

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

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

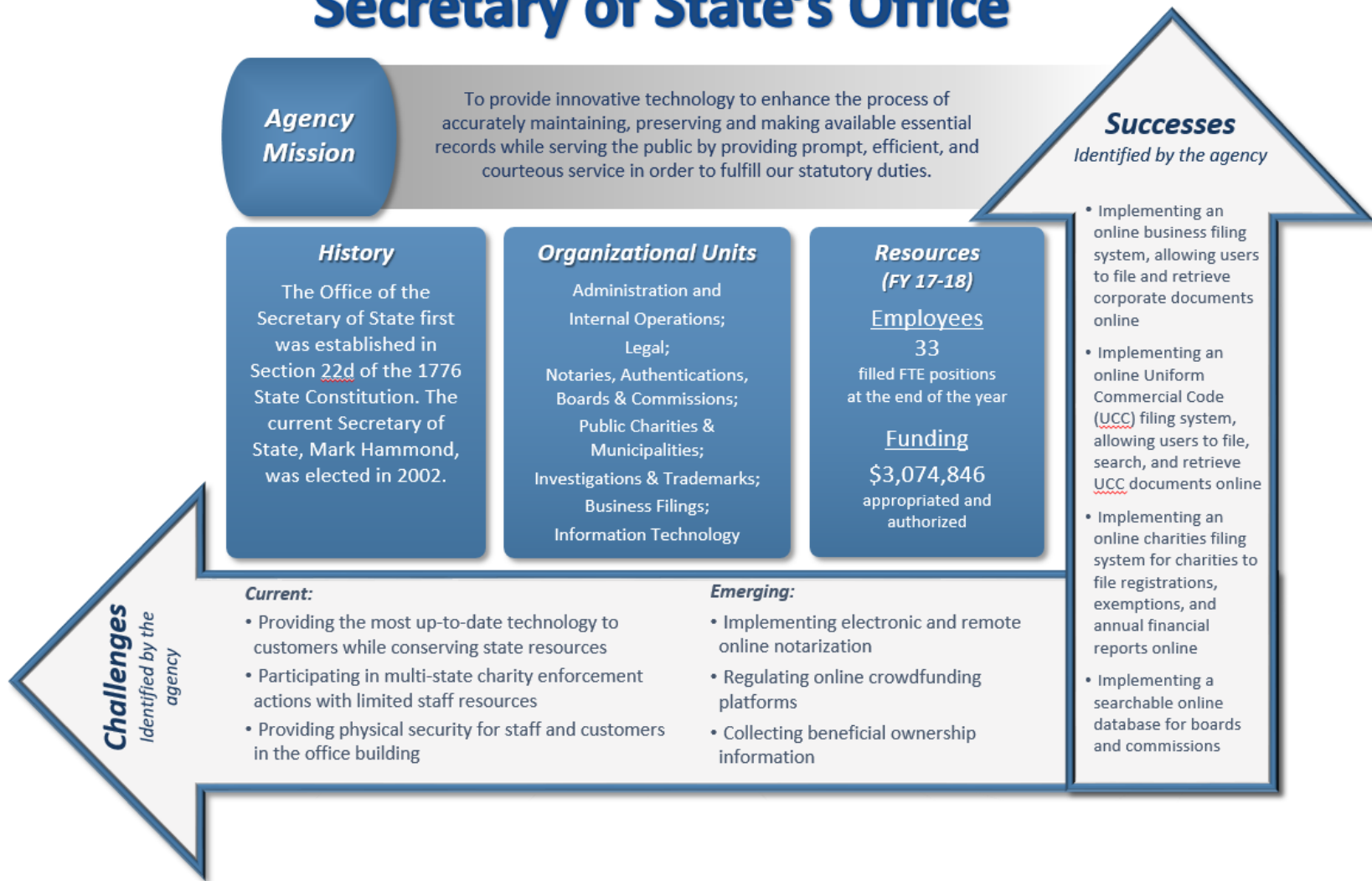


Figure 2. Snapshot of the agency's history, mission, organizational units, fiscal year 2017-18 resources (employees and funding), successes, and challenges¹

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

DELIVERABLE GROUP 4

House Legislative Oversight Review of Secretary of State's Office

Disclaimer: Updates to Program Evaluation Report

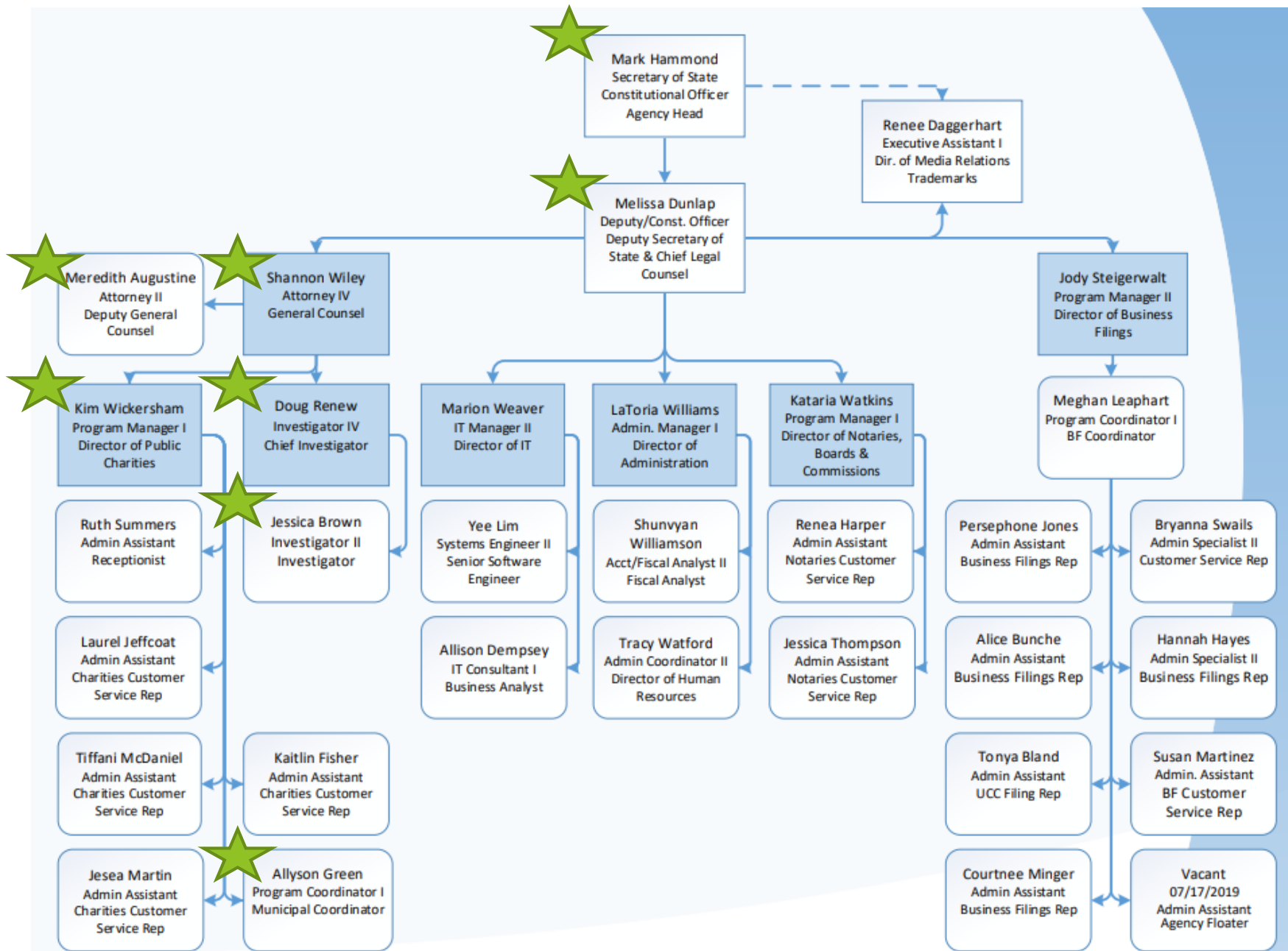
In the course of preparing the Deliverable Group presentations, some data provided in the original Program Evaluation Report has been corrected. The presentations will reference the corrected data, and the Program Evaluation Report will be updated once the Deliverable Group presentations are concluded.



Deliverable Group 4

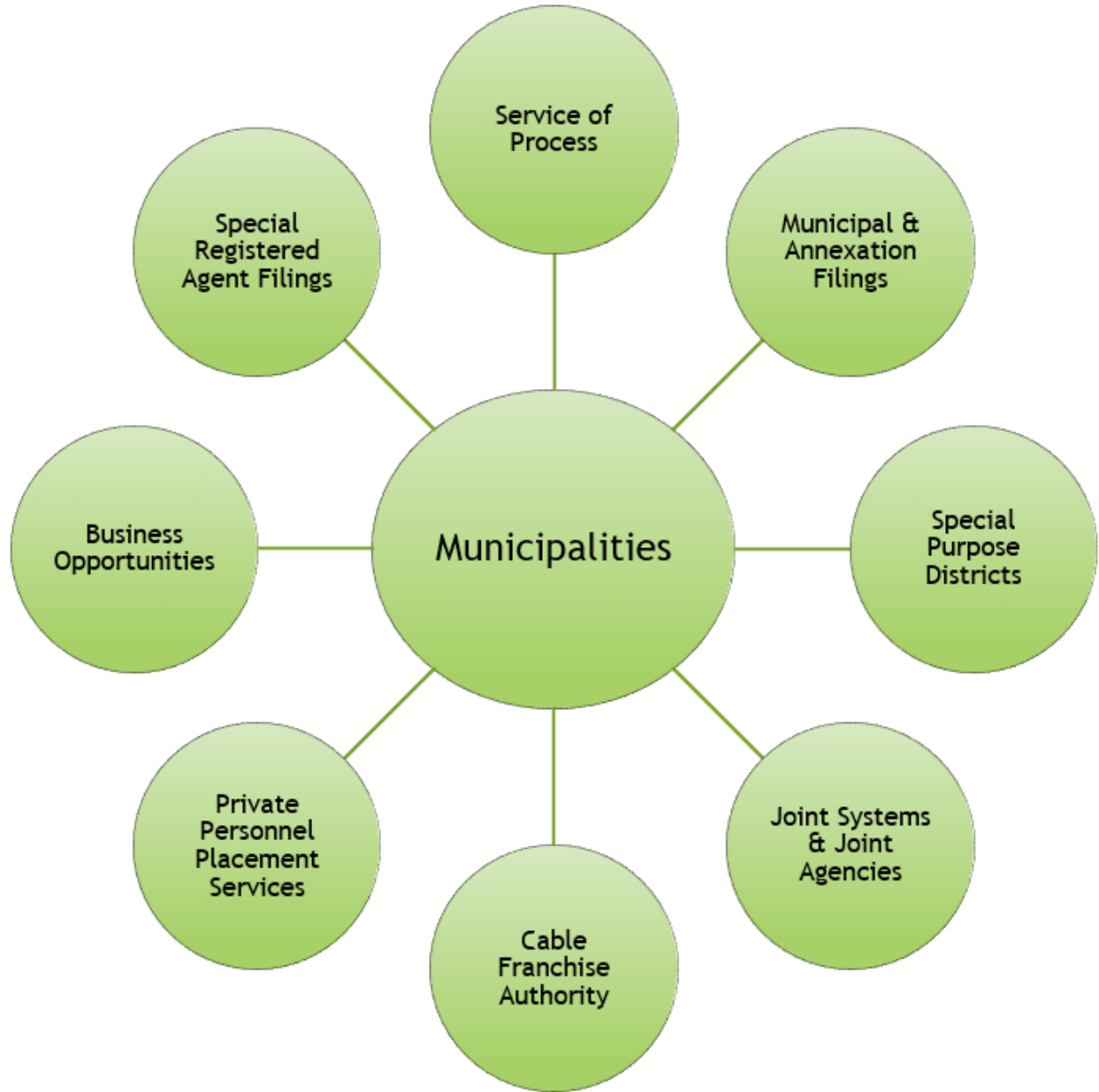
Divisions Grouped in Deliverable Group 4:

- ▶ Municipalities
- ▶ Investigations Functions Related to Municipalities
- ▶ Legal Functions Related to Municipalities
- ▶ All Other Legal Functions Not Previously Discussed



Municipalities

- ▶ The Secretary of State's Municipal Coordinator is supervised by the Director of Public Charities.
- ▶ The Municipalities Coordinator is also assisted by the Legal Division and Investigations Division with certain functions.
- ▶ Although Municipalities is part of the Division of Public Charities, it was not covered in Deliverable Group 1 due to the number and variety of functions included under that area.



Service of Process

- ▶ South Carolina law requires the Secretary of State to serve as the agent for service of process for certain types of entities, including:
 - ▶ Foreign corporations conducting business within the state without authorization.
 - ▶ Business entities that have failed to maintain a registered agent within the state.
 - ▶ Business entities whose registered agent cannot be served despite due diligence on behalf of the serving party.



