
THIRD READING

Bill No: AB 2849
Author: Mia Bonta (D), et al.
Amended: 8/17/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern,
Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-15, 5/25/22 - See last page for vote

SUBJECT: The Promote Ownership by Workers for Economic Recovery Act

SOURCE: SEIU California

DIGEST: This bill enacts the Promote Ownership by Workers for Economic Recovery Act establishing a panel to conduct a study regarding the creation of an Association of Cooperative Labor Contractors for the purpose of facilitating the growth of democratically run high-road cooperative labor contractors. The bill requires the study to consider specified issues and to be complete and publicly available by June 30, 2024.

Senate Floor Amendments of 8/17/22 delay the date of completion and public availability of the study from December 31, 2023 to June 30, 2024.

ANALYSIS:

Existing law:

- 1) Establishes the Nonprofit Corporation Law that recognizes the following:
 - a) Public benefit corporations;
 - b) Mutual benefit corporations; and
 - c) Religious corporations.(Corporations Code §5000-10841)
- 2) Establishes the Nonprofit Mutual Benefit Corporation Law and provides that a corporation may be formed as a nonprofit mutual benefit corporation for any lawful purpose, provided that it is not formed exclusively for charitable purposes, religious, or public purposes, as specified. (Corporations Code §7110-8910)
- 3) Defines “worker cooperative” or “employment cooperative” as a corporation, formed under the Cooperative Corporations part of the Corporations code, which includes a class of worker-members who are natural persons whose patronage consists of labor contributed to or other work performed for the corporation. Election to be organized as a worker cooperative or an employment cooperative does not create a presumption that workers are employees of the corporation for any purposes. At least 51 percent of the workers shall be worker-members or candidates. (Corporations Code §12253.5)
- 4) Establishes the Labor and Workforce Development Agency (LWDA) to serve California workers and businesses by improving access to employment and training programs, enforcing California labor laws to protect workers and create an even playing field for employers, and administering benefits that include workers’ compensation, unemployment insurance, and disability insurance and paid family leave. (Corporations Code §15550-15562)
- 5) Establishes, through Executive Order, the Future of Work Commission tasked with studying, among other matters, “the potential jobs of the future and opportunities to shape those jobs for the improvement of life for all of California,” “policies and practices that will help California’s businesses, workers, and communities thrive economically, while responding to rapid changes in technology and workplace structures and practices,” “policies and practices that will close the employment and wage gap for Californians,” “strategies for engaging employers in the creation of good, high-wage jobs of

the future,” and “workforce development, training, education, and apprenticeship programs for the jobs of the future.” (EO No-17-19)

This bill:

- 1) Finds and declares that:
 - a) Worker cooperatives have been shown to convey wealth building and other significant benefits to workers, including autonomy from larger economic forces, more resiliency during economic downturns, lower workforce turnover, greater voice in health, safety, and other workplace issues, and more equitable pay.
 - b) California-focused federated worker cooperative system may advance these objectives by encouraging the expansion of democratically run high-road cooperative businesses that promote equitable economic development, reduce inequality, and increase access to living-wage jobs.
 - c) The Legislature wishes to study how a federated worker cooperative system could advance the goals of the Future of Work Commission, particularly as they apply to historically underresourced communities.
- 2) Creates the Promote Ownership by Workers for Economic Recovery Act (Act) establishing a panel to conduct a study regarding the creation of an Association of Cooperative Labor Contractors for the purpose of facilitating the growth of democratically run high-road cooperative labor contractors.
- 3) Requires staff from the Labor and Workforce Development Agency, or a subsidiary department thereof selected by the Secretary of Labor and Workforce Development, to assist the panel in its tasks.
- 4) Specifies that the panel shall consist of the all of the following members:
 - a) The secretary or the director of a subsidiary department, as specified.
 - b) The Director of the Governor’s Office of Business and Economic Development.
 - c) An appointee of the Speaker of the Assembly.
 - d) An appointee of the President pro Tempore of the Senate.
 - e) A representative from the Future of Work Commission, as specified.
- 5) Authorizes the panel, in preparing the study, to retain outside experts on high-road jobs, worker cooperatives, business formation, and other pertinent topics.

- 6) Requires the study to consider, at a minimum, how to do all of the following:
 - a) Advance the goals of the Future of Work Commission.
 - b) Incentivize the growth of the association and its members.
 - c) Promote tenets of democratic worker control, including, but not limited to, uniform hiring and ownership eligibility criteria, worker-owners working most hours worked, most voting ownership interest being held by worker-owners, most voting power being held by worker-owners, and worker-owners exercising their vote on a one-person, one-vote basis.
 - d) Ensure that the association's members offer high-road jobs, which include, but are not limited to, jobs with the right to organize and participate in labor organizations and jobs with minimum labor standards, as specified, a compensation ratio between the highest and lowest paid employees, minimum health expenditures, minimum retirement expenditures, and protections for individuals formerly in the criminal justice system.
- 7) Requires the panel, in preparing the study, to engage in a stakeholder process by which it consults with, at a minimum, organized labor, worker cooperatives, and business groups that can assess the opportunities and challenges associated with expanding workplace democracy in the major sectors of the economy throughout the state.
- 8) Requires the panel to complete the study and make it publicly available on the internet no later than June 30, 2024.

