JLARC
JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

January 16, 2019

Operations and Performance of Virginia's Department of Elections

House Appropriations Committee
General Government & Capital Outlay
Subcommittee

In brief

VERIS has not been sufficiently functional or reliable to meet the needs of general registrars.

Available evidence suggests Virginia's voter registration list is likely mostly accurate. However, ELECT does not devote sufficient staff attention to maintaining the list, nor does it provide adequate guidance to registrars.

ELECT has not conducted sufficient oversight of local election administration to verify integrity and ensure uniformity.

ELECT has lacked leadership continuity and been subject to too much political influence.

In this presentation

Elections IT system

Voter registration list

State supervision of local election administration

ELECT management and organization

ELECT operates key IT system for administering elections

- Virginia Election and Registration Information System (VERIS) supports broad range of election functions
  - Maintaining voter registration list
  - Managing absentee voting applications and ballots
  - Assigning voters to legislative districts & precincts
  - Recording and transmitting election results

- VERIS adapted from another state system in 2007

VERIS has not been sufficiently functional or reliable to meet registrar needs

- VERIS lacks certain key functionality or usability
  - Mapping capability is rudimentary and user screens are confusing

- VERIS is not consistently operational or fast enough
  - Poor internal configuration leads to slow processing speeds and outages during heavy usage

- State election IT systems are high-value targets requiring robust, ongoing attention to IT security

- Less than half of local registrars reported VERIS is sufficiently functional or reliable*

*Source: JLARC staff survey of Virginia registrars, 2018.

General Assembly has been providing additional funds for VERIS

- ELECT requested funds to rebuild VERIS after assessing whether to rebuild or replace

  - General Assembly began appropriating $1M annually over 5 years (FY18-FY22)

  - Funds are in addition to $49M for VERIS to date

  - Most work was still in planning phase at time of JLARC report

- ELECT could receive an additional $9.5M in federal HAVA funds for IT security

ELECT's decision to rebuild VERIS was based on incomplete assessment

- ELECT estimated rebuilding would cost $5M and replacing would cost $31M

- Replacement cost estimate based on single vendor

- Assessment did not fully account for
  - Potential savings from fewer IT staff
  - Improvements in functionality, reliability, and security of replacing VERIS

- Other states have replaced their elections IT systems

Recommendations

ELECT should report on status of improvements to VERIS.

The General Assembly may wish to consider

- directing ELECT, in consultation with VITA, to hire a third party to comprehensively reassess whether to rebuild or replace VERIS.

- withholding additional funds to rebuild VERIS until ELECT makes satisfactory progress in implementing improvements.

PENDING: Governor's budget, Part B	2019	2020
Appropriation for election security grant (federal)	$0	$3M

In this presentation

Elections IT system

Voter registration list

State supervision of local election administration

ELECT management and organization

Voter registration list is likely mostly accurate

- Most voter information does not change
  - 77% of 5.5M registered voters remain eligible and stay at same address
  - Most changes are to addresses within state

- ELECT has fairly robust list maintenance process
  - ELECT regularly obtains data on ineligible voters from multiple state and federal sources

Fairly robust list maintenance process could be further strengthened

- Some registration data from DMV is incomplete or inaccurate

- Change-of-address data is not used as often as possible

- Name-matching algorithm does not sufficiently minimize risk of mistakes

Less than 1 FTE has historically been allocated to maintaining the state's voter registration list

- Historically, the CIO was responsible for list maintenance in addition to overseeing all agency technology and multiple other functions

- No ongoing review of data quality or list maintenance process

Recommendations

ELECT should

- convene a workgroup to improve DMV electronic registrations.

- use national change-of-address data at least twice annually.

- work with experts to improve name-matching algorithm.

- allocate at least one full-time staff position exclusively to maintaining the registration list.

- conduct periodic reviews of data quality and list maintenance process to identify improvement opportunities

PENDING: Governor's budget, Part B	2019	2020
Provide two voter list maintenance positions	$0	$0.3M

Potential for significant inconsistencies among registrars on list decisions

- ELECT does not provide training, and written guidance is limited

- 75% of registrars report significant discretion over list decisions

- Registrar decisions likely differ due to lack of guidance or training

  - Example: 2 voters mistakenly removed from list faced different reinstatement processes

Recommendation / Option

Recommendation: ELECT should provide written guidance and training for registrars on how to make registration list decisions.

Option: The General Assembly could assign ELECT responsibility for adding and removing individuals from the registration list.

Small percentage of voters may be assigned to wrong legislative districts

- ELECT has identified potential errors

- Some locality boundaries differ from state-defined boundaries

- Not all registrars have access to mapping technology

- ELECT does not conduct ongoing reviews of voter assignments

Recommendations

The General Assembly may wish to require ELECT to

- periodically assess whether voters are assigned to the correct legislative districts.

- work with the Virginia Geographic Information Network to ensure registrars have access to mapping technology.

ELECT should work with the Virginia Division of Legislative Services to provide registrars guidance on assigning voters to districts.

PENDING: 2019 Session	
SB 1018 (Chase)	Requires comparisons of boundaries using GIS and making corrections as necessary; Requires State Board of Elections to provide assistance

In this presentation

Elections IT system

Voter registration list

State supervision of local election administration

ELECT management and organization

ELECT does not conduct sufficient oversight of key election functions

Function		Oversight by ELECT
Voter registration	Registrar list decisions	✗
	Voter assignments to districts & precincts	✗
	Election-day pollbooks	✗
Candidates for election	Identifying offices for elections	✓
	Candidate requirements	✗
Preparing for election	Ballot development & printing	✓
	Poll worker training	✗
	Precinct / poll location selection & design	✗
	Absentee ballot distribution	✗

ELECT does not conduct sufficient oversight of key election functions (cont'd)

Function		Oversight by ELECT
Election day	Precinct operations	✕
	Ensuring only eligible voters cast votes	✕
	Counting votes	✕
Post-election	Audits of election outcome accuracy	✓
	Recounts / contested elections	✕
Administration	Office management	✓
	Registrar performance	✕

Recommendation

The General Assembly may wish to consider directing ELECT to develop and implement a plan for greater, risk-based oversight of local elections administration.

ELECT's guidance and training for local officials has been generally useful, but could improve

- Most local registrars reported that ELECT's guidance is "fully useful" or "somewhat useful"*

- Guidance is not always timely, correct, or sufficient
  - Incorrect guidance on provisional balloting and other topics

- Training is not sufficiently detailed, relevant, or accessible

- Current commissioner is taking steps to improve guidance and training

*Source: JLARC staff survey of Virginia registrars, 2018.

Recommendations

ELECT should

- develop a process for reviewing and approving guidance and keep records of guidance provided.

- develop guidelines for referral to legal resources.

- identify training needs and develop more accessible training materials.

PENDING: Governor's budget, Part B	2019	2020
Enhanced training for election officials	$0	$0.6M

In this presentation

Background

Elections IT system

Voter registration list

State supervision of local election administration

ELECT management and organization

Previous ELECT leadership perceived as politically biased

- Critical that ELECT remain apolitical in carrying out its mission

  - Political bias can undermine public confidence in integrity and outcome of elections

- Perception by some ELECT staff and registrars that previous ELECT leadership had a political bias

  - Decisions about certain policies and agency functions

  - Environment of open support for one party over the other

Numerous additional concerns with previous ELECT leadership

- Inadequate management of ELECT staff
  - ELECT staff described a "rudderless ship caught in storm after storm" and "void of management"
  - Little accountability for responsiveness to registrars

- Contentious relationship with State Board of Elections

Management of ELECT is improving, but improvements are at risk

- ELECT staff report agency is well managed under current commissioner

  - Updated policy prohibiting staff participation in political activities

- Improvements jeopardized because ELECT lacks continuity of leadership

  - New commissioner with each new governor

  - Before 1999 ELECT had classified position of director of operations that was critical to stable, apolitical operations

ELECT has more appointed positions than other agencies in Administration secretariat

Agency	Positions		Ratio of appointed / total positions
	Appointed	Total	
Department of General Services	2	667	1/334
Virginia Information Technologies Agency	1	240	1/240
Department of Human Resource Management	2	122	1/62
ELECT	3*	43	1/14

* Commissioner, deputy commissioner, & confidential policy advisor

Number of appointed positions makes ELECT vulnerable to disruption and political influence

- Limits continuity of leadership at ELECT
  - Key leadership positions likely to be replaced every 4 years

- Increases risk of political influence and creates perception of bias

- Rationale for deputy commissioner and confidential policy advisor positions unclear

Recommendation

The General Assembly may wish to consider requiring ELECT to

- remove the appointed positions of chief deputy commissioner and confidential policy advisor from ELECT.

- create a permanent, classified position of director of operations at ELECT.

PENDING: 2019 Session	
HB 1620 (Ransone, Cole)	All staff (except for Commissioner) subject to Virginia Personnel Act; creates Director of Operations position

JLARC staff for this report

Justin Brown, Associate Director

Jamie Bitz, Project Leader

Christine Wolfe, Senior Legislative Analyst

Nichelle Williams, Senior Associate Legislative Analyst