services need be followed. However, the strong public policy of this state requires that even in the absence of controlling statutes, expenditures of public funds must be made on competitive bids whenever possible.

Question 2 is answered accordingly.

066-10—February 18, 1966

COUNTY PUBLIC SCHOOLS

LOCATION OF SCHOOL SITES—CITY ORDINANCES

To: Floyd T. Christian, State Superintendent of Public Instruction, Tallahassee

QUESTION:

Are zoning ordinances of the city of Miami valid and effective insofar as the board of public instruction of Dade county is concerned in its location of school sites?

In AGO 065-81, I expressed the opinion, as had several of my predecessors in office, that generally speaking, the state is not subject to legislative enactments of a municipal corporation, and that, as expressed in AGO 068-119, a municipality has no "legal authority to interfere by ordinance unless the city's charter specifically grants it such authority." (Emphasis supplied.)

There appears to be even more direct authority indicating that the same rule would apply with reference to a municipal zoning ordinance purporting to restrict a county board of public instruction in its selection of school sites. In Ch. 176, F. S., the legislature granted to municipalities the power to enact and administer zoning ordinances and regulations. Section 176.02, F. S., provides, among other things, that: "municipalities may . . . regulate and restrict . . . the location and use of buildings, structures, and land . . ." However, §176.02, F. S., further provides:

Wherever the governing body of any municipality shall elect to exercise any of the powers granted to it under this chapter, said powers shall be exercised in the manner hereinafter prescribed and in accordance with the charter of such municipality. (Emphasis supplied.)

I am therefore of the opinion that unless the charter of the city of Miami specifically grants such authority, that city would have no authority to regulate or restrict the location of a school site duly selected by the board of public instruction of Dade county.

066-11—February 18, 1966

STATE OFFICERS AND EMPLOYEES

COMPENSATION OF MEMBERS AND EMPLOYEES OF FLORIDA COMMISSION FOR TAX REFORM

To: Fred O. Dickinson, Jr., State Comptroller, Tallahassee

QUESTION:

What rate of per diem and subsistence allowance should the members and employees of the Florida commission for tax reform be compensated?
The Florida commission for tax reform was created and established by Ch. 65-303, §4 of which provides that:

The members of the commission shall serve as a public service without compensation but they and the employees of the commission shall be reimbursed in the performance of the functions of the commission in the manner prescribed by section 112.061, Florida Statutes . . .

Section 6 of said Ch. 65-303, appropriates from the state general revenue fund the sum of $50,000 for the administration and enforcement of the said act. Section 112.061(6), F. S., provides for the rates of per diem and subsistence allowances for state officers and employees, which subsection (6) is divided into out-of-state travel (§112.061(6)(a), F. S.) and in-state travel (§112.061(6)(b), F. S.). We are presuming here that commission meetings will be held within the state.

Said Ch. 65-303 (§282.011(10), F. S.), created and established a "Florida Commission for Tax Reform" to be composed of 15 members; 5 members of the Florida senate, to be appointed by the president of the senate; 5 members of the house of representatives, to be appointed by the speaker of the said house of representatives; and 5 members to be appointed by the governor, under and pursuant to §27, Art. III, State Const., and in accordance therewith. Vacancies are to be filled in the same manner as is provided for the original appointments. The 15 members of the commission elect 1 of their number as chairman.

The powers and authority of the commission are set out in §3 of said Ch. 65-303. Generally the purpose and intention of the legislature in creating and establishing this commission was to obtain a complete and exhaustive study of the tax structures of Florida, including state, county and municipal and other taxing authorities, and a survey thereof looking toward a better and more equitable taxing setup, and, when such survey has been completed and perfected and made final, to compile the same as a report, recommendation and proposal, to the governor, members of both houses of the legislature and the legislative council, the same to be completed and ready for delivery as aforesaid "not later than February 1, 1967."

Interim reports are required to be made to the governor when requested by him, or in the discretion of the commission. Provision is made in the act for the commission receiving records, information, data and assistance from state and local agencies and departments, including studies and reports from them. Provision is made in the act for the employment of an executive secretary and other needed assistance, and the holding of a public meeting from time to time. The commission is authorized to adopt necessary and needed rules and regulations concerning its organization and operations.

