

# Bill as Introduced

HB 1406 - AS INTRODUCED

File

2010 SESSION

10-2572  
06/01

HOUSE BILL            **1406**

AN ACT                relative to police details on public ways.

SPONSORS:            Rep. Kurk, Hills 7

COMMITTEE:          Public Works and Highways

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ANALYSIS

This bill requires municipalities that use state, county, city, or town law enforcement details on public ways to do so in accordance with department of transportation guidelines.

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Explanation:        Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struckthrough~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT                   relative to police details on public ways.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 New Section; Use of Law Enforcement Details on Class IV and Class V Roads. Amend  
2 RSA 229 by inserting after section 6 the following new section:

3           229:7 Use of Law Enforcement Details on Class IV and Class V Roads. When a municipality  
4 uses state, county, city, or town law enforcement details on any Class IV or V road within the  
5 municipality for road construction zones, municipal activities, or public meetings or functions, the  
6 department of transportation guidelines for flagger and uniformed officer use in work zones shall  
7 apply.

8           2 Effective Date. This act shall take effect 60 days after its passage.

# Amendments

Rep. Kurk, Hills. 7  
January 15, 2010  
2010-0161h  
06/01

Amendment to HB 1406

1 Amend RSA 229:7 as inserted by section 1 of the bill by replacing it with the following:

2

3       229:7 Use of Law Enforcement Details on Class IV and Class V Roads. When a municipality  
4 requires law enforcement details on any Class IV or V road within the municipality for road  
5 construction zones, municipal activities, or public meetings or functions, the department of  
6 transportation guidelines for flagger and uniformed officer use in work zones shall apply.

*"Not adopted"*



2010-0161h

AMENDED ANALYSIS

This bill requires municipalities that use law enforcement details on public ways to do so in accordance with department of transportation guidelines.

# Speakers





# Hearing Minutes

HOUSE COMMITTEE ON PUBLIC WORKS AND HIGHWAYS

PUBLIC HEARING ON HB 1406

**BILL TITLE:** relative to police details on public ways.  
**DATE:** January 20, 2010  
**LOB ROOM:** 201      **Time Public Hearing Called to Order:** 10:18 a.m.  
**Time Adjourned:** 11:18 a.m.

(please circle if present)

**Committee Members:** Reps. Bouchard, Campbell, Cloutier, Lerandea, C. Brown, Cyr, Long, Sprague, Mann, Ramsey, White, Chandler, Graham, Rausch, Gionet, Ingram, McConkey, Bailey, Kolodziej and Seidel.

**Bill Sponsors:** Rep. Kurk, Hills 7

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

1. Y: Rep. Neal Kurk, prime sponsor.

First, submitted Amendment #2010-0161h, a Department of Transportation (DOT) Manual on Flagger and Uniformed Officer Use in Work Zones (Dated 6-5-09) as well as a Police Only-Traffic Control Summary 2006-2008 for 44 listed N. H. Municipalities.

Costs reflected in Public Service rates. 567,000 for flaggers' average cost over 3 year period. Removing this lowers police revenue and possibly tax rates. (See handout from City of Laconia). Rep. Kurk feels the State should set uniform standards. Communities would follow these guidelines-no current local control and Police can do as they see fit.

Q: Is it appropriate for the Legislature to step in?

A: He feels limited local control is minor and would benefit taxpayers.

Q: Rep. Campbell – Do the DOT rules apply?

A: No, the communities set requirements.

Q: Rep. Campbell – 160 use very little flaggers and you are making requirements?

A: No, if they do not use requirements.

Q: Rep. Graham. Requirements seem nebulous?

A: Every situation is unique

**Q:** Rep. Graham - Flagger training (must be certified and done every four years? How much cost?

**A:** Don't know, but should be less.

**Q:** Rep. Ingram – Should this be a local issue?

**A:** Bill brought in because of cost to taxpayers.

**Q:** Rep. Rausch – Original bill – Are you speaking to amendment?

**A:** Yes.

**Q:** Rep. Mann – If communities have 45 mph speed limit are included?

**A:** Yes.

**Q:** Rep. Long – Sees the financial – concerned about safety for flaggers?

**A:** Thought this was covered, but you read accurately.

**Q:** Rep. Sprague - Communities on chart have requirements?

**A:** Yes.

**Q:** Does this written standard require police?

**A:** No – Up to communities.

**Bob Blaisdell – N. H. Police Association - Lobbyist – opposed to bill and amendment.**

Basing policies on DOT requirements they are Federal code. They can be changed without public hearing (he thinks). HB 1406 has work zone guidelines for public meetings etc. - may not make sense. This is for Class 4 & 5 and communities should decide. This is bad public policy.

**Q: Rep. Seidel -** Bill does not “require”, but sets guidelines.

**A:** State will dictate the policy for details – local is familiar with roads and traffic flow.

**Q: Rep. Long -** Do communities have a choice now?

**A:** Yes.

**Q: Rep. Long -** Do you agree if town requires flaggers that is not covered by bill?

**A:** Yes.

**Bill Ganley – N. H. Police Association - In opposition - Follow-up on Rep. Long**

**A:** Yes, they have local control now. Police Chief controls flow of traffic in town. On large projects towns consult with N. H. Police Association who set some Guidelines- testifies to police traffic control assistance to help solve rape case.

**Q: Rep. Mann** - Do you see this as a "local control" issue or money.

**A:** Yes to local control – some towns have revolving Trust accounts for this and make revenues.

**Q: Rep. Mann** - Is there savings to communities via this bill?

**A:** Unsure.

**Q: Rep. Rausch-** Is bill result of "public perception" that not all details are created "equal"?  
There seems to be a variant in "job attention" – does the Association insure that details are "up to standards"?