Acceptance of Service of Process for Other Entities

Deliverable No. 164

The Secretary of State receives a service of process request.

The service of process is sent to the defendant by certified mail within 5 business days.

Upon confirmation of delivery, the certified mail receipt is sent to the requesting party to be filed with the court.

Required by S.C. Code
§§ 15-9-245, -250, -280, -430, -440, -460; § 27-40-130;
§§ 33-15-200, -310;
§§ 33-31-1520, -1531, -1707;
§§ 33-41-1200, -1190;
§§ 33-42-220, -1620, -1670;
§§ 33-44-111, -1007, -1008;
§ 37-17-30(B)(2);
§ 40-43-83(B); § 46-33-40

Customers:
Legal Community; Business Community; General Public

Number of Customers Served in 2017-18: 661

Total Employee Equivalents in 2017-18: 0.24

Outcome Sought by Agency*
Fulfill duties as agent for service of process when required and authorized by statute.

Acceptance of Service of Process for Other Entities

Deliverable No. 164

In order for the Secretary of State to accept a service of process request, the customer must provide the following:

- ▶ Two copies of the documents to be served. In most cases, the documents must have been filed with the appropriate court, and evidence of this filing must be present on the document.
- ▶ The \$10.00 filing fee.
- ▶ An address of the party to be served, unless the entity is already on file with the Secretary of State.

Required by S.C. Code
§§ 15-9-245, -250, -280, -430,
-440, -460; § 27-40-130;
§§ 33-15-200, -310;
§§ 33-31-1520, -1531, -1707;
§§ 33-41-1200, -1190;
§§ 33-42-220, -1620, -1670;
§§ 33-44-111, -1007, -1008;
§ 37-17-30(B)(2);
§ 40-43-83(B); § 46-33-40

Customers:
Legal Community; Business
Community; General Public

Number of Customers Served
in 2017-18: 661

Total Employee Equivalents in
2017-18: 0.24

Outcome Sought by Agency*
Fulfill duties as agent for
service of process when
required and authorized by
statute.

9

**Legislative intent not expressly stated.*

Rejection of Service of Request

Deliverable No. 165

- ▶ If a service of process request does not have the required copies, fee, or address, then staff will reject the request.
- ▶ Service of process requests are also rejected when statutes do not specifically authorize acceptance of service by the Secretary of State.
 - ▶ For example, the Secretary of State cannot accept service of process for domestic corporations under any circumstance, or natural persons unless specifically authorized by statute.
- ▶ When a request is rejected, staff will return the documents to the requestor, and keep a record of the rejection.

Required by S.C. Code
§§ 15-9-245, -250, -280, -430,
-440, -460; § 27-40-130;
§§ 33-15-200, -310;
§§ 33-31-1520, -1531, -1707;
§§ 33-41-1200, -1190;
§§ 33-42-220, -1620, -1670;
§§ 33-44-111, -1007, -1008;
§ 37-17-30(B)(2);
§ 40-43-83(B); § 46-33-40

Customers:
Legal Community; Business
Community; General Public

Number of Customers Served
in 2017-18: 194

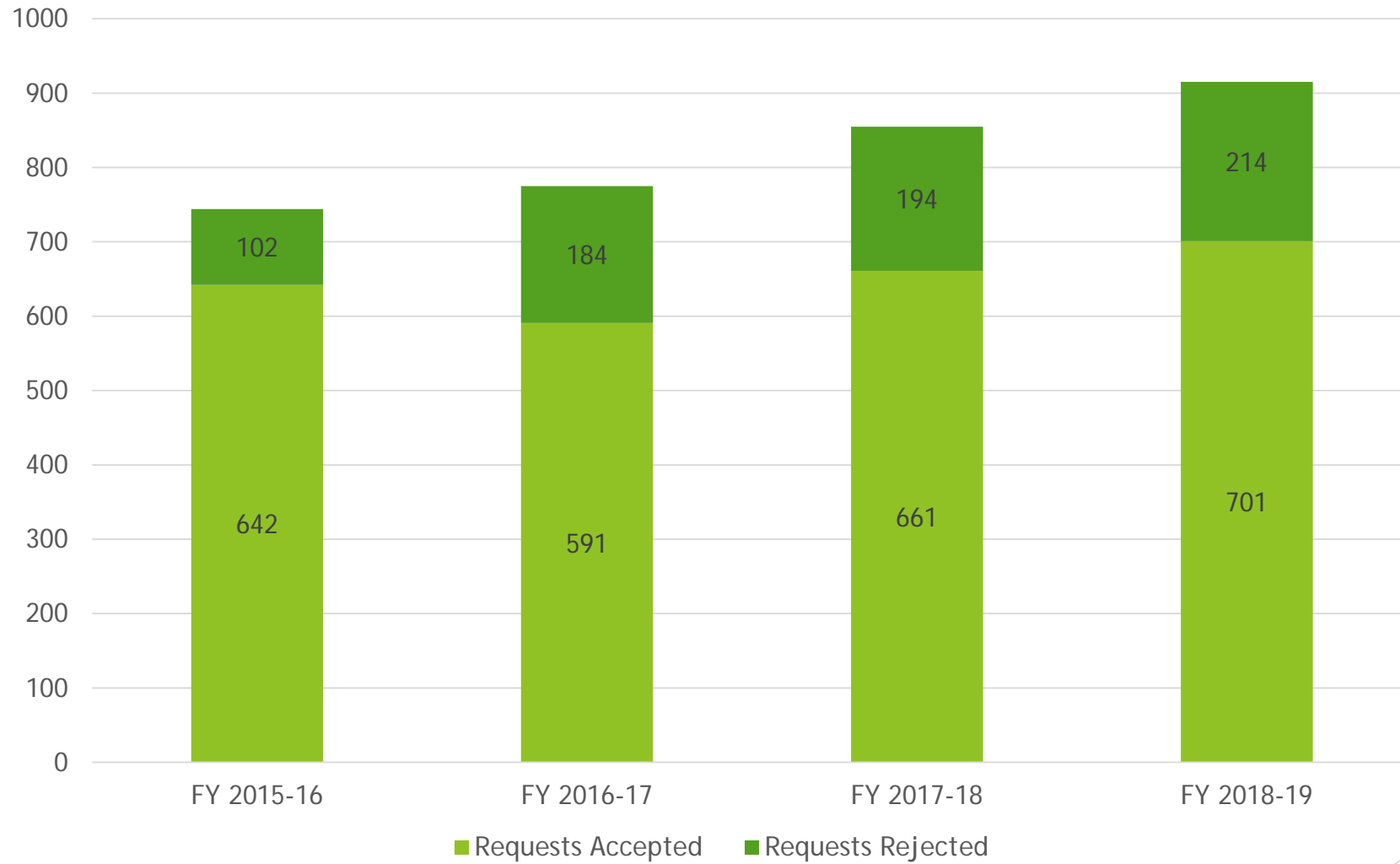
Total Employee Equivalents in
2017-18: 0.04

Outcome Sought by Agency*
Fulfill duties as agent for
service of process when
required and authorized by
statute.

10

**Legislative intent not expressly stated.*

Service of Process Requests



Special Registered Agent Filings

- ▶ South Carolina law requires certain types of organizations operating within the state to designate a registered agent with the Secretary of State.
- ▶ These entities include:
 - ▶ Discount Medical Plan Organizations
 - ▶ Non-Resident Prescription Drug Distributors



Discount Medical Plan Organization Registered Agent Designation Deliverable No. 166

- ▶ Under the Discount Medical Plan Organization Registration Act, discount medical plan organizations or marketers that sell, market, promote, advertise, or distribute a discount medical plan that is not insurance must designate a South Carolina resident as registered agent, and register the agent with the Secretary of State.
- ▶ The filing fee for this form is \$10.00.
- ▶ No registered agent filings for this type of entity have been received by the Secretary of State during the time period covered by the Program Evaluation Report.

Required by S.C. Code
§ 37-17-30(B)(1)

Customers:
Discount Medical Plan
Organizations

Number of Customers Served
in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0.00

Legislative Intent
To regulate prescription drug
discount cards. (2006 Act No.
377)

Non-Resident Prescription Drug Distributor Registered Agent Designation Deliverable No. 167

- ▶ Under the South Carolina Pharmacy Practice Act, non-resident prescription drug distributors must designate a registered agent for service of process with the Secretary of State.
- ▶ The filing fee for this form is \$10.00.
- ▶ No registered agent filings for this type of entity have been received by the Secretary of State during the time period covered by the Program Evaluation Report.

Required by S.C. Code
§ 40-43-83(B)

Customers:
Non-Resident Prescription
Drug Distributors

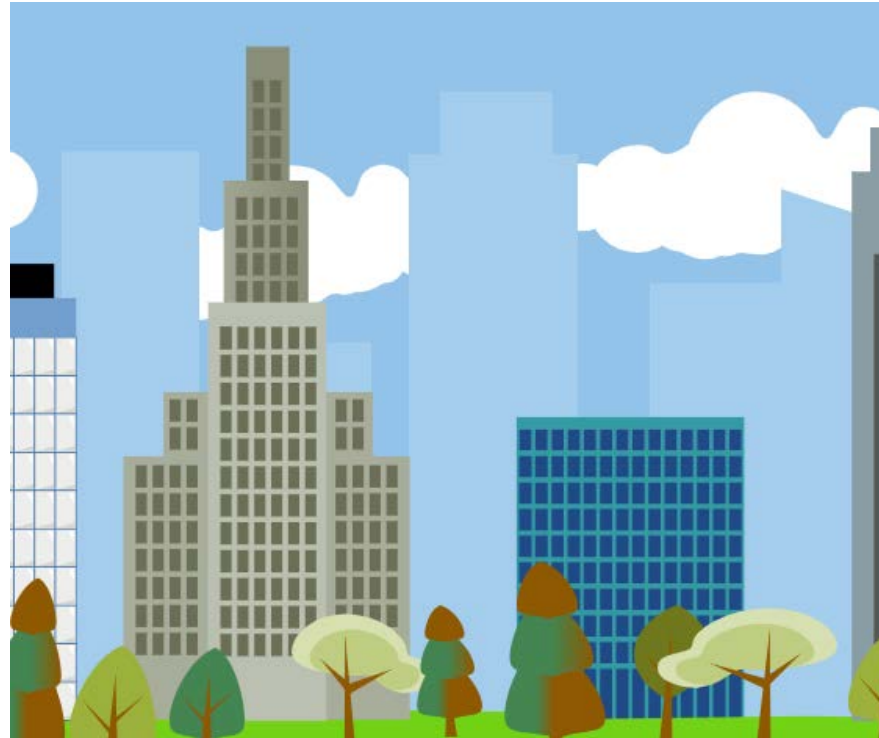
Number of Customers Served
in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0.00

Legislative Intent
The purpose of the South Carolina Pharmacy Practice Act is "to promote, preserve, and protect the public health, safety, and welfare by ... regulation of all sites or persons, in or out of this State, that distribute, manufacture, possess, or sell drugs or devices within this State..." (Section 40-43-10)

Municipal and Annexation Filings

- ▶ The Secretary of State is responsible for filing several types of records related to municipalities, including:
 - ▶ Municipal Incorporation Filings
 - ▶ Notices of Annexation
 - ▶ Redevelopment Commission Certificates



Application for Municipal Incorporation

Deliverable No. 168

Citizens of an area seeking municipal incorporation file an application with the Secretary of State's Office that contains all the information required under S.C. Code §5-1-30 and Regulation 113-200, including:

- ▶ Certificate of Population Density
- ▶ Certificate of Boundaries
- ▶ Signed Petition for Incorporation
- ▶ Proof of Service of Notice of Intent to Incorporate on Nearby Municipalities and South Carolina Municipal Association.
- ▶ Certification of Total Land Area
- ▶ Certification of Current Assessed Value of Property
- ▶ Service Feasibility Study (including services to be provided to residents and budgetary items)

Required by S.C. Code § 5-1-24; Regulation 113-200

Customers:
Citizens seeking to incorporate a municipality;
Joint Legislative Committee on Municipal Incorporation

Number of Customers Served in 2017-18: 0

Total Employee Equivalents in 2017-18: 0.00

Legislative Intent
To comply with the mandate of the Constitution that the General Assembly shall establish criteria and procedures for the incorporation of municipalities, readjustment of municipal boundaries, and provide for structure, organization, powers, duties, functions and responsibilities of municipalities. (1975 Act No. 283)

Application for Municipal Incorporation

Deliverable No. 168

- ▶ Upon receipt of the application, the Secretary of State transfers a copy to the Joint Legislative Committee on Municipal Incorporation for review.
- ▶ Since FY 2015-16, the Secretary of State's Office has received applications for municipal incorporation from citizens in three areas of the state: Rembert, Van Wyck, and Indian Land.
 - ▶ Only one of the applicants—Van Wyck—successfully completed the incorporation process and formed a municipality.

