



Legal Minute

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Employment through Cooperation: An Introduction to Workers Co-ops

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The marketplace sometimes fails to provide jobs that people need. When a large corporation does not step in to fill the need, there are alternatives. One such alternative is a cooperative. A cooperative is a voluntary association of persons united to meet their common economic, social and cultural needs through jointly owned and democratically controlled enterprises.¹ In other words, a cooperative is a business that is owned by its members. There are many different types of cooperatives, including consumer, producer, worker, and purchaser cooperatives. All cooperatives share certain characteristics, which distinguish them from other forms of businesses such as corporations. For example, unlike corporations that focus on creating the highest rate of return for investors, cooperatives focus on providing a return on benefits of the cooperative to its member owners.

What is a worker cooperative?

Worker cooperatives are distinct from other types of cooperatives. Some cooperatives provide goods and services for sale to their members, and a member's role in the cooperative is to purchase these goods and services. In contrast, worker cooperatives primarily offer goods and services for sale to nonmembers, and the role of members is the active ongoing ownership, operation, and management of the business.

In a worker cooperative, members work together in a commonly owned business, jointly taking the full risk and benefit of working, owning and operating their cooperative business. Governance of the worker cooperative is through consensus decision-making by all of the members, or other democratic structure. Members also contribute to, and benefit from, the capital of their cooperative, and decide how the net income or net losses are allocated. A successful worker cooperative will have member owners who are passionate about sticking to the worker cooperative principles, exhibit entrepreneurial characteristics and skills, have a viable business concept, and have adequate access to capital.²

Who has successfully used this model?

A conservative estimate of the number of worker cooperatives in America is roughly 300 businesses, across a variety of industries, such as child-care, food service, technology, and manufacturing. These worker cooperatives are owned by approximately 3,500 worker owners and generate roughly \$400 million in annual revenues.³ There is a large concentration of worker cooperatives in the bay area of California finding success. For example, the Cheeseboard Collective is a food service worker cooperative in Berkeley where worker member owners enjoy an hourly wage that is double the average industry salary in the area.⁴ Elsewhere, in Madison, Wisconsin, over 220 cabdrivers formed a worker cooperative 30 years ago that is still thriving today.⁵

How is a worker cooperative formed?

The law of each state controls how to form a cooperative. In Texas, all types of cooperatives are formed under the same statutes, which can be found in the Texas Business Organizations Code. Under Texas law, a cooperative may be formed for practically any lawful purpose. A cooperative comes into being when a certificate of formation is filed with the secretary of state. Upon filing the certificate of formation, the cooperative organizer must call a meeting of the members of the cooperative by sending

notice of the time and place of the meeting in the manner provided for in the certificate of formation at least three days in advance. At the meeting, bylaws will be discussed and adopted by a majority of the voting members. The bylaws may contain important information about the cooperative, including the requirements for admission to membership, requirements for disposal of member's interests when an individual's membership ends, information regarding meetings, and information regarding directors and officers of the cooperative. In addition, during the initial meeting, a board of at least five directors will be elected by the members to manage the cooperative. Each director may hold office for a maximum of three years, but may be removed by a majority vote or as provided for in the certificate of formation. The directors will then elect officers of the cooperative, including a president, one or more vice presidents, a secretary, and a treasurer. The same person may hold multiple offices, but may not serve as both president and secretary.⁶

What does being a member owner of a worker cooperative involve?

Worker cooperatives accept members when they meet the criteria of the cooperative set forth in the certificate of formation and bylaws, purchase a member share, and work in the business. As a member, each individual is entitled to one vote under a one member-one vote policy set forth in Texas law. Although a cooperative is an enduring entity, individual memberships may end through withdrawal or by expulsion. Expulsion may only occur at a meeting by a majority vote of the members. Anyone facing expulsion must be apprised of the charges 11 days prior to the meeting and are entitled to a hearing. Absent the threat of insolvency, the cooperative must buy the expelled member's capital holdings at par value.

How are the finances of a worker cooperative handled?

Even though worker cooperatives are not created to maximize shareholder profits, they do generate income and must manage finances much like a corporation. Texas law requires a worker cooperative to provide members with annual reports detailing the financial health and membership activity of the cooperative. Depending on the size and prosperity of the cooperative, other filings to state officials may be required. Within the cooperative, profits are either retained to grow the cooperative or dispensed to members as a benefit of the cooperative. Often, an internal capital account is created for each member owner, which reflects the amount of equity, or portion of the net worth of the entire cooperative that belongs to each member. This figure is based on the amount of work done by each member owner and not the amount of financial contribution. Depending on the overall profit or loss of the business, a member's internal capital account may be added to or subtracted from the income.⁷

What are the advantages and challenges to creating worker cooperatives?

Worker cooperatives have a lot of advantages over a more common or traditional business model. When workers are also owners of a business, there are greater incentives for higher quality and increased productivity. The sharing of financial responsibilities and decision-making responsibilities provide a greater opportunity to learn from peers and give worker owners a greater sense of empowerment. Unfortunately, worker cooperatives also face unique challenges both at their inception and after. If member owners are not committed to participating actively in the democratic process and placing the community of worker owner needs above individual agendas, there may not be enough momentum or cohesion for a worker cooperative to succeed. In addition, successfully forming a cooperative requires knowledge and capital. Fortunately, the community of cooperatives is growing and there are a growing number of resources to help educate and fund anyone who considers creating a cooperative.

Useful Resources on Cooperatives

1. International Cooperative Alliance, <http://www.ica.coop/al-ica/>
2. Rural Cooperatives Center, University of California, Davis, <http://cooperatives.ucdavis.edu/index.htm>
3. US Federation of Worker Cooperatives, <http://www.usworker.coop/front>
4. Network of Bay Area Worker Cooperatives, <http://www.nobawc.org/article.php?id=82>
5. Unioncab Coop: A Worker Cooperative, <http://www.unioncab.com>
6. Texas Constitution & Statutes, <http://www.statutes.legis.state.tx.us/?link=BO>
7. University of Wisconsin, Center for Cooperatives, <http://www.uwcc.wisc.edu>
8. Go Coop, <http://www.go.coop/kinds-co-ops/worker>
9. Green Worker Cooperatives, <http://www.greenworker.coop>
10. National Cooperative Business Association, <http://ncba.coop/>
11. The Arizmendi Association of Cooperatives, <http://www.arizmendi.coop>
12. Third Coast Workers for Cooperation, <http://www.thirdcoastworkers.coop>
13. WAGES, <http://wagescooperatives.org>
14. Charles T. Autry & Roland F. Hall, *The Law of Cooperatives*, ABA Publications, 2009