



California AB 816, “California Worker Cooperative Act”

FACT SHEET

Drafted by California Worker Coop Policy Coalition

www.usworker.coop/AB816

THE BASICS

- AB 816 renames the California Consumer Cooperative statute to now be called the California Cooperative Law. This will eliminate a lot of confusion surrounding whether worker cooperatives can form under the law.
- The Bill creates an election under the existing law to form as a worker cooperative. Existing California worker cooperatives incorporated under the current CA Cooperative statute will be able to amend their articles of incorporation to be governed as a worker cooperative. New worker cooperatives can elect worker cooperative status during incorporation.
- AB 816 is aimed at supporting existing worker cooperatives *and* promoting the establishment of new worker cooperatives. It provides flexibility enabling worker cooperatives to launch and grow, while maintaining a commitment to the cooperative principles.
- Currently, there is no legal definition of a worker cooperative in California. AB816 provides a basic definition for worker cooperatives as “a corporation that includes a class of worker-members who are natural persons whose patronage consists of labor contributed to the corporation.”

TAX BENEFITS

- AB 816 conforms to the cooperative taxation benefits provided in the Internal Revenue Code, enabling existing worker cooperatives and new worker cooperatives to continue to take advantage of significant tax benefits of subchapter T (or “coop tax”) treatment in the Internal Revenue Code.

ENSURE WORKPLACE DEMOCRACY

- AB 816 requires that 51% of workers must be worker-owners *or* be on track for worker-ownership. This ensures that the worker cooperative form cannot be abused by businesses which are owned by a minority of their workers.
- Worker-owners always maintain a controlling interest in the business, based on ‘one worker, one vote’ principle. *If* a worker cooperative *chooses* to permit outside investors, those other member classes are provided minimal and strict voting rights, not to exceed worker-owners controlling interest (see ‘Outside Investors’ below).

PROFIT DISTRIBUTION

- The bill ensures that the majority of profits and surplus are retained by the worker-owners. While the cooperative is permitted to distribute earnings to investors in the form of capital dividends, such distributions are capped at a maximum 15%. Further, distributions of *surplus* from patronage of the cooperative are limited to worker-members. This is to ensure that worker cooperatives are focused on building wealth, through patronage distributions, for their workers, not for other classes of members.

SPECIAL MEETINGS & MEETING NOTICE REQUIREMENTS

- Reduce the notice requirement for worker-member meetings from 10 days to 48 hours, making it easier for worker-members to meet and make important business decisions.
- Require that *only workers* can call special meetings, not any other class of members
- Ability to organize as a Collective Board Cooperative, which allows the cooperative to conduct meetings as a board of directors, removing the requirement to have an additional annual meeting as worker members.

SECURITIES LAW EXEMPTIONS

- Increase the securities law exemption for member equity contributions from \$300 to \$1000. This allows for worker members who are not on the board to invest more money in their cooperatives without having to register these investments with the State (avoiding expensive lawyers and fees).

OUTSIDE INVESTORS

- *The bill does not require a worker cooperative to have outside investors or give them any voting rights.*
- The bill *permits* worker cooperatives to accept outside investment, while limiting outside investor influence, ownership, and control. *If a worker cooperative chooses to have non-worker or “investor” members, the cooperative may permit them only limited approval rights over decisions that may affect their investment, such as approval over a decision to sell off the assets of the cooperative or merge it with another cooperative. Non-worker members are not permitted to propose such a decision.*
- Provide flexibility that allows support organizations (like cooperative developers or non-profit organizations) to invest in and support the development of cooperative enterprises. As worker cooperative development has increased in recent years, innovative models for launching new businesses continue to develop. *This provision enables flexibility, while maintaining and ensuring worker-owner control.*

INDIVISIBLE RESERVES PROVISION

The Canadian Worker Cooperative Federation offers a clear description of an indivisible reserve: *“An indivisible reserve in a worker co-op is property owned by the co-operative/the co-operative movement which can never be divided among members. It is created by allocating a*

set percentage of annual surpluses to the indivisible reserve... As long as the co-op is operating as a co-op, it can use the indivisible reserve like any other retained earnings. In other words, this reserve can be controlled by the members, but not accessed by them for distribution to themselves individually. "Indivisible" means that if the co-op ceases to exist as a co-operative (e.g., because it is wound up, or sold), the reserve will go to a co-op development fund, a federation or another co-operative organization and not be available to the individual members. Because indivisible reserves can never be cashed out by individual members, they provide long-term investment capital that supports longevity of the co-op, across generations. The indivisible reserve is a means by which worker co-op members can demonstrate strong commitment to the worker co-operative movement and its values."

AB 816 allows, *but does not require*, a worker cooperative to establish an indivisible reserve. The worker-owners determine and designate in the cooperative's articles of incorporation or bylaws which cooperative support organization would be the recipient of the indivisible reserve assets should the cooperative dissolve. Only under circumstances where the worker cooperative *does not* designate a specific beneficiary in its bylaws, under AB 816 the assets would be allocated to an internationally, nationally or regionally recognized cooperative development support organization.

The use of indivisible reserves accounts is well recognized for strengthening the cooperative movements in Italy, Spain, France and Quebec. In fact, where the worker cooperative movements are strongest, there is usually a policy of *requiring* indivisible reserves. Additionally, in those countries coops receive a tax benefit for capital that is invested into the account. Our goal with AB 816 is to introduce the practice of indivisible reserves as *an option*, with a future goal of getting tax benefits for amounts placed into those accounts.

Learn more about indivisible reserve accounts:

http://institute.usworker.coop/sites/default/files/resources/390%202013_reynolds_equity.pdf (pg 12-15)

<http://www.canadianworker.coop/resources/documents/indivisible-reserve>

About the CA Worker Coop Policy Coalition

The California Worker Cooperative Policy Coalition is a group of worker cooperative businesses, developers, and technical assistance providers who collectively represent a few hundred worker-owners and at least 25 California businesses. The coalition includes representatives from the US Federation of Worker Cooperatives, the Arizmendi Association of Cooperatives, the Democracy at Work Institute, and technical and legal assistance organizations. More information about AB816 can be found: www.usworker.coop/AB816

Contact: Christina Oatfield: (415) 828-5627, Christina@theselc.org