

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS RATH, LORIGO, TODARO, AND MILLS**

Re: Support for Funding WNY Farms and Opposing Imposition of New Wage Requirements

WHEREAS, farmers are critical components of our regional economy and are necessary to ensure supermarkets are stocked with food; and

WHEREAS, from the outset of the COVID-19 pandemic, Western New York farmers have stepped up and ensured their operations continued and were responsible for donating thousands of pounds of food to local food banks at a time of significant need; and

WHEREAS, farmers face a tremendous number of problems outside of their control including changes in consumer demand leading to price change, obtaining labor, climate change, land management policies, foreign market competition, livestock and crop disease, and natural disasters; and

WHEREAS, in addition to the practical issues related to growing and selling food products, farmers have to contend with wavering levels of government regulations including changes in wages and overtime threshold; and

WHEREAS, one of the more pressing issues for the farming community has been mandated overtime requirements. The 2019 Farm Laborers Fair Practice Act, currently gives farmworkers a right to overtime after sixty (60) hours of work each week; and

WHEREAS, farmers are reliant on migratory work forces during the short growing season here in Western New York. Workers are here for only a few months in the spring and summer. They have only so many hours each year to get the work done; and

WHEREAS, the Act does not prohibit the wage board from arbitrarily decreasing the threshold again, further decreasing the threshold for overtime and thereby increasing costs on local farms and their use of seasonal workers; and

WHEREAS, the provisions of the Act would negatively impact the farming community by either increasing costs on farmers, who are operating under very tight margins, or will cut into work opportunities for migratory workers; and

WHEREAS, cutting budgeted support levels and drastically increasing costs through government interference should be avoided whenever possible.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby supports farmers and migrant workers who do not want their hours reduced and urges utilizing all budgeted funding for the promotion

of New York State farming products, provide critical applied research, ensure access to markets, educate the public and connect them to their food, and any other program designed to benefiting local farmers; and, be it further

RESOLVED, that this honorable body hereby supports Senate Bill S8944, providing a stay on the wage board's authority to arbitrarily change threshold for charging overtime; and, be it further

RESOLVED, that certified copies of this resolution be sent to the Western New York Delegation to the New York State Senate and Assembly, Governor Andrew Cuomo's office, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution

STATE OF NEW YORK

8944

IN SENATE

August 26, 2020

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to the farm laborers wage board

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 674-a of the labor law, as added by chapter 105 of
2 the laws of 2019, is amended to read as follows:

3 § 674-a. Farm laborers wage board. 1. Wage board. The commissioner
4 shall hereby convene a farm laborers wage board. The wage board shall be
5 comprised of three members: one representative of the farm bureau, one
6 representative of the New York State AFL-CIO and one member appointed by
7 the commissioner, who shall be selected from the general public and
8 designated as chairperson. The wage board shall hold its first hearing
9 no later than March first, two thousand twenty. The members of the board
10 shall not receive a salary or other compensation, but shall be paid
11 actual and necessary traveling expenses while engaged in the performance
12 of their duties.

13 2. Organization. Two-thirds of the members of the board shall consti-
14 tute a quorum. The chairperson may from time to time formulate rules
15 governing the manner in which the wage board shall function and perform
16 its duties under this article.

17 3. Powers. The wage board shall have power to conduct public hearings.
18 The board [~~may~~] shall also consult with agricultural employers and farm
19 laborers, and their respective representatives, in the occupation or
20 occupations involved, and with such other persons, including the commis-
21 sioner and the commissioner of agriculture and markets, the New York
22 state college of agriculture and life sciences at Cornell university, as
23 it shall determine. The board shall also have power to administer oaths
24 and to require by subpoena the attendance and testimony of witnesses,
25 and the production of all books, records, and other evidence relative to
26 any matters under inquiry. Such subpoenas shall be signed and issued by
27 the chairperson of the board and shall be served and have the same
28 effect as if issued out of the supreme court. The board shall have power

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~---~~] is old law to be omitted.

LBD17202-01-0

1 to cause depositions of witnesses residing within or without the state
2 to be taken in the manner prescribed for like depositions in civil
3 actions in the supreme court. The board shall not be bound by common law
4 or statutory rules of procedure or evidence.

5 4. Public hearings. Within forty-five days of the appointment of the
6 wage board, the board shall conduct public hearings. The wage board
7 shall only meet within the state and must hold at least three hearings
8 in two thousand twenty, at least two hearings each year in two thousand
9 twenty-one through two thousand twenty-three, and at least three hear-
10 ings in two thousand twenty-four, at which the public will be afforded
11 an opportunity to provide comments. At least one Spanish language
12 interpreter shall be present at each public hearing to interpret oral
13 testimony delivered in Spanish. Where a witness reveals the need for an
14 interpreter in a language other than Spanish, to the extent practicable,
15 an interpreter in that language shall be provided. Any materials adver-
16 tising such hearings shall be bilingual in English and Spanish. Any
17 written materials disbursed at the hearing or subsequent to the hearing,
18 including written testimony and hearing transcripts, shall be available
19 in English, Spanish, and, to the extent practicable, any other language
20 upon request.

21 5. Report. The wage board shall make a report to the governor and the
22 legislature, including its recommendations as to overtime work for farm
23 laborers. The report and recommendations of the board shall be submitted
24 only after a vote of not less than a majority of all its members in
25 support of such report and recommendations. Such report shall be submit-
26 ted no later than December thirty-first, two thousand [~~twenty~~] twenty-
27 four. The overtime rates recommended by the wage board shall not be in
28 excess of sixty hours, and the wage board shall specifically consider
29 the extent to which overtime hours can be lowered below such amount set
30 in law, and may provide for a series of successively lower overtime work
31 thresholds and phase-in dates as part of its determinations.

32 6. The wage board shall consider:

33 (a) existing overtime rates in similarly situated industries in New
34 York state;

35 (b) farm laborer wage and overtime rates in states that share a
36 geographical border with New York;

37 (c) the impact that the COVID-19 pandemic has had on the agricultural
38 community, including additional expenses borne by employers;

39 (d) the total compensation, including other benefits such as housing
40 or insurance, that farm laborers receive relative to similarly situated
41 industries;

42 (e) statistics that show various labor requirements amongst various
43 farming subindustries, including but not limited to, animal, crop, or
44 aquafarming;

45 (f) the supply and demand of farm laborers in New York; and

46 (g) the labor and employment actions taken by farm labor employers in
47 response to chapter one hundred five of the laws of two thousand nine-
48 teen, and other economic impacts.

49 7. Nothing contained in the wage board's report or recommendations
50 shall diminish or limit any rights, protections, benefits or entitle-
51 ments currently available to any farm laborer.

52 [7. The] 8. Notwithstanding any inconsistent provision of law, the
53 commissioner shall comply with section six hundred fifty-six of this
54 chapter no sooner than one hundred eighty days

1 upon receipt of the wage board's recommendations. The commissioner may
2 reconvene the same wage board or appoint a new wage board in compliance
3 with section six hundred fifty-nine of this chapter.
4 § 2. This act shall take effect immediately.