

Opinion No. 50-5288

March 9, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. Ebenezer Jones Assistant Labor Commissioner State Labor & Industrial Commission Santa Fe, New Mexico

{*138} Receipt is acknowledged of your letter dated February 28, 1950, requesting an opinion from this office as to whether or not the State Labor Commissioner has authority to declare the prevailing wage throughout the state, under Section 6-506 of the New Mexico 1941 Compilation.

The pertinent part of this Section which decides your question is as follows:

"The advertised specifications for every contract in excess of \$ 2,000, to which the state of New Mexico, or any political subdivision thereof is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works or public roads of the state of New Mexico, and which requires or invokes the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the state labor commissioner to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision or district of the state in which the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his sub-contractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications. * * *"

This part of Section 6-506 specifically authorizes the Labor Commissioner to determine the minimum wages to be paid various classes of laborers, and mechanics in the area where such projects are located and work is to be performed.

If the projects are state-wide, then the authority is state-wide; if not, then only in the area where such projects are located and work is to be performed.

It is, therefore, my opinion that if the State Labor Commissioner has the authority to determine the minimum wages to be paid various classes of laborers and mechanics, it follows that he has the authority to declare what the minimum wages are to be paid the various classes of laborers and mechanics in all projects covered by the statute located within the state of New Mexico where work is to be performed under Section 6-506 of the 1941 Compilation.