Required by S.C. Code
§ 5-1-24; Regulation
113-200

Customers:
Citizens seeking to
incorporate a municipality;
Joint Legislative
Committee on Municipal
Incorporation

Number of Customers
Served in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0.00

Legislative Intent
To comply with the mandate of
the Constitution that the
General Assembly shall establish
criteria and procedures for the
incorporation of municipalities,
readjustment of municipal
boundaries, and provide for
structure, organization, powers,
duties, functions and
responsibilities of
municipalities. (1975 Act No.
283)

Recommendation on Municipal Incorporation and Issuance of Commission to Hold Election

Deliverable No. 169

- ▶ After receiving the application, the Joint Legislative Committee on Municipal Incorporation will hold a public hearing on the issue of incorporation. Citizens from the proposed incorporation area may present testimony at the hearing.
- ▶ Following the hearing, the Joint Legislative Committee on Municipal Incorporation will give the Secretary of State a written decision of its recommendation, which the Secretary provides to the applicant.
- ▶ Based on the application and the recommendation of the Joint Legislative Committee on Municipal Incorporation, the Secretary of State determines if the proposed municipality meets statutory requirements for incorporation.

Required by S.C. Code
§ 5-1-40

Customers:
Citizens seeking to
incorporate a municipality

Number of Customers
Served in 2017-18: 1

Total Employee Equivalents
in 2017-18: 0.04

Legislative Intent

To comply with the mandate of the Constitution that the General Assembly shall establish criteria and procedures for the incorporation of municipalities, readjustment of municipal boundaries, and provide for structure, organization, powers, duties, functions and responsibilities of municipalities. (1975 Act No. 283)

Recommendation on Municipal Incorporation and Issuance of Commission to Hold Election

Deliverable No. 170

- ▶ If the Secretary of State determines the requirements have been met, the Secretary issues to three or more persons in the area a commission empowering them to hold an election on the question of incorporation, and to appoint managers to conduct the election.
- ▶ Since FY 2015-16, the Secretary of State has issued commissions empowering an election on the question of municipal incorporation to two applicants—Van Wyck and Indian Land.



Required by S.C. Code
§ 5-1-30, -50

Customers:
Citizens seeking to
incorporate a municipality;
Commissioners for
proposed area of
incorporation

Number of Customers
Served in 2017-18: 3

Total Employee Equivalents
in 2017-18: 0.04

Legislative Intent

To comply with the mandate of the Constitution that the General Assembly shall establish criteria and procedures for the incorporation of municipalities, readjustment of municipal boundaries, and provide for structure, organization, powers, duties, functions and responsibilities of municipalities. (1975 Act No. 283)

Issuance of Certificate of Incorporation to Municipality

Deliverable No. 171

- ▶ Once an election on the question of incorporation is held, the commissioners of the election certify the result of the election under oath to the Secretary of State. If the outcome of the election is in favor of incorporation, the Secretary of State issues a certificate of incorporation to the commissioners.
- ▶ The incorporators must pay a fee to the State Treasurer and provide the receipt to the Secretary of State.
 - ▶ For municipalities of populations of less than 1,000, the fee is \$100.00.
 - ▶ For municipalities of populations of 1,000-5,000, the fee is \$300.00.
 - ▶ For municipalities of populations of over 5,000, the fee is \$600.00.
- ▶ Since FY 2015-16, the Secretary of State has issued a certificate of incorporation to the commissioners for one area seeking municipal incorporation—now the Town of Van Wyck.
 - ▶ An election was held for one other area—Indian Land—but the outcome of the election was against incorporation.

Required by S.C. Code
§ 5-1-10, -70, -80, -90

Customers:
Municipalities;
Commissioners for
proposed area of
incorporation

Number of Customers
Served in 2017-18: 4

Total Employee Equivalents
in 2017-18: 0.04

Legislative Intent

To comply with the mandate of the Constitution that the General Assembly shall establish criteria and procedures for the incorporation of municipalities, readjustment of municipal boundaries, and provide for structure, organization, powers, duties, functions and responsibilities of municipalities. (1975 Act No. 283)

Cancellation of Municipal Incorporation Certificate

Deliverable No. 172

- ▶ The Secretary of State shall cancel a municipality's certificate of incorporation if:
 - ▶ There is an election in favor of surrendering the certificate; or
 - ▶ The Secretary determines that the municipality is not performing municipal services, not collecting taxes or revenues, and has not held an election in the past four years.
- ▶ If a municipality's population decreases to less than 50 inhabitants, its certificate of incorporation is automatically forfeited and void.



Required by S.C. Code
§ 5-1-100

Customers:
Municipalities; General
Public

Number of Customers
Served in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0.00

Legislative Intent

To comply with the mandate of the Constitution that the General Assembly shall establish criteria and procedures for the incorporation of municipalities, readjustment of municipal boundaries, and provide for structure, organization, powers, duties, functions and responsibilities of municipalities. (1975 Act No. 283)

Change of Form of Government Filing

Deliverable No. 173



- ▶ Ordinances selecting the form of government of a municipality must be filed with the Secretary of State, who then issues an appropriate certificate of incorporation to the municipality.
- ▶ Types of form of government include:
 - ▶ Mayor-Council
 - ▶ Council
 - ▶ Council-Manager

Required by S.C. Code
§ 5-5-30

Customers:
Municipalities

Number of Customers
Served in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0.00

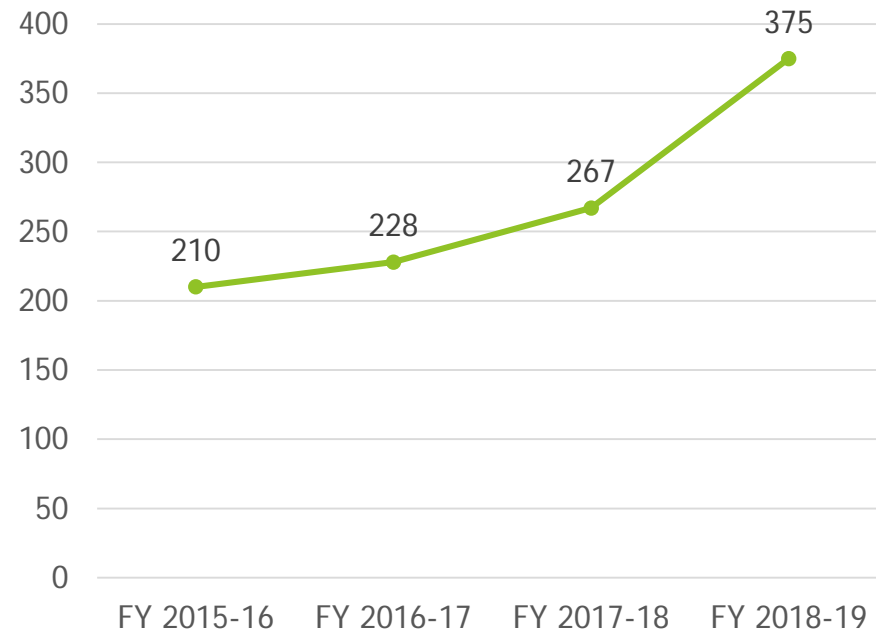
Legislative Intent

To comply with the mandate of the Constitution that the General Assembly shall establish criteria and procedures for the incorporation of municipalities, readjustment of municipal boundaries, and provide for structure, organization, powers, duties, functions and responsibilities of municipalities. (1975 Act No. 283)

Notice of Annexation

Deliverable No. 174

- ▶ When municipalities annex territory or decrease their boundaries, they must notify the Secretary of State.
- ▶ The municipality must file the notice with the Secretary of State, Department of Transportation, and Department of Public Safety, and include a written description of the boundary along with a plat or map.



—●— Number of Annexations Filed

23

Required by S.C. Code
§§ 5-3-90, -280

Customers:
Municipalities

Number of Customers
Served in 2017-18: 55

Total Employee Equivalents
in 2017-18: 0.08

Outcome Sought by Agency*
Fulfill duties under the
law to file documentation of
annexation of land or
decrease of boundaries of
municipalities.

**Legislative intent not expressly stated.*

Certificate of Incorporation for Redevelopment Commission

Deliverable No. 175

- ▶ A municipality may form a redevelopment commission to rehabilitate a blighted area by passing an ordinance to form the commission.
- ▶ Upon the filing of a certified copy of the ordinance, the Secretary of State shall issue a certificate of incorporation for the redevelopment commission.



Required by S.C. Code
§ 31-10-30

Customers:
Redevelopment Commissions;
Municipalities

Number of Customers Served
in 2017-18: 0

Total Employee Equivalents in
2017-18: 0

Legislative Intent

To promote health, safety, and welfare by acquiring, replanning, holding, or disposing of blighted areas to make them available for economically and socially sound redevelopment. (1984 Act No. 451)

Special Purpose Districts

Special purpose districts are districts created by an Act of the General Assembly or pursuant to general law which provide a governmental power or function, such as fire protection, sewerage treatment, water or natural gas distribution, or recreation.



Special Purpose District Notification Form

Deliverable No. 176

- ▶ Special purpose districts are required to file a notification form with the Secretary of State by December 31st of every even-numbered year.
- ▶ The form must be signed by the county auditor in each county in which the special purpose district is located.

**SOUTH CAROLINA
SECRETARY OF STATE**
MUNICIPALITIES DIVISION
SPECIAL PURPOSE DISTRICT NOTIFICATION FORM

Filing Instructions

- Every Special Purpose District must submit this form to the Secretary of State by December 31st of every even numbered year. Failure to file this form could lead to a declaration that the special purpose district is inactive and a suspension of county funding to the district.
- Please contact our office with any questions regarding this form at 803-734-1790 or email spd@sos.sc.gov.
- We **do not** accept this filing by fax or email; you may deliver by hand or mail to South Carolina Secretary of State, Attn: Municipalities, 1205 Pendleton St., Suite 525, Columbia, SC 29201.
- Please type or print clearly.

Legal Name of Special Purpose District _____ SPD# _____

1. Physical address: _____
Street Address, City, State, Zip Code

2. If you do not have a physical address, please provide the name, address and telephone number of your registered agent:
Registered Agent Name _____
Street Address, City, State, Zip Code _____

3. Person completing this form:
Name _____ Phone _____ Email _____
Address, City, State, Zip Code _____

4. Describe services provided: _____

5. Tax rate or fee charged (attach a separate sheet if necessary): _____

6. Date the Act or Ordinance passed that created your special purpose district: _____

Special Purpose District Notification Form, revised August 2012 Page 1 of 3

Required by S.C. Code
§§ 6-11-1620, -1630(A),

Customers:
Special Purpose Districts

Number of Customers
Served in 2017-18: 4

Total Employee Equivalents
in 2017-18: 0.01

Legislative Intent
That public trust be secured by requiring each independent special district in the State to register and report its financial and other activities. (1984 Act No. 488)

Failure to File Notification Form by Special Purpose District

Deliverable No. 177

- ▶ If a special purpose district fails to file the required notification, the Secretary of State may determine that the district is nonfunctioning and notify the governing body of the county or municipality with a certified copy of the letter to any of the last known members of the governing body of the public service district.
 - ▶ Thereafter, the district may not be registered with the Secretary of State and it must be declared inactive.
 - ▶ In addition, the governing body of the county or municipality shall withhold any fees, taxes, or interest collected for a special purpose district until the special purpose district complies with the notification requirements.
- ▶ The Secretary of State may investigate failure to file notification forms and disclose information (Deliverable No. 49).

Required by S.C. Code
§§ 6-11-1630(C), -1630(D)

Customers:
Special Purpose Districts;
Counties; Municipalities

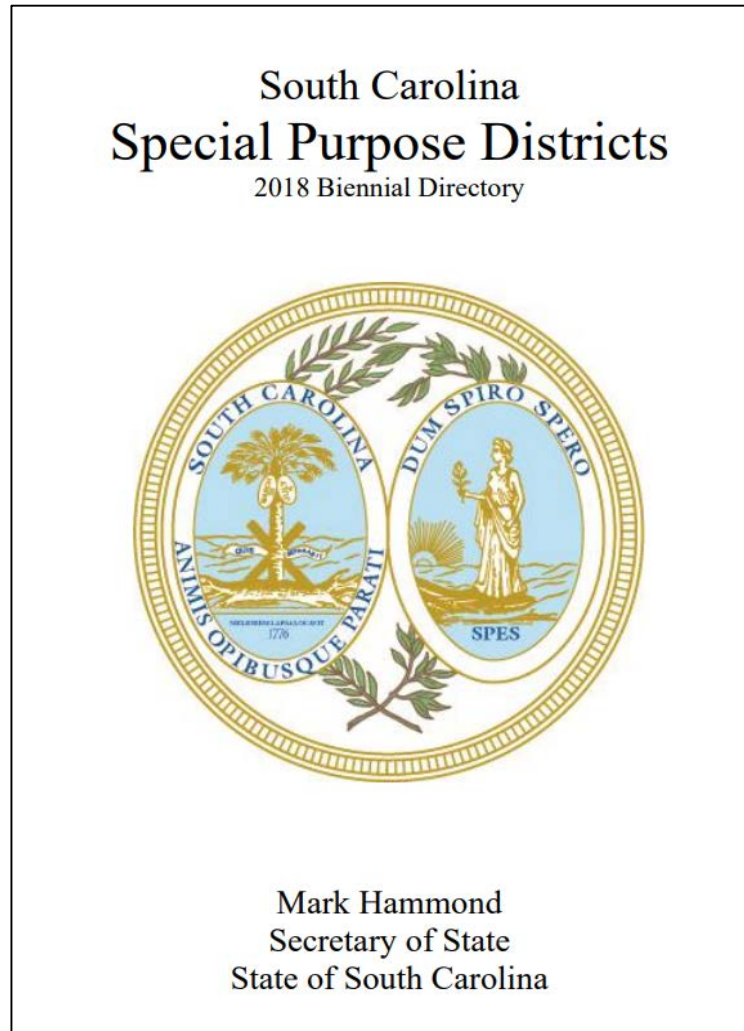
Number of Customers
Served in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0.00

Legislative Intent
That public trust be secured by
requiring each independent
special district in the State to
register and report its financial
and other activities. (1984 Act
No. 488)

Special Purpose District Directory

Deliverable No. 178



- ▶ Each even-numbered year, the Secretary of State shall issue a directory of active and inactive special purpose districts in the State.
- ▶ Inactive special purpose districts must be deleted from the directory if listed as such for two consecutive report cycles.
- ▶ The directory must be mailed to all special purpose districts and general purpose governments in the State. The Secretary of State also publishes the directory on the agency's website.

Required by S.C. Code
§ 6-11-1630(B)

Customers:
Special Purpose Districts;
Counties; Municipalities;
General Public

Number of Customers
Served in 2017-18: 0

Total Employee Equivalents
in 2017-18: 0

Legislative Intent
That public trust be secured by
requiring each independent
special district in the State to
register and report its financial
and other activities. (1984 Act
No. 488)

Special Purpose District Required Production of Information Deliverable No. 179

- ▶ If a special purpose district refuses to produce required reports, the Secretary of State or county auditor may seek a writ of mandamus to compel production.
- ▶ The Secretary of State has not sought a writ of mandamus during the time covered by the Program Evaluation Report.



Required by S.C. Code
§ 6-11-1640(B)

Customers:
Special Purpose Districts

Number of Customers
Served in 2017-18: 0

Total Employee
Equivalents in 2017-18:
0.00

Legislative Intent

That public trust be secured by requiring each independent special district in the State to register and report its financial and other activities. (1984 Act No. 488)

Notice of Review of Petition to Dissolve a Special Purpose District

Deliverable No. 180

- ▶ An individual residing or owning property within the boundaries of a special purpose district may petition the Secretary of State to dissolve the district.
- ▶ Upon receipt of a petition to dissolve a special purpose district, the Secretary of State investigates the matters set forth in the petition.
- ▶ Within 20 days of receipt, Secretary of State must serve the petition and notice of review upon the Governor, the State Treasurer, the governing bodies of the county or counties in which the special purpose district is located, and members of the last known governing body of the special purpose district. The Secretary of State must also publish the notice of review in a newspaper in each county in which the special purpose district is located, once a week for three consecutive weeks.

Required by S.C. Code
§ 4-11-290(F)

Customers:
Special Purpose Districts;
Governor; State Treasurer;
Counties; General Public

Number of Customers
Served in 2017-18:
Unknown

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent

To provide a means in which special purpose districts which do not provide any governmental service, and which have made no provision for providing the service, may be dissolved. (1992 Act No. 516)

Notice of Review of Petition to Dissolve a Special Purpose District

Deliverable No. 180

- ▶ The Governor, State Treasurer, and county governing bodies may comment upon or object to the dissolution of the special purpose district by serving a return to the petition setting forth the comments or grounds for the objection with 40 days of service of the petition.
- ▶ Additionally, persons wishing to comment upon the dissolution may file a return to the petition within 20 days of the last publication of the notice of review.



Required by S.C. Code
§ 4-11-290(F)

Customers:
Special Purpose Districts;
Governor; State Treasurer;
Counties; General Public

Number of Customers
Served in 2017-18:
Unknown

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent

To provide a means in which special purpose districts which do not provide any governmental service, and which have made no provision for providing the service, may be dissolved. (1992 Act No. 516)

Special Purpose District Order of Dissolution

Deliverable No. 181



- ▶ If the Secretary of State determines that the special purpose district must be dissolved, the Secretary of State shall file an order of dissolution in each county in which the special purpose district is located.

Required by S.C. Code
§§ 4-11-290(G), -290(H)

Customers:
Special Purpose Districts;
Counties

Number of Customers
Served in 2017-18: 2

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent

To provide a means in which special purpose districts which do not provide any governmental service, and which have made no provision for providing the service, may be dissolved. (1992 Act No. 516)

Special Purpose District Notice of Dissolution

Deliverable No. 182

- ▶ After issuing an order of dissolution of a special purpose district, the Secretary of State must serve a notice of dissolution upon the Governor, the State Treasurer, and the members of the last known governing body of the special purpose district. The Secretary of State shall also publish the notice of dissolution in a newspaper in each county in which the special purpose district is located, once a week for three consecutive weeks.
- ▶ The Governor, State Treasurer, county governing body, or any resident or landowner within the district, may file an action in circuit court challenging the dissolution within 20 days following the publication of the notice.
- ▶ The order of dissolution becomes final on the 21st day following the final date of publication.

Required by S.C. Code
§ 4-11-290(H)

Customers:
Special Purpose Districts;
Governor; State Treasurer;
General Public

Number of Customers
Served in 2017-18:
Unknown

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent
To provide a means in which special purpose districts which do not provide any governmental service, and which have made no provision for providing the service, may be dissolved. (1992 Act No. 516)

Joint Agencies & Joint Systems

- ▶ A joint agency is a public body created by two or more governmental entities for the purpose of undertaking a project related to the provision of natural gas.
 - ▶ Under the Joint Agency Act, governmental entity is defined as a special purpose district created by the General Assembly for the purpose of furnishing natural gas.
- ▶ A joint system is a government entity organized by two or more authorities for the purpose of undertaking or acquiring a water or sewer project.
 - ▶ Under the Joint Authority Water and Sewer Systems Act, authority is defined as:
 - ▶ A South Carolina county or municipality;
 - ▶ A consolidated political subdivision of the State;
 - ▶ A commission of public works; and
 - ▶ An agency or public body created under the laws of South Carolina and authorized by legislation to engage in the sale and service of water for industrial and domestic purposes, or the collection of wastewater for treatment.

Joint Agency Filings

Deliverable Nos. 183 & 184



- ▶ Two or more governmental entities participating in a joint agency may file an application with the Secretary of State.
 - ▶ If the statutory requirements are met, the Secretary of State shall issue the joint agency a corporate certificate.
- ▶ A joint agency shall notify the Secretary of State of the addition or withdrawal of members of the joint agency.
 - ▶ Upon notification, the Secretary of State issues an amended corporate certificate to the joint agency.

Required by S.C. Code
§§ 6-24-50, -70

Customers:
Joint Agencies

Number of Customers
Served in 2017-18:
No. 183: 0
No. 184: 0

Total Employee
Equivalents in 2017-18:
No. 183: 0.00
No. 184: 0.00

Legislative Intent

To provide to the gas authorities of the State a mechanism for the joint exercise of their powers, joint administration of functions, and sharing of related costs to ensure that residents, businesses, and industries located in the service areas of the gas authorities are provided with natural gas services as efficiently and inexpensively as possible.
(2003 Act. No 8)

Joint Authority Water and Sewer System Filings

Deliverable Nos. 185 & 186

- ▶ Two or more authorities participating in a joint system may file an application with the Secretary of State.
 - ▶ If the statutory requirements are met, the Secretary of State shall issue the joint system a corporate certificate.
- ▶ A joint system shall notify the Secretary of State of the addition or withdrawal of members of the joint agency.
 - ▶ Upon notification, the Secretary of State issues an amended corporate certificate to the joint agency.



Required by S.C. Code
§§ 6-25-50, -70

Customers:
Joint Systems

Number of Customers
Served in 2017-18:
No. 183: 0
No. 184: 0

Total Employee
Equivalents in 2017-18:
No. 183: 0.00
No. 184: 0.00

Legislative Intent

It is desirable to facilitate a joint authority water and sewer system in accommodating the desires of its members in projects and financings that affect only those members. (Section 6-25-5)

Cable Franchise Authority

- ▶ Since 2006, the Secretary of State's Office has been the franchise authority for cable franchises in the state of South Carolina.
 - ▶ Previously, cable franchises were issued by municipalities and counties.
 - ▶ Under current law, cable companies only apply to the Secretary of State for a statewide certificate of cable franchise authority.




Certificate of Cable Franchise Authority Application Notice to Local Governments

Deliverable No. 187

- ▶ A person or entity seeking to provide cable or video service in South Carolina must file an application for a state-issued certificate of franchise authority with the Secretary of State.
- ▶ The filing fee for the application is \$110.00.

**STATE OF SOUTH CAROLINA
SECRETARY OF STATE**



**APPLICATION FOR A STATE-ISSUED
CERTIFICATE OF FRANCHISE AUTHORITY**

Pursuant to state law, a person or entity seeking to provide cable or video service must have a certificate of franchise authority, either an existing certificate issued by a local government under prior law, or upon expiration of that certificate issued by a local government, a state-issued certificate of franchise authority issued by the Secretary of State under S.C. Code of Laws §58-12-310(B).

TYPE OR PRINT CLEARLY WITH BLACK INK

Pursuant to S.C. Code Section 58-12-310, the undersigned hereby applies for authorization to provide cable or video service in the state of South Carolina.

1. The name of the applicant is _____

2. The applicant is providing Cable Service OR Video Service

3. The street address of the applicant is _____
Street Address
City _____ County _____ State _____ Zip Code _____
The mailing address of the applicant is _____

4. The municipalities and unincorporated areas of counties that are proposed to be served by the applicant are to be described in the accompanying Affidavit in Support of State-Issued Certificate of Franchise Authority. For each of the municipalities and unincorporated areas of counties so described, provide the name, address and telephone number for the person to whom the Notice of Application for a State-Issued Certificate of Franchise Authority should be provided.

Municipality/Area	Name & Title	Address	Telephone No.	Expiration Date of Current Franchise (if applicable)

Required by S.C. Code
§ 58-12-310

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18: 15

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent

To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. [Act 8 of 2007 (amending Act 288 of 2006)]

Certificate of Cable Franchise Authority Application Notice to Local Governments

Deliverable No. 187

- ▶ Within five days of receipt of an application or an amended application for a certificate of cable franchise authority, the Secretary of State notifies affected municipalities and/or counties of the application. The Secretary of State also requests the following from the municipalities and/or counties:
 - ▶ The franchise fee rate;
 - ▶ The number of access channels under the franchise agreement; and
 - ▶ Whether the municipalities and/or counties consent to the state-issued certificate of franchise authority sought in the application.

Required by S.C. Code
§ 58-12-310

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18: 15

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent
To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. [Act 8 of 2007 (amending Act 288 of 2006)]

Notice of Denial of Application for Certificate of Cable Franchise Authority

Deliverable Nos. 188 & 189

- ▶ If a municipality or county does not consent or does not respond within 65 days of the Secretary of State's request, the Secretary of State denies the application and notes the reason for the denial.
- ▶ Within 80 days from the Secretary of State's request to the affected municipalities and/or counties, the Secretary of State issues a certificate of franchise authority to the applicant.

Required by S.C. Code
§ 58-12-310

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18:
No. 188: 2
No. 189: 13

Total Employee
Equivalents in 2017-18:
No. 188: 0.01
No. 189: 0.01

Legislative Intent

To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. [Act 8 of 2007 (amending Act 288 of 2006)]

Certificate of Cable Franchise Authority— Termination by Cable Provider

Deliverable No. 190

- ▶ A cable services provider may terminate its certificate of franchise authority issued by the Secretary of State by submitting written notice to the Secretary of State and affected municipalities and counties.

STATE OF SOUTH CAROLINA
SECRETARY OF STATE



**NOTICE OF TERMINATION OF STATE-ISSUED
CERTIFICATE OF FRANCHISE AUTHORITY OR AMENDED STATE-ISSUED
CERTIFICATE OF FRANCHISE AUTHORITY**

Pursuant to state law, a person or entity seeking to provide cable or video service must have a certificate of franchise authority, either an existing certificate issued by a local government under prior law, or upon expiration of that certificate issued by a local government, a state-issued certificate of franchise authority issued by the Secretary of State under S.C. Code of Laws §58-12-310(B).