**A:** We address problems when brought to our attention. There are times we do not know about problems.

**Q: Rep. Rausch-** Can you reprimand an officer?

**A:** Yes.

**Q: Rep. Ingram** - Why Salem not on list?

**A:** Do not know. No Public Service business there.

**Q: Rep. Long** - Salem guidelines?

**A:** Yes, they have work guidelines.

**Q: Rep. Long** - If bill passes, will Police Officers still be involved?

**A:** Not sure – radar on turnpikes.

**Q: Rep. Long** - Do you believe I see flaggers not performing their duties.

**A:** Yes.

#### **Public Service of New Hampshire – Donna Gamache and Bonnie Kurylo**

Public Service has no position on this -- will take questions.

**Q: Rep. McConkey** - Lives off Route 16 with wide shoulders – sees PSNH can do their work without police assistance and rate payers are paying. Is PSNH looking at making changes to policies?

**A:** PSNH does electric work and has safety concerns.

**Q: Rep. Sprague** - Mostly tree trimming –sees them "sitting around".

**A:** They may be resting.

**Q: Rep. Long** - PSNH must have history on this - ? What do you think is best policy for Management.

**A:** A mix of police flaggers.

**Gary Abbott - AGC** - No opinion - under guidelines - contractors must hire trained flaggers and does training. They use Federal Standards. DOT and communities have called him about guidelines and perhaps there should be some in New Hampshire for consistency. Biggest concern is Safety and this should be the focus for the committee. Guidelines might be helpful to communities to know when to use police and/or flaggers.

Hearing ended at 11:18 a.m.

Respectfully Submitted:

A handwritten signature in cursive script that reads "Carole Brown".

Rep. Carole Brown, Clerk, pro tem

HOUSE COMMITTEE ON PUBLIC WORKS AND HIGHWAYS

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(P. 1)

(1)

HB 1406

1-20-10

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 First, submitted Amendment  
 #2010-0161h, a Dept. of Transportation (DOT)  
 Manual on Flaggers and Uniformed  
 Officer Use in Work (Dated 6-5-09)  
 as well as a Police Only - Traffic  
 Control Summary 2006-2008 for 44  
 listed N.H. municipalities.

Costs / Secty  
Person / problem

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 tax rates. (see handout from City of Leconia. Rep Kurk feels the  
 State should set uniform standards. Communities would follow these  
 guide lines - no current local control + Police can do as they see fit.

? is it appropriate for the Legislature to step in? He feels limited local control  
 is minor + would benefit taxpayers.

Campbell? - do the DOT rules apply? - ans. no, the communities set requirements.

"? - 160 use very little flaggers + you are making requirements? ans. no, if they  
 do not use requirements.

Graham? requirements seem nebulous? - ans - every situation is unique.

"? - flagger training (must be certified + done every 4 yrs? how much cost -  
 ans. don't know, but should be less.

Augram? should this be a local issue? ans. Bill brought in because of cost to taxpayers.

Rausch? original bill - are you speaking to amendment ans. yes

Mann? if communities has 45 mph per hr speed limit are included - ans. yes

Long? sees the financial - concerned about safety for flaggers? ans. Shows that this  
 was covered, but you read accurately.

Sprague? communities on chart have requirements - ans. yes. Does this written  
 standard require police? ans. no - up to communities

(2) HB 1406

Bob Blaisdell - N.H. Police Assoc. - lobbyist - opposed to bill + amendment.  
Banning policies on DOT requirements - they are Federal code. They can be changed w/o public hearing (he thinks). HB 1406 has work zone guidelines for public meetings etc - may not make sense. This is for Class 4+5 and communities should decide. This is bad public policy.

Seidel - ? Bill does not "require" but sets guidelines - ans. State will dictate the policy for details - local is familiar w/ roads + traffic flow.

Long ? do communities have a choice now? ans. yes.

" do you agree if town requires floggers that is not covered by Bill? ans. yes >

Bill Hanley - NH Police Assoc. in opposition - follow up on Rep Long? - yes, they have local control now. Police Chief controls flow of traffic in town. On large projects towns consult w/ NH Police Assoc. who set some guidelines. Testifies to police traffic control assistance to help solve rape case.

Wann ? do you see this as a local control issue or money. ans - yes to local control - some towns have revolving Trust acct for this + make revenues.

Wann ? is there savings to communities via this Bill? ans - unsure

Rausch ? is Bill result of "public perception" that not all details are created "equal". There seems to be a variant in "job attraction" - does the Assoc. advise that details are "up to standards" ans - we address problems when brought to our attention. There are times we do not know about problems.

Rausch ? can you reprimand an officer - ans. yes. <sup>no</sup> Public Service

Augram - why Salem not on list? ans ~~no~~ do not know - business there.

Long - ? Salem guidelines - ans. yes they have work zone guidelines.

" ? if Bill passes will Police Officers still be involved? ans. <sup>not sure - rather</sup> on turnpikes.

" ? do you believe I see floggers not performing their duties - ans. yes.

Public Service of N.H. Bonnie Gamache + Bonnie Kurylo - Public Service has no position on this - will take questions

M<sup>c</sup>Conkey - lives off Rt 16 w/ wide shoulders - sees PSNH can do



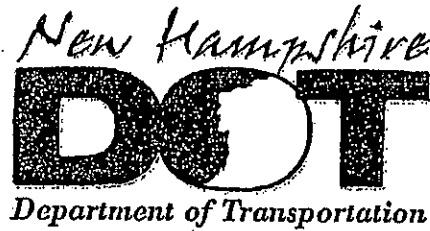
(3) HP 1406

- McKenney? Their work w/o police assistance + rate payers are paying. ? is PSNH looking at making changes to policies? ans - PSNH does electric work + has safety concerns. -
- Sprague? - mostly tree trimming - sees them 'sitting around' - ans - they may be resting -
- Long? PSNH must have history on this - ? what do you think is best policy for management - ans - a mix of police + flaggers.
- Gary Abbott - ABC - no opinion - under guidelines - contractors must hire trained flaggers + ABC does training. They use Federal Standards - DOT + communities have called him about guidelines + perhaps there should be some m.d. #. for consistency. Biggest concern is Safety + this should be the focus for the committee. Guide lines might be helpful to communities to know when to use police and/or flaggers. #

