

## Introduction

Japan is divided into 47 prefectural areas, which are further sub-divided into municipalities. There are no overlapping areas nor any gaps between prefectures and between municipalities. In other words, every resident in Japan lives in both a prefecture and a municipality.

Prefectures and municipalities were not established as mere administrative areas of the country. They are corporate entities based on geographical locations with the residents living in their respective areas as their constituents, independent of the central government, and fully capable of carrying out their respective duties within their respective areas.

Under the heading of “Local Autonomy,” Chapter 8 of Japan’s Constitution guarantees local autonomy, and describes the basic principles of local government. Article 92 of the Constitution reads, “Regulations concerning organisation and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.” Various laws relating to local government have been established based on this provision, among them the Local Autonomy Law, the fundamental law on local government.

Since the Constitution guarantees the system of local government in Japan, no national law can abolish all local authorities or create a single centralised state without a constitutional amendment.

## 1. Local Authority Classification

Local authorities are legally classified as “ordinary” or “special”; prefectures and municipalities are ordinary local authorities, whereas the special authorities include special wards, unions of local public entities, property wards and local development corporations.

### 1.1 Ordinary Local Authorities

Ordinary local authorities share a common organisation, area of responsibility and power, and are present throughout Japan. Prefectures and municipalities are ordinary authorities.

#### 1.1 (a) Prefectures

A prefecture is a local government public entity covering a wide area, encompassing multiple municipalities. There are 47 prefectures in Japan.

In Japanese, Tokyo is the only prefecture called “*to*,” or metropolis. Tokyo is the capital city of Japan and differs from the rest of the prefectures in that it has a system of special wards.

Hokkaido is the only prefecture known as “*do*,” or region, while Kyoto and Osaka prefectures are “*fu*”; the rest are known as “*ken*.”

These differences in nomenclature are purely historical—there are in effect no systematic differences between “*do*,” “*fu*” and “*ken*.”

Prefectural responsibilities are as follows:

(i) functions over a wide area, for example drafting comprehensive local development plans, forest conservancy and river improvements;

(ii) functions involving communication between the central government and municipalities, or entailing advice and guidance for municipalities, for example making recommendations on streamlining organisation and management;

(iii) functions whose scale of operation is deemed inappropriate for municipalities, for example the establishment and management of upper secondary schools and hospitals.

### **1.1 (b) Municipalities**

At the lower tier of local government, municipalities provide the basic services most familiar to the public. As of April 2004, there were 3,100 municipalities.

A municipality must satisfy certain conditions to be considered a city, including a population requirement of at least 50,000.

Towns and villages are usually found in so-called counties (“gun” in Japanese), but the title is purely geographical and has no administrative significance. Towns are more urbanised, with more persons engaged in commerce and industry, but in terms of administrative functions and authority there are no differences.

Municipalities provide the following services:

(i) functions related to day-to-day matters, for example resident and family registration, residence designation and various certificates;

(ii) functions concerned with public health and safety and environmental conservation, for example fire services, refuse and sewage disposal, water supply, and public parks;

(iii) functions connected with urban development, for example city planning, construction and maintenance of roads, rivers and other public facilities;

(iv) functions concerning the establishment and management of various municipal facilities, including public halls, nurseries, primary and lower secondary schools, and libraries.

### **1.1 (c) Prefectural/Municipal Relationships**

Prefectures and municipalities are mutually independent entities. The legal relationship between them is not one of superior and subordinate. The scope of their functions differs, however, because of the difference in their basic nature. While a prefecture is a regional public entity covering a wide area that includes multiple municipalities within that area, a municipality is a basic unit of local government closely related to people’s daily lives. Prefectures may give local municipalities various guidance and advice from a wider regional perspective. Some prefectural business involves granting approvals to municipalities.

### **1.1 (d) Designated Cities**

Cities that have populations of 500,000 or more and are approved by cabinet order are defined by the Local Autonomy Law as designated cities. In practice, however, cities with population of one million or more or with population of 800,000 or more but expected to reach one million in the future are being designated as such. Presently, there are 13 designated cities: Osaka, Nagoya, Kyoto, Yokohama, Kobe,

Kitakyushu, Sapporo, Kawasaki, Fukuoka, Hiroshima, Sendai, Chiba and Saitama. (Shizuoka City is scheduled to become a new designated city in April 2005.)

Designated cities are authorised to administer the same level of governmental jurisdiction as prefectures in 19 policy areas including social welfare, public health, and urban planning. Some laws also delegate to the designated cities authority in such areas as national road management and compulsory education.

### **1.1 (e) Core Cities**

Cities that have populations of at least 300,000 but less than 500,000 and land areas of over 100 sq km and are designated by cabinet order are known as core cities. There were 35 such core cities, as of April 2004.

In addition to establishing public health centres, the core cities may undertake all of the functions delegated to the designated cities with the exception of those which may be more efficient if handled in an integrated manner by prefectures.

### **1.1 (f) Special Case Cities**

Cities that have populations over 200,000 and are designated by cabinet order are known as special case cities. The system for special case cities took effect on April 1, 2000, and there were 40 such cities as of April 2004.

Special case cities are delegated the same functions as core cities with the exception of those that may be more efficiently handled in an integrated manner by prefectures. One example would be granting permission for development projects in accordance with the City Planning Law.

## **1.2 Special Local Authorities**

So called because of their special nature and circumstances, the following types of special local authorities exist.

### **1.2 (a) Special Wards**

These are found only in Tokyo—Chiyoda or Shinjuku Ward for example—and there are 23 in all.

Their functions are similar to municipalities. There are some exceptions; for example, fire services, ordinarily a municipal responsibility, are provided by the Tokyo Metropolitan Government, the prefectural authority.

Mayors and councillors of wards are directly elected.

### **1.2 (b) Municipal Cooperatives**

Municipal cooperatives are usually formed by two or more municipalities to carry out functions that would be more effective and efficient than if provided alone.

The following types of cooperatives are possible, although at present no examples of (iii) or (iv) are in operation:

- (i) partial cooperatives formed to provide specific services such as the establishment and management of schools and hospitals;
- (ii) wide-area unions formed to plan and provide services over a wide area in a comprehensive and systematic manner;
- (iii) administrative cooperatives formed to carry out all the administrative duties of a number of towns and villages;
- (iv) full cooperatives formed to carry out all the services of a number of towns and villages.

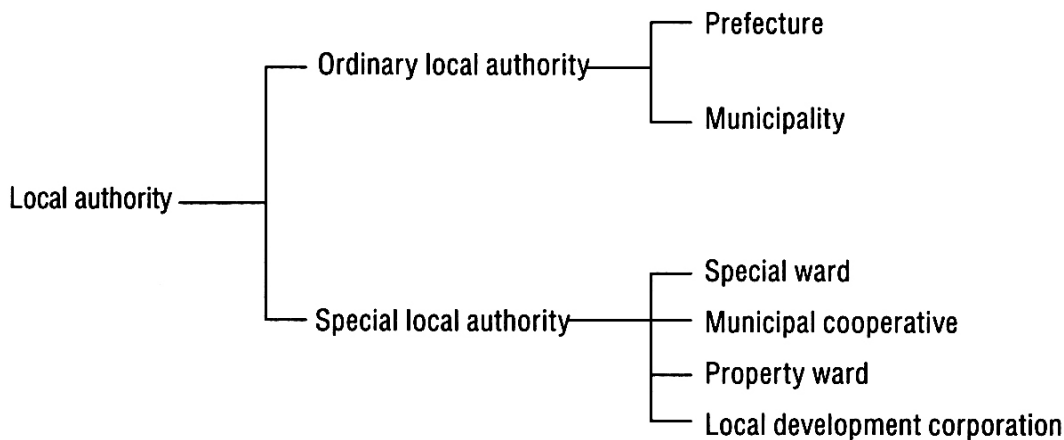
**1.2 (c) Property Wards**

These are special authorities formed by certain property-owning areas or districts within a municipality for the purposes of property management. Property wards are fairly common in farming or mountain villages, but less so in urban areas.

The most common properties involved are mountain forests, while others include irrigation channels, marshland, cemeteries, housing land, farms, and hot springs.

**1.2 (d) Local Development Corporations**

Formed by two or more ordinary local authorities, local development corporations are set up specifically to acquire and prepare sites for the construction of public facilities in areas subject to comprehensive development plans.



**Local Authority Classification**

## Tokyo's City/Ward System

### Distribution of functions

The Tokyo Metropolitan Government carries out prefectural functions within the boundaries of the wards, as well as municipal functions (fire fighting, water supply and sewerage, refuse collection and disposal). The special wards are responsible for other city functions.

### Distribution of funds

Municipal taxes such as fixed property taxes, municipal corporate taxes, and special land holding taxes are considered Tokyo Metropolitan district taxes. Treated as revenue for the city and wards, they are distributed among them

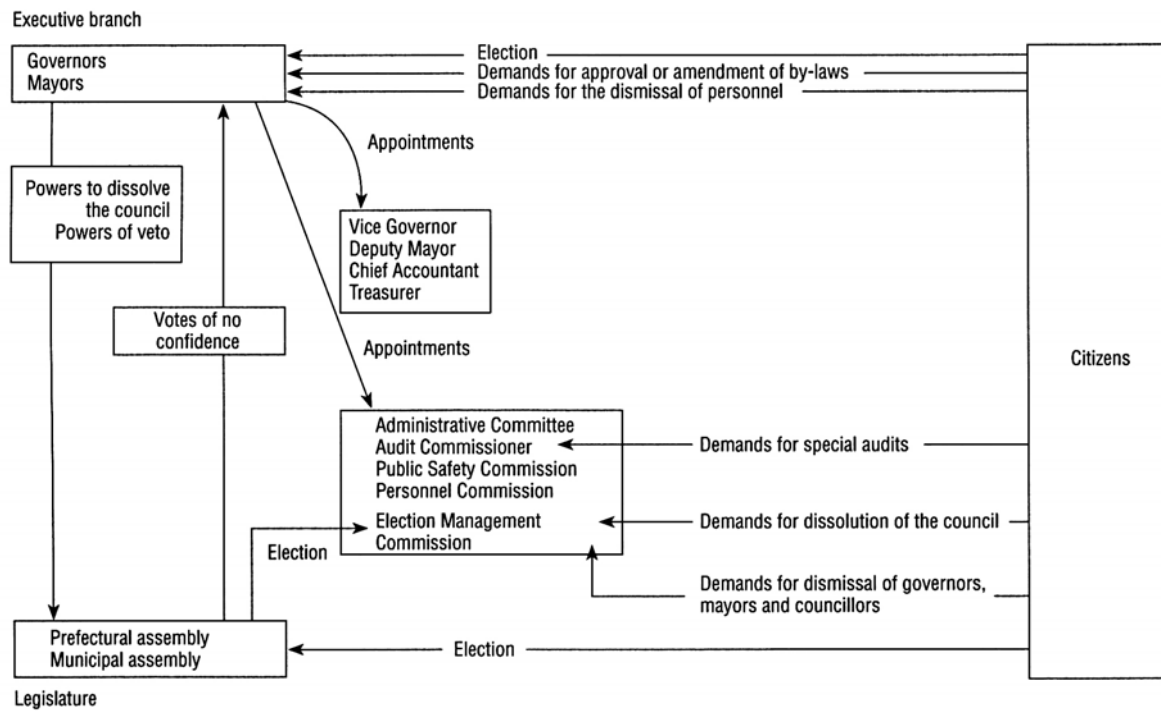
## 2. Local Authority Organisation

An ordinary local authority consists of an executive branch and a legislature. The legislature (the elected council) determines budgets, enacts local legislation and makes decisions on its policies. It includes the prefectural or municipal assembly.

The executive branch implements the policies decided by the legislature. It includes governors, mayors and their executive committees.

Local government in Japan is based on the presidential system, where governors, mayors, and councillors are directly elected, and functions on the principle of a separation of powers and internal checks and balances to ensure democratic local administration.

To prevent the over-concentration of power in one place, the executive branch also includes a number of administrative committees independent of the governor or mayor, for example, boards of education, or public safety, and election committees. These committees are wholly responsible for the management of their respective functions.



Organisation of Local Authorities

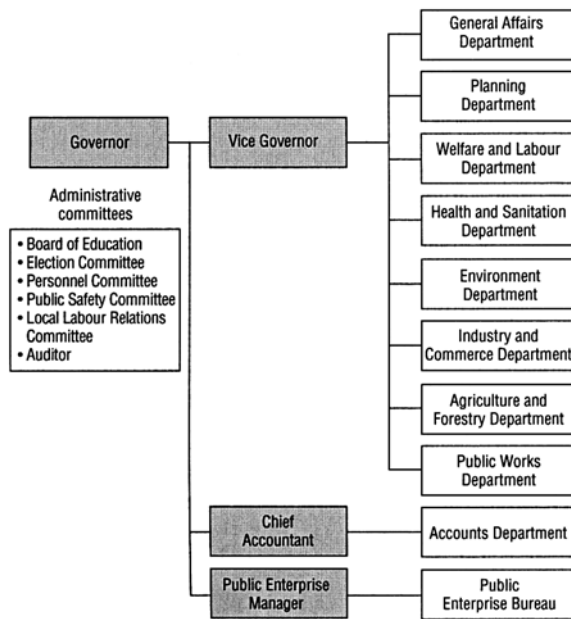
### 3. Governors and Mayors

Governors and mayors are directly elected to serve four-year terms. They are not permitted to simultaneously serve as members of the Diet or local councillors, or to be regular officials. They cannot act as contractors to the local authority.

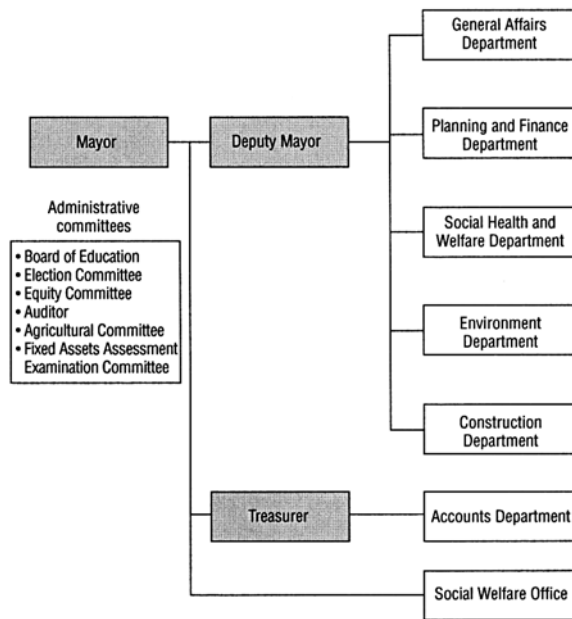
They are responsible for ensuring the overall consistency of the local authority's services and functions, and are authorised to represent the authority externally. Governors and mayors thus exercise general control over other executive organs such as administrative committees.

Important powers given to local chief executives include rights to enact regulations, to draft budgets, to introduce bills, and to appoint members of administrative committees such as the board of education and public safety committee, as well as vice governors, deputy mayors, a chief accountant, treasurer, and other officials of their respective local authorities.

In addition to these powers, governors and mayors are responsible for the execution of all affairs of the local authority excluding those of the elected council and the administrative committees. It does not mean, however, that they personally carry out all these broad functions. To assist them in actual execution, there are vice governors (deputy mayors for municipalities) and a chief accountant (treasurer for municipalities), and a large number of divisions, departments and sections, carrying out their respective assigned duties.



Organisation of a Typical Prefecture



Organisation of a Typical Municipality

## 4. Administrative Committees

Administrative committees are as follows:

### 4.1 Boards of Education

Prefectures and municipalities each have their own Board of Education. Members hold office for four years and are appointed by the governor or mayor, with council approval. Boards are responsible for, and have power to execute, affairs concerning education (e.g., establishment and management of schools and other educational institutions, appointment of school staff), science and culture.

To manage the affairs of a board of education, a superintendent of education is appointed by the board. The superintendent is responsible for executing all affairs of the board under its direction and supervision.

### 4.2 Public Safety Committees

Prefectural bodies not established in municipalities, whose members are appointed by governors with council approval to serve three-year terms, public safety committees supervise prefectural police headquarters (the Metropolitan Police Department in Tokyo) and the services they provide.

### 4.3 Election Committees

Election committees are established in every prefecture and municipality.

Members are elected at council meetings from among electors and serve four-year terms. Election committees manage all local elections in their respective areas, as well as election affairs at the national

level (elections to both Houses of the Diet—Representatives and Councillors). Municipal election committees look after the election affairs of governors and councillors in their prefectures.

## 5. Relations between Governors/Mayors and Councils

Independent of one another and on an equal footing, governors, mayors and elected councils each have their own responsibilities, each providing a check on the other, as follows:

### 5.1 No-Confidence Votes and Council Dissolution

If a governor or mayor cannot reach a compromise with the council on an issue sharply dividing them, the council can declare a vote of no confidence. To do so, a two-thirds quorum is needed and at least three-quarters of those present must support the motion.

Once this is agreed, as a countermeasure, the governor or mayor is entitled to dissolve the council and call for a local election to resolve the matter. If there is no dissolution order within ten days of the vote of no confidence, the governor or mayor must resign.

However if the council passes a further vote of no confidence at its first meeting subsequent to an election, dissolution is no longer possible and the governor or mayor must step down after being notified of the vote.

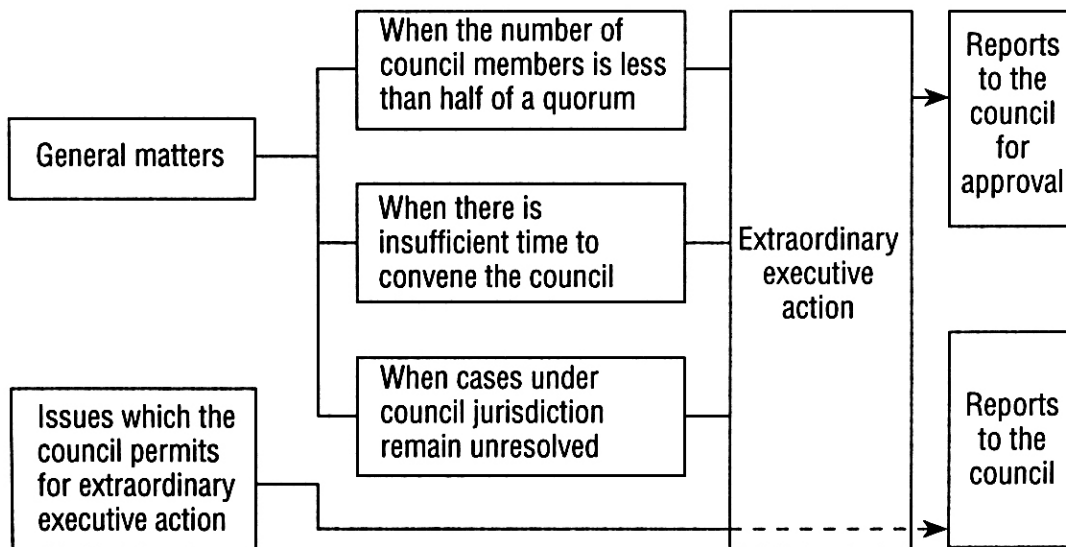
### 5.2 Powers of Veto

Governors and mayors have the right to veto any decision made by the council and demand that it be reconsidered.

### 5.3 Extraordinary Executive Action

In certain circumstances, governors and mayors are also empowered to make decisions on behalf of the council, either to achieve a compromise, or improve the efficiency of services. Such action is valid even if the council disagrees, but the governor or mayor would remain politically responsible.





### Extraordinary Executive Action

## 6. The Elected Council

Consisting of directly elected councillors, the council is the body that decides the policies of the local authority.

### 6.1 Organisation

To qualify for election as a councillor, candidates must be Japanese nationals, at least 25 years old, and be on the local electoral roll. Once elected, their term in office is four years (unless the council is dissolved or they retire). Councillors cannot concurrently be members of the Diet, serve as councillors in another area, nor serve as governors, mayors or regular officials, or hold any other job that could interfere with their official responsibilities. They are also banned from being contractor to the authority concerned to ensure fairness of the profession.

Effective January 1, 2003, the system of determining the number of councillors was changed. In the previous system, the number of councillors was fixed by law according to population, but may be reduced by local bylaws. The system was changed in accordance with the amendment of the Local Autonomy Law by the Omnibus Decentralisation Act to the current system, wherein local authorities determine the number of councillors by enacting bylaws, and the maximum number is fixed by law and based on the population of each area.

## Upper Limit of Number of Councillors Allowed (Local Autonomy Law)

### Prefectures

Number of Residents	Upper Limit of Number of Councillors
-749,999	40
750,000 - 999,999	1 extra councillor is added to 40 for every increment of 50,000 residents above 700,000
1,000,000 -	1 extra councillor is added to 45 for every increment of 700,000 residents above 930,000 (limit: 120)
	The number for the Tokyo Metropolitan Government is based on the population of the special wards divided by 1 million. The number may be increased by bylaw, but is limited to 130.

### Cities and Towns and Villages

Number of Residents	Upper Limit of Number of Councillors
- 1,999	12
2,000 - 4,999	14
5,000 - 9,999	18
10,000 - 19,999	22
20,000 - 49,999	26
50,000 - 99,999	30
100,000 - 199,999	34
200,000 - 299,999	38
300,000 - 499,999	46
500,000 - 899,999	56
900,000 - 1,299,99	64
1,300,000 - 1,699,99	72
1,700,000 - 2,099,99	80
2,100,000 - 2,499,99	88
2,500,000 -	96

## 6.2 Powers

The Council has the right to vote on all matters within its jurisdiction, most importantly the right to approve, amend or abolish bylaws, and the right to determine budgets.

Councils also have the power to elect their chairmen and vice-chairmen, as well as to elect members to the election committee.

They have rights to inspect documents on the local authority's affairs, to demand the governor, mayor or any other executive body to submit reports, to examine the management of the authority's work and the execution of their resolutions, and to audit the receipts and disbursements of the authority.

They can similarly conduct their own investigation and inspect written records, as well as require the testimony of electors and others concerned.

## 6.3 Council Proceedings

Governors and mayors are empowered to call council meetings, though a quorum of one-quarter of the council members can demand that an extraordinary meeting be called.

Regular meetings are held at most four times a year (as provided for in local bylaws), and any matter can be discussed there. Extraordinary meetings are held as necessary on the basis of an advance agenda.

Councillors, as well as governors and mayors, have the right to introduce bills, although specific kinds of bills are the prerogative of one side; for example, budget bills are exclusively the responsibility of governors and mayors.



The Saitama Prefectural Assembly

## 7. Central/Local Relationships

### 7.1 Outline

Under the principle of the present system of local autonomy, the central government, in its dealings with local authorities, is required to respect their independence, and to limit the exercise of its administrative powers and involvement with local affairs only to cases requiring nation-wide comprehensive policies. Such involvement or intervention must be approved on a case-by-case basis according to the law.

Intervention generally takes three forms: legislative, judicial and administrative.

### **7.1 (a) Legislative Intervention**

The central government may intervene in local authorities' affairs by legislation enacted by the Diet insofar as it does not contradict the idea of local autonomy stated in the Constitution.

### **7.1 (b) Judicial Intervention**

All lawsuits involving local authority must submit to the jurisdiction of the Court of Justice. Litigation between the central or local government concerning the scope or execution of powers may not be regarded as a lawsuit in the strict sense of the word, but the way is open to submit such disputes to judicial proceedings.

### **7.1 (c) Administrative Intervention**

Administrative intervention is the most common form of central government intervention in local affairs. It can also take the form of quasi-legislative intervention (cabinet orders, ministerial ordinances, etc.), or quasi-judicial intervention (administrative appeals, etc.), but the most frequently used form of intervention is administrative. Administrative intervention can be divided into two types: non-authoritarian (advice, recommendations, notifications, etc.) and authoritarian (permissions, indications, etc.). These types of intervention need to be based on statutes or cabinet order and must give consideration to the autonomy and independence of local authorities.

If a local government has any objections to such an intervention, it can file for a review by the Central-Local Government Dispute Resolution Council.



Issuing passports.

(Tokyo Metropolis)

## **7.2 Abolition of Delegated Functions**

The issue of delegated functions previously could not be overlooked in any explanation of central/local government relationships. Delegated functions were entrusted to the heads of local government authorities as agents of the central government or the upper tier of local government according to statutes. This formed a key part of Japan's centralized administrative system. It had long been pointed out that this obscured the location of responsibility and obstructed the establishment of cooperative relations between central and local government.

In accordance with the amendment of the Local Autonomy Law by the Omnibus Decentralisation Act, which took effect in April 2000, delegated functions were abolished and the functions of local government were restructured into self-governing functions and statutory entrusted functions. Related regulations were also established.

### 7.3 Statutory Entrusted Functions

Statutory entrusted functions are certain previously delegated functions that have been restructured from the standpoints of convenience to the people, operational efficiency, and how best to allocate roles between central and local government.

Statutory entrusted functions are functions handled by local governments based on statutes or cabinet order that should in fact be the responsibility of the central government (or prefectural government), but are entrusted to local governments to ensure their proper handling.

## 8. Residents' Right (Direct Participation System)

The systems allowing residents to participate directly in local authority affairs supplement the usual indirect democratic process.

### 8.1 The Initiative

This is carried out by a specified number of signatories demanding the approval, amendment or abolition of bylaws; special audits; dissolution of the council; and the dismissal of governors, mayors and councillors.

#### 8.1 (a) Bylaws

Direct demands for approval, amendment or abolition of bylaws must be supported by the signatures of at least 1/50th of the electorate. The governor or mayor must call a special meeting of the council within 20 days of receiving such demands and submit the proposed bylaw along with his comments. The final decision rests with the council, which is not bound by the proposal. The direct demand provisions do not apply to local taxes, fees and charges.

#### 8.1 (b) Special Audits

Again, the signatures of a minimum 1/50th of the electorate must accompany a demand for the audit committee to investigate the authority's financial probity—the audit committee is the authority's auditing mechanism. Once the committee has finished its audit, it must formally publish the results.

#### 8.1 (c) Dissolution of the Council

One-third of all electors must sign the demand. On receipt the whole electorate is balloted, and a majority vote in favour would result in dissolution.

### **8.1 (d) Dismissal of Governors, Mayors and Councillors**

Again, one-third of all electors must support the demand, and after balloting the electorate, a majority vote in favour would result in dismissal.

This same system also applies to vice governors, deputy mayors, treasurers and chief accountants, election committee members, as well as audit and public safety committee members. In these cases however, the chief executive refers the demand to the council for a decision.

## **8.2 Other Forms of Direct Participation**

### **8.2 (a) Referenda**

The present Constitution allows the enactment of bylaws specific to a particular local authority, but only on the condition that the majority of electors vote in favour.

### **8.2 (b) Demand for Audit and Suit by Residents**

As taxpayers, residents can ask the audit committee to investigate their local authority's expenditure, its acquisition, management or disposal of property, and relevant officers' decisions. Depending on the results of such investigation, they can also ask for the appropriate corrective or preventive action to be taken.

If dissatisfied with the results, they have further right to take legal proceedings.

## **9. Local Authorities' Legislative Powers**

Article 94 of the Constitution guarantees local authorities the right to enact their own legislation. The Local Autonomy Law provides for bylaws and regulations as the types of such legislation.

### **9.1 Bylaws**

All bylaws are subject to a majority vote of the council.

#### **9.1 (a) Scope**

Any local authority activities can be the subject of bylaws.

#### **9.1 (b) Efficacy**

Since bylaws are part of the country's legal order together with national laws, and the Constitution provides that, "Local public entities shall have the right to... enact their own bylaws within the law," any bylaws that violate any provision of the Constitution or other national laws shall be deemed void to the extent of such violation.

Bylaws are local community legislation. They are valid only within the jurisdiction of the local authority concerned, and are not applicable to areas outside of it.

Unless covered by special statutory provisions, local government may not impose any obligation upon citizens or limit their rights except through enactment of bylaws. Bylaws may also contain penal provisions.

## 9.2 Regulations

Regulations are determined by governors and mayors on issues within their jurisdiction.

### 9.2 (a) Scope

Any matter that comes under the jurisdiction of governors or mayors, including self-governing functions and statutory entrusted functions, is within the scope of their regulatory authority.

### 9.2 (b) Efficacy

Governors and mayors may enact their own regulations as long as they are not in violation of national laws. As with bylaws, regulations are subordinate to national laws in terms of their validity. Similarly, the scope of their validity is limited to the area under the jurisdiction of the local authority concerned. Should bylaws and regulations conflict, bylaws shall take precedence.

In addition, boards of education and other local administrative committees can enact regulations on matters under their respective jurisdiction in accordance with the law.

## 10. Local Government Finance

Local authorities are empowered to manage their own financial affairs, and sources of revenue are guaranteed in a number of ways.

The major revenue sources for local government consist of local taxes, local allocation tax, government grants, and local loans.

### 10.1 Local Public Finance Program

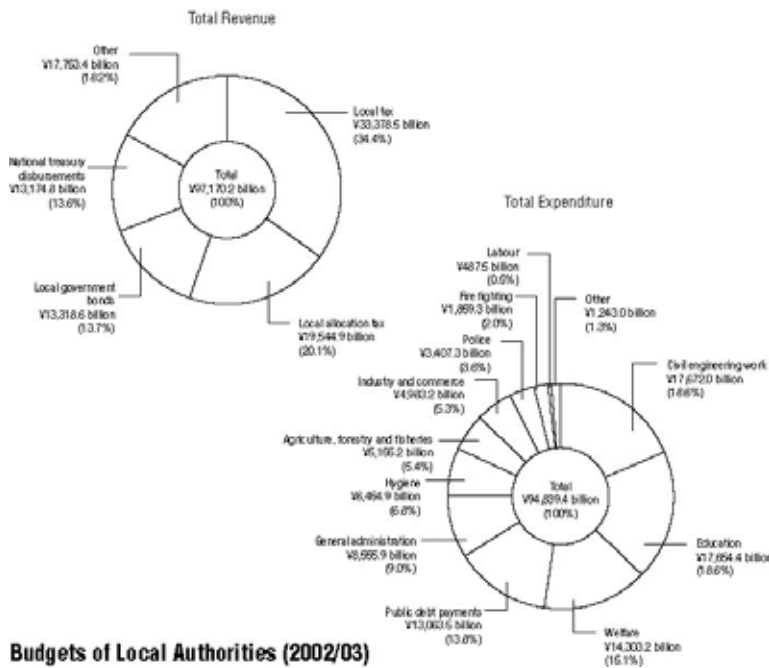
Article 7 of the Local Allocation Tax Law requires local authority estimates (income and expenditure) to be determined by the cabinet, submitted to the Diet and subsequently published.

The program allows for verification that the local authority revenues will be sufficient to provide a given level of service, as well as meet legal obligations. The process involves totalling all local authority income and expenditure; if revenue is insufficient, the central government may consider amendments to the local tax system, increase the local allocation tax, or take other action.

The program also helps local authorities match their economic and fiscal policies with those of the central government and acts as a guideline for fiscal management.

### 10.2 Financial Structure of Local Government (2002/03)

The figures below show the structure of local government revenue and expenditure, totalled for all local authorities.



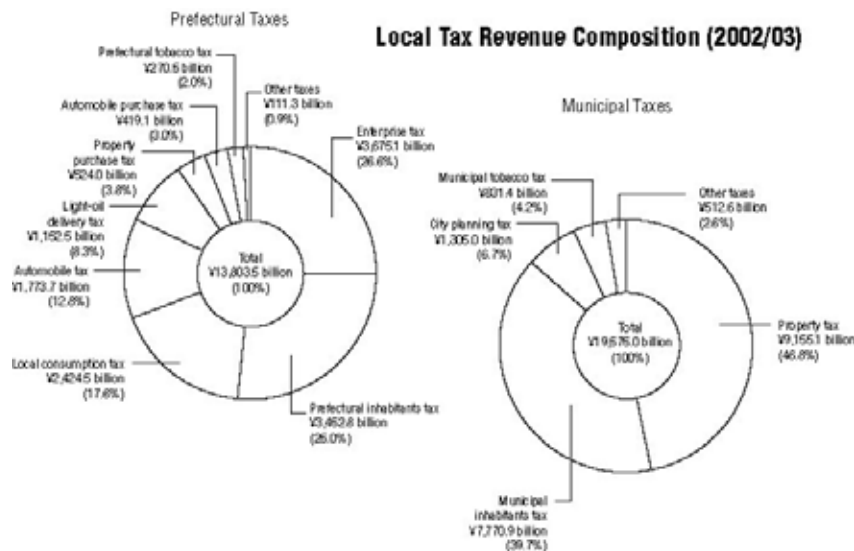
**Budgets of Local Authorities (2002/03)**

### 10.3 Local Taxes

Local authorities are able to levy and collect local taxes under the provisions of the Local Tax Law. Local taxes in Japan have many components as shown in the accompanying chart.

