

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NOS.:	S-03-29a
)		S-04-29b
JOHN WAIHEE, III, Governor,)		S-13-29c
State of Hawaii,)		
)	DECISION NO.	352
Petitioner,)	FINDINGS OF FACT, CONCLUSIONS	
)	OF LAW, AND ORDER	
and)		
)		
HAWAII GOVERNMENT EMPLOYEES)		
ASSOCIATION, AFSCME, LOCAL 152,)		
AFL-CIO,)		
)		
Exclusive)		
Representative.)		
_____)		

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On March 16, 1994, JOHN WAIHEE, III, Governor, State of Hawaii (Employer), filed a petition with the Hawaii Labor Relations Board (Board) to conduct an investigation pursuant to the authority conferred by Section 89-12, Hawaii Revised Statutes (HRS) to determine whether a strike by State employees in collective bargaining units 03 (nonsupervisory employees in white collar positions), 04 (supervisory employees in white collar positions) and 13 (professional and scientific employees, other than registered professional nurses), would present an imminent or present danger to the health and safety of the public and to set requirements that must be complied with to avoid or remove such danger.

The Board conducted an investigation of the petition on April 14, 15, 16, 17, 19, 20, and 21. All parties were represented

and participated in the investigation. Based upon the entire record and the credible evidence developed during its investigation, the Board makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

Petitioner WAIHEE is the Governor of the State of Hawaii and a public employer within the meaning of Section 89-2, HRS.

The HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) is the certified exclusive representative of the employees in bargaining units 03, 04, and 13, composed of nonsupervisory employees in white collar positions, supervisory employees in white collar positions and professional and scientific employees, other than registered professional nurses, respectively.

The collective bargaining agreements for the foregoing bargaining units expired on June 30, 1993. On December 6, 1993, the HGEA, by its Executive Director Russell K. Okata, filed a Notice of Impasse and Request for Board Assistance with the Board pursuant to Section 89-11, HRS. The HGEA alleged that the public employers, composed of the Governor and the Mayors of the respective counties and the HGEA had negotiated in good faith but had failed to reach agreement for bargaining units 03, 04, and 13. The Board conducted an investigation pursuant to Administrative Rules Section 12-42-62, and found that an impasse existed in the negotiations and appointed Federal Mediator Frank Schoepfel to assist the parties on December 10, 1993.

On December 22, 1993, the HGEA and the public employers filed an Agreement to Extend Time for the Mediation Period. The

parties agreed to extend mediation to January 5, 1994. On January 5, 1994, the Federal Mediator notified the Board that mediation efforts in the impasse had failed to resolve all issues and the parties were prepared to proceed to fact-finding in accordance with Section 89-11, HRS. The Board appointed a Fact-finding Panel on January 10, 1994 to inquire into the causes and circumstances of the impasse.

On January 20, 1994, the Chair of the Panel notified the Board that the Panel required an extension of five calendar days to file its report and the parties agreed to such extension. The Board extended the fact-finding period to January 25, 1994. The Fact Finders Report and Recommendation was filed with the Board on January 25, 1994. On February 1, 1994, in accordance with Section 89-11, HRS, HGEA Units 03 and 04 and the public employers rejected the Fact-finding Panel's recommendations. HGEA Unit 13 accepted the recommendation. None of the parties agreed to refer the matter to arbitration. The Fact-finders Report became public on February 2, 1994 and the sixty-day cooling off period began on February 3, 1994.

The Employer filed the instant petition on March 16, 1994. The HGEA filed an answer to the petition on March 18, 1994. On March 28, 1994, the HGEA filed motions to stay the proceedings on the grounds that the Board and the HGEA should not be required to respond in piecemeal fashion to separate petitions and any hearing should be held after all essential worker petitions are received by the Board.

Also on that date, the HGEA filed motions to dismiss the petition without prejudice because a strike was unlikely to occur in the near future. In addition, the HGEA contended, inter alia, that the Board's rules were invalid and contrary to Chapter 91, HRS. No other proceedings in the case were scheduled and the cooling-off period ended on April 3, 1994.

On April 7, 1994, the HGEA filed notices on behalf of Units 03 and 04 of their intent to strike anytime after ten days from the filing of the notice with the Board. The Board issued a notice of investigation on the petition on April 7, 1994 which indicated that the investigation would commence on April 11, 1994 or as soon thereafter as the parties could be heard.

On April 13, 1994, the Employer filed memoranda in opposition to the HGEA's motions to stay the proceedings and HGEA's motions to dismiss the petition. The investigation commenced on April 14, 1994. The HGEA's motions were raised before the Board and the Board incorporated its rulings on the same motions filed in Decision No. 351, JOHN WAIHEE, III, dated April 16, 1994, in Case Nos.: S-03-28a, et seq. That decision provides:

With regard to the stay, the Employer argued that separate petitions had been filed based upon the different categories of job groupings focusing on the nature of the employees' services and not the departmental employer of the position. The Employer further contended that the manner of organization of the petition was similar to petitions filed with the Board in 1984. Thus, the Employer submitted that the HGEA's motions to stay the proceedings should be denied.

