

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
HAWAII FIRE FIGHTERS)	Case No. <u>SF-11-70</u>
ASSOCIATION, LOCAL 1463,)	
IAFF, AFL-CIO,)	
)	Decision No. <u>131</u>
Petitioner.)	
_____)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDERS

On February 28, 1979, the Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO (hereafter HFFA), filed with this Board a petition for Certification of Reasonableness of Service Fees. Said petition requested the Board to certify, as reasonable, an annual service fee of \$74.45 (approximately \$6.20 per month) for members of bargaining unit 11 (fire fighters).

After publication of legal notices in the newspapers of general circulation and after several continuances requested by the HFFA, the Board held a prehearing conference on September 17, 1979 and a hearing on March 5, 1980. At the hearing, Mr. Francis Kennedy, Business Manager of the HFFA, presented the evidence in support of the petition. No one in opposition to the petition appeared at the hearing.

Subsequently, on June 6, 1980, the HFFA, at the request of the Board, filed a Motion to Submit Additional Exhibits. Said Motion was granted by the Board on June 16, 1980 in Order No. 327.

Upon a complete review of the record of this case, the Board makes the following findings of fact, conclusions of law, and orders.

FINDINGS OF FACT

Petitioner HFFA is and was, at all times relevant, the certified exclusive representative of Unit 11.

There are approximately 1,395 employees in Unit 11. Of this number, 1,392 are union members and three are non-union members. Additionally, the HFFA has approximately 192 retirees.

The present annual service fee of \$74.45 (approximately \$6.20 per month) was certified as reasonable by the Board on September 11, 1973 in Decision 35.

In view of the passage of time since that certification and subsequent developments in the Board's rulings on service fee reviews, on January 10, 1979 the Board issued Order No. 223 which directed the HFFA to petition the Board for a new certification of reasonableness of service fees. The instant petition was thus filed in response to Order No. 223.

The petition requests the Board to approve the same service fee of approximately \$6.20 per month¹ through the 1980 calendar year. In support of its request, the HFFA submitted into evidence projected budgets containing estimated income and expenditures for the 1979 and 1980 calendar years.

The budgets for 1979 and 1980 are as follows:

¹Union members pay membership dues of \$10.50 per month which, in effect, represents a differential of \$4.30 per month from service fees. As of July 1, 1980, the membership dues will be increased to \$11.50 per month. Retirees pay \$18.00 per year in dues.

	1979 Budget	1979 Actual	1980 Budget	
<u>INCOME</u>				
Dues & Service Fees	\$185,000	\$183,184.96 ²	\$185,000 ³	
Initiation Fees	500	617.34	525	
Interest Income	500	467.11	500	
Miscellaneous	0	416.48	400	
Total Income	\$186,000	\$184,685.89	\$186,425	
<u>EXPENDITURES</u>				
Dues-IAFF	\$ 39,600	\$ 37,788.53	\$ 35,899.10	\$ 38,000
HSFFA	7,200	6,331.85	4,748.90	5,250
Salaries	73,000	63,356.13	60,188.30	66,500
Employment Exp.	4,500	7,823.51	7,432.30	8,645
Auto Allowance	3,240	3,320.00	3,154.00	4,788
Office Rent	2,184	2,184.00	1,965.60	1,965
Utilities	4,500	3,838.27	3,454.40	4,050
Office Supplies & Exp.	10,000	10,449.46	9,404.50	10,800
Service Fees	6,000	29,750.00	28,262.50	19,000
Travel & Per Diem	10,000	9,818.16	9,327.30	11,400
Exec. & Admin. Exp.	15,000	18,235.65	16,412.10	16,200
Meeting Exp.	1,500	1,206.43	1,085.80	1,350
Misc. & Contrib.	4,000	2,791.01	2,093.30	3,000
Total Expenditures	\$180,724	\$196,893.30	\$183,428.10	\$190,948
			\$205,324	

²Of this amount, approximately \$103,788 was from service fees; \$3,448.50 was derived from retirees' dues.

³Of this amount, \$103,788 is the estimated collection of service fees; \$3,500 is the estimated collection of retirees' dues.

