

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
HAWAII GOVERNMENT EMPLOYEES')	Case Nos. <u>SF-02-51</u>
ASSOCIATION, LOCAL 152,)	<u>SF-03-52</u>
AFSCME, AFL-CIO,)	<u>SF-04-53</u>
)	<u>SF-06-54</u>
Petitioner,)	<u>SF-08-55</u>
)	<u>SF-13-56</u>
and)	
)	
THEODORE B. JORDAN,)	Decision No. <u>93</u>
)	
Intervenor.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDERS

On September 23, 1977, Petitioner Hawaii Government Employees' Association, Local 152, AFSCME, AFL-CIO (hereafter HGEA), filed with this Board a consolidated petition for a service fee assessment for all employees in the six bargaining units for which it is the certified exclusive representative.

In this petition, HGEA requests the following new service fee be certified as reasonable for the six units:

Effective on September 1, 1977, and September 1 of each year thereafter, HGEA proposes an annual service fee in the amount of .0075 times the straight time monthly salaries of employees in effect on September 1, 1977 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 less than \$7 per month nor greater than \$15 per month and that this service fee shall continue to be deducted until the service fee is changed by order of the Board.

After legal notice of the petition was published in newspapers of general circulation (Board Exhibit Nos. 6 & 7), the Board held hearings on October 24, 1977, November 21, 1977, December 1, 1977, December 2, 1977, and December 28, 1977.

Mr. Theodore B. Jordan submitted to the Board a petition for intervention in Case No. SF-08-55 on October 13, 1977. Said intervention was granted (Order No. 148) on October 18, 1977. Intervenor Jordan was represented by counsel throughout the hearing.

On March 30, 1978, the prior HGEA service fee decision of this Board (Decision No. 78) was remanded by the Circuit Court for further findings of fact concerning three items.

Because of the issues raised in said remand, the Board determined that it was necessary to reopen the hearing in this case on July 11, 1978 to find additional facts. Following said reopening, final briefs were received from the parties on August 14 and 21, 1978.

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

FINDINGS OF FACT

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

Theodore B. Jordan is a "public employee" as defined in Section 89-2(7), Hawaii Revised Statutes (hereafter HRS), and is included in Unit 8 (personnel of the University of Hawaii and the community college system other than faculty). Mr. Jordan's intervention is limited to Case No. SF-08-55.

The Board of Regents of the University of Hawaii (hereafter BOR) constitutes a "public employer" within the meaning of Section 89-2(9), HRS, and is the employer of employees in Unit 8.

All members of the six bargaining units covered by HGEA's consolidated petition are required to pay service fees to HGEA, pursuant to Section 89-4(a), HRS.

The total number of employees in the respective units is:

<u>Unit</u>	<u>No. of Employees</u>
2	763
3	7,882
4	418
6	590
8	755
13	<u>3,760</u>
	14,168

Based on this number of employees, the requested service fee will produce estimated revenues of \$1,964,179 for fiscal year 1977-1978. The HGEA fiscal year is from July 1 through June 30. Revenue projection by bargaining unit is as follows:

<u>Unit</u>	<u>Revenue Projection</u>
2	106,432
3	975,588
4	64,591
6	106,171
8	112,625
13	<u>598,772</u>
	\$1,964,179

HGEA is affiliated with the American Federation of State, County and Municipal Employees (hereafter AFSCME), and the Hawaii State Federation of Labor, AFL-CIO (hereafter HSFL), and makes per capita payments to these organizations which

amount to a total of \$3.20 per person per month (\$2.90 to AFSCME and \$.30 to the HSFL).

In its petition, HGEA projects total operating expenses for the fiscal year 1977-1978 at \$2,816,689. This projection is an increase of 13% over the prior year's budget.

HGEA attributes the increase to projected increases in staff salaries and in the cost of supplies and services.

Bases on these projections, HGEA anticipates an operating deficit for the fiscal year as follows:

Expenses	\$2,816,689
Service Fee Income	<u>1,964,179</u>
Deficit	\$ 852,510

HGEA receives income from sources other than service fees. Anticipated income for fiscal 1977-1978 from these sources is:

<u>Source</u>	<u>Anticipated Income</u>
Associate Members	\$551,594
Administrative Fees	190,000
Interest	<u>15,000</u>
Total	\$756,594
Total Projected Income	\$2,720,773

HGEA's expense summary by program (comparing fiscal years 1976-1977 and 1977-1978) is as follows (Board Ex. 6; Pet. Ex. 1 at 4-5):

<u>Program</u>	<u>Budget Fiscal 1976-77</u>	<u>Budget Fiscal 1977-78</u>	<u>Change</u>
I Wages, Salaries, Fringes	\$1,133,366	\$1,209,305	+ \$ 75,939
II Payroll Taxes	61,080	71,122	+ 10,042
III Land (Mortg. Rent)	89,150	87,900	- (1,250)
IV Administrative	778,832	836,008	+ 57,176
V Office of Director	21,600	21,600	0

<u>Program</u>	<u>Budget Fiscal 1976-77</u>	<u>Budget Fiscal 1977-78</u>	<u>Change</u>
VI Education & Training	17,221	15,721	- (1,500)
VII "The Public Employee"	66,500	62,500	- (4,000)
VIII Fiscal Services	3,188	3,152	- (36)
IX Office Services	25,452	31,970	+ 6,518
X Program Development	196,024	282,738	+ 86,714
XI Neighbor Isl. Service	73,527	82,515	+ 8,988
XII Board of Directors	19,580	43,408	+ 23,828
XIII Committees	14,450	12,350	- (2,000)
XIV Elections	1,050	6,400	+ 5,350
XV Legislative Service	<u>50,000</u>	<u>50,000</u>	<u>0</u>
	\$2,551,020	\$2,816,689	+ \$265,669

The HGEA Budget for fiscal 1977-78 is approximately 12% over actual expenses for fiscal 1976-77, and approximately 10% over budget for 1976-77.

Initial Exclusions

In keeping with prior HPERB decisions, HGEA listed the following expenses as excluded from service fees. Said expenses are not attributable to contract administration or negotiation:

<u>Program</u>	<u>Excludable Expenses</u>	<u>%</u>	<u>Budget</u>
Service Bureau	\$ 39,438	42%	\$ 93,900
"The Public Employee"	26,250	42%	62,500
Office Services - State	1,599	5%	31,970
Neighbor Island Adm. Services	1,590	5%	31,795
Program Development			
Retiree Unit	32,760	100%	32,760
Excluded Unit	4,114	100%	4,114

<u>Program</u>	<u>Excludable Expenses</u>	<u>%</u>	<u>Budget</u>
Recreation (statewide Oahu & neighbor islands)	57,102	100%	57,102
Legislative Services	40,000	80%	50,000
Board of Directors - Public Relations	2,000	100%	2,000
UPW Remittance	<u>59,104</u>	100%	<u>59,104</u>
TOTAL	<u>\$263,957</u>		<u>\$425,245</u>

The Board makes the following findings of fact respecting the details of the proposed expenses for each of the fifteen programs in the budget.

Program I (See Page 1, Ex. No. 2)

Wages, Salaries and Fringes

There are fifty-four (54) positions on the staff of HGEA.

HGEA employees are paid on a basis comparable to the public employees they represent. Benefits are also comparable to the public employees.

Salary increases were effective for employees of HGEA on July 1, 1977, except that the director and deputy executive director received no increase.

An increase in the budget amounting to \$3,422.00 is attributable to an increase in the amount the employer, HGEA, contributes to a pension plan for its employees. This increase results from the increase in salaries.

Program II (Page 2, Ex. No. 2)

Payroll Taxes

The increase in budget for this item results from the salary increase and the consequent increase HGEA is required to pay to the State and Federal governments.

Program III (Page 3, Ex. No. 2)

Land (Mortgage & Rent)

This amount is a decrease of the amount paid during the prior year; it results from a relocation of the Hawaii Division office.

Program IV (Page 4, Ex. No. 2)

Administrative (Oahu & State)

Included is a sub-account entitled "Per Capita, AFSCME and State Federation of Labor."

The per capita for AFSCME increased from \$2.50 to \$2.90 per employee, per month, effective January 1, 1977. Thus, the increase was for six months only during the prior year. During fiscal 1977-78, it will be effective for the entire year.

Sub-Account

Strike fund - An amount of \$.25 per month per bargaining unit member is placed into this account. The total amount is reduced because there were fewer employees employed during 1977-78.

