



# Orange County Employees Association

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BoD 10/21/2015  
PUBLIC COMMENT

October 21, 2015

Cathy Green, President  
Board of Directors  
Orange County Water District  
18700 Ward St.  
Fountain Valley, CA 92708

RE: *Orange County Water District Employees Association v.  
Orange County Water District, PERB Decision No. 2454-M*

Dear Ms. Green:

I am writing to you on behalf of Orange County Water District employees represented by the Orange County Employees Association (OCEA), to respectfully request that the Board reconsider and decline to appeal the decision of the Public Employment Relations Board in the above-referenced case.

Our members at the District currently have what is commonly called an "open shop," meaning that those workers who are not members of the union pay nothing to the union, even though the union is required by law to represent them in their employment relationship and they benefit from the contract the union negotiates on their behalf. In other words, there are District workers who are currently getting a free ride, forcing other District workers to pay even more than their fair share so the freeloaders can have representation.

District employees wanted to change this unfair arrangement, and debated among themselves the best way to implement that change. They ultimately decided that requiring new District employees to either become members or pay a "fair share" amount to cover the cost of representation, while continuing to allow current members to choose to be members or non-members, was the right solution for them.

Many fair share arrangements apply to all employees in a bargaining unit. However, it is not uncommon for a union to elect to implement a fair share arrangement that applies only to future employees, preserving the "open shop" arrangement for current employees. This approach is based on the decision of the employees to address the free rider problem over time rather than all at once. As employees retire or move on, free riders are gradually eliminated until eventually there are none.

In this case, District employees had another basis for their decision grounded in fairness: New employees would accept employment subject to the new requirement while current employees, who accepted employment under the "open shop" rules, would not have the rules changed for them midstream in their District careers.



Other California jurisdictions have similar modified fair share arrangements in one or more of their bargaining units, including the County of Riverside (1986), Inland Empire Utilities Agency (1989), County of San Bernardino-Sheriff, (1992), County of Santa Barbara (1994), South Bayside System Authority-Water District (1996), County of Orange (2001), Riverside County Superior Court (2006), County of Alameda-Fire (2008), City of Anaheim (2009), County of Monterrey (2011), City of Beaumont (2012), City of Chula Vista, Santa Cruz County Superior Court, Shasta County, County of Santa Cruz, and County of Placer.

For four years, our members have attempted to work with the District to implement this change, first at the bargaining table, and later through the legal petition process provided in the Meyer-Milias-Brown Act (Government Code section 3502.5).

The District has repeatedly blocked these employee efforts.

Whether this is a good idea for the union is within the sole discretion of bargaining unit employees. As both the Administrative Law Judge and the PERB board have held, once the statutory requirements are met (there is no disagreement that has occurred), the employer has no discretion and must conduct an election.

I approach you with a request to reconsider because the Board's decision has the potential to irreparably damage employer-employee relations and employee morale. To continue to block members from exercising their democratic right to vote will be considered by employees to be an extraordinarily hostile and indefensible act.

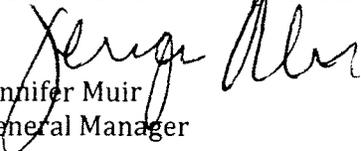
Modified fair share agreements are in place up and down California. Most of them have been implemented at the negotiating table, some have been implemented through an election, to my knowledge never has a public agency attempted to deny employees the right to conduct an election.

It's time to stop this unjustifiable interference with employee rights and let our members vote.

Please preserve harmonious employee relations, stop the hemorrhaging of ratepayer dollars, act in the best interests of the public you serve and your employees, and decline to appeal this decision.

Respectfully,

ORANGE COUNTY EMPLOYEES ASSOCIATION

  
Jennifer Muir  
General Manager