

J. Y. Interpretation No.279 ( May 17, 1991 ) \*

**ISSUE:** In the provision of the Labor Insurance Act concerning the premium subsidy provided by the provincial or city government to various categories of those insured with labor insurance, what does the term “provincial (city) government” refer to?

**RELEVANT LAWS:**

Article 5, 6, 8, 9 and 15 of the Labor Insurance Act ( 勞工保險條例第五條、第六條、第八條、第十五條 ) ; Article 7 of the Grand Justices Council Adjudication Act ( 司法院大法官會議法第七條 ) .

**KEYWORDS:**

labor insurance ( 勞工保險 ) , Legislative Power ( 立法權 ) , Judicial review ( 司法審查 ) , premium ( 保險費 ) .\*\*

**HOLDING:** In Article 15 of the Labor Insurance Act, relating to the premium subsidy provided by the provincial or city government to various categories of those insured with labor insurance, the term “provincial (city) government” refers to the city or province whose residents are covered under labor insurance and fall

**解釋文：**勞工保險條例第十五條，有關各類勞工保險費由省（市）政府補助之規定，所稱「省（市）政府」，係指該省（市）有勞工為同條第二款至第四款規定之被保險人者而言，與該省（市）政府是否直接設立勞工保險局無關。

\* Translated by BAKER & McKENZIE.

\*\* Contents within frame, not part of the original text, are added for reference purpose only.

into the categories of (city) government, paragraphs 2 to 4 of the abovementioned Article, and is irrespective of whether such provincial (city) government has set up a Labor Insurance Bureau.

**REASONING:** The Taipei City Council, which submitted this request for interpretation, in its examination of the Taipei City Government's proposed budget, questioned the interpretation of the Council of Labor Affairs, Executive Yuan, in relation to the Labor Insurance Act, which stipulated that the labor insurance subsidy should be included in the annual budget and contended that such interpretation was contrary to Article 5 of the Labor Insurance Act and therefore requested a uniform interpretation pursuant to Article 7 of the Grand Justices Council Adjudication Act.

The Labor Insurance Act in Article 15 provides that the insurance premium of the insured listed in Article 6, Paragraph 1, Subparagraphs 7 and 8; Article 8, Paragraph 1, Subparagraph 4; and Article 9-1, shall be subsidized by the provincial (city)

**解釋理由書：**本件聲請解釋機關台北市議會審查台北市政府預算，認為該府依行政院勞工委員會對勞工保險條例之規定所持見解，編列勞工保險補助預算，與該條例第五條規定不合，聲請統一解釋，依司法院大法官會議法第七條規定，應予受理，合先說明。

勞工保險條例第十五條規定，同條例第六條第一項第七款、第八款、第八條第一項第四款及九條之一所定各類勞工保險費由省（市）政府分別予以百分之二十或百分之四十之補助，旨在減輕轄區內，無一定雇主或自營作業而參

government by 20-40%. The objective of the subsidy is to reduce the burden of insurance premiums on persons with no permanent employer or who are self-employed but are members of a trade union, fisherman's union, temporarily employed marine crew who belong to a marine union or capitals' union, or persons whose employment has been terminated but voluntarily continue to subscribe to labor insurance and whose domiciles are located in the jurisdictions of the provincial (city) government in order to ensure their livelihood and promote the security of society. The provincial (city) government is under an obligation to provide such benefits to laborers.

The so-called "provincial (city) government" is the provincial (city) government whose residents are the insured workers of the abovementioned categories. As to the provision in Article 5 which states that: "prior to the establishment of the Central Labor Insurance Bureau, the nation may be divided into districts, and the provincial (city) government with a larger population of labor in a particular

加職業工會、漁會，參加海員總工會或船長公會為會員之外僱船員，或被裁減資遣人員而自願繼續參加勞工保險等勞工之保險費負擔，藉以保障勞工生活、促進社會安全，係省（市）政府在勞工福利上應負之義務。所稱「省（市）政府」，係指該省（市）有上述勞工參加勞工保險為被保險人者而言。至同條例第五條規定：「在中央勞工保險局未成立前，得劃分地區，委由各該區內勞工人數較多之省（市）政府直接設勞工保險局，辦理勞工保險業務……」係為兼顧現實情況而設，與該省（市）政府是否直接設立勞工保險局無關。

district may establish a labor insurance bureau to undertake (underwrite) labor insurance, “ it is a provision which deals with the practical side of the matter and is unrelated to whether the provincial (city) government should directly set up a labor insurance bureau.

Justice Chien-Tsai Cheng filed dissenting opinion.

本號解釋鄭大法官健才提出不同意見書。