TYPE OR PRINT CLEARLY WITH BLACK INK

Pursuant to Section 58-12-310(H) of the 1976 South Carolina Code of Laws, as amended, the undersigned hereby provides notice of the termination of its State-issued Certificate of Franchise Authority or Amended State-issued Certificate of Franchise Authority.

1. Cable or video service provider holding certificate: _____

2. Date of issue of certificate: _____

3. Copies of this notice shall be submitted to the affected municipalities and/or counties.

Date _____

_____ Name of Cable or Video Service Provider
_____ Signature
_____ Type or Print Name and Office
_____ Address
_____ Telephone Number

NOTICE OF TERMINATION

Form Revised by South Carolina
Secretary of State April 2013

Required by S.C. Code
§ 58-12-310

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18: 0

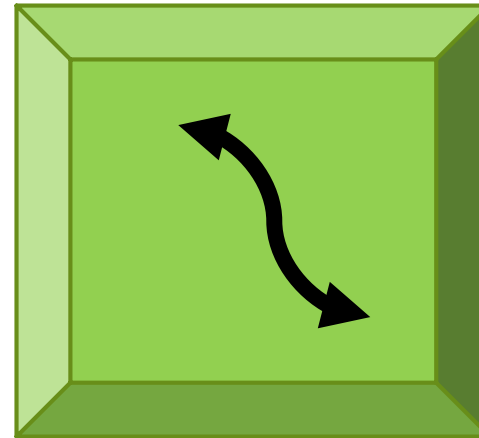
Total Employee
Equivalents in 2017-18:
0.00

Legislative Intent

To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. (Act 8 of 2007 (amending Act 288 of 2006))

Certificate of Cable Franchise Authority— Notice of Transfer Deliverable No. 191

- ▶ A cable provider may transfer its certificate of franchise authority to another cable provider.
- ▶ Notices of transfer must be filed with the Secretary of State and affected municipalities within 10 days of completion of the transfer.
 - ▶ The Secretary of State then sends out a notice of the application with a copy of the transfer notice to the municipalities.



Required by S.C. Code
§ 58-12-310

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18: 0

Total Employee
Equivalents in 2017-18:
0.00

Legislative Intent

To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. (Act 8 of 2007 (amending Act 288 of 2006))

Termination of County or Municipal Cable Franchise Authority

Deliverable No. 192

- ▶ A holder of a certificate of cable franchise authority issued by a county or municipality that wishes to instead offer services under a state-issued certificate of franchise authority, must file a termination statement with the Secretary and submit copies to the affected municipalities and counties.
 - ▶ Termination of existing franchises is effective immediately upon issuance of a certificate of franchising authority by the Secretary of State according to the procedures outlined in Section 58-12-310 for application for a state-issued certificate.

Required by S.C. Code
§ 58-12-325

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18: 0

Total Employee
Equivalents in 2017-18:
0.00

Legislative Intent

To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. (Act 8 of 2007 (amending Act 288 of 2006))

Notice of Change of Franchise Fee

Deliverable No. 193

- ▶ A county or municipality may change the cable or video service franchise fee rate by filing a notice of change of franchise fee form with the Secretary of State.
 - ▶ A change to a franchise fee in a state-issued certificate of cable franchise authority is not effective until 45 days after the Secretary of State provides written notice of the change to the holder.
- ▶ A county or municipality may also file a notice of change of PEG (public, educational, and governmental) access channels with the Secretary of State.
 - ▶ While the Secretary of State is not required to provide written notice to the franchise holder, the same procedure is followed as with fee changes.
 - ▶ The number of units processed are all franchise fee changes as no PEG changes have been filed during the period covered by this report.

Required by S.C. Code
§ 58-12-330

Customers:
Cable Service Providers;
Municipalities; Counties

Number of Customers
Served in 2017-18: 4

Total Employee
Equivalents in 2017-18:
0.01

Legislative Intent


To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. [Act 8 of 2007 (amending Act 288 of 2006)]

Certificate of Cable Franchise Authority Publication

Deliverable No. 194

The Secretary of State keeps a public record of certificates applied for and posts on the agency's website information relating to any certificate of franchise authority issued.

Cable Franchise Search



[Search all State-Issued Cable Franchise Authorities \(PDF\)](#)

Required by S.C. Code
§ 58-12-330

Customers:
Cable Service Providers;
Municipalities; Counties;
General Public

Number of Customers
Served in 2017-18:
Unknown

Total Employee
Equivalents in 2017-18:
0.00

South Carolina State Issued Certificate of Franchise Authority

As of Thursday, October 31, 2019

Service Provider Name	Service Area Name	Effective Date	
Atlantic Broadband (SC) LLC			Certificate issued: 9/6/2006
	Aiken County	09/02/2008	
	Allendale County	08/09/2012	
	Bamberg County	04/10/2008	
	Barnwell County	08/15/2012	
	City of Aiken	09/02/2008	
	City of Bamberg	03/15/2007	
	City of Barnwell	09/15/2006	
	City of Denmark	09/25/2007	
	City of New Ellenton	11/12/2008	

Legislative Intent

To relieve consumers of unnecessary costs and burdens, encourage investment, and promote deployment of innovative offerings providing competitive choices for consumers and allow functionally equivalent services to compete fairly and deploy new consumer services more quickly. [Act 8 of 2007 (amending Act 288 of 2006)]

Private Personnel Placement Services

- ▶ The Secretary of State's Office is the state agency responsible for licensing private personnel placement services—also known as employment agencies—in South Carolina.
- ▶ A private personnel placement service includes any person who charges fees (direct or indirect) for:
 - ▶ Providing information on employment opportunities
 - ▶ Procuring or attempting to procure employment for applicants seeking employment
 - ▶ Procuring or attempting to procure employees for employers seeking applicants



Private Personnel Placement Services



- ▶ Examples of private personnel placement services include:
 - ▶ Job listing services
 - ▶ Employment information centers
 - ▶ Executive search firms
 - ▶ Outplacement services
 - ▶ Career counseling services
 - ▶ Persons who market or advertise personnel services on a third party basis

Private Personnel Placement Services

- ▶ The definition of “private personnel placement service” does not include:
 - ▶ Placement offices conducted by professional organizations, including incorporated bar associations, hospitals, and associations of registered nurses, professional engineers, land surveyors, and registered architects
 - ▶ Organizations operated by a bona fide nonprofit educational, religious, charitable, or eleemosynary institution
 - ▶ Temporary help services
 - ▶ Organizations operated by a governmental entity

Private Personnel Placement Service License

Deliverable No. 195

- ▶ In order to obtain a license for an employment agency, a person must submit an application to the Secretary of State.
- ▶ The application must include verification from a newspaper of the greatest circulation of the county of the applicant's location that public notice of application has been published at least once.
- ▶ The application must be certified by a South Carolina attorney.
- ▶ The applicant must provide a surety bond in the amount of \$3,000.00, or other security equal to \$25,000.00 in a form approved by the Attorney General and filed with the Secretary of State.
- ▶ The total filing fee is \$300.00.
 - ▶ Application fee--\$200.00 (nonrefundable)
 - ▶ License fee--\$100.00 (refundable if license if denied)

Required by S.C. Code
§§ 41-25-20, -30

Customers:
Private Personnel
Placement Services

Number of Customers
Served in 2017-18: 53

Total Employee
Equivalents in 2017-18:
0.15

Outcome Sought by Agency*
The outcome sought by the agency
is to comply with the duties
outlined in the South Carolina
Private Personnel Placement
Services Act.

**Legislative intent not expressly stated.*

Private Personnel Placement Service License

Deliverable No. 195

- ▶ The Secretary of State shall issue the private personnel placement service license 30 days after receipt of the application, unless there is reason for the Secretary to believe, on the basis of complaint or investigation, that the applicant is not in compliance with the Private Personnel Placement Services Act.



Required by S.C. Code
§§ 41-25-20, -30

Customers:
Private Personnel
Placement Services

Number of Customers
Served in 2017-18: 53

Total Employee
Equivalents in 2017-18:
0.15

Outcome Sought by Agency*

The outcome sought by the agency is to comply with the duties outlined in the South Carolina Private Personnel Placement Services Act.

**Legislative intent not expressly stated.*

Private Personnel Placement Services—License Revocation & Renewal

Deliverable Nos. 196 & 197

- ▶ The Secretary of State may revoke licenses of employment agencies under certain circumstances, including if the employment agency fails to maintain its bond, or otherwise fails to comply with Section 41-25-30.
- ▶ An employment agency license must be renewed every 24 months.
 - ▶ Renewal applications are due on December 31st.
 - ▶ The renewal fee is \$100.00.
 - ▶ If the renewal is not filed on time, an additional late fee of \$100.00 will be assessed and a late notice will be sent. The application must be filed within 30 days of the late notice, or the renewal application will be denied.

Required by S.C. Code
§ 41-25-20, -30, -110

Customers:
Private Personnel
Placement Services

Number of Customers
Served in 2017-18:

- No. 196: 0
- No. 197: 142
- No. 198: 0

Total Employee
Equivalents in 2017-18:

- No. 196: 0.00
- No. 197: 0.15
- No. 198: 0.00

Outcome Sought by Agency*

The outcome sought by the agency is to comply with the duties outlined in the South Carolina Private Personnel Placement Services Act.

**Legislative intent not expressly stated.*

Private Personnel Placement Services—License Denial of Renewal & Investigations

Deliverable Nos. 198 & 48

- ▶ If an employment agency does not continue to meet the statutory requirements of the South Carolina Private Personnel Placement Services Act, the Secretary of State must deny its application to renew its license.
- ▶ The Secretary of State may investigate violations of the Private Personnel Placement Services Act (Deliverable No. 48).
 - ▶ Other agencies with jurisdiction to investigate violations include:
 - ▶ Division of Labor (Department of Labor, Licensing & Regulation)
 - ▶ Attorney General
 - ▶ Department of Consumer Affairs
 - ▶ SLED
 - ▶ Circuit Solicitors
 - ▶ Local Law Enforcement
 - ▶ Any person who has been damaged by or is aware of a violation of the Act

Required by S.C. Code
§ 41-25-20, -30, -110

Customers:
Private Personnel
Placement Services

Number of Customers
Served in 2017-18:

- No. 198: 0
- No. 48: 25

Total Employee
Equivalents in 2017-18:

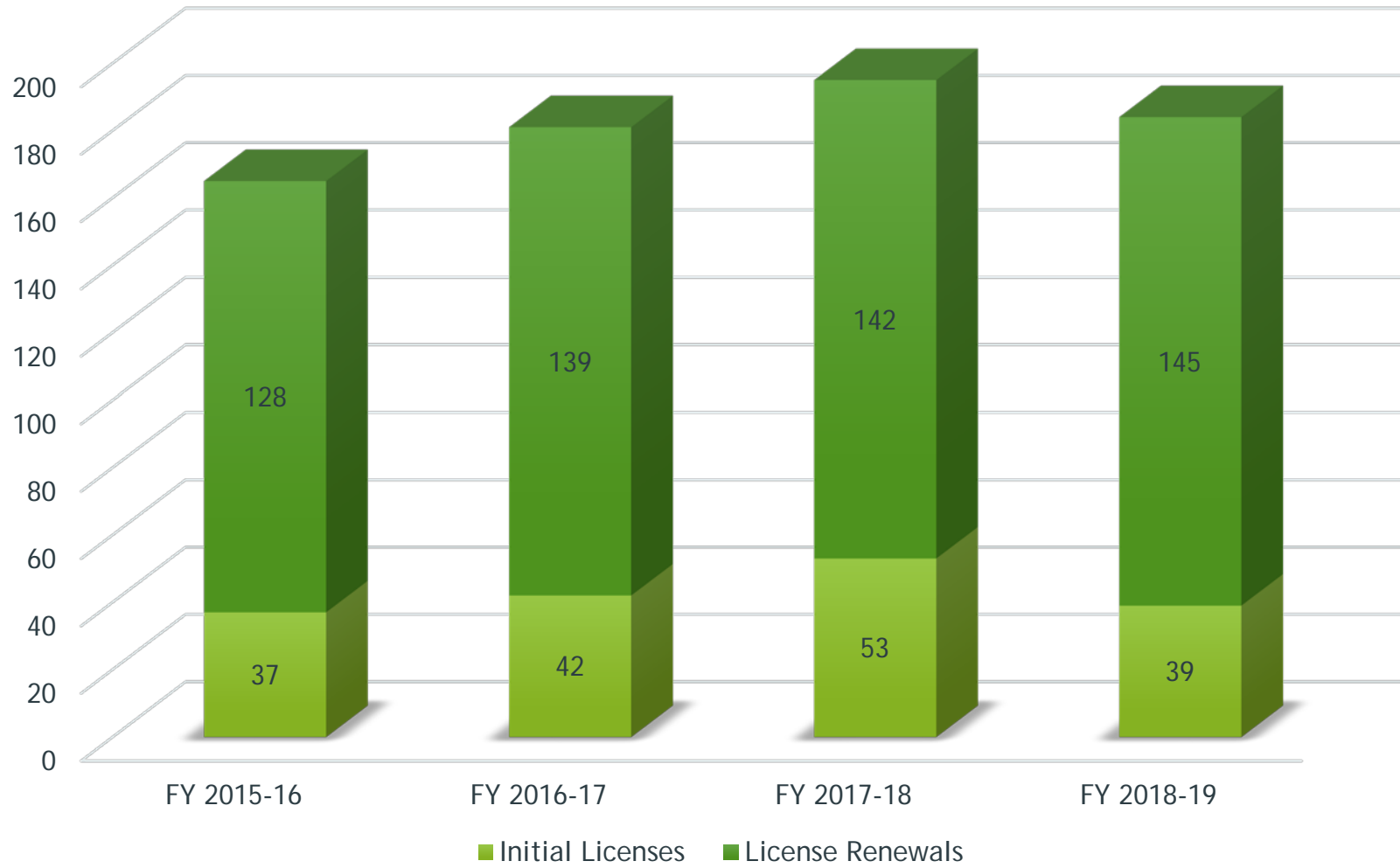
- No. 198: 0.00
- No. 48: 0.06

Outcome Sought by Agency*

The outcome sought by the agency is to comply with the duties outlined in the South Carolina Private Personnel Placement Services Act.

**Legislative intent not expressly stated.*

Private Personnel Placement Services Licenses



53

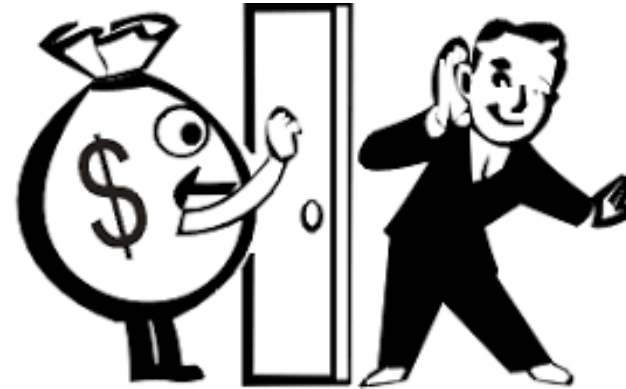
Suggested Law Changes Related to Private Personnel Placement Services

Although the Secretary of State's Office takes no specific position on this issue, the Legislative Oversight Committee may want to evaluate the State's objectives in regulating employment agencies and consider the following revisions:

- ▶ Some provisions of the Act should be amended to reflect modern business realities, such as online-based businesses.
- ▶ The enforcement provisions of the Act should be streamlined to provide a primary enforcement agency (currently eight are listed) and detailed procedures for enforcement to meet the State's regulatory objectives.

Business Opportunities

- ▶ Under the Business Opportunity Sales Act, persons selling business opportunities in South Carolina must register with the Secretary of State.
- ▶ A business opportunity is the sale or lease of products, equipment, supplies, or services to a purchaser to enable the purchaser to start a business, in which the purchaser pays the seller a fee over \$250.00 and in which the seller makes certain representations.



Business Opportunities

- ▶ These include representations that the seller of the business opportunity:
 - ▶ Will provide locations or assist the purchaser in finding locations for the use or operation of devices on premises neither owned nor leased by the purchaser or seller;
 - ▶ Will purchase products made, produced, fabricated, grown, bred, or modified by the purchaser using supplies, services, or chattels sold to the purchaser;
 - ▶ Guarantees that the purchaser will derive income from the business opportunity exceeding the price paid for the business opportunity; or if the purchaser is unsatisfied with the business opportunity, that the seller will refund all or part of the price paid for the business opportunity, or repurchase products, equipment, etc...; or
 - ▶ Will provide a sales or marketing program to enable the purchaser to derive income from the business opportunity exceeding the price paid for the business opportunity (although this does not apply to the sale or a marketing program in conjunction with the licensing of a registered trademark or service mark).

Business Opportunities

Deliverable Nos. 199 & 200

- ▶ Sellers of business opportunities are required to file disclosure statements and a copy of a surety bond or notice of trust account with the Secretary of State, after which the Secretary of State will issue the seller a registration number.
 - ▶ The registration fee is \$100.00.
 - ▶ The amount of the surety bond or trust account must be not less than \$50,000.00.
 - ▶ Examples of required elements of the disclosure include how long the seller has sold business opportunities and whether the seller will provide training to the purchaser.
- ▶ Sellers of business opportunities are required to renew their registration with the Secretary of State every 24 months.
 - ▶ The renewal fee is \$100.00.

Required by S.C. Code
§§ 39-57-50, -55

Customers:
Sellers of Business
Opportunities

Number of Customers
Served in 2017-18:

- No. 199: 26
- No. 200: 8

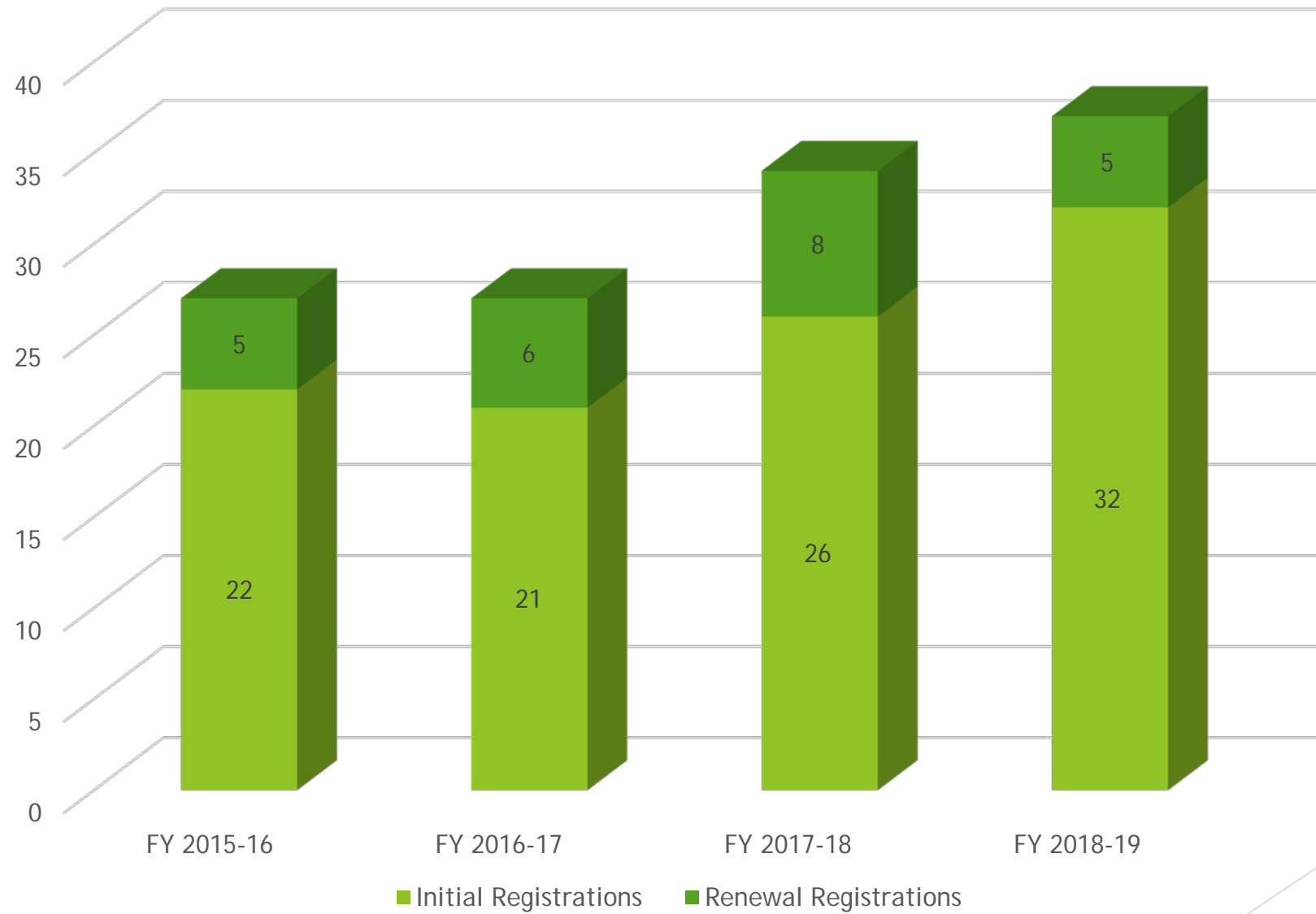
Total Employee
Equivalents in 2017-18:

- No. 199: 0.01
- No. 200: 0.01

Legislative Intent

To regulate the practice of business opportunity sales and to provide a penalty. (1980 Act No. 474)

Business Opportunity Registrations



58

Performance Measures Related to Municipalities Deliverables

- ▶ Performance Measure No. 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.)

Performance Measure No. 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.)

- ▶ In September 2014, the Secretary of State's Office added a section for special purpose districts to an existing internal application for Public Officials.
 - ▶ This application allows staff to enter registrations from special purpose districts into the application and connect to the board membership information in the boards and commissions section of the application.
 - ▶ The application also makes it easier for staff to create the directory of special purpose districts.
- ▶ An application for the filing of private personnel placement agencies is currently in production. We also anticipate beginning a project in FY 2019-20 to add business opportunities to this application.

Revenue & Costs Related to Municipalities Deliverables

The Division of Public Charities & Municipalities collects fee revenue from the following sources:

- ▶ Service of Process (\$10.00*)
- ▶ Registered Agent Designation (\$10.00)
- ▶ Application for a certificate of cable franchise authority (\$110.00**)

**Amount of fee has not increased since the passage of the South Carolina Business Corporation Act of 1988. (1988 Act No. 444)*

***Amount of fee has not increased since the passage of the South Carolina Competitive Cable Services Act. (2006 Act No. 288)*

Revenue & Costs Related to Municipalities Deliverables

The Division of Public Charities & Municipalities collects fee revenue from the following sources:

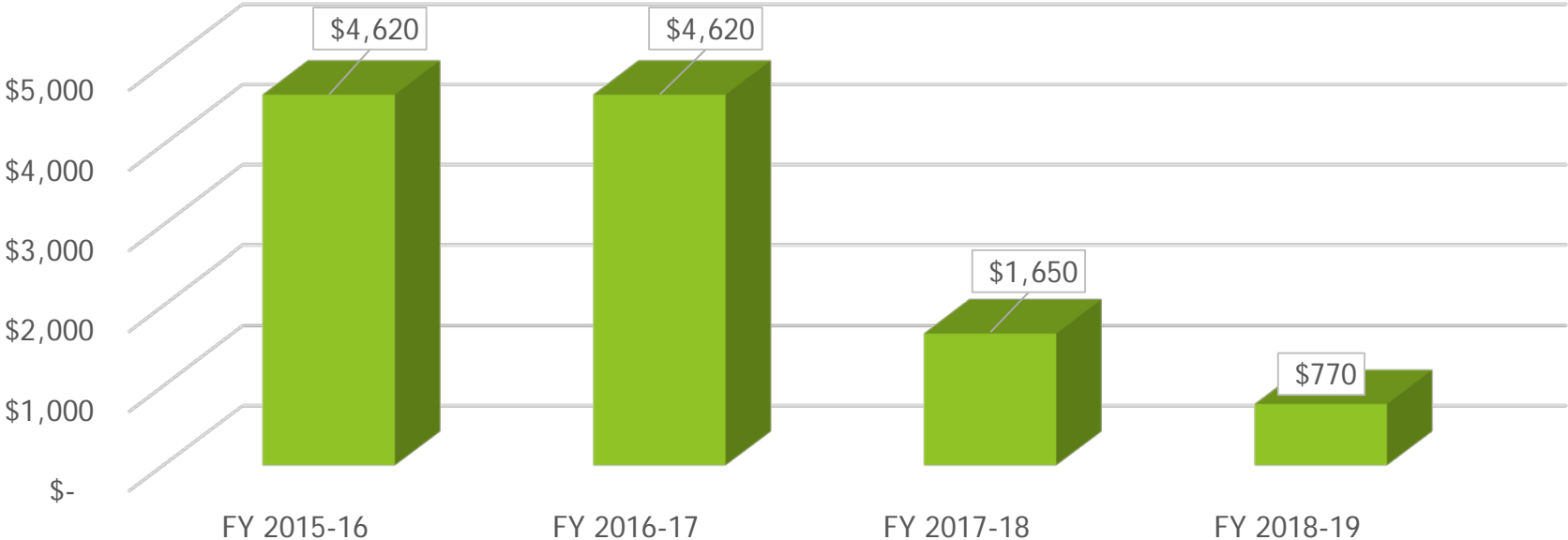
- ▶ Private Personnel Placement Service License (\$300.00*)
- ▶ Private Personnel Placement Service Renewal (\$100.00, and \$100.00 late fee if applicable*)
- ▶ Business Opportunity Registration or Renewal (\$100.00*)