Background

Future of Work Commission: On August 14, 2019, Governor Newsom signed Executive Order No-17-19 establishing the Future of Work Commission. In March 2021, the Commission issued its report, "A New Social Compact for Work and Workers," recommending that, among other actions, California help (1) ensure the creation of sufficient numbers of jobs for everyone who wants to work, including by extending financial and technical assistance to mission-oriented businesses, (2) eliminate working poverty, including by creating supports for workers to organize in unions and worker associations as well as supporting "high-road" employment, (3) create a 21st-century worker benefits model and safety net, including by developing a portable benefits platform and encouraging apprenticeship and other skill-building programs, (4) raise the standard and share of quality jobs, including by creating a California Job Quality Incubator to support the increase of high-quality jobs, and (5) futureproof California with jobs and skills to prepare for

technology, climate, and other shocks, including by providing incentives to the private sector to invest in worker training.

Worker Co-Ops: A worker cooperative is a business that is owned and controlled by its workers, who constitute the members of the cooperative. The two central characteristics of worker cooperatives are:

- workers own the business and they participate in its financial success on the basis of their labor contribution to the cooperative
- workers have representation on and vote for the board of directors, adhering to the principle of one worker, one vote

According to the Assembly Committee on Banking and Finance policy analysis of this bill:

A cooperative corporation (or co-op) conducts its business primarily for the mutual benefit of its members as patrons of the corporation. The earnings, savings, or benefits of the co-op are legally required to be used for the general welfare of the members. Whereas a traditional corporation generates earnings for its owners or shareholders, a co-op is required to proportionately and equitably distribute earnings to some or all of its members or its patrons, based upon their patronage of the corporation.

Consumer co-ops and worker co-ops are two general classes of cooperative corporations. A consumer co-op is organized for the benefit of its members who purchase goods or services from the co-op. *A worker co-op is organized for the benefit of its members who provide their labor in the production of the good or service sold by the co-op.*

Both consumer and worker co-ops are required to distribute their earnings, savings, and benefits to their members. For worker co-ops, these distributions are typically based on the amount of hours worked or wages earned and often take the form of a share in year-end profits.

[NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the challenges faced in creating worker co-ops and examples of such models.]

Comments

Need for this bill? According to the author, “Forming worker co-ops can be difficult due to complicated state and federal laws, tax laws, and access to capital. A typical worker owned co-op needs to have access to capital, and often requires multiple financial sources such as loans from banks, CDFIs, investors, members, or even community members. Additionally, there is no uniform cooperative code in the United States, and definitions and incorporation guidelines vary from state to state. The lack of understanding around co-ops has created material challenges for these entities. For example, worker co-ops in California have reported facing administrative struggles in obtaining loans, insurance, and other areas where an individual is asked to sign and unduly take on the liability that is in actuality spread across the worker-owners.”

Related/Prior Legislation

SB 1407 (Becker, 2022) establishes the CA Employee Ownership Program within the Office of Small Business Advocate to assist small businesses in transitioning to employee ownership. Establishes an Employee Ownership Outreach and Technical Assistance Grant Program for funding education and outreach programs that increase awareness and technical assistance for employee ownership transitions. Establishes an Employee Ownership Feasibility Assessment Grant Program (EOFA Grant) to assist in the development of financial assessments to determine viable employee-ownership transition scenarios.

AB 1319 (Gonzalez, 2021) – This bill (AB 2849) began as a reintroduction of AB 1319, which did not move out of Assembly Appropriations committee.

SB 779 (Becker, Chapter 223, Statutes of 2021) amended the list of “earn and learn” programs by specifying that an “earn and learn” program includes transitional jobs, as described in the federal Workforce Innovation and Opportunity Act (WIOA), and subsidized employment, as provided by an employment social enterprise, or a worker cooperative, particularly for individuals with barriers to employment.

AB 816 (Bonta, Chapter 192, Statutes of 2015) renamed the Cooperative Corporation Law and authorized a cooperative corporation to elect to designate itself as worker cooperative in its articles of incorporation, and require that 51% of the workers shall be worker-members or candidates.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the Labor and Workforce Development Agency (LWDA) would likely incur a one-time cost in the hundreds of thousands of dollars to complete the study (General Fund).

SUPPORT: (Verified 8/17/22)

SEIU California (source)
A Slice of New York
American Sustainable Business Network
California Labor Federation, AFL-CIO
Cooperacion Santa Ana
Project Equity
Worker-Owned Recovery California Coalition

OPPOSITION: (Verified 8/17/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, SEIU California, “Worker co-ops operate across the world and across industries, both as for-profit and nonprofit enterprises. In contrast to the conditions many workers are facing today, worker co-ops offer a worker-centered model that offers both a sustainable, long-term arrangement for workers, and accelerates their economic recovery. While the worker co-op model has been successful globally and in smaller operations in the United States, co-ops have not yet scaled up, largely due to a lack of access to capital and to expertise in navigating the complex tax and corporation laws associated with forming a co-op.”

ASSEMBLY FLOOR: 56-15, 5/25/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Chen, Daly, Lackey, Mayes, O'Donnell,
Valladares

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
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