

Legislative Oversight Committee

Summary Report on the South Carolina Secretary of State's Office

September 2019



The Secretary of State is a constitutional office responsible for maintaining certain records filed by businesses and governmental entities. The office accepts records on paper or online and has the responsibility of investigating violations of some of its statutes. In order to provide more responsive customer service and reduce fees charged to the public, the office should consider providing access to copies of business filings online at no cost. The office should contact agencies annually about the status of membership on boards and commissions to encourage agencies to get positions filled and to ensure the information is accurate. To better evaluate the progress and results of investigations into violations of the Solicitation of Charitable Funds Act and other civil actions, the office should implement a tracking system.

Agency at a Glance

The position of Secretary of State is created by the South Carolina Constitution and the duties of the office are set by state law. The office is responsible for registration of a variety of business interests and charitable entities and maintaining filings and information for governmental entities. It also investigates civil violations of the Solicitation of Charitable Funds Act and laws concerning business opportunities, employment agencies, and trademarks. The office collected about \$6 million in taxes and fees in FY 15-16 which was returned to the state general fund. It spends about \$2.8 million annually, mostly on salaries and benefits for its 31 employees.

Issues

BUSINESS FILINGS

According to an agency official, the Business Filings Division certifies copies of requested documents unless directed otherwise. The certificate adds a two dollar fee to the cost of the first page of each document requested. Consumers may or may not need the copies to be certified, depending on their use of the documents. S.C. Code §33-1-220(c)(1) and (2) could be amended to allow for either a certified or uncertified copy to be purchased. The agency should evaluate the need for routinely providing only certified copies, which adds to the cost of each document requested, and make certain that the fees charged do not exceed the actual cost of providing the documents as required by statute.

- **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 Recommendation:** 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.

Rather than charging customers for providing copies of business filings, such as the articles of incorporation and amendments to them, some states have online systems which allow for the viewing and printing of these documents by anyone free of charge. Being able to view and print documents maintained by a state agency from an online system provides the most complete and convenient access to consumers. In addition, the

employees of the agency would no longer be required to provide the searching, copying and emailing functions and could focus on other duties.

- **Agency Recommendation:** 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

To attempt to reduce the approximate 400 vacancies and almost 900 expired terms, the SoS's office annually should send a letter, by email to expedite the process, to the agency related to the boards and commissions. In this letter, they would request the agency to notify the appointing authority, to request that persons be appointed or elected to vacant seats or that persons serving in expired seats be reappointed, if appropriate. In addition, some boards or commissions contained in the SoS's database may be non-functioning or may have completed the intended purpose. In these cases, the entities should be removed from the public database.

- **Agency Recommendation:** 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.
- **Agency Recommendation:** 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

This division is responsible for investigating possible violations in six areas within the office's responsibilities:

- Business opportunities
- Employment agencies
- Trademarks
- Charities
- Professional fundraisers
- Raffles

The office only has the authority to conduct civil investigations and refers criminal issues to law enforcement entities. The division does not have a database to track the progress or results of its investigations. In order to better evaluate the performance of the division and results of its investigations, the division should track its caseload including reason for investigations, progress, and results.

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

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South Carolina Senate



Report on

SC Secretary of State's Office

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The Secretary of State is a constitutional office responsible for maintaining certain records filed by businesses and governmental entities. The office accepts records on paper or online and has the responsibility of investigating violations of some of its statutes. In order to provide more responsive customer service and reduce fees charged to the public, the office should consider providing access to copies of business filings online at no cost. The office should contact agencies annually about the status of membership on boards and commissions to encourage agencies to get positions filled and to ensure the information is accurate. To better evaluate the progress and results of investigations into violations of the Solicitation of Charitable Funds Act and other civil actions, the office should implement a tracking system.

I. Agency at a Glance

Mission

According to the Office of the Secretary of State (SoS), its mission “is to provide innovative technology to enhance the process of accurately maintaining, preserving and making available essential records while serving the public by providing prompt, efficient, and courteous customer service in order to fulfill our statutory duties.”

