

3. According to the affidavit of AFSCME's counsel, AFSCME incurred \$6,980 in representation costs. This represents 42.5 hours of attorney time at \$160 per hour, plus two hours of travel time at \$80 per hour.²

The hearing lasted slightly less than one full day. The County does not object to the number of hours requested, and we find the hours reasonable. *AFSCME Local 88 v. Multnomah County*, Case No. UP-18-06, 22 PECBR 636 (2008) (Rep. Cost Order) (cases typically take an average of 45-50 per day of hearing).

The County objects to the hourly rate. The requested rate is slightly higher than average, a factor we will consider in determining the reasonable amount of representation costs. *AFSCME Local 189 v. City of Portland*, Case No. UP-7-07, 23 PECBR 133 (2009) (Rep. Cost Order) (an hourly rate of up to \$155 is reasonable).

4. This Board held that the County violated ORS 243.672(1)(a) on three separate occasions when: (1) a County official threatened to take away bargaining unit members' on-call duties (and the extra pay for on-call duty) if the employees pursued and won a grievance; (2) the County followed through on its threat and removed employees' on-call duties within an hour after they won their grievance; and (3) a County official threatened to lay off employees if a group of employees sought reclassification and additional compensation. We chose not to decide additional allegations under subsections (1)(c) and (1)(e) because their resolution would add nothing to the remedy.

An average award is approximately one-third of a prevailing party's reasonable representation costs, up to the \$3,500 cap. *Benton County Deputy Sheriff's Association v. Benton County*, Case No. UP-24-06, 22 PECBR 46, 47 (2007) (Rep. Cost Order); OAR 115-035-0055(1)(a). We adjust that percentage up or down based on various policy considerations described in our rules and cases. We generally adjust the award upward when an employer violates subsection (1)(a) because the employer's conduct strikes at core Public Employee Collective Bargaining Act (PECBA) rights. *Service Employees International Union Local 503, Oregon Public Employees Union v. State of Oregon, Judicial Department*, Case No. UP-3-04, 21 PECBR 179 (2005). We will do so here.

Having considered the purposes and policies of the PECBA, our awards in prior cases, and the reasonable cost of services rendered, this Board awards AFSCME representation costs in the amount of \$2,635.

²Although AFSCME requests \$6,980, the total of the hourly rates times the hours spent is \$6,960. We will adjust AFSCME's request accordingly.

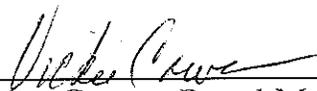
ORDER

The County will remit \$2,635 to AFSCME within 30 days of the date of this Order.

DATED this 25th day of August 2009.



Paul B. Gamson, Chair



Vickie Cowan, Board Member



Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.