

Renewed calls to give farmworkers overtime pay faces strong opposition from farmers

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Workers harvesting blueberries in Woodburn on July 15, 2012. Faith Cathcart/Staff (file)

By [Jamie Goldberg | The Oregonian/OregonLive](#)

Oregon lawmakers have again proposed extending overtime rights to farmworkers, setting up what could be a contentious fight between farmers and farmworker advocates.

Most non-farm hourly workers in Oregon already receive overtime pay if they work more than 40 hours in a week. The law, though, has long excluded agricultural workers.

Advocates for farmworkers say a change is long overdue, and that there's no fair reason to withhold protections extended to virtually all other workers.

Farmers, however, say an overtime requirement could lead to fewer shifts and less pay for Oregon's estimated 174,000 farmworkers and could put small, family-owned farms, which already operate on thin margins, out of business.

Rep. Andrea Salinas, D-Lake Oswego, who has championed the overtime legislation, convened a group last year of farmers and farmworker advocates to try to reach a compromise. But that effort ended at an impasse.

Members of the House Interim Committee on Business and Labor floated several proposals for new bills Tuesday that would phase in overtime pay to farmworkers over several years while offsetting some costs to farmers.

Rep. Paul Holvey, D-Eugene, and Salinas are promoting a proposal to phase in overtime pay for farmworkers over five years. In the first two years, farmers would only pay time-and-a-half to workers who work more than 55 hours in a week. By 2027, workers would have a right to overtime pay for any hours worked over 40 in a week.

The proposal would be accompanied by a tax credit to cover 50% of the increased cost to farmers in the first two years. That percentage would drop to 20% by 2027. Holvey said the credit would be capped at an undetermined amount.

"We're probably at a place where nobody is going to get 100% of what they want and no one is going to be completely happy with the outcome," Salinas said. "But I do think it's a strong concept."

However, Rep. Shelly Boshart Davis, R-Albany, said the majority of family farms can't afford to pay overtime at 40 hours a week. She floated a separate proposal that would build on one [adopted by Colorado last fall](#) and wouldn't include state funding.

By 2025, Colorado's law will require farms to pay overtime beyond 48 hours for most of the year. But during the peak of harvesting, farms with a highly seasonal workforce will only pay overtime beyond 56 hours.

"We have a chance to craft a solution that recognizes Oregon's unique diversity of family farms and ranches, preserves our working lands and rural economies and responds to the request for a policy that doesn't jeopardize the livelihoods of Oregon farmers," Boshart Davis said. "A 40-hour threshold, even phased-in, does permanent damage to the viability of farming in Oregon and wages of farmworkers."

The discussions in the legislature come as the Oregon Court of Appeals is considering a challenge of the regulations that exclude agriculture workers from the overtime pay requirement. The petition was [filed last fall](#) by two Oregon farmworkers and nonprofit organization, Mano a Mano.

Martha Sonato, the political director at PCUN, Oregon's largest farmworker union, said the issue of overtime pay is one of equity and safe working conditions. She said farmworkers who consistently work beyond 40 hours a week can face long-term impacts to their physical, mental and social well-being and should at minimum be afforded the same rights to compensation that other workers receive when working overtime.

She said the union supports a proposal that will implement overtime pay for farmworkers who work over 40 hours a week within a reasonable timeframe but said most families can't wait five years for overtime pay. The proposal that died in committee last year would have implemented overtime pay after 40 hours within three years.

"There is no good reason to continue this inequity and injustice any longer," Sonato wrote in an email.

Mary Anne Cooper, the vice president of government affairs for the Oregon Farm Bureau, which represents over 6,600 farmers and ranchers, said both proposals floated by lawmakers Tuesday could have adverse impacts on Oregon's agricultural industry.

She said many Oregon farmers lose money most years. A proposed tax credit would only be beneficial to farmers who turn a profit, and even then would only cover at most half of their increased costs. She said farmers couldn't be sure that lawmakers would continue to extend the tax credit when it came up for review in five years, either.

While she said the Colorado model would be a better option, Cooper said farmers remain concerned that the policy would still put some farms out of business.

Cooper said the vast majority of farms in Oregon are family-owned and operating on thin margins in a market where the crops grown are particularly labor-intensive, such as blueberries and pears. She also noted some farms pay workers on a piece-rate basis, meaning they earn a wage based on how much they harvest rather than time worked.

"We're hoping the legislature and labor advocates will be willing to look at alternative solutions," Cooper said, "that meet their needs to ensure that workers are being recognized for the long hours that are inherent in agriculture but also meet our needs of making sure that we can still supply those jobs and that our farms are still viable long-term."

An [economic study](#) prepared by Portland firm Highland Economics for the Oregon Farm Bureau found that an overtime law could lead to farmers cutting farmworkers' hours, hiring more workers to avoid paying overtime or reducing standard wages. The analysis found that overtime regulations in California had mixed results, with some workers receiving higher pay, some receiving the same pay for fewer hours worked and others receiving lower pay due fewer hours or the elimination of jobs. The study also found that overtime requirements could raise costs for farms by around 6% at a time when Oregon farmers are already absorbing higher operating costs and navigating the effects of severe weather and COVID-19. The study concluded that the overtime rules could cause some farms to cut production or fail altogether.

Farmworker groups say the issue is also one of racial justice.

The origins of the overtime exclusion are steeped in the racism of the Jim Crow era. In the 1930s, Southern lawmakers agreed to support progressive federal wage and labor legislation only if agriculture workers, at the time many of whom were Black, [were exempt](#) from the requirements. Today, [studies estimate](#) that more than 90% of Oregon farmworkers are Latino. Sonato said that Oregon's commitment to racial justice should include extending overtime rights to farmworkers. She said the state risks losing workers to California and Washington if it waits any longer to implement the overtime legislation.

"The longer we wait to implement farmworker overtime, the longer our communities have to endure financial burdens exacerbated by the pandemic and most families don't have five years," Sonato said in an email. "Farmworker overtime must happen now because our farmworkers, the people who have fed Oregonians throughout a historic pandemic, smoke and fires, and ice storms, often can't feed themselves or their families."

Seven states, including California and Washington, now offer some form of overtime pay to farmworkers.