

# FARM WAGE BOARD

WE ARE YOUR DOL



## Legal Standards and Legislative History

The *Farm Laborers Fair Labor Practices Act* delegates to this wage board the authority to make recommendations regarding overtime, which the Commissioner can implement administratively. In doing so, the Act places various restrictions on this wage board and its recommendations that I will discuss further.

As the Commissioner explained in her charge, your role is limited to looking at the issue of overtime. While you can recommend that the overtime threshold be reduced, you can not recommend an increase in the threshold *in excess of sixty hours*. In a similar vein, you are restricted to considering this issue and may not further limit any rights, protections, benefits, or entitlements.

The Act also specifically directs you to *consider existing overtime rates in similarly situated industries in New York state*. While most industries and occupations require an overtime premium of time and a half of the employees' regular hourly wage rate for work after 40 hours, there are some exceptions. For example, certain residential workers earn an overtime premium only after 44 hours. In addition, certain workers who are exempt from overtime at the federal level are entitled to overtime under state law at time and a half of the minimum wage, rather than at time and a half of their regular rate, which may be higher than the minimum wage.

As the Commissioner indicated earlier, wage boards play an important role in shaping the livelihood of workers. The Labor Law's general minimum wage provisions, which now cover farm laborers, direct wage boards and the Commissioner to consider the following principles when establishing minimum wages and regulations:

- The amount sufficient to provide adequate maintenance and protect the public health;
- The value of the work or classification of work performed; and
- The wages paid in the state for work of like or comparable character.

The 2019 *Farm Laborers Fair Labor Practices Act* established overtime after 60-hours and this wage board. When passing the law, the legislature made the following findings:

- *Despite regularly working 50, 60, 70 or more hours a week doing arduous and difficult work ... farm laborers remain excluded from ... overtime and other labor protections that are in place at the state and/or federal level for other workers.*
- *This industry is subject to unique and unpredictable factors, including climate and weather, pricing and market requirements, seasonal harvests, immigration, and various federal and state laws, rules and regulations that directly impact farmer and require a unique balance and application of traditional labor protections to ensure farm laborers have ... access to basic labor protections while also creating adaptability and responsiveness to the unique circumstances of farm operations.*
- *The labor standards included in this bill are intended solely for the purposes of transitioning into a modern structure of rights and benefits for farm laborers that achieve harmonious labor relations and stability of operations in the agricultural industry and are not intended for any other industry or sector of the economy.*

Your responsibility is to give serious and careful thought to this and the comments you will hear and be guided by in making your recommendations.