any planning assistance undertaken by the state division of resources and development pursuant to sections 255.130 to 255.150 shall be provided by the county, municipality or metropolitan area requesting such planning assistance."

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

EM:LT