

STATE OF HAWAII  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	Case Nos.	SF-02-86, SF-03-87,
	)		SF-04-88, SF-06-89,
HAWAII GOVERNMENT EMPLOYEES'	)		SF-08-90, SF-09-91,
ASSOCIATION, LOCAL 152,	)		<u>SF-13-92</u>
AFSCME, AFL-CIO,	)		
	)		
Petitioner.	)	Decision No.	<u>140</u>

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDERS

On August 19, 1980, the Hawaii Government Employees' Association (hereafter HGEA) filed with this Board a consolidated Petition for Reasonableness of Service Fee for the above-captioned units. The petition requested the Board's approval of the following service fee for those seven bargaining units for which the HGEA is the exclusive representative:

HGEA proposes an annual service fee, effective on September 1, 1980, in the amount of .0075 times the straight time monthly salaries of employees projected for September 1, 1980 times 12, 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 greater than \$21 per month and that this service fee shall continue to be deducted until the service fee is changed by order of the Board. Board Ex. 1.

After the publication of legal notices of the petition in newspapers of general circulation (Board Ex. 3a), a hearing was held on September 18, 1980. The HGEA's case was presented at the hearing by its counsel. No parties appeared in opposition to the petition at the hearing.

After a complete review of the evidence submitted by the HGEA in support of its petition, the Board makes the following findings of fact, conclusions of law, and orders.

### FINDINGS OF FACT

The Petitioner HGEA is and was, at all relevant times, the certified exclusive representative of employees in bargaining units 2, 3, 4, 6, 8, 9 and 13.

The total number of employees in the seven units represented by HGEA is 16,894. The breakdown of employees by bargaining units is as follows:

<u>Unit(s)</u>	<u>Union Members</u>	<u>Non-union Members</u>	<u>Bargaining unit total</u>
02	714	42	756
03	7,683	1,726	9,409
04	389	17	406
06	492	58	550
08	481	288	769
09	667	116	783
13	<u>3,553</u>	<u>668</u>	<u>4,221</u>
TOTALS	13,979	2,915	16,894

In addition to the bargaining unit members, HGEA also has 5,478 associate members, 4,652 retiree members, and 151 members who are employees of the East-West Center.

The HGEA provides the same services to all the seven bargaining units it represents. The budget is consolidated and all units pay service fees which are computed according to the same formula.

By reason of Decision 116, employees in all units represented by HGEA have paid an annual service fee in the amount of .0075 times their straight time monthly salaries times 12, plus the per capita payments to AFSCME and HSFL, AFL-CIO, provided that said service fee was not less than \$7 per month nor greater than \$15 per month. The computation

of service fees was based upon the salary in effect on September 1, 1978.

The service fee formula proposed for the year beginning September 1, 1980 is the same as that set forth in the foregoing paragraph, except that there is no minimum, and the maximum is increased to \$21 per month. The computation of service fees will be based upon the salary in effect on September 1, 1980.

The HGEA is affiliated with the American Federation of State, County and Municipal Employees (AFSCME) and the Hawaii State Federation of Labor (HSFL), AFL-CIO, and makes a per capita payment to these organizations which amounts, at present, to a total of \$3.35 per month (\$3.05 to AFSCME and \$.30 to HSFL) for every employee it represents. These organizations provide collective bargaining data and other research assistance in aid of negotiating teams, conduct educational programs open to all unit members free of charge, and lobby for approvals by state and county legislatures of negotiated cost items in HGEA contracts. The per capita payments were validated by the Board as charges against service fees in Decision 101.

Portions of the AFSCME per capita payments used for partisan political or ideological purposes are rebatable to unit members who object to such expenditures. The rebate and appeal procedure established by AFSCME in Article IX, Section 10 of its constitution (Pet. Ex. 1, Item F), has been approved by the Board in Decisions 78, 92, 93 and 101.

As of January 1981, the AFSCME per capita will be increased 20 cents per month to \$3.25 per month.



If the proposed service fee is approved by the Board, the HGEA estimates a service fee income of \$2,749,820, for fiscal year 1980-81, as follows:

<u>Unit</u>	<u>Totals</u>
02	\$ 123,016
03	1,322,153
04	74,152
06	134,904
08	137,220
09	155,034
13	<u>803,431</u>
	\$2,749,820

In addition to service fee revenues, the HGEA projects an income of \$759,376 from other sources as follows:

Associate Member Dues	\$546,273
Administrative Fees	188,943
Interest Income	<u>1,000</u>
	\$736,216

The HGEA budget for fiscal year 1980-81 projects a total expenditure of \$3,544,191. A summary of this budget by program areas is provided below with comparative figures for the 1979-80 proposed budget and actual expenditures.

<u>PROGRAM</u>	<u>PROPOSED BUDGET 1979-80 FY</u>	<u>(ANTICIPATED) EXPENDITURES 1979-80 FY</u>	<u>PROPOSED BUDGET 1980-81 FY</u>
Personnel and Related	\$1,469,464	\$1,397,171	\$1,586,850
Rent	200,988	199,213	249,576
Administrative-Oahu and State	920,373	884,086	973,860
Office Services	34,470	31,977	36,819
Education and Training	15,721	7,308	15,721
"The Public Employee"	65,000	61,841	67,500

<u>PROGRAM</u>	<u>PROPOSED BUDGET 1979-80 FY</u>	<u>(ANTICIPATED) EXPENDITURES 1979-80 FY</u>	<u>PROPOSED BUDGET 1980-81 FY</u>
Program Development-Oahu and State	\$ 381,734	\$ 367,900	\$ 341,499
Neighbor Island Services	86,617	81,312	115,510
Board of Directors	54,576	53,229	40,906
Committees	14,300	8,928	14,300
Elections	15,000	15,000	1,650
Legislative Services	50,000	50,000	100,000
TOTALS	<u>\$3,308,243</u>	<u>\$3,157,965</u>	<u>\$3,544,191</u>

The "Personnel and Related" account provides funds for the wages and salaries of 58 employees of the HGEA who will be receiving salary increases identical with that negotiated for Unit 13 employees, and fringe benefits which include car allowances, medical and liability insurance, and retirement and vacation benefits. Funds are also provided for salary adjustments of personnel made pursuant to reclassification and promotion. Also provided for under this account are funds for payroll taxes, primarily covering unemployment compensation taxes.

The "Rent" account includes costs for mortgages or rentals, as the case may be, for HGEA offices on the islands of Oahu, Hawaii, Maui, and Kauai.

The "Administrative-Oahu and State" account includes expenses for per capita payments, a strike fund, janitorial services, equipment, data processing, repair and maintenance equipment and services, telephone services, library materials, payroll deduction expenses, audit fees, the Ainoa Pension, and a contingency fund for expenses incurred by staff in the performance of their duties.

The "Office Services" account is used for the rental of copying machines, and for supplies, printing and postage.

The "Education and Training" account provides training and educational programs for HGEA members and staff who represent employees in collective bargaining. This account covers the costs of travel and per diem, supplies and equipment, conference and seminar fees, and other expenses relating to the familiarization of stewards, membership and staff with contract administration and enforcement.

The "Public Employee" account includes the costs of printing and mailing the union newspaper.

The "Program Development-Oahu and State" account includes costs for staff travel and living expenses, legal fees, sports, recreation, meetings, organizing new members, negotiations, unit election, the HGEA convention, and unit expenses.

The "Neighbor Island Services" is used for general administrative and program development expenses of the neighbor island offices.

The "Board of Directors" account provides funds for meetings and contingency expenses, public relations, contributions, travel and per diem, and the AFSCME convention.

The "Committees" account covers meeting expenses for the standing committees mandated by the HGEA constitution and special committees formed by the Board of Directors.

The "Elections" account is for the election of a representative from each of the seven bargaining units to the Board of Directors.

The "Legislative Services" account is used for expenses incurred in lobbying for the implementation of



negotiated contract cost items and improved benefits and working conditions. This account also includes political action funds used to support the election of candidates sympathetic to public employees.

The projected expenditures for fiscal year 1980-81 total \$235,948 more than the budget for fiscal year 1979-80 and \$386,226 more than the actual expenditures for fiscal year 1979-80.

Major increases in the budget requirement for fiscal year 1980-81 are attributable to salary increases commensurate with negotiated increases for unit employees, and increases related to promotions, reclassifications, and a restructuring of the salary schedule; additional insurance premiums; recomputations of the employer's staff retirement fund contribution; the amortization of the mortgage on the new building for the Maui division, equipment for the Maui building, and other rental increases; the 20 cent per month increase in the AFSCME per capita; the purchase of typewriters with magnetic tape capabilities; increased air travel expenses in the forthcoming negotiating year; the building up of political action programs; and inflationary increases in general operating costs.

Major decreases in the projected budget from the previous year's budget are attributable to a decrease in payroll taxes; a lack of HGEA and AFSCME convention-related expenses for the 1980-81 fiscal year, which is a non-convention year; and a lack of Board of Director and international union delegate election-related expenses for fiscal 1980-81, a year in which such elections will not be held.

Adhering to the Board's rulings in previous service fee decisions, the HGEA stipulated to the following list of proposed expenditures which are disallowable charges against service fees:

\$165,023	Portions of staff salaries* for employees work time spent on impermissible service fee activities such as recreation, membership insurance, associate members programs, and political action.
43,901	Portion of personnel and related costs <u>other than salary</u> attributable to disallowable activities. The figures for personnel and related costs other than salary (\$313,581) was multiplied by the ratio of excluded salaries above (\$165,023) over total payroll (\$1,190,038) or 13.9 percent.
11,652	Portion of payroll tax (13.9 percent) for employees' work time spent on impermissible service fee activities such as recreation, membership insurance, associate members program and political action.
31,390	Portions of expenses attributable to non-collective bargaining activities and associate members program for

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\*Includes \$1,588 of communications officer's salary, \$11,050 of editor's salary, and \$3,558 of communications specialist's salary.



	telephone (\$1,399), Service Bureau data processing (\$25,900), and audit fees (\$4,091).
\$ 1,841	Five percent of "Office Services" expenses attributable to nonallowable associate member programs.
43,473	Portion of costs, other than salaries, involved in the producing of items unrelated to contract negotiation and administration in the union newspaper, <u>The Public Employee</u> . All issues for July 1979 to June 1980 were examined and the ratio of column inches of articles not related to negotiation and administration of the agreement over total column inches (2,521/5,550) was derived--the figure arrived at by HGEA was 43.5 percent. Since 37 percent of HGEA members is outside the bargaining unit, 37 percent of the total account for newspaper production of \$67,500, or \$24,975, is non-chargeable to service fees; thus \$42,525 is the cost of copies to unit members. This latter figure was then multiplied by 43.5 percent, the ratio of articles not related to contract negotiation and administration, the resulting figure being \$18,498. That amount added to the \$24,975 associate member cost

results in a total disallowable cost of \$43,473 for producing The Public Employee, exclusive of salaries.

\$43,774	"Program Development" expenses for the retirees unit (\$39,900) and the excluded unit (\$3,874).
910	Neighbor island administrative expenses attributable to non-collective bargaining activities and associate member programs.
85,468	Recreation and sports activity expenses for all islands.
10,166	Portion of "Board of Directors" account used for travel, per diem, conferences, and meeting expenses in connection with associate member and excluded matters.
4,970	Fifty percent of the Standing Committee account (\$4,425) and 10 percent of the Special Committee account (\$545) for time spent on non-service fee related activities.
85,000	Eighty-five percent of the "Legislative Services" account (\$100,000) for time spent on "political action."
62,292	Remittance to the United Public Workers for employees in any of the seven HGEA units who elected to remain as members of UPW. This remittance is a result of the affiliation of both unions with AFSCME.

Total disallowables as computed by HGEA is \$589,860. As revised by the Board's recalculation of disallowable expenses for the newspaper production, this figure is \$590,371.

After reviewing the evidence presented by the HGEA, the Board has determined that additional items do not meet the test for permissible service fee expenses.

Under the "Administrative-Oahu and State" account is an appropriation of \$2,644 for the Ainoa Pension. The purpose of this appropriation is to cover the depleted trust fund for the beneficiary of the previous HGEA Executive Director, Daniel K. Ainoa. The entire amount is disallowed. Decision 116.

In the "Program Development" account, \$2,500 has been allocated to provide incentives to HGEA members to enlist new employees to become union members. This amount is not a permissible charge to service fees. Decision 116.

As to excludable expenses related to the production of The Public Employee, the Board concurs in the foregoing methods of calculation and categorizing of articles as to topics, but must revise the figure for the ratio of inches of non-collective bargaining related articles to total inches from 43.5 percent to 44.7 percent. Given 5550 total column inches and 2521 column inches of non-collective bargaining related articles, the percentage of non-collective bargaining related articles is 44.7 percent.

The production cost of copies going to unit members of \$42,525 is thus multiplied by 44.7 percent. The resulting figure of \$19,009 added to the \$24,975 for associate member costs gives a total of \$43,984 as the excluded amount, or a difference of \$511.



The total amount of disallowable charges as stipulated by the HGEA (\$590,371, including adjustment to excludable/non-excludable column inch ratio for The Public Employee as made by the Board) and augmented by the Board (\$5,144) is \$595,515; therefore, the allowable expenditures from service fees total \$2,948,676. If the proposed service fee is certified by the Board as reasonable, the projected service fee income of \$2,749,820 will still leave the HGEA with a deficit of \$198,856. The deficit, however, will be covered by the non-service fee revenues HGEA receives.

#### CONCLUSIONS OF LAW

The Board finds that, with the exception of the two additional exclusions made by the Board, the amounts stipulated by the HGEA as impermissible charges against service fee are consistent with guidelines established in previous service fee decisions. The Board also finds that the HGEA has provided sufficient evidence to justify the remaining expenses for permissible collective bargaining related functions of the union and concludes that the instant service fee request is reasonable.

With respect to the two additional exclusions of the "Ainoa Pension" and "Organizing" budget items, the Board reiterates its earlier rulings that there is no reasonable relationship of said pension fund to the collective bargaining activities of the HGEA (Decision 101) and that membership recruitment is an impermissible charge against the service fee (Decisions 94 and 101).

## ORDERS

The Board certifies as reasonable a monthly service fee of .0075 times the straight time monthly salaries of employees projected for September 1, 1980 times 12, plus the per capita payments to AFSCME (\$3.25 per month) and the HSFL (\$.30 cents per month); provided, however, said service fee shall not be greater than \$21 per month for any employee and that this service fee shall continue to be deducted until the service fee is changed by order of the Board.

The employer shall deduct from the payroll of each employee covered by this decision the amount certified to be reasonable.

The service fee shall be retroactive to September 1, 1980, 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 salaries 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.

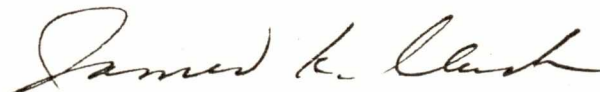
The employer shall deduct from the payroll of each employee covered by this decision the additional amounts required by the service fee formula certified in this decision from September 1, 1980 to the date of this decision. The employer and the HGEA shall devise the method of deducting this retroactive sum.

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 the next service fee review for the HGEA.

The HGEA is directed to petition this Board for a service fee review as soon as practicable after the close of the 1980-81 fiscal year.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
Mack H. Hamada, Chairman

  
James K. Clark, Board Member

  
John E. Milligan, Board Member

Dated: December 2, 1980

Honolulu, Hawaii



dec.

STATE OF HAWAII  
PUBLIC EMPLOYMENT RELATIONS BOARD

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ASSOCIATION, LOCAL 152,	)		<u>SF-13-92</u>
AFSCME, AFL-CIO,	)		
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ADDENDUM

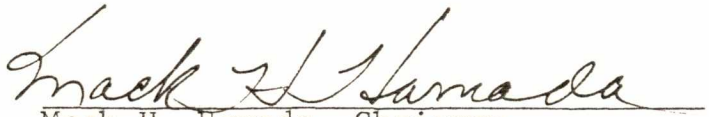
On December 2, 1980, this Board certified in Decision 140, a new service fee for employees of Units 2, 3, 4, 6, 8, 9 and 13. In its findings of fact, the Board stated that the per capita payment to AFSCME was \$3.05 per month but, as of January 1, 1981, said payment would increase to \$3.25 per month. However, in its orders, this specification was inadvertently omitted. To rectify this problem, the first two paragraphs on page 13 of Decision 140 are hereby corrected as follows with the new material underscored and the old material bracketed:

ORDER

The Board certifies as reasonable a monthly service fee of .0075 times the straight time monthly salaries of employees projected for September 1, 1980 times 12, plus the per capita payments to AFSCME (\$3.05 per month from September 1, 1980 to January 1, 1981 and \$3.25 per month effective January 1, 1981) and the HSFL (\$.30 [cents] per month); provided, however, said service fee shall not be greater than \$21 per month for any employee and that this service fee shall continue to be deducted until the service fee is changed by order of the Board.

The employer shall deduct from the payroll of each employee covered by this decision the amount certified to be reasonable. The deduction of the twenty-cent increase in the AFSCME per capita

portion of the service fee shall commence  
for the pay period beginning January 1,  
1981.

  
Mack H. Hamada, Chairman  
Hawaii Public Employment Relations  
Board

Dated: January 12, 1981

Honolulu, Hawaii