

Dec. File

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

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|------------------------------|---|--------------------------|
| In the Matter of |) | |
| |) | |
| State of Hawaii Organization |) | Case No. <u>SF-12-61</u> |
| of Police Officers (SHOPO), |) | |
| |) | Decision No. <u>98</u> |
| Petitioner. |) | |
| _____ |) | |

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDERS

On October 1, 1978, the State of Hawaii Organization of Police Officers (hereafter SHOPO) filed a Petition for the Certification of Reasonableness of Service Fees. The petition requested the Board to certify as reasonable a monthly service fee of \$13.50 for employees in Unit 12 for the period from October 1, 1978 through December 31, 1978.

After publication of legal notices in newspapers of general circulation, the Board held a hearing on the SHOPO petition on November 13, 1978. Mr. Dayton Nakanelua, SHOPO's Acting Business Manager, presented SHOPO's case. No one appeared at the hearing in opposition to the petition.

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

FINDINGS OF FACT

Petitioner SHOPO is and was, at all times relevant, the certified exclusive representative of Unit 12 (police officers).

There are approximately 1,919 members in Unit 12. Of this total, 1,862 are union members and 40 are nonunion members.

(Dec. 28, 1978)

The current service fee for employees in Unit 12 is \$13.50 per month. It was approved by this Board on May 4, 1978 (Decision 88) for the period from July 1, 1977 through September 30, 1978. SHOPO was directed by this Board to petition for a service fee review no later than September 30, 1978.

SHOPO's current petition before this Board requests that the same \$13.50 service fee continue for another quarter from October 1, 1978 to December 31, 1978. If the petition is approved, SHOPO projects an income of \$77,031 for the quarter.

SHOPO also receives income from sources other than service fees. These sources are revenue from advertisements in the union newspaper, interest on savings accounts, self-administration handling fee for disability insurance program, union membership decal sales, associate members' dues and political action.

The SHOPO budget for the quarterly period from October 1, 1978 to December 31, 1978 projects a total expenditure of \$123,500 as follows:

ADMINISTRATIVE

| | |
|--|--------------|
| Staff Salaries and Wages | \$ 39,200 |
| Salary Increases - Bargaining Unit (Staff) | 1,800 |
| Employer's Payroll Taxes (7%) | 2,900 |
| Fringe Benefits | <u>3,700</u> |
| Sub-Total | \$ 47,600 |

OPERATIONAL EXPENSES

| | |
|-----------------------------------|----------|
| Service Bureau | \$ 1,000 |
| Professional Services | 15,000 |
| Staff Travel | 3,500 |
| Rent | 6,600 |
| Leasehold Improvements - Office | 3,000 |
| Janitorial Services | 850 |
| Office Supplies | 800 |
| Repairs, Maintenance & Supplies | 2,000 |
| Printing (Stationery & Envelopes) | 2,500 |
| Elections | 1,600 |
| Equipment Purchased | 1,000 |

| | |
|---|--------------|
| Equipment Leased/Rented | \$ 1,000 |
| Insurance (Theft, Fire) | 600 |
| Dues & Publications | 800 |
| Employee Development | 2,500 |
| Telephones, Beepers & Answering Unit | 2,200 |
| Postage | 1,000 |
| Messenger Service | 100 |
| Business Expense (Related to Coll. Barg.) | 300 |
| Legal Services | 3,000 |
| Negotiations SHOPO Staff Union (Studies) | <u>1,000</u> |
| Sub-Total | \$ 51,350 |

OTHER EXPENDITURES

| | |
|--|------------------|
| Contract Negotiations | \$ 1,000 |
| Grievances & Defense (Including Settlements) | 10,000 |
| Membership Development | 2,000 |
| Public Relations (Newsletter) | 3,000 |
| Board & Executive Meetings | 2,000 |
| Chapter Meetings | 3,500 |
| State General Membership Meetings | <u>3,000</u> |
| Sub-Total | \$ 24,500 |
| Total | <u>\$123,500</u> |

The \$39,200 for staff salaries and wages reflect existing salaries and wages for the Business Manager (\$5,400), Senior Business Agent (\$4,900), three Business Agents (\$11,900), Attorney (\$5,400), Executive Secretary (\$3,300), Account Clerk (\$2,700), Typist (\$2,100), Receptionist (\$2,000) and Part-time Clerk (\$1,500).

