

STATE OF HAWAII

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)
HAWAII NURSES ASSOCIATION,) Case No. SF-09-43
Petitioner.) Order No. 224

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

On November 15, 1976, this Board issued Decision 71 which held that an annual service fee of \$140 was reasonable for employees in Unit 9 (registered professional nurses.)

There has been no review of said service fee since the issuance of Decision 71.

Subsequent developments, including a major interpretive change of this Board respecting service fee reviews, compel this Board to direct the Hawaii Nurses Association (hereafter HNA) 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 Sub-section 89-4(a), Hawaii Revised Statutes (hereafter HRS),*

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

Decision 71 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 71 stated in relevant part:

The Board may, upon its own motion or the petition of HNA or any affected employee, review the reasonableness of said service fee whenever it deems such a review would be appropriate.

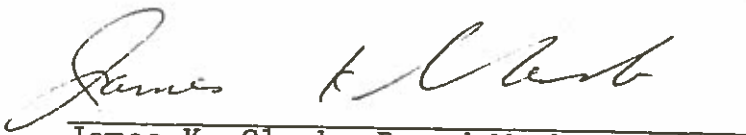
The Decision and Order of the Circuit Court in Civil No. 54992 stated that the decision of the Hawaii Supreme Court in Yamada v. Natural Disaster Claims Commission, 54 Haw. 621 (1973) was not a complete bar to reconsideration of a service fee decision for all time and that under exceptional circumstances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

The passage of more than two years since the last Unit 9 service fee decision and the major change established in Decision 88 in regard to the interpretation of Subsection 39-4(a), HRS, constitute exceptional circumstances which justify a review of the service fee for Unit 9.

Accordingly, the HNA 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