

950402

Feasibility of One-Stop Licensing and Permitting

REPORT TO THE GOVERNOR

PURSUANT TO EXECUTIVE ORDER 93-9

January 15, 1995



EXECUTIVE SUMMARY

This report has been prepared pursuant to Executive Order 93-9 which directed the Commissioner of Trade and Economic Development to study the feasibility of "one-stop shopping" for business related licenses and permits and to report the results of that study to the Governor by January 15, 1995.

Conduct of the study involved a survey of businesses' perceptions of issues in licensing, participation by state agencies in identification of current and possible future licensing improvements, a review of other states' activities, and development of a simulation of an electronically accessible one-stop process.

The survey of businesses indicated that licensing is a prevalent and persistent requirement for Minnesota businesses; that there are costs (in some cases substantial costs) to businesses in securing these licenses; and that businesses favor some form of one-stop effort.

The participation of state agencies indicated considerable thought and effort already given to the one-stop issue with several departments already having in place initiatives like internal one-stop procedures and cross-agency consolidation of regulatory functions. Agencies also indicated appropriate concern with ensuring that any one-stop effort continue to preserve public safety and health, build upon and use the specific expertise of regulatory agencies, and do nothing to upset settled principles of administrative law.

To seek to reconcile the businesses' concerns with ease of access and agencies' concerns with the continuity of regulatory effort directed by statute, the study developed a computer simulation of a licensing information and application process allowing for the virtual (as opposed to physical) co-location of licensing into a single one-stop effort. That simulation has two parts: an electronic catalog of licenses and permits with their requirements, statutes, rules and other information; and an interactive electronic application for individual licenses and permits.

The study concludes with an actual proposal for implementation of such an electronic licensing system in two phases between 1995 and 2000. That proposal addresses benefits, costs, risks and resource needs.

BACKGROUND AND CONTEXT OF THE STUDY

Executive Order 93-9 directed the Commissioner of Trade and Economic Development to conduct a feasibility study of "one-stop shopping" for business related licenses and permits of State of Minnesota agencies. The Commissioner was charged with reporting his findings to the Governor by January 15, 1995. A copy of that Executive Order appears as Appendix 1.

That Executive Order was explicit as to the definition of "one-stop shopping": a single agency or sub-agency in state government (though perhaps with more than one office location) which has the authority, personnel, expertise, procedures and systems to:

- Assist and advise the "business public" with the substance and procedures of individual regulations and the steps to compliance;
- Provide to and accept from business applicants the necessary forms and documents for regulatory compliance;
- Process these forms and documents in accordance with statutes and rules; and
- Directly issue licenses and permits as agent for the applicable agency.

That definition is a substantial expansion of the present permit and licensing assistance programs presently in place in the Department of Trade and Economic Development through operation of the Business Licensing Act (Minn. Stat. § 116J.69-86) and the Environmental Permit Coordination Act (Minn. Stat. § 116C.24-32) which provide for centralized information, facilitation of contacts with agencies and consolidated hearings, but do not provide for a central point of application. It is also a significant expansion of the level of service available in other states. A review of six states which indicated that they had, within the last three years, put in place one-stop shopping for licenses and permits showed that none had an effort more substantial than those already in place in Minnesota (a survey of these other states' efforts appears as Appendix 2).

The department published a Solicitation of Outside Opinion in the *State Register* inviting comments from interested and affected parties both inside and outside of state government. A full set of the responses received appears as Appendix 3.

In addition the department sent survey instruments to three thousand Minnesota businesses to inquire about the availability and accessibility of regulatory assistance and to inquire about the usefulness of one-stop licensing and permitting. A description of the methodology of that study and a copy of the full results appear as Appendix 4.

RELATIONSHIP TO OTHER PROJECTS

The study conducted under Executive Order 93-9 was one of three studies conducted in 1993-94 on efforts to ease regulatory burdens. Chapter 369, Sec. 31, Laws of Minnesota 1993, directed the Department of Jobs and Training (now the Department of Economic Security) to study the feasibility of establishing a Uniform Business Identifier process for all firms doing business with, or within, the State of Minnesota. The Department of Economic Security indicates that it will report its findings and recommendations to the 1995 legislature. Chapter 559, Laws of Minnesota 1994, directed the Department of Administration to develop and implement a system for electronic access to state agencies to secure ". . .state permits or licenses that can be issued immediately upon payment of a fee. . ." That legislation further directed the Department of Administration to study, and report to the legislature by January 1, 1995, on the best way ". . .to increase conveniently accessible and affordable electronic services to citizens, including electronic licensing and permitting. . ."

As of this writing the Department of Economic Security is unclear as to whether its recommendations will focus on easing access to business registrations or on easing the exchange of data among state departments on already registered businesses. As a result the degree of relationship between the project proposed here and any forthcoming initiatives of the Department of Employment Security cannot be determined at this time.

The Department of Administration has indicated that it will seek to comply with Chapter 559 through an investigation of the use of information kiosks at locations throughout the state. Issues of the modality of delivery of license and permit information (e.g., using kiosks, libraries, out-state offices of state government, chambers of commerce) are beyond the scope of this study commissioned by the Executive Order. This study and its recommendations express no opinion on such methods of service delivery. The project is intended to yield a system which can be used in any of the above modes plus others.

PERSPECTIVE OF SURVEYED BUSINESSES

A sampling of 3000 businesses was drawn from industries that were considered significant to the Minnesota economy in terms of their level of employment or wages paid, and which were considered likely to experience a relatively substantial amount of government regulation in the conduct of business operations.

The survey yielded four major conclusions.

1. **Licensing and permitting by the state is a prevalent and persistent requirement for businesses.**

47% of respondents were required to obtain environmental licenses or permits in order to operate the business.

48.6% of respondents were required to obtain a license or permit in order to sell a particular product or service.

25.6% of respondents were required to obtain a license or permit to manufacture, produce or package the product the business sells.

2. Compliance with state regulatory requirements is not costless for the regulated business.

43.6% of respondents indicated that their firms spend up to 40 hours each year on regulatory compliance.

34.8% of respondents spend between 40 and 160 hours each year on regulatory compliance.

15.3% of respondents spend in excess of 160 hours each year on regulatory requirements.

The direct cost of such compliance, for example in personnel costs of the business' own workers, can be substantial. The total cost is even greater when non-accounting costs like time away from line-of-business activities and lost opportunity are added in. Significantly, 24.5% of responding businesses needed to use outside assistance in obtaining regulatory information (e.g., directly retaining a lawyer or using the services of a membership trade or professional association).

3. Regulated businesses in the survey were generally satisfied with the overall availability and accessibility of regulatory staff and information, but found forms, rules and informational materials hard to understand.

60% of respondents were generally satisfied with the timeliness, accuracy and completeness of information received from the state regulatory agency.

28.1% were not generally satisfied and 7.0% had no response.

34.9% of respondents found information on regulatory requirements to be readily available from state agencies.

52.1% found it available after some asking and search.

9.3% found it hard to find.

36.6% of respondents found state rules, forms and informational materials generally understandable.

38.9% found them somewhat hard to understand.

21.0% found them difficult to understand.

4. Regulated businesses in the survey favored some form of one-stop licensing effort.

42.2% of respondents will find very helpful (and 28.9% somewhat helpful) a basic one-stop operation for obtaining and submitting applications;

52.2% of respondents will find very helpful (and 25.6% somewhat helpful) a one-stop operation with authority to make all licensing and permitting decisions and answer all questions.

STATE AGENCIES' PERSPECTIVE

Fourteen state agencies responded to the solicitation of outside opinion (a full set of those responses appears at Appendix 3.). As guidance to responding agencies, the Department of Trade and Economic Development provided a brief commentary on the issues and directives of the Executive Order (See Appendix 5).

The responses of state agencies raised four major points.

1. **State agencies have already given considerable thought to the one-stop issue and have put in place efforts like:**
 - establishment of an agency internal one-stop information and assistance desk (Minnesota Department of Commerce);
 - "bundling" of similar regulatory requirements of different agencies to allow for consolidated applications, review and inspections (Minnesota Department of Health and Minnesota Department of Agriculture);
 - development of new, generic permits and the information and processing systems to expedite their issuance (Minnesota Pollution Control Agency);

- initiation of a rule planning and code enforcement coordination effort among agencies concerned with building, fire, health and electrical codes (Minnesota Department of Administration, Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Department of Public Safety, State Board of Electricity);
- study of the cost and benefits of agency-specific one-stop information and assistance centers (Minnesota Department of Natural Resources, Minnesota Department of Revenue).

2. Any one-stop licensing and permitting effort must not compromise the ability of licensing agencies to protect the public safety, health and welfare.

Agencies identified three major concerns here:

- That the need for and reasonableness of regulatory efforts can be lost sight of in any attempt like one-stop to expand assistance to the regulated public. This could result in a degradation of standards or the application of standards with resulting harm to the public.
- That licensing and permitting are part of a larger context of regulation also involving standard setting, rulemaking, compliance and enforcement. Both regulated businesses and the larger public interest benefit from having the license and permit function in the same location as these other functions.
- That state agencies are possessed of staff with substantial expertise which would be difficult to replicate elsewhere and which the present system allows to be focused on agency-specific regulatory areas. The regulated public, in this view, has a right to depend on the expertise of agencies and a failure to have that expertise available could result in legal liability for the state or estoppel of state regulatory actions.

3. Any one-stop licensing and permitting effort must not upset settled principles of administrative law.

In general, state agencies may not delegate their authority to another agency or organization without statutory authority. Several agencies noted in their responses that even in cases where delegation of certain functions has been allowed by the courts as having a rational basis (e.g., administration of testing by outside organizations), these departments have retained the final authority for development of standards and for licensing decisions.

Agencies also noted the need to ensure that any one-stop effort did not damage the agencies' ability to make its decisions on a record created and maintained by the agency and subject to later review in administrative or judicial proceedings.

Similarly, agencies noted that the deference which courts have historically given to administrative agency action is based in part on the expertise of the agency personnel involved in standard setting and decision making. That expertise should not be compromised by any one-stop or assistance effort.

4. Any procedural improvements like one-stop licensing and permitting have to occur in the context of substantive reform.

Most simply put, this view holds that if businesses are aggrieved by the substance of regulatory requirements, they will not be appeased by procedures which retain those requirements but make access to them easier. As one responding agency noted, license and permit requirements which do not exist to protect the public, and which are, or are perceived to be, merely hoops to be gone through, should be eliminated.

At least two responding agencies took this issue further and suggested that the entire issue of public access to government and its services, and the nature of barriers to that access, were appropriate areas for study.

One-Stop License and Permit Simulation

Given the responses of both business and state agencies, the issue becomes whether it is feasible to have a one-stop licensing effort which both reduces costs to business users and meets agencies' needs for retention of licensing authority, continuity of regulatory activity and use of agency expertise.

Clearly the physical co-location of existing licensing functions is not attractive from either a cost or efficiency perspective. There is, however, the solution of virtual co-location of both information and application functions using electronic data interchange. The increased use of such computer-to-computer transactions was recommended as a way to reduce costs and improve efficiency of government by the CORE commission. (See CORE Report, "Electronic Data Interchange in Minnesota State Government," March 1993.)

Part II of this report contains a simulation, using Windows application, of a computerized one-stop licensing and permitting system having two parts:

- An electronic catalog of licenses and permits with their requirements, statutes, rules, and other information. This catalog provides for printing of each screen and fax retrieval of each screen,

- An interactive electronic application for individual licenses and permits using analog application forms, application instructions, capability of fee computation and electronic payment, electronic submission of application and issuance of a receipt for application and payment.

In Part III of this report the Department of Trade and Economic Development presents a proposal for implementation of an electronic catalog of licenses and permits by the end of calendar year 1996. Concurrent with that effort the proposal also addresses design of an electronic application system for implementation by the end of calendar 1999.

Part IV of this report collects the material identified above as Appendices 1 through 5.