

**STATE OF MAINE
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**Final Report
of the**

**TASK FORCE TO STUDY
THE EFFECT OF
GOVERNMENT REGULATION
ON SMALL BUSINESSES**

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Executive Summary

The Task Force to Study the Effect of Government Regulation on Small Businesses was established in the First Regular Session of the 119th Legislature by Resolves 1999, chapter 74.

The Task Force included legislators as well as members representing the private sector, businesses employing fewer than fifteen people, the public sector, and the Department of Economic and Community Development. The Task Force was directed to:

- Study the extent of government regulation on small business;
- Develop an inventory of filings and permits required to start and continue operation of a small business, including filings required for taxation, licenses pertaining to health and safety compliance, licenses pertaining to pollution prevention and filings required under state labor laws;
- Examine the purposes of the inventoried filings and permits;
- Determine whether the filings and permits are necessary to meet legislative intent or federal regulations; and
- Examine areas in which there is duplication of federal and state filing requirements.

For purposes of the Task Force, “small business” was defined in the Resolve to mean businesses employing 15 or fewer employees.

The Task Force was convened on September 28, 1999 and met four times. The Task Force makes the following recommendations:

1. The Task Force recommends that the Governor issue an Executive Order requiring each agency to conduct an internal evaluation wherein the agency (1) identifies rules, policies and procedures affecting small businesses; (2) determines how it can simplify and reduce those rules, policies and procedures; and (3) submits a report of the evaluation to the Governor and the Joint Standing Committee on Business and Economic Development by October 16, 2000, and every two years thereafter.

2. The Task Force recommends that the Governor issue an Executive Order requiring each agency to: (1) identify the licenses and permits the agency requires small businesses to obtain in order to operate in Maine; (2) identify ways to eliminate or consolidate the required licenses and permits, where feasible; and (3) submit an evaluation report of these findings by October 16, 2000 to the Governor.

3. The Task Force recommends that agencies develop and implement a plan to solicit suggestions from the small businesses they regulate on ways to simplify that regulatory process, utilizing guidelines developed by the Department of Economic and Community Development.

4. The Task Force recommends that the One-Stop Business License Center within the Department of Economic and Community Development increase the accessibility of the Center's resources to small business owners by providing remote access to the licensing and permit data during non-business hours.

5. The Task Force recommends that the statutory provisions of the Government Evaluation Act be amended to include a requirement that each agency under review: (a) compare relevant federal legislation and regulations to the agency's state governing statutes and rules; and (b) identify how the agency works with other state and federal agencies to coordinate services and eliminate redundant requirements.

I. INTRODUCTION

A. Enabling Legislation

The Task Force to Study the Effect of Government Regulation on Small Businesses was established in the First Regular Session of the 119th Legislature by Resolves 1999, chapter 74. Chapter 74 was enacted by the Legislature and became effective June 17, 1999. A copy of the Resolve is attached as **Appendix A**.

B. Membership

The Task Force consisted of 9 members as follows:

- Four members appointed by the President of the Senate, including:
 - one Senator,
 - one member representing the private sector,
 - one member representing a business employing fewer than 15 people, and
 - one member from the Joint Standing Committee on Business and Economic Development;
- Four members appointed by the Speaker of the House including:
 - one member of the House of Representatives,
 - one member representing the public sector,
 - one member representing a business employing fewer than 15 people, and
 - one member from the Joint Standing Committee on Business and Economic Development; and
- The Commissioner of Economic and Community Development or the commissioner's designee.

The Task Force's enabling legislation provided that the first named Senator be the Senate chair and the first named House member be the House chair of the Task Force. Senator Lloyd LaFountain was the Senate chair. Representative Douglas Ahearne was the House chair. A list of Task Force members is included as **Appendix B**.