Governing Authority:

Article VI, Section 7 of the South Carolina Constitution creates the position of Secretary of State. The duties of the office are set by state law. In the South Carolina Code of Laws, the Secretary of State is responsible for the statewide registration of corporations, Uniform Commercial Code interests, business opportunities, employment agencies, trademarks, and notaries. The Office handles the incorporation of municipalities and special purpose districts, the annexations of land, and the escheatment of real property in South Carolina. The Secretary of State is also the administrator and regulator of the Solicitation of Charitable Funds Act, handles the publication of positions within certain statewide boards and commissions, and issues all statewide cable franchises.

The Office of Secretary of State is a state level position in 47 of the 50 states, and the responsibilities delegated to this office vary. Voters elect the Secretary of State in 35 states, and, in the other 12 states, the secretary is appointed by the governor or the state legislature. We reviewed 10 southeastern states and found that the election function is housed within the Office of the Secretary of State in 7 of those 10 states. In South Carolina, the Secretary of State has limited responsibilities relating to elections while the SC State Election Commission oversees most responsibilities in this area. In addition, the Secretary of State regulates charities in 5 of the 10 states, while charities are regulated by the attorney general or a consumer services agency in the other states.

Operations/Programs

The Office of the Secretary of State has many diverse responsibilities. Its operations are divided into eight divisions, as follows:

Business Filings Division

The Secretary of State’s Office serves as the state filing office for new business entities. These entities include corporations, nonprofit corporations, limited partnerships, limited liability partnerships, and limited liability companies. Over 68,000 filings are received each year electronically, in the mail, and from walk-in customers.

In addition, this division serves as the filing agency for Article 9 Secured Transaction financing statements under the Uniform Commercial Code. These UCC statements between a debtor and a secured party result in over 78,000 filings each year.

Charities Division

This division is charged with enforcing the provisions of the South Carolina Solicitation of Charitable Funds Act. Any organization that wishes to solicit donations from the public or conduct raffles in SC must register or apply for exemption as allowed by statute. This division files registrations, financial reports, and contracts for charitable organizations, professional solicitors, fundraising counsels, and commercial co-venturers.

In addition to managing charities and raffles, this division is responsible for serving as the registered agent for service of process for foreign corporations and other business entities not authorized to do business in SC as well as receiving notifications and reports from Special Purpose Districts in the state and receiving filings regarding business opportunities, cable franchises, employment agencies and municipal annexations.

Investigations Division

This division is responsible for ensuring that charities, fundraisers, raffles, trademarks, business opportunities, and employment agencies are operating in compliance with federal, state, and municipal laws. This division regularly works with local, state, and federal agencies, as well as national associations and private investigation firms to assist with the resolution of any violations.

Division of Notaries, Apostilles, Authentications and State Boards & Commissions

With approximately 136,000 notaries currently on file, this division works with the legislative delegations and the Senate and House of Representatives, which verify the qualifications of notaries and endorse the applications. The Boards and Commissions Division is responsible for keeping a record of all appointments, members, terms, governing statutes, duties, and qualifications as well as publicizing vacancies, expired terms and terms nearing expiration.

The SoS's office authenticates documents such as vital records, school transcripts, international adoption papers, and powers of attorney that are going to other countries. Additionally, the SoS issues commissions for all state constables, SLED agents, and Department of Natural Resources agents, provides oaths and issues commissions for all constitutional officers, maintains election results from general elections for county officials, and files all Acts of the General Assembly, all Executive Orders from the Governor, and Transcript Bonds.

Trademarks Division

State-level trademarks and service marks may be registered with the SoS's office for a period of 5 years. A listing of current marks is available on the SoS's website for public review.

Finance Division

As part of the Administrative Division, Accounting and Finance is responsible for management of month-end and year-end financial reporting and for preparation of year-end closing packages. This division is also responsible for the creation, preparation, and management of the agency's budget, finance records, payroll, and audit preparations.

Information Technology Division

The Information Technology Division manages and maintains the necessary technology for the agency as well as supports four major online web applications that allow for public and in-house filing of all corporate filings, all business filings document requests, all UCC filings, and all charity, professional fundraiser, and raffle filings.

Legal Division

The Legal Division is responsible for providing legal advice to the Secretary of State and all divisions of the Secretary of State's Office as well as representing the Secretary of State's Office in the Administrative Law Court and other courts as required. This division monitors legislation and provides information to the General Assembly on matters related to the Secretary of State's Office. Responsibilities relating to the South Carolina Solicitation of Charitable Funds Act include issuing notices of violation, administrative fines, and suspensions for violations, and representing the Secretary of State's Office in appeals in these matters. Additionally, the Legal Division assists the Secretary of State in selecting the annual Scrooges and Angels list and compiles the annual Professional Solicitor's Report for publication on the Secretary of State's website in order to promote wise charitable giving by the public.

Finance:

Revenues

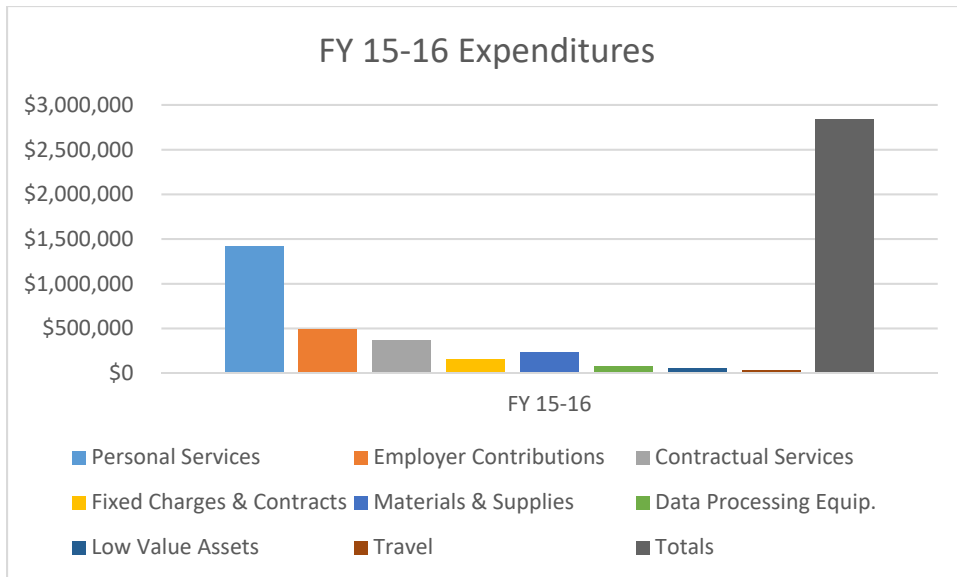
The table below shows the agency's revenues and expenditures by source of funds for FYs 14-15 and 15-16.

	FY 14-15		FY 15-16	
	Revenues	Expenditures	Revenues	Expenditures
General Revenue	\$5,567,721	\$0	\$6,008,510	\$0
General Fund	\$3,590	\$1,297,958	\$1,914	\$1,328,169
Charitable Organizations	\$728,314	\$631,932	\$813,150	\$603,428
Operating Revenue	\$649,050	\$699,771	\$702,603	\$730,247
Special Deposits - UCC	<u>\$180,904</u>	<u>\$180,077</u>	<u>\$180,000</u>	<u>\$180,921</u>
Total	\$7,129,579	\$2,809,738	\$7,706,177	\$2,842,765

The Office of the Secretary of State collects general revenues from a variety of sources and returns those revenues to the state's general fund each year. Amounts returned to the general fund have been increasing over the last three fiscal years, from \$5.1 million in FY 13-14 to over \$6 million in FY 15-16. Revenues are collected from taxes relating to domestic and foreign corporations that must file documents to form, amend or dissolve businesses in South Carolina, as well as Uniform Commercial Code (UCC) fees, Notary Public fees, and fines from charitable organizations, as well as other miscellaneous sources.

Expenditures

The chart below contains the expenditures of the SoS for FY 15-16 by major category. The largest category of expenditures is for personal services. Contractual services includes expenses for upgrading the computer applications available on the agency's website.



Staffing

The Office of the Secretary of State had 31 FTEs authorized and filled and one temporary employee as of January 2017. The appropriations act for FY 17-18 provides the agency with two new positions, an administrative assistant and an investigator, bringing the total authorized FTEs to 33.

II. Issues

Business Filings

The Division of Business Filings at the Office of the Secretary of State records organizing documents, amendments, and all other forms related to the operation of the following types of business entities:

- Corporations
- Nonprofit corporations
- Limited liability companies (LLCs)
- Limited partnerships
- Limited liability partnerships (LLPs)

Sole proprietors and general partnerships do not have to file these documents. This division also files documents related to the Uniform Commercial Code, serving as the central filing office for UCC financing statements regarding security interests between a secured party and a debtor. These statements, or commercial agreements, are filed by banks, mortgage companies, and other lending institutions relating to secured collateral. In addition, this division oversees employment agencies, business opportunities, and the High Growth Small Business Job Creation Act, also known as the Angel Investor Act, which provides tax credits to investors who make investments in qualified businesses.

New Online Portal for Business Filings

In January 2017, the Office of the Secretary of State launched an online system which can be used to create an entity or modify an existing one. Businesses can be incorporated, amended, merged or dissolved using the online system. Paper filings are accepted by the SoS, and will generally be processed within two or three business days, but may take longer during times of extremely heavy workloads. This system allows members of the public to search organizations on file that are doing business in the state of SC, to view limited public information relating to those businesses, such as the type of entity and the name and address of the registered agent, and to purchase certified copies of corporate documents and certificates associated with them.

Having an online portal to manage documents in the business filings division is vital primarily because of the considerable number of filings within this division. Specifically, the number of documents processed by staff for the business filings division far exceed the other divisions which file records, such as public charities, notaries, trademarks, service of process, and municipalities. For example, corporate filings and copy work requests combined were in excess of 96,000 and UCC filings alone were in excess of 84,000 for FY 15-16, while the other divisions totaled 63,000 documents.

Taxes Collected from Businesses

Section 33-1-220(d) of the S.C. Code of Laws provides for the collection of taxes from businesses prior to filing corporate documents with the Office of the Secretary of State. Particularly, the statute states “before filing any of the following documents, the Secretary of State shall collect the following taxes that must be remitted to the State Treasurer for use of the State:” Companies must pay a \$100 tax when filing articles of incorporation (and amendments thereto), articles of merger, applications by a foreign corporation for a certificate of authority to do business in South Carolina and articles of conversion and domestication. These taxes are part of the funds which are returned by the SoS to the State General Fund each year. In addition to these taxes, the document fee set by statute in §33-1-220(a) of the S.C. Code of Laws for filing most documents such as articles of incorporation, merger, and dissolution with the Office of the Secretary of State is \$10.

Fees for Services to Consumers

The SoS collects the following fees for providing various services, primarily providing documents either through paper copies or electronic records which are emailed:

Service	\$ Amount of Fee
Request for Documents, First Page	\$3.00
Request for Documents, Each Additional Page	\$0.50
Request for Certificate of Existence or Authority	\$10.00
Request for Certificate of No Record/Certificate Under Seal	\$20.00
Electronic Records Access (Emailed to Customer) Per Certificate	\$4.00
Electronic Records Access Per Filed Document	\$1.25

The fees for filing documents as well as obtaining copies of documents are set by statute. Specifically, §33-1-220(c)(1) and (2) states:

The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (1) for copying, one dollar for the first page and fifty cents for each additional page; and
- (2) two dollars for the certificate.

According to an agency official, the Business Filings Division certifies copies of requested documents unless directed otherwise. In addition, the agency's website page for online document requests offers only certified copies. For online copies, the certification is a seal which imprints in the upper left corner of the document. The certificate adds a two dollar fee to the cost of the first page of each document requested.

Consumers may or may not need the copies to be certified, depending on their use of the documents. Section 33-1-220(c)(1) and (2) could be amended to allow for either a certified or uncertified copy to be purchased. We note that §1-5-50 of the S.C. Code of Laws requires that the Office of the Secretary of State establish fees which do not exceed the actual cost of searching for and making copies of records. This section goes on to state that "these records must be furnished at the lowest possible cost to the person requesting the records." Therefore, the agency should evaluate the need for routinely providing only certified copies, which adds to the cost of each document requested, and make certain that the fees charged do not exceed the actual cost of providing the documents as required by statute.

- **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 Recommendation:** 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.

Ability to View Business Filings Online

Rather than charging customers for providing copies of business filings, such as the articles of incorporation and amendments to them, some states have online systems which allow for the viewing and printing of these documents by anyone free of charge. We reviewed the online offerings of the Secretary of State (or similar office) of 10 southeastern states and found that 6 of those states, including North Carolina, Georgia, Florida, Virginia, Maryland and Kentucky, have systems which allow for viewing of the documents in a PDF or similar format. These documents can be printed by consumers if they choose to do so. According to an official with the South Carolina Secretary of State's office, several of the states which offer free online viewing of documents charge higher fees in other areas, such as for expedited services, which are not charged in South Carolina.

Being able to view and print documents maintained by a state agency from an online system provides the most complete and convenient access to consumers. In addition, the employees of the agency would no longer be required to provide the searching, copying and emailing functions and could focus on other duties. As more and more functions relating to government agencies are provided or completed online, consumers have come to expect the immediacy that this option provides. The Office of the Secretary of State should explore the feasibility of providing free access to business filings using the online system recently implemented. This approach would be a benefit for South Carolinians needing access to these records.

- **Agency Recommendation:** 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

Section 1-1-1310 of the S.C. Code of Laws requires each state board and commission to send written notification to the Secretary of State's Office of any appointment, election, resignation, or vacancy in the membership of its board or commission. This notice must be sent within two weeks of the event and must include all nine items listed in the statute, as follows:

- 1) the governing statute or Executive Order authorizing the appointment or election;
- 2) the board or commission's address, phone number, fax number, and e-mail address, if any;
- 3) the member's name;
- 4) the member's district, circuit, seat or position, if applicable;
- 5) when the member's term begins and ends;
- 6) the qualifications for membership on the board or commission and any specific requirements for the member's position;
- 7) whether the member is eligible to receive compensation for his service;
- 8) the name of the former member; and
- 9) in the case of an appointment or election, whether it is a reappointment or reelection of an incumbent.

Section 1-5-40(A) of the S.C. Code of Laws lists 107 specific boards and commissions in which the office of the Secretary of State is designated as the state office to monitor positions on these state boards and commissions. In addition to these 107, the statute requires that the SoS's office monitor ". . . any elected or appointed state boards and commissions established after the effective date of this section."

Further, section 1-5-40(B) of this statute requires the SoS's office to keep in a public record, available for inspection, an up-to-date compilation of the membership of the listed boards and commissions. This compilation must include:

- 1) length of term for each office;
- 2) the month and year in which terms have expired or will expire;
- 3) terms which have expired;
- 4) vacancies;
- 5) the body or authority which elects or appoints, as appropriate;
- 6) any qualifications including, but not limited to, residency requirements or limitations required for a particular vacancy; and

7) any additional information received from state boards or commissions as required by Section 1-1-1310.