Among the duties of the commission is the making and publication of reports, recommendations and proposals, suggested from their operations, surveys, etc., hereunder, and to submit the same to the governor, the president of the senate, the speaker of the house of representatives and to the legislative council, which appears to have been intended as recommendations to the Florida legislature, including its senate and house of representatives and the legislative council, and suggestions for a tax reform study by the legislature, and a general overhauling, revision and perfection of the tax and taxing statutes and laws of Florida. This Florida tax reform commission is in the nature of an advisory body to the Florida legislature and its members, officers and agents. It is a governmental commission in the nature of a legislative committee,
set up to aid and assist the legislature in its consideration of taxation and tax reforms.

The membership of this commission consists of 10 ex officio members (members of the legislature) and 5 members appointed by the governor in conformity with §27, Art. III, State Const. They are all public officers of the state. No question of nonofficial members arises here. The members are all of official status under the State Const. The said commission also has a status as an interim legislative committee.

Section 112.061, F. S., in addition to travel expenses, makes provision for the payment of a per diem for state officers and employees when engaged in state business when away from their homes or official residences on official state business. Section 112.061(6), F. S., makes provision for both out-of-state travel (§112.061(6)(a), F. S.), and in-state travel (§112.061(6)(b), F. S.). For the present we will deal with only in-state travel. Such in-state travel is divided into 2 or more classes or groups. First, traveling to attend a convention or conference, which will serve a direct public purpose with relation to the public agency served by the person attending such convention or conference; second, public officers traveling on other official business; third, all other in-state travelers. No distinction is made as between officers and employees when traveling on official business to attend a convention or conference which will serve a direct purpose with relation to the public agency served by the person attending such meeting. The per diem pay rate is the same for both officials and employees; “up to twenty dollars per day.” Public officers when traveling in-state on other official business, not to attend a convention or conference, (a) the governor, cabinet members and members of the legislature, when legislature is in session, $25 per diem and when the legislature is not in session, $20, and all other state officers, $16 per diem, and public employees as therein provided. This may be divided into travel to attend a convention or conference, general official travel of officers with variations between the governor, cabinet members, members of the legislature and other public state officers, and state employees.

Although the legislative members of the commission travel as ex officio members of the commission, the remaining members (5 in number) travel as public officers generally as members of the commission. This presents the problem of the compensation of the legislative members of the commission as well as the nonlegislative members. Generally, legislative members receive $20 per diem for travel when the legislature is not in session and public officers generally receive a per diem of $16. Presently we are dealing with the per diem of the officers only, not employees.

Only if it may be said that a meeting of the 15-member commission may be said to constitute a convention or conference may all members be paid a per diem of $20 when attending commission meetings. We doubt that the nonlegislative members of the commission may be classified as members of the legislature to permit a payment of $20 per diem under §112.061(6)(b)2., F. S., to the nonlegislative members. Their pay under this subparagraph is $16 per day. Although they are members of a legislative committee, not being members of the legislature, they may not be classified as such under the statute.

This brings us to the question of whether or not meetings of the members of the commission may be classified as a convention or a conference. It does not appear to be subject to classification as a convention; then may it be classified as a conference, within the purview of §112.061-(6)(b)1., F. S.? A “conference” is defined in Black’s law dictionary as
a meeting of several persons for deliberation, for exchange of opinion or for the removal of differences or disputes." To the same effect see also 15 C.J.S. 819, note 22. In State v. Clemmons, 155 C.A.2d 64, 314 F.2d 142, text 146, the California Dist. Ct. of App., 2nd Dist., held that a "round table conference" is a "meeting of a group for discussion, deliberation and discussion upon questions of mutual interest, a sort of debate, where no precedence in rank can be indicated, for the purpose of free discussion." A legislative conference committee consists of committees appointed by each house of a legislative body, when they are unable to agree on a pending measure, who meet together for the purpose of points of difference, discuss points of difference and harmonize conflicting views and arrange a compromise acceptable to both houses; see Black's law dictionary, 4th Ed. The Merriam Webster dictionary, 2d Ed., defines "conference" as the "act of consulting together formally; serious conversation or discussion; interchange of views . . ."

