



NEW YORK STATE SENATOR

Thomas F. O'Mara

## Senator O'Mara's weekly column 'From the Capitol' ~ for the week of January 4, 2021 ~ 'Relief for now for farmers, but long-term threat remains'

THOMAS F. O'MARA January 4, 2021

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It will be important to keep these words in mind as we move through this legislative session because they will be as true and relevant next November as they are right now.

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, "Relief for now for farmers, but long-term threat remains"

It was a relief last week when New York's newly created Farm Labor Wage Board chose not to immediately lower the state's current 60-hour overtime threshold for farm workers.

The relief is only temporary, however. The three-member Board made it clear that it will revisit the potential change next November with an eye toward moving ahead on a lower, likely 40-hour threshold.

A lot can happen between now and November, but make no mistake this is where we stand: farmers and their advocates, including me and many other Upstate legislators, must continue making the case that now is no time to risk the future of any of our farmers.

Equally important, in my opinion, will be the need to keep working against the power given to this unelected, unaccountable Farm Wage Board to unilaterally decide, without legislative approval, a move that could change the face of New York State agriculture as we have always known it.

In short, among the most important work ahead of us this new year will be the need to keep close watch on the future of our family farms.

The case against the Farm Wage Board has not and will not change between now and November.

The controversial legislation (S6578/A8419, Chapter 105 of the Laws of 2019) that established the Board is known as the "Farmworkers Fair Labor Practices Act." It was pushed hard as a "progressive" benchmark by Governor Andrew Cuomo and its New York City legislative sponsors.

Repeatedly throughout the past year, I joined many opponents — including, among numerous others, the New York Farm Bureau, Unshackle Upstate, and the Northeast Dairy Producers Association — to warn about its potential consequences, especially its impact on farm labor costs and the ramifications for farm labor, the food supply chain, and local economies that absolutely depend on a strong agricultural sector.

Keep in mind that statistics show 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.

This burden has already led to many farm losses, particularly within the critical dairy industry.

I debated and voted against this move when the Senate approved it in June 2019. The bottom line, for me, is that this Board's existence will continue to have profound implications throughout local farm economies across rural, upstate New York, including the risk of driving more family farms out of business.

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.

For starters, then, one priority in this new legislative session will be to enact legislation to delay any action by the Board to lower the overtime threshold for at least several years, which is the timeframe that the Farm Bureau and others have argued is necessary to fully and fairly assess the economic impact.

I fully agree. For example, I currently co-sponsor legislation that would prevent the Board from acting until 2025, 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.

In a November letter 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 read, 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."

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