

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
United Public Workers,)	Case Nos. <u>SF-01-59</u>
AFSCME, Local 646,)	<u>SF-10-60</u>
)	
Petitioner.)	Decision No. <u>96</u>
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDERS

On August 23, 1978, the United Public Workers, AFSCME Local 646 (hereafter UPW) filed a Petition for Certification of Reasonableness of Service Fees. The petition requested the Board to certify as reasonable a monthly service fee for full-time employees in Units 1 and 10 of 1.5 per cent of the wages or salaries in effect on July 1, 1978, with an \$8.65 minimum and a \$15.00 maximum.

The current monthly service fee for full-time employees is 1.5 per cent of the wages or salaries in effect on January 1, 1976 with an \$8.65 minimum and a \$15.00 maximum.

The current monthly service fee for part-time employees working 20 hours per week of \$7.65 will not be affected by the petition request.

After publication of legal notice in newspapers of general circulation, the Board held a hearing on the UPW petition on Monday, September 18, 1978. Mr. Henry Epstein, UPW's State Director, presented the UPW's case. No one appeared at the hearing in opposition to the petition.

Based on the entire record herein, this Board makes the following findings of fact, conclusions of law, and orders.

FINDINGS OF FACT

Petitioner UPW is and was at all times relevant, the certified exclusive representative of Unit 1 (non-supervisory blue collar employees) and Unit 10 (non-professional hospital and institutional workers).

There are approximately 8,012 employees in Unit 1 and 1,627 employees in Unit 10. Of these totals, the UPW has 6,681 union members in Unit 1 and 1,282 in Unit 10.

In addition to Units 1 and 10, the UPW also represents employees in the private sector. It allocates its budget between both sectors.

The current service fee for Units 1 and 10 is 1.5 per cent of the employees' monthly base pay in effect on January 1, 1976 for full-time employees with a minimum of \$8.65 and a maximum of \$15.00. Part-time employees pay a flat rate of \$7.65 per month. Part-time employees are those who work 20 hours or less per week.

The UPW's current fiscal year is from July 1, 1978 to June 30, 1979. The projected average monthly expenditures for Units 1 and 10 for fiscal year 1978 are \$116,097.91. The UPW has budgeted for increased expenditures for fiscal year 1978 attributable to: 1) salary increases for its managerial and office personnel and business agents; 2) a 6 per cent inflationary increase for operation of its office; 3) arbitration expenses; 4) increased auditing and legal fees; and 5) contract negotiations.

The total projected average monthly income for Units 1 and 10 for fiscal year 1978 will be \$107,103.45 if the new service fee is approved.

The UPW receives a monthly income from other sources as follows:

Interest income	\$ 545.00
MAF Service fee	2,300.00
Union hall rental	550.00
Initiation fees	250.00
Miscellaneous income	<u>577.91</u>
	\$4,222.91

The UPW budget projects the following average monthly expenditures for Units 1 and 10 during fiscal year 1978:

I. OPERATIONAL

a. Field Staff	\$ 29,804.26
b. Education and Newspaper	2,784.89
c. State Director	4,934.65
d. Office Overhead	6,146.88
e. Office and Janitorial	14,133.03
f. Auditing and legal	<u>2,520.00</u>
SUB-TOTAL	60,323.71

II. ORGANIZATIONAL

a. Meetings	3,780.00
b. Staff Officers	<u>294.00</u>
SUB-TOTAL	4,074.00

III. NON FULL-TIME PROGRAMS AND ACTIVITIES

a. Group Insurance	8.00
b. Bonding	63.00
c. Arbitrations	2,940.00
d. Subscriptions and Research	238.00
e. Donations	63.00
f. Sports	100.00
g. Lobbying	336.00
h. Per Capita: State Fed.	2,940.00
i. Coll. Barg. Units 1 and 10	4,000.00
j. Per Capita: AFSCME	<u>27,984.89</u>
SUB-TOTAL	38,672.89

IV. PAYROLL TAXES AND EXPENSES 5,047.31

a. UPW Political Action Committee	1,260.00
b. Building Program	2,520.00
c. Division Activities	2,268.00
d. Emergency Fund	<u>1,932.00</u>
SUB-TOTAL	<u>13,027.31</u>
TOTAL	<u>\$116,097.91</u>

The expenditures for Sports (\$100), Lobbying (\$336), Donations (\$63), Group Insurance (\$8), and Political Action Committee (\$1,260), do not reasonably relate to contract negotiation and administration. The \$336 Lobbying expense was not explained and thus will be disallowed in its entirety.

