

**ADJUTANT GENERAL:** Whether members of the Indiana State Guard are exempt from paying poll tax.

**POLL TAX:** Whether members of the Indiana State Guard are exempt from paying same.

October 7, 1941.

Mr. J. D. Friday,  
The Acting Adjutant General,  
State House,  
Indianapolis, Indiana.

Dear Sir:

This will acknowledge your letter of October 2 requesting an official opinion on the question of whether or not the members of the Indiana State Guard are exempt from paying poll tax. Your question requires an examination and construction of Sec. 45-1210 Burns' Indiana Statutes Annotated which provides as follows:

"Every officer and enlisted man of the active militia shall be exempt from service on any jury in any court of this state and from the payment of any poll and road-tax; and in case of an officer, his commission, and of an enlisted man, a certificate of his commanding officer, shall be sufficient evidence that he is so exempt, and any citizen who shall have performed duty in any military organization of the national guard of the state, for a period of six (6) years, and has been honorably discharged, shall be exempt from serving as a juror in any court of the state."

For an exhaustive study of almost the identical question except that it referred to the Indiana National Guard, I call your attention to Opinions of the Attorney General for the year 1937, at page 640. In that opinion, the then Attorney General held that the provisions of Sec. 45-1210, *supra*, were in effect and that *active militia* was exempt from paying poll tax. The opinion also contained a definition of "active militia" by referring to Sec. 45-103 Burns' Indiana Statutes Annotated 1933, the first part of which section reads as follows:

"The active militia shall consist of such able-bodied male citizens between the ages of eighteen and forty-five years, as may be enrolled, organized and mustered into service of the state as hereinafter provided. \* \* \*"

With this broad definition in mind, it is clear that the Indiana State Guard, created and established by Chapter 193, Acts of 1941, falls within the category of active militia and especially since it is apparent that the Indiana State Guard, though distinct from the National Guard, does constitute a unit enrolled from the sedentary militia and acting with complete authority as military forces of the State Government.

It is therefore my opinion that Sec. 45-1210, *supra*, exempts active militia from the payment of poll tax and that members of the Indiana State Guard are to be considered active militia of the State.

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**BOARD OF ACCOUNTS: STATE EXAMINER: Whether cities may make appropriation to pay premiums on insurance to cover their liabilities under Chapter 71 of the Acts of 1941.**

**Liabilities of cities under Chapter 71 of the Acts of 1941 must be paid out of the general fund.**

October 9, 1941.

Hon. Otto K. Jensen,  
State Examiner,  
Department of Inspection and  
Supervision of Public Offices,  
Indianapolis, Indiana.

Dear Mr. Jensen:

I have before me your request that an official opinion issue in response to the following inquiry:

“May cities make appropriations and pay premiums on insurance to cover their liabilities under the provisions of Chapter 71 of the Indiana Acts of 1941, page 184?”

Chapter 71 of the Indiana Acts of 1941 (9 Burns' Indiana Statutes, 1941, Cumulative Supplement, 48-6168) requires any city which maintains a paid fire department and police department to pay for the care of any fireman or policeman who suffers an injury while performing his duty or who contracts illness or disease caused by the performance of such duties.

The first sentence of Section 1 of Chapter 71 of the Acts of 1941 provides: