Executive Subcommittee Meeting

Monday, October 4, 2021

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AGENDA

South Carolina House of Representatives



Legislative Oversight Committee

EXECUTIVE SUBCOMMITTEE
The Honorable Joseph H. Jefferson, Jr., Chairman
The Honorable Travis A. Moore
The Honorable Wm. Weston J. Newton
The Honorable Melissa Lackey Oremus

Monday, October 4, 2021 10:00 a.m. Room 433, 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 State Ethics Commission
- III. Adjournment

MEETING MINUTES

First Vice-Chair: Joseph H. Jefferson, Jr.

Kambrell H. Garvin Rosalyn D. Henderson-Myers Jeffrey E. "Jeff" Johnson John R. McCravy, III Adam M. Morgan Melissa Lackey Oremus Marvin R. Pendarvis Tommy M. Stringer Chris Wooten

Jennifer L. Dobson Research Director

Cathy A. Greer Administration Coordinator

Legislative Oversight Committee



South Carolina House of Representatives

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Gil Gatch
William M. "Bill" Hixon
Kimberly O. Johnson
Josiah Magnuson
Timothy A. "Tim" McGinnis
Travis A. Moore
Russell L. Ott
Michael F. Rivers, Sr.
John Taliaferro (Jay) West, IV

Charles L. Appleby, IV Legal Counsel

Lewis Carter Research Analyst/Auditor

Riley E. McCullough Research Analyst

Legislative Oversight Committee

Tuesday, July 20, 2021 8:30 a.m. Blatt Room 321

Archived Video Available

I. Pursuant to House Legislative Oversight Committee Rule 6.7, 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. The Executive Subcommittee meeting was called to order by Committee Vice-Chair and Executive Subcommittee Chair Joseph H. Jefferson, Jr., on Tuesday, July 20, 2021, in Room 321 of the Blatt Building. All members (Representative Travis A. Moore; Representative Wm. Weston J. Newton; and Representative Melissa Lackey Oremus) were present for all or a portion of 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.

Approval of Minutes

I. Representative Newton makes a motion to approve the meeting minutes from the May 13, 2021, meeting. A roll call vote was held, and the motion passed.

Rep. Newton motion to approve the May 13, 2021, meeting minutes.	Yea	Nay	Not Voting
Rep. Jefferson	✓		
Rep. Moore	✓		
Rep. Newton	✓		
Rep. Oremus	✓		

Discussion of State Ethics Commission

- I. Chair Jefferson reminds Ms. Meghan Walker, Executive Director of the State Ethics Commission, Ms. Courtney Laster, General Counsel of the State Ethics commission, and Ryanne Caldwell, Chief Investigator for the State Ethics Commission that they remain under oath.
- II. Agency staff provide comments related to the following:
 - a. Required filings;
 - b. Campaign disclosure reports;
 - c. Crypto currency;
 - d. Statements of economic interest;
 - e. Lobbyist and lobbyist principal registrations;
 - f. Committee statement of organizations;
 - g. Certified campaign reports;
 - h. Agency's recommendations for law changes;
 - i. What does the Ethics Act prohibit;
 - j. What steps are taken to ensure compliance;
 - k. Reviews of required filings;
 - 1. What happens if a debt is sent to the Department of Revenue;
 - m. Complaint process;
 - n. Investigations;

- o. What occurs during the hearing;
- p. Appellate panel;
- q. Case management system;
- r. Administration services; and
- s. Associated performance measures.
- III. Subcommittee members ask questions relating to the following:
 - a. Candidate notification about filing requirements;
 - b. Agency notification about candidates;
 - c. Electronic notification about filing dates for special elections;
 - d. Interagency collaboration with Department of Administration;
 - e. Volume of letters sent by the agency and cost per unit;
 - f. Lobbyist and lobbyist principal disclosures;
 - g. Number of committees that continue to file and design of filing portal to accommodate these filings;
 - h. Commission approval of recommendations for law changes;
 - i. Notification about lobbyists and lobbyist principals;
 - j. Process of updating information filed;
 - k. Noncompliance letters;
 - 1. Review of required filings;
 - m. Recovery on debts;
 - n. Verified versus non-verified complaint;
 - o. Complaints about legislators;
 - p. Electronic complaints;
 - q. Investigations;
 - r. What occurs during the hearing;
 - s. Case management system; and
 - t. Order preparations.

Agency staff respond to the members' questions.

Adjournment

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

STUDY TIMELINE

The House Legislative Oversight Committee's (Committee) process for studying the State Ethics Commission (agency) includes actions by the full Committee; Executive Subcommittee (Subcommittee); the agency; and the public. Key dates and actions are listed below in Figure 1.

Legislative Oversight Committee Actions

- December 9, 2019 Holds **Meeting #1** and prioritizes the agency for study
- January 15, 2020 Provides the agency notice about the oversight process
- February 28 April 1, 2020 Solicits input about the agency in the form of an online public survey
- April 8, 2021 Holds **Meeting #2** to receive public testimony about the agency

Executive Subcommittee Actions

- April 29, 2021 Holds **Meeting #3** to discuss the agency's vision; mission; director responsibilities; organizational structure; history; and general information about finances and employees
- May 13, 2021 Holds Meeting #4 to discuss the agency's services related to education and training
- July 20, 2021 Holds **Meeting #5** to discuss the agency's services related to required filings and investigations
- October 4, 2021 Holds **Meeting #6 (TODAY)** to discuss potential recommendations and findings for the Subcommittee's study report

State Ethics Commission

- 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
- September 2019 Submits its 2018-19 Accountability Report
- March 9, 2020 Submits its **Program Evaluation Report**
- September 2020 Submits its 2019-20 Accountability Report
- March, 2021 Submits updates to its **Program Evaluation Report**
- December, 2019 Present Responds to Subcommittee's inquiries

Public's Actions

- February 28 April 1, 2020 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)\

AGENCY SNAPSHOT

South Carolina Ethics Commission

History

- 1975 Governor James Edwards signed the Ethics Acts which created the State Ethics Commission
- 1978 First statewide election year the Commission accepted Campaign disclosure forms from candidates and committees.
- 1982 Ethics Act amended to include prohibiting an employment offer to influence a public official and prohibiting a public official from representing clients on matters in which the official was directly and substantially involved.
- 1991 Ethics, Government Accountability, and Campaign Reform Act of 1991 makes comprehensive ethics reform (prior to filing Operation Lost Trust had criminally convicted 27 legislators and lobbyists)
- 2011 H.3183 signed into law, capping late filing penalties at \$5,000 per report, allowing multiple offenses to be tried in magistrate's court, and requiring lobbyists to pay all outstanding fines prior to reregistration or resuming lobbying activities

Agency Mission

The mission of the State Ethics Commission is to work diligently to develop and enhance public trust in all levels of government.

Successes

Identified by the agency

Organizational Units

Administration

· Implements Commission's missio

Compliance

 Oversee the day-to-day operations of the electronic filing system for campaign fiancé, financial disclosure and lobbying disclosure

Investigation

Investigates alleged violations

Disclosures

 Notifies those who fail to file required forms, handle all non-compliance matters.

Legal

Administratively prosecutes alleged violations of the Act, represents the Commission in Court, advises and trains public officials under the Act, and drafts formal opinions.

Resources (FY 19-20)

Employees

filled FTE positions at end of the fiscal year

Funding

\$2,135,987 appropriated and authorized

- Increasing efforts towards "going green," resulting in increased efficiency and a reduction in both costs and environmental impact.
- Training, in the past two years, more than two thousand individuals subject to the act.
- Resolving backlog of 120 cases since March 2018, leaving 16 cases currently pending.

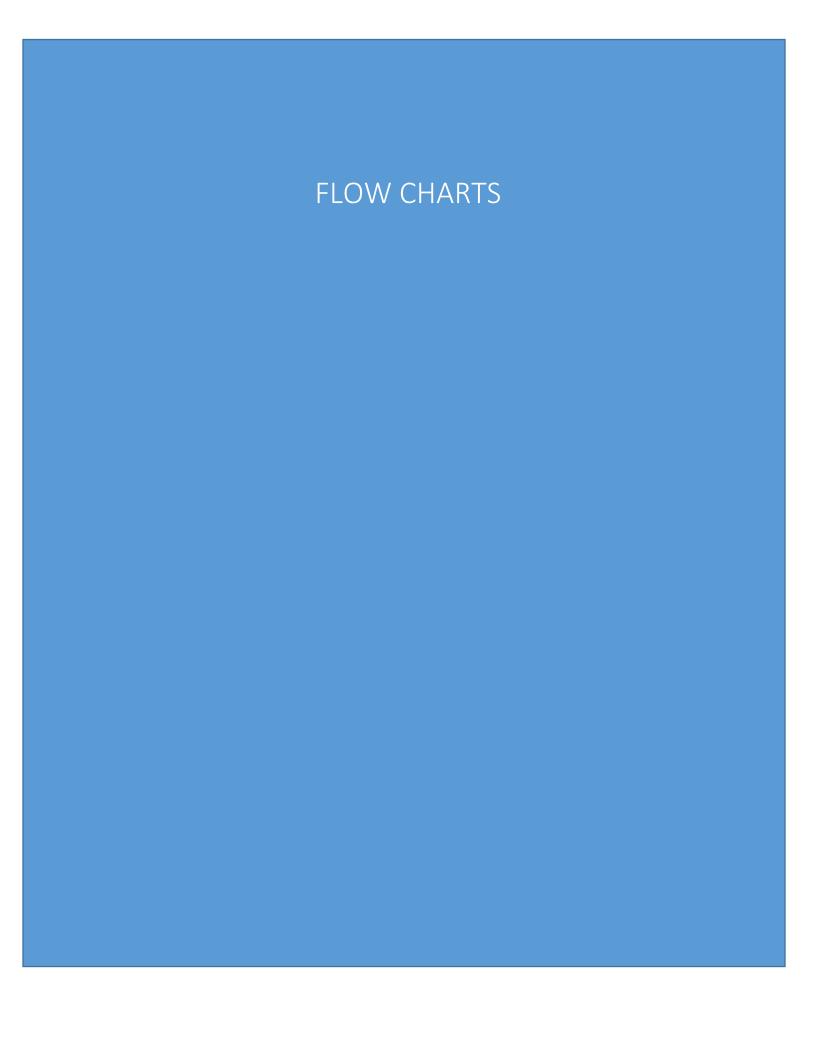
Current:

- Receiving a constitutional definition of committee to enforce applicable state statutes
- Increasing staffing to decrease backlog and provide timelier accountability for late filers
- Securing case management software

Emerging:

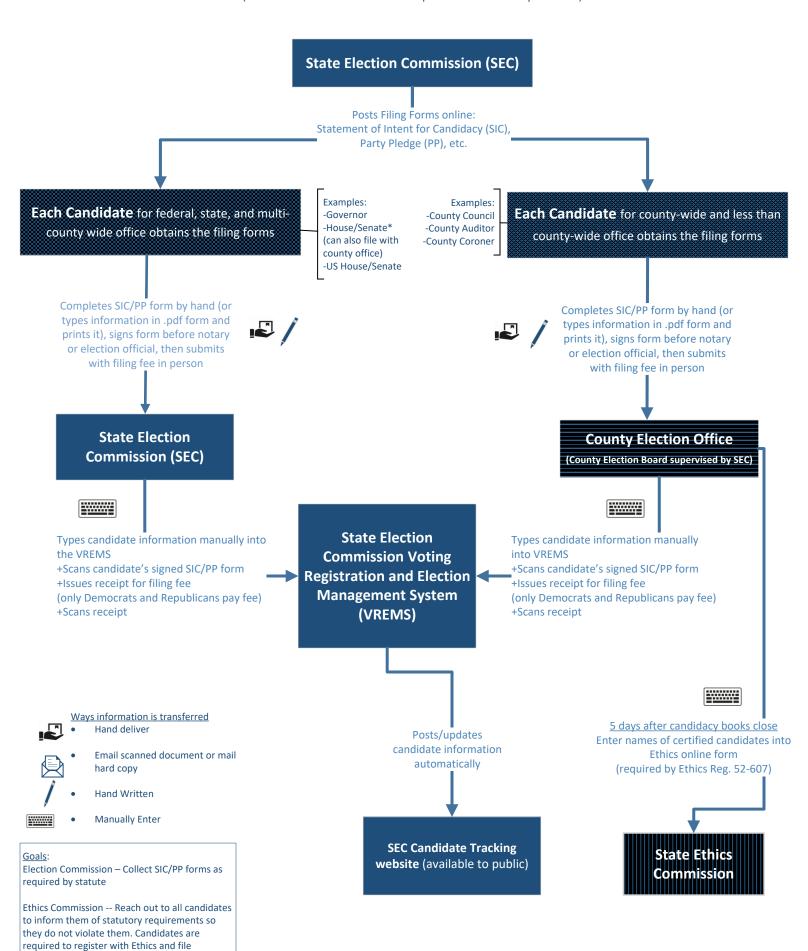
- Regulating potential campaign contributions that occur through cryptocurrency
- Replacing the current filing system for accountability and reporting
- · Increasing staffing to regulate local lobbyist





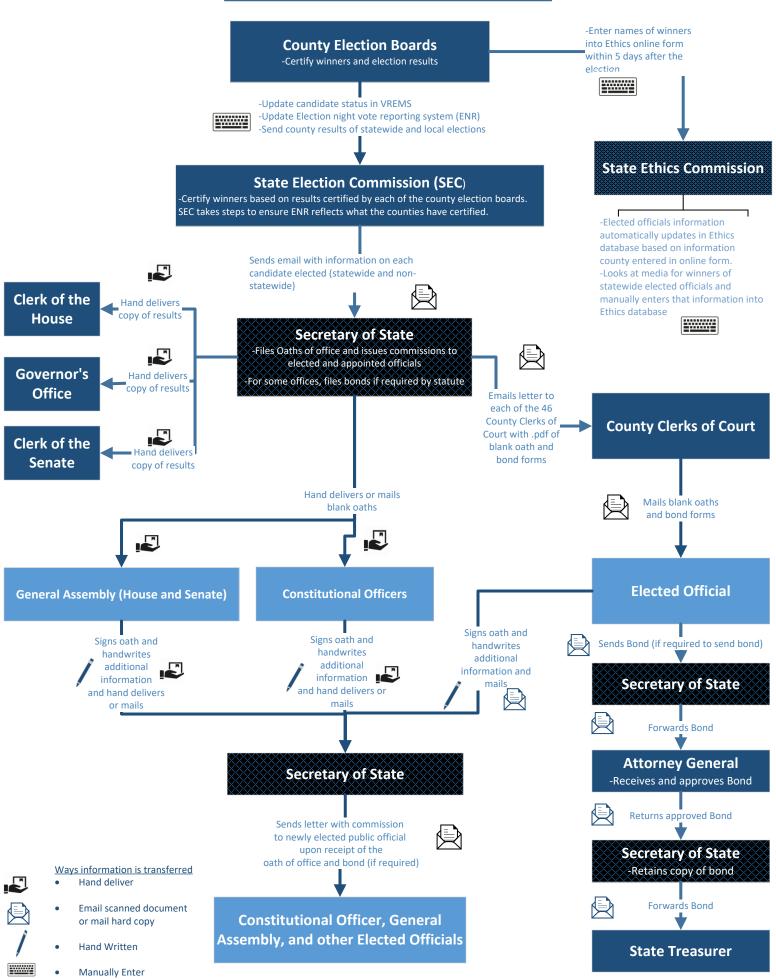
CANDIDATES – Current Flow of Information

(Note: There are differences for non-partisan and local only elections)



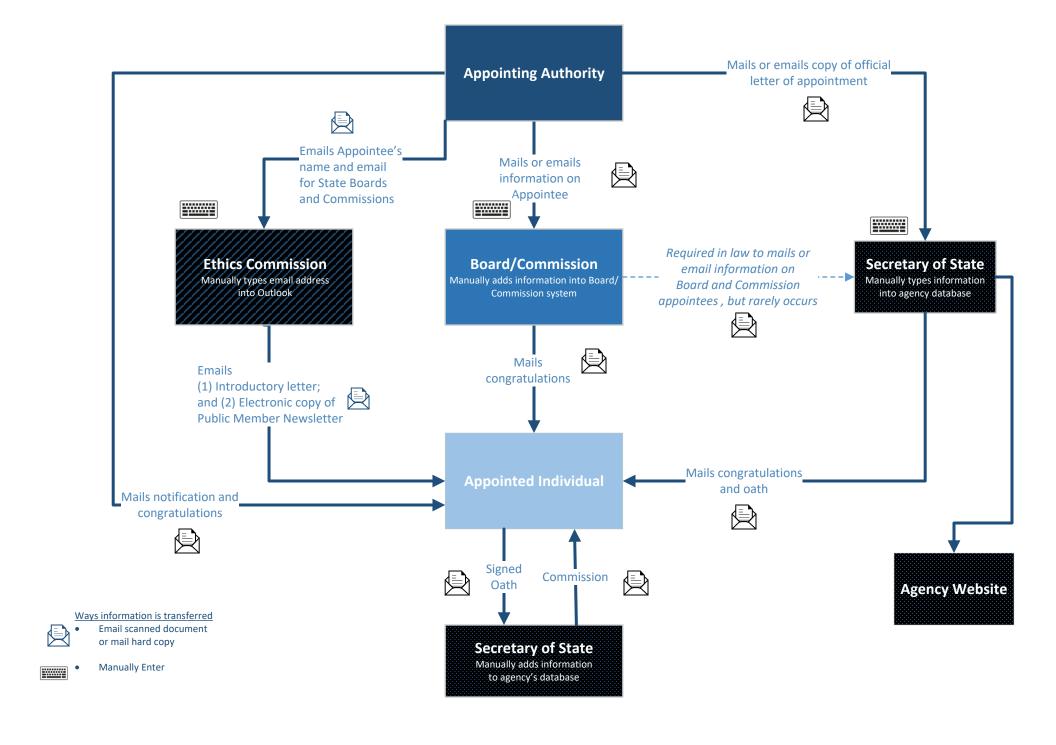
Statement of Economic Interest

ELECTION WINNERS – Current Flow of Information



BOARD and COMMISSION APPOINTEE - Current Flow of Information

(In practical application)



Candidate and Elected individual information collected by... (as of September 2021)

Highlighted cell indicates common information

	State Election Commission (SEC) -		SEC - Candidate Tracking		Ethics Commission - Candidate		Ethics Commission - Public	Secretary of State's Office
	Statement of Intent for Candidacy (SIC) / Party Pledge (PP) hard copy		System	Results	Information from Counties	Electronic Portal (Registration)	Reporting (viewable from website)	
	and/or scanned filing							
Method of entry	Handwritten or typed, then printed, by candidate	Manually entered by SEC and County Voting Board	Auto-generated from VREMS	Auto-generated from voting system	Manually entered by County Voting Board	Manually entered by individual registering	Auto-generated from Ethics Electronic Portal	Manually entered by Secretary of State's Office
Availability	Candidate; Election Commission; County Board of Voter Registration and Elections; Political Parties; Public (available online)	Election Commission; County Board of Voter Registration and Elections	1) Public (available online)	1) Public (available online)	County Board of Voter Registration and Elections; Ethics Commission	Individual to whom Ethics Act applie (i.e., Candidate and Election Winner); Ethics Commission; House Ethics Committee; Senate Ethics Committee	1) Public (available online)	Secretary of State's Office
	E D.	Election Type		Election Type		Election Type (Primary or General)	Election Type (Primary or General)	
	Election Date	Eligible Elections		Election Date Eligible Elections		Election Date	Election Date	
	Office	Election (required) Office (drop down) (required)	Office	Election (required) Office (drop down) (required)				Office
	Candidate Information	Candidate Information	Candidate Information	Election Winner Information	n Candidate Information and Election Winner Information Full Name	Candidate Information and Election Winner Information		Election Winner Information
	FirstName MiddleName LastName (required) Suffix	FirstName MiddleName LastName (required) Suffix	FirstName MiddleName LastName Suffix			FirstName MiddleName (optional) LastName Suffix	FirstName MiddleName (optional) LastName Suffix	FirstName MiddleName LastName (required) Suffix
	Voter Registration #	Voter Registration #				SSN		
	Part/Nonpartisan/Petition	Part/Nonpartisan/Petition	Party	Party				
		Name on Ballot First Middle Nickname Last Suffix (required)	Name on Ballot Ballot Name (first - middle) Ballot Name (last - suffix)	Name on Ballot Ballot Name (first - middle) Ballot Name (last - suffix)				
	Contact Information Street	Contact Information Street			Contact Information Street	Office Address Street	Street	Contact Information Street
	City, Zip	City, Zip			City State	City State	City State	City State
Information Collected					Zip	Zip	Zip	Zip
	Email Address	Email Address			Email Address	Email Address		
	Phone Number	Phone Number			Phone Number	Office phone Mobile phone (optional)	Office or Mobile phone	
	Filing Time (required Filing Location	<u>Filing Information</u> Filing Date (required) Filing Time (required Filing Location Filing Fee	Filing Information Date Filed Time Filed Filing Location Filing Fee					
	Other Information SIC (scanned copy)	Other Information	Other Information			Other Information		Other Information
	Other (scanned copy of receipt for filing fee, withdrawal letter if candidate withdraws, etc.)							Oath of Office (hard copy)
		Associated Counties Filing Level	Associated Counties Filing Level			County of residence		County
	Primary	District Primary Status Status Date Running Mate Office Running Mate Ballot Sort Order Code	District Primary Status Status Date Running Mate Office Running Mate Ballot Sort Order Code					
	Candidate signature beside oath (required) Election Official or Notary signature (required)							
	(roquirod)			Winner Number of votes				

Board and Commission appointee information collected by... (as of September 2021)

Highlighted cell indicates common information

	Appointing Authority	Board and Commission	Ethics Commission	Secretary of State's Office
Method of entry	Manually entered by appointing authority	Manually entered by Board or Commission	Manually entered by individual appointee	Manually entered by Secretary of State's Office
Availability	1) Board or Commission	Election Commission; County Board of Voter Registration and Elections	1) Public (available online)	1) Public (available online)
	Desfin	Desfin		Desfin
Board / Commission Member Information	Prefix FirstName MiddleName LastName Suffix	Prefix FirstName MiddleName LastName Suffix	FirstName MiddleName LastName Suffix	Prefix FirstName MiddleName LastName Suffix
	Address City State ZipCode AppointedDate	Address City State ZipCode AppointedDate	Address City State ZipCode AppointedDate	CompanyName AddressLine1 & 2 City State ZipCode ConfirmedDate AppointedDate
	TermBeginDate ExpirationDate	TermBeginDate ExpirationDate	TermBeginDate ExpirationDate	AppointedBy TermBeginDate ExpirationDate isAtPleasureOf isCoterminous
				CommissionDate BondNumber BondReceivedDate BondSentToAG_Date BondApprovedByAG_Date BondSentToTreasure_Date STO_ReferenceNumbers
				TermStatus InactivedReasons InactivedDate PositionTitle
	Email address	Email address	Email address	
		District, circuit, seat, or position of individual selected, if applicable		PositionName PositionTitle PositionType PositionSubType isBondRequired TermLength isAtPleasureOf
		Qualifications and Requirements for the position		isCoterminous Requirements PositionStatus
		Whether position is eligible to receive compensation Whether it is a reappointment or reelection of incumbent Name of the former member		
Board Information	Board or Commission Name Address	Board or Commission Name Address Phone number Email	Board or Commission Name	