With regard to the motions to dismiss, the Employer stated that the rules promulgated by the Hawaii Public Employment Relations Board remain in force and effect pursuant to Act 251, Session Laws of Hawaii 1985, and were

applicable to the instant petition. Moreover, the Employer argued that the Board's Administrative Rules Section 12-42-86 permits the Board to conduct a preliminary investigation and to establish health and safety requirements with notice to the parties as to purpose, nature, time and place. During the preliminary investigation, the Board afforded interested parties reasonable opportunity to present all relevant and material facts pertinent to the inquiry. The Employer further argued that the Board's power to make essential worker determinations stemmed from Chapter 89, HRS, and not from Chapter 91, HRS, and in the event of a conflict in provisions, Chapter 89, HRS would supersede.

Based upon the written and oral arguments presented, the Board denied the HGEA's motion to stay the proceedings and the motion to dismiss the petition.

With regard to the motion to dismiss, the Board notes that Article 8, Section 2, of the Hawaii Constitution provides that persons in public employment have the right to organize for the purpose of collective bargaining as provided by law. Chapter 89, HRS, is the law relating to collective bargaining in public employment and provides that Hawaii's public employees have a qualified right to strike. The law specifically sets forth the impasse mechanism, requires a sixty-day cooling off period, and a ten-day notice to strike by the union. Section 89-12, HRS, further provides that if the strike which may endanger the health or safety of the public is about to occur or is in progress, the public employer may petition the Board to conduct an investigation. If the Board finds that there is imminent or present danger to the health or safety of the public, the Board can set requirements which must be complied with including the designation of essential positions and any other requirement deemed necessary. It is

unlawful for an essential employee to participate in a strike. If such employee violates or fails to comply with the requirements of the statute, the public employer may institute enforcement proceedings in the circuit courts.

The legislative history of the act indicates the intent behind the strike provisions in Chapter 89, HRS. According to the Senate Committee on Public Employment in Standing Committee Report No. 745-70, dated April 14, 1970:

(2) Strikes. Your Committee is aware of the near universal prohibition against strikes by public employees in various jurisdictions throughout the country, but experience has shown that such prohibitions are ineffective in preventing, and at times have been the cause of, strikes. In many instances, strike penalties have been modified or waived in order to bring striking employees back to work, oftentimes fostering disrespect and disregard of the law. Your Committee is of the opinion, that the right to strike should be granted, provided that certain requirements are complied with to protect the public from hasty strikes and to encourage the parties to utilize every available means to resolve the dispute. The procedures for the resolution of impasses, the proceedings to remedy prohibited practices and violations of the agreement, a sixty-day cooling off period, and a ten-day notification of intent to strike are deemed by the Committee to be adequate requirements to protect the public.

The version of the legislation being considered at that time only provided for an impasse mechanism and cooling-off period but did not include any Board investigation. Thereafter, the House Committee on Finance deleted the right to strike by employees. The right to strike provision was reincorporated into the bill by the Conference Committee which indicated that the Committee included

the strike provisions with the additional safeguards against strikes which endanger public health and safety.

Subsection 89-12(c), HRS, was specifically added by the Conference Committee to permit the public employer to petition the Board to make an investigation where a strike occurring or about to occur endangers the public health or safety. If the Board finds an imminent or present danger to the health and safety of the public exists, the Board shall set requirements that must be complied with to avoid or remove any such danger. Thus, the legislative history of Chapter 89 indicates that the legislators seriously considered whether Hawaii's public employees should have the right to strike and enacted such provisions only after determining that the public health or safety would be ensured in the event of a strike. The right to strike in Chapter 89, HRS, is a conditional right and can only be exercised after the public's health and safety are considered and any potential danger removed.

The Board is charged with conducting an investigation of the public employer's petition and designating essential positions. Because of the time constraints involved, the Board's Administrative Rules provide that the notice of the preliminary investigation shall contain the purpose, nature, time and place of the investigation and in extraordinary circumstances, the Board may notify the parties orally. The hearing procedures also provide that the hearing shall be held not later than three days after service of the notice of hearing. See Administrative Rules § 12-42-87. The Board's rules also provide that interested parties have a reasonable opportunity to present all relevant and material

facts pertinent to the inquiry. Thus, the investigation on this petition was conducted in accordance with the applicable procedural rules of the Board and consonant with the purpose for the Board's investigatory function under Chapter 89, HRS.

On April 11, 1994, the HGEA on behalf of Unit 13 filed a notice of intent to strike anytime after ten days from the filing of the notice with the Board.

The respective collective bargaining agreements for Units 03, 04, and 13 which had expired on June 30, 1993 have been extended on a month-to-month basis. The final extension of the agreements expired on April 15, 1994.

On April 14, 1994, the Employer filed a Motion for Interlocutory Relief Pending Issuance of Final Board Decision. The Employer moved the Board for an order designating positions identified in this motion as essential until such time as the Board has the opportunity to complete its investigation and has issued its final decision on this matter. Employer, by his counsel, asserted that these positions should be given the highest priority to avoid imminent harm to the public health or safety pending a final order in this case. Employer also requested that the Board establish the requirements identified in its petition.

The Board relied on the analysis for interlocutory relief stated by the Hawaii Intermediate Appellate Court in Penn v. Transportation Lease Hawaii, Ltd., 2 Haw. App. 272 (1981). The Board discussed the three requirements of granting interlocutory injunctive relief. The Board found based upon the record that the Employer was likely to prevail on the merits in that it was the

Board's experience that the vast majority of positions requested by the public employers is granted, albeit modified in terms of number and the hours of work required. The Board also determined that the possibility of irreparable damage to the public if the interlocutory order is not ordered was overwhelming in that the public health and safety would be jeopardized. Finally, the public interest favored the issuance of the interlocutory order because the withdrawal of essential services impinged upon the health and safety of the public. For these reasons, the Board was compelled by Employer's arguments that the orders be issued pending a final decision. The Board also incorporated its General Orders from Decision No. 351, supra, by reference. In addition, the Board ordered that the Employer should refrain from selecting picket line captains, etc., as essential employees unless no one else was capable of performing the work.

The strike by HGEA Units 03 and 04 began at 12:01 a.m. on April 18, 1994, and the strike by HGEA Unit 13 began at 12:01 a.m. on April 22, 1994. The strikes by Units 03, 04, and 13 are currently in progress.

During the course of this investigation, the Employer presented the Board with a substantial record to support the allegations that certain positions must be staffed during the threatened strike because the withdrawal of services would present an imminent or present danger to the public health or safety. The Board finds the Employer has established that the withholding of services performed by certain Units 03, 04, and 13 employees during

a strike will create an imminent or present danger to the health and safety of the public.

DEPARTMENT OF TRANSPORTATION

Airports Division

The Airports Division is responsible for the planning, design, construction, operation, and maintenance of all public airports in the State. The Division has nine air carrier airports and six general aviation airports within its jurisdiction. The Division must comply with federal regulations in the maintenance of its facilities. Failure to comply with minimum maintenance standards with qualified personnel will result in the revocation of the airport-operating certificate and suspension of service to the airport by certified air carriers.

Employer contends that during a strike by public employees, the following functions and services must be continued to ensure the health or safety of the public and those persons using State-operated airports: prepare for and coordinate responses to emergencies such as aircraft accidents, injuries to airport users, and hazardous conditions; maintain equipment and facilities; direct and control the movement of aircraft and vehicles on the ramp; enforce aircraft and vehicular operations rules; and operate the 24-hour emergency communications system for the Airports, Harbors, and Highways Divisions of the Department of Transportation.

The Employer petitioned the Board to designate nineteen Unit 03, three Unit 04, and ten Unit 13 positions as essential to maintain the foregoing functions.

The Board finds that the cessation of services by these employees would present an imminent and present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

Harbors Division

The Harbors Division is responsible for seven deep-draft harbors and two medium-draft harbors throughout the State. The Employer contends that the interruption of services by the Harbors Division employees in Units 03, 04, and 13 during a strike would endanger incoming and outgoing vessels; cause unsafe cargo positioning and storage; pose a potential health risk to the personnel working in the harbor area, ships' crews, and the general public; and cause delays in repair and maintenance of essential facilities that could lead to safety problems.

Employer petitioned the Board to designate eight Unit 03, one Unit 04, and two Unit 13 positions as essential to oversee and maintain harbor facilities; direct harbor vessel traffic; monitor cargo discharging and loading operations, fueling operations and the berthing of vessels; maintain harbor communications services and all marine traffic in the harbor; and process purchase orders to obtain necessary supplies and materials in support of essential services.

The Board finds that the cessation of the maintenance services provided by these employees would present an imminent and present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

Highways Division

The Highways Division maintains approximately 13,000 street lights and maintains 972 miles of highways. The Employer contends that employees in Units 03, 04, and 13 are required to provide a variety of essential services on the highways and the baseyards throughout the State. These employees ensure proper lighting and remove fallen poles and electric wires; maintain the highways by removing debris; patch potholes; replace or repair warning signs; repair damage to bridges and guardrails; cut and trim shrubbery and trees to remove sight obstructions; and maintain traffic signals.

The Employer petitioned the Board to designate one Unit 03, three Unit 04, and one Unit 13 positions as essential to maintain the foregoing services.

The Board finds that the cessation of services by these employees would present an imminent and present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

DEPARTMENT OF AGRICULTURE

Animal Quarantine

The Department of Agriculture operates an animal quarantine station and entry testing service to prevent the entry of rabies in arriving dogs and cats. The animals are quarantined for one hundred and twenty days (120) and tested to assure that they are free of disease, including rabies. The Employer contends that employees in Units 03, 04, and 13 perform the following tasks essential to public health and safety: oversee the operation of

the Quarantine Station; keep records on the animals entering the facility; and examine quarantined animals.

In addition, the Inspection and Compliance Branch of the Department of Agriculture enforces the importation requirements for all arriving carnivores, poultry, and other birds in order to prevent the entry and spread of infectious, contagious, and communicable animal diseases. Some of the animal diseases can be transmitted to humans. Thus, the infected animals pose a significant health hazard to humans. All animals must be inspected upon arrival in the State and negative test results are required for entry.

The Employer petitioned the Board to designate six Unit 03, two Unit 04, and two Unit 13 positions as essential to maintain the essential functions of the Animal Quarantine Branch and Inspection and Compliance Branch of the Department of Agriculture.

The Board finds that the cessation of services by these employees would present an imminent and present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Central Services Division

The Central Services Division provides support services to State agencies, including refuse collection and removal, janitorial service, grounds upkeep, and repair and maintenance of public buildings. Unit 13 employees direct and oversee Unit 01

employees and contractors performing regular and emergency repairs to schools and other State facilities.

The Employer petitioned the Board to designate five Unit 13 positions as essential to oversee the maintenance activities on various islands.

The Board finds that the withdrawal of these services by the employees would present an imminent and present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

The Parking Control Branch, Automotive Management Division has Parking Control Officers who patrol the parking facilities within its jurisdiction and provide security to the users of the facilities.

The Employer petitioned the Board to designate five Unit 03 and one Unit 04 positions as essential to specifically provide these security services.

The Board finds that the total withdrawal of the security services provided by these employees would result in an imminent or present danger to the health or safety of the public. Thus, the Board has established staffing requirements which reflect the Board's intent that the Parking Control Officers perform only their security functions during a strike.

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division of Occupational Safety and Health

The Boiler and Elevator Inspection Bureau, Division of Occupational Safety and Health inspects and issues permits for the operation and use of boilers, pressure systems, amusement rides,

elevators, and other similar systems. These systems must have valid permits to operate. Continuation of inspection activities is necessary to assure the safe operation of this equipment.

The Employer petitioned the Board to designate nine Unit 03 and two Unit 04 positions as essential to maintain the Bureau's inspection and permit functions.

The Board finds that the withdrawal of these services would present an imminent and present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

DEPARTMENT OF LAND AND NATURAL RESOURCES

Division of Forestry and Wildlife--Forest Firefighting/ Administration

The Department of Land and Natural Resources is responsible for maintaining and preserving the natural resources of the State of Hawaii. The Division of Forestry and Wildlife manages all of the State's forestry lands and its wildlife. Bargaining Units 03 and 13 employees perform various tasks in the overall emergency effort in combating forest and brush fires. County fire departments lack the available manpower and specialized equipment necessary to suppress wildland fires. Forest fires pose an immediate danger to humans and may adversely affect such resources as the water supply.

The Employer petitioned the Board to designate seventeen Unit 03 and thirty-one Unit 13 positions as essential to perform the foregoing services.

The Board finds that failure to provide these services would present an imminent or present danger to the health or safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

Aquatic Resources Division

The Aquatic Resources Division operates two primary facilities, one on Oahu and one on the island of Hawaii. The employees maintain marine life and infrastructure by regulating the air pumps, water systems, feed, and electrical systems for the facilities.

The Employer has requested the Board to declare three Unit 13 positions as essential to perform these services. However, the Board finds that the services provided by these employees impact public health and safety only with respect to their research endeavors relating to disease and organisms present in aquatic life which could enter the food chain. Accordingly, the Board has established staffing orders which reflect this finding.

Division of State Parks

The State Parks system requires employees to ensure that the parks are safe for users. The respective District Superintendents investigate and respond to emergency situations which arise in the parks.

The Employer has petitioned the Board to declare four Unit 04 positions as essential to perform these services.

While the Board recognizes the important functions and responsibilities of the District Superintendents, the Board finds that the absence of these employees during a strike would not

present an imminent or present danger to health or safety of the public. Evidence presented indicates that sufficient staff would be available to adequately maintain the State Parks system. Therefore, the Board declines to designate any Park District Superintendents as essential. The Board's staffing orders reflect this finding.

Division of Forestry and Wildlife--Captive Animal Propagation

The Olinda Endangered Species Captive Propagation Facility conducts research and performs propagation activities for endangered avian species. Employees care for approximately seventy endangered birds at the facility. Withdrawal of these services would result in the eventual death of the confined birds in violation of the federal law.

The Employer petitioned the Board to declare two Unit 03 positions as essential to perform these services. The Board finds that complete cessation of these services would present an imminent or present danger to the health and safety of the public. However, the Board finds that the essential services of these employees may not be necessary on a regular basis as requested by the Employer. Accordingly, the Board has established staffing requirements which reflect this finding.

Division of Boating and Ocean Recreation

The Division of Boating and Ocean Resources administers small boat harbors and boat ramp sites throughout the State. The Division is responsible for the safe navigation and general safety of the people who use the facilities and live aboard the boats in the small boat harbors throughout the State.

The Employer petitioned the Board to declare nine Unit 03 and two Unit 13 positions as essential to perform these services.

The Board finds that cessation of services by these employees would present an imminent or present danger to the health and safety of the public. Accordingly, the Board has established staffing requirements to avoid this danger.

CONCLUSIONS OF LAW

The Board has jurisdiction of the subject petition pursuant to Subsection 89-12(c), HRS.

Based upon the record, the Board concludes that a strike by employees in Units 03, 04, and 13 is in progress, and that the withholding of services during said strike which are the subject of these findings will create an imminent or present danger to the health and safety of the public.

Performance of the services found to be essential herein to remove such danger must be done by Units 03, 04, and 13 incumbents of the job titles or positions listed in the orders.

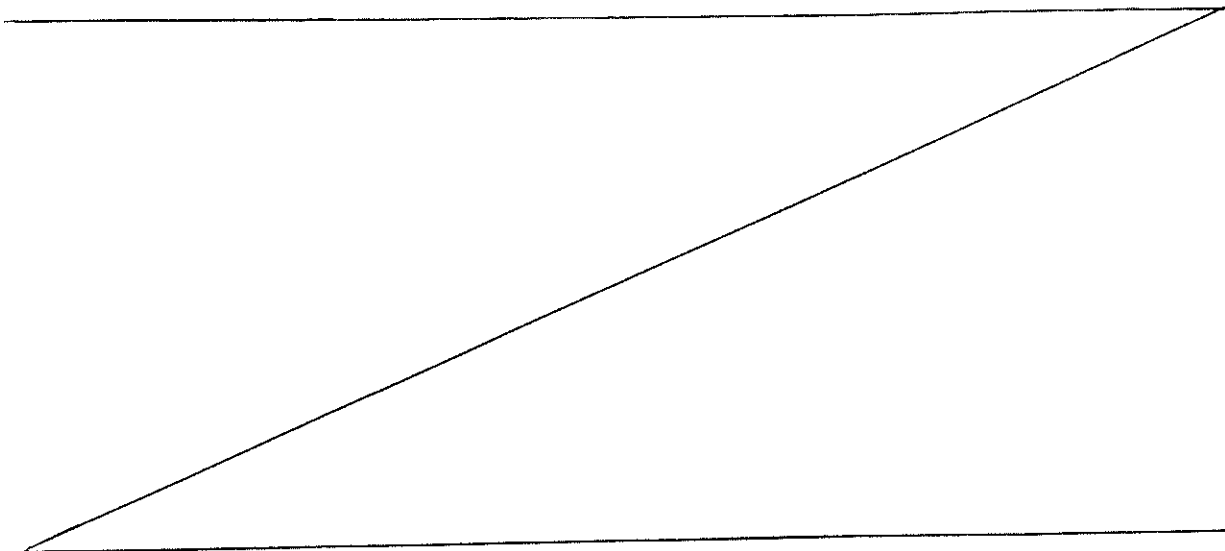
In the Staffing Orders which follow, the Board has set forth the maximum number of positions which the Employer may fill as essential positions to perform the tasks which the Board finds necessary to avoid or remove danger to public health or safety during a strike by Units 03, 04, and 13. If evaluation determines more essential positions are required than were granted, then the Employer is expected to inform the Board immediately. The mandate of Subsection 89-12(c), HRS, is to protect the public health and safety from danger in the event of strikes. It is impossible to

predict the exact number of people who may be required to work during a strike to cover events which may occur in the future.

ORDERS

Based upon the foregoing findings of fact and conclusions of law, the Hawaii Labor Relations Board hereby orders that the following positions be filled in the event of any strike or job action by Unit 03, 04, and 13 employees in accordance with the schedule provided.

The Board hereby rescinds the interlocutory order issued in this matter on April 16, 1994. The Employer shall immediately notify employees whose positions are no longer designated as essential in this order. The Employer shall also forthwith notify incumbents of positions designated as essential and whose hours of work or job status has been modified in this order that the Board has designated their positions as essential after a full investigation. The Employer is not required to renotify incumbents of positions designated as essential in the interlocutory order that the position they fill has again been designated as essential.



STAFFING ORDERS

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>STATE OF HAWAII</u>		
<u>DEPARTMENT OF TRANSPORTATION</u>		
<u>AIRPORTS DIVISION</u>		
Oahu District Honolulu International Airport		
<u>Airport Management</u>		
13 Airport Services Supervisor	4	1 per 8 hour/shift; 7 days/week; (24 hours/day)
13 Property Manager IV	1	Standby for emergencies only
13 Property Manager VI	1	M-F (8 hours)
<u>Air Operations Control</u>		
04 Air Oper Controller IV	1	Standby
03 Air Oper Controller III	3	1 per 12 hour/shift; 7 days/week (24 hours)
13 Air District Certification, Security and Safety Specialist	1	M-F (8 hours)
<u>Airports Communication</u>		
04 Airport Info Unit Supervisor	1	Standby 8 hours/day
03 Airport Info Operator II	3	1 per 12 hour/shift; 7 days/week (24 hours)
03 Airport Info Operator I (LTA)	5	1 per 8 hour/shift; 7 days/week (24 hours/day)

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>Hawaii District</u>		
<u>Air Operations Control</u>		
13 Air District Certification, Security and Safety Specialist	1	M-F (8 hours)
<u>Maui District</u>		
Kahului Airport		
<u>Air Operations Control</u>		
13 Air District Certification, Security and Safety Specialist	1	M-F (8 hours)
03 Air Oper Controller III	1	1 per 8 hour/shift; 7 days/week (16 hours/day)
03 Air Oper Controller I	3	1 per 8 hour/shift; 7 days/week (16 hours/day)
<u>Airport Maintenance</u>		
04 Construction and Maintenance Superintendent V	1	Standby
<u>Kauai District</u>		
Lihue Airport		
<u>Airport Operations Control</u>		
13 Air District Certification, Security and Safety Specialist	1	M-F (8 hours)
03 Arpt Opns Contr III	1	2:00-10:00 pm Tues-Sat
03 Arpt Opns Contr I	2	(1) 6:00 am-2:00 pm (8 hours) Wed-Sun; (1) 2:00 pm-10:00 pm (8 hours) Fri-Tues
03 Arpt Opns Contr I	1	(1) 6:00 am-2:00 pm (8 hours) Sat-Wed

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>HARBORS DIVISION</u>		
<u>Engineering Maintenance</u>		
13 Engineer (Civil) VI	1	Standby
<u>Oahu District</u>		
<u>Commercial Harbor Operations</u>		
13 Harbor Operations Supervisor	1	7:45 am-4:30 pm M-F; standby 16 hours M-F & standby 24 hours Sat, Sun & holidays
03 Marine Cargo Specialist	1	8 hours/day, M-F
03 Tower Operator I	3	1 per 8 hour/shift; 24 hours/day; 7 days/week
03 Harbor Agent IV	1	4 hours/day, M-F and on-call
03 Harbor Agent III	1	4 hours/day, M-F
<u>Maintenance</u>		
04 Construction and Maintenance Superintendent VI	1	Standby
03 Clerk V	1	Standby
<u>Maui District</u>		
03 Harbor Agent III	1	8 hours/day Tues-Sat; 40 hours/week
<u>HIGHWAYS DIVISION</u>		
<u>Oahu District</u>		
<u>Honolulu Baseyard Directing and Coordinating Services</u>		
04 Construction and Maintenance Superintendent VI	1	Standby

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>Hawaii District</u>		
Hilo Baseyard <u>Directing and Coordinating Services and Inspecting Roadway and Roadside Conditions</u>		
04 Construction and Maintenance Superintendent VI	1	Standby
<u>Maui District</u>		
Kahului Baseyard <u>Directing and Coordinating Services</u>		
04 Construction and Maintenance Superintendent VI	1	Standby
<u>Kauai District</u>		
Kapaa Baseyard <u>Directing and Coordinating Services</u>		
13 Engineer (Civil) V	1	Standby
<u>Maintenance of Essential Equipment</u>		
03 Engineering Tech VI	1	Standby
<u>DEPARTMENT OF AGRICULTURE</u>		
Animal Quarantine <u>Animal Quarantine Branch</u>		
04 Clerical Supervisor II	1	8:00 am-5:00 pm M-F
13 Veterinarian Medical Officer I	2	8:00 am-5:00 pm; 7 days/week
03 Veterinarian Technician II	2	40 hours/7 day week
04 Quarantine Station Operations Supervisor	1	Standby

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>Animal Quarantine Inspection and Compliance Branch</u>		
03 Livestock Inspector I & II	3	7 days/week; hours vary
03 Livestock Inspector III	1	8:00 am-5:00 pm; M-F

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Central Services Division
Repair and Maintenance
School Buildings
Supervisory - Hawaii

13 Engineer (Civil) V	1	4 hours/day; M-F; standby 7 days/week
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Supervisory - Maui

13 Engineer (Civil) V	1	4 hours/day; M-F; standby 7 days/week
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Supervisory - Kauai

13 Engineer (Civil) V	1	4 hours/day; M-F; standby 7 days/week
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Central Services Division
Building Management
Janitorial Services
Oahu

13 Building Manager	1	Standby 7 days/week to respond to any emergency
	1	**Regular hours; 8 hours/day M-F; standby 7 days/week

** To inspect only the Kalanimoku Building for floods and sewer emergencies and to ensure operability of the emergency generators and transformer room and to supervise the janitors of the Central Services Division, DAGS.

Automotive Management Division
Parking Control Branch

03 Parking Control Officer I	5	7:00 am - 3:45 pm; M-F
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<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
04 Parking Control Supervisor	1	7:00 am - 3:45 pm; M-F

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division of Occupational Safety and Health -
Boiler and Elevator Inspection Bureau

04 Supervising Elevator Inspector	1	Mon-Sat; 10 hours/day
04 Supervising Boiler Inspector	1	Mon-Sat; 10 hours/day
03 Boiler Inspector	2	Mon-Sat; 10 hours/day
03 Elevator Inspector	6	Mon-Sat; 10 hours/day
03 Secretary II	1	Mon-Sat; 10 hours/day

DEPARTMENT OF LAND AND NATURAL RESOURCES

Division of Forestry and Wildlife
Forest Firefighting
Administration

Honolulu, Hawaii

13 Forester VI	2	(1) Standby (1) On-call
13 Forester V	2	On-call
13 Forester IV	2	On-call
13 Forester III	1	On-call
13 Wildlife Biologist V	1	On-call
13 Wildlife Biologist IV	1	On-call
13 Botanist	1	On-call
13 Entomologist IV	1	On-call
03 Clerk Stenographer II	1	On-call
03 Clerk Typist II	2	On-call

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>Hilo, Hawaii</u>		
13 Forester V	1	On-call
13 Forester IV	3	On-call
13 Forester III	1	On-call
13 Forestry Technician IV	1	On-call
13 Wildlife Biologist VI	1	On-call
13 Wildlife Biologist IV	2	On-call
13 Wildlife Biologist IV	1	On-call
03 Wildlife Management Assistant V	1	On-call
03 Wildlife Management Assistant III	2	On-call
03 Wildlife Management Assistant III	1	On-call
03 Secretary II	1	On-call
<u>Lihue, Kauai</u>		
13 Forester V	1	On-call
13 Forester IV	1	On-call
13 Wildlife Biologist VI	1	On-call
03 Wildlife Management Assistant III	1	On-call
03 Secretary II	1	On-call
03 Clerk Typist II	.5	On-call
<u>Kahului, Maui</u>		
13 Forester V	2	On-call
13 Wildlife Biologist VI	1	On-call
03 Wildlife Management Assistant III	1	On-call
03 Secretary I	1	On-call
03 Clerk Typist II	.5	On-call

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
<u>Makiki, Oahu</u>		
13 Forester II	1	On-call
13 Wildlife Biologist V	1	On-call
03 Wildlife Management Assistant IV	1	On-call
03 Secretary I	1	On-call
<u>Kamuela, Hawaii</u>		
13 Forester III	1	On-call
<u>Kalamaula, Molokai</u>		
03 Wildlife Management Assistant IV	1	On-call
<u>Lanai</u>		
03 Wildlife Management Assistant IV	1	On-call
<u>Aquatic Resources Division Live Aquatic Organism Rearing</u>		
13 Aquatic Biologist VI	1	8 hours/day; 7 days/week; regular hours; standby
13 Aquatic Biologist IV (Hilo)	1	Standby for emergency situations
<u>Division of Forestry and Wildlife Captive Animal Propagation</u>		
03 Wildlife Management Assistant V	1	Standby for emergencies only
03 Wildlife Management Assistant III	1	Standby for emergencies only
<u>Division of Boating and Ocean Recreation</u>		
13 Small Boat Harbor Manager (Maui and Hawaii only)	2	7:45 am-4:30 pm M-F; standby 16 hours M-F; standby 24 hours/day on Sat and Sun and holidays

<u>BU & CLASS TITLE</u>	<u>NO. REQUIRED</u>	<u>WHEN REQUIRED</u>
03 Harbor Agent V	1	8 hours/day; 40 hours/ 7 day week; standby 16 hours/ day after normal working hours; standby 24 hours/day on non-work days and holidays
03 Harbor Agent IV	2	8 hours/day; 40 hours/ 7 day week; standby 16 hours/ day after normal working hours; standby 24 hours/day on non-work days and holidays
03 Harbor Agent III	2	8 hours/day; 40 hours/ 7 day week; standby 16 hours/ day after normal working hours; standby 24 hours/day on non-work days and holidays
03 Harbor Agent II	2	8 hours/day; 40 hours/ 7 day/week; standby 16 hours/ day after normal working hours; standby 24 hours/day on non-work days and holidays
03 Harbor Agent I	2	8 hours/day; 40 hours/ 7 day/week; standby 16 hours/ day after normal working hours; standby 24 hours/day on non-work days and holidays

