



Labor Update No.74 November 15, 2019

***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.***

## Law/Policy

### MHWL does test calculations for expanding *Kosei Nenkin* to part-timers: company sizes "above 50", etc.

The Ministry of Health, Welfare and Labor (MHWL), which is considering expanding eligibility for *Kosei Nenkin* (employees' pension) to include part-timers among others, has compiled statistics on what might happen in case the company size criterion--currently "501 employees or more"--were lowered to "over 50", "over 20", or even eliminated. Their plan is to show the data soon to the governing party as a basis for discussion of reforming the system.

According to the statistics, if the company-size requirement were lowered to "over 50 employees", the number of people enrolled would increase by 650,000. With the increase in pension premium revenue, pension amounts in the future would go up by 0.3 percentage points compared to continuing under the current criteria. If lowered to "over 20 employees", this would increase the number enrolled by 850,000 and the pension amounts by 0.4 points, while eliminating company size as a condition altogether would increase the numbers by, respectively, 1,250,000 people and 0.5 points.

### Immigration Agency and MHWL consider penalties for companies that failed to pay interns

In connection to the foreign technical internship system, it has come to light that yet again multiple companies have been failing to pay interns their wages or overtime pay, or making them do excessively hard labor. The Immigration Agency and the MHWL are discussing taking administrative measures against these companies, on the grounds that they have violated the Technical Internship Law.

In 2017, a company in Tokushima was paying less than the specific minimum wage. The amount of unpaid back wages, for 16 people, added up to a total of 4 million yen. A company in Nara that same year set their own base pay for interns at just 60,000-70,000 yen per month, and then did not pay the wages or overtime that were decided on. The unpaid back wages added up to 9 million yen, for three interns. The overtime was over 80 hours per month on average, and more than 100 hours in busy months.

A company in Toyama in 2018 made interns work 80 hours a month of overtime beyond what was in the internship plan for several months. To prevent the illegality

from being found out, they also kept no records of work on holidays. A company in Gunma failed to pay four people's wages, a total of about 500,000 yen. There was even a company that made an intern operate a forklift without a license, resulting in an injury.

## **Legal Violations/Disputes**

### Monthly pay cut in order to introduce end-of-year bonus: "better conditions still far away"

"With our monthly pay cut, we won't be able to live". So said the anguished voice of a woman who works as a non-regular employee for a municipal government in Fukuoka Prefecture. These days one in three city and town government staff are in non-regular employment (part-time etc.). Many of these staff work in childcare, at libraries, or other jobs dealing directly with city or town residents. The reality is that public services could not be kept going without non-regular staff.

The non-regular staff system in local governments will see a big change in April next year. With the amendment to the Local Government Act, municipalities will become able to pay bonuses. Pay raises based on years of experience will also become possible. The aim of this was to improve the treatment of non-regular employees in the public sector, who have been noted to see worse disparities than the private sector where "equal pay for equal work" is in progress.

It is the various cities and towns that are to decide the details of pay scale, etc., and the designing of systems is reaching its final stages. Fukuoka City will provide a year-end bonus of 2.6 months' worth, the same as for regular staff. On the other hand, some staff will see their monthly pay go down by as much as 30,000 yen. A spokesperson for the city explains that "we compared the contents of their duties to those of regular staff in choosing an appropriate pay amount. In terms of yearly income, we will make sure this does not go below what it was before the amendment". In other words, in exchange for providing a bonus, they are cutting the monthly pay to keep the overall yearly amount the same.

On top of this, in order to stem rising personnel costs, many municipalities are cutting full-timers down to part-time, setting starting pay lower than that for regular staff, or limiting pay raises.

The municipalities also have their own circumstances to consider. With administrative reform demanding personnel cuts, the workload continues to increase. They have stayed out of trouble by increasing the number of non-regular employees, who cost less. Now, there was supposed to be an "improvement in conditions" with the national government taking the lead. But less than six months before the start, no specifics have yet been as to how this will be funded.

Voices from local government have been heard to say that "when we are told to improve conditions without being shown any funding for it, there are limits to what we can do". But a spokesperson for the Interior Ministry explains only that "subsidies are still under consideration".

Moreover, the number of non-regular staff in municipal governments is approximately

640,000 (2016 Interior Ministry survey), 40 percent more than in 2005. According to some calculations, if working full-time hours their yearly income on average is about 2 million yen, less than one-third that of regular staff.

Up to 1,000 hours overtime in a year: Kagoshima LSIO gives citation to Kagoshima City Hospital for illegal overtime

Kagoshima City Hospital had 28 employees, including doctors, working illegally long overtime in excess of a labor agreement, according to a citation issued by the Kagoshima Labor Standards Inspection Office.

The labor agreement specified “overtime can be over 45 hours in a month only up to six times in a year”. However, fourteen doctors out of the 28 applicable staff members worked over 45 hours overtime in all twelve months of the year, with at least one case of more than 1,000 hours total for the year.

Woman who was unfairly fired sues company once again, claiming she “was given a further pay cut after the final verdict”

A woman who fought all the way to the Supreme Court over demotion, pay cuts, and firing is now suing again, claiming that “further pay cuts, after the salary was confirmed by the Supreme Court decision, are invalid”. She has filed suit in the Tokyo District Court, seeking 1.42 million yen in back pay, etc., from the company.