Revenue and Fiscal Affairs Office API or Other Tool

The Revenue and Fiscal Affairs Office has the resources to consult or create applications to efficiently transmit information, in a safe and secure manner, between those with proper authorization

State Election Commission

Obtains information needed for:

- (1) Voter Registration and Election Management System;
- (2) Candidate Tracking System; and
- (3) Election Night Results System

State Ethics Commission

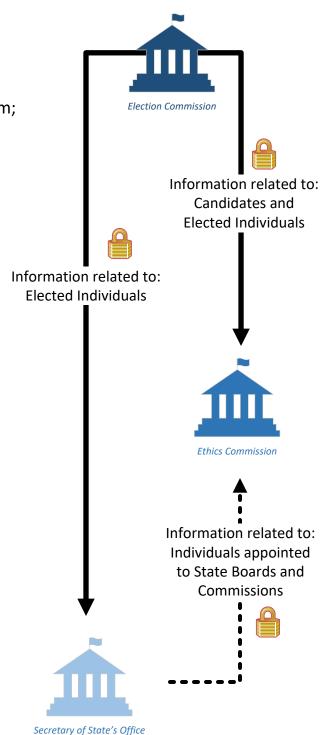
Obtains information needed for:

- (1) Correspondence to candidates, about ethics requirements and registration of them in Electronic Ethics Portal
- (2) Correspondence to elected and appointed officials about ethics requirements; and
- (3) Updating information in Electronic Ethics Portal about elected officials and adding information about appointees to state boards and commissions

Secretary of State's Office

Obtains information needed for:

- (1) Correspondence to elected cfficials;
- (2) Correspondence to appointed individuals; and
- (3) Information posted online about boards and commissions



Revenue and Fiscal Affairs Office Locate Me Tool

Example of address entered in Locate Me Tool

What does it do?

Individual can enter their address and select different boundaries they want to view (e.g., House district, Judicial district, Council of Governments region, etc.).



Opportunities to gain efficiencies for the public

- Currently, an individual must navigate to individual agency websites to find different information specifically applicable to them (and know which agency page to visit).
- If an agency shares information with RFA, the information can be added to Locate Me to allow an
 individual to view information from multiple agencies, in a central location.

Note: Each agency maintains ownership of their information. Also, each agency can add the map to their individual webpage, in addition to information they currently provide.



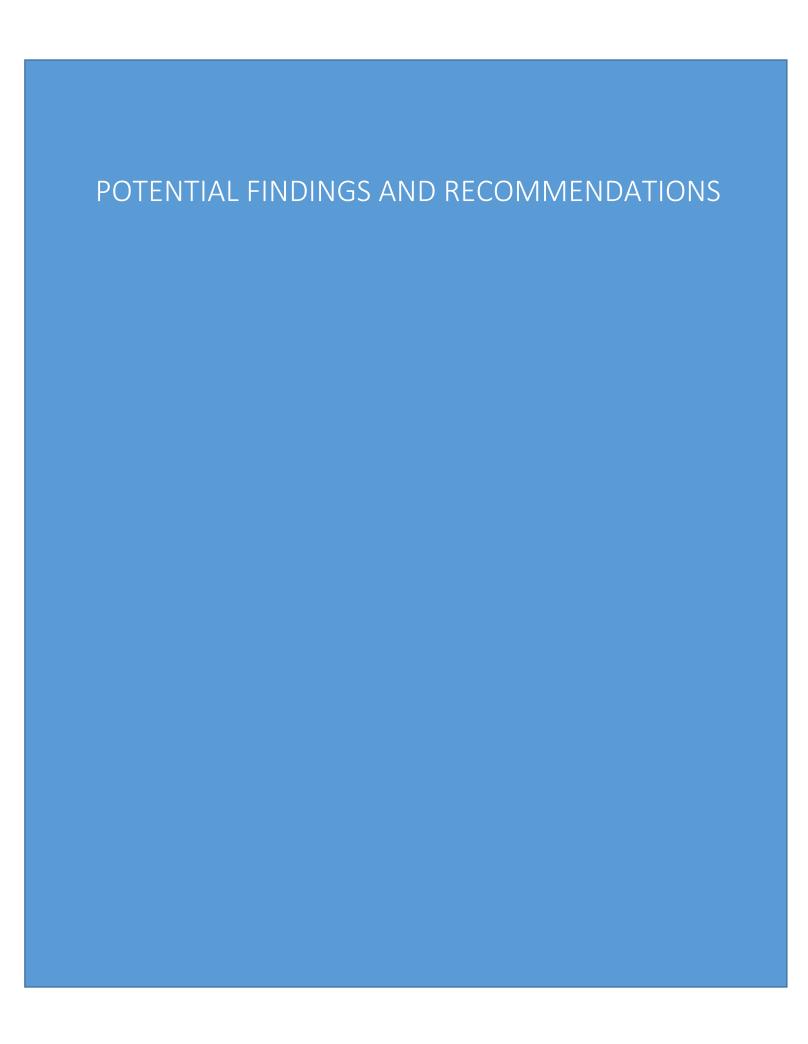
Candidates; and
 Elected individuals



1) Appointees to state boards and commissions

Example of public information an individual could view, if agencies provided the information to RFA:

- Candidates View the names of those running for office in their area;
- Elected individuals View the names of those representing their area in various elected offices; and
- Appointees to state boards and commissions Those that represent the individual on the board or commission.



Potential Findings

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- 1. The majority of unresolved ethics filing violations originate from candidates for various offices.
- 2. There is potentially a loophole in statute that may enable governor and lieutenant governor campaigns to receive unlimited contributions.
- 3. One seat on the State Ethics Commission has been vacant for over a year.

EFFECTIVENESS

- 4. State Ethics Commission continues to progress through development of soft skills for management, tracking of customer calls/input, improved technology, and collaboration with other ethics entities.
- 5. State Ethics Commission is unable to determine all individuals that must comply with the Ethics Act due, in part, to the fluid number of individuals serving in the different roles subject to the Ethics Act.

FICIENCY

6. More than 30 state agencies, including the State Ethics Commission, report some amount of redundant, manual reentry of data from another agency. State government annually utilizes over \$100M in employee time manually reentering data.

TRANSPARENCY

7. Requirements in partisan and nonpartisan elections are not uniform.

Potential Recommendations

Recommendations to State Ethics Commission

Regulations

1. Complete a review of agency regulations and during the review consider changes necessitated by relevant judicial opinions. Publish a notice of drafting to begin the formal process of updating the regulations.

Duties

ACCOUNTABILITY

2. Post online documents commissioners are required to sign, including, but not limited to, those in which they acknowledge their duties as a commissioner.

Violation avoidance

- 3. Survey stakeholders (e.g., candidates and county voter registration boards) to determine methods through which candidates are currently receiving information about ethics requirements and obtain ideas to improve the effectiveness of communication. Provide the Committee a summary of the following: (1) information learned, (2) any ideas the agency will pursue, and (3) how the agency will determine the effectiveness of the ideas it is implementing.
- 4. Update agency materials and correspondence to include how to follow the agency's social media accounts that send reminders about filing deadlines.

Violation discovery

5. Set a regular schedule to conduct random audits of ethics filings.

Violation trend and cause identification

6. Request feedback from Ethics Act violators, to the extent feasible, to obtain information to help improve compliance.

Debtors List

7. Collaborate with the Department of Health and Environmental Control, House Ethics Committee, and Senate Ethics Committee about the possibility of receiving information on a regular basis through which the entities may update their debtors list by removing the names of deceased individuals.

For Agency

- 8. Complete the Department of Administration's Division of State Human Resources' telecommuting toolkit and provide a copy to the Committee with an explanation of whether it will submit the information to pursue additional telecommuting options for employees.
- 9. Adapt the Ethics Electronic Portal to track noncompliance and violations in total and by type (e.g., fine, appeal, request for information, hearing, etc.) and category of individual (e.g., elected public official, appointed public office, appointed public member, public employee, etc.) in the next twelve months, and track this information going forward.

For Customers

- 10. Update agency policies and/or job requirements to ensure there is a notary in the office during normal business hours.
- 11. Track the number of unique individuals who call the agency office over the next 24 months to determine if alternative means of filing complaints are requested, and, based on results consider options available (e.g., enabling submission of electronic complaints and electronic notarization). Provide the Committee a summary of the results obtained, agency decision, and rationale.
- 12. Publish online a reference document with a list of the entities to contact for complaints about elected and appointed individuals at different levels of federal, state, and local government (e.g., Federal Ethics Commission, State Ethics Commission, House Ethics Committee, Senate Ethics Committee, etc.).

To Public

- 13. Enable the public to: (1) download information from the Ethics Electronic Portal in formats for analysis (i.e., CSV, Excel) and (2) request/receive notifications when there are certain changes in the system (e.g., new filings).
- 14. Ensure the Ethics Electronic Portal can provide reports, and supporting data to download, with certain information about Ethics Act violators and violations to assist the agency and General Assembly in continuing to find ways to improve overall compliance (e.g., each required ethics filing submitted late or not at all with the number of days late and a summary of the information the filing would disclose (e.g., contributions, etc.); number that opted into the mobile notification; number that participated in training from the agency; number registered and number of violations by Ethics Act definition (e.g., public official-candidate; public official-elected; etc.).
- 15. Update information in the agency's accountability report to match the Program Evaluation Report, or agency current operations and continue tracking applicable data about services, performance, and organization.

Manual Data Re-entry Avoidance

- 16. Evaluate the potential benefits of negotiating, and enter if beneficial, a data sharing agreement with the Department of Revenue to enable receipt of information about collections on fines to avoid the need for manual reentry of the information.
- 17. Evaluate the potential benefits of negotiating, and enter if beneficial, a data sharing agreement with the State Election Commission and Secretary of State's Office to avoid duplication of efforts and manual reentry related to elections and appointments.

