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NO.	FROM	DATE	TO	S Y N O P I S
1	MacCoy	8 Mar 49	Peterson	Draft of the Local Public Service Law
2	B.H.	25 Mar 49	Peterson & MacCoy	Re Local Public Service Law
3	Peterson	2 Ap4 49	Hoover	Local Public Service Law
4	Peterson	18 Apr 49	Hoover	Report of Conference on Local Public Service Law
5	Peterson	9 Jun 49	Hoover	Guidance for Local Autonomy Agency
6	Peterson	21 Jun 49	Hoover	Local Public Service Law
7	Peterson	6 Jul 49	Hoover	Local Public Service Law
8	WPM	14 Jul 49	Hoover	Re Local Public Service Law
9	Hoover	14 Jul 49	Peterson	Local Civil Service Law
10	Suzuki LAA	19 Sep 49	Hoover	The Local Public Service Law (Draft)
11	Peterson	11 Oct 49	M/R	Local Public Service Law
12	Peterson	12 Oct 49	M/R	Agencies to Implement the Local Public Service Law
13	Roser	2 Nov 49		Local Public Service Law
14	Peterson	3 Nov 49	MacCoy	Additional Suggestions for Revision of Local Public Service Law
15	ESS	4 Nov 49		Comments and Criticisms of Proposed Draft of Local Public Service Law
16	Peterson	21 Nov 49	MacCoy	The Local Public Service Law (Draft)
17	Peterson	22 Nov 49	MacCoy	Re Local Public Service Law

22 Nov 49. Local Public Service Law

Felix Wilson 11-28-49

12/9

Mr. McCoy:

1. Mr. Quirino has gotten the work that CSD is standing put on its 45 suggestions and ~~requires~~ is urging that the bill not be cleared until the remaining 2 items be incorporated.

2. Ginka is not clearing the bill without all 45 items included; referred Quirino to you.

3. Ginka has been told that the LPSL will not be submitted to the special session of the Diet, under the circumstances.

4. Quirino has been trying to reach me. The Labor boys feel "double crossed" (Loughran per cotrell) Probable points at issue:

(a) Scope of ~~special~~ public enterprise.
(b) inclusion of laborers in regular service
(c) inapplicability of Labor Standards Law + Mariners Law.

I had stated that (a) was to be left to the Japanese to decide - unless they got way off base. (b) was not mentioned in our 45 comments; only subsequently. In general, I reassured Quirino Friday that our 45 comments were suggestions, not orders.

(1)

22 Nov 49.

Mr. MacCoy:

Mr. Amis wanted us to have a copy of ESS comments on the Local Public Service Law. This one is for your perusal if you are interested. (I have a copy for the files.)

He also wanted reassurance that our 45 comments were given as suggestions and not orders. I so assured him.

THE LOCAL PUBLIC SERVICE LAW (DRAFT) Revised + submitted to CSD thru P&D. 21 Nov '49.

withdrawn by Cabinet 21 Nov '49

Deviations (objectionable areas) from CSD's suggestions:

Art 3 par 3 item (4)
" 15 " 4
" 17 " 1
" 49 " 2 & 3
Supp prov " 4 + 5

? Art 7
? Art 45 par 4

16

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The Local Public Service Law (Draft)

Chapter I General Provisions

(Purpose of this Law)

Article 1

The purpose of this Law is to insure democratic and efficient operation of the public administration of the local public bodies and contribute thereby to the realization of the principle of local autonomy, by establishing basic standards for the personnel administration of the local public bodies, such as their personnel agencies and the appointment, position classification, status and disciplinary punishment, performance of duty, training, compensation and other working conditions, protection of the welfare and interest, and organization, of local public service personnel.

(Validity of this Law)

Article 2

In cases where the provisions of the former laws and orders, or bylaws or regulations concerning local public service personnel (meaning all of the public service personnel of the local public bodies; the same hereinafter) are in conflict with those of this Law, the latter shall prevail.

(Local Public Service Personnel in the Regular Public Service and Local Public Service Personnel in the Special Public Service)

Article 3

The local public service shall be divided into the regular public service and the special public service.

2. The regular public service shall be comprised of all positions in the local public service other than those in the special public service.

3. The special public service shall be comprised of the following positions:

(1) Positions appointment to which requires public election, or the election, resolution or consent of the assembly of the local public body;

(2) Positions of temporary or part-time commissioners, commission members or board members, established by laws and orders, bylaws or regulations;

(3) Temporary or part-time positions of expert advisor or consultant and unpaid positions, as designated by rules issued under this Law;

~~(4)~~ Positions of those persons who are employed for common labor, including garbage disposal workers, cremators, slaughterers, and gardeners;

(4) ~~(5)~~ Positions of those persons who, being jobless, have been employed by the local public bodies for unemployment relief works upon introduction by the public employment security offices, or of those persons who, being jobless, have been employed by the local public bodies for public works, excluding experts, technicians, supervisors and those who take charge of administrative affairs.

(Applicability of this Law) Article 4

4. The provisions of this Law shall be applied to the local public service personnel in the regular public service (hereinafter referred to as the personnel).

2 5. The provisions of this Law shall not be applied to the local public service personnel in the special public service, except for cases specially provided for by law.

(Enactment of Bylaws concerning the Personnel Agencies and the Personnel)

Article ~~4~~ 5

The local public bodies shall provide by bylaw for the establishment of the personnel agencies, the enforcement of standrads applicable to the personnel, and other necessary matters concerning the personnel, in accordance with the basic standards fixed by this Law, except for cases specially provided for by laws or cabinet orders issued thereunder.

However, such bylaws must not be contrary to the spirit of this Law.

2. In the local public bodies which have the personnel commission or personnel commissioner, its or his opinion must be heard in order to enact or amend or abolish the bylaws mentioned in the preceding paragraph.

(Cooperation and Technical Advice of the Local Autonomy Agency)

Article 5

The Local Autonomy Agency may extend its cooperation and technical advice so that the operation of the personnel administration of the local public bodies, including the enactment of the bylaws provided for in the preceding Article, may be in accordance with the principles of good public service to be established by this Law.

Chapter II Personnel Agencies

(Appointing Authorities)

Article 6

The heads, the chairmen of the assemblies, the election administration committees, inspection commissioners, public safety commissions (including the public safety commissions of the special wards), boards of education, personnel commissions and personnel commissioners of the local public bodies and the chiefs of police and chiefs of fire defense of cities, towns and villages (including the chiefs of police of the police ~~establishments~~ maintained jointly by special wards and the chiefs of fire defense of the fire defense ~~establishments~~ maintained jointly by special wards) and other appointing authorities under laws and orders or bylaws shall have respectively

the power to administer the appointment, temporary retirement, dismissal and disciplinary punishment, etc. of the personnel in accordance with this Law and such bylaws and rules as may be issued thereunder, except for cases specially provided for by laws or cabinet orders issued thereunder.

2. The appointing authorities provided for in the preceding paragraph may delegate part of the power mentioned in the same paragraph only to those senior local public service personnel who are their auxiliary agencies.

(Establishment of the Personnel Commission or Personnel Commissioner)

Article 7

A local public body may set up by bylaw a personnel commission. However, To, Do, Fu and prefectures and the cities mentioned in Article 155 paragraph 2 of the Local Autonomy Law (Law No. 67 of 1947) and the special cities must set up the personnel commission.

2. A local public body which does not set up the personnel commission may have one personnel commissioner.

(Powers of the Personnel Commission or Personnel Commissioner)

Article 8

The personnel commission or personnel commissioner shall administer the following affairs:

(1) To investigate matters of personnel administration and to prepare personnel records and statistical reports concerning personnel affairs;

(2) To make a continuous study on systems concerning the personnel, such as compensation and other working conditions, benefit and welfare systems, the system of compensation for accidents in line of duty, etc., and to submit the result thereof to the

assembly or the head or the appointing authorities of the local public body;

(3) To state opinions to the assembly and the head of the local public body on the enactment, amendment or abolition of bylaws concerning the personnel agencies and the personnel;

(4) To make recommendations to the appointing authorities on the operation of personnel administration;

(5) To administer the competitive examination and selection of the personnel and affairs relating thereto;

(6) To formulate and practise position classification;

(7) To administer the disciplinary punishment of the personnel, in cases where the appointing authorities fail to do so in spite of the existence of a cause for such punishment and the recommendation that it should be administered;

(8) To supervise and control the payment of compensation to the personnel to the extent necessary to determine that persons are paid, compensated or employed in compliance with this Law, and with bylaws and rules issued thereunder;

(9) To formulate over-all plans for the training of the personnel and other inprovements in their efficiency;

(10) To examine applications for action concerning the working conditions of the personnel and adopt necessary measures;

(11) To review adverse actions toward the personnel and adopt necessary measures;

(12) Besides the affairs enumerated in the preceding items, to administer such affairs as have been placed within its or his powers in accordance with laws or bylaws.

2. The personnel commission or personnel commissioner or members of its executive office or the administrative staff assisting him may cause other agencies to exercise its or his powers under this Law and specified by the rules mentioned in paragraph 3. In such case alsd the personnel commission or personnel commissioner cannot be relieved of responsibility for the exercise of such powers.

3. The personnel commission or personnel commissioner may establish ~~enact~~ rules concerning such matters as have been placed within its or his powers in accordance with laws or bylaws.

4. The personnel commission or personnel commissioner may, if necessary for investigation on matters concerning personnel administration, summon witnesses or demand presentation of documents or copies thereof which are considered as relating to the matters to be investigated.

~~6.~~ In the spheres where the personnel commission or

5. The personnel commission or personnel commissioner may, subject to budgetary limitations, enter into formal or informal agreements to furnish to or receive from other local or National government personnel agencies, technical or professional service, materials or facilities.

~~7.~~ The provisions of the preceding paragraph shall not affect the right of access to court on matters of law.

~~8.~~ In the local public bodies which do not have the personnel commission or personnel commissioner, the affairs mentioned in the items of paragraph 1 shall be ~~are~~ administered by the heads of the local public bodies. In such case, the provisions of ~~the preceding three paragraphs~~ paragraph 4, paragraph 6 and the preceding paragraph shall be applied mutatis mutandis, and the provisions of Article 15 paragraph 2 of the Local Autonomy Law shall not be applied to the rules ~~enacted~~ established by the heads of the local public bodies in accordance with this Law or bylaws issued thereunder.

2. The personnel commission or personnel commissioner or members of its executive office or the administrative staff assisting him may cause other agencies to exercise its or his powers under this Law and specified by the rules mentioned in paragraph 3. In such case also the personnel commission or personnel commissioner cannot be relieved of responsibility for the exercise of such powers.

3. The personnel commission or personnel commissioner may ~~enact~~ establish rules concerning such matters as have been placed within its or his powers in accordance with laws or bylaws.

4. The personnel commission or personnel commissioner may, if necessary for investigation on matters concerning personnel administration, summon witnesses or demand presentation of documents or copies thereof which are considered as relating to the matters to be investigated.

5. In the spheres where the personnel commission or personnel commissioner has been invested by this Law with the power to administer, its or his decisions and actions shall be reviewed only by itself or himself in accordance with the procedure to be fixed by the rules mentioned in paragraph 3.

6. The provisions of the preceding paragraph shall not affect the right of access to court on matters of law.

7. In the local public bodies which do not have the personnel commission or personnel commissioner, the affairs mentioned in the items of paragraph 1 ~~are~~ shall be administered by the heads of the local public bodies. In such case, the provisions of ~~the preceding three paragraphs~~ paragraph 4, paragraph 6 and the preceding paragraph shall be applied mutatis mutandis, and the provisions of Article 15 paragraph 2 of the Local Autonomy Law shall not be applied to the rules ~~enacted~~ established by the heads of the local public bodies in accordance with this Law or bylaws issued thereunder.

(Members of the Personnel Commission, or the Personnel Commissioner)

Article 9

The personnel commission shall be composed of three members.

2. The members shall be appointed by the head of the local public body with the consent of the assembly from among persons of highest moral character and integrity, in known sympathy with the principle of local autonomy and the democratic and efficient administration, and possessing knowledge and sound judgment concerning personnel administration.

3. A person who falls under any of the items of Article 16 or who has committed any of the offenses provided for in Chapter V and been sentenced to a punishment cannot become a member.

4. In appointing the members, any two of them must not be members of the same political party.

5. In cases where two or more of the members have come to belong to the same political party, all but one of them shall be removed by the head of the local public body with the consent of the assembly. However, a person whose party membership has not changed cannot be removed.

6. The head of the local public body may, when he considers a member as mentally or physically incompetent to perform his official responsibilities or having committed a violation of his official duties or other misconducts unfit for a member, remove him with the consent of the assembly. In such case a public hearing must be held before the standing committee or special committee of the assembly.

7. A member who has come to fall under any of the causes provided for in paragraph 3 shall lose his office.

8. The members cannot concurrently hold any other position in the local public service.

9. The provisions of Chapter III, Section 5, shall be applied mutatis mutandis to the performance of duty by the members.

10. The term of office of the members shall be four years. However, the term of office of a member filling a vacancy shall be the unexpired portion of his predecessor's.

11. The provisions of paragraphs 2 and 3, paragraphs 6 to 9 inclusive, and the principal sentence of the preceding paragraph shall be applied mutatis mutandis to the personnel commissioners.

12. The members of the personnel commissions of To, Do, Fu and prefectures and the cities mentioned in Article 155 paragraph 2 of the Local Autonomy Law and the special cities shall serve full-time, while the members of the personnel commissions or personnel commissioners of the other local public bodies may serve either full-time or part-time.

13. The provisions of Articles 204 to 206 inclusive of the Local Autonomy Law shall be applied mutatis mutandis to the full-time members of the personnel commissions and personnel commissioners, and those of Articles 203 and 206 of the same Law to the part-time members of the personnel commissions and personnel commissioners.

(Proceedings of the Personnel Commission)

Article 10.

The personnel commission cannot be in session without the attendance of ~~all~~ at least two of its members.

2. Proceedings of the personnel commission shall be decided by a majority of its members.

3. Proceedings of the personnel commission must be kept on record by way of the minutes.

4. Besides the provisions of the preceding three paragraphs necessary matters concerning proceedings of the personnel commission shall be fixed by the personnel commission.

(Executive Office
~~Secretariat~~ of the Personnel Commission and
Administrative Personnel to assist Personnel Commissioner)

Article 11

There shall be a ~~secretariat~~ executive office in the personnel commission and a chief of ~~secretariat~~ executive office and other administrative personnel in the ~~secretariat~~ executive office.

2. The chief of ~~secretariat~~ executive office shall, under the direction and supervision of the personnel commission, control the affairs of the ~~secretariat~~ executive office.

3. There shall be administrative personnel who shall assist the personnel commissioner in his work.

4. The administrative personnel mentioned in paragraph 1 and the preceding paragraph shall be appointed respectively by the personnel commission or personnel commissioner.

5. The organization of the ~~secretariat~~ executive office mentioned in paragraph 1 shall be fixed by the personnel commission.

6. The number of the administrative personnel mentioned in paragraphs 1 and 3 shall be fixed by bylaw.

7. The provisions of Articles 204 to 206 inclusive of the Local Autonomy Law shall be applied mutatis mutandis to the administrative personnel mentioned in paragraphs 1 and 3.

Chapter III Standards applicable to the Personnel

Section 1 General Rules

(Principle of Equal Treatment)

Article 12

In the application of this Law and bylaws and rules issued thereunder, all of the people must be treated equally and must not be discriminated because of race, creed, sex, social status, or family origin, or because of political opinion or

political affiliations, except for the cases provided for in Article 16 item 5.

