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**STATE REPRESENTATIVE**  
**DISTRICT 35**



**HOUSE OF REPRESENTATIVES**

Testimony of Representative Margaret Doherty in Support of HB 4129  
House Committee on Transportation and Economic Development  
February 8, 2012

Everyone in this building talks about government efficiency, saving taxpayer dollars, and prioritizing services to ensure that critical programs are preserved. You have before you a bill that does just that, and it does it in the most flexible and simple way possible.

As part of the 2009 Jobs and Transportation Act, the Legislature decided to conduct an experiment. It created a program with the aim of saving money by outsourcing our highway maintenance to a private company. The project was to last 6 years.

Fast-forward three years. The result of that mandate is an extremely expensive project on highway 219 in Washington/Yamhill County. In its first year the project is projected to cost more than three times as much as it would have cost for the Oregon Department of Transportation to maintain the highway. The expected cost is \$698,000 for the private contractor vs. \$200,000 for ODOT for a 26 mile stretch of highway.

This mandate has also forced ODOT to provide extensive training for the contractor, taking up more time and money that could have been better spent maintaining the roads and serving the people of Oregon. A list of the trainings are provided in the ODOT report, but include work zone traffic control, , signing, winter road maintenance, and Maintenance Management System Training (record keeping and documenting).

One important point needs to me made. This bill does not end the project. Instead the bill removes the mandate to conduct the project by way of a private contractor for 6 years, leaving the decision of whether or not to continue this project between the contractor and ODOT.

We create a lot of mandates and sometimes, when the rubber meets the road, the result is less than we had hoped. If the current trend continues, the state could save as much as \$495,000 a year. We do not have the resources for an experiment that could possibly cost a total of almost \$2.5 million over the remaining five years of the contract. This bill gives ODOT the flexibility to assess the program and does not mandate it continue.

I urge support of HB 4129.

**Oregon Department of Transportation  
Maintenance Outsourcing Project Report  
May 2011**

**Background**

The 2009 Jobs and Transportation Act (JTA) required the Oregon Department of Transportation (ODOT) to undertake a six-year pilot project to contract out the maintenance of a 10- to 30-mile section of highway. The JTA required ODOT to submit a biennial report to the legislature summarizing its progress toward achieving the goals identified in the JTA related to contracting out the maintenance of highways.

Following enactment of the JTA in 2009, ODOT researched which states had outsourced all maintenance activities along a stretch of highway. ODOT contacted industry representatives who have highway maintenance contracts in Virginia and Florida, states that have performed contracting out, to learn of their experiences. These were the two states that had the goals and objectives most similar to Oregon. We reviewed the contracts both states use, and through conversations with the Virginia and Florida Departments of Transportation, learned of their issues and challenges. Both states use a performance-based contract. Under a performance-based contract, the contractor is given goals and objectives to meet and is paid according to how well they deliver. ODOT staff also reviewed a study about maintenance outsourcing by the Washington State Department of Transportation.

**Highway Selection**

ODOT selected OR 219 from mile point 10.05 to mile point 36.05 for the project (see Attachment). The section is 26 miles long, begins at Schools, north of Newberg, and continues south to a point about one mile west of I-5 at the Marion County line near Woodburn. This highway portion was selected based on the following criteria and requirements:

- Need for continual regular and monthly maintenance work
- Requires maintenance for a majority of features on Oregon's highway system: electrical, signs, culverts, bridges; requires winter maintenance; and has environmental challenges
- Good proximity to contractor community to encourage competition
- Good proximity to ODOT district office and good visibility for the traveling public
- Requires reasonable winter maintenance without requiring vast initial contractor investment in winter equipment (i.e. a \$500,000 snow blower)
- Provides a highway section that has good records of ODOT costs for easy comparison with contractor costs

**Contract Development and Contractor Selection**

ODOT developed a performance-based contract through its Office of Innovative Partnerships and Alternative Funding. On May 28, 2010, an initial contract was executed for \$15,000 to Eagle-Elsner, Inc. of Sherwood to develop implementation plans and work with ODOT on ways to reduce costs and risks to the contractor.

