

CIVILIAN EMPLOYEES:
SOCIAL SECURITY:

Civilian employees of the National Guard, who are paid by the Federal Government, are not subject to coverage under the State Social Security Law.



December 22, 1953

Honorable Newton Atterbury
Comptroller and Budget Director
Department of Revenue
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your request:

"We have been presented with a question concerning the civilian employees of the National Guard.

"Are the civilian employees State employees or Federal employees?

"In order to give you some of the background, Don Guffey was present at a meeting with the financial officer of the National Guard, General Sheppard, along with Mr. Moore and Mr. Meyer of this office, when we discussed the possibility of these employees being State employees and subject to coverage under the State Social Security program. These employees are paid directly by the Federal Government, however, are hired and supervised by General Sheppard of the Adjutant General's Office."

It would appear that your inquiry as to whether civilian employees of the National Guard were state or federal employees is made to determine whether such employees are "subject to coverage under the State Social Security Program." Therefore, if we answer the question whether civilian employees of the National Guard are subject to coverage under the State Social Security Act, we will have determined the matter of your inquiry.

On July 21, 1951, this department rendered an opinion, a copy of which is enclosed, to Honorable Marion Spicer, Clerk of the Supreme Court of Missouri, which opinion held:

Honorable Newton Atterbury

"Since the members of the State Board of Law Examiners do not receive their remuneration from the State, they are not covered under the provisions of Senate Committee Substitute for Senate Bill #3.

"We are further of the opinion that the executive director of the Missouri Bar and the General Chairman of the Advisory Committee not being officers or employees of the State or any political subdivision thereof, or any instrumentality of either of them, cannot be covered under the provisions of Senate Bill #3."

We direct particular attention to page 4 and to the first and second paragraphs of page 5 of this opinion. It will be noted (p.4) that, in holding that the State Board of Law Examiners are not covered by the provisions of old age and survivors insurance law, the opinion laid down the principle that "unless an individual is receiving his remuneration from the state, he is not covered by the agreement entered into with the Federal Security Administrator, as an employee of the state, for the state would have no way of collecting the contributions imposed by this act."

In view of your statement that the employees in question are "paid directly by the Federal government", and not by the state, we believe that this principle would apply in this instance.

CONCLUSION

It is the opinion of this department that civilian employees of the National Guard, who are paid by the Federal Government, are not subject to coverage under the State Social Security law.

The foregoing opinion, which I hereby approve, was written by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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