

THE COOPERATIVE PLATFORM ECONOMY ACT

The *Dynamex* Opportunity

Over the past decade, gig economy companies like Uber and TaskRabbit have eroded hard-won employment protections by classifying workers as independent contractors. As a result, workers in the gig economy operate without basic benefits like health insurance, workers' compensation, breaks, or paid time off. They are often subjected to unsafe, compromising situations without recourse.

In a recent California Supreme Court case, *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*, No. S222732 (Cal. Sup. Ct. Apr. 30, 2018), the court unanimously announced a new test that would reclassify many gig economy workers as employees, restoring critical employment standards.

In anticipation of this shift, a collaboration of worker advocates in California have developed the Cooperative Platform Economy Act, which offers an innovative new model that can be used to preserve the flexibility of the current gig economy arrangement, provide legal certainty to gig economy companies, and ensure workers receive the benefits and protections they deserve as well as an ownership stake in the business where they work.

If successful, the Act would result in the majority of platform workers being employed at businesses that they own and govern.

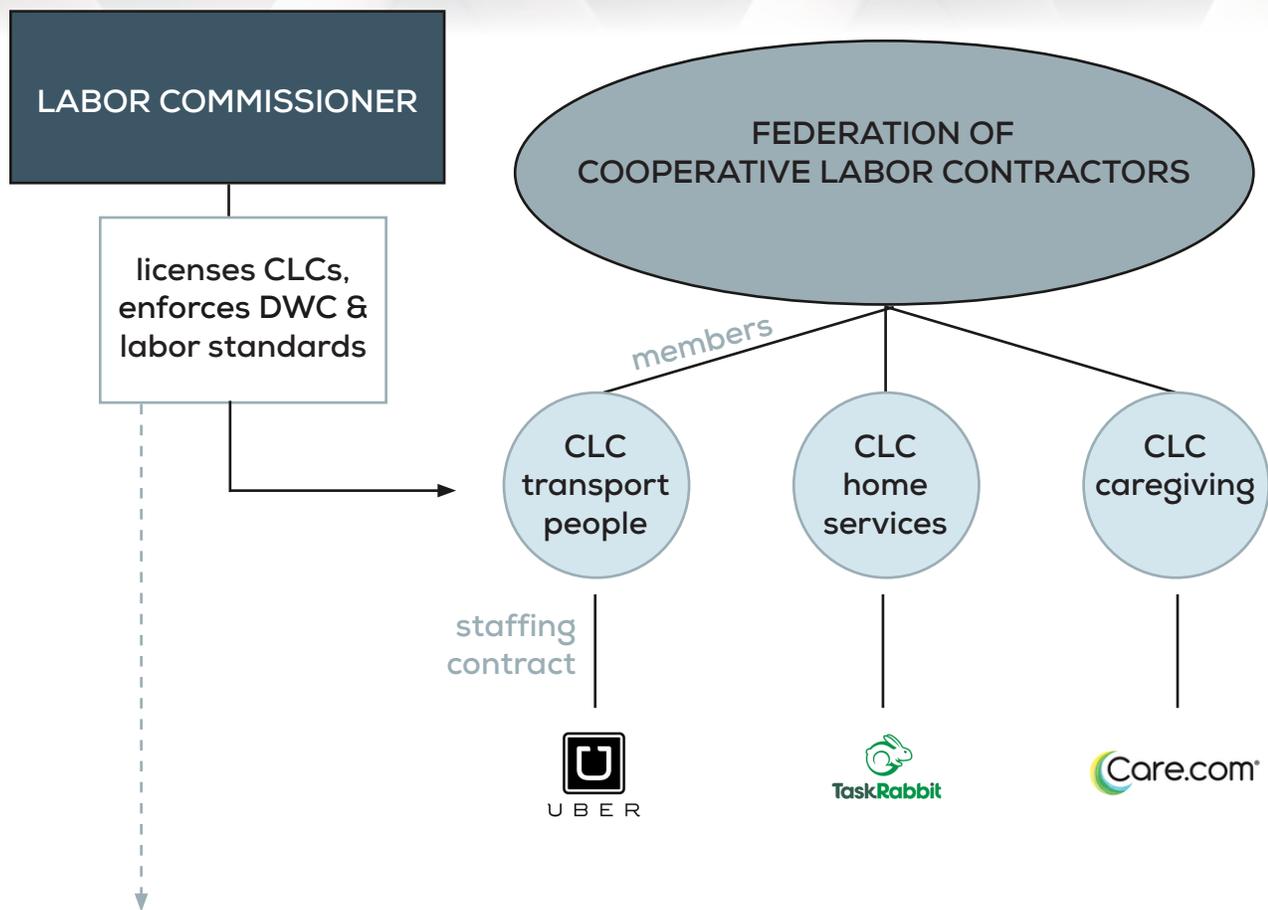
A Reimagined Platform Economy

Under the Cooperative Platform Economy Act, platform companies operating in California have the option to contract with cooperative labor contractors (CLCs) instead of directly employing workers. If successful, this new arrangement, which is modeled after the updated Farm Labor Contractor standards in California, would result in the majority of platform workers being employed at businesses that they own and govern.

For the platform companies, contracting with CLCs comes with significant incentives, including exemption from joint employer liability, exemption from some wage order provisions, and safe harbor for compliance with onerous business expense requirements. The CLCs are licensed and overseen by the Labor Commissioner to ensure they remain centered on the needs of workers. The Act requires CLCs to operate with Democratic Worker Control (DWC), a set of standards that is drawn from the cooperative principles and the definition of a worker cooperative.

Anticipating the need for infrastructure and support, the Act calls for the development of the Federation of Cooperative Labor Contractors. The Federation is a membership organization governed by licensed CLCs and worker cooperative development organizations. It offers management and business support services to its members, and it also proactively develops new CLCs in specific industries. The Federation would initially be capitalized through a 10-year, 0% interest, \$25,000,000 loan from the State of California. The legislation has been drafted, but has not yet been introduced.

A VISUAL GUIDE



The Democratic Worker Control (DWC) Requirements for CLCs

- **Open and Voluntary Membership:** Uniform hiring criteria for applicant workers and membership criteria for worker-owners.
- **Performance of Work:** A majority of the total work performed by all workers is performed by worker-owners.
- **Ownership and Voting Power:** A majority of the CLC's voting ownership interests are held by worker-owners and a majority of the voting power is held by worker-owners.
- **Governance:** Worker-owners elect the majority of the CLC's governing body and worker-owners exercise their vote on a one-person, one-vote basis.
- **Distribution of Net-Income:** A majority of profits are distributed based on the quantity or value of work performed by each worker-owner, as opposed to on the basis of capital investment.