Hearing closed 11:18 AM - Carol Brown, Clerk, pro tem

# Testimony


File



# FLAGGER AND UNIFORMED OFFICER USE IN WORK ZONES

## GUIDELINES

Approved:

  
\_\_\_\_\_  
David J. Brillhart, P.E.  
Chief Engineer

Date: 6/5/09

(Written in support of NHDOT policy: Flagger and Uniformed Officer Use in Work Zones)

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**I. GENERAL GUIDANCE:**

The following guidelines for the use of flaggers and uniformed officers were developed by the NHDOT in cooperation with FHWA. The goal of these guidelines is to reduce the likelihood of injuries and fatalities to workers and road users in NHDOT Work Zones, while maintaining a fiscally responsible approach in their use. These guidelines provide parameters to identify the appropriate need and consistent use of flaggers and uniformed officers addressed by the following categories:

- A. **Traffic control** (guiding and directing traffic in, through, and around a work zone).
- B. **Presence** (deter speeding and aggressive driving, encourage drivers to cautiously proceed through the work zone)
- C. **Enforcement** (actively enforce traffic laws within the work zone on an as needed basis to gain driver awareness rather than as a full-time operation).
- D. **Emergency assistance** (assist and coordinate activities at accident sites within the work zone, report accidents)

- A. TRAFFIC CONTROL OPERATIONS:** Flaggers shall be used to the greatest extent possible for "dynamic" traffic control operations. However, the use of uniformed officers may be necessary in some instances.

Examples of dynamic traffic control operations where flaggers should be used include:

- 1. Alternating 1-way traffic (stop/slow paddles must be used).
- 2. Directing traffic through low volume intersections.
- 3. Assisting trucks and equipment in and out of work areas.
- 4. Providing coverage at side roads and driveways during mobile operations (i.e. paving, striping, etc.).
- 5. Directing pedestrians and bicyclists through the work zone.
- 6. Providing detour guidance beyond work zone limits.

Examples of dynamic traffic control operations where uniformed officers may be used include:

- 1. Directing traffic through complex intersections, especially where signals are being overridden.
- 2. Assisting construction vehicles and equipment in and out of work areas on high speed, high volume facilities. Note: If an access area is anticipated to be in place for an extended period of time and it is determined that assistance is required for the safe exit and entry of construction vehicles, then a cost analysis should be completed to determine if stationary measures (i.e. signals) would be more cost effective than officers or flaggers.
- 3. Rolling roadblock operations on interstate and turnpike facilities and other multi-lane L.A.R.O.W. highways.

4. If a uniformed officer is already on site for other needs (enforcement or presence), then the officer may be asked to supplement these duties by providing limited duration traffic control that would otherwise be covered by a flagger. However, the officer must be adequately trained for the flagger operation to be performed and must use appropriate equipment and techniques (which may include the use of stop/slow paddles).

**B. PRESENCE:** The use of flaggers or uniformed officers for presence should only be used when there is an added safety risk to the workers and road users due to speeding, other aggressive driving behaviors, and/or high traffic crash/incident rates attributed to other features such as poor highway geometrics.

Uniformed officers should be used for presence on high-speed facilities when workers are unprotected and in close proximity to high volume traffic for extended periods of time or where unique work zone conditions require a higher level of driver awareness to ensure safety. Facilities where this application may be appropriate include, but are not necessarily limited to:

1. Interstate facilities
2. F.E. Everett Turnpike
3. Spaulding Turnpike (Middleton (Exit 18) south)
4. NH 101 corridor (Manchester East)
5. Roads with a posted speed of 45 mph or higher and an average daily traffic (ADT) volume of 15,000 vpd or greater.

Flaggers may be used for presence on projects involving roads with a posted speed of less than 45 mph or ADT volumes less than 15,000 vpd to alert and slow traffic with the use of hand signals and hand-signaling devices as described in Chapter 6E of the MUTCD.

If all work is behind barrier, neither officers nor flaggers are typically necessary.

The use of police vehicles should be considered for nighttime operations in most instances as the use of flashing blue lights, visible from 360 degrees, has been proven to deter aggressive driving behavior. However, the manner of their use during nighttime operations should be carefully considered as police vehicle lights provide no positive direction to motorists traveling through the work zone and are often overpowering and distractive. Excessive use of police vehicles with lights at night, or the inappropriate positioning of these vehicles, may actually detract from the positive guidance the work zone traffic control devices (TCDs) provide. When used for nighttime work, flashing blue lights shall be dimmed if capable.

Though typically not necessary, uniformed officers may also be used for presence on roads with posted speeds of less than 45 mph or ADT volumes less than 15,000

NHDOT FLAGGER AND UNIFORMED OFFICER USE IN WORK ZONES GUIDELINES  
05/29/2009

vpd if the NHDOT determines that a police presence is needed to address a specific safety issue. Examples of traffic control safety issues where a uniformed officer may be needed include:

1. A work zone with a high rate of crashes.
2. A work zone with vehicles traveling at excessive speeds.
3. A work zone with poor highway geometrics.
4. A work zone with excessive East-West sun glare.

NOTE: Using the flashing blue lights from a police vehicle to slow traffic approaching a work zone with poor visibility (i.e. East-West sun glare) or poor sight distance due to geometric features should be considered only after other measures have been determined to be ineffective.

- C. **ENFORCEMENT:** The following guidelines are recommended to reduce the likelihood of injuries and fatalities to workers and road users by enforcing traffic laws within work zones. Enforcement can only be performed by uniformed officers.