The actual expenditures for 1979 exceeded the projected appropriations for that year primarily because of the unexpectedly high expenditures the HFFA experienced in negotiating a new agreement under the final-offer, whole-package arbitration law. The HFFA has apportioned its expenditures in each budget category according to the percentage of activities attributable to collective bargaining and allowable as charges against service fees. The 1980 projected expenditures are based on the 1979 expenditures and details of the budget categories are discussed below.

The HFFA is an affiliate of the International Association of Fire Fighters, AFL-CIO (hereafter IAFF). The HFFA estimates that approximately 95 percent of the IAFF services are to provide direct assistance in all phases of negotiation and contract administration. Such assistance includes the provision of staff, research, study groups, seminars and symposiums related to collective bargaining. In return for these services, the HFFA pays the IAFF a per capita fee of \$2.05 per month for each bargaining unit member regardless of union membership.

The HFFA is also affiliated with the Hawaii State Fire Fighters Association (hereafter State Association) and pays a per capita fee of \$.35 per month for all HFFA members. This local affiliate has assumed all political and lobbying activities previously performed by the HFFA. The HFFA estimates that 75 percent of the State Association activities are confined to the collective bargaining process; i.e., the three-year lobbying effort to establish the firefighters' final-offer, whole-package arbitration law.

The "Salaries" appropriation for 1980 includes the following:

	<u>Annual Salary</u>
Business Manager	\$27,480
Office Manager	15,924
President	4,800
Secretary-Treasurer	4,200
Chairman (Oahu)	3,600
Recorder (Oahu)	1,500
Chairman (Hawaii)	2,100
Recorder (Hawaii)	1,200
Chairman (Maui)	2,100
Recorder (Maui)	1,200
Chairman (Kauai)	2,100
Recorder (Kauai)	1,200
Rep. (State Airports)	<u>1,200</u>
Total 1980	\$68,604

A little less than \$1,400 was included to allow for incidental overtime and temporary help to bring the total appropriation to \$70,000 for 1980.

The HFFA makes contributions on behalf of its employees to such funds as pension, FICA, unemployment, temporary disability insurance and medical insurance. Such expenses are listed under the "Employment Expense" category.

"Auto Allowance" includes \$2,100 for the Business Manager, \$1,200 each for the President and Secretary-Treasurer and \$540 for the Oahu Chairman for conducting HFFA business.

The "Office Rent" and "Utilities" categories are self-explanatory. The "Office Supplies and Expenses" category includes expenditures for such items as office machines, stationery, supplies, postage and contract printing.

The "Service Fees" category reflects appropriations for professional services rendered by attorneys, arbitrators, bookkeepers and auditors.

The "Travel and Per Diem" category includes expenses for air fare, hotel, automobile rental and per diem at a rate of \$25 per day.

The "Executive and Administrative Expense" category is to provide for expenses incurred by the Executive Board and Negotiating Committee and for officers and staff in the performance of required HFFA duties. Also included in this category are such other items as promotional expenses, entertainment, funeral wreaths and meals.

The "Meeting Expense" category is for the rental of auditoriums, meeting halls and other facilities for conducting HFFA business.

The "Miscellaneous Contributions" category consists of purchases or payments for newspaper subscriptions, postage due, parking fees, small office items, contributions to charitable solicitors and other items not allocable to other budget categories.

If the instant service fee petition is approved, the total estimated service fee income for the HFFA, for the 1,395 members in Unit 11, would be \$103,788. With actual service fee-related expenditures of \$183,428.10 for 1979 and projected service fee-related expenditures of \$190,948 for 1980, the HFFA budgets show a substantial service fee deficit which must be covered by its membership dues differential and other sources of income.

