

Executive Subcommittee Meeting

Monday, December 9, 2019

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AGENDA

South Carolina
House of Representatives



Legislative Oversight Committee

EXECUTIVE SUBCOMMITTEE

Chairman Gary E. Clary

The Honorable Chandra E. Dillard

The Honorable Laurie Slade Funderburk

The Honorable Wm. Weston J. Newton

Monday, December 9, 2019

10:30 a.m.

Room 321, Blatt Building

Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AGENDA

- I. Approval of Subcommittee Meeting Minutes**
- II. Discussion of the study of the Secretary of State's Office**
- III. Adjournment**

MEETING MINUTES

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Micajah P. (Micah) Caskey, IV
Neal A. Collins
Patricia Moore (Pat) Henegan
William M. (Bill) Hixon
Jeffrey E. (Jeff) Johnson
Marvin R. Pendarvis
Tommy M. Stringer
Bill Taylor
Robert Q. Williams*



South Carolina House of Representatives

*Gary E. Clary
Chandra E. Dillard
Lee Hewitt
Joseph H. Jefferson, Jr.
Mandy Powers Norrell
Robert L. Ridgeway, III
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Legal Counsel*

*Lewis Carter
Research Analyst/Auditor*

*Kendra H. Wilkerson
Fiscal/Research Analyst*

**Executive Subcommittee
Thursday, December 5, 2019
10:30 a.m.
Blatt Room 321**

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. Subcommittee Chairman Gary E. Clary calls the Executive Subcommittee meeting to order on Thursday, December 5, 2019, in Room 321 of the Blatt Building. The following members of the Subcommittee are present during all or part of the meeting: Subcommittee Chairman Clary, Representative Laurie Slade Funderburk, and Representative Wm. Weston J. Newton. Representative Chandra E. Dillard, was absent from the meeting.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Funderburk moves to approve the minutes from the October 28, 2019 Subcommittee meeting. A roll call vote is held, and the motion passes.

Rep. Funderburk moves to approve the minutes from the Subcommittee's October 28, 2019, meeting:	Yea	Nay	Not Voting (Not present)
Rep. Clary	✓		
Rep. Dillard			✓
Rep. Funderburk	✓		
Rep. Newton	✓		

Discussion of the Secretary of State's Office

- I. Subcommittee Chairman Clary explains the purpose of today's meeting is for the S.C. Secretary of State's Office (SoS) to present information on its business filings, information technology, and administrative deliverables.
- II. Subcommittee Chairman Clary explains that all testimony given to this subcommittee, which is an investigating committee, must be under oath. He reminds all personnel placed under oath during a prior Subcommittee or Committee meeting that they remain under oath.
- III. Ms. Melissa Dunlap, Deputy Secretary of State & Chief Legal Counsel, presents information about the agency's business filings, information technology, and administrative deliverables, which includes the following:
 - Overview of Business filings, IT, and Administration
 - a. Divisions included
 - b. Organizational chart
 - Business Filings Division
 - c. Overview
 - d. Division responsibilities
 - e. Flow chart of division components

f. *Deliverables*

Business corporation filings (D58)
Number of business corporation filings per year bar graph
Nonprofit corporation filings (D59)
Number of nonprofit corporation filings line graph
Limited liability partnership filings (D60)
Number of LLP filings bar graph
Limited partnership filings line graph (D61)
Limited liability company filings (D62)
Number of LLC filings bar graph
Military corporation filings (D63)
Corporation not-for-profit filings (D64)
Conversion of corporation not-for-profit to a public service district (D65)
Business development corporation filings (D66)
Benefit corporation filings (D67)
Number of benefit corporation filings line graph
Cooperative association filings (D68)
Marketing cooperative association filings (D69)
Telephone cooperative filings (D70)
Electric cooperative filings (D71)
Transmission of electric cooperative filings to county officials (D72)
Business trust filings (D73)
Notice of appointment of a registered agent by a nonresident landlord (D74)
Railroad document filings (D75)
Railroad, street railway, steamboat and canal company formation (D76, 77, 78, 79, 80, and 81)
Rejection of business filings (D82)
Rejection of business filings compared with # of filings accepted bar graph
Appeal of rejection of business filings (D83)
Administrative dissolution of business corporations (D84)
Administrative dissolution of nonprofit corporations (D85)
Number of UCC filings by type bar graph
UCC-1 financing statement filings (D86)
UCC-3 amendment filings (D87)
Number of UCC-1 and UCC-3 filings bar graph
UCC-5 information statement filings (D88)
UCC-11 search and copies (D89)
UCC filing rejections line graph (D90)
UCC filing rejections bar graph
Appeal of UCC filing rejection (D91)