Of the expenditures listed in its budget categories, the UPW estimates that: 1) \$400 per month will be expended for services for non-bargaining unit members in categories I(a) through (d); 2) \$115.43 from category I(c) will be used for expense accounts for public relations purposes; 3) \$166 from category I(d) will be used for social activity; and 4) \$542.12 from category I(e) will be used for membership insurance. These expenditures are not reasonably related to contract negotiation and administration and are, therefore, disallowable as charges against service fee income.

In the budget category I(b), Education and Newspaper, \$1,780.78 is for the publication of the Organizer, the UPW newspaper. The Organizer is published monthly and is paid for proportionately by Unit 1 and 10 service fees and private sector member dues and service fees.

Thirteen issues of the Organizer, from September, 1977 to September, 1978, were submitted into evidence. Each issue is eight pages long. After examining the thirteen issues, the Board finds that approximately 69 per cent of the newspaper deals with union governance (election of officers, structure, and policies), unit meetings, contract negotiations and administration, grievance handling, and information relating to wages, hours and working conditions of persons represented by the UPW. Included in this 69 per

cent is a large number of photographs and cartoons, most of which illustrate employees at work or conducting union business. They also draw the reader's attention to concerns relating to working conditions. The remaining 31 per cent of the space in the newspaper is devoted to political endorsements, recreational and social events and ideological issues unrelated to wages, hours and working conditions and is, therefore, disallowable as a charge against service fees. The cost apportionable to this 31 per cent is \$552.04 monthly.

An Editorial Assistant spends 100 per cent of his work time on the publication of the Organizer and is paid \$825 per month. An additional \$494.50 per month is expended for his fringe benefits and taxes. Since the Board has determined that 31 per cent of the newspaper is disallowable, it will also disallow 31 per cent of these expenditures (\$409.05) for the Editorial Assistant.

The UPW expends a monthly total of \$1,499.39 in salary and \$684.44 for fringe benefits and taxes for a Legislative Aide/Researcher who devotes his work time as follows:

Lobbying and associated legislative activities	60%
Coordination of political activities during elections	20%
Research on cost-of-living changes, trends in wage settlements and in public sector negotiations for use in negotiations	20%

Of the 60 per cent time spent on lobbying, 40 per cent is for ratification of negotiated agreements, 50 per cent is for legislation on the retirement system, health fund and other labor-related issues affecting unit members, and 10 per cent is for general social legislation affecting the entire community. On the basis of previous decisions, the

Board will disallow the time spent on lobbying for general social legislation (6 per cent of time or \$131.03) and on political activities (20 per cent of time or \$436.75).

The UPW expends \$989.67 in salary and \$212.01 for fringe benefits and taxes for the Mutual Aid Insurance Clerk. The clerk spends 50 per cent of her work time on member benefits. Hence \$600.84 of the total amount expended for her is disallowable.

The UPW's per capita payment to its national affiliate, AFSCME, is approximately \$27,984.89 per month. AFSCME provides negotiation and contract administration training services for UPW staff, research material for use in negotiations, direct assistance in local negotiations, and staff and financial assistance during strikes. Funds for partisan political activity other than federal elections are expended by AFSCME using per capita monies; however, AFSCME has a rebate plan whereby service fee members may recover that portion of their per capita payment used for partisan political activities.

The rebate plan has been publicized to bargaining unit members through the Organizer and the AFSCME newspaper, the Public Employee. To obtain a rebate, an objector must file written notice of his objection between April 1 and 16 of each year. After AFSCME sends a rebate to the objector, every local or council to which the objector belongs must then calculate their payments for partisan political or ideological purposes and send the objector a proportionate amount. If the objector is dissatisfied with the proportional allocation, an appeal may be taken to the Judicial Panel. An AFSCME member may appeal further to the AFSCME Convention and a non-member may appeal to the Review Panel.

The UPW's per capita payment to its local affiliate, Hawaii State Federation of Labor (HSFL), is approximately \$2,940 per month. No per capita revenues of HSFL are used for partisan political activities since money for such purposes comes from the National AFL-CIO Committee on Political Education (COPE).

The HSFL provides the UPW with assistance in lobbying at the State Legislature, coordinating activities with other Hawaii unions and in strikes. The HSFL Executive Secretary-Treasurer, Administrative Secretary, Membership Clerk and Receptionist/Typist all spend about 15 per cent of their time on lobbying activities. Of this amount, 5 per cent is spent on contract ratification, 5 per cent on labor-related legislation affecting such things as worker's compensation, OSHA, temporary disability insurance, and 5 per cent on general social issues. The total salary cost (including fringe benefits and taxes for these employees is \$8,565.44. The Board will disallow 5 per cent of the salary cost attributable to lobbying activity on general social issues (\$428.27).

The UPW remits to the Hawaii Government Employees' Association (hereafter HGEA) \$1,324.80 per month for employees assigned to Units 1 and 10 who are members of HGEA. In Decision 78, this Board disallowed a similar remittance from the HGEA to the UPW since there was no evidence indicating the relationship of this expenditure to contract negotiation or administration. For the same reason, \$1,324.80 will be disallowed in this case.