A local consumption tax was introduced in April 1997, and the total amount of revenue from this is accounted for as prefectural revenue.

Local taxes account for approximately 42.1% of the country's total tax revenues. Prefectural taxes make up 30.2% of total prefecture revenues, while the municipalities represent 34.4%. (All figures are based on 2002 statistics.)



**Local Tax Revenue Composition (2002/03)**

### 10.4 Local Allocation Tax

The local allocation tax allows the central government to balance local authority revenues and guarantee a standard level of service. The system provides for certain percentages (specified by law) of national



tax revenues to be set aside as a common revenue source for local authorities, to be allocated to each authority in amounts determined by specific calculation. In this way, tax revenues may be reallocated from more affluent authorities such as big cities to those with depopulated areas. The system rectifies inequity of financial capability among local authorities caused by uneven distribution of tax revenue sources.

The total local allocation tax available in any one year is tied to national tax revenues, and is a more stable form of income than other sources of subsidy. It has the additional benefit of being treated as part of local authorities' independent sources of income, and no restrictions are put on its use.

#### **10.4 (a) Composition and Types of Local Allocation Tax**

As mentioned earlier, the total amount of local allocation tax is linked to certain percentages of national tax revenues: more specifically, 32% each of income tax, corporation tax and liquor tax revenues, 29.5% of consumption tax and 25% of tobacco consumption tax revenues (Article 6 of the Local Allocation Tax Law). In reality, the amount does not always agree with the amount obtained by specified percentages of national tax revenues. When local revenue sources are expected to be insufficient through yearly formulation of a local finance plan, the central government may borrow to fund the local allocation tax, bring forward tax allocations, or increase/decrease the total amount of the tax.

Of the annual total set aside for local allocation tax, 94% is distributed to level out the differences in individual financial capability as described earlier; the remaining 6% is set aside for extraordinary cases such as natural disasters.

#### **10.4 (b) Calculation of the Local Allocation Tax**

The amount of ordinary allocation is in principle the difference between an authority's basic fiscal needs and its basic fiscal revenues (revenue shortfall), as determined by a fixed formula (stipulated by law or cabinet order). In order to make a rational assumption, an authority's basic fiscal needs are determined, based on specific calculation of each service item. Each local finance plan forms the concrete basis for estimating the level of such needs. Therefore, some authorities with more revenues than needs, Tokyo for example, are not eligible for the local allocation tax.

The calculation uses a model prefecture with a population of 1.7 million and a model municipality with 100,000 as the standard authorities; corrections are then made for population, area and regional characteristics. To calculate income, a percentage is set of the estimated total income each authority is likely to receive, based primarily on past annual receipts. The percentages, 80% for prefectures and 75% for municipalities, are used because any prediction of need cannot reflect the various authorities' individual circumstances. Just as importantly, if a 100% figure were used it would take away from local authorities all freedom of choice in how they spend the money, and discourage them from building reserves (which would automatically be lost in the coming year's calculation).

When the aggregate revenue shortfalls of individual authorities as determined by the foregoing method does not match the total amount of the ordinary local allocation tax, the two figures are brought in line by multiplying an adjustment rate to each authority's revenue shortfall.

In the case of the special allocation tax, in accordance with a Ministry of Internal Affairs and Communications ordinance, it is distributed to each authority whose revenue shortfall has not been tracked, according to basic fiscal needs.

## 10.5 Local Bonds

The Local Finance Law provides, as its basic principle, that local authorities should use revenues other than that from local bonds to finance their expenditures, but the Law permits them to issue bonds to finance capital expenditures such as construction of public facilities and to cover the expenses of public enterprises (Article 5 of the Local Finance Law).

Prefectures must obtain Ministry of Internal Affairs and Communications approval, and municipalities that of the prefecture, prior to the issuing. In this way local bonds are treated almost like government-guaranteed bonds. The less affluent local authorities benefit as a result, as they can raise large amounts of finance at low rates of interest, as well as provide themselves with a source of non-earmarked capital finance (since a proportion of the relevant debt charges can be included in the coming years' total expenditure needs).

In accordance with the Omnibus Decentralisation Act that took effect in April 2000, starting in April 2005, the issuance of local bonds will change from the current system in which central government permission is required to a local consensus System.

## 10.6 Other Sources of Revenue

There are national government disbursements and a local transfer tax other than those mentioned above.

There are three types of national government disbursements: national treasury obligatory shares, grants-in-aid and payment for agential tasks. National treasury obligatory shares are payable for undertakings that are carried out under the joint responsibility of the central and local government. The central government, one of the responsible parties, pays obligatory shares to a local government, the executor of the undertakings (e.g., expenses for compulsory education). National treasury grants-in-aid are distributed as subsidies for local undertakings (e.g., improvement of sewerage systems). National treasury payment for agential tasks are concerned with undertakings which are in fact the responsibility of the central government, but are entrusted to local authorities for convenience and efficiency (e.g., election expenses for Diet members).

All of the above are specific and cannot be used for any other purpose. There have been discussions lately about the need to relax control—including the minimum standards laid down by the government concerning the type and manner of construction of public facilities—and to consider making grants-in-aid a more general source of revenue.

There is also the local transfer tax. This was originally a direct source of income for all local authorities, but for greater convenience collection was subsequently arranged nationally for redistribution to local government on an objective basis, for example by road area and length. The local transfer tax falls somewhere between local taxes and the local allocation tax, and a typical example is

the local road tax on fuels such as petrol, which is collected by the central government and later returned to prefectures and municipalities as the local road transfer tax.

## 11. Local Government Personnel

Local government personnel are classified either as “special” or “regular.” Directly elected governors, mayors and councillors, as well as members of boards of education and other administrative committees, together with temporary or part-time advisers, researchers and so on, are “special.” The Local Government Personnel Law, which defines the status of local government officers, does not apply to any of the above.

Others are classified as “regular” staff to whom the Local Government Personnel Law is applied.

Unless provided for by the law, local authorities are duty bound to introduce bylaws covering all personnel matters, based on the provisions of the Personnel Law.

### 11.1 Responsibility for Personnel Matters

The main responsibility for appointing local government staff rests with governors and mayors, council chairmen, members of boards of education and other administrative committees, prefectural chiefs of police and municipal fire chiefs. Their responsibilities cover initial appointments, allowing time off for ill-health, suspensions, dismissals and disciplinary actions, as set out in statutes, bylaws and regulations.

Prefectures, designated cities, special wards and some cities with populations of 150,000 and over have personnel committees; the remaining municipalities have equity committees; both types of committees are independent of the employers and have been instituted primarily to improve working conditions and hear employees’ complaints.

Both committees advise employers on personnel management, and in most cases give guidance on annual salary increases—which when approved require bylaws to be amended and salaries revised. This advice often coincides with that given by the Civil Service Personnel Authority in the case of the central government.

### 11.2 Appointments and Promotions

Local government staff appointments are based on competitive examinations in all local authorities with personnel committees; appointments may be made by other means if the committee permits, or in municipalities with an equity committee.

Generally speaking, most local government officers are employed on the principle of lifetime employment.

Equal opportunity is established in statutes, and discrimination based on race, gender, religion or social status is prohibited. This also applies to political opinions, excluding cases where the person in question has formed, or is a member of, an organisation advocating destruction of the Constitution, or the government established under it, by means of violence. The principle of equal opportunity applies only to Japanese nationals; it is widely held as inappropriate for foreign nationals to exercise authority

or have the power to make decisions in local government. Recently, therefore, some local authorities have allowed the appointment of foreign nationals to positions that do not exercise authority or do not have public decision-making power.

### 11.3 Welfare, Mutual Aid and Personal Injury Funds

Local authorities are obliged to make provisions for employee welfare, including leisure and recreation activities, medical checks, housing and convalescent care. A large proportion of staff housing is funded and built by local authorities and provided at low rents.

An employee mutual aid system provides financial benefits to staff and their families in the event of sickness, injury or death; mutual aid associations are responsible for the administration. Full-time officers (both ordinary and special) automatically become formal members of a certain association upon appointment according to the nature of their work and the type and location of the local authority.

Benefits can be roughly divided into short- and long-term: short-term benefits are primarily medical expenses covering employees and their dependents. For an employee, 70% of the costs of regular medical treatment are covered. Long-term benefits are pensions payable to employees or next-of-kin on retirement, or in the event of disability or death. The local authorities meet 50% of the costs for both, and the other 50% is covered by members' premiums which are automatically deducted from salaries.

If employees are injured or killed while carrying out their official duties, local authorities are obliged to pay compensation for any loss incurred.

The details and levels of compensation are fixed by law and benefits are paid by the Local Government Employee Personal Injury Fund, the local government's mutual aid organisation which provides uniform compensation. The personal injury fund is financed by local authorities based on the total amount of salary paid to each different kind of work.

### 11.4 Rights and Obligations of Local Government Employees

Local government officers are obliged to follow lawful and official instructions, respect confidentiality and make a full commitment to their jobs. They are also prohibited from doing anything that would lead to a loss of trust.

Certain restrictions on political activities apply in the interests of political neutrality; for example, they cannot be involved in setting up political organisations, hold executive positions in such organisations, nor take part in local election activities. They cannot run as candidates for the Diet, or hold office as governor, mayor or councillor while employed by a local authority.

The Local Government Personnel Law restricts some or all of the basic rights of employment for local government employees according to their duties, including the right to organise, to participate in collective bargaining, and to conduct labour strikes—all of which are guaranteed to other workers under the Constitution.

These prohibitions are based on the principle that local government employees are public servants, and that such restrictions are in the interests of public welfare. The Supreme Court has ruled in favour of such restrictions.

Regarding disputes, any local government employee found guilty of conspiracy or incitement is liable to imprisonment for a maximum of three years or a fine not exceeding 100,000 yen.

Police and fire service employees are prohibited from organising and collective bargaining; other employees retain this right, although local public enterprise employees and those engaged in routine work join staff organisations rather than trade unions, and cannot conclude collective agreements.

Although restricted by the above, employees are able to maintain and improve working conditions via personnel committees. The Local Government Personnel Law gives staff the right to request the committee or its equivalent to act on their behalf regarding salaries, working hours and related matters. After investigation, and if it accepts the employee's proposal, the committee can make recommendations to the local authority. Such advice is not legally binding, but the local authority remains morally as well as politically responsible for whatever action it takes.

Any disciplinary action which is seen by an employee as unfair can be reported to the personnel or equity committee, which examines the complaint, and if it finds it unjustified, the committee can cancel or correct the action taken by issuing instructions to the authority.



Public employees undergoing training. (Chiba Prefecture)

## 11.5 Staff Assignment and Exchange

In recent years there have been active programs of personnel exchange between local authorities and with the central government. Local authority employees are commonly assigned for a time to the central government or another local authority for training purposes; equally often, in the case of highly experienced staff, these exchanges take the form of retiring from local government and being re-employed at the central government or a different local authority.

Likewise, central government officials are sent to local authorities, where they help build closer relationships between the central and local government, or between local authorities.

Local governments also dispatch employees to foreign governments or foreign local governments (mostly in their sister-city counterparts), or to international organisations, and special legislation has been enacted to cover such employees.



Local government employee Overseas Study Assistance Program.