C. Charge to the Task Force

The charge to the Task Force was specified in the enabling legislation. The Task Force was charged with the following:

1. Studying the extent of government regulation on small business;
2. Developing an inventory of filings and permits required to start and continue operation of a small business, including filings required for taxation, licenses pertaining to

health and safety compliance, licenses pertaining to pollution prevention and filings required under state labor laws;

3. Examining the purposes of the inventoried filings and permits;
4. Determining whether the filings and permits are necessary to meet legislative intent or federal regulations; and
5. Examining areas in which there is duplication of federal and state filing requirements.

For purposes of the Task Force, “small business” was defined in the Resolve to mean businesses employing 15 or fewer employees.

II. TASK FORCE PROCESS

A. Scope and Focus of Task Force Meetings

The legislation that created the Task Force became effective on June 17, 1999. The Task Force was convened on September 28, 1999. In addition to this first meeting, the Task Force held three other meetings. These meetings were held on October 19, 1999, November 10, 1999 and December 1, 1999.

The first three meetings of the Task Force focused on fact finding and information gathering in the areas of government regulations and their effects on small businesses in Maine. Several parties were invited to present information to the Task Force. These included representatives of the National Federation of Independent Business (NFIB), Maine Chamber and Business Alliance, Maine Restaurant Association, Maine Merchants Association, Maine Department of Economic and Community Development (DECD), Department of Human Services - Division of Support Enforcement and Recovery (DHS), and the Bureau of Banking Securities Division. The following is a summary of the various issues presented and discussed by the Task Force.

- *At the request of Task Force members, the NFIB presented the Task Force with a summary of NFIB members’ comments on state government regulation and paperwork issues. While the comments expressed a broad range of concerns, the predominant theme was that small business owners are overwhelmed by the amount of paperwork they are required to submit and by the regulations that they are required to comply with. NFIB also presented information to the Task Force regarding the Maine New Hire Reporting law (19-A M.R.S.A. § 2154) and the various reporting time frames in other states. The information presented by NFIB discussed how Maine law requires employers to report new hires within seven days, and how this differs from most states (except for Alabama) and from the federal requirement. The frequency of reporting new hires results in increased*

*paperwork and compliance costs for small business owners. The new hire issue is a major complaint of small business owners. NFIB made recommendations as to how the Task Force could address the issue. The memos submitted by NFIB are included as **Appendices C (member comments) and D (new hire information, and final recommendations)**.*

- *The DHS, Division of Support Enforcement and Recovery, was requested by the Task Force to present information on Maine New Hire Reporting law. The Director of the Division provided the Task Force with the background on Maine New Hire Reporting law, and the financial benefits that Maine receives by having a seven day reporting time frame.*
- *The Maine Chamber and Business Alliance stated that their members' complaints were primarily related to insurance and tobacco issues, and were outside of the scope of this Task Force. The Maine Merchants Association stated that their members had similar complaints.*
- *At the request of Task Force members, the DECD provided information on the background of its One-Stop Licensing Center and the services provided. The Center is currently exploring how to expand its services to more small business owners. Task Force members discussed the feasibility of informing small business owners of new laws that may affect them through the One-Stop Center or through various other state agencies. The members also discussed whether or not DECD should be encouraged to put the One-Stop's data resources on the Internet for increased accessibility to small business owners. DECD provided the Task Force members with the Business Answers pamphlet (**Appendix E**), a summary of company tax filings and deposit requirements (**Appendix F**), labor filing requirements (**Appendix G**), and business licensing information for five sample businesses (**Appendix H**).*
- *The Task Force members requested that information be provided from the Department of Professional and Financial Regulation, Bureau of Banking, regarding Maine Securities laws, to address concerns relating to small business owner investments. The Bureau of Banking provided the members with background information on state and federal securities laws, as well as a description of its outreach program and how information is disseminated to small business organizations and small business conferences. The Bureau of Banking's pamphlets Capitalizing Your Business with SCOR, as well as So, You Want to Go Public are included as **Appendices I and J**, respectively.*
- *The Department of Environmental Protection's Small Business Assistance Program provided a summary of various environmental licenses necessary for different types of businesses, as well as a brief description of the DEP's outreach programs to small businesses. The DEP's Environmental Compliance Guide for Small Businesses is included as **Appendix K**.*