Enforcement may be used during work zone operations where excessive speed and/or other aggressive driving behaviors are likely to jeopardize the safety of the workers and other road users.

Enforcement may be used on an as needed basis within a work zone where another officer is being used for presence to improve that officer's effectiveness.

Uniformed officers being used for presence should typically not be used for enforcement except for flagrant violations of traffic law.

If an arrest is necessary, the work-zone detail uniformed officer shall call in, and turn the arrest over to, an on-duty officer.

- D. **EMERGENCY ASSISTANCE** While on site, work-zone detail uniformed officers may offer immediate assistance in emergency situations, such as a motor vehicle accident within the limits of the work-zone. The detail officer may investigate minor property damage crashes that occur within the work-zone if the time required to complete the investigation is minimal and the detail officer is not actively engaged in directing traffic. The detail officer should limit investigation of minor property damage crashes to assurance that no injuries are involved. Crashes involving injury should be investigated by the appropriate personnel once other emergency personnel arrive at the scene, not the detail officer.

During development of the project within the Design Bureaus, these guidelines should be used as a first step in identifying initial need, to be further developed and refined through coordination with the Bureau of Construction and the Traffic Control Committee. This

This Document did not  
include a Page 5 of 10



Advance notice of the meeting agenda or a follow-up meeting with public officials may be necessary to allow officials to give thoughtful feedback to these questions.

Near the end of the design phase and prior to advertising, the Project Manager shall meet with municipal officials to communicate the NHDOT's proposed traffic control plan. Elements of this discussion shall address earlier concerns raised by the municipalities during the public participation process and spell out the NHDOT's intentions regarding the use of flaggers and/or uniformed officers.

On District Resurfacing contracts, the District Engineer may elect to use a standard notification letter in lieu of a MWZA if the anticipated project impacts on the municipality are negligible. The standard notification letter will include the following paragraph:

*Please be aware that the State Legislature has delegated the Commissioner of the Department with the full authority to control traffic in highway/bridge construction work zones on Class I, II and III highways. Prior to commencement of the work, the Department will send notice of a preconstruction meeting. You are invited to attend this meeting as project schedule and anticipated traffic control measures are among the topics discussed.*

See section VIII of this document for a sample district resurfacing letter.

If Bridge or Highway Maintenance operations are likely to require work in an area for an extended period of time (i.e. one month or more), then a notice is to be sent to the town similar to the District Resurfacing letter outlining the NHDOT's intent. Executing a MWZA with the affected municipality should also be considered if the project's anticipated impacts warrant one.

If the NHDOT is overseeing work on a class IV urban compact road or class V town road, a separate municipal agreement will need to be written for signature by the municipality and language should be included in that agreement to address the NHDOT's traffic control authority and intentions during the life of that project. An example of this added language may be:

*The DEPARTMENT will be responsible for the management and operation of these facilities throughout the duration of the construction of the project. The TOWN delegates to the DEPARTMENT the authority to control traffic within the TOWN road construction zones of this project.*

### III. FIELD USE GUIDANCE:

If the NHDOT determines that a uniformed officer is needed within the work zone, the following guidelines should also be followed:

1. Use State Police Troopers on interstate and turnpike facilities. County Sheriffs or local police should only be used on interstate or turnpike facilities if they have jurisdictional authority and State Police Troopers are unavailable.
2. Use local police on non-interstate and non-turnpike facilities. County Sheriffs and State Police Troopers may be used if local police are unavailable.
3. If the work zone extends into multiple towns on non-interstate or non-turnpike facilities and there is no mutual aid or other agreement between the neighboring police departments granting them authority to enforce traffic laws throughout the entire work zone, then County Sheriffs or State Police\* Troopers should be used. The use of multiple officers, or the payment of minimum show-up times due to the use of multiple officers with limited shift work, will not be reimbursed if few officers with sufficient jurisdiction could otherwise sufficiently conduct the work without extra cost. \*(Per RSA 106-B:15, the use of State Police may be limited in any city or town greater than 3,000 in population).
4. If a police vehicle is required and the local police department is unable to provide a vehicle meeting the requirements of NHDOT specification 618.2.1, then the County Sheriffs or State Police Troopers are to be used. Private vehicles are not acceptable. Special duty vehicles, such as D.A.R.E. and animal control are also not acceptable.
5. If a uniformed officer is on site for traffic control or presence and work zone operations are unexpectedly suspended due to weather or other unforeseen reasons, then the uniformed officer may be used for enforcement of traffic laws within the work zone until the minimum payment time is reached.
6. If a police department chooses to split one contractor's work shift into two, only one minimum show up time per shift will be paid.
7. The Contractor shall be aware of minimum cancellation notice requirements of the police department being used for detail work. No minimum show-up time payments, that resulted from the contractor's failure to provide the minimum cancellation notice required, will be paid.
8. Flaggers and/or uniformed officers are not to use cell phones except for official business associated with the traffic control detail.
9. All traffic control personnel shall wear high-visibility safety apparel meeting the requirements of the most current MUTCD edition or Federal regulation 23 CFR 634, as appropriate.
10. STOP/SLOW paddles shall be used by all traffic control personnel, whether a uniformed officer or a flagger, when directing road users through the work zone, unless otherwise approved by the Contract Administrator.

**IV: UNIFORMED OFFICER TRAINING:**

Uniformed officers working on all NHDOT projects shall have successfully completed a course on *The Safe and Effective Use of Law Enforcement Personnel in Work Zones*. This course shall be taken once every four years. Proof of successful course completion shall be supplied upon request.

*(Further Action is required to create and implement this training)*

**V: FLAGGER TRAINING:**

NHDOT flaggers working on NHDOT maintenance or Operations' projects shall have been trained by an ATSSA (American Traffic Safety Services Association) certified trainer or equivalent (e.g. NHDOT Program 32: Flagging Control Program) at least once every four years and a record of course completion shall be entered on the NHDOT employee training database.

Non-NHDOT flaggers working on contract work for the NHDOT are required to meet the specifications under Section 618 of the NHDOT Standard Specifications for Road and Bridge Construction.

**VI. UNIFORMED OFFICER REIMBURSEMENT AGREEMENTS/PAYMENT:**

Reimbursement of uniformed officers are to be as outlined under Section 618 of the NHDOT Standard Specifications for Road and Bridge Construction.

*(Further Action is required to address deficiencies of current specification)*

**VII. SAMPLE MUNICIPAL WORK ZONE AGREEMENT (MWZA):**

See next page for sample MWZA.

This Document did not  
include a Page 9 of 10

VIII. SAMPLE DISTRICT RESURFACING LETTER:

April 21, 2009

«TownName»  
«Address1»  
«City», «State» «PostalCode»

RE: Highway Maintenance District « # »  
Proposed Resurfacing Program CY 2009

For your planning information, the New Hampshire Department of Transportation has tentatively programmed the state road(s) on the attached list in your town for paving during the coming season. I hope this information will assist you in coordinating maintenance activities such as crosswalk striping, underground utility projects, trenching, and curb or sidewalk work. This is particularly important for manholes and other structures within the paving limits as significant depressions can develop if they are not set to the proper grade. If appropriate, please advise local utilities to prepare for the proposed resurfacing since it will be their responsibility to make adjustments as required to accommodate the paving.

*Please be aware that the State Legislature has delegated the Commissioner of the Department with the full authority to control traffic in highway/bridge construction work zones on Class I, II and III highways. Prior to commencement of the work, the Department will send notice of a preconstruction meeting. You are invited to attend this meeting as project schedule and anticipated traffic control measures are among the topics discussed.*

Should the program be changed due to funding considerations or pavement conditions, I will contact you. Once a contract and schedule of work has been approved, the Contractor is required to provide written notice to your town between 7 and 14 work days in advance of the final paving.

In addition to this work, District maintenance forces will grader-shim various sections of the secondary highway system as part of our routine maintenance program.

Should you have any questions, please feel free to call at the number listed below.

Sincerely,

«D.E. Name», P.E.  
District Engineer

**Johnston, Judith****From:** Powell Luke [PowellL@city.Laconia.NH.US]**Sent:** Friday, January 15, 2010 11:08 AM**To:** ~House Public Works and Highways**Cc:** Moynihan Paul; Reynolds Pamela**Subject:** Comments on HB 1406

Dear Members of the Public Works and Highway Committee:

Because of scheduling conflicts, I will not be able to attend the public hearing for HB 1406 re-scheduled for 1/20/10 at 10:15 AM. Please accept this email as public comment from the City of Laconia.

The City of Laconia is interested in learning more of the intent of this bill. Our understanding is that this bill does not require law enforcement details be used for traffic control. However it does require that when they are utilized they use the DOT guidelines for flagger and uniformed officers. It appears that the driving force of the amendment is to promote consistency among the different local police forces when utilized but not to require their use on projects. Is this correct?

If I am not interpreting the proposed amendment correctly and the intent is to require police traffic control details, the City of Laconia would be opposed to such a requirement as it would present a significant and unnecessary economic burden.

There are situations in heavy trafficked areas where we require police details. However, the use of police details in less "busy" traffic areas would add a significant increase to costs. To highlight the impact I summarized the labor and equipment costs for a typical maintenance operation - one day of re-building stormwater catch basins.

Item	Hourly Rate	Day rate (8 hours)
Equipment - backhoe	50.00	400.00
Equipment - dump truck	25.00	200.00
Equipment - pick-up truck	10.00	80.00
Equipment - 1 ton truck	25.00	200.00
Labor - backhoe operator	27.01	216.08
Labor - truck driver/laborer	22.50	180.00
Labor - mason	24.00	192.00
Labor - traffic control	2 @ avg 22.00	352.00
<b>Total</b>		<b>1,820.08</b>

Same task replacing DPW traffic control with a Laconia Police Department detail

Item	Hourly Rate	Day rate (8 hours)
Equipment - backhoe	50.00	400.00
Equipment - dump truck	25.00	200.00
Equipment - 1 ton truck	25.00	200.00
<i>Equipment - police cruisers</i>	<i>see rate below</i>	<i>250.00</i>
Labor - back hoe operator	27.01	216.08
Labor - truck driver/laborer-	22.50	180.00
Labor - mason	24.00	192.00
<i>Labor - police detail</i>	<i>2 @ 52.12</i>	<i>833.92</i>
<b>Total</b>		<b>2,472.00</b>

In this example, the cost of a one day job increases by 35.8%. As a line item, the police detail is 207.9% higher than DPW traffic control for an eight hour day (\$352 to \$1,083.92). Extending that increase out

over the course of a construction season would present a significant hit on the operations budget.

Our DPW employees are already trained in traffic control and passage of a requirement to hire only law enforcement details would burden a community like ours unnecessarily.

Thank you for your time.

Sincerely,

Luke Powell, Asst. Director  
Laconia Department of Public Works  
27 Bisson Avenue, Laconia, NH 03246

phone: 603-528-6379; fax: 603-527-1298

e-mail: [PowellL@city.laconia.nh.us](mailto:PowellL@city.laconia.nh.us)

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**Johnston, Judith**

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**From:** Mark Dumas [marknkas1@gmail.com]  
**Sent:** Tuesday, January 19, 2010 4:47 PM  
**To:** Bouchard, Candace  
**Subject:** HB 1406 (Police Details on roadways) NH Police Association

Dear Rep. Bouchard,

I am reaching out to you as a representative for both the Concord Police Patrolmen's Association and the NH Police Association. In writing this email, I represent not only the Police Officers of Concord, but Police Officers across all of New Hampshire.

We want to request your support in voting down HB 1406. You have a hearing scheduled for January 20th @ 10:15 am. I am confident that you will find the NH Chief's of Police do not support this bill either. This bill will not provide the safe work zones and operational controls it suggests. This bill will actually take away local control and add unnecessary burdens on local municipalities.

I have summarized a few of our issues:

This bill is based on Federal law and the DOT Commissioner's rules, either which can be administratively changed as needed. State law would not be so flexible.

Law enforcement already follows DOT safety guidelines when working on public roadways.

Currently, local cities and towns have the ability to utilize flaggers if they so desire. There is no need for the State to dictate the same. Some cities and towns have dealt with this issue with local ordinances or collective bargaining agreements. This law would take that flexibility away.

In DOT's policy document 402.06 dated 5-29-2009 The state legislature has delegated the commissioner of the DOT with full authority to control traffic in highway/bridge construction work zones on class I, II, III highways. This bill extends authority for city and town roads and takes away the ability of the individual towns and cities to have Police Officers, if they so wish.. <http://www.nh.gov/dot/org/projectdevelopment/construction/documents/FlaggerPoliceUsePolicy>

This bill will also place additional training/equipment requirements on police agencies and serve to further stress town and municipal budgets.

I encourage you to speak with members of the law enforcement community that attend this hearing. I also encourage you to reach out to the NH Chief's of Police for their position on this bill. You now know where the Police Officers and Troopers of NH stand.

I tried to contact you by phone but your machine picked up and and we view this matter as too important for me to leave a voice mail message. I am sorry we were unable to connect. I felt this email explanation was my next best option. Feel free to contact me if you have any questions.

Thank you.

1/20/2010



Respectfully,

Mark Dumas

New Hampshire Police Association

[marknkas1@gmail.com](mailto:marknkas1@gmail.com)

(work) 603-230-3760

**Johnston, Judith**

**From:** Powell Luke [PowellL@city.Laconia.NH.US]  
**Sent:** Friday, January 15, 2010 11:08 AM  
**To:** ~House Public Works and Highways  
**Cc:** Moynihan Paul; Reynolds Pamela  
**Subject:** Comments on HB 1406

Dear Members of the Public Works and Highway Committee:

Because of scheduling conflicts, I will not be able to attend the public hearing for HB 1406 re-scheduled for 1/20/10 at 10:15 AM. Please accept this email as public comment from the City of Laconia.

The City of Laconia is interested in learning more of the intent of this bill. Our understanding is that this bill does not require law enforcement details be used for traffic control. However it does require that when they are utilized they use the DOT guidelines for flagger and uniformed officers. It appears that the driving force of the amendment is to promote consistency among the different local police forces when utilized but not to require their use on projects. Is this correct?

If I am not interpreting the proposed amendment correctly and the intent is to require police traffic control details, the City of Laconia would be opposed to such a requirement as it would present a significant and unnecessary economic burden.

There are situations in heavy trafficked areas where we require police details. However, the use of police details in less "busy" traffic areas would add a significant increase to costs. To highlight the impact I summarized the labor and equipment costs for a typical maintenance operation - one day of re-building stormwater catch basins.

Item	Hourly Rate	Day rate (8 hours)
Equipment - backhoe	50.00	400.00
Equipment - dump truck	25.00	200.00
Equipment - pick-up truck	10.00	80.00
Equipment - 1 ton truck	25.00	200.00
Labor - backhoe operator	27.01	216.08
Labor - truck driver/laborer	22.50	180.00
Labor - mason	24.00	192.00
Labor - traffic control	2 @ avg 22.00	352.00
<b>Total</b>		<b>1,820.08</b>

Same task replacing DPW traffic control with a Laconia Police Department detail

Item	Hourly Rate	Day rate (8 hours)
Equipment - backhoe	50.00	400.00
Equipment - dump truck	25.00	200.00
Equipment - 1 ton truck	25.00	200.00
<i>Equipment - police cruisers</i>	<i>see rate below</i>	<i>250.00</i>
Labor - back hoe operator	27.01	216.08
Labor - truck driver/laborer-	22.50	180.00
Labor - mason	24.00	192.00
<i>Labor - police detail</i>	<i>2 @ 52.12</i>	<i>833.92</i>
<b>Total</b>		<b>2,472.00</b>

In this example, the cost of a one day job increases by 35.8%. As a line item, the police detail is 207.9% higher than DPW traffic control for an eight hour day(\$352 to \$1,083.92). Extending that increase out

over the course of a construction season would present a significant hit on the operations budget.

Our DPW employees are already trained in traffic control and passage of a requirement to hire only law enforcement details would burden a community like ours unnecessarily.

Thank you for your time.

Sincerely,

Luke Powell, Asst. Director  
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PSNH  
1/19/10  
Rep. KURK

Police Only - Traffic Control Summary 2006 - 2008

File

	2006		2007		2008		3YR AVG	Town/City Ordinance or Letter of Understanding
	CO	Veg MGT	CO	Veg MGT	CO	Veg MGT		
1 MANCHESTER	\$21,741	\$67,883	\$36,276	\$21,336	\$15,628	\$120,969	\$94,611	written ordinance
2 PORTSMOUTH	\$10,283	\$13,860	\$53,151	\$9,858	\$38,339	\$16,898	\$47,463	town letter from police
3 MERRIMACK	\$22,373	\$22,321	\$28,454	\$7,872	\$11,063	\$15,168	\$35,751	written ordinance
4 DERRY	\$28,555	\$22,980	\$23,917	\$576	\$21,189	\$3,380	\$33,526	town letter from police
5 BEDFORD	\$7,907	\$2,880	\$11,728	\$2,256	\$15,000	\$56,304	\$32,024	written ordinance
6 NORTH HAMPTON	\$7,486	\$10,422	\$13,816	\$2,592	\$28,306	\$26,088	\$29,570	written ordinance
7 LEE	\$9,751	\$0	\$5,846	\$35,160	\$17,655	\$19,112	\$29,175	written ordinance
8 RYE	\$6,929	\$387	\$21,794	\$0	\$5,573	\$52,344	\$29,009	written ordinance
9 BRENTWOOD	\$9,827	\$135	\$62,294	\$192	\$4,738	\$1,152	\$26,113	Pending
10 TEMPLE	\$0	\$0	\$0	\$0	\$0	\$77,208	\$25,736	written ordinance
11 BARRINGTON	\$2,027	\$3,735	\$2,243	\$6,528	\$13,458	\$44,832	\$24,274	town letter from police
12 NEWMARKET	\$4,739	\$4,680	\$7,094	\$8,784	\$23,088	\$21,600	\$23,328	written ordinance
13 EPPING	\$3,201	\$765	\$13,991	\$4,539	\$19,547	\$27,816	\$23,286	written ordinance
14 LONDONDERRY	\$8,642	\$22,241	\$22,450	\$768	\$13,426	\$1,538	\$23,021	town letter from police
15 PITTSFIELD	\$4,658	\$39,105	\$9,229	\$5,088	\$5,812	\$4,404	\$22,766	written ordinance
16 AUBURN	\$1,245	\$4,880	\$13,565	\$17,472	\$315	\$23,160	\$20,212	written ordinance
17 WEARE	\$817	\$0	\$12,139	\$10,568	\$22,816	\$12,853	\$19,731	written ordinance
18 GREENLAND	\$2,003	\$0	\$13,029	\$576	\$15,191	\$26,618	\$19,138	town letter from police
19 MILTON	\$9,323	\$0	\$5,473	\$17,160	\$11,873	\$12,576	\$18,801	written ordinance
20 NOTTINGHAM	\$800	\$0	\$7,150	\$17,256	\$1,200	\$22,704	\$16,370	selectmen's order
21 RINDGE	\$0	\$11,070	\$0	\$1,920	\$10,432	\$23,832	\$15,751	written ordinance
22 ROCHESTER	\$2,251	\$7,569	\$1,666	\$28,716	\$0	\$5,472	\$15,225	town letter from police
23 DURHAM	\$7,659	\$5,266	\$3,133	\$14,238	\$5,117	\$9,484	\$14,965	written ordinance
24 NASHUA	\$6,263	\$6,741	\$12,543	\$2,978	\$6,014	\$3,456	\$12,665	
25 GOFFSTOWN	\$3,990	\$7,107	\$13,610	\$4,208	\$7,030	\$960	\$12,302	
26 FARMINGTON	\$9,086	\$8,031	\$4,448	\$0	\$9,987	\$3,168	\$11,573	written ordinance
27 NORTHWOOD	\$9,405	\$9,727	\$9,900	\$960	\$4,590	\$0	\$11,527	understanding w/Police
28 RAYMOND	\$3,861	\$479	\$6,890	\$11,328	\$5,800	\$4,632	\$10,996	written ordinance
29 FREMONT	\$2,760	\$1,212	\$15,143	\$8,880	\$3,195	\$192	\$10,461	town letter from Police
30 DOVER	\$3,151	\$1,222	\$356	\$10,047	\$0	\$13,488	\$9,421	written ordinance
31 LYNDEBOROUGH	\$0	\$26,872	\$0	\$0	\$0	\$1,248	\$9,373	written ordinance
32 GREENVILLE	\$0	\$360	\$0	\$2,870	\$0	\$23,328	\$8,853	written ordinance
33 CANDIA	\$2,610	\$16,785	\$990	\$2,976	(\$68)	\$1,728	\$8,341	written ordinance
34 FITZWILLIAM	\$0	\$0	\$0	\$144	\$0	\$24,168	\$8,104	
35 MIDDLETON	\$1,825	\$0	\$2,100	\$816	\$2,075	\$15,360	\$7,392	written ordinance
36 CHESTER	\$1,852	\$0	\$2,940	\$2,592	\$3,454	\$10,998	\$7,278	
37 NEWFIELDS	\$556	\$180	\$9,152	\$9,024	\$2,048	\$0	\$6,987	written ordinance
37 NEW DURHAM	\$0	\$0	\$90	\$0	\$2,610	\$16,728	\$6,476	town letter from police
38 BROOKLINE	\$520	\$15,016	\$1,775	\$672	\$0	\$0	\$5,994	written ordinance
39 NEWINGTON	\$2,974	\$113	\$1,729	\$0	\$806	\$11,712	\$5,778	written ordinance
40 WINDHAM	\$2,344	\$172	\$4,164	\$1,392	\$7,591	\$1,536	\$5,733	written ordinance
41 HUDSON	\$1,806	\$8,226	\$1,298	\$1,683	\$3,240	\$576	\$5,609	
42 HOOKSETT	\$1,843	\$1,800	\$1,723	\$8,907	\$2,117	\$384	\$5,591	
43 OSSISPEE	\$3,352	\$5,535	\$3,122	\$384	\$3,264	\$768	\$5,475	busy roads -not written
44 HAMPSTEAD	\$3,634	\$360	\$6,634	\$816	\$3,140	\$1,680	\$5,421	

Seacoast/Northern Div 23

Southern Div 19

Western/Central Div 3

Total Towns 45

↑  
Distri. work

↑  
tree trim

↑  
Distri. work tree trim

↑  
Distri. work Tree Trim

3 year average  
\$82,233

# Voting Sheets

HOUSE COMMITTEE ON PUBLIC WORKS AND HIGHWAYS

EXECUTIVE SESSION on HB 1406

**BILL TITLE:** relative to police details on public ways.

**DATE:** January 27, 2010

**LOB ROOM:** 201

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Maureen R. Mann

Seconded by Rep. Peter M. Ramsey

Vote: 18-0 (Please attach record of roll call vote.)

