



NEW YORK STATE SENATOR

Thomas F. O'Mara

Senator O'Mara's weekly column ~ for the week of September 14, 2020 ~ 'No common ground or common sense driving NY farm policy'

THOMAS F. O'MARA September 14, 2020

| ISSUE: **FARMING**



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Senator O'Mara offers his weekly perspective on many of the key challenges and issues facing the Legislature, as well as on legislative actions, local initiatives, state programs and policies, and more. Stop back every Monday for Senator O'Mara's latest column...

This week, "No common ground or common sense driving NY farm policy"

As I've tried to stress in this column over the past few months, the need for aggressive and vocal legislative oversight in New York State government has never been more critical.

The perfect storm of a government under one-party control, which automatically diminishes legislative checks and balances, and the fact that the Legislature's current leaders are willingly allowing Governor Andrew Cuomo to run this government purely by executive order, raises many red flags.

That's especially true when it comes to the future of our family farms.

A signature action of the 2019 legislative session was the approval of controversial legislation (S6578/A8419, Chapter 105 of the Laws of 2019) known as the "Farmworkers Fair Labor Practices Act," dreamt up by two Democrat legislators from the farming bastion of the borough of Queens, New York City.

Throughout the year prior to this law's enactment, I joined many opponents, including the New York Farm Bureau, to warn about its potential consequences. We feared that mandatory overtime pay and other provisions of the new law, including the creation of a three-member Farm Wage Board granted the authority to unilaterally change the law's provisions, without legislative approval, could worsen the impact of farm labor costs on farm income at a time when the farm economy was already struggling.

We warned that it could increase already exorbitant farm labor costs by nearly \$300 million or close to 20%, resulting in an across-the-board drop in net farm income of 23% -- keeping in mind that over the past five years, New York State has already lost 20 percent of our dairy farms.

I debated and voted against this move when the Senate approved it in June 2019.

The bottom line is that this misguided action by a state government triumvirate of leaders under one-party, largely downstate-based control -- guided on many current issues by a far-left, extreme-liberal governing philosophy -- has profound implications throughout local farm economies across rural, upstate New York, including driving more family farms out of business.

And that was the case even before COVID-19, which we now know has taken its own toll on our farmers and the entire agricultural industry, and heightened the burdens.

Unfortunately, we're seeing the consequences of this law play out, right now, as we feared. The three-member Farm Wage Board has held public hearings that appear to be paving the way for quickly lowering the current 60-hour threshold requiring farmers to pay their employees overtime.

That would be yet another economic disaster for New York's farmers and farmworkers. It is critical for upstate legislators, for whom the farm economy is a foundation of communities we represent, to keep close watch on a Wage Board now holding the future of so many farmers and rural economies in its hands. This is the worst possible time to risk mandating and regulating more farms out of business, and that is exactly what's at stake here.

If this Wage Board drives more farmers out of business, Governor Cuomo and the Democrat legislative majorities will be responsible.

What was telling, for me, was the reaction of New York's farm community on the day last summer when Governor Andrew Cuomo officially signed this legislation into law. He didn't hold the signing ceremony at an upstate New York family farm. Instead, he went to Manhattan to the offices of the *New York Daily News*, a liberal big city daily newspaper that had long advocated for the law.

It might have been good for Governor Cuomo's big city politics, but New York's farm community spoke for itself that day.

"Common ground should have considered what farms can afford and the opportunities our employees will lose as a result of this law. In the end, our reasonable requests were cast aside... What was also dismissed by many of New York's leaders is the dignity and respect our farm families have long provided to the men and women we need and work alongside every day...(the law) will still lead to significant financial challenges for farmers and the continued erosion of our rural communities," said Farm Bureau President and dairy farmer David Fisher.

"This new law failed to take common sense into account, and in turn, will place upstate further behind in its ability to grow our farms and economy. Our farms and farmworkers deserved better," said Brian Reeves, President of the New York State Vegetable Growers Association.

Northeast Dairy Producers Association President and dairy farmer Jon Greenwood added, "Dairy represents New York's largest agricultural industry. (This new law) has the potential to both negatively impact the long-term viability of our farms and the earning potential and livelihood of our workers."

No attempt to find common ground. No common sense. That's where we still stand.

I joined colleagues recently to call, at the very least, for continued, aggressive legislative oversight of this Act's implementation and an ongoing assessment of its impact on the rural, upstate farm economy before there's any move by an unelected, unaccountable Farm Wage Board to change the law and make it even more onerous on farmers and farmworkers.

It has been reported that farm labor costs in New York State increased 40 percent over the past decade and that the 2019 law could result in another crippling 44-percent increase in wage expenses.

Total farm labor costs are at least 63 percent of net cash farm income in New York, compared to 36 percent nationally.

Now is no time to make this worse.

In response, I currently co-sponsor legislation, supported by many farm advocates, to stress that the Farm Wage Board must take adequate time and have the appropriate data to assess the law's full impact – as well as the impact of COVID-19 -- before recommending changes.

The legislation (S8944) would extend the date for the Board to submit its final report from December 31, 2020 to December 31, 2024, thereby allowing the time necessary to collect and assess data that would provide a more definitive picture of the impact of the 60-hour threshold on the finances and operations of New York farms, as well as consider additional factors including the COVID-19 impact on the agricultural industry.