(Principle of Adaptation)

Article 13

The local public bodies must adopt suitable measures from time to time to see that the compensation and other working conditions fixed in accordance with this Law and by laws and rules issued thereunder are adapted to the prevailing social condition.

Section 2 Appointment

(Basic Standard for Appointment)

Article 14

Appointments of the personnel must be made in accordance with the provisions of this Law and rules issued thereunder on the basis of the record of examination, merits in the performance of duty, or other demonstrations of ability.

(Method of Appointment)

Article 15

In cases where a vacancy has occurred in the positions subject to the standards established by rules issued under this Law, of the personnel, the appointing authorities may make an appointment by any one of the following means: initial appointment, promotion, demotion, or transfer, or reinstatement.

2. The initial appointment or promotion of the personnel shall be made through competitive examination in the local public bodies which have the personnel commission or personnel commissioner. However, it may be made by selection in the cases of vacancy in positions requiring peculiar and exceptional qualifications of a scientific, professional or expert character, where an appropriate eligible list is not in existence and where the personnel commission or personnel commissioner finds satisfactory evidence that competitive examinations for the position are impracticable and that the position can best be filled by a person of recognized attainments.

~~commission or personnel commissioner; in the other local~~

political affiliations, except for the cases provided for in Article 16 item 5.

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Article 15

In cases where a vacancy has occurred in the positions subject to the standards established by rules issued under this Law, of the personnel, the appointing authorities may make an appointment by any one of the following means: initial appointment, promotion, demotion, or transfer, or reinstatement.

2. The initial appointment or promotion of the personnel shall be made through competitive examination in the local public bodies which have the personnel commission or personnel commissioner, except where it may be made by selection (meaning valuation of ability based on merits in the performance of or other duty demonstrations of ability) in the case of such positions of the personnel as may be specified and approved by the personnel ~~commission or personnel commissioner; in the other local~~

3. In the local public bodies which have not the personnel commission or personnel commissioner, the initial appointment or promotion of the personnel shall be made by selection.

4. Competitive examination shall have as its object the accurate measurement of the relative abilities of the persons examined. It shall be in writing or in the form of oral tests, physical examination, and evaluation of personality, character, education, experience, aptitude, intelligence, skill, common sense, professional knowledge, and adaptability or a combination thereof.

5. The personnel commission or personnel commissioner may provide necessary matters concerning the eligibility, procedure for appointment, and initial status upon appointment, with respect to persons reinstated to positions they had formerly held by regular appointment and from which they have been separated against their will as a result of a reduction in the number of personnel due to abolition of positions, lack of work, or lack of funds.

(Disqualification Clause)

Article 16

A person who falls under any of the following items cannot become a member of the personnel or participate in competitive examination or selection, except for cases provided for by ~~cabinet order~~ rule issued under this Law:

(1) An incompetent or quasi-incompetent person;

(2) A person who has been sentenced to ~~penal servitude or imprisonment~~ a penalty heavier than imprisonment without hard labor and whose sentence has neither been executed nor become unenforceable;

(3) A person who has been subjected by the local public body concerned to an action of disciplinary dismissal, from the date of which two years have ~~yet to elapse~~ not elapsed;

(4) A person who, while in office as a member of the personnel commission or as personnel commissioner (including the head of a local public body administering the affairs as provided for in Article 8 paragraph 7) or as chief of ~~secretariat~~ executive office of the personnel commission, has committed any of the offenses provided for in Chapter V and been sentenced to a punishment;

(5) A person who, on and after the date of the coming into force of the Constitution of Japan, has formed or joined a political party or any other organization

that advocates the overthrow by violence of the Constitution of Japan or the Government formed thereunder.

(Eligibility for Taking Examination)

Article 17

Competitive examinations shall be open and on equal terms to all persons who meet the requirements established by ~~rules under this Law.~~ personnel commission or pers. commissioner. No person belonging to any examining body or their personnel shall obstruct the taking of examination or furnish any special or secret information for the purpose of giving undue influence concerning the taking of the examination.

2. The personnel commission or personnel commissioner shall fix, as necessary qualifications for the examinees, minimum objective and uniform requirements appropriate for the performance of duty and may prescribe requirements as to citizenship and residence.

3. Promotional examinations shall be open only to persons in the regular service who have regular status in classes designated by the personnel commission or personnel commissioner.

Article 18

Competitive examination or selection shall be conducted by the personnel commission or personnel commissioner by itself or himself, or by an agency which it or he specifies. However, competitive examination or selection may be conducted jointly by mutual agreement with other local public bodies or by entrusting it to an agency of the National Government or the other local public body.

2. The personnel commission or personnel commissioner may, in cases where there is no employment eligible list for such positions of the personnel as it or he may specify, and if it or he believes it to be in the public interest, consider a person who has passed the competitive examination or selection of the National Government or other local public bodies corresponding to the competitive examination or selection for those positions of the personnel as having passed the selection for such positions.

(Preparation of Eligible Lists and the Method of Appointment therefrom)

Article 19

For the employment of the personnel through competitive examination, the personnel commission or personnel commissioner shall prepare employment eligible lists (entrance eligible list

~~and~~ or promotion eligible list) for every examination.

2. In the entrance eligible list or promotion eligible list, the full names and marks of entrance eligibles or promotion eligibles who have scored the qualifying marks or more shall be entered in the order of their marks.

3. The initial appointment or promotion of the personnel in terms of the entrance eligible list or promotion eligible list shall be made, for each person to be initially appointed or promoted, from among five applicants certified by the personnel commission or personnel commissioner and ranking highest by the marks scored in the entrance examination or promotion examination out of those who have been entered in the relevant list. In such case, if the number of names available on the entrance eligible list or promotion eligible list is fewer than the number of applicants to be certified by the personnel commission or personnel commissioner, and if there is a satisfactory entrance eligible list or promotion eligible list for a class most approximating the class under consideration, it or he may certify by adding names available on the latter list.

4. The personnel commission or personnel commissioner shall, by rule, fix the duration of employment eligible lists and establish the standards whereby such lists may be abolished sooner or extended for a longer period. Names of entrance eligibles or promotion eligibles shall be temporarily or permanently removed from employment eligible lists only in accordance with the standards established by rules of the personnel commission or personnel commissioner.

(Conditional Appointment and Temporary Appointment)

Article 20

All initial appointments or promotions, other than temporary ones, of personnel shall be conditional and shall become regular appointments when they have served in their positions with conditional status for a period of six months and performed their duties satisfactorily during such period, except that the personnel commission or personnel commiss-ioner may prescribe for any class a longer conditional period of not to exceed one year.

ments for a period not exceeding six months with the approval of the personnel commission or personnel commissioner, in the case of emergency or to positions of a temporary nature or in cases where there is no employment eligible list. In such case the appointments may be renewed for an additional period of six months but not more than once.

However, temporary appointment shall be made from the appropriate employment eligible list, if any, and if candidates are available.

3. The personnel commission or personnel commissioner may, with regard to temporary appointments, ~~limit the number of such appointments and~~ specify qualifications of persons to be appointed, and prohibit the use of temporary appointments where it deems conditional appointments to be appropriate.

4. The personnel commission or personnel commissioner may cancel any temporary appointment that violates the provisions

of the preceding two paragraphs.

5. Temporary appointments shall be no cause for any precedence whatsoever on the occasion of permanent employment.

6. Besides the provisions of the preceding four paragraphs, this Law and bylaws and rules issued thereunder shall be applied to temporary appointees.

Section 3 Position Classification

(Basic Standard for Position Classification)

Article 21

Those local public bodies which have the personnel commission or personnel commissioner shall practise position classification, while the other local public bodies may do so.

2. Position classification shall be fixed by rules issued under this Law.

3. The personnel commission or personnel commissioner must formulate position classification whereby the positions of the personnel shall be classified according to the kinds of duties and by the degrees of complexity of duties and responsibilities involved, and shall maintain available for public inspection a description of every class of position.

4. In position classification, positions must be so classified and graded that the same qualifications may reasonably be required for the positions in the same class under substentially the same working conditions and that the same schedule of basic pay may be applied equitably to those who are occupying such positions. + and list of occupy

5. In practising position classification, the personnel commission or personnel commissioner must allocate to one of the classes every position to which position classification is applicable, and must place every class in a salary grade.

6. The personnel commission or personnel commissioner must review from time to time the allocations provided for in the preceding paragraph and revise them where deemed necessary.

7. In the local public bodies where position classification is practised, with regard to the positions of the personnel, no classification shall be made on any basis other than position classification.

8. In practising position classification, adequate consideration must be given so that it may correspond equitably to those of the National Government and the other local public bodies.

Section 4 Status and Disciplinary Punishment

(Basic Standard for Status and Disciplinary Punishment)

Article 22

The status and disciplinary punishment of the personnel must be equitable in every respect.

2. The personnel shall not be subjected against their will to pay reduction, demotion, temporary retirement, or dismissal except for causes provided for by bylaw or rule issued under this Law.

3. The personnel shall not be subjected to an action of dismissal, suspension, pay reduction, or reproof by way of disciplinary action, except for causes provided for by bylaw or rule issued under this Law.

4. The effect and procedure of the status and disciplinary punishment of the personnel must be in accordance with the provisions of bylaws and of rules issued under this Law, except for cases specially provided for by law.

5. The provisions of paragraph 2 and the preceding paragraph shall not be applied to the following personnel:

(1) Personnel in the conditional period of initial appointment;

(2) Personnel employed temporarily.

6. With regard to the status of the personnel mentioned

under the items of the preceding paragraph, necessary matters may be provided for by rules issued under this Law.

7. In cases where a member of the personnel has come to fall under any of the items of Article 16, (excluding item 3) he shall automatically lose his office, except for cases specially provided for by ~~cabinet order.~~ rule issued under this Law.

Section 5 Performance of Duty

(Basic Standard for Performance of Duty)

Article 23

Every member of the personnel, as a servant of the whole community of the local public body, must attend to his duties in the interest of the public and exert his utmost in the performance of his duties.

(Duty of Obedience to Laws and Orders and Superiors' Order)

Article 24

The personnel, in the performance of their duties, must comply with laws, orders, bylaws and regulations, and faithfully observe their superiors' orders on matters pertaining to the performance of their duties.

(Duty of Preservation of Secrecy)

Article 25

The personnel must not divulge any secret that may have come to their knowledge in the course of duty. This shall also apply after they have retired from office.

2. In cases where a matter of official secrecy is to be disclosed upon becoming a witness, expert witness, etc. in accordance with law and order, the permission of the appointing

authority (or, in the case of a person who has retired from office, the appointing authority over the office from which he has retired or the office corresponding thereto) must be obtained.

3. The permission mentioned in the preceding paragraph cannot be refused, except for cases specially provided for by law.

(Duty of Devotion to Service)

Article 26

The personnel must, except for cases specially provided for by bylaw, devote their full working hours and occupational attention to the discharge of their official responsibilities and engage themselves solely in those services which the local public body has the responsibility to perform.

(Restriction of Political Activities)

Article 27

The personnel must not solicit, or receive, or be in any way concerned in soliciting or receiving any subscription and other benefits for any political party or for political purposes or engage in any political activity as defined by bylaw in line with the provisions of the rules of the National Personnel Authority in accordance with the provisions of Article 102 paragraph 1 of the National Public Service Law (Law No. 120 of 1947), except for the exercise of their right to vote. ~~In such case, with regard to such wording of the rules of the National Personnel Authority as is not exactly suitable to the personnel, necessary modifications in the reading shall be provided for by cabinet order.~~

2. The personnel cannot become candidates for elective public offices.

3. The personnel cannot become officers, political advisers, or members with similar functions of any political party or political organization.

(Prohibition of Acts of Dispute)

Article 28

The personnel must not resort to strike, slow-down and other acts of dispute against their employer, who is the local people as represented by the local public body, or to such idling tactics as well deteriorate the functional efficiency of the local public body. Nor must any person attempt, or conspire, instigate or incite the perpetration of, such unlawful acts.

2. Any member of the personnel who has resorted to strike and other acts in violation of the provisions of the preceding paragraph shall become unable, simultaneously with the commencement of such acts, to set up against the local public body ~~all of~~ the rights in appointment or employment he enjoys under laws and orders, or bylaws or regulations.

(Restriction of Engagement in Commercial Enterprise, etc.)

Article 29

The personnel must not concurrently occupy the posts of officials and other posts specified by rules issued under this Law in a company or other organization the object of which is to undertake a private enterprise for profit (hereinafter to be referred to as commercial enterprise), or undertake a commercial enterprise on their own account, without the permission of the appointing authority.

2. Besides the cases provided for in the preceding paragraph, the personnel must obtain the permission of the appointing authority in order to be engaged for reward in any enterprise or business.

3. The personnel commission or personnel commissioner may by rule issued under this Law establish standards for the granting or withholding of permission for appointing authorities specified in the preceding two paragraphs.

(Basic Standard for Training)

Article 30

The personnel must be given opportunity to receive training for the purpose of keeping up to the full and improving

their working efficiency.

2. The appointing authorities shall be responsible for the training mentioned in the preceding paragraph. However, the personnel commission or personnel commissioner may formulate and recommend training programs, offer professional advice as to training methods , and perform other training services as prescribed by bylaws.

Section 7 Compensation and other Working Conditions

(Basic Standard for Compensation and other Working Conditions)

Article 31

The compensation of the personnel must be in accordance with their duties and responsibilities, and the standard therefor must be fixed by taking into consideration the cost of living, the compensation of the employees of private enterprise and other circumstances.

2. In fixing the compensation and other working conditions of the personnel, adequate consideration must be given so that they may not be out of proportion to those of the personnel of the National Government and the other local public bodies.

3. The personnel must not receive compensation for other positions they may hold concurrently.

4. The compensation and other working conditions of the personnel shall be fixed by bylaw.

(Bylaw concerning Compensation and the Determination of the Amount of Pay)

Article 32

The compensation of the personnel must be given in terms of the bylaw concerning compensation provided for in paragraph 4 of the preceding Article, and, if not in terms thereof,

no money or valuables must be given to the personnel.

2. The bylaw concerning compensation shall provide for the following matters:

(1) Pay schedule;

(2) In the local public bodies where position classification is practised, matters concerning the increase of pay within the same class;

(3) In the local public bodies where position classification is practised, matters concerning the compensation for positions on the occasion of the initial application of position classification to them;

(4) Matters concerning the compensation for over-time work, night work and holiday work;

(5) Matters concerning the allowances for service in specially designated areas, hazardous jobs and other extraordinary services, in cases where such allowances are given;

(6) Matters concerning the adjustment of compensation to be made by the personnel commission or personnel commissioner with regard to the positions of the personnel not requiring full-time service, positions of the personnel for which the facilities necessary for living are wholly or partially supplied at official expense, other positions with special working conditions, and the number of dependents.

3. The personnel commission or personnel commissioner must conduct investigations and studies and formulate a plan concerning such pay ~~schedule~~ ranges as is compatible with position classification and submit it to the assembly and the head of the local public body.

4. In the local public bodies where position classification is practised, the personnel must be paid at the rates fixed by the pay schedule for the classes of their respective positions according to position classification.

(Report and Recommendation on the Pay Schedule)

Article 33

The personnel commission or personnel commissioner must make a report simultaneously to the assembly and the head of the local public body at least once a year as to whether the pay schedule is adequate and also make a suitable recommendation if the need for increase or decrease of pays fixed by the pay schedule is considered to have arisen on account of a change in the conditions determining pays.

Section 8 Protection of Welfare and Interest

(Basic Standard for Protection of Welfare and Interest)

Article 34

The local public bodies must endeavor to see that the protection of the welfare and interest of the personnel is adequate and impartial.

