



May 19, 2016

Mr. Tom Nassif
President and CEO
Western Growers Association
17620 Fitch Street
Irvine, CA 92614

The Honorable Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator:

Our members are stunned that you have written to the leaders of the California Legislature urging support for AB 2757, by Assembly member Lorena Gonzalez.

These are the facts our members face:

The increased overtime costs imposed on California farmers by AB 2757 will be compounded by the new California minimum wage increases, which will reach \$15 per hour by 2022, increasing thereafter with inflation. Time-and-a-half at \$10 per hour is expensive; time-and-a-half at \$15 per hour is beyond what many farmers – especially the small farmers that many in the state’s majority party claim to support – will be able to pay.

There is relevant administrative history on this issue. California’s Industrial Wage Commission long ago rejected proposals to eliminate the existing threshold because the vagaries of harvesting a perishable crop – such as weather events, pest pressures, seasonally compressed work – are not found in any other industry.

On top of that, farmers in California must compete with farmers in other states and countries that already have far lower wage costs. The buyers of our products – big box and traditional grocery chains, restaurant chains – set the price they will pay our farmers and don’t care one whit about California-only production costs.

California is already at a competitive disadvantage with other major agriculture production states as it relates to overtime requirements. California is one of only 6 states we are aware of that requires any overtime pay for agricultural workers, and our requirement for daily overtime is already the most expensive. This legislation will only exacerbate that competitive disadvantage.

We cannot view this legislation in isolation. California saddles its farmers with the highest regulatory costs and compliance burdens in the nation. Below is a painfully partial list:

- Electricity costs for industrial users that are 63.4% higher than the national average.
- Gasoline costs nearly one-third higher than the national average.
- Diesel costs 14% higher than the national average.
- The highest workers' compensation premium rates in the nation.
- California-only engine replacement rules for irrigation pumps and farm equipment that require expensive upgrades of existing equipment.
- California-only restrictions on use of approved crop protection chemicals that increase risk of crop loss due to pests and disease.
- Water quality requirements that require farmers to prevent any nitrogen (*i.e.*, fertilizer) from reaching below the plant root zone.
- Water supply costs driven by regulatory loss of surface water supplies, forcing farmers to drill new and deeper wells, pay more for energy to pump, and scramble to purchase expensive water (if it can even be found and conveyed) from others.

This legislation will end up hitting many agricultural workers in the wallet. Farmers may be forced to pay the higher overtime costs during peak harvest, but for the tens of thousands of workers who are employed year round (thinning trees, preparing ground for planting, *etc.*), the pressures of cost avoidance will translate to fewer hours worked as farmers add additional employees to avoid overtime costs.

I fear that too few of our state's leaders appreciate that the long-term consequences of this legislation, and all the other regulatory costs unique to California, will be that only large conglomerates will have the financial wherewithal to farm in California. The biggest family-owned farm companies in California are rapidly, if very quietly, investing everywhere but here. Out-of-state investors are increasingly seeking to displace California farm families. This is a troubling trend that we should work to reverse, but AB 2757 will only accelerate it.

We hope the information provided here will help you reconsider your position on this issue in light of the totality of the threats to profitability – and thus, sustainability – that California's farmers already confront.

Sincerely,



Tom Nassif
President and CEO