Other sub-account changes are:

Janitorial account reduced by	\$ 443.00
Telephone account increased by	3,128.00
Audit fees increased by	2,730.00

In accordance with past HPERB decisions, HGEA proposes to exclude from service fee computation \$39,438.00 from the item "Service Bureau." This amount is 42% of the total amount budgeted for this item, as associate members not in bargaining units constitute 42% of the total HGEA membership.

Program V (Page 5, Ex. No. 2)

Office of the Director

This account is used for sustenance for employees engaged in union business such as grievance handling over lunch or dinner periods. There is no change in budget over the prior year.

Program VI (Page 6, Ex. No. 2)

Education and Training

This program reflects a reduction in budget because the work of compiling and printing a stewards' handbook was completed last year. The amount of \$1,000.00 was retained in the budget to provide for updating the handbook as necessary.

Program VII (Page 7, Ex. No. 2)

"Public Employee"

There is no change in the budget for this item. HGEA proposes to exclude 42% of the costs in this program for the same reason as in Program IV.

Program VIII (Page 8, Ex. No. 2)

Fiscal Services

There is a small decrease in this item because of airline discounts.

Program IX (Page 9, Ex. No. 2)

Office Services

An increase is budgeted for the sub-account, copying machine, because of anticipated increases in paper, ink and maintenance costs.

Sub-account, "Supplies," is increased to account for anticipated cost increases.

Sub-account, "Printing," reflects a small increase in the cost of union stationery. Five percent of Program IX

expenses are proposed to be excluded as the percentage is attributable to excluded employees.

Program X (Page 10, Ex. No. 2)

Program Development

An overall increase is budgeted for this program. The increase results from a number of changes both upward and downward in the various sub-accounts in this program.

The increases result generally from the fact that the HGEA holds a biennial convention of some 300 delegates to set HGEA policy. This convention, slated to be held in Honolulu during the subject fiscal year, and the annual salary review by the conference of personnel directors, will result in a considerable increase in travel for both members and staff. The reductions in other sub-accounts result from fewer negotiations during the fiscal year as well as an elimination of a budget item for the election of stewards as these elections took place in the proceeding fiscal year.

Items excluded from this account are:

Retirees unit	\$32,760.00
Excluded employees	4,114.00
Statewide sports	26,827.00
Recreation, Oahu	12,275.00

Program XI (Page 11, Ex. No. 2)

Neighbor Island Services - Hawaii (Administrative)

This account covers administrative expenses for the island of Hawaii. The major portion being attributable to the purchase of a new water cooler for the office as required by OSHA, and increases in utility costs.

Neighbor Island Service - Maui (Administrative) (Page 12)

There is no change in the budget from the prior years.

Neighbor Island Services - Kauai (Administrative) (Page 13)

The budget is increased to provide for a new typewriter.

Of the funds budgeted for Neighbor Island Services (Administrative), the HGEA proposes to exclude 5% of the total from service fee funds as this amount was estimated as the cost of servicing associate members who are not in the bargaining unit. This amount is \$1,590.00.

Neighbor Island Services - Hawaii (Program Development) (Page 14)

The budget for this item is increased. This increase results from an increase in travel and living expenses for staff because of the convention and an increase in the budget for the Island Directors' contingency fund.

The amount of \$6,000.00 budgeted for island recreation is proposed to be excluded from the service fee computation in its entirety.

Neighbor Island Service - Maui (Program Development) (Page 15)

This budget item is increased by \$1,783.00 for the same reasons as those stated in Hawaii. The \$6,000.00 budgeted for recreation is excluded from the service fee computation.

Neighbor Island Services - Kauai (Program Development) (Page 16)

Again, an increase of \$1,944.00 is budgeted for the same reasons as for Hawaii, and \$6,000.00, for recreation, is excluded from the service fee computation.

Program XII (Page 17, Ex. No. 2)

Board of Directors

Board expenses will increase during fiscal 1977-78, because of the biennial convention. The preparations for this event require more travel and per-diem expenses. An item of

\$18,200.00 is added to cover expenses for attendance at the AFSCME biennial convention on the Mainland. The full HGEA Board of Directors (15 members) are delegates to this convention.

This program budget in its entirety is increased from an appropriation of \$19,580.00 in fiscal 1976-77 to \$43,408.00 in 1977-78. HGEA Deputy Director Russell Okata testified that during fiscal 1976-77, because of a shortage in cash flow, board members, as well as staff, frequently spent their own money to conduct HGEA business. The proposed budget for the subject fiscal year is intended to make this unnecessary.

The budgeted item for the sub-account "Public Relations," or \$2,000.00, is proposed to be excluded from service fee computation in its entirety.

Program XIII (Page 18, Ex. No. 2)

Committees

The increase will be used to enable the committees to meet more often and discuss the resolutions and business matters which will come before the convention. This will enable bargaining unit members to become acquainted with these proposals before the convention.

Program XIV (Page 19, Ex. No. 2)

Elections

This program budget is increased from \$1,050.00 for 1976-77 to \$6,400.00 for 1977-78. Fourteen directors will be elected this year as opposed to only four last year. The increase is attributable to the expenses of these elections.

Program XV (Page 20, Ex. No. 2)

Legislative Service

This item amounting to \$50,000.00 reflects no change from fiscal 1976-77.

In keeping with prior HPERB decisions, \$40,000.00 for partisan political expenditures is proposed to be excluded. The remaining \$10,000.00 budgeted is for lobbying for approval of negotiated contracts. Six contracts will be reopened during fiscal 1977-78 for re-negotiations.

The HGEA has proposed the following as exclusions from the budgeted payroll of the four HGEA divisions. These amounts represent the dollar value of the time employees in these divisions spent on "union membership benefit" activities:

Employees in:	Activity					TOTALS
	Annual Salary	Recreation	Insurance	Associate Members	Political Action	
Office of Director	\$146,462	\$ 266	\$ 266	\$ 2,264	\$ 676	\$ 3,472
Staff Services	278,448	5,572	3,110	5,823	499	15,004
Fiscal Services	109,548	--	27,387	27,387	--	54,774
Field Services	<u>462,180</u>	<u>5,619</u>	<u>3,372</u>	<u>2,288</u>	<u>--</u>	<u>11,279</u>
	\$996,638	\$11,457	\$34,135	\$37,762	\$1,175	<u>\$84,529</u>

HGEA is affiliated with AFSCME, an international organization, and is required to pay a fee for such affiliation of \$2.90 per month for each employee in its six bargaining units.

AFSCME maintains a rebate program whereby employees, upon request, are rebated a portion of the fees paid to AFSCME by HGEA on their behalf, which portion was used for partisan political or ideological activity.

The AFSCME policy concerning rebate is delineated in its Constitution, Article IX, Section 9 (Petitioner's Exhibit 3), and an appeal procedure is illustrated in Petitioner's Exhibits 4 and 5.

HGEA is also affiliated with the HSFL. HSFL coordinates information-sharing among member AFL-CIO unions. It

also provides support to affiliated organizations in improving members' working conditions and collective bargaining positions.

HSFL engages in political education and assists in voter registration with funds voluntarily contributed for this purpose.

The HSFL's projected revenue (Petitioner's Exhibit 7) is:

REVENUE (PROJECTED)		
(1 NOV. 1976 - 31 OCT. 1977)		
<u>SOURCES</u>	<u>MONTHLY</u>	<u>ANNUAL</u>
PER CAPITA (40,000 Members)	\$12,000.00	\$144,000.00
COPE: WAD Grant	416.66	4,999.92
COPE: Program Approp.	360.00	4,320.00
AFTRA Adm. Ser. Charge	250.00	3,000.00
SAVINGS	<u>300.00</u>	<u>3,600.00</u>
TOTALS	<u>\$13,326.00</u>	<u>\$159,919.92</u>

The HSFL fiscal year is from November 1 to October 31. It is anticipated that revenue for fiscal 1977-78 will be approximately the same as for fiscal 1976-77.

The first item, "Per Capita, 40,000 Members," is the \$.30 per member, per month, paid by associate organizations, including HGEA.

The second, third and fourth items in column one; namely, WAD Grant; COPE, Program Appropriation; and AFTRA, Adm. Serv. Charge, all refer to income from sources other than the per capita.