Subsection 1 Benefit and Welfare System

(Health, Recreation, Maintenance of Safety, and Welfare)

Article 35

The local public bodies must endeavor to formulate and practise plans for matters concerning the health, recreation, maintenance of the safety, and welfare of the personnel.

(Mutual Aid System)

Article 36

A system of mutual aid for the disease, injury, disability and death of the personnel suffered outside the course of duty, their childbirth, calamity and other accidents, and such accidents of their dependents, must be put into practice.

2. The mutual aid system mentioned in the preceding paragraph must be provided for by law. In such case adequate consideration must be given so that it may not be out of proportion to that of the National Government.

3. The mutual aid system mentioned in paragraph 1 must be planned on the basis of sound actuarial computation.

(System of Retirement Annuities and Retirement Grants)

Article 37

A system of retirement annuities and retirement grants payable to those personnel who have retired or died after serving faithfully for a considerable period or to their dependents must be put into practice as soon as possible.

2. For those personnel who have died or retired on account of injury or disease suffered in the course of duty or for their dependents, a system of retirement annuities and retirement grants may also be put into practice.

3. In putting into practice the system of retirement annuities or retirement grants as provided for in the preceding paragraph, adequate coordination must be effected with the system of compensation for accidents in line of duty mentioned in Article 38.

4. In providing for the systems of retirement annuities and retirement grants mentioned in paragraphs 1 and 2, adequate consideration must be given so that they may not be out of proportion to those of the National Government and the other local public bodies.

5. The provisions of paragraph 3 of the preceding Article shall be applied mutatis mutandis to the retirement annuities and retirement grants mentioned in paragraphs 1 and 2.

Subsection 2 System of Compensation for Accidents in line of Duty

(Compensation for Accidents in line of Duty)

Article 38

A system of compensation for the losses suffered by the personnel or their dependents when and because the personnel have died or incurred injury or disease in the course of duty or have died on account of injury or disease suffered in the course of duty must be put into practice.

Subsection 3 Application for Action on Working Conditions

(Application for Action on Working Conditions)

Article 39

The personnel may apply to the personnel commission or personnel commissioner in connection with their compensation and other working conditions that appropriate action be taken by the authorities of the local public body.

(Examination and Action to be taken following the Examination)

Article 40

When the application provided for in the preceding Article has been filed, the personnel commission or personnel commissioner must conduct factual examination of the case through oral inquiry or other means and on the basis of the result thereof take actions on its or his own accord with regard to matters within its or his powers, or with regard to other matters make

necessary recommendations to the agency of the local public body which has powers over the matter under consideration.

(Procedures of Application and Examination)

Article 41

The procedures of the application and examination provided for in the preceding two Articles must be fixed by rules issued under this Law.

Subsection 4 Review of Adverse Action

(Delivery of Written Statement on and Appeal for Review of Adverse Action)

Article 42

The appointing authorities (including the personnel commission or personnel commissioner administering disciplinary punishment in accordance with the provisions of Article 8 paragraph 1 item 7; the same hereafter in this Article) must, in cases where they subject a member of the personnel to a disciplinary punishment or such adverse action as is considered to be against his will, deliver him a written statement setting forth the reasons therefor.

2. When a member of the personnel considers that he has been subjected to an adverse action against his will, he may appeal to the appointing authority for delivery of a written statement of the reasons therefor.

3. A member of the personnel who has been delibered the written statement mentioned in the preceding two paragraphs may appeal to the personnel commission or personnel commissioner for review of that adverse action.

4. The provisions of the preceding three paragraphs shall not be applied to the personnel mentioned under the items of Article 22 paragraph 5.

~~Examination~~ OK
(~~Review~~ and Action to be taken following the Review)

Article 43

When the appeal provided for in paragraph 3 of the preceding Article has been received, the personnel commission or personnel commissioner must promptly examine the case. In such case, a hearing must be conducted if the person subjected to the action so requests. The hearing must be conducted in public if he so requests.

2. The personnel commission or personnel commissioner shall on the basis of the result of the examination provided for in the preceding paragraph, approve, revise or cancel the action, and if necessary give direction for the correction of any injustice that may have been suffered by the member of the personnel on account of the action, such as to cause the appointing authority to take necessary measures for the recovery of the pay and other claims due to him.

(Procedures, etc. of Application and Review)

Article 44

Necessary matters concerning the procedures of the application and review and the action to be taken following the review as provided for in the preceding two Articles shall be provided for by rules issued under this Law.

Section 9 Organization of the Personnel

(Organization of the Personnel)

Article 45

The personnel may or may not form and may or may not join organizations the object of which is to negotiate with the authorities of the local public body with regard to working conditions or, in ~~reference thereto~~ conjunction therewith, for lawful purposes including social and welfare activities. ~~However, the personnel who are in managerial or supervisory positions or who are charged with confidential matters cannot form or join such organizations.~~

~~2. The scope of the personnel provided for in the provisory clause of the preceding paragraph shall be fixed by by law.~~

the preceding

2 ~~3~~. An organization mentioned in paragraph ~~1~~ may organize a federation with such other organizations of the local public body concerned as are mentioned in the same paragraph or join a federation organized by such other organizations of the local public body concerned as are mentioned in the same paragraph.

3 ~~4~~. The provisions of the preceding paragraph shall not prevent an organization mentioned in paragraph 1 from actually forming a united organization with organizations mentioned in the same paragraph of local public bodies other than the local public body concerned or with other public service personnel organizations or actually joining a united organization formed by organizations mentioned in the same paragraph of local public bodies other than the local public body concerned or by other public service personnel organizations.

4 ~~5~~. The organizations mentioned in paragraph 1 or the federation mentioned in paragraph 2 ~~3~~ (hereinafter to be referred to as the personnel organizations) must apply to the personnel commission or personnel commissioner of the local public body concerned for registration. The personnel commission or personnel commissioner shall make registration and issue official notice thereof, if the application for registration complies in all respects with the provisions of this Law and bylaws and rules issued thereunder. in compliance with rules issued under this law.

5 ~~6~~. The personnel organizations may be incorporated as juridical persons. Those provisions of the Civil Code (Law No. 87 of 1896) and the Law of Procedure for Non-Contentious Litigation (Law No. 14 of 1898) which are relating to the juridical persons provided for in Article 34 of the Civil Code shall be applied mutatis mutandis to the juridical persons mentioned in this paragraph. However, "the competent government agency" in these provisions shall read "the personnel commission or personnel commissioner of the local public body concerned (in the local public bodies where there is no personnel commission or personnel commissioner, the head of the local public body concerned)".

6. ~~7~~. When those personnel organizations which are intended to be incorporated as juridical persons have been registered in accordance with the provisions of paragraph 5 ~~4~~, they shall be considered as having obtained the permission mentioned in Article 31 of the Civil Code which is applied mutatis mutandis by the preceding paragraph.

7. ~~8~~. The agreements of the personnel organizations (in cases where they are juridical persons, their articles of association; the same hereafter in this Article) must contain at

least the following particulars:

(1) Name;

(2) Object and business;

(3) Location of the main office;

(4) Regulations concerning the scope of membership and the acquisition and loss of qualifications for membership;

(5) Regulations concerning officers including directors, representatives, and others;

(6) Regulations concerning the execution of business, meeting and voting including the matters provided for in paragraph 9;

(7) Regulations concerning expenditure and accounting;

(8) Regulations concerning the alteration of the agreement;

(9) Regulations concerning dissolution.

8 10. In order to qualify for and maintain registration, the personnel organizations must establish and carry out democratic procedures by a majority vote of all members through direct secret ballot in which all personnel who are constituent members shall have equal opportunity to participate for the adoption or alteration of the agreement, election of officers, and other similarly important actions. However, in the case of the federation mentioned in paragraph 5, procedures may be established and carried out by a majority vote of all representatives, whom each constituent organization shall elect by a majority vote through direct secret ballot in which all personnel who are constituent members shall have equal opportunity to participate, through direct secret ballot in which all such representatives shall have equal opportunity to participate.

9 ~~10~~ When a personnel organization has come to lack any of the qualifications as provided for in paragraph 1 or the preceding two paragraphs, the personnel commission or personnel commissioner after conducting a hearing of the local public body concerned may cancel its registration. In such case, if that personnel organization is a juridical person, its status as a juridical person is terminated ~~it shall be dissolved~~ on the day of the cancellation of its registration.

10. Income taxes and corporation taxes shall not be imposed upon the income of the personnel organizations which are juridical persons, excepting the income accruing from the undertaking aimed at pecuniary gain.

11 ~~11~~ The police and fire defense personnel cannot form and join the personnel organizations.

12 ~~12~~ The personnel must not administer the business of the personnel organizations or conduct activities, in the interest of such organizations, while they are receiving compensation from the local public body. However, they may do the acts approved in accordance with the provisions of Article 46 paragraph 1 under the conditions and circumstances provided for by bylaw.

(Negotiation)

Article 46

The personnel may, through the personnel organizations which have been registered in accordance with the provisions of paragraph 4 of the preceding Article, select their representatives on their own accord and negotiate with the authorities of the local public body with regard to working conditions or in conjunction therewith ~~reference thereto~~, for lawful purposes including social and welfare activities. However, the negotiation shall not include the right to conclude a collective agreement with the authorities of the local public body.

2. The freedom of the personnel to express grievances

and submit opinions with regard to working conditions or, in conjunction therewith ~~reference thereto~~, for lawful purposes including social or welfare activities shall not be denied to the personnel for the reason that they do not belong to a personnel organization.

(Prohibition of Adverse Treatment)

Article 47

The personnel shall not be subjected to adverse treatment on account of the fact that they are members of a personnel organization, or that they have attempted to form or join it, or that they have acted legitimately in such organization.

Chapter IV Miscellaneous Provisions

(Exceptions)

Article 48

With regard to those personnel for whom exceptions to this Law are required on account of the special nature of their functions and responsibilities, provisions shall be made by law separately. However, such exceptions must not be contary to the spirit of Article 1.

(Exclusion of Application of Other Laws)

Article 49

The ~~provisions~~ of the Trade Union Law (Law No. 174 of 1949), Labor Relations Adjustment Law (Law No. 25 of 1946), ~~Labor Standard Law (Law No. 49 of 1947), and Mariners' Law (Law No. 100 of 1947),~~ and orders issued thereunder shall not be applied to the personnel.

2. The provisions of the Labor Standard Law (excluding Article 2, Articles 89 to 93 inclusive and Article 102) and Mariners' Law (excluding such part of Article 6 as is relating to Article 2 of the Labor Standard Law, Article 30, Article 97 to 100 inclusive, Article 102 and Article 108) and orders issued thereunder shall apply mutatis mutandis in relation to the personnel. The provisions of Article 102 of the Labor Standard Law and the provisions of Article 108 of the Mariners' Law shall apply mutatis mutandis in relation to the personnel engaged in enterprises enumerated in each items of Article 8 of the Labor Standard Law (excluding items 11, 12, 16 and 17).

3. The authority of the agencies for the supervision of ~~labo~~ labor standards in those cases where the provisions of the Labor Standard Law and Mariners' Law and orders issued thereunder ~~are~~ (excluding ~~the provisions mentioned applied mutatis mutandis as provided for~~ in the preceding paragraph) are shall be exercised by the personnel commission, or personnel commissioner. ~~However, this shall not apply in the case of the personnel engaged in the enterprises enumerated under the items of Article 8 of the Labor Standard Law (excluding items 11, 12, 16 and 17).~~

Chapter V Penal Provisions

The provisions of Art. 2, art. 89 to 93 inclusive and art. 102 of the Labor Std Law (L. 49 of '47) and the provisions of such part of Art. 6 as is relating to art. 2 of the Labor Std Law art. 30, art. 97-100 inclusive art. 102 and 108 of the Mariners Law (L. 100 of 47) and the provisions of regulations issued thereunder shall not be applied to the personnel

Article 50

A person who falls under any of the following items shall be liable to penal servitude for not more than one year or a fine of not more than thirty thousand yen:

(1) The head of a local public body who has intentionally failed to dismiss a member of the personnel commission in violation of the provisions of Article 9 paragraph 5;

(2) A person who has made a discrimination in violation of the provisions of Article 12;

(3) A person who has devulged a secret in violation of the provisions of Article 25 paragraph 1 or 2 (including the cases where it is applied mutatis mutandis by Article 9 paragraph 9);

(4) A person who has concurrently occupied, the post of official and other posts in a company or other organization the object of which is to undertake an enterprise for profit or who has undertaken a commercial enterprise on his own account in violation of the provisions of Article 29 paragraph 1;

(5) A person who has intentionally failed to obey the direction of the personnel commission or personnel commissioner (including the head of a local public body administering the affairs as provided for in Article 8 paragraph 8).

Article 51

A person who falls under any of the following items shall be liable to penal servitude for not more than three years or a fine of not more than one hundred thousand yen:

(1) A person who, in accordance with the provisions of Article 8 paragraph 4, has been summoned as a witness by the personnel commission or personnel commissioner (including the head of a local public body administering the affairs as provided for in paragraph 8 of the same Article; the same hereafter in this item) and failed to comply without proper reason or made a false statement, or who, in accordance with the provisions of paragraph 4 of the same Article, has been demanded presentation of documents or copies thereof by the personnel commission or personnel commissioner and failed to comply without proper reason or presented documents with false entires or copies thereof;

(2) A person who has made an appointment in violation of the provisions of Article 14;

(3) A person who has obstructed the taking of examinations or furnished information in violation of the provisions of the latter part of Article 17, paragraph 1;

(4) A person who has violated the restriction of political activities provided for in Article 27

(continued)

paragraph 1 (including the cases where it is applied mutatis mutandis by Article 9 paragraph 9);

(4) Any person who has conspired, instigated, incited the perpetration of, or attempted, the unlawful acts provided for in the first part of paragraph 1 of Article 28;

(5) A person who has given compensation in violation of the provisions of Article 32 paragraph 1 or 4;

(6) A person who has intentionally prevented, in violation of the provisions of Article 39, the filing of application for action on working conditions;

(7) A person who has formed a personnel organizatin in violation of the provisions of Article 45 paragraph 11.

Article 52

A person who has attempted, ordered, intentionally condoned, instigated, or has been an accessory to, the acts enumerated in Article 50 item 1 or 3, or ~~item 1 or 2 or items 5 to 7 inclusive~~ items 1 to 3 inclusive or items 6 to 8 inclusive of the preceding Article shall be liable to the punishment provided for in each of these Articles.

