

STATE OF HAWAII  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	
	)	
UNITED PUBLIC WORKERS,	)	Case Nos. <u>SF-01-84</u>
LOCAL 646, AFSCME, AFL-CIO,	)	<u>SF-10-85</u>
	)	
Petitioner.	)	Decision No. <u>139</u>
_____	)	

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDERS

On August 18, 1980, the United Public Workers, Local 646, AFSCME, AFL-CIO (hereafter UPW), filed with this Board a Petition for Certification of Reasonableness of Service Fees for the employees in Unit 1 (Nonsupervisory employees in blue collar positions) and Unit 10 (Nonprofessional hospital and institutional workers). Said petition requested the Board to certify as reasonable, for the 1980-81 fiscal year, a service fee of 1.5% of the gross salary of employees working more than 20 hours per week, with an \$8.65 minimum and a \$15.00 maximum, based on salaries or wages earned on July 1, 1980. Part-time employees working 20 hours per week will continue to pay a monthly fee of \$7.65.

After publication of legal notices in newspapers of general circulation, the Board held a prehearing conference on September 8, 1980 and a hearing on September 15, 1980. Mr. Henry B. Epstein, State Director of the UPW, presented the UPW's case in support of the petition. No one appeared at the hearing in opposition to the petition.

Based on the entire record herein, the Board makes the following findings of fact, conclusions of law, and orders.

### FINDINGS OF FACT

The UPW is the certified exclusive representative of Units 1 and 10.

There are approximately 7,612 employees included in Unit 1 and 1,587 in Unit 10. Of these totals, 6,361 in Unit 1 and 1,221 in Unit 10 are union members. In addition, the UPW has union members who are associate or retiree members or from the private sector.

The present service fee for Units 1 and 10 is 1.5% of the employees' salary or wages in effect on July 1, 1978 with an \$8.65 minimum and a \$15.00 maximum for full-time employees. Part-time employees working 20 hours per week pay a monthly service fee of \$7.65. This service fee was approved as reasonable by the Board for fiscal years 1978-79 (Decision 96) and 1979-80 (Decision 133). The UPW was directed by the Board in Decision 133 to petition for another service fee review for the present fiscal year.

In support of its petition, the UPW submitted its estimated income and planned expenditures for the period from July 1, 1980 through June 30, 1981. The UPW consolidates its bookkeeping records for both the public and private sectors; however, it has provided the Board with estimated allocations attributable to Units 1 and 10 for its average monthly income and expenditure projections as follows:

INCOME (Units 1 and 10)

Membership dues	\$ 93,740.64
Part-timers	5,117.85
Non-member service fees	<u>16,604.20</u>
	\$115,462.69

# EXPENDITURES (Units 1 and 10)

I. Operational	
a. Field Staff	\$ 40,066.75
b. Education & Newspaper	4,000.00
c. State Director	5,005.51
d. Office Overhead	6,822.48
e. Office & Janitorial	17,653.09
f. Auditing & Legal	<u>2,940.00</u>
	\$ 76,487.83
II. Organizational	
a. Meetings	\$ 2,259.60
b. State Officers	<u>201.60</u>
	\$ 2,461.20
III. Non-Full Time Programs and Activities	
a. Group Insurance	\$ 8.00
b. Bonding	63.00
c. Arbitrations	3,000.00
d. Subscriptions & Research	238.00
e. Donations	63.00
f. Sports	100.00
g. Lobbying	336.00
h. Per Capita - State Fed.	2,940.00
i. Coll. Barg. Units 1 and 10	4,000.00
j. Per Capita AFSCME	<u>28,315.50</u>
	\$ 39,063.50
IV. Payroll Taxes & Expenses	\$ 6,883.01
V. Other	
a. UPW-PAC	\$ 1,428.00
b. Building Program	2,766.12
c. Division Activities	2,509.08
d. Emergency Fund	<u>1,984.08</u>
	\$ 8,687.28
TOTAL EXPENDITURES	\$133,582.82

The projected monthly income of \$93,740.64 in membership dues is an increase of \$10,043.64 from the previous petition. This increase is attributable to the proposed change in the base rate. The income from part-timers will remain the same since there will be no change in their monthly



fee and there has been very little change in the number of part-timers in the unit. Non-member service fee income is expected to be approximately \$122.84 less than the previous fiscal year since there are fewer non-members due to a reduction in the CETA program. Thus, the net effect of the requested service fee change on the UPW income would be a monthly increase of roughly \$10,000.

In addition to its service fee revenue, the UPW receives over \$40,000 monthly from other sources such as initiation fees, interest income, Mutual Aid Fund service fee, rental income, and dues from associate, private sector and retiree members.

The UPW planned expenditures for fiscal year 1980-81 are substantially the same type of expenditures reported in the previous two service fee reviews (see Decisions 96 and 133). Significant increases are attributable to anticipated salary increases for the field staff being negotiated between the United Brotherhood of Business Agents and the UPW, commensurate increases in payroll taxes and social security taxes on such staff, and a 15-cent increase in the AFSCME per capita rate.

In its petition, the UPW reported the following expenditures for activities which do not relate to collective bargaining:

Sports	\$100.00
Social	166.00
Membership Insurance	8.00
Recruitment of Union Members	505.00
Services for Non-Unit Members	400.00
Lobbying	336.00
Political Contributions	265.95
Public Relations	250.20

The UPW also reported that two of its staff members, the Mutual Aid Insurance Clerk and Legislative Aide/Researcher, spend work time on UPW activities not related to collective bargaining.

The Mutual Aid Insurance Clerk spends 50% of her time in a program of benefit to union members only.\* The UPW has allocated \$1,100.75 for monthly salary and \$186.85 for fringe benefits and payroll tax expenses for the clerk (Petitioner's Ex. 3).

The Legislative Aide/Researcher receives a monthly salary of \$1,858.17. Additionally, \$650.28 per month is attributable to his fringe benefits and payroll taxes (Petitioner's Ex. 3). This employee spends 60% of his work time as the legislative lobbyist of the UPW, 20% on research for negotiation purposes and 20% on political activities during election periods. Of the 60% lobbying time, 40% is in support of ratification of negotiated agreements for Units 1 and 10, 50% is for legislation on retirement system, health fund and other labor and public employee legislation and 10% is in support of general social legislation. Hence, a total of 26% of his time is spent on activities not related to collective bargaining.

The official UPW house organ is The Organizer. Due to fiscal constraints resulting from the Unit 1 strike in October and November of 1979, the publication of The Organizer was suspended for seven months from December 1979 to June 1980. Of the five issues published during fiscal year 1979-80, the UPW estimated that 74.1% of the newspaper space was devoted to collective bargaining and grievance processing. The remaining 25.9% of the newspaper space was used for articles concerning political activities (7.3%), recreation (3.2%) and union

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\*The UPW administers a Mutual Aid Fund which is a voluntary hospitalization plan available to union members only (see Decision 133).

membership activities (15.4%) (Petitioner's Ex. 5). Expenditures for such newspaper coverage are disallowable as a charge against service fees. An estimated \$4,500 per month has been allocated for The Organizer publication cost and the Editorial Assistant's salary and fringe benefits (Board Ex. 1; Petitioner's Ex. 1, p. 6; Petitioner's Ex. 3). Additionally, \$125.36 has been budgeted to cover the life insurance and payroll tax expenses attributable to the Editorial Assistant.

The UPW is affiliated locally with the Hawaii State Federation of Labor (hereafter HSFL) and pays a per capita fee of \$.30 per month for each bargaining unit member. In return, the HSFL provides the UPW with assistance in obtaining legislative ratification of negotiated agreements, coordinating efforts and activities with other unions in the State, and in strike situations.

The American Federation of State, County and Municipal Employees (hereafter AFSCME) is the UPW's national affiliate. The UPW pays AFSCME a monthly per capita fee of \$3.05 for each full-time unit member and \$2.30 for each part-time unit member.

AFSCME assists the UPW by training UPW staff for negotiations, providing research data for use in negotiations and providing staff and financial assistance during strikes. More specifically, during the Unit 1 strike in 1979, AFSCME International staff members flew to Hawaii to provide direct assistance in public relations, internal communications, negotiations, research and legal consultation. The local AFSCME office was used as strike headquarters and two staff members from that office devoted full time to the Unit 1 strike effort.



AFSCME also provides assistance in testifying before the State legislature and sponsors a continuous education program for staff, officers, stewards and bargaining unit personnel regardless of union membership. Under this program are workshops on topics such as parliamentary procedure, negotiations, HPERB, grievance processing, arbitration, labor history, and officer and steward's training.

#### CONCLUSIONS OF LAW

Subsection 89-4(a), Hawaii Revised Statutes (hereafter 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 employee's 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. (Emphasis added)

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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.

In accordance with the above provisions and prior Board rulings, the Board finds that the following expenditures, totaling \$4,795.62, do not reasonably relate to contract negotiation and administration and must be excluded from service fees:

\$2,431.15	Expenditures for sports, social, membership insurance, recruitment of union members, services for non-unit members, lobbying, political contributions and public relations.
643.80	50% of Mutual Aid Insurance Clerk's salary, fringe benefits and payroll taxes.
1,036.00	25.9% of newspaper production expenses and Editorial Assistant's salary and fringe benefits.
32.47	25.9% of Editorial Assistant's life insurance and payroll tax costs.
652.20	26% of Legislative Aide/Researcher's salary, fringe benefits and payroll taxes.



The Board is satisfied by the evidence submitted that the numerous support services rendered by the HSFL and AFSCME bear a reasonable relationship to contract negotiation and administration and will therefore continue to permit the payment of per capita fees from service fee income.

With a total monthly income of \$115,462.69 and allowable service fee expenditures of \$128,787.20 (\$133,582.82 minus \$4,795.62), the UPW service fee revenues are insufficient to cover the projected collective bargaining expenses of Units 1 and 10. However, the UPW has income from sources other than service fees which should amply cover the deficit.

The Board concludes that the UPW's planned expenditures from service fees for fiscal year 1980-81 are proper and that the proposed service fee meets the Board's test of reasonableness. Accordingly, the Board approves a monthly service fee for Units 1 and 10 of 1.5% of the gross salary of employees working more than 20 hours per week.

#### ORDER

A monthly service fee of 1.5% of an employee's gross monthly salary in effect on July 1, 1980 with an \$8.65 minimum and a \$15.00 maximum for full-time employees and a monthly service fee of \$7.65 for part-time employees working 20 hours per week shall be deducted by the appropriate employers from the payroll of employees in bargaining units 1 and 10 and transmitted to the UPW. 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 UPW is directed to petition this Board for a service fee review no later than June 30, 1981.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
Mack H. Hamada, Chairman

  
James K. Clark, Board Member

  
John E. Milligan, Board Member

Dated: October 21, 1980

Honolulu, Hawaii