Following is a Summary of HSFL Expenditures from Petitioner's Exhibit 7:

SUMMARY OF EXPENDITURES

<u>FUNCTION</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
ISLAND DIVISION		
1. Operations	\$ 195.00	\$ 2,340.00
2. V.P.-HSFL Ex. Bd. (Participation)	315.00	3,780.00
SUB-TOTAL	\$ 510.00	\$ 6,120.00
ADMINISTRATION		
1. Personnel	\$ 8,635.00	\$103,620.00
2. House Organ	958.00	11,496.00
3. Research/Info.	360.00	4,320.00
4. Office Costs	2,400.00	32,144.64
SUB-TOTAL	\$12,353.00	\$151,580.64
TOTAL	<u>\$12,863.00</u>	<u>\$157,700.64</u>

HSFL is statewide, with units on each island. Island units operate like the state office. Item 1 is the appropriation for the island unit operations. Item 2 is the appropriation to reimburse vice presidents for out-of-pocket expenses incurred on HSFL business. These vice presidents receive salaries from other employers, not the HSFL.

Item 1, under Administration, is the salary and fringe cost for employees of HSFL.

Item 2 is the cost of the House Organ which provides internal communications among the affiliates.

Item 3 is the cost of developing and maintaining a library for affiliates.

Item 4, Office Costs, covers the cost of rent, utilities, equipment, etc.

The HSFL Executive Secretary-Treasurer engages in lobbying on all matters of interest to labor organizations, and uses per capita funds for such lobbying. He estimates he spends 5% of his time lobbying for labor-related legislation

and 5% on legislation of a more general nature. His annual salary is \$38,400.00.

After the hearing for the case was completed, but before a decision was reached, the prior HGEA service fee case, which had been appealed by Intervenor Jordan, was remanded to the Board by the First Circuit Court in Jordan vs. Hamada, et al., Civil No. 52424.

As a consequence, the Board issued its Order No. 187 reopening this case to find additional facts as required by the court concerning the prior service fee case.

The Board's order, reflecting the wishes of the court, asked for additional evidence on the following points:

1. The allowability of any of the cost of "The Public Employee" as a service fee activity;
2. Further allocation, if any, of staff salaries and other similar expenditures which are supportive of the totality of HGEA activities, so that an equitable portion of such expenditures is apportioned to "union membership benefit" functions;
3. Any HSFL political activity costs (except those related to efforts to obtain ratification of the benefits of collective bargaining agreements) which are paid out of the per capita payments.

At the reopened hearing, the Board accepted into evidence the transcript of the hearing held on remand of Jordan vs. Hamada, subject to any adjustment due to differences in the budget for the two fiscal years. This transcript is Petitioner's Exhibit 8. Based on the evidence at the reopened hearing, this Board additionally finds the following facts.

The Public Employee

The newspaper, "The Public Employee," is prepared by two HGEA employees; namely, the Public Relations Officer, who is the editor, and the Assistant Editor.

The editor spends approximately 60% of his time in preparing the newspaper; the assistant editor, about 70% of his time. Both employees have other duties relative to preparing collective bargaining agreements and assisting in negotiations.

HGEA at first had stipulated that 42% of the cost of printing "The Public Employee" be excluded from service fee computation as associate members' copies constitute 42% of the total distribution of the paper.

HGEA is now prepared to submit that a percentage of the balance of the cost equivalent to the percentage of articles in the paper that do not deal with negotiating and administering agreements likewise be excluded. For the fiscal year 1977-78, this is 82%, leaving 18% of the newspaper devoted to contract administration and negotiation news.

Mr. Okata testified that the Public Relations Officer spent 60% of the time which he devotes to the newspaper in preparing contract administration and negotiation news and that the assistant editor, in the 70% of the time spent on the newspaper, spent 70% on news related to collective bargaining and contract administration. HGEA submits that the time spent on news other than collective bargaining and contract administration be disallowed in the computation of service fees.

A recap of the HGEA proposal concerning its newspaper is as follows:

1. <u>Printing and Mailing</u>		\$62,500
Proposed for Exclusion:		
42% of Printing & Mailing	\$26,250	
Associate Members' copies		
82% of Balance	<u>29,725</u>	
		<u>\$55,975</u>
Balance for Inclusion:		\$ 6,525

2. <u>Editorial Salaries</u>		\$48,636
Proposed for Exclusion:		
24% of Editor's Salary	\$6,247	
21% of Assistant Editor's Salary	<u>4,748</u>	
		<u>\$10,955</u>
Balance for Inclusion:		\$37,641

Recreational news is generally prepared by HGEA members and submitted through the recreation and training director, whose time is discounted elsewhere for this activity.

Two employees in the HGEA steno pool spend 1.9% of their time each on mailing associate members' copies; this time has been allocated by the HGEA.

