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※ The Chinese version rules if any contradiction in meaning exists between the Chinese version and the English version.

台灣勞工



Taiwan Labor e-Quarterly
中華民國99年10月 OCTOBER 2010

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行政院勞工委員會

Council of Labor Affairs, Executive Yuan Taiwan

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Quarterly Focus

Protection and impetus of labor and human rights in Taiwan Professor Hou-Sheng Chan discusses the approval of the Three Labor Laws

The approval of the Three Labor Laws in Taiwan symbolizes a giant step toward labor and human rights in Taiwan. Former chairman of the Council of Labor Affairs discusses his perspectives and expectations, hoping to make use of the assurance of the Three Labor Laws, to promote labor and human rights, and to make the relationship between labor and capital more harmonious.

In June, 2010, the Legislative Yuan has passed the amended protocol of the Labor Union Act consulting discussion by the Executive Yuan. Before passing this protocol, the Legislative Yuan also passed the amendment case for the Settlement of Labor Disputes Act on June 3, 2009. The Collective Agreement Act even has completed its first proclamation of amendment on January 9, 2008. The passing of the three laws vital for the three labor rights of "unity", "bargaining", and "disputes" was finally complete.

From the historical development of the Three Labor Laws, these laws were first legislated from 1928 to 1930: Settlement of Labor Disputes Act (1928), Labor Union Act (1929), and Collective

Agreement Act (1930). At the time, according to the trend of all labor legislations in Asia, ours was very advanced. Nevertheless, due to the many changes of political developments, the structures of industries were very different from those in the early 20th Century. The economy and society have changed drastically. The construction of amendment for the Three Labor Laws has finally been completed in the early 21st Century, which has fallen behind similar economically developed countries.

Although the construction of amendment for our Three Labor Laws was delayed, and at the same time some parts of the legislative regulations did not meet the expectations of labor communities, overall the amended Three Labor Laws have taken account of the need for our labor communities, and considered the characteristics of our industrial structures. In September 2010, labor scholar Lin Liang-Rong has pointed out in the seminar of labor and human rights at the Control Yuan that "This important legislation of collective act will have a tremendous impact on the development of labor activities and the relationship between labor and capital in Taiwan."

Criticisms before the amendment of the Three Labor Laws

Before the amendment of the Three Labor Laws, there were constant criticisms that the laws violated the relative pact of international labor and human rights. The criticisms are as follow:

1. Labor Union Act

(1) Limiting the organizational scope of industrial labor union

The enforced standard detailed rules and regulations of Article 6 stipulated by The Labor Union Law that the organizational foundation of "industrial labor unions" placing "industrial workers" in the range of the "same factory", also in the same region and industrial characteristics, but different employment relationships of labor were eliminated. This stipulation of enforced detailed rules and regulations was criticized as going beyond the original law of the Labor Union Act.

(2) Prohibiting all levels of teachers, government officials, and munitions industrial workers of organizing labor unions.

Before the amendment of the Labor Union Act, Article 4 stipulated that "all levels of government administrators and educational personnels, and munitions industrial workers are not allowed to organize labor unions." This regulation was criticized as the result of the authoritarian era, and has also severely violated the standard of Numbers 87 and 89 in the international labor pact and the freedom of forming associations.

2. Settlement of Labor Disputes Law

(1) Listing methods of the standards for unfair labor practices

Before the amendment of the Collective Agreement Act, the legislation listing method is the standard method used to prohibit unfair labor practices. In comparison with other advanced industrial countries that use the method of legislation in principle, our standards of legislation appear to be more conservative.

(2) Not enough protection for the Labor Union

Before the amendment of the Labor Union Act, only Clauses 35, 36, and 37 provided protection labor unions and labor affairs personnels. Domestic labor scholars believed that for unfair labor practices, as long as the employers did not violate the penal code, the government could only execute administrative punishments. But if the rights and interests of the laborers were offended by the unfair labor practices of the employers, the laborers could not obtain the administrative relief by law. Therefore, when the laborers organized labor unions, they were usually the victims if suppressed by the employers. Apparently, the protection of laborers before the amendment of the Settlement of Labor Disputes Act was not enough.

(3) Conditions for the initiations of labor strike were too strict

Before the amendment of the Settlement of Labor Disputes Act, conditions for the initiations of labor strike were too strict. The scholars have criticized that this was an authoritarian thinking. However, due to the democratic political development, the actions of labor strikes have progressively been legalized. Only the actions of labor strikes that have serious influence on the people's

livelihood, will receive more stringent restrictions.

3. Collective Agreement Act

(1) Employers lack the desire of signing the Collective Agreement Act, and rely too heavily on the labor laws and decrees, causing inflexibility for the relationship between labor and employers.

(2) Due to the restrictions of labor union development, the business units that sign the Collective Agreement Act are extremely limited.

From 2001 to 2009, the number of business units that signed the Collective Agreement has decreased every year. In 2001, there were 309 business units that signed the Collective Labor Agreement, but in 2009 there were only 43, 42 of them were industrial labor unions, and the other one was occupational labor union.

The vice chairman of the Council of Labor Affairs, Pan Shih-Wei, has analyzed that there are very few situations of collective bargaining reached between the labor and employers. The main factors for the lack of desire to sign the Collective Agreement Act are:

(1) The content of the Collective Agreement is almost the conditions stipulated by the Labor Standards Act, lacking the real definition of the collective agreement.

(2) It is difficult for the industrial and occupational labor unions to possess the functions of collective bargaining.

After the amendment, the Three Labor Laws will connect with the international labor standards.

Since 2000, Taiwan has gradually expanded the social construction of law amendment. The Legislative Yuan has continually completed the process of law amendment. The Executive Yuan has universally stipulated that it will officially be enforced on Labor Day, May 1, 2011. Through the practice of the amendment for the Three Labor Laws, the relationship between the labor and employers will reach a new milestone.

Meanwhile, in April, 2009, President Ma Ying-Jeou has also signed two international pacts for human rights protection: "The International Pact of Civil and Political Rights" and "The International Pact of Cultural Rights for Economy and Society." The latter especially was related to the protection of working rights and basic labor rights, and partially impacted the Three Labor Laws, specifically for the



The passing of the three labor laws symbolizes Taiwan taking a giant step toward labor and human rights protection.

amendment of the Labor Union Law. It has included the basic standards of protecting the rights of collective labor in the amended content of the Labor Union Law. Article 8 focusing on the basic labor rights has four basic proclamations as follow:

- (1) Everyone has the rights of organizing labor unions and attending the labor unions of their choice, in order to improve and protect his or her own economic and social benefits. This right is only restricted by regulations related to the labor unions.
- (2) The labor unions have the rights of organizing national associations or unions, and the rights to organize or attend international labor union organizations.
- (3) The labor unions have the rights of working freely, without any restrictions except for the stipulated laws and the benefits of national safety or public order in democratic societies, or the protection of people's rights and freedom.
- (4) Have the rights of labor strike, but should follow the laws according to each country.

The amendment of the Three Labor Laws has for the most part met the basic proclamation of the Article 8 "labor standards rights" of "The International Pact of Cultural Rights for Economy and Society." In the meantime, it has responded to the criticisms of the Three Labor Laws before the amendment. Therefore, Lin Liang-Rong believed that: The approval for the amendment of The Three Laws could completely review and revise obsolete clauses, add the systems of restricting unfair labor practices to the legislation design, and in the certain scope acknowledge the relative standards for the rights of labor strike. In the future, it will have a close connection with the development of collective labor and employers relationship. Concisely speaking, our amendment of the Three Labor Laws has connected with the conditions and standards of international labor for the most part.

Below is the essentials of the amendment of the Three Labor Laws, abstracts in details:

1. Labor Union Act

- (1) Changes to the types of labor organizations and leniency toward the procedures of organizations.

Industrial and occupational labor unions have been transformed into three categories of "enterprises", "industries", and "occupations." The corporation laborers maintained the principles of being compelled to join the unions, but not penalty regulations were stipulated. Labor unions must form unions according to their need, without the restrictions of the old laws. The autonomic standpoint of the labor unions must be valued. The organizations of labor unions adopted the principle of "acting first and reporting later," and the guidance of the competent authority was omitted.

- (2) The expansion to the free scope of forming labor union associations
- The amendment case has responded to the essence of the international labor pact, stipulated that "laborers have the rights of organizing and joining labor unions." However, in order to conform to our national conditions, there were still restrictions on the freedom of munitions industrial workers to form associations.

- (3) Inappropriate prohibitions and punishments for labor behaviors

In order to strengthen the rights of protecting laborers to join and form labor unions, penalty regulations were stipulated for employers' interference of labor union organizations, operations, unfair treatments and unfair labor practices toward the cadre members of the labor unions.

- (4) Principles of labor union unity

The amendment case has deliberated the essence of the international labor pact and the principles of equal treatments for citizens. Foreign laborers can organize labor unions, and at the same time omit the restrictions of labor union directors having to possess the Taiwanese nationality.

2. Settlement of Labor Disputes Act

- (1) The labor and capital should comply with the principles of integrity, credibility, and autonomy, in order to settle labor disputes.
- (2) The affairs of labor rights disputes must be included as subjects who require the arbitration coping procedures. Governmental competent authorities would provide appropriate subsidies, in order to protect the rights and interests of labor litigants who stirred up the lawsuits or people who stimulated arbitrations according to the arbitration laws.
- (3) The responsibility specializations of the labor disputes settlement institutions and establishment of arbitration systems for inappropriate labor behaviors.

Revision and augmentation of the systems for intermediators, and the mechanisms of single appointments for arbitrators: The institutions of jurisdictions must provide competent authorities of business institutions or labor service for the litigants of labor disputes, in order to promptly settle labor disputes, and protect the rights and interests of laborers.

- (4) Standards of disputes behaviors

Simplifying the procedures of labor strike, and at the same time providing more conscientious standards for the behaviors of labor strike.

- (5) Reducing the expenses of lawsuits for arbitration and guarantee fees

In order to substantially protect the litigation rights of laborers, the amended Settlement of Labor Disputes Act has stipulated to reduce the levies of labor arbitration fees, and mitigate the arbitration fees paid by the laborers for litigations.

3. Collective Agreement Act

- (1) The stipulation of the principles for bargaining credibility and labor litigants of collective agreement.

The stipulation of labor and employers having the obligations of proceeding to collective agreement. Except for appropriate reasons, they must not refuse negotiations. In the meantime stipulates that the only litigants of collective labor agreement who established labor unions according to the Labor Union Act, were treated differently from laborers who established civil communities according to other laws.

- (2) Revision and augmentation of producing negotiation representatives and the procedures of signing collective agreement.

On the basis of valuing the negotiation rights of labor and employers, it is not appropriate for the administrative institutions ►►

to excessively intervene. And for the effectiveness of collective agreement to occur, it should be on the basis of the liking of the labor and employers litigants, therefore changing the originally validated systems into reference systems. Furthermore, also clearly modeling the ways of producing negotiation representatives, and in the amendment bill sign the actual number of people attending collective agreement and people who agreed in writing.

(3) Revision and augmentation of the stipulated affairs of the collective agreement, and ensure the achievements of labor union negotiations.

On the basis of autonomy for the litigants of collective agreement, for non-labor relationship and affairs of management rights, can also stipulate in the collective agreement. If the employers do not have appropriate reasons, they must not adjust the labor conditions stipulated by the collective agreement for laborers who are not relevant.

(4) Public proclamations of obligations and applications for changes and terminations of negotiations

Regarding the current stipulation, only the employers proclaimed obligations. After the amendment, the litigants from both sides of the collective agreement should publicly proclaim the reference collective agreement, in order to ensure the rights and interests of the parties involved. The litigants from one party must request for negotiations with the other party to change the content of collective negotiations or terminate collect agreement.

The protection for labor and human rights still has room for improvement

Previously regarding the important content analysis of our amended Three Labor laws, has substantially revised after the amendment, it had the standard roles and functions played by the governmental competent authorities in the Three labor Laws, and has changed by a wide margin. They have gradually

transformed from a regulatory role to a standard role, allowing labor and employers to fully develop the functions of autonomous negotiations, and enabling the associations and negotiations of labor and human rights relationships to be protected by the Three Labor Laws.

Furthermore, when the Three Labor Laws are put into effect in May, 2011, how to really implement the protection of rights and interests for labor and employers relationships and conditions, collective effort is still required from the government, labor and employers, in order to really connect with the international labor conditions. These challenges include the following three points:

1. After the amendment of the Three Labor Laws, there are even more clear standard and restrictions for "unfair labor practices." Especially on how to really implement the standards for employers' unfair labor practices, to defend the rights and interests of disadvantaged laborers. This is a major challenge for competent authorities to enforce the law.
2. Facing the diversification of labor union organizations, the future developments of labor unions will present unprecedented phenomena of intense competitions. How the labor administrative institutions fully develop the roles of "referees" and not "players," in order to coordinate the relationships of benefits between each labor union organizations.
3. After the amendment of the Labor Union Act, the association rights are provided for the industrial foreign laborers that allow them to organize labor unions. However, the labor conditions of welfare foreign laborers who work in the domestic service industries still require the protection of relevant labor laws. Especially the labor conditions of welfare foreign labors are very easily exploited or treated unfairly. This is also frequent criticism of the labor and human rights communities. (Current Author Hou-Sheng Chan is working as Adjunct Professor at Social Work Department of National Taiwan University)



Policies Regulations

Relative Measures Taken to Promote Employment in Taiwan

The Relative Coordination Department within the Council for Economic Planning and Development in the Executive Yuan focuses on the labor market, in order to enhance and loosen the spindle of its mechanism. "The 2009~2012 Promotion of Employment Project" was proposed. The promotions of employment measures were divided into short-term, mid-term, and long-term, and operate in coordination with the economic and industrial development for the purpose of relieve the problems of unemployment, and enhance the benefits of laborers. According to "The 2009~2012 Promotion of Employment Project", the important measures taken by the Council for Economic Planning and Development are as followed:

1. Enhancement of the counseling process to provide assistance for employment: Each public employment service agencies provide convenient employment counseling for people seeking employment. If necessary, employment service agents will provide one-on-one individualized and supportive management of case by case employment service to help individuals get employed.
2. Youth employment experts: The purpose is to encourage youths to utilize government resources, and promote on-campus career counseling mechanisms in colleges and universities. This will help youths to start early career planning, build up proper morals and work attitudes in the work force, enhance employment knowledge and abilities, in order to improve ►►

employment competitiveness.

3. Enhancement of employment matching rates: Public employment service agencies, people who register to seek employment and employers who register to seek talent will be processed for employment matching service.
4. Expansion and deepening of channels of employment matching for youths: Establishment of cooperation and contact mechanisms with colleges and universities, promotion of employment transactions for the college youths. Conduction of employment promotion activities: include employment research study, employment lectures, employer or enterprise pioneering forum, and campus recruitment etc. In 2011, there is an estimate of matching approximately 150,200 people.
5. Temporary employment subsidies: This provides employment opportunities for people who involuntarily left their jobs or people who bear the financial burdens independently, 45~65 year-old middle-aged and senior citizens, people with disabilities, aborigines, and unemployed laborers with the abilities in low-income family to work. These people will have to register for seeking employment at public employment service agencies, and go through employment consultation before being recommended for employment. 14 days after the registration, if there is no success in recommendation of employment or failure to provide legitimate reasons for rejecting employment, the public employment service agencies must provide temporary work and short-term employment subsidies for these people. And in the meantime, agencies should provide working holidays as encouragement for people to enter the workforce as soon as possible. The pay is NTD 100 per hour, for the maximum of 176 hours per month, up to six months. Till September, 3, 2010, it has provided employment for 1,172 people. In 2011, it is estimated that approximately 1,122 employment opportunities will be provided.
6. Employment subsidies: Provide disadvantaged, unemployed people and designated subjects the opportunities for employment. Employers register for recruitment at the public employment service agencies, and employ subjects recommended by the public employment service agencies. Continuous employment of 30 days or above and conform to relative regulations; employers can apply for employment subsidies. According to the number of people employed and their statuses, every person who is compensated monthly gets NTD 8,000~12,000 every month. For people who are not paid monthly, they receive NTD 45~65 per hour, for the maximum of NTD 8,000~12,000. The same employer employs the same employee, and together they receive employment subsidies and other relative allowance that promote employment by government organizations up to twelve months. Till September 3, 2010, it has helped 507 get employed. In 2011, it is estimated to provide approximately 2,000 job opportunities.
7. Multiple Employment Promotion Program (MEPP): This project is the government's plan of assisting disadvantaged and unemployed people with short-term employment; it carries

the characters of relieving by the public resources. Through the implementation of the program, people will get involved in the development of local industries or works that carrying the public welfare of society. Employment subsidies are provided to relieve the financial burdens of unemployed people, which will help stabilize their livelihoods and maintain their desire to work. Even though this project is a short-term employment plan, it combined the schemes of on-the-job trainings, job-seeking allowances, and providing employment consultations eling to people, job recommendations and on-site recruitment, and research study of employment promotion, etc. to help people get back to the work force as soon as possible. According to the statistics, until September 14, 2010 this project has help 7,289 people get employed. In 2011, it is estimated that approximately 10,000 job opportunities will be provided.

8. Employment of mothers: Public employment service centers authorize civil career institutions to employ and train personnel with walking around service. The purpose is to go deep into every corner of civil communities, act as resource matchmakers and organizers, serve as the bridge connecting employment service centers and local community leaders, actively assist and care for unemployed people, pass on messages of employment opportunities and all measures that promote employment. In 2011, an estimate of approximately 360 employment opportunities will be provided.
9. The project of providing temporary employment subsidies for the reconstruction of the aftermath caused by Typhoon Molack: In 2010, there is a continuous enhancement of employment service after the disasters caused by Typhoon Molack, the expansion of conducting the project of employment subsidies after the catastrophe, assistance of unemployed people in the disaster areas to get short-term employment, and involvement in the work of reconstruction in the areas of catastrophe. According to the regulation of providing temporary employment subsidies for the reconstruction of the aftermath caused by Typhoon Molack, unemployed people in the disaster areas need to register for employment seeking at the public employment service agencies. People who are not recommended for employment or attending employment training must be recommended for temporary employment. The issue standard for temporary employment subsidies is NTD 100 per hour a person, for the maximum of 176 hours, up to 12 months. The deadline is September, 3, 2010. It has provided employment for 12,151 people. This project is a three-year plan, there is still budget remaining in 2010, and will continue to be executed in 2011.
10. The subsidy for sustainable employment program: The purpose of this plan is to assist designated subjects and disadvantaged, unemployed people to get prepared and accommodated for employment, and take up measures of employment promotion in order to achieve the goals of employment. Encourage corporate units, NGOs (not including political organizations) to provide job opportunities and employment to the designated subjects of this program approved by the public employment

service. The first 3 months, the subsidies are given out to the applicants; each receives NTD 17,280 every month. From the fourth month up to the twelfth month, every person receives subsidies of NT 10,000 every month. Employment subsidies are given up to twelve months. Till September 15, 2010, there are already 18,120 corporate units that applied, and have already helped 37,992 designated subjects and disadvantaged people get employed.

11. The Project of Hope for Employment: Government officials from every city and county provides employment opportunities based on care service, tourism/leisure, green work, labor safety/health to help young people get employed. Promotion of employment or short-term job opportunities that have labor and service values through the recommendations of public employment service agencies, will help approximately 15,000 people get employed.



Policies Regulations ➡

Progress of the Taiwan Occupational Safety and Health Management System

Due to growing international business and booming economy, international societies have instituted modern occupational safety and health (OSH) management systems to facilitate enterprises handling and preventing occupational incidents or diseases related to economic development. Currently, the most frequently used worldwide OSH systems are OHSAS 18001, introduced in 1999 (revised in 2007) by the British Standards Institution and the ILO-OSH introduced by the International Labor Office in 2001. Both systems are also related to the management systems of ISO quality and environment.

The Council of Labor Affairs of Executive Yuan committed to urging domestic enterprises in line with international trends encourages enterprises to implement systematic OSH self-management. The relevant requirements of ILO-OSH and OHSAS were integrated as the "Taiwan Occupational Safety and Health Management System guidelines" (TOSHMS guidelines in short) in August, 2007. And in January, 2008, the revised regulations of OSH management has stipulated that the enterprises at potentially higher risk (e.g. petro-chemical, construction, traffic and transportation industries, etc.) should refer to TOSHMS guidelines for implementing management system. Hopefully such measures will advance enterprises from compliance-based to an advanced phase of systematic self-management, and meet with international trends.

Major Characteristics of TOSHMS

1. In line with international standards and more compatibility

Contents of the TOSHMS don't only meet with main structures and requirements of the ILO-OSH guidance, but also incorporate relevant requirements of OHSAS 18001. The certification specifications of TOSHMS are designed to be compliant with the OHSAS 18001 so as to achieve the aim of "one certification for two certificates".

2. Principle-based guidance applicable to all enterprises

Framework of the TOSHMS guidance is based on the system requirements of ILO-OSH and OHSAS 18001. But more detailed requirements are not incorporated providing that it is a general and basic guidance of OSH management system, and should be applicable to all enterprises.