Communication with the public

- 18. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.
- 19. Collaborate with the Department of Administration's State Division of Human Resources, Department of Revenue, and Department of Employment and Workforce to determine if there are opportunities for efficiencies in tracking and providing information to public members under the Ethics Act. Provide an update to the Committee.

Recommendations to the General Assembly

EFFECTIVENESS

- 20. Consider amending the definition of "committee" in the Ethics Act so the State Ethics Commission may fully enforce 21 existing statutes that are currently unenforceable due to court decisions.
- 21. Consider correcting a statutory discrepancy regarding the value of gifts those subject to the Ethics Act must report (i.e., make it uniform that all gifts with a value of twenty-five dollars or more in a day, or two hundred dollars or more in a calendar year, must be reported).

Modernization of Laws

22. Consider repealing antiquated statutes requiring the agency physically forward copies of information and enact a statute that provides posting the information online satisfies the requirement.

Recommendations to State Treasurer's Office

INTERAGENCY

23. Continue to monitor issues related to cryptocurrency and its potential application to the receipt of currency by state agencies for goods and services, as well as agencies that monitor others receipt of currency (e.g., convene potentially impacted agencies as needed, to discuss issues).

Recommendations to the Office of House Research

EFFECTIVENESS

24. Create a document succinctly identifying House member responsibilities for making appointments or nominations for appointments.

Recommendations to State Election Commission

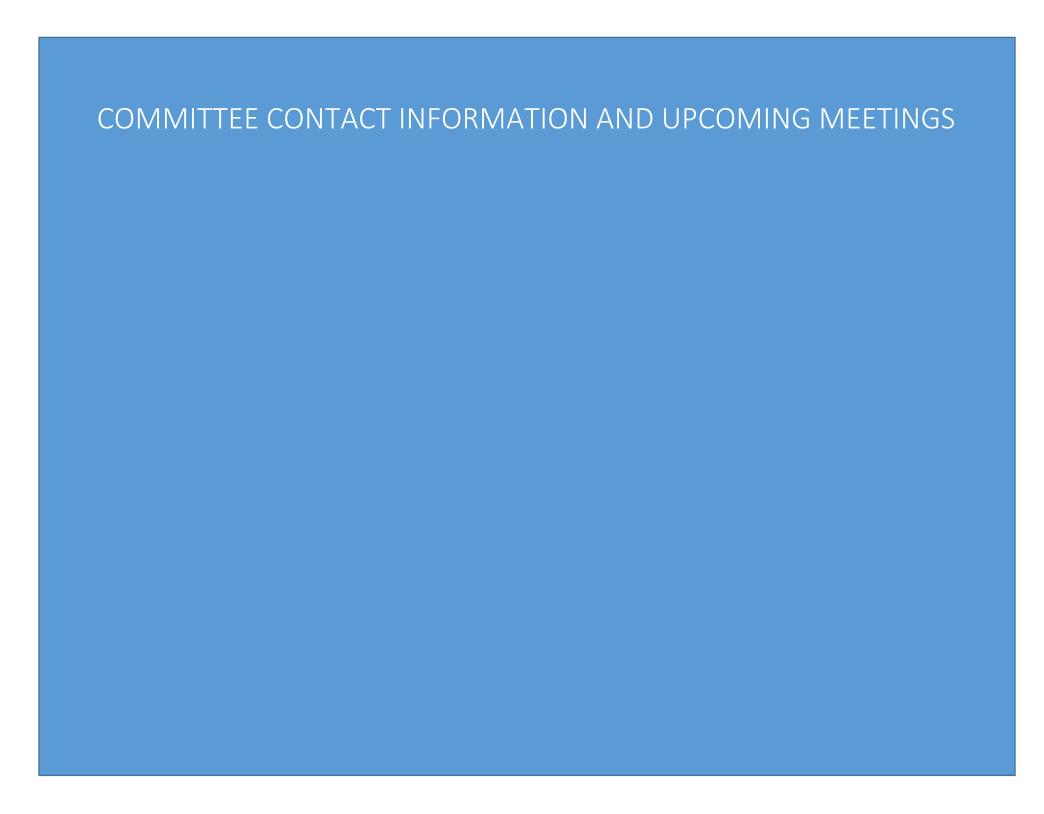
INTERAGENCY COLLABORATION

25. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.

Recommendations to Secretary of State's Office

Interagency Collaboration

26. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.





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

Executive Subcommittee

Staff is working to schedule

END NOTES

 $\frac{https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/EthicsCommission.php}{(accessed April 22, 2021).}$

 $^{^1}$ Visual Summary Figure 2 is compiled from information in the State Ethics Commission study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Ethics Commission, State"