The record shows that a Special Assistant to the Director also spends about 1.9% of his time mailing copies of "The Public Employee" to associate members. (Pet. Ex. 8 at 12-13). Consistent with Decision 92, an allocation of 1.9% of the higher paid Special Assistant's salary of \$17,892 will be made. This results in an additional \$340 exclusion from the Wages & Salaries account for the office of the Director.

The HGEA mailing list is primarily kept for purposes related to collective bargaining and contract administration.

The office space and telephones for the newspaper staff are required for their duties related to collective bargaining and contract administration and no extra cost is involved because of their excludable activities.

Staff salaries and other expenditures

The second item in Order 187 remanding the previous HGEA service fee petition to the Board asked the Board to find further facts on the following:

2. Further allocation, if any, of staff salaries and other similar expenditures which are supportive of the totality of HGEA activities, so that an equitable portion of such expenditures is apportioned to "union membership benefit" functions;...

Staff salaries have been allocated. (See Findings of Fact, at 12.) After the hearing was reopened to find further fact as required by the court in the preceding case, Mr. Okata of HGEA offered the following supplemental costs to be excluded from service fee computation:

The proposed salary to be excluded all HGEA employees is approximately 10% of total salary paid. From this base, the following additional exclusions from service fee computation can be made:

10% of the cost of workers' compensation premiums of \$4,000.00	\$ 400.00
10% of payroll taxes of \$71,122.00	7,112.00

HGEA proposes no exclusion for office space.

The HGEA's witness testified that office space now is insufficient for the number of employees they employ and space requirements would not be reduced if they had no associate members and if they did, none of the activities excluded from service fee computation.

Consistent with Decision 92, this Board will also exclude \$217,545 in fringe benefits which appear allocable, but have not been. HPERB Decision No. 92 at 8-9.

Approximately 22% of the audit fees of \$19,890 are proposed for exclusion, as this is the proportion of the exclusions to the total budget.

HGEA proposes that 30% of all telephone toll calls, or \$2,398, be excluded. This is an estimate of the percentage of toll call costs attributable to non-service fee activity.

No exclusion has been proposed for the lease of telephone equipment as all such equipment would still be required if no non-service fee activity was performed. The HGEA pays a monthly charge, regardless of use.

No further exclusion has been proposed for "Fiscal Services" as this amount is for rent of an accounting machine which carries a fixed rental charge regardless of use.

The next item where further exclusion is proposed is "Board of Directors." The HGEA has reviewed 11 meetings of the Board and concluded that an additional exclusion of 12%, or \$1,280, reflects the time spent by the Board in considering "union membership activities." The final item where further exclusion is proposed is the "Committees." None of this budget has previously been excluded. Mr. Okata proposes that 50% of "Standing Committee" expenses, and 10% of special committee expenses be allocated as time the committees spend on excludable activity. This results in an exclusion of \$3,995.00.

This Board accepts the HGEA's proposed exclusions, except where modified or increased in these Findings of Fact.
HSFL per capita payments

Upon reopening this case on July 11, 1978, Mr. Van Diamond, Executive Secretary of HSFL, was unavailable to testify. The HGEA offered to make Mr. Van Diamond available on another day if this was the wish of the Intervenor.

Mr. Van Diamond was not called, and the parties agreed to accept the transcript of the May 2 hearing on remand of the previous case as evidence in this case.

In our Decision No. 92, beginning on page 10, we list facts we found concerning the HSFL. We incorporate those findings of fact herein.

Since 10% of the Executive Secretary's lobbying time for lobbying unrelated to contract ratification has not been sufficiently justified on this record, this Board will again exclude 10% of his salary, or \$3,840, as a charge against the per capita payments. Each of the 14,168 bargaining unit members represented by the HGEA is entitled to a rebate of 27¢ per year, at their request.

