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December 12, 2019

Via Email

The Honorable Mark Hammond, Secretary of State
1205 Pendleton Street, Suite 525
Columbia, South Carolina 29201

RE: Follow-up to December 9, 2019, Subcommittee meeting and preparation for future meetings

Dear Secretary Hammond:

The Executive Subcommittee appreciates the Secretary of State's Office (SoS) continued partnership in the oversight process. As follow-up to the December 9, 2019, meeting, and in preparation for future meetings, we seek some additional information. Please provide this information by or before Thursday, January 2, 2020.

Angel charity selection process

1. Please explain the process for selecting annual angel charities, in phases, from start to final selection, and, at each phase, please provide the following for each of the last three years: (a) criteria to qualify for that phase; (b) whether the criteria is in statute, regulation, or based on internal agency decision; (c) number of charities qualifying for the phase; and (d) any recognition the charities may receive during the process.

Boards and commissions

2. What information is necessary for the SoS to create a way for the public to search board/commission appointments for which an individual elected official's delegation is responsible, by the name of the elected official? What information would the SoS need to enable a member of the public to sort those appointments by status of the appointment (e.g., filled, vacant, expired)?
3. If the SoS had information indicating which elected officials serve in which delegations, could the SoS setup an automatic communication to notify legislators bi-annually of (a) current vacant/expired board/commission positions, and (b) board/commission positions expiring within the next year?
4. If state boards and commissions were required to provide the SoS an email address for each state board and commission member (e.g., official one issued by the board or commission if the member does not want to provide a personal email address), would there be any challenges in the SoS adding this information to the SoS website? Would the SoS have any concerns about adding this information?
5. What is necessary for the SoS to include, within the search results for board/commission members on the SoS website, links to laws applicable to each board/commission position so a user may access information on qualifications and responsibilities related to the position?
6. What suggestions does the SoS have for the General Assembly to assist it in obtaining accurate information from state boards and commissions in a timely manner?
7. Please provide any information available to the SoS on methods utilized by other states to obtain accurate information from state boards and commissions in a timely manner?
8. Is the information below accurate?
 - a. As of December 9, 2019, there were over 840 individuals with expired terms serving in a hold over capacity across more than 150 different boards and commissions.
 - b. As of December 4, 2019, there were over 450 vacant board and commission seats.
9. Would the SoS be opposed to considering creation of a web form to allow a state board or commission member to update their information regarding an appointment, election, resignation or vacancy? Why or why not?
10. If authorized in statute, would the SoS be opposed to providing a board or commission member's term end date, as the end date is outlined in the applicable statute, instead of relying on the board or commission to provide that information?
11. Could the SoS maintain historical information on the number of vacancies and expired terms going forward?
12. Please provide the following information: (a) number of vacant board/commission positions; (b) number of expired board/commission positions; and (c) number of filled and not expired board/commission positions.

Corporations and filings

13. Please provide a table listing the different entities (e.g., corporation, s-corporation, etc.) within the agency's "business corporation" filings.¹
14. What are potential reasons for an increase of more than 6,000 in business corporation filings between fiscal year 2017-18 and 2018-19?²
15. Please explain the difference in a nonprofit corporation and a benefit corporation. Also, please provide the potential advantages or disadvantages of each.
16. Since SoS personnel testified that an applicant receives a letter listing the specific reasons their business filing was rejected, if it is rejected, is the SoS able to track the annual number of business filing rejections by reason for rejection? If so, is the information used in trainings and webinars the SoS conducts or shared with the General Assembly for consideration of potential legislative changes? If not, could the SoS track this information going forward?
17. Please provide a table with the reasons for which a business corporation can be administratively dissolved and, for each reason/condition for each of the last three years include the following: (a) applicable statute; (b) entity responsible for identifying whether the reason/condition exists (e.g., Department of Revenue, Secretary of State's Office); (c) process at the applicable agency to regularly identify the reason/condition, if any (e.g., regular audits, etc.) and (d) number of business corporations administratively dissolved for the reason/condition.
18. Has the SoS ever performed an audit of all registered non-profits to determine which do not have a registered agent or registered office? If yes, when was the last time it was done?
19. Can the SoS track the annual number of UCC filing rejections by reason for rejection? If so, is the information used in trainings and webinars the SoS conducts or shares with the General Assembly for consideration of potential legislative changes? If not, could the SoS track this information going forward?
20. Please provide the names of the entities with bulk data subscriptions. Also, is the SoS aware of whether entities can obtain subscriptions to data SCI maintains for other agencies?