**Amount of fees have not increased since the passage of 1992 Act No. 501.*

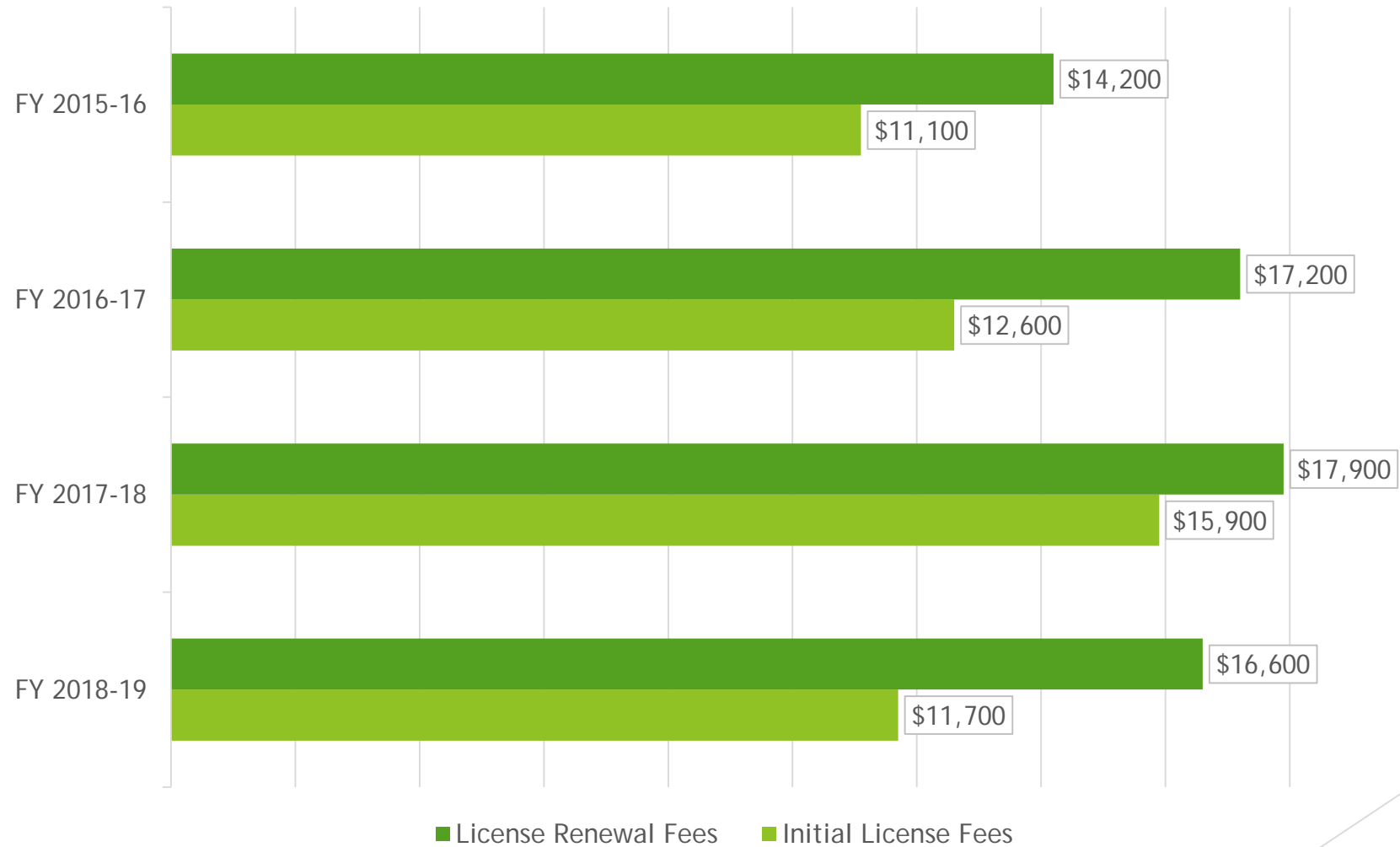
Fees Collected for Service of Process



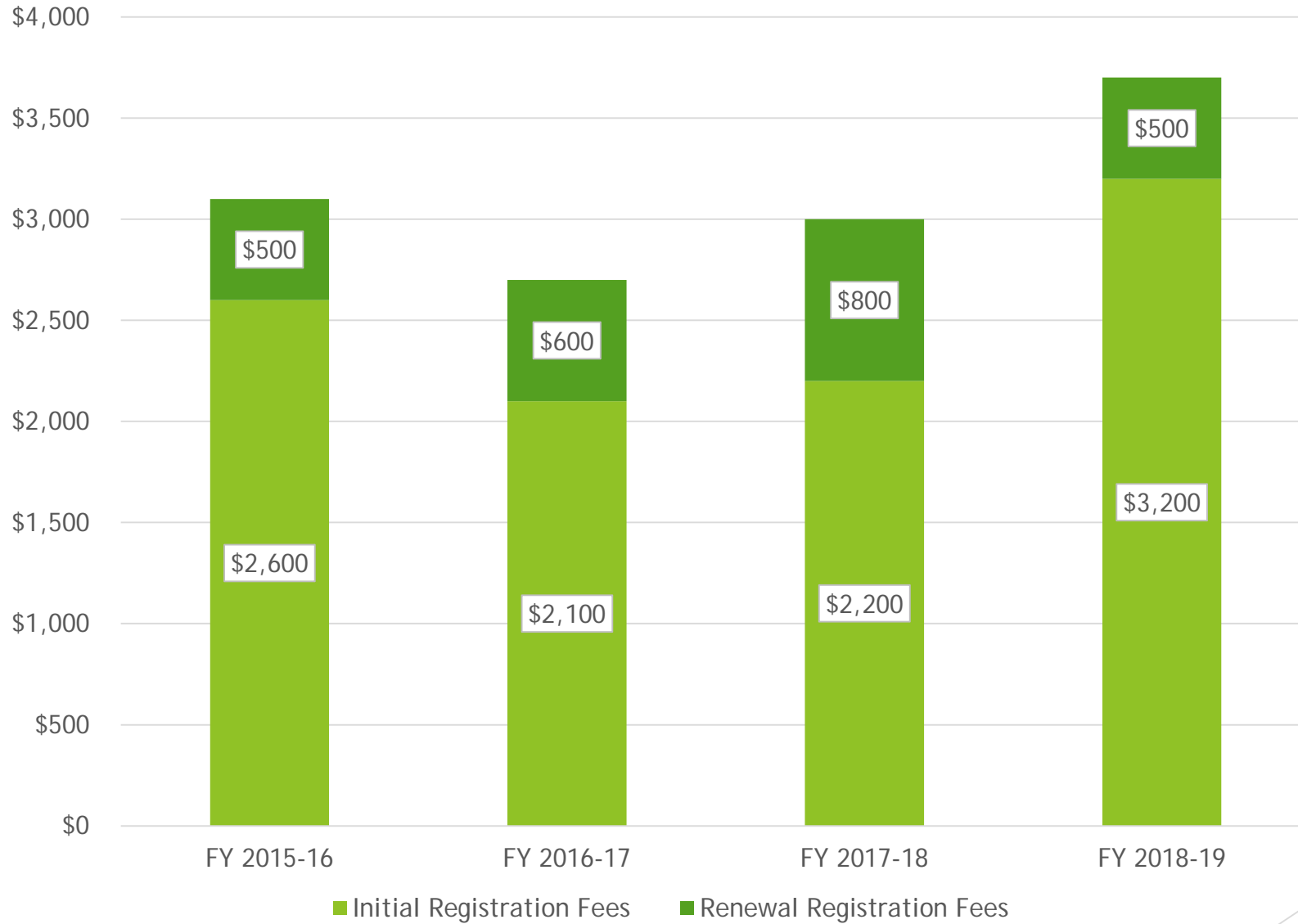
Fees Collected for Certificates of Cable Franchise Authority



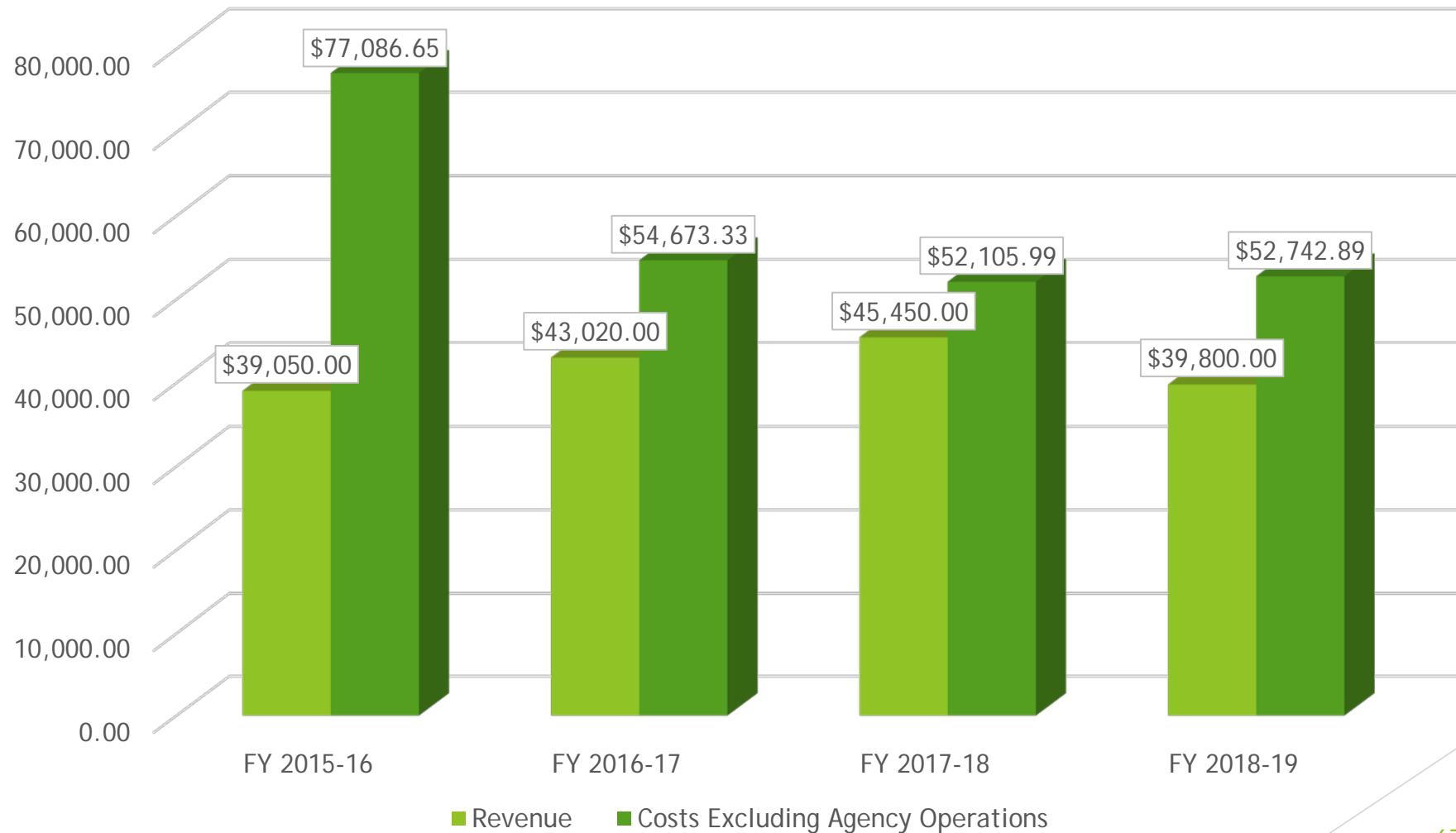
Fees Collected for Private Personnel Placement Services Licenses



Fees Collected for Business Opportunities



Comparison of Fee Revenue Collected by Municipalities Division with Costs (Excluding Agency Operations)



Legal Division

- ▶ The Secretary of State's Legal Division includes the following positions:
 - ▶ Deputy Secretary of State & Chief Legal Counsel
 - ▶ General Counsel
 - ▶ Deputy General Counsel
- ▶ The Legal Division works closely with all other divisions of the agency, as indicated in prior deliverables.
- ▶ Two areas of deliverables that are handled primarily by the Legal Division that have not been addressed yet are escheatment of real property and Freedom of Information Act requests.

Escheatment of Real Property

- ▶ When a landowner dies and no heirs can be located, the Secretary of State must determine if the land escheats to the state.
- ▶ The process for escheatment of real property is outlined in Chapter 19 of Title 27 of the South Carolina Code.



Required by S.C. Code
§§ 27-19-10, -20, -60, -310

Customers:
Department of
Administration;
Circuit Court

Number of Customers
Served in 2017-18:

- No. 201: 0
- No. 202: 0
- No. 203: 0

Total Employee Equivalents
in 2017-18:

- No. 201: 0.00
- No. 202: 0.00
- No. 203: 0.00

Outcome Sought by Agency*

The outcome sought by the agency is to comply with the duties outlined in laws governing escheatment of land.

