

J. Y. Interpretation No.101 (May 22, 1963) *

ISSUE: Is the Public Functionary Service Act applicable to a paid board director or supervisor 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) ; J.Y. Interpretation No. 92 (司法院釋字第九十二號) .

KEYWORDS:

directors (董事) , supervisors (監察人) , state-owned organization (公營事業機關) , salary/award (薪俸) .**

HOLDING: J.Y. Interpretation No. 92 provides that the Public Functionary Service Act applies to members of the directors and supervisors of a state-owned organization, who are chosen as directors or supervisors on behalf of a private legal entity. The foregoing applies only to those who receive a salary or award from the state-owned organization.

解釋文：本院釋字第九十二號解釋，所稱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者，係指有俸給之人而言。

* Translated by Wei-Feng Huang.

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REASONING: The abovementioned persons are considered public functionaries. They are thus subject to the Public Functionary Service Act under Article 24 of that Act. However, the application of Article 24 is limited to those who receive a salary or award from the state-owned organization. So if the board member or supervisor of a state-owned organization, who is chosen as a director or supervisor on behalf of the individual shareholders of a private legal entity, does not receive a salary or award from the state-owned organization, Article 24 is inapplicable. The foregoing supplements J.Y. Interpretation No.92.

解釋理由書：查公營事業機關代表民股之董事監察人，既係公營事業機關之服務人員，依公務員服務法第二十四條之規定，自應有公務員服務法之適用。惟該條係以公營事業機關受有俸給之服務人員為限，如代表民股之董事監察人，未受有俸給者，自無該法之適用。本院釋字第九十二號解釋，應予補充說明。