Fees for business and UCC filings³

21. Please provide a table listing business filing fees in South Carolina and fees for comparable business filings in other Southeastern states.
22. Please provide a table listing each business filing and fee in South Carolina and, for each filing for each of the last five years, the number of filings, total fees collected, amount that went to SoS, and amount that went to the general fund.
23. Please provide a table listing UCC filing fees in South Carolina and fees for comparable UCC filings in other Southeastern states.
24. Please provide a table listing each UCC filing and fee in South Carolina and, for each filing for each of the last five years, the number of filings, total fees collected, amount that went to SoS, and amount that went to the general fund.

¹ Secretary of State presentation - Business filings, information technology, and administration, Slide 8.

² Secretary of State presentation - Business filings, information technology, and administration, Slide 8.

³ According to the agency, fees for business filings have not been revised in 15 or more years, depending on the entity type. A complete list of all business filing fees is available at <https://businessfilings.sc.gov/businessfiling> See Secretary of State presentation – Business filings, information technology, and administration, slide 64.

According to the agency, fees for UCC filings have not been revised in over 16 years. See Secretary of State presentation – Business filings, information technology, and administration, slide 66.

Railroad filings

25. When was the last time there was a railroad filing?⁴
26. Does the collection of information in railroad filings already occur through other filings? If so, through which filings? If not, could they be incorporated with other filings to avoid the need of having a separate filing?

Notaries

27. If notary applications were sent directly to the SoS, how would the SoS see the process working and would local delegations still be involved in the process, if they desired to continue being involved?
28. Are notary publics required to enroll their commission with the clerk of court in statute? If so, please provide the applicable statute and whether the SoS would support, oppose, or take no position on repeal of the statute.⁵
29. Please provide a list of other states in the Southeast that require some type of training prior to becoming a notary and the type of training required.

Fees for notaries⁶

30. Please provide a table listing the fee for notary public applications and, change in status forms, in South Carolina and fees for comparable filings in other Southeastern states.
31. Please provide a table listing the following, separately for notary public applications and notary public change in status forms, for each of the last five years: (a) number of filings, (b) total fees collected, (c) amount that went to SoS, and (d) amount that went to the general fund.

Oaths of office

32. What guidance, if any, does the SoS provide to newly elected individuals about who can administer an oath of office?

Boards for elected officials

33. Are all of the steps for filing bonds for special state constables necessary, or does the SoS have any recommendations for how to potentially streamline the process?

Crowdfunding taskforce

34. Please provide the following information related to the crowdfunding taskforce: (a) members of the taskforce; (b) purpose of the taskforce and issues/questions being discussed; and (c) timeline for anticipated actions by the taskforce.

Service of Process

35. Please provide a table listing the entities on whose behalf the SoS may accept service of process and the applicable statute for each.

⁴ Secretary of State presentation - Business filings, information technology, and administration, Slide 29.

⁵ The agency states the notary public enrolling their commission with the clerk of court in the county in which they reside is part of the notary public application process, but notes failure to do so does not invalidate the notary's commission or notarial acts. Secretary of State presentation – Notaries, boards and commissions, authentications, and apostilles, Slide 9.

⁶ According to the agency, the \$25 fee for notary public applications has not increased since 1988 [1988 Act No. 658 (General Appropriations Act, Part II, Section 3A)], and the \$10 fee for notary public change in status forms has not changed since 1983 [1983 Act No. 151 (General Appropriations Act, Part II, Section 8B)]. See Secretary of State presentation – Notaries, boards and commissions, authentications, and apostilles, Slide 71.

Municipalities

36. Please provide a flow chart illustrating the different phases of the municipal incorporation process.⁷
37. Who serves on the Joint Legislative Committee on Municipal Incorporation and what are the qualifications to serve on the committee?
38. How does the SoS determine when a municipality is not performing municipal services that justify cancelling a municipalities certificate of incorporation? Does the SoS perform any regular reviews of municipalities?
39. Please provide a table listing all municipalities in South Carolina and, for each, date of incorporation and county(ies) in which it is located.

Special purpose districts

40. Would the SoS oppose placing information about special purpose districts online in a searchable format? If not, what would be required to do so?

Private personnel placement services and business opportunities

41. Are employment agencies regulated by any other entities, outside of the SoS?
42. Is the SoS aware of whether the Department of Employment and Workforce collects any information on entities involved in private personnel placement services?
43. Would the SoS be willing to share information on private personnel placement services entities to the Department of Employment and Workforce to assist it in helping unemployed individuals obtain employment?
44. Would the SoS be willing to publish the list of private personnel placement service entities on its website with contact information in a format that is searchable by county?
45. Please provide a list of states that do and do not have statutes similar to South Carolina's statutes related to private personnel placement services. For states that have similar statutes, please indicate the agency in which the attendant responsibilities are located.
46. Please provide a list of states that do and do not have statutes similar to South Carolina's statutes related to business opportunities. For states that have similar statutes, please indicate the agency in which the attendant responsibilities are located.