Certificates of existence for business entities (D92)
Copies of business and UCC filings (D93)
Certified copies of railroad documents and filings (D94 and 95)
Database queries and bulk data (D96, 97, and 98)
Qualified business registration (D99 and 100)
Qualified business reporting (D101 and 102)
Qualified business data bar graphs and pie chart

g. *Performance Measures*

Performance measures related to business filings overview (PM2, 3, 5, 12, 16-18, 24)

Measures #2, 3, 16, and 18 - Provide data for internal and external customers with enhancement to business filings online application; increase number of business filings submitted online 24/7; create faster turn-around time for paper filings; and increase number of all online applications

Business filings online transactions by type and year bar graph

Measure #5 – Protect data and records and provide staff additional tools to fulfill statutory duties. (Create database and applications for municipal incorporations, railroads, landlord-tenants, business opportunities and special purpose districts).

Measure #12 – Improve search capabilities for customer inquiries.

Measure #17 – Providing public additional online information with the completion of a microfilm conversion project that digitized 1.5 million corporate records to preserve permanent corporate records.

Measure #24 – Number of small businesses filed for High Growth Small Business Job Creation Act.

h. *Revenue and Costs*

Sources of revenue for business filings

Filing fees

Fee revenue collected for business filings by type of entity and year bar graph

UCC filing fees

Fee revenue collected for UCC filings, searches, and copies

Fees for certificates of existence, copies, and bulk data

Fee revenue collected for certificates, copies and bulk data by document type and year bar graph

Comparison of fee revenue collected by business filings division with costs (excluding agency operations) by year bar graph

Information Technology Division

i. Overview

- j. Information technology division
- k. Responsibilities and components of division
- l. *Deliverables*
Secretary of State's Website (D103)
Information technology plan workbook (D104)
- m. *Performance Measures*
Performance measures related to information technology overview
(PMI, 2, 3, 9, 12, 16-18)
- n. *Revenue and Costs*
Information technology costs excluding agency operations by year bar graph

Administrative and Internal Operations

- o. Overview
- p. Responsibilities and components of division
- q. *Deliverables*
Agency operations (D105)
Accountability report (D106)
Reports to comptroller general's office (D107, 108, 109, 110, 111, 112, and 114)
Travel report (D113)
Other required reports (D115, 116, 117, 118, 119, 120, 121, 122, and 123)
Fines and fees (D124)
Regulation review and report (D125)
Fees for collection of dishonored checks (D126)
- r. *Performance Measures*
Performance measures related to administrative and internal operations
(none)
- s. *Revenue and Costs*
Fee and fine revenue collected by administration and internal operations
with costs by year bar graph

Members ask questions, which Ms. Dunlap answers.

- IV. Ms. Shannon Wiley, General Counsel for the Secretary of State's Office, presents information about the agency's notaries, authentications, boards and commissions deliverables, which includes the following:

Overview of Notaries, Authentications, Boards and Commissions

- a. Divisions included
- b. Organizational chart

Notaries, Authentications, Boards and Commissions Division

- c. Overview
- d. Division responsibilities
- e. Flow chart of division components

- f. Deliverables

Notaries

What is a notary public, and how they serve the state?

Notary public qualifications

Notary public application process

Notary public commissions (D127-129)

Change of status and resignation forms (D130 and 131).

Notary application filing by application type and year bar graph.

Change in status, resignation, and rejection filings by form and year bar graph.

Notary public verification (D132).

Secretary of State office website.

Notary public seminars (D133).

Notary public webinar (D134).

Law changes suggested to notary public application process: (1) Amend 26-1-15; (2) Repeal 26-1-20; (3) Repeal 26-1-25

Authentications and Apostilles

Overview

Example of apostille

Example of authentication

Issuance of authentications and apostilles (D135)

Number of authentications and apostilles issued by year bar graph.

Prohibition against issuing authentications or apostilles for certain documents (D136).

Number of rejected authentication and apostille requests by year bar graph.

Oaths of Office, Commissions, and Bonds for Public Officials

Overview

Oaths of office and commissions for elected and appointed officials (137-139)

Oaths of office sent to appointed officials and county clerks of court by year bar graph.

Commissions filed for elected and appointed officials by year bar graph.

Bonds for elected officials and special state constables (D140).

Total number of bonds recorded for elected officials and special state constables by year bar graph.

Commissions for constables and law enforcement officers (D141 and 142).

Total number of commissions issued for constables and law enforcement officers by year bar graph.

Certificates of appointment and election (D143 and 144).

Total number of certificates of appointment and certificates of election issued by year bar graph.

State Boards and Commissions

Overview of state boards and commissions.

Publication of membership, vacancy, and expired terms of state boards and commissions (D145).

Certification of change of membership for special purpose districts (D146).

Writ of election for legislators (D147).

Certified election results (D148 and 149).

Congressional certificates of election (D150).

Election Processes and Filings

Electoral college overview

How the electoral college works

The Electoral College process: before the meeting flow chart.

The Electoral College process: before the meeting (D151 and 154).

Certificates of vote and certificates of ascertainment overview

Example of certificate of vote

Example of certificate of ascertainment

The Electoral College meeting (D155 and 157).

The Electoral College process: after the meeting (D156).

Political party decertification (D158).

Political party convention officer reports (D159).

Law change suggestions related to election processes and filings: S.C. Code Ann. Sections 7-17-320; 7-9-10; 7-9-80; 7-9-100; Deletion of Proviso 96.2; Deletion of Proviso 96.3; Repeal of 1-7-117 (Duties of Division of Public Charities devolved upon Attorney General); and Repeal of Regulation 102.1 (Fees to Accompany Request for Confirmation of Solicitation Exemption)

Executive Orders and Legislative Acts

Executive orders (D160)

Legislative acts (D161).

Number of executive orders and ratified acts filed with the Secretary of State by year bar graph.

Certification of bonds (D162).

Document requests for division of notaries, authentications, boards and commissions (D163).

Document requests by number of copies provided and copy fees collected, by year, bar graph.

g. Performance measures

Performance measures related to business filings overview (PM5, 11-15, 23)

Measures #5 - Protect data and records and provide staff additional tools to fulfill statutory duties. (Create database and applications for municipal incorporations, railroads, landlord-tenants, business opportunities and special purpose districts.)

Measure #12 – Improve search capabilities for customer inquiries.

Measures #11, 13, 14, and 15 – Provide notary staff an in-house application to gather data and more easily process notary applications; improve workflow for notary renewals and updates; and replace legacy system and legacy database for the Notaries Division.

Measure #23 – Number of notary trainings provided statewide.

Number of notary seminars conducted, by year, line graph.

h. Revenue and costs

Sources of revenue for notaries, authentications, boards and commissions

Fees collected for notary filings bar graph

Fees collected for authentications and apostilles, by year, bar graph.

Fees collected for copy requests, by year, bar graph.

Comparison of fee revenue collected by notaries, authentications, boards and commissions division with costs (excluding agency operations), by year, bar graph.

Members ask questions, which Ms. Wiley answers.

- V. Members make motions during the meeting, which are listed on the next page. A roll call vote is held for the motions, and, among the members present, the motions pass unanimously.

Rep. Clary moves that the Subcommittee Study include a recommendation that the Secretary of State's Office investigate the feasibility of creating a way for the public to contact the agency with complaints and questions about charity solicitations via their mobile phone, similar to how the Highway Patrol has the *HP to report drunk drivers. I further recommend the agency provide the Committee an update on its analysis within the next twelve months.	Yea	Nay	Not Voting (Not Present)
Rep. Clary	✓		
Rep. Dillard			✓
Rep. Funderburk	✓		
Rep. Newton	✓		

Rep. Clary moves that the Subcommittee Study include a recommendation that the Secretary of State's Office, instead of no longer publishing the charity scrooges list, publish it at a different time of year than the angels list so the media has an opportunity to focus on both lists separately.	Yea	Nay	Not Voting (Not Present)
Rep. Clary	✓		
Rep. Dillard			✓
Rep. Funderburk	✓		
Rep. Newton	✓		

Rep. Clary moves that the Subcommittee Study include a recommendation that the Secretary of State's Office contact others in its building and the Bureau of Protective Services to determine if costs could be shared among the tenants of the Brown Building to post security from BPS, with a metal detector. The agency cites physical security in their office building as one of their primary challenges.	Yea	Nay	Not Voting (Not Present)
Rep. Clary	✓		
Rep. Dillard			✓
Rep. Funderburk	✓		
Rep. Newton	✓		

VI. There being no further business, the meeting is adjourned.

STUDY TIMELINE

The House Legislative Oversight Committee's (Committee) process for studying the Secretary of State's Office (agency or Office) includes actions by the full Committee; Executive Subcommittee (Subcommittee); the agency; and the public. Key dates and actions are listed below.

