

J. Y. Interpretation No.92 (August 16, 1961) *

ISSUE: Is the Public Functionary Service Act applicable to the board directors and supervisors representing civilian shareholders in a state-owned enterprise?

RELEVANT LAWS:

Article 24 of the Public Functionary Service Act (公務員服務法第二十四條) ; the Act Governing the Management of State-owned Enterprises (國營事業管理法) .

KEYWORDS:

state-owned enterprise (公營事業機關) , directors (董事) , supervisors (監察人) , civilian shareholder (民股) , government employment (公職) .**

HOLDING: The Public Functionary Service Act is applicable to the directors and supervisors representing civilian shareholders in a state-owned enterprise.

解釋文：公營事業機關代表民股之董事、監察人，應有公務員服務法之適用。

REASONING: Article 24 of the Public Functionary Service Act explicitly provides that the Public Functionary Ser-

解釋理由書：公營事業機關服務人員均適用公務員服務法為該法第二十四條所明定，其代表民股之董事監察

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vice Act is applicable to all personnel working for a state-owned enterprise. The directors and supervisors representing civilian shareholders in a state-owned enterprise are personnel working for a state-owned enterprise. Therefore, the directors and supervisors representing civilian shareholders in a state-owned enterprise fall within the scope of government employment (See Interpretations Yuan-tze Nos. 24 and 27). As for Interpretation Yuan-je Tze No. 3486, since it was decided prior to the promulgation of the Act Governing the Management of State-owned Enterprises, it is therefore not applicable to any enterprise whose government capital exceeds 50 percent of the total capital of such enterprise.

Justice Ji-Dong Lin filed dissenting opinion, in which Justice Han Hu, Justice Lu Chu Ger and Justice Jou-Kang Jing joined.

人既係公營事業機關之服務人員，自亦不能除外（參照本院釋字第二十四號及第二十七號解釋）。至本院院解字第三四八六號解釋係國營事業管理法公布前所為之解釋，對於政府資本超過百分之五十之事業自不適用。

本號解釋林大法官紀東、胡大法官翰、諸葛大法官魯與景大法官佐綱共同提出不同意見書。