3. Adopting PDCA approach to improve OSH management performance

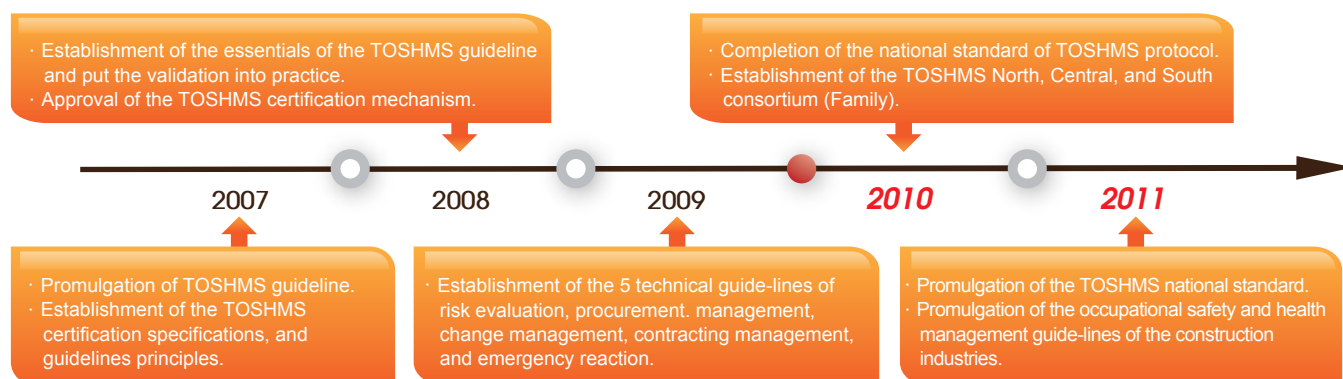
Application of the P-D-C-A, a well-known approach used widely by quality and environmental management, enables Standardization, Documentation, and Implementation of all OSH tasks through the cycle of "Plan, Do, Check and Action", so that enterprise could be able to accomplish its own OSH management targets, and to correct deviations in time by continuous inspection and problem searching.

4. Reducing organizational risks by integrating OSH into corporate governance

Top management of enterprise is required to openly pledge their commitments to integrating OSH into business strategy and operation. Management system should comprise items of the OSH policy, organization, system planning and implementation, assessment and improvement measures, and OSH related corporate social responsibility. The coverage of OSH commitments should at least include all employees, contractors, community residents and even clients to avoid hazards and to prevent fatality, disabilities, injury and ill health arisen from work.

Achievements of TOSMS Implementation

The TOSHMS guideline was issued by the CLA in August, 2007. The specifications for certification and instruction framework were published in December, 2007. And the certification guidance was introduced in April, 2008. Finally TOSHMS certification was formally launched in June, 2008. Furthermore relevant technical ➡



The Development Progress of Taiwan's Implementation of Safety and Health Management System

guidelines, instructions, websites were introduced along with many educational trainings, forums, seminars, propagandas. Major progresses of TOSHMS are as follow:

1. Integrated with international certification system to urge more participation of enterprises: TOSHMS includes the certification requirements of OHSAS recognized globally; therefore, the enterprises who pass TOSHMS certification can also obtain the OHSAS 18001 certification. By August, 2010 there were 504 public and private enterprises with TOSHMS certification, from which roughly 510,000 workers were benefited.
2. Establishment of TOSHMS Families, in order to strive for continuous improvement: TOSHMS-certified enterprises are grouped into 3 families by location. Members meet regularly to share practical experiences so as to improve OSH performance. In the meantime, learning from role models of the families hopefully will encourage members to put more social responsibilities in action, to invest more OSH resources, and to assist government promoting accident mitigation programs.
3. Promulgation of relevant technical guidelines: Some key requirements are addressed, such as risk assessment, contracting management, procurement management, management of change, and emergency response, while related technical instruction guidelines were promulgated. Such guidelines provide practical references to facilitate enterprises implementing OSH management system according to the relevant requirements of regulations or TOSHMS certification specifications.

4. Appropriately loosen the restrictions to enterprises with good OSH management performance: Performance recognition of OSH management system should be introduced to enterprises at potentially higher risk. Such enterprises are required to set up an OSH-specific administration unit. Enterprises with relative institutions of TOSHMS and with performance recognized by the CLA are not subject to the accountability mentioned above. In total, 257 enterprises received recognition by August, 2010.
5. Request contractors or suppliers to pass the certification: As for now, many large-scale enterprises have requested suppliers or contractors to obtain TOSHMS certification. Especially for the works related to potentially higher risks, this certification has become one of key entry requirements.
6. Development of the TOSHMS specific guidelines of industries: Referring to the frameworks of ILO-OSH and TOSHMS, a specific guideline of construction industry will be issued in 2011. Other specific industrial guidelines will also be issued in a timely manner.

Through the efforts of CLA, TOSHMS has successfully led compliance-based OSH management system towards a proactive, risk-based system since 2008. The certification scheme has been adopted as a draft national standard by the Bureau of Standards, Metrology and Inspection. It will be a milestone for the large expansion of TOSHMS certification through the assistance of numerous third-party professional certification bodies in a near future.



Policies Regulations

The Promotional Status of "Phoenix Micro-business Start-up Loan and Consulting Plan"

In order to help 20~65 year-old women and 45~65 middle aged male and senior citizens to start an enterprise, make a living, use

enterprise pioneering as means to promote employment in an effort to achieve the goals of employment promotion, the Council of

Labor Affairs promotes Phoenix Micro-business Start-up Loan and Consulting Plan. It provides free courses of enterprise pioneering and low interest business start-up loans of people exempt from guarantee. Consultants offer professional counseling during the whole course. Loan applicants should attend enterprise pioneering courses, consultant guidance, complete operation proposals and apply loans with the Council of Labor Affairs. People can start up businesses after approval by the investigation team, and examination of loans by the banks.

Phoenix Micro-business Start-up Loan

1. Subjects of Implementation

- (1) 20~65 year-old women and 45~65 year-old middle-aged male and senior citizens.
- (2) Attended enterprise pioneering research and study courses offered by the government within the last three years, and went to enterprise pioneering guidance counseling. The business operations by law established by company or business registrations, or meet the requirements of the fifth regulation in the business registration law, are exempt from tax registration of small businesses. Businesses that are founded less than two years, and the number of employees (not including the person in charge) is less than five people, are required to apply loans with the Council of Labor Affairs.

2. Characteristics

- (1) Easy burdens:
 - a. The maximum quota is one million dollars.
 - b. The maximum loan term is 7 years.
 - c. Interest rates
 - (a) Currently it is 1.73%: Adding 0.575% mobile adjustment according to the two-year certificate of deposit of mobile interest rate by the Chunhwa Post Co., Ltd.
 - (b) Interest free for 2~3 years:
 - (i) For the first two years, loaners are free of interest.
 - (ii) Disadvantaged groups such as, special circumstances families, victims of domestic abuse, households suffering from occupational hazards, victims of crime, households of low income, households that suffer from natural disasters are free of interest for the first three years. From the fourth year on, there is a fixed interest rate of 1.5%.
- (2) People exempt from mortgage and guarantee: The bank provides loan capitals. The Council of Labor and SMEG (Small and Medium Enterprise Credit Guarantee Fund of Taiwan) will each provide 150 million dollars for a total of 300 million special guarantee funds. The government provides 95% of credit guarantee, mortgage and guarantee exemptions, for a total of financial capital of 3 billion dollars.
- (3) Need for counseling: Appoint consultants to provide guidance during the early, middle, late stages of enterprise pioneering,

and provide care service of individual case follow-ups.

- (4) Emphasis on training: Offers entry level, intermediate, advanced enterprise pioneering research and study courses, and arranges on the job enterprise training.
- (5) Formation of a complete set: Establishes the families of phoenix startup business, helps set up marketing networks of merchandise, provide career training, employment, social and governmental resources.

Execution status

1. Counseling and loans of enterprise pioneering

- (1) From March 8, 2007 to August 31, 2010, there were 98,593 phone calls seeking for consultation. 329 entry level enterprise pioneering courses were conducted, a total of 27,857 people attended. 162 intermediated courses, a total of 12,138 people completed training, 124 advanced courses, a total of 5,345 people attended; overall there were 615 courses offered, and 45,340 people attended. A total of 10,915 people received individual or group guidance counseling by consultants. 5,706 were helped to start an enterprise, 1,883 of them received loans. The success rate for starting a business was almost 90%, creating 15,810 employment opportunities.
- (2) The majorities of enterprises are the retail and wholesale businesses, second being the restaurant businesses, and education level of most people is high school or above.

2. Praise the model of enterprise pioneering, business exhibitions and summit forum

- (1) For the purpose of promoting the policies of governmental assistance of micro-business pioneering and encourage the spirit of enterprise pioneering, sharing the learning and experience of starting a new business, and expanding new business opportunities. The focus of successful entrepreneurs who once attended the counseling service of enterprise pioneering sponsored by the Council of Labor Affairs and the relative micro-business pioneering loaners are to be nominated for the models of enterprise pioneering. Special, on the spot interviews of successful enterprise pioneering will be conducted. The purpose is to inspire new business operation modes of enterprise pioneering.
- (2) Conduct summit forum for enterprise pioneering women, confer the relative discussion topics of the enterprise pioneering policies for women and micro-business pioneering, and invite the models of enterprise pioneering to share their experience of success.

Future Prospect

1. Enhancement of knowledge, abilities, and counseling for enterprise pioneering

Continuously provide free enterprise pioneering courses and ►►

professional counseling guidance service, in order to help women and unemployed middle-aged and senior citizens to successfully start a business. In 2010, there will be 80 free entry level enterprise pioneering courses offered, 60 intermediate courses, and 30 advanced courses for a total of 170 courses. 111 professional consultants from all the fields were employed to provide free individual and group guidance counseling for 3,700 people. There are six service bases of operations providing expert service all over the country, and a free consultation phone number and official website are set up.

2. Improve the digital-using abilities of enterprise pioneering women

Continuously cooperating with Microsoft in Taiwan to conduct the course of "Women Up Digital Phoenix Plan for Women,"

provide free 24-hour computer training courses for women, including basic skills and employment application, help using internet marketing. It is estimated that it will help approximately 400 women to use their abilities of internet marketing.

3. Provide on-the-job learning of enterprise pioneering-Phoenix helps phoenix

Uses the "phoenix helps phoenix" as the concept spindle, unites all resources of the phoenix enterprises, and provides on-the-job learning opportunities for enterprise pioneers, learns from the actual operations and experience sharing of successful enterprise pioneers, establishes proper concepts of starting a business, and replicates the successful modes of phoenix enterprise pioneering. 30 phoenix enterprises will be selected to provide on-the-job learning for 100 people.



News Outlook

The Promulgation of the 2009 Evaluation Results for the Foreign Labor Agency of the Council of Labor Affairs

On July 27, 2009, the evaluation results for the service quality of private employment services institutes that engage in the business of cross-national human resource agency have been promulgated. A total of 977 foreign labor agencies have been appraised, and 225 of them received Grade A achievements. And the Chief Secretary of the Council of Labor Affairs, Huang Cho-Kue publicly praised the foreign labor agencies that received outstanding appraisals, and rewarded them with certificates of merits and medals of honors.

