



ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT
ASH KALRA, CHAIR
ASSEMBLYMEMBER, TWENTY-SEVENTH DISTRICT

Taking Ownership: Worker Cooperatives and Shared Prosperity

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A Brief History of the Cooperative Movement

A cooperative or co-op is an entity owned and controlled by its members that operates for its members' benefit. The modern cooperative movement arose from the establishment of a cooperative store by the Rochdale Pioneers of Northern England in 1844.¹ The Rochdale Pioneers were artisans who could not afford food and household goods due to poor working conditions and low wages. As a result, they pooled their resources together and opened a cooperative store.² The Rochdale Pioneers also established a model of values and principles, known as the Rochdale Principles, to govern how a cooperative ought to be run.³ These principles formed the basis of the modern Cooperative Principles, a guide for cooperatives established by the International Co-operative Alliance (ICA).⁴ The modern ICA Cooperative Principles are: 1) voluntary and open membership, 2) democratic member control, 3) member economic participation, 4) autonomy and independence, 5) education, training and information, 6) cooperation among cooperatives, and 7) concern for the community.⁵

Many types of cooperatives have existed in California for years, including agricultural co-ops, business co-ops, financial co-ops, food co-ops, housing co-ops, and worker co-ops. There are a couple hundred agricultural cooperatives, which allow farmers to gain market power by joining together. Credit unions have existed in California for decades and are financial cooperatives owned by their member-consumers. Food co-ops, which have existed in California since the 1800s, are typically consumer-owned and allow consumers more control over the type and quality of products available and access to lower food prices.

¹ International Co-operative Alliance (hereinafter "ICA"), <https://www.ica.coop/en/cooperatives/history-cooperative-movement> (as of August 6, 2019).

² *Id.*

³ Rochdale Pioneers Museum, <https://www.rochdalepioneersmuseum.coop/about-us/the-rochdale-principles>, (as of August 6, 2019).

⁴ ICA, Guidance Notes to the Co-operative Principles (2015) page 1.

⁵ ICA, <https://www.ica.coop/en/cooperatives/cooperative-identity>.



The Principles of a Worker Cooperative

Worker cooperatives or worker-owned cooperatives are enterprises where workers participate in the profits, oversight, and management of the enterprise using democratic practices. The term “worker cooperative” has been defined more precisely as any enterprise that meets the following criteria:

- 1) The enterprise is a business entity with one or more classes of membership.
- 2) All workers who are willing to accept the responsibilities of membership and who meet the eligibility criteria are eligible to become worker-owners.
- 3) A majority of allocated earnings and losses are allocated to the worker-owners on the basis of patronage.
- 4) The class of worker-owners has a controlling ownership interest.
- 5) A majority of board of directors or governing body is elected by the worker-owners on the basis of one-member-one-vote.
- 6) Decisions about return on capital investment are made by the worker-owner class or by the Board of Directors or governing body.⁶

Worker cooperatives may set “member eligibility criteria” that a worker must meet before they can become a worker-owner. Member eligibility criteria may include “minimum tenure, minimum hours worked per year, payment of a buy-in amount, being voted . . . in by current members, or other criteria that are not intended to limit membership to a select group or groups. . . .”⁷ For example, Cooperative Home Care Associates (CHCA), an employee-owned home health care agency in the Bronx, allows employees to become voting members after they have completed their three-month probationary period and have purchased stock in the company.⁸

Other forms of worker ownership include stock sharing plans. An employer may allow employees to purchase stock through an equity compensation plan. In addition, employees may participate in an employee stock ownership plan, known as an ESOP, through the creation of a trust fund into which a company contributes shares of its own stock.⁹ The employee receives shares of the stock when the employee leaves or retires and then can sell those shares on the market or back to the company.¹⁰ These types of worker ownership models provide employees with shared earnings, however they do not necessarily provide employees with participation in the company’s decision-making.

⁶ Democracy at Work Institute, *Worker Cooperative Definition* (2015), <https://usworker.coop/wp-content/uploads/2018/02/Worker-Cooperative-Definition-2015.pdf>.

⁷ *Id.*

⁸ Ruth Glasser & Jeremy Brecher, *We Are the Roots* (2002), The Regents of the University of California (p. 72).

⁹ National Center for Employee Ownership, <https://www.esop.org>, (as of August 6, 2019).

¹⁰ *Id.*

Labor Unions and Worker Cooperatives

Some worker cooperatives are formed in conjunction with a union organizing drive or become unionized as a strategy for economic sustainability and enhancement of their democratic principles. Affiliating with a labor union can provide the cooperative with access to pension and health care benefits and a procedure to resolve worker grievances.¹¹ In addition, unionization connects what may be a small worker-owned business to a larger movement of workers. A recent example of this collaboration is the affiliation of the Denver-based Green Taxi cooperative with the Communication Workers of America (CWA) Local 7777. CWA was able to help the nearly 800 drivers, representing some 37 countries, secure a cooperative license and begin the process of taking ownership of a new app-based ride hailing platform.¹²

Challenges to Worker Cooperative Formation

A review of the literature identifies a set of common challenges in the formation of worker cooperatives. First, securing the capital and resources necessary to establish a cooperative can be a significant obstacle. Cooperatives may face difficulty finding investors or financial institutions willing to assist with start-up costs. As a consequence, cooperatives may become reliant on internal financing which carries its own risks. Worker owners of low or middle income status “may not have savings to fall back on or loans to float them as they [get] the businesses up and running.”¹³ In addition, continued access to capital is important for the sustainability of a worker cooperative.