After filing the suit, the woman and her lawyer held a press conference at the Judicial Press Club in Kasumigaseki, Tokyo. Concerning her reason for filing this suit, the woman explained that “I’d like people to know that, in labor issues, there are cases where the losing party does not follow the spirit of the ruling, and does not do their part in good faith.”

Boss: “Quit the union, and I’ll cover up your scandal”--JR East group-company employees file for unfair labor practice

A male in his 30s employed at JR Bus Kanto, a member of the JR East group, has along with others filed an unfair labor practice complaint at the Tokyo Labor Commission, saying he was pressured by a supervisor who offered to erase records of the employee’s misconduct in return for his quitting the union. The employees claim this constitutes an unfair labor practice under the Labor Unions Act.

The complaint was filed by the employee and the Mito Regional Headquarters of the East Japan Passenger Railway Union (JR East Union), to which he belongs. According to the written complaint, in November of last year the man was summoned by the supervisor, accused of smoking and talking on the phone while driving a bus back to the depot, and told “submit a paper that meets my satisfaction (a notice of withdrawal from the union). Then I’ll keep this scandal quiet.” The man says he took this as meaning that if he withdrew from the union, the boss would settle his problem quietly. When he asked the reason, he says the supervisor told him “because that’s the company’s policy”.

“There’s no future for you if you join the union”, to union members: Tokyo Labor Commission recognizes unfair labor practice, gives order to Seibu Kanko Bus

The Tokyo Labor Commission has judged that Seibu Kanko Bus committed an unfair labor practice when executives, through a subordinate, pressured union-member drivers to quit the union saying “you’ll have no future”. The Labor Commission has issued the company an order to refrain from repeating such acts.

Four drivers working for the company’s Chichibu branch formed a union at work in September of 2017. Another driver, acting on a request from a deputy manager in the administrative department, told one of the four that “[if you join a union] you’ll have no more future. There’s nothing good about it”, and encouraged him to quit the union.

#### Teachers sue Ueno Gakuen seeking a total of about 2 hundred million yen back pay for unpaid overtime

Twenty-four teachers at Ueno Gakuen Junior and Senior High School, claiming it was unfair for them to have been unpaid for years of overtime work, have filed suit in the Tokyo District Courts against educational corporation Ueno Gakuen, which runs the school, seeking back-payment of five years’ worth of the overtime, a total of approximately two hundred million yen.

The management and teachers at Ueno Gakuen were in conflict over the amount paid to the previous Chief Director (*Rijicho*), among other things. The school corporation, in response to a demand from the Education Ministry (MEXT), released a report from a third-party panel saying the amount of executive pay was “a high amount, and lacking in appropriateness”. The corporation reported to MEXT that they would consider demanding a return of the amount they had lost.

However, the school corporation then, in June of this year, announced that “we had no losses, and will not make any demand for return”. Meanwhile they claim a lack of funds as the reason for paying teachers no overtime for many years.

#### **Situation/Statistics**

#### Australian national soccer: men and women to get equal pay--revolutionary new agreement signed

Football Federation Australia (FFA) announced on the 6<sup>th</sup> that they would be signing a revolutionary contract with players, under which the men’s and women’s national teams would receive the same pay. They hailed it as a monumental step towards gender equality in sports.

FFA and the national team players have signed a new four-year collective agreement, in which the men’s and women’s teams each would receive 24 percent of the national team’s revenue. This amount would increase by one percent each year.

From the homepage of Football Federation Australia (FFA):

<https://www.ffa.com.au/news/historic-cba-close-footballs-gender-pay-gap>

#### Anime creators’ “real conditions survey” released; young creators say “money is tight even for food”, “mentally, physically and financially exhausted”

The Japan Animation Creators Association, an industry group made up of animators and others, has released their “Animation Creators’ Real Conditions Survey Report 2019”. It presents voices from animators working in the supposedly booming industry, saying such things as “it has gradually gotten better, but there is still a wide gap compared to ordinary society” and “don’t burn up young people and throw them away”.

“Animation Creators’ Real Conditions Survey Report 2019” linked below (in Japanese):  
<http://www.janica.jp/survey/survey2019Report.pdf>

#### Yokohama’s partnership system to begin in December

The city of Yokohama has announced that it will start a partnership system, granting official recognition to sexual-minority (LGBT etc.) couples, on December 2.

Both LGBT couples and those in so-called common-law marriages will be eligible for the “Partnership Oath System” to be inaugurated in Yokohama. Couples who swear an oath will be issued with certificates and cards. This system will not have the legally binding force of a marriage relationship, but it is expected to enable people to qualify for such things as family discounts on mobile phone contracts, as well as to live together in city public housing meant for families. Yokohama City began taking telephone and e-mail appointments for the oath on November 12; after receiving people’s submitted documents, they will begin issuing certificates on December 2.

“Yokohama City Partnership Oath System: Guide to Procedures” linked below (in Japanese):

[https://www.city.yokohama.lg.jp/kurashi/kyodo-manabi/jinken/lgbt/yokohamapartnership.files/0002\\_20191112.pdf](https://www.city.yokohama.lg.jp/kurashi/kyodo-manabi/jinken/lgbt/yokohamapartnership.files/0002_20191112.pdf)