Although we find a statement in some of the authorities that a conference may consist of a "meeting for consultation, discussion or interchange of opinions, whether of individuals or groups," (Emphasis supplied.) we doubt that this statement refers to a meeting between 2 or even 3 or 4 individuals. Reference is often made to a meeting of a board of directors, not to a conference of a board of directors. We refer to a meeting of stockholders, not to a conference of stockholders, of a corporation. See also the definition of a "meeting" collected in 27 Words and Phrases, Perm. Ed., 3-6, and the definition of a "meeting" in Black's law dictionary; also in 57 C.J.S. 1044. In §112.061(6) (a)1., and (b)1., F. S., reference is made to attending "a convention or conference" which will serve a direct public purpose, etc., said words being used together and not with other terms of the same general nature. Under the rule of "noscitur a sociis" words associated with each other or connected with each other in a statute lend color to each other in their construction. This being true, the words "convention" and "conference," as used above, are words of comparative meaning. A convention is the gathering of a group of a political nature and is probably a word of more magnitude than a "meeting." A convention may be compared to a conference, and is a meeting for the interchange of ideas, or opinions, for the purpose of deliberation, and for the consideration and removal of differences, through discussion and otherwise.

The members of the commission when meeting as a body, not less than a majority of the commission (8 members) present and acting, would appear to constitute a "conference" within the purview and intention of §112.061(6) (b)1., F. S. The membership of this commission is fairly well-spread throughout the state, making it reasonably necessary that meetings be held so as to be reasonably accessible to all of the members. This points up the need for conferences when the commission is meeting as a whole. The word "meeting" seems to have a similar meaning, for example, a meeting of a board of directors or other group; such meetings are often of members from a limited area, as a meeting of county commissioners and similar groups. Smaller groups of larger groups are sometimes referred to as a meeting, for example, the meeting of committees of legislative and other groups. We entertain doubt that a meeting of less than a quorum of the commission may be said to be a "conference."

The preliminary paragraph of §112.061(6), F. S., is as follows: "For purposes of reimbursement rates and methods of calculation, per diem and subsistence allowances are divided up into the following groups (out-of-state, in-state, etc.) and maximum rates to be determined by the
agency head." This seems to give the agency head authority to reduce the maximum rate mentioned in the statute, if he deems that there is reasonable reason for making such a reduction and that the reduced rate would be adequate reimbursement. We also feel that the agency would also be authorized, by a majority vote, to make such reduction or direct its agency head to do so. Any such reduction of rates should be reflected by the minutes of the agency or an order of the agency head.

In the light of the above and foregoing authorities and discussion, we are inclined to the view that:

1. General meetings of the members of the commission (not less than a quorum thereof) constitute a "conference" within §112.061(6)-(b)1., F. S.

2. Meetings of committees, except committees of the whole, for the purpose of studying matters assigned to them (unconnected with regular commission meetings) do not seem to be conferences within §112.061-(6)(b)1., F. S., and per diem should not be paid in accordance therewith, but under the applicable subparagraph.

066-12—March 2, 1966

EDUCATION
NONPUBLIC SCHOOLS, CLASSIFICATION AND ACCREDITATION

To: Floyd T. Christian, Superintendent of Public Instruction, Tallahassee

QUESTION:

Does the state board of education have authority to prescribe standards for the classification and accreditation of nonpublic schools?

I have carefully examined Chs. 228-238, F. S., which, together with applicable population, special and local acts, and other general laws which may have application to school matters, comprise "The Florida School Code." I find nothing in any of such laws specifically granting to the state board of education any "authority to prescribe standards for the classification and accreditation of nonpublic schools."

Apparently the only authority in Florida law prescribing such standards is contained in Ch. 247, F. S., which establishes the "Board of Private Education." This chapter is limited in its application to "private schools" (as defined therein) voluntarily requesting a certificate of approval from such board, and purports to establish "those minimum standards necessary to insure that any school meeting such standards offers a minimum satisfactory education."

Your question is answered in the negative.

066-13—March 2, 1966

INSURANCE
FOREIGN INSURER—REGIONAL HOME OFFICE CONSTRUCTION OF TERM "SUBSTANTIAL OCCUPANCY"

To: Broward Williams, State Treasurer and Insurance Commissioner, Tallahassee

QUESTION:

What is meant by the term "substantially occupied" as appears in §624.0312, F. S., 1965?

Section 624.0312, F. S., authorizes certain exemptions and credits against the premium taxes imposed on insurers by §§624.0307 and