Legislative Oversight Committee Actions

- December 5, 2018 - Holds **Meeting #1** to prioritize the agency for study
- January 9, 2019 - Provides the agency notice about the oversight process
- February 27 - April 1, 2019 - Solicits input about the agency in the form of an online public survey
- August 13, 2019 - Holds **Meeting #2** to obtain public input about the agency

Executive Subcommittee Actions

- September 27, 2019 - Holds **Meeting #3** to discuss the agency's history and mission; qualifications and duties of the agency head; overview of divisions, finances, and employees; federal and local counterparts; compliance with records management, regulations and reporting; audit and risk mitigation practices; and successes, challenges, and emerging issues
- October 28, 2019 - Holds **Meeting #4** to discuss the agency's public charities unit and related deliverables
- December 5, 2019 - Holds **Meeting #5** to discuss the agency's business filings, information technology, and administration units and related deliverables; and notaries, boards and commissions, authentications, and apostilles related deliverables
- December 9, 2019 - (TODAY) Holds **Meeting #6** to discuss the agency's municipalities deliverables.

Secretary of State's Office

- March 31, 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**
- January 12, 2016 - Submits its **2016 Annual Restructuring Report**
- September 2016 - Submits its **2015-16 Accountability Report**
- September 2017 - Submits its **2016-17 Accountability Report**
- September 2018 - Submits its **2017-18 Accountability Report**
- May 3, 2019 - Submits its **Program Evaluation Report**

Public's Actions

- February 27 - April 1, 2019 - Provides input about the agency via an **online public survey**
- Ongoing - Submits written comments on the Committee's webpage on the General Assembly's website (www.scstatehouse.gov)