In 2014, the Office of the Secretary of State developed a database which, at the time of our review, contained 221 state boards and commissions and 321 county boards and commissions. Access to this database is available to the public on the SoS's website, and it can be searched using the name (or key terms) of the board, commission or board member. The database contains a disclaimer stating "While every effort is made to ensure reliability and accuracy, the Secretary of State's Office relies on the information provided by state boards and commissions and their appointing authorities."

Section 1-5-40(C) requires that the Secretary publicize vacancies, expired terms, and those terms expiring within one year on a semiannual basis statewide. To provide the information required by this statute, the Office maintains three reports on its website which are updated daily. The reports include an expired term list, a list of vacancies, and a combination list of vacancies and expired terms.

Expired Terms and Vacancies

As of June 9, 2017, the combined list of vacancies and expired terms contained a collective total of 1,304 entries made up of 424 vacancies and 880 expired terms. The SoS's office notes on this report that many statutes allow members to serve until the successor is appointed and qualified. Therefore, some of the expired terms listed may be positions that are still being served by a person whose term has expired.

To attempt to reduce the number of vacancies and the instances where a member may still be serving under an expired term, the SoS's office should send a letter, by email to expedite the process, to the agency related to the boards and commissions making up these 1,304 vacancies and expired terms. In this letter, they would request the agency to notify the appointing authority, to request that persons be appointed or elected to vacant seats or that persons serving in expired seats be reappointed, if appropriate. In addition, some boards or commissions contained in the SoS's database may be non-functioning or may have completed the intended purpose. In these cases, the entities should be removed from the public database.

Section 1-5-40(A) requires the office of the Secretary of State ". . . to monitor positions on the state boards and commissions . . ." which are listed in the statute. In addition, the Secretary of State must maintain an up-to-date compilation of the membership of these boards and commissions under section (B) of this statute. According to an official with the office of the Secretary of State, maintaining the level of contact necessary to comply with these duties may require an additional staff person. Therefore, if the provision of monitoring as statutorily mandated requires an additional staff person, the office of the Secretary of State should proceed with the requirements to obtain this position.

- **Agency Recommendation:** 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.
- **Agency Recommendation:** Any boards or commissions determined by the Secretary of State's Office to be non-operational or defunct, should be removed from the database.

Notaries Public

According to the SoS's office, there are approximately 136,000 notaries in SC. In 2014, Act 185 made improvements to the law regulating notaries public, including providing clear statutory definitions of notarial acts and specific criminal penalties for fraudulent notarization. The key function of a notary is to protect citizens against fraudulent activity. Notaries can provide acknowledgements of signatures on documents, notarize signatures on written affidavits, and perform marriage ceremonies among other duties.

