

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

Re: Opposition to New Overtime Rules Being Imposed on Farmers

WHEREAS, farmers are critical components of our regional economy, according to the most recent Ag Census there are 33,438 farms in New York State which directly employ 55,363 people; and

WHEREAS, our local farming industry faces a tremendous amount of operational burdens, many of which are out of their control, including weather, labor, and economic forces. Currently, the global food industry has been hit particularly hard by inflation in key goods such as fertilizer and fuel. In the early part of this year, fertilizer costs spiked for the 2022 growing season with the USDA reporting the price of urea being up 149%, liquid nitrogen costing 192% more, and anhydrous ammonia being up 235% over 2021 prices; and

WHEREAS, a farmer's focus should be on growing or raising products and delivering them to market, and not on navigating bureaucratic interference from New York State that may threaten their ability to remain in operation; and

WHEREAS, the 2019 Farm Laborers Fair Practice Act, gave farmworkers a right to overtime after sixty (60) hours of work each week. Further, the law created the Farm Laborers Wage Board and provided it with the ability to recommend arbitrary adjustments to the farm laborer overtime threshold; and

WHEREAS, farms are reliant on migratory work forces during the short growing season here in New York. Workers are here for only a few months in the spring and summer. This shortened season means fewer potential hours for farmworkers over the course of the year. Many of these workers reside in New York only on a seasonal basis. With fewer hours during our growing period there is little to tie them to our state or interest them in returning each year; and

WHEREAS, the Farm Labor Wage Board voted 2-1 to lower the overtime threshold and recommend a forty (40) hour overtime rule for farmworkers over the next ten years, the decision went against a significant portion of testimony presented during their hearings and over the objections of the Board's farm representative. On Tuesday September 6th, the Farm Laborers Wage Board passed that recommendation on in a report to the state Labor Commissioner Roberta Reardon; and

WHEREAS, farming, unlike many other labor-intensive industries, cannot measure worker output simply by time on-the-clock in a predictable and manageable way. Crops can ripen practically overnight or a shift in weather can necessitate more hours in one week at the expense of time in the next. Imposing strict overtime rules on the entirety of the farming industry will harm our local growers, 98% of which are family owned according to the USDA's National Agricultural Statistics Service; and

WHEREAS, this decision will make it even more difficult for local area farmers to remain profitable during our short growing season and will make New York State even less competitive in the national marketplace, currently New York farms face labor costs that are 63% of net income, compared to only 36% nationally; and

WHEREAS, due to the recommendations of the Wage Board, the migrant workforce that comes to New York to work as many hours as possible will choose to work in neighboring states that do not share the same overtime rules in order to avoid the reduction in hours this rule will result in; and

WHEREAS, a study by Cornell's College of Agriculture and Life Sciences of the farms most impacted by labor costs, mainly dairy and fruit and vegetable farms, indicated that 40% of dairy farms and 50% of fruit and vegetable farms stated they would seek to downsize their operations or move entirely out of New York State if the 40-hour overtime threshold was implemented; and

WHEREAS, further a decrease in allowable overtime will likely lead to a marked increase in food costs for residents across New York state as local food sources will be required to either move, as suggested above, or raise their prices they ask for their goods in market. The Farm Bureau estimates a 20-40% increase, in addition to the standard rate of inflation, in the cost of food over ten years if this plan goes into effect. Those most impacted by price hikes will be those least able to afford it, members of our community already receiving supplements to buy food and those with low incomes.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby calls on Governor Kathy Hochul and Labor Commissioner Roberta Reardon to reject the Farm Labor Wage Board ruling; and, be it further

RESOLVED, that a certified copy of this resolution in opposition to further cuts to the farmworker overtime threshold is to be submitted to the NYS Department of Labor's open comment period for review by the Commissioner of the Department of Labor in making her determination; 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 Kathy Hochul's office, the Department of Labor Commissioner Roberta Reardon, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution