

county port authority or municipal authority or any airports under their control.

On the basis of the foregoing, it would seem that §330.29, *supra*, and the statutory sections therein cited, as presently existing, provide no statutory authority for the Department of Transportation to adopt or enforce its regulation 14-60.09, and that legislation to clarify this matter would be desirable.

#### AS TO QUESTION 3:

It goes without saying that a state agency should not continue to enforce a regulation that it had no authority to adopt; and, as noted by you, if there is a reasonable doubt as to the lawful existence of a particular power that is being exercised by an administrative agency, the further exercise of that power should be arrested. *State v. Atlantic Coast Line R. Co.*, 47 So. 696 (Fla. 1908).

073-490—December 27, 1973

### SURETY BONDS

#### INDIVIDUAL RATHER THAN COLLECTIVE BOND REQUIRED OF TRUSTEES OF HISTORIC PENSACOLA PRESERVATION BOARD

*To: Richard (Dick) Stone, Secretary of State, Tallahassee*

*Prepared by: Michael Parrish, Assistant Attorney General*

#### QUESTION:

May a "blanket bond" be used in lieu of the individual surety bond required of each member of the Historic Pensacola Preservation Board of Trustees by §266.103(2), F. S.?

#### SUMMARY:

A "blanket bond" may not be used in lieu of the individual surety bond required of each member of the Historic Pensacola Preservation Board of Trustees by §266.103(2), F. S.

Section 266.103(2), F. S., requires that *each* member of the Historic Pensacola Preservation Board of Trustees "give a surety bond in the sum of five thousand dollars . . . conditioned upon the faithful performance of *his* duties." (Emphasis supplied.) It is clear from the language chosen by the legislature that it intended that each individual member give a bond personal to himself and conditioned upon the performance of his own duties. This intent is further reflected in §113.07(3), F. S., which makes the filing of the bond a qualification for office by providing that no official required to give such a bond "shall be qualified to hold office or perform the duties thereof" until the bond is filed. *See also* §113.05, F. S., which prohibits the issuance of a commission to a person who is required "to give bond" until such bond is duly executed, *approved*, and filed.

In an informal letter dated April 5, 1972, I reached a similar conclusion with respect to the statutory bonding requirements for deputy sheriffs, which appear at §30.09(1), F. S., and are substantially the same as the pertinent provisions of the statute in question. There I stated:

It is my opinion that, in the statute as written, the legislature did not contemplate blanket bonds for deputy sheriffs. Therefore, each deputy sheriff . . . is required to enter into and give a separate performance bond as provided by law, and such bond so entered into by each deputy . . . must be filed by him . . . and must be *ap-*  
*proved.* . . .

It is a well-settled rule of statutory construction that a legislative direction as to the manner in which a thing is to be done impliedly prohibits its being done in any other way. *See* *Murphy v. Barnes*, 3 So. 433 (Fla. 1888), *State v. Yeats*, 77 So. 262 (Fla. 1917); *Alsop v. Pierce*, 19 So.2d 799 (Fla. 1944). *Accord*: Attorney General Opinions 072-330 and 070-150. The application of this rule to a legislative directive that "[e]ach member shall give a surety bond" would seem to prohibit the use of a blanket bond covering all of the members.

073-491—December 27, 1973

**MUNICIPAL HOME RULE POWERS ACT  
REFERENDUM NEED TO CHANGE CITY'S NAME**

*To: James H. Thompson, North Port Charlotte City Attorney, Englewood*  
*Prepared by: Jan Dunn, Assistant Attorney General*

**QUESTION:**

Is a referendum of the electorate required in order to change the name of a municipality?

**SUMMARY:**

Approval by a majority of the electors voting in a referendum is necessary in order to change the name of a municipality under Ch. 73-129, Laws of Florida (§§166.021 and 166.031, F. S.).

Under the Municipal Home Rule Powers Act, Ch. 73-129, Laws of Florida, the following municipal charter subjects may not be changed without approval by referendum of the electorate:

. . . the creation or existence of a municipality, the terms of elected officers and the manner of their election, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees . . . . [Section 166.021(4), F. S.]

The name of a municipality is an inherent part of the city's creation and existence. As such, approval by a majority of the electors voting in a referendum would be necessary in order to change it. Such referendum would be initiated as provided in §166.031, F. S.—by either an ordinance enacted by the city council or a petition signed by 10 percent of the registered electors.