

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
HAWAII GOVERNMENT EMPLOYEES')	Case No. <u>SF-09-79</u>
ASSOCIATION, LOCAL 152,)	
AFSCME, AFL-CIO,)	
)	Decision No. <u>115</u>
Petitioner.)	
_____)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDERS

On July 11, 1979, the Hawaii Government Employees' Association, Local 152, AFSCME, AFL-CIO (hereafter HGEA), filed a Petition for Certification of Reasonableness of Service Fee. The petition requested the Board to certify as reasonable, the following service fee for Unit 9 (registered professional nurses):

HGEA proposes a monthly service fee, effective July 1, 1979, in the amount of .0075 times the straight time monthly salaries of employees in effect on September 1, 1978, plus per capita payments to the American Federation of State, County and Municipal Employees (AFSCME) and the Hawaii State Federation of Labor, AFL-CIO, provided that said service fee shall not be less than \$7 per month nor greater than \$15 per month and that this service fee shall continue to be deducted until the service fee is changed by order of the Board in Case No. SF-09-77.

After legal notice of the petition was published in newspapers of general circulation (Board Exhibit No. 2), a hearing was held on August 20, 1979. No person in opposition to the petition appeared at the hearing. The transcript of the hearing was received by the Board on August 27, 1979.

The Board, having reviewed the entire record herein, makes the following findings of fact, conclusions of law and orders.

FINDINGS OF FACT

The Petitioner HGEA is the certified exclusive representative of the 760 employees in Unit 9. It was certified as such by the Board after having defeated the Hawaii Nurses Association in a representation election conducted by the Board in June, 1979 (Decision 109).

The HGEA is also the certified exclusive representative of bargaining units 2, 3, 4, 6, 8 and 13.

The HGEA's usual practice is to submit a consolidated service fee petition for all the bargaining units it represents. The last consolidated petition was filed by the HGEA in October, 1978 and the current service fee for Units 2, 3, 4, 6, 8 and 13 was approved by the Board in February, 1979 (Decision 101). Unit 9 was not included in the petition since HGEA did not represent it at the time.

On July 9, 1979, the HGEA submitted to the Board a consolidated petition requesting a new service fee for all units, including Unit 9, effective September 1, 1979. The Board's decision on this case is still pending.

The instant petition, which was filed on July 11, 1979, requests the Board to approve the same service fee for Unit 9 that was certified as reasonable in Decision 101 for the other six units. This service fee request is only for the months of July and August since the authorization for a Unit 9 service fee for these months is not covered under Decision 101 or the pending consolidated petition.

The Board has taken judicial notice of Decision 101 and the record for Case Nos. SF-02-62, SF-03-63, SF-04-64, SF-06-65, SF-08-66 and SF-13-67 upon which said decision was

based. The findings of fact in Decision 101 are incorporated herein. The Board has also taken judicial notice of the record in the pending HGEA consolidated service fee petition, Case Nos. SF-02-72, SF-03-73, SF-04-74, SF-05-75, SF-08-76, SF-09-77 and SF-13-78, which contains the HGEA's budget for the 1979-80 fiscal year.

If the proposed service fee for Unit 9 is approved by the Board, the HGEA estimates a service fee income of \$19,760 for the two-month period.

The HGEA submitted into evidence a list of special expenditures for Unit 9 during the months of July and August as follows:

	<u>Nurses increase for July & August, 1979</u>
Salaries - Prog. Devel.	\$ 1,890
Car Allowance	220
Insurance	80
Staff Retirement	252
Payroll Taxes	214
Per Capita	4,864
Strike Fund	380
Unit Appropriation	3,000
Contingency - Bd. Dir.	500
Election - Printing	1,000
Election - Postage	<u>3,000</u>
	<u>\$15,400</u>

The amounts budgeted for salaries, car allowance, insurance, staff retirement and payroll taxes are all attributable to the hiring of a new union agent required to represent nurses on Oahu.

