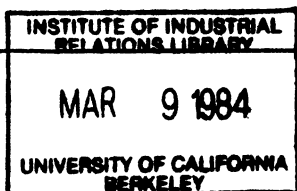


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UNIONS AND EMPLOYEE OWNERSHIP

by Alan Cheadle

A growing number of labor organizations are developing new tactics to save existing jobs and to create new ones. Recent efforts have involved unions in developing new products, influencing investment, controlling pension funds, helping workers to own companies, and helping to increase worker input in decision-making.

Employee ownership is perhaps the most often considered and the most difficult and controversial of these labor tactics. This article will look at both the potential for and the controversy surrounding the use of employee ownership as a tool for saving and creating jobs. The questions and answers that follow are based on a conversation with Catherine Squire, regional director of the National Center for Employee Ownership.

LCR: How can a union raise enough money to buy out a large public corporation?

CS: *The primary vehicle for large buyouts is an Employee Stock Ownership Plan (ESOP), a form of employee benefit/pension plan. The employees at the existing firm set up a new corporation, which in turn establishes an ESOP. The ESOP trust borrows the money to buy the corporation, usually from private banks but occasionally from employees or the community, using the assets of the corporation as collateral for the loan. The loan is paid back out of the future profits of the corporation. These payments are made indirectly—the corporation makes cash contributions to the ESOP trust and the trust makes the payments on the loan. Both the principal and interest payments are tax-deductible, since an ESOP is an IRS qualified pension plan.*

In addition, each employee is allocated a share of the new company's stock held by the ESOP trust (the allocation is usually proportional to compensation), as contributions are made to pay back the loan. These shares are held in trust and can be sold only upon retirement or leaving the firm. They are subject to the vesting provisions of regular pension plans, i.e., the shares in each employee account are only completely owned after a given length of service with the company.

LCR: Are wage concessions usually required as part of the buyout agreement?

CS: *There is no requirement that any of the money raised to buy a company must come from wage concessions, and in fact it is preferable to avoid using any worker money (wages or pension funds) directly in the buyout. However, the decision to buy a company often comes out of "give-back" negotiations; concessions may be required to keep the company operating in a recession, and direct ownership and/or worker input in decisions is something the union can get in return. Then if the company turns around the workers have a better chance of sharing in its success.*

LCR: Are these really "employee owned" companies, given that the banks often gain substantial control over the company in exchange for the loans, and that trustees control the stock held in the ESOP trust?

CS: *The critical issue is control over corporate policy, and this may be achieved even then the majority of the ESOP loans are still outstanding. A federal law passed in 1979 requires that employees in publicly held corporations must receive pass through voting rights on key corporate decisions (e.g., plant closures), in proportion to the stock they hold in the ESOP trust. For example, the workers at Wierton Steel will be able to vote on future decisions to close the plant even though they will not control enough shares to elect members of the board of directors for five years.*

In privately held corporation, there is no legal requirement that employees receive pass through voting rights on stock held in trust. For example, employees used an ESOP to buy a plant divested by U.S. Sugar Corp. without receiving pass through voting rights on the stock. Therefore, in privately held corporations, voting rights must be written explicitly into the buyout agreement.

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LCR: Can you give some examples of successful and unsuccessful buyouts that illustrate what unions should be aware of in pursuing this option?

CS: *Two keys to a successful buyout are first, buying a viable company and second, retaining control over company policy. These were both achieved in the buyout of a GM roller bearings plant in Clark, New Jersey in 1981 (now Hyatt Clark Industries). GM helped finance the buyout and agreed to purchase the company's output for three years, guaranteeing the company's short run viability. Two UAW leaders administer the pension plan and three union members sit on the board of directors (along with three from management and seven outside directors). Initial results are positive: employment is up 42% to 1,100, and the company runs effectively with less than half the management that was required under GM's direction.*

The 1975 buyout of an Amstead Industries machine tool plant (South Bend Lathe) shows what can happen when adequate provisions for employee control are not written into the original buyout agreement. Stock voting rights are based on vested shares rather than total shares in the trust (22% vs. 67% of outstanding stock), and as a result the union is not adequately represented on the board. Protests against this situation, which began with petitions in 1977, culminated in a strike by worker-owners in 1980 in which pickets were thrown off "their own" parking lot. The South Bend Lathe case shows the importance of carefully negotiating the original buyout agreement. The legal issue of whether changes in an ESOP can be made part of the collective bargaining process has yet to be resolved.

Rath Packing (the 1979 buyout of an Iowa meat packing company) is an example of an initially successful buyout (in terms of the ownership and control structure and the number of jobs saved) that is now threatened by adverse market conditions. This problem can only be avoided by carefully evaluating the market environment to be faced by the new company.

LCR: What is the overall success rate?

CS: *Of the roughly 60 buyouts we know of that have occurred in the last ten years, six have failed. Out of a total of 50,000 jobs saved initially, 2,000 have been lost due to these failures.*

LCR: How do you respond to the criticism that employee ownership weakens unions by forcing workers to wear two hats—labor and management?

CS: *If anything, the union role is expanded in an employee owned firm. The union continues to play a short-term role, bargaining for higher wages and better working conditions and representing individual worker grievances. However it also plays a long-term role through its representation on the board of directors and in management committees by influencing investment decisions, personnel policy and new product development. These short and long term goals may come in conflict, if for example higher wages make the company less competitive; however, unions have always had to consider the impact of their actions on the long term viability of the company.*

The best evidence that unions are not weakened when their members become employee owners is that strikes do occur in employee owned companies. I mentioned the South Bend Lathe case earlier and there have been others.

LCR: For further information on buyouts or employee ownership in general, LCR readers should order **Employee Ownership: An Employee Buyout Handbook**, published by the National Center for Employee Ownership, or contract the National Center directly at:

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