



# LEGISLATIVE OVERSIGHT COMMITTEE

Executive Subcommittee

Study of the Secretary of State's Office

The full report of the Executive Subcommittee's study, issued on October 9, 2020, is available on the House Legislative Oversight Committee's (Committee) webpage.

## Full Report includes...

### Oversight Impact

- Findings
- Recommendations
- Study related internal changes

### Oversight Process

- Agency reports
- Public input
- Meetings
- Member visits

### Agency Details

- History
- Legal obligations
- Organizational units
- Federal and local counterparts
- Deliverables
- Board and commission appointment process
- Vacant and expired board seat examples
- Boards and commissions with no current appointments on file

### Other

- Index of additional information available on committee's website

## Findings about...

- Agency duties
- Agency resources
- Boards, Commissions, Councils, and Committees
- Progress made, but more is necessary

## Recommendations for...

- Secretary of State's Office, related to:
  - Effectiveness
  - Efficiency
  - Transparency
  - Interagency collaboration
  - Modernization of laws
- General Assembly, related to:
  - Efficiency
  - Modernization of laws
- Attorney General's Office, related to:
  - Modernization of laws

## Internal changes made during the study by...

- Secretary of State's Office

## Oversight Purpose and Methods

### PURPOSE

To determine if agency laws and programs:

- ➡ are being implemented and carried out in accordance with the intent of the General Assembly; and
- ➡ should be continued, curtailed, or eliminated.

### METHODS

The Committee and Subcommittee evaluate:

- ➡ the application, administration, execution, and effectiveness of the agency's laws and programs;
- ➡ the organization and operation of the agency; and
- ➡ any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

## Study Process



## Public Input

- 47** Responses to an online public survey
- 0** Online comments received
- 0** Constituents testify

## Subcommittee Membership

### EXECUTIVE SUBCOMMITTEE

The Honorable Gary E. Clary (chair)  
The Honorable Chandra E. Dillard

The Honorable Laurie Slade Funderburk  
The Honorable Weston J. Newton

## Study Milestones

### MEETINGS

<b>Full Committee</b>	12/5/18	8/13/19
<b>Subcommittee</b>	9/27/19	10/28/19
	12/5/19	12/9/19
	6/25/20	

### AGENCY REPORTS

March 2015	Seven-Year Plan Report
September 2018	FY 2017-18 Accountability Report
May 2019	Program Evaluation Report*
September 2019	FY 2018-19 Accountability Report

\*Updated Program Evaluation Report provided on January 7, 2020

## Findings

The **Subcommittee makes 14 findings**. The Subcommittee has recommendations to address some, but not all, of these findings. However, the Subcommittee makes the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

### Agency Duties

1. For two centuries, the primary duties of the Secretary of State's Office were to maintain and certify official state government records. Over the past four decades, these duties were expanded by the General Assembly to include: licensing and regulating private employment agencies, handling business filings, regulating charitable organizations, and monitoring state boards and commissions.
2. There are deliverables (i.e., services or products) the Secretary of State's Office is statutorily required to provide for which there were zero customers in at least four years.

### Agency Resources

3. The Secretary of State's Office generates monies that are not utilized by the agency, but instead are directed to the state's general fund, which helps finance other state operations.
4. Some of the fees (e.g., business filings, Solicitation of Charitable Funds Act, and notary public) charged by the Secretary of State's Office have not increased in decades.

### Boards, Commissions, Councils, and Committees

5. The General Assembly directs numerous boards, commissions, councils, and committees (hereinafter collectively "boards") to fulfill diverse responsibilities relating to issues affecting state operations and the lives of the people of South Carolina, including, but not limited to, the economy, healthcare, personal information, and culture. The Secretary of State's Office is tasked with monitoring state boards.
6. The Secretary of State's Office interprets its statutory responsibility to "monitor positions on the state boards and commissions" as (a) keeping track of the information required by statute to be provided to the office, and (b) publicizing vacancies and expired terms as required in SC Code Section 1-5-40(C).
7. Information available during the study indicates 40% of all seats on the more than 150 boards monitored by the Secretary of State's Office were vacant or included individuals serving in expired terms (i.e., over 800 individuals serving in expired terms on boards and over 450 vacant seats). Additionally, there were 48 boards with no current appointments on file with the Secretary of State's Office, other than ex officio or legislative members.
8. Mechanisms are lacking to ensure written notification of up to date appointments, elections, resignations, vacancies, and board status (e.g., active, inactive, or defunct) are provided to the Secretary of State's Office.
9. In general, the selection process for boards is complex due to the number of board seats (more than 3,000), different methods of selection (at least 16), and unrelated times of year in which selections are necessary.
10. Additional analysis of state boards is necessary in order to address issues surrounding the high percentage of vacant and expired board positions.

