

**Enrolled**  
**House Bill 2973**

Sponsored by Representative DOHERTY

CHAPTER .....

AN ACT

Relating to a pilot project for private maintenance of a segment of a state highway; creating new provisions; repealing sections 23 and 24, chapter 865, Oregon Laws 2009; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** (1) Section 23, chapter 865, Oregon Laws 2009, as amended by section 68, chapter 545, Oregon Laws 2011, is repealed.

(2) Section 24, chapter 865, Oregon Laws 2009, is repealed.

**SECTION 2.** The Department of Transportation shall terminate contracts the department entered into under section 23, chapter 865, Oregon Laws 2009, as amended by section 68, chapter 545, Oregon Laws 2011, immediately or as soon as is feasible in accordance with the terms set forth in the contracts for terminations for convenience or, if appropriate, as provided for a termination because of a lack of sufficient appropriations or a lack of legal authority to engage in the work described in the contract. The department, in terminating the contracts, shall perform all obligations and duties that the contract requires of the department upon termination.

**SECTION 3.** This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

**REVENUE: No revenue impact**

**FISCAL: No fiscal impact**

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<b>Action:</b>	Do Pass and Rescind the Subsequent Referral to the Committee on Ways and Means
<b>Vote:</b>	10 - 0 - 0
<b>Yeas:</b>	Bentz, Cameron, Davis, Doherty, Gorsek, Lively, McKeown, Nathanson, Parrish, Read
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Troy Rayburn, Administrator
<b>Meeting Dates:</b>	3/4, 4/5

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**WHAT THE MEASURE DOES:** Repeals portion of Oregon Jobs and Transportation Act of 2009 requiring Oregon Department of Transportation (ODOT) to contract out all maintenance activities on certain state highway segments. Requires ODOT to terminate all existing contracts immediately, or as soon as feasible. Requires ODOT to perform all obligations and duties due under contract upon termination. Declares emergency; effective on passage.

**ISSUES DISCUSSED:**

- Efficient use of state dollars
- Life cycle of equipment
- Net savings to contract to discontinue project
- Performance-based contract
- Opt-out clause in contract
- Part of Jobs and Transportation Act
- Standard procedure for Oregon Department of Transportation to contract out work
- Prevailing wage
- Methodology used for developing pilot project
- Difference between construction and maintenance
- Request for Proposals process
- Outside entity vs. inside entity
- Need to work with private vendors in a more comprehensive manner
- Vendor pays more than Bureau of Labor and Industries

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** House Bill 2001 (2009), also known as the Oregon Jobs and Transportation Act, was a comprehensive transportation bill developed by the Governor's Vision Committee. Five core principles were used in the development of the measure: economic development, local decision-making, sustainability, transparency and oversight, and statewide distribution. The measure included a number of studies and initiatives, including a pilot program that required the Oregon Department of Transportation (ODOT) to contract out all maintenance activities on a segment of state highway between 10 and 30 miles in length.

House Bill 2973 repeals the requirement that ODOT conduct a pilot program to contract out the maintenance of certain Oregon highways and requires ODOT to terminate all existing contracts as soon as possible. The measure requires ODOT to perform any duty or obligations found in the contract due upon termination.

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*This summary has not been adopted or officially endorsed by action of the committee.*

REVENUE: No revenue impact

FISCAL: No fiscal impact

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Action:	Do Pass
Vote:	5 - 0 - 1
Yeas:	Edwards, Girod, Monroe, Thomsen, Beyer
Nays:	0
Exc.:	Starr
Prepared By:	Patrick Brennan, Administrator
Meeting Dates:	5/21

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**WHAT THE MEASURE DOES:** Repeals provisions requiring Department of Transportation to enter into contract for private maintenance of segment of state highway. Directs Department to terminate contracts entered into for pilot project as soon as feasible. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Background on creation of pilot project required by House Bill 2001 (2009)
- Impact of prevailing wage requirement on contractor costs
- Level of road maintenance performed by contractor and Department
- State of road segment at beginning of pilot project
- Duration of pilot project
- Type of contract used during pilot project

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** House Bill 2001 (2009), commonly referred to as the Jobs and Transportation Act, directed the Oregon Department of Transportation (ODOT) to commence a six-year pilot project to determine the feasibility and efficacy of private sector maintenance of a segment of state highway. The measure required ODOT to select a segment of highway between 10 and 30 miles in length, to contract out the maintenance of that highway segment, and to report biennially on the project's status and progress.