Three SHOPO employees are represented by the Office and Professional Employees International Union (hereafter (OPEIU). SHOPO is currently in contract negotiations with OPEIU and has, under the "ADMINISTRATIVE" category, budgeted \$1,800 for anticipated salary increases. In addition, SHOPO has budgeted under "OPERATIONAL EXPENSES": \$300 for business expenses arising out of contract negotiations with OPEIU; \$3,000 for legal services during said negotiations in the event that SHOPO's legal counsel encounters a conflict of interest; and \$1,000 for studies necessary for staff negotiations such as public and private wage comparisons.

The budget category "Fringe Benefits" includes \$1,300 for Major Medical, \$500 for Group Life, and \$1,900 for car allowances for six full-time employees and one part-time employee.

SHOPO often enlists the services of a business called the "Service Bureau" for such things as computer printouts and address labeling. One thousand dollars is provided in the budget to cover the cost of such services.

The SHOPO business agents, attorney and acting business manager are sometimes required to travel to the neighbor islands to handle grievances and conduct educational and informational meetings. Three thousand five hundred dollars was included in the budget under "Staff Travel" for this purpose.

SHOPO's current lease rent is \$1,445 per month (\$4,335 for the quarter) for its office space and conference room. The \$6,600 listed in the budget category "Rent" includes \$2,265 to cover anticipated rent increases due to lease renegotiations in November, 1978 and the acquisition of an additional 475 square feet of office space. In conjunction with the additional office space, \$3,000 has been budgeted for anticipated leasehold improvements thereon.

In November, SHOPO conducted its annual election of state and chapter union officers. One thousand six hundred dollars has been budgeted for this purpose under "Elections."

Recently, SHOPO sent three business agents and the acting business manager to Los Angeles to attend an American Arbitration Association seminar on arbitration. Expenses in the "Employee Development" category are for

travel, tuition and per diem expenses incurred for such SHOPO staff education and training.

SHOPO's contract with its various county employers expires on June 30, 1979. Hence, during the period from October through December, 1978, SHOPO must prepare for contract negotiations. One thousand dollars has been budgeted for the costs of such preparations, including travel and per diem allowances.

The "Grievances and Defense" budget category has been allocated \$10,000 to cover the costs of processing grievances such as paying for transcripts and arbitrators.

The purpose of the "Membership Development" category (\$2,000) is to develop the existing members' understanding of Chapter 89, Hawaii Revised Statutes (hereafter HRS), and the union's function under the law. Funds from this category will be used for educational and informational meetings, travel, per diem and space rental. No funds from this category will be used to organize or recruit new union members.

SHOPO publishes a monthly newsletter, the "E Noho Mau Loa Ka Uhane," which is sent to all bargaining unit members. Nine issues of the eight-page newsletter covering the period from January through September, 1978, were submitted into evidence.

After reviewing the nine issues, the Board finds that approximately 66 per cent of the newsletter is devoted to union governance (election of officers, structure and policies), Unit 12 contract negotiations, grievance handling, problems relating to police work, and reports on crime issues and legislation. Advertising takes up about 25 per cent of the newsletter space and 9 per cent is devoted to recreation, social events and ideological issues.

The Board will allow the production costs attributable to contract negotiations and administration and the advertising space, but will disallow all the costs for the space used for recreation, social events and ideological issues. The total disallowable amount for the newsletter is \$270.¹

The cost of the newsletter for the quarter is projected at \$3,000. Of this amount, \$600 (\$200 per month) is for an editor who is hired on an independent contractor basis. This editor is a regular SHOPO employee and his work on the newsletter is done outside of the 40-hour work week of his regular job.