*Progress made, but more is needed*

11. The Secretary of State's Office continues to gain efficiencies and transparency for the public using online services and databases.
12. The Secretary of State's Office is utilizing data sharing technology to gain efficiencies in state operations.
13. The Secretary of State's Office has taken proactive measures regarding an emerging issue, crowdfunding, by forming a task force to discuss the various issues surrounding it (e.g., determine whether regulation is needed, review model legislation that becomes available and consider how it would work in South Carolina).
14. In addition to the recommendations made in this report, there are other changes for future consideration by the Secretary of State's Office (e.g., updating its board database; investigating the feasibility of creating a way for the public to contact the agency with complaints and questions about charity solicitations via their mobile phone; revising the annual angel charity selection process by replacing agency discretion in certain phases with additional objective criteria or listing all charities that meet the existing objective criteria as angels; and communicating with the Prosecution Coordination Commission regularly about which cases from the Secretary of State's Office the solicitors prosecute and why) and the General Assembly (e.g., improving communication and accountability related to boards; reviewing statutes related to railroad filings as many have not been updated in more than 60 years; reviewing statutes related to trademark and livestock brands as fees related to livestock brands have not increased in more than 60 years and fees related to state trademarks have not increased in more than 25 years; and evaluating the state's objectives in regulating employment agencies as there have been no significant updates to the Private Personnel Placement Services Act in more than 30 years).

## Recommendations

The Subcommittee has 30 recommendations (19 to Secretary of State's Office; 10 to General Assembly; and 1 to Attorney General's Office) that continue, curtail, and/or eliminate agency programs, and include areas for potential improvement. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.

### Recommendations to Secretary of State's Office

#### General

1. Conduct, internally or obtain (e.g., Office of Inspector General, State Division of Human Resources), an employee engagement/climate survey and adopt a policy requiring one occur on a regular basis in the future (e.g., every three years). Further, the agency should share the results of the surveys with its employees, and results of the first survey with the Committee.

#### Corporate and Nonprofit Filings

2. Adopt an applicable policy and perform regular reviews of registered nonprofits to ascertain which ones may need administrative dissolution (e.g., those for which the agency cannot determine has a registered agency or office.)
3. Collect and utilize information on business and Uniform Commercial Code filing rejections, including the number of times each rejection reason was used, to regularly revise trainings and webinars the agency creates.
4. Regularly post online a statistical summary of rejection reasons for business and Uniform Commercial Code filings.

EFFECTIVENESS

#### Municipalities and Special purpose Districts

5. Adopt an applicable policy and perform regular reviews (e.g., with every census) to determine which municipalities, if any, are not performing municipal services as required in statute.
6. Work with the Municipal Association and other stakeholders to propose statutory changes that may provide a clear and efficient way to handle issues that may arise during a municipality's dissolution (e.g., disposition of municipalities' assets).

#### Notaries

7. Research and compare current costs, processing times, and potential privacy/fiscal implications (e.g., multiple transfers of checks) of notary applications with other options for online methods through which applicants may apply, pay applicable fees, and complete a new required training.

EFFICIENCY

#### Elections

8. Provide the Committee suggested revisions to law, after collaborating with stakeholders, which may increase efficiency related to the filing of bonds for special state constables.

#### General

9. Track the amount of time it takes to process and turn-around corporate paper filings submitted by mail and walk-in customers and add this as a performance measure the agency tracks in its annual Accountability Report.

Boards and Commissions

TRANSPARENCY

10. Revise the existing search function to include an option to see a list of all boards.
11. Make historical information available to the public, and retain it in agency files, by posting on the agency's website a link for the public to download an Excel document with all data the agency maintains on boards and board membership, from the first of the month for each of the most recent five years; and save this information in agency files for the most recent fifteen years.
12. Report to the Committee, at the end of three years, information including, but not limited to, (a) number of vacancies each month by board and appointing authority (including circuit if applicable); (b) ten boards with the highest number of expired terms/vacancies each year; and (c) ten appointing authorities with the highest number of expired terms/vacancies each year.

Charities

13. Resume publication of a charities scrooges list and consider publication at a different time of the year than the angels list to afford an opportunity to focus on both lists separately.

General

14. Continue annually tracking information on agency deliverables (e.g., costs, customers served, etc.), as provided in the Program Evaluation Report, for discussion during the next oversight cycle.

Physical Security

15. Continue efforts with others in the Brown building and the Bureau of Protective Services (BPS), to obtain security personnel and a metal detector in the building.

Information Applicable to Multiple Agencies

INTERAGENCY COLLABORATION

16. Convene stakeholders (e.g., State Ethics Commission and State Election Commission) to determine potential opportunities to gain efficiencies in recording and sending information applicable to multiple agencies (e.g., board member names, candidates for elections, etc.). Provide the Committee an update in the next twenty-four months.
17. Convene stakeholders (e.g., Department of Motor Vehicles and State Election Commission) to determine potential opportunities to gain efficiencies for individuals who must update their address with multiple state agencies (e.g., providing an individual the option, when they update their address with one agency, for it to automatically update their address with other applicable agencies). Provide the Committee an update in the next twenty-four months.

Municipalities, Special Purpose Districts, etc.

18. Work with stakeholders (e.g., State Revenue and Fiscal Affairs Office; Municipal Association of South Carolina and others) who may have geographic information system mapping to determine potential opportunities for linking information each has available about municipalities, special purpose districts, and other areas to assist the public in locating this type of information. Provide the Committee an update on the status of the efforts in the next twelve months.

MODERNIZATION OF LAWS

19. Request the General Assembly repeal provisos 96.2 and 96.3 as part of the agency's budget requests next year

## Recommendations to the General Assembly

### Notaries

20. Allow electronic notarization.
21. Allow remote online notarization.
22. Remove requirement that notaries enroll their notary commissions with the clerk of court in the county in which they reside by repealing S.C. Code Section 26-1-50.

EFFICIENCY

### Elections

23. Remove requirement that certain information related to political parties be filed with the Secretary of State's Office as the information is already filed with another state entity or county clerk of court by amending S.C. Code Sections 7-9-10, 7-9-80, and 7-9-100.\*
24. Remove requirement that the Secretary of State's Office publish certified election results in newspapers as the State Election Commission publishes this information on its website, by repealing S.C. Code Section 7-17-320.\*
25. Remove requirement that the Secretary of State's Office send certified election results to elected individuals by repealing S.C. Code Section 7-17-310.

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MODERNIZATION OF LAWS

26. Lift the sunset provision on Title 33, Chapter 57, Nonprofit Raffles for Charitable Purposes, which automatically repeals on July 1, 2020 if not reauthorized, with revisions including, but not limited to, allowing organizations with multiple chapters to file simplified annual raffle financial reports.\*✓
  27. Ensure statute reflects the Public Charities Division remained with the Secretary of State's Office, instead of devolving to the Attorney General's Office, by repealing S.C. Code Section 1-7-117.\*
  28. Remove references to nonresident taxpayers registering with the Secretary of State's Office by amending S.C. Code Section 12-8-540 and Section 12-8-550.\*
  29. Remove the requirement that the Department of Natural Resources file a description of uniforms, emblems, and vehicles with the Secretary of State's Office for publication in the State Register by repealing or amending S.C. Code Section 50-3-140.\*
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## Recommendations to Attorney General's Office

MODERNIZATION  
OF LAWS

30. Avoid conflicts with state law by starting proceedings to remove agency regulation 102-1.\*

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*Table Note: An asterisk (\*) indicates the recommendation was proposed by the Secretary of State's Office. A check mark "✓" indicates the Subcommittee adopted the recommendation before legislation on the issue was adopted by the General Assembly.*



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### Legislative Oversight Committee

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