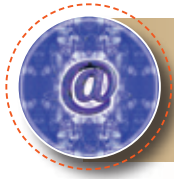
In order to ensure the rights of employers and foreign laborers, and promote healthy competitions between private employment services institutes, the Council of Labor Affairs, in 2003, began putting the assessment of foreign labor agencies into practice. On January 3, 2007, the laws were amended to legalize the assessment system and realize the measures of "awarding excellence and eliminating inferiority." "Quality Assessment Guidelines for Private Employment Service Institutes Engaging in the Business of Cross-national Human Resource Agency" was announced to access four major categories in quality management, violation penalties, customer service, and others. The results of assessments are divided into three levels: A (90 or above), B (60 to 89), C (Below 60).

In 2009, there were 977 cross-national agencies being assessed. 223 (23%) of them graded A, 700 (71.7%) graded B, 52 (5.3%) graded C. And in 2008, there were 936 agencies being assessed. 193 of them graded A, 668 graded B, 75 graded C. In comparison between the results of assessments in 2008 and 2009, the agencies that graded A increased from

20.6% to 23%, while agencies that graded C decreased from 8% to 5.3%. It was clear that the assessment system helped the foreign labor agencies improve their service qualities to a certain extent.

Furthermore, the Council of Labor Affairs has already amended the inquiry density of the foreign labor agencies according to the different levels of assessments. The purpose is to enhance the results for inquiry assessment of agencies who were underperformed previously. There will be severe penalties for transgressions. Foreign labor agencies that refuse to be assessed or graded C will have to make improvement within a timeframe. Agencies that do not make any progress during the timeframe or fail to be graded B after improvement will not be allowed to renew their permits after the 2 year expiration, but also prohibited from establishing branch companies. All these efforts will improve the service qualities of private employment services agencies, and eliminate disqualified agencies to ensure the rights of employers and foreign laborers.

All the results of assessments have been posted on the official website of the Bureau of Employment and Vocational Training (www.evta.gov.tw). The Council of Labor Affairs has also created an assessment inquiry system, and the assessment conditions include: the levels of assessment of foreign labor agencies, achievements, cities/counties, ratios for the categories of foreign laborers being brought in, and the number of foreign laborers being brought in. For those citizens who are in need of suitable agencies, they can make full use of this information as reference for their selection.



The High Quality Service by the Bureau of Labor Insurance Reaches a New Milestone The Instant Electronic Satisfaction Survey System Officially Start being Used

Starting in May 2010, the Bureau of Labor Insurance within the Council of Labor Affairs became the pioneer of all the governmental establishments nation-wide to officially use "The Instant Electronic Satisfaction Survey System." Thus setting a new milestone of the quality of governmental "service for the people"

Since November of last year, the Bureau of Labor Insurance set up a trial of "The Instant Electronic Satisfaction Survey System" in Hsinchu City and Taichung City branch offices. It received a positive response of the general public. And the system officially starts in May of this year. Citizens go to the branch offices of the Bureau of Labor Insurance in Taiwan (except the islands outside of Taiwan) can express their satisfaction rate of the service through the electronic system.

According to the Bureau of Labor Insurance, "The Instant Electronic Satisfaction Survey System" officially start being used in May. There were a total of 26,375 people using the survey. 26,243 of them express "Very Satisfied" and "Satisfied." The satisfaction rate is over 99%. Only 34 people express "Dissatisfied" and "Very Dissatisfied." The ratio is less than 1%. The remaining 98 people express "Neutral."

Pinpoint the Dissatisfied Comments with Modest Acceptance, and Provide Multidimensional Service

After understanding the survey system, excluding the people or young kids who mistakenly pressed the wrong buttons. The comments of "Dissatisfied" and "Very Dissatisfied" mainly focus on the dissatisfaction with the laws and regulations, or failure to meet the qualification to claim relative benefits. Another reason is dissatisfaction toward the relative standard operation procedure. The Bureau of Labor Insurance indicates that, when every branch office faces these problems, they can quickly come up with solutions. Other than the modest acceptance and pacifying people unsatisfactory emotions, they also get the opportunity to appropriately provide sufficient information and to inform people other consultation channels of relative benefit that will help them find ways to protect their own rights. Therefore people's unsatisfactory emotions will be placated. However, the Bureau of Labor Insurance also indicates that as soon as some people go to the branch offices, they start selecting the "Very Dissatisfied" button, the reason is "You public officials never retire, thus there are no job vacancies, which is unfair for people who took the government examinations." The comment puts people in a

distressing situation.

In spite of this, when people go to the Bureau of Labor Insurance, "there must be a reason for dissatisfaction." Sometimes it is not directed toward the attitude of the customer service personnel, but toward the laws and regulations or the transaction process, or even the hardware environment and other reasons. Through the "Instant Electronic Satisfaction Survey System," it enables the chief personnel to listen to the voices of the basic level people. Not only can it make improvement for the service flaws, but when the policies are amended in the future, the chief personnel can also be the spokesperson of the basic level people, making the laws and regulations be more closely related with the public opinions, and improve the overall service quality of the administration.

Provide Timely Service, and Make Adjustment Periodically

The Bureau of Labor Insurance indicates that we are facing a rapidly changing Taiwan society, where there is a rise in citizens' autonomous consciousness. The governmental establishments must provide timely service, and make adjustment periodically in order to satisfy the need of the general public. From now on, they will still look to instantly grasp every movement and action of the public opinion, closely fulfill the need of every citizen, strive toward the goals to become a perpetual going concern, and properly work out a more convenient and intimate service.



The survey shows the general public's satisfaction rate of the Bureau of Labor Insurance reaches 99%.



Increase the Categories of Occupational Diseases for Labor Insurance, and Ensure the Rights of Employers and Laborers

The Council of Labor Affairs in the Executive Yuan has completed the operations for law amendments. On September 3, 2010, it has announced that "tendinitis", hepatocellular carcinoma (HCC) caused by vinyl chloride monomers", bladder cancer caused by 3,3-dichlorobenzidine- 4,4'-Methylene bis (2-chloro aniline) ,MOCA", would be added as the categories of occupational diseases for labor insurance, in order to ensure the rights of laborers who face occupational hazards.

The Council of Labor Affairs has indicated that the purpose of adding categories of occupational diseases for labor insurance is to include the relationships of causes and effects of relative diseases and occupational enforcement. They can be added to the list if confirmed by the general public. In recent years, due to the changes to industrial conditions, medical developments, and research of labor safety and health, laborers who suffer from new categories of occupational diseases are gradually being discovered. In order to protect the rights of laborers and decrease the cases of industrial disputes, the addition and amendment of the categories of occupation diseases are being reviewed regularly every year. This time, the emphasis of amendment is as followed:

1. Diseases caused by physical hazards: only "trigger finger" falls under the category of "tendon tenosynovitis." And in hospitals, "tendon tenosynovitis" and "tendinitis" are two separate divisions. Therefore, changing "tendon tenosynovitis" to "tendon tenosynovitis and tendinitis" will include other types of tendinitis. For example, the most common patients are workers who need to carry heavy things and people who spend long hours in front of computers.
2. Occupational cancer: International Agency for Research on Cancer (IARC) and European Union have collected sufficient evidence on the relationship of causes and effects of vinyl chloride monomers and hepatocellular carcinoma (HCC) with regard to workers who work in factories that produce vinyl chloride for a long period of time are in the high risk category.

In addition, 3,3-dichlorobenzidine- 4,4'-Methylene bis (2-chloro aniline) ,MOCA are currently produced and manufactured in Taiwan, are still being prohibited. There is enough evidence of it being the culprit for causing bladder cancer. The most common sufferers are hairdressers and barbers who use aromatic amines.

After the above mentioned diseases are added to the categories of occupational diseases for labor insurance, the laborers who suffer diseases due to their work, the difference in benefits is that they can receive higher amount of money from the labor insurance. In comparison between insurance of accidents caused by occupational hazards and common accidents, deaths caused by occupational hazards get ten more months of insurance payment in average : disability benefits which is 50% more than the payment standard of common accidents. If the laborers meet the regulations of the Protection for Workers Incurring Occupational Accidents Act, they can apply for related subsidies of occupational hazards of laborers.

Because the list of categories of occupational diseases for labor insurance is an attachment of Section 34, Category 1 of the current labor insurance regulations, the attached table is divided into eight categories and sixty-nine items. It has to be approved by the Legislative Yuan before it can go through the amendment process, in order to prevent omissions and slow actions. The second item in the eighth category stipulates that: "other toxic substances or diseases not included in the table should be approved by the Central Competent Authority before they can be listed as occupational diseases. Over the years, the approved categories of occupational diseases have added four categories and twenty-nine items in 1996; on May 1, 2008, twenty-three more items of occupational diseases are added by approval. The main categories include tendon tenosynovitis , post-traumatic stress disorder, and occupational cancers, for a total of twenty-one items. In 2009, it has increased to forty-two items. So far, there are a total of 165 items of occupational diseases up to this year. In comparison to other developed countries, the list is complete, and can ensure the rights of laborers applying for labor insurance of occupational hazards.



Enterprises Implement TTQS in order to Make Talent Training Much Easier

Talented people are the biggest assets of enterprises. However, corporations usually do not know how to properly value and nurture people of talent. Even when training is involved, there is no systematic way of calculating the accuracy of training demand or how to examine the results of training.

The Bureau of Employment and Vocational Training tried to solve this dilemma for the business ventures by promoting an appraisal system of training qualities (Taiwan TrainQuali System, hereinafter referred to as TTQS), as index to evaluate the processes of conducting training plans by business units, training

institutions, and labor organizations. The purpose of establishing the TTQS system is to improve the abilities of conducting training and effectiveness of business units.

The Processes and Keys to Effective Implementation

The founding and characteristics of carrying out the TTQS is systematic and connected. Impediments to any functions in the system will affect its normal operations. Therefore, during the process of counseling, the standard procedure of P (Plan), D (Design), D (Do), R (Review), and O (Outcome) must be followed step by step in sequential order.

The effective crucial details are keys to grasping the essence of the TTQS. The TTQS contains both systematic and conscientious structures functions, at the same time it must scheme a talent training program and operational mechanism that show the value and intentions of enterprises and commanding of successful details. The four crucial details are as followed:

1. Clear prospects of enterprises and goals of management: Forming feasible, easily understood strategies and objectives of talent training.
2. Establishing effective evaluating system of achievement appraisals: It must include a) goal accomplishment and execution of daily work appraisal; b) goal accomplishment, promotion of team concept and future development of behaviors of occupational abilities.
3. Establishing a talent training program that emphasizes the implementation of occupational abilities: Goal accomplishment, promotion of team concept, and future development of behaviors of occupational abilities will be utilized as the foundation of planning.
4. Execution and verification of training schemes: Different sources of demand, qualities of planning, implementation of execution details, verification and follow-up of outcomes.