There are a few SHOPO employees who spend some of their work time on activities of benefit to union members only, such as insurance programs and the SHOPO Relief Association.² The amounts budgeted for these employees for the quarter and the per cent of total work time spent on such activities are as follows:

| | <u>Quarterly Salary</u> | <u>Fringes</u> | <u>Taxes</u> | <u>Time Spent</u> |
|---------------------|-----------------------------|----------------|--------------|-------------------|
| Executive Secretary | \$3,300 | \$165 | \$231 | 21% |
| Accounts Clerk | 2,700 | 135 | 189 | 31% |
| Accounts/Typist | 2,100 | 105 | 147 | 75% |
| Receptionist/Clerk | 2,000 | 100 | 140 | 19% |

¹Different issues might have been present had SHOPO been more explicit as to how much of its newsletter was being paid for by advertising revenues rather than service fees. However, the Union failed to provide sufficient evidence on this matter.

²The SHOPO Relief Association was formed on March 12, 1976 for the purpose of establishing a trust to provide financial aid and other benefits to SHOPO union members and their immediate family in the event of untimely death or prolonged illness of any member.

In its budget, SHOPO indicated that 7 per cent of the salaries was used to determine the employer's taxes. The Board applied this 7 per cent assessment to the salaries of the employees to obtain the figures for taxes. The fringe benefits were calculated by dividing the amount for medical and life insurance benefits (\$1,800) by the total salaries (\$39,200).³ The result of 5 per cent was used to determine the figures for fringe benefits. The per cent of time was calculated by dividing the number of hours each employee spent on membership activities by 160, which is the Board's estimate of the average number of monthly working hours. The salary, fringes and taxes of each employee above were added and their total was then multiplied by the per cent of time spent to arrive at the disallowable charges.

The total amount disallowable as charges against service fees is as follows:

| | |
|-----------------------|---------------|
| Newsletter | \$ 270.00 |
| Membership activities | |
| Executive Secretary | 776.16 |
| Accounts Clerk | 937.44 |
| Accounts/Typist | 1,764.00 |
| Receptionist/Clerk | <u>425.60</u> |
| | \$4,173.20 |

With projected income of \$77,031 for the quarter and allowable planned expenditures of \$119,326 (\$123,500 minus total disallowable charges of \$4,173.20), SHOPO will

³The \$1,900 for car allowances was not included in the calculation since it appears that the four employees involved in union membership activities do not receive such allowances.

have a deficit of \$42,295 even if its current service fee petition is approved.

CONCLUSIONS OF LAW

Based on all the evidence submitted at the hearing in this case, the Board finds that, with the exception of the charges against service fee disallowed in the above Findings of Fact, SHOPO's planned expenditures are properly attributable to contract negotiations and administration as required by Section 89-4(a), HRS. The Board also finds that a service fee of \$13.50 per month is a reasonable charge for the employees of Unit 12.

The disallowance of expenditures for space in the newsletter dealing with recreation, social events and ideological issues is consistent with this Board's treatment of other union newspapers. See Decisions 92, 94 and 96.

The Board stated in Decision 92:

We do note that although we have disallowed costs attributable to recreational and social activities, in some instances, reporting of such activities makes house organs attractive and thus better conveyors of the not-so-interesting or readable messages concerning negotiation and contract administration. In this respect, this Board will continue to eliminate from the service fee computation the costs attributable to non-bargaining-unit member copies, and would also eliminate the cost of space devoted to partisan political and ideological issues unrelated to wages, hours, and working conditions. We would, however, encourage complete reporting on other activities and allow the cost of such reporting in the service fee computation if appropriately justified. (Emphasis added.)

The record of this case did not contain sufficient justification for the allowance of costs attributable to the reporting of "other activities" such as recreation and social events. Thus, these items were disallowed.

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 SHOPO submitted a budget covering the period from October 1, 1978 through December 31, 1978, the Board will approve the subject service fee only through December 31, 1978.

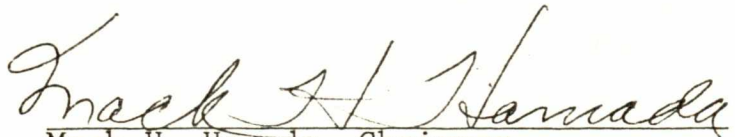
ORDERS

A monthly service fee of \$13.50 shall be deducted by the employer from the payroll of each employee in Unit 12. 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 October 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.

SHOPO is directed to petition this Board for a service fee review no later than December 31, 1978.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: December 28, 1978

Honolulu, Hawaii

(Decision No. 98)