

State, police negotiate traffic detail guidelines

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BOSTON — Proposed state guidelines would allow police officers to be replaced with civilian flaggers on public road projects where the speed limit is 40 mph or less, according a preliminary draft obtained by the Cape Cod Times.

But the "awarding authority" — the state or municipality — would still have broad leeway to require police details for safety reasons. And flaggers could not be used if local laws or police contracts require the use of details.

The state Executive Office of Transportation continues to work out the specifics of the plan with police unions and police chiefs. A \$3.5 billion transportation bond bill approved by the Legislature and signed by Gov. Deval Patrick called for the guidelines to be in place within 90 days, but the deadline passed on July 16.

The draft guidelines call for police details to be used on roads with a speed limit of 45 mph or greater, although civilian flaggers could be used if the road has light traffic.

In cases where the state has determined that flaggers will be used on a state project, a city or town could only add a police detail if the municipality pays for it. Currently, such a cost would be borne by the state.

State transportation spokesman Klark Jessen could not comment on when the guidelines will be completed. The transportation department would not release any details of the plan but warned that any preliminary proposals were subject to change.

"It's still in discussion," Jessen said.

Sources familiar with the state's planning said the guidelines could be published as soon as this summer, followed by a public hearing. They would go into effect 90 days after being published.

One sticking point is whether police chiefs should have explicit authority over civilian flaggers in construction zones — or whether the chiefs would have to go through a project manager or engineer.

Police chiefs want the ability to quickly step in and reroute traffic if it is causing a safety or congestion problem.

"It's one of the issues we are discussing," said A. Wayne Sampson, the executive director of the Massachusetts Chiefs of Police Association and a retired Shrewsbury police chief. "I wouldn't say it's an issue of contention. It's one of those issues that needs to be resolved. Our concern is that no matter who is out there directing traffic, there has to be one entity in charge of public safety."

The draft plan says nothing in the regulations "shall be interpreted to alter or otherwise limit the authority" of police in construction zones.

But the plan also establishes an "authorized representative" of the state or municipality — expected to be a project manager or engineer — to have "final authority" on traffic control. The safety plan would have to be worked out in consultation with police agencies.

Sampson said the project manager or engineer is often away from the work site, or even in another town.

"The police chiefs are saying this should rest with us because we are responsible for our communities," Sampson said.

Ray McGrath, who represents the International Brotherhood of Police Officers, said the union also wants police chiefs to have clear authority.

When Patrick signed the bill April 17, he promised to replace police details with civilian flaggers "wherever and whenever we can." Massachusetts is the only state in the country that has widespread use of police details on state and local construction projects, either through state policy, local law, union contract or long-standing practice.

A recent Cape Cod Times review found nearly every Cape town has some mention of details in union contracts.

An independent transportation panel estimated that switching to flaggers would save the state \$5 million a year. But police officers say it would not save money, contending the flaggers would have to be paid the same or higher under state prevailing-wage law. They also say it is a question of public safety.

"I don't understand how the governor could one day portray himself as putting more police officers on the street and the next day propose the elimination of police officers on the streets of the commonwealth," McGrath said.

Michael Widmer, the president of the Massachusetts Taxpayers Foundation, served on the transportation panel that recommended the change. He wasn't optimistic the final guidelines would produce sweeping reform.

"I'm hopeful that it will open up a crack, and that it will give a little room for municipal leaders if some mayor or selectmen wanted to address this issue in a real way," he said. "Right now, basically the police have a monopoly stronghold on it, and the question is can you just let a little air into it."