

NEW YORK STATE LEGISLATURE

TO: Farm Laborers Wage Board

FROM: NYS Senator Thomas F. O'Mara, 58th District

DATE: January 20, 2022

Re: Public Hearing Written Testimony

Thank you to the members of the Board for this chance to offer my input on the future of New York State agriculture and, at this moment in time, the absolutely central and fundamental role that this Wage Board plays in setting the direction of that future.

I'll get right to the point: I have been and I remain strongly opposed to lowering the farm worker overtime threshold from the current 60 hours per week.

The Senate district that I represent includes expansive portions of the Finger Lakes and Southern Tier regions including the counties of Chemung, Schuyler, Steuben, Yates, and Tompkins. This district is home to many and a wide-ranging variety of all types of farms.

While I have voiced this concern from the very start in 2019, when I debated and voted against the enactment of the "Farmworkers Fair Labor Practices Act" (FFLPA), I certainly have not been alone.

Over the past two years, all of you have heard directly from those who would be most directly impacted by any lowering of the threshold and the subsequent, unsustainable impact of farm labor costs that would result.

You have heard from countless individual farmers and the leaders of local farm communities. You have heard from the industry's top advocates, including the New York Farm Bureau, the Northeast Dairy Producers Association, Grow NY Farms, and numerous others. You have heard from local, federal, and state representatives,

like myself, who fear the undermining and ongoing collapse of an industry and, equally important, a way of life that has defined the regions we represent for generations.

In short, the Board's decisions and actions, at this specific juncture, could not be more monumental and, in my view, demand your caution.

I will not belabor the farm labor costs data here. Suffice it to state that we all should have become familiar with these statistics and data and realities since the enactment of the FFLPA nearly three years ago.

We are wise to always keep in mind, however, reports that have shown that farm labor costs in New York State increased 40 percent over the past decade and that project that the FFLPA's full implementation could result in another crippling 44-percent increase in wage expenses.

It has further been reported that total farm labor costs are at least 63 percent of net cash farm income in New York, compared to 36 percent nationally.

Most recently, Cornell University researchers released a report reaffirming the burden of farm labor costs, the impact of the FFLPA, and the consequences if the overtime threshold is lowered to 40 hours per week. Among the report's other findings, it found that if the overtime threshold is lowered to 40 hours, two-thirds of dairy farmers would make significant changes to their operation, including leaving the industry or investing out of state, and half of fruit and vegetable farmers indicated they would decrease their operations or exit the industry.

From all that I have seen and heard, it appears virtually unanimous within New York's leading agricultural industry that lowering the threshold would be a disaster for many individual farmers, for farm

workers, for the industry as a whole, and for the local communities and economies that have long been and remain anchored by farming and agriculture.

It would change the face of New York State agriculture as we have known it for generations.

It would produce a nightmare of a ripple effect across local communities and economies in every region of this state – but especially upstate in regions like I represent throughout the Southern Tier and Finger Lakes.

It would profoundly diminish the future of high quality, local food production.

It would spark the loss of family farms and the loss of the livelihoods these farms support across the industry and throughout hundreds of local economies.

In a September 13, 2021 letter to New York Governor Kathy Hochul, I joined many of my Senate Republican colleagues to continue voicing our opposition by writing, in part, “The downstate interests that continue to push for lowering the threshold have argued that a 40-hour work week and overtime pay are standard in manufacturing and other industries. Their position suggests a misguided understanding of the nature of New York’s agricultural community, which is not dominated by large, corporate-supported factory farms that are common in the Midwest and West. In New York, 96 percent of farms are small, family-owned businesses. These hardworking agricultural producers drive the economies of rural communities across the state and help ensure the availability of quality, in-state sourced farm products for New Yorkers.”

Farms are local economic engines and a 40-hour mandate would have devastating effects on communities across New York State,

particularly in the rural, upstate communities that I and many of my legislative colleagues represent.

In short, I will repeat what I have been repeating for the past two years: Lowering the overtime threshold would mark another bad move at the worst possible time for too many family farms across the regions I represent and all the farms statewide already struggling to make ends meet and survive.

It would have devastating implications for family farms and an entire agricultural industry that has long been the cornerstone of so many local economies and local cultures.

It would devastate hard-working families, the future of many farm workers themselves, and further weaken the foundation of local upstate communities.

At the very least, now is no time to act. We are still assessing and confronting the consequences of the COVID-19 pandemic, and we are looking at a future economic landscape that looks uncertain at best.

I hope that all of you will recognize and be guided by the clear need to take adequate time and have the appropriate data to assess the current threshold's full impact – as well as the ongoing impact of the pandemic on New York State agriculture.

I continue to co-sponsor legislation (S2690) that would extend the date for the Board to submit its final report to December 31, 2024. This legislation would give the Board more 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 the COVID-19 impact on the agricultural industry.

I join the Senate and Assembly Republican conferences, together with a broad spectrum of farm industry advocates, to stress that we believe the Board must take adequate time and have the appropriate data to assess the law's full impact – as well as the impact of the pandemic -- before recommending changes.

Thank you for your careful consideration.

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