



NEW YORK STATE SENATOR

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Senator O'Mara's weekly column 'From the Capitol' -- for the week of October 10, 2022 -- 'Governor Hochul ignores New York agriculture'

THOMAS F. O'MARA October 10, 2022

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At the worst possible time, Governor Hochul is mandating an even more uncertain future for family farmers, farm workers, farm communities, and New York's agricultural industry overall. 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, "Governor Hochul ignores New York agriculture"

It wasn't long ago in this column -- in early September, in fact -- that I asked the question, "Will Governor Hochul turn her back on farmers?"

I asked it after a New York State Wage Board, established under a 2019 law known as the "Farmworkers Fair Labor Practices Act," finalized its recommendation to lower the mandatory overtime pay threshold for farm workers from the current 60 hours to 40 hours.

Following the Wage Board's action, Governor Hochul was given 45 days to send down the final word.

It didn't take long to get our answer. The governor herself didn't do the dirty work, of course. She turned that over to state Labor Commissioner Roberta Reardon, a holdover from the former Cuomo administration, who late on the afternoon of Friday, October 1, sent down the Hochul administration's decision to lower the threshold to 40.

But this is all on Governor Hochul now, be clear on that; it is her decision, and the consequences of moving forward with it will always be pinned to her.

Remember that it was on September 6 that the three-member Wage Board finalized its recommendation, by a vote of 2-1, to lower the threshold. The lone vote in opposition came from Board member David Fisher, President of the New York Farm Bureau, who said that "the deck was stacked" against the farm community from the outset of this process and that the board's final report "does not reflect the data, research and scope of the full testimony that was provided" in opposition.

In other words, Governor Hochul and Commissioner Reardon can claim all they want that the Wage Board report was factual, and that careful consideration was given to the hundreds of hours of testimony from farmers, farm workers, industry leaders and advocates, and concerned citizens, as well as local, state, and federal representatives, including me, who overwhelmingly sought to deliver one message to Governor Hochul: Stay At 60.

We urged her to listen to common sense.

We called on her to listen to the warnings.

We urged her to at least delay any final decision until the next United States Department of Agriculture (USDA) Census is released in 2024 when more up-to-date and extensive data will be

available to assess the state of the agricultural industry, including the economic toll of the COVID-19 pandemic.

We provided facts from the front lines.

For example, Cornell University experts issued a report last November detailing the potential and very troubling consequences of lowering the threshold to 40 hours, including that:

- Two-thirds of the dairy farms they interviewed indicated they would move out of milk production;
- One of every four fruit or vegetable farms will relocate their operation outside of the state;
- Seventy percent of H-2A workers said they would consider going to another state without capped hours if the state moves to a 40-hour overtime threshold.

Around the same time that Cornell released its findings, Farm Credit East estimated dire economic impacts to farms from lowering the threshold to 40 hours. This report showed that lowering the threshold “could have a significant economic impact on New York’s farms, and that taken together with the scheduled increases in minimum wage, is estimated to increase labor expenses \$264 million, or 42%, causing a reduction in farm income of 20%.”

Many already hard-pressed family farms simply will not survive such a devastating reduction in farm income.

In the end, the suspicions that many of us had from the beginning -- when former Governor Cuomo went all-in on getting behind what was a top priority for New York’s far-left, city-based, extreme-liberal faction of the Democrat party -- that the fix was in, proved to be correct.

Keep in mind that the “Farmworkers Fair Labor Practices Act” was, in fact, conjured up by socialist leaning Democrat legislators from Queens, New York City. To try to provide themselves political cover, ex-Governor Cuomo and the state’s all-Democrat legislative majorities created an unelected, unaccountable Wage Board -- authorized to take unilateral action without the need for legislative approval -- and ensured that there would always be two votes on the three-member board in favor of lowering the threshold.

Cuomo resigned in disgrace, but Governor Hochul quickly signaled her determination to walk hand in hand with the Wage Board and finish what Cuomo and the New York City socialist legislators from Queens started.

In late July, she went as far as to state that if New York moves forward with forcing farmers to pay overtime after 40 hours, state taxpayers will pick up the tab and subsidize the move, indefinitely, to the tune of at least \$130 million annually -- even though many farmers question whether the tax credit will even begin to cover their higher labor costs or offset the anticipated consequences.

In other words, New York State's hardworking families and taxpayers will foot the bill to pay seasonal migrant farmworkers more to send home to their families in Central and South America.

Governor Hochul and her Cuomo-appointed labor commissioner had the opportunity to choose the future of farming over the so-called “progressive” ideology that is driving this state into the ground.

Instead, they rejected farmers, farm workers, farm advocates, agricultural representatives, community leaders, and legislators who spoke in near-unanimous opposition to this move.

They rejected the industry’s top advocates, including the New York Farm Bureau, the Northeast Dairy Producers Association, Grow NY Farms, Upstate United, and numerous others.

They decided to go ahead and carelessly risk undermining an industry and a way of life that has defined the regions we represent, as well as the face of New York State agriculture as we have known it for generations.

They will jeopardize the future of high quality, local food production.

They will shamelessly require state and local taxpayers to pay for yet another bad decision out of Albany.

They are fine with setting in motion the loss of more family farms and the livelihoods these farms support across the industry and throughout hundreds of local economies.

At the worst possible time, Governor Hochul is mandating an even more uncertain future for family farmers, farm workers, farm communities, and New York’s agricultural industry overall.

Following the final announcement that New York will reject the concerns and fears of the agricultural community and lower the threshold to 40, Farm Bureau President Fischer stated, “This is a difficult day for all those who care about New York being able to feed itself. Commissioner Reardon’s decision to lower the farm labor overtime threshold will make it even tougher to farm in this state and will be a financial blow to the workers we all support. Moving forward, farms will be forced to make difficult decisions on what they grow, the available hours they can provide to their employees, and their ability to compete in the marketplace. All of this was highlighted in the

testimony and data that the wage board report and the commissioner simply ignored.”

The Farm Bureau gets right to the heart of it: Governor Hochul has “simply ignored” New York agriculture.

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