Evaluation and Promotion of the Benefits of Actual Accomplishment

In the index of TTQS appraisal, there is a separate interrelated index, "Evaluation reports and periodical comprehensive analyses, monitoring of execution processes, rectification of abnormalities, diversification and com-prehensiveness of the evaluation of training outcomes. In the governmental subsidization of enterprise training evaluations or individual cases of counseling by the TTQS, the above mentioned categories are the weakest. Usually the terms such as, "by experience" or "formational" are used in the appraisal index. In reality, the purpose of "review" is to assure the expected outcomes of training conduction processes are achieved. This is to prevent adjustable flaws from becoming incorrigible, therefore negatively affecting the outcomes of training conductions. "Analyses" must have a proposal for improvement and confirmation of execution in order to keep the previous defects from happening again, thus improving the results of training conduction.

Diversification and comprehensiveness are required for the evaluation of training outcomes. Different ways of evaluation can be used according to the program need, multiple selections, and cross manipulations. The levels of appraisal include reaction, learning, behavior, and outcome appraisals. TTQS promotes short-term goals of achievements. There is an expectation that when the enterprises plan training need and programs, at least L3 "behavioral modification and ability improvement" should be included.

Implementing an occupational training program is an enduring task. The purpose of the PDDRO training conduction process emphasized by the TTQS is to assure the qualities of training conduction by enterprises. We cannot forget. The existing value of the human resources development is to "select talented individuals who are highly competitive for the enterprises."



News Outlook

Mission Completed, Minister Wang attended the 5th APEC Human Resources Development Ministerial Meeting

APEC held its 5th Human Resource Development Ministerial Meeting in Beijing during September 16-17 this year. Minister Wang of the Council of Labor Affairs of the Executive Yuan, led the Chinese Taipei Delegation with 12 members in total to attend said meeting. In the meeting, Minister Wang addressed a speech on the topics of "Enhance human resources capacity building and prepare the workforce to revitalize economic growth", to share the experience of Taiwan in terms of the capacity building during the global financial crisis of 2008. Minister Wang also made some bilateral talks with Singapore, the Philippines, the United States and China; all discussions were made under the APEC framework to discuss the possibility of bilateral cooperation in terms of labor-related issues, and

the development of vocational trainings. All discussions went through in an amicable and friendly atmosphere, opinions and experiences were exchanged in-depth and in-time.

Three documents were achieved in this Meeting, namely, a Ministerial Joint Statement, an Action Plan and a Multi-year Technical Cooperation Project. The Meeting adjourned on September 17 after the adoption of the Joint Statement, which was to be presented for the discussion and implementation by the APEC Economic Leaders' Meeting to be held in Japan in November 2010. At the same time, all members support to convene the Human Resources Development Ministerial Meeting once every four years on the basis of rotation among the economies.♣

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行政院勞工委員會

Council of Labor Affairs, Executive Yuan Taiwan

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專題報導

臺灣勞動人權保障與推動 詹火生教授談勞動三法通過

勞動三法的通過象徵臺灣勞動人權向前邁開大步，曾經擔任過勞委會主委的詹火生教授提出他的看法與期許，希望藉著勞動三法的保障，促進勞動人權並讓勞資雙方更為和諧。

今（2010）年6月立法院通過行政院諮請審議的「工會法」修正草案，而在通過此項草案之前，立法院也於去（2009）年6月3日通過「勞資爭議處理法」的修正案；而「團體協約法」更於2008年1月9日完成第一次修正公布。此三法的通過，攸關勞工「團結」、「協商」、「爭議」的勞動三權，總算趨於完備。

從勞動三法的歷史發展來看，此三法皆在1928年到1930年間初次立法：勞資爭議處理法（1928年）、工會法（1929年）、團體協約法（1930年）。就當時亞洲各國勞工立法的潮流來看，我國勞工立法應屬相當先進。然而，

由於政治發展的諸多變化，產業結構更已大異於20世紀初期，經濟社會都起了巨大的轉變，勞動三法始於21世紀初才完成修法工程，已落後鄰近一些經濟發展相近的國家。

我國勞動三法的修法工程雖有落後遲延，同時部分立法規定也不盡符合一些勞工團體的期望；不過總的來說，修正後的勞動三法已經考慮我國勞工團體的需要，並考量我國產業結構的特性。誠如勞動學者林良榮在今（2010）年9月於監察院勞動人權研討會時，指出：「這部屬於集體法性格之重要法律將於臺灣日後的勞工運動發展與勞資關係運作上發揮一定程度的影響力」。

勞動三法於修法前的一些批評

勞動三法在修正前屢被批評有違反國際勞動人權相關公約，舉其瑣瑣大者有下列諸項：

一、工會法部分

(一) 限制產業工會的組織範圍

工會法施行細則第6條規範「產業工會」的組織基礎「產業工人」限縮在「同一廠場」的範圍內，而將同一區域內同產業性質但不同受僱關係的勞工排除。此項施行細則的規定被批評為逾越工會法的母法規定。

(二) 禁止各級教師、公務人員、軍火工業之員工組織工會

修正前的工會法第4條規定「各級政府行政及教育人員、軍火工業之員工，不得組織工會」。此項規定被批評為是威權時代的產物，也嚴重違反國際勞工公約87與89號之規範，違反工會的結社自由。

二、勞資爭議處理法部分

(一) 列舉式的不當勞動行為規範

修正前的勞資爭議處理法對於不當勞動行為的禁止規範方式，是採取列舉式的立法方式，相較於其他工業先進國家對不當勞動行為採原則性的立法，我國的立法規範顯得比較保守。

(二) 對工會的保護不夠

修正前的工會法對工會及工會會務人員的保護只有35、36及37三個條文。國內勞動學者認為：雇主對於工會的不當勞動行為，只要雇主不觸犯刑法，政府只能處以行政罰，但勞工因雇主不當勞動行為而遭受到權益侵害，勞工卻無法獲得法律的行政救濟。因此，勞工一旦要組織工會，雇主如果加以打壓，勞工經常是受害者。顯示修正前的勞資爭議法規對勞工的保護不夠。

(三) 對罷工的發動條件過於嚴苛

修正前的勞資爭議處理法對於罷工的發動條件過於嚴苛，學者批評是威權統治的思維。不過隨著政治民主的發展，在政策上逐步接受罷工行動的合法性，只有對民生重大影響的罷工行動採取較為嚴格的限制。

三、團體協約法部分

(一) 雇主對簽訂團體協約意願不高，而過度依賴政府勞動法令，使勞資關係缺乏彈性。

(二) 由於受工會發展的限制，簽訂團體協約的事業單位十分有限。

從2001年到2009年，事業單位簽訂團體協約數，每況愈下；2001年還有309家事業單位簽訂團體協約，到了2009年卻降到43家，其中產業工會42家，職業工會1家。

勞工委員會副主任委員潘世偉曾分析，我國事業單位勞資真正進行團體協商的情形甚少，簽訂團體協約意願不高的主要因素有：

(一) 團體協約所定內容幾乎是勞動基準法所定的勞動條件，缺乏團體協約的真正意義。

(二) 產、職業工會難以具有團體協商的功能。

勞動三法修法後與國際勞動規範接軌

我國勞動三法從2000年以後逐漸展開修法的社會工程，立法院陸續於2008至2010年間完成修法，行政院統一訂定於2011年5月1日勞動節時正式施行，期使我國的勞資關係能透過勞動三法修正的付諸實施，而邁向新的里程碑。

同時，2009年4月馬英九總統也簽署兩項人權保障的國際公約：「公民與政治權利國際公約」及「經濟社會文化權利國際公約」，尤其是後者有關工作權與勞動基本權的保障，也部分影響到勞動三法，特別是工會法的修正，將保障勞工團結權的基本規範，納入工會法的修正內容。

「經濟社會文化權利國際公約」第8條對「勞動基本權」有下列4點的基本宣示：



勞動三法通過象徵台灣勞動人權保障向前邁開大步。

- (一) 人人有權組織工會和參加其所選擇的工會，以促進和保護他自身的經濟和社會利益；這個權利只受有關工會的規章的限制。
- (二) 工會有權組織全國性的協會或聯合會，有權組織或參加國際工會組織。
- (三) 工會有權自由的進行工作，不受除法律所規定及民主社會中為了國家安全或公共秩序的利益或為保護他人的權利和自由所需要的限制以外的任何限制。
- (四) 有權罷工，但應按照各個國家的法律行使此項權利。

勞動三法的修正，大方向上已符合「經濟社會文化權利國際公約」第8條對「勞動基本權」的基本宣示，同時也回應了前述對舊有勞動三法的批評。因此，林良榮就認為：勞動三法的修正通過，可將不合時宜的條文進行全面的檢討與修正，並於立法設計上增加限制不當勞動行為的制度，與在某範圍內承認罷工權行使的相關規範，未來必將與我國集體勞資關係的發展具有緊密的關聯。更簡約的說，我國勞動三法的修正，大部分已和國際勞動條件規範相接軌。

以下就勞動三法的修法要點，摘要加以說明：

一、在「工會法」方面

(一) 工會組織類型的改變與組織程序放寬

將現行產業、職業工會變革為「企業」、「產業」及「職業」工會等三類。企業勞工維持強制入會的原則，但是沒有規定罰則；工會得依需要籌組聯合會，不受舊法限制。尊重工會自主化的立場，工會組織採事後報備主義，並刪除主管機關派員指導。

(二) 工會結社自由範圍的擴大

修正案呼應國際勞工公約精神，明定「勞工均有組織及加入工會之權利」，但是為符合我國國情，對軍火事業員工之結社自由仍有所限制；同時，對公務人員得結社自由仍予以限制，僅得適用公務人員協會之規定。

(三) 雇主不當勞動行為之禁止與處罰

為加強保護勞工加入、籌組工會之權利，明定雇主妨害工會組織、運作及對工會幹部之不利益待遇等不當勞動

行為，定有罰則規定。

(四) 工會成員單一原則

修正案參酌國際勞工公約的精神及國民平等待遇原則，外勞可以組織工會，同時刪除工會理事、監事須具有我國國籍之限制。

二、在「勞資爭議處理法」方面

(一) 勞資雙方應本誠實信用及自治原則，解決勞資爭議。

(二) 權利事項的勞資爭議，納為得依仲裁程序處理的對象，政府主管機關對於勞方當事人提起訴訟或依仲裁法提起仲裁者，給予適當補助，以保障其權益。

(三) 勞資爭議處理機構專責化及增設不當勞動行為之裁決制度

增訂調解人制度，及獨任仲裁人機制；勞資爭議管轄機關得為勞資爭議當事人任一方居所、營業所或勞務提供地之主管機關，以迅速處理勞資爭議，並保障勞工權益。

(四) 爭議行為專章規範

簡化罷工程序，同時也對罷工行為有更嚴謹的規範。

(五) 減免裁判費及擔保金訴訟費用

為實質保障勞工的訴訟權，於修正之勞資爭議處理法中規定，減免徵收勞動訴訟裁判費，調降或減免勞工起訴時所應繳納之裁判費。

三、在團體協約法方面

(一) 明定誠信協商原則及團體協約之勞方當事人

規定勞資雙方均有進行團體協約之義務，除明定非有正當理由，不得拒絕協商。同時明訂依工會法成立之工會為團體協約勞方之唯一當事人，以有別於勞工依其他法律成立之人民團體。

(二) 增訂協商代表產生及團體協約簽訂之程序

基於尊重勞資雙方協商權，行政機關不宜過度介入，且團體協約效力之發生，本係基於勞資雙方當事人之合意，因此將原來之認可制改為備查制。此外並明確規範協商代表產生的方式，以及簽訂團體協約實際出席人數及書面同意人數於修正法案中。

(三) 增訂團體協約得約定事項及確保工會協商成果



基於團體協約當事人自治原則，對非勞動關係及管理權事項亦可在團體協約中約定；而雇主非有正當理由，不得對非所屬團體協約關係人之勞工，調整該團體協約所約定之勞動條件。

(四)公開揭示義務及請求變更或終止之協商

將現行僅課以雇主揭示義務之規定，修正為團體協約當事人雙方應將備查之團體協約公開揭示，以確保團體協約關係人之權益。而當事人之一方得向他方請求協商變更團體協商內容或終止團體協約。

勞動人權保障尚待努力之處

從前節對我國勞動三法修法的重要內容分析，顯見修正後的勞動三法已大幅修正，舊有勞動三法中政府主管機關所扮演的規範者角色與功能，在修法後已大為改變。逐漸從以往管制的角色轉為規範的角色，讓勞資雙方發揮自主協商的功能，讓勞工的結社、談判、協商等勞動關係人權，得以獲得勞動三法的保障。

然而，明（2011）年5月勞動三法付諸實施後，如何

真正落實對勞資關係和勞動條件的權益保障，仍有待政府和勞資雙方的共同努力，也才能夠真正與國際勞動條件相接軌。這些挑戰包括下列三點：

- 一、修正後的勞動三法均有對「不當勞動行為」更明確的規範與不當勞動行為的限制，尤其如何加以落實對雇主不當勞動行為的規範，維護弱勢勞工權益，是勞工主管機關執法時的重大挑戰。
- 二、面對工會組織的多元化，未來工會的發展將呈現前所未有的激烈競爭現象，勞工行政機關如何發揮「裁判」而非「球員」的角色，來協調各工會組織之間的利益關係，將是真正落實勞動三權的關鍵因素。
- 三、產業外勞的結社權在工會法修正後已可組織工會，但家事服務業的外勞之勞動條件仍有待相關勞動法律的保障，尤其家事服務業外勞的勞動條件極易受到剝削或不合理對待，這也是勞動人權團體經常批評的。（作者為國立臺灣大學社會工作系兼任教授詹火生）



政策法規

我國促進就業相關措施

行政院經濟建設委員會協調相關部會針對勞動市場，以加強與活絡其機制為主軸，提出「98-101年促進就業方案」，期藉由各項短、中、長期促進就業措施，配合經濟及產業發展，舒緩失業問題，增進勞工福祉。依目前「98-101年促進就業方案」，屬勞委會辦理之重要措施如下：

- 一、加強辦理諮詢以協助就業：各公立就業服務機構提供一般求職民眾簡易就業諮詢，必要時由個案就業服務員提供一對一個別化、支持性之個案管理就業服務，以協助個案就業。
- 二、青年就業達人：為強化青年運用政府資源，並提升大專院校推動校園職業輔導機制，協助青年及早規劃職

業生涯，建立正確的職場倫理與工作態度，加強就業先備知能，以提升就業競爭力。

- 三、提高就業媒合率：由各公立就業服務機構，受理民眾求職登記及雇主求才登記，並辦理就業媒合服務。
- 四、擴大及深化青年就業媒合管道：與各大專校院建立合作聯繫機制，推動大專青年就業促進業務。辦理就業促進活動，包括就業研習、就業講座、雇主或創業座談會、校園徵才等就業相關活動。100年度預計媒合150,200人。
- 五、臨時工作津貼：提供非自願離職或獨力負擔家計者、45歲以上至65歲之中高齡者、身心障礙者、原住民、生活扶助戶之有工作能力者及長期失業者之失業勞

工就業機會，至公立就業服務機構辦理求職登記後，經就業諮詢並推介就業，於求職登記日起 14 日內未能推介就業或有正當理由無法接受推介工作者，公立就業服務機構得指派其至用人單位從事臨時性工作，並發給臨時工作津貼，期間給予求職假鼓勵即早進入一般職場。每小時新臺幣 100 元，每月最高發給 176 小時，最長以 6 個月為限。截至 99 年 9 月 3 日止，實際協助 1,172 人就業。100 年度預計提供 1,122 個工作機會。

六、僱用獎助：提供弱勢失業者及特定對象就業機會，雇主向公立就業服務機構辦理求才登記，僱用公立就業服務機構推介之前述對象，並連續僱用達 30 日以上且符合相關規定，雇主可申領僱用獎助。依受僱人數及身分，按月計酬者每人每月核發 8 千至 1 萬 2 千元，非按月計酬者每人每小時核發 45 元至 65 元，每月最高核發 8 千至 1 萬 2 千元。同一雇主僱用同一勞工，合併領取本僱用獎助及政府機關其他之就業促進相關補助或津貼，最長以 12 個月為限。截至 99 年 9 月 3 日止，實際協助 507 人就業。100 年度預計提供 2,000 個工作機會。

七、多元就業開發方案：該方案乃政府對弱勢失業者辦理具有公法救助性質之短期就業計畫，透過計畫執行過程，使其進用人員參與地方產業發展或具社會公益價值之工作，補助工作津貼為紓緩失業者之經濟壓力，有助於其安定生活並維持勞動意願。該方案雖係短期就業安置計畫，但也運用在職訓練與有給求職假及提供進用人員就業諮詢、工作推介及辦理現場徵才、就業促進研習等方式，協助進用人員儘速返回一般職場。截至 99 年 9 月 14 日止統計，已協助 7,289 人次就業。100 年度預計提供 10,000 個工作機會。

八、就業多媽媽：由公立就業服務中心委託民間事業機構僱用並訓練人員進行走動式服務，深入地方各民間團體與基層角落，做為資源媒介者及資源組織者，並成為就業服務中心與村里、鄰長間橋梁，主動協助發

掘關懷失業者，傳遞就業機會及各項就業促進措施。100 年度預計提供 360 個工作機會。

九、莫拉克颱風災後重建臨時工作津貼計畫：99 年度為持續加強莫拉克颱風災就業服務，爰擴大辦理莫拉克颱風災後臨時工作津貼計畫，協助災區失業者短期就業安置，以及參與災區重建工作。依據莫拉克颱風災後重建臨時工作津貼實施辦法，災區失業者經向「公立就業服務機構」辦理「求職登記」，未能推介就業或安排參加職業訓練者，得推介至用人單位從事臨時性工作。臨時工作津貼核發標準每人每小時 100 元，每月最高 176 小時，最長以 12 個月為限。99 年 9 月 3 日止實際協助 12,151 人就業。該計畫係屬 3 年期計畫，爰 99 年度尚有經費剩餘，於 100 年度續與執行。

十、就業啓航計畫：該計畫係為協助特定對象及就業弱勢者就業適應及準備，達穩定就業目的之措施。鼓勵加入勞保及就保，且依法登記或立案之民營事業單位、依人民團體法、其他法令取得設立許可之民間團體（不包括政治團體）或依促進民間參與公共建設法規定受委託之民間機構，提供工作機會僱用經公立就業服務機構認定符合計畫規定之特定對象，或經公立就業服務機構諮詢評估者等 15 款身分之任一資格者，依所僱用失業者之人數補助申請單位，前 3 個月補助該申請單位每人每月新臺幣 1 萬 7,280 元，連續僱用失業者第 4 個月起至第 12 個月每人每月補助 1 萬元，補助僱用期間最長為 12 個月。開辦至今，已有 18,120 家事業單位提出申請，提供 5 萬個工作機會，而截至 99 年 9 月 15 日，已協助 37,992 名特定對象及就業弱勢者就業。

十一、希望就業專案：由各縣市政府提供以照顧服務、觀光休閒、綠色工作、勞安衛生、協助青年就業、促進就業或其他等面向具有勞務價值之短期就業機會，透過公立就業服務機構推介，預計將至少協助 15,000 名失業者就業。



臺灣職業安全衛生管理系統之推動現況與成果

近年來隨著跨國貿易日益頻繁及經濟蓬勃發展，國際社會為處理及避免因經濟發展而衍生職業災害或疾病等問題，已參照ISO品質管理系統與環境管理系統之模式，導入系統性的安全衛生管理方法，來降低企業經營風險，並提高生產效率。目前國際間廣為運用於企業之系統化安全衛生管理制度，主要為英國標準協會（BSI）等驗證機構聯合於1999年出版（2007年改版）的OHSAS 18001及國際勞工局於2001年所公布的ILO-OSH。

行政院勞工委員會為促進國內企業與國際社會接軌，並引導企業逐步邁向安全衛生自主管理制度發展，在2007年8月創新整併ILO-OSH及OHSAS 18001的相關要求，頒布「臺灣職業安全衛生管理系統指引」（簡稱TOSHMS指引），並在2008年1月修正之勞工安全衛生管理法規中規定，大型高風險事業單位（如石化業、營造業及交通運輸業等），應參照TOSHMS指引建立並推動職業安全衛生管理系統，引導企業從傳統僅遵守法令的安全衛生管理邁向系統化、自主化與國際化發展。

TOSHMS之主要特色

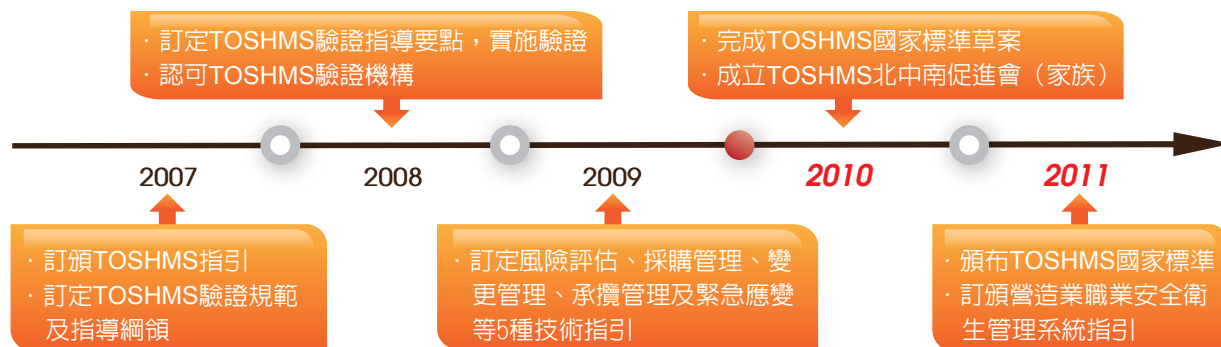
一、符合國際規範並可「一驗二證」：TOSHMS指引內容不僅符合ILO-OSH指引之架構與要項，融入OHSAS 18001之相關要求，並據以發展出我國職業安全衛生管理系統的驗證規範，結合OHSAS認證及

