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.

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:
"That any city which maintains a paid fire department and police department shall pay for the care for any fireman or policeman, who suffers an injury while performing his duty" etc. (Our italics.)

Significantly the final clause of Section 2 of the Act provides:
"** such expenditures to be paid from the general fund of any such city." (Our italics.)

The express language of the statute indicates that the expenditures are to be paid by the city and from its general fund. Your inquiry is, therefore, answered in the negative.

Until such time as Chapter 71 of the Acts of 1941 has been amended to authorize the procurement and maintenance of insurance to cover the contingent liabilities under that Act, Indiana cities are not authorized to make appropriations and to pay premiums for such purposes.

BOARD OF ACCOUNTS: State Examiner: Re: Chapter 107 of the Acts of 1941—whether election as to benefits may be made after the date of retirement.

October 10, 1941.

Mr. R. P. Freeman, Secretary,
Field Examiners Retirement Board,
Dept. of Inspection and Supervision
of Public Offices,
Indianapolis, Indiana.

Dear Mr. Freeman:

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

"Is a field auditor, eligible to retirement under the provisions of Chapter 107 of the Acts of 1941, who desires to elect to receive in lieu of benefits to which he otherwise would be entitled a joint and last survivor income, required to make such election at or before the date of his retirement?"

The ninth literary paragraph of Section 7 of Chapter 107 of the Indiana Acts of 1941 (at page 289) reads as follows: