

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

OCTOBER 18, 2022

New York Lowers Overtime Threshold for Agricultural Workers

On Sept. 30, 2022, State Labor Commissioner Roberta Reardon announced that she has accepted the New York Farm Laborers Wage Board's recommendation to lower the overtime threshold for agricultural workers from 60 hours down to 40 hours. During its Sept. 6, 2022 meeting, the Board voted 2-1 in favor of submitting its report recommending a 10-year phase in schedule for a 40-hour threshold. The overtime threshold will be reduced by four hours every two years beginning on Jan. 1, 2024 until it reaches 40 hours in the year 2032.

Additionally, the state will reimburse farmers for the overtime premium as the threshold drops in an effort to offset any adverse financial effects of the threshold. However, the tax credit will only be for the extra cost of the overtime wage, not the hourly rate. According to the State Division of Budget, the overtime credit is expected to cost \$184 million from 2024 to 2027. By the time the 40-hour work week is fully implemented in 2032, the cost will increase to approximately \$153 million annually.

New York follows in the footsteps of California, Washington, Oregon and Hawaii, all of which have lowered the overtime threshold to 40 hours for agricultural workers. Advocates of the decrease in the overtime threshold believe the decision is a win for agricultural workers who have historically been excluded from federal overtime pay provisions. Whereas critics believe the decision has the potential to negatively impact the viability and financial well-being of family farms in the state.

The Department of Labor will now undergo a rule making process which will include a 60-day public comment period. We will continue to monitor the rule making process and provide any additional updates as they become available.

For more information on the information presented in this information memo, please contact [Patrick V. Melfi](#), [Gianelle M. Duby](#), any attorney in Bond's [labor and employment practice](#) or the Bond attorney with whom you are regularly in contact.

