MISSOURI NATIONAL GUARD:  Civilian employees of the Missouri National Guard may join labor organizations under the provisions of Section 105.510, but the organization may not enter into a collective bargaining contract binding on the state.

LABOR ORGANIZATIONS:

PUBLIC EMPLOYEES:

COLLECTIVE BARGAINING:

OPINION NO. 285

December 10, 1968

Major General L. B. Adams, Jr.
Adjutant General of Missouri
Broadway State Office Building
Jefferson City, Missouri

Dear General Adams:

This is in reply to your request for an opinion concerning whether or not the "Association of Civilian Technicians, Inc." is a labor organization and whether or not civilian employees of the Missouri National Guard may join labor organizations under the provisions of Section 105.510, RSMo Cum. Supp. 1967.

The above cited section reads as follows:

"Employees, except police, deputy sheriffs, Missouri state highway patrolmen, Missouri national guard, all teachers of all Missouri schools, colleges and universities, of any public body shall have the right to form and join labor organizations and to present proposals to any public body relative to salaries and other conditions of employment through the representative of their own choosing. No such employee shall be discharged or discriminated against because of his exercise of such right, nor shall any person or group of persons, directly or indirectly, by intimidation or coercion, compel or attempt to compel any such employee to join or refrain from joining a labor organization."

This section gives public employees generally the right to form and join organizations although it has been held that under the Missouri Constitution, Article I, Section 29, public employees may nevertheless not enter into a collective bargaining contract which will be binding on the State of Missouri. City of Springfield vs. Clouse, (1947), 206 S.W. 2d 539, 545. This statute excludes certain types of officials such as police, sheriffs, highway patrolmen and "Missouri national guard", which latter term in our judgment reasonably means only Missouri National Guardsmen. Therefore, civilian employees are authorized under such section to form and join labor organizations and to present proposals to a public body relative to salaries and other conditions of employment through the representative of their own choosing.
Major General L. B. Adams, Jr.

We enclose copies of Opinion No. 68, Garrett, 5/6/66 and Opinion No. 373, Thompson, 10/17/67 which explain the procedures which public employees who are members of unions must follow in dealing with their public employer.

It thus appears that a civilian employee of your organization whether paid exclusively from state funds or partly from federal funds could, as far as the State of Missouri is concerned, join a labor organization under the terms of Chapter 105, supra, although such organization could not enter into a collective bargaining contract binding on the state but must follow the procedures outlined in the enclosed opinions.

We recognize that many of your employees occupy a dual status, i.e., they work as civilians and also hold National Guard status. These individuals may form unions where such participation is limited to their civilian jobs and functions. However, the union may not represent such individuals in their National Guard capacity dealing with wages, hour and conditions of employment while serving on duty with the Missouri National Guard.

CONCLUSION

It is the opinion of this office that civilian employees of the Missouri National Guard may join labor organizations under the provisions of Section 105.510, RSMo Cum. Supp. 1967, but may not enter into a collective bargaining contract binding on the state.

The foregoing opinion, which I hereby approve, was prepared by my assistant, William L. Culver.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

Enc.: Op. No. 68; Garrett; 5/6/66
Op. No. 373; Thompson; 10/17/67