

STATE OF HAWAII  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	
	)	
STATE OF HAWAII ORGANIZATION	)	Case No. <u>SF-12-50</u>
OF POLICE OFFICERS,	)	
	)	Decision No. <u>88</u>
Petitioner.	)	
_____	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDERS

On June 30, 1977, the State of Hawaii Organization of Police Officers (hereafter SHOPO) petitioned this Board to certify as reasonable a reduction in service fees for employees in Unit 12, police officers.

The request is for a decrease in service fees from \$15 to \$13.50 per month, effective July 1, 1977.

After publication of legal notice, the Board held a prehearing conference with representatives of SHOPO on August 1, 1977. Formal hearings were held on August 22, 1977 and March 20, 1978. Mr. Stanley Burden, SHOPO's Executive Director, presented SHOPO's case. No one appeared at the hearing in opposition to the petition.

Upon a full review of the record herein, the Board makes the following findings of fact, conclusions of law and orders.

FINDINGS OF FACT

Petitioner SHOPO is the exclusive representative of Unit 12, police officers, as defined in Section 89-6(a)(12), Hawaii Revised Statutes (hereafter HRS).

There are approximately 1,885 members in Unit 12. Of these employees, all except thirty-seven are members of SHOPO.

Employees in Unit 12 are currently assessed a service fee of \$15 per month. This service fee was approved by the Board on February 25, 1976 and made retroactive to January 1, 1976. HPERB Decision 66.

In Decision 66, the Board stated:

A service fee of \$15 per month will allow SHOPO to retire in 1976 approximately \$79,000 of its legal services debt if actual operating expenses for 1976 approximate budgeted amounts. For this reason, the Board finds that a review of SHOPO's service fee will be necessary once the legal services debt is retired, since the major justification for the increase in service fees to \$15 per month is the legal services debt.

Accordingly, the Board in said Decision ordered SHOPO "to petition for a service fee review as soon as possible after it retires its legal debt, but in any event no later than June 30, 1976."

In its present service fee petition, SHOPO requests a reduction in the service fee to \$13.50 per month, retroactive to July 1, 1977.

SHOPO notified Unit 12 employees of the proposed service fee reduction in its March, 1977 newsletter.

Dues for SHOPO members have already been reduced from \$15 to \$13.50 as of July 1, 1977. This reduction was approved by both SHOPO's Board of Directors and the SHOPO membership. Dues paid by SHOPO members are considered payment of service fees. HPERB Rule 6.04(c).

Commencing July 1, 1977, the SHOPO Board of Directors and members voted to assess each SHOPO member \$1.00 per month for the SHOPO Relief Association and \$.50 per month for SHOPO's Political Action Committee.

The purpose of the Relief Association is to provide financial aid and other benefits to SHOPO members and their

immediate families in the event of untimely death or prolonged illness of any SHOPO member.

The \$.50 assessment for the Political Action Committee is for political activities which, in accord with prior decisions of this Board, may not be charged to service fees. See HPERB Decision 7.

The \$1.50 monthly assessments for these two accounts are kept in accounts apart from the account for the general operating funds of the organization. There is no commingling of funds.

According to SHOPO's audited financial statement, later submitted to the Board by SHOPO, SHOPO's expenditures for calendar year 1977 were \$316,551.

During the same period of time, SHOPO received the following income:

Service fees	\$330,431
Political Action Committee assessment	5,607
Newsletter advertising	3,991
Unclassified	3,042

Mr. Burden testified that contrary to the figures above, SHOPO's service fee income does not exceed expenditures because at the time of the audit, SHOPO had not paid all of its outstanding debts.

A monthly service fee of \$13.50 as proposed by SHOPO (multiplied by a Unit count of 1,885) would yield an annual service fee income of \$305,370.

SHOPO's projection of expenditures for the twelve month period ending September 30, 1978 is \$372,300:



P R O P O S E D    B U D G E T  
(Twelve months ending September 30, 1978)

Administrative	
Salaries	
Current employees	\$136,600
Terminated employees	13,300
Employee expenses	36,100
Accounting services	15,600
Dues and subscriptions	3,000
Acquisition of fixed assets	2,000
Rent - premises and equipment	22,200
Insurance	3,000
Legal services	6,000
Office	6,900
Repairs and maintenance	2,700
Telephone and others	11,400
	<u>258,800</u>
 Grievance and defense	
Legal services	68,000
Membership development	5,400
Public relations Newsletter	13,500
Board and executive meetings	7,200
Chapter meetings	5,400
Legislative	9,000
Contract negotiations	<u>5,000</u>
 Total Expenditures	<u>\$372,300</u>

According to testimony and exhibits presented, SHOPO's allocation of \$136,600 for salaries represents a 4.5% salary increase for all members of the SHOPO staff, retroactive to July 1, 1978, salary adjustments due to reevaluations of staff positions and possible additional increases following negotiations with SHOPO staff members.

At the time of the hearing, SHOPO was also awaiting a decision from the Hawaii Employment Relations Board (hereafter HERB) regarding the discharge of two of its former staff members. With respect to this case, SHOPO has budgeted \$13,300 for termination pay for these two individuals.

Expenditures categorized as employee expenses include medical, dental and group life insurance for the SHOPO staff, payroll taxes, a car allowance of \$75 per month for all field representatives, travel expenditures estimated at \$100 per trip, and seminars.

A major increase in the budget is in the area of Accounting Services. SHOPO has included computer service processing in this category. Accordingly, expenses in this category are estimated at \$1,300 per month for an annual projected expenditure of \$15,600.

Funds appropriated for the Employee Development category will be used to send staff members to seminars and conferences on labor relations and arbitration procedures. SHOPO also keeps abreast of labor relations developments by subscribing to several publications relating to collective negotiations, contract information, and the subject of labor relations as it relates to law enforcement personnel.

Expenditures for all other categories listed under "Administrative" in the budget with the exception of legal services, discussed below, are basic operational costs of the union.

The major increase in SHOPO's budget is due to the increased expenditures anticipated for legal services. SHOPO has budgeted a total of \$74,000 for legal services. Of the total amount budgeted in this category, \$6,000 will be spent for legal services related to administrative purposes. This includes costs directly related to contract negotiations such as travel, per diem charges, administrative expenses and outside legal services.

Mr. Burden testified that due to HERB proceedings instituted by two former SHOPO staff members, SHOPO has incurred additional legal fees of \$10,000 for an attorney to represent the union before HERB from December, 1977. Mr. Burden further testified that additional costs may result from HERB's decision.

SHOPO has allocated \$68,000 for legal services for membership grievance and defense. This sum is based upon SHOPO's prior experience in grievance-arbitration cases and the following projection of cases:

Twenty settlement cases at \$100 per case	\$ 2,000
Twenty-four arbitration cases at \$1,500 per case	36,000
Other services (includes printing and transcript preparation costs)	<u>30,000</u>
	<u>\$68,000</u>

At the time of the initial hearing, Mr. Burden stated that, with respect to the legal services deficit referred to in Decision 66, \$64,858.84 of SHOPO's \$81,000 legal debt had been retired, leaving a balance of \$15,785. SHOPO has been paying approximately \$3,400 per month for its legal services deficit.

SHOPO has projected costs of \$13,500 for its Public Relations category. This category includes the SHOPO newsletter, including bulk rate postage, consultations and other related expenditures. The newsletter is paid for in part by income generated by selling advertising space; the remaining costs are paid by service fee funds. The newsletter is mailed monthly to all members of the bargaining unit.

Funds budgeted for SHOPO board and executive meetings are for twelve regular meetings plus three special meetings of the SHOPO's Board of Directors.

The legislative category includes the overall legislative program of SHOPO as it refers to special studies to support legislation which would benefit all police officers in the State.



### CONCLUSIONS OF LAW

All employees in the bargaining unit are required to pay a service fee to SHOPO regardless of whether they are members of the union. Section 89-4(a), HRS.

Based on the evidence presented during the hearing, the Board finds that the expenditures to be made from service fees by SHOPO for its operating expenses are properly attributable to contract negotiations and administration in accordance with Section 89-4(a), HRS, with the exception of costs relating to SHOPO's Relief Association and Political Action Committee.

The Board is aware that in assessing only members \$1.50 for benefits not chargeable to service fees, SHOPO intended to finance these membership benefits from non-service fee monies. However, by deducting \$1.50 from the \$15 monthly service fee deduction for members prior to this Board's approval, SHOPO, in effect, has been engaging in an unauthorized practice in that it has been charging non-members a higher service fee.

SHOPO is directed to refund to unit employees who have paid a service fee in excess of \$13.50 per month since July 1, 1977, such excess amounts.

This Board finds and hereby certifies that a service fee of \$13.50 per month is reasonable for employees in Unit 12.

### ORDERS

1. A service fee of \$13.50 per month shall be deducted by the employer from the payroll of each employee in bargaining unit 12 and transmitted to SHOPO.

2. This service fee shall be retroactive to July 1, 1977, for all employees on the payroll at that time. For all employees hired on or after such date, the service fee shall be effective as of the date of hire.


3. SHOPO shall refund to employees in the bargaining unit, who have paid a service fee in excess of \$13.50 per month since July 1, 1977, such excess amounts as expeditiously as possible but in any event no later than June 30, 1978.


4. The amount of the service fee certified herein as reasonable shall not be changed except by order of this Board.

5. SHOPO is directed to petition for a service fee review no later than September 30, 1978, the ending date of its projected budget. In establishing this precedent, the Board is cognizant that SHOPO's service fee will be reviewed by the Board only five months from now. The Board, however, upon deeper consideration of its duty to certify the reasonableness of service fees, believes that it cannot approve a service fee for periods for which there is no accounting or showing as to how the service fee monies will be spent. Accordingly, henceforth, the Board will certify service fee amounts only for periods for which a projected budget has been provided.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
Mack H. Hamada, Chairman

  
James K. Clark, Board Member

  
John E. Milligan, Board Member

Dated: May 4, 1978

Honolulu, Hawaii