

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-53-09

(UNFAIR LABOR PRACTICE)

CLACKAMAS COUNTY)	
EMPLOYEES' ASSOCIATION,)	
)	
Complainant,)	FINDINGS AND ORDER
)	ON RESPONDENT'S
v.)	PETITION FOR
)	REPRESENTATION COSTS
CLACKAMAS COUNTY,)	
)	
Respondents.)	
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On February 25, 2010, this Board issued an Order dismissing the complaint because it failed to state a claim on which relief can be granted. 23 PECBR 571. On March 10, 2010, Clackamas County (County) petitioned for representation costs. On March 15, 2010, the Clackamas County Employees' Association (Association) objected to the petition.

Pursuant to ORS 243.676(3)(b) and OAR 115-035-0055, this Board finds:

1. The County filed a timely petition for representation costs. The Association filed timely objections to the petition.
2. The County is the prevailing party.
3. OAR 115-035-0055(2)(c) requires a petition for representation costs to include a statement which describes how the requested award would be consistent with the purposes and policies of the Public Employee Collective Bargaining Act (PECBA). The Association asserts that the County's petition fails to include the required description. We disagree. The petition contains such a description, and although it is somewhat general and conclusory, it is minimally sufficient.
4. According to the affidavit of counsel, the County incurred \$632.80 in representation costs. This consists of 5.6 hours of attorney time billed at \$113 per hour.

The hourly rate is considerably below the average. *Dallas Police Employees Association v. City of Dallas*, Case No. UP-33-08, 23 PECBR 510 (2010) (Rep. Cost Order) (the average rate for representation costs is \$165-170 per hour). The number of hours is also reasonable. See *Moore v. Mount Hood Community College Classified Employees Association and Mount Hood Community College*, Case No. UP-39-99 (Unpublished Rep. Cost Order, December 1999) (in a case dismissed without a hearing, one respondent reasonably spent 15.8 hours and the other respondent reasonably spent 13.8 hours).

5. The complaint alleged that the County bargained in bad faith when it changed health care benefits and coverage for bargaining unit members. According to the complaint, the levels of health care benefits and coverage were established by the parties' collective bargaining agreement. This board dismissed the complaint on grounds that a violation of the collective bargaining agreement does not constitute bad faith under ORS 243.672(1)(e).

We typically make an average award (*i.e.*, roughly one-third of the reasonable representation costs) in subsection (1)(e) unilateral change cases. *Northwest Education Association v. Northwest Regional Service District*, Case No. UP-23-06, 22 PECBR 482 (2008) (Rep. Cost Order). No factors here would cause us to make an award that is above or below average.

Having considered the purposes and policies of the PECBA, our awards in prior cases, and the reasonable cost of services rendered, this Board awards the County representation costs in the amount of \$210.

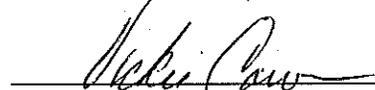
ORDER

The Association will remit \$210 to the County within 30 days of the date of this Order.

DATED this 17 day of May 2010.



Paul B. Gamson, Chair



Vickie Cowan, Board Member



Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.