

# Most States Resist Nixon On Building Pay Restraint

By PHILIP SHABECOFF

Special to The New York Times

MAR 16 1971

WASHINGTON, March 15—Many states are defying, ignoring or otherwise not complying with President Nixon's call for states to suspend their support of construction industry wages.

A check by The New York Times over the last few days indicates that a majority of states that have their own "little Davis-Bacon Acts" have not yet suspended them. Several Governors have said that they have no intention of doing so.

President Nixon suspended the Federal Davis-Bacon Act, which requires that "prevailing" local wages be paid to all workers on Federal construction projects, on Feb. 23. At the same time he called on the state governments to take similar action.

The President said that he had taken the action to slow "skyrocketing" wages and prices in the construction industry and to end Federal encouragement of inflation.

States that have already declared that they would not or could not end support for construction industry wages include some of the most heavily populated and industrialized, such as New York, Massachusetts, Pennsylvania and Ohio.

Gov. John J. Gilligan of Ohio, a Democrat, noting the state has had a "little Davis-Bacon Act" on the books for many years, said:

"I could not suspend it by Executive order, and even if I could, I would not. Now, if wage and price controls for everyone in the box were involved—if we go to full wartime controls—this is something else. But to single out one group is not a solution."

In New York, Industrial Commissioner Louis L. Levine issued a statement on Feb. 24 in response to the Nixon move.

Mr. Levine said that he wanted "to assure the construction

Continued on Page 21, Column 5

Continued From Page 1, Col. 4

industry—labor and management—that wherever federally aided state projects are involved, the wage structure will continue to be based on the state prevailing wage rate law."

He referred to a section of the New York State labor law that forbids the exclusion of "prevailing rates for public funded contracts performed in New York State."

"On a publicly funded construction project financially assisted by the Federal Government, state law requiring prevailing wages remains in effect as mandated by the State Legislature," he added.

#### Position in New York

A spokesman for Mr. Levine said today that "the commissioner's position is that we want to stand with the prevailing wage rate law."

Of the few states that already have announced they would go along with the President, several have let it be known they are doing so only

under the threat of losing funds for federally assisted construction projects.

Gov. Cecil D. Andrus of Idaho, a Democrat, said, "I don't like the blackmail to withhold Federal funds, but there isn't anything I can do about it."

Federal Administration officials are now saying that state compliance is not important and that whether or not the states suspend their own wage-support acts is only a "detail."

However, the Administration has been pressing the states very earnestly to go along with the President's action.

The Solicitor of Labor, Peter G. Nash, issued a legal memorandum for the Administration saying that state laws on prevailing wage standards are preempted by the Federal law on federally assisted projects.

And last Thursday, the administrator of the Labor Department's Workplace Standards Administration, Robert D. Moran, sent a memorandum to Federal contracting agencies that stated, "If the states had the power locally to undo what the President has found necessary in the national interest, then the suspension provision would be rendered impotent."

The memo urged the agencies

to take "appropriate steps" to insure that the states comply with the President's proclamation. It also said that while the nature of Federal action would vary, it "should be understood" that no Federal assistance would go to construction projects where wages are supported in resistance to the President's action.

When asked by telephone if this meant that Federal assistance would be withdrawn from all state projects where wages continued to be supported by state laws, Mr. Moran replied:

"I'm not in a position to answer at this point. We will react to cases as they come up."

Several states have stated that they will continue to apply their own wage-support acts even if it means they will lose Federal funds.

In Pennsylvania, the state Secretary of Labor and Industry, Paul J. Smith, has declared that the state law requiring union wage scales of public projects "automatically takes effect now that the Federal statute has been suspended."

State officials in Harrisburg said that the activation of the state act could lead to the denial of millions of dollars of Federal-aid funds.

At least one state, Wyoming,

has said that it will comply with the President's decision only on federally assisted projects and would continue to require prevailing wage rates on purely state-sponsored projects.

State labor organizations and construction trades unions have been vigorously lobbying at many statehouses to persuade the state governments to reject the lead of the White House.

In Delaware, an effort to repeal the state law requiring support of prevailing wages was opposed by Gov. Russell W. Peterson, a Republican, and killed when 2,000 construction workers, wearing their hard hats, descended on the state capital in buses.

Some state governments have made the Davis-Bacon suspension a partisan issue. For example, Gov. Forest H. Anderson of Montana, a Democrat, said he would enforce Montana's prevailing wage law rigidly, adding "Right now I believe Montana contractors are being unduly punished by a harsh and repressive act of a Republican President."

However, a number of states with Republican administrations, such as New York and New Jersey, are continuing to act on their own "little Davis-Bacon" laws.