



NEW YORK STATE SENATOR

Thomas F. O'Mara

Senator O'Mara's weekly column 'From the Capitol' ~ for the week of October 18, 2021 ~ 'NY's family farms facing yet another state-imposed crisis'

THOMAS F. O'MARA October 18, 2021

| ISSUE: **FAMILY FARMS**



In my view, before even considering any changes, the Wage Board must allow adequate time 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 COVID-19's ongoing impact on the agricultural industry.

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, "NY's family farms facing yet another state-imposed crisis"

In the near future, a New York State Wage Board, established under a 2019 law known as the “Farmworkers Fair Labor Practices Act,” will revisit one of the key provisions of that law – and its decision could forever impact New York agriculture as we have known it.

Specifically, this Wage Board could decide, without legislative approval, to lower the mandatory overtime pay threshold from the current 60 hours to 40 hours.

In other words, the future of farming in New York State still hangs in the balance thanks to a law enacted in 2019 that was pushed by then-Governor Andrew Cuomo as a cornerstone of his so-called “progressive” remake of New York government.

Throughout the year prior to the enactment of the “Farmworkers Fair Labor Practices Act,” I joined many opponents, including the New York Farm Bureau, to warn about its consequences. We feared that mandatory overtime pay and other provisions of the new law, especially 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 is 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.

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.

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 could see the worst consequences of this law play out as we feared later this fall. The three-member Farm Wage Board held a series of virtual public hearings in late 2020 that appeared to be paving the way for lowering the current 60-hour threshold requiring farmers to pay their employees overtime. The Wage Board ultimately delayed any changes to the law but is set to revisit it before the end of this year when it could, again without legislative approval, move to lower the 60-hour threshold.

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 continue sounding the alarm on a Wage Board still 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 will be at stake.

According to "Grow NY Farms," a statewide coalition of farmers and other agricultural leaders working to maintain the 60-hour threshold, states, "Farming is truly unlike any other business. It's dependent on seasonal weather, skilled workers, time sensitive crops, 24-hour animal care, along with a good amount effort and patience. As a state Wage Board plans to consider lowering the overtime threshold, some of the arguments seem to come from those who have never set foot on a farm. But to truly understand the repercussions of this potential change, you have to know the field — and not just our industry, but what it takes to work the land. New York farmers and farmworkers are protected by a 60-hour overtime threshold, a number that lawmakers, farmers and farmworkers all agreed to when a new farm labor law was passed just two years ago. This law that went into effect in 2020 was a significant compromise because work must get done regardless of the time it takes, especially when caring for animals and during planting and harvest seasons. Farmworkers explicitly say they prefer to work more hours to earn more income, especially when the farming season is so short in New York State. Farmers and farmworkers alike have adjusted to a new normal with the overtime threshold. However, this compromise is under threat because a 'wage board' has been empowered to decide if the overtime threshold should be lowered to 40 hours. This threat promises to impact your source of fresh fruit, vegetables, and dairy products because New York farmers cannot afford to pay overtime above 40 hours per week and expect to compete in the marketplace where products are coming from other states and countries with much cheaper production costs and far fewer labor protections that New York guarantees."

Grow NY Farms is undertaking an online letter writing campaign that offers the opportunity to voice your opposition to lowering the 60-hour overtime threshold. A link to the coalition's "Maintain the 60-hour Work Week!" campaign can be found on the Grow NY Farms website, www.grownyfarms.com.

In my view, before even considering any changes, the Wage Board must allow adequate time 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 COVID-19's ongoing impact on the agricultural industry.

Now is no time to make this worse.

###