Summary of Exclusions

<u>Accounts & Items</u>	<u>Initial Exclusions</u>	<u>Additional Exclusions</u>	<u>Totals</u>
Wages & Salaries	\$ 84,529	\$ 340	\$ 84,869
Wages & Salaries "The Public Employee"		10,495	10,495
Fringe Benefits		217,545	217,545
Workers' Compensation		400	400
Payroll Taxes		7,112	7,112
Administration - Oahu & State Telephone Service Bureau	39,438	2,398	39,438
Audit Fees		4,375	4,375
Administration - Neighbor Islands	1,590		1,590
Office Services-- State	1,599		1,599
Program Development - Oahu & State Retirees' Unit Excluded Unit	32,760 4,114		32,760 4,114
Recreation & Sports (All Islands)	57,102		57,102
Board of Directors	2,000	1,280	3,280
Committees		3,995	3,995

<u>Accounts & Items</u>	<u>Initial Exclusions</u>	<u>Additional Exclusions</u>	<u>Totals</u>
Legislative Services	40,000		40,000
UPW Remittance	59,104		59,104
"The Public Employee" - Production & Mailing		55,975	55,975
	<u>\$322,236</u>	<u>\$303,915</u>	<u>\$626,151</u>

A comparison of the HGEA's adjusted budget for 1977-78 to the income projected under the requested service fee formula shows:

Total projected budget, 1977-78	\$2,816,689	
Exclusions	<u>626,151</u>	
Adjusted total budget		\$2,190,538
Projected service fee income		<u>1,964,179</u>
Deficit		\$ 226,359

CONCLUSIONS OF LAW

As this Board stated in Decision No. 78:

. . . this Board's overall responsibility is to determine the "reasonableness" of the service fee assessment requested by an exclusive representative. We view the statute as requiring the Board to determine whether, based on the evidence presented, the service fee expenses and computations are permitted by Section 89-4(a), HRS. Thus, absolute mathematical precision is not required, as we do not think that the statute intended the Board's function to be one of a detailed auditing or accounting nature.

Decision No. 78 at 14.

The exclusions made in the Findings of Fact, above, are for those costs which the record does not show are "reasonably related to negotiation and administration of collective bargaining agreements." Jordan v. Hamada, et al., Civil No.

52424 at 4 (March 30, 1978). The remainder of the budget consists of proper service expenditures under Section 89-4(a), HRS.

Under the requested service fee formula, the figures show that the HGEA will have a deficit, and must subsidize its service fee activities with its non-service fee income. In Decision No. 78, this Board certified as reasonable a service fee based on similar projections of a deficit, and was affirmed in that respect by the Circuit Court in Jordan v. Hamada, supra, at 11.

We therefore conclude that the service fee requested by the HGEA is reasonable, except for that portion of the per capita payments to the HSFL used to pay for that portion of the Executive Secretary's lobbying time which has not been justified as "reasonably related to negotiating and administering an agreement."

This Board believes that the reasons for the HSFL disallowance, as well as most of the substantive questions of law raised in this case, have been fully discussed in Jordan v. Hamada and HPERB Decision No. 92. The HGEA and HSFL shall continue the rebate plan ordered in Decision 92 for the duration of the service fee deduction approved in this decision.

In HPERB Decision 88, In the Matter of State of Hawaii Organization of Police Officers, Case No. SF-12-50 (May 4, 1978), this Board stated that

. . . henceforth, this Board will certify service fee amounts only for periods for which a projected budget has been provided.

Decision No. 88 at 8.

The HGEA's budget has only been projected to June 30, 1978, the end of its 1977-78 fiscal year. Due to the delay in

processing the present petition, caused largely by the necessity for reopening the case, we will diverge from the above-stated policy and certify the service fee beyond the budgeted period, until modified by this Board.

ORDERS

An annual service fee of .0075 times the straight time monthly salary of employees in effect on September 1, 1977 times 12, plus the per capita payments to AFSCME (\$2.90 per month) and to HSFL (30 cents per month) is certified as reasonable by this Board.

The increased service fee shall be retroactive to September 1, 1977, 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 salary 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, 1977 to the date of this decision. The employer and the HGEA shall devise the method of deducting this retroactive sum.

From the date of this decision, the full amount of the above-certified service fee shall be deducted by the employer from the payroll of each employee covered by this decision. Such deductions shall be made each payroll period in an amount which, to the extent possible, is equal to the annual service fee divided by 24 payroll periods. In no event shall the service fee be less than \$7 per month nor

greater than \$15 per month for any employee. The service fee certified herein as reasonable shall continue to be deducted until such time as this Board directs otherwise.

All deductions made pursuant to this order shall commence at the earliest possible date, and shall be transmitted to the HGEA. It is further

ORDERED that employees covered by this decision be refunded, on request and pursuant to the rebate plan ordered by Decision 92, the rebatable 27¢ per annum that has been deducted from their paychecks as part of the per capita payments to the HSFL.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: October 20, 1978

Honolulu, Hawaii