Supplementary Provisions

1. The provisions of this Law shall come into force as specified in the following schedule:

Provisions of this Law	Date of Coming into Force		
	Do, fu and prefectures	To and cities under Art. 155 par. 2 of the Local Autonomy Law	Other local public bodies
Articles 1 to 3 inclusive Article 4 paragraph 1			

	Articles ~~5 to 7 inclusive~~ 6 Article 7			
	Article 8 paragraph 1 item 1			
Article 10 Article 12 Article 13	Articles 9 ~~to 13 inclusive~~ → Article 16			
	Article 22 paragraph 7			
	Articles 23 to 27 inclusive			
	Article 29 para. 1 + 2			
	Article 34			
	Article 35	The day of the expiration of one month commencing on the day of the promulgation of this law	ditto	ditto
	Article 48			
	Penal provisions of Article 50 items 1 to 4 inclusive			
	Penal provisions of Article 51 item 3 4			
	Such part of Article 52 as is relating to Article 50 items 1 and 3			
	Paragraphs 1 to 9 inclusive of the Supplementary Provisions			
	Paragraph 11 of the Supplementary Provisions			
	Paragraphs 16 to 18 inclusive of the Supplementary Provisions			
	Paragraph 21 of the Supplementary Provisions			
	Paragraph 22 of the Supplementary Provisions			
	Article 28			
	Articles 45 to 47 inclusive			
	Article 49			
	Penal provisions of Article 51 items 4 5 and 7 8			
	Such part of Article 52 as is relating to Article 51 item 7 8	The day of the expiration of two months commencing on the day of the promulgation of this Law	ditto	ditto
	Paragraphs 12 to 15 inclusive of the Supplementary Provisions			
	Paragraph 19 of the Supplementary Provisions			
	Paragraph 20 of the Supplementary Provisions			

Article 11	The day of the expiration of three months commencing on the day of the promulgation of this Law	The day of the expiration of eight months commencing on the day of the promulgation of this Law	The day of the expiration of one year and one month commencing on the day of the promulgation of this Law
Article 8 paragraph 7			The day of the expiration of six months commencing on the day of the promulgation of this Law
Other provisions	The day of the expiration of six months commencing on the day of the promulgation of this Law	The day of the expiration of eleven months commencing on the day of the promulgation of this Law	The day of the expiration of one year and three months commencing on the day of the promulgation of this Law

2. The personnel commissions of Do, Fu and prefectures, or of To and the cities mentioned in Article 155 paragraph 2 of the Local Autonomy Law must be established not later than the date specified in the following schedule:

Do, Fu and prefectures	The day of the expiration of two months commencing on the day of the promulgation of this Law
To and cities under Article 155 paragraph 2 of the Local Autonomy Law	The day of the expiration of six months commencing on the day of the promulgation of this Law

3. Bylaws or rules concerning such matters as are required by this Law to be provided for by bylaw or rule must be ~~enacted~~ established not later than the date specified in the following schedule:

Do, Fu and prefectures	The day of the expiration of one year and one month commencing on the day of the promulgation of this Law
To and cities under Article 155 paragraph 2 of the Local Autonomy Law	The day of the expiration of one year and six months commencing on the day of the promulgation of this Law

Other local public bodies	The day of the expiration of two years commencing on the day of the promulgation of this Law

4. The members of the personnel commissions of Do, Fu and prefectures ~~shall~~ within three months commencing on the day of the promulgation of this Law and the members of the personnel commissions of To and the cities mentioned in Article 155 paragraph 2 of the Local Autonomy Law must within eight months commencing on the day of the promulgation of this Law finish an indoctrination course concerning public personnel administration conducted by the National Government personnel agencies.

5. The members, chiefs of the executive office of personnel commissions of Do, Fu and prefectures and key personnel of the executive office as designated by the personnel commissions must within six months commencing on the day of the promulgation of this Law and the members, chiefs of the executive office of the personnel commissions of To and the cities mentioned in Article 155, paragraph 2 of the Local Autonomy Law and key personnel of the executive office as designated by the personnel commissions must within eleven months commencing on the day of the promulgation of this Law finish a course in personnel administration and techniques conducted by the National Government personnel agencies.

6. The appointment, ~~such~~ dismissal, status, disciplinary punishment, performance of duty, compensation, and other matters concerning the treatment of the status of the personnel in each local public body shall continue to follow the former instances until the relevant provisions in this Law have become applicable to the respective local public body.

7. Until the expiration of six months commencing on the day of the promulgation of this Law, "rules issued under this Law" in Article 3 paragraph 3 item 2 shall read "the head of the local public body".

8. The Local Autonomy Agency shall have the power, until and not later than December 31, 1952, to decide whether certain positions belong to the local public service and whether they belong to the regular service or to the special service provided for in Article 3. However, the application of the provisions of the latter part of Article 2 paragraph 4 of the National Public Service Law shall not be prevented.

8. The term of office of two of the members of the personnel commission to be appointed initially shall be five years for one and three years for another. In such case the term of office of each member shall be decided by the head of the local public body by lot.

9. The disciplinary dismissal mentioned in Article 16 item 3 shall include the disciplinary dismissal administered in the local public body concerned in accordance with the former provisions concerning the local public service personnel.

10. With regard to the temporary retirement or disciplinary punishment of those who have been orderd to be temporarily retired, or against whom disciplinary procedure is being taken, or who have been subjected to disciplinary action, in accordance with the former provisions concerning the local public service personnel, the former instances shall continue to be followed.

11. Until the expiration of six months commencing on the day of the promulgation of this Law, "rules issued under this Law" in Article 29 shall read "the head of the local public body".

12. Until the expiration of six months commencing on the day of the promulgation of this Law. "rules issued under this Law" in Article 45 paragraph 5 shall read "bylaw", and "personnel commission or personnel commissioner" in the same paragraph shall read "head"; "personnel commission or personnel commissioner" a member of the personnel commission designated thereby in Article 49 paragraph 3 shall read "head of the local public body".

13. When incorporated labor unions which are in existence at the time of the coming into force of the provisions of Article 49 paragraph 1 and which are formed by the personnel have been registered in accordance with the provisions of Article 45 paragraph 4, they shall be considered to have been established and continue their existence as juridical persons mentioned in paragraph 5 of the same Article.

14. The unions mentioned in the preceding paragraph shall apply, within the period fixed by bylaw, for registration in accordance with the provision of the former part of Article 45 paragraph45, and the personnel commission or personnel commissioner (until the day of the expiration of six months commencing on the day of the promulgation of this Law, the head of the local public body) shall issue notice of registration or denial within thirty days from the expiration of that period. The unions mentioned in the preceding paragraph which have not filed application for registration or which have received notice of denial shall lose their status as juridical persons upon expiration of that period. The procedure necessary in such case shall be fixed by cabinet order.

15. With regard to the application of the penal provisions to the acts which have been committed before the coming into force of the provisions of Article 49 paragraph 1 in violation of the provisions of the laws and orders provided for in the same paragraph, the former instances shall continue to be followed, notwithstanding the provisions of the same paragraph.

16. All the provisions of this Law, excluding those of paragraphs 17 and 18 of the Supplementary Provisions shall not be applied to the personnel engaged in the following public enterprises of the local public bodies: However, in the case of the enterprises listed under Items 4 - 12 inclusive, such personnel shall mean only those who are engaged at the places of field work of such enterprises.

(1) Local railway enterprise, tramway enterprise, ropeway enterprise, trolley bus enterprise, motor transportation enterprise, and ~~regular shipping line~~ water transp enterprise;

(2) Electric + gas enterprise;

~~(3) Gas enterprise;~~

~~(4)~~ (3) Water-works + sewage works enterprise.

(4) Enterprises of mfg., rebuilding, improving sale & exhibition of goods,

(5) Engg & building enterp

(6) Agri., forestry, sericulture & fishery enterp

(7) Public garden enterp

(8) Hosp. & clinic "

(9) Cleaning "

(10) Incineration & butchering enterp

(11) Hotel, drug hall & recreation hall enterp

(12) Horse racing, bicycle racing & other public perf.

17. Matters concerning the treatment of the status of the local public service personnel mentioned in the preceding paragraph, besides those provided for by the Labor Standard Law and Mariners' Law, shall be provided for by law separately.

18. With regard to matters concerning the treatment of the status of the local public personnel mentioned in paragraph 16 of the Supplementary Provisions, the former instances shall continue to be followed until the law mentioned in the preceding paragraph has been enacted and come into force.

19. The Cabinet Order concerning Temporary Measures to be taken in consequence of the Letter of the Supreme Commander for the Allied Powers to the Prime Minister dated July 22, 1948 (Cabinet Order No. 201 of 1948) shall be invalidated with regard to local public service personnel, excluding those provided for in paragraph 16 of the Supplementary Provisions.

20. With regard to the application of the penal provisions to the acts which have been committed before the invalidation of the Cabinet Order concerning Temporary Measures to be taken in consequence of the Letter of the Supreme Commander for the Allied Powers to the Prime Minister dated July 22, 1948, in violation of the provisions of Article 2 paragraph 1 of the same cabinet order, the former instances shall continue to be followed.

21. The provisions of Article 16 of Enforcement Ordinance of the Law for the Special Regulations concerning Educational Public Service (Cabinet Order No.6 of 1949) shall continue to be valid until the expiration of the term of off as assembly members of those educational personnel of public schools who will still be holding concurrently the positions of members of the assemblies of the local public bodies, notwithstanding the provisions of Article 33 of the Law for the Special Regulations concerning Educational Public Service (Law No. 1 of 1949).

21 22. The Procedure for the implementation of this Law and other matters necessary for its enforcement shall be provided for by cabinet order.

Economic and Scientific Section
Labor Division

COMMENTS AND CRITICISMS OF PROPOSED DRAFT OF
LOCAL PUBLIC SERVICE LAW

4 November 1949

1. Article 3, paragraph 3 and its subdivisions enumerate and paragraph 5 provides, that those in special government service shall not be covered by the law. No exemption is granted to the members of the Local Labor Relations Commissions which should be exempted inasmuch as their appointment and removal is now clearly provided for in Article 19 of the Trade Union Law. The Commissions act in a quasi-judicial capacity in labor matters and, in order to preserve their judicial independence, they should be exempted from the Local Public Service Law and be governed by the same rules that govern the Central Labor Relations Commission which is exempted from most provisions of the National Public Service Law. The local labor relations commissions in function are an extension of the Central Labor Relations Commission.

It is recommended that the following clause in Article 3, paragraph 3, subparagraph 3, "excluding experts, technicians, supervisors and those who take charge of administrative affairs," be amended to read, "or of those experts, technicians, supervisors and those who take charge of administrative affairs who are not regularly employed by the public body."

2. Article 10, paragraph 1, provides that the personnel commission cannot be in session without the attendance of all its members. It could well be that the prolonged illness or absence of one member would prevent the function of the personnel commission especially if that member should be of such outstanding ability or influence that the local body is reluctant to remove him. It is suggested that some provision be made for leaves of absence and filling the post by temporary appointment. Unless some such provision is made, grievances could not be promptly and expeditiously settled, thus aggravating employer-employee relationships unnecessarily.

3. Article 28, paragraph 2, provides that any employee who has resorted to strike or other act in violation of the provisions of Article 28, paragraph 1, shall be unable to exercise against the local public body "all of the rights he enjoys under laws, orders or by-laws or regulations." It is the evident intention of this section to deprive those personnel who violate the provisions of this section of their status and rights as employees and not to deprive them of their other legal rights. It is suggested that the language of the draft is too broad, seeming to deprive such employees of all legal rights, and should be amended to read substantially as follows:

> "Any member of the personnel who has resorted to strike or other acts in violation of the provisions of the preceding paragraph shall, simultaneously with the commencement of such acts, be deprived of his status as an employee and shall be unable to

"assert any right or privilege as an employee given to him by this law against the local public body other than the right to collect salary already accrued."

4. It is recommended that the following be added at the end of Article 38: "for those not already covered by the Workers' Accident Compensation Insurance Law, -Law No. 80 of 1947."

Under Article 38, as presently drafted these enterprise workers (other than those excluded from its provisions by Article 16 of the supplementary provisions) will be subject to the coverage provisions of both the Workers' Accident Compensation Insurance Law and this Bill. The recommended addition to Article 38 will clarify the status of these enterprise workers and prevent local autonomous bodies from establishing duplicating systems of accident compensation for workers already covered by the Workers' Accident Compensation Insurance Law.

If the recommendations contained in the paragraph dealing with Article 16 of the Supplementary Provisions are accepted, the recommended addition to Article 38 will not be necessary since the enterprises in question will thereby be excluded from the provisions of Article 38 and their present coverage under the Workers' Accident Compensation Insurance Law will be continued.

5. As to Article 42, ESS is of the opinion that such article and its provisions do not satisfy the requirements for good labor relations in that no provision is made for the hearing of a grievance by an impartial board or commission.

6. Article 45 is objectionable for the following reasons:

a. Paragraph 1 excludes from employee organizations those who are employed in a managerial or supervisory position or who are charged with confidential matters. In a local public body it is inconceivable that there would exist confidential matters of such a nature as would make it undesirable for those having charge of them to become members of a union. Moreover, where the line is to be drawn is not clearly set forth in the law. For these reasons it is suggested that this restriction should be omitted. As to those in a managerial or a supervisory position, it is believed that this phraseology is too broad and too general. For the most part, civil service employees, unlike those in private industry, do not have the right to hire, fire and transfer other employees. It is therefore suggested that only those employers actually exercising the right to hire or fire, or who occupy top executive positions should be excluded. Those to be excluded, should be specifically set forth in the law and not left to be fixed by by-law as provided in paragraph 2 of Article 45.

b. Paragraph 3 of Article 45 could be construed to prevent such organizations as teachers' unions from forming a federation on a prefectural

regional or national level. It definitely restricts employee organizations to federations within the same employer agencies. Such a restriction is contrary to principle and practice in the United States, U.K., France and all of the Western democratic nations. Its enforcement would compel the dissolution of certain national unions, which exactly parallel the organization of some of the most respected employee unions in the United States, such as the American Federation of Teachers and the Council of State, County and Municipal Workers Unions. Their unwarranted dissolution would unnecessarily subject the SCAP to adverse criticism without any apparent purpose in view. There is no reason in law or fact why such an organization as a teacher federation cannot exist on a national, regional or prefectural level.

c. Paragraphs 4, 6, 7, 8 and 9 of Article 45 are objectionable generally in that they provide for compulsory registration. It is believed that compulsory registry is neither necessary nor desirable and that this requirement should be removed wherever it occurs in this draft, or at least that paragraph 9 be amended to include the following:

> "provided, however, that the personnel commission or personnel commissioner shall have no authority to require as a prerequisite for registration, or provide as a basis for cancellation or registration, any additional requirements not now provided for in this law."

d. Article 45, subparagraph 7, reads: "The agreements of the personnel organizations". It is believed that this is a mistake in translation and should read, "The articles of association" or "the constitution" or such other similar phraseology.

e. Article 45, subparagraph 9, provides that when a personnel organization has its registration cancelled, it shall be dissolved on the day of the cancellation of its registration. If compulsory registration provisions are retained in the law, it is suggested that some period of grace be allowed in order to enable such a juridical person to conclude its affairs and dispose of its property. In addition, this paragraph should be clarified to the extent that upon dissolution it shall be dissolved as a juridical person under this law only and not as a union organization. This paragraph should also provide for a proper hearing before the personnel commission or personnel commissioner can cancel the registration of any such organization.

f. Article 45, paragraph 12, should be clarified. It is the apparent intent of this paragraph to provide that full-time union officials should not receive pay from the local public bodies but it is not clearly stated. This paragraph should also provide that full-time union officials be placed upon a leave of absence status with full reemployment and seniority rights and be paid by the union.

7. It is difficult to understand the intent or application of Article 48 and believe that the purposes and scope of this Article should be more definitely set forth.

8. Article 14 of the Supplementary Provisions provides that those unions not registered on a date to be fixed by by-law shall be dissolved on the expiration of that date. There is substantial objection to compulsory registration provided for in this Article and also in Article 13. If this is retained, it is suggested that a strict enforcement of this provision as written would work a great hardship and unnecessary expense upon these unions who had applied for registration but whose applications had not been acted upon or a final decision given by the personnel authority on the date fixed by by-law. If retained, it is suggested that this provision be amended to provide that in the case of those unions who had applied for registration on the date fixed by by-law, they shall continue as juridical persons until their application for registration has been finally denied by the personnel authority. In order to insure prompt action on such application, there probably should be a provision that the personnel authority shall act promptly on all such applications. It should also be made more clear that upon dissolution, the organization would be dissolved only as a juridical person under this law and not as a union organization.

9. As to Article 16 of the Supplementary Provisions, it is suggested that the proper line of demarcation between employees included and employees excluded from the provisions of this proposed law should be based upon a determination as to whether or not the employees are employed by an agency exercising a purely governmental function. If they are so employed, it is suggested that all such employees, regardless of job classification, be included in the provisions of this proposed law. If they are not so employed, they should be excluded. This distinction was commonly observed as regards contract and tort liability at common law and has been followed in the majority of Stateside jurisdictions (although it is true that there are a number of jurisdictions in the United States that do not follow this jurisdiction.) The most commonly governmental functions accepted are:

a. Preservation of the public peace;
b. Preservation of public health;
c. Apprehension and punishment of criminals;
d. Prevention of destruction by fire; and
e. Providing for the poor.

Other than these listed functions, all other functions of a governmental agency are actually proprietory enterprises of a quasi-private nature. As such, the sound reasons for imposing restrictions on the right of collective action and organization that exists in the case of governmental employees engaged in a purely governmental function do not exist. These proprietory enterprises, although for the common good of the community are actually private in nature and it is unfair to such employees to restrict their constitutional right of organization, collective bargaining and political activities. This distinction in principle has been recognized in the case of the employees of the Japanese National Railways and the Public Monopoly Corporations who are exempt from the coverage of the National Public Service Law, and has to a limited extent been recognized by this local law in the exclusion of employees of local transportation, electric, gas and water works enterprises.

It is suggested therefore that all workers employed in:

a. Construction work
b. Gardening and lumber work
c. Animal breeding and other stock raising
d. Sericultural work
e. Research or survey service
f. Incinerating or dusting or slaughtering services
g. Sale of goods or services for profit
h. Other organizations or services engaged in a similar proprietory function

be excluded from this law in order to be legally and logically consistent, and further, that these employees so enumerated be covered by subsequent appropriate legislation.

10. Article 17 of the Supplementary Provisions should be amended to include the words "and Mariners' Law" following "Labor Standards Law."

11. Article 22 of the Supplementary Provisions contains no restriction or standard to be followed by the Cabinet Order providing for the procedures for the implementation of this law. It is suggested that this is too broad a power to be exercised by Cabinet Order and that some restriction or standard should be set up in this Article.

* * * * * *

Local Public Service Legislation

CIVIL SERVICE DIVISION
Government Section

3 November 1949

MEMORANDUM FOR: Mr. W. Pierce MacCoy, Acting Chief,
Civil Service Division

SUBJECT : Additional Suggestions for Revision of Local Public Service Law

In Civil Service Division's memorandum to Parliamentary and Political Division presenting suggestions for improvement of the propose Local Public Service Law, it was made clear that Civil Service Division had not had at that time, sufficient time to make all desirable suggestions. In particular, it was stated that Civil Service Division had grave doubts as to the applicability of the Labor Standards Law and Mariners' Law to local public bodies pursuant to Article 49.

Additional study of the Labor Standards Law leads the undersigned to recommend exclusion of the following articles in addition to those already excluded: Articles 28-31 inclusive; Article 65, paragraph 3.

It is recommended that you consider the advisability of excluding the following articles also: Articles 15; 49, paragraph 3; 52; 53; 70-71; 73; 95, paragraphs 2 and 3; 102; 106; and 107. Of the articles listed in this paragraph, none would very seriously interfere with the proper conduct of personnel affairs in the local government. Mr. Okabe, however, believes that Article 102 should definitely be excluded from application to local governments.

Even less serious if allowed to apply to local public bodies, yet of interest in connection with this review are the following: Articles 63, 66, 86, 88 and 108.

It is recommended that Article 49, paragraph 2 be amended to make it clear that provisions of the Labor Standards Law and the Mariners' Law shall be applicable only insofar as they do not conflict with the Local Public Service Law. If such stipulation is made then the following articles need not be excluded from application from local public bodies even though they are in part in conflict with the Local Public Service Law: Articles 13, 24, 36 and 112.

As yet there has not been sufficient time to review the Mariners' Law in order to recommend additional articles from which local public bodies should be exempt.

It is recommended that the last sentence of paragraph 3, Article 49, (Labor Standards Law) be deleted. It appears to the undersigned to be absolutely ridiculous to

have the Local Labor Standards Offices supervising the administration of the Labor Standards Law for a small group of local government personnel, which personnel are subject in all other respects to exactly the same employment conditions and procedures as all other local government personnel, whereas supervision of the Labor Standards Law for the latter personnel is handled exclusively by the Personnel Commission.

The following additional suggestions for revision of the bill are offered for the first time:

1. Grant power to the local assemblies to require personnel of both regular and special services to take an oath of allegiance to Japan including the observanceand support of its Constitution.

2. Require the submission by the Personnel Commission or Personnel Commissioner of an annual report of the activities of such official (s) to the Chief of the local public body and to the assembly.

3. Authorize the Personnel Commission or Personnel Commissioner to certify names from the most nearly appropriate eligible list, if any is satisfactory, in case there are fewer than the required number of names available on the eligible list established for the class for which certification is requested.

4. Revise paragraph 1 of Article 15 to read as follows:

"In cases where vacancies have occurred in the positions of the personnel, the appointing authorities may, subject to standards established by rules of the Personnel Commission or Personnel Commissioner, make an appointment by any one of the following means: Initial appointment, promotion, demotion, transfer, and reinstatement."

5. Include in the law a provision allowing the Personnel Commission or Personnel Commissioner to establish rules governing the eligibility, procedure, and initial status upon appointment, with respect to persons reinstated after they have been separated against their will due to no fault of their own, as a result of a reduction in the number of personnel due to abolition of positions, lack of work, or lack of funds.

Attention is again called to the second sentence of paragraph 1, Article 45, by which managerial, supervisory and certain other personnel prohibited from membership in employee organizations. Although objection may be made in principle to such restriction, inquiry into the recent practices of national government employees organizations indicates that such personnel are ordinarily excluded from membership by the organizations ~~on~~ Articles of Association or agreement.

GWP.

GORDON W. PETERSON
Chief, Organization Branch

GWP:rj

Nov. 2, 1949

File
3-20-50

Local Public Service Law

On Friday, October 28, I discussed this bill with Rizzo, Hauge, and Cantro. Rizzo raised the question as to the propriety of perpetuating the Local Autonomy Agency by including it as the advisory agency in the bill. The Government Section is violently opposed to the perpetuation of this agency. Hauge understood that Peterson had agreed that the agency as such would be deleted from the bill. I assured Mr. Rizzo that this Division would not oppose his suggestion that a temporary agency such as Mr. Rizzo suggested, a temporary personnel commission, would be established for a definite period, perhaps for two years or more, which would be a substitute for the Local Autonomy Agency.

Mr. Rizzo questioned the cost of such legislation, and I assured him that without any doubt additional costs would be involved because of the necessity for personnel required to operate a civil service system in each local public body. This also seemed to be a major issue with Mr. ~~Rizzo~~ Hauge.

Rizzo also was very concerned, as I have been, as to the fact that the legislation is mandatory rather than permissive. I pointed out, however, that Mr. Peterson has studied that particular angle with me and many provisions of the bill minimize the installation of certain techniques which could prove difficult or undesirable in small communities.

I asked Mr. Rizzo to clear with General Whitney Article 45 which specifically excludes all managerial and supervisory personnel from joining or forming employee organizations. It is the feeling of the members of this staff that General Whitney would be unalterably opposed to the inclusion of such a statement because of the difficulty we had last year, particularly with Article 98, and the resulting international complications.

I also pointed out to Mr. Rizzo that the last paragraph in the Supplementary Provisions would permit the Cabinet and the substitute organization for the Local Autonomy Agency to not only amend this bill, but even to introduce and sponsor negative legislation. We therefore suggested that the item be deleted. Mr. Rizzo in turn minimized our point of view and stated that he felt that Japanese custom would require the inclusion of such item.

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On Tuesday, I discussed the bill with General Whitney, my initial desire for a meeting with him being to cover possible complications which the Local Standards Law may cause in the operation of the Local Public Service Law. Peterson had reported to me that Legal Section was attempting

to exclude various and sundry groups of employees from the law which not only would nullify its overall value but would create dual administrative agencies. Whitney dismissed this objection by stating that he would under no circumstances permit Legal Section to interfere with any legislation which we were supporting.

I then discussed with him Article 45 wherein managerial personnel is excluded from the bill and asked then if inclusion would cause any complications on an international level, and he replied that that matter did not bother him. He also stated that he was not fearful of any repercussions as to Article 98, that that was a dead issue and if the Japanese desired this viewpoint expressed in the bill, it was okay with him. General Whitney asked me if in my judgment it was a good bill, and I replied that our Division had not prepared the bill, explaining the advice that had been given to the Japanese, that we had prepared a proposed draft that had never been shown to the Japanese and that if we were to develop such legislation we would have included many items which are not in the proposed bill and would have left out many which do appear. We discussed for sometime how the legislation had been developed and summarized by saying he thought they had done a very excellent job, that they should not be discouraged, and that we should support the bill. After explaining that we had submitted some six pages of comments to Political and Parliamentary Division, it was his suggestion that the bill be approved by Government Section and that such comments be submitted to the Japanese for their use if they found them desirable and that after the bill had become enacted into law that our proposed draft be submitted to them for whatever use it might have.

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In a brief conversation with Mr. Williams, Parliamentary and Political Division, it developed that Mr. Williams was of the opinion that not only had this Division sponsored the bill, but had actually prepared the bill itself.

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Dr. Asai called at the office on Tuesday and informed me that he had an appointment with Mr. Yoshida on Wednesday and in addition to discussing the Political Activity Rule and the base pay problem, he wished to discuss critical examinations. Because the announcement for the examinations is not to be made public until November 12, I raised the question of the propriety of contacting Yoshida ten days ahead of the announcement. Dr. Asai felt that Mr. Yoshida should be contacted in advance because if he learned of the examinations through other sources and particularly the newspapers, he would not only be embarrassed but would be highly displeased. Upon further questioning, he assured me that it would be an off-the-record conversation and that he could rely on

Mr. Yoshida to keep this confidential, and he had no fears of any leak in publicity on the part of Mr. Yoshida. For my part I neither agreed with Dr. Asai nor disagreed with him and discussed the matter with the Examination Branch. Mr. Shirven is returning to Tokyo on Wednesday morning, and while I discussed the matter with the Examination Branch, I will again discuss the matter on Mr. Shirven's return.

On Friday a draft of the annual report for the NPA covering the fiscal year of 1948-49 was submitted to Tindale who in turn gave a copy to me. While I personally am not averse to short annual reports, it occurred to me that Mr. Hoover or Mr. MacCoy may feel it quite desirable to have a very comprehensive report covering the formative years of NPA. While NPA has expressed a desire to get the report out as quickly as possible because of its having been long delayed, I told Mr. Tindale that I should like to have this matter held up at least until Mr. MacCoy's return.

(F Rosen)

1. ~~Mr. Macoy~~ 2 Patarasuk - Comment?

File

CIVIL SERVICE DIVISION
Government Section

I believe we've pretty well talked this out by now. WRM 10/19

12 October 1949

MEMORANDUM FOR: The Record

SUBJECT : Agencies to Implement the Local Public Service Law

The following is a suggested allocation of duties and responsibilities regarding the implementation of the Local Public Service Law among the Local Autonomy Agency, National Personnel Authority and the Civil Service Division.

I. Local Autonomy Agency

In general the Local Autonomy Agency as the sponsor of the Local Public Service Law should have the responsibility for seeing that all interested Local Public Bodies have an opportunity to secure the information, training, and advice which they need in order to make the law operate as intended. Among specific duties are the following:

a. Draft the Local Public Service Law.

b. Draft model by-laws for Assemblies of prefectures, cities, towns, and villages.

c. Draft model rules for Personnel Commissioners of prefectures, cities, and towns.

d. Publicize and defend the law; explain its characteristcs and objectives.

e. Act as a coordinator between the Local Public Bodies and the National Personnel Authority in the establishment and conduct indoctrination training for Personnel Commissioners and in administrative and technical training for Commissioners and key members of their Secretariats.

f. Encourage and accept requests of Local Public Bodies for information, instruction, and guidance regarding the implementation of the Local Public Service Law.

g. Prepare and distribute explanations and recommendations regarding personnel matterw of general applicability in prefectures, cities, towns and villages.

h. On request of Local Public Bodies give specific technical information and advice independently if the subject matter is known to the Local Autonomy Agency, or give such information and advice after consultation with the National Personnel Authority, or refer the matter to the National Personnel Authority.

Memo for: The record 12 October 1949

i. Review theprinted materials issued by the National Personnel Authority to select those which may be usable by Local Public Bodies, e.g., ~~decimate~~ disseminate the information either on the initiative of the Local Autonomy Agency or on request.

j. Continuously secure information regarding the establishment of personnel programs from Local Public Bodies, summarize such information and distribute to other Local Public Bodies for guidance purposes.

k. Make infrequent spot investigations of installations in prefectures, and cities in order to detect improper understanding of the Local Public Service Law, and to be available momentarily to explain such errors to the Local Public Bodies.

l. In all matters listed above the Local Autonomy Agency acts in an advisory andpromotional capacity refraining from all times from directing local officials.

II. National Personnel Authority

In general the National Personnel Authority should give what service it can and at the request of the Local Autonomous Agency and the Local Autonomy Bodies. Such assistance will be in the form of technical training and technical consultation and advice. Examples of its activities are as follows:

a. On request, advise the Local Autonomy Agency regarding technical matters contained, drafts of model by-laws and model rules.

b. On request, advise the Local Autonomy Agency regarding technical personnel matters of either general or specific applicability.

c. On request, advise Local Public Bodies regarding technical personnel matters. (It will be necessary for the National Personnel Authority to charge the Local Public Bodies for any special studies or investigations).

d. On request, if staff is available, aid in the installation of technical personnel programs. (All such assistance should be chargeable to the Local public Bodies).

e. Provide the curriculum and instructions for the training program sponsored by the Local Autonomy Agency.

f. Allow some of its own personnel to transfer to the Local Autonomy Agency in order to give the latter organization a nucleus of personnel with some training experience.

g. Training Local Autonomy Agency staff in pers. admin & tech-

Memo for: The record

12 October 1949

III. Civil Service Division

In general it is the responsibility of the Civil Service Division to see that the Local Public Service Law is properly implemented through the efforts of the Local Autonomy Agency with the technical assistance of the National Personnel Authority. Among its activities should be the following:

a. See that the Local Autonomy Agency and the National Personnel Authority is staffed sufficiently to enable them to perform their functions.

b. Advise the Local Autonomy Agency regarding the Local Public Service Law both as to drafting and as to later interpretation.

c. Advise the Local Autonomy Agency regarding the preparation and interpretation of model by-laws and rules.

d. Advise the Local Autonomy Agency and the National Personnel Authority regarding technical personnel problems which are generally applicable to Local Public Bodies and also give advice with respect to the more specific problems which arise.

e. Make a few special investigations of installations in prefectures and the largest cities.

GORDON W. PETERSON
Chief, Organization Branch

GWP:med

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CIVIL SERVICE DIVISION
Government Section

11 October 1949

MEMORANDUM FOR: The Record

SUBJECT : Local Public Service Law

1. There seems to be a strong hold-over from the old attitude toward government officials and officialdom. The tendency is to distinguish between authoritarian administrative personnel and all others, such others commonly being grouped into "workers" and "educational personnel". It is argued that only the so-called administrative personnel should be restricted by the "undemocratic" and "punitive" civil service laws and rules. Local government employees themselves fail to see much difference between employees of local public enterprises and the non-administrative or non-office personnel. They advocate similar treatment of both (e., g., the statement dated August 31, 1949 by the Osaka and Kobe Municipal Worker's Union, pages 3 and 4). Failure to include non-administrative and non-office personnel with the personnel of local public enterprises in legislation designed to grant special exceptions or special treatment will probably be regarded as arbitrary and unjustified. In this respect, the Local Autonomy Agency's proposal will seem unreasonable to many but should seem more equitable than the proposal by the Ministry of Labor transmitted to the Civil Service Division 12 September, 1949 in which public enterprise personnel are not only given special treatment but are placed under the jurisdiction of the special Law for Local Public Enterprise Personnel and the Trade Union Law thereby identifying them closely with the trade unions in industry.

2. Employees of local public enterprises are public servants just as much as are other employees of the local government. There is no need to treat them entirely separately and, in fact, emphasis should be placed upon their being public servants.

3. The local public bodies, especially the middle sized and small ones, should be able to conduct their personnel programs under one law and to secure consistent advice from one source. Two laws and two sources of advice will invite misunderstanding, confusion, and possibly irreconcilable conflict.

4. In contrast to the situation in national government, the relatively small size of public enterprises in local government makes it uneconomical to have entirely separate personnel systems. Many problems of the Local Public Service Law should be applicable to all personnel of local public bodies, including those in public enterprises. Such provisions would include employment, concurrent employment, political activity, training, retirement benefits and many others.

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Memo for: The Record

11 October 1949

5. The relationship between special employee relations measures designed for local public enterprise personnel and the Local Public Service Law itself must be clearly detailed in the legislation. If all measures are contained in one Bill it will be far easier to produce an integrated result than if two laws are designed and passed independently. The proposal of the Labor Ministry as submitted to the Civil Service Division fails to take into consideration this entire problem. The Local Autonomy Agency, on the other hand, is revising its proposal in order to clarify the effect of the special exceptions for enterprise personnel.

GORDON W. PETERSON
Chief, Organization Branch

GWP:med

Comments

September 19 , 1949

Subject: The Local Public Service Law (Draft)

To : Mr. B. Hoover, Chief of Civil Service Division G. S., G. H. Q.

From : S. Suzuki, Chief of Liaison and Administration Division, Local Autonomy Agency

——— applies to all LPB — (either mandatory or permissive

——— applies to agencies which have Commission (only)

——— applies to agencies which have Commission or Commissioner (only)

2 doubtful whether applicability should be as it is -

A Automatically effective (whether or not Commission) (later
in accordance with LAA 10

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The Local Public Service Law (Draft)

Chapter I General Provisions

Purpose of this Law

Article 1

The purpose of this Law is to insure democratic and efficient operation of the public administration of the local public bodies and contribute thereby to the realization of the principle of local autonomy, by establishing basic standards for the personnel administration of the local public bodies, such as their personnel agencies and the appointment, classification, status and disciplinary punishment, performance of duty, training, compensation and other working conditions, protection of the welfare and interest, and organization, of local public service personnel.

Validity of this Law

Article 2

In cases where the provisions of the former laws, orders, bylaws or regulations concerning local public service personnel (meaning all of the public service personnel of the local public bodies; the same hereinafter) are in conflict with those of this Law, the latter shall prevail.

Local Public Service Personnel in the Regular Public Service and Local Public Service Personnel in the Special Public Service

Article 3

Offices of the local public service personnel are divided into those of the regular public service and those of the special public service.

2. The offices of the regular public service comprehend all of the offices other than those of the special public service.

3. The offices of the special public service are as follows:

(1) Offices appointment to which requires election, or the resolution or consent of the assembly of the local public body;

(2) Commissioners or members of committees or boards established by laws and orders, bylaws or regulations, and other offices of a similar nature;

(3) Offices of those persons who are hired by the day or of those persons who are employed by fixing a term of two months or less, excluding technicians, supervisors and those who take charge of administrative affairs.

4. The provisions of this Law are applied to the local public service personnel in the regular public service (hereinafter referred to as the personnel).

5. The provisions of this Law are not applied to the local public service personnel in the special public service, except for cases specially provided for by law.

Enactment of Bylaws concerning the Personnel Agencies and the Personnel

Article 4

The local public bodies are to provide by bylaw for the establishment of the personnel agencies, the enforcement of standards applicable to the personnel, and other necessary matters concerning the personnel, in accordance with the basic standards fixed by this Law, except for cases specially provided for by laws or cabinet orders issued thereunder. However, such bylaws must not be contrary to the spirit of this Law.

2. In the local public bodies which have the personnel commission or personnel commissioner, the bylaws mentioned in the preceding paragraph cannot be enacted, or amended or abolished, unless based on the advice of the personnel commission or personnel commissioner.

Cooperation and Technical Advice of the Local Autonomy Agency

Article 5

The Local Autonomy Agency may extend its cooperation and technical

advice so that the operation of the personnel administration of the local public bodies, including the enactment of the bylaws provided for in the preceding Article, may be in accordance with the principles of good public service to be established by this Law.

Chapter II Personnel Agencies

Appointing Authorities

Article 6

The heads of the local public bodies, the chairmen of the assemblies, the election administration committees, inspection commissioners, public safety commissions (including the public safety commissions of the special wards), boards of education, personnel commissions and personnel commissioners, and the chiefs of police and chiefs of fire defense of cities, towns and villages (including the chiefs of police of the police establishments maintained jointly by special wards and the chiefs of fire defence of the fire defense establishments maintained jointly by special wards) and other appointing authorities are to have respectively the power to administer the appointment, suspension, dismissal and disciplinary punishment of the personnel in accordance with this Law and bylaws and regulations issued thereunder, except for cases specially provided for by laws or cabinet orders issued thereunder.

Establishment of the Personnel Commission or Personnel Commissioner

Article 7

A local public body may set up by bylaw a personnel commission. However, To, Do, Fu and prefectures and the cities mentioned in Article 155 paragraph 2 of the Local Autonomy Law (Law No. 67 of 1947) must set up the personnel commission.

2. A local public body which has not set up the personnel commission may have one personnel commissioner.

Powers of the Personnel Commission or Personnel Commissioner

Article 8

The personnel commission or personnel commissioner administers the following affairs:

(1) To investigate matters of personnel administration and to prepare personnel records and statistical reports concerning personnel affairs;

(2) To summon witnesses if necessary for the investigation on matters concerning personnel administration or to demand presentation of documents or copies thereof which are considered as relating to the matters to be investigated;

(3) To make a continuous study on systems concerning the personnel, such as classification, compensation and other working conditions, benefit and welfare systems, the system of compensation for accidents in line of duty, etc., and to submit the result thereof to the assembly, head and appointing authorities of the local public body;

(4) To state opinions to the assembly and head of the local public body on the enactment, amendment or abolition of bylaws concerning the personnel;

(5) To make recommendations to the appointing authorities on the operation of personnel administration;

(6) To administer the competitive examination and selection of the personnel and affairs relating thereto;

(7) To administer the disciplinary punishment of the personnel, in cases where the appointing authorities fail to do so in spite of the fact that there exists a cause for it and it has been recommended;

(8) To supervise and control the payment of compensation to the personnel;

(9) To formulate over-all plans for the training of the personnel and other inprovements in their efficiency;

(10) To examine applications for action concerning the working conditions of the personnel and adopt necessary measures, in

cases where such applications have been filed with the personnel commission or personnel commissioner;

(11) To review adverse actions toward the personnel and adopt necessary actions;

(12) To administer such affairs as have been placed within its or his powers in accordance with laws or bylaws in addition to those enumerated in the preceding items.

2. The personnel commission or personnel commissioner may enact rules concerning such matters as have been placed within its or his powers in accordance with laws or bylaws.

3. In the spheres where the personnel commission ~~or personnel commissioner~~ has been invested by this Law with the power to administer, its or ~~his~~ decisions and actions are reviewed only by itself or himself in accordance with the procedure to be fixed by the rules mentioned in the preceding paragraph

4. The provisions of the preceding paragraph do not affect the right of access to court on matters of law.

5. In the local public bodies which do not have the personnel commission or personnel commissioner, the affairs mentioned in each of the items of paragraph 1 are administered by the heads of the local public bodies. In this case the provisions of the preceding two paragraphs are to be applied mutatis mutandis, and the provisions of Article 15 paragraph 2 of the Local Autonomy Law are not to be applied to the rules enacted by the heads of the local public bodies in accordance with this Law or bylaws issued thereunder.

Members of the Personnel Commission, or the Personnel Commissioner

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Article 9

The personnel commission is composed of three members.

2. The members are appointed by the head of the local public body with the consent of the assembly from among persons of highest moral character and integrity, in known sympathy with the principle of local autonomy and efficient administration, and possessing knowledge and sound judgment concerning personnel administration.

3. A person who falls under any of the items of Article 16 or who has committed an offence provided for in Chapter V and been sentenced to a

punishment cannot become a member.

4. In appointing the members, any two of them must not be members of the same political party.

5. In cases where two or more of the members have come to belong to the same political party, all but one of them are to be removed by the head of the local public body with the consent of the assembly. However, a person whose party membership has not changed cannot be removed.

6. The head of the local public body may, when he considers a member as mentally or physically incompetent to perform his official responsibilities or having committed a violation of his official duties or other misconducts unfit for a member, remove him with the consent of the assembly. In this case a public hearing must be held by the assembly or its committee.

7. A member who has come to fall under the causes provided for in paragraph 3 shall lose his office.

8. The members cannot concurrently hold any other office in the local public service.

9. The provisions of Chapter III, Section 5, are applied mutatis mutandis to the performance of duty by the members.

10. The term of office of the members is four years. However, the term of office of a member filling a vacancy shall be the unexpired portion of his predecessor's.

11. The provisions of paragraphs 2 and 3, paragraphs 6 to 9 inclusive, and the principal sentence of the preceding paragraph are applied mutatis mutandis to the personnel commissioners.

12. The local public bodies must pay remunerations and traveling expenses to the members of the personnel commissions or personnel commissioners. In this case the provisions of Article 204 paragraph 2 and Article 206 of the Local Autonomy Law are applied mutatis mutandis.

13. The local public bodies may pay retirement annuities or retirement grants to the members of the personnel commissions or personnel commissioners. In this case the provisions of Article 206 of the Local Autonomy Law are applied mutatis mutandis.

14. Members of Commission's specified in the second sentence of paragraph 1 of Article 7 shall be full-time Commissioners

Proceedings of the Personnel Commission

Article 10.

The personnel commission cannot be in session without the attendance of all of its members.

2. Proceedings of the personnel commission are decided by a majority of its members.

3. Proceedings of the personnel commission must be kept on record by way of the minutes.

4. Besides the provisions of the preceding three paragraphs, necessary matters concerning proceedings of the personnel commission shall be fixed by the personnel commission.

Secretariat of the Personnel Commission and
Administrative Personnel to assist Personnel Commissioner

Article 11

There shall be a secretariat in the personnel commission and a chief of secretariat and other administrative personnel in the secretariat.

2. The chief of secretariat shall, under the direction and supervision of the personnel commission, control the affairs of the secretariat.

3. There shall be administrative personnel who shall assist the personnel commissioner in his work.

4. The administrative personnel mentioned in paragraph 1 and the preceding paragraph shall be appointed respectively by the personnel commission or personnel commissioner.

5. The organization of the secretariat mentioned in paragraph 1 shall be fixed by the personnel commission.

6. The number of the administrative personnel mentioned in paragraphs 1 and 3 shall be fixed by bylaw.

7. The provisions of Articles 204 to 206 inclusive of the Local Autonomy Law are applied mutatis mutandis to the administrative personnel mentioned in paragraphs 1 and 3.

Chapter III Standards applicable to the Personnel

Section 1 General Rules

Principle of Equal Treatment

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Article 12

In the application of this Law and bylaws issued thereunder, all of the people must be treated equally and must not be discriminated because of race, creed, sex, social status, or family origin, or because of political opinion or political affiliations, except for the cases provided for in Article 16 item 5.

Principle of Adaptation

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Article 13

The local public bodies must adapt suitable measures from time to time to see that the compensation and other working conditions fixed in accordance with this Law and bylaws issued thereunder are adapted to the prevailing social condition.

Section 2 Appointment

Basic Standard for Appointment

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Article 14

Appointments of the personnel must be made in accordance with the provisions of this Law and bylaws issued thereunder on the basis of the record of examination, the record of service, or other demonstrations of ability.

Method of Appointment

7. 245

Article 15

In cases where a vacancy has occurred in the offices of the personnel, the appointing authorities may make an appointment by whichever means of employment, promotion, demotion, or transfer.

2. The employment or promotion of the personnel is to be made through

competitive examination. However, it may be made by means of selection (meaning evaluation of ability based on the record of service or other demonstrations of ability), in cases where the approval of the personnel commission or personnel commissioner has been obtained with regard to those offices of the personnel which it or he has fixed.

Disqualification Clause

Article 16

Those persons who fall under any of the following items cannot become the personnel or participate in competitive examination or selection, except for cases provided for by cabinet order:

(1) An incompetent or quesi-incompetent person;

(2) A person who has been sentenced to penal servitude or imprisoument and whose sentence has neither been executed nor become imenforceable;

(3) A person who has been subjected to an action of disciplinary dismissal, from the date of which two years have yet to elapse;

(4) A person who, while in office as a member of the personnel commission or as personnel commissioner (including the head of a local public body administering the affairs as provided for in Article 8 paragraph 5) or as chief of secretariat of the personnel commission, has committed an offense provided for in Chapter V and been sentenced to a punishment;

(5) A person who, on and after the date of the coming into force of the Constitution of Japan, has formed or joined a political party or any other organization that advocates the overthrow by violence of the Constitution of Japan or the Government formed thereunder.

Qualifying Requirements for Taking Examination

Article 17

The personnel commission or personnel commissioner may fix, as necessary qualifications for the examinees, minimum objective and uniform requirements

indispensable for the performance of duty.

Competitive Examination and Selection

Article 18

Competitive examination or selection is to be conducted by the personnel commission or personnel commissioner by itself or himself, or by an agency which it or he specifies. However, competitive examination or selection may be conducted jointly by mutual agreement with other local public bodies or by entrusting it to an agency of the National Government or the other local public body.

2. The personnel commission or personnel commissioner may consider a person who has passed the competitive examination or selection of the National Government or other local public bodies corresponding to the competitive examination or selection for those offices of the personnel which it or he specifies as having passed the selection for those offices.

Preparation of Eligibles' Lists and the Method of Appointment in terms thereof

Article 19

For the appointment of the personnel through competitive examination, the personnel commission or personnel commissioner is to prepare appointment eligibles' lists (employment eligibles' list and promotion eligibles' list) for every examination.

2. In the employment eligibles' list or promotion eligibles' list, the full names and marks of employment eligibles or promotion eligibles who have scored the passing marks or more are to be entered in the order of their marks.

3. The employment or promotion of the personnel in terms of the employment eligibles' list or promotion eligibles' list is to be made, for each person to be employed or promoted, from among five applicants in the order of the marks scored in the employment examination or promotion examination out of those who have been entered in the relevant list.

Conditional Period of Appointment

Article 20

All appointments or promotions of the personnel are to be conditional and to be confirmed when they have served in their offices for a term fixed by the personnel commission or personnel commissioner and performed their duties satisfactorily in the meantime.

Section 3 Job Classification

Basic Standard for Job Classification

Article 21

Those local public bodies which have the personnel commission are to enforce job classification in accordance with the provisions of bylaws and regulations, which the other local public bodies may enforce it.

2. In job classification, offices must be classified and graded so that the same qualifications may be required for the offices of the same class and that the same range of pays may be given to those who are occupying such offices.

3. In enforcing job classification, adequate consideration must be given so that it may correspond equitably to those of the National Government and the other local public bodies.

Section 4 Status and Disciplinary Punishment

Basic Standard for Status and Disciplinary Punishment

Article 22

The status and disciplinary punishment of the personnel must be equitable in every respect.

2. The personnel shall not be subjected against their will to pay reduction, demotion, suspension, or dismissal except for causes fixed by bylaw.

3. The personnel shall not be subjected to an action of dismissal, suspension, pay reduction, or admonition by way of disciplinary action, unless

for causes provided for by bylaw.

4. The effect and procedure of the status and disciplinary punishment of the personnel must be in accordance with the provisions of bylaws and of such rules as are fixed by the personnel commission or personnel commissioner, except for cases specially provided for by law.

5. In cases where the personnel have come to fall under any of the items of Article 16, (excluding item 3) they shall automatically lose their offices, except for cases specially provided for by cabinet order.

Section 5 Performance of Duty

Basic Standard for Performance of Duty

30 days

Article 23

Every member of the personnel, as a servant of the whole community of the local public body, must attend to his duties in the interest of the public, and exert his utmost in the performance of his duties.

Duty of Obedience to Laws and Orders and Superiors' Orders

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Article 24

The personnel, in the performance of their duties, must observe laws, orders, bylaws and regulations, and faithfully obey their superiors' official orders.

Duty of Preservation of Secrecy

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Article 25

The personnel must not divulge a secret which has come to their knowledge in the course of duty. This shall also apply after their retirement from office.

2. In cases where a matter of official secrecy is to be disclosed upon becoming a witness, appraiser, etc. in accordance with law and order, the permission of the appointing authority (or, in the case of a person who has retired from office, the appointing authority over the office from which he has retired or the office corresponding thereto) must be obtained.

PC investigation

3. The permission mentioned in the preceding paragraph cannot be denied, except for cases specially provided for by law.

Duty of Devotion to Service

Article 26

The personnel must, except for cases specially provided for by bylaw, devote their full working hours and official attention to the discharge of their official responsibilities and engage themselves solely in those services which the local public body has the responsibility to perform.

Restrictions on Political Activities

Article 27

The personnel must not solicit or receive subscription and other benefits for any political party or any other political organization or for political purposes, or take part in such acts in any way. or engage in the political activities defined by the rules of the National Personnel Authority in accordance with the provisions of Article 102 paragraph 1 of the National Public Service Law (Law No. 120 of 1947), except for the exercise of their right to vote.

2. The personnel cannot become the candidates for elective public offices.

3. The personnel cannot become officers, political advisers, or members with similar functions, of any political party and anv other political organization.

Prohibition of Acts of Dispute

Article 28

The personnel must not resort to strike, slow-down and other acts of dispute against their employer, who is the local people as represented by the local public body, or to such idling tactics as will deteriorate the functional efficiency of the local public body. Nor must any person attempt, or conspire, instigate or incite the perpetration of, such unlawful acts.

2. Any member of the personnel who has resorted to strike and other

acts in violation of the provisions of the preceding paragraph is to become unable, simultaneously with the commencement of such acts, to set up against the local public body all of the rights he enjoys under laws and orders or bylaws.

Restrictions on Engagement in Commercial Enterprise, etc.

Article 29

The personnel must not concurrently occupy in commercial enterprise the posts of officials and others fixed by bylaw or undertake a commercial enterprise on their own account.

2. In order that the personnel may be engaged for reward in any enterprise or business, except for the cases provided for in the preceding paragraph, the permission of the appointing authority must be obtained.

Section 6 Training

Basic Standard for Training

Article 30

The personnel must be given opportunity to receive training for the purpose of keeping up to the full and improving their working efficiency.

2. The training mentioned in the preceding paragraph is to be conducted

acts in violation of the provisions of the preceding paragraph is to become unable, simultaneously with the commencement of such acts, to set up against the local public body all of the rights he enjoys under laws and orders or bylaws.

Restrictions on Engagement in Commercial Enterprise, etc.

Article 29

The personnel must not concurrently occupy in commercial enterprise the posts of officials and others fixed by bylaw or undertake a commercial enterprise on their own account.

2. In order that the personnel may be engaged for reward in any enterprise or business, except for the cases provided for in the preceding paragraph, the permission of the appointing authority must be obtained.

Section 6 Training

Basic Standard for Training

Article 30

The personnel must be given opportunity to receive training for the purpose of keeping up to the full and improving their working efficiency.

2. The training mentioned in the preceding paragraph is to be conducted by the personnel commission or personnel commissioner by itself or himself or by an agency which it or he specifies. However, training may be conducted jointly by mutual agreement with other local public bodies or by entrusting it to an agency of the National Government or another local public body.

Section 7 Compensation and other Working Conditions

Basic Standard for Compensation and other Working Conditions

Article 31

The compensation of the personnel must conform to their function and responsibility, and the standard therefor must be fixed by taking into

consideration the cost of living, the compensation of the employees of private enterprise and other circumstances.

2. In fixing the compensation and other working conditions of the personnel, adequate consideration must be given so that they may not be out of proportion to those of the personnel of the National Government and the other local public bodies.

3. The compensation and other working conditions of the personnel shall be fixed by bylaw.

Matters to be provided for by Bylaw concerning Compensation

Article 32

The bylaw concerning compensation as provided for in paragraph 3 of the preceding Article must provide for not only the pay schedule but also the following matters:

(1) Matters concerning the standards for raise in pay within the same class;

(2) Matters concerning the compensation for an office when job classification is applied to that office for the first time;

(3) Matters concerning the compensation for over-time work, night work and holiday work;

(4) Matters concerning the allowances for service in special areas, dangerous work, and other special services, in cases where such allowances are given;

(5) Matters concerning the adjustment of compensation to be made by the personnel commission or personnel commissioner with regard to the offices of the personnel not requiring full-time service, offices of the personnel where the whole or part of facilities necessary for daily living are officially provided, and other offices with special working conditions, and the number of dependents.

Report and Recommendation on the Pay Schedule

Article 33

The personnel commission or personnel commissioner must make a report simultaneously to the assembly and the head of the local public body at least once a year as to whether the pay schedule is adequate and also make a suitable recommendation if the need for increase or decrease of pays fixed by the pay schedule is considered to have arisen on account of a change in the conditions determining pays.

Section 8 Protection of Welfare and Interest

Basic Standard for Protection of Welfare and Interest

Article 34

The local public bodies must endeavor to see that the protection of the welfare and interest of the personnel is adequate and impartial.

Subsection 1 Benefit and Welfare System

Health, Recreation, Maintenance of Safety, and Welfare

Article 35

The local public bodies are to formulate and execute plans for matters concerning the health, recreation, maintenance of the safety, and welfare of the personnel.

Mutual Aid System

Article 36

A system of mutual aid for the disease, injury, disability and death of the personnel suffered outside the course of duty, their childbirth, calamity and other accidents, and such accidents of their dependents, must be put into practice.

2. The mutual aid system mentioned in the preceding paragraph shall be provided for by law separately. In this case adequate consideration must be

given so that it may not be out of proportion to that of the National Government.

3. The mutual aid system mentioned in paragraph 1 must be planned on the basis of sound actuarial calculations.

System of Retirement Annuities and Retirement grants

Article 37

A system of retirement annuities and retirement grants payable to those personnel who have retired or died after serving faithfully for a considerable period or to their dependents must be put into practice as soon as possible.

2. For those personnel who have died or retired on account of injury or disease suffered in the course of duty or for their dependents, a system of retirement annuities and retirement grnats may also be put into practice.

3. In putting into practice the system of retirement annuities or retirement grants as provided for in the preceding paragraph, adequate co-ordination must be effected with the system of compensation for accidents in line of duty mentioned in Article 38.

4. In fixing the systems of retirement annuities and retirement grants mentioned in paragraphs 1 and 2, adequate consideration must be given so that they may not be out of proportion to those of the National Government and the other local public bodies.

5. The provisions of paragraph 3 of the preceding Article are applied mutatis mutandis to the retirement annuities and retirement grants mentioned in paragraphs 1 and 2.

Subsection 2 System of Compensation for Accidents in line of Duty

Compensation for Accidents in line of Duty

Article 38

A system of compensation for the losses suffered by the personnel or their dependents when and because the personnel have died or incurred injury

or disease in the course of duty or have died on account of injury or disease suffered in the course of duty must be put into practice.

2. In fixing the system of compensation for accidents in line of duty as provided for in the preceding paragraph, adequate consideration must be given so that it may not be out of proportion to those of the National Government and the other local public bodies.

Subsection 3 Application for Action on Working Conditions

Application for Action on Working Conditions

Article 39

The personnel may apply to the personnel commission or personnel commissioner in connection with their compensation and other working conditions that appropriate action be taken by the authorities of the local public body.

Examination and Action to be taken following the Examination

Article 40

When the application provided for in the preceding Article has been filed, the personnel commission or personnel commissioner must conduct factual examination of the case through oral inquiry or other means and on the basis of the result thereof take actions on its or his own accord with regard to matters within its or his powers, or with regard to other matters make necessary recommendations to the agency of the local public body which has powers over the matter under consideration.

Procedures of Application and Examination

Article 41

The procedures of the application and examination provided for in the preceding two Articles must be fixed by bylaw.

Subsection 4 Review of Adverse Action

Delivery and Appeal for Review of Written Explanation for Adverse Action

Article 42

The appointing anthority (including the personnel commission or personnel commissioner administering disciplinary punishment in accordance with the provisions of Article 8 pragraph 1 item 7; the same hereafter in this Article) must, in cases where he administers a disciplinary punishment to the personnel or take such adverse action as is considered to be against their will, deliver a written explanation setting forth the cause of such actions to the personnel affected.

2. When the personnel consider that they have been subjected to an adverse action against their will, they may appeal to the appointing authority for delivery of a written explanation setting forth the cause for such action.

3. Those personnel who have been delivered the written explanation mentioned in the preceding two paragraphs may appeal to the personnel commission or personnel commissioner for review of that adverse action.

Review and Action to be taken following the Review

Article 43

When the appeal provided for in paragraph 3 of the preceding Article has been received, the personnel commission or personnel commissioner must conduct factual examination of the case through oral inquiry or other means and on the basis of the result thereof approve, revise or rescind the action, and if necessary give direction for the correction of injustice suffered by the personnel on account of the action, such as to cause the appointing authority to take necessary measures for the recovery of the pay and other claims due to them.

Procedures, etc. of Application and Review

Article 44

Necessary matters concerning the procedures of the application and review and the action to be taken following the review as provided for in the preceding two Articles shall be provided for by bylaw.

Section 9 Organization of the Personnel

Organization of the Personnel

Article 45

The personnel may or may not form and may or may not join an organization the object of which is to negotiate with the authorities of the local public body in connection with working conditions and for lawful purposes including social and welfare activities.

2. When the personnel intend to form the organization mentioned in the preceding paragraph, their representatives must register with the head of the local public body in accordance with the provisions of bylaw necessary matters including the articles of organization providing for the election of officials and the procedure of administering business.

3. The organization mentioned in paragraph 1 may be incorporated as a juridical person. Those provisions of the Civil Code (Law No. 87 of 1896) and the Law of Procedure for Non-Contentious Litigation (Law No. 14 of 1898) which are relating to the juridical persons provided for in Article 34 of the Civil Code are applied mutatis mutandis to the juridical person mentioned in this paragraph. However, "the competent government agency" in those provisions is to read "the Prime Minister" in the case of organizations formed or joined by the personnel of To, Do, Fu and prefectures and the cities mentioned in Article 155 paragraph 2 of the Local Autonomy Law, or "the governor of To, Do, Fu or a prefecture" in the case of the other organizations.

4. On the organization mentioned in paragraph 1 which is a juridical person the income tax and corporation tax are not imposed in accordance with the provisions of cabinet order.

5. The police and fire defense personnel cannot form and join the

organization mentioned in paragraph 1.

6. The personnel must not administer the business of the organization mentioned in paragraph 1 or conduct activities, in the interest of such organization, while they are receiving pays from the local public body. However, they may do the acts approved in accordance with the provisions of Article 46 paragraph 1 under the conditions and circumstances provided for by bylaw.

Negotiation

Article 46

The personnel may, through the organization mentioned in paragraph 1 of the preceding Article, select their representatives on their own accord and negotiate with the authorities of the local public body in connection with working conditions and for lawful purposes including social and welfare activities. However, the negotiation is not to comprehend the right to conclude a collective agreement with the authorities of the local public body.

2. The freedom of the personnel to express grievances and submit opinions in connection with working conditions and for lawful purposes including social or welfare activities shall not be denied to the personnel for the reason that they do not belong to the organization mentioned in paragraph 1 of the preceding Article.

Prohibition of Adverse Treatment

Article 47

The personnel shall not be subjected to adverse treatment on account of the fact that they are members of the organization mentioned in Article 45 paragraph 1, or that they have attempted to form or join it, or that they have acted legitimately in such organization.

Section 10 Exceptions for the Personnel engaged in Public Enterprise

Applies to all Part time PE

Exceptions for the Organization of the Public Enterprise Personnel

Article 48

No persons but the personnel engaged in the following public enterprise (hereinafter to be referred to as the public enterprise personnel) can become members of the organization mentioned in Article 45 paragraph 1 which is formed by the public enterprise personnel (hereinafter to be referred to as the organization of the public enterprise personnel):

(1) Local railway enterprise, tramway enterprise, ropeway enterprise, trolley bus enterprise, motor transportation enterprise, and regular shipping line enterprise;

(2) Electric enterprise;

(3) Gas enterprise;

(4) Water-works enterprise;

Exception for the Conclusion of Collective Agreement

Article 49

The public enterprise personnel may conclude a collective agreement with the authorities of the local public body through the organization of the public enterprise personnel, notwithstanding the provisions of the proviso of Article 46 paragraph 1.

2. No collective agreement that involves such disbursement of expenses as cannot be executed in terms of the budget of the local public body or such matters as require the resolution of the assembly of the local public body shall not bind the local public body until necessary procedures have been taken by the assembly of the local public body.

Establishment of Public Enterprise Mediation Committee

Article 50

There shall be established a public enterprise mediation committee (hereinafters referred to as the mediation committee) in those local public

bodies which manage the public enterprises mentioned in Article 48 in order to have it dispose of the affairs concerning the mediation of grievances and disputes on matters within the scope of negotiation between the authorities of the local public body and its public enterprise personnel.

Organization of Mediation Committee

Article 51

The mediation committee is composed of three members.

2. The members mentioned in the preceding paragraph are nominated by the head of the local public body from among candidates for membership selected in accordance with the following items:

(1) The head of the local public body and the representative of its public enterprise personnel each makes and mutually exchanges a list of persons to be recommended as candidates for membership;

(2) The head of the local public body selects one candidate for membership from the list submitted by the representative of its public enterprise personnel, while the latter selects one candidate for membership from the list submitted by the former;

(3) The two candidates for membership selected in accordance with the provisions of the preceding item consult with each other to select a third candidate for membership.

3. The local public bodies must pay remunerations to the members of the mediation committee and compensate the expenses required by them to perform their duties. In this case the provisions of Article 203 paragraph 3 and Article 206 of the Local Autonomy Law are applied mutatis mutandis.

4. Proceedings of the mediation committee and other necessary matters concerning the mediation committee shall be fixed by the mediation committee.

5. Besides the provisions of the preceding four paragraphs, the provisions of Article 11 paragraphs 1 and 2 and paragraphs 4 to 6 inclusive and the provisions of Article 22 of the Public Enterprise Labor Relations Law (Law No. 357 of 1948) are applied mutatis mutandis to the mediation committee.

Commencement of Mediation

Article 52

The mediation committee mediates in any of the cases mentioned in the following items:

(1) When both of the parties concerned have applied for mediation;

(2) When one or both of the parties concerned have applied for mediation in accordance with the terms of the collective agreement;

(3) When one of the parties concerned has applied for mediation and the mediation committee has decided that mediation is required;

(4) When the mediation committee has decided ex cathedra that mediation is required;

(5) When the Prime Minister or the Minister of Labor has requested mediation.

Establishment of Public Enterprise Arbitration Committee

Article 53

There shall be a public enterprise arbitration committee (hereinafter to be referred to as the arbitration committee) in To, Do, Fu and prefectures in order to have it dispose of the affairs concerning the arbitration in those issues (including disputes arising in connection with the interpretation of the terms of the collective agreement) which are matters within the scope of negotiation between the authorities of the local public body and the organization of its public enterprise personnel and which cannot be solved by way of negotiation or mediation.

Organization of Arbitration Committee

Article 54

The arbitration committee is composed of three members.

2. The members mentioned in the preceding paragraph are nominated by the governor of To, Do, Fu or a prefecture from among candidates for membership

selected in accordance with the following items:

(1) The governor of To, Do, Fu or a prefecture orders the chairman of the local labor relations board of To, Do, Fu or the prefecture concerned to select twelve tentative candidates for the membership in the arbitration committee;

(2) When the chairman of the local labor relations board has selected tentative candidates in accordance with the provisions of the preceding item, he tenders the list of their names to the head of the local public body managing a public enterprise mentioned in Article 48 and the representative of the organization of its public enterprise personnel;

(3) When the list of the tentative candidates has been tendered in accordance with the provisions of the preceding item, the head of the local public body and the representative of the organization of its public enterprise personnel select by mutual agreement and report to the governor of To, Do, Fu and the prefecture three candidates to compose the arbitration committee and the same number of alternate candidates;

(4) If the mutual agreement mentioned in the preceding item is not reached within thirty days, the chairman of the local labor relations board decides on his own accord and report to the governor of To, Do, Fu and the prefecture three candidates and the same number of alternate candidates.

3. Proceedings of the arbitration committee and other necessary matters concerning the arbitration committee shall be fixed by the arbitration committee.

4. Besides the provisions of the preceding three paragraphs, the provisions of Article 11 paragraphs 1 and 2 and paragraphs 4 to 6 inclusive and the provisions of Article 30 of the Public Corporation Labor Relations Law are applied mutatis mutandis to the arbitration committee and the provisions of Article 51 paragraph 3 and those of Article 27 of the Public Enterprise Labor Relations Law to the members of the arbitration committee. However, "the public corporation" in Article 27 item 5 of the Public Corporation Labor Relations Law is to read "the local public body concerned",

and "the officials and personnel of the public corporation" in item 6 of the same Article "the paid members of the local public body concerned".

Commencement of Arbitration

Article 55

The arbitration committee arbitrates in any of the cases mentioned in the following items:

(1) When both of the parties concerned have applied for arbitration;

(2) When one or both of the parties concerned have applied for arbitration in accordance with the terms of the collective agreement;

(3) When the mediation committee, by way of its decision, has requested arbitration with regard to a dispute under mediation;

(4) When mediation has not succeeded within two months from its commencement;

(5) When the Prime Minister or the Minister of Labor has requested arbitration.

Award and Direction of Arbitration Committee

Article 56

Both of the parties concerned must obey the award of the arbitration committee as final decision. However, the provisions of Article 49 paragraph 2 are applicable when a decision has been rendered on the matters provided for in the same paragraph.

2. When the arbitration committee has decided that there is an act in violation of Article 47, it may order the local public body concerned to rescind that act.

Provisions applicable mutatis mutandis

Article 57

The provisions of Article 21 paragraph 1, Article 22, Article 30 and Article 31 of the Trade Union Law (Law No. 174 of 1949) and the provisions

of Article 32, Article 33 and Article 43 of the Labor Relations Adjustment Law (Law No. 25 of 1946) are applied mutatis mutandis in cases where the arbitration committee arbitrates.

Chapter IV Miscellaneous Provisions

Exceptions

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Article 58

With regard to those personnel for whom exceptions to this Law are required on account of the special nature of their function and responsibility, provisions shall be made by law separately. However, these exceptions must not be contary to the spirit of Article 1 of this Law.

Exclusion of Application of Other Laws

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Article 59

The provisions of the Trade Union Law and the Labor Relations Adjustment Law and orders issued thereunder are not applied to the personnel.

2. The provisions of Article 2, Article 36 and Articles 89 to 93 inclusive of the Labor Standards Law (Law No. 49 of 1947) and such part of Article 6 of the Mariners' Law (Law No. 100 of 1947) as is relating to Article 2 of the Labor Standards Law and Article 30, Article 77, Articles 97 to 100 inclusive, and Article 102 and orders issued thereunder are not applied to the personnel (excluding the public enterprise personnel).

Check

Chapter V Penal Provisions

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Check

Article 60

A person falling under any of the following items is liable to penal servitude for not more than one year or a fine of not more than thirty thousand yen:

(1) The head of a local public body who has intentionally failed to dismiss a member of the personnel commission in violation of the provisions of Article 9 paragraph 5;

(2) A person who has made a discrimination in violation of the

provisions of Article 12;

(3) A person who has devulged a secret in violation of the provisions of Article 25 paragraph 1 or 2 (including the cases where it is applied mutatis mutandis by Article 9 paragraph 9);

(4) A person who has assumed office in a commercial enterprise in violation of the provisions of Article 29 paragraph 1;

(5) A person who has intentionally failed to obey the direction of the personnel commission or personnel commissioner (including the head of a local public body administering the affairs as provided for in Article 8 paragraph 5).

Article 61 (30)

A person falling under any of the following items is liable to penal servitude for not more than three years or a fine of not more than one hundred thousand yen:

(1) A person who, in accordance with the provisions of Article 8 paragraph 1 item 2, has been summoned as a witness by the personnel commission or personnel commissioner (including the head of a local public body administering the affairs as provided for in paragraph 5 of the same Article; the same hereafter in this item) and failed to comply without proper reason or made a false statement, or who, in accordance with the provisions of the same item, has been demanded presentation of documents or copies thereof by the personnel commission or personnel commissioner and failed to comply without proper reason or presented documents with false entires or copies thereof;

(2) A person who has made an appointment in violation of the provisions of Article 14;

(3) A person who has violated the restrictions on political activities provided for in Article 27 paragraph 1 (including the cases where it is applied mutatis mutandis by Article 9 paragraph 9);

(4) Any person who has conspired, instigated, incited the perpetration of, or attempted, the unlawful acts provided for in the first part of paragraph 1 of Article 28;

(5) A person who has intentionally prevented, in violation of the provisions of Article 39, the filing of application for action on working conditions;

(6) A person who has formed an organization of the personnel in violation of the provisions of Article 45 paragraph 5.

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Article 62

A person who has attempted, ordered, intentionally condoned, instigated, or has been an accessory to, the acts mentioned in Article 60 item 1 or 3, or item 1, 2, 5 or 6 of the preceding Article is liable to the punishment provided for in each of these Articles.

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Supplementary Provisions

1. The provisions of Article 5, Article 7, Article 9 to 11 inclusive, and paragraph 3 of the Supplementary Provisions, of this Law shall come into force from the day on which three months commencing on the day of its promulgation have elapsed, and the other provisions from the day to be fixed by cabinet order step by step according to their practicability.

2. The Local Autonomy Agency shall have the power, until and not later than December 31, 1952, to decide whether certain offices belong to the local public service and whether they belong to the regular service or to the special service provided for in Article 3. However, the application of the latter part of the provisions of Article 2 paragraph 4 of the National Public Service Law is not to be prevented.

3. The term of office of two of the members of the personnel commission to be appointed initially shall be five years for one and three years for another. In this case, the term of each member shall be decided by the head of the local public body by lot.

4. The disciplinary dismissal mentioned in Article 16 item 3 is to include the disciplinary dismissal in accordance with the former provisions concerning the local public service personnel.

5. With regard to the suspension or disciplinary punishment of those who have been orderd suspension, or against whom disciplinary procedure is being taken, or who have been subjected to disciplinary action, in accordance with the former provisions concerning the local public service personnel, the former instances shall still be followed.

6. With regard to the mutual aid system for the personnel, the former instances shall still be followed until the law based on the provisions of Article 36 paragraph 2 has been enacted separately.

7. With regard to the application of the penal provisions to the acts which have been committed before this Law has come into force and in violation of the provisions of the laws and orders provided for in Article 59, the former instances shall still be followed, notwithstanding the provisions of the same Article.

8. The Cabinet Order concerning Temporary Measures to be taken in consequence of the Letter of the Supreme Commander for the Allied Powers to the Prime Minister dated July 22, 1948 (Cabinet Order No. 201 of 1948) shall be abolished.

9. With regard to the application of the penal provisions to the acts which have been committed before the Cabinet Order mentioned in the preceding paragraph has been abolished and in violation of the provisions of Article 2 paragraph 1 of the same Order, the former instances shall still be followed.

10. Such procedural and transitional provisions as may be required following the enforcement of this Law shall be made by cabinet order.

11. Cf 45 - transitions to be provided for

3½. The chief of Secretariat and all other administrative and technical personnel in the secretariat of a commission which is required by article 7 to be established shall, during the period of 12 months following the establishment of the Commission, be appointed exclusively from among persons who qualified in the appropriate examinations administered for the purpose by the NPA.

Legislation - Loc. Pub. L. Law

CIVIL SERVICE DIVISION
Government Section

File

14 July 1949

WSB
7/14

MEMORANDUM FOR : Mr. Gordon Peterson
Chief, Organization Branch

SUBJECT : Local Civil Service Law.

I today discussed this situation with General Whitney. His instructions are:

That the Prime Minister's office is to be advised that it now has a free hand in the construction of this law; that it is to draft the law according to its own judgment and desires, and that we will then evaluate it on merit.

BH:mw

BLAINE HOOVER
Chief
Civil Service Division

cc: Mr. W. Pierce MacCoy

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Lt. CS Saw

7/14/49

Blaine

1- Gordon is having ~~a~~ a meeting at 1400 with Suzuki (Local Attorney Agency) and his group on the Local Civil Service law.

2- Do you want to give Gordon any instructions before he goes in to this meeting?

3- These meetings have been mainly for instruction and guidance to the Japanese. I feel that it is about time they are drawn to a close and the Japanese told to draft something for us to look at, however they should have some clear-cut idea of what we want and what we will approve.

WBR
(0845)

Discussed with Mr MacCoy by Gen Whitney

CIVIL SERVICE DIVISION
Government Section

6 July 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Local Public Service Law

1. When Mr. Bell and I prepared a draft of the Local Public Service Law it was our understanding that it should be sufficiently detailed to assure similarity of all local systems and to give local public entities a reasonable picture of the principles, standards and procedures inherent in the system. Moreover, it was our understanding that the Civil Service Division, at least through NPA, would be charged with some measure of control of the installation processes in the larger jurisdictions.

2. It is my understanding that during your absence late last year, General Whitney decided that the Local Public Service Law should be merely enabling legislation to give local public bodies freedom to establish personnel systems in any manner they see fit---although they might be directed to observe the major principles embodied in the National Public Service Law as they draft their own by-laws. It was his point of view that only by granting such freedom could there be real local autonomy.

3. Mr. Suzuki, then head of the Local Autonomy Section of the Prime Minister's Office, was informed by Mr. MacCoy of General Whitney's instructions. The Cabinet was given a choice of adopting a one-page law similar in content to the ideas set forth in the attached notes or adopting no Local Public Service Law at all in the session of the Diet taking place at that time. The Cabinet chose to adopt no law.

4. Despite the instructions, Mr. Suzuki this year recommended a draft 30 pages in length (five of which were on the industrial type of personnel administration). By comparison, the earlier Bell-Peterson draft was 53 pages in length and the National Public Service Law as amended is 59 pages.

5. In as much as many of the essentials of the merit system have been completely ignored in the draft submitted by Mr. Suzuki, I am in the position of urging greater detail. Some existing sections can be shortened or deleted entirely but the net result is likely to be an increase in length and detail. I am not only at a loss to decide whether to urge addition of important procedural matters as well as basic principles, but I am also concerned about urging <u>any</u> greater elaboration in the face of General Whitney's instructions <u>last</u> year. It would be unfortunate for Civil Service Division once again to be overruled by higher officials after working closely with the Japanese responsible for drafting the law.

GWP

GORDON W. PETERSON,
Chief, Organization Branch.

GWP:mvb
1 Attachment

7

Proposed Local Public Service Law

1. Object of Law

   In furtherance of local autonomy to permit enactment of local legislation on personnel administration for increased efficiency and democratic ideals in local government.

2. Validity of Law

   Supremacy over earlier laws and enactments thereunder which are in conflict with this law.

3. Compliance with Article 172 and with Article 1, Supplementary Provisions of Local Autonomy Law. This is the only law contemplated and necessary to conform to such articles.

4. Local Autonomous bodies shall be empowered to enact bylaws providing for the administration of affairs concerning their own personnel, provided that bylaws shall be in accordance with the spirit of the National Public Service Law. Among the affairs which such bylaws may include are the classification system, examination, appointment, dismissal, salaries and other compensation, efficiency, limitation, disciplinary measures, guarantee, service and other status, working conditions and equitable treatment of employees, standards of performance on duty, application for adjustment of working conditions, regulation of employee associations and organizations, cooperation and agreements with other public entities with respect to giving or receiving technical assistance or use of facilities in connection with personnel administration, administration of bylaws and methods of enforcement.

5. Labor laws shall not apply to local autonomous bodies - Trade Union Law, Labor Relations Adjustment Law, Labor Standards Law and Mariners Law.

6. Abolition of Cabinet Order 201, 1948 on effective date of this law.

7. Effective date 30 days after promulgation.

Legislation - Local Pub. Serv. Law

CIVIL SERVICE DIVISION
Government Section

file

21 June 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief
Civil Service Division

SUBJECT : Local Public Service Law

1. Today Mr. Suzuki of the Local Autonomy Agency arranged an appointment with me for 2 o'clock Tuesday, 28 June, in order that we may discuss the revision of the draft of the Local Public Service Law.

2. Am I free to give Mr. Suzuki any of the guidance suggested in the list presented to you by memorandum of 9 June?

GORDON W. PETERSON
Chief, Organization Branch

GWP:jd

23 June 49
Routed GWP

WWC 6/9/49

CIVIL SERVICE DIVISION
Government Section

9 June 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Guidance for Local Autonomy Agency

1. Pursuant to your request, the accompanying list of suggestions has been prepared as guidance for the Local Autonomy Agency in revising the draft of the Local Public Service Law. Although lengthy, the list is intended to be only preliminary and to be followed by additional lists after succeeding drafts of the law are prepared for review by Civil Service Division.

2. Please indicate the items which should be deleted, emphasized or revised. The Local Autonomy Agency has been expecting such a list for at least two weeks.

GORDON W. PETERSON,
Chief, Organization Branch.

GWP:mvb
1 Encl: List of Suggestions.

Mr Hoover
What do you want to do with this? Mr. Peterson really needs some direction from you on just what approach he should take with the local autonomy agency.
WBr

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