- The Task Force requested information on how to minimize required paperwork and filing time between the IRS and Maine Revenue Services for small business owners. Task Force Staff provided members with the Maine Revenue Services STAWRS Project Report (Simplified Tax and Wage Reporting System). STAWRS is a joint effort among the Department of Labor, Department of the Treasury, the IRS, the Small Business Administration, the Social Security Administration and various states to decrease the tax and wage reporting burden of employers by improving the reporting process. The goals of STAWRS are to: (1) provide timely and accurate tax information to employers; (2) decrease the number of tax and wage related forms that employers must file; (3) provide employers more opportunities to file tax and wage related forms electronically, (4) simplify federal and state tax employment laws; (5) provide employers with the opportunity to file employment-related returns to one location; (6) increase voluntary compliance; and (7) support federal and state electronic tax strategies. A summary of the status of Maine's progress in simplifying the reporting process as well as the future of STAWRS is summarized in the Maine Revenue Services STAWRS Project Report included as **Appendix L**.*
- At the Task Force's request, the Maine Secretary of State provided a presentation on InforME, a public/private system of delivery of government services and information to citizens and businesses via Internet technology. Services provided online to small businesses by InforME were discussed. The Secretary of State's Office provided the Task Force with two pamphlets, *The Basics to Incorporating in Maine* and *The Maine Marks Guide*, that are included as **Appendices M and N**, respectively.*

Portions of the third meeting and the fourth meeting focused on formulating recommendations and reviewing a draft of the final report. Meeting summaries are included as **Appendix O**.

B. Report and Legislation

Resolve 1999, chapter 74 established December 15, 1999 as the reporting date of the Task Force to the Joint Standing Committee on Business and Economic Development. The Joint Standing Committee on Business and Economic Development is authorized pursuant to Resolve 1999, chapter 74 to report out a bill during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the Task Force.

III. SMALL BUSINESSES IN MAINE

According to the Maine Department of Labor, as of March of 1998 the number of private sector employers (excluding government) in Maine was 39,336. Almost 61 percent of private sector employers had a total of 4 or less employees. Almost 90 percent of these businesses employed 19 or fewer employees. Please refer to Table 1.

As of March of 1998, the total number of employees in private sector employment in Maine was 442,241. Thirty-one and a half percent of the total number of employees in Maine were employed by private sector employers with 19 or fewer employees. Please refer to Table 2.

Table 1: Number of Private Sector Employers in Maine Based on Number of Employees

Number of Private Sector Employers (excluding government)	Number of Persons Employed	Percent of Total Private Sector Employers (excluding government)
23,906	4 or Less	60.77%
7,191	5-9	18.28%
4,207	10-19	10.70%
2,503	20-49	6.36%
887	50-99	2.25%
480	100-249	1.22%
102	250-499	.26%
45	500-999	.11%
15	1000 and Over	.04%

Total number of private employers=39,336

Source: Table 7B (Covered Private Employers by Size by Industry, Maine Employment Statistical Handbook, Maine Department of Labor, March 1998)

Table 2: Number of Private Sector Employees in Maine Based on Size of Business

Number of Private Sector Employees (excluding government)	Size of Business (# of Employees)	Percent of Total Private Sector Employees (excluding government)
35,409	4 or Less	8.01%
47,519	5-9	10.75%
56,237	10-19	12.72%
75,083	20-49	16.98%
60,534	50-99	13.69%
70,279	100-249	15.89%
35,474	250-499	8.02%
31,129	500-999	7.04%
30,577	1000 and Over	6.91%

Total number of private sector employees=442,241

Source: Table 7A (Covered Private Employment by Size by Industry, Maine Employment Statistical Handbook, Maine Department of Labor, March 1998)

IV. DISCUSSION AND RECOMMENDATIONS

The Task Force to Study the Effect of Government Regulation on Small Businesses makes the following findings and recommendations:

1. Agency Simplification of Rules and Procedures

- **Findings and Discussion**

The Task Force finds that agency rules, policies and procedures should be based on sound scientific and economic information and be consistent with the requirements of law. However, rules, policies and procedures should, whenever feasible, be developed in such a way as to be readily understood by most small business owners. Additionally, the Task Force finds that small business owners have limited time and money to spend on gathering information and on completing complex, often duplicate, forms to comply with license and reporting requirements. The Task Force further finds that small businesses would benefit if each agency was required to conduct an internal evaluation that includes a review of its rules, policies and procedures affecting small businesses to ensure that: (a) they are clearly written so requirements and objectives are easily understood by those persons affected by them; (b) they are necessary, and do not duplicate or exceed existing federal or state statutes unless required by law; and (c) requests for information to small business owners by an agency are targeted only to businesses from whom the information is needed, avoiding broad requests for information. Furthermore, requests for information should clearly indicate what the information is being collected for and whether a response from the small business owner is required.

- **Recommendation**

The Task Force recommends that the Governor issue an Executive Order requiring each agency to conduct an internal evaluation wherein the agency (1) identifies rules, policies and procedures affecting small businesses; (2) determines how it can simplify and reduce those rules, policies and procedures; and (3) submits a report of the evaluation to the Governor and the Joint Standing Committee on Business and Economic Development by October 16, 2000, and every two years thereafter.

2. Agency Identification of Required Licenses and Permits

- **Findings and Discussion**

The Task Force finds that small business owners strongly oppose the large number of licenses and permits needed to operate a business. By way of example, the Business Answers Licensing Information at the Department of Economic and Community Development reported that at least 17 licenses and permits may be required by state agencies to operate a grocery/convenience store. Several of

those 17 licenses and permits are issued by the same agency. Additionally, the Task Force was presented with a list of concerns from a small business owner itemizing the large number of necessary licenses and inspections he was required to have in order to successfully operate his small convenience store. (Please see **Appendix H** for the itemized list provided by DECD regarding the licenses necessary for operation of a grocery/convenience store and for a copy of the small business owner's concerns.) The Task Force finds that some small businesses are required to obtain an excessive number of licenses and permits in order to operate in Maine. Thus, the Task Force finds that each agency should be required to develop a list that identifies all licenses and permits required by small businesses and to identify ways to eliminate and/or consolidate them.

- **Recommendation**

The Task Force recommends that the Governor issue an Executive Order requiring each agency to: (1) identify the licenses and permits the agency requires small businesses to obtain in order to operate in Maine; (2) identify ways to eliminate or consolidate the required licenses and permits, where feasible; and (3) submit an evaluation report of these findings by October 16, 2000 to the Governor.

3. Suggestions from Small Businesses for Regulatory Improvement

- **Findings and Discussion**

The Task Force was provided information by NFIB on the New York State Governor's Office of Regulatory Reform's (GORR), which has made significant progress in the area of reducing unnecessarily complex regulations and permit requirements since 1995. The Task Force recognizes that one reason for the success of GORR was the high level of input from the public and regulated community. (Further information on GORR and New York State's progress on permit and regulatory reform may be accessed through their website: www.gorr.state.ny.us/gorr/.)

The Task Force finds that workable solutions to address small business concerns often come from the people who are being regulated. The Task Force further finds that regulatory issues should be addressed through collaborative efforts that bring together agency expertise and the practical know-how and common sense of business owners. The Task Force believes that the best way to bring about this collaboration is to encourage agencies to solicit suggestions on a regular basis from the small businesses they regulate. As an example, small business owners on the Task Force supported NFIB's suggestion regarding the need for further evaluation of the new hire reporting requirement. Other Task Force members supported this suggestion.

The Task Force finds that there should be uniformity in the way agencies collect suggestions and comments. The Task Force further finds that the Department of Economic and Community Development is the appropriate agency to develop guidelines for agencies to follow in order to effectively collect suggestions and comments submitted by small business owners. A potential model for this process is the New York State's GORR "What's Driving You Nuts?" form (submitted as **Appendix P**).

- **Recommendation**

The Task Force recommends that agencies develop and implement a plan to solicit suggestions from the small businesses they regulate on ways to simplify that regulatory process, utilizing guidelines developed by the Department of Economic and Community Development.

4. Increasing Accessibility to the One-Stop Business License Center

- **Findings and Discussion**

The Department of Economic and Community Development (pursuant to 5 M.R.S.A section 13063, a copy of which is included as **Appendix Q**) is required to operate a program whereby a person can obtain comprehensive information on all permits needed to operate a business in Maine. That service is the One-Stop Business License Center within the Department of Economic and Community Development. The One-Stop Center is a central clearinghouse for state regulatory information. The goal of the One-Stop Center is to help business owners identify the licenses and permits they will need to start or expand a business in Maine.

In Maine, over 270 different business activities require state licenses or permits. Those licenses and permits are issued by 41 state agencies that are located in 10 different state departments. The One-Stop Center was created to be a central resource to help business owners identify licenses or coordinate the application process.

Currently, there are 2 staff positions that are available Monday through Friday from 9:00 a.m. to 4:00 p.m. to provide licensing and permit assistance to business owners. The One-Stop Center receives approximately 40-50 inquiries each day.

The Task Force finds that small business owners should be able to conveniently access the Center's data. Thus, the Task Force finds that the Center should place business permit and license information on-line and provide remote access to the licensing and permit data to enable business owners to access the data when the office is closed. (The Task Force notes that this approach is being explored through linkage with Maine Business Works, a business assistance inter/intranet system.) Additionally, the One-Stop Center should undertake an evaluation to determine whether the program's staffing and technical support are commensurate with the demands for information.

- **Recommendation**

The Task Force recommends that the One-Stop Business License Center within the Department of Economic and Community Development increase the accessibility of the Center’s resources to small business owners by providing remote access to the licensing and permit data during non-business hours.

5. Proposed Amendment to the Government Evaluation Act

- **Findings and Discussion**

The Government Evaluation Act (3 M.R.S.A., sections 951-963) is a system for the periodic legislative review of the executive branch agencies and independent agencies of state government to evaluate their efficacy and performance. The Government Evaluation Act generally applies to agencies and independent agencies that either receive money from the General Fund or that are established, created or incorporated by statute. The Government Evaluation Act replaced the functions of the former Legislative Audit and Program Review Committee that was eliminated in 1994. Each agency scheduled for review must prepare and submit a program evaluation report to the committee of jurisdiction within the Legislature. The statutory specifications for a program evaluation report are included in 3 M.R.S.A. § 956 (2), which is included as **Appendix R**.

The Task Force finds that one of the most commonly cited complaints by small business owners is duplicative federal and state regulations. Often the regulations vary with slightly different information to be supplied by the small business owner. Duplicative efforts require a considerable amount of time and money on the part of small business owners. The Task Force’s recommended amendment to the Government Evaluation Act is an attempt to eliminate some of this duplication by providing a process to identify areas where coordination of services is feasible. Suggested implementing legislation is included as **Appendix S**.

- **Recommendation**

The Task Force recommends that the statutory provisions of the Government Evaluation Act be amended to include a requirement that each agency under review:

- (a) **compare relevant federal legislation and regulations to the agency’s state governing statutes and rules; and**
- (b) **identify how the agency works with other state and federal agencies to coordinate services and eliminate redundant requirements.**