



OFFICE OF THE ATTORNEY GENERAL

STATE OF ILLINOIS
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Jim Ryan

ATTORNEY GENERAL

FILE NO. 98-025

STATE MATTERS:

Use of Funds in the Armory Rental Account

Richard G. Austin
The Adjutant General
Department of Military Affairs
1301 North MacArthur Boulevard
Springfield, Illinois 62702-2399

Dear Adjutant General Austin:

I have your letter wherein you inquire whether funds in the Armory Rental Account established pursuant to section 65 of the Military Code of Illinois (20 ILCS 1805/65 (West 1996)) may be expended to pay for State membership in the National Guard Association of the United States (NGAUS). For the reasons hereinafter stated, it is my opinion that such funds may properly be used for those purposes.

Section 65 of the Military Code of Illinois provides:

"Subject to such reasonable regulations as may be promulgated by The Adjutant General, the use and rental of armories may be permitted for any reasonable and legitimate civilian activities so long as such activities do not interfere with their use for

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military purposes. Proceeds received from rentals, above the expenses incident to such use will be placed in an 'Armory Rental Account' by The Adjutant General and used for recruiting, athletic, and recreational activities and other purposes on a per capita basis in the interest and for the benefit of the personnel of the Illinois National Guard."

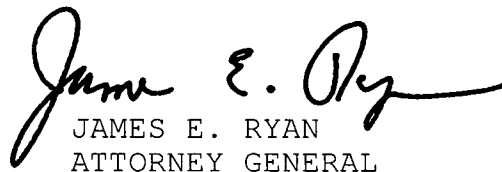
A statute authorizing the rental of armories and the use of proceeds for the benefit of members of the militia was first enacted in 1931. (Laws 1931, p. 891.) The statute provided that rental proceeds could be used for "recruiting, athletic and recreational activities and other purposes in the interest and for the benefit of the members of the company or companies at the particular armory". The statute was recodified and amended in 1957 to essentially its current form. (Laws 1957, pp. 2141, 2151.)

NGAUS is a national association of State National Guard organizations and individual members. Its objectives include educating the public regarding the role and purpose of the National Guard, and promoting the interests of the National Guard both to the public and before Congress and agencies of the Federal government. (By-Laws adopted September 7, 1995, art. II, sec. 2.) State membership dues are computed on the basis of 25¢ annually for each member of the National Guard in the State on September 30 of the preceding year. (By-Laws, art. XI, sec. 2.)

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The issue, therefore, is whether State membership in NGAUS serves to benefit "recruiting, athletic, and recreational activities and other purposes on a per capita basis" for members of the Illinois National Guard. Among the public educational functions of NGAUS is the encouragement of membership in the National Guard. (By-Laws, art. II, sec. 2.) Further, the promotion of National Guard interests before Congress and Federal agencies, including advocacy for pay and benefits for service members, clearly serves the interests of Guard personnel. Because membership dues are based upon the number of members of the Guard in the State, the funds will be expended on a "per capita" basis, for purposes of section 65 of the Code. Lastly, there appears to be no statutory or constitutional impediment to the use of the Armory Rental Account funds for the purposes of NGAUS. Therefore, it is my opinion that funds in the Armory Rental Account may properly be used to pay State membership dues to NGAUS.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL