

STATE OF HAWAII

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)
)
STATE OF HAWAII,) Case No. SF-12-5
ORGANIZATION OF POLICE)
OFFICERS,) Decision No. 27
)
Petitioner.)
_____)

DECISION AND ORDER

I. STATEMENT OF THE QUESTION

By petition filed September 27, 1972, the State of Hawaii, Organization of Police Officers (hereinafter Petitioner) requested the Public Employment Relations Board (hereinafter Board) to certify the reasonableness of its proposed service fee of \$7.50 per month for employees in Unit 12, Policemen, pursuant to Section 89-4, Hawaii Revised Statutes. The question before the Board is, therefore: "Is said proposed service fee reasonable?"

Petitioner was certified by the Board as the exclusive bargaining representative for Unit 12 on July 14, 1972.

In its presentation to the Board, Petitioner submitted its budget of anticipated expenditures for its first year as certified bargaining agent.

Board members conducted two informal investigatory meetings with Mr. Stanley N. Burden, administrative assistant for Petitioner, and as a result of this investigation, a public hearing was scheduled on the 20th day of December, 1972, at 9:00 a.m., at the Board's hearing room.

Notices of such hearing were mailed on December 12, 1972, to:

The Hawaii Government Employees' Association,
The National Union of Police Officers,
State of Hawaii, Organization of Police Officers.

None of the parties notified, other than Petitioner and its attorney, attended the hearing.

No person in opposition to the petition appeared at the hearing.

II. FINDINGS OF FACT

1. Petitioner, State of Hawaii, Organization of Police Officers, is an employee organization as defined in Chapter 89, Hawaii Revised Statutes.
2. Petitioner was certified by the Hawaii Public Employment Relations Board as exclusive bargaining agent for Unit 12, Policemen, on July 14, 1972.
3. There are approximately 1,845 members in the bargaining unit.
4. Petitioner's members pay monthly dues of seven dollars and fifty cents (\$7.50).
5. Petitioner's services as collective bargaining agent are equally available to all members of the bargaining unit.
6. Petitioner has notified all members of the bargaining unit, by newsletter, of its intention to file for a service fee of \$7.50 per month.

7. No objection to the proposed service fee has been filed with the Board, nor with Petitioner.
8. Petitioner's budget for its first year of operation anticipated an expenditure of \$213,759.28.
9. The proposed service fee of \$7.50 per month assessed against 1,845 positions will yield an annual income of \$166,050.00 for an anticipated deficit of \$47,709.28.
10. Petitioner anticipates, and has budgeted for, employing seven full-time and one part-time position to manage the affairs of the organization. Pending approval of its service fee application, Petitioner has employed two full-time and one part-time employees.
11. Petitioner has not as yet been billed for services provided by its attorney.
12. Because of the nature of police work, it is anticipated that legal expenses will run higher per member than with other bargaining units.

III. CONCLUSIONS

Portions of Chapter 89, Hawaii Revised Statutes, pertinent to the question before us are:

Section 89-2 "Definitions. . . (16) 'Service fee' means an assessment of all employees in an appropriate bargaining unit to defray the cost for services rendered by the exclusive representative in negotiations and contract administration."

Section 89-4 "Payroll deductions. (a) 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."

In accordance with its Rules of Practice and Procedure (6.03), the Board conducted an investigation to determine the reasonableness of the proposed amount of service fee filed for by Petitioner after Petitioner was certified as exclusive bargaining agent.

Such investigation included two informal meetings with Petitioner's administrative assistant, Mr. Stanley N. Burden and one formal hearing during which a stenographic record was kept. In these meetings and in the formal hearing, the Board inquired into all aspects of Petitioner's anticipated costs of negotiation and contract administration as reflected in Petitioner's budget document and Petitioner's monthly disbursements document, July through October, 1972.

The Board finds that all items of anticipated expenditures contained therein are costs of negotiating or administering a contract or both, with the following exception: Petitioner's anticipated expenses, in an unspecified amount, for a benevolent fund as a part of the budgeted item for public relations, although a worthy

expense and available to all members of the bargaining unit, is not an appropriate expense for negotiations or contract administration.

The Board finds further that Petitioner has, in all likelihood, underestimated its financial needs, particularly in the areas of attorney's fees, education, and training to an extent well in excess of any anticipated benevolent fund expenses.

We find, therefore, that the amount of service fee requested by Petitioner is reasonable in accordance with Chapter 89, Hawaii Revised Statutes. Petitioner is not, however, authorized to meet benevolent fund expenses from monies collected as service fees.

IV. ORDER

We direct the Petitioner to maintain cost accounting records, including cost categories showing benefits to all members of Unit 12; cost categories for benefits to members of State of Hawaii, Organization of Police Officers only, and cost categories for benefits which are not specifically identifiable as being for either Unit 12 or State of Hawaii, Organization of Police Officers members only. Because the latter mentioned cost category cannot be specifically broken down between the two groups, appropriate and reasonable basis for allocating such costs to the aforementioned Unit 12 cost categories and State of Hawaii, Organization of Police Officers only must be developed. We also direct the Petitioner to maintain appropriate books to record all transactions -- benefits and expenditures. We further direct the Petitioner to seek the services of

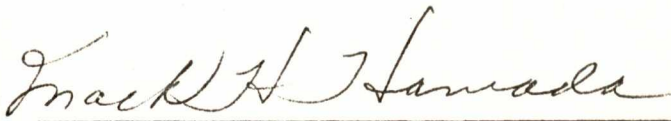
a certified public accountant to establish cost accounting guidelines to record the aforementioned benefits and expenditures.

In accordance with policy adopted by the Board, the initial certification of service fee for each bargaining unit shall be for an interim period commencing from the date of certification. Thereafter, the Board may, upon application of any affected employee, or of the Petitioner, or in the Board's discretion, initiate a review of the service fee. As any such review would be based upon a history of actual costs and expenditures incurred by the Petitioner during said interim period.

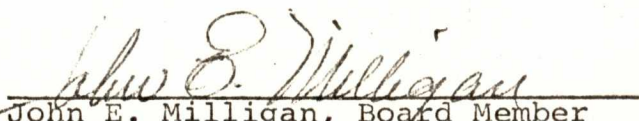
The Board suggests that the Public Employers and the Petitioner negotiate a mutual agreement on methods and procedures which are to be followed in deducting said service fees. Failing such agreement, the parties may petition the Board concerning the mechanics of said service fee deductions.

The Public Employers are hereby directed to commence such deductions at the earliest possible date and to continue such deductions until such time as this Board orders otherwise.

PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


Carl J. Guntert, Board Member


John E. Milligan, Board Member

Dated: January 29, 1973
Honolulu, Hawaii