

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3476

By Delegate Pushkin

[Introduced February 14, 2023; Referred to the
Committee on Economic Development and Tourism
then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article
 2 designated as §31D-9-901, §31D-9-902, §31D-9-903, §31D-9-904 and §31D-9-905, all
 3 relating to establishing workers cooperative corporations; providing a short title; providing
 4 legislative findings and purpose; defining terms; requiring certain articles and conditions
 5 for workers cooperative corporations; and providing criteria for their dissolution.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. COOPERATIVE CORPORATIONS

§31D-9-901. Short Title.

1 This article is and shall be cited as the West Virginia Workers Cooperative Corporations
 2 Act.

§31D-9-902. Legislative Findings and Purpose.

1 (a) The purpose of this article is to authorize employee owned cooperative corporations to
 2 be established when the purpose of the cooperative corporation is to create and maintain
 3 sustainable jobs and building employee wealth and success, to improve the life of its employee-
 4 owners, and establishing a business model that by its design is to promote sustainable jobs and
 5 economic activities that are directed to preserving local communities and create cooperations that
 6 focus less on stockholders profits and more on economic viability and preservation of local jobs
 7 and economic prosperity for those who provide services to the cooperation.

8 (b) This article governs the organization and operation of workers cooperative corporations
 9 and authorizes a corporation to elect to designate itself as a workers cooperative in its articles of
 10 incorporation and to authorize the cooperative corporation to apportion and distribute its net
 11 earnings and losses at the time and in the manner specified in the articles of incorporation or
 12 bylaws. Any cooperative may establish itself as a capital account workers cooperative in its
 13 articles or bylaws in which case the entire net book value of the corporation would be reflected in
 14 member capital accounts, one for each member and an unallocated capital account if any as
 15 specified.

16 (c) Any provision of this article that does not conflict with any provision of chapter 31D of
 17 this code, to the extent that provision is applicable to employee owned cooperative corporations,
 18 as established by this article, shall apply.

§31D-9-903. Definitions.

1 As used in this article:

2 "Capital account cooperative" is a worker cooperative in which the entire net book value is
 3 reflected in members capital accounts, one for each member, and as unallocated capital account,
 4 if any

5 "Collective board worker cooperative" means a worker cooperative in which there is only
 6 one class of members consisting of worker-members, all of whom are members of the board.

7 "Patronage" may be measured by the work performed or the services contributed,
 8 including wages earned, number of hours worked, seniority in the cooperative, number of jobs
 9 created in the previous taxable year, or some combination of these measures;

10 "Voting power" means the power to vote for the election of directors at the time any
 11 determination of voting power is made and does not include the right to vote upon the happening
 12 of some condition or event that has not yet occurred; and

13 "Worker cooperative" means a corporation formed under this article that includes a class of
 14 worker-members who are natural persons whose patronage consists of labor contributed to,
 15 personal services performed for, or other work performed for the corporation.

§31D-9-904. Articles of Incorporation.

1 (a) A worker cooperative organized under the provisions of this article shall make the
 2 following statement in its articles of incorporation or its amended articles of incorporation:

3 "This corporation is a worker cooperative corporation organized under the Business
 4 Corporations Act."

5 (b) A worker cooperative may, in its articles or bylaws, establish itself as a capital account
 6 cooperative.

7 (c) The articles or bylaws of a capital account cooperative may authorize assignment of a
8 portion of retained net earnings and net losses to an unallocated capital account. The unallocated
9 capital account in a capital account cooperative shall reflect any paid-in capital, net losses, and
10 retained net earnings not allocated to individual members. Earnings assigned to the unallocated
11 capital account may be used for any and all corporate purposes, as determined by the board of
12 directors.

13 (d) The system of member and unallocated capital accounts may be used to determine the
14 redemption price of member shares, capital stock and written notices of allocation. The articles or
15 bylaws may provide for the capital account cooperative worker cooperative to pay or credit interest
16 on the balance in each member's capital account.

17 (e) The articles or bylaws of a capital account cooperative may permit the periodic
18 redemption of written notices of allocation and capital stock and shall provide for recall and
19 redemption of membership shares upon termination of membership in the cooperative.

20 (f) A worker cooperative may issue only one type of membership. All worker-members
21 shall have the rights, privileges, preferences, restriction or conditions as provided in the articles or
22 bylaws. This membership shall be indivisible.

23 (g) Any shares aggregate investment any worker member in shares or memberships sold
24 pursuant to this article may not exceed \$5,000.

25 (h) A collective board worker cooperative may not be required to hold annual meetings of
26 its members.

§31D-9-905. Dissolution or consolidation.

1 (a) A worker cooperative that has not revoked its election to be governed as a worker
2 cooperative under the provisions of this article may not consolidate or merge with another
3 corporation other than another worker cooperative. Two or more worker cooperative may merge
4 or consolidate in a manner consistent with this chapter.

5 (b) After complying with the provisions of this section, upon dissolution of a workers

- 6 cooperative, the majority of the unallocated capital account shall be distributed to member on the
7 basis of the following:
- 8 (1) Patronage,
 - 9 (2) Capital contributions, or
 - 10 (3) A combination of patronage and capital contributions.
 - 11 (c) A worker cooperative is authorized to include patronage provided by past and current
12 members in its distribution of the unallocated capital account.
 - 13 (d) The provisions of this section may not apply to any amounts in the indivisible reserve
14 account. Any amounts in the indivisible reserve account shall, upon dissolution, be allocated to an
15 International Cooperatives Alliance approved national federation or a regional body of this state
16 designated in the articles of incorporation or the bylaws.

NOTE: The purpose of this bill is to establish workers cooperatives which are employee owned corporations created to be operated for the benefit of the employees and the local community; providing guidelines and criteria for their incorporation and a process for their dissolution.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.