

FARM WAGE BOARD

WE ARE YOUR DOL



Commissioner's Charge

Let me begin by thanking each of you for agreeing to perform this very important public service. I especially want to thank Brenda McDuffie for agreeing to serve as Chair. You each have a unique background that gives you special insight into the concerns of farmers, workers, and the public that you should draw on. As you conduct your deliberations, I am confident that you will respect and appreciate the perspectives of your colleagues and work together to meet the goals set forth in this charge.

New York has a long history of setting minimum wages and overtime protections through wage boards and wage orders that focus on specific industries and occupations. From the 1930s until 1960, that was the only way that minimum wage and overtime protections were established. In 1960, the legislature changed the law to establish a single statewide minimum wage but kept the old system in place to allow wage boards to recommend higher minimum wage and overtime rates for specific industries and occupations.

For farm laborers, the history of minimum wage and overtime protections is not as lengthy, but history is being made today. As compared with employees in other industries, farm laborers had to wait an additional thirty years to get the first minimum wage in 1969, another 30 years for their wage to equal that of other workers in 1999, and another 20 years to get any overtime protections in 2020.

History is being made today as we convene New York's first *Farm Laborers Wage Board* to solicit your recommendations on overtime work for farm laborers. I hereby convene this wage board at the direction of the legislature and Governor, as part of the 2019 *Farm Laborers Fair Labor Practices Act* and pursuant to minimum wage provisions of Articles 19 and 19A of the Labor Law.

The *Farm Laborers Fair Labor Practices Act* extended worker protections to farm laborers in many areas, including collective bargaining, workers compensation, unemployment insurance, housing, day of rest, and overtime. The task of this *Farm Laborers Wage Board* is narrowly focused on the issue of overtime and, specifically, your charge is as follows:

- The board shall make recommendations for overtime work for farm laborers that shall not be in excess of sixty hours.
- The board shall consider the extent to which overtime hours can be lowered below the 60 hours set in law, and
- The board may provide for a series of successively lower overtime work thresholds and phase-in dates as part of its determinations.

Your task is to engage in a meaningful inquiry focused on these workers, on this industry, and the underlying state policy and legislative purpose. As you receive public testimony, I encourage you to take the opportunity to ask questions and engage those who testify to identify what you can about these workers, this industry, and about overtime standards more generally.

We at the Department of Labor will endeavor to provide you with the information you need to assist in your deliberation. Pico Ben-Amotz, General Counsel to the Department of Labor, will serve as Counsel to the board and will be available in connection with legal issues. Jim Rogers, Deputy Commissioner for Worker Protection, will serve as secretary to the board and will be your first line of communication with the Department. Bohdan Wynnyk and his staff in our Research and Statistics Division will provide you with available research material. In addition to those resources within the Department, the board may 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 of Labor and the Commissioner of Agriculture and Markets, as it shall determine.

The time you have to do your work is limited by law. You have 45 days from today to conduct at least three public hearings at which the public will be afforded an opportunity to provide comments and you will have until December 31, 2020, to submit your report and recommendations to the Governor and the legislature. I understand that you have scheduled public hearings across the state. During the 45 days following your report, the Commissioner may confer with you and may remand the matter back to you for further consideration.

At this point, I'd like to turn to Pico Ben-Amotz to discuss the legal standards and relevant legislative history that you should be aware of.