Eagle-Elsner, Inc. submitted an initial bid for \$1.2 million per year to maintain the 26-mile segment of OR 219. ODOT's average cost to maintain the same segment had been approximately \$200,000 per year. During ODOT's review of the contract proposal, staff noticed the contractor's costs seemed to be high based on the need to purchase equipment and materials, provide facilities, as well as risk assessments of the unknowns.

ODOT and the contractor negotiated the terms of the contract and agreed not to use performance-based contract payments for at least the first year. ODOT and the contractor agreed to use the goals and objectives identified in the contract as a guide, but to pay based on actual work performed with ODOT oversight. This will assure that ODOT gets a good product with the desired results and institutes appropriate price controls.

ODOT has taken additional steps to alleviate the financial burden on the contractor. ODOT has leased two ten-yard dump trucks with snow plows, sanders, a deicer tank and a computerized spray and distribution system to the contractor; ODOT is also providing access to its stockpiles of sanding material, deicer and facilities near the pilot project. By using lease agreements, the contractor will not have to make an initial investment in specialized highway maintenance equipment.

### **Implementation**

The contractor took over maintenance of the identified segment of OR 219 on December 22, 2010. We expect the first year's expenses for the contractor to be no greater than \$698,000 for all maintenance activities on the highway including winter maintenance.

ODOT has provided a variety of training to the contractor which includes:

- Water Quality and Habitat Guide Best Management Practices which includes specific training about water quality, habitat, and maps identifying special features of the highway, geography or special maintenance needs
- Work Zone Traffic Control
- Signing (standards and maintenance)
- Winter road maintenance (plowing, applying sanding material and anti-icer and deicer (winter road maintenance) chemicals
- Radio Protocols
- Traffic Operations Center Guidelines
- Facilities Environmental Management System
- When and how to perform all types of normal highway maintenance
- Maintenance Management System Training (record keeping and documenting)

### **Status**

The contractor has been performing highway maintenance activities for the designated portion of OR 219 for five months. The contractor is learning when and what is needed to address all types of conditions. ODOT staff has invested a considerable amount of time to train the contractor about highway maintenance practices, and has been contacting them as needed to assure things are done properly and on time.

Since December 22, 2010, the contractor has been responsible for maintenance of the 26-mile long section of OR 219. The contractor is rated once a month by ODOT using the Performance Outcome Criteria, and for the first five months of the contract, the contractor has received top ratings in all categories and is on budget. Categories include:

- Surface (potholes, edge raveling, shoving, depression/bump)
- Shoulder (unpaved shoulder, front slope, sidewalk, sweeping)
- Drainage (side/cross drain, roadside/median ditch, outfall ditch, catch basins (inlets), miscellaneous drainage structure cleaning, repairing)
- Roadside and Vegetation (roadside vegetation, guardrail vegetation, mowing, brush cutting, noxious weeds, herbicide applications, litter removal, landscaping, fence)
- Traffic Services (striping, pavement legend markings, signs, traffic signals, illumination, flashers/beacons, and/or timer maintenance, pavement markers, delineators and mailbox supports, accident cleanup and repair, guardrail, other traffic services maintenance)
- Structures (bridge maintenance, transient camp cleanup, graffiti removal, other structure maintenance)
- Snow and Ice (snow removal, sanding, winter road patrol, anti-icing and de-icing)
- Extraordinary Maintenance (emergency maintenance, slides, rock falls, sinks, settlements, or other extraordinary maintenance)

In addition to the above, the contractor is also responsible for:

- Responding to crashes, 24 hours per day, seven days per week.
- Hazardous materials cleanup discovered on the highway right-of-way.
- All other inspections not excluded below for the highway feature assets, including all electrical features.
- Railroad oversight and coordination for the section; assuring the crossings are in good shape and working with the railroad when repairs are needed. This is normally limited to when there is a problem.
- Monthly report and weekly schedule from the contractor to ODOT that includes all work activities, accomplishments, and hours and certified payrolls of work performed, and monthly customer service log detailing complaints or requests.

ODOT continues to be responsible for:

- Incident Response – ODOT provides incident response (IR) covering a much larger area for one response unit than just this section. IR is ready to respond 24/7 and can respond as an emergency vehicle including lights and siren if needed. IR is equipped to respond to all types of incidents with a full set of emergency including booms, containers, lane delineation equipment and an electronic variable message sign; along with all types of emergency equipment they may need which amounts to about \$40,000 in equipment in addition to the pickup. As with our maintenance crews, IR or Dispatch will call the contractor to help with detours and traffic control as needed. It was not efficient for the contractor to provide this dedicated emergency IR service for this highway section alone. ODOT continues to look for ways to include this service into the contractor's responsibilities.
- Paying all highway lighting, signal, and flasher/beacon electric bills.

- Permitting activities including over dimensional permits and Off Premise Signing, utilities and access permitting.
- Providing environmental assistance to obtain third party regulatory permits to the extent the same assistance would be provided to internal ODOT Maintenance and Operations Crews.
- Providing traffic engineering support to the extent the same assistance would be provided to internal ODOT Maintenance and Operations Crews.
- Performing the state and federally required Bridge Inspections
- Performing traffic signal inspections and timing reviews/plans.

The contractor communicates and coordinates on ODOT radios with other ODOT maintenance sections, districts and ODOT dispatch.

The following is a summary of the accomplishments of the contractor since December 22, 2010:

**January:**

- Training: snow removal and de-icing procedures
- Shoulder Rebuilding: rebuilt 0.1 of a mile of shoulder.
- Sweeping Shoulders: swept 16 lane miles
- Ditch Cleaning: cleaned 0.2 of a mile
- Culvert Cleaning: cleaned 14 culverts and inlets
- Litter Pickup: cleaned 10.4 shoulder miles
- Minor Sign Repairs: repaired or replaced 12 signs
- Delineator Maintenance: maintained site posts
- Winter Operations: sanding, de-icing, and snow removal
- Emergency Maintenance: responded to flooding on highway
- Incident Response by Maintenance: responded to highway issues like incidents, hazards and road kill removal

**February:**

- Minor Surface Repairs: repaired potholes
- Sweeping Shoulders: swept 29.9 lane miles
- Brush Cutting by hand
- Litter Pickup: cleaned 6.4 shoulder miles
- Minor Sign Repairs: repaired or replaced 28 signs
- Delineator Maintenance: maintained site posts
- Winter Operations: sanding, de-icing

**March:**

- Minor Surface Repairs (Pot Holes): repaired potholes
- Sweeping Shoulders: swept 16 lane miles
- Culvert Cleaning: cleaned 17 culverts and inlets
- Brush Cutting by hand
- Litter Pickup: cleaned 5.7 shoulder miles
- Striping: re-striped 0.5 lane miles
- Minor Sign Repairs: repaired or replaced 12 signs
- Flasher/Beacon maintenance

- Delineator Maintenance: maintained site posts
- Winter Operations: sanding, de-icing, road patrol
- Incident Response by Maintenance: responded to highway issues like incidents, hazards and road kill removal

#### **April:**

- Training: reviewed EMS practices for cleanups in maintenance facilities, Water Quality and Habitat Guide Best Management Practices which includes specific training about water quality, habitat, and maps identifying special features of the highway, geography or special maintenance needs
- Minor Surface Repairs: repaired potholes
- Sweeping Shoulders: swept 90 lane miles
- Culvert Cleaning: cleaned 43 culverts and inlets
- Erosion Repair: repaired 2 culverts that were plugged with debris
- Brush Cutting by hand
- Litter Pickup: clean 3 shoulder miles
- Minor Sign Repairs: repaired or replaced 2 signs
- Delineator Maintenance: maintained site posts
- Guardrail Repair: repaired 37.5 feet of guardrail
- Incident Response by Maintenance: responded to highway issues like incidents, hazards and road kill removal

ODOT is considering a second year of reimbursing the contractor for actual work performed, before moving to performance-based contracting. This extension should give the contractor additional time to learn highway maintenance practices and reduce their risks prior to implementing the full contract.

#### **Summary**

ODOT is committed to the successful use of contracting out a section of highway maintenance as required in HB 2001. Since approval in 2009 ODOT has researched best practices from other States, selected a highway section, selected a contractor and is five months in to an expected six-year contract with the contractor maintaining the highway section. Since there is not holistically comparable work in the industry in our region, the Contractor and ODOT have been learning through the contracting process and adjusting as necessary. ODOT started with a time and materials-based contract while providing specialized highway maintenance equipment. ODOT anticipates moving to a performance-based contract within two years with the contractor supplying the equipment.