驗證體系，與國際認證系統建立相互認可機制，滿足國內企業「獲取國際驗證」與「符合國內規範」的雙重需求，拓展商機。

二、可適用於所有行業的原則性規範：TOSHMS指引的系統架構及模式以ILO-OSH及OHSAS 18001各主要項目的要求為主，並未納入各要項的細部要求，亦即為一般性的職業安全衛生管理系統指引，可供任何事業單位導入運用，做為其建構及推展職業安全衛生管理制度的基本要求。

三、採用PDCA管理模式提升安全衛生管理績效：將企業品質管理及環境管理所熟悉的P-D-C-A管理手法應用於安全衛生管理，對各項安全衛生工作予以「標準化、程序化、文件化」，透過規劃、實施、查核及改進的循環過程及ISO「說、寫、做」合一的精神，實現安全衛生管理目標。

四、以融入企業經營的系統化管理降低企業風險：要求企業負責人宣告並承諾保護所有員工、承攬商、社區民眾，甚至是顧客等免遭各種危害，及消除各種與工作有關的死亡、傷害、疾病和事故的決心，將安全納入企業永續發展策略，建置包括政策、組織、規劃與實施、評估及改善措施等要項的管理系統，打造企業新形象。



臺灣導入職業安全衛生管理系統之發展歷程

TOSHMS之推動現況及成果

勞委會自2007年8月制定TOSHMS指引後，緊接著於12月發布TOSHMS驗證規範與指導綱領，而為加速提升產業安全管理水準與國際競爭力，並於2008年4月發布TOSHMS驗證指導要點，同年6月展開驗證機制。此外，也陸續發布相關技術指引、手冊、建置資訊網站以及辦理各項教育訓練、座談、研討及宣導。茲將TOSHMS重要推動成果摘述如下：

- 一、結合國際驗證體系，提升企業參與意願：結合ISO及OHSAS認證及驗證體系，與國際建立相互認可，即通過TOSHMS驗證者，可一併取得OHSAS 18001的驗證，提高企業推動意願。截至2010年8月底止，通過驗證的公、民營企業已達504家，約有51萬名勞工受到照護。
- 二、成立促進會，追求精益求精：將通過驗證者分北、中、南區組成促進會，使「TOSHMS家族」的企業彼此間可以分享職場防災和風險管理的實務經驗，持續提升安全衛生績效，同時也鼓勵企業善盡社會責任，投入資源及工安人才，協助政府推動減災工作。
- 三、訂定相關技術性指引：針對管理系統之重要要求項目如風險評估、承攬管理、採購管理、變更管理及緊急應變等，訂頒實務操作的技術性指引，提供企

業建置各項安全衛生管理制度的參考，以符合安全衛生法令或驗證規範的相關要求。

- 四、對管理績效優良者適度放寬限制：推動職業安全衛生管理系統績效認可機制，對於依規定應設置專責安全衛生管理單位之高風險事業單位，如已實施TOSHMS相關管理制度，管理績效並經勞委會認可者，其管理單位得不受應為「專責」之限制。在2010年8月，累計有257家單位通過認可。
- 五、要求承攬商或供應商通過驗證：目前許多大型企業已明確要求其供應商或承攬商通過TOSHMS驗證的需求，尤其對於承作中、高度風險之作業或工程者，通過系統驗證已成為遴選廠商的基本門檻之一。
- 六、發展TOSHMS特定行業指引：參照ILO-OSH之推動架構，已陸續開發臺灣營造業職業安全衛生管理系統指引（TCOSHMS），預定於2011年發布，至於其他行業指引則將視需要適時推出。

TOSHMS在勞委會的積極推動之下，已成功地協助國內企業將傳統的勞工安全管理制度邁向不斷追求安全衛生系統化管理機制發展，尤其自2008年試行驗證制度迄今2年多來，也已發展成職業安全衛生管理系統標準草案，移請經濟部標準局制定為國家標準，屆時將是我國邁向系統化與國際化安全衛生管理制度的重要里程碑。



政策法規

勞委會「微型創業鳳凰貸款及輔導計畫」推動情形

為協助20-65歲婦女及45-65歲中高齡男性民衆創業，維持生計，並以創業帶動就業，達到促進就業之目的，勞委會推動「微型創業鳳凰貸款及輔導計畫」，提供免費創業研習課程、顧問全程專業輔導及低利免保人之創業貸款等協助。申貸人需先參加創業課程，經顧問輔導，完成營運計畫書後向勞委會提出貸款申請，並經聯合審查小組審

查通過，轉送銀行核貸後順利創業。

微型創業鳳凰貸款

（一）實施對象

1. 年滿20歲至65歲婦女及45-65歲中高齡男性。
2. 3年內曾參與政府實體創業研習課程，並經創業顧問輔

導，所營事業依法設立公司登記或商業登記或符合商業登記法第5條規定得免辦理登記之小規模商業辦有稅籍登記，未超過2年且員工數（不含負責人）未滿5人者，得向勞委會申請貸款。

（二）特色

1. 負擔輕鬆：

（1）貸款額度最高100萬元。

（2）貸款期限最長7年。

（3）利率：

a. 目前為1.73%：按中華郵政公司2年定儲機動利率加計0.575%機動調整。

b. 免息2-3年：

（a）一般貸款人前2年免息。

（b）特殊境遇家庭、家暴被害人、職災戶、犯罪被害人、低收入戶、天然災害受災戶等弱勢族群貸款人前3年免息，第4年起固定利率1.5%。

2. 免保人、免擔保品：本貸款由銀行提供貸款資金，由勞委會及信保基金各提1.5億元合計3億元保證專款，政府提供9成5信用保證，免保人、免擔保品，總融資資金30億元。

3. 要輔導：指派創業顧問提供創業前、中、後期陪伴輔導及個案全程追蹤關懷服務。

4. 重培訓：開辦創業研習入門班、進階班、精進班及安排企業見習。

5. 有配套：成立創業鳳凰家族，協助建置商品行銷網絡，提供職訓、就業及社政資源轉介。

執行現況

（一）創業輔導及貸款

1. 96年3月8日實施迄99年8月31日止，共接獲98,593通諮詢電話，各地開辦創業入門班329場，計27,857人參與，進階班162場，計12,138人結訓，精進班124場，計5,345人參加，合計615場，共45,340人參與。接受顧問個別或小組諮詢輔導計10,915人次，已協助5,706人完成創業，其中1,883人取得貸款，創業成功率達

97%，創造15,810個就業機會。

2. 所創事業以零售及批發業最多，其次為餐飲業，學歷則以高中職以上最多。

（二）創業楷模表揚、商展及高峰論壇

1. 為宣導政府協助微型企業創業政策並激勵微型企業創業精神，分享新創事業的心得與經驗，擴展新商機，針對曾參加勞委會創業諮詢輔導服務計畫輔導成功企業、及勞委會微型創業相關貸款者，辦理創業楷模選拔，安排實地專訪成功創業者，以啟發新的創業經營模式，增強競爭力，並舉辦國內商展活動，展示微型創業鳳凰商家產品。

2. 辦理婦女創業高峰論壇，探討婦女創業政策及微型企業創業等相關議題，並邀請微型企業創業楷模共同分享創業成功經驗。

未來展望

（一）強化創業知能及輔導

持續提供免費創業研習課程及專業顧問諮詢輔導服務，協助婦女及中高齡失業者成功創業。99年度將免費提供創業入門班80場、進階班60場及精進班30場共170場次，遴聘111位各領域的專業顧問，免費提供3,700人次個別及小組諮詢輔導，全國設置6個服務據點置專人服務，並設置免付費諮詢專線電話及專屬網站，預計可協助1,000人完成創業，創造3,000個就業機會。



幫助婦女及中高齡民衆的創業貸款計畫，最高新臺幣100萬元，免保人、免擔保品。

（二）提升創業婦女數位運用能力

與台灣微軟持續合作辦理「Women Up婦女數位鳳凰計畫」課程，免費提供婦女24小時電腦訓練課程，包括基礎能力及就業應用，協助運用網路行銷。預計可協助400名婦女具運用網路行銷能力。

（三）提供創業見習-鳳凰幫鳳凰

以鳳凰幫助新鳳凰為概念主軸，結合現有鳳凰企業資源，提供新創業者見習機會，學習創業成功者之實務操作及經驗分享，建立正確創業觀念，複製鳳凰成功創業模式。預定遴選30家鳳凰企業，提供100人企業見習。



新聞瞭望

勞委會98年度外勞仲介機構評鑑結果出爐

98年度私立就業服務機構從事跨國人力仲介服務品質評鑑結果於99年7月27日出爐，共977家外勞仲介機構受評，其中225家仲介機構獲得A級之成績，並由勞委會主任秘書黃秋桂公開表揚評鑑成績優良之外勞仲介公司，頒發獎狀及獎牌。

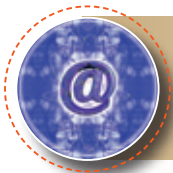
為保障雇主及外勞權益，並促進私立就業服務機構之良性競爭及提升其服務品質，勞委會自92年起開始辦理仲介公司評鑑，於96年1月3日修法將評鑑納入法制化，採取獎優汰劣措施，並訂定「私立就業服務機構從事跨國人力仲介服務品質評鑑要點」就品質管理、違規處分、顧客服務及其他事項等4大項目進行評鑑工作，將評鑑結果分為A（90分以上）、B（89分至60分）、C（60分以下）3級。

98年度跨國人力仲介共977家受評，評鑑成績A級者有225家占23%，B級者700家占71.7%，C級者52家占5.3%。而97年度共評鑑936家，評鑑成績A級者193家，

B級者668家，C級者75家。98年度與97年度評鑑成績相較，98年度A級家數從占當年度所有受評機構家數20.6%提升至23%，而C級所占家數則從8%下降至5.3%，顯見評鑑制度促使仲介機構改善其服務品質已達一定效果。

另外，勞委會已依不同評鑑等級訂定仲介公司之訪查密度，以加強訪查評鑑成績不佳之業者，如查有違法事證，則從嚴處分。仲介公司拒絕評鑑或評鑑為C級者，經限期改善而屆期未改善或改善後未達B級者，於其許可證2年到期換證時，將不予許可換證，並限制不得增設分公司，以提升私立就業服務機構服務品質，並淘汰不良之業者以保障雇主及外籍勞工的權益。

所有評鑑成績已經在職業訓練局網站（www.evta.gov.tw）上公布，勞委會並建置評鑑查詢系統，將仲介機構評鑑等級、成績、縣市別、引進外籍勞工類別比率及引進人數等做為查詢條件，對於需要選擇仲介公司的民衆，可以充分利用該資訊，做為選任仲介公司之參考。



新聞瞭望

勞保局優質服務 創新里程碑 即時電子滿意度調查系統正式啓用

勞委會勞工保險局於今（99）年5月起，率全國公家機關之先，正式啓用「即時電子滿意度調查系統」，為政府「為民服務」品質之提升開啓新的里程碑。

勞保局自去年11月起在新竹市及台中市辦事處試辦「即時電子滿意度調查系統」，民衆普遍反應良好，遂於今年5月起全面開辦，民衆到勞保局全台各辦事處（離島 ▶▶

除外)洽公,都可以透過電子系統表達受服務的滿意度。

勞保局表示,「即時電子滿意度調查系統」於5月起正式啓用迄今,共計有2萬6,375人次使用,其中表示「非常滿意」及「滿意」者為2萬6,243件,滿意度高達99%以上,僅有34件表示「不滿意」及「非常不滿意」,所占比例不到1%,另有98件表示「普通」。

針對不滿意之意見虛心接受,並提供全方位服務

經過瞭解之後,排除洽公民衆或所帶來的小朋友誤按以外,「不滿意」及「非常不滿意」之意見主要是針對法令規定之不滿,或因未符合相關給付之資格,無法領取給付,而有所不滿,另外則是對相關作業程序有意見而不滿。勞保局表示,各辦事處遇有這些問題都能盡速妥善處理,除虛心接受,對於民衆不滿的情緒加以安撫外,也會藉機適當的提供充足的資訊,告知民衆其他相關權益諮詢的管道,獲保障自身權益的方法,因此也讓民衆不滿的情緒得以紓解。不過,勞保局也表示,亦有民衆到辦事處一坐定位後,即按選「非常不滿意」,不滿意的理由則稱「你們這些公務員都不退休,占了職缺,害其他人考不進來,不公不義。」著實令人哭笑不得。

儘管如此,民衆到勞保局洽公,「不滿意一定有原因」,有時即使不是針對服務人員的服務態度不滿意,而

是針對法令政策或業務流程有所不滿,甚或針對硬體環境或其他原因不滿,但透過「即時電子滿意度調查系統」,能使主管人員傾聽基層民衆的聲音,除能對目前服務不足之處加強改善外,另期能做為日後政策興革時,擔任基層民意之發言人,以使政策法令之走向更貼近民意,亦有助於整體行政服務品質之提升。

提供服務與時俱進,隨時調整

勞保局表示,面對快速變遷的台灣社會,人民自主意識崛起,公務機關所提供之服務也要與時俱進,隨時調整,以滿足民衆的需求,今後仍會朝向即時掌握民意的脈動,貼近每一位民衆的需求,努力朝著永續經營的目標前進,妥善為民衆規劃更便捷、貼心的服務。



民衆對勞保局的滿意度調查,滿意度高達99%。

新聞瞭望

增列勞工保險職業病項目,保障勞雇雙方權益

行政院勞工委員會已完成修法作業,於99年9月3日發布施行增列「肌腱炎」、「氯乙烯單體所致之肝細胞癌」及「MOCA引起之膀胱癌」等為勞工保險職業病種類項目,增進職災勞工權益保障。

勞委會表示,增列之勞工保險職業病種類項目係將相關疾病與執行職務之因果關係已普遍被明確認可者納入表列,近年來因工業現況改變、醫學之發展及勞工安全衛生之研究等因素,勞工罹患新的職業病種類逐漸增

加,為維護勞工權益及減少勞資爭議,每年定期檢討職業病種類項目之增列及修正事宜。本次修正重點為:一、物理性危害引起之疾病,現行所列職業病「肌腱鞘炎」只有扳機指,且在醫院「肌腱鞘炎」與「肌腱炎」二者是分科,因此,將「肌腱鞘炎」修正為「肌腱鞘炎及肌腱炎」,以涵蓋其他的肌腱炎。例如必須長期搬運物品的工作者、長時間打電腦的上班族皆是常見的患者。二、職業性癌症部分,聯合國國際癌症研究

組織（IARC）及歐盟二個國際組織對於氯乙烯單體與肝細胞癌之因果關係認為證據已足夠，對於長期從事製造氯乙烯之工廠工人為較高風險之族群；另3,3 -二氯-4,4-二氨基苯化甲烷（MOCA）目前臺灣有生產、製造，且仍為管制品，它所造成的膀胱癌證據已足夠，因此，廣泛使用芳香族胺化物之美髮師、理髮師及染整業為較易罹患之對象。

上開疾病納入勞保職業病增列項目，對因工作而罹患該疾病的勞工，權益差別在於可享較高額的勞保給付金額，以職業災害保險事故與普通事故比較，職業災害死亡給付一次金較普通事故多10個月平均月投保薪資；失能給付依普通事故給付標準增給50%，相對優渥，勞工如有符合職業災害勞工保護法之規定，亦可申請相關職災勞工生

活津貼補助。

因勞工保險職業病種類表係現行勞工保險條例第34條第1項之附表，附表共分為8類69項。該法律附表修正時須經立法院通過始能施行，為避免遺漏及修法緩不濟急，爰於本表第8類第2項規定：「其他本表未列之有毒物質或其他疾病，應列為職業病者得由中央主管機關核准增列之」。歷年來由該會核准增列之職業病項目為85年核定增列4類29項目；97年5月1日核准增列23項職業病，主要為肌腱腱鞘炎、創傷後壓力症候群（Post-traumatic Stress disorder）及職業性癌症21項；98年增列達42項目，因此合計今（99）年增列之項目，目前我國之職業病項目合計已達165項，與各先進國家比較，已臻完備，可保障勞工請領勞工保險職災給付之權益。



新聞瞭望

企業導入TTQS提高競爭力，人才培訓更容易

人才是企業最大的資產，企業卻苦於不知如何重視人才，如何培育人才。即使有訓練，但對訓練需求的精確度或如何檢驗訓練成效，都無法形成系統。行政院勞工委員會職業訓練局為企業解決此一困境，推動訓練品質評核系統（Taiwan TrainQuali System, TTQS），做為評估事業單位、訓練機構與勞工團體辦理各項訓練計畫流程之指標，希藉由TTQS系統之建立，以提升單位辦訓能力與績效。



推動訓練品質評核系統（TTQS）以提升辦訓能力與績效。

有效落實的過程與關鍵

TTQS之建立與實施特徵是具有系統化與連接性的，系統中任何一個功能發生障礙，都會影響系統正常的運作。因此，輔導的過程中，必須依據P（計畫）、D（設計）、D（執行）、R（查核）、O（成果）的秩序逐步建立。

而有效的關鍵細節，在於掌握TTQS精神，TTQS不僅具有系統性、結構嚴謹的功能，同時要規劃出具有企業價值內涵、掌握成功細節的人才培育體系與運作機制。下列四項關鍵細節如後：

一、清楚的企業願景與經營目標：形成具體可行、簡單明白的人才培育策略與目標。

- 二、建立有效的績效評核制度：必須包含（一）達成目標與執行日常工作的考核；（二）達成目標、促進團隊、未來發展的職能行為。
- 三、建立以職能導向的人才培育體系：以達成目標、促進團隊、未來發展的職能行為做為規劃基礎，發展出各職位的訓練課程。
- 四、訓練規劃執行與驗證：不同來源的需求、規劃品質、落實執行細節、成果驗證與追蹤。

確實達成效益評估與提升

TTQS評鑑指標中，已分別訂有相關的查核指標，「評估報告與定期性綜合分析、執行過程之監控、異常矯正處理、訓練成果評估的多元性和完整性」，在政府各項企業訓練補助績效訪視評鑑或TTQS輔導個案中，這些項

目都是最弱的一環，往往都是以「憑經驗」或「形式化」帶過。而事實上，「查核」是要讓辦訓過程確保成效如期達成，而免於訓後才後知後覺，讓原可調整的缺失，變成無法挽救，造成辦訓成效不佳。「分析」一定要有改善方案與執行確認，讓原有發生過的缺失，不再重覆發生，提升辦訓成效。

訓練成果評估是要多元性和完整性的，評估的方式可視課程需要，多重選擇、交叉運用，評估等級共分為反應評估、學習評估、行為評估、成果評估。TTQS推動的近期成果目標，希望企業在規劃訓練需求與課程時，至少應有L3「行為改善與能力提升」。

辦理教育訓練是持續的，TTQS所強調的PDDRO辦訓過程，是確保企業辦訓的品質，我們不能忘記，人力資源發展能夠存在的價值是「為企業準備好具有優質競爭力人才」。



新聞瞭望

勞委會主任委員王如玄參加「第五屆人力資源發展部長會議」，圓滿達成任務

亞太經濟合作會議（APEC）在今（99）年9月16-17日在北京召開「第五屆人力資源發展部長會議」，會議主題是「發展人力資源，積極促進就業及實現包容性成長」。我國由行政院勞工委員會主任委員王如玄率團一行12人與會，王主任委員在會議期間，就「強化人力資源能力建構及培訓勞動力以復甦經濟成長」發表專題報告，與會員經濟體分享我國在培訓人力資源之經驗與成果；會中並積極與與會代表進行交流與溝通，循例與美國、新加坡、菲律賓與中國在APEC架構下，就建立APEC多邊溝通平台、國際勞工相關組織之合作與努力、貿易救濟與勞工協助、建立APEC職業訓練中心等議題進行廣泛與深入之討論。

該屆部長會議中，共有三項成果，即「部長聯合聲明」、「行動綱領」及「跨年度技術合作計畫」。「部長

聯合聲明」希望在面臨危機後就業挑戰的背景下，落實APEC領袖在過去所達成之共識與方向下的方案，以履行會議主題「發展人力資源，積極促進就業及實現包容性成長」的策略與政策。「行動綱領」在闡明部長聯合聲明之目標以及實現包容性成長之策略，並推薦未來之活動與方案以強化APEC經濟體間就促進就業，社會保障與技能發展領域之夥伴關係與合作。「跨年度技術合作計畫」則是希望向APEC領袖建議「建置一項APEC的多年期訓練計畫，以增進人力建構來因應未來的架構改造與中小企業發展，並創造就業機會與建立社會安全網」。

該次會議於9月17日中午由與會部長發表部長聯合聲明後閉幕，會中並確認以後每4年舉辦一次人力資源發展部長會議。聯合聲明將送交給即將在11月份於日本東京舉辦之APEC領袖會議認可並付諸施行。❖