



NEW YORK STATE SENATOR

Thomas F. O'Mara

Senator O'Mara's weekly column 'From the Capitol' ~ for the week of November 30, 2020 ~ 'On the brink of making it worse for farmers'

THOMAS F. O'MARA November 30, 2020

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Now is no time to make this worse, but that's exactly where we stand at the moment: on the brink of making it worse for farmers.

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, "On the brink of making it worse for farmers"

We need to keep close watch on the future of our family farms.

A key action of the 2019 legislative session was the approval of controversial legislation (S6578/A8419, Chapter 105 of the Laws of 2019) known as the “Farmworkers Fair Labor Practices Act,” sponsored by two New York City legislators and pushed hard as a “progressive” hallmark by Governor Andrew Cuomo.

Throughout the year prior to this law’s enactment, I joined many opponents, including the New York Farm Bureau, to warn about its potential 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 was already struggling.

In fact, in early 2019, prior to the law’s enactment, area Assemblyman Phil Palmesano and I wrote to legislative leaders warning that “the misguided and misrepresented Farmworkers Fair Labor Practices Act poses an extreme action at a time of already severe economic struggle for New York State farmers. Worse, the Act’s consequences would produce a nightmare of a ripple effect across local communities in every region of this state and profoundly diminish the future of high quality, local food production.”

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.

The consequences of this new law could be about to come home to roost. The three-member Farm Wage Board has held public hearings that the industry fears could be paving the way for quickly lowering the current 60-hour threshold requiring farmers to pay their employees overtime.

In a letter last week to Governor Cuomo, a large coalition of New York State agriculture and farming leaders, including the Farm Bureau, Northeast Dairy Producers Association, New York

Wine Industry Association, Empire State Council of Agricultural Organizations, and many others, delivered a strong, compelling message that reads, in part, “Please know that if the overtime threshold for New York farm workers is lowered to a level below 60 hours per week, the face of New York agriculture will be irreparably altered and we will no longer remain economically competitive in the crops and commodities that require a labor force. As farmers testified this year before the wage board, varieties of vegetables that require hand labor will continue to disappear, increasingly relying on imports from places that do not have strong worker protections like in New York State. Orchards will be pulled in lieu of field crops that only require machines for planting and harvest. Dairy farms will turn to robotic milking machines at a faster rate than today. Our regional and worldwide competitors—who have no such requirements—will only gain advantage from these changes, not New York farmers. We recognize that New York is leader in the nation in many areas, and even though we currently may be leading other states when it comes to farm labor protections, we are on the precipice of policy that will lead farmers out of business. We the undersigned organizations respectfully request that the 60-hour overtime threshold be made permanent. Our industry’s future, particularly the next generation of New York farmers and the communities they support, are dependent upon it.”

Our farmers are sending a clear, straightforward message that needs to be heeded: This unelected, unaccountable Wage Board now holds the future of so many farmers, farmworkers, 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’s at stake here. It would be an economic disaster for New York State agriculture.

The perfect storm of a government under one-party control, which automatically diminishes legislative checks and balances, and the fact that the Legislature’s current leaders continue to willingly allow Governor Cuomo to run this government purely by executive order, raises many red flags, especially this one at this time.

If this Wage Board drives more farmers out of business, Governor Cuomo and the Democrat legislative majorities will be responsible.

There has been no attempt to find common ground with New York’s agricultural and farming leaders, and there has, so far, been a failure of common sense.

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.

In response, I currently co-sponsor legislation, supported by many farm advocates, to stress that the Farm Wage Board must take adequate time and have the appropriate data to assess the law's full impact – as well as the impact of COVID-19 -- before recommending changes.

For starters, the legislation (S8944) would extend the date for the Board to submit its final report from December 31, 2020 to December 31, 2024, thereby allowing the time necessary 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.

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