The Department selected a 26-mile segment of OR 219 between Newberg and Woodburn. ODOT entered into a contract with Eagle Elsner, Inc., in May 2010 through its Oregon Innovative Partnerships Program. The contractor has utilized a time and materials-based approach for tracking its costs. The Department reports that Eagle Elsner has met its performance expectations; however, the cost for the contractor to maintain the highway segment appear to be higher than that for the Department. For the first two years of the contract, payments to the contractor have totaled approximately \$600,000, while ODOT's four-year average for maintaining the same segment were approximately \$250,000.

House Bill 2973 repeals the requirement that ODOT conduct the pilot program for private highway maintenance and directs the Department to terminate contracts related to the project as soon as feasible.

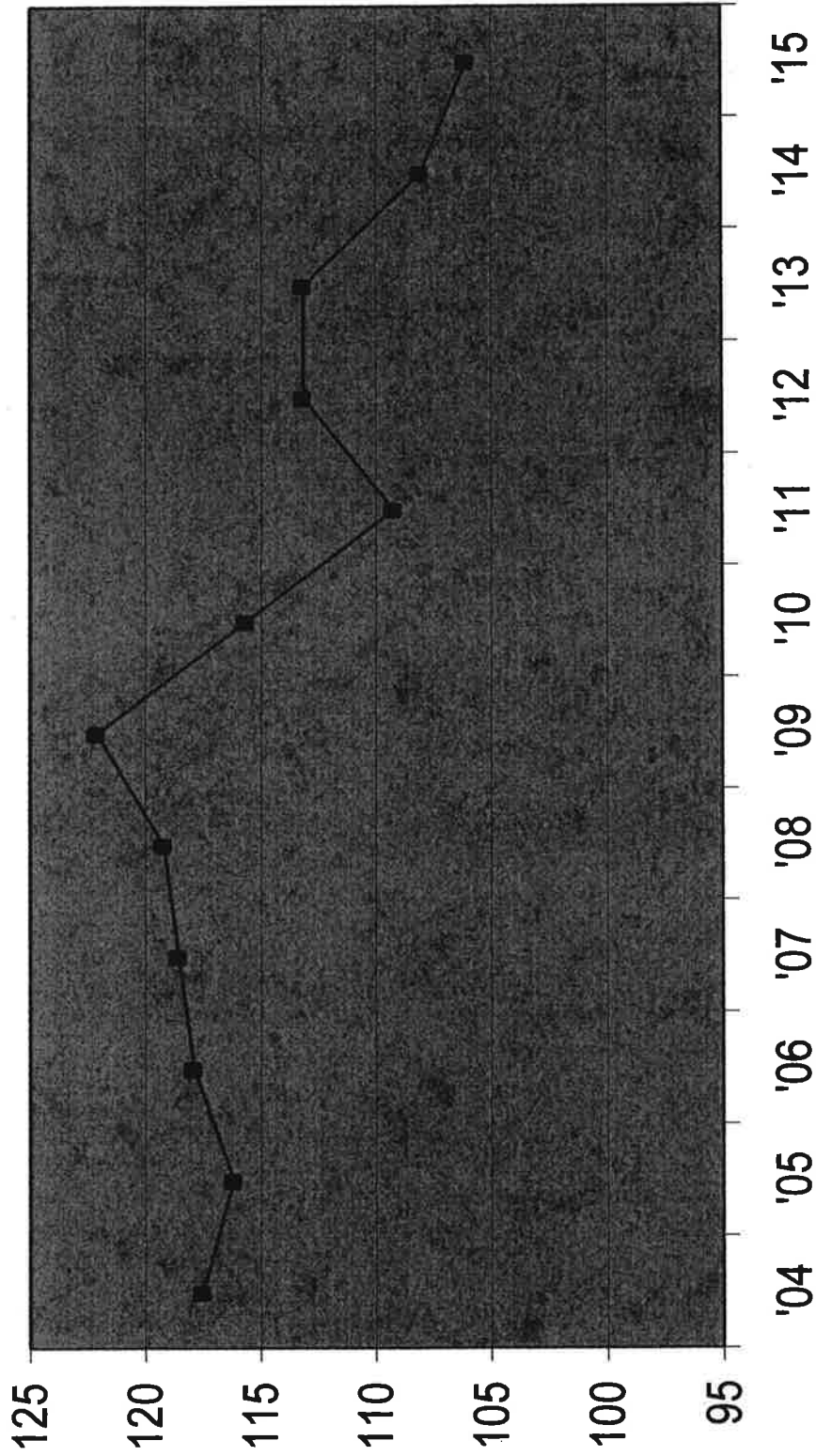
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Committee Services Form – 2013 Regular Session

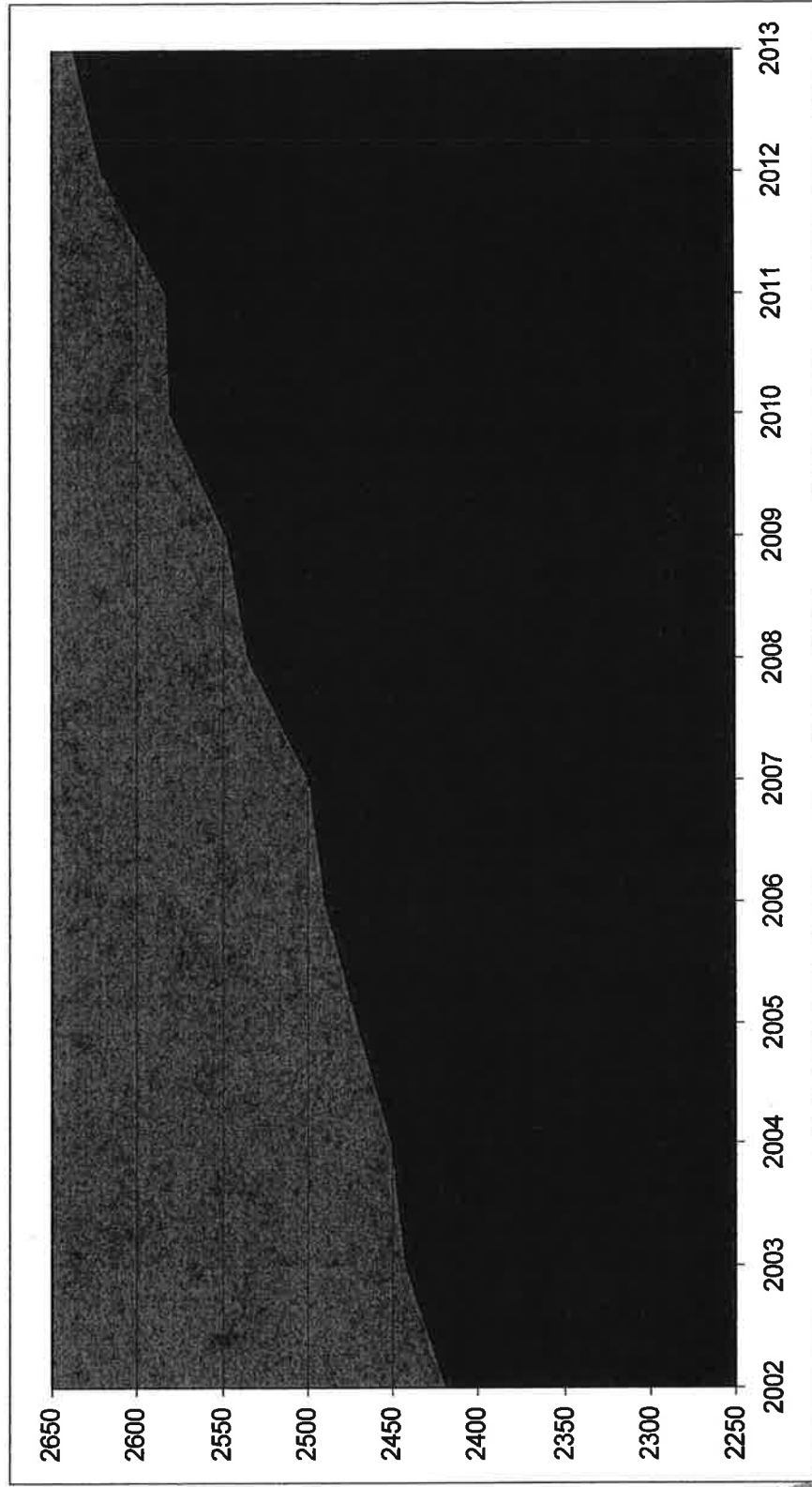
# FTEs over Time

in the Operations Division



# Lane-Mile Growth

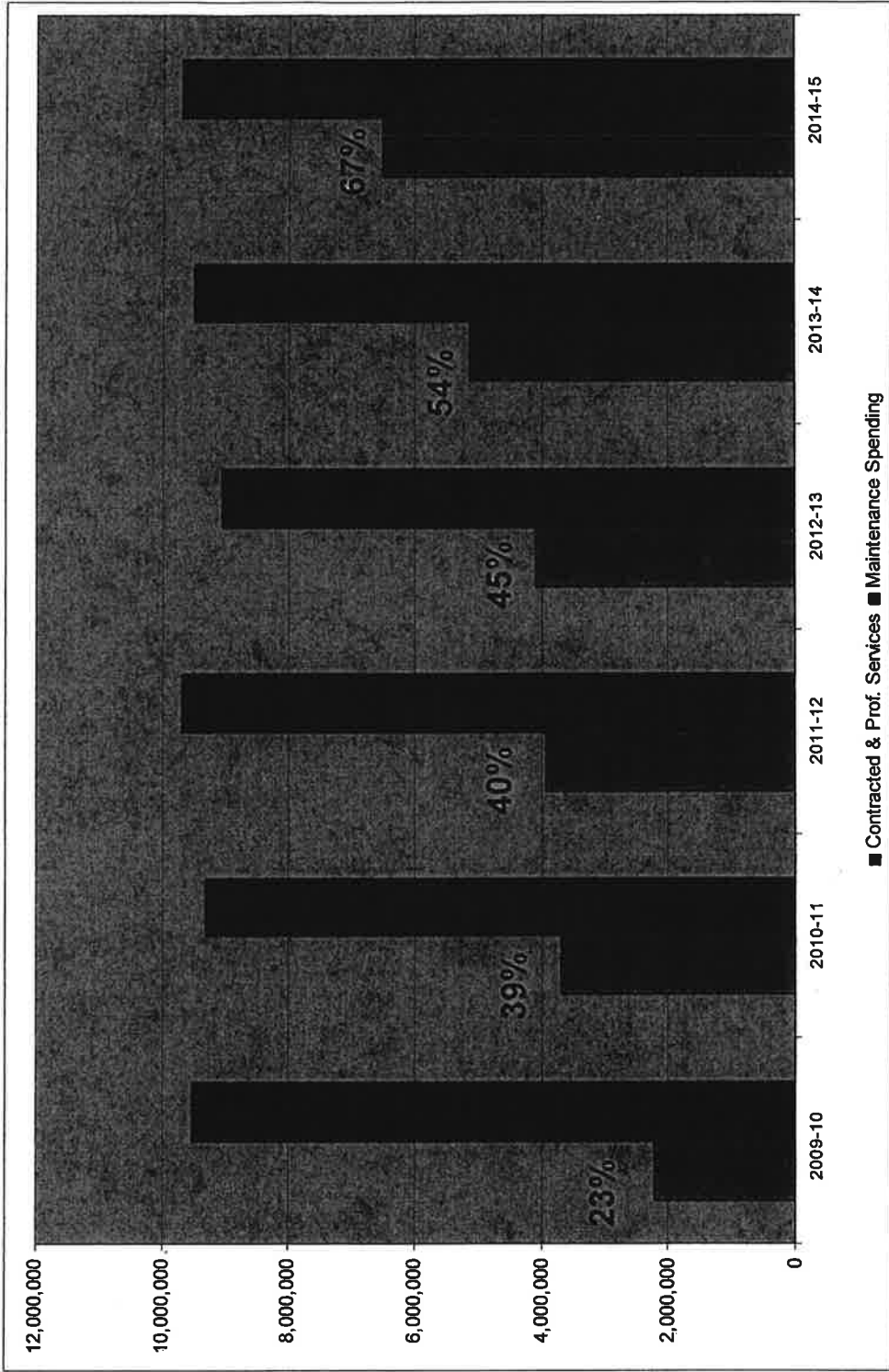
2002-2013



Data calculates average lane width at 11 feet.



# Budgeted Contracted Work as a % of Maintenance Programs



Excludes Operations Administration program budget.