Fees related to municipalities deliverables

47. Please provide a table listing the fee for service of process in South Carolina and comparable fees in other Southeastern states.⁸
48. Please provide a table that lists the following, for service of process for each of the last five years: (a) total number, (b) total fees collected, (c) amount that went to SoS, (d) amount that went to the general fund; and (e) amount needed to cover associated SoS costs.
49. Please provide a table listing the fee for application for a certificate of cable franchise authority in South Carolina and comparable fees in other Southeastern states.⁹
50. Please provide a table that lists the following, for certificate of cable franchise authority in South Carolina for each of the last five years: (a) total number, (b) total fees collected, (c) amount that went to SoS, (d) amount that went to the general fund, and (e) amount needed to cover associated SoS costs.

⁷ See Secretary of State presentation – Notaries, boards and commissions, authentications, and apostilles, Slides 17-21.

⁸ According to the agency, the \$10 fee for service of process has not increased since passage of the S.C. Business Corporation Act of 1988 (1988 Act No. 444). See Secretary of State presentation – Municipalities, Slide 61.

⁹ According to the agency, the \$110 fee for application for a certificate of cable franchise authority has not increased since passage of the S.C. Competitive Cable Services Act (2006 Act No. 288). See Secretary of State presentation – Municipalities, Slide 61.

Rarely used deliverables

51. For each of the SoS’ deliverables in which zero customers were served in the last three years (e.g., certificate of incorporation for redevelopment, etc.), please provide the year in which the deliverable was last provided and whether the SoS believes the deliverable is still needed. If not, please provide the applicable statute.

SoS databases

52. Please provide a table listing the databases SoS currently has (e.g., boards and commissions), or is working to have (e.g., municipalities, special purpose districts, landlord-tenants, etc.), and the following for each:

- a. status of the database (e.g., complete, in creation, etc.) and, if not complete, anticipated completion date;
- b. information the database does, or will, contain; and
- c. current or planned benefits of the database (e.g., searchable information for the public online, ability for customers to enter information/forms online, ease in archiving, etc.).

53. Would the SoS oppose working with the Revenue and Fiscal Affairs Office and/or others who may have geographic information system mapping to determine opportunities for linking to the information each has available online about municipalities, special purpose districts, etc., or working together in other ways, to assist users in locating information.

54. Please provide a table listing the categories of information the SoS has on its website in a searchable format and, for each, the ways in which it is searchable. See example below.

Information	Searchable by...
Boards and Commissions	<ul style="list-style-type: none"> • Name of commission/board member (Last, First, and/or City) • Appointment Type (Gubernatorial, General Assembly, or Other); • District (Congressional, Judicial, or At Large); • Status (Active, Vacant, or Both)

55. Please provide a table with the list of categories of information/documents maintained by the SoS that are not posted on the SoS’s website (e.g., complaints about charities) and, for each, why it is not posted online.

Data sharing

56. Please explain how Application Programming Interfaces (API) work and how it allows the SoS to share information with the Emergency Management Division.

57. Please provide a table listing information the SoS shares with other entities and for each type of information shared, please include whether the SoS sends or receives the information, manner in which the information is transmitted (e.g., database, API, email, hand delivery, etc.), and efficiencies or effectiveness improved from being able to share the information. See example below.

Information	Whether SoS sends or receives it	Entity to or from whom it is shared	Manner of transmission	Benefits
Certification letter and filed application for registration as a qualified business for each registered qualified business	SoS sends	Department of Revenue (DOR)		Assist DOR in carrying out its duties under the High Growth Small Business Job Creation Act

Employee cross-training

58. In the Program Evaluation Report, the SoS listed a performance measure for cross-training staff. When does the SoS consider a staff member is “cross-trained,” and what percentage of staff are cross-trained as of November 2019?

Law recommendations

59. Does the SoS plan to remove Regulation 102-1 (Fees to Accompany Request for Confirmation of Solicitation Exemption) in updated regulations it files with the General Assembly?¹⁰ If so, when does the agency plan to file the updated regulations?

60. Please provide updates to law recommendations from the agency’s Program Evaluation Report, including additional recommendations, if there are any.

Program Evaluation Report

61. Please provide an updated Program Evaluation Report.

In responding to these questions, please remember the Committee’s expectations, which are provided in the Committee’s Standard Practice 9. The Subcommittee looks forward to working collaboratively with your office during the oversight process. Thank you and your team for your service to the people of South Carolina.

Sincerely,



Gary E. Clary
Subcommittee Chair

cc: Executive Subcommittee

¹⁰ The Secretary of State recommended repeal of this regulation in its Program Evaluation Report.