

STATE OF HAWAII

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
HAWAII FIRE FIGHTERS)	Case No. <u>SF-11-17</u>
ASSOCIATION, LOCAL 1463,)	
IAFF, AFL-CIO,)	
)	Order No. <u>223</u>
Petitioner.)	
_____)	

ORDER DIRECTING EXCLUSIVE REPRESENTATIVE
TO PETITION FOR A NEW CERTIFICATION OF
THE REASONABLENESS OF ITS SERVICE FEE

On September 11, 1973, this Board issued Decision 35 which held that an annual service fee of \$64.20 was reasonable for employees in Unit 11 (firefighters).

There has been no review of said service fee since the issuance of Decision 35.

Subsequent developments, including a major interpretive change of this Board respecting service fee reviews, compel this Board to direct the Hawaii Fire Fighters Association (hereafter HFFA) to petition for a new certification of the reasonableness of its service fee.

The aforementioned interpretive change was set forth in an order in Decision 88 of this Board in Case No. SF-12-50 (May 4, 1978):

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 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.

The authority for this Order is contained in Subsection 89-4(a), Hawaii Revised Statutes (hereafter HRS),*

*The subsection requires the Board to certify the reasonableness of service fees.

Decision 35 and the Decision and Order of the Circuit Court entered on November 27, 1978, in the Case of Jensen et als. v. Hamada et als., Civil No. 54992.

Decision 35 ruled in relevant part:

Hereafter, the Board may, upon application of any affected employee or by the Petitioner, or in the Board's discretion initiate a review of the service fees.
(Emphasis added)


The Decision and Order of the Circuit Court in Civil No. 54992 stated that the decision of the Hawaii Supreme Court in Yamada v. Natural Disaster Claims Commission, 54 Haw. 621 (1973), was not a complete bar to reconsideration of a service fee decision for all time and that under exceptional circumstances a service fee could be reviewed.

The passage of more than five years since the last Unit 11 service fee decision and the major change established in Decision 88 in regard to the interpretation of Subsection 89-4(a), HRS, constitute exceptional circumstances which justify a review of the service fee for Unit 11.

Accordingly, the HFFA is hereby ordered to petition this Board for a new certification of the reasonableness of service fees no later than 4:30 p.m., Wednesday, February 28, 1979.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member


John E. Milligan, Board Member

Dated: January 10, 1979

Honolulu, Hawaii