

STATE OF NEW YORK

3822--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. TAGUE, BLANKENBUSH, FITZPATRICK, MANKTELOW, NORRIS, BROWN, BRABENEC, GALLAHAN, WALCZYK, BYRNES, MORINELLO, SMULLEN, ANGELINO, McDONOUGH, MONTESANO, MIKULIN, LEMONDES, GOODELL -- Multi-Sponsored by -- M. of A. WALSH -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 state college of agriculture and life sciences at Cornell university, as
2 it shall determine. The board shall also have power to administer oaths
3 and to require by subpoena the attendance and testimony of witnesses,
4 and the production of all books, records, and other evidence relative to
5 any matters under inquiry. Such subpoenas shall be signed and issued by
6 the chairperson of the board and shall be served and have the same
7 effect as if issued out of the supreme court. The board shall have power
8 to cause depositions of witnesses residing within or without the state
9 to be taken in the manner prescribed for like depositions in civil
10 actions in the supreme court. The board shall not be bound by common law
11 or statutory rules of procedure or evidence.

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

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

38 6. The wage board shall consider:

39 (a) existing overtime rates in similarly situated industries in New
40 York state;

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

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

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

48 (e) statistics that show various labor requirements amongst various
49 farming subindustries, including but not limited to, animal, crop, or
50 aquafarming;

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

52 (g) the labor and employment actions taken by farm labor employers in
53 response to chapter one hundred five of the laws of two thousand nine-
54 teen, and other economic impacts, which shall include, but not be limit-
55 ed to, the costs of fuel and the costs associated with complying with
56 chapter one hundred six of the laws of two thousand nineteen.

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

4 ~~[7. The]~~ 8. Notwithstanding any inconsistent provision of law, the
5 commissioner shall comply with section six hundred fifty-six of this
6 chapter no sooner than one hundred eighty days upon receipt of the wage
7 board's recommendations. ~~[The commissioner may reconvene the same]~~ Upon
8 a determination by the wage board ~~[or appoint a new]~~, such decision
9 shall be final and the wage board ~~[in compliance with section six~~
10 ~~hundred fifty-nine of this chapter]~~ shall be dissolved. The commissioner
11 shall not reconvene the wage board unless authorized by a subsequent
12 chapter of law.

13 § 2. This act shall take effect immediately.