



Labor Update No. 126 Nov. 12, 2021

This bulletin contains information on law changes that have either passed, or are being discussed, in parliament, court decisions, and other labor issues in Japan that are of interest to activists.

1. Law/Policy

(1) Supplementary budget for coronavirus measures aimed for by end of year: Chief Cabinet Secretary

In regard to coronavirus (COVID-19) pandemic measures, Prime Minister Kishida last month directed administration officials to draw up new economic measures and compile a supplementary budget proposal for this year.

Concerning this, Chief Cabinet Secretary Matsuno explained in a press conference that “The various ministries are currently in the middle of discussing details and going through the necessary steps, so I cannot yet give details about the scale or contents. But in order to give support to those heavily impacted by COVID-19, we intend to make a speedy decision on economic measures and submit a supplementary budget proposal, with the aim of passing it by the end of this year.”

(2) “Urgent Proposal: Towards the Beginning of a “New Capitalism” to Open a Path to the Future”: Nov. 8, 2021: New Capitalism Council

https://www.cas.go.jp/jp/seisaku/atarashii_sihonsyugi/kaigi/dai2/shiryoku2.pdf

(3) Subsidy special measures to be reduced after New Year; government to continue them until March for companies in trouble

In connection with the Employment Adjustment Subsidies (in which the government covers part of the cost for companies to pay leave-of-absence allowances and keep their workers employed), the government has settled on a decision to reduce the special subsidy measures that were enacted against COVID-19: the cap on daily per-worker subsidy amounts will be lowered in stages starting in January next year. The subsidy rate, on the other hand, will be maintained as-is until the end of March. For those companies that are located in areas of spreading infection, or are in financial difficulty, the daily cap will also be maintained at current levels through March.

The current cap is set at ¥13,500 per day. The plan is to lower this to ¥11,000 for January and February of next year, and then to ¥9,000 starting in March.

2. Legal Violations/Disputes

(1) Popular cake shop “squeezing will to work out of us”: overtime of more than 100 hours becomes commonplace--no improvement even after citation

The company that operates popular cake shop “Pâtissier S Koyama” (Mita, Hyogo) has received citations twice in the past three years from the Itami Labor Standards Inspection Office (LSIO), it has become known. The citations are for violating the Labor Standards Act by making employees work more than 100 hours’ overtime per month, over the so-called “*karoshi* line” (*karoshi*=death from overwork). The company made no improvements after receiving the first citation. The LSIO believes that overly long work hours have become the norm at this company.

(2) Indictment sent to Kyoto district prosecutor: charges of falsifying Labor Bureau document

The Kyoto district prosecutor’s office has accepted a bill of indictment against a Kyoto Labor Bureau official for producing falsified public documents. The accusation is that, when a man in his 30s with a mental disability who worked for Kyoto Shinkin Bank filed a complaint of workplace harassment, the official, who was in charge of the case, composed a report with details altered.

According to the bill of indictment, the man filed his complaint in August of 2017. The official in charge drew up a written report of the course of events based on the man’s complaint. But in October of that year, the accusation says, he rewrote the document with the time of reporting deleted, among other things, and submitted this to the department.

(3) “Fake subcontracting” found at Toli: direct employment by *de-facto* system--Osaka Superior Court verdict

Workers engaged in manufacturing building materials for major house-building materials company Toli (Itami, Hyogo) were in a “fake subcontracting” (*gizo ukeoi*) situation, according to an appeal verdict handed down on the 4th by the Osaka District Court. The court overturned the previous ruling by the Kobe District Court, which had found the case not to constitute “fake outsourcing”, recognized that there was in fact a direct employment relationship with the company, and ordered back-payment of wages.

The five plaintiffs were employees of a company that had an outsourcing contract with Toli. They were engaged in manufacturing and quality control of building materials at Toli’s factory. In 2017 the contract between the two companies ended, and a different dispatching company took over the work. The five workers, having lost their jobs, sued for recognition of their direct employment relationship with Toli.

The verdict on appeal recognizes, based on the fact that the five took orders at work directly from Toli, and that the outsourcing company did not keep track of their labor

situation at all, that “it cannot be confirmed that there was any real situation of outsourcing; rather, they were in a condition of fake outsourcing”.

Additionally, the ruling points out that, if the company “is seen continuing the state of fake outsourcing on a regular basis”, then it will be considered that they knowingly engaged in the fake contracts, and a “*de-facto* system” would apply (meaning workers would be considered employees). Recognizing that Toli has continued engaging in fake outsourcing ever since dispatch was forbidden for the manufacturing industry in 1999, the court concludes that the five can be considered to have applied for direct employment.

(4) Union of “freelance” transport-industry drivers send demands seeking improved treatment

A union made up of drivers and others working as “freelancers” in the transport industry has submitted demands for improvement in treatment to the Ministry of Health, Welfare and Labor (MHWL), saying that, with increased demand due to the effects of the pandemic, they are being made to work long hours for low pay.

With the effects of COVID-19 causing increased demand, the number of drivers working “freelance” (without employment contracts, and not covered by labor laws such as the Labor Standards Act) has been rapidly increasing in order to fill a labor shortage.

