STATE OF NEW YORK

2690

2021-2022 Regular Sessions

IN SENATE

January 22, 2021

Introduced by Sens. BORRELLO, AKSHAR, GALLIVAN, HELMING, JORDAN, O'MARA, ORTT, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

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:

Section 1. Section 674-a of the labor law, as added by chapter 105 of the laws of 2019, is amended to read as follows:

§ 674-a. Farm laborers wage board. 1. Wage board. The commissioner shall hereby convene a farm laborers wage board. The wage board shall be comprised of three members: one representative of the farm bureau, one representative of the New York State AFL-CIO and one member appointed by the commissioner, who shall be selected from the general public and designated as chairperson. The wage board shall hold its first hearing no later than March first, two thousand twenty. The members of the board shall not receive a salary or other compensation, but shall be paid actual and necessary traveling expenses while engaged in the performance of their duties.

2. Organization. Two-thirds of the members of the board shall constitute a quorum. The chairperson may from time to time formulate rules governing the manner in which the wage board shall function and perform its duties under this article.

3. Powers. The wage board shall have power to conduct public hearings. The board [~~may~~] **shall** also consult with agricultural employers and farm laborers, and their respective representatives, in the occupation or occupations involved, and with such other persons, including the commissioner and the commissioner of agriculture and markets**, the New York state college of agriculture and life sciences at Cornell university**, as it shall determine. The board shall also have power to administer oaths and to require by subpoena the attendance and testimony of witnesses,

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

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and the production of all books, records, and other evidence relative to any matters under inquiry. Such subpoenas shall be signed and issued by the chairperson of the board and shall be served and have the same effect as if issued out of the supreme court. The board shall have power to cause depositions of witnesses residing within or without the state to be taken in the manner prescribed for like depositions in civil actions in the supreme court. The board shall not be bound by common law or statutory rules of procedure or evidence.

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

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

6. The wage board shall consider**:**

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

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

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

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

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

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

(g) the labor and employment actions taken by farm labor employers in response to chapter one hundred five of the laws of two thousand nineteen, and other economic impacts.

7. Nothing contained in the wage board's report or recommendations shall diminish or limit any rights, protections, benefits or entitlements currently available to any farm laborer.

[~~7. The~~] **8. Notwithstanding any inconsistent provision of law, the** commissioner shall comply with section six hundred fifty-six of this

chapter **no sooner than one hundred eighty days** upon receipt of the wage board's recommendations. The commissioner may reconvene the same wage board or appoint a new wage board in compliance with section six hundred fifty-nine of this chapter.

§ 2. This act shall take effect immediately.