GENERAL ORDERS

The Board further orders the following in the event of a strike by Units 03, 04 and 13 employees:

1. The class or position titles identified in the foregoing portion of the order are designated as essential positions.

2. The Employer may designate any or all incumbents in the essential positions as essential employees. Each incumbent in

an essential position, regardless of designation as an essential employee, shall notify the Employer of his or her current residence and mailing addresses and telephone number prior to the onset of a strike by Units 03, 04, and 13 employees. The Employer shall inform incumbents in essential positions that they may be designated as essential employees and that they are required to supply this information.

3. The Employer shall designate employees to fill essential positions. Each Employer shall give notice to an essential employee in accordance with Subsection 89-12(c)(2), HRS. It is the duty and responsibility of the essential employee to contact the Employer for his or her work assignment. This duty continues throughout the duration of any strike.

4. Essential employees required to be on-call shall keep the respective Employer apprised of his or her location during the on-call period to facilitate notification to report to work when the need arises. If no specific on-call period is stated, the position shall be deemed to be on-call 24 hours per day, and 7 days per week.

"On-call," as provided for in these orders, does not require compensation by the Employer nor does it require that the employee respond to any work requests made by the Employer.

5. Essential employees required to be on standby duty shall respond to requests for work when notified by the Employer. These employees must be available and shall provide the necessary telephone numbers and locations where they can be reached when needed. If no specific standby period is stated, the position

shall be deemed to be on standby 24 hours per day, and 7 days per week.

"Standby," as directed by these orders, requires that the Employer compensate all such designated employees at the rate of 25% of the individual employee's current salary. The employee on standby shall respond to requests made by the Employer to work and shall provide the Employer with the necessary telephone numbers and the location where he or she can be contacted should the need arise.

6. The Employer may determine whether the failure or refusal of an incumbent to report to or perform the functions, duties, and responsibilities of positions designated as essential is premised on good cause. The Employer may presume that any such failure or refusal is not for good cause, unless the incumbent designated as an essential employee provides the Employer with a signed statement of the reasons and circumstances for such failure or refusal. In the event that such failure or refusal is based upon a medical disability, a signed statement by a physician licensed to practice in the State of Hawaii must be submitted upon such forms to be provided by the Employer.

7. If an essential employee does not report to work as directed and there are additional incumbents to fill an essential position, the Employer shall designate another incumbent to perform such work. The Employer may notify such employee by whatever means practicable, including by telephone contact, to ensure the delivery of essential services.

If the Employer is unable to fill the essential position with an incumbent, the Employer may assign other employees who are capable of satisfactorily performing the functions, duties, and responsibilities of the essential position, and shall notify the Board accordingly.

8. The HGEA shall be responsible for taking all necessary steps to ensure that essential services required by this order are performed without interruption, slowdown, sick-out or other forms of interference.

9. Work sites, buildings, or facilities may be picketed, but persons on the picket lines shall permit anyone to cross the picket lines without interference. Picketers shall not harass or impede anyone from ingress or egress to the buildings.

10. To minimize confusion in communications between the parties, the Employer and the HGEA shall each designate one overall coordinator to be contacted. The coordinator shall be responsible for maintaining essential services and implementing any order issued by the Board at the close of this proceeding or during a strike. Prior to the onset of any strike, each party shall notify the other and this Board, in writing, of the coordinator with his or her current address and business and residence telephone numbers at least 24 hours before the onset of a strike.

11. In the assignment of incumbents or other employees to essential positions, the Employer shall refrain from assigning persons designated as picket line captains, stewards, negotiation team members and HGEA Board of Directors members unless there are

no other employees capable of satisfactorily performing the function, duties and responsibilities of the essential positions.

The HGEA shall furnish the Employer with the names of picket line captains, stewards, negotiation team members and Board of Directors members forthwith.

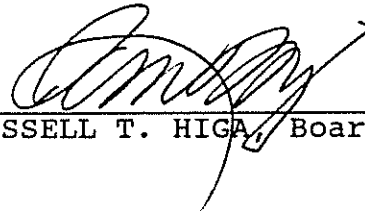
This order may be amended by the Board. Any questions of interpretation of this order shall be brought to the immediate attention of the Board.

DATED: Honolulu, Hawaii, April 22, 1994.

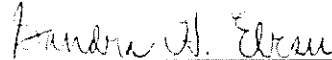
HAWAII LABOR RELATIONS BOARD



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