Meanwhile, the union has been repeatedly hearing consultations such as “even when the amount of cargo doubles, the pay per day doesn’t change”; “I’m forced to work long hours for low pay”; and “Our position is weak, so it’s hard to ask for raises”.

Therefore the union, on behalf of drivers who work freelance, has sent demands to the MHWL as well as to the Ministry of Economy, Trade and Industry (METI), seeking improvements such as a maximum limit for on-duty hours, in principle, of 11 hours per day; a guarantee of adequate break time; and elimination of unpaid wages, unilateral termination of contracts, etc.

3. Situation/Statistics

(1) All seats decided in lower house election: LDP “overwhelming majority”, *Ishin* becomes third-largest party

The distribution of all 465, including both the single-member districts and the proportional-representation seats, has been decided in the House of Representatives election.

The Liberal Democratic Party, despite losing some seats compared to the 276 they had before the election, still did win 261 seats, a so-called “overwhelming majority” enabling them to govern without other parties.

The Constitutional Democratic Party also lost seats, falling below 100.

Nippon Ishin no Kai, on the other hand, won nearly four times as many seats as they

had before the election, making them the third-largest party in the Diet.

- ✧ The LDP, including the two candidates it additionally endorsed, gained 189 small-district seats and 72 proportional seats for a total of 261.
- ✧ The CDP won 57 small-district seats and 39 proportional, for a total of 96 seats.
- ✧ *Komeito* won 9 small-district seats and 23 proportional-representation seats, making a total of 32.
- ✧ The Communist Party gained one small-district seat and 9 proportional for a total of 10 seats.
- ✧ *Nippon Ishin no Kai* gained 16 small districts and 25 proportional-representation seats, adding up to 41.
- ✧ The Democratic Party for the People (DPP) won 6 small-districts and 5 proportional, making 11.
- ✧ *Reiwa Shinsengumi* won three proportional-representation seats.
- ✧ The Social Democratic Party (SDP) won one single-member small district.
- ✧ Independents won 10 small districts.

This means that the LDP, though having fewer than the 276 seats they had before this election, still were able to secure a so-called “overwhelming majority”, enabling them to nominate the heads of all 17 regular committees of the lower house, as well as secure a majority of committee members.

Komeito gained 3 seats more than they had before the election.

On the other hand, the CDP, the largest opposition party, lost seats, not only having fewer than the 109 they had before, but even dropping below 100 seats.

The Japanese Communist party (JCP), which had nominated candidates jointly with the CDP, lost 2 seats compared to before.

Nippon Ishin no Kai secured nearly four times the number of seats they had before, making them the third-largest parliamentary party after the LDP and CDP.

The DPP gained 3 more seats than before, while *Reiwa Shinsengumi* gained 2.

For the first time, the SDP failed to win any proportional-representation seats.

Proportional Representation Seats Won by Each Party

The number of these seats won by each party, out of a total 176, was as follows:

- ✧ The LDP gained 72 seats, an increase over the 66 they captured in the election four years ago.
- ✧ The CDP took 39 seats.
- ✧ *Komeito* won 23 seats, two more than before.
- ✧ The JCP got 9 seats, two fewer than before.
- ✧ *Nippon Ishin no Kai* won 10 seats, more than the LDP, in the Kinki Bloc; overall nationwide, they took 25 seats, which is more than three times the number they had before.

- ◇ The DPP won five seats.
- ◇ *Reiwa Shinsengumi* took three seats.

(2) World COVID deaths top 5 million; “pandemic far from over”--WHO

According to Johns Hopkins University (U.S.), the number of deaths worldwide from COVID-19 reached over five million as of November 1 (Japan time). This number hit four million at the start of July, and has grown by a further million in the four months since. Even as vaccination proceeds, the virus mutates and spreads again, and the number of victims remains high: this is the harsh reality the world faces.

Since January of this year, the number of deaths has risen by about one million every three months. The number of deaths per week, which had been decreasing since mid-August, in October began to go up again along with the number of infections. An especially severe state of affairs is being seen in Russia, which lags in vaccinations, as well as certain other parts of Europe. In response to the virus spreading again after two months’ lull, World Health Organization (WHO) Director-General Tedros called on October 28 for people to be on guard, saying “the pandemic is far from over”.

According to Johns Hopkins, the country with the highest number of deaths was the United States with approximately 750,000. Next is Brazil with about 610,000, then India (460,000), Mexico (290,000) and Russia (230,000).

(3) August welfare applications number over 19,000; four months in a row higher than corresponding months of last year

As the effects of the COVID-19 pandemic continue to drag on, the number of applications for welfare benefits in August of this year reached just over 19,000. This was 10% more than the same month of last year. It is the fourth month in a row that the number of applications has been higher than that of the corresponding month last year.

In August of this year, welfare benefits began being received by 16,139 households. This number, too, is 9.3% higher than in August last year.

The total number of households receiving welfare benefits in all of Japan is 1,640,648. This, too, is an increase of about 5,200 households compared to the same period of last year.

“Welfare Recipients Survey (Estimated Figures, August, Reiwa 3 [2021])” Nov. 11, 2021, MHWL Social Welfare and War Victims’ Relief Bureau, Public Assistance Division

<https://www.mhlw.go.jp/toukei/saikin/hw/hihogosya/m2021/dl/08-01.pdf>