The HGEA is affiliated with the American Federation of State, County and Municipal Employees (hereafter AFSCME) and the Hawaii State Federation of Labor (hereafter HSFL) and is obliged to pay these affiliates a per capita fee for its members. The sum of \$4,864 has been budgeted to cover the per capita payments (\$2.90/mo. for AFSCME and \$.30/mo. for HSFL) for the 760 employees in Unit 9 for July and August.

The HGEA sets aside 25 cents per employee per month for its strike fund. For July and August, a total of \$380 has been budgeted for Unit 9 for this purpose.

The \$3,000 for "Unit Appropriation" is for expenses incurred by the stewards and officers in the administration of the collective bargaining agreement. The appropriation of \$500 for "Contingency" is for expenses for the Unit 9 representative on the HGEA Board of Directors. Both these items are standard twelve-month appropriations which are provided in lump sum to the bargaining units at the beginning of each fiscal year in July.

The election expenses totaling \$4,000 are to meet printing and postage expenses necessary to provide an election for Unit 9 to elect their representative to the HGEA Board of Directors.

Although the expenditures appear to be approximately \$4,000 less than the anticipated income for Unit 9, it should be noted that since HGEA activities and services are centralized, all expenses which are reasonably related to contract negotiation and administration could not be prorated for Unit 9. Therefore, expenses for such items as the newspaper, office and fiscal services and education and training which were allowed as charges against service fees in Decision 101, have not been included in the \$15,400.

CONCLUSIONS OF LAW

Based on the evidence in this case, the Board finds that the special expenses totaling \$15,400 for Unit 9 as stipulated by the HGEA are proper charges against service fees since they reasonably relate to the collective bargaining functions of the HGEA.

While the projected income for Unit 9 is approximately \$4,000 more than the special expenses, the Board recognizes that allowable expenses for all other services discussed in Decision 101, which are of benefit to all HGEA unit members, have not been itemized by the HGEA as part of Unit 9 special expenses.

In Decision 101, the Board found that after determining the permissible consolidated service fee expenditures (\$2,455,937), the income generated from the new service fee (\$2,213,142) would leave the HGEA with a deficit of \$242,795. In the record for the pending HGEA consolidated petition, SF-02-72, et seq., the HGEA reported that the expenditures for all the seven units totaling \$3,308,243 will exceed the service fee income of \$2,426,748 by \$881,495 for fiscal year 1979-80.

Based on the findings in Decision 101 and the HGEA budget for fiscal year 1979-80, the Board is of the opinion that when the centralized services are included as part of the expenses for Unit 9, the projected income for Unit 9 would similarly fall short of the anticipated expenses. Hence, the Board concludes that the service fee request for July and August, 1979 is a reasonable fee for Unit 9 members.

ORDERS

A monthly service fee of .0075 times the straight time monthly salary of employees in effect on September 1, 1978, plus the per capita payments to AFSCME (\$2.90 per month) and to HSFL (30 cents per month) is certified as reasonable by this Board.

The service fee shall be retroactive to July 1, 1979, for all employees on the payroll at that time. For all persons hired after such date, the service fee shall be computed on the basis of the salary in effect on the date of hire, and shall be retroactive to the date of hire or effective as of the date of hire, as the case may be.

The employer shall deduct from the payroll of each employee covered by this decision the amounts required by the service fee formula certified in this decision from July 1, 1979 to the date of this decision. The employer and the HGEA shall devise the method of deducting this retroactive sum.

From the date of this decision, the full amount of the above-certified service fee shall be deducted by the employer from the payroll of each employee covered by this decision. Such deductions shall be made each payroll period in an amount which, to the extent possible, is equal to the annual service fee divided by 24 payroll periods. In no event shall the service fee be less than \$7 per month nor greater than \$15 per month for any employee.

All deductions made pursuant to this order shall commence at the earliest possible date, and shall be transmitted to the HGEA. Said deductions shall continue until

the service fee is changed by order of the Board in Case No.
SF-09-77.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: August 31, 1979

Honolulu, Hawaii