Escheatment

Deliverable Nos. 201, 202 & 203

- ▶ On knowledge, belief, or information that lands have escheated to the State after death of the last owner without leaving anyone with a claim to the land, the Secretary of State must notify a circuit court judge of the county where the supposedly escheated land lies.
- ▶ The escheatment case is heard before a jury. Upon issuance of a verdict, the court certifies the verdict to the Secretary of State who then records it and returns the original to the Clerk of Court in the county in which the land is located.
 - ▶ The Clerk of Court then advertises a notice in a county newspaper the first week of every month for six months with a description of the land, the last owner and the time of the owner's death and where the owner was born, and requiring heirs or other claimants to appear and make claim.
- ▶ When there is no claimant to the land, the Secretary of State can rent it until the escheatment process is concluded and the land is sold.

Escheatment

Deliverable No. 204

- ▶ If no one claims the land within twelve months after the expiration of the time for advertising, the Clerk, in process signed by the judge, pronounces the land escheated and directs the Secretary of State to sell.
 - ▶ The Secretary of State must advertise the sale of the land in the county newspaper and the most public places of the county.
 - ▶ If land is larger than 600 acres and it would be an advantage to the State in its sale, the Secretary shall divide it in a manner most beneficial to the state.
 - ▶ If the property is being sold at a sacrifice, the Secretary of State may buy it for the Department of Administration, which can then rent or sell the property in a manner for the best interests of the State.



Required by S. C. Code
§§ 27-19-70, -80, -90,
-100

Customers:
State Treasury; State
Treasurer; Sinking Fund of
the State; Department of
Administration; Executive
Budget Office

Number of Customers
Served in 2017-18: 0

Total Employee
Equivalents in 2017-18:
0.00

Outcome Sought by Agency*
The outcome sought by the agency
is to comply with the duties
outlined in laws governing
escheatment of land.

Escheatment

Deliverable Nos. 205, 206 & 207

- ▶ Under Section 27-9-210, the Secretary of State or Attorney General may sue for and recover moneys or personal property in the hands of an executor or administrator if the deceased person leaves no one entitled to claim.
 - ▶ Any moneys recovered are paid into the State Treasury.
- ▶ The Secretary of State must turn over the proceeds of escheats to the State Treasurer after deducting and retaining reimbursement to the Sinking Fund of the State.
- ▶ A report must be made annually by the Secretary of State showing receipts and payments in each case of escheat.

Required by S.C. Code
§§ 27-19-210, -340, -360

Customers:
Department of
Administration; Circuit
Court

Number of Customers
Served in 2017-18:

- No. 205: 0
- No. 206: 0
- No. 207: 0

Total Employee
Equivalents in 2017-18:

- No. 205: 0.00
- No. 206: 0.00
- No. 207: 0.00

Outcome Sought by Agency*
The outcome sought by the agency
is to comply with the duties
outlined in laws governing
escheatment of land.

Escheatment of Real Property



- ▶ There are no performance measures related to escheatment of real property listed in the Program Evaluation Report.
- ▶ Since there were no escheatment cases during the period covered by the Program Evaluation Report, there are no revenues or costs associated with escheatment deliverables.

Freedom of Information Act Requests



The Freedom of Information Act requires public bodies to furnish records to persons upon receipt of a Freedom of Information Act request, unless the record is specifically exempted by law.

Freedom of Information Act

Deliverable No. 208

- ▶ Upon receipt of a Freedom of Information Act request, the Legal Division will determine whether the requested records are available.
- ▶ Within 10 business days, the Legal Division will provide a final determination letter to the customer stating what records are available, any exemptions claimed by the agency, and an estimate of the cost for search, retrieval, redaction, and copying of the records.
- ▶ For large requests, the agency will require a 25% deposit of the estimated costs before processing the request.
- ▶ Upon receipt of the deposit, the agency will provide records within 30 calendar days or 35 calendar days if the record is over two years old.

Required by S.C. Code
§ 30-4-30

Customers:
General Public; Media;
General Assembly; Other
Governmental Agencies;
Legal Community

Number of Customers
Served in 2017-18: 25

Total Employee
Equivalents in 2017-18:
0.05

Legislative Intent

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formation of public policy. (Section 30-4-15)

Freedom of Information Act

Deliverable No. 208

- ▶ Fees for search, retrieval, redaction, and copying are based on the wage of the lowest-compensated employee capable of fulfilling the request.
- ▶ Occasionally fees are waived. For example, we typically waive fees for media requests unless the request will take a significant amount of time to fulfill.



Required by S.C. Code
§ 30-4-30

Customers:
General Public; Media;
General Assembly; Other
Governmental Agencies;
Legal Community

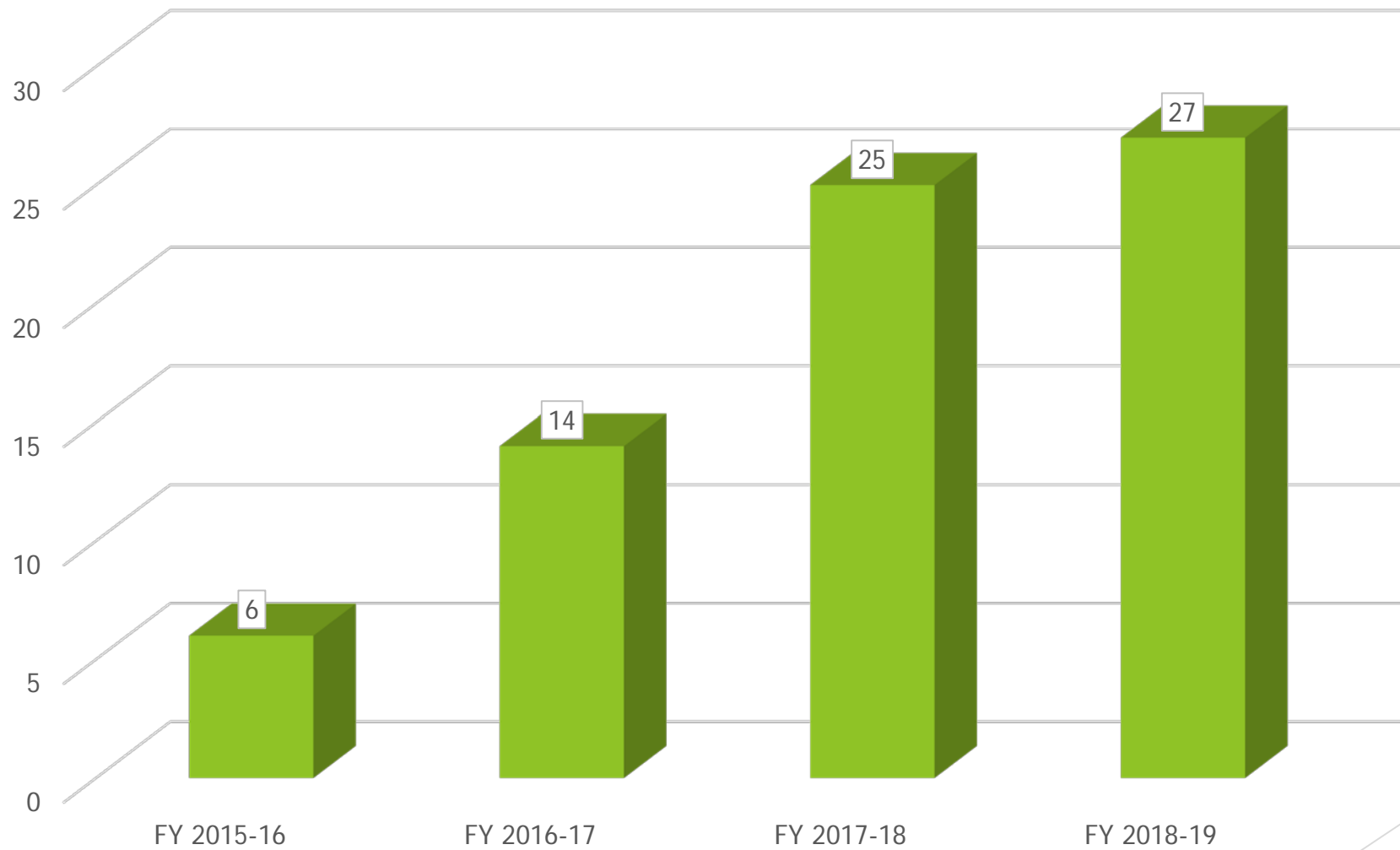
Number of Customers
Served in 2017-18: 25

Total Employee
Equivalents in 2017-18:
0.05

Legislative Intent

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formation of public policy. (Section 30-4-15)

Number of Freedom of Information Act Requests Received

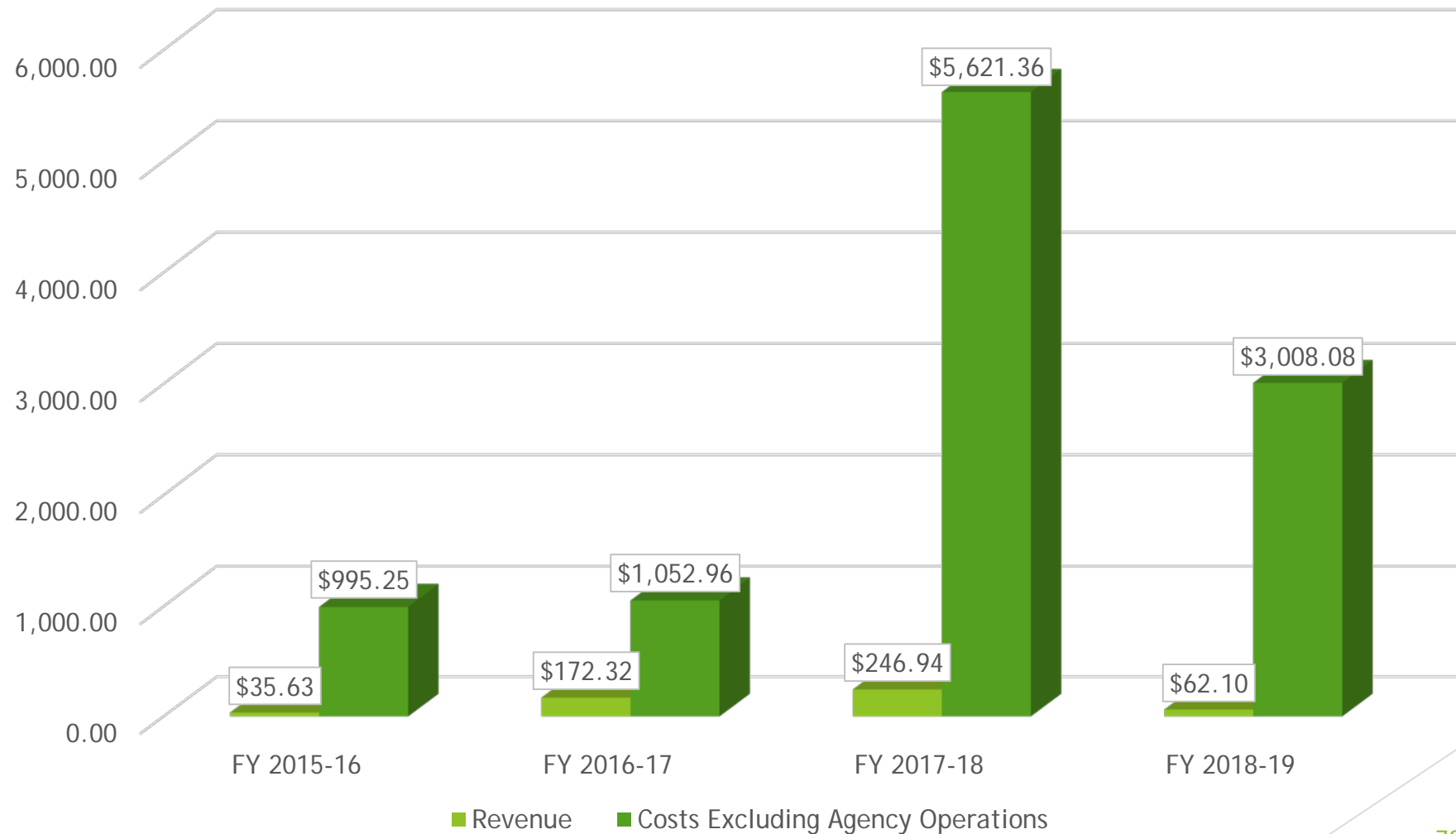


Freedom of Information Act Requests



- ▶ There are no performance measures related to Freedom of Information Act requests listed in the Program Evaluation Report.
- ▶ Because fees are determined by the hourly wage of the lowest-compensated employee able to fulfill the request, there is no specific fee schedule for Freedom of Information Act requests.

Comparison of Fee Revenue Collected for FOIA Requests with Costs (Excluding Agency Operations)



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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).