Another impediment to the creation of a cooperative may be a worker owner’s lack of legal expertise. The legal framework for establishing a cooperative is not generally taught in schools. Potential owners must navigate a myriad of tax and corporation laws related to co-op formation. Even if these owners seek legal advice, many lawyers are also unacquainted with the nuances of options for entity formation.¹⁴ There is, however, a growing number of legal non-profit organizations who partner with workers interested in establishing or converting to a cooperative model.

The likelihood of a success in forming or sustaining a worker cooperative is also tied to the availability of support organizations. Having a network of organizations or an “ecosystem” committed to the success of the cooperative can be a critical factor in its implementation. A supportive ecosystem requires “building up a population of co-op developers, incubators, educators, and lenders charged with starting or converting worker-owned businesses.”¹⁵

¹¹ Mary Hoyer, “Labor Unions and Worker Co-ops: The Power of Collaboration,” Grassroots Economic Organizing, 2015.

¹² Michelle Stern, “Green Taxi Cooperative: Building An Alternative to the Corporate ‘Sharing Economy,’” Community-Wealth.org, May 19, 2016.

¹³ Michelle Camou, Cities Developing Worker Co-ops: Efforts in Ten Cities, Imagined Economy Project, August 2016, p. 23.

¹⁴ Carmen Huertas-Noble, “Worker-Owned and Unionized Worker-Owned Cooperatives: Two Tools to Address Income Inequality,” *Clinical Law Review*, vol. 22, Spring 2016, p. 353.

¹⁵ *Supra*, note 13, p. i.

Governmental Intervention to Assist Worker Cooperatives

In recent years, state and local governments have sponsored initiatives to help worker cooperatives overcome these structural and financial challenges. On the local level, a handful of cities, including Berkeley and Oakland, have taken a “preference approach” in providing economic assistance to worker cooperatives. The preference approach includes instituting bid preferences for verified or certified worker cooperatives able to meet the city’s procurement needs and can also include programs like tax forgiveness and the fast tracking of certain permits.¹⁶

Other municipalities have used an “anchor approach” to encourage the development of worker cooperatives. In this model, a city will utilize a worker cooperative to tap into the procurement needs of an “anchor” institution such as a hospital or university. Anchor institutions can help ensure demand for the goods or services of the cooperative. In the anchor approach, most of the financial assistance is funded through external loans and grants. Cities such as Rochester, New York and Richmond, Virginia have used this method to bolster anti-poverty initiatives in targeted areas.¹⁷

State governments have also taken action in this space, although mostly to revise and update cooperative statutes to simplify the incorporation process. In 2015, California updated its cooperative statute to include worker cooperatives with the passage of AB 816 (Bonta), known as the California Worker Cooperative Act.¹⁸ Specifically, AB 816 made it easier for worker cooperatives to raise capital for their company by increasing the threshold for a securities exemption. In addition, Wisconsin revised its cooperative incorporation statute in 2017 to enhance rights pertaining to member ownership and control.¹⁹ Furthermore, that same year, the state of Rhode Island enacted its first ever cooperative statute by passing Senate Bill 767 (Donna Nessel-Bush). This comprehensive legislation gave cooperatives the same powers, privileges, and restrictions as a business, including worker protections such as disability, unemployment, and workers compensation insurance.²⁰

On the federal level, the Main Street Employee Ownership Act, authored by Senator Kirsten Gillibrand (D-NY), was signed by President Trump as part of a defense bill in 2018. In general, the legislation allows the Small Business Administration (SBA) to loan money to worker cooperatives that want to buy out retiring small business owners. It expedites the loan process by permitting employee stock ownership plan loans to be made under the SBA’s preferred lender program. In addition, it makes these loans more attractive by permitting transaction costs to be financed as part of the SBA loan.

¹⁶ *Id.*

¹⁷ *Id.* at 26.

¹⁸ AB 816 (Bonta), Chapter 192, Statutes of 2015. Text available at: http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB816.

¹⁹ Wisconsin Act 76, 2017. Text available at: <https://docs.legis.wisconsin.gov/related/acts/76>.

²⁰ Sara Van Horn, “Cleaning Up the Workplace: Fuerza Laboral pioneers the first worker cooperative in Rhode Island,” *The College Hill Independent*, April 2019.

Furthermore, the Act permits the SBA to waive the requirement that at least 10 percent of the total project cost be put down in order to qualify for a loan to transition to employee ownership.

Questions to Consider

- 1) How does the worker cooperative model fit into the future of work in California?**
- 2) Are there opportunities for this model to expand in a gig economy?**
- 3) What state policy interventions are necessary to stem the tide of small business closures?**
- 4) What role can state policymakers play in encouraging the formation of worker cooperatives and democratic workplaces?**