**Approved 18-0**

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

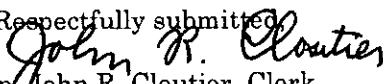
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: 18-0 (YES)**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,  
  
Rep. John R. Cloutier, Clerk

HOUSE COMMITTEE ON PUBLIC WORKS AND HIGHWAYS

EXECUTIVE SESSION on HB 1406

BILL TITLE: relative to police details on public ways.

DATE: 1-27-10

LOB ROOM: 201

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Maureen R. Mann

Seconded by Rep. Peter E. Ramsey

Vote: (Please attach record of roll call vote.)

Approved  
18-0

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-0 (Yes)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. John R. Cloutier, Clerk

**PUBLIC WORKS AND HIGHWAYS**

Bill #: HB 1406 Title: Relative to police details on public ways.

PH Date: 01 / 20 / 2010

Exec Session Date: 01 / 27 / 10

Motion: Inexpedient to Legislate

Amendment #: N/A

MEMBER	YEAS	NAYS
Bouchard, Candace C W, Chairman	✓	
Campbell, David B, V Chairman	✓	
Cloutier, John R, Clerk	✓	
Lerandean, Alfred C	✓	
Brown, Carole M	✓	
Cyr, James E	✓	
Long, Patrick T	✓	
Sprague, Dale R	✓	
Mann, Maureen R	✓	
Ramsey, Peter E	✓	
White, Andrew A	✓	
Chandler, Gene G	✓	
Graham, John A	✓	
Rausch, James B	✓	
Gionet, Edmond D	✓	
Ingram, Russell F	✓	
McConkey, Mark E	✓	
Bailey, Clinton W	~ ~ ~ ~ ~ ABSENT ~ ~ ~ ~ ~	
Kolodziej, Walter	~ ~ ~ ~ ~ ABSENT ~ ~ ~ ~ ~	
Seidel, Carl W	✓	
<b>TOTAL VOTE:</b>	<b>18</b>	<b>0</b>



# Committee Report

**CONSENT CALENDAR**

**January 27, 2010**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on PUBLIC WORKS AND HIGHWAYS to  
which was referred HB1406,**

**AN ACT relative to police details on public ways.**

**Having considered the same, report the same with the  
following Resolution: RESOLVED, That it is  
INEXPEDIENT TO LEGISLATE.**

**Rep. Maureen R Mann**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>PUBLIC WORKS AND HIGHWAYS</b>
Bill Number:	<b>HB1406</b>
Title:	<b>relative to police details on public ways.</b>
Date:	<b>January 27, 2010</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

This bill seeks to require communities to follow DOT guidelines for road details on Class IV or V roads. DOT guidelines call for the use of flaggers rather than police details at low-volume locations, construction sites on side roads, detours and areas with a posted speed of less than 45 mph unless a police presence is determined to be necessary. While the committee sympathized with the intent of the bill, to lower the pass through cost to rate payers, it unanimously agreed that should the bill pass; it would be a major intrusion into local decision making. Many communities have chosen to use police details in all situations and that is their right. The committee hopes that other legislation will deal with the issues of increasing detail costs and potential abuses.

Vote 18-0.

Rep. Maureen R Mann  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### PUBLIC WORKS AND HIGHWAYS

**HB1406**, relative to police details on public ways. **INEXPEDIENT TO LEGISLATE.**

Rep. Maureen R Mann for PUBLIC WORKS AND HIGHWAYS. This bill seeks to require communities to follow DOT guidelines for road details on Class IV or V roads. DOT guidelines call for the use of flaggers rather than police details at low-volume locations, construction sites on side roads, detours and areas with a posted speed of less than 45 mph unless a police presence is determined to be necessary. While the committee sympathized with the intent of the bill, to lower the pass through cost to rate payers, it unanimously agreed that should the bill pass; it would be a major intrusion into local decision making. Many communities have chosen to use police details in all situations and that is their right. The committee hopes that other legislation will deal with the issues of increasing detail costs and potential abuses. **Vote 18-0.**

Original: House Clerk  
Cc: Committee Bill File

**HB 1406 relative to police details on public ways.**

**This bill seeks to require communities to follow DOT guidelines for road details on Class IV or V roads. DOT guidelines call for the use of flaggers rather than police details at low-volume locations, construction sites on side roads, detours and areas with a posted speed of less than 45 mph unless a police presence is determined to be necessary. While the committee sympathized with the intent of the bill, to lower the pass through cost to rate payers, it unanimously agreed that should the bill pass, it would be a major intrusion into local decision making. Many communities have chosen to use police details in all situations and that is their right. The committee hopes that other legislation will deal with the issues of increasing detail costs and potential abuses.**

**Rep. Maureen R. Mann  
For the Committee**

**18-0 CC**

*CW B  
1/27/2010*

HB 1406

This bill seeks to require communities to follow DOT guidelines for road details on Class IV or V roads. DOT guidelines call for the use of flaggers rather than police details at low-volume locations, construction sites on side roads, detours, and areas with a posted speed of less than 45 mph - unless a police presence is determined to be necessary. While the committee sympathized with the intent of the bill - to lower the pass through cost to rate payers - it unanimously agreed that should the bill pass it would be a major intrusion into local decision making. Many communities have chosen to use police details in all situations and that is their right. The committee hopes that other legislation will deal with the issues of increasing detail costs and potential abuses.

CWZ

1/27/2010

**COMMITTEE REPORT**

COMMITTEE: Public Works and Highways

BILL NUMBER: HB 1406

TITLE: Relative to police details on public ways

DATE: 1-27-10 CONSENT CALENDAR YES  NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- RE-REFER
- REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

**STATEMENT OF INTENT  
(Include Committee Vote)**

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Vote. 18-0

Rep. Maurice R. Mean  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT