



EFiled: Oct 14 2016 03:02PM HAST
Transaction ID 59704452
Case No. 16-DR-11-109

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

DAVID Y. IGE, Governor, State of Hawaii;
ALAN ARAKAWA, Mayor, County of Maui;
BERNARD CARVALHO, JR., Mayor,
County of Kauai; BILLY KENOI, Mayor,
County of Hawaii; and KIRK CALDWELL,
Mayor, City and County of Honolulu,

Petitioners,

and

HAWAII FIRE FIGHTERS ASSOCIATION,
LOCAL 1463, IAFF, AFL-CIO,

Intervenor

CASE NOS. 16-DR-11-109

ORDER NO. 3193

ORDER GRANTING HAWAII FIRE
FIGHTERS ASSOCIATION, LOCAL
1463, IAFF, AFL-CIO'S PETITION
FOR INTERVENTION

ORDER GRANTING HAWAII FIRE FIGHTERS ASSOCIATION,
LOCAL 1463, IAFF, AFL-CIO'S PETITION FOR INTERVENTION

On September 23, 2016, Petitioners DAVID Y. IGE, Governor, State of Hawaii; ALAN ARAKAWA, Mayor, County of Maui; BERNARD CARVALHO, JR., Mayor, County of Kauai; BILLY KENOI, Mayor, County of Hawaii; and KIRK CALDWELL, Mayor, City and County of Honolulu (collectively Public Employers) by and through their counsel, filed a Petition for Declaratory Ruling (DR Petition) with the Hawaii Labor Relations Board (Board), as public employers under Hawaii Revised Statutes (HRS) § 89-6(d)(2) for Bargaining Unit 11 (Unit 11) pertaining to the submission of a Final Position for Interest Arbitration by the Exclusive Representative for Bargaining Unit 11, Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO (HFFA).

On September 26, 2016, the Board issued a Notice of the Petition for Declaratory Ruling; Notice of Deadline for Filing Petitions for Intervention; and Notice of Board Conference, pursuant to Hawaii Administrative Rules § 12-42-8(g)(14) (Notice). The Notice required that a Petition for Intervention shall be filed with the Board by 4:30 p.m. on October 4, 2016. The Notice further

stated that opposition to a Petition for Intervention is required to be filed with Board by October 11, 2016.

On October 4, 2016, at 12:20 p.m., the HFFA, by and through its counsel, filed a Petition to Intervention (HFFA Petition) in the instant case.

On October 11, 2016, through its counsel, the Public Employers filed with the Board a Memorandum in Opposition to a Petition for Intervention filed by the Hawaii Government Employees Association (HGEA) filed on October 4, 2016, in which the Public Employers took the position that:

Public Employer's perspective will not be the only one provided to the Board in this proceeding. HFFA, the exclusive bargaining agent for employees in BU 11, has filed a Petition for Intervention and Public Employer will not be objecting to HFFA intervening in this proceeding. HFFA has an interest in this proceeding and has been involved in negotiations with Public Employer over a CBA for BU 11. Therefore, the union's position and perspectives will be represented by HFFA in this proceeding.

(Emphasis added)

Hawaii Administrative Rules (HAR) § 12-42-9 **Declaratory rulings by the board**, subsection (e) provides that, "Any party may intervene subject to the provisions of section 12-42-8(g)(14) insofar as they are applicable."

Based on a review of the DR Petition and the Petition for Intervention filed by the HFFA, the Board concludes that HFFA satisfies the criteria for intervention set forth in HAR § 12-42-8(g)(14).ⁱ

First, the Board finds that HFFA has timely filed its Petition for Intervention by the October 4, 2016 deadline established by the September 26, 2016 Notice.

Second, regarding the HFFA's Petition for Intervention, the Board concludes that HFFA establishes a sufficient interest in these proceedings based on the parties' agreement that HFFA is the exclusive representative for Unit 11 and the lack of any dispute that HFFA has been involved in negotiations with the Public Employers over a collective bargaining agreement for Unit 11 and will represent union position and perspectives. Moreover, HFFA further adequately supports its intervention by its allegations that, among other things, that the effect of any decision in this DR Petition proceeding rendered by the Board "could potentially affect the rights of the HFFA to represent its members and could potentially interfere with the rights of the HFFA to resolve impasse issues before a panel of arbitrators" and HFFA's argument that the DR Petition should be dismissed by the Board based on its claim that the issues at impasse are within the exclusive

jurisdiction of the arbitration panel; and that its intervention will contribute to the development of a sound record and shorten the resolution of the issues presented by these proceedings.

For all of the foregoing reasons, the Board finds that HFFA grants the HFFA's Petition for Intervention pursuant to HAR §§ 12-42-8(g)(14) and 12-42-9(e).

DATED: Honolulu, Hawaii, October 14, 2016.

HAWAII LABOR RELATIONS BOARD



KERRY M. KOMATSUBARA, Chair

SESNITA A.D. MOEPONO, Member

J.N. Musto, Member

Copies to:

Robert S. Katz and Kendra K. Kawaii, Attorneys for Petitioners/Public Employers
Alan C. Davis, Esq. and Peter L. Trask, Esq. Principal Representatives for HFFA

¹ HAR § 12-42-8 (g)(14) provides:

§ 12-42-8 Proceedings before the board.

(14) Intervention in proceeding:

(A) In any proceeding other than representation proceedings, a petition to intervene and become a party thereto shall be submitted in writing to the board.

(B) The petition shall contain the following:

- (i) Nature of petitioner's statutory or other right.
- (ii) Nature and extent of petitioner's interest.
- (iii) Effect of any decision in the proceeding on petitioner's interest.
- (iv) Other means available whereby petitioner's interest may be protected.
- (v) Extent petitioner's interest may be represented by existing parties.
- (vi) Extent petitioner's participation can assist in development of a sound record.
- (vii) Extent petitioner's participation will broaden the issue or delay the proceeding.
- (viii) Extent petitioner's interest in the proceeding differs from that of the general public.
- (ix) How the petitioner's intervention would serve the public interest.

(D) Intervention shall not be granted except on averments which are reasonably pertinent to the issues already presented but do not unduly broaden them. If intervention is granted, the petitioner thereby becomes an intervenor and a party to the proceeding to the degree indicated by the order allowing intervention.