CONCLUSIONS OF LAW

Subsection 89-4(a), HRS, provides that:

The employer shall, upon receiving from an exclusive representative a written statement which specifies an amount of reasonable service fees necessary to defray the costs for its services rendered in negotiating and administering an agreement and computed on a pro rata basis among all employees within its appropriate bargaining unit, deduct from the payroll of every employee in the appropriate bargaining unit the amount of service fees

and remit the amount to the exclusive representative. A deduction permitted by this section, as determined by the board to be reasonable, shall extend to any employee organization chosen as the exclusive representative of an appropriate bargaining unit. If an employee organization is no longer the exclusive representative of the appropriate bargaining unit, the deduction shall terminate. (Emphasis added)

Decision 7 of this Board established the following criteria for determining "reasonableness":

6. "Reasonableness". The test of "reasonableness" imposed by the Legislature upon the determinations of this Board in reviewing a proposed service fee has broad meaning and application. Primarily, it is a requirement that the employees' contribution or share of the costs of collective bargaining services be fair and equitable. It means that the fee must be reasonably related to the costs of contract negotiation and administration, and thus requires that the activities and expenditures of the union which do not benefit the non-member must be excluded. It means that the overall fee must be reasonable in amount to assure that the union will not become improperly enriched or that the non-member pays more than his pro rata share of the union's representation services.

* * *

On the other hand, the test of reasonableness is also designed to protect the Petitioner toward the final determination of a service fee that will not permit "free rides" nor undermine the financial stability of the union to hinder its proper performance. 1 HPERB No. 7 at 36-37.

The instant case was initiated by the HFFA upon direction by the Board in Order No. 223. The Board is cognizant that the HFFA has not sought an increase in service fees since its last review in 1973 and that nearly half of the expenditures are paid by the membership dues differential even though approximately 90 percent of the HFFA's activities are directly related to contract negotiation and administration. However, the Board is of the opinion that

its duty under Subsection 89-4(a) requires regular reviews to assure the "continuing" reasonableness of the service fee paid by all of the bargaining unit members whether they are union members or not. The only way the Board can determine such reasonableness is to annually examine the proposed expenditures for services to be provided by the union for contract negotiation and administration.

After complete review of the record herein, the Board finds that the HFFA's allocation of expenditures attributable to contract negotiation and administration are consistent with the requirements of Subsection 89-4(a), HRS, and the Board's test of reasonableness. The HFFA submitted projected budgets for the 1979 and 1980 calendar years. In Decision 88, the Board established a policy to certify service fees only for periods for which projected budgets have been submitted. Accordingly, the Board approves the annual service fee request of \$74.45 (approximately \$6.20 per month) for the period from January 1, 1979 through December 31, 1980.

While the Board hesitates to approve service fee requests retroactively, in the instant case, an exception was made due to the unusual circumstances at the time of the filing of the petition. The HFFA was ordered by the Board (Order No. 223) to file no later than February 28, 1979. At that time, the HFFA was in the midst of negotiations for a new Unit 11 contract and was not prepared for a service fee review. Consequently, the Board allowed the numerous continuances to afford the HFFA the time to prepare its case.

ORDERS

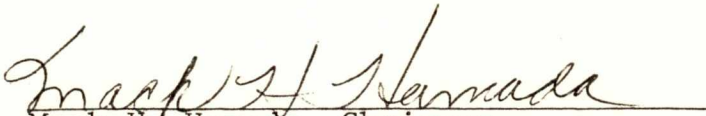
An annual service fee of \$74.45 (approximately \$6.20 per month) shall continue to be deducted by the

employer from the payroll of each employee in Unit 11. Such deductions shall be made each payroll period in an amount which, to the extent possible, is equal to the monthly service fee divided by two payroll periods.

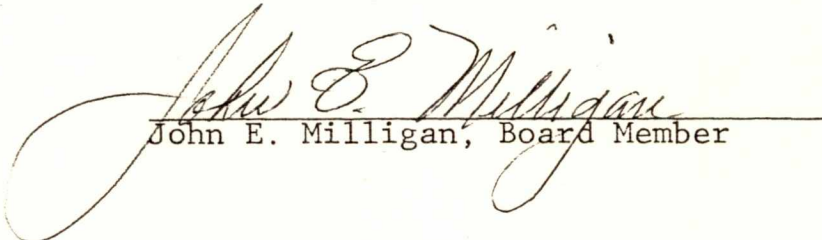
The service fee shall continue to be deducted until otherwise ordered by this Board.

The HFFA is directed to petition this Board for a service fee review no later than December 31, 1980.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: June 30, 1980

Honolulu, Hawaii