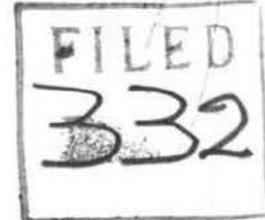


August 31, 1965



Honorable Harold L. Fridkin
Jackson County Counselor
Suite 202, Courthouse
Kansas City, Missouri 64106

Dear Mr. Fridkin:

This is in reply to your August 13th request for an opinion wherein you inquire as to whether "The Transportation Planning Commission of Greater Kansas City, Missouri", can contract with the Federal Government without State governmental approval.

Section 70.220, RSMo 1959, which was enacted pursuant to Article VI, Section 16, Constitution of Missouri 1945, reads in part as follows:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. * * *"

The above language expressly authorizes municipalities and political subdivisions of the State to contract with agencies of the Federal Government.

Honorable Harold L. Fridkin

Section 70.260, RSMo 1959, provides that a contract entered into as provided by Section 70.220, RSMo 1959, may establish a joint board or commission. The contract you have enclosed does create such a joint commission of nine members and provides that such commission may enter into contracts with the United States Government.

These sections were enacted as part of HCSHB 90 of the 64th General Assembly in 1947 which Act repealed HCSHB 490 of the 63rd General Assembly which provided for cooperative agreements. Such HCSHB 90 enacted what are now Sections 70.210 to Section 70.730 RSMo.

The next question then is whether there is any statute which modifies or limits the application of the aforementioned statutes. Chapter 255 which established the Division of Resources and Development was enacted in 1943. Section 255.130 and Section 255.140 were enacted in 1959. Section 255.130, RSMo 1959, provides in part:

"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 * * *
- (2) Contract for, receive, and utilize any grants or other financial assistance * * *."

Section 255.140, RSMo 1959, provides in part:

"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 * * *
- (2) Delegate any of its functions to any other state agency * * *;

Honorable Harold L. Fridkin

(3) Require or receive reimbursement from any political subdivision or subdivisions receiving assistance under Section 255.130 to 255.150; * * *

This situation then presents the problem as to whether Sections 255.130 and 255.140, RSMo 1959, by their subsequent enactment to Section 70.220 were intended to limit or modify the broad authority granted by Section 70.220, or expressed differently, Do the provisions of Section 255.130, 255.140 and 255.150 make the mandatory requirement that the State Division of Commerce and Industrial Development act as agent for the Planning Commission in executing the proposed contract or may the Transportation Planning Commission of greater Kansas City, Missouri, act for itself directly with the agency of the Federal Government?

When Sections 255.130 and 255.140, RSMo 1959, were enacted there was no complementary amendment of Section 70.220 to indicate that the Division referred to in Section 255.130 and 255.140, RSMo 1959, was to be the exclusive agency with which municipalities and political subdivisions should deal in their contract arrangements with the Federal Government. There is one phrase in Section 255.130, RSMo 1959, which infers that its operation is permissive rather than mandatory. That is the phrase "* * * upon the request of the governing body of any county, municipality or metropolitan areas * * *."

The general rule of construction is that one statute will not be deemed to have modified or repealed another statute wherein there is a possible conflict between the two, if the two statutes may be construed together. Since we are unable to find any language which shows a clear intention on the part of the Legislature to limit or restrict the broad application of Section 70.220, RSMo 1959, we conclude that Section 255.130 and 255.140, RSMo 1959, are permissive and not mandatory. In other words the municipality or subdivisions may either utilize the services of the Division under the provisions of Section 255.130, 255.140 and 255.150, RSMo 1959, or at its election may operate under the broad authority of Section 70.220, RSMo 1959, in its dealing with agencies of the Federal Government.

You have not asked us and we do not pass in any way upon the validity of the agreement creating the "Transportation Commission

Honorable Harold L. Fridkin

of Greater Kansas City, Missouri" or on the validity of the provisions therein. We hold only that a properly executed agreement under Sections 70.220 and 70.260, RSMo 1959, providing for a commission created by such agreement with power to contract with the Federal Government can contract with the Federal Government without approval of any state agency.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

JGS/ms