

Taxpayers paying tab for illegal hire of Kuo

Written by Huang Di-ying 黃帝英
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On July 14, former Government Information Office (GIO) official Kuo Kuan-ying (郭寬盈), who was removed from his post in 2009 after writing political commentary on Web sites that referred to Taiwanese as “descendants of Japanese pirates,” “rednecks” and “country bumpkins,” met the legal age necessary for retirement from the Taiwan Provincial Government, where he was employed as foreign affairs secretary in February.

As a result, Kuo is set to collect a monthly pension of NT\$60,000 (US\$2,000) funded by taxes paid by the rednecks and country bumpkins he had so much to say about in 2009.

However, in response to this, the Ministry of Civil Service said that Kuo’s retirement would not affect ongoing investigations into his employment and that he would not receive his monthly pension before the ministry formally appraises his case. The ministry also said that if the Taiwan Provincial Government confirms that Kuo was legally employed, he would be paid back all the pension payments he is entitled to.

However, the procedures used by the Taiwan Provincial Government when employing Kuo were illegal. Putting aside the question of whether Minister Without Portfolio Lin Jung-tzer (林錫山), who also oversees the Taiwan Provincial Government and who oversaw Kuo’s appointment, is guilty of influence peddling in hiring Kuo — just looking at how the Taiwan Provincial Government acted against the Administrative Procedure Act (行政程序法) in its hiring of Kuo — it is obvious that steps can be taken to stop Kuo from receiving his pension and to recoup the salary Kuo received as a civil servant in the Taiwan Provincial Government.

Article 7.1 of the act, which pertains to the principles that administrative acts should follow, says: “The method adopted must be helpful to the achievement of the objectives thereof.”

The employment of officials by governmental organizations is a form of “administrative act.” The administrative procedures used in employing officials by government organizations — as well as letting officials retain their position without pay — should take into account whether such procedures are beneficial to furthering employment within government organizations.

Given this, the Taiwan Provincial Government’s hiring of Kuo, who was almost at retirement

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age when he was hired, was of no help in meeting this administrative goal and is therefore in breach of the Administrative Procedure Act.

Even worse, an investigation carried out by members of the Control Yuan showed that the provisions for recruitment by the Taiwan Provincial Government, which are equivalent to an administrative order, have clear regulations that require an interview to be held when employing somebody. However, when hiring Kuo, the Taiwan Provincial Government did not carry out any interview. Therefore, in terms of procedure, Kuo's employment had serious defects that ran in contradiction to an administrative order.

In light of this, Kuo's employment by the Taiwan Provincial Government meets the criteria of Article 111 of the Administrative Procedure Act, which relates to "an administrative disposition with other material and apparent defects," and as such, Kuo's employment should be viewed as invalid.

In simple terms, given that Kuo's hiring by the Taiwan Provincial Government was invalid from start to finish, the national government should not allow him to collect any monthly pension lest it too becomes guilty of influence peddling.

Lastly, the salary Kuo received while working illegally should be retrieved in accordance with the law to protect the rights and interests of taxpayers.

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Translated by Drew Cameron

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