In summary, the total amount of disallowable charges is as follows:

Sports	\$ 100.00
Lobbying	336.00
Group insurance	8.00
Political Action Committee	1,260.00
Donations	63.00
Membership insurance	542.12
Services for non-bargaining unit members	400.00
Social activity	166.00
Public relations expense account	115.43
Newspaper	552.04
Editorial Assistant	409.05
Legislative Aide/Researcher	567.78
Mutual Aid Insurance Clerk	600.84
HFSL lobbying activities	428.27
Remittance to HGEA	<u>1,324.80</u>

TOTAL: \$6,373.33

With a total projected monthly income of \$107,103.45 and projected expenditures of \$109,224.58 (\$116,097.91 minus total disallowable charges \$6,873.33), the UPW will have a deficit of \$2,121.13 even if its service fee petition is approved.

CONCLUSIONS OF LAW

Based upon the evidence submitted during the hearing on this matter, the Board finds that, except for those amounts disallowed by this Board in the Findings of Fact portion of this Decision, the budgeted expenditures being made or intended to be made by the UPW from service fees are proper under the provisions of Subsection 89-4(a), HRS.

In Decision 68 (June 4, 1978), a majority of the Board found the UPW's request for a lesser amount of service fees for employees working twenty hours per week to be reasonable. We reaffirm that conclusion.

The disallowance of certain UPW expenditures herein is consistent with prior decisions of this Board.

In its prior decisions, this Board has disallowed as charges against service fee expenses for sports, political

endorsements, donations, lobbying on social issues, public relations, purely social activities, and the costs of insurance programs and similar benefits which are available to members only or persons outside of the represented units which do not reasonably relate to the representational duties imposed upon exclusive representatives by Chapter 89, HRS. Also disallowed are lobbying costs the purpose of which has not been explained.

The disallowance of the monthly remittance of service fee income to the HGEA for HGEA members who are in Units 1 and 10 is required by Subsection 89-4(a), HRS, in the absence of a showing as to what relationship said remittance has to the UPW's responsibilities to represent said individuals itself. All persons in Units 1 and 10 are required to pay service fees to the UPW, not the HGEA. See, Decision 7. In Decision 78 a similar disallowance was made of HGEA payments to the UPW for HGEA members who are in Units 1 and 10.

Our treatment of the UPW newspaper is consistent with rulings of this Board concerning other union papers. See, Decisions 94 and 92. This Board has found that 69 per cent of the Organizer consists of items dealing with union governance, contract negotiation and administration, and working conditions of employees. These subjects reasonably relate to negotiating and administering collective bargaining agreements for Units 1 and 10. The newspaper costs for communicating about them with employees is an allowable charge against service fees.

The disallowances made in this Decision for lobbying on general social issues, and the allowance of expenditures for lobbying on matters affecting working conditions are consistent with our ruling on these subjects in Decision 94.

We have in Decisions 78, 92, and 93 approved of the AFSCME rebate plan and we approve of it here.

Apart from those items which have been disallowed in the Findings of Fact herein, this Board finds that the UPW's other budgeted expenditures for fiscal year 1978 for Units 1 and 10 are proper charges against service fees. The Board also finds that the requested increase has been justified and is reasonable under Subsection 89-4(a), HRS.

In Decision 88 of this Board, the following order was made:

"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."

Since the UPW's fiscal year ends on June 30, 1979, and since the evidence it put on covered only the 1978-79 fiscal year, the Board will approve the subject service fee only through June 30, 1979.

ORDERS

A monthly service fee of 1.5 per cent of an employee's monthly base salary in effect on July 1, 1978, subject to a minimum of \$8.65 and a maximum of \$15 per month, for employees working more than 20 hours per week and a monthly service fee of \$7.65 for employees working twenty hours per week shall be deducted by the appropriate employers

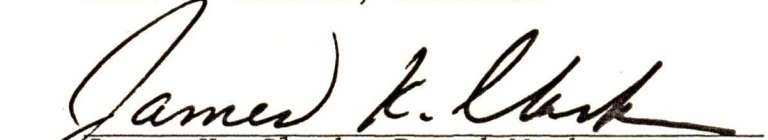
from the payroll of employees in bargaining units 1 and 10 and transmitted to the UPW. Such deductions shall be made each payroll period in an amount which, to the extent possible, is equal to the monthly service fee divided by two payroll periods.

The service fee shall be retroactive to July 1, 1978 for all employees on the payroll at that time. For all persons hired after such time, it shall be effective as of the date of hire.

The UPW is directed to petition this Board for a service fee review no later than June 30, 1979.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: November 27, 1978

Honolulu, Hawaii