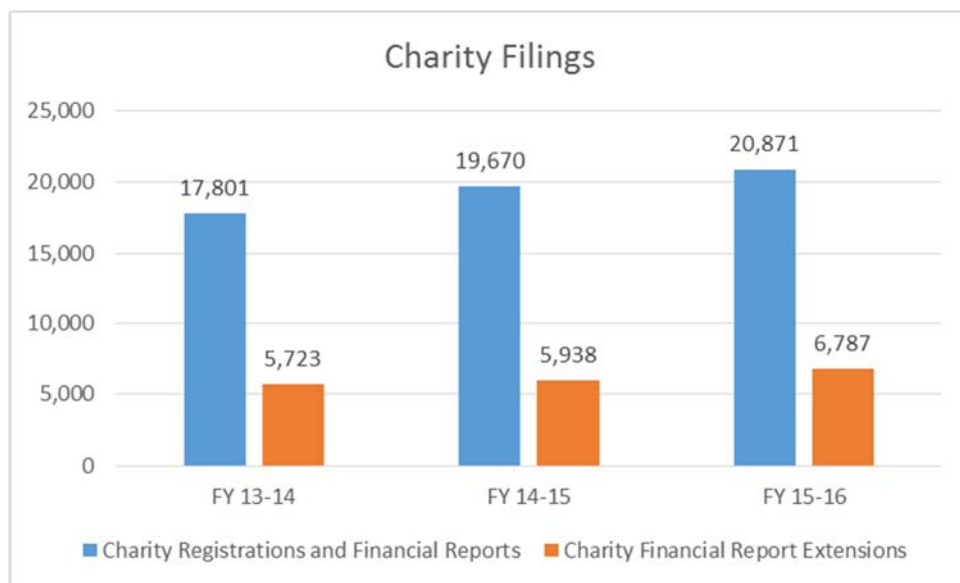
To become a notary in South Carolina, a person must be a registered voter in SC, be able to read and write in the English language, and submit an application to their county legislative delegation. The county delegation or the House of Representatives, if no county delegation is available, must ensure that the applicant is a registered voter and forward the application and a \$25 fee to the Secretary of State's office for processing. A notary must inform the SoS's office of name or address changes during their term. In addition, S.C. Code §26-1-50 requires notaries to enroll their commissions with their County Clerk of Court within 15 days of being commissioned.

The SoS's office maintains a notary database on its website. This database is searchable by the public and contains the name, county, and expiration of commission for each notary. The Secretary offers free, regional notary public seminars in the summer and fall each year in an effort to help notaries, and those wanting to become notaries, understand the state laws governing the duties and responsibilities of notaries. In addition, an on-line manual for notaries is available on the SoS's website.

Charities

The Secretary of State is responsible for administering the Solicitation of Charitable Funds Act (S.C. Code §33-56-10 *et seq.*). Charitable organizations that intend to solicit contributions in the state must be registered annually with the Secretary of State with a \$50 annual fee and file an annual report of their financial activities. Religious organizations and candidates required to file information with the federal or state election commissions are not included in the definition of charitable organizations so they do not have to register. Other entities are exempt from registration or filing financial reports but must file annually for the exemption.

The number of filings processed by the division have been increasing.



For FY 15-16, 12,381 charitable organizations registered or filed exemptions. The amount of filings online have been about 50% for the past two fiscal years.

The office conducts training around the state to educate entities about the need to file and the information that should be filed. For FY 14-15 and FY 15-16, there were about 30 speaking engagements, training, and presentations conducted across the state for each fiscal year. The Secretary of State also selects ten angels and ten scrooges each year to encourage the public to learn about charities and how they are spending their donations. To be selected as an angel, the charity must meet several criteria including using 80 percent or more of its total expenditures for charitable programs and is eligible to be named as an angel only once. Scrooges are named based on a charitable organization's failure to spend a high percentage of its total expenditures on charitable programs, or a professional fundraiser's failure to remit a significant amount of its gross receipts to the charity for which it solicits.

The Secretary of State's website includes an online search of charities which allows the public to determine if a charity is registered with the state so that it is able to solicit contributions. The information for each charity includes the revenue, expenses, assets, and fundraiser costs reported by the charity and also states the percentage of total expenses for program services. In order to view the documents filed by the charity, the public must pay a copy fee of \$1 for the first page and 50¢ for each additional page. A copy of the IRS Form 990 which charities are required to file and details financial information is also available for free on GuideStar.org. The office also has a list of suspended charities as well as noting on the search for a charity if the organization is suspended. The office relies on the charities to provide accurate and updated information and does not verify it.

In addition to charities, professional fundraisers which intend to assist charitable organizations in the solicitation of contributions must register with the Secretary of State's Office on an annual basis. All professional fundraisers are required to register annually with a fee of \$50 and file a notice of solicitation form and any contracts with a charity ten days prior to any solicitation. Professional solicitors and commercial co-venturers must also file a joint financial report within 90 days after the solicitation has ended. Professional solicitors are also required to file and maintain a surety bond of \$15,000 and to register each individual solicitor working for a professional solicitor company. About 2,000 professional fundraiser registrations have been filed in each of the past two fiscal years and almost 2,800 contracts and financial reports were filed in FY 15-16.

In 2015, a constitutional amendment was ratified by the General Assembly to allow qualified nonprofit entities to conduct raffles. To be qualified to conduct raffles, an organization must be tax-exempt or part of an educational institution, registered with the Office of the Secretary of State, and be operated for one or more of these purposes: religious, charitable, scientific, literary, educational, amateur sports (but not providing facilities or equipment), or prevention of cruelty to children or animals. Organizations intending to conduct raffles must file an annual raffle form with a fee of \$50 with exceptions for two types of smaller raffles. This allows the operation of up to four raffles a year. No less than 90% of the proceeds from the raffle must be used for the charitable purpose of the non-profit. Entities are required to submit an annual financial report detailing the proceeds and use of funds raised from any raffles.

Investigations

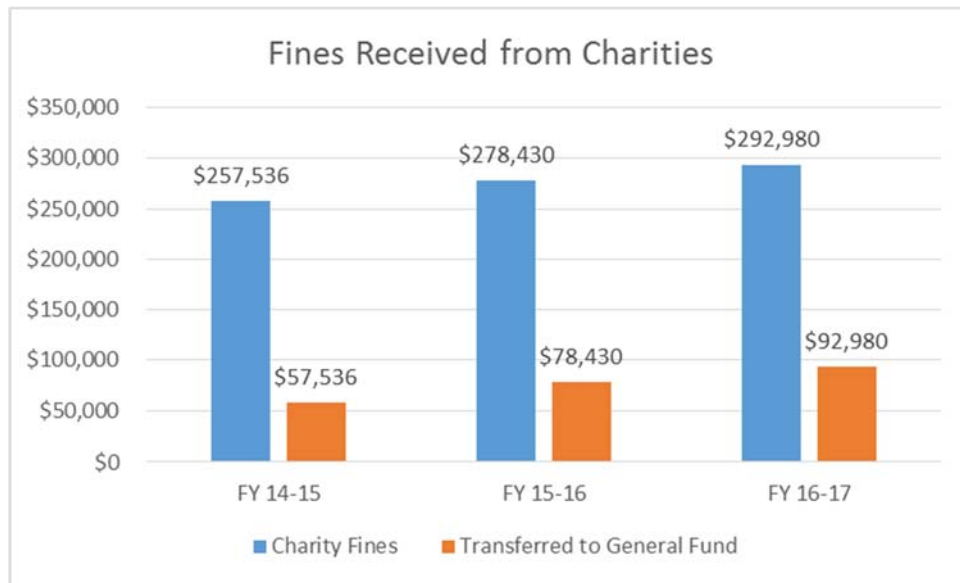
This division is responsible for investigating possible violations in six areas within the office's responsibilities:

- Business opportunities
- Employment agencies
- Trademarks
- Charities

- Professional fundraisers
- Raffles

The office only has the authority to conduct civil investigations and refers criminal issues to law enforcement entities. For FY 15-16, the division partnered with law enforcement and private agencies on 29 counterfeit cases. It also investigated 93 cases involving charitable organizations, professional fundraisers, and raffles, 5 of which were multistate investigations involving agencies in other states.

The office can assess fines on charitable organizations for violations of its statutes or failure to file the appropriate documents. By statute, it is able to retain \$200,000 of the administrative fines each fiscal year to fund the office’s operations. The remaining fine revenue is transferred to the state’s general fund. The amount of fines collected by the office has increased over the last three fiscal years.



The division currently has one investigator and received funding for a second investigator in the FY 17-18 appropriations act. The division does not have a database to track the progress or results of its investigations. In order to better evaluate the performance of the division and results of its investigations, the division should track its caseload including reason for investigations, progress, and results.

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