Figure 1. Key dates in the study process, December 2018 to present

AGENCY SNAPSHOT

Secretary of State's Office

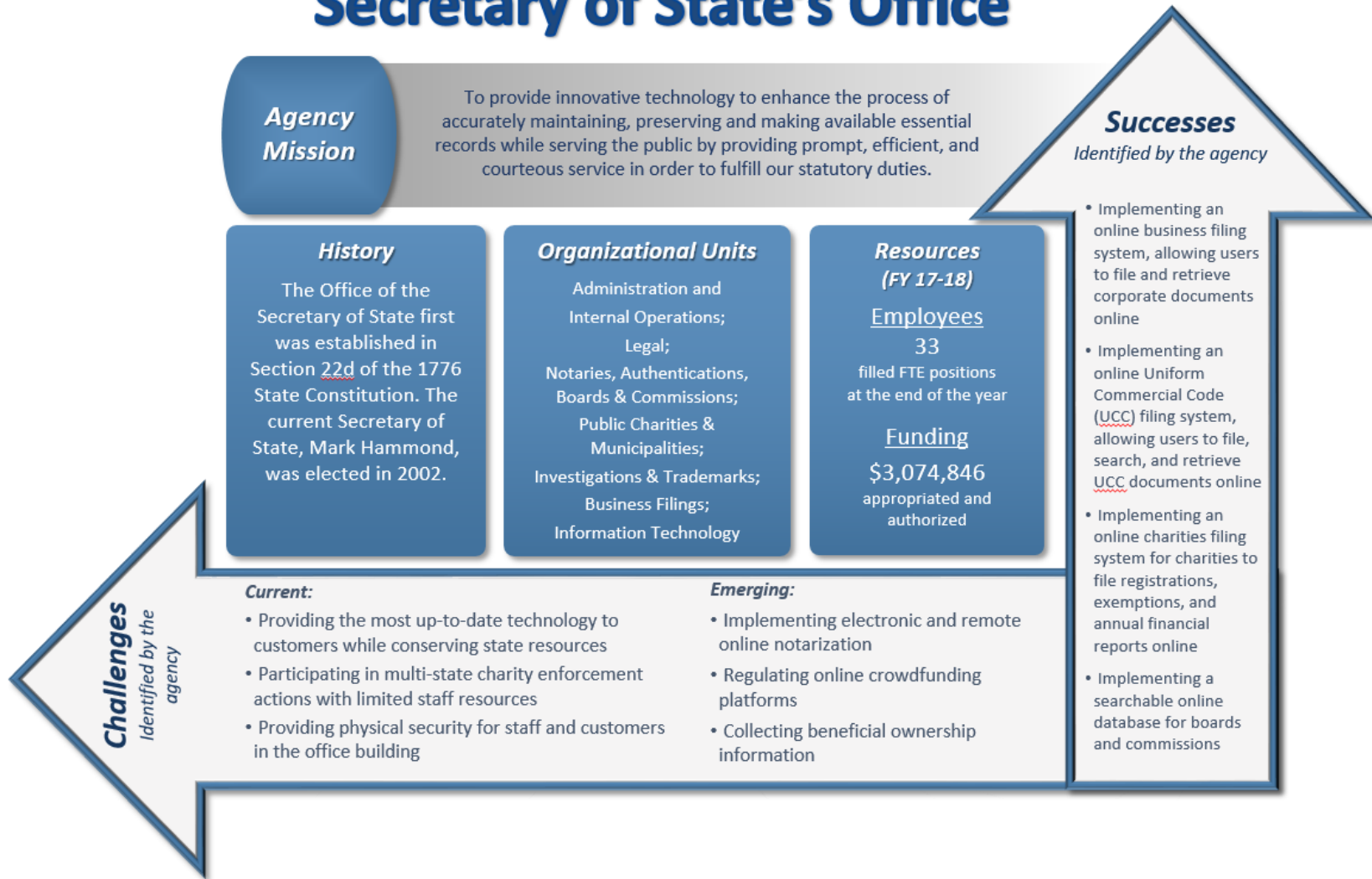


Figure 2. Snapshot of the agency's history, mission, organizational units, fiscal year 2017-18 resources (employees and funding), successes, and challenges¹

RECOMMENDATIONS FROM OTHER STUDIES

There is no record of the Legislative Audit Council performing an audit of the Secretary of State's Office in the last ten years. Below are recommendations from the September 2019 Senate Oversight Study Report of SCAC.²

Business Filings

- Legislative Recommendation
 - S. C. Code of Laws §33-1-220(c)(1) and (2) should be amended to allow the Secretary of State's Office to provide either certified or uncertified copies of business filings to consumers.
- Agency Recommendations
 - The Secretary of State's Office should ensure they are in compliance with §1-5-50 of the S.C. Code of Laws regarding fees charged to persons requesting records.
 - The Secretary of State's Office should explore the feasibility of providing free access to business filings to consumers using the online system recently implemented.

Boards and Commissions

- Agency Recommendations
 - The Secretary of State's Office should contact agencies, preferably by email, related to boards or commissions with vacancies or members serving in expired terms. These agencies can, in turn, request the appointing authority to appoint, reappoint or elect appropriate persons to those seats.
 - Any boards or commissions determined by the Secretary of State's Office to be non-operational or defunct, should be removed from the database.

Investigations

- Agency Recommendation
 - The Office of the Secretary of State should implement a tracking system for the caseload of its investigations division.

MUNICIPALITIES DELIVERABLES

COMMITTEE CONTACT INFORMATION AND UPCOMING MEETINGS

Legislative Oversight Committee



South Carolina House of Representatives

Committee Mission

Determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed or eliminated. Inform the public about state agencies.

Website: <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>

Phone Number: 803-212-6810

Email Address: HCommLegOv@schouse.gov

Location: Blatt Building, Room 228

UPCOMING MEETINGS

All at 10:30 a.m. in Blatt 321

To be scheduled

END NOTES

¹ Visual Summary Figure 1 is compiled from information in the agency’s study materials available online under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and then under “Secretary of State, Office of the,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/SecretaryofState.php> (accessed August 28, 2019); and information available on the agency’s website, <https://sos.sc.gov/> (accessed August 28, 2019).

² S.C. Senate, Legislative Oversight Committee, “SC Secretary of State’s Office Report and Summary,” under “Committee Postings and Reports,” and under “Senate Oversight Reports adopted September 18, 2019,” <https://www.scstatehouse.gov/CommitteeInfo/SenateLegislativeOversightCommittee/September2019/SC%20Secretary%20of%20State